

TOWN OF YORKTOWN PLANNING DEPARTMENT

Albert A. Capellini Community and Cultural Center, 1974 Commerce Street, Yorktown Heights, NY 10598, Phone 914-962-6565, Fax 914-962-3986

PLANNING BOARD RESOLUTION ROUTING TRANSMITTAL

DATE: May 10, 2022

TO: File
 Applicant (*via e-mail*)
 Town Clerk (*via e-mail and hard copy*)
 Building Inspector (*via e-mail*)
 Town Engineer (*via e-mail*)
 Fire Inspector (*via e-mail*)
 Highway Superintendent (*via e-mail*)
 Water Department (*via e-mail*)
 Town Assessor (*via e-mail*)

FROM: Planning Department

SUBJECT: Foothill Street Solar Farm

RESOLUTION: #22-10

SBL: 15.07-1-5; 3849 Foothill Street, Mohegan Lake

Attached please find a copy of Planning Board Resolution #22-10 approving site plan, special use permit for a Tier 2 Battery Energy Storage System, stormwater permit, and tree removal permit for the Foothill Solar Project dated April 25, 2022.

Thank you,

John A. Tegeder, R.A.
Director of Planning

/nc
Attachment

THIS IS TO CERTIFY that the attached copy is a true and correct copy of the Town of Yorktown Planning Board Resolution:

**PLANNING BOARD
TOWN OF YORKTOWN**

RESOLUTION APPROVING

**SITE PLAN, SPECIAL USE PERMIT FOR A LARGE-SCALE SOLAR ENERGY
SYSTEM, SPECIAL USE PERMIT FOR A TIER 2 BATTERY ENERGY
STORAGE SYSTEM, STORMWATER PERMIT, AND TREE REMOVAL
PERMIT FOR THE FOOTHILL SOLAR PROJECT**

DATE OF RESOLUTION: APRIL 25, 2022

HEREBY signed by the secretary of the Planning Board:



William LaScala, Secretary

5/9/2022

Date

**PLANNING BOARD
TOWN OF YORKTOWN**

**RESOLUTION APPROVING
SITE PLAN, SPECIAL USE PERMIT FOR A LARGE-SCALE SOLAR ENERGY
SYSTEM, SPECIAL USE PERMIT FOR A TIER 2 BATTERY ENERGY
STORAGE SYSTEM, STORMWATER PERMIT, AND TREE REMOVAL
PERMIT FOR THE FOOTHILL SOLAR PROJECT**

RESOLUTION NUMBER: #22-10

DATE: April 25, 2022

On motion of William LaScala, seconded by Robert Garrigan, and unanimously voted in favor by Fon, LaScala, Bock, and Garrigan the following resolution was adopted:

WHEREAS in accordance with the Planning Board's Land Development Regulations, Town of Yorktown Town Code Chapter 195, adopted February 4, 1969 and as amended, a formal application for the approval of a site plan and special use permits for a Large-Scale Solar Power Generation System and Tier 2 Battery Energy Storage System with submitted plans titled, "Yorktown A Solar Farm Site Plans," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., and dated October 27, 2020, and last revised February 8, 2022, was submitted to the Planning Board on behalf of Con Edison Clean Energy Businesses, Inc. (hereinafter referred to as "the Applicant"); and

WHEREAS the Applicant is proposing to construct a 1.875 MW capacity large scale solar energy system and 1.875 MW Tier 2 Battery Energy Storage System on approximately 16 acres of a 34.23 acre parcel in the R1-40 zoning district, located at 3849 Foothill Street, Mohegan Lake in the Town of Yorktown and owned by William Lockwood, also known as Section 15.07, Block 1, Lot 5 on the Town of Yorktown Tax Map (hereinafter referred to as "the Property"); and

WHEREAS pursuant to SEQRA:

1. The action has been identified as a Type I action because the proposed action involves the physical alteration of more than 10 acres.
2. The Planning Board has been declared lead agency on April 11, 2022.
3. A negative declaration has been adopted on April 11, 2022 on the basis of a Full EAF dated December 20, 2021.

WHEREAS the applicant has submitted as part of his application the following maps and documents:

Site Plans

1. A drawing, sheet C000, titled "Cover Sheet," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and

2. A drawing, sheet C001, titled "Overall Site Plan," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
3. A drawing, sheet C002, titled "Site Plan," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
4. A drawing, sheet C003, titled "Grading/SWPPP Plan," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
5. A drawing, sheet C004, titled "Detailed Grading Plan," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
6. A drawing, sheet C005, titled "Driveway Details," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
7. A drawing, sheet C006, titled "Landscaping & Planting for Mitigation Plan," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
8. A drawing, sheet C006-A, titled "Landscaping & Planting for Mitigation Plan for Undisturbed Area," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
9. A drawing, sheet C007, titled "Phasing Plan," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
10. A drawing, sheet C008, titled "General Notes," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
11. A drawing, sheet C009, titled "Erosion and Sediment Control Details," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and

