

MINUTES
Town of Vienna
Planning Board (PB) - Special Meeting
November 9, 2023

Call to order: Chairman Calvin Collins called the meeting to order at 1:05 pm with a quorum present.

Attendance:

Board Members: Calvin Collins, Bill Shaughnessy, , Orrin MacMurray, Martha Link, and Dave Gigon.
Mike Piper was unable to attend. There is one vacancy on the board.

Others:

Secretary Kathy Pavelock, Liaison Darrin Smith, Codes/Zoning Officer (C/ZO) Reay Walker
Codes Officer in training Dave Carpenter, and Resident Ed Lambrych.

Unfinished Business:

SUP2023-06 Distributed Solar generation facility (5mW); RIC Energy; 2930 NYS Rte 49; 218.000-1-27.4; Zone C (along Rte 49) WR (remaining acreage).

Secretary Pavelock read the “Lead Agency Letter” and provided a summary of what to include with the letter. Chairman Collins signed the letter. Secretary Pavelock will have the letters sent to the agencies. A copy will be provided for each board member.

Orrin MacMurray described the documented October 30 update (copy attached).

The planning board received a third mailing from the applicant which contains new site plans, wetland delineation, decommissioning information, a SWPPP, and a Spill Prevention, Control and Countermeasure Plan. Copies were distributed to those present.

The board discussed the documents received thus far. Comments included:

- The applicant should add a centerline of the stream that is near the project since it is a DEC Class C stream.
- Fires on solar systems are mostly related to those with batteries. There are no batteries for this project. There are no “fire issues” with panels.
- There are no chemicals in the panels other than plastics. There are no heavy metals and only noncombustible materials for the panels. The first set of documents we received has MSDS (Material Specification Data Sheets).
- Most of the wiring is underground. A third party will sign off on all electric. It is not the responsibility of the planning board or zoning/codes officer.
- The DEC will sign-off on the SWPPP. It will be sent to them for the 239m review.
- Secretary Pavelock will request electronic copies of all documents to be submitted for the 239m review.
- The board is pleased that Langden Engineering is engaged for this project by the applicant.
- The board was wondering if the Town Attorney and applicant are communicating. Due to the emails, this is probably correct. The applicant normally sends a packet to the attorney in addition to the planning board.
- One of the board members stated a resident had asked about maintenance and inspections on solar projects. Appendix I is an operations plan and includes maintenance. The board asked how the town can monitor/check conditions. The codes officer is not required to conduct annual inspections of solar projects.
- Orrin MacMurray stated we will need to start the list of conditions for the Special Use Permit.
- Reay noted that the site plan includes the 12”x12” openings in the fence for animals.
- The access road will need to be kept plowed when we get at least 6” of snow.
- One condition is to require orientation training for the fire district.
- Reay will review the decommissioning plan.

Other:

- Cannabis - Per NYS Law, the Town has received notification of plan to open a cannabis dispensary on Route 13 where the former North Bay Electric had a business. There is no action needed by the planning board at this time. The Town Board will not have a moratorium on this subject due to issues with Oneida County Planning. The planning board will need to handle any applications received based on the current Zoning Law. The state has issued rules in a 300–350-page document. Orrin has reviewed the rules and provided a reference sheet (attached).

Public Comments:

Ed Lambrych; Mr. Lambrych stated that he now realizes that the solar project is a lot of work. The planning board advised Mr. Lambrych to review the decommissioning plan since he is the property owner. Mr. Lambrych also asked about the Dollar General Project. He was told that this will be on the agenda for the next regular planning board meeting.

Having no other business at this time, the meeting was adjourned at 2:40pm.

