

# Town of Farmington

1000 County Road 8  
Farmington, New York 14425

## PLANNING BOARD

*The first meeting of the Farmington Planning Board was held on January 21, 1959.*

**Wednesday, September 18, 2024 • 7:00 p.m.**

### **MINUTES—APPROVED**

*The following minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Farmington Planning Board. Unless otherwise noted, remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions. An audio recording of the meeting is made in accordance with the Planning Board adopted Rules of Procedure. The audio recording is retained for 12 months. Video recordings of the meetings are posted on the Town of Farmington’s YouTube channel (subscribe at youtube.com; enter Town of Farmington NY in the search box).*

*The meeting was conducted at the Farmington Town Hall and via remote video conference.*

*R = Attended via remote video conference.*

**Board Members Present:** Edward Hemminger, *Chairperson*  
Adrian Bellis  
Timothy DeLucia  
Regina Sousa  
Douglas Viets

**Staff Present:**  
Lance S. Brabant, CPESC, Town of Farmington Engineer, MRB Group, D.P.C.  
Ronald L. Brand, Town of Farmington Director of Development and Planning  
Dan Delpriore, Town of Farmington Code Enforcement Officer  
Tim Ford, Town of Farmington Highway Superintendent

**Attending:**  
John Grady, 6018 Redfield Drive, Farmington, N.Y. 14425  
Jeff Hutchinson, Town Center Partners, LLC, 968 Stow Lane, Lafayette, California 94549—**R**  
Peter Ingalsbe, Supervisor of the Town of Farmington  
Graham Marcus, Maddie’s Motorsports, 6226 State Route 96, Farmington, N.Y. 14425—**R**  
Brennan Marks, P.E., Marks Engineering, 4303 Routes 5 & 20, Canandaigua, N.Y. 14424—**R**  
Debora K. Potter, 1426 County Road 8, Shortsville, N.Y. 14548  
Kate Rivera, 1429 Creek Pointe, Farmington, N.Y. 14425

Frank Ruffolo, Sky Solar Inc., 1129 Northern Boulevard, Suite 404,  
 Manhasset, N.Y. 11030  
 Joel Shenton, 6027 Redfield Drive, Farmington, N.Y. 14425  
 Tam Spitzer, 5999 Redfield Drive, Farmington, N.Y. 14425  
 Jeff Stevens, 6031 Redfield Drive, Farmington, N.Y. 14425  
 Susan Willard, 6011 Redfield Drive, Farmington, N.Y. 14425  
 Guest—**R**

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**1. MEETING OPENING**

The meeting was called to order at 7:00 p.m. by Chairperson Edward Hemminger. Mr. Hemminger said the meeting would be conducted according to the Rules of Procedure approved by the Planning Board on January 3, 2024.

**2. APPROVAL OF MINUTES**

**Minutes of September 4, 2024:**

■ A motion was made by MR. VIETS, seconded by MR. BELLIS, that the minutes of the September 4, 2024, meeting be approved.

Motion carried by voice vote. Mr. DeLucia abstained due to his absence from the meeting on September 4, 2024.

**3. LEGAL NOTICE**

None

**4. CONTINUED SPECIAL USE PERMITS AND PRELIMINARY SITE PLANS**

**PB #0406-24 Continued Special Use Permit Application**

**Name:** Sky Solar Inc., 1129 Northern Boulevard, Suite 404,  
Manhasset, N.Y. 11030

**Location:** Tax Map Account #29.00-1-84.112 with access rom along East Corporate Drive and a future extension of commercial Drive.

**Zoning District:** LI Limited Industrial

**Request:** An application for a Special Use Permit to allow for the construction and operation of solar arrays, a transformer area and a stand-alone

battery energy storage system upon a portion of Tax Map Account #29.00-1-84.112 comprised of a total of 5.5 acres of land with access from along East Corporate Drive and a future extension of Commercial Drive. This parcel is to be known as the western portion of the Sky Solar, Inc., Commercial Drive Solar Project and is located south of the American Lumber property which fronts along the south side of Collett Road and extends south to the north property line for Tax Map Account #29.00-1-84.113.

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**PB #0407-24                      Continued Special Use Permit Application**

**Name:** Sky Solar Inc., 1129 Northern Boulevard, Suite 404, Manhasset, N.Y. 11030

**Location:** Tax Map Account #29.00-1-84.112 with access from along East Corporate Drive and a future extension of Commercial Drive.

**Zoning District:** LI Limited Industrial

**Request:** An application for a Special Use Permit to allow for the construction and operation of solar arrays and a transformer area upon a portion of Tax Map Account #29.07-1-057. This parcel is known as the eastern portion of the Sky Solar, Inc., Commercial Drive Solar Project and is located south of A Safe Place Self-Storage property which fronts along the south side of Collett Road and extending south to the north property line for New Energy Works and the western properties of Tax Map Account #'s 29.07-4-055 through -070 and Account #'s 29.0-4-073 and -074 which are located along the west side of Redfield Drive.

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**PB #0408-24                      Continued Preliminary Site Plan Application**

**Name:** Sky Solar Inc., 1129 Northern Boulevard, Suite 404, Manhasset, N.Y. 11030

**Location:** Northern Portion of Commercial Drive with the north end of the southern portion of Commercial Drive and located on Tax Map Accounts 029.07-1-057 and -058.

**Zoning District:** LI Limited Industrial

**Request:** An application for Preliminary Site Plan approval to allow for the construction of solar arrays and a transformer area on the eastern portion of the Sky Solar, Inc., Commercial Drive Solar Project; and

the construction of a section of Town Road with sidewalks, crosswalks, streetlights, water line and fire hydrants completing the missing link between the south end and the northern portion of Commercial Drive with the north end of the southern portion of Commercial Drive and located on Tax Map Accounts 029.07-1-057 and -058 which contains a total of 7.75 acres of land.

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**PB #0409-24                      Continued Preliminary Site Plan Application**

**Name:** Sky Solar Inc., 1129 Northern Boulevard, Suite 404, Manhasset, N.Y. 11030

**Location:** Tax Map Account #29.00-1-84.112 with access from along East Corporate Drive and a future extension of Commercial Drive.

**Zoning District:** LI Limited Industrial

**Request:** An application for Preliminary Site Plan approval to allow for the construction of solar arrays, a transformer area and a stand-alone battery energy storage system to be located upon a portion of Tax Map Account #29.00-1-84.112 comprised of a total of 5.5 acres of land with access from along East Corporate Drive and a future extension of Commercial Drive.

See Planning Board minutes of July 17, 2024, or the Project Abstract, for the previous actions on this application.

On September 4, 2024, the Public Hearings were reconvened and testimony was received. The Public Hearings were then continued to the meeting this evening (September 18, 2024).

On September 10, 2024, the following item was received and entered into the Sky Solar Project Abstract:

*Attachment to Abstract #36:*

Addendum to previous letter dated August 19, 2024 (Reference: *Attachment to Abstract #24*) from Joel Shenton for John F. Grady, L.S., re: plans dated July 31, 2024, review comments and additional questions; addendum letter dated September 9, 2024; received in Building Department September 10, 2024; re: additional review comments and additional questions on the following: Existing Conditions and Demolition Plan; Site Plan; Utility Plan; Grading and Erosion Control Plan; and Addendum 9/9/2024 Narrative.

On September 16, 2024, the following items were received and entered into the Sky Solar Project Abstract:

*Attachment to Abstract #37:*

Letter: Frank Ruffolo to Edward Hemminger, re: East Solar Farm decommissioning responsibility; letter dated September 13, 2024.

*Attachment to Abstract #38:*

Letter: Frank Ruffolo to Edward Hemminger, re: West Solar Farm decommissioning responsibility; letter dated September 13, 2024.

*Attachment to Abstract #39:*

Letter: Michael L. Nisengard, Esq., Lippes Mathias Attorneys at Law, 59 Fountain Plaza, Suite 1700, Buffalo, N.Y. 14202, re: decommissioning of the East Solar Farm.

*Attachment to Abstract #40:*

Letter: Michael L. Nisengard, Esq., Lippes Mathias Attorneys at Law, 59 Fountain Plaza, Suite 1700, Buffalo, N.Y. 14202, re: decommissioning of the West Solar Farm.

Mr. Hemminger reconvened the Public Hearings on these applications.

Frank Ruffolo of Sky Solar Inc. of Manhasset, N.Y., presented these applications.

The Public Hearings on these four applications were held concurrently.

Since the last meeting, Mr. Ruffolo said that Sky Solar has responded to the MRB Group engineering comment letter of August 29, 2024, which included a number of comments regarding the engineering plans, the Decommissioning Plan and the Operating and Maintenance Plan.

Separately, Mr. Ruffolo said that letters have been submitted to the Town from Sky Solar and from the company's legal counsel reinforcing the company's obligation to decommission the project at the end of its life, and if Sky Solar or its operators would not be able to do that [decommission the project], then giving permission to the Town to step in and utilize the [financial] resource that the company will put in place—the decommissioning bond—to return the site to its original state. (Reference: Attachments to Project Abstract #37, #38, #39 and #40; *see above*.)

Mr. Brand said that two draft resolutions were submitted to the board at the meeting on September 4, 2024, for approval of the East Solar Farm Special Use Permit (PB #0406-24) and the West Solar Farm Special Use Permit (PB #0407-24) with conditions. He said that no amendments have been received other than completion of various dates and letters received from the applicant's legal counsel. Mr. Brand said that the final drafts of the resolutions have

been completed and were submitted to the board prior to the meeting this evening. The final draft resolutions also were posted on the Town website prior to the meeting.

Mr. Hemminger said that the board's consideration of the two Special Use Permits will be closed upon approval of the permits if this should occur this evening. He said that the two Preliminary Site Plans (PB #0408-24 and PB #0409-24) would then be continued to a future meeting.

Mr. Delpriore said that he has reviewed the draft Special Use Permit resolutions which have been prepared by Mr. Brand and that he agrees with Mr. Brand regarding the resolutions and the conditions of approval of the Special Use Permits. Mr. Delpriore said that the conditions of approval have been taken directly from the Town Code which is the reason for the length of each draft resolution (50 pages each). Mr. Delpriore said that Mr. Brand's draft resolutions have addressed every bullet point in the Town Code.

Mr. Brabant confirmed receipt of the responses from the applicant and his design engineer to the MRB Group engineering comment letter of August 29, 2024. Mr. Brabant said that there were some concerns on whether or not the Decommissioning Plan and the Operating and Maintenance Plan would be in an acceptable form to move forward. He said that one of the items which he would like to bring to the Town's attention is, that at this point, both Plans are as updated as they could be to this point. He said that the Decommissioning Plan and the Operating and Maintenance Plan are not deemed acceptable yet because there are still elements associated with the planning review process which could alter either the decommissioning estimate or the Decommissioning Plan as presented.

Mr. Brabant said that MRB Group has no objections to the Town moving forward [on the approval of the Special Use Permits] with the understanding that the Decommissioning Plan is probably going to change insignificantly, but to some degree, prior to the Town Board taking action on that plan.

Mr. Hemminger asked about the Operating and Maintenance Plan. Mr. Brabant said that the circumstances are similar to that of the Decommissioning Plan. He said that at this point the applicant has gone as far as he can based on content received from MRB Group, the Town staff, the board and the public. Mr. Brabant said that the Operating and Maintenance Plan could change slightly based on comments received during the site plan review process.

Mr. Hemminger then said that every one of the Town's solar projects must have a Decommissioning Plan which gives the approach that the Town will handle if and when it would be decommissioned, whether it is at any time, but certainly at the end of the project's life to return the land to its current state. Mr. Hemminger said that the Town prepares a detailed Decommissioning Plan which includes a bond based on the engineering estimate of the cost to decommission the site in today's dollars. He said that if the applicant walks away from the project and cannot, or will not, decommission the site, the Town will have these funds to decommission the site. Mr. Hemminger also said that the engineering decommissioning estimate is required to be reviewed every three years to assure that the bond and the cost of decommissioning are current.

Mr. Hemminger said that the Town is very conscious on how to do these kinds of things and has experience in this regard based on a previous solar project in the Town.

Mr. Hemminger said that the Operating and Maintenance Plan follows a similar process. He said that the Town must know how the applicant is going to operate the solar project and how he is going to maintain it so that the Town is comfortable that what occurs on the site meets the Town standards. Mr. Hemminger said that the Operating and Maintenance Plan is in writing to provide the Town staff with the ability to hold the applicant accountable for what is required. He said that typically there is a reporting requirement in the Operating and Maintenance Plan.

Mr. Hemminger said that the lengthy draft Special Use Permit approval resolutions follow the Town Code to indicate how the applicant meets the specific requirements of the Code to this project. He said that the Town has worked to make this process as transparent as possible to enable the public to see what has been done and to provide the materials on the Town website for public review. Mr. Hemminger said that the Decommissioning Plan and the Operating and Maintenance Plan are not finalized and will not be finalized by the Town Board until the Final Site Plans for the East and West Solar Farms are approved by the Planning Board.

Mr. Hemminger then asked if anyone in the meeting room or on the remote video conference would like to speak for or against these applications, or to ask questions.

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—Begin audio transcription—

*(Note: The time stamps in the following transcription refer to the clerk's recording of the meeting. These time stamps do not correspond to the Town video which is posted on the social media YouTube site)*

(13:53) Ms. Willard (6011 Redfield Drive): I keep harping on the fact that it's too damn close to the residents. [Mr. Hemminger: Okay.] The World Health Organization says it should be 1.2 miles away—it's 50 times closer. I just don't understand it. The State of Florida requires solar farms to be 1.8 miles away. North Carolina requires 1.6. All's we're asking for is 1.2. I brought more reading material for you from FEMA and Sandia National Labs. One of the problems that we have is if there is a fire—the fire department said they just let it burn. That means the toxicity stays in the air longer. Furnaces—new furnaces today—they're high efficiency. We live in a very new development with these furnaces—draws air from outside. If there's a fire, we can't have air conditioning. We can't have heat. We have to turn it off because you can't draw in air from the outside. What are you condemning us to? I just don't understand why this is closer than 1.2 miles as the World Health Organization has said.

(15:32) Mr. Hemminger: Okay, I appreciate that. Hand the materials to the clerk. I appreciate your comments.



(15:40) Ms. Willard (as she submitted a packet of materials to the clerk’s table in the meeting room): I’m going to keep harpin’ on it every damn meeting.

*Clerk’s Note:* Ms. Willard submitted the following materials which have been filed as Attachment #41 in the Sky Solar Project Abstract:

**September 18, 2024:**

*Attachment to Sky Solar Abstract #41:*

Submitted by Susan Willard, 6011 Redfield Drive, Farmington, N.Y. 14425 at Planning Board meeting, September 18, 2024.

Total of 67 pages

1. Emerging Hazards of Battery Energy Storage System Fires, FEMA, Grant Number EMW-2016-FP-00833; Principal Investigator Ofodike Ezekoye, Ph.D., P.E., University of Texas at Austin
2. Slides: Safety is critical to the widescale deployment of energy storage technologies; various sources.
3. Are lithium-ion batteries a big fire risk? Depends what you compare them to. Source: KPBS “Introducing Public Matters,” KPBS Public Media, 5200 Campanile Drive, San Diego, California 92182; by Thomas Fudge.
4. Line of Thought: Residential Battery Energy Storage Systems and Homeowners Risk by Greg Scoblete, CPCU, and Melissa Thelen; Verisk Analytics, Inc., an American multinational data analytics and risk assessment firm based in Jersey City, New Jersey, with customers in insurance, natural resources, financial services, government, and risk management sectors.

(15:43) Mr. Hemminger: Okay. Anyone else like to speak on this one? Yes, sir.

(15:49) Mr. Grady (6018 Redfield Drive): I’m quoting from a letter from Sky Solar dated July 10th and signed by Frank. In the third paragraph, it states:

“ . . . Finally, it was agreed-to by Sky Solar to relocate the proposed sidewalk and water line to along the west side of the Commercial Drive realignment beginning at the south end of the highway project. . . . ”

(16:18) Mr. Grady: My question is—has this been done?

(16:20) Mr. Hemminger: We’re not in site plan yet. [Mr. Delpriore: To be reviewed in site plan—]. It will be reviewed in the site plan. That’s all a site plan issue. We’re not into the site



plan. We're trying to get rid of the Special Use Permit first. Certainly it's something we'll consider and look at and see what we do when we get to the site plan area.

(16:43) Mr. Grady: That's my only question. Thank you.

(16:42) Mr. Hemminger: Okay. Thank you. Anyone else like to speak for or against this application, in the room, here, anyone like to speak for or against this application? [Brief pause.]

(16:51) Mr. Hemminger: Okay. I'm going to turn it online. Anyone online like to speak for or against this application? [Brief pause] Anyone like to speak for or against this application?

(17:02) Mr. Hutchinson (via remote video conference): Hi. Can you hear me okay. [Mr. Hemminger: I can hear you fine.] Good evening. My name is Jeff Hutchinson and I'm the manager with Town Center Partners. We own the property immediately to the south of what is designated as Sky Solar West. I have a couple of questions on the conditions of approval that are included within the Special Use Permit. I don't know whether it's best to raise these conditions now, or wait for the site permit, but I thought I would raise them now.

(17:33) Mr. Hemminger: Now is a good time.

(17:36) Mr. Hutchinson: We sent a letter to this board on July 17th that I believe should be included in the record.

(17:44) Mr. Hemminger: I believe it was. I believe it was, so we believe it's already in the record.

*Clerk's Note:* The letter is filed as Attachment #17 to the Sky Solar Project Abstract.

(17:49) Mr. Hutchinson: In particular, I'm raising questions about items identified in—I'm looking at the west conditional use permit draft, which has Conditions #3 and #10 that pertain to an east-west road connecting the new piece of Commercial Drive to Corporate Drive. [Mr. Hemminger: Okay.] As it's reported on the current—on the most recent subdivision map of the parcels in this neighborhood, the east-west road, which was to be included in a 60-foot right-of-way is to be constructed as part of the development of Lot 4 or Lot 5. We are the owners of Lot 4. Lot 5 is Sky Solar West. My question to the board is—if there a recorded restriction or requirement already existing that construction of this east-west road being built as part of the approval of Lot 4 or Lot 5, why isn't it being required now for this project? And if it's not being required now, for this project as condition of approval, that only remains to be Lot 4 that is undeveloped, and I'm curious as to how this is going to work.

(19:16) Mr. Hemminger: Well, let's turn it over to staff. What do you guys think, I mean, Ron, Dan?

(19:24) Mr. Brand: Well, the previous re-subdivision of the Center Point North Industrial Park did have a right-of-way shown for the east-west road. [Mr. Hemminger: Okay.] That right-

of-way was an offer of dedication to the Town. No one had come forward with proposing the dedication to it. The Town now has a developer who is developing a parcel of land, Lot #6, I think it is, of that original subdivision. And that is an offer that's again being made to give the right-of-way to the Town for the construction of an east-west road by others. They [Sky Solar] don't need it. And I know Mr. Hutchinson has personally said that he's willing to participate in any way to effectuate the Major Thoroughfare Overlay Master Plan that we have with the State DOT. It's important to him because he knows the restrictions the State has on access to that Corporate Drive and to the future signalized intersection for his property. So I'm not quite sure what he's looking for the Town to do here, but we're ready to move forward with accepting a formal offer of the dedication of that right-of-way.

(21:12) Mr. Hemminger: Okay, did you understand what he was saying?

(21:17) Mr. Hutchinson: I do. I think he's—I'm not quite sure I'm in agreement with everything he said there of my position on the matter. I just know that there's—it's essentially identified in the site plan that Sky Solar has presented that there is a requirement that the east-west road be constructed as part of the development of the subject parcel before you, as well as our parcel to the south.

(21:42) Mr. Hemminger: That's not our understanding.

(21:43) Mr. Hutchinson: It's recorded on the map. It's been in every map that has been presented to this body.

(21:49) Mr. Brand: You're looking at an offer of dedication of a right-of-way.

(21:54) Mr. Hemminger: Not the building of a road—

(21:56) Mr. Hutchinson: I'm looking at the restriction on the recorded map. The recorded map says "to be constructed as part of development of Lot 4 or 5." And I'm wondering why isn't the road construction occurring as a requirement of this project?

(22:12) Mr. Brand: We haven't heard anything from Lot 4. Lot 4 is the one that needs to construct that road to comply with the official highway map.

(22:24) Mr. Hemminger: Sounds like that's a discussion you need to have off-line with the staff. I mean—not convinced there's been a lot of conversation with staff on this, so maybe that's what you should do is take some time, sit down with staff and understand what we're doing and why we're doing it.

(22:44) Mr. Hutchinson: Well, those conversations have occurred and the questions that remain—there is a requirement recorded on a map that's in the public domain, and there's nothing specific that says Lot 4 is responsible for constructing that road. It says the road should be constructed by Lot 4 or Lot 5, and I'm wondering—the right-of-way dedication is occurring now, as part of this project, which hasn't occurred before. The north-south connection to Commercial Drive is occurring as part of this project, which I'm not sure was a requirement

or an offer, but as I look at the map that has been published, and it will be on the site map, that I believe, that’s under review and may even be finalized, says future 60-foot right-of-way, future Town road to be constructed as part of the development of Lot 5 and/or Lot 4.

(23:50) Mr. Hemminger: I believe that’s a site plan issue, right? Staff? I mean, is it Special Use Permit, as well?

(23:56) Mr. Brand: He’s referring to an old subdivision map that was done for Center Point North.

(24:03) Mr. Hemminger: Oh, okay, well what we have here, though—there’s nothing in the Special Use Permit that refers to that road that has to be constructed, correct?

(24:13) Mr. Brand: It does, for the west property line.

(24:15) Mr. Hemminger: Oh, just dedication of it. Okay. So, you can sit down and come in and talk to the staff, talk to them about the site plan and get your questions answered that way.

(24:27) Mr. Hutchinson: Well, I think my point here today is to have our question and potential objection in the record because there’s a document—

(24:34) Mr. Hemminger: Okay, it’s in the record.

(24:36) Mr. Hutchinson: —and to have it said in front of this board that the construction of that road is required for the development of our parcel itself—I don’t think is accurate. The only thing that’s recorded is the requirement that Lot 4 or Lot 5 build that road, and if Lot 5 is not building it, I’m wondering why Lot 5 is not building it? Is it because there’s was a traffic study that determined that it wasn’t needed or was there some other validation that the road wasn’t necessarily needed for this project?

(25:15) Mr. Hemminger: Alright, we appreciate your comments. We’ve got ’em on the record. You can come in and meet with staff any time you want to get more detail on that, and I appreciate that. Anything else?

(25:23) Mr. Hutchinson: Not from me. Thank you.

(25:30): Mr. Hemminger: Anybody else on line have a comment? [Brief pause] Anyone else in the room, final comments? [Brief pause]

—End transcription—

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There were no additional comments or questions on these applications from the Town staff or the Planning Board this evening.

■ A motion was made by MR. VIETS, seconded by MS. SOUSA, that the Public Hearing on PB #0406-24 (Sky Solar, Inc., Special Use Permit, East Solar Farm Project) and the Public Hearing on PB #0407-24 (Sky Solar, Inc., Special Use Permit, West Solar Farm Project) be closed.

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

The Public Hearings on PB #0406-24 and PB #0407-24 were closed.

■ A motion was made by MR. VIETS, seconded by MR. BELLIS, that the reading of Resolution PB #0406-24 be waived, and that the resolution be approved as submitted by the Town staff:

(See pp. 32–80 of the minutes for the complete resolution.)

The following vote on the resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

■ A motion was made by MR. VIETS, seconded by MR. DELUCIA, that the reading of Resolution PB #0407-24 be waived, and that the resolution be approved as submitted by the Town staff:

(See pp. 81–130 of the minutes for the complete resolution.)

The following vote on the resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

Mr. Hemminger then said that the board would consider the continuation of the Preliminary Site Plan resolutions.

Mr. Ruffolo said that he had a discussion with LaBella Associates (his consulting engineering firm) and that based upon comments from Town residents and the staff, LaBella Associates will be able to produce a new set of Preliminary Site Plans by the end of next week in time for review at the next meeting of the Project Review Committee on October 3, 2024, and for consideration by the Planning Board on October 16, 2024.

Mr. Delpriore said that this proposed schedule requires that the new set of Preliminary Site Plans must be received in the Building Department by 12:00 noon on Friday, September 27, 2024.

Mr. Brand said that the draft Preliminary Site Plan continuation resolutions which have been prepared by the Town staff for the board's consideration this evening were based upon the timing of receipt of the new Preliminary Site Plan drawings and a complete set of drawings for the east project land-swaps with the neighboring property owner.

Mr. Hemminger asked if anyone in the meeting room wished to speak for or against these applications, or to ask questions.

A citizen asked when the new Preliminary Site Plans would be available for the public to review. Mr. Hemminger said that the new plans are to be submitted to the Town on September 27th at 12:00 noon and that the Town staff would then take it from there.

There were no other public comments from those in the meeting room.

Mr. Hemminger then asked if anyone on the remote video conference wished to speak for or against these applications, or to ask questions.

There were no comments or questions from those on the remote video conference.

