

Mount Jackson
Planning Commission Meeting
November 3, 2021
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Regular Meeting

Chairman Larry Ambrose called the meeting to order at 7:00 PM in the council chambers at 5901 Main Street. Commissioners Anita Miller, Jim Hines, and Evelyn Burner were in attendance. Commissioner Dennis Andrick was absent. Also present were Neil Showalter, Town Manager; and Debbie Allen, Town Clerk.

Visitors were Robert and Eleanor Whitehurst; Tommy Keeler from the Northern Virginia Daily; Dominika Sink, Yarden Golan, and Eliana Ginis from Energix; Sean Millot from Kimley Horn; and Scott Foster from Gentry Locke. Dave Moore from Cornerstone Technology was present to provide Zoom service.

Agenda Additions/Deletions/Changes: None

Introduction of Guests: None

Hear from Visitors: None

Presentations: None

Approval of the Previous Meeting Minutes – Commissioner Miller MOVED, seconded by Commissioner Burner to APPROVE the Minutes of September 13, 2021 Regular Meeting.

VOTE:

AYE

NAY

ABSTAIN

ABSENT

Commissioner Andrick

Commissioner Miller

Commissioner Burner

Commissioner Hines

Commissioner Ambrose

4 AYES, 1 ABSENT, motion carried

Old Business: None

New Business:

1. Introduction of Special Use Permit Application SUP 21-01 – OFW Solar Farm, LLC

Mr. Showalter asked the representatives of OFW Solar to introduce themselves, and review their packet for the benefit of the Commission.

Ms. Sink stated the special use permit application is for a solar project on land that is zoned for agricultural use. Energix is the company who built Mount Jackson Solar, off of Turkey Knob Road. Energix is headquartered in Arlington, Virginia, and the leading solar energy developer in the state. Ms. Sink stated Energix not only develops projects, but carries them through construction and financing, and owns them for the long term. Ms. Sink stated Energix has seven operational projects in Virginia currently, and 40 employees in the United States. Mount Jackson Solar has 20 megawatts of capacity, and in Virginia Energix has 170 megawatts currently operational. Energix has a buy America policy, and hopes to work hand-in-hand with the community to be a responsible neighbor. The project is to be located on 128.6 acres, and landowners Robert and Eleanor Whitehurst are present tonight as representatives of OFW Solar. This site is next to the existing solar project, and to the south there are already two pre-approved phases, Phases II and III. The new proposal for OFW Solar is to be an additional phase, Phase IV.

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Ms. Sink stated the project location is surrounded by I-81, railroad tracks to the southeast, Mason Cabinetry, Mount Jackson Solar to the northwest, and two neighbors, Mr. Day and Ms. Monroe. Energix will do studies on wetland delineation, and through the PBR will do studies for cultural resources and threatened and endangered species, with the goal of preserving and avoiding an impact on these resources. If approved, this project will significantly improve the economics from Phases II, III, and IV over 35 years, of 2.4 million in revenue to the Town. The project will have limited construction activity, and Energix tries to hire locally. When staff is brought in from outside the area they stay in local motels, eat locally, use local hardware stores, all of which boost the local economy during the construction period. Ms. Sink stated Energix is proposing a 50-foot setback from properties and roads, and will maintain existing vegetation and existing topography to provide screening. Any additional vegetation that they plant will be coordinated with Ms. Monroe and Mr. Day to make sure there is adequate screening from their properties. Currently there are existing tree lines on both properties, and they are proposing to keep them in place to provide adequate screening.

Ms. Sink stated solar projects in general are a quiet neighbor, do not generate pollution or noise, and the only traffic is during construction, with maintenance every few months thereafter. The life of the project is approximately 35 years, and at the end of the project Energix will decommission the equipment. The panel manufacturer with whom they are partnering, First Solar, is the only manufacturer that has a recycling program. Their current recycling rates are approximately 90%, higher than auto manufacturing or computer industries. Energix would propose to decommission the entire site, removing equipment above and below ground, and reseed the land with native grasses. They will provide surety to the Town, so if they are unable to perform decommissioning there will be security in place. At the end of the 35 year project the site can be zoned to any other type of land use.

Ms. Sink stated Energix will go through the state level permitting process, called Permit by Rule. It is administered by DEQ and the goal is to make sure the developer checks all the potential natural resources on site. Sister agencies such as DHR, DGIF, and DCR, provide comments during this process to avoid any potential impacts, and before Energix can apply with DEQ, they must have the local permit in hand. In regards to stormwater management and erosion control, it is important Energix adhere to DEQ standards, as many projects are surrounded by agricultural land and wells. They employ stormwater measures such as retention ponds to capture any excess stormwater, and provide temporary measures to make sure the soil is stabilized, using mulching or seeding. Since Energix does its own construction they have staff on site to ensure adherence to all the requirements.

