

Shutesbury Planning Board Meeting Minutes
October 15, 2018 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Jeff Lacy, Steve Bressler, Robert Raymond, Michael DeChiara, and Jim Aaron

Planning Board members absent: Linda Rotondi

Staff present: Linda Avis Scott/Land Use Clerk

Guests: Town Counsel Attorney Donna MacNicol, Town Administrator Becky Torres; Jeff Macel, Kevin Sullivan and Kevin Midei/Lodestar; Penny Jaques/Conservation Commission; Genny Beemyn, Sara Clark, Diane Gula, Mary Lou Conca, Beth Adams, Don Wakoluk, James Schilling-Cachat, and Michael Suter.

Bonnar calls the meeting to order at 7:30pm.

Public Hearing for Special Permit Amendment/Wheelock Solar Project/LDSP12 LLC-Lodestar:
Bonnar calls the public hearing to order at 7:30pm. DeChiara, as an abutter to the project location, recuses himself from discussion about and voting on the project. Bressler explains that the public hearing is being audio recording for Linda Rotondi, absent Planning Board member. The reason for DeChiara's recusal is restated to answer Mary Lou Conca's request for clarification. Jeff Macel/principal for Lodestar Energy explains that LDSP 12, LLC was acquired by Lodestar from Lake Street Development Partners in 2017; Lodestar is seeking a site plan modification – Lodestar has minimized land clearing from the original plan, improved energy generation and minimized land disturbance throughout site. Kevin Sullivan/Lodestar reviews specifics: the goal is to produce 6 megawatts/DC; we are now at 5.6 MW/DC and need to get to 6MW/DC, 4.5MW/AC at the road, therefore more panels are needed; we will not be clearing or acquiring more land – the land for the additional 948 panels is already cleared and within the fenced area, the detention basin on the east is not required, the additional pipes are making the water flow better. Sullivan calls attention to the thirty "Shutesbury Solar Construction Status Inspection – Weekly Storm Report" inspections conducted by SWCA and notes that there have been forty-four meetings to ensure all the special permit conditions are met and there has been no failure of conditions; there have been thirteen site visits by various parties. Sullivan refers to the stormwater calculations for the site: the detention basins were not required – the storm water calculations demonstrated that the site could handle the water, however, it was decided to install the basins; the site is a total of 35.5 acres, 1.5 acres are in question tonight; the site is 1.5 million total sq. ft and we are asking to change 67,000 sq. ft. Sullivan reviews site plans: the clearing at Pratt Corner Road was reduced by 14,700 sq. ft., along the entrance road, detailed swales were eliminated – water flows to where it always flowed resulting in a net gain of nearly two acres of water that remained on site; the first detention basin is referred to as "North"; 29,350 total square feet of clearing was eliminated in the this first area; the second section runs to the south, buffers the project on the west and eliminated the need for clearing near the transformer. Sullivan: we created positives by subtracting the clearing of almost 15,000 sq. ft. which means more forest; we decided to let water be disbursed, almost as it would have naturally, resulting in good drainage with no damage to wetlands. Sullivan: next, in the area to the east, the eastern basin directs water from a very dry site down the slope into a basin and sends it to the nearest outlet; the less disturbance, the more micropores distribute water to where it is supposed to be; there is

