

November 29, 2023

**PINE PLAINS PLANNING BOARD SPECIAL MEETING MINUTES**

**Tuesday, November 28th, 2023**

**6:30 PM**

**In Person and Zoom**

**IN PERSON ATTENDANCE:** Michael Stabile, Chairman  
Al Blackburn  
Scott Cavey, Alternate  
Ethan DiMaria  
Dick Hermans  
Steve Patterson  
Vikki Soracco

**ZOOM ATTENDANCE:**

*(Members attending via Zoom do not count towards the quorum or voting.)*

**ABSENT:** Kate Osofsky

**ALSO PRESENT:** Warren Replansky, Town Attorney, in person  
George Schmitt, Town Engineer, in person  
Sarah Jones, Town Liaison, in person  
Andrew Gordon, Carson Power, in person  
Frank Fish, BFJ Planning, via Zoom  
Alicia Legland, Carson Power Attorney, via Zoom  
Members of the Public, in person

Chairman Stabile opened the meeting at 6:30pm with a quorum present.

**Carson Power Review and Vote of Resolution:** Replansky said Stabile should make sure that alternate Cavey felt ready to vote on the resolution since a board member was absent. Stabile asked Cavey if he felt well informed to do so and Cavey replied yes.

Replansky said the board now needs to approve or deny the special use permit and site plan submitted by the applicant.

Replansky said he has incorporated all the changes from the planners, town engineer, and the board. Replansky went over the resolution with the board (see attached).

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Replansky went over the first section, which was introductory, describing the project, infrastructure, etc.

The next section was the SEQRA determination and how the negative declaration was reached.

The next section was the special use permit and site plan approval, going over the ZBA variance and public hearings held, etc.

The next section was Consistency of the Project with the Pine Plains Solar Law. There was a brief history of the solar law and that the Planning Board finds this Tier 3 solar facility to complement New York State's Renewable Energy Plan.

The next section was The Special Use Permit Approval. Each 11 objectives of the special use permit in the town's zoning code were addressed.

Replansky then reviewed the remaining sections of the resolution with the board regarding the special use permit.

The board then recessed to allow the ZBA to have its November meeting. Motion to recess at 7:35pm by DiMaria, second by Hermans, all in favor, motion carried.

Motion to resume the meeting at 7:42pm by Blackburn, second by Hermans, all in favor, motion carried.

Replansky then reviewed the site plan approval section of the resolution with the board.

Hermans asked about Scenic Hudson saying there was a possibility there would be a homestead property on the site. Stabile asked if this was in the conservation agreement and Replansky replied he had not seen the agreement. A representative from Scenic Hudson, Kevin Webb, was in attendance and said he could clarify. The representative Webb said this was proposed and in the future there may be a farm family on the property which would include a house and barns on the northeast corner of the property. Stabile asked if this was on Bean River Road and representative Webb replied correct. Replansky said this would be permitted by Scenic Hudson's conservation easement but it would have to be a supplemental application to the Planning Board.

Stabile asked Fish if he had anything to add. Fish replied he had an issue regarding the apiary and using the wording

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"the town shall" - Fish feels it should say "the town shall at its discretion" so that it doesn't bind the town to it. Replansky will change "shall" to "may" so that is clear that they are not imposing an obligation on the applicant to find an apiary.

Fish said the resolution is very thorough and he feels the board is ready to vote if they are comfortable.

Stabile asked for a motion to accept the resolution as amended, motion by Hermans, second by Patterson, roll call vote: Blackburn aye, Soracco aye, Cavey (alternate) aye, Hermans aye, Patterson aye, DiMaria aye, Stabile aye, all in favor, motion carried.

Stabile thanked the board for all their hard work on the application.

Jones asked Stabile what will be done about the monitoring of the project in the beginning with the tree cutting since the town's zoning enforcement officer (ZEO) is retiring. Stabile said it is in the resolution that it is at the discretion of the town engineer and the ZEO. Replansky said if there is a gap between hiring a new ZEO, the town engineer can take over in the interim. Stabile believed a new ZEO was appointed on November 16<sup>th</sup>. Stabile said he would follow up with Supervisor Walsh.

Motion to adjourn at 8:00pm by Blackburn, second by Patterson, all in favor, motion carried.

Respectfully submitted by:

Tricia Devine

Michael Stabile

## **TOWN OF PINE PLAINS PLANNING BOARD**

### **RESOLUTION APPROVING SPECIAL USE PERMIT WITH CONDITIONS AND SITE PLAN APPROVAL WITH CONDITIONS FOR THE PULVERS CORNER SOLAR 1, LLC AND PULVERS CORNER SOLAR 2, LLC SOLAR ENERGY FACILITY LOCATED AT 454 BEAN RIVER ROAD IN THE TOWN OF PINE PLAINS**

**WHEREAS**, Pulvers Corner Solar 1, LLC and Pulvers Corner Solar 2, LLC (collectively “Applicant”) have proposed construction of a solar energy facility located at 454 Bean River Road in the Town of Pine Plains, Dutchess County, New York. The project is classified as a Tier 3 Community Solar Facility as defined in §275-24(D) of the Town Code; and

**WHEREAS**, the real property is currently owned by Carol and Lucie Giardino and will be sold after Planning Board final approval to Sola REIT 1-A, LLC and thereafter Sola REIT will enter into a long term ground lease with Nexamp Community Solar, which will be purchasing Pulvers Corner Solar 1 and Pulvers Corner Solar 2, LLC’s, which will operate and maintain the solar facility; and

**WHEREAS**, the project will consist of two solar arrays located on two adjacent unimproved, leased parcels of land, which have a combined size of approximately 172 acres (Dutchess County Parcel Access Nos. 7071-00-250960-0000 and 7071-00-085941-0000); and

**WHEREAS**, the two solar arrays identified as “System 1” and System 2” will have a capacity of +/-5.0 megawatts (MW AC) each. A solar field of approximately 23,000 photovoltaic (PV) panels producing direct-current (DC) electricity will be mounted on racking structures oriented to the sun. Panels will be installed with a fixed tilt angle facing south at approximately 180 degrees. The panels will be approximately 9.42 feet in height, but will not exceed 12 feet in height, and have a small footprint typically consisting of small post driven into the ground without the need for supporting concrete foundations. Electrical interconnection cables will be mounted on the underside of the racking structure and will aggregate the output from the PV panels and convert the electricity from DC to alternating current (AC) via converters. A substation or switching station will connect the facility to the designated point of interconnection, which will be the existing Central Hudson Gas & Electric substation located in close proximity to the eastern boundary of the project site; and

**WHEREAS**, the project will have internal infrastructure including a gravel access road over the main improved existing farm road, fencing, a 2,000 foot trench for electrical wiring, following another access road, and temporary areas for equipment storage during construction. The project will be sited on a 42 acre portion of the 172 acre property, a portion of which is forested and a portion used for farming. The project is not situated over a designated aquifer and does not lie within any primary or principal aquifers mapped by the New York State Department of Environmental Conservation. The subject property is not within a flood plain; and

