

# PLANNING BOARD

Town of Kirkwood  
70 Crescent Drive  
Kirkwood, NY 13795

April 8, 2024  
Meeting Minutes

Present: Jim Bukowski, Member  
Jason Maxian, Member  
Mike Maciak, Member  
Dan Wasson, Member  
Gordie Woolbaugh, Chairperson  
Gina Middleton, Attorney

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

## APPROVAL OF MINUTES:

Motion by Jim Bukowski and seconded by Dan Wasson to approved the minutes from the March 11, 2024 meeting as submitted. All voted in favor. Motion Carried.

## E.A.F. DETERMINATION – GREEN MOUNTION ELECTRIC:

Ms. Middleton explained there is an exception for additions or the expansion of an existing facility, the expansion exception applies only if there is less than 5 acres of area disturbance. This project is 8.4 so that is where the long form is needed.

Chairman Woolbaugh questioned the owner on the Short EAF that was submitted is different on the Site Development Application than the GIS. There was a discussion regarding who the owner of the property was, Green Mountain Electric Supply and/or one of its entities or HIP NY Development, LLC. It was determined that HIP NY Development was the previous owner and Green Mountain Electric Supply and/or one of its entities is the owner. The sale of the property took place in June 2023 and GIS hasn't been updated yet. The applicant will present a filed deed showing they are the owners of the property.

Chairman Woolbaugh, referring to the Short EAF, #2 was checked yes but agencies weren't listed. Mr. Napierala explained they are not on a DOT highway so they don't need DOT and he doesn't believe they need 239-m review because they aren't adjacent to a town boundary or a state highway. Mr. Mastronardi explained they are adjacent to a river and they are within 1000 feet of the Colesville Road extension, which would trigger the 239. Ms. Middleton commented it is also listed on GIS requiring 239. Mr. Napierala explained as far as utilities they are going to be expanding existing service laterals, they aren't looking at substantial water authority or sewer connections. They will have local and county jurisdictions as well as DEC for the stormwater construction permit.

Chairman Woolbaugh questioned #18, again answered yes but no explanation. Mr. Napierala explained they are going to temporarily impound water but it is a detention basin, it isn't like a damn permit because it is a mitigation basin of which they are sending stormwater to and the outlet is at the bottom so it will be a dry basin 90% of the time, until there is a storm event. It is slowing water down. They can check the box yes, they can identify what they are talking about.

Chairman Woolbaugh questioned #20, again answered yes but no explanation. Mr. Napierala explained that subsequently to filling this out they had received a series of Phase 1 and Phase 2 that have been completed. There were some minor spills that had to be cleaned up, that has now been taken care of.

Mr. Mastronardi reviewed his comments with the Board and the applicant which included providing a complete and signed Notice of Intent, signed MS4 SWPPP Acceptance form should be provided upon final review and approval of SWPPP, submit revised drawing set when finalized, provide details for Pretreatment Forebay, Bioretention and Detention Basin areas, provide details for Outlet Structures, and Storm Manholes and RipRap Outlet Protection. A copy of his comments is included in the file.

**SITE PLAN REVIEW – GREEN MOUNTAIN ELECTRIC SUPPLY:**

Jim Bukowski asked for an example of light manufacturing, which was included in the application and Mr. Stowell explained a portion of the addition could be that they lease it out to another entity in the future, once it is built. There are not plans yet of what would go in. Jim Bukowski asked if it would be the same criteria as the Five Mile Point project, warehouse and light manufacturing, what types of manufacturing the Town would prefer and Ms. Middleton explained that is different because that was a proposed rezoning but this project wouldn't need rezoning, it is already an allowable use. Jim Bukowski questioned what controls do we have and Ms. Middleton explained this is an industrial use, Five Mile Point was not zoned to be industrial. Mr. Stowell explained that the light manufacturing would conform to the current zoning of this parcel and if not, they would come back to the ZBA to talk about a change in use that does satisfy the zoning criteria. Light manufacturing is an acceptable use.

Dan Wasson asked if the big spools behind the building will be removed and Mr. Stowell commented they are growing fast so it is looking like they are going to need to build this addition sooner rather than later, space is at a premium. They will come and go, they won't sit there forever.

More information is needed regarding the Green Mountain Electric Supply project so it will be put on an agenda when more information is received.

**PUBLIC HEARING CONTINUATION – RIVER RUN SOLAR FARM:**

Chairman Woolbaugh opened the public hearing at 7:23 pm.

Nick Scarantino from Levene, Gouldin & Thompson was present. Mr. Scarantino explained he did have the lease agreement signed by the property owner, his client will sign as the tenant tomorrow.

Ms. Middleton explained that there were questions from the last meeting and Mr. Gourley responded to them, which the board members should have.

Hearing no other comments, Chairman Woolbaugh closed the public hearing at 7:25 pm.

Chairman Woolbaugh reviewed the letter dated April 5, 2024 from Tract Engineering, LLC with the Board, which included weed control, additional emergency access gate to the north, potential CAP impacts, fire safety plan review and approved by fire chief, executed lease agreement and assignment, concerns regarding visual impact, especially along the north side of the project, and correct project name on page 13 of the EAF. A copy of that letter is included in the file.

There was a discussion regarding the use of herbicides. John Mastronardi would like to look into that further to see what is allowed in the aquifer zone and it could be made a condition on approval if necessary.

