

LONG ISLAND POWER AUTHORITY

FINDINGS STATEMENT FOR THE MIDDLE ISLAND SOLAR FARM AT MASTIC

FEBRUARY 2019

LEAD AGENCY: BROOKHAVEN TOWN PLANNING BOARD

INVOLVED AGENCY: LONG ISLAND POWER AUTHORITY

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The following is a Findings Statement for the project known as the Middle Island Solar Farm at Mastic and represents the final stage in the SEQR Process. This document has been prepared in accordance with Article 8 of the Environmental Conservation Law, is an independent Findings Statement as per Section 617.11(c) and contains all the information required by Section 617.11(d) and (e).

Agency Jurisdiction: The Brookhaven Planning Board was lead agency for the SEQRA review of the application for a Special Permit for the proposed Middle Island Solar Farm at Mastic (the “Proposed Action”). The Long Island Power Authority (LIPA) was identified as an involved agency for the SEQRA review. Per 6 CRR-NY 617.11(c), each involved agency must make its own Environmental Impact Statement (EIS) Findings for the Action that is the subject of the EIS. This document constitutes LIPA’s Findings Statement for the Proposed Action.

Location of the Action: The Proposed Action will include a solar farm located on a 100.33 acre parcel located on the south side of Moriches Middle Island Road & east side of Cranford Boulevard in the hamlet of Mastic, Town of Brookhaven, County of Suffolk, State of New York and is identified as SCTM # 0200 71200 0900 001000. One connection to LIPA’s power grid is located between the proposed Solar Farm and the electrical substation located off of Moriches-Middle Island Road (the “Moriches Substation”), along Moriches-Middle Island Road and Weeks Avenue. A second connection to the power grid will extend from the Solar Farm along Moriches-Middle Island Road, North Titmus Drive, Campbell Drive, Winters Drive, Crestwood Drive, Boxwood Drive, Flower Hill Drive, Revilo Avenue, to where it ultimately terminates in the William Floyd Substation.

Description of the Action: The Proposed Action will consist of solar panel arrays installed on a 100.33 acre parcel designed to generate 19.6 megawatts to be conveyed to the LIPA electric grid by underground cables. A 4,032 sq. ft. maintenance and operations building is also proposed along with associated site improvements including drainage, parking, access roads, fencing, plantings and related utility infrastructure to the Moriches Substation and William Floyd Substations.

For many decades, the subject property has remained undeveloped. Historically, surrounding land to the east and south was proposed for development and subsequently purchased and preserved by Suffolk County and Brookhaven Town. Residential development to the west slowly increased, starting around 1960 before being nearly fully developed by the late 1980’s. In 2013, the property owner took the first steps to develop the subject land for a solar electric generating facility, resulting ultimately in the application submitted and reviewed in the EIS.

History of the Proposed Action: In 2013, the developer submitted to the Brookhaven Town Board an application for a Special Permit for an electric generating facility under the Light-Industrial-1 section of Town Code. The Town Board became Lead Agency for a coordinated SEQRA review, and on 6/24/14 the Town Board adopted a SEQRA Positive Declaration for the proposal and public scoping was held on 7/22/14. On 8/6/15, the Renewable Energy Systems section of the Town Code was amended to permit solar energy

production facilities on L-1 parcels, subject to a Special Permit issued by the Town Planning Board. Accordingly, on 8/6/15, the Town Board transferred the Special Permit application and Lead Agency status to the Planning Board.

The Planning Board adopted the Positive Declaration of Environmental Significance on 9/21/15. As part of the issuance of this Positive Declaration, it was noted that new scoping for the EIS was not to be conducted because the Planning Board used the information generated by the Town Board's prior scoping process to determine the EIS scope.

A Notice of Positive Declaration was posted to the New York State Environmental Notice Bulletin (ENB) on 9/30/2015 in accordance with SEQR regulations after having been adopted by the Planning Board.

A Draft Environmental Impact Statement (DEIS), dated January 2016, was prepared for the Proposed Action. On 2/10/16, the Planning Board deemed the DEIS complete with respect to its scope and content for the purposes of commencing public review, in accordance with 6 NYCRR §617.9(a)(2). On 2/24/2016, a Notice of Acceptance of Draft EIS and Public Hearing was posted on the NYS ENB in accordance with SEQR regulations. On 3/21/16 a public hearing on the DEIS was held at Brookhaven Town Hall and written comments were accepted until 4/8/16.

