

In The Matter Of:
IDA - TOWN OF MONTGOMERY
MATRIX MAPLE, L.L.C.

PUBLIC HEARING
June 22, 2020

COVERING ALL UPSTATE NEW YORK

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Office: 518-478-7220
Fax: 518-371-8517

Mail to: 5 Southside Dr., Suite 11
Clifton Park, NY 12065

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF MONTGOMERY INDUSTRIAL DEVELOPMENT AGENCY

----- X
In the Matter of

MATRIX MAPLE, L.L.C.

----- X

PUBLIC HEARING

Date: June 22, 2020
Time: 3:00 p.m.
Place: Town of Montgomery
Town Hall
110 Bracken Road
Montgomery, New York

BOARD MEMBERS: JEFFREY D. CRIST, Chairman
CONOR ECKERT
RANDI GREENE
DON BERGER

ALSO PRESENT: ROBERT McLAUGHLIN, ESQ.

REPORTED BY: MICHELLE L. CONERO

NOTICE OF PUBLIC HEARING
ON PROPOSED AMENDED APPLICATION
FOR A PROJECT
AND FINANCIAL ASSISTANCE TO BE
CONSIDERED BY THE AGENCY
RELATING THERETO

Notice is hereby given that a public hearing pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the "Act") will be held by the Town of Montgomery Industrial Development Agency (the "Agency") on the 22nd day of June, 2020 at 3:00 o'clock p.m., local time, at the office of the Agency located at 110 Bracken Road in the Town of Montgomery, Orange County, New York in connection with the matters described below.

PLEASE TAKE NOTICE: Pursuant to the Emergency Declaration issued by the Town Supervisor on March 13, 2020 and Governor Cuomo's Executive Order 202.15, as amended by Executive Order 202.39, the public may participate by dialing 844.219.5837 and when prompted entering Code 2166376598# to be afforded the opportunity to comment. The public is encouraged to submit written comments prior to the public hearing, which will be made part of the official record of the proceedings. Such comments may be e-mailed Agency's Executive Director (executivedirector@montgomeryida.com) on or before 12:00 p.m. on June 22, 2020 or mailed to: Town of Montgomery Industrial Development Agency, Town of Montgomery Government Center, 110 Bracken Road, Montgomery, NY 12549. Additional instructions for the participation by the public (either remotely or in person) may be posted to the Agency's website (www.montgomeryida.com) and on the bulletin board in Town Hall **on or before June 18, 2020**. Questions on the public's participation may also be emailed to the Agency's Executive Director (executivedirector@montgomeryida.com) on or before 12:00 p.m. on June 22, 2020. Statements or opinions received prior to the public hearing will be read at the public hearing.

SUBJECT MATTER OF PUBLIC HEARING: Matrix Maple, LLC a New York limited liability company (the "Company") or such other person(s) or entities as may be designated by the Company and agreed upon by the Agency (collectively, the "Company"), submitted an application (the "Application") to the Agency in November 2019, a copy of which Application is on file at the office of the Agency and on the Agency website (www.montgomeryida.com), requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) the acquisition of an interest in an approximately 26 acre portion of an approximately 59.70 acre parcel of land located at 59 Maple Avenue (currently being a portion of tax map no. 31-1-94.2) in the Town of Montgomery, Orange County, New York (the "Land"), (2) the construction on the Land of an up to 4.9 MWAC solar community solar project (the "Facility") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the "Equipment") (the Land, the Facility, and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute a community solar system and other directly and indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency. By resolution adopted by the members of the Agency on November 12, 2019 (the "First Public Hearing Resolution"), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project. After due notice and publication as required by Section 859-a of the Act, the First Public Hearing was held on December 3, 2019 at 6:00 o'clock p.m., local time at the office of the Agency located at 110 Bracken Road in the Town of Montgomery, Orange County, New

York. A report of the First Public Hearing (the "First Hearing Report") fairly summarizing the views presented at such First Public Hearing was made and posted to the Agency website (www.montgomeryida.com).

The Applicant presented a modification (i) to its Application, and (ii) the requested Financial Assistance, at the Agency regular meeting held on May 12, 2020 and thereafter. On June 9, 2020, the Agency determined to issue a notice of deviation from its existing Uniform Tax Exempt Policy ("Notice of Deviation") for the Project to the appropriate taxing jurisdictions. The Agency believes that it is appropriate to conduct a second public hearing (the "Second Public Hearing") to inform the public of the Application amendments and the proposed deviation from the Agency's existing Uniform Tax Exempt Policy. The amendments to the Application and the Notice of Deviation to the appropriate taxing jurisdictions will be posted to the Agency website (www.montgomeryida.com).

