

TOWN OF WARWICK PLANNING BOARD
November 15, 2023

Members present: Chairman, Benjamin Astorino
Roger Showalter, Vice-Chairman
Dennis McConnell, Bo Kennedy,
John MacDonald, Rich Purcell, Alt.
Laura Barca, HDR Engineering
Liz Axelson, CPL Planner
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, November 15, 2023 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

Review of Submitted Maps:

Mountain Green Partners, LLC/Steve Sullivan

Application for Site Plan Approval and Special Use Permit for the use and construction of a Lodge with approximately 16-20 rooms, Guest Court with approximately 18 Units, Cantina (Accessory Use 24), Pool, Pavilion, Trails, and other Accessory Facilities for guests (Accessory Use 24), and an Existing Residence to be used as a Caretaker's Residence, situated on tax parcel S 43 B 1 L 28; project located on the northern side of Hathorn Road 900 feet east of C.R. 1 (5 Hathorn Road), in the SL zone, of the Town of Warwick.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying. Steve Sullivan, Applicant, Chris Collins, Architect.

Comment #1: Planning Board to discuss SEQRA.

Liz Axelson: I have prepared a Resolution on this application for the Planning Board to identify themselves as Lead Agency and to identify this as a Type 1 Action.

Mr. McConnell makes a motion for the Type 1 Action.

Seconded by Mr. Kennedy. The following Resolution was carried 5-Ayes and 0-Nays.

617.6

State Environmental Quality Review (SEQR)

Resolution

Type 1 Action

Name of Action: Mountain Green Partners LLC SP & SUP 43-1-28 Application

Whereas, the Town of Warwick Planning Board is in receipt of an application for review and approval of a Site Plan and Special Use Permit known as the Mountain Green Partners SP & SUP care of (c/o) Steven Sullivan, Mountain Green Partners LLC, for the proposed development of **hotel- and motel-style accommodations** on the existing 29.2 +/-acre site, on tax parcel: Section 43, Block 1, Lot 28, located at 5 Hathorn Road, in the SL (Suburban Residential Low-Density) zoning district, in the Town of Warwick, Orange County, New York; and

Whereas, the Town of Warwick Planning Board has reviewed the submittal including drawings entitled Mountain Green Partners, LLC, including the following: Overall Site Plan; Vicinity Map & Notes; Entrance Drive; Grading, Utility, and Stormwater Management (East); Grading, Utility, and Stormwater Management (West); Construction Details (2 sheets); Erosion Control Details; and Sewage Disposal System Details, , prepared by David A. Getz, PE, Engineering & Surveying Properties, showing a set of site plans proposing the creation of 30 units of "Tourist Accommodations" structures in 2 "Court" areas and 25 guest rooms in the "Lodge" building, an existing building, which will become the proposed "Caretaker's Residence", a proposed new "Pavilion" structure with access via one (1) twenty foot (20') wide main driveway to Hathorn Road, which encircles the interior of the site providing additional smaller access loops to the court areas and individual buildings; and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and .5, the Planning Board has determined that the proposed project is a Type 1

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Action under SEQR as per the SEQR regulations sections 617.4 (b)(6)(i) and (8), yet further information is needed for continued review of the application;

Now Therefore Be It Resolved, that the Town of Warwick Planning Board hereby declares that the proposed project is a Type 1 Action under SEQR; and

Be It Further Resolved, that the Town of Warwick Planning Board hereby declares its intent to serve as Lead Agency in the review of the application under SEQR;

Be It Further Resolved, that the Town of Warwick Planning Board hereby authorizes the circulation of this resolution and project information to the following Involved and Interested Agencies and other agencies to inform them of the SEQR review of the proposed action:

- United States Army Corps of Engineers (US ACOE);
- New York State Office of Parks, Recreation and Historic Preservation (NYS OPRHP) aka State Historic Preservation Office (SHPO);
- New York State Department of Environmental Conservation (NYSDEC);
- Orange County Department of Planning (OCDP);
- Orange County Department of Public Works (OCDPW);
- Orange County Department of Health (OCDH);
- Town of Warwick Town Board; and
- Town of Warwick Zoning Board of Appeals.