There were no additional comments or questions on these applications this evening.

■ A motion was made by MR. DELUCIA, seconded by MR. BELLIS, that the reading of the following resolution be waived, and that the resolution be approved as amended:

**TOWN OF FARMINGTON PLANNING BOARD RESOLUTION  
ADJOURNMENT AND CONTINUATION OF THE PRELIMINARY SITE PLAN  
FOR THE PROPOSED EAST PORTION OF THE SKY SOLAR, INC. SOLAR PROJECT**

**PB #0408-24**

**APPLICANT: Sky Solar, Inc., 1129 Northern Boulevard, Suite 404,  
Manhasset, N.Y. 11030**

**ACTION: Adjournment and Continuation.**

**DESCRIPTION: The application for a Preliminary Site Plan approval to allow for the construction of solar arrays and a transformer area on the eastern portion of the Sky Solar, Inc., Commercial Drive Solar Project; and the construction of a section of Town Road with sidewalks, crosswalks, streetlights, water line and fire hydrants completing the missing link between the south end and the northern portion of Commercial Drive with the north end of the southern portion of Commercial Drive and located on Tax Map Accounts 029.07-1-057 and -058 which contain a total of 7.75 acres of land.**

**WHEREAS,** the Town of Farmington Planning Board (hereinafter referred to as the Planning Board) has tonight reconvened the Public Hearing on this application; and

**WHEREAS,** the Planning Board has tonight received testimony upon this application.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board does hereby adjourn this Public Hearing tonight and moves to continue it at the public meeting scheduled on October 16, 2024, to allow the applicant’s engineers time to prepare a preliminary site plan for the above referenced large-scale solar farm eastern project, and a separate Lot Line Adjustment Map for the realignment of Commercial Drive Extension across portions of these two tax map accounts and across the northeastern portion of the adjacent Tax Map Account Number 29.11-3-7.000 (owned by Jonathan Orpin).

**BE IT FINALLY RESOLVED** that a certified copy of this resolution is to be provided to the Town Staff, the Applicant, the Applicant’s Engineers, Jonathan Orpin, the Town Director of Planning and Development, the Town Code Enforcement Officer, and the Town Engineer.

The following vote on the above resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

■ A motion was made by MR. DELUCIA, seconded by MR. BELLIS, that the reading of the following resolution be waived, and that the resolution be approved as amended:

**TOWN OF FARMINGTON PLANNING BOARD RESOLUTION  
ADJOURNMENT AND CONTINUATION OF THE PRELIMINARY SITE PLAN  
FOR THE PROPOSED WEST PORTION OF THE SKY SOLAR, INC. SOLAR PROJECT**

**PB #0409-24**

**APPLICANT:** Sky Solar, Inc., 1129 Northern Boulevard, Suite 404, Manhasset, N.Y. 11030

**ACTION:** Adjournment and Continuation.

**DESCRIPTION:** The application for a Preliminary Site Plan approval to allow for the construction of solar arrays, a transformer area and a stand-alone battery energy storage system to be located upon a portion of Tax Map Account #29.00-1-84.112 comprised of a total of 5.5 acres of land with access from along East Corporate Drive and a future extension of Commercial Drive.

**WHEREAS,** the Town of Farmington Planning Board (hereinafter referred to as the Planning Board) has tonight reconvened the Public Hearing on this application; and

**WHEREAS,** the Planning Board has tonight received testimony upon this application.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board does hereby adjourn this Public Hearing tonight and moves to continue it at the public meeting scheduled for October 16, 2024, to allow the applicant’s engineers time to prepare a preliminary site plan for the above referenced large-scale solar farm western project, and a separate Lot Line Adjustment Map for the Town’s acceptance of a sixty (60) foot wide right-of-way across the southern portion of the above referenced tax map account number to be used for a future public highway, to be constructed by others, connecting Corporate Drive East with the realignment of Commercial Drive Extension that is to be designed across the frontage of said tax map account (#29.00-1-84.112).

**BE IT FINALLY RESOLVED** that a certified copy of this resolution is to be provided to the Town Staff, the Applicant, the Applicant’s Engineers, the Town Director of Planning and Development, the Town Code Enforcement Officer, and the Town Engineer.

The following vote on the above resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.



## 5. OTHER BOARD ACTIONS

### A. **Final Site Plan Amendment: Determination of complete application: Maddie's Motorsports, 6226 State Route 96:**

#### **PB #0502-24**

**Name:** Graham Marcus, 196 Ellis Hill Road, Arkport, N.Y. 14807

**Location:** Maddie's Motorsports, 6226 State Route 96,  
Farmington, N.Y. 14425

**Request:** Final Site Plan Amendment for the extension of the outdoor display area to store and display new and used inventory; Determination of complete application; SEQR classification; determination whether to hold a Public Hearing and scheduling.

On February 20, 2019, the Planning Board approved the Final Site Plan for this project (PB #0207-19).

On April 17, 2024, the Planning Board determined that the Final Site Plan Amendment was incomplete (PB #0502-24).

Mr. Marcus of Maddie's Motorsports presented this application via remote video conference.

Mr. Delpriore said that Mr. Marcus has updated the Final Site Plan Amendment application as requested.

Mr. Marcus said that they have tried to follow everything as requested regarding the changes to the merchandise display areas.

He said that installation of the additional streetlamp which has been requested is about halfway completed, that the electric line has been run, and that the streetlamp base has been set. He said that the remaining work involves the installation of the pole itself.

Mr. Marcus also said that they are staying clear of the display area from encroaching upon the drainage area in the southeast corner of the property.

There were no additional comments or questions on this application this evening.

■ A motion was made by MR. DELUCIA, seconded by MR. VIETS, that the reading of the following resolution be waived, and that the resolution be approved as submitted by the Town staff:

**TOWN OF FARMINGTON  
PLANNING BOARD RESOLUTION**

**PB #0502-24**

**APPLICANT: Maddie’s Motorsports, c/o Graham Markus,  
6226 State Route 96, Farmington, N.Y. 14425**

**ACTIONS: Final Site Plan Amendment: Acceptance of application as being complete and scheduling of public meeting for the amendment to the Final Site Plan (PB #0207-19, February 20, 2019) for the Maddie’s Motorsports site located at 6226 State Route 96; classifying the Action under the State Environmental Quality Review Act (SEQRA); determining Action subject to a referral to the Ontario County Planning Board for review under the provisions of Sections 239-l and -m of the New York State General Municipal Law; and scheduling the public meeting for the above-described Action.**

**WHEREAS** the Town of Farmington Planning Board (hereinafter referred to as Planning Board) tonight has received and reviewed an application for the above referenced Action, for the purpose of accepting and scheduling a public meeting and classifying the Action under the State’s Environmental Quality Review Act (SEQRA); and

**WHEREAS** the Planning Board’s review included a Final Site Plan Amendment drawing prepared by Venezia Associates and Part 1 of the Short Environmental Assessment Form (SEAF); and

**WHEREAS** the Planning Board has also reviewed 6NYCRR Parts 617.4 and 617.5 of Article 8 of the New York State Environmental Conservation Law (ECL), the State’s Environmental Quality Review (SEQR) Regulations, for the purpose of classifying the above Actions.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board finds the application to be acceptable for scheduling a public meeting thereon and directs Town Staff to schedule the public meeting to be conducted on Wednesday, October 2, 2024.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby classify this Action as being a Type II Action under 6NYCRR Part 617.5 (21) of the SEQR Regulations.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby understand that the Action is subject to and was referred to the Ontario County Planning Board (OCPB) for the September 11, 2024, meeting.

**BE IT FINALLY RESOLVED** that certified copies of this resolution are to be sent to the Applicant, the Applicant’s Land Surveyor, Town Staff, the Town Engineer and filed with the Town Development Office.

The following vote on the above resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

**B. Preliminary Two-Lot Subdivision Plat: Determination of complete application: Alan and Dale Sadler, 5576 Allen Padgham Road:**

**PB #0901-24**

**Name:** Alan and Dale Sadler, 5321 Fox Road, Farmington, N.Y. 14425

**Location:** 5576 Allen Padgham Road

**Request:** Preliminary Two-Lot Subdivision Plat: Determination of complete application; SEQR classification; scheduling of Public Hearing

■ A motion was made by MR. BELLIS, seconded by MS. SOUSA, that the reading of the following resolution be waived, and that the resolution be approved as submitted by the Town staff:

**TOWN OF FARMINGTON  
PLANNING BOARD RESOLUTION**

**PB #0901-24**

**APPLICANTS:** Alan and Dale Sadler, 5321 Fox Road,  
Farmington, N.Y. 14425

**ACTIONS:** Preliminary Two-Lot Subdivision Application:  
Acceptance of an application as being complete and  
scheduling of Public Hearing for the proposed two-lot

**Preliminary Subdivision Plat approval for subdividing Tax Map Account Number 9.00-1-4.000; classifying the Unlisted Action under the State Environmental Quality Review Act (SEQRA); determining Action exempt from referral to the Ontario County Planning Board (OCPB) for review under the provisions of Sections 239-l and -n of the New York State General Municipal Law and the OCPB By-Laws.**

**WHEREAS** the Town of Farmington Planning Board (hereinafter referred to as Planning Board) tonight has received and reviewed an application for the above referenced Action, for the purpose of accepting and scheduling a public hearing, classifying the Unlisted Action under the State's Environmental Quality Review Act (SEQRA), directing a referral to the Ontario County Planning Board; and

**WHEREAS** the Planning Board's review includes a Preliminary Subdivision Plat drawing prepared by Freeland-Parrinello, Land Surveyors, and Part 1 of the Short Environmental Assessment Form (SEAF); and

**WHEREAS** the Planning Board has also reviewed 6NYCRR Parts 617.4 and 617.5 of Article 8 of the New York State Environmental Conservation Law (ECL), the State's Environmental Quality Review (SEQR) Regulations, for the purpose of classifying the above Actions.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board finds the application to be acceptable for scheduling a Public Hearing thereon and directs Town Staff to schedule the Public Hearing to be conducted on Wednesday, October 2, 2024.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby classify this Action as being an Unlisted Action under 6NYCRR Parts 617.4 and 617.5 of the SEQR Regulations.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby accept the Part 1 of the SEAF for this Action as being complete.

**BE IT FURTHER RESOLVED** that the Planning Board determines that a coordinated review is not warranted in this instance as the Action involves only the transfer of land and no development of said land.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby understand that the Action is an exempt action listed in the Ontario County Planning Board (OCPB) By-Laws and, therefore, is not subject to a referral to the OCPB.

**BE IT FINALLY RESOLVED** that certified copies of this resolution are to be sent to the Applicant, the Applicant’s Land Surveyor, Town Staff, the Town Engineer and filed with the Town Development Office.

The following vote on the above resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

**C. Preliminary Two-Lot Subdivision Plat: Determination of complete application: Brian Blazey, 5075 Rushmore Road:**

**PB #0902-24**

**Name:** Brian Blazey, 5075 Rushmore Road, Palmyra, N.Y. 14522

**Location:** 5075 Rushmore Road

**Request:** Preliminary Two-Lot Subdivision Plat: Determination of complete application; SEQR classification; scheduling of Public Hearing

Mr. Marks (Marks Engineering, Canandaigua, N.Y.) presented this application via remote video conference.

Mr. Bellis asked for clarification regarding the applicant’s name on this application, and the applicant’s name on the next application on the agenda this evening. Mr. Marks said that Brian Blazey is the father of Scott Blazey. He said that the applicant of the two-lot subdivision is Brian Blazey and that the applicant of the next Preliminary Site Plan application is Brian’s son Scott Blazey.

Mr. Delpriore said that the Planning Board would not be able to act upon Scott Blazey’s Preliminary Site Plan application until the lot upon which the proposed house will be built is officially created by the approval and filing of the subdivision.

Mr. Marks said that this is okay with him as long as the subdivision application is moving forward.

■ A motion was made by MR. VIETS, seconded by MS. SOUSA, that the reading of the following resolution be waived, and that the resolution be approved as submitted by the Town staff:

**TOWN OF FARMINGTON  
PLANNING BOARD RESOLUTION**

**PB #0902-24**

**APPLICANT: Brian Blazey, 5075 Rushmore Road,  
Palmyra, N.Y. 14522**

**ACTIONS: Preliminary Two-Lot Subdivision Plat: Acceptance of an application as being complete and scheduling of Public Hearing for the proposed two-lot Preliminary Subdivision Plat approval for subdividing Tax Map Account Number 18.00-2-10.130; classifying the Unlisted Action under the State Environmental Quality Review Act (SEQRA); determining Action exempt from referral to the Ontario County Planning Board (OCPB) for review under the provisions of Sections 239-l and -n of the New York State General Municipal Law and the OCPB By-Laws.**

**WHEREAS** the Town of Farmington Planning Board (hereinafter referred to as Planning Board) tonight has received and reviewed an application for the above referenced Action, for the purpose of accepting and scheduling a Public Hearing, classifying the Unlisted Action under the State’s Environmental Quality Review Act (SEQRA), determining whether a referral to the Ontario County Planning Board is to be required; and

**WHEREAS** the Planning Board’s review includes a Preliminary Subdivision Plat drawing prepared by Marks Engineering, and Part 1 of the Short Environmental Assessment Form (SEAF); and

**WHEREAS** the Planning Board has also reviewed 6NYCRR Parts 617.4 and 617.5 of article 8 of the New York State Environmental Conservation Law (ECL), the State’s Environmental Quality Review (SEQR) Regulations, for the purpose of classifying the above Actions.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board finds the application to be acceptable for scheduling a public hearing thereon and directs Town Staff to schedule the Public Hearing to be conducted on Wednesday, October 2, 2024.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby classify this Action as being an Unlisted Action under 6NYCRR Parts 617.4 and 617.5 of the SEQR Regulations.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby accept the Part 1 of the SEAF for this Action as being complete.

**BE IT FURTHER RESOLVED** that the Planning Board determines that a coordinated review is not warranted in this instance as the Action involves only the transfer of land and no Development of said land.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby understand that the Action is an exempt action listed in the Ontario County Planning Board (OCPB) By-Laws and, therefore, is not subject to a referral to the OCPB.

**BE IT FINALLY RESOLVED** that certified copies of this resolution are to be sent to the Applicant, the Applicant’s Land Surveyor, Town Staff, the Town Engineer and filed with the Town Development Office.

The following vote on the above resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

**D. Preliminary Site Plan: Determination of incomplete application: Scott Blazey, 5075 Rushmore Road:**

**PB #0903-24**

**Name:** Scott Blazey, 5075 Rushmore Road, Palmyra, N.Y. 14522

**Location:** 5075 Rushmore Road

**Request:** Preliminary Two-Lot Subdivision Plat: Determination of incomplete application

See the discussion on the previous application above (Brian Blazey subdivision) regarding this Preliminary Site Plan application.

■ A motion was made by MR. VIETS, seconded by MR. BELLIS, that the reading of the following resolution be waived, and that the resolution be approved as submitted by the Town staff:



**TOWN OF FARMINGTON  
PLANNING BOARD RESOLUTION**

**PB #0903-24**

**APPLICANT: Scott Blazey, 5075 Rushmore Road, Palmyra, N.Y. 14522**

**ACTIONS Preliminary Site Plan: Determination whether to accept an application as being complete for scheduling of a public meeting for the proposed Preliminary Site Plan approval for the proposed development of Lot #1 of the Blazey Two-Lot Subdivision Plat.**

**WHEREAS** the Town of Farmington Planning Board (hereinafter referred to as Planning Board) tonight has received and reviewed an application for the above referenced Action, for the purpose of accepting and scheduling a public meeting; and

**WHEREAS** the Planning Board’s review includes a Preliminary Site Plan drawing for Lot #1, Blazey 2-Lot Subdivision Plat, that has been prepared by Marks Engineering, and Part 1 of the Short Environmental Assessment Form (SEAF); and

**WHEREAS** the Planning Board has received public comment at tonight’s meeting on the proposed Action.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board finds the application cannot be accepted as being complete, at this time, for scheduling a public meeting thereon, based upon the Board’s determination that Lot #1 of the Blazey Two-Lot Subdivision Plat, does not exist.

**BE IT FURTHER RESOLVED** that when there is a Lot #1 established, then the Planning Board will, at such time, make a determination whether said application may be deemed complete for public review.

**BE IT FINALLY RESOLVED** that certified copies of this resolution are to be sent to the Applicant, the Applicant’s Land Surveyor, Town Staff, the Town Engineer and filed with the Town Development Office.

The following vote on the above resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

**E. Final Site Plan: Determination of complete application, Nicole and Chris Herpich, Lot #1, Debora K. Potter Subdivision, County Road 8:**

**PB #0904-24**

**Name:** Nicole and Chris Herpich, 49 Coachlight Circle, Farmington, N.Y. 14425

**Location:** Lot #1, Debora K. Potter Subdivision, County Road 8

**Request:** Final Site Plan: Determination of complete application; scheduling of public meeting

■ A motion was made by MR. DELUCIA, seconded by MR. BELLIS, that the reading of the following resolution be waived, and that the resolution be approved as submitted by the Town staff:

**TOWN OF FARMINGTON  
PLANNING BOARD RESOLUTION**

**PB #0904-24**

**APPLICANTS:** Nicole and Chris Herpich, 49 Coachlight Circle, Farmington, N.Y. 14425

**ACTION:** Final Site Plan application for the development of Lot #1 of the Debora K. Potter Subdivision Plat: Determination whether to accept as complete the above referenced application and scheduling a public meeting thereon.

**WHEREAS** the Town of Farmington Planning Board (hereinafter referred to as Planning Board) has tonight reviewed the application for the above referenced Action and received public comments thereon; and

**WHEREAS** the Planning Board’s review was based upon the filed Final Subdivision Plat Map prepared by Freeland-Parrinello, Land Surveyors, having a filing date of 7/18/24, in the Office of the Ontario County Clerk, and the Final Site Plan prepared by EF Custom Designs, 6722 Aldridge Road, Victor, New York, identified as Final Site Plan, Drawings C-100 and C-200.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board does hereby move to accept this application for Final Site Plan Approval as being complete and ready for scheduling a public meeting thereon.

**BE IT FURTHER RESOLVED** that Town Staff is hereby requested to schedule this application for the Planning Board’s consideration at their meeting on Wednesday, October 2, 2024.

**BE IT FINALLY RESOLVED** that certified copies of this resolution are to be sent to the Applicant, the Applicant’s Land Surveyors, the Applicant’s Architect, Town Staff, the Town Engineer, the Ontario County Department of Public Works and a copy filed with the Town Development Office.

The following vote on the above resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

Following the voting Ms. Potter asked about the scheduling of the Final Site Plan application. Mr. Hemminger said that the board action this evening is to determine that the Final Site Plan application is complete and that the board will be able to consider it at the next meeting on October 2, 2024.

Ms. Potter asked if this will then be a “done deal.” Mr. Hemminger and Mr. Delpriore explained the remaining steps which will follow Planning Board approval in order for the applicants to apply for building permits. These steps include submitting revisions to the Final Site Plan drawings to address Final Site plan conditions of approval, followed by the signing of the plans by the Planning Board Chairperson.

Mr. Hemminger said that it will almost be a “done deal” following the Planning Board’s approval of the Final Site Plan which is expected to occur at the next meeting on October 2, 2024.

**F. Preliminary Site Plan: Determination of complete application: DeHollander Design, Inc., Lot #R-1, Scout Plains Subdivision:**

**PB #0905-24**

**Name:** Scott DeHollander, DeHollander Design, Inc., 7346 Dryer Road, Victor, N.Y 14564

**Location:** Lot #R-1, Scout Plains Subdivision Tract

**Request:** Preliminary Site Plan: Determination of complete application; SEQR Classification (Type II Action); scheduling a public meeting.

Mr. Bellis asked if this application had to be referred to the Ontario County Planning Board (OCPB) because Lot #R-1 is on a County road. Mr. Delpriore said that this application is an Exempt Action as listed in the OCPB’s By-laws and therefore was not subject to a referral to the OCPB.

■ A motion was made by MR. BELLIS, seconded by MS. SOUSA, that the reading of the following resolution be waived, and that the resolution be approved as submitted by the Town staff:

**TOWN OF FARMINGTON  
PLANNING BOARD RESOLUTION**

**PB #0905-24**

**APPLICANT: DeHollander Design, Inc., 7346 Dryer Road,  
Victor, N.Y. 14564**

**ACTION: Preliminary Site Plan Application, Lot #R-1, Scout  
Plains Subdivision: Acceptance of the above application  
as complete for scheduling a public meeting for  
Preliminary Site Plan Approval Lot #R-1, Scout Plains  
Subdivision Tract.**

**WHEREAS** the Town of Farmington Planning Board (hereinafter referred to as Planning Board) tonight has received and reviewed the related application for the above referenced Action.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board does hereby move to accept the documents submitted for this application as being adequate for its consideration.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby classify the Action as a Type II Action, under the provisions of 6NYCRR, Part 617. 5 (11) and (13), article 8 of the New York State Environmental Conservation Law (ECL).

**BE IT FURTHER RESOLVED** that Type II Actions have been determined not to have a significant impact on the environment and are otherwise precluded from environmental review under the ECL.

**BE IT FURTHER RESOLVED** that the Planning Board determines said Action to be an Exempt Action listed in the Ontario County Planning Board’s (OCPB) By-

Laws and, therefore, is not subject to a referral to the County Board under the provisions of Sections 239-l and -n of the New York State General Municipal Law.

**BE IT FURTHER RESOLVED** that the Planning Board does hereby schedule a public meeting be held upon the above referenced Action at the October 2, 2024, meeting.

**BE IT FINALLY RESOLVED** that certified copies of this resolution are to be sent to the Applicant, Town Staff, the Town Engineer and filed with the Town Development Office.

The following vote on the above resolution was recorded in the meeting minutes:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

**6. OPEN DISCUSSION**

***Director of Development and Planning:***

Mr. Brand provided the following information:

- The applicants of the Whitestone Incentive Zoning Project on State Route 332 and County Road 41 are expected to provide an update to the Project Review Committee on October 3, 2024, and to the Planning Board on October 16, 2024. Mr. Brand said that the purpose of the presentation to the Planning Board will be for the benefit of Ms. Sousa (who was recently appointed to the board) and to update the entire board on the changes to the project which have been made since the initial Planning Board presentation on November 1, 2023, and the receipt of concept drawings and housing flyers on January 4, 2024.

On August 13, 2024, the Town Board approved the adoption of Local Law No. 4 of 2024 and authorized the amendment of the Town’s Official Zoning Map for delineating the rezoning of land from PD Planned Development for the “Glacier Lakes Waterpark and Conference Center Project” and MTOD Major Thoroughfare Overlay District, to IZ Incentive Zoning for the project known as “Whitestone Incentive Zoning Project, State Route 332 and County Road 41,” with MTOD Thoroughfare Overlay District. The Town Board also approved the Incentive Zoning District conditions of approval for the project and accepted the zoning amenities with conditions.

The applicants propose a townhome and commercial development on 65.1 acres north of County Road 41 and east of State Route 332.

The Planning Board presentation on October 16th will be a review of the Overall Preliminary Subdivision Plat and the Overall Site Plan.

Mr. Bellis asked if the applicant has made arrangements for adequate electricity and natural gas service from RG&E. Mr. Brand said that the Town does not know at this time.

- A request was received from Walt Baker for a discussion this evening regarding the Monarch Manor townhome development (east of New Michigan Road and north of Canandaigua–Farmington Town Line Road). The Town learned today that Mr. DiPrima of A&D Real Estate Development has requested this discussion not be held tonight. Mr. Brand said that Section 1 of Monarch Manor is complete, that Section 2 is now under construction, and that A&D Real Estate Development is now in the process of receiving offers from other builders for the remaining sections. Mr. Brand said that the developer needs time to consider the other proposals.
- Portions of the Transportation Alternatives Program (TAP)—Sidewalks, Trail Connections and Bike Lanes Project are complete. The remaining work, except for the placement of the pedestrian/bicycle bridge, is expected to be completed by the end of October. Mr. Brand said that this includes the driveway crossing of the Hansen property on County Road 41. He also said that the subcontractor is working on the abutments for the pedestrian bridge crossing over Beaver Creek on the south side of County Road 41. Mr. Brand said there is a delay in the delivery of lug bolts which are to be installed in the abutments for the placement of pedestrian bridge at a future date. He said that the subcontractor will begin to pour the concrete for the abutments as soon as the lug bolts are received. He also said that the redesign of the stone dust trail connection to the Auburn Trail is in progress. A realignment is being prepared to shift the route of the Trail connection off from private property and onto Town property, and that next year sidewalk work on Elizabeth Way and Mertensia Road will begin following installation of a water line. Mr. Brand said that the Town plans to submit an application to the State next year for 2026 funding of Phase 2 of the Sidewalk Master Plan.
- The Zoning Board of Appeals (ZBA) will consider the area variance application for the Fowler Family Trust Preliminary Three-Lot Re-Subdivision at the next ZBA meeting on Monday, September 23, 2024. The applicant wishes to further re-subdivide Lots #R-5A and #R-5B by creating a third lot to be known as Lot #R-5C which would have a lot width of 22 feet instead of the minimum required lot width of 125 feet. If the area variance is approved by the ZBA, Mr. Brand said that the subdivision application would then return to the Planning Board for consideration.
- The ZBA also will consider three other applications on September 23rd: Noelle Porretta, 4484 State Street, requesting a Temporary Use Permit on behalf of Mark

Porretta Excavating, Inc., to operate an excavating business within the A-80 Agricultural District; Bridge for Brain Injury, Inc., 5760 Duke of Gloucester Way, requesting a Temporary Use Permit to operate their existing Community Collaboration for the Rehabilitation of Brain Injury Survivors and People with Disabilities on 24.7 acres of land zoned A-80 Agricultural District at 1111 County Road 8; and Jacob Kirsch, 6179 Buckskin Drive, requesting an area variance to enable the placement of an accessory structure (4-foot x 8-foot wood shed) within the front yard portion of St. John's Lutheran Church site located at 153 Church Avenue, which is to be used as part of their established food pantry operations. Mr. Brand said that site plans for these Temporary Use Permits would be coming to the Planning Board if they are approved by the ZBA.

