

**DRAFT RESOLUTION # XX (2017) - Approving Site Plans and Granting Special Use Permits for Five Large-Scale Solar Energy Systems at 2150 Dryden Road**

WHEREAS,

- A. SUN8 PDC LLC has applied for five Special Use Permits (SUPs) to construct five large-scale solar energy systems at 2150 Dryden Road in Dryden, New York, Tax Parcel #38.-1-3.1 to be subdivided into five lots, and
- B. The proposal is to construct five 2 MWac solar photo-voltaic arrays for generation of energy under the community distributed generation program, and
- C. An application, site plan drawings, environmental site assessment, aquatic resources report, habitat assessment, visual impact statement, storm water pollution prevention plan (SWPPP), ecological assessment, archaeological report and other materials have been submitted and some were subsequently revised, with the original application in February 2017 and revisions provided in April, June and July 2017, and
- D. The Town Planning Department considers the application complete and in conformance with the requirements of Town Zoning Law §501, §600, §1103, §1201 and §1312, and
- E. Public hearings were held on March 16, April 12, July 20 and August 17, 2017, with public comments registered in the meeting minutes and considered by this board, and
- F. Written comments have also been received which have been considered by this board, and
- G. The Tompkins County Planning Department has reviewed (letter dated 7/6/17) these projects as required by NYS Municipal Law §239 -l, -m, and -n and has recommended approval with one condition to ensure that panels are not placed in the Virgil Creek floodplain, and
- H. The SWPPP has been reviewed by the Town Engineer and found to be substantially in compliance, with any final issues as outlined in the letter from T.G. Miller to the Town Supervisor dated 8/10/17 to be addressed prior to issuance of a building permit, and
- I. Pursuant to the New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations at 6 NYCRR Part 617, the granting of approvals for the proposed solar energy systems are a Type I Action for which the Town Board of the Town of Dryden, acting as lead agency in an environmental review with respect to these systems, has, on July 20, 2017, made a negative determination of environmental significance, after having reviewed and accepted as adequate the Full Environmental Assessment Form Parts 1, 2 and 3, and
- J. The Town Planning Board reviewed the application per Town Zoning Law §1312 and made recommendations concerning the site plans, and

- K. The Town Board has reviewed this application relative to the considerations and standards found in Town Zoning Law §1104 and §1312 for site plan review and §1202 and §1312 for Special Use Permit;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board, finding that the applicant is in compliance with the provisions of the Town Zoning Law and other applicable ordinances, approves the site plans for the five projects at 2150 Dryden Road dated July 2017, conditioned on submission to the Planning Department of the following items prior to issuance of building permits:
  - a) specifications for the solar panels and inverters to ensure compliance with current UL standards,
  - b) complete decommissioning plans for the approved arrays on the five sites, subject to the approval of the Town Planning Director and Attorney for the Town; after the final decommissioning plans are submitted, the Town Board shall determine the amount of the financial security bonds or other forms of financial security to be provided for each site, to assure removal of the systems and property restoration,
  - c) revised drawing showing a turnaround for emergency vehicles in the vicinity of the buildings on Lot 2,
  - d) addition of a note to the site plans to require a Knox-box or similar system for emergency gate access to the sites,
  - e) a long-term maintenance plan subject to the approval of the Town Planning Director and Attorney for the Town for the vegetative screening that is shown on the site plans, with such plan to define heights at which vegetation will be trimmed for shading purposes, establish time limits for replacing damaged or dying plantings, and require replacement plantings to be of equal height or diameter to the initial planting,
  - f) revised drawing modifying the size of both the construction sign and the permanent sign so that neither exceeds 32 square feet, and showing placement is at least 15 feet from the highway line,
  - g) revised drawing with sufficient detail showing that no panels will be placed within the 100-year FEMA floodplain,
  - h) updated site plan drawings, inclusive of planting plans and details, to incorporate all edits and revisions enumerated in errata sheets submitted on or prior to 7/20/17,

i) revised drawing noting that the trees on Lot 5 along the Willow Glen Creek tributary south of the “existing crossing and path” marked for non-mechanized removal on Sheet C-105 may be removed only if and when the Special Use Permit # 04-2017-TSUP issued to Upstate Cellular Network (Verizon) for a cell tower at 2150 Dryden Road lapses, expires, or is revoked,

j) revised drawing showing the trees within the proposed vegetative screen along the east side of Site 5 will be a minimum of 16 feet tall at planting, and

k) revised SWPPP acceptable to the Town Stormwater Management Officer and Town Engineer that addresses the SWPPP items in the August 10, 2017 letter from T.G. Miller to the Town Supervisor.

2. The Town Board hereby finds that the considerations for approval of the requested Special Use Permit listed in §1202 and §1312 of the Town of Dryden Zoning Law have been met or will be met with the conditions noted, specifically that:

a. The proposed use is compatible with the other permitted uses in the district and the purposes of the district set forth in the Zoning Law since the project areas will include an agricultural use (livestock grazing); population density will remain low with no increase in noise, traffic, odor or lighting (after construction); and for the reasons stated in the narrative for the Full Environmental Assessment Form Part 3 (FEAF P3) Attachment A, including but not limited to Sections 9, 17 and 18;

b. The proposed use is compatible with adjoining properties and with the natural and manmade environment due to the extensive vegetative and topographic screening; the panels will not exceed 8 feet in height; there is no increase in noise, traffic, odor or lighting; and for the reasons stated in the FEAF P3 Attachment A, including but not limited to Sections 9, 17 and 18;

