

**TOWN OF WHEATLAND  
PLANNING BOARD MINUTES  
January 3, 2023**

Members present: Mike Grasso, Laura Michaels, Tim Steves, Robert Hatch  
Kane Gascon And Jay Coates, Joe Burns

Members absent:

Also present: Terry Rech, Building Inspector  
Raymond DiRaddo, Attorney for the Town  
Ed Shero, Town Board Liaison

Chairman Coates called the Town of Wheatland Planning Board meeting to order at 7:00 P.M.

L. Michaels made a motion to approve the Town of Wheatland Planning Board minutes from 11/1/2022, seconded by T. Steves and approved as follows:

Mike Grasso -aye  
Laura Michaels -aye  
Jay Coates -aye  
Time Steves -aye  
Joe Burns – abstain  
Robert Hatch- aye  
Kane Gascon -aye

**Old Business:**

➤ **Puppy Paradise**

T. Rech reported that the Applicant withdrew his application after it was explained to him that this would not qualify as a Home Occupation.

➤ **Bodhi Solar Project**

Bridget Cuddihy and Mark Sweeny were present at the meeting.

## **BODHI SOLAR 1 LLC**

### **SEQR RESOLUTION - NEGATIVE DECLARATION**

At the meeting of the Town of Wheatland Planning Board held on January 3, 2023 Board Member Robert Hatch moved adoption of the following resolution: Board Member Mike Grasso seconded the motion.

WHEREAS, the Town of Wheatland Planning Board (“Board”) is considering an application for a Special Exception Use and Site Plan Approval pursuant to Section 130-62 W. Solar Energy Systems of the Wheatland Town Code submitted by Bodhi 1 Solar LLC (the “Applicant”) for a 5.0 megawatt AC (“MW”) solar photovoltaic system (the “Project”) on approximately 46.7 acre portion of a parcel located at 1699 Riga Mumford Road (Tax Map parcel 197.03-1-8.11) (the “Property”).

WHEREAS, on or about December 1, 2021, the Applicant submitted an application package including a Town’s application form, landowner authorization form, Civil site plan set, Full Environmental Assessment Form (“FEAF”), an Operations and Maintenance Plan, Decommissioning Plan and Estimate, a technical memorandum describing construction and measures to avoid or minimize potential environmental impacts, photographic visual simulations, a copy of the interconnection agreement or the Project, a farmland classification plan, the NYSDAM Notice of Intent, a glare analysis, a sound analysis and a proposed stormwater pollution prevention plan (“SWPPP”);

WHEREAS, on or about January 4, 2022, the Applicant made an initial presentation to the Board on the Project and Application, received comments from the Board, the Building Inspector, and the public and the Board adopted a resolution declaring its intent to be Lead Agency under the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617, collectively “SEQRA”);

WHEREAS, on or about January 10, 2022, the Monroe County Dept. Of Planning and Development having received a referral of the application from the Secretary to the Board pursuant to General Municipal Law Section 239-m and Section 130-60 (c) of the Wheatland Town Code provided its determination and comments on the Application to the Board;

WHEREAS, on or about February 9, 2022, the Applicant submitted a supplemental package responding the comments received from the Board, the Monroe County Planning and Development, LaBella Associates dated January 28, 2022 and the Public which included a revised site plan set, updated visual assessment analysis including visual simulations, a copy of the redacted agreement with the landowner for the Project, and a revised FEAF (the “Supplemental Submission”);

WHEREAS, on or about February 28, 2022, the Board commenced a coordinated environmental review of the Proposed Action and the Secretary of the Board sent notices of the Board’s Intent to be SEQRA Lead Agency to the Involved Agencies including the NYS Energy Research and Development Authority, NYS Dept. of Environmental Conservation, NYS Dept. of Transportation, NYS Office of Parks, Recreation and Historic Preservation, NYS Dept. of Agriculture and Markets, the Monroe County Dept. of Planning and Development, Monroe County Executive, and the Wheatland Town Board;

WHEREAS, on or about March 1, 2022, the Board received consent to its request to be lead agency under SEQRA from the NYS Dept. of Agriculture and Markets and the Monroe County Agricultural and Farmland Protection Board did not receive any objections from any other involved agency and the thirty (30) day period to do so expired;

WHEREAS, on or about March 1, 2022, the Board, having reviewed the Application, the Supplemental Submission, and the responses to the comments from the public and other involved agencies, accepted the Application as complete in accordance with the Wheatland Town Code and set a public hearing on the application to be held on April 5, 2022, at 7 pm at the Wheatland Town offices;

WHEREAS, on or before March 10, 2022, the Secretary to the Board duly delivered notice of the public hearing to the Sentinel, the Official Newspaper of the Town, duly mailed notices of the public hearing in accordance with Section 130-60 B of the Wheatland Town Code, and posted the notice on the Town's Website and in the Town Offices as required to enable such residents to comment on the Project;

WHEREAS, on or about March 10, 2022, the Sentinel published the notice of public hearing in accordance with Section 130-60 B of the Wheatland Town Code;

WHEREAS, on or about March 18, 2022, LaBella Associates delivered a second set of engineering comments on the Project including the revisions included in the Supplemental Submission;

WHEREAS, on or about April 3, 2022, the Applicant submitted a revised landscaping plan, three line drawings of the electrical system, site plan, revised and additional visual simulations of the views of the Project reflecting the revised site plan, additional landscape buffering and other revisions incorporated into the Project to avoid or minimize the potential visual impact, (the "Second Supplemental Submission") to address comments dated March 18, 2022 from Labella Associates and received from Board at its March 2, 2022 meeting.

WHEREAS, on or about April 5, 2022, the Board conducted a duly noticed public hearing on the Project to hear all comments for and against the Project;

WHEREAS, on or about May 3, 2022, the Board continued the public hearing to allow for submission of additional materials for visual impact mitigation including landscaping, fencing and camouflage netting to screen views of the project from adjacent properties with particular attention to views from North Road, the intersection of North Road and Riga Mumford Road including the residence of Marjorie and John Love at 3314 North Road, and residences near the proposed access driveway and Board member and public comment thereon;

WHEREAS, the Applicant submitted several revisions of the proposed visual mitigation for review and discussion with the Planning Board Chair and Building Inspector to determine whether the revised visual mitigation to be provided sufficiently addressed the Board and public comments to allow for full Board and public review and comment at a regular meeting of the Planning Board;

WHEREAS, on or about July 20, 2022, the Applicant submitted additional revised visual mitigation plans and visual simulations depicting views from the various points identified by the Board and the public for consideration which were made publicly available by the Board in advance of the Board's upcoming August meeting;

WHEREAS, on or about August 2, 2022, the Board continued the public hearing to allow presentation by the Applicant of the revised visual mitigation measures to be implemented including the enhanced landscaping plans, use of other mitigation measures consistent with those recommended in the Bureau of Land Management (BLM) Best Management Practices for Reducing Visual Impacts of Renewable Energy Facilities on BLM-Administered Lands (2013) and BLM Technical Note 446 (April 2015);

**NOW THEREFORE BE IT RESOLVED**, by the Planning Board of the Town of Wheatland that:

1. The Board serves as Lead Agency for the Proposed Action referred to as the Bodhi 1 Solar Project; and,

2. The Proposed action is a Type I action under SEQRA; and

3. The Board considered the Environmental Record prepared for this action, including any comments received from the public and other agencies, and caused to be prepared an environmental assessment of the significance of and potential environmental impact of the action described above and finds that the Proposed Action will lessen the visual impact of the Proposed Action by the elimination of a potential project along North Road allowing substantial distance to view points along North Road and the residences thereon as well as open space which will remain to help preserve the character of the area, use of substantial landscaping plantings along the perimeter, camouflage netting between arrays to screen more distant views of the system due to topography, wood-post deer fencing with mesh screening to screen views of the support structures and racking, and a berm to elevate the landscape plantings, therefore will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared.

4. The negative declaration, attached hereto as Exhibit A and incorporated herein by reference, is issued and adopted for the reasons stated in the attached negative declaration.

5. The Planning Board Chairperson is hereby authorized and directed to issue, on behalf of the Planning Board, the Negative Declaration in the Part 3 of the Environmental Assessment Form.

6. The Planning Board Chairman is authorized to file, distribute and publish notice of this negative declaration with involved and interested agencies and in the Environmental Notice Bulletin and generally in accordance with 6 NYCRR § 617.12.

7. This resolution shall take effect immediately.

PASSED AND ADOPTED this 3rd day of January, 2023 by the Planning Board of the Town of Wheatland.

**ROLL CALL VOTE**

Chair Coates	AYE
Joseph Burns	AYE
Mike Grasso	AYE
Robert Hatch	AYE
Laura Michaels	AYE
Timothy Steves	AYE
Kane Gascon	AYE

**NEGATIVE DECLARATION**  
**Determination of Non-Significance**

**Lead Agency:**           **Town of Wheatland Planning Board**

**Date:**                   **January 3, 2022**

This notice is issued pursuant to 6 NYCRR Part 617, the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law (collectively “SEQRA”).

The Town of Wheatland Planning Board (the “Board”), as lead agency, has reviewed the proposed action and determined that it will not have a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

**Name of Action:**           Bodhi 1 Solar LLC Solar Energy Project.

**Location of Project Site:**   1699 Riga Mumford Road, Town of Wheatland, Monroe County, New York

**SEQRA Status:**           Type I

**Description of Action:**    The Applicant proposed to construct operate and decommission a ±5.0 MW AC photo-voltaic solar energy system on a ±46.7 acre portion of a parcel located at 1699 Riga Mumford Road (Tax Map parcel 197.03-1-8.11) including access, interconnection to the electrical grid and related site improvements and landscaping planting sand other visual mitigation measures.

**Reasons Supporting this Determination:**

Following the submission of the application in December 2021, the Board (i) conducted a review of the civil site plan set and subsequent revisions thereto, the Full EAF as revised, a series of revised and updated photographic visual simulations and renderings depicting representative views as currently exists, at installation of the proposed mitigation, after 5 years and 10 years from viewpoints along North Road, the intersection of North Road and Riga Mumford Road and near the access driveway to be constructed, an proposed Operations and Maintenance Plan, Decommissioning Plan and Estimate, a technical memorandum describing construction and measures to avoid or minimize potential environmental impacts, a copy of the interconnection agreement or the Project, a farmland classification plan, the NYSDAM Notice of Intent, a glare analysis, a sound analysis and a proposed stormwater pollution prevention plan (“SWPPP”), a geotechnical study, a ground penetrating radar study, correspondence from the NYS Historic Preservation Office finding No Effect from the Proposed Action, a decommissioning agreement, plan and form of decommissioning security, (ii) identified the relevant areas of environmental concern and (iii) has taken a hard look at each of the identified areas as required under SEQRA. The Planning Board compared the Application with the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below in the discussion of each criterion specified in 6 NYCRR § 617.7(c)(1), the Application will not create any significant adverse environmental impacts. As a result, the Board hereby determines that the Amended Application will not have a significant adverse impact on the environment.

The Planning Board has reviewed the FEAFs and the criteria contained in 6 NYCRR §617.7, as well as the applications, revised site plans and supporting materials, the comments at the public hearing, and has determined that the Amended Applications will not have a significant impact on the environment and are consistent with the July 2, 2019 negative declaration for the Projects as follows:

A. As required by §617.7(a)(2), the Board has determined that an Environmental Impact Statement is not required because any identified adverse impacts on the environment will not be significant.

B. As required by §617.7(b), the Planning Board has:

1. Considered the action as defined in subdivisions 617.2(b) and 617.3(g).
2. Reviewed the all revised site plans, revised Full EAF and all documentation required under the Wheatland Town Code and supplemental submissions responding to comments from the Board, town engineers and the public on the Proposed Action, the criteria identified in 617.7(c) and other supporting information to identify relevant areas of environmental concern.
3. Analyzed the identified relevant areas of environmental concern to determine whether the action will have a significant adverse impact.
4. Set forth herein its written Finding of No Significant Environmental Impact.

C. The Board has compared the impacts reasonably expected to result from the Application to the criteria listed in 617.7(c)(1) as indicators of significant adverse impacts:

**(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;**

**a. Traffic Impacts**

The Application will not have a significant adverse impact upon traffic or transportation. This action involves short-term impacts from traffic during the construction and decommissioning periods and traffic during operational period is insignificant. All such traffic will utilize the existing road network.

**b. Noise Impacts**

There will be no significant adverse noise impacts from the Proposed action based upon the testimony provided by the Applicant and as set forth in the Sound Emissions Study prepared by Ostergaard Acoustical Associates dated September 20, 2021 and updated March 14, 2022 submitted by the applicant and reviewed by the Board and the Town's engineering consultant. This action involves short-term impacts from noise during the construction and decommissioning periods and noise during operational period is insignificant.

**c. Air Quality Impacts**

The Proposed Action will not create any significant adverse impact to air quality, the only impacts will be short-term, temporary and reversible disturbances only occurring during construction and decommissioning. The project does not emit any emissions.

**d. Wetland Impacts**

There are no wetlands impacts from the Proposed Action. The civil site plan set includes a wetlands delineation and demonstrates there will be no state or federal jurisdictional wetlands affected by the Proposed Action. On February 25, 2021, the US Army Corps of Engineers ("USACOE") issued an Approved Jurisdictional Determination that no regulated waters of the United States would be impacted by the proposed Action. On November 15, 2022, Mikhail Boutsko, a Biologist at the USACOE, confirmed that he reviewed the revised Full EAF and no fill would be placed into waters of the United States.

**e. Erosion and Drainage Impacts**

The Proposed Action will comply with all applicable state and federal laws and regulations, including compliance with the Clean Water Act and the requirement to obtain applicable permits for stormwater discharges from construction activities. The Applicant submitted a Stormwater Pollution Prevention Plan (“SWPPP”) prepared by Langan Engineers dated March 20, 2021, last revised July 1, 2022 which was reviewed and approved by the Town’s engineering consultant. The Proposed Action will comply with the approved SWPPP.

**f. Solid Waste Production**

The Proposed Action will not increase solid waste production. The decommissioned system and construction waste will be disposed of in accordance with applicable State regulations.

**(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;**

The site is currently an agricultural property. The loss of agricultural property, however, will not be permanent as site restoration (backed by a decommissioning agreement, plan and bond) will occur. The loss the acreage used for the Proposed Action compared to the volume and quality of Town and region’s agricultural resources is minimal. There will be no interference with the movement of any resident or migratory fish or wildlife species. The property is not a significant habitat area and there will be no substantial adverse impacts on any threatened or endangered species of animal or plant, or the habitat of such a species, nor other significant adverse impacts to natural resources. The Board received correspondence from the Division of Fish and Wildlife, October 14, 2020, and December 3, 2020 Dec Region 8 indicating no impact.

**(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;**

As demonstrated in the revised Full EAF for the Application, there are no Critical Environmental Areas within the Project area. Thus, there will be no impacts Critical Environmental Areas.

**(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;**

The Proposed Action is consistent with the Town’s current plans and goals, which specifically authorizes solar projects in the zoning district where the Proposed action is located. The Board notes that the substantial landscaping plantings along the perimeter of the solar arrays relative to North Road and Riga Mumford Road, the incorporation of a berm to elevate landscaping plantings and a wood post deer fence with green fabric mesh, as well as the placement of a camouflage net between solar arrays interior to the project will substantially eliminate views of the Proposed Action to the maximum extent practicable thus avoiding and/or minimizing the visual impacts represents a significant degree with of conformity with the Town’s zoning laws regulating solar energy projects.

**(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;**

The Proposed Action includes a substantial mix of mitigation measures intended to avoid and/or minimize visual impacts to the maximum extent practicable. The Board notes that the substantial landscaping plantings along the perimeter of the solar arrays relative to North Road and Riga Mumford Road, the incorporation of a

berm to elevate landscaping plantings and a wood post deer fence with green fabric mesh, as well as the placement of a camouflage net between solar arrays interior to the project will substantially eliminate views of the Proposed Action to the maximum extent practicable and represents a significant degree with of conformity with the Town's zoning laws regulating solar energy projects. The approved vegetative screening, landscaping and other mitigation measures must be maintained through the life of the Proposed Action and the replacement of dead or damaged plantings, fencing, mesh, or camouflage netting will be addressed in the final Operation and Maintenance Plan specifying the necessary inspections, conditions requiring additional maintenance or replacement and the time frames for such remedial action to occur. The Board further notes that a similar solar energy project originally planned for the property between the Proposed Action and North Road has been eliminated. The resulting open space provided from this 137+ acre property provides visual buffering as views are more distant and the open acreage helps preserve the rural character of the area.

Additionally, a Phase 1 Archeological Investigations prepared by TRC (Mack, Dunning and Young, January 6, 2022; 22SR00007) was prepared and submitted to the Lead Agency and the NYS Office of Parks, Recreation, and Historic Preservation ("SHPO"). At SHPO's request, on-site shovel tests were performed, and an additional Nondestructive Subsurface Investigation Using Ground Penetrating Radar and Magnetometry dated July 12, 2022 was prepared by Radar Solutions International ("GPR Study") to confirm that identified landforms on the project site did not contain any resources to be affected by the Proposed Action. These GPR Study and shovel test results were submitted to SHPO for review. In addition, SHPO reviewed the Project Site and nearby properties, including the Cobblestone Farmhouse (05519.000227) north of the project area at the intersection of North Road and Riga Mumford Road. SHPO determined that no archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places would be adversely impacted by the Proposed Action and issued a concurrence determination dated September 22, 2022. Finally, the Proposed Action is located in a zone designated by the Town Code as appropriate for solar and, in light of the substantial landscaping, vegetative and other screening, the Proposed Action will not negatively impact neighborhood character, and based on the above findings will not negatively impact the character or quality of important historical, archeological, architectural, or aesthetic resources.

**(vi) a major change in the use of either the quantity or type of energy;**

There will be no negative impacts to energy as a result of the Proposed Action and, once constructed, the Proposed action will generate electricity and increase the supply of renewable energy to the electrical grid.

**(vii) the creation of a hazard to human health;**

There will be no such impacts as a result of the Proposed Action. The Board notes the testimony provided by the applicant as well as the material specifications provided by the Applicant and reviewed by the Town's Engineering consultant that the solar panels are comprised of silicon, copper wires and glass, contain no liquids and do not emit any pollutants to the air, ground or water. None of the materials installed into the soils emit any pollutants nor cause any contamination of groundwater sources. During decommissioning, a new SWPPP will be provided to ensure that no impacts to surface or groundwater supplies occurs.

**(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;**

The Proposed action will result in the placement of a solar energy facility in a field currently used for limited agricultural purposes. The Board notes that the open space between the Project and North Road plays a significant role in the mitigation of views of the Proposed Action and preservation of the rural character of the area. Additionally, the Proposed Action does not represent a substantial change in the use or intensity of use of land from those allowed under the Town's current zoning law, the land will be returned to its current condition after decommissioning allowing agricultural use to resume.



**(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;**

There will be no impacts from the Proposed Action attracting large numbers of people. The Proposed Action is located on Private lands and is approximately 400 feet from the nearest road. The solar facility will be enclosed in a eight (8) or ten (10) foot tall fence and will be locked to deter unauthorized entrants.

**(x) the creation of a material demand for other actions that would result in one of the above consequences;**

There will be no impacts from the Proposed Action creating a material demand for other actions.

**(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or**

There will be no impacts from the Proposed Action which creates changes in two or more elements above that, taken together, would result in a significant adverse environmental impact.

**(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.**

There will be no significant adverse cumulative impacts resulting from the Proposed Action.

**For Further Information:**

Contact Person: Jay Coates  
Planning Board Chair

Address: Wheatland Municipal Building  
22 Main Street  
Scottsville, NY 14546

Telephone Number: (585) 889-1553

Email: [jdcoates@townofwheatland.org](mailto:jdcoates@townofwheatland.org)

**TOWN OF WHEATLAND PLANNING BOARD**

**BODHI SOLAR 1 LLC**

**APPROVAL RESOLUTION – SPECIAL  
EXCEPTION USE AND SITE PLAN  
APPROVAL**

At the meeting of the Town of Wheatland Planning Board held on January 3, 2023, Board Member Mike Grasso moved adoption of the following resolution; Board Member Robert Hatch seconded the motion.

WHEREAS, the Town of Wheatland Planning Board (“Board”) is considering an application for a Special Exception Use and Site Plan Approval pursuant to Section 130-62 W. Solar Energy Systems of the Wheatland Town Code submitted by Bodhi 1 Solar LLC (the “Applicant” or “Owner”) for a 5.0 megawatt (“MW”) solar photovoltaic system (the “Project”) on approximately 46.7 acre portion of a parcel located at 1699 Riga Mumford Road (Tax Map parcel 197.03-1-8.11) (the “Property”).

WHEREAS, on or about December 1, 2021, the Applicant submitted an application package including a Town’s application form, landowner authorization form, Civil site plan set, Full Environmental Assessment Form (“FEAF”), an Operations and Maintenance Plan, Decommissioning Plan and Estimate, a technical memorandum describing construction and measures to avoid or minimize potential environmental impacts, photographic visual simulations, a copy of the interconnection agreement or the Project, a farmland classification plan, the NYSDAM Notice of Intent, a glare analysis, a sound analysis and a proposed stormwater pollution prevention plan (“SWPPP”);

WHEREAS, on or about January 4, 2022, the Applicant made an initial presentation to the Board on the Project and Application, received comments from the Board, the Building Inspector, and the public and the Board adopted a resolution declaring its intent to be Lead Agency under the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617, collectively “SEQRA”);

WHEREAS, on or about January 10, 2022, the Monroe County Dept. Of Planning and Development having received a referral of the application from the Secretary to the Board pursuant to General Municipal Law Section 239-m and Section 130-60 (c) of the Wheatland Town Code provided its determination and comments on the Application to the Board;

WHEREAS, on or about February 9, 2022, the Applicant submitted a supplemental package responding the comments received from the Board, the Monroe County Planning and Development, LaBella Associates dated January 28, 2022 and the Public which included a revised civil plan set, updated visual assessment analysis including visual simulations, a copy of the redacted agreement with the landowner for the Project, and a revised Full EAF Part 1;

WHEREAS, on or about February 28, 2022, the Board commenced a coordinated environmental review of the Proposed Action and the Secretary of the Board sent notices of the Board’s Intent to be SEQRA Lead Agency to the Involved Agencies including the NYS Energy Research and Development Authority, NYS Dept. of Environmental Conservation, NYS Dept. of Transportation, NYS Office of Parks, Recreation and Historic Preservation, NYS Dept. of Agriculture and Markets, the Monroe County Dept. of Planning and Development, Monroe County Executive, and the Wheatland Town Board;

WHEREAS, on or about March 1, 2022, the Board received consent to its request to be lead agency under SEQRA from the NYS Dept. of Agriculture and Markets and the Monroe County Agricultural and Farmland Protection Board did not receive any objections from any other involved agency and the thirty (30) day period to do so expired;

WHEREAS, on or about March 1, 2022, the Board, having reviewed the Application, the Supplemental Submission, and the responses to the comments from the public and other involved agencies, accepted the Application as complete in accordance with the Wheatland Town Code and set a public hearing on the application to be held on April 5, 2022, at 7 pm at the Wheatland Town Offices;

WHEREAS, on or before March 10, 2022, the Secretary to the Board duly delivered notice of the public hearing to the Sentinel, the Official Newspaper of the Town, duly mailed notices of the public hearing in

accordance with Section 130-60 B of the Wheatland Town Code, and posted the notice on the Town's Website and in the Town Offices as required to enable such residents to comment on the Project;

WHEREAS, on or about March 24, 2022, the Sentinel published the notice of public hearing in accordance with Section 130-60 B of the Wheatland Town Code;

WHEREAS, on or about April 5, 2022, the Applicant submitted a revised landscaping plan, three line drawings of the electrical system, civil plan set, revised and additional visual simulations of the views of the Project reflecting the revised site plan, additional landscape buffering and other revisions incorporated into the Project to avoid or minimize the potential visual impact, (the "Second Supplemental Submission") to address comments dated March 18, 2022 from Labella Associates and received from Board at its March 2, 2022 meeting;

WHEREAS, on or about April 5, 2022, having received no objection to its intent to act as SEQRA Lead Agency and the time for involved agencies to do so having expired, the Board adopted a resolution establishing the Board as SEQRA Lead Agency;

WHEREAS, on or about April 5, 2022, the Board conducted a duly noticed public hearing on the Project to hear all comments for and against the Project;

WHEREAS, on or about May 3, 2022, the Board continued the public hearing at its regularly scheduled meeting to allow for submission of additional materials relating to visual impact mitigation including landscaping, fencing and camouflage netting to screen views of the project from adjacent properties with particular attention to views from North Road, the intersection of North Road and Riga Mumford Road including the residence of Marjorie and John Love at 3314 North Road, and residences near the proposed access driveway and Board member and public comment thereon;

WHEREAS, the Applicant submitted several revisions of the proposed visual mitigation for review and discussion with the Planning Board Chair and Building Inspector to determine whether the revised visual mitigation to be provided sufficiently addressed the Board and public comments to allow for full Board and public review and comment at a regular meeting of the Planning Board;

WHEREAS, on or about July 5, 2022, the Applicant submitted additional revised visual mitigation plans and visual simulations depicting views from the various points identified by the Board, and addressing comments from the public, the Board's Chair and Building Inspector which were made publicly available by the Board in advance of the Board's regularly scheduled August meeting;

WHEREAS, on or about July 6, 2022, Applicant provided written responses to the first two Preliminary Engineering Comment letters dated January 28, 2022 and March 18, 2022 from LaBella Associates, including a revised civil plan set, an updated sound emission report, an updated SWPPP, an updated Full EAF Part 1, and revised Solar visual simulations;

WHEREAS, on or about July 20, 2022, the Applicant submitted a revised civil plan set addressing screening comments, additional visual simulations and a Visual Impact Assessment prepared by Langan Engineering to provide a comprehensive discussion of the identified visual impacts from the Project and the existing setting and proposed mitigation for identified views of the Project;

WHEREAS, on or about August 2, 2022, the Board continued the public hearing to allow presentation by the Applicant of the revised visual mitigation measures to be implemented including the enhanced landscaping plans, use of other mitigation measures consistent with those recommended in the Bureau of Land Management (BLM) Best Management Practices for Reducing Visual Impacts of Renewable Energy Facilities

on BLM-Administered Lands (2013) and BLM Technical Note 446 (April 2015) and closed the public hearing;

WHEREAS, on or about December 23, 2022, the Applicant provided written responses to the third Preliminary Engineering Comment letter dated July 19, 2022 from LaBella Associates, and revised Decommissioning Plan.

WHEREAS, on or about January 3, 2023, prior to this determination, the Board determined that no significant adverse environmental impacts would result from the Project and adopted a resolution issuing a Negative Declaration under SEQRA having reviewed the Record of Submissions and Parts 1, 2, and 3 of the Full Environmental Assessment Form, together with the recommendation of its consultant's, LaBella Associates PC.

WHEREAS, the Board, having reviewed all information provided, referred to and reviewed the Record of Submissions, Engineering comments from LaBella Associates PC, the Town's Designated Engineer, referred to and reviewed the County of Monroe's comments and this decision is based upon documents, specifications and information submitted including the documents and information contained on Exhibit A attached hereto:

11) The Planning Board referred the Amended Application to the town's designated engineer, LaBella Associates PC and received confirmation that the revised plans, decommissioning plan and estimate were accurate and suitable for action by the Planning Board.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Wheatland Planning Board hereby:

1. approves the application of Bodhi Solar 1 LLC for a Special Exception Use and site plan approval for the construction of a solar facilities on the Property, as depicted on the plans referenced in Exhibit A hereto, *subject to the following conditions*,
2. approves the Decommissioning Plan and Decommissioning Estimate for the Project attached hereto as Exhibit B and determines compliance with the approved Decommissioning Plan shall be a condition of this approval;
3. approves the form of the decommissioning security attached to the Decommissioning Plan and determines said security shall be provided by the Applicant for the Project to the Building Inspector prior to construction. The Decommissioning Estimate shall be updated or validated subject to review by the Towns engineer prior to issuance of a building permit,
4. directs the Planning Board secretary or Chairman to file this resolution within five days from its adoption, and
5. this resolution shall take effect immediately.

**BE IT FURTHER RESOLVED THAT**, this approval for the Project is subject to the following conditions:

1. **Energy Storage**. No energy storage systems shall be allowed as part of the Project. That as a condition of this approval, the Applicant shall submit to the Zoning Officer prior to the issuance of any building permit(s);
2. **Project Signage**. The Project shall have a Mumford Post as shown on the civil plan set (sheet C-500 or

other similar signage to enable emergency response approved by the Code Enforcement and Fire Marshal.

3. **Conditions to be Satisfied Prior to Construction:**

- a) **PILOT.** Applicant and the Town shall enter into a payment-in-lieu-of-taxes (PILOT) agreement for the Project;
  
- b) **Operations and Maintenance.** Prior to issuance of a building permit, the Applicant or permit holder shall submit an updated and complete Operations and Maintenance Manual (“O&M Manual”) to the Building Inspector and Fire Marshal for their reasonable approval. The O&M Manual shall address, among other things:
  - i) **Contacts:** Proper local and off-site monitoring contacts which shall be updated annually;
  - ii) **Screening Improvements:** A schedule of inspections following planting of landscaping and vegetative buffers, fences, mesh screening on fences and netting installed for screening purposes to ensure the reasonable survival of the plantings for a period of eighteen (18) months;
  - iii) **Replacement of Plantings:** Upon notice from the Town, any dead or damaged plantings or other screening improvements (e.g. fencing, mesh screening, netting and support structures), Applicant or permit holder shall contact the Building Inspector within ten (10) business days to arrange for an inspection of the plantings or screening improvements within twenty (20) business days from said Notice to determine the scope of work to be performed, the time in which such work shall be completed and, upon completion, a new inspection schedule for a period of eighteen (18) months to ensure the reasonable survival of the plantings;
  - iv) **Mowing:** The anticipated frequency of mowing and maximum height of grasses inside the fenced area. The Town acknowledges that the use of pollinators will affect mowing frequency and timing to ensure it functions as intended.
  - v) **Reports:** Submission of copies of preparation and submission of maintenance reports required by this Operations and Maintenance Manual to the Building Inspector.
  - vi) **Compliance:** The Project shall be maintained in accordance with the Operations and Maintenance Manual. In the event a deficiency is observed, the Town shall provide a notice and opportunity to correct the specified deficiency by Applicant. Failure to of Applicant to complete the required corrective action will be considered a violation of the Operating Permit and Town Code.
  
- c) **Emergency Response.** Prior to the issuance of a building permit, the Applicant shall provide the Building Inspector, an Emergency Response Plan (“ERP”) addressing the following:
  - i) **Local Contact:** The ERP must include the name and contact information of a qualified emergency contact, able to respond to any emergency on the site within one (1) hour of notice of any incident. If emergency response times exceed one hour the Town may contact a qualified local contractor, the owner/operator will bear all costs of this and hold the Town and contractor harmless for any actions taken.
  - ii) **Training:** The ERP must include a schedule for initial fire training and familiarization to the

Mumford and Scottsville Fire Departments including a description of the basic process for site-specific fire response, locating electrical shut-off and/or switches and coordination with National Grid. Future training may be provided upon request from the Wheatland Fire Marshall and/or Mumford Fire Chief. These measures shall be established in coordination with the Wheatlands Fire Marshall and Mumford Fire Chief.

- iii) **Knox-Box:** The Project must participate in the Town Knox-box program.
  - iv) **Compliance:** Violations will be considered as a violation of any Operating Permit which may result in cancellation of the Operating Permit after following the procedures applicable to zoning violations under Wheatland Zoning Code.
  - d) **Stormwater Plan.** A Notice of Intent must be filed with the NYS Dept. of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements in the NYSDEC's SPDES General Permit for Stormwater Discharges (GP-0-20-001, January 29, 2020) for construction activities disturbing more than one acre of land and a copy of said Notice must be submitted to the Town's Designated Engineer and Building Inspector.
  - e) **Decommissioning.** A copy of the fully executed Decommissioning Agreement and an original Decommissioning Bond shall be delivered to the Building Inspector.
  - f) **Insurance.** The Applicant shall certify that they have commercial liability insurance against liability which might result from the construction, operation, and removal of the facility.
4. **Operating Permit.** Pursuant to 19 NYCRR Part 1203, together with the Certificate of Completion, the Town will issue an operating permit for the Project. Fire inspections, report of operations and events as detailed in the current Operations and Maintenance Manual are required as well as required updating and filing of the current Operations and Maintenance Manual.
5. **Binding Resolution.** This decision and the conditions contained herein are binding on the applicant, owner or operator or their partners, successors or assigns.

1.The Board serves as Lead Agency for the Proposed Action referred to as the Bodhi 1 Solar Project; and,

2.The Proposed action is a Type I action under SEQRA; and

3.The Board considered the Environmental Record prepared for this action, including any comments received from the public and other agencies, and caused to be prepared an environmental assessment of the significance of and potential environmental impact of the action described above and finds that the Proposed Action will lessen the visual impact of the Proposed Action by the elimination of a potential project along North Road allowing substantial distance to view points along North Road and the residences thereon as well as open space which will remain to help preserve the character of the area, use of substantial landscaping plantings along the perimeter, camouflage netting between arrays to screen more distant views of the system due to topography, wood-post deer fencing with mesh screening to screen views of the support structures and racking, and a berm to elevate the landscape plantings,

therefore will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared.

4.The negative declaration, attached hereto as Exhibit A and incorporated herein by reference, is issued and adopted for the reasons stated in the attached negative declaration.

5.The Planning Board Chairperson is hereby authorized and directed to issue, on behalf of the Planning Board, the Negative Declaration in the Part 3 of the Environmental Assessment Form.

6.The Planning Board Chairman is authorized to file, distribute and publish notice of this negative declaration with involved and interested agencies and in the Environmental Notice Bulletin and generally in accordance with 6 NYCRR § 617.12.

7.This resolution shall take effect immediately.

PASSED AND ADOPTED this 3rd day of January 2023 by the Planning Board of the Town of Wheatland.

ROLL CALL VOTE

Chair Coates	AYE
Joseph Burns	AYE
Mike Grasso	AYE
Robert Hatch	AYE
Laura Michaels	AYE
Timothy Steves	AYE
Kane Gascon	AYE

## **EXHIBIT A**

### Record of Submissions

1. Application package
2. Civil Site Plan Set (07192022)
3. Full EAF Part 1 (11162022)
4. Landowner Authorization forms
  - a) David Krenzer
  - b) Susan Krenzer
5. Operation and Maintenance Plan from CCR
6. Decommissioning Estimate (Langan)
7. Decommissioning Plan (Langan)
8. Technical Memo from CCR
9. Interconnection Agreement
10. Prime Farmland Classification Information
11. NYSDAM Notice of Intent
12. Glare analysis (CCR)
13. Sound Emission Analysis (Ostergaard Acoustical Associates) (07062022)
14. SWPPP (07012022)
15. Ground Lease Agreement
16. Visual Impact Assessment Report (Langan)
17. Photographic Simulations
  - a) Initial submission of 3 views (120121)
  - b) Submission of 2 additional views (020922)
  - c) All simulations updated for proposed species in Landscaping Plan (040522) and two additional proposals for view from North Road using privacy screen and berm (042522)
  - d) Updated simulations to include screening within arrays to screen racking at higher elevations from views on North Road (060722)
  - e) Updated simulations to include privacy screening on fence along southern and eastern fences for views from Riga Mumford Road (070522)
  - f) Updated simulations to include camouflage netting within arrays to screen views from North Road of higher elevations)
18. Viewshed Analysis – with tree canopy (Langan)
19. Viewshed Analysis– without tree canopy (Langan)
20. Archeological Phase 1 study (TRC)
21. Geophysical Investigation Report (Radar Solutions International, Inc)
22. NYSHPO Concurrence letter
23. Preliminary Engineering Comments from LaBella Engineering
  - a) January 28, 2022
  - b) March 18, 2022
  - c) July 19, 2022
  - d) pending
24. CCR Responses to Engineering Comments
  - a) July 6, 2022
  - b) December 23, 2022
25. 3 Line Drawing
26. Narrative of electrical system operation
27. Correspondence from the Division of Fish and Wildlife, October 14, 2020
28. Correspondence December 3, 2020 DEC Region 8.



## **New Business:**

None

## **Future Business:**

- RG&E for a Special Exception to construct a utility structure.
- Main St. in Mumford, 2 family home that was gifted. New owner would like to demolish and rebuild a single-family home.
- Home purchased in Mumford on former Burnwell property. Owner would like to renovate to a one family home. This is currently in an Industrial Zone; owner would like to request rezoning the area.
- Gravel Ponds
- Charity Bible Church for a resubdivision, combination of lots, and a special exception for a caretaker's residence in a highway commercial district near the Town Highway garage.
- Gladys and Stephan Luce will be in for an alteration of lot line for the bakery building lot.

R. Hatch made a motion to adjourn the meeting, seconded by K. Gascon and unanimously approved. The meeting was adjourned at 7:35 P.M.

Respectfully submitted,

Renee Smith