

## MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Minutes of June 17, 2020

### MEMBERS PRESENT:

Robert Dingman, Chairman  
Justin Fehl  
Dave Gauci  
Tim LaSarso

### MEMBERS ABSENT:

Karen LaRose (Excused)  
Randy Getty - (Excused)  
Randy Weaver - (Excused)  
Todd Murphy - Alternate (Excused)

### ENFORCEMENT OFFICER

Todd Humiston

### TOWN ATTORNEY

Mary-Ellen Stockwell, ESQ.

For the record, this meeting is being recorded.

The meeting was called to order by Chairman Dingman at 7:16 P.M.

Jerry and Jolene Caruso, residence of the Town called in to this meeting.

Roll call of all Members and Officials.

**1. GEER ROAD SOLAR**, owner of Tax Map # 128.-1-26 commonly known as 221 Geer Road, Hudson Falls, NY, located in Zoning District, RA-1A Residential Agriculture District is seeking Site Plan approval to develop a 5 MW Solar Energy Facility and Subdivision approval of one lot into four lots at this location. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Dingman introduced Michael Doud, Matrix Solar Development, LLC to address the Board.

Chairman Dingman stated for the record the public hearing was closed on April 29, 2020. There were not any public or written comments.

Chairman Dingman questioned Mr. Doud if there any major changes.

Mr. Doud stated there is not any major changes since the April 15, 2020 meeting. Mr. Doud submitted feedback from the last meeting.

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Chairman Dingman stated there are two different proposals on this project. One is a minor subdivision and the other is for site plan. The minor subdivision is needed so that this company can take care of the buildings on the property.

Todd Humiston, Enforcement Officer, explained why there was a need for the subdivision.

Mr. Doud has agreed to the Board's recommendations regarding the houses that are located on the properties.

Discussion ensued among the Board with questions addressed by the Applicant.

The Board then reviewed the proposed Resolution.

PLANNING BOARD OF THE TOWN OF KINGSBURY  
COUNTY OF WASHINGTON, STATE OF NEW YORK

Adopted June 17, 2020

Introduced by JUSTIN FEHL  
who moved its adoption

Seconded by DAVID GAUCI

RESOLUTION APPROVING MINOR SUBDIVISION APPLICATION  
OF  
PECKHAM MATERIALS CORP.

WHEREAS, pursuant to the Land Subdivision Regulations of the Town of Kingsbury found at Chapter 240 of the Code of the Town of Kingsbury (hereafter the "Subdivision Regulations"), the Town of Kingsbury Planning Board (hereafter the "Planning Board") is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the county and to conditionally approve preliminary plats within the Town of Kingsbury; and

WHEREAS, Peckham Materials Corp. (hereafter the "Applicant"), by application dated August 15, 2019, submitted by Geer Rd Solar 1, LLC; Geer Rd 2, LLC; Geer Rd 3, LLC; and Geer Rd 4, LLC applied to the Planning Board for sketch plan approval of the proposed subdivision of a 197.9 acre parcel of land located at 221 Geer Road, Town of Kingsbury into four (4) lots with associated streets and other improvements (hereafter the "Proposal"); and

WHEREAS, simultaneously herewith, Peckham Materials Corp. submitted by Geer Rd Solar 1, LLC; Geer Rd Solar 2, LLC; Geer Rd Solar 3, LLC; and Geer Rd Solar 4, LLC, applied for Site Plan Approval of a ground-mounted solar photovoltaic array system of an approximate 5MW AC photovoltaic array system on each parcel, which has been considered in conjunction with the proposed subdivision application; and

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WHEREAS, after numerous public meetings on the Proposal, the Subdivision Application has been revised to the current proposal submitted June 5, 2020, consisting of an application by Geer Rd Solar 1, LLC; Geer Rd Solar 2, LLC; and Geer Rd 3, LLC for a three (3) lot subdivision in accordance with the Subdivision Plan, as last revised on June 5, 2020, is pending before the Planning Board; and

WHEREAS, the Proposal, having previously been determined by the Planning Board to be a Type I action under the State Environmental Quality Review Act, and the Planning Board having reviewed the Full Environmental Assessment Form submitted for this Proposal, as revised, and taken a hard look at the potential environmental impacts of the project and issued a negative declaration prior to taking up the review of the matter; and

WHEREAS, the Planning Board has studied the revised subdivision application and related materials and is prepared to decide on same in accordance with Articles II and III of the Land Subdivision Regulations of the Town.

### **NOW THEREFORE BE IT RESOLVED:**

Section 1. The Planning Board hereby adopts the following findings:

a. The Proposal, being the creation of three (3) lots, is a Minor Subdivision under the Land Subdivision Regulations of the Town.

b. The Proposal is in conformity with the Code of the Town of Kingsbury and the Zoning Ordinance located therein, which can be used safely for the proposed purposes without danger to the health, safety, and general welfare of the community.

Section 2. Approval and Conditions.

