TOWNSHIP OF LUMBERTON LAND DEVELOPMENT BOARD
IN THE MATTER OF THE APPLICATION OF SOLAR LANDSCAPE, LLC, WITH RESPECT TO THE PROPERTY IDENTIFIED AS BLOCK 22, LOT 9.01, WHICH IS MORE COMMONLY KNOWN AS 1800 RT. 38, IN LUMBERTON TOWNSHIP BURLINGTON COUNTY

RESOLUTION NUMBER: 2026-17

GRANTING MINOR SITE PLAN APPROVAL WITH BULK VARIANCE RELIEF

WHEREAS, Solar Landscape, LLC, (referred to as the "Applicant" or the "Developer") has submitted an Application to the Township of Lumberton Land Development Board ("Board") relating to the property identified on the Township's Official Tax Map as Block 22, Lot 9.01, which is more commonly known as 1800 Route 38, seeking Minor Site Plan approval to be permitted to install a roof mounted solar array. The Applicant also requested d(6) height variance relief as to the height of the solar array and bulk variance relief in order to place accessory equipment in the front yard of the lot; and

WHEREAS, the property is located within the General Business (GB) zone; and

WHEREAS, it appears that the Applicant has complied with all procedural requirements in making its Application, including providing and publishing all requisite notices, thus giving the Board jurisdiction to hear the Application; and

WHEREAS, the Application was heard at the public meeting held on October 8, 2026; and

WHEREAS, at the hearing on the Application, based upon the comments from the Board's professional consultants, the Board affirmatively determined that the Applicant's submissions were complete and heard the matter based upon the following materials, documents and testimony:

1. Submissions and Testimony of Record at the Hearing. In reaching its decision, the Board relied on the submissions, Exhibits, and witness testimony identified below:

a. *The Applicant's submissions*:

- Land Development Board Application form; dated June 30, 2026;
- Transmittal Letter by Donna M. Jennings, Esq. of Wilentz, dated June 30, 2026;

- Copy of Township of Lumberton Resolution No. 2024-078, dated May 2, 2024;
- Minor Site plans by Shore Point Engineering, dated May 20, 2026;
- Environmental Impact Statement, by Shore Point Engineering, dated May 29, 2026;
- Correspondence indicating Community Solar Interconnection Conditional Approval by Public Service Electric and Gas Company (PSEG), dated March 21, 2024;
- Correspondence indicating Conditional Acceptance by the Community Solar Energy Program, dated June 6, 2024;
- Correspondence indicating a Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration, dated August 19, 2024;
- Correspondence indicating an Extension of Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration, dated February 9, 2026;
- A Structural Feasibility Report prepared by Exactus Energy Inc., dated February 17, 2026;
- A report entitled Decommissioning a Rooftop Mounted Solar Array, prepared by Solar Landscape, LLC, dated May 1, 2023

b. *Exhibits:*

- Exhibit A-1: Aerial Exhibit
- Exhibit A-2: Equipment Exhibit
- Exhibit A-3: Site Suitability Exhibit

c. *Reports from the Board's Professionals*:

- Review letter dated July 17, 2026 by the Board's Planner, Christopher N. Dochney, PP, AICP of Artheon

d. *Testimony of the Witnesses and Representations on the Record*: The Applicant presented the following summation of counsel and sworn testimony in support of this Application:

Joshua Grun, Esq. of Wilentz, Goldman & Spitzer P.A. summarized the relief sought by the Applicant to permit the installation of a rooftop solar array on the existing building. The Applicant seeks a d(6) height variance and bulk variance as to the placement of the electric equipment to permit the placement of accessory components in the front yard of the lot where accessory structures are permitted in either a side or rear yard. There was a brief discussion in which counsel and the Solicitor summarized the recent legislative changes enacted in the State of New Jersey which is effective immediately and provides that a solar energy facility constructed and operated on the site of any commercial or industrial rooftop, such as the solar array proposed by the Applicant, is a permitted use within every municipality in the State of New Jersey, such that the Applicant no longer requires d(1) use variance relief to permit the proposed array, which the Applicant had originally requested with its initial application submission made prior to the enactment of the new legislation.

