

Town of Union Planning Board Minutes

Tuesday, November 14, 2023

The Town of Union Planning Board held a regular meeting on Tuesday, November 14, 2023, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: L. Miller, M. Jaros, C. Bullock,
G. Ksenak (Alternate, appointed as regular member)

Members absent: S. McLain, T. Crowley, N. Sarpolis

Others present: Marina Lane, Kelly Pacheco, Peter Pacheco, Greg Osborne,
Websly Darbouze, Erik Anderson

A. CALL TO ORDER

Chairman Miller called the meeting to order at 7:00 p.m., and appointed Gary Ksenak, the alternate, to be a participating member due to the absence of multiple board members.

B. MEETING MINUTES

Postponed until the next meeting.

C. 15 Delaware Avenue, Deli/Grocery Store Special Use Permit, Kelly Pacheco

1. Public Hearing for a Special Use Permit for a Market/Retail Use

Chairman Miller opened the Public Hearing at 7:03 p.m. There were no questions or comments. The Public Hearing was closed by Chairman Miller at 7:05 p.m.

2. Special Use Permit for Retail Use in an Industrial Zoning District: The B Line Deli & Grocery

Following the public hearing, Ms. Lane reviewed her memorandum for the board. As noted in the Special Permit Review, Kelly Pacheco has submitted an application to open a convenience store in an existing multi-use building located at 15 Delaware Ave. (Tax Map # 157.07-2-7). The original retail market approved in 2020 has been closed for over a year. The space is located on the first floor in the front of Building B. The property owned by Nickels Management, LLC is zoned Industrial, retail is permitted with a special use permit. Ms. Pacheco plans to use 566 square-feet of the 10,000 square foot building and operate between the hours of 7:00 AM to 7:00 PM, Monday through Sunday.

Retail use requires 4 parking spaces per 1,000 square-feet; therefore, the convenience store requires 3 spaces. With a total of 136 parking spaces on the site and an additional 29 parking spaces and access easement at the adjacent multifamily residential complex located at 3 Delaware Avenue, the parking lot far exceeds the parking requirements.

As noted in the Environmental and 239-Review, the reuse of an existing commercial space is classified as a Type II Action under the New York State Environmental Quality Review Act (SEQRA). Upon 239-Review, Broome County Planning, NYS DOT, BMTS, and the Village of Endicott had no concerns. Per the Broome County Health Department, the deli may require a permit from the NYS Department of Agriculture and Markets. As there will be no soil disturbance, no storm water management plan is required.

The Planning Department recommends approval of the special permit with the following stipulations:

- 1) The space shall be inspected by Code Enforcement for fire code compliance prior to issuance of a Certificate of Compliance.
- 2) As this property is not located in the Cannabis Business District Overlay Zone, the sale of any cannabis products is strictly prohibited.
- 3) Maximum occupancy for the store shall be posted prior to the issuance of the Certificate of Compliance, and the applicant shall ensure the maximum occupancy is not exceeded at any time.
- 4) The appropriate license to process food, if required, will be displayed at all times.
- 5) Property-managed dumpsters on site will be used for refuse which will be disposed of daily.
- 6) Hours of operation shall be no earlier than 6:00 AM and no later than 9:00 PM, Monday through Sunday.
- 7) The applicant shall apply for a sign permit from the Building Official prior to any sign being installed or erected. All temporary signs including sidewalk/curb signs, price signs, etc. shall be reviewed and approved by Code Enforcement prior to use.
- 8) Outdoor signs the move, blink, or rotate are not permitted.
- 9) There shall be no outdoor storage on the property.
- 10) Transferability: The special permit is not transferable without approval/resolution by the issuing board and shall authorize only one special use. The permit shall expire if said special use ceases for more than 3 months for any reason.
- 11) The applicant is required to acknowledge all conditions, in writing, prior to November 30, 2023, and agrees to operate the convenience store in strict accordance with the approved special permit. Any changes to use of the space following approval require resubmittal to the Town of Union Planning Board.

Board members inquired as to whether alcohol or tobacco products will be sold at the location. Ms. Pacheco said she is not planning to sell these items

at this time but may apply to do so in the future. The convenience store will be set up for take out only; no dine-in seating is planned for the space.

