

**Minutes for the Ticonderoga Planning Board Meeting held on February 4, 2021  
commencing at 7:00 p.m. with a Public Hearing for Doering Solar Project**

**Present:** Chairman Dr. W. D. McTyler, Don Meserve, Ben Leerkes, Tonya M. Thompson, Clerk and virtually Walt Lender, Mike Powers, Stephanie Mitchell and Matt Fuller, Town Attorney

**Others:** Virtually via GotoMeeting - Jamie Fordyce, Wendy DeWolf, Will Bliss, (Applicants), Elizabeth Phillips (APA), Cody & Jessica Choquette, Hayley & Dan Woods, Joseph Wright, and Joe Giordano managing the meeting

Chairman McTyler opened the meeting with the Reciting of the Pledge of Allegiance.

The Town of Ticonderoga Planning Board will hold a public hearing and meeting on February 4, 2021 at 7:00 p.m. at the Community Building, 132 Montcalm Street, Ticonderoga, NY for a Site Plan Review regarding an application submitted by ELP Ticonderoga Solar LLC for a Tier III Solar System installation to be located at 49 Veterans Road, Ticonderoga, NY. Any interested parties will be given an opportunity to be heard. (This hearing and meeting may be held virtually - see townofticonderoga.org website for link closer to date)

Jamie Fordyce Owner of ELP Ticonderoga Solar LLC gave a brief overview of the proposed project.

- Tier III solar energy facility - 49 Veterans Road
- Three total parcels, primarily a 255 Acre parcel owned by K. Doering, 37 acre parcel adjacent owned by E. Rafferty and 1 acre owned by ELP Ticonderoga Solar LLC
- 20 Mega watt Solar energy facility
- Connect directly to the National Grid transmission corridor which runs adjacent to the site
- Provides power directly to the grid
- Design is compliant with design specs from the Town's Code Regulations from lot size to set backs to lot coverage and the other various elements of the zoning law
- Tracker system - panels will move from East to West during the course of the day
- Permitting side, we have submitted to the APA back in August and it is still pending, Been in touch with the Army Corp., the DEC and the state SHIPO as part of the APA process
- Landscaping along the eastern edge of the project, meets requirements in the Town's code to screen to the greatest degree possible from Route 9
- Full storm water analysis has been presented with the application - consistent with DEC guidance
- Utilized to the greatest degree possible, impervious access roads and there will be very minimal grading done on site

He could go into a lot more depth of the project, but will wait to see questions or comments are brought up and will speak specifically to them.

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Jessica Choquette (1361 NYS Rte 9N) has concerns, obviously they don't know the placement specifically - that property outlines their acre property that they have. They didn't exactly buy the house with wanting to-- we are for going with green energy, we just personally don't want to have to look at a solar farm behind our house instead of the mountains. When we moved here, it was a lot different picture than what we planned on and with going forward, we have contemplated re-locating and we feel this will diminish the property value due to the location and the site and make it more complicated for us to try to sell our house if we decide to go that route.

Mr. Meserve noted that this house looks to be the farthest away from the panels. These panels are only 20' high and will be screened. They are not like the power lines. The Mountains tops will be way above the height of the array. In the pictures that we received, it does not seem to that this will be an eyesore. It is quite a way off from 9N also.

Mr. Fordyce stated that they made extensive efforts to evaluate potential visual impacts during this process including viewing from Route 9 and all the way up Mt. Defiance, those have been submitted to the APA also. He has renderings of the site and he is happy to reach out personally to discuss these concerns for specific properties after this meeting. The panels are low and there will be screening. Landscaping has been proposed in this application, low planted vegetation and evergreens, there will be a staggered planting schedule so it will be somewhat naturalized buffering. The plan is to plant trees of 4-6 feet initially and they will leave a bit of room for them to grow any where from 15 to 20 feet in diameter and height at maturity. It is a large site and will be hard to screen entirely from view, but our objective is to try to fit it within the landscape and utilize a natural buffer to the greatest degree we can.

