

Town of Clifton Park Planning Board
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PLANNING BOARD

DENISE BAGRAMIAN
Chairwoman

ROBERT WILCOX
Attorney

PAULA COOPER
Secretary



MEMBERS
Emad Andarawis
Eric Ophardt
Heather Fariello
Mario Fantini

Keith Martin
Lisa Westrick

Planning Board Minutes
December 12, 2023

Those present at the December 12, 2023 Planning Board meeting were:

Planning Board: D. Bagramian, Chairwoman, E. Andarawis, H. Fariello, E. Ophardt,
K Martin, L. Westrick

Those absent were: M. Fantini

Those also present were:

W. Lippmann, M J Engineering and Land Surveying, P.C.
R. Wilcox, Counsel
P. Cooper, Secretary

Ms. Bagramian, Chairwoman called the meeting to order at 7:00 p.m. All in attendance stood for recitation of the Pledge of Allegiance.

Minutes Approval:

None

Public Hearings:

None

Old Business:**#2023-022 Nott Road Solar Array Site Plan and SUP**

SBL: 269.-3-6 The proposed action includes the development of 2, 2 MW (AC) Solar arrays on the 77 Nott Road property. Site Entrances will be located on Nott Road and Appleton Road, Nott Rd Zoned: CR - Conservation Residential, Status: Preliminary w/ possible determination Citizenserve File Number: 23-002037, Application Number: SUP23-000017 Applicant: Bhatti Naseem, Consultant:EDP – S. Alessandrini Last Seen On: 10/24/2023

Consultant/Applicant Presentation:

Joe Dannible – EDP - Mr. Dannible stated that he is here tonight with Mr. Anthony Stephen from Kruger and that the project was last seen in October. He stated that they have been working with the Board to use solar within the CR zone. He stated that solar is a permitted use within the zone with obtaining a special use permit. Mr. Dannible showed a map of the project and Clifton Park. He stated that this is a 63 acre site with 2 solar fields being proposed at 2 MW each. He stated that the north array has been revised to curve the roadway inward to minimize visual impacts of the solar field from the road. Mr. Dannible stated that supplemental evergreens are also being proposed on the corner of the array to help with buffering. Mr. Dannible stated that the south primary entrance has been changed to an s-hook to minimize visual impacts as well. He stated that this is a significant change that the applicant has made within increase of cost to help the community and the site. Mr. Dannible stated that there would be 3 receptor locations and he showed views of what it would look like in the winter and summer months. He stated that there would be some views of the array on Nott Road in the winter. Mr. Dannible stated that there are accommodations for 98 Appleton Road which is the closest home to the project. He stated that the nearest inverter is about 350 feet and 32 decibels is the noise from the panels to the road. He stated that this is ambient noise levels and the closer to the home you get the decibels decrease. Mr. Dannible stated that the Conservation Resource Analysis looked at an existing resources map and at easements, farm land, and poles. He stated that wetlands on the property were avoided. Mr. Dannible stated that the 11 criteria for the Boards to look at and stated that there are 7 solar arrays in Clifton Park and 5 of them are in the CR zone with an SUP which the Planning Board previously agreed met the criteria. Mr. Dannible stated that there are large areas of treed and wooded buffers with this application and that other arrays are in more populated areas with less buffering and more visual impacts. Mr. Dannible stated that SEQR negative declaration was issued for this site with no threat to endangered species at the state and federal level.