***Code Enforcement Officer:***

Mr. Delpriore said that the Building Department continues to be busy with contractors and insurance companies regarding the damage caused by the hailstorm in July. He said that the Town staff is trying to help residents navigate the waters on those repairs.

Mr. Delpriore also said that multiple applications for the Planning Board are continuing to be received and that the board packets will continue to be provided in digital format. He said that board members who wish to receive hard copies should contact the Building Department.

***Highway Superintendent:***

Mr. Ford said the Highway Department is completing seasonal work and preparing equipment for the winter season. He also said the Highway Department is assisting other Towns on their paving projects and that there are a few remaining drainage issues to address in Farmington before winter.

***Town Engineer:***

Mr. Brabant said that MRB Group is working on the updates to the Site Design Criteria and recently met with each department on this. He said that the first wave of updates will be delivered to the Town this Friday, September 20, 2024, and will continue to be submitted as subsequent section updates are completed for review.

Mr. Brabant said that MRB Group is working on the update to the Town farmland map, which is now under review by Mr. Brand. He also said that the next interim New York State certification for the Municipal Separate Storm Sewer System (MS4) Stormwater Management Program is due in October and he will meet with Mr. Delpriore tomorrow (Thursday, September 19, 2024) to be sure that Farmington will meet the submission date.



Mr. Brabant also said that MRB Group is working with the Town Parks and Recreation Committee on the update to the Parks and Recreation Master Plan.

***Town Supervisor:***

Supervisor Ingalsbe said that the Town Board has received the 2025 Tentative Town Budget and that meetings have already been held with outside agencies regarding their sections of the budget. He said that the Town Board is expected to vote on the 2025 Preliminary Town Budget in October.

***Planning Board:***

Mr. Bellis asked when the Planning Board members would be able to receive the new Preliminary Site Plan drawings for the Sky Solar Commercial Drive Solar Project for review. Mr. Delpriore said that these materials are to be submitted by the applicant no later than September 27th at 12:00 noon. He requested that board members check with the Building Department that afternoon. Mr. Bellis also asked if these materials could be provided to the board in hard-copy format.

Mr. DeLucia asked about the registration process for the Genesee–Finger Lakes Regional Planning Council Fall 2024 Local Government Workshop to be held on Friday, October 25, 2024. Mr. Delpriore said that Ms. Daniels in the Supervisor’s Office can submit the registrations for the board members. Mr. Delpriore said that he will be one of the speakers at the Workshop and will make a presentation on the stormwater coalition.

**7. PUBLIC COMMENTS**

None.

**8. TRAINING OPPORTUNITIES**

**■ 2024 Municipal Bootcamp Trainings:**

A free annual program to provide certification credits to newly elected officials, planning and zoning boards, and municipal officials presented by Hancock Estabrook and MRB Group.

**Thursday, September 26, 2024, 6:00 p.m.–7:00 p.m.**

Session 8: Under the Tent: Open Meetings, Record Keeping, and Engaging the Public in Community Development

**Thursday, October 24, 2024, 6:00 p.m.–7:00 p.m.**

Session 9: Short, But Not Too Short: How Short-Term Rentals Are Changing the Development and Regulatory Landscape

**Thursday, December 19, 2024, 6:00 p.m.–7:00 p.m.**

Session 10: Santa’s Nice and Naughty List: The Best and Worst of 2024

Questions and registration:

<https://www.hancocklaw.com/events/2024-municipal-bootcamp-trainings/>

■ **Genesee–Finger Lakes Regional Planning Council Fall 2024 Local Government Workshop:**

**Friday, October 25, 2024**

Conference Center at Wayne–Finger Lakes BOCES

For information: [www.gflrpc.org](http://www.gflrpc.org)

■ **New York Planning Federation Recorded Webinars:**

For information: (518) 512-5270 or [nypf@nypf.org](mailto:nypf@nypf.org)

■ **General Code e-Code**

Daily drop-in lunchtime training Q&A sessions plus webinars in several categories.

Information: <https://www.generalcode.com/training/>

■ **Future Training Opportunities Online:**

Ontario County Planning Department website now lists upcoming training:

<https://www.co.ontario.ny.us/192/Training>

**9. ADJOURNMENT**

■ A motion was made by MR. VIETS, seconded by MR. DELUCIA, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:55 p.m.

The next regular meeting of the Planning Board will be held on Wednesday, October 2, 2024, at 7:00 p.m., at the Farmington Town Hall, 1000 County Road 8, Farmington, N.Y. 14425. This meeting will also be available via remote video conference.

Following the meeting, the clerk locked the Town Hall front doors.

Respectfully submitted,

\_\_\_\_\_  
John M. Robortella L.S.  
Farmington Planning Board Clerk

**TOWN OF FARMINGTON PLANNING BOARD RESOLUTION  
SKY SOLAR INC., SPECIAL USE PERMIT, EAST SOLAR FARM PROJECT  
CONDITIONS OF APPROVAL**

**PB#0406-24**

**APPLICANT:** Sky Solar Inc., 1129 Northern Boulevard, Suite 404,  
Manhasset, N.Y. 11030

**ACTION:** Special Use Permit Approval with Conditions for the development of a Solar Energy System, Sky Solar Inc., East Solar Farm Project, comprised of solar panels and related transformer unit on a portion of Tax Map No. 29.07-1-57.000, containing a total of 7.1214 acres of land and Tax Map No. 29.07-1-58.000, containing a total of 0.5384 acres of land, that is to be constructed along the east side of the future extension of Commercial Drive.

**WHEREAS**, the Planning Board (hereinafter referred to as Board) has held public hearings upon the proposed Special Use Permit application referenced above (hereinafter referred to as Action); and

**WHEREAS**, the Board has closed the Public Hearing associated with the proposed Special Use Permit application at its September 18, 2024, Board meeting; and

**WHEREAS**, the Board has carefully considered the information and comments received upon the proposed Special Use Permit application, as well as the Town Code and applicable laws; and

**WHEREAS**, the Board as the established Lead Agency has completed its environmental risk review under SEQRA and has made a determination of non-significance upon the Action, dated August 21, 2024.

**NOW, THEREFORE, BE IT RESOLVED** that the Board finds that Sky Solar, Inc., the property owner, has applied for a special use permit (hereinafter referred to as Action) for a large-scale ground-mounted solar PV system to be known as Sky Solar Inc., East Solar Farm Project, and to utilize a portion of their aforesaid properties for the construction, on-going operations and maintenance, and decommissioning of a large-scale ground-mounted solar PV system “solar farm,” to be operated and owned by Sky Solar, Inc. Such entity operating and/or owning two (2) solar farms (to be known as the East Solar Farm Project and the West Solar Farm Project) on their respective lots as are referred to in this Resolution as System Operators, and included in such term are their current owner Sky Solar, Inc., or successor owner(s) until such owner(s) cede all control over their affiliates’ actions operating their solar farm, apart from passive ownership. “Solar farm” in this Resolution refers to the proposed large-scale ground-mounted solar PV systems in this Action sited on portions of the above referenced Tax Map Numbers, as shown on the Filed Final Subdivision Plat for Sky Solar, Inc., Lands located along the east and west sides of the future extension of Commercial Drive, said highway to be a dedicated town highway facility, and as further identified on the Final Site Plans for the Sky Solar, Inc., East and West Solar Farm Projects, together with

their respective system parts and operations, whether or not such lots, parts or operations are separately mentioned.

**BE IT FURTHER RESOLVED** that the Board does hereby make the following findings of fact upon the requested Action, using the regulations from the Town Code, §165-65.3 Solar Photovoltaic (PV) Systems [Added 9-26-2017 by L.L. No. 6-2017 and Amended 1-25-2022 by LL. No. 2-2022], to organize and coordinate the Board’s findings with the associated statutory guidance.

A. Purpose.

It is the purpose of this section of the Town Code to encourage and promote the safe, effective and efficient use of installed solar photovoltaic (PV) systems that reduce on-site consumption of utility-supplied energy while protecting the health, safety and welfare of adjacent and surrounding land uses and properties.

**The Planning Board finds that, based upon its review of the documents and drawings on file with the Town for the Action, the proposed Large Scale Ground-Mounted Photovoltaic (PV) Solar Systems being proposed on two (2) subdivided parcels of the Sky Solar Inc., Property in this Action meet the above-stated Purpose of the Town’s Zoning Law to permit such solar systems as proposed by the Applicant to provide new and additional electricity services that efficiently meet present needs and anticipated future needs of Town residents while protecting the health, safety and welfare of adjacent and surrounding land uses and properties.**

**The Board further finds that the proposed solar farm contributes to the goals and objectives contained in the adopted New York State Renewable Energy Plan by providing cleaner and greener energy for all residents. The Board further finds that the extensive environmental record that has been created for this Action has demonstrated the lack of significant environmental harm and identified measures to be taken for the construction, on-going maintenance and decommissioning of the Action that protect the health, safety and welfare of adjacent and surrounding land uses and properties which are incorporated in this process as warranted.**

B. Intent.

It is the intent of these regulations to:

- (1) Meet the goals of the Town of Farmington Comprehensive Plan (hereinafter referred to as the “Plan”) to: enhance agricultural viability and preserve productive agricultural land resources; and provide public utilities, facilities and services that efficiently meet present needs and anticipate future needs of residents in accordance with the goals and objectives of the Plan; and

**The Board finds that the proposed Action does not involve the temporary use of viable agricultural soils on the property of the landowner. The Board further finds that this Action does not permanently or necessarily take viable industrial zoned land out of use forever. The Board further finds that this**

**Action does not disrupt site drainage patterns necessary to sustain the site's existing undeveloped lands.**

**The Board further finds that the temporary use of this site's soils has been mitigated by the Applicant to the extent practical and that as a condition for granting this Special Use Permit the Applicant will provide and execute a decommissioning plan acceptable to the Town Board, which will describe when and how the site will be reclaimed for continued productive industrial operations, among other issues, and provide periodic soil sampling to identify any possible problems early. The Board further finds that adherence to the *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands (Guidelines)* promulgated by the New York State Department of Agriculture and Markets, and promoted by the Ontario County Soil and Water Conservation District, as minimum supplemental standards for the construction, operation and decommissioning of the site, will enhance the continued viability of this land and help preserve the long term land resources resulting from the soil and land reclamation at the end of the useful life of the Action. Accordingly, compliance with the State's *Guidelines*, as stated and as may be revised and adopted as provided herein, shall be a condition of the Special Use Permit as provided hereafter in the listed Condition No. 5.**

- (2) Support green economy innovations; and

**The Board finds that the Action complements the New York State's Renewable Energy Plan Goals and Objectives by generating solar energy and contributing to a cleaner, greener energy future for all state residents. The Board further finds that the Action complements the Town's adopted Public Utilities, Facilities and Services Goal, as contained in the 2021 Edition of the *Town of Farmington Comprehensive Plan*, by providing new and additional electricity services that efficiently meet present needs and anticipated future needs of Town residents.**

- (3) Support New York State in meeting its renewable energy goals established by the 2015 New York State Energy Plan as implemented through the Reforming the Energy Vision Institute.

**The Board finds that the Action's proposed solar farm has been supported by a funding commitment from the New York State Energy Research and Development Agency (NYSERDA) and by established agreements with Rochester Gas & Electric Corporation to accept the energy to be generated by the proposed solar farm throughout its proposed thirty- (30-) year lifespan. The Board in making this finding signifies its support for New York State in meeting its renewable energy goals established in the above referenced Energy Plan.**

### C. Applicability.

- (1) This section applies to building-mounted, building-integrated and ground-mounted solar photovoltaic (PV) systems installed and constructed after the effective date of this section of the Code.

**The Board finds that the proposed Action is subject to the provisions contained in Chapter 165 of the Town Code in that the proposed solar farm are to be installed and operated after the effective date of those Town regulations. Therefore, the Board concludes that it has the authority to issue a Special Use Permit with conditions contained herein for the above-described Action.**

- (2) This section also applies to any upgrade, modification or structural change that alters the physical size, electric generation capacity, location or placement of an existing solar PV system.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (3) Nonconforming solar PV systems. Nonconforming solar PV systems existing on the effective date of this section may be altered or expanded, provided such alteration or expansion does not increase the extent or degree of nonconformity.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (4) Properties with approved site plan. Notwithstanding the requirements of § 165-100 of this chapter, entitled “Site development plans,” for any lot or parcel of land that has an approved site plan, the installation of a by-right solar PV system on the lot shall not be considered a change to the approved site plan. This provision shall not be interpreted to exempt lots with an approved site plan from other requirements of this section.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (5) Prohibition. Solar PV systems attached to the side of a building are prohibited unless they are designed as a building-integrated system.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

D. Solar PV Systems Permitted by Right.

(1) By-right solar PV systems. In order to encourage use of solar PV systems in the Town of Farmington, the following systems shall be permitted by right in any zoning district in the Town, provided the system is generating electricity only for the land use(s) located on the same lot as the system, and further provided that the system meets the standards for by-right systems identified in § 165-65.3D(2) below. By-right systems require a building permit.

(a) Building-integrated solar PV systems. Building-integrated solar PV systems are permitted to face any rear, side and/or front yard area.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

(b) Building-mounted solar PV systems. Building-mounted solar PV systems are permitted to face any rear, side and/or front yard area.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

(2) Standards for by-right systems.

(a) Accessory use. All building-mounted by-right solar PV systems shall be considered an accessory use.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

(b) By-right small-scale ground-mounted solar PV systems. Only small-scale ground-mounted solar PV systems, as defined herein, shall be considered as by-right systems. Such by-right systems shall be limited to a capacity of 25 kW and shall generate no more than 110% of the kWh's of electricity consumed over the previous twelve-month period by land use(s) existing on the lot or parcel of land where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

(c) By-right facilities shall comply with all applicable New York State building codes.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (d) In no event shall lot coverage for a solar photovoltaic (PV) system exceed 50% of the lot area.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (3) Building-mounted solar PV systems.

- (a) For a building-mounted PV system installed on a sloped roof:

[1] The highest point of the system shall not exceed the highest point of the roof to which it is attached.

[2] Solar panels shall be parallel to the roof surface or tilted with no more than an eighteen-inch gap between the module frame and the roof surface. This measurement shall not be taken from any parapet which might be considered part of a roof.

**The Board finds that these sections of the Town Code does not apply to the proposed Action.**

- (b) For a building-mounted system installed on a flat roof, the highest point of the system shall not extend more than five feet above the height of the roof.

**The Board finds that these sections of the Town Code do not apply to the proposed Action.**

#### E. Solar PV Systems requiring a Special Use Permit.

- (1) Solar PV systems requiring a special use permit. Except as provided in § 165-65.3D, Solar PV systems permitted by right, no other type of ground-mounted solar PV system shall be constructed or installed without first obtaining a special use permit and site plan approval from the Planning Board, pursuant to Articles VI and VIII of this chapter. In addition, all ground-mounted solar PV systems shall require a building permit. Solar PV systems requiring a special use permit and site plan approval shall include, but not be limited to:

**The Board finds that this section of the Town Code does apply to the proposed Action.**

- (a) Large-scale ground-mounted solar PV systems.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board finds that the proposed Action is subject to the Board issuing a Special Use Permit with conditions and final site plan approval with conditions. Condition No. 56 of this resolution re-**



**quires approval of a Lot Line Adjustment Map (hereinafter referred to as a Final Subdivision Plat Approval) and documentation that said map is filed in the Office of the Ontario County Clerk.**

- (b) Building-mounted and building-integrated solar PV systems that have a system capacity greater than 25 kW or generate more than 110% of the kWh's of electricity consumed over the previous twelve-month period by land use(s) existing on the lot or parcel of land where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (c) Solar PV systems, regardless of size, that generate and provide electricity, through a remote net metering agreement or other arrangement, to an off-site user or users located on a lot(s) or parcel(s) of land other than the lot or parcel of land on which the system is located.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that the System Operators or their owner Sky Solar have entered into Interconnection Agreements with Rochester Gas & Electric for the purpose of distributing solar energy to off-site users. The Board finds that such Agreements shall remain in effect during the entire term of the proposed solar farm. Any termination or abandonment of such Agreement shall be evidence of abandonment of that solar farm, and shall also authorize the Town to revoke the Special Use Permit for such lot after notice and hearing if requested, and so require Applicants to seek approval for a new special use permit if continuing operations of a solar farm on such lot is desired. This is to be a condition of approval for the requested Special Use Permit**

- (d) Solar PV systems, regardless of size, mounted on carports or canopy structures covering parking facilities.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (2) Classifications. Solar PV systems requiring a special use permit may be classified as either an accessory use or a principal use as set forth below.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that the Large-Scale Ground-Mounted Photovoltaic (PV) System to be constructed on the two (2) proposed parcels of land**

**in the Action are hereby classified as principal uses. The establishment and regulation of the proposed Action as a principal use is to be a condition of this Special Use Permit.**

- (a) Principal use. A solar PV system constructed on a lot or parcel of land and providing electricity to an off-site user or users through a remote net metering agreement or other arrangement shall be classified as a large-scale solar PV system and shall be considered a principal use. All ground-mounted solar PV systems that are classified as a principal use shall adhere to the area, yard and build requirements of the zoning district in which the system is located, unless modified herein by § 165-65.3F below.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board finds that the Action is classified as a large-scale ground-mounted solar PV system and a principal use of the property site on which it is constructed. Establishment of the proposed Action as a principal use of the property on which it is constructed is to be a condition of this Special Use Permit.**

- (b) Accessory use/accessory structure. A solar PV system shall be considered an accessory use/accessory structure when generating electricity for the sole consumption of a principal use or building(s) located on the same lot or parcel of land as the system.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

F. Standards for facilities requiring a special use permit. Solar PV systems requiring a Special Use Permit shall be subject to the following standards:

- (1) Large-scale ground-mounted solar PV systems and ground-mounted systems classified as a special use.

**The Board finds that the proposed Action is classified as a Large-scale ground-mounted solar PV system for the subject solar farm lots and subject to granting a Special Use Permit.**

- (a) Setbacks. Large-scale ground-mounted solar PV systems are subject to the minimum yard and setback requirements for the zoning district in which the system is located. No part of a ground-mounted system shall extend into the required yards and/or setbacks due to a tracking system or short-term or seasonal adjustment in the location, position or orientation of solar-PV-related equipment or parts.

**The Board finds that this section of the Town Code does apply to the proposed Action and that no variances are associated with the Action.**

- (b) Setback to residential district. The location of large-scale ground-mounted solar collectors shall meet all applicable setbacks for accessory structures in the zoning district where the project is to be located, but not less than 25 feet from any public highway right-of-way, utility easement, and natural vegetation shall be preserved within this buffer zone and, where possible, augmented. The setbacks are intended to provide a visual buffer between the PV system and adjacent dwellings. Plantings within this area are to be at a height to provide, as much as practicable, a visual screen of the large-scale ground-mounted system from residential uses. The species type, location and planned height of such landscaping shall be subject to the approval of the Planning Board.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that the final site plan shall comply with this standard. The Board also finds that this final site plan requirement will be a condition of this Special Use Permit.**

- [1] Large-scale ground-mounted solar PV systems located in a residential district shall be set back an additional 120 feet from the minimum yard setback along all property lines that abut a lot or parcel of land located in the A-80 Agricultural District or other residential district, unless said property contains soils classified as “prime” or “unique” (Soils Groups 1 through 4) and the land is being actively farmed. In this instance, the minimum setback shall be 40 feet from the property line. This additional setback dimension shall also apply to the front yard setback when the lot or parcel of land on the opposite side of the street is in a residential district.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [2] Large-scale ground-mounted solar PV systems located in commercial or industrial districts shall be set back an additional 110 feet from the minimum yard setback along all property lines that abut a lot located in the A-80 Agricultural District and the other residential districts or an Incentive Zone District. This additional setback dimension shall also apply to the front yard setback when the lot on the opposite side of the street is in a residential or an incentive zone district.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that the final site plan shall comply with this standard. The Board also finds that this final site plan requirement will be a condition of this Special Use Permit.**

- [3] Large-scale ground-mounted solar PV systems located upon farmland located within the delineated Town of Farmington Active Farmland Map, Number 8, page 92 of the adopted Town of Farmington Farmland Protection Plan, shall be allowed on soils classified as Class 1 through 4 as documented upon the Soil Group Worksheets prepared by the Ontario County Soil and Water Conservation District and used by the Town Assessor in calculation of the agricultural use exemption values, a part of the New York State Department of Agriculture and Markets Agricultural Districts Law, once it can be determined, by the Planning Board, that there is no feasible alternative. The following standards are to be implemented by the Planning Board as part of site plan approval:

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [a] Where large-scale ground-mounted solar PV systems are to be located on Class 1 through 4 soils, then the following shall apply to the construction, restoration, and follow-up monitoring of solar energy projects impacting such lands. Depending upon the size of the project, the project sponsor is to hire an environmental monitor (EM) to oversee the construction, restoration and follow-up monitoring in agricultural fields. The EM is to be on site whenever construction or restoration work is occurring on the Class 1 through 4 soils and is to be coordinated with the Ontario County Soil and Water Conservation District and/or the New York State Department of Agriculture and Markets to develop an appropriate schedule for inspections to assure these lands are being protected to the greatest extent possible.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [b] Fencing and watering systems associated with rotational grazing systems and reduction in farmland viability due to the reduction in remaining productive farmland are to be assessed and mitigated to the greatest extent possible.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [c] Structures for overhead collection lines are to be located upon the nonagricultural areas and along field edges where possible.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [d] Access roads are to be located along the edge of agricultural fields, in areas next to hedgerows and field boundaries and in the nonagricultural portions of the site.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [e] There shall be no cut and fill to reduce the risk of creating drainage problems by locating access roads, which cross agricultural fields, along ridge tops and by following field contours to the greatest extent possible.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [f] The width of access roads across or along agricultural fields is to be no wider than 20 feet so as to minimize the loss of agricultural lands and comply with the State of New York fire access code.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [g] All existing drainage and erosion control structures such as diversions, ditches, and tile lines or take appropriate measures to maintain the design and effectiveness of these structures. Repair any structure disturbed during construction to as close to original condition as possible, unless such structures are to be eliminated based upon a new site plan for the large scale project.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that this criterion will be met as a condition of Special Use Permit approval; and it will also will be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [h] The surface of solar farm access roads to be constructed through agricultural fields should be level with the adjacent field surface where possible.

**The Board finds that this section of the Town Code does not apply to the Proposed Action.**

- [i] Culverts and water bars are to be installed to maintain natural drainage patterns.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [j] All topsoil areas to be used for vehicle and equipment traffic, parking, and equipment laydown and storage areas are to be stripped.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [k] All vehicle and equipment traffic and parking to the access road and/or designated work areas, such as laydown areas, are to be limited in size to the greatest extent practical.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of site plan approval to be addressed as part of said application, at a future date and time.**

- [l] No vehicles or equipment are to be allowed outside the work area without prior approval from the landowner and the EM.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [m] Where an open trench is required for cable installation, topsoil stripping from the entire work area may be necessary. As a result, additional workspace may be required as part of site plan approval.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [n] All topsoil stripped from work areas (parking areas, electric cable trenches, along access roads, etc.) is to be stockpiled separate from other excavated materials (rock and/or subsoil).

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time. The Board further finds that no topsoil shall be permitted to be removed from the solar farm site, whether during solar farm construction, operation or decommissioning.**

- [o] A maximum of 50 feet of temporary workspace is to be provided along open-cut electric cable trenches for proper topsoil segregation. All topsoil will be stockpiled immediately adjacent to the area where stripped/removed and shall be used for restoration on that particular site. No topsoil shall be removed from the site. The site plan shall clearly designate topsoil stockpile areas in the field and on the construction drawings.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [p] Electric interconnect cables and transmission lines are to be buried in agricultural fields wherever practical.

**The Board finds that this section of the Town Code does apply to the Proposed Action in that such cables and lines are to be buried to the extent practical for this Action. The Board finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [q] Interconnect cables and transmission lines installed above-ground shall be located outside agricultural field boundaries. When above-ground cables and transmission lines must cross agricultural fields, taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable.