**WHEREAS**, there are no residential or other structures located on the subject property which currently consists of undeveloped woodlands and agricultural fields. Significant portions of the forested portion of the property have been recently forested and, as a result, contain mostly

young trees with little or no timber of value; and

**WHEREAS**, the entire 172 acres, including the project area, will be permanently conserved by a Conservation Easement donated to Scenic Hudson Inc., a regional environmental advocacy organization committed to the preservation and safeguarding of Hudson Valley's irreplaceable natural resources – while advancing balanced and sustainable development; and

**WHEREAS**, the project proposes to remove 29.7 acres of vegetation, mostly including second growth forest and 22 acres of area currently used for agriculture for construction of the panel array; and

**WHEREAS**, upon decommissioning of the solar array, the forested acreage will remain forested and the remaining acreage will be used for meadow habitat or returned to farmland in accordance with the terms of the site plan and Conservation Easement; and

### **SEQRA DETERMINATION**

**WHEREAS**, on or about December 14, 2022, the Applicant submitted its initial submission for site plan and special permit approval for consideration at a Planning Board meeting. The initial application included the following documentation: (i) Full Form Environmental Assessment Form, Part 1; (ii) a preliminary site plan; (iii) property survey; (iv) proposed Operation and Maintenance Plan; (v) proposed Decommissioning Plan; (vi) photo simulations of certain viewsheds and receptors; (vii) an agricultural data statement; (viii) deeds; and (ix) owner authorization form; and

**WHEREAS**, on December 10, 2022, the Planning Board conducted a site plan walk of the property; and

**WHEREAS**, on December 14, 2022, the Planning Board classified the action as a Type I action under the New York State Environmental Quality Review Act (6 NYCRR Part 617 – “SEQRA”), declared its intent to serve as lead agency and circulated a notice and Full EAF Part 1 to all involved agencies; and

**WHEREAS**, in December of 2022, the Applicant submitted a Stormwater Pollution Prevention Plan (“SWPPP”), revised Full Environmental Assessment Form Part 1 and Revision 1 to the site plan for consideration of the Board at its January 11, 2023 meeting; and

**WHEREAS**, on January 19, 2023, the Applicant submitted minor changes to Revision 1 of the site plan and on January 21, 2023, the Planning Board conducted its first public hearing with regard to the site plan, special use permit application and the environmental impacts of the proposed project; and

**WHEREAS**, on February 7, 2023, the Dutchess County Department of Planning and Development, in response to the Planning Board's General Municipal Law 239-m referral, issued a letter providing some comments regarding the presence of wetlands and/or potential habitats of

state/federally listed species, but recommended that the Planning Board rely on its own study of the facts in the case with due consideration of those comments and stated that the matter was of “local concern”; and

**WHEREAS**, on February 8, 2023, the Applicant submitted the following materials for consideration at its February 8, 2023 Planning Board meeting: (i) revision to the Operations and Maintenance Plan (updated to exclude herbicides); (ii) a supplemental map depicting the approximate limits of tree clearing and areas subject to site conservation; (iii) supplemental documentation demonstrating the calculation of the net carbon benefits resulting from the construction of the solar facility; and (iv) supplemental documentation describing a Tree Disposal Plan for the project; and

**WHEREAS**, On February 8, 2023, the Planning Board passed a Resolution declaring itself lead agency and reaffirmed its designation of the project as a Type I action; and

**WHEREAS**, on February 16, 2023, the Applicant submitted the following materials for consideration at the scheduled March 8, 2023 Planning Board meeting: (i) Nexamp Labor Rider for Equipment Supply Agreements and Supplier Code of Conduct; and (ii) Wetland Delineation Supplement completed by CP&Y Associates, Environmental Consultants to the Applicant; and

**WHEREAS**, on February 17, 2023, at the request of the Planning Board, CP&Y Associates conducted a field review of the existing wetland delineation attended by the Town’s Consulting Engineer and several Planning Board members, which confirmed the absence of wetlands on the property site; and

**WHEREAS**, on February 21, 2023, the Town’s Engineer submitted a report with findings of the February 17, 2023 visit confirming that no wetlands were present on site; and

**WHEREAS**, on March 1, 2023, the Applicant submitted the following materials for consideration at the March 8, 2023 Planning Board meeting: (i) supplemental map demonstrating the location and size of 20 community solar projects that the Applicant operates or is currently constructing in the greater Hudson Valley area; (ii) two line-of-sight profiles, conducted by Bergmann Associates, the Applicant’s Engineer, demonstrating the limited visual impacts from two example locations; and (iii) Google Earth map file showing the location of all member of the public who spoke at the January 21, 2023 public hearing; and

**WHEREAS**, on March 1, 2023, the Planning Board, at a workshop meeting, began work on drafting the Full Environmental Assessment Form Part 2; and

**WHEREAS**, on March 8, 2023, the site plans were submitted to the Pine Plains Fire Chief for review and comment; and

**WHEREAS**, on March 11, 2023, the second public hearing was held, which specifically included a discussion of SEQRA issues with a presentation by the Planning Board’s Planning Consultant, BFJ Planning, in which the SEQRA process was explained and the option for preparing an expanded Full Environmental Assessment Form and a Full Environmental Impact

Statement were discussed. Comments were also received from members of the public with regard to the special use permit and site plan application and claimed environmental impacts of the project; and

**WHEREAS**, on March 17, 2023, the New York State Department of Transportation (“DOT”) responded to the Applicant’s Stage 1 and 2 Commercial Access Highway Work Permit Applications, indicating that the dual driveways that were proposed for the project were acceptable to DOT and those communications were presented to the Planning Board; and

**WHEREAS**, on March 22, 2023, the Applicant submitted a revision to the site plan, which (i) demonstrated the removal of panels in the most visible portion of the project footprint to the southeast to mitigate any visual impact of the project to the best extent practicable; (ii) an adjusted tree clearing boundary aimed at preserving existing mature trees in the southeast area of the project site to increase natural visual screening buffer; and (iii) the inclusion of mature plantings in the southeast corner of the project area to further reduce panel visibility and further mitigate the visual impacts of the project; and

**WHEREAS**, on March 22, 2023, the Planning Board, at an workshop meeting, continued to work on a draft to Part 2 of the Full Environmental Assessment Form; and

**WHEREAS**, on March 24, 2023, the Applicant submitted the following materials for consideration by the Planning Board at its April 12, 2023 meeting: (i) executed Interconnection Agreements with Central Hudson Gas & Electric (“CHGE”) demonstrating compliance with CHGE’s interconnection procedures; (ii) a Phase 1 Environmental Site Assessment Form prepared by CP&Y Associates demonstrating a clean environmental review and no recognized environmental conditions found on the site; (iii) a Forest Cover Analysis and accompanying discussion on threatened/endangered species from CP&Y Associates, which was submitted to both the US Fish & Wildlife Service (“USFWS”) and New York State DEC demonstrating proposed tree clearing which complies with both USFWS and DEC’s regulations; and (iv) an EAF Part 2 Proposed Narrative prepared by the Applicant’s Engineer to provide additional information to the Planning Board for its consideration in making its SEQRA determination of significance; and

**WHEREAS**, on March 28, 2023, the Applicant submitted solar panel product data sheets demonstrating inclusion of anti-glare coating and no inclusion of hazardous materials documentation for consideration at the April 12, 2023 Planning Board meeting; and

**WHEREAS**, on April 4, 2023, DEC submitted a SEQRA lead agency response to the Planning Board confirming that adherence to the seasonal tree clearing restrictions was sufficient to avoid a Take Permit for threatened and endangered bat species in the project area; and

