

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD OCTOBER 17, 2019

PRESENT were RUSSELL OSTER, CHAIRMAN, DAVID TARBOX, ANDREW PETERSEN, LINDA STANCLIFFE, KEVIN MAINELLO, J. EMIL KREIGER, and DONALD HENDERSON.

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

Chairman Oster reviewed the agenda as posted on the Town website and the Town signboard.

The first item of business on the agenda was the special use permit application submitted by Seed Solar for property located at 4 Windfield Lane. The applicant seeks approval for the installation of a small-scale, ground-mounted solar collector system for on-site residential energy consumption. Chris Schrader of Seed Solar was present for the applicant. Mr. Schrader reviewed a written response to public comments, addressing concerns regarding location of the proposed solar installation relative to the on-site septic system; consideration of alternate locations; consideration of vegetative screening; and updated environmental assessment form identifying agricultural use on adjoining properties. Mr. Schrader confirmed that the owner is not proposing any alternate location, taking the position that the initial proposed location meets the Town's setback requirements and distance to neighboring properties; is greater than 100 feet from Bulson Road, and therefore is the most appropriate location; the owner is not proposing any alternate

locations for the solar installation. Further, Mr. Schrader stated that the owner is not proposing to install any vegetative screening based upon the distance of the solar installation from Bulson Road and neighboring properties. Chairman Oster stated he wanted to confirm on the record that the owner is taking the position that he will not consider any alternate locations for this solar installation on his lot. Mr. Schrader confirmed this. Chairman Oster also wanted to confirm for the record that the property owner is not proposing any vegetative screening whatsoever for this solar installation. Again, Mr. Schrader confirmed this, stating that the topography of the site is difficult for vegetative screening. Chairman Oster inquired whether Mr. Schrader or the property owner had spoken to his surrounding neighbors, noting that this was a request of the Planning Board. Mr. Schrader stated that he had not spoken with any neighbors. Member Henderson noted that the plot plan for 4 Windfield Lane appeared to have adequate room between the septic system and the house to locate the solar installation. Mr. Schrader stated that there is a garage in that general location, and also an existing tree which would shade the solar installation. Member Henderson noted that he found it very troubling that this homeowner did not speak with any neighbors regarding this solar installation. Member Mainello again asked why the solar installation could not be located in the area suggested by Member Henderson. Mr. Schrader again stated that there was a tree in that location which would shade the solar panels, and that this alternate location would not significantly improve any visual impact. Member Stancliffe asked whether the alternate location being discussed would impact the property at 2 Windfield Lane. Mr. Schrader stated that the alternate location being discussed would impact 2 Windfield Lane. Chairman Oster stated that he had the same concern as mentioned by Member Henderson; found it very troubling that neither the owner of 4 Windfield Lane nor Mr. Schrader had spoken with surrounding neighbors; that the applicant has not proposed any mitigation at all to address public

hearing comments; and does not feel that the owner has offered any compromise whatsoever. Mr. Schrader confirmed that the original proposed location for the solar installation is preferred by the owner of 4 Windfield Lane. Chairman Oster inquired about the project schedule and impact on real property taxes. Mr. Schrader stated that the solar installation needs to be installed by January 1 in order to be qualified for certain tax exemptions; that there was not adequate time to do a roof installation because the roof would need to be replaced in order to support a roof solar installation; and therefore the ground-mount is being pursued at the proposed location. Member Henderson asked about the size of the proposed solar array. Mr. Schrader stated that the array is 16 feet by 26 feet. Chairman Oster noted that there is nothing blocking this solar array from being seen from Bulson Road, and felt that there should at a minimum be vegetative screening along Bulson Road; and further stated that if the owner of 4 Windfield Lane would not relocate the solar panel installation, then the solar panel installation must be screened. The Planning Board and Mr. Schrader discussed the topography of 4 Windfield Lane. Mr. Bonesteel stated that it was important to know the difference in elevation on the 4 Windfield Lane lot, particularly the difference in elevation between Bulson Road and the location of the solar array, as this information is needed to fully understand any vegetative screening requirements and impact. Mr. Schrader also stated that the owner was concerned regarding the cost of installing a vegetative screen. Upon further discussion, the Planning Board requested and Mr. Schrader agreed to provide information concerning topography of the lot on 4 Windfield Lane between Bulson Road and the proposed solar array location, and also provide the Planning Board with a photosimulation showing the 4 Windfield Lane lot from Bulson Road, both before the solar panel installation and after the solar panel installation, and also including a depiction of the solar installation without vegetative screening and with vegetative screening. Chairman Oster stated that it would be beneficial to see

vegetative screening wrapping around the solar array so that maximum screening is achieved along Bulson Road. Member Stancliffe also noted that the applicant should consider the impact on the need for vegetative screening if the solar panel installation is moved up the hill and closer to the home on 4 Windfield Lane. This matter is placed on the November 7 agenda for further discussion.