Dave Getz: You have just heard a description of what is proposed. We were in front of the Board more than 1.5 years ago with some concept plans. Since that time, Mr. Sullivan has undertaken quite a few environmental studies. Chris Collins the architect is involved to define the building designs. We have submitted some applications to the NYSDEC for wetlands permit, wastewater SPEDES permit for the onsite sewage disposal areas, OCDOH. In the packet that we submitted last week included various studies for Cultural Resources, Bog Turtles, Traffic Study, Phase I Environmental Study, etc...

Mr. Astorino: All of that will be reviewed. We know that you had done a lot of work.

Dave Getz: The EAF came back stating there is a potential bat habitat and Bog turtles. Those were the two species identified. There is no doubt that there is a bat habitat in some of those trees. We would provide a time of year restriction for clearing. If any of the Board members had seen the project back in the early year 2022 when we had first submitted, there has been quite a bit of cleanup. They have renovated the barn and the existing house. It is beautiful.

Mr. Astorino: We would like to set a site visit to get out there as soon as possible.

The Planning Board discussed scheduling a site visit. The site visit has been scheduled for Saturday, November 25, 2023 at 9:00 a.m.

Dave Getz: At the Work Session, the idea was kicked around about doing a Positive Declaration on the project. We submitted an email comparing this project to the Pulpit Rock. I think there are quite a few significant differences.

Mr. Astorino: Connie, did you submit to the Board that email about the comparison of the project?

Connie Sardo: I did not see that email.

Liz Axelson: There was an email in the submittal packet.

Mr. Astorino: When we do the site visit that will help us out.

Dave Getz: On this site, he would be utilizing a lot of infrastructure that is already there.

Mr. Astorino: I had brought it up as a sheer fact that it is in the same ecosystem as the Pulpit Rock. It would be our due diligence to make that determination.

Mr. McConnell: Would it be possible because I am not sure of my availability on a Saturday during this time of year, If I were to call you, could I arrange to just drive through and not walk around?

Steve Sullivan: Yes. I am back there almost every day. Anytime would be fine.

Mr. McConnell: Who should I call?

Steve Sullivan: You could call me.

Mr. McConnell: Ok. Could leave your phone number with our secretary?

Steve Sullivan: Sure.

Mr. McConnell: All I want to do is put eyes on it just driving through.

Connie Sardo: Please write your name and phone number down and hand it over to Dennis.

Steve Sullivan: Ok.

Dave Getz: Thank you.

US Lumber “Amended” Site Plan

Application for "Amended" Site Plan Approval and Special Use Permit for the use of an existing building material distribution center. The Applicant requests to extend hours of operation, situated on tax parcel S 33 B 1 L 11.1; project located on the southern side of Kings Highway, at Four Corners Rod and State School Road (200 Kings Hwy.), in the OI zone, of the Town of Warwick.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying. John Dahlgren, Applicant. Philip Dropkin, Esq.

Comment 1: Planning Board to discuss SEQRA.

Lize Axelson: I have prepared a Resolution for the Board to declare themselves Lead Agency and to identify this application as an Unlisted Action.

Mr. Kennedy makes a motion for the Unlisted Action.

Seconded by Mr. McConnell. The following Resolution was carried 5-Ayes and 0-Nays.

