

CONDITIONED NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project: LINCOLN PARK DG, LLC
LINCOLN PARK GRID SUPPORT CENTER
Site Plan and Minor Subdivision Approval
OM-Office Manufacturing and R-30 Residential Zoning Districts

Date: July 3, 2019

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Ulster Town Board has determined the Proposed Action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Further information regarding this Conditioned Negative Declaration can be obtained from James E. Quigley, 3rd, Supervisor, Town of Ulster, Town Hall, One Town Hall Drive, Lake Katrine, NY 12449, Phone 845-382-2765.

Name of Action: LINCOLN PARK DG, LLC
LINCOLN PARK GRID SUPPORT CENTER (LPGSC)

Location: Miron Lane/Frank Sottile Blvd/NYS Route 32
(S-B-L: 48.012-1-20, 48.016-1-1 & 48.016-1-2.21)
Town of Ulster, New York
Ulster County, New York

SEQRA Status: Unlisted: X Unlisted

Conditional Negative Declaration: Yes: X No:

Description of Action:

The Applicant, Lincoln Park DG, LLC is seeking to consolidate three contiguous land parcels identified as Tax Parcels 48.012-1-20, 48.016-1-1, and 48.016-1-2.21, totaling 120.92-acres and subsequent *Minor Resubdivision* approval to create three (3) lots therefrom. The Applicant is concurrently seeking Site Plan approval pursuant to the Town of Ulster Zoning Law to construct a battery array to provide capacity and ancillary services to the regional electric grid by absorbing (charging) and generating (discharging) electricity as directed by the grid operator on part of a ten-acre parcel (Lincoln Park Grid Support Center (LPGSC) identified as part of Tax Parcel 48.12-1-20 in the Town of Ulster. The proposed 20 MW battery-only energy storage facility would require approximately 25,000 battery modules with a collective capacity of approximately 80 megawatt hours (MWh), eight (8) inverters within an approximately 30,000 square foot (SF), one-story building.

Comment Period:

There will be a 30-day public comment period commencing with the date of the ENB notice.

Reasons Supporting This Determination:**1. The Proposed Action is a Unlisted Action, pursuant to the criteria set forth in §617.4 & 717.5 of the SEQR Regulations.**

The project parcel has frontage on Miron Lane/Frank Sottile Blvd/NYS Route 32 and is comprised of Town of Ulster Tax Maps as S-B-L: 48.012-1-20, 48.016-1-1 & 48.016-1-2.21. The “project site” (defined as the 10-acre situated north of Frank Sottile Boulevard) where the LPGSC is proposed to be constructed consists of second growth forest with several wetlands. The project site is situated within the Town of Ulster OM-Office Manufacturing Zoning District where the proposed use (i.e. utility structure) is allowed subject to *Site Plan* approval in accordance with the standards set forth in §190-69 Table of Uses and §190-75 of the Town Code. Pursuant to §145-2 the Town Code, the Town Board has the authority to approve the *Site Plan and Special Permit* for this action upon a favorable recommendation from the Town of Ulster Planning Board. The Planning Board has the authority to approve the Minor Resubdivision.

On November 16, 2017, the Town Board declared its intent to be Lead Agency with respect to the Proposed Action; and notices of the Town Board’s intent were sent to all involved and interested agencies as required by the Environmental Conservation Law (“ECL”) of the State of New York and no involved agency objected to the Town Board declaring itself lead agency with respect to the Proposed Action. On January 8, 2018, the Town Board Declared Itself Lead Agency for the purposes of conducting the review and making such determinations as are necessary with respect to the Proposed Action as required by 6 NYCRR Part 617 of the New York ECL (State Environmental Quality Review Act (“SEQRA”)) and the regulations promulgated thereunder. The Town Board classified the Proposed Action as a SEQRA Unlisted Action since it met thresholds established pursuant to 6 CRR-NY 617.4 of State Environmental Quality Review (SEQR) Law. On February 1, 2019, the Town Board made its Determination of Significance and issued a Positive Declaration for the Initial Proposed Action, which called for the development of a natural gas-fired power plant (with the capability to use on-site low-sulfur diesel if the gas supply is disrupted) and grid support center.

A Scoping Public Hearing was held on February 22, 2018 followed by a comment period from February 22 through March 22, 2018. The Town Board accepted the Final Scoping Document for the Initial Proposed Action on April 18, 2018. During the public hearing and thereafter, the Town Board heard objections to siting a gas-fired power plant at this location in the Town and the calls from the public for a “battery-only” facility.

In January of 2019, the applicant amended the Proposed Action to respond to the changing regulatory environment that made a “battery-only” grid support center a viable action on the site. The *Current Proposed Action* calls for the construction of a “battery-only” grid support center with a battery array to provide capacity and ancillary services to the regional electric grid by absorbing (charging) and generating (discharging) electricity as directed by the grid operator. The natural gas-fired power plant (with the capability to use on-site low-sulfur diesel if the gas supply is disrupted), which was the primary reason for the Positive Declaration on the Initial Proposed Action, was removed from the Proposed Action. The Current Proposed Action involves significantly less site disturbance, is situated farther away from residences, and does not involve any structures that exceed the permitted height within the OM-Office Manufacturing Zoning District.

In its review of the Current Proposed Action, the Town Board as Lead Agency identified several aspects of the project, which it felt had potentially large environmental impacts related to aesthetic resources, cultural resources, effects on surface water and drainage, and threatened and endangered species. As Lead Agency, the Town Board then directed the applicant prepare an amended Full Environmental Assessment Form (FEAF) and Report for its review, which was prepared by the Chazen Companies dated March 29, 2019. This Conditioned Negative Declaration is based on the Current Proposed Action, which no longer includes a natural gas-fired power plant.

The application materials in support of the Current Proposed Action included the following:

- *Consent Form* signed by agent of Kingston Landing Development, LLC dated February 25, 2019;
- *Written Narrative* prepared by GlidePath Development, LLC, dated January 31, 2019;
- *Application* for Subdivision Approval by Lincoln Park DG, LLC, dated January 31, 2019;
- *Site Plan Consent Form* by KNG Landing Development, LLC dated January 31, 2019;
- *SEQR FULL EAF* Part 1 by Chazen Engineering & Surveying, P.C, January 31, 2019; and
- *Map of Proposed Lot Line Revisions* by Brinnier & Larios, P.C., dated January 31, 2019.

- *Full Environmental Assessment Form Part 1* by Chazen Engineering & Surveying, P.C, March 29, 2019;
- *G001 Title Sheet* prepared by Chazen Engineering & Surveying, P.C, dated March 26, 2019;
- *G002 Notes and Legends Sheet* by Chazen Engineering & Surveying, P.C, dated March 26, 2019;
- *SV100 Existing Condition* by Chazen Engineering & Surveying, P.C, dated March 4, 2019;
- *C110 Map of Proposed Lot Line Revisions* by Chazen Engineering & Surveying, P.C, dated 2/5/2019;
- *C130 Site Plan* prepared by Chazen Engineering & Surveying, P.C, dated March 26, 2019;
- *C140 Utility Plan* prepared by Chazen Engineering & Surveying, P.C, dated March 26, 2019;
- *C150 Erosion & Sediment Control Plan* by Chazen Engineering & Surveying, P.C, dated March 26, 2019;
- *C 530 Site Details* prepared by Chazen Engineering & Surveying, P.C, dated March 26, 2019;
- *C 540 Storm Sewer Details* prepared by Chazen Engineering & Surveying, P.C, dated March 26, 2019;
- *C 550 Erosion & Sediment Control Details* by Chazen Eng. & Surveying, P.C, dated March 26, 2019;
- *C 550 Erosion & Sediment Control Notes* by Chazen Eng. & Surveying, P.C, dated March 26, 2019;

Environmental Assessment Studies and Reports:

- *Stormwater Pollution Prevention Plan (SWPPP)* by The Chazen Companies, dated March 26, 2019;
- *Wetland Delineation Plan* by Chazen Engineering & Surveying, P.C, dated March 25, 2019;
- *Proposed Monitoring Well Abandonment Letter* by Sterling Environmental Engineering, P.C., dated 3/12/2019;
- *Rare, Endangered, Threatened Species Report* by The Chazen Companies, dated March 25, 2019;
- *Phase 1A Literature Search and Sensitivity Assessment* by Hartgen Archeology, dated December 2017;
- *Phase 1B Field Reconnaissance Survey* by Hartgen Archeology Associates, Inc., dated January 2019; and
- *Sound Level Analysis Report prepared by* Chazen Engineering & Surveying, P.C, dated March 22, 2019.

The applicant also submitted a *Stormwater Pollution Prevention Plan (SWPPP)* for the Lincoln Park Grid Support Center “battery-only” project, which was prepared by The Chazen Companies. The SWPPP was reviewed by the Town Designated Engineers (TDE) Brinnier & Larios and in a letter dated April 29, 2019 it was required that the applicant to address some minor technical issues and resubmit a revised SWPPP for review and acceptance. A Phase 1 Archaeological Investigation Report was prepared by Hartgen Archeological Associates, Inc. in December 2017 followed by a January 2019 Phase 1B Archaeological Field Reconnaissance Report. In a February 6, 2019 letter, NYSOPRHP requested submittal of a site avoidance plan or a Phase II work plan for review and comment prior to implementation. *A Phase II work plan was accepted on February 12, 2019 by NYSOPRHP and the additional investigation was completed in May of 2019.*

- 2. Based upon all of the information generated for the Current Proposed Action and the careful and thorough independent review by the Town Board, Planning Board and its consultants, no potentially significant adverse environmental impacts were identified, which might result from the Proposed Action, and the action will not require the preparation of an Environmental Impact Statement (EIS) for the following reasons:**

The Town Board has conducted its review and analysis of the information provided and the potential environmental effects from the Proposed Action, as required under the provisions of the Town of Ulster Code and under applicable State and federal regulations. The Planning Board was assisted in its review by its planning and civil engineering consultants.

Based upon its review of the applicant’s submission [Including 11-sheet Civil Engineering Drawings, FEAF Part 1 Report and SWPPP] and testimony at its public information meeting and public hearing, it finds the potentially large environmental impacts first identified by the Town Board are fully ameliorated through refinements in the project design and the design measures being employed in the project development. These findings are more specifically determined based upon the following assessments for specific areas of potential environmental impacts.

a. Impact on Land.

The Proposed Action is consistent with the Town of Ulster's Comprehensive Plan and its Zoning Laws. The proposed use (i.e. utility) is allowed subject to *Site Plan and Special Permit* approval in accordance with the standards set forth in §190-69 Table of Uses of the Town Code. The site grading is designed to preserve drainage patterns of the site, and the applicant has submitted Erosion & Sediment Control and Grading Plans, which were reviewed by the Town Designated Engineers (TDE) Brinnier & Larios, PC and determined to be acceptable to address potential large adverse impacts. The Minor Resubdivision results in Lot No. 1 consisting of 109.580-acres, Lot No. 2, which is a 10.425-acre parcel encompassing the "project site," Lot No. 3, which is a 0.911-acre parcel north of Miron Lane. Changing the lot lines will not have any large impacts. *Based upon the applicant's project design, no significant impacts to land were identified.*

b. Impact on Geological Features.

There are no unique geologic features on the subject site.

c. Impacts on Surface Water.

The Proposed Action has potential to impact surface waters due to construction activities that could cause soil erosion and sedimentation and construction activities. The "area of disturbance for the Current Proposed Action is 3.11 acres. To address these concerns, the Town Board required the applicant to prepare a *wetland delineation report* and to design the project to avoid impacts to wetlands, where feasible. The project was designed to avoid any wetland disturbance.

A Stormwater Pollution Prevention Plan (SWPPP) was prepared in accordance with New York State Department of Environmental Conservation Stormwater Management Design Manual and a GP-0-15-002 SPDES General Permit. The SWPPP was reviewed on behalf of the Town Planning Board and Town Board by the TDE, who is a licensed professional engineer, to ensure compliance with the requirements of the New York State Stormwater Management Design Manual (NYSDEC, August 2010) for both construction conditions and permanent post-development conditions. Joseph E. Mihm, P.E., with Brinner & Larios, PC (the Town Designated Engineer) reviewed the *Stormwater Pollution Prevention Plan* dated March 26, 2019 and in a letter dated April 29, 2019 requested some minor technical revisions to the SWPPP prior to acceptance. Once the SWPPP is revised and accepted, no adverse impacts resulting from stormwater are anticipated.

Based upon these facts, no potentially significant impacts on surface waters are anticipated.

d. Impacts on Ground Water.

The Proposed Action does not require the development of water supply wells, discharge of wastewater to subsurface disposal systems, or require bulk storage of petroleum or other chemicals on the site.

Based upon these facts, no potentially significant impacts on ground water is anticipated.

e. Impacts on Flooding.

No portion of the subject site is situated within a FEMA designated Floodway or Floodplain.

Based upon these facts, no potentially significant impacts on flooding is anticipated.

f. Impacts on Air.

The Proposed Action does not include a state regulated air emission source, so no adverse impacts to air would result from the Proposed Action.

g. Impact on Plants and Animals.

Based upon review of the NYSDEC Natural Heritage Program via the Environmental Resource Mapper, the subject site was indicated to have potential habitat for several endangered or threatened species including Indiana Bats and Northern Long Eared bats and potential presence of the Bog Turtle. A Rare, Threatened, and Endangered Species Report for the Lincoln Park Grid Support Center was prepared by the Chazen Companies, dated March 25, 2019. *In order to ensure no take of Indiana bat or Northern Long-eared bat, any removal of trees greater than 3” diameter breast height (dbh) will occur between November 1 and March 31 when bats are in hibernacula. Therefore, a Determination of No Effect is made for this species under Section 7 of the federal Endangered Species Act.* With respect to the bog turtle, the Report found the species habitat requirements and the lack of suitable habitat within wetlands in the project site and overall subdivision area, make it unlikely this species would be anticipated to be found in the project site. *Therefore, a Determination of No Effect is identified under Section 7 of the federal Endangered Species Act.*

Based upon these findings, no adverse impacts to plants and animals is anticipated.

h. Impact on Agricultural Resources.

The Project Site does not include or abut agricultural lands, so no adverse impacts to agricultural resources would result from the Proposed Action.

i. Impact on Historic and Archeological Resources.

A Phase 1 Archaeological Investigation Report was prepared by Hartgen Archeological Associates, Inc. in December 2017. This was followed by a January 2019 Phase 1B Archaeological Field Reconnaissance Report that identified the presence of numerous artifacts suggesting chert quarrying, indicated that additional Phase II testing of the identified site area is appropriate. In a February 6, 2019 letter, NYSOPRHP identified the Lincoln Park Precontact Site archaeological site with a Unique Site Number (USN 11118.000104) and recommended that this site should be protected from disturbance or, if that is not feasible, it should be subjected to a Phase II evaluation to determine its eligibility for listing on the State/National Register of Historic Places. NYSOPRHP requested submittal of a site avoidance plan or a Phase II work plan for review and comment prior to implementation. *A Phase II work plan was accepted on February 12, 2019 by NYSOPRHP and the additional investigation was completed in May of 2019. As a condition of this approval, the Town Board is requiring the applicant to comply with all requirements the NYSOPRHP to ensure that potential large impacts to archeological resources are mitigated to a non-significant level. Based upon these facts, no potentially significant impacts to archeological or historic resources are anticipated.*

j. Impact on Aesthetic Resources.

The applicant is proposing a 30,000 square-foot building with a building height of 26 feet that would be set back 107-feet from Frank Sottile Boulevard. Significant existing vegetation would remain between the building and the road, which would limit views of the building. No large impacts on aesthetic resources are anticipated.

Based upon review of the proposed building elevations, the Proposed Action would not result in any potentially large visual impacts.

k. Impact on Open Space and Recreation.

The Proposed Action will not result in a loss of recreational opportunities or reduction of an open space resource as designated in any adopted municipal open space plan.

l. Impact on Critical Environmental Areas.

The Proposed Action is not located within or adjacent to a critical environmental area.

m. Impact on Transportation.

The Ulster County Highway Department has accepted the design of the driveway entrance from Frank Sottile Boulevard (CR161) into the subject site. The applicant is proposing to construct a 30-foot wide access driveway from Frank Sottile Boulevard to the proposed Lincoln Park Grid Support Center – Battery Storage Facility. The Truck Circulation Diagram on Sheet C130 shows the ability to maneuver WB-50 Semi-Trailer to and from the site from either direction on Frank Sottile Boulevard (CR 161). The battery system will be a stand-alone facility with no dedicated on-site personnel; however, the facility will be routinely accessed during normal working hours for regular planned maintenance and occasionally during non-working hours for unplanned maintenance. The proposed facility will generate very few traffic trips.

No significant adverse traffic impacts are anticipated from the Proposed Action.

n. Impact on Energy.

The proposed battery array would provide capacity and ancillary services to the regional electric grid by absorbing (charging) and generating (discharging) electricity as directed by the grid operator. The facility will help to stabilize the grid and better enable the integration and efficiencies of renewable energy (e.g., wind and solar) into the grid.

The Proposed Action will would have a positive impact on energy.

o. Impact on Noise, Ouder and Light.

A sound level analysis was conducted for the Project. Using the sound level data from the equipment proposed to be used at the facilities, an analysis was conducted to determine the sound level at the nearest sensitive receptor, which is a residence located off Riseley Street approximately 1,480 FT west of the transformer and inverter location and approximately 1,589 FT west of the HVAC location for the Lincoln Park Grid Support Center. The sound level analysis found that with the operation of all equipment concurrently, the combined sound level at the nearest residence would be 33.88 A-weighted decibels (dBA), the operation of the battery storage facility, which is far below the maximum sound level allowed by the Town Code and which is likely to be undetectable. *No adverse impacts related to Noise are anticipated.*

p. Impact on Human Health.

The Proposed Action would not have an impact on human health from exposure to new or existing sources of contaminants.

q. Other factors.

Based upon a thorough review of the proposed plans and supporting documentation it is hereby determined the Proposed Action will *not* have any of the following effects:

- 1) Create a material conflict with the Town's Comprehensive Plan or goals as officially approved and adopted;
- 2) Produce a major change in the use of either the quantity or type of energy;
- 3) Create a hazard to human health;
- 4) Create a material demand for other actions that would result in one of the above consequences;
- 5) Encourage or attract a large number of people to a place or places for more than a few days, compared to the number of people would come to such a place absent such action;
- 6) Change two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in an substantial adverse impact on the environment;
- 7) Be one or two or more related actions, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria for a significant impact on the environment; or
- 8) A substantial adverse change in existing air quality, ground or surface water quantity or quality, traffic or noise levels; a substantial increase in solid waste production; a substantial in potential for erosion, flooding, leaching or drainage problems.

r. Conditions.

The Negative Declaration is conditional upon a finding of no impact or an approved Letter of Resolution (LOR) by the New York State Office of Parks, Recreation and Historic Preservation.

3. Conclusions.

The Town of Ulster Town Board, as Lead Agency for this SEQR Unlisted Action-Coordinated Review issues this Conditioned Negative Declaration, concluding the particular facts and circumstances of the Current Proposed Action do not call for the preparation of a full environmental impact statement. A Full EAF Part 1 and Report with detailed studies to address any potentially large adverse environmental impacts were prepared along with a Full EAF Part 2 and Full EAF Part 3. Based upon the refinements to the proposed development plan and mitigation measures being employed in the development of the Proposed Action, and conditions set herein, no potentially large impacts are anticipated from the Proposed Action. Copies of all Plans, the Full EAF Part 1 and Report, and Full EAF Parts 2, 3, and supplemental studies contained therein are available for review at *Town of Ulster Supervisor Office, Town Hall, 1 Town Hall Drive, Lake Katrine, New York 12449*.

Copies of this Declaration; along with Full EAF Part 2 and 3, are filed with:

**LINCOLN PARK DG, LLC
LINCOLN PARK GRID SUPPORT CENTER**

INVOLVED AGENCIES

1. Town of Ulster Town Board

James E. Quigley, 3rd, Supervisor
1 Town Hall Drive
Lake Katrine, NY 12449

- Site Plan Approval, Special Use Permit and MS4 Acceptance

2. Town of Ulster Planning Board

Gary Mulligan, PB Chairman
Building, Planning and Zoning Department
584 East Chester Street Bypass
Kingston, NY 12401

- Advisory recommendation on Site Plan and Special Permit
- Minor Subdivision approval

**3. New York State Department of Conservation
Region 3**

21 South Putt Corners Road
New Paltz, NY 12561-1696

- Stormwater Pollution Prevention Plan (SWPPP) and General Permit Construction Activities

4. New York State Energy Research and Development Authority (NYSERDA)

17 Columbia Circle
Albany, NY 12203-6399

- Energy Storage Incentive

5. New York State Public Service Commission

Empire State Plaza
 Agency Building 3
 Albany, NY 12223-1350

- Certificate of Public Convenience and Necessity

6. Ulster County Industrial Development Agency

P.O. Box 4265
 Kingston, NY 12402-4265

- Payment-in-Lieu-of-Taxes (PILOT)

INTERESTED AGENCIES**1. Ulster County Planning Board**

Attn: Michael Calimano, Chairman
 244 Fair Street
 P.O. Box 1800
 Kingston, NY 12402

- Advisory recommendation on Site Plan, Special Permit pursuant to NYS GML Section 239 l, m

2. NYS Office of Parks, Recreation and Historic Preservation

Peebles Island State Park
 P.O. Box 189
 Waterford, NY 12188-0189

- Consultation with respect archeological and historic resources

3. New York State Department of Environmental Conservation

Division of Fish, Wildlife & Marine Resources
 New York Natural Heritage Program
 625 Broadway, 5th Floor
 Albany, NY 12233-4757

- Consultation with respect to Threatened and Endangered Species

4. United States Department of the Interior

U.S. Fish and Wildlife Service
 New York Ecological Services Field Office
 3817 Luker Road
 Cortland, NY 13045-9349

- Consultation with respect to Threatened and Endangered Species

By:

Town of Ulster Town Board

Hon. James E. Quigley, 3rd Supervisor
 Town Hall
 1 Town Hall Drive
 Lake Katrine, NY 12449

