283 Manny's Corners Road
Amsterdam, New York 12010

Telephone: (518) 842-7961
Fax No. (518) 843-6136

July 12, 2021

TO: Supervisor DiMezza and Town Board

FROM: Town of Amsterdam Planning Board

RE: Proposed Solar Law Amendment

At our monthly meeting on July 7, 2021 the Planning Board members, Town attorney, Chuck Schwartz and Town Engineer, Kevin Schwenzfeier from Delaware Engineering discussed the proposed solar law amendments. Kevin Schwenzfeier incorporated the Planning Board recommendations into a draft of local law to amend the town zoning regulations related to solar projects.

The Planning Board is now sending these recommendations to the members of the Town Board for your review.

Attached is a copy of the Planning Board proposed solar law amendments.

A motion was made to recommend the proposed solar law amendments to the Town Board.

Motion by: Kelly Joyce
Second by: Mike Anostario

All board members unanimously approved the motion.

Respectfully submitted.

Brent Phetteplace
Chairman Planning Board

Town of Amsterdam Proposed Solar Law Amendment

July 7th, 2021

Section 1. Legislative Intent

It is the intent of this local law to amend the Town of Amsterdam Zoning Ordinance, as may have been amended from time to time, to include provisions that address the installation of solar energy systems, as defined in this law, within the municipal boundaries of the Town of Amsterdam. This local law is not intended to apply to applications approve prior to the effective date of this local law.

Section 2. Authority

This local law is adopted by the Town Board of Town of Amsterdam (hereinafter referred to as the "Town Board") pursuant to its authority to adopt local laws under Article IX of the New York State Constitution; Articles 2 and 3 of the Municipal Home Rule Law; Article I of the Town Zoning Law, particularly Section 2 which authorize the Town to adopt zoning provisions that promote health and general welfare, encourage the most appropriate use of land throughout the Town, encourage development in accord with a comprehensive plan and professional planning techniques, and improve the quality of life throughout the Town; and Section 35.A.1. of Article VIII "to balance the benefits of solar energy collection with the unique characteristics of each site, and prevent potential impacts on neighboring properties."

Section 3. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State and shall not apply to applications approved prior to the effective date of this local law.

Section 5. Amendment

Article VIII of the Town of Amsterdam Zoning Ordinance is hereby amended by repealing and replacing the section, designated as "Section 35.2.", to said Article VIII to read as follows:

2. Utility-Scale Solar Energy Systems

A. Town Policy Statement, Purpose, and Intent

1. Introduction: The following policy statement regarding utility-scale solar energy systems is in addition to, and does not necessarily supersede, the general land use policies set forth in the Zoning Ordinance. Where policies conflict, the policies set forth in this section control only as they pertain to utility-scale solar energy systems.

2. In General: The Town of Amsterdam supports sustainable renewable energy sources such as solar energy and does not seek to discourage such energy sources to be installed in the Town. However, like any land use, solar energy systems have impacts on the community and neighboring properties which the Town seeks to mitigate so as not to adversely affect the Town's unique character nor impinge on properties within the Town. As such, the Town finds that small scale solar energy systems which are accessory to the primary use of the parcel and are installed for the primary purpose of supplying electricity to the buildings located on that parcel is in keeping with the Town's Comprehensive Plan and land use policies. Such accessory systems are to be encouraged so long as they do not impact neighboring properties, are safely installed, do not impair emergency access and are removed when no longer used.

3. Specific Policies: With respect to what is defined herein as Utility-Scale Solar Energy Systems, the Town is concerned with the potential scale and location of such Systems not fitting in with the existing community character. However, with proper guidelines, criteria and planning, Utility-Scale Solar Energy Systems of a limited size may be appropriate but would have to be reviewed on a case-by-case basis. These Systems are to be encouraged and allowed so long as they fit in with the Town's community character, do not impact neighboring properties, are safely installed and operated, and do not impair scenic views or vistas, future growth, or economic development of the Town, and are appropriately and promptly removed upon decommissioning. Placement of Utility-Scale Solar Energy Systems in existing fields or areas that do not require significant deforestation or clear cutting and are well-screened from public views as well as nearby properties would increase the possibility of compatibility with the Town's community character and decrease the possibility of significant adverse impacts. It is recognized by the Town that certain scenic views and vistas are important to the Town and should be preserved since they significantly contribute to the Town's rural residential character. The layout of the solar panels and equipment should utilize existing natural features for screening and should avoid detrimental impacts to important natural resources such as wetlands, streams and other surface waters, prime agricultural soils, areas important for outdoor recreation and tourism, historic districts and buildings, home and property values, and the aesthetics of the Town's natural environment. The following regulations are intended to ensure that Utility-Scale Solar Energy Systems are only allowed of a scale, location and plan that appropriately recognizes the aforementioned land use policies, as well as the policies set forth in the Town's Comprehensive Plan and Zoning Ordinance.