The next item of business on the agenda was the site plan amendment application submitted by Carbone Auto Group for property located at 800 Hoosick Road. Eric Masterson of BBL Construction services was present for the applicant. Mr. Masterson reviewed his written submittal to the Planning Board dated October 16, and generally reviewed the revised map showing the addition of 159 parking spaces and the elimination of spaces around the building to address fire department concerns; specifications for the proposed oil and stone surface for the additional parking; and updated information on discharge to the Rensselaer County Sewer District No. 1 system. Chairman Oster inquired whether the oil and stone surface was capable of being striped to denote parking spaces. Mr. Bonesteel stated that the oil and stone surface generally is not capable of being striped, unless another sealcoat is added, and generally identified the additional seal as “fog seal”. Chairman Oster inquired about the type of vehicles that would be parked in the oil and stone surface area. Mr. Masterson stated that the new and used vehicles for sale are generally stored in the paved area in the front and side of the dealership building, and that the types of vehicles that would be stored on the oil and stone surface were trade-in and leased vehicles and other vehicles intended for auction, with a fairly significant turnover of these types of vehicles. Chairman Oster inquired as to how the total number of vehicles in the oil and stone area would be calculated if the surface was not striped, and inquired with the Building Department as to compliance issues. Mr. Golden stated that his office could certainly count the number of cars in the oil and stone parking area, and determine whether the total number of vehicles exceeded what

was approved by the Planning Board. Chairman Oster stated that the applicant needed to ensure compliance with the number of allowed vehicles to be parked, as he was concerned that absent striping, a greater number of vehicles would be squeezed into that storage area. Chairman Oster inquired whether there would be any tractor trailer use on the oil and stone surface. Mr. Masterson confirmed that trucks would not use the area of the oil and stone surface, but rather specific truck locations are identified on the site and have reinforced pavement in those areas. Chairman Oster asked whether the proposed oil and stone storage surface area is consistent with the original approved site plan in terms of overflow parking. Mr. Masterson stated that the areas are not fully consistent. Member Stancliffe again suggested that the area of the original-approved parking area be shown on the map and explained through a map note, since the stormwater plan for the site would have taken into account the full impervious paved parking area. Mr. Bonesteel agreed, and stated that the originally-approved parking area should be shown on a plan in relation to what is being currently proposed as the oil and stone storage area. Member Mainello asked whether the fire department had reviewed this proposal. Mr. Masterson stated the fire department had reviewed the proposal, and had provided a comment letter to the Planning Board dated October 3, and that the applicant had addressed the Brunswick No. 1 Fire Department comment through eliminating parking spaces around the building to improve fire equipment access. Chairman Oster asked whether the area proposed for fire access should be somehow marked on the pavement, since the Building Department has noted in the past that a number of vehicles have been parked near the building that could impede fire equipment access. The option of signage and also painting on the asphalt denoting “no parking” was discussed and should be considered for the fire lane access area. Mr. Bonesteel did note that the area for the oil and stone storage would still need to be prepped for appropriate subbase. Mr. Masterson confirmed that a site plan note had been added,

and that he will revise that map note to include the application of “fog seal” or a similar product to allow striping on the surface of the oil and stone storage area. Chairman Oster inquired whether the Planning Board felt a public hearing was required on this site plan amendment application. After deliberation, the Planning Board determined that a public hearing would not be required on this site plan amendment. It is noted for the record that the referral to the Rensselaer County Planning Department has been completed. Following further deliberation, it was confirmed that the applicant would submit revised application materials indicating in a site plan note that the “fog seal” or similar application would be required to allow striping on the surface of the oil and stone storage area, that the area of the original-approved parking area would be shown on the site plan, and that signage would be added for the “no parking” areas for emergency vehicle access. This matter is placed on the November 7 agenda for further discussion.

The next item of business on the agenda was the special use permit and site plan application submitted by Borrego Solar for property located at the end of Dusenberry Lane in proximity to Bald Mountain Road. The applicant seeks to develop a community solar facility for this location. Member Stancliffe and Planning Board review engineer Bonesteel recused themselves from consideration of the application. It is noted that Laberge Group has been retained by the Planning Board, and also the Zoning Board of Appeals, on this application and the related area variance applications for engineering review. Ronald Laberge, P.E. of Laberge Group was present. The Planning Board proceeded to complete the environmental impact review of this action. Mr. Laberge reviewed a proposed environmental assessment form parts 2 and 3, reviewing potential environmental impacts of the action, and providing the Planning Board with an opinion that there was not the potential for significant adverse environmental impacts from this action, and that the Planning Board should consider adoption of a SEQRA negative declaration. The Planning Board

deliberated on parts 2 and 3 of the environmental assessment form, concurring that there were no potential significant adverse environmental impacts from this action, and that all environmental impacts had been adequately analyzed, and therefore a negative declaration was appropriate under SEQRA. Attorney Gilchrist stated that this action was Type 1 under SEQRA, and that the Planning Board had conducted a coordinated environmental review, serving a lead agency coordination notice to all involved agencies, indicating that the Planning Board sought to be designated as lead agency, and that no other agency objected to the Planning Board serving as lead agency, but that the Planning Board had not yet declared itself SEQRA lead agency. Thereupon, Member Kreiger made a motion to designate the Town of Brunswick Planning Board as SEQRA lead agency for this action, which motion was seconded by Member Petersen. The motion was unanimously approved, and the Town of Brunswick Planning Board shall serve as SEQRA lead agency for this action. The Planning Board confirmed its deliberation concerning parts 2 and 3 of the environmental assessment form, as well as consideration of the entire application and record. Member Tarbox then made a motion to adopt a negative declaration as set forth in parts 2 and 3 of the environmental assessment form, which motion was seconded by Member Kreiger. The motion was unanimously approved, and a SEQRA negative declaration adopted. Chairman Oster executed part 3 of the environmental assessment form, noting that a SEQRA negative declaration had been adopted. The Planning Board then reviewed proposed resolutions to approve the special use permit and site plan for this action, reviewing in detail the proposed conditions to approvals. Specifically, the issue of vegetative screening along the property line adjacent to Wheeler and also adjacent to New Ark International Ministries was discussed, and ultimately determined that a vegetative screen should be installed along the property line of Wheeler, but that there was not an adequate basis to require a vegetative screen along the border of New Ark International Ministries,