The Agency is considering whether (A) to undertake the Project, and (B) to provide to the Company a certain payment in lieu of taxes agreement (set forth in the Notice of Deviation described above). If the Agency determines to proceed with the Project, the Project Facility will be acquired, constructed, reconstructed and installed by the Agency and will be leased (with an obligation to purchase) or sold by the Agency to the Company or its designee pursuant to a project agreement (the "Agreement") requiring that the Company or its designee make certain payments to the Agency.

During the Second Public Hearing the Agency will hear all persons with views on either the location and/or nature of the proposed Project, the amendments to the Application, or the proposed Financial Assistance being contemplated by the Agency in connection with the proposed Project. A copy of the Application amendments filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the offices of the Agency. A transcript or summary report of the Second Public Hearing will be made available to the members of the Agency and posted to the Agency website (www.montgomeryida.com).

Additional information can be obtained from, and written comments may be addressed to: Conor Eckert, Executive Director, Town of Montgomery Industrial Development Agency, 110 Bracken Road, Montgomery, New York 12549; Telephone: 845-457-2600; executivedirector@montgomeryida.com.

Dated: June 10, 2020

TOWN OF MONTGOMERY INDUSTRIAL
DEVELOPMENT AGENCY

/s/ Jeffrey D. Crist, Chairperson

BY: _____
Jeffrey D. Crist, Chairperson

1 CHAIRMAN CRIST: Good afternoon,
2 everybody. My name is Jeffrey Crist, I'm the
3 Chairman of the Town of Montgomery Industrial
4 Development Agency in connection with the project
5 which is the subject of this public hearing. I'm
6 joined here at Town Hall by Randi Greene and Don
7 Berger, both Board Members; our Executive
8 Director, Conor Eckert; and our Counsel, Bob
9 McLaughlin. This hearing is being transcribed by
10 Michelle.

11 Today I am holding this public
12 hearing to allow citizens to make a statement for
13 the record relating to the involvement of the
14 Agency with a project for the benefit of Matrix
15 Maple, LLC, hereafter known as the company. The
16 proposed project was described at the first
17 public hearing on December 3, 2019 -- I see a
18 typo -- and has not substantially changed.

19 As disclosed at the regular meeting
20 of the Agency held on June 9, 2020, the company
21 has submitted certain amendments to the
22 application, as well as additional information
23 and modifications to the financial assistance
24 being requested by the company. These amendments,
25 information and modifications were submitted at

1 the regular meeting of the Agency on May 12, 2020
2 and thereafter.

3 Even though a public hearing for the
4 project was held on December 3, 2019, in light of
5 these amendments, information and modifications,
6 the Agency scheduled this public hearing pursuant
7 to the act as described below.

8 I intend to provide general
9 information on the Agency's general authority and
10 public purpose to provide assistance to this
11 project as proposed. I will then open the comment
12 period to receive comments from all present who
13 wish to comment on either the proposed project or
14 the financial assistance contemplated by the
15 Agency with respect to the proposed project.

16 The legal authorizations and powers
17 of the Agency come under provisions of Chapter
18 1030 of Laws of 1969 of New York, constituting
19 Title 1 of Article 18-A of the General Municipal
20 Law, Chapter 24 of the Consolidated Laws of New
21 York as amended, Chapter 527 of the 1971 Laws of
22 the State of New York as amended, codified as
23 Section 911-c of said General Municipal Law,
24 collectively the act, authorize the Agency to
25 promote, develop, encourage and assist in the

1 acquiring, constructing, reconstructing,
2 improving, maintaining and equipping and
3 furnishing of manufacturing, warehousing,
4 research, commercial and industrial facilities,
5 among others.

6 Pursuant to Section 859-a(2) of General
7 Municipal Law of the state of New York, the act,
8 prior to the Agency providing any financial
9 assistance, among other things, must hold a
10 public hearing pursuant to Section 859-a of the
11 act with respect to said project.

12 Unless there is any objection, I'm
13 going to suggest waiving the full reading of the
14 notice of this public hearing, and instead
15 request that the full text of the notice of the
16 public hearing be inserted into the record of
17 this public hearing as schedule A.