Courtney Breese was sworn and identified as the pre-construction manager for Solar Landscape. She testified this specific project was awarded to Solar Landscape through the 2025 Community Solar Energy Program, and that the Community Solar program involves generation of

power from the solar array on site that is eventually fed back into the utility grid for use off site by everyday homeowners who enroll in the program. She described the process for tying into the utility grid and how it benefits the user and that 51% of the benefit has to go to low- to- moderate-income customers. She testified that the utility bill will have a discount, that the connection has to be approved by the NJ Board of Public Utilities ("BPU") and Solar Landscape still has to receive a zoning permit or zoning or land use approval to allow the project. She testified that she was part of the team which reviewed the site to determine its suitability for hosting an array and noted that Solar Landscape is not permitted to propose solar farms or a solar field as part of the Community Solar Program, so the organization installs solar arrays on rooftops, which is a more efficient use of land. She testified that the organization hires structural engineers to assess whether the roof has sufficient capacity to support the weight of the array.

Ms. Breese testified as to the operations, that Solar Landscape does not remove snow from the array; that the array is equipped with a monitoring system to indicate if or when the array is not operating properly. She testified as to the proposed construction timeline for construction and the solar array being operational. The Applicant would keep the construction equipment on the site and ensure that it is secure. The Applicant acknowledged that they would have to apply for and obtain FAA permits and get FAA approval. She testified that the solar panels have a 25-year life span and acknowledged that the Applicant is required to restore the roof if the panels are removed as part of its plan for decommissioning the array and as per its agreement with the property owner to lease the rooftop for the panels, which is also a condition for approval as recommended by the Board's professional consultants. Ms. Breese testified that their lease with the property owner includes a provision which requires removal at the end of the lease term.

Ryan Hollosi, PE, was sworn and accepted as an expert in civil engineering. Mr. Hollosi testified that he prepared the site plan and identified Exhibit A-2, an enlarged site plan and Exhibit A-1, an aerial image of the site. He testified describing the subject property, the surrounding uses, the condition of the property which is already developed with a warehouse. Mr. Hollosi addressed the need for the d(6) height variance that a height of 49.4 ft. is proposed as shown on Exhibit A-2 on the zoning chart, and that a height of 51.6 feet was originally submitted as a conservative estimate due to sloping of the site and the building, causing a variable building height being indicated on the design plans. Mr. Hollosi confirmed the excess height requiring the d(6) variance is entirely from the inverter. He testified about the area of the inverter, the location of the equipment on the roof and the necessity for bulk variance relief due to the size and nature of the equipment and the connection to the utility which dictates where the inverter has to be situated in order for the array to function adequately. He testified the solar panels only add about 8.5 inches to the roof, which will be completely covered from view by the existing parapet measuring about 1.5 feet tall. He identified the accessory equipment in the front yard and that the location of this equipment is due to the utility company who dictates where the equipment needs to be located for the system to connect to existing utility services. Mr. Hollosi described the panels, the amount of power produced and acknowledged that the Applicant is required to obtain the approval of the Burlington County Planning Board, Federal Aviation Authority, the utility company servicing the site and the NJ BPU. Mr. Hollosi testified the Applicant already obtained FAA approval and an extension of that approval in February 2026.

Ms. Cristen Sheppard, PP, was sworn and accepted as an expert in Professional Planning.

Ms. Sheppard identified and described the information she reviewed and Exhibit A-3, the Site Suitability Exhibit as part of the review of the site. Because the New Jersey Municipal Land Use Law ("MLUL") specifically recognizes solar panels as an inherently beneficial use, she addressed the d(6) variance relief by conducting the four-pronged analysis under Sica v. Board of Adjustment of Wall, 127 N.J. 152 (1992), as modified by Monarch Communities, LLC v. Twp. of Montville, 264 N.J. 452 (2026). She also acknowledged she would put on the record independent proofs under the separate d(6) height variance legal test pursuant to Grasso v. Borough of Spring Lake Heights, 375 N.J. Super. 41 (App. Div. 2004).