**WHEREAS**, on April 7, 2023, the Applicant submitted a Construction Noise Mitigation Plan, which included voluntary limitations on the hours of potentially noisy construction activities on Saturdays and Sundays and further noise reduction by reducing the amount of wood chipping activities on site; and

**WHEREAS**, on April 10, 2023, the Applicant submitted the following materials for consideration at the April 12, 2023 Planning Board meeting: (i) full sheet of Revision 2 to the site plan including the previously discussed panel cutback on the southeastern portion of the project area and inclusion of a geographically compatible seed mix; (ii) revised SWPPP that corresponded to the revised site plans; (iii) a revised Full EAF Part 1 that corresponded to the revised site plans; and (iv) a Viewshed Map prepared by Saratoga Associates, the Applicant's Visual Study Consultant, which identified areas surrounding the project which could potentially yield visual impacts and warrant further study; and

**WHEREAS**, on April 20, 2023, the Chief of the Pine Plains Fire Department, provided written concurrence indicating satisfaction with the project's emergency access and shutoff plans; and

**WHEREAS**, on April 28, 2023, the Applicant submitted to the Planning Board for consideration and its May 10, 2023 meeting: (i) a Supplemental Map which overlays the project footprint with Mineral Soil Groups ("MSG") 1-4 demonstrating minimal impact to land with soils classified in MSG 1-4; and (ii) a Supplemental Map which overlayed the project footprint with surveyed areas of exposed bedrock, which demonstrated minimal impacts to the exposed bedrock and avoidance of construction on unconstructable bedrock outcroppings; and

**WHEREAS**, on May 3, 2023, the Applicant submitted the following materials for consideration at the May 10, 2023 Planning Board meeting: (i) a Visual Impact Analysis completed by Saratoga Associates including 14 visual simulations (existing conditions and renderings) and a line-of-sight analysis demonstrating no significant visual impacts would arise from the project; and (ii) a Glare Study completed by Colliers Engineering, which demonstrates no glare impacts are expected from the project on the surrounding areas; and

**WHEREAS**, the Applicant submitted for consideration by the Planning Board at its May 10, 2023 meeting the following additional documentation: (i) a Tree Survey completed by Hudson Valley Forestry, a DEC certified forester, which included revised methodology for tree disposal with the aim of removing existing vegetation in an environmentally-friendly manner; (ii) and written concurrence from DEC provided to CP&Y Associates, which concluded that the project would not require an incidental Take Permit for any threatened or endangered species; and

**WHEREAS**, on June 5, 2023 the Applicant submitted the following additional materials for consideration at the Planning Board's scheduled June 10, 2023 additional public hearing: (i) Revision 3 to site plans, which demonstrated minor changes to the panel layout, grading plan, and other civil features as part of a continued construction review; (ii) a revised SWPPP that corresponded to the revised site plans; (iii) a revised Full EAF Part 1 that corresponded to the revised site plans; (iv) a Final Determination Letter from the New York State Department of Agriculture and Markets, which demonstrated no unreasonably adverse impact as a result of the proposed project on the continuing viability of farm enterprises within the district or State environmental plans, policies and objectives; (v) a revised Visual Impact Analysis from Saratoga Associates, which demonstrated further reduced visual impact due to the site plans revision; and (vi) a revised Tree Disposal Plan that incorporated the survey results and best practices from the



Hudson Valley Forestry report submitted on May 8, 2023, and reaffirmation of the Applicant's commitment to realizing no commercial gain from the tree clearing; and

**WHEREAS**, on June 10, 2023, the Planning Board conducted another public hearing, which included a discussion of SEQRA issues and further consideration of the special permit and site plan application with a presentation by the Planning Board's Planning Consultant, BFJ Planning. In addition, the Planning Board provided a presentation and question and answer session for the public and reviewed the Part 2 of the Full EAF in both slide format and with hard copy hand-outs preliminarily identifying potential moderate to large impacts of the project in only three categories: (i) impacts to plants and animals; (ii) consistency with community character; and (iii) impacts on aesthetic resources. The Planning Board, in addition, discussed whether those impacts could be reduced from moderate to large impacts to small or non-existent impacts, as a result of studies and changes to the plans voluntarily submitted by the Applicant; and

**WHEREAS**, on June 16, 2023, the Applicant submitted a Property Conservation Plan providing details regarding how the project site will be conserved in perpetuity with a Conservation Easement deeded to Scenic Hudson, Inc. Scenic Hudson also had submitted a letter to the Planning Board dated January 19, 2023 stating, in relevant part, that in its opinion the project is well-designed to avoid visual impacts and that the Applicant will be required to use construction methods and facility design that preserves agricultural soils so that when the facility is no longer needed it can be decommissioned and the land again available for agriculture; (ii) that Scenic Hudson has been in active dialogue with the Applicant on a proposal to protect the property with a Conservation Easement that will allow for the proposed solar use during the life of the facility while ensuring that the majority of property will be permanently set aside for agriculture and forestry uses. In addition, Scenic Hudson's President, Ned Sullivan subsequently issued a statement to the Planning Board dated September 13, 2023 indicating, in relevant part, that Scenic Hudson has agreed to hold a Conservation Easement over the entire property, including the 42 acres of solar and 128 acres of undeveloped land if the project is permitted by the Planning Board, with a goal to preserve in perpetuity the forest, farmland and the ecology of the property from further development as well as the rural character of the surrounding area; and

**WHEREAS**, the Planning Board at its June 19, 2023 meeting again reviewed the draft Part 2 of the Full Environmental Assessment Form (Full EAF) and, based upon the Applicant's responses and the submittals; information from the Town Engineer; input from the New York State DEC; input from the United States Fish and Wildlife Service; and the revised Saratoga Associates Visual Analysis, the Planning Board revised its Part 2 SEQRA Full EAF analysis and determined that the potential impacts to the proposed action on plants and animals; aesthetic resources and community character did not rise to the level of potentially significant adverse impacts; and

**WHEREAS**, on August 23, 2023, the Planning Board issued a Notice of Determination of Non-Significance in which it determined that the project's potential impacts on land; impacts on geological features; impacts on groundwater, flooding and air; impacts on plants and animals; impacts on agricultural resources; impacts on aesthetic resources; impacts on historic or archaeological resources; impacts on open space and recreation; impacts on critical environmental areas; impacts on transportation; impacts on noise, odor and light; impacts on human health and consistency with the Town's Comprehensive Plan will have no significant impacts on the

environment and would not require the preparation of a Draft Environmental Impact Statement ("DEIS"). In addition, the Planning Board determined that there was no evidence that the project would create a material conflict with the Town of Pine Plains community plans or current plans and goals and that the project would not have the potential for significant impacts on community character. The Planning Board also, in its Part 3 SEQRA, further analyzed the impact to aesthetic resources, impact on plants and animals and consistency with community character in support of its determination of non-significance; and

**WHEREAS**, on August 28, 2023, the Town of Pine Plains Zoning Board of Appeals granted an area variance for the Pulvers Corner Solar 1 and Pulvers Corner Solar 2 project to allow the installation of a seven foot high fence for the facility, instead of a four foot fence in the front yard and a six foot fence for the side yard, as currently limited by §100-19(c) of the Town's Zoning Code; and

