



## ***Town of Bethel Planning Board***

PO Box 300, 3454 Route 55  
White Lake, NY 12786

The Town of Bethel Planning Board held a Work Session on Monday, March 2, 2020 at 7:00 PM at the Dr. Duggan Community Center, 3460 State Route 55, White Lake, New York. A regular meeting of the Planning Board will follow on the same date at 7:30 PM. On the agenda at this time is the following;

In attendance are the following: Jim Crowley, Chairman, David Slater, Vice Chairman, Steve Simpson, David Biren, Wilfred Hughson, Susan Brown Otto, Michael Cassaro, Vicky Vassmer Simpson, Town Board Liaison, Jacqueline Ricciani, Attorney, Glenn Smith, Engineer and Jannetta MacArthur, Recording Secretary.

***Motion to approve the January minutes by Steve Simpson, second by Mike Cassaro.***

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

Excused: Bette Jean Gettel, and Robert Yakin, Jr Alternate

***1) Public Hearing for a Transient Campground of BPAC Music Festival from May 28, 2020 to May 31, 2020 to be located on Hurd and West Shore Roads, known as a portion of Bethel Tax Map #'s: 21.-1-1.1, 21-1-1.3, 21.-1-1.4, 21-1-1.5, 21-1-8, 21-1-10, 21.-1-1.12, 21.-1-1.20, 21.-1-1.31, 21.-1-4.1, 21.-1-11 & 22-1-4, proposed by Bethel Performing Arts Center & Live Nation.***

***Motion to go into public hearing by Steve Simpson, second by Susan Brown Otto.***

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

*Return receipts received*

Wayne Goldberg: I am Wayne Goldberg from Live Nation; I am here with Edison Hunter my Associate. We are doing a very similar event to last year's Mountain Jam event. This year it will be one day less day than it was last year. Last year it was Thursday thru Sunday. We have greatly reduced the amount of camping. The only camping we are doing is approximately 450 RV only campsites along Hurd Road. We have shortened the number of hours. We are starting Friday, Saturday will run from noon – 1pm, till midnight, and on Sunday from noon until 10pm so we have reduced the scope as well. We are anticipating approximately 8,000 to 10,000 per day. The same impact as a Bethel Woods show. Same audience as last year, music is very similar. We had no issues last year. We are having a shorter time period. Last year we had a total of 12 days, this year about 8 days. We have applied through Department of Health a camping permit. Jacy you questioned last time about the waiver, the waiver is not necessary. I have a copy if you need it.

Jacqueline Ricciani: What time are you starting on Friday and what time are you ending on Monday?

Wayne Goldberg: We are ending Sunday at 10 pm, and on Friday either 12 pm or 1 pm. We are still working on a schedule. It is not much different than last year, just less time.

Jim Crowley: Would anyone from the audience like to speak?

Sharon Lilley: How far down on Hurd Road do you expect to have the RV's go?

Wayne Goldberg: We will have neighbor parking passes.

Sharon Lilley: Will there be state troopers there again?

Wayne Goldberg: The same as year.

Jim Crowley: Does anyone else have any questions?

*None*

***Motion to close public hearing by Susan Brown Otto, second by Steve Simpson.***

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

Jim Crowley: I received correspondence from the County 239. They come back as local determination. Basically, they say that is the time of year that farming is going on. Since it is a New York Ag District, they say to contact the local farmers to make sure this doesn't interfere with the normal farming procedures. Jacy is there anything else we need to say on this 239?

Jacqueline Ricciani: Local determination. I am sure the applicant is aware they are going to need a special event permit from the Department of Transportation.

Susan Brown Otto: Are the Michel's aware?

Frank Segro: From Bethel Woods. We are not closing any roads. We will go to Perry if it is very backed up on Hurd Road.

Jim Crowley: Any more questions on the 239? Glenn do you have anything to add?

Glenn Smith: No, it is a lot smaller scope than last year.

Jim Crowley: We will move onto the Environmental Assessment Review. Jacy, there is nothing we have to do on the 239, the board is fine with it. I am going to read Part 2. Short form.

Jacqueline Ricciani: BJ has Part 1 on file.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulation?

*No, or small impact. There is a short duration of the project.*

2. Will the proposed action result in a change in the use or intensity of use of land?

*No. Not a significant change.*

3. Will the proposed action impair the character or quality of the existing community?

*No.*

4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?

*No.*

5. Will the proposed action result in an adverse change in the existing level of traffic or affect infrastructure for mass transit, biking or walkway?

*No.*

6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

*No.*

7. Will the proposed action impact existing?

a. Public / private water supplies?

*No.*

b. Public / private wastewater treatment utilities?

*No.*

8. Will the proposed action impair the character of important historic, archeological, architectural or aesthetic resources?

*No.*

9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora or fauna)?

*No.*

10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?

*No.*

11. Will the proposed action create a hazard to environmental resources or human health?

No.

That is the end of Part 2 of the Short EAF.

Since everything answered no, I would ask the board for a motion that we declare a negative declaration on this.

Susan Brown Otto: Jim, I spoke about this last month, since this is taking place the end of May the beginning of June, and that is when The turtles are laying their eggs, You mentioned last month that you would put up signage for people to be aware of the fact that the turtle will be crossing the roads. I have a copy from the DEC.

***Motion to declare a negative declaration by Susan Brown Otto, second by David Biren***

***All in favor-7***

***Opposed-0***

***Agreed and carried***

Jim Crowley: Jacy we have further discussion on the camping, right?

Jacqueline Ricciani: They are only here for the transient campground.

Jim Crowley: There are criteria.

Jacqueline Ricciani: They have been reviewed in prior appearances. You engineer has reviewed this project, there are criteria under Chapter 120.

Jim Crowley: Nothing has changed since last year, except there venue, it is smaller.

Jacqueline Ricciani: The criteria referred to the size of the campsite, 30 ft wide, 150 square ft, they have met that. Only one RV per campsite, which they are complying with. There is no individual onsite water and sewage. We've had discussion on the movement of traffic, The entrances have to be safe and convenient, occupancy for camping only, adequate sanitary facilities, which they are obviously complying with since they have a permit from the Department of Health, which is also going to monitor that, no nuisances, no animals, they have to have appropriate facilities to dispose of garbage.

Glenn Smith: Jacy, when this was approved last April, there were 12 or 13 conditions from last year which would apply this year as well.

Jacqueline Ricciani: Before you consider granting approvals, as Glenn mentioned there were quite a few conditions. Thirteen of them from last year, most of which you applied for this year as well. So, the applicant has to maintain liability insurance for the camping portion and provide the Town of Bethel with a Certificate of insurance as an additional insured, or a coinsured party rather, no less than one million per occurrence. Most of these requirements you are going to have to show compliance two weeks prior to the event, so you will have to show compliance by May 15<sup>th</sup> the Town will need those. By that date you have to supply the Town with any contracts with security services, trash disposals, sanitary services, including if you are going to be trucking away any gray water or any septic wastes.

Frank Regro: A question on that, so if we have an agreement with the same person, you need a copy of that the same as last year as well. It is the same garbage person that Bethel Woods uses,

you want that?

Frank Regro: Yes, we are, we fall into our regular contract.

Jacqueline Ricciani: So Live Nation is not contracting, separately. Bethel Woods is. The applicant shall provide all governmental approvals, including the Department of Health, the Department of Transportation, Town of Bethel Town Board, copies of any permits and approval have to be submitted to the Building Department by May 15<sup>th</sup>. You are not going to do any road closings; the applicant shall provide literature and links of all ticket sales. As soon as the tickets go on sale, and your website has to state that clearly indicate that individual fireworks, glass containers, illegal drugs, and pets are not permitted. The applicant has to make sure the traffic movement on NYS 17B and surrounding roads, are not impaired. Do you have a copy of the traffic plan? You had submitted that last time.

Frank Regro: Yes.

Jacqueline Ricciani: So, you will need to be in compliance with that. Are there going to be any vendors in the camping area? Food trucks, crafts, that kind of thing? If you are doing that then you will need to get from the Town for the vendors those by May 22<sup>nd</sup>, you get those from Town Hall. No open-air music events within the bounds of the camping area, no amplified music in the camping area unless you get a noise permit from the Town Board. You are going to need to take affirmative steps to mitigate any impact on any agricultural uses by insuring there is no trespassing, monitoring the buffer zones along the adjoining farm land make sure there are not people or vehicles wandering into those area. Erect temporary fencing is required to restrict entry from the campground or the parking area to the adjoining areas. I think that was more applicable when you had the tents on Best Road. The camping areas, the parking areas, surrounding properties that are used to gain access to the site have to be fully cleared of all event and camping related debris equipment and any temporary structure's including whatever sanitary facilities you have. Last year we gave you a couple of weeks to do that. How much time do you think you will need to get that all done? The event is ending on May 31<sup>st</sup>.