Staff Comments:

The Environmental Conservation Commission and issued a memo recommending:

- Per Town Code Chapter 208-79 E. (1) (d) States; That the use will be in harmony with and promote the general purposes and intent of the Comprehensive Plan and this chapter. The Conservation Residential Zone was established (see Town Code 208-16 A.) to provide and maintain land area to promote and support ongoing open space and agricultural uses and activities to sustain the rural character of this predominantly natural, agricultural and low-intensity residential setting. The purpose of the Conservation Residential (CR) Zoning District is to protect and enhance the rural character, the natural and scenic qualities of open space, and the agricultural heritage, while providing for well-planned new development that complements the traditional settlement pattern, and protects the health, safety, economic base and quality of life in Western Clifton Park for all of its residents. a. Furthermore, Per Town Code Chapter 208-16 B. (1) New development should complement and harmonize with the traditional, open, rural, wooded, agricultural, natural and environmental resources, low-intensity residential and hamlet landscapes, agricultural lands and working landscapes, and scenic views and resources as valued by the community in Western Clifton Park.
- The proposed use is a direct conflict with these objectives and the Comprehensive Plan. The requested Special Use is not in harmony with the general purpose and intent of the Comprehensive Plan. The ECC urges the Planning Board to deny this application based on this premise.

Scott Reese, Zoning Administrator issued a memo stating:

- The parcel is in Conservation Residential Zoning District (CR) per Town Code 208-16 D. (3)(a)[22] Tier 2 and Tier 3 solar energy systems, subject to the requirements of Article XIV and XVI is allowed by Special Permit. Special Use Permits require special consideration so that the proposed project can be properly located and planned with respect to the objectives listed in Town Code Chapter 208-79 and their effect on the surrounding properties and community character.

John Scavo, Director of Planning issued a memo stating:

- See attached comment letter.
- A negative declaration was issued by the Planning Board at a meeting held on September 12, 2023. Therefore, the SEQR review process has been completed

Professional Comments:

Walter Lippmann, P.E. of MJ Engineering in a letter had the following comments:

STATE ENVIRONMENTAL QUALITY REVIEW

1. All prior comments have been addressed.

SITE PLANS

2. All prior comments on the Site Plans have been addressed.

STORMWATER

3. All prior comments on the SWPPP have been addressed.

DECOMMISSIONING PLAN

4. All prior comments on the decommissioning plan have been addressed.

VISUAL SIMULATIONS

5. The revised site plan provides a modification to both access roads along Nott Road and Appleton Road. The applicant indicated that the visual simulations would be updated based upon the revised plan submitted to show the level of screening provided.

Public Comments:

No public comment.

Planning Board Review:

Mr. Martin quoted an English poem for thought by the Planning Board of what he stated often reminds him of what is potentially at stake in the Western Clifton Park Community:

“The law doth punish man or woman
That steals the goose from off the common
But lets the greater felon loose
That steals the common from the goose”

Mr. Martin stated that he was not implying that anyone, including the subject applicant, is “stealing” anything or a “felon”, but that solar farms are proliferating in the areas that are considered the Town’s community resource green areas. He stated that he feels there are incongruities/problems with the code wording and SUP provision and would like to walk through them. He stated that he is in favor of the project but feels this is important. Mr. Martin read from his 5-page letter to the board dated December 12, 2023 analyzing the 11 points for a SUP. This letter filed is part of the project record.

Ms. Bagramian stated that she feels the design is done well but still questions when is there too much solar. She asked that applicant for a plan for the vegetation. Mr. Stephen stated that the initial plan showed a pollinator mix.

Mr. Andarawis stated that Mr. Martin had stated the Boards struggles and that this feels as if it consuming the CR zone, but so is residential development. He stated that if this was residential then it would consume those lands as well. He stated that last meeting he brought up the fact that this could be a corridor and that buffering on the west side should not be trailed because then they would be disturbing land that he feels should be conserved. Mr. Dannible stated that this project does not prohibit a trail on Nott Road and if land needs to be required for this there is enough availability. Mr. Dannible stated that there is room for pedestrian connectivity and there is very little traffic that will result from this project. He stated that this is agricultural land and it is being preserved whereas a residential subdivision would permanently change the

neighborhood. Mr. Dannible stated that this application would be clearing 23 acres of land but a residential development would clear a lot more and have 18 single family lots. Mr. Andarawis stated that this application will be needed 25 years from now and that he feels that there is an opportunity for connectivity for trails and would like to see tree clearing avoided to the vegetative buffers. Mr. Dannible stated that the east is tight for a trail and on the west there are paths and trails that could be done but wetlands are present.

