

**DRAFT**  
**Pittsford Planning Commission Special Meeting**  
**June 15, 2023**

**Board Members Present:** Kevin Blow, Mark Pape, Chuck Charbonneau, Donna Wilson, Mike Norris, Robb Spensely, Rick Conway

**Others Present:** Jeff Biasuzzi, Alicia Malay, Jim Rademacher, Ann Rademacher, Lawrence Marzec-Gerrior, Mary Marzec-Gerrior, Christine Heffernan, Rula Moradi, Keith Maseroni, Christine Maseroni, Adam – Project Manager with VHB

**Others Present via Zoom:** Michael Willard, Nancy Malmquist, Will Cox, Andrew Mills

**1. Meeting - Call to order**

The meeting was called to order at 7:00PM by Kevin Blow – Chair.

**2. Approval of Meeting Agenda**

A motion was made by Chuck Charbonneau and seconded by Mark Pape to approve the agenda. **The motion passed unanimously.**

**3. Approval of Minutes**

*. May 11, 2023 and May 25, 2023*

A motion was made by Chuck Charbonneau and seconded by Mark Pape to approve the May 11, 2023, and May 25, 2023, Planning Commission meeting minutes. **The motion passed unanimously.**

**4. Public Comment**

There was no discussion held.

**5. Presentation by Outback Acres (Case #23-0170)– Christine Heffernan**

Christine Heffernan was present to provide information regarding the Outback Acres Solar project. Also present was Adam - Project Manager with VHB who is a specialist in natural resources, Nancy Malmquist outside counsel for Outback Acres, Will Cox – Attorney, Andrew Mills - Site Engineer with VHB and Mike Willard - Landscape Architect. Ms. Heffernan reported this presentation was provided to the Pittsford Select Board on April 5<sup>th</sup>, the RRPC on May 16<sup>th</sup> and to the PUC information session. DG Outback is a subsidiary of NextEra that was the first company to invest in renewable energy. The company has facilities in over thirty states and Canada. NextEra did the Coolidge Solar project in Windsor County and has seven projects in Vermont. This project is slated to be built at 474 Furnace Road and is a 3-megawatt project that will utilize eighteen acres. The design has three pods of solar panels that will be non-reflective, single-access tracker panels to optimize the solar energy. The maximum height will be 15 to 18 feet and disposal will be according to Vermont law that is available on-line. This project is subject to permitting and regulation by the PUC. Several surveys and studies have been done that include a Phase 1 environmental research, historic resource review, and wetlands survey and the project will avoid the wetlands. Only a grassland bird study has an impact. A construction permit was approved and an access right of way permit was approved in January. The impact on visibility is minimal for most residents and proposed vegetative buffers were recommended. Some trees were removed on an abutter's property and the owners are looking into potential mitigation options. This is ¼ mile from Furnace Road and Oxbow Road and the surrounding area is agriculture fields and low density. In terms of benefits to the community, jobs will be created during construction and property taxes will be paid on the project. Additionally

solar helps diversify and contributes to the State's energy goals. It allows the land to be returned to original agriculture use, it will not increase traffic, there will be no demand on infrastructure and solar is safe and clean.

Donna Wilson asked about the decommissioning process. Ms. Heffernan stated there are requirements from ANR and they are working on what the requirements will be. There is a 30-year time span and the project has to be in compliance with the ANR regulations and the company would be required to remove all equipment. Mike Norris asked if this is bonded and Nancy Malmquist advised they had to file a letter of credit with an analysis by the PUC for amounts in the future and the PUC has the right to access it in the event the company is not fulfilling its obligation under the decommissioning plan. The company is committed to a decommission plan for what the State requires and the plan will have to be approved to obtain a CPG. The CPG has not been issued yet. Mr. Norris asked what the estimated tax revenue to the Town will be, noting there is a basic formula that can be completed. Christine Heffernan will look into this and get back to the Planning Commission. Jeff Biasuzzi stated the property taxes are paid by the developer and asked if it is real estate or inventory tax. Ms. Malmquist reported they had to pay for both.

Ann Rademacher reviewed the site plan and asked why there are no trees on the east side planned. Christine Heffernan stated the plan was based on the visual impact assessment that was done. Ms. Rademacher stated they can see the entire project from the east side and noted the visual impact study was done with leaves on but half of the year there are no leaves on the trees. She stated that something almost twenty feet tall will have a visual impact and to be fair to the people in the community, and not just adjacent landowners, if it were done in the winter, it would be a fairer study. Ms. Rademacher asked why the trackers are being used. Ms. Heffernan stated panel decision is determined how to most efficiently capture the most energy. Michael Willard stated viewshed modeling is done by building a 3D model using tree cover data. Projected visibility is set outward where it can be visible from and the PUC bases it on the casual observer. It is based on public access roads as the baseline and this report is done from the public accessible areas. Ms. Rademacher stated it did say leaf-on conditions and that is an important factor. Mr. Willard stated the fieldwork was done during leaf-on conditions and was highlighted in the report. Jim Rademacher stated his understanding is that they pay town property tax only and not education tax which is 85% of the taxes and is not that much help to the community. Ms. Malmquist stated there is a separate tax for solar projects that goes to those funds and she can get back to the Planning Commission with the description of the taxes. Mike Norris stated there is a Vermont Solar tax that is not a benefit to the town and is not nearly what the education tax would be. Mr. Norris would like to know what the municipal tax will be, as the assessment of that value is set in year one and homeowners are reassessed every five years. Mr. Rademacher's concern in going over the application and reviewing the maps is the 100-year flood line and placing the solar panels outside the flood area. He has seen the entire valley under water twice in the last 40 years. He noted FEMA has not updated their data and is concerned the project is based on a faulty assumption the project is outside the flood plain. He noted that in 1988 the entire valley was under water and the next time was during Hurricane Irene and there was much more flooding that happened at that time with the entire area four feet underwater. Ms. Rademacher received a flood plain map from 1984 and it is the same map used in the application. It was noted that the application indicates the project is out of the flood plain lines. The VHB Project Manager advised ANR uses the FEMA mapping that includes three types of features that are the 100-year floodplain, the floodway itself and the river corridor that is different from floodplain. For these projects, it has to be designed and sometimes FEMA has to do detailed studies and those are more accurate than this type of mapping. There is little doubt the maps are not as precise but the project used them as a limit, but if there is flooding, it has to be assured the mesh is large enough to allow for debris to go through when it is near the flood plain. If the project were to need to be within a mapped area, it would require a separate permit for flood hazard and river corridor. Andrew Mills stated it is important to point out that using the 100-year flood plain does not mean it happens every 100 years. They have worked with ANR to confirm the design and they have agreed with what was presented. Mr. Norris asked if they used Lidar for the study and Mr. Mills confirmed the topography was done with Lidar. Mr. Norris noted a physical survey would be better. Jeff Biasuzzi asked if the equipment will have a high or low risk for flooding, and noted new FEMA maps from Lidar information are not going to change for another few years and advised the 1984 map has not changed since 1960. It is anticipated there will be a radical change in the flood plain mapping. Statistically there is a minor flood event on average every five years and the question is will the equipment be able to handle minor flooding in the future. Keith Maseroni stated biosolids have been put on the property for years and it would not have made sense to put waste on a field that floods. He has not seen those fields flood as long as he has been here. Lawrence Marzec-Gerrior asked how far down the structures go into the soil and it was noted that it would be 6 to 8 feet. Kevin Blow thanked Ms. Heffernan for providing the presentation.

## 6. Old Business

Jeff Biasuzzi stated there has been discussion of whether the Town wants to proceed with subdivision regulations. He stated the major emphasis is that without subdivision regulations, Act 250 can get involved in subdivisions of over five lots and any commercial property. Other towns that had subdivision and zoning are 10-acre towns. Mr. Biasuzzi noted he has drafted subdivision regulations for other towns. If a municipality has a designated downtown, Act 250 may be out of the picture with the new law, Senate Bill 100, that liberalizes development in allowing two households on one lot and the need to subdivide is diminished. Mr. Biasuzzi noted the law is more involved than just subdivisions and includes a density rule that would affect large houses in allowing the creation of multi-housing units. Mr. Biasuzzi offered to work on a draft if there is an acceptance to consider subdivision regulations. Kevin Blow advised this topic needs to be discussed with the Select Board. Mr. Biasuzzi stated there is an adoption process that would involve the Select Board. Mr. Biasuzzi stated the law requires zoning regulations not in compliance with the State law will have to be updated and he has a list of tweaks and clarifications that would make the ordinance easier to understand. Chuck Charbonneau suggested having Mr. Biasuzzi provide a draft of subdivisions regulations for review. Rick Conway suggested confirming with the Select Board to assure that it is something that they would like to move forward with. Mr. Conway noted one other point is that the Town's Zoning Board would be replaced with a Development Review Board if this change were made. Robb Spensely suggested going to the Select Board for additional discussion of this topic. Mr. Biasuzzi volunteered to put together a summary of the new housing bill and what it does to zoning, and how a DRB versus ZBA would change procedures. Mr. Biasuzzi stated the Act 250 rulings apply if a town does not have both zoning and subdivision regulations with jurisdiction for commercial over one acre and subdivisions over five lots. Mr. Conway stated in fairness to the Select Board, the Planning Commission could review the information from the Zoning Administrator and then present it to the Select Board.

A motion was made by Chuck Charbonneau and seconded by Robb Spensely for the Zoning Administrator to research the new law and get back to the Planning Commission before the next meeting. **The motion passed unanimously.**

Kevin Blow stated the Select Board had asked the Planning Commission to do something with the Town Plan regarding solar. Alicia Malay noted the Select Board has not acted on anything relative to solar at this point. Chuck Charbonneau stated the wording that Mr. Norris had presented is still in limbo and noted that information is usually provided to the Planning Commission members prior to the meeting to review for discussion. Mr. Charbonneau advised he works for the members of the Town and has discussed this topic with various community members and the feedback was not as well taken as he thought it would be as some feel it has too much restriction on townspeople's property and it was suggested there may be a conflict of interest with Mr. Norris as a solar developer. Mike Norris noted he was asked to provide language regarding solar sitings and the Planning Commission had voted unanimously on the document. Mr. Charbonneau stated the issue expressed was trying to restrict larger solar fields, however smaller solar fields are acceptable. Mr. Charbonneau clarified he had voted to present the language to the Select Board for their consideration. Mr. Norris stated it is not restrictive language and the goal of the language is for the Town to have the ability to provide conditional approval. Mr. Charbonneau stated it should be clarified that it is for any project in Town, whether large or small. Mr. Norris reiterated he provided language for the Town to be able to provide conditions or to have a say in projects that meet State requirements but currently there is no veto power at all in the local regulations. Robb Spensely noted it was agreed to forward the language to the Select Board and asked Ms. Malay if the language was received by the Select Board. Ms. Malay stated there was a misunderstanding and the Planning Commission had not been invited to the Select Board meeting and stated it will be on the Select Board's next meeting agenda. Donna Wilson stated people have come to the Planning Commission to request a solar plan and suggested the Planning Commission is correct in doing this. Ann Rademacher stated Dave Atherton had indicated he would bring information to the Planning Commission and Select Board on what other towns are doing regarding this subject. Mr. Charbonneau wanted to clarify that the Boards are not targeting only large projects. Alicia Malay stated a change to the Town Plan has to go through two hearings and townspeople will be able to weigh in. Rick Conway stated regulations have to be in the zoning and suggested that professional assistance would be required. Mr. Conway noted the PUC has the final say at a hearing with the Planning Commission, Select Board and RRPC having party status. Mr. Norris stated language would provide the Town with a voice in a project, as it currently does not have a process. Ms. Malay confirmed the language has been passed along to the Select Board. Ms. Marzec-Gerrior asked what the next steps would be. Kevin

Blow stated the Select Board will need to review the language and send it back to the Planning Commission for implementation, if approved. The Town Plan would need to be revised and would require public hearings.

Donna Wilson stated usually the solar projects ask for a letter of approval and asked how the people felt about the project as she will be discussing this item at the RRPC meeting. Ann Rademacher spoke with Ed Bove regarding the Furnace Brook and salvage yard projects that will be discussed and they would like guidance from the Town. Ms. Wilson stated they need to know whether the Planning Commission is in agreement. Chuck Charbonneau noted concern that the Maseroni's had left the meeting and the conversation had already taken place. Ms. Wilson said she will share the notes that she took during the meeting.

## **7. New Business**

There was no discussion held.

## **8. Next Meeting**

July 27, 2023, 7:00PM at the Pittsford Town Office

## **9. Adjournment**

A motion was made by Rick Conway and seconded by Mark Pape to adjourn the meeting at 8:33PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant  
Recording Secretary

Approved by,

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The Pittsford Planning Commission