Wayne Goldberg: We will be done in three days.

Jacqueline Ricciani: There are no temporary structures that shall be constructed or installed within the bounds of any wetlands. There are no wetlands in this area, right?

Glenn Smith: On the other side.

Jacqueline Ricciani: The applicant shall keep the Town Board and the Planning Board informed of any other agencies' approval that are obtained, so keep in touch with the Building Department, and pay all fees.

Wayne Goldberg: The DOH doesn't issue their permit until they have come in to inspect so that won't be two weeks before.

Jacqueline Ricciani: As soon as you get it. Those are the conditions from the past.

Jim Crowley: Does the board have any questions?

Conditions of approval:

1. The applicant shall maintain liability insurance covering the camping portion of the event. The applicant shall provide the Town of Bethel with a Certificate of Insurance naming the Town of Bethel as a co-insured party. The amount of the insurance coverage shall be no less than \$1,000,000.00 per occurrence.

2. No later than May 15, 2020, the applicant shall provide the Town of Bethel with copies of the contracts/agreements for security services, trash disposal and collection, sanitary services (including licensed acceptance of trucked “grey water” and septic waste), potable water, EMS and other contracted or service providers.

3. The applicant shall obtain all required governmental agency permits and approvals. This shall include, but may not be limited to, the New York State Department of Health, the New York State Department of Transportation (including sign placement) and the Town of Bethel Town Board. Copies of the permits and/or approvals from State and County agencies shall be provided to the Town of Bethel.

Jacqueline Ricciani: Just to take a step back I assume you will be going to the Town Board for a traffic impact, are you still following that route? It was brought to my attention by the Town Board that it was suggested that they get our approval before they go to the Town Board for the traffic plan, which I was not aware of at the last meeting.

4. The applicant shall petition the Town of Bethel Town Board to either close or limit traffic on portions of Best Road and West Shore Road, as needed, or to have these roadways properly posted for pedestrian congestion and pedestrian crossing(s).

5. The applicant shall provide the Town of Bethel with copies of, or links to, all ticket sales literature or sites as soon as tickets go on sale which shall clearly indicate that individual fireworks, glass containers, illegal drugs, and pets shall not be permitted on the site.

6. The applicant shall, as necessary, act to ensure that traffic movement on New York State Route 17B and surrounding roadways is not impaired by implementing the traffic control procedures outlined in the Mobility Plan and Operations Plan.

7. No later than May 22 2020, the applicant shall provide the Town of Bethel Building Department with evidence that all vendors in the camping area possess appropriate licenses or permits.

8. No open-air music events shall take place within the bounds of the camping areas, or amplified music be permitted in the camping areas unless the Town of Bethel Town Board issues a separate noise permit for same.

9. The applicant shall take affirmative steps to mitigate any impact on agricultural uses by:

A. Ensuring that there is no trespassing onto adjoining properties.

And that was a concern that was specifically raised, which is the same with every Bethel Woods event.

B. Monitoring the buffer zones along all adjoining farmland to ensure that they are unoccupied by people, vehicles, or debris of any kind.

C. Erecting temporary fencing, only as required, to restrict entry to or from the transient campground and parking areas through adjoining properties.

10. The transient camping areas, parking areas, surrounding properties and roadways utilized to gain access to the sites shall be fully cleared of all event and camping related debris, equipment and temporary structures (including temporary effluent storage tanks) no later than three days after the event.

11. No temporary structures shall be constructed or installed within the bounds of any buffer zone for any wetland which may exist on these properties.

12. The applicant shall keep the Town of Bethel Planning Board and Town Board informed as other agency approvals are obtained as the date of the event approaches. This shall involve, at a minimum, discussions with one representative of each municipal board and representatives of Mountain Jam, Live Nation and Bethel Woods Center for the Arts.

13. All fees shall be paid to the Town of Bethel.

Jim Crowley: Jacy you are good?

Jacqueline Ricciani: As long as you are satisfied that this project meets the requirements.

Those are the conditions. Very similar to other projects granted a license. If there are no comments from the board or applicant.

***Motion to approve the application for a Transient Camping License with Site Plan approval subject to the previously referenced thirteen (13) conditions by Susan Brown Otto, second by Steve Simpson.***

***Roll call vote:***

***Mike Cassaro: - Yes***

***Wilfred Hughson - Yes***

***Susan Brown Otto – Yes***

***David Slater - Yes***

***Steve Simpson – Yes***

***Jim Crowley- Yes***

***David Biren - Yes***

***Motion passed***

***2) Public Hearing for a Special Use Permit to allow for a Multi-Unit Development to be located on Frances Street, known as Bethel Tax Map #: 34.-2-3, 4.1, 4.2, 24, & 25, proposed by White Lake Wood, LLC. (Harte/Kask)***

Jim Crowley: Do you want to give a little recap before I open the public hearing?

Susan Harte: Since our last meeting you asked for some clarification on plans regarding Frances Drive. We have sent to BJ like two weeks ago, I don't think it made it to you guys.

We received the 239 that had some detail in there, that wanted some transition of repairing the State Road, so we added that to the plan as well. That is where we left off.

***Motion to open public hearing by Steve Simpson, second by Susan Brown Otto.***

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

*Return receipts have been received.*

Jim Crowley: If anyone from the public would like to speak, please come up.

*No one*

***Motion to close public hearing by Steve Simpson, second by Susan Brown Otto***

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

Jim Crowley: I know we were back and forth with a few things. Glenn, do you have anything?

Glenn Smith: I don't see anything new.

Susan Harte: The only change that we made was that language, and we incorporated the change after we received the 239.

Jim Crowley: That map (March 2<sup>nd</sup>) should have the proper wording. The 239 came back with local determination with some comments. The sign should be outside of the right of way so it will not obstruct site distance if it is in the County right of way, they will have to apply for a permit. The trees and landscaping shown in the project conflict with the location with a large retention pond shown in SWPPP should be resolved.

Susan Harte: That was on Phase 2.

Jacqueline Ricciani: That has been addressed?

Victor Kask: There were a couple of trees over here where this retention pond is going to be, I deleted that. I sent an electronic copy to BJ; it is dated tomorrow.

Jim Crowley: Jacy do you have any comments on the 239?

Jacqueline Ricciani: No

Jim Crowley: Part 1 is on file in Town Hall.

Jacqueline Ricciani: The applicant is doing 2 phases, but when doing the EAF you have to take in the impact of both projects. This has all been addressed, your engineer has reviewed what has been reviewed. You just have to read through these. No small to moderately large. If you get too many moderate larges you are going to need an impact statement. Which is a whole other ball of wax.

Jim Crowley: Part 1 is on file in the Building Department. Reading Part 2 of Long EAF

*1. Impact on Land - Proposed action may involve construction on, or physical alteration of the land surface of the proposed site.*

David Biren: Are you including both phases

Jacqueline Ricciani: Just Phase 1.

David Slater: Are these parcels put together?

Jacqueline Ricciani: I misspoke. The project is two phases. Right now, the applicant is seeking a special use permit, so she can do Phase 1, one building with the four units, however when determining the environmental impact, you have to take into account the total project is going to be. Ideally applicants can build Phase 1 and then she will be back here 6 months from now looking for approval for Phase 2. That is why you have to take into account the impact of Phase 2. You have to look at the whole project.

David Biren: It changes the scope of the project when you look at these questions.

Jacqueline Ricciani: Correct. This has been all addressed the last several months that the applicant has been here, your engineer has reviewed.

Susan Brown Otto: Phase 1 and Phase 2 then the impact is small. What was the question again?

Jim Crowley: Reading question #1 again.

*1. Impact on Land - Proposed action may involve construction on, or physical alteration of the land surface of the proposed site.*

David Biren: How much land is going to be disturbed on both of these lots?

Jim Crowley: Lets go through them.

*1. Impact on Land – Proposed action may involve construction on, or physical alteration of the land surface of the proposed site.*

Yes

- a. The proposed action may involve construction on land where depth to water table is less than 3 feet. No
- b. The proposed action may involve construction on slopes of 15% or greater. No
- c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface. No

- d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material. No
- e. The proposed action may involve construction that continues for more than one year or in multiple phases. Yes
- f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides) No
- g. The proposed action is, or may be, located within a Coastal Erosion hazard area. No.

*2. Impact on Geological Features - The proposed action involve construction on slopes of 15% or greater (e.g., cliffs, dunes, minerals, fossils, caves).*

No.