Ms. Bagramian stated that she would like to see a trail on the wider side of the land but still would like to see the visuals of the array scaled down. Mr. Dannible stated that there is about 12-15 feet along Nott Road.

Mr. Andarawis asked how wide the roadways are. Mr. Dannible stated that they are about 12'.

Mr. Ophardt stated that he has trouble with this application being in harmony with the Town's Comprehensive Plan and asked where the purpose comes into harmony and what would happen when someone wants to develop on the other side of the array. Mr. Dannible stated that he has no comment on Town policy and that every Town in Saratoga County questions when there is enough development of either solar, residential, apartments, etc.

Ms. Bagramian stated that the Town needs to figure out their parameter and that she emailed Supervisor Barrett to get the ball rolling.

Mr. Andarawis stated that he would like to see the buffers preserved and wants to make sure the buffers are necessary for the project to succeed. Mr. Dannible stated that the applicant will maintain vegetation and if not they would be in violation of the approval.

Mr. Martin stated that he mentioned earlier that if the project is approved a buffer is needed and he would like to talk about the viability of the plantings and pollinators. He stated that he would like commitment on the applicant's part of what can be done if the weather prohibits germination or the seeds don't take. Mr. Stephen stated that there is an agreement for financial surety that is kept for when or if someone violates the agreement or the Town Code. He stated that a surety bond is required but also acknowledged that they are not a cure-all panacea for when or if something goes awry on a project. Mr. Dannible stated that a DEC SPEDS permit is need for this project, as well as Mr. Reese visiting the site before signing off on a requirement for the post construction to demonstrate final stabilization of 80% of germination over the disturbed areas of the project site.

Ms. Bagramian stated that it seems the ownership of validation is on the Town and not on the company. She asked if there is a team member from the company responsible for ensuring germination. Mr. Dannible stated that these will be mowed possibly biannually, and the pollinators will continue to be in place for the life of the project and that the pollinators will self-propagate the site overtime. Ms. Bagramian stated she would like a professional to look at this in

an overall layout. Mr. Stephen stated that there will be a one to two times per year contract with a third party contractor to ensure plantings are in place until pollinators are established and that they are willing to share this contract with the Town.

Mr. Martin stated that he would like to see the Operations and Maintenance Agreement before it is signed and approved.

Mr. Wilcox suggested making the O&M Agreement a condition of approval.

Mr. Ophardt offered Resolution # 15, second by Mr. Andarawis, to waive the final hearing for this application and to grant preliminary and final approval of the special use permit, conditioned upon satisfaction of the comments offered by the Planning Board, Planning Department, and Town Designated Engineer, including submitting the landscaping plan for approval to the Planning Director prior to the stamping of the Special Use Permit.

Conditions:

1. An agreement between the developer and Town regarding Operations and Maintenance and is satisfactory with Mr. Scott Reese.

Roll Call:

D. Bagramian - Yes

E. Andarawis - Yes

E. Ophardt - Yes

H. Fariello - Yes

K. Martin – Yes

M. Fantini - Absent

L. Westrick - Yes

Ayes _____6_____

Noes: _____0_____

The resolution is carried.

Mr. Martin moved, second by Ms. Fariello, to waive the final hearing for this application for the site plan review of the Nott Road Solar Array Site Plan, and to grant preliminary and final site plan approval conditioned upon satisfaction of all comments provided by the Planning Department, Town Designated Engineer, and all items listed in the final comment letter issued by the Planning Department.

Ayes: _____6_____

Noes: _____0_____

The motion is carried.

