

Minutes for Monday, November 2, 2020 Planning Board Meeting

Note: this meeting was held by video-conference as allowed by State of Maine emergency measures put in place in March 2020 in response to the COVID-19 pandemic.

1. Call to Order: The meeting was called to order at 6:06 PM.

2. Introduction of Attendees - present were:

- **Planning Board (PB) Members:** Bill Graham (Chair), Laura Chadbourne (Secretary), Morris Gibley, Melanie Eldracher, David Johnson, and Alternate Member Lynn Hopkins.

Additional attendees:

- **David Galbraith**, consultant to Southern Maine Planning and Development Commission (SMPDC)
- **Darrin Stairs from Woodard & Curran** (engineering / project mgmt for Nexamp)
- **Ben Axelman from Nexamp**
- **Frank LaRosa and Sharon LaRosa** Landowner Map R-09 Lot 17 (Sweden Solar, LLC)
- **Charlotte Riley** Landowner Map R09 Lot 9 (Sweden Solar, LLC 2)
- **Vreni and Anne Hommes**
- **Mary Sohl**
- **Bruce Taylor**
- **Kathy Shorey**

3. Minutes from the October 20, 2020 Meeting: The minutes were reviewed by the group. David Johnson moved to approve the meeting minutes as written. Melanie Eldracher seconded the motion. The motion passed unanimously.

4. Review documents and information related to the Sweden Solar, LLC and Sweden Solar 2, LLC Conditional Use Permit Applications

Chair Bill Graham opened this portion of the meeting with a summary of the purpose and process for the meeting which is for the Planning Board to have a working session for board members to review documents and information related to the CUP applications. It was not anticipated that any voting on the application would be taking place that evening. Since the public hearing portion of the CUP review had been conducted and closed on October 20th, the only people speaking at this meeting would be the board members unless a board member wanted to ask the applicant or SMPDC a question.

Secretary Laura Chadbourne added comments related to the Planning Board's role in reviewing and deciding upon the CUP applications. She quoted language from Maine Municipal Association's "Manual for Local Planning Boards: a Legal Perspective" (2017). She noted that the board must, "determine whether there is sufficient evidence in the record to support a decision to approve the application by **comparing the information in the record to the requirements of the ordinance/statute.**" The decision must be based "solely on whether the applicant has met his or her burden of proof and complied with the provisions of the statute/ordinance", not on a subjective decision on whether a board member thinks the project is "good" or "bad" for the community. The board should also "not base its decision on the amount of public opposition or support displayed for the project."

The board then focused on reviewing evidence that would inform **Conclusions of Law** as outlined by the Sweden Zoning and Land Use Ordinance:

Section XIII Conditional Use, Subsection A. Factors Applicable to Conditional Uses states: "It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met".

The Board discussed evidence related to each of the applicable factors:

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1. The use will not have an adverse impact on the spawning grounds, fish, aquatic life, bird or other wildlife habitat.
 - **Discussion:** Maine DEP did a lot of work to review these applications. Soil tests, historical impact, wildlife impact. What is clearing amount for each property? Riley: 34.3 acres. LaRosa: 35 acres. Area of solar array is about 25 acres. Fence will gap on ground for wildlife. Seed mix for meadow. The SMPDC reports noted that the applicants have submitted the project plans to the Maine Department of Environmental Protection (MDEP) which have been reviewed and their Site Location of Development Act Permit was approved by the MDEP in June 2020. The protection of wildlife habitat is outlined in great detail within the project application under "Wildlife Habitat". The Maine Department of Inland Fisheries and Wildlife (MDIFW) also reviewed the application and stated:

A request was also made to the Maine Natural Areas Program for information regarding any known rare and exemplary botanical features relative to the project area. The Maine Natural Areas Program responded indicating that there are no known rare botanical features documented specifically within the project area; a copy of their letter is attached to this Section for your reference. The Wetland Delineation Report attached to this Section confirms that there are no Significant Vernal Pools within the project area. No adverse impacts on spawning grounds, fish, aquatic life, bird or other wildlife habitat is anticipated to result from the proposed project.

A copy of the entire MDIFW report is included with the submitted application.

