



DEVELOPMENT OF REGIONAL IMPACT DECISION

Project: AMP Energy (Cape Cod Commission File No. 19034)
Project Applicant: ASD Cotuit MA Solar, LLC
c/o Matthew M. Terry, Esq., Ament Klauer LLP
39 Town Hall Square, Falmouth, MA 02540
Property/ Site: 180 Cotuit Road, Sandwich, MA 02563 (Assessors Map 13, Parcel 44)
Title Reference: Land Court Certificate # 179636; Land Court Plan 34769-A
Property Owner: Cotuit Road Realty Trust, Andrew E. DeGraw, Jr. and Ann DeGraw Swaim, Trustees
Date: _____, 2020

SUMMARY

The Cape Cod Commission (“Commission”) hereby grants Development of Regional Impact (“DRI”) approval, with Conditions, for AMP Energy, a project to install a utility-scale, ground-mounted solar photovoltaic array and supporting improvements at 180 Cotuit Road in Sandwich, pursuant to a vote of the Commission at its meeting on _____, 2020.

FINDINGS

The Cape Cod Commission hereby finds and determines as follows:

EXISTING CONDITIONS/ PROPOSED PROJECT

- F1. The Applicant proposes to develop a currently vacant and undeveloped 18.8 acre +/- parcel abutting the east side of Cotuit Road in Sandwich (“Property;” “Project Site;” “Site”) by installing an approximately 5 MWdc solar photovoltaic array consisting of:
- clearing all trees and vegetation on the interior ~10.85 acres of the Site (leaving a wide vegetated buffer along the perimeter of the Site);
 - seeding and re-planting the soils in the cleared area and installing a wood fence and stormwater management swales along the perimeter of the cleared area;
 - installing a gated gravel driveway and a concrete equipment pad, the latter of which would be set back at least 50 feet from the Site’s street frontage along Cotuit Road;
 - installing pilings, racks, and solar modules, which will be connected by underground wire to a battery bank and central inverter located on a concrete equipment pad (collectively, the “Project”).
- F2. The Property is in a Wellhead Protection Area (WHPA) but is not mapped for other sensitive resources identified in the Regional Policy Plan (“RPP”) such as priority habitat, critical natural landscapes, or undeveloped areas subject to flooding.
- F3. The surrounding uses and development are primarily single family residential, aside from seasonal cottages and an RV Park to the west of Cotuit Road.

- F4. The Applicant states that the Property has been used and developed in the past for agricultural use.
- F5. Ongoing operations and activity at the Property would be minimal as cleaning, snow removal, and maintenance mowing are infrequent, equipment is inspected once or twice annually, and the proposed array and electrical components have a projected lifespan of 20+ years.
- F6. The Applicant proposes to preserve and retain the Prime Farmland Soils on-site, and plant native grasses and/or wildflowers to preserve natural functions. The Project does not require substantial grading and the solar array is being clustered in the center of the Site to preserve deep wooded buffers on all sides.
- F7. Upon successful permitting for the Project, the Applicant proposes to close on and acquire the Property, gift the Property in fee simple to the Town, and lease the Property back from the Town for the useful life of the Project. The lease would include a potential renewal term; provisions for decommissioning, replanting and restoration (which are also special permit requirements under town zoning for the use); and would provide the Town base rent payments and escalators for restricting currently unrestricted municipal land off-site as open space. After the useful life of the Project and its removal, the Town would hold the land for conservation purposes. The terms of this arrangement have been agreed to in principle between the Town and Applicant and are reflected in a Memorandum of Understanding (MOU) dated September 30, 2019 submitted as Exhibit K to the DRI Application (most recent update to MOU by letter dated April 10, 2020). The Applicant would also likely make payments in lieu of taxes (PILOT) to the Town as it does in other communities for similar projects, where the Project is exempt from required local property taxes under state law as a renewable solar energy project.