Ms. Sink stated the panel technology is called thin film, and First Solar uses premium American-made equipment designed to high quality and safety standards, a technology which has been embraced around the world. First Solar has been in business for 25 years, and approximately half of the utility-scale solar projects in the United States are using this technology. Around the world, First Solar has over 200 million panels deployed to date, and the only manufacturer that provides a recycling program. The technology is Cadmium Telluride (CdTe), one element with two very different substances (such as air and water). CdTe is not water soluble, the panels are very resistant and have been tested in a wide range of conditions for pressure, mechanical damage, and temperatures. Studies at MIT, Virginia Tech and NC State have concluded there are no safety hazards to the environment.

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Ms. Sink stated regarding revenue, this phase itself because of a change in legislation, allows the Town to realize additional gains from the project. Under the old rules the project would benefit \$300,000 over 35 years and with the new taxing protocol it has the potential to provide 1.4 million. If combined with Phases II and III, will provide 2.4 million dollars of Town revenue.

Chairman Ambrose asked if OFW Solar and Mount Jackson Solar are a combined solar project. Ms. Sink stated Mount Jackson Solar is already built and separate, but pre-approved Phases II and III are proposed to be combined with OFW Solar for the new project. Chairman Ambrose stated regarding maintenance of vegetation and water run off, there were some major complaints previously with Mount Jackson Solar. Ms. Sink stated there was a period of time where construction was halted due to COVID, and delays in actively maintaining the vegetation. Ms. Sink stated in regards to the water run off complaints, her company looked into that and the culvert that goes under the road is VDOT's, and not connected to the site. Robert Whitehurst stated he spoke with person who made the complaint after the hurricane, took pictures and showed VDOT, who said the culvert is doing exactly what is supposed to and there is no issue.

Commissioner Hines stated the retention ponds on the side near I-81, seem to be reaching full capacity and filling up fairly rapidly with sediment, running under the culvert into the soybean field, and asked if those items would be corrected. Mr. Whitehurst stated his understanding is Energix is having their excavation team come in and dig those ponds back out. Ms. Sink confirmed it would be the responsibility of Energix to fix this issue.

Chairman Ambrose asked Mr. Whitehurst if he had spoken with neighbor, Ms. Monroe, about this project. Mr. Whitehurst stated not yet, but his opinion is Phase I is more visible to her than this one would be. Mr. Whitehurst stated he cleared around his house last summer because he likes the view, but left everything in place around Ms. Monroe's house. Mr. Hines asked if Energix would use subcontractors for this project. Ms. Sink stated they do have civil, electrical, and grading subcontractors, but they manage and oversee all aspects. Mr. Hines asked in regards to the panel technology, as opposed to the mono and poly, why Energix uses the thin panel, because his understanding is they are not the most efficient in converting electricity. Ms. Sink stated actually they are quite efficient, and the technology First Solar uses.

Commissioner Burner asked how much topography will have to be changed, or will it be left much as it is currently. Ms. Sink stated Energix looked into this in more detail to make sure they adhere with the ordinance, and it is much milder than the topography on Phase I, with fewer areas to grade. Energix did request the ability to build on slopes up to 15% due to the technology they are using. Ms. Sink asked Mr. Millot to display the grading exhibit, showing the view of a few different slopes. Mr. Millot stated the slopes over 15% are along the extremities and very sparse, but there are no slopes over 15% in the main solar portion. He stated the majority of water drains to the railroad or to I-81, and they will put the ponds down there at the bottom to catch run off, and treat it before it is released. Mr. Hines stated on the existing ponds there is nothing to hold the soil on the upslope, and asked if the new ponds will be sturdier and constructed differently. Mr. Millot stated his company did not design the previous project, and could not answer to that.

Mr. Showalter asked Darla Odom to address the staff report and some aspects of the application. Ms. Odom stated she would not go over the specifics of the application, but it is important to know with Phase I there are still a few outstanding items that are going to be resolved with the site plan, part of which is additional landscaping within the buffer, and surety for the decommissioning.

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Ms. Odom stated the SUP application is for a utility-scale solar facility on 128.6 acres, in an agricultural district. Also with this request is a substantial accord determination, SA 21-01, and a public hearing is necessary requiring an affirmative determination by the Planning Commission, to make sure the approximate location, character, and extent of the facility is in substantial accord with the Town's comprehensive plan. The special use permit is for the solar farm itself SUP 21-01. Ms. Odom stated the applicants are seeking some exceptions to the current ordinance standards for utility scale solar facility, and those are outlined in the memo beginning on page 3. Ms. Odom stated staff has had the pleasure of formally working on this application since April, or before. The initial submittal was in June, and staff worked with the applicant to get the application to the point of clarity, with the October 25 revision. Ms. Odom stated through that process staff has identified where the proposal is not meeting the current standards, which were adopted with the revised ordinance in June 2020. The applicant has provided the items necessary relative to the traffic plan, landscaping plan, decommissioning plan and the conceptual development plan. Ms. Odom stated there were 569 acres already approved with Mount Jackson Solar and Phases II and III, and OFW Solar would be adding 128.6 acres. The ordinance has a requirement that there be a maximum combined acreage of 400 acres for existing and permitted solar facilities, if within one mile of each other. The applicant is also looking for exceptions for setback requirements, proposing 50 foot setbacks along all property lines, which is less than the current ordinance requirement. The applicant is looking for a reduction in the buffer width which would be 100 feet, but with a 50 foot setback they are proposing the setback to serve as both the setback and buffer. They are looking for an exception to screening as it relates to supplemental vegetation within the setbacks and the visibility relative to the site itself and fencing. Regarding landscaping, slopes and grading, rather than the 10% slope in the ordinance, the applicant is looking for 15% which would allow them to have less grading. Ms. Odom stated the applicant is also looking to not provide the wildlife corridor, and an extension of the time between the SUP approval and when they would be required to complete the facility, from two years to five years or longer if agreed between the Town and applicant. Staff is continuing to analyze the revised application and will be ready to provide that analysis as well as any conditions staff would recommend the Planning Commission impose, if after the public hearing this request is approved.

