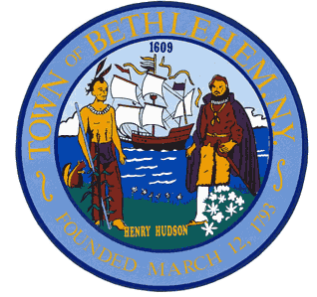


# TOWN OF BETHLEHEM



*John Clarkson*  
Town Supervisor

## Planning Board Minutes

*John Smolinsky*  
Board Member/Chairman

Tuesday, May 2, 2017  
6:00 PM

### I. Call to Order

A Regular Meeting of the Planning Board of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY. The Meeting was called to order at 6:00 PM.

Attendee Name	Title	Status	Arrived
John Smolinsky	Chairman	Present	
Brian Gyory	Board Member	Present	
Leah Farrell	Board Member	Present	
Scott Lewendon	Board Member	Present	
Kate Powers	Board Member	Present	
Michael Moore	Planning/Zoning Board Counsel	Present	
Deborah Kitchen	Assistant to the Planning Board	Present	
Kenneth Kovalchik	Senior Planner	Present	
Robert Leslie	Director of Planning	Present	
Leslie Lombardo	Senior Planner	Present	

### II. Public Comment on Regular Agenda Items - 10 Minutes

#### Mark - 8 Lincoln Avenue

- comments related to proposed project at 224 Delaware
- following up on an email previously sent to the Planning Board
- submitted a document that shows an existing easement between the subject parcel and 8 Lincoln Ave that is not shown on the site plan drawing

#### Meryl Richterstell - 1480 New Scotland Road

- comments related to proposed project at 1562 New Scotland Road
- concerns related to development
- high traffic volume
- exhaust fumes reach the inside of her home
- Town needs to consider roads & traffic

#### Sheri Sanduski Rutherford - New Scotland Road

- comments related to proposed project at 1562 New Scotland Road & overall development of the Town
- submitted written comments in the form of a memo, dated 05/02/2017, on behalf of the Bethlehem Alliance for Historic & Community Preservation that will be placed in the project folder
- concerned about pace of development in the Town of Bethlehem

- Slingerlands Historic District has not yet been codified in the Town Code or updated the comprehensive plan
- wants to work with Town staff and Town Historian to come up with a plan for Historic District
- looking for guidance with process to share ideas
- committee has reviewed the comprehensive plan, town code and various municipal approaches to preservation across the board
- reminding the Planning Board that the proposed use of 1562 New Scotland Road does not obviate the need to address these issues
- would like to work with the Town to come up with an overarching plan for the historic district that could be used as a template for other hamlets in the Town

**Neal Brady - 1 Ellsworth Pl**

- comments related to proposed project at 224 Delaware
- rear building is still oversized
- façade is not the concern
- 10 unit apartment building and 4 unit Townhome
- square footage of project has not really changed since 05/07/2016
- Townhouse is now 4 units instead of 8 apartments, but the number of bedrooms remains at 8
- 2 bedroom units would increase the number of children
- the Elsmere Elementary school cannot accommodate more students
- reduction in the number of parking stalls
- some of the fire safety issues have not been addressed (water pressure, turning radius, collapse zone)
- proposed stormwater detention creates problems for existing homes
- previously submitted petition with 550 signatures, expressing opposition to the project, has not been addressed

**Andrew Leja - Attorney representing residents of Lincoln Avenue & Ellsworth**

- comments related to proposed project at 224 Delaware
- concerned that the Elsmere Fire Dept. was not allowed to attend the meeting and share comments
- reviewed updated materials in the application packet
- application materials fail to address Elsmere Fire Dept. comments
- noted that he submitted an email
- Fire Dept comments related to water flow, hydraulic study
- pipe capacity under Delaware to ensure there is adequate fire-fighting capability
- NYS DOT review would be needed
- soil testing for possible contamination from prior petroleum
- privacy concerns with regard to proposed balconies
- cumulative impacts of other projects being proposed along Delaware (traffic, infrastructure, schools)
- impacts to area schools is a socio-economic impact under SEQR
- letters submitted by realtors attesting to negative impacts to property values of existing homes
- ACPB recommendation noted that there has been no cumulative impact study

**Kathryne Stipe - 10 Lincoln Avenue**

- comments related to proposed project at 224 Delaware
- storm drain on her property that leads toward the proposed project
- concerned about flooding
- existing apartments in the Town are not filled to capacity, why do we need more?
- has been a resident for 25 years
- noted that there are a lot of single family homes for sale in town and she believes that residents do not like what is going on in the Town

**George Harder**

- comments related to proposed project at 224 Delaware
- noted that the current code restricts the number of dwelling units to 8 units on a 1 acre parcel
- thinks the ZBA would reject the proposal
- believes the Planning Board should reject the project because it does not meet the code

**Joe Brennan - 6 Grove St**

- comments related to proposed project at 1562 New Scotland Road
- feels that concerns of the residents are not being heard
- not opposed to the building being used in a constructive way
- concerned that most developers are not residents of the town and do not have a vested interest

**Name Unknown - resident of Slingerlands for 43 years**

- comments related to proposed project at 1562 New Scotland Road
- stated that Slingerlands did not want a Price Chopper
- residents have accepted the Vista Technology Park and the recently approved apartments
- town does not need apartments in the center of the village
- Historic celebration at the Bethlehem Library in February 2017
- does not believe that the Town should allow people to do whatever they want with their land
- neighbor built a home in a wetland area which has caused drainage problems on her property

**Larry - Sunset Drive**

- comments related to proposed project at 224 Delaware
- has served on a Planning Board and appreciates the work involved
- noted that some projects are approved with conditions and, over time, the conditions are not enforced
- does not believe the ingress is adequate for the proposed development
- encouraged the Board to be considerate of neighbor concerns
- conditions need to be met and enforced
- not opposed to apartments but sometimes "it is not the right place"

**III. Minutes Approval**

**A. Tuesday, April 18, 2017**

**RESULT:** ACCEPTED [UNANIMOUS]  
**MOVER:** Brian Gyory, Board Member  
**SECONDER:** Scott Lewendon, Board Member  
**AYES:** Smolinsky, Gyory, Farrell, Lewendon, Powers

**IV. Action Items**

**A. Vadney 2 Lot Minor Subdivision on Vadney Rd, Delmar (16-01000015) - Possible Action on SEQR Classification and Negative Declaration**

The proposed project was before the Board for an update and possible action on SEQR. Jeff Vadney, was present on behalf of the applicant, the Estate of Lois Vadney, to provide information and answer questions. Staff comments were provided by Leslie Lombardo. To date, the project was placed on the following Planning Board Agendas: 03/21/2017 and 05/02/2017.

