

ON THE MOTION OF Paul Slowey
Amy Bertini

RESOLUTION NO. 20-21

GML# 86.00-02-01.100
Town of Cortlandville
Aquifer Protection District
Special Permit, Conditional
Permit & Subdivision
SSC Cortlandville II, LLC

WHEREAS, on August 20, 2020 the Zoning Officer, Town of Cortlandville, pursuant to General Municipal Law 239 M & N submitted an application for a Conditional Permit, Aquifer Protection District Special Permit & Subdivision because the property is located within 500 feet of the City of Cortland boundary and active farming operations within the Cortland County Consolidated Agricultural District which has been received by the Cortland County Planning Department, AND

WHEREAS, the Cortland County Planning Department has reviewed this request and submitted a written report dated September 11, 2020, which is on file, AND

WHEREAS, the Cortland County Planning Board on September 16, 2020 held a regular meeting with a quorum and did consider this request, AND

WHEREAS, the Cortland County Planning Board did thoroughly consider the material submitted by the petitioner, Department comments and all other relevant reports on file, NOW THEREFORE BE IT

RESOLVED, that the Board recommends tabling of this application for a conditional permit, aquifer protection district special permit and subdivision to subdivide the existing 113.3+/- acre parcel into two lots for the purpose of constructing a solar array, accessory access driveway and security fencing encompassing approximately 37.5+/- acres until such time that the following issues are resolved:

1. That no work is commenced on this property for this project until the existing court order for the property is lifted by the State of New York.
2. That the applicant provides rationale to the Town as to the necessity of having two separate adjacent solar projects otherwise, the two projects should be combined into one project.
3. The applicant's submittal of a subdivision map to the Town showing the proposed subdivision boundaries.

4. That access to the site either be provided from the end of Bell Crest Drive to eliminate the necessity of having two parallel roads in such close proximity to one another or that access to the proposed new road be restricted at Blue Creek Road with a security gate to limit its use to only vehicles that require access to the proposed solar developments.
5. The applicant obtaining Town Highway Superintendent approval for the driveway entrance from Blue Creek Road to the proposed new access road, since Blue Creek Road is a town road.
6. That since the proposed new road would provide access to solar projects on two separate parcels that an easement is written into the deeds of both proposed solar project parcels to insure continued access from Blue Creek Road to both parcels.
7. That warning signs, owner's name and contact information signs be installed every 200 ft. along the fence including on the secured access gate.
8. That the applicant providing assurances to the Town that the necessary steps would be taken to properly screen this project to minimize reflective glare and visual site impacts on surrounding residential properties.
9. That the planting/landscaping plan for the site is thoroughly reviewed and approved by the Town to ensure that the proposed solar array is visually screened from neighboring residential properties.
10. That a maintenance schedule be established to ensure that vegetative cover underneath and between rows of panels is maintained post-construction as it will be the primary management practice for stormwater on site.
11. That the applicant plant species native to central New York wherever possible for the benefit of pollinators, songbirds and other wildlife species and that the proposed conifer buffers be planted with native New York tree species and that all other revegetation of disturbed areas be planted with suitable NYnative plant species.
12. The applicant preparing and obtaining approval of a stormwater pollution prevention plan (SWPPP), including water quality and quantity management for this site both during and after construction, from the Town upon review by the County Soil and Water Conservation District since this project would

disturb more than one acre of land.

13. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan for the site per the NYS Phase II stormwater regulations and obtaining a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage since this project would disturb more than one acre of land. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements.
14. That the Town reviews its Agricultural & Farmland Protection Plan to ensure that this proposal conforms to the adopted Plan.
15. That the applicant demonstrates through engineering studies and to the satisfaction of the Town that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated since portions of the proposed solar development would be on slopes greater than 15%.
16. That all electrical lines for this solar project be installed underground unless the applicant can provide a sufficient explanation to the Town as to why the last 750 ft. of installation of electrical line to Blue Creek Road must be installed above ground.
17. That the applicant submits a detailed narrative to the Town for this project including panel height, types of plantings and planting maintenance schedule adjacent to and underneath panels/arrays, a written decommissioning plan/schedule for the project, and if the project will be used as community distributed generation.
18. That the decommissioning plan includes a financial surety bond in an amount estimated for the cost for removal of all materials upon the facility no longer being in use.
19. Compliance with SEQR requirements, AND

BE IT FURTHER RESOLVED, that the Board reminds the Town of the requirements of General Municipal Law Section 239 M & N that a supermajority vote is to be attained by the Town in order to approve this application unless every contingency documented in this resolution is followed, AND

BE IT FURTHER RESOLVED, that the Planning Department is hereby authorized to convey this action to the Zoning Officer, Town of Cortlandville.

