

March 27, 2019

Mr. Chris Brand, Chairman
 Town of Marlborough Planning Board
 21 Milton Turnpike
 Milton, NY 12547

*Re: Milton Turnpike Solar Farm – Site Plan and Special Use Permit Application
 132 Milton Turnpike, Parcel # 103.1-1-33.1
 Response to Planning Board Comments
 Job # 51711.03*

Dear Mr. Brand:

The Applicant, Marlborough Solar, LLC is in receipt of comments from the Town-Designated Engineer, McGoey, Hauser and Edsall Consulting Engineers D.P.C. (MHE) and Scenic Hudson, dated March 18, 2019. Below is a point-by-point response to each of the comments received:

1. *comment - There appears to be a discrepancy in the information provided by the NYS Department of Environmental Conservation and the US Fish and Wildlife Service. NYSDEC identifies no records of any state listed threatened or endangered species. The US Fish and Wildlife Service identifies potential bat species which are federally endangered. The US Fish and Wildlife Service letter identifies that further coordination with their office is required if the amount of tree clearing proposed remains in the project design. The Applicants representative are requested to evaluate this data and provide information to the Planning Board such that a SEQRA determination can be made regarding potential impacts to threatened or endangered species.*

Response: NYSDEC has no occurrence records of any State-listed species within or near the project site. However, the site is within range of two Federally-listed species of bats, as noted in Endnote 4 of the submitted EAF and confirmed by USFWS. When this project was originally submitted to the Town for review, the applicant intended to complete all tree removal on site between November 1 and March 31 which the USFWS considers to be adequate mitigation for taking of bat habitat. In lieu of adhering to this timing restriction, the applicant intends to coordinate with USFWS to determine other appropriate measures to complete tree removal this spring. If the USFWS will not authorize tree removal this spring or summer, then the applicant will hold on tree removal until November 1. In either case, there will be no impact to threatened or endangered species because the applicant will adhere to the guidelines of the USFWS. Thus, we expect a SEQRA determination can be made. The applicant requests that proof of coordination with USFWS be a condition of the building permit approval.

2. *comment - The NYSDEC has identified the potential that regulated wetland PQ-17 is potentially larger than displayed on the current regulatory mapping. Any disturbance to the fresh water wetland and its one hundred year adjacent area would require a permit from the NYS Department of Environmental Conservation. The Applicant is requested to address the potential for any impacts to Wetland PQ-17.*

Response: The applicant reached out to NYSDEC to clarify that all proposed work is beyond the extents of the 500 foot "check zone" beyond the regulatory boundary of NYSDEC wetlands. NYSDEC responded via email, and the Town was provided a copy on March 18. The response, copied below, shows that no further coordination with NYSDEC is required.

From Josh Fisher, Biologist, Bureau of Ecosystem Health, NYSDEC Region 3:

DEC jurisdiction does not currently extend beyond the 500' "check zone" around the mapped wetland. Any wetland that is functionally connected to the currently mapped wetland but extends 500' beyond the boundary is considered to be "eligible" to be regulated, but is not currently so. If your project proposes any work within the "check zone" then the wetland boundary will have to be validated and a permit may be required. If you are staying outside of the check zone then a DEC freshwater wetlands permit is not required. If a wetland permit is required by the US Army Corps of Engineers then a water quality certificate will be required from NYSDEC, so keep that jurisdiction in mind when applying for any appropriate permits.

3. *comment - The Applicant has provided a Stormwater SWPPP for the solar farm which has been accepted by this office. A municipal authorization will be issued upon requested.*

Response: This comment is noted. Signature of the municipal authorization form will be requested following project approval.

4. *comment - The Fire Department previously requested that a "knoxbox" be provided. We would recommend that the gate be provided with a padlock key to the Milton Fire Districts knoxbox system. The padlock can be chained through the Marlborough Solar lock such that access to the Fire Department and the site operator can be gained.*

Response: This comment is noted. The final location and configuration of the knoxbox will be coordinated with Milton Fire District No. 1.

5. *comment - Status of Ulster County Planning Departments review of the project should be addressed.*

Response: The recommendations made by Ulster County have been addressed:

- The highway permit from UC DPW is approved and attached for your records;
- We welcome regular site inspections by the Town's stormwater inspector during construction;
- The consistency review by the NYS Coastal Management Program is complete, and they found that no review is necessary; and
- Visual analysis has been completed, and we consider this matter resolved as there were no further comments given at the February 19 meeting of the Planning Board.

Mr. Chris Brand, Chairman

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We look forward to discussing these matters with the Planning Board at the April 1, 2019 meeting at which time we will be requesting a motion to close the public hearing and vote on approval of this application.

Sincerely,

A handwritten signature in blue ink, appearing to read "N. Vamvas".

Nicholas Vamvas

Project Engineer

Enclosures: Attachment L: UCDPW Driveway Permit

cc: Michael Cucchiara, Marlborough Solar LLC

ATTACHMENT L
MINOR COMMERCIAL ACCESS DRIVEWAY PERMIT
ULSTER COUNTY DPW

ULSTER COUNTY DEPARTMENT OF PUBLIC WORKS

317 Shamrock Lane, Kingston, New York, 12401

Telephone (845) 340-3100, Fax: (845) 340-3113

ADELE B. REITER

Acting County Executive



THOMAS H. JACKSON, JR.

Commissioner

March 1, 2019

Dear Mr. Cucchiara,

This letter is in reference to Marlborough Solar LLC's application for an Ulster County DPW County Road/Right of Way Work Permit. Enclosed in this letter please find an original copy of the approved work permit for the above mentioned project.

Should you have any questions or concerns please feel free to contact our office at (845)-340-3119.

Sincerely,

David Wittek

Inventory and Property Control Specialist
Ulster County Department of Public Works

ULSTER COUNTY DEPARTMENT OF PUBLIC WORKS

To: Commissioner of Public Works

Tel: 845-340-3100

Fax: 845-340-3113

APPLICATION FOR WORK ON A COUNTY ROAD PERMIT

Department of Public Works

317 Shamrock Lane

Kingston, NY 12401

Application is hereby made for permission under Section 136 of the Highway Law, to enter upon and construct the following facilities on the following named Ulster County Road:

Permit # 6994

Permit Type MINOR COMMERCIAL ACCESS

(Subdivision Road, Major Driveway Access, Utility, etc.)

Owner / Applicant Information

Name MARLBOROUGH SOLAR, LLC
 Contact MICHAEL CUCCHIARA
 Address 101 SUMMER ST - 2ND FLOOR
 City BOSTON
 State, Zip NY, 02110
 Phone (978) 296-3338
 Fax _____
 Cell phone (917) 612-9190
 Email mcucchiara@nexamp.com

Contractor Information

Name Nexamp, Inc.
 Contact Robert Walsh
 Address 101 Summer Street 2nd Floor
 City Boston
 State, Zip NY, 02110
 Phone 518.487.0411
 Fax _____
 Cell phone 518.487.0411
 Email rwalsh@nexamp.com

Location

Street (County Road #) County Route 10
 Address 132 Milton Turnpike, Milton NY 12547
 Location 1/2 Mile west of intersection of CR-10 and US Route 9W
 Purpose Solar Farm

Segment(Official use only) _____

Special Conditions

Town, Section-Block-Lot # Marlborough , 103.1 1 33.2
 In County Pavement Yes No Size _____ Depth _____

If permit is granted, I hereby agree to all the conditions and restrictions forming a part of this permit and to restore to its original condition, any portion of the road, shoulders or drainage that may be disturbed.

IF, AFTER SUFFICIENT TIME AS DETERMINED BY THE COMMISSIONER OF PUBLIC WORKS, OR THEIR REPRESENTATIVE, THE WORK TO BE PERFORMED UNDER THIS PERMIT IS NOT COMPLETED, SAID PERMIT SHALL BE CANCELLED AND THE DEPOSIT WILL BE FORFEITED.


 (Owner / Applicant Signature)

SVP, Business Development

2-25-19

(Title)

(Date)

Permission is hereby granted to perform work enumerated above, subject to attached conditions and restriction. A Certified Check made payable to the ULSTER COUNTY COMMISSIONER OF FINANCE, is to be deposited as a guarantee that the work shall be completed in compliance with this permit and that the road will be restored to its original condition at the expense of the owner/applicant.



Signature: 
 For: COMMISSIONER OF PUBLIC WORKS Date: 2/28/19

Signature: _____ Date: _____
 UCDPW REVIEWER

 Date Submitted 12/10/18 Temp. Patch Date _____ App. Ck.# 07600184
 Date Issued 3/1/19 Temp. Patch Contractor _____ Insp. Ck.# 07600183
 Start Date _____ Perm. Patch Date _____ Bond \$ 1000 #076001255
 Expiration 3/1/20 Perm. Patch Contractor _____

Reviewers Initial _____ Review Status: Closed Pending Public Received Technical
 Date Reviewed 12/11/18 (circle one) Decision: Decision Pending Decision Public Hearing Received Technical Review
 Decision Date 2/28/19 (circle one) Approved Conditional Approval Denied Withdrawal

OWNER / APPLICANT SHALL FURNISH FULL INFORMATION AS TO THE NATURE OF THE WORK TO BE UNDERTAKEN, LOCATION, DETAILS OF STRUCTURE(S) INVOLVED, ETC., AND SHALL ATTACH A SKETCH SHOWING LOCATION AND AREA AFFECTED.

Two (2) original copies of this application are to be executed by Owner / Applicant with approving signatures. When approved by County Commissioner, one copy will be returned to Owner / Applicant.

A PROPERLY EXECUTED COPY OF THIS PERMIT MUST ALWAYS BE AVAILABLE ON THE WORK UNDERTAKEN, TO BE SUBMITTED TO THE ENGINEER AT HIS REQUEST.

Conditions and Restrictions

THE FORGOING PERMIT IS GRANTED SUBJECT TO THE FOLLOWING GENERAL CONDITIONS, AND SUBJECT TO THE "SPECIFICATIONS AND RESTRICTIONS GOVERNING WORK DONE UNDER PERMITS".

1. This permit shall not be assigned or transferred except with the written consent of the County Commissioner.
2. The work authorized by this permit shall be done to the complete satisfaction of the County Commissioner or his representative. In replacement of pavements, the Standard County Specifications therefore shall be followed.
3. Notice shall be given by said Application to the County Commissioner at least 48 hours in advance of the date when the work is to begin.
4. The Owner / Applicant hereby agrees to indemnify and save harmless the County from all suits, actions of damages of every kind whatsoever which may arise from or on account of the work to be done under this permit. General Liability Insurance for the protection of the Owner / Applicant and the County will be maintained in such an amount and in such company and in such case as the County Commissioner may require.
5. The Owner / Applicant agrees, in consideration of this permit, that any present or future injury to or disturbance of the road, its pavement, shoulders, its slopes or gutters, caused by the work proposed under this permit, shall be repaired by the Owner / Applicant at his/her own expense and to the complete satisfaction of the County Commissioner.
6. The County Commissioner reserves the right to revoke or cancel this permit at any time should the Owner / Applicant fail to comply with the terms and conditions herein prescribed.
7. Owner / Applicant's approved copy of this permit shall be in possession of the parties actually doing the work. It must be furnished on demand, to the County Commissioner or his representative.
8. The Owner/Applicant is responsible to attain any additional required permits/permissions including, but not limited to, applicable Federal, State and Local permissions.
9. Traffic shall be maintained on this section of the road by the Owner / Applicant during the life of this permit.
10. The Owner / Applicant hereby certifies that he has secured compensation for the benefit of, and will keep insured during the performance of the above described work, such employees as are required to be insured by the provisions of Chapter 41 of the Laws of 1914 and Acts amendatory thereof, known as the Workmen's Compensation Law.
11. If necessity arises in future, because of this work on the highway, to make repairs pertaining to this permit, said work shall be done at the expense of the Owner / Applicant.



Refer to Schedule A for Special Conditions if Box is Checked.

I HEREWITHE AGREE TO THE ABOVE "CONDITIONS AND RESTRICTIONS"

Z-25-19

DATE


(OWNER / APPLICANT)

Notification Procedure
Prior to Starting Work

Notice shall be given by said Owner / Applicant to the County D.P.W. Permit Office at least 48 hours in advance of the date when work is to begin.

Failure to comply with the notification procedure outlined above may result in revocation of your permit and forfeiture of all fees.

County Permit Office:
(845) 340-3119

Permit No.: 6994

I herewith agree to the above conditions.

2-25-19
Date

Chris Clark (Marlborough Solar, LLC)
Owner / Applicant (please print)


Owner / Applicant Signature

FOR DEPOSITING PURPOSES PLEASE INDICATE BY CIRCLING BELOW WHO THE MONEY IS

TO BE DEPOSITED UNDER:

APPLICANT / OWNER (OR) CONTRACTOR

Be advised that the name and address on the Performance Deposit is required to match the name and address on the application

ULSTER COUNTY DEPARTMENT OF PUBLIC WORKS

317 Shamrock Lane, Kingston, New York, 12401
Telephone (845) 340-3100, Fax: (845) 340-3113

MICHAEL P. HEIN
County Executive



THOMAS H. JACKSON, JR.
Commissioner

Marlborough Solar, LLC
4 Liberty Square, 3rd Floor
Boston, MA 02109

Permit # 6994

Schedule A

1. Access shall be located approximately 75' south east from the western property corner bordering County Route 10. Reference Milton Turnpike Solar Farm Access Plan FIG1 as prepared by Chazen Engineering, Land Surveying & Landscape Architecture, CO., D.P.C.
2. The removal of trees and foliage to the east upon exiting proposed access to meet safety sight distance as according to Milton Turnpike Solar Farm Access plan FIG1 as prepared by Chazen Engineering, Land Surveying & Landscape Architecture, CO., D.P.C. shall be the responsibility of the applicant/contractor.
3. The access shall be constructed according to the Milton Turnpike Solar Farm Erosion and Sediment Control Plan C150 as prepared by Chazen Engineering, Land Surveying & Landscape Architecture, CO., D.P.C.
4. Entrance shall be maintained as conditions demand to prevent tracking of sediment onto the public right-of-way.
5. If and when additional runoff should be shown to be the cause adversely affecting existing county structures from the site, it shall be the applicant/contractor responsibility to design, replace, or install culvert pipes under the entrance and make any necessary improvements along the entrance and obtain all necessary easements and permits.
6. The applicant has the responsibility of providing Truck Warning signage in accordance with the NYS M.U.T.C.D. [W42-7] to inform traffic when vehicles are entering or exiting the site, while access is being utilized as a temporary construction entrance.

Applicant Signature:

A handwritten signature in black ink, appearing to read "C. L. S.", is written over a horizontal line.

Date: 12/21/18