

**Town of Gorham
Planning Board Meeting
October 4, 2021**

Consent Agenda – Public Hearing - Site Plan Amendment Review – Hep Energy USA, LLC, Wescott Road - a request for approval to allow construction of a ground-mounted 4.875 megawatt photovoltaic solar array on 20 acres of leased area. The lot is zoned Rural (R). The lot is shown on Map 86, Lot 13. The property is currently used as a hayfield. It also contains a branch of the Little River, Skunk Knoll Brook, wetlands and mature canopy trees and understory. The applicant is Hep Energy USA, LLC. The current property owner is Thelma Sanborn. The applicant is represented by Jeffrey Read, P.E. of Sevee & Maher Engineers, Inc.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-Application (optional)		August 2, 2021
Public Hearing		October 4, 2021
Consent Agenda		November 1, 2021

The following staff notes are written to assist the Applicant with compliance to the Town of Gorham Land Use Development Code and may not be all inclusive of project requirements. Staff notes are review comments and recommendations prepared by the Town Planner and, if applicable, the Town’s peer review consultant, regarding applicability to The Gorham Land Use Development Code and standard engineering practices.

The Planning Board refers to staff notes during the review process; however it shall be noted that staff recommendations are non-committal and all final decisions are those of the Planning Board and not Town Staff.

Molly Butler Bailey, Chair, Gorham Planning Board

PLACE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.

1. OVERVIEW

This is a request for approval to allow construction of approximately 20 acres of 4.875 megawatts ground-mounted photovoltaic solar array and associated infrastructure including a chain link perimeter fence to be located off Wescott Road. This is the third time this application has been before the Board, the last time being October 4, 2021; minutes from that meeting are included in your packets.

2. ITEMS OF NOTE

A. Consent Agenda: This item is on the consent agenda, which does not require public hearing. The Board may remove the item from the consent agenda if they would like to discuss anything.

B. The applicant has applied for a Maine DEP permit by rule.

3. STAFF REVIEWS

Assessing Department: No comments

Code Department: No comments

Fire Department: 09/13/2021, 10/13/2021

09/18/2021

MAP 86 Lot 13 HEP Energy USA, LLC

I have reviewed the submitted plans for HEP Energy Solar Project and have the following requirements or Questions

1. There appears to be a compliant turn around at the end of the access road. Please confirm the turnaround is Min. 20' wide and Min. 50' long.
2. NFPA 1 – 18.2.3.5.1.1 requires an unobstructed Road width of not less than 20'. (Noted on plans now)
3. The building (If there is one) will meet all applicable sections of the NFPA 101 Life Safety Code and the NFPA Fire Prevention Code 1. All buildings shall be properly numbered in accordance with E911 standards including height, color and location.
4. The Gate placed on the access road shall have a Lock Box attached to the gate and a key in the box for Fire Department access to the site. (Noted on plans now)
5. If the Personnel gates have locks on them the key on the lock box for the main gate will fit this lock as well.

10/13/2021

**Hep Energy USA LLC – Wescott Road solar project – M86/L13
Site Plan Review**

The updated plans appear to have addressed our comments, the road is shown and indicated as being 20' wide and the turnaround is 50' deep.

Planning Department: 09/27/2021

1. A performance bond for the decommissioning of the array project shall be established prior to the pre-construction meeting.
2. Note: The Registrar will not allow colored plans to be recorded.

Police Department: No comments

Public Works Department: 07/14/2021

Possible offsite improvements – no screening along Wescott Rd

Conservation Commission: No comments

Wright Pierce: 09/27/2021, 10/20/2021

TO:	Carol Eyerman, Planner	DATE:	9/24/2021
FROM:	Michael Guethle, PE Lacey Kremer, EIT	PROJECT NO.:	T16071-N
SUBJECT:	HEP Energy Solar Array, Wescott Road, Gorham, Maine		

Wright-Pierce has reviewed the updated Site Plan Application dated September 2021 for the development of the 4.875 MW AC Solar Array located at 0 Wescott Road (Tax Map 86, Lot 13). The proposed project is located on a 68-acre parcel of land in the Town of Gorham. The proposed project includes the development of a 4.875 MW AC Solar Array and associated driveway. Wright-Pierce has reviewed this Project’s conformance with the Town of Gorham’s Site Plan Review requirements. Wright-Pierce has not reviewed Land Use criteria, Exterior Lighting, Landscaping, Traffic or for conformance with Masterplans.

