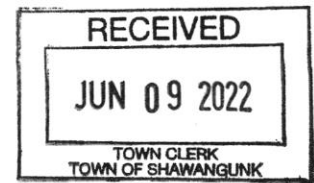


Minutes of a Special Meeting held by the Planning Board of the Town of Shawangunk, County of Ulster, State of New York, at the Town Office Building, 14 Central Avenue, Wallkill, New York, on the 23rd day of May, 2022.

Those present were: Mark Watkins, Chair
Patricia Turner
Todd Widmark
Richard Barnhart, Vice Chair
Sal Patella
Vacancy



Absent: John Szarowski. Also, present were Richard Hoyt, Esq., Bonnie Franson, AICP CEP, PP and please see sign-in sheet.

Meeting location: Town Hall, 14 Central Avenue, Wallkill

Open Special Meeting: 5:30 pm

Emergency Exits Announcement

Moment of Silence – Pledge of Allegiance:

SPECIAL MEETING: Notice was sent to the media and posted at Town Hall.

Magruder Solar, LLC:(107.3-1-1.100 (access) & 107.3-1-3.110 (site) Proposed Large Scale Solar Energy System at 643 Plains Road on 54+/-acres (20 acres of panels) located in the RAG-2 District, Aquifer Overlay District and Wallkill Central School District. Magruder/CS Energy Greg Samilo, Eric Millard, Patrick Mulkern, Colliers and Michael Moriello, Esq. were present before the Board.

The following was entered into record: Draft Town of Shawangunk Planning Board Conditional Final Special Use Permit and Conditional Site Plan Approval Resolution pages 1-11.

Discussion was held on status of P.I.L.O.T. (Payment In Lieu Of Taxes) programs with the County, Town and School; the Town of Shawangunk and Wallkill Central School District opted out of the P.I.L.O.T. program.

Mr. Barnhart asked if in the future could the applicant return and request a P.I.L.O.T program?

Mr. Patella asked to clarify that if an application for a P.I.L.O.T to Ulster County – would be Ulster County only, correct?

Mr. Hoyt said the Town would need to opt back in and responded to Mr. Patella yes it would be Ulster County only unless the Town and School District opted back in.

Mr. Moriello said the changes made to this Draft were agreed upon by the Town Consultants for the Planning Board's consideration and review.

Mr. Watkins asked what could be accomplished if future glare potentially is seen from the road?

Mr. Millard said the project of Mr. Watkins concern have fixed panels; Magruder Solar panels will track the sun; and there is a lot less glare with tracking systems.

Ms. Turner asked to discuss the ground cover and maintaining the solar array area over time.

Mr. Millard said that is written within Magruder's SWPPP and we have to adhere to that document.

Mr. Watkins asked if landscaping can be bonded?

Mr. Hoyt said the building department issues violations; this is private and is not a public improvement; as an example, such as a town road which could be bonded. The building department would be able to inspect to make sure all items with the SWPPP are addressed.

Mr. Barnhart said if appropriate he would like to request for no battery storage in the approval.

Mr. Moriello said early on we provided a letter of lawful segmentation as we don't know what the overall plans are for the rest of the site.

Discussion was held; and agreed to add no battery storage for this document.

Mr. Barnhart said Gerry Wager, adjacent property owner appeared to be satisfied with the updates to the plan to redirect the water flow off his property. He asked if Mr. Wager has any problems or issues with drainage from the site; will that be adjusted?

Mr. Millard said yes, we have to follow the SWPPP.

Discussion of the Decommissioning Bond was held. The Town Engineer reviews the bond amount; provides his comment letter to the Planning Board; then the Planning Board reviews the Town Engineer's letter for the Decommission Bond and the Planning Board recommends it to the Town Board for acceptance with the format the Town Attorney recommends.

Mr. Watkins asked to discuss the NYSERDA Form submitted by the applicant to be signed by the Town for Confirmation of Local Land Use Approval.

The Board and Consultants discussed the form; and agreed with changes done by Ms. Franson, that Chairman Watkins could sign the form with the changes discussed.

