

Planning Board
856 Main Road
Westport, MA 02790
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July 19, 2022

Bernadette Oliver, Town Clerk
816 Main Road
Westport, MA 02790

NOTICE OF DECISION AND RECORD OF PROCEEDINGS

RE: SITE PLAN APPROVAL – LOW IMPACT DEVELOPMENT (LID).

for

**“978 Solar Development, LLC.
c/o Borrego Solar Systems”**

Applicant

**978 Solar Development, LLC.
c/o Borrego Solar Systems
55 Technology Drive, Ste. 102
Lowell, MA 01851**

Owners

**John L, Ernest & Marie Ciccotelli
794 Gifford Road, Westport, MA 02790
&
Marie Ciccotelli
14 Eight Avenue, Wareham, MA 02571**

Site location:

**Between 355 and 403 Division Road (west side), Westport, MA 02790
Assessor’s Map 46, Lot 8
Assessor’s Map 46, Lot 9C**

File #22-001SPA-LID

Dear Ms. Oliver:

The Planning Board (“the Board”) hereby submits for filing in your office the following record of its proceedings and decision on the request of **978 Solar Development, LLC c/o Borrego Solar Systems** for property owned by **John L, Ernest & Marie Ciccotelli**, located **on the west side of Division Road between 355 and 403 Division Road, Westport, MA, Assessors Map 46, Lots 8 & 9C**. Pursuant to Westport Zoning By-Laws dated September 2017, Article 24 “Large Scale Solar Energy System” and Article 15 “Low Impact

Development” the applicant requests permission to construct a solar energy system of approximately 2.95 Megawatts (DC), total lot size of 92 acres.

Record of Proceedings and Decision:

After duly posting, noticing, and advertising, the Planning Board held a public hearing on the Low Impact Development Site Plan application and Special Permit application on May 24, 2022 and June 28, 2022. The public hearing was closed on June 28, 2022. The Board reviewed the plans and application submitted by the applicant, as well as additional information submitted by Town Boards, departments and staff and by the public.

Abutter notices mailed: April 20, 2022

Legal Notice in *The Chronicle*: May 4, 2022 & May 11, 2022

Public Hearing: May 24, 2022:

978 Solar Development, LLC (22-001SP)

Request by the applicant to consider the Special Permit and Site Plan Approval Low Impact Development applications for 978 Solar Development, LLC. for property owned by John L., Ernest Ciccotelli, and Marie T. Ciccotelli, and located on the west side of Division Road between 355 and 403 Division Road, Assessor’s Map 46, Lots 8 & 9C. Pursuant to Article Westport Zoning By-Laws Section 8.2 Low Impact Development and Section 9.6 Large Scale Solar Energy System, the applicant requests permission to construct a solar energy system of approximately 2.95 Megawatts (DC), total lot size of 92 acres.

Motion:

Due to absent Planning Board members, Daylor moved to continue the public hearing to June 28, 2022 at 6:30 p.m., seconded by Schmid, with all three members in favor, the motion carried.

Public Hearing: July 28, 2022:

978 Solar Development, LLC (22-001SP)

Request by the applicant to consider the Special Permit and Site Plan Approval Low Impact Development applications for 978 Solar Development, LLC. for property owned by John L., Ernest Ciccotelli, and Marie T. Ciccotelli, and located on the west side of Division Road between 355 and 403 Division Road, Assessor’s Map 46, Lots 8 & 9C. Pursuant to Article Westport Zoning By-Laws Section 8.2 Low Impact Development and Section 9.6 Large Scale Solar Energy System, the applicant requests permission to construct a solar energy system of approximately 2.95 Megawatts (DC), total lot size of 92 acres.

Chairman Whitin indicated that Borrego had withdrawn their previous applications and reapplied under the subdivision plan that had been approved (High Point Estates - 19-006C) in April 2019, thereby freezing the zoning by-laws of September 6, 2017.

Matthew Swansburg and Dean Smith were present from Borrego Solar. Swansburg commented that the project consisted of a 2.95 MW DC ground-mounted solar array that would encompass approximately 9.14 acres with a total property size of 92 acres, clearing 11.51 acres of trees (Map 46-8 & 46-9C). He read the requested waivers into the record.

Whitin read the department comments into the record. Bullard asked if the Conservation Department had any comments. Swansburg added that ConComm did not approve the Order of Conditions, however, Borrego received a superseding Order of Conditions from the DEP which covers the entire project. Schmid questioned the reason that

978 Solar Development LLC.

Site Plan Approval – Low Impact Development

File #22-001SPA - LID

July 12, 2022

ConCom denied the application. Swansburg responded that it was mainly wetland crossing issues and how they would get to the upland area of the property. Whitin asked Swansburg to explain the project's changes since this was the third submission of this project. Swansburg explained that the reason for the resubmission was primarily due to time constraints.

Soares noted that once the electrical permit is filed for the main line to be installed with an approved design in accordance with the National Energy Code, the Planning Board and the Peer reviewer should be informed before obtaining a building permit. In addition, he asked that the access road be entirely constructed before the back lot could be accessed and that the crushed stone surface is changed to gravel. The stumps must be either carried away or ground on the spot. Soares included that the Conservation Agent needs to be notified to inspect the wetland replication area once complete. Borrego agreed.

Schmid was concerned about the emergency response plan waiver. Swansburg stated that the Fire Chief evaluated the plan and made no further comments about fire suppression.

Bullard asked what type of species lived in the vernal pool. Swansburg mentioned he will verify what type of animals were in the vernal pool.

Robert Boulay of 364 Division Road, Dartmouth was present. Boulay voiced his concern about the visual of the pole farm, public parking at the entrance, and the decommissioning plan. Swansburg showed the visual simulations of the project.

Whitin read Field Engineering's report dated June 10, 2022. Whitin agreed with Field Engineering's comment the as-built grading plan should be provided for a review after the earth-work is complete to the Planning Department and the Peer reviewer before the installation of the solar panels to confirm that there will be no stormwater issues.

Schmid questioned asked if they complied with the National Heritage and Mass Historical Commission. Swansburg mentioned National Heritage responded there were no natural habitats identified and the Mass Historical commission responds only when something is found. Information is in the packet provided.

Soares emphasized the importance of the SWPPP and the NPDES permit. He asked that the NPDES permit be filed with the Planning Department and the Building Department before obtaining a building permit as part of the Condition of Approval.

Motion to Close Public Hearings

Bullard moved to close the public hearing for 978 Solar Development, LLC. Seconded by Daylor with all five members in favor, the motion carried. The Board stated that they would deliberate and review findings and conditions at their next regular meeting, held on July 12, 2022.

July 12, 2022:

Messier provided the Board with findings of fact and standard conditions.

Motion to Approve LID Site Plan

Bullard moved to approve the Site Plan Approval- Low Impact Development application for **978 Solar Development, LLC**, for property owned by **John L., Ernest Ciccotelli, and Marie T. Ciccotelli**, and located on **the west side of Division Road between 355 and 403 Division Road, Assessor's Map 46, Lots 8 & 9C**. Pursuant to Westport Zoning By-Laws Section 8.2 Low Impact Development as the plan presented reasonably meets the intent and purpose of the LID By-law by reducing the adverse impacts of soil erosion, sedimentation, and stormwater runoff. Seconded by Daylor, with all members in favor.

Motion to Approve Special Permit for Large Scale Solar

Bullard moved to approve the Special Permit application for Large Scale Solar for **978 Solar Development, LLC**, for property owned by **John L., Ernest Ciccotelli, and Marie T. Ciccotelli**, and located on **the west side of Division Road between 355 and 403 Division Road, Assessor's Map 46, Lots 8 & 9C**, pursuant to Westport Zoning By-Laws Section 9.6 Large Scale Solar are subject to waivers, findings and conditions, as read into the record. Seconded by Daylor, with all members in favor.

Decision

At a regular meeting of the Planning Board held on July 12, 2022, Bullard moved to approve the Special Permit Application for Large Scale Solar Energy System for **978 Solar Development, LLC**, for property owned by **John L., Ernest Ciccotelli, and Marie T. Ciccotelli**, and located on **the west side of Division Road between 355 and 403 Division Road, Assessor's Map 46, Lots 8 & 9C** pursuant to Westport Zoning By-Laws Section 8.2 Low Impact Development as the plan presented reasonably meets the intent and purpose of the LID By-law by reducing the adverse impacts of soil erosion, sedimentation, and stormwater runoff. Seconded by Daylor, with all members in favor.

Documents of Record

1. Application for Site Plan Approval – Low Impact Development (LID), dated March 28, 2022 and filed with the Town Clerk on March 30, 2022.
2. Application for Special Permit – Large Scale Solar Energy System, dated March 28, 2022 and filed with the Town Clerk on March 30, 2022.
3. Plan: Entitled “Site Use Plan 0 Division Road, Westport, MA 02790 2,125 kW Solar Electric System”.

Sheet No.	Title	Date
T-1	Title Page	3/28/22
C – 0.0	Civil Notes	3/28/22
C – 1.0	Existing Conditions Plan	3/28/22
C – 2.0	Tree Clearing Plan	3/28/22
C – 2.1	Selective Clearing and Planting Plan	3/28/22
C – 3.0	Layout and Materials Plan	3/28/22
C – 3.1	Wetlands Impact Plan	3/28/22
C – 4.0	Grading and Erosion Control Plan	3/28/22
C – 4.1	Grading and Erosion Control Plan – Access Road	3/28/22
C – 4.2	Basin Details	3/28/22
C – 5.0	Civil Details	3/28/22
C – 5.1	Civil Details	3/28/22
C – 5.2	Civil Details	3/28/22
C – 5.3	Wetland Crossing Details	3/28/22
C – 5.4	Temporary Wetland Crossing Detail	3/28/22
C – 5.5	Civil Details	3/28/22
C – 6.0	Wetland Replication Plan	3/28/22
C – 7.0	Open Space Parcel Plan	3/28/22
C – 8.0	Tree Clearing & Stormwater Phasing Plan	3/28/22
FIG. 3	Subcatchment Plan – Pre-Development	3/28/22
FIG. 4	Subcatchment Plan – Post-Development	3/28/22
E – 1.0	Electrical Site Plan	3/28/22
E – 2.1	AC Single Line Diagram	3/28/22

Waivers:

1. Waiver from the requirement to perform test pits.
2. Waiver from preparation of a sight lighting and photometric plan.

Findings of Fact:

1. The project as presented meets the requirements of Article 24 (Section 9.6.3) of the Town's Zoning By-Laws for Large Scale Solar Energy Systems.
2. The project as presented meets standards for placement, design, construction, operation and monitoring that address public safety and minimizes impacts on environmental, scenic, natural, and historic resources.
 - a. The placement of this project is entirely within the Residential/Agricultural Zoning District, and proposes to clear approximately 11.51 acres of the 92 acre site, which is less than the allowed maximum limit of clearing of sixteen (16) acres.
3. The project protects adjoining premises by providing adequate screening and buffers between the property lines and the solar arrays.
 - a. This project is located in a western portion of the property, and is over one-hundred (100) feet away from any abutting property line. Visual screening at the southern and western property lines are proposed.
 - b. The closest property line is over six-hundred (600) feet away from the proposed placement of the electrical equipment area and light.
4. The project provides adequate screening and buffers to protect scenic vistas and viewsheds from residential uses, public streets, and waterways as described in 9.6.3.k.4.
 - a. The project area is approximately one-thousand four-hundred (1,400) feet from the public way (Division Road), and the majority of that distance is forested.

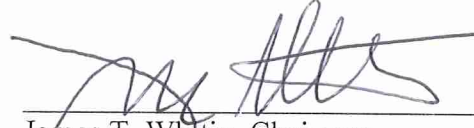

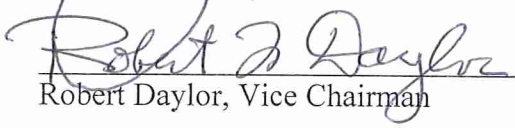
Conditions:

1. Prior to issuance of a building permit the applicant shall submit the following to the Building Inspector:
 - i. An emergency response plan showing all means of shutting down the solar installation.
 - ii. Name and contact information of the person answerable to inquiries throughout the life of the installation.
 - iii. Proof of liability insurance throughout the life of the system.
2. The Fire Chief shall review and approve the emergency response plan and site access plan prior to the issuance of a building permit. Site access shall be maintained to a level acceptable to the Fire Chief as provided in the emergency response plan. The petitioner and/or any subsequent owner are

- responsible for the cost of access road maintenance. All access codes and keys shall be provided to the Fire Chief.
3. The applicant shall install a Key Lock Box on the entrance gate to provide emergency access for the Westport Fire Department. The entrance gate shall be a minimum of 20' wide.
 4. The address shall be posted at the beginning of the driveway at Division Road as required by the Westport Fire Department.
 5. As-built plans shall be submitted and approved by the Building Inspector and the Planning Board prior to the issuance of an Occupancy Permit and witness test.
 6. All material modifications as determined by the Building Inspector for the Large Scale Solar Energy System made after the issuance of the required building permit shall require approval by the Planning Board.
 7. All construction activity shall occur between the hours of 7 a.m. and 5 p.m. on Monday through Saturday only. Construction activity includes staging, deliveries, equipment warm-up, or other supporting construction activities.
 8. Once the project is complete, there will be no outside storage of equipment, hazardous materials, or excess solar panels on the site.
 9. Vegetation control on the site shall be mechanical only and no pesticides or other chemical products shall be used.
 10. A non-illuminated sign not exceeding four square feet in area shall be installed on the entrance gate identifying the owner and/or operator of the solar installation and a 24hour emergency contact telephone number.
 11. The project will be surrounded by a chain-linked fence that at a minimum is seven (7) feet in height, and a minimum of six (6) inches above the ground for a wildlife gap.
 12. The site shall be developed in accordance with the erosion control notes listed on the plan set.
 13. If the owner and/or operator changes, notice shall be given to the Building Inspector, Fire Department, and Planning Board with the contact information of the new owner/operator within one month of the change in ownership and/or operations.
 14. Prior to the issuance of an Occupancy Permit, the Town Planner shall conduct a field inspection of the perimeter to identify areas that may need additional plantings for screening. The owner shall install plantings as directed by the Town Planner.
 15. A plan for battery storage is required to be submitted to the Planning Board and Fire Department.
 16. The applicant must obtain a Battery Storage Permit from the Fire department and submit a copy of the permit to the Planning Board.
 17. The limit of cut line shall be marked prior to any tree cutting.
 18. Prior to the commencement of work, the applicant shall submit to the Consultant Engineer, Planning Department, and Building Inspector, copies of all permits, approved plans, and weekly reports. The applicant shall be responsible for the reasonable cost associated with construction observation/inspection services during the construction phase.
 19. All construction progress and as-built plans shall be stamped and signed by a Registered Land Surveyor.
 20. If rocks are encountered and need to be removed, they shall be trucked off-site and not crushed on site.
 21. Prior to earthwork or stump removal within the fenced-in solar array area, the detention basins and access roads shall be constructed and functioning with adequate vegetation growth or other stabilizing material to minimize erosion.
 22. The project will be required to comply with cultural assessments based on current Rules and Regulations from the State's Historical Preservation Office.
 23. The project's Stormwater Pollution Prevention Plan (SWPPP) shall be done in accordance with the newly issued 2022 NPDES Construction General Permit and shall be provided to the Planning Board.

24. Details of the downward cut lighting shall be included on the final plan.
25. A Tree Survey shall be conducted and submitted to the Planning Board prior to the issuance of a Building Permit.
26. The applicant shall submit an Operation & Maintenance plan signed by the project owner prior to the issuance of a Building Permit.
27. After the site is cleared and grubbed, the applicant shall submit an as-built topographic survey of the site and a confirmation report that as a result of the work, no revisions are needed to the drainage design. If revisions are needed, they will be identified in the confirmation report and approved by the Planning Board before construction.
28. The vernal pool on the site shall be certified and listed on the State Registry of vernal pools.

WESTPORT PLANNING BOARD


James T. Whittin, Chairman
John Bullard, Member
Robert Daylor, Vice Chairman
Mark L. Schmid, Member
Manuel Soares, Member