no reason to use a settling pond when water can be sent safely across the site. Sullivan: we came permitted for 6MW; we have made substantive betterments - 2.5 acres were not cleared and 87,410 sq. ft of drainage stays on site and percolates into the original basin – we have been forthright and well-documented; our proposal is to add ~1,000 additional panels. Bressler: how many panels to a post? Sullivan: there will be an additional 172 posts equaling 172 sq. ft of additional disruption within the original fenced area in a location that is already stable and is vegetated. Sullivan to Raymond's question: we are now at 5.6MW and need to be at 6MW to meet requirements – that is what was permitted and what National Grid expects. Raymond: the freedom of not needing the third basin allows this? Sullivan: yes. Macel to Lacy's question: LSDP12 is the company that owns the development rights and is a subsidiary of Lodestar. Lacy: two of the proposed stone pads next to the inverters are noted on the plan; the third one, near the first inverter, is not shown. Sullivan: it will be located in front of the inverter; the stone pads are being asked for are needed for safe service. Lacy: the stone pads were not included in the amendment application. Sullivan: they are insignificant. Macel: the gravel pads are pervious and allow water to flow through them; we would like one next to each inverter for maintenance. Lacy: the northern and western basins have been downsized, why were they so large to begin with? Sullivan: the size was a mechanism for permitting; the size of the northern basin was not changed, we used a different construction technique for the western basin – it was modified to receive water for how the site was developed. Lacy: initially, DEP treated the solar site as impervious. Sullivan: the term used was “connected impervious”; now, solar sites are treated as “unconnected pervious”. Lacy: the eastern area, where the additional ~ 1,000 modules are proposed, was going to have a basin. Sullivan indicates this area on the site map. Lacy: this basin was not built and there have been no problems - the wood chip surface and native soils are working fine; that is proven to work, and no erosion is generated, however, now, you are proposing to add a complexity by installing additional panels and we do not know what will happen once these panels are installed; are there any new runoff calculations that include the proposed check dams. Sullivan: the site is no longer considered impervious; the silt fence is in immaculate condition; there are three differences - the additional panels will be built on live material unlike the main site; per the plan, straw wattles will be anchored to the fence and the third protection will be the stone check dams; the engineer sited the check dams where water is most likely to move through – they are constructed with fabric and a hump for water to flow through. Lacy: if this were a new area, would you not have to base the panel site on a runoff coefficient? Sullivan: the coefficient is spoken for; SWCA indicates that this is a balanced site; the new area is a soil type that actually “eats the water”. The 2015 stormwater calculation documents are given to Lacy for review. Bressler: how did you come up with ~1K new panels? Kevin Midei/Lodestar: there are .4 megs left from the original 6MW; each new panel adds ~ 948mW therefore the final system size will be 5.948MW. Bonnar notes that before the proposal for additional panels, the Planning Board was already proposing the elimination of the third detention basin and the installation of check dams. Penny Jaques/Conservation Commission reports she has visited the site six times, recently on 10.11.18, and has observed no effect on wetlands; there is no runoff anywhere in the new area; it is better not to tear up the soil for detention basin #3. Jaques asks Sullivan how panels will be delivered to the new area without damaging growth. Sullivan: there will be only forty palettes; we have designed a cycle that will require a tremendous amount of hand labor; the disruption will be a six-foot wide path; we expect to have much better controls for this small area. Sullivan to Jaques question about the route: a trailer on the back of a tractor will be used for transport and the two driest paths will be

used for in/out; the goal is to get a flow going with a crew of 6-8 men who will work their way across the new area. Jaques: will reseed be needed? Sullivan: this fall, we will be using a different seeding technique. At this point in the hearing, Bonnar invites public comment. Sara Clark/141 Pratt Corner Road: three detention ponds were proposed and only two were built, why are they allowed to come back to the Planning Board; there is water on the side of the road; haybales have been removed and her runoff stream is not drying out as it used to. Don Wakoluk/215 Leverett Road: as a soil scientist, the egregious areas are removing a detention basin that was put into the design by SWCA and the need to talk about how the site may respond in a 100-year event. Jaques: there is no runoff in the area of the proposed third basin. Wakoluk: the water from the drained hillside runs underground; by increasing the speed of the runoff, there is a greater charge to the groundwater that is showing up on the road and near Ms. Clark's site; the developer should increase the depth of the detention basins and the proposed weirs; Clark is going to see a wetter site. Clark: who is going to compensate me if something goes wrong with my well? Lacy responding to Clark: the solar site amendment is allowed by Shutesbury's Zoning Bylaw, Section 9.4-3 "Amendment" (page 65) that he reads into the record: "The terms and conditions of any Special Permit or Site Plan approval may be amended in the same manner as required for the issuance of the original approval. Any enlargement, alteration, or construction of accessory structures not previously approved shall require an amendment." Clark states she had no qualms with the project initially though now it is affecting her property. Sullivan: the haybales were installed to guide parking and were removed by the Highway Department; shows Clark the site plan and how water flows north based on natural topography and not toward her property Lacy reports walking along Pratt Corner Road near Clark's looking for flow paths and could not find any pronounced flow paths. Wakoluk: flow paths are only found in silty soils. Clark says that she has pictures of standing water; water is coming from somewhere and there is a culvert under the road; she is not opposed to the project, however, doesn't understand how Lodestar can come back and ask for more. Michael Suter/94 Pratt Corner Road states that he has lived in his house for nine years and never had water in the basement until this year and the driveway is wet; who is going to access these problems, who is going to deal with this – is the town going to be responsible – it is not coming downhill; now has peepers throughout the year and the wetland has moved into his backyard. Lacy: how can we differentiate the solar project from this year's weather; he has observed hydrological differences in his property from last year to this year; the mitigating factor of this year's weather cannot be ruled out. Becky Torres/Town Administrator reports receiving a number of calls from residents on all the dirt roads; a project at the Fire Department site cannot be worked on because the water levels are so high; the Highway Department is working on the roads and folks are having problems in other areas of town. Wakoluk: SWCA overbuilt based on 500-year floods; adding water to the system increases input to the downhill and may put pressure on the uphill; Lodestar may want to increase the depth of existing ponds and add splash boards. Jaques: the area for the additional panels has not had any water; Lodestar has been adjusting the existing basins throughout the project and they have a great deal of remaining capacity. Sullivan: the western basin has 6.5 feet and the northern basin has 4.5 feet of additional free board space; the goal is for the water to percolate. Jaques: as the site slowly revegetates, the water will be taken up by plants; it is hard for the plants to grow through the woody mulch. Diane Gula/480 Pratt Corner Road: the abutter letter stated that storage pads for possible future battery storage will be built; will there be guards to check on battery leakage? Macel: we have talked with the Planning Board about battery storage though the plan for storage was not put in this application. Bressler explains that the applicant will have to