2. The use will conserve shore cover and visual, as well as actual, access to water bodies.
 - **Discussion:** Board reviewed Sections 3 and 4 of each CUP application and noted the following: The proposed use is not within a shoreland zone however, the project is designed to maintain a 100-foot buffer to the branch of Popple Hill Brook adjacent to the site as recommended by MDIFW.
3. The use is consistent with the Comprehensive Plan.
 - **Discussion:** Board reviewed Section 5 of each CUP application. It was noted that a letter from Planner Lee Jay Feldman of Southern Maine Planning and Development Commission (SMPDC) dated 6-22-2020 indicates that after review of Sweden's Comprehensive Plan he did not find any Goals, Policies or Strategies supporting or discouraging such a use. PB Chair had researched comprehensive plans in general – they are a vision, not a tactical plan so not a step by step set of regulations. PB member noted that we need to think about whether a Public Utility is a commercial or industrial use. The board deferred further discussion on this topic until later in the agenda when they planned to review specific language from the town's Comprehensive Plan in more detail.
4. The need for a particular location for the proposed use.
 - **Discussion:** Board reviewed Section 6 of each CUP application where information was presented that outlines why these properties are specifically suited to solar development.
5. Traffic access to the site meets the standards contained in this Ordinance, and traffic congestion has been minimized in accordance with performance standards in this Ordinance.
 - **Discussion:** Board reviewed Section 7 of each CUP application which outlines that adequate line of sight is available to the access road for each development. Traffic would increase temporarily during construction after which it would be almost nonexistent.
6. The site design is in conformance with all municipal flood hazard protection regulations.
 - **Discussion:** Board reviewed Section 8 of each CUP Application. The applicants provided information and maps showing that the solar development locations would not be located in FEMA Flood Insurance Rate Maps and therefore it is not anticipated that any facilities or infrastructure would be threatened by the flood plain. The application also notes that a hydrological analysis of the proposed work is included in the application in Section 11.
7. Adequate provision for the disposal of all wastewater and solid waste has been made.

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- **Discussion:** Board reviewed Section 9 of each CUP Application. The project will not generate any wastewater. The site, during construction and occasional maintenance, will generate some solid waste such as cardboard waste (solar panel boxes) and clean wood waste (wood pallets). Although the applicant/s have not contracted with specific waste haulers they provide a list of service providers in the area and they will utilize those providers or similar to remove all waste generated at the site.
8. Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.
- **Discussion:** Board reviewed Section 10 of each CUP application which states that the proposed work will not generate any hazardous waste.
 - PB Member asked question, "what if 10 or 20 years down the road, what was promised is not reflected in reality, what's the town's recourse?". David from SMPDC: lots of recourse. Can go back at any time and use the application to enforce what was promised. Also for decommissioning, the company puts up a bond. He's never seen an instance where that bond had to be pulled, although came close a couple of times and problems resolved immediately before it came to that.
 - Condition could be that town inspects the projects every X years and ensures applicants are living up to their promises.
 - Condition could also be that bond is reviewed and amount increased due to inflation. PB Member: there are several ways to do this, but need a decommissioning plan with escalator clauses as time passes. Typically review every 5 years.
9. A storm water drainage system capable of handling a 25-year storm without adverse impact on adjacent properties has been designed and will be put into effect and maintained.
- **Discussion:** Board reviewed Section 11 of each CUP application. DEP has done in depth review, soil survey etc. Darrin Stairs of W&C: Solar panels themselves do collect some runoff and then shed to the ground beneath them. DEP's conclusion: as long as you vegetate under the panels, then the panel areas are not considered impervious. Soil type: blended. Most good infiltrating soils, "group A". Where panels are going are A. There are some "D" soils around brook and wetlands, not constructing there. Rigorous review with DEP stormwater engineer – he was meticulous. Meeting standard of DEP 500 "upper echelon of stormwater management standards".
10. Adequate provisions to control soil erosion and sedimentation have been made.
- **Discussion:** Board reviewed Section 12 of each CUP Application. "Best Management Practices" are outlined in plans. The application provides a Soil Erosion and Sedimentation Control Plan which restrict the potential for erosion and sedimentation from the site to down-gradient properties. The submitted plan provides a detailed overview of "best management practices" that will be utilized on the site during construction. Sediment and erosion control details can be found on Sheet C-301 in the project application. PB member noted that the town / CEO would need to ensure construction follows the plan.
11. There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes.
- **Discussion:** Board reviewed Section 13 of each CUP application. No water needed unless there's a fire. How likely is that? Ben Axelman of Nexamp: that is very rare; have never had one on their properties. As a potential condition, Nexamp would be happy to provide first responder training. PB Member asked: transformer has small amount of oil, correct? Applicants: yes.
12. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development such as, but not limited to, noise, glare, fumes, dust, odor and the like.
- **Discussion:** Board reviewed Section 14 of each CUP Application which outlines forested buffer. PB Member asked: could buffer be increased? Ben Axelman of Nexamp: could update plans for

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next meeting or have as condition of approval and/or adding screening plans. Just need to ensure no shading impact to solar panels.

13. All performance standards in this Ordinance applicable to the proposed use will be met.

- **Discussion:** Board reviewed several portions of the Zoning Ordinance:

X. PERFORMANCE STANDARDS:

“D. Erosion and Sedimentation Control

1. All activities that involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
 2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible and natural contours shall be followed as closely as possible. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity.
 4. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch or other effective measures. In all cases permanent stabilization shall occur within 9 months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to minimize siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 5. The Code Enforcement Officer is empowered to inspect and identify any existing source of erosion or sedimentation that has the potential to deliver soils or sediment to any water body protected by this Ordinance. Any such sources shall be immediately stabilized to temporarily prevent such erosion and sedimentation. Following temporary stabilization, which must be accomplished within one week of notice of violation, an erosion and sedimentation control plan and maintenance provisions shall be submitted for review within thirty days of notice of violation. The erosion stabilization plan shall demonstrate that the requirements of this Ordinance will be met. The erosion stabilization plan shall be completed within two years of notice of violation.”
- **Discussion:** CUP application and plans specify that there will be minimal grading with removal of brush. and stumps in winter. Plant mix in spring, perimeter erosion controls will stay in until after vegetation established at 90%.
 - Bat breeding – Northern Long-Eared Bat area – this is true in all of Maine, even in more urban environments. Applicants will not remove timber during breeding season. PB Member asked, would townspeople be able to put bat houses in the area? Ben: yes, no issues.
 - David from SMPDC – suggest we have contact information for local person representing Nexamp for quick turnaround on any erosion issues.
 - What is the erosion and sedimentation plan? Represented in the construction plans which will be updated with a little more detail to instruct the contractor. The plans will not be significantly different that what is approved for the CUP.

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“K. Off-Road Parking. Parking areas shall meet the shoreline setback requirements for structures. Off-road parking space for each dwelling unit shall be provided in the amount of 300 square feet. Public parking space for permitted businesses shall be one space for each employee, and one space for each three people expected to be served. Such space may be accomplished by garage space, driveway space or parking lot.

1. **Loading - Unloading.** Where permitted or allowed, commercial uses shall provide, as necessary, off-road loading/unloading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading, unloading or storage upon any public roadway.
 2. **Landscape Buffering.** Required parking and loading spaces for nonresidential uses, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls or any combination thereof forming a visual barrier not less than six feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.”
- **Discussion:** site plans show there will be a very small parking area (turnaround) once construction is finished. Buffers already discussed above and will more than meet this requirement.

“M. Public Nuisances. This Ordinance reflects the overwhelming desire of the residents of Sweden to maintain the rural character and natural beauty of their town as expressed in their approval of the Comprehensive Plan dated May 2004.

1. The following standards are consistent with the foregoing desire and should not be considered all-inclusive.
 - a. No more than two unregistered or uninspected motor vehicles shall be maintained on any property, and such vehicles shall not be visible from any public or private roadway or from any adjoining property.
 - b. No person shall store, use or dispose of any hazardous, toxic or noxious material in any way that may be dangerous or injurious to the public health or safety.
 - c. No person shall engage in activities which may cause undue disturbance to abutting property owners (abutters) due to unreasonable noise, smoke, vapor, fumes, odors, glares, stormwater runoff which may destroy or erode property, or other similar conditions which may impinge upon the health, safety, comfort, peace and enjoyment of the community.
 - d. No person shall establish a dump or a junkyard in the Town of Sweden.
 2. Violations of this ordinance, as determined by the Code Enforcement Officer or upon written complaint of a Sweden resident(s), will be brought before the Planning Board and the Town Health Officer for disposition.”
- **Discussion:** as noted in Section 10 of the CUP applications, the projects will not generate any hazardous waste. Noise levels of the equipment on site will not be audible outside of the development area. There will be no smoke, vapors, fumes, odors, or glare from the development (solar panels are non-glare). Stormwater runoff concerns were addressed in section 11 of the CUP applications. The proposed project has been designed to accommodate a 25-year storm event without any adverse impacts to adjacent properties as required by the Town's Zoning and Land Use Ordinance. The application includes a copy of the Stormwater Management Plan which was reviewed and approved by the Maine DEP.

Public Utilities section of X. Performance Standards – Board reviewed previous information supplied by Southern Maine Planning and Development Commission (SMPDC) in a letter dated 6-22-2020. Sweden's Zoning and Land Use Ordinance does not define Public Utilities. Lee Jay Feldman of SMPDC stated:

"I was asked to determine What use category a Solar project could fall into since the ordinance currently does not have Solar specifically mentioned? In other communities, Waterboro, North Berwick and Berwick in particular have classified the use as Public Utility, Utility or Essential City Service. Sweden has Public Utility noted as a Conditional Use in

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several zones (Which I will address later in the memo) The town however does not define a Public Utility in the ordinance, when this occurs the rule of thumb is to turn to Webster's Dictionary to define a Public Utility. Webster's-Merriam defines a Public Utility as follows: **Definition of public utility** "a business organization (such as an electric company) performing a public service and subject to special governmental regulation". Based on this definition I would consider a Large Ground Solar Array as a public utility which has also been proposed in other communities."

"N. Public Utilities.