**The Board finds that this section of the Town Code does not apply to the Proposed Action.**

- [r] All buried electric cables in cropland, hay land and improved pasture shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 24 inches below the soil surface.

**The Board finds that this section of the Town Code does not apply to the Proposed Action.**

- [s] The Ontario County Soil and Water Conservation District is to be consulted concerning the type of intercept drain lines whenever buried electric cables alter the natural stratification of soil horizons and natural soil drainage patterns.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [t] In pasture areas, it is necessary to construct temporary or permanent fences around work areas to prevent livestock access, consistent with landowner agreements.  
**The Board finds that this section of the Town Code does not apply to the Proposed Action.**



- [u] Excess concrete used in the construction of the site is not to be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas.

**The Board finds that this section of the Town Code does apply to the Proposed Action in that a delineated concrete truck wash out area is required to be shown on all site plan drawings. The Board, finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [v] All permits necessary for disposal under local, state and/or federal laws and regulations must be obtained by the contractor, with the cooperation of the landowner when required.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [4] Restoration requirements. All agricultural areas temporarily disturbed by construction shall:

- [a] Be recompact to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. Soil compaction results should be no more than 250 pounds per square inch (PSI) as measured with a soil penetrometer. In areas where the topsoil was stripped, soil decompaction should be conducted prior to topsoil replacement. Following decompaction, remove all rocks four inches in size or greater from the surface of the subsoil prior to replacement of topsoil. Replace the topsoil to original depth and reestablish original contours where possible. Remove all rocks four inches and larger from the surface of the topsoil. Subsoil decompaction and topsoil replacement shall be avoided after October 1 of each year.

**The Board finds that this section of the Town Code does not apply to the Proposed Action.**

- [b] Regrade all access roads to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the approved site design by the Planning Board.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria for access roads will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [c] Seed all restored agricultural areas with the seed mix specified by the landowner, in order to maintain consistency with the surrounding areas.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [d] All damaged subsurface or surface drainage structures are to be repaired to preconstruction conditions, unless said structures are to be removed as part of the site plan approval. All surface or subsurface drainage problems resulting from construction of the solar energy project with the appropriate mitigation as determined by the EM, Soil and Water Conservation District and the landowner.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [e] Postpone any restoration practices until favorable (workable, relatively dry) topsoil/subsoil conditions exist. Restoration is not to be conducted while soils are in a wet or plastic state of consistency. Stockpiled topsoil should not be regraded, and subsoil should not be recompacted until plasticity, as determined by the Atterberg field test, is adequately reduced. No project restoration activities are to occur in agricultural

fields between the months of October and May unless favorable soil moisture conditions exist.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [f] Following site restoration, remove all construction debris from the site.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [g] Following site restoration, the project sponsor is to provide a monitoring and remediation period of no less than two years. General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed sub-surface drain lines, fences, etc.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application, and any lesser monitoring period provided in the State's *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands* is not controlling nor sufficient. The Board further finds that this Town Code provision will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [h] Mitigate any topsoil deficiency and trench settling with imported topsoil that is consistent with the quality of topsoil on the affected site. All excess rocks and large stones are to be removed from the site.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use**

**Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [i] All aboveground solar array structures are to be removed and all areas previously used for agricultural production are to be restored and accepted by the landowner, and the Soil and Water Conservation District and the State Department of Agriculture and Markets.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [j] All concrete piers, footers, or other supports are to be removed to a depth of 48 inches below the soil surface. Underground electric lines are to be abandoned in place. Access roads in agricultural areas are to be removed, unless otherwise specified by the landowner.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [5] Utility connections. Utility lines and connections from a large-scale ground-mounted solar PV system shall be installed underground, unless otherwise determined by the Planning Board for reasons that may include poor soil conditions, topography of the site, and requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [6] Fences. Notwithstanding the provisions found in § 165-61A of this chapter, fences not exceeding eight feet in height, including open-weave chain-link fences and solid fences, shall be permitted for the purpose of screening or enclosing a large-scale ground-mounted solar PV system, regardless of the district in which the system is located, provided said system is classified as a principal use. In instances where the provisions of § 165-61A would allow a fence greater than eight feet in height, the less restrictive provision shall apply.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [7] Barbed wire. Notwithstanding provisions for barbed wire found in § 165-61A of this chapter, fences intended to enclose a large-scale ground-mounted solar PV system may contain barbed wire canted out.

**Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criterion will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [8] Height. Large-scale ground-mounted solar PV systems may not exceed 12 feet in height.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time. The Board finds that weather monitoring equipment, even if used in conjunction with solar farms, is not subject to this height limitation for these solar systems and may extend to a height of fifteen feet in such case. Moreover, the Board further finds that this height restriction does not apply to overhead or above-ground electric transmission lines, equipment and poles needed to transport solar energy to the utility grid and connection facilities of the local electric utility, here RG&E.**

- [9] Minimum lot size. Large-scale ground-mounted solar PV systems shall adhere to the minimum lot size requirements for the zoning district in which the system is located, except that for residential districts, the minimum lot size shall be one acre.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [10] Lot coverage requirements. Large-scale ground-mounted solar PV systems shall adhere to the maximum lot coverage requirement for principal uses within the zoning district in which they are located. The lot coverage of a large-scale ground-mounted solar PV system shall be calculated based on the definition of "lot coverage" found in Article II, § 165-10, of this chapter.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [11] Signs. Large-scale ground-mounted solar PV systems classified as a principal use shall adhere to the sign requirements for the zoning district in which they are located.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [12] Location in front yard. Notwithstanding the requirements regulating location of accessory structures found elsewhere in this chapter, large-scale ground-mounted solar PV systems classified as an accessory use shall be prohibited in a front yard, including location in any front yard of a corner lot.

**The Board finds this section of the Town Code does not apply to the proposed Action.**

G. Placement on nonconforming buildings. Notwithstanding the area, lot and bulk requirements of this chapter, building-mounted and building-integrated solar PV systems may be installed on nonconforming buildings as follows:

**The Board finds this section of the Town Code does not apply to the proposed Action.**

- (1) On the roof of a nonconforming building that exceeds the maximum height restriction, provided the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted.
- (2) On a building that does not meet the minimum setback or yard requirements, provided there is no increase in the extent or degree of nonconformity with said requirement.
- (3) On a building that exceeds the maximum lot coverage requirements, provided there is no increase in the extent or degree of nonconformity with said requirement.

H. Abandonment and decommissioning.

**The Board finds that this section of the Town Code does apply to the Proposed Action.**

- (1) Applicability and purpose. This section governing abandonment and decommissioning shall apply to large-scale ground-mounted solar PV systems with a rated capacity of 25 kW or more, hereinafter referred to as “large-scale solar PV systems.” It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town of Farmington by requiring abandoned large-scale solar PV systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the volatility of the recently emerging solar industry where multiple solar companies have filed for bankruptcy, closed or been acquired creates an environment for systems to be abandoned, thereby creating a negative visual impact upon the Town. Abandoned large-scale systems may become unsafe by reason of their energy-producing capabilities and serve as an attractive nuisance.

**The Board finds that the proposed Action, a solar farm on two parcels of the Sky Solar, Inc., West Solar Farm Project, involves a large-scale ground-mounted solar PV system subject to the Special Use Permit criteria contained in § 165-65.3 [H] of the Farmington Town Code. The Board further finds that the present draft Decommissioning Plan document, prepared by the Applicants and System Operators and dated July 26, 2024, (Version 2) acknowledges that the proposed Action is subject to the Special Use Permit criteria contained in § 165-65.3 [H]**

**and agrees to comply, meeting the purpose of this section when the decommissioning plan is approved and executed containing such provision.**

- (2) Abandonment. A large-scale solar PV system shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than 10% of its rated capacity over a continuous period of one year. A commercial solar PV system also shall be deemed abandoned if, following site plan approval, initial construction of the system has commenced and is not completed within 18 months of issuance of the first building permit for the project.

**The Board finds the Applicants' and System Operators present draft decommissioning plan document dated July 26, 2024, (Version 2), acknowledges, and the Applicant or System Operator accept, the standard in the Town Code (§ 165-65.3 [H][2]) for determining some events when a commercial solar PV system is to be deemed abandoned. The Board further finds that there may be other additional events when such a solar system may be found or deemed abandoned as provided elsewhere in these findings, such as upon termination of Applicants' or System Operators' agreement with RG&E, and noncompliance with Town requirements for the special use permit, such as failure to provide adequate periodic reports when required, and failure to maintain a sufficient surety. All provisions for abandonment described in this Resolution shall be a condition of Special Use Permit approval, and included in the required approved decommissioning plan.**

- (3) Extension of time. The time at which a commercial solar PV system shall be deemed abandoned may be extended by the Planning Board for one additional period of one year, provided the system owner presents to the Board a viable plan outlining the steps and schedules for placing the system in service or back in service within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the commercial solar PV system owner prior to abandonment as defined herein. Extenuating circumstances as to why the commercial solar PV system has not been operating or why construction has not been completed may be considered by the Board in determining whether to gain an extension.

**The Board finds the Applicants' and System Operators' present draft decommissioning plan document dated July 26, 2024, (Version 2), acknowledges, and the Applicants and System Operators accept, the provision in the Town Code (§ 165-65.3 [H][3]) for the extension of time by the Planning Board for determining when a commercial solar PV system is to be deemed abandoned. This is a condition of approval for the Special Use Permit.**



- (4) Removal required. A commercial solar PV system which has been abandoned shall be decommissioned and removed. The commercial solar PV system owner and/or owner of the land upon which the system is located shall be held responsible to physically remove all components of the system within one year of abandonment. Removal of the commercial solar PV system shall be in accordance with a decommissioning plan approved by the Planning Board.

**The Board finds the Applicant's or System Operator's present draft decommissioning plan document dated July 26, 2024, (Version 2), acknowledges, and the Applicants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][4]) for decommissioning, removal of solar system components, and determining responsibilities for when an abandoned commercial solar PV system is deemed abandoned, which shall be part of an approved decommissioning plan. This is a condition of approval for this Special Use Permit.**

- (5) Decommissioning and removal.

**The Board finds the Applicant's or System Operator's present draft decommissioning plan document dated July 26, 2024 (Version 2), acknowledges, and the Applicants and System Operators accept, the provision in the Town Code (§ 165-65.3 [H][2]) for when an abandoned commercial solar PV system is to be deemed abandoned. The Board further finds that the responsibilities for decommissioning and reclamation of the two (2) sites identified above in the Action by the Applicant or System Operator for continued industrial operations will be met by an approved decommissioning plan agreement and is a Condition of this Special Use Permit. The Board further finds that the Special Use Permit shall not be in effect until all agreements, implementing, decommissioning, removal of system components and restoration of the land aspects of the Town Code to the Action, and the conditions of the Special Use Permit, have been signed by all the Applicants, System Operator and the Town and a copy is on file with the Town Clerk.**

- (a) Decommissioning and removal of a commercial solar PV system shall consist of:

**The Board finds that this section of the Town Code does apply to the proposed Action.**

- [1] Physical removal of all aboveground and below-ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences,

electric transmission lines and components, roadways and other physical improvements to the site.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024 (Version 2), acknowledges, and the Applicants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][5]) for removing all above-ground equipment, structures and foundations that are listed, which shall be part of an approved decommissioning plan. This is a condition of approval for the Special Use Permit.**

- [2] Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024 (Version 2), acknowledges, and the Applicants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][5]) for disposal of all solid and hazardous waste associated with the Action under local, state and federal waste disposal regulations, which shall be part of an approved decommissioning plan. This is a condition of approval for this Special Use Permit.**

- [3] Restoration of the ground surface and soil.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024 (Version 2), acknowledges, and the Applicants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][5]) for restoration of the ground surface and soil to the extent feasible consistent with the other restoration provisions of the Town Code once a solar farm is decommissioned and removed, which shall be part of an approved decommissioning plan. This is a condition of approval for this Special Use Permit.**

- [4] Stabilization and revegetation of the site with native seed mixes and/or plant species (excluding invasive species) to minimize erosion.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024 (Version 2), acknowledges, and the Appli-**

**cants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][5]) for stabilization and revegetation of the Large Scale Solar PV Site in a manner determined by the Town and Property Owner to minimize soil erosion, which shall be part of an approved decommissioning plan. This is a condition of approval for this Special Use Permit.**

- (b) Upon petition to the Planning Board, the Board may permit the system owner to leave certain underground or above ground improvements in place, provided the owner can show that such improvements are part of a plan to redevelop the site, are not detrimental to such redevelopment and do not adversely affect community character or the environment.

**The Board finds the Applicant's or System Operator's present draft decommissioning plan document dated July 26, 2024 (Version 2), acknowledges, and the Applicant or System Operator accept, the provision in the Town Code (§ 165-65.3 [H][5]) that the Planning Board may permit the Applicant or System Operator of the solar farm to leave certain improvements in place upon a further finding that the property owner can show that such improvements are part of a plan to redevelop the site. This is a condition of approval for this Special Use Permit.**

- (c) Decommissioning plan. All applications for a commercial solar PV system shall be accompanied by a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of the system. The decommissioning plan shall address those items listed in § 165-65.3H(5)(a) above and include:

**The Board finds the Applicant's or System Operator's present draft decommissioning plan document dated July 26, 2024 (Version 2), acknowledges, and the Applicant and System Operator accept, the requirement in the Town Code (§165-65.3 [H][5]) for an approved decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of a solar farm. This Applicant's or System Operator's decommissioning plan for this Action must be approved by the Town Board as acceptable to manage foreseeable decommissioning issues before the Special Use Permit shall take effect. An approved and executed decommissioning plan is a condition of approval for a special use permit for the Action.**

- (6) Special use permit conditions. The following conditions shall apply to all special use permits issued for a large-scale ground-mounted solar PV

system. No special use permit shall be issued unless the Planning Board finds that the conditions have been or will be met.

**The Board finds that this section of the Town Code does apply to the proposed Action.**

- (a) A licensed engineer's estimate of the anticipated operational life of the system.

**The Board finds the Applicant's or System Operator's present draft decommissioning plan document dated July 26, 2024 (Version 2), acknowledges, and the Applicant and System Operator accept, the requirement in the Town Code (§ 165-65.3 [H][6]) for a licensed engineer to prepare an estimate of the anticipated operational life of each solar farm. The Board finds that this condition is met in that the Applicant has provided two documents (one for the east and one for the west solar systems) from licensed engineers to be dated based upon the Final Site Plan Approval for the East Solar Project which provide estimates of the anticipated operational life of the system. This is a condition of approval for this Special Use Permit.**

- (b) Identification of the party responsible for decommissioning.

**The Board finds this condition will be met as the Applicant's or System Operator's present draft decommissioning plan dated July 26, 2024 (Version 2), acknowledges and the Applicant or System Operator accept the requirement in the Town Code (§165-65.3 [H] [6]) for identifying the responsible parties for decommissioning of the proposed solar farms, which shall be part of an approved decommissioning plan. The Board further finds that in addition to identifying the property owner, Sky Solar, Inc., as being the Applicant responsible for decommissioning the solar farm, as well as owners of affiliates which have not ceded control over a system operator of a solar farm, apart from passive investment. The Board finds that all those identified parties will have legal obligations for compliance with the decommissioning duties imposed by the Town Code, the approved decommissioning plan and agreement, and the conditions of their Special Use Permit for the two separate solar farms involved in this Action. This is a condition of approval for this Special Use Permit.**

- (c) Description of any agreement regarding decommissioning between the responsible party and the landowner.

**The Board finds this condition will be met as the Applicant's or System Operator's present draft decommissioning plan on file with the Town dated July 26, 2024, (Version 2), is an agreement between the landowner and the System Operator involved for decommissioning the east solar farm at issue, and the lengthy document is available for inspection by interested persons, both at the Office of Town Clerk and on the Town's website. As determined previously, a fully approved and executed decommissioning plan and agreement is a condition of any Special Use Permit for the Applicant's Action. Furthermore, as stated in the proposed Decommissioning Plan dated July 26, 2024 (Version 2), the Planning Board has been advised that the Applicant, Sky Solar, Inc., that it has not entered into a lease agreement which contains conditions regarding the removal of solar facilities and restoration of the site, and such agreement will be subject further to review and acceptance by the Town Board.**

- (d) A schedule showing the time frame over which decommissioning will occur and for completion of site restoration work.

**The Board finds that this condition will be met as the Applicant's or System Operator's present draft decommissioning plan dated July 26, 2024 (Version 2), contains a schedule for decommissioning work to be carried out over a specified period of months, and will provide a detailed schedule at the time decommissioning is proposed, which shall be part of an approved decommissioning plan. As determined previously, a fully approved and executed decommissioning agreement is a condition of any Special Use Permit for Applicant's Action, and will contain the requisite schedule.**

- (e) A cost estimate prepared by a licensed professional engineer estimating the full cost of decommissioning and removal of the solar PV system.

**The Board finds that this condition will be met as the Applicant's or System Operator's present draft decommissioning plan dated July 26, 2024 (Version 2), contains a requirement for, and a proposed cost estimate prepared by a licensed engineer, though in draft form, and this form will need to be reviewed and accepted by the Town's Engineer, Town Attorney and/or Town's Legal Counsel before the requisite surety amount is determined and provided, and before any pre-construction meeting may be scheduled by the Town Code Enforcement**

**Officer. This is a Condition of Special Use Permit Approval by the Board.**

- (f) A financial plan to ensure that financial resources will be available to fully decommission the site.

**The Board finds this condition will be met as the Applicant's or System Operator's present draft decommissioning plan dated July 26, 2024 (Version 2), does contain a financial plan to ensure funding for decommissioning the east solar farm. The Action, which shall be part of an approved decommissioning plan. As determined previously, a fully approved and executed decommissioning agreement is a condition of any Special Use Permit for Applicant's Action.**

- (g) An acceptable form of surety is to be approved by the Planning Board and accepted by the Town Board and filed with the Town Clerk in an amount specified in the above-referenced financial plan. Said acceptable form of surety is to remain in effect for the above-referenced anticipated operational life of the system. In the event the anticipated operational life of the system is amended, then a revised acceptable form of surety is to be approved by the Planning Board, accepted by the Town Board and filed with the Town Clerk.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds this standard will be met as provided in the Applicant's or System Operator's decommissioning plan, once the Town determines the desired form of surety and such plan is approved and executed by all parties. The Board further finds that an acceptable form of surety is to remain in effect to an agreed-to date that coincides with full reclamation of the site, restoration of the land and monitoring as provided herein. The Board establishes this requirement as a Condition of Approval of the Special Use Permit Application.**

- (h) Financial surety. Prior to the issuance of a building permit and every three years thereafter, the commercial solar PV system owner and/or landowner shall file with the Town Clerk evidence of financial surety to provide for the full cost of decommissioning and removal of the solar PV system in the event the system is not removed by the system owner and/or landowner. Evidence of financial surety shall be in effect throughout the life of the system and shall be in the form of an irrevocable acceptable form of surety or other form of surety acceptable to the Planning Board and approved by the Town Board. The irrevocable acceptable form of surety shall include an auto-extension provision to be issued by an A-rated institution solely for

the benefit of the Town. The Town shall be entitled to draw upon the acceptable form of surety in the event that the commercial solar PV system owner and/or landowner is unable or unwilling to commence decommissioning activities within the time periods specified herein. No other parties, including the owner and/or landowner, shall have the ability to demand payment under the letter of credit. Upon completion of decommissioning, the owner and/or landowner may petition the Town Board to terminate the acceptable form of surety. In the event ownership of the system is transferred to another party, the new owner (transferee) shall file evidence of financial surety with the Town Board at the time of transfer, and every three years thereafter, as provided herein.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds this condition will be met as provided in the Applicant's or System Operator's decommissioning plan, once the Town Board determines the desired form of surety and such plan is approved and executed by all parties. The Board further finds that an acceptable form of surety is to remain in effect to an agreed-to date that coincides with full reclamation of the site, restoration of the land and monitoring as provided herein. The Board establishes this requirement as a Condition of Approval of the Special Use Permit Application.**

- (i) Amount. The amount of the surety shall be determined by the Town Engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the surety may be adjusted by the Town Board upon receipt of a favorable recommendation from the Planning Board of an annual report containing an updated cost estimate for decommissioning and removal. Any revised surety is to be filed with the Town Clerk's office.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds this condition will be met by the Town Engineer providing, during the periodic reviews of the solar farms and conditions under the Special Use Permit and Town Code, a current estimate of decommissioning, removal and restoration costs as provided in the Applicant's or System Operator's decommissioning plan, once the Town determines the desired form of surety and such plan is approved and executed by all parties. The Board further finds that a condition of approval of the Special Use Permit Application shall be the Applicant's or System Operator's agreement that the amount of surety may be adjusted by the Town Board as appro-**



**priate during the periodic reviews of the ongoing operation and maintenance of the solar farms at issue.**

- (j) Annual report. The commercial solar PV system owner shall, on a yearly basis from the certificate of compliance issued by the Code Enforcement Officer, provide the Town Code Enforcement Officer a written report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall also identify any change of ownership of the solar PV system and/or the land upon which the system is located and shall identify any change in the party responsible for decommissioning and removal of the system upon its abandonment. The actual report shall be submitted no later than 45 days after the end of the calendar year. Every third year, to coincide with the filing of evidence of financial surety, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the large-scale solar PV system. The Town Board may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required herein shall be considered a violation subject to the penalties in Article X of this chapter.

**The Board finds this section of the Town Code does apply to the proposed Action. The Planning Board finds that this condition will be met by establishing this annual report requirement as a Condition of Approval of the Special Use Permit Application. The Board establishes this requirement as a Condition of Approval of the Special Use Permit Application.**

- (k) Decommissioning and removal by Town. If the commercial solar PV system owner and/or landowner fails to decommission and remove an abandoned facility in accordance with the requirements of this section, the Town may enter upon the property to decommission and remove the system.

**The Board finds this section of the Town Code does apply to the proposed Action. The Planning Board finds this condition will be met by establishing this requirement for permitted entry as a Condition of Approval of the Special Use Permit Application. The Board does, therefore, establish this requirement as a Condition of Approval of the Special Use Permit Application. The Board further acknowledges receipt of this commitment by the Property Owners, Sky Solar Inc., in their signed letter to the Town September 13, 2024. The Board further finds additional acknowledgement by Sky Solar's legal counsel, Michael L.**



**Nisengard, Attorney at Law/Partner, which is contained in a letter from Lippes Mathias, Attorneys at Law, 50 Fountain Plaza, Suite 1700, Buffalo, New York 14202-2216 dated September 16, 2024, that his clients (Sky Solar, Inc.) commits to accept the responsibility for ensuring the decommissioning of the two parcels comprising the East Solar Farm Project [29.07-1-57 & -58] as set forth in the provisions of the Farmington Town Code Section 165-65.3. Similarly, the System Operators will be obligated to decommission their solar farm as provided in their decommissioning plan agreement approved by the Planning Board, which agreement shall contain provisions authorizing the Town to enter upon property containing a solar farm to decommission the solar farm, remove and dispose of its component parts, and restore the property to its prior condition.**

- (7) Determination of abandonment. Upon a determination by the Code Enforcement Officer that a commercial solar PV system has been abandoned, the Code Enforcement Officer shall notify the system owner, landowner and permittee by certified mail:
- (a) In the case of a facility under construction, to complete construction and installation of the facility within 180 days; or
  - (b) In the case of a fully constructed facility that is operating at a rate of less than 10% of its rated capacity, to restore operation of the facility to no less than 80% of rated capacity within 180 days, or the Town will deem the system abandoned and commence action to revoke the special use permit and require removal of the system.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds that determination by the Code Enforcement Officer that a commercial solar PV system has been abandoned does require notification be provided by certified mail to the relevant Applicant or System Operator identified above herein.**

- (8) Failure to perform notification. Being so classified, if either the system owner, landowner and/or permittee fails to perform as directed by the Code Enforcement Officer within the one-hundred-eighty-day period, the Code Enforcement Officer shall notify the system owner, landowner and permittee, by certified mail, that the solar PV system has been deemed abandoned and the Town intends to revoke the special use permit within 60 days of mailing said notice. The notice shall also state that the permittee may appeal the

Code Enforcement Officer's determination to the Town Board and request a public hearing upon the matter.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds that such a determination by the Code Enforcement Officer that the large-scale commercial solar PV system has been deemed abandoned entitles the Applicant or relevant System Operator to the notification contained in the Town Code in such case.**

- (a) Said appeal and request for hearing must be made and received by the Town Board within 30 days of mailing notice. Failure by the permittee to submit an appeal and request for hearing within the thirty-day period will result in the special use permit being deemed revoked as stated herein.

**The Board finds these sections of the Town Code do apply to the proposed Action. The Board further finds that the Applicant or System Operator understand and accept this provision of the Town Code, which establishes the respective rights in such matter for the Applicant, System Operator and Town.**

- (b) In the event the permittee appeals the determination of the Code Enforcement Officer and requests a hearing, the Town Board shall schedule and conduct said hearing within 60 days of receiving the appeal and request. In the event a hearing is held, the Town Board shall determine whether the solar PV system has been abandoned, whether to continue the special use permit with conditions as may be appropriate to the facts and circumstances presented to the Board or whether to revoke the special use permit and order removal of the solar PV system.

