



Steven M. Neuhaus
County Executive

Orange County Department of Planning

124 Main Street
Goshen, NY 10924-2124
Tel: (845) 615-3840
Fax: (845) 291-2533

David E. Church, AICP
Commissioner

www.orangecountygov.com/planning
planning@orangecountygov.com

County Reply – Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l, m, & n

RECEIVED

Local Referring Board: *Town of Goshen Planning Board*
Applicant: *South Goshen Solar, LLC*
Project Name: *South Goshen Solar Facility*
Proposed Action: *Site plan and special use permit*
Date of Full Statement: *July 15, 2019*

County ID #: *GOT1419M*
Tax Map #: *13-1-10-12*
TOWN OF GOSHEN
TOWN CLERK

Comments: The Department has reviewed the proposed site plan and special use permit for a 26-acre, 5 MW solar facility with battery storage in the RU, CO, FP, AQ-3 and SR zoning districts in accordance with section 239, paragraphs l and m of the General Municipal Law. This office has found no evidence that significant inter-municipal or countywide impacts would result from its approval. We offer the following advisory comments for your consideration:

- 1) The Orange County Agriculture and Farmland Protection Board (AFPB) unanimously adopted a new policy strongly advising municipalities to avoid siting solar panels or solar "farms" on soils that are designated as USDA agricultural soils classes 1 – 4. The OC Planning Department is directed to incorporate this policy into their review of NYS General Municipal Law Section 239 planning and zoning referrals from municipalities. Municipalities ideally should direct and prioritize solar development on previously disturbed areas, such as landfills and brownfields, as well as existing buildings and parking lots. USDA agricultural soils classes 1 – 4 lands (defined by mapped soil type) should be used as a last resort. As depicted on the enclosed map by the yellow and blue polygons, most of the site is comprised of and most of the proposed solar panels are on soils of lesser agricultural significance.
- 2) Agricultural Assessment - We recommend that the applicant and the property owner be aware that the portion of the property that will be used for the solar farm may not be able to receive an agricultural assessment, if it is receiving such assessment at this time. Furthermore, the installation of a solar farm on existing agricultural land located within a County Agricultural District may impact the parcel's status within the Agricultural District in the future.
- 3) The EA is not signed on page 13.
- 4) Trees - No submitted tree planting plan was submitted to this office. Such a plan is necessary for shielding the proposed photovoltaic array as well as replacing the many trees felled. This office strongly suggests developing a diverse landscape plan. To reduce bat decline, the applicant should consider including bat-friendly trees such as the shagbark species.

Drawings do indicate that 100 trees (greater than 6") will be removed; some in places not necessary to the overall operation of the proposed solar facility. Please revisit what trees **will** remain to shade existing wetlands and protect this scenic area from viewing the proposed project. Drawings are vague and do not indicate if any vegetation will remain post construction. The applicant must legally avoid wetlands; however, removing crucial nearby vegetation will result in their slow demise.

At minimum the following trees of significant size should be saved:

*Tree # 50 (30" oak) can be saved by shifting the access road a few dozen feet to the south.

RECEIVED

AUG 28 2019

TOWN OF GOSHEN
TOWN CLERK

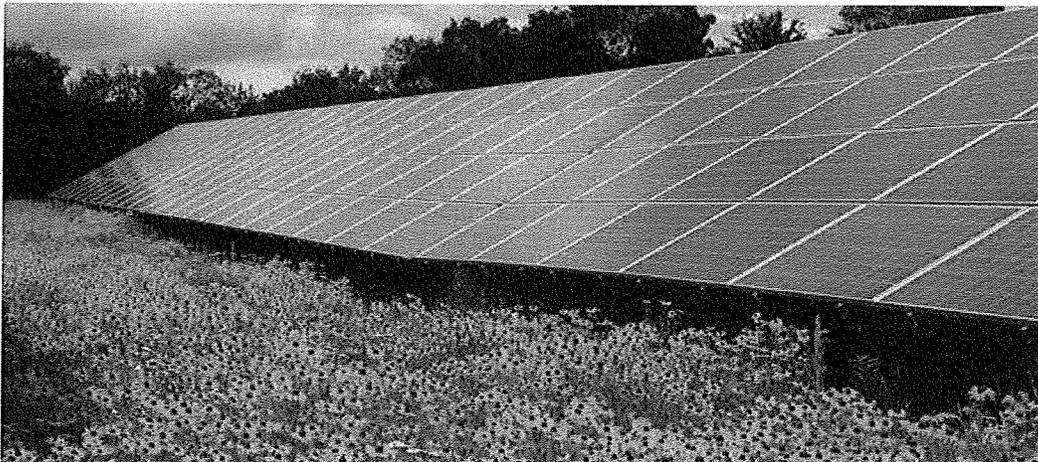
*Trees #99 (24" oak) & #100 (36" oak) are needed to shade the important waters and wetlands on the site. There is likely enough room to retain these trees without shading the nearby row of proposed panels.

Tree #27 (28" hickory) will not shade panels or impede the access road, so it should not be removed.

In its Model Solar Energy Local Law guidebook, NYS states that tree removal should be minimized. Perhaps the municipality should consider a redesign or reduction of panels in order to reduce the number of trees lost.

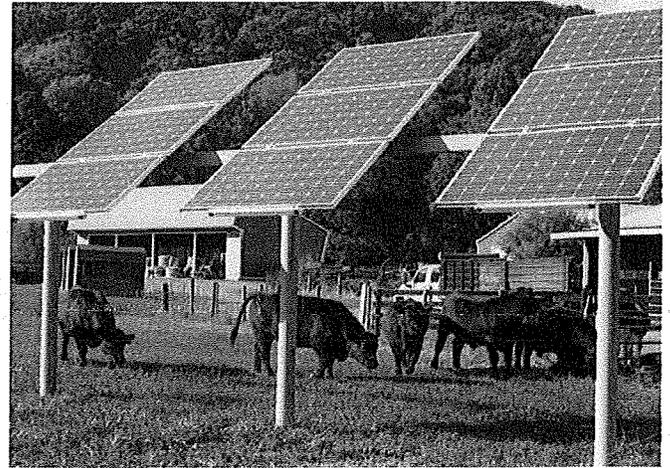
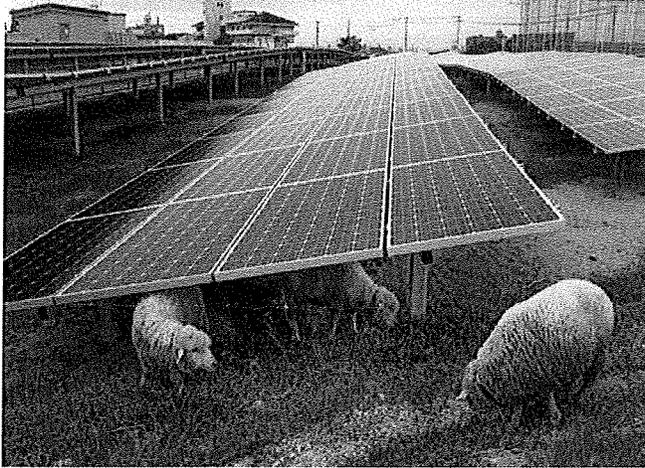
- 5) Fencing - Raising a fence one foot off the ground will allow wildlife to cross a large site and avoid crowding them onto neighboring parcels and streets. The applicant can also realize a substantial savings by installing a 6' tall fence as it will still stand 7' off the ground. Many of these large-scale solar energy systems are sited in rural areas where wildlife should not be excluded as it will only force them onto surrounding properties, unfairly burdening neighbors.
- 6) Screening - Tall fencing is typically viewed as unsightly by adjacent neighbors. Appropriate vegetative, all-year round screening is essential as this will hide the system from potential threats while providing a natural and pleasant landscape for Town residents.
- 7) Height & Herbicides – The proposed 9' +/- height of each panel will be too low to allow for pollinating plants, thereby missing a unique opportunity to mitigate bee habitat loss, as dictated by New York State. The NYS Senate and Assembly passed the Pollinator-Friendly Solar Act (A08083A/S06339A) on June 11, 2018. This unanimously passed, agricultural bill establishes a statewide vegetation standard for the ground under and around solar arrays to be planted with low-growing flowering plants and native grasses instead of traditional turf grass or gravel. Such native plants provide urgently needed habitat for pollinators and birds. Pollinator-friendly landscapes are more resilient to intense downpours and severe droughts. In addition to providing benefits to pollinators, such plantings would also add organic matter and break up compacted soils.

This office discourages the use of herbicides in favor of safer alternatives that will protect the many adjacent waters and wetlands, encourage the proliferation of wildlife and threatened plants, and promote the potential of future agricultural production. We suggest planting a native, bee-friendly pollinator meadow as projected heights do not interfere with solar panels.



Alternatively, the inclusion of farm animals might allow for a continuation of an agricultural assessment. Sheep are ideally compatible and being used across the U.S.

The applicant should commit to a chemical-free operation and memorialize their intent as the owner may change over the decades of production.



8) No decommissioning plan was included in this submission.

County Recommendation:

Local Determination

Date: August 6, 2019

**David Church, AICP
Commissioner of Planning**

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available on-line at www.orangecountygov.com/planning.