B. Bulk and Area Requirements

1) Height.

a) The total height of the solar collector arrays and mounting system shall not exceed 20 feet from the ground elevation when oriented at maximum tilt.

b) All buildings and accessory structures associated with the utility-scale solar energy system shall have a maximum height of 15 feet.

2) Setbacks.

All utility-scale solar energy systems and associated buildings, fences, accessory structures, and equipment shall be setback at a minimum of one hundred (100) feet from all of the parcel's boundary lines, wetlands, ponds and streams.

3) Lot Coverage.

a) The maximum permitted lot coverage for a utility-scale solar energy system is 50% of the site.

b) For the purpose of this section, lot coverage shall include the total surface area of the solar panel arrays and the footprints of all buildings and accessory structures.

c) If the area in which the Solar Energy System is to be placed is leased, then the terms "lots" and "entire lot size" shall mean the land area that is leased.

4) Minimum Lot Size.

Utility-Scale Energy Systems shall only be located on lots with a minimum lot size of twenty (20) acres.

5) System Size.

The size of the Solar Energy System shall be limited to a maximum of 5MW of AC electrical energy generation per design at peak levels of operation or the land surface area covered by the Solar Energy System including internal access roads, Solar Panels and all System components and Solar Equipment.

C. General Provisions

1. Permitted Zones: Utility-Scale Solar Energy Systems are permitted only in the B-1 (Business), B-2 (Restricted Business), and M-1 (Manufacturing/Mixed Use) zoning districts of the Town of Amsterdam and only upon issuance of a special use permit and site plan approval and compliance with the general standards and requirements in these regulations as well as the following requirements and standards. As is set forth below, the size of a Utility-Scale Solar Energy System is restricted in the Town of Amsterdam. The reason for restriction is that the Town's current community character and economic well-being is dependent upon its natural resources and setting, its scenic views, its historic places and buildings, its agricultural history and its outdoor recreation and tourism opportunities. The future of the Town in terms of both its economy and the welfare of its residents depends on the continual preservation and promotion of such vital aspects of the Town. In this regard, the Town Board specifically finds that any Utility-Scale Solar Energy System greater in size than what is allowed by special use permit or otherwise as is set forth

herein will be contrary to the community character and the future economic viability of the Town and would unreasonably burden the residents, taxpayers and the electric rate payers of the Town of Amsterdam. The aforementioned policies and findings are based upon, supported by, and consistent with the Town of Amsterdam's Comprehensive Plan.

2. Application Requirements.

a) Applications for a special use permit shall be submitted to the Planning Board for an initial review of completeness; once the Planning Board determines that an application is complete, it will then commence its review and action, which can include approval, approval on conditions, or denial; following approval, or approval on conditions, the application will be subject to site plan review by the Planning Board.

b) Special Use Permit Application Requirements. For a Utility-Scale Solar Energy System, both the site plan and special permit applications, and required application materials, fees and submissions, are to be used in keeping with the relevant Articles of this Law, and supplemented by the following requirements:

i) If the property of the proposed project is to be leased, legal consent and lease agreement(s) between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

ii) Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.

iii) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

iv) A full environmental assessment form with Part 1 completed.

v) A Visual Impact Assessment report including modeling and photographic assessment of the visibility from key viewpoints, along with photo simulations including array equipment. In addition, the report shall include viewshed simulations from off-site residential dwellings from both the first and second floors.

vi) A Glare Analysis which demonstrates the duration of glare per day for each day of the year including a graphical comparison summary.

vii) Storm water runoff calculations and drainage plan prepared by a professional engineer licensed in the State of New York.

