

# Planning Board Meeting Minutes – December 21, 2020

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A meeting of the Town of Yorktown Planning Board was held on **Monday, December 21, 2020 at 7:00 p.m.** via Zoom video conference.

John Kincart called the meeting to order at 7:00 p.m. with the following Board members present:

- Bill LaScala
- Aaron Bock
- Rob Garrigan
- Rich Fon, Chairman (*joined the meeting at the beginning of the Work Session*)

Also present were:

- John Tegeder, Director of Planning
- Robyn Steinberg, Town Planner
- Nancy Calicchia, Secretary
- James W. Glatthaar, Esq.
- Councilman Ed Lachterman, Town Board Liaison

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**In accordance with the Governor’s Executive Order 202.1, the Town of Yorktown Planning Board will not be meeting in person until further notice. All Planning Board meetings will be held via video conferencing, and the regular session portion of the meetings will be uploaded to the Town of Yorktown’s website and Yorktown’s YouTube channel after the meeting. All regular sessions will be broadcast on the Town of Yorktown Government Channel.**

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## **Correspondence/ Liaison Reports**

- Mr. Kincart stated that Chairman Fon was not able to attend the earlier portion of this meeting and will chair the meeting until he arrives.
- The Board reviewed the following correspondence:
  1. Correspondence from resident, Susan Siegel dated 12/9/2020 with respect to Planning Board procedures. This item will be addressed when all the Board members are present in order to set up a format for procedural issues.
  2. Par 3 Golf - Correspondence from resident, Susan Siegel dated 12/21/2020 with respect to the Par 3 golf course. Ms. Siegel is concerned that work is progressing at the site without any of the proper permits and would like to know who is responsible for issuing notices of violation and penalties. Mr. Kincart stated that the applicant has filed a SWPPP and was issued a permit by the NYCDEC to do work in and around the stream. With the Board’s consent, he would like to request that the Planning Department refer this matter to the Engineering Department for review to determine whether it’s an engineering issue or code enforcement issue. The work that is being done is not pertinent to the current site plan application before the Planning Board with regards to the restaurant, parking, ingress, egress, etc. Mr. Bock asked what the Board’s role is in this process. Mr. Tegeder gave a brief history of the site. The property is town owned land. The Town Board wished to utilize the land once again as a recreational facility for a golf course and entered into an agreement with a private group. The group then started work at the site and it became evident that there needed to be a bit more oversight over the execution of the work and that is when the Planning Board became involved to help with the procedural issues. The work being done at the site is part of the actual refit of the golf holes, tee boxes, greens, etc. The NYSDEC issued a stop work order and corrective action was taken by the applicant, which subsequently led to the issuance of a permit to the applicant. Part of the Planning Board’s role is to review the operation of the site in terms of human functions with respect to driving, walking, public safety, getting in and around the building, parking, etc. which is under the Board’s review. He noted that the work done on the greens will not change and has been looked at and vetted by this Board in terms of the SWPPP and the NYSDEC and would not be unusual for that work to be able to continue given the situation and how the project developed.
  3. Lowe’s Home Center – Correspondence from Site Design Consultants with respect to the elimination and restriping of parking spaces at the Lowe’s Home Center site. The Board will discuss this during the Lowe’s agenda item.

**Motion to Approve Meeting Minutes**

Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the meeting minutes of December 7, 2020 with corrections as noted.

**Motion to Open Regular Session**

Upon a motion by John Kincart, and with all those present voting “aye”, the Board opened the Regular Session.

**REGULAR SESSION**

**Broccoli Subdivision**

Discussion: Decision Statement  
Location: 70.08-1-6; 315 Crow Hill Road  
Contact: Michael Dubovsky, Applicant  
Description: Proposed 2-lot subdivision to facilitate sale of created lot to adjoining property owner.  
Comments:

Joseph Riina, P.E. of Site Design Consultants was present on behalf of the applicant. Mr. Tegeder informed the Board that the proposed subdivision that is subject of this application is a transfer of property only and is not creating a new building lot as discussed at the 11/9/2020 Board meeting. This restriction will also be noted on the plat. Mr. Kincart asked the Board and Counsel if there were any comments and there were none.

**Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution approving a subdivision plat titled Broccoli Subdivision Plat.**

**Lowe's Home Center – Pad A**

Discussion: Decision Statement  
Location: 26.18.1-17; 3240 Crompond Road  
Contact: Site Design Consultants  
Description: Proposed amended site plan for a 12,500 SF building to accommodate a specialty grocer on the site.  
Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina updated the Board regarding the item discussed in correspondence. The Lowe’s management team restriped the parking lot to eliminate 14 standard parking spaces and replace them with 3 contractor trailer parking spaces as shown in red on the plan. This will help to eliminate the double parking issues and blocking of parking spaces. He noted that the Lowe’s management group did not inform the Breslin Group of this change. An analysis of the original overall parking approval versus the proposed parking plan was provided to the Board for review and discussion.

