

**Town of Clifton Park Planning Board**  
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PLANNING BOARD

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Denise Bagramian  
Jeffery Jones  
Andrew Neubauer  
Eric Ophardt  
Greg Szczesny

(alternate) Teresa LaSalle

**Planning Board Minutes**  
**September 12, 2018**

Those present at the September 12, 2018 Planning Board meeting were:

Planning Board: R. Ferraro, Chairman, E. Andarawis, D. Bagramian, J. Jones, A. Neubauer,  
E. Ophardt, G. Szczesny  
T. LaSalle – Alternate Member

Mr. Szczesny informed Board members prior to the meeting that he would be arriving late.

Those absent were: None

Those also present were: J. Scavo, Director of Planning  
J. Bianchi, M J Engineering and Land Surveying, P.C.  
A. Morelli, Counsel  
J. Dean, Secretary

Mr. Ferraro, Chairman, called the meeting to order at 7:00p.m. All in attendance stood for recitation of the Pledge of Allegiance.

Mr. Ferraro announced that the NYS Department of Transportation will hold a public open house on Thursday evening, September 20, 2018 from 6:30p.m. to 8:30p.m., at the Clifton Park Senior Center to discuss plans to redesign the intersection of Route 146 and Route 146A in Clifton Park. Attendees will have an opportunity to view visualizations and models of the intersection and comment on the plans for a modern, two-lane roundabout. The Department anticipates completing design work and letting the project in the winter of 2018-2019, with construction anticipated to begin in the Spring of 2019.

Mr. Ferraro announced that Ms. LaSalle would be sitting as a full voting member of the Board at this evening's meeting until Mr. Szczesny's arrival.

### **Minutes Approval:**

Mr. Ophardt moved, seconded by Mr. Neubauer, approval of the minutes of the August 14, 2018 Planning Board meeting as written. Ayes: Andarawis, Neubauer, LaSalle, Jones, Ophardt, Ferraro. Noes: None. Abstained: Bagramian.

Mr. Ferraro explained that the first two agenda items were deferred to this evening's meeting because project reviews ran past the stated deadline of 12:00a.m. at the August 14, 2018 meeting for items to be introduced. Because of the postponement, it is Board policy to consider these applications first.

### **New Business:**

[2018-044] **Azadivatan, Neda** – Proposed (2) lot subdivision, 521 Vischer Ferry Road – Conceptual review. SBL: 2018-044

Mr. Scavo explained that this item was withdrawn from this evening's agenda at the request of the applicant. The applicant plans to request a setback variance from the Zoning Board of Appeals. Should that request be granted, it is the applicant's intention to resubmit the subdivision application to the Planning Board.

Mr. Ferraro explained that, since the following two agenda items relate to the same parcel and project, they will be reviewed concurrently.

[2018-045] **PV Engineers c/o Borrego Solar Systems – Grooms Road Large Scale PV Facility** – Development of a 9.2 MW ground-mounted solar energy generating facility which will cover approximately 33.09 acres with surrounding 7' high fence and associated access roadway, 753 Grooms Road – Conceptual site plan review. SBL: 276.-2-30.1

[2018-046] **PV Engineers c/o Borrego Solar Systems – Grooms Road Large Scale PV Facility** – Approval of Special Use Permit #81178 to permit the construction of a ground-mounted solar array, 753 Grooms Road – Conceptual review. SBL: 276.-2-30.1

Ms. Emilie Flanagan, representative for Borrego Solar, introduced Mr. Dean Smith, consultant for the applicant, who unveiled plans for the firm he represents – PV Engineers c/o Borrego Solar Systems – to develop a second private solar energy generating facility within the Town of Clifton Park. Mr. Smith explained that the proposal calls for the installation of a 9.2 MW ground-mounted solar energy facility on the Lands of Duane Lindsey that will connect to the local electrical grid. The property is located within the R-1 zoning district on the northerly side of Grooms Road approximately 1 mile west of its intersection with Vischer Ferry Road. The project will require Planning Board approval of Special Use Permit #81178, pursuant to Section 208-10(9)(a)[22] of the Town Zoning Code for construction of the ground-mounted display within the

R-1 zone. Mr. Smith explained that installation of the panels is planned for two portions of the 33.09 acre parcel. "Site A," consisting of 24.24 acres of land in the northerly portion of the site will contain the larger portion of the racking system and solar modules; "Site B" located closer to Grooms Road will contain 8.85 acres of the racking system and solar modules. An approximate total of 23,571 solar panels are to be installed on the property. The site will be accessed by extension of an existing gravel service road provided to the telecommunications tower currently located on the property. All of the panels will be surrounded by 7' high chain link fencing. Two electrical equipment cabinet locations are illustrated on the site plans: one within the 8.85 acre parcel and the other on the 24.24 acre portion. Motion-activated lighting will be provided at each of the equipment areas. Approximately 9.52 acres will require tree cutting and stump removal: 3.64 acres will require only tree cutting. Delineated wetland areas and their adjacent buffers have been mapped.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, provided the following comments regarding these two applications in a memo dated July 27, 2018. The applicant is proposing the installation of a large ground-mounted PV equipment complex in an R-1 zoning district: the proposed use is a permitted use within the zone if granted a Special Use Permit by the Planning Board. Mr. Myers believes that the parcel is currently classified as "farming" and may have an agricultural exemption. He noted that, if approved, the system will eliminate any viable farmland. The access road shown is approximately 2,900 feet long and, as a result, must meet the requirements of the NYS Fire Code: it must be 26' wide, be capable of supporting a 75,000 lb. vehicle, include turn-around locations, and have access to fenced areas. The amount of disturbance will require a full Stormwater Pollution Prevention Plan. No overhead power lines should cross the access roadway.

Mr. Scavo reported that the ECC issued the following comments regarding these two applications which were recently reviewed by the Commission. The limits of the LC zone and 100 foot adjacent area, NYSDEC Wetlands, and Federal Jurisdictional Wetlands shall be identified on the plot plan. The ECC recommends that the proposed disturbance shall remain out of the NYSDEC Wetland Adjacent Area and, more importantly, out of the existing wetlands. The removal of trees and stumps from the LC zone will significantly reduce the effectiveness of this area as a buffer zone by eliminating wildlife habitat and stormwater filtration. All installations shall be screened with an appropriate combination of natural vegetative buffer, landscaping, or other such screening so as to minimize significant adverse environmental, visual and/or auditory impacts. Although not essential for project approval, the ECC urges the applicant to consider the development of a pollinator – friendly planting plan which would provide habitat for bees, butterflies, and other wildlife. The CR (Conservation Residential) zone was established to provide and maintain land area to promote open space and agricultural uses and activities to sustain the rural character of the predominately natural, agricultural and low intensity residential setting. The preservation of constrained land such as designated wetland areas is required in residential development projects within this zone. This project shall be consistent with that practice. The placement of solar panels within constrained land areas on the parcel should be prohibited

Mr. Ferraro noted that the ECC comments regarding the CR (Conservation Residential) zoning district are inaccurate since the project lies within the R-1 zoning district.

Mr. Scavo reported that Mr. Reese, Stormwater Management Technician, provided the following comments regarding this application. The applicant shall address the Clifton Park Zoning Code Chapter 208-69.2.C and have it reviewed by the Zoning Enforcement Officer to determine if a variance is required for the project. The applicant must prepare a Stormwater Pollution Prevention Plan for review and approval.

Mr. Scavo provided comments issued by the Planning Department. The proposed project is subject to Section 239 of General Municipal Law and the preliminary plan set will be referred to the Saratoga County Planning Board for a recommendation. The Planning Board must receive a recommendation back from the Saratoga County Planning Board prior to taking final actions on the applications. The applicant is asked to add a note to the plan that states:

Any utility work or construction within the County Highway right-of-way (Grooms Road) requires the property owner to obtain a highway work permit from the Saratoga County Department of Public Works, whether it is for construction or installation of facilities, driveways, utilities, or repairs and maintenance.

Please note the applicant will need to obtain a permit for construction of the gravel driveway and is advised to contact Gary Meier, Saratoga County Department of Public Works, at 518-885-2235 to commence the permit process. A drainage culvert may be required under the proposed gravel driveway. The following notes should be added to the plan:

1. Clifton Park is a Right to Farm Community. The Solar Utility should be aware that farmers have the right to undertake farm practices which may generate dust, odor, noise, smoke and vibration associated with farming practices.
2. Solar Energy Systems are considered abandoned after 12 months without electrical energy generation with distribution and must be removed from the property. Applications for an extension may be reviewed by the Clifton Park Planning Board for a period of 12 additional months.

Valid Jurisdictional Determination Letters should be submitted by the applicant for the project file. A note should be added to the plan noting the date of both the ACOE and NYS DEC jurisdictional determinations. Part I of the Full EAF – Page 2 of 13, B. Government Approvals should note yes for Town Board Approval since it is anticipated a PILOT Agreement will be sought in accordance with Real Property Tax Law §487. The Town Board will be considered an involved agency under coordinated review with the recommendation that the Planning Board serve as Lead Agency. There shall be no clearing, grading, construction, or disturbance of soil and/or native vegetation until the final site plan has been approved and stamped. The Notice of Intent for the Stormwater Pollution Prevention Plan must also be filed with NYS DEC prior to the commencement of any soil disturbance, clearing, grading, and/or construction. There appears to be a significant amount of acreage that will involve tree cutting and limited stump removal to accommodate the solar panels. The SWPPP should address the use of best management practices for these activities, which may include:

1. Debris should be kept from draining into wetland areas.
2. Mud should be prevented from being carried onto adjacent roadways.
3. Identify landing area for process and stacking of removed trees.
4. Identify where water will drain off the identified landing area and keep it clear of debris.
5. Remediate any ruts to the landscape created by equipment or from dragging felled trees.

The removal of a Term Conservation Easement on the property will result in payback of benefits realized by the property owner.

Mr. Bianchi reported that, after review of the documents presented for consideration of approval of the Special Use Permit and conceptual site plan review, M J Engineering and Land Surveying, P.C. issued the following comments. Based upon review of Part 617 of NYS Environmental Conservation Law, the project appears to be a “Type 1” action pursuant to Part 617.4(b)(6)(i). Assuming the Clifton Park Planning Board is to request Lead Agency status under SEQRA, a coordinated review is required for Type I actions. Under a coordinated review, involved/interested agencies to be engaged may include, but are not necessarily limited to the following: Town Board of Town of Clifton Park – for consideration of a proposed PILOT agreement; Saratoga County Planning Board – 239m referral due to the parcel’s proximity to the Consolidated Agriculture District No. 2; NYS Department of Environmental Conservation – permit coverage under stormwater SPDES, identification of threatened and endangered species, impacts within a wetland and/or adjacent area; United States Army Corps of Engineers – potential joint permit application for disturbances within the NYSDEC wetland and/or adjacent areas as well as regulated waters of the U.S. Additional agencies may be identified by the Town during its review of the project.

Several comments related to the Full Environmental Assessment Form. In Part C.4.a, the applicant is asked to correct the school district to Shenendehowa Central Schools. Part C.4.b should be corrected to identify the NYS Police and Saratoga County Sheriff. Part D.1.b.b. notes that the project will physically disturb 35.85 acres of land. As such a Stormwater Pollution Prevention Plan (SWPPP) will be required. Part D.2.b notes that the project will not result in alterations or increased encroachments into existing wetlands and/or waterbody. The submitted plans suggest the removal of trees with the stumps remaining in regulated wetlands. The response should be updated if necessary based upon the proposed scope of work. Part E.1.b notes an increase in agriculture lands upon completion of the project. The applicant is asked to explain this circumstance considering the finished condition will include solar arrays with no indication of additional agriculture uses. A response to Part E.2.a. must be provided. Part E.2.h notes the project site is located over a sole source aquifer. This will require special consideration in the design of site specific stormwater management systems and increases separation to groundwater. A response to Part E.2.m must be provided. The applicant is asked to confirm that the response provided for Part E.2.o includes a search of the USFW Ipac database: the response shall be updated accordingly. The applicant is asked to confirm that the response provided for Part E.3.a as it is believed portions of the project site are actively utilized for farming operations with crops.

Several comments related to the site plan. The project is located within the Town’s R-1 zoning district. Based upon a review of Section 208-10(B)(9)(a)[12] of the Town’s Zoning Code, a ground mounted solar array is a use permitted by way of a Special Use Permit. The Planning Board shall review the proposal following the criteria outlined in Section 208-79(E) of the Town Code as it relates to the special use request. The site plan shall show the extent of the L-C boundaries pursuant to Section 208-69.1 of the Town Code. Upon the illustration of the L-C boundary on the plans, should the proposed improvements reside within the L-C district, the applicant shall provide sufficient data to demonstrate that the proposed activity will not result in any of the changes noted in Section 208-69.3 of the Town Code. The site plans shall note the individual/firm that completed the wetland delineation and date of delineation being completed. The site plans indicate a combination of tree cutting and stump removal and permanent improvements within the NYSDEC wetland adjacent areas. The applicant shall provide the

Town with all permitting associated with work within the NYSDEC wetland adjacent areas. In the event the project proposed any temporary/permanent impacts to waters of the U.S. the applicant shall also provide copies of all permits obtained from the US ACOE. The existing roadway drainage shall be maintained along Grooms Road. A new culvert pipe may be necessary at the improved driveway. The applicant shall coordinate with the Saratoga County Department of Public Works regarding the extent of improvements that may be required. The applicant is asked to add a note to the plans indicating all work within the Grooms Road right-of-way is subject to permitting by the Saratoga County Department of Public Works. Sheet C2.0 notes 5.88 acres of tree cutting and stumping, which is considered a permitted ground disturbance. As such, subsequent submissions shall include a Stormwater Pollution Prevention Plan. The construction of solar arrays typically requires the preparation of a "basic" SWPPP that addresses construction phase erosion and sediment control as long as the ground surface is restored to preconstruction conditions and there is no change in the hydrology from pre- to post-development conditions. The project proposes substantial tree clearing with the expectation that the ground cover will change from wooded to grass that may become overgrown. This altered ground condition may have a substantial change in the project hydrology. Further, there is an extensive access road adjacent to the NYSDEC wetland buffer which in itself may need water quality and quantity controls (refer to GP-0-15-002, Appendix B, Table 2, second to last bullet). If the SWPPP submitted is intended to be solely for construction phase erosion and sediment controls, a narrative will be necessary justifying that the conditions above have been addressed or will be met and that water quantity and quality controls are not required. The plans show a gated access to the solar arrays. The Town's emergency services may consider a Knox Box to ensure access in case there is a need to respond to an event at the facility. Subsequent submissions shall show how site disturbances will occur without exceeding 5 acres of ground disturbance at one time. Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

Ms. Bagramian asked Mr. Smith to describe plans for maintenance of the area. Mr. Smith explained that very little maintenance of the fenced area is required. The grass will be cut once or twice a year and snow will be plowed from the roadway as necessary. Should the panels require attention, they will be cleaned with plain water. In response to Ms. Bagramian's question regarding possible contamination from breakage of the panels, Mr. Smith described the panels as consisting of "low hazard materials" that are totally sealed in glass. He reported that investigative studies of even cracked or broken panels indicate no leeching. Mr. Smith reported that the decommissioning plan requires that the site be restored "as close to its original condition as possible." Though Ms. Bagramian expressed concerns that the site may be left with some contamination that may require a Phase 1 environmental review at its expiration, Mr. Smith reported that the NYSDEC does not require such review. Mr. Ferraro asked how maintenance would be accomplished. Mr. Smith explained that the mowers would be able to cut the grass beneath the arrays and through the rows. Ms. Flanagan explained that most of the land utilized for Borrego's solar arrays are installed on farm land and that the farmers view the use as a "good practice." They are supportive of the use because the use does not contaminate or damage the agricultural soils. Mr. Jones commented that his extensive reading on the subject of solar energy has indicated that some states are concerned with contamination of array sites. Mr. Smith explained that Borrego Solar utilizes state-of-the-art sealed solid silicone panels which are composed mainly of recyclable materials. He offered to provide Board members with

supplemental information regarding the panel components. Mr. Andarawis confirmed Mr. Smith's assessment stating that although there are multiple types of panels utilized within the industry, they all contain no more hazardous materials than those found in usual household electronics. Mr. Scavo noted that the solar equipment placed on the reclaimed landfilled owned by the Town of Clifton Park is quite easily maintained and that run-off from the site does not appear to be a problem. Ms. Flanagan reported that on at least one of the sites Borrego has leased, goats graze through the property. In response to Mr. Jones' question regarding impacts to air traffic exiting or landing at local airports, Ms. Flanagan reported that there would be no glare or interference for the planes. Ms. Flanagan noted that many airports throughout the country, particularly those in California, are installing photovoltaic panels on the roofs of their structures. Mr. Smith pointed out that "glare times" are very much limited during the day. Mr. Neubauer asked for clarification of the diagram provided that indicated areas of "clearing and stumping." Mr. Smith explained that tree cutting beyond the fence boundaries would be restricted to the cutting of trees that would shade the property – stumps in this area would remain. Inside the fence, removal of both trees and stumps would be required. He reported that the current plan would require 51,000 SF of clearing with no stump removal and 7,000 SF of clearing that would include the removal of stumps. Although some site disturbance remains within the delineated buffer area, the amount of disturbance has been subsequently significantly reduced from the original plan that was submitted to the Planning Board for this meeting. Mr. Ferraro questioned whether or not disturbance of isolated wetlands within the array area will negatively impact the area's natural hydrology, commenting that the Planning Board is "judicious about the loss of and impacts to wetland areas." He noted that the ECC comments reflect this concern and asked if mitigation measures may be required. Mr. Smith stated that the ACOE does not consider the installation of racks within isolated wetlands already disturbed as an impact, though the issue will be addressed by the hydro cad analysis prepared as part of the Stormwater Pollution Prevention Plan. Though Mr. Jones pointed out the "irony" of permitting the placement of solar panels within wetlands, Ms. Flanagan explained that the both the ACOE and NYSDEC issue permits for activity within the wetlands due to the limited disturbance. Mr. Scavo explained that the installation of utilities is a permitted use within the LC zone. Mr. Smith said that the operations and maintenance policies mandate that no pesticides and/or fertilizers are to be used on the development site, resulting in less of an impact to the property than usual agricultural activities which normally do include the use of chemicals. Mr. Ferraro commented that although he understands that the installation of solar arrays may result in less disturbance to a site than the installation of traditional utility equipment such as power poles and he is "willing to listen to the arguments focused on the benefits of the newer energy producing equipment," he remains concerned with the number of applications that do propose wetland disturbances. Mr. Smith responded to the issue, stating that "projects are driven by economics." Though Mr. Jones stated his preference for applications that kept all proscribed activities out of the wetlands, both Mr. Smith and Ms. Flanagan explained that the company always works with regulatory agencies to ensure that the proposed development meets all permitting requirements and that documentation from those agencies will be provided to the town. Mr. Ferraro questioned why the applicant was unable to keep development from encroaching on the wetlands and/or associated buffer areas. Ms. Flanagan explained that the cost analysis for development is very complex and that a number of factors and costs are involved in assessing property for potential development and securing access to the existing energy distribution system. Mr. Ophardt questioned whether or not the site would be visible from Grooms Road. Mr. Smith noted that the site is significantly screened on three sides but additional buffering would be provided where

needed. Mr. Neubauer recommended that the applicant discuss the project plan with the adjoining property owner whose property fronts on Grooms Road and is situated in close proximity to the access drive. Mr. Lindsey, property owner, explained that the property in question belonged to his daughter and that the lease agreement includes the mandate that additional screening be provided along the access road. Mr. Ferraro recommended that a visual simulation be provided to determine the possible visual impacts to those properties on Wishing Well Lane and from Grooms Road near the proposed access point and westerly. Mr. Smith agreed to provide the requested visuals. Mr. Neubauer asked that the tree clearing plan include a landscaping plan indicating the locations of additional screening. In response to Mr. Andarawis' question regarding the need for two distinct development areas, Ms. Flanagan explained that the state imposes a 5MW AC cap on installations: two interconnection points will be provided. Referencing an administrative error, Mr. Ferraro asked that the application form be corrected to note that the project lies within the R-1 zoning district.

### **Public Hearings:**

There were no public hearings scheduled for this evening's meeting.

### **Old Business:**

Mr. Ferraro explained that, since the following three agenda items relate to the same parcel and project, they will be reviewed concurrently.

[2018-025] **PV Engineers c/o Borrego Solar Systems – Ashdown Road Large Scale PV Facility** – Proposed (2) lot subdivision, 25 and 27 Ashdown Road – Final review and possible determination. SBL: 263.-2-83

[2018-028] **PV Engineers c/o Borrego Solar Systems – Ashdown Road Large Scale PV Facility** – Approval of Special Use Permit #81164 to permit the construction of a ground-mounted solar array, 25 and 27 Ashdown Road – Final review and possible determination. SBL: 263.-2-83

[2018-026] **PV Engineers c/o Borrego Solar Systems – Ashdown Road Large Scale PV Facility** – Development of a 5.3 MW ground-mounted solar energy generating facility which will cover approximately 21.1 acres with surrounding 7' high fence, and associated access roadway, 25 and 27 Ashdown Road – Final site plan review and possible determination. SBL: 263.-2-83

These applications were reviewed by the Planning Board at two previous meetings. The project was introduced to the Board at its May 23, 2018 meeting and a public hearing was conducted and closed for the subdivision and Special Use Permit applications on August 14, 2018.

Ms. Emilie Flanagan and Mr. Dean Smith, consultants for the applicant, explained the revisions that have been made to the initial application, noting that the revised plan is based upon NYSDEC recommendations and comments received during the August 14, 2018 meeting. Though the NYSDEC is still reviewing the revised design plan, initial responses to revised plans from that

agency have been positive. The speakers pointed out that the development area has been reduced from 20.9 acres to 18.7 acres, has been moved beyond buffer areas as much as practicable, and that the most efficient solar modules will be installed.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, offered a number of comments regarding this application in memo dated September 5, 2018. Mr. Myers states that, contrary to the responses provided by the applicant, there is an existing easement provided to Blue Barns Apartments that provides access to a leach field. Although the easement may be situated on an adjacent parcel, it should be clearly labeled on the project plan. As previously noted, emergency access will be required. A 26' wide roadway, providing access within 150' of all areas of the array, capable of supporting a 75,000lb. vehicle with turnouts at intervals to be determined must be provided, though Mr. Myers noted that the "authority having jurisdiction" may render a determination on the most reasonable emergency access plan. The L-C zoning restrictions are regulated by the town – not the NYSDEC. As a result, restrictions for disturbances within the zone may be more limiting than those required by the state agency. Mr. Myers points out that although the application states that "ground screw supports create less [soil] disturbance; therefore, the five acre [soil disturbance] limit shall not be applied," disturbance will occur not only be the installation of the ground screws but by the use of equipment to install them on the site. Plans show clearing and panel installation in the wetland buffer area as well as over wetland "B". Plans received after the submission date indicate that the fenced area has been increased in size from 18.7 acre to 21.1 acres, thus extending the area further into the wetland buffer. Further review and implications of this expansion will be required.

Mr. Scavo explained that the easement referenced in Mr. Myers' memo is located beyond the property boundaries of the lands included in this application and, therefore, the applicant would have no responsibility for identification of the easement area. He also noted that the comment regarding the project size is incorrect: the size of the development area has been reduced to 18.7 acres from 21.1 acres.

Mr. Scavo noted that Ms. Reed, Chief of the Bureau of Fire Prevention, commented that, per IFC standards, emergency service access must be provided to the facility.

Mr. Scavo read comments issued by Mr. Reese, Stormwater Management Technician, in a memo dated September 7, 2018. The applicant shall address the Clifton Park Code Chapter 208-69.2.C and have it reviewed by Zoning Director to determine if a variance is required for the project. A Stormwater Pollution Prevention Plan must be prepared and submitted for review as plans progress. The Town of Clifton Park is a Municipal Separate Storm Sewer System (MS4) under the NYSDEC General Permit for Stormwater Discharges.

- a. The Town is concerned of the construction process when disturbance and limited ground cover will be at its maximum. The SWPPP should discuss in detail how erosion control will be handled when large areas are being disturbed. The applicant shall describe in detail on how previous projects of this size were handled and how the protection of the existing wetlands will be maintained.
- b. The SWPPP should address how the individual panels will be arranged to allow the following:
  - i. Allow the passage of runoff between each module thereby minimizing the

- creation of concentrated runoff.
- ii. Allow the growth of vegetation beneath and between the panels.
- iii. Allow the preservation of existing vegetation by minimizing the construction equipment to disturb the earth.
- c. The details show a Typical Rack Section, noting that actual rack size may vary. The stormwater runoff calculations should address the tilt angle and length of run it will have over the panels.
- d. When the applicant submits the stormwater calculation for the SWPPP, the rainfall distribution should be changed to Type II.
- e. It appears over 20± acres will be effected and a phasing plan in the SWPPP should be addressed.

Mr. Scavo explained that the ECC issued the following comments after review of this application at its September 4, 2018 meeting. The applicant is required to avoid wetland impacts including any disturbance of the 100 buffer zone. If, after the examination of alternatives, impacts to the wetlands remain and cannot be avoided, the applicant shall be required to submit a proposal to compensate for losses by replacing lost wetlands or wetland natural values (e.g. the construction of new wetlands, enhancement of the natural diversity of natural wetlands or construction of facilities replacing wetland functions). The Town Comprehensive Plan provides for a land conservation zone (e.g. buffer zone) of 100 feet surrounding a NYSDEC wetland and the Town Code reflects this vision. Any disturbance of this area will impair its natural functions (e.g. natural habitat, drainage flows, filtration, etc.)

Mr. Scavo reported that all previously issued Planning Department comments have been satisfactorily addressed and stated his appreciation for the applicant's willingness to reduce the amount of intrusion into adjacent areas.

Mr. Ferraro commented that Ms. Joanne Coons, town resident and adjunct professor at Hudson Valley Community College teaching courses related to solar technology, offered her expert opinion regarding the project plan in a letter to the Planning Board dated August 29, 2018. Wholeheartedly endorsing the project, she cited a number of "positive attributes" that will benefit the entire Clifton Park community.

Mr. Bianchi reported that, after review of the site plans and supporting documents submitted for review, M J Engineering and Land Surveying, P.C. provided the following comments in a letter dated September 6, 2018. One comment related to the Full Environmental Assessment Form submitted for review. As noted in Comment 2 of the August 10, 2018 review letter, under Item E.2.m, a description of the predominate wildlife present on the project site must be identified. A number of comments related to the subdivision and site plans submitted. As noted in Comment 8 of the May 18, 2018 review letter, upon the illustration of the L-C boundary on the plans, should the proposed improvements reside within the L-C district, the applicant shall provide sufficient data to demonstrate that the proposed activity will not result in any of the changes noted in Section 208-69.3 of the Town's Zoning Code. While M J Engineering and Land Surveying, P.C. does not necessary disagree with the applicant's response provided, it is requested that one be provided that is specific to the criteria outlined in Section 208-69.3(A) of the Zoning Code for each item listed under the section. As noted in Comment 12 of the May 18, 2018 review letter,

improvements are being proposed in the NYSDEC adjacent area. Correspondence with the NYSDEC and any approvals shall be provided to the Town for its records. The Planning Board may consider delaying any action on the application until it is fully understood what NYSDEC's position is considering the extent of impacts within the adjacent area. As noted in Comment 14 of the May 18, 2018 review letter, the existing roadway drainage shall be maintained along Ashdown Road. A new culvert pipe may be necessary at the improved driveway. The applicant shall coordinate with the Town Highway Superintendent regarding the extent of improvements that may be required. This coordination shall be done such that the final plans approved by the Planning Board note any drainage improvements required of the Highway Superintendent. As noted in Comment 8 of the August 10, 2018 review letter, the fire department may consider having a Knox Box be placed on the project's main gated access in the event an incident occurs that requires access to the site. The May 18, 2018 review letter contained several comments specific to stormwater management and construction phase erosion and sediment control, most of which will be discussed in a project specific Stormwater Pollution Prevention Plan (SWPPP). The applicant has indicated that the required SWPPP is being prepared. Upon receipt of the SWPPP, additional technical comments may be forthcoming. The submitted subdivision plat shall be updated include the following items:

- a. Present zoning and building setback lines pursuant to Section 179-11(1) of the Town Subdivision Regulations.
- b. Contour lines to USGS datum pursuant to Section 179-11(8) of the Town Subdivision Regulations.
- c. There is a note on the plat discussing the L-C Zoning District boundary. The plan shall identify the physical location based upon the location of NYSDEC regulated wetlands.
- d. Update Survey Note 8 to identify the parties responsible for completing the wetland delineations shown on the plat.

Mr. Bianchi explained that several comments concerned the Stormwater Memo. As previously noted, the project will disturb more than one acre of land and is therefore subject to Stormwater General Permit GP 0-15-002. Additionally, there will be an increase in impervious surfaces from the construction of the access road. Based upon these two circumstances, a Stormwater Pollution Prevention Plan (SWPPP) shall be prepared that provides post construction stormwater management practices in accordance with Part I.C of the General Permit. Further, it shall include the information outlined in Part III of the General Permit. While the memo provided addresses, additional technical data is required in order for the stormwater management approach to be considered compliant with the NYSDEC and Town of Clifton Park stormwater management regulations. The memo assesses the 2-year, 10-year and 100-year storm events. The 1-year event representing the Stream Channel Protection Volume Requirement (Cpv) pursuant to Section 4.4 of the NYSSMDM shall also be assessed. The applicant is asked to provide the subcatchment printout sheets for each storm event to confirm Tc values utilized and hydrograph results. Section 4.0 of the memo indicates that the proposed project will not increase the peak runoff. In reviewing Table 2, the post-development runoff from DP-4 for the 100-year, 24-hour event will be 0.2 cfs, where under existing conditions it is 0.0 cfs. Due to the increase in runoff generated from the site under the 100-year event, there needs to be a discussion as to whether a downstream analysis is required as noted in Section 4.10 of the NYSSMDM. Specifically, the increase, while minimal, does represent greater than a 5% increase. The NYSSMDM indicates

that a downstream analysis is warranted if peak flow rates increase by more than 5% of the pre-developed condition or no downstream structures or buildings are impacted. The pre- and post-developed watershed maps provided within the plan set do not appear to correspond to the HydroCAD model provided within the memo. As an example, there are POAs provided on the plans with numerical identifications that do not match the Hydro CAD model or Table 2 summary. The applicant is advised to update the maps and/or model such that subcatchment designations and/or POAs correspond to one another.

In response to Mr. Andarawis' request for the installation of a "wildlife friendly fence," Mr. Smith stated that such fencing will be provided. Mr. Andarawis asked for assurance that the buffering provided along property boundaries serving as a visual screen from adjoining properties remain even if development plans for an area beyond the leased area are proposed. Mr. Scavo explained that any future development proposals would require Planning Board review. Board members agreed that a restriction on clearing buffer areas specifically recognized as providing essential screening for this development project should be made a condition of approval. Mr. Ferraro raised several issues of concern. In response to his question regarding discussions of the project with adjoining property owners, Ms. Flanagan reported that all neighbors have been notified of the project, though not all have responded to her messages. Plans must include identification of the required 15' wide easement along the property's Ashdown Road frontage for future roadway improvements or trail development. The 25-year bond for the decommissioning plan must be submitted and approved by legal counsel. The stormwater management plan must be approved by the Stormwater Management Technician, Stormwater Management Officer, and Town Engineer. Access road issues must be resolved with the Chief of the Bureau of Fire Prevention and Director of Building and Development. If the road must be extended to a length that impacts wetland or buffer areas, the applicant must return to the Planning Board for review and approval.

Ms. LaSalle offered Resolution #15 of 2018, seconded by Mr. Ophardt, to waive the final hearing for this application and to grant preliminary and final subdivision approval conditioned upon the addition of a note to the plan stating that the designated buffer areas specifically recognized as providing essential screening for this development project will not be disturbed even if additional development is proposed for the remaining portion of the 85.65 acre parcel, notification to all adjoining property owners of the proposed development, identification of the required 15' wide easement along the Ashdown Road frontage to provide for future roadway improvements and/or trail development, submission of a 25-year bond for the decommissioning plan to be approved by legal counsel, approval of the stormwater management plan by town officials and the town engineer, resolution of the access roadway issues with the Chief of the Bureau of Fire Prevention and the Director of Building and Development and the stipulation that, should the mandated roadway result in additional disturbances to the designated wetlands and/or adjacent areas, the application will be remanded back to the Planning Board for additional review, and all items listed in the final comment letter issued by the Planning Department. Ayes: Neubauer, Andarawis, Bagramian, LaSalle, Jones, Ophardt, Ferraro. Noes: None.

Mr. Andarawis offered Resolution #16 of 2018, seconded by Mr. Neubauer, to approve Special Use Permit #81164 to permit construction of a solar array pursuant to Section 208-16D(3)(a)[22] conditioned upon the addition of a note to the plan stating that the designated buffer

areas specifically recognized as providing essential screening for this development project will not be disturbed even if additional development is proposed for the remaining portion of the 85.65 acre parcel, notification of all adjoining property owners of the proposed development, identification of the required 15' wide easement along the Ashdown Road frontage to provide for future roadway improvements and/or trail development, submission of a 25-year bond for the decommissioning plan to be approved by legal counsel, approval of the stormwater management plan by town officials and the town engineer, resolution of the access roadway issues with the Chief of the Bureau of Fire Prevention and the Director of Building and Development and the stipulation that, should the mandated roadway result in additional disturbances to the designated wetlands and/or adjacent areas, the application will be remanded back to the Planning Board for additional review, and all items listed in the final comment letter issued by the Planning Department. Ayes: Neubauer, Andarawis, Bagramian, LaSalle, Jones, Ophardt, Ferraro. Noes: None.

Mr. Ophardt moved, seconded by Mr. Neubauer, to grant preliminary and final site plan approval to this application conditioned upon the addition of a note to the plan stating that the designated buffer areas specifically recognized as providing essential screening for this development project will not be disturbed even if additional development is proposed for the remaining portion of the 85.65 acre parcel, notification of all adjoining property owners of the proposed development, identification of the required 15' wide easement along the Ashdown Road frontage to provide for future roadway improvements and/or trail development, submission of a 25-year bond for the decommissioning plan to be approved by legal counsel, approval of the stormwater management plan by town officials and the town engineer, resolution of the access roadway issues with the Chief of the Bureau of Fire Prevention and the Director of Building and Development and the stipulation that, should the mandated roadway result in additional disturbances to the designated wetlands and/or adjacent areas, the application will be remanded back to the Planning Board for additional review, and all items listed in the final comment letter issued by the Planning Department. The motion was unanimously carried.

Mr. Ferraro explained that, since the following two agenda items relate to the same parcel and project, they will be reviewed concurrently.

[2017-033] **MDG Mill Creek – Grooms Road Subdivision** – Proposed (3) lot subdivision, 465 Grooms Road – Revised conceptual review. SBL: 278.-1-46.1; 278.-1-45; 278.1-46.2

[2017-034] **MDG Mill Creek – Grooms Road Duplex SUP** - Proposed Special Use Permit #81133 to allow construction of (3) duplex units at 465 Grooms Road – Revised conceptual review. SBL: 278.-1-46.1; 278.-1-45; 278.1-46.2

Mr. Goldstein, property owner and applicant, explained that the project proposal remains generally as presented at the July 11, 2017 Planning Board meeting when it was initially introduced. The revised plan, however, does reflect comments issued at that time. Lot boundaries have been redrawn: Lot #1 will now be .98 acres in size; Lot #2 will be .86 acre in size; Lot #3 will be 1.09 acres in size. Providing rationale for the construction of duplexes, Mr. Goldstein explained that the property's proximity to the Northway makes it less desirable for single-family

homes. While the original subdivision plan proposed soil disturbance totaled .75 acres for foundation installation and driveway uses, the updated plan shows only .19 acres of disturbance for the access drive. As recommended at the previous meeting, the combined driveway for Lots #2 and 3 has been moved to the west. The proposed duplex on Lot #3 has been moved to the northwesterly portion of the site.

Mr. Szczesny arrived at the meeting at 9:10p.m.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, offered the following comments regarding this application. The limited detail submitted makes it difficult to evaluate it properly. No Stormwater Pollution Prevention Plan has been submitted to date. The water lines shown as installed beneath the proposed driveways are not permitted. The Special Use Permit must be approved prior to the site plan. As stated in the comment letter issued for the July 11, 2017 meeting, the proposal requires the approval of three (3) separate Special Use Permits. Although the Planning Board recommended that there be no wetland disturbances on the property, a reduced area of disturbance is still proposed. As such, a wetland disturbance permit will be required. It appears that the area to the north of this proposal is town-owned and may be a "paper street." A determination on the viability of the placement of the sewer in this area may be required. If it is useable space, Mr. Myers questions whether or not the water service may be provided through the area as well. Grooms Road requires a 100' setback from the centerline: this setback requirement appears to be met. Two of the three building proposals are very close to each other due to the wetland limitations. These limitations also severely limit the available yard area for the structures. Mr. Myers concludes that the proposal "appears too dense for the available buildable area." He notes that since the proposal is at a "town entrance" some types of rendering should be provided for review prior to the granting of any approvals.

Mr. Scavo explained that Ms. Reed, Chief of the Bureau of Fire Prevention, requested that the approved emergency response numbers be obtained and shown on the filed plat.

Mr. Scavo explained that the ECC provided the following comments regarding this application after review at its September 4, 2018 meeting. It is noted that the comments issued were relevant to both the subdivision and Special Use Permit applications. For Lots #2 and 3 the ECC notes there is very little usable yard due to the presence of wetlands. For all lots the ECC recommends delineation of the wetlands using split rail fencing along the wetland borders and deed restrictions to protect the remaining wetlands. The applicant should consult with the ACOE to determine if mitigation measures will be required for this proposal. The ECC notes that the project may result in intrusion into Federal Jurisdictional Wetlands. The applicant must avoid intrusion into ACOE Wetlands or apply for a Federal Wetlands Permit for any disturbances for the project. The Town of Clifton Park should be provided with copies of all related correspondence. There may be a presence of high groundwater: building codes require a certain separation of groundwater to the building foundation. This may result in added fill around the building which could increase the amount of grading resulting in additional disturbance to the existing wetlands. The ECC recommends the submission of a grading plan to show the possible limits of disturbance. As per section 208-11 all three lots do not appear to meet the R-1 units per acre standard. The ECC recommends the applicant provide the data on the submitted plans to show how it meets the

density standards. As per section 208-11c, two of the three lots do not meet the 200 feet front building line width.

Mr. Scavo noted that the ECC comments regarding the density and building line width are incorrect: the proposed plan does, indeed, comply with density and lot width requirements.

Mr. Scavo read the comments prepared by Mr. Reese, Stormwater Management Technician. Plans indicated that the proposed disturbance limits are from five to ten feet from the building facades and the proposed driveway edges. The limits of disturbance do not provide lawns and with the proposed buildings situated within or adjacent to wetlands, the lots may require fill to keep the foundation a minimum of two feet above the high-water table.

Mr. Scavo read the comments issued by the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee. The committee recommends that the applicant provide a 15' wide easement along Grooms Road to provide for future roadway improvements or trail installation.

Mr. Scavo provided comments issued by the Planning Department. It appears the applicant has repositioned the proposed duplex on Lot #3 to eliminate the need to disturb .046 acres of wetlands that were previously shown to be disturbed. In a letter dated July 21, 2017, the Saratoga County Planning Board noted the project will have no significant county-wide or inter-community impact. The County did note that the applicant will need to obtain a curb cut permit from the Saratoga County Department of Public Works and will require sign-off from the Saratoga County Sewer District. The applicant is asked to add the following notes to the plan:

1. The identified Freshwater Wetland is protected and regulated under federal law (Section 404 of the Clean Waters Act) by the U.S. Army Corps of Engineers. Prior to undertaking any project that may be within or adjacent to the wetland, contact **both** the DEC Region 5 Office at (518) 623-1200, and the US Army Corps of Engineers at (518) 266-6350, to obtain required permits.
2. Prior to any digging, drilling, or blasting associated with the project the property owner shall contact the Underground Facilities Protective Organization at 811, at 1-800-962-7962 or at [www.digsafelynewyork.com](http://www.digsafelynewyork.com) at least two full working days prior to any work.
3. This parcel is located in an area where aviation activity occurs. Such activity may include, but is not limited to periodic noise, vibration, hours or operation, and other associated activities. A study describing this impact in detail is available for inspection in the offices of the Albany International Airport."
4. The parcels shall be included within the Clifton Gardens Park District.

The applicant is asked to add the following note to the plan for the common driveway shown on Lots #2 and 3:

**STANDARD NOTE FOR LOTS WITH COMMON RIGHTS OF INGRESS/EGRESS:**

The proposed perpetual ingress-egress easements shown hereon shall be used in common by the owners of lots numbered 2 and 3. All such easements shall be in effect and binding upon the owners of said lots, their heirs, successors, and assigns

and all future owners of said lots, their heirs, successors, and assigns, upon filing of this subdivision plat in the Office of the Saratoga County Clerk.

In accordance with §208-79(E) of the Town Code:

Before granting approval to any special use, the Planning Board shall determine whether the proposed special use will, among other things, satisfy the following considerations:

- a) That the use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts.
- b) That the use will not prevent the orderly and reasonable use of permitted or legally established uses in the district wherein the proposed use is to be located.
- c) That the public health, safety, general welfare or order of the Town will not be adversely affected by the proposed use in its location.
- d) That the use will be in harmony with and promote the general purposes and intent of the Comprehensive Plan and this chapter.
- e) That the character of the existing uses and approved future development in the district will not be adversely affected by the location of the proposed special use in the proposed location
- f) The conservation of property values in the vicinity of the proposed specially permitted use and the encouragement of the most appropriate use of land.
- g) The effect that the location of the proposed use may have on the increase of vehicular traffic congestion on public streets and highways.
- h) That the proposed site provides adequate parking facilities to protect against hazardous traffic and/or parking conditions.
- i) The availability of adequate and proper public or private facilities for water and for the treatment, removal or discharge of sewage, refuse or effluent (whether liquid, solid, gaseous or otherwise) that may be caused by or as a result of the proposed use.
- j) Whether the use or materials incidental thereto or produced may give off obnoxious odors, smoke or soot or will cause disturbing emissions of electrical charges, dust, light, vibration or noise detrimental to the public health, safety and general welfare.
- k) Whether operations of the special use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing or if proposed by the Town or by other governmental agencies.

Mr. Bianchi reported that, after review of the documents provided. M J Engineering and Land Surveying, P.C. provided the following comments in a letter to the applicant dated September 6, 2018. Based upon review of Part 617 of NYS Environmental Conservation Law, the project appears to be an “Unlisted” action. If the Planning Board is to request Lead Agency status under SEQRA, the need to undergo a coordinated review is optional. Under a coordinated review, involved/interested agencies to be engaged may include, but are not necessarily limited to the following: Clifton Park Water Authority - Water service connection; Saratoga County Sewer District No. 1 – Request for reserve sewer capacity and sewer connection and potential plan approval for the extension of public sewers; Saratoga County Planning Board – 239m referral due to the parcel’s proximity to County Route 91 (Grooms Road); NYS Department of Environmental Conservation – potential permit coverage under stormwater SPDES, identification of threatened and endangered species, potential plan approval for the extension of public sewers; United States Army Corps of Engineers – potential joint permit application for disturbances within the ACOE wetlands. Referencing the Short Environmental Assessment Form provided, Mr. Bianchi

requested that an updated Environmental Assessment Form be provided based upon the current proposal. Several comments related to the subdivision and site plans. The project is located within the Town's Residential I zoning district (R-1). The proposal for two family homes is a permitted by way of a special use within the R-1 District as noted in Section 208-10(B)(9) of the Town's Zoning Code. The Planning Board shall review the proposal for two-family dwelling units following the criteria outlined in Section 208-79(E) of the Zoning Code as it relates to the special use request. The applicant is asked to provide the following notations on the plan:

- a. No utilities shall be installed beneath the proposed driveways.
- b. Any work required within the Esopus Drive right-of-way shall be subject to any permitting from the Clifton Park Highway Department.
- c. Any work required within the Grooms Road (County Route 91) shall be subject to any permitting from the Saratoga County Department of Public Works.

The applicant is asked to provide notation on the plans indicating the date when the wetland delineation was completed and by whom. The subdivision plat shall include the existing and required bulk lot information. The submitted information indicates the project is proposing to connect to an existing water main within proximity to the parcel. This main is owned and operated by the Clifton Park Water Authority (CPWA). It is recommended that the Town be furnished with documentation that the CPWA is willing and capable of providing potable water to the project. The project proposes to service each new lot with public sewer from the Saratoga County Sewer District via extending a new public sewer main throughout the project. The applicant shall provide the Town documentation of the SCSD's ability and willingness to service the project with public sewer. Any action on the subdivision application should be conditioned upon receipt of plan approval from the SCSD. It is unclear from the plans if the sewer improvements are to include public sewers or a private sewer system that discharges to the SCSD infrastructure. Delineate the extent of public improvements. Where the sewer is planned for conveyance to SCSD, the forcemain shall be located within easements if crossing private property. It should be noted that Lots #2 and 3 appear to be serviced by a common forcemain. It is not customary for SCSD to permit private ownership of a common forceman and may require conveyance to SCSD. This shall be confirmed by the SCSD. Proposed Lots #2 and 3 are showing a shared driveway. A shared driveway maintenance agreement shall be prepared. It is recommended that the maintenance agreement language be provided to the Planning Board's legal counsel for review prior to filing. There may be a need to provide a drainage culvert at the new driveway to support existing drainage along Grooms Road. The applicant will need to coordinate with the Saratoga County Department of Public Works for any such improvements. If required, the location, size, and materials of construction shall be shown on the plan. The delineated area of disturbance shown on the plans shall be justified with lot-specific grading plans. As shown, there is question whether the delineation is actually representative of the required site disturbance to construct the improvements shown. Information must be provided on the plans to indicate how potential sump pump laterals may be positioned which shall be in conformance with Section 86-7(A)(6) of the Town Code. The proposed point of access to the project appears to provide adequate sight distances for entering and exiting. Notwithstanding, there should be indication on the plan what the required and provided turning sight distances are based upon the posted speed limit of Grooms Road. Prior to approval or filing of the subdivision plat with the Saratoga County Clerk, the appropriate 911 emergency response numbers must be obtained for and assigned to each lot created and placed on the filed plat. Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

Mr. Anthony LaFleche, 21 Wheeler Drive, supported the request for a 15' wide easement along the property's frontage for future roadway improvements or trail installation. He asked if the existing "paper street," indicated on the current tax map could be used as an access to the proposed development or the existing residential development located behind the property. Mr. Ferraro explained that it was unlikely that the parcel could or would be used for such a purpose, particularly since it would involve significant disturbance of the delineated wetland.

Mr. Neubauer stated his support for approval of duplexes for this property, observing that it is "probably the most appropriate use" of the property; however, he did express his concern for wetland disturbance. Mr. Ferraro expressed "serious reservations" about the proximity of the proposed duplexes to the adjoining residences to the rear of property, the minimal rear setbacks which allow for very small backyards, and potential disturbance of the wetland. The applicant is asked to clarify the implications of the comment issued by Mr. Myers regarding improvements and utility connections that would involve disturbance of town property. Mr. Bianchi pointed out that any proposed connections to either the Clifton Park Water Authority or Saratoga County Sewer systems would require approvals from those agencies and compliance with their specific standards rather than town approvals. Mr. Ferraro stated that he finds the project too dense – he would prefer that the plan was limited to the construction of two structures. Sufficient buffering between the proposed development and existing residences as well as potential wetland disturbances were also of concern. Mr. Andarawis described the density as very challenging. In response to Mr. Ophardt's question regarding the amount of fill required to build on the site, Mr. Goldstein estimated that 350 yards of fill would be required. Mr. Neubauer called for submission of a grading plan. Mr. Ferraro asked that the applicant provide duplex design plans that were "visually appealing" since the project was located at a very prominent entranceway to the town. The applicant was asked to consider designs which would incorporate side-loading as well as front-loading garages. Ms. Bagramian asked that applicant provide visual simulations of the completed buildings from the Grooms Road frontage. Mr. Ferraro concluded the discussion by emphasizing his belief that the site's natural features "were not conducive to three structures."

### **New Business:**

Mr. Ferraro explained that, since the following two agenda items relate to the same parcel and project, they will be reviewed concurrently.

[2018-049] **Solitude Solar, LLC Community Solar Array** – Proposed development of a 7AMAW photovoltaic ground-mounted solar energy generating facility, 164 Sugar Hill Road – Conceptual site plan review. SBL: 282.-1-30.11 and 282.-1-28.12

[2018-050] **Solitude Solar, LLC Community Solar Array** – Approval of Special Use Permit #81184 to permit the construction of a ground-mounted solar array within the CR zone, 164 Sugar Hill Road – Conceptual review. SBL: 282.-1-30.11 and 282.-1-28.12

Mr. Mark Richardson, President of Solitude Solar, LLC, Mr. Michael Fingar, Project Engineer for Solitude Solar, LLC, and Mr. John Munsey, engineering consultant for the applicant, were all in attendance at the meeting. Mr. Richardson introduced this application to the Planning

Board, explaining that Solitude Solar, LLC proposes the construction and operation a 7MV photovoltaic community solar project on a “secluded parcel” owned by Thomas A. Hicks described as a “secluded parcel.”

Mr. Fingar outlined plans for the project, explaining that the land to be developed is located on the westerly side of Sugar Hill Road just north of its intersection with Riverview Road. It lies within the CR (Conservation Residential) zoning district. The proposal calls for the installation of a racking system that will consist of 18 modules, arranged 2’ x 9’ in a portrait orientation, tilted south at 25°. The southern end of the rack will be a minimum of 3’ above grade and the northern edge will be approximately 9’ above grade. He noted that due to the area’s topography, the heights could vary from rack to rack but should not exceed a maximum of 12’ above grade. The project is made possible by a land lease agreement with the property owner. A 7’ high chain link fence will be installed around the perimeter of the development site. All improvements will comply with existing national code requirements and connection will be made to an existing electrical circuit on Riverview Road.

Mr. John Munsey, engineering consultant for the project, provided additional details regarding the project’s implementation, noting that the project is very similar to the previous two projects discussed at this meeting. He explained that NYSDEC has confirmed the wetland delineation and 100’ adjacent area as mapped, that completion of a Phase I Archaeological Survey has been recommended by the State Office of Parks, Recreation, and Historic Preservation, and that the bald eagle, an identified threatened species, has been documented within .6 miles of the project site. Mr. Munsey reported that the applicant will provide the Phase I survey and consult with the permitting officials at NYSDEC regarding possible impacts of the development on the species and ways to “avoid, minimize, or mitigate any impacts.” Two equipment pads requiring minimal site grading will be provided within the enclosure. The electrical connection will require establishment of a 30’ easement in order to connect to an existing electrical line on Riverview Road. There will be no disturbance within 50’ of the wetland boundary and work within the LC zone will be limited to the greatest extent practicable.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, provided the following comments regarding this application in a memo dated September 5, 2018. Mr. Myers stated that the request for approval of a Special Use Permit for installation of a ground-mounted solar array is made pursuant to Section 208-16D(3)(a)[22]. The narrative submitted states that the project will be located in the Town of Johnstown: this should be revised. The existing roadway referenced in the project narrative is not code compliant. . A 26’ wide roadway, providing access within 150’ of all areas of the array, capable of supporting a 75,000lb. vehicle with turnouts at intervals to be determined must be provided. A full Stormwater Pollution Prevention Plan will be required since the disturbance on this ±40 acre parcel will be well over one acre even though the narrative states that it is not. The agricultural exemption on this property should be reviewed to determine if it is still applicable.

Mr. Scavo reported that Ms. Reed, Chief of the Bureau of Fire Prevention, provided several comments regarding this application. Adequate access for emergency services to all points of the array pursuant to IFC regulations must be provided. Based on the length of the proposed access from Sugar Hill Road, Ms. Reed recommended an access point from Riverview Road: this access

would also need to meet the requirements of the IFC for emergency access. The approved emergency response numbers must be obtained and shown on the filed plat. Mr. Scavo noted that the access recommended by Ms. Reed would also provide frontage on a town roadway for a currently land-locked parcel.

Mr. Scavo read the comments prepared by the ECC after review of this application at its September 4, 2018 meeting, noting that the comments were applicable to both site plan and Special Use Permit applications. The Special Use Permit applicant has the burden of proving compliance with each of the Special Use Permit criteria in the zoning ordinance or local law. The Special Use Permitting process is a technique to regulate land uses which a municipality seeks to encourage in a particular district or zone, but which could become problematic if not conditioned in a manner suitable for the particular location. The purpose of the CR (Conservation Residential) zoning district is to protect and enhance the rural character and the scenic qualities of open space that complements the traditional patterns in Western Clifton Park. New development should complement and harmonize the traditional rural and natural environmental vistas. This project does not meet the objective as valued by the community in Western Clifton Park. There are thirteen standards for Special Use Permits which should be satisfied by the applicant. Town Code 208-79 E (1)(d) states that “the use will be in harmony with and promote the general purposes of the Comprehensive Plan and this chapter.” The applicant must demonstrate that this project is in compliance with this criteria. The applicant is required to avoid wetland impacts, including impacts to the 100 buffer zone. If, after this examination of alternatives, impacts to the wetlands remain and cannot be avoided, the applicant shall be required to submit a proposal to compensate for losses by replacing lost wetlands or wetland natural values (e.g. construction of new wetlands, enhancement of natural diversity of natural wetlands, or construction of facilities replacing wetland functions.) The Town Comprehensive Plan provides for a land conservation zone (e.g. buffer zone) of 100 feet surrounding a NYSDEC wetland. The Town Code implements this vision. Any disturbance of this area will impair its natural functions (e.g. natural habitat, drainage flows, filtration, etc.). The limits of the LC Zone and 100 foot buffer zone, NYSDEC Wetlands, and Federal Jurisdictional Wetlands shall be identified on the plot plan. Layout Plan C-103 does not indicate the type of wetland or any buffer zone. The ECC is concerned with the amount of tree cutting proposed by the applicant within the wetlands.

Mr. Scavo read comment issued by Mr. Reese, Stormwater Management Technician, in a memo dated September 7, 2018. The applicant shall address the Clifton Park Code Chapter 208-69.2.C and have it reviewed by Zoning Director to determine if a variance is required for the project. The applicant will need to submit a Stormwater Pollution Prevention Plan for review when plans progress. The Town of Clifton Park is a Municipal Separate Storm Sewer System (MS4) under the NYSDEC General Permit for Stormwater Discharges.

- a. The Town is concerned of the construction process when disturbance and limited ground cover will be at its maximum. The SWPPP should discuss in detail on how erosion control will be handled when large areas are being disturbed. The applicant shall describe in detail on how previous projects of this size were handled and how the protection of the existing wetlands will be maintained.
- b. The SWPPP should address how the individual panels will be arranged to allow the following:

- i. Allow the passage of runoff between each module thereby minimizing the creation of concentrated runoff.
- ii. Allow the growth of vegetation beneath and between the panels.
- iii. Allow the preservation of existing vegetation by minimizing the construction equipment to disturb the earth.
- c. The details show a Typical Rack Section, noting that actual rack size may vary. The Stormwater runoff calculations should address the tilt angle and length of run it will have over the panels.
- d. It appears over 34± acres will be effected and a phasing plan in the SWPPP should be addressed.

Mr. Scavo read comments issued by the Planning Department. The applicant should contact Steve Myers, Director of Building & Development, to discuss whether or not the existing drive from Sugar Hill Road is acceptable from a NYS Building and Fire Code standpoint to access the area of the PV solar array. A sign-off from Steve Myers will be required by the Planning Board prior to issuance of final approvals for the Special Use Permit and site plan applications. The Office of Parks, Recreation and Historic Preservation (OPRHP) recommends that a Phase I Archaeological survey be completed since the project is in an archaeologically sensitive area. OPRHP also stated, “Phase IB archaeological testing was recommended for the locations of the proposed roads, facilities, retention ponds, staging areas, utility trenches over a foot wide, drainages over a foot wide, and areas of grubbing and grading.” The Planning Board should seek lead agency status for SEQR purposes and provide guidance to the applicant on whether or not they would like to see such archeological documentation be included as part of the project record. Tab 9 Item #4 titled, “Costs of Decommissioning” within the decommission plan, appears to reflect and reference the costs associated with a 4.75 MW AC Solar Facility. This section of the decommission plan should be verified for accuracy by the applicant. The application page notes a 6.5 MW DC photovoltaic system and the title page of the decommissioning plan references a ~7MW Solar Project. As plans progress, the Town Fire Marshall will likely assign a 911 address specific to this solar facility. The final 911 address should be added to the plan prior to final stamping. Based on field observations and the proposed location for the solar array, it seems unlikely to have any negative visual impacts from Sugar Hill Road. It is recommended that pollinator-friendly native plants and native grasses be utilized within the project area below the solar panels. The applicant should confirm whether or not any temporary construction easements will be required from the adjacent parcel owned by National Grid (SBL: 288.-1-63.1). A referral to the Saratoga County Planning Board for a recommendation on both the Special Use Permit and site plan applications has been made since the project is located within a County Consolidated Agricultural District.

Mr. Ferraro requested the preparation of a visual simulation of the developed site from the utility right-of-way to Riverview Road in order for the Board to assess visual impacts of the project on properties along the easterly side of Riverview Road.

Mr. Bianchi explained that, after review of the materials submitted for review, M J Engineering and Land Surveying, P.C. provided the following comments regarding the two applications. Based upon review of Part 617 of NYS Environmental Conservation Law, the project appears to be an “Type 1” action pursuant to Part 617.4(b)(6)(i.). Assuming the Clifton Park

Planning Board is to request Lead Agency status under SEQRA, a coordinated review is required for Type I actions. Under a coordinated review, involved/interested agencies to be engaged may include, but are not necessarily limited to the following: Saratoga County Planning Board – 239m referral due to the parcel’s location within the Consolidated Agriculture District No. 2.; NYS Department of Environmental Conservation – potential permit coverage under stormwater SPDES, identification of threatened and endangered species, impacts within a wetland and adjacent area; NYS Office of Parks, Recreation and Historic Preservation – identification of cultural or historic resources; United States Army Corps of Engineers – potential joint permit application for disturbances within the NYSDEC wetland. Additional agencies may be identified by the Town during its review of the project. Several comments related to the Full Environmental Assessment Form. Part D.1.b.b indicates that there will be 0.64 acres of disturbance. In reviewing the plans, it appears that this may only account for the footprint of the proposed access road. The applicant is asked to confirm that the ground disturbance stated is inclusive of all incidental ground disturbances including, but not limited to, panel foundations, electrical conduit runs outside the road footprint, fence, and line post installation and/or temporary access necessary for what appears to be overhead electrical line to the point of connection to the existing electrical grid. Part E.2.1 correctly notes that the site is located over a sole source aquifer. Any proposed stormwater management facilities shall consider the associated boundary conditions with sole source aquifers when placing such facilities. Part E.2.o needs to include the results of a search of the USFW Ipac database. Specific attention is called to the Northern Long Eared Bat and any limitations/prohibition that may be associated with tree clearing and adverse impacts to habitat. Under Part E.3.f, the response indicates that the site is located in or adjacent to an area designated as sensitive for archeologically sensitive sites on the SHPO site inventory and that a cultural resource survey is being completed. Since the project is seeking permit coverage under GP 0-15-002, a “no effect” letter will be required to gain permit coverage. Considering the project’s proximity to the flight patterns to/from Albany International Airport, it is recommended that there be an evaluation of potential glare impacts of proposed solar PV project on the airport’s sensitive receptors, comparing those results to the FAA’s Solar Policy. It may be necessary to contact the Albany International Airport in the event the project results in adverse impacts to discuss means to mitigate those impacts. This may be a supplemental study to the visual EAF provided.