come back to the Planning Board with plans for storage batteries. Conca asks what is the difference between an amendment and the initial permit and refers to her 10.15.18 email to the Planning Board citing Pre-Construction Condition #1 noting that the site was not assessed by a Federally recognized Tribal Historic Preservation Officer and that this should be done. Conca, per her email, references MGL Chp.114 Section 17 and notes that the law is very clear and the Board never followed it in the first place. Lacy: the stormwater calculations are from 2015, are there any newer calculations? Sullivan: the engineers felt that no new calculations were needed. Lacy: the new panels are going to have runoff; knowing the area, he feels the proposal will work however he requests new calculations for the location to ensure no water runs off from this area. Sullivan suggests the amendment be conditioned such that calculations be provided. Town Counsel Donna MacNicol: that is too much of a condition. Sullivan: the engineers stand behind the calculations; the basins were designed; we are good at managing our sites. Beth Adams/Mass Forest Rescue asks if there is an accounting of the herbicides and pesticides used. Sullivan: nothing has been used to date, not even lime, though we are still discussing the use of lime for the soil ph. Adams: that is good news. Adams to the Board: you skipped over Conca's concerns; we need to be cognizant of the spiritual values of these properties – these stones cannot be moved; they have value because of the prayers that are in them. Adams asks about the composition of the panels – what if they are damaged, she would want to know they are of the highest grade possible as there are far less toxic panels now available; recommends the Town have a bylaw and a moratorium on using forest land for solar farms; are the taxes worth it in the long run; we talked about these problems when the project was originally proposed. Raymond states he is concerned with the factual issue raised by Lacy – the impact of additional runoff and who will address it and the problems noted by individuals; how long would it take to have these questions addressed. Sullivan: this site is not part of the Pratt Corner watershed; we are bound by the mechanisms of the original permit regarding water flow – there are safeguards in place that have been monitored. Raymond: when there is a public that is concerned, why not do the calculations; he would like to hear about this from the engineers. James Schilling-Cachat/229 Leverett Road: are any of the native plants endangered? Sullivan: the wetlands have been delineated; none of the permit conditions have addressed plants; there is nothing endangered in our scope of work. Schilling-Cachat asks where the legal ad for the public hearing was published. Scott: the legal ad was published 10.1.18 and 10.8.18 in the *Daily Hampshire Gazette*. Schilling-Cachat asks if DeChiara has any runoff. Because DeChiara is recused, he cannot answer this question. Conca: are you aware of the MGL? Sullivan: the protected areas were fenced off and no one was able to walk into them; the conditions for the protected areas were strictly enforced; a violation would have resulted in the employee's termination. Conca: why isn't the landowner present for the hearing? Macel: Lodestar is the long-term lease holder and works with the Planning Board and Conservation Commission. Wakoluk asks if Cinda Jones/landowner has been present for the public hearings on the project. Bonnar does not recall her being present. Wakoluk: why would she not be present and approve her proxy speaker? MacNicol: there is no requirement that the landowner be present; the party that has custody of land needs to be present; if it were the landowner's project, they would be required to be in attendance. Gula: is there logging in another section? Sullivan: Lodestar controls the mountain top; up Reed Road to the left, forest cutting will be continued – this cutting has nothing to do with Lodestar or Cowls. Clark appreciates Raymond hearing and understanding her concerns. Schilling-Cachat asks about the "private way" sign. Sullivan: as a representative of Lodestar, he installed this sign to ensure project traffic was managed properly; our area is defined. Torres:

Reed Road is not identified as a public road. MacNicol: we believe it is not a public way. Suter states that he wants to know who owns Reed Road. MacNicol: one needs to research town meeting warrants to see if Reed Road was declared a public way; you can also research this for yourself by using Beers maps; it is costly for towns to have this research done; if the road is not under Chapter 90, towns usually do not consider them town roads. DeChiara: Reed Road was not on the 1999 road inventory; Pratt Corner Road was created in 1840. Bonnar: the Board will now consider next steps. Lacy suggests extending the public hearing in order for Lodestar to do an engineering analysis on the eastern area that is then evaluated by Tighe & Bond; the Tighe & Bond third party review will be paid for by Lodestar under Chapter 53G. At 9:05pm, Sullivan, Macel and Midei/Lodestar leave the meeting to confer and return at 9:08pm. Macel: we have timing concerns relative to the SMART program; we can comply with drainage calculations, the original design was for impervious and now the site is considered "unconnected pervious"; when there is a public that is concerned, we are willing to submit the information to Tighe & Bond for review. Macel asks that the Board vote on the special permit amendment; this will demonstrate that we have less impact than per the existing permit. MacNicol to the Planning Board: you cannot condition a major element of the amendment; acknowledges time constraints. Sullivan: time limit to get the calculations is 15 business days. Macel: then there will be a review by Tighe & Bond which we agree to pay under 53G. MacNicol would much prefer a tight time frame for the continuance so the Planning Board can await their vote until Tighe & Bond reviews the engineer's data. The Public Hearing continuance date will be 10.25.18 at 7:30pm. On behalf of the Board, Lacy will confer with Tighe & Bond. Lacy moves the Planning Board extend the special permit amendment public hearing to 10.25.18 at 7:30pm and that Lodestar's engineer investigate drainage changes to the eastern side and send their report to Tighe & Bond for review; Bressler seconds the motion. Bonnar, Lacy, Bressler, Aaron, and Raymond: all aye; DeChiara abstains; motion carries.

Public Comment: none offered.

Unanticipated Business: DeChiara, per his 10.14.18 email, recommends complying with guidance from the Attorney General regarding wording for agenda items and notes that Board members need to know about agenda topics, in a timely way, with relevant materials to be distributed in advance of the meeting. Raymond appreciates the cannabis related materials provided by DeChiara and received in advance of the meeting and supports adding a few descriptive words to agenda items. Lacy agrees that more agenda information would be helpful.

Planning Grant for Lot O32 Leverett Road: continued to a future meeting.

9.27.18 Cannabis Forum; Cannabis Related Zoning Bylaws: Bonnar: materials in the packet will be referred to at a future meeting. DeChiara: the spreadsheet he created can be used as a checklist; large format hardcopies will be provided to the Board for future use.

DeChiara moves and Lacy seconds a motion to approve the 9.10.18 Planning Board meeting minutes; the minutes are unanimously approved as presented.

Proposed 2019 Zoning Bylaw Amendments: DeChiara suggests identifying a strategy for addressing the proposed amendments. Bressler suggests committing to considering one or two proposed amendments per meeting.

At 9:35pm, Raymond moves and DeChiara seconds a motion to adjourn the meeting; motion is passed unanimously.

Documents and Other Items Used at the Meeting:

1. LSDP12, LLC Special Permit Amendment application received 9.27.18 and relevant site plans, reports and calculations provided by Kevin Sullivan/Lodestar
2. 10.4.18 and 10.15.18 email from Mary Lou Conca “Wheelock Tract-Violation of MGL ch.114, sec.17, and Pre-Construction Condition #1”
3. Draft FRCOG Recreational Marijuana Bylaws
4. 10.15.18 “Possible 2019 Zoning Changes” by Bonnar
5. 10.14.18 email from DeChiara “Agenda is insufficient per AG guidance”

Respectfully submitted,
Linda Avis Scott
Land Use Clerk