In response to the Town's and public's comments, questions and concerns, the applicant revised the submitted plans and prepared a draft Final Environmental Impact Statement (FEIS). The Brookhaven Planning Board accepted the FEIS as complete at its 12/12/16 meeting. On 12/14/2016, a Notice of Acceptance of Final EIS was posted on the NYS ENB in accordance with SEQR regulations.

Environmental Setting, Anticipated Impacts and Mitigation Measures

1. Existing Conditions: Currently, the subject parcel is 100.33 acres of undeveloped woodland. There are a number of informal animal trails that cross the rolling topography; there are no physical improvements such as roadways, fencing, buildings or related infrastructure. The parcel is zoned Light-Industrial-1, is located outside of the Central Pine Barrens Compatible Growth Area and is bounded on the north, east and south by publicly-owned open space and on the west by residential development. There is a 50' wide access way fronting on Moriches-Middle Island Road to the north and a vestigial easement along the southern portion of the property for the future construction of a road, however there are no plans for construction of a road.

2. Geologic Resources: The Proposed Action should not have an adverse impact on geologic resources as the Proposed Action does not involve the removal of any materials from the site, nor are there any unique geological features present on site (such as glacial erratics or steep slopes). As such, no mitigation measures are required.

3. Water Resources and Plans: The subject property is located over a sole source aquifer and is located within the Suffolk County Water Authority's (SCWA) Distribution Area 12 and the County's Hydrogeologic Zone VI. A deepwater recharge area known as "Zone III" is located due north of the project site, with Moriches-Middle Island Road representing the boundary.

Based on the proposed use of the site, impacts to water resources are minimal. Panels will need to be washed periodically via a water truck and the approximately 4,000 square foot building will have a connection to SCWA water for sanitary purposes. Based on the 100+ acre size of the parcel, the amount of water expected to be utilized on-site is not substantial. Discharge of sanitary wastewater will be minimal (± 161 gallons per day) and will not significantly impact the aquifer.

Furthermore, the project site will recharge all stormwater runoff on-site, in accordance with Town of Brookhaven requirements. A series of drainage swales in conjunction with formal drainage structures have been designed for the project and have been thoroughly reviewed and deemed appropriate by the Town. While the subject parcel is within the Forge River watershed, the nearest surface waters are located approximately 1,121 feet to the east of the southeast corner of the subject property.

During the public comment period, concerns were raised about impacts to the Forge River from the clearing of vegetation on-site. However, as the Proposed Action will have a minimal amount of sanitary flow and will produce no by-product wastewater (as some industrial uses such as manufacturing would) and as the Proposed Action will be re-vegetated with meadow vegetation (grasses and shrubs); no impact is expected to occur. To further this point, the applicant prepared a detailed Nitrogen Mass Balance calculation to quantify the change in nitrogen loads from the site due to the development of the Proposed Action. This exercise demonstrated that the Proposed Action would result in a minimal increase in nitrogen loading to the Forge River system, particularly when compared to the development of the site under a "worst-case" scenario and when comparing a similar acreage of residential units and their associated sanitary waste. The proposed use represents minimal nitrogen impact for any use on-site that would require a sanitary system. Due to the design of the project, there are no significant impacts expected and thus no significant mitigation is required. Accordingly, the Proposed Action should not have an adverse impact on the surface waters, wetlands, or water resources.

4. Ecological Resources: Ecological Resources located on the subject property which the Proposed Action might adversely impact include the federally listed (threatened) northern long-eared bat, (“NLEB”) other rare (special concern) species of animals, and 100 acres of woodland vegetation.

