

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, March 27, 2023
7:00 pm Page 1 of 14

Planning Board Members Present: Vice Chair James Heber, Jeff King, Lisa Black, Holly Rippon-Butler and Chair Susan Martindale

Members Absent: Brit Basinger, Melanie Eggleston and Marybeth McGarrahan

Town Employees Present: Dave Brennan, Town Counsel, Willard Peck, Supervisor, Michael Terry, Code Enforcement and Tia Kilburn, Clerk

Chair Martindale opened the meeting and addressed all in attendance and asked them to stand and salute the flag at 7:00 pm. Quorum established.

Chair Martindale announced the first item on the agenda; **Solar Law revision(s)** suggestions to the Town Board, Mr. Brennan stated Willard Peck, Town Supervisor is going to be present to speak to the Board however, he is running late.

Chair Martindale stated they will move to the next item, **Two Lions Farm, Mr. Cornell** revision to approved site plan.

Mr. Cornell explained; when they originally came in for the site plan for the riding arena they talked about building a house out front at the road. After being there for two years they realize that it is not the optimal location so they are now asking to build the home up near where the existing small cottage is now, he stated the cottage was once a garage that was converted into living quarters, they would like to decommission that and convert it back to being a garage so they don't lose that structure and building the house in that general location.

Vice Chair Heber asked if this was something this Board needs to look at? Mr. Brennan explained because of the history of the site plan review and litigation they are, He stated there is still an appeal pending on litigation over the riding arena. Mr. Brennan stated he talked to Mr. Cornell's attorney about the next steps of how to proceed, they agreed it would be reviewed by this Board not to get caught on procedural errors, so they can take a month, schedule a public hearing and from his prospective he sees no reason why it can't be approved. Vice Chair Heber stated it is an allowed use, Mr. Brennan responded yes, but he has a special use permit, and the site plan doesn't show it.

Mr. Brennan asked if the site plan Mr. Cornell had showed the location of the proposed house? Mr. Cornell indicated on the map where it is proposed to be built, next to the existing cottage, he reviewed the map with Vice Chair Heber. Mr. Cornell stated it makes more sense to put it up by the cottage and barn. Vice Chair Heber agreed, Mr. Brennan also agreed and said every time they need to go to the barn they don't want to have to get in a truck and drive there. Mr. Cornell added, and it is a little wet up front.

Vice Chair Heber made a motion to schedule a public hearing for April, 24, 2023,
Ms. Black 2nd the motion,
All in attendance unanimously agreed.

Chair Martindale asked if there were any additional questions, none were noted.

Chair Martindale asked Supervisor Peck if he wanted to present the proposed changes for the solar law?

Supervisor Peck asked this be moved to the end of the meeting to let the applicants be heard first.

Chair Martindale announced **Saratoga RV Park, PUD** amendment to add a dog park. Ms. Mary Rivers introduced herself as manager of the park and explained; they would like to add a dog park, it will not be accessible to anybody except for the guest at the park. Each person that brings an animal into the park, she has to physically see the animal so she knows what the breed is, she stated in the packet she submitted there is a registration form that every person that brings an animal has to fill out, they have to prove they have rabies vaccination and the dog is licensed. They have to sign they understand the rules, there are a lot of dogs they do not allow into the park for safety reasons and insurance purposes. There are two existing fences, she explained the color on her photos indicating the blue as the existing fence and they are proposing an L shaped fence with an 8' x 16' transitioning area, so people can bring the dogs in, take them off leash and let them through the next gate so if the dog gets through the gate they

don't bolt out into the park. She explained it is completely shielded from the road, she referred to the pictures and stated you cannot see any of it from the road, it is directly across from the office so she can

see who is coming and going. She stated there are two cameras on that area, existing now. It is one of

the number one amenities that the park guest have been asking for. She reiterated it will not be accessible to anybody except for registered guest and the dog must be registered and have to be leashed at all times. The park is proposed to be 60' x 125', it may be smaller. They would like to bump up to the existing fences. Mr. King questioned the dogs being leashed the entire time? Ms. Rivers replied no, one they get inside the transitioning area they can be let off leash, but in the park they have a rule that the dogs have to be on leashes at all times, there is a neighbors dog that runs through the park. Chair Martindale asked if the owner is with the dog when they are in the dog park? Ms. Rivers responded, yes, if the dogs are in the park the owners have to be present or it has to be inside the camper, it cannot be loose. Chair Martindale reiterated even in the dog park? Ms. Rivers said yes, at all times, it is not like they can drop it off, it is not a daycare. Vice Chair Heber stated just some place they can run freely, Ms. Rivers agreed, because the dogs are on leashes all the time, she stated they do have people that try to let their dog loose on their site, but she tells them if they do it again they will have to leave, she stated a rule is a rule to her, it is black and white, no grey area. If it is in the paperwork, it is a rule and they in force it, they don't let one with a dog that is a pound and a half do it and another that is 100 pounds not do it, if it is in the paperwork, it is a rule to be followed.

Vice Chair Heber asked if this is a recommendation to the Town Board because of the PUD? Mr. Brennan replied, no it is just going to be an amendment to the site plan.

Ms. Rivers stated the fence will be 4' high, a black chain link fence. Vice Chair Heber stated it seems like it is far enough away from the road inside the park and he didn't see any problems. Ms. Rivers added it is 440' from the road. Vice Chair Heber said it is not like it is up against the property line where neighbors can complain. Ms. Rivers stated the existing fence that they will hook it too is a white PVC fence so nobody can even see them. Mr. King stated the transition area makes sense and he didn't see any objections on his part. Ms. Rivers added that is the only ingress and egress for the park, there are no other gates. Chair Martindale asked if the owners will be responsible for cleaning up after the dogs? Ms. Rivers replied yes, that is why they staged it by the dumpsters.

Chair Martindale asked if there were any questions or comments, none were noted.

Vice Chair Heber made a motion to approve the amendment to the site plan for an addition of a dog park to the Saratoga RV Park PUD as shown on the drawing for registered guest of the park,

Ms. Black second the motion,

All in attendance unanimously agreed.

Chair Martindale announced the next item on the agenda; **Stonebridge Farm amendment to PUD**, they are requesting an addition of a Salon & Dormitory style housing for farm workers; Mr. Terry stated they are not in attendance, they were not sure if they would be prepared to attend this meeting, but they were added to the agenda just in case they were.

Chair Martindale stated they would move to old business on the agenda; application #0002-19, Site Plan / Shoreline Overlay for applicant **Irony Alliance located on West River Rd and Thompson Island** for the construction of a bridge in the agricultural zone. She stated the notes on the agenda say the file is now complete, the EDP (Town's Engineering Firm) response letter has been received, Ambient's correction letter has been received, photo simulations from the road and neighbors have been received and the parking, drainage and erosion plan has also been received, now needs SEQRA, State Environmental Quality Review Form review. She then asked Mr. Dennis Phillips, Esq. for the applicant, what it was that he had said needed to be completed? The Clerk stated from his email, Mr. Phillips said Office of General Services, OGS, had deferred to the Planning Board for the SEQRA review before they act. He stated tonight they are asking for SEQRA review and an conditional approval so they can take it to OGS.

Chair Martindale asked the Board if they had a chance to review the photo simulations, she stated the Clerk had sent them via email and she was confused as to what she was looking at so she stopped in the office earlier and reviewed the larger printed copies and now she can clearly see the photos. She asked if anybody had any thoughts, concerns or questions, none were noted. She asked Mr. Phillips if there was anything else he would like to add? Mr. Phillips replied no, he thinks it has already been noted that the supplementary photos have been provided as requested by EDP and also requested by EDP the Ambient Report has been corrected in terms of exactly what is shown for the footings for the bridge, he said he thinks that covers everything. Mr. Phillips stated he emailed the Clerk the handout he submitted to the Board at the last meeting, in that email he itemized for the convenience of the Board what was in the record in support of this application. He stated he has an extra copy tonight if someone would like to

have it, Ms. Rippon-Butler asked if she could see it as she missed the previous meeting. Mr. Phillips gave it to her to keep.

Mr. Brennan asked the Clerk if the application has gone to Saratoga County Planning, the Clerk replied yes. Vice Chair Heber stated he believed everything has been done except for the SEQRA, he added all the questions in Mr. Baker's letter (EDP letter) have been answered.

Chair Martindale asked if who would like to go through the SEQRA, State Environmental Quality Review Form?

Mr. Brennan stated he would walk the Board through part 2 of the Environmental Assessment Form, he suggest they go through it, he will take notes on the answers, typically then he will depending on how the Board votes, he will translate that into a written determination of the Board for the record. He stated there are about 18 different areas, he stated he would read through them;

1st Impact on land, Proposed action may involve construction on, or physical alteration of the land surface of the proposed site, answer is yes, he said there are sub-categories for no, or small impact may occur or moderate to large impact may occur, depending on the Board's answers they will describe the Boards opinion on it. He read the sub-categories;

- a. The proposed action may involve construction on land where depth to water table is less than 3 feet. No, Chair Martindale stated it is not going into the water table, Vice Chair Heber agreed.
- b. The proposed action may involve construction on slopes of 15% or greater. Vice Chair Heber stated this is difficult because the building is on the 15% slope, but he is sure they will be dealing with the slope with the footings and stuff like that, Mr. King stated if dealing with the footings then it is yes, Mr. Brennan stated there is an MJ Engineering letter that everybody has a driveway sketch that was requested and it does show where the footings are, where the bridge hits and they can pull out the scale and measure but he would say it is fairly steep, he said it does involve construction on slopes 15% or greater, the question is whether a no or small impact or moderate to large impact may occur, he said the drawing shows and describes silt fence and they expect what other typical erosion control measures they take with construction projects, with that you can reasonably discern that it is not going to cause a moderate to large impact, it is not no but it could be small. The Board agreed.
- c. The proposed action may involve construction on land where bedrock is exposed or generally within 5 feet of exiting ground surface. Vice Chair Heber asked if the bedrock is fairly close to the surface, Mr. Phillips replied yes, it is, he said the advantage is that the footings will be anchored into the bedrock, Mr. Brennan said what the full EAF says is the bedrock is one to two feet to the depth of the bedrock or in this case probably more shale, Vice Chair Heber agreed, Mr. Brennan said the question is, there will be pinning or doing something to the bedrock, he stated they can check that as a no or small impact, the Board agreed.
- d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material. No.
- e. The proposed action may involve construction that continues for more than one year or in multiple phases. No.
- f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides). Mr. Brennan stated that is not a no, obviously they are putting silt fence in for a reason so you need to check something other than no, it can be small and addressed through the silt fence and erosion control. The Board agreed.
- g. The proposed action is, or maybe, located within a Coastal Erosion hazard area. Mr. Brennan stated he believes that would be no or possibly small in the sense that he doesn't think it falls under Coastal Erosion, that is a Long Island or down state issue, this is not in an area that is subject to significant erosion.

#2 Impact on Geological Features. The proposed action may result in the modification or destruction of, or inhibit access to any unique or unusual land forms on the site (cliffs, dunes, minerals, fossils, caves). No

#3 Impacts on Surface Water. The proposed action may affect one or more wetlands or other surface water bodies (streams, rivers, ponds or lakes). Mr. Brennan explained the word used is may, so he thinks the correct answer is yes, it may because they are hanging right over the river, so it may affect they can go through and see if it is large or not. Mr. King said he was not sure but if they are hanging over, it may. Mr. Brennan suggested going through the questions because he doesn't think they can ignore the word may.

- a. The proposed action may create a new water body. No

- b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water. No
- c. The proposed action may involve dredging more than 100 cubic yards of material from wetland or water body. No
- d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body. Mr. Brennan said this is where he was getting to, Vice Chair Heber questioned affecting wetlands, Mr. Brennan said no, in the bed or banks of any other water body, he added the question is whether the Board considers it a no impact or a small impact, it is construction on either bank with piers and anchors to support the suspension bridge. The Board agreed small with the use of the silt fence.
- e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments. Mr. Brennan said again it cannot be a no because there is the word may, but again it is the same answer the Board has been telling him with the silt fence and other construction erosion control measures that will be deployed.
- f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water. No
- g. The proposed action may include construction of one or more outfalls(s) for discharge of wastewater to surface water(s). No
- h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies. Mr. Brennan said in fairness that is not a no, but small with a limited amount of construction and the fact that they don't have to over excavate because they will go down and pin or drill into the bedrock.
- i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action. No or small for the same reasons discussed.
- j. The proposed action may involve the application of pesticides or herbicides in or around any water body. No.
- k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities. No.
- l. Other impacts: No

#4 Impact on Groundwater. The proposed action may result in new or additional use of ground water or may have the potential to introduce contaminants to ground water or an aquifer. No.

#5 Impact on Flooding. The proposed action may result in development on lands subject to flooding. Mr. King said that is the case, Vice Chair Heber added but it is above the flood plain. Mr. Brennan said it is being built in the floodplain but elevated above the flood elevation. Mr. Phillips stated the footings are below the structure is above. Mr. Brennan said he thinks the answer is located in an area subject to flooding so it is yes.

- a. The proposed action may result in development in a designated floodway. Mr. Brennan explained it is the floodway which is the channel that carries the flooding, but because it has been engineered and is elevated above he would say that is no or small impact, the Board agreed.
- b. The proposed action may result in development within a 100 year floodplain. Mr. Brennan said it is happening in the 100 year floodplain but elevated above, the pads or piers are not going to increase the flooding.
- c. The proposed action may result in development within the 500 year floodplain. Mr. Brennan said that is the same answer as above.
- d. The proposed action may result in, or require, modification of existing drainage patterns. No
- e. The proposed action may change flood water flows that contribute to flooding. No
- f. If there is a dam located on the site of the proposed action, is the dam in need of repair or upgrade? Mr. Brennan stated there is one upstream, Vice Chair Heber interjected it is the State of New York's. Answer is no.

Ms. Rippon-Butler apologized she missed the previous meeting and she stated she was confused by the Ambient Environmental Findings, she asked if it was being constructed not 30 to 40' above the normal water floodplain number that was discussed, she asked how high is the river and how high is the bridge? Mr. Phillips explained that was a mistake that was discovered by EDP, that report went back to Ambient Environmental, and they corrected that mistake in their supplementary letter they talk about what the measurements were in terms of the elevations, he added the estimation of 30 or 40' was wrong. The Clerk said they should have the corrected letter in their packet. Ms. Rippon-Butler said the real numbers are the Hudson is at 114', 100 year flood is 154'.

Mr. Brennan continued with the SEQRA.

#6 Impacts on Air. The proposed action may include a state regulated air emission source. No

#7 Impact on Plants and Animals. The proposed action may result in a loss of flora or fauna. Mr. Brennan stated he suggest the answer is yes but extremely limited.

- a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species as listed by New York State or the Federal government, that use the site or are found on over or near the site. No
- b. The Proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species as listed by new York State of the Federal government. No
- c. The proposed action may cause reduction in population or loss of individuals, of any species of special concern or conservation need as listed by New York State or the Federal government that use the site or are found on, over or near the site. No
- d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need as listed by New York State or the Federal government. No
- e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect. No
- f. The proposed action may result in the removal of or ground disturbance in any portion of a designated significant natural community. No
- g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site. No
- h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. No
- i. The proposed action (commercial, industrial, or recreational projects only) involves use of herbicides or pesticides. No
- j. Other impacts: No

#8 Impact on Agricultural Resources The proposed action may impact agricultural resources. No, Mr. Brennan stated there are no agricultural resources on either bank.

#9 Impact on Aesthetic Resources. The land use of the proposed action are obviously different from or are in sharp contrast to current land use patterns between the proposed project and a scenic or aesthetic resource. Mr. Brennan stated due to the fact that they have photo sims and discussion on this topic is not a simple no, then explain it. He re-read the question. Mr. Brennan suggested they think about it and go through the questions. He added the scenic resources is clearly the river and river corridor a scenic resource and whether you can consider that it is obviously different from or sharp contrast to current land use patterns, Mr. King interjected in contrast to the river currently? Mr. Brennan stated there is a dam not to far upstream from it and you have other structures nearby, he stated he thinks they should go through it and cover the facts and describe those facts, it's a yes there is a potential there as to why it is not significant.

- a. Proposed action may be visible from any officially designated Federal, State or Local scenic or aesthetic resource. Mr. Brennan stated it is not a no because you consider the river corridor a scenic resource, the question is whether this is a no or small impact or moderate to large impact, there are similarities with a large man-made structure in the immediate view shed.
- b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views. Mr. Brennan stated he believes that is no or small impact, he does not think they have an officially designated scenic view, there is such a thing, and it is not obstructing, eliminating, or significantly screening that officially designated scenic view.
- c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (screened by summer foliage, but visible during other seasons) ii. Year round. Mr. Brennan said certainly the photo simulations and view shed mapping identify that it is somewhat of visibility from the road, although it is through spaces between the trees without foliage on them, if you are going slow enough or looking close enough it is visible.
- d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism-based activities. Mr. Brennan explained he suspects you would say both because same as above and the river can be used so the bridge will be where people on the water can see it, he doesn't know how often the area is used for boating through that portion of the channel, Vice Chair Heber

stated it would only be in that little section because of the dam, Chair Martindale added there is

no through traffic. Ms. Rippon-Butler stated there use to be public access there but there is not anymore. Mr. Brennan asked if they are considering it to be a small impact in the sense that if you were in a kayak or a small fishing boat, Vice Chair Heber stated it depends on what people think of the bridge, but he would say very small impact.

Ms. Braymer asked the answer to the one right before this one, c.? Mr. Brennan re-read question c. and stated a small impact may occur, it is largely screened seasonally and year round from the publicly accessible vantage points, except from the river for public use for the same reason of d., it is the public using water craft because he doesn't think people swim there but kayaks or something you would be able to see it. Vice Chair Heber agreed.

- e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource. Mr. Brennan said they can say no or you can say small, Vice Chair Heber stated it could enhance it, Mr. Brennan continued it is going to be neutral in color, the profile is limited and reduced in scope during the process by the applicant.
- f. There are similar projects visible within the following distance of the proposed project. Mr. Brennan said 0-1/2 mile is a yes in the sense that there is a manmade structure (dam) boaters have to look at and then the distances are 1/2-3 miles, 3-5 and 5+, Mr. Brennan said the answer they have been discussing there are a variety of other manmade structures including bridges that cross the Hudson in both directions.
- g. Other impacts. No

#10 Impact on Historic and Archeological Resources. The proposed action may occur in or adjacent to a historic or archaeological resource. No

#11 Impact on Open Space and Recreation. The proposed action may result in a loss of recreational opportunities, or a reduction of an open space resource as designated in any adopted municipal open space plan. Mr. Brennan stated he would say no, but he would add for the reasons discussed above under aesthetic resources, they are asking a slightly different question on open space and recreation, it is not representing a loss of recreational opportunities, it is not blocking the channel, it is not blocking or a reduction of open space resource as designated in any adopted municipal open space plan.

#12 Impact on Critical Environmental Areas. The proposed action may be located within or adjacent to a critical environmental area. No, Mr. Brennan stated the Town of Northumberland does not have any listed critical environmental areas, the City of Saratoga has one for the water supply and he thinks that is the only one within the County.

#13 Impact on Transportation. The proposed action may result in a change to existing transportation systems. Mr. Brennan said they talked about this during the review process over the course of a few years, with the Covid interruption, there is going to be a parking area off of the road and he thinks that constitutes a change, you can just note in the discussion to acknowledge that there is a change, there is going to be a designated curb cut or pull off via the appropriate permit and there will be parking, there will be somebody now entering and exiting on occasion, they will be staging a car there and going across either walking or a small atv or something and getting into the car to leave.

- a. Projected traffic increase may exceed capacity of existing road network. No
- b. The proposed action may result in the construction of paved parking area for 500 or more vehicles. No
- c. The proposed action will degrade existing transit access. No
- d. The proposed action will degrade existing pedestrian or bicycle accommodations. No
- e. The proposed action may alter the present pattern of movement of people or goods. No

Mr. Brennan asked if there were any other impacts, none were noted.

#14 Impact on Energy. The proposed action may cause an increase in the use of any form of energy. No, Mr. Brennan explained there is going to be construction but it is not in any of the questions that basically speak to upgrading substations, power for 50 or more houses so they are all really no.

#15 Impact on Noise, Odor and Light. The proposed action may result in an increase in noise, odors or outdoor lighting. Mr. Brennan said with the construction they can talk about yes and discuss it briefly and acknowledge that once built there will be no noise, light or odor, there is a limited construction phase, equivalent of building a house there is a limited period to build it and the construction noise is handled by the hours of construction, he asked what they normally impose as conditions of construction

hours typically? Vice Chair Heber said usually 7 am to 5 or 6 pm, Ms. Black suggested 8 am to 6 pm.

#16 Impact on Human Health. The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. Mr. Brennan stated he will only ask the Board to say yes to this because they have a letter talking about contaminants. The concern was raised regarding PCBs, that concern was addressed by EDP and Ambient Environmental saying they have no concern, the facts are that it has been studied at length by GE, the State and Federal, they have done multiple samples to identify this and the super fund site associated with this, he stated he would have to look up the distance but he believes it is something like one mile on either side of the river was classified as a super fund site and no one has suggested that we are in the zone where there can no longer be anything built along and near the Hudson River, the Environmental consultants have said there is no issue associated with this and standard erosion control and construction avoidance will be used, he stated he will write it up based upon that.

#17 Consistency with Community Plans. The proposed action is not consistent with adopted land use plans. Mr. Brennan stated this is a double or triple negative, he asked if they were worried this is inconsistent with the community plan, is there anything that they are worried about, it is not requiring any variances from the Zoning Board, it is requiring a review by this Board, it will be an allowed use subject to approval, he stated he would be comfortable saying it is consistent with community plans. Vice Chair Heber agreed.

#18 Consistency with Community Character. The proposed project is inconsistent with the existing community character. Mr. Brennan said this is more to the question about aesthetics resources, is it consistent with community character? Mr. Brennan stated it is what Vice Chair Heber was saying, what is the character of being along the river? He stated they can describe in those terms that is what the Board wants, having a bridge or other man made structure along the river is consistent with up and down the river there are other structures, he added that is the Board's decision. The Board agreed.

Mr. Brennan stated having gone through the SEQRA, they have not identified any large or moderate impacts, he flipped back through the form, he said based upon that they are asked to make a determination of whether there is going to be a negative or positive declaration,

Mr. Brennan read item A on page 2 of part 3, This project will result in no significant adverse impact on the environment, and therefore an environmental impact statement need not be prepared. Accordingly, this negative declaration issued.

He stated the another option is B, that it could have a significant adverse impact on the environment and that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency.

Mr. Brennan read the final option C, This project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Mr. Brennan said the question is are you issuing a negative declaration, a positive or are you going to require an impact statement?

Vice Chair Heber made a motion to declare a negative declaration on application #0002-19 for Irony Alliance, LLC,
Mr. King 2nd the motion,
All in attendance unanimously agreed.

Mr. Brennan stated he will put the discussion down in a written document to support the record based on that discussion. He said they have completed the neg dec, what is the Boards wishes?

Chair Martindale asked if there were a motion.

Vice Chair Heber made a motion to approve application #: 0002-19, Irony Alliance, LLC, with contingencies on regarding State (OGS, Office of General Services) and Canal Corporation,

Mr. Brennan stated before they get a second, he would like some discussion; Mr. King asked if they could determine what the contingencies are still outstanding? Vice Chair Heber explained to Mr. Phillips

they want to know what other contingencies other than this Planning Board, what do you need from the State? Mr. Phillips stated to his knowledge, the only outstanding contingency is action by Office of General Services which is working in tandem with the Canal Corporation, both State agencies that are working together waiting for the decision of this Planning Board, otherwise he believes the record is complete with the non-jurisdictional determination from DEC, Corp of Engineers, the driveway permit is issued already subject to construction Saratoga County Planning Board has signed off on this, it is just the State of NY at this point.

Vice Chair Heber reiterated his motion with the contingency of OGS, Mr. King 2nd the motion,

Mr. Brennan interjected he would like to walk through the site plan approval, he stated under the Zoning law there are standards that he would like to walk through with the board and have discussion to make sure you are satisfied with the standards.

1. **Aesthetic:** (He read)

- a. Site development shall be planned so that it harmonizes with the existing landscape character and blends into the landscape by using existing landforms and vegetation.
- b. Where new construction or substantial rehabilitation is concerned, the needs of the site for plantings, paving, screening, and other landscaping amenities shall be considered.

Mr. Brennan asked the Board based upon the project, the layout whether any of those are concerns, he added there is a significant amount of vegetation being retained, it is screened from the road and will be visible to boaters but there is nothing you can do to screen a bridge other than keep the profile low. Mr. King stated his opinion is the visual impact is relatively low, he feels it fits in the area. Vice Chair Heber stated in some people's minds it might enhance it.

2. **Off-Site Impacts:**

- a. Development shall be planned and undertaken so as to minimize impacts upon adjoining and nearby land uses.
- b. Any noise, odor, vibration, dust, gas or emission of any type that is likely to result from the nature of the operation shall not be hazardous or create a nuisance.

Mr. Brennan stated for 2, a. from the view shed back they seem to have some limited views or temporary views potentially of the bridge from the water but not so much from the land or neighborhood. He said as far as nuisance, this doesn't have any operational so it would be no.

3. **Existing Topography and Vegetation:**

- a. Existing vegetation, topography and careful siting methods shall be utilized to minimize the visual impact of the proposed development.

Mr. Brennan stated in this case over the course of the project it has been monetarily downsized by the applicant, if you recall he believes it was a much more robust suspension bridge capable of carrying cars or small trucks across, so it has been downsized for capacity and physical dimensions.

- b. Cuts for roads and other site development shall be stabilized and vegetated with indigenous species to avoid erosion and sedimentation.

Mr. Brennan stated they have erosion and sedimentation control.

4. **Historical/Geological Forms:** Historical, natural or geologic features shall be preserved to the extent possible.

Mr. Brennan stated they are respecting the slopes and banks, they are putting the footings into it but there is limited to no grading required as a result.

5. **Construction Activities:**

- a. All earth moving activities shall be planned in such a manner as to minimize the amount of land area disturbed. Mr. Brennan stated that is being done.
- b. Natural features such as topography, waterways and other similar resources should be preserved, and

development shall conform substantially to natural boundaries and alignment of watercourses.
- c. Permanent vegetation shall be successfully established, and permanent erosion control structures shall be installed in accordance with the construction schedule approved by the Planning Board. Wherever feasible, indigenous vegetation shall be retained and protected.

Mr. Brennan stated in this case there will be construction erosion control, and maybe condition possibly to require the revegetation of any disturbed areas.

- d. (Was skipped)
- e. Run-off from any slope exposed for longer than fifteen (15) days shall be controlled through utilization of mulching, check dam, temporary sediment basins, and other generally approved engineering methods. Mr. Brennan stated they have that.
- f. Topsoil from all areas to be excavated shall be removed and stored upon completion of the earth movement, the topsoil shall be re-spread to provide a suitable base for seeding and planting except on the immediate building site and the road leading to it. Not applicable.
- g. All fill material shall be of a composition suitable for the ultimate use of the fill, free of rubbish and toxic waste. Fill material shall be compacted sufficiently to prevent problems of erosion.

Mr. Brennan stated there is no fill proposed.

6. **Drainage:** Mr. Brennan stated there will be a minimum change to the existing drainage in pervious areas by virtue of the land being slightly changed with gravel or stone but that is a minimal amount of area and there is adequate ability for it to infiltrate.
7. **Roads and Parking:** Mr. Brennan summarized several areas; vehicular circulation, visual impact, parking areas and driveways he stated he will write it up but they have covered it through EDP consultant requiring the development of the plans for the parking and turn around area.

Mr. Brennan stated sewage, and water supply are not applicable, he stated Emergency Access, he read it is recommended that all proposed structures should be readily accessible for emergency vehicles, he stated that is not exactly on point but in some sense that is what this is actually driven by. The next item is Impact on Municipal Services, Mr. Brennan stated there are no impacts on Municipal Services to speak of, or Municipal Service will be less impacted if there is ever an emergency response situation because of the idea of getting out to the island was always difficult for emergency providers.

Mr. Brennan stated shoreline protection is #12

- a. All construction involving any shoreline shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased run-off of ground and surface water into the waterway and to remove only that vegetation which is necessary to the accomplishment of the project.

Mr. Brennan stated that is all in the plan.

- b. Any pump-out or other connection, is not applicable.
- c. Any paved or otherwise improved parking area, driveway, loading or service area within one hundred (100) feet of any shoreline shall be designed and constructed so as to minimize surface run-off and the entrance of any chemical pollutants or soil siltation into the waterway.

Mr. Brennan stated they have all that in the plan.

13. **Historical Property:** Not applicable.

Ms. Rippon-Butler asked if it is within this Board's purview to talk about decommissioning if the property was sold in the future, or if it is not maintained, she was wondering because it is not on the site plan. Vice Chair Heber stated if the property is sold it will go with the property. Chair Martindale added it is not for public use. Mr. King said there is one point if it is not properly maintained it could become a nuisance for someone using the waterway or an aesthetic nuisance, but that goes with almost every piece of property with a structure on it. Mr. Brennan said in the Town Code they have provisions for removal of telecommunications towers there is a bond requirement to do that, no where else in the Town Code that he can think of or any other Town do they require removal bonds. He stated there is a Dollar General down the road and they do not have a removal bond if they stop operating. He explained cell towers got going on it sometime in the '90's it would be replaced by satellites so there is a removal bond for every cell tower he has ever worked on, are there are now for limited use facilities and solar projects but there are no removal bonds for Walmart and Lowes, it just gets assumed it will be taken care of. Mr. Brennan said here if at some point it changes hands the new owners would want to have continued access. Ms. Rippon-Butler stated that answered her question.

Mr. Brennan stated the code also speaks to, on page 88, under the Site Plan in the beginning of the section it talks about in addition to Articles 5,8,9 & 11 shall apply to Planning Board review, he stated

he wanted to talk about them briefly. Article 5 is Planned Unit Development District and that is not

applicable, Article 8 he will skip back to, that is the Shoreline Overlay District, Article 9 is Special Permit Uses, this is not a special permit use. Article 11 is Supplemental Regulations, he said they talked about it and feel it is in compliance with the parking provisions and the rest of them are not applicable. Mr. Brennan went back to the Shoreline Overlay District, Article 8, page 45, needs approval by the Planning Board, under Required Findings, the Planning Board shall approve land use activity within the Shoreline Overlay District only where it finds the project meets all guidelines set forth in Article X.D. as they pertain to the Shoreline Overlay District or a variance has been issued as set forth in Article XIV; (b), within the Shoreline Overlay district the project is located and designed so that its visual impact is minimized, he stated they have discussed that. Mr. Brennan read on the project will be located, designed constructed and operated such that it will have no adverse impact on environment, public health, or safety. In making findings (b) and (c), the Planning Board shall adhere to the guidelines and regulations set forth in Articles X, XI and XII when applicable, except no public hearing will be required. Mr. Brennan stated they can go through them and a lot of them will not be applicable, lot layout and design, drainage, protection of existing landscape character, he stated he was looking for one that they haven't discussed. Building siting and design they talked about, lighting, is not applicable, screening they talked about, tree cutting and land clearing they talked about, he stated they are including re-vegetation, he stated that covers all of it.

Mr. Brennan stated having walked through that and they have a motion and a second, a discussion of the factors and requirements for approval he asked Chair Martindale if she were ready to proceed? Chair Martindale requested all in favor to say aye, she asked if anyone was opposed, none were noted.

Previously Vice Chair Heber made the motion to approve application #0002-19 with the contingency of OGS,

Mr. King 2nd the motion,

All in attendance unanimously agreed.

Mr. Brennan asked if there were anything further, none was noted. Mr. Phillips stated once this is written up he will have to submit it to OGS, Mr. Brennan agreed and stated he would write it up and the SEQRA determination, Mr. Phillips stated with that they will be able to advance the application with the State of New York.

Chair Martindale announced the next item on the agenda; **Town Supervisor, Willard Peck** would like to discuss proposed revisions to the **Town's Solar Law of 2006, amending Local Law #4 of 2006**. She asked if all Board members received a copy of the proposed revisions.

Supervisor Peck asked the Clerk if the Town Clerk gave different copies to the Board, the Clerk replied yes. Supervisor Peck explained there are two copies and to clear confusion he explained there is an updated "red line" version and that is the one he would like to review showing the amendments to the law. He stated there are two "red line" versions, one the Town Board went through and one that was changed by Mr. Brennan at the Board's suggestions. He stated he wanted to make sure everyone was looking at the "red line" revisions from Mr. Brennan.

Vice Chair Heber stated he had a question because the land use, as he sees it as an agricultural Town don't want it in the agricultural zone, so why permit it in the agricultural zone, there is Residential 1 and 2, he added why not have it as a PUD (Planned Unit Development)? He stated there are good places in the agricultural zone where they can put them but mostly, they want to put them in the bad places where the flat fields are. Supervisor Peck said that is what he tried to cure, Mr. Brennan helped him with it, he said going back to the beginning he does not like solar in agriculture at all. He stated the Town Board said they can make it go away, but he did not think that was fair. There are older land owners / farmers that do want to do solar, so they compromised for the agricultural and the people that want to do solar, that is why on a parcel there is a 20% maximum coverage, that was a compromise from the beginning. He explained people have been calling and asking what they are doing about solar, he said there is a moratorium on it so they can decide what to do that is how it started. The 20% foot print is where they are at, he wanted to give this Planning Board more power to dictate to anybody who wants to put it where on a parcel it is going to be.

Supervisor Peck reviewed with the Board the "red line" version with amendments proposed by the Town Board. Vice Chair Heber stated before they begin, he would like to say he looked at this what was changing or being taken out, he went to the book and it is not in the book, Supervisor Peck said the solar law is a separate free standing local law, he agreed it should be part of the Zoning Book. Discussion

ensued on including free standing local laws in the Zoning Book.

Supervisor Peck stated they have had two separate moratoriums, they are running out, so they have scheduled a public hearing for the next Town Board meeting, it won't get before Saratoga County Planning Board before the next Town Board meeting so they will keep the public hearing open until the following month, this way anybody that comes to the Town Board is put on notice, even though the moratorium is expiring they have no rights until this is completed. He explained that as part of the reason they are moving forward with the proposed changes, he said he got the language he wanted, and Mr. Brennan helped with that.

Supervisor Peck stated on page 4 under subsection k., Solar Energy systems components shall be screened ~~when possible and practicable~~. He stated that was removed, they want screening, not just when possible, they want it clear to the applicant they want screening. On the next page, continuation of q. Artificial lighting of solar energy systems, Mr. Brennan learned some of this with projects he has worked on, they added *and shall be operated via spring wound timer or similar switch to ensure the lighting turns off. Motion activated sensors are prohibited*. He asked if there were any questions, none were noted.

