

December 16, 2021

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

Re: Response to Comments Owens Road Solar
Subdivision, Special Permit & Site Plan –Initial Presentation
File # 10-1-10.22; Memo 83-21-028
Town of Goshen, New York

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 November 17, 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"), last revised 12/16/21
- 5 copies Project Narrative
- 5 copies Viewshed Analysis
- 5 copies CDG Preliminary Screening Analysis Results
- 5 copies Decommissioning Estimate
- 5 copies Excerpts from title report of deed and easements
- 5 copies Equipment catalog cutsheets
- 5 copies SCE Bat Roost Report

A. *Materials Reviewed: No response needed.*

B. *Review of Submitted Materials – This application requires review by the Town Board and Planning Board. We recommend you consult with Attorney Naughton regarding coordination and review responsibilities. Additionally, this application requires a significant number of area variances from the ZBA. We understand the applicant intends to appear before the ZBA early in the review process. As such, our comments are directed primarily toward compliance with zoning requirements with a number of issues noted for further consideration as a site plan details are developed. **Understood.***

1. Zoning –

a) *Use – Applicant proposes construction of a 14-megawatt (AC) solar energy facility consisting of ground-mounted solar photovoltaic (PV) modules/panels and presumably 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]. **Understood.***

b) *Subdivision - The plan shows the subdivision of the parcel into three (3) lots with its own array. We understand the purpose of the subdivision is to comply with Public Service Commission requirements relative to the maximum system size on a lot. The Project Narrative indicates the subdivision will create three (3) sites (i.e., lots) and each site will be leased. As this application is currently structured, it appears each lot could be operated by a separate lessee which may require multiple easements. We recommend you discuss site leases and operation with the applicant. **The plans have been modified since the last submission. The subdivision is now two (2) lots each having access from Owens Road. Each lot will be leased and should require not easements. The revised plans area attached.***

c) *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 two (2) access points from Owens Road. 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.**

d) *Public Hearing* – This is a major site plan; a public hearing is required for site plan [§97-76F] and subdivision [§83-22K] approvals. Since a public hearing is also required in connection with the special permit to be reviewed by the Town Board and 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.**

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 the Walkkill River and any stream or stream segment shown within the SC district on the Overlay District Map. The Walkkill River (identified on the plan as an existing stream) forms a portion of the southwesterly parcel boundary. 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 a portion of Owens 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 parcel along the southwesterly side of the parcel 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 has been depicted on the plans in addition to the 100-year and 500-year flood elevation as defined by FIRM. In addition, 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 Plan, Sheet No. C-3.0, listing the required and provided (i.e., proposed) dimensions established by the Code. We have the following comments:

- *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 126.4- acres. Since the applicant proposes to subdivide the parcel, each proposed lot size should be provided. Further, the lot sizes listed in the Table notes sum to 137-acres and are at variance with the lot sizes listed on the Subdivision Plat, Sheet C-1.1. The Table and plat should be revised for consistency. **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 to be determined. 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 200-feet. The Table should be revised and, we understand, since Lot No. 3 is proposed with zero frontage an area variance is required. **It should be noted that there are only 2-lots being proposed as the 3rd lot has been removed from the submission. That being said, the proposed 2-lot subdivision plan now depicts 200-foot frontage along Owens Road for each parcel. The tables 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 multiple modules for each array encroaching into the required setback which will require area variances. **In creating the interior lot lines and in order to maintain minimum disturbances, the modules have been placed within the 100-foot setback. The 100-foot setback has been maintained along the perimeter of the property. An area variance has been applied for from the Towns ZBA.***

*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 note in the table will be revised 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 each fence encroaching into the required setback which will require area variances. **In creating the interior lot lines and in order to maintain minimum disturbances, the perimeter fencing has been placed within the 80-foot setback. The 80-foot setback has been maintained along the perimeter of the property. An area variance has been applied for from the Towns ZBA.***

- *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 along the proposed property line between Lot Nos 1 and 3 which will require an area variance. **The revised subdivision has been modified to maintain a 10-foot setback as noted. The table will be revised accordingly.***

- *Module Height – The Table indicates a proposed maximum solar panel height of 9.5-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 section has been modified accordingly.***

- *Lot Coverage – The Table indicates the maximum lot coverage permitted is 50% and the applicant's October 21, 2021 correspondence requests a waiver from this requirement. 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”. We suggest you discuss with Building Inspector Halloran whether this requirement applies to this application. **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, except for a wetland crossing to gain access to Site 2. As shown on the plans, an ACOE jurisdictional wetland extends across the site and is unavoidable in gaining access to the rear of the property. To make this crossing a permit is being process for application with the ACOE for the disturbance and mitigation of the wetland area.***

*The applicant's October 21, 2021 correspondence indicates 20.5+/- acres of wetlands, floodplains and slopes greater than 15%. Only some of these areas appear to have been shown on the plans. Additionally, the plans should include any 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.***

*The applicant's October 21, 2021 correspondence requests a waiver with respect to development on steep slopes. We note the Code authorizes you to waive any provision of the Wind and Solar Energy System section of the Code if the applicant demonstrates unnecessary and undue hardship and if the modification may be accomplished without significant environmental harm [§97-55G(7)]. The applicant should provide a slope analysis so you may evaluate the areas of severe topography. **A slope analysis showing 15% and greater slope area has been included on the Existing Conditions Plan.***

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 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.***

- 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 a Tree Clearing Plan, Sheet No. C-2.0, graphically identifying an area toward the center of the parcel to be cleared (cutting and stumping) and topped (cutting) to eliminate panel shading. The applicant has requested a waiver of the one-to-one tree replacement ratio due to landscaping and berm mitigations. The applicant should provide a plan identifying the location, size and species of trees to be removed or topped as well as a landscaping plan. Once this information is provided, we recommend you consider the replacement trees to be required. **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 Owens Road and adjacent properties.***

- 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. **Understood.***

The plans show several existing permanent easements as well as rights-of-way and clearing in the vicinity of the northeasterly and southwesterly parcel boundaries. We recommend the applicant provide information regarding the existing and proposed easements so it may be determined whether there are any restrictions on clearing. **Excerpts from the title report have been included in the submission.**

- 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 a Tree Clearing Plan, Sheet No. C-2.0, quantifying the total clearing as 37.29-acres which we understand represents approximately 29.5% of the parcel. The plan should include a calculation of the total clearing area for each lot so you may confirm compliance with the Code. **The calculation has been modified to include each lot separately and shown on the plans.**

- 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 have been included in the plan set.**

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 detail sheet in 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 has been located in the plan set.**

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 has been located in the plan set.**

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 added to detail sheet in 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.

The applicant should provide a glare analysis which evaluates potential glare toward the existing dwellings as well as along Owens Road. **A glare analysis has been completed and is included in this 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.

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.

The plan indicates two (2) new gravel access driveways from Owens Road will be provided. 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 International Fire Code apply. We recommend you confirm with the Emergency Services the proposed will provide passable conditions at all times for emergency service vehicles. Additionally, we note the driveway access will require approval from the Highway Superintendent (see comment below). **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 applicant should confirm no 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. It appears from the Photo Simulations, the arrays, fencing and access driveways will be visible from Owens Road and screening to supplement the existing vegetation will be necessary. **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)]. **No response needed.***

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 viewshed analysis is included in this submission.***

*A portion of the site is within the Scenic Reservoir Corridor however, the applicant should provide a Visual Impact Assessment pursuant with §97-55F(19)(b). **Understood.***

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 is included in this 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 proposed utility poles and wires adjacent to the Lot Nos 1 and 3 driveway access. Photo Simulation Figure Nos. 4, 6 and 8 show this interconnection as well as an interconnection adjacent to the Lot No. 2 driveway access. The applicant should provide the utility interconnection agreement and details of each interconnection for your consideration. **A preliminary interconnection agreement is included in this submission.***

2. Site Plan –

- a) *Access & Parking* – The plan indicates two (2) driveway access points but does not address the connection with the Town road or driveway grades. The Code requires new driveways on Town roads, including the conversion of farm roads into residential driveways to require permission from the Town Superintendent of Highways [§97-52A]. We recommend the applicant provide construction details, sight distances and driveway profiles so you may confirm compliance with the Code. 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. **Construction details, sight distances and profiles for the driveways are included in this submission. In general, the speed limit along Owens Road is posted at 35 MPH. Based on this speed, min. stopping sight distance is 225-250 feet. Based on the location of the two entry drives the minimum sight distance is approximately 280 feet (see Sheet C-3.0). Additional construction details will be provided as needed in subsequent submissions.**
- b) *Utilities* – This is an unmanned installation. The applicant has advised no water and/or sewer service is required. **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 58.5-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. **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. **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.**
 - *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 an Agricultural Data Statement. 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 an exhibit to the application 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 D.1.e (Phasing)* – EAF indicates construction will not be phased. We suggest the applicant provide further information regarding the anticipated construction period so you may evaluate the impacts from this project (if any). **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.2.1 (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]. **The hours have been revised accordingly.**
- *Question E.2.h (Wetlands)* – EAF indicates 9.92 +/- acres of ACOE wetlands on the project site. We suggest the applicant provide further information so you may evaluate the impacts from this project (if any). **This information has been reviewed and modified as necessary.**

- *Question E.2.h (Impaired Water Body) – EAF indicates Monhagen Brook and tributaries are listed on the most recent compilation of NYS water quality-impaired waterbodies due to nutrient loading which could affect recreation and aquatic uses. We suggest the applicant provide further information so you may evaluate the impacts from this project (if any). **It is our opinion, due to the separation from any portion of the solar system, that is adjacent to nearby waterbodies, there will be no effect on recreation or aquatic uses. There is no further information at this time that can be provided, unless there is a specific item needed for the board to further evaluate and confirm no impacts.***
- *Question E.3.b (Soils) – EAF indicates approximately no acres of highly productive soils onsite. We suggest the applicant provide additional information, including identifying the soil types on the site plan so you may evaluate potential impacts (if any). **Updated soils maps have been provided in this submission and will also be included the swppp appendices.***

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.

Truly Yours,
ARICO ASSOCIATES



Dominick F. Arico, PE