

# JDL

## ENTERPRISES

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### Memorandum

To: Kevin C. Morin, PE  
From: Joseph D. Lombardo, AICP  
Date: July 14, 2023  
Re: Review of Zoning Special Use Permit Application by Green Development, LLC D/B/A Johnston Winsor III, LLC – Town of Johnston, RI

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Per your request. on behalf of Green Development, LLC and Johnston Winsor III, LLC, the following includes my review of a proposed solar array development described below and Zoning Special Use Permit Application that will be submitted to the Town of Johnston with regard to compliance with the Johnston Comprehensive Community Plan and its Future Land Use Plan (FLUM) and Special Use Permit Approval Criteria under the Town Zoning Ordinance:

#### **Project Overview –**

GD Johnston Winsor III is located on the Town of Johnston's Assessor's Plat 59 Lot 15. The site is the location of a historic farmstead surrounded by agricultural fields to the north, south, and east situated on the top of Sikkibunkiaut Hill. The remainder of the lot is vacant and forested. There are two swamp wetlands associated with intermittent streams to the west and to the east. Also, three isolated pockets of wetland are on site classified as forested wetlands. A Rhode Island Historical Cemetery is located on the site. The property is zoned Residential R-40 zone on the Town's zoning map. The parcel has frontage on and will be accessed from Winsor Avenue which is a two-lane roadway of good condition. The site is located within the northwest portion of Johnston approximately 1/2 mile from the Smithfield and Scituate town lines. Winsor Avenue abuts the parcel to the north. The site will have access from Winsor Avenue. The area surrounding the site is comprised of single-family homes to the east and west, Winsor Avenue to the north, and vacant woodlands to the south. Residential uses make up the frontage along Winsor Avenue. The zoning classification of the parcels surrounding the site is Residential R-40 (Residence R-40 District) to the north, south, east, and west.

## **Zoning District Description**

### **Current Zone for Assessor's Plat 59- Lot #15**

#### **The property is located in the R-40 Zoning District:**

**Residence R-40 District.** This district covers a large portion of the Town into which urban-type development should logically expand as the need arises. This district is characterized by a commingling of open land interspersed with residential uses.

**General Design Information:** The following is a brief description of the goals, objectives and planning criteria utilized as a guide in developing plans for GD Johnston Winsor III. The applicant (Johnston Winsor III, LLC) proposes to construct a 19 MW (AC) solar project on the site. The proposed solar project is comprised of 3 interconnections: (2) 7.5 MW AC & (1) 4.0 MW AC.

**Project Evolution:** This project was previously submitted for Master Plan review and Special Use Permit in May of 2022. The Master Plan was unanimously approved by the Town Planning Board. The Zoning Board voted 3-2 for granting the Special Use Permit; however, a 4-1 vote was required for approval and therefore the project was denied. Of particular concern was the cutting and clearing of existing trees, construction disturbance and duration, unease for surface runoff and erosion potential, and visual degradation of the natural landscape aesthetic. Green has considered these concerns and modified the original Master Plan proposal to address them. In an effort to globally address all concerns, Green has reduced the proposed solar development from 24 MW to 19 MW, a 20% reduction in overall panel surface area. Panels were selectively removed from areas in proximity to neighboring properties as well as the Scituate Reservoir watershed, which reduces the overall impact of the proposed solar site, and increases the distance from panels to existing homes. Green also proposes supplementing the existing natural buffers with earthen berms, additional landscape plantings and screening via slatted or stockade fencing in areas where natural existing buffers are considered insufficient.

## **THE SUITABILITY QUESTION ~**

The Future Land Use Plan relates the proposed land use classifications and densities to other provisions of the Comprehensive Plan. The key theme of this Plan is balance. The Plan recognizes the need for both preservation and development and the importance of establishing a balance between them. The property is designated Residential which the R-40 zoning district reflects as a land use. The mixture of current uses in this part of the Town include mostly residential. Further, the nature of the planned solar array is in keeping with the residential nature of the area. The aerial photo below (following page) clearly illustrates the present-day land uses as described above.

## AERIAL PHOTOGRAPH OF SITE, ADJACENT AND NEARBY USES:



The following sections of the Town of Johnston Comprehensive Plan are applicable and germane to proposed solar array project.

**Source: TOWN OF Johnston  
COMPREHENSIVE PLAN ADOPTED BY JOHNSTON TOWN COUNCIL**

The Land Use Plan Element (Land Use Plan) can be considered the cornerstone of the Plan, as it establishes the desired pattern of land use throughout the Town. It is the Town's land use pattern that determines the development of its transportation, community facilities, and parks and open space systems. The land use pattern also affects the implementation of the Town's housing and economic development programs. The land use plan is an opportunity to look at the existing land uses in Town, assess the future development capacity based on the existing zoning and create a future land use map based on these findings. The project site is designated as Residential on the FLUM.

