

TOWN OF BOSTON



COPY

TOWN OF BOSTON – RESOLUTION NO. 2024 - 71

REFERRING LARGE-SCALE SOLAR PROJECT TO PLANNING BOARD AND CONSERVATION ADVISORY COUNCIL FOR REVIEW AND COMMENT

WHEREAS, the Town of Boston has received applications (the “Application”) for zoning variances, a special use permit, and site plan review from NY Boston II, LLC, an entity associated with Delaware River Solar, related to the development of a 3.6-megawatt solar facility at 7832 Feddick Road (the “Project”), the first proposed large-scale solar development in the Town; and

WHEREAS, the Application was originally submitted on or about February 10, 2023; and

WHEREAS, the Town Board has classified the solar project as a SEQR Type I action and declared its intent to serve as lead agency, with no other agency seeking lead agency status; and

WHEREAS, in response to the lead agency notice of intent, the Town Board received comments on the Application from the Erie County Department of Environment and Planning, dated March 1, 2023, pursuant to General Municipal Law § 239-m, noting that the Project was proposed to be sited on prime agricultural soils and the Project site contained federally-regulated wetlands; and

WHEREAS, in response to the lead agency notice of intent, the Town Board received comments on the Application from Region 9 of the New York State Department of Environmental Conservation (“NYSDEC”), dated March 14, 2023, which noted the following: the presence of Class B Hampton Brook at the Project site, requiring a Protection of Waters Permit from the NYSDEC; the requirement to obtain a State Pollutant Discharge Elimination System (SPDES) General Permit with accompanying Storm Water Pollution Prevention Plan (SWPPP); that the Project site was located in an archaeologically sensitive area and that this concern should be evaluated as part of the SEQRA process; that the Project site is located in an Agricultural District; that the U.S. Army Corps of Engineers (“Army Corps”) should be consulted to determine if wetland related approvals were necessary; and encouraged voluntary compliance with restrictions on forest management activities; and

WHEREAS, the Application was supplemented on or about June 13, 2023 (as supplemented, the “Supplemental Application”); and

WHEREAS, the Town engaged special counsel and Town Engineer CPL to review the project and the SEQR form submitted by the applicant in advance of issuing a declaration regarding the project's potential impacts on the environment; and

WHEREAS, by correspondence dated March 29, 2024, the Town Engineer provided comments to the Planning Board on the Supplemental Application;

WHEREAS, by correspondence dated April 5, 2024, special counsel to the Town provided comments on the Supplemental Application to the Town Board and Planning Board, which comments incorporated the comments of the Town Engineer, NYSDEC, and County Planning; and

WHEREAS, by Resolution on April 17, 2024, the Town Board accepted the April 5, 2024 special counsel comments, added a comment related to noise, and directed that the comments be issued to the Applicant; and

WHEREAS, by correspondence dated April 19, 2024, the special counsel comments, containing 21 separate comments and recommendations relating to the Supplemental Application, were transmitted to the Applicant; and

WHEREAS, on July 23, 2024, the Applicant resubmitted the Application (the "Revised Application") to address the April 19, 2024 special counsel comments, and which included the following documents:

1. A response letter, dated July 22, 2024 reply to the April 19, 2024 special counsel comments;
2. Project Summary, revised May 17, 2024;
3. Revised Site Plans, all dated July 22, 2024, including the following:
 - a. C-101, Existing Conditions Plan
 - b. C-102, Site Plan
 - c. C-103, Farmland Impact Plan
 - d. C-104 Slope Analysis and Erosion Control Plan
 - e. C-105, Access Road Profile
 - f. C-106, Site Details 1
 - g. C-107, Site Details 2
 - h. C-108, Supporting Structure
 - i. C-109, Inverter and Transformer Station
 - j. C-110, Perimeter Fence and Filter Sock
 - k. C-111, Decommissioning Plan
 - l. G-100, Cover Sheet
4. Memorandum of Lease demonstrating control of the Project site;
5. Interconnection contract with NYSEG for the Project;
6. Decommissioning Plan dated June 7, 2024;
7. Wetland and Waterbodies Delineation Report, dated June 21, 2024;

8. Equipment specification sheets for the solar panels, transformers, racking system, and inverters;
9. Revised SEQRA Full Environmental Assessment Form, dated July 22, 2024;
10. Emergency Response and Safety Plan, dated May 17, 2024 with correspondence dated July 3, 2024 to the Boston Volunteer Fire Company seeking comments on the Plan;
11. Glare Analysis, dated July 17, 2024
12. Noise Test Report and noise modeling showing the noise impact of the inverters on the surrounding area;
13. Notice of Intent to the NYS Department of Agriculture and Markets (“NYS Ag and Markets”) for the intent of the Project to be undertaken in an Agricultural District, dated June 28, 2024;
14. Operations and Maintenance Plan, dated June 7, 2024;
15. View Shed Analysis Letter Report, dated July 17, 2024;
16. Viewshed Analysis, dated June 7, 2024

WHEREAS, the Town Board referred the Revised Application to the Planning Board and Conservation Advisory Committee relative to the reports of the engineer and special counsel; and

WHEREAS, the Town’s special counsel provided comments, dated August 8, 2024, on the Revised Application, noting that the SWPPP remained outstanding, that an archeological survey workplan was under review by the NYS Office of Parks, Recreation, and Historic Preservation, and had not responded to the prior comments related to threatened and endangered species; and

WHEREAS, the Town Engineer provided comments, dated August 9, 2024, noting that the SWPPP was outstanding and a letter of determination from the State Historic Preservation Office; and

WHEREAS, at its meeting held on September 10, 2024, the Planning Board recommended that the Town Board issue a SEQRA Positive Declaration, requiring the preparation of an environmental impact statement for the Project, based on issues related to impacts to agricultural lands, historic, archaeological, or culturally significant resources, and wildlife, including the Northern Long-Eared Bat; and

WHEREAS, by correspondence dated September 25, 2024, the Applicant responded to the Planning Board concerns by providing (together with the Revised Application, the “Complete SEQRA Application”): the results of a Phase 1A/B Cultural Resources Investigation for the Project, dated September 9, 2024, that concluded that “[n]o prehistoric cultural materials were identified”; that agricultural impacts would be mitigate because NYS Ag and Markets had deemed its Notice of Intent complete and that the project will be conforming to NYS Ag and Markets Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands and may be required by NYS Ag and Markets to make agricultural mitigation payments; and

confirming that the Project will be mitigate potential impacts to Northern Long-Eared Bats by following NYSDEC guidelines relating to disturbance of Northern Long-Eared Bat habitat and only conduct tree cutting between November 1 and March 31.

WHEREAS, based on the Complete SEQRA Application, special counsel to the Town prepared a draft Part 2 and Part 3 of a Full EAF, with accompanying narrative, which the Town Board has reviewed; and

WHEREAS, in accordance with SEQRA and regulations adopted to implement SEQRA, the Town Board undertook an environmental review of the construction and operation of the Project.

NOW, THEREFORE, IT IS RESOLVED that the Town Board has considered the Project and its potential for environmental impacts; the Complete SEQRA Application; the Part 1 of the EAF and the draft Parts 2 and 3 of the EAF prepared by special counsel to the Town; the criteria contained in 6 N.Y.C.R.R. §617.7(c); and other supporting information to identify the relevant areas of environmental concern; and thoroughly analyzed the identified relevant areas of environmental concern to determine if the Project may have a significant adverse impact on the environment, and finds that the Project would not have a significant impact on the environment because of the reasons discussed in the narrative to the EAF, which is incorporated in full herein and attached hereto; and

IT IS FURTHER RESOLVED, that pursuant to SEQRA, a Negative Declaration shall be made and duly filed, and an environmental impact statement need not be prepared; and

IT IS FURTHER RESOLVED, that pursuant to SEQRA, a notice of this Negative Declaration shall be submitted to the Environmental Notice Bulletin.

On October 16, 2024, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	Yes	No	Abstain	Absent
Councilmember Cartechine	[X]	[]	[]	[]
Councilmember Lucachik	[X]	[]	[]	[]
Councilmember Martin	[X]	[]	[]	[]
Councilmember Selby	[]	[]	[]	[X]
Supervisor Keding	[X]	[]	[]	[]


Sandra L. Quinlan, Town Clerk