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Fwd: Delaware Solar Resolution

1 message

Daniel Acton <actond45@gmail.com>

Mon, Jan 10, 2022 at 10:24 PM

To: Fion L Maccree <fmaccree@gmail.com>, Matthew Snyder <matthewfsnyder@gmail.com>, Wendy Dailey <wendydailey.town.alfred@gmail.com>, Kenn Burdick <kenn.burdick@gmail.com>, "Town of Alfred (Clerk)" <town.alfred@gmail.com>, William Dailey <williamdailey48@gmail.com>, Frederick Sinclair <fpsinclair@yahoo.com>

Dear Boards,

This is the information we will be considering Thursday night. It was my idea to apply the new law to this project so that the ZBA does not have to duplicate our work; that idea may or may not work.

Please look over this material. All of our consultants will zoom into the meeting.

Thanks.

Dan

----- Forwarded message -----

From: **Dwight Kanyuck** <dkanyuck@nyenvlaw.com>

Date: Mon, Jan 10, 2022 at 5:54 PM

Subject: Delaware Solar Resolution

To: Daniel Acton <actond45@gmail.com>

Cc: Kathy Spencer <kspencer@labellapc.com>, Steblein, Mary <msteblein@labellapc.com>, Shawn Grasby <mmtceo@frontiernet.net>

Dan,

Attached is the draft Town Board resolution for the Delaware project for board consideration. Kathy will send a revised SEQRA EAF Parts 2 and 3 separately. Note that the resolution is written with the presumption that the ZBA, Town Board, and the applicant consent to the application of the new solar law so that the Town Board can issue both the site plan and special use permit approval. Delaware indicated they would get back to us tomorrow regarding their consent to the new law.

Procedurally, the resolution does the following on behalf of the Town Board:

- Makes a "negative declaration" under SEQRA. This means that the Board has: reviewed the Application (Part 1 of the Environmental Assessment Form (EAF) and all the application materials as supplements; identified and analyzed the potential areas of environmental concern (Part 2 of the EAF); and concluded that the Project will not have a significant adverse impact on the environmental (Part 3 of the EAF).
- Provides the Town Board consent to applying the new solar law to the Project, meaning the Board may issue both the site plan and special use permit approval for the Project.
- Makes the required "findings" under the new Section 607.04 of the Zoning Law necessary to approve special use permits. The listed findings mirror those present in Section 607.04 and represent the special use permit approval criteria for permitting any special use in the Town.
- Conditionally approves the special use permit and site plan application.
- The 21 conditions can be considered to be among the following categories:
 - Those necessary in order for the Applicant to get final sign off and obtain the building permit (Conditions 1, 4, 5, 6, 7, 8, 9, 11)
 - Those regulating construction activities, including the Transportation Plan (Conditions 2, 4, 10, 12)

- Those required prior to the commencement of facility operation (i.e. prior to getting a operating certificate from the CEO) (Conditions 13, 14, 17, 20)
- Those that enforce ongoing operational compliance with the approved plans, including the site plan, SWPPP, O&M plan, landscaping plans (Conditions 2, 4, 9, 11, 13, 15, 16, 17, 18, 19).
- Those that enforce the conditions upon any successor owners/operators of the project after Delaware (Condition 21).

A key aspect to this approval (as with pretty much all such approvals) is that the stated conditions, and the solar law, enable ongoing enforcement of compliance of the Project with the Town's requirements. If there are material non-compliances with conditions, the operator can be compelled to comply or the permit may be revoked. Also, should a material change to the approved site plan arise as a result of complying with the conditions (particularly those in Condition 6), the site plan approval (and SEQRA) may be reopened for review with regard to the change.

I would be happy to discuss. Thanks.



Dwight Kanyuck

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TB Resolution-SEQRA Negative DEc and Permit Approval-011022.docx

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