During the pendency of the SEQRA review process, the United States Fish and Wildlife Service (USFWS) listed the northern long-eared bat (NLEB) as a federally threatened species as well as finalized and formalized recommendations and regulations with respect to protection of the NLEB. However, USFWS’s 4/27/16 Final 4(d) rule (Docket ID FWS-R3-ES-2016-0052) clarified and specified that summer habitat of the NLEB is not federally designated as “critical” because summer habitat is not a limiting factor for the survival of the species, as the species is listed as threatened by the USFWS and the NYSDEC due to white nose syndrome and not habitat loss. Nevertheless, clearing of NLEB habitat is restricted during the breeding season, because such clearing could inadvertently cause the death of a NLEB (i.e., from anthropogenic taking). Clearing is permitted outside of the summer breeding season because the species does not utilize its summer breeding habitat for overwintering. Accordingly, clearing of the site between October 31st and April 1st will not cause a significant adverse impact to the NLEB.

While the NLEB use the subject property for roosting and pup rearing, at least one known tree within two miles that the NLEB also use for roosting and pup rearing. The restriction on clearing from April 1st to October 31st not only meets federal and state requirements relating to the NLEB, but also results in mitigation benefits for other species which use the woodlands as habitat but lack federal protection. The majority of the other species (i.e., species without any specific regulatory protections) that would occupy the site would not be using the woodlands between the allowable clearing time-frame for rearing young.

In addition to the above, several species of raptor likely use the woodland habitat as does the eastern box turtles, both of which are listed as species of special concern by New York State. Since site-clearing will occur outside the time period where these species are most active on the site, site clearing activities are not expected to result in a significant loss of turtles. In addition to this mitigation, the applicant has agreed to provide box turtle nesting sites along the perimeter of the project area in accordance with scientific standards, thereby providing additional mitigation measures. Additionally, where tree removal occurs, the site will be revegetated with grasses and shrubs between and underneath panel. This will provide key and unique habitat for eastern box turtles. Thus, a reduction of the extent of the existing woodland will not reduce the available suitable box turtle habitat. The revegetation of the site similarly will mitigate the impact to raptor habitat, since raptors are known to utilize meadow habitat and edge-of-woods habitat to hunt and forage.

Another mitigation measure will be the installation of nesting boxes for bluebirds and related songbird species along the perimeter of the property. As mentioned above, the habitat to be created between and beneath panels will be unique on Long Island and will be valuable for a variety of species that cannot utilize the existing woodland as habitat. Additionally, the subject property is ½ mile from Town of Brookhaven controlled Calabro Airport which features hundreds of acres of a similar grassland habitat. As such, the animals supported by the habitat at the airport are expected to utilize the subject property as well. Thus, the potential adverse impact of clearing 60 acres of trees, also will be mitigated by the creation of a unique and uncommon habitat, particularly attractive to many species since ordinarily there will be minimal human generated activity at the site, which will encourage its use by wildlife.

While the Proposed Action will result in the removal of nearly 60 acres of woodland vegetation, a minimum of 35% of the existing woodlands will be retained. Furthermore, there are hundreds of acres of publicly owned similar woodland habitat to the north, east and west of the subject site, which is expected to be adequate for the relocation of any species that currently are dependent upon the existing woodlands. This acreage, when combined with the approximately 620+ acres due north of the site that are currently vacant and wooded represent significant habitat that can be utilized by species currently present on the subject site.

Although the removal of trees will reduce the carbon sequestration capacity of the property, this loss will be offset over time by the Proposed Action's solar generation of power that will not produce any carbon emissions.

Finally, the cable connection to the William Floyd Substation will result in minimal impacts to natural resources. Correspondence with the New York Natural Heritage Program indicated the potential for two threatened plant species in the vicinity of the connection. Field inspections did not identify the presence of these species. The disturbance area associated with the manholes necessary for the cable connection is not anticipated to exceed approximately 350 sq. ft., which is limited in terms of the overall scope and disturbance area associated with the overall project. No mitigation measures are necessary or proposed for this portion of the project.

Given the above, the Proposed Action and subsequent mitigation measures represent a sufficient balance with respect to environmental impacts.

5. Air Resources: The Proposed Action should not have any adverse impact with respect to air quality, and in fact is expected to have a net positive impact from a regional perspective. There will be limited air emission during construction from construction equipment during site development, which is an unavoidable impact that would occur with

any development project of the subject site. The proposed development will likely result in lower-than-average construction equipment emissions compared to other large-scale development projects due to the minimal requirements of construction. Additionally the Proposed Action will generate “clean” energy that will decrease Long Island’s future need for energy generated from fossil fuel based plants, which produce significant levels of emissions. Thus, the project should have an overall net positive effect when looking at the region of Suffolk County and Long Island. Due to the above, no significant impacts are expected and thus no mitigation is required.

