

# **Planning Board**

TOWN OF BRUNSWICK  
336 Town Office Road  
Troy, New York 12180

## **MINUTES OF THE PLANNING BOARD MEETING HELD NOVEMBER 16, 2017**

PRESENT were RUSSELL OSTER, CHAIRMAN, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, LINDA STANCLIFFE, and DAVID TARBOX.

ABSENT was TIMOTHY CASEY.

ALSO PRESENT were KAREN GUASTELLA, Brunswick Building Department, and WAYNE BONESTEEL, P.E., Review Engineer to the Planning Board.

Chairman Oster reviewed the agenda for the meeting.

The draft minutes of the November 2, 2017 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Mainello, the minutes of the November 2, 2017 meeting were unanimously approved without amendment.

The first item of business on the agenda was the Borrego Solar utility-scale solar farm matter, which includes applications for special use permit, site plan, and subdivision. Edward Fitzgerald, Esq., project attorney, and Dean Smith, P.E. were present for the applicant. Chairman Oster reviewed the status of the matter, indicating that the Planning Board had before them draft resolutions prepared by Attorney Gilchrist's office for the special use permit and site plan applications. Chairman Oster asked Attorney Tingley to review the conditions set forth in each of the resolutions. Attorney Tingley explained that the logical order of progression on the various applications would be to address the subdivision application first, since the application seeks development of two separate solar fields on separate parcels, followed by consideration of the special use permit application to address the zoning

permissibility issue, and ending with the site plan application. The Planning Board discussed the status of the application, and indicated that the Planning Board had adopted a negative declaration under SEQRA, had held its public hearing, and had received the recommendation from the County, which indicated that local consideration shall prevail. Member Czornyj made a motion to approve the subdivision application as presented, which was seconded by Member Mainello, and was unanimously approved. Attorney Tingley then reviewed the draft resolutions for the special use permit application and the site plan application, including the various conditions that have been included in each resolution. Upon the applicant's request, the Planning Board permitted the applicant to address certain conditions in the resolutions. With respect to the special use permit resolution, the applicant explained that condition (a), regarding requiring the access driveway as shown on the site plan to be a minimum width of 16 feet, with 3-foot shoulders, may not be achievable depending upon the Army Corps of Engineers' review of the project for coverage under the Nationwide Permit No. 51. The applicant indicated that there may be some areas where the roadway width may be 14 feet. The Planning Board discussed with Attorney Tingley whether the Board had the authority to waive the minimum width requirement for the access driveway. Ms. Guastella stated that the minimum driveway width was a requirement under the Town Code and the Fire code. Attorney Tingley stated that further review would be required as to whether the Planning Board had the authority to waive or otherwise vary the minimum width requirement set by the Town Code and the Fire Code. The Planning Board generally discussed that if the minimum driveway width set under the Town Code and the Fire Code was waivable, it may be a different Board, such as the Town Board, that possessed such authority. The Planning Board suggested that the condition be modified to require that the access driveway as shown on the site plan comply with the Town Code and the Fire Code, which would further the intent of requiring compliance with the minimum driveway requirements, while still

allowing the project to move forward in the event that a waiver or variance from those requirements was required and approved by the appropriate body. The Planning Board agreed to modify condition (a) on the special use permit resolution to read as follows:

Access driveway as shown on the site plan must comply with the Town Code and the Fire Code.

The applicant also inquired whether the posting and maintenance of financial security for decommissioning the facility set forth under condition (c) would be posted prior to obtaining necessary permits to construct the facility, or rather, upon issuance of a Certificate of Compliance or Certificate of Occupancy. Attorney Tingley stated that the posting of financial security was to make funds available to the Town in the event the applicant does not decommission the site properly, and therefore it should be required in order to begin construction so that if the applicant discontinues construction prior to seeking a Certificate of Compliance or Occupancy, the financial security would be available to the Town. The applicant agreed to that procedure. The applicant also identified that, with respect to condition (i), there would be some electrical infrastructure that would be located at the ground level including inverters and transformers. The applicant stated that all electrical conduit infrastructure owned and operated by Borrego Solar would be underground, but wanted to make it clear to the Board that there would be certain low-level electric infrastructure that would be installed at ground level rather than underground. The applicant confirmed that there would be no electric infrastructure of any kind that was owned and operated by Borrego Solar that would be overhead. With respect to the poles entering the site, those poles would be owned and maintained by National Grid. The Planning Board agreed to modify draft condition (i) to read:

All electric conduit infrastructure owned and operated by Borrego Solar shall be underground, with all other electrical infrastructure owned and operated by Borrego Solar to be installed at ground level.