**Wendy Miller, Secretary
Cortland County Planning Board
September 16, 2020**

**Ayes: 8
Nays: 0**

September 11, 2020

GML# 86.00-02-01.100
Town of Cortlandville
Conditional Permit, Aquifer Protection
District Special Permit & Subdivision
SSC Cortlandville II, LLC

TO: Cortland County Planning Board

FROM: Cortland County Planning Department

This application for a conditional permit, aquifer protection district special permit and subdivision is being referred to the Cortland County Planning Board pursuant to General Municipal Law 239-M & N as the property is located within 500 ft. of the City of Cortland boundary and active farming operations within the Cortland County Consolidated Agricultural District.

GENERAL INFORMATION

Date Received: August 20, 2020

Applicant: SSC Cortlandville II, LLC
334 Arapahoe Ave.
Boulder, CO 80302

Status of Applicant: purchase agreement

Requested Action: conditional permit, aquifer protection district special permit and subdivision

Purpose: To subdivide the existing 113.3+/- acre parcel into two lots for the purpose of constructing a solar array, accessory access driveway and security fencing encompassing approximately 37.5+/- acres

Location: south of Blue Creek Road and west of Ridgeview Ave.

Size: 113.3+/- acres (project area 37.5+/- acres)

Existing Zoning: AG (Agricultural)

Existing Land Use: agricultural, woods and brush land

Surrounding Zoning: AG (Agricultural – Town of Cortlandville) & R-1 (Residential – City

of Cortland)

Surrounding Land Uses: N – agricultural and residential
S – St. Mary’s Cemetery, residential, woods and brush land
E – agricultural and residential
W – agricultural and woods

Existing Regulations: Code of the Town of Cortlandville

Chapter 178 Zoning

Article III – Agricultural Districts

Section 178-15. Uses subject to conditional permit

E. Transportation and utility uses

(4) New utility poles, lines and facilities

Article X – Aquifer Protection District

Section 178.46 – Special permits

A. Is a development, other than residential, of real property exceeding \$150,000 in development cost

Article XIV – Conditional Permit

Section 178-75. Structure/Use Requirements for Permit Approval

Section 178-76. Additional Specific Requirements

G. Transportation and utility facilities

(2)

(4)

Article XVI - Stormwater Management and Erosion and Sediment Control

Section 178-90. Jurisdiction and applicability

C. Exemptions

(1)

Article XIX – Supplemental Regulations and Exceptions

Section 178-123.3. Solar energy systems

D. Permitted locations

(3) Ground-mounted large-scale solar energy Systems

E. Conditional use design and installation standards

G. Height and setback restrictions

I. Signage and/or graphic content

ANALYSIS:

The applicant is requesting a conditional permit, aquifer protection district special permit and subdivision to subdivide the existing 113.3+/- acre parcel into two lots for the purpose of constructing a solar array, accessory access driveway and security fencing encompassing approximately 37.5+/- acres. The property is located south of Blue Creek Road and west of Ridgeview Ave., and is zoned AG (Agricultural).