DOCUMENTS REVIEWED BY WRIGHT-PIERCE:

- Town of Gorham Site Plan Review Application 4.875 MW AC Solar Array (Dated September 2021)
- HEP Energy USA, LLC 4.875 MW AC Solar Array Wescott Road Gorham ME (Dated September 1, 2021)

COMMENTS:

Site Plan Review Procedures, Criteria, and Standards:

Section Number	Section	Comment(s)
4-8C1b	Existing Conditions	Width of ROW of Wescott Road is not shown on plans
4-8C1c	Proposed Development Activity	Direction of flow of runoff not shown through use of arrows

4-8C1c	Proposed Development Activity	Schedule of construction with anticipated beginning and completion dates not provided.
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The project is located approximately 5,000 ft from the two nearest fire hydrants. We recommend seeking input from the Gorham Fire Department.

Stormwater Treatment:

For stormwater treatment, Site Plan Applications within the Town of Gorham must submit a stormwater plan pursuant to the regulations of MaineDEP Chapter 500 Stormwater Management Rules. This includes conformance with the Basic, General, and, for certain projects, Flooding Standards (Ref: Chapter 4, Section 4-8). This project does not disturb more than one acre in a watershed that is not in the watershed of a lake most at risk or an urban impaired stream and therefore it is only subject to a stormwater permit by rule.

1) PBR Standards:

- a. Project must meet Inspection and Maintenance Requirements found in Section 1 of Appendix B of Chapter 500. Please provide an Inspection and Maintenance document that includes a sample log sheet for each construction BMP that will be utilized.

10/20/2021

Wright-Pierce has reviewed Sevee & Maher Engineers’ Response to Planning Board Staff Notes for the 10/4/2021 Meeting dated October 4, 2021 in relation to our technical review.

All of the comments provided by Wright-Pierce in our Site Plan Review Memorandum dated September 24, 2021 have been addressed.

Town Attorney: 09/29/2021

Attachment J does not include a decommissioning bond. It is a decommissioning plan, which is required for review and approval by the DEP under a new statute (35-A M.R.S.A. sections 3492, 3494). If the Town wants a bond, that still needs to be provided for review.

Natalie L. Burns, Esq.
Attorney

JENSEN BAIRD

TOWN OF GORHAM PLANNING BOARD
SITE PLAN AMENDMENTS REVIEW AND FINDINGS OF FACT
For
Hep Energy USA, LLC

November 1, 2021

Applicant: The applicant is Hep Energy USA, LLC, Thomas Donnelly, 57 Exchange Street, Suite 100, Portland, ME 04101.

Property Owner: The property owner is Thelma Sanborn, c/o Jeffrey Sanborn, 170 Spiller Street, Gorham, ME 04038.

Property: The lot is identified in the assessor database as Tax Map 86, Lot 13, and located off Wescott Road, Gorham, ME 04038.

Consultant: Jeffrey Read, Sevee & Maher Engineers, Inc., P.O. Box 85A, Cumberland, ME 04021

Project Description: To allow construction of approximately 20 acres of a 4.875 megawatts ground-mounted photovoltaic solar array and associated infrastructure including a perimeter fence to be located off Wescott Road.

Site Description: The entire parcel is 68 acres in size and is located off Wescott Road. There is an existing hayfield on the parcel. A portion of the parcel contains 100 year floodplain.

Applicability: The applicant’s proposal requires site plan review because it involves construction of a utility.

Zoning: Rural I

Variances: None required.