Mr. Kincart asked the Board and Counsel if there were any comments. Mr. Tegeder responded that after reviewing the plans, there are enough parking spaces in terms of the displacement of the 14 spaces. He noted that Pad “A” was originally approved for a much higher parking count due to a possible restaurant use. The proposed plan for Pad “A” provides 6 more parking spaces than required and there is access to the shared parking area. His recommendation is to include an approval of the parking modification to the entire site in the approving resolution. Mr. Bock stated that in the draft resolution there is a section that discusses the parking and asked if the numbers should be inserted if they have now met those requirements. Mr. Tegeder responded that they could. Mr Tegeder added that in the requirements section or in one of the resolving paragraphs, there should be an acknowledgement that the architectural treatment of the building is part of the Board’s approval and should not be changed unless they come back to the Board for an amendment. The Board agreed.

**Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution approving a site plan for Building Pad “A” of the Lowe’s Home Center, Planning Board Resolution #16-22 with amendments as discussed.**

## **IBM Solar Canopy Project**

Discussion: Public Informational Hearing

Location: 69.16-1-1; 1101 Kitchawan Road

Contact: Ella Wynn, EnterSolar, LLC

Description: Proposed installation of a 5.5 MW solar parking canopy over existing employee parking lot located in the rear of the building.

Comments:

**Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board opened the Public Informational Hearing.**

Mark Desmeulles of Entersolar; Kimberly Fasnacht of Spott, Stevens & McCoy; Art Taylor, Project Manager of Entersolar; and Dennis Phayre of Entersolar were present. Mr. Desmeulles stated that the proposal is for the installation of a 5.4 megawatt solar parking canopy in the main parking lot of the IBM Watson campus. The proposed system will generate 6,363 megawatt hours per year. Various views from the IBM campus and proposed canopies were shown.

Ms. Fasnacht stated that the entire canopy project is over the existing paved parking structure and noted that there is no net increase of impervious surface. They are proposing to connect to the existing stormwater infrastructure within the parking lot and will upgrade where necessary. There is no increase in the rainfall being introduced to the stormwater system. The project proposes to remove 31 trees and install 120 replacement trees that will vary in size from 1” to 4” caliper and consist of a mixture of evergreen and deciduous trees. The plantings will be positioned to provide screening on the southwest portion of the site.

Mr. Taylor stated that the project will be done in three construction phases. The first phase will be the excavation of the footings, the second phase will be the construction of the steel structure and the third phase will be the installation of the solar panels and wiring. There is a small satellite parking lot that will be used for staging and storing materials. The area where the main electrical equipment (transformers, etc.) will be housed and the connection to the utilities was shown on the plan. The duration of the project is estimated to be 12 months. All construction will be done during normal work days and hours. There will be no construction before 7:00 AM and will not proceed into the evenings per the town’s noise ordinance. The traffic entering and exiting the site will come in the back entrance from Pines Bridge Road and they will only use roads suitable for truck traffic. During the excavation phase, there will be machines moving around the site daily that will generate normal construction noise. The facility, once built, will generate no noise. IBM has identified a site on the campus for a concrete washout. This is an area set up for their construction activities that will be heavily regulated and contained. There will not be any run-off of construction material and no additional stormwater generated at this site. The water table and water quality will not be affected.

Mr. Phayre stated that while the project is designed to primarily benefit IBM and its employees, the benefits do actually extend to the larger community by providing renewable energy to the community in the larger sense and being able to retire some of the ground generating plants that exist within the Hudson River Valley and being able to retire Indian Point. An additional benefit to the community is that this facility exists near a substation that Con Ed has identified as having capacity challenges. This system will provide peak power to the network during the times when it is most needed helping to provide greater stability and reliability to the grid. Overall, it is a benefit to the community but primarily designed for IBM and its employees.

Mr. Kincart asked the Board and Counsel if there were any comments and there were none. Mr. Kincart asked the public if there were any comments. Public comments as follows:

**Camille Connolly, 209 Barnes Street** – Ms. Connolly stated that she resides on Barnes Street adjacent to the IBM property on the northeast side and is concerned about the noise in general and the environmental impacts. She asked if any part of this proposal is dangerous? Is there a transformer that will impact them in some way? What about the wildlife - have there been any studies on the bird population. She heard that solar panels attract birds to fly into them as they do with windows.

Mr. Taylor responded that there will be noise during the construction phase and will mitigate this by operating during the normal business hours. They will be as considerate as possible to the neighbors and noted that he will be available to talk to anyone who reaches out to IBM with concerns during the construction phase. There will be electrical equipment at the site but it is a heavily regulated industry and there are standards that they have to follow in addition to electrical

inspections. The electrical equipment will be located in an isolated area and will be fenced in with landscaping around it. He noted that these solar systems come equipped with a shutdown switch in various places (main electrical equipment and the solar array itself) to ensure that emergency personnel can shut down the system if an incident were to occur.

Mr. Phayre stated that during the construction phase, everything will be coordinated in an extremely cautious way. Once the project is complete, there is no danger to the community or on site. As far as wildlife, it will likely attract more birds than it will repel. It's a large surface that is above ground where birds can land and would not be surprised if they form nests. The modules themselves are black and facing up toward the sky which would be visible to the birds and should not have a negative impact on the wildlife whatsoever.