With respect to the Sica test, Ms. Sheppard provided the basis for her opinion on prong one of that test, identifying the public interest by noting Ms. Breese's prior testimony that the panels are providing a community benefit, and that the proposed array advances purposes of the MLUL, including purpose A, that the Application supports the general welfare, and purpose M, specifically encouraging renewable energy opportunities such as is proposed in this Application.

With respect to prongs two and three, identifying any detriments and imposing reasonable conditions to mitigate those effects, Ms. Sheppard testified the potential impacts are de minimis due to screening to be provided and landscaping around the ground equipment, and recognized the Applicant's willingness to comply with any reasonable conditions to mitigate any perceived detriments.

With respect to prong four, she testified as to both negative criteria, expressing that there would be no substantial detriment to the public good given the height of the roof and the array would be hard to see from ground level because it would be screened by the parapet wall of the building. Regarding substantial impairment of the zone plan and zone ordinance, she testified that she reviewed the 2019 Master Plan and its goals, including for energy conservation, preservation of open space and the efficient use of space, proffering her opinion that the d(6) height variance is justified from this analysis.

Moving to the traditional Grasso test for d(6) height variances, Ms. Sheppard's testimony addressed and referred to Exhibit A-3, the site suitability exhibit, and noted that given the large size of the site with reference to the building area, and the size of the inverter (210 SF), which is vastly smaller than the overall roof area (about 0.1%), the location (rooftop), the screening proposed, and given the surrounding uses and the fact that the building is buffered by vegetation so that the residential homes nearby would not be affected, the site is suitable to accommodate the deviation from the Ordinance's height requirement. She noted that the building is near a highway where the speed limit is 50 mph, so the array is unlikely to be unsightly or detrimental even from the roadway. She noted that the design plans reflect the highest height of the array at 51.6 ft, and this deviation is exclusively caused by the inverter, and the solar panels will be entirely covered from view by the building's parapet wall. Ms. Sheppard again addressed the negative criteria with respect to this test, echoing her earlier testimony confirming no detrimental impact to the public good due to the size of the property and the large distance from this property to the closest residential development. She testified there was no adverse impact to the zoning plan and zoning ordinance, noting the Ordinance's providing exceptions to the height requirement and positing the inverter constitutes equipment similar to exceptions to the height requirement, including mechanical equipment.

Ms. Sheppard addressed the request for the c(2) bulk variance for the placement of the accessory equipment including the transformer and switchboard in the front yard, which is necessary to support the community solar facility. She confirmed the location of this equipment is dictated by the utility company and testified the logistical location of the equipment avoids unnecessary disturbances on the property which is constrained by environmental factors. She testified that the solar array is considered a public benefit, that the equipment is set back about 150 ft. from the roadway and it is buffered with landscaping to reduce the visual impact.

There was a discussion between counsel and the Solicitor in which it was noted that the Applicant may be exempt from the obligation to make an affordable housing contribution, and that counsel for the Applicant will provide the Solicitor with the legal citation for the exemption.

e. *Comments and testimony by the Board's Professionals*:

The Board's Planner, Ms. Rodrigues of Artheon, inquired about the height of the structure and whether it is measured from the inverters so that based upon her calculation, the Applicant needs relief to be permitted to install the array at a maximum height of 49.4 ft. There was a discussion about the height from grade and whether to seek relief to allow a 51.6-ft height, even though the Applicant anticipates the array will be lower. The relief for the height sought is for an area of only about 210 SF area for the inverter associated with the roof top panels.

Mr. Kausch asked about the prior approvals. Ms. Breese addressed the need for structural support and the requirement to comply with Fire Code, explaining that they cannot simply use the proposed footprint of another prior application for this site as each rooftop array is designed differently to the specifications of the customer.

f. *Public Comment*: None

g. *Conditions*. At the hearing on this Application, the Applicant agreed to certain conditions of approval summarized as follows:

1. As a condition of any approval, the Applicant must make all changes, revisions, add notes and information to the final Site Plan submissions as identified in the Board's Planner's review letter dated July 17, 2026, including Planning comments 6k and 6L, requiring it to work with the Planner as to and screening of the ground equipment and to provide additional landscaping for the landscaped buffer at the portion of the site containing the proposed ground equipment.
2. The Applicant is required to apply for and obtain FAA permits and obtain FAA approval as well as the approval of the Burlington County Planning Board, Utility company and NJ Board of Public Utilities ("BPU") and other outside agencies exercising jurisdiction over the project.
3. As a condition of approval, the Applicant is required to restore the roof when the panels are removed, as part of its plan for decommissioning the array in accordance with its lease agreement with the owner and provide confirmation that the decommissioning of the array was accomplished in accordance with the decommissioning plan upon removal or discontinuance of the use of the roof-top array.

