



## MAJOR SITE PLAN REVIEW APPLICATION

<b>FEES FOR MAJOR SITE PLAN REVIEW</b>	<b>APPLICATION FEE:</b> (\$25/1,000 SF up to 5,000 SF) <input type="checkbox"/> \$1,300.00 <input type="checkbox"/> \$ _____ <b>AMENDED APPLICATION FEE:</b> <input checked="" type="checkbox"/> \$350.00 <input type="checkbox"/> \$ _____ <b>REVIEW ESCROW: (GFA)</b> 2,000 SF to 5,000 SF = \$2,000 5,000 SF to 15,000 SF = \$3,000 15,000 SF to 35,000 SF = \$4,000 Over 35,000 SF = \$5,000 <b>AMENDED REVIEW ESCROW:</b> <input checked="" type="checkbox"/> \$250.00	<b>AMOUNT PAID:</b> \$ _____ <b>DATE:</b> _____  <i>Office Use:</i> _____ <i>Office Stamp:</i> _____								
<input checked="" type="checkbox"/> Amended Site Plan - Each Revision										
<b>PROPERTY DESCRIPTION</b>	Parcel ID	Map(s) #	15	Lot(s) #	1	Zoning District(s)	C-1 & FR	Total Land Area SF:	49.4 ACRES	
	Total Disturbance. >1Ac	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Est. Building SF:	N/A		No Building; Est. SF of Total Development:	<20 acres			
	Physical Address:	464 Roosevelt Trail Windham, ME				Watershed:	Pleasant River			
<b>PROPERTY OWNER'S INFORMATION</b>	Name:	William and Andrea Stults				Name of the Business:				
	Phone:					Mailing Address:	454 Roosevelt Trail Windham, ME 04062			
	Fax or Cell:									
	Email:									
<b>APPLICANT'S INFORMATION (IF DIFFERENT FROM OWNER)</b>	Name:	Roosevelt Trail Solar 1, LLC (c/o New Leaf Energy, Inc)				Name of Business:				
	Phone	978-905-5065				Mailing Address:	55 Technology Drive, Suite 102			
	Fax or Cell						Lowell, MA 01581			
	Email:	hganser@newleafenergy.com								
<b>APPLICANT'S AGENT INFORMATION</b>	Name:					Name of Business:				
	Phone:					Mailing Address:				
	Fax or Cell:									
	Email:									
<b>PROJECT INFORMATION</b>	<b>Existing Land Use (Use extra paper, if necessary):</b> The proposed project site is currently undeveloped field and woods.									
	<b>Provide a narrative description of the Proposed Project (Use extra paper, if necessary):</b> A 5.0 MW (AC) ground mount solar project. Project is surrounded by 7' high chain link fence and accessed by a 14' wide gravel road. The racking is 8-9' tall with electrical equipment areas consisting of inverters, transformers, DAS, and motion-activated lights. Utilities are underground except at the point of interconnection at Roosevelt Trail (Route 302). This project was initially approved in May 2020 and is requesting its second 1-year extension. Please refer to the attached extension letter outlining the delay in the project.									
	<b>Provide a narrative description of construction constraints (wetlands, shoreland zone, flood plain, non-conformance, etc.):</b> Please refer to the original site plan approval for discussion of any construction restraints.									

DATE: April 14, 2023

TO: Planning Board  
**Town of Windham**  
8 School Road  
Windham, ME 04062

RE: Site Plan Approval Extension Request  
**464 Roosevelt Trail Solar**  
Windham, Maine

Dear Planning Board Members,

New Leaf Energy is writing on behalf of Roosevelt Trail Solar 1, LLC to request a 1-year extension for the 464 Roosevelt Trail Solar project granted Major Site Plan approval by Windham Planning Board on May 22, 2020. Steve Puleo granted a minor revision for the project on December 3, 2021, and the project was granted its first one-year extension on April 3, 2022, which extended the permit expiration date to May 11, 2023.

In May of 2020, Central Maine Power notified customers of their process for studying the regional impact of distributed generation projects. On May 14, 2020, Roosevelt Trail Solar 1, LLC was notified that it was part of the Raymond Level 3 Area Study, which had an original study completion date of December 2021. At our last extension request in 2022, Central Maine Power's delays had resulted in an estimated completion date of July 2022. Since then, Central Main Power has delayed the study completion further and as of March 24, 2023, is now estimating that the Raymond Level 3 Area Study will be completed in late 2023. As noted by Central Maine Power, the reason that the study has been delayed for over three years are the unexpected impacts of Federal Energy Regulatory Commission (FERC) queued projects that moved ahead of the Level 3 Area Study managed by Central Maine Power, the impact of complex mitigation work in other regional area studies, and the unforeseen results from complex electrical analyses. The most recent publicly available Bi-Weekly Report of Transmission System Impact Studies can be found on CMP's interconnection website<sup>1</sup>. This report provides stakeholders with updates on projects included in a Transmission System Impact Study in the CMP territory, with specific details on the cluster study schedules and their dependencies. While we are frustrated by the

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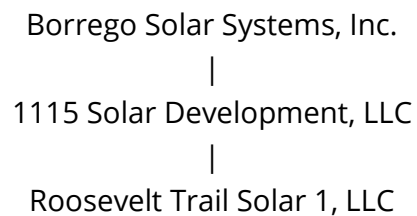
<sup>1</sup> Biweekly Report on Transmission Studies [PDF]  
<https://www.cmpco.com/suppliersandpartners/servicesandresources/interconnection>  
55 Technology Drive, Suite 102  
Lowell, MA 01851  
newleafenergy.com



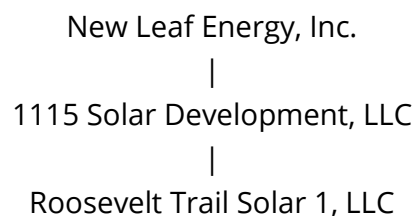
delays, we are optimistic that once the study is complete, we will be able to commence construction quickly.

Until the study is completed and approved by ISO New England's Reliability Committee, the project is unable to operate. Further, because of the continuous delays to the study's completion, the project is unable to secure construction financing and advance into construction ahead of the study's completion. Due to this, we do not expect the project to enter construction until 2024, with completion of the project in late 2024.

We would also like to provide more detail regarding the change of ownership of the project. Borrego Solar Systems, Inc. ("BSSI") submitted the applications on behalf of its wholly owned affiliate Roosevelt Trail Solar 1, LLC. The organizational structure at the time of the application was submitted and Site Plan Review originally approved was as follows:



On July 27, 2022, BSSI engaged in a series of restructuring transactions and in the process sold its development business changing the Borrego Development Team to New Leaf Energy, Inc. As part of this transaction, it distributed the development business, including its wholly owned subsidiary 1115 Solar Development, LLC, to New Leaf Energy, Inc. ("New Leaf"). As such all of Borrego's rights and obligations under Roosevelt Trail Solar 1, LLC have been transferred to New Leaf. Currently the organizational structure is as follows:



New Leaf continues to have a role in the project as the point of contact for the Town on behalf of Roosevelt Trail Solar 1, LLC's project in the same capacity as Borrego previously had.



We respectfully request the extension be heard at the May 8, 2023, planning board meeting. If there are any questions, please feel free to contact me directly at 978-905-6056.

Thank you,

New Leaf Energy, Inc.

A handwritten signature in black ink that reads "Holly Ganser". The signature is written in a cursive, flowing style.

Holly Ganser, P.E.

cc:

Ryan Bailey, New Leaf Energy

# Town of Windham

Planning Department  
8 School Road  
Windham, ME 04062

voice 207.892.1902

fax 207.892.1916

May 22, 2020

Roosevelt Trail Solar 1, LLC  
c/o Borrego Solar Systems, Inc  
55 Technology Drive, Suite 102  
Lowell, MA 01851

Dear Mr. Albrecht,

I am writing to confirm the Town of Windham Planning Board's approval of the Major Site Plan application 20-10 – proposing to develop a 5.0- Megawatt (MW) ground-mounted solar energy generating facility, surrounded by a 7 to 8 foot high fence and accessed by a 14-foot wide gravel access driveway connecting to Rt 302. The total project area covers about 19.2 acres of a larger parcel, at Tax Map: 15 Lot: 1 Zone: Commercial District III (C-1) and Farm Residential District (FR)

For your records, the Planning Board voted 4-0 to approve the waiver at the meeting on May 11, 2020. The motion was made by Andrew Mayo and seconded by Haden Brooks. Enclosed, please find the findings of fact and conclusions and conditions of approval.

Section 814 of the Land Use Ordinance requires that construction of the improvements covered by any site plan approval shall be substantially commenced within two (2) years of the date upon which the approval was granted and completed within two (2) years of the date upon which the performance guarantee is accepted. In accordance with Section 815.B of the Land Use Ordinance, appeal of any actions taken by the Planning Board with respect to this section (800) shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

Sincerely,



Jennifer Curtis, Planner

Enclosure: Finding of Facts and Conclusions  
Cc: Ryan Bailey, Borrego Solar Systems, Inc.

## FINDINGS OFFACT

### **Utilization of the Site**

The parcel the project will be located on is approximately 49.5 acres in size, and is currently used for a residential dwelling and farm fields. There are some wetland areas on the property. There is a 50' Portland Pipeline Corporation oil line easement through the central portion of the parcel.

The proposed use includes racking/solar modules that will be static (facing south, not moving), anchored into the ground with 6' long augured screws, and an electrical equipment area with energy storage.

A 7-8' tall chain link fence would surround the facility, in two sections (split along the Portland Pipeline ROW), covering about 19.2 acres.

The Windham Snowmobile Club utilizes the pipeline ROW easement by permission. Some local users have traditionally connected to the pipeline ROW by using the property that is proposed to be developed, without explicit permission. Their use may be disrupted.

Wetlands are identified on the property and shown on the plan.

The sketch plan application identifies two areas of wetland impact totally 3,847 square feet. 8,000 square feet of wetland alteration.

An unnamed stream is shown on the DEP required 75 foot setback from the stream are shown on the plan.

A potential vernal pool is shown on the plan. The applicant has not conducted a species survey to determine if the pool is a significant vernal pool habitat protected by law under the Natural Resources Protection Act (NRPA), but is proposing to meet the standards assuming that it is significant. In the Final Plan submission, the applicant indicated that their Wetland Delineation contractor, CES, determined there are no vernal pools on site.

The development will require a NRPA Permit by Rule (PBR) from Maine DEP for the stream crossing and development within the 250' vernal pool setbacks, and a Section 404 Permit from the Army Corps for placing fill in a wetland, for Final Plan approval.

The final plan application includes a Maine DEP Stormwater PBR dated March 16, 2020 and a Maine DEP NRPA PBR application for stream crossings dated April 17, 2020. The applicant notes that the road was re-aligned to avoid wetlands where possible.

The final plan application includes an Army Corps of Engineers PBR application for impacts to 2,745 square feet of wetland impacts, dated April 17, 2020.

### **Vehicular and Pedestrian Traffic**

A 14-foot wide gravel driveway is proposed to access the project. The driveway would cross the pipeline easement. The applicant states this is allowed. A letter from the easement holder authorizing the crossing will be required with the Final Plan submission. The site will be accessed by an extension from the existing driveway, which opens onto Roosevelt Trail. Once construction is completed, there would be very infrequent trips to the site; only as required by facility maintenance.

Sight distances for the entrance must be shown on the final plan.

A traffic impact study is not required as the project will not generate fifty (50) or more trips during the a.m. or p.m. peak hour.

The access drive must be located five (5) from any side and rear lot line. The sketch plan application shows the driveway within five feet of the abutting property. The Final Plan includes a note that the driveway is 5' off the property line.

During the Development Review Team meeting on April 15, 2020, the Town's emergency response staff indicated they thought an additional proposed vehicle turnaround located outside of the gated area would be necessary. This turnaround should be shown on the final plan.

A firetruck turnaround is shown on the final plan.

The two (2) proposed culverts proposed for the project access road are designed to pass the current streams under the new 14-foot gravel road. Each stream is approximately 2 feet across (bank full width) and in order to meet the bank full width requirements (1.5 times bank full width), each culvert will need to be a minimum of  $2 \times 1.5 = 3$  feet. 36-inch diameter HDPE pipe material will be used for each culvert and will be embedded into the stream substrate a minimum of 25%.

Town Engineer, Mark Arienti, P.E. reviewed the Final Plan detail for the gravel road section and commented that it looks appropriate for replacement of the Detail #1 on Sheet C-4.0, but requested that the applicant use Maine DOT Gravel specifications or define their gravel specifications on the plan set.

On May 6, 2020 the applicant responded that they had updated the plan to include MDOT specifications.

### **Sewage Disposal, Water Quality and Groundwater Impacts**

The development is not proposing a private subsurface wastewater disposal (septic) system.

### **Stormwater Management**

The property is located in the Pleasant River Watershed.

Per Section 812.E, a stormwater plan needs to be submitted that meets the standards DEP Chapter 500 Stormwater Management. Any Stormwater Permit required by Maine DEP must be submitted with the final plan submission.

Town Engineer, Mark Arienti, P.E. reviewed the Stormwater Management Report and commented that:

There will be approximately 0.85 acres of new impervious area from the gravel road and the electrical equipment concrete pads.

The gravel access road will cross 2 small streams.

The peak stormwater flows from the site area produced by 24-hr, 2-, 10-, and 25-year storms. The analysis indicates that the post-stormwater flows will be slightly higher than predevelopment flows in 2 of the 5 subcatchments, but the increase is insignificant (<1%), and therefore the requested waiver from this requirement is reasonable. (One thing to note is that the report references the Penobscot County, Millinocket Area rainfall data. It should be Cumberland County, but regardless of this typo the rainfall amounts appear correct.)”

With regard stormwater treatment, the applicant has identified 1,110 lineal feet of either forested or meadow buffers along the roadway. In addition, although not mentioned in the application, DEP considers the vegetated area under and between solar panels to be meadow stormwater treatment buffer.

The Stormwater Report includes an analysis of the hydraulics of the two proposed 36” diameter stream crossing culverts that demonstrates that these culverts are appropriately sized to handle the anticipated flows without increasing the frequency of flooding.

This project is in the NPDES (National Pollutant Discharge Elimination System) urbanized area as designated by the Environmental Protection Agency for the Town of Windham. As a result, there will be additional construction inspection requirements and

ongoing requirements for reporting of stormwater infrastructure maintenance as there is more than one (1) acre of development proposed. See Condition of Approval #2.

### **Erosion Control**

A soil erosion and sediment control plan must be submitted with the final plan set. This may take the form of a printed best management practices plan rather than on-the-ground designation of erosion control measures.

Plan sheet 3.0 of the final plan set includes erosion control measures, and a note that: “All sedimentation and erosion control measures shall be in accordance with the Maine erosion and sedimentation Control Best Management Practices, published by the Maine Department of Environmental Protection.” Erosion control measures include silt fence, sediment control devices, site stabilization, seeding, and meadow buffers.

### **Utilities**

New electric utilities will be installed on site. No other utilities are required. Utility lines shall be placed underground.

The project proposes to run utility lines overhead for several pole lengths before running them underground through the rest of the project. The purpose is to connect to power on the other side of 302 without digging under it and supports CMPs equipment aboveground on the site. This would require a waiver of the standard requiring utility lines to be placed underground.

Per 812.I, new utility facilities shall be screened from view to the extent feasible.

The closest fire hydrant on Route 302 is just north of the proposed solar facility driveway entrance. The hydrant location should be shown on the plan.

On May 7, 2020 the Town received an email from Portland Pipe Line Company (PPLC), at the request of the applicant, stating that PPLC are working with Borrego and based on their discussions to date, expect that Borrego will be able to design the project to meet PPLC’s safety requirements and easement guidelines.

### **Financial & Technical Capacity**

Evidence of technical capacity must be provided as part of the Final Plan submission.

The Final Plan submission included a statement of qualifications documenting a history of successfully completing similar projects.

As part of the Final Plan submission, the applicant must show an estimate the total project costs and submit evidence of financial capacity to complete the project as proposed.

The Final Plan application includes letters from two banks. One from Citibank dated January 6, 2020, stating that the applicant has been a client since 2009 and maintains credit in good standing in the amount of \$15,000,000., and a second letter from Bank of the West dated January 10, 2020 stating that the applicant maintains a satisfactory credit and has a \$62,250,000 revolving line of credit with a \$15,00,000. Sublimit for letters of credit.

The Final Plan submission includes a detailed estimate of decommissioning costs, and estimates the total present cost \$197,032. Including ~83K for energy storage system removal, ~\$22K for gravel road reclamation, ~26K for fence removal, and ~\$7K for foundation screw removal.

### **Impacts to Adjacent/Neighboring Properties**



A landscaping plan must be submitted as part of the final plan set.

Any proposed site lighting must be shown on Final Plan, and details of fixtures must be included in the submission.

A 7- to 8 foot-tall chain link fence is proposed around the perimeter of the project. The project is will be several hundred feet from Route 302.

There is one neighboring abutter to the west. As the neighboring residence is at roughly the same elevation, opaque fencing is anticipated to screen the facility from the neighbor's view. As part of the response to comments submitted on May 4, 2020, the applicant included specifications for the fence screen slats, including the available colors in natural tones. The Planning Board may wish to discuss the proposed screening.

There are four abutting residences along Tammy Lane to the south-southwest of the proposed project. The applicant is proposing an 8' fence at their property boundary to provide screening. The applicant is proposing leave untouched the existing trees on their side of the property line abutting the Tammy Lane properties. The Tammy Lane abutters all have approximately 50' of existing tree buffer on their properties as well.

## **Conformity with Local Plans and Ordinances**

### **1. Land Use**

The solar array is considered a Public Utility Facility, which is allowed as a Conditional Use in the Commercial District III (C-3) and Farm Residential District (FR) zones. The zoning district boundary should be shown on the final site plan.

The project meets the minimum lot size, frontage, and setback requirements of the Commercial District III (C-3) and Farm Residential (FR) zone, provided the lot has at least 150' of frontage on Roosevelt Trail. The Final Plan should specify the amount of frontage. The Final Plan was to scale, and indicates that the lot has over 500' of road frontage.

The C-3 District Standards requires a fifty (50) foot buffer from all property lines that abut a residential zoning district lots on which non-residential uses are located. The portion of the property in C-3 does not abut property lines in the FR zone so this standard is not applicable. In the FR District, no buffer is required for Public Utility Facilities abutting properties that are occupied by a residential dwelling.

### **2. Comprehensive Plan**

This proposed project meets the goals and objectives of the 2017 Comprehensive Plan; the majority of the development is located in the Windham Center Growth area and the remainder of the parcel is located in the Residential Transitional Area and the North Windham Growth Area.

### **3. Others:**

Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area.

## CONCLUSIONS

1. The plan for development **reflects** the natural capacities of the site to support development.
2. Buildings, lots, and support facilities **will** be clustered in those portions of the site that have the most suitable conditions for development.
3. Environmentally sensitive areas, including but not limited to, wetlands; steep slopes; flood plains; significant wildlife habitats, fisheries, and scenic areas; habitat for rare and endangered plants and animals; unique natural communities and natural areas; and, sand and gravel aquifers **will** be maintained and protected to the maximum extent.
4. The proposed site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
5. The proposed site plan **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
6. The proposed use and layout **will** be of such a nature that it will make vehicular or pedestrian traffic no more hazardous than is normal for the area involved.
7. The proposed site plan **will** provide for adequate sewage waste disposal.
8. The proposed site plan **conforms** to a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
9. The developer **has** adequate financial capacity to meet the standards of this section.
10. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
11. The proposed site plan **will** provide for adequate storm water management.
12. The proposed location and height of buildings or structure walls and fences, parking, loading and landscaping shall be such that it **will not** interfere or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable affect its value.
13. On-site landscaping **does** provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate

## CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated April 6, 2020, as amended April 20, 2020, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 814.G. of the Land Use Ordinance.
2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 144. Any person owning, operating, leasing or having control over stormwater management facilities required by the post-construction stormwater management plan must annually engage the services of a qualified third-party inspector who must certify compliance with the post-construction stormwater management plan on or by May 1st of each year.
3. Decommissioning or Abandonment

- a. Removal Requirements: At such time that the ground-mounted solar energy system described in this approval has reached the end of its useful life or has been abandoned consistent with the Abandonment description within this condition of approval, it shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
  - (a) Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
  - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
  
- b. Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of Site Plan approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.
  
- c. Surety: The applicant will provide financial assurance for the decommissioning costs in the form of a performance bond, surety bond, 'evergreen' letter of credit, or other means acceptable to the Town, for the total cost of decommissioning. The applicant will have the financial assurance mechanism in place prior to construction and will re-evaluate the decommissioning cost and financial assurance at the end of years, five, ten, and fifteen. Every five years after the start of construction, updated proof of acceptable financial assurance must be submitted to the Town for review.

- 4. The applicant shall maintain the access road to the standards of the Office of the State Fire Marshall of the State of Maine.
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## CONDITIONAL USE REVIEW

### FINDINGS OF FACT

#### **Property Value**

Staff recommends a performance guarantee in the amount of the cost of decommissioning the facility in the event the facility is ever abandoned and the Town would need to remove the equipment. See Condition of Approval #3.

The facility will be reasonably screened from view for neighboring abutters (see “Impacts to Adjacent/Neighboring Properties” under Site Plan Review)  
The Town Assessor, Elisa Trapanier, stated that property sales data in Windham indicate lots adjacent to intensive uses such as major roads (a reasonable proxy, since we have no data specific to solar facilities yet), aren’t detrimentally economically impacted.

#### **Wildlife Habitat**

See Site Plan Review

#### **Botanical Species**

See Site Plan Review

#### **Potable Water**

See Site Plan Review

#### **Sewage Disposal**

See Site Plan Review

#### **Traffic**

See Site Plan Review

#### **Public Safety**

See Site Plan Review

#### **Vibration**

The applicant should provide documentation if blasting is proposed to construct the proposed facility or if the use will produce recurrently generated vibrations.

#### **Noise**

See Site Plan Review

#### **Off-Street Parking and Loading**

See Site Plan Review

#### **Odors**

See Site Plan Review

**Air Pollution**

See Site Plan Review

**Water Pollution**

See Site Plan Review

**Erosion and Sediment Control**

See Site Plan Review

**Hazardous Material**

See Site Plan Review

**Zoning District and Performance Standards**

See Site Plan Review

**Solid Waste Management**

See Site Plan Review

CONCLUSIONS

1. The proposed use **will not** depreciate the economic value of surrounding properties.
2. The proposed use **will not** damage significant wildlife habitat or spawning grounds identified by the Maine Department of Inland Fisheries and Wildlife or by the Town of Windham's Comprehensive Plan.
3. The proposed use **will not** damage rare or endangered botanical species as identified by the Maine Department of Conservation or by the Town of Windham's Comprehensive Plan.
4. The proposed use **has** access to potable water and **will not** burden either a groundwater aquifer or public water system.
5. The proposed use **has** adequate capacity to dispose of sewage waste.
6. The proposed use **has** adequate sight distance as established by current Maine DOT Highway Entrance and Driveway Rules.
7. The proposed use **will not** overburden police, fire and rescue services, as determined by response time, accessibility to the site of the proposed use, and numbers and types of emergency personnel and equipment presently serving the community.



**Town of Windham**  
**Planning Department**  
8 School Road  
Windham, Maine 04062  
Tel: (207) 894-5960 ext 2  
Fax: (207) 892-1916  
[www.windhammaine.us](http://www.windhammaine.us)

December 3, 2021

c/o David Albrecht, P.E.  
Borrego Solar Systems, Inc  
55 Technology Drive, Suite 102  
Lowell, MA 01851

20-10: 464 Roosevelt Trail Solar; Minor Revisions – 464 Roosevelt Trail - Roosevelt Trail Solar 1, LLC,

Dear Mr. Albrecht,

I am writing to confirm that in accordance with Section 814.F. of the Town of Windham Land Use Ordinance, I approve the minor change from the approved Site Plan for the property identified on Tax Map: 15; Lot 1 Zone: Commercial District III (C-1) and Farm Residential District (FR).

The approved of the are as follows:

- The energy storage system has been removed
- The impervious area has decreased from 38,100 square feet to 31,990 square feet due to the
- removal of energy storage concrete pads
- The fenced area has decreased (approved at 19.44 total acres, the current design is 19.10 acres)
- Fenceline has been pulled to be 10 feet off the westerly property line (approved plan
- showed fenceline on the property line in 3 areas)
- The access road has been adjusted to accommodate shifting the fence line off the property line

Based on the information provided by the applicant on November 3<sup>rd</sup> through December 1st, 2021, as depicted on the attached 464 Roosevelt Layout Comparison Plan, sheet C-3.1 dated October 25, 2021. The staff has reviewed and approved the proposed changes, determining they will not affect compliance with the standards or alter the essential nature of the proposal.

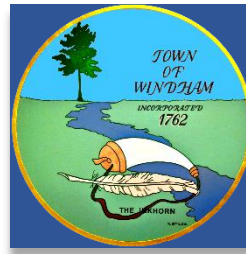
This change revises the Site Plan approved by the Planning Board on May 11, 2020.

Sincerely,

Steve Puleo  
Planner

Enclosure: Revised Site Plan dated October 25, 2021

Planning File



Town of Windham  
Planning Department  
8 School Road  
Windham, Maine 04062  
Tel: (207) 894-5960 ext. 2  
Fax: (207) 892-1916  
[www.windhammaine.us](http://www.windhammaine.us)

April 12, 2022

Ms. Holly Ganser, P.E.  
Borrego  
55 Technology Drive, Suite 102  
Lowell, MA 01851

RE: 20-10: 464 Roosevelt Trail Solar – Approval Extension Request – Roosevelt Trail Solar 1, LLC

Dear Ms. Ganser,

I am writing to confirm the Planning Board's approval of the first approval of a one-year extension for project number 20-10 to develop a solar array development as a public utility facility use at 464 Roosevelt Trail. Tax Map: 15; Lot 1. Zoning Districts: Commercial III (C3) and Farm Residential (FR).

For your records, the Planning Board voted 5-0 (Tuttle absent) to approve the site plan extension request at the meeting on April 4, 2022. The motion was made by Govoni and seconded by Krikken. Enclosed, please find the May 11, 2020 findings of fact and conclusions and conditions of approval.

Please review the Conditions of Approval at the end of the document. The Town Engineer has assessed your Performance Guarantees for the development, Decommissioning Plan, and Costs, and set the Inspection Observation Fee Escrow. The performance guarantees, decommissioning bond, and observation escrow must be submitted to the Town prior to holding a pre-construction with staff and obtaining building permits from the Code Department, per Section 814.D.2.

Section 814.A. of the Land Use Ordinance requires that construction of the improvements covered by site plan extension approval shall be substantially commenced within one year, expiring May 11, 2023, and shall be completed within two (2) years of the date upon the required performance guarantee are accepted. In accordance with Section 815.B of the Land Use Ordinance, the appeal of any actions taken by the Planning Board with respect to this Section 800 shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

Sincerely,

Steve Puleo  
Planner

Enclosure: Findings of Fact and Conclusions and Section 814 Post-Approval portion of the Land Use Ordinance

From the approval letter dated May 11, 2020:

## FINDINGS OFFACT

### **Utilization of the Site**

- The parcel the project will be located on is approximately 49.5 acres in size and is currently used for a residential dwelling and farm fields. There are some wetland areas on the property. There is a 50' Portland Pipeline Corporation oil line easement through the central portion of the parcel.
- The proposed use includes racking/solar modules that will be static (facing south, not moving), anchored into the ground with 6' long augured screws, and an electrical equipment area with energy storage.
- A 7-8' tall chain link fence would surround the facility, in two sections (split along the Portland Pipeline ROW), covering about 19.2 acres.
- The Windham Snowmobile Club utilizes the pipeline ROW easement by permission. Some local users have traditionally connected to the pipeline ROW by using the property that is proposed to be developed, without explicit permission. Their use may be disrupted.
- Wetlands are identified on the property and shown on the plan.
- The sketch plan application identifies two areas of wetland impact total of 3,847 square feet.
- 8,000 square feet of wetland alteration.
- An unnamed stream is shown on the DEP required 75-foot setback from the stream is shown on the plan.
- A potential vernal pool is shown on the plan. The applicant has not conducted a species survey to determine if the pool is a significant vernal pool habitat protected by law under the Natural Resources Protection Act (NRPA), but is proposing to meet the standards assuming that it is significant. In the Final Plan submission, the applicant indicated that their Wetland Delineation contractor, CES, determined there are no vernal pools on site.
- The development will require an NRPA Permit by Rule (PBR) from Maine DEP for the stream crossing and development within the 250' vernal pool setbacks, and a Section 404
- A permit from the Army Corps for placing fill in a wetland, for Final Plan approval.
- The final plan application includes a Maine DEP Stormwater PBR dated March 16, 2020, and a Maine DEP NRPA PBR application for stream crossings dated April 17, 2020. The applicant notes that the road was re-aligned to avoid wetlands where possible.
- The final plan application includes an Army Corps of Engineers PBR application for impacts to 2,745 square feet of wetland impacts, dated April 17, 2020.

### **Vehicular and Pedestrian Traffic**

- A 14-foot wide gravel driveway is proposed to access the project. The driveway would cross the pipeline easement. The applicant states this is allowed. A letter from the easement holder authorizing the crossing will be required with the Final Plan submission.
- The site will be accessed by an extension from the existing driveway, which opens onto Roosevelt Trail. Once construction is completed, there would be very infrequent trips to the site; only as required by facility maintenance.
- Sight distances for the entrance must be shown on the final plan.
- A traffic impact study is not required as the project will not generate fifty (50) or more trips during the a.m. or p.m. peak hour.



- The access drive must be located five (5) from any side and rear lot line. The sketch plan application shows the driveway within five feet of the abutting property. The Final Plan includes a note that the driveway is 5' off the property line.
- During the Development Review Team meeting on April 15, 2020, the Town's emergency response staff indicated they thought an additional proposed vehicle turnaround located outside of the gated area would be necessary. This turnaround should be shown on the final plan.
- A firetruck turnaround is shown on the final plan.
- The two (2) proposed culverts proposed for the project access road are designed to pass the current streams under the new 14-foot gravel road. Each stream is approximately 2 feet across (bank full width) and in order to meet the bank full-width requirements (1.5 times bank full width), each culvert will need to be a minimum of  $2 \times 1.5 = 3$  feet. 36-inch diameter HDPE pipe material will be used for each culvert and will be embedded into the stream substrate with a minimum of 25%.
- Town Engineer, Mark Arienti, P.E. reviewed the Final Plan detail for the gravel road section and commented that it looks appropriate for the replacement of Detail #1 on Sheet C-4.0 but requested that the applicant use Maine DOT Gravel specifications or define their gravel specifications on the plan set.
- On May 6, 2020, the applicant responded that they had updated the plan to include MDOT specifications.

### **Sewage Disposal, Water Quality, and Groundwater Impacts**

- The development is not proposing a private subsurface wastewater disposal (septic) system.

### **Stormwater Management**

- The property is located in the Pleasant River Watershed.
- Per Section 812.E, a stormwater plan needs to be submitted that meets the standards of DEP Chapter 500 Stormwater Management. Any Stormwater Permit required by Maine DEP must be submitted with the final plan submission.
- Town Engineer, Mark Arienti, P.E. reviewed the Stormwater Management Report and commented that: There will be approximately 0.85 acres of the new impervious area from the gravel road and the electrical equipment concrete pads.
- The gravel access road will cross 2 small streams.
- The peak stormwater flows from the site area produced by 24-hr, 2-, 10-, and 25-year storms. The analysis indicates that the post-stormwater flows will be slightly higher than predevelopment flows in 2 of the 5 subcatchments, but the increase is insignificant (<1%), and therefore the requested waiver from this requirement is reasonable. (One thing to note is that the report references the Penobscot County, Millinocket Area rainfall data. It should be Cumberland County, but regardless of this typo the rainfall amounts appear correct.)"
- With regard to stormwater treatment, the applicant has identified 1,110 lineal feet of either forested or meadow buffers along the roadway. In addition, although not mentioned in the application, DEP considers the vegetated area under and between solar panels to be a meadow stormwater treatment buffer.
- The Stormwater Report includes an analysis of the hydraulics of the two proposed 36" diameter stream crossing culverts that demonstrate that these culverts are appropriately sized to handle the anticipated flows without increasing the frequency of flooding.

- This project is in the NPDES (National Pollutant Discharge Elimination System) urbanized area as designated by the Environmental Protection Agency for the Town of Windham. As a result, there will be additional construction inspection requirements and ongoing requirements for reporting stormwater infrastructure maintenance as there is more than one (1) acre of development proposed. See Condition of Approval #2.

### **Erosion Control**

- Soil erosion and sediment control plan must be submitted with the final plan set. This may take the form of a printed best management practices plan rather than an on-the-ground designation of erosion control measures.
- Plan sheet 3.0 of the final plan set includes erosion control measures, and a note that: “All sedimentation and erosion control measures shall be in accordance with the Maine erosion and sedimentation Control Best Management Practices, published by the Maine Department of Environmental Protection.” Erosion control measures include silt fence, sediment control devices, site stabilization, seeding, and meadow buffers.

### **Utilities**

- New electric utilities will be installed on-site. No other utilities are required. Utility lines shall be placed underground.
- The project proposes to run utility lines overhead for several pole lengths before running them underground through the rest of the project. The purpose is to connect to power on the other side of 302 without digging under it and supports CMPs equipment aboveground on the site. This would require a waiver of the standard requiring utility lines to be placed underground.
- Per 812.I, new utility facilities shall be screened from view to the extent feasible.
- The closest fire hydrant on Route 302 is just north of the proposed solar facility driveway entrance. The hydrant location should be shown on the plan.
- On May 7, 2020, the Town received an email from Portland Pipe Line Company (PPLC), at the request of the applicant, stating that PPLC is working with Borrego and based on their discussions to date, expects that Borrego will be able to design the project to meet PPLC's safety requirements and easement guidelines.

### **Financial & Technical Capacity**

- Evidence of technical capacity must be provided as part of the Final Plan submission.
- The Final Plan submission included a statement of qualifications documenting a history of successfully completing similar projects.
- As part of the Final Plan submission, the applicant must show an estimate of the total project costs and submit evidence of financial capacity to complete the project as proposed.
- The Final Plan application includes letters from two banks. One from Citibank dated January 6, 2020, stating that the applicant has been a client since 2009 and maintains credit in good standing in the amount of \$15,000,000., and a second letter from Bank of the West dated January 10, 2020, stating that the applicant maintains a satisfactory credit and has a \$62,250,000 revolving line of credit with a \$15,00,000. Submit letters of credit.
- The Final Plan submission includes a detailed estimate of decommissioning costs and estimates the total present cost of \$197,032. Including ~83K for energy storage system

removal, ~\$22K for gravel road reclamation, ~26K for fence removal, and ~\$7K for foundation screw removal.

### **Impacts on Adjacent/Neighboring Properties**

- A landscaping plan must be submitted as part of the final plan set.
- Any proposed site lighting must be shown on Final Plan, and details of fixtures must be included in the submission.
- A 7- to 8 foot tall chain link fence is proposed around the perimeter of the project. The project is will be several hundred feet from Route 302.
- There is one neighboring abutter to the west. As the neighboring residence is at roughly the same elevation, opaque fencing is anticipated to screen the facility from the neighbor's view. As part of the response to comments submitted on May 4, 2020, the applicant included specifications for the fence screen slats, including the available colors in natural tones. The Planning Board may wish to discuss the proposed screening.
- There are four abutting residences along Tammy Lane to the south-southwest of the proposed project. The applicant is proposing an 8' fence at their property boundary to provide screening. The applicant is proposing to leave untouched the existing trees on their side of the property line abutting the Tammy Lane properties. The Tammy Lane abutters all have approximately 50' of existing tree buffer on their properties as well.

### **Conformity with Local Plans and Ordinances**

#### 1. Land Use

- The solar array is considered a Public Utility Facility, which is allowed as a Conditional Use in the Commercial District III (C-3) and Farm Residential District (FR) zones. The zoning district boundary should be shown on the final site plan.
- The project meets the minimum lot size, frontage, and setback requirements of the Commercial District III (C-3) and Farm Residential (FR) zone, provided the lot has at least 150' of frontage on Roosevelt Trail. The Final Plan should specify the amount of frontage. The Final Plan was to scale and indicates that the lot has over 500' of road frontage.
- The C-3 District Standards require a fifty (50) foot buffer from all property lines that abut a residential zoning district lots on which non-residential uses are located. The portion of the property in C-3 does not abut property lines in the FR zone so this standard is not applicable. In the FR District, no buffer is required for Public Utility Facilities abutting properties that are occupied by residential dwellings.

#### 2. Comprehensive Plan

- This proposed project meets the goals and objectives of the 2017 Comprehensive Plan; the majority of the development is located in the Windham Center Growth area and the remainder of the parcel is located in the Residential Transitional Area and the North Windham Growth Area.

#### 3. Others:

- Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area.

## CONCLUSIONS

1. The development plan **reflects** the natural capacities of the site to support development.
2. Buildings, lots, and support facilities **will** be clustered in those portions of the site that have the most suitable conditions for development.
3. Environmentally sensitive areas, including but not limited to, wetlands; steep slopes; flood plains; significant wildlife habitats, fisheries, and scenic areas; habitat for rare and endangered plants and animals; unique natural communities and natural areas; and, sand and gravel aquifers **will** be maintained and protected to the maximum extent.
4. The proposed site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
5. The proposed site plan **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
6. The proposed use and layout **will** be of such a nature that it will make vehicular or pedestrian traffic no more hazardous than is normal for the area involved.
7. The proposed site plan **will** provide for adequate sewage waste disposal.
8. The proposed site plan **conforms** to a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
9. The developer **has** adequate financial capacity to meet the standards of this section.
10. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
11. The proposed site plan **will** provide for adequate stormwater management.
12. The proposed location and height of buildings or structure walls and fences, parking, loading, and landscaping shall be such that it **will not** interfere with or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable affect its value.
13. On-site landscaping **does** provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate

## CONDITIONS OF APPROVAL

1. Approval is dependent upon and limited to, the proposals and plans contained in the application dated April 6, 2020, as amended on April 20, 2020, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 814.G. of the Land Use Ordinance.
2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 144. Any person owning, operating, leasing, or having control over stormwater management facilities required by the post-construction stormwater management plan must annually engage the services of a qualified third-party inspector who must certify compliance with the post-construction stormwater management plan on or by May 1st of each year.
3. Decommissioning or Abandonment

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- a. **Removal Requirements:** At such time that the ground-mounted solar energy system described in this approval has reached the end of its useful life or has been abandoned consistent with the Abandonment description within this condition of approval, it shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
    - (a) Physical removal of all solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
    - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
    - (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
  - b. **Abandonment:** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of Site Plan approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.
  - c. **Surety:** The applicant will provide financial assurance for the decommissioning costs in the form of a performance bond, surety bond, ‘evergreen’ letter of credit, or other means acceptable to the Town, for the total cost of decommissioning. The applicant will have the financial assurance mechanism in place prior to construction and will re-evaluate the decommissioning cost and financial assurance at the end of years, five, ten, and fifteen. Every five years after the start of construction, updated proof of acceptable financial assurance must be submitted to the Town for review.
4. The applicant shall maintain the access road to the standards of the Office of the State Fire Marshall of the State of Maine.
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CONDITIONAL USE REVIEW

FINDINGS OF FACT

**Property Value**

Staff recommends a performance guarantee in the amount of the cost of decommissioning the facility in the event the facility is ever abandoned and the Town would need to remove the equipment. See Condition of Approval #3.

The facility will be reasonably screened from view for neighboring abutters (see “Impacts to Adjacent/Neighboring Properties” under Site Plan Review)  
The Town Assessor, Elisa Trepanier, stated that property sales data in Windham indicate lots adjacent to intensive uses such as major roads (a reasonable proxy, since we have no data specific to solar facilities yet), aren't detrimentally economically impacted.

**Wildlife Habitat**

See Site Plan Review

**Botanical Species**

See Site Plan Review

**Potable Water**

See Site Plan Review

**Sewage Disposal**

See Site Plan Review

**Traffic**

See Site Plan Review

**Public Safety**

See Site Plan Review

**Vibration**

The applicant should provide documentation if blasting is proposed to construct the proposed facility or if the use will produce recurrently generated vibrations.

**Noise**

See Site Plan Review

**Off-Street Parking and Loading**

See Site Plan Review

**Odors**

See Site Plan Review

**Air Pollution**

See Site Plan Review

**Water Pollution**

See Site Plan Review

**Erosion and Sediment Control**

See Site Plan Review

**Hazardous Material**

See Site Plan Review

**Zoning District and Performance Standards**

See Site Plan Review

**Solid Waste Management**

See Site Plan Review

**CONCLUSIONS**

1. The proposed use **will not** depreciate the economic value of surrounding properties.
2. The proposed use **will not** damage significant wildlife habitat or spawning grounds identified by the Maine Department of Inland Fisheries and Wildlife or by the Town of Windham’s Comprehensive Plan.
3. The proposed use **will not** damage rare or endangered botanical species as identified by the Maine Department of Conservation or by the Town of Windham’s Comprehensive Plan.
4. The proposed use **has** access to potable water and **will not** burden either a groundwater aquifer or public water system.
5. The proposed use **has** adequate capacity to dispose of sewage waste.
6. The proposed use **has** adequate sight distance as established by the current Maine DOT Highway Entrance and Driveway Rules.
7. The proposed use **will not** overburden police, fire, and rescue services, as determined by the response time, accessibility to the site of the proposed use, and numbers and types of emergency personnel and equipment presently serving