

PLANNING BOARD

**Town of Kirkwood
70 Crescent Drive
Kirkwood, NY 13795**

**November 14, 2022
Meeting Minutes**

Present: Marchie Diffendorf, Chairman Gina Middleton, Attorney
 Jim Bukowski, Member Chad Moran, Building & Code Inspector
 Kevin Balachick, Member Matt Williams, Associate Member
 Gordie Woolbaugh, Member Mike Maciak, Associate Member
 Dan Wasson, Member John Mastronardi, Town Engineer

Chairman Diffendorf called the meeting to order at 7:00 PM.

SITE PLAN REVIEW – EPIC ENVIRONMENTAL PROTECTION INDUSTRIES COMPANY:

Chairman Diffendorf explained this is a continuation from the August 8, 2022 meeting, the public hearing has already been held and the SEQR was complete. There were incomplete issues that needed to be resolved, which has been done.

Comments from New York State DOT included direct the applicant to provide a survey showing the location of the facility’s monument sign relative to the nearby State highway boundary, which has been done. Another comment that the post-development stormwater outflows to the State right-of-way may not exceed the pre-development condition. John Mastronardi explained that he looked at the drainage plan they provided, including a drawing and calculations, and it looks like they are creating 3 stormwater ponds. The pond located northeast discharges to the existing DOT drainage easement and the ponds located at the front of the building, southwest, those collect into a common manhole and those discharge southwest towards NYS Route 11. Based on the calculations it appears that the flow is equal to or less than the existing condition.

Mark Scoville, JRC Contracting, Binghamton, NY explained that the majority of what we were concerned about, mitigating as much water as we could, not going to Route 11, they have done.

John Mastronardi asked if the ponds had any infiltration or is it just capturing and discharging to the catch basin and Mr. Scoville stated no infiltration.

Motion by Dan Wasson and seconded by Jim Bukowski to approve the amended site plan as submitted.

Roll Call Vote: Jim Bukowski Yes
 Kevin Balachick Yes
 Gordie Woolbaugh Yes
 Dan Wasson Yes
 Chairman Diffendorf Yes

Motion carried.

ADDITIONAL COMMENTS REGARDING SOLAR FARM PROJECT AFTER PUBLIC HEARING WAS CLOSED:

Chairman Diffendorf commented these items will be addressed when we do site plan review.

Mr. O'Neil asked if there will be another meeting on this and Chairman Diffendorf stated more than likely. Mr. O'Neil commented this is residential on all four sides and why would you want to put solar in there, why. He doesn't know if it will affect him down stream but he just doesn't want more water coming down that hill.

Gina Middleton wanted to clarify if this meeting does get continued the public hearing is closed for tonight but it will be continued on into the next meeting, if there is an additional meeting, you will have an opportunity to speak again if there are additional developments to the application.

Chairman Diffendorf commented that solar is mandated by the State and the Town, being proactive, wrote a law to try to protect the residents in the best way possible. If we don't do it properly the State will come in and make the laws and do it the way they want it, and nobody wants that. We will address all these concerns and also, we believe we have written a pretty strict law that will protect the residents and especially the esthetic values. The comments will be addressed in writing and will be available for the next meeting.

APPROVAL OF MINUTES:

Motion by Jim Bukowski and seconded by Dan Wasson to approve the minutes of the August 8, 2022 meeting as submitted.

All voted in favor. Motion Carried.

E.A.F. DETERMINATION – TRACT ENGINEERING, PLLC (SOLAR PROJECT):

Chairman Diffendorf explained there was a meeting between myself, Town Attorney Gina Middleton, Town Engineer, John Mastronardi, and Code Enforcement Office Chad Moran last week and discovered issues with the Environmental Impact Statement that was submitted. The EAF Determination will be tabled for tonight.

Mr. Tim Gourley, President, Tract Engineering, presented the Board with a lengthy overview of the project. He explained Tract Engineering is the consulting engineer for CSG Developers (Commercial Solar Gas), who is the solar developer. On the application it is listed as the Seidel Solar Farm, LLC, which is a subsidiary of CSG, with a home base in New Bedford, MA. They are doing solar farms on the east coast and in New York they have 3 approved, 1 pending, and 1 under construction at Tioga Downs Casino.

The proposed facility is a 2.55 megawatt on about 6 acres. They will tie into the grid with the high capacity 3 phase line along Trim Street and Route 11, which drew them to this site. They also try to be cognoscente of the surrounding neighbors. The neighbors did come out and voice their concerns. One of the things that drew them to this site was the proximity to Route 81, that neighbor will never be developed. Route 81 is an interstate thoroughfare with roughly 9 million vehicles per day and a lot of the noise from the traffic will drown out any sound their facility makes.

Mr. Gourley explained the project site as being 12.6 acres and when they are complete they will have approximately 7.5 acres fenced in and of that 5.6 acres is defined as the solar energy array system and of that there will be about 3 acres of panels. The difference between 5.6 solar array area and the 3.1 acres is the 5.6 includes all the space between the rows. Referring to being prime farm land soils the ordinance written says they can impact up to 50%, their calculations say they are up to 44% coverage.

Mr. Gourley explained this project meets all of the Town's criteria, they aren't asking for any type of variance. The facility is 2.55 megawatts with 4284 panels and the panels are approximately 4 X 8 and will be installed with a tracker, which is not a fix system but will move throughout the day, tracking east to west. This increases

efficiency for the collection of solar and also help minimize glare.

Chairman Diffendorf asked if each panel had a motor on it and Mr. Gourley explained not each one and it depends on the slope of the run. The flattest slope there could be multi panels on one motor, with more angles and slopes it is different, more torque is involved. For the most part it is not an individual motor per panel it is usually a string of 40-50 of them.

Chairman Diffendorf asked what the decibel of that will be and Mr. Gourley explained their two main noise sources on site are a transformer and inverters. The solar arrays, typically a string of 56 panels, connect back to one inverter. An inverter collects the energy from the panel, inverts it and sends it to the transformer before sending it out to the grid. The inverters will be spaces throughout the site and according to their manufacturer specifications their decibel level is about 65 decibels immediately beside it. The commercial transformer, sits on a 4 X 4 pad and according to their manufacturer specifications their decibel level is about 65 decibels. They looked at the DEC noise mitigation standard on how to review, predict, and how to mitigate the noise. Two ways to mitigate noise is either enclose it or put up some type of buffer wall to shield it or distance. DEC has an established formula that says about every 50 feet you lose 6 decibels and double that thereafter. In general, their typical guidance is they need to be about 150 feet from the nearest property line. The DEC noise regulations require at a property line, during the hours 7 AM to 10 PM, your maximum decibel at the property line, not someone's house, is 62 decibels. At night that number drops to 52 decibels. Chairman Diffendorf asked is that per inverter and Mr. Gourley explained in the DEC noise regulations, if you have multiple equipment side by side, and you have 65 decibels and 65 decibels that doesn't add up to 130 decibels. What makes this site different is DEC also looks at the ambient background noise. If you were in the middle of nowhere in a farm field all these numbers decrease down because of ambient background noise to 50s to 40s level. One thing in their favor is Interstate 81. The background noise coming off the interstate is 80 decibels at the interstate and decreases from there. The interstate noise is going to drown out any noise on their site. There is no cumulative effect. Included in their application is a section on noise, showing what the decibel levels are at different points around the area. This also includes information regarding the DEC guidelines on additive effects of multiple sound sources and how they are calculated. The transformer will be situated on the southern end of the site, closer to Trim Street and will be pad mounted. The inverters are situated throughout the field and in general they are at least 150 feet from the perimeter property line.

Jim Bukowski commented that people who live in that area are so used to hearing the traffic noise they don't hear it but when you put these mechanical devices that are foreign to their ear that is what they are going to focus on to hear so the argument that we are good because of the highway noise is there I don't buy it. Mr. Gourley explained that if they took Route 81 out of this they would still be meeting the requirements.

Kevin Balachick asked if there is a certain distance the transformer has to be to where you are tying in to NYSEG's line and Mr. Gourley stated not necessarily. They try to keep the transformer in close proximity to the connection point.

Jim Bukowski asked if you were required to mitigate the sound, if we felt we need a lower decibel reading, what would you do to mitigate that and Mr. Gourley explained they could build a masonry wall or put in a shed. If the transformer becomes a nuisance, which he doesn't think it will, there is post construction mitigation they can do.

Chad Moran asked if the equipmeny makes noise all night or just during the day when they are used and Mr. Gourley explained typically just during the day but they have had reports of during a full moon the solar panels will work.

