

December 22, 2021

Lee Bergus, Chairman & Planning Board  
& Members of the Town of Goshen Planning Board  
4 Main Street  
Poughquag, NY 12570

Re: Response to Comments Broadlea Road and Vivian Lane Solar  
Subdivision, Special Permit & Site Plan – Initial Presentation  
File # 9-1-4 & 6.21; Memo 83-21-029

Dear Chairman Bergus and Planning Board Members:

We offer the following information in response relative to the project comment letter from Town Designated Engineer, Sean T. Hoffman, PE H2M Architects + Engineers, dated December 1, 2021. Comments are in *italic* text and responses are in **bold** text below. On behalf of Borrego Solar Systems, we are submitting the following documents. The attached materials have been revised or are in addition to documents submitted under previous submissions, they are as follows:

- 5 copies Site Use Plan (SUP) Set (24"x36"), Broadlea Road
- 5 copies Site Use Plan (SUP) Set (24"x36"), Vivian Lane
- 5 copies Project Narrative (Broadlea Road)
- 5 Copies Project Narrative (Vivian Lane)
- 5 copies LEAF (Broadlea/Vivian Combined)
- 5 copies Preliminary Interconnection Analysis (Broadlea Road)
- 5 copies Preliminary Interconnection Analysis (Vivian Lane)
- 5 copies equipment catalog cutsheets

*A. Materials Reviewed:* **During the meeting on December 2, 2021, it was established that the review comments below addressed by the TDE were based on an older submission package and the most recent submission package was not reviewed. Based on the presentation presented at the December 2<sup>nd</sup> meeting, some responses may not be viable to address or may be addressed based on the most recent submission.**

*B. Review of Submitted Materials – These applications require review by the Town Board and Planning Board. We recommend you consult with Attorney Naughton regarding coordination and review responsibilities. Additionally, these applications require a area variances from the ZBA. As such, our comments are directed primarily toward compliance with zoning requirements with a number of issues noted for further consideration as detailed plans are developed. **Understood.***

1. Zoning –

*a) Use – Applicant proposes construction of a 10-megawatt (AC) solar energy facility consisting of two (2) parcels Broadlea and Vivian (each at 5-megawatt) and includes ground-mounted solar photovoltaic (PV) modules/panels switchgear, transformers, underground and aerial power lines for the interconnection to the electrical distribution system. We believe this meets the definition of a large solar energy system under the Code3 and may be considered a principal use in all zoning districts subject to major site plan approval by the Planning Board and special permit approval by the Town Board [§97-55E]. Since the existing Broadlea parcel also includes existing community users (treatment center, daycare center and family services) and farm (Harmony Farm), we recommend you confirm with Attorney Naughton the Code permits multiple principal uses. If multiple principle uses are not permitted, we believe the proposed solar use may proceed as an accessory use [S97-10D(1)]. **Understood***

*b) Special Permit – In order to ensure the compatibility of uses with surrounding properties, the Town Code permits certain uses only upon issuance of a special permit. Prior to granting or denying a major project special permit, specific criteria listed in the Code [§97-73] which includes nuisances (e.g., noises, dust and odors), traffic and emergency service access are to be considered. The applicant*

should submit a revised Project Narrative specifically addressing the special permit criteria including the following: **The project narrative will be revised accordingly and as noted below.**

- The Code requires the applicant to confirm the project will not cause significant traffic congestion or overload existing roads [§97-73A(3)]. Although it is unlikely the proposed project will impact traffic once the sites are operational, the applicant should quantify approximate traffic volumes including during construction. Additionally, the applicant should address whether the existing roadways are adequate for anticipated delivery truck traffic (e.g., sight distances, geometry, etc.). **A preliminary road inventory survey will be completed prior to delivery of any equipment on site, with existing deficiencies being noted, a post construction inventory will then be completed post construction and any deficiencies found to be the result of the delivery vehicles will be replaced at the expense of the system owner**

- The Code requires the site be accessible to fire, police and other emergency vehicles [§97-73A(4)]. The plan shows a single access point from Ridgefield Drive which appears to be a privately owned road in the Town of Chester. We suggest access (20-foot wide) and turnarounds (no dimensions provided) be reviewed with local emergency services and Building Inspector Halloran. **The access roads provided are shown at 20.0 feet wide and will be labeled accordingly on the plans. Submission will be made to the local emergency services for their comments.**

c) Public Hearing – A public hearing is required for site plan [§97-76F] approvals. Since a public hearing is also required in connection with the special permit to be reviewed by the Town Board and any variances to be reviewed by the ZBA, we suggest you discuss with Attorney Naughton whether a joint hearing is feasible. Prior to scheduling a public hearing the applicant should submit a site plan in conformance with the Code requirements [§97- 75B]. **Understood. A site plan and applications for an area variance and special use permit has been, or will be, submitted for approvals.**

d) Interpretations – Both Town of Goshen applications indicate the applicant is seeking interpretations. The applicant should provide additional information regarding any interpretations or advise if this was a typographic error. **This is in error. The original layout proposed a concern if there were going to be variances needed. After adjustments in our development plan, there are no interpretations needed.**

e) Stream Corridor & Reservoir Watershed Overlay – The purpose of the Stream Corridor & Reservoir Watershed Overlay (SC) district is to protect water quality, scenic resources and reduce the risk of flood damage. The SC district extends 150 feet from the mean high-water line of any stream or stream segment shown within the SC district on the Overlay District Map. It appears a portion of the Broadlea parcel is within the SC District associated with the Black Meadow Creek (identified on the plan as an existing stream). Site plan approval may only be granted if the Board finds, with appropriate conditions, the proposed: (1) will not result in degradation of scenic character and will be aesthetically compatible with its surroundings and (2) will not result in erosion or surface water pollution from surface or subsurface runoff [paraphrased from Code §97-26B(3)]. The SC Overlay District should be shown on the plans so you may confirm all improvements have been located outside the district. **The SC Overlay District has been depicted on the plans. In addition, the project development area will not encroach into this setback.**

f) Scenic Road Corridor Overlay – The purpose of the Scenic Road Corridor Overlay (SR) District is to protect the Town's scenic and rural character. The SR District extends 500-feet from the right-of-way of Broadlea Road. The SR Overlay District should be shown on the plans so you may confirm all improvements have been located outside the district. We have the following comments:

- The Code requires a continuous green buffer at least 50-feet deep to be maintained. This buffer may consist of native trees and shrubs, fields, meadows and lawns [§97- 29G(1)]. The buffer should also be shown on the plan. **The SR Overlay District buffer has been depicted on the plans. Additionally, there exist an existing tree, brush, meadows, etc. that creates the 50-foot buffer, plus some. This area and dimension have been depicted on the plans.**

- The Code requires one (1) shade trees per 1,000 square feet of proposed floor area [§97-29G(2)]. You should confirm with Building Inspector Halloran no shade trees are required since no new floor areas are proposed. **Understood.**

g) *Floodplain & Ponding Area Overlay* - The purpose of the Floodplain & Ponding Area Overlay (FP) district is to protect human life, prevent material losses and reduce the cost to the public of rescue and relief efforts caused by unwise occupancy of areas subject to floods and ponding [§97-25]. The FP district is defined on the National Flood Insurance Mapping Program Flood Insurance Rate Maps (FIRM) as "A" ("Special Flood Hazard Areas") Zones for the one-hundred-year floodplain. The Flood Insurance Rate Map dated August 3, 2009 shows a portion of the Broadlea parcel adjacent to the Black Meadow Creek within the Special Flood Hazard Area. We understand no improvements are proposed and recommend you confirm with Attorney Naughton you are not required to make any findings relative to the floodplain overlay district. **The FP Overlay District is not depicted on the plans in addition to the 100-year and 500-year flood elevation as defined by FIRM as these items do not fall within the property limits. therefore, the project development area will not encroach into the floodplain.**

h) *Dimensional Regulations* – The applicant has provided a Zoning Summary Table (Table) on the Layout and Materials Plans, Sheet No. C-3.0, listing the required and provided (i.e., proposed) dimensions established by the Code. We have the following comments:

1. *Broadlea Parcel*

- *Lot Size* – The Table indicates the minimum lot area (i.e., minimum lot size) required is 10-acres pursuant with the Code [§97-55E(1)] and the proposed lot size is 163.7-acres. This appears to be a typographical error and should be revised to 234.6-acres. **The table and plat have been revised accordingly.**

- *Road Frontage* - The Table indicates the lot width required is 100-feet and the proposed lot width is a complying 7,500-feet. We understand this is intended to reference the minimum road frontage since the Code does not include a lot width requirement. If Building Inspector Halloran confirms the dimensional regulations listed at §97-19C are applicable, we understand the minimum road frontage required is 150-feet. Additionally, it appears the existing frontage along Broadlea Road is approximately 3,200-feet (by scale). The Table should be revised. **The table and plat have been revised accordingly.**

- *Setbacks* – The Table indicates the front, side and rear yards required are 100-feet and the proposed yards are 100-feet. The Code requires the minimum distance between any portion of a solar or photovoltaic energy facility and a street to be 100-feet and the minimum distance from any other property line to be 100-feet [§97-55E(2)]. The Layout and Materials Plan, Sheet No. C-3.0, graphically depicts modules along the southeasterly property line setback 51-feet which will require area variance(s). **The present layout plan made adjustments where no portion of the energy facility is within 100-feet of a property line. The table has been adjusted accordingly.**

Additionally, the Table notes indicate “from the module”. The Code requires the setback be measured to “any portion of a solar or photovoltaic energy facility” [§97-55E(2)]. **The table has been adjusted accordingly.**

- *Fencing* – The Code requires all fencing greater than four (4) feet in height to be located 80-feet from all property lines [§97-55F(12)(d)]. This requirement should be added to the Table. The Layout and Materials Plan, Sheet No. C-3.0, graphically depicts portions of the proposed fence encroaching into the required setback which will require area variance(s). **The present layout plan made adjustments where no portion of the facilities fence is within 80-feet of a property line. The table has been adjusted accordingly.**

- *Driveways* - The Code requires driveways on lots with 100-feet or more of road frontage to be set back at least 10-feet from side lot lines. On lots with less than 100-feet of frontage, no side yard setback is required [§97- 40C(4)]. This requirement should be added to the Table. The Layout and Materials Plan, Sheet No. C-3.0, shows the proposed access driveway toward Vivian Lane along the property line which will require an area variance. **The present layout plan made adjustments where no portion of the facilities drives are within 10-feet of a property line. The table has been adjusted accordingly.**

- *Module Height* – The Table indicates a proposed maximum solar panel height of 9-feet. This should be dimensioned on the Typical Rack Section, Sheet No. C-5.0, in addition to the tilt angle and leading-edge height. **The typical rack detail has been modified accordingly.**

• *Lot Coverage* – The Table indicates the maximum lot coverage permitted is 50%. It appears the requirement referenced by the applicant (i.e., §97- 55D(3)(h) applies to “solar and photovoltaic energy systems as accessory uses/structures on preserved farmland, commercial farms and other farms”. If this requirement is determined to be applicable (see above), we recommend the applicant provide a calculation so you may confirm compliance with the Code. **Understood.**

2. Vivian Parcel

• *Road Frontage* - The Table indicates the lot width required is 100-feet and the proposed lot width is a complying 2,100-feet. We understand this is intended to reference the minimum road frontage since the Code does not include a lot width requirement. If Building Inspector Halloran confirms the dimensional regulations listed at §97-19C are applicable, we understand the minimum road frontage required is 150-feet. This parcel appears to have zero frontage (Ridgefield Drive appears to be a private road in the Town of Chester). We recommend you discuss this Building Inspector Halloran whether this is a legal pre-existing non-conforming condition. **Though we understand that the CEO will make a final decision, Section 97-19(C) does not appear to be applicable for this project since it is defined for “small-scale developments” and intended for the “...the creation of not more than four new residential lots”. It is in our opinion that this project is not considered a small-scale development based on its definition and this solar project is not a subdivision. In addition, Ridgefield Drive has been dedicated to the Town of Chester in 2020, see attached documents.**

• *Setbacks* – The Table indicates the front, side and rear yards required are 100-feet and the proposed yards are 100-feet. The Code requires the minimum distance between any portion of a solar or photovoltaic energy facility and a street to be 100-feet and the minimum distance from any other property line to be 100-feet [§97-55E(2)]. The Layout and Materials Plan, Sheet No. C-3.0, graphically depicts modules along the northeasterly property line setback 54-feet which will require area variance(s). **The present layout plan made adjustments where no portion of the energy facility is within 100-feet of a property line. The table has been adjusted accordingly.**

Additionally, the Table notes indicate “from the module”. The Code requires the setback be measured to “any portion of a solar or photovoltaic energy facility” [§97-55E(2)]. **The table has been adjusted accordingly.**

• *Fencing* – The Code requires all fencing greater than four (4) feet in height to be located 80-feet from all property lines [§97-55F(12)(d)]. This requirement should be added to the Table. The Layout and Materials Plan, Sheet No. C-3.0, graphically depicts portions of the fence encroaching into the required setback which will require area variance(s). **The present layout plan made adjustments where no portion of the facilities fence is within 80-feet of a property line. The table has been adjusted accordingly.**

• *Driveways* - The Code requires driveways on lots with 100-feet or more of road frontage to be set back at least 10-feet from side lot lines. On lots with less than 100-feet of frontage, no side yard setback is required [§97- 40C(4)]. This requirement should be added to the Table. The Layout and Materials Plan, Sheet No. C-3.0, shows the proposed access driveway toward Broadlea Road along the property line. If it is determined that this lot has zero frontage (see above), we recommend you confirm with Building Inspector Halloran the driveway setback requirement is not applicable. **The present layout plan made adjustments where no portion of the facilities drives are within 10-feet of a property line. The table has been adjusted accordingly.**

• *Module Height* – The Table indicates a proposed maximum solar panel height of 9-feet. This should be dimensioned on the Typical Rack Section, Sheet No. C-5.0, in addition to the tilt angle and leading-edge height. **The typical rack detail has been modified accordingly.**

• *Lot Coverage* – The Table indicates the maximum lot coverage permitted is 50%. It appears the requirement referenced by the applicant (i.e., §97- 55D(3)(h) applies to “solar and photovoltaic energy systems as accessory uses/structures on preserved farmland, commercial farms and other farms”. If this requirement is determined to be applicable (see above), we recommend the applicant provide a calculation so you may confirm compliance with the Code. **Understood.**

i) *Supplementary Regulations* – Development of wind and solar energy systems requires compliance with the supplementary regulations listed under §97-55 (paraphrased below in italics):

1. *The installation of any solar or photovoltaic energy system, including any accessory equipment, shall be outside any land area exhibiting sensitive environmental characteristics such as freshwater wetlands, one-hundred-year flood hazard areas, severe topography (slopes more than 15%), stream corridors, wetland transition areas, habitats for endangered, rare, or threatened species, historic and/or culturally significant areas. Systems shall not be within any conservation easement or conservation deed restricted area. **The development area proposed does not extend on or within sensitive environmental area as noted above.***

*The plans should include any wetlands, floodplains, slopes, stream corridors, wetland transition areas, habitats for endangered, rare, or threatened species, historic and/or culturally significant areas, conservation easements or conservation deed restricted areas. **The Existing Condition Plan has been revised to include environmental sensitive areas noted above.***

2. *Any proposal for a wind, solar or photovoltaic energy system shall conform to the provisions of §97-47, "Protection and Regulation of Agriculture," and Chapter 53, Clearing and Grading Control). We suggest your action include a requirement to comply with these Code provisions. The Code also requires conformance with the following:*

- *Any trees and/or shrubs to be removed or topped to accommodate the installation of a solar or photovoltaic energy system shall be accompanied by a site plan identifying the location, size and species of trees to be removed or topped and demonstrating the need to remove or top the trees. **A tree survey has been conducted and a plan is presented identifying the location, size and specie for all trees in these area of 6-inch DBH or larger. See Sheet C-2.1 in the SUP.***

- *Solar energy systems shall be designed so tree removal is not required to the greatest extent practical. Where trees are to be removed the Planning Board may require replacement trees on the subject property at up to a one-to-one ratio, depending upon the consideration of environmental factors and the good judgment of the authority having jurisdiction. **The layout for the energy system has been development to minimize tree removal and maximize existing pastures and areas where trees have been removed in the past.***

*The applicant has provided Tree Clearing Plans, Sheet No. C-2.0, graphically identifying areas to be cleared (cutting and stumping) and topped (cutting) to eliminate panel shading. These plans show substantial clearing immediately adjacent to the Heritage Trail which has the potential for significant visual impacts to trail users. The applicant should provide a plan identifying the location, size and species of trees to be removed or topped as well as landscaping plans. Once this information is provided, we recommend you consider requesting the applicant to field identify the limits of clearing so you may schedule a site visit. **A tree survey is being conducted and a plan will be presented identifying the location, size and specie for all trees in these area of 6-inch DBH or larger. A landscaping plan will be developed to include the replacement of trees similar in nature and increasing buffers along adjacent properties and scenic areas.***

- *The installation of any solar energy system shall respect the landscaping and trees within any conservation easement or deed restricted area or within any required buffer area so that there is no damage or harm to the plant materials within those areas. If either parcel includes any conservation easements or deed restrictions, these should be shown on the plan so you may confirm compliance with the Code. **Understood. There are no existing deed restrictions or conservation easements to the parcels.***

- *Any tree clearing shall be justified with emphasis on development of previously cleared areas and any proposed clearing not to exceed an area more than 50% of the subject property's size. Clearing shall be minimized and limited to the area necessary for site access and the installation and operation of solar panels and related equipment. Natural vegetation shall be maintained to the greatest extent practicable. **Understood.***

*The applicant has provided Tree Clearing Plans, Sheet No. C-2.0, quantifying the total clearing as 2.84-acres of the 234.6-acre Broadlea parcel and 17.98-acres of the 47.2-acre Vivian parcel which we understand represents approximately 1.21% of the Broadlea parcel and 38.09% of the Vivian parcel. We note the EAF indicates the need for a variance due to lot clearing. The plan should include a calculation of the total clearing area for each lot so you may confirm compliance with the Code and we recommend you discuss with the applicant whether variances are necessary. **The calculation for each parcel has been revised accordingly and shown separately for each parcel.***

• Once constructed, ground cover below the solar energy system must be restored with low-maintenance, drought-resistant, native, non-fertilizer dependent flora or other protective low-maintenance surface as the Planning Board may approve. Additionally, the Code prohibits the use of stone beneath solar panels and requires a seed mixture of native, noninvasive, shade tolerate grasses. We recommend the plan include a note specifying the proposed ground cover. If various seed mixes are to be utilized, the limits of each should be shown on the plan. **A landscaping plan with notes for seed and plantings will be included in subsequent submissions.**

3. The design of a solar energy system shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.

The applicant should provide equipment catalog cutsheets showing the design of proposed systems components. Further the plans should include construction details showing the general arrangement and dimensions of equipment on each equipment pad. **Equipment catalog cutsheets will be included in subsequent submissions. A detail showing the equipment pad arrangement has been added to the plan set.**

4. Wind and solar energy systems and any associated structures shall not be used for displaying any advertising or signage, except for reasonable identification of the operator of the system and appropriate warning signs, with phone numbers for ESO/emergency contacts all not to exceed, in aggregate, four square feet in area per 100 lineal feet of running perimeter. All signs shall be affixed to equipment unless otherwise authorized by the approving authority. **Locations of signs with typical identifying information will be included in subsequent submissions.**

The Vehicle Gate Detail, Sheet No. C-5.0, shows the location of the owner and emergency contact information placard/sign on the fence. We recommend, as a condition of your action, the applicant install warning signs and an emergency contact sign for ESO use. **The specific identifying information is not known at this stage of the project and may not be known until after approvals of the project are received. Once we know this information, it will be provided.**

5. The installation of a clearly visible warning sign concerning voltage must be placed at the base of all area mounted transformers and substations. **Locations of signs with typical identifying information will be included in subsequent submissions.**

We suggest a detail be included with the plans showing the proposed equipment pad layout including warning signage. **A detail showing the equipment pad arrangement has been to the plan set, including locations of warning signs.**

6. All solar and wind energy systems shall be designed and located in order to prevent any unabated reflective glare toward any inhabited buildings on adjacent properties as well as adjacent roadways with sufficient studies submitted to confirm this has been mitigated to the extent practicable. **Understood.**

The applicant should provide a glare analysis which evaluates potential glare toward the existing dwellings as well as along the Heritage Trail. **A glare analysis will be completed and will be included in subsequent submission.**

7. Lighting of the pertinent structures shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded from abutting properties. **Understood.**

The EAF indicates a motion-activated light will be installed at each electrical equipment area. Any lighting provided should be directed downward and shielded from abutting properties. **Understood.**

8. When a new driveway or road is required for access to the wind, solar or photovoltaic systems, the surface shall be either pervious pavement or gravel and shall be the minimum width to accommodate maintenance as well as emergency vehicles. **Understood.**

The plan shows a new 1,400 linear foot gravel access driveway from Ridgeview Drive in the Town of Chester to serve the Vivian parcel and a 3,500 linear foot extension to serve the Broadlea parcel. If these driveways are considered fire access roads, they may need to be wider and include larger turnarounds (see comment above). We recommend reviewing this with Building Inspector

Halloran to determine if the fire access requirements of the NYS Fire Code apply. We recommend you confirm with the Emergency Services the proposed will provide passable conditions at all times for emergency service vehicles. See below for additional comments regarding driveway access. **Understood. In general, where there are long drives from the main road to the equipment pads, turnarounds are placed in selected locations. These locations will be reviewed with the Building Inspector and Emergency Services and adjusted accordingly.**

9. All wind and solar energy system installations must be securely fenced. Fencing may be chain-link or other suitable fence acceptable to the Planning Board and consistent with this chapter. See §97-55(F)(12) below. **Chain link fencing is being proposed unless otherwise suggested by the board.**

10. All wind, solar and photovoltaic energy system installations must be performed by a qualified installer, and, prior to operation, the electrical connections must be inspected by the Town or other appropriate electrical inspection agency, as determined by the Town. In addition, any interconnection to the public utility grid must be inspected by the appropriate public utility. (a) All power lines from a wind, solar or photovoltaic energy system to onsite interconnection equipment shall be located underground and installed by a certified professional and must meet all applicable national, state, and local electrical codes. (b) The installation of any energy system shall conform to the National Electric Code. (c) Wind, solar and photovoltaic energy systems that connect to the electric utility grid shall comply with Article 7 of the New York State Public Service Law and Section 68 if the plant is to generate more than 80 mw of energy as required by the electric utility servicing the property and (d) Systems shall be installed by a qualified installer as listed on the NYSERDA Approved Installers list with a North American Board of Certified Energy Practitioners (NABCEP) certified installer. We suggest you make these requirements a condition of your action. **Understood.**

11. When batteries are included as part of the wind, solar or photovoltaic energy system, the batteries require a charge controller and must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention Code when in use, and, when no longer used, the batteries shall be disposed of in accordance with the laws and regulations of Orange County and other applicable laws and regulations. Unless practically infeasible, the energy system shall be connected to the energy grid in lieu of stand-alone systems relying upon batteries to store excess power.

The Project Scope on the Broadlea Title Page, Sheet No. T-1, indicates the scope includes energy storage equipment however no battery storage is shown on the other plan sheets or described in the EAF. The applicant should confirm whether battery systems are proposed as part of this facility. **There is no battery system proposed for this facility.**

12. Landscaped vegetative screening shall be required, as well as fencing as may be determined appropriate by the Planning Board, between any ground-mounted solar collectors or any ground-mounted equipment for any energy system and adjacent properties and streets in accordance with the following: (a) The overall purpose of the landscaped screening is to obscure or substantially buffer the view of the solar energy system year-round; (b) The landscaped screening shall be comprised of a minimum of one evergreen tree, at least six feet high at time of planting, plus two supplemental shrubs, all planted within each 10 linear feet of the area to be screened or such other equivalent and appropriate landscape solution as is acceptable to the Planning Board; (c) Existing vegetation may be used to satisfy all or a portion of the required landscaped screening; (d) Fencing shall provide security protection for the facility and may also provide screening of the facility for visual protection of neighboring properties. Fencing shall satisfy all NEC requirements as needed and may be a maximum of eight feet in height, unless otherwise required by the NEC [see § 97-55F(9)].

The plan shows no proposed landscape screening. If the applicant intends to rely on existing vegetation for screening site-cross sections and photographs should be submitted especially from the Heritage Trail. **A detailed landscaping plan, including photo simulations, are being developed and will be submitted in subsequent submissions.**

The plans show a seven (7) foot high chain-link fence mounted six (6) inches above grade to provide a "wildlife gap". In accordance with the Code this is considered a 7-foot, 6-inch high fence which complies with the Code [§97-55F(20)]. **Understood.**

13. If a solar energy system ceases to perform its originally intended function for more than 12 consecutive months or construction is not completed within 18 months of final site plan approval, the property owner shall remove the equipment and facilities and restore the property to its original condition unless he can show to the satisfaction of the Building Inspector good cause as to why this time

should be extended and then only to a maximum extension of an additional 45 calendar days. To secure such removal, the developer shall post a decommissioning cash bond with the Town in an amount to be established by the Town Board upon recommendation from the Town Engineer.

We recommend this be a condition of your action. **Understood.**

14. A copy of the manual shall be provided to the Building Department and Fire Department when the applicant requests a building permit be issued.

We recommend this be a condition of your action. **Understood.**

15. Solar energy systems shall be designed to sustain wind loads up to 110 miles per hour (mph) and snow loads of 50 pounds per square foot (psf) unless more stringent requirements are mandated by other regulatory agencies.

We recommend your action include a requirement for this information to be submitted and reviewed to our satisfaction prior to the issuance of a Building Permit. **This information will be included in the building permit application**

16. The site is outside the Scenic Road Corridor Overlay District Code and the Code requires a visual impact assessment including a viewshed analyses, before and after graphical representations and alternative designs and colors. A portion of the site is within the Scenic Reservoir Corridor however, the applicant should provide a Visual Impact Assessment for both parcels pursuant with §97- 55F(19)(b). **A viewshed analysis is included in this submission.**

17. A decommissioning plan must be submitted by the solar developer as part of the site plan and special permit applications. Although the agreement between the property owner and the company installing and operating the system may assign the decommissioning responsibilities to the company, the responsible party for the purposes of this code shall be the property owner. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition. It shall include an estimate of decommissioning costs. The decommissioning plan shall be initiated within the time frames provided in § 97-55F(13).

A decommissioning cost estimate/plan should be submitted at this time. We will provide further comments prior to the Town Board's action on the estimate. **A decommissioning plan will be included in subsequent submission.**

18. An agreement with a utility for interconnection of the completed facility must be established and clearly documented within the site plan and special permit review.

The plan shows several proposed utility poles and overhead wires extending through private property in the Town of Chester to Vivian Lane and beyond. The applicant should provide the utility interconnection agreement and details of each interconnection for your consideration and address whether any additional tree clearing will be necessary for the interconnection. **A preliminary interconnection agreement is included in this submission.**

## 2. Site Plan –

a) Access & Parking – The plan shows a proposed driveway access from Ridgefield Drive in the Town of Chester. Ridgefield Drive appears to be part of the Ashford Estates residential subdivision (located in the Town of Chester) and is not included on the NYSDOT Local Roads Listing. The applicant should demonstrate their ability to utilize Ridgefield Drive, address any potential impacts to the adjacent residential properties and advise whether any permits or approvals from the Town of Chester will be necessary. The proposed horizontal alignment for the driveway access appears to reduce overall driveway slope. We recommend the applicant provide construction details and driveway profiles so you may confirm compliance with the Code. **Profiles for the access drive are included in the revised plan set and include any necessary grading that is proposed. Typically, there is no grading performed outside of minor adjustment in the access drive profile to remove abrupt changes in grade. Additional construction details will be provided as needed in subsequent submissions.**



In accordance with staff meeting discussions with the applicant, we understood a driveway connection to the existing driveway network on the Sisters of St. Dominic property was intended to provide access to Broadlea Road. The plans appear to show a dead end at Station 29+46.42. The applicant should confirm if a connection is still intended and we also recommend you discuss with Building Inspector Halloran whether this is considered a common drive which is prohibited [§83-15D(1)]. Additionally, the applicant should address parking; both during construction and facility operation. **The driveway connection does not dead end as appears. The proposed access connects to existing accessible drive that is directly connected to Broadlea Road. The existing connection will remain unchanged. Additionally, parking during construction will be provided in the laydown area and the facility operations will utilize the turnaround areas at the equipment pads for parking.**

b) Utilities – This is an unmanned installation. The applicant has advised no water and/or sewer service is required. **Understood.**

c) Stormwater – Per the NYSDEC SPDES General Permit for Construction Activities, soil disturbances greater than one acre requires a full Stormwater Pollution Prevention Plan (SWPPP). The applicant has quantified the area of disturbance as 46.6-acres (EAF) and should graphically delineated it on the Erosion Control Plan. Since the area exceeds one (1) acre we understand post construction stormwater management practices are required. The Project Narrative indicates stormwater management systems will be incorporated into the development plan. These should be shown at this time along with any collection and conveyance systems. Additionally, the applicant should submit the SWPPP and discuss whether one (1) or two (2) stormwater permit applications are anticipated. **A full SWPPP will be provided under subsequent submissions.**

d) Miscellaneous –

- Grading – The Project Narrative indicates minor grading will be required for the access drives, laydown area and equipment pads. The Grading Plan should be revised to show the proposed grading as well as the laydown areas. **A grading plan has been included in this plan set. It should also be mentioned that the only grading for the project is for the access drives, as there is no other grading proposed on any other portion of the site.**

- Underground Electrical Lines - The Code requires all electric distribution and transmission lines of 138 kilovolts and less to be placed underground [§97-61]. The plan shows significant overhead utility lines. We recommend you discuss with the applicant whether these may be located underground or whether a variance is necessary. **Understood.**

- Sign & Seal – Future plan submissions should be signed and sealed by the professional who prepared the plans. **It is not standard practice to sign and seal the plans before final submission. The plans will be signed and sealed by the professional responsible for the final submission and approvals.**

- Agricultural Data Statement – The project site is located within an agricultural district. Pursuant to the Code requirement, the applicant submitted Agricultural Data Statements. We note the statement for the Broadlea parcel indicates no portion of the parcel is currently utilized for farming. We understand Harmony Farm, a community support agriculture facility, exists on the Broadlea parcel and recommend submission of a revised statement. **Understood.**

The Code requires public hearings for major site plans to follow the provisions on agricultural data statements for special permits [§97-76F(1)] which requires the Secretary of the Planning Board to mail written notice of the application to the owners of the land as identified by the applicant in the agricultural data statement. **Understood.**

- Owner's Endorsement – The applicant submitted exhibits to the applications identifying Borrego Solar Systems, Inc. as the Owner's agent. We recommend you confirm this is satisfactory with Attorney Naughton. **Understood.**

3. SEQRA – The applicant submitted a Full EAF in accordance with the Code. Unless Attorney Naughton advises to the contrary, we believe this to be a Type I SEQRA Action since the proposed project involves the physical alteration of more than 2.5 acres within an agricultural district. We note the following for possible review with the applicant regarding the EAF:

- *Question C.3.a, c and d (Zoning) – EAF indicates the site is in the RU zoning district, served by the Goshen Fire District and served by Good Time Park and Erie Street Park. The site is also within the Scenic Road Corridor, Stream Corridor & Reservoir Watershed, Floodplain & Ponding Area, and AQ-3 overlay zones, served by the Chester Fire District (the fire district boundary crosses the Broadlea parcel) and adjacent to the Heritage Trail. **Question has been revised accordingly.***
- *Question D.1.e (Phasing) – EAF indicates construction will not be phased. It was our understanding the applicant submitted separate site plans since they intend to phase the overall project. We suggest the applicant provide further information regarding the anticipated phase (if any) so you may evaluate potential impacts. **The project is not considered phased. Once the project is started there will be no break in the construction efforts. Though both sites will stand on their own, they will be constructed at the same time and therefore should not be considered a phased project.***
- *Question D.1.g.ii (Dimensions) – EAF indicates the height of the largest structure will be 9.5- feet. The plans indicate a module height of 9-feet. Due to the potential visual impact to users of the adjacent Heritage Trail and the forthcoming visual impact assessment, we suggest the applicant confirm the maximum height. **The height is 9.0 feet. Question has been revised accordingly.***
- *Question D.2.I (Hours of Operation) – EAF indicates the hours of construction to be 7 AM to 5 PM. The Town Code restricts construction related noise until 8 AM [§70-2F]. **Question has been revised accordingly.***
- *Question E.2.h (Surface Waters) – EAF indicates the project site contains wetlands, waterbodies and the floodway. We suggest the applicant provide further information so you may evaluate the impacts from this project (if any). **Understood. Impacts, if any, will be provided in further detail in subsequent submissions.***
- *Question E.2.o (Endangered or Threatened Species) – EAF indicates the project site may contain Northern Long-eared bat or areas identified as potential habitat. We suggest the applicant provide further information so you may evaluate the impacts from this project (if any). **Understood. Impacts, if any, will be provided in further detail in subsequent submissions.***
- *Question E.3.b (Soils) – EAF is incomplete relative to the acres of highly productive soils onsite. We suggest the applicant provide this information and identify the soil types on the site plan so you may evaluate potential impacts (if any). **Understood. Impacts, if any, will be provided in further detail in subsequent submissions.***
- *Question E.3.h (Scenic or Aesthetic Resources) – EAF indicates there are no scenic or aesthetic resources within five (5) miles of the project site. We note Broadlea Road is within the Scenic Road Corridor overly district and the site is adjacent to the Heritage Trail. **Understood. Impacts, if any, will be provided in further detail in subsequent submissions.***

We trust this information is sufficient for your use in scheduling this project at the next Planning Board meeting. If additional information is needed, please let us know and we will submit this information. Thank you for your attentiveness in this matter and we look forward to attending the next available town meeting. Should you have any questions or additional information is needed, please feel free to call my direct line at 518-573-6989, or by email at [arico\\_associates@borregosolar.com](mailto:arico_associates@borregosolar.com).

Truly Yours,  
ARICO ASSOCIATES



Dominick F. Arico, PE