Mr. Watkins asked the Board or audience if there were any more comments or questions? There were none.

TOWN OF SHAWANGUNK PLANNING BOARD CONDITIONAL
FINAL SPECIAL USE PERMIT AND CONDITIONAL SITE PLAN APPROVAL RESOLUTION

Proposed Magruder Solar Large Scale Solar Facility

2296 Route 300

Applicant: Magruder Solar, LLC

Owner: Garrison Armavida, LLC

WHEREAS, the Planning Board of the Town of Shawangunk received a special use permit and site plan application from Magruder Solar LLC dated February 1, 2021, for the construction of a proposed five (5) megawatt (MW) alternating current (AC) large scale, single axis tracker solar facility to be located on a portion of leased lands identified on the Town of Shawangunk Tax Maps as Section/Block/Lot 107.3-1-1.100 (access only) and 107.3-1-3.110 which lots maintain frontage on Route 300 and Plains Road, respectively. The facility is to be located on 24.58 acres in the RAG-2 zoning district, being a portion of two properties totaling approximately 86.8 acres. The gross lot area dedicated to the solar facility use is 36.60 acres on tax parcel 107.3-1-3.110. The

western portions of these properties are within the Aquifer Overlay zoning district and which is also within a Critical Environmental Area. The solar array would be situated on a 24-acre lease area and would interconnect to the Central Hudson Gas and Electric (CHG&E) electrical distribution system. The interconnect to CHE&G distribution system would be from Plains Road and would require that the electrical lines be installed over lands owned by the New York City Department of Environmental Protection (NYCDEP). The solar facility itself is being situated primarily on lands that were formerly orchards. The overall property is situated within a NYS-certified agricultural district and an agricultural data statement accompanied the application. NYS Department of Environmental Conservation and U.S. Army Corps of Engineer regulated wetlands are present within the solar facility area; and

WHEREAS, within the RAG-2 zoning district, a large-scale solar facility is allowed by special use permit and site plan upon approval by the Shawangunk Planning Board; and

WHEREAS, the Planning Board determined that the action is a Type I action as per NYCRR Part 617.4(b)(6)(i) of the regulations implementing the New York State Environmental Quality Review Act ("SEQRA"), and declared its Intent to act as Lead Agency for this application on May 4, 2021. The Notice of Intent was circulated with the site plan, narrative, and EAF Part 1. There being no opposition to the Planning Board's request, the Planning Board assumed Lead Agency status; and

WHEREAS, the Planning Board thereafter continued to coordinate with its advisors and consultants to review the project and its attendant environmental effects at numerous Planning Board meetings during the ensuing months and further reviewed various studies, reports, maps, documentation and data made of record; and,

WHEREAS, documentation and associated reviews were coordinated with involved and interested agencies by the Planning Board and resultant mitigation measures and project refinements were made during the pendency of administrative review by the Planning Board; and,

WHEREAS, the Shawangunk Environmental Management Council visited the site on January 8, 2022, and found the proposed siting of the solar field to be without any major environmental issues, and their comments were considered during the Planning Board's review; and

WHEREAS, a public hearing on the special use permit and site plan was opened on February 1, 2022, and was held open until May 3, 2022, to allow comments from interested members of the public on issues of concern, and all comments received at the hearing were duly considered by the Planning Board; and

WHEREAS, a site plan set was submitted, and entitled Site Plan for Magruder Solar, LLC (5 MW AC) prepared by Colliers Engineering & Design, and last revised April 28, 2022, consisting of the following sheets; which sheets may be amended to address final conditions of this approval; and,

Drawing No.	Name	Date Last Revised
1 of 17	Cover Sheet	4/28/22
2 of 17	General Notes	4/28/22
3 of 17	Existing Conditions	4/28/22
4 of 17	Overall Site Plan	4/28/22

