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# Planning Board Meeting

Date: June 23, 2020

Time: 7:00 pm

Location: Zoom Meeting 81973103543

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**Meeting called by:** LaFayette Planning Board

**Chair:** Brad Bush, Chairman

**Secretary:** Sue Marzo

**Attendees:** **Planning Board members: Chairman Brad Bush, Jerry Marzo, Barb Laskey, Rick Markoff**

**Jeff Brown, Town Counsel, Ralph Lamson, Codes Officer, Jackie Roorda, Town Clerk, Mark Chambers, Town Engineer, Bill Pomeroy, Stan Szuba, Carol Reed, Joseph Mendelsohn, Omni, Cindy and Harold Heckerman**

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**Agenda Items:**

1. Pledge of Allegiance
2. Approval of June 2, 2020 Planning Board minutes
3. **Case #10-2019-PB PUBLIC HEARING Continued**

Application by Omni Navitas Holdings LLC for V for a solar farm. The proposed project is situated at the rear of an existing agricultural field at 3356 Sentinel Heights Road, LaFayette, NY 13084, east side 1 mile south of Bull Hill Road located in an Ag/Residential District. It includes the construction of a gravel access road, battery storage areas, transformer area, fence, overhead and underground electric lines, utility poles, and the solar panel array. Upon completion, the proposed project will generate approximately 5 MW of renewable power to the existing electrical grid via an interconnection point on Sentinel Heights Road. (Tax Map No. 025.-03-02.2)

**Discussion:**

The meeting opened at 7:00 pm virtually utilizing the Zoom app and began with the Pledge of Allegiance. Brad Bush welcomed all in attendance.

Motion was made by Jerry Marzo, second by Barb Laskey to approve the minutes as written on June 2, 2020. All other Board members present were in favor.

## Case #10-2019-PB - Public Hearing Continued

Brad Bush opened the discussion stating that this is a continuation of the June 2<sup>nd</sup> Public Hearing for Omni Navitas for controlled site approval.

Attorney Brown reminded attendees that Onondaga County Planning comments are received, and the applicant should be prepared to discuss.

Joseph Mendelsohn specified again that this is no longer a request for energy storage and is no longer a 5 mg system but a 3.75 mg system. Their revised site plans portrayed this and is reflected in the EAF. The last two County Planning comments 3 and 4 are regarding energy storage systems. Those comments should be made null and void. The proposed modification is to make sure the Onondaga County Dept of Transportation is on the list of things to do for conditional approval from the Town for the array and to start the communication to get a curb cut. In terms of installation of the solar array in the farmland, the applicant has tried to avoid disturbance to the farm itself by placing the array in the parcel furthest away from the community and not to chunk it and allowing it to still be used for agricultural purposes. In terms of the Tennessee pipeline, it was expected that once the applicant gets approval from the Town, it can finalize the plan and mitigation purposes over and near Tennessee gas pipeline.

Attorney Brown asked about the status of the PILOT. Mr. Mendelsohn stated that they are waiting for conditional approval from the Town and they have been in contact with the lawyer for the LaFayette School District. It is on agenda for the next School Board meeting. He is also hoping to have this ready for the County IDA meeting in July.

Ralph Lamson, Codes Officer was asked if he had any concerns. He did not. Mark Chambers reported that to date everything has been completed as far as questions that they have had.

Resident, Bill Pomeroy continued with his comments. He does not want to oppose the project. Mr. Mendelsohn produced a glare report that he went over with him. Report stated there was a real glare problem. He wondered how could there be a glare problem early in the morning and not in the late afternoon as expected. These panels lay flat to the ground overnight. In the morning when the sun rises it is much like the sun rising over the lake and will reflect strongly off the panels and right into his house. Duration and strength of the glare was potentially damaging to the eyes. Good news is a mitigation plan and their discussion showed promise. However, as of yet, there is no substantiation from the vendors that is backed up with facts. The glare report needs to be run again because one of the modifications would be to rerun it to a 5-degree angle with an eastern sunup. Would that be enough to modify the glare? We do not know. The panel manufacturer needs to keep the panels oriented to the sun so that the glare will be away from his home during these critical times. The panel rack manufacturer needs to advise that if at that angle is there enough strength with that modification? Can they make the adjustments and if they can, will they do it? We do not know that yet. He met with Codes Officer, Ralph Lamson a couple of weeks ago and looking over the approvals in past solar arrays, all panels must have anti-glare coating that will not produce effective glare. We know that it will as designed. To date it is not clear whether we can mitigate. But we are hopeful. We need to take some time for the application to do that. The panels that provide glare are shielded, and they are on the property that my neighbor owns. It would be an advantage to take those trees down because they would get more sun, but I am worried about glare. Mr. Mendelsohn assured Mr. Pomeroy me that those trees will not be taken down. I want stipulation that those trees cannot be taken down and if they are it is a violation of the permit. The owners may change, the board may change. What can be done for mitigation in the time to construct this thing. Mr. Mendelsohn was going to talk with his legal counsel. There are a lot of loose ends and Mr. Pomeroy is not comfortable without getting resolution to this. Nobody wants to hold up the project, but he is looking for time to mitigate. He wants to assemble the documents to craft the stipulations and that is his request. He thanked the Board for the opportunity to speak.

Joe Mendelsohn explained he had extensive conversation with Mr. Pomeroy for well over two hours regarding glare analysis. He did take a while to put together an analysis program and took time to get it to him. Within the glare analysis it shows that there is annual predicted glare occurrence during March through October for 20-30 minutes in the morning roughly around 7:00 am in March and October and as early as 5:00 am for 20 minutes in June and July. He went over everything with Mr. Pomeroy and discussed that we will work with the racking

manufacturer to talk about changes in storing the array in an angle east towards the sun to prevent the morning glare which they have said is possible and doable. The applicant also agreed to work with the algorithm that helps track the sun. They can incorporate it into the operations and maintenance plan and talk to in house counsel about exact wording and mitigation of the glare.

Attorney Brown asked Mr. Mendelsohn if there is any objection to deferring this to next month. Mr. Mendelsohn would prefer to have a condition on making sure that we have the proper analysis and maintenance. With conditional approval he can continue to work with IDA and National Grid in terms of interaction.

Attorney Brown asked Mr. Pomeroy if he would be comfortable with this approach. Mr. Pomeroy stated he was comfortable with conditional approval. He does not feel they are in a position to get this taken care of. We need to get heat on it to get it written into the motion to pass this thing along. How come we are not going to get the problem with the sun going down in the west? How is this is going to get constructed with the rows of panels? 120 panels in a single line controlled by one motor and rotating up to a 55-degree angle. It looks like this will not be a problem, but we need to work with facts, and he does not think good things are made that way. This is an issue with a unique situation. Yes, it is March to October 20-30 minutes each time.

Jerry Marzo stated the draft resolution written by Attorney Brown numbers 8 and 9 should take care of the issue that Mr. Pomeroy has with removal of trees. Rick Markoff as well as Barb Laskey were also in agreement and have the same conclusion.

Motion was made by Rick Markoff, 2<sup>nd</sup> by Jerry Marzo to close the Public Hearing. All Board Members present were in favor.

Attorney Brown will amend the resolution for the glare issues to be resolved to the satisfaction of Town Attorney, Codes Officer and Town Engineer. He also urged Mr. Mendelsohn to resolve this issue sooner than later.

Mark Chambers is also comfortable with this approach.

Resolution with conditions follows:

TOWN OF LAFAYETTE PLANNING BOARD and ZONING BOARD OF APPEALS  
Resolution for Specific Permit Approval and Controlled Site Plan Approval  
of Omni Navitas Holdings LLC Community Solar Project  
June 23, 2020

WHEREAS, on or about September 10, 2019, Omni Navitas Holdings LLC (“Applicant”) submitted specific permit and controlled site plan applications pursuant to Local Law No. 1 of 2018 of the Town of LaFayette Town Law (“Town Solar Law”) for a 5 megawatt solar and energy storage facility (“Project”) to be developed near the intersection of Apulia Road and Dodge Road in the Town of LaFayette (“Project Site”); and

WHEREAS, the Project was subsequently reduced in size to 3.75 megawatts and the energy storage component was eliminated per discussions with National Grid; and

WHEREAS, pursuant to the Town Solar Law, the proposed facility is classified as large scale solar energy system which is a permitted use on the Project Site subject to specific permit approval from the Town of LaFayette Zoning Board of Appeals (“ZBA”), controlled site plan approval from the Town of LaFayette Planning Board (“Planning Board”) and compliance with the approval standards for large scale solar energy systems set forth therein; and

WHEREAS, the documents submitted by the Applicant as part of its specific permit and site plan applications consisted of, among other things, (1) a Site Plan Application; (2) a Specific Permit Application; (3) a proposed site plan; (4) a proposed stormwater management plan; (5) copy of the deed; (6) Part 1 of a Full Environmental Assessment Form (“FEAF”); (7) the requisite filing fees and escrow amount for the Application; and (8) other relevant documents and verbal representations (“Application”); and

WHEREAS, given that the specific permit and site plan applications are related, the ZBA conducted a joint environmental coordinated review of the Application, and with the assistance of its technical and legal consultants, engaged in a detailed review of the Application materials and completed Parts 2 and 3 of the FEAF; and

WHEREAS, on June 2, 2020 the ZBA as the lead agency under the State Environmental Quality Review Act (“SEQRA”) adopted a Negative Declaration on the Application concluding that the proposed specific permit and solar project will not create any potentially significant adverse environmental impacts; and

WHEREAS, in accordance with its obligation under Section 239-m of the NYS General Municipal Law, the Planning Board and ZBA referred the Application to the Onondaga County Department of Planning and Development (“County Planning Department”); and

WHEREAS, the County Planning Department reviewed the Application for countywide and intermunicipal impacts and issued resolutions dated June 10, 2020 (case #s Z-20-171 and Z-20-172) providing one suggested modification and four comments about the Application; and

WHEREAS, on June 2, 2020 the Planning Board and ZBA opened separate public hearings on the Application as required by the LaFayette Town Solar Law and the NYS Town Law, and these hearings were continued on June 23, 2020, during which all interested persons were given the opportunity to submit oral or written comment. The public hearings were closed on June 23, 2020; and

WHEREAS, the Planning Board has determined that the solar project will comply with the applicable controlled site plan criteria as set forth in the Town Solar Law; and

WHEREAS, the ZBA has determined that the solar project will comply with the applicable specific permit requirements and design standards as set forth in the Town Solar Law; and

WHEREAS, the Planning Board’s and ZBA’s determinations outlined above are based upon the Applicant’s representations contained in all of the Application materials and oral presentations submitted to both boards.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the Town Solar Law, the Planning Board hereby approves the controlled site plan and the ZBA hereby approves the specific permit for the Project proposed by Omni Navitas Holdings LLC dated September 10, 2019, as amended, subject to the conditions set forth below; and

BE IT FURTHER RESOLVED, that pursuant to Section 274-a of the New York State Town Law, the Planning Board imposes the following conditions on the approvals granted by this resolution:

1. The Applicant shall comply with all commitments made in the Application.
2. Prior to issuance of a certificate of completion/occupancy/operation, the Applicant and Town shall have fully executed a Payment in Lieu of Taxes Agreement in a form and amount acceptable to the Town Board of the Town of LaFayette, and the Applicant shall commence payments thereunder.
3. Prior to issuance of a permit for construction, the Applicant shall provide the decommissioning bond required under the Town Solar Law. The performance guarantee shall be in a form acceptable to the Town Attorney.
4. Prior to issuance of a permit for construction, the Applicant shall pay in full all consulting fees incurred by the Town.
5. At all times, the Applicant shall comply with this approval resolution. Unless otherwise expressed, any violation of this approval resolution or failure to satisfy the conditions set forth herein is subject to enforcement in accordance with New York Town Law or the Town Solar Law.
6. The access driveway(s) as shown on the site plan must be approved in writing by the Onondaga County Department of Transportation and Town of LaFayette Highway Department.
7. The Applicant must coordinate installation and operation of the solar array with local emergency services, to include providing safety notices and safety training to such local emergency services.
8. All panels and associated support structures used for the solar facilities must have anti-glare coating or consist of materials that will not produce offensive glare. Any glare issues shall be resolved to the satisfaction of the Code Enforcement Officer, Town Engineer and Town Attorney prior to the issuance of a building permit.
9. Removal of any vegetation on the property other than specifically approved as part of the site plan is permitted without further review and approval of the LaFayette Planning Board.

10. All approvals of the Public Service Commission for this commercial solar facility must be filed with the Town of LaFayette.
11. Access to the commercial solar equipment is limited to the access road as depicted on the site plan, and no other access shall be allowed without further review and approval of the LaFayette Planning Board.
12. All waste materials generated during site construction, including all packaging materials, must be removed from the site within a reasonable time.
13. The security fence shall be made accessible to local emergency personnel.
14. The use of pesticides and/or herbicides shall be limited to the maximum extent possible.
15. The opportunity to become customers of the Project shall be offered first to Town of LaFayette residents.
16. The Applicant shall provide the Town written confirmation that the Tennessee Gas Pipeline Co. has no objection to the Project.

BE IT FURTHER RESOLVED, that the Planning Board hereby authorizes the Planning Board Chairperson to stamp and sign the Site Plan; and

BE IT FURTHER RESOLVED, that as required by the NYS Town Law, the Planning Board and ZBA Clerk shall file a copy of this approval resolution in the Town of LaFayette Town Clerk's office within 5 days after this resolution has been adopted and shall also send a copy of this resolution to the Applicant and the Town of LaFayette Code Enforcement Officer; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

The foregoing resolution was voted upon with all members of the Zoning Board of Appeals present voting in favor.

Dated: June 23, 2020

Town of LaFayette, New York

Chairman Bush thanked everyone for their participation and hopes this moves forward.

Motion to adjourn was made by Rick Markoff, second by Jerry Marzo. All Board Members present were in favor.

Meeting adjourned at 7:35pm.

Respectfully submitted,

Sue Marzo

Planning Board Secretary