Old Business:

#2021-069 Boni Wooddale Drive 18 Lot Subdivision

SBL: 259.-2-71 Wooddale Cluster Subdivision, Wood Dale Dr Rear Zoned: B1 - Business Non Retail 1, Status: Preliminary w/ possible determination Citizenserve File Number: 2021-069, Application Number: SUS23-000002 Applicant: Boni Enterprises, LLC , Consultant: ABD Engineers – L. Palleschi Last Seen On: 10/11/2023

Consultant/Applicant Presentation:

Dana Salazar stated that she is here tonight representing the applicant for the subdivision off Wooddale that consists of 9 duplex homes and 18 lots with a cul-de-sac roadway. She stated that they had a few different concepts before the Board and adjustments have been made based on comments. Mr. John Hitchcock from ABD stated that the application meets all Town requirements and is a cluster subdivision layout design.

Staff Comments:

Mr. Lippmann stated in the meeting that all of the comments made by Staff were previously given.

The Environmental Conservation Commission and issued a memo recommending:

- The ECC reiterates it's May 15th, 2023 comments as we cannot find any response to these aforementioned comments.
- Based upon the comments made by the Planning Board Director, dated November 7th, 2022, this project appears to be in violation of Town Code. The ECC supports these comments in this letter.
- For the following reasons, The ECC asks the Planning Board to deny the approval of this project. A. The site environmental impact could be disastrous. The steep slopes combined with the soft sandy soils mean that any disturbance of the surface vegetation results in rapid and deep erosion. Many storm drainage projects on Wooddale Dr. have led to extensive and expensive Town remediation of numerous washouts on these slopes. B. Proposed access to the duplex site is extraordinarily steep. Excavation of the proposed public access road entails extensive fill and moving of surface soils. All of this construction is a potential sedimentation of the wetlands at the southeast corner of the site. C. The proposed access road would intersect Wooddale Dr. at a dangerous curve intersection across the street from Arbor view Dr. This dangerous curve is presently marked with "caution" signs and has sight view issues both to the north and south on Wooddale Dr. d. For the above-mentioned reasons and others, the Town Board has refused an " offer of cession" by the developer to adopt any public road at this site. The

vote not to do so was unanimous by the Town Board. E. Approving the plan proposed by applicant would fundamentally change the character of the neighborhood. First by changing the character of the existing single family residential neighborhood; second by having an access road intruding into Wooddale Dr., a main trunk road for much of the Country Knolls development. F. There are Zoning constraints that would invalidate this proposal based on required road frontage requirements on Wooddale Dr

CPWA issued a memo stating:

- Many of the comments from my initial review letter of June 16, 2022 have yet to be addressed. Additionally, pressures on this main will be in excess of 90 psi, so pressure reducing valves will be required in each home. A note should be added to the plans. Please remit an amended utility plan to this office for review.

John DeSimone, Fire Marshall issued the following memo:

- Fire access and hydrant spacing meets minimum requirements per 2020 NYS Fire Code.
- proposed postal numbers are 5,7,9,11,13,14,15,16,17,18,19,20,21,22,23,24,26,&28. This will be finalized with Saratoga county emergency services when final approval granted by planning board. (please see proposed in documents)

Scott Reese, Zoning Administrator issued a memo stating:

- My comment from December 13, 2022 still stands: The Town Board has rejected an Offer of Cession request by the applicant to construct a roadway to be offered for Town acceptance and dedication from Wood Dale Drive into the project site. If the Town does not accept the road, the presented subdivision does not meet Town Code.
- Cluster subdivision requirements is under Article X Open Space Subdivision – Per Town Code Chapter 179-36 A. Property within any Residential Zoning District(s) is eligible to be considered under this article. The applicant is proposing a Cluster Subdivision within a business district which makes this type of subdivision ineligible.
- Per Town Code Chapter 208-32 A. (14) The proposed two family dwellings are a permitted use in the B-1 Zone.

Scott Reese, Stormwater Management Technician issued a memo stating:

- Until this application is to Town Code or has obtained the required variances, will warrant a detailed stormwater review.