The CRC (Coordinated Review Committee) reviewed this proposal and addressed the following issues. The applicant is proposing to construct a five megawatt solar array, an accessory access driveway and security fencing encompassing a project area of approximately 37.5+/- acres. Ground-mounted large-scale solar energy systems are a permitted use in the AG (Agricultural) District subject to a Conditional Permit. An aquifer protection district special permit is also required as the proposed development costs would exceed \$150,000. This applicant is actually proposing two separate but adjacent solar projects on this site with the other solar array proposal directly south of this proposed project. The two proposed projects would use the same access road, the same connectivity to the electrical transmission grid and many other shared or identical features. It is unclear from the application as to why the two projects are separate projects and not a single combined project. It is recommended that the applicant provide rationale to the Town as to the necessity of having two separate adjacent solar projects otherwise, the two projects should be combined into one project. The applicant has applied for a subdivision to divide the existing 113.3± acre parcel into two lots to accommodate the two proposed separate solar projects. It is unclear however, from the application, as to the boundaries of the proposed subdivision. It is recommended that the applicant submits a subdivision map to the Town showing the proposed subdivision boundaries before positive consideration is given to this proposal. It should be noted that the proposed access to the site is not from the end of Bell Crest Road, a private 12 ft. wide road off the south side of Blue Creek Road providing access to three residential structures, but rather access is provided via a proposed new private driveway/road parallel to and immediately adjacent to Bell Crest Road. This new access road and Bell Crest Road would be two parallel roads separated by approximately 30 ft. It is therefore recommended that access to the site either be provided from the end of Bell Crest Drive to eliminate the necessity of having two parallel roads in such close proximity to one another or that access to the proposed new road be restricted at Blue Creek Road with a security gate to limit its use to only vehicles that require access to the proposed solar developments. The driveway entrance to the proposed new access road would also require approval of the Town Highway Superintendent, since Blue Creek Road is a town road. It is also recommended that since the proposed new road would provide access to solar projects on two separate parcels that an easement is written into the deeds of both proposed solar project parcels to insure continued access from Blue Creek Road to both parcels.

The site plan for this solar project indicates that the proposed solar panels would encompass 37.5+/- acres and would include approximately 19,008 panels. The array would be enclosed by a 6 ft. in height chain-link fencing with a secured access gate at the driveway entrance to the solar array. It is recommended that warning signs, owner's name and contact information signs be installed every 200 ft. along the fence including on the secured access gate. The solar panels would be stationary fixed tilt ground mount racking systems. There is no information as to the maximum height of the proposed panels. It is recommended that the applicant provides this information to the Town. The solar panels would be setback a minimum of 50 feet from all adjoining properties. There is concern regarding the potential impact of glare from the solar panels on neighboring residential properties to the north and

east. It is therefore recommended that the applicant provide assurance to the Town that the necessary steps would be taken to minimize reflective glare impact on the neighboring residential properties. It should be noted that the site is surrounding by vacant agricultural land with the exception of the residential properties to the north and east. The site plan indicates that there will be view mitigation plantings of five foot tall Norway Spruce and White Spruce on the northern and eastern boundary of the proposed array. It is recommended that this planting/landscaping plan is thoroughly reviewed and approved by the Town to ensure that the proposed solar array is visually screened from neighboring residential properties before positive consideration is given to this proposal.

The proposed project area includes both agricultural lands and wooded areas. There is concern as to the potential stormwater impacts from a large scale solar array. This property has a history of stormwater related impacts to neighboring properties, particularly St. Mary's Cemetery which lies approximately 1,100 feet south of the nearest border of this proposed array. The former owner and current owner have an active court order from the NYS Department of Environmental Conservation to mitigate an existing stormwater management practice that was improperly constructed and caused considerable damage to St. Mary's Cemetery. It is recommended that no work is commenced on this property for this project until the existing court order for the property is lifted by the State of New York. While solar arrays themselves do not add direct impervious cover, the kinetic energy of the water flowing off of the panels has the potential to create driplines, and subsequently may cause erosion and channelization underneath the panels. The pervious road will eventually become impervious and should be a consideration when calculating the amount of impervious cover that this project will add to the existing site. It should be noted that the entire project area is located on soils classified as Hydrologic Soil Groups C & D (poorly-very poorly drained) and is in close proximity to residential properties and St. Mary's Cemetery that are down slope from the construction activities. There is mention of post-construction vegetative cover to be planted underneath the panels. The vegetation underneath and between rows of panels should be maintained on a regular basis. It is recommended that a maintenance schedule be established to ensure that vegetative cover underneath and between rows of panels is maintained as it would be the primary management practice for stormwater on site. It is also recommended that the applicant plant species native to central New York wherever possible for the benefit of pollinators, songbirds and other wildlife species. It is also recommended that the proposed conifer buffers be planted with native New York tree species and that all other revegetation of disturbed areas be planted with suitable NY native plant species. Solar arrays are compatible with reestablishment of ecological values such as habitat for pollinators and songbirds.