5 of 17	Grading & Erosion Control Plan (1 of 3)	4/28/22
6 of 17	Grading & Erosion Control Plan (2 of 3)	4/28/22
7 of 17	Grading & Erosion Control Plan (3 of 3)	4/28/22
8 of 17	Landscape Plan	4/28/22
9 of 17	Construction Details	4/28/22
10 of 17	NYSDEC Limited Use Pervious Access Road Details	4/28/22
11 of 17	Erosion & Sediment Control Details	4/28/22
12 of 17	Fencing & Gate Details	4/28/22
13 of 17	Step Up Transformer Details	4/28/22
14 of 17	Grounding Transformer Details	4/28/22
15 of 17	Panel Details	4/28/22
16 of 17	Inverter Details	4/28/22
17 of 17	NYCDEP Crossing Plan	4/28/22
1 of 2	Boundary and Topography Survey	10/21/21
2 of 2	Boundary and Topography Survey	10/21/21

WHEREAS, the Planning Board referred the proposed application and site plan to the Ulster County Planning Board on January 18, 2022. Ulster County Planning Board issued a review in accordance with NYS General Municipal Law on February 2, 2022. The GML review set forth three required modifications as follows: obtaining final approval of permits from the NYSDEC (Freshwater Wetlands), NYCDEP (Land Use Permit – NYC Aqueduct Crossing), NYSDEC (SPDES Permit), NYSDEC (Water Quality Certification), Ulster County DPW (County Road Permit), NYSDOT (Highway Work Permit); reviewing the existing and proposed grading and performing regular on-site inspections for SWPPP compliance; and, all proposed easements, including but not limited to access, utility, and stormwater will be noted on the final subdivision plat¹. The project will comply with the three GML modifications and no supermajority vote of the action will be required; and

WHEREAS, the Planning Board analyzed each of the potential areas of environmental concern associated with the project in accordance with procedures set forth at 6 NYCRR Part 617 and the criteria set forth at 6 NYCRR Part 617.7 pursuant to the requirements of the State Environmental Quality Review Act (SEQRA), Article 8 of the Environmental Conservation Law of the State of New York; and issued a negative declaration in accordance with the SEQRA regulations on May 3, 2022, finding that approval of the site plan would not have a significant effect on the environment for the reasons stated therein; and,

WHEREAS, pursuant to Sections 274-a and 274-b of the Town Law of New York State and all applicable provisions of the Town of Shawangunk Zoning Law, including but not limited to the Large Scale Solar Facility Regulatory criteria set forth with Section 177-23.1 of said Zoning Law, the Town of Shawangunk Planning

¹ The proposed action involves approval of a site plan, not a subdivision plat.

Board renders the following:

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board has determined that the proposed special use, a large-scale solar facility is hereby approved, subject to the conditions subsequent which are attached to this special use permit resolution. Compliance with these conditions shall be a continuing obligation on the part of the Applicant and its successors, and noncompliance shall be grounds for revocation of the special use permit and any and all other actions and proceedings as provided by law.

The Planning Board has reviewed the special use application against the nine (9) general standards applicable to all special use permits as set forth in Section 177-25.C of the Town Zoning Law and finds that the application will comply with these standards, provided there is continual compliance with all of the conditions attached hereto. In this regard, the Planning Board determines as follows:

- a.) The solar facility use will serve a community need by providing for green based energy use which will service the community at large.
- b.) The solar facility size, use, nature, and intensity, in light of the size of the project site, and associated street access, is in harmony with the appropriate and orderly development of the R-Ag-2 Zoning District.
- c.) The solar facility is in harmony with the adjacent farm use and the use will not hinder the appropriate development and use of adjacent lands.
- d.) The solar facility will not produce objectionable noise, fumes, vibrations, or other characteristics that would be objectionable.
- e.) Entrance and exit drives and parking are sufficiently screened and adequate as to safety.
- f.) The solar facility use will not unduly impair safety or overload existing roads and the site will be accessible to fire, police, and emergency vehicles, with the improvements shown on the site plan.
- g.) The solar facility use will not overload any public water, drainage, sewer systems or other municipal facilities and no aquifer, natural resource or ecosystem will be adversely affected, based on the measures set forth in the Negative Declaration to ensure soil erosion from the former orchards is controlled.
- h.) The solar facility is consistent with all zoning requirements and design guidelines and is further compatible with surrounding uses in order to assist with protection of natural, historic and scenic resources of the Town of Shawangunk.
- i.) The solar facility is consistent with the goals of the Town of Shawangunk Comprehensive Plan; and,