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Jim Bukowski asked how do they track, on a mechanical timer or does it track the solar radiation and Mr. Gourley explained it is GPS timing/control through a control center that monitors the panels.

Mr. Gourley explained that for the SEQR Review Environmental Statement they did have a few items come back, one being the bald eagle, but they are not cutting down any trees so that isn't an issue. They also got a letter from SHIPO regarding the potential parking lot impacts, information was submitted, and that cleared the site on that. In the EAF form there is a section that talked about streams and wetland, that is an automatic checked box. The streams are situated at the north end of the site and it was checked by default.

Dan Wasson commented that the math doesn't add up, you are supposed to be at 30% coverage and you are going to be covering 6 acres of the 12.85, which isn't 30%. Mr. Gourley explained they are not covering 6 acres. The 30% requirement is in the R district, not the solar law and Ms. Middleton stated that is correct and it is also building coverage. The question becomes what is building coverage? The biggest surface out there is the concrete pad for the transformer, everything else is going to be a driven foundation post. Typically, when they look at building foundation coverage, if they drive a 6 X 6 panel post that 6 X 6 panel is our building coverage, because that is the impacted areas of the ground. Going that direction, the building coverage is less than 1%. On the other hand, if we say our panels are 32 SF each and we have 4284 panels that is the impervious area. They have panels then vacant row then panels then vacant row, that calculation incorporates all, which was the 5.6 acres. When looking at the building coverage and do the 30% we were looking at 32 SF panels by 4284 which is roughly 24% coverage.

Mr. Gourley continued by saying as the residential zoning stands right now the solar project is permitted by Special Use Permit. They are meeting all of the requirements for the new solar law. The new solar law has 100 ft setbacks from the property line for residential areas and 250 ft from an actual structure and 50 feet from center line road. Along the north, west and south sides they need to have a 100 ft setback and along the south side, 2 houses on Trim Street, from the closest point of that habitable structure they are 250 ft off that.

Mr. Gourley reviewed with the board the Application Summary for Compliance with Solar Energy Systems Local Law N. 6-2022, which is included in their application packet.

There was a discussion regarding screening the entire site, not just along Trim Street. Also balloon testing was discussed, were a balloon is tethered 20 feet up in the air around the perimeter and if it can be seen, more screening is needed. With all the leaves off the vegetation it is a lot more visible from different areas. One of the primary concerns are the residents, they don't want to see it. The western boundary should be where the balloon testing is done, because they are only relying on existing vegetation, which is on an adjoining property.

John Mastronardi suggested if they could prove to us that the contour is much lower for the residents on Valley Vista and if they don't think a balloon test would be of any value that would be fine. Mr. Gourley stated if they have to put up screening on that side they would do that.

Chairman Diffendorf asked about the Green Giant arborvitae, if they had ever planted them in deer populated areas and Mr. Gourley explained they had and the Green Giant arborvitae are deer resistant, are fast growing and they will be maintained.

There was more discussion regarding the balloon test. The primary concerns are the two sides they are relying on existing vegetation. Mr. Gourley asked if they mitigate that on the west side would that be sufficient and Chairman Diffendorf stated he believes it will on the west side but to the north there is a house, by Route 81 on Johnson Road and that is higher than the ones on Valley Vista. Mr. Gourley agreed to take a look at that the topography.

Mr. Gourley reviewed with the Board the Visual Impact Assessment section, which is included in the application packet.

Mr. Gourley wanted to clarify that there are no batteries on site. There will be no overhead wires, they will run underground. There will be 5 poles at the site near the entrance, which are a requirement of NYSEG.

With regards to 706.B (19) in the Compliance Summary, required fire training, staffing and equipment Mr. Gourley indicated that would be provided in the future once they get through the planning stage. They will meet with the fire company to identify what equipment needs to be on site and what firefighting procedures need to be in place. Ms. Middleton asked if that was something they would be willing to do sooner rather than later because one of the big concerns is the fire safety issue and we would rather have it in place sooner and Mr. Gourley explained once they get through the approval process, board hearings, and while negotiating the PILOT that is something they can identify at that time. There is lead time to get materials once they get approvals. Mr. Gourley did say they would do it sooner rather than later if asked to.

There was a discussion regarding remote switching. Mr. Gourley explained that yes, they will have remote switching. A lot of the equipment will be monitored remotely. Chairman Diffendorf asked if there was a fire is there a way to throw a switch or breakers and Mr. Gourley stated yes, they will be able to disconnect from the grid depending on where the shut off is. If something catches on fire, typically it depends on the time of day. If we can wait until night time, usually it energizes down we don't have to worry about it. That would be part of their training, what they can and can't turn off, you can't just shut off a solar panel. To disconnect from the grid is typically a manual disconnect. Chairman Diffendorf commented if a panel catches on fire you can't put it out, it will keep burning and Mr. Gourley agreed, it will burn. Chairman Diffendorf asked what chemicals will that give off and Mr. Gourley stated he would find that out. Chairman Diffendorf asked about fire company access to the facility and Mr. Gourley explained they have a gravel road coming off Trim Street and gravel all the way around. Chairman Diffendorf asked if they want the firefighters to be able to go inside the fenced area to do something without the electric company or your company there and Mr. Gourley explained that would be part of the fire training of what can or can't be done. There will be protocols for if a pole comes down or a transformer is on fire or a panel is on fire. How often training is done will be up to the fire departments.

There was a discussion regarding if a study had been done on what the impact is to real estate. They have not done a study but there is a lot of information out there, both no impacts to real estate and impacts to real estate. They are a low impact neighbor, no traffic, someone will come through once a month to look at it, mow a few times a year so their operation is minimal. In the wintertime they will plow to the gate and to the transformer.

The operation and maintenance plan has identified a checklist they go by. The trees, making sure they are alive, mow the grass, make sure the fence is intact. From an equipment standpoint a lot of it is remote monitoring and they will identify if a panel is not functioning. Once a month they will do a walk through.

Panel life is estimated to 25 years. They have a decommissioning plan based off of NYSERDA's guidance. The Town goes further in having a cost review of the decommissioning plan every 5 years. Ms. Middleton commented that the estimated cost for the decommissioning plan are based off of Massachusetts solar market and costs for NYS solar installation may differ. Our concern is they are based off of numbers that aren't relevant to this area. Mr. Gourley explained they have had Towns say we don't like those numbers, go out and redo and when they redo they have been within 10% - 15% of the original number by NYSERDA using local costs, local contractors and local estimates. They met the requirements of NYSERDA and the numbers can be reviewed every 5 years per the Town's law. They would be willing to do the numbers local. Ms. Middleton explained one of the concerns is the reason we hold this is in the event that the Town ends up having to decommission the

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project. Part of our concern is the actual disposal of the panels. How are they disposed of and who accepts these items and what is the cost of actually disposing of them? There is a trucking cost. Are there any other costs beyond that and Mr. Gourley explained that a lot that is part of that is built into the landfill cost. They have been recycled by some people. Their biggest salvage item is the steel racking foundation system. Ms. Middleton asked if the value in the items on the property are going to be greater than the actual cost to dispose and Mr. Gourley stated yes. Chairman Diffendorf asked if NYS landfills are accepting solar panels and Mr. Gourley stated yes, as far as he knows they are. John Mastronardi asked if his company has ever disposed of one, one that went bad or caught fire or was damaged and Mr. Gourley didn't know for sure. Chairman Diffendorf stated we would like to know that. Ms. Middleton asked if they plan to leave the underground utilities and Mr. Gourley explained typically what they do is pull the wires and all that will be left are empty conduits.

Mr. Gourley explained once they get all their approvals, construction time would be about 4 months, which is subject to availability. There is work being done on site now, their Geo tech guys are doing soil investigations to determine what type of soil foundation they will use for the panels.

John Mastronardi will email his concerns regarding SWPPP to Chad and the Board, which will be forwarded to the applicant. Ms. Middleton will send a list of the questions/concerns to Mr. Gourley for him to respond in writing or in a presentation at the next meeting.

The next meeting will be December 12, 2022 at 7 PM.

Mr. Seidel gave permission for the Board to visit the site if needed. They do not have a local project that is done, not up and running yet.

Motion by Gordie Woolbaugh and seconded by Kevin Balachick to adjourn the meeting. The meeting was adjourned at 9:10 pm.