Ms. Connolly asked if they would consider planting more trees on the northeast side to help with the noise situation from IBM. Ms. Fasnacht responded that she will discuss this with IBM.

Mr. Kincart read the following additional public comments:

**Tom McLoughlin, resident** – Mr. McLoughlin asked what percentage of the solar power will benefit Yorktown residents.

Mr. Phayre responded that the power will be used principally by IBM with some benefit toward the employees. It is not a typical community solar project where the project is built to serve the larger community. This is an IBM project on IBM property.

**Jay Kopstein, resident** – Mr. Kopstein noted that his questions were answered during the presentation.

There were no other public comments. Mr. Kincart asked the Board and Counsel if there were any other comments and there were none.

**Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board closed the Public Informational Hearing.**

#### **Hemlock Hills Farm Solar Farm**

Discussion: Public Informational Hearing

Location: 46.08-1-1 (Yorktown) & 45.12-1-4 (Cortlandt); 500 Croton Avenue, Cortlandt Manor

Contact: Badey and Watson Surveying and Engineering, P.C.

Description: Proposed 1.69 MW solar farm on a portion of the 50 acre Hemlock Hill Farm property.

Comments;

**Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting “aye”, the Board opened the Public Informational Hearing.**

Margaret McManus, P.E. of Badey and Watson was present. Mr. Kincart noted that the Planning Board conducted a site visit this past Saturday as there were concerns of the view of the solar farm from the existing trail system. He did not attend that visit but did get out to the site earlier today. Ms. McManus stated that the proposed solar farm will be a total of 4 acres and located within the Yorktown parcel consisting of 50 acres. The entire site is a total of 118 acres between the Town of Cortlandt and Yorktown. As discussed at the previous Board meeting, nine balloons were spread out and placed along the location of the proposed solar array in order to get a sense of what the view from the trail would be during the site visit. Photos from the site visit showing a single balloon barely visible was shown. She noted that this was done during leaf off conditions and feels that as soon as the trees are in bloom, there will not be any visibility to the farm. The solar panels face south and the view from the trail will be from the east looking at the ends of the panels. She does not think it will be a significant impact and is not sure that planting evergreen trees will be a benefit to the view.

Ms. McManus continued. The entry to the site is off of Croton Avenue. There is a stonewall that separates the wetlands from the field. The solar panels will face toward the south. There is a wire that needs to be connected to the proposed transformer. This will be installed by boring and driving it under the ground and not trenched. In addition, there will be two small concrete pads for equipment. A revised plan will be submitted to the Board showing the concrete pads. Since the property is in the NYC watershed, the NYCDEP asked that the run-off from these pads be addressed. She will look to see how they will accommodate this increase in impervious area. There are no other stormwater impacts since they are not placing any roadways in the area. The solar panels are proposed to be installed within the wetland buffer so they are requesting a wetland permit, however they will just be pile driven so there will be no concrete pads underneath. A

pollinator seed mix will be spread underneath the panels, which will be good for the environment and also attract bees to the area. No trees are proposed to be removed for the project. The only noise that will be generated from the solar farm will be during the construction phase. Once complete, there will be no increased noise.

Mr. Kincart asked the Board and Counsel if there were any comments. Mr. Bock noted the NYCDEP letter dated 12/15/2020 raising issues which extend beyond the Yorktown property into the Cortlandt side of this project and questioned how this review takes place if we are the Lead Agency on the project. Is the Board only limited to reviewing the Yorktown side when the DEP raised issues on the other side of the town line? Mr. Tegeder responded that the Town of Cortlandt would be an involved agency if any of the construction on their side rises to requiring an approval, it would be a coordinated review. Cortlandt can participate and accept this Board as the Lead Agency, since we have the largest impact, and they would inform us of any information pertinent to their parcel as it would be their duty to do so under SEQRA. We would, on their behalf, produce a SEQRA record that would form the basis or part of the basis of their approval record as well. Mr. Glatthar agreed and stated that it is the Board's obligation to consider the environmental impacts that they are notified of, and the Board's obligation to look on the other side, but it's a difficult situation when you have properties in two municipalities. The concern should be focused on where the majority of the impacts are and in this case it is Yorktown. Ms. McManus stated that she received a copy of the NYCDEP letter and noted that all the items will be addressed in the SWPPP and submitted to the Board when complete.

Mr. Bock stated that at a previous meeting it was noted that Westchester County approved the wrong parcel and asked if this was addressed. Ms. Steinberg responded that she spoke to the County and their response was that the applicant should submit another letter for approval.

Mr. Kincart asked the public if there were any comments. An email from Brendan Murphy of the Westchester Land Trust was read into the record by Mr. Kincart as follows:

I have comments/questions regarding the Hemlock Hills Farm Solar Farm project. Our Hunter Brook Preserve is adjacent and downhill to Hemlock Hill Farm and the project site, and receives virtually all of the stormwater from the farm via 7 intermittent streams or gullies. A few of the streams coming off the farm have been eroded, which negatively impacts our hiking trails and pollutes the streams and wetlands, including the Hunter Brook itself. As such, my comments/questions are in regards to stormwater runoff and water quality.