DRI JURISDICTION/ PROCEDURAL BACKGROUND

- F8. The Project requires mandatory DRI review pursuant to Section 3 of the Commission's *Chapter A: Enabling Regulations Governing Review of Developments of Regional Impact* ("Enabling Regulations"), revised April 2018, as it proposes an Outdoor Use with a Total Project Area of 40,000 sq ft or greater.
- F9. The Commission received a mandatory DRI referral for the Project from the Town of Sandwich ("Town") Building Commissioner on 11/25/2019.
- F10. The Applicant submitted a DRI application for the Project to the Commission on 12/04/2019 (which included 11 exhibits, inclusive of a site plan set). The Applicant submitted supplemental application materials in February, March, and April 2020.
- F11. The Applicant has legal standing to pursue the Project as grantee under an option to purchase agreement with the record Property owner, Andrew E. DeGraw, Jr. and Ann DeGraw Swaim, Trustees of the Cotuit Road Realty Trust (see amended notice of option agreement filed with the Barnstable Land Court as Document No. 1,392, 214).
- F12. A staff hearing officer opened the DRI hearing period procedurally on 01/24/2020. A DRI Subcommittee ("Subcommittee") held a substantive public hearing session on the Project on 02/27/2020. Commission staff prepared a staff report on the Project, dated 02/21/2020, in advance of the hearing. The Subcommittee held a continued public hearing session on 03/12/2020, which was further continued to 04/30/2020, and continued again (i.e. a postponement without taking any substantive action on 4/30/2020) to 5/14/2020.
- F13. The Subcommittee held a meeting on 04/14/2020 to discuss a recommendation on the DRI to the full Commission. Staff prepared a memorandum to the Subcommittee for the meeting. At this meeting the Subcommittee concluded that the Project meets the criteria for DRI approval, subject to the imposition of certain conditions it had discussed through its proceedings the Project, and voted to recommend that the full Commission grant DRI approval for the Project, with Conditions. The Subcommittee directed Commission staff to prepare a draft written DRI Decision consistent with this recommendation to present to the full Commission to consider in its review and decision-making.

- F14. The Commission received oral and written testimony throughout the DRI hearing process. Testimony included concerns about the loss of natural forest cover, questions about the noise and other localized impacts to neighboring properties, and support for renewable energy generation and the proposal among other feasible alternative uses for the Property.
- F15. In response to questions and concerns raised at the subcommittee hearings about ambient noise levels from the proposed battery inverters, the Applicant provided an Acoustical Evaluation dated March 6, 2020 (with companion illustrative site plan dated 3/4/2020 showing distances from the inverter to surrounding residences). The Evaluation concluded that there would be no appreciable or detrimental increase in ambient noise levels to surrounding properties over existing ambient background levels.
- F16. The Cape Cod Commission held a hearing on the Project at its meeting on 5/14/2020. It considered the recommendation of the Subcommittee as reflected in the draft DRI decision prepared by staff at the direction of the Subcommittee. At the hearing on 5/14/2020, the Commission...

DRI REVIEW STANDARDS

- F17. Section 7(c)(viii) of the Commission's *Enabling Regulations* contains the standards to be met for DRI approval, which include, as applicable, consistency with the Cape Cod Regional Policy Plan ("RPP"), District of Critical Planning Concern ("DCPC") implementing regulations, municipal development bylaws, and Commission-certified Local Comprehensive Plans ("LCP"). The Commission must also find that the probable benefit from the Project is greater than the probable detriment.

