

**TOWN OF ULYSSES
PLANNING BOARD
MINUTES
September 1, 2015**

Approved: October 6, 2015

Present: **Chairman** John Wertis, David Blake, David Diaz, and Rebecca Schneider;
Environmental Planner Darby Kiley; Town Board Liaison Richard Goldman.

Members of the Public Present: Carl Lupo, Sarah Adams, Melissa Kemp of Renovus Energy,
and prospective Town Planning Board member Pete Angie.

Call to Order: 6:57 p.m.

Agenda Review; Minutes Review (08/18/2015):

Mr. Blake MADE the MOTION to approve the August 18, 2015 meeting minutes, and Mr. Diaz SECONDED the MOTION. The meeting minutes were approved, 3-0, with Ms. Schneider abstaining from the vote.

Mr. Wertis circulated a chart he created on planning boards in other Tompkins County municipalities. He requested to add the chart for later discussion in the meeting. No one dissented.

Privilege of the Floor: Mr. Angie told the Board he is eager and excited to see how the planning process works.

Cold Springs Road Project

Consideration of Final Subdivision Approval for the proposed five-lot subdivision on a parcel with frontage on the south side of Cold Springs Rd and the west side of Trumansburg Rd, Tax Parcel Number 25.-1-1.1, H1-Hamlet District. The proposal is to create five lots for single-family residences, where the lots would have the following dimensions: Lot 1 with 2.212 +/- acres and 96.57 +/- feet of frontage on Cold Springs Rd; Lot 2 with 3.575 +/- acres and 50.00 +/- ft of frontage on Cold Springs Rd; Lot 3 with 3.704 +/- acres and 50.00 +/- feet of frontage on Trumansburg Rd; Lot 4 with 1.752 +/- acres and 153.21 +/- feet of frontage on Trumansburg Rd; and Lot 5 with 6.262 +/- acres and 147.13 +/- feet of frontage on Trumansburg Rd. Carl Lupo and Leon Newhart Jr, Owners/Applicants; Jose Guisado, Agent.

Mr. Wertis MADE the MOTION to approve the final subdivision, and Mr. Blake SECONDED the MOTION as follows:

Resolution for Final Plat Approval:

WHEREAS:

1. The Town of Ulysses adopted zoning regulations in Local Law No. 3 of 2013 include Article XXI – Land Subdivision Regulations, Section 21.3 establishing criteria for Subdivision Procedures; and
2. The proposed Subdivision is located in Jacksonville with frontage on Cold Springs Rd and Trumansburg Rd, Tax Parcel Number 25.-1-1.1, H1-Hamlet District. The proposal is to create five lots for single-family residences, where the lots would have the following dimensions: Lot 1 with 2.212 +/- acres and 96.57 +/- feet of frontage on Cold Springs Rd; Lot 2 with 3.575 +/- acres and 50.00 +/- ft of frontage on Cold Springs Rd; Lot 3 with 3.704 +/- acres and 50.00 +/- feet of frontage on Trumansburg Rd; Lot 4 with 1.752 +/- acres and 153.21 +/- feet of frontage on Trumansburg Rd; and Lot 5 with 6.262 +/- acres and 147.13 +/- feet of frontage on Trumansburg Rd. Carl Lupo and Leon Newhart Jr, Owners/Applicants; Jose Guisado, Agent; and
3. The lots created by the proposed Subdivision meet the zoning requirements for the H1-Hamlet District; and
4. The Planning Board reviewed the sketch plat at public meetings held on June 2 and June 16, 2015, and closed the sketch plat conference on June 16, 2015; and
5. The Planning Board reviewed the preliminary plat at public meetings held on July 7, July 21, and August 4, 2015; and
6. This is an Unlisted Action for which the Town of Ulysses Planning Board, on August 4, 2015, made a negative determination of environmental significance with respect to this project, after having reviewed and accepted as adequate a Short Environmental Assessment Form Parts 1, 2 and 3; and
7. The Planning Board, at a Public Hearing on August 4, 2015, approved the Preliminary Plat entitled, “Subdivision Map Showing Lands of Carl Lupo, Located on Cold Springs Road & New York State Route 96, Town of Ulysses, Tompkins County, New York,” dated 7/1/2015, by T.G. Miller P.C. Engineers and Surveyors; and
8. The Planning Board considered the Tompkins County Planning Department recommendations pursuant to the General Municipal Law §239-l and –m review and found that the proposed lot arrangement is in keeping with the H1-Hamlet District regulations and while a single access road may be desirable, it is not a requirement for subdivision approval, and approved the Preliminary Plat with a unanimous vote of all five members; and
9. Zoning Law Sections 21.3.5.1 and 21.3.23 allow the Planning Board to waive subdivision requirements, where it finds that, due to special circumstances of a particular plat, the provision of certain required improvements is not requisite to the interest of the public health, safety and general welfare or is inappropriate because of lack of connecting facility adjacent or in proximity to the proposed subdivision; and