### **SPECIAL PERMIT AND SITE PLAN APPROVAL**

**WHEREAS**, the Planning Board scheduled, and opened, a public hearing on September 13, 2023 dedicated to hearing from the public, the members of the Planning Board and its consultants on the special permit and site plan approval for the project; and

**WHEREAS**, several neighboring property owners, and the attorney for certain of those property owners, spoke at the public hearing and argued that the standards for issuing a special use permit had not been met by the Applicant and raised again issues relating to the environmental impact of the same. Many of these comments were repetitive of comments the neighbors had raised in prior public hearings and written communications to the Planning Board; and

**WHEREAS**, Ned Sullivan, President of Scenic Hudson, also spoke at the September 13, 2023 meeting and submitted a letter in support of the project indicating that Scenic Hudson was poised to accept a Conservation Easement on the entire property, which would protect the same in perpetuity if the project was approved; and

**WHEREAS**, the Planning Board conducted a special workshop meeting on September 27, 2023 for the project attended by its Consultant Planner, Engineer and Attorney, at which the standards and criteria and procedure for special use permit approval, as set forth in the Town Code, was discussed and explained to the Planning Board members. In addition, the Town's Consultant Planner provided a memo to the Planning Board which contained 19 suggested conditions (later on September 29, 2023 amended to 20 special conditions), which it recommended the Board should consider imposing on the project if the special use permit were to be granted; and

**WHEREAS**, at the public hearing the Town's Engineer presented aerial photographs to the Board comparing forests on the property from 1936 and today indicating that the property was not a mature forest in 1936, has been logged at least once since 1936 and, as a result of that activity, it is not currently an old growth or mature forest; and

**WHEREAS**, at the September 27<sup>th</sup> meeting, the Town's Planning Consultant, Frank Fish, reviewed with the Planning Board the 11 "objectives" set forth in the special use permit section of

the Town Code and discussed each of those objectives with the Planning Board members; and

**WHEREAS**, at that same meeting, Frank Fish advised the Board that his firm had conducted research with regard to the impact that solar farms had on surrounding property values in other jurisdictions and indicated that the impact was dependent on the size, type and visibility of the solar farm and that the studies were inconclusive insofar as demonstrating a negative impact on property values as a result of the placement of these facilities; and

**WHEREAS**, the public hearing on the special use permit and site plan for the project was continued on October 11, 2023. Four property owners, who reside in general proximity to the site, again spoke against the project citing concerns about the environmental impacts of the project and the feared impacts of the same on their property values; and

**WHEREAS**, Cari Watkins-Bates, Director of Land Conservation for Scenic Hudson, also spoke at the October 11, 2023 public hearing explaining that a Conservation Easement is a legal agreement that protects a property's natural resources by permanently restricting its future land use and development and that Scenic Hudson has agreed to hold a Conservation Easement over the entire 170 acres of the Carson Power project when they take ownership prior to site development; and

**WHEREAS**, the Planning Board members discussed with their consultants at the October 11, 2023 meeting a potential impact of this project on property values and the Town's Consultant Planner indicated some studies show a slight increase in property values and some show a slight decrease. The representative of Carson Power, Andrew Gordon, advised the Board that impact on property values as a result of a solar facility would be directly tied to the visibility of the system, which, in the instant case, is virtually nonexistent. The public hearing on the special permit and site plan application was then closed; and

**WHEREAS**, the Planning Board conducted a special meeting on the Carson Power project to further consider issues relating to the special permit and site plan review of the project on October 25, 2023. At this meeting, a January 9, 2023 study titled: "Shedding Light on Large-Scale Solar Impacts; An Analysis of Property Values and Proximity to Photovoltaics Across Six US States" was discussed, and considered, by the Planning Board. The study considered impacts on property values from the siting of solar facilities in the states of California, Minnesota, Connecticut, North Carolina, Massachusetts and New Jersey; and

**WHEREAS**, the Planning Board members have exhaustively reviewed and considered all of the comments made by members of the public at the public hearings and in written submissions to the Board; and

**WHEREAS**, at the conclusion of the October 25, 2023 Planning Board meeting, the Planning Board members voted to direct the Attorney to the Town to draft a Resolution approving the site plan and special permit application for the project for the Board to consider at a subsequent meeting; and

## **CONSISTENCY OF THE PROJECT WITH THE PINE PLAINS SOLAR LAW**

**WHEREAS**, the Pine Plains Town Board, by Local Law No. 3 of the Year 2022, amended Chapter 275 of its Town Code to regulate the placement of solar photovoltaic (PV) installations in the Town of Pine Plains; and

**WHEREAS**, the said provisions of the Town Code regulate three categories of solar facilities; (i) Tier 1 - Roof Mounted Solar PV Installations; (ii) Tier 2 – Ground Mounted Solar PV Installations; and (iii) Tier 3 – Large Scale Solar Installations, which are referred to as solar farms and apply to solar installations that produce greater than 110% of on-site energy demand; and

**WHEREAS**, the purpose of Tier 3 solar regulations as set forth in §275-24(d)(3) of the solar code is to preserve large parcels of land in Pine Plains and carefully regulate large scale solar farms that generate energy for areas inside and outside of the Town; and

**WHEREAS**, the Planning Board finds that the proposed Tier 3 solar facility complements New York State's Renewable Energy Plan goals and objectives by generating solar energy while contributing to a cleaner and greener energy future for all state residents and by providing new and additional electricity services that efficiently meet present needs and anticipate future needs of the Town of Pine Plains residents; and

**WHEREAS**, §275-24(d)(5) of the Code requires site plan and special permit approval for all Tier 3 installations during which the Planning Board shall: (a) review the application and visual impact study for proposed lighting, site security; grading and clearing of vegetation and for impacts to rural character, farms, farm structures and ridge lines and requires the installation to be screened when viewed from roads, parks and public spaces and they require that utilities be buried under the ground or otherwise hidden from view; (b) require applicants to submit a Property Operation and Maintenance Plan which describes photovoltaic maintenance and property upkeep such as mowing and trimming; (c) require preservation of agricultural lands and natural vegetation and habitat and demonstrate how agricultural lands, prime agricultural soils, natural vegetation and habitat will be preserved to the greatest extent possible while minimizing the solar installation impacts to these resources; and (d) demonstrate that the solar systems are designed and installed in a manner that allows the land underneath solar panels and near solar installations to be used for agricultural purposes; and

**WHEREAS**, the solar law also requires that parcels with an area of seventy acres or greater have a maximum lot coverage of 30%; that all solar panels have anti-reflective coating to reduce glare; that in the event of a catastrophic weather event, the Planning Board may review in kind reconstruction of the solar facility in an expedited manner; and that the Applicant propose a Decommissioning Plan signed by the owner and/or operator which require adequate security to ensure the appropriate removal of the solar system infrastructure in the event of a discontinuance or abandonment of the project for one year and the provision of either a cash deposit, bond or other security to insure the Decommissioning Plan; and

**WHEREAS**, the Planning Board has determined that all of these requirements and objectives have been, or will be, fulfilled by conditions to be placed on the special permit and site plan approval for the project as set forth hereinafter and that, as a result, the proposed solar facility plans are consistent, and comply, with the provisions of §275-24 of the Town Code; and