MUNICIPAL DEVELOPMENT BYLAWS, LCP, AND DCPC CONSISTENCY REVIEW

- F18. There are no DCPC implementing regulations applicable to the Project.
- F19. The Town of Sandwich LCP Goals encourage the Town to integrate solar design into local regulation through a revision to zoning regulations. The LCP's Community Sustainability section identifies solar power under Energy Conservation and Alternative Source Development, stating Sandwich has an excellent opportunity to expand the use and development of solar power.
- F20. The Site is within the R-2 zoning district under the Sandwich Zoning By-law ("Bylaw"). The By-law allows large scale, ground-mounted solar arrays by special permit in the R-2 zoning district. Section 4180 of the Bylaw, titled "Large Scale Ground Mounted Solar Photovoltaic Installations" provides requirements for placement, design, construction, operation, monitoring, and decommissioning of large-scale ground-mounted solar voltaic installations. The Site is also located in a Water resources Overlay District under the Bylaw.
- F21. The Commission received correspondence from Sandwich Town Planner, Ralph Vitacco, on 01/06/2020, which provided the following commentary relative to the Project's consistency with the Town of Sandwich Zoning Bylaw:
- The Property is located within the R-2 zoning district, which is designated for lower-density residential development;
 - Pursuant §4180 of the Bylaw, large-scale ground-mounted solar voltaic installations within an R-2 zoning district must have a minimum lot area of 15 acres and are allowed by Special Permit from the Planning Board;
 - Large-scale ground-mounted solar voltaic installations are categorized under the §2300 of the Bylaw, Use Regulations Schedule, as a type of Industrial/Utility Use;
 - Pursuant to §2600 of the Bylaw, any industrial use abutting any other district is required to have a minimum rear and side yard of 100 feet.
 - As proposed, the Project will meet the dimensional requirements set forth in the Sandwich Zoning Bylaw with respect to lot-size and set-backs.
- F22. The Applicant anticipates the following local reviews, actions, permits, licenses, and/or approvals for the Project: Sandwich Planning Board Special Permit and building permit.

CAPE COD REGIONAL POLICY PLAN CONSISTENCY REVIEW

- F23. The Commission reviewed the Project relative to the 2018 RPP and companion Technical Bulletins, which were those in effect at the time the Commission commenced substantive hearing on the Project. Under Section 9 of the 2018 RPP, the Commission determines the Project's consistency with the RPP by determining whether the Project is consistent with the goals and objectives in the RPP that are applicable, material and regionally significant with respect to the Project. The companion Technical Bulletins elaborate and interpret the RPP's goals and objectives.
- F24. The Site is mapped as a "Natural Area" Placetype by the Commission because it is located in a Wellhead Protection Area. However, based on the Project's location, Site characteristics and the surrounding development context, the Project's Placetype is more appropriately treated as and is determined to be Rural Development Area for DRI review. Rural Development Areas, as described in the RPP, are characterized by a high percentage of open lands and sparse building development patterns that contribute to the unique rural and scenic character of the region. The Site is consistent with this Placetype considering the surrounding residential developments, past agricultural use, and the absence of special habitat.
- F25. The Project is consistent with the RPP's vision for the Rural Development Area Placetype, which includes protecting agricultural lands and natural cover to preserve existing natural functions; ensuring development respects the surrounding landscape by using existing topography to guide the development layout; clustering development on the site; and preserving wooded buffers. The Project proposes to preserve the Prime Farmland Soils, and plant native grasses and/or wildflowers to preserve natural functions. While the Project involves clearing approximately 10.85 acres of the Property, the Project does not require significant grading and the solar array is being clustered in the center of the Site to preserve deep wooded buffers on all sides.
- F26. The following goals and objectives from the RPP are those determined to be applicable, material, and regionally-significant with respect to the Project and are thus subject to RPP consistency review: Water Resources goal and objectives WR1, WR2, and WR4; Wildlife and Plant Habitat goal and objectives WPH1, WPH2, WPH4, and WPH5; Open Space goal and objectives OS1 and OS3; Community Design goal and objectives CD1, CD2, and CD3; Energy goal and objectives EN1 and EN2; Capital Facilities & Infrastructure goal and objectives CAP1 and CAP2; and Waste Management goal and objectives WM1 and WM2.
- F27. Subject to the Conditions set out in this Decision, the Project is consistent with the above-referenced RPP goals and objectives and with the corresponding provisions from the Technical Bulletins, as discussed in detail below.
- Water Resources***
- F28. The Water Resources goal of the RPP is to maintain a sustainable supply of high-quality untreated drinking water and protect, preserve, or restore the ecological integrity of Cape Cod's fresh and marine surface water resources. The Water Resources objectives that are applicable and material to the Project are: to protect and preserve groundwater quality (WR1); to protect, preserve, and restore fresh water resources (WR2); and to manage and treat stormwater to protect and preserve water quality (WR4).
- F29. The Property is located in a Wellhead Protection Area ("WHPA") under the Water Resources Technical Bulletin.
- F30. The Site is located on a landform providing over sixty feet (60') separation to the groundwater system, substantially exceeding the minimum recommendation of two feet (2') for stormwater infiltration systems.
- F31. The Project does not propose water use, wastewater generation or turf fertilization. The Project manages stormwater for water quality treatment, maintains vegetated buffers around the Site, and is located over 1000 feet from the closest pond.
- F32. The anticipated nitrogen loading concentration from the site is approximately 0.05 ppm, which is materially below the 5-ppm standard under the RPP. The impervious areas on the Site are the driveway and equipment pads which comprise approximately one-half acre. The Applicant has designed a stormwater system consisting of drainage swales and subsurface infiltration to manage runoff generated