*3. Impacts on Surface Water - The proposed action may involve construction on land where bedrock is exposed or generally within 5 ft the existing ground surface?*

No.

Jacy, why do you have to read all this stuff when a lot of this doesn't pertain.

Jacqueline Ricciani: This is the form the DEC has come up that you need to take into consideration, there are obvious parts that don't apply. If they don't apply you can disregard in your consideration.

*4. Impact on groundwater - The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer.*

No.

*5. Impact on Flooding - The proposed action may result in development on lands subject to flooding.*

No. The site is not subject to flooding.

*6. Impacts on Air - The proposed action may include a state regulated air emission source.*

No. The action does not apply.

*7. Impact on Plants and Animals - The proposed action may result in a loss of flora or fauna.*

No.

*8. Impact on Agricultural Resources - The proposed action may impact agricultural resources.*

No.

*9. Impact on Aesthetic Resources - the land use of the proposed action is obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource.*

No. The use is permitted in the zoning district.

*10. Impact on Historic and Archeological Resources - The proposed action may occur in or adjacent to a historic or archaeological resource.*

No.

*11. Impact on Open Space and Recreation - The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.*

No. There shall be no impact on open space or recreation.

*12. Impact on Critical Environmental Areas – The proposed action may be located within or adjacent to a critical environmental area (CEA).*

No. There are none in the Town of Bethel.

*13. Impact on Transportation - The proposed action may result in a change to existing transportation systems.*

No. Not to the extent listed in the examples.

*14. Impact on Energy - The proposed action may cause an increase in the use of any form of energy.*

No. There will not be an increase in the use of any form of energy as part of this project.

*15. Impact on Noise, Odor, and Light - The proposed action may result in an increase in noise, odors, or outdoor lighting.*

No.

*16. Impact on Human Health - The proposed action may have an impact on human health from exposure to new or existing sources of contaminants.*

No.

*17. Consistency with Community Plans - The proposed action is not consistent with adopted land use plans.*

No. The use is permitted in the zoning district in which it is proposed.

*18. Consistency with Community Character - The proposed project is inconsistent with the existing community character.*

No. The use is consistent with approved uses in the Town of Bethel

Jim Crowley: Any comments or questions? If not, I would like entertain a motion for Neg Dec.

***Motion to approve negative declaration by Susan Brown Otto, second by Wilfred Hughson***

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

Jim Crowley: Glenn, do you have any comments?

Glenn Smith: I didn't see anything new.

David Biren: How come we didn't get any paperwork on this new map. I never got in my mailbox?

Jim Crowley: I know BJ's last day was Friday. Victor you said you sent that digitally to BJ. If she is not there how are you going to get it?

David Biren: I was there Friday. She said she didn't get anything. I was there Thursday and Friday.

Jim Crowley: I don't know what time it went out.

Victor Kask: I never send paper copies; I send to BJ electronically. The only difference between 3/2 and 3/3 is clarification of that note, and the two issues the County Planning Board had me put in. Otherwise it is the same.

David Biren: Can we see what the clarifications are? Can you read them so we can all see what they are?

Jim Crowley: You had them up there right? You took out some of that landscaping. You added the verbiage for maintaining the road.

Victor Kask: I added three things, that is it. For Phase 2, I showed landscape where the retention pond was. Added verbiage for maintaining the road.

Jim Crowley: The Landscaping was eliminated from the retention pond and verbiage for the road maintenance was revised.

David Slater: If Glenn hasn't seen it, I think he should see it. He is our go to guy to see whether it is right or wrong.

Glenn Smith: Last meeting was that sewer line right of way....Susan was going to put a note on about that it had to be built first, then locate it, and then do the right of way and get a building permit for the rest of it.

Jacqueline Ricciani: The applicant mentioned last time was that she would not be able to apply for a building permit for the residential structures until after she had filed an easement with the County where the sewer line is going to go across Phase 2, once we know what the deal is with the sewer line, Phase 1 will always have the use of that piece of property for the sewer line that she can get her building permit and build those structures.

Glenn Smith: That was to be noted on the plan.

Jacqueline Ricciani: That can be a condition of approval that the Planning Board will have, we can make that a condition of approval that the chairman won't sign the map until after until that note is added, you can certainly do that, if you want to put a note on the plan. It's your call.

Jim Crowley: How does the board want to proceed?

Sue Brown Otto: If it is a condition of approval, can't we approve?

David Slater: We have to protect the property; we don't know Susan if maybe you are going to sell that property or not.

Susan Harte: I agreed to the condition. If BJ has that note in her file as a condition that she can't issue me a building permit is enough, or do you want me to make a note on the site plan as well. I don't think it is necessary to be on the site plan. It would take two minutes to do that if you want that. BJ will have it in the file that she can't give me a building permit.

Jacqueline Ricciani: One of the concerns in the past was Since Phase 1 and Phase 2 are on two different tax lots that can't be combined there is the ability..... what I am saying is that because there is that possibility that someone was to sell or to purchase, they should be advised this easement is going to exist. That is the reason you would want to do it.

Jim Crowley: I would put it all on the map, then it's done. It's on the sheet, all these others that are prior are null and void. It should be right on this map.

Jacqueline Ricciani: You still have to run through the special use permit criteria review, Dan used to run through 20 or more items. You still have to review that, and then after you have done all of your special use permit review, these are multifamily homes, You have another set of criteria that you need to review, so once you have reviewed and considered all of the criteria you aren't half way there yet, then you can decide what the conditions of approval can be. If this is a condition a note on the map, you can make it a condition that the chairman won't sign the map until the note is on the map. You have 62 days after the close of the public hearing.

Jim Crowley: What would the board like to do on this?

Mike Cassaro: I would like to move forward, and make a condition that it is noted on the plan before the chairman signs it.

Susan Brown Otto: I agree.

Jim Crowley: Jacy do you want me start going through some of this criteria?

Jacqueline Ricciani: Yes

Jim Crowley: “Final development site plan approval by the Planning Board. After receipt of preliminary development concept plan approval, the applicant shall submit a final development site plan in accordance with § 345-31 of this chapter and required supplementary data for the proposed multifamily development as described in § 345-27C(1) to (4) of this chapter. Approval of the final development plan shall follow the procedures outlined in § 345-31 of this chapter in addition to the following standards:

(1)

Preservation and maintenance of common areas. Permanent preservation of such recreation areas and open space shall be legally assured, to the satisfaction of the Planning Board, by the filing of appropriate covenants, deed restrictions, easements or other forms of agreements in a form approved by the Town Attorney or attorney for the Town. It shall be the property owner's responsibility to maintain all open space and recreation areas and such other common areas within the owner's control, including but not limited to streets, driveways, curbs, sidewalks, landscaping, lighting and public hallways, in a safe, clean and orderly condition. Such maintenance shall include removal of snow from internal streets, driveways and walks. In the event that the maintenance, preservation and/or use of the conserved land areas and common facilities ceases to be in compliance with any of the requirements of this section or any other requirements specified by the Planning Board when approving the site plan, the Town shall be granted the right to take all necessary action to assure such compliance and to assess against the property owner all costs incurred by the Town for such purposes.”

We talked about some of that, the road, snowplowing. Does the board have any other concerns on that?

Steve Simpson: Yes. I wanted to refigure that language on the plan here. The latest and greatest here, which will have the responsibility with expansion continued maintenance with Frances Drive including mowing, plowing, and keeping the road in good condition from the development entrance to New York State Rt 55. I would like to have it from NYS Rt 55 and throughout the proposed development. So, it is going to be everything. Eventually if you do do Phase 2 it is going to be inclusive of all that, it will be inclusive of all the first Phase, then get that right of way road, that is going to have to be addressed sometime as well. Not going back to the gentleman who owns the house way in the back of the property, but that will encompass all your development from NYS Rt 55 and throughout the proposed development. Just removing the development entrance to NYS Rt 55. So, it encompasses everything. If Phase 2 doesn't go, so be it. It will cover both parcels, both Phases.

Jacqueline Ricciani: Okay.

Jim Crowley: I have a question, the guy in the back, Igor. He owns the right of way. You have a right of way; he owns that right of way.

Susan Harte: The right of way consists of Frances Drive....and his tax lot, yes, it is part of tax lot that he owns. He is not exclusively just one tax lot.

Jim Crowley: He owns the road you have the right of way.

Susan Harte: Yes.

Jim Crowley: So, at the end of the day if something happens goes wrong, doesn't get done, Jacy this is where you answer, who is on the hook? Is Igor since he owns the right of way, or because if it is a property maintenance issue as far as building code and stuff it would go to the person who actually owns it. Igor owns it

Jacqueline Ricciani: Correct. But Igor refuses to enter into a written agreement with the applicant, so this is the best the applicant can offer to the board.