**Discussion / Information Items:**

- Minor Subdivision to split off 1 lot from an existing 60.4 acre parcel on Vadney Rd, Delmar
- parcel in active agricultural use
- new 2.5 acre lot to be conveyed to Lynn Dente will contain the existing horse barns
- date of Public Hearing 05/16/2017

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NY**

**SEQR RESOLUTION  
CLASSIFICATION OF ACTION AND NEGATIVE DECLARATION**

**VADNEY 2 LOT MINOR SUBDIVISION ON VADNEY ROAD, DELMAR  
LANDS OF VADNEY**

WHEREAS, the Town of Bethlehem Planning Board has received an application from Jeff Vadney, Executor for the Estate of Lois Vadney, for subdivision of property located at the end of Vadney Road (Map Parcel No. 96.00-2-13.11, 96.00-2-13.12, 96.00-2-13.2), Delmar, NY, in order to create one new lot from the existing lot that is the main parcel and to reconfigure the property line between the main parcel being divided and an existing adjacent tax parcel owned by a family member and,

WHEREAS, the Planning Board has received a short Environmental Assessment Form ("EAF") for the project with Part I completed by the applicant; and,

WHEREAS, the State Environmental Quality Review Act (SEQRA) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQRA; and,

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District; and,

WHEREAS, the SEQR regulations at 6 NYCRR 617.6(b)(4) indicate that for uncoordinated review of an unlisted action the agency conducting the review may proceed as if it were the only involved agency; and,

WHEREAS, the Planning Board has independently considered both the information provided in the EAF and comments on the application provided by the Town of Bethlehem Engineering Division and Department of Economic Development and Planning,

NOW, THEREFORE, BE IT RESOLVED,

that the Town of Bethlehem Planning Board hereby determines that: (1) the proposed action constitutes an action that is subject to SEQR; (2) the action does not involve a federal agency; (3) no other agencies have been determined to be involved agencies; (4) the proposed action is appropriately classified as an unlisted action; (5) the proposed action is located within an Agricultural District and, therefore, is subject to the provisions of the Agriculture and Markets Law; and (6) a short EAF is adequate for determining the significance of the proposed action; and,

BE IT FURTHER RESOLVED,

the Planning Board hereby declares it is lead agency with respect to SEQRA review of the proposed subdivision; and,

BE IT FURTHER RESOLVED,

that based upon its review of the project, the EAF, review of the proposal by Town Engineering and Planning staff, and comparison with the Criteria for Determining Significance found at 6 NYCRR Part 617.7(c), the Planning Board hereby finds that approval of the **Lands of Vadney - 2 Lot Minor Subdivision** constitutes an action which will not have a significant impact on the environment and, therefore, does not require preparation of a Draft Environmental Impact Statement, and;

BE IT FURTHER RESOLVED,

that this determination of significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law, and;

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

1. The proposal is to subdivide a 60.3 acre property in order to create one new lot of 2.5 acres with existing barns in order to satisfy the last will and testament of Lois Vadney who bequeathed that portion of the property to her daughter and to reconfigure the lot lines between the main parcel being divided and an adjacent property in the family ownership in order to create better frontage for that existing tax lot to the existing private driveway that extends off of Vadney Road.
2. The project does not require the construction of any new roadway. Access to the main parcel, Lands of Vadney, as well as the newly created 2.5 acre lot is provided from an existing private driveway that extends off of the end of Vadney Road. Easements have been shown on the map for all properties accessing Vadney Road by way of the shared private driveway. A note will be added to the map that states that any future building permit for the newly created 2.5 acre lot is subject to NY State Town Law 280-a 3.
3. The site is located in County Agricultural District #3 and, pursuant to §239-m of General Municipal Law, the referral was sent to the Albany County Planning Board (ACPB) to be reviewed at their April 20, 2017 meeting. The ACPB did not send comments. The required 30 day review period for the County has expired as per NYS General Municipal Law 239-m 4.(b).
4. The subdivision to create a new 2.5 acre lot with existing barns does not adversely affect agricultural activities on lands within the agricultural district. A note will be added to the map stating that the property being divided is located within 500' of a farm operation in the County Agricultural District as per the Albany County Right to Farm Law of 2007.
5. Review of the site in the field and with available environmental data revealed no other significant or environmentally sensitive characteristics of the parcel or issues requiring further study.

BE IT FURTHER RESOLVED,

that the Chairman of the Planning Board is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by Ms. Farrell, seconded by Mr. Gyory, and by a vote of five (5) for, zero (0) against, zero (0) abstained, and zero (0) absent, this RESOLUTION was adopted on May 2, 2017.

**RESULT:** APPROVED [UNANIMOUS]  
**MOVER:** Leah Farrell, Board Member  
**SECONDER:** Brian Gyory, Board Member  
**AYES:** Smolinsky, Gyory, Farrell, Lewendon, Powers

**B. Vadney 2 Lot Minor Subdivision on Vadney Rd, Delmar (16-01000015) - Possible Action to Set Date of Public Hearing for 05/16/2017**

**PUBLIC HEARING NOTICE, TOWN OF BETHLEHEM, ALBANY COUNTY, NY.** Notice is hereby given that the Planning Board will conduct a Public Hearing as part of its regularly scheduled Board Meeting on Tuesday, 05/16/2017 at 6:00 p.m., at the Town Offices, 445 Delaware Ave., Delmar, NY regarding a **Subdivision Application, submitted by Jeff Vadney, Executor for the Estate of Lois Vadney, as shown on drawing entitled "Lands of Vadney Minor Subdivision - Final Plat, Town of Bethlehem, Albany County, State of New York"**, dated April 2017, prepared by Weston & Sampson, 1 Winner Circle, Suite 130, Albany, NY 12205. Documentation related to the application can be viewed in the Planning Dept. at Town Hall, M-F, 8:30 a.m.- 4:30 p.m. Notice of Public Hearing will be mailed to property owners within 200' of the subject property. Said notice will also be published in the 05/10/2017 issue of the Spotlight Newspaper. All interested persons are invited to attend and be heard.

**RESULT:** PH SCHEDULED [UNANIMOUS]  
**MOVER:** Brian Gyory, Board Member  
**SECONDER:** Kate Powers, Board Member  
**AYES:** Smolinsky, Gyory, Farrell, Lewendon, Powers

**C. Air Products, Inc. Loading Facility - 461 River Road, Possible Action on SEQR Determination of Significance/Negative Declaration Resolution (17-01500001)**

The project was before the Board for an Initial Presentation. Pat Mitchell, Heather Myers and John Kraft of Air Products and the applicant's attorney, John Privitera, of McNamee, Lochner, Titus & Williams, were present to provide information and answer questions. Staff comments were provided by Robert Leslie. To date, the project was placed on the following Planning Board Agendas: 02/21/2017 and 05/02/2017.

**Discussion / Information Items**

- truck loading facility at 461 River Road
- phase 1 improvements
- new truck loading facility
- relocate employee parking area
- improve entrance / exit points along Route 144
- improve internal traffic circulation pattern

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**SEQR RESOLUTION  
CLASSIFICATION OF ACTION AND NEGATIVE DECLARATION**

**AIR PRODUCTS & CHEMICALS, INC. - LOADING FACILITY  
461 RIVER ROAD, GLENMONT (ROUTE 144)  
SITE PLAN AMENDMENT**

WHEREAS, Air Products and Chemicals, Inc., (applicant), has submitted to the Town of Bethlehem Planning Board an application for Site Plan Amendment Approval, for a proposal to construct a new loading facility and relocated parking and truck circulation area at the existing site. The updated loading facility will include a new curb cut on River Road to provide a “one-way” truck entrance into the site and re-sign the existing “two-way” truck entrance to “one-way” exit only. As the loading facility is proposed to be constructed within the existing main parking area, new employee parking spaces are also proposed, and a circulation area for truck movements is planned behind the new loading facility. The site is located in a Heavy Industrial Zoning District, where said use is permitted subject to site plan review by the Planning Board.