- On Sheet 1 of 3, I see water features like a stream on the south side, and a pond to the west, both showing in blue. But there is another feature, running east-west through the center of the project site labeled "dry ditch". Is it called dry ditch because at the time the survey was developed it was dry, or because it doesn't meet the definition of a stream? This dry ditch does indeed run with water (it comes from the pond, actually), and Westchester County classifies the ditch as a stream at the stone wall that is on the east side of the project site. Consideration should be given to reclassifying the dry ditch as a stream because it does have water, and because the point at which Westchester calls it a stream is literally a few feet away, and that such a designation would perhaps allow the project design and management to better accommodate for downstream impacts.
- I understand that a stream that is within close proximity to, or even within the solar field, is going to be restored by the Watershed Agricultural Council. This is welcome news. Is this the stream that is on the south side of the project, or is it a different one?

Thank you for the opportunity to provide comment on this project.

Ms. McManus responded that the stream on the south side of the wall will receive some treatment from the Watershed Agricultural Council (WAC). She stated that the ditch is sometimes called an intermittent stream because basically it is dry except if the pond exceeds capacity and overflows. She will reach out to the WAC to find out if they have developed plans for the mitigation of the stream. She noted that the conditions are existing and will not be impacted by the addition of the solar panels. In addition, they will follow the NYSDEC guidelines.

**Tom McLoughlin, resident** – Mr. McLoughlin asked what percentage would the Town of Yorktown residents benefit from this installation.

Ms. McManus responded that this solar farm will be directly connected into the grid. If you are a Yorktown resident and buy into any of the plans that let you be part of the solar farms, then you would directly benefit from this installation.

There were no other public comments. Mr. Kincart asked the Board and Counsel if there were any comments and there were none. Ms. McManus asked the Board if she should reach out to the Town of Cortlandt to see if they have any issues with the two pads that they are proposing to install on the Cortlandt side of the property. Mr. Tegeder responded that it would make sense to do this as a matter of course. He noted that the application was circulated for Lead Agency and they have not received any response as yet.

**Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board closed the Public Informational Hearing.**

**Upon a motion by Aaron Bock and seconded by Rob Garrigan, and with all those present voting “aye”, the Board re-opened the Public Informational Hearing.**

Mr. Kincart stated that there was an additional public comment as follows:

**Susan Siegel, resident** – Ms. Siegel wanted to follow up on Aaron Bock’s question at a prior meeting with respect to the County’s approval letter and misidentification of the parcel. She thought that the Town should contact the county to answer this question.

Ms. McManus responded that Robyn Steinberg of the Planning Department stated earlier that she contacted the County and was told that the applicant will need to resubmit a letter which they will do.

**Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board closed the Public Informational Hearing.**

**Yorktown Energy Storage Tier 2 Battery Storage System**

Discussion: Public Hearing  
Location: 6.17-1-24; 3901 Gomer Court, Jefferson Valley  
Contact: Melissa Samaroo, PV Engineers, P.C.  
Description: Proposed Tier 2 (5,000kW/15,000kWh) battery energy storage system which will be no more than 15% of the lot coverage with a maximum of five containers.

Comments:

**Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting “aye”, the Board opened the Public Hearing.**

Robert Gaudio, Esq. of Snyder and Snyder; Melissa Samaroo, project engineer; and Mike Conway, electrical engineer; were present. Mr. Gaudio stated that the Public Hearing notices were sent out and the proof of mailings were provided to the Planning Department. A revised set of plans was submitted modifying and increasing the landscape plan. They also submitted a report and outline regarding the secondary containment as discussed at the 11/23/2020 meeting.

Ms. Samaroo stated that the proposal is for a Tier 2 battery energy storage facility to be located at 3901 Gomer Court off of East Main Street to the north and Route 6 to the south. The site is on a 2.5 acre lot with an existing autobody shop and is zoned (O) office. The proposed facility will be located at the rear of the property and consist of five battery energy storage containers that will encompass approximately 14,700 sf of the site which does not exceed the 15% maximum lot coverage in the zoning code. In accordance with the law, they provided a 7-ft see through chain link fence as requested by the Fire Advisory Board. At the request of the Planning Board, Conservation Board, and the ABACA several planting clusters around the site are proposed for screening purposes as detailed in the landscape plan. All of the vegetation is 20 feet off of the fence line which is required by the legislation. There is one motion sensor light on the containers for access to the site during the evening. Mr. Gaudio added that ABACA signed off on the landscape plan and has no further comments based on the changes made. He noted that they also agreed to clean up the back portion of the property and remove the invasive vines as further mitigation to help improve the property as per the recommendation of the Conservation Board. The proposal meets all the setbacks, height requirements, lot size, and lot coverage requirements under the new battery storage legislation. He noted that the County did submit its recommendation in October stating that they view this decision as a local determination.