particularly in light of site topography. Following further deliberation, resolutions approving the special use permit and site plan for this action were passed. Copies of these resolutions are attached to these minutes.

Member Stancliffe and Planning Board review engineer Bonesteel returned to the meeting. The next item of business on the agenda was the site plan application submitted by Dan Levesque for property located at 853 Hoosick Road. The applicant is proposing to operate an awning and gutter business at this location. Following the meeting held on October 3, Mr. Levesque was required to submit a site plan with a title block showing Mr. Levesque's business and that the new site plan would need to be stamped by a professional engineer. Mr. Levesque has submitted that updated site plan. Chairman Oster stated for the record that if Mr. Levesque was proposing any change to the existing site, including any outdoor structure display in connection with his business, it should be shown on the current site plan, or Mr. Levesque will be required to submit an additional application to amend the site plan in the future. Mr. Levesque stated he was not planning on any outside structure display, and is not proposing any changes to the site. Mr. Levesque did state he was intending on removing some existing wood fencing, sealcoat the parking area, and to paint the building, but no structural alterations to the site. Mr. Levesque stated he would have two companies operating out of the business, including the awning company and his gutter company, and stated he would be moving forward with the necessary sign permits in the future. The Planning Board discussed parking on the site, identifying 27 parking spaces on the site, and inquired whether this was adequate parking for the business. Mr. Levesque stated that this was more than adequate parking for his business operations. Chairman Oster had a question regarding greenspace requirements. Attorney Gilchrist stated that this site was already the subject of an approved site plan, and this applicant is not proposing any changes to existing site conditions, and that the issue

of greenspace had already previously been determined on the prior site plan reviews. Mr. Bonesteel noted that the updated site plan does not show any handicapped parking, does not show any water or sewer service to the building, continues to reference Amerit Fleet as the owner, and incorrectly spells Hoosick Road. The Planning Board discussed whether it was prepared to act on this application subject to conditions, or to require further amendment to the site plan to address Mr. Bonesteel's comments, and to place the matter on the November 7 agenda. It was determined by the Planning Board that it sought to act on this application at this meeting, subject to conditions. Thereupon, Member Stancliffe made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Petersen. The motion was unanimously approved, and a SEQRA negative declaration adopted. Chairman Oster then made a motion to approve the amendment to the site plan for this location, subject to the following conditions:

1. Handicapped parking and the water and sewer service to the building must be shown on the site plan.
2. Any reference to Amerit Fleet as the owner should be removed from the site plan.
3. The correct spelling of Hoosick Road must be added to the site plan.
4. The site plan with the corrections noted in conditions 1, 2, and 3 must be filed with the Brunswick Building Department.
5. The current survey prepared by Mr. Levesque for this location must be filed with the Brunswick Building Department.

Member Petersen seconded the motion subject to the stated conditions. The motion was unanimously approved, and the amendment to the site plan for this location was approved subject to the stated conditions.

One item of new business was discussed.

Special use permit and site plan applications have been submitted by Trifocal Brewing Inc./Alexander Brown for a proposed craft brewery business to be located at 138 Brick Church Road. Alexander Brown, the applicant and also a licensed professional engineer, was present for the application. Mr. Brown generally reviewed the proposal, which will be a craft brewery business to be operated in the existing outbuilding on the parcel, which will include the manufacture of craft beer; that there will be a taproom included for growler and can sales; that the facility will not have a kitchen and will not be preparing food to serve, but that the facility may host food trucks or have food prepared by outside vendors available for customers. Chairman Oster reviewed the proposed site plan, and requested further information on the proposed access and parking areas. Mr. Brown stated that two entrances are proposed from Route 278. Mr. Bonesteel noted that approval and permits from NYSDOT will be required, and generally reviewed the NYSDOT process. Mr. Brown has stated he had not yet reached out to NYSDOT, but will do so right away. Member Henderson had a question regarding emergency vehicle access. The width of access lanes was discussed, and it was determined that the application must be reviewed by the Eagle Mills Fire Department. Chairman Oster inquired about the septic system proposed, as well as a holding tank being proposed. Mr. Brown stated that he had reviewed these issues with the Rensselaer County Health Department, and that—given there was no municipal sewer service in the area—the waste product from the brewery operation can be discharged to a holding tank, which will be periodically pumped for off-site disposal; that the taproom and also the bar cleaning waste do require an on-site septic system, and a septic system area is proposed on the site plan. Member Mainello noted that there was an area depicted for future parking, but no access to this future parking area is shown. Following discussion, it was determined that Mr. Brown must revise the