Based on all of the foregoing, and all of the evidence and materials submitted by the Applicant, the Application is hereby approved with the following conditions:

a. The approval is hereby conditioned upon the removal of the single-family residence located at 293 Geer Road, being Lot 2 of the proposed subdivision, and the property being brought into compliance with the NYS Property Maintenance Code, on or before thirty(30) days from the commencement of construction of the solar array on the premises.

c. The approval is hereby conditioned upon the removal of the existing addition located on the stone framed single-family residence, and said single family residence being secured with windows and doors prevent intrusion and the structure being made weather-tight to prevent further deterioration, as located at 221 Geer Road, being Lot I of the proposed subdivision, and the property being brought into compliance with the NYS Property Maintenance Code, on or before thirty (30) days from the commencement of construction of the solar array on the premises.

Section 3. This resolution shall take effect immediately.

**MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY**

ROLL CALL VOTE

Robert Dingman, Chairman – Aye

Justin Fehl – Aye

David Gauci – Aye

Tim LaSarso – Aye

PLANNING BOARD OF THE TOWN OF KINGSBURY  
COUNTY OF WASHINGTON, STATE OF NEW YORK

Adopted June 17, 2020

Introduced by DAVID GAUCI  
who moved its adoption

Seconded by TIMOTHY LASARSO

RESOLUTION APPROVING SITE PLAN APPLICATION  
OF  
GEER RD SOLAR 1, LLC; GEER RD SOLAR 2, LLC; AND GEER RD SOLAR 3,  
LLC

WHEREAS, pursuant to Article IX of the Zoning Local Law of the Town of Kingsbury contained in Chapter 280 of the Code of the Town of Kingsbury (hereafter the "Zoning Local Law"), the Town of Kingsbury Planning Board (hereafter the "Planning Board") is authorized and empowered to review and approve, approve with modifications or disapprove site plans prepared in accordance with said Article IX of the Zoning Local Law; and

WHEREAS, Geer Rd Solar 1, LLC; Geer Rd Solar 2, LLC; Geer Rd Solar 3, LLC; and Geer Rd Solar 4, LLC on behalf of the property owner Peckham Materials Corp. (hereafter the "Applicant"), by application dated August 15, 2019 has applied for site plan review by the Planning Board for the construction of four (4) separate approximate five (5) megawatt alternating current solar arrays encompassing approximately 197.9 acres and associated utilities to be located at 221 Geer Road, Town of Kingsbury, tax map no.: 128.-1-26 (hereafter the "Proposal"); and

WHEREAS, the Applicant has submitted to the Planning Board numerous plans, revisions, engineering comments and requested records including but not limited to the following: site plans, layout landscaping, slope analysis, driveway profile, grading drainage plans, erosion and sediment control plans, SWPPP for the individual lots, decommissioning plans, engineer's estimates of costs, numerous engineering comments and reports, and revised plans, as most recently revised on June 5, 2020, addressing comments of the Planning Board has considered the comments of the applicant and its agents (all of the above hereafter referred to as the "application"); and

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WHEREAS, the June 5, 2020 application package identifies that the project during the review process was reduced to eliminate one of the 5 MW AC solar arrays and its corresponding lot; and

WHEREAS, the application has been modified such that the applicants for the three separate approximately 5 MW AC projects are Geer Rd Solar 1, LLC; Geer Rd Solar 2, LLC; and Geer Rd Solar 3, LLC to be constructed on three separate lots; and

WHEREAS, the Proposal as reflected in the Application is located in the RA-IA zoning district, as defined in the Zoning Local Law, and pursuant to Section 280-19.1 et. seq., site plan approval is required for this development; and

WHEREAS, the Planning Board accepted the Application and the Washington County Planning Board has reviewed the Application and deemed it a matter of local concern, a copy of which shall be included in the record herewith; and

WHEREAS, the Application, having previously been determined by the Planning Board to be a Type I action under the State Environmental Quality Review Act, and the Planning Board having reviewed the Full Environmental Assessment Form submitted for this Application and taken a hard look at the potential environmental impacts of the project and issued a negative declaration prior to taking up the review of the matter under Article IX of the Zoning Local Law; and

WHEREAS, the Planning Board is prepared to review the application and make a final determination thereon in accordance with Article IX of the Zoning Local Law.

### **NOW THEREFORE BE IT RESOLVED:**

Section 1. The Planning Board hereby adopts the following findings in accordance with 5280-55(C) of the Zoning Local Law:

a. Location, arrangement, size, design and general site compatibility of buildings, lighting, and signs.

The site is compatible to the proposed development. The proposed array is located to avoid potential impacts and minimize visual impacts.

b. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.

Vehicular access to the site is adequate. The applicant's plans to include improved access over crushed stone roads along with long term maintenance to ensure proper access,

c. Location, arrangement, appearance and sufficiency of off-street parking and loading.

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The off-street parking is adequate for the minimal use associated with the proposed development.

d. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian access.

Pedestrian access is not part of the Proposal.

e. Adequacy of stormwater and drainage facilities.

The stormwater and drainage facilities have been properly engineered and amended, as necessary.

f. Adequacy of water supply and sewage disposal facilities.