Ms. Odom stated typically the Planning Commission would have a joint public hearing with the Council, but staff is not recommending that in this situation. The reason is the Planning Commission has the substantial accord to consider, required by state code, as well as the special use permit. The Council does not have to be involved on the substantial accord, however they will also have a public hearing on the SUP, and on a siting agreement, something that is fairly new in state law, which is an agreement between Council and the applicant. Staff asks the Planning Commission to set its public hearing on SA 21-01 and SUP 21-01, for December 6 at 7 PM.

Commissioner Hines asked if the wildlife corridor is state mandated or something the Town came up with. Mr. Odom stated she did not work with the Town on the ordinance but it has been found in many cases to be a best practice recommended for solar facilities, so wildlife can traverse the site in a manner that still allows the security for the site. She does not know if it is a state code requirement or not.

Ms. Sink stated the applicant requests one public hearing, and asked Scott Foster to speak to that issue. Mr. Foster stated he is with Gentry Locke, in the Richmond office, and asked Ms. Odom to verify staff is proposing there be a separate public hearing on the 2232 review and the special use permit before the Planning Commission. Ms. Odom replied they can be run together in one public hearing, the Commission would just take separate action on each. Mr. Foster stated that is perfect and the most efficient way for him.

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Ms. Sink asked for verification there will only be a public hearing on December 6, not December 14. Mr. Showalter stated that will be up to the Council to determine. Mr. Foster stated from a legal perspective so long as each public hearing is noticed each item can be run concurrently at the earlier meeting, and later a public hearing on the siting agreement when the Council meets. Furthermore, the public hearing on the siting agreement could also be at the earlier meeting, if it is the pleasure of the Town Council. Mr. Foster stated he can also answer the question on the wildlife corridor. He works with Energix on projects all across the state, and some ordinances have wildlife corridor provisions, and some don't. In areas of very large projects on thousands of acres, the wildlife corridor is typically in the ordinance to ensure one huge block of land is not fenced in. He stated that will probably never happen in the Town of Mount Jackson, which is a smaller project. Mr. Hines said actually the area it impacts is fairly common for wildlife flow and would make sense, and he was impressed by the provision. Ms. Sink stated because Phases II, III and IV are separate and there are setbacks that basically serve as the corridors, they would not fence in all the phases, and there can be wildlife mobility. Mr. Hines asked if the standard fence that is around Phase I will be used for the other phases, and Ms. Sink replied yes.

Mr. Foster stated the siting agreement is a legal concept, a negotiated agreement between the applicant and Town Council. One of the features of the siting agreement is it allows variances from the ordinance as it applies to a specific project, a feature in the state code. In essence, the siting agreement is the vehicle for creating these variances from the ordinance and by attaching the permit conditions to the siting agreement it becomes endorsed by the siting agreement. Those provisions to the ordinance are modified just to this project. Ms. Odom stated the proposed SUP allows the applicant to ask for modifications to those use standards, and what they are proposing with this site is very similar to, and in line with, the existing zoning on the first three phases. Mr. Foster stated as Mr. Whitehurst pointed out the logic is the older projects were approved under the old ordinance and should be continuous on the new project from an aesthetic and functional perspective.

Commissioner Burner MOVED, seconded by Commissioner Miller to APPROVE Setting a Public Hearing for December 6 at 7 PM on SA 21-01 and SUP 21-01.

VOTE:

AYE

NAY

ABSTAIN

ABSENT

Commissioner Andrick

Commissioner Miller

Commissioner Burner

Commissioner Hines

Commissioner Ambrose

4 AYES, 1 ABSENT, motion carried

Board of Zoning Appeals Report: None

Town Council Items – Mr. Andrick: None

Zoning Administrator Report – Mr. Showalter stated he will provide this information at the next meeting.

Board Members' Items: None

Commissioner Miller made a motion, seconded by Commissioner Burner, to adjourn the meeting at 8:00 PM.

Submitted by: Deborah L. Allen, Town Clerk