site plan to show access to this future parking area. Member Stancliffe inquired as to the frequency of the brewery waste holding tank pump out. Mr. Brown estimated that the holding tank would be pumped out approximately every two weeks. There was further discussion regarding the parking space requirements for the site, with the calculations for a barn/tavern having been made, which would require a total of 12 parking spots; that there also needs to be parking for employees; that the site plan is showing 15 total parking spaces, plus the potential expansion area for parking. The Planning Board again confirmed that access to the future parking area needs to be shown on the site plan, as this overflow parking may be required. It was noted that the site plan shows an on-site well for water supply. The Planning Board inquired whether the project would tap into the existing public waterline. Mr. Brown stated that it was not his intention to tap into the public waterline, as the on-site well would produce water that is more conducive to brewing beer. Member Mainello inquired about access to the proposed outdoor patio, noting again that the site plan should designate an identified sidewalk or walkway to the outdoor patio area. Mr. Bonesteel asked about a lighting plan for the project. Mr. Brown stated that a lighting plan is included within the site plan set, but there was discussion regarding the need to show adequate lighting for the walkway area to the outdoor patio. The Planning Board confirmed that this application will require a public hearing. It is noted that there are also variance requests pending with the Zoning Board of Appeals for this project, and therefore SEQRA coordinated review should be undertaken. This application must be sent to the Rensselaer County Planning Department for review and recommendation. Member Stancliffe stated that Mr. Brown should review the landscaping standards set forth in the Brunswick Zoning Law. It was also determined that an agricultural data statement must be submitted with the application documents. This matter is placed on the November 7 agenda for further discussion.

Chairman Oster confirmed that the balloon test for the proposed Cellco Partnership d/b/a Verizon Wireless cell tower proposed for Creek Road is scheduled for Saturday, October 19, with a weather date of Sunday, October 20.

Chairman Oster also noted that he had been in contact with the Rensselaer County Highway Department on the proposed Sharpe Road subdivision, and that the Rensselaer County Highway Department had provided comments which had been received by the project engineer, Eric Redding, P.E., and that Mr. Redding was planning to meet directly with the Rensselaer County Highway Department to address the County's comments. It is noted that this matter is on the Planning Board agenda for the November 7 meeting for further discussion.

Chairman Oster also noted that the issue of a requested refund of the application fee on the Broderick minor subdivision application had been raised. Attorney Gilchrist reviewed the Brunswick Code provisions concerning requests for refunds of application fees. The Planning Board generally discussed the issue, noting that with regard to the Broderick application, the matter had been placed on a Planning Board agenda, Planning Board review engineer Bonesteel had spent some time reviewing the initial submission, and that these factors should be considered in connection with the request for a refund of the application fee. It is noted that the Brunswick Code does allow for consideration of a full or partial refund of the application fee. This matter is placed on the November 7 agenda for further discussion.

The Planning Board then reviewed the draft minutes of the October 3, 2019 meeting. Upon motion of Chairman Oster, seconded by Member Henderson, the minutes of the October 3, 2019 meeting were unanimously approved without amendment.

The index for the October 17, 2019 meeting is as follows:

1. Seed Solar - Special Use Permit - November 7, 2019;

2. Carbone Auto Group - Site plan amendment - November 7, 2019;
3. Borrego Solar - Special use permit and site plan - Approved with conditions;
4. Levesque - Site plan - Approved with conditions;
5. Trifocal Brewing Inc. - Special use permit and site plan - November 7, 2019.

The proposed agenda for the meeting to be held November 7, 2019 currently is as follows:

1. Seed Solar - Special use permit;
2. Carbone Auto Group - Site plan amendment;
3. Trifocal Brewing Inc. - Special use permit and site plan;
4. Sharpe Road Development LLC - Major subdivision;
5. Broderick - Request for refund of application fee.

**TOWN OF BRUNSWICK
REGULAR MEETING**

October 17, 2019

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

WHEREAS, the Town of Brunswick received applications for site plan approval and a special use permit for a utility-scale solar farm from Borrego Solar Systems, Inc. (hereinafter "Borrego Solar"), to be located at 60 Dusenberry Lane in Brunswick; and

WHEREAS, the project is to construct a 5 MW (AC) ground-mounted community solar energy facility and connect it to the local electrical grid on Dusenberry Lane; the facility will use approximately a total of 20,130 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; the overall size of the parcel is 69.61 acres located at the end of Dusenberry Lane in proximity to Bald Mountain Road; and

WHEREAS, the application materials also included an Environmental Assessment Form (hereinafter "EAF") and Agricultural Data Statement; and

WHEREAS, due to a conflict of interest on the part of the Planning Board review engineer, the Planning Board retained the engineering services of Laberge Group for the engineering review of Borrego Solar's applications; and

WHEREAS, the application was first presented to the Town of Brunswick Planning Board (hereinafter "Planning Board") at its meeting on June 20, 2019; and

WHEREAS, the Planning Board reviewed and considered Borrego Solar's proposal at the June 20, 2019 meeting and placed it on the agenda for its next meeting for further deliberation; and