Construction of new facilities and the extension or enlargement of present facilities, except for extending consumer services via distribution lines, requires a Conditional Use Permit in accordance with the rules and procedures of this Zoning Ordinance and compliance with the following additional provisions:

1. Evidence that such construction, extension, or enlargement is needed to serve the welfare of the residents of the Town of Sweden."
- **Discussion:** is this needed to serve the welfare of the residents of the Town of Sweden? Benefits include reducing electric bills, assisting in reduction of carbon footprint, and hard dollar tax benefits which aren't totally clear yet. PB Member: at end of Comprehensive Plan, it notes that Sweden has a narrow tax base. Since 2001, cost of running this town has more than doubled, and it will continue to go up. PB Member: who will be representing Nexamp to ensure the tax questions get answered going forward? State is updating laws; things could change. Ben Axelman: happy to remain as the single point of contact and Nexamp has a group that manages financials and will work with the town on any questions and evolution. Nexamp headquarters is in Boston and it's likely Nexamp will have employees in Maine soon. PB Member: should guaranteed revenue be a condition of approval? Issue is that the state expects shortfalls for the fund to reimburse towns. Concerned about impact to town. Could we consider this be a taxable asset to the town and coordinate with the state so no one is left out? Ben Axelman: would like to check with Nexamp legal counsel, but if state doesn't step up to the plate, could have a memo of understanding about payments to the town. PB Chair asked Ben Axelman to bring something back for PB to consider as soon as possible. Potentially could be a condition of approval. JE O'Donnell, Sweden tax assessors, have done assessment for several towns including Farmington which is the biggest solar array in the state. Non-reimbursement of tax revenue from the state is a real risk to the town.

"2. Evidence that such construction, extension, or enlargement cannot be provided by alternate routes, places, and types of construction."

- **Discussion:** Board reviewed Section 6 of each CUP application where information was presented that outlines facts supporting that these properties are specifically suited to solar development.

"3. Evidence that the proposed use conforms to the stated purpose of the Comprehensive Plan and Zoning Ordinance."

Board reviewed the purpose of the Zoning Ordinance and introduction to the Comprehensive Plan:

Zoning Ordinance:

"I. PURPOSE A. Purpose.

The purpose of this Ordinance is to assist the residents of Sweden in meeting Town goals by executing Town policies and implementing Town strategies, as stated in the Town of Sweden Comprehensive Plan. More specifically, it is to: ensure orderly growth and development; encourage sound forest management practices; regulate building sites, placement of structures, and land uses; protect water quality; conserve fish spawning grounds and wildlife

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habitat; preserve wetlands; and maintain open space. As planning is a continual process of update and revision, likewise this Ordinance must be reviewed and updated from time-to-time to remain compatible with, and supportive of, the Town's desires as reflected in the Comprehensive Plan. B. Long-term Preservation. All of the above would ensure long-term preservation of Sweden's rural character and natural beauty, and enhance conditions for quality living of its residents."

The Introduction and Overview of the Town of Sweden, Maine Comprehensive Plan 2004 is as follows:

"The Town of Sweden is very small, comprising about 27 square miles, and, for the past century, has had a resident population of less than 325 persons. Situated in southwestern Maine among Oxford County foothills, it is largely undeveloped and distinctly rural-residential in character, with no concentrated village area, commercial center, or industrial activity. Most consumer needs are adequately met by neighboring towns and more commercial centers within 30 minutes in each of three directions (east, west, and northeast).

Uniquely, Sweden enjoys a characteristic natural beauty and rural tranquility, totally uncongested and seldom disturbed—scarce commodities today, but vital to sustaining a high quality of life and overall residential well-being. The town is situated among several other similar towns out of the mainstream, collectively forming an appealing niche of traditional rural New England. These characteristics have been central to Sweden's planning and preservation efforts since its original Comprehensive Plan in 1973.

Through the adoption of town-wide zoning in 1975, Sweden's property owners have opted for an emphasis on rural-residential preservation and respect for the natural environment in lieu of economic and commercial development. A revised Comprehensive Plan (1988), followed by corresponding Zoning and Land Use Ordinance revisions in 1991 and 1998, continued this emphasis by including a Rural Preservation Zone, Aquifer and Stream Protection Districts, watershed phosphorus control standards, and refining of overall land use criteria.

Recently, the gradually increasing land development and residential-commercial sprawl occurring throughout Maine continues, and is now accelerating throughout local surrounding towns. Byproducts of this neighboring activity, together with increased liquidation timber harvesting, subdivision of land, and residential construction, are being experienced in Sweden. The resulting growth and pressure place an increased demand on municipal services and threaten suburbanization of Sweden's natural and quiet rural character.

The term *rural*, as used in this document, is understood and intended to mean country in contrast to *urban and suburban*. In this context, Sweden's rural nature is characterized by open natural spaces, abundant wildlife habitats, sparsely settled residential development, agricultural and forest areas, and minimal commercialization. Noticeably absent are industrial sites, concentrations of multi-dwelling/multi-family structures, and urban/suburban traffic and support systems. All taken together, the rural nature of Sweden implies an ambiance of quieter, less congested, more relaxing, and private residential living.

Because development has a dramatic and lasting effect, it is important that Sweden continue to plan, establish, and refine growth management policies so that its citizens may determine, and remain in control of, the Town's future--so that desirable growth is accommodated while those qualities special to Sweden and its people are preserved. At the same time, the state requires periodic review and update of Comprehensive Plans. It is intended that these plans will provide a legal basis and rationale for any future ordinances or land use regulations that may be adopted by a town, as well as for all town governmental responsibilities and actions.