10. The Town of Ulysses Planning Board has given due consideration to all information and comments in conducting the Subdivision Review;

THEREFORE IT IS HEREBY RESOLVED,

1. That the Town of Ulysses Planning Board hereby waives certain requirements or finds certain requirements not applicable for this Final Subdivision Approval, as shown on the Subdivision Checklist, having determined from the materials presented that such waiver will result in neither a significant alteration of the purpose of subdivision control nor the policies enunciated or implied by the Town Board; and
2. That the Town of Ulysses Planning Board hereby waives the second public hearing having deemed the Final Plat to be in substantial agreement with the Preliminary Plat; and
3. That the Planning Board of the Town of Ulysses hereby grants Final Plat approval for the subdivision as shown on the plat entitled, "Subdivision Map Showing Lands of Carl Lupo, Located on Cold Springs Road & New York State Route 96, Town of Ulysses, Tompkins County, New York," dated 7/1/2015, by T.G. Miller P.C. Engineers and Surveyors, subject to the following conditions:
 - a. Prior to issuance of any building permit or land disturbance for any of the approved lots, a Stormwater Pollution Prevention Plan, as described in Local Law #3 of 2007 Section 2, shall be developed for the entire parent parcel and be reviewed and approved by the Town of Ulysses; and
 - b. Any culverts installed for stream crossings on individual lots shall be sized to meet the larger of the following: (1) the size of the immediate downstream culvert, (2) 1.25 times the normal width of the streambed per NYS DEC guidelines, or (3) a size to accommodate the peak flow from a 25 year storm. Any culvert shall be designed by a licensed engineer subject to review and approval of the Town Engineer.

The vote was as follows:

Mr. Wertis AYE
Mr. Blake AYE
Mr. Diaz AYE
Ms. Schneider ABSTAINED

Result: Subdivision approved

Mr. Lupo left the meeting at 7:08 p.m., and Melissa Kemp of Renovus Energy arrived.

On the subject of the Cold Springs Road development, Mr. Wertis said the Board did not discuss park land. Under certain conditions outlined in New York State Law, the Planning Board cannot expect a developer to include park land within a project unless the Town Board indicates a need

for a park. Ms. Kiley said there is a particular number of housing units that would trigger the need for a playground, but the threshold is hundreds of units.

Solar Regulations

The Planning Board received from Ms. Kiley the most recent draft of solar regulations and various documentation on visual buffers. Ms. Kiley provided an overview of the updated regulations. For ground-mounted systems, any project under 2,000 square feet would be considered a minor project, while over 2,000 square feet, even if an accessory use, would be considered major.

Ms. Schneider asked about the basis for 2,000 square feet, which instigated a review of the Planning Board's work thus far.

Ms. Adams arrived at 7:20 p.m. She told the Planning Board she recently spotted a ground-mounted solar array on South Buck Hill Road in Schuyler County that raised some concerns with glare. Circulating photos of the array, she said the array seemed rather large, and it was located near the roadway. It had a lot of glare, and the visual impact was striking. She also suggested someone should visit the Geneva solar farm to see what the impact is.

Commenting on the concern with glare, Ms. Kemp said the Federal Aviation Administration has ruled that solar arrays are safe for installation near airports. At her own home array, she does not experience any glare. She later added that the concern with glare has been largely dismissed.

