



Town of Windham
Planning Department
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DATE: May 3, 2023

TO: Planning Board
FROM: Steve Puleo, Town Planner
Cc: Amanda Lessard,
Holly Ganser, New Leaf Energy, Inc.

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

Planning Board Meeting: **May 8, 2023**

Overview –

The application is for the review and approval of one one-year extension for the 464 Roosevelt Trail Solar Project. The Board approved the site plan on May 11, 2020; the Town Planner approved a minor change on December 3, 2021; and a one-year extension of the site plan approval on April 11, 2022. The minor change approval included the removal of the energy storage system, decreasing the amount of impervious area, decreasing the fence, pulling in the fence line 10-feet off the western property line, and shifting the access road to adjust the changed fence line.



Aerial View of the subject parcel relative to surrounding properties and street network.

The subject property is Tax Map 15 Lot 1 in the C-3 and FR Zoning Districts.

The post-approval activities in [Section 120-814A](#) state that failure to commence improvement of a site plan approval within two (2) years of the date of final Planning Board approval shall render the approval null and void. The applicant has not started the post-approval activities nor provided the performance guarantees or the construction observation fees, as required in [Section 120-814D](#). In order to keep the Board's approval from expiring on May 11, 2023, a second one-year extension approval is required. This site plan extension will expire on May 11, 2024. The applicant understands this is the last approval extension request and the site plan approval will expire.

The applicant is Roosevelt Trail Solar 1, LLC, but since the extension approval last year, their parent company, Borrego Solar Systems, Inc., was restructured and is now known as New Leaf Energy, Inc. New Leaf Energy, Inc. is involved with over 70 project companies developing approximately 450 projects nationwide. Roosevelt Trail Solar 1, LLC, is leasing the 464 Roosevelt Trail property from the same property owner. The Maine DEP NRPA Stream Crossing PBR and Stormwater PBR were renewed in February 2022 and valid until February 2024. The project has a valid DEP solar decommissioning permit. A general permit was issued by the Army Corps on May 29, 2020, and remains in effect.

The May 11, 2020 site plan approved waivers and conditions of approval, which are as follows:

Waivers:

The approved waiver of [Section 120-812E\(1\)\(a\)](#), is Stormwater Management to allow the post-development peak flow to increase <1% from the pre-development conditions.

The approved waiver of [Section 120-812I](#), Utilities to allow the utility lines overhead from the interconnection to the CMP lines on 302 and include several aboveground poles on the subject property as well as the additional CMP-owned pole-mounted equipment.

Approved 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 May 8, 2023, including 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 120-814G](#) of the Land Use Ordinance.
2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, [Chapter 201](#). 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:
1. Physical removal of all solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
 2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 3. 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.
- D. The applicant shall maintain the access road to the standards of the Office of the State Fire Marshall of the State of Maine.

Motion: I move to approve Roosevelt Solar 1, LLC's second one-year site plan extension request, in accordance with [Section 120-814A\(2\)](#), for the 464 Roosevelt Trail Solar public utility facility, including the amended development and decommission plans of December 3, 2021, the findings of fact, conclusions, waivers, and conditions of approval of May 11, 2020, expiring May 11, 2024.