The Trails and Open Space Subcommittee issued a memo stating:

- Consider a 15' right-of-way easement along the East side of Wooddale Drive frontage for future trail.

Jennifer Viggiani, Open Space Coordinator issued a memo stating:

- The project has site has significant steep slopes and topography and the proposed construction plans appear to need significant grading and filling to create the new construction of roadway, homes, and stormwater management areas.

John Scavo, Director of Planning issued a memo stating:

- The County Planning Board noted in a letter dated 12/17/2021, that additional information is requested for that entity to make a recommendation in accordance with GML Section 239-M.
- Town Staff has forwarded the additional information the Saratoga Co. Planning Board requested. The Saratoga Co. Planning Board will consider a recommendation at its October 19 meeting. Therefore, this project will be scheduled to be considered by the Clifton Park Planning Board at its October 24th meeting
- 6-1 Vote to issue a negative declaration pursuant to SEQRA. Mr. Martin stated his no vote is based on impacts to the site have the potential to be quite significant.
- Public Hearing held and closed. No decision on the preliminary submittal made and Planning Board has 62 Days to issue a decision.

Professional Comments:

Walter Lippmann, P.E. of MJ Engineering in a letter had the following comments:

- Previous comment letter dated 10/20/23 is still applicable.

Public Comments:

No public comment, public hearing was previously held and closed.

Planning Board Review:

Ms. Fariello asked if the application was tabled at the last meeting due to questions about this being a keyhole lot and lot frontage being questioned. Mr. Hitchcock stated that they will be able to conform and comply with Town code for either a private road or a Town road and they would like to continue to pursue as a Town road but they would remove one building to comply with private road codes and indicated on the map, and showed which building would be eliminated to comply with the amount of lots allowed on a private road.

Mr. Andarawis stated that he thought eliminating a lot would also require a certain amount of frontage and asked for verification. Mr. Wilcox referred to Town Code 179-26 and read from the code as well as keyhole lots code. He stated that the code is limited to single family lots if this is considered keyhole lots. Ms. Salazar stated that this is all based on this application being a public road.

Mr. Wilcox referred to a memo Mr. Scavo sent out regarding codes 208-101, 179-26 (c) and keyhole lots. Ms. Salazar stated that this code is based on this road becoming a public road that the Town rejected in 1970, and not recently. Mr. Wilcox stated that this is not a public road due to requirements and that the road has been rejected by the Town Board recently. Ms. Salazar stated that that the Town always accepts or denies after build out and that the litigation on the

paper street was never rejected or accepted and that the Planning Board required the applicant to go to the Town Board first after Mr. Boni moved the road solely onto his own property.

Mr. Martin read from Resolution 182 from 2022 stating that the elected Town Board rejected the proposed roadway. He stated that this is within the Town Board's discretion and he respects the decision. He stated he would like to see a site plan with elevations. Ms. Salazar showed in the meeting for all to review and that the rejection was for the paper street from the original subdivision and the applicant moved the paper street since then. Mr. Martin asked for elevations with stream locations shown.

Ms. Bagramian stated that she feels that the Board and the applicant are not on the same page with accepted versus rejected litigation.

Mr. Wilcox stated that the application has been changed to an 18 lot project from a 9 lot and this is not reflected tonight. He stated that his should be a 20 lot due to the existing homes being incorporated into the plan now since the roadway has been moved. Mr. Hitchcock stated that the existing homes are not a part of the plan.

Mr. Martin asked how many cubic meters of fill would be needed to be moved for this application. Mr. Hitchcock stated he is unsure at the moment but it has been designed and configured before tonight. Mr. Martin reminded the Board that the SEQR determination was voted with one no. He stated that he believes that the roadway will remain private unless the Town Board votes to adopt it and it needs to be reviewed as such. Ms. Salazar stated this is not true and the Planning Board needs to approve or deny the application based on the application meeting the standards for a public road and then later the Town Board will move to adopt or not; they are proposing a public street tonight. Mr. Martin asked if all road are considered private until offered and accepted for dedication. Ms. Salazar stated that that she is not sure as the materials are not in front of her but the Town has no obligation to maintain until the road is adopted.

