

TOWN OF NEWFANE PLANNING BOARD MINUTES
APRIL 22, 2025

Presiding, William Clark

The following Members were present:

Paul Conrad Thomas Mays
Eoin Walsh Daniel Whorley
James Evarts

Attending: James Sansone, Town Attorney
 Brian Sibiga, Town Engineer
 Town Planning, Zoning and Solar Energy Consultants, Wendel Engineering
 Joshua Rogers and Andrew Reilly

Excused: Peter Russell

Cannabis Processing Facility – Forest Creek Business Park, West Av	pages 1-3
Nouryon Solar Energy Project – Burt	pages 4-7
Dannebrock Solar Energy Project – Drake Settlement Rd	page 8

Cannabis Processing Facility -- 2612 West Ave. Forest Creek Business Park

The Notice of the Public Hearing was read by Mr. Clark.

Thomas Maxwell and Northern Lights of Niagara, LLC, 1698 Lockport-Olcott Road, Burt, NY 14028, have applied for a Special Exception Use Permit upon premises known as 2712 West Avenue, Newfane to construct an agricultural Cannabis processing micro-business, pursuant to Section 7-2C (5) of the Town of Newfane Zoning Ordinance, in the Industrial Park District, which requires a Special Exception Use permit.

Thomas Maxwell presented his plan to construct a Cannabis Cultivation and Dispensary Agricultural Processing facility in buildings at the Forest Creek Business Park. After his presentation, Mr. Clark asked if there were questions from the Board.

Paul Conrad asked about traffic and deliveries. Mr. Maxwell said they will be using cube trucks and traffic will be minimal. Mr. Conrad asked if there were odors associated with the processing and Mr. Maxwell said the operation will not result in any odors. Thomas Mays asked about parking and Mr. Maxwell said there will be only a few employees, no onsite sales and that there is plenty of parking. Daniel Whorley asked about site security; Mr. Maxwell said cameras will be installed all around the building and there will be keypad entry using one steel door. There will not be a sign. Brian Sibiga asked about the timing and schedule related to the construction, and Mr. Sibiga noted more construction diagrams and site information must be submitted to complete the final site plan. Mr. Maxwell said once their final lease is in place the plans will be completed.

Mr. Clark opened the hearing for public comments and questions:

David Lang of Maple Ave. Newfane asked if the business would include a bar or onsite services. Mr. Maxwell noted there will not be a bar and no onsite retail product or sales.

Patricia Fralick, Main Street, Newfane, NY, asked about the new store on Main St and if it was selling Cannabis. The Main St. store currently sells vaping products and is not licensed for cannabis sales and is not associated with this Northern Lights of Niagara business. Mr. Maxwell noted their company may consider retail cannabis sales in the future, but not at the Forrest Creek location.

Clara Oakes, Lincoln Court, Newfane asked about lighting and security. There will be video security, keypad entry, locked steel doors and exterior security lights.

Larry Dormer, Exchange Street, asked about New York State tax policies for cannabis production and sales.

Max Russell of Appleton asked if there would be sales to wholesalers.

A Motion was made by Paul Conrad, seconded by Eoin Walsh to close the Public Hearing at 7:35 pm.

All members voted Aye.

Motion carried.

A Motion was made by Thomas Mays and seconded by Daniel Whorley to approve a Special Exception Use Permit for Northern Lights of Niagara to operate an indoor cannabis micro business up to 3,500 sq ft on a portion of a 15-acre parcel located at 2712 West Avenue in Newfane, NY in accordance with the final documents, designs and site information that are submitted and approved by the Town Engineer and Building Inspector. These final site plans shall be reviewed with the Planning Board Chairman and Planning Board if necessary. This Special Exception Use Permit approval is subject to the following stipulations and conditions.

Whereas, the Town of Newfane received a special exception use permit and site plan application from Northern Lights of Niagara, LLC to operate an indoor cannabis micro business up to 3,500 sq ft on a portion of a 15-acre parcel located at 2712 West Avenue in Newfane, NY, and

Whereas, the Newfane Planning Board has reviewed this application and project at two meetings and held the required public hearing and received comments from the public and received input from the Town Consultant; and

Whereas, the issue of compliance with the State Environmental Quality Review Act has been addressed and a Negative Declaration has been issued after examination of the record and a public hearing, and

Whereas, the Planning Board has considered all the facts, information and submittals presented, and heard all public comments and input at a public hearing and finds justification to approve the application for a special exception use permit subject to the qualifications hereinafter set out.