12. A drawing, sheet C010, titled “Erosion and Sediment Control Details,” prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
13. A drawing, sheet C011, titled “Site Details,” prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
14. A drawing, sheet C012, titled “Construction Details,” prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
15. A drawing, sheet C013, titled “Construction Details,” prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised February 8, 2022; and
16. A drawing, sheet LOS, titled “Line of Sight Profile Site Plan,” prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated February 8, 2022, and last revised February 14, 2022; and
17. A drawing, sheet LOS-1, titled “Line of Sight Profile,” prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated February 8, 2022, and last revised February 14, 2022; and
18. A drawing, sheet LOS-2, titled “Line of Sight Profile,” prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated February 8, 2022, and last revised February 14, 2022; and
19. A drawing, sheet LOS-3, titled “Line of Sight Profile,” prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated February 8, 2022, and last revised February 14, 2022; and
20. A drawing, sheet C003, titled “Slope Heat Map Exhibit,” prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated October 27, 2020, and last revised November 22, 2021; and

Additional Documents

21. A memo from Joe Shanahan, Project Developer, Con Edison Clean Energy Businesses with subject, “Proposed Solar Facility, 3849 Foothill Street Final Mitigation Plan,” and dated March 10, 2022;

22. A memo from Joe Shanahan, Project Developer, Con Edison Clean Energy Businesses with subject, "Proposed Solar Facility, 3849 Foothill Street Supplement to Final Mitigation Plan," and dated April 19, 2022;
23. A memo from Bergmann Associates with the subject, "Proposed Solar Facility, 3849 Foothill Street Native Plantings for Mitigation Area," and dated April 20, 2022;
24. A Tree Inventory, prepared by Bartlett Tree Experts, and dated June 28, 2021;
25. A Stormwater Pollution Prevention Plan, prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., and submitted January 28, 2021; and
26. A Wetland and Aquatic Resources Delineation Report, prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., and dated May 16, 2018; and
27. A noise analysis, prepared by Harris Miller Miller & Hanson Inc., and dated June 25, 2021; and
28. A noise analysis, prepared by Harris Miller Miller & Hanson Inc., for the Wellness Trail, and dated November 24, 2021; and
29. Photo simulations, prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., dated March 2021; and
30. A decommissioning plan and cost estimate, submitted in a memo from Joe Shanahan, Con Edison Clean Energy Businesses, dated April 23, 2021; and
31. Specification sheets for proposed the solar equipment; and
32. Specification sheets for proposed the battery storage equipment; and
33. A drawing, sheet PV04, titled "Three Line Diagram," prepared by ConEdison Solutions, and dated January 20, 2021; and
34. Draft Emergency Action Plan, prepared by ConEdison Clean Energy Businesses, and dated February 1, 2022; and
35. Employee Health and Safety Manual, prepared by ConEdison Clean Energy Businesses, and dated January 2022; and

36. A determination of no hazard from the Federal Aviation Administration, issued September 11, 2017; and

WHEREAS in memos dated March 10, 2022 and April 20, 2022, ConEdison Clean Energy Businesses outlined a mitigation plan, which consists of the following:

- A) This project requires removal of 1658 trees and the total area of tree removal is 15.90 acres, therefore a payment to the Tree Bank Fund in the amount of \$207,356.00; and
- B) A conservation restriction will be placed on the remaining approximately 19 acres of the parcel to ensure that this area will not be developed, and will be left undisturbed and in its current natural state, for the life of the Lease for the solar project.
- C) The proposed development would leave a 15 foot strip of existing vegetation along Foothill Street undisturbed and further enhance this natural buffer with an additional 212 plantings; and
- D) The 15.90 acres to be disturbed for the installation of the solar project will be planted as grass and meadow using a pollinator seed and/or plantings as suggested by a Certified Ecological Restoration Professional; and
- E) The Applicant will prepare a plan showing the remaining 19 acres of woodland and the limitations under Chapter 178 which results in 6.5 acres in which the following can be accomplished:
 - 1. The 6.5 acres shall be enclosed with a 7-foot chain link fence with a 6-inch clearing at the bottom to allow small animals (but not deer) to traverse, with a gate for maintenance.
 - 2. The Applicant will engage a weed and invasive plant specialist who shall do an analysis of the 6.5-acre area, identify the different invasive plants, and create a plan to remove the invasive weeds and non-native plants.
 - 3. The Applicant will develop a native understory species planting plan consisting of a combination of native flowers, grasses, shrubs, trees and/or vines.
 - 4. The invasive weeds and non-native plants will be removed and the understory species planted in accordance with the above-mentioned plans.