6. Land Use Plan and Zoning: The proposed use of the property as a solar electric generating facility was a permissible use of the property pursuant to the Town of Brookhaven Zoning Code at the time the application was submitted to the Planning Board. The Town of Brookhaven has recently amended said code; however, the Town of Brookhaven deemed the application to have been substantially completed at the time of this code amendment and thus exempted the Proposed Action from the code revision.

With respect to a “Land Use Plan”, the subject property is not specifically referenced in any current Town adopted Land Use Plans, but was referenced in the Tri-Hamlet Comprehensive Plan (June 1995). That plan called for the subject property (as well as other, nearby industrially zoned parcels) to be developed with “high-tech industrial, office or R&D” uses. Development of the subject site as a solar electric generating facility is consistent with the “industrial use” recommendation. Additionally, the project complies with all of the special permit criteria set forth in Town Code as well as the special permit criteria for solar energy production facilities required under §85-815 of Town Code.

As no significant impacts are expected as a result of land use plans or zoning, no significant mitigation measures are required.

7. Transportation: The Proposed Action will result in almost no impacts to traffic patterns, flow or volume, other than during construction activities. The Proposed Action would be expected to generate noticeable traffic during the construction phase due to the need to deliver materials to the site and remove vegetative materials from the site as well as bring specialized equipment from time to time. Construction of the cable connection to the William Floyd Substation will not significantly increase the construction traffic associated with the overall project. The number of vehicles will vary depending upon the phase of the project, however the expected volume and flow are similar to any large construction project within the Town and is not expected to have a significant impact. After the project has been completed, site occupancy will be low (up to six employees at any given time) and thus daily traffic increases will be imperceptible. As such, no significant impact is expected and thus no significant mitigation measures are required.

8. Aesthetics, Visual Resources and Noise: The Proposed Action is not expected to have any adverse impacts with respect to ambient noise levels in the study area nor will it impact visual or aesthetic resources. Virtually no discernible noise would be expected at neighboring residential properties. The Proposed Action proposes significant buffers comprised of natural vegetation as well as fencing and evergreen screening, protecting adjacent property owners from visual impacts from the proposed panels. Cable connections will be underground, causing no visibility. Aboveground electrical connection equipment is minimal and will not be a significant change in community character given its proximity to existing electrical equipment. Additionally, due to the nature of the project, the height of the panels will not exceed the height of the existing woodlands and the project site will not be visible from the road (other than through the gated entrance of the 50' wide access point) or from surrounding properties. As no significant impacts are expected, no mitigation measures are required.

9. Energy/Solid Waste: The Proposed Action will supply the electrical grid with 19.6 MW of "clean" energy solely from a renewable source and without any emissions. The cable connection to the William Floyd and Moriches substations will improve LIPA's electrical grid by providing an additional source of energy to the area. The facility has the potential to power up to 6,666 homes with no emissions. This proposal fits into active programs and energy plans of Brookhaven Town, LIPA, Suffolk County and New York State under to reduce dependency on fossil fuels and obtain energy from "green" facilities.

The Proposed Action includes an approximately 4,000 square foot building which will be used to house equipment and which will contain limited office space and bathroom facilities for X employees. The facility will generate typical amounts of solid waste associated with a small office space and a very low sanitary load (especially when compared with the allowable "flow" of the site as per SCDHS standards). Additionally, the proposed building will feature a geothermal heating system with a propane gas backup system.

Accordingly, the Proposed Action will not have significant energy use or solid waste generating impacts and thus no mitigation is required.

Mitigation: The DEIS identified significant environmental impact concerns related to the northern long-eared bat and the preservation of said species. However, as the USFWS released additional information and as the applicant and Town of Brookhaven worked closely with the NYSDEC (Region 1), it became apparent that potential impacts to the species could be avoided through mitigation measures. Specifically, the federal government determined that, "designating critical habitat for the northern long-eared bat is not prudent" and that potential loss of habitat is not a limiting factor (i.e., loss of habitat is not

the current cause for the federal and state listing of the species as threatened). However, in order to mitigate the potential for harming (take) this species, NYSDEC recommended that on site clearing be restricted during the summer roosting season. The applicant has agreed to a prohibition on clearing trees between April 1st and October 31st of any year unless adequate proof that the parcel is not being used for summer roosting by the NLEB is submitted to the NYSDEC and USFWS.