Ms. Adams said homes are located near the array in question. A lot of laws she has reviewed seem to be way more detailed and have more guidelines. She would like to see a balance between encouraging solar use and recognizing the potential for impacts. It is not unreasonable to require some kind of buffer.

Ms. Kiley said a document out of Massachusetts addressed with solar glare and estimated that 2-percent of incoming light is reflected back off arrays. That is about as much glare as smooth water produces.

Board members then discussed how best to approach glare, if at all, in the law. Ms. Schneider said a buffer would, in theory, alleviate the problem of glare but not, as Mr. Wertis pointed out, if a two-story house is located across the street. He suggested the Board craft language to request that the potential for glare be considered during siting.

Ms. Kiley noted the draft law already addresses the potential for glare in 135-3, section B, No. 6, and again in 135-4, section B, No. 3, stipulation D. She asked what more the Board would like to include to address glare. After a brief discussion, the Board reached a consensus that the present language addresses the glare concern, but the Board may choose to readdress the matter pending further information.

Ms. Kiley reviewed changes she made to the draft law since the Planning Board's meeting last month. A conversation related to buffers ensued, particularly chain-linked fences, which were

considered by some Board members to be unsightly. Asked why fencing would be required, Ms. Kemp said it is a matter of property ownership, that another property owner could own the land beneath the array. Sometimes, it is a segregation of ownership, she said. Renovus only installs fences for large projects. On the question of whether or not ground-mounted solar arrays are “heat islands”, Ms. Kemp thought data should exist to answer that question. She has stood underneath large arrays and did not feel intense heat. That would change, though, if someone physically touched a panel, which can get as hot as 130 degrees.

Ms. Adams proposed adding language to the law that would allow the Planning Board the option of requiring some screening or vegetative buffering with ground-mounted arrays. The Board reached a consensus to also consider changing the word “shall” to “may” in the section in question.

Mr. Wertis MADE the MOTION to accept the additional language, and Mr. Blake SECONDED the MOTION as follows:

“Based on site specific conditions, including topography, adjacent structures, and roadways, a landscaped buffer of evergreens may be required around all equipment and solar collectors to provide screening from adjacent residential properties and roads.”

Ms. Adams agreed to contact an engineering firm capable of doing large-scale screening projects and discuss the process.

The vote was as follows:

Mr. Wertis AYE
Mr. Blake AYE
Mr. Diaz AYE
Ms. Schneider AYE

Result: Language approved.

On the matter of the substitution of the word “may”, Mr. Goldman asked if the Planning Board would need criteria for when or when not to consider landscape buffers. Mr. Wertis said it is the general agreement of the Planning Board that it wants a checklist of standards. Ms. Kiley said design standards are already outlined in section 3 of the draft law. She asked what was missing.

Ms. Adams pointed to the section on Potential Areas of Sensitivity, which she felt appeared more like a list of things than design standards. It currently does not say anything other than the applicant has to show features on a site plan. That does not give the Planning Board anything to hang its hat on.

The Planning Board reached a consensus to include additional language on the following items under Areas of Potential Sensitivity: stating that nearby UNAs should be shown on site plans and

given special consideration by the Board during site plan review; including properties owned by land conservation organizations, and prime soils.

Mr. Blake MADE the MOTION to pass along the draft law to the Town Board, and Ms. Schneider SECONDED the MOTION as follows:

Chapter 135. Solar Energy Systems

§ 135-1. Purpose

The purpose of this chapter is to facilitate the development and operation of renewable energy systems based on sunlight, because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, in accordance with the Town of Ulysses Comprehensive Plan. Solar energy systems are appropriate in all zoning districts when measures are taken, as provided in this chapter, to minimize adverse impacts on neighboring properties and protect the public health, safety and welfare.

§ 135-2. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

MAJOR SOLAR COLLECTION SYSTEM or MAJOR SYSTEM

An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Facilities consist of one or more ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities. Includes accessory systems with a total surface area greater than 2,000 square feet.