Mr. Andarawis stated that Town Code 208-101 states that there needs to be 40 feet of frontage adjacent to a public street per each lot if it is a private road. Mr. Hitchcock stated that every other subdivision was not required, only this application. Mr. Martin stated that this is due to an offer of cession already rejected by the Town Board.

Mr. Martin read from a summary by Deputy Supervisor Morelli regarding Resolution 182 of 2022 as well as the letter submitted by Mr. James Ruhl from January 2023 which had been previously submitted and ae apart of the project record. Mr. Hitchcock stated that Mr. Morelli is not an engineer and nor is Mr. Ruhl and that professionals have stated that this is a viable project.

Ms. Salazar stated she would like to take action tonight.

Mr. Martin offered Resolution #16 of 2023, second by Ms. Westrick, to waive the final hearing for this application for the 18 lot subdivision of Boni Wooddale Drive, and to deny approval for this project due to the applicant's non-compliance with Chapters 179-26, 208-101, 208-86, and 86-6 of Town Code relevant to the subdivision of land and design layout requirements.

Roll Call:

D. Bagramian - Yes
 E. Andarawis - Yes
 E. Ophardt - No
 H. Fariello - Yes
 K. Martin – Yes
 M. Fantini - Absent
 L. Westrick - Yes

Ayes _____ 5 _____

Noes: _____ 1 _____

The resolution is carried.

New Business:

None

Discussion Items:

Project #2023-018 Moe Rd 5 Lot Duplex Subdivision – cluster design layout requiring area variance.

Joe Dannible – EDP – Mr. Dannible stated that he was here in June and October for a 10 unit duplex subdivision and then a 9 duplex subdivision with a single family home. He stated that this proposal would need a Special Use Permit with common lot lines. He stated in October they proposed a cul-de-sac layout with an elimination of one unit. He stated that the site would do a deed absorption with a quick claim so they would add 0.5 acres to the proposal to adjoin all of the lots to accommodate the request of the Town. Mr. Dannible stated that this would be a cluster subdivision and would preserve 2 acres of land to be dedicated to Clifton Park and connect open space on Moe Road. He stated that this resolves encroachment concerns and easements and would only impact 6 lots instead of 14. Mr. Dannible stated that they need 10 acres of land but they only have 6 so they would need to ask for an area variance from the ZBA. Mr. Dannible stated that he is looking for feedback on if the applicant should pursue over the original plan.

Ms. Bagramian asked what the setbacks would be. Mr. Dannible stated that they would be 10' to 20' between lots.

Mr. Andarawis asked if individual variances would be needed for the lots. Mr. Dannible stated there would not be any other variances as they are looking at a cluster layout design.

Mr. Ophardt stated that there would be access to a park and there would be less development space so he sees this as a win for the Town. Mr. Ophardt asked if there would be parking for access to the trails. Mr. Dannible stated that he does not believe so. Ms. Bagramian stated that she agrees with Mr. Ophardt and stated that residents could walk or drive to the park trails and could walk down the road to access.

Ms. Bagramian stated that he likes the cul-de-sac layout better as well. She asked if they have spoken to the Town about roadway adoption yet. Mr. Dannible stated that they have not but they can have a conversation.

Ms. Fariello asked what the kidney bean shape was representing on the map. Mr. Dannible stated that it represents the on-site stormwater management.

Mr. Andarawis stated that he also likes this layout better and he likes the layout for the open space and connectivity.

Ms. Fariello moved, seconded by Mr. Ophardt, adjournment of the meeting at 8:57 p.m. The motion was unanimously carried.

The next meeting of the Planning Board will be held as scheduled on January 9, 2023.

Respectfully submitted,

Paula Cooper

Paula Cooper, Secretary