## **ZONING CONSIDERATIONS ~**

The following particular sections of the Town of Johnston Zoning Ordinance – Purpose are applicable and germane to the proposed solar development project by Green Development, LLC known as Winsor III:

### **§ 340-2 Purpose and consistency.**

This chapter has been developed and will be maintained in accordance with the Johnston Comprehensive Community Plan, prepared, adopted by the Town Council, and as may be amended in accordance with Chapter 22.2 of Title 45 of the Rhode Island General Laws, also known as the “Rhode Island Comprehensive Planning and Land Use Regulation Act,” and is designed to address the following purposes, each having equal priority and numbered for reference purposes only:

- A.** To promote the public health, safety, and general welfare.
- B.** To provide for a range of uses and intensities of use appropriate to the character of the Town of Johnston, and reflecting current and expected future needs.
- C.** To provide for orderly growth and development which recognizes:
  - (1)** The goals and patterns of land use contained in the Johnston Comprehensive Community Plan adopted pursuant to the Rhode Island Comprehensive Planning and Land Use Regulation Act;
  - (2)** The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;
  - (5)** The availability and capacity of existing and planned public and/or private services and facilities;
  - (7)** The use of innovative development regulations and techniques.
- D.** To provide for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.
- G.** To provide for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.
- J.** To promote safety from fire, flood, and other natural or man-made disasters.

**K.** To promote a high level of quality in design in the development of private and public facilities.

**L.** To promote implementation of the Johnston Comprehensive Community Plan adopted pursuant to the Rhode Island Comprehensive Planning and Land Use Regulation Act.

**M.** To provide for coordination of land uses with contiguous municipalities, other municipalities, the State of Rhode Island, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond Town of Johnston boundaries or have a direct impact on the Town of Johnston.

### **SUP APPROVAL CRITERIA ~**

In granting a special use permit, the Zoning Board shall require that evidence of the satisfaction of the following criteria be entered into the record of the proceedings:

- (1)** That granting of the special use permit will be compatible with the neighboring uses and will not adversely affect the surrounding neighbors' use and enjoyment of their property;
- (2)** That granting of the special use permit will be environmentally compatible with neighboring properties and the protection of property values;
- (3)** That granting of the special use permit will be compatible with the orderly growth and development of the Town of Johnston, and will not be environmentally detrimental therewith;
- (4)** That the best practices and procedures to minimize the possibility of any adverse effects on neighboring property, the Town of Johnston, and the environment have been considered and will be employed, including but not limited to considerations of soil erosion, water supply protection, septic disposal, wetland protection, traffic limitation, safety and circulation;
- (5)** That the purposes of this chapter, and as set forth in the Comprehensive Plan, shall be served by said special use permit;
- (6)** That granting of the special use permit will substantially serve public convenience and welfare; and
- (7)** That granting of the special use permit will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community.

## Responses and Opinions ~

(1) That granting of the special use permit will be compatible with the neighboring uses and will not adversely affect the surrounding neighbors' use and enjoyment of their property;

*Opinion: It is my opinion following review of the project materials as revised, that the proposed use of a solar array as designed on the subject site will be compatible with all the residential neighboring uses and will not adversely affect the surrounding neighbor's use and enjoyment of their own property.*

(2) That granting of the special use permit will be environmentally compatible with neighboring properties and the protection of property values;

*Opinion: It is my opinion that the proposed use of a solar array as now designed on the subject site will be environmentally compatible with neighboring properties as the applicant has adequately addressed all the required standards. In addition, with their complete and thorough design neighboring property values will be protected.*

(3) That granting of the special use permit will be compatible with the orderly growth and development of the Town of Johnston, and will not be environmentally detrimental therewith;

*Opinion: It is my opinion that the proposed use of a solar array as now designed on the subject site will not be environmentally detrimental to or permanently injure the appropriate use of this property which is zoned for R-40 and allows the proposed use by Special Permit. The proposed solar array use is very low intensity and will not in any manner affect the neighborhood along Winsor Lane in the surrounding area of the project site.*

(4) That the best practices and procedures to minimize the possibility of any adverse effects on neighboring property, the Town of Johnston, and the environment have been considered and will be employed, including but not limited to considerations of soil erosion, water supply protection, septic disposal, wetland protection, traffic limitation, safety and circulation;

*Opinion: It is my opinion that the proposed use of a solar array as now designed on the subject site will absolutely minimize the possibility of adverse effects on all neighboring properties, the Town as a whole, and that each and every consideration has been addressed by the applicant, as outlined in 10.0 Zoning Ordinance The following items in Section 340.27.1.E.2 (a)-(p) are specifically addressed:*