viii) The location and extent of natural resources and other significant features of the site including but not limited to the following: streams, wetlands, ponds, prime agricultural soils, flood plain, rock outcroppings, and extent of clearing of mature trees, existing or proposed easements or right-of-way.

ix) Landscaping/Screening Plan and Planting Schedule. Such plan shall describe the methods and types of screening that is proposed, including but not limited to existing vegetation, topography, fencing and structures, and also detailing the number, location, size and species of vegetation to be planted on site and the size and extent of berms. Such plan shall also include appropriate

performance criteria specifying minimum vegetation sizes and measures to be taken in the event that the proposed vegetation fails to survive, flourish, or otherwise meet said performance criteria throughout the lifetime of the project.

x) A Land Grading and Vegetation-Clearing Plan with a cut and fill analysis. Existing on-site vegetation designed to be utilized as screening shall be preserved to the maximum extent possible and shall be diligently maintained to protect its vitality. Site plans shall be developed to provide, to the maximum extent possible, for the preservation of nature vegetation in large unbroken blocks that also allows for continuous vegetative spaces to be established when adjacent parcels are developed.

xi) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep including landscaping, mowing and trimming as well as any agricultural operations that will occur on the site or property once the System is installed.

xii) The Applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the proposed Utility-Scale Solar Energy System at its maximum peak design. A location map of the connection point to the grid shall be provided along with a description of any easements or right-of-way, clearing, infrastructure, appurtenances and equipment that may be necessary or required to connect to the grid.

xiii) Decommissioning Plan. To ensure the proper removal of Solar Energy Systems and Equipment, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must identify who will be responsible for the removal of the System after the Utility-Scale Solar Energy System is no longer in use. The Decommissioning Plan shall demonstrate how the removal of all infrastructures and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to installation. The Plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. Removal of Solar Energy Systems must be completed in accordance with the Decommissioning Plan. The Town shall also require a decommissioning bond or other financial security in which to finance the cost of such removal and restoration if not removed by the party designated in the plan as the party responsible for removal of the System within the time specified for removal in the Decommissioning Plan.

3. Specific Standards for Utility-Scale Solar Systems as a Special Use.

a) No part of a Utility-Scale Solar Energy System shall be located along ridgelines, on hilltops, or on slopes greater than 12%.

b) All Solar Energy Systems shall be sited and screened in such a manner to have the least possible visual effect on neighboring properties, public roads and recreational areas, important scenic vistas and the general aesthetic environment. Screening by existing topography, trees and vegetation shall be incorporated to the maximum extent practicable and where not practicable screening must be installed such as vegetative berms or deer resistant evergreen plantings or a combination thereof.

c) The solar facility, including any proposed off-site infrastructure, shall be located and screened as to avoid to the maximum extent possible visual impacts as viewed from existing residential dwellings located on nearby parcels, including, but not limited to, contiguous parcels, adjacent parcels and/or parcels located across a street, road, or public right-of-way from the solar facility.

d) A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Town that is capable of screening the site to the maximum extent possible from the above-descried residential dwellings shall be provide.

e) All solar facilities shall be situated on the project site such that it allows for maximum screening possibilities.

f) All landscaping for screening purposes shall be installed after a rough grading of the project site has been completed and shall be maintained at all times during and after the construction phase.

g) Significant clearing of mature tree growth and hedgerows should be avoided to the maximum extent possible. Installation of Utility-Scale Solar Energy Systems on fields or land areas which do not require significant clear cutting is preferred. In no case shall the Solar Energy System require clear cutting of more than 9 acres. Once the land is cleared and the Solar Energy System is installed, the land disturbed must be reseeded or replanted with a combination of native plant species and native grass. Ground cover of gravel or other non-vegetative cover should only be used for access and internal roads to the maximum extent practicable.

h) Installation of Utility-Scale Solar Energy Systems on land areas which contain prime agricultural soils shall be avoided to the maximum extent possible.

i) The materials used for the Solar Energy System shall not be conducive to glare visible from beyond the lot's boundary lines. The Solar Energy System shall not generate noise or heat detectable from beyond the lot's boundary lines.

j) All Utility-Scale Solar Energy Systems shall be enclosed by fencing no less than 8 feet in height to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board. The fencing may need to be further setback from boundary lines and roads and further screened by any landscaping needed to avoid adverse aesthetic and safety impacts.