Several comments related to the site plans provided. The project is located within the Town’s Conservation Residential (CR) zoning district. Pursuant to Section 208-16(D)(3)(a)[22] of the Town’s Zoning Code, ground or pole mounted solar arrays are permitted by approval of a Special Use Permit. The Planning Board shall review the proposal following the criteria outlined in Section 208-79(E) of the Town Code as it relates to the special use being requested. The site plans shall show the extent of the L-C boundaries pursuant to Section 208-69.1 of the Town Code. Upon the illustration of the L-C boundary on the plans, should it be determined that the proposed improvements reside within the L-C district, the applicant shall provide sufficient data to demonstrate that the proposed activity will not result in any of the changes noted in Section 208-69.3. In reviewing the project plans, the existing lot appears to meet the bulk lot requirements of the CR District pursuant to Section 208-16(E) of the Town’s Zoning Code with the exception of lot width at the front building line. The parcel has no frontage on a public right-of-way. There should be a discussion with the Town’s Chief Zoning Officer to determine whether an area variance is required due to the lack of frontage. The project has no frontage on a public right-of-

way but has access to an existing road that exits onto Sugar Hill Road. The applicant is asked to provide documentation that an access easement/agreement is in place or will be. Any easements (existing or proposed) shall be illustrated on the plans. If a new easement or agreement is required, it shall be provided to the Planning Board's legal counsel for review. The site plans shall note the individual/firm that completed the wetland delineation and date the delineation was completed. The site plans indicate tree cutting but no stump removal and permanent improvements within the NYSDEC wetland adjacent areas. Correspondence with the NYSDEC shall be provided to the Town for its records. Any approvals offered by the Town should be conditions upon the applicant receiving the necessary permits for activities planned within the regulated wetlands and/or adjacent areas. The Planning Board may consider delaying any action on the application until it is fully understood what NYSDEC's position is considering the extent of impacts within the adjacent area. The plans show a gated access to the solar arrays. The Town's emergency services may consider a Knox Box to ensure access in case there is a need to respond to an event at the facility. The project proposes an internal access road with no width identified. It has been recent practice of the Town to require appropriate fire apparatus access meeting the requirements of the International Fire Code. A meeting with the Town's Emergency Service and Chief Zoning Officers is necessary to review the project to determine if there are any fire apparatus access requirements specific to the project are needed. Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission. A few comments related to the Decommissioning Plan. Section 3.2 should note that any surface restoration may require permit coverage for soil disturbance in effect at the time of decommissioning, whether it be Town or State level. Section 3.3 should note that any planting species should be native and non-invasive. Under Section 4, the decommissioning costs shall be adjusted to the size of the facility being proposed (6.5 MW as opposed to 4.75 MW) if they do not accurately illustrate what they may be.

Due to the proximity of the parcel to existing flight patterns for the Albany International Airport, Mr. Jones recommended that a glare analysis be provided. In response to Mr. Ophardt's question regarding the installation of panels, Mr. Fingar explained that they will be installed along the property's topography and that they will mostly be south-facing. Mr. Ferraro expressed concerns for impacts to the existing hydrology in the northern portion of the development area due to the proposed removal of mature trees currently existing within the designated wetlands. Mr. Neubauer viewed this site "as more unique than the other sites," noting that preservation and protection of the "green sea that flows across the western part of town" is very important to a vocal contingent of town residents. He, too, called for visual simulations from various perspectives to ensure that existing vistas are maintained. Mr. Andarawis viewed "permanent preservation of the site" as its best use, challenging the notion that installation of the solar array is the "undisputed best use" of the parcel. Mr. Ferraro commented that several speakers voiced positive remarks during the public hearing conducted for the solar farm proposed for Ashdown Road, citing less residential development to impact roadways and community services. Mr. Richardson expanded upon this comment, explaining that the solar array offered a type of conservation since it required no expansion of utilities, did not impact traffic, and replaced "older fuel sources." Mr. Ferraro encouraged the town's GREEN and Open Space Committees to raise public awareness of the issues associated with solar energy. Mr. Neubauer recommended that the named committees review the project and offer comments and recommendations. Mr. Jones stated his support for the project because of its location. Mr. Ferraro was amenable to meeting with the committees, stating

that he was aware of the need to balance “an existing sense of community” while providing a “revenue stream for farmers.” In response to Mr. Jones’ request that the energy benefits be provided to the neighboring community first, Mr. Richardson stated that his company would make enhancement of local services a priority. Mr. Ferraro strongly encouraged the applicant to address environmental issues raised at the meeting as part of the next submittal.

**Discussion Item:**

**Keyhole Lots**

Mr. Ferraro called Board members’ attention to the Interoffice Memorandum issued by Mr. Scavo on September 7, 2018 that discussed the viability of keyhole lot configurations in various zoning districts. Section 208-86 of the Town Zoning Code states the following:

Keyhole lots may be permitted by the Planning Board only in Residential Districts R-1 and R-2 and only in rare instances when required due to unusual conditions of the area. Keyhole lots shall not be created for any use other than a single-family dwelling.

Other sections of the Town Code, however, mention the keyhole lot configurations as applicable in other zoning districts and allow approval at the discretion of the Planning Board. Mr. Ferraro recommended that the Planning Board encourage the Town Board to address the inconsistencies within the code by clarifying the zoning districts and situations in which a keyhole lot configuration is reasonable and permissible.

Mr. Neubauer moved, seconded by Ms. Bagramian, adjournment of the meeting at 11:10p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on September 25, 2018.

Respectfully submitted,

Janis Dean, Secretary

**NOTICE OF DECISION**  
**Preliminary and Final Subdivision Approval**  
**Resolution #15 of 2018**

At a meeting of the Planning Board held at the Town Hall of the Town of Clifton Park, Saratoga County, New York, One Town Hall Plaza on September 12, 2018 there were:

Present: R. Ferraro, Chairman, E. Andarawis, D. Bagramian, J. Jones,  
A. Neubauer, E. Ophardt  
T. LaSalle – Alternate Member

Absent: G. Szczesny

Ms. LaSalle offered Resolution #15 of 2018, and Mr. Ophardt seconded, and

Whereas, an application has been made to the Planning Board by PV Engineers % Borrego Solar Systems for approval of a subdivision entitled Minor Subdivision Map of the Premises of Sheryl E. Kramer and Frederick L. Kramer consisting of (2) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on August 14, 2018;

Whereas, the Planning Board was established as Lead Agency for this application, a Type I action, and a negative declaration was issued pursuant to SEQRA on August 14, 2018;

Whereas, it appears to be in the best interest of the Town that said application be approved,

Now, therefore, be it resolved that the final hearing for this application is waived and the subdivision plat entitled Minor Subdivision Map of the Premises of Sheryl E. Kramer and Frederick L. Kramer consisting of (2) lots is granted preliminary and final approval conditioned upon the addition of a note to the plan stating that the designated buffer areas specifically recognized as providing essential screening for this development project will not be disturbed even if additional development is proposed for the remaining portion of the 85.65 acre parcel, notification to all adjoining property owners of the proposed development, identification of the required 15' wide easement along the Ashdown Road frontage to provide for future roadway improvements and/or trail development, submission of a 25-year bond for the decommissioning plan to be approved by legal counsel, approval of the stormwater management plan by town officials and the town engineer, resolution of the access roadway issues with the Chief of the Bureau of Fire Prevention and the Director of Building and Development and the stipulation that, should the mandated roadway result in additional disturbances to the designated wetlands and/or adjacent areas, the application will be remanded back to the Planning Board for additional review, and the satisfaction of all items listed in the final comment letter prepared by the Planning Department.

Resolution #15 of 2018 passed 9/12/2018

Ayes: Neubauer, Andarawis, Bagramian, LaSalle, Jones, Ophardt, Ferraro.

Noes: None

Rocco Ferraro, Chairman

**Notice of Decision**  
**Special Use Permit Approval**

**Resolution #16 of 2018**

At a meeting of the Planning Board held at the Town Hall of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on September 12, 2018 there were:

Present: R. Ferraro, Chairman, E. Andarawis, D. Bagramian, J. Jones, A. Neubauer,  
E. Ophardt  
T. LaSalle – Alternate Member

Absent: G. Szczesny

Mr. Andarawis offered Resolution #16 of 2018, and Mr. Ophardt seconded, and Whereas, an application was made to this Board by PV Engineers %Borrego Solar Systems for approval of Special Use Permit #81164 to permit the construction of to permit the construction of a ground-mounted solar array, the Town Zoning Code located within the CR zoning district at 25 and 27 Ashdown Road;

Whereas, the Planning Board was established as Lead Agency for this application. A Type I action, on August 14, 2018, and

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on August 14, 2018;

Whereas, it appears to be in the best interest of the Town that said application be approved,

Now, therefore, be it resolved that Resolution #16 of 2018 Special Use Permit #81164 to permit the construction of a ground-mounted solar array located at 25 and 27 Ashdown Road within the CR (Conservation Residential) zoning district pursuant to Section 208-16D(3)(a)[22] of the Town Zoning Code is granted approval conditioned upon the addition of a note to the plan stating that the designated buffer areas specifically recognized as providing essential screening for this development project will not be disturbed even if additional development is proposed for the remaining portion of the 85.65 acre parcel, notification to all adjoining property owners of the proposed development, identification of the required 15' wide easement along the Ashdown Road frontage to provide for future roadway improvements and/or trail development, submission of a 25-year bond for the decommissioning plan to be approved by legal counsel, approval of the stormwater management plan by town officials and the town engineer, resolution of the access roadway issues with the Chief of the Bureau of Fire Prevention and the Director of Building and Development and the stipulation that, should the mandated roadway result in additional disturbances to the designated wetlands and/or adjacent areas, the application will be remanded back to the Planning Board for additional review, and the satisfaction of all items listed in the final comment letter prepared by the Planning Department.

Resolution #16 of 2016 passed 9/12/2018

Ayes: Neubauer, Andarawis, Bagramian, LaSalle, Jones, Ophardt, Ferraro

Noes: None

R. Ferraro, Chairman