Waivers requested: None

Pursuant to the Application: This is the second review the Board has had for this project.

The projects and plans and other documents considered to be a part of the approval by the Planning Board in this ruling consist of the following:

Sevee & Maher Engineers, Inc., consist of the following:

Cover Sheet – 09/01/21
Sheet L-1 – Landscape Plan – 09/01/21
Sheet C-100 – General Notes, Legend and Abbreviations – as revised through 10/2021; submitted 10/07/2021
Sheet C-101 – Existing Conditions and Clearing Plan – as revised through 10/2021; submitted 10/07/2021

Sheet C-102 - Site Overview Plan – as revised through 10/2021; submitted 10/07/2021
Sheet C-103 – Site Layout and Utilities Plan – as revised through 10/2021; submitted 10/07/2021
Sheet C-104 – Site Grading, Drainage, and Erosion Control Plan – as revised through 10/2021; submitted 10/07/2021
Sheet C-200 – Access Road and Profile – as revised through 10/2021; submitted 10/07/2021
Sheet C-300 – Erosion Control Notes and Details – as revised through 10/2021; submitted 10/07/2021
Sheet C-301 – Sections and Details – as revised through 10/2021; submitted 10/07/2021
Sheet D-100 – Stormwater Management Plan – Pre-development Conditions – as revised through 10/2021; submitted 10/07/2021
Sheet D-101 – Stormwater Management Plan – Post-development Conditions – as revised through 10/2021; submitted 10/07/2021
Boundary and Lease Plan – dated 8/27/2021; submitted 10/07/2021

Other documents submitted consist of the following:

Plans, Received – 06/29/2021, 09/01/2021, 10/04/2021, 10/07/2021
Pre-Application – 06/29/2021
Site Plan Application – 09/01/2021
Response to comments letter – dated 10/04/2021; received 10/04/2021
Stormwater Report – Permit by Rule Application – 09/01/2021
Stormwater Management Plan – 09/01/2021
Erosion and Sedimentation Control Plan – submitted 10/04/2021
Sight Line Impact Study – 09/01/2021
Agency Letters - 09/01/2021
Equipment Specifications – 09/01/2021
Statement of Financial Capacity – Hep – 09/02/2021
Maine Historic Preservation Commission Letter – 09/01/2021
Letter of Technical capacity – 09/01/2021
Gorham Town Planner Comments – 09/27/2021
Gorham Assessor – No comments
Gorham Fire Chief – 09/13/2021, 10/13/2021
Gorham Code Enforcement Officer – No comments
Gorham Police Chief – No comments
Gorham Public Works Director – 07/14/2021
Wright Pierce Comments – 09/27/2021, 10/20/2021
Conservation Commission – No comments
Town Attorney – 09/29/2021

CHAPTER 4, SITE PLAN REVIEW, SECTION 9 – Approval Criteria and Standards

The Planning Board, following review of the Site Plan Amendment Application, makes these findings based on the Site Plan Review criteria found in Chapter 4, Section 9 – Approval Criteria and Standards of the Town of Gorham Land Use and Development Code.

A. Utilization of the Site: The plan for the development will reflect the natural capabilities of the site to support development.

The applicant is proposing to construct approximately 20 acres of 4.875 megawatt ground-mounted photovoltaic solar array and associated infrastructure including a perimeter fence.

The construction will be on the portion of the property that is outside of the 100 year floodplain.

Finding: The plan for the development reflects the natural capabilities of the site to support the development and the natural features and drainage ways are preserved to the greatest extent practical.

B. Access to the Site: Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development.

Access to the site is via Wescott Road. There will be very little additional vehicle trips, after construction, proposed with this project.

Finding: Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development.

C. Access into the Site: Vehicular access into the development will provide for safe and convenient access.

The applicant is proposing access via a 20 foot gravel way off Wescott Road.

Finding: The plans provide for safe and convenient vehicular access into the development.

D. Internal Vehicular Circulation: The layout of the site will provide for the safe movement of passenger, service and emergency vehicles through the site.