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This second update of the Town of Sweden Comprehensive Plan is another major step in the ever-continuing planning process. In addition to being a periodic review/update of the 1988 Plan, it projects into the future and responds to new guidelines and criteria established by the State Planning Office. It is a compilation of information, analyses, policies, and strategies. It is not an ordinance or regulation in itself, but rather, a vision and set of foundation guidelines and goals for determining future development and direction for the town, its officials, and its ordinances. Specifically, the Comprehensive Plan:

- Provides an inventory/analysis/findings of town historical data, demographics, natural resources, land use, economics, and public facilities and services;
- Formulates town goals and policies that address the findings in each of the above areas;
- Sets forth specific strategies to implement each of the goals and policies, with corresponding timetables and responsible town officials; and
- Includes a town-wide Land Use Plan, Regional Coordination Program, and Capital Investment Plan.

The town Selectmen appointed the Comprehensive Plan Review Committee of four Planning Board members and four residents-at-large in January 2001. Work commenced in February 2001 and was completed in October 2003. As in previous Comprehensive Plan and Zoning and Land Use Ordinance revision processes, the public's opinions were acquired from a survey distributed in July 2001 to all residents and non-resident property owners as well as twice-monthly planning sessions and subsequent public hearings prior to approval.

As people's needs change over time, town planning needs to be responsive. Therefore, it is important that comprehensive planning be a continuous process to monitor the long-range issues facing the town, and that the Town of Sweden Comprehensive Plan be periodically reviewed and updated as necessary."

- **Discussion:**
- What is rural? In the comprehensive plan, it's there. Tranquility, affordable housing, no hazardous waste, no increase in traffic, no increase in town services, no visual impact, no groundwater impact, no wetland impact, no pesticides/herbicides, etc. Solar checks a lot of those boxes. Visual impact was #1 issue for other towns with noise as next concern. Screening is critical and applicants have addressed that. In a town with views, we need to be careful not to fill that view with solar panels all over the place so we have to strike the right balance.
- Since solar is not explicitly stated in our comprehensive plan and ordinance, how do we control the amount of solar that could impact Sweden? As an example, the Town of Denmark has put a moratorium in place to develop a solar ordinance. The town of Sweden could consider something similar but also realize that there is limitation on where solar can be placed in Sweden due to topography and where substations are. Ben Axelman: these sites are flat, minimal visual impact, and near substation. Looking at the rest of Sweden, there aren't many other places that would be viable given where the grid is located.
- "Industrial / commercial" to one PB member is traffic, waste, noise, production, people going in and out. Different than "public utility".

"P. Roads and Driveways

3. Private Ways or Roads.

- a. All new driveways onto public roadways from private property require a no-fee permit from the Code Enforcement Officer.
- b. Private driveways that exit onto public roads must meet the visibility requirements for the speed zone in which they are located, as specified in the Town's Subdivision Review Regulations.

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- c. Private roads or ways may not have to meet all of the standards set forth in the Subdivision Regulations, as determined by the Planning Board. However, such roads or ways will not be considered for acceptance as a public road or way by the Town of Sweden until all subdivision specifications are met.
 - d. Responsibility for the maintenance of privately-built roads servicing approved subdivisions will not be undertaken by the town. Private roads will be privately maintained. In addition, all driveways serving more than one residence or lot shall have a road sign that conforms to the Performance Standards stated in Section X.S. Such signs shall be paid for by the property owner.”
- **Discussion:** Board noted that a no-fee permit from the CEO will be required. Visibility requirements will need to be met; applicants have already demonstrated they meet those requirements in Section 7 of each CUP application. E-911 officer may need to assign a number. Laura Chadbourne to reach out to Arthur Dunlap (CEO) to inquire if the access roads would need their own addresses for emergency services.

“Q. Sanitary Provisions.

- 1. To promote health, safety and general welfare, and to protect ground waters and public and private water supplies from contamination or nutrient enrichments, all solid waste and subsurface sewage disposal systems shall be installed in conformance with the latest revision of the State of Maine Subsurface Wastewater Disposal Rules. All hazardous waste, industrial and septic sludge shall be handled and disposed of in an appropriate manner in accordance with current state regulations.
 - 2. In addition to the standards contained in the Rules, the following provisions shall be met for the construction of wastewater disposal systems:
 - a. The use of holding tanks for a first-time residential use in the shoreland zone is prohibited.
 - b. The setback from the normal high-water mark of any great pond, river, stream, or the upland edge of a wetland for wastewater disposal systems shall be a minimum of 100 horizontal feet. This setback shall be increased to the most suitable location within the shoreland zone, as determined by a state-certified site evaluator. In making this determination, the evaluator shall consider soil suitability, runoff conditions, and existing land uses.
 - c. Any clearing or removal of woody vegetation necessary to site a new system, and any associated fill extensions, must extend no closer than 75 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland.
 - d. Expansion of a structure that causes an increase in the volume of wastewater shall not be approved or begun unless it is demonstrated that the structure is, or can be, served by a system that complies with all provisions of this Section and the Rules.
 - e. When a new system is constructed on a lot, old systems that do not meet the standards contained in this Section shall be discontinued.”
- **Discussion:** Board determined this provision is not applicable as there will be no solid waste or sewage generated by this use.