k) Any associated structure shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility, and the same shall be noted in the Site Plan.

l) All utilities serving the site shall be underground, except for those required by the public utility for interconnection to the electric grid.

m) All debris generated from the construction phase of the project must be removed within 30 days of site completion.

n) If solar storage batteries are included in the Solar Energy System, the batteries must be placed in a secure container or enclosure meeting the requirements of the International Building Code, International Fire Prevention Code and NFPA 70. When the batteries are no longer in use, they shall be disposed of in

accordance with the International Building Code, International Fire Prevention Code and NFPA 70 as well as the local laws of the Town, and any other applicable laws or regulations.

o) No artificial light is permitted, unless otherwise required by a federal, state or local authority or regulation. Exterior lighting may be provided for associated accessory structures and access entrances as may be determined appropriate for security purposes only. If lighting is proposed a lighting plan shall be included with the Site Plan that is compliant with lighting standards set forth in the Zoning Ordinance.

p) The applicant shall indicate on a site plan all existing and proposed access to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible.

q) Review and approval of the application by the nearest fire department for accessibility of emergency vehicles and equipment is required prior to site plan review.

r) Any application under this Section shall meet any provisions, requirements and standards contained in the Zoning Ordinance that, in the judgment of the Planning Board, are applicable to the Utility-Scale Solar Energy System Solar Energy System being proposed. In no instance shall the following Special Use Permit Standards be waived:

i) The proposed development is compatible with nearby properties and will not discourage the appropriate development and use of adjacent properties or impair their value;

ii) The proposed development will not adversely affect community character or appearance; and

iii) The proposed use complies with the goals and objections of the Comprehensive Plan.

s) The Planning Board may impose conditions on its approval of a special use permit and site plan under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

4. Additional Requirements.

a) Public Hearing. The Planning Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, at least then (10) days before any hearing. The applicant shall be required to mail notice of the public hearing to all landowners whose property is located within one thousand (1,000) feet of the Site Boundary, at least then (10) days prior to the date of said public hearing. Notification shall be made by regular U.S. Mail, and proof of such mailing shall be present t o the Board at the public hearing.

b) Installation. All solar collector installations must be performed by a Qualified Solar Installer. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer and by the New York Board of Fire Underwrites or other appropriate electrical inspection person or agency, as determined by the Town. In addition, the connection to the public utility grid must be inspected by the appropriate public utility.

c) Insurance. The owner or operator shall maintain general liability insurance coverage on any solar energy system in the amounts of $1,000,000 for injuries and $500,000 for property damages, naming the Town of Amsterdam as additional insured.

b) Damages. If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the solar energy system or any components thereof the property of the Town of Amsterdam, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of the damage, completely replace or repair all damage to the satisfaction of the Town.

c) Debris. Any damaged or unused components of the system shall be removed from the premises within 30 days and disposed of legally. All maintenance equipment and spare parts shall be kept in a designated storage area which is fenced and screened.

d) Change of Ownership. If the ownership of a solar energy system changes, the special use permit and site plan approvals shall remain in full force and effect providing all the conditions of the special use permit, including bonding, letters of credit or continuing certification requirements or obligations, including maintenance, continue to be obligations of successor owners. The change in ownership shall be registered with the Town Clerk with a copy to the Code Enforcement Officer/Building Inspector within 30 days of the change taking effect. The Town Clerk shall notify the Planning Board of such change.

e) Permit Amendment. Any and all modifications, additions, deletions, or changes to the Solar Energy System, whether structural or not, shall be subject to the Planning Board's approval as an amendment of the special use permit and/or site plan, except that such amendment shall not be required for repairs which become necessary in the normal course of use of such system.

f) Inspection Report. An inspection report prepared by a duly qualified engineer licensed in the State of New York shall be required at the time of installation and every three years thereafter. The cost for this inspection shall be borne by the applicant and/or the current owner. The inspection report is required at the time of installation and in advance of powering the system for use. Thereafter, it shall be done to inspect all components of the solar energy system to ensure proper operation. The inspection report must be filed with the Code Enforcement Officer/Building Inspector. All recommendations for maintenance and repair contained in said inspection report shall be completed at the expense of the applicant/owner and shall be conducted within a written scheduled time frame agreed upon by the Code Enforcement Officer/Building Inspector.