WHEREAS, the Planning Board has received a short Environmental Assessment Form ("EAF") for the project with Part I completed by the applicant, and;

WHEREAS, the State Environmental Quality Review Act (SEQRA) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQRA, and;

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District, and;

WHEREAS, NYCRR 617.6(b) establishes procedures for the review of Unlisted actions where an agency has determined it will not coordinate SEQR review of the action; and,



WHEREAS, the procedures for uncoordinated review of an Unlisted action indicate that an agency may proceed with said review as if it were the only involved agency unless it determines that the action may have a significant impact on the environment; and,

WHEREAS, the Planning Board has independently considered both the information provided in the EAF and comments on the application provided by the Town of Bethlehem Engineering Division and Department of Economic Development and Planning;

NOW, THEREFORE, BE IT RESOLVED,

that the Planning Board hereby determines that:

1. approval of the proposed site plan constitutes an Unlisted action which is subject to SEQRA,
2. the proposed action does not involve the US Army Corps of Engineers (USACOE), but does include the New York State Department of Environmental Conservation (NYSDEC), and the New York State Department of Transportation (NYSDOT).
3. the proposed action is not located in a Agricultural District and, therefore, is not subject to the provisions of the Agriculture and Markets Law,
4. a short Environmental Assessment Form is adequate for determining the significance of the proposed action, and;

BE IT FURTHER RESOLVED,

that the Planning Board, as provided at 6 NYCRR Part 617.6(b)(4) hereby determines it will not coordinate review of the proposed action and instead shall proceed as if it were the only involved agency; and,

BE IT FURTHER RESOLVED,

that the Planning Board hereby declares itself as lead agency with respect to SEQRA review of the proposed action, and;

BE IT FURTHER RESOLVED,

that based upon its review of the project and the short EAF, review of the proposal by Town Engineering and Planning staff, and comparison with the Criteria for Determining Significance found at 6 NYCRR Section 617.7(c), the Planning Board hereby finds that the proposed development of the property located at 461 River Road (Route 144) for the construction of a new loading facility, relocated parking area and new truck circulation area at the existing site constitutes an action which will not have a significant impact on the environment and, therefore, does not require preparation of a Draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

1. The site of the proposed action is located in a Heavy Industrial zoning district, which allows the proposed use subject to Site Plan approval by the Planning Board.
2. The project site is located in an existing commercial and industrial area and the proposed land use is compatible with the use of surrounding properties
3. The project consists of the modification of the existing access drive, and new access drive on Route 144. A highway work permit from NYSDOT will be required prior to any improvements in the state right-of-way.
4. The site is served by existing public water service. A back flow prevention device and new water meter are located on the water lateral.
5. The project is located on a state highway and was submitted to the Albany County Planning Board pursuant to NYS General Municipal Law 239-m. No recommendation from the ACPB has been provided. The required 30 day review period for the County has expired as per NYS General Municipal Law 239-m 3.(b).
6. AECOM conducted a wetland delineation on the property in August 2016. While wetlands are present on the property, they are not located in the area of the proposed project. In correspondence from US Army Corps of Engineers (ACOE), dated March 15, 2017, the ACOE acknowledged no wetlands will be disturbed.
7. Correspondence from the New York State Office of Parks, Recreation and Historic Preservation (SHPO), dated March 13, 2017, states the project will have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.
8. A Storm Water Pollution Prevention Plan, dated April 17, 2017, was completed by VHB Engineering, Surveying & Landscape Architecture PC and submitted to the Town. The Water Quality and Quantity Control components of the SWPPP have been developed in conformance with the requirements of the current NYS Stormwater Management Design Manual. Adequate provision has been made for the collection and discharge of stormwater from the site. Project plans include modifications to the existing pond (converted to a P-5 pocket pond) and construction of a bioretention basin to treat water quality volume and provide the required runoff reduction volume capacity. .
9. Town Department of Economic Development and Planning and Division of Engineering review of the project Site Plan and the Town's environmental inventory files did not identify

any other environmentally sensitive characteristics of the site or areas requiring further study.

BE IT FURTHER RESOLVED,

that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,

that the Town Department of Economic Development and Planning is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by Ms. Farrell, seconded by Mr. Lewendon, and by a vote of five (5) for, zero (0) against, zero (0) abstained, and zero (0) absent, this RESOLUTION was adopted on May 2, 2017.

**RESULT:** APPROVED AS AMENDED [UNANIMOUS]  
**MOVER:** Leah Farrell, Board Member  
**SECONDER:** Scott Lewendon, Board Member  
**AYES:** Smolinsky, Gyory, Farrell, Lewendon, Powers

**D. Air Products, Inc. Loading Facility - 461 River Road, Possible Action on Site Plan Amendment Approval (17-01500001)**

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**SITE PLAN AMENDMENT**

**AIR PRODUCTS & CHEMICALS, INC. - LOADING FACILITY  
461 RIVER ROAD, GLENMONT (ROUTE 144)**

**CERTIFICATE NO. S.P.A. 193-A1  
2017**

**DATE: May 2,**

1. TYPE OF APPROVAL: Site Plan Amendment Approval

NAME OF PROPOSAL: Air Products and Chemicals, Inc.

DESCRIPTION OF PROPOSAL: Construction of a new loading facility and relocated parking and

truck circulation area at the existing site. The updated loading facility will include a new curb cut on River Road to provide a “one-way” truck entrance into the site and re-sign the existing “two-way” truck entrance to “one-way” exit only. As the loading facility is proposed to be constructed within the existing main parking area, new employee parking spaces are also proposed, and a circulation area for truck movements is planned behind the new loading facility

LOCATION OF SITE: 461 River Road (Route 144), Glenmont, New York.

TITLE OF DRAWINGS:

- A. Site Plan drawings titled as follows:
- a. Drawing Number C-0; Cover Sheet, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 1 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - b. Drawing Number C-1; Legend and General Notes, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 2 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - c. Drawing Number C-2; Existing Conditions Plan, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 3 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - d. Drawing Number C-3; Demolition Plan, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 4 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - e. Drawing Number C-4; Layout and Materials Plan, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 5 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - f. Drawing Number C-5; Grading and Drainage & Utility Plan, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 6 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - g. Drawing Number C-6; Erosion and Sediment Control Plan, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 7 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - h. Drawing Number C-7; Site Details, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 8 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - i. Drawing Number C-8; Site Details, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 9 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY

- j. Drawing Number C-9; Bio-Retention Details, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 9 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - k. Drawing Number L-1; Landscaping Plan, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 10 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - l. Drawing Number L-2; Landscaping Details, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, Sheet 11 of 11, dated January 21, 2017, and revised 4/19/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
  - m. Drawing Number T-1; Truck Maneuvering Schematic, - Air Products Trailer Loading Facility, 461 River Road, Glenmont, New York, dated January 21, 2017, and revised 4/10/17, prepared by VHB Engineering, Surveying & Landscape Architecture, PC - Albany, NY
2. THIS WILL CERTIFY that the Planning Board, at a meeting held May 2, 2017, granted Site Plan Amendment Approval for the development of the site described above, such approval being contingent upon compliance with the MODIFICATION (Item 7) and CONDITION (Item 9) which follow, and also with:
    - A. All standard specifications, requirements, and conditions pertaining to the development of the site as set forth in approvals of detailed plans granted by the Planning Board, the Bethlehem Sewer District, Water District No. 1 of the Town of Bethlehem, the Albany County Department of Health and/or any other governmental authority having jurisdiction thereof.
  3. Access to the site is provided by River Road (Route 144), an existing State highway.
  4. The site is located in a Heavy Industrial (I) Zoning District.
  5. Prior to the granting of this Site Plan Approval the Board considered:
    - A. The potential environmental impact of the proposed site development and declared the proposal an Unlisted action and issued a Negative Declaration for compliance with SEQRA on May 2, 2017
  6. The site is within the boundaries of Water District No. 1 of the Town of Bethlehem and outside the boundaries of the Bethlehem Sewer District.
  7. Approval of the Site Plan was made with the following MODIFICATION to be shown on the plan set endorsed with the Planning Board's stamp of Approval.