from the vegetated meadow and impervious areas. The system has been designed to exceed the required 1-inch water quality volume for the driveway and concrete pads, and to ensure that offsite runoff from the rest of the site is equal to or improved from current conditions.

- F33. Because the Project is in a Wellhead Protection Area, the Project must observe quantity limits and design controls on substances that would pose a potential contaminant threat to groundwater and drinking water supplies if released. The Project will use biodegradable transformer fluid or dry cooled transformers to mitigate the potential for hazardous materials release. Battery storage will include containment.

Wildlife and Plant Habitat

- F34. Wildlife and Plant Habitat Goal of the RPP is to protect, preserve, or restore wildlife and plant habitat to maintain the region's natural diversity. The following Wildlife and Plant Habitat Objectives are applicable and material to the Project: maintain existing plant and wildlife populations and species diversity (WPH1); restore degraded habitats through use of native plant communities (WPH2); manage invasive species (WPH4); and promote best management practices to protect wildlife and plant habitat from the adverse impacts of development (WPH5).
- F35. The Site is not in Natural Heritage and Endangered Species Program priority habitat for rare species, BioMap2 core habitat, or BioMap2 critical natural landscapes. The Natural Resources Inventory ("NRI") notes that the Property hosts no unique species or species of special concern and is dominated by typical forested upland habitat of pine and oak. There is evidence of former use and development on the Site including cleared areas, walking trails, an old dirt road, and a wire fence around the Property.
- F36. The Project proposes alteration of 10.85 acres +/- of the existing habitat type by converting forested upland to developed grassland. According to the NRI, significant long-term impacts to local wildlife populations that are typically associated with habitat fragmentation are not anticipated with the proposed Project.
- F37. The Project proposes to separate the forested buffers from the array area by installing a wood fence, which would be held off the ground no less than six inches. The proposed alteration would change the existing plant and wildlife species assemblage and result in some habitat fragmentation and loss of forested habitat on Cape Cod. While some smaller species of wildlife will be able to fit under the proposed fence and move through the array, larger species will need to move around the fenced array (where some corridors are retained in the forested perimeter of the Site).
- F38. The Project proposes revegetation of the array area with a native seed mix, which will provide a permanent herbaceous cover to provide site stabilization and wildlife habitat value for various grassland-dependent birds and small mammals. The Applicant proposes use of best management practices for vegetation establishment and maintenance.
- F39. Several invasive plant species were recorded on the Site including invasive shrubs that can grow > 10-feet tall. These species' seeds will be present in the soils surrounding the infestations and, if unmanaged, they could proliferate throughout the proposed development. The Project proposes an invasive species management plan.
- F40. The Project proposes to install a construction fence and temporary stormwater systems during the first phase of development to prevent offsite migration of construction materials and insulate the surrounding wooded acreage and wildlife from the impacts of the development.

Open Space

- F41. The Open Space Goal of the RPP is to conserve, preserve, or enhance a network of open space that contributes to the region's natural and community resources and systems. The following Open Space Objectives are applicable and material to the Project: protect and preserve natural, cultural, and recreational resources (OS1); and protect or provide open space appropriate to context (OS3).

