

**Community Land and Water Coalition**  
A Project of Save the Pine Barrens, Inc.  
Plymouth MA 02361

March 22, 2023

Michael King  
Chair, Planning Board  
Town of Wareham  
Marion Road  
Wareham MA

Kenneth Buckland  
Planner  
Town of Wareham  
Marion Road  
Wareham MA

By email March 22, 2023

Re: Planning Board Cases 7-20 and 9-20: Extension requests from New Leaf/Borrego Solar for 2020 Site Plan Review and Special Permits

Dear Chair King, Members of the Board, and Mr. Buckland,

I would like to ask the Planning Board to vote no to the extension requests for the Site Plan Approvals and Special Permits for the above-referenced project. New information has come to light since the Wareham Planning Board approved site plans and special permits for 27 Charge Pond Road and 150 Tihonet Road in October and December 2020.

1. The original Site Plan Approvals for 27 Charge Pond Road and 150 Tihonet Road were issued by the Wareham Planning Board before the Conservation Commission approved the projects, in violation of Wareham's Zoning Bylaw.
  1. The Zoning By-Law, Section 1551 *Relation to Conservation Commission Approvals*, subpart 2, states:
    1. *The Planning Board may issue a Site Plan Approval only after receipt of the original certified copy of either [A Determination of Non-Applicability] or [An Order for Conditions or Order of Resource Area Delineation].*
  2. The Planning Board approved the Site Plans for 27 Charge Pond road on October 19, 2020. The certified Order of Conditions for 27 Charge Pond Road was issued by the Conservation Commission on November 17, 2020.

3. The Planning Board approved the Site Plans for 150 Tihonet Road on December 28, 2020. The certified Order of Conditions for 150 Tihonet Road was issued by the Conservation Commission on January 28, 2021.
2. Beals & Thomas, Makepeace and New Leaf (Borrego) Solar deliberately side-stepped the Conservation Commission when they applied for site plan approvals for 27 Charge Pond Road and 150 Tihonet Road.
  1. The Conservation Commission denied Borrego Solar an Order of Conditions for Rocky Maple Solar on October 5, 2021 due to fragmentation of wildlife habitat, unmitigated alteration of a bordering vegetated wetland, alteration of the 200' riverfront buffer zone, destruction to Wareham's aesthetics, and insufficient alternatives analysis.
  2. Beals and Thomas side-stepped the Conservation Commission for 27 Charge Pond Road and 150 Tihonet Road to avoid such a comprehensive review of their plans.
3. Wetland resources on both 27 Charge Pond Road and 150 Tihonet Road could be impacted by this scale of development.
  1. The precipitation data submitted to the Wareham Conservation Commission by Beals and Thomas was climatologically obsolete. The applicant used 60-year old climatological data in the calculations of the stormwater retention requirements, rather than real-time precipitation data used by conscientious engineering firms.
  2. This means the stormwater systems approved by the Conservation Commission in 2020 for the two projects are undersized by 20%.
  3. Alterations to the sites' hydrology can lead to impacts to the wetland resources and a general failure to protect the sites' environmental interests.
4. There are vernal pools on 27 Charge Pond Road that need to be certified.
  1. A memo dated August 6, 2020, from Conservation Administrator David Pichette to the Wareham Planning Board re: Borrego Solar, 27 Charge Pond Road states, *"Wetland resource areas on this site are extensive and include several vernal pools. Clear cutting to the extent proposed could lead to a heat sink effect that could adversely impact the vernal pools and the surrounding habitat."*
  2. There are four potential vernal pools on 27 Charge Pond Road that may be interrelated breeding habitats for protected species.
  3. We are now in the correct time of year for certification of potential vernal pools. The Wareham Conservation Commission should order the applicant to investigate the vernal pools on 27 Charge Pond Road for potential certification to protect Wareham's resource interests.
5. Another close-by property developed into solar by Borrego, 160 Tihonet Road, is the subject of a *Notice of Intent to Sue Letter* to the Town of Wareham by ten residents, because of illegal mining that took place at that site prior to the solar installation.
  1. If the Planning Board approves 27 Charge Pond Road and 150 Tihonet Road, there will be more illegal mining activity within the Town.

