

MEMORANDUM

To: Lee Bergus, Chairman & Planning Board

From: Dominick F. Arico, PE, Consultant Engineer

Date: February 16, 2022

Copy To: Neal Halloran, Building Inspector; Kelly Naughton, Esq., Planning Board Attorney; Sean T. Hoffman, PE, Town Engineer

Re: Response to Comments - Memo 83-22-006
Broadlea Road and Vivian Lane Solar
Subdivision, Special Permit & Site Plan – Revised Plans
File # 9-1-4, 5.21, 5.22, 5.23 & 6.21

We offer the following information in responses relative to the project comment letter from Town Designated Engineer, Sean T. Hoffman, PE H2M Architects + Engineers, dated January 28, 2022. Comments are in *italic* text and responses are in **bold** text below. On behalf of Borrego Solar Systems, we are submitting the following documents that have been revised or are in addition to documents submitted under previous submissions, they are as follows:

A. *Materials Submitted:*

- 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 Glare Analysis Stud, Broadlea Road
- 5 copies Glare Analysis Study, Vivian Lane

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 may require area variances from the ZBA. As such, our comments are directed primarily toward compliance with zoning requirements with a number of items noted for further consideration as detailed plans are developed.*

The applicant provided responses to our previous comments which assisted with our review of the revised plans. Previous comments which are still applicable are repeated below.

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 Code 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 [§97-10D(1)]. **The bulk table has been revised for the solar development area. In addition, a bulk table has been added to the plans for existing conditions on Sheet C-1.0. In general, the existing uses on the property are: Residences for Developmentally Disabled, Mansion Daycare for Migrant Children; Adjacent Gym and Day Treatment for Developmentally Disabled; Empowerment Center; and a Religious Retreat Center.**

- 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 submitted a revised Project Narratives addressing visual & noise, drainage, wastewater and water services. In addition, we recommend the applicant address the following special permit criteria:
- The Code requires the applicant to confirm the project will not cause significant traffic congestion or overload existing roads [§97-73A(3)]. The revised Project Narratives indicate the proximity to arterial roadways and limited use of the proposed driveways no traffic impacts are anticipated. 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, which are classified as local roads, are adequate for anticipated delivery truck traffic (e.g., sight distances, geometry, etc.). **Existing roadways were visually evaluated and found that turning radii and roadway conditions are adequate for truck deliveries. A map showing delivery routes are attached in this submission. The project narrative has been updated to show traffic impact on truck deliveries during construction.**
 - The Code requires the site be accessible to fire, police and other emergency vehicles [§97-73A(4)]. The plan shows access points from Ridgefield Drive which appears to be a privately owned road in the Town of Chester and Broadlea Road which is indicated on the NYSDOT Local Roads Inventory as having a total pavement width (both lanes) of 18-feet. We suggest access (20-foot wide) and turnarounds be reviewed with local emergency services and Building Inspector Halloran. **Turn offs, widening the road way to 26 feet, have been provided in selected locations to enhance two-way traffic for emergency vehicles along the entire length of road from Ridgefield Drive to Broadlea Road. Truck turning radius along the road have been evaluated and modified where necessary for emergency vehicles and delivery trucks. With this submission a set of plans will be forwarded to the Highway Superintendent and Emergency Services for review and comment.**
- 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. **Understood.**
- d) 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. A portion of the Broadlea parcel is within the SC District associated with the Black Meadow Creek. 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 has been shown on the plan and all proposed improvements are located outside the district. **No response needed.**

e) 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 has been shown on the plan; a portion of the Broadlea parcel array and fence encroach within the district. The applicant has requested a waiver from the SR District requirements which we suggest you discuss with Attorney Naughton. Additionally, we have the following comments:

- Site plan approval may only be granted if the Board finds, with appropriate conditions (paraphrase from Code): (1) no degradation of the scenic character and/or aesthetically compatible with surroundings; (2) minimal removal of native vegetation; (3) minimal structure visibility from the road to the greatest extent practical; and (4) compliance with the landscaping, architecture, and fence requirements. We recommend the applicant provide additional information regarding the potential visibility of structures within the SR District. Further, the plans (Sheet C- 3.0) indicate woven wire (i.e., agricultural) fence however the plan details indicate chain-link fencing which is prohibited. We recommend the applicant confirm their intention to utilize woven wire (i.e., agricultural) fence. **The development of the Broadlea project has been revised and is outside the SC District buffer. The SC District buffer does not extend onto the Vivian Lane site. The landscaping plan for both sites has been updated and revised in the plan set. In addition, a woven wire fence is shown along the entire perimeter of the solar array, except where gates are proposed, they will need to be chain link.**
- 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 applicant has indicated their intention to comply; we recommend this buffer be shown on the plan. **See preceding paragraph.**
- 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. **No further need to address. CEO stated this is not applicable.**

f) 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. The applicant should show the one-hundred-year floodplain on the plans so you may verify no improvements are proposed within the floodplain. We recommend you confirm with Attorney Naughton you are not required to make any findings relative to the floodplain overlay district. **The 100-yr and 500-yr flood plain has been shown on the plans (sheets C-1.0 & C-3.0). To clarify, there is no portion of the proposed project(s) that is within any floodplain.**

g) 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

- Road Frontage - The Table indicates the lot width required is 100-feet and the proposed lot width is a complying 3,836-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. **The table has been updated and revised accordingly.**
- Setbacks – The Table indicates the front, side and rear yards required are 100-feet and the proposed yards are at least 101-feet. The Table also indicates variances are required at two (2) locations. We recommend you confirm with the applicant the note regarding variances is a typographical error. **The table has been updated and revised 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)]. The Layout and Materials Plan, Sheet No. C-3.0, shows the proposed access driveway toward Vivian Lane crossing the property. We suggest you discuss with Building Inspector Halloran whether this will require an area variance. **This has been clarified by the CEO that current zoning is being met and a variance will not be required at the February 3, 2022 planning board meeting.**
- Module Height – The Table indicates a proposed maximum solar panel height of 9.0-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 detail has been updated.**
- 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. **See note above with Bulk table adjustments.**

2. Vivian Parcel – The Layout and Materials Plan, Sheet No. C-3.0 submitted with the Vivian plan set was for the Broadlea parcel. As such, we have repeated below our previous comments. Additionally, we note the Town of Goshen/Town of Chester municipal boundary shown on the Existing Conditions Plan, Sheet No. C-1.0, is at variance with the tax maps and should be confirmed by the applicant. The plans now identify two (2) parcels (i.e., SBL 2-2-20 and 20-1-12) as part of the application. These parcels are located outside the Town of Goshen and may require site plan or other approvals from the Town of Chester. **We again apologize for the confusion and inaccurate information provided in the latest plan set submission. The following submission has been verified and provided for the comments listed below.**

- 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. **This has been partially clarified by the CEO that current zoning is being met and a variance will not be required at the February 3, 2022 planning board meeting.**

- 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 100-foot setback has been met in this submission.***

*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 updated in this submission.***

- 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 80-foot setback has been met in this submission.***
 - 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. **This has been clarified by the CEO that current zoning is being met as we understand a variance will not be required at the February 3, 2022 planning board meeting.***
 - 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. **See note above with Bulk table adjustments.***
- h) 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. **While the solar system is not in historic or culturally significant areas, stream corridors, habitats of endangered rare or threatened species, there are minor impacts to small portions of wetlands on site. These impacts equal less than 0.10 Acres according to US Army Corps of Engineers guidelines, and while this project is currently seeking a JPA for this project impacts have been limited to the absolute bare necessity. As for the slope constraints, Broadlea avoids any impacts to slopes greater than 15%, there is a small portion of Vivian Lane, where racking is being proposed in the area of 15%-18% slopes that would require a waiver from the town. Unfortunately a large portion of the eastern array falls within this 3% slope area and the project would not be able to move forward without the granting of this waiver. Special considerations to avoid any potential***

disturbance in these areas is being proposed including leaving the stumps in the ground in these areas. These areas will also be stabilized with additional erosion and sediment control measures as laid out in the NYS Erosion and Sediment Control Guidelines. A slope analysis has been shown on the plans separating slopes of 15%, and 18% and above slopes. A formal request for a waiver specifically for Vivian Lane shall follow under separate cover.

The plan now shows wetlands and streams. We note the applicant proposes to disturb three (3) wetlands on the Broadlea parcel and cross an existing stream (or wetland) with the access driveway. The plan should be revised to show floodplains and include a slope analysis identifying slopes of more than 15%. Additionally, the EAF indicates the project site may contain Northern Long-eared bat or areas identified as potential habitat. The applicant should provide confirmation the proposed systems excluded Northern Long-eared bat habitat. Slopes exceeding 15%, floodplains, jurisdictional streams, and wetlands have been located and shown on the plans. As for the Northern Long-eared bat, Northern Long Eared Bat mitigation measures include limiting tree clearing to the allowable winter tree clearing months. A concurrence of no impact is currently being submitted with our JPA, the concurrence to that report will be submitted to the town ASAP.

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.
- 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. **At this time we are proposing to mitigate the trees being removed by creating a conservation easement of 120.3+/- acres on a portion of the 237 acre parcel. The conservation area has been added to the plans.**

*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 and Tree Survey Plans, Sheet No. C-2.1, identifying the location, size and species greater than six (6) inch DBH to be removed or topped. The plans indicate removal or topping of 893 trees on the Vivian parcel and 610 trees on the Broadlea parcel. **No response needed.***

*Further, these plans show significant clearing immediately adjacent to the Heritage Trail. Although the clearing in this area has been reduced from initially proposed, there remains potential for significant visual impacts to trail users. We recommend you consider requesting the applicant to field identify the limits of clearing so you may schedule a site visit and consider replacement trees. **A landscaping plan has been added to the plan set. The landscaped area poses a significant increase in buffer areas along the Heritage Trail and the Scenic Corridor Overlay District. Moreover, this section of the property will be permanently protected within a conservation easement to be conveyed to the Orange County Land Trust - as shown in draft on the Plans for both sites. We will flag the limits of the tree***

clearing and work with the CEO to coordinate a site visit for interested Planning Board members in early March.

- *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.*

*The applicant has confirmed neither parcel includes conservation easements, deed restricted areas or buffers. During your December 2, 2021 meeting the applicant discussed a possible conservation easement on the Broadlea parcel to preserve existing undeveloped areas and vegetation. **The proposed conservation easement has been prepared and is part of this submission, see Sheet C-8.0. The final metes and bounds description will be provided subject to further review and comment from the Planning Board, the Sisters of St. Dominic and Orange County Land Trust***

- *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.*

*The applicant has provided Tree Clearing Plans, Sheet No. C-2.0, quantifying the total clearing areas as 3.96-acres of the 237.2-acre Broadlea parcel and 11.00-acres of the 47.2-acre Vivian parcel which we understand represents approximately 1.67% of the Broadlea parcel and 23.20% of the Vivian parcel. **The tree clearing plan has been revised based on the removal of the panels from areas of slopes greater than 18%. The revision quantifies the clearing limits to 4.64+/- acres (1.9%) for Broadlea Lane and 9.23+/- acres (19.5%) for Vivian Lane.***

- *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. **A seeding table has been added to the plans, please see sheet C-4.0.***

*The plans for the Vivian parcel include a Seeding Specifications Table indicating a northeast pollinator mix between and under the solar panels. We recommend a similar Table be added to the plans for the Broadlea parcel. **A seeding table has been added to the landscaping plan.***

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 provided equipment catalog cutsheets showing some systems components. Additionally, the plans include information on the general arrangement and scale of equipment on each equipment pad. We recommend the plan be revised to identify each component. **A sheet has been added to the plan set where each piece of electrical equipment is identified, please see sheet E-2.0.***

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.

*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. **Detail 8 of Sheet C-5.0 has been updated to address this comment, in addition, an electrical placard detail sheet has been provided in the updated plan set. Please see sheet E-6.0.***

- 5. The installation of a clearly visible warning sign concerning voltage must be placed at the base of all area mounted transformers and substations.*

*The applicant has indicated a detail will be included with future plan submissions showing the proposed equipment pad layout warning signage. **An electrical placard detail sheet has been provided in the updated plan set, please see sheet E-6.0.***

- 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.*

*The applicant has indicated a glare analysis will be included in a subsequent submission. We recommend you defer scheduling the public hearing until receipt of a glare analysis evaluating potential glare toward the existing dwellings as well as along the Heritage Trail. **A Glare Analysis Study has been completed and is included in this submission. We will supplement the Glare Study once the final visual screen has been confirmed with the Planning Board***

- 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.*

*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. **All lighting will be motion activated and will only activate in the unlikely event that the system requires maintenance during nighttime hours. In addition, these lights will be shielded and directed downwards. Please see detail 10 on sheet C-5.0.***

- 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.*

*The plan shows a new 2,100 linear foot gravel access driveway from Ridgeview Drive in the Town of Chester to serve the Vivian parcel and a 2,000 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. **Turn offs, widening the road way to 26 feet, have been provided in selected locations to enhance two-way traffic for emergency vehicles along the entire length of road from Ridgefield Drive to Broadlea Road. Truck turning radius along the road have been evaluated and modified where necessary for emergency vehicles and delivery trucks. With this submission a set of plans will be forwarded to the Highway Superintendent and Emergency Services for review and comment.***

- 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. All fencing will be AG style, woven wire fence. Please see the updated detail sheet, C-5.0.

See §97-55(F)(12) below.

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.*

*Although the applicant has indicated no battery energy storage systems are proposed, the Project Scope on the Title Pages, Sheet No. T-1, indicates the scope includes energy storage equipment. The plans should be revised for consistency. **The Title sheets have been updated to reflect that no battery storage is being proposed as part of this proposal.***

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. **Landscaping is now being proposed in these areas as depicted on the updated submittal. A rendering including the proposed landscaping will be submitted to the board as soon as it is complete.***

Proposed landscaping species are still being discussed with the landowners as they have specific requests regarding tree type along the western portion of the system.

*The plans for the Broadlea parcel show a seven (7) foot high chain-link fence mounted six (6) inches above grade to provide a “wildlife gap”. The plans for the Vivian parcel show an eight (8) foot high woven wire (i.e., agricultural) with no “wildlife gap”. In accordance with your prior practice, we recommend both fences be woven wire and the applicant provide areas for wildlife to pass. **The fence details have been corrected, please see sheet C-5.0.***

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. **Understood.***

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) prior to scheduling a public hearing. We recommend you consider discussion potential vantage points with the applicant at this time. **These items are currently being generated and will be submitted to the board ASAP. The current vantage points for renderings are along Broadlea Lane and Ridgefield drive but alternative simulation recommendations are welcome. Cross sections for the Vivian Lane and Broadlea Road have been 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 cost estimate has been prepared and is included in this submission for both projects.

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 CESIR study for both Broadlea and Vivian Lane is underway and expected to be completed by June 7, 2022. We will supply a signed Interconnection Agreement at that time.***

*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 provided the preliminary screening form and should also 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. **The plans have been revised to exclude utility poles and place all conduit and wiring underground. In addition, there will be no further tree removal for this work except for the area shown on the tree removal plan for the solar array.***

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.*

*In accordance with our request, the applicant has provided additional information regarding the driveway access including profiles. We note several of the proposed grades exceed 10% and we recommend the applicant discuss the practicality of gravel driveways at these slopes to accommodate large delivery vehicles and fire apparatus. Additionally, the profiles should identify existing stormwater drains and sewers crossing the driveway and either verify the drains and sewers will have adequate cover or address modifications to protect these pipes. **The gravel road drive has been updated in layout and vertical profiles. There is no gradient greater than 10%***

*The applicant has confirmed a proposed driveway connection to the existing driveway network on the Sisters of St. Dominic property to provide access to Broadlea Road. We recommend you discuss with Building Inspector Halloran whether this is considered a common drive which is prohibited [§83-15D(1)]. Additionally, in response to our prior comments the applicant has indicated the laydown area will be used for construction parking. We note only one (1) laydown area which scales approximately 30-feet by 20-feet and appears inadequate for deliveries, staging and parking. The applicant should provide additional information including the identification of additional laydown areas if necessary. **Laydown areas, construction parking and staging on the plans have been shown as temporary areas.***

- b) Utilities – *This is an unmanned installation. The applicant has advised no water and/or sewer service is required. The plans now show an onsite sewage disposal system which we understand to be existing and will remain. **No response needed.***
- 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 51.8-acres (EAF) and should graphically delineate 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 is being prepared and will be submitted under separate cover or in the next submission. The SWPPP will clearly define water quality and quantity controls that are required under the NYSDEC SPDES General Permit for Construction Activities GP-0-020-001.**

d) Miscellaneous –

- 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 including onsite adjacent to the driveway access between the Broadlea and Vivian parcels. We recommend you discuss with the applicant whether these may be located underground or whether a variance is necessary. **The plans have been revised to exclude utility poles and place all conduit and wiring underground.**
- Sign & Seal – Future plan submissions should be signed and sealed by the professional who prepared the plans. **No response necessary.**
- Agricultural Data Statement – The project site is located within an agricultural district. Pursuant to the Code requirement, the applicant previously 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. **Ag Statement has been revised accordingly stating the Broadlea parcel is being farmed and is part of this submission.**

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 land identified by the applicant in the agricultural data statement. As such, we recommend the applicant submit a revised Agricultural Data Statement prior to scheduling the public hearing.

- 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. Further, in accordance with Attorney Golden's request during the December 2, 2021 meeting, the applicant should provide confirmation they may utilize the Town of Chester parcels as shown on the plan. **No response needed.**
- Sheet List Table – The applicant should revised the Sheet List Table on the Title Page for the Broadlea Road plans to list the electrical plans included in the plan set. **The Sheetlists have been updated**
- Road Inventory – The applicant has indicated a road inventory survey (i.e., road condition assessment) will be performed prior to construction and at the conclusion of construction to identify any damage caused by the proposed projects. We recommend you consider requiring this as a condition of your action. **Using google maps and County GIS maps a traffic route was established to the site from the closest major arterial that would be used for deliveries. Existing local roadways were visually evaluated and found that there are no concerns to the conditions of the roadways. Once construction is scheduled, another evaluation will be**

conducted within 90 days to confirm the present conditions.

3. SEQRA – The applicant submitted a revised 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.4.c & d (Existing Community Facilities) – The site is also served by the Chester Fire District (the fire district boundary crosses the Broadlea parcel) and adjacent to the Heritage Trail. **Updated as noted.**
 - 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 clarification. If the site is to be developed at one time, the applicant should discuss routing of construction vehicles. **Changed answer to YES and completed section ii. with explanation.**
 - 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). **Answer remains the same. Further information will be presented to town for review.**
 - 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). **Updated as noted... USDA/Web Soil Survey maps were used to determine soil type and rating on site.**
 - 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. **Updated as noted.**