

**SEQR RESOLUTION
MATRIX MAPLE DEVELOPMENT, LLC PROJECT**

A special meeting of the Town of Montgomery Industrial Development Agency (the “Agency”) was convened (i) in public session in the Town Hall located at 110 Bracken Road in the Town of Montgomery, Orange County, New York and (ii) by video conference in accordance with Governor Cuomo’s Executive Orders Nos. 202.1 and 202.15, as amended and extended (collectively the “Executive Order”), on June 25, 2020 at 4:00 O’clock a.m., local time.

The meeting was called to order by the Chairperson of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

Jeffrey D. Crist	Chairperson
Edwin Williams	First Vice Chairperson
John W. Dickson	Second Vice Chairperson
Matthew P. Stoddard	Treasurer
Robert Santo	Member
Randi Greene	Member
Donald Berger	Member

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Conor Eckert	Executive Director
Suzanne Hadden	Agency Secretary
Robert J. McLaughlin, Esq.	Agency Counsel

The following resolution was offered by Member Stoddard, seconded by Second Vice Chair Dickson, to wit:

Resolution No. 0620-03

RESOLUTION DETERMINING THAT ACTION TO UNDERTAKE A PROJECT FOR THE BENEFIT OF THE MATRIX MAPLE DEVELOPMENT, LLC WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

WHEREAS, Town of Montgomery Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 527 of the 1971 Laws of New York, as amended, constituting Section 911-c of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State

of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct and install one or more “ projects” (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, in November, 2019, Matrix Maple Development, 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, 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; and

WHEREAS, 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; and

WHEREAS, pursuant to the authorization contained in the First Public Hearing Resolution, the Chairperson of the Agency (A) caused notice of a public hearing of the Agency (the "First Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the Financial Assistance being contemplated by the Agency with respect to the Project, to be mailed and hand delivered on November 21, 2019 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located; (B) caused notice of the First Public Hearing to be posted on November 19, 2019 on a bulletin board located at Town Hall located at 110 Bracken Road in the Town of Montgomery, Orange County, New York and to the Agency website on November 20, 2019; (C) caused notice of the First Public Hearing to be published on November 20, 2019 in the Times Community and Wallkill Valley Times, newspapers of general circulation available to the residents of the Town of Montgomery, Orange County, New York; (D) conducted the First Public Hearing 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; and (E) prepared a report of the First Public Hearing (the "First Hearing Report") fairly summarizing the views presented at such First Public Hearing and caused copies of said First Hearing Report to be made available to the members of the Agency; and

WHEREAS, the Company discussed altering the Financial Assistance requested in the at the Agency regular meeting held on May 12, 2020 and thereafter; and

WHEREAS, by resolution adopted by the members of the Agency on June 9, 2020 (the "Second Public Hearing Resolution"), the Agency authorized a second public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, on June 11, 2020, the Agency received various documents, including an amended application (the "Amendment") submitted by the Company, which Amendment removed some of the requested Financial Assistance for the Project, which Project remained unchanged; and

WHEREAS, pursuant to the authorization contained in the Second Public Hearing Resolution, the Chairperson of the Agency (A) caused notice of a public hearing of the Agency (the "Second Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the Financial Assistance being contemplated by the Agency with respect to the Project, to be mailed and hand delivered on June 10, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located; (B) caused notice of the Second Public Hearing to be posted on June 10, 2020 on a bulletin board located at Town Hall located at 110 Bracken Road in the Town of Montgomery, Orange County, New York and to the Agency website on June 10, 2020; (C) caused notice of the Second Public Hearing to be published on June 12, 2020 in the Times Herald Record, a newspaper of general circulation available to the residents of the Town of Montgomery, Orange County, New York; (D) conducted the Second Public Hearing on June 22, 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 and by telephone conference as authorized by the Executive Order; and (E) prepared a report of the Second Public Hearing (the "Second Hearing Report") fairly summarizing the views presented at such Second Public Hearing and caused copies of said Second Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (the "Regulations", and collectively with the SEQR Act, "SEQRA"), the Agency has been informed that (1) the Town of Montgomery Planning Board (the "Planning Board") was designated to act as "lead agency" with respect to the Project, and (2) the Planning Board issued a Determination of Significance through the issuance of an Amended Negative Declaration on June 10, 2019 (the "Negative Declaration"), attached hereto as Exhibit A, determining that the acquisition, reconstruction, renovation and installation of the Project Facility will not have any significant adverse environmental impacts; and

WHEREAS, the Agency is an "involved agency" with respect to the Project and the Agency now desires to concur in the determination by the Planning Board, as "lead agency" with respect to the Project, to acknowledge receipt of a copy of the Negative Declaration and to indicate whether the Agency has any information to suggest that the Planning Board was incorrect in determining that the Project will not have a "significant effect on the environment" pursuant to SEQRA and, therefore, that no environmental impact statement need be prepared with respect to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF TOWN OF MONTGOMERY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency has received copies of, and has reviewed, the Application and the Negative Declaration (collectively, the "Reviewed Documents") and, based upon said Reviewed Documents, the Agency hereby ratifies and concurs in the designation of the Planning Board as "lead agency" with respect to the Project under SEQRA (as such quoted term is defined in SEQRA).

Section 2. The Agency hereby determines that the Agency has no information to suggest that the Planning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to the SEQRA and, therefore, that environmental impact statement need be prepare with respect to the Project (as such quoted phrase is used in SEQRA).

Section 3. The members of the Agency are hereby directed to notify the Planning Board of the concurrence by the Agency that the Planning Board shall be the “lead agency” with respect to the Project, and to further indicate to the Planning Board that the Agency has no information to suggest that the Planning Board was incorrect in its determinations contained in the Negative Declaration.

Section 4. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Jeffrey D. Crist	VOTING	YES
Edwin Williams	VOTING	YES
John W. Dickson	VOTING	YES
Matthew P. Stoddard	VOTING	YES
Robert Santo	VOTING	YES
Randi Greene	VOTING	YES
Donald Berger	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

I, the undersigned Secretary of Town of Montgomery Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on June 25, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

26 th IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this day of June, 2020.


Secretary

(SEAL)

EXHIBIT A
NEGATIVE DECLARATION

TOWN OF MONTGOMERY
PLANNING BOARD

RESOLUTION OF SPECIAL EXCEPTION USE
AND
SITE PLAN APPROVAL

APPLICATION OF MATRIX DEVELOPMENT LLC FOR A UTILITY SCALE SOLAR
SYSTEM

For lands located east of Maple Avenue
Section 31 Block 1 Lots 94 and 95

At a regular, duly noticed meeting of the Planning Board of the Town of Montgomery held at the Town Government Center, 110 Bracken Road, Montgomery, New York on the 10th day of June, 2019 at which time a quorum was present, the following Resolution was moved by Member McGuire, seconded by Member Pennings; and the following voting aye; Chairman Reichle, Members Kelly, Pennings, Montemarano, Brown and McGuire and no one voting nay (one absence), was declared duly adopted.

RESOLVED, that the following findings be made:

- A. MATRIX DEVELOPMENT LLC, has made application to the Planning Board of the Town of Montgomery for a Special Exception Use Permit and for Site Plan approval for a utility scale solar facility on a portion of the property herein described. The property consists of approximately 60 acres of which approximately 22 acres shall be devoted to the solar use. The property is primarily in the I-2 zoning district.
- B. On June 11, 2018, the Planning Board declared its intent to be Lead Agency per the SEQRA and thereafter circulated written notice of the same to multiple interested and involved agencies for this Type 1 Action which received coordinated review. No other involved agency objected to the Planning Board becoming Lead Agency and, therefore, on or about July 15, 2018 the Planning Board became the Lead Agency.
- C. Thereafter, the application and Full EAF were reviewed by the Planning Board and its professional consultants and updated and amended as necessary. After a series of written reviews and re-submissions, the application was deemed complete for purposes of commencing public review.

- D. Pursuant to notice, a public hearing before the Planning Board was convened at the Town Hall, 110 Bracken Road, Montgomery, New York on the 24th day of September 2018 and was continued to October 9, 2018, October 29, 2018 and again to November 13, 2018 at which time it was closed.
- E. At said hearings, the representatives of the applicant, and several area property owners were present and upon the waiver of the reading of the public notice, there were submitted affidavits indicating that the necessary persons had been mailed notices of the public hearing and that the required newspaper publication and conspicuous posting of the notice had occurred timely. All attendees were provided with the opportunity to comment and all comments have been considered by the Planning Board.
- F. The matter was referred to the Orange County Department of Planning for its review pursuant to General Municipal Law Section 239 and that review produced several non-binding comments all of which have been evaluated.
- G. The Planning Board has complied with the provisions of Town Law 283-a by providing notice to any farm operations within five hundred (500) feet of the site.
- H. In the Fall of 2017, the Town Board of the Town of Montgomery adopted a local law entitled "Solar Siting" an amendment to the Zoning Law of the Town. This new law (LL#2 of 2017) applies to this application per Zoning Law Section 90-120.
- I. During the review process the plans were revised to address multiple issues.
- J. On May 24, 2019 the applicant obtained NYSDEC Permit #3-3342-00405-01 authorizing the installation of solar panels and approximately 5800LF of perimeter fence on 3.59 acres of regulated wetland buffer.
- K. The Negative Declaration adopted on November 13, 2018, consisting of twelve (12) pages, and the Amended Negative Declaration adopted on June 10, 2019 consisting of twelve (12) pages are referenced here in lieu of repeating their content in full but they specifically are made a part of this Resolution as if more fully set forth here.

RESOLVED, that the following determinations be made:

1. An extensive analysis of this project pursuant to the SEQRA has been undertaken and has resulted in the issuance of a Negative Declaration dated November 13, 2018 and an Amended Negative Declaration dated June 10, 2019.
2. All of the terms, conditions, representations and assumptions in the Negative Declaration and in the Amended Negative Declaration hereby are incorporated in this Resolution as if fully set forth here.
3. The general standards for all Special Exception Use permits as set forth in Zoning Law Section 130-40-20, the special requirements of Zoning Law Section 140-50 and the specific requirements for a large scale solar facility per Section 90-120-6, all have been met.
4. The within Special Use Permit and Site Plan approval are subject to the following conditions:
 - a. All final consultant's comments shall be addressed prior to the Chair signing the plan set and Site Plan. Without limiting the foregoing, the final landscape architect's comments, lighting comments and final fencing details shall be incorporated into the final site plan.
 - b. Any outstanding fees shall be paid prior to the signing of the plans.
 - c. The facility shall be constructed and operated in accord with the Amended Negative Declaration, with this Resolution and with the final plan set to be signed by the Chairman.
 - d. A Decommissioning Plan is approved and the amount of the decommissioning security is recommended to be Three Hundred Thirty Thousand (\$330,000) dollars. The form of the security shall be determined by the Town Board and shall be posted prior to the operation of the facility or at such earlier time as determined by the Town Board and shall be renewed for the life of the project.
 - e. Prior to operation of the facility, or, in the sole discretion of the Town Board, prior to March 1, 2020, a PILOT (Payment in Lieu of Taxes) Agreement shall be entered into by the Town and the owner/sponsor, the terms of which shall be determined by the Town Board all as set forth in Real Property Tax Law Section 487(9).

- f. The construction, operation and any future expansion of the facility shall be subject to all of the terms and conditions of Local Law #2 of 2017 (Zoning Law 90-120), including any amendments or revisions thereto.
- g. Herbicides are not to be used. All vegetation shall be controlled by mechanical means or by grazing animals.
- h. The perimeter fence, in certain defined areas, shall be black vinyl coated and in other specified areas will include green-winged slats. The perimeter fence shall be at least 6" above grade to allow small wildlife to traverse the property.
- i. A "Knox Box" shall be installed at the gates to the site so emergency responders can gain immediate access.
- j. Prior to operation of the facility, the Coldenham Fire Department shall be afforded a training opportunity at the site.
- k. No outdoor storage of unused materials is proposed.
- l. Prior to operation of the facility, a post-construction certification by a licensed PE shall be provided.
- m. Prior to operation, Central Hudson Gas and Electric shall provide a certification that all of its requirements have been met.
- n. As of every January 15th during operations, documentation must be provided to the Town Clerk and Town Building Department that the system is in active operation.
- o. It has been confirmed that all utility lines will be buried; there will be no new poles installed. There will be equipment enclosures above-ground.
- p. The final site plan shall not be signed until the Planning Board receives and reviews the DEC required "mitigation" landscaping plan.
- q. All of the conditions of DEC permit #03-3342-00405-01 hereby are incorporated in this Resolution.
- r. All landscaping shall be maintained for the life of the use.
- s. With the exception of the 12' wide, grassed access road, there shall be no land disturbance, material storage or structures of any type within one hundred (100) feet of the Colden Family Cemetery.

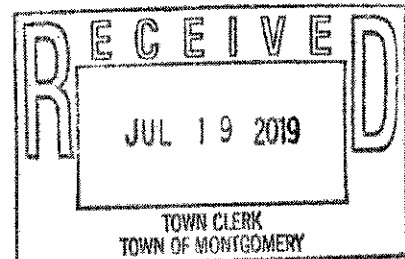
5. Based upon the entire record of this proceeding, the Planning Board finds and determines that all of the general and special conditions for this use have been or will be met and that the Special Exception Use Permit and Site Plan approvals for the project be and hereby are Granted and that a copy of this Resolution be filed with the Town of Montgomery Town Clerk.

Dated: June 10, 2019
Montgomery, New York

BY ORDER OF THE PLANNING BOARD
OF THE TOWN OF MONTGOMERY

Fred Reichle

FRED REICHLE, Chairman



**AMENDED NEGATIVE DECLARATION
TOWN OF MONTGOMERY PLANNING BOARD**

**MATRIX DEVELOPMENT, LLC
SPECIAL EXCEPTION USE PERMIT AND SITE PLAN FOR A 7.3 MW DC, 5 MW AC
UTILITY SCALE SOLAR PHOTOVOLTAIC ARRAY INSTALLATION**

Determination: Please take notice that, according to the provisions of 6NYCRR, Part 617.7, the Town of Montgomery Planning Board, acting as Lead Agency for a Type I Action following Coordinated Review procedures, having reviewed revised plans, has determined that the modified action as cited and described below will not have an adverse impact on the environment and therefore the Planning Board has adopted a resolution to this effect. This is an update to and in amendment of the Negative Declaration originally adopted by the Planning Board on November 13, 2018.

Lead Agency: Town of Montgomery Planning Board

Contact Person: Suzanne Hadden, Secretary
Town of Montgomery Planning Board
110 Bracken Road
Montgomery New York 12549
(845) 457-2643
shadden@townofmontgomery.com

Name of Project: Matrix Development LLC SEU and Site Plan for an approximately 7.3 MW DC, 5MW AC Utility Scale Solar Farm

Location: Maple Avenue and NYS Route 17K

Tax Map Parcels: Section 31 Block 1 Lots 94, 95, and 61 Town of Montgomery, County of Orange

SEQRA Status: Type I Action

Zones: IB, I-2

Project Description: Matrix Development, LLC (hereinafter, "Matrix") has made application seeking approval of a proposed Utility Scale Solar Project to generate 7.3 MW DC, 5 MW AC solar PV on an approximately 60.7 acre tract of land located primarily in the I-2 district. The site consists of two separate tax map parcels that will be merged, with the resulting combined lot having frontage and access on Maple Avenue. An easement to connect to the utility grid will extend across a third adjoining parcel (lot 61) having access to NYS Route 17K. The installation will operate according to the rules of the NYS Public Service Commission under the electric tariffs of Central Hudson Gas and Electric. The use is considered to be a utility scale solar system per Town of Montgomery Zoning Law Section 90-120.

Since the adoption of the Planning Board's original Lead Agency Negative Declaration on November 13, 2018, the project has been modified to reduce the overall area of panel installation from approximately 26 acres of panels to 21.833 acres, thereby eliminating 1.74 acres of site disturbance and approximately one acre of previously-proposed wetland buffer disturbance. This modification was made as a result of the NYSDEC permit process. NYSDEC has issued an Article 24 Permit for 3.589 acres of

physical disturbance to the Adjacent Area of Wetland WD-46, subject to conditions. In addition, revisions have been made to the easement across the Pennings Visions parcel through which this facility will connect to the electric grid in order to be more protective of the treeline on the adjoining parcel.

Background and Reasons Supporting the Negative Declaration:

Based upon reviews of plans and materials, analyses by the Board's professionals, comments by the Board, other agencies and the public, with review of the previously adopted Negative Declaration and all relevant correspondence, it has been determined that the project will create no significant adverse environmental impact, in a way that is more protective of the environment than the November 13, 2018 Negative Declaration which this amends. The following shall serve as the Board's evaluation of potential environmental concerns:

Impacts on Land and Geological Features. The total site on which the panels will be installed consists of approximately 60.7 acres. Approximately 30 acres of the site has been used for agricultural purposes and consists of gently sloped field separated by wooded hedgerows. While there are some small areas on the site having greater than 15% slopes these areas are avoided by the project. Although the predominate upland soil type is Bath-Nassau, which may be shallow over bedrock, the nature of the proposed solar panel installation on the site means that no blasting or rock removal would be called for on the site, and no grading is needed. There will be approximately 2.2 acres of soil disturbance, primarily around the site entrance roads and equipment pads on the west side of the site. The solar panels are installed on metal posts (screws) driven into the ground, and the only material to be imported to the site will be gravel for the proposed permanent pervious site access and equipment pad at the south side of the site, and for a second equipment pad located on the site approximately 250 feet to the east of the Quigley residence. Additional disturbance is associated with the perimeter fence installation which involves the installation of three-foot deep concrete footings placed nine feet on center. There will be no soil exportation or importation.

There are no unique geological features nor any features listed as a Registered National Natural Landmark present on or adjacent to the site; therefore none will be affected by the action. Accordingly, the Planning Board has determined that the action will result in no significant adverse impacts either to land or to geological features.

Impacts on Water Resources (includes Surface Water, Groundwater, and Wetlands and Flooding). The site contains wetlands and a stream called the Tin Brook, designated as Class B stream 855.5-145 within the site. Federally regulated wetlands and part of NYS Freshwater Wetland WD-46 are located partially within the site and have been flagged. There is also a floodplain associated with the stream identified on the plan. The wetland delineation field work conducted onsite was completed by Mike Nowicki of Ecological Solutions on June 24, 2014. USACOE conducted a field visit on March 28, 2018 and requested revisions to the boundary. NYSDEC validated the wetland boundary on June 5, 2018.

Solar panels are proposed to be sited within the regulated Adjacent Area of WD-46, along with perimeter fencing. A total of 3.589 acres of physical disturbance to the state regulated Adjacent Area is proposed and has been permitted by the NYSDEC, subject to the conditions that any tree cutting for the project shall take place between October 1st

and March 31st in order to avoid impacts to Indiana bats. Mitigation planting is required as a condition of the DEC permit, as set forth in the permit, with the applicant required to receive approval by August 31, 2019 for a mitigation planting of the size and character to be determined by the DEC, along with a time frame for such planting. A list of other protective conditions is set forth in the permit and is not enumerated here. The DEC-permitted disturbance is significantly reduced from the originally proposed plan, which had incorporated approximately 8.25 acres of panel installation within the DEC wetland buffer. The current plan, as permitted by DEC, eliminates panel groups 5 and 6 from the plan. This change further reduces the potential wetland and wetland buffer impacts beyond the efforts that had been described in the Planning Board's original November 13, 2018 Negative Declaration, and thus is more protective of the environment. All DEC permit conditions will be incorporated by reference in any Planning Board approvals.

A SWPPP has been prepared for the site, and has been reviewed and found acceptable by the Planning Board Engineer. Erosion and sedimentation control measures are incorporated into the plans to minimize and avoid soil loss and surface water pollution and to stabilize the site. There will be no impoundments of water on the site.

There are six groundwater wells identified on the site. These had been drilled and tested for a previous project that was to have been located on this site and additional lands, but that project has been abandoned. All of the wells are located within the area proposed for solar panel installation, but the installation will not interfere with these existing drilled wells. Neither the panels or the maintenance of vegetation beneath them will result in any contamination of groundwater, as no toxic chemicals will be leached from the mounting hardware or the panels themselves, and no herbicides will be used for maintaining the vegetation under and around the panels. The proposed solar array will consume no groundwater and because the site will remain equally pervious even in the gravel access areas of the site and the equipment pads, there will be no effect on groundwater recharge quantity or quality from the site.

Because of the floodplain associated with the Tin Brook, the Planning Board was concerned about identifying flood elevations and determining the potential impact on the panels and their operation, including any potential electrical hazard from flooding. The applicant determined that the base flood elevation was 421 feet, and the lowest point within the proposed solar array was 419.1 feet. Minimum ground clearance of the panels is three feet, so that all panels will be elevated at least one foot above the base flood elevation. This will be noted on the plans, and this along with other consultant comments will need to be addressed as part of any forthcoming land use approval. Any power disruption or surge that might result from flooding or other disturbance would cause the system to shut down automatically and will trigger an automated message to maintenance staff. This will protect the safety of both human health and wildlife.

With regard to potential surface or groundwater demand for irrigation for any of the landscape plantings proposed for the site, the vegetation once established does not require irrigation. Tree and shrub plantings may require incidental irrigation after planting until they are established, but water would either be trucked in as needed, or other alternate arrangements for off-site irrigation supply will be made during this brief period. It is noted that landscape and screening plantings set forth on an approved site plan are features to be maintained for the duration of the use.

Impact on Traffic, Traffic Safety and Transportation. The site is located on an unoccupied farm parcel located almost entirely in an industrially zoned parcel on the

east side of Maple Avenue. The site will take access from Maple Avenue at a location that is over 1,000 feet from the intersection of NYS Route 17K. (See also the section on *Impacts on Planning and Zoning* for related considerations.) As the site is to be used strictly as a solar farm, there will be minimal traffic generated once the site is operational, as site maintenance is performed only a few times per year. While the site's connection to the electrical grid will be made through a modified enlarged easement on the east side of the Pennings Visions property on Route 17K, this site is already developed with an existing approved, paved curb cut and there will be no new curb cut to NYS Route 17K needed.

There will be a temporary short term increase in traffic during the few months of site preparation and construction. Trucks and machinery will have access to the site for site preparation, the installation of security fencing, solar panels and electrical equipment, site vegetation and landscaping. After the site is in operation, limited traffic will be generated by the site use for equipment and site maintenance (mowing) three to four times per year.

Impacts on Plants and Animals. NYSDEC records indicated the potential summer presence of Indiana Bat at the site and its vicinity, and US FWLS indicated the possible presence of the northern long-eared bat. Seasonal roost sites for Indiana Bat would include trees over 4 inches in diameter with furrowed or loose bark. Of the 60.7 site acres, only 6.5 acres is wooded, and of this, 4 acres is proposed to be removed. The wooded areas are associated with hedgerows dividing the existing fields and with property edges. All tree removal will be required to be carried out between October 1 and March 30 in order to ensure that the project would have no impact on the Indiana Bat, which would then be located in winter hibernacula. The Planning Board notes that this restriction is also a condition of the Article 24 permit.

With regard to the potential presence of herpetofauna, bog turtle were reported as potentially present within range of the site. The initial version of the project (prior to the adoption of the November 13, 2018 Negative Declaration) had incorporated a 30-acre parcel to the south, tax lot 31-1-54.211, which contains extensive areas of Wetland WD-46. This parcel was eliminated from the project out of habitat-protection-related concerns. The remaining northerly parcels consist of open fields surrounded by narrow hedgerows and are not considered to present favorable habitat, though no formal habitat report had been prepared or submitted. Disturbance within the regulated 100-foot Adjacent Area has been reduced from 8.25 acres of panel installation to 3.589 acres pursuant to the DEC permit issued May 24, 2019. However, the panel installation will not involve the need for grading or excavation but simply the insertion of mounting hardware into the soil. The bottom of the site fence enclosing the facility will be raised 6 inches from the ground so as not to impede the movement of small wildlife such as herpetofauna. DEC granted a permit, and all conditions of that agency must be satisfied as part of the Planning Board approval. The applicant has indicated there will be no herbicides used at the site, which will avoid polluting nearby streams and wetlands and will protect any small wildlife on near the site, and this will be a condition of the Planning Board approval.

There is no registered National Natural Landmark present on the site or its vicinity that would be affected by the action. Neither does the site contain a designated significant natural community as designated by the DEC.

As set forth in this section, there would be no significant harmful impacts on threatened or endangered species based on the project's elimination of parcel 31-1-54.211 from the plan, on avoidance of extensive direct wetland disturbance, avoidance of grading, avoidance of herbicide use, and the provision of the six-inch wildlife passage beneath the fence as well as restricting tree clearing operations to between October 1 and March 31 (as explicitly included in the DEC permit conditions).

Proposed site screen plantings at perimeter locations at the west of the site will consist of a mix of white pine, scotch pine, Norway spruce, blue spruce, Black Hills spruce, and eastern red cedar. The seeding mix proposed for the site is an Ernst Floodplain seed mix (154) or an Ernst Low Growing Wildflower and Grass mix (156), to be controlled either by periodic mowing or by grazing animals. It is specifically noted that, in order to avoid and minimize disturbance from the proposed project, the existing mix of grasses and forbs will not be removed. Seeding will only take place where necessary and where disturbance has taken place. The nature of the solar installation, where the panels are mounted on posts (screws) driven into the soil, minimizes soil disturbance. Compliance with consultant comments will be a condition of any local land use approval as a matter of routine.

Impacts on Agricultural Resources. The site is located within Orange County Agricultural District #1. The site has long been used for hay production and the upland portions of the site are open field. These upland soils are predominately Bath-Nassau and are not prime agricultural soils in New York State, nor are the wetland soil types (Wayland and Canandaigua) prime agricultural soils. BnB soils are listed as agriculturally valuable soils class 4. There is also a smaller area of Chenango soils, slope classification B, which are more valuable agriculturally as agriculturally valuable soils class 2.

The Planning Board has been informed that the Orange County Agriculture and Farmland Protection Board has 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 through 4. Orange County Planning Department has been directed to include this policy in its review of GML referrals, and the Department notes that municipalities should ideally direct and prioritize solar development on previously disturbed areas, and that USDA agricultural soils classes lands should be used as a last resort.

The Planning Board notes that the use in question is primarily on BnB soils, which are the predominate upland soils on the site. Apart from the area of Chenango B soils, the only remaining soils on the site are included in wetlands and the stream, which are regulatorily restricted from such use by others. The Planning Board also notes that the vast majority of the Town's land area is comprised of Agriculturally Valuable Soils in classes 1 through 4, which would rule out if not all of the Town, given that soils that are not agriculturally valuable are restricted for other reasons such as wetlands or steep slopes. The Planning Board also notes that there is a marked difference in a prime agricultural soil as compared to a class 4 "agriculturally valuable soil" for the purposes of agricultural use and production.

The proposed use could be considered to be a "temporary" use, in that the solar site can be decommissioned, the solar array removed, and the underlying soils can be returned to agricultural use, or to some other permitted use pursuant to the zoning law. The expected usable life of the solar installation can be 20 years or more. The solar panels

are installed on metal posts (screws) driven into the ground, which does not disturb the underlying soil profile. In any case, though the site is currently within an Ag District, the site is also zoned for industrial purposes, and conversion to industrial use would constitute a permanent use of the soil.

Overall, therefore, the Planning Board considers the action to create a temporary, moderate to long-term impact on agricultural resources that is not significantly harmful as it can be reversed with the decommissioning of the site, where the upland soils consist primarily of only class 4 agricultural land.

There are no aspects of the proposed site use that would be expected to have any other adverse impact on nearby agricultural operations. The project as originally proposed would have included an additional 30 acre tax map parcel 31-1-54.211 to the south, but this was eliminated from the plans and will no longer abut an actively operating agricultural parcel located south of lot 54.211.

Impact on Aesthetic, Historic and Archaeological Resources. The site is located adjacent to the Colden Family Cemetery, which is listed on the State and National Registers of Historic Places. This burial ground, surrounded by a low stone wall, was established in the 1780s by descendants of Cadwallader Colden, one of the last colonial governors of New York. The cemetery is surrounded on three sides by the project site.

The project site has been included in previous environmental review studies, such as the DEIS for the earlier proposed Resorts World International Casino. OPRHP had established that a 100-foot buffer or setback from the cemetery would be protective of it, and this plan incorporates a 100-foot setback from the nearest proposed project element, which would be a section of project fencing, behind which there are a small number of panels to the north. On the east, the nearest panels would be over 400 feet away and on the opposite side of the Tin Brook. On the south, the nearest fence and panels would be 120 feet away. While there is a circulation path connecting the solar project's entrance on the southern reaches of the project site with the northern parts centered 30 feet behind the cemetery, this will not have a significant adverse impact on the cemetery for the following reasons: First, the pathway will be only 12 feet wide, grass-surfaced, and therefore indistinguishable from an agricultural pathway in this area. Second, the pathway will sustain minimal use after the project construction is completed.

The project's perimeter fencing is specified as black vinyl coated mesh, which will be less visually intrusive to the cemetery from the setback, and the areas of the fence facing Maple Avenue and properties fronting on Route 17K will also incorporate green "winged" slats to screen the installation. SHPO has issued a finding of No Adverse Impact by letter of April 15, 2019, after having reviewed the same plans and details submitted to the Planning Board. Accordingly, the Planning Board finds that the action will involve no adverse impact on properties listed or eligible for listing in the State and National Registers of Historic Places. The Planning Board further notes that the connection to the electrical grid on Route 17K will involve no aboveground poles.

Impact on Open Space and Recreation. The proposed plan creates no new residential uses and therefore no new demands for recreation and no direct impacts on recreation.

Impact on Critical Environmental Areas. The Town of Montgomery contains no Critical Environmental Areas; so there are no impacts expected here.

Impacts on Energy, Noise, Odor and Air Quality, or Public Health. The proposed use is to generate solar photovoltaic energy under the electric tariffs of Central Hudson Gas and Electric to the existing electric grid.

This project involves only approximately 4 acres of tree removal on the 60 acre site and incorporates screening tree planting; therefore carbon offset considerations are not a matter of concern. Its operation will create a beneficial impact on energy and is consistent with the state's goal of increasing clean energy production.

With regard to potential impacts on noise, odor and air quality, there will be short term, localized temporary impacts of approximately six months to accommodate the placement of the gravel access drive and the equipment pads, the ground mounted PV panels, security fence with gates, and landscaping. The noise relating to site preparation and construction will be localized and short term. Site work and construction will take place during the hours of 7AM to 7PM.

The site will also create some noise from the inverter fans as energy is being produced. However, the low noise level generated by the inverters coupled with the separation from the property line is such that the noise level at the property line would not be expected to exceed background or ambient noise levels. In any case, the inverters do not operate at nighttime. Therefore, the Planning Board concludes that operational noise from the site will not create any significant adverse impact on nearby residential parcels.

With regard to other possible public health concerns, a potential area of concern might be the potential for herbicides being used at the site. The Orange County Planning Department has expressed concern for the possibility of herbicides being used on the site contaminating topsoil, such that the decommissioning process would need to require the removal and disposal or processing of the soils. Based on the applicant's representations, herbicides will not be used at the site. Accordingly, this is not a potential adverse impact and no further consideration is needed.

Glare analysis was conducted due to the proximity of the site to Stewart International Airport in order to ensure that the installation would meet all applicable Federal Aviation Administration policies. The study showed that the installation would not create any yellow glare potential within flight paths, nor would it create glare of any kind for air traffic control towers. Therefore, the Planning Board determined that the facility would not create any air safety hazards.

Emergency services will be able to access the site freely and safely by way of the 20-foot wide access drive that is proposed. The gates to the site are set back from the road to allow entry, and will be equipped with a Knox box so that firefighters can enter the fenced enclosure if desired. The project plans have been shared with the jurisdictional Coldenham Fire Department for its review and comment. The applicant has coordinated with the Coldenham Fire Department as the Planning Board reviewed the project, and the Department is satisfied with the layout. The applicant has agreed to provide additional training to the Fire Department before the system is operational, if desired by the Department. This will be a condition of the local land use approvals.

Impacts on Planning and Zoning, Growth or Community Character. The solar installation is characterized as a utility scale solar energy system requiring both a special use permit and site plan approval from the Town of Montgomery Planning Board. Because the solar siting law provides for the proposed use, it is considered to be

consistent with the Town's planning goals. The County Planning Department has also reviewed the proposed plans and rendered a Local Determination, with several advisory comments.

This applicant had sought variances to Town of Montgomery Zoning Law Section 70-20, footnote F regarding the separation of the site driveway from the intersection of Maple Avenue and Route 17K, and also to permit the site to occupy greater than the permitted lot coverage allowed by the Town's Solar Siting Law. On August 20, 2018, the ZBA determined to grant the variance for the site driveway, based on the evidence that the planned solar farm use of the property would generate limited vehicular traffic. That variance was conditioned on the property be used solely as a solar farm. The ZBA denied the lot coverage variance, finding among other things that the variance would produce an undesirable change in the neighborhood; that the benefit sought by the applicant could be achieved by other means; that the requested variance was substantial, and that the hardship was self-created. The applicant subsequently revised its plans to comply with the lot coverage requirements of the Town's Zoning Law. Based on the action of the ZBA and the revisions to the plans, all area and setback requirements of the zoning are satisfied.

With respect to potential project visibility from surrounding properties and roadways, the applicant completed pre-and post-project visual impact studies depicting the views of the site pre- and post-project from select locations. Facility fencing will be black vinyl coated in order to reduce its visibility offsite towards Maple Avenue and Route 17K, with green "winged" slats being added for enhanced screening. This measure coupled with landscape plantings will avoid creating an adverse visual impact, and the project's connection to the Central Hudson system will be underground.

The Orange County Planning Department has recommended elevating the fence one foot off the ground in order to provide for wildlife passage. However, the plans specify only a 6 inch gap in order to prevent children from being able to access the site as would be possible through a 12-inch gap. This specification provides security while still providing for small wildlife passage on the site. The site use will not involve prime agricultural soils, and will not constitute a permanent conversion of site soils out of agricultural usage, so this is not a concern.

The Planning Board has considered the site's compliance with all general and special requirements as follows:

General standards for SEUs under Zoning Law Section 130-40-20: these are all met.

Special requirements of Zoning Law Section 130-40-30.35 include setbacks from the property line, which are met, and also adequate fencing and screening of outdoor installations. In the case of this application, the setback requirements are met by the submitted plan. The fencing height requirement of 8.5 foot fencing has been met.

Site plan requirements under 140-50: no special parking requirements apply to this use; adequate vehicle parking and turnaround will be provided on the access drive as laid out. No special lighting is needed and none at all is provided. No outside storage is shown on the plan, and none is needed. Landscaping is provided, and the landscape plantings that are part of the approved site plan will be required to be maintained for the life of the use. None of the proposed landscaping will obscure sight distance on existing public roads.

Fire department access to the gates will be provided for as a condition of approval.

The facility will be required to adhere to all applicable Town building, electrical and fire codes. This is an ongoing requirement and would apply in all cases as a matter of course.

The site plan complies with the requirement that the system shall not occupy more than 40% of the parcel, with 39.9% coverage proposed.

As noted in the section on Fish and Wildlife, the development and operation of the system on this site will not have a significant adverse impact on fish and wildlife species, nor on critical habitats for the same. Tree clearing will be conducted during the hibernation period of the Indiana Bat, and only 4 acres of tree clearing will take place. The fence is elevated 6 inches from the ground to provide for small wildlife passage.

The front, side, and rear yard setbacks applicable to the site are satisfied by the plan.

The plan depicts fencing that complies with the requirements of the zoning law

The clearing limits and reforestation requirements of the zoning law relating to tree clearing in excess of 15% and below 25% of the site do not apply to this application, as only 6.66% of total lot acreage will be subject to tree clearing in this plan. Stabilizing seed mixes are provided for, and there will be no herbicides used at the site.

The proposed layout specifically avoids or minimizes visual impacts to the maximum extent practicable by means of screening vegetation as shown on the plans as well as use of black vinyl clad fencing with green winged slats facing Maple Avenue and Route 17K, and by 100-foot or greater setbacks from the Colden Family Cemetery.

The orientation of the solar panels would not be expected to result in any glare or reflection being directed at adjacent properties, public roads or parkland based on the separation of the panels from all nearby roadways. There will be no glare effects on air traffic or air traffic controllers, as shown by the glare study.

Conduits conveying power from the panels will be below-ground. Connection to the overhead wires in front of the site through the Pennings Visions parcel to the north will be belowground as agreed to by Central Hudson.

Artificial lighting is not proposed for the site installation at the equipment panels. Signage will be provided in accordance with requirements.

The maximum height of the arrays is ten feet at their tallest point above the ground, which is within the height limit specified by the law.

Adequate access is provided to the installation using the 20-foot wide proposed site driveway location as shown on the plans. Access to the electrical grid from the Rt 17K easement would be subject to any requirements of NYSDOT for any work related to the Central Hudson interconnection. The driveway to Maple Avenue is gated for safety and to restrict access to the site by unauthorized persons but provides for emergency access.

Disturbed areas are to be reseeded; and an erosion control and stabilization plan is an integral part of the plan set.

Post construction certification by a professional engineer registered in the State of New York is a routine practice and will be required in order to certify that the project complies with applicable codes and industry practices and has been constructed and is operating

according to the design plans. The applicant will further be required to provide certification from Central Hudson that the facility has been inspected and is connected.

As an ongoing condition of approval, documentation must be provided annually on January 15 to the Town of Montgomery Town Clerk and Town Code Enforcement Officer from the system owner verifying that the system is in active operation.

A decommissioning bond in a form as determined by the Town Board and in an amount as determined by the Planning Board shall be posted as required by Section 90-120-6(D) of the Zoning Law, as a condition of this site plan and special use permit approval. The decommissioning figure agreed to by the Planning Board engineer is \$330,000.

Compliance with any outstanding comments from the Planning Board's consultants will be required as a routine condition of any plan approval.

The project is considered to be consistent with both Town and County Comprehensive Plans for the utility scale solar use of this site.

Accordingly, subject to the requirements set forth above, no significant adverse impacts are anticipated in this subject area.

Other Impacts. Potential adverse financial impacts would accrue to the town in the absence of a PILOT agreement. However, the applicant has committed in writing to a Payment In Lieu of Taxes (PILOT) agreement with the Town of Montgomery and with the other taxing jurisdictions which would mitigate the same and has sent letters to all of the relevant jurisdictions. The terms of any PILOT agreement are to be determined by the Town Board and the other taxing jurisdictions and all PILOT agreements shall be signed prior to operating the facility. Additional potential adverse impacts would accrue to the Town and to the surrounding neighborhood character if the facility were to be abandoned in place. This SEQR determination relies upon the need for the facility to be maintained reliably throughout its operating life, and its prompt removal after it is no longer in use. For this reason a decommissioning plan and site restoration bond has been offered and will be part of the approval conditions.

No other impacts were identified; accordingly the Planning Board has directed that this amended Negative Declaration be adopted.

Date of Adoption: June 10, 2019

Date of Mailing: June 11, 2019

Involved and Interested Agencies/Parties:

Town of Montgomery Planning Board
110 Bracken Road
Montgomery, NY 12549

Town of Montgomery Town Board
110 Bracken Road
Montgomery, NY 12549

Town of Montgomery Zoning Board of Appeals
110 Bracken Road
Montgomery, NY 12549

Orange County Planning Department
124 Main Street
Goshen, NY 10924

New York State Department of Environmental Conservation
Region 3
21 South Putt Corners Rd.
New Paltz, NY 12561

NYS OPRHP
Field Services Bureau – Peebles Island
PO Box 189
Waterford, NY 12188-0189

NYS Department of Agriculture and Markets
Agricultural Protection Unit
10B Airline Drive
Albany, New York 12235

NYSERDA
17 Columbia Circle
Albany NY 12203-6399

Central Hudson Gas & Electric
284 South Avenue
Poughkeepsie, NY 12601

US Fish & Wildlife Service
3817 Luker Road
Cortland, NY 13045

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110 Bracken Road
Montgomery, NY 12549

Town of Montgomery CAC
110 Bracken Road
Montgomery, NY 12549

Town of Montgomery Historic Preservation Commission
110 Bracken Road
Montgomery, NY 12549

Town of Montgomery Town Historian
110 Bracken Road
Montgomery, NY 12549

Coldenham Fire District
511 Coldenham Road
Walden, NY 12586

Coldenham Preservation & Historical Society
c/o: Mary Ellen Matise
54 Gladstone Ave
Walden NY 12586

U.S. Army Corps of Engineers
New York District – Regulatory Branch
26 Federal Plaza Room 1937
New York, NY 10278

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John Cappello (for the applicant – notice only)
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Notice to be filed electronically in the ENB