### **SPECIAL USE PERMIT APPROVAL**

**WHEREAS**, §275-55(d) of the Town Code provides, in relevant part, that “[i]n authorizing the issuance of a special use permit, the Board will take into consideration the public health, safety and welfare and shall provide appropriate conditions and safeguards to ensure accomplishment of ’11 objectives”; and

**WHEREAS**, the Planning Board hereby finds that the proposed solar project complies with the 11 objectives set forth in §275-55(d) of the Code as follows:

1. **“The project use shall be deemed to be compatible with adjoining properties, and with the natural built environment of its surroundings.”**

The Project fully complies with all portions of the Zoning Law and Solar Law with the exception of a requirement for a seven (7) foot perimeter fence, which is required for compliance with the National Electric Code and which has been approved by an area variance issued by the Zoning Board of Appeals. The Project's compatibility with nearby properties and with the natural and built environment of the area was discussed and evaluated during the SEQRA review, which Included an assessment of potential visual impacts, potential Impacts to water quality and forested habitat, as well as potential impacts from noise and glare. The Proposed Project, a Tier 3 Solar Energy System, is permitted In the R District pursuant to the Town of Pine Plains Zoning Code, subject to special permit and site plan approval and, as such, Tier 3 solar installations have been deemed by the Town Board to be a use consistent with the R District. Additionally, the Project presents a low-density land use and has been designed, in part in response to Planning Board and public comments, to be virtually entirely screened from nearby residences and public vantage points in keeping with the rural character of the surrounding natural and built environment. Additionally, the Applicant is proposing a conservation easement to be held by Scenic Hudson, Inc., a well-respected land conservation organization, to preserve the entire subject property including the proposed Project Site against future development. The Applicant, through the voluntary conveyance of the conservation easement to Scenic Hudson, intends to conserve the Project Site to maintain viewsheds from public roads, protect soils of agricultural significance, and safeguard wildlife habitat in perpetuity. These actions are consistent with the character and rural aesthetic of Pine Plains and the greater Hudson Valley.

2. **“The site is accessible to fire, police and emergency vehicles.”**

The Project has been designed in accordance New York State Fire Code to ensure accessibility for EMS vehicles. Further, the Applicant has verified with the Town of Pine Plains Fire Chief that the Project provides adequate emergency access and received written confirmation of this determination on April 20, 2023.

3. **“The special use is suitable to its site upon consideration of its scale and intensity in relation to environmentally sensitive features, including, but not limited to, steep slopes, wetlands and watercourses.”**

The Project does not impact wetlands or watercourses as these features do not exist on the Project Site. Steep slopes comprise a small portion of the Project Site, but steep slope areas will either be avoided or will incorporate erosion control measures pursuant to the NYSDEC's New York State Standards and Specifications for Erosion Control to mitigate any potential adverse impacts.

4. **“Adequate screening and separation distances are provided to buffer the use from adjoining properties.”**

The Project has been sited in areas of the property which are generally not visible from public roads, specifically Bean River Road and Route 199, which are adjacent to the Project Site. Visual Impacts have been minimized by locating the solar facilities in substantially less visible areas of the Project Site, areas almost completely screened by existing vegetation and topography. In addition, the Applicant is proposing to install supplemental vegetative screening to the existing forested areas to minimize visual Impacts to the fullest extent practicable.

In response to comments made by the Planning Board and the public regarding potential visual and community character Impacts, the Applicant voluntarily provided a revised site plan (March 2023) that removed a number of proposed panels from the ridgeline In the southeast section and moved them to Interior sections of the Project Site. In doing so, the Applicant provided for retention of additional forest areas in the southeast corner of the Project site, which increases the retention of natural vegetative screening currently on the Project Site. The Applicant is proposing new vegetative screening (plantings) to be located on the ridgeline approximately 20 feet higher in elevation than the plantings proposed on the previous iterations of the site plan. Additionally, the Applicant submitted a revised plan that enhanced the proposed plantings from a single row at 6-foot plantings to a double row of 12-foot plantings. The combined removal of panels from this section; preservation of existing vegetative buffer; increased altitude of the planted vegetative buffer; and the increased height and depth of the planted vegetative buffer impacts will virtually eliminate all visual Impacts to private residences in the surrounding area.

5. **“The use will not impact ambient noise levels, generate excess dust or odors, release pollutants, generate glare, or cause any other nuisances.”**

Once constructed, there will be almost no noise generated by the project. Any post-construction noise will be due primarily to the Inverters or other electrical equipment located on the equipment pads. Moreover, this equipment is located approximately 1,600 feet from the road, inside the system, which will absorb the noise. Any such noise is typically indiscernible from background levels at a distance of 50 feet. Noise generated during construction will be temporary and will be mitigated to the greatest extent-possible pursuant to the Construction Noise Mitigation Plan submitted to the Planning Board on April 7, 2023. The Construction Noise Mitigation Plan demonstrates voluntary limitation on the hours of noisy construction activities on Saturdays and Sundays and mitigation of construction noise by reducing the amount of on-site wood chipping activities. Additionally, the Project will not produce any dust or odors nor will it release any pollutants.

Further, the solar panels will have an anti-reflexive coating per industry standards. Applicant submitted a Glare Study, prepared by Colliers Engineering & Design CT, P.C. (OBA Maser Consulting Engineering & Land Surveying), dated May 1, 2023. The Glare Study provided an extensive analysis on the proposed solar array area and determined that it is highly unlikely that glare from the proposed solar project will be problematic in any manner to the surrounding area. At a 25-degree resting angle for the fixed- tilt panels facing south at 180° it was found that no glare is predicted throughout the entirety of the surrounding area.

6. **Parking demand shall be met on-site, unless alternate arrangements are approved by the Planning Board as may be allowed by this Zoning Law.”**

The Project does not include permanent parking facilities. Parking needs during operation will be limited to occasional operations and maintenance visits (*e.g.*, mowing, electrical maintenance, etc.), and as such, this criterion is not applicable to the Project.

7. **“Vehicular pedestrian and bicycle circulation, including levels of service and roadway geometry, shall be safe and adequate to serve the special use.”**

During operation, vehicular and pedestrian traffic is limited to occasional operations and maintenance. The proposed driveways provide adequate access for vehicles to reach the equipment areas. Additionally, the site plans include a turning analysis to ensure that construction and delivery vehicles can adequately access the Project Site during construction.

8. **"The location, arrangement, size, and design of the special use, including all principal and accessory structures associated with same, shall be compatible with the character of the neighborhood in which It is situated."**

As noted above, the Project, a Tier 3 Solar Energy System, is permitted in the R District pursuant to the Town of Pine Plains Zoning Code, and as such, Tier 3 solar Installations have been deemed by the Town Board to be a use consistent with the R District. Further, the Planning Board took a hard look at the impact of the Tier 3 Solar System on the existing architectural scale and character of the surrounding area and the Impact on the existing natural landscape. The Project has been sited in areas which are generally not visible from public roads, namely Bean River Road and Route 199, which are adjacent to the project site. Impacts to community character have been minimized by locating the solar panels in substantially less visible areas of the Project Site, areas almost completely screened by existing vegetation and topography. In addition, the Applicant is proposing to install supplemental vegetative screening to the existing forested areas to minimize visual Impacts to the fullest extent practicable.