- A. All those modifications as contained in the hereto attached April 28, 2017 letter from J. Bianche to R. Leslie, and subsequent review comments based on modifications to the SWPPP.
- B. All those modifications as contained in the hereto attached May 1, 2017 memo from T. Ritz to R. Leslie, and subsequent review comments based on the applicant's modifications to the plan.
- C. Drawing Number L-1 to include the following:
  - a. Relocate the evergreens from the new parking area behind the office building to the lot frontage along the bioretention area. Place deciduous trees (i.e. maple) in the parking lot landscape islands.
  - b. Colorado spruce should be specified at 8'-10' height, and spaced at 20' apart. Provide a staggered pattern and additional plantings along the road frontage at the stormwater pond and the areas to the north and south of the north access gate.
  - c. Deciduous trees specified at 3" to 3 1/2" caliper size, except for the Kousa dogwood.
  - d. The depth of soil associated with the bioretention area shall be reviewed by the applicant and approved by the Town Engineering Division.
- 8. This Amendment modifies the original Site Plan Approval granted by the Planning Board on March 9, 2013 and documented in Certificate of Site Plan Approval No. S.P.A. 193.
- 9. Any Site Plan submitted subsequent to the receipt of this approval by the Owner shall list the changes made to the plan since the last submittal -- with a corresponding date for each such change.
- 10. This Approval is granted subject to the following CONDITIONS:
  - A. Prior to the signing of the approved plans by the Planning Board Chairman, the applicant shall prepare or cause to be prepared the following items, and shall provide the following items to the Town for its review and approval as indicated below:
    - a. A set of revised drawings showing all those modifications as listed under Item 7 above. The modifications made shall be satisfactory to the Department Economic Development and Planning, and the Engineering Division.
    - b. The final SWPPP and stormwater management plan shall be approved by the Town Engineering Division.
    - c. A copy of the project's Stormwater Pollution Prevention Plan containing the seal and

- signature of a professional engineer licensed in the State of New York.
- d. A copy of the draft Notice of Intent (NOI) that will be submitted to NYSDEC for SPDES coverage under GP-0-15-002, along with a completed MS4 SWPPP Acceptance Form.
  - e. A completed and executed copy of the Town required "Operation and Maintenance Agreement" for the stormwater management system.
  - f. Written correspondence from NYSDOT authorizing the work in the State right-of-way shall be provided to the Department Economic Development and Planning.
- B. Prior to commencement of any land disturbance on the site, a preconstruction meeting shall be held with the Town Engineering Division.
  - C. A copy of the NYSDOT Highway Work Permit shall be provided to the Department Economic Development and Planning.
11. The site delineated on the Approved Site Plan shall be developed in accordance with:
- A. The detailed plan for development shown on the Final Approved Site Plan and the following additional requirements:
    - a. Landscape plantings shall be as shown on the Final Approved Site Plan, with the quantity of plants to be not less than as shown on the plan;
    - b. All plants shall not be less than the minimum size, as specified on the plan, and shall conform to, and be planted in accordance with, the standards recommended by the American Association of Nurserymen, Inc.;
    - c. Grading of the site shall be as shown on the Approved Grading Plan;
    - d. The installation of utility services shall be made in accordance with the requirements of such governmental authorities, as may have jurisdiction thereof;
    - e. The development of the proposed site shall be performed in a manner such that (1) soil loss due to wind and water erosion is held to a minimum.
12. All provisions, requirements, and conditions stated in Certificate of Site Plan Approval No. S.P.A. 193 shall remain in full force and effect except as modified by this Amendment.
13. In rendering its decision to approve this site plan application, the Planning Board has considered the standards of §128-71(E) of the Town Zoning Law, the applicable design standards of §128-38(E) of the Town Zoning Law and the decision criteria contained in Section §128-71(K) of said law.

14. Upon submission of revised Site Plan drawings reflecting those MODIFICATIONS specified in ITEM 7, and upon satisfying those CONDITIONS specified in ITEM 10.A herein, the Chairman of the Planning Board is empowered to endorse the Site Plan with his signature, such Site Plan shall be known henceforth as the FINAL APPROVED SITE PLAN.

BY ORDER OF THE PLANNING BOARD



John Smolinsky, Chairman

**NOTE:** Expiration of Approval

Site Plan Approval in respect to a particular lot, plot, site or parcel shall expire 180 days following the date of such approval by the Planning Board unless all conditions and requirements established by the Board as a prerequisite to endorsement of the site plan have been satisfied and said site plan has been endorsed by the Planning Board stamp and signature. Prior to expiration and upon request of the applicant, the site plan approval may be extended by the Planning Board for up to two additional 90 day periods.

Site plan approval shall be void if construction is not started within one year of endorsement of the site plan as noted above, and completed within two years of said endorsement. Prior to expiration and upon request of the applicant, the site plan approval may be extended by the Planning Board for up to two additional 90 day periods.

<b>RESULT:</b>	<b>APPROVED AS AMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Brian Gyory, Board Member
<b>SECONDER:</b>	Scott Lewendon, Board Member
<b>AYES:</b>	Smolinsky, Gyory, Farrell, Lewendon, Powers

**E. DG SUNY Solar 1, LLC / NextEra Energy - Ground Mounted Solar at 93 Bridge Street, Selkirk - Minor Subdivision and Special Use Permit Application (16-01400007) - Possible Action on SEQR Classification of Action and Negative Declaration**

The proposed project was before the Board for an update. Mithun Vyas, Project Manager for NextEra Energy was present on behalf of the applicant, DG SUNY Solar 1 to provide information and answer questions. Staff comments were provided by Kenneth Kovalchik. To date, the project was placed on the following Planning Board Agendas: 01/03/2017, 03/21/2017 and 05/02/2017.

**Discussion / Information Items:**

- Special Use Permit / Site Plan application for 8 MW ground mounted solar facility at 93 Bridge Street, Selkirk
- project also requires approval for a minor subdivision



-site to be accessed via Speeder Road

-public hearing date 05/16/2017

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**SEQR RESOLUTION  
CLASSIFICATION OF ACTION AND NEGATIVE DECLARATION  
MINOR SUBDIVISION**

**DG SUNY SOLAR 1, LLC  
8MW GROUND MOUNTED SOLAR PV PROJECT  
93 BRIDGE STREET (NYS ROUTE 396), SELKIRK**

WHEREAS, DG SUNY Solar 1, LLC have submitted to the Town of Bethlehem Planning Board an application for re-subdivision of property located at 93 Bridge Street (Map Parcel No. 121.00-2-20), Selkirk, NY in order to create two lots from an existing +/- 72 acre lot containing an existing single-family dwelling and accessory buildings. Lot 1 will consist of +/- 14.76 acres and contains the single-family residence and accessory building and is located in a Rural (R) Zoning District and Rural Hamlet (RH) Zoning District. Lot 2 will consist of 57.24 acres for a proposed 8MW ground mounted solar PV system and will be located in a Rural (R) Zoning District.