“S. Signs

- 1. **Billboards.** Billboards are prohibited.
 - 2. **Signs Permitted:**
 - a. Name signs and signs indicating the existence of private property and forbidding trespass or other activities on the property.
 - b. Public traffic and directional signs, and signs designating public or semi-public activities.
 - c. "For Sale", For Lease", or "Rental" signs erected on the premises.

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- d. Signs relating to goods and services sold on the premises, but not to exceed two signs per premises.
3. **No sign shall:**
 - a. Exceed 16 square feet in area; or in the Natural resource Protection Zone, Limited Residential Zone and Stream Protection District exceed six square feet in area.
 - b. Have any visible moving or flashing parts.
 - c. Be located within five feet of a roadway line or any abutter's lot line.
 - d. Be placed in such a position as to endanger traffic or obscure the view.
 - e. Be erected or placed in the Town of Sweden that advertises a business not located in the Town of Sweden.
 - f. Extend higher than 20 feet above the ground"
- **Discussion:** Signs if any must conform with town standards. Applicant is not planning to erect permanent signs at the road. Signs will be required on the fence due to national electrical codes. Contact number for Nexamp will be displayed there as well. Temporary signs for construction purposes (drop off/pick ups) will be needed but taken down once construction complete.

"T. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal shall require a soils report based on an on-site investigation and prepared by state-certified site evaluators. The report shall be based upon an analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data that the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist."

- **Discussion:** the application provides a Soil Erosion and Sedimentation Control Plan which restrict the potential for erosion and sedimentation from the site to down-gradient properties. The submitted plan provides a detailed overview of "best management practices" that will be utilized on the site during construction. Sediment and erosion control details can be found on Sheet C-301 in the project application.

"U. Storm Water Runoff.

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Storm drainage management and construction shall meet all applicable standards.
 2. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
 3. Storm water runoff systems shall be maintained as necessary to ensure proper functioning, and any resultant deposited materials shall be properly disposed of."
- **Discussion:** Section 11 of the CUP applications show that the proposed projects have been designed to accommodate a 25-year storm event without any adverse impacts to adjacent properties. Each application includes a copy of the Stormwater Management Plan which was reviewed and approved by the Maine DEP.

"V. Temporary Commercial Structures. Temporary structures, erected or located, and used in conjunction with logging operations, construction or other activity of a commercial nature, shall require a temporary use permit from the Code Enforcement Officer at the minimum building permit fee, such permit to be issued for a limited period of 90 days. If additional time is required, the applicant may request the Code Enforcement Officer to renew the permit for an additional 90 days. Temporary structures may be placed on the location to suit the convenience of the operation provided that the following conditions shall be met:

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1. When operations have ceased, all temporary structures and associated man-made discarded materials shall be removed from the area and disposed of in the proper manner.
 2. Temporary structures used for human habitation shall meet all State and local codes and ordinances pertaining to minimum health and safety standards.”
- **Discussion:** Board member asked applicants if any temporary structures will be used. Darrin Stairs: there will be a temporary construction trailer on the site which will be removed once the construction is complete. PB noted that the temporary structure will require a temporary use permit from the Code Enforcement Officer as outlined in the Zoning Ordinance.

“W. Timber Harvesting

{Definition of Timber Harvesting (ZO page 55): The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.}

1. Public Roadway Entrance Permit

- a. Permit required. All new entranceways onto public roadways from private property for the purposes of logging operations and/or "yard" access require a no-fee permit from the Code Enforcement Officer as approved by the Road Commissioner.
- b. No permit is required for continued use of existing entrance ways if constructed so as to provide continued proper drainage and erosion control, and prevent damage to roadway shoulders.

2. Harvesting procedures for all areas.

- a. Harvesting activities shall conform to selective cutting of no more than 65% of the total volume of trees 4 inches or more in diameter, measured at 4½ feet above ground level, and shall not create single openings in the forest canopy greater than 220,000 square feet (approximately five acres), except in a Shoreland Zone where State laws apply as specified in paragraphs 3. and X. below. **Larger single openings are permitted for agriculture, pasture, approved roads, and development**, and for necessary clearance/salvage operations connected with disaster, blowdowns or disease infestation. **Single openings for timber harvesting shall be separated from one-another and from any public roadway by a minimum 100-foot buffer consisting of a well-distributed stand of trees.”**
- b. In accordance with the Natural Resources Protection Act, a well-distributed stand of trees and woody vegetation shall be maintained along each side of all streams.
- c. All slash and brush resulting from the cutting of the forest growth shall not remain on the ground within 50 feet of a water body; within 50 feet of highways and roads; within 25 feet of electric power, telegraph, telephone and pipe lines; and within 25 feet of adjoining boundary lines.
- d. Harvesting operations shall be conducted in such a manner, and at such time, that minimal soil disturbance results. Adequate provision will be made to prevent soil erosion and significant sedimentation and siltation of streams. Timber harvesting equipment shall not use stream channels as travel routes except when surface waters and land surfaces are frozen, and the activity will not result in any ground disturbance.
- e. Skid trails and skid road approaches to stream channels shall be located and designed so as to divert water runoff from the trail or road in order to prevent such runoff from directly entering the stream. All crossings of flowing water shall be in accord with the Natural Resources Protection Act, and shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- f. Where entrance to logging "yards" is from a Town right-of-way, upon completion of the logging operation, total restoration of the Town's right-of-way land to its original pre-