Jim Crowley: But at the end of the day right, the applicant or whoever owns it, what I am saying is, Igor would be on the hook then, not whoever is owning this property. Igor would be responsible for the maintenance or the tree across the road.

Jacqueline Ricciani: But the applicant has taken on that obligation as part of this development project. Honestly even if there is a written agreement between the applicant and Igor, if the applicant decides she is not going to be bound by that, you are kind of in the same boat you are now.

Susan Harte: He is already in that boat. People already use that road, there are two houses that use that road, NYSEG uses that road. It is the same issue. He would have a cause of action against me. If I stopped maintaining that road, and he got a ticket then he would have a positive action against me as well as the other beneficiaries of that use this road to contribute to the maintenance of the road. He can't sell it, because his mortgage is covering all of the property which includes all that. He would have to go through a whole refinance of his mortgage, and he didn't want to do that, which is understandable.

Jim Crowley: Does the board have any other questions?

Reading #2.

(2)

It is the intent of this section that the responsibilities and obligations of the property owner that continue after any multifamily development has been constructed will be assumed in their entirety by a property owners' association or other legal entity organized prior to the offering of the first unit for occupancy. Membership in the property owners' association shall be mandatory for all property owners in the development. Such association shall be incorporated, shall be responsible for maintenance, liability insurance and local taxes and shall be empowered to levy assessments against property owners to defray the cost of maintenance and to acquire liens, where necessary, against property owners for unpaid charges or assessments. In the event that the property owners' association fails to perform the necessary maintenance operations, the Town of Bethel shall be authorized to enter upon such premises for the purpose of performing such operations and to assess the cost of so doing against the association and/or each individual property owner equally.

Jacqueline Ricciani: So, this applicant has decided that there are going to be rentals, there are not going to be sales, and the applicant is the other legal entity responsible for maintaining the property, and I believe that is included in the first piece of.....

Jim Crowley: Jacy, does that run until something changes?

Jacqueline Ricciani: What do you mean?

Jim Crowley: I sell it.

Jacqueline Ricciani: Sell Phase 1?

Jim Crowley: Either one.

Jacqueline Ricciani: You can't do a property owner association with rentals.

Jim Crowley: I understand that. As it is right now. It gets built then it gets sold. Two years from now. Now it is no longer rentals. Then what happens, it comes back to the board? I'm projecting. The next person buys it....

Jacqueline Ricciani: And they are not going to run it as a rental.

Jim Crowley: No, they are going to....

Jacqueline Ricciani: They are changing the use; they have to come back.

Jim Crowley: That's my question. Okay. So as far as that this is not applicable in this case, it is a rental

### Reading #3

#### (3)

The association or manager, as the case may be, shall be responsible for maintenance, repair and replacement of the common areas of the development, including buildings and, if applicable, the furniture, fixtures and equipment within the units. The project instruments shall specify the expenses which the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project as well as enforcement of applicable covenants and restrictions in perpetuity. The Planning Board may require that a certified public accountant review such financial data for purposes of determining that proposed fees are, in fact, adequate to secure maintenance on a continuing basis.

#### (4)

The developer shall, in filing a preliminary plat, provide a narrative description of how responsibility for maintenance and care of the units and common areas will be assured and a pro forma operating budget for the maintenance organization, including a breakdown of the common expense to be borne by the maintenance organization and a separation of long-term maintenance costs from ongoing routine maintenance costs. There shall also be provided a narrative description of how the developer proposes to assure maintenance and care of the units and common facilities during any sales program, based on which the Planning Board may require additional temporary facilities to accommodate service demands. Copies of all applicable instruments shall be provided, for purposes of determining that long-term arrangements for maintenance of common facilities have, in fact, been made by the developer and/or with the occupants.

### Reading 345-30 I & J

I. The Planning Board, in reviewing the site plan, shall consider its conformity to the Comprehensive Plan and the various other plans, laws and ordinances of the Town. Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire Town shall be part of the Planning Board review. Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets. The Planning Board shall further consider the following:

1. Building design, lighting, location and signs insofar as suitability for the use intended and impact on and compatibility with the natural and man-made surroundings.

We discussed that. Victor you showed us the lighting.

There will be no permanent structures on the site. Site lighting, if any, will be for security purposes only and will not be allowed to shine onto adjacent roadways.

2. Storm drainage, flooding and erosion and sedimentation control.

Yes. There was a preliminary SWPPP. It is mostly crusher run, mostly impervious

surface.

3. Adequacy of community services and utilities, including police protection, emergency services and the educational system.

There will be no impact on community services or utilities and there are no anticipated impacts on the educational system.

4. Environmental impacts in any form.

The application was subjected to an environmental review and a negative declaration was granted.

5. Impacts on housing availability.

It is a positive impact on housing availability.

6. The potential for nuisance impacts such as noise, odors, vibrations or glare.

There are no anticipated nuisance impacts such as noise, odors, vibrations or glare.

7. The adequacy of the trees, shrubs and other landscaping to buffer or soften a use in terms of visual or other impacts on adjoining property owners, Town residents and those visitors on whom the local economy often depends.

There is a planting schedule of trees. There is some decorative stuff going in front of Phase 1

8. Impacts on nearby property values.

There are no anticipated negative impacts on property values.

9. Traffic impacts (see § [345-22H](#)).

Minimal

10. Any other factors which reasonably relate to the health, safety and general welfare of present or future residents of the Town of Bethel.

There are no known factors that would relate to the health, safety and general welfare of residents.

- J. The Planning Board, in acting upon the site plan, shall also be approving, approving with modifications or disapproving the special use permit application connected therewith taking into consideration not only the criteria contained above but also the following:

1. Whether the proposed use will result in an overconcentration of such uses in a particular area of the Town or is needed to address a deficiency of such uses. The

Board shall, in this regard, consider the suitability of the site proposed for a particular use as compared to the suitability of other sites in the immediate area.

I think it is appropriately placed.

2. Whether the proposed use will have a detrimental or positive impact on adjacent properties or the health, safety and welfare of the residents of the Town of Bethel.

The use is anticipated to have a positive impact on residents and the Town of Bethel and is not anticipated to have any impact on the safety or welfare of residents.

3. If the proposed use is one judged to present detrimental impacts, whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.

The proposed use is not anticipated to be detrimental.

4. Whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation.

The proposed use is not anticipated to have any negative impacts.

5. Whether the granting of an approval will cause an economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and fire-fighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use, and any approval shall be so conditioned. The Town shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply, but not be limited to, additional fees to support fire district expenses.

There are no anticipated economic burdens associated with any approval.

6. Whether the site plan indicates the property will be developed and improved in a way which is consistent with that character which this chapter and the Comprehensive Plan are intended to produce or protect, including appropriate landscaping and attention to aesthetics and natural feature preservation.

It does comply, to the comprehensive plan, the site plan does show landscaping.

I believe that is it for our review. It is up to the board what they would like to do. They can approve this.....

Jacqueline Ricciani: Let me run some through some of the conditions we discussed at prior meetings I have been keeping track of.

1. The 3 lots on the other side of Frances Drive, those 3 lots will be combined to one tax map parcel

Susan Harte: I'm sorry Jacy, but at what point prior to me coming back to Phase 2.

Jacqueline Ricciani: I think the prior discussion was for this permit. For this special use permit, something that was discussed early on in the process.

Susan Harte: I don't think we discussed how it related to Phase I. We said something about Phase 1.

Jacqueline Ricciani: You need to discuss this with the board Susan. I am reciting what my notes have from a prior meeting.

Susan Harte: I prefer to do that when I get to Phase 2, I'm not doing anything on that property right now on Phase 2, I don't see the rush to do that right now.

Susan Brown Otto: I agree.

David Slater: If something happened, it would secure that. We have to treat this as one plan even though it is two phases, this kind of secures that Phase 2 would be one big lot.

Susan Harte: Can we make that a condition of Phase 2 approval?

David Biren: No. I think it should be done now. We are looking at it as one project, we are looking at it now.

Susan Harte: What is the detriment of not doing it right now?

David Slater: What if we never get to Phase 2, then we have three lots sitting over there, and then the last lot could almost be landlocked.

Susan Harte: They have been that way for 100 years.

David Biren: But we never addressed this before. Now we are addressing it, that is my feeling.

Jim Crowley: Lets do this systematically. Let's start with you Mike. What are your thoughts on this?

Mike Cassaro: We seem to encompass Phase 1 and Phase 2, so why not have all the ducks in a row and combine those three lots and proceed that way as a condition.

Susan Brown Otto: With regard to Phase 2, it is just the sewage line whatever that is running over on that right? Does that run on to two different lots or just one lot?