John Mastronardi commented that the applicant’s engineer provided a detail about the ballasts and foundations, they are still looking at two different options, a stone that is used to anchor these panels or one is a concrete block. There will be little impact from the panels themselves or the minor trenching for the conduit.

Ms. Middleton commented that the fire safety plan review & approval by the fire chiefs can be a condition.

There was a question regarding if the site would have to be fenced and it was noted that yes, it would.

**E.A.F. DETERMINATION – RIVER RUN SOLAR FARM:**

Motion by Dan Wasson and seconded by Jim Bukowski to declare the River Run Solar Farm proposed project, to be located at 912 Route 11 in the Town of Kirkwood, a Type I action pursuant to 6 NYCRR Part 617, Section 617.4(b)(6) as proposed nonresidential construction which will involve the physical alteration of more than 10 acres and to declare the Planning Board lead agency for the SEQR review of the same.

Roll Call Vote:	Jim Bukowski	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

Ms. Middleton reviewed with the Board issues in the Full EAF Part 1. Changes that were made are in blue highlight on the form and are included in the file.

Ms. Middleton read the questions in Part 2 of the Full EAF and the Board members answered each question. A complete copy of the Full EAF is included in the file. Part 3 of the Full EAF was completed and is also included in the file.

Ms. Middleton explained the new Type II Solar Regulations states that if solar installation alters less than 25 acres and is installed on a prior landfill it is a Type II Action. A Type II action there would be no additional review necessary. For this project, it is 95% located on a prior landfill, which is going to be extremely relevant to the Full EAF and SEQR just done because had that 5% been located on as well it would have been a Type II action, which wouldn’t have even required additional SEQR review. That is a substantial mitigating factor, the fact that there was previously a landfill on that site.

Motion by Dan Wasson and seconded by Mike Maciak to make a resolution for a negative declaration and finding by the Board, after a full and complete review of the full EAF, all project submissions and items submitted relative to the same, and with an understanding that the vast majority of the project is located on a prior landfill site which acts as a mitigating factor based on 6 NYCRR 617, Section 617.5(14), which would require no further SEQR review were the entire proposed project located on a landfill site, that the proposed action and project will not result in a significant adverse impact on the environment.

Roll Call Vote:	Jim Bukowski	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

**SITE PLAN REVIEW – RIVER RUN SOLAR FARM:**

Chairman Woolbaugh explained the Board covered much of this with Mr. Gourley at the last meeting and asked if there are any concerns with the responses that were submitted.

Chairman Woolbaugh commented that they talked about the vegetation on the north end that is currently there but not on this property, if they come down, they would have to be replaced on this property. Maintenance of existing vegetation and replacement in the event that is necessary to ensure visual impact isn't compromised. Ms. Middleton commented there will be some trees added along the eastside of the property and turning the corner they are already there and will have to be maintained. Mr. Scarantino asked if they are being asked to maintain the trees that are off the property and Ms. Middleton explained that some of the trees that are off the property are being relied on as mitigation factors for the visual impact. If those trees are ever removed it would be up to the applicant to ensure that the visual screening is replaced on the property.

Ms. Middleton commented that along the eastside of the property Mr. Gourley had said there is such a steep embankment they wouldn't be able to plant trees.

John Mastronardi explained he had forwarded his concerns to Ms. Middleton and to Mr. Gourley so they can be added or edited on the drawings for when he goes for a building permit, which included the 30' Flood Protection Easement should read 30' Utility Easement on the C100. Also, on C100 & Survey Map there is a 50' Utility Easement along the northern boundary and is shown as a single line, the actual width should be depicted on the Survey Map and Site Plan. Finally, again on C100, the NYSEG Utility Pole cluster should be labeled on the plan.

Ms. Mastronardi explained there is a deeded Flood Protection Easement, 20' wide and his experience with the DEC and the Army Corp. establishes these so they have a way to the river to remove blockages in the river after a flood event. That was established prior to the roadway the Town established that goes to the water plant, it is paved, shorter direct route. They are trying to get termination of that Flood Protection Easement.

Motion by Jim Bukowski and seconded by Jason Maxian to approve the Site Plan application for River Run Solar Farm, 912 Route 11, with the following conditions:

1. Submission of an approved Fire Safety Plan, which has to be approved by the Fire Chiefs for Kirkwood.
2. Submission of a fully executed lease agreement.
3. Use of herbicides or pesticides must be approved by either John Mastronardi or the Kirkwood Water Department prior to use.
4. Maintenance of existing vegetation, acting as a visual impact buffer and installation of buffers/vegetation as needed if existing vegetation on alternate properties or sites is removed to the extent possible.

5. Three updates to the C100 map/drawing including the 30' Flood Protection Easements needs to be updated to a 30' Utility Easement, depiction of the single line 50' Utility Easement needs to be updated with the appropriate width of the easement, once determined, and the C100 5-pole cluster from NYSEG shall be labeled.
6. This is subject to the approval of the final SWPPP by John Mastronardi.

Roll Call Vote:	Jim Bukowski	Yes
	Jason Maxian	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

Motion by Dan Wasson and seconded by Mike Maciak to adjourn the meeting. The meeting was adjourned at 8:15 pm.

Respectfully Submitted,

Mary Kay Sullivan  
Secretary, Kirkwood Planning Board

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