The location, arrangement, size and design of the Project as set forth on the Site Plan Is compatible with the character of the surrounding neighborhood given the Project's lack of visibility from public vantage points, proposed screening, proposed conservation easement.

9. **"Utilities, including stormwater, wastewater, water supply, solid waste disposal and snow removal storage areas, shall be adequate to serve the proposed use."**

The Project does not include sewage or water supply and only a limited amount of solid waste removal will be required during project construction. The Applicant has prepared and submitted a Stormwater Pollution Prevention Plan ("SWPPP") in conjunction with the Site Plan, which demonstrates that the proposed stormwater facilities will be adequate to serve the proposed use. Further, the proposed access roads are sufficient to facilitate snow removal from the Project area.

10. **"The use shall not impact the character of the Town, neighborhood or values of surrounding property."**

As discussed in the Town's SEQRA review, and in its negative SEQRA declaration, and in paragraphs "4" and "8" herein, the Planning Board has determined that this project will not negatively impact the character of the Town or surrounding neighborhoods.

With regard, to the impact of the project on the values of the surrounding properties, the Planning Board finds that, based upon all of the empirical evidence submitted, the proposed solar facility will have no demonstrable negative impact on the property values of nearby residences. The neighboring property owners, and their attorney, have, at best, supplied conclusory, non-expert, opinions that the solar project will



have a negative impact on the values of their properties. They have submitted no appraisal or other expert documentation demonstrating that the construction and maintenance of this solar facility will diminish, or have any negative impact on, their property values. Logic dictates that a solar facility's impact on neighboring property values is largely dependent upon the visual impacts of the same. The visual impact studies submitted by the Applicant demonstrates that the solar facility, as proposed, is mitigated by the Applicant's voluntary screening and landscaping plans. Coupled with the fact that the panels are to be located in the least visible portion of the subject property, the Planning Board comes to the unmistakable conclusion that there will be no visual negative impacts resulting from this solar project and, as a result, no negative impacts on the value of surrounding properties.

The neighboring property owners and their attorney's argument that the application should be denied because "(e)ven if you can't see it, it will be there" does not make sense to the Planning Board. If the solar facility cannot be seen by surrounding properties, how can the project have a negative impact on the values of surrounding properties? The six state study on the impact of solar projects on property values submitted on October 25, 2023, after the close of the public hearing, contained no site specific analysis of the impact of the Carson Power solar facility on surrounding properties, nor did it consider impacts on property values from the siting of solar facilities in the State of New York. Moreover, the results of the study of impacts in the states of California, Minnesota, Connecticut, North Carolina, Massachusetts and New Jersey were inconclusive, with some states showing a positive effect on property values and some states showing a minor negative effect on property values. The Town's Consulting Planner has advised the Board that their own research has produced no definitive studies in the State of New York to support the conclusion that solar facilities, especially those which are virtually totally screened from public view, have any significant negative impact on property values of surrounding properties. The Planning Board also takes notice of the fact that the photographs of solar facilities submitted by the attorney for the neighboring property owners depict solar facilities which virtually surround, or are directly adjacent to, residential structures having a direct view of the solar arrays. That is simply not the case with the Applicant's proposed solar project.

For all of the above reasons, the Planning Board concludes that the subject solar project will not have any negative impact on the character of the Town or the surrounding neighborhood or on the values of surrounding properties.

**11. "The special use shall not impact historic, scenic or natural environmental features on-site or within the adjoining neighborhood."**

As discussed during the Planning Board's SEQRA review, the project will not have a significant adverse impact on the historic, scenic, or natural environmental features of the project site or neighborhood as all such potential impacts have been addressed or mitigated.

**NOW, THEREFORE,** be it

**RESOLVED,** that the Planning Board hereby grants special use permit approval to the Pulvers Corner Solar 1, LLC and Pulvers Corner Solar 2, LLC solar energy facility located at 454 Bean River Road, in the Town of Pine Plains in accordance with the provisions of §275-55 of the Town of Pine Plains Zoning Code subject to the following conditions:

1. That the special permit shall be deemed valid only upon compliance with all of the conditions set forth herein if, and so long as, the solar project facility continues to exist and is constructed, operated and maintained in accordance with the site plan approved hereinafter, prepared by Bergman Architects, Engineers, Planners, last revised June 5, 2023.
2. This special permit shall expire in the event that the solar facility has been determined to be abandoned and has undergone decommissioning under the Town Code in accordance with Decommissioning Plan referred to hereinafter, or in the event of a material violation of the approved site plan or the conditions set forth herein and failure to remedy such violation in a timely manner after notice.
3. Prior to the commencement of construction, the Applicant shall attend a pre-construction meeting with the Town's Building Inspector and the Town Engineer to confirm the construction plans and the sequence of construction and the forestry and tree marking plans. These plans shall be filed with the Planning Board Clerk, Building Inspector, Code Enforcement Officer and Town Engineer.
4. After completion of the construction of the facility and prior to the commencement of operation, the Applicant shall retain the services of a New York State licensed professional engineer to provide post-construction certification that the project complies with the applicable codes and industry practices and has been constructed in accordance with the approved special use permit, site plans and construction plans submitted to and approved by the Building Inspector and Town Supervisor. This certification shall be filed with the Planning Board Clerk, Building Inspector, Code Enforcement Officer and Town Engineer.
5. After completion of the project and prior to commencing operations, the Applicant shall meet with emergency responders at the property to discuss the procedures to be followed in the event of a fire and/or other emergency. The front road access gate to the facility and the perimeter solar gate shall be locked with a Knox box or in a similar manner that will provide access to the facility by emergency responders and the Town's Building Inspector, Code Enforcement Officer, Fire Inspector and Town Engineer. Within five (5) days of the meeting, the Applicant must provide the Town Planning Board with hard copies of the meeting minutes. The site specific emergency plan must be presented to the Building Inspector and to the Town Fire Department prior to training by the Applicant and a copy should be kept on file with the Building Inspector and the Town Clerk. The meeting minutes must indicate the name and contact information for each of the attendees and provide a

description of the procedures that will be followed by the emergency responders in the event of a fire other emergency.

6. The Applicant shall, prior to commencement of construction, provide written authorization from the Applicant and the owner of the property for entry onto the property by the Town's Building Inspector, Code Enforcement Officer and/or Engineer for purposes of conducting inspections, as may be required, for compliance with the terms of these conditions throughout the life of the solar facility. The Applicant shall, prior to commencement of construction, fund an escrow account with the Town in amount as specified by the Town Engineer and Attorney to the Town sufficient to reimburse the Town for all expenses incurred by the Town's Building Inspector, Code Enforcement Officer and/or Engineer for the conduct of all post-approval inspections as may be required pursuant to these conditions and conditions of site plan approval. This account shall be re-funded on a periodic basis when the balance is depleted to 20% of the original amount.
7. The Applicant shall design, construct and operate the proposed solar facility in accordance with the Stormwater Pollution Prevent Plan ("SWPPP"), last revised June 5, 2023. The SWPPP shall be approved by the Town Engineer and the Applicant shall submit an acknowledgement of receipt by the New York State Department of Environmental Conservation of the Notice of Intent (NOI) and the final approved SWPPP shall be provided to the Building Inspector and Town Engineer by the Applicant prior to commencing construction. Sediment and control methods will be implemented in accordance with the approved site plan and the SWPPP. Stormwater shall be diverted into stormwater features including level spreaders, swales and a bio retention basin, which will remain on site post construction to assist in stormwater management and specified in the SWPPP DEC stormwater design manual. The bio-retention basis will be designed to hold stormwater no longer than 24 hours and will be planted with native species and remain dry. There shall be weekly erosion and sediment control inspections by a qualified inspector during construction to monitor compliance with the stormwater general permit for construction activities. These weekly inspections shall occur every seven (7) days from the date of the start of construction to the final stabilization of the project site and such inspection reports shall be supplied to the Town's Building Inspector and Engineer. The Applicant shall incorporate such erosion control measures pursuant to New York State DEC's standards and specifications for erosion control, as specified in the Applicant's Erosion Control Plan and SWPPP. All SWPPP inspections and reporting during construction will be undertaken by a qualified inspector and copies of the inspection reports shall be submitted to the Town Building Inspector and Engineer within five (5) days of the inspection.
8. All grading activity will be minimized to the greatest extent possible and no herbicide treatments will be used during construction or in operation and maintenance of the facility. The project panels and infrastructure will be constructed within 6 to 8 months after commencement of construction in one phase.

The Applicant for just cause may apply to the Planning Board for a reasonable extension of that time period, if necessary.

9. To ensure that the solar facility is properly monitored to enable fully restoration of the property to its agricultural production potential, a detailed Sampling and Analysis Plan (“SAP”) shall be submitted for approval to the Planning Board. The SAP will characterize and document the surface soil quality before construction, during operations and upon decommissioning of the solar panels, as necessary, to return the parcels to farm or pasture land for use upon decommissioning.
10. The Applicant shall enter into a perpetual Conservation Easement donated to Scenic Hudson, Inc. as described in the June 16, 2023 Property Conservation Plans submitted by the Applicant. The Conservation Easement shall include, but not be limited to, preservation of all existing vegetation not proposed to be removed or disturbed as part of the construction and site plan for the property and yearly inspections to ensure compliance with the terms of the Conservation Easement, and as described in the communications from Scenic Hudson to the Planning Board dated January 19, 2023 and September 13, 2023. The proposed Conservation Easement and Conservation Map shall be submitted to the Attorney to the Town and the Town Engineer for their review and approval prior to execution to ensure the permanent protection of the property’s forested acres and the remaining areas which will be continued to be used as meadow and in agricultural production. The Plan shall, after execution, be filed in the Dutchess County Clerk’s office and with the Town Clerk.
11. The project shall be constructed, in accordance with the requirements of the New York State Fire Code to ensure accessibility for emergency vehicles and will include provisions for emergency access and emergency shut-off capability, as described in the April 7, 2023 communications between the Applicant’s Engineer and the Pine Plains Fire Chief.
12. After construction, the Applicant shall seed the entire project area with native and pollinator friendly species, including milkweed to encourage a habitat for monarch butterflies, and shall construct the project to minimize, to the greatest extent practicable, impacts on land mapped by the United States Department of Agriculture as “Prime Farmland Soils” and shall limit such impact to approximately 2.5 acres of prime soils. The project shall be constructed and operated in accordance with the Notice of Intent (“NOI”) issued to the New York State Department of Agriculture and Markets (“NYSDAM”) and in accordance with the final determination from NYSDAM.

In addition, the Applicant shall reasonably accommodate an apiary on the site. The Town may find a beekeeper to engage in this activity. If the Town locates a qualified beekeeper that wishes to maintain an apiary on the site and the beekeeper provides the equipment and any necessary insurance and an indemnification agreement holding the solar facility harmless for any injuries caused by the

operation of the apiary, then the Applicant shall allow the apiary to be located on the site and placed in a manner as to not hamper the operation and maintenance of the solar facility and allow the beekeeper access to the site as necessary for operation of such a facility

Additionally, the project shall be constructed, operated and maintained in accordance with the NYSDAM Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Land (last revised 10/18/2019). A qualified environmental monitor shall be designated to oversee construction, restoration and follow-up monitoring of all agricultural areas. The qualifications of the environmental monitor shall be submitted to the Town's Engineer and Planning Board for approval. Following construction, the monitor shall determine appropriate activities to return the affected area to agricultural use, which will include, but not necessarily be limited to, decompaction, rock removal and revegetation. Soil compaction will be tested in the affected areas and the affected areas adjacent to undisturbed areas using an appropriate soil penetrometer or other soil compaction measuring device as soon as the soils achieve moisture equilibrium with adjacent unaffected areas. Compaction tests will be made at regular intervals of distance throughout the affected areas, including each soil type identified within the affected areas. Soil compaction results shall be measured with a soil penetrometer not exceeding more than 250 pounds per square inch by comparing probing depths of both the affected and unaffected areas. Where representative soil density of the affected areas collected depth measurements present compaction restrictions exceeding an acceptable deviation of no more than 20% from the adjacent undisturbed areas soil density, additional decompaction may be required to a depth of 18 inches with a tractor mounted deep ripper or heavy duty chisel plow. Following decompaction, all rocks will be unearthed from decompaction activities four inches and larger in size from the surface.

13. All areas of the project are to be deemed temporary installations and shall be restored after decommissioning. No areas of the project will be irrevocably converted to non-agricultural uses. 22 acres of the site may be converted from agricultural to meadow habitat for the duration of the project. However, upon reclamation and removal of the project infrastructure, these 22 acres and the additional meadow habitat shall be fully returned to farmland and 33 acres of farmland, which are outside the project area, will be permanently reserved for agricultural purposes. Any damaged and malfunctioning solar panels or arrays or other equipment shall be removed from the property within thirty (30) days of discovery, or written notice of such condition provided to the system operator of the solar facility and disposed of in an appropriate environmentally friendly manner.
14. The construction of the project shall strictly comply with the site plans and Construction Noise Mitigation Plan dated April 7, 2023, which reduces construction hours to 8:00 a.m. to 6:00 p.m. Monday through Saturday and also requires that noisy construction activities, such as tree clearing and grading, will

take place only on weekdays. Construction shall also comply with the provisions of §275-35 of the Town Zoning Code.

15. The Applicant shall strictly comply with the Tree Disposal Plan dated June 5, 2023, which includes best practices outlined in the May 8, 2023 Tree Survey completed by Hudson Valley Forestry. The Applicant shall strictly limit tree clearing activities to between November 1<sup>st</sup> and March 31<sup>st</sup> to ensure potential direct impacts to the Indiana and Northern Long Eared Bats are avoided and shall install and maintain bat boxes on the project site as shown on the site plan.
16. The fence to be constructed on site shall provide a wildlife friendly opening, as shown on the site plan, to allow small animals, insects and other species to freely travel throughout the project site.
17. The Applicant shall strictly comply with all requirements of the Operations and Maintenance Plan dated February 8, 2023. The Applicant shall strictly comply with the Landscaping and Visual Screening Plan, as set forth in the approved site plan. In the event that any of the plantings to be installed in accordance with the Landscaping Plan are destroyed, diseased, damaged or die after planting, they shall be restored by the Applicant as soon as possible thereafter. In addition, in the event of any catastrophic event or fire, which destroys the natural forested areas which provide a visual screening from adjacent properties and roads, the Applicant shall be required to make application to the Planning Board for installation of appropriate plantings or other screening mitigation.
18. The Applicant shall include anti-glare coating on all solar panels, as presented in the Solar Panel Data Sheets provided to the Planning Board on March 28, 2023.
19. The Applicant shall strictly comply with the Property Conservation Plan submitted to the Planning Board dated June 16, 2023.
20. The Applicant shall comply with the Contract for Interconnection of New Distributed Generation Units and/or Energy Storage Systems with a capacity of 5 MW or less connected in parallel with utility distribution systems entered into with Central Hudson Gas & Electric. A violation of that agreement, which results in termination on of the Contract, shall be deemed to be an abandonment or discontinuance of the solar facility requiring decommissioning.
21. The Applicant shall strictly comply with the Decommissioning Plan for the solar project dated November 21, 2023 and shall provide a fully executed copy of that Plan signed both by the Applicant and the property owner and provided to the Attorney to the Town and the Town Engineer. The Applicant shall provide a Decommissioning Surety Bond, which shall be posted prior to the commercial operation date in an amount as recommended by the Town Engineer with elimination of a credit for anticipated recycling of materials to be approved by the Attorney to the Town and Town Board. The amount of the bond shall be reviewed

every five (5) years until the Applicant's decommissioning obligations have been fulfilled and the Applicant shall submit revised removal cost estimates to the Town, the bond company and to the Town Engineer on five (5) year intervals. The posted bonds shall reflect the estimate for the next five (5) years until the time the costs of removal are reassessed. The bond shall remain in place for the duration of the operation of the facility and until decommissioning.

22. The solar facility shall be operated in accordance with the Species Coordination Plan submitted by STV dated March 22, 2023 before the issuance of a Certificate of Occupancy or Compliance to the Applicant.
23. The Applicant shall enter into a Payment in Lieu of Taxes (PILOT) Agreement, approved by the Attorney to the Town and the Town Board, in accordance with Article VI of the Town Code before the site plan is signed by the Planning Board Chairman and building permits are issued.
24. The Applicant shall install supplemental vegetative screening to the existing forested area to minimize visual impacts to the fullest extent practicable, as shown on the site plan.
25. The Applicant shall apply for, and receive, a Commercial Access Highway Work Permit from the New York State Department of Transportation and shall submit a copy of the issued work permit, and all other permits required for this project from other agencies to the Town Engineer.
26. The Applicant shall provide the Building Inspector with copies of all other approvals for the project including a sign-off by New York State Energy and Research Development Authority ("NYSERDA").
27. After construction, any changes, modifications or alterations to the project shall require application to the Planning Board for modified special permit and/or site plan approval.

#### **SITE PLAN APPROVAL**

**WHEREAS**, §275(d)(5) of the Code requires site plan approval for all Tier 3 solar installations in accordance with the requirements of Chapter 275 of the Town's Zoning Code; and

**WHEREAS**, the Applicant submitted a preliminary site plan for the project on or about November 18, 2022; and

**WHEREAS**, as set forth in this Resolution, the Planning Board conducted several workshop meetings and held several public hearings at which site plan was reviewed by the Planning Board members and comments on the said site plan were invited, and received, from the public; and

**WHEREAS**, as set forth previously in this Resolution, the Planning Board conducted a coordinated SEQRA review of this project, during which comments on the site plan were received by several involved and interested agencies; and

**WHEREAS**, as set forth previously in this Resolution, as a result of those comments and comments received from the Town's Engineer and Planning Consultants, several revisions were voluntarily made by the Applicant to the site plan which culminated in the last revised site plan dated June 5, 2023; and

**WHEREAS**, during the course of the review of the application and the site plan, the Planning Board determined that the site plan, as revised, complied with the submission requirements as set forth in §275-62(a), (b), (c) and (d); and

**WHEREAS**, the Planning Board has received comments from the Town Engineer in a letter dated September 12, 2023, which comments have been incorporated in the special permit conditions set forth in this Resolution and will be incorporated in the conditions of approval for the site plan as set forth hereinafter; and

**WHEREAS**, the Planning Board, in reaching its decision for site plan approval, has reviewed and considered the criteria for decision making for site plans, as set forth in §275-63 and has determined that those criteria have been met, as set forth in the Town's SEQRA determination and special permit approval conditions.

**NOW, THEREFORE**, be it

**RESOLVED**, that the Planning Board does hereby grant final site plan approval for the above-referenced solar project pursuant to Chapter 275 of the Town's Zoning Code, subject to the following conditions:

1. Approval is based upon the information and documentation shown on the site plan prepared by Bergman Architects and Engineers Planning, last revised on June 5, 2023, and is conditioned on full compliance with the site plan.
2. Approval is further based upon the applicable requirements and conditions contained in that portion of this Resolution, which approved the special permit application for this project and in accordance with all conditions for approval as set forth in the special permit portion of this Resolution, and is conditioned on full compliance with the site plan.
3. That the site plan be revised to include the boundary survey ("ALTA") submitted November 15, 2023 as part of the site plan sheet set.
4. That the proposed screening depicted on Site Plan Sheet C007 be installed prior to the installation of the solar panels and that this requirement be added into the construction sequence listed on C001.



5. That the site plan be amended to provide a significant habit mapping overlay, as identified in the Significant Habitat Mapping prepared by Hudsonia Ltd. for the Town of Pine Plains, in accordance with the requirements of §275-62(A)(1)(b).
6. That the Applicant prepare a map depicting the steep slopes and rock outcrops on the site, as required by §275-62(C)(1)(h) over which panels are not planned to be installed as part of the site plan for final approval.
7. That the Operation and Maintenance Plan, as submitted, dated February 8, 2023, be amended as necessary to include the requirement for routine site visits and maintenance of the current tree line, as shown on the site plan.
8. That the Applicant shall make all necessary required revisions to the final site plan drawing before submission to the Planning Board for final review and signing by the Chairman of the Planning Board and the Building Inspector for final review and acceptance.
9. That all application, escrow fees and other charges imposed on this application by the Planning Board and Town Code be paid prior to signing of the amended site plan by the Planning Board Chairman.

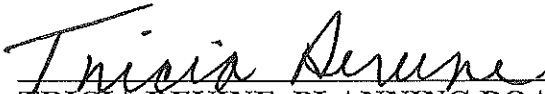
and be it further

**RESOLVED**, that the Town Planning Board Clerk shall provide a certified copy of this Resolution to the Pine Plains Town Clerk and to each involved and interested agency.

The Planning Board members voted as follows:

<b>Michael Stabile, Chairperson</b>	<b>Aye</b>
<b>Vikki Soracco, Vice Chairperson</b>	<b>Aye</b>
<b>Al Blackburn</b>	<b>Aye</b>
<b>Scott Cavey, Alternate</b>	<b>Aye</b>
<b>Ethan DiMaria</b>	<b>Aye</b>
<b>Richard Hermans</b>	<b>Aye</b>
<b>Kate Osofsky</b>	<b>Absent</b>
<b>Steve Patterson</b>	<b>Aye</b>

The Resolution was carried by a 7-0 vote of the Planning Board members on  
November 28, 2023.

  
TRICIA DEVINE, PLANNING BOARD  
CLERK, TOWN OF PINE PLAINS