The installation of solar arrays on a farm field is considered land disturbance. This project consists of approximately 30.5 acres of cultivated farm land and approximately seven acres of woods/brush area for a total of 37.5 acres of land disturbance. Since this project would disturb more than one acre of land, it will require the preparation of a Stormwater Pollution Prevention Plan (SWPPP) per the Town's stormwater ordinance including water quality and quantity management both during and after construction activities. The

applicant would also be required to file a Notice of Intent with the NYS Department of Environmental Conservation (DEC), prepare and submit a stormwater pollution prevention plan (SWPPP) to the DEC for the site and obtain a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage for greater than one acre of soil disturbance. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements. The applicant would also be required to obtain approval of the final design of the stormwater pollution prevention plan from the County Soil and Water Conservation District prior to any positive consideration of this proposal. The DEC should also review this project in conjunction with the court order for the original owner to ensure that there are no new impacts from this project to the existing storm water management system.

It should also be noted that the entire 37.5 acre project site consist of either prime farmland or soils of statewide importance; 28.5 acres of soils in the project area are considered soils of statewide importance and 9.0 acres of soils classified as prime farmland. The “Zoning Local Law of the Town of Cortlandville” Article 178-123.3(b)(2) states that Ground-mounted large-scale solar energy systems shall not be located in areas that contain prime farmland unless otherwise approved by the Town Planning Board in conjunction with the conditional permit approval process”. The Town also adopted an Agriculture & Farmland Protection Plan in 2018 to “proactively protect and promote agriculture lands and farm operations and businesses for both existing and future generations. The Town will balance development to respect, protect and preserve farms and meet the needs of residents, property owners and businesses.” It should be noted that this Plan did not specifically address the preservation of prime farmland and that also in 2018 the Town adopted its solar energy systems law which permits ground-mounted large-scale solar energy systems in areas that contain prime farmland subject to approval by the Town Planning Board in conjunction with the conditional permit approval process. It is recommended however, that before any positive consideration is given to this proposal, that the Town review its Agricultural & Farmland Protection Plan to ensure that this proposal conforms to the adopted Plan. It should also be noted that based on USDA soil survey data there are soils that are classified as having 15 to 25 percent slopes within the project area. The contours for the property also indicate that the site has some slopes greater than 15%. The Town’s zoning law prohibits the development of ground mounted large scale solar energy systems on slopes greater than 15% unless the applicant can demonstrate through engineering studies and to the satisfaction of the Town that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated. There are also wetland areas on the northern property line that will be buffered 25 feet from the proposed solar array.

The site would include two concrete pads with a transformer, neutral ground reactor, inverter and DC storage and approximately 1,800 linear ft. of underground electrical line which will connect to newly installed overhead lines that will run north-south on newly constructed utility poles on the western side of the limited use pervious access road. This proposal includes the installation of approximately 750 feet of new overhead electrical lines and nine utility poles along the eastern portion of Bell Crest Drive. It is recommended that all

electrical lines for this solar project be installed underground unless the applicant can provide a sufficient explanation to the Town as to why the last 750 ft. of installation of electrical line to Blue Creek Road must be installed above ground. The transformers/inverters would convert the electricity generated from Direct Current (DC) to Alternating Current (AC) before the interconnection with existing transmission lines on Blue Creek Road. There is no mention as to whether the applicant intends to return the electricity generated to the grid as community distributed generation which would allow transfer of the electricity generated in the form of bill credits to subscribing members within the same distribution utility territory and NY-ISO control load zone. It is recommended that the applicant includes this piece of information into the narrative that is to be submitted to the Town before positive consideration is given to this proposal. The site may also include battery storage equipment. These batteries would be charged during peak times when the system is producing more energy than the inverters can transmit to the distribution system. The stored energy would be discharged to the distribution system at night when the solar facility is not producing energy.