WHEREAS, the Planning Board has received a short Environmental Assessment Form ("EAF") for the project with Part I completed by the Applicant, and;

WHEREAS, the State Environmental Quality Review Act (SEQRA) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQRA, and;

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District, and;

WHEREAS, NYCRR 617.6(b) establishes procedures for the review of Unlisted actions where an agency has determined it will not coordinate SEQR review of the action; and,

WHEREAS, the procedures for uncoordinated review of an Unlisted action indicate that an agency may proceed with said review as if it were the only involved agency unless it determines that the action may have a significant impact on the environment; and,

WHEREAS, the Planning Board has independently considered both the information provided in the EAF and comments on the application provided by the Town of Bethlehem Engineering Division, Department of Economic Development and Planning and Albany County Planning Board;

NOW, THEREFORE, BE IT RESOLVED,

that the Planning Board hereby determines that:

1. approval of the proposed site plan constitutes an Unlisted action which is subject to SEQRA,
2. the proposed action does not involve the US Army Corps of Engineers (USACOE), but does involve the New York State Department of Parks, Recreation and Historic Preservation (SHPO), and the New York State Department of Transportation (NYSDOT),
3. the proposed action is not located in a Agricultural District but is located within 500 feet of lands within an Agricultural District and, therefore, is subject to the provisions of the Agricultural and Markets Law,
4. a short EAF is adequate for determining the significance of the proposed action; and,

BE IT FURTHER RESOLVED,

that the Planning Board, as provided at 6 NYCRR Part 617.6(b)(4) hereby determines it will not coordinate review of the proposed action and instead shall proceed as if it were the only involved agency; and,

BE IT FURTHER RESOLVED,

that the Planning Board hereby declares it is lead agency with respect to SEQRA review of the proposed action, and;

BE IT FURTHER RESOLVED,

that based upon its review of the project and the EAF, review of the proposal by Town Engineering and Planning staff, and comparison with the Criteria for Determining Significance found at 6 NYCRR Section 617.7(c), the Planning Board hereby finds that the proposed construction of an 8MW ground mounted solar generating facility located at 93 Bridge Street (NYS Route 396) in Selkirk constitutes an action which will not have a significant impact on the environment and, therefore, does not require preparation of a Draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

1. The project site is located in a Rural (R) Zoning District and Rural Hamlet (RH) Zoning District.
2. A short Environmental Assessment Form was prepared for the project by DG SUNY Solar 1, LLC, and reviewed and accepted by Town planning staff.
3. The project site is located adjacent to existing industrial uses to the south zoned Heavy Industrial (I); lands to the north are located in the Rural (R) Zoning District and consist of a mix of open fields and forested area; lands to the west are located in the Rural Light Industrial (RLI) Zoning District and contain a mix of open fields, forested areas and single-family homes; and lands to the east are located in the Rural (R) Zoning District and Rural Hamlet (RH) Zoning District and contain a mix of open fields and residential dwellings along Bridge Street.
4. Access to the existing parcel is provided from Bridge Street (NYS Route 396). As part of the proposed minor subdivision, access to Lot 2 will be from Speeder Road (private road) via a 32 foot wide access easement. A copy of a fully executed access easement between the property owner (71 Selkirk, LLC) and Applicant (DG SUNY Solar 1, LLC) was provided.
5. The project was referred to the Albany County Planning Board (ACPB) on February 28, 2017 for their March 16, 2017 meeting. The ACPB cancelled their March 16, 2017 meeting and no recommendation has been provided to the Town. The Town is able to proceed with approval pursuant to General Municipal Law §239, which states the following: "Such county planning agency or regional planning council, or an authorized agent of said agency or council, shall have thirty days after receipt of a full statement of such proposed action, or such longer period as may have been agreed upon by the county planning agency or regional planning council and the referring body, to report its recommendations to the referring body, accompanied by a statement of the reasons for such recommendations. If such county planning agency or regional planning council fails to report within such period, the referring body may take final action on the proposed action without such report. However, any county planning agency or regional planning council report received after thirty days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subject to the provisions of subdivision five of this section." The 30 day deadline was March 28, 2017.

However, as part of the proposed site improvements DG SUNY Solar 1, LLC applied to the Zoning Board of Appeals (ZBA) for variances for highway frontage, access and setbacks from property lines. The variance application was referred to the ACPB as part of the ZBA review of the project. At its February 16, 2017 meeting the ACPB found the proposed action will have no significant countywide or intermunicipal impact and deferred to local consideration.

6. At its March 15, 2017 meeting, the Zoning Board of Appeals approved variances (AV-1707) for the following: (1) Access to the site will be provided from a private road (Speeder Road), with no frontage on a public highway; (2) reduction in setbacks; and (3) creation of a lot from a lot already occupied by a building unless the lot complies with all requirements in the zone district in which it is located.
7. The Zoning Law purpose and objectives section states: "To facilitate, as far as environmental conditions may permit, the accommodation of solar energy systems and equipment and

access to sunlight necessary therefor.”

8. The proposed project is located outside of an “Archaeological Sensitive Area”. As part of their review the New York State Office of Parks, Recreation and Historic Preservation Division of Historic Preservation (SHPO) commented that due to the size of the project, the environmental setting, and SHPO’s knowledge of Bethlehem archaeology and the fact that the project area is bordered by the sensitive area to the north and south justifies a Phase I Archaeological Survey to be completed. SHPO recommended a Phase I archaeological survey to be completed for all portions of the project that will involve ground disturbance.
9. A Phase 1 Archaeological Survey dated February 2017 was completed for the project by Hartgen Archaeological Associates, Inc. The archaeological survey was completed on 43 acres with a total of 607 test pits. Three precontact sites consisting of chert flakes and projectile points were identified as Selkirk Solar Site 1, Selkirk Solar Site 2 and Selkirk Solar Site 3.
10. Correspondence from SHPO dated February 24, 2017 stated SHPO reviewed the finding of the Phase I Archaeological Study and recommended either avoidance of the sites outlining short-term and long-term avoidance or a Phase II Archaeological Survey to be completed.
11. In a report dated March 7, 2017 a short-term and long-term avoidance plan (“Avoidance Plan”) was submitted to SHPO and identified the three precontact sites as Areas of Concern (AOC) 1, 2 and 3. The proposed short-term avoidance is to protect/preserve the AOC’s during site construction. For AOC 1 and 3 ground disturbance will be minimized. The proposed long-term avoidance is to protect the site from adverse impacts after construction has been completed. AOC 2 will be avoided during all construction and throughout the duration of the project.
12. Correspondence from SHPO dated March 15, 2017 stated SHPO reviewed the Avoidance Plan and measures proposed (avoidance, no ground disturbance, deed restrictive covenant placed on the property) for the three precontact archaeological sites and determined the proposed project will have no adverse effect, with the condition the avoidance measures be adhered to and a copy of the filed restrictive covenant be submitted for their records.
13. Correspondence from SHPO dated February 8, 2017 states SHPO evaluated the potential impacts to the National Register listed John Babcock House and the National Register eligible Albertus W. Becker Homestead and concluded they have no concerns with the potential impacts of the project on the two sites.
14. Correspondence from the Army Corps of Engineers (ACOE), dated August 15, 2016, states that based on the review of the information provided, and observations made on August 10, 2016, none of the proposed work associated with the construction of the photovoltaic system, nor any of the other activities described in the site plan drawings would involve the discharge of fill material into waters of the United States. Based on the review of the information the ACOE determined that a permit in accordance with 33 CFR 320-332 will not be required as part of the proposal.
15. A grading and erosion control plan, which prescribes construction-phase grading and erosion controls, was prepared for the project. A Storm Water Pollution Prevention Plan (dated 3/17/2017 and revised through 4/11/2017) was completed by Kleinfelder and submitted to the Town. The Water Quality and Quantity Control components of the SWPPP have been developed in conformance with the requirements of the current NYS Stormwater Management Design Manual. The SWPPP has been reviewed by the Town Designated