WHEREAS, the Planning Board was again presented with the application at its July 18, 2019 meeting, but Borrego Solar informed the Board that the project was being redesigned to reduce the total area that the proposed panels would cover and was updating the environmental assessment form accordingly; and

WHEREAS, Laberge Group prepared application review comment letters dated July 11, 2019 and August 1, 2019; and

WHEREAS, the Planning Board received responses from the applicant to the comments of Laberge Group in letters dated July 26, 2019 and August 14, 2019; and

WHEREAS, the applicant also submitted revised and updated project application documents, including an updated EAF, Preliminary Utility Interconnection Screening Analysis, a signed lease agreement with the property owner, and Draft Decommissioning Estimate; and

WHEREAS, the reduced project area is 27 acres proposed for solar panel installation; and

WHEREAS, the Planning Board again reviewed and considered the updated application at its August 15, 2019 meeting; and

WHEREAS, the applicant stated its intention to seek a lead agency declaration from the Planning Board and schedule a public hearing on the application; and

WHEREAS, the Planning Board discussed scheduling and holding a joint public hearing on the project, together with the Town of Brunswick Zoning Board of Appeals (hereinafter "Zoning Board"); and

WHEREAS, the Planning Board sent a SEQRA Notice of Intent to Establish Lead Agency for the Dusenberry Lane Solar Project to the Zoning Board and New York State Department of Environmental Conservation, along with a full Environmental Assessment Form and Visual EAF Addendum, on August 16, 2019; and

WHEREAS, neither the Zoning Board or Department of Environmental Conservation objected to the Planning Board serving as SEQRA lead agency on this action; and

WHEREAS, Borrego Solar submitted a photo simulation visualization assessment and glare study to the Planning Board, which were reviewed by Laberge Group and which were discussed at the Planning Board's September 5, 2019 meeting; and

WHEREAS, an additional letter submittal was made by the applicant dated September 9, 2019, together with an updated Stormwater Pollution Prevention Plan (hereinafter "SWPPP") and EAF; and

WHEREAS, the Planning Board, upon due public notice, held a joint public hearing with the Zoning Board on September 19, 2019 with respect to the applications by Borrego Solar for site plan and special use permit pending before the Planning Board and an area variance approval before the Zoning Board; and

WHEREAS, the Planning Board and Zoning Board closed their public hearings with respect to the applications for the site plan, special use permit, and area variance approval on September 19, 2019; and

WHEREAS, the applicant thereafter responded to comments received during the joint public hearing in a letter to the Planning Board dated September 30, 2019; and

WHEREAS, the Planning Board again reviewed and considered the application at its October 3, 2019 meeting; and

WHEREAS, Borrego Solar submitted a further Comment Response Letter to the Planning Board on October 8, 2019; and

WHEREAS, Borrego Solar further submitted a revised SWPPP in response to comments prepared by Laberge Group, and further submitted an additional letter responding to comments dated October 10, 2019; and

WHEREAS, the Planning Board has reviewed the application documents, record of proceedings, and Comment Response Letters from Borrego Solar, a list of which is attached hereto at “Exhibit A”; and

WHEREAS, the Planning Board, serving as SEQRA lead agency, has adopted a negative declaration for this action; and

WHEREAS, the Planning Board considered the site plan application 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 application against the standards of the Town of Brunswick Zoning Law Section 160-49, titled “Solar collection system – commercial”; 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. Subject to approval by the Town of Brunswick Zoning Board of Appeals of application for area variance pertaining to underground utility installations.
 - b. 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.
 - c. Subject to final comments of the Laberge Group and Town of Brunswick Water Department on final Stormwater Pollution Prevention Plan (SWPPP) for this facility and Notice of Intent to comply with NYS DEC General Permit 0-15-002.
 - d. Borrego Solar must coordinate with local emergency services, provide safety notices, and provide safety training to such local emergency services.

- e. All panels used for the commercial solar facility must have anti-glare coating or consist of materials that will not produce offensive glare.
- f. Applicant must comply with tree clearing plan, Sheet C-2.0 of the project plans.
- g. No further removal of any vegetation on the property without further review and approval of the Town of Brunswick Planning Board.
- h. All approvals of the Public Service Commission for this community solar facility must be filed with the Town of Brunswick.
- i. Access to the commercial solar equipment is limited to the access road off Dusenberry Lane as depicted on the site plan, and no access off Bald Mountain Road is allowed.
- j. All waste materials generated during site construction, including all packaging materials, must be removed from the site within a reasonable time.
- k. The security fence around the perimeter of the community solar facility shall be 8-foot high, with a knox box installed for emergency access.
- l. The solar facility equipment must be constructed and operated in compliance with all requirements of the National Electric Code.
- m. Use of pesticide and/or herbicide is prohibited in relation to operation and maintenance of the commercial solar facility and a note regarding such prohibition shall be added to the site plan.
- n. In accordance with the Town of Brunswick Zoning Law, Article 6, Section 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.
- o. A Payment in Lieu of Taxes (PILOT) Agreement is required.
- p. A pre-construction engineering inspection report on the condition of Dusenberry Lane shall be completed by Borrego Solar in coordination with the Town of Brunswick Highway Department and Town of Brunswick Building Department, and a post-construction engineering inspection report on the condition of Dusenberry Lane shall be completed by Borrego Solar in coordination with the Town of Brunswick Highway Department and Town of Brunswick Building Department, and any damage to Dusenberry Lane as a result of construction vehicles or other use of Dusenberry Lane by Borrego Solar shall be repaired by Borrego Solar to achieve pre-construction condition of Dusenberry Lane. All such repair work shall be completed prior to issuance by the Town of Brunswick Building Department of a certificate of compliance for this project.