18 The comments received today at this
19 public hearing will be presented to the Members
20 of the Agency at or prior to the meeting at which
21 the Members of the Agency will consider whether
22 to approve the undertaking of the proposed
23 project by the Agency and the granting of the
24 Agency of any financial assistance in excess of
25 \$100,000 with respect to the proposed project.

1 Written comments on the notice of
2 this public hearing indicated that written
3 comments could be addressed to myself, Jeffrey D.
4 Crist, Chairperson of the Agency. We have
5 received a letter from John Brown. I'm not aware
6 of any other letters at this point.

7 I would like to ask our Executive
8 Director, Conor Eckert, to briefly overview the
9 project since the current conditions with COVID
10 makes it more difficult for the company to be
11 here to present those comments.

12 Conor, please.

13 MR. ECKERT: Thank you, Jeff.

14 The proposed project is a 4.9
15 megawatt acre community solar farm at 59 Maple
16 Avenue in Rock Tavern, New York, within the Town
17 of Montgomery.

18 The applicant is asking for a 25-
19 year PILOT through the Montgomery IDA. This is a
20 deviation from our existing UTEP which has been
21 shown throughout with notices that were
22 delivered throughout the taxing
23 jurisdictions. It's a unique project with
24 which the IDA is currently considering the
25 strengths, weaknesses and opportunities

1 associated with said development.

2 CHAIRMAN CRIST: All set. I will
3 now open the public hearing for public
4 comment, and I'll note the time is 3:06 p.m.

5 As you know, due to the State of
6 Emergency declared by the Town Supervisor on
7 March 13, 2020, this public hearing is being
8 held via telephone communication. It is also
9 being live-streamed. Holding public hearings
10 pursuant to telephone communications is
11 authorized by Governor Cuomo's Executive
12 Order numbers 202.2 and 202.15 as amended and
13 extended. Accordingly, by way of operating
14 rules, when I ask if there is public comment,
15 I will recognize one person at a time. I will
16 first request comments from any elected or
17 public officials which may want to speak.
18 I'll then open the line to the remainder of
19 the public. If you wish to make a public
20 comment, I would ask you to please be patient
21 as although you can see Members of the Agency
22 present, we can not see you. Please wait to
23 be recognized. Once recognized, please state
24 your name and address for the record. When
25 everyone has had an opportunity to speak, I

1 will conclude this public hearing. A record
2 of the public hearing will be prepared and
3 reviewed by Members of the Agency in
4 connection with the Agency's consideration of
5 the proposed project.

6 Again, the purpose of the public
7 hearing is to solicit public comment. We're
8 not here to answer questions. However, we
9 will, in the course of the public hearing,
10 consider questions if we have the information
11 to answer the questions and there is
12 sufficient time to consider such questions.

13 I will now ask if anyone is in
14 attendance who wishes to comment either on
15 the nature, or the location, or the proposed
16 financial assistance being contemplated by
17 the Agency with respect to the proposed
18 project. For the record, please state your
19 name and indicate your comments on either the
20 proposed project or the proposed financial
21 assistance being contemplated.

22 (No response.)

23 CHAIRMAN CRIST: I'm not aware of
24 any public officials who have questions. I
25 believe we have John Brown on the line.

1 John, if you can hear me, state
2 your name and ask your question.

3 MR. BROWN: Yes. Thank you,
4 Jeff. Hopefully you can hear me okay. Can you
5 hear me fine?

6 CHAIRMAN CRIST: Loud and clear.

7 MR. BROWN: Okay, great. This is
8 John Brown, Browns Road in Coldenham. I did
9 submit a letter earlier today, and I do have
10 some updates based on new information that
11 has come in since I submitted that original
12 letter.

13 Okay. The first point is that I
14 indicated that information was not available.
15 It turns out that due to technical issues
16 with browsers and refreshing and where
17 documents were located, I was unable to see
18 it, but Conor had reached me this morning and
19 directed me on how to find that information.
20 So I do want to acknowledge that that
21 information was there. It appears that it
22 was posted on the Town website on June 16th,
23 at least the revised application, so
24 different dates for other documents. But
25 that's the first time that has ever happened

1 to me and I haven't had that come up before,
2 so I was a little surprised myself by that. I
3 just wonder if anyone else, others have had
4 that same technical issue. But in any case, I
5 just wanted to point that out.

6 Having just been able to see the
7 documents today starting at about 9:30 or so,
8 I do have some comments that I'd like to
9 bring forward for the Board that I was unable
10 to get the time to put them in written form,
11 but I can follow up with that if that would
12 be requested by the Board.

13 CHAIRMAN CRIST: Go ahead, John.

14 MR. BROWN: At this point let me
15 just go through those comments. I noticed the
16 deviation proposal was dated June 9, 2020,
17 however the new application was dated June
18 16th, which is after the deviation notice.
19 And there was a letter from the applicant
20 also dated June 11th which identified some
21 changes. So a question that I'd like the
22 Board to analyze is is a deviation notice and
23 the proposed payments still valid or does it
24 require an update. And I'll note that in
25 that deviation notice that is out there that

1 I saw today, it's still shown on page 8 at
2 the top of the table "Draft". So just
3 suggesting that prior to voting on this, or
4 maybe even before that, that that table be
5 reviewed and correctly updated so that
6 reviewing agencies will have the final
7 numbers. That's item 1.

8 Item 2 is there was some
9 discussion on the special districts, and I
10 was actually confused a little bit myself. I
11 just wanted to confirm the understanding that
12 the special districts payment to, in our case
13 the Coldenham Fire Department, is in addition
14 to the PILOT payment that has been proposed
15 in this draft, and that that -- as I
16 understand it, that special district payment
17 will be based on the full assessed value of
18 the land plus the solar addition. Rough
19 numbers, it looks like, from something I
20 spoke with Joe Keenan on, that would be about
21 13,500 or so in the initial year. So the
22 total payment in that first year would be the
23 PILOT of somewhere around 33,000 and the
24 13,500 for the Coldenham Fire Department. And
25 obviously that would be dependent on the

1 assessment that is set by the assessor. So I
2 wanted to just get that clarified for
3 everyone because it was -- at one point I
4 believe actually the PILOT had included the
5 Coldenham Fire Department, but it is in
6 addition to it.

7 The next point is that the
8 penalty for conversion of agricultural land,
9 which I think certainly is warranted, that
10 that penalty be imposed as per my letter is
11 not part of the PILOT payment or not waived
12 as a result of this PILOT agreement, and that
13 that penalty would in fact be an additional
14 separate item that would be charged. And I
15 believe it's somewhere probably in the
16 \$30,000 a year -- I'm sorry. A total payment
17 of \$30,000 a year -- \$30,000 total which
18 comprises five years of the ag exemption that
19 was in place. So I think that needs to be
20 clarified, that that again is separate from
21 any PILOT agreement.

22 The next point is the proposed
23 PILOT payment does appear to address what's
24 going on with the Valley Central School
25 District, which apparently they've opted out

1 of the 487 exemption. But have they
2 specifically reviewed the proposed PILOT
3 payment that you're putting in place here and
4 understand what payment will come to the
5 district? In prior discussions on this at
6 public meetings there was an implication that
7 the school district was not entitled to any
8 payment. The district had not responded
9 within 60 days to some requests back in 2018
10 or early 2019. I would contend that this is a
11 new application with new terms and payments,
12 and that should restart the clock. The school
13 should have the 60 days to evaluate and
14 respond. This is a big amount, because as per
15 the current rates, I mean it would be maybe
16 about \$135,000 annually to the school if they
17 were getting a payment based on the full
18 value. I recognize in the past the school
19 didn't get it, but their opt-out policy has
20 changed that.

21 The next point is per the letter
22 from the applicant on June 11th, paragraph 1
23 or 2, there's a specific statement that says
24 Matrix reserves the right to cancel the PILOT
25 for any reason. What does this mean? What is

1 the default if they cancel? Would they have
2 to pay full taxes on this at the full value
3 without any exemptions? To me that seems a
4 very strange clause, and I don't know what
5 the meaning is. It's as if the applicant can
6 opt out of it at any point in time.

7 Another point which I made
8 before, it's now been brought up again, is
9 that there's a reduced value in utility
10 savings. I contend that the numbers given per
11 number of households was overly optimistic. I
12 mean I looked at my energy consumption, and
13 on my average you wouldn't get 2,200
14 households. But in any case, the real
15 question is how much will residents really
16 get? Is there any -- nowhere in here could I
17 find something that says here's how much is
18 going to be allocated to the Town, here's how
19 much residence are and commercial industrial
20 users. As noted in my June 8th letter, I'm
21 very concerned that one large user, i.e.
22 Amazon, could effectively use up the total
23 capacity of this and/or by the company and
24 then be still getting the tax incentives
25 associated with it, which I certainly do not

1 believe is fair.

2 So those are the new comments.

3 And just as a follow up or just
4 as a conclusion on my memo of today, my main
5 concern on this is the equity of what's being
6 proposed here in comparison to all of the
7 other renewable energy users who adopted the
8 solar energy going back a number of years in
9 our Town. As per the assessment roll, it
10 appears it's somewhere around 190 properties.
11 With full disclosure, I am one of them. I
12 have solar on my house. All of us, as per our
13 tax rolls, are getting 15 years as an
14 exemption. I think it's completely
15 inappropriate for the IDA to give special
16 treatment to one applicant without it being a
17 uniform policy across the Town that reflects
18 all users of renewable energy. If they're
19 going to get 25 years, everyone else should
20 get 25 years, especially commercial companies
21 who are competing with them.

22 And by the way, at least on
23 NYSERDA's website, apparently there are 41
24 companies in community solar in the Central
25 Hudson Electric district. I have not reviewed

1 that and I don't know which ones can be
2 signed up to, but it seems like I get letters
3 all the time. So claiming that there's not
4 one available I think was wrong.

5 So my main point is I don't think
6 the IDA should be asking or even considering
7 a special one-company agreement that is not
8 competitive for everyone else. And I think
9 the applicant does have the ability to accept
10 the 487 policy as written, as all the other
11 people in the Town have done, and go with
12 that. If they're concerned down the road, 15
13 years, well then they can apply for a
14 reassessment, which I assume they may even
15 come forward with claiming the solar panels
16 have depreciated.

17 So in conclusion I basically am
18 saying that I think this should be rejected
19 for fairness and equity and that the 487 be
20 pursued. And if there is an overall tax
21 change, that that applies to all the
22 renewable energy parcels in the Town.

23 So that's my comments. If you
24 have any questions, I'd be glad to answer
25 them.

1 Jeff, if you would like me to --
2 I guess this is being transcribed or
3 recorded, but if you have any questions on
4 what was said, I'd be glad to clarify that.

5 CHAIRMAN CRIST: Thank you, John,
6 for those detailed questions. There are areas
7 the Board has been discussing, and further
8 detail or conclusions to answer on those
9 questions.

10 Conor, do we know if anyone else
11 would like to come before the public hearing
12 from the public?

13 MR. ECKERT: I'll check.

14 Hello? Is there anyone else there
15 who wants to speak?

16 (No response.)

17 MR. ECKERT: Hello? Is there anyone
18 else there who would like to speak?

19 (No response.)

20 CHAIRMAN CRIST: And you're still
21 hooked into the conference call?

22 MR. ECKERT: Yes.

23 John, are you still on?

24 MR. BROWN: Yes, I'm still on, Conor.
25 I can still hear you clearly. I don't know if me

1 being on prevents someone else. If you think it's
2 advantageous, I will hang up now and --

3 MR. ECKERT: Please do. That would be
4 great. Thank you for your comments, John. Much
5 appreciated.

6 MR. BROWN: Okay.

7 MR. ECKERT: Is anyone there who
8 would wish to comment?

9 (No response.)

10 MR. ECKERT: Hello?

11 (No response.)

12 CHAIRMAN CRIST: I might ask if
13 either of the other two Board Members that are
14 here tonight have questions to come before the
15 public hearing?

16 MR. BERGER: No.

17 MS. GREENE: I do not.

18 CHAIRMAN CRIST: And I do not.

19 MR. ECKERT: Hello? Anyone?

20 (No response.)

21 CHAIRMAN CRIST: So if there's no
22 further comments, I will now close this public
23 hearing. We're at 3:21 which puts us right at 15
24 minutes I think.

25 Are we okay, Bob?

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MR. McLAUGHLIN: Perfect.

CHAIRMAN CRIST: Thank you for everyone attending, and we'll research the input that we received here this afternoon.

Have a good night.

(Time noted: 3:21 p.m.)

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public for and within the State of New York, do hereby certify:

That hereinbefore set forth is a true record of the proceedings.

I further certify that I am not related to any of the parties to this proceeding by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of June 2020.

Michelle Conero

MICHELLE CONERO

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