617.6**State Environmental Quality Review (SEQR)****Resolution****Unlisted Action**

Name of Action: US Lumber SP & SUP 33-1-11.1 Application

Whereas, the Town of Warwick Planning Board is in receipt of an application for review and approval of a Site Plan and Special Use Permit known as the US Lumber “Amended” SP & SUP from the Applicant/Owner identified as US Lumber/Kings Quartet Group, for the proposed modification of approved operating hours of an existing wholesale building materials distribution center **on** the existing 19.2 +/-acre site, on tax parcel: Section 33, Block 1, Lot 11.1, located at 270 Kings Highway, in the OI (Office Industrial) zoning district, in the Town of Warwick, Orange County, New York; and

Whereas, the Town of Warwick Planning Board has reviewed the submittal including a drawing entitled US Lumber Sketch Amended Site Plan, prepared by

David A. Getz, PE, Engineering & Surveying Properties, showing 6 existing buildings (buildings A through C, and 1 through 3), with application materials describing proposed extended hours of operation from the existing hours of 6:30 AM to 7:30 PM, 7 days per week, per plan notation, to 24-hour operations; and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and .5, the Planning Board has determined that the proposed project is an Unlisted Action under SEQR as per the SEQR regulations sections 617.4 and .5, yet further information is needed for continued review of the application;

Now Therefore Be It Resolved, that the Town of Warwick Planning Board hereby declares that the proposed project is an Unlisted Action under SEQR; and

Be It Further Resolved, that the Town of Warwick Planning Board hereby declares its intent to serve as Lead Agency in the review of the application under SEQR;

Be It Further Resolved, that the Town of Warwick Planning Board hereby authorizes the circulation of this resolution and project information to the following Involved and Interested Agencies and other agencies to inform them of the SEQR review of the proposed action:

- Orange County Department of Planning (OCDP);
- Orange County Department of Public Works (OCDPW); and
- Town of Warwick Town Board.

Comment #2: Applicant to discuss project. Dan Getz: This is the building material yard and distribution center off Kings Highway at the intersection with State School Road and Four Corners Road. As described right now, it has certain hours of operation. The Applicant is applying to be able to extend that to 24/7 hours of operation. There would still be regular operations. The facility would not close overnight for trucks to be able to enter and leave for incoming and outgoing deliveries. Their last amendment to the site plan approval was in the year 2006. Since then, the building that was on the eastern side of the site had burned down in the year 2015. It was rebuilt as three separate buildings that had received building permits from the Building Department. At that time, the septic system had been redone. They had not been referred back to the Planning Board at that time. While we are here, we would also be updating the site plan to show current conditions.

Mr. Astorino: I was here when we had the last hours of operation in the Planning Board application. Noise was a great issue to the residents adjoining the property. It is a residential zone across the street from your commercial zone. You all know that. We had discussions about that already. With the Applicant's Engineer and our professional HDR Engineering, we have a very extensive noise study that we would like to take place before we move any further. Laura, would you like to hit some of the high points of the noise study? I know that it was sent to the Applicant. That is basically your charge right now is to complete this very extensive noise study and get the results back to the Planning Board.

Laura Barca: Basically, it is to see what noise is being created by the extension of the hours. There would be noise measurements taken at the source of the noise at the property line. Also a letter would be sent to adjacent homeowners to see if they would be willing to have the noise measured on their property. I believe part of what you are looking for today is for the Planning Board to approve this draft Noise Study Scope of Work so that you could move forward with the site.

Dan Getz: Yes. We received that.

John Dahlgren: We don't have any problems with the proposed noise study. The one issue would be the length of the study that was talked about doing for 7 days. That would be doable. We might not use all of that data but it would be valuable data.

Mr. Astorino: I think going 7 days is a minimum in my eyes.

Mr. Showalter: Ben, I agree with you. I would say doing the study for 2 weeks would be more than fair.

Mr. Astorino: I sat in on a conversation with HDR's professional. He is a very bright individual. What he proposed makes a lot of sense. It is very high-tech equipment. It would give us a baseline of what is there now and what potentially could be there. We would have to make that decision from there. Letters would go out to the residents. It would be their option as to whether they would want it on their property or not. It would be a benefit to them. It would be a good thing to reach out. This Board is going to look at that information and say if it is going to work. That is why we are asking for the study. That is where we are at now. We are not going any further until you get the noise study done. If the neighbors don't allow you onto their property to do it, then that is their right. You would have to go from your property lines and prove to us on that end as well.