- q. Construction activities are limited to Monday through Friday, 7:00 AM – 4:00 PM.
- r. Trees must be planted along the southerly property line adjacent to the Wheeler parcel as shown on the approved site plan. Final tree or vegetation type to be approved by the Brunswick Building Department.
- s. Strict compliance with the “Site Use Permit Plans”, revised as of September 9, 2019.

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

PLANNING BOARD CHAIRMAN OSTER	VOTING <u>aye</u>
MEMBER TARBOX	VOTING <u>aye</u>
MEMBER PETERSEN	VOTING <u>aye</u>
MEMBER STANCLIFFE	VOTING <u>recused</u>
MEMBER MAINELLO	VOTING <u>aye</u>
MEMBER HENDERSON	VOTING <u>aye</u>
MEMBER KREIGER	VOTING <u>aye</u>

The foregoing Resolution was thereupon declared duly adopted.

October 17, 2019

EXHIBIT A

LIST of SUBMITTALS

Dusenberry Lane Solar Project

Borrego Solar

Town of Brunswick, New York

1. Application for Site Plan Review
2. Application for a Special Permit
3. Town of Brunswick Site Plan Review & Special Permit Application Narrative prepared by PV Engineers, P.C. dated June 11, 2019
4. Preliminary/Draft Decommissioning Estimate/Plan
5. Agricultural Data Statement
6. Full Environmental Assessment Form
7. Site Use Permit Plans
8. Correspondence dated April 30, 2019 from NYS Parks, recreation, and historic Preservation indicating the project will have no impact upon archaeological and/or historic places
9. Comment Response Letter from PV Engineers, P.C. dated July 26, 2019
10. Stormwater Pollution Prevention Plan (SWPPP)
11. "Site Use Permit Plans" all with revised date of July 24, 2019 except as noted below:
 - a. T-1: Title Page
 - b. C-1.0: Existing Conditions Plan
 - c. C-2.0: Tree Clearing Plan
 - d. C-3.0: Layout and Materials Plan
 - e. C-3.1: Layout and Materials Plan – Northern Array
 - f. C-3.2: Layout and Materials Plan – Southern Array
 - g. C-4.0: Grading and Erosion Control Plan
 - h. C-4.1: Grading and Erosion Control Plan – Northern Array
 - i. C-4.2: Grading and Erosion Control Plan – Southern Array
 - j. C-5.0: Civil Details
 - k. C-5.1: Civil Details
 - l. C-6.0: Cross Section Plan dated June 11, 2019
 - m. C-6.1: Cross Section Plan dated June 11, 2019
 - n. C-6.2: Cross Section Plan dated June 11, 2019
 - o. C-6.3: Cross Section Plan dated June 11, 2019
12. Full Environmental Assessment Form (revised)
13. Comment Response Letter from PV Engineers, P.C. dated August 14, 2019 transmitting:
 - a. Preliminary Utility Interconnection Screening Analysis
 - b. Signed lease Agreement with Property owner
 - c. Draft Decommissioning Estimate
14. Technical Memorandum prepared by Barrett Energy Resources Group dated August 19, 2019 pertaining to Glare Study, Solar Photovoltaic Project at Dusenberry Lane, Brunswick, New York.
15. Photo Simulations prepare by EDR
16. Comment Response Letter from PV Engineers, P.C. dated September 9, 2019
17. Stormwater Pollution Prevention Plan (SWPPP) dated September 9, 2019

18. "Site Use Permit Plans" all with revised date of September 9, 2019 including:
 - a. T-1: Title Page
 - b. C-1.0: Existing Conditions Plan
 - c. C-2.0: Tree Clearing Plan
 - d. C-3.0: Layout and Materials Plan
 - e. C-3.1: Layout and Materials Plan – Northern Array
 - f. C-3.2: Layout and Materials Plan – Southern Array
 - g. C-4.0: Grading and Erosion Control Plan
 - h. C-4.1: Grading and Erosion Control Plan – Northern Array
 - i. C-4.2: Grading and Erosion Control Plan – Southern Array
 - j. C-5.0: Civil Details
 - k. C-5.1: Civil Details
 - l. C-5.2: Civil Details
 - m. C-5.3: Civil Details
 - n. C-5.4: Civil Details
 - o. W-1.0: Pre-Development Watershed Plan
 - p. W-2.0: Post-Development Watershed Plan – Northern Array
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**TOWN OF BRUNSWICK
REGULAR MEETING**

October 17, 2019

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

WHEREAS, the Town of Brunswick received applications for site plan approval and a special use permit for a utility-scale solar farm from Borrego Solar Systems, Inc. (hereinafter "Borrego Solar"), to be located at 60 Dusenberry Lane in Brunswick; and

WHEREAS, the project is to construct a 5 MW (AC) ground-mounted community solar energy facility and connect it to the local electrical grid on Dusenberry Lane; the facility will use approximately a total of 20,130 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; the overall size of the parcel is 69.61 acres located at the end of Dusenberry Lane in proximity to Bald Mountain Road; and

WHEREAS, the application materials also included an Environmental Assessment Form (hereinafter "EAF") and Agricultural Data Statement; and

WHEREAS, due to a conflict of interest on the part of the Planning Board review engineer, the Planning Board retained the engineering services of Laberge Group for the engineering review of Borrego Solar's applications; and

WHEREAS, the application was first presented to the Town of Brunswick Planning Board (hereinafter "Planning Board") at its meeting on June 20, 2019; and

WHEREAS, the Planning Board reviewed and considered Borrego Solar's proposal at the June 20, 2019 meeting and placed it on the agenda for its next meeting for further deliberation; and

WHEREAS, the Planning Board was again presented with the application at its July 18, 2019 meeting, but Borrego Solar informed the Board that the project was being redesigned to reduce the total area that the proposed panels would cover and was updating the environmental assessment form accordingly; and

WHEREAS, Laberge Group prepared application review comment letters dated July 11, 2019 and August 1, 2019; and

WHEREAS, the Planning Board received responses from the applicant to the comments of Laberge Group in letters dated July 26, 2019 and August 14, 2019; and

WHEREAS, the applicant also submitted revised and updated project application documents, including an updated EAF, Preliminary Utility Interconnection Screening Analysis, a signed lease agreement with the property owner, and Draft Decommissioning Estimate; and

WHEREAS, the reduced project area is 27 acres proposed for solar panel installation; and

WHEREAS, the Planning Board again reviewed and considered the updated application at its August 15, 2019 meeting; and

WHEREAS, the applicant stated its intention to seek a lead agency declaration from the Planning Board and schedule a public hearing on the application; and

WHEREAS, the Planning Board discussed scheduling and holding a joint public hearing on the project, together with the Town of Brunswick Zoning Board of Appeals (hereinafter "Zoning Board"); and

WHEREAS, the Planning Board sent a SEQRA Notice of Intent to Establish Lead Agency for the Dusenberry Lane Solar Project to the Zoning Board and New York State Department of Environmental Conservation, along with a full Environmental Assessment Form and Visual EAF Addendum, on August 16, 2019; and

WHEREAS, neither the Zoning Board or Department of Environmental Conservation objected to the Planning Board serving as SEQRA lead agency on this action; and

WHEREAS, Borrego Solar submitted a photo simulation visualization assessment and glare study to the Planning Board, which were reviewed by Laberge Group and which were discussed at the Planning Board's September 5, 2019 meeting; and

WHEREAS, an additional letter submittal was made by the applicant dated September 9, 2019, together with an updated Stormwater Pollution Prevention Plan (hereinafter "SWPPP") and EAF; and

WHEREAS, the Planning Board, upon due public notice, held a joint public hearing with the Zoning Board on September 19, 2019 with respect to the applications by Borrego Solar for site plan and special use permit pending before the Planning Board and an area variance approval before the Zoning Board; and

WHEREAS, the Planning Board and Zoning Board closed their public hearings with respect to the applications for the site plan, special use permit, and area variance approval on September 19, 2019; and

WHEREAS, the applicant thereafter responded to comments received during the joint public hearing in a letter to the Planning Board dated September 30, 2019; and

WHEREAS, the Planning Board again reviewed and considered the application at its October 3, 2019 meeting; and

WHEREAS, Borrego Solar submitted a further Comment Response Letter to the Planning Board on October 8, 2019; and

WHEREAS, Borrego Solar further submitted a revised SWPPP in response to comments prepared by Laberge Group, and further submitted an additional letter responding to comments dated October 10, 2019; and

WHEREAS, the Planning Board has reviewed the application documents, record of proceedings, and Comment Response Letters from Borrego Solar, a list of which is attached hereto at "Exhibit A"; and

WHEREAS, the Planning Board, serving as SEQRA lead agency, has adopted a negative declaration for this action; and

WHEREAS, the Planning Board considered the special use permit application 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 collection 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 issuance and hereby grants the special use permit subject to the following conditions:
 - a. Subject to approval by the Town of Brunswick Zoning Board of Appeals of application for area variance pertaining to underground utility installations.
 - b. 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.
 - c. Subject to final comments of the Laberge Group and Town of Brunswick Water Department on final Stormwater Pollution Prevention Plan (SWPPP) for this facility and Notice of Intent to comply with NYS DEC General Permit 0-15-002.
 - d. Borrego Solar must coordinate with local emergency services, provide safety notices, and provide safety training to such local emergency services.

- e. All panels used for the commercial solar facility must have anti-glare coating or consist of materials that will not produce offensive glare.
- f. Applicant must comply with tree clearing plan, Sheet C-2.0 of the project plans.
- g. No further removal of any vegetation on the property without further review and approval of the Town of Brunswick Planning Board.
- h. All approvals of the Public Service Commission for this community solar facility must be filed with the Town of Brunswick.
- i. Access to the commercial solar equipment is limited to the access road off Dusenberry Lane as depicted on the site plan, and no access off Bald Mountain Road is allowed.
- j. All waste materials generated during site construction, including all packaging materials, must be removed from the site within a reasonable time.
- k. The security fence around the perimeter of the community solar facility shall be 8-foot high, with a knox box installed for emergency access.
- l. The solar facility equipment must be constructed and operated in compliance with all requirements of the National Electric Code.
- m. Use of pesticide and/or herbicide is prohibited in relation to operation and maintenance of the commercial solar facility and a note regarding such prohibition shall be added to the site plan.
- n. In accordance with the Town of Brunswick Zoning Law, Article 6, Section 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.
- o. A Payment in Lieu of Taxes (PILOT) Agreement is required.
- p. A pre-construction engineering inspection report on the condition of Dusenberry Lane shall be completed by Borrego Solar in coordination with the Town of Brunswick Highway Department and Town of Brunswick Building Department, and a post-construction engineering inspection report on the condition of Dusenberry Lane shall be completed by Borrego Solar in coordination with the Town of Brunswick Highway Department and Town of Brunswick Building Department, and any damage to Dusenberry Lane as a result of construction vehicles or other use of Dusenberry Lane by Borrego Solar shall be repaired by Borrego Solar to achieve pre-construction condition of Dusenberry Lane. All such repair work shall be completed prior to issuance by the Town of Brunswick Building Department of a certificate of compliance for this project.

- q. Construction activities are limited to Monday through Friday, 7:00 AM – 4:00 PM.
- r. Trees must be planted along the southerly property line adjacent to the Wheeler parcel as shown on the approved site plan. Final tree or vegetation type to be approved by the Brunswick Building Department.
- s. Strict compliance with the “Site Use Permit Plans”, revised as of September 9, 2019.

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

PLANNING BOARD CHAIRMAN OSTER	VOTING <u>aye</u>
MEMBER TARBOX	VOTING <u>aye</u>
MEMBER PETERSEN	VOTING <u>aye</u>
MEMBER STANCLIFFE	VOTING <u>recused</u>
MEMBER MAINELLO	VOTING <u>aye</u>
MEMBER HENDERSON	VOTING <u>aye</u>
MEMBER KREIGER	VOTING <u>aye</u>

The foregoing Resolution was thereupon declared duly adopted.

October 17, 2019

EXHIBIT A

LIST of SUBMITTALS

Dusenberry Lane Solar Project

Borrego Solar

Town of Brunswick, New York

1. Application for Site Plan Review
2. Application for a Special Permit
3. Town of Brunswick Site Plan Review & Special Permit Application Narrative prepared by PV Engineers, P.C. dated June 11, 2019
4. Preliminary/Draft Decommissioning Estimate/Plan
5. Agricultural Data Statement
6. Full Environmental Assessment Form
7. Site Use Permit Plans
8. Correspondence dated April 30, 2019 from NYS Parks, recreation, and historic Preservation indicating the project will have no impact upon archaeological and/or historic places
9. Comment Response Letter from PV Engineers, P.C. dated July 26, 2019
10. Stormwater Pollution Prevention Plan (SWPPP)
11. "Site Use Permit Plans" all with revised date of July 24, 2019 except as noted below:
 - a. T-1: Title Page
 - b. C-1.0: Existing Conditions Plan
 - c. C-2.0: Tree Clearing Plan
 - d. C-3.0: Layout and Materials Plan
 - e. C-3.1: Layout and Materials Plan – Northern Array
 - f. C-3.2: Layout and Materials Plan – Southern Array
 - g. C-4.0: Grading and Erosion Control Plan
 - h. C-4.1: Grading and Erosion Control Plan – Northern Array
 - i. C-4.2: Grading and Erosion Control Plan – Southern Array
 - j. C-5.0: Civil Details
 - k. C-5.1: Civil Details
 - l. C-6.0: Cross Section Plan dated June 11, 2019
 - m. C-6.1: Cross Section Plan dated June 11, 2019
 - n. C-6.2: Cross Section Plan dated June 11, 2019
 - o. C-6.3: Cross Section Plan dated June 11, 2019
12. Full Environmental Assessment Form (revised)
13. Comment Response Letter from PV Engineers, P.C. dated August 14, 2019 transmitting:
 - a. Preliminary Utility Interconnection Screening Analysis
 - b. Signed lease Agreement with Property owner
 - c. Draft Decommissioning Estimate
14. Technical Memorandum prepared by Barrett Energy Resources Group dated August 19, 2019 pertaining to Glare Study, Solar Photovoltaic Project at Dusenberry Lane, Brunswick, New York.
15. Photo Simulations prepare by EDR
16. Comment Response Letter from PV Engineers, P.C. dated September 9, 2019
17. Stormwater Pollution Prevention Plan (SWPPP) dated September 9, 2019

18. "Site Use Permit Plans" all with revised date of September 9, 2019 including:
 - a. T-1: Title Page
 - b. C-1.0: Existing Conditions Plan
 - c. C-2.0: Tree Clearing Plan
 - d. C-3.0: Layout and Materials Plan
 - e. C-3.1: Layout and Materials Plan – Northern Array
 - f. C-3.2: Layout and Materials Plan – Southern Array
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