Jacqueline Ricciani: My guess is two.

Steve Simpson: Phase 1 and Phase 2.

Susan Brown Otto: I'm talking about Phase 2. There are three lots, there are 3 SBL's over in Phase 2, is that correct?

Jacqueline Ricciani: There are three SBL's in Phase 2.

Susan Brown Otto: In the Phase 2 property does that go through 1 SBL or 2 SBL's or 3 SBL's?

David Slater: 2.

Jacqueline Ricciani: I don't have that map with me.

Jim Crowley: It looks like two on the map.

Susan Harte: I think it is 2.

Jim Crowley: On the County map it looks like it is going through two.

Jacqueline Ricciani: Why am I doing this? I don't have a map.

Jim Crowley: If it is two or three what is your point?

Susan Brown Otto: If it only goes through one property, and these properties have been like Susan said 100 years whether they are landlocked or not even though we discussed combining them, what is the harm in keeping them separate. Why is that a condition for approval?

Steve Simpson: Because it becomes developed again. Right now, it is woods. Now we encompass into one map. I would like them combined

David Biren: I would like them combined

Wilfred Hughson: Whatever the rest of the board wants.

David Slater: I would like them combined

Jim Crowley: I would like them combined.

Susan Harte: I have no problem with that, I know we talked about it it was never mentioned it would be a condition approval, I wish I had known 5 months ago. I would do it the same time I record that easement for the sewer.

Jacqueline Ricciani: So, make it a condition of receiving a building permit for the units.

Susan Harte: I would do it at the same time. I could put it on the map at the same time. On the site plan.

Jacqueline Ricciani: You want that on the map also?

Victor Kask: We are just going to erase the lines, that all.

Jim Crowley: It makes sense to have one map with all of the changes. Let's go through all the changes. There is no sense doing 15 different maps.

1. Combine tax maps, and provide proof to building department before permit is issued for the structures on Phase 1, and you want it as a note on the map as well.
2. There is a utility pole that needs to be moved by NYSEG.  
Which is noted on the map.
3. No building permit issued until the easement for the sewer line going from Phase 1 going through Phase 2, and proof of the recording of the easement is provided to the Building Department
4. Return to the Planning to get a special use permit for Phase 2.

Susan Harte: I need to make 3 notes on the map. One the lots are going to be combined, two that the easement is going to be recorded, and three that the maintenance of the Frances Drive throughout the entire development.

5. Maintenance of Frances Drive of entire development throughout the entire development.

Jacqueline Ricciani: With those conditions.....

Steve Simpson: When are they going to move those poles? Do they have a schedule?

Susan Harte: I met with NYSEG last week out at the site, and probably within a few weeks.

Jim Crowley: So, with these conditions, the 5 listed above. I think the revised map shows that utility pole.

***Motion to approve this project with the five conditions listed above by Susan Brown Otto second by Mike Cassaro.***

***Roll call vote:***

***Mike Cassaro – Yes***

***Susan Brown Otto - Yes***

***Steve Simpson – No***

***David Biren – No***

***Wilfred Hughson – Yes***

***David Slater – Yes***

***Jim Crowley – Yes***

***Motion passed 5 yays, 2 nays***

***3) Application for a multi-family dwelling unit located on Horseshoe Lake Rd., known as Bethel Tax Map #: 30.-4-31.1, proposed by Spensieri. (MJS Engineering)***

Michael Sandor – with MJS Engineering. In the audience is Luca Spensieri and his son. We are here to answer any questions. We were here in November of last year. The biggest item that came up that we have to research and get an answer for was the public easement.....

Jacqueline Ricciani: Mr. Sandor, we have some new members could you just run through the project.

Michael Sandor: I can go back 10 years.

Jacqueline Ricciani: Just go back to November.

Michael Sandor: I'll go back quick 10 years ago. 10 years ago, we had this in front of the board. It was a 7-lot subdivision, with a public street. It would be private wells for each home and municipal sewer. Back then we got approval for the subdivision, we got approval for the sanitary sewer extension. However, an entrance permit location from the County, but in 2008, 2009, the economy went south. The sewer line was brought in to the property for this project. So, the sewer line is in for this property. We got approvals from the DEC before that. The manholes are in on the property. Now, the applicant, the same owner is seeking an apartment type complex with 40 units based upon the acreage of the property. There is roughly 10 acres here. He wants to have 4 units per acre, we are looking at roughly 40 units. The units will be made up of 1- and 2-bedroom apartments. Roughly 50, 50. About 60 bedrooms. I bring that up because we have to design the water system. The water system for this would be a private well, be considered a public water supply. It requires two wells, I met with Department of Health a few weeks ago, we have to pump these wells for 72-hour test. We have to do water quality analysis, I am here really because the issue that came up last month, and one that had to be researched a little more. It was back in 1890 something it showed a public street here. We did a title search it went back 90 years. Basically, it was never dedicated to the town, never constructed, and it doesn't really exist today. If it could exist today, it would have to go through the wetlands. You will never get a permit for that. However, there are private easements on this property. There is private easement here roughly 40 ft on our property to access this property here. So those are private easements, there are no public right of ways on this property. I gave a copy of the title report to the town, I made another copy for the engineer. I know if circulating to your attorney. I also have an electronic copy. What I wanted to do now is to establish the potential number of units. The reason why I would like to do that is I have to design the water system. I have to drill these wells, back in October I did reach out to the Army Corp, I have correspondence from them, it would keep the disturbance in the wetlands less than a tenth of an acre, I have called it a nationwide permit, and no mitigation required. I have that in writing from them. Another thing we were asked to do is delineate this line, we will do that. There was a question requiring additional parking spaces, I did receive some feedback we can move things a little closer. Really the big thing I am here for is the number of units so I can move forward with the layout of the buildings. We offset the buildings by 5 ft, that is in your code. We will use the existing access point; we already have a permit for that of where the entrance will be put in. There are going to be a recreational facility. It is a rental. I know you talked to the last applicant about maintenance and all that, that is way in the future. My biggest thing is getting permission to get these well in through the Army Corp, drilling those wells, and testing those wells. I have to prove I have enough water to support the development. I was thinking roughly about 10 gallons a minute.

Susan Brown Otto: Are these year-round?

Luca Spensiri: Yes, they are year around.

Michael Sandor: There was a well drilled for the subdivision up in this corner (showing on map), the way the law says I need 100 ft ownership around the well, and I need 200 ft. control.

David Biren: That's because you are a public water company now.

Michael Sandor: Anything over 5 units, and I need two wells, it is a public water supply, non-transient, which means I am different than a restaurant, or an office building. I am here for verification that the public right of way doesn't exist, it never really existed.

David Biren: Do you have to go to the DOH too?

Michael Sandor: Yes.

David Biren: Now, or down the road.

Michael Sandor: I want to develop the number of units which tells you how many bedrooms, and times that by 110 gallons per bedroom, that is my daily use. I factor in a gallon per minute, and then come up with a well yield that I need. Then we will test it. We have to test both wells. I feel I will be able to support this. How it works is, say this well gives me 10 gallons a minute, and this only gives me 8, then I have to design based upon the 8. It is a 72-hour test, and we have to monitor some of the neighboring wells as well.

David Biren: To see if they drop.

Jim Crowley: What zone are you in?

Michael Sandor: RS

David Biren: Because it is quarter acre.

Susan Brown Otto: Jacy is that a potential issue this was originally a 7-lot subdivision, there 50 homes with access to the road, is that a potential issue?

Jacqueline Ricciani: That will be something you will take on down the road. I am just looking at the density standards, and what is subtracted out of the acreage, DEC designated wetlands.

Glenn Smith: Army Corp DEC wetlands.

David Biren: It gives him plenty of land.

Jacqueline Ricciani: I'm looking at what needs to be subtracted out so the applicant knows how many units he can have.

Glenn Smith: He will be able to support that many units.

Jim Crowley: So Jacy you came up with 4 dwelling units per acre.

Jacqueline Ricciani: He has 10.236 acres. 4 per acre. You may want to check with your engineer. He is going to have public sewer.

Michael Sandor: I would like to move a little slow in the beginning, only because I want to address the issue regarding the wells, and the Army Corp permits, I want to make sure I address early, so I don't get stuck. The density is very important, that is the whole infrastructure, the water supply, I did a short form EAF, but you probably want a long form EAF.

Glenn Smith: A long form would be good. The DOH will want 16 gallon per minute per well. Good luck with that.

David Biren: Didn't you have good wells the last time.