In addition the applicant has proposed the following mitigation relating to other potential adverse environmental impacts:

- Fencing designed to allow small mammals access to and from the property
- Box turtle nesting sites in accordance with guidelines established by Massachusetts Natural Heritage Program (or similar)
- Installation of breeding boxes for bluebird and other avian species
- Geothermal heating system for the proposed building
- Permeable road surfaces for all interior roads to allow for natural drainage
- Strategic placement of access gates to allow safe herding of deer that may end up within the fenced in facility
- Native vegetation to be planted between the panel rows and beneath the panels which provide a unique and important habitat to a wide variety of species
- Reconfiguration of the layout in order to locate the interconnection substation in the northeast corner of the property
- Maximizing the buffer between the proposed panels and the residentially developed properties located to the west

LIPA finds that the above mitigation measures, combined with communications with the NYSDEC and USFWS are adequate in offsetting potential negative environmental impacts that could occur as a result of the proposal as originally submitted.

Alternatives: Four (4) alternatives to the Proposed Action were considered by the Brookhaven Planning Board and each alternative was examined thoroughly in the DEIS. Under Alternative 1, the “No-Action” alternative, the Proposed Action would not be considered further and no development would occur. It was determined that the No Action alternative did not meet the rights of the property owner to develop the property and realize a return on its investment, and would not prevent future development of the site, which might have greater environmental impacts than the Proposed Action.

The “Second Alternative” evaluated in the EIS is for “Sale / Transfer of Land to a Government Entity for Preservation” – an option which is preferred by many local members of the public. This recommendation would require the property owner to be a willing seller, and a municipality or combination of municipalities (Town, County, State or otherwise) be willing purchasers who would make an offer acceptable to the property owner. The property owner made clear that this is currently not a viable option. A variation of this alternative is for the property owner and the Town (and/or related other municipality) “swap” the 100+ acre site in exchange for another site which would be suitable for development of a solar facility. Due to the myriad social, economic, geographic and legal issues that are involved in such an agreement, this is not a viable option.

The “Third Alternative” relates to approval of the Proposed Action without Variance relief. This is moot as the relief has been granted by the Board of Zoning Appeals. Additionally, the variance is required for any development of the site, regardless of the proposed use and thus is not a unique circumstance related to impacts resulting from the development of a solar electric generating facility.

The fourth and final alternative is for “Development in Accordance with Existing L Industrial 1 / A Residence 1 District Zoning [As-of-Right]” and determines that this alternative would undoubtedly result in greater environmental impacts in comparison to the Proposed Action and thus is not a desirable option from an environmental standpoint.

Certification:

Given the extensive planning effort and the comments received through the SEQRA process, LIPA is satisfied that the Proposed Action, including the associated cable connection to the William Floyd Substation is the best and most viable alternative for the subject property when taking into consideration the property owner’s rights, development desires, code requirements, restrictions and all relevant social, economic and environmental considerations detailed in the EIS process. Having considered the FEIS (including the DEIS), and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

- 1) The requirements of 6 NYCRR Part 617 have been met by the EIS process for the proposed action; and
- 2) This statement of Environmental Findings has considered the relevant environmental impacts, facts and conclusions disclosed in the FEIS, as summarized herein; and

3) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the current proposed action does not avoid or minimizes adverse environmental impacts to the maximum extent practicable; and

4) Consistent with social, economic and other essential considerations, adverse environmental impacts revealed in the EIS process have been minimized or avoided to the maximum extent practicable by the current proposed action, and;

5) Conditioned upon the following:

- No removal of trees between the dates of April 1st and October 31st, without satisfactory proof that no northern long-eared bats reside on the property and with the approval of the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service along with any conditions these agencies wish to impose.

ADOPTION OF THE FINDINGS STATEMENT

/s/ Rick Shansky
Rick Shansky, Vice President of Operations Oversight
Long Island Power Authority

Date: 2/6/2019