MINOR OR ACCESSORY SOLAR COLLECTION SYSTEM or MINOR SYSTEM

A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, accessory to the use of the premises for other lawful purposes. Includes roof- or building-mounted solar collectors on any code-compliant structure, and ground-mounted solar collectors with the total surface area not to exceed 2,000 square feet.

§ 135-3. Solar collectors and installations for minor systems

- A. Rooftop- and building-mounted solar collectors are permitted in all zoning districts in the Town. Electrical energy generation produced by solar collectors may only be used for onsite consumption, which includes net metered installations. Roof-mounted solar collectors shall not exceed a 6 inch tilt. Building permits shall be required for all rooftop-

and building-mounted solar collectors. A rooftop installation that does not meet the 6 inch requirement will require site plan approval.

- B. Ground-mounted solar collectors are permitted as accessory structures in all zoning districts of the Town, subject to the following requirements:
 - 1) The location of the solar collectors meets all applicable setback requirements of the zone in which they are located. The minimum setback to an inhabited structure on an adjacent lot shall be 50 feet.
 - 2) The height of the solar collectors and any mounts shall not exceed 20 feet in height when oriented at maximum tilt.
 - 3) The total surface area of all solar collectors on the lot shall not exceed 2,000 square feet and, when combined with all other buildings and structures on the lot, shall not exceed the maximum lot coverage for the zoning district plus ten (10) percent.
 - 4) A building permit has been obtained for the solar collectors.
 - 5) The solar collectors are permitted in the side and rear yards. Solar collectors are permitted in the front yard upon determination by the Zoning Officer that the side and rear yards are limited (would not maximize energy output, what about a setback – at least 50 feet). Zoning Officer reserves the right to require site plan approval for solar collectors located in the front yard.
 - 6) Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
 - 7)
- C. Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed solar collectors. Where a site plan exists, an approved modified site plan shall be required if any of the thresholds specified in § 212-19(K) of the Town Code are met, including but not limited to proposed changes to or additions of ground-mounted solar collectors where such changes or additions meet a § 212-19(K) threshold. Proposed changes to or additions of rooftop or building-mounted solar collectors shall not be considered in the determination of whether a site plan modification is required.
- D. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
- E. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Tompkins County and other applicable laws and regulations.

- F. If a solar collector ceases to perform its originally intended function for more than twelve consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities no later than 90 days after the end of the twelve-month period.

§ 135-4. Solar collectors and installation for major systems.

- A. Where applicable, and unless more restrictive regulations also apply, the requirements of § 135-3 of this chapter shall apply to solar collectors and installations for major systems.
- B. A major system may be permitted in all zoning districts, except LS-Lakeshore, MD-Marina, and PR-Park/Recreation. All major systems require site plan approval from the Planning Board and are subject to the terms and conditions list below. Major systems that are part of a farm operation [as defined by NYS AML §301(11)] are exempt from site plan approval if the solar collection system does not exceed 110% of the anticipated electrical needs of the on-farm equipment.
 - 1) The total coverage of all collectors (excluding the space in between), buildings and equipment on a lot shall not exceed 50%.
 - 2) Height and setback restrictions.
 - a. The maximum height for ground-mounted solar panels located on the ground or attached to a framework located on the ground shall not exceed 20 feet in height above the ground.
 - b. The minimum side yard and rear setback shall be 25 feet; the minimum front yard setback shall be 50 feet. The minimum setback to an inhabited structure on an adjacent lot shall be 50 feet.
 - c. Based on site specific conditions, including topography, adjacent structures, and roadways, a landscaped buffer of evergreens may be required around all equipment and solar collectors to provide screening from adjacent residential properties and roads.
 - 3) Design standards.
 - a. Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.
 - b. Roadways within the site shall be constructed of materials appropriate to the site and shall be designed to minimize the extent of roadways constructed and soil compaction.
 - c. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
 - d. Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
 - e. All mechanical equipment, including any structure for batteries or storage cells, may be enclosed by a minimum six-foot-high fence with a self-locking gate and provided with landscape screening. Due to the variations in site, a landscape buffer or evergreen may be required around all equipment and solar collectors to provide screening.

f. A major solar collection system to be connected to the utility grid shall provide a "proof of concept" letter from the utility company acknowledging the major solar collection system will be connected to the utility grid in order to sell electricity to the public utility.