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operation state must be made in order to correct any damage to road shoulders, ensure continued proper drainage, and prevent future soil erosion.

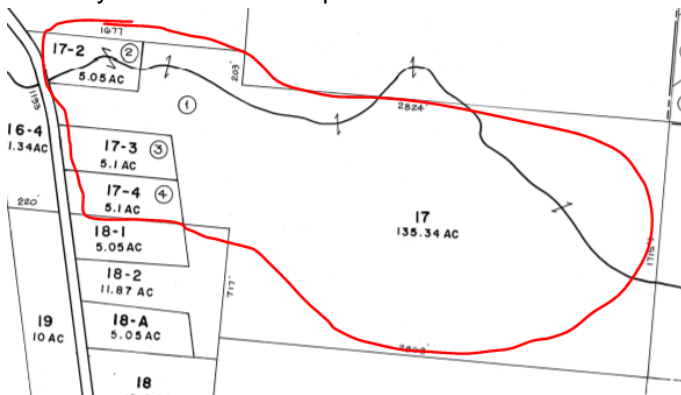
- g. For land on which timber harvesting is to be done, the property owner will be responsible for clearly marking the property line if cutting is to be done within 200 yards of the property line.
 - h. No person shall throw, drop, deposit, discard or otherwise dispose of litter upon any public or private property, or in water bodies, or on the ice over such water bodies.
 - i. Any chemical spraying to be conducted in connection with timber harvesting activities is prohibited in the Town of Sweden except for maintenance of cross-country high-power electric transmission line rights-of-way by Central Maine Power Company.”
- **Discussion:** the board noted that the clearing needed for these projects (about 35 acres for each project) is above the normal timber harvesting allowable single opening of about 5 acres. That said, larger clearing areas are allowed in the ZO for “development” purposes with a CUP. The solar array and surrounding cleared areas will not be impermeable as meadow mix will be planted and prevent erosion (as outlined in the application in section 11). Darrin Stairs: stump grinding would be done within the solar array area but outside of that area (about 9 acres), they will leave stumps and let trees grow, just trim occasionally to ensure shade does not encroach. Board also noted that a 100-foot buffer was a requirement for timber harvesting; could the applicants strive to increase the buffer from the road to the clearing on the LaRosa property to reach 100 feet? Ben Axelman: as noted earlier, will look to increase the buffer, perhaps by planting trees that don’t grow tall enough to shade the solar area. Will come back to the board with a proposal.
14. The proposed use will be compatible with all uses permitted in the underlying Zone and on abutting properties.
- **Discussion:** PB Secretary noted that the board should confirm whether or not the proposed use is in an Aquifer Protection District (Overlay District) Stream Protection District (Overlay District) or Forest Conservation District (Overlay District). If so, those standards must also be met. However, she did not have those maps on hand. Secretary offered to research this and bring the information back to the next PB meeting.

“E. Rural Preservation Zone. The Rural Preservation Zone includes the predominantly undeveloped lands, as designated on the Sweden Zoning Map, generally situated in those areas least accessible to public or private roadways.

1. **Purpose:** To maintain Sweden's rural character and natural scenic beauty; to encourage preservation of existing larger open spaces and forest conservation areas; to ensure significantly less intensive residential development and land uses than in the Residential and Limited Residential Zones; and to reduce development pressures upon certain of the Town's environmentally sensitive areas.
2. **Permitted Uses:** All Permitted Uses allowed in the Natural Resource Protection Zone, Limited Residential Zone and Residential Zone.
3. **Conditional Uses:** All uses listed under Conditional Uses in the Natural Resource Protection Zone, Limited Residential Zone and Residential Zone upon approval of the Planning Board in accordance with the provisions of Section XIII. **CONDITIONAL USE**, *except* mobile home parks.
 - Includes Municipal use and public utilities
4. **Prohibited Uses.** Uses not specifically allowed as Permitted Uses or Conditional Uses are prohibited.
5. **Dimensional Requirements.**
 - a. Minimum Lot Size: 220,000 square feet (approximately five acres)
 - b. Minimum Lot Frontage:
 - 300 feet roadway frontage