Minutes prepared by:

Kathy Pavelock
Planning Board Secretary

Town of Vienna

Cannabis Reference Sheet

Prepared From NYS Adult Use Cannabis Regulations Dated 27 September 2023

Prepared 6 Nov 2023

1. Office of Cannabis Management, OCM.
2. Cannabis merchandise is marketing materials like hats, mugs, etc. (P 10)
3. A Consumption Facility can sell and/or consume cannabis on site. (P 12)
4. A ROD is a Registered Organization with Dispensing. (P 28)
5. Can't be on the same road within 200 feet of a house of worship. (P 36)
6. Can't be on the same road within 500 feet of a school. (P 36)
7. Can't be on the same road within 500 feet of a public youth facility. (Youth recreation facility.) (P 27 and P 36)
8. No special fees. OK to charge fees that all other similar facilities must pay such as SUP or Building Permit fees. (P 36)
9. Retail Dispensary (sell only) must close from 2am to 8am and must allow at least 70 hours of operation a week. (P 39)
10. On Site Consumption (sell and consume) must close from 4am to 8am and must allow at least 70 hours of operation a week. (P 40)
11. Can regulate visual impact as with other similar uses. (P 40)
12. Can regulate parking as with other similar uses. (P 40)
13. Can regulate traffic/access as with other similar uses. (P 40)
14. Can regulate odor as with other similar uses. (P 41, 258)
15. Can regulate noise as with other similar uses. (P 41)
16. Town must be notified of applicant's intention to apply for a permit between 30 and 270 days before doing so. (P 41)
17. The Town has 30 days from the date of notice to object to the State giving the applicant approval. This can be extended by an additional 30 days if the Town requests. (P 43)
18. A Retail Dispensary can't be within a 2,000-foot radius of an existing dispensary or ROD. (P 44)
19. Distances are measured from front door to front door of facilities or to grounds of youth facility. (P 47)
20. Must be a "brick and mortar" facility. (P 193)
21. Can have drive-thru service window. (P 193)
22. Retail Dispensary Prohibitions: Can't sell food, nicotine or alcohol but can sell cannabis merchandise. (P 204)
23. Outside lighting required for security. (P 281)
24. Keep landscaping from concealing the facility. (P 281)
25. A site plan must be prepared for the OCM. (P 264, 265)

Vienna PV, LLC Solar Project

Applicant Submittal Review, RIC Energy, RIC Development, LLC

Prepared On Behalf of the Town of Vienna Planning Board

30 Oct 2023 Update

Unless otherwise indicated, original comments shown without highlight based on the Applicants submittal prior to the 19 October Planning Board meeting.

Highlighted information covers what was discussed at the 19 October Planning Board meeting. Where no comment is shown no resolution was reached and the issue remains open.

New Planning Board comments dated 30 Oct 2023 based on review of drawings with the Revision No. 1 date of 10/11/23 as provided to the Planning Board at its 19 Oct 23 Planning Board meeting.

General:

- Notes dated 22 Sep referencing 21 Sep PB Meeting.
 - The PB is currently reviewing the application internally. If outside assistance is needed the Applicant has agreed to fund up to \$10,000 in engineering review expenses.
 - The system installer is unknown currently. The Applicant will need to provide the name of the proposed system installer prior to a Building Permit being issued.
 - NYS DEC wetland delineation and USACE deferment of wetland authority to NYS DEC. Status?
Ans: Delineation Report provided. No reply from USACE currently.
 - A Visual Assessment for the project needs to be provided. The Applicant has agreed to provide a balloon study as part of this assessment with photos of the site from various locations including NYS Rt 49 and Vienna Rd. Status?
Ans: Viewshed Analysis was provided. Balloon photos not available yet. Will be provided at the next meeting.
 - A SWPPP is required prior to the application being complete and a SEQR determination. Status?
Ans: A SWPPP dated 10/10 23 was provided signed and sealed by a NYS Professional Engineer certifying that it meets the requirements of the SPDES General Permit for Storm Water Discharges from Construction Activity.
 - A Spill Prevention Plan is required. Status?
Ans: Pending.
 - Unified Solar Permit documents are required. Status?
Ans: Discussion took place the result of which was that the PB waved this requirement due to other more detailed information being provided.
 - The Applicant has agreed to meet with the local Fire Department to obtain their input and incorporate the addressing of their items into the project application. Status?