g) Decoration. No part of the Solar Energy System, including area of lot coverage, shall be used for the display of any advertising, decorative flags, streamers, or any other decorative items.

h) Safety. When any Solar Energy System is installed and before it becomes active, the owner of the site and/or the Solar Energy System must contact the Town's emergency responder departments to make arrangements for a meeting at the site to review the components of the array and to be educated on safety issues and procedures for emergency response. This shall include detailed discussion related to the location of labeled warnings, access to the site and information on emergency disconnection of the system. In addition, the Planning Board may require a plan for installation regarding the location of placards which provide mutual aid responders with sufficient information to protect them when responding to calls on site.

i) Maintenance. Native grasses and vegetation shall be maintained below the arrays and shall not include use of herbicides.

j) Annual Documentation. The owner of a solar energy system shall annually, by January 15, file a declaration with the Town of Amsterdam Code Enforcement Officer certifying the continuing safe operation of said system installed subject to these regulations, as well as the status notification set forth in subsection f above. Failure to file a declaration shall mean that the system is no longer in use and shall be considered abandoned.

5. Decommissioning and Abandonment.

Utility-Scale Solar Energy Systems are considered abandoned after 12 months without electrical energy generation and must be removed from the property. Applications for extensions may be submitted to and are reviewed by the Planning Board for a period of additional 6-month periods not to exceed a total of 12 additional months. At the time that a system owner plans to abandon or discontinue operation of a solar energy system, such owner must notify the Town, in writing, of the proposed date of abandonment, or discontinuance of operations. In the event that a system owner fails to give notice, the system shall be deemed abandoned upon such discontinuance of operations. In any event, a Solar Energy System shall also be considered abandoned when it has not been used for the purpose for which it was permitted, for a period of 12 months. Upon abandonment or discontinuance of use, the system owner or operator shall in addition to complying with the decommissioning plan, assure, if not part of the approved decommissioning plan, physical removal of the Solar Energy System, and all accessory structures and/or equipment within 90 days from the date of abandonment or discontinuance of use. "Physically remove" shall include, but shall not be limited to:

(i) removal of panels, collectors, support units (including all underground wiring), mounts, equipment shelters and security barriers from the property;

(ii) proper disposal of the waste material from the site in accordance with local and state solid waste disposal regulations; and

(iii) restoring the land area where the Solar Energy System was located to its natural condition, except that any landscaping and grading may remain in the "after" condition.

If the owner of the system fails to properly remove said Solar Energy System and associated structures and equipment within 90 days from the date of abandonment, the Town may exercise its option to remove said system at its own discretion upon notification to the owner of the system and the property owner, at the expense of the owner or owners for which the surety, as described below, shall be used. The applicant must provide the Town with written authority from the owner or owners of record for the subject property where the Utility-Scale Solar Energy System is located to bind successors and assigns to allow the Town to enter onto the subject property to physically remove the system in the event that the party identified as the party responsible for removal of the System fails to timely remove the system in accordance with the requirement of this Section and the special use permit.

6. Performance Bond and Other Security.

Prior to commencement of construction of the approved Solar Energy System, the applicant shall provide the Town with a bond or other acceptable security in an amount determined by the Planning Board, but in no case less than 125% of the cost for the removal of the system and remediation of the landscape, in the event the Town must remove the facility. The terms of the bond or other security shall be clear as to who is responsible for removal of the System, the time in which removal must occur, and when or upon what circumstances the security is to be transferred to the Town.

If the applicant or owner/operator fails to comply with any conditions of the approval during construction or as part of the long-term maintenance of the site, all costs of the Town incurred to comply with conditions of the approval shall be paid using the surety provide. Failure to comply with the conditions of the approval or to maintain an acceptable level of surety will result in revocation of the Certificate of Occupancy.

The bond or security instrument shall also be in a form acceptable to the Town's legal counsel, which includes but is not limited to letter of credit, perpetual bond, or any combination thereof. The amount of the bond or security shall be reviewed from time to time by the Planning Board and shall be adjusted if deemed necessary by the Planning Board. If the amount of the bond or security is adjusted, the applicant shall have 90 days from the date of the notice that adjustment is required to provide an adjustment bond or security in a form acceptable to the Town's legal counsel.