2. Findings and Determination by the Board:

Upon consideration of the testimony presented by the Applicant, all documents and submissions of record, and based upon the comments of the Board's Professionals, and the conditions imposed or agreed to by the Applicant and its professionals, and based upon the findings by the Board, the Board determined the following:

A. The Applicant, Solar Landscape, LLC, has submitted an Application to the Township of Lumberton Land Development Board relating to the property identified on the Township's Official Tax Map as Block 22, Lot 9.01, which is more commonly known as 1800 Route 38, seeking Minor Site Plan approval to be permitted to install a roof-mounted solar array and associated roof- and ground-mounted equipment. The Applicant also requested d(6) height variance relief as to the height of the solar array and one (1) bulk variance in order to place accessory equipment in the front yard of the lot, where same is only permitted in the side or rear yards.

B. The Board's Solicitor noted that the proposed use is considered an inherently beneficial use but that with the recent legislation, is also a permitted use in every municipality if constructed and operated on the rooftop of a commercial or industrial building; that the array is proposed to be added to existing developed warehouse, so that d(1) (use variance) relief to allow a solar array as a second primary use is not required and the use is determined to be permitted and constitute a permitted use on the existing structure, which obviated the need for testimony on the need for additional relief.

C. The Board found that the Applicant has submitted sufficient testimony to support the request to grant the Application for Minor Site Plan approval, as the rooftop solar array does not change the footprint of the existing developed building, the inverter associated with the array and causing the height deviation measures only 210 SF in area, constituting approximately 0.1% of the total roof coverage, the panels measure only 8.5 inches in height and will be screened from street view by the existing building parapet, and the Applicant has agreed to measures to buffer and adequately screen the associated ground equipment from view.

D. The Application also seeks a d(6) height variance to be permitted to install the array and have the height of the equipment exceed the building structure height permitted in the zone. The Applicant presented testimony from its Professional Planner in satisfaction of both the Sica balancing test for inherently beneficial uses and the Grasso test for d(6) height variances. Specifically, with respect to the Sica test, the testimony demonstrated the important public interest in renewable energy, that the purpose of having a rooftop array is to avoid expanding the footprint of a developed site, that the engineering requirements necessitate the array be situated on a rooftop, with a designed location in order to capture sunlight and convert it to be returned to the energy grid; that the array is small, the panels will be screened by the parapet on the building and set back from the roadway and residential properties, so that there is no detrimental impact, and the panels are reconcilable with the Township's zone plan and zoning ordinance. The opinion of the Applicant's Planner was adopted by the Board as its justification for granting the d(6) height variance relief , that the use is a positive and uniquely suited to this site, all of which facts and findings as previously summarized herein justify granting the relief as to the enhanced height of the structure under the Sica balancing test applicable to inherently beneficial uses, and independently under the legal test for d(6) height variances under Grasso.

E. The Application also seeks a bulk c(2) variance to be permitted to place the

accessory equipment in the front yard of the lot where accessory equipment is required to be in a side or rear yard. The Board found that the Applicant presented sufficient testimony to support the request for this variance relief as there is no other practical place to install the equipment and the placement is subject to the approval of the utility company. In addition, the equipment will be screened in a manner so that it will not be a detriment to the public good, supports MLUL purposes A and M, and the benefits of the site substantially outweigh any detriments.

NOW THEREFORE, BE IT RESOLVED, that based upon the aforementioned record, including the findings of the Board, the Application by Solar Landscape, LLC, relating to the property identified on the Township's Official Tax Map as Block 22, Lot 9.01, which is more commonly known as 1800 Route 38, for Minor Site Plan approval is hereby **GRANTED**; and

BE IT FURTHER RESOLVED, that the request by the Applicant, Solar Landscape, LLC, for a d(6) height variance to permit the rooftop array and related equipment to exceed the maximum height allowed under Ordinance §130-Attachment 1 which limits building and rooftop equipment to a height of 40 ft. in order to permit the array and its equipment to be a height of 51.60 ft. (as reflected on the revised design plans) is hereby **GRANTED**; and

BE IT FURTHER RESOLVED, that the request by the Applicant, Solar Landscape, LLC, for bulk variance relief from §130-23C to be permitted to place the accessory equipment in the front yard of the lot where accessory equipment is required to be in a side or rear yard is hereby **GRANTED**; and

BE IT FURTHER RESOLVED, that the Land Development Board of the Township of Lumberton, based upon all testimony, and information set forth above and presented at the hearing conducted in matter, and subject to all of the requirements and conditions of approval as set forth herein in Section 1g and as represented by the Applicant and its authorized representatives at the time of the hearing in this matter, does hereby grant the request for relief in the manner described in this Resolution.

BE IT FURTHER RESOLVED, that in addition, the Applicant is required to comply with the following general conditions of approval:

A. Current payment of all municipal taxes, liens, charges, assessments and outstanding escrows and charges related to the making of this Application, is required prior to the issuance of construction permits or certificates of occupancy.

B. Counsel for the Applicant has provided the Solicitor with the legal citation for the exemption from the obligation of this Applicant to contribute to the Affordable Housing Trust fund based upon the proposed installation of a solar array which is inherently beneficial, such that the Applicant is exempt from the requirement to pay this Developer's fee, which determination is consistent with the State statute and recent New Jersey court rulings.

C. Applicant shall comply with all of its representations and the terms, conditions, and requirements made on the record for the Application at the hearing, and shall specifically comply with the terms, conditions, and requirements as set forth in the review report of the Board's Professionals, if any, or as modified by the Board and agreed to by the Applicant at the hearing, as well as comply with the terms and conditions set forth in the findings of facts and conclusions of law set forth herein, and specifically as noted in Section 1d above.

D. The Applicant has submitted certain documents, and other tangible things that were accepted by the Land Development Board as part of its Application. Further, its representatives and/or witnesses have made certain representations, provided testimony, and agreed to certain conditions, all of which representations and agreements were made orally in testimony presented at the public hearing on this Application, all of which has been relied upon by the Land Development Board in making its findings and determinations. Should there be any material deviation from said documents, plans, representations, agreements made, testimony, the plan design modifications agreed to or deviation from any conditions contained herein and/or otherwise agreed to, then the failure to comply with those representations, conditions, changes and/or agreements shall be deemed a violation of the approvals granted and the Land Development Board may, upon notice to the Applicant and an opportunity to be heard, elect to rescind its approval.

E. Approval of this Application is conditioned upon payment of all fees and posting of all required bonds and escrows.

F. The approval of this Application does not modify, change or relieve the Applicant of any other of the conditions of any prior approval of the Application for development, if any.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be sent, via regular mail, to the Applicant within ten (10) days of the date of adoption, and a copy of this Resolution shall be filed with the Administrative Officer or Clerk of the Township, Township Construction Official and Zoning Officer. A brief notice of this decision shall be published in the official newspaper of the Township, at the Applicant's expense. The aforementioned notice shall be sent to the official newspaper for publication within ten (10) days of the date this decision is memorialized. Proof of

publication shall be filed with the Administrative Officer of the Board within thirty (30) days of the date the decision is memorialized.

CERTIFICATION

I, Catherine A. Borstad, Secretary of the Land Development Board for the Township of Lumberton, County of Burlington and State of New Jersey, do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the said Board at a meeting held at the Municipal Building, 35 Municipal Drive, Lumberton, New Jersey on the 12th day of November, 2026 memorializing the decision and action taken by the Board at a meeting held on October 8, 2026.

CATHERINE A. BORSTAD, SECRETARY
LUMBERTON TOWNSHIP
LAND DEVELOPMENT BOARD

CHRISTOPHER CIOLORITO, CHAIRMAN