Respectfully Submitted,

Mary Kay Sullivan
Secretary, Kirkwood Planning Board

cc: Planning Board Members
Kelley Diffendorf
John Finch, Jr.
Chad Moran
Scott Snyder
Katie Legg
Bob McKertich
Gina Middleton

PLANNING BOARD

**Town of Kirkwood
70 Crescent Drive
Kirkwood, NY 13795**

PUBLIC HEARING

November 14, 2022

SITE PLAN REVIEW FOR THE INSTALLATION OF A 2.55 MW (AC) GROUND MOUNTED SOLAR FARM FOR PROPERTY LOCATED AT 21 TRIM STREET IN THE TOWN OF KIRKWOOD, KNOWN AS TAX MAP NO. 179.03-4-6.2 AND LOCATED IN A RESIDENCE R DISTRICT ON THE APPLICATION OF TRACT ENGINEERING, PLLC ON BEHALF OF SEIDEL SOLAR, LLC

Chairman Diffendorf commented we have the affidavits of posting by the Town Clerk, notice to property owners within 500 feet of the project, affidavit of publication in the Press & Sun Bulletin and Country Courier. We have the Broome County Planning Department 239-m recommendations and a Full EAF has been filed.

Chairman Diffendorf opened the public hearing to public participation at 7:06 p.m.

Jeremy Holt, 40 Trim Street, commented that even if the solar field was connected to his house he would object to it. As far as health concerns some say yes and some say no. Guidelines for these come from WHO and everyone know how believable they are. There are instances where they do affect people, you don't know until you get tested for it. In the first 10th of a mile, if there was a problem, you would notice it. Another concern is lithium batteries, if they are involved it will be a problem. There are problems with them in EV cars, batteries for a drill, they can go off at any time. He described his experience with a golf cart fire. There is also fire training involved. Another concern is property values, with a 5% - 10% decrease in value. He wouldn't want to live near a solar field. Another concern is the affect on wildlife, deer, bear and birds. Will there be a rodent problem? He hopes all these concerns will be taken into consideration.

John O'Neil, 1291 Route 11, commented they have already started digging up there. Chad Moran stated they are doing soil testing. Mr. O'Neil asked if it was going to be approved or disapproved tonight and Chairman Diffendorf explained this would be carried over because there are some issues that have to be looked at. Mr. O'Neil explained they moved here 6 ½ years ago, from Binghamton, and prior to moving they dealt for several years with expansion of commercial properties into residential areas, which is what we are facing here. The area where they want to put the solar farm is surrounded by houses. His property is down stream, borders the west end of 27 Trim Street. Recently they put in 600 feet of french drains and piping to handle the water. If they starting punching holes up there where is the water runoff going? The area is farmland. Another concern is property values, can't believe property values won't diminish. He wants the Board to really think about this before you approve it. There is a lot of clean energy in the state that just needs to be tapped.

Larry Holt, 36 Trim Street, commented he came here before the Town Board, a number of us have since this started and that is when Mr. Seidel said the Town rebuffed him on building a house there. Mr. Seidel stated he didn't say that. Mr. Holt stated the land still belongs to the church and doesn't understand how you can have people over there working, digging holes and no one says anything.

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This entire thing stunk from the beginning. He doesn't like it, it isn't doing anything for the Town of Kirkwood, the residents, nobody benefits except NYS, Philadelphia.

Bob Hamm, 30 Trim Street, commented that at the previous meeting property values were brought up and nobody has ever gotten back to him. He would like to know that the affect is on property values. Chairman Diffendorf explained the comments are being written down and they will be addressed after the Public Hearing.

Sherry Orals, 20 Trim Street, commented that her front door is directly across from this field. She is a real estate agent for 17 years and you can't tell me that property values will not be affected, a 100% probability it will be. She recently had her house reappraised, having purchased it 4 years ago. They have done a lot of improvements. What is going to happen to my value once this goes across the street. Another concern is she has a 7-year-old granddaughter who plays outside and they are across the street and downhill from the property. What happens when these batteries eventually corrode and fall to the ground because there is no place to recycle them in NY. When they fall and that erodes into the ground and the acid comes across the street. It will affect everyone on that side of the street and down onto Route 11. She moved here to see the country.

Brandon Seidel, owner of 21 Trim Street, commented he owns the property, the church does not. When he said he got push back by some people he never said the Board. It was the neighbors who were giving him push back. That is what happens with rumors, people don't understand the science behind it. People don't want it because they think it is going to be ugly. There will be trees around it and in the summer time you won't be able to see it.

Hearing no other comments Chairman Diffendorf closed the public hearing at 7:22 pm.

Respectfully Submitted,

Mary Kay Sullivan
Secretary, Kirkwood Planning Board