The site provides for a two-way vehicle access from the western side of the parcel. Wescott Road provides frontage and access to the property. The proposed 20 foot gravel way will provide access to the solar array.

Finding: The layout of the site provides for the safe movement of passenger, service, and emergency vehicles through the site.

E. Pedestrian Circulation: The development plan will provide for a system of pedestrian circulation within and to the development.

The access drive provides for pedestrian traffic where needed throughout the site.

Finding: The plans provide a system of pedestrian circulation within the development.

F. Storm water Management: Adequate provisions will be made for the disposal of all storm water collected on streets, parking areas, roofs or other impervious surfaces through a storm water drainage system and maintenance plan which will not have adverse impacts on abutting or downstream properties.

This project will result in less than one acre of developed area with approximately 24,993 square feet of impervious area. The applicant states that there is no change in peak flows between pre and post

development site conditions. The stormwater management plan is provided on Sheets D-100 and D-101.

Finding: The site has adequate provisions for the disposal of all storm water collected on streets, parking areas, roofs or other impervious surfaces through a stormwater drainage system and maintenance plan which does not have adverse impacts on abutting or downstream properties.

G. Erosion Control: For all projects, building and site designs and roadway layouts will fit and utilize existing topography and desirable natural surroundings to the fullest extent possible.

Any soil disturbance will require erosion and sedimentation controls that meet the Maine Erosion and Sediment Control Best Management Practices. The applicant has provided a plan for erosion control C-104 and C-300.

Finding: The plan utilizes existing topography and desirable natural surroundings to the fullest extent possible.

H. Water Supply: The development will be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.

No water supply is needed for this development.

Finding: The development does not require a water supply. Therefore, this standards does not apply.

I. Sewage Disposal: A sanitary sewer system will be installed at the expense of the developer if the project is located within a sewer service area as identified by the sewer user ordinance. The Site Plan Review Committee or Planning Board may allow individual subsurface waste disposal systems to be used where sewer service is not available.

No sewer disposal is needed for this development.

Finding: The development does not require sewer disposal. Therefore, this standards does not apply.

J. Utilities: The development will be provided with electrical and telephone service adequate to meet the anticipated use of the project.

Electrical wiring will be aggregated into underground PVC conduit. The conduit will be buried in trenches at least a 6 inch deep trench within the array area and will connect into the existing electric pole at Wescott Road.

Finding: The development will provide for adequate electrical and phone service to meet the anticipated use of the project.

K. Natural Features: The landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction.

The applicant proposes to preserve the meadow/hayfield condition on most of the parcel and remove the canopy trees at the exterior of the site.

Finding: *The development of the site will preserve existing vegetation to the greatest extent practical during construction.*

L. Groundwater Protection: The proposed site development and use will not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems.

The project will not affect groundwater quantity or quality.

Finding: *The proposed development will not adversely impact either the quality or quantity of the groundwater available to abutting properties or public water supply systems.*

M. Exterior Lighting: The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours.

This project does not require exterior lighting.

Finding: *The proposed development does not require exterior lighting. Therefore, this requirement does not apply.*

O. Waste Disposal: The proposed development will provide for adequate disposal of solid wastes and hazardous wastes.

No hazardous waste will be generated and all solid waste from construction will be collected in a dumpster onsite and transported away via private service.

Finding: *The development will provide for adequate disposal of solid wastes and hazardous waste.*

P. Landscaping: The development plan will provide for landscaping to define street edges, break up parking areas, soften the appearance of the development and protect abutting properties from adverse impacts of the development.

The applicant is proposing to remove the canopy trees toward the rear of the site. The applicant proposes three types of evergreen trees to soften the appearance of the array. The use of invasive terrestrial plantings is not proposed.

Finding: *The proposed plan will provide landscaping to soften the appearance of the development.*

Q. Shoreland Relationship: The development will not adversely affect the water quality or shoreline of any adjacent water body. The development plan will provide for access to abutting navigable water bodies for the use of occupants of the development.