Michael Sandor: There was only well we drilled and tested, and it was an air lift test of like 10 gallons a minute. That's not really an accurate way of doing it. The reason why you said 10, the minimum is 5. It's an airlift test. The other test they do they draw it down, they measure it, if it stops dropping a little more..... I'm sure you have seen that before.

David Biren: How big are these units going to be?

Lucas Spensiri: 1200 square feet.

Michael Sandor: Two bedrooms upstairs, living area downstairs. We do have the renderings.

Jim Crowley: You have to get your water first; you may have to scale back.

Michael Sandor: That's true. That is why I'm here. Thank you.

***4) Application for a Site Plan review for a Solar Farm located on 2017 SR 17B, known as Bethel Tax Map #: 26-1-4, proposed by Delaware River Solar for Peter Hofstee. (Garigliano)***

Walter Garigliano: Hopefully you have the maps, they were delivered to BJ a few weeks ago. We were actually one day late, my farmhouse burned down, so I missed that day. BJ was very accommodating. This has been before the board a few times. We have had many rounds and comments from Glenn, and responsive comments from the Project Professionals. I think you received in the last couple of days a letter dated February 22<sup>nd</sup> from Glenn. Does everyone from the board have that? That was received by BJ after.....

Jacqueline Ricciani: That was distributed.

Walter Garigliano: So, everyone has Glenn's comment letter indicating that all prior comments had been addressed.

Jacqueline Ricciani: Walter could I make a suggestion, we do have a new member on the board, could you give a brief overview of what the project is.

Walter Garigliano: This is a series of solar arrays, which has been designed in accordance with the requirements of the section of the Town of Bethel zoning law that deals large scale solar energy facilities. This project will be on a proposed 59-acre parcel of land. That piece of land is proposed to be created from the Hofstee farm which includes a two-lot subdivision, one lot being for the solar project, the rest being maintained by Pete Hofstee to continue his Ag operation there as far as we know. The access to the site was based upon an interconnection location along Rt 17B where there is a 3-phase electric distribution line that is on the opposite side of 17B from this property. The solar arrays would feed into converters the direct current being generated by Thomas Edison's type of facility. The alternating current preferred by Nicoli Kessler and would then feed that through a series of halted wires out to the NYSEG distribution line which is interconnected to the New York ISO grid. It is about 4.4 megawatts of power. Would is roughly the amount that would power about 2,800 homes, 700 per megawatt, average homes, not necessarily Chapin Homes. We have complied with the design criteria in your Solar Law. We have previously submitted for the board's consideration, a Part 1 Long EAF and a fully completed Part 2 of the EAF I saw you reading through some of those earlier this evening. Hopefully we won't need to do that because we have already submitted draft responses to the Town for review and they have been reviewed by your engineering consultant Glenn Smith and he indicates in his most recent review letter that he is in concurrence with suggested responses which do not indicate that there are any potential moderate to large impacts created by the project and therefore with no moderate to large impacts a negative declaration would be in order. The EAF covers both the subdivision application and the site plan application. Both have been before the board. In terms of the subdivision application, there is an agricultural building which Mr. Hofstee wishes to maintain so the width of the lot fronting on Rt 17B is only 50ft, there is an application pending in front of the Zoning Board of Appeals, for an area variance to allow a lot that only has a width of 50ft. We are expecting as a condition of that approval by the Zoning Board they make that condition based upon the development of the solar facility, so you don't end up with 40 apartments back here. We are creating a lot with 50 ft of frontage off Rt. 17B.

Jim Crowley: Now that is going separate from the other piece. You are creating a flag lot.

Walter Garigliano: It's a very short flag, but call it as you wish. So, we have an EAF that has been in front of you since December. We prepared it in October, we last modified based upon comments from Glenn back on February 17<sup>th</sup>, then that copy was in your packet for this evening. So what we would like to accomplish this evening for the board making a consideration of a negative declaration for both applications before this board which are site plan review, special use permit, subdivision the other application, and for the board scheduling a joint public hearing, because it doesn't make a lot of sense for us to have a public hearing on one followed by a public hearing on the other. We recognize fully that the public hearing on the subdivision might lead to a delay in your ability to actually act on the subdivision, because you can't act on a subdivision, because you can't act on a subdivision until a variance is granted. There is no reason not to hold a joint public hearing for both. It would be much more efficient, and much more coordinated.

Susan Brown Otto: Isn't this in the gateway?

Walter Garigliano: This is mostly in the....there are three different districts involving the project. It has been considered and discussed in prior review letters from Glenn. It is shown on the map. The bulk of the project is in the Ag District.

Jacqueline Ricciani: I think Susan's questions are whether the Gateway standard designs apply that far out. I think that is your question?

Susan Brown Otto: When you are driving down 17B, The aesthetics of 17B?

Jacqueline Ricciani: I have to see what that district is. This is G17B this borders? There are additional design review standards with building placements, structures, colors?

Susan Brown Otto: How far does that go back?

Walter Garigliano: Susan, this is the first district, it is shown on your map.

Jacqueline Ricciani: There is a big parcel between where the solar farm is going to be and where the roadway is, where the Dancing Cat is. The solar farm doesn't actually touch 17B

Michael Cassaro: It is 365 ft back.

Walter Garigliano: Can I respond Jacy? We reviewed those standards and we didn't see how those standards were applicable to others that built. It talks about parking lots...

Jacqueline Ricciani: Under the solar section you can ask for additional screening or buffering.

Walter Garigliano: Which has been done, and which has been added to the map, it was added to the map by the single family residence, and the lot by the single lot residence, and in the last set of review comments there was a request that it be added behind the Dancing Cat, now the screening runs all the way from the westerly property line behind Catskill Distilling Company, behind the vacant lot, behind the single family house, along the single family house all the way to 17B. You will see the details of that landscaping proposal on sheet C550 on the plan we provided. The only thing is the remaining is an open question on the landscaping is the amount of the landscaping bond. I have requested that the landscape architect provide a written proposal to Glenn for review to determine the adequacy of the landscaping proposal.

Jim Crowley: What about screening on the Dr. Duggan Road section. You have an open field. You are going to see all of that. Is there going to be screening?

Water Garigliano: There is a large hedge row of trees that exists. It is visible, there is no request and no proposed screening on the east side of the project side. It has not come up before.

David Slater: You noticed that hedge row can be removed.

Walter Garigliano: This hedge row will be removed.

Jim Crowley: I would like to see a visual.

Walter Garigliano: He is saying this one will be removed; I'm saying this is the row of trees I'm talking about which has nothing to do with what is going to be removed.

Jacqueline Ricciani: Walter, can you put a note on the map of what is being removed, and what is to be remained?

Walter Garigliano: There is nothing on the map that shows the existing plant growth on the lot that is being retained by Pete Hofstee.

Jacqueline Ricciani: Wasn't there a question with what was staying and what was being removed?

Walter Garigliano: I'm saying there exists today a hedge row and a line of trees along this stonewall between the project site and Rt 17B. It is in the middle of the lot that is being retained by Pete Hofstee.

Susan Brown Otto: I think there may be an old stonewall there.

Jim Crowley: Glenn, don't they do something with cell phone towers right. They put up balloons to see how it is going to look, sitting on 17B, to make sure the fence is high enough.

Walter Garigliano: If you are suggesting that this may or may not be seen from the Dr Duggan Road, it is clearly going to be visible from the Dr. Duggan Road.

Jim Crowley: I wouldn't want to look at it. It is up to the board. On what the boards feelings is as far as what they would like for a screening or whatever. You look at these solar arrays, this is a big solar farm.

Walter Garigliano: I didn't see anything in your code that says they have to be built where they can't be seen from anywhere.

David Biren: That is what we are here for.

Walter Garigliano: I understand.

Jim Crowley: There are pretty nice views and vistas, I don't know if the people in the town want.

David Biren: This is our chance to make it look right. And I think we should do that.

Susan Brown Otto: How big is the Puerschner Solar Farm? In the Beechwoods?

Walter Garigliano: 2 megawatts. The one on Villa Roma Road that was recently built is nearly 8 megawatts. Double the size of this.

Susan Brown Otto: The one Villa Roma Road.....

Walter Garigliano: Is 8 megawatts Which is roughly double the size.

David Biren: This is 14,000 cars per day passing this.

Walter Garigliano: There are not 14,000 cars passing this on the Dr. Duggan Road.

David Biren: No visibility wise.

Walter Garigliano: Visibility wise, recognizing 17B is a busy access way provided substantial screening and in addition and there is a significant amount of topographic difference between here and there. This slopes down toward Lake Superior, most of it is not going to be in your line of site.

David Biren: In the summer time there will be a lot of cars.

Jim Crowley: You won't see it as bad how it is screened from 17B, I agree with that, but you will see from Dr. Duggan Road. As a Planning Board do you want to see that, I don't know. You will have to come up with screening to see what it is going to look like.