Chairman Miller asked for a motion to approve the special use permit for retail use in an Industrial zoning district with the stipulations outlined.

Motion Made: G. Ksenak
Motion Seconded: M. Jaros
MOTION: Approval of the Special Use Permit for Retail Use in an Industrial Zoning District with stipulations.
VOTE: **In Favor:** L. Miller, M. Jaros, C. Bullock, G. Ksenak
Opposed: None
Abstained: None
Motion Carried

D. 11 Delaware Avenue, Osweld LLC – Welding Service, Greg Osborne

1. Site Plan Review

Ms. Lane then presented her staff report to the Planning Board. To summarize, Greg Osborne submitted an application on behalf of his welding business, Osweld, LLC, located in the rear of the existing warehouse building at 11 Delaware Avenue. The space is used for welding jobs and as a supply office for off-site jobs. The property is zoned Industrial (I) which permits both manufacturing and accessory indoor storage. Joe DeGennaro, the owner of the 0.2-acre property, has an existing commercial business in the building, which will not be affected. No additional construction is proposed to the property which has existing municipal water service along with both sanitary and stormwater sewer.

Mr. Osborne parks in the shared access drive at 3 Delaware Avenue located at the rear of the property. Because most welding jobs are done off site and customers do not come to the property, the parking area at the front of the building can be utilized if needed.

As this is a reuse of an existing commercial space and classified as a Type II Actions under SEQRA, no further environmental review is required. Broome County Planning found no intercommunity impacts under 239-Review, and the Broome County Health Department had no concerns. No stormwater management plan is required as no soil will be disturbed.

Approval of the site plan is recommended by the Planning Board if the following stipulations are met:

1) The building must be inspected by the Municipal Fire Code Inspector every three years as required by NYS law.

2) The applicant shall submit cut-sheets to the Code Enforcement Officer for approval any additional outdoor lighting is proposed.

3) Prior to putting up any type of signage, the applicant shall apply for a sign permit from the building official. Signs that blink or move are not permitted, and any temporary signs must be reviewed and approved by Code Enforcement prior to being posted on the property.

4) The applicant is required to acknowledge all conditions, in writing, by November 30, 2023, and agrees to construct the project in strict accordance with the board approved plan. Any changes to the approved plan require resubmission of a new site plan to both the Town of Union Planning Department and Code Enforcement Office.

Mr. Osborn is a state-certified welder. He stated that most of his work is done off-site on bridges, railings, gates, etc. While some fabrication will be done in the warehouse workspace, he does not anticipate any customers coming to the site.

Chairman Miller asked for a motion to approve the site plan with the stipulations as noted.

Motion Made:	G. Ksenak
Motion Seconded:	C. Bullock
MOTION:	Approval of the Site Plan with stipulations.
VOTE:	In Favor: L. Miller, M. Jaros, C. Bullock, G. Ksenak
	Opposed: None
	Abstained: None
	Motion Carried

E. 10 Kot Road & 1215 Rhodes Road., LSE Titan Agrivoltaic Preliminary PUD;
Erik Anderson from Lodestar Energy; Websly Darbouze from Colliers Engineering

1. Presentation:

Erik Anderson and Websly Darbouze presented their proposed project to members of the Planning Board. The plan consists of converting about 46 acres of the approximately 64.1-acre site into a solar farm which will include an apiary and agricultural grazing use. Mr. Anderson and Mr. Darbouze noted the plan limits ground disturbance and will use silt fencing and level spreaders to prevent erosion and control existing or improve water flow. Any disturbed land will be seeded and mulched as work progresses across the property, and existing driveways will stay in use. While there will be a low level of noise for the inverters and very little noise associated with movement of the panels, a noise assessment was done to ensure there will be no concerns. Manual mowing and groundskeeping will be at a minimum as sheep will be used to graze the property and maintain growth of vegetation. Utility poles will be

shared with NYSEG, and geo-testing will be done prior to the project moving forward.

Ms. Lane reviewed her Project Summary with the Board. Per her report, LSE Titan, LLC has submitted an application for the Preliminary Titan Agrivoltaic Planned Unit Development (PUD) at 10 Kot Road and 8.83 acres of 1215 Rhodes Road.