Mr. Kincart asked the Board and Counsel if there were any comments. Mr. Bock stated that there was concern raised at the last meeting about containment and appreciates the applicants response with all the materials submitted. He noted that the applicant has been very responsive to the Board’s concerns and very successful in meeting them.

Mr. Kincart asked the public if there were any comments. Public comments as follows:

**Susan Siegel, resident** – Ms. Siegel asked about a financial issue relating to the battery storage facility that she thinks the Town Board needs to act on and asked that the Planning Board delay its approval of this application until then. She cited Section 487 of the state Real Property Law which allows property owners that have battery storage facilities and solar farms on their property to receive a 15-year tax abatement. The way the law is written it becomes automatic once the project is approved and meets all the state criteria. The property owner would file the application with the Assessor and it would then be automatically accepted. The Town has the option to opt out of this and many towns have opted out across the state and are on the state website. If the Town does not opt out, they could request a PILOT agreement be negotiated with the developer. She does not know the terms of who owns this land or if they are just leasing it. The Town Board is aware of this and noted that this is a tax payer issue. She feels bad for the applicant who would like to proceed but feels that this issue needs to be acted upon by the Town Board.

Mr. LaScala agreed with Ms. Siegel's comments. Ms. Siegel stated that it is money that the Town could use and doesn't hurt the project as it is already getting financing benefits from NYSERDA and federal tax breaks. This is not a land issue.

Mr. Gaudioso responded that they have already reached out to the Town and offered to negotiate a PILOT agreement. He does agree with Ms. Siegel that this is not a land use issue. This is an issue between the applicant and the Town Board. They do lease the property and do not own it. Mr. Tegeder stated that an internal meeting is scheduled for Monday on this subject and that the applicant is aware of this. Mr. Bock stated that the question Ms. Siegel is raising is whether the Board needs to take further action on this project because of the tax laws governing pilot agreements. He noted that he read the law and he doesn't think the Planning Board needs to hold up their approval based on what the Town Board is doing and asked Mr. Glatthaar his thoughts. Mr. Glatthaar responded that the Planning Board can't delay action on the project because there are time limits under the Town law that you have to act on and the result of not acting within those time limits is a default approval. In addition, PILOT agreements are always negotiated after the approvals are given. A copy of the approval is necessary for the applicant to get the PILOT. His recommendation is to proceed in the normal course with the planning review and let the Town staff work with the applicant on the PILOT application.

Mr. Conway thanked Mr. Glatthaar for the clarification and noted that the Town's ability to opt out is not contingent upon or directly connected to this Board's approval. It is connected to the applicant's notification to the Town of their intent to construct and the Town responding within a certain time frame. As a matter of detail, the requisite period of time has lapsed from that notification and the Town is technically defaulting with not being able to opt out. However, the applicant still intends to enter into a PILOT with the Town despite this because it's the right approach. Mr. Bock asked when the 60 days notice was given. Mr. Conway stated that it was in July. Mr. Gaudioso stated that he agrees with Mr. Glatthaar and has no objections to proceeding with the PILOT.

**Jay Kopstein, resident** – Mr. Kopstein asked if there was going to be a transformer or substation on this site and if so, where will it be located. There was a building marked energy storage equipment area and asked what is going to be in there and if there is anything that will require fire protection. He also asked what the smaller buildings off to the side of the battery buildings were.

Mr. Conway responded that because of the interconnection voltage on this project being relatively low, there is no full substation required for this facility. They will be using two separate transformers to step up to the voltage at which they connect to the Con Ed system and those are two of the boxes that are included in the energy storage equipment area. The smaller cubes shown in the rendering outside of the energy storage containers are standard issue pad mounted medium voltage transformers and would not have any additional fire protection or sprinklers.

Mr. Kopstein asked why the transformers are not marked on the drawings and if they are going to be on the same concrete pad. Also, will the pad be marked the way Con Ed marks its own pads showing where it is safe and unsafe to be.

Mr. Conway responded that the transformers will be customer owned and not necessarily owned by Con Ed so they won't have the same exact labels but will include the same warnings and labels pursuant to the NFPA and National Electrical Code. He noted that the transformers are labeled on the site plan.

Mr. Kopstein asked the applicant to consider marking the concrete pad to show where it is safe to stand when the transformers are either activated, or believed to be activated, using the same color Con Ed uses. Mr. Conway asked if it is marked on the ground or a label. Mr. Kopstein stated that it could be marked on the concrete itself.

**Christine Gogola, resident** – Ms. Gogola asked if inspections would be done more frequently as it is a residential area. Mr. Gaudioso responded that the proposal does have inspections as required by the code. The applicant is committed to following all the inspections as required by the Town Code which is based on the NYSERDA model and NYS Building Code. He noted that this site is distant from residences and on a commercial property adjacent to commercial properties and Route 6. It meets all the required setbacks and lot size requirements. Mr. Conway added that as an operations and maintenance provider for the system, they will be at the site once a year providing preventative maintenance on the system so this will be an addition to the frequency of formal inspections. Mr. Bock asked if they could require twice annual inspections if the applicant is willing to do it. Mr. Gaudioso stated that the proposal has a utility maintenance agreement which is required as part of the conditional approval.