Engineer (TDE) with most recent comments issued on April 28, 2017 and the Applicant shall address all comments listed in the letter.

16. A Slope Setback Exhibit dated April 19, 2017, prepared by Kleinfelder, which prescribes the toe of slope and the 1V:5H angle of repose, was prepared for the project to determine the steep slope setback. The plan indicates no site disturbance will be proposed within the angle of repose.
17. In a letter dated April 26, 2017 prepared by Kleinfelder, it states a review of the proposed development in relation to the steep slope setback line was completed. It was concluded the steep slope setback line is in conformance with the Town's zoning requirements and the development will not materially change the overall stability of the existing slopes.
18. A Decommissioning Plan dated March 17, 2017 was prepared to determine compliance with §128-67.2.G.5.a of Town Zoning Law. The plan includes an estimated lifespan of the solar facility, party responsible for decommissioning, decommissioning cost estimate and sequence of decommissioning the site once the facility is no longer in operation.
19. Correspondence from the Selkirk Fire District dated April 2, 2017 provides review comments from the Fire District related to installation of emergency contact information to be posted at the entrance to the site, turn arounds to be provided at each access gate, mowing and signage at electrical disconnects.
20. The project will not have any significant impact on agricultural resources. The site is located near a certified agricultural district. The site is currently used for agricultural purposes.
21. The proposed action will not have a significant adverse aesthetic impact. The Applicant completed a visual analysis dated March 31, 2016 from two locations on Bridge Street and one location on Speeder Road, which indicates minimal visual impact from the residences and businesses on Bridge Street and businesses on Speeder Road to the proposed ground mounted solar facility.
22. Town Department of Economic Development and Planning and Division of Engineering review of the project Site Plan and the Town's environmental inventory files did not identify any other environmentally sensitive characteristics of the site or areas requiring further study.

BE IT FURTHER RESOLVED,

that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,

that the Town Department of Economic Development and Planning is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by Ms. Powers, seconded by Ms. Farrell, and by a vote of five (5) for, zero (0) against, zero (0) abstained, and zero (0) absent, this RESOLUTION was adopted on May 2, 2017.

**RESULT:** APPROVED [UNANIMOUS]  
**MOVER:** Kate Powers, Board Member  
**SECONDER:** Leah Farrell, Board Member  
**AYES:** Smolinsky, Gyory, Farrell, Lewendon, Powers

**F. DG SUNY Solar 1, LLC / NextEra Energy - Ground Mounted Solar at 93 Bridge Street, Selkirk - Minor Subdivision and Special Use Permit Application (16-01400007) - Possible Action on SEQR Classification of Action and Negative Declaration**

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**SEQR RESOLUTION  
CLASSIFICATION OF ACTION AND NEGATIVE DECLARATION  
SPECIAL USE PERMIT / SITE PLAN**

**DG SUNY SOLAR 1, LLC  
8MW GROUND MOUNTED SOLAR PV PROJECT  
93 BRIDGE STREET (NYS ROUTE 396), SELKIRK**

WHEREAS, DG SUNY Solar 1, LLC have submitted to the Town of Bethlehem Planning Board an application for a Special Use Permit to construct an 8MW ground mounted solar generation facility on a parcel consisting of +/- 57.24 acres and located in a Rural (R) Zoning District.

WHEREAS, the Planning Board has received a short Environmental Assessment Form ("EAF") for the project with Part I completed by the Applicant, and;

WHEREAS, the State Environmental Quality Review Act (SEQRA) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQRA, and;

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District, and;

WHEREAS, NYCRR 617.6(b) establishes procedures for the review of Unlisted actions where an agency has determined it will not coordinate SEQR review of the action; and,

WHEREAS, the procedures for uncoordinated review of an Unlisted action indicate that an agency may proceed with said review as if it were the only involved agency unless it determines that the action may have a significant impact on the environment; and,

WHEREAS, the Planning Board has independently considered both the information provided in the EAF and comments on the application provided by the Town of Bethlehem Engineering Division, Department of Economic Development and Planning and Albany County Planning Board;

NOW, THEREFORE, BE IT RESOLVED,

that the Planning Board hereby determines that:

1. approval of the proposed site plan constitutes an Unlisted action which is subject to SEQRA,
2. the proposed action does not involve the US Army Corps of Engineers (USACOE), but does involve the New York State Department of Parks, Recreation and Historic Preservation (SHPO), and the New York State Department of Transportation (NYSDOT),
3. the proposed action is not located in a Agricultural District but is located within 500 feet of lands within an Agricultural District and, therefore, is subject to the provisions of the Agricultural and Markets Law,
4. a short EAF is adequate for determining the significance of the proposed action; and,

BE IT FURTHER RESOLVED,

that the Planning Board, as provided at 6 NYCRR Part 617.6(b)(4) hereby determines it will not coordinate review of the proposed action and instead shall proceed as if it were the only involved agency; and,

BE IT FURTHER RESOLVED,

that the Planning Board hereby declares it is lead agency with respect to SEQRA review of the proposed action, and;

BE IT FURTHER RESOLVED,

that based upon its review of the project and the EAF, review of the proposal by Town Engineering and Planning staff, and comparison with the Criteria for Determining Significance found at 6 NYCRR Section 617.7(c), the Planning Board hereby finds that the proposed construction of an 8MW ground mounted solar generating facility located at 93 Bridge Street (NYS Route 396) in Selkirk constitutes an action which will not have a significant impact on the environment and, therefore, does not require preparation of a Draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