Supervisor Peck moved on to the height, it was changed to 16' from 20' because it appears that everything being done can be done at 16' or lower. Vice Chair Heber stated there was a proposal for solar in a cow pasture but they had to put it up higher so the cows would damage it, Supervisor Peck asked if they put it up on poles, Vice Chair Heber stated he believes they kept the bottom panel 8' off the ground. Supervisor Peck said he knows in Whitehall, they had grazing for sheep and goats underneath. Ms. Rippon-Butler said there is research on what they call co-location, she added there are some places where there is enough room for tractors to go underneath, which does not sound like that is the direction this is going. Vice Chair Heber stated maybe they could put something in it that says if there is a reason to go higher. Mr. King stated they can keep them low and if someone comes out with new technology with a reason for it, they could come back for an addendum to the law. Vice Chair Heber stated they could ask for a variance. Mr. Brennan said he believes the reason for going so high is so the animals and farming can go on underneath them does happen, it is just a tradeoff, do you want it taller so you can see it and graze underneath or not. Mr. Brennan said his expectation is the solar companies don't want that, that is not what they are looking for, if the community is telling them they have to do it that may be why it is happening. Vice Chair Heber agreed and said it will cost more. Discussion ensued on pros and cons of the height.

Supervisor Peck stated to make it clear, they cleaned out, because of a question they got previously, and he gave the determination having been involved in writing the first law, so it is clear to the applicant Mr. Brennan put in the 20% coverage includes everything inside, not just where the panels sit, everything associated with it. Mr. Brennan stated they played the game if the panels are 6' wide by 2' long, so it includes everything in between the panels. Vice Chair Heber reiterated its everything within the fence. Supervisor Peck agreed. Mr. Brennan added and whatever utilities and driveways.

Supervisor Peck said the next is where there is some discrepancies between what they approved as a Board and what is drafted, on page 6, Number 3, they eliminate the first section, *In the Agricultural Protection District, Freestanding/Ground Mounted Solar Collection Systems shall not be allowed on any portion of a lot that is or has been used for agricultural production or activities during the five years preceding the date of the application*, he stated that is not in there. Mr. Colozza, former Code Enforcement Officer suggested if they want to get rid of them, to say anything that has had an agricultural assessment for the last 5 years, Supervisor Peck disagreed with that and said it was basically zoning it out and it would probably be too restrictive to what they did for a compromise early on. Supervisor Peck stated the next part they put in to give the Planning Board more power, so to make it clear they added; *In the Agricultural Protection District the Planning Board for Freestanding/Ground-Mounted Solar Collection Systems is granted absolute discretion to direct siting away from and to prohibit siting on land that the Planning Board determines in their judgement to be superior agricultural land on the particular parcel*. Chair Martindale said any land that is being used for agricultural is prime property. Supervisor Peck stated there is often a discussion about *prime*, prime is actually a work of art or term of art in land and we do not have prime soils necessarily in Saratoga County, so they didn't want to use the word prime, so they could say no your soil distinction is level 4 and prime is only 1 and 1a or something. He explained this was because going back to Wall Street, a developer wants to use the best piece the flat piece, then this Board can say you don't want it on that piece. He explains this part says it's ok, if they want to put it on that parcel, this Board can say no we don't want it there you can put it over here, it is not our job to save them money. If it cost more to put it on a hill side that is not the Planning Boards job to save them money, it is up to the developers to say if

it is worth it or not. Mr. King said he is going to challenge it on the use of the word superior, because he

believes just like Supervisor Peck is saying you can get someone who says it is not the most productive in the State. Supervisor Peck said it means superior on that particular parcel, Mr. King asked if they could say productive agricultural soil, maybe that lowers the bar a little bit and gives you a bit more leeway. Supervisor Peck suggested they google the word superior, John DeLisle did in their Town Board meeting, and they felt the definition of superior was what they were looking for. Mr. Brennan read the definition of superior; higher in rank, status or quality. Supervisor Peck said on that particular parcel, he said the Town Board had the same discussion, they were going to take it out, they were looking for a little bit more moderate term, Mr. Delisle googled it and read the definition and they said that is what they are looking for, on that particular parcel the Planning Board determines superior area compared to somewhere else on that parcel. Ms. Rippon-Butler said if they were using the word productive it would give them the discretion to say no this is a parcel that is productive in agriculture use, 100% of the parcel is and we are not going to allow it vs. if it is superior, we are tied to allowing at least one acre. Supervisor Peck stated 20% of the parcel, Ms. Rippon-Butler asked isn't it one acre and the 20% is the special use? Supervisor Peck said it is 20% but there is a minimum lot size. Chair Martindale read lot must be larger than 10 acres and the ray must be less than one acre in size. Discussion ensued on minimum lot size and % of use in the agricultural district. Discussion ensued on difference between home / farm use only and commercial use. Supervisor Peck explained there are separate rules for home and commercial uses.

Discussion ensued on putting solar on the closed landfill, Supervisor Peck stated that was the initial place to go, on the landfill, but there were issues with stability and inspections the Town has performed. Mr. Brennan added he thought that was a simple thing and they could do it, but it turns out there are slope issues and if you capped it with clay you can't drive anything into it, if you capped it with a liner it is not deep enough, the ideal would be flat, landfills are not flat because you need a minimum of like 1% for drainage, he stated he has worked on landfill closures.

Supervisor Peck said they are discussing minor changes that would empower the Board to dictate a little stronger and quicker. He added in general what he wants to do, when an applicant comes before the Board, he understands when the last one came in covid was going on, but when an applicant comes to the Board with the materials the Board should have a pretty good idea with in four months, you have to build the record and if they come prepared with all the stuff, it can shut down the process, the previous one went 14 months during covid, it cost engineers money and lawyers more money. He stated he wants applicants to be able to come to the Board and in short you say this might work let's proceed or this is no good and you can tell them why it's not. If you want to proceed for the next 3 months, you can do that and build the record to say why it doesn't work there. It will give you more direction, so you aren't dragging it out.

Supervisor Peck stated in general when Mr. Brennan talked about climate change and the state with 2030 goals and 2050 goals, the Governor's Office appears to want to be able to dictate in larger control to get these things in, in Upstate New York. He said we can say we don't want them at all and they are going to come in and say they are going to put them in anyway, they can do that now if over 20 mega watt sites and larger, you loose local control, that becomes State oversight with the idea that they want to get them in. They can pull it off and circumvent the local Zoning, because they have enough that are willing to commit in a block area to do a 20 megawatt. Vice Chair Heber said that is like 100 acres. Supervisor Peck agreed and said another thing with the State that is a problem to Towns in Upstate NY, the Governor's initiative that is now being debated and is getting opposition, in order to get affordable housing, she had proposed to have that State controlled and demand Upstate building be done, where they would come in and say they are going to take control of 40 acres and put out to bid 300 affordable housing units in your district, it doesn't have to comply with our Zoning at all. He said he has been told some of the developers that help craft some of the language are looking to go forward. Some of the legislators understand and are fighting it. Supervisor Peck stated he wanted the Board to understand that is the biggest over-reach of the local control he has ever heard. He said they have already done the 20 megawatts, now her plan to reach the goal of affordable housing is gain that control to supersede any local Zoning.

Supervisor Peck asked Mr. Brennan if they need anything from the Planning Board regarding the Zoning change, do they need a recommendation, approval, satisfaction? Vice Chair Heber stated he believes they need a recommendation. Mr. Brennan said he was looking at that. Supervisor Peck said the idea was to inform this Board of changes, he thinks they need some kind of referral, he reiterated there is a public hearing that will be open on the April Town Board meeting date and will remain open into May. Mr. King asked if he was looking to have a resolution from this Board, they are looking to have it before

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the public hearing? Vice Chair Heber stated he thinks it is a referral, Supervisor Peck agreed and said

they can take any recommendations and they can change it, this had to go to the County Planning Board, and they aren't going to meet before the Town Board's April meeting.

Mr. Brennan stated within 35 days the Planning Board is supposed to review and make recommendations concerning the matter specified, Supervisor Peck stated they don't need to do it tonight they can do it next month. The idea is they are going to have a public hearing, and take recommendations at any time, he stated they have already sent it to County Planning and he believes they can alter and amend it and not have to go back to County Planning if it is not substantial changes, Mr. Brennan agreed and said they can fix little things but they cannot make significant changes without having another public hearing and starting the process over.

Vice Chair Heber made a motion for a positive referral to the Town Board with the changes, Ms. Black 2nd the motion,

Chair Martindale asked if there were any additional discussion, Mr. King asked if they are the main changes because he hasn't had a chance to read the entire thing. Supervisor Peck stated they are the only changes. Mr. Brennan stated he thinks they are out of room with the moratorium, they are working on 18 months, if they go back to County Planning and extend the moratorium to 24 months they are going to come up and say what have you been doing? Supervisor Peck admitted he hasn't been the most efficient with this, he has been thinking about it, and he was looking for the right language. He explained he was driving down Route 40 on his way to Troy, he passed the Johnson farm, he has heard from neighbors and people that are complaining about the Johnson farm that got layered with solar panels, so as he was driving, he called up Mr. Brennan and asked him to write down what he was thinking for the language to give the Planning Board control to do. He added it took a while but he wanted to make sure it wouldn't happen in Northumberland what happened over there.

Ms. Rippon-Butler asked if she could meet with Supervisor Peck because she had a few questions, Supervisor Peck said yes, she can give him a call and meet at the farm office.

Chair Martindale stated they had a motion and a 2nd they need a vote.

Ms. Rippon-Butler, abstained from voting so she could discuss further with Supervisor Peck, for clarity. The remaining members unanimously agreed.

Vice Chair Heber	aye	Lisa Black	aye
Jeff King	aye	Chair Martindale	aye

Supervisor Peck stated there are a couple of other things that were brought to his attention that he didn't want to put in there, if you take up two adjoining parcels he was asked if they could condense the 20% on to one parcel, he stated he thought about it, 25 years ago they had talked about transfer development rights, transferring from one part of Town to another, so if you take two adjoining parcels in order to get the 20%, of the two you put it all on one. He stated he is bringing this up because it was proposed to him by a developer that has a site in mind and that must have made it better for the site location, the more he thought about it the more he didn't want to include that, because you would have to make sure the deeds were properly noted that one parcel got 40% and the other got zero because they combined the lots, a developer will want to do this to make a larger site in a more condensed area. He stated he did not want to do it because he looked at all the problems this Board has faced in the last couple years because of notes that were missed from 1991, a subdivision or time goes by and attorneys come up with different ways to handle problems. Supervisor Peck said it was asked by a developer that travels the Town is a nice gentleman and has a proposal waiting for the moratorium to end, but he told him no they would not allow two parcels. Vice Chair Heber asked even if it was the same landowner, Supervisor Peck replied yes, because the same owner only owns it today, tomorrow anybody else can own it. Vice Chair Heber said they can combine the lots, Supervisor Peck agreed and stated he told the gentleman if he had adjoining parcels owned by one person they can merge them, then they could do it, but he added he does not want to transfer one parcel onto another. Vice Chair Heber interjected because it gets lost in the shuffle. Ms. Rippon-Butler stated they could apply for two projects at the same time.

Chair Martindale asked if there were minutes to approve.

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Mr. King made a motion to approve the January meeting minutes,
Ms. Black 2nd the motion all in attendance unanimously agreed.

Mr. King made a motion to approve the February meeting minutes,
Vice Chair Heber 2nd the motion all in attendance unanimously agreed.

Chair Martindale asked if there were any new recommendations for Chair and Vice Chair for the next year, no suggestions were made. Chair Martindale asked if everyone agreed to keep the remaining chairs in place, All members in attendance unanimously agreed. The Clerk will send a memo to the Town Board recommending Susan Martindale to remain Chair and James Heber remain Vice Chair of the Planning Board for the next year.

Chair Martindale asked if there was any other business for the Board, none was noted.

Mr. King made a motion to adjourn the meeting at 9:10pm,
Vice Chair Heber 2nd the motion,
All in attendance unanimously agreed.

Respectfully submitted,
Tia Kilburn
Planning Board Clerk