BE IT FURTHER RESOLVED, that The Planning Board further finds that the application meets the specific standards for a large- scale solar facility set forth in Section 177-23.1 of the Town Zoning Law, subject to compliance with all of the conditions outlined in Schedule A attached hereto. The permit is also subject to continuing compliance with Section 177-23.1 as well as the performance standards set forth in Section 177-44,

and said compliance is made a condition of this special use permit. In association with Zoning Law Section 177-231 aforesaid, the Planning Board renders the following findings:

- i.) All General Requirements have been met to the extent reflected in this Decision and all future General Requirements and Safety Requirements for future installation/operations of the solar facility, pursuant to all approved maps, plans, and permits shall be compiled within the future.
- ii.) All standards for special use permit issuance have been met to the extent reflected in this Decision and all future large scale solar facility special use permit standards, pursuant to all approved maps, plans and permits shall be compiled within the future. In this regard, the following specific Special Use Permit findings, as required under the Zoning Law, are made by the Planning Board.
 - a. Height and setback requirements have been met.
 - b. Area of use/coverage requirements have been complied with.
 - c. The applicant submitted a glare study to the Planning Board which concludes that the panels will not result in excessive glare.
 - d. The vegetation buffers and plantings are adequate and will be installed.
 - e. The land grading and vegetation clearing shall be wholly in accordance with an approved Stormwater Pollution Prevention Plan (SWPPP), the Approved Site Plans and subject to aerial review of the historical area following land clearing.
 - f. Pollinator friendly ground cover and non-invasive species shall be used at the solar facility; herbicides will not be used.
 - g. Debris, materials and mulch shall not be stockpiled at the project site.
 - h. Any changes and/or adjustments in the SWPPP shall be reviewed and approved by the Planning Board and its consulting engineer prior to obtaining coverage under NYSDEC Stormwater Regulations.
 - i. Enclosure of the solar facility by appropriate fencing has been provided for as shown on the site plan.
 - j. Signage shall comply with all large-scale solar facility requirements, including the National Electric Code.
 - k. A Decommissioning Plan will be required pursuant to all lawful requirements of the Planning Board and the Town Board of the Town of Shawangunk prior to issuance of a Building Permit.
 - l. Central Hudson Gas & Electric has been notified of the project.

- m. Former agricultural lands utilized for the solar facility have been abandoned for active farmland production for several decades, so that the project is sited upon the least objectionable of the six hierarchy listing as set forth within the Large Scale Solar Facility Local Law standards. In addition, as the lands are being leased, it is possible that, one day, the same could be returned to agricultural use.
- n. No lighting is proposed for the facility.
- o. Registration of the solar facility with the Town of Shawangunk Building Department shall be required and all associated fees and all inspections shall be accommodated. All registration requirements, as set forth within Section 177-123.1 of the Zoning Law shall be complied with.
- p. The Property Operation and Maintenance Plan shall be complied with in all instances.
- q. The Decommissioning Plan shall be complied with in all instances.
- r. All definitions, as set forth within Section 177-65, and governing Solar Facilities, shall be complied with in all instances; and,

BE IT FURTHER RESOLVED, that

Subject to the conditions for final site plan approval attached hereto as Schedule A, the Shawangunk Planning Board grants final site plan approval of a large-scale solar facility as shown on a site plan and entitled "SITE PLANS FOR MAGRUDER SOLAR, LLC (5 MW AC)", prepared by Colliers Engineering & Design, and last revised 4/28/2022. In association therewith, the Town Engineer and Town Planner will conduct a final review of all site plan sheets as to final form and all site plan sheet inclusions of record. All site plan sheets, as reviewed by the Planning Board and as to be confirmed by said Engineer and said Planner, are hereby made a part hereof and incorporated herein by reference. In rendering this site plan determination, the Planning Board finds that the solar facility complies with the Town of Shawangunk Comprehensive Plan, the stormwater drainage has been designed to ensure against flooding and the impact on surrounding properties, as well as the Town of Shawangunk, is not deleterious.