1. The project site is located in a Rural (R) Zoning District and a ground mounted solar photovoltaic system, principal use is a permitted land use within this zoning district subject to special use permit and site plan approval.
2. The proposed action involves the construction of an 8MW ground mounted solar generation facility, involving the installation of solar modules, equipment shelters, utility poles, utility lines, solar inverters, generators, fire apparatus access road, security fencing and other associated equipment.
3. The project site is located adjacent to existing industrial uses to the south zoned Heavy Industrial (I); lands to the north are located in the Rural (R) Zoning District and consist of a mix of open fields and forested area; lands to the west are located in the Rural Light Industrial (RLI) Zoning District and contain a mix of open fields, forested areas and single-family homes; and lands to the east are located in the Rural (R) Zoning District and Rural Hamlet (RH) Zoning District and contain a mix of open fields and residential dwellings along Bridge Street.
4. Access to the existing parcel is provided from Bridge Street (NYS Route 396). As part of the proposed minor subdivision associated with the project, access to the solar facility (Lot 2) will be from Speeder Road (private road) via a 32 foot wide access easement. A copy of a fully executed access easement between the property owner (71 Selkirk, LLC) and Applicant (DG SUNY Solar 1, LLC) was provided.
5. The project was referred to the Albany County Planning Board (ACPB) on February 28, 2017 for their March 16, 2017 meeting. The ACPB cancelled their March 16, 2017 meeting and no recommendation has been provided to the Town. The Town is able to proceed with approval pursuant to General Municipal Law §239, which states the following: "Such county planning agency or regional planning council, or an authorized agent of said agency or council, shall have thirty days after receipt of a full statement of such proposed action, or such longer period as may have been agreed upon by the county planning agency or regional planning council and the referring body, to report its recommendations to the referring body, accompanied by a statement of the reasons for such recommendations. If such county planning agency or regional planning council fails to report within such period, the referring body may take final action on the proposed action without such report. However, any county planning agency or regional planning council report received after thirty days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subject to the provisions of subdivision five of this section." The 30 day deadline was March 28, 2017.

However, as part of the proposed site improvements DG SUNY Solar 1, LLC applied to the Zoning Board of Appeals (ZBA) for variances for highway frontage, access and setbacks from property lines. The variance application was referred to the ACPB as part of the ZBA review of the project. At its February 16, 2017 meeting the ACPB found the proposed action will have no significant countywide or intermunicipal impact and deferred to local consideration.

6. At its March 15, 2017 meeting, the Zoning Board of Appeals approved variances (AV-1707) for the following: (1) Access to the site will be provided from a private road (Speeder Road), with no frontage on a public highway; (2) reduction in setbacks; and (3) creation of a lot



- from a lot already occupied by a building unless the lot complies with all requirements in the zone district in which it is located.
7. The Zoning Law purpose and objectives section states: "To facilitate, as far as environmental conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."
  8. The proposed project is located outside of an "Archaeological Sensitive Area". As part of their review the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) commented that due to the size of the project, the environmental setting, and OPRHP's knowledge of Bethlehem archaeology and the fact that the project area is bordered by the sensitive area to the north and south justifies a Phase I Archaeological Survey to be completed. OPRHP recommended a Phase I archaeological survey to be completed for all portions of the project that will involve ground disturbance.
  9. A Phase 1 Archaeological Survey dated February 2017 was completed for the project by Hartgen Archaeological Associates, Inc. The archaeological survey was completed on 43 acres with a total of 607 test pits. Three precontact sites consisting of chert flakes and projectile points were identified as Selkirk Solar Site 1, Selkirk Solar Site 2 and Selkirk Solar Site 3.
  10. Correspondence from SHPO dated February 24, 2017 stated SHPO reviewed the finding of the Phase I Archaeological Study and recommended either avoidance of the sites outlining short-term and long-term avoidance or a Phase II Archaeological Survey to be completed.
  11. In a report dated March 7, 2017 a short-term and long-term avoidance plan ("Avoidance Plan") was submitted to SHPO and identified the three precontact sites as Areas of Concern (AOC) 1, 2 and 3. The proposed short-term avoidance is to protect/preserve the AOC's during site construction. For AOC 1 and 3 ground disturbance will be minimized. The proposed long-term avoidance is to protect the site from adverse impacts after construction has been completed. AOC 2 will be avoided during all construction and throughout the duration of the project.
  12. Correspondence from SHPO dated March 15, 2017 stated SHPO reviewed the Avoidance Plan and measures proposed (avoidance, no ground disturbance, deed restrictive covenant placed on the property) for the three precontact archaeological sites and determined the proposed project will have no adverse effect, with the condition the avoidance measures be adhered to and a copy of the filed restrictive covenant be submitted for their records.
  13. Correspondence from SHPO dated February 8, 2017 states SHPO evaluated the potential impacts to the National Register listed John Babcock House and the National Register eligible Albertus W. Becker Homestead and concluded they have no concerns with the potential impacts of the project on the two sites.
  14. Correspondence from the Army Corps of Engineers (ACOE), dated August 15, 2016, states that based on the review of the information provided, and observations made on August 10, 2016, none of the proposed work associated with the construction of the photovoltaic system, nor any of the other activities described in the site plan drawings would involve the discharge of fill material into waters of the United States. Based on the review of the information the ACOE determined that a permit in accordance with 33 CFR 320-332 will not be required as part of the proposal.
  15. A grading and erosion control plan, which prescribes construction-phase grading and erosion controls, was prepared for the project. A Storm Water Pollution Prevention Plan

(dated 3/17/2017 and revised through 4/11/2017) was completed by Kleinfelder and submitted to the Town. The Water Quality and Quantity Control components of the SWPPP have been developed in conformance with the requirements of the current NYS Stormwater Management Design Manual. The SWPPP has been reviewed by the Town Designated Engineer (TDE) with most recent comments issued on April 28, 2017 and the Applicant shall address all comments listed in the letter.

16. A safe slope setback plan, which prescribes the toe of slope and the 1V:5H angle of repose, was prepared for the project to determine the safe slope setback. The plan indicates no site disturbance will be proposed within the angle of repose.
17. In a letter dated April 26, 2017 prepared by Kleinfelder, it states a review of the proposed development in relation to the steep slope setback line was completed. It was concluded the setback line is in conformance with the Town's zoning requirements and the development will not materially change the overall stability of the existing slopes.
18. A Decommissioning Plan dated March 17, 2017 was prepared to determine compliance with §128-67.2.G.5.a of Town Zoning Law. The plan includes an estimated lifespan of the solar facility, party responsible for decommissioning, decommissioning cost estimate and sequence of decommissioning the site once the facility is no longer in operation.
19. Correspondence from the Selkirk Fire District dated April 2, 2017 provides review comments from the Fire District related to installation of emergency contact information to be posted at the entrance to the site, turn arounds to be provided at each access gate, mowing and signage at electrical disconnects.
20. The project will not have any significant impact on agricultural resources. The site is located near a certified agricultural district. The site is currently used for agricultural purposes.
21. The proposed action will not have a significant adverse aesthetic impact. The Applicant completed a visual analysis dated March 31, 2016 from two locations on Bridge Street and one location on Speeder Road, which indicates minimal visual impact from the residences and businesses on Bridge Street and businesses on Speeder Road to the proposed ground mounted solar facility.
22. Town Department of Economic Development and Planning and Division of Engineering review of the project Site Plan and the Town's environmental inventory files did not identify any other environmentally sensitive characteristics of the site or areas requiring further study.

BE IT FURTHER RESOLVED,

that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,

that the Town Department of Economic Development and Planning is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by Ms. Farrell, seconded by Mr. Lewendon, and by a vote of five (5) for, zero (0)

against, zero (0) abstained, and zero (0) absent, this RESOLUTION was adopted on May 2, 2017.