c. Parking, vehicular circulation, and infrastructure for the proposed use, and accessibility for fire, police, and emergency vehicles are adequate, when the conditions in this resolution are met;

d. The overall impact on the sites and their surroundings considering the environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances has been considered and found to be negligible, based on the information and reasons in the Full Environmental Assessment Form. While not expected, in the event that glare is experienced within any residence adjacent to these projects, the applicant shall install additional vegetative screening of the species and height needed at appropriate line-of-sight locations to intercept the glare, with such screening subject to approval of the Town Director of Planning;

e. Given the proximity to nearby residences the hours of operation during construction are limited to 7 am to 6 pm on weekdays only unless specific work is approved in writing by the Town Code Enforcement Officer such as work by public utility companies or work done to avoid impacting roadway traffic. With this additional restriction, the design of

structures or operation of the use necessary either to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the Town as described in the FEAF P3, Attachment A have been incorporated into the site plans;

f. The projects comply with the requirements for site plan review and conform to the Town's Commercial Design Guidelines to the extent applicable. Guidelines for sidewalks are waived since there are no existing nor anticipated sidewalks in this commercial corridor to which to connect;

g. The projects comply with the location criteria set forth in Zoning Law §1312 F.2.b and c. Per §1312 F.2.a, location on prime farmland soils may occur with Town Board approval. The location of these projects on 35 acres of prime farmland soils is hereby approved since the acreage will be used for sheep grazing and can be used for cropland if and when the solar panels are removed from the project sites. To further protect the farmland soil a condition is placed on these projects that trenching for underground cables or conduits shall follow a procedure where topsoil is preserved by stockpiling it separately and returning it to the trench as the top layer;

h. Per Zoning Law §1312 F.3, the solar energy systems:

i. Conform with all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction. The U.S. Army Corps of Engineers, NYS Department of Environmental Conservation, and NYS Department of Parks, Recreation, and Historic Preservation have all written letters concerning their jurisdiction and all conditions have been met,

ii. Are designed and will be constructed in a manner which minimizes visual impact to the extent practical, as described in FEAF P3 Attachment A, Section 9,

iii. Comply with all other requirements of the Town of Dryden Zoning Law, provided the condition in section 4 below regarding variances for arrays within yard setbacks is met, and comply with applicable Commercial Design Guidelines, except guidelines for sidewalks are waived for the reasons stated in section 2.f above,

iv. Conform with all adopted plans of the Town of Dryden, including the Town's Comprehensive Plan, which allows large-scale solar energy systems within the zoning districts that apply to the sites,

v. Comply with a fifty-foot (50) front yard, rear yard, and side yard setback, except to the extent that the Zoning Board of Appeals may grant an area variance(s) for arrays within a yard setback,

vi. Do not exceed twenty (20) feet in height, as the upper edges of the panels are 8 feet above grade,

vii. Have solar collector surface areas (as measured in the horizontal plane) that, when combined with the coverage of other structures on the relevant lot, do not exceed twice the maximum lot coverage as permitted in the underlying zoning district, as lots in the Rural Agricultural District have less than 50% lot coverage (50% is twice the

underlying district's 25% limit) and the lot in the Conservation District has less than 30% lot coverage (30% is twice the underlying district's 15% limit),

i. Per the Special Use Permit Standards in Zoning Law §1312 F.5:

i. The solar energy systems will have the least visual effect practical on the environment, for the reasons described in FEAF P3 Attachment A, Section 9,

ii. Glare produced by the solar arrays will not impair or make unsafe the use of contiguous structures, any vehicles on or off the road, any airplanes, or uses by other possible impacted entities, as described in FEAF P3 Attachment A, Section 9; section 2.d above imposes a condition requiring additional screening in the event glare is experienced within a residence adjacent to the projects,

iii. Exterior lighting shall have the least visual effect practical on the contiguous properties, because permanent exterior lighting will not be installed,

iv. Equipment and vehicles not used in direct support, renovations, additions or repair of the solar energy systems shall not be stored or parked on the facility sites,

v. The solar energy systems will be enclosed by 7-foot high agricultural fencing (6-foot woven wire fencing on wood posts with a single string wire on top; no barbed or razor wire) to prevent unauthorized access, with warning signs with the owner's name and emergency contact information placed on access points and perimeters. To avoid adverse aesthetic impacts, systems shall be screened as described in the site plan materials and FEAF P3 Attachment, Section 9,

vi. Lighting will not project off the sites, because no permanent lighting will be installed,

vii. A locked gate located off the public right-of-way will be installed to prevent entry by unauthorized vehicles,

viii. The solar energy systems are required to be built, operated and maintained to acceptable industry standards, including those of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).

3. The Town Board, finding that the applicant is in compliance with all other provisions of the Town Zoning Law and other applicable ordinances, approves five Special Use Permits for the proposed large-scale solar energy systems to be constructed at 2150 Dryden Road, subject to the conditions and requirements in this resolution, and further subject to the Town of Dryden Standard Conditions of Approval as amended August 14, 2008.

4. The site plans and Special Use Permits approvals are further conditioned on the following:

a. Receipt of approval by the Planning Board of the subdivision of Tax Parcel # 38.-1-3.1 into five lots that can house the solar arrays, and

b. For construction of solar arrays that lie within any yard setback, receipt of an area variance(s) from the Zoning Board of Appeals.

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