**The Board finds these sections of the Town Code do apply to the proposed Action. The Board further finds that the Applicant or System Operator understand and accept this provision of the Town Code, which establishes the respective rights in such matter for the Applicant, System Operator and Town.**

- (c) Upon a determination by the Code Enforcement Officer or Town Board that a special use permit has been revoked, the decommissioning plan must be implemented and the system removed within one year of having been deemed abandoned

or the Town Board may cause the removal at the owner's and/or landowner's expense. If the owner and/or landowner fails to fully implement the decommissioning plan within one year of abandonment, the Town Board may collect the required surety and use said funds to implement the decommissioning plan.

**The Board finds these sections of the Town Code do apply to the proposed Action. The Board further finds that the Applicant or System Operator understand and accept this provision of the Town Code, which establishes the respective rights in such matter for the Applicant, System Operator and Town. As a condition of the Special Use Permit, both the surety and approved decommissioning plan shall provide the Town with these statutory rights.**

- (d) Removal by Town and reimbursement of Town expenses. Any costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a commercial solar PV system, including legal costs and expenses, shall be reimbursed from the surety posted by the system owner or landowner as provided in § 165-65.3 herein. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon and shall be enforced and collected, with interest, by the same officer and in the same manner, by the same proceedings, at the same time and the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

**The Board finds these sections of the Town Code do apply to the proposed Action. The Board further finds that the Applicant or System Operator understand and accept this provision of the Town Code, and so both the surety and approved decommissioning plan shall provide the Town with these statutory rights. The Board does establish these requirements as part of an approved decommissioning plan and as a Condition of Approval of the Special Use Permit Application.**

**In addition, the Board finds that any disputes between Applicant, System Operator and Town regarding any**

aspects of the solar farms at issue should be negotiated and resolved in a reasonable time in good faith, provided that the Town remains required to comply with and enforce the Town Code and Town agreement made in connection with the solar farm to protect and preserve Town interests in the land and community, which concerns are broader than just Applicant's or System Operator's interests. The Town Code provides for reimbursement of the Town's legal costs and expenses related to decommissioning and removal of the solar farm Project. Town Code § 165-65.3[H][8]. Accordingly, in the event of disputes regarding the continuing operation of the solar farm that could result in decommissioning, as well as disputes involving decommissioning, removal or related issues such as restoration of the site—if such a dispute results in court action by an Applicant or System Operator against the Town, or the Town determines after discussion with Applicant or System Operator to resort to court action against an Applicant or System Operator to resolve such a dispute, such Applicant or System Operator shall indemnify the Town against attorney fees and litigation expenses as provided in Condition No. 53 set forth below.

Also, the Board finds that many of the statutory requirements of the Town Code found to apply as conditions of the Special Use Permit for the solar farms herein are similarly found in the *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands* (Guidelines) promulgated by the New York State Department of Agriculture and Markets (revision dated 4/19/2018). Rather than list each of the conditions found to apply by the Board to the Applicant's or System Operator's solar farm, the Board instead references and incorporates such *Guidelines* hereunder, listed as Condition No. 5. The Board notes that the *Guidelines* provided and considered in the SEQRA process for the solar farm was the revision dated April 19, 2018, but that the Department of Agriculture and Markets has since issued a new revision, dated October 18, 2019. The Board has reviewed that current 2019 version of the Ag & Markets' *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands*, and finds its provisions provide a better minimum basis for protecting and preserving the continued Limited Industrial use of the sites after conclusion of the solar farms' operations, through

**soil sampling, for example, except, however, that the post-construction monitoring period of one growing season provided in the 2019 *Guidelines* is insufficient and in conflict with the Town Code’s requirements for a two-year monitoring period, and such longer monitoring period is imposed in the associated Condition No. 5, below.**

**Finally, the Board finds that the conditions itemized and numbered below are warranted under the facts of the proposed solar farms and are expressly imposed as conditions on the Special Use Permit approved hereunder as a result of the Board’s individual findings regarding certain aspects of the proposed solar farms, as well as a result of the Board’s collective judgment considering Applicant’s or System Operator’s whole solar farm proposal overall and foreseeable associated issues and their preferred resolution over the potentially extensive term involved. The Board finds such extensive conditions are necessary and reasonable to balance the different property owner, developer and community interests involved, are required by or directly related to aspects of the Town Code, and are imposed hereunder to protect the Town’s expected interests over the many years duration of the proposed solar farms and minimize the impact of the solar farms on the area and neighbors as well as can be done under the present law and circumstances.**

**BE IT FURTHER RESOLVED**, then, that the Planning Board does hereby approve a Special Use Permit for Sky Solar’s East Solar Project as shown on the Filed Final Subdivision Plat and Final Site Plan to host a large-scale ground-mounted solar farm thereon as proposed in this Action, subject to the following conditions that shall apply to and govern each such lots and the solar farm associated therewith:

1. The Special Use Permit approved for this Action is valid only upon all the conditions set forth herein if, and as long as, all such conditions are met by Applicant or System Operator on their associated lots as determined by the Town, and so long as the solar farm continues to exist on their lots and comply with the Town-approved final site plan for this respective lot, as may be amended with Town approval, and with these Special Use Permit conditions.
2. This Special Use Permit applies to and is valid only for the two individual parcels of the Sky Solar Subdivision proposed to contain a Sky Solar East Solar Farm Project, and to the respective proposed solar farm as permitted on their approved final site plans and subject to the conditions of their Special Use Permit. This Resolution does not authorize any special use permit to be applicable to Sky Solar’s West Solar Farm Project, or any part of that property other than as provided herein. The Final Subdivision Plat, for Sky Solar’s

East and West Solar Farm Projects shall be promptly filed in the Office of the Ontario County Clerk. This Special Use Permit approval shall expire for any aforesaid lot for which a solar farm has been determined to be abandoned after notice and a hearing if requested, or a lot on which a solar farm has undergone decommissioning under the Town Code, Special Use Permit, or Decommissioning Plan.

3. No Special Use Permit for either of the two Tax Map Accounts specified above herein of the Sky Solar East Solar Farm Project shall take effect unless and until (1) an approved Decommissioning Plan is agreed to and executed by each Applicant, System Operator and the Town for such lots and filed with the Town Clerk; (2) the required approved surety for such lots under this Special Use Permit authorization and the Decommissioning Plan and Agreement is in effect with evidence of such surety's existence and validity on file with the Town Clerk; (3) Commercial Drive has been constructed and accepted for dedication; (4) an eight-inch water line, with fire hydrants spaced to code and appurtenant pieces, including a T-Connection where a future east-west town highway is to be constructed by others in the location shown on the Town of Farmington Routes 332 & 96 Official Highway Map, which is located within a sixty-foot wide right-of-way across the south portion of Tax Map No. 29.00-1-84.122 and between Corporate Drive East and the extension of Commercial Drive; (5) five-foot-wide concrete sidewalks are constructed to Town Standards along the east side of said Commercial Drive Extension, connecting the existing sidewalk located at the south end of the project with the north end of the project and then crossing Commercial Drive at a lighted pedestrian crosswalk; and (6) a final site plan has been approved by the Board for the proposed solar farm for such lots.
4. The Special Use Permit shall remain valid for so long as the lot is used to produce solar energy in conformance with the terms and conditions of the Town Code, this Special Use Permit authorization and the final site plan approved for such project.
5. As a condition of this Special Use Permit approval, Applicants and System Operators shall construct, operate, and decommission the proposed solar farm, and restore the respective lots to their present condition, in accordance with all the *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands (Guidelines)* promulgated by the New York State Department of Agriculture and Markets (revision dated October 18, 2019) to supplement the conditions of the Special Use Permit specified herein by the Planning Board, which specified provisions have priority over the referenced and incorporated *Guidelines* in the event of a conflict. The Board notes that the 2019 *Guidelines* contain post-construction monitoring for only one growing season, and such insufficient period is rejected and adjusted in this Action to the Town Code requirement of two years from the restoration instead. The referenced *Guidelines* (as adjusted by the Town) shall constitute supplemental directives of the Planning Board and provide a minimum standard of conduct for the subject matter addressed for the duration of the solar farms' existence, in conjunction with the other conditions established by the Planning Board and the Town Code. Should the State revise the referenced *Guidelines* over the terms of the solar farm, such new and updated guidelines shall control under this paragraph, to the extent matters remain executory; provided, however, that any State revisions to the *Guidelines* that reduce or diminish the standards established in the State's October 18, 2019 version of the



*Guidelines* (as adjusted by the Town) need not be accepted as applicable to the solar farm in the Town's discretion. In the event the State revises its *Guidelines*, the Town may, either on its own initiative or at the request of Applicant or System Operator, evaluate such revisions and provide Applicant and System Operator with written notice of any revised conditions in the *Guidelines* now applicable to their solar farms, and such Town-approved conditions contained in the revised *Guidelines* shall thereafter control the solar farm as revised incorporated *Guidelines* under this paragraph.

6. As a condition of this Special Use Permit approval, a final site plan for the proposed solar farm must be first approved by the Planning Board before a Special Use Permit can be effective for such lots. The Special Use Permit comes into effect only upon the Applicant's and System Operator's obtaining final site plan approval from the Board for construction of a solar farm and the related improvements identified in Condition No. 3 above on these two lots and the Code Enforcement Officer's issuance of a Certificate of Compliance with final site plan approval for each such lots involved. Moreover, as a condition of this Special Use Permit approval, for the entire duration of its construction and operational existence this solar farm shall remain in full compliance with the applicable final site plan approved by the Board and these Special Use Permit conditions and shall be maintained in a safe and fully operable state.
7. To ensure that this solar farm is properly monitored to enable full restoration of the lots to its industrial production potential at the same soil's classifications and condition presently existing (a fundamental principle and condition on which this Special Use Permit approval is being granted), a detailed Sampling and Analysis Plan ("SAP") shall be submitted for approval by the Planning Board. The SAP will characterize and document the surface soil quality before construction, during operations and upon decommissioning of the solar panels as necessary to return lot for further industrial development once the solar farm has been decommissioned. At the time of construction, and before a Certificate of Compliance is issued by the Code Enforcement Officer, the Applicant or System Operator for these two lots shall take baseline soil samples in accordance with the sampling procedures detailed in the SAP, which procedures are consistent with Cornell University's soil testing guidelines for measuring contaminant levels in a particular area regarding collection, labeling and packaging of representative soils beneath and around solar panels and solar system equipment according to soil sampling locations specified on the final site plan approved for its lot. Thereafter, the Applicant or System Operator shall take samples every 9 years for the duration of the solar farm operations in accordance with the sampling procedures detailed in the SAP. If no "significant" (defined below) deviations are found at the eighteen-year sampling event, the Applicant or System Operator may request an amendment from the Planning Board to discontinue the nine-year sampling events until after the solar array has been decommissioned. Upon completion of the Project and once the solar array has been decommissioned, the Applicant or System Operator shall take one (1) final round of samples in accordance with the procedures detailed in the SAP. If there is a "significant" (defined below) deviation, individual samples will be taken at the location(s) where the significant deviations are found in accordance with the sampling procedures detailed in the SAP. In addition to submission of the baseline soil sampling as detailed in the SAP,

the results of the testing detailed in the SAP will be included with every three-year report required by Condition No. 25.

Because Applicant, Sky Solar Inc., or System Operator have represented in their submissions to the Planning Board that the proposed solar farm will employ safe practices for the land, soils and environment and that no significant leaching or contaminants will occur from construction or operation of their solar farms in this Action, there should be no “significant” change to the land or soils on the two Lots as a result of, and during the term of, the solar farm, and a Special Use Permit is being granted in reliance on that information and expectation. For purposes of this soil sampling program, a “significant” deviation shall consist of (a) a change of fifteen percent or more for evaluations of (i) soil pH; (ii) percent organic material; (iii) cation exchange capacity; (iv) Phosphorus/Phosphate; (v) Potassium/Potash; and (vi) Nitrogen (collectively the “Agricultural Parameters”); or (b) exceeding maximum permitted limits for (i) TAL metals, (ii) Volatile Organic Compounds, and (iii) Semi-Volatile Organic Compounds (collectively the “Environmental Parameters”) under then-current regulations establishing standards for soil contaminants and/or pollutants promulgated by the New York State Department of Conservation, or successor agency in 6 NYCRR § 375, Subpart 375-6, Table 375-6.8(a) for Unrestricted Use Soil Cleanup Objectives. Upon the Town’s receipt of a report of a monitored item deviating significantly from its benchmark, the Applicant or System Operator shall submit to the Planning Board a scientific summary explaining the reasons for the deviation(s). It is noted that deviations from the baseline sampling event do not necessarily indicate negative impacts from the solar panels, as the soils will regain nutrients from being fallow during the period of the solar farm operation. If necessary, after receipt of the scientific study, the Planning Board may refer significant deviations of the Environmental Parameters to the New York State Department of Conservation (“NYSDEC”) as necessary. The Applicant or System Operator are required to comply with all applicable NYSDEC remedial and reporting requirements. *See* 6 NYCRR Parts 375 and 597.

As a final additional condition for this soil sampling monitoring process, in the event this soil sampling monitoring process detailed herein and in the SAP is invalidated by a court, the Special Use Permit which was approved upon this key soil sampling condition for such lot shall become void, and continued operation of the solar farm on such lot shall be unauthorized unless and until a new special use permit is subsequently obtained for the lot under the law and Town Code as they then stand. As set forth more fully elsewhere, the solar farm equipment for an unauthorized solar farm is subject to removal by the Town under the Town Code, this Special Use Permit authorization and Decommissioning Plan, if not undertaken by Applicant or System Operator upon the Town’s demand.

8. As a condition of this Special Use Permit approval, a final site plan for these two lots the proposed solar farm must contain the applicable conditions established in this Special Use Permit. Nothing in this Special Use Permit process shall limit or constrain the Planning Board’s rights and discretion to require additional conditions in the final site plan for any of the two lots involved in the proposed solar farm up until the time of final approval.
9. As a condition of this Special Use Permit approval, the proposed solar farm is to be in compliance with all applicable setbacks in effect at the time of approval. Also, no topsoil



located on the two Lots shall be removed from the property during construction, operation or decommissioning of the solar farm located on the two lots.

10. As a condition of this Special Use Permit approval, there is to be constructed and dedicated to the Town, the remaining section of Commercial Drive as delineated on Drawing Number C201, prepared by LaBella Associates, identified as Project Number 2233568, dated 00/00/2024, and as further specified on Highway Construction Detail Drawings accepted by the Town Engineering Firm, MRB Group, D.P.C. and the Town Highway Superintendent and the formal dedication packet approved by the Town Board.
11. As a condition of this Special Use Permit approval, a detailed site lighting plan and illumination fixtures shall be included as part of an approved final site plan for the proposed solar farms.
12. As a condition of this Special Use Permit approval, a detailed landscaping plan with plantings acceptable to the property owner and Planning Board with a planting schedule shall be included as part of an approved final site plan. Also, Applicants or System Operators shall install the approved landscaping for the proposed solar farm to the extent feasible within the Town's established planting season prior to the Code Enforcement Officer's issuance of a Certificate of Compliance with final site plan, to provide a visual screen of the solar farm, and the Applicant or System Operator shall maintain such approved landscaping for the duration of the solar farm operation. In the event landscape plantings cannot be completed due to seasonal limitations when the solar farm is ready to commence operations, the Code Enforcement Officer is authorized to issue a Conditional Certificate of Compliance for a period up to May 31st of the following calendar year to allow the solar farm operation during such period until the landscape plantings required in the final site plan may be completed at the next earliest planting season.
13. As a condition of this Special Use Permit approval, security fencing permitted or required on the final site plan for the proposed solar farm shall not exceed eight (8) feet in height, though such fencing may contain barbed wire canted out and located at the top of said fence.
14. As a condition of this Special Use Permit approval, the solar farm system equipment may not exceed twelve feet in height, measured from the surface of the ground upon which the system equipment is located. Excluded from this condition are weather station equipment up to fifteen feet in height, even if used in conjunction with or for the benefit of the solar farm, as well as above-ground electrical wires, poles or equipment attached to poles needed for interconnection to above-ground utility distribution equipment maintained by the local electric utility providing interconnection of its network to the solar farm.
15. As a condition of this Special Use Permit approval, the solar farm shall adhere to the minimum lot size requirements for the LI Limited Industrial zoning district in which the project is located.

16. As a condition of this Special Use Permit approval, the solar farm shall adhere to the maximum lot coverage requirement for principal uses within the LI Limited Industrial zoning district in which it is located.
17. As a condition of this Special Use Permit approval, the solar farm shall adhere to the sign requirements for the LI Limited Industrial zoning district in which it is located.
18. As a condition of this Special Use Permit approval, and prior to the commencement of any construction or operation of a proposed solar farm the Applicant or System Operator shall provide to the Town a financial plan in an approved Decommissioning Plan containing an irrevocable surety in sufficient amount and acceptable form by a reliable source entity on which the Town alone may draw to cover Town expenses incurred in decommissioning the solar farm and restore the property in the event that the Applicant or System Operator are unable or unwilling to do so within the time required. Applicant or System Operator shall remain responsible to reimburse the Town for expenses incurred in connection with their lots and solar farm in this Action in the event actual decommissioning and restoration costs and related expenses including Town engineering and legal fees exceed the surety available.
19. As a condition of this Special Use Permit approval, and prior to the commencement of any construction or operation of a solar farm, and before the Special Use Permit is valid, the surety approved in the financial plan and Decommissioning Plan shall be provided in fact for the proposed solar farm and a record evidencing such fact shall be filed with the Town Clerk. Such surety shall be maintained by the Applicant or System Operator and shall continue to be kept valid for the entire existence and duration of the solar farm operation, expected to last for thirty years, together with the time involved in any extensions, decommissioning the solar farm, restoration work to reclaim the underlying land for industrial use again, and post-decommission monitoring, unless the property owner obtains appropriate approval from the Planning Board to use their property for a different permitted use (and then to restore the property to condition for that next approved use).
20. As a condition of this Special Use Permit approval, the Applicant or System Operator shall direct the surety source to provide the Town with all the same notices regarding the surety for its benefit that the surety source provides to Applicant or System Operator, and at the same time.
21. As a condition of this Special Use Permit approval, the Applicant or System Operator must employ a qualified environmental monitor (EM) to oversee the construction of the solar farm, as well as restoration and follow-up monitoring. The EM is to be on site whenever construction or restoration work is occurring on the solar farm and must coordinate an appropriate schedule for inspections with the Ontario County Soil and Water Conservation District to protect the affected lands to the greatest extent possible.
22. As a condition of this Special Use Permit approval, after the construction of the proposed solar farm, and prior to the issuance of a Certificate of Compliance from the Code Enforcement Officer, the Applicant or System Operator shall provide the Town a post-construction

certification from a professional engineer registered in New York State which attests to the solar farm's compliance with all applicable codes, safe industry practices, and the list of solar system materials and equipment that the Applicant or System Operator have identified to the Town when obtaining final site plan approval to be used in construction of the solar farm; and further, attests that the solar farm has been constructed according to the design standards approved by the Town in the final site plan.

23. As a condition of this Special Use Permit approval, the solar farm shall be deemed abandoned if, following site plan approval, initial construction of the solar system has commenced and is not completed within eighteen (18) months of issuance of the first building permit for the project. In such case, the provisions for abandonment under the Special Use Permit, Decommissioning Plan and Town Code shall take effect.
  
24. As a condition of this Special Use Permit approval, every three (3) years from the date of issuance of the Certificate of Compliance by the Code Enforcement Officer with the final site plan for this solar farm, and up to the final reclamation of the land, there shall be provided to the Code Enforcement Officer by either the Applicant or the System Operator for this solar farm a written report on the status and condition of their solar farm over the past three year term. Such report shall provide adequate information on the current status of the solar farm's operations, condition and safety. Such report shall include at least the following information: status of the surety; the solar farm's rated capacity for generating electricity and the solar electricity generated during the past term, broken down annually, and with references to all restrictions on the production of solar energy imposed by identified factors beyond the control of the Applicant of the System Operator; the identification and status of all contracts with RG&E or other utilities relating to the production and distribution of solar energy; current condition and operation of the solar system equipment; any indications of, or experiences with, fire in the past period at the solar farm; copies of notices received by the Applicant or System Operator by reason of the solar farm from other local, county, state or federal agencies; identification of the manufacturer and model of all solar panels installed and stored at the solar farm during the period sufficient for the Town to be able to determine all materials involved in the production of the solar panel, and the number of each such models on site at the solar farm and their location; results of the most recent soil sampling required under Condition No. 7 of this Special Use Permit Resolution; number and dates of replacements of solar panels and/or supports or significant equipment and reason therefore; required plantings replaced or needing replacement and the plan for such replacement if incomplete; indications of significant erosion or deterioration of equipment or components at the site; changes to the land use associated with the solar farm lot; and changes in ownership, operations, management or significant contractual relationships involving the solar farm occurring during the period; plus such additional information as may be reasonably requested by the Town Code Enforcement Officer in order to discharge his or her duties under the Town Code, Special Use Permit conditions and the Decommissioning Plan. The Town Code Enforcement Officer shall review such written report for compliance with applicable requirements and is entitled to request and obtain from the Applicant or the System Operator clarifying information or additional information needed to discharge his or her duties regarding the solar farms conditionally permitted use under this authorization.

Failure to submit an adequate report as required herein shall be considered a violation subject to the penalties in Article X of Chapter 165 of the Town Code.

25. As a condition of this Special Use Permit approval, the surety requirement herein shall be re-evaluated every three (3) years in compliance with the Town Code and approved Decommissioning Plan for continued sufficiency in light of changing cost factors and circumstances for decommissioning of the solar farm and restoration of the property. Potential rising cost factors warranting increase of the surety could include, for some examples, inflation, and increased expected costs for associated engineering expertise, compliance with new regulatory requirements, labor, equipment and seeding supplies. The presumptive amount of the surety applicable to each solar farm shall be determined by the Town Engineer based upon a current estimate of decommissioning, removal and restoration costs as provided in the Decommissioning Plan with the benefit of information contained in the latest reports by the Applicant or the System Operator as detailed in Conditions No. 26 and 35. The amount of the surety may be adjusted by the Town Board upon receipt of such a recommendation from the Planning Board based upon an updated cost estimate from the Town Engineer for anticipated expenses to be incurred for decommissioning the solar farm, restoration of the property and follow-up monitoring as provided in the decommissioning plan. Upon modification action by the Town Board, the surety requirement for the solar farm shall be so revised for the next three-year period as directed by the Town Board, and the Applicant or System Operator must provide a suitable and sufficient surety in the revised amount within the time required by the Town Board in order to continue to operate under this Special Use Permit. Record evidence of any revised surety is to be filed with the Town Clerk. Such surety, however revised, shall not constitute the total financial responsibility of the Applicant or System Operator to the Town, and the Applicant or System Operator shall remain responsible to compensate the Town for its reimbursable expenses incurred in response to issues involving their lots and the solar farm in this Action in the event actual reimbursable expenses, including Town engineering and legal fees, exceed the surety available.
26. As a condition of this Special Use Permit approval, should the required surety lapse or become inadequate for any reason, and sufficient surety not re-established to the Town's satisfaction within the time period designated by the Town after written notice of such re-establishment requirement of sufficient surety provided to Applicant or the System Operator for such solar farm, then the Special Use Permit may be revoked for such solar farm after notice and hearing if requested. Furthermore, failure to provide a form of surety acceptable to the Town within the Town's designated time shall constitute abandonment of the solar farm and enable the Town to take action under appropriate abandonment provisions of the Decommissioning Plan, the Special Use Permit and Town Code.
27. As a condition of this Special Use Permit approval, any damaged or malfunctioning solar panel(s) or arrays or other equipment shall be removed from the property within thirty (30) days of discovery by, or written notice of such condition provided to, the Applicant or the System Operator of the solar farm. Such solar panels, arrays or equipment may be replaced without requiring an amended site plan application or Special Use Permit, but records identifying such changes shall be kept by the System Operator and made available to the

- Code Enforcement Officer upon request and reported to the Town as part of the reports required in Conditions No. 26 and 35.
28. As a condition of this Special Use Permit approval, all taxes owed for the site property of the solar farm shall be current and no taxes left unpaid, nor shall the site property become subject to a tax lien foreclosure proceeding during the entire term of this Special Use Permit.
  29. As a condition of this Special Use Permit approval, the solar farm shall continue to generate and transmit electricity at a rate of more than 10% of its rated capacity over a continuous period of one year. A failure to conform to those standards for a period of over one (1) year may be found to constitute evidence of abandonment, unless such reduced energy generation was limited by RG&E, New York State, or any other energy regulatory body that is beyond the control of the solar farm, or necessary for the operations of the solar farm, and the burden of establishing such reduction by factors beyond the solar farm's control to avoid a finding of abandonment shall be on the Applicant or System Operator. In addition, such energy generation curtailment must be noted in each report provided to the Town pursuant to Conditions No. 26 and 35.
  30. As a condition of this Special Use Permit approval, any diseased, damaged, or failing plantings required for the solar farm discovered by the Applicants, System Operator or Code Enforcement Officer shall be replaced, in kind, within two months of discovery if found during the planting season between May 1 and November 1 of such year, otherwise not later than May 31st of the following year.
  31. As a condition of this Special Use Permit approval, and for its duration, the Applicant or System Operator shall remain responsible to promptly reimburse the Town for the periodic costs associated with the services provided by the Town's Engineering Firm for tasks involved with assisting the Town to supervise their large-scale ground-mounted solar farm, including: (i) the review associated with determining expected decommissioning costs every three (3) years as part of the three-year evaluation of the sufficiency of the surety; (ii) evaluating soil sampling results of monitored items provided with third-year reports or final reports by the Applicant or System Operator; (iii) review of plans and permits associated with decommissioning or abandonment of the solar farm; (iv) assisting the Town with review and approval of the project Notice of Termination once construction of a solar farm is completed; and (v) other tasks requested by the Town to address issues raised by construction, operation, monitoring and/or decommissioning of the solar farm, such as site inspections or attendance at Town meetings.
  32. As a condition of this Special Use Permit approval, any termination or abandonment of the Distributed Generation Interconnection Agreement regarding electricity provision and payment from the solar farm between the Applicant or System Operator and RG&E may be found to constitute abandonment of the solar farm and authorize the Planning Board to revoke the Special Use Permit after notice and hearing if requested.

33. As a condition of this Special Use Permit approval, the Applicant or System Operator shall provide the Town with an annual report regarding their solar farm operations beginning a year after the Certificate of Compliance with the final site plan issued by the Code Enforcement Officer. Such annual report shall be in writing and show the rated capacity of the solar system and the amount of electricity that was generated by the system and transmitted to RG&E and the electric grid over the most recent twelve-month period, along with references to all restrictions on the production of solar energy imposed by identified factors beyond the control of the Applicant or System Operator. The annual report shall identify changes to solar panels used and the reasons therefore, and provide the number, location and kind (by manufacturer and model) of replacement solar panels. The annual report shall identify plantings needing replacement and the plan for their replacement. The annual report shall also identify any change of ownership or operator of the solar farm and/or the ownership of the lot upon which the solar farm is located and shall identify any change in the party responsible for decommissioning and removal of the solar farm. Furthermore, every third year, to coincide with the filing of evidence of financial surety and requisite soil sampling, the annual report shall be subsumed within the three-year report provided for in Condition No. 26. Failure to submit an adequate report as required herein shall be considered a violation subject to the penalties in Article X of Chapter 165 of the Town Code and may be considered evidence of abandonment.
34. As a condition of this Special Use Permit approval, significant physical changes made to the lot or significant equipment modifications made to the solar farm that differ from the final site plan without prior Town approval is unauthorized and shall authorize the Town to revoke the Special Use Permit after notice and hearing if requested; provided, however, that significant equipment modifications shall not include replacement of damaged, nonfunctioning or underperforming solar panels, arrays or other equipment if notice thereof is included in the annual report for that period required by Condition No. 35. Any physical changes made to, or proposed to, the solar farm after final site plan approval that disturb .1 acre or more, or changes to equipment (other than ordinary maintenance or replacement of damaged, nonfunctioning, or underperforming solar panels, equipment, components or structures that does not disturb any soils on the site), shall require submission of an application to the Planning Board for an amended Special Use Permit and shall also be subject to an amended final site plan.
35. As a condition of this Special Use Permit approval, the solar farm shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than ten percent (10%) of its rated capacity over a continuous period of one year, unless such energy generation was limited by RG&E, New York State, or any other energy regulatory body beyond the control of the System Operator or solar farm. Such energy generation curtailment can occur beyond the control of the solar farm and shall be noted in each report provided to the Town, as outlined in Conditions No. 26 and 35. However, the time at which the solar farm shall be deemed abandoned may be extended by the Planning Board for up to one year, provided the Applicant or System Operator present to the Board a viable plan outlining the steps and schedules for placing the solar farm in service or back in service within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the Applicant or System Operator prior to any abandonment. Extenuating circumstances as to why the solar farm has not been operating or why



- construction has not been completed may be considered by the Board in determining whether to grant an extension.
36. As a condition of this Special Use Permit approval, a solar farm which has been abandoned or found abandoned by the Town shall be decommissioned and removed from the lot on which it is located. The Applicant or System Operator shall be held responsible to physically remove all components of the solar farm within one year of abandonment or in accordance with the requirements of the approved decommissioning plan if an earlier period is so agreed and approved. Removal of the solar farm system and equipment shall be in accordance with a Decommissioning Plan approved by the Planning Board and as required by the Town Code and the Special Use Permit.
  37. As a condition of this Special Use Permit approval, the Applicant or System Operator shall prepare a decommissioning plan (“Decommissioning Plan”) for the solar farm which is acceptable to the Town and binds each the Applicant or System Operator individually to remove their solar farm from its lot location at their expense and restore the land to its prior approved condition in a timely fashion also at their expense in accordance with the Town Code, these Special Use Permit conditions, and other lawful requirements. Such Decommissioning Plan shall include a decommissioning funds agreement satisfactory to the Town and executed by System Operator and shall comply with the conditions of this Special Use Permit and the Town Code in addition to addressing other foreseeable issues involved when the solar farm operation comes to a managed conclusion, or the solar farm is abandoned. The Special Use Permit for the lots shall not become effective until each Applicant or System Operator agree to a Town-approved Decommissioning Plan for such lot.
  38. As a condition of this Special Use Permit approval, the Decommissioning Plan shall be implemented by the Applicant or System Operator and/or the Town when the solar farm on a lot in this Action ceases operation at the end of its useful life, or is abandoned in whole or part earlier, and associated physical structures are to be removed as decommissioning and restoration of the property.
  39. As a condition of this Special Use Permit approval, and as a required part of an approved Decommissioning Plan, the Applicant or System Operator shall provide the Town Engineer with an engineering estimate of the anticipated operational life of the solar farm, a schedule showing the expected time frame over which decommissioning will occur and for completion of site restoration work, and a detailed estimate of the full cost of decommissioning the solar farm and restoring the associated lot to its prior condition; and Town approval of said Decommissioning Plan shall not be made unless the Town Engineer reviews and accepts those estimates as reasonable and acceptable under the foreseeable circumstances.
  40. As a condition of this Special Use Permit approval, and as a required part of an approved Decommissioning Plan, the Applicant or System Operator shall provide the Town with a copy of any agreement between property owners or System Operator regarding de-

commissioning of a solar farm other than the Decommissioning Plan to which the Town is a party.

41. As a condition of this Special Use Permit approval, the Environmental Monitor (EM) employed by the Applicant or System Operator regarding the solar farm shall be available upon demand from the Code Enforcement Officer for any issue involved with the Decommissioning Plan or the decommissioning or restoration processes. Furthermore, any change in Environmental Monitor and/or its contact information during the life of the solar farm shall be promptly provided to the Code Enforcement Officer.
42. As a condition of this Special Use Permit approval, upon conclusion of a solar farm operation, or upon the revocation or termination of the Special Use Permit for such solar farm, all aboveground solar array equipment and structures are to be removed from such lot reasonably and promptly by the Applicant or System Operator as provided herein, and all lot areas usable for industrial use prior to the solar farm construction and operation are to be restored by the Applicant or System Operator to benchmark soil conditions, subject to minor deviations as are acceptable by the landowners, the Planning Board, and the Ontario County Soil and Water Conservation District.
43. As a condition of this Special Use Permit approval, decommissioning of the solar farm consists of physical removal of all above-ground and below-ground equipment, solar panels, support structures and foundations, including but not limited to all solar arrays, inverters, transformers, machines, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site, except that buried electrical lines and conduit, or footings or foundations more than four feet deep, may be left in the ground as provided by the Town Code and *Guidelines* to minimize disturbance of the soils, and such removal may be further limited to some extent if specified in these conditions. For example, upon petition to the Planning Board, the Board may permit the Applicant or the System Operator to leave certain underground or above-ground improvements in place such as some or all of the planted landscape buffer, provided the owner can show that such improvements are part of a reasonable plan to use the improvements or redevelop the site, are not detrimental to such redevelopment or restoration and do not adversely affect community character or the environment.
44. As a condition of this Special Use Permit approval, decommissioning of the solar farm also consists of final soil sampling as provided in the SAP (Sampling and Analysis Plan) referenced in Condition No. 7, and restoration of the ground surface and soil of the associated lot to the benchmark soil conditions determined by the SAP in Condition No. 7, subject to minor deviations as are acceptable by the landowners, the Planning Board, and the Ontario County Soil and Water Conservation District.
45. As a condition of this Special Use Permit approval, decommissioning of the solar farm also consists of stabilization and revegetation of the associated lots with native seed mixes and/or plant species (excluding invasive species) preferred by the property owners to minimize erosion.



46. As a condition of this Special Use Permit approval, decommissioning of the solar farm also consists of disposal of any solid and hazardous waste and contaminants from the lot in accordance with local, state, and federal waste disposal regulations.
47. As a condition of this Special Use Permit approval, the Applicant or System Operator must provide monitoring and remediation of the solar farm site for a period of no less than two years after site restoration. General conditions to be monitored include topsoil thickness, relative content of rack and large stones, trench settling, vegetative cover, drainage and repair of severed subsurface drain lines, fences, etc. The Applicant or System Operator shall remain responsible to remediate problems with the property attributable to the construction, operation, or decommissioning of a solar farm arising during the monitoring and remediation period. The Applicant or System Operator may petition the Planning Board to reduce their surety upon decommissioning, as well as terminate their surety at the conclusion of this two-year monitoring period, which surety reduction or termination may be approved by the Town Board upon such recommendation by the Planning Board after consideration of the conditions of the property at such time and the Town's expected expenses relating to anticipation of any further remediation.
48. As a condition of this Special Use Permit approval, if the Applicant or System Operator fail to decommission and remove an abandoned solar farm in accordance with the requirements of this Special Use Permit, Decommissioning Plan or the Town Code, the Town is authorized to enter upon the lot associated with such abandoned solar farm with all necessary or advantageous equipment and labor (either by itself and staff or through arrangements with others authorized or appropriate such as the local utility provider or competent contractors) to carry out the decommissioning itself and remove the solar farm components and waste and restore the property to roughly its agricultural condition prior to the construction and operation of the abandoned solar farm. In such case, the Town may not be held responsible for damage to any equipment or land, nor has any obligation to protect, preserve or salvage any equipment or assets on the lot belonging to Applicants and/or System Operator. The failure of the Applicant or System Operator to timely decommission a solar farm themselves as required shall be deemed a forfeiture of their ownership interests and rights in the solar farm equipment and materials on site, entitling the Town to scrap or dispose of all such equipment and materials as the Town deems fit or convenient; provided, however, that taking such limited and temporary control of the lot and its contents to decommission the solar farm shall not impose any duties or responsibilities upon the Town due to its presence on the property or its control of solar farm components and waste to complete decommissioning as implied agent for the Applicant or System Operator; and the Applicant or System Operator shall remain responsible to indemnify the Town for all its expenses incurred in having to carry out the decommissioning and restoration work that was the responsibility of the Applicant or the System Operator.
49. As a condition of this Special Use Permit approval, a reasonable determination by the Code Enforcement Officer that a solar farm has been abandoned subjects the Applicant or System Operator to the procedures for abandonment provided by the Town Code in Section 165-65.3 [H], the Decommissioning Plan, and these Special Use Permit conditions.

50. The Applicant or the System Operator have the responsibility to keep the Town provided with current addresses for receipt of Town notices. Accordingly, as a condition of this Special Use Permit approval, Town provision of written or electronic notice to the Applicant or System Operator according to the current addresses on record with the Town at the time for the Applicant or the System Operator shall constitute sufficient notice of Town action to the Applicant or System Operator involved at such time regardless of whether the Applicant or System Operator actually receives such notice at such address, receives such notice late, or receives such notice at all.
51. As a condition of this Special Use Permit approval, in the event the Applicant or System Operator resorts to court action against the Town, its agencies, or Code Enforcement Officer or other Town personnel engaged in official duties to resolve a dispute involving continuance of operations of a solar farm (which could result in decommissioning) or decommissioning-related issues, which action prompts the Town to incur legal expenses for attorney fees and associated filing fees and other litigation expenses in order to respond in court so as to protect its rights and interests, such Applicant or System Operator commencing court action shall be responsible to indemnify the Town for its legal fees and expenses incurred in responding to the litigation commenced by the Applicant or System Operator, including appeals and claims about the Applicant's or System Operator's indemnification of the Town's legal fees and expenses. In the event the Town commences court action against the Applicant or System Operator to protect or enforce the Town's rights or responsibilities under the Town Code, these Special Use Permit conditions or a Town contract, regarding a solar farm's continuance of operations or decommissioning-related issues, and substantially prevails in an order, judgment or settlement, such the Applicant or System Operator shall be responsible to indemnify the Town for its legal fees and expenses incurred in such litigation, including appeals and claims about the Applicant's or System Operator's indemnification of the Town's legal fees and expenses. The Applicant or System Operator is required to indemnify the Town for legal fees and litigation expenses shall pay such obligation in full within thirty days of written notice of the indemnification amount sought by the Town. The failure of the Applicant or System Operator to pay such indemnification amount on time shall entitle the Town to recover such amount from the surety provided to the Town by the Applicant or System Operator in connection with the solar farm. Alternatively, in addition to any other remedies available to the Town under law or equity, any indemnification amount not paid or covered by the Applicant's or System Operator's surety shall be assessed against the associated lot and Applicant's property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon and shall be enforced and collected, with interest, by the same officer and in the same manner, by the same proceedings, at the same time and with the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.
52. As a condition of this Special Use Permit approval, upon request by the Code Enforcement Officer and within 48 hours thereof the Applicant or System Operator shall provide a person authorized to accompany the Code Enforcement Officer and/or Town staff, Town Engineer or Town consultant or contractor to enter the solar farm consistent with law in order to conduct official duties, monitor the solar farm site for continuing compliance with

the final site plan, Special Use Permit and Town Code, and/or conduct operations under such authorities or Decommissioning Plan or Agreement, or take emergency or urgent actions to remediate problems existing or beginning at the solar farm or on its lot.

- 53. In the event any condition specified herein is violated or not met as required, in addition to any other actions the Board or Town may be authorized to take in such circumstances, the Board is authorized to revoke the Special Use Permit granted hereunder after notice of the proposed action to the Applicant or System Operator and a hearing if requested consistent with the Town Code. If the Special Use Permit is revoked for noncompliance with a condition, the Town may require cessation of the solar farm operation for noncompliance with law, and in the absence of a new special use permit grant under the law and Town Code then existing, further find the unpermitted solar farm abandoned, and invoke associated requirements and rights, along with other actions that may be warranted, consistent with the Town Code, Special Use Permit and Decommissioning Plan and Agreement.
- 54. As a condition of this Special Use Permit approval, Tax Map Numbers are assigned to the two Lots that comprise the Sky Solar, Inc., East Solar Farm Project, are 29.07-1-57.000 and 29.07-1-58.000 as shown on the Filed Final Subdivision Plat for the Sky Solar, Inc., East and West Solar Farm Project, are to be shown on the Final Site Plan drawing for such lots prior to signature by the Planning Board Chairperson. In addition, a copy of the liber and page for the Final Subdivision Plat, is to be filed in the Town Development Office.

**BE IT FURTHER RESOLVED** that the Clerk of the Board is hereby directed to provide by U.S. Mailing, a certified copy of this resolution to the Involved and Interested Agencies and to the Town Clerk.

**BE IT FINALLY RESOLVED** that the Clerk of the Board is to provide copies of this resolution to: the Applicant, Sky Solar Inc., c/o Frank Ruffolo, 1129 Northern Boulevard, Suite 404 Manhasset, N.Y. 11030; Emily Lukasik Thomas, EIT, LaBella Associates, 300 State Street, Suite 201, Rochester, N.Y. 14618; the Town Highway and Parks Superintendent; the Acting Town Water and Sewer Superintendent; the Town Director of Planning and Development; the Town Code Enforcement Officer; the Town Fire Marshal; and the Town Engineering Firm, MRB Group, D.P.C., Attn: Lance S. Brabant, CPESC, Director of Planning Services.

The above resolution was offered by MR. VIETS and seconded by MR. BELLIS at a meeting of the Planning Board held on Wednesday, September 18, 2024. Following discussion thereon, the following roll call vote was taken and recorded:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.

**TOWN OF FARMINGTON PLANNING BOARD RESOLUTION  
SKY SOLAR, INC., SPECIAL USE PERMIT, WEST SOLAR FARM PROJECT  
CONDITIONS OF APPROVAL**

**PB#0407-24**

**APPLICANT:** Sky Solar Inc., 1129 Northern Boulevard, Suite 404,  
Manhasset, N.Y. 11030

**ACTION:** Special Use Permit Approval with Conditions for the development of a Solar Energy System, Sky Solar Inc., West Solar Farm Project, comprised of solar panels and related Battery Energy Storage System units on a portion of Tax Map No. 29.07-1-84.112, containing a total of 5.5 acres of land, that is to be constructed along the west side of the future extension of Commercial Drive.

**WHEREAS**, the Planning Board (hereinafter referred to as Board) has held public hearings upon the proposed Special Use Permit application referenced above (hereinafter referred to as Action); and

**WHEREAS**, the Board has closed the Public Hearing associated with the proposed Special Use Permit application at its September 18, 2024, Board meeting; and

**WHEREAS**, the Board has carefully considered the information and comments received upon the proposed Special Use Permit application, as well as the Town Code and applicable laws; and

**WHEREAS**, the Board as the established Lead Agency has completed its environmental risk review under SEQRA and has made a determination of non-significance upon the Action, dated August 21, 2024.

**NOW, THEREFORE, BE IT RESOLVED** that the Board finds that Sky Solar, Inc., the property owner, has applied for a Special Use Permit (hereinafter referred to as Action) for a large-scale ground-mounted solar PV system to be known as Sky Solar Inc., West Solar Farm Project and to utilize a portion of their aforesaid property for the construction, on-going operations and maintenance, and decommissioning of a large-scale ground-mounted solar PV system “solar farm,” to be operated and owned by Sky Solar, Inc. Such entity operating and/or owning a single solar farm on their lot as are referred to in this Resolution and identified as the “Applicant” or “System Operator,” and included in such term are their current owner Sky Solar, Inc., or successor owner(s) until such owner(s) cede all control over their affiliates’ actions operating their solar farm, apart from passive ownership. “Solar farm” in this Resolution refers to the proposed large-scale ground-mounted solar PV systems in this Action sited on a portion of the above referenced Tax Map Number, as shown on the Filed Final Subdivision Plat and Final Site Plan for Sky Solar, Inc., Lands located along the west side of the future extension of Commercial Drive, to be a dedicated town highway facility, and as further identified on the Final Site Plan for the Sky Solar, Inc., West Solar Farm Project, together with their respective system parts and operations, whether or not such lot, parts or operations are separately mentioned.

**BE IT FURTHER RESOLVED** that the Board does hereby make the following findings of fact upon the requested Action, using the regulations from the Town Code, §165-65.3 Solar Photovoltaic (PV) Systems [Added 9-26-2017 by L.L. No. 6-2017 and Amended 1-25-2022 by LL. No. 2-2022], to organize and coordinate the Board’s findings with the associated statutory guidance.

A. Purpose.

It is the purpose of this section of the Town Code to encourage and promote the safe, effective and efficient use of installed solar photovoltaic (PV) systems that reduce on-site consumption of utility-supplied energy while protecting the health, safety and welfare of adjacent and surrounding land uses and properties.

**The Planning Board finds that, based upon its review of the documents and drawings on file with the Town for the Action, the proposed Large Scale Ground-Mounted Photovoltaic (PV) Solar Systems being proposed on one (1) parcel of the Sky Solar Inc., Property in this Action meet the above-stated Purpose of the Town’s Zoning Law to permit such solar systems as proposed by the Applicant to provide new and additional electricity services that efficiently meet present needs and anticipated future needs of Town residents while protecting the health, safety and welfare of adjacent and surrounding land uses and properties.**

**The Board further finds that the proposed solar farm contributes to the goals and objectives contained in the adopted New York State Renewable Energy Plan by providing cleaner and greener energy for all residents. The Board further finds that the extensive environmental record that has been created for this Action has demonstrated the lack of significant environmental harm and identified measures to be taken for the construction, on-going maintenance and decommissioning of the Action that protect the health, safety and welfare of adjacent and surrounding land uses and properties which are incorporated in this process as warranted.**

B. Intent.

It is the intent of these regulations to:

- (1) Meet the goals of the Town of Farmington Comprehensive Plan (hereinafter referred to as the “Plan”) to: enhance agricultural viability and preserve productive agricultural land resources; and provide public utilities, facilities and services that efficiently meet present needs and anticipate future needs of residents in accordance with the goals and objectives of the Plan; and

**The Board finds that the proposed Action does not involve the temporary use of viable agricultural soils on the property of the landowner. Instead, the parcel is currently vacant land zoned for LI Limited Industrial use. It is this current permitted use that the land will be returned to upon completion of the solar farm operations. The Board further finds that this Action does not permanently and necessarily take viable industrial zoned land out of use forever.**

The Board further finds that this Action does not disrupt site drainage patterns necessary to sustain the site's existing undeveloped lands.

The Board further finds that the temporary use of this site's soils has been mitigated by the Applicant to the extent practical and that as a condition for granting this Special Use Permit the Applicant will provide and execute a decommissioning plan acceptable to the Town Board, which will describe when and how the site will be reclaimed for continued productive industrial operations, among other issues, and provide periodic soil sampling to identify any possible problems early. The Board further finds that adherence to the *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands (Guidelines)* promulgated by the New York State Department of Agriculture and Markets, and promoted by the Ontario County Soil and Water Conservation District, as minimum supplemental standards for the construction, operation and decommissioning of the site, will enhance the continued viability of this land and help preserve the long term land resources resulting from the soil and land reclamation at the end of the useful life of the Action. Accordingly, compliance with the State's *Guidelines*, as stated and as may be revised and adopted as provided herein, shall be a condition of the Special Use Permit as provided hereafter in the listed Condition No. 5.

- (2) Support green economy innovations; and

The Board finds that the Action complements the New York State's Renewable Energy Plan Goals and Objectives by generating solar energy and contributing to a cleaner, greener energy future for all state residents. The Board further finds that the Action complements the Town's adopted Public Utilities, Facilities and Services Goal, as contained in the 2021 Edition of the *Town of Farmington Comprehensive Plan*, by providing new and additional electricity services that efficiently meet present needs and anticipated future needs of Town residents.

- (3) Support New York State in meeting its renewable energy goals established by the 2015 New York State Energy Plan as implemented through the Reforming the Energy Vision Institute.

The Board finds that the Action's proposed solar farm has been supported by a funding commitment from the New York State Energy Research and Development Agency (NYSERDA) and by established agreements with Rochester Gas & Electric Corporation to accept the energy to be generated by the proposed solar farm throughout its proposed thirty- (30-) year lifespan. The Board in making this finding signifies its support for New York State in meeting its renewable energy goals established in the above referenced Energy Plan.



### C. Applicability.

- (1) This section applies to building-mounted, building-integrated and ground-mounted solar photovoltaic (PV) systems installed and constructed after the effective date of this section of the Code.

**The Board finds that the proposed Action is subject to the provisions contained in Chapter 165 of the Town Code in that the proposed solar farm is to be installed and operated after the effective date of those Town regulations. Therefore, the Board concludes that it has the authority to issue a Special Use Permit with conditions contained herein for the above-described Action.**

- (2) This section also applies to any upgrade, modification or structural change that alters the physical size, electric generation capacity, location, or placement of an existing solar PV system.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (3) Nonconforming solar PV systems. Nonconforming solar PV systems existing on the effective date of this section may be altered or expanded, provided such alteration or expansion does not increase the extent or degree of nonconformity.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (4) Properties with approved site plan. Notwithstanding the requirements of § 165-100 of this chapter, entitled “Site development plans,” for any lot or parcel of land that has an approved site plan, the installation of a by-right solar PV system on the lot shall not be considered a change to the approved site plan. This provision shall not be interpreted to exempt lots with an approved site plan from other requirements of this section.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (5) Prohibition. Solar PV systems attached to the side of a building are prohibited unless they are designed as a building-integrated system.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

#### D. Solar PV Systems Permitted by Right.

- (1) By-right solar PV systems. In order to encourage use of solar PV systems in the Town of Farmington, the following systems shall be permitted by right in any zoning district in the Town, provided the system is generating electricity only for the land use(s) located on the same lot as the system, and further provided that the system meets the standards for by-right systems identified in § 165-65.3D(2) below. By-right systems require a building permit.

- (a) Building-integrated solar PV systems. Building-integrated solar PV systems are permitted to face any rear, side and/or front yard area.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (b) Building-mounted solar PV systems. Building-mounted solar PV systems are permitted to face any rear, side and/or front yard area.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (2) Standards for by-right systems.

- (a) Accessory use. All building-mounted by-right solar PV systems shall be considered an accessory use.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (b) By-right small-scale ground-mounted solar PV systems. Only small-scale ground-mounted solar PV systems, as defined herein, shall be considered as by-right systems. Such by-right systems shall be limited to a capacity of 25 kW and shall generate no more than 110% of the kWh's of electricity consumed over the previous twelve-month period by land use(s) existing on the lot or parcel of land where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (c) By-right facilities shall comply with all applicable New York State building codes.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**



- (d) In no event shall lot coverage for a solar photovoltaic (PV) system exceed 50% of the lot area.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (3) Building-mounted solar PV systems.

- (a) For a building-mounted PV system installed on a sloped roof:

[1] The highest point of the system shall not exceed the highest point of the roof to which it is attached.

[2] Solar panels shall be parallel to the roof surface or tilted with no more than an eighteen-inch gap between the module frame and the roof surface. This measurement shall not be taken from any parapet which might be considered part of a roof.

**The Board finds that these sections of the Town Code do not apply to the proposed Action.**

- (b) For a building-mounted system installed on a flat roof, the highest point of the system shall not extend more than five feet above the height of the roof.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

#### E. Solar PV Systems requiring a Special Use Permit.

- (1) Solar PV systems requiring a special use permit. Except as provided in § 165-65.3D, Solar PV systems permitted by right, no other type of ground-mounted solar PV system shall be constructed or installed without first obtaining a special use permit and site plan approval from the Planning Board, pursuant to Articles VI and VIII of this chapter. In addition, all ground-mounted solar PV systems shall require a building permit. Solar PV systems requiring a Special Use Permit and site plan approval shall include, but not be limited to:

**The Board finds that this section of the Town Code does apply to the proposed Action.**

- (a) Large-scale ground-mounted solar PV systems.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board finds that the proposed Action is subject to the Board issuing a Special Use Permit with conditions and final site plan approval with conditions.** Condition No. 56 of this resolution re-

quires approval of a Lot Line Adjustment Map (hereinafter referred to as a Final Subdivision Plat Approval) and documentation that said map shall be filed in the Office of the Ontario County Clerk.

- (b) Building-mounted and building-integrated solar PV systems that have a system capacity greater than 25 kW or generate more than 110% of the kWh's of electricity consumed over the previous twelve-month period by land use(s) existing on the lot or parcel of land where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (c) Solar PV systems, regardless of size, that generate and provide electricity, through a remote net metering agreement or other arrangement, to an off-site user or users located on a lot(s) or parcel(s) of land other than the lot or parcel of land on which the system is located.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that the System Operators or their owner Sky Solar have entered into Interconnection Agreements with Rochester Gas & Electric for the purpose of distributing solar energy to off-site users. The Board finds that such Agreements shall remain in effect during the entire term of the proposed solar farm. Any termination or abandonment of such Agreement shall be evidence of abandonment of that solar farm and shall also authorize the Town to revoke the Special Use Permit for such lot after notice and hearing if requested, and so require Applicants to seek approval for a new special use permit if continuing operations of a solar farm on such lot is desired. This is to be a condition of approval for the requested Special Use Permit**

- (d) Solar PV systems, regardless of size, mounted on carports or canopy structures covering parking facilities.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- (2) Classifications. Solar PV systems requiring a special use permit may be classified as either an accessory use or a principal use as set forth below.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that the Large-Scale Ground-Mounted Photovoltaic (PV) System to be constructed on the proposed parcel of land in the**

**Action are hereby classified as a principal use. The establishment and regulation of the proposed Action as a principal use is to be a condition of this Special Use Permit.**

- (a) Principal use. A solar PV system constructed on a lot or parcel of land and providing electricity to an off-site user or users through a remote net metering agreement or other arrangement shall be classified as a large-scale solar PV system and shall be considered a principal use. All ground-mounted solar PV systems that are classified as a principal use shall adhere to the area, yard and build requirements of the zoning district in which the system is located, unless modified herein by § 165-65.3F below.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board finds that the Action is classified as a large-scale ground-mounted solar PV system and a principal use of the property site on which it is constructed. Establishment of the proposed Action as a principal use of the property on which it is constructed is to be a condition of this Special Use Permit.**

- (b) Accessory use/accessory structure. A solar PV system shall be considered an accessory use/accessory structure when generating electricity for the sole consumption of a principal use or building(s) located on the same lot or parcel of land as the system.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

F. Standards for facilities requiring a special use permit. Solar PV systems requiring a Special Use Permit shall be subject to the following standards:

- (1) Large-scale ground-mounted solar PV systems and ground-mounted systems classified as a special use.

**The Board finds that the proposed Action is classified as a Large-scale ground-mounted solar PV system for the subject solar farm lots and subject to granting a Special Use Permit.**

- (a) Setbacks. Large-scale ground-mounted solar PV systems are subject to the minimum yard and setback requirements for the zoning district in which the system is located. No part of a ground-mounted system shall extend into the required yards and/or setbacks due to a tracking system or short-term or seasonal adjustment in the location, position or orientation of solar-PV-related equipment or parts.

**The Board finds that this section of the Town Code does apply to the proposed Action and that no variances are associated with the Action.**

- (b) Setback to residential district. The location of large-scale ground-mounted solar collectors shall meet all applicable setbacks for accessory structures in the zoning district where the project is to be located, but not less than 25 feet from any public highway right-of-way, utility easement, and natural vegetation shall be preserved within this buffer zone and, where possible, augmented. The setbacks are intended to provide a visual buffer between the PV system and adjacent dwellings. Plantings within this area are to be at a height to provide, as much as practicable, a visual screen of the large-scale ground-mounted system from residential uses. The species type, location and planned height of such landscaping shall be subject to the approval of the Planning Board.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that the final site plan shall comply with this standard. The Board also finds that this final site plan requirement will be a condition of this Special Use Permit.**

- [1] Large-scale ground-mounted solar PV systems located in a residential district shall be set back an additional 120 feet from the minimum yard setback along all property lines that abut a lot or parcel of land located in the A-80 Agricultural District or other residential district, unless said property contains soils classified as “prime” or “unique” (Soils Groups 1 through 4) and the land is being actively farmed. In this instance, the minimum setback shall be 40 feet from the property line. This additional setback dimension shall also apply to the front yard setback when the lot or parcel of land on the opposite side of the street is in a residential district.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [2] Large-scale ground-mounted solar PV systems located in commercial or industrial districts shall be set back an additional 110 feet from the minimum yard setback along all property lines that abut a lot located in the A-80 Agricultural District and the other residential districts or an Incentive Zone District. This additional setback dimension shall also apply to the front yard setback when the lot on the opposite side of the street is in a residential or an incentive zone district.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that the final site plan shall comply with this standard. The Board also finds that this final site plan requirement will be a condition of this Special Use Permit.**

- [3] Large-scale ground-mounted solar PV systems located upon farmland located within the delineated Town of Farmington Active Farmland Map, Number 8, page 92 of the adopted Town of Farmington Farmland Protection Plan, shall be allowed on soils classified as Class 1 through 4 as documented upon the Soil Group Worksheets prepared by the Ontario County Soil and Water Conservation District and used by the Town Assessor in calculation of the agricultural use exemption values, a part of the New York State Department of Agriculture and Markets Agricultural Districts Law, once it can be determined, by the Planning Board, that there is no feasible alternative. The following standards are to be implemented by the Planning Board as part of site plan approval:

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [a] Where large-scale ground-mounted solar PV systems are to be located on Class 1 through 4 soils, then the following shall apply to the construction, restoration, and follow-up monitoring of solar energy projects impacting such lands. Depending upon the size of the project, the project sponsor is to hire an environmental monitor (EM) to oversee the construction, restoration and follow-up monitoring in agricultural fields. The EM is to be on site whenever construction or restoration work is occurring on the Class 1 through 4 soils and is to be coordinated with the Ontario County Soil and Water Conservation District and/or the New York State Department of Agriculture and Markets to develop an appropriate schedule for inspections to assure these lands are being protected to the greatest extent possible.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [b] Fencing and watering systems associated with rotational grazing systems and reduction in farmland viability due to the reduction in remaining productive farmland are to be assessed and mitigated to the greatest extent possible.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [c] Structures for overhead collection lines are to be located upon the nonagricultural areas and along field edges where possible.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [d] Access roads are to be located along the edge of agricultural fields, in areas next to hedgerows and field boundaries and in the nonagricultural portions of the site.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [e] There shall be no cut and fill to reduce the risk of creating drainage problems by locating access roads, which cross agricultural fields, along ridge tops and by following field contours to the greatest extent possible.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [f] The width of access roads across or along agricultural fields is to be no wider than 20 feet so as to minimize the loss of agricultural lands and comply with the State of New York fire access code.

**The Board finds that this section of the Town Code does not apply to the proposed Action.**

- [g] All existing drainage and erosion control structures such as diversions, ditches, and tile lines or take appropriate measures to maintain the design and effectiveness of these structures. Repair any structure disturbed during construction to as close to original condition as possible, unless such structures are to be eliminated based upon a new site plan for the large-scale project.

**The Board finds that this section of the Town Code does apply to the proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [h] The surface of solar farm access roads to be constructed through agricultural fields should be level with the adjacent field surface where possible.

**The Board finds that this section of the Town Code does not apply to the Proposed Action.**

- [i] Culverts and water bars are to be installed to maintain natural drainage patterns.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [j] All topsoil areas to be used for vehicle and equipment traffic, parking, and equipment laydown and storage areas are to be stripped.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [k] All vehicle and equipment traffic and parking to the access road and/or designated work areas, such as laydown areas, are to be limited in size to the greatest extent practical.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of site plan approval to be addressed as part of said application, at a future date and time.**

- [l] No vehicles or equipment are to be allowed outside the work area without prior approval from the landowner and the EM.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**



- [m] Where an open trench is required for cable installation, topsoil stripping from the entire work area may be necessary. As a result, additional workspace may be required as part of site plan approval.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [n] All topsoil stripped from work areas (parking areas, electric cable trenches, along access roads, etc.) is to be stockpiled separate from other excavated materials (rock and/or subsoil).

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time. The Board further finds that no topsoil shall be permitted to be removed from the solar farm site, whether during solar farm construction, operation, or decommissioning.**

- [o] A maximum of 50 feet of temporary workspace is to be provided along open-cut electric cable trenches for proper topsoil segregation. All topsoil will be stockpiled immediately adjacent to the area where stripped/removed and shall be used for restoration on that particular site. No topsoil shall be removed from the site. The site plan shall clearly designate topsoil stockpile areas in the field and on the construction drawings.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [p] Electric interconnect cables and transmission lines are to be buried in agricultural fields wherever practical.

**The Board finds that this section of the Town Code does apply to the Proposed Action in that such cables and lines are to be buried to the extent practical for this Action. The Board finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [q] Interconnect cables and transmission lines installed above-ground shall be located outside agricultural field boundaries. When above-ground cables and transmission lines must cross agricultural fields, taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable.

**The Board finds that this section of the Town Code does not apply to the Proposed Action.**

- [r] All buried electric cables in cropland, hay land and improved pasture shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 24 inches below the soil surface.

**The Board finds that this section of the Town Code does not apply to the Proposed Action.**

- [s] The Ontario County Soil and Water Conservation District is to be consulted concerning the type of intercept drain lines whenever buried electric cables alter the natural stratification of soil horizons and natural soil drainage patterns.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [t] In pasture areas, it is necessary to construct temporary or permanent fences around work areas to prevent livestock access, consistent with landowner agreements.

**The Board finds that this section of the Town Code does not apply to the Proposed Action.**

- [u] Excess concrete used in the construction of the site is not to be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas.

**The Board finds that this section of the Town Code does apply to the Proposed Action in that a delineated concrete truck wash out area is required to be shown on all site plan drawings. The Board finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [v] All permits necessary for disposal under local, state and/or federal laws and regulations must be obtained by the contractor, with the cooperation of the landowner when required.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [4] Restoration requirements. All agricultural areas temporarily disturbed by construction shall:

- [a] Be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. Soil compaction results should be no more than 250 pounds per square inch (PSI) as measured with a soil penetrometer. In areas where the topsoil was stripped, soil decompaction should be conducted prior to topsoil replacement. Following decompaction, remove all rocks four inches in size or greater from the surface of the subsoil prior to replacement of topsoil. Replace the topsoil to original depth and reestablish original contours where possible. Remove all rocks four inches and larger from the surface of the topsoil. Subsoil decompaction and topsoil replacement shall be avoided after October 1 of each year.

**The Board finds that this section of the Town Code does not apply to the Proposed Action.**

- [b] Regrade all access roads to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the approved site design by the Planning Board.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria for access roads will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [c] Seed all restored agricultural areas with the seed mix specified by the landowner, in order to maintain consistency with the surrounding areas.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [d] All damaged subsurface or surface drainage structures are to be repaired to preconstruction conditions, unless said structures are to be removed as part of the site plan approval. All surface or subsurface drainage problems resulting from construction of the solar energy project with the appropriate mitigation as determined by the EM, Soil and Water Conservation District and the landowner.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [e] Postpone any restoration practices until favorable (workable, relatively dry) topsoil/subsoil conditions exist. Restoration is not to be conducted while soils are in a wet or plastic state of consistency. Stockpiled topsoil should not be regraded, and subsoil should not be recompacted until plasticity, as determined by the Atterberg field test, is adequately reduced. No project restoration activities are to occur in agricultural

fields between the months of October and May unless favorable soil moisture conditions exist.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [f] Following site restoration, remove all construction debris from the site.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [g] Following site restoration, the project sponsor is to provide a monitoring and remediation period of no less than two years. General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed sub-surface drain lines, fences, etc.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application, and any lesser monitoring period provided in the State's *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands* is not controlling nor sufficient. The Board further finds that this Town Code provision will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [h] Mitigate any topsoil deficiency and trench settling with imported topsoil that is consistent with the quality of topsoil on the affected site. All excess rocks and large stones are to be removed from the site.
- The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a condition of Special Use**

**Permit approval; and it will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [i] All aboveground solar array structures are to be removed and all areas previously used for agricultural production are to be restored and accepted by the landowner, and the Soil and Water Conservation District and the State Department of Agriculture and Markets.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [j] All concrete piers, footers, or other supports are to be removed to a depth of 48 inches below the soil surface. Underground electric lines are to be abandoned in place. Access roads in agricultural areas are to be removed, unless otherwise specified by the landowner.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [5] Utility connections. Utility lines and connections from a large-scale ground-mounted solar PV system shall be installed underground, unless otherwise determined by the Planning Board for reasons that may include poor soil conditions, topography of the site, and requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [6] Fences. Notwithstanding the provisions found in § 165-61A of this chapter, fences not exceeding eight feet in height, including open-weave chain-link fences and solid fences, shall be permitted for the purpose of screening or enclosing a large-scale ground-mounted solar PV system, regardless of the district in which the system is located, provided said system is classified as a principal use. In instances where the provisions of § 165-61A would allow a fence greater than eight feet in height, the less restrictive provision shall apply.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [7] Barbed wire. Notwithstanding provisions for barbed wire found in § 165-61A of this chapter, fences intended to enclose a large-scale ground-mounted solar PV system may contain barbed wire canted out.

**Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criterion will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [8] Height. Large-scale ground-mounted solar PV systems may not exceed 12 feet in height.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time. The Board finds that weather monitoring equipment, even if used in conjunction with solar farms, is not subject to this height limitation for these solar systems and may extend to a height of fifteen feet in such case. Moreover, the Board further finds that this height restriction does not apply to overhead or above-ground electric transmission lines, equipment and poles needed to transport solar energy to the utility grid and connection facilities of the local electric utility, here RG&E.**



- [9] Minimum lot size. Large-scale ground-mounted solar PV systems shall adhere to the minimum lot size requirements for the zoning district in which the system is located, except that for residential districts, the minimum lot size shall be one acre.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [10] Lot coverage requirements. Large-scale ground-mounted solar PV systems shall adhere to the maximum lot coverage requirement for principal uses within the zoning district in which they are located. The lot coverage of a large-scale ground-mounted solar PV system shall be calculated based on the definition of "lot coverage" found in Article II, § 165-10, of this chapter.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [11] Signs. Large-scale ground-mounted solar PV systems classified as a principal use shall adhere to the sign requirements for the zoning district in which they are located.

**The Board finds that this section of the Town Code does apply to the Proposed Action. The Board further finds that this criteria will be met as a Condition of this Special Use Permit Application; and will also be met as a condition of final site plan approval to be addressed as part of said application, at a future date and time.**

- [12] Location in front yard. Notwithstanding the requirements regulating location of accessory structures found elsewhere in this chapter, large-scale ground-mounted solar PV systems classified as an accessory use shall be prohibited in a front yard, including location in any front yard of a corner lot.

**The Board finds this section of the Town Code does not apply to the proposed Action.**

G. Placement on nonconforming buildings. Notwithstanding the area, lot and bulk requirements of this chapter, building-mounted and building-integrated solar PV systems may be installed on nonconforming buildings as follows:

**The Board finds this section of the Town Code does not apply to the proposed Action.**

- (1) On the roof of a nonconforming building that exceeds the maximum height restriction, provided the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted.
- (2) On a building that does not meet the minimum setback or yard requirements, provided there is no increase in the extent or degree of nonconformity with said requirement.
- (3) On a building that exceeds the maximum lot coverage requirements, provided there is no increase in the extent or degree of nonconformity with said requirement.

H. Abandonment and decommissioning.

**The Board finds that this section of the Town Code does apply to the Proposed Action.**

- (1) Applicability and purpose. This section governing abandonment and decommissioning shall apply to large-scale ground-mounted solar PV systems with a rated capacity of 25 kW or more, hereinafter referred to as “large-scale solar PV systems.” It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town of Farmington by requiring abandoned large-scale solar PV systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the volatility of the recently emerging solar industry where multiple solar companies have filed for bankruptcy, closed or been acquired creates an environment for systems to be abandoned, thereby creating a negative visual impact upon the Town. Abandoned large-scale systems may become unsafe by reason of their energy-producing capabilities and serve as an attractive nuisance.

**The Board finds that the proposed Action, a solar farm on a single parcel of the Sky Solar, Inc., West Solar Farm Project, involves a large-scale ground-mounted solar PV system subject to the Special Use Permit criteria contained in § 165-65.3 [H] of the Farmington Town Code. The Board further finds that the present draft Decommissioning Plan document, prepared by the Applicants and System Operators and dated July 26, 2024, (version 2) acknowledges that the proposed Action is subject to the Special Use Permit criteria contained in § 165-65.3 [H]**

**and agrees to comply, meeting the purpose of this section when the decommissioning plan is approved and executed containing such provision.**

- (2) Abandonment. A large-scale solar PV system shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than 10% of its rated capacity over a continuous period of one year. A commercial solar PV system also shall be deemed abandoned if, following site plan approval, initial construction of the system has commenced and is not completed within 18 months of issuance of the first building permit for the project.

**The Board finds the Applicants' and System Operators present draft decommissioning plan document dated July 26, 2024, (version 2) acknowledges, and the Applicant or System Operator accept, the standard in the Town Code (§ 165-65.3 [H][2]) for determining some events when a commercial solar PV system is to be deemed abandoned. The Board further finds that there may be other additional events when such a solar system may be found or deemed abandoned as provided elsewhere in these findings, such as upon termination of Applicants' or System Operators' agreement with RG&E, and noncompliance with Town requirements for the special use permit, such as failure to provide adequate periodic reports when required, and failure to maintain a sufficient surety. All provisions for abandonment described in this Resolution shall be a condition of Special Use Permit approval and included in the required approved decommissioning plan.**

- (3) Extension of time. The time at which a commercial solar PV system shall be deemed abandoned may be extended by the Planning Board for one additional period of one year, provided the system owner presents to the Board a viable plan outlining the steps and schedules for placing the system in service or back in service within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the commercial solar PV system owner prior to abandonment as defined herein. Extenuating circumstances as to why the commercial solar PV system has not been operating or why construction has not been completed may be considered by the Board in determining whether to gain an extension.

**The Board finds the Applicants' and System Operator's present draft decommissioning plan document July 25, 2024, (version 2), acknowledges, and the Applicants and System Operators accept, the provision in the Town Code (§ 165-65.3 [H][3]) for the extension of time by the Planning Board for determining when a commercial solar PV system is to be deemed abandoned. This is a condition of approval for the Special Use Permit.**

- (4) Removal required. A commercial solar PV system which has been abandoned shall be decommissioned and removed. The commercial solar PV system owner and/or owner of the land upon which the system is located shall be held responsible to physically remove all components of the system within one year of abandonment. Removal of the commercial solar PV system shall be in accordance with a decommissioning plan approved by the Planning Board.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024, (version 2), acknowledges, and the Applicants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][4]) for decommissioning, removal of solar system components, and determining responsibilities for when an abandoned commercial solar PV system is deemed abandoned, which shall be part of an approved decommissioning plan. This is a condition of approval for this Special Use Permit.**

- (5) Decommissioning and removal.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024, (version 2), acknowledges, and the Applicants and System Operators accept, the provision in the Town Code (§ 165-65.3 [H][2]) for when an abandoned commercial solar PV system is to be deemed abandoned. The Board further finds that the responsibilities for decommissioning and reclamation of this site is the Action by the Applicant or System Operator for continued industrial operations and will be met as part of an approved decommissioning plan agreement and is a Condition of this Special Use Permit. The Board further finds that the Special Use Permit shall not be in effect until all agreements, implementing decommissioning, removal of system components and restoration of the land aspects of the Town Code to the Action, and the conditions of the Special Use Permit, have been signed by the Applicant, or System Operator and the Town and a copy is on file with the Town Clerk.**

- (a) Decommissioning and removal of a commercial solar PV system shall consist of:

**The Board finds that this section of the Town Code does apply to the proposed Action.**

- [1] Physical removal of all aboveground and below-ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences,

electric transmission lines and components, roadways and other physical improvements to the site.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024, (version 2), acknowledges, and the Applicants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][5]) for removing all above-ground equipment, structures and foundations that are listed, which shall be part of an approved decommissioning plan. This is a condition of approval for the Special Use Permit.**

- [2] Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024, (version 2), acknowledges, and the Applicants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][5]) for disposal of all solid and hazardous waste associated with the Action under local, state and federal waste disposal regulations, which shall be part of an approved decommissioning plan. This is a condition of approval for this Special Use Permit.**

- [3] Restoration of the ground surface and soil.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024, (version 2), acknowledges, and the Applicants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][5]) for restoration of the ground surface and soil to the extent feasible consistent with the other restoration provisions of the Town Code once a solar farm is decommissioned and removed, which shall be part of an approved decommissioning plan. This is a condition of approval for this Special Use Permit.**

- [4] Stabilization and revegetation of the site with native seed mixes and/or plant species (excluding invasive species) to minimize erosion.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024, (version 2), acknowledges, and the Applicants and System Operators accept, the requirement in the Town Code (§ 165-65.3 [H][5]) for stabilization and revegetation of the Large Scale Solar PV Site in a manner determined by the Town and Property Owner to minimize soil erosion, which shall be part of an approved decommissioning plan. This is a condition of approval for this Special Use Permit.**

- (b) Upon petition to the Planning Board, the Board may permit the system owner to leave certain underground or aboveground improvements in place, provided the owner can show that such improvements are part of a plan to redevelop the site, are not detrimental to such redevelopment and do not adversely affect community character or the environment.

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024, (version 2), acknowledges, and the Applicant or System Operator accept, the provision in the Town Code (§ 165-65.3 [H][5]) that the Planning Board may permit the Applicant or System Operator of the solar farm to leave certain improvements in place upon a further finding that the property owner can show that such improvements are part of a plan to redevelop the site. This is a condition of approval for this Special Use Permit.**

- (c) Decommissioning plan. All applications for a commercial solar PV system shall be accompanied by a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of the system. The decommissioning plan shall address those items listed in § 165-65.3H(5)(a) above and include:

**The Board finds the Applicant’s or System Operator’s present draft decommissioning plan document dated July 26, 2024, (version 2), acknowledges, and the Applicant and System Operator accept, the requirement in the Town Code (§165-65.3 [H][5]) for an approved decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of a solar farm. This Applicant’s or System Operator’s decommissioning plan for this Action must be approved by the Town Board as acceptable to manage foreseeable decommissioning issues before the Special Use Permit shall take effect. An approved and executed decommissioning plan is a condition of approval for a special use permit for the Action.**

- (6) Special use permit conditions. The following conditions shall apply to all special use permits issued for a large-scale ground-mounted solar PV system. No special use permit shall be issued unless the Planning Board finds that the conditions have been or will be met.

**The Board finds that this section of the Town Code does apply to the proposed Action.**

- (a) A licensed engineer's estimate of the anticipated operational life of the system.

**The Board finds the Applicant's or System Operator's present draft decommissioning plan document dated July 26, 2024, (version 2), acknowledges, and the Applicant and System Operator accept, the requirement in the Town Code (§ 165-65.3 [H][6]) for a licensed engineer to prepare an estimate of the anticipated operational life of each solar farm. The Board finds that this condition is to be met by the Applicant based upon the final site plan drawings (one for the east and one for the west solar systems) from licensed engineers [LaBella Associates] which provide estimates of the anticipated operational life of the system. This is a condition of approval for this Special Use Permit.**

- (b) Identification of the party responsible for decommissioning.

**The Board finds this condition will be met as the Applicant's or System Operator's present draft decommissioning plan dated July 26, 2024, (version 2), acknowledges and the Applicant or System Operator accept the requirement in the Town Code (§165-65.3 [H][6]) for identifying the responsible parties for decommissioning of the proposed solar farms, which shall be part of an approved decommissioning plan. The Board further finds that in addition to identifying the property owner, Sky Solar, Inc., as being the Applicant responsible for decommissioning the solar farm, as well as owners of affiliates which have not ceded control over a system operator of a solar farm, apart from passive investment. The Board finds that all those identified parties will have legal obligations for compliance with the decommissioning duties imposed by the Town Code, the approved decommissioning plan and agreement, and the conditions of their Special Use Permit for the two separate solar farms involved in this Action. This is a condition of approval for this Special Use Permit.**



- (c) Description of any agreement regarding decommissioning between the responsible party and the landowner.

**The Board finds this condition will be met as the Applicant's or System Operator's present draft decommissioning plan on file with the Town dated July 26, 2024, (version 2), is an agreement between the landowner and the System Operator involved for decommissioning the west solar farm at issue, and the lengthy document is available for inspection by interested persons, both at the Office of Town Clerk and on the Town's website. As determined previously, a fully approved and executed decommissioning plan and agreement is a condition of any Special Use Permit for the Applicant's Action. Furthermore, as stated in the proposed Decommissioning Plan dated July 26, 2024, the Planning Board has been advised that the Applicant, Sky Solar, Inc., has not entered into a lease agreement which contains conditions regarding the removal of solar facilities and restoration of the site.**

- (d) A schedule showing the time frame over which decommissioning will occur and for completion of site restoration work.

**The Board finds that this condition will be met as the Applicant's or System Operator's present draft decommissioning plan dated July 26, 2024, (version 2) contains a schedule for decommissioning work to be carried out over a specific period of months, and will provide a detailed schedule at the time decommissioning is proposed, which shall be part of an approved decommissioning plan. As determined previously, a fully approved and executed decommissioning agreement is a condition of any Special Use Permit for Applicant's Action, and will contain the requisite schedule.**

- (e) A cost estimate prepared by a licensed professional engineer estimating the full cost of decommissioning and removal of the solar PV system.

**The Board finds that this condition will be met as the Applicant's or System Operator's present draft decommissioning plan July 26, 2024, contains a requirement for, and a proposed cost estimate prepared by a licensed engineer, though in draft form, and this form will need to be reviewed and accepted by the Town's Engineer, Town Attorney and/or Town's Legal Counsel before the requisite surety amount is determined and provided, and before any pre-construction meeting may be scheduled by the Town Code Enforcement**

**Officer. This is a Condition of Special Use Permit Approval by the Board.**

- (f) A financial plan to ensure that financial resources will be available to fully decommission the site.

**The Board finds this condition will be met as the Applicant's or System Operator's present draft decommissioning plan dated July 26, 2024 (version 2), does contain a financial plan to ensure funding for decommissioning the west solar farm. The Action, which shall be part of an approved decommissioning plan. As determined previously, a fully approved and executed decommissioning agreement is a condition of any Special Use Permit for Applicant's Action.**

- (g) An acceptable form of surety is to be approved by the Planning Board and accepted by the Town Board and filed with the Town Clerk in an amount specified in the above-referenced financial plan. Said acceptable form of surety is to remain in effect for the above-referenced anticipated operational life of the system. In the event the anticipated operational life of the system is amended, then a revised acceptable form of surety is to be approved by the Planning Board, accepted by the Town Board and filed with the Town Clerk.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds this standard will be met as provided in the Applicant's or System Operator's decommissioning plan once the Town determines the desired form of surety and such plan is approved and executed by all parties. The Board further finds that an acceptable form of surety is to remain in effect to an agreed-to date that coincides with full reclamation of the site, restoration of the land and monitoring as provided herein. The Board establishes this requirement as a Condition of Approval of the Special Use Permit Application.**

- (h) Financial surety. Prior to the issuance of a building permit and every three years thereafter, the commercial solar PV system owner and/or landowner shall file with the Town Clerk evidence of financial surety to provide for the full cost of decommissioning and removal of the solar PV system in the event the system is not removed by the system owner and/or landowner. Evidence of financial surety shall be in effect throughout the life of the system and shall be in the form of an irrevocable acceptable form of surety or other form of surety acceptable to the Planning Board and approved by the Town Board. The irrevocable acceptable form of surety shall include an auto-extension provision to be issued by an A-rated institution solely for

the benefit of the Town. The Town shall be entitled to draw upon the acceptable form of surety in the event that the commercial solar PV system owner and/or landowner is unable or unwilling to commence decommissioning activities within the time periods specified herein. No other parties, including the owner and/or landowner, shall have the ability to demand payment under the letter of credit. Upon completion of decommissioning, the owner and/or landowner may petition the Town Board to terminate the acceptable form of surety. In the event ownership of the system is transferred to another party, the new owner (transferee) shall file evidence of financial surety with the Town Board at the time of transfer, and every three years thereafter, as provided herein.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds this condition will be met as provided in the Applicant's or System Operator's decommissioning plan once the Town Board determines the desired form of surety and such plan is approved and executed by all parties. The Board further finds that an acceptable form of surety is to remain in effect to an agreed-to date that coincides with full reclamation of the site, restoration of the land and monitoring as provided herein. The Board establishes this requirement as a Condition of Approval of the Special Use Permit Application.**

- (i) Amount. The amount of the surety shall be determined by the Town Engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the surety may be adjusted by the Town Board upon receipt of a favorable recommendation from the Planning Board of an annual report containing an updated cost estimate for decommissioning and removal. Any revised surety is to be filed with the Town Clerk's office.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds this condition will be met by the Town Engineer providing, during the periodic reviews of the solar farm and conditions under the Special Use Permit and Town Code, a current estimate of decommissioning, removal and restoration costs as provided in the Applicant's or System Operator's decommissioning plan, once the Town determines the desired form of surety and such plan is approved and executed by all parties. The Board further finds that a condition of approval of the Special Use Permit Application shall be the Applicant's or System Operator's agreement that the amount of surety may be adjusted by the Town Board as appropriate**

**during the periodic reviews of the ongoing operation and maintenance of the solar farms at issue.**

- (j) Annual report. The commercial solar PV system owner shall, on a yearly basis from the certificate of compliance issued by the Code Enforcement Officer, provide the Town Code Enforcement Officer a written report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall also identify any change of ownership of the solar PV system and/or the land upon which the system is located and shall identify any change in the party responsible for decommissioning and removal of the system upon its abandonment. The actual report shall be submitted no later than 45 days after the end of the calendar year. Every third year, to coincide with the filing of evidence of financial surety, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the large-scale solar PV system. The Town Board may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required herein shall be considered a violation subject to the penalties in Article X of this chapter.

**The Board finds this section of the Town Code does apply to the proposed Action. The Planning Board finds that this condition will be met by establishing this annual report requirement as a Condition of Approval of the Special Use Permit Application. The Board establishes this requirement as a Condition of Approval of the Special Use Permit Application.**

- (k) Decommissioning and removal by Town. If the commercial solar PV system owner and/or landowner fails to decommission and remove an abandoned facility in accordance with the requirements of this section, the Town may enter upon the property to decommission and remove the system.

**The Board finds this section of the Town Code does apply to the proposed Action. The Planning Board finds this condition will be met by establishing this requirement for permitted entry as a Condition of Approval of the Special Use Permit Application. The Board does, therefore, establish this requirement as a Condition of Approval of the Special Use Permit Application. The Board further acknowledges receipt of this commitment by the Property Owners, Sky Solar, Inc., in their signed letter to the Town dated September 13, 2024, (version 2). The Board further finds additional acknowledgement by Sky Solar's legal**

**counsel, Michael L. Nisengard, Attorney at Law/Partner, which is contained in a letter from Lippes Mathias, Attorneys at Law, 50 Fountain Plaza, Suite 1700, Buffalo, New York 14202-2216 dated September 16, 2024, that his clients (Sky Solar, Inc.) commits to accept the responsibility for ensuring the decommissioning of the two parcels comprising the West Solar Farm Project as set forth in the provisions of the Farmington Town Code Section 165-65.3. Similarly, the System Operators will be obligated to decommission their solar farm as provided in their decommissioning plan agreement approved by the Planning Board, which agreement shall contain provisions authorizing the Town to enter upon property containing a solar farm to decommission the solar farm, remove and dispose of its component parts, and restore the property to its prior condition.**

- (7) Determination of abandonment. Upon a determination by the Code Enforcement Officer that a commercial solar PV system has been abandoned, the Code Enforcement Officer shall notify the system owner, landowner and permittee by certified mail:
- (a) In the case of a facility under construction, to complete construction and installation of the facility within 180 days; or
  - (b) In the case of a fully constructed facility that is operating at a rate of less than 10% of its rated capacity, to restore operation of the facility to no less than 80% of rated capacity within 180 days, or the Town will deem the system abandoned and commence action to revoke the special use permit and require removal of the system.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds that a determination by the Code Enforcement Officer that a commercial solar PV system has been abandoned does require notification be provided by certified mail to the relevant Applicant or System Operator identified above herein.**

- (8) Failure to perform notification. Being so classified, if either the system owner, landowner and/or permittee fails to perform as directed by the Code Enforcement Officer within the one-hundred-eighty-day period, the Code Enforcement Officer shall notify the system owner, landowner and permittee, by certified mail, that the solar PV system has been deemed abandoned and the Town intends to revoke

the special use permit within 60 days of mailing said notice. The notice shall also state that the permittee may appeal the Code Enforcement Officer's determination to the Town Board and request a public hearing upon the matter.

**The Board finds this section of the Town Code does apply to the proposed Action. The Board further finds that such a determination by the Code Enforcement Officer that the large-scale commercial solar PV system has been deemed abandoned entitles the Applicant or relevant System Operator to the notification contained in the Town Code in such case.**

- (a) Said appeal and request for hearing must be made and received by the Town Board within 30 days of mailing notice. Failure by the permittee to submit an appeal and request for hearing within the thirty-day period will result in the special use permit being deemed revoked as stated herein.

**The Board finds these sections of the Town Code do apply to the proposed Action. The Board further finds that the Applicant or System Operator understand and accept this provision of the Town Code, which establishes the respective rights in such matter for the Applicant, System Operator and Town.**

- (b) In the event the permittee appeals the determination of the Code Enforcement Officer and requests a hearing, the Town Board shall schedule and conduct said hearing within 60 days of receiving the appeal and request. In the event a hearing is held, the Town Board shall determine whether the solar PV system has been abandoned, whether to continue the special use permit with conditions as may be appropriate to the facts and circumstances presented to the Board or whether to revoke the special use permit and order removal of the solar PV system.

**The Board finds these sections of the Town Code do apply to the proposed Action. The Board further finds that the Applicant or System Operator understand and accept this provision of the Town Code, which establishes the respective rights in such matter for the Applicant, System Operator and Town.**

- (c) Upon a determination by the Code Enforcement Officer or Town Board that a special use permit has been revoked, the decommissioning plan must be implemented and the system

removed within one year of having been deemed abandoned or the Town Board may cause the removal at the owner's and/or landowner's expense. If the owner and/or landowner fails to fully implement the decommissioning plan within one year of abandonment, the Town Board may collect the required surety and use said funds to implement the decommissioning plan.

**The Board finds these sections of the Town Code do apply to the proposed Action. The Board further finds that the Applicant or System Operator understand and accept this provision of the Town Code, which establishes the respective rights in such matter for the Applicant, System Operator and Town. As a condition of the Special Use Permit, both the surety and approved decommissioning plan shall provide the Town with these statutory rights.**

- (d) Removal by Town and reimbursement of Town expenses. Any costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a commercial solar PV system, including legal costs and expenses, shall be reimbursed from the surety posted by the system owner or landowner as provided in § 165-65.3 herein. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon and shall be enforced and collected, with interest, by the same officer and in the same manner, by the same proceedings, at the same time and the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

**The Board finds these sections of the Town Code do apply to the proposed Action. The Board further finds that the Applicant or System Operator understand and accept this provision of the Town Code, and so both the surety and approved decommissioning plan shall provide the Town with these statutory rights. The Board does establish these requirements as part of an approved decommissioning plan and as a Condition of Approval of the Special Use Permit Application.**



**In addition, the Board finds that any disputes between Applicant, System Operator and Town regarding any aspects of the solar farms at issue should be negotiated and resolved in a reasonable time in good faith, provided that the Town remains required to comply with and enforce the Town Code and Town agreements made in connection with the solar farm to protect and preserve Town interests in the land and community, which concerns are broader than just Applicant's or System Operator's interests. The Town Code provides for reimbursement of the Town's legal costs and expenses related to decommissioning and removal of the solar farm Project. Town Code § 165-65.3[H][8]. Accordingly, in the event of disputes regarding the continuing operation of the solar farm that could result in decommissioning, as well as disputes involving decommissioning, removal or related issues such as restoration of the site—if such a dispute results in court action by an Applicant or System Operator against the Town, or the Town determines after discussion with Applicant or System Operator to resort to court action against an Applicant or System Operator to resolve such a dispute, such Applicant or System Operator shall indemnify the Town against attorney fees and litigation expenses as provided in Condition No. 53 set forth below.**

**Also, the Board finds that many of the statutory requirements of the Town Code found to apply as conditions of the Special Use Permit for the solar farms herein are similarly found in the *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands* (Guidelines) promulgated by the New York State Department of Agriculture and Markets (revision dated 4/19/2018). Rather than list each of the conditions found to apply by the Board to the Applicant's or System Operator's solar farm, the Board instead references and incorporates such *Guidelines* hereunder, listed as Condition No. 5. The Board notes that the *Guidelines* provided and considered in the SEQRA process for the solar farm was the revision dated April 19, 2018, but that the Department of Agriculture and Markets has since issued a new revision, dated October 18, 2019. The Board has reviewed that current 2019 version of the Ag & Markets' *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands*, and finds its provisions provide a better minimum basis for protecting and pre-**

**servicing the continued Limited Industrial use of the site after conclusion of the solar farms' operations, through soil sampling, for example, except, however, that the post-construction monitoring period of one growing season provided in the 2019 *Guidelines* is insufficient and in conflict with the Town Code's requirements for a two-year monitoring period, and such longer monitoring period is imposed in the associated Condition No. 5, below.**

**Finally, the Board finds that the conditions itemized and numbered below are warranted under the facts of the proposed solar farms and are expressly imposed as conditions on the Special Use Permit approved hereunder as a result of the Board's individual findings regarding certain aspects of the proposed solar farms, as well as a result of the Board's collective judgment considering Applicant's or System Operator's whole solar farm proposal overall and foreseeable associated issues and their preferred resolution over the potentially extensive term involved. The Board finds such extensive conditions are necessary and reasonable to balance the different property owner, developer and community interests involved, are required by or directly related to aspects of the Town Code, and are imposed hereunder to protect the Town's expected interests over the many years duration of the proposed solar farms and minimize the impact of the solar farms on the area and neighbors as well as can be done under the present law and circumstances.**

**BE IT FURTHER RESOLVED**, then, that the Planning Board does hereby approve a Special Use Permit for Sky Solar's West Solar Project as shown on the Filed Final Subdivision Plat and Final Site Plan to host a large-scale ground-mounted solar farm thereon as proposed in this Action, including a total of eight (8) Bulk Electrical System Storage (BESS) units subject to the following conditions that shall apply to and govern the proposed lot and the solar farm associated therewith:

1. The Special Use Permit approved for this Action is valid only upon all the conditions set forth herein if, and as long as, all such conditions are met by Applicant or System Operator on the associated lot as determined by the Town, and so long as the solar farm continues to exist on the lot and comply with the Town-approved final subdivision plat and final site plan for this respective lot, as may be amended with Town approval, and with these Special Use Permit conditions.
2. This Special Use Permit applies to and is valid only for the single individual parcel of the Sky Solar Final Subdivision Plat proposed to contain a Sky Solar West Solar Farm Project, and to the respective proposed solar farm as permitted on their approved final site plans and subject to the conditions of their Special Use Permit. This Resolution does not

- authorize any special use permit to be applicable to Sky Solar’s West Solar Farm Project, or any part of that property other than as provided herein. The Final Subdivision Plat, for Sky Solar’s West Solar Farm Project shall be promptly filed in the Office of the Ontario County Clerk. This Special Use Permit approval shall expire for the aforesaid lot for which a solar farm has been determined to be abandoned after notice and a hearing if requested, or a lot on which a solar farm has undergone decommissioning under the Town Code, Special Use Permit, or Decommissioning Plan.
3. No Special Use Permit for either of the Tax Map Account specified above herein of the Sky Solar West Solar Farm Project shall take effect unless and until (1) an approved Decommissioning Plan is agreed to and executed by each Applicant, System Operator and the Town for such lot and filed with the Town Clerk; (2) the required approved surety for such lot under this Special Use Permit authorization and the Decommissioning Plan and Agreement is in effect with evidence of such surety’s existence and validity on file with the Town Clerk; (3) a final site plan has been approved by the Board for the proposed solar farm for such lot; and (4) a Final Subdivision Plat Map, Sky Solar West Solar Farm Project, has been signed by the Planning Board Chairperson and filed in the Office of the Ontario County Clerk. Said final plat is to identify the sixty- (60-) foot-wide strip of land across the southern portion of said site that is offered as a town-owned right-of-way for the construction, by others, of a town-owned east-west road connecting Corporate Drive East with the planned construction of the extension of Commercial Drive across the east frontage of the subject parcel of land.
  4. The Special Use Permit shall remain valid for so long as the lot is used to produce solar energy in conformance with the terms and conditions of the Town Code, this Special Use Permit authorization and the final site plan approved for such project.
  5. As a condition of this Special Use Permit approval, Applicant or System Operator shall construct, operate, and decommission the proposed solar farm, and restore the respective lot to its present condition, in accordance with all the *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands (Guidelines)* promulgated by the New York State Department of Agriculture and Markets (revision dated October 18, 2019) to supplement the conditions of the Special Use Permit specified herein by the Planning Board, which specified provisions have priority over the referenced and incorporated *Guidelines* in the event of a conflict. The Board notes that the 2019 *Guidelines* contain post-construction monitoring for only one growing season, and such insufficient period is rejected and adjusted in this Action to the Town Code requirement of two years from the restoration instead. The referenced *Guidelines* (as adjusted by the Town) shall constitute supplemental directives of the Planning Board and provide a minimum standard of conduct for the subject matter addressed for the duration of the solar farms’ existence, in conjunction with the other conditions established by the Planning Board and the Town Code. Should the State revise the referenced *Guidelines* over the terms of the solar farm, such new and updated guidelines shall control under this paragraph, to the extent matters remain executory; provided, however, that any State revisions to the *Guidelines* that reduce or diminish the standards established in the State’s October 18, 2019, version of the *Guidelines* (as adjusted by the Town) need not be accepted as applicable to the solar farm in the

Town's discretion. In the event the State revises its *Guidelines*, the Town may, either on its own initiative or at the request of Applicant or System Operator, evaluate such revisions and provide Applicant and System Operator with written notice of any revised conditions in the *Guidelines* now applicable to their solar farms, and such Town-approved conditions contained in the revised *Guidelines* shall thereafter control the solar farm as revised incorporated *Guidelines* under this paragraph.

6. As a condition of this Special Use Permit approval, a final site plan for the proposed solar farm must be first approved by the Planning Board before a Special Use Permit can be effective for such lot. The Special Use Permit comes into effect only upon the Applicant's or System Operator's obtaining final site plan approval from the Board for construction of a solar farm on the subject lot and the Code Enforcement Officer's issuance of a Certificate of Compliance with final site plan approval for said lot involved. Moreover, as a condition of this Special Use Permit approval, for the entire duration of its construction and operational existence this solar farm shall remain in full compliance with the applicable final site plan approved by the Board and these Special Use Permit conditions and shall be maintained in a safe and fully operable state.
7. To ensure that this solar farm is properly monitored to enable full restoration of the lots to its industrial production potential at the same soil's classifications and condition presently existing (a fundamental principle and condition on which this Special Use Permit approval is being granted), a detailed Sampling and Analysis Plan ("SAP") shall be submitted for approval by the Planning Board. The SAP will characterize and document the surface soil quality before construction, during operations and upon decommissioning of the solar panels as necessary to return the lot for further industrial development once the solar farm has been decommissioned. At the time of construction, and before a Certificate of Compliance is issued by the Code Enforcement Officer, the Applicant or System Operator for this lot shall take baseline soil samples in accordance with the sampling procedures detailed in the SAP, which procedures are consistent with Cornell University's soil testing guidelines for measuring contaminant levels in a particular area regarding collection, labeling and packaging of representative soils beneath and around solar panels and solar system equipment according to soil sampling locations specified on the final site plan approved for its lot. Thereafter, the Applicant or System Operator shall take samples every 9 years for the duration of the solar farm operations in accordance with the sampling procedures detailed in the SAP. If no "significant" (defined below) deviations are found at the eighteen-year sampling event, the Applicant or System Operator may request an amendment from the Planning Board to discontinue the nine-year sampling events until after the solar array and the BESS units have been decommissioned. Upon completion of the Project and once the solar system has been decommissioned, the Applicant or System Operator shall take one (1) final round of samples in accordance with the procedures detailed in the SAP. If there is a "significant" (defined below) deviation, individual samples will be taken at the location(s) where the significant deviations are found in accordance with the sampling procedures detailed in the SAP. In addition to submission of the baseline soil sampling as detailed in the SAP, the results of the testing detailed in the SAP will be included with every three-year report required by Condition No. 25.

Because Applicant, Sky Solar Inc., or System Operator have represented in their submissions to the Planning Board that the proposed solar farm will employ safe practices for the land, soils and environment and that no significant leaching or contaminants will occur from construction or operation of their solar farms in this Action, there should be no “significant” change to the land or soils on the Lot as a result of, and during the term of, the solar farm, and a Special Use Permit is being granted in reliance on that information and expectation. For purposes of this soil sampling program, a “significant” deviation shall consist of (a) a change of fifteen percent or more for evaluations of (i) soil pH; (ii) percent organic material; (iii) cation exchange capacity; (iv) Phosphorus/Phosphate; (v) Potassium/Potash; and (vi) Nitrogen (collectively the “Agricultural Parameters”); or (b) exceeding maximum permitted limits for (i) TAL metals, (ii) Volatile Organic Compounds, and (iii) Semi-Volatile Organic Compounds (collectively the “Environmental Parameters”) under then-current regulations establishing standards for soil contaminants and/or pollutants promulgated by the New York State Department of Conservation, or successor agency in 6 NYCRR § 375, Subpart 375-6, Table 375-6.8(a) for Unrestricted Use Soil Cleanup Objectives. Upon the Town’s receipt of a report of a monitored item deviating significantly from its benchmark, the Applicant or System Operator shall submit to the Planning Board a scientific summary explaining the reasons for the deviation(s). It is noted that deviations from the baseline sampling event do not necessarily indicate negative impacts from the solar panels, as the soils will regain nutrients from being fallow during the period of the solar farm operation. If necessary, after receipt of the scientific study, the Planning Board may refer significant deviations of the Environmental Parameters to the New York State Department of Conservation (“NYSDEC”) as necessary. The Applicant or System Operator are required to comply with all applicable NYSDEC remedial and reporting requirements. *See* 6 NYCRR Parts 375 and 597.

As a final additional condition for this soil sampling monitoring process, in the event this soil sampling monitoring process detailed herein and in the SAP is invalidated by a court, the Special Use Permit which was approved upon this key soil sampling condition for such lot shall become void, and continued operation of the solar farm on such lot shall be unauthorized unless and until a new special use permit is subsequently obtained for the lot under the law and Town Code as it then shall stand. As set forth more fully elsewhere, the solar farm equipment for an unauthorized solar farm is subject to removal by the Town under the Town Code, this Special Use Permit authorization, and Decommissioning Plan, if not undertaken by Applicant or System Operator upon the Town’s demand.

8. As a condition of this Special Use Permit approval, a final site plan for this lot for the proposed solar farm must contain the applicable conditions established in this Special Use Permit. Nothing in this Special Use Permit process shall limit or constrain the Planning Board’s rights and discretion to require additional conditions in the final site plan for the lot involved in the proposed solar farm up until the time of final approval.
9. As a condition of this Special Use Permit approval, the proposed solar farm is to be in compliance with all applicable setbacks in effect at the time of approval. Also, no topsoil located on the two Lots shall be removed from the property during construction, operation or decommissioning of the solar farm to be located on this lot.

10. As a condition of this Special Use Permit approval, there is to be constructed and dedicated to the Town, the remaining section of Commercial Drive, the installation of a public water line connection along the west side of said future town highway extension, a stub connection for a future east/west town road, to be constructed by others, between Corporate Drive East and the extension of Commercial Drive, as is to