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- 200 feet shoreline frontage
- c. Structure Setbacks:
 - 125 feet from roadway centerline
 - 100 feet from high-water line of a great pond or river; 75 feet from a stream or upland edge of a wetland
 - Height of structure from rear and side lot lines, but not less than 30 feet
- 6. **Performance Standards.** In addition to any other requirements of this Ordinance, Permitted and Conditional Uses allowed shall also meet the requirements of all applicable land use and performance standards as contained in Section X. PERFORMANCE STANDARDS.
- 7. **Major and Minor Subdivisions.** Any plans for major or minor subdivisions, in addition to meeting all other requirements of Sweden's Subdivision Regulations, shall incorporate clustering of individual lots/dwelling units, in accordance with the provisions for cluster development in Section X."
- **Discussion:** the board confirmed that both properties in the applications are in the Rural Preservation Zone, which does allow for public utilities with approval of a CUP. Board noted that Sweden Solar, LLC proposed development is within a minor subdivision. PB reviewed the tax map for R-9 and noted that the following properties, all owned by the LaRosas, are part of the minor subdivision known as Popple Hill approved 1-11-2001: Lots 17, 17-2, 17-3, and 17-4 (see below). Only lot 17 was developed and contains the residence that the LaRosas live in.



- The board asked the LaRosas for the history of the subdivision. Frank LaRosa explained that the subdivision was created many years ago for estate planning purposes and they haven't developed it. Two of the lots (17-3 and 17-4) would be included as part of the solar development. The board asked SMPDC for opinion on whether any action needed to be taken regarding the subdivision. After a lengthy discussion, David from SMPDC felt there probably didn't need to be action taken since all except one lot (17-2) would be included in the solar development area. The PB Chair planned to check with the town attorney to understand if the town needed to take any action.

"VIII. ZONE REQUIREMENTS

- A. **General Requirements.** The following general requirements shall apply to all Zones:

- 1. **Development Permits and Requirements.**

- a. A Building Permit and associated Plumbing Permit shall be required for all buildings and structures according to the provisions of this ordinance.
- b. Permit applicants are responsible for any reasonable cost to the town incurred in approving any permit application. These costs may include, but need not be limited to, administrative and technical review costs.
- **Discussion:** PB Secretary noted that the board Chair had just sent a letter to Nexamp to collect \$5,000 to defray incurred costs as well as expected expenses related to technical review costs

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related to the CUP applications. Ben Axelman noted that he'd received the letter and had started the process to get a check to the town.

- c. Permitted Uses and Conditional Uses shall conform to all other applicable provisions of this Ordinance.

Phosphorus Control.

- (1) For all other new construction in lake watersheds, including but not limited to the construction/reconstruction of any structures and roadways, and any earth-moving activities that disturb more than 1000 square feet of surface area, phosphorus control is required in accord with the standards contained in Appendix D of this Ordinance. Phosphorus control methods utilize the design criteria contained in the manual "Phosphorus Control in Lake Watersheds" published by the Maine DEP. The following are exempted:

- (a) Any structural addition or series of additions to an existing structure which create no more than 400 square feet of new ground floor area in any ten-year period.
- (b) Timber harvesting activities, although it is noted that such activities shall comply with the standards contained in SECTION X. Para W. of this Ordinance as well as the standards of the Natural Resources Protection Act (38 MRSA), which are adopted herein by reference and are enforceable under the provisions of this Ordinance.
- (c) Development activities which are more than 500 feet from any lake, pond, or non-intermittent stream appearing on the USGS 7.5 minute topographic map, and which do not contribute stormwater runoff to any ditch that directly drains channelized flow to any such stream, lake or pond. (The intent is to exempt channelized flow that is dispersed into a vegetated buffer area.)"

- **Discussion:** applications shows that development will occur within 500 feet from Popple Brook, which is a stream appearing on the USGS 7.5 minute topographic map and therefore a Phosphorus Control Plan (PCP) would be needed from the applicant. Darrin Stairs noted that a memo regarding PCP had been emailed to the PB Secretary. Secretary noted that she had not received it; Darrin will resend.

15. The proposed use will not have unreasonable impact upon Municipal facilities.

- **Discussion:** the board agreed with the assessment in the project applications that: "the proposed developments will not require the use of any public utilities and is not anticipated to impact municipal facilities or services".

5. Determine date, time, and venue for next Planning Board meeting: Laura Chadbourne made a motion to discontinue the review for that evening, and for the Planning Board to reconvene on **November 9th at 6:30 PM via videoconference** to continue its review of information related to the Sweden Solar, LLC and Sweden Solar 2, LLC Conditional Use Permit Applications, in particular to discuss potential conditions should the applications be approved. Melanie Eldracher seconded the motion. The motion passed unanimously.

6. Announcements:

- A. The next regular Planning Board meeting is scheduled for Tuesday, November 17, 2020 at 7:00 PM and will be held via video conference.

A motion was made to adjourn the meeting. The Chair adjourned the meeting at 9:05 PM.

Respectfully submitted,

Laura Chadbourne,
Secretary, Sweden Planning Board