- Johnston natural resources shall be preserved to the maximum extent possible. The natural resources of Johnston will be preserved to the maximum extent possible in accordance with all town ordinances and RIDEM.
- Erosion and sedimentation shall be controlled during and after construction and shall not adversely affect adjacent or neighboring property or public facilities or services.
- Increased runoff due to the development on the site shall not be injurious to any downstream property owner or cause hazardous conditions on adjoining streets.
- Direct discharge of untreated stormwater runoff to a wetland or watercourse from impervious surfaces, including, but not limited to, roadways, parking lots, driveways, basements, and roofs shall not be allowed.
- The proposed development shall not result in pollution of ground or surface waters, other than that anticipated under normal development practices with adequate mitigating measures to prevent significant impacts.
- The movement of vehicular and pedestrian traffic within the site in relation to access streets shall be safe and convenient, and adequate provision shall be made for snow removal.
- Vehicular entrances and exits shall not be located within 75 feet of any street intersection.
- Traffic generated by the development shall not create significant congestion on the adjoining and nearby street system.
- Adequate off-street parking and loading shall be provided to prevent on-street traffic congestion.
- No development shall be allowed where there is unrestricted access to the public streets or where the public street must be utilized to maneuver in and out of a parking space.
- Buildings and the grounds adjoining them shall permit easy access and operation of fire, police and other emergency vehicles.
- Sensitive environmental land features such as steep slopes, wetlands and large outcroppings shall be preserved and protected.

- Buffering elements in the form of architectural design and landscape design that provide a logical transition to adjoining existing or permitted uses shall be provided.
- Glare from the installation of outdoor lights and signs and from the movement of vehicles on the site shall be shielded from the view of adjacent properties in a residential zone.
- Abutting properties and Town amenities shall not be degraded by undue disturbances caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, and odors.

*Having reviewed the applicant's responses to these items in the revised and modified plans, I am confident that the proposed solar array use as a very low intensity and will not in any manner affect the Town or neighborhood along Winsor Lane and in the surrounding area of the project site.*

(5) That the purposes of this chapter, and as set forth in the Comprehensive Plan, shall be served by said special use permit;

***Opinion:** The purposes of this chapter § 340-2 Purpose and consistency, as set forth in the Johnston Comprehensive Plan that will be implemented by the development were highlighted on Pages #4 & 5, notably:*

**To provide for a range of uses and intensities of use appropriate to the character of the Town of Johnston and reflecting current and expected future needs.**

**And,**

**To promote a high level of quality in design in the development of private and public facilities.**

(6) That granting of the special use permit will substantially serve public convenience and welfare; and

***Opinion:** It is my opinion that the proposed solar array will substantially serve the public convenience and welfare while providing a renewable source of energy and electric power to the local and regional grid system available to residents of Johnston.*



(7) That granting of the special use permit will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community.

***Opinion:** It is my opinion as a land use planner that the proposed solar array as now designed will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community*

**SUMMARY ~ Based on:**

- The Comprehensive Plan recognizes the need for both preservation and development and the importance of establishing a balance between them.
- Because the primary current zone R-40 permits by Special Use Permit the proposed use and is in keeping with the preferred land use map envisioned by the Town at this location.
- The area surrounding the subject site is comprised mainly residential uses
- The proposed development in which the subject site is located meets many of the pertinent Purposes of Zoning
- The applicant will demonstrate and prove to the Zoning Board that the revised design of the proposed development will implement the purposes of Zoning and meets or exceeds all the design standards as required for this development plan

- Lastly, the proposed Development application is consistent with the Comprehensive Community Plan Future Land Use Plan, that being Residential. The following Special Use Permit Review Criteria for the proposed use of a 19 MW (AC) solar energy system in three separate arrays in the R-40 zoning district are the most important considerations for the Zoning Board:

*That the proposed use of a solar array as now designed on the subject site will be compatible with all the residential neighboring uses and will not adversely affect the surrounding neighbor's use and enjoyment of their own property.*

And;

*That the proposed use of a solar array as now designed on the subject site will absolutely minimize the possibility of adverse effects on all neighboring properties, the Town as a whole, and that each and every consideration has been addressed by the applicant*

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It is the professional opinion of Joseph D. Lombardo, AICP, President of JDL ENTERPRISES that the proposed solar energy system project and Special Use Permit Application by Green Development, LLC for the Winsor III site is fully

**CONSISTENT WITH THE COMPREHENSIVE COMMUNITY PLAN OF  
THE TOWN OF JOHNSTON & ITS FUTURE LAND USE MAP**

**And,**

**THAT ALL CRITERIA FOR THE GRANTING OF THE REQUESTED  
SPECIAL USE PERMIT HAS BEEN MET**

**And that,**

**THE ZONING BOARD OF REVIEW SHOULD  
GRANT SAID APPLICATION**