F) The Applicant will enter into a PILOT agreement with the Town of Yorktown

WHEREAS the Planning Board has referred this application to the following boards and agencies and has received and considered reports of the following:

Boards & Agencies	Report Date
Conservation Board	11/05/20, 07/22/21, 09/01/21, 02/18/22
Environmental Consultant	11/01/21, 12/06/21, 04/04/22
Fire Inspector	11/17/20, 10/29/21, 12/04/21, 12/29/21
Town Engineer	11/09/20, 12/14/21
Tree Conservation Advisory Commission	03/22/21, 01/03/22, 01/10/22, 02/02/22
Westchester County Planning Board	11/13/20, 12/02/20
NYS OPRHP	05/21/18

WHEREAS the requirements of this Board's Land Development Regulations, Town Code Chapter 195, have been met; and

WHEREAS a Public Informational Hearing was held in accordance with §195-39(B)(1) of the Yorktown Town Code on the said site plan application via Zoom video conference commencing and closing on April 12, 2021; and

WHEREAS having reviewed all current site plans, building plans, environmental plans and reports, comments and reports from Town professional staff, the public, and other interested and involved agencies associated with the application before it; and having conducted a public hearing held in accordance with §195-39(B)(2) of the Yorktown Town Code on the said site plan application commencing on September 13, 2021 at Town Hall in Yorktown Heights, New York and closing on January 10, 2022 via Zoom video conference;

RESOLVED the Planning Board finds the proposed site plan meets all the requirements and special use permit standards set forth in § 300-81.4 Solar power generation systems and facilities and § 300-81.5 Battery energy storage systems; and

BE IT THEREFORE NOW RESOLVED that the application of Con Edison Clean Energy Businesses, Inc. for the approval of a site plan and special use permits for a Large-Scale Solar Power Generation System and Tier 2 Battery Energy Storage System with submitted plans titled "Yorktown A Solar Farm Site Plans," prepared by Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., and dated October 27, 2020, and last revised February 8, 2022, be approved subject to the modifications and conditions listed below, and that the Chairman of this Board be and hereby is authorized to endorse this Board's approval of said plan upon compliance by the applicant with such modifications and requirements as noted below:

RESOLVED the Town's environmental consultant recommended habitat friendly perimeter fencing surround the project and the applicant will install 7 foot tall fence with a 6 inch clearance at the bottom to allow for animal passage; and

RESOLVED the Applicant is required to provide the following measures to mitigate the environmental impacts of the proposed solar facility:

- A) Payment to the Tree Bank Fund to be determined by the Planning Board once the mitigation for the undeveloped area described in Section E below is accepted by the Board and the cost of said mitigation is subtracted from the Applicant's proposed payment of \$207,356.00; and
- B) A conservation restriction will be placed on the remaining approximately 19 acres of the parcel to ensure that this area will not be developed, and will be left undisturbed and in its current natural state, for the life of the Lease for the solar project.
- C) The proposed development would leave a 15 foot strip of existing vegetation along Foothill Street undisturbed and further enhance this natural buffer with an additional 212 plantings; and
- D) The 15.90 acres to be disturbed for the installation of the solar project will be planted as grass and meadow using a pollinator seed and/or plantings as suggested by a Certified Ecological Restoration Professional; and
- E) In the 6.5 acre undeveloped area as shown on plan sheet C-006-A listed herein the Applicant will:
 - 1. Enclose the area with a 7-foot fence with a 6-inch clearing at the bottom to allow small animals (but not deer) to traverse, with a gate for maintenance, and fence detail to the satisfaction of the Planning Department.
 - 2. The Applicant will engage a weed and invasive plant specialist to identify the invasive plants, and create a plan to remove the invasive weeds and non-native plants.
 - 3. The Applicant will develop a native understory planting plan based on the list of native plant species submitted on April 20, 2022 to the satisfaction of the Planning Board.
 - 4. The invasive weeds and non-native plants will be removed and the understory species planted in accordance with the above-mentioned plans.

Additional requirements prior to signature of the Site Plan and Stormwater Pollution Prevention Plan & Tree Permit by the Planning Board Chairman:

1. Submission of a final plan for installation of a fence, removal of invasive and non-native species, and the planting of native understory plants in the undisturbed area to the satisfaction of the Planning Board.
2. Submission of a Payment to the Tree Bank Fund in an amount determined by the Planning Board, but not to exceed \$207,356.00.
3. Submission of a final Stormwater Pollution Prevention Plan to the satisfaction of the Town Engineer and Planning Board.
4. Submission of any applicable inspection fees and security, in a form satisfactory to the Town Attorney, to the Engineering Department as required by the Town Engineer. Fees to be determined after Planning Board approval and a complete final set of drawings are submitted to the Town Engineer.