NOW, upon motion of Planning Board Member Widmark seconded by Planning Board Member Patella, the votes of the Town of Shawangunk Planning Board upon the foregoing Resolution/Decision are memorialized as follows:

Planning Board Member	Roll Call Vote			
	Aye	Nay	Abstain	Absent
Richard Barnhart	X			
Sal Patella	X			
John Szarowski				X
Patricia Turner	X			
Mark Watkins	X			
Todd Widmark	X			
Vacancy				

Consistent with Section 177-35 of the Shawangunk Zoning Law, this final site plan approval shall remain effective for a period of two (2) years from the date of the adoption of this resolution granting such approval, unless all requirements stated in this resolution, as well as all other requirements of applicable laws and regulations, have been certified as completed and the Chairman has signed the final site plan. The Planning Board is not required to give prior notice informing the Applicant of any impending expiration.

The Planning Board hereby directs the Secretary of the Planning Board to file a copy of this decision in the office of the Town Clerk and mail a copy of the decision to the applicant.

Dated: May 23, 2022

TOWN OF SHAWANGUNK PLANNING BOARD

BY: 

MARK WATKINS, Chairman


Planning Board Secretary

CERTIFICATION

The undersigned Town Clerk of the Town of Shawangunk hereby certifies that the foregoing Resolution/Decision of the Town of Shawangunk Planning Board has been duly filed this 26 day of May, 2022.

TOWN OF SHAWANGUNK PLANNING BOARD

BY: 

JANE RASCOE, Town Clerk

SCHEDULE A- CONDITIONS FOR FINAL SITE PLAN APPROVAL

1. Site Plan Review and Approval Conditions

- 1.1. Final site plan. Submission of a full final site plan in proper form, including a fully designed SWPPP, revised so as to conform with the conditions of approval set forth herein, and signed by the Applicant and the duly licensed professional who prepared the site plan, and to be signed by the Planning Board Chairperson upon a determination that certain conditions set forth herein have been met. The final site plan set shall include all sheets prepared for this project, including the landscaping plan.
- 1.2. Final review. Prior to the Planning Board Chair signing the site plan, the Town Engineering Consultant, Town Planning Consultant, and Town Attorney shall review the site plan to confirm that all conditions of this approval and all comments in review memoranda have been addressed to their satisfaction. The Town Attorney shall conduct final review of all notes that appear on the plans. The site plan shall not be signed until all outstanding application, escrow review, and other fees applicable to review and approval of the site plan application are paid.

1.3. SEQRA. The final site plan shall be consistent with the Negative Declaration adopted by the Planning Board on May 3, 2022, and all of the terms, conditions, representations, assumptions, and conclusions of the Negative Declaration are made a part of this Schedule A as if fully repeated here. Any significant revisions to the site plan or any new information not previously submitted may necessitate additional SEQRA review, including any information warranted by review of the Bog Turtle Phase 2 Survey by USFWS.