There is no water supply or sewage disposal facilities are proposed with the proposed development.

g. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including maximum retention of existing vegetation.

The applicant has designed the proposed development to limit the visibility of solar arrays from adjoining properties through the retention of existing vegetation, topography, and proposed landscaping. The Planning Board finds this adequate to shield the site from view as much as practical.

h. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

The access roads were designed to accommodate emergency vehicles and as such, the Planning Board finds this as adequate as designed. No provisions for fire hydrants were deemed necessary.

i. Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

The Planning Board, having taken a hard look at the potential impacts of the roadways and solar arrays on the wetlands and areas susceptible to flooding, find that these impacts have been sufficiently mitigated. The proposed sites include wetlands that are jurisdictional to the ACOE. Based on the representations made by the applicant and the requirements from the ACOE that the long term viability of the wetlands will be maintained, the proposal is acceptable.

Section 2. Based on the review of all of the Application materials, and based on the findings contained above, the Planning Board hereby adopts the following findings in accordance with 5280-55 of the Zoning Local Law:

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a. Does the use comply with all other requirements of the Zoning Local Law, including the dimensional regulations of the zoning district in which it is proposed to be located?

Yes, the use is in accordance with the Zoning Law. The regulation of solar energy collectors was done so to encourage development of solar arrays in areas outside of the lands suitable for the construction and use of single family dwellings permitted in this zone. The Proposal accomplishes these goals.

b. Will the use be in harmony with the general purpose and intent of the Zoning Local Law, specifically taking into account the location, character and size of the proposed use and the description and purpose of the district in which such use is proposed, the nature and intensity of the activities to be involved in or conducted in connection with the proposed use, and the nature and rate of any increase in the burden of supporting public services and facilities which will follow the approval of the proposed use?

Yes, the use is in compliance with the Zoning Law. For the reasons stated previously, the solar arrays are uniquely suited to the property due to the prevalence of existing power lines that will be necessary to transmit the energy generated from the solar arrays into the larger electrical grid, and it will not create a burden on public services.

c. Will the establishment, maintenance or operation of the proposed use create public hazards from traffic, traffic congestion, or the parking of automobiles or be otherwise detrimental to the health, safety or general welfare of the persons residing or working in the neighborhood of such proposed use or be unduly detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town?

The proposed use will not create a public hazard. Upon completion of construction, the Proposal is a passive use in a rural area of the Town, which will not be detrimental to the neighborhood or Town.

d. Will the project have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the town or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project?

The proposed development will not have an undue impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational, or open space resources of the Town. There are no public supporting services associated with the project so there will be no additional impacts.

Planning Board shall take into account the following factors contained in {280-36 of the Zoning Local Law?

- a. Water. None.
- b. Land. None.
- c. Air. None.

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- d. Noise. None.
- e. Critical resource areas. None.
- f. Wildlife. None.
- g. Aesthetics. None.
- h. Historic site conditions. None.
- i. Site development considerations. None.
- j. . Governmental service and control factors. None.

### Section 3. County Planning Board:

The County Planning Board reviewed the Proposal and deemed it a matter of local concern.

### Section 4. Approval and Conditions.

Based on all of the foregoing, and all of the evidence and materials submitted by the Applicant, the Application, consisting of three (3) separate solar arrays projects are hereby approved with the following conditions:

- a. All US Army Corp of Engineer permit(s), approval(s), and determination(s) relative to wetland impact(s) must be provided to the Town prior to any ground disturbance on site.
- b. Ground vegetation must be kept and maintained without the use of chemical pesticides and herbicides throughout the project sites, with special attention being paid to under and around the solar arrays, which shall include periodic mowing, as necessary.
- c. The Applicant shall verify subsurface conditions to confirm it is in accordance with the design specifications with complete report being provided to the Town.
- d. Each project company shall submit a financial surety to cover the cost of decommissioning, removal of all equipment, and site restoration in an amount not less than \$537,000 for each of the three projects, totaling \$1,611,000.00 as approved by the Town Attorney and Town Engineer. The precise terms of the financial surety shall be approved by the Attorney for the Town prior to any ground disturbance on site.
- e. The Applicant shall pay all application and engineering fees associated with this project within thirty (30) days of invoice.
- f. The Applicant shall keep and maintain the proposed landscaping plan ensuring all plantings have become established and provide a visual screen.
- g. This resolution is subject to final approval by the Town Engineer and in the event the Applicant is required to modify the foundation due to shallow bedrock located in and around the wetlands, any modifications to the proposed foundations shall be subject to the review and approval by the Planning Board and Town Engineer.



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Section 3. This resolution shall take effect immediately.

**ROLL CALL VOTE**

Robert Dingman, Chairman – Aye

Justin Fehl – Aye

David Gauci – Aye

Tim LaSarso – Aye

**ON A MOTION BY MR. GAUCI**, seconded by Mr. Fehl all in favor, the meeting was adjourned at 7:45 P.M.

Michelle Radliff  
Secretary