Ans: No meeting has been conducted. The Applicant sent them a letter. We asked that they meet with the Fire Chief and the head of the Vienna Fire District.

- The Decommissioning plan will need to be signed by both the Applicant and the landowner when complete.

Other Items:

- Items not the responsibility of the Planning Board for SUP review but discussed at the 21 Sep 2023 PB Meeting.
 - The Applicant has agreed to submit a NYS Solar Project Input Request Form. Status?
Ans: Not prepared yet.
 - The Applicant has agreed to send a letter to the Town Supervisor with copies to the Town Assessor and Town Attorney indicating their willingness to negotiate a Host Community Agreement. Status?
Ans: Not sent yet.
 - The Applicant intends to provide the Town a bond for the project. The Town has requested the proposed amount of such a Bond and the surety company who would issue it. Status?
Ans: No information at this time.
 - The Applicant has indicated they intend to negotiate a PILOT Agreement for the project. Status?
Ans: Letter sent. No further action was reported.

Review of Plans:

- Sheet C-100 Dated 9/14/23, Revised 10/11/23
 - Show landowner and reference to lease. It is suggested that another box be added at the bottom of the sheet between the box entitled Site Information and the box entitled Applicant with this information.
 - Change Applicant Box title to Applicant/ Lessor
- Sheet C-150 Dated 9/14/23, Revised 10/11/23
 - See Zoning Law pages 30 and 31 for required minimum information in total.
 - Example. Distances, bearing's, and areas of the site to be leased and any remaining lands of the Lessor.
 - Example, Show the boundaries of the individual tax parcels that make up the total site parcel with lot coverage percentages for the project on each individual tax parcel.
 - Example, Show the area to be leased by Applicant.
 - Example, Location and ownership of all parcels.
 - Example, Location of Zone and District boundaries.
 - Etc. as required.
- Sheet C-200 Dated 9/14/23, Revised 10/11/23
 - Tier 3 Solar Electric System not allowed in Commercial Zone. Commercial Zone extends 500 feet from CL of NYS Rt 49. Entrance road and electrical components are in the Commercial Zone. Show Zone boundary.
 - Tier 3 Solar Electeri Systems are allowed in WR Zone.
 - See setbacks on "Zoning Compliance Table" and on Dwg.
- Sheet C-300 Dated 9/14/23, Revised 10/11/23

- Who delineated the wetlands?
Ans: Wetland Delineation Report has been submitted.
- Does the NYS DEC agree? Document this.
Ans: No NYS DEC document presented to confirm their agreement yet.
- Has USACE differed wetland jurisdiction to NYS DEC? Document this.
Ans: Pending.
- Are contours and tree lines from actual survey by Thew Assoc?
Ans: Yes.
- If not, what is source of contours? N/A
- Access road is right next to PL. In some locations grading appears on plan to be on adjacent property. Consider moving access road east to create buffer along PL to protect adjacent landowner. Access Road has been moved on plan farther east of the westerly property line. However, in one area it still appears on the plan to be about 10 feet from the property line. Road should be relocated further east at this location.
Ans: Listened to issue. Will talk with engineers and consider.
- Sheet C-301 Dated/Revised 10/11/23
 - See last comment for Sheet C-300 regarding Access Road Enlargement A and B.
- Sheet C-400 Dated 9/14/23, Revised 10/11/23
 - Revision has deleted the contours on the east side of the site including the Class C Stream area which appears to now be designated Zone A on the drawing. Replace these contours to a minimum of 200 feet to the east of the stream for clarity on stream location and slopes.
 - Plot centerline of Class C Stream on drawing.
- Sheet C-401 Dated 9/14/23, Revised 10/11/23
 - Total disturbed area of all phases shown is 22.5 acres. Is this correct?
New phasing plan is shown.
- Sheet C-500 Dated 9/14/23, Revised 10/11/23
 - No comment at this time.
- Sheet C-501 Dated 9/14/23, Revised 10/11/23
 - Where will Geogrid be installed? Clarify on Dwgs.
 - Where will Geoweb be installed? Clarify on Dwgs.
- Sheet L-100 Dated 9/14/23, Revised 10/11/23
 - No plantings proposed except for "Meadow Mix" and "Grass" as shown?
Ans: Correct.
- Sheet L-500 Dated 8/18/23, Revised 10/11/23
 - Who will be responsible for maintenance, including watering, as detailed here?
Ans: The Applicant.
 - What guarantee does the Town of Vienna have that the site will be maintained?
Ans: No answer was provided.

Review of Application Document Dated August 30, 2023:

- App A - Special Use Permit Application
 - Confirm with PB Secretary.
- App B - Building Permit Application
 - Confirm with Code Enforcement Officer

- App C - General Description.
 - No Comments at this time.
- App D – Site Plan Check List
 - Some information remains incomplete.
- App E – Civil/Site/Drainage Plan
 - See Drawing Comments
- App F – SEQR FEAF Part 1
 - There is a Class C Stream on Site. Please show center line on drawings.
 - Status of wetland authority. DEC? USACE? Documentation?
 - FEAF, B, list all permits and their issuing agencies.
 - FEAF, D.1.e, please confirm that all “Phases” shown on C-401 are to be constructed as one project.
 - Ans: Confirmed.
 - FEAF, D.1.h, will stream protection and SWPPP require retention? If so revise.
 - FEAF, D.2.b, please review when stream is plotted.
 - FEAF, D.2.e, please include how stormwater quality, volume and runoff will be handled.
 - The Planning Board will send out a letter to those parties to this action indicating that it intends to take Lead Agency status.
- App G – Verification of Utility Notification
 - What is the projects “Queue position”?
 - Ans: They have agreement from National Grid to take the power. No date.
- App H – Landowners within 500 feet
 - Provide readable map.
- App I – Property Operation and Maintenance Plan
 - Fire Dept. requirements?
 - Specify month in which testing will be done?
 - Snow plowing of 1,500 foot +/- access road for emergency access?
- App J – Agricultural Data Statement
 - No Comments at this time.
- App K – Equipment Spec Sheets
 - What is the useful life of the equipment?
 - Ans: 25 years.
 - Coordinate with Code Enforcement Officer.
- App L – Consent to Lease
 - No Comments at this time.
- App M – Panel anti-reflective properties
 - In comparison with other technology available today to reduce glare where does this system fall?
 - Ans: All are about the same.
 - Are there other panels available with better properties?
 - Ans: No.
 - If so, what are they? N/A
- App N – Decommissioning Plan

- Page 3, state that all foundations will be removed unless the owner wants them left in place. Please revise to same wording as for driveways on page 2 and 3.
- Top of Page 3 states all underground wiring will be removed. Page 4, Section 2.5, states underground wiring must be left in place. Which is correct? Clarify wording.
- Please provide an estimate of the cost of Decommissioning and an appropriate annual escalation percentage for the agreement.
- Bond amount and surety company proposed.
- Who is responsible for Decommissioning if the project is sold? Where is this covered?
- App O – USGS 7.5 Minute Topo
 - What is the purpose of this Appendix?
- App P – LIDAR Elevation
 - Is this the same data that is shown in the drawings?
- App Q – LIDAR Slope
 - No Comments at this time.
- App R – FEMA Flood Insurance Rate Map
 - No Comments at this time.
- App S – NYSERDA NOI Form
 - Are these standards being complied with?
 - If so, where stated?
- App T – NYSDAM Solar Construction Guidelines
 - Are these standards being complied with?
 - If so where stated?
- App U – One Line Diagram
 - Coordinate with Code Enforcement Officer.