Following the Board's discussion concerning the various conditions listed in the special use permit resolution, Member Czornyj made a motion to adopt the proposed special use permit resolution with the discussed amendments to condition (a) and condition (i), which motion was seconded by Member Esser and was unanimously approved, with Member Casey absent. The final resolution is attached to these minutes. The Planning Board then discussed the draft resolution concerning the site plan application. Attorney Tingley noted that the conditions listed in the site plan resolution were identical to the conditions listed in the special use permit application resolution and that it would be appropriate for the Board to consider identical changes to the conditions in the site plan resolution. The Planning Board discussed the issue of the access driveway design potentially changing based on the review by the Army Corps of Engineers for coverage under Nationwide Permit No. 51 and the fact that the site plan as submitted showed a 20-foot wide driveway leading into the site. Attorney Tingley explained that the condition as revised by the Planning Board would state access driveway as shown on the site plan must comply with the Town Code and the Fire Code. In the event the proposed width of the access driveway changes due to the Army Corps of Engineers' review with or without a waiver of the requirements of the Town Code and the Fire Code, the Planning Board had the authority to condition approval on the submission by the applicant of a revised site plan showing the final driveway width following the Army Corps of Engineers' review and determination. As discussed in connection with the special use permit resolution, in the event the Army Corps of Engineers review required a driveway that was narrower than permitted by the Town Code and the Fire Code, the applicant would be required to either seek a waiver or variance of that requirement from the appropriate body, or to redesign the access driveway. In the event the applicant would be required to revise the design of the access driveway due to an inability to comply with the Town Code and the Fire Code, and without a waiver or variance of those requirements, the applicant would necessarily be required to submit a

revised site plan application or site plan amendment application to the Planning Board. The Planning Board agreed to modify condition (a) on the draft site plan resolution to read as follows:

Access driveway as shown on the site plan must comply with the Town Code and the Fire Code. The applicant shall submit a revised site plan following the review and determination of coverage by the United States Army Corps of Engineers under Nationwide Permit No. 51 showing the access driveway.

The Planning Board also discussed condition (i), in which it made the same changes to the site plan resolution condition as had been made to the special use permit condition. Accordingly, the Board determined to modify condition (i) to read as follows:

All electrical conduit infrastructure owned and operated by Borrego Solar shall be underground, with all other electric infrastructure owned and operated by Borrego Solar to be installed at ground level.

Following discussion by the Planning Board, Member Czornyj made a motion to adopt the proposed site plan resolution with the discussed amendment to conditions (a) and (i), which motion was seconded by Member Mainello and was unanimously approved, with Member Casey absent. The final resolution is attached to these minutes.

The next item of business on the agenda was the waiver of subdivision application submitted by Jennifer Adams for property located at 4277 NY Route 2. No one was present on behalf of the applicant. Chairman Oster generally discussed the issues that had been raised concerning the septic system service and the Rensselaer County Health Department's interaction with the Building Department on this property. Ms. Guastella indicated that she had provided two copies of plans to each of the Board members that showed the probable location of the septic infrastructure and noted that the Health Department did not have those plans in its file. She indicated that Health Department approval would be required before a building permit could be issued. Chairman Oster stated that the review by the County Health Department may change the applicant's proposed lot line, and therefore

he felt it would be appropriate for the septic issue to be addressed. Chairman Oster asked Ms. Guastella whether the application should be put on the agenda for the next meeting, to be held December 7, 2017. Ms. Guastella responded that she would like to see the application on the next Planning Board meeting agenda. The Board placed the matter on the agenda for the December 7, 2017 meeting.