A portion of the lot is located in the 100 year floodplain. The arrays and equipment are located outside of the 100 year floodplain.

Finding: *The development will not adversely affect the water quality or shoreline of any adjacent body of water.*

R. Technical and Financial Capacity: The applicant has demonstrated that he has the financial and technical capacity to carry out the project in accordance with this Code and the approved plan.

The applicant has submitted a statement within the application booklet from Hep Energy dated September 1, 2021 stating that there is financial capacity. Technical capacity is demonstrated by the hiring of Sevee and Maher Engineers, Northern Survey Engineering, and Albert Frick Associates, Inc.

Finding: *The applicant has the financial and technical capacity to complete the project in accordance with Gorham’s Land Use and Development Code and the approved plan.*

S. Buffering: The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and to screen service and storage areas. The buffer areas required by the district regulations will be improved and maintained.

The applicant is proposing to plant evergreen trees along the western and southern property lines that abut a residential use. The use of invasive terrestrial plantings is not proposed.

Finding: *The development provides buffering to the project, screen service and storage areas.*

T. Noise: The applicant has demonstrated that the development will comply with the noise regulations listed in Table 1 – Sound Level Limits and the associated ordinances.

The uses at the site are required to meet the A-weighted hourly equivalent sound level limits of 60 dBA daytime (7am-7pm) and 50 dBA nighttime (7pm- 7am).

Finding: *The development will comply with the A-weighted hourly equivalent sound level limits of 60 dBA daytime (7am-7pm) and 50 dBA nighttime (7pm-7am).*

Conditions of Approval

1. That this approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicants and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board or Site Plan Review Committee, except for minor changes which the Town Planner may approve;
2. That prior to the commencement of construction of the site plan, the applicant is responsible for obtaining all required local, state and federal permits;
3. That any proposed use on the site shall meet the sound level requirements outlined under Chapter 4, Section 9, T. Noise;
4. That the plans shall be revised to address any remaining staff or Board comments;

5. That a performance bond for the decommissioning of the array project shall be established prior to the pre-construction meeting;
6. That prior to the pre-construction meeting, the applicant will establish the following: an escrow for field inspection meeting the approvals of Town Staff;
7. That prior to the commencement of any site improvements, the applicant, its earthwork contractor, and the design engineer shall arrange a pre-construction meeting with the Town’s Review Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Town Planner to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
8. That all site construction shall be carried out in conformance with the Maine Erosion and Sediment Control Best Management Practices, Maine Department of Environmental Protection, latest edition and in accordance with the erosion and sedimentation control information contained in the application;
9. That the site plan amendment shall not be released for recording at the Registry of Deeds until the required performance guarantee has been posted meeting the approval of Town Staff, and the site plan is required to be recorded within one year of original approval or the approval becomes null and void;
10. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
11. That once the site plan amendment has been recorded at the Cumberland County Registry of Deeds, a dated copy of the recorded subdivision/site amendment plan shall be returned to the Town Planner prior to the pre-construction meeting.

SUGGESTED MOTIONS:

FOR CONSENT AGENDA APPROVAL:

Move to approve the item on the consent agenda.

OR

TO REMOVE AN ITEM ON THE CONSENT AGENDA:

Move to remove the item from the consent agenda and bring it up for immediate discussion.

**DRAFT
PLANNING BOARD MEETING MINUTES
OCTOBER 4, 2021**

ITEM 2 Public Hearing – Site Plan – hep Energy USA, LLC – a request for approval of a ground-mounted 4.875 megawatt photovoltaic installation on 20 acres of leased area of a 68 acre parcel located at Wescott Road. Zoned Rural, Map 86, Lot 13.

Ms. Eyerman described the project to the Board, noting that the proposed site is currently used as a hay field, contains a branch of the Little River, Skunk Knoll Brook, wetlands, mature canopy trees and understory. She said that the Rural zone allows for public and private utility facilities such as this. Items to consider include an addition of the width of Wescott Road to be added to the plan, stormwater items to be addressed, a decommissioning bond needs to be provided, and a portion of the property is in the 100 year flood plain but not where development is proposed.

Jeffrey Read, P.E., Sevee & Maher Engineers, Inc., said that they have prepared responses to staff’s comments received late last week, acknowledged that the Board members have not yet had a chance to review those comments, and asked for permission to distribute the hard copies of the comments. Those were distributed by Jenny Gilbert of Sevee & Maher. Ms. Eyerman advised the Board that staff has not yet reviewed the comments since they only came in today.

Mr. Read said there were no comments that changed the engineering of the project, either road design or array design, and any culverts, level lip spreader layout, are all intact from what had been shown previously. Mr. Read noted that there was an administrative item regarding a performance bond, which they typically address prior to building permit, generally after project approval. In addition there was a question about the actual construction in terms of schedule, with a start time in June and completion in November of 2022. Comments from the Town’s review engineer involved additional information on erosion sediment control and post construction practices, which have been outlined in the standard notes of the plan sets; however, written sediment and erosion control plans have been provided to the Board this evening.

Mr. Read noted that a decommissioning plan has been provided which outlines what happens at the end of the solar array lifetime. He referred to the Town Attorney’s comment about the need for a decommissioning bond, which he anticipates will be taken care of after approval but prior to the issuance of a building permit, so that before any work takes place, both the performance bond and the decommissioning bond would be in place.

Mr. Read said that what has been provided to the Board tonight also includes an updated plan set.

**PUBLIC COMMENT PERIOD OPENED: None offered.
PUBLIC COMMENT PERIOD ENDED.**

Mr. Fox confirmed with Mr. Read that what was presented to the Board this evening is in full compliance with the comments provided by the staff notes. Ms. Butler-Bailey confirmed with Ms. Eyerman that the two bonds under consideration typically would be addressed as conditions of approval, and described the process involved in the approval of a schedule of values for construction of the project. Ms. Eyerman said the decommissioning bonds have been instituted for these solar projects because they are long term and do have a life span, and the bonds ensure that

the Town has the funding in place if it becomes necessary. She said that both the performance guarantee and the decommissioning bond can be treated as conditions of approval.

Ms. Eyerman explained that staff review memos are put in place for the benefit of the Board and it is not necessary that the applicants and their engineers respond to the review memos until after the meeting. This is to allow the Board to add or edit to what is in a review memo. She said that a turnaround response from an applicant in a short period of time is not expected.

Mr. Fox and Mr. Read discussed the proposed landscaping plan and the tree species being suggested, with what will be planted to be 5 or 6 feet tall and as evergreens will grow quickly with minimal maintenance required. Mr. Fox and Mr. Read discussed the residential abutter to the north and the existing vegetation on that abutter's property. Mr. Fox confirmed that all of the fencing will be 7 foot black vinyl coated chain link fencing.

Mr. Anderson said he is comfortable with what the applicant has submitted tonight, but said he is not sure how the Board will address Ms. Eyerman not having had a chance to review it. Mr. Read replied to Mr. Anderson that the access road has been pulled away some 20 or 30 feet from the boundary to provide a separate entrance at the request of the Fire Chief.

Mr. Firmin said this was a package that was just submitted, noting he would be more comfortable putting the item on a consent agenda, pending staff review. Mr. Firmin confirmed with Ms. Eyerman that a performance bond for the decommissioning is the same thing as a decommissioning bond. Ms. Butler-Bailey agreed with Mr. Firmin, as did Mr. Fox, who said that not having given staff enough time to review the submission is probably not a good practice.

Scott Firmin MOVED and Thomas Hughes SECONDED a motion to place further review of hep Energy USA, LLC's request for site plan approval for construction of approximately 20 acres of 4.875 megawatts ground-mounted photovoltaic solar array and associated infrastructure including a perimeter fence for the property located off
