

York Planning Meeting with Zoom
September 23, 2020
York Town Hall & Zoom

Present: Joe McIlroy, Alan Brightman, Chris Wall, David Dermody, Davies Nagel, Zack Kobylanski

Others: Jim Campbell, Atty., Donna Falkner, Lance Brabant, Sherman Gittens (MRB), Mario Dragani

Remote: Terry Rasmussen, Emily Garland, Tom Bock (CPL), Mark Connolly, Yogesh Kumar, Andrew Kosa

7:30 pm – Chairman McIlroy opened the meeting with the pledge

Mr. McIlroy asked for a motion to approve the August 26 minutes. He marked the corrections to be made on the minutes.

RESOLUTION:

Mr. Dermody moved to accept the August 26 minutes as corrected, Mr. Wall seconded, all in favor, carried.

Aye – 5 Nay – 0

Mr. McIlroy - Okay, we're going to move on to Growmark and I'm going to abstain from this site plan use permit because of a conflict of interest. So, for this part for Growmark, part I will just be facilitating.

Mr. Campbell - Zack is as an alternate is going to Mr. McIlroy, no, we have a quorum.

Mr. McIlroy - So I guess the biggest thing would be probably start with Lance for his comments and questions and then we'll go to the board after that.

Mr. Brabant - Sure. So, after our last board meeting, Growmark submitted to us a revised set of plans. We did provide a review letter. That review letter was dated September 4. And then they resubmitted yet another set of plans to respond to that comment letter. Those plans were dated September 20, 2020.

And received by our office September 16. We then did a final review of that last set of revised documents, including the SWPPP stormwater pollution prevention plan. And we provided a comment letter dated September 22 in response to that. For the most part, all of our comments have been pretty much addressed. We have a couple items that we're trying to clean up and a couple of them we were curious about. I think there's somebody online from CPL, Is that correct?

Mr. Bock - That is correct. Yes.

Mr. Brabant - Well, the previous materials are submitted. There is a new note on this one, regarding an existing building that was being modified. I didn't see that on previous ones. It's possible that it doesn't require approval from the board. Maybe it was already under a permit provided by the town to do whatever modification there was. I don't know that answer. I'm hoping that they could shed some light on that because it was the first time we saw was on this latest and greatest set of plans that there's outside of what we're already reviewing. There's another building that's been modified.

Mr. Bock - Yeah, to my knowledge that has been on the plans since the beginning. I guess I would have to look back at each of the revisions. And honestly, until you guys had pointed that out, we were completely unaware of that structure as well. It was never discussed as part of the scope or discussed as any currently ongoing construction. So, I'm not sure if it was mislabeled by the surveyor or just as a surveyor note. So, I guess simple answer is we have no further information on that. But we could certainly figure out what the deal is with that structure.

Mr. Brabant - So the reason that we are mostly concerned about is one I don't know if it's been changed, that would require additional parking spaces by the letter of the law be provided based on the type of usage is going to be, whether it's going to be another part of this review that we're doing now, in the same fashion, whether it's going to have storage. So, in our comment letter dated September 22, we asked that that information be provided, just to make sure that there isn't anything additional that we need to see added to the plans. I don't foresee there being any issue with it, but I think there's some clarification that needs to happen. As it relates to that specific building that is currently being identified on the latest plans as being modifications. I don't know what those modifications are. One of the other comments that we had in our letter that we've been carrying through is, as this as a fertilizer plant, we were concerned that I didn't see any water service to the site. So, I wasn't quite sure how they're handling the bathroom situation and or complying with OSHA requirements as it relates to health and safety and welfare of their employees being it's a fertilizer plant. I would assume that they're utilizing the existing amenities on site, I'm hoping that maybe CPL can add a note to the plans, if that is the case. Or if there are other things that they're using, i.e. the new well, I just want them to label that. So that we have a better understanding of how it's being accomplished. We did ask for a stormwater easement, or we call it a stormwater maintenance easement to be provided over the facility or the improvements that they're making as part of the project. The reason is, it's not so that the town can maintain things, it's going to be private, privately owned and maintained. But it's to allow for emergency purposes, the town to access the site in case they need to clean it up for whatever the reasons are. Ultimately, as part of this process, there is going to be a stormwater maintenance agreement that we're suggesting be provided that just for the record gets filed with the town and says that the town is not responsible, but the owner of the site is responsible for maintaining that stormwater facility for the duration of its life and so, there was some confusion as to why we were requiring a stormwater easement and the easiest way to say this is just simply for the Towns protection and access for emergency purposes only. . And then one of the last items was, I don't see - Tom. Is there site lightning? Outside of what's being proposed with the buildings proposed on the site.

Mr. Bock - I believe that, are you talking about existing or proposed with the new project?

Mr. Brabant - Is there anything additional for the site other than what you're proposing to put on the new building? Is there any additional lighting?

Mr. Bock - To my knowledge, it is just on the building. I do not believe there's any lighting. off on the site. We have requested the photometric plan that you requested in the previous comment letter, but we are still waiting on that. It's been requested by the electrical engineer on this project. And we will certainly provide that once we receive it.

Mr. Brabant - Fine, I just I think it's important to note that there's no additional site lighting proposed, and if any additional lighting is required, the plans would need to be amended. The only concern is light spillage onto other properties, however with lighting only being on the building I don't believe that to be

an issue. These comments are in our letter and if the board were to move forward tonight with an approval, I do have a condition that it that the plans be revised to comply with our comment letter. So that is our review of the application. Does anyone have any questions regarding this? Oh boy, I do apologize, I have one more. Being that they are proposing to construct a railroad spur off of the existing railroad we did ask that the design engineer provide whatever requirements Genesee and Wyoming Railroad had regarding their review of the proposed railroad spur. They're going to have some specific things that they have to do as it relates to that spur. We just asked that their approval be provided to the town prior to a permit to make sure that there's no issues.

Mr. Campbell - with regards to the comments you just made, you feel that the board is in a position to move forward with SEQR in perhaps a conditional determination on this.

Mr. Brabant - Yes, I don't. My main concern was just clarity on some of the things that I wasn't as aware of which is the building, the existing building being modified, but I don't have anything that I feel is that big of an issue that can't be resolved through a condition. So no, I don't have any objection to the board, if they want to move forward tonight with approval, and ultimately completing the SEQR process.

Mr. McIlroy – Did you by any chance read the county referral letter and everything in there.

Mr. Brabant – Yeah. is there anything specifically you want to go over?

Mr. McIlroy - I didn't know if I should read this county referral letter.



**LIVINGSTON COUNTY
PLANNING BOARD**

Livingston County Government Center
6 Court Street, Room 305
Geneseo, New York 14454-1043

Telephone: (585) 243-7550

(585) 335-1734

Fax: (585) 243-7566

www.livingstoncounty.us/planningboard.htm

July 15, 2020

James W. Campbell, Jr., Esq.
Kruk & Campbell PC
PO Box 30-A
Lima, NY 14485

Re: Zoning Referral #038, Town of York, Site Plan Review & Special Use Permit for a 5 MW solar installation at 2575 Main Street (Applicant: Town of York)

Dear Attorney Campbell:

The Livingston County Planning Board, at its regular meeting on July 9, 2020, reviewed the zoning referral from the Town of York of the above mentioned pursuant to Sections 239-l and m of the General Municipal Law of the State of New York.

The County Planning Board made a motion to recommend approval of the proposed. However, this motion failed to pass due to a lack of a quorum vote.

The County Planning Board would like to forward the following staff report and informal advisory comments:

1. The Town should evaluate the need for a Road Use and Repair Agreement due to the size of solar energy systems and the potential for repetitive heavy vehicle/truck traffic related to both large projects and/or cumulative impacts from multiple smaller projects.
2. The Town should carefully review the submitted Agricultural Data Statement in accordance with the NYS Agriculture & Markets Law Section 303-a (2). The board reviewing the application "shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district."
3. Given the proximity of the proposed to wetlands, floodplains and hydrography on site, and the intent of the Town to protect prime farmland, the Applicant should supply full details in the Operations & Maintenance Plan for pesticide use, including for vegetative abatement/maintenance. Practices should adhere to local, state and federal regulations; alternatives to chemical treatments should be prioritized. The Applicant should ensure that the proposed minimizes environmental impacts to the greatest extent possible.
4. If not done already, the Applicant should ensure that the proposed solar facility site is in compliance with NYSDEC SWPPP requirements, the SWPPP demonstrates compliance with the

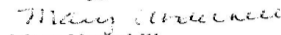
NYSDEC Solar Panel Construction Stormwater Permitting/SWPPP Guidance memo, and is supplied to the Town before final action is taken.

5. The Applicant has submitted the Full EAF, and the Town should ensure SEQR process is completed before final action is taken.
6. The Applicant should ensure that the proposed meets the satisfaction of the Town and Town Engineer, including the comments addressed in the MRB Group letter, dated May 21, 2020, and OYA response letter.
7. The proposed utilizes, in part, existing trees to meet visual screening requirements. The Applicant should evaluate the existing tree buffer for ash composition and potential impacts of ash mortality related to the Emerald Ash Borer on the buffer. Given the likely loss of ash trees, the Applicant should supply data to the Town that visual screening requirements are met, or additional screening should be provided.
8. The Applicant should submit the site access / site plan to local emergency response officials to ensure that the proposal meets the needs of the fire chief and other Town emergency officials before final action is taken.
9. In order to maintain open use of the access road for fire and emergency vehicle use, the proposed Site Plan should identify a parking area provided for maintenance personnel.
10. The Town has adopted a measure requiring soils be returned to their original state should decommissioning of the Solar facility occur. For ease in decommissioning plan implementation, the Applicant may want to consider reviewing Guidelines for Agricultural Mitigation for Solar Energy Projects published by NYS Dept. of Agriculture and Markets. The Town should also consider more specificity in determining "original state prior to construction" and the entity responsible for the determination.
11. Town of York Solar Law outlines that a valid letter of credit, or other type of surety approved by the Planning Board, naming the Town of York as beneficiary is required. According to the law the letter of credit should equal 110% of the estimated removal costs. The Applicant should ensure that all costs in the decommissioning plan are sufficient, and financial sureties are in place, to the satisfaction of the Town, in the event of decommissioning or abandonment.
12. The Applicant has agreed to provide the Town with first right to sign up for the Community Solar Program. The Applicant should provide the Town with details on the Program (including electricity discounts to the Town, residents and businesses) and support for priority access.
13. The NYS Departments of Environmental Conservation and Agriculture & Markets have issued best management practices and guidelines for the creation of native insect pollinator habitat, including for solar energy development sites. The Applicant should consult these guidance documents, which emphasize low-growing native pollinator plantings, and reductions in pesticide use, when developing a vegetative management plan for the proposed.

The County Planning Board has taken no official action on this application due to a lack of a quorum vote. A response of "No Action" on the part of the County Planning Board should not be construed as a judgment on the project. The Town is now free to take final action on this application.

Thank you for submitting the proposed for County Planning Board review. If you have any questions regarding this referral, please do not hesitate to call me or Deputy Planning Director Heather Ferrero at 243-7550.

Sincerely,


Mary Underhill
Planner

cc: Stewart Leffler, Chairman, Livingston County Planning Board
Jerry Deming, Supervisor, Town of York
Yogesh Kumar, Project Manager, OYA Solar

Mr. Campbell - you don't have to read it, you can just we'll say on the record that has been received, reviewed by the board as well as the engineering consultant, it will be a part of the file the record. So, if it's the board's pleasure to move forward, we would undertake a review of SEQR. And once that review is completed, then you can determine where you want to go from there.

Mr. Wall – said he didn't see the comment letter.

Mr. Brabant - My comment letter was dated, the last comment letter that I had was dated September 22.

Mr. McIlroy - Does the board have any other questions for the site plan, or for the special use permit? concerns?

Mr. Campbell - So why don't we start with a SEQR process? First, you want us to wait while you're reviewing the comment letter, or you want me to start reading?

Mr. McIlroy – Give him a couple of minutes, it's not that long?

Mr. Brabant - Well, I think there's one, one of the items that I know that we had dialogue about the other report regarding this application was whether or not there was concerns with traffic. And so, they had issued per request statement of operations. In that statement of operations identifying for our use, what this additional building was going to do. And so, based on that thing about operations, they're not increasing the number of employees that are there, the building is just going to be used to house storage of items, but not necessarily increase the employment that's already there, that's existing employment numbers. So, there is no increase in traffic based on that determination, that statement of operations that was given.

Mr. McIlroy - Thank you for clarifying that.

Mr. Campbell - You know, really, if Mr. McIlroy is going to abstain, he really shouldn't participate in the conversation.

Mr. McIlroy – I asked that question because I haven't been in that position before. I need a motion to declare lead agency at this point.

Mr. Campbell - Absolutely. Lance was kind enough to prepare a written RESOLUTION with regard to lead agency status. So, all the letters have been sent out to other interested and involved agencies indicating this board's intention to act as lead agency. And there has been no objection to that. So, at this point, it would be appropriate for someone to make a motion to designate this board as lead agent for SEQR review purposes.

Mr. McIlroy – Can I have a motion to declare lead agency.

RESOLUTION

Mr. Nagel made the motion declaring the Planning Board lead agency, Mr. Wall seconded, carried.

Aye – 5 Nay - 0

Mr. Campbell - So I'm going to walk you through the SEQR review process. The applicant submitted a part one of the full environmental assessment forms. That's the project description, location, kind of data related to the project. We need to be active with regard to parts two, and three. Part two is where we make findings, as they relate to specific potential for impact in certain areas. from an environmental perspective. Part Three, ultimately, is where you take those findings and reduce it to a statement that says that there is either a negative environmental impact or there's not. So, we're going to go through Part Two first, there are 17-18 categories of questions. And for each one of these categories, I'm going to read you a general question and when I read that general question, you need to answer either No, or Yes, and the No or Yes, is really about whether or not the application in the proposed action is going to create the impact, the negative impact that we're talking about in that specific category. Okay, so these are your answers, not Lance not me, so you've got to vocalize those things. If you answer No, we move on to the next general category. If you answer yes, we go down through a list of more detailed and specific inquiries, almost like sub sections of that category. And if we get to that, I'll explain how it works. Okay. So, number one is impact on Land

Mr. Nagel asked for clarification on the answers.

Mr. Campbell - So if you have questions about specific technical areas, you can ask Lance or me, but most likely, Lance will be the one who can provide you some insight, you know, for example, is a property located within or near a critical environmental area? That's a specific category of things that

you might not know about. He can answer that give you some detail and then if you feel that, you know enough, you can render the answer. This is intended to be a dialogue. But the answers ultimately are from the board, you can seek advice from him or from me, or details on what they're asking, but ultimately, you make the determinations. So, number one, impact on the proposed action may involve construction on or physical alteration of the land surface of the proposed site. Digging and moving dirt, right. So now as a result of that, we've got to go through these five or six additional, more detailed questions. And for each one of those there are two categories of answers. And I want you to think of it in terms of negative environmental impacts. So, the first category is no environmental impact, negative environmental impact, or a small impact may occur. That's the first category. The second category is a moderate to large impact may occur. Okay.

Mr. Brabant - So some of these in that subsection Jim just read off of part two, they have verbiage that says see Part 1.D.2, right. And what that is referring to is the Full EAF part 1 completed by the applicant and submitted before with the application. The reason why it does that is because these specific subcategories are in reference to that Full EAF part one. That part one, when completed properly is done online through the DEC, EAF environmental assessment Mapper (EAF Mapper). What it is, the applicant goes on, plugs in their location. And then it says automatically fill in the EAF part one. And NYSDEC data base populates certain categories, mostly all the big categories. And then when they're done, it automatically answers a lot of our major categories with yes or no, that summary sheet looks like this. It's on the back part of the Full EAF part one, that's where DEC has said you either have an impactor you don't, and they answer it for you. So, a lot of these questions when you refer back to Full EAF part 1 it will tell you whether they're applicable or not. Right. And then some of these questions, like for example, the one category that the applicant fills out based on information that they know and researched on the site. So, when referring back to the Full EAF, part one and it states that the depth of the water table is less than three feet, and their answer is no.

Mr. Campbell – So you might want to flip to that back indices with a map or summary report that might help a little bit, so I'll try to go too fast. So, if you need me to slow down just let me know.

A, the proposed action may involve construction on land where depth of the water table is less than three feet. Does everybody agree it's no.

All agreed.

Mr. Campbell – b, the proposed action may involve construction on slopes of 15% or greater. -No
c, the proposed action may involve construction on land where bedrock is exposed or generally within five feet of existing ground surface - No

d, the proposed action may involve the excavation and removal of more than 1000 tons of natural material. - No

Mr. Campbell - they said no on that right.

Mr. Brabant - Yeah. So, the applicant is not proposing to remove more than 1000 tons of natural material.

Mr. Campbell – e, proposed action involve construction that continues for more than one year or is in multiple phases.

f, the proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).

Mr. Brabant - So this tells me that most of the site is existing, gravel or pavement or hard surface area. There's very little sight disturbance associated with the construction of the building. However, there is a pond that they are creating. So a lot of times when I've gone through this section, I think there's always a chance for erosion control that will be an issue, but they are obligated to comply with the NYSDEC standards, what they call the New York State blue book for sediment and erosion control methods. And the plans show what those methods are, and they have been implemented on the site for example, silt fencing, stormwater prevention methods, and all that. Those elements have to comply with the DEC standard, and they get inspected to verify during construction, which helps to prevent this issue...

Mr. Campbell - So the answer would be - No

Mr. Campbell – g, the proposed action is or may be located within a coastal erosion Hazard Area. - No

2. Impact on geological features. The proposed action may result in the modification or destruction or inhibit access to any unique or unusual landforms on the site. For example, cliffs dunes, minerals, fossils caves. - No

3. Impact on surface water, the proposed action may affect one or more wetlands or other surface water bodies, for example, streams, rivers, ponds, or lakes. - Yes

Mr. Brabant - So I guess my thought is just for the record, just so you guys know, there are no wetlands or streams on this site, but there are there are nearby. And so if you were to refer to EAF part one, it does have reference to that being there, I'm not persuading your answer yes or no, I'm just pointing out that there are wetlands nearby, and there are streams nearby, but they're not on the project site.

Mr. Campbell – 3, So maybe we can discuss proposed action may affect one or more wetlands or other surface water bodies. – Yes. All answers to part 3 were no

4. Impact on groundwater - the proposed action may result in new or additional use of groundwater or may have the potential to introduce contaminants to groundwater or an aquifer. - No

Mr. Nagel - have we looked at their plans and made sure the runoff is really good for the aquifer?

Mr. Brabant – Right now there is very little disturbance proposed.,

Mr. Brabant - So the site, the portion of site that before us, most of the site have been built in the manner and then conveyed in a manner to bring all that runoff to the pond for filtering. And then automatically what happens is it once it goes up and filters overflows and exits out into the drainage ditch that often conveys runoff outside. So, the stormwater facility and environmental facility are doing what they're required to do. And that's all the runoff that hits the ground or hits the roof, is being conveyed either through a closed storm sewer system, catch basins and drainpipes or sheet flow to that bioretention facility and then ultimately into their pond.

Mr. Kobylanski asked if it was a lined pond

Mr. Brabant – bio retention facility doing the filtering through aquifers and once that overflows, like during a large storm event the bio retention facility is going to reach capacity and overflow into pond.

Mr. Campbell - so impact on groundwater number 4 - flows actually result in a newer additional use of groundwater may have the potential to introduce contaminants to groundwater for an aquifer. - No

5. impact on flooding the proposed action will result in development on land subject to flooding.

Mr. Brabant - So their EAF, part one page 11 and 13. At the bottom i, j, k. I specifically identify this project is not in a designated floodway but is in a 100-year floodplain, not 500 year.

Mr. Campbell - So that's enough.

6. Impacts on Air - proposed action may include a state regulated emission source. – No

7. impact on plants and animals, the proposed action may result in a loss of flora or fauna. – yes, and all sections marked no.

8. Impact on agricultural resources, the proposal actually impacts agricultural resources. - Yes

9. Impact on the aesthetic resources - the land use is obviously different from what are in sharp contrast to current land use patterns between the proposed project and the scenic or static resource. No

10. Impact on historic and archaeological resources upon loans actually occur in or adjacent to a historical archaeological resource. Yes

Mr. Brabant - So just for the record, this category, it's not just a historic building, but it's also what they call an archaeological sensitive area. And that's an area that's been designated by the State Historic Preservation Office (SHPO) as having some concerns. And so, what happens is, this particular site is located within a sensitive area. So, it doesn't really mean much other than in order for them to get a permit from DEC and in order for them to get a building permit, they have to get what is called an “no effect finding” letter from SHPO. And that just means that SHPO has reviewed their application, and then determined that based on the disturbance that they're proposing. It's either in an area that has already been previously disturbed, and therefore they're not concerned or is considered a new disturbance area and may require them to do what is called a “Phase 1A/B” soil exploration.

Mr. Nagel - who is this organization

Mr. Brabant – SHPO State Historic Preservation Office. So, the concern is that the sensitive areas could contain historic artifacts in the ground, I'm not 100% sure how these areas get identified, other than maybe there was a site at one point that they have historical records of being in that area.

Mr. Campbell - a certain proximity, or if there's historical information that would tend to indicate that there might be Native American settlements nearby or other things of historic and archaeological importance in the area, doesn't mean that on that particular site, but it falls within a close proximity to sites that have historic and archaeological significance.

Mr. Brabant - I guess what I would like to ask CPL, I can't recall if we received planning letter yet or not.

Mr. Bock - Off the top of my head, I can't remember either. I would also have to.

Mr. Brabant - That's fine.

Mr. Bock - but would we be under the conditions where because it's already in a previously disturbed area?

Mr. Brabant - Again, I think yes, but that's not for us to dictate that's up to SHIPPO to decide. So ultimately, because you're in a sensitive area, it just seems that they have to go through this process and comply with it. If we get a no effect letter, we're good. If they get something that says sorry, you can't do this. They got to come back to you guys.

Mr. Campbell - So Lance as a result of the fact that if the proposed action is located in the historically sensitive area, not necessarily the actual parcel, but within this area, should they? Would it be more appropriate for them to answer yes? Then we will go through those detailed questions.

Mr. Brabant – Yes

Mr. Campbell - Okay, so remember, when we go through those detailed questions, no or small impact may occur? That's one category a moderate to large. And you can keep in mind when thinking about that the fact that this is a previously disturbed site, right is been developed in it's certainly not undeveloped at this point. So, a, the proposed action may occur wholly or partially within or substantially contiguous to any buildings archaeological site or district, which is listed on the national or state registered this workplaces for that has been determined by the Commissioner of New York State Office of parks Recreation and Historic Preservation, to be eligible for listing on the state Register of Historic Places.

Mr. Brabant - There is nothing

Mr. Campbell – b, the proposed action may occur wholly or partially within or substantially contiguous to an area designated as sensitive for archaeological sites on the New York State Historic Preservation Office SHPO archaeological site. So that's Yes, right.

Mr. Brabant- applicable bodies, matter of categorizing.

Mr. Campbell - But frankly, it's probably a small impact because it's already been destroyed.

Mr. Brabant - right. And honestly, they're obligated to get this sign off prior to issuance of a permit and if they can't provide that for whatever reason, they come back to you guys.

Mr. Campbell - is everybody okay with no or small impact? All answered yes

c. - the proposed action may occur fully or partially within or substantially contiguous to an archaeological site, not included on the New York SHPO inventory.

Mr. Campbell - Okay, so the next question doesn't really apply because you didn't identify any moderate to large impact.

11. Impact on open space and recreation. The proposed action may result in a loss of recreational opportunities or reduction of an open space resources designated in any adopted municipal open space plan. – All answered No.

12. Impact on critical environmental areas of proposed action may be located within or adjacent to a critical environmental area (CEA). All answered No

Mr. Campbell - the CEA stands for critical environmental area, but it's as determined by DC correct.

Mr. Brabant - DEC has a list of what these areas are and where they're located.

Mr. Campbell – 13, Impact on transportation - actually result in a change to existing transportation system. All answered No

14. Impact on energy - the proposed action may cause an increase in the use of any form of energy. Probably right the probably going to use a little more electric than if there wasn't anything there. So, we'll go through these questions.

a. the proposed actual require a new or an upgrade to an existing substation be the proposed actual

b. requires the creation or extension of an energy transmission or supply system to serve more than 50 single- or two-family residences? Or to serve a commercial or industrial site?

c. the proposed action may utilize more than 2500 megawatt hours per year of electricity, very unlikely.

Mr. Brabant - no. So, they're based on the A and Part one of the Ful EAF that was provided they're not suggesting that there is no impact.

Mr. Campbell – d, the proposed action may involve heating and or cooling of more than 100,000 square feet of building area when completed

15. Impact on noise, odor, and light - the proposed action may result in an increase in noise, odors, or outdoor lighting. All answered No

Mr. Wall - I didn't know that was a question.

Mr. Brabant - So right now they are proposing lighting, which they haven't really identified on a plant because it's affiliated with building the new building which is being provided by architecture. So, the lighting location, the exact location hasn't been identified. But all of the proposed lighting is located on the building in typical locations, I'm sure there's some spotlighting over the rail yard area, as they're going to have a road spur, and so on. But that information has specific locations that have been provided.

Mr. Campbell - So do we want to answer that? Yes, because we know that we're going to be some additional lighting and then go through those questions to determine whether or not it's small. Yes

a. - the proposed action may produce sound above noise levels established by local regulation.

b. – the proposed action may result in blasting within 1500 feet of any residence, hospitals, school, daycare center, nursing home.

c. - the proposed action may result in routine odors for more than one hour per day.

Mr. Dermody – asked about the size of the building – fertilizer does have an odor.

Mr. Brabant - I guess one way to consider it, that is what's currently going on now, but I do think that this existing use that they're proposing.

Mr. Dermody - Okay, so like it's not based on the increased quantity

Mr. Brabant - it could be

Mr. Dermody - the size of this building is increasing capacity. If you have an odor for 20,000 square feet and you go to 60,000 square feet, it seems there would be more storage.

Mr. Campbell – they answered, the question. Part One says does it propose actually had the potential produce odors for more than one hour a day? Yes, odors from equipment will occur during construction, the nearest structure is 300 plus or minus feet from the proposed improvements?

Mr. Dermody - Talking about the construction, but as far as the use of it, you don't take any consideration that

Mr. Campbell - you could and not identify the fertilizers having any particular impact from a

Mr. McIlroy - small impact or moderate to large.

Mr. Dermody - Probably the small

Mr. Campbell - Are you okay with small on that? There's an existing operation there. Right? So, I guess, is not whether we'll introduce an odor because it's already in there? Is it?

Mr. Nagel - say, okay, you say smaller and then there's an odor, what happens?

Mr. Campbell - You don't really once you've probably, once you finish the approval process, and they move forward and build, and it turns out that there is an odor, you were just not correct, right? So, you know, the other thing to consider is in a in an agricultural area like this. There are odors, you know, all over the place at different times at different levels. So, I think you could take that into account in determining whether or not you think it's a small impact or something more

Mr. Nagel – How do we protect water if there's a spill and water is contaminated?

Mr. Campbell - There are other things, for example, if you're talking about a contamination issue like that, DEC has the ability to get involved with those kinds of specific violations. But when you're talking about odor, it's a little bit different, right? Because, you know, I pulled into your parking lot today, when I get in, like, I smell the cows, you know, this is a farming community. I didn't particularly find it offensive I tell you my wife would, right? She grew up in a big city so for those kinds of things I don't really have a satisfactory answer for you.

Mr. Nagel - And we're trying to protect the community. If we put something, if we make an incorrect statement, then there are repercussions to come in.

Mr. Campbell - For certain things, yes. There are other avenues of recourse that have nothing to do with this board. From the enforcement standpoint.

Mr. McIlroy -- Well, I think part of this is we do have performance standards

Mr. Campbell - we do.

Mr. McIlroy - Does that give us enforcement later?

Mr. Campbell - it doesn't give you enforcement, it gives the code enforcement officer in the town some level of enforcement, if performance standards are not being met, right, but you know, odors are tough one. I just I tell you that you can pick almost anything else and it would be easier than odor. So, if you're picking noise, it's demonstrable we can say here's a decibel leader, you know, here's the hours of operation when this noise is exceeding, you know, otherwise ambient levels of noise. We can identify that smell when it's tough here. So, are you guys comfortable with small everything? Answer - yes

d. - The proposed action may result in light shining on two adjoining properties.

Mr. Brabant - So I don't know persuading you one way or the other. I will say that they there are requirements that say, like you that skill off the property. So even if there is a light that's shown on the plans, when they give us a photometric plan that shows a greater it will have to be reduced so that it doesn't, it doesn't have that negative impact.

Mr. Nagel – They are doing the night compliant?

Mr. Brabant - I know, they will be required to have full cut off, which is a light that is recessed into the fixture so that only shines downward. There's probably some protocol for that rail yard that are above some of our requirements that they have to meet based on whatever protocol they have for their safety. All I'm saying is that like spillage from the site, once we get the plan, our job will be to make sure that the four metrics don't show spillage greater than the threshold that are all running off the property.

Mr. Campbell - Small okay with that?

e. – The proposed action may resolve in lightning creating skyglow brighter than existing area conditions. Okay, how is it small?

Mr. Wall - small

Mr. Dermody - They're unloading at night during busy season, I mean when the railroad brings it in, anybody that deals with the railroad, they make a good profit during the day. But when they get there, they get there in the seasonal agricultural product and it may be after dark.

Mr. Wall – just like a driver.

Mr. Campbell - And that, you know, it's also noteworthy that when it comes to lighting for rail systems, it trumps our local regulations, because there's federal regulations that they have to comply with, for safety purposes. I think you're driving by the site a whole bunch of times; it doesn't look like it's a densely populated area in terms of residential structures.

Mr. Brabant - Could you possibly I mean, I guess you probably can consider a temporary situation to exam every single day. I'm assuming I'm assuming. No, every single day, at all hours of the night, but you're right. I would agree. I guess the other thought is, is it potentially occurring already as well? Because there is a spur there currently now, I think. But some like I'm not as familiar with the areas. So, I don't I don't know that one way or another thing that I'm thinking about?

Mr. Campbell - Are you all okay with it being a small impact? All - Yes

Okay, other impacts temporary increase in ambient noise levels during construction? Only? small impact? Answered Yes

16. Impact on human health - the proposed action may have an impact on human health from exposure to new or existing sources of contaminants Answered No

Mr. Brightman – they’re still using the same materials

Mr. Campbell – Yeah, is that a no than? same stuff? Maybe the keyword is new.

Mr. Dermody - I guess I said, I struggled with this question only because of the volume that I'm not trying to be difficult. It's just the volume of material. It's going to be I guess they've been it's just a question. I would say it's a small.

Mr. Campbell - you all we got to answer yes or no first and then we will decide whether it's small or moderate.

Mr. Wall - I would say yes, based on question answered in part one.

Mr. Brabant - So for clarification there was remediation sight for spillage as recorded in the DEC database. When these items get filled out there’s a radius around the site. That doesn’t necessarily mean this site, just means somewhere around the area

Mr. Campbell - what they're really talking about is a proposed action which means building this 15,000 square foot facility is going to have an impact on human health from exposure to your existing sources of contaminant. So, we’re not going to a site where they've never done that before, right? So, you still feel, I want dialogue.

Mr. Wall – Is this related to the construction of the new facility and purpose?

Mr. Campbell - the proposed action is a construction of this 15,000 square foot facility. I mean, we don't want to extend a use for

Mr. Dermody - the construction part of it is probably enough, I think.

Mr. Brabant - I was just going to say if you were hung up on the remediation, the remediation has been closed. So, whatever the process was a very good process through remediation.

Mr. Brightman - The real question is the increase. That's the question. Does the increase create additional and I think it’s small?

Mr. Campbell - Well, I think it's I think there is there is an increased? And let's go with Yes. Let's go through the individual questions and see where it leads us. That's what the purpose of that is for. So, a., the proposed action is located within 1500 feet of a school, hospital licensed daycare center, group home, nursing home or retirement community. No

b., The site of the proposed action is currently undergoing remediation.

Mr. Brabant - I would say, there was, but it's not currently completed.

Mr. Campbell - Okay. So no to small impact.

c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action. No

d. the size of the action is subject to an institutional control, limiting the use of the property easements or deed restrictions. No

e. the proposed action may affect institutional control measures that were put in place to ensure that the site remains protected of the environment and human health. That's a no, because they're utilizing the property already for the same purpose just at a different scale. That makes sense.

f. the proposed action has adequate control measures in place to ensure that future generation treatment and or disposal of hazardous waste will be protective of the environment and human health.

Mr. Brabant - Just so you know, anytime you're dealing with this type of material, there's a very good requirement involved locally that they have to adhere to, and they get monitored to make sure that there's a process for that.

Mr. Dermody – D.E.C.?

Mr. Brabant - they're not going to be out there, but there's a process for that, to make sure that they're in line.

Mr. Wall - is that the only regulatory agencies?

Mr. Brabant - There might be others that I'm not as familiar with, for analyzing process, but there might be others, but DEC is the highest regulatory requirement because of the environment?

Mr. Campbell - Yeah, if you have federal and EPA, that can get involved with these things as well. Their jurisdiction extends throughout the state.

g. the proposed action involves construction or modification of a solid waste management facility. No, is everybody okay with that?

h. the proposed action may result in the unearthing of solid or hazardous waste. No

i. the proposed action may result in an increase in the rate of disposal, or processing, of solid waste. Well, I think they'd probably sell their fertilizer to go someplace else, right. No

j. the proposed action may result in excavation, or other disturbances within 2000 feet of a site used for the disposal of solid or hazardous waste. No

k. the proposed action may result in the mitigation of explosive gases from a landfill site to adjacent off-site structures. No

l. The proposed action may result in the release of contaminated leachate aid from the project site. No

Mr. Dermody - I mean, yes, they are you ever worried if you have a real car full of fertilizer you'll have a huge pile of hazardous waste, 100,000 tons of fertilizer in one of those gondola cars might make a lot of people anxious.

Mr. Nagel – asked what the fertilizer consisted of.

Mr. Dermody - There was just whatever we it is, the ingredients that we get for our different analysis. You can get 10-20-20, you can get, you know, you can get 0-20-20.

Mr. McIlroy - it'll be hot ash, phosphorous, nitrogen obviously, maybe some ammonium sulfate and I'm guessing micronutrients. And I don't know what they have for liquid down there, a variety.

Mr. Campbell – So.

Mr. Wall – So Jim, just a question. So, do we change specific to contain from a landfill, would contain liquid from a landfill?

Mr. Campbell - I don't know the answer to that.

Mr. Brabant - I think where the board's doing their own evaluations, maybe you have your own terminology as to what do you believe in.

Mr. Campbell - Let's assume for a minute, though, that leachate just means the leaching out of some contamination, they have a spill, it rains, it moves, it reaches...

Mr. Dermody - or Is that considered runoff? I mean, I would think that, you know, you're felling fertilizer back in the back, 500 pounds or something on the ground, try to scoop it up, but you're not going to get all of it.

Mr. Brightman - So the definition is degeneration can be caused principally by precipitation percolated through the waste deposited.

Mr. Campbell - Than the answer is no

Mr. Dermody – the answer would be no

Mr. Campbell - All right. 17 consistency with community plans. The proposed action is not consistent with adopted land use plans. No. Board agreed. So that answer is no.

18. consistency with community character. The proposed project is inconsistent with the existing community character. Board - No

Mr. Campbell - Okay, so now that we've gone through part 2 and answered all those questions, we need a motion to adopt the answers to those questions as your official findings for part two and a full EAF for this project.

RESOLUTION:

Mr. Nagel moved to adopt the answers to the questions as our official findings for part two and a full EAF for this project. Mr. Brightman seconded, all in favor, carried

Aye – 5 Nay - 0

Mr. Campbell - All right, now that you've adopted those as your findings, you did not answer anything on part two, with the category of moderate to large impacts may occur. Everything was either a big general no or if it was a Yes, it was no or small impacts. those findings would lead you to the conclusion that there is not likely to be any significant negative environmental impact as a result of the proposed action, which means you would declare a negative declaration. Lance prepared and you have a resolution at the top says determination of significance. And the second page does just that, confirms

those findings. And as a result of those findings, you're saying there will not be a substantial adverse change and things like that, existing air quality, ground, or surface water. Those criteria that we talked about are listed in Roman numerals at the bottom and the top of the second page. And then as a result of your answers, you're determining that there's not any likelihood it will result in significant adverse environmental impact. So, if that is something you agree with, we do have a motion for that.

RESOLUTION:

Mr. Nagel moved that there was no significant adverse environmental impact, Mr. Brightman seconded, all in favor, carried.

Aye – 5 Nay - 0

Mr. Campbell - Okay, so, Joe, now that the determination of significance has been made, part three of the full environmental assessment form needs to be signed. Did that RESOLUTION authorize.

Mr. Brabant – It did. Is that okay that Joe recused himself?

Mr. Campbell - I would suggest that maybe we have the person who acts as a chairman in your absence, wants to volunteer, it doesn't really matter.

Mr. Dermody will sign the RESOLUTION.

Mr. Campbell - Okay. So now, it's up to the board and determine whether or not you want to act. You heard from Lance, from an engineering standpoint, he is satisfied, generally with the response that the applicant has made to the inquiries that he's had on several rounds of discussions in that, with kind of the condition that they provide those few outstanding answers. He's comfortable with you moving forward. So, it's up to you. If you want to go ahead and act, you certainly can. He prepared a site plan approval RESOLUTION for you. Lance, you want to walk them through that.

Mr. Brabant - Yes. So, I did prepare a draft RESOLUTION for your consideration for site plan approval with some of the conditions. Basically, the summary of the whereas the first one basically summarizes the project that's before us. The second one talks about that we referred to it to Livingston County Council provided by the planning board. The third one identified the planning board is classified as one completed SEQR in accordance with the statutory requirements. And then identifies that on this day, September 23, we completed SEQR and the accepted project. And so, then I am suggesting in the version that you have five conditions for your consideration, obviously, there's additional ones. I've added two separately began the two that I'm currently on there, and I can read through the previous ones. But the two that aren't on there right now is one, I think we should consider conditioning it on the statement of operations that was recently provided into September re submittal. I don't have a specific date, so I can work and submit that if ok with the board. But that ultimately is that I think this should be conditioned on that statement of operations, which basically identifies that there's going to be no increase in traffic. There's no increase in employees and kind of summarizes what that is. So, I think that would be beneficial to add to the record. And then the last one, number seven that I've added, was just reiterating what we talked about earlier, it means an archeological sensitive area that we just asked that it's conditioned on them providing the SHPO with no effect finding letter, and that'd be provided prior to issuance of the building permit. It's already required to do that, but I think it's good to state it again.

Mr. Campbell - So those are the additional ones in there with the five stated ones. Those are the additional two.

Mr. Brabant - Correct

Mr. Campbell - Did everybody read those five stated conditions? Anyone want to discuss on any level?

Mr. Brabant - If you go with those, five plus the two to total seven conditions, I suggest requesting a motion.

RESOLUTION:

Mr. Brightman moved to accept the above RESOLUTION with the seven conditions, Mr. Wall seconded, all in favor, carried.

Aye – 5 Nay - 0

Mr. McIlroy - All right, we will move on to Verizon.

Mr. Nagel mentioned that names would have to be changed in the RESOLUTION

Mr. Brabant – realized he'd used the wrong name for the voting member and will correct it and also show that Mr. McIlroy recused himself. And for the record, I forgot to mention. Being it was a type 1 action, we did with other projects, and the EAP website identifying with this board, like this application. So, it'll be on next Wednesday I'll submit it and then the following Wednesday will be published, and all that information will be forwarded.

Mr. McIlroy - Okay, so can we move on to Verizon? I guess the first thing would be to start with Lance in case he answers our questions first. But he has to be comfortable with moving forward or not.

Mr. Brabant – So, MRB did provide a common letter, that we provided most recently was September 21, 2020. Basically, in summary of that letter, a lot of those comments were carryovers, from our previous comment letter that had not yet been addressed with their resubmittal. So, I've contacted Emily to kind of go through those comments, just to make sure maybe there was a misunderstanding for some clarification that I might be to provide. Today, she did provide us the foundation plans and the reason for those foundation plans, I believe they're from 1991 or 1993. The reason for these plans is not necessarily for completing our review, our purview. It's just that there's structural report, which is part of this application references that those plans, the foundation plans that were reviewed and approved back that are capable in the loads of this height and magnitude and above. So I thought it was good information to have for the record that that that information be provided and not just referenced in the report, but actually provided to them in our files and said, these are the foundation plans that justify the record, which justifies the 20 foot extension. So that was provided today. The other two elements that we're asking for is the FAA, an FCC acknowledgement letters, one deals with airspace, just making sure that the 20-foot height doesn't impact anything that we're not aware of. I believe that information is going to be provided based on my conversations with Emily, I don't think 20-foot height is going to change anything. But I think it'd be good for our record that just have some kind of acknowledgement that there is there is no issues there. The other one is dealing with FCC deals with the RF emissions from the antenna. So, they're going to provide that my understanding is that they're going to provide that information as well. The other comments in my letter were just simple additions to the site plan, they're

not going to impact the wetlands or the stream that's on that big site plan to show where they are just so that there's record that they're not going to impact the wetlands nor the stream. We did ask for erosion and sediment show measures to be provided. There's very little construction associated with this project. However, they still should show where those elements are because there will be some use during construction. We just want to make sure that again, justify the equipment. And then the last one was some staging area to be shown on the plans. Again, it will be probably, but that's what the purpose is the document that we're starting to lay down the equipment, it's going to be an area that has been proven and determined to not be impactful to the neighboring property. So that was basically what I had on my previous comments. I reiterated again on my recent letter dated December 21. And then I coordinated with Emily, as my understanding of email saying that they have no objection to those comments. And I'll let Emily add, if there's anything additional that she wants to add

Ms. Garland - I would just add that, um, I did get the FAA cert after five today. So, I can provide that whenever. And we're working on the emissions cert, so that down the pipeline, and the tower company is aware that they want some revisions to the construction drawings. So those right, like landsat are all in the work.

Mr. Campbell – Lance, does it make sense and maybe this was in your letter, I don't recall. But they had originally proposed taking the light off. We and my understanding are, that the board was interested in making sure that a light on top stays on top, that was a specific condition when the town board originally granted approval this 1991.

Mr. Brabant - So what it was in my original item that they responded and having said that, that's my understanding. But I think it's probably appropriate if the board were to go forward with that approach tonight that we just make that condition just to make sure it gets carried.

Mr. McIlroy – did we ever get it a decibel for the generator? For the noise?

Mr. Brabant - I don't believe that their structural report contained that information. And I don't think I got a response specifically to that. So no, I don't, I don't recall receiving anything specifically as it relates to the generator,

Mr. McIlroy - again, that would fall under performance standards, if it were Carl or whatever could go back and enforce that.

Mr. Campbell - they would be required to enclose that, minimize sound interference.

Mr. Wall - The other thing that was in that same conversation was some kind of projection of the fall based on the height.

Mr. Brabant – fall zone

Mr. Brabant - So the follow actually extends beyond the height of the pole. So, they show that the plan falls within their area of residential property. The revised plans do document that the revised fall zone we might call them to be compliant with the extension they propose. These poles are designed to collapse and not necessarily fall over. There are requirements that they have to uphold to meet certain wind and snow, and all these types of conditions. And they're much greater in that. So, but they're ultimately these are designed so that they the collapse, so that they don't just tip over. But we ask that a fall zone, on worst case scenario be provided the documents that so that's what's shown on the plan is

that that potential for the pole to fall over? Does it cross a property line, which would then cause concern, and if it doesn't?

Mr. McIlroy - As far as the county, they just gave us local option on that, they had no referral letter. Does anyone on the board have any questions, comments, concerns? Everybody good to move forward with this.

Mr. Brabant - Okay, so I prepared two RESOLUTIONs special use permit and the site plan, I believe that we have to go through so I sometimes get confused but I believe we need to do the special use permit first Jim?

Mr. Campbell - Yes

Mr. Brabant - And then the site plan. So, I drafted up the special use permit RESOLUTION for your consideration. It does have nine conditions of which I do want to go over at least a couple of them.

After some discussion on the following Special Use Permit RESOLUTION the board approved it:

Town of York Planning Board SUP Approval RESOLUTION for Verizon

WHEREAS, the Town of York Planning Board (hereinafter referred to as Planning Board) is considering a Special Use Permit and Site Plan approval for the extension of the existing tower by 20' changing the tower height from 81' to 101', also the installation of cabinets and a generator on a proposed concrete pad inside the leased (16'x22'6" ground space in the existing compound. The project also includes the installation of a new antenna array encompassing (6) new antennas on new sector frames mounted on the existing tower at RAD 95°, as shown on plans dated April 20, 2020, last revised June 26, 2020 and all other relevant information submitted as of September 23, 2020 (the current application); and

WHEREAS this application was required to be forwarded to Livingston County Planning Board for review and comments were received; and

WHEREAS the Planning Board completed a formal review of the proposed application in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and

WHEREAS, the Planning Board has determined the proposed application to be an Unlisted action and is subject to a single agency review pursuant to Part 617.6(b)(4) of the SEQR Regulations; and

WHEREAS, on August 26, 2020 the Planning Board, serving as lead agency, made a determination of significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

WHEREAS, on August 12, 2020, in compliance with NYS Town Law, the Planning Board held a public hearing on the current application and completed a formal review of the application; and

WHEREAS, the Planning Board has determined that the proposed application is compliant with the §603. C. of the Town of York Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approves the requested special use permit with the following conditions:

1. The special use permit shall remain in effect for the current owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval and §603 of the Town of York Zoning Ordinance.
2. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the Special Use Permit is being operated in accordance with the conditions specified by the Planning Board.
3. In the event of any complaints about the Special Use Permit being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Planning Board.
4. No signage associated with the Special Use Permit has been approved. Separate approval by the Planning Board is required for all signage.
5. All conditions as required by the Planning Board as part of Site Plan approval are required to be addressed prior to the issuance of permits.
6. The Town Engineer review letter dated September 22, 2020 is to be addressed prior to the site plans being signed by the Planning Board Chair.
7. As per §603. C. (6) of the Town of York Zoning Ordinance a Decommissioning Bond or surety to cover the cost of removal and landscape remediation is to be provided. The cost estimate is to be forwarded to the Town of York for review and approval and is to be filed with the Town Clerk prior to issuance of a permit.
8. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
9. If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of York Planning Board holds a hearing on same as provided for herein.
10. The site plans are to be revised to add a note stating that the light on top of the telecommunications pole is to remain.

The above RESOLUTION was offered by Chris Wall and seconded by Davies Nagel at a regular scheduled Planning Board meeting held on September 23, 2020. Following discussion, a voice vote was recorded:

Alan Brightman	AYE
Chris Wall	AYE
David Dermody	AYE
Davies Nagel	AYE
Joe McIlroy	AYE

Alt – Zach Kobylanski

I, Donna Falkner, Clerk of the Board, do hereby attest to the accuracy of the above RESOLUTION being acted upon and recorded in the minutes of the Town of York Planning Board for the September 23, 2020 meeting.

Donna K. Falkner

Donna Falkner, Clerk of the Board

Mr. Brabant – So this was for the SUP and now we have to do the site plan RESOLUTION, which is a requirement. So likewise, the first whereas is our referencing the project site, references that we needed SEQR. have to correct the one where is September 23 to August 26. The planning board serving as lead agency making a determination of significance of and following the negative declaration thereby review pursuant to SEQR. I'll make that correction.

After further discussion, the planning board adopted the following:

Town of York Planning Board Site Plan Approval for Verizon

WHEREAS, the Town of York Planning Board (hereinafter referred to as Planning Board) is considering a Special Use Permit and Site Plan approval for the extension of the existing tower by 20' changing the tower height from 81' to 101', also the installation of cabinets and a generator on a proposed concrete pad inside the leased (16'x22'6" ground space in the existing compound. The project also includes the installation of a new antenna array encompassing (6) new antennas on new sector frames mounted on the existing tower at RAD 95°, as shown on plans dated April 20, 2020, last revised June 26, 2020 and all other relevant information submitted as of September 23, 2020 (the current application); and

WHEREAS this application was required to be forwarded to Livingston County Planning Board for review and comments were received; and

WHEREAS the Planning Board completed a formal review of the proposed application in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and

WHEREAS, the Planning Board has determined the proposed application to be an Unlisted action and is subject to a single agency review pursuant to Part 617.6(b)(4) of the SEQR Regulations; and

WHEREAS, on August 26, 2020 the Planning Board, serving as lead agency, made a determination of significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

WHEREAS, on August 12, 2020, in compliance with NYS Town Law, the Planning Board held a public hearing on the current application and completed a formal review of the application; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approves the requested site plan approval with the following conditions:

1. Site Plan Approval with conditions specified herein is valid for a period of 180 days from today. Once all conditions of Site Plan Approval have been met and shown on revised drawings including the revision dates, the Planning Board Chairperson will then sign the Site Plans.
2. No signage associated with this project has been approved. Separate approval by the Planning Board is required for all signage.
3. All conditions as required by the Planning Board as part of Special Use Permit approval are required to be addressed prior to the issuance of permits.
4. The Town Engineer review letter dated September 22, 2020 is to be addressed prior to the site plans being signed by the Planning Board Chair.
5. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
6. If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of York Planning Board holds a hearing on same as provided for herein.
7. The site plans are to be revised to add a note stating that the light on top of the telecommunications pole is to remain.

The above RESOLUTION was offered by David Dermody and seconded by Chris Wall at a regular scheduled Planning Board meeting held on September 23, 2020. Following discussion, a voice vote was recorded:

Alan Brightman	AYE
Chris Wall	AYE
David Dermody	AYE
Davies Nagel	AYE
Joe McIlroy	AYE

Alt – Zach Kobylanski

I, Donna Falkner, Clerk of the Board, do hereby attest to the accuracy of the above RESOLUTION being acted upon and recorded in the minutes of the Town of York Planning Board for the September 23, 2020 meeting.

Donna K. Falkner

Donna Falkner, Clerk of the Board

Mr. McIlroy - Okay, we will move on to OYA and again start with Lance's comments.

Mr. Brabant - so based on our last board meeting that we had, we were in a position to potentially go through SEQR and site plan. However, there were some questions in response to their response letter to that MRB letter at that time, there were some concerns and clarification items that we wanted them to clarify. Probably the most important one being a decommissioning agreement be written and provided for review and approval by the town attorney. Since then, they've provided a response, revised response to the previous one, basically stating that they're okay with those previous comments with the clarification that we had, and that they were in agreement with accepting and reviewing the decommissioning agreement that would be provided to them for review, and ultimately approval. I don't know if they have a representative on site,

Ms. Falkner – there's two of them.

Mr. Brabant - do any of them want to I don't know if they have anything to add to that.

Mr. Rasmussen - Good evening, everyone. Thanks for having us again. We brought a sample or a template decommissioning agreement to town lawyer, he returned it yesterday. So, a few details I think we have to review and send to our landowner, but I think we're in agreement on the need for it. And it's just the last final details.

Mr. Campbell - Okay, so what he said that they sent me a template to work with for the decommissioning agreement that I made some substantive changes, sent them out to them yesterday, they're still in the process of reviewing it, and talking with the landowner about it. But they agree that it's a necessary document and we're moving forward with that.

Mr. Brabant - Correct. And MRB group did issue a statement, our review letter on September 16, in response to what was received, that basically summarizes that that's one of the items were required by the board and staff. I believe all of them are MRB's comments with the consideration that we're still going to the decommissioning agreement with the attorney, I don't have any issues at all about the board potentially moving forward with SEQR and or the site plan approval.

Mr. Nagel - one issue was that Terry was in contact with whoever designates the soil as prime and didn't hear anything back from that.

Mr. Rasmussen - So I can update you on that there's not much update, you know, we've reached the USDA. They initially didn't want to do anything, review of it. Then Davies also reached out, which was a little bit helpful, which least got them to reconsider their story considering that we also reached out to the Soil and Water board, who had a response basically recommended the town hire their own soil expert to review the report, which if they if the town is interested in we'll provide the funds for that. Those are kind of the two options we're left with right now like the USDA may or may not step up. The other option would be to hire a third party and go that route.

Mr. Nagel – couldn't hear what he said

Mr. Campbell - So USDA didn't really take any action. Right, Terry?

Mr. Rasmussen – they said they would reconsider taking action but haven't gotten back to us on what their final decision is.

Mr. Campbell - are taking action, but they haven't gotten back to OYA. That the other suggestion was that the town hire its own expert to evaluate the soil analysis that's been done. And make a determination on that. And if that's the way the town wants to go, they'll pay for the consulting fees associated with that.

Mr. Nagel - Is that something that would hold the process up by not having that zoned. Because that changes where they would put the array.

Mr. Campbell - Right, so Terry, correct me if I'm wrong, but I think OYA's position is that they would like to move forward with the project as the plans are today to secure approval so that they can move on getting your place in the queue with the interconnection and funding and all that kind of stuff. If, after approval, there's a determination made, that there's areas that are not prime, even though they show on the map as being prime and the location could be moved, they will be willing to consider that. Is that a fair statement? Terry?

Mr. Rasmussen - Yeah, I just add that would be more than willing to consider that. But that was a very good summary.

Mr. Campbell - They'd be more than willing to consider that. So, you know, they don't want to be cutting the trees if they don't have to, easier to build on cleared land, right?

Mr. Rasmussen - Yes.

Mr. McIlroy - I don't know what kind of timeframe you would, you know, get things moving on something like that, or how we go about that?

Mr. Campbell - Well, here's how you go about it. Let's just assume for a moment that all other issues are resolved, and approval would be granted say tonight and subsequent tonight, but before shovels go in the ground, that process of analysis takes place, there's a determination made that it's not actually prime soils, that has to be made by someone. Right, then probably it's a town board issue, not a planning board issue. Because the town board legislatively has referred to the match, right. So if that were to be done, and everybody agreed that we're going to move the location of the installation, to get all or most of it out of the woods, or what would be woods, it would require an amendment to the site plan for those purposes. So, they'd have to get some additional mapping done. And they wouldn't be starting back at the beginning. But they did have to address whatever new issues might arise as a result of the change in location, provide adequate mapping and really a new site plan that shows the location of all the improvements. I don't, I'll be perfectly honest with all of you and the applicant. I don't know how likely it would be that that process would gain any real momentum. You know, there's some concern about the fact that we've established a certain set of regulations legislatively, by local law, we've codified it using a map. The whole purpose for doing that was because it's not subjective, it's objective, anyone can look at it. And we're not making exceptions. We're not treating different applicants' different ways. Once you start to vary your established rules, there's a vulnerability that gets built in with that and it becomes less defensible from my perspective legally. So, I can't tell you or the applicant, regardless of my agreement with you that it's better not to tear down the trees. If you don't have to, I can't tell you that I can really strongly advocate for the town changing its legislative structure on a piecemeal application basis.

Mr. Nagel – key would be whatever federal agency comes in and says its different

Mr. Campbell - We were wrong, we were wrong, the classification that we had it listed under there really is not applicable now that we've done specific soil sample surveys, and we're going to change the map, I'd be okay with that. If the map changes, what I struggle with is getting an expert who suggest that the findings that resulted in that map are inaccurate, you know, so it will we're an agency thing, and they came in and said, Yep, we acknowledge that this particular parcel, because the mappings not perfect, right? They were done a long time ago, even though they've been updated before things like laser and GPS. And, and, you know, although that the accuracy still holds up pretty well, they might find that the mapping was not accurate with regard to this particular parcel, that would be a different story. For my perspective.

Mr. McIlroy – what happens if remaps the whole parcel? Not remaps but retest? Let's go back with a testable parcel. Because if you test whole parcel you could find out you have more prime, and you can lose more. There's the other side of that.

Mr. Campbell - Yeah. And I don't know what the process would be. These things don't happen with any frequency. As most of you know, those maps have been around since the late 40s, early 50s. They don't change a lot. The fact that they are changing somewhat now is somewhat of an anomaly. It doesn't happen very often.

Mr. Dermody - Because the federal government, with Trump...

Mr. Campbell - I think that the federal government wouldn't be particularly interested or probably wouldn't care, if we made a determination that was contrary to their established classifications, in the context of an application like this. That's not the issue. For me, the issue is, we set the precedent for creating an exception to the challenge to what we try to do objectively, you know, this is something we didn't put together, we didn't build it. This is something that's based on years and years of history, it gives us some reliability. That was part of what appealed when we came up in a...

Mr. Nagel – It may point out a situation, because other people may come along and say, I want my few hundred acres ... so it may indicate a problem down the road that we should take a look at...

Mr. Campbell - And that happens, you're keeping in mind when we drafted the local law and the solar regulations. And Terry and I've talked about this, and he can appreciate this, I think I write things all the time. And we try to think about all the what ifs. But until you start applying the local laws to specific real factual situations, you really just don't know. You don't know how effective they are aware or where the shortcomings might be in, I'm going to be suggesting to the town board that it's time to probably look at making some modifications to our solar regulations. I'm doing that with all the communities I represent. And it's been a year, it will be a year in December that we adopted the second version. But the industry is changing. We're learning through actual applications. And so that will be the kind of thing that I think would make sense to have.

Mr. McIlroy - Again, we're working with the laws today,

Mr. Campbell - right? And so is the applicant, what is doing that, you know, and what comes in terms of next projects, once we have some modifications to local law, hopefully works better and we accommodate more of these potential issues.

Mr. Rasmussen - And Jim, just on this specific issue, the Soil Survey is done by mapping. There's nobody ever done, never ever goes on site to assess this. And it was never intended to be used as a planning tool. Because the accuracy of it is just isn't there. So, what our consultants who did is they use the USDA protocols, their own protocols to assess the on-site soils. So, you know, the mapping shows that it's prime but their own test methods show that it's not. And I think the problem that USDA is struggling with right now is that they're recognizing now, that this is being used as a planning tool, and they don't have a mechanism for addressing the shortcomings or the errors that occur when they do this. So, I think that's part of the problem, why we're getting such a hard time from them to, you know, look at our issue.

Mr. Campbell - Well, and that makes sense. And those maps in the soil classifications that show up on those maps have always been used, maybe not as a planning tool or zoning tool in the context of this kind of development. But from an agricultural development standpoint, they've been used, know, for decades and decades. But it just didn't have the kind of impact that we're seeing now. So, this is I'm sure you're right, Terry, this is new to USDA, and probably not at all welcome development.

Mr. McIlroy – funding needed to go back and redo it. I mean, that's probably going to be the reality.

Mr. Campbell - But I think it is the same answer. Your initial question is a possibility that before the system is actually built and erected on the ground, that there might be an option yet there might be just it's hard to speculate on whether or not it would be a comfortable position for the town.

Mr. Nagel – it's worth gambling

Mr. McIlroy - Oh, absolutely.

Mr. Campbell – It's surely worth exploring. And I think it's worth talking to the town board about, remember, the town board has limited experience, you're far more experienced by this point, your second round of a real project then the town board is so they would benefit from your, your feedback, educating them? Well, here's what we found the things that were challenging for us. Here's some things we'd like you to take a look at and that might be one.

Mr. McIlroy - Any other questions or comments?

Mr. Campbell - Terry, we're just getting some documentation to the board members. So, we can go through SEQR.

Mr. McIlroy – this decommissioning plan has been cleared up as far as you're concerned.

Mr. Campbell - Right. I think if you're inclined, if you go through seeker, you're trying to move forward with approvals on the project. One of the contingencies or conditions would be finalization of the decommissioning agreement, as well as the pilot post benefit agreement, that kind of stuff, which I think Terry needs back. Right.

Mr. Rasmussen - yeah, that would be acceptable to us.

Mr. Campbell - So I think the first step will be if you nobody has any other questions to go through SEQR and because I did last one, Lance is going to do this one. Divide and Conquer buddy

Mr. McIlroy – Everybody good with moving forward? So first we would have to declare lead agency.

Mr. Brabant - First one, RESOLUTION for your consideration is designating this board as the lead agency for completing this Environmental Action.

Lead Agency for OYA SEQR

WHEREAS, the Town of York Planning Board (hereinafter referred to as Planning Board), is also considering a Special Use Permit & Site Plan approval for the construction of a 5 megawatt (MW) alternating current (AC) (7.5 MW) direct current [DC]) solar photovoltaic facility on approximately 103-acre property parcel with parcel ID 41.-1-46.112, located east of Main St (NY Route 36) between York Rd E. and Mt. Pleasant Road, Town of York, Livingston County, New York, and as described in the Site Plans last revised June 16, 2020 and all other relevant information submitted as of September 23, 2020 (the current application); and

WHEREAS, the Planning Board has determined the proposed action referenced above to be a Type 1 Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has on Wednesday, May 27, 2020 declared its intent to be designated the Lead Agency for the proposed Action under the provisions of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS the application was amended to remove the solar panels from the designated prime soils as delineated on the updated Prime Soils Mapping provided by Livingston County; and

WHEREAS the Planning Board on July 10, 2020 provided amended notices to this effect to the involved and interested agencies; and

WHEREAS, the Planning Board has not received any written objections from the involved agencies to the Board's being designated as the lead agency under the SEQR Regulations; and

WHEREAS, the Planning Board has previously determined that it is the most appropriate agency to ensure the coordination of this Action and for making the determination of significance thereon under the SEQR Regulations.

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby designate itself as the lead agency for the Action identified above herein.

The above RESOLUTION was offered by Davies Nagel and seconded by David Dermody at a regular scheduled Planning Board meeting held on September 23, 2020. Following discussion, a voice vote was recorded:

Alan Brightman	AYE
Chris Wall	AYE
David Dermody	AYE
Davies Nagel	AYE
Joe McIlroy	AYE

Alt – Zach Kobylanski

I, Donna Falkner, Clerk of the Board, do hereby attest to the accuracy of the above RESOLUTION being acted upon and recorded in the minutes of the Town of York Planning Board for the September 23, 2020 meeting.

Donna K. Falkner

Donna Falkner, Clerk of the Board

Mr. Brabant - Okay, so now we're going to do our part two, full EAF part two, like before if you have any questions, I'll do my best to answer for you. But we'll start with each subsection, giving you the comment. And then you guys verbalize whether you said no or yes. And then we move into the subcategories, whether there's a potential impact, noting whether small or moderate to larger.

First category 1) impact on land. proposed action may involve construction on our physical alteration of the land surface of the proposed site. Answer - Yes

- a) The proposed action may involve construction on land where depth to water table is less than three feet. No or small impact
- b) The proposed action may involve construction on slopes of 15% or greater. No or small impact
Mr. Nagel – Any removal of a number of those trees that are 15% or more could increase erosion. Could increase quite a bit because of huge gully close to the operation.
Mr. Dermody – Terry said they can't build on a slope. So, don't think they would want to incur the cost of removing trees there.
Mr. Brabant - I believe the tree removal is not in that specific location. To further answer that question, when any erosion they are going to have an accurate permit that you cannot have this track of sediment from your site entering any of our water bodies or offers, that they have plenty of control measures and showed them plans that meet those standards that we also cleared, reviewed, approved and covered by SWIPP.
Mr. Rasmussen – There's also the SPDS permit we'll need to get from DEC as well
- c) The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface. No or small Impact
- d) The proposed action may involve the excavation and removal of more than 1,000 tons of natural material

Mr. Campbell - I think you want to you want to read this carefully where it talks about involve the excavation and removal. I think excavation is really the operative term here. My understanding of what this particular section deals with from a DEC standpoint, is soil, gr, bedrock. It's stuff that you dig up, not necessarily just any natural material. That's my, my understanding of it, because it's talking about land surface. Yeah, I mean, the big thing impact on land is physical alteration of the land surface of a proposed site. So, we've talked about excavation, you're changing the surface drainage. Well, the whole point is to generate this discussion. Right? That that's what they want, don't want it to be too easy. Because you're supposed to be undertaking a meaningful look, a hard look at the environmental possibilities related to the proposed action.

Mr. Brabant – I don't believe there's a wrong or right answer. It's an answer that you guys support.

Mr. Campbell - I think if you look at everything else in A through G, all you really, the flavor of it would suggest that it's surface. It's dirt, it's ground. You're talking about erosion, you're talking about bedrock, you're talking about slopes, you're not talking about the flora or fauna, which is another question. No or small impact

- e) The proposed action may involve construction that continues for more than one year or in multiple phases. No or small impact (after discussion about it)
- f) The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides) No or small impact
- g) The proposed action is, or may be, located within a Coastal Erosion hazard area. No or small impact
- h) Other impacts: _____

Mr. Brabant - Okay, moving on, 2. Impact on Geological Features. The proposed action may result in the modification or destruction of or inhibit access to any unique or unusual landforms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1.E.2.g) Answer - No

3. Impacts on Surface Water. The proposed action may affect one or more wetlands or another surface water bodies (e.g. streams, rivers, ponds, or lakes) See Part 1.D.2, E.2.h) Answer - Yes

Mr. Wall – there is a wetland here

Mr. Brabant – there are wetlands on the site. So, then we go into the subcategories

- a) The proposed action may create a new water body. No or small impact
- b) The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water. No or small impact
- c) The action may involve dredging more than 100 cubic yards of material from a wetland or water body. No
- d) The proposed actions may involve construction within or joining a freshwater or tidal wetland or in the bed or banks of any other water body.No
- e) The proposed action may create turbidity in a water body, either from upland erosion, runoff or by disturbing bottom sediments. No
- f) The proposed action may include construction of one or more intakes for withdrawal of water from surface water. No
- g) The proposed action may include construction of one or more outfalls for discharge of wastewater to surface waters. No
- h) the proposed action may cause soil erosion or otherwise create a source of stormwater discharge that lead to siltation or other degradation of receiving waterbodies. No
- i)the proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action. No

Mr. Brabant - I think that this might help if there is concern of that, again, there is permits that they have to obtain and be compliant with it. They specifically say they can't do that doesn't mean that it couldn't happen. But it just means that they're not allowed to, and they'll be monitoring to make

sure, that doesn't occur.

- j) The proposed action may involve the application of pesticides or herbicides in or around any water body.

No

k) The proposed action may require the construction of new or expansion of existing wastewater treatment facilities. No

4. Impact on groundwater - the proposed action may result in new or additional use of groundwater or may have the potential to introduce contaminants to ground water or an aquifer.

No

5. Impact on Flooding – the proposed action may result in development on lands subject to flooding. No

6. Impacts on Air – The proposed action may include a state regulated air emission source. No

7. Impact on Plants and Animals – The proposed action may result in a loss of flora or fauna. Yes

a) The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the federal government, that use this site, or are found on, over or near their site.

Mr. Brabant - there is no documentation that suggests there are any threatened or endangered species.

Mr. Nagel – How was it done, do they just look at a map and do they actually do the research.

Mr. Brabant - there's an eagle's nest in my tree, if documented for it. They identified species in certain

areas during certain time periods that they documented. I think there's certain areas that have lakes and others that have certain vegetation growth. I think it's a lot of investigative reporting.

Mr. Nagel -DEC working with OYA to determine this?

Mr. Brabant – not OYA, but DEC, when they when they completed their mapping their recordings, and then OYA went through and completed the EAF and populated their website or their location, all the all the dots of where these things are concerned, are not anywhere on your site.

Sometimes what happens when they complete these things when they complete these is that it doesn't necessarily mean that it's on this site, it could be around the area, which in this case it is There was a process that was documented whether or not there's any of these species.

Mr. Rasmussen - Just clarify, because we consulted with the DEC directly on this, we had biologist visit the site and, you know, both them and the DEC concurred that there is no endangered species,

threatened species of concern or habitat present.

Mr. Brabant - so a is No or small impact

b) The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened, or endangered species, as listed by NY state or the federal government. No

c) The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the federal government, that use the site, or on, over, or near the site. No

d) The proposed action may result in a reduction or degradation of any habitat used by any species of special concern or conservation need, as listed by New York State or the federal government.

No

e) The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect. No

f.) The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. No

g) The proposed action may substantially interfere with nesting/breeding foraging, or over-wintering habitat for the predominant species that occupy or use the project site. No

Mr. Nagel – expressed concern with this and how anyone would know

Mr. Campbell - If you were talking 17 acres of forest in New York City in Central Park, it would be

different than a more rural kind of setting? I mean, there's an impact, but whether it is small, moderate or large, is not particularly obvious. I hate to say it, they're up to you to answer, but I recognize the reluctance to answer something.

Mr. Wall - it's pretty easy to probably say that it would be a small impact, but they have an American total list on here. I have no idea of that, you know,

Mr. Campbell - It would if it were an endangered or threatened species, or something very unique, you know, it, the habitat happens to be just this part of the state of New York, just this little part of the geography of world.

Mr. Brabant - So there was an initial plan, right, it said hey, this area has some potential for endangered species and the applicant that would be seen in an investigation and investigations documented that there is no record of any special concern that they felt was worth protecting. If they did, they would have documented and said okay, sorry, like you cannot clear or do anything in this area.

Mr. Campbell - you know, in geographically, these 17 acres of woodlot is additional lot as part of the

property or contiguous to the property because you, you might relocate some of these animals, but you're not necessarily removing a habitat to the point that it's going to create a negative impact. I don't I'm not familiar enough with the property, I know generally where it is, but you know, the landscape overall better. You know, in a lot of these animals, you know, deer range over five to seven miles. Right? They rarely stay in one place. So, you know, are they moving? Will it cause them to shift location from this particular area to more north or south or some other contiguous or contiguous woodlot?

Mr. McIlroy - We're talking about birds in g are way more so, the nesting and overwintering of the predominant species? Because when you drop down into a more,

Mr. Campbell - I throw that out there only if it's helpful in determining whether it's a small impact, versus a moderate to large. Right. You know if you're, you got 1000 acres of tropical rain forest, and it's being mowed down, and there's nothing else around. You know, it's in stark contrast to a certain amount being cut out and other stuff left. That's the notion thrown out there for you.

Mr. McIlroy - How many acres are on the photo site?

Mr. Dragani - 104 or 105

No

h) The proposed action requires the conversion of more than 10 acres of forest, grassland, or any other regionally or locally important habitat.

Discussion regarding the 10 acres and different opinions.

Mr. Campbell - Look, you're going to have differing opinions. Going around and getting, doing the straw poll tells you where you stand. You don't have to vote on it. It's a discussion. Believe it or not, it's not so much the answers. It's the process of undertaking the discussion and taking a hard look at it.

Mr. McIlroy - I mean, this is what's in front of us. It gives. Now you know what you want to work on for solar laws.

Mr. Brabant - Things that you guys just say? Okay, environmental review. Yeah. Move on to the next

part, you you've conducted a thorough evaluation of the potential impacts associated with these categories.

Mr. Campbell - Yeah, the discussion is a good thing. The disagreement is a good thing. Not a bad thing in this case. I mean, I would suggest you we're hearing is that the majority of the board would

say small impact. That's probably where you end up on the document doesn't that's not required to change anybody's mind. But the processes intended to cause you to think about overall when you look at these things collectively is this project as proposed, going to have a significant negative environmental impact. Overall looking at each of these facets. The discussion is intended to try to get you comfortable with the fact that it's not or if it is, overall looking at each of these facets, and requires an additional level of environmental review, which is called a draft environmental impact statement is a big huge process. You know, everyone in this room and those participating Terry and Yogish, they know that there's concern about the tree removal, they would prefer not to do it as well. And, you know, the discussion about this issue has led to the possibility of other options, right, if we can figure out how to make them happen. So, I see that as a victory. I don't think there's really a right or wrong answer between small and moderate.

- Mr. Brabant - All right, not too small for h, Answer - yes.
- i) Proposed action (commercial, industrial, or recreational projects, only) involves the use of herbicides or pesticides. No
 - J) Other Impacts: USFWS: Short-eared Owl No

Mr. Brabant - 8. Impact on Agriculture Resources – The proposed action may impact agricultural resource.

- Yes
- a) The proposed action may impact soil classified within soil group 1 through 4 of the New York State Land Classification System. No to small
 - b) The proposed action may sever, cross, or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchards etc.) No to small
 - c) The proposed action may result in excavation or compaction of the soil profile of the active agricultural land. No to small
 - d) The proposed action may irreversibly convert agricultural land to non-agriculture uses either more than 2.5 acres if located in an Agricultural district, or more than 10 acres if not within an Agricultural District. No to small
 - e) The proposed action may disrupt or prevent installation of agricultural land management system No to small
 - f) The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland. No to small
 - g) The proposed project is not consistent with the adopted municipal Farmland Protection Plan. No to small
 - h) Other Impacts No to small

Mr. Brabant – 9. The land use of the proposed action is obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. No

10. Impact on Historic and Archeological Resources – The proposed action may occur in or adjacent to a historic or archaeological resource.

Mr. Brabant - The site is within an archaeological sensitive area requiring a no effect finding letter from SHPO. I can't recall specifically but was a "No Effect Finding" letter already provided?

Mr. Rasmussen - No, actually we're just were awaiting it from SHPO we've provided all the information they requested and we're just waiting for their final sign off.

Mr. Brabant - But coordination has begun like with the other project.

Mr. Rasmussen - yes.

Mr. Brabant - All right. So, 10 would be yes

- a) The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places. No to small
- b) The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory. No to small
- c) The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. No to small
- d) Other impacts No

11. Impact on Open Space and Recreation -The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. No

12. Impact on Critical Environmental Areas – The proposed action may be located within or adjacent to a critical environmental area (CEA) No

13. Impact on Transportation – The proposed action may result in a change to existing transportation systems No

14. Impact on Energy – The proposed action may cause an increase in the use of any form of energy. No

15. Impact on Noise, Odor, and Light – The proposed action may result in an increase in noise, odors, or outdoor lighting No

16. Impact on Human Health – The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. No

17. Consistency with Community Plans – The proposed action is not consistent with adopted land use plans. No

18. Consistency with Community Character – The proposed project is inconsistent with the existing community character. No

Mr. Brabant – so that being said, this board has completed the environmental review of this EAF part 2, and I believe in the last one we had a motion to accept that EAF part 2.

Mr. Campbell – Yeah, to adopt those as the official findings.

Mr. Brabant - So I don't have that RESOLUTION yet, but if you could make a motion for it.

RESOLUTION:

Mr. Dermody moved to accept this as official findings, Mr. Brightman seconded, all in favor, carried.

Aye – 5 Nay - 0

Mr. Brabant - Before we can complete and sign off on a Full EAF Part 3, I have a RESOLUTION for the determination of significance, which runs through those same categories identified within the Full EAF that this board has made a determination based on your review of application and materials, and Full EAF that the proposed action will not result in any significant adverse environmental impacts. The final result of the planning board hereby makes a determination of non-significance of the proposed development hereby directs the chairman to sign the full environment assessment form part three and issue the negative declaration as evidence for the planning board's determination. I need to first and a second for that.

Mr. McIlroy – we need a motion to declare a negative declaration.

Mr. Dermody moved that we declare a negative declaration. Mr. Brightman seconded, all in favor, carried.

Aye – 5 Nay - 0

Mr. McIlroy - now we need a motion for the chairman to sign it.

RESOLUTION:

Mr. Wall moved that the chairman sign the Negative Declaration, Mr. Dermody seconded, all in favor, carried.

Aye – 5 Nay - 0

Mr. McIlroy - Oh, moving forward, the next thing is the special use permit.

Mr. Brabant - Yes, I did, I drafted up a special use permit RESOLUTION for your consideration. In summary, it identifies that this board has completed a review of the SEQRA, and the board held a public hearing on August 12, in accordance with the New York State law.

In compliance with NYS Town Law and the regulations of the State Environmental Quality Review Act (SEQRA), a determination of significance and a negative declaration was adopted by the Town of York Planning Board on August 26, 2020; and

WHEREAS, on August 12, 2020, in compliance with NYS Town Law, the Planning Board held a public hearing on the current application and completed a formal review of the application; and

Mr. Brabant - Now therefore be resolved the planning board does hereby approve the special use permit.

Mr. McIlroy – Do we need to read through it.

Mr. Brabant - So for the record, like with your previous solar project, they're all pretty much the same condition that were there and going through the special use permit process. The one change that we made to this is that number nine, I had I had identified previously that the decommissioning statement be signed but based on our evaluation from last month's meeting that the decommission agreement is going to be signed by all parties and filed with the town clerk's office prior to receiving the permit.

OYA SUP APPROVAL RESOLUTION

WHEREAS, the Town of York Planning Board (hereinafter referred to as Planning Board), is also considering Special Use Permit Approval & Site Plan approval for the installation of a 5 MWAC solar array with an access drive provided for service and emergency vehicles and a security fence with privacy slats and vegetation screening to encompass the solar facility, as described in the Site Plans last revised July 6, 2020 and all other relevant information submitted as of September 23, 2020 (the current application); and

WHEREAS this application was required to be forwarded to Livingston County Planning Board for review and comments were received; and

WHEREAS, the Town of York Planning Board has classified the above referenced Action to be a Type I Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, in compliance with NYS Town Law and the regulations of the State Environmental Quality Review Act (SEQRA), a determination of significance and a negative declaration was adopted by the Town of York Planning Board on August 26, 2020; and

WHEREAS, on August 12, 2020, in compliance with NYS Town Law, the Planning Board held a public hearing on the current application and completed a formal review of the application; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approves the requested special use permit with the following conditions:

1. The special use permit shall remain in effect for the current owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval, Town Code, and Local Law No. 2 of 2018 and Local Law No. 6 of 2019.
2. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the Special Use Permit is being operated in accordance with the conditions specified by the Planning Board.
3. In the event of any complaints about the Special Use Permit being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Planning Board.

4. Before beginning operations, the subject property will be subject to inspection by the Town Code Enforcement Officer to determine compliance with Town Code requirements and conditions of this approval.
5. No signage associated with the Special Use Permit has been approved. Separate approval by the Planning Board is required for all signage.
6. All conditions as required by the Planning Board as part of Site Plan approval are required to be addressed prior to the issuance of permits.
7. Special Use Permit approval is conditioned on the OYA Solar Operations & Maintenance Manual last revised June 25, 2020, revised per the Town Engineer letter dated August 25, 2020, and as discussed with the Planning Board.
8. Special Use Permit approval is conditioned on the OYA Solar Decommissioning Plan last revised June 25, 2020, revised per the Town Engineer letter dated August 25, 2020, and as discussed with the Planning Board.
9. The decommissioning agreement is required to be signed by all parties and filed with the Town Clerks Office prior to issuance of permits.
10. Special Use Permit approval is conditioned on the Stormwater Pollution Prevention Plan (SWPPP) for OYA Solar last revised June 20, 2020 and again as per the Town Engineer letter dated August 25, 2020. No permits shall be issued until the NYSDEC Acknowledgement letter has been received by the Town Building & Zoning Department.
11. Prior to obtaining a building permit, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of York at its discretion) for the removal of the Type 2 Solar Energy System, with York as the designated assignee/beneficiary, in an amount to be approved by the Town Engineer based on their review of the Decommissioning Cost Estimate submitted by OYA Solar, Inc.
12. The Decommissioning bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal.
13. Each year after the OYA Solar has been constructed, and no later than ten (10) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of York Building & Zoning Department & Town Clerk with written confirmation that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.
14. After completion, the Applicant shall provide to the Town of York Building & Zoning Department a post- construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
15. Prior to issuance of a permit the applicant shall enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9. (a).

16. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
17. The owner/operator is responsible for maintaining and replacement of all trees and landscaping as depicted on the approved site plans for the life of the project. All identified trees and landscaping in need of replacement are to be replaced by the following growing season. The applicant has agreed to install all trees at a min height of 8' at planting and if to be replaced.
18. ACOE and NYSDEC permits are to be obtained and provided to the Town of York prior to issuance of permits.
19. The plans are to be revised to identify that all trees are to be planted at a min height of 8'.
20. If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.
21. If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of York Planning Board holds a hearing on same as provided for herein.

The above RESOLUTION was offered by Chris Wall and seconded by Alan Brightman at a regular scheduled Planning Board meeting held on September 23, 2020. Following discussion, a voice vote was recorded:

Alan Brightman	AYE
Chris Wall	AYE
David Dermody	AYE
Davies Nagel	AYE
Joe McIlroy	AYE

Alt – Zach Kobylanski

I, Donna Falkner, Clerk of the Board, do hereby attest to the accuracy of the above RESOLUTION being acted upon and recorded in the minutes of the Town of York Planning Board for the September 23, 2020 meeting.

Donna K. Falkner

Donna Falkner, Clerk of the Board

Mr. Brabant - I do have in there for the record that they have to do number 15 prior to issuance of a permit, the applicant shall enter into the contract with the town.

Mr. McIlroy - I wasn't able to make the walk at the time, but it was pretty much predetermined that we didn't need any screening anywhere.

Mr. Brightman - There's just a small section which is on the plan.

Mr. McIlroy - okay, so you're happy with that?

Mr. Brightman - Yes

Mr. Brabant - Just based on that I do have any plans that are identified that all trees planted to be minimized to 8 feet to be consistent with what we've done? That was number 19.

Mr. McIlroy - Do I have a motion to approve the special use permit with conditions?

RESOLUTION:

Mr. Brightman move to approve the special use permit with conditions for OYA. Mr. Wall seconded, all in favor carried.

Aye – 5 Nay - 0

Mr. Brabant - Now site plan approval, likewise, summarizes that we've completed our environmental review. And now therefore, the board does hereby approve the site plan approval with the following 17 conditions.

Don't believe there's anything that's not on the site plan conditions of approval? That's not a special use permit? approval?

Mr. Rasmussen - Hey, Lance, can I just ask one question? In the original RESOLUTION, you drafted, you said there's a six-month timeframe to pull a building permit and 12 months to construct the facility? Has that been changed to 12 and 24 months?

Mr. McIlroy - I think we actually do.

Mr. Campbell – You can change that

Mr. Brabant - So with that being said, it's 12 and 24. I'll have to go through and make that change to 12 and 24 as requested.

Mr. Rasmussen - Thank you very much.

Mr. Campbell – we will confirm that, Terry, just to make sure. All right. Whatever the adopted local law says,

Mr. Rasmussen - Yeah, the 2019 law says 12 months for the building permit and 24 for the construction, but please do confirm that.

Mr. McIlroy – yeh, it's on page 8 of Solar Law #16. Once obtaining the building permit within 12 months of such approval, the applicant shall complete the construction site plants system within 24 months.

Mr. McIlroy - So at this point, do I have a motion to approve the final site plan with the conditions?

RESOLUTION:

Mr. Dermody moved to approve the final site plan with the conditions. Mr. Wall seconded, all in favor, carried.

Aye – 5 Nay – 0

Mr. McIlroy - Thank you, everybody.

Mr. Campbell – Terry, you asked that the chairman of the board sign a confirmation of local land use promo devalue sugar four.

Mr. Rasmussen - Yes. If possible, that'd be greatly appreciated.

Mr. Campbell - Yeah, I did mark on it just said the approvals were subject to the decommissioning agreement being signed and the pilot.

Mr. Rasmussen – Absolutely. I just thought I want to thank you guys very much for this, it has been a great experience for me. And, you know, I really do hope that I get to speak with you guys all again soon.

RESOLUTION:

Mr. Dermody moved to adjourn at 10:16 pm, Mr. Wall seconded, all in favor, carried.

Aye – 5 Nay - 0

Respectfully submitted,
Donna K Falkner
Clerk