Ms. Steinberg stated that she drove past the site on Saturday and noted that from East Main Street, with the leaf off condition, you could see the entire yard and is not sure what the Board would like to do about this because of the stream and wetland area. Mr. Gaudioso noted that there was one area that was to be left as a clear view. Mr. Tegeder noted that they could plant some shrubs that grow 10 to 12 ft near the outside of the fence. Mr. Gaudioso noted that the setback from the fence is 20 ft. Discussion followed whether the landscaping had to be 20 feet from the structures or 20 feet from the fence. The Planning Department will review this section of the law with the applicant for screening of that area. Mr. Gaudioso had no issues.

Mr. Gaudioso asked the Board if they could act on the resolution subject to the additional conditions discussed this evening. Discussion followed. The Board agreed to amend the language in the resolution with respect to the landscape plan and storage of outdoor equipment or vehicles.

**Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board closed the Public Hearing.**

**Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting “aye”, the Board declared Lead Agency.**

**Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting “aye”, the Board adopted the Negative Declaration.**

**Upon a motion by Rob Garrigan and seconded by Bill LaScala, and with all those present voting “aye”, the Board approved the resolution approving site plan, special use permit, and wetland permit for Yorktown Energy Storage 1, LLC c/o Borrego Solar Systems, Inc. with amendments as discussed.**

#### **NY Self Storage – Jefferson Valley**

Discussion: Public Hearing  
Location: 16.08-1-4; 621 Bank Road, Jefferson Valley  
Contact: Dawn McKenzie, Insite Engineering  
Description: Proposed retrofit and expansion of the former Toy-R-Us building for a 70,435 SF self-storage facility.  
Comments:

**Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board opened the Public Hearing.**

Dawn McKenzie of Insite Engineering; and Jared Coon of Hanlon Architects were present. Ms. McKenzie stated that the proposal is to retrofit the former Toys-R-Us building located at 621 Bank Road in Jefferson Valley to a self-storage facility. The site is zoned C-1, situated on a 3.6 acre parcel and bordered by Bank Road to the north, Route 6 to the south, Club Fit to the east and Lee Boulevard to the west. The access to the site is from Lee Boulevard further to the west. The proposal is to expand the existing building with two additions, one on the east side and the other on the west side. The front of the building facing Bank Road is proposed to have a covered entry way with some unloading and handicapped parking spaces. There will be parking along the front of the site at Bank Road. Most of the pavement around the building will be maintained. There is currently an existing curb cut and entrance that will be relocated further to the east due to



the grade difference. Some parking will be maintained on the east side of the building. The plan has been slightly revised since the previous meeting. The eastern portion of the northern façade facing Bank Street has been moved to the south by 6 feet. The exterior access to four of the northerly storage units on the east side of the building have been eliminated. The southerly units on the east side of the building have been recessed back 3 feet to accommodate a 24' wide drive aisle along the front of those units and maintain the existing easterly curb cut and landscape in that area. The project proposes to maintain the existing mature evergreens and deciduous landscaping and incorporate supplemental landscaping throughout the site. They are proposing additional landscaping on the Route 6 side to soften the view of the building and provide an additional buffer.

Mr. Coon presented various elevations of the proposed project. The building details, material and color palette were reviewed with the Board. The existing front will be utilized as the main entrance for the patrons. The proposed additions will be treated with an insulated metal panel system and the existing building will be painted to match. Wing walls have been added on each side of the building, as well as supplemental landscaping, to conceal view of the overhead doors on the sides of the building.

Mr. Kincart asked the public if there were any comments and there were none. Mr. Kincart asked the Board and Counsel if there were any comments. Mr. Bock asked about the Westchester County Planning Board letter with respect to the green energy technology. Ms. McKenzie responded that they are proposing to retrofit the existing lights with LED lighting to be supplemented with building mounted lights as needed to provide energy efficiency. A photometric lighting plan will be provided to the Board once complete. Mr. Bock asked about the rooftop solar array that was mentioned in the County letter. Ms. McKenzie responded that she will discuss this with the applicant but this would not be their intent at this point.

Mr. Bock asked about the parking calculations should the site change to a different use in the future. Ms. McKenzie responded that the original submission had a much larger addition and they were able to accommodate enough parking for an alternate use on the site with parallel spaces along the east and west sides of the buildings provided that the entrances were at the front of the building. There may be some areas that require additional pavement to be put back. The locations were shown on the plan where parking could be accommodated for a future change of use. She will provide the original parking plan and a narrative to the Board to satisfy this requirement.

Mr. Tegeder requested that the applicant change the striped sidewalk to a curbed sidewalk as it will be a safer alternative. Discussion followed with respect to the parking calculations, SWPPP and resolution. The Board agreed to amend the resolution to include that the SWPPP, parking requirements, curbed sidewalk, landscape, and lighting plan be to the satisfaction of the Planning Board.

**Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board closed the Public Hearing.**

**Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board declared Lead Agency.**

**Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting “aye”, the Board adopted the Negative Declaration.**

**Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution approving site plan, special use permit, and stormwater pollution prevention plan for NY Self Storage-Jefferson Valley site plan with amendments as discussed.**

**Motion to Close Regular Session and Open Work Session**

Upon a motion by Aaron Bock and seconded by Rob Garrigan, and with all those present voting “aye”, the Board closed the Regular Session and opened the Work Session.

## WORK SESSION

### Underhill Farm fka Soundview School

Discussion: Pre-Preliminary Application

Location: Underhill Avenue, Yorktown Heights

Contact: Site Design Consultants

Description: Proposed mixed-use development of commercial and residential uses on 13.8 acres in the R1-40 zone.

Comments:

Joseph Riina, P.E. of Site Design Consultants; Mark Blanchard, Esq. of Blanchard & Wilson; Steve Marino, Wetlands Consultant of Tim Miller Associates; and Paul Guillaro, property owner were present. Mr. Blanchard stated that they are here this evening to discuss the preliminary site plan for the Soundview property which will now be known as Underhill Farm. This project will tie into the adopted comprehensive plan and will fit in with the projects to the north, south, and east of the site.

Mr. Riina showed the aerial photo and proposed plan. The site is located on the campus of the former Soundview Preparatory School on Underhill Avenue. The property is currently zoned R1-40 and is across the street from the Rochambeau developments. There are several existing buildings with some smaller parking areas and driveways throughout the site. With the exception of the main house, these buildings are proposed to be removed. The existing main entrance, main building, pedestrian entry gate and stone wall around the property are proposed to be preserved. There is currently an emergency access road that goes through the site required for the Beaver Ridge apartments that is proposed to be maintained, but relocated.

The proposal is for a mixed-use residential/retail development with elements of green and open space utilizing the new overlay design district that is currently being considered by the Town Board. The proposed project will consist of 50 townhouses, 30 condos and 85 apartment units. On the west side of the site, backing up to Glen Rock Street, will be 5 buildings containing 6 townhouse units each, with an access drive off Underhill Avenue. 5 more buildings containing 4 townhouse units each are proposed on the opposite side of the drive. The units will have a basement entry garage with two stories above. There is a turn around at the end of the site for emergency vehicles. A clubhouse, parking area, pool and condo building are proposed to the east of the townhomes. The condo building will consist of two stories of 30 units total with parking beneath. Further east on the site, the existing main entry will be maintained. The main building is proposed to be preserved. A new principal structure will consist of 85 apartment units and 9,500 sf of retail space. There will be parking around the building as well as underneath. The front part of the site is proposed to have a plaza and park like setting with pedestrian crossing. The existing pond will remain as a site feature and a pocket wetland will be created next to it. There is a watercourse that will be reconstructed and channelized that will continue to feed the pond as it does currently. The site is served by public sewer and public water. A traffic analysis will be prepared. A long form EAF and application has been submitted to the Planning Board to start the review process. In addition, they had a preliminary meeting with the NYCDEP.

Mr. Marino stated that the wetlands were delineated on the site. There were three areas that were flagged as shown on the plans in orange. There is a southern wetland/watercourse combination that drains to the large pond. This area is a watercourse that enters the site from a catch basin on Glen Rock. He noted that it does seem to have picked up additional run-off further up the slope so they look at it as a perennial watercourse entering the site. This is the traveled way for the emergency access road from Underhill Avenue on this part of the site and in several areas crosses through where areas of run-off have accumulated on the site. Further to the north there are two smaller areas that are isolated and only meet the criteria under the town regulation as having hydric soil. There is no vegetation as this was historically part of the emergency access road. There is a flat area that has been compacted and has created a hydric soil situation. That area was delineated as town regulated wetlands and does not have any direct surface connection to other streams or wetlands on the site. The existing pond has been on the site since the 1940's. It is proposed to fill in those two areas of town regulated wetland areas due to a lack of any real significant wetland function. They are proposing to expand the wooded area on the west side of the pond and create a combination of swamp and marsh habitat to co-exist with the pond. A study is being conducted to assess the condition of the pond. They found at least two, and possibly three, exits where the pond overflows and drains into culverts underground which seem to head north toward the Beaver Ridge complex. The applicant is investigating where the pond actually drains. Part of the plan is to restore the pond, create a new wetland

habitat to the west of the pond, and convert the existing channelized water course down the hill into a water feature as it enters the site. The part of the property closer to the intersection at Route 118 will be more of a park like setting with public access. Between 800 and 900 trees on the property were surveyed and a vast majority of those trees are in areas that were cleared as recently as the mid 1960's. Those trees tend to be cottonwood and black locust trees. A report will be submitted that analyzes the proposed plan with the Town tree law. The process with NYS OPRHP, in terms of the historical and cultural resources on site, was started. The main house dates back to the 1840's and it will be preserved as it exists currently. The stormwater and drainage plan for the site will be discussed going forward.

Mr. Riina added that they submitted a plan set which breaks down the zoning analysis, parking, etc. for this proposal based on the the R-3 zone and use of the new overlay district. The grading and preliminary stormwater layout is also included in the plan set.