John Dahlgren: I do think that the noise study is very thorough. It would give the Board and the public the information to understand what the impacts are.

Liz Axelson: Has there already been a scope of the noise study done?

Mr. Astorino: Yes.

Liz Axelson: Ok.

Mr. Astorino: It is a very extensive scope. HDR has it.

Liz Axelson: Ok.

Mr. Astorino: To the Applicant, you have it. It will be your charge to get those letters out. Any correspondence you have from residents going back and forth, you would have to submit them to the Planning office so that we would have them on our record. We would then go from there. At this point, I don't even know if it is a point to do a site visit. I think we should get the noise study results back first. After that has been done, we could then schedule a site visit.

Mr. Showalter: We need the data in order to make a proper decision. I will stress that it would be in the neighbor's best interest that they would allow the sound meters to be placed on their property.

Mr. Astorino: Roger, that would be their call. We cannot force them.

Mr. Showalter: We can't force that. But hopefully everybody agrees because it would get the best information for everyone.

Mr. Astorino: As I had mentioned, it was a very good conversation with this professional noise person. He is a very smart individual. He is very on top of his game with this.

Mr. Showalter: I agree with you. It is the latest and greatest sound measuring equipment as what I have been told.

Mr. Astorino: It is. The Applicant has a charge to do that. I will mention to the public that this is not a public hearing right now. We do have Privilege of the Floor at the end of the meeting. It is not a public hearing. Right now, as you just heard, the Applicant is going to do a letter to the residents regarding this test. If you do have any questions after this night, you could always give a call to the Planning office. I will get back to you. Right now, this is not a public hearing. The Applicant is now off to do their noise study.

Dan Getz: Ok. Thank you.

John Dahlgren: Ok. Thank you.

Capozza Four Corners Solar/Lightstar

Application for Site Plan Approval and Special Use Permit for the construction and use of a commercial large-scale solar energy installation facility, Use # 65 of 3.2 megawatt (MW AC), situated on tax parcel S 23 B 1 L 17; project located on the southern side of Ridge Road 900 feet east of Four Corners Road (200 Ridge Rd.), in the RU zone, of the Town of Warwick.

Representing the Applicant: Jackie Basile from Lightstar Renewable, LLC.

Mr. Astorino: We are here tonight for Capozza Four Corners Solar scoping document. There was a correspondence that came in from your attorney Alicia Stoklosa.

Jackie Basile: Correct.

Mr. Astorino: We have that correspondence in our file. I did look at it. I did make a phone call to Jackie. I agree with some of the items in the correspondence. Some of the items she answered questions on that should be in the DEIS. You already had done studies. Put them in the DEIS. If it is repetitive, you could always address it and say comment here and make it work. We have that here in our packets. We have a Resolution to the effect that we had discussed the scoping document in depth. Do any Board members or Professionals have any comments on the scoping document? Let the record show no comment from the Board or Professionals.

Mr. McConnell makes a motion for the Final Scoping Document.

Seconded by Mr. MacDonald. The following Resolution was carried 5-Ayes and 0-Nays.

617.7

**State Environmental Quality Review (SEQR)
Resolution Adopting Final Scoping Document and
Scoping of the Draft EIS**

Name of Action: Capozza Solar Site Plan and Special Use Permit (SUP) aka Four Corners Road Solar

Whereas, Four Corners Road NY LLC (Lightstar Renewables LLC) (hereafter referred to as the “applicant”) submitted an application for Site Plan Review and Approval and an application for a Special Use Permit to the Town of Warwick Planning Board (hereafter referred to as the “Planning Board”), to develop a ± 55.4 acre parcel of land located at 200 Ridge Road, identified as Section 23, Block 1, Lot 17; and

Whereas, at the regular Planning Board meeting On November 16, 2022, the Board adopted a resolution determining that the proposal is a Type I Action as per the New York State Environmental Quality Review Act (SEQRA) regulations, sections 617.4 and 617.5, declared their

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intent to act as Lead Agency and authorized circulation of a lead agency request letter to all other
involved agencies;

WHEREAS, the Planning Board adopted a Positive Declaration on September 20, 2023,
requiring the preparation of a Draft Environmental Impact Statement (“DEIS”) to assess potential
environmental impacts of the Project; and

WHEREAS, Public Scoping of the DEIS was undertaken when the applicant submitted a
Draft Scoping Document and the Planning Board distributed the Draft Scoping Document to
Involved and Interested agencies and the public, with a Public Scoping Session to discuss the
applicant’s Draft Scoping Document conducted on October 18, 2023, and through the submission
of written comments on the applicant’s Draft Scoping Document until October 30, 2023; and

WHEREAS, the Planning Board has considered the comments made at the scoping session,
including a prepared transcript of the scoping session, and considered comments submitted in
writing on the Draft Scoping Document by members of the public, yet no comments on the scope
were received from Involved and Interested agencies; and

WHEREAS, the Planning Board has reviewed the proposed Final Scoping Document for
the Capozza Solar Site Plan and Special Use Permit (SUP) aka Four Corners Road Solar Project,
which has been prepared on behalf of the Planning Board by the Town Planner, with input from
Planning Board members, the Planning Board Engineer, the Planning Board Attorney, and other
Town officials; and

WHEREAS, the Planning Board members have considered the Final Scoping Document,
those oral comments made at the scoping session, those written comments submitted during the
scoping process, and other advice, information and impressions available to them.

NOW THEREFORE, BE IT RESOLVED, that the Planning Board acting as Lead Agency
for the Proposed Capozza Solar Site Plan and Special Use Permit (SUP) aka Four Corners Road
Solar project adopts the Final Scoping Document for preparation of the Draft Environmental
Impact Statement in the form before it with this Resolution; and

BE IT FURTHER RESOLVED, that the Planning Board Secretary, with the assistance of
the Town Planner, Planning Department Staff, Planning Board Attorney, and Planning Board
Engineer, will provide a copy of the Final Scoping Document to Four Corners Road NY LLC
(Lightstar Renewables LLC), to all Involved and Interested Agencies under SEQR and to any
individual or entity that has expressed an interest in writing to the Planning Board as Lead Agency;
and

BE IT FURTHER RESOLVED, that the Planning Board Secretary shall keep copies of the
Final Scoping Document available for review and reproduction for the public.

Mr. Astorino: Jackie, sorry about the drive. You are all set.

Jackie Basile: That is ok. Thank you.

Other Considerations:

1. Planning Board to discuss recommendation to the Town Board regarding amendment to §164-60 Senior Housing floating zone, cannabis microbusiness and several minor Code clarifications.

Mr. Astorino: We had discussed this at length at the Work Session. Do any Board members or Professionals have any comments or concerns? Let the record show no comment from the Board or Professionals.

Mr. McConnell makes a motion on the Planning Board's recommendation to the Town Board for amendment to §164-60 Senior Housing floating zone, cannabis microbusiness and several minor Code clarifications.

Seconded by Mr. MacDonald. Motion carried; 5-Ayes and 0-Nays.

2. Planning Board Minutes of 10/18/23 for PB approval.

Mr. MacDonald makes a motion to approve the Planning Board Minutes of 10/18/23.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays.

3. NYS Hemp Source-WVLDC-Town of Warwick Lot Line Change – Letter from Michael Sweeton, Vice-president. WVLDC, dated 10/31/23 addressed to the Planning Board in regards to the NY Hemp-WVLDC-Town of Warwick Lot Line Change – requesting 6-Month Extension on Re-Approval of conditional Final Approval of a proposed lot line change, situated on tax parcels SBL # 46-1-35, 39.21, & 39.22; parcels located on the southern side of John Hicks Drive 50 feet west of State School Road, in the OI zone, of the Town of Warwick. *The Applicant has stated that they are in the final stages with the State of NY and should finalize the transfer by year end.* Conditional Final Approval was granted on 5/18/22. The 6-Month Extension on Re-Approval of conditional Final Approval becomes effective on 11/18/23.

Mr. MacDonald makes a motion on the NYS Hemp Source-WVLDC-Town of Warwick lot line change application, granting a 6-Month Extension of a proposed Lot Line Change, situated on tax parcels SBL # 46-1-35, 39.21 & 39.22; parcels located on the south side of John Hicks Drive 50 feet west of State School Road, in the OI zone, of the Town of Warwick, County of Orange, State of New York. Conditional Final Approval was granted on 5/18/22.

The 6-Month Extension becomes effective on 11/18/23.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays.

Correspondences:

1. Email Correspondence from Kelly Naughton, Attorney for Town of Tuxedo dated 11/13/23 addressed to the Planning Board in regards to Old Forge Road, LLC.
2. Email Correspondence from The Sterling Forest Partnership dated 11/13/23 addressed to the Planning Board in regards to Old Forge Road, LLC.
3. Email Correspondence from Alicia Stoklosa land use counsel for Lightstar, dated 11/14/23 addressed to the Planning Board in regards to the Capozza Four Corners Solar project.

Mr. Astorino: We have those correspondences in our packets.

Privilege Of The Floor For Agenda Items!!

Mr. Astorino: If there is anyone in the audience wishing to address any of the agenda items, please rise and state your name for the record.

Charles McKane: I live on 9 High Meadow Drive. I know this is not a public hearing. I just want to get a little bit of awareness regarding US Lumber as to what kind of sound equipment would be used? When would this study be commissioned?

Mr. Astorino: It would be done soon. I can't site the equipment. If you give a call to the Planning office, we could have you get in touch with our Engineer. They would give you that information.

Laura Barca: Correct. The Noise Study Scope of Work has a draft of it up to this point. Now that the Planning Board has moved forward with it by giving it to the Applicant notifying what they have to do. It would be finalized. It would then be submitted to the Planning Board. You could FOIL that document through the Planning Department.

Mr. Astorino: It would state everything in that document as to what type of equipment. From what I understand, it would be state of the art equipment. That's what was required.

Charles McKane: Ok. Thank you.

Mr. Astorino: Is there anyone else?

Dave Potenzano: As far as the sound equipment goes, who hires the company to do that?

Mr. Astorino: The Applicant does that.

Dave Potenzano: Ok. Do they get to choose who the company is?

Mr. Astorino: The Applicant could choose who they would like. The Planning Board would review it. It would have to be done in accordance with the standards by our Engineer.

Dave Potenzano: Ok. The other issue is regarding light pollution.

Mr. Astorino: They would have to meet the requirements of the Town Code. We have not even got into that yet. They are before the Planning Board now. That would be a topic of consideration. They would have to adhere to the Town of Warwick's lighting Code.

Dave Potenzano: Ok. I live on 7 Rolling Ridge Drive. Thank you.

Mr. Astorino: Is there anyone else?

Philip Dropkin: Are the recommendations going now regarding the Town's minor Code changes? Does it go to the Town Board?

Mr. Astorino: Yes. It goes to the Town Board.

Philip Dropkin: Are those recommendations publicly available?

Mr. Astorino: They are not publicly available yet. The Town has not done it yet.

Philip Dropkin: Would it become publicly available?

Mr. Bollenbach: Yes.

Philip Dropkin: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address any of the agenda items? Let the record show no further public comment.

Mr. McConnell makes a motion to adjourn the November 15, 2023 Planning Board Meeting.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays.