

TOWN OF CLARKSON
TOWN BOARD MEETING
August 9, 2022

The Town Board of the Town of Clarkson held their regular meeting on Tuesday, August 9, 2022 at the Clarkson Town Hall, 3710 Lake Road, Clarkson, NY at 6:00 P.M.

PRESENT:

Christa Filipowicz	Supervisor
**Nick D'Amuro	Councilperson
John Culhane	Councilperson
Tom Guarino	Councilperson
Leslie Zink	Councilperson
Susan Henshaw	Town Clerk
Robert Viscardi	Highway Superintendent
Richard Olson	Attorney
Kevin Moore	Building Inspector

**absent

Supervisor Filipowicz opened the meeting. She led everyone in the Pledge of Allegiance. A moment of silence was observed for our service men and women, first responders and veterans, particularly those who have paid the ultimate price.

OPEN FORUM

No one spoke

OLD BUSINESS

Matt Fitzgerald from Philips Lytle LLP, is here in place of Kaitlyn Vigars representing Buck Run Solar, LLC. He reviewed the application process and dates they presented all applications to our town boards. He is requesting from the town board, a negative declaration for environmental impact for SEQR purposes. All findings are supported in the record presented to the boards. In regards to the re-zoning, all concerns with site plan specific information is being addressed. He is not clear about correspondence from the Planning Board not in favor of the rezoning, as Philips Lytle LLP was not present to respond to questions. Rezoning is in step with town code requirements while receiving a Host Agreement of \$325k to the town, based on the 5 mega-watt payment.

RESOLUTION #230

**MOTION TO ACCEPT A NEGATIVE DECLARATION FOR SEQR
REGARDING BUCK RUN SOLAR LLC**

Introduced by Councilperson Zink

Seconded by Councilperson Guarino

Motion to accept a negative Declaration for SEQR regarding Buck Run Solar, LLC.

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF CLARKSON (“TOWN BOARD”) PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT CONCERNING THE DETERMINATION OF SIGNIFICANCE FOR THE BUCK RUN SOLAR PROJECT

Project Name: Buck Run Solar Project (“Project”)

Location: 2540 Redman Road, Town of Clarkson, NY (“Site”)
SBL: 028.03-1-17

SEQRA Status: Type I XX Unlisted ____

Determination
of Significance: Negative Declaration XX Positive Declaration _____

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WHEREAS, Cypress Creek Renewables through its affiliate Buck Run Solar LLC (collectively “Buck Run”) seeks to construct and operate an approximately 5 megawatt (“MW”) solar photovoltaic facility, on an approximately 27.4 acre portion of an approximately 116 acre parcel of land located at 2540 Redman Road (SBL: 028.03-1-17) (“Site”) in the Town of Clarkson (“Town”), Monroe County (“County”), which entails the installation of solar panels, ancillary support equipment, fencing, a transformer, buried electrical line, access roads, and related improvements; and

WHEREAS, pursuant to the Town Code of the Town of Clarkson (“Code”) and the zoning map adopted thereunder, the Site is located in an area zoned RS-20, Suburban Residential District (“RS-20 District”); and

WHEREAS, pursuant to Code § 108-8(D) a solar project like the Project is permitted in the Solar Energy System Overlay District (“Solar Overlay District”); and

WHEREAS, pursuant to Code § 108-7, the Town Board is permitted to create a Solar Overlay District in the RS-20 District; and

WHEREAS, pursuant to Code § 108-7(C), the creation of the Solar Overlay District must be effectuated through a rezoning; and

WHEREAS, Buck Run, by application dated March 13, 2022, has applied to the Town Board for rezoning of the Site to Solar Overlay District (“Application”); and

WHEREAS, in connection with the Project, Buck Run has offered a Host Community Agreement to the Town; and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 N.Y.C.R.R. Part 617, et. seq., as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Town Board must satisfy the requirements contained in SEQRA prior to making a final determination on Buck Run’s Application and approving the Host Community Agreement; and

WHEREAS, pursuant to SEQRA, to aid the Town Board in determining whether the Project may have a significant adverse impact upon the environment, the Town Board has completed, received and/or reviewed (1) Part I of the Environmental Assessment Form (“EAF”), dated March 11, 2022; and (2) a SWPPP, dated March 4, 2022 (collectively, including and all accompanying information submitted therewith, the “Environmental Information”); and

WHEREAS, prior to making a recommendation about the potential environmental significance of the Project, the Town Board has reviewed the list of activities that constitute Type I Actions in Section 617.4 of the SEQRA regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the SEQRA regulations; and

WHEREAS, based upon the Application and the Environmental Information, the Town Board has determined that the Project constitutes a Type I Action under SEQRA because, pursuant to 6 NYCRR 617.4(b)(6)(i) the Project involves the physical alteration of more than 10 acres; and

WHEREAS, a coordinated environmental review is mandatory for all Type I Actions, and the Town Board has identified the parties listed on Exhibit A attached hereto as potentially involved agencies under SEQRA (collectively “Potentially Involved Agencies”); and

WHEREAS, by resolution dated June 14, 2022, the Town Board determined that the Project is a Type I action pursuant to SEQRA, and declared its intent to act as lead agency for review of the Project Pursuant to SEQRA; and

WHEREAS, in conjunction with its intention to act as lead agency, the Town Board, on June 23, 2022, caused to be delivered to the Potentially Involved Agencies a copy of the EAF, together with notice of the Town Board’s intent to act as lead agency for review of the Project pursuant to SEQRA; and

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WHEREAS, pursuant to SEQRA, none of the Potentially Involved Agencies contested lead agency status, and the time period for Potentially Involved Agencies to object has expired, and

WHEREAS, a thorough analysis of the Environmental Information and potential environmental impacts associated with the Project reveals that the Project will not have any potentially significant adverse environmental impacts, and

WHEREAS, it is appropriate that the Town Board issue a negative declaration for the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF CLARKSON AS FOLLOWS:

Section 1. The Town Board hereby declares itself lead agency for purposes of a coordinated review of the Project pursuant to SEQRA.

Section 2. Based upon a thorough review and examination of the Environmental Information, and upon the Town Board's knowledge of the land and area surrounding the Site and such further investigation of the Project and its environmental effects as the Town Board has deemed appropriate, the Town Board makes the following findings with respect to the Project:

- (1) The Project is a Type I Action pursuant to SEQRA;
- (2) The Town Board has undertaken a coordinated review of the Project in accordance with the requirements of SEQRA; and
- (3) No potentially significant adverse impacts on the environment are noted in the Environmental Information and none are known to the Town Board.

Section 3. Based upon the Town Board's review of the Environmental Information and investigations of the potential environmental impacts of the Project and considering both the magnitude and importance of each environmental impact indicated, and upon the Town Board's knowledge of the land and surrounding area and such further investigations of the Project as the Town Board has deemed appropriate, the Town Board has determined that the Project will not have a significant adverse impact upon the environment. The reasons supporting this determination are as follows:

1. Impact on Land.

As indicated in the EAF, the Project is located in an area where the average depth to the water table is 1.8 feet. Notwithstanding the relatively shallow depth to the water table, the nature of the Project is such that any associated impacts are anticipated to be minimal. Specifically, the Project will be installed on a racking system whereby steel beams will be driven into the ground to a depth of approximately 10 to 12 feet. Although fence posts and posts for the solar panels will likely encounter groundwater, these posts require only limited subsurface placement and the Project does not otherwise involve the types of activities or operations that are associated with any risks to groundwater. Furthermore, there is no bulk storage of petroleum or chemical products or any other activities which would entail any risk to ground water planned as a part of the Project. Accordingly, no excavation is required and any ground disturbance will be minimal.

As also indicated on the EAF, the entire Site features slopes between 0% and 10%, meaning that the Site is relatively flat and there are no steep slopes present at the Site. Accordingly, no impacts to steep slopes are anticipated as part of the Project. Additionally, there are no plans for phased construction.

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Otherwise, the Project involves relatively limited land disturbance to install the solar arrays. Indeed, the Project has been specifically designed to avoid tree clearing to the greatest extent possible and only approximately 2 acres of trees will be cleared from the Site. The Project will also be conducted in accordance with a Stormwater Pollution Prevention Plan (“SWPPP”) prepared in accordance with the New York State Department of Environmental Conservation’s State Pollution Discharge Elimination System (“SPDES”) General Permit for Construction Activities. The SWPPP for the Project has been duly reviewed by the Town’s Engineer. The Project will also utilize standard construction practices for erosion and sediment control. Additionally, vegetative screening will be installed along the portion of the Site that fronts onto Redman Road and the Site will otherwise be seeded, including the area under the solar panels, with pollinator friendly vegetation, which will minimize erosion at the Site. Accordingly, the Project is not anticipated to have a significant impact on land.

2. Impact on Geological Features.

As indicated in the EAF, there are no unique geological features present on the Site. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to geological features.

3. Impact on Surface Water.

As indicated on the EAF, there are a number of surface water features located on the Site, including a Class C Stream known as West Creek, as well as multiple state and federal wetlands totaling approximately 62.5 total acres of wetlands at the Site. The majority of these surface water features are located on the eastern portion of the Site that will remain undeveloped. Although there are certain surface water features located on the western portion of the Site where the Project will be installed, Buck Run specifically designed the Project to avoid impacts to these onsite surface water features. Indeed, as indicated in the EAF, there is no disturbance planned to the stream, the wetlands, or any wetland buffer area located on the Site. In so designing the Project, Buck Run has been in contact with the United States Army Corps of Engineers and New York State Department of Environmental Conservation and will continue to cooperate with these regulators as necessary, though no permits from these entities are required for the Project.

As indicated on the EAF, the Project Site is not located in a designated floodway, 100-year or 500-year floodplain, or a Special Hazard Area. Although there are certain flooding and drainage issues in the area around the Site, the Project has been designed so as not to exacerbate any existing flooding problems and maintain existing conditions. Specifically, the Project requires the removal of certain improvements at the Site, which will reduce the amount of total impervious surface at the Site. Additionally, the Project has been designed to minimize the amount of impervious surface that will be added to the Site by utilizing pervious surface for access roads required for the Project such that the only impervious surface that will be added to the Site are two concrete inverter pads approximately 10’ by 26’ each in size. Moreover, the solar panels themselves do not constitute impervious surface as they are tilted and will track, allowing for water to flow beneath the panels to the ground area below. Overall, there will be a decrease in the total amount of impervious surface present at the Site, from approximately 0.583 acres to 0.473 acres.

The Project will be constructed in accordance with a SWPPP that has been prepared in accordance with the SPDES General Permit for Construction Activities maintained by the New York State Department of Environmental Conservation. The Project will also utilize construction best practices for erosion and sediment control during the construction phase of the Project.

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As indicated on the EAF, the Project will require the use of herbicides. During construction herbicides will be applied prior to pollinator habitat prep, which is a necessary prerequisite for pollinator establishment. Herbicide application will be conducted while stormwater measures are in place controlling off-site sediment exposure. During the operational phase of the Project herbicides may be used if deemed necessary for vegetation management. However, any use of herbicides at the Project will be minimized to the extent practicable and herbicides used will be biodegradable, EPA-approved solutions that are nontoxic to pets and wildlife.

Accordingly, the Project is not anticipated to have any significant impact to surface water.

4. Impact on Groundwater.

As stated in the EAF, the Site is not located over or immediately adjoining any aquifer. However, as noted above, the average depth to the water table is 1.8 feet. Although fence posts and posts for the solar panels will be driven into the ground at the Site and will encounter groundwater, these posts require only limited subsurface placement and the Project does not otherwise involve the types of activities or operations that are associated with any risks to groundwater. Furthermore, there is no bulk storage of petroleum or chemical products or any other activities which would entail any risk to ground water planned as a part of the Project.

Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to groundwater.

5. Impact on Flooding.

As indicated on the EAF, the Site is not located in a floodplain or floodway. Although, as noted above, there are certain flooding and drainage issues in the area around the Site, the Project has been designed so as not to exacerbate any existing flooding problems and maintain existing conditions. Moreover, as noted above, the Project will result in an overall decrease in the amount of impervious surface at the Site. Based on this project design, drainage and hydrology of the Site are anticipated to remain unchanged. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to flooding.

6. Impact on Air.

The Project does not include a state or federally regulated air emission source and will not result in significant air emissions of contaminants or greenhouse gases. In fact, the Project will provide clean renewable energy, which will serve to reduce greenhouse gas emissions overall and contribute to New York State's ambitious climate change goals. Furthermore, there are no activities or operations associated with the Project that would create significant air emissions. To the extent that there will be a short-term impact from increased traffic to and from the Site during the construction phase of the Project, such traffic will occur during the limited construction period only and, thus, any emissions from these construction vehicles will not be significant. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to air resources.

7. Impact on Plants and Animals.

As noted on the EAF, there are several animal species that occupy or use the area at and around the Site, including white-tailed deer, striped skunk, gray squirrel, raccoon, American robin, red-tailed hawk, eastern coyote, and red fox. Notwithstanding the presence of these common species, there are no threatened or endangered species or species of special concern, including both plant and animal species, present at the Site. Although the development of the Project at the Site will impact the animal species use of the Site, the Project will only occupy a 27.4 acre portion of the Site, leaving approximately 90 acres undisturbed, which may still be utilized by these animal species.

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Additionally, as noted above, the Project has been specifically designed to minimize tree clearing so that a large amount of mature vegetation will remain at the Site even after the development of the Project. The Project has also been designed with significant plantings along the frontage on Redman Road and will be seeded with a pollinator-friendly seed mix, resulting in the addition of significant vegetation at the Site. Also, as a renewable energy generation facility, the Project will play a role in responding to the threat of climate change, resulting in an overall positive impact to plants and animals. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to plants and animals and may actually positively impact plants and animals.

8. Impact on Agricultural Resources.

As indicated on the EAF, the Project is located within Monroe County Agricultural District No. 5. Additionally, while there are highly productive soils present at the Site, these soils are generally poorly drained and are not well suited for agricultural purposes, though they are used intermittently by lessees at the Site for limited agricultural production. Although the Project will take these soils out of service, any diversion is temporary as the Project will be decommissioned at the end of the Project's useful life. Moreover, solar projects are highly compatible with agricultural uses and Buck Run will otherwise work with the New York State Department of Agriculture and Markets, as necessary. Finally, the use of pollinator-friendly plantings at the Site will increase the pollinator community in the area around the Site, which may result in improved soil quality and agricultural production in the surrounding area. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to agricultural resources.

9. Impact on Aesthetic Resources.

As indicated on the EAF, the Site is located approximately 3.5 miles from the Hamlin Recreation Department local playground. Notwithstanding the relatively close proximity to this aesthetic resource, the Project will not be visible from this area. This lack of visibility is attributable to the fact that solar energy production is typically low-profile, the area surrounding the Site is mostly forested land and the Project incorporates vegetative screening to further reduce visibility. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to aesthetic resources.

10. Impact on Historic and Archeological Resources.

As indicated on the EAF, the Site does not contain and is not substantially contiguous to a registered National Natural Landmark. Similarly, the Site does not contain and is not substantially contiguous to a building, archaeological site, or district that is listed on or nominated for inclusion in the New York State or National Register of Historic Places. Furthermore, no additional archaeological or historic sites or resources have been identified at the Site. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to historic and archeological resources.

11. Impact on Open Space and Recreation.

As indicated on the EAF, the Site does not comprise public open space, nor is it located in an area that is part of an open space plan. Although, as noted above, the Site is located within 3.5 miles of a local playground, any impacts to such playground are anticipated to be minimal given the limited visual impact of the Project. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to open space or recreational resources.

08-09-2022**12. Critical Environmental Areas (“CEAs”).**

As noted in the EAF, the Site is not located in a CEA. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to CEAs.

13. Impact on Transportation.

There will be de minimis traffic impacts during the construction period. During this period, traffic is expected to peak during morning and evening hours and otherwise occur randomly during daylight hours. Aside from the moderate increase in traffic during the construction period, there are no activities or operations associated with the Project that would create a significant increase in traffic during the operational life of the Project. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to transportation.

14. Impact on Energy.

The Project will not generate new or additional demand for energy. In fact, the Project will generate 5 MW of clean, renewable energy, which will be interconnected to the power grid and made available to utility customers, and supports the State’s energy goals. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to energy.

15. Impact on Noise, Odor and Light.

During the construction phase of the Project, it is anticipated that intermittent noise and odor will be generated by construction vehicles at the Site. It is not anticipated that the noise and odor generated during the construction period will impact neighboring residential properties, given the distance to the neighboring properties and the mature vegetation around the Site, which provides screening and a noise buffer. Additionally, construction activities will take place during daylight hours when sensitivity to noise and odor is generally at its lowest point. There are no impacts to light expected during the construction period because construction work will take place during daylight hours and no artificial light sources will be required. During the operational phase of the Project, there is no potential for odor as the Project does not involve activities or operations that tend to generate odor. It is anticipated that the Project will generate some noise during the operational phase, which is attributable to two inverters that will be installed on the Site. To reduce impacts associated with inverter noise, the inverters will be installed at the center of the Site so as to maximize the distance between the inverters and the neighboring residential properties. Based on such design, it is anticipated that the noise will not travel beyond the Project boundaries. No impacts to light are expected in conjunction with the Project because of the Project’s low profile, its limited visibility, and lack of artificial light sources required for the construction or operation of the Project. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to noise, odor or light.

16. Impact on Human Health.

The Project will result in the generation of some solid waste as the result of shipping Project materials to the Site, which are contained in packaging, including cardboard boxes, plastic wrapping, banding and pallets. This packaging will be discarded, removed from the Site, and disposed of. While most of the packaging material will be recycled, some non-recyclable packaging material will be discarded as solid waste. No solid waste will be generated during the operational phase of the Project and the Project does not involve any handling or generation of hazardous waste. Otherwise, as indicated on the EAF, there is no contamination present on the Property or on adjacent property. Likewise, there is no bulk storage of petroleum or chemical products or any other activities which would entail potential risk to human health. During the operational phase of the Project, fencing will be erected around the Site to limit unauthorized access to the Site. Additionally, as noted above the Project is a renewable energy generation

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project, that offers a clean energy solution in furtherance of State climate change goals. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to human health and may have a positive impact on public health as a response to the threat of climate change.

17. Impact on Community Plans/Community Character.

As indicated on the EAF, the Site is located in an area zoned RS-20 Suburban Residential District. Although rezoning to Solar Overlay District is required for the Project, the RS-20 Suburban Residential District is one of the zoning districts specifically designated in the Code for creation of the Solar Overlay District. Additionally, the Project is located within Monroe County Agricultural District No. 5. The Site and the area around the Site are primarily rural residential, with single family houses on large tracts of land, along with agricultural uses. As noted above, solar projects are highly compatible with agricultural uses given the limited impacts of such projects. Moreover, the Project is the third solar project developed in the Town, including one other solar project in close proximity to the Site on Redman Road. Accordingly, the Project will not have a potentially significant adverse impact on Community Plans/Community Character.

18. Considering all of the above, the Project will not have a significant adverse impact upon the environment and a negative declaration pursuant to SEQRA is hereby issued.

Section 4. The Town Board relied upon, as support for this Negative Declaration, the Environmental Information and such other information as the Town Board seemed appropriate, including its knowledge of the area surrounding the Site.

Section 5. The Town Board hereby authorizes and directs appropriate personnel for the Town Board to distribute appropriate notice of this Resolution to all entities as specified in N.Y.C.R.R. 617.12 (b) as well as publish notice in connection with the same as set forth in N.Y.C.R.R. 617.12 (c).

Section 6. This Resolution shall take effect immediately.

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

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

The foregoing Resolution was thereupon declared duly adopted.

RESOLUTION #231

MOTION TO APPROVE RE-ZONING TO SOLAR OVERLAY DISTRICT FOR CYPRESS CREEK RENEWABLES AND BUCK RUN SOLAR, LLC

Introduced by Councilperson Culhane

Seconded by Councilperson Guarino

Motion to approve re-zoning to Solar Overlay District for Cypress Creek Renewables and Buck Run Solar, LLC.

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RESOLUTION OF THE TOWN BOARD OF THE TOWN OF CLARKSON (“TOWN BOARD”) APPROVING APPLICATION BY CYPRESS CREEK RENEWABLES AND BUCK RUN SOLAR, LLC FOR REZONING TO SOLAR ENERGY SYSTEM OVERLAY DISTRICT

Project Name: Buck Run Solar Project (“Project”)

Location: 2540 Redman Road, Town of Clarkson, NY (“Site”)
SBL: 028.03-1-17

WHEREAS, Cypress Creek Renewables through its affiliate Buck Run Solar LLC (collectively “Buck Run”) seeks to construct and operate an approximately 5 megawatt (“MW”) solar photovoltaic facility, on an approximately 27.4 acre portion of an approximately 116 acre parcel of land located at 2540 Redman Road (SBL: 028.03-1-17) (“Site”) in the Town of Clarkson (“Town”), Monroe County (“County”), which entails the installation of solar panels, ancillary support equipment, fencing, a transformer, buried electrical line, access roads, and related improvements; and

WHEREAS, pursuant to the Town Code of the Town of Clarkson (“Code”) and the zoning map adopted thereunder, the Site is located in an area zoned RS-20, Suburban Residential District (“RS-20 District”); and

WHEREAS, pursuant to Code § 108-8(D) a solar project like the Project is permitted in the Solar Energy System Overlay District (“Solar Overlay District”); and

WHEREAS, pursuant to Code § 108-7, the Town Board is permitted to create a Solar Overlay District in the RS-20 District; and

WHEREAS, pursuant to Code § 108-7(C), the creation of the Solar Overlay District must be effectuated through a rezoning; and

WHEREAS, Buck Run, by application dated March 13, 2022, has applied to the Town Board for, among other things, rezoning of the Site to Solar Overlay District (“Application”); and

WHEREAS, Buck Run has agreed to a Host Community Agreement with the Town; and

WHEREAS, in connection with the Project, the Town Board held a duly-noticed public hearing on the Application in July 12, 2022; and

WHEREAS, pursuant to Code § 140-47(C), the Town Board, on June 14, 2022, has referred the Application to the Town of Clarkson Planning Board (“Planning Board”) for an advisory report; and

WHEREAS, Buck Run appeared before the Planning Board on July 19, 2022; and

WHEREAS, the Planning Board during its July 19, 2022 provided certain comments on the Application and requested that the Town Engineer review the Application; and

WHEREAS, Buck Run committed to revising its materials to address the comments made by the Planning Board, and further committed to addressing the Town Engineer’s comments once received; and

WHEREAS, the Town Engineer provided comments on the Application on July 29, 2022; and

WHEREAS, Buck Run requested that the Planning Board table the Application until Buck Run had an opportunity to address the comments made by the Planning Board during its July 19, 2022 meeting and the Town Engineer in correspondence dated and received July 29, 2022; and

WHEREAS, the Planning Board agreed to table the Application; and

WHEREAS, the Planning Board, notwithstanding its agreement to table the Application and notwithstanding the fact that the Application was not listed on the agenda for the Planning Board’s August 2, 2022 meeting, called the Application from the floor for discussion during its August 2, 2022 meeting; and

WHEREAS, the Planning Board, at its meeting on August 2, 2022, received various public comments on the Project; and

WHEREAS, the Planning Board, based on those public comments, voted to issue an advisory opinion to the Town Board recommending that the Town Board deny the request for rezoning contained in the Application; and

WHEREAS, such advisory opinion was provided before the Applicant had an opportunity to respond to the Planning Board’s comments and the Town Engineer’s comments; and

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WHEREAS, the Planning Board’s advisory opinion was given during a meeting that the Applicant and the Planning Board had agreed the Application would not be on the agenda and the Application was, in fact, not on the agenda; and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 N.Y.C.R.R. Part 617, et. seq., as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Town Board must satisfy the requirements contained in SEQRA prior to making a final determination on Buck Run’s Application and approving the Host Community Agreement; and

WHEREAS, by resolution dated August 9, 2022, the Town Board acting as lead agency for coordinated review of the Type I Action in accordance with its obligations under SEQRA issued a negative declaration for the Project;

NOW THEREFORE BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

Section 1. The Host Community Agreement, as provided herewith as Appendix A, is hereby approved.

Section 2. Based upon the Town Board’s review of the Application, the Town Board has determined that the Project meets the standards set forth in Code § 108-7, that there are sufficient benefits to the community as a result of the Project, and that the Project will not jeopardize the public health, safety, or general welfare. Notwithstanding the recommendation from the Planning Board provided, the Town Board finds that Project confirms to the requirements for development of a Community Solar array as contained in Code § 108-8 and is consistent with Town’s Comprehensive Plan and overall planning goals. The Town Board also finds it significant that the Applicant has addressed and/or will address the concerns raised by the Planning Board.

The reasons supporting this determination are as follows:

A. Solar Energy System Overlay District. In accordance with Code § 108-7(B), the Town Board makes the following findings.

1. Solar Energy System Overlay Districts are permitted in only RS-20 and Agricultural Preservation and Suburban Residential (SR) proposed by the Comprehensive Plan.

The Site is located in an area zoned Suburban Residential RS-20 District and, therefore, the creation of the Solar Energy System Overlay District is permitted at the Site.

2. In considering applications for projects more than 10 acres on land that is classified as farmland of statewide importance or prime farmland or, if not so classified, has been actively farmed in five or more of the past 10 years, the Town Board shall carefully consider the loss of farmland which may be mitigated by using the land for both farming and solar power generation.

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The Site is approximately 116 acres in size. The Project will be installed on an approximately 27.4 acre portion of the Site. Although there are certain highly productive soils present at the Site, it is generally not well-suited for agricultural production given the hydrology of the Site. The majority of the Site is not utilized for active agricultural production, though there are certain portions of the Site that are leased out and intermittently used for farming. Although the use of the Site for the Project will result in the loss of some farmland, including farmland with highly productive soils and farmland that is intermittently used for agricultural purposes, any such loss is temporary as the Site will be restored to at the end of the Project's useful life and may be returned to agricultural use thereafter. Moreover, the Project will be seeded with a pollinator friendly seed mix that will support pollinator communities in the area around the Site, thereby improving soil quality and agricultural production of agricultural uses in the area.

3. No Solar Energy System Overlay District may be initially created without a specific request for a community solar ground-mounted array (CSA).

Buck Run has requested rezoning in connection with its request for zoning approvals related to the Project, including a Special Use Permit and site plan approval from the Planning Board. As noted above, the Project consists of a 5MW solar photovoltaic facility that will interconnect to the grid and provide renewable energy for use by end-use consumers. Accordingly, the Project constitutes a community solar ground-mounted array as that term is defined in Code § 108-5.

4. Once a Solar Energy System Overlay District has been created, new solar energy system conversion systems, accessory structures, or facilities may be added in that district by the granting of a special use permit by the Planning Board as set forth herein.

As noted above, the Application includes a request for Special Use Permit from the Planning Board, as well as a request for site plan approval from the Planning Board.

B. Consistency with Code Requirements and Town Planning Goals. In accordance with Code § 108-8(D) and in its role to safeguard and preserve the general welfare of the Town, the Town Board makes the following findings:

1. Community solar arrays shall adhere to the height and setback requirements of the underlying zoning district except as follows herein; any community solar arrays that are ground-mounted shall not exceed a height of 12 feet. The height of the solar array shall be calculated when the array panels are at maximum tilt. For community solar arrays located on a property that abuts a property zoned RS-10, RS-20, mobile home or planned unit development, the front setback shall be 100 feet and side and rear setbacks shall be 75 feet. For other cases, the front setback shall be 75 feet and side and rear setbacks shall be 75 feet.

As indicated on the Site Plans provided with the Application, the Project conforms to the height and setback requirements outlined in the Code. Specifically, the Project features a side setback of 90 feet along the southern boundary line of the Site and a side setback of 77 feet along the northern boundary line of the Site, each of which are greater than the 75 feet otherwise required. Additionally, the Project features a front setback of 116 feet, which is greater than the 100 feet otherwise required. The solar panels will have a maximum height of 12 feet in accordance with Code requirements.

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2. All mechanical equipment on a community solar array, including any structure for batteries or storage cells, are completely enclosed by a minimum six-foot-high fence with a self-locking gate.

As indicated on the Site Plans provided with the Application, the Project conforms to this fencing requirement. To the extent that the Planning Board has requested certain changes to the fencing utilized for the Project, which are being evaluated by Buck Run, such fencing will exceed what is otherwise required under the Code.

3. The installation of a vegetated perimeter buffer to provide year-round screening of the system and fence from adjacent properties.

As indicated on the Site Plans provided with the Application, the Project features vegetative screening along the western boundary line of the Site that fronts on to Redman Road. This vegetative screening will consist of approximately 128 trees, including a mix of Eastern Red Cedar, Norway Spruce. These plantings will provide screening of the Project from Redman Road, including screening from neighboring properties along Redman Road and traffic along Redman Road. Additionally, the Site features mature tree growth along the southern boundary line of the Site, which will provide screening of the Project, particularly from the residential property immediately south of the Site. Along the northern boundary line of the Site, there are remains of a stone wall that will provide screening of the Project to the north. The Project does not involve any development of the eastern half of the Property, which runs from the Project to the power lines at the easternmost edge of the Site. The eastern portion of the Site contains mature vegetation that will remain even at full build out and provide further screening of the Project. To the extent that the Planning Board has requested certain enhancements to the proposed landscaping, which are being evaluated by Buck Run, such landscaping will exceed what is otherwise required under the Code.

4. Because of neighborhood characteristics and topography, the Clarkson Planning Board shall examine the proposed location, ensuring that the potential impact to its residents, business or traffic is not a detriment.

The Site is located in an area zoned RS-20 District, which is specifically designated as one of the zoning districts where creation of the Solar Overlay District is permitted. Solar is highly compatible with other uses permitted in the RS-20 District, which permits a variety of agricultural and residential uses, as solar projects are generally unmanned and otherwise have limited impacts that can be minimized or avoided through careful planning. Specifically with regard to the Project, the area around the Site features primarily agricultural uses and single-family homes on large lots. The Project will generally not be visible to surrounding uses given the ample vegetative screening proposed and the existing mature vegetation that will remain at the Site. Additionally, the Project has been designed so any noise generating equipment is installed in the center of the Site, allowing the limited noise that will come from the inverters, which run during the day when noise sensitivity is lowest, to attenuate prior to reaching the property line. The Project has also been designed to avoid impacts to wetlands and avoid tree clearing to the extent possible, resulting in limited impact to these resources. The Project will be unmanned the majority of the time, except during the construction period and when small crews periodically visit the Site to perform maintenance and/or landscaping work, meaning that there are very limited traffic impacts as a result of the Project. Accordingly, given these limited impacts, the Project will not be a detriment to residents, business or traffic.

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5. All solar energy production systems shall be made of antireflective material in order to prevent a driving hazard or unwanted glare.

The Project utilize solar panels made of antireflective material and are specifically designed to absorb rather than reflect light such that there will not be unwanted glare from the panels. Moreover, the Project features ample vegetative screening along the road frontage on Redman Road such that the Project will not pose a driving hazard to traffic along the roadway.

6. All on-site utility and transmission lines shall be, to the extent feasible, placed underground.

As indicated on the Site Plan, utility and transmissions lines will be installed underground where feasible. However, there are certain existing above ground utilities at the Site, which will be utilized for the Project. To the extent that any utilities or transmission lines will be installed above ground, such installation will be done in coordination with the utility.

7. Solar modular panels shall not release hazardous materials.

The solar panels are fully enclosed and will not release hazardous materials.

8. All structures, including but not limited to equipment shelters, storage facilities, transformers and substations, shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel.

As indicated on the Site Plan, the Project features two inverters that will be installed in the center of the Site, where they will be screened from view by the solar panels, as well as the vegetative screening that will be installed at the Site and the existing mature vegetation surrounding the Site.

9. Lighting of community solar arrays shall be consistent with all state and federal laws and the Clarkson Town Code. Lighting of structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

The Project does not utilize artificial lighting.

10. All signs must conform to the National Electrical Code as adopted by New York State. There shall be no signs except "no trespassing" signs or any signs required to warn of danger. In addition, a sign is required that identifies the owner/operator with an emergency telephone number where they can be reached on a twenty-four-hour basis.

As indicated on the Site Plan, the Project will incorporate all requisite signage.

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11. There shall be a designated parking space to be used in connection with the maintenance of the solar photovoltaic facility and the site. However, it shall not be used for the permanent storage of vehicles.

As shown on the Site Plan, the Project includes a single parking space in the northwest corner of the Site.

12. A building permit shall be required for all community solar arrays before construction begins.

Buck Run will obtain a building permit prior to construction.

13. Drainage. All large-scale community solar arrays shall include a drainage and stormwater management plan that is acceptable to the Planning Board.

Buck Run has provided a Stormwater Pollution Prevention Plan (“SWPPP”) that was prepared in accordance with the New York State Pollution Discharge Elimination System General Permit for Construction Activities. The SWPPP will be reviewed by the Town Engineer. Additionally, the Project has been specifically designed so as not to exacerbate existing drainage or flooding conditions at the Site. Namely, the Project has been designed with minimal impervious surface, consisting only of the concrete pads where the inverters will be installed. At full build out, there will actually be less overall impervious surface at the Site than based on existing conditions. The Project has also been designed to avoid impacts to wetlands at the Site, so that wetlands at the Site can continue to perform a stormwater management and drainage function. Based on such design, the hydrology of the Site is anticipated to remain unchanged.

14. The Planning Board may impose conditions of approval under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

Buck Run is in the process of addressing comments made by the Planning Board at its July 19, 2022 meeting. To the extent that such comments require certain changes to the Project, as discussed herein, such changes exceed the requirements applicable to large-scale solar projects otherwise contained in the Code.

15. The Planning Board must approve the decommissioning plan submitted by the applicant. The Planning Board shall require that the applicant or property owner post an automatically renewing security bond for construction.

Buck Run has proposed a decommissioning plan that meets the requirements for same contained in the Code. Additionally, the Town Engineer has reviewed the proposed decommissioning bond and provided comments on same, which will be addressed by Buck Run.

16. The community solar array owner or operator shall provide a copy of the project summary, electrical schematic and site plan to the Building Inspector. Upon request, the owner or operator shall cooperate with all local emergency services in developing an emergency response plan. All means of shutting down the community solar array facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries through the life of the installation and maintain current contact information for this person on a sign at the site. The owner shall provide emergency contact information to the Clarkson Fire Marshal and local emergency services (Sheriff's Office, fire district and ambulance service).

Buck Run has submitted all Application materials to the Building Inspector and has stated that it will continue to work with the Building Inspector as necessary, including on any local emergency services or emergency response plan.

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17. No community solar arrays shall be approved or constructed until satisfactory evidence has been provided that the utility company operating the electrical grid where the installation is to be located has provided preliminary approval to connect to the power grid.

Buck Run has provided a copy of the Coordinated Electric System Interconnect Review (“CESIR”) completed by National Grid. As stated in the CESIR, interconnection to the electric grid is feasible with certain modifications to National Grid’s equipment, which Buck Run is working with National Grid to complete. Buck Run will otherwise continue to work with National Grid regarding interconnection.

18. A community solar array owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs and integrity of security measures. Site access shall be maintained to a level acceptable to the Building Inspector and local emergency services. The owner or operator shall be responsible for the cost of maintaining the community solar array and any access road(s).

Buck Run has provided an Operations and Maintenance Plan that provides for necessary upkeep to maintain the Project in good condition, including maintenance of the array and any access roads. Additionally, the Project features an access road leading from Redman Road in the northwest corner of the Site to the center of the Site. Buck Run will coordinate with the Building Inspector and local emergency services regarding this proposed access road. To the extent that the Planning Board has requested certain changes the proposed access road, which are being evaluated by Buck Run, such changes will be discussed with the Building Inspector and emergency services personnel as required.

Section 3. The Site, consisting of that certain parcel of real property located at 2540 Redman Road in the Town of Clarkson and identified as Tax Map ID No. 028.03-1-17 on the Monroe County Tax Map, is hereby rezoned to create a Solar Overlay District at the Site and the Code of the Town of Clarkson and zoning map adopted thereunder is hereby amended to create a Solar Energy System Overlay District at the Site, as described herein.

Section 4. Buck Run shall apply for a building permit on or before September 1, 2024, unless further extended by the Town Board in the Town Board’s reasonable discretion. The Town Board shall not unreasonably withhold its approval of any request by Buck Run for extension of time to apply for building permit. In the event that Buck Run fails to apply for a building permit on or before September 1, 2024, or as otherwise extended by the Town, the rezoning contemplated herein is subject to reversion in accordance with the requirements of the Code and N.Y. Town Law.

Section 5. The Town of Clarkson Town Clerk is hereby authorized to execute any documents required to implement the provisions of this Resolution.

Section 6. This Resolution is effective immediately.

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

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D’Amuro

The foregoing Resolution was thereupon declared duly adopted.

Host Agreement attached:

08-09-2022

NEW BUSINESS

RESOLUTION #232
APPOINT KELLY SPRAGUE AS ASSISTANT TO THE HIGHWAY
SUPERINTENDENT

Introduced by Councilperson Zink

Seconded by Councilperson Culhane

Appoint Kelly Sprague as Assistant to Highway Superintendent step 13 of the clerk 1 position at \$20.24 per hour.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

RESOLUTION #233
MOTION TO ROLLOVER VACATION TIME FOR HIGHWAY EMPLOYEE
JESSE CROSS

Introduced by Councilperson Guarino

Seconded by Councilperson Zink

Motion to rollover 64.75 hours of vacation time for Highway employee Jesse Cross.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

Supervisors Report –

PERMA - Supervisor Filipowicz met with Ursula from PERMA who did a walk-through of the Town Hall, the highway building and reviewed materials and gave us some information to ensure we are in compliance, with minimal updating. She will be meeting with a second PERMA representative next week to review risk assessment.

Town Board Reports –

Good Neighbor Day – Councilperson Zink mentioned that she has contacted Life Solutions in Hamlin and the Brockport Food Shelf to have booths at the event. They will be accepting food donations at their tent.

Bergmann – Councilperson Zink met with John Steinmetz to review the zoning code for the next step of the Comprehensive Plan. She has a small group gathering to go over codes during the next 9 months, including 4-5 meetings.

Parks Committee – Councilperson Zink met with Scott Mattison to discuss forming a group of community members to discuss and gather ideas.

ARB – Councilperson Zink will be meeting next week with some members of the group.

Conservation Board – is now meeting on a monthly basis.

Highway – Councilperson Culhane is working on meeting with highway employees once a month.

Town Clerk – Susan Henshaw wished to thank retired Clerk Sharon Mattison and retired Deputy Clerk Kathy Kemp for assisting the office while she was on vacation. A thank you as well to Building Department Clerk Anna Beardslee for assisting as well.

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Superintendent Report – Superintendent Viscardi mentioned that Drake Road is scheduled on Wednesday, August 10 for chip sealing, oil and stone. San Souci Park and Kimball Park will be getting fresh oil and stone Wednesday, August 10 as well. County Work will begin on Clarkson Parma Townline Road for August 29. Town work will include parts of Valley View Drive, Sherwood Drive, Gina Way, Laura Lane and Darla Drive all which will have millwork done starting September 13, and paving scheduled for September 21. 500 tons of salt were ordered and delivered, using remaining budgeted funds while obtaining last year's pricing. The salt barn is full at this time. New electric has been completed at Hafner Park ready for Good Neighbor Day for August 19. All the millings from Clarkson Parma Townline Road, will be dropped off to the towns' second driveway into Hafner Park off of Ridge Road, in an effort to start a driveway and parking lot into the parks area. This material will be used once ready to begin that project, and highway will utilize the material as they obtain it. No permits are required from the state.

RESOLUTION #234**ACKNOWLEDGE RECEIPT OF SUPERVISOR'S JULY FINANCIAL REPORT**

Introduced by Councilperson Culhane

Seconded by Councilperson Zink

Acknowledge receipt of Supervisors July Financial Report.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

RESOLUTION #235**APPROVE MINUTES 07-26-2022**

Introduced by Councilperson Zink

Seconded by Councilperson Guarino

To approve minutes from 07-26-2022.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

RESOLUTION #236**AUDIT 08-09-2022**

Introduced by Councilperson Guarino

Seconded by Councilperson D'Amuro

To authorize payment of audit 07-12-2022 totaling \$53,489.30 AA General \$21,502.07, BB General- Outside Village \$1,637.95, DA Highway - Town Wide \$17,041.41, DB Highway – Outside Village \$987.60, SL – Lighting \$3,526.78, SS Sewer \$368.70, SW Special District – Water \$8,371.87, TA Agency \$52.92 and Distribution of checks: Trust and Agency #006267, Joint Checking #002463- 002533.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

RESOLUTION #237**MOTION TO ENTER INTO EXECUTIVE SESSION FOR A PERSONNEL MATTER**

Introduced by Councilperson Guarino

Seconded by Councilperson Zink

Motion to enter into executive session for a personnel matter related to the appointment, promotion, demotion, discipline or removal of a particular person or corporation under section 105F at 6:17 PM.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

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RESOLUTION #238
MOTION TO EXIT EXECUTIVE SESSION

Introduced by Councilperson Guarino

Seconded by Councilperson Culhane

Motion to exit executive session at 9:58 PM.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

RESOLUTION #239
MOTION TO APPROVE THE INTER-MUNICIPAL AGREEMENT WITH
TOWN OF SWEDEN FOR ASSESSMENT SERVICES

Introduced by Councilperson Zink

Seconded by Councilperson Culhane

Motion to approve the Inter-Municipal Agreement with Town of Sweden for Assessment Services.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane and Zink

NAYES: Guarino

ABSENT: D'Amuro

RESOLUTION #240
MOTION TO APPROVE A FULL TIME DEPUTY TOWN CLERK POSITION

Introduced by Councilperson Culhane

Seconded by Councilperson Guarino

Motion to approve a full-time deputy Town Clerk position.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

RESOLUTION #241
MOTION TO ADJOURN

Introduced by Councilperson Guarino

Seconded by Councilperson Culhane

Motion to adjourn at 10:05 PM.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, Guarino and Zink

NAYES: None

ABSENT: D'Amuro

Respectfully submitted,

Susan Henshaw
Town Clerk

Approved 9-13-2022