Susan Brown Otto: We have had projects come before us before, what type of tree, how are they are going to be staggered.

Walter Garigliano: We made a proposal the exact location of the screening and the type of tree, the size of tree.

Susan Brown Otto: What type of tree?

Walter Garigliano: It has been in your packet for the last 3 months. C550.

Susan Brown Otto: Does it say exactly what type of tree?

Walter Garigliano: It states the types of trees.

Mike Cassaro: If you want to put screening on the east side would that impact the solar?

Walter Garigliano: Yes. Any screening on any side except the extreme north impacts the economics, because you are going to get morning sun screening. That why this was viewed as a fairly ideal location because the substantial traffic side was on the north side so the screening on the north side doesn't impact the sun coming up around here sitting over there, that is why this hedgerow is coming out. This hedgerow that is here which is not shown on the map which you can see if you go out and look, and Glenn has a map that shows it, this one will not be removed, because it is far enough away it doesn't throw a shadow onto the panels. We could go back to Mr. Hofstee and ask him if he is willing to agree to maintain that screening that is there, but that is not part of the parcel that is leased by the Hofstee Family to Delaware Solar. When I was talking about the existing hedgerow I'm talking about this hedgerow. (Showing on map)

Jacqueline Ricciani: Walter, as a condition of the subdivision, Mr. Hofstee is the owner that wants the subdivision, potentially as a condition of subdivision approval that he require to maintain that he maintains that row of the trees.

Walter Garigliano: It requires a conversation with Mr. Hofstee the applicant will have to have with Mr. Hofstee. I have been up and down the Dr. Duggan probably less times than most of you, this is certainly going to be visible from the Dr. Duggan Road. There was no effort to try to come up with a plan to not be visible from the Dr. Duggan Road.

Jim Crowley: I think we need to come up with a plan.

Walter Garigliano: It's supposed to be viable. I will talk to the applicant.

Jim Crowley: It's not fair to the people that live on Dr. Duggan to look at this.

Walter Garigliano: Why don't we schedule a public hearing and see if they come out and make comment?

Jacqueline Ricciani: I think the applicant's position is that the landscaping that is shown on the plan is what the applicant is willing to do to screen the other side. Or it is going to interfere with the solar generation.

Walter Garigliano: It's not going to be capable of being included on the lot that is leased from Mr. Hofstee. Is it possible to have another discussion with Mr. Hofstee, the answer is yes, what I am suggesting is if the concern is about the neighbors, they are all going to become well aware of a proposal through public hearing mailers to them? They are also going to become aware of this proposal for public hearing mailings that relate to the variance public hearing which is going to be held before the next Planning Board meeting. We are going to have an idea as soon as there is a public hearing whether there will be a neighborhood outcry or whether people are happy to have green energy in their neighborhood. I remember when we first saw cell tower applications in Liberty 30 – 40 years ago. We had a consultant come in and tell us you could make them look like trees. Now you drive all over the place you don't even notice it anymore. It is going to be visible from Dr. Duggan Road, there is no way around it. It will be less visible in the summer when there are leaves on the trees. The topography is like this, so it is going to be visible from Dr. Duggan Road.

Susan Brown Otto: The fields dip down, Dr. Duggan slopes down, you see the cows in the valley.

Walter Garigliano: I was looking before to see if we have an elevation out there, and we don't. There are topo lines with elevations within the proposed site.

Steve Simpson: Jacy, we typically get a little more information on this because it is going to impact people on this road. Can we go forward with the public hearing to get the opinion of the public from this area.

Walter Garigliano: I will get the applicant to waive the 62 day. It is reasonable to get the public opinion.

Jim Crowley: Jacy, I have a question? This fits into our comprehensive plan?

Jacqueline Ricciani: Green energy, I would say so. Green energy is something the Town is interested in. That is why the solar law was overhauled, and then amended to allow large screen energy.

Walter Garigliano: It was overhauled that made it difficult to produce large scale projects and it was amended to take out those provisions to allow large scale projects.

Jim Crowley: I understand green energy, that is a given. We are losing Ag land.

Jacqueline Ricciani: You know solar farms are not allowed in every district in this town, there are only certain districts they are allowed in, and the town decided that Ag is one of them.

Susan Brown Otto: Then we lose Ag land.

Steve Simpson: There are reasons for it though. I have to be honest; I have built probably 20 or 30 of these. They are on landfills or in Ag. The problem is no one wants to see 30 acres of clear-cut. You have two alternatives, landfills, or Ag. At this point, I have seen some that are pretty horrific, so I thought. It turns are willing to accept this as an alternative to gas, coal, and wood. It works. I have seen some, one in Westtown both sides of the road, you have 50 ft separating, 4 megawatts, 2 on each side of the road. It felt like a tunnel at first, I drive it every day now, I don't even know it's there. It's accepted because it is something we have to do. I have people come up and talk to me and say those people they are progressive. You would think they complain. I walked through some of those neighborhoods, I talked to some of the people, I can't believe you approved this, are you okay with this. People think we are progressive, we are smart, trying to do something for the future. Those Planning Boards are packed, they are okay with that. I think we need to get the input from the community, see what they say, we tweak it, because there are concerns obviously, just test the waters, see what they say.

Mike Cassaro: I agree with Steve on this. I was very much opposed to the one where they wanted to cut down 30 acres of forest on Horseshoe Lake Road, I think this is a good thing. I would like to hear what the public would say, and get their input.

Vicky Vassmer Simpson: Jim, can I just speak up about the comprehensive plan. Just so you aware, The Town Board has ruled very much favorable, we want to be a cutting-edge plan, it is very much within the purview of this plan, I am not going to tell you what to do. We are definitely behind the times. The landfill will be having a solar farm.

Jim Crowley: I think that is a great place for it. Personally, I am not convinced going to Bethel Woods seeing a huge solar farm on the left, or a major road that goes from 55 to 17B, the town road, Dr. Duggan Road, it is a very heavy traveled road. I traveled it myself for 16 years twice a day. You have Lake Superior Park down there, there are different things going on, I just want to make sure that is a good location.

Vicky Vassmer Simpson: Again, you guys have the right to have a public hearing. I just wanted to give the town's take on.

Jim Crowley: Depending on what the public says, more screening, we will have to see what we can do.

Walter Garigliano: In terms of where it is located, hearing you loud and clear, there are very few places in Sullivan County that have an electrical distribution infrastructure to accept solar. I don't know if you have noticed where solar is being built. Solar is being built mainly in locations where the power company infrastructure was destroyed in tropical storms Irene and Lee. The power distribution below the Villa Roma where there is a substation was wiped by that storm, by floods. So NYSEG which believes that the technology we should have is the best technology that was available during the Korean War, spends absolutely no money upgrading their infrastructure. So if you think gosh there is all of these fields out here in Sullivan County where you can put solar, that is generally not the case because it is impossibly horribly expensive to build new distribution lines, hundreds of thousands of dollars a mile so there are very few locations within Sullivan County that have the line capacity that feed a substation that has capacity to accept solar electricity. One of the locations in Sullivan County that has the ability to do that happens to be because it was rebuilt for a little place called Bethel Woods, areas in the Town of Bethel that are fed by the substation that was rebuilt with New York State's money, not NYSEG'S money for Bethel Woods. So your project on the landfill and this project if it is built have been made possible by money that was used to supplement NYSEG's budget to upgrade things which I think is about zero, so if you look where the solar has been built, there are 10 solar projects built in Sullivan County. One is built underneath the Marcy South power line in the Town of Liberty. Six are built in the Town of Bethel. Five of the six are much more visible than this. That doesn't mean good or bad, I am just commenting. One in the town of Tusten, also feeding a substation that was rebuilt because of the storm damage, and two in the Town of Thompson, which are extremely visible location, just above Sackett lake Road, on Maplewood Drive, I don't know if any of you have seen that. That substation was rebuilt years ago to service a project that was supposed to be built, a former hotel, it was never built. So, they built the capacity for a project, the project never came, so the capacity exists. I just wanted to make sure that there is no believe that any farm field anywhere, has the ability to be developed into a solar array, there are very few.

Jim Crowley: You are absolutely correct. So, we can build all this.

Walter Garigliano: I go back to what my suggestion was having been at many of these meetings They go either way, there is sometimes an outcry of people who don't want this, and then there are people in favor of green energy. You are going to see them from somewhere. I go back to my request that you schedule a joint public hearing on the site plan review application and a sub division application to avoid the confusion to the public. One for the ZBA, and to have one public hearing for two. Then we will know.

Jim Crowley: What does the board want to do?