Additional requirements prior to Issuance of a Building Permit:

5. Submission of a decommissioning bond in an amount sufficient to cover the cost of decommissioning the system.

Additional requirements:

6. The owner, operator, or manager of the solar power generation system must conduct annual inspections of the site's approved landscaping, screening, and any other required vegetative plantings to ascertain the health, effectiveness, condition, and viability of said plantings and submit these findings annually to the Town Engineer. Any dead or diseased vegetative material or any other deficiencies must be promptly replaced or repaired.
7. Solar Energy Systems shall comply with all applicable laws, including, as applicable, the Fire Code of the State of New York and Applicant must obtain all necessary permits from outside agencies.
8. All Large-Scale Solar Energy Systems shall maintain an emergency key box on site to provide for emergency access to the system and to provide for the storage of vital system information.

BE IT FURTHER RESOLVED to the extent any real property with a Solar Energy System approved herein is exempt from taxation to the extent of any increase in the assessed value

thereof by reason of the inclusion of such Solar Energy System under New York Real Property Tax Law § 487, the property owner shall be required to enter a contract with the Town for payments in lieu of taxes (“PILOT”), as set forth in N.Y. R.P.T.L. § 487(9). The amount of such PILOT shall be set by the Town Board, upon recommendation of the Town Assessor. Said recommendation shall be based upon industry-recognized standards (e.g., the New York State Energy Research and Development Authority (NYSERDA) PILOT calculators). Under N.Y. R.P.T.L. § 487, Solar Energy Systems are not exempt from special district ad valorem taxes, which will be the responsibility of the property owner in addition to any PILOT payments; and

BE IT FURTHER RESOLVED that in accordance with Town Code Chapter 248, and Chapter 270, the application of Con Edison Clean Energy Businesses, Inc. for the approval of a Stormwater Pollution Prevention Plan and Tree Removal Permit #FSWPPP-T-026-21 is approved subject to the conditions listed therein; and

BE IT FURTHER RESOLVED the owner, operator or manager of the solar power generation system must conduct annual inspections of the site’s approved landscaping, screening, buffering, and any other required vegetative plantings or structures required under this approval. The inspection shall ascertain the health, effectiveness, condition and viability of such landscaping, screening, buffering, and any other required vegetative plantings or structures. The findings of each annual inspection shall be reported to the Town Engineer as a written report with photographs where necessary. Any dead or diseased vegetative material or any other deficiencies shall be promptly replaced or repaired by the site owner, operator, or manager. If such diseased, dead or deficient material is not promptly replaced or repaired to the satisfaction of the Town Engineer, the Town Engineer shall exercise enforcement action pursuant to Section §300-193 of the Town Code; and

BE IT FURTHER RESOLVED the approval of the Planning Board is not valid until the conditions of this resolution are met and the Site Plan and Stormwater Pollution Prevention Plan & Tree Removal Permit #FSWPPP-T-026-21 are signed by the Planning Board Chairman; and

BE IT FURTHER RESOLVED that unless a building permit has been issued within one year of the date of this resolution, **April 25, 2023**, or a time extension has been granted by the Planning Board, this approval will be null and void; and

BE IT FURTHER RESOLVED the special use permits granted by this resolution for a large-scale solar power generation system and Tier 2 battery energy storage system shall run with the site plan approval and all improvements shall completed within 24 months once a building permit is obtained.

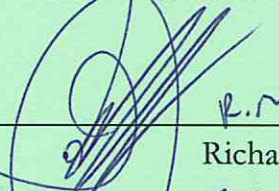
PLANNING BOARD
TOWN OF YORKTOWN

RESOLUTION APPROVING

SITE PLAN, SPECIAL USE PERMIT FOR A LARGE-SCALE SOLAR ENERGY SYSTEM, SPECIAL USE PERMIT FOR A TIER 2 BATTERY ENERGY STORAGE SYSTEM, STORMWATER PERMIT, AND TREE REMOVAL PERMIT FOR THE FOOTHILL SOLAR PROJECT


DATE OF RESOLUTION: APRIL 25, 2022

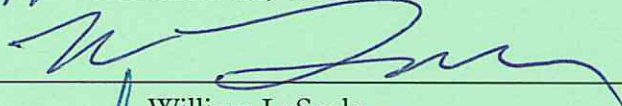
SIGNED BY:


 p.m.
Richard Fon, Chairman

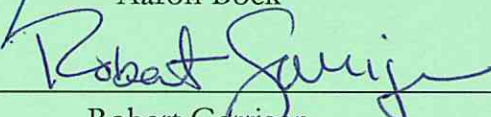
ROLL CALL:

AYES:

 p.m.
Richard Fon, Chairman


William LaScala


Aaron Bock


Robert Garrigan

NAYES:

