

PLANNING BOARD

Town of Lewiston 1375 Ridge Road Lewiston New York
Thursday – April 21, 2022
PB 2022-4

Present: Baker, Burg, Conrad, Lilly, Taczak, Waechter

Absent: Lattanzio

Presiding: Will Burg, Chairman

Burg: Welcome to the Planning Board for the Town of Lewiston, Thursday, April 21st.

Roll Call

A motion to approve the minutes of March 2022 was made by Conrad, seconded by Lilly and carried.

The first item on the agenda was a Public Hearing for Site Plan/Special Use Permit for Sanborn Area Historical Society Solar Farm.

Marc Kenward, Erdman Anthony Consulting Engineers on behalf of the applicant and Borrego Solar. Steve Long is with Borrego. The proposed project will construct and operate a 5-megawatt ground mounted community solar energy system at 2660 Saunders Settlement Road, Route 31, in the Town of Lewiston. The site is located on the south side of the road approximately 650' west of Bridgeman Road. The site has historically been used as tilled farm land. Although in the last 2-3 years the central portion has remained fallow and is reverting back to brush. The land at the southern portion and along the north west portion of the property are still actively tilled farm land. The area (map) down in here that's actively tilled and up in here is still actively tilled. The subject parcel has, the site area is about 59.5 acres. The subject parcel has 1,165' of frontage on Saunders Settlement Road and is approximately 1,952' deep. The project itself will encompass 22.7 acres at the central and southern portion furthest from Saunders Settlement Road. The two fenced arrays total 23.53 acres. There is also approximately 1.5 acres of access driveway from Saunders Settlement Road. It's along the east side here and curves in to the middle of the proposed array. In the end there is .82 acres of permanent top soil storage and approximately .03 acres of vegetative screening along the eastern side of the array at the north west corner and the south end of the array. This consists of 2 rows of conifer pine trees at a 12' spacing to help screen the array from public view and the view of the back yard of houses along West Street in the hamlet of Sanborn. Access to the fenced solar array will be way of a 20' wide crushed stone driveway off of Saunders Settlement that follows the same lane as an existing farm lane along the eastern edge of the site. The driveway will be extended further south to reach both the northern and southern solar arrays.

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We have two arrays because there is a stream that crosses through the site right here. We have a portion of the site north of that stream and a portion of it south. Each side of the stream is fenced. Poles and electrical wires needed for the interconnection with National Grid are located along an old access farm lane, out here near the intersection of West and Niagara Street. It's actually set back several hundred feet away from that intersection so the interconnection poles are still in agriculture/residential zoned land and property zoning for solar. From that pole farm inter-connection, the lines will be buried and extend underground up to a pole at the corner of West Street and Niagara Street where the actual point of interconnection occurs. Utility scale projects such as this one are allowed and regulated under the Town of Lewiston's Zoning Code. The proposed project is in a rural residential zoning district which is allowed by the Town's Zoning Code. The proposed site lay out has been designed and laid out in accordance with the Town of Lewiston's Solar Energy Zoning Code. The large-scale solar energy system design criteria includes a minimum lot size of 5 acres and a maximum lot area of 100. As I mentioned earlier this project sits on a 59.5-acre lot. The Code also has the required setbacks. The minimum front setback is 700' and this one the proposed Saunders Settlement setback is 1,234'. The required minimum side setbacks are 100' and the proposed minimum side setback is 109'. The required rear setback is 100' and we are proposing a rear setback of 103'. There's also required setbacks to existing dwellings. 250' to any existing dwelling on the subject parcel and there are no existing dwellings on the property. Dwellings are defined as places where people live and sleep, not barns or anything of that nature. There is also a requirement to have a setback of 700' to any existing dwelling on adjoining lots. The distance to the nearest an adjoining lot in this case is 1,081' which is the Wienke property along the south side of Saunders Settlement Road just to the west. There is also a requirement for 500' of setback for any existing structure on adjoining lot. The distance to the nearest structure on any adjoining lot is 935'. Lastly there is a minimum allowed height of 20' from grade level. For this site the maximum height is 9'. The Town's Solar Code also requires provisions to reduce potential impact. As I mentioned earlier, we are planting vegetative screening in the form of 9-10' high evergreen trees on the east side of the south array and also on the east side of the north array. Other Town Code requirements include a decommissioning plan which has been submitted. I want to back up and also mention that we are using in this case an 8' high fence to surround the array which is required by Town Code but we are also adding hedge link screening slats to virtually, every fence line that faces east, west and north and south. Virtually the whole fenced array will be screened with slats that look like pine garland. Some minor and limited site re-grading is proposed in the area for equipment pads. Those are set in the middle of the array. Wetlands are present on the site but impacts are very limited. Upon completion the site is within the fence will be planted to a meadow grass and the remainder of the site outside the fence will be planted with a honey bee forest glover mix. During construction the project will generate approximately 50 vehicles trips per day, which is 25 arriving and 25 exiting. This includes construction and deliveries and workers. Once it is in operation it will generate no traffic, no discernable noise and neighboring receptors, no adverse glare and no night time site lighting proposed. Maintenance activity is

limited to mowing up to 2 times per year and an occasional visit by electrical service technicians. Thank you.

Burg: This is part of the public hearing. Is there anybody that wants to speak for or against this project? Please step up to the mic, state your name and present all questions to the Board please.

Helene Petrakis, 6161 Baer Road. I do have a lot of questions. I'm concerned about 2686 Saunders Settlement Road. Mr. Kenward can you show me on that map please Saunders Settlement Road and the property that's at the front of Saunders Settlement Road that would be.....

Map

Helene Petrakis: Isn't there a home right next to that road there?

Kenward: There is an existing residence on this adjoining property.

Helene Petrakis: That is what concerns me. My concern is not so much the solar project as that is our rental property. We've maintained it for many years. We've totally renovated it and take care of the grounds. We're pretty responsible people, we have responsible tenants there. We've tried to keep them responsible when they weren't. I'm concerned about the noise, the dust, the traffic. You said there would be 50 vehicles per day in and out. That's right next to our property and right next to our tenant. In all fairness to the tenant that is paying us rent, we try to keep up our property and provide them a good place to live. This isn't something that I'm sure he wanted to deal with. We certainly don't want to deal with it. It's not so much the solar project, it's more my concern is over the tenant and our property.

Burg: Thank you. Can you address those.

Kenward: Well as I said before it's estimated that it's going to be vary a little bit, 25 cars a day, 25 vehicles a day entering and 25 exiting. There is a valid concern about dust but it's part of the SWPPP and we have to address dust control which typically done by watering. All traffic will be on the Historical Society's property. There will be no reason for traffic to even encroach that property. Up at the front here there is actually a small berm between the driveway and the adjoining property which as I understand from Mr. McCleod, president of the Historical Society, it's a berm that covers up their sewer lateral and it also helps to separate drainage so that there is no run off from the Historical Society on the adjoining property. Dust control is a valid concern but is addressed by application of water. There will be a watering truck on site to apply water in dusty conditions.

Burg: That's going to be 25 trucks in and out during construction?

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Kenward: 25 vehicles. It isn't always trucks. There will be dump trucks on occasion early on when they're putting the driveways in. There will be dump trucks, construction equipment coming in to be used on the site. There will be deliveries of materials in the form of solar panels and racking and foundation supports. Those are generally 1-2 tractor trailer loads a day. They will enter on the site down here.

Burg: You've updated us and you gave us a construction sequence. From our last meeting we were looking for the duration of the construction. Can you go in to detail on what the duration of the construction would be? What time frame are you expecting to have to be containing dust and when will the majority of the trucks or vehicles using that road during construction?

Steve Long, Borrego Solar. The construction of these sites. It probably takes 8 months total from start to end. In the beginning you're going to have some, in the first couple of weeks you're going the heavy equipment coming in to build the roads and such. After that for the next couple months you're going to have 1 or 2 trucks delivering panels. Other than that, you're going to have pickup trucks with employees coming in. It's really going to be for the first 2 months you'll have semis coming in with deliveries for racking and panels. After the first 2 months and the last 6 months you will just have pickups coming in with electricians basically pulling wires for 6 months getting everything connected. Really heavy traffic is going to be in the beginning.

Lilly: Her house, can you turn that drawing around so we can see exactly what house we're speaking of.

Kenward: It's right there which is pretty close to the property line.

Lilly: It's on Route 31 adjacent to the eastern entrance. This is 1 of 2 existing entrances to the site.

Burg: Which one is going to be the main entrance during construction?

Kenward: During construction it's this one right here because of the lines with the existing driveway and lane way here that goes back to this clump of trees. There is no good access to the site from the other entrance because of all the buildings in this vicinity.

Lilly: Are there any ever greens to be planted out there?

Kenward: The ever greens were planned down in this vicinity here and down in here.

Waechter: When do you plan on starting?

Long: We need approvals first.

Waechter: Yes, but when do you during the hot summer months or the wetter fall months?

Long: There is no real good time to start. Like Marc was saying we have to control dust. It has to be wetted down if there is high dust and is dry. It depends on the time of year and the SWPPP is supposed to be changing so it changes with conditions. It depends on the conditions. There is always a preference. We don't want to start in the winter but sometimes we have to.

Waechter: Then you typically operate 8-5, 8-6?

Long: Whatever the Town requires per code.

Masters: In the noise ordinance there is a time you can start. I want to say it's 7:00 a.m.

Long: We wouldn't ask for anything outside what the Town requires.

Taczak: If I can go back to that drawing again that you just showed us, right in that top corner, is that a parking lot in that area?

Kenward: This is a parking lot that the Historical Society put in, it's gravel surface.

Taczak: So right now, it's covered with gravel. The little bit of road way, the little bit you're going to be using from Saunders Settlement will actually be crossing that gravel parking lot until it gets in to that area there?

Kenward: Yes. This is existing gravel. We don't start our driveway until we get back here.

Taczak: What I'm saying is that part is already in there. You're not doing anything to that, not to say there's not going to be dust but you're not doing anything on that "parking lot entrance?"

Kenward: Other than driving across it and through it. We aren't planning on any excavation work until we get here. Which is south of that residence.

Conrad: With the heavier buildings coming in there would you be willing to maybe add some stone or something to maybe make it a little less dusty?

Long: It's required.

Conrad: I know it's a gravel road but there's no semis pulling in there right now. Once you get the weight of the heavier vehicle in there that stuff is going to start sinking and then you'll end up getting some wash off of dirt. It's basically maintenance.

Long: It's required for the SWPPP that we inspect it too.

Kenward: The reality is they want to make sure it's in the same condition it was when the project started. So, I suspect there will be some restorative activities for that at the end of construction.

Conrad: Just typical construction, it has to be a construction entrance regardless whether it's there or not. You will need to maintain it and maybe improve it a little bit because of the weight of the vehicles that are coming in isn't what's typical.

Burg: Anything else from the Board?

Waechter: A follow-up question from the last meeting. Did anybody ever find the property agreement?

Burg: I would like to finish his concern before we move on with the public hearing. I'm sure she will have your contact information if there is an issue with the tenant.

Helene Petrakis: Where the house is situated and the driveway is situated that these gentlemen are going to use, that's where the house sits. It's a small piece of property, maybe 10' then the berm and then the driveway. It's right next to the house. Their deck is in the back yard. It really follows very close to the structure. I don't mind what these gentlemen are doing as far as putting that solar system back there. That I understand and I think it would be very beneficial to their farm museum. I guess I just have to stand up for my tenants and our property. I thank you very much for letting me speak.

Burg: Thank you so much. Anybody else? Please state your name and your address.

Deidra Sterner, 3382 Raymond Road, Sanborn. This is my sister Helene. I am the other owner of the house on Saunders Settlement. I just want to re-state what she just said, we have no problem at all with the solar farm being put back there. I think it's a wonderful opportunity for the Historical Society. Our concern is the proximity to the house and driveway. I believe it's the only drive back to the property is right next to the living room and dining room of our house.

Burg: Is there any temporary screening that can be installed that wouldn't be too intrusive?

Long: There could be something temporarily yes.

Sterner: Can a fence or something be put up?

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Long: We could potentially put up a temporary fence during construction. After we're done with construction, they're really only going to come to the site 2-3 times a year. Maybe we could put up temporary fencing which could help.

Sterner: Our property is approximately 2 acres and we adjoin the Historical Society who have been wonderful neighbors to us. There has never been an issue and we're very happy this is happening for them. Once again protection of the house and giving the people that are in the house some privacy.

Burg: There will be a water truck on site so that will help. Can we ask for a stipulation that we take another step to protect the house in the immediate vicinity around the house?

Long: Adding some temporary fencing with screening in it.

Burg: Anything we can do.

Sterner: Something that would be appealing to the eye to the people that are living there. I don't want to see a rickety old fence.

Waechter: It's only going to be temporary so it will be something that won't be just put up or erected for the first 2 months where there is heavy construction. After the heavy construction where you're dust generation your loud noise generation, everything else, it will be taken off and basically it kind of goes back to regular use.

Sterner: The first 2 months for the heavy construction, what happens with the remaining 6 months?

Long: We can leave it for the whole duration of construction. I have no problem with that.

Sterner: I have another question for these gentlemen and I don't mean this by ignorance but I don't know the answer. Do solar panels emit any kind of anything that would be harmful to anything?

Long: No.

Sterner: Thank you.

Conrad: I have them in my back yard, a lot of them. They've been there for years.

Burg: Thank you. Anybody else? Please state your name and address.

Brian Wienke, 2652 Saunders Settlement which is directly in front of the farm. A few things, indifference to the neighbors, they're house is literally 8' from the driveway. To their point before I get to anything else, I know that for the next few months when those trucks come in and out, they're going to be bringing a lot of fill dirt with them and their trailer will be full. There certainly is going to be a lot of dirt that will be brought up from down below. I understand their concern about the dust. It's going to get pretty sick. The area where the solar panels is going to be exposed to a lot of high wind, a lot of high wind. A fence with the plastic strips through it will look pretty for a little while. To be honest with you it won't last a winter. It will be snow load; it will be brought down by drifts. It'll certainly will be plenty of farm animals to dig under or jump over and access to that area because that's what they do. You're going to see a lot of wind damage to that area because there's nothing blocking it. It goes over a mile from the high school to at least and that wind is very strong. I am a little concerned that, I don't know personally, clearly bill you know more about this than I do but I've heard concerns about property values being decreased because of solar panels. Is there any truth to that? There is a concern that with the acids used in the production of the panels, if one of them were to catch fire it could cause a toxic cloud that could require the evacuation of the area and there is literally an elementary school less than a half mile from there and straight down wind. I'm not as worried about the esthetics of it because most of that is below grade of the farm and so you're really not going to see much of it. But I am very concerned about access to the pond for the farmer that's working the land. He's been promised life time use of the property which means he desperately needs to be able to access that pump, that pond and pump water to his crops in order to make a living. That's actually a must. With regard to the farmer, he sold the property to the Historical Society with the expressed intent of keeping it a farm. His goal was that that area would always be known as a farm. A solar farm is just not a farm. It's a project but it's not agriculture. I don't know what's in the agreement of sale but I would like to look in to whether or not there was a stipulation as to the use of the property. I don't know but I hope that will be looked in to. The traffic is what it is, whether it's a pancake breakfast or a craft show, whatever you will get cars and noise and blue grass music at 6:00 in the morning pumped way too loud to any sane person to enjoy. There is a lot of nuances to the nuances. I just want to make sure that the neighbors are protected here in this situation. Frankly it's a scary thing, the projection of the solar panels leads to a combination of chemicals that are in the panels that I've been told could cause problems.

Conrad: I just want to address that one particular point. The only thing that's flammable on any of these solar panels is the frame that they used in plastic. The panels themselves don't catch on fire. Wiring could catch on fire in the insulation around the wiring. The issues that come up are whether there's battery storage on a site. That's where you get the fires, that's where you get the toxic smoke. That's one of the things that's written in the solar code is that we don't allow any battery storage for power, any battery storage for power on any of these properties unless they are in an industrial zoning. There is no sale of property, it's a lease.

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Wienke: Sale or lease, tomatoes, tomato. Honestly, use, it's all one thing or another. Do you know how these things go, you talk to somebody and next thing you know there's a lawyer right. The question I have is there going to be any compensation to the neighbors because of this solar farm that's going to be going in there? Again, the lawyer that knew a friend said that sometimes the immediate neighbors were permitted electricity from the solar panels.

Long: I can address that, it's a community solar project so you don't get direct electricity from it but you can subscribe to it which costs nothing and you will get approximately 10 percent off your electric bill. Anybody in this area can subscribe to this when it's up and running.

Wienke: The electricity is for the general area?

Conrad: It goes to the grid. Even mine just goes to the grid and I get the credits for it.

Kenward: The concern about the irrigation pond, we're avoiding the irrigation pond.

Waechter: The farmer has access to it?

Kenward: Yes, there is a path or lane along this left side. I know there is because I walked it. The irrigation pipe runs along that lane way. There is a portion of it and that lays on the ground. There is a portion that is currently in the fenced array but it won't take much to move it. The pump setup is right there.

Waechter: You are going to be relocating that for the farmer that's utilizing that?

Kenward: I don't know whether Borrego will or the farmer or the Historical Society. It's not a significant effort to move it because it's laying on the ground. It's jointed pipe, 10' lengths.

Wienke: The farmer will move the pipe if he has enough pipe because it will cause a slight change in the number of feet used.

Kenward: It's this piece here so instead of going north and west it will go south and then east.

Waechter: Construction or anything like that isn't going to damage as far as that piping system?

Kenward: No. It's a length of pipe on the ground.

Wienke: It's portable but I was worried about access. They dent easily when driven over. So, no environmental concerns immediately as far as we know? No damage to property values as far as we know?

Conrad: I think mine went up.

Wienke: Thank you.

Long: If I can just say something about the fence, what we're putting out there is a hedge link, it's not solid so air can go through it, so the wind load won't be bad. Our fence installers gave us a 25-year guarantee. If something happens, they will come back and fix it.

Conrad: Is it wired in or woven?

Long: It's woven. It's not easy to do.

Burg: Anybody else? Please step up to the mic and state your name and address.

Dave Milleville, 2598 Saunders Settlement Road. We own the property on both sides. I could not see when the first gentleman was showing exactly where the solar panels were going to be.

Kenward: We're taking the site and dividing it in thirds. There is a section that is bisected by the stream. There is an actively tilled portion south of the stream and a fallow portion that is woods and brush, north of the stream up to.....

Milleville: You're not going to take that orchard down?

Kenward: A portion of it maybe but I don't know how much of this is orchard. When I was out there this was like thick heavy brush wood. There is at least an acre or two of woods that will remain here to help with screening.

Milleville:to the north of that creek, right?

Kenward: This is the stream right here. The blue represents areas of shallow flooding from the FEMA map. We're talking a foot deep is all. We need to show this to the Board.

Milleville: Is there going to be some drainage work done?

Kenward: There are some ditches and swales we want to maintain. There are a pair of 12" culverts right here that we are replacing in kind with another 2, 12" culverts. The existing ones are metal and.....

Milleville: I recommend to the Town Board that they take a look at that drainage there before this project goes any further because I'm not concerned about the project so much as there is

some drainage work that has to be done there along both sides of that Creek. Just replacing the 12" culverts is not doing anything.

Kenward: There is new existing swales along the existing lane way here that we're calling out to be maintained as well as the swale or ditch here and then down in here on this part here it's all pretty well sloped from south down to north towards the stream. Our goal is not to change the drainage pattern.

Milleville: Not to change but to improve before you start building there.

Kenward: I guess the intent is to not change it because we're not doing agrading work here. We have the equipment pads all in upland areas, one here and one down in here.

Milleville: I would recommend that the Town clean that ditch to start off with before this project even starts.

Kenward: I walked it a year ago last December. That has been cleaned out before and it didn't look bad when I was there. I don't know if problem is up stream or downstream. It's been cleaned out in the last 10-15 years.

Milleville: In the beginning you were talking about the trucks in on the driveway. It's going to be a problem and there will be a lot more than 25. How far is that driveway going to go that you're going to build?

Kenward: It comes along the east side, swings over to the middle and then follows the farm lane in out here, in to the array, there are driveways through the array, out of the north array across the creek and in to the south array right in here. We cross from the north to south.

Milleville: That's going to be stoned all the way?

Kenward: All in here is going to be a permeable stone.

Milleville: How many trucks did you say?

Taczak: 25 in, 25 out.

Milleville: That's going to be way more than 25 trucks going in and out of there.

Conrad: Based on what sir?

Milleville: On building a road from, the distance they're going to build is quite a long distance there. It's not like, how deep is the stone going to be is the question?

Kenward: About 12".

Conrad: There will be a geo-tech fabric underneath it.

Milleville: So that's not been presented to the Board yet what's going to be built?

Kenward: It's on the plans.

Conrad: It's on the sections on the drawings. It's typical for a gravel road like that. One of the things is to try and restore it after the life span is over to remove the stone. That's why the geo-tech fabric and geo-grade is located underneath it.

Milleville: I guess another comment I have is the Historical Society has been great to us as being neighbors on both sides and they will be going forward too. It definitely de-values our property on both sides, owning both sides. That is a concern.

Burg: I think the Historical Society has been great through this whole process. We have brought them before this Board multiple times. They've made every change and every recommendation that we gave them.

Milleville: As long as the construction is according in regards to the neighbors on both sides. I think there are a lot of questions to be had there as far as the construction goes. We have big equipment. I know the dust we make and we can't help it either but there's going to be quite a bit of dust coming through here. Bear that in mind. Thank you.

Burg: Thank you. Anybody else? If nobody else wants to speak then we will close the public hearing.

Public Hearing Closed

Burg: Sarah, you had a question regarding the succession?

Waechter: Did anybody ever find any paperwork as far as the succession plan?

Masters: I asked the Town Clerk for it; she doesn't have anything.

Waechter: Does the Historical Society have anything based on that succession plan? What it would be is as far as transfer of property or what will happen if the Historical Society were to go defuncted in the next 25 years. What happens to the property, where does it go, what happens to the solar field?

Wienke: It goes back to the Town.

Waechter: There is no paper work that backs it up?

Gary Townsend, 5682 Townline Road, Sanborn. I started on this project back in 1996. There were many other people involved. We started out, just to give you a little back ground on how we started and why we started. We decided to save a school so we could present to our children, upcoming children what was done in the past, how we went to school and so on and so forth. We come to the Town Board at that time in 1996 to present the project, what we had going and how we would like to have the Town involved with this project. At that time the Town Board was very much in favor what we were doing. We didn't have dollar one to start up with and we said Well; what can we do? The Town agreed at that time to take us on as a department to the Town. That was done. For a couple of years, we were a department of the Town of Lewiston. That's how all our bills were paid through the Town finance officer and so on.

Burg: What's in front of us right now is this current project and the question that Sarah is what assurances does the Town have that if the Historical Society did....

Townsend: I'm giving you the back ground so you'll understand where this property would go if we went defunct. It was decided back then to get grant money that the Town of Lewiston at one time had like \$550,000. In their coffers. We couldn't get the grant money because of that. It was decided at that time we would go with a F1-C3 non-profit organization so that we could apply for grant money which we did. We had gotten plenty of grant money to do what we did for this particular project. Where we are today because of grant money and because of Town of Lewiston, Town Board supporting us on different parts of this project that we're hoping will still be on board. I'm sure they will be. On the property, if the property goes defunct and we're not able to carry on and pay for this property, this property goes to the Town of Lewiston. It goes to the Town of Lewiston. The State has many laws on these historical societies. Some of you may already know it on what happens to the items that were given to us in good faith on how this is all handled as far as getting rid of the stuff if we have to get rid of it. It would go to the Town of Lewiston at that point. This is where we stand. That's our knowledge.

Waechter: I guess what I'm asking for is I think we need something in writing or official documentation. I don't foresee that's what's going to happen but I think to protect everybody's interest it would be a document that would be important to have for both entities.

Townsend: I don't have the answers to that one. That's own property. We own it 100% so we can do basically what we want as long as we're still in the business. I just don't know what else you would be looking for?

Waechter: There are a variety of things that could very well happen with the property as far as if the F1C3 were to dissolve as far as now what happens to the solar field and now that the Town of Lewiston holds the bond. Also, too with improvements that have been made from

what I understand through the Town of Lewiston. I just feel like there is an awful lot of avenues to where if that's the intent of the Historical Society is to leave it to the Town of Lewiston, then I think that should be something that should be formalized. If that's not the intent to leave it, then I think that also needs to be clarified. It just seems like there is this ambiguity about the subject.

Townsend: I don't think there is confusion on our part. We have 500 members of this group.

Baker: I don't think she's disputing it; she wants it memorialized.

Seaman: Frankly I'm not sure if it's a consideration truly Sarah that should be before your Board because it's not a consideration that you've considered on other projects that are not owned by the Farm Museum and Historical Society as to what the succession plan of that land may be. Truthfully if this project is granted at least for the foreseeable future this is going to be revenue stream for the farm museum.

Townsend: That's an offset to the taxpayers to the Town of Lewiston.

Seaman: If in fact for some reason F1C3 closed and the farm museum closed and if in fact the land did go back to the Town of Lewiston, that would be a benefit to the Town of Lewiston. In terms of any type of decommissioning in the future, that's why we have decommissioning bonds. There is already a plan in place in terms of having it removed from the property if your concern was the Town might end up with a project 25 years from now that needs to be removed. That is already set in your code which is we require the decommissioning bond, the updating of that bond every 5 years.

Waechter: F1C3 doesn't make it a unique situation then?

Seaman: I don't see it being a unique situation. Frankly I think if this was approved it would just bolster the strength of that organization moving forward in to perpetuity.

Townsend: You've set the precedence on other projects? Every project that you've done, this is the same way you handled them?

Seaman: I'm not saying we set any precedence on anything. I'm not sure what you're asking me I set a precedence on but what I'm saying is I'm not sure knowing what the succession plan of your organization's property is, is something that's necessarily relevant before this Board.

Townsend: I want to thank the Board for all the kind service you've done for us. Thank you again.

Burg: Anything else from the Board?

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Baker: I have a question about the decommissioning estimate. On the summary page for the estimate, page 6, I'm confused, line item 14, module disposal fee \$104,220. If you look at the quote on this letter from Green Clean Solar, their quote is \$184,800.

Kenward: The Green Clean Solar estimate included \$66,000. For trucking. Trucking is a separate line item in the decommissioning estimate. I think they used....

Baker: That's still not the same number.

Kenward: They used the \$115,800., I thought is what they were using.

Baker: You have trucking to transfer station \$2,180., that's the truck fee for panels from the installation site to some transfer facility in Lockport. I believe that's a different, I could be wrong than the hauling cost. On the Green Clean Solar letter says hauling panels from site to recycling center. I don't know what site they are talking about.

Kenward: They gave the estimate as if it was going back to their facility in Georgia. The intent here is that it would be disposed of through a local transferring station or recycling facility. There are not a lot of facilities out there that are doing recycling solar panels that they recycle and they try to rehabilitate them apparently. We had to reach out pretty far to find a firm that would even provide an estimate of recycling as you can see by the distance here. They gave us this estimate based on trucking to their facility.

Baker: I'm just trying to match up their estimate with your estimate and I'm having trouble doing that.

Kenward: It's Borrego's estimate I'm defending here. I would have to go back and ask that person who developed it to clarify that number. Why they used \$104,220.?

Baker: I think the Town Engineer and I had the same question. That was one of them and the other was where the contingency funds are calculated in to the final total?

Lannon: I have a couple of questions Mr. Kenward. The subtotal on the decommissioning up above is \$280,000., which I'm assuming is in today's dollars and then right below it is a present value total of \$361,000.?

Kenward: I will have to ask Borrego how they got that number.

Lannon: \$740,000., that's quite a bit of a bond which is good. The question was I think that Mr. Baker and I were talking about is when do you apply the contingency? Do you it above the escalation or after the escalation?

Kenward: It looks like they applied it down here, after.

Lannon: Just a couple questions on that. I don't see that the Green Solar quote was reflected in here. I thought this was just more of a reference. This is a recycling quote if I understand it. This is a disposal.

Baker: I guess disposal or recycling I don't know. It needs to be clarified.

Burg: So, we'll get some clarification on that?

Seaman: I would just say with regard to the decommissioning plan, a typical Town Board resolution when it finally gets to the Town Board conditions the issuance of a building permit on the decommissioning plan and bond being fully reviewed by Engineer and Attorney. It's great to bring these things up but ultimately that's something that we always condition the development of the project on at the end stage anyhow.

Burg: Anything else from the Planning Board? You've met all our concerns from the last meeting. I don't think there are any other outstanding concerns. We've addressed the concerns from the residents. Do we have a recommendation from the Board?

A motion to recommend approval of the Site Plan/Special Use Permit, contingent on a temporary fence be installed for the neighbor at the corner of the driveway to last the duration of the entire construction phase was made by Lilly, seconded by Conrad and carried.

Seaman: I just want to state that SEQRA has already been completed by the Town Board with a negative declaration on this project.

Burg: I think we declared that at the last meeting. Thank you.

The next item on the agenda was a concept plan from John Giusiana, Washington Drive.

Burg: Before we get started for the record I did meet with Mr. Giusiana. We did discuss these plans a couple of months ago. The discussion was what I liked about it and what I thought that should change on it. I gave Dave no indication of which way the Board was going to move. I gave him no assurances of which way the Board would move. In the interest of full disclosure, I wanted to add that for the record. Would you agree?

Dave Giusiana, Giusiana Architects, 625 Center Street, Lewiston: Absolutely. Since the first go around, this will be the third iteration of where we are with this project. The second one never really made it in front of the Board but was discussed with Mr. Burg and Mr. Masters. At that time, we tried to talk about some corporation of commercial elements. There was conversation about PUDs and also realistically they're not able to support the kind of

commercial work that we propose for it. We gave up with a strictly residential proposal. It's still 7 units, 7 buildings, 24 units a piece, 3 stories. I know some of the comments that Bill and I discussed about the actual architecture of the buildings was to make it more traditional versus the last iteration that was very much a contemporary building with a flat roof. Part of that was generated by the commercial concerns by using the roof tops as a solar field. We tried to keep things really simple. The first scheme we did actually add enclosed garages, to each one of the buildings. Through Mr. Masters review we are short a few parking spots. We added a few more stand- alone parking areas to fill the count for the required parking for both the residential use and the little office/community building located in the middle of the project. To go back to the history a little bit, in 1989-90 we actually proposed a residential apartment complex for this and during the beginning stages of that process we got hit with the 1991 regulations for wetlands and were stopped. There were ugly Army Corp. postings of potentially \$10,000. A day fines and things, so we shut the project down and then we did bring it back. Recently we went through the whole process of re-delineating for wetlands and subsequent to the last delineation we had, regulations have changed again and we now do have a letter that engineer is looking for that the property has been determined to be free and clear of Army Corp. jurisdiction wetlands so we're removed. That is also what affected some of the changes and design, we're now building across what was previously identified as wetland areas. Relative to services that was one of the other concerns, water, sewer, storm sewer, all those services were brought to the site as part of the original design of the overall subdivision which we were the generators of the single-family homes at Creek Road and then the duplexes and then multi families along Washington. The services for sewer water and roads were already there and actually at the time designed for a much larger complex. The Zoning Code back in 91 actually would have permitted us 10 units per acre, so we were allowed over 220 units.

Burg: What would you like from the Planning Board today?

Giusiana: Concept approval to basically say yes, the basic layout and configuration of the buildings, roads, parking and such and then through the rest of the development process, we'll get final site plan approval and get all the engineering of water, sewer, road, grading, drainage. Again, I think part of the reason you're asking questions was part of the concern was as Mr. Conrad brought during his leadership of the Board was the strict residential only use was somewhat not clearly defined in the PUD definition. Not to put words in your mouth but you were looking for some other commercial component. I know that the Town has recently approved a strictly residential PUD and so we're going on that premise. We don't really want to go too far in to the commitment of all the final documentations until we know we can do strictly residential project on the site.

Seaman: If I can interrupt sir, are you here with an actual, this is what you intend to be your concept plan submitted for approval for a concept plan?

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Giusiana: This is the stage where the Planning Board would consider SEQRA and schedule a public hearing and they would go through all of the components. The reason I asked is because when I got the submission, there is nowhere in your submission that suggests a PUD. There is no request for a PUD in your submission. It wasn't until today that I understood you're asking for a PUD.

Giusiana: Ok.

Seaman: If you're seeking a PUD, there's typically, we've had applicants come before this Board before in kind of various stages of the planning process. Myself anyhow I was confused and perhaps some of the Board was as to whether or not you were kind of looking for a general impression from the Board as to what their general feelings were on this or this was a formal submission for your concept plan that you intended us to do a full SEQRA review, schedule a public hearing and all of that based on what you submitted today?

Giusiana: I actually have submitted the short form SEQRA. I know that was another one of the concerns the engineer had whether this actually triggered it to a long form application. As far as I've reviewed, we don't hit those thresholds but again if that's what's required to go through the long form SEQRA then that's what we'll do. If I haven't met the minimum criteria of a PUD submission approval, if we're just starting the process then yes, I'm looking for something that allows me to move forward with the rest of the application and submission.

Seaman: I'm not sure where to go. I don't think that your current application is, again it doesn't even mention PUD. It doesn't have a written statement as to what the PUD component is intended to be or what the benefits are. It goes through some of the various things it touches on but typically there's a more comprehensive submission before the Board if they're going to consider the concept plan. The reason being is a concept plan for a PUD is very important stage of the PUD. When a concept plan gets approved, that's really the major approval because the next approval is just simply going to detail plan to make sure all the engineering works. The concept plan puts forth all of the ideas of what you want on your PUD to be. Why it's a benefit to the community, how it fits in with the concepts of the community etc. It's usually more substantial. I would suggest maybe this, hear from the Board rather than just me and maybe if you're content with this as your submittal, I suppose we could move forward with that. I think you may find that you're going to want to bolster your submittal before you make this your formal concept plan submittal. I'm suggesting that might be what happens here.

Giusiana: I'm willing to listen to that.

Seaman: It would be hard to call for a public hearing right now or have a recommendation for me that this Board does call for a public hearing. Again, it wasn't until now I could even realize you were asking for a PUD. You never mentioned it in your application.

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Giusiana: I guess when I started back 7 months ago and first presented that was how we presented it. If there is some other documentation, I need to provide you to formalize a request for a PUD approval then that's what we'll do. We will provide whatever documentation is necessary to do that.

Lilly: We can still talk about some other items, right? On the SEQRA there, one of the questions is any pedestrian accommodations or bicycle routes? You have marked yes. Are there bicycle routes or are we just using the current roads and streets as bicycle routes?

Giusiana: Just the roads and streets.

Lilly: I'm not saying there has to be one or not. It was checked off as yes.

Giusiana: The intent was to have bike racks.

Lilly: The materials, you see light grays and dark grays and that sort of thing. What sort of finished material will be on the exterior of the buildings?

Giusiana: Better than vinyl siding, hardy board type siding.

Lilly: Any brick or stone?

Giusiana: We added the masonry chimneys now, so the stone work on the chimneys.

Lilly: The apartments look like they're 2-bedroom apartments, each apartments has a bathroom for each bedroom and then there's a kitchen. Is the square footage about 1,000 for actual living space?

Giusiana: Just shy of that, yes.

Lilly: I think from my perspective I don't have any problem with any building but just that it has some real good curb appeal. That it's not some cookie cutter type and involves some nice clientele if you will. I think that you would want the same thing. That's my feeling on it.

Giusiana: In terms of the numbers, I guess they're the same level of \$1,300.-\$1,500. A month type rent. The Legacy Drive apartments, that's where the numbers are at. We're looking at that same market. The fact that we have a larger ratio of garages to units than Legacy does, I think the level of people have garages tends to be a better market or higher end market.

Lilly: Any sort of amenities or the appearance of the building, the curb appeal to enhance it I think would be helpful from my perspective.

Giusiana: I think at the next presentation too I'll; this just represents one building. I think we're talking about wanting to vary colors and finishes. It wouldn't necessarily be the same building 7 times. I'll present that as part of the next presentation.

Waechter: I have a couple of questions. As far as this is just for my own curiosity, is there anything as far as elevators? Are they required on a two-story?

Giusiana: This is a 3-story building and yes there are elevators.

Waechter: When I glanced at the plan really quick, I did not catch it so I wasn't sure if it was like the stair well or.....so it is right there and it is listed as an elevator. Thank you. As far as input for me, if you're asking for a PUD, there's not really any uniqueness to how it's laid out as far as, I look at this and it doesn't invite me as a community member to come utilize the area. It doesn't seem like it really works with the topography as far as making it something different, something unique, something inviting. To me it just looks like a whole bunch of apartment buildings and that's it. There is nothing that really would give me like oh yes that fits in to the definition of what a PUD is.

Conrad: Is there any opportunity for any outdoor recreation like a tennis court? If you want it to be a PUD and have the apartments, what do they do besides their apartment? Again, following along with what Sarah was saying, something to make it unique. You have the one office space that's your leasing office.

Giusiana: It's a community room.

Taczak: It's not a gym or anything like that, workout room or facility type thing?

Giusiana: We hadn't intended on it, but I think it's something we could probably alter. I think part of the opportunity with the site is that contouring the construction towards Washington Drive and leaving more than half of the property green, I guess we could formalize the more natural appreciation experience by walking paths or some other type of natural recreation in the undisturbed portion as well as some form of recreation.

Conrad: Just different ideas, whatever concept you have. I'm just trying to think outside the box what would make this unique and more fitting to a PUD type of development. Is that the green area where you're more restricted because of the wetland area?

Giusiana: Again, we have no wetlands on this property at all. We're trying to disturb as little of the property as possible. It also gives us a buffer to the 3F Club. As part of the practical reality of keeping the woods closer to the creek and 3F Club.

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Waechter: I guess I would not be opposed to a flat roof if it was in your concept plan that it was going to be used for solar. When you just look at the esthetics of it not knowing that it might have been a plan, I think it's innovative but when you look at that line it's like very severe but severe with a purpose. I do like the thought behind it so thank you.

Lilly: I think in your letter here you said you were going to put in curbs and black top parking lots in all the lots and then start one of the buildings and then do one building at a time?

Giusiana: We'll put all the infrastructure and roads in.

Lilly: For all the buildings?

Giusiana: Yes. All the utilities have to go in at once. We can't put in sewer and water for one building.

Lilly: You're going to black top even the other parking lots?

Giusiana: That's the staging of that. We will attempt to build one building and continue on so there will be a revenue stream after the first building is completed and can be rented. All the infrastructure will be put in before any of the building construction starts. There wouldn't be 7 foundations in and then 7 framings.

Conrad: What is your market? Do you have a target market?

Giusiana: I think part of the whole thing with the elevator and the fact that we're looking at all levels of age. I think we're also trying to keep by literally 2-bedroom apartments trying to keep larger families if you will out so it's more mature, empty nester. But also, the younger and older, just not the large family groups.

Burg: You're going to extend Washington, no Madison and then the street to the south which would be....

Giusiana: Jefferson comes in and off sets, Madison would come straight in that way. This section of the road is already in.

Conrad: That's good egress though. Pat, would you agree with that?

Martin: I was actually hoping he would cover that because the plans that were submitted were difficult to tell what the egress is to the apartments. And a road way for the garages, if you could cover that real quick.

Giusiana: I guess the largest gesture is to have a road that follows Madison straight east to the site and then loop around. The access to the drives, I'm trying to limit the amount of in and off the street just to....twice per building.

Martin: Is there more than one access in to each apartment complex?

Giusiana: Yes. Maybe the color version might clarify it a bit better. Every building has a large loop of driveway that services the parking in front and then the garage in back. Every one of those has a complete loop around. You can fully navigate all the way around every building.

Martin: Coming off the main road there is actually only one way in to each parking...

Giusiana: This is off of Washington (map)

Martin: You have access off of Washington to the garages and then that loops back out on Washington?

Giusiana: This road which would be to town spec pavement....and

Too much talking

Giusiana: I don't have any parking in the 66' right-of-way.

Burg: What else do we have from the Board?

Taczak: As a concept I have no issues with it but it seems very linear, straight turn, straight turn.

Burg: That's what Ken and I were just talking about. We're looking at box....we're thinking if you could utilize a little bit more of the area with the roads and a little bit more green spaces in-between the buildings, I think it would lend a little bit more character as opposed to row houses and I don't want to insult them and call them row houses.

Taczak: It's very linear. When you look, you have buildings lined up, buildings lined up rather than here and then maybe off set 6-10', give some different sight lines rather than the end of the building and 20' later here's another building same size, same thing. Just different types of esthetics.

Joe Giusiana: Just to answer a question in my own mind. When I look at Legacy Park over here on Legacy Drive and you talk about being linear, I guess I'm trying to understand how that became an acceptable project which is very linear to use your point and this project is somewhat similar is being controversial.

Waechter: I don't think it's controversial, I think that Legacy Drive was approved how many years ago, back in the 80's right. Things have changed right.

Giusiana: If you look at what they're building today, they may have been approved 20 years ago but how do you describe what they're building today?

Waechter: As far as the ones that are on the outside ring? I don't think it's as big is it, Legacy Drive?

Giusiana: They've got 6 buildings standing there, right along both sides of the street.

Waechter: If you're looking for a PUD right, you're looking for that uniqueness. That's I think more of what it is. This is just very straight, very hooky....this is it. I just think that we can improve as far as what we're doing in Lewiston and how our land use is being used. I think it's actually going to benefit you in the long run if it's not that straight row looking. I think the demographic that you're going after is going to appreciate that more than living on top of one another. If I were to look at this and say I'm looking for an apartment, looking for somewhere to go, this is living on top of one another, it wouldn't be for me. But if you had something that which was not as linear, something that was a little more esthetic, something that had a little more amenity, now you're talking.

Giusiana: Can you define those terms for us?

Waechter: As far as the amenity? Adding public space, walking paths, or if there's green space that you can use, if you have a dog or you can go out there to exercise or the tennis courts I've heard throwing around. Something because I know you're not interested in a pool, also pools are hard in this area. Something that may be a gym and fitness space. Something that's just a little bit more than a whole bunch of green space out the back. I don't mind where it's going but I think you could improve upon it.

Lilly: The two buildings that are to the east, going back to the 3F, if those two buildings were moved and put at a 45, there's a lot of green space but maybe more green space in-between the buildings. When you talk about Legacy, they do have the straight road coming off Creek, but then there are some curved roads and things of that nature. They've got some condos; some apartments and I can see where someone would say well how is this project any different? I guess you have some room there to utilize the entire space. It's great that the wetlands subsided for you so you can utilize the entire property. If all that green space could be distributed in between the buildings rather than such a large area not utilized.

Taczak: Just thinking about you say your demographics were going to be, it would almost be a good idea with those 2 at an angular, a walking path around. Maybe $\frac{3}{4}$ of a mile to go around so people have some idea, it would be a nice walking path, maybe a bench or two here and

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there. Just something that people can get out when it's nice. A walking path around it so people can go outside and get some exercise.

Waechter: I think that's also too what makes Legacy a little different, Legacy in towards the village.

Taczak: It would bring everybody somewhat in to a community, people would meet each other in different buildings just by walking around and talking.

Seaman: I would note that in terms of your application you skipped #9. I would encourage you to maybe go back and revisit it. It requires a written statement generally describing your proposed plan use development. The categories of use to be permitted, it's relationship to the Comprehensive Plan. Now the proposed PUD is designed or.....to permit the development. I guess what I'm trying to encourage is revisit the entire PUD Code which is not simply an application before the Board to fit something that's not allowed in this R-2 use, which is apartments. It feels like what this is, this a PUD and we want to put apartments here. It doesn't take in to consideration the uniqueness of the planned approach to your property that considers the elements of the land, site lines, things like that, that usually are what PUD's are to be designed for is.....I think frankly given the location and the fact that you are I believe near a another PUD, and the density there maybe you could describe that and build that as the concept but there usually is more than just hey we want to put apartments in a place where apartments aren't allowed but call it a PUD. A lot of times there are involved in the project. There might be a coffee shop, a small retail shop, outdoor areas that are utilized by the residents, things along those lines that start to make a PUD a project.

Giusiana: I think I have a better understanding of what you're looking for.

Burg: Anything else from the Board.

Seaman: As far as today goes, if we did need Board action, I would recommend the Board make a motion that the application is incomplete or if you want to you can just withdraw for now, rework and bring it back.

Giusiana: I'll withdraw.

Masters: Have you had any conversation with the 3F Club?

Giusiana: No.

Masters: Does your back of the apartment greater than 500' to the back line or not?

Giusiana: No.

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Masters: Do you anticipate a problem with them with that?

Giusiana: Not really.

Masters: Is your intention of this to be all Town roads or private?

Giusiana: Conceptually thinking if we ever did subdivide it, that

Too much talking

Masters: They would want to know that when you came in next time, they would want to know if your intention is for this to be a private road or a public road.

Giusiana: Right now, it's 100% a private road.

Conrad: You said you're building it to a public road spec right?

Giusiana: That is the thought yes. The road widths, the turning radius is all will be is if it was the major thorough fare through would be town road. Conceptually it will be designed like a town road but it would still be a private drive.

Conrad: But if you so choose to move forward with the turn over then you would already be all set, it would just be paperwork more or less.

Masters: Is your proposal for the drainage area a retention or detention? Do you know yet?

Giusiana: Those are some of the conversations were having.

Joe Giusiana: Detention is what we're looking at.

The next item on the agenda was a site plan/special use permit for Niagara University, Lewiston Road, SBL#

Katie Soscia, Montante Solar, thank you so much for having us here today. I've been working with Niagara University for the past 2 years developing a solar array. I just want to introduce you guys to the rest of our team that I have here because you will be hearing from a couple different people on a couple different topics. We also have Chris Leardini who is the project manager at the Niagara University side of things. He's been on board with this project since the beginning and can answer any questions you guys have for the Niagara University team. I also have Jessica Fuchs who is the project manager for this solar array once we hopefully get approved and up and running here. Adam Walters is our legal counsel for the Montante side as well. We are here today seeking a recommendation from the Town Board to move forward

with the approval of the site plan and special use permit for this solar project. We've already been working with the Town in the background a little bit. We have gone through the ZBA as of last week. This project as you can tell from the site plan, I'm sure you see it's not exactly to code. We have some variances that were approved. That would be setback variances from property lines and the road as well as 3 setback variances from adjacent structures. Before I walk you through the site plan, I just want to invite Mr. Leardini up and explain why Niagara University is pursuing the solar array and really what their goals and agenda are for this project.

Chris Leardini: I had the opportunity to lead the team at Niagara as Katie indicated and it is truly unique with what the town has seen before and we will get in to a couple of those things. I wanted to give you some context of the why behind this and how it came to be. The University's executive team and board of trustees looks at this environment, they're obviously in the business of higher ed and students and how do we succeed in the years forward. Higher ed is a challenging place to be if you are a private institution. One of the things the primary focus I would tell you is around recruiting. This generation of students today and students coming in are hugely interested in green and renewables in solar and the University wanted to meet that demand head on. Along with that, they didn't just want an array, they wanted to be incorporated in the curriculum. This concept is almost a learning laboratory and a living class room that students would participate in and look at the data from the array, participate, see it. I would tell you that this is something that Universities and higher education institutions are doing. Some of the most prominent ones that you know. UB, most of you are familiar with. At their north entrance they have a large DNA strand that's not unintentional. It's very visible there for students. There is a letter of support I think in your materials from UB. We talked to them extensively about the benefits of the project and how we see it. We certainly see this as something we are going to, the university is going to actively promote to perspective students and families, the community etc. The second thing the university is Catholic as you know. Pope Francis issued an encyclical Laudato si. In any case it was a statement he issued on the need to protect mother earth and protect the environment. This is very consistent with the mission of the University. It's an opportunity for the University to also reverse what's around that area, a historical legacy of industry and be on the leading edge as they are on several different issues and to help the next generation understand that forward. In terms of the site itself, it's very unique. It's at the south entrance of the university off Witmer Road. There is an area of land that doesn't have significant other use for the university. It's near the entrance. It's really the only suitable site. There are no real neighbors around that area. They are neighbors to NYPA, to the DOT but no residential neighbors. The idea is again to have this promoted and just wanted to bring that context to you and to this board relative to how the University wants it to be seen as you come in from Whitmer Road and went through this planning process very deliberately with that in mind as a need to attract new students and new perspective students and really take a lead in the community. Thank you again. I'll turn it back to Katie.

Walters: We just wanted to set the stage a little so you understand where this project is coming from. It's sort of a really important point because one of the main issues obviously per

your code is screening. We've come at this a little differently and why is that. It really ties back to the goals of the University. This is not something unlike the last project. This is not something everybody is looking to fence and hide and not see. It's really designed to be part of the University campus. It's right across from the dorms and it is absolutely designed to be attractive and as Chris saidI believe I heard at the ZBA.....when this project is approved NU will be in the top 30 universities in the Country for green energy. This replaces basically all of the energy they get from National Grid. They already get energy from NYPA that's a relicensing deal because NYPA took half of the campus. This is actually a piece that came back. There is a unique setting. We just wanted to start out there. We were at the ZBA and these are aggressive variances under your code. I can tell you; Tom can tell you; they were very skeptical. We went through it step by step. That is our goal for tonight. We just want to understand concerns, issues, get everything on the table. Our goal would then be to do any updates to the plans and hopefully move forward with the public hearing. Just wanted to set that table a little bit.

Katie Soscia: I'm not sure if you guys prefer to asks questions as we go along or save things until the end. What do you guys generally prefer the format?

Taczak: A little of both probably.

Soscia: I'm just going to invite our project manager Jessica Fuch up here with me as well. What I have is a rendering of what the proposed solar array will look like. As you notice there is this weird cut out here. That is intentional. It is a wetland and has a bit of a grade change there. We don't want to fill in the wetland and trigger different permits of that nature so that is purposely cut out there. Also, one of the things we did ask the ZBA is had made a little adjustment and shifted the array 10' further from the road just to give a little more space around that curve. The other thing I want to point out, I know Chris and Adam have both alluded to it but the project location is really unique. It's right on the border I'm sure as you guys all know between Town of Niagara and Town of Lewiston. Everything south of this project array in the Town of Niagara is zoned heavy industrial. The neighbors that we are considering here, property values, other things that were brought up earlier in the meeting with the other solar array, I don't really think qualify for this specific project. I also wanted to point out that we are going to be using the latest and greatest technology out there as this is for a university and for the students that are going to be interacting and learning with it. This is a single access tracker. They are very sleek looking, they're not chunky. They are also bi-facial panels so they are picking up solar directly from the sun as well as underneath the reflective light as well. I just wanted to explain that and set the tone.

Walters: One thing that is perhaps important to explain with these. We had a lot of discussion with the Zoning Board of Appeals, why can't you just take 10' off here and shift it a little further away from the road? These are track systems. They are actually designed as, they're long sections and if you take 5' off the front you actually lose an entire section. That's why we

worked with the ZBA to really get as far away from edge of pavement. We made a 10' shift which they asked for, we're 60' from edge of pavement. There is a bit of distance there. I just want to point out you really can't shave feet off because you lose rows.

Soscia: This is the site of the rendering. I'm just going to flip over the first page of our civil drawings and this is the existing site conditions. We've already done a significant amount of environmental due diligence here. We know we have that one wetland that we're not even going to touch. There are no other wetlands on site here. We've also done threatening endangered species studies. Nothing of concern as well as SHIPPO again, nothing of concern. SEQRA has also been completed and the Town Board issued a negative dec. for this project as well. In terms of the quality of this land. Niagara University uses it currently as a compose pile. It's kind of hidden with the scrub. There are compose piles and as you can see over here just some tracks and trails through there that the maintenance team uses. I will let Jenn talk about our actual site plan.

Jennifer Fuch: Thank you for the opportunity this evening. I would like to reiterate a couple of points that were already stated. If you look at the close-ups that you have in front of you, you can kind of see some of the individual rows. That creates a challenge in the fact we can't just shave off a couple feet fewer there. The great advantage of going with the single axes tracker system is it has optimized our ability to produce on the smallest foot print possible. The system was sized exactly for the needs of the university. There is not going to be any over production. We're not over estimating the needs here. It's just that sweet spot of what is needed.

Soscia: Just to clarify really quick it only takes the National Grid portion of Niagara University bill. NYPA we're not touching that portion of their bill as well. They're still getting their NYPA power.

Fuch: What we've done is again using that single axle tracker system, you can see some close ups of what it will look like at the bottom of that first page. These are projects we completed down in Tonawanda and showed some decorative fence that we installed there. We're proposing something similar here. The photos were taken fairly recently so the vegetation is obviously dormant now. The center photo will show you a little bit more of a lively scene. The trackers are very sleek and have a very small footprint as far as things go. We've also selected an extremely high-powered solar module. It's the most efficient available on the market right now, 540 watt bi-facial. We're actually trying to capture from above and reflection from below. Again, trying to optimize the needed output for the University in as small a footprint as we can possibly manage. That said we're showing the decorative fencing along the entire face that would be adjacent to the public road. We're trying to put forth as beautiful a picture as we can for the Town that comes on campus to go to the museum or the hockey arena again, also as a jewel, a show piece for the University to attract incoming students. The back side will also be enclosed by fencing. Again, safety is a huge concern. 8' fence in accordance with Town Code

will prevent intrusion from people.....unruly folks or honestly even in the event of something bad happens to go off road. It will stop them from getting in to the array and harm happen.

Soscia: The other thing we wanted to point out to again, we've designed it very thoughtfully and the University was hand in hand with us while we were going through this. Another really important part is on solar projects you guys will see a lot of poles that have equipment mounted on poles. Obviously, the University this is one of the ways that people get in to the University. I think it's probably the way most people get to the University although it's not technically the front entrance. But; we did actually already put the utility poles we can underground. We are going to be having no utility poles on either side of the road. Really the only utility poles that can't by National Grid Code put under ground are going to be way back here and they're not even going to be visible. That's just something else we wanted to point out that we have been paying very close attention as to what this will actually look like. Just to get in to the landscaping plan a little more, again, I have read the Town Code, you guys know the Town Code, I understand the Town Code has screening. I think that the understanding here is this project is a little bit different. It is a University Campus for University use. The University wants it to be seen. We have already provided the Cadillac of fencing you guys because we are serious about the way this looks. The University is serious about the way this looks. We have also proposed mulch and plantings along....they're purple cause those are the University's colors. We put a lot of thought in to that. I just wanted to let you know that we understand this is not to Code. We understand this is not your typical screening but we have been very intentional about what we wanted to do here and we do think this is an extremely unique project. Any questions on that before we go on to more of the safety discussions?

Waechter: How tall is your tallest plant?

Fuch: Some of the shrubs can get up to about 6'. Again, the idea was not to screen the array in its entirety. It was towhat we think is a pretty slick system, and to allow the University to use it as an advertising tool if you will and an educational tool. The University has spoken to us about creating new programs using this as a pedestal to create an environmental sciences degree program. This is how they would advertise and attract students to that program. It's about making the array look great. It's not going to look like what you see on the side of the road as you come up here from the south.

Taczak: On that vein of what you're saying, with the University looking forward in the new "programs" will those students be allowed access on to the site?

Fuch: Absolutely. It will be controlled from a safety stand point and it will be led by professors of the University that are fully acquainted with the safety requirements of being on a solar array. We don't want to let anyone come willy nilly. We would even encourage tours of elementary students or middle school students. I'm a science nerd. I get excited for this stuff and being able to see things up close and personal gets me excited to learn more. It gets me

excited to want to study and expand my knowledge. I think we can do that for the people of this community and for the University students.

Walters: One of the things we heard from the ZBA was that as of right now there are up to 25 programs, 25 existing classes that they could tie in to the array. It will be acurriculum.

Fuch: Not just touring the array itself I think Katie might have mentioned this in the beginning, we monitor the production and the operation of the array very closely using some pretty advanced software and some pretty cool sensors and monitoring tools. The University would have some full access to all of that. We would be happy and we often do train the personnel how to use those things and make it a

Soscia: I know some of the other things that usually come up are talks about glare. I know that's a very common thing. I do have a letter of determination from the FAA that no glare risk on this project. I'm happy to pass this out. I know that there are also special requirements of the code to talk about as well. Decommissioning plan is obviously something that's already been brought up for another solar project. As Mr. Seaman alluded to, we need to come to an agreement with the Town and the Town Engineer on what that decommissioning plan is. We fully intend to have one and also have that bond in place as well.

Walters: The estimates are all part of the application package.

Baker: With respect to the decommissioning plan, a couple things, you show a 2% inflation rate. We use 2.5%.

Soscia: That's a simple fix. I can agree to that.

Baker: We also require 25% contingency. We incorporate a 5-year review of the decommissioning plan to update it one way or the other. It looks like you don't have a disposal or recycling clause in here which is probably the most significant cost of decommissioning. It's not in there. You just have some trucking to a recycling center. That's a fraction of what the real cost is. Those are things you need to look at.

Soscia: Absolutely.

Lannon: Whatever the bond value is what we determine needs to be in full force and effect on day one. It's not a graduated bond.

Soscia: Understood.

Baker: I don't see a SWPPP in here?

Lannon: We've done the review.

Burg: You're proposing no screening other than the 8' fence?

Soscia: And landscaping, not screening, we're not trying to hide it but there is actually a significant amount of landscaping on the....side. Decorative fencing would be long the curve of the road, anywhere that the actual cars would pass it. That will be all the way from the south and west side. Regular chain link fence over here. Again, we're screening from high voltage lines, NYPA lines and then chain link over here. If the University chooses to develop the land to the north, there is still land to the north available for the University to develop. They obviously are going to take in to account some type of screening between the array and that future development as well. Right now, there are a bunch of trees and scrub and everything else that's just going to stay in place there and the DOT barn. For the landscaping as well, nice mulch around the side, some decorative plantings. Some of the bushes will grow to around 5-6' high but also colors, flowers. The point is to accentuate the array and not necessarily hide it. I know one of the concerns that the ZBA had as well was is this going to set precedence because we did seek very significant variances. This is such a unique project. There definitely is a way to word this that because it is on the University's campus and for university use, it is a special circumstance. I know that the ZBA did get comfortable with that after consulting and talking a little bit more and that's just something I wanted to bring up because I'm sure it's a consideration of yours as well.

Waechter: Will there be opposition to continuing that decorative fence along the potential development line?

Soscia: Decorative fence is super expensive as I'm sure you can imagine.

Walter: Which specific line?

Waechter: The one to the north. I get that it's power authority but just as far as having that decorative fencing in place so in case that...which I would assume eventually that property to the north will be developed.

Soscia: In order to get to the place of where we are now and get to the decorative fencing, our cost has already been in this project. If we're going to go anything above this point, we would have to go back to the University, that's going to be affected by their power purchase agreement, their PPA rate. The decorative fencing we're putting in now is not necessarily a no but it is going to affect the savings that the University will see a little bit.

Fuch: I know it's something potentially they could opt in to if they got in to development on that northern parcel, depending on what the nature of that development is, I don't know if it's something that would require or warrant decorative fencing

Waechter: Where will the students be gaining access to the site?

Fuch: We're maintaining access from the eastern edge. There is already an existing access road through there.

Baker: Has Mr. Martin had a chance to review these plans? He is the Fire Marshall.

Martin: Thank you. I was just going to ask on that specific question, while it appears you have an access gate off of a dirt road, there is no indication of length, width, how much weight it will support, turn arounds, none of that information has been provided with the plans that I have.

Fuch: We can add all that information prior to future meetings. We'll get it to you as soon as we can.

Soscia: I think also to address one of your points I think that you're probably worried about access to the major equipment. We have that so it's accessible from the paved road of NYPA so the fire truck can pull up on the side and pull a hose if needed.

Martin: Is there going to be an access gate there as well? It didn't appear to be.

Soscia: We can add one.

Martin: That is a critical area. An 8' fence is not something you want to....

Soscia: Adding a gate is a reasonable request and we will do that, no problem.

Lilly: I was on the site today to take a look and along where the decorative fence is, from the edge of the black top you go maybe 80' and there seems to be a ridge or berm if you will. I'm not sure if it goes around the entire property and as you get to the top of that it drops off like there is a pit in there. Am I right? Is that going to be level? What is the site work going to include or does that berm stay there and the fence on top of that?

Fuch: It does not stay. The site has interesting topography from previous uses. We obviously had a full topography study done of the site and the grading plan included in the civil drawings will give you a lot more information than I can describe right now. Effectively the berm is meant to be pushed forward. Obviously, we will be testing any soils as we do that. We don't believe based on current testing and current information Phase 1 site, that there are any potential issues. We will monitor all of that very closely. The plan is to push the high points down, level the site as best we can. The fence will be even with the current grade level and similarly across the site if you walk towards the back there is another berm same kind of story.

Lilly: It almost looked like it was buried up to hide the spoils that might have been dumped there from whomever over the years. There are also some mature trees. I probably counted just real quick maybe a dozen that might be 75'-80' tall, 2' around. Are those staying or do they have to be cut down?

Fuch: Unfortunately, they can't. They're in the foot print of the array.

Burg: What about heading north on the 190? What is going to screen the array from Whitmer Road or people that are off your property? The screening code isn't really site specific more line of site specific.

Walters: The thing I would suggest to keep in mind is you got high powered tension wires running straight through here. We drove out there tonight. We were back on the NYPA Road on this back side. You're covered by a sea of over head tension wires. They are everywhere. As far as the eye can see as you look towards NYPA and that's what you're seeing when you're on the 190. That is the view. You also have that new warehouse building, the industrial site in the Town of Niagara that NYPA has, also we'll provide some additional screening but for the most part there is an awful lot of visual clutter between here and there and we do not expect this to be a significant visual from the 190.

Conrad: Are they going to be resentful looking out their windows at the solar array?

Soscia: NYPA is actually in support. They wrote us a letter. It's included in your packet.

Burg: Screening is a big issue for the citizens and residents of Lewiston. It's always a topic when it comes to solar farms.

Soscia: I think the difference here though is that the neighbors are either NYPA or NYS who are in support of the project. The State will not write a letter but have not objected or literally heavy industrial properties if not the university itself. When we're talking about screening and hiding it, I think it's taking in to account who is around it and who is going to see it. This again is a very unique site and it is literally in the Town of Niagara the university solar right is right here. It's literally all heavy industrial zoned. The neighbors next to it again are long term neighbors that are going to be there far after the solar array is done.

Burg: Other than monetary what is the deterrent to putting screening in those areas? Just to give you an example when you drive down Lockport Road people notice the screening on that solar farm over there by Tuscarora. It will become a point of contention.

Walters: We can certainly take a second look and see if there are additional screening options. We've heard some feedback on that. Again, the thing that I think made a big difference for the ZBA is the fact that these are all private roads. These are not public roads. They are open to

the public. The university has not put up a gate and said students only or events use only. They could but they haven't. People use this to get up here and we understand that. At the same the university campus is unique and this is the only one in the Town. This doesn't create a precedent that would hurt you in other cases. This is a very unique setting from that respect. At least that's how the ZBA felt.

Burg: I think on the perspective of the Zoning Board I don't think it sets a precedence. On the Planning Board I think we run the risk.

Walters: For the same exact reasoning that it was not precedence for the ZBA would be the same exact reason it would not be precedence relative to the Planning Board

Seaman: It's a little different.

Taczak: It's different.

Seaman: It's different and we don't need to have a legal discussion about it but we will for a minute. The ZBA is designed to provide variances and to mediate from code provisions whereas this Planning Board has a set of criteria set forth in front of them that they are directed and mandated to follow, one of those criteria being screening criteria. There is gray lines and blurry lines all over the law but right now it reads that you need a berm, landscape screening or other opaque enclosure or any combination thereof consistent with other screening and vegetation provisions in this article capable of fully enclosing the solar energy system such that it will significantly diminish site lines from all adjacent property. Personally, I want you guys to have an approval could stand up if anybody in the community decided to challenge it. I want you to be able to have a screening that's capable of fitting within there somehow.

Walters: I certainly don't disagree and I'm the guy that has to get up and defend it and you do too so we're both on the same page there. As I think we talked about early on and this was critical for the ZBA, universities are unique animals from a zoning perspective and this is part of a curriculum that the university has pursuing. The university has a higher mandate, a higher mission and so there is plenty of case law, Cornell University tried to do some expansions and the city said no you can't do that. They sued, the court of appeals said wait, this is an educational use, all zoning authorities when interpreting educational use have to give a little extra weight to a university. Its zoning law in New York. I absolutely agree it's different from the ZBA but it's not totally different. We are on the same page; we want to have something we can defend and that we're all comfortable with. I'm hearing we need to do more. I get that. I think Katie is hearing that. We'll go back to the University, we'll talk further. Anything else we do really does start to impact their ability to do the project but we get that there are additional screening issues to address. I guess question #1 for tonight, are there other issues? I hear decommissioning and screening. Are there any other things we ought to be thinking about before we come back here next month?

Fuch: Let's not forget our Fire Marshall.

Waechter: You had briefly touched on soil sampling. Did you grid off the area and do consistent soil samplings across or did you just random pick 10 spots and go?

Soscia: There was a Phase 1 done of the site and then there was a Phase 2 of the site done by NYPA. We have a really good idea of what the entire site looks like and review of the Phase 1 was way more in-depth Phase 2 didn't have any concerns and then we did soil sampling as well.

Waechter: Was it recently done within the past year, 6 years, 10 years?

Soscia: Phase 1 was just reupdated about 8 months ago.

Waechter: So, no consistent monitoring or anything like that, no wells?

Soscia: No, there are abandoned wells on the property.

Baker: Are you going to be removing top soil from the property?

Fuch: No. Right now, the plan is to keep everything on site but like we said we have consultants available to help us watch what transpires during the construction process.

Baker: Looking at the detail for the anchoring system, my layman's observation of that site is the bed rock is very shallow over there.

Fuch: We did do pretty extensive geo-technical studies related for all ground mounted solar arrays. Yes, we've hit a variety of obstructions below the surface. The plan is to still pursue a driven pile onwhich is typical for these trackers. With those plans there is always secondary foundation alternatives built in to the engineering design. Right now, the consideration should we gain approval would need to have an alternative drilling so if a major obstruction were hit and we weren't able to slide the...over, in the case of a boulder or a large rock....

Baker: You would have to go 1,000' away and look at the four bays. It tells you where everything is. Looking at this, it looks like there is grass growing in-between the panel of the array. This looks like maybe some white gravel there? I'm thinking about drainage issues or lack of drainage?

Fuch: I apologize for that. I put this together earlier just to try and give you a clear picture of what the foundations would look like along with the fence. The plan here is to maintain a vegetative site, not gravel. We even plan to introduce pollinators again to sort of improve the environmental condition of the area.

Waechter: Who is responsible for maintenance you or NU?

Soscia: Montante is.

Lilly: One lists the fence as 7' and one lists it as 8'. I think we are at 8'.

Soscia: That's correct.

Lilly: How do you know that people driving up bringing their children here to school might be turned off by driving past that.

Walters: Certainly, some people may. I did the Steel Winds project in Lackawanna. What we've seen over the years is some people love it and some people don't like it but use it for navigation particularly on Lake Erie. Others just hate it. That happens. The students who are looking at the brochures who are deciding whether they want to go to the university, they really love it.

Lilly: On that brochure you could still show the solar farm but still have the screening for the people who drive by. The whole idea I think behind the screening is that these solar farms are never hidden, they just kind of soften that hard look of a solar array. We're not fooling anybody by hiding these things with 200 trees because people still know they're there. I think the fence that you put here and the shrubbery and landscaping, the landscaping is really quite small and low to the ground. I think some evergreens up along where the decorative fence would be appropriate so it softens it, you can still see it, you drive by it looks like a well-kept landscape that's going to be maintained by the grounds. The grounds there are all mulched and beautified all year round. I don't think putting some evergreen trees would entirely cover it but yet soften it and maybe have an enhanced landscape look.

Soscia: Can I ask a point of clarification just as we're going back and trying to tweak things a little bit, the idea of adding evergreen trees understood, is the idea can we have evergreen trees spaced further apart so you can see the array? We have put money in to this decorative fencing, we would like it to be seen. We think it adds to the rest of the esthetics. I'm just trying to understand where is, what are you guys wanting?

Lilly: For me maybe every 50'. There are some trees that look like they may have been planted in the last 5 years, some citrus trees that are off the road. Those are staying, I'm sure.

Soscia: Those are behind the big monument.

Fuch: I think your suggestion especially as defined to you Katie is questioned here is something we can give some strong consideration to.

Lilly: I'm not saying put trees 16" on center but I would think you could stagger them throughout.

Fuch: I definitely don't disagree with you.

Lilly: I don't know what anybody else what their feelings are?

Waechter: I agree with that to try and work out a compromise but you have to understand we are a rural community and for people that are in rural communities, these are taking up farmland. For the people that live around them, they are visible. They can see them, not what they want to be opening up their door or window and looking at because they've looked at pasture for the past 25-30 years. That's our position on this. This is a unique situation. I get it. I understand the concept that you're wanting to do but your one project out of potentially a whole bunch of projects across the Town of Lewiston. We have to manage that and we have to be careful as far as staying within our guidelines because you are not going to be the last.

Walters: I think we covered this with the ZBA but the closest residence is a half a mile away.

Waechter: Which I get but I like the concept, I love what you're doing but this project is going to be down the street. It's going to be out towards Ransomville, it's going to be...we have to maintain a consistency so when the next project comes and they say well Niagara didn't have to do screening.....

Lilly: Borrego who was here earlier, their plan in Sanborn has 200 trees on it. You're proposing zero trees. You can see the conflict that might arise.

Fuch: We will go back and enhance our landscaping plan. I think we still have the uniqueness of the fact that this is a university and it's very different from Borrego's plan for example which is taking up farmland. It's doing exactly what you're concerned about. This is really quite different.

Waechter: We have to stay consistent. That's just, it has nothing to do what I feel about this project, what I feel about the other ones. My job is to stay consistent.

Walters: As you think about that screening and those modifications. We're talking about maybe one of those things that is unique here in terms of the screening is this decorative fence right. There is no solar developer like Montante that would put something like this in. It's very expensive.

Baker: You can present it that the vegetation iscarbon dioxide and oxygenating the air.

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Conrad: I understand the whole decorative fence thing is great, what if you had some areas of the fence where you have some vistas that took in the view of the solar panels with clusters of pine trees here and there and maybe in those areas with the cluster of pine trees maybe you don't have the expensive fence. Maybe there is a balance of giving your view shed (machine quite working at this point)

A motion to hold a public hearing for May 19, 2022, was made by Lilly, seconded by Waechter and carried.

A motion to adjourn was made by Taczak, seconded by Baker and carried.

Respectfully submitted,


Sandra L. VanUden
Planning Board Secretary


William Burg
Planning Board Chairman