**RESULT:** APPROVED [UNANIMOUS]  
**MOVER:** Leah Farrell, Board Member  
**SECONDER:** Scott Lewendon, Board Member  
**AYES:** Smolinsky, Gyory, Farrell, Lewendon, Powers

**G. DG SUNY Solar 1, LLC / NextEra Energy - Ground Mounted Solar at 93 Bridge Street, Selkirk - Minor Subdivision and Special Use Permit Application (16-01400007) - Possible Action to Set Date of Public Hearing for 05/16/2017**

PUBLIC HEARING NOTICE, TOWN OF BETHLEHEM, ALBANY COUNTY, NY. Notice is hereby given that the Planning Board will conduct a Public Hearing as part of its regularly scheduled Board Meeting on **Tuesday, 5/16/2017 at 6:00 p.m.**, at the Town Offices, 445 Delaware Ave., Delmar, NY regarding a **Minor Subdivision Application and Special Use Permit Application**, submitted by **DG SUNY Solar 1, LLC**, as shown on drawings entitled **“Minor Subdivision Plan, Lands Located at 93 Bridge Street, David E. and Louis M. Frick”, dated 4/1/2016 and revised through 4/11/2017, and “Overall Site Plan, DG SUNY Solar 1, LLC, Ground Mounted Solar PV System, 93 Bridge Street” dated 4/1/2016 and revised through 4/11/2017, prepared by Kleinfelder, 300 Westage Business Center, Fishkill, NY 12524.**

Documentation related to the application can be viewed in the Planning Dept. at Town Hall, M-F, 8:30 a.m.- 4:30 p.m. Notice of Public Hearing will be mailed to property owners within 200’ of the subject property. Said notice will also be published in the **5/10/2017** issue of the Spotlight Newspaper. All interested persons are invited to attend and be heard.

**RESULT:** PH SCHEDULED [UNANIMOUS]  
**MOVER:** Leah Farrell, Board Member  
**SECONDER:** Brian Gyory, Board Member  
**AYES:** Smolinsky, Gyory, Farrell, Lewendon, Powers

**H. Phillipin Kill Manor Subdivision, Fisher Blvd. & Orchard St. - Further Discussion on Proposed Subdivision's Consistency with Phillipin Kill Manor Planned Development District Approval (16-00400001)**

The project was before the Board for an update and discussion related to the proposed Subdivision's consistency with the approved Planned Development District (PDD). John Privitera of McNamee, Lochner, Titus & Williams, and the applicant / property owner, William Cade, were present to provide information and answer questions. Staff comments were provided by Robert Leslie.

**Prior meetings at which the project was discussed:**

Town Board: 11/14/2007, 04/28/2010, 05/12/2010, 05/26/2010

Planning Board: 11/20/2007, 05/06/2008, 12/16/2008, 06/02/2009, 10/06/2009, 12/15/2009, 02/16/2010, 03/02/2016, 04/06/2010, 02/02/2016, 04/18/2017, 05/02/2017

Development Planning Committee: 09/16/2010, 12/15/2015

**Project Information**

- site located off Fisher Blvd, Orchard St, and Prestwick Dr adjacent to NYS DEC Five Rivers
- zone change from Residential A (RA) and Residential Large Lot (RLL) to a Planned Development District (PDD) approved by the Town Board in May 2010 to allow for a mix of housing options and lot sizes
- applicant believes there is a benefit to eliminating public access to the stream corridor as there is a need for a habitat refuge with no disruption or erosion impacts
- applicant willing to grant public access to five Rivers via a trail and parking area
- applicant believes the proposal is in substantial conformance with the PDD
- applicant unable to move forward until the subdivision layout is finalized

Further discussion of the project was tabled.

## **V. Discussion/Information Items**

### **A. Quality Holdings, LLC – Apartments at 224 Delaware Avenue, Delmar - 14 Units - Site Plan Application (16 - 0100008)- Project Update**

The project was before the Board for a discussion. Tom Andress of ABD Engineering, Paul Hite of Hite Surveying and the applicant, Gregg Biche, of Quality Holdings, LLC were present to provide information and answer questions. Staff comments were provided by Kenneth Kovalchik. To date, the project was placed on the following Planning Board Agendas: 06/07/2016, 09/20/2016 and 05/02/2017.

#### **Discussion / Information Items:**

- updated proposal
- 2 buildings (1 4-unit and 1 10-unit)
- allowable uses for the zoning district and volume of traffic that could be generated by them
- architectural comparison
- 4 of the Board Members visited the site in October 2016
- landscaping improvements
- stormwater management and long term maintenance
- potential impacts to adjoining property owners
- comments from the Elsmere Fire Dept
- Operation and Maintenance Agreement for stormwater area may require annual certification
- location of airconditioning units
- project exempt for 2 years, from the 8 dwelling units / acre limit because the site plan application had been submitted prior to the date the code was changed

### **Next Steps**

- applicant to provide written response to comments generated by Elsmere Fire Dept.
- stormwater pre/post conditions
- applicant to investigate other options for stormwater management
- architect to add more design detail to break up the facade, i.e. transom windows and verticle siding
- applicant to improve landscaping on eastern property line

Further discussion of the project was tabled

### **B. 1562 New Scotland Road - Initial Presentation on Proposed Change of Use from Restaurant to Service Business / Office for occupancy by the Redemption Dance Institute Inc. / Giles Construction LLC**

The project was before the Board for an initial presentation. The applicant, Guinevere Giles of Giles GB Construction and Redemption Dance Institute and Jared George of Tri Capital Realty LLC, were present to provide information and answer questions. Staff comments were provided by Robert Leslie. To date, the project was placed on the following Planning Board Agendas: 05/02/2017.

#### **Discussion / Information Items:**

- site located at 1562 New Scotland Road
- building formerly occupied by Mangia's Restaurant
- change of use from restaurant to office / dance studio
- interior fit up required, i.e., dance floor, office, showroom
- merging two existing dance studios (Ravena & Slingerlands) to this location
- dance classes will be taught Monday-Friday, 4:00-7:00 p.m.
- roofing business in existence since 2004
- hours of operation for roofing business will be 8:00 a.m.-4:00 p.m.
- expect to meet with 5 to 10 clients per day
- will need to park 2 pick up trucks and 1 empty dump trailer covered with a tarp
- no outdoor storage of roofing materials
- applicant will be installing a new roof
- exterior facade will be painted a different color
- lease includes parking spaces

Further discussion of the project was tabled.

**VI. Other**

**A. LWRP Update**

The Local Waterfront Revitalization Program Committee hosted a meeting on Tuesday, 04/25/2017 at Town Hall to provide the public with an opportunity to view the proposed Henry Hudson Park Master Plan and share ideas about the proposed recommendations and land uses within the waterfront area. The Town's consultant, MJ Engineering, and Place Alliance were present to facilitate the discussion.

Town of Bethlehem Website - LWRP

<http://www.townofbethlehem.org/746/Local-Waterfront-Revitalization-Advisory>

**B. Delaware Avenue Improvement Group - Upcoming Meeting**

The next Delaware Avenue Improvement Group meeting is scheduled for Wednesday, May 10, 2017, at 3:00 p.m., at Town Hall.

Town of Bethlehem Website - DAIG

<http://www.townofbethlehem.org/640/Delaware-Avenue-Improvement-Group>

**VII. Adjournment**

**Motion To:** Adjourn at 9:22 p.m. - Next meeting 05/16/2017 at 6:00 p.m.

<b>RESULT:</b>	<b>ADJOURN [UNANIMOUS]</b>
<b>MOVER:</b>	John Smolinsky, Chairman
<b>SECONDER:</b>	Leah Farrell, Board Member
<b>AYES:</b>	Smolinsky, Gyory, Farrell, Lewendon, Powers