The site plan submitted by the applicant does not provide sufficient details for some aspects of the project including panel height, types of plantings and planting maintenance schedule adjacent to and underneath panels/arrays and a written decommissioning plan/schedule for the project. It is recommended that the applicant submit a detailed narrative to the Town for this project including panel height, types of plantings and planting maintenance schedule adjacent to and underneath panels/arrays and a written decommissioning plan/schedule for the project, and if the project will be used as community distributed generation. The decommissioning plan should include a financial surety bond in an amount estimated for the cost for removal of all materials upon the facility no longer being in use. This narrative would provide additional information to the Town to assist in providing a thorough review of this project.

Finally, the applicant has completed Part I of a SEQR Short Environmental Assessment Form. This action is considered a Type I action since it involves the physical alteration of more than 10 acres of land. Therefore, the applicant must complete Part I of a SEQR Full Environmental Assessment Form for this project. Parts II & III should then be completed by the Town to determine if any significant adverse environmental impacts may result from the proposed development.

RECOMMENDATION

The staff recommends approval of this application for a conditional permit, aquifer protection district special permit and subdivision to subdivide the existing 113.3+/- acre parcel into two lots for the purpose of constructing a solar array, accessory access driveway and security fencing encompassing approximately 37.5+/- acres contingent upon the following:

1. That the applicant provides rationale to the Town as to the necessity of having two separate adjacent solar projects otherwise, the two projects should be combined into one project.

2. **The applicant's submittal of a subdivision map to the Town showing the proposed subdivision boundaries.**
3. **That access to the site either be provided from the end of Bell Crest Drive to eliminate the necessity of having two parallel roads in such close proximity to one another or that access to the proposed new road be restricted at Blue Creek Road with a security gate to limit its use to only vehicles that require access to the proposed solar developments.**
4. **The applicant obtaining Town Highway Superintendent approval for the driveway entrance from Blue Creek Road to the proposed new access road, since Blue Creek Road is a town road.**
5. **That since the proposed new road would provide access to solar projects on two separate parcels that an easement is written into the deeds of both proposed solar project parcels to insure continued access from Blue Creek Road to both parcels.**
6. **That warning signs, owner's name and contact information signs be installed every 200 ft. along the fence including on the secured access gate.**
7. **That the applicant providing assurances to the Town that the necessary steps would be taken to properly screen this project to minimize reflective glare and visual site impacts on surrounding residential properties.**
8. **That the planting/landscaping plan for the site is thoroughly reviewed and approved by the Town to ensure that the proposed solar array is visually screened from neighboring residential properties.**
9. **That no work is commenced on this property for this project until the existing court order for the property is lifted by the State of New York.**
10. **That a maintenance schedule be established to ensure that vegetative cover underneath and between rows of panels is maintained post-construction as it will be the primary management practice for stormwater on site.**
11. **That the applicant plant species native to central New York wherever possible for the benefit of pollinators, songbirds and other wildlife species and that the proposed conifer buffers be planted with native New York tree species and that all other revegetation of disturbed areas be planted with suitable NY native plant species.**
12. **The applicant preparing and obtaining approval of a stormwater pollution prevention plan (SWPPP), including water quality and quantity management for**

this site both during and after construction, from the Town upon review by the County Soil and Water Conservation District since this project would disturb more than one acre of land.

- 13. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan for the site per the NYS Phase II stormwater regulations and obtaining a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage since this project would disturb more than one acre of land. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements.**
- 14. That the Town reviews its Agricultural & Farmland Protection Plan to ensure that this proposal conforms to the adopted Plan.**
- 15. That the applicant demonstrates through engineering studies and to the satisfaction of the Town that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated since portions of the proposed solar development would be on slopes greater than 15%.**
- 16. That all electrical lines for this solar project be installed underground unless the applicant can provide a sufficient explanation to the Town as to why the last 750 ft. of installation of electrical line to Blue Creek Road must be installed above ground.**
- 17. That the applicant submits a detailed narrative to the Town for this project including panel height, types of plantings and planting maintenance schedule adjacent to and underneath panels/arrays, a written decommissioning plan/schedule for the project, and if the project will be used as community distributed generation.**
- 18. That the decommissioning plan includes a financial surety bond in an amount estimated for the cost for removal of all materials upon the facility no longer being in use.**
- 19. Compliance with SEQR requirements.**

Prepared by:

Reviewed/revised by:

Kevin J. Pagini
Planner

Daniel S. Dineen
Director of Planning