Mike Cassaro: I think we should do two.

Susan Brown Otto: I think we should do it. You said the applicant would waive the 62 days. My concern is on the back end of the project, is the decommissioning.

Walter Garigliano: Really the 62 days doesn't mean anything. I don't want to do Jacy's

job, but after 62 days you adopt a resolution denying the project.

Jim Crowley: Or we don't close the public hearing.

Walter Garigliano: The Town Board will be part of this process. Because you don't hold money. There will be a landscaping bond, we need an amount and duration, and the town with decommissioning, and a financial agreement. Today nobody knows how long modern solar panels are going to last. Almost every application that I have been involved in uses a 30 year decommissioning time line, although based upon current technology and the rate of decline of the panels the expectations are that the panels will last a lot longer than 30 years, but most municipalities have used a 30 year time line and required financial security so there would be money available to decommission the project at year 30, we have already submitted a decommissioning plan the Town and to Glenn for review.

Susan Brown Otto: I think this was discussed the first night you were here, let's say 4 years from now, if things get removed, they go back to the way.... things would revert back to the way it was.

Walter Garigliano: That is a limitation Mr. Hofstee may or may not want imposed upon him because he may wish once he has the cash flow from this lease that modifies the value of that cash flow to sell this property to a financial investor, if this was owned separately from Pete's farm, he wouldn't be able to do that. It was discussed. I don't know if John from Delaware River Solar has had that discussion with Peter or not, but I can see Pete having reason why he would not want to accept that condition.

Jacqueline Ricciani: I think the discussion in the past was If the solar farm is no longer in operating and is removed it may be sold in the interim. I think there is another way to skin that cat is to provide that under no circumstances can this parcel be used for anything other than solar facility or subsequent to that it can't be subdivided. I think there may be ways to get to the point you want to get to without bootstrapping Mr. Hofstee with the inability to sell his piece. I don't know if he intends to sell it or not. I don't know if it has ever been discussed or not. If there is a requirement that this be melded back together, which by the way is a condition of the approval on the Puerschner solar array. It is a different scenario, an affiliate company, Delaware River Real-estate owns the Puerschner farm. They had no problem when they subdivided in four separate lots. It is a different scenario. I don't know if this has been discussed or not.

Jacqueline Ricciani: The question is to have one public hearing or two. If they have an opinion about the project, whether it is relevant to the public hearing, I think if you just try to limit it, when you do the subdivision, the comments are going to be about the solar arrays, if you do it separately you will hear it twice.

Walter Garigliano: I don't think it makes sense to have three public hearings.

Jacqueline Ricciani: The same people are getting notices for the ZBA and this one.

Susan Brown Otto: All the property on Dr. Duggan Road?

Walter Garigliano: The public hearing will require within 500 hundred feet of the entire

property. That's why in my opinion is to have a single public hearing, because the impacted property owners, it is somewhat an inverse relationship you'll catch more property owners than you would a separate site plan subdivision notice where there wouldn't be anyone from Dr Duggan Road.

Susan Brown Otto: What about the people on the other side of 17B, on the north side of 17B, right across from the Alpaca place, the Bethel Market Café.

Jim Crowley: So, 500 ft from the property line. So, all the way around.

Glenn Smith: During the public hearing, maybe some large photos from Duggan Road would be helpful

Walter Garigliano: If we bring a laptop, a screen to show it. I know Dave had it up. Everybody is right about the topography it goes up and down, no one is trying to hide the fact that you won't see this array from the Dr. Duggan Road.

Mike Cassaro: Are they moving panels?

Walter Garigliano: They are stationary. No one knows what the long-term maintenance plan will be, the panels will be high enough to allow them to use sheep to graze off the vegetation.

Susan Brown Otto: So, they are not using herbicides.

Jacqueline Ricciani: No.

Walter Garigliano: They can use herbicides.

Jacqueline Ricciani: Will there be one public hearing or two.

***Motion to have a public hearing by Steve Simpson, second by Susan Brown Otto***

***All in favor-7***

***Opposed-0***

***Agreed and carried***

Mike Cassaro: Will we be able to give a negative declaration?

Jim Crowley: I don't know. I don't have the information. I just started.

Walter Gargliano: This is the long form EAF that was submitted in December. Part 1 and Part 2 have been completed. All Part 2 has been reviewed by Glenn. We would ask you to consider Neg Dec the project tonight based on our submitted information that was submitted in December.

Jim Crowley: I haven't read it.

David Biren: He is chairman.

Walter Garigliano: But there are 6 other people here. Glenn was happy with it.

Glenn Smith: I received on November 25<sup>th</sup>, and I was satisfied.

Jim Crowley: I would advise that you have the public hearing first, and let the public weigh in. What does the board think, I am one vote?

Walter Garigliano: We will submit the 239 with or without it, and we will let the County decide if they want to review it or not. Obviously, the County's policy wants to desperately make these things happen.

Jim Crowley: It is up to the board.

Mike Cassaro: I have enough confidence in Glenn, and why not move this ahead.

Steve Simpson: I agree, and I want to get the public hearing in. I don't think there is a whole lot that is missing. I did go through some of this.

Walter Garigliano: I am convinced that it is complete.

Steve Simpson: We can't get there without the negative dec back. I think we can do the neg dec it is not a stamp of approval.

Jacqueline Ricciani: You can have your public hearing before the public hearing. You don't have to the neg declaration for a public hearing.

Walter Garigliano: We are going to send out regardless. We sent out lead agency letters months ago, no one responded. You became lead agent and you as a board approved that.

Jacqueline Ricciani: The January meeting the board was lead agency. Do you want to have any further discussion?

David Slater: Will this bite us in a butt? I thought we had that happen once. I am asking on a legal point.

Jacqueline Ricciani: I don't think it bit you as you say, if this is challenged, the applicant is also going to play a role in defending the boards determination that there is little to no impacts.

Walter Garigliano: These are pretty complicated projects from a mechanical standpoint. These are pretty simple projects from the long form EAF standpoint because the only parts of the EAF that are remotely relevant is agricultural and you need to look at that more globally not on a single parcel basis. We have farms unfortunately, I am a farmer as you probably know, we have farms disappearing, not farms being built so we have an excess of Ag land with the dairy industry blowing up, and not existing in the Northeast anymore...

Jacqueline Ricciani: There is no disturbance of the land, no grading, no excavating of the land. But The visual impact is part of the environmental impact we just went through

with the other one, the visual, the aesthetics', that is part of what you need to consider and we all know what it is, and Glenn showed me in one of the submissions there are some overhead color photographs so you can see all where it is going to be, so if you want to vote.

Walter Garigliano: I want to make sure we don't have anything in the record that is inaccurate. There will be some grading on the site. We have submitted long ago SWPPP.

Jacqueline Ricciani: It's not like you are putting in a Walmart or something. I know I read there was going to be some grading where the inverter pad is, where the staging area is going to be.

Walter Garigliano: The amount of soil disturbance on the site is very low, but there is enough disturbance to check the box that you need to check it mandates that you do a storm water pollution prevention plan which we did, and which was submitted to Glenn, and which he reviewed.

Jim Crowley: I don't know how I am going to vote. I have to read it. I have to vote no. No one else would vote on something that they never read. Not that I don't agree with your professional expertise..... I need to read it.

Jacqueline Ricciani: Wait, time. If you vote no, that doesn't mean that you necessarily that you don't agree with the negative declaration, that could be interpreted to me that you think that there is going to be a significant environmental impact.

Jim Crowley: How do I know any of it until I read it. The board can vote.

Jacqueline Ricciani: I am just cautioning you that by abstaining.....

Walter Garigliano: I will redraw the request. I appreciate your assistance, but if every time a new member to the board is appointed projects are delayed until the new members get the information that was given to the board 4 months ago, it is just a signal to me that we are in a position ..... I will withdraw the request.

Jacqueline Ricciani: We will be ready next time. There is a motion pending, is that going to be withdrawn?

Jim Crowley: I thought he just withdrew.

Jacqueline Ricciani: He withdrew his request, there was a motion out there.

Susan Brown Otto: What was the motion.

Jacqueline Ricciani: Negative dec.

Motion by Mike Cassaro, second by Steve Simpson for a negative declaration

Susan Brown Otto: Could we just have Glenn read.....

*Motion to approve Neg Declaration by Mike Cassaro, second by Steve Simpson.*

*All in favor – 6*

*Abstain – 1*

*Agreed and carried*

*Motion to adjourn by Michael Cassaro, second by David Biren*

*All in favor – 7*

*Opposed-0*

*Agreed and carried*

*Respectively submitted,*

*Jannetta MacArthur  
Recording Secretary*

*11 pm*