

ON THE MOTION OF Ann Swisher
Amy Bertini

RESOLUTION NO. 20-16

GML# 106.00-06-05.200
Town of Cortlandville
Aquifer Protection District
Special Permit & Conditional
Permit
Cipriani Energy

WHEREAS, on August 20, 2020 the Zoning Officer, Town of Cortlandville, pursuant to General Municipal Law 239 M submitted an application for a Conditional Permit and Aquifer Protection District Special Permit because the property is located within 500 feet of the Town of Virgil 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 approval of this application for a conditional permit and aquifer protection district special permit contingent upon the following:

1. That warning signs, owner's name and contact information signs be installed every 200 ft. along the proposed security fence including on the secured access gate.
2. That the applicant providing assurances to the Town that the necessary steps would be taken to minimize reflective glare impact on surrounding residential properties.
3. That the applicant submit a landscaping plan for the site to the Town providing additional landscaped screening for the residential properties to the south of the proposed project.
4. The applicant obtaining written approval for the new driveway entrance to

Tower Rd. from the Town Highway Superintendent since Tower Rd. is a Town road.

- 5. That a second security gate is erected at the driveway entrance from Tower Road to deter any unwanted parking or trespassing on the property.**
- 6. That a maintenance schedule be established to ensure that vegetative cover underneath the panels is maintained post-construction as it will be the primary management practice for stormwater on site.**
- 7. That the applicant plant species native to central New York wherever possible for the benefit of pollinators, songbirds and other wildlife species and that landscaped 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.**
- 8. 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.**
- 9. 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.**
- 10. That the Town reviews its Agricultural & Farmland Protection Plan to ensure that this proposal conforms to the adopted Plan.**
- 11. 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 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# 106.00-06-05.200

Town of Cortlandville

Conditional Permit & Aquifer Protection

District Special Permit

Cipriani Energy

TO: Cortland County Planning Board

FROM: Cortland County Planning Department

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

GENERAL INFORMATION

Date Received: August 20, 2020

Applicant: Cipriani Energy Group
125 Wolf Rd., Suite 312
Colonie, NY 12205

Status of Applicant: purchase agreement

Requested Action: conditional permit and aquifer protection district special permit

Purpose: to construct a solar array, accessory access driveway and security fencing encompassing approximately 14.72+/- acres

Location: north side of Tower Rd approx. 1,400 feet east of the Page Green Rd./Tower Rd. intersection and immediately north of the Town of Virgil boundary

Size: 18.63+/- acres (project area 14.72+/- acres)

Existing Zoning: AG (Agricultural)

Existing Land Use: agricultural and woods

Surrounding Zoning: AG (Agricultural – Town of Cortlandville) & ARC (Agricultural Residential Conservation – Town of Virgil)

Surrounding Land Uses: N – agricultural
 S – residential
 E – residential and woods
 W – agricultural

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 and aquifer protection district special permit to construct a solar array, accessory access driveway and security fencing encompassing approximately 14.72+/- acres. The property is located on the north side of Tower Rd., approx. 1,400 feet east of the Page Green Rd./Tower Rd. intersection and immediately north of the Town of Virgil boundary, and is zoned AG (Agricultural).

The applicant is proposing to construct a three megawatt solar array, an accessory access driveway and security fencing encompassing a project area of approximately 14.72+/- 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.

The CRC (Coordinated Review Committee) reviewed this proposal and addressed the following issues. The site plan indicates that the proposed solar panels would encompass 13.24+/- acres of the 18.52+/- acre project area and would include approximately 9,504 panels. The remaining project area of approximately 1.48 acres would be used for driveway access and an equipment pad. The array would be enclosed by 6 ft. in height chain-link fencing with secured access gates at driveway entrances to the site. 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 and would have a maximum height of 8 ft. 7 in. 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 south and southeast. 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 woods and agricultural land with the exception of the residential properties to the south and southeast. The existing wooded areas include an approximately 90 ft. wide strip of woods on the eastern end of the property bordering some of the residential properties on Tower Rd. This wooded area should help to visually screen this solar array from the neighboring residential properties to the southeast of the site. It is recommended that the applicant submit a landscaping plan for the site to the Town providing additional landscaped screening for the residential properties to the south of the proposed project.

Access to the proposed solar array would be provided via a new 12 ft. wide limited use pervious access road from Tower Rd. It is recommended that the applicant obtain written approval for the driveway entrance to Tower Rd. from the Town Highway Superintendent since Tower Rd. is a Town road. Also the proposed security gate is located approximately 300 feet north of the proposed driveway entrance off of Tower Rd. It is recommended that a second security gate is installed at or near the entrance to the road from Tower Road to discourage any unauthorized parking or trespassing on the property.

The proposed project area is predominately agricultural lands with approximately 13,200 sq. ft. of woods to be removed. There is concern as to the potential stormwater impacts from a large scale solar array. 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. It should be noted that the entire project area is located on soils classified as Hydrologic Soil Group D (very poorly drained) and is in close proximity to residential properties that are down slope from the construction activities. The applicant has indicated

that there would be post-construction vegetative cover planted underneath the panels. The vegetation underneath the panels should be maintained on a regular basis. It is recommended that a maintenance schedule be established to ensure that vegetative cover underneath the 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 landscaped 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 14.42 acres of cultivated farm land and approximately 13,200 sq. ft. of woods for a total of 14.72 acres of land disturbance. Since this project would disturb more than one acre of land, it would 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. It should also be noted that all soils on site are considered soils of statewide importance and that the site contains no soils classified as prime farmland. There are also wetland areas on the eastern property line that will be buffered 20 feet from the proposed solar array. It should also be noted that a gas pipeline right of way 100 feet in width runs through the middle of the proposed project area. The site plan indicates that that no solar panels will be installed in the right of way, but the proposed access road does cross through the right of way.

The Town 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 is recommended 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.

The site would include one transformer and 24 inverters on concrete pads and approximately 400 linear ft. of underground electrical line. The transformers/inverters would convert the electricity generated from Direct Current (DC) to Alternating Current (AC) before the interconnection with existing transmission lines at the southern end of the property

on Tower Rd. 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.

The decommissioning plan for this project is quite detailed and 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 as well as site restoration techniques, waste removal and dismantling. This narrative provides additional information to the Town to assist in providing a thorough review of this project.

Finally, the applicant has completed Part I of a SEQRA Full Environmental Assessment Form. Parts II & III should 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 and an aquifer protection district special permit contingent upon the following:

1. That warning signs, owner's name and contact information signs be installed every 200 ft. along the proposed security fence including on the secured access gate.
2. That the applicant providing assurances to the Town that the necessary steps would be taken to minimize reflective glare impact on surrounding residential properties.
3. That the applicant submit a landscaping plan for the site to the Town providing additional landscaped screening for the residential properties to the south of the proposed project.
4. The applicant obtaining written approval for the new driveway entrance to Tower Rd. from the Town Highway Superintendent since Tower Rd. is a Town road.
5. That a second security gate is erected at the driveway entrance from Tower Road to deter any unwanted parking or trespassing on the property.
6. That a maintenance schedule be established to ensure that vegetative cover underneath the panels is maintained post-construction as it will be the primary management practice for stormwater on site.
7. That the applicant plant species native to central New York wherever possible for the benefit of pollinators, songbirds and other wildlife species and that

landscaped 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.

8. 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.
9. 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.
10. That the Town reviews its Agricultural & Farmland Protection Plan to ensure that this proposal conforms to the adopted Plan.
11. Compliance with SEQR requirements.

Prepared by:

Reviewed/revised by:

Kevin J. Pagini
Planner

Daniel S. Dineen
Director of Planning