- F42. The Applicant proposes to meet the RPP open space requirements through both on-site and off-site conservation. According to the DRI Application, the Site is 18.8 acres +/- and the area cleared for the array is 10.85 acres. The Area of Development Impact for purposes of the required open space mitigation, subtracting previously cleared acreage and acreage used for naturalized elements of the stormwater management systems, is 10.5 acres.
- F43. Projects in Rural Development Areas are required to provide high-quality open space in a ratio of 2:1 on-site or in a Natural Area off-site. A 2:1 ratio requires permanent protection of 21 acres of open space.
- F44. The Applicant proposes to donate the entire 18.8 acre +/- Property to the Town to be held as open space in perpetuity. The Applicant also proposes to have restricted three off-site parcels, with a total area of 9.8 acres +/- . These three off-site parcels have been identified in discussions between the Town and Applicant; information about them has been submitted to the Commission for review; they are located in mapped Natural Area placetype, are contiguous with other restricted open space and have high conservation value; and they are municipally owned and currently unrestricted.
- F45. The Applicant is proposing to address a portion of the open space mitigation required by the RPP and Open Space Technical Bulletin by restricting on-site land through a partnership with the Town of Sandwich ("Town") which has been memorialized in a Memorandum of Understanding, whereby the Applicant will acquire and then donate the Property in fee to the Town; the Property will be leased back to the Applicant to develop and operate the Project; and at the end of the lease, the energy development will be removed and the land restored as necessary. The entire Property is ultimately proposed to be held by the Town and restricted in perpetuity for conservation and open space purposes. The lease is proposed with an initial term of 20 years with the potential for five additional terms of five years for a total potential term of 45 years. The Applicant will make rent payments to the Town for the duration of the lease under this agreement.

Community Design

- F46. The Community Design goal of the RPP is to protect and enhance the unique character of the region's built and natural environment based on the local context. The Community Design objectives that are applicable and material to the Project are to: promote context-sensitive building and site design (CD1), minimize the amount of newly disturbed land and impervious surfaces (CD2), and avoid adverse visual impacts from infrastructure to scenic resources (CD3).
- F47. The Project fits in with the surrounding context by maintaining significant wooded buffers around the site that will screen the development from adjacent sites and roadways. The buffers would be at least 100' deep along the side and rear perimeter of the Property and 50' along Cotuit Road.
- F48. There are two curb cuts proposed along the Site's Cotuit Road frontage, however given the width of the vegetated buffer, the location and angle of the curb cuts, and the proposed installation of a wooden fence parallel to Cotuit Road, the Project will be screened from the roadway and passing traffic.
- F49. The Project will leave significant amounts of natural vegetation intact around the perimeter. Additional impervious surface has also been minimized, with only about 1/2 an acre of the development proposed to be impervious.

Energy

- F50. The Energy goal of the RPP is to provide an adequate, reliable, and diverse supply of energy to serve the communities and economies of Cape Cod. The following Energy Objectives are applicable and material to the Project: support renewable energy development that is context-sensitive (EN1); and increase resiliency of energy generation and delivery (EN2).
- F51. This Project has energy generation, distribution, and storage as a primary purpose. The proposed solar array would have a generation capacity of approximately 5MWdc and would include a Lithium-ion battery storage system. As part of the Solar Massachusetts Renewable Target (SMART) program, the Project will contribute to the statewide goal of reducing reliance on non-renewable energy sources.
- F52. The Project is expected to sell its power through the Community Solar program, which allows households and businesses with the same electrical utility to lease a portion of the array. This will allow

the Project to Cape Cod residents who do not have access to solar because they rent, live in multi-tenant buildings, or are otherwise unable to host a private solar system, to participate in the renewable energy market. The Community Solar program would require the Project to lease to small customers needing 25kW or less.