Paul Guillaro, property owner, stated that he was before the Board a few years back for the Caremount medical office building which is directly across on Route 118 from this project. The proposed project exists on 13.8 acres and will provide for public access to a network of roads, walking paths, open space and access to a revitalized pond. The existing main building on Underhill Farm will be preserved and restored. Through a public/private partnership with the Town of Yorktown, parts of the building will serve as a historical and multi-purpose center with public access. The historic and aesthetic entrance to the site at the intersection of Route 118 and Underhill Avenue will be restored and offered as a public pedestrian access. The project will provide enhanced and safer emergency access to Beaver Ridge residents for first responders and emergency apparatus. It will also provide additional and necessary parking and access to a new proposed senior center building on the Beaver Ridge site which shall include the Town of Yorktown Recreation Department. The project will offer 12,000 sf of new economic development retail/office space to the community. The project will also offer housing stock to meet the immediate and pressing need within the Town of Yorktown where a growing segment of the population is seeking to downsize current living space and want to remain as active members of the community by providing the following: 135 of the 165 units will be designed as senior-friendly, 75 of those units will be specifically designated for seniors. And lastly, once Underhill Farm is completed, it is estimated that over one million dollars in real property tax revenue is expected annually.

Mr. Riina showed the proposed senior center building on the plans. The proposed building will be located on the Beaver Ridge property at the property line. A driveway connection will be provided as part of this project in addition to parking. The emergency access will be relocated to this location.

Chairman Fon asked the Board and Counsel if there were comments. Mr. Kincart stated that he would like to see the traffic analysis as he thinks this is a busy intersection currently. Mr. Garrigan commended the applicant for restoring and saving the main house as it is filled with great history. He noted that the crosswalk leads to nowhere currently, and asked if there was a way to tie into existing sidewalk patterns or putting in a crosswalk to allow people to get to the shopping facilities and Town Hall. Mr. Riina showed the existing conditions survey and noted that they are connecting to the current sidewalk. Once the traffic study is complete, there may be other input or ideas. Mr. Garrigan noted that another concern is the right on red at the traffic light as many times motorists do not stop. Chairman Fon asked where the right-of-way for the property line on the opposite side of the street was. Mr. Riina noted that this did not show up on the survey. Chairman Fon asked if the NYSDOT looked at the plan yet. Mr. Riina responded that work is not proposed on a NYSDOT road therefore they are not involved, but would be involved if they were proposing a new crosswalk across Route 118. Mr. Bock stated that one of his concerns is that this project be well integrated into the neighborhood and area and particularly along Saw Mill River Road to create more of a connection and neighborhood feel. He asked if there was a way to minimize the parking lot along Saw Mill River Road or restructure its position to make it more pedestrian friendly to go into town or across the street. Mr. Riina stated that they will look into it. Mr. Blanchard stated that they look forward to continued dialogue.

Chairman Fon asked the Board and Counsel if there were any further comments. Mr. Glatthaar stated that this is a Type I action and notices of intent should be sent out to declare the Planning Board as Lead Agency. The Board requested that the Planning Department schedule a future site visit with the other interested boards.

### **Wells Fargo Bank**

Discussion: Lighting Plans  
Location 1: 16.09-2-14; 1342 East Main Street, Shrub Oak  
Location 2: 37-14-2-59; 1937 Commerce Street, Yorktown Heights  
Contact: Natalie Sell, Bureau Veritas  
Description: Proposed lighting upgrades for existing sites.

#### Comments:

Alex Andrup, lighting designer was present. Mr. Andrup stated that Wells Fargo has launched an initiative to bring all their ATM's nationwide into compliance. They did a survey of the existing light levels and found the points where they were failing and added lights to reach the minimum requirement. They will provide the state code requirements to the Board. At the meeting of 10/5/2020 there were concerns about the light level at the sites. The plans were revised to lower the light levels as much as possible while still maintaining the minimum requirements of the NYS statutes for ATM compliance. A markup of the plans for each site were shown to the Board. Mr. Andrup added that the landlords have approved both of these upgrades and have no issues. Discussion followed. Chairman Fon asked the Board if there were any comments and there were none. The Planning Department will review the plans and comment back to the applicant.

### **Town Board Referral - Chapter 275 – Drag Racing**

Description: Proposed amendment to Chapter 275 of the code of the Town of Yorktown entitled "Vehicles and Traffic" by adding a new section 275-17(F) regarding Unlawful Speed Contests.

#### Comments:

The Board reviewed the proposed amendment and had no planning issues.

### **Town Board Referral - Chapter 275 – Vehicle Forfeiture**

Description: Proposed amendment to Chapter 275 of the code of the Town of Yorktown entitled "Vehicles and Traffic" by adding a new Part IV titled Yorktown Forfeiture of Vehicles in connection with Drag Racing Law."

#### Comments:

The Board reviewed the proposed amendment and had no planning issues.

### **Motion to Close Meeting**

Upon a motion by Bill LaScala, and seconded by John Kincart, and with all those present voting "aye", the Board closed the meeting at 10:52 p.m.