4) Signs.

a. A sign not to exceed eight square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.

b. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

c. Solar collection systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system.

5) Areas of Potential Sensitivity shall be shown on site plans and shall be given special consideration by the Planning Board at site plan review, those areas include the following:

a. One-hundred-year flood hazard zones considered a V or AE Zone on the FEMA Flood Maps.

b. Historic and/or culturally significant resources in an historic district or historic district transition zone.

c. Within 100 feet landward of a freshwater wetland.

d. Adjacent to, or within, the control zone of any airport.

e. State owned lands.

f. Unique Natural Areas.

g. Properties with Conservation Easements or owned by land conservation organizations.

h. Public trails, including the Black Diamond Trail.

i. Prime Soils and Soils of Statewide Importance.

6) Property Operation and Maintenance Plan. A property operation and maintenance plan is required, describing continuing solar collection system maintenance and property upkeep, such as mowing and trimming.

7) Abandonment.

a. All applications for a major solar collection system shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit.

b. If the applicant begins but does not complete construction of the project within 18 months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.

c. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:

- i. Removal of aboveground and below-ground equipment, structures and foundations.
 - ii. Restoration of the surface grade and soil after removal of equipment.
 - iii. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
 - iv. The plan shall include a time frame for the completion of site restoration work.
- d. In the event the facility is not completed and functioning within 18 months of the issuance of the final site plan approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.
- e. Upon cessation of activity of a constructed facility for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or implement the decommissioning plan.
- f. If the owner and/or operator fails to fully implement the decommissioning plan within the 180-day time period, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.

The vote was as follows:

Mr. Wertis AYE
Mr. Blake AYE
Mr. Diaz AYE
Ms. Schneider AYE

Result: Draft law moved to Town Board for review

Ms. Kemp and Ms. Adams left the meeting at 8:16 p.m.

Open Development Areas

For Mr. Angie and Ms. Schneider, Mr. Wertis gave an overview of the most recent Open Development Area consideration regarding the Kearn property in the Lakeshore District. The Planning Board has had two instances concerning ODAs, and there were not a lot of guidelines to follow, so the Board developed its own. It was agreed the Planning Board would postpone any further discussion on ODAs until Mr. Angie and Ms. Schneider have familiarized themselves with the matter.

Recruitment

Mr. Wertis said he had a recent conversation with the Town Supervisor to consider whether or not it would make a difference with recruiting Planning Board members if they were paid for their time.

Mr. Diaz said he would prefer the position remain on a volunteer basis. Ms. Schneider agreed. Mr. Angie offered that he did not even consider that he would be paid for serving on the Planning Board.

The discussion then turned to monthly meetings. Mr. Wertis said meeting bi-monthly is a significant time commitment as opposed to meeting once a month like some other Planning Boards in Tompkins County. Mr. Blake said, in the past, he has dealt with several municipalities that met once a month. Oftentimes, those meetings lasted well passed midnight. That is something he would like to avoid. Mr. Angie said it was important for him to be home around 8:30 or 9 p.m., as is the typical adjournment time for the Planning Board.

Mr. Diaz stated he hates meeting twice a month, calling the bi-monthly meetings onerous, but he is not going anywhere. Mr. Blake reiterated his preference for meeting twice a month rather than holding one long meeting. Ms. Schneider said she has a full-time job that takes up a lot of her time, and moving toward paying Planning Board members requires more commitment.

Ms. Kiley noted some municipalities have separate boards that handle applications and consider zoning updates. In the Planning Board, the Town has a board that does both.

Ms. Kiley noted upcoming training sessions, including a SEQR training in October and a drainage law training in mid-November.

Mr. Blake MADE the MOTION to adjourn the meeting, and Mr. Diaz SECONDED the MOTION. The motion was unanimously approved.

Meeting adjourned at 8:41 p.m.

Respectfully submitted by Louis A. DiPietro on September 8, 2015.