There was one item of old business discussed. Matopato, LLC was requesting modification to a condition of its prior site plan approval granted on August 6, 2015 for the Diamond Rock Plaza project located at 289–291 Oakwood Avenue. Tom Murley of Matopato, LLC was present. Mr. Murley explained that the City of Troy and the County Sewer District were in the process of modifying the County Sewer District’s lease agreement with the City of Troy to add the sewer line through which the Diamond Rock Plaza sewage would be conveyed to the County sewer interceptor pipe. He indicated that the City of Troy and the County Sewer District had both conceptually approved the plan as presented to them and that they were in the process of amending the lease accordingly. Mr. Murley also indicated that the Department of Environmental Conservation has authority to review the sewer connection and that its review was continuing. The condition that the applicant seeks to modify is condition 3 of the approval, which requires that all necessary permits and/or approvals for potable water and sewer connections be obtained prior to the issuance of any building permit for any structure to which public water and/or public sewer will be connected. The applicant is seeking a modification of that condition to allow the applicant to construct a foundation including any necessary underground plumbing, while it awaits the final review and approval of DEC, the City, and the County. A motion was made by Member Czornyj and was seconded by Member Tarbox to modify special condition number 3 included in the conditional site plan approval granted for the Diamond Rock Plaza located at 289–291 Oakwood Avenue to read as follows:

3. Except for a permit for foundation installation only, including underground plumbing, which shall be issued by the Brunswick Building Department only upon receipt and approval of all necessary and required submittals, all necessary permits and/or approvals for potable water and sewer connections must be obtained prior to the issuance of any building permit for any structure to which public water and/or public sewer will be connected.

The motion was unanimously approved, with Member Casey absent.

Chairman Oster asked whether there was any other new business to address at the meeting. Ms. Guastella indicated that David Leon is currently working towards an application for the site behind the Planet Fitness and may or may not be filing that application shortly. Chairman Oster noted that there may also be an application filed shortly with respect to Phase 2 of the Stonehurst subdivision.

Chairman Oster then indicated that it was the last meeting at which Member Esser would be in attendance in light of the fact that he was resigning from his position. Chairman Oster and the Planning Board expressed their gratitude to Member Esser and commended him for his longtime service to the Planning Board and to the Town of Brunswick.

The index for the November 16, 2017 meeting is as follows:

1. Borrego Solar - Utility-scale solar farm - subdivision approved; special use permit approved with conditions; site plan approved with conditions;
2. Adams - Waiver of subdivision - December 7, 2017;
3. Matopato, LLC/Diamond Rock Plaza - Modification of special condition 3 -  
Approved;

The proposed agenda for the December 7, 2017 meeting currently is as follows:

1. Adams - Waiver of subdivision.

**TOWN OF BRUNSWICK PLANNING  
BOARD REGULAR MEETING**

**November 16, 2017**

**RESOLUTION APPROVING SPECIAL USE PERMIT FOR  
BORREGO SOLAR COMMERCIAL SOLAR FACILITY**

**WHEREAS**, the Town of Brunswick received an application for site plan approval for a utility-scale solar farm from PV Engineers, P.C. c/o Borrego Solar Systems, Inc. (hereinafter “Borrego Solar”), to be located at 138 Brick Church Road in Brunswick; and

**WHEREAS**, the project is to construct two 2.797.20 MW (DC) ground-mounted solar energy facilities and connect it to the local electrical grid on Brick Church Road; both facilities will use approximately a total of 15,984 panels; the panels will be mounted on a system of steel posts and racks; the site will be secured with an 8-foot high chain link fence; there will be an equipment pad located near the panels for each system; the system will consist of inverters, transformers, data systems, and switch gear; a new gravel road will connect the facility to Brick Church Road; the overall size of the parcel is 99.3 acres; and

**WHEREAS**, the application was first presented to the Town of Brunswick Planning Board (hereinafter “Planning Board”) at its meeting on August 3, 2017; and

**WHEREAS**, the Planning Board reviewed and considered Borrego Solar’s proposal at the August 3, 2017 meeting and placed it on the agenda for its next meeting for further deliberation; and

**WHEREAS**, under the Town of Brunswick Zoning Law, the application for a utility-scale solar farm requires a special use permit and site plan approval; and

**WHEREAS**, Borrego Solar thereafter submitted an application for a special use permit, an application for a minor subdivision to divide the parcel into three lots, and also an application for an area variance concerning the 100-foot setback from the neighboring property lines, an application for an area variance with respect to the proposed utility interconnection, an agricultural data statement and revised environmental assessment form to the Planning Board; and

**WHEREAS**, Borrego Solar represents to the Planning Board that Public Service Commission requirements mandate that each utility-scale solar collector system must be situated on a separate lot, and therefore filed its application for minor subdivision to address that requirement, thereby creating two separate lots for solar use, along with the remaining land owned by the property owners being subdivided into a third lot; and