Now, Therefore, Be It Resolved, that the Newfane Planning Board makes the following findings of fact:

The application has followed the procedural requirements of §270-8.2 and the application materials include all the information this Board requires to take final action on the Special

Exception Use Permit; and be it further resolved that the application to operate an indoor cannabis micro business up to 3,500 sq ft on a portion of a 15 acre parcel located at 2712 West Avenue by Northern Lights of Niagara is authorized and approved, and a Special Exception Use Permit for this project shall be issued subject to the conditions and requirements set forth below:

1. The Applicant shall undertake the use in accordance with the plan, maps, and application submitted to the Town, except as herein after modified, and agrees to be bound by the terms of the application and the conditions of the attached special exception use permit.
2. If the owner of the project or the owner of the property changes, the special exception use permit shall remain in effect, provided that the successor owner or operator assumes in writing all the obligations of the special exception use permit, site plan approval, and other requirements of the Special Exception Use Permit.
3. The terms, conditions, and requirements of this permit bind and obligate the Applicant, its successors, and assigns. This permit shall not be assigned or transferred, in whole or in part, without the prior written notice to the Town at least thirty (30) days in advance of the transfer.
4. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in accordance with the terms or requirements of any statute, local law, ordinance, or regulation, may be deemed a violation of the Town of Newfane Zoning Law and unless corrected in not more than 10 days following the service of written notice of such violation upon the applicant, may subject them to the penalties therein. Continued violations after written notice may result in revocation of this Special Exception Use Permit.
5. This Special Exception Use Permit shall become effective after the applicant approves each and every provision hereof and agrees to be bound by all the terms herein contained in consideration of the granting of this Special Exceptions Use Permit.
6. The Applicant has received their adult-use micro business license, will comply with all rules and regulations from NYS Office of Cannabis Management, and will not have any retail or direct user sales of product on the premises of the site.

Chairman Clark called for a rollcall vote on the motion to approve a Special Exception Use permit. Board members responded as follows:

James Evarts	Aye.
Eoin Walsh	Aye.
Paul Conrad	Aye.
Thomas Mays	Aye.
Daniel Whorley	Aye.
William Clark	Aye.
Peter Russell	Absent.

Motion carried

Adopted unanimously on April 22, 2025. (All present signed the original resolution)

Solar Energy Projects -- Nouryon Property, 2153 Lockport-Olcott Road, Burt, NY

The Notice of the Public Hearing was read by Chairman Clark as follows:

Tetra Tech and Radial, Power, LLC, Marlborough Technology Park, 100 Nickerson Road Marlborough, MA 01752, have applied for three Special Exception Use Permits and conditional Site Plan approvals, pursuant to the Solar Energy Local Law, of the Town of Newfane Zoning Ordinance, to construct and operate three, 5 (five) megawatt solar energy projects known as Omni Burt A Solar, LLC, Omni Burt B Solar, LLC and Omni Burt D Solar, LLC on property owned by Nouryon Chemicals, LLC, at 2153 Lockport-Olcott Road, Burt, NY, in the Town of Newfane. Said premises is zoned General Industrial under the Town of Newfane Zoning Ordinance.

Chairman Clark opened the Public Hearing at 7:45 pm and introduced Robert Lindbergh, Development Analyst, and John McDonough, Vice President, both of Radial Power. A summary was given outlining Radial Power's plans to install solar energy systems on the Nouryon property. Radial Power and their predecessor, Omni, have previously appeared before the Planning Board to present this proposal. Chairman Clark opened the hearing for comments and questions.

Board Member Eoin Walsh asked when construction was planned. It is estimated that each of the three projects would begin simultaneously later in 2025 and construction would continue into 2026.

Max Russell, Hess Road, Appleton asked about the status of ditch drainage, tree removal and a drainage easement for the property. No construction will occur on, and there will not be any interference with the existing drainage ditch on the property. The Planning Board has discussed drainage management with the Town Board, including suggestions that the town require drainage easements on this and other properties. Nouryon and Radial Power will be responsible for maintaining drainage on the property and the town has existing authority to enter the property under emergency conditions to correct drainage problems if the property owner/development fails to take required actions. The developer will remove trees in areas where solar panel will be placed, but will leave border and screening trees in place around the site perimeter. Additional tree removal will be required for building the access roads.

