

June 26, 2017

WORKSHOP MEETING  
TOWN BOARD TOWN OF MARLBOROUGH  
21 MILTON TURNPIKE, MILTON NEW YORK  
JUNE 26, 2017 7:00 PM  
MINUTES OF MEETING

Present: Supervisor Lanzetta  
Councilman Molinelli (Arrived at 7:22 p.m.)  
Councilman Baker  
Councilman Koenig

Danielle Cherubini, Deputy Town Clerk  
John Behan, Behan Planning & Design

Absent: Councilman Corcoran

ITEM #1 Call to order - Pledge of Allegiance

ITEM #2 Moment of Silence

ITEM #3 Motion to approve agenda

***Councilman Baker made a motion to add Review Draft Application for Train Station Use under New Business. Motion seconded by Councilman Koenig.***

***Yeas: 3                      Nays: 0                      Carried***

ITEM #4 Motion to approve minutes from the June 12, 2017 Town Board Meeting

***Councilman Koenig made a motion to approve minutes from the June 12, 2017 Town Board Meeting. Motion seconded by Councilman Baker.***

***Yeas: 3                      Nays: 0                      Carried***

ITEM #5 Authorize payments of bills

***Councilman Baker made a motion to authorize payment of the abstract in the amount of \$627,925.09. Motion seconded by Councilman Koenig.***

***Yeas: 3                      Nays: 0                      Carried***

ITEM #6 Presentations

*John Behan, Behan Planning & Design, stated that there is a resolution to accept the Draft Generic Environmental Statement including the draft Local Waterfront Revitalization Program (LWRP) and comprehensive plan. The next step is to get comments from interested agencies and adopt the final comprehensive plan, LWRP (and harbor management plan), and local consistency law then go for granting.*

*Councilman Baker commented that the town received a \$135,000.00 matching grant about a year ago to accomplish this and the town is now in a good position to get more grants.*

ITEM #7 Comments on the agenda

*Mark Reynolds asked if there was an estimate to restore the south pier at the Milton Landing and where would the money come from.*

*Supervisor Lanzetta said that the estimate is about \$1,280,000.00.*

*The Board collectively explained that the town plans to apply for funding through the Upstate Revitalization Initiative and the Consolidated Funding Application (CFA) process.*

*Rosemary Wein added that Meghan Taylor who is the Mid-Hudson Regional Director of the NYS Economic Development Council said this is a transformative project that will affect the town and also the region.*

ITEM # 8 New Business

A) Review Draft Application for Train Station Use

*Supervisor Lanzetta stated that after speaking with the Town Clerk, it was decided that it would be better to have the park manager open and close the train station rather than give the applicant the key.*

*Daniel Pinnavaia, President of the Milton Train Station Foundation, commented that perhaps repercussions for the listed prohibited acts should be listed as well.*

*There was a brief discussion about the no alcohol rule and also if they would like to allow non residents and add a non resident fee and what to charge.*

*Supervisor Lanzetta asked that the Town Board and Train Station board email their thoughts to him.*

*Councilman Molinelli arrived.*

ITEM #9 Workshop topics

A). Open Discussion

ITEM #10 Correspondence

*Supervisor Lanzetta read a resignation letter from Matthew North, Police Officer, which is effective June 30, 2017.*

***Councilman Baker made a motion to accept the resignation of Matthew North, Police Officer, which is effective June 30, 2017. Motion seconded by Councilman Molinelli.***

***Yeas: 4***

***Nays: 0***

***Carried***

ITEM #11 Public Comment

*James Garofalo suggested that the Board keep in mind solar bike paths and roadways in the future of the solar code.*

*Supervisor Lanzetta stated that he had a company audit the Central Hudson lighting district. They found that Central Hudson owed the town \$7223.77 and the company gets a percentage, therefore, Central Hudson will give the town a check for about \$5,000.00.*

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ITEM #12 Resolutions

- A). Resolution # 72 To Circulate and Publish a Notice of Completion of Draft Generic Environmental Impact Statement and Notice of Public Hearing for the update to the Town of Marlborough Comprehensive Plan and adoption of the Town of Marlborough Local Waterfront Revitalization Program (LWRP).
- B). Resolution # 73 To Introduce a Local Law of the year 2017 TO AMEND CHAPTER 155 “ZONING” TO ADD SECTION 155-32.2 REGARDING SOLAR ENERGY
- C). Resolution # 74 To accept the FEIS for Bayside
- D). Resolution # 75 Finding for South Pier SEQRA
- E). Resolution # 76 To authorize the project, Contract No. TM-1701, Extension of Sanitary Sewer for the Milton Sewer District, for the Town of Marlborough, to be publically bid in accordance with the General Municipal Law

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A). Resolution # 72 To Circulate and Publish a Notice of Completion of Draft Generic Environmental Impact Statement and Notice of Public Hearing for the update to the Town of Marlborough Comprehensive Plan and adoption of the Town of Marlborough Local Waterfront Revitalization Program (LWRP).

Supervisor Lanzetta proposes the following:

WHEREAS, the Town Board designated itself Lead Agency at its meeting on January 23, 2017 for review of the comprehensive plan and LWRP under the New York State Environmental Quality Review Act (“SEQRA”) and issued a Notice of Intent to serve as Lead Agency and a Notice of Intent to prepare a Draft Generic Environmental Impact Statement (“EIS”) pursuant to 6NYCRR Part 617; and

WHEREAS, a draft generic environmental impact statement has been prepared in conformance with the regulations at 6NYCRR Part 617 implementing the New York State Environmental Quality Review Act to review the Town of Marlborough Comprehensive Plan and Town of Marlborough Local Waterfront Revitalization Program (LWRP); and

WHEREAS, the comprehensive plan and LWRP have been developed as part of an extensive public process including a series of advisory committee meetings conducted over the past year, four community forums, and three public review meetings; and

WHEREAS, the town’s planning consultant, Behan Planning and Design has prepared a draft Comprehensive Plan, draft LWRP, and draft generic environmental impact statement and the Town Board has been following the development of the draft comprehensive plan and LWRP and draft generic EIS.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Town Board hereby determines that the information submitted in the Draft Generic EIS, draft comprehensive plan and draft LWRP is complete and adequate with respect to its scope and content for the purpose of commencing public review pursuant to 6NYCRR Part 617.
2. The Town Board shall conduct a Public Hearing on the Draft Generic EIS and draft LWRP and draft comprehensive plan on August 14, 2017 at Town Hall-Town Courtroom, 21 Milton Turnpike at 7:00 p.m., where public comment will be heard;

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3. The Town Board directs that the Draft Generic EIS, and the attached Notice of Completion and Notice of Public Hearing relative to the Project, shall be filed, published and circulated in accordance with the requirements of 6 NYCRR Sections 617.9 and 617.12, notifying the public, among other things, that the Town Board shall hold a Public Hearing where public comment will be heard and that written comments on the Draft Generic EIS and related documents and will be accepted by the Town Board until September 5, 2017 and for at least ten (10) days following the close of the Public Hearing, whichever is later; and

4. The Town Board hereby directs the Town Clerk to arrange to: publish the Notice of Completion and Notice of Public Hearing at least fourteen (14) calendar days in advance of the hearing date in a newspaper of general circulation, as well as publish such Notices as required in the Environmental Notice Bulletin (ENB); (ii) have copies of the Draft Generic EIS filed with the New York State Department of Environmental Conservation, and the Office of the Town Clerk for public review; (iii) have a copy of the DEIS, Notice of Completion and Notice of Public Hearing circulated to all involved and interested agencies; and (iv) have the DEIS posted on the town's website at: <http://townofmarlboroughny.org/>.

And it moves for adoption

Councilman Corcoran	Absent
Councilman Molinelli	Yes
Councilman Koenig	Yes
Councilman Baker	Yes
Supervisor Lanzetta	Yes

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B). Resolution # 73 To Introduce a Local Law of the year 2017 TO AMEND CHAPTER 155 “ZONING” TO ADD SECTION 155-32.2 REGARDING SOLAR ENERGY

Supervisor Lanzetta proposes the following:

BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

**Section 1**

This Zoning for Solar Energy Law is adopted pursuant to Municipal Home Rule Law §10, Town Law §§261-263 and the Town Code of the Town of Marlborough which authorizes the Town of Marlborough to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore.

**Section 2** A new subsection § 155-32.2 Solar Energy shall be added as follows:

**§ 155-32.2 Solar Energy**

A. Purpose. The Town of Marlborough recognizes that solar energy is a clean, readily available, and renewable energy source. Development of solar energy systems for residential, agricultural, and non-residential parcels use of solar energy provides an excellent opportunity for the reuse of land throughout the Town and offers an energy resource that can act to attract and promote green business development. The Town of Marlborough has determined that comprehensive regulations regarding the development of solar energy systems is necessary to protect the interests of the Town, its residents, and its businesses. This article is intended to promote the effective and efficient use of solar energy resources; set provisions for the placement, design, construction, and operation of such systems to uphold the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and character of the Town. To the extent practicable, and in accordance with Town of Marlborough law, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in

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the application of the various review and approval provisions of the Town of Marlborough Code. It is therefore the intent of this section to provide adequate safeguards for the location, siting and operation of solar energy facilities.

- B. Definitions. The following definitions shall apply specifically to this subsection. Any words defined in § 155-1 of this code shall retain such definition. Usage of these words in other sections of this code shall utilize such definition as well.

Alternative Energy Systems - Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

Area of Use - The area within the parcel measured from the outer edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and access roadways.

Building-Integrated Photovoltaic (BIPV) Systems - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

Cessation of Operation – not performing all normal functions associated with operation of the solar energy facility and its equipment on a continuous basis for a period of one year.

Collective Solar - Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

Community Net Metering --- As provided for by the NY State Public Service Commission.

Flush-Mounted Solar Panel - Photovoltaic panels and tiles or other solar collectors that are installed flush to the surface of a building roof and which cannot be angled or raised.

Ground-Mounted, Freestanding, or Pole Mounted Solar Energy System - A Solar Energy System that is anchored to the ground and attached to a frame, pole or other mounting system, detached from any other structure for the purpose of producing electricity for onsite or offsite consumption.

Kilowatt (kW) - Equal to 1000 Watts; a measure of the use of electrical power.

Megawatt (MW) - Equal to 1000 Kilowatts; a measure of the use of electrical power.

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**Net-Metering** - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage .

**Offsite Use** – A solar energy system designed to be used primarily for export of solar energy to be used primarily by parcels other than the parcel it is located on.

**Onsite Use** – A solar energy system designed to be used primarily by the building and/or parcel on which it is located.

**Photovoltaic (PV) Systems** - A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

**Qualified Solar Installer** - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

**Remote Net Metering** – As provided for by the NY State Public Service Commission.

**Rooftop or Building-Mounted Solar System** - A solar panel system located on the roof of any legally permitted and/or constructed building or structure for the purpose of producing electricity for onsite or offsite use.

**Solar Access** - Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

**Solar Collector** - A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**Solar Easement** - An easement recorded pursuant to NY Real Property Law § 335-b.

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Solar Electric Generating Equipment – Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

Solar Energy System or Solar Energy Facility - An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

- Solar Energy System, Large Scale – A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite use, sale, or consumption.
- Solar Energy System, Small Scale - Solar photovoltaic systems which generate power exclusively for onsite use and consumption by the owners, lessees, tenants, residents, or other occupants of the premises of the building or lot to which they are attached and do not provide energy for any other lots, except as may be allowable under NY State or federal regulation.
- Solar Energy System, Subdivision Use – A collective solar energy system occupying less than or equal to two (2) acres area of use consisting of ground-mounted solar arrays or roof panels, and associated control or conversion electronics and that will be used to produce utility power to provide energy only for the onsite use and consumption of the specific lots associated with a particular major or minor subdivision.

Solar Garden: - Groupings of solar photovoltaic solar panels connected to an electric circuit served by an electric utility company. Multiple users may subscribe to receive the output from one or more panels, receive the benefits of PV technology and the efficiencies associated with a larger-scale project without having to own, host or maintain the equipment on their own property.

Solar Inverter - Converts the variable direct current (DC) output of a photovoltaic (PV) solar panel into a utility frequency alternating current (AC) that can be fed into a commercial electrical grid or used by a local, off-grid electrical network

Solar Panel - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Storage Battery - A device that stores energy from the sun and makes it available in an electrical form.

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**Solar-Thermal Systems** - Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

**Tilt** - The angle of the solar panels and/or solar collector relative to their latitude. The optimal tilt to maximize solar production is perpendicular, or 90 degrees, to the sun's rays at true solar noon.

**True Solar Noon** - When the sun is at its highest during its daily east-west path across the sky.

### C. Applicability

The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair.

### D. General Requirements

- (1) All solar energy system installations shall be performed by a qualified solar installer.
- (2) A solar energy system connected to the utility grid shall provide written proof from the local utility company acknowledging the solar energy facility will be interconnected to the utility grid. Any connection to the public utility grid must be inspected by the appropriate public utility.
- (3) Solar energy systems shall meet New York's Uniform Fire Prevention and Building Code and National Electrical Code standards.
- (4) Every solar energy system shall be depicted on a plan showing the location of the major components of the solar system and other equipment located on a roof or a legal accessory structure. This plan should represent the relative location of all components at the site, including, but not limited to, location of array, existing electrical service location, utility meter, inverter location, system orientation and tilt angle. This plan shall show access and pathways that are compliant with New York State Fire Code, if applicable.
- (5) Specification Sheets for all manufactured components.
- (6) All diagrams and plans must include the following:
  - (a) Project address, section, block and lot number of the property;
  - (b) Owner's name, address and phone number;
  - (c) Name, address and phone number of the person preparing the plans; and
  - (d) System capacity in kW-DC.

(7) Prior to operation of the solar energy system, proof that electrical connections have been inspected and approved by an appropriate electrical inspection person or agency, as determined by the Town of Marlborough, must be provided.

(8) Safety

- (a) Solar energy systems shall be maintained in good working order.
- (b) All solar energy systems shall be designed and located in order to prevent reflective glare from impacting roadways and contiguous properties.
- (c) If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town of Marlborough and other applicable laws and regulations.
- (d) Information required in Section D(4) must be provided to the fire department that is obligated to respond to a call from that location.

E. Solar-thermal systems and Building-Integrated Photovoltaic (BIPV) Systems are permitted outright in all zoning districts, subject to the issuance of a building permit.

F. Planning Board authority to modify development standards. The Planning Board, in conjunction with the review of a specific subdivision, site plan, or special use application pursuant to this Section 155-32.2 may also appropriately modify other development standards, including but not limited to building height, to accommodate solar and other energy efficient systems.

G. Solar Energy System, Small Scale as an Accessory Use or Structure

(1) Applicability

- a) Solar Energy System, Small Scale use and/or structure shall be accessory to the main use and/or structure and shall be incidental, related, appropriate and clearly subordinate to the main use and/or structure.
- b) Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the lot on which they are erected, but nothing contained in this provision shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering

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arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

- c) No Solar Energy System, Small Scale or device shall be installed or operated in the Town of Marlborough except in compliance with this article.

(2) Roof-Mounted Solar Energy Systems.

- a) Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted and constructed building or structure.
- b) Height. Solar Energy Systems shall not exceed maximum height restrictions within the zoning district it is located in, as illustrated in the Schedule of District regulations of this code.
- c) Roof-Mounted Solar Energy Systems that use the energy onsite or offsite shall be exempt from site plan review under the local zoning code or other land use regulations. A building permit shall be required prior to construction and installation.

(3) Ground-Mounted Solar Energy Systems.

- a) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in all zoning districts.
- b) Height and Setback. The height of the Solar Energy System shall not exceed fifteen (15) feet when oriented at maximum tilt. Setback requirements shall be as stated for accessory uses for the underlying zoning district.
- c) System Capacity. Ground-Mounted Solar Energy Systems designed for onsite use shall not be sized greater than the energy usage necessary to serve the parcel. Documentation of energy use or energy use expansion necessity may be required.
- d) Lot Coverage. The lot on which a Ground-Mounted Solar Energy System is located shall be granted an additional ten percent (10%) of bonus lot coverage from that permitted in the Schedule of District regulations for that specific zoning district. The surface area covered by Solar Panels shall be included in total lot coverage.
- e) Ground-Mounted Solar Energy Systems located in the Residential District, that use the electricity primarily onsite, shall be exempt from site plan review under the local zoning code or other land use regulations and only a building permit shall be required prior to construction and installation. Location in other Districts will require site plan review as outlined in Section 155-31.

H. Standards for Solar Energy System, Subdivision Use

- (1) When an application for Subdivision is presented to the Planning Board, which plans include incorporation of a solar energy system as a community energy source, the following criteria for the review and use shall be considered.
  - a) Solar energy systems shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the subdivision on which they are erected, but nothing contained in this provision shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.
  - b) Solar energy systems shall be permitted under the Schedule of District Regulations when authorized by Site Plan approval from the Planning Board in conjunction with Minor or Major Subdivision review subject to the following terms and conditions in the RAG-1 and R-1 zoning districts so long as the solar energy system meets the criteria set forth in this subsection and Chapter 134, subject to obtaining all other necessary approvals.
  - c) The solar energy system shall be located on one or more buildable lots of the subdivision.
  - d) All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards.
  - e) A Homeowner's Association shall be established for the operation and maintenance of the solar energy system.
- (2) Site Plan requirements. A solar energy system designed for use in conjunction with a specific subdivision use shall comply with all the site plan requirements of Chapter 155-31, in addition to the subdivision requirements of Chapter 134. Additional requirements for the use shall include but not be limited to the following:
  - a) Maximum area. The maximum area of use for a solar energy system designed for a specific subdivision use shall occupy less than or equal to two (2) acres of land area of use.
  - b) Height and Setback. The height of the Solar Energy System shall not exceed fifteen (15) feet when oriented at maximum tilt. Setback requirements shall be as stated for the underlying zoning district.
  - c) Lot Coverage. The lot on which a Solar Energy System, Subdivision Use is located shall be granted an additional ten percent (10%) of bonus lot coverage from that

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permitted in the Schedule of District regulations for that specific zoning district. The surface area covered by Solar Panels shall be included in total lot coverage.

- d) The solar energy system shall be preferably located on an interior lot of the subdivision and placed away from contiguous residential use. Where a solar energy system designed for a specific subdivision use will abut other residential uses outside the boundaries of the subdivision, there shall be increased consideration for mitigating visual impact to the residential use. For example, increased setbacks, visual screening that does not impair solar access, or sound buffering may be required by the Planning Board.
- e) All solar energy production facilities shall be designed and located in order to prevent reflective glare onto roadways or adjacent structures.
- f) A minimum twenty-five (25) foot perimeter buffer; except for the area of roadway access; which may be partially or totally within the subdivision perimeter lot line setback, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings in accordance with Town of Marlborough zoning code standards, as may be required by the Planning Board, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent properties and Town, county and state roads. Landscape screening shall be provided in accordance with the landscaping provisions of this chapter. Existing on-site vegetation designated to be utilized as screening shall be preserved to the maximum extent possible and shall be diligently maintained to protect its vitality.
- g) Site plans shall be developed that provide for the preservation of natural vegetation in large unbroken blocks that also allow contiguous open spaces to be established when adjacent parcels are developed.
- h) A land grading and vegetation clearing plan shall be prepared. Clear-cutting of all trees in a single contiguous area shall be limited to the area of the equipment compound plus the area of an emergency access roadway and the area required for solar access.
- i) Debris, materials and/or mulch generated by site clearing or construction shall not be stockpiled onsite.
- j) Non-invasive ground cover under and between the rows of solar panels shall be low-maintenance, drought-resistant, and non-fertilizer-dependent.
- k) All local stormwater regulations shall be complied with. The applicant shall comply with the State Pollutant Discharge Elimination System guidelines. If determined to be required, a SWPPP (Stormwater Pollution Prevention Plan) shall be prepared and a stormwater, erosion, and slope analysis of the land shall be required to be assessed by

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a New York State licensed professional engineer for the site and any road used to access the site.

- l) Conveyance of Energy to Subdivision Lots. The Site Plan shall show the pathways of utility service lines which will be put into place to convey energy to each lot of the subdivision. Necessary utilities to serve the site shall preferably be underground and in compliance with all local, State, and Federal laws, rules, and regulations, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. Overhead lines shall follow access roads and/or existing tree lines to minimize visual impact upon surrounding properties.
- m) The applicant shall provide the means of restricting access by the public to the solar collector and indicate such on the site plan
- n) Signs. A sign no greater than two square feet indicating the name of the facility owner(s) and a 24-hour emergency telephone number shall be posted. In addition, "No Trespassing" or other warning signs may be posted. All signage shall be maintained in legible condition and contain accurate information. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. No signage of any kind shall be allowed to be attached to solar panels or support structures, except any required safety warnings.
- o) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- p) Proposed covenants and restrictions and a management plan for the proposed Homeowners Association (HOA).
- q) A decommissioning plan, as detailed in 155-32.2 (J), shall be prepared. Compliance with this plan shall be made a condition of the issuance of site plan approval under this Section.

#### I. Standards for Large-Scale Solar Systems as a Special Use

- (1) Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit within the RAG-1 and Industrial Zoning Districts, subject to the requirements set forth in this Section, including site plan approval.
- (2) Special Use Permit Application Requirements. For a special permit application, the site plan application is to be used as supplemented by the following provisions.
  - a) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

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- b) Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.
- c) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

(3) Special Use Permit Standards.

- a) Height and Setback. The height of the Large-Scale Energy Systems shall not exceed fifteen (15) feet when oriented at maximum tilt. Setback requirements shall be as stated for the underlying zoning district, except all inverters shall be setback the lesser of 100' or until electro-magnetic field (EMF) meets background level, as determined by the World Health Organization (WHO).
- b) Area of Use. The area of use for a Large-Scale Solar Energy System shall be a maximum of twenty (20) acres.
- c) Lot Coverage. The lot on which a Large-Scale Solar Energy System is located in the RAG-1 shall be granted an additional thirty percent (30%) of bonus lot coverage from that permitted in the Schedule of District regulations and a lot in the Industrial Zoning Districts shall be granted an additional ten percent (10%) of bonus lot coverage from that permitted in the Schedule of District regulations. The surface area covered by Solar Panels shall be included in total lot coverage.
- d) All solar energy production facilities shall be designed and located in order to prevent reflective glare onto roadways or adjacent structures.
- e) A minimum twenty-five (25) foot perimeter buffer; except for the area of roadway access; which may be partially or totally within the perimeter lot line setback, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings, as may be required by the Planning Board, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent properties and Town, county and state roads.
- f) A land grading and vegetation clearing plan shall be prepared. Clear-cutting of all trees in a single contiguous area shall be limited to the area of the equipment compound plus the area of an emergency access roadway and the area required for solar access.
- g) Non-invasive ground cover under and between the rows of solar panels shall be low-maintenance, drought-resistant, and non-fertilizer-dependent.

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- h) Debris, materials and/or mulch generated by site clearing or construction shall not be stockpiled onsite.
- i) All local stormwater regulations shall be complied with. The applicant shall comply with the State Pollutant Discharge Elimination System guidelines. If determined to be required, a SWPPP (Stormwater Pollution Prevention Plan) shall be prepared and a stormwater, erosion, and slope analysis of the land shall be required to be assessed by a New York State licensed professional engineer for the site and any road used to access the site.
- j) All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Town of Marlborough Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
- k) Signs. A sign no greater than two square feet indicating the name of the facility owner(s) and a 24-hour emergency telephone number shall be posted. In addition, "No Trespassing" or other warning signs may be posted. All signage shall be maintained in legible condition and contain accurate information. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. No signage of any kind shall be allowed to be attached to solar panels or support structures, except any required safety warnings.
- l) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- m) A decommissioning plan, as detailed in 155-32.2 (J), shall be prepared. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section.

J. Decommissioning Plan for Solar Energy System, Large Scale and Solar Energy System, Subdivision Use.

- (1) Any use which requires approval by the Planning Board shall include a decommissioning plan approved by the Planning Board
- (2) The Decommissioning Plan shall specify that after the Solar Energy System will no longer be used, it shall be removed by the applicant or any subsequent owner and shall include a signed statement from the party responsible for completing the Decommissioning Plan acknowledging such responsibility.

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- (3) The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction.
- (4) The plan shall state disposal of all solid and hazardous waste shall be in accordance with local, state, and federal waste disposal regulations.
- (5) The plan shall include an expected timeline for execution.
- (6) The plan shall include a cost estimate detailing the projected cost of executing the Decommissioning Plan prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation.
- (7) Removal of Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Solar Energy System is not decommissioned after being considered abandoned, the Town may, after providing the last known owner of record prior written notice by first class mail of no less than twenty (20) days, remove the system and restore the property and impose a lien on the property to cover these costs to the Town. The Decommissioning Plan shall grant the Town a limited license to access the property for the purpose of removing the Solar Energy System after the notice requirements of this subsection have been satisfied.

#### K Abandonment and Removal of Solar Energy System, Small Scale

- (1) Any solar energy facility which ceases to operate shall be wholly removed from the site.
- (2) In the event the solar energy facility is not so removed, the Building Inspector and/or Code Enforcement Officer shall give written notice to the owner of such facility (i) stating that the solar energy facility is considered abandoned, and (ii) setting a time, date and place for a public hearing before the Town Board. Such public hearing shall be on not less than thirty days' notice from date of mailing to such owner. Upon a finding that the solar energy facility has been abandoned, the Town Board shall deliver written notice to the facility owner indicating the reasons for its finding, and directing that the solar energy facility be removed within one hundred twenty days. In the event that the solar energy facility is not so removed, the Town Board may enter the property, remove the solar energy facility and restore the property
- (3) Upon recommendation of the Building Inspector and/or Code Enforcement Officer, the Town Board may waive or defer the requirement that a solar energy facility be removed if it determines that retention of such facility is in the best interest of the Town.
- (4) Should the town remove the solar energy facility pursuant to this subsection; the Town shall chargeback any costs against the owner and/or applicant. If the owner of said property does not pay said charges, they shall be included as a part of the next town tax bill, and said charge shall be due and payable by said owner at the time of payment of said bill.

#### L. Enforcement.

Any violation of this Solar Energy Law shall be subject to the same enforcement procedure and penalties provided for in this Chapter 155.

**Section 5** Section 155-12 “Use Regulations”, shall be amended as follows:

- a. Subsection A(3) is amended to add a new subsection (e) to read “Solar Energy System, Small Scale (refer to Section 155-32.2 for whether site plan review is required for the system proposed)” and the existing subsection (e) “Other accessory uses and structures customarily appurtenant to a principal permitted use” is now subsection (f).
- b. Subsection B(2) is amended to add a new subsection (f) to read “Solar Energy System, Subdivision Use.”
- c. Subsection C(2) is amended to add a new subsection (h) to read “Solar Energy System, Subdivision Use.”
- d. Subsection C(3) is amended to add a new subsection (f) to read “Solar Energy System, Small Scale (refer to Section 155-32.2 for whether site plan review is required for the system proposed)” and the existing subsection (f) “Other accessory uses and structures customarily appurtenant to a principal permitted use” is now subsection (g).
- e. Subsection C(4) is amended to add a new subsection (p) to read “Solar Energy System, Large Scale.”
- f. Subsection D(3) is amended to add a new subsection (d) to read “Solar Energy System, Small Scale (refer to Section 155-32.2 for whether site plan review is required for the system proposed)” and the existing subsection (d) “Other accessory uses and structures customarily appurtenant to a principal permitted use” is now subsection (e).
- g. Subsection E(3) is amended to add a new subsection (d) to read “Solar Energy System, Small Scale (refer to Section 155-32.2 for whether site plan review is required for the system proposed).”
- h. Subsection F(3) is amended to add a new subsection (d) to read “Solar Energy System, Small Scale (refer to Section 155-32.2 for whether site plan review is required for the system proposed)” and the existing subsection (d) “Other accessory uses and structures customarily appurtenant to a principal permitted use” is now subsection (e).
- i. Subsection F(4) is amended to add a new subsection (j) to read “Solar Energy System, Large Scale.”
- j. Subsection G(3) is amended to add a new subsection (d) to read “Solar Energy System, Small Scale (refer to Section 155-32.2 for whether site plan review is required for the

June 26, 2017

system proposed)” and the existing subsection (d) “Other accessory uses and structures customarily appurtenant to a principal permitted use” is now subsection (e).

**Section 6      Severability**

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision.

**Section 7      Effective Date**

This law shall become effective immediately upon filing in the office of the Secretary of State of the State of New York.

Supervisor Lanzetta advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this local law.

WHEREAS Supervisor Lanzetta introduced this local law for the Town of Marlborough, to be known as Local Law No. \_\_\_\_ of 2017, a Local Law of the Town of Marlborough, Ulster County, New York to amend Chapter 155 “Zoning” to add Section 155-32.2 regarding Solar Energy.

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Town Hall, 21 Milton Turnpike, Milton, New York on July 10, 2017, at 7:00 o'clock p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Marlborough, by the Town Clerk, at least five (5) days before such hearing and that such notice shall be in the same or similar following form:

June 26, 2017

**NOTICE OF PUBLIC HEARING**

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall, 21 Milton Turnpike, Milton, New York on July 10, 2017 at 7:00o'clock, p.m., prevailing time, on proposed Local Law No. \_\_\_ of the Year 2017, a Local Law of the Town of Marlborough, Ulster County, New York to amend Chapter 155 "Zoning" to add Section 155-32.2 regarding Solar Energy.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Marlborough, at the aforesaid Town Hall between the hours of 9:00 a.m. and 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all person interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Milton, New York  
June 26, 2017

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COLLEEN CORCORAN, TOWN CLERK

June 26, 2017

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Lanzetta	Yes
Councilman Baker	Yes
Councilman Corcoran	Absent
Councilman Koenig	Yes
Councilman Molinelli	Yes

DATED: Milton, New York  
June 26, 2017

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COLLEEN CORCORAN, TOWN CLERK

June 26, 2017

June 26, 2017

C). Resolution # 74 To accept the FEIS for Bayside

Supervisor Lanzetta proposes the following:

WEREAS, The Town Board as lead agency for the SEQRA review of this action entitled Bayside consisting of attached multi-family residential development has received a revised Final Environmental Impact Statement (FEIS) from the project proponent.

NOW, THEREFORE, IT IS HEREBY RESOLVED, as follows:

1. The Town Board concludes that the FEIS is adequate, accurate and complete for purposes of preparation by the lead agency of a Findings Statement which takes into consideration all components of the EIS, both Draft and Final, as well as public comments.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Lanzetta	VOTING Yes
Councilman Molinelli	VOTING Yes
Councilman Corcoran	VOTING Absent
Councilman Baker	VOTING Yes
Councilman Koenig	VOTING Yes

The resolution was thereupon declared duly adopted.

DATED: Milton, New York  
June 26, 2017

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Colleen Corcoran, Town Clerk

June 26, 2017

D). Resolution # 75 Finding for South Pier SEQRA  
Supervisor Lanzetta proposes the following:

WHEREAS, the Town of Marlborough Town Board proposes to undertake restoration of the existing Milton Landing Park South Pier.

WHEREAS, the project is a Type II Action for purposes of review under the State Environmental Quality Review Act (SEQRA) pursuant to 6 NYCRR §617.5(c)(1) “maintenance or repair involving no substantial changes in an existing structure or facility” and 6 NYCRR §617.5(c)(2) “replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, ...”.

NOW, THEREFORE, be it resolved that this project is a Type II Action for purposes of SEQRA, has been determined not to have a significant impact on the environment and, pursuant to the governing regulations at 6 NYCRR 617, *et seq.*, no further environmental review is required.

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Lanzetta	Yes
Councilman Baker	Yes
Councilman Corcoran	Absent
Councilman Koenig	Yes
Councilman Molinelli	Yes

June 26, 2017

E). Resolution # 76 To authorize the project, Contract No. TM-1701, Extension of Sanitary Sewer for the Milton Sewer District, for the Town of Marlborough, to be publically bid in accordance with the General Municipal Law

Supervisor Lanzetta proposes the following:

Whereas, the Town Board and the NYS Comptroller’s office has approved the extension of sanitary sewer service in the Milton Sewer District; and

Whereas, Plans and Specifications for the extension have been prepared by Brinnier and Larios, P.C., Professional Engineers, of Kingston, NY; and

Whereas, plans and specifications for “Contract TM-1701, Extension of Sanitary Sewer for the Milton Sewer District” are now completed, and

Whereas, time is of the essence.

Now Therefore Be It Resolved, that the Town Board of the Town of Marlborough hereby authorizes the project, Contract No. TM-1701, Extension of Sanitary Sewer for the Milton Sewer District, for the Town of Marlborough, to be publically bid in accordance with the General Municipal Law and that the precise bid date be established by the Town Supervisor in conjunction with the engineers. By Order of the Town Board, Town of Marlborough, this 26th day of June, 2017.

And it moves for adoption

Councilman Corcoran	Absent
Councilman Molinelli	Abstain
Councilman Koenig	Yes
Councilman Baker	Yes
Supervisor Lanzetta	Yes

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*Councilman Koenig stated that the Ulster County Firemen's Parade will be held in Milton this year on July 28, 2017. Step off is at 1:00 p.m. from SonoTek and the parade will end at Cluett Schantz Park where there will be an awards ceremony.*

***Councilman Koenig made a motion to adjourn the meeting at 7:42 p.m. Motion seconded by Councilman Baker.***

***Yeas: 4***

***Nays: 0***

***Carried***

*Respectfully submitted,  
Danielle Cherubini  
Deputy Town Clerk*