**WHEREAS**, the Planning Board again reviewed and considered the application at its August 17, 2017 meeting; and

**WHEREAS**, the Planning Board stated that a visual addendum to the environmental



assessment form was required and placed the proposal on the agenda for the next meeting for further deliberation; and

**WHEREAS**, Borrego Solar thereafter submitted additional information to the Planning Board, including a visual environmental assessment form, visual exhibits, counsel’s letter regarding the need for separate parcels for the project, correspondence relating to the utility internet connection, and the revisions to its environmental assessment form; and

**WHEREAS**, the Planning Board again reviewed and considered the application at its September 7, 2017 meeting; and

**WHEREAS**, the Planning Board commenced lead agency designation for this action, indicating that it sought to be appointed lead agency under the State Environmental Quality Review Act (hereinafter “SEQRA”); and

**WHEREAS**, the Planning Board sought to schedule a public hearing concerning the project; and

**WHEREAS**, the Planning Board suggested scheduling a joint public hearing to be held simultaneously with the mandatory public hearing on the area variance applications pending before the Town of Brunswick Zoning Board of Appeals (hereinafter “Zoning Board”); and

**WHEREAS**, the Zoning Board concurred that a joint public hearing on the project was in the overall public interest, and accordingly scheduled its public hearing on the project for the same date and time as the Planning Board hearing, establishing a joint public hearing; and

**WHEREAS**, the Planning Board and Zoning Board, upon due public notice, held a joint public hearing on the project on October 5, 2017 with respect to the applications for the site plan, special use permit, and subdivision approval pending before the Planning Board and the applications for area variances in regards to the 100-foot setback requirements and utility interconnection requirements pending before the Zoning Board; and

**WHEREAS**, the Planning Board closed its public hearing with respect to the applications for the site plan, special use permit, and subdivision approval on October 5, 2017; and

**WHEREAS**, the New York State Department of Environmental Conservation and the US Army Corps of Engineers were sent and received the Planning Board’s SEQRA lead agency coordination notice and neither agency objected to it; and

**WHEREAS**, the Zoning Board did not raise any objection to the Planning Board serving as SEQRA lead agency on this action; and

**WHEREAS**, the 30-day period for any other involved agency to submit a written response objecting to the Planning Board serving as SEQRA lead agency on this action had expired; and

**WHEREAS**, the Planning Board duly declared itself SEQRA lead agency for this action at

its October 19, 2017 meeting; and

**WHEREAS**, the Planning Board accepted additional written comments pertaining to this action during and after the October 5, 2017 public hearing; and

**WHEREAS**, Borrego Solar responded in writing to public comments received during the public hearing and also by written comment letters; and

**WHEREAS**, the Planning Board placed the proposal on the agenda for its November 2, 2017 meeting for further deliberation; and

**WHEREAS**, the Planning Board again reviewed and considered the application at its November 2, 2017 meeting; and

**WHEREAS**, the Planning Board reviewed all three parts of the Environmental Assessment Form and documents for the purpose of making a determination of environmental significance under SEQRA; and

**WHEREAS**, the Planning Board considered proposed reasons supporting a SEQRA negative declaration and determined that the adoption of a negative declaration based on the record information was appropriate in this case; and

**WHEREAS**, the Planning Board adopted a negative declaration under SEQRA for this action on November 2, 2017; and

**WHEREAS**, the Planning Board scheduled further deliberation on the project for its next meeting on November 16, 2017; and

**WHEREAS**, the Planning Board reviewed the application documents, record of proceedings, and fully deliberated at the November 16, 2017 meeting concerning the project; and

**WHEREAS**, the Planning Board considered the special use permit against the standards of the Town of Brunswick Zoning Law Section 160-63, titled “Special Use Permit General Provisions”, and Section 160-65, titled “Special Use General Standards”; and

**WHEREAS**, the Planning Board considered the special use permit against the standards of the Town of Brunswick Zoning Law Section 160-49, titled “Solar collector system – commercial” and considered the special use permit in compliance with this section; and

**WHEREAS**, the Planning Board, following due deliberation, is prepared to act on the special permit application;

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Town of Brunswick in regular session duly convened as follows:

1. The Town of Brunswick Planning Board approves the issuance and hereby grants the

special use permit subject to the following conditions:

- a. Access driveway as shown on the site plan must comply with the Town Code and the Fire Code.
- b. Subject to approval by the Brunswick Zoning Board of Appeals of applications for area variances pertaining to required setbacks from property lines and underground utility installations.
- c. Subject to posting and maintenance of financial security for decommissioning of the commercial solar facility equipment in form and amount acceptable to the Town of Brunswick.
- d. Subject to requirements of Nationwide Permit 51 for land-based renewable energy generation facilities of the United States Army Corps of Engineers and determination from the Army Corps of Engineers that coverage is provided for this project thereunder.
- e. Subject to final comments of the Planning Board Engineer and Town of Brunswick Water Department on final Storm Water Pollution Prevention Plan (SWPPP) for this facility and issuance of NYS DEC General Permit 0-015-002.
- f. Borrego Solar must coordinate with local emergency services, provide safety notices, and provide safety training to such local emergency services.
- g. All panels used for the commercial solar facility must have anti-glare coating or consist of materials that will not produce offensive glare.
- h. No further subdivisions of the subject property (138 Brick Church Road) while the commercial solar facility is in operation and/or the solar facility equipment is present on the property.
- i. All electrical conduit infrastructure owned and operated by Borrego Solar shall be underground, with all other electric infrastructure owned and operated by Borrego Solar to be installed at ground level.
- j. Tree cutting on the site will be limited to a 4.69-acre area as depicted on the site plan, of which only 1.3 acres will be allowed to be stumped, and all other areas are to be cut with the stumps left in place.
- k. No further removal of any vegetation on the property without further review and approval of the Brunswick Planning Board.
- l. All approvals of the Public Service Commission for this commercial solar facility must be filed with the Town of Brunswick.

- m. Access to the commercial solar equipment is limited to the access road off Brick Church Road as depicted on the site plan, and no other access shall be allowed without further review and approval of the Brunswick Planning Board.
- n. No additional access driveways are allowed off Brick Church Road for the flag lots created for this project without further review and approval of the Brunswick Planning Board.
- o. All waste materials generated during site construction, including all packaging materials, must be removed from the site within a reasonable time.
- p. The security fence around the perimeter of each commercial solar facility shall be 8-foot high, with a knock box installed for emergency access.
- q. Each commercial solar facility must be constructed and operated in compliance with all requirements of the National Electric Code.
- r. Subject to issuance of a permit from the New York State Department of Transportation (NYSDOT) for improvement of the access driveway, if required by NYSDOT.
- s. Use of pesticide and/or herbicide is prohibited in relation to operation and maintenance of the commercial solar facility.
- t. In accordance with the Town of Brunswick Zoning Law, Article 6, Subsection 160-41. Lighting Regulations -Section D. Security lighting shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property; motion sensitive, down-lighting security lighting shall be installed at the location shown on the site plan.

The foregoing Resolution, offered by Member Czornyj and seconded by Member Esser was duly put to a vote as follows:

<b>PLANNING BOARD CHAIRMAN OSTER</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER CASEY</b>	<b>VOTING</b>	<u><b>Absent</b></u>
<b>MEMBER CZORNYJ</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER ESSER</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER MAINELLO</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER STANCLIFFE</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER TARBOX</b>	<b>VOTING</b>	<u><b>Aye</b></u>

The foregoing Resolution was thereupon declared duly adopted.

November 16, 2017

**TOWN OF BRUNSWICK PLANNING  
BOARD REGULAR MEETING**

**November 16, 2017**

**RESOLUTION APPROVING SITE PLAN FOR  
BORREGO SOLAR COMMERCIAL SOLAR FACILITY**

**WHEREAS**, the Town of Brunswick received an application for site plan approval for a utility-scale solar farm from PV Engineers, P.C. c/o Borrego Solar Systems, Inc. (hereinafter “Borrego Solar”), to be located at 138 Brick Church Road in Brunswick; and

**WHEREAS**, the project is to construct two 2.797.20 MW (DC) ground-mounted solar energy facilities and connect it to the local electrical grid on Brick Church Road; both facilities will use approximately a total of 15,984 panels; the panels will be mounted on a system of steel posts and racks; the site will be secured with an 8-foot high chain link fence; there will be an equipment pad located near the panels for each system; the system will consist of inverters, transformers, data systems, and switch gear; a new gravel road will connect the facility to Brick Church Road; the overall size of the parcel is 99.3 acres; and

**WHEREAS**, the application was first presented to the Town of Brunswick Planning Board (hereinafter “Planning Board”) at its meeting on August 3, 2017; and

**WHEREAS**, the Planning Board reviewed and considered Borrego Solar’s proposal at the August 3, 2017 meeting and placed it on the agenda for its next meeting for further deliberation; and

**WHEREAS**, under the Town of Brunswick Zoning Law, the application for a utility-scale solar farm requires a special use permit and site plan approval; and

**WHEREAS**, Borrego Solar thereafter submitted an application for a special use permit, an application for a minor subdivision to divide the parcel into three lots, and also an application for an area variance concerning the 100-foot setback from the neighboring property lines, an application for an area variance with respect to the proposed utility interconnection, an agricultural data statement and revised environmental assessment form to the Planning Board; and

**WHEREAS**, Borrego Solar represents to the Planning Board that Public Service Commission requirements mandate that each utility-scale solar collector system must be situated on a separate lot, and therefore filed its application for minor subdivision to address that requirement, thereby creating two separate lots for solar use, along with the remaining land owned by the property owners being subdivided into a third lot; and

**WHEREAS**, the Planning Board again reviewed and considered the application at its August 17, 2017 meeting; and

**WHEREAS**, the Planning Board stated that a visual addendum to the environmental assessment form was required and placed the proposal on the agenda for the next meeting for further deliberation; and

**WHEREAS**, Borrego Solar thereafter submitted additional information to the Planning Board, including a visual environmental assessment form, visual exhibits, counsel's letter regarding the need for separate parcels for the project, correspondence relating to the utility internet connection, and the revisions to its environmental assessment form; and

**WHEREAS**, the Planning Board again reviewed and considered the application at its September 7, 2017 meeting; and

**WHEREAS**, the Planning Board commenced lead agency designation for this action, indicating that it sought to be appointed lead agency under the State Environmental Quality Review Act (hereinafter "SEQRA"); and

**WHEREAS**, the Planning Board sought to schedule a public hearing concerning the project; and

**WHEREAS**, the Planning Board suggested scheduling a joint public hearing to be held simultaneously with the mandatory public hearing on the area variance applications pending before the Town of Brunswick Zoning Board of Appeals (hereinafter "Zoning Board"); and

**WHEREAS**, the Zoning Board concurred that a joint public hearing on the project was in the overall public interest, and accordingly scheduled its public hearing on the project for the same date and time as the Planning Board hearing, establishing a joint public hearing; and

**WHEREAS**, the Planning Board and Zoning Board, upon due public notice, held a joint public hearing on the project on October 5, 2017 with respect to the applications for the site plan, special use permit, and subdivision approval pending before the Planning Board and the applications for area variances in regards to the 100-foot setback requirements and utility interconnection requirements pending before the Zoning Board; and

**WHEREAS**, the Planning Board closed its public hearing with respect to the applications for the site plan, special use permit, and subdivision approval on October 5, 2017; and

**WHEREAS**, the New York State Department of Environmental Conservation and the US Army Corps of Engineers were sent and received the Planning Board's SEQRA lead agency coordination notice and neither agency objected to it; and

**WHEREAS**, the Zoning Board did not raise any objection to the Planning Board serving as SEQRA lead agency on this action; and

**WHEREAS**, the 30-day period for any other involved agency to submit a written response objecting to the Planning Board serving as SEQRA lead agency on this action had expired; and

**WHEREAS**, the Planning Board duly declared itself SEQRA lead agency for this action at its October 19, 2017 meeting; and

**WHEREAS**, the Planning Board accepted additional written comments pertaining to this action during and after the October 5, 2017 public hearing; and

**WHEREAS**, Borrego Solar responded in writing to public comments received during the public hearing and also by written comment letters; and

**WHEREAS**, the Planning Board placed the proposal on the agenda for its November 2, 2017 meeting for further deliberation; and

**WHEREAS**, the Planning Board again reviewed and considered the application at its November 2, 2017 meeting; and

**WHEREAS**, the Planning Board reviewed all three parts of the Environmental Assessment Form and documents for the purpose of making a determination of environmental significance under SEQRA; and

**WHEREAS**, the Planning Board considered proposed reasons supporting a SEQRA negative declaration and determined that the adoption of a negative declaration based on the record information was appropriate in this case; and

**WHEREAS**, the Planning Board adopted a negative declaration under SEQRA for this action on November 2, 2017; and

**WHEREAS**, the Planning Board scheduled further deliberation on the project for its next meeting on November 16, 2017; and

**WHEREAS**, the Planning Board reviewed the application documents, record of proceedings, and fully deliberated at the November 16, 2017 meeting concerning the project; and

**WHEREAS**, the Planning Board considered the site plan against the standards of the Town of Brunswick Zoning Law Section 160-57, titled “Specific Site Plan Requirements”, and Section 160-58, titled “Scope of Planning Board’s Review of a Site Plan”; and

**WHEREAS**, the Planning Board considered the site plan against the standards of the Town of Brunswick Zoning Law Section 160-49, titled “Solar collector system – commercial” and considered the special use permit in compliance with this section; and

**WHEREAS**, the Planning Board, following due deliberation, is prepared to act on the site plan application;

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Town of Brunswick in regular session duly convened as follows:

1. The Town of Brunswick Planning Board approves the site plan subject to the following conditions:

a. Access driveway as shown on the site plan must comply with the Town Code and the Fire Code. The applicant shall submit a revised site plan following the review and determination of coverage by the United States Army Corps of Engineers under Nationwide Permit No. 51 showing the access driveway.

b. Subject to approval by the Brunswick Zoning Board of Appeals of applications for area variances pertaining to required setbacks from property lines and underground utility installations.

c. Subject to posting and maintenance of financial security for decommissioning of the commercial solar facility equipment in form and amount acceptable to the Town of Brunswick.

d. Subject to requirements of Nationwide Permit 51 for land-based renewable energy generation facilities of the United States Army Corps of Engineers and determination from the Army Corps of Engineers that coverage is provided for this project thereunder.

e. Subject to final comments of the Planning Board Engineer and Town of Brunswick Water Department on final Storm Water Pollution Prevention Plan (SWPPP) for this facility and issuance of NYS DEC General Permit 0-015-002.

f. Borrego Solar must coordinate with local emergency services, provide safety notices, and provide safety training to such local emergency services.

g. All panels used for the commercial solar facility must have anti-glare coating or consist of materials that will not produce offensive glare.

h. No further subdivisions of the subject property (138 Brick Church Road) while the commercial solar facility is in operation and/or the solar facility equipment is present on the property.

i. All electrical conduit infrastructure owned and operated by Borrego Solar shall be underground, with all other electric infrastructure owned and operated by Borrego Solar to be installed at ground level.

j. Tree cutting on the site will be limited to a 4.69-acre area as depicted on the site plan, of which only 1.3 acres will be allowed to be stumped, and all other areas are to be cut with the stumps left in place.

k. No further removal of any vegetation on the property without further review and approval of the Brunswick Planning Board.



- l. All approvals of the Public Service Commission for this commercial solar facility must be filed with the Town of Brunswick.
- m. Access to the commercial solar equipment is limited to the access road off Brick Church Road as depicted on the site plan, and no other access shall be allowed without further review and approval of the Brunswick Planning Board.
- n. No additional access driveways are allowed off Brick Church Road for the flag lots created for this project without further review and approval of the Brunswick Planning Board.
- o. All waste materials generated during site construction, including all packaging materials, must be removed from the site within a reasonable time.
- p. The security fence around the perimeter of each commercial solar facility shall be 8-foot high, with a knock box installed for emergency access.
- q. Each commercial solar facility must be constructed and operated in compliance with all requirements of the National Electric Code.
- r. Subject to issuance of a permit from the New York State Department of Transportation (NYSDOT) for improvement of the access driveway, if required by NYSDOT.
- s. Use of pesticide and/or herbicide is prohibited in relation to operation and maintenance of the commercial solar facility.
- t. In accordance with the Town of Brunswick Zoning Law, Article 6, Subsection 160-41. Lighting Regulations -Section D. Security lighting shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property; motion sensitive, down-lighting security lighting shall be installed at the location shown on the site plan.

The foregoing Resolution, offered by Member Czornyj and seconded by Member Mainello, was duly put to a vote as follows:

<b>PLANNING BOARD CHAIRMAN OSTER</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER CASEY</b>	<b>VOTING</b>	<u><b>Absent</b></u>
<b>MEMBER CZORNYJ</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER ESSER</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER MAINELLO</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER STANCLIFFE</b>	<b>VOTING</b>	<u><b>Aye</b></u>
<b>MEMBER TARBOX</b>	<b>VOTING</b>	<u><b>Aye</b></u>

The foregoing Resolution was thereupon declared duly adopted.

November 16, 2017