David Lang, Maple Ave., Newfane asked if the property was bought from bankruptcy and is there a host agreement in place. The Host Community Agreement is being prepared.

Kevin Gow, Transit Road, Newfane asked about access roads to the property. Two access roads are planned to accommodate construction and maintenance vehicles and for emergency response vehicle access.

A Motion was made by Eoin Walsh, seconded by Paul Conrad to close the Hearing at 8:55 pm.

All present voted Aye

Motion carried.

The Planning Board, in consultation with the Board Attorney and the Planning Board's Solar Energy Consultant, prepared the following resolution to approve identical Special Exception Use permits for each of the three solar energy projects on the Nouryon property.

SPECIAL EXCEPTION USE PERMIT APPROVAL
Omni Burt Solar, Lockport Olcott Road
Solar Arrays -- (insert Burt A, B or D)
April 22, 2025

Whereas, the Town of Newfane received a special exception use permit and site plan application from Omni Burt Solar LLC to construct and operate 5 MW Solar Energy system at 2153 Lockport Olcott Road on a parcel designated as **(insert Burt A, B or D)**; and

Whereas, the Newfane Planning Board has reviewed this application and project at several meetings and held the required public hearing and received comments from the public and received input from the Town Consultant; and

Whereas, the Project was referred to the Niagara County Planning Board pursuant to Section 239-m of the General Municipal Law, and received approval of same from that body, and

Whereas, the issue of compliance with the State Environmental Quality Review Act has been addressed, and a Negative Declaration has been issued after completion of a coordinated review, examination of the record and a public hearing, and

Whereas, the Planning Board has considered all the facts and information/submittals before it, and has heard those wishing to be heard at a public hearing held June 28, 2022, and found justification to approve the application for a special exception use permit, subject to the qualifications set out in that approval, and

Whereas, the Planning Board had previously approved the solar construction project, but said Project did not commence due to unforeseen circumstances, and said previous approval has since now expired, and

Whereas, Omni Burt Solar is seeking re-approval of said Project, and since no substantive changes have been proposed to said Project since its approval, the matter does not have to be re-referred to the Niagara County Planning Board, and

Whereas, another public hearing was held on April 22, 2025, pursuant to the application for re-approval of the special exception use permit and site plan application, and the Planning Board has considered all the facts and information/submittals before it, and has heard those wishing to be heard at said public hearing, and found justification to approve the re-application for a special exception use permit subject to the qualifications set out in that approval; and

Whereas, the SEQR Negative Declaration decision is still valid,

NOW, THEREFORE, BE IT RESOLVED, that the Newfane Planning Board makes the following findings of fact:

1. The application has followed the procedural requirements of the Town's Solar Energy law; and
2. The application materials include all the information this Board requires to take final action on the Special Exception Use Permit; and
3. The proposed project meets the development standards set out in the Town's Zoning Code, which regulates Solar Energy systems, and
4. The SEQR Negative Declaration decision is still valid, and be it further

RESOLVED, that the application to construct and operate a 5 MW Solar Energy system at 2153 Lockport Olcott Road on a 56 Acre parcel designated as **(insert Burt A, B or D)** by Omni Burt Solar LLC, be and hereby is re-authorized and re-approved, and a Special Exception Use Permit for this project shall be issued, subject to the conditions and requirements set forth in the attached Special Exception Use Permit form, the Town of Newfane Solar Law, and the following:

1. The Applicant shall undertake the use in accordance with the plans, maps, and application submitted to the Town, except as hereinafter modified, and agrees to be bound by the terms of the application and the conditions of the attached special use permit.
2. If the owner of the solar project or the owner of the property changes, the special exception use permit shall remain in effect, provided that the successor owner or operator assumes in writing all the obligations of the special exception use permit, site plan approval, decommissioning plan and other requirements of the Special Exception Use Permit.
3. The terms, conditions, and requirements of this permit bind and obligate the Applicant, its successors, and assigns. This permit shall not be assigned or transferred, in whole or in part, without the prior written notice to the Town at least thirty (30) days in advance of the transfer.
4. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in accordance with the terms or requirements of any statute, local law, ordinance, or regulation, may be deemed a violation of the Town of Newfane Zoning Law and unless corrected in not more than 10 days following the service of written notice of such violation upon the Applicant, may subject them to the penalties therein. Continued violations after written notice may result in revocation of this Special Exception Use Permit.
5. This Special Exception Use Permit (as attached to this resolution) shall become effective after the Applicant approves each and every provision hereof and agrees to be bound by all the terms herein contained in consideration of the granting of this Special Exception Use Permit.
6. The Applicant will work with the owners of the site to provide appropriate drainage, sewer and access easements as required by the Town of Newfane, to the Town. The form and description of these easements will be finalized with the Town Attorney.
7. Final construction plans must be submitted to the Town, and the Town Engineer shall review these plans to determine conformance with Town Approvals and industry standards.

A Motion was made by Eoin Walsh, seconded by Daniel Whorley to approve the above resolution authorizing a Special Exception Use permit for the **Omni Burt A** solar facility.

Chairman Clark called for a roll-call vote, Board members responded as follows:

James Evarts	Aye.
Eoin Walsh	Aye.
Paul Conrad	Aye.
Thomas Mays	Aye.
Daniel Whorley	Aye.
William Clark	Aye.
Peter Russell	Absent

All present voted Aye.

Motion carried.

A Motion was made by Thomas Mays, seconded by Paul Conrad to approve the above resolution authorizing a Special Exception Use permit for the **Omni Burt B** solar facility.

Chairman Clark called for a roll-call vote, Board members responded as follows:

James Evarts	Aye.
Eoin Walsh	Aye.
Paul Conrad	Aye.
Thomas Mays	Aye.
Daniel Whorley	Aye.
William Clark	Aye.
Peter Russell	Absent

All present voted Aye.

Motion carried.

A Motion was made by Daniel Whorley and seconded by Thomas Mays to approve the above resolution authorizing a Special Exception Use permit for the **Omni Burt D** solar facility.

Chairman Clark called for a roll-call vote, Board members responded as follows:

James Evarts	Aye.
Eoin Walsh	Aye.
Paul Conrad	Aye.
Thomas Mays	Aye.
Daniel Whorley	Aye.
William Clark	Aye.
Peter Russell	Absent

All present voted Aye.

Motion carried.

The original Resolutions were signed by Planning Board members present and filed with the Newfane Town Clerk.

Preliminary Site Plan Review -- Dannebrock Solar Energy Facility, 6260 Drake-Settlement Road, Burt, NY

Sydney Rosenansaft and Chris Manity of UGE,USA, LOC participated in the meeting using remote video from their offices at 417 Fifth Ave., Suite 0833, NY. NY.

Review of the Dannebrock solar project began in 2021 when a State Environmental Quality Review was approved by the Planning Board, but further review of the project was suspended by the developer in 2022.

Chris Manity of UGE explained that the original request for a Special Exception Use permit had been submitted by Omni, but UGE has now obtained the rights for the Dannebrock solar project. UGE states the scope and layout of the project will essentially be the same as that presented by Omni, except for modifications to the capacity of some component equipment.

Planning Board members reviewed questions about site layout, drainage and erosion plans, perimeter buffers and screening and property maintenance. There was detailed discussion about the ownership, right-of-way, dimensions and type of access road. Eoin Walsh requested more explanation of UGE purchase and legal ownership of the project. The Town Attorney asked UGE to provide ownership documentation. The Attorney also asked about requirements the Town needs for the Host Community Agreement and decommissioning bond. The Town Engineer and Building Inspector will work with UGE to prepare and submit required Site Plan documents, technical specifications, construction and maintenance plans. The project will also be reviewed by the Town Fire Prevention Committee, Highway and Water Superintendent. A few members of the public were present and openly participated in the discussion. UGE will return to the Planning Board when they are prepared for a final Site Plan Review and a Public Hearing will be scheduled.

Mr. Clark announced to the Board members there is a training session on Wednesday, May 14, 2025 at 1:00 PM at Buffalo, Marriott Niagara.

A Motion was made by Paul Conrad, seconded by Thomas Mays to adjourn the meeting.

All present voted Aye. Motion carried.

Respectfully submitted,

Mickie M. Kramp
Planning Board Secretary

Next Meeting ~~Tuesday, May 25~~
 canceled, next meeting is now Tuesday, June 24