2. Unpermitted sand and gravel mining potentially leads to altering of groundwater levels, alterations of surface runoff patterns, with unknown impacts to wetland resource areas and vernal pools.
6. Wareham is newly aware of the cumulative impacts from large ground mounted solar in their Town.
  1. The 400 acres of forest lost to solar in Wareham represent a failure, not a success of the state's SMART solar subsidy program.
  2. The area of the proposed solar projects has one of the highest rates of forest loss since the year 2000 in the entire state.
  3. This area of Massachusetts has an extremely fragile ecosystem, and the projects are essentially stripping away 10,000 years of ecological history.
  4. The applicant has proposed no mitigation for the forest loss.
7. Construction won't start for four years. Due to the extremely environmentally damaging nature of the projects, it's possible that these two projects will not qualify for SMART solar subsidies in four years.
  1. The DOER just completed a Technical Potential of Solar study; the study ranked the state's most preferred and least preferred solar sites.
    1. 27 Charge Pond Road and 150 Tihonet Road would likely fall into the least preferred site category.
    2. The sites need a statement of qualifications from DOER to receive any subsidies.
  2. These projects may not receive the same subsidies after findings of the DOER study, putting the financial viability of these projects into question.
8. Recent bills have been filed that would give municipalities such as Wareham more power to control large solar projects in their town.
  1. S1319/H2082 updates the state's zoning law on solar energy systems, confirms municipal zoning powers and supports the efforts of boards to protect the natural resources in their town from poorly sited solar developments.
  2. The bill has been assigned to the Committee on Municipal and Regional Government and is co-sponsored by Representative Paul McMurtry and Senator Jacob Oliviera.
9. The Governor has made a campaign promise to pause logging on state-owned forested land.
  1. Healey's proposed climate and energy plan will implement a science-based state forest management plan "that accounts for the impacts of climate change on our forest resources and the role our forests can play in protecting the climate."
  2. The state is recognizing the need for forest cover in the fight against climate change.
10. The two sites are placed on land that has been the home to Indigenous people for over 13,000 years. Their continued presence is obvious and undeniable in Wareham and the surrounding towns.
  1. We demand compliance with the National Historic Preservation Act Section 106, which requires consultation with representative tribal members, when the applicant files for the construction general permit.

11. The sites consist of forest situated on the Wankinko River, a herring run.
  1. Healthy forests protect our streams, and prevent runoff and pollution from entering the water. Forests also slow the velocity of runoff into the river, and lower the water temperature before it gets to the river. What happens on our land directly affects the health of the river.
  2. Herring run counts are fragile in this region and municipalities should support the efforts to sustain and grow their numbers.
  3. In its initial denial of the Order of Conditions for Rocky Maple Solar, the Wareham Conservation Commission stated that, "If multiple projects of this nature were to be allowed within Riverfront Areas then this would have a cumulative adverse impact on the resource area values associated with Riverfront Area."
12. The applicant has not proposed any mitigation for the loss of 105 acres of trees in Wareham.
  1. Alternative energy is needed for Wareham, but they must be sited with minimal to no impact to the environment.
  2. The long term environmental consequences of forest destruction must be taken into account when deciding on projects of this magnitude.
13. The project site for 150 Tihonet Road is mapped within the Priority Habitat zone for the Northern Long Eared Bat.
  1. Since the site plan approval in December 2020, the U.S. Fish and Wildlife Service has changed the status of the Northern Long Eared Bat from Threatened to Endangered under the Endangered Species Act.
  2. Based on scientific research, much more evidence is needed to understand the overwintering habits of the Northern Long Eared Bat in pitch pine forests. Therefore, no forest destruction should occur and no site plan approval extensions should be granted, until a Biological Assessment is conducted on the site under the Endangered Species Act to determine that the area is not habitat for the bats.

Wareham should put the brakes on the proposals for 27 Charge Pond Road and 150 Tihonet Road. According to Wareham's Town Counsel, these two projects are "getting stale."

It is not coincidental that the Site Plan Approvals for these two projects have expired without any construction. The missing interconnection agreement for these projects is due to a rapidly changing energy landscape for the state. Eversource is studying its grid capacity and resilience in light of rapid renewable energy development. The rapid transition with which Massachusetts is trying to implement its climate goals requires constant reevaluations of siting and zoning policy when it comes to renewable energy.

There is an expiration date on site plan approvals in Wareham for a reason. This expiration of the approvals for 27 Charge Pond Road and 150 Tihonet Road presents the right opportunity for Wareham to reevaluate the solar projects in light of its new Solar Siting Bylaw and the experience Wareham has gained in the last three years in regard to solar siting.

I urge the Planning Board to deny the Site Plan Approval extension requests for 27 Charge Pond Road and 150 Tihonet Road without prejudice, allowing the applicant to apply for site approval once again. This will give the Town and its residents the time they need to study the approvals for these plans in light of the rapid developments in the renewable energy landscape.

Thank you,

Sincerely,

*Katherine B. Harrelson*

Katherine Harrelson

Community Land and Water Coalition

Plymouth, MA 02361