

**TOWN OF SOMERSET  
PLANNING BOARD HEARING/MEETING  
AUGUST 5, 2021**

Present: Norm Jansen, Chairman  
Krista Atwater  
Chris Czelusta  
Charles Neal  
David Haylett, Town Attorney  
Robert Pidanick - Manager of Land Development  
Somerset Operating Representatives

Audience: 23 in attendance

At 7:40pm Chairman Jansen opened the meeting

**APPROVAL OF MINUTES** - July 1, 2021

On a motion by K. Atwater, seconded by C. Czelusta, the following resolution was

ADOPTED	Ayes	4	Atwater, Czelusta, Jansen, Neal
	Nayes	0	

Resolved: The minutes of the July 1, 2021 meeting were accepted as submitted.

**COMMUNICATIONS**

A copy of the Empire State Data Hub- Lake Mariner Data LLC application as well as maps that were distributed by representatives from the Somerset Operating Company at the 7/1/21 planning board meeting are available for review by any interested persons at the Town Hall during regular business hours.

**OLD BUSINESS:** There was no Old Business

**NEW BUSINESS**

**PUBLIC HEARING**

Applicant: Somerset Operating Co. LLC/Lake Mariner Data LLC  
Property Location: 7725 Lake Road (part of Tax Map No. 8.00-1-1.11)  
Town of Somerset

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To consider an application for Site Plan Review to construct four 60' x 400' Data Center buildings on said premises located north of Lake Road, as set forth in the application to the Town of Somerset dated June 24, 2021.

At 7:42pm Chairman Jansen opened the Public Hearing.

Pamela Atwater who was speaking as a resident of the town made mention that regarding a town park and Rails to Trails, she would like to see something in writing to formalize any general commitments. She then brought attention to a few items in the SEQR Full Environmental Assessment Form dated 6/11/21. She asked if there would be four or five 20'H, 60'W, 400'L buildings included in the project and why the approximate extent of building space to be heated or cooled showed zero square feet. The answer given is that there are four main buildings in the plan and that no heating or cooling was necessary as there will be fans used for cooling which will be 27' from the ground.

She also expressed concern that the application shows the hours of operation during construction lists seven days a week from 6am to 8pm. It was explained by the project manager that it is customary to have ten-hour days, six days per week, but the seventh day may be needed in case there is a need to work extra hours, especially at the near completion point of the project.

She continued with expressing concern regarding noise exceeding existing ambient noise levels from fans producing 95-dB, questioning what the cumulative impact of noise would be. She was also concerned about how the sound may impact Rails to Trails. It was explained that the 95-dB would be at the top of the fan but would dissipate to below 80-dB, 200 feet from the source.

The next topic for discussion addressed outdoor lighting and whether the specifics meet the town's lighting requirements and won't impact dark skies. The response given was that the lighting will not be as bright as what is there now. Her final topic of concern regarded bitcoin mining and cryptocurrency. She stated that there is a big unknown in her opinion as to what issues would arise and that we need to be mindful of the implications of this type of operation.

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Pam referenced an article published on 6/24/21 from CNBC entitled “Bitcoin miners flocked to an upstate New York town for cheap energy -- then it got complicated” which stated that much higher electricity costs incurred and that the city ended up passing a moratorium on new commercial mining operations for a period of time and added a new set of building and safety codes. Pam finished by saying that there was an article in the Buffalo News which mentioned 10 MW of electricity had been granted to Beowulf for data centers by the New York Power Authority. In the article, a NYPA spokesman said “the authority will not provide power for the cryptocurrency operation, but the company said it will buy power from the state grid, which includes significant hydropower from nearby Niagara Falls and is over 90% zero-carbon.” Pam questioned what the 10 MW is being used for. She expressed that the 250 MW Beowulf could end up using for its bitcoin operation is the equivalent of five Lighthouse Wind projects or seven Somerset Solar projects and that it is an unnecessary and wasteful nature of cryptocurrency that enriches a few people. She asked that the public hearing be kept open to make sure any issues or questions are answered sufficiently without being rushed.

Annie Smith, asked questions regarding water usage. She was informed that no water from Lake Ontario will be drawn and that fans will be used for cooling. She also expressed her concern regarding bitcoin mining.

Betty Wolanyk questioned the notification time for a hearing to which Atty. Haylett responded that it is a five day notice. She stated that the application was not available until the last couple of days and contains too much information to review with such a short notice, and was therefore asking that the hearing be kept open to allow the public proper time to review the documents. She questioned what type of back-up power Lake Mariner would use in the event of a power outage, if lithium batteries would be used, and what plans are in place in the event of a fire. It was explained that no batteries will be used, there is a back-up power line from National Grid, and if there is a power outage, all computers go down, but the fans would continue running.

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She also questioned how many buildings there would be. She said that the application was done in a sloppy manner and it is unclear how long the project will take, thirty months or four months. She commented about her concern of the construction hours given and the noise that will be generated twenty-four hours a day, seven days a week with decibels being comparable to a 737 jet and added that the background noise in a quiet rural community is 30-dB. She asked who the neighbors could call to complain about the noise and what the complaint resolution process would be.

Fred Atwater asked what the community is going to give up to get this and is it worth the price? It was answered that since 1983, Somerset Operating Company has used this land, but with this current project, the land can be for public use.

Jim Hoffman stated that he does support the data center but has numerous concerns regarding the preservation of the rural character of the community. He requested an overview of the complete property of the north side of Route 18 which shows the location of the data center in relation to landfills, the Babcock house, Fish Creek, archeological areas, and MUP location; a detailed Site Plan which includes location of all structures, driveways, parking lots, setbacks from the lake which is 500' from lake shore as dictated by Army Corps, green space and property maintenance; a drainage plan that the town engineer should review and approve; information of future use of the 276 acres set aside for industrial/business uses, questioning what is meant by altering of lot sizes and are there plans for future subdivision?; information of the wetland/stream delineation sent to USACE for determination; SEQRA application and the long form filled out and made available to the public. He stated that he reviewed the EIS and offered the following comments:

- 1) No blasting within ½ mile of bald eagle site between January 1-September 30
- 2) Fans will produce 90dB of noise
- 3) Outdoor lighting should be Dark Sky compliant
- 4) Landfill #2 open -- why?
- 5) There is an archaeological site on premises that should be preserved

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Jim Hoffman (continued)

Article 8 Siting requirements regarding noise, dust, setback, and maintenance of buffer zones and implementation of the Multiple Use Plan.

He also made mention of his concern relating to the payment of property and school tax; also that a host community agreement be made to include settlement of the Babcock House property, the MUP, and Rails to Trails project.

Bob Ciesielski expressed his concern regarding cryptocurrency of which he stated that there will be a lot of power taken from the grid. He commented that 250 MW could power 100,000 homes and that cryptocurrency has been banned in other countries. He also commented about the town wanting to keep a quiet environment.

Marsha Ray stated that the town is trying to protect its natural resources, lush green trees, and good soil. She shared her concerns regarding roads and the effect on wildlife. She also expressed her concerns regarding industrial power usage affecting the cost of electricity. She said that it is not an industrial town and therefore questioned the benefit to the town. She expressed that more time should be given so that more answers could be given before the public hearing is closed.

Dexter McCanty stated that he supports the project. He commented that the vegetation will absorb the sound and that the project will have a minimal impact on the environment. He commented that the town desperately needs a tax base to help the school which is in desperate need of money.

Tom Staples stated his concern regarding infrasound, and it having an environmental impact. He stated that the project is moving ahead too fast and that the hearing should be kept open so more information could be obtained.

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Judy Hinton asked about the number of fans and expressed her concern about the cumulative dB of the sound. The response was that the drawing shows forty-eight fans that would equal 95-dB, explaining that they are not high pressure but are low velocity. There was a comment made that wind direction could affect the sound.

At 8:32pm with no further comments or questions from the audience, a motion to either leave the Public Hearing open or to close it was made. K. Atwater made a motion to leave the Public Hearing open. There was no second.

On a motion by C. Czelusta, seconded by C. Neal to close the Public Hearing, the following resolution was

ADOPTED	Ayes	3	Czelusta, Jansen, Neal
	Nayes	1	Atwater

Resolution: The Public Hearing was officially closed.

Atty. Haylett explained to the Planning Board that they could either approve, disapprove, or approve with conditions the Site Plan that night or within 60 days. Much discussion ensued regarding the conditions that should be met. On a motion by C. Czelusta, seconded by C. Neal to approve with conditions or disapprove the Site Plan, the following resolution was

ADOPTED	Ayes	4	Atwater, Czelusta, Jansen, Neal
	Nayes	0	

Resolution: The Site Plan was approved with the following conditions:

### TOWN OF SOMERSET PLANNING BOARD SITE PLAN RESOLUTION

WHEREAS, on June 24, 2021, Lake Mariner Data LLC, ("Lake Mariner"), filed an application (the "Application") with the Town Board of the Town of Somerset and Town of Somerset Planning Board, requesting the Town Board rezone a portion of SBL # 8.00- 1-1.11 (the "Rezoning") totaling approximately 410 +/- acres located on the north side of Lake Road at 7725 Lake Road in the Town of Somerset, Niagara County, New York (the "Site") to PUD – (Planned Unit Development) District and for site plan approval to construct four data centers at the Site with associated parking, open space, and utility and storm drainage improvements (collectively, the "Project"); and

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WHEREAS, the Somerset Planning Board has reviewed this application and project at several meetings, has noticed and held the required public hearing, and has fully considered all application materials, as well as the site plan considerations defined in the Town of Somerset's code, Article XVA, and

WHEREAS, the Town Board of the Town of Somerset, as lead agency of the review of the Project, on July 27th, 2021 by resolution number 90-2021, issued a negative declaration pursuant to SEQR meaning that the Project will not have a significant adverse environmental impact; and

WHEREAS, the Town Board of the Town of Somerset found that the rezoning and construction of four data centers is in compliance with the Town's Comprehensive Plan and Local Waterfront Revitalization Plan; now, therefore, be it

RESOLVED, that the Town Planning Board of the Town of Somerset hereby finds that the Site Plan application of Lake Mariner Project is compliant with the Town of Somerset Comprehensive Plan and Local Waterfront Revitalization Plan for the reasons as set forth in Local Law #4-2021 adopted by the Town Board of the Town of Somerset on July 27, 2021; and be it further

RESOLVED, that the Site Plan application of Lake Mariner Data LLC, for construction of four data centers located at parcel 8.00-1-1.11, north of Lake Road, at 7725 Lake Road, Town of Somerset, NY, is hereby approved and this approval is conditioned on the following:

1) Development may be accomplished in phases with a separate building permit required for each phase of development.

2) Any significant changes or modifications of the site plan, as determined in the sole discretion of the Town Building Inspector, shall require a new site plan application and approval.

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3) Applicant shall comply with Town Infrastructure Preservation Law to protect local roads.

4) Property shall be neat and orderly and comply with the NYS Property Maintenance Code and Town of Somerset property maintenance ordinances.

5) Lighting at the site shall be shielded and directed towards the ground to prevent light pollution.

6) New data center structures shall be set back a minimum of 235 feet from Lake Ontario shoreline as set forth in the application dated June 24, 2021. Any significant deviation from this setback requirement, as determined in the sole discretion of the Town Building Inspector, shall require a site plan modification.

**ADJOURNMENT**

There being no further business, Chairman Jansen made a motion to adjourn the meeting at 8:52pm, seconded by K. Atwater. Carried unanimously.

Respectfully submitted,

Sandra Lewis  
Planning Board Secretary