The proposed plan consists of one 4.01-MW a.c. and one 4.76-MW a.c. solar project including an apiary and an agricultural grazing component. While 10 Kot Road is already zoned PUD, 1215 Rhodes Road is zoned Suburban Single Family (SSF). The project application includes a petition to rezone the Rhodes Road acreage to PUD and subsequently merge the parcel with 10 Kot Road. The solar/agricultural combination use meets the requirement for a minimum of two uses in a PUD. The combination of the sites would result in approximately 64.1 acres meeting the Town of Union minimum requirement of at least 10 acres for PUD development. A section of about 8.85 acres will remain with 1215 Rhodes Road meaning it would remain a conforming lot in the SSF zoning district. The project would involve installation of ground-mounted photovoltaic panels, the associated access road, utility upgrades, power inverters and the addition of perimeter fencing for the solar energy system and the agricultural component.

Growth of vegetation will be naturally and sustainably managed with grazing animals. An apiary managed by a local beekeeper will be included in the agricultural use. Required fencing measuring 7-feet in height will be installed to protect the solar panels, sheep, and other farm animals, and to protect the honeybee hives which are a lure for bears.

The project will require clearing/removing of approximately 5.23 acres of trees which will increase the grasslands by approximately 4.36 acres. A Storm Water Pollution Prevention Plan (SWPPP) has been submitted and will be reviewed to ensure there will be no increase in stormwater runoff between pre- and post-construction.

PUD requires dedication of 25% of the total property be dedicated as open space. Lodestar intends to have 31% or 19.9 acres of the 64.1 total. The layout will preserve trees around the apiary. The new PUD requires submission of a Preliminary PUD Development Plan.

Planning Staff recommends the Planning Board recommend the Town Board approve the plan for installation of a renewable energy solar facility with complementary agricultural uses. Renewable energy facilities are permitted in every zoning district, and PUDs require a 50-foot setback. With the understanding that attention be paid to trees buffering the remaining adjacent residential property of 1215 Rhodes Road, the project, as proposed, will not have a significant impact on the adjacent properties.

2. Vote to Consent to Town Board as Lead Agency

Chairman Miller asked for a motion to consent to Town Board as Lead Agency for the Preliminary PUD Development Plan at 10 Kot Road and Rezoning of 8.38-acre portion of 1215 Rhodes Road.

Motion Made: C. Bullock
Motion Seconded: M. Jaros
MOTION: Consent to Town Board as Lead Agency
VOTE: **In Favor:** L. Miller, M. Jaros, C. Bullock,
G. Ksenak
Opposed: None
Abstained: None
Motion Carried

3. Advisory Opinion in favor of the Town Board regarding the Preliminary PUD Development Plan and Rezoning the 8.38-acre portion of 1215 Rhodes Road.

Chairman Miller asked for a motion to recommend an Advisory Opinion in Favor of the Town Board regarding approval of the Preliminary PUD Development Plan and Rezoning the 8.38-acre Portion of 1215 Rhodes Road.

Motion Made: G. Ksenak
Motion Seconded: M. Jaros
MOTION: Recommending the Town Board approve the Preliminary PUD Development Plan and Rezoning of the 8.38-acre Portion of 1215 Rhodes Road.
VOTE: **In Favor:** L. Miller, M. Jaros, C. Bullock,
G. Ksenak
Opposed: None
Abstained: None
Motion Carried

4. Request for an Outside Consulting Engineer to Review the Plan:

Chairman Miller asked for a motion to request that an outside consulting engineer review the Preliminary PUD Development Plan.

Motion Made: C. Bullock
Motion Seconded: G. Ksenak
MOTION: Request that an outside consulting engineer review the plan.
VOTE: **In Favor:** L. Miller, M. Jaros, C. Bullock,
G. Ksenak
Opposed: None
Abstained: None
Motion Carried

F. Other Such Matters as May Properly Come before the Board:

There were no other matters discussed.

G. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 8:16 PM

Motion Made:	C. Bullock
Motion Seconded:	M. Jaros
MOTION:	Adjourning the meeting.
VOTE:	In Favor: L. Miller, M. Jaros, C. Bullock, G. Ksenak
	Opposed: None
	Abstained: None
	Motion Carried

Next Meeting Date

The next meeting of the Planning Board is tentatively scheduled for Tuesday, December 12, 2023, at 7:00 p.m.

Respectfully Submitted,
Sandra Cragle