Dan Woods (1385 NYS Rt 9N) stated that it appears in the picture that they received that the solar panels are going to be bordering his property. Is that true?

Chairman McTyier stated that it does adjoin the property, but it appears that there is a good bit of distance and screening between you and the panels. (He tried to show the renderings)

Mr. Woods does have a drawing that was sent to the house, it appeared to be a border right off the back of his barn where the old apple orchard was and that was another question. Are they going to be tearing down the apple orchard, the trees where all the arsenic was spread through that field?

Mr. Fordyce stated that the panel array will cover a portion of the apple orchard. We have done a complete phase 1 on the project which is the environmental site assessment and it is the recommendation for that of a proposed use of a solar permit as long as we are not exporting or excavating soil other than site use, it should not be of a concern. Outside the limits of the fence line there will be some of those historic apple trees that we plan to

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leave in place and utilize to help create the natural vegetative buffer as well as supplementing it with the additional plantings that we spoke of.

Mr. Woods asked where the access road would be coming from.

Mr. Fordyce stated that the access road is coming from Veterans Road.

Mr. Woods stated that you are going to cut through those trees and come from there, you won't be trying to come through his property?

Mr. Fordyce stated this is correct. The access road will come down from the North off from Veterans Road where there is already an existing trail next to the large storage buildings. This trail crosses a little stream that they will be utilizing and they will be improving that entire road.

Mr. Woods asked what is the distance the panels are from his property line.

Mr. Fordyce stated that he doesn't know specifically, but they are consistent with the set backs that were set forth in the Town's ordinance at a minimum.

Will Bliss stated that the set backs around that barn area is about 200 feet and further north along that property it may be a little bit closer and more in line of those general set backs between 50 to 100 feet, but where your buildings are located and it is 200 feet if not more than that.

Chairman McTyier tried to show a rendering drawing of the proposed site.

Mr. Woods asked if they really have any say in this or is this just them giving the opinions and then it will move forward anyway.

Chairman McTyier stated that this is the purpose of having a public hearing, we need to hear the concerns and comments to factor into the decision later.

Mr. Woods stated that his main concern is that he owns 13 acres and he doesn't really have any neighbors that he can see, it is the huge selling point of a house in Ticonderoga. He is in Town but he is not in Town and now there is going to be constant movement out in the field, people will be working on these solar panels and honestly he doesn't see that access road fixed up to the point to where they will be able to take vehicles all the way down it. He is afraid that they will try to take part of his land and go through it. His house is being depreciated severely by....right now he will have no privacy, he will have people in his back yard all the time..

Mr. Fordyce stated that there will be no staffing on site, other than maybe two to three times a year in the field for preventative maintenance. There will be a construction period when it will be busy, but after that .....

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Chairman McTyier stated that the access road is clearly delineated on the plan so anything we are reviewing is the access from Veterans and no indication of anything going across the Woods property.

Mr. Woods asked if this has been surveyed and you all realize what you have to do to get through that access road and cut trees down and fill the sink holes and there is a lot out there that is going to take a lot to get trucks through there.

Mr. Fordyce stated that they are fully aware and the plans show a real improvement to that road. We are utilizing that path as the route.

Mr. Bliss stated that they have already driven trucks down that road earlier last year, we definitely have some significant improvements that will be added probably close to 12 inches of stone but that will be determined after we take some test pits on the road to see what the existing thickness is, but we will be improving the road and also the drainage along that road. Installing a culvert to help maintain that existing stream. We have a significant amount of work, but it is an existing farm road that is pretty well established and it is pretty easy to turn that into an access drive for the construction site.

Mr. Woods stated that he hopes that everything can be covered up from view.

Mr. Leerkes noted that Mr. Woods is concerned about the use of his property, but as he remembers it - that home was originally part of the Johnson Farm and he inquired if there was a way to that property included in the deed. Was there a right-of-way to that back property covered in the deed to the house. (The answer was not to anyone's knowledge). Then there should be no concern about this ever occurring.

Mrs. Choquette noted that Mr. Rafferty's right-of-way is connected to their driveway. She wanted to know if this is going to be utilized or not. The main access point to Eric Rafferty's property as a whole runs through their driveway.

Mr. Fordyce stated that the way they are using the Rafferty property is simply to site an underground electrical line that will go from the Doering property where the main array will be to the transmission line and so there is no vehicle access planned for that and no structures to be visible on the Rafferty property. The driveway will not be utilized for vehicle traffic.

Mrs. Choquette stated that she is not 100% sure what is back there; however, she has heard that there is a very old cemetery back on this property. Will that be handled with respect and proper relocation?

Mr. Fordyce stated that it will not be relocated, but it is identified in the site plans and was identified by the APA in our application with them. We also went through the office of Historical preservation and identified it as well. Our intent is not to disturb it at all, it doesn't overlap with or solar array at all, it lies west of where the panels will be in the forested area.

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Mrs. Choquette stated that her last question is what is the best way to get in contact after this meeting.

Mr. Fordyce gave his number and email address as 415-948-4288 and jfordyce@eastlakepartners.com

Joe Wright asked if these are rotating system of fixed.

Mr. Fordyce noted that these are single access tracking panels - they will face east in the morning and west in the afternoon.

Mr. Wright asked how many hours of sunlight does Ticonderoga get in an average year.

Mr. Fordyce stated that this would be seasonal - he would image that with the solstice it would be 12 hours and in the winter maybe 8 hours.

Mr. Wright stated that you can take an average from that.

Mr. Fordyce called it 10.

Mr. Wright stated that you are not even close, the average is about 3.5 hours of sunlight a day in Ticonderoga. He continued that the cemetery that was talked about belongs to the present Arthur's family. That is who it belongs to. Who did the surveying on the Johnson Farm for Doering?

Inaudible....

Mr. Wright stated that they came on his property and put all kinds of pins in, he didn't care, he would have just liked to have known. There are all kinds of blue tape down there and usually blue tape indicates water and there is blue tape all the way down through that field, there is a lot of water underground out there.

Mr. Fordyce stated that they have done a wetlands delineation, they have submitted that to the Town and to the APA and to the Army Corp and the State DEC.

Mr. Wright asked how far do those solar panels come down to him? He doesn't care what she does on her property, her property is her property, but he would like to know what is going on, that's all.

Mr. Fordyce stated from the southern property line he would estimate 1000 feet.

Mr. Wright actually thought about buying this property when he retired, he took \$200 out of his 401 account and he was going to buy that property and start a .....inaudible .....farm. He went to his lawyer and he was told don't even think about buying that property, it is condemned and then he talked to his cousin up there and he even advised

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him to not buy that property and now you are going to put solar panels in there. It is hard to believe a land that is condemned, one that you can't build on unless you take 14 inches off it, you can put something on it that will generate heat.

Mr. Fordyce stated that they are not excavating, this is a pile driven system so it is very low impact construction, low impact to the land.

Mr. Wright stated I guess, like he said, she can do what she wants with her land, she pays the taxes on it, it is nothing to him, but he will get in touch with the surveyor to find out what those pins are for. Thank you for listening. That is the Arthur family graveyard - they came over from Vermont. Thank you.

Chairman McTyier asked if the Public or the Board had anymore questions....none. He continued that as a board he has some questions, but he is thinking that we may want to extend this public hearing since there will be some discussion with neighbors and such. There may be more people to make comments. (The clerk stated that there have been no questions to her office on this project). The chairman asked Mr. Fordyce if there has been any comment from the referral agencies. They do storm water correct.

Mr. Fordyce stated that they have submitted storm water plans to the other agencies and also noted that they do need to ask the Planning Board to serve as Lead Agency on this project. Then the Town can do the appropriate referrals.

Chairman McTyier stated that looking through these plans, he does have some questions about storm water. He asked the Matt Fuller, Town Attorney regarding the process. He wants to discuss some things but with some of the comments and with the Mr. Fordyce reaching out to some of the neighbors he has a tendency to leave this public hearing open.

Mr. Fuller stated that you can leave the public hearing open. He has questions about SEQRA to Mr. Fordyce, with dealing with the APA, did they give you a jurisdiction letter about the project. Are you a Class A or B regional project?

Mr. Fordyce stated that they have been through 3 rounds of comment with the APA.....

Mr. Fuller asked what the project is classified under the Adirondack Park Act, they usually dictate what sort of application that is filed with them...this impacts SEQRA.... The answer is it is a Class A permit....(answered at a later time) He also mentioned that on the EAF form - it is marked as being referred to the Ticonderoga ZBA for a Use Variance...

Mr. Fordyce stated yes, it was determined by Mr. Burrows that the one acre parcel being utilized was not allowed therefore it needed referral to the ZBA, which we did and they granted a Use Variance..... Discussion --- it was actually a Area Variance and it will be corrected.

Mr. Leerkes asked if we can skip being the Lead Agency....

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Mr. Fuller explained if the Town was not, then one of the other agencies would need to be, such as DEC, DOT,.....

Mr. Fordyce stated that it makes most sense to have the Town do this....

**Resolution #6-2021** brought by Ben Leerkes, seconded by Don Meserve to declare the Ticonderoga Planning Board as Lead Agency for the East Lake Partners, LLC Solar Project (Doering/Rafferty/East Lake Partners, LLC). **6 - Ayes, 0 - Nays. Carried.**

Mr. Lender asked if the board wants to look into our own Engineer reviewing this project.

Mr. Fuller stated that this is always an option for the board.

Chairman McTyier stated that he has questions and concerns with Storm water management. He has read all about these panels and there should be a space between them should be at least equal to them or greater than the panel themselves. When you look at this property, the terrain and the panels ..... when looking at the map with the field. Those panels are tilting are they tilting towards 9N - (yes, AM hours tilted towards 9N, PM hours tilted towards the west) So all the spacing looks like it meets what is required to not.....we are right back to you cannot create more run off than what was there before. In this case, if there was more run off we would certainly have problems with neighbors. One of the conditions, the whole section on mowing --- none of that would be done during a certain time. So when you build it, the distance will be fine, but when you build it, that ground and crops are maintained in good condition to monitor that flow of water.... he would like to be really convinced that if we had a big storm that we aren't going to have a huge problem having sheet flow down that pasture towards the road. So whether we have an engineer look at it or he gets convinced... that is what he is looking for.

Mr. Fordyce stated that it is most detailed in the storm water analysis which is a thick report that we created and provided to you guys, generally tracking with the DEC's guidance on the treatment of solar panels for storm water and as you correctly know, one of the factors that helps them to conclude that there is no net change pre and post development is insuring that there is enough space between the panels that it is greater than or equal to the width of the panels so that you really have sufficient vegetation for infiltration between the panels. The bulk of the project is impervious, the elements of the road and elements of the equipment pads that will be pervious but that is really quite small, under 5 acres he believes and that will have appropriate storm water controls. The other element of DEC guidance is applies for anything within 5% or less slope, there are certain areas of the site where the flow is greater than 5% and those areas we have designed flow exchangers to break up the storm water flow and address any potential issues there and that is consistent with the DEC guidance.

Mr. Bliss stated the only thing he would add in the mowing is the most critical factor in regards to the storm water is the soil type rather than the actual coverage of grass areas.

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So whether that meadow is 2" or 6" the rate at which storm water is absorbed by the ground is heavily influence by the soil underneath the grass. We can definitely follow up with an additional memo from our principle engineering firm to have some additional guidance there.

Mr. Fordyce stated that the mowing schedule is really coming down from the APA with respect that we are planting pollinating friendly undergrowth that will attract pollinators and they specify a very specific schedule for us to insure that it has that intended benefit.

Chairman McTyier he agrees with that and sees the CFS (cubic feet per second???) is less than pre-development....is that due to these little drainage swales that they are talking about. Basically the project will improve sheet run off.

Mr. Fordyce answered that this is correct, the drainage controls that are being installed along the road will help and lower that peak flow number as you referenced and that is basically what is driving the storm water to be lowered from pre-development conditions.

Chairman McTyier stated that by road you are talking about access road.

Mr. Fordyce stated yes, but along side the access road we have some side swales to basically take any of the run off from the access road to control and that is what is helping that peak flow number..

Chairman McTyier stated that the access road itself will be construction and made in such a way that it will not create much impervious either.

Mr. Fordyce stated yes, we have an impervious grid design at the entrance area because we have some relatively steep topography so we want to make sure that we have a straight access to the site so we proposed a pervious road in the actual array where the land is much higher and the topography is not going to be an issue, however the APA viewed our pervious design as impervious so they classified it as a impervious road regardless so we designed the storm water to basically treat the pervious design as an impervious road.

Chairman McTyier stated that this is a good point, because if you need to do maintenance on that road or improve it because of access he was afraid you were going to create more impervious. He doesn't mean to keep harping on this, but this 100 year storm, on his days on the Pennsylvania PB they had 3 - 100 year storms within like 2 years. So it happens and you get these horrible rain storms and he wants to make sure that everyone is protected. Does the APA do a full analysis on the storm water, will we get something from them....

Mr. Fordyce stated that they definitely do a storm water review, he is not sure who they appoint that to internally or if they bill that out to a consultant engineering firm. They do have a copy of our storm water document and have provided some comments on it, so they are definitely reviewing it.



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Ms. Mitchell had a couple of questions on decommissioning....could you just go over for her something that she didn't understand .... she wanted to talk about the definition of the utilities that you are proposing would go underground and the decommissioning of those utilities. In the correspondence from November 18 you referred to these as all onsite utilities lines are planned to be placed underground to the extent feasible. As permitted by the service of the utility. (Correct) Also in the package from November 20, you talk about 36 inches below the soil surface and then the decommissioning.. that all above and underground electrical interconnection distribution cables will be removed and disposed of at an appropriate waste facility. Could you just explain some of that please.

Mr. Fordyce stated that there are cables/conduit that connect the panels to each other and connects it to the various inverters and all of that is within the Doering parcel and the main array is underground and from that parcel over towards the transmission corridor across the Rafferty parcel is all planned to be underground also, what we are calling the AC (alternating current trench) and then we go under the corridor and arrive at the up point interconnection and that - due to the requirements of National Grid, when we tap into the high voltage transmission line, we cannot put that infrastructure underground so that there will be a small service station located between the transmission corridor and Route 9N that we don't have the option to put underground so the underground line coming from the array will come up on the East Side of the transmission corridor and then through a set of poles go up and tap the transmission lines. So we say we underground to the degree possible, we are not going to have poles and over head lines across Rafferty's property to get to the transmission tap, but once we actually establish our point of interconnection, we come up immediately adjacent to the transmission line and we simply need to build to National Grid specs for the purposes of safety and liability.

Ms. Mitchell thanked him, now on the decommissioning anything underground will be removed. Anything and all things ...

Mr. Fordyce agreed..

Mr. Powers noted that this site has been contaminated from pesticides 40 or 50 years ago, when you are doing your trenching and backfilling for the lines...when you are doing that, you are putting silt fences in but what else are you going to do to control specifically that contaminated soil.

Mr. Fuller asked if there has been any record or report of base levels of contamination on this property...

Mr. Fordyce stated no, there has been no soil testing. We have engaged in a consultant to do a full Phase I environmental Site assessment. They have looked at historical records and identified that based on prior use as an orchard there is a possibility of pesticide use and a possibility of contamination connected to that. The recommendation was - Read form the report "an evaluation of historical pesticide application should be completed if the planned land use is changed from a proposed solar farm to residences, schools, child

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care centers or playgrounds" ... and further their recommendation... "testing of pesticide residual should be performed on any soil to be removed from the property and if any are identified the soils must be handled within accordance with NYSTEC and Department of Health regulations" we do not propose to remove any of those soils from the property. He is happy to submit to the board and for the record, this Phase I ESA Report, but it is done by a qualified environmental consultant.

Mr. Fuller stated that it might be worthy for the board to ask for the consultant to submit, the follow up evaluation to that question. The land disturbances in terms of storm water run off and things like carry those potential pollutants to a different location. That might be right back to the question.

Mr. Powers stated that this is specifically during the construction phase, once it is built there shouldn't be a problem.

Mr. Fordyce understands and our intent would be comply with all the applicable environmental regulations and take the advise of our environmental consultant. We are happy to share that with you all.

Mr. Fuller stated that this will be a question that will come up ultimately when we get to part II of the SEQRA evaluation on the EAF.

Mr. Lender mentioned that most of his questions have been answered and that these storm water plans make sense so far, especially since they were addressing what was originally presented as pervious surface road. He thinks the compaction of the soils just from construction and everything else will render it impervious, so the fact that this is being address makes him happy. So to leave the public hearing open is going in the right direction and we will see what comes in for next time.

Chairman McTyier is going to go through this and probably come up with some more questions. Is there anything else to be brought up?

Mr. Fordyce stated from his perspective, obviously you will need to notice the referral agencies and we will wait the 30 day review period. In the meantime, we will reach out to the neighbors that spoke out tonight and get back to them to understand their concerns. He will submit the Phase I Environmental Site Assessment to the clerk.

Mr. Wright has a couple more questions, when we got hurricane Irene, do you know how far that water backed up from the book and went out into Johnson's field - it went about 400 yards, flooded that whole field almost. You also have beavers that move in there and they will flood you. When you talk about the Rafferty farm you are talking about soil contamination as bad as Johnson's. That is an old apple orchard there too. Also, running across that field is a water line. It used to run over to Johnny Porter's farm from up in the Mountain reservoir. He imagines it stills runs and if you hit it, it will be like hitting a well, you will have water running and does run right across that field. Someplace in there you will probably hit it.

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Chairman McTyier stated that hurricanes are going to happen and all we can really ensure is that the project doesn't make anything worse than it was before.

Mr. Wright stated that you mentioned 100 year storm, that little brook down there moved about 100 feet from where it used to be when he was a young boy. But you are going to hit that water line someplace up there and when you hit it you are going to know it.

Mr. Fordyce appreciates this being brought up, this was not picked up by the surveyor.....

Mr. Wright stated that you wouldn't have picked it up, you wouldn't have even known about it. He was born and raised right there so he knows where it was, it is there, it couldn't have gone away, it ran constantly 24/7. Johnny Porter had horses in his barn.

Mr. Fordyce stated that it would be helpful if we locate that if you would be willing to ...

Mr. Wright stated that it almost comes right,, if you lined up right in the center... there is an old race track out there. Johnny Porter had a race track out there for his horses and you can just barely make it out, if you didn't know it was there then you wouldn't know it was there. It was about the middle of that property when you come through. If you took Rafferty's property and split it right in the middle on that west side it is right about in there someplace and it goes right straight up through, there is a corner of that Woods field and when the old pine trees were there.....does anybody know Mrs. Doering... did she ever get paid for the logs that they lumbered off on her.....

Chairman McTyier asked maybe they can be shown where this line is.... thank you.

Mr. Wright stated that he doesn't know how to turn this off, that is why he is still listening. .... discussion on turning off the computer.... Supervisor Giordano turned him off.

Chairman McTyier asked if there was any other business....no..

**Resolution #7-2021** brought by Ben Leerkes, seconded by Don Meserve to table the Public Hearing for East Lake Partners, LLC until the March 4, 2021 Planning Board meeting. **5-Ayes, 0-Nays, Carried.**

**Resolution #8-2021** brought by Ben Leerkes, seconded by Don Meserve to adjourn the meeting at 8:23 p.m. **5-Ayes, 0-Nays, Carried.**

Respectfully submitted, Tonya M. Thompson, Town Clerk