2. Discretionary Permits and Approvals Required Prior to Building Permit Issuance

- 2.1. NYSDEC Freshwater Wetlands. Prior to issuance of a building permit the Applicant shall receive a NYSDEC Freshwater Wetlands Permit under Article 15 of the Environmental Conservation Law of New York State, as well as a Section 401 Clean Water Act NYSDEC Water Quality Certification for construction activities improving and utilizing the access road from Route 300.
- 2.2. NYSDEC SPDES MS-4. Prior to issuance of a building permit the Applicant shall obtain coverage under an issued NOI and obtain other required approvals from the Town Engineering Consultant and relevant officials of an approved final SWPPP for the project. The final site plan and SWPPP will address the redirection of runoff brought to the attention of the Board by an adjoining neighbor to the project. All requirements of SPDES GP-0-20-002 for Stormwater Discharges shall be met by the Applicant.
- 2.3. NYSDOT Highway Work Permit. Prior to issuance of a building permit the Applicant shall obtain any required approvals from NYSDOT for use or improvement of the project's site access road from Route 300 and pursuant to Section 52 of the Highway Law of New York State.
- 2.4. Ulster County DPW County Road Permit. Prior to the issuance of a building permit the Applicant shall obtain any required approvals and a Section 136 Permit under the Highway Law of New York State, from the Ulster County DPW for use or improvement of the project's access to Plains Road for its interconnection equipment.
- 2.5. NYCDEP Aqueduct Crossing. Prior to issuance of a building permit the Applicant shall obtain all required approvals from NYCDEP for aerial crossing of the aqueduct property with electrical conductors, communication lines, and related equipment as identified on the approved plan. In the event the NYCDEP requires substantive changes to the aerial crossing aforesaid, the Applicant shall return to the Planning Board for review and a site plan amendment.
- 2.6. United States Army Corps of Engineer Permit. Prior to the issuance of a building permit, the Applicant shall either obtain coverage under Nationwide Permit #12 for access and utilities from the USACOE or, in the alternative, if the statutory response period shall have expired with no response from the USACOE, the access/utilities shall be operative all pursuant to 33 CFR Part 330 et. seq.
- 2.7. Decommissioning Agreement. Prior to the issuance of a building permit, the Town Attorney shall conduct a final review of the Decommissioning Plan, and in an amount to be recommended by the Planning Board to the Town Board as a performance security, which Plan shall include a signed statement from the party responsible for completing the Decommissioning Plan acknowledging such responsibility and a separate three way Agreement (Applicant, Town, and Property Owner) and as reviewed by the Town Engineer, shall be fully executed prior to the issuance of a building permit.

- 2.8. Decommissioning Security. The Applicant shall post a performance security acceptable to the Town which security shall be maintained for the life of the project and which shall be reviewed from time-to-time and may be modified as circumstances change in order to assure the facility will be decommissioned in accordance with the requirements of the Zoning Law. Per zoning Law 177-23.1(F)6, the Town Board is to approve the amount of such security upon the advice of the Planning Board. The security must be posted prior to issuance of the building permit.
- 2.9. Property Operation and Maintenance Plan. Prior to the issuance of a building permit, the Applicant shall provide the Planning Board with an acceptable written Operation and Maintenance Plan for the solar facility.
- 2.10. The Applicant shall further provide the Town Board with a sufficient escrow payment for stormwater inspections, as determined by the Town Engineer, prior to the issuance of a Building Permit.

3. General Construction Conditions

- 3.1. Utilities. All utilities shall be buried underground except for the connection to the overhead poles owned by Central Hudson on Plains Road and the aerial crossing of the NYC Aqueduct which is shown on the approved plan.
- 3.2. On-site landscaping. On-site landscaping shown on the site plan shall be maintained for the life of the use and vegetation and grasses around and within the landscaping area shall also be maintained and brush hogged annually.
- 3.3. Landscaping Installation. All landscaping shall be installed prior to the commencement of the installation of the facility's solar racking, panels, other equipment, including pole installation. Fencing shall be installed promptly after landscaping.
- 3.4. Lighting. Lighting shall not be installed as part of this site plan.
- 3.5. Construction of the project is conditioned upon continuous compliance with all terms outlined in Chapter 177-23.1, as may be amended.

4. Conditions for Project Operation

- 4.1 Fire Company Interactions: The project shall be constructed to provide 20-foot ride roadways throughout the length of the access road and the roadway within the solar array. Prior to the commencement of the project's commercial operation, the Applicant will hold training for the local fire company and ensure that a Knox box or other agreed upon access provisions are provided to the fire company.
- 4.2 The large-scale solar facility shall be registered with the Town Building Department and said registration shall be effective for a five-year period, with renewal required prior to the expiration date, and that the amount set forth in the decommissioning plan be reviewed and adjusted as necessary and, at a minimum, at such time that the facility is recertified.