- F53. The area surrounding the Site is mostly residential development and is in the Sandwich R-2 zoning district where large scale ground-mounted solar energy systems are allowed by Special Permit. With the proposed residential style wood fence and retained naturally wooded buffers the Project would avoid detrimental visual impacts to public views along Cotuit Road and to surrounding residential development.
- F54. The Project would increase diversification of the local electrical network and manage periods of peak demand that come with the highest electricity prices. This furthers Massachusetts Energy Storage Initiative, which aims to achieve the benefits of incorporating advanced storage technologies into Massachusetts' energy portfolio by establishing an energy storage market structure, and to support storage projects at the electric wholesale system, utility distribution system, and customer side scale.

Capital Facilities & Infrastructure

- F55. The Capital Facilities & Infrastructure Goal of the RPP is to guide the development of capital facilities and infrastructure necessary to meet the region's needs while protecting regional resources. The following Capital Facilities & Infrastructure Objectives are applicable and material to the Project: ensure capital facilities and infrastructure promote long-term sustainability and resiliency (CAP1); and coordinate the siting of capital facilities and infrastructure to enhance the efficient provision of services and facilities that respond to the needs of the region (CAP2).
- F56. The Project will improve the quality and availability of electrical service. Equipped with a battery, the array is required to dispatch power at the times of higher system demand. The solar and battery together can handle both large and small output adjustments, tweaking its output nearly instantaneously to stabilize the frequency of the local distribution network in the event of a spike or sudden dip in demand.
- F57. The array is designed with wind and snow loading appropriate to Cape Cod, is not under threat from falling adjacent trees, and is designed as compactly as is feasible. The Property is not in a flood prone or high hazard area. The battery equipped array is designed to be sustainable in all weather conditions and is required to operate in a manner that reduces energy prices and supports the grid during human or natural disasters.
- F58. The Applicant sized and had the interconnection approved in consultation with Eversource to avoid needing additional upgrades or infrastructure along the distribution network. No new easements or rights of way are required.

Waste Management

- F59. The Waste Management Goal of the RPP is to promote a sustainable solid waste management system for the region that protects public health, safety, and the environment and supports the economy. The following Waste Management Objectives are applicable and material to the Project: reduce waste and waste disposal by promoting waste diversion and other Zero Waste initiatives (WM1); and support an integrated solid waste management system (WM2).
- F60. The Project proposes to employ Best Management Practices during construction such as chipping and reusing cleared trees on-site to incorporate as biomass back into the Site to the extent that it is feasible and appropriate. Because construction naturally stockpiles topsoil, the Applicant proposes to stabilize the topsoil with wood chips, and to redistribute it on the Site. The Applicant also proposes to use chips in a similar manner as straw bales for minor construction stormwater management activities, as needed and appropriate.
- F61. The modules would be delivered on wooden pallets in heavy cardboard boxes. The Applicant proposes to reuse or recycle the pallets, utilizing local recycling services to the extent possible.

REGIONAL BENEFITS/DETRIMENTS

F62. Probable benefits of the Project identified include:

- The Project is an efficient way to introduce a substantial amount of clean, renewable energy into the regional grid, consistent with state, local and regional energy and emissions reductions policies.
- The Project will increase the resilience of the grid with additional solar generated energy and battery storage.
- As 'community' solar, the Project will increase local energy independence and offer clean renewable energy for purchase by local residents and businesses.
- The Project presents an innovative way to forward regional and local open space goals.
- The Project offers short- and long-term growth management given the type of development proposed and the proposed long-term restriction of the site and off-site land.
- The leaseback of the Site from the Town and potential for PILOT payments will provide revenue to the Town ultimately benefitting the public.
- The proposed long-term meadow habitat is a less common but important ecosystem locally and will support declining pollinator and other species.
- As a solar installation the Project is more passive and has fewer permanent impacts than the most likely alternative use and development scenarios for the property.

F63. Probable detriments of the Project identified include:

- The Project proposes substantial clearing of existing forested area, which area contributes to and assists in protecting public drinking water supplies and currently supports various wildlife species.
- Within the nature of solar development, there is an opportunity to co-locate such development with other development or adaptively re-use previously developed sites, which the Applicant ultimately did not pursue.
- Because of the associated clearing, some of the Project's carbon sequestration benefits are lost, as well as the natural infrastructure services like nitrogen uptake the cleared trees would otherwise provide.

CONCLUSION

Based on the Findings above and subject to the Conditions set out below, the Commission further determines, finds, and concludes that: the Project is consistent with the 2018 Cape Cod Regional Policy Plan, applicable provisions from the Sandwich LCP, and applicable municipal development bylaws; the probable benefit of the Project is greater than the probable detriment; and the Commission hereby grants DRI approval for the AMP Energy Project described herein.

CONDITIONS

- C1. This Decision shall be final when the appeal period set out in Section 17 of the Cape Cod Commission Act has elapsed without appeal (or if such an appeal has been filed, when the appeal has been finally settled, dismissed, adjudicated, or otherwise disposed of in favor of the Applicant). Thereafter, this Decision shall be valid and in effect, and local development permits may be issued pursuant hereto for a period of seven years from the date of this Decision, or for such extended period as may be permitted by the Commission.
- C2. A copy of the Decision, when final and prior to commencement of the Project, shall be filed with the Barnstable Registry District of the Land Court.
- C3. This Decision shall be appurtenant to and run with the Property. The Decision shall bind and be enforceable against, and inure to the benefit of, the Applicant, its heirs, successors, and assigns.
- C4. The Applicant shall obtain all required federal, state, and local permits, licenses, and approvals for the Project. Consistency with Municipal Development Bylaws shall be ratified and confirmed by the Applicant obtaining all said required local permits, licenses, and approvals for the Project. Prior to

commencement of the Project, the Applicant shall provide the Commission with copies of all required local permits, licenses, and approvals for the Project.

- C5. The Project shall be constructed, operated, and maintained consistent with the following documents (“Approved Project Plans”). Plans, protocols, and other documents required to be submitted as Conditions of this Decision shall be treated as incorporated into the Approved Project Plans once received, reviewed, and determined consistent with this Decision by Commission staff. “Exhibits,” below, refer to DRI application exhibits:
- Exhibit B, “Proposed Site Development Plans at 180 Cotuit Road Sandwich, Massachusetts”, prepared by Cape and Islands Engineering (revised 03/04/2020);
 - Sheet G-101: Cover
 - Sheet V-101: Existing Conditions
 - Sheet C-101: Overall Layout Plan
 - Sheet C-102: Layout Plan - Sheet 1
 - Sheet C-103: Layout Plan - Sheet 2
 - Sheet C-111: Erosion Control Plan
 - Sheet C-121: Drainage Plan
 - Sheet C-501: Construction Details
 - Sheet L-101: Landscape Plan
 - Exhibit C, Stormwater Management Design (including O&M Plan) prepared by Cape and Islands Engineering revised dated August 29, 2019
 - Attachment E of Exhibit D (NRI), Invasive Species Management Plan prepared by LEC dated 7/25/19
 - Exhibit H, Preliminary Operations and Maintenance Plan for Project
 - Exhibit I, Battery System Information and Emergency Response Plan
 - Exhibit J, System Components (Manufacturer Specifications Sheets)
 - Preliminary Decommissioning Plan/ Decommissioning Cost Estimates for Project submitted 2/20/2020
- C6. The Applicant shall provide a copy of this Decision and the Approved Project Plans to the Project’s general contractor prior to commencement of the Project. The Applicant shall maintain a copy of this Decision and the Approved Project Plans on the Project Site throughout Project construction.
- C7. Prior to and as a Condition to issuance of a building permit/s for the Project from the Town of Sandwich, the Applicant shall request and obtain from the Commission a Preliminary Certificate of Compliance; the issuance of such Preliminary Certificate of Compliance evidences that the Applicant has satisfied all Conditions in this Decision required to have been satisfied prior to the issuance of a local building permit/s.
- C8. Prior to and as a Condition to issuance of a Certificate/s of Use and Occupancy or building permit sign-off/s for the Project from the Town of Sandwich Building Department, the Applicant shall request and obtain from the Commission a Final Certificate of Compliance; the issuance of such Final Certificate of Compliance evidences that the Applicant has satisfied all Conditions in this Decision required to have been satisfied prior to the issuance of a local Certificate/s of Use and Occupancy or building permits sign-off/s, and shall confirm that the Project was constructed or implemented in accordance with this Decision.
- C9. The Applicant hereby authorizes Commission staff to make site visits as necessary, at reasonable times and upon reasonable notice to the Applicant, to confirm that the Project has been implemented in accordance with this Decision, including upon an Applicant’s request for a Certificate of Compliance hereunder.
- C10. The Property shall be donated by deed in fee simple to the Town of Sandwich for purposes consistent with Article 97 of the Massachusetts Constitution, subject to the lease for development and operation of the Project to be entered between the Town and Applicant.

- C10A. Prior to and as a condition to issuance of a Preliminary Certificate of Compliance by the Commission, the Applicant shall provide to the Commission a copy of the deed donating the Property to the Town of Sandwich as filed with the Barnstable Registry District of the Land Court.
- C11. The 2-acre +/- parcel off Gully Lane (identified on Sandwich Tax Map 32 as Parcel 11); the 2.4-acre +/- parcel off Gully Lane (identified on Sandwich Tax Map 32 as Parcel 10); and the 5.4-acre +/- parcel off Thicket Run Road (identified on Sandwich Tax Map 33 as Parcel 59) (collectively, the “Offsite Open Space Parcels”) shall be restricted for conservation purposes in perpetuity in accordance with the relevant provisions of MGL Chapter 184 Sections 31 through 33.
- C11A. Prior to and as a condition to issuance of a Preliminary Certificate of Compliance by the Commission, the Applicant shall provide to Commission staff for review a draft copy of the instrument or instruments for restricting the Offsite Open Space Parcels.
- C11B. Prior to and as a condition to issuance of a Final Certificate of Compliance by the Commission, the Applicant shall provide to the Commission a copy of the instrument or instruments restricting the Offsite Open Space Parcels as registered with the Barnstable Registry District of the Land Court, and as previously reviewed and approved by Commission staff.
- C12. Prior to and as a condition to issuance of a Preliminary Certificate of Compliance by the Commission, the Applicant shall provide the Commission an executed copy of the lease for the Property with the Town of Sandwich.
- C12A. The lease shall not contain provisions that conflict with the Conditions of this Decision. It should contain provisions, among other things, for Site decommissioning, replanting, restoration, soil management, waste management and recycling, and other operations and maintenance protocols for the Project, including for its construction phase, consistent with this Decision.
- C13. Existing agricultural soils shall be retained and re-used on-Site.
- C14. The Applicant shall pursue, obtain and maintain Pollinator-Friendly Solar PV Certification for the Project through the UMass Clean Energy Extension.
- C14A. Prior to and as a condition to issuance of a Final Certificate of Compliance by the Commission, the Applicant shall provide a letter of Initial Certification through the UMass Clean Energy Extension.
- C14B. The Applicant shall coordinate its Project invasive species management plan with the Certification program and to the extent herbicide use is allowed at all under the Certification program, the Applicant shall only use herbicides if there is no other practicable management alternative.
- C14C. The Applicant shall transmit copies of its annual Certifications to the Commission.
- C15. The Applicant shall retain the wooded buffer along the side and rear perimeter and frontage of the Site as depicted in the Approved Project Plans (Layout Plan).
- C16. The Applicant shall install wood fencing, held off the ground at least six inches, around the perimeter of solar installation as depicted in the Approved Project Plans (Layout Plan).
- C17. The Applicant shall use only bio-degradable transformer fluid or dry-cooled transformers as part of the Project.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

Executed this _____ day of _____ 2020

For the Cape Cod Commission by:

Signature

Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss _____, 2020

Before me, the undersigned notary public, personally appeared _____,
in his/her capacity as _____ and on behalf of the Cape Cod Commission,
whose name is signed on the preceding or attached document, and such person acknowledged to me that
he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me
through satisfactory evidence of identification, which was [] photographic identification with signature issued
by a federal or state governmental agency, [] oath or affirmation of a credible witness, or [X] personal
knowledge of the undersigned.

Notary Public
My Commission Expires: _____

SEAL