REGULAR MEETING
TOWN OF EVANS PLANNING BOARD
WEDNESDAY, AUGUST 23, 2023

MEMBERS PRESENT: Chairwoman A. Sellers, J. Pinter, L. Szewczyk, D. Schiedel, J. Wilson, M. Keller, J. Mesi

ALSO PRESENT: William (Bill) Smith, Director of Planning & Community Development
Brittany Penberthy, Town Counsel

APPLICANTS/REPRESENTATIVES: Robert Gauchat, Senior Vice President of Sales

Chairwoman Sellers: I would like to welcome everyone to the August 23, 2023 Planning Board meeting.

All public meetings and public hearings currently scheduled before the Planning Board of the Town of Evans, will be held both in person and by remote access via Zoom while giving the public the ability to listen in and comment when given the opportunity. If any person wishes to comment on these actions, it is their right to do so when the floor is opened to the public. At that time, we ask that anyone who wishes to speak please clearly state your name and address, spelling your last name for the record. Those attending online may "raise their hand" using the function on your Zoom interface. Each person is limited to one opportunity to speak and comments shall be limited to 3 minutes.

For the record, a Planning Board Public Meeting is conducted solely for the pre-determined action items listed on the official Planning Board Agenda and/or any other business that may be presently before the Planning Board as advertised.

1. The only item on the agenda this evening is a:

Site Plan & Special Use Permit Recommendation – For the proposed development, construction and operation of two solar arrays, totaling approximately 10MW AC, located on two abutting parcels in the Solar Overlay District on Southwestern Blvd., formerly known as SBL# 207.00-4-11.11. Petitioner: Solar Liberty Energy Systems, Inc., 6500 Sheridan Dr., Suite 120, Buffalo NY 14221.

PROJECT BACKGROUND:

- The process began for this project with a Minor Subdivision of two adjoining parcels to suit the requirements needed for the installation of two ground mounted solar arrays. The subdivision was approved at the March 15th, meeting of the Evans Town Board.
- Following the Minor Subdivision approval, the applicant filed a formal Application for Site Plan Review and Special Use Permit on May 3, 2023 and the project was reviewed at Planning Board Work Session on May 10, 2023.
- Town Board declared intent to serve as SEQR Lead Agency for the Special Use Permit at their May 17th meeting, at which time a coordinated review was initiated.
- Subsequently, changes were made to the plans and a revised and complete submittal was received on July 31, 2023.
- The applicant is before us this evening seeking review and approval of the revised Site Plan and a recommendation to the Town Board for a Special Use Permit.

INTERDEPARTMENTAL REVIEWS:

- **Planning Director, Bill Smith:**
    - Some changes were made to the plans based on some back and forth with National Fuel that occurred which altered it slightly.
    - We had to send it back to the County for further review. We don't expect any further comments from the County, but we are still within the 30-day review period so any recommendation from Planning Board should be contingent on receiving final comments from Erie County as well as being addressed by the Planning Board.
    - We did receive unanimous support for this project from the Evans Climate Smart and Conservation Committee.
    - Dave Johnson from CPL offered the following comment:
        - Engineering has reviewed the plans and have found it to be in conformance with the NYSDEC's guidance documents for solar projects relative to the SPDES General Permit. Therefore, we recommend it for approval.
    - We also have received a list of questions from the abutting property owner Mr. Russ Gullo which I provided answers back to him in an email and I have included those in your packet. I will include those to the Planning and Town Boards for inclusion in the minutes.
    - The final permitting will be contingent upon execution of a PILOT Agreement and HCA. There is also some work to be done on the decommissioning plan that will have to go through further legal review as well as some negotiations; one of the things is recycling salvage as a potential cost on that on which we in previous decommissioning plans have not accepted salvage costs.
    - The conditions I have put forth on the proposed resolutions are consistent with the two other solar projects that have come before us in recent years.
- **Code Enforcement Officer, John Flading:** Had no objections to the project.
- **Deputy Attorney, Brittany Penberthy**: *Per Bill, Brittany is running late, but she did not have any further comments.*

Chair: OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:** A 239M Review was sent to the County for review and we are awaiting their comments. Any approvals that may be granted tonight will be contingent upon receipt of the County's review and recommendations.
- **NYS Department of Transportation:** NYSDOT has reviewed the project and provided comment, stating the project does not appear to have a significant impact to traffic on the State Highway System, although a NYSDOT Highway Work Permit will be required for work located within the State Highway Right-of-Way. More detailed plans will be required for the Highway Work Permit application and an additional site engineering review will be performed as part of the Highway Work Permit process.

SEQR: The Planning Board has reviewed the site plan application and have found no significant environmental concerns in regards to the proposed plan amendment.

Chair: At this time, I will ask the applicant if they wish to address the Planning Board with any further information than previously submitted.

Robert Gauchat, Senior Vice President of Sales for Solar Liberty: Good evening everyone. We don't really have any questions or further comments on our end, we just appreciate all the cooperation we've had with the Town of Evans on this project and we are excited to get them moving. Are there any questions in particular that the Board has for us as an organization?

Chair: There being no further comments from the petitioner are there any questions or comments from the Board before I open the floor to the public? *(No questions from the Board)*
Planning Director: Comments that were made at Work Session were addressed, one of which was on the landscaping plan regarding more definition on the pollinators, soil stabilization and habitat. On the decommissioning plan, we will talk more about it for the Special Use Permit and the conditions, but photo documentation is required as well as part of that decommissioning plan with existing conditions before they get out there and start clearing; we want to see the current state of it and more specific plans on how it will be returned to its previous state when it is done.
Mr. Gauchat: Understood.

Chair: May I please have a motion regarding Site Plan approval and recommendation to the Town Board for a Special Use Permit?

L. Szewczyk: WHEREAS, the Planning Board has reviewed the Site Plan and Special Use Permit Application prepared by SL Evans, LLC ("the Applicant") for the proposed construction of a Type 1 Solar Photovoltaic System to be located on a portion of the parcels identified by SBL #'s 207.00-4-11.1 and 207.00-4-21.1 with frontage on Southwestern Blvd; and
WHEREAS, the Project includes the development of two solar arrays producing a combined 10 MW-AC of power on approximately 33 acres of undeveloped land located within the designated Solar Overlay District; and
WHEREAS, according to Section 200-73 of the Town Code, any SPS Type 1 utility-scale solar photovoltaic system in the Town of Evans requires site plan review and approval by the Evans Planning Board; and
WHEREAS, any Type 1 solar photovoltaic system must also obtain a Special Use Permit from the Evans Town Board; and
WHEREAS, per Section 200-45 of the Evans Town Code, the Town Board is to receive recommendation from the Planning Board regarding the issuance of Special Use Permits; and
WHEREAS, the Evans Town Board has declared intent to serve as SEQR Lead Agency on the Project at their May 17, 2023 meeting and initiated a 30-day coordinated review with involved agencies; and
WHEREAS, the Planning Board has reviewed Parts 1 and 2 of the SEQR Full Environmental Assessment Form as well as any comments from involved agencies; and
WHEREAS, the Planning Board carefully reviewed the proposed Project and considered all of the criteria for Determination of Significance listed in the SEQR regulations, and has found that the proposed action is not anticipated to result in any significant adverse impacts on the environment; and
WHEREAS, the Planning Board would like to approve the project based on the following reasons:

- The Project is in accordance with the Town's zoning regulations.

- The Project is consistent with the Evans-Angola Comprehensive Plan.
- The Project promotes the use of clean energy in the Town.
- The Project will constitute the use of underutilized property.
- And the Project will not result in any significant adverse impacts.

NOW, THEREFORE BE IT RESOLVED, that the Planning Board hereby approves the Project and recommends approval of the Special Use Permit to Town Board with the following conditions that must be met prior to issuance of any subsequent building permits:

- Approval and execution of the Payment in Lieu of Taxes Agreement between the Town of Evans, Lake Shore Central School District, Erie County and SL Evans, LLC.
- Approval and execution of the Host Community Agreement between the Town of Evans and SL Evans, LLC.
- Approval and execution of the Decommissioning Plan between the Town of Evans and SL Evans, LLC, including without limitation a decommissioning bond.
- Any and all future comments received from Erie County as part of their 239-M review of the revised plans are to be addressed prior to Town Board approval and permitting.
- Submittal and approval of a Fire Suppression Plan to be coordinated with the Fire Department.

BE IT FURTHER RESOLVED, that the Planning Board hereby recommends that Town Board (as SEQR Lead Agency) issues a Negative Declaration, thereby concluding that the project will not adversely affect the natural resources of the State and/or health, safety, and welfare of the public and is consistent with social and economic considerations; and

BE IT FURTHER RESOLVED, completion of the project shall be consistent with all elements of the approved site plan, and subject to the review and approval of the Code Enforcement Officer, Town Engineer and Planning Director.

J. Wilson: Second.

Roll Call Vote: All in Favor…Carried

Chair: <u>NEXT STEPS</u>: We will send a letter to the Town Board notifying them of our Special Use Permit recommendation this evening and request a public hearing be set. The public will be given the opportunity to speak in favor of, or objection to, your Special Use Permit request at the public hearing. Once the public hearing is closed, the Town Board will make their determination in regards to approval. Should the Special Use Permit be approved by the Town Board, you will then work with the Building Department to secure all necessary permits, etc. before proceeding further, as the building permit process is under their jurisdiction. Good luck to you as you continue through the process.

Thank you everyone for joining in on our meeting this evening. May I please have a motion to adjourn.

L. Szewczyk: Motion to adjourn.
D. Schiedel: Second.

Roll Call Vote: All in Favor…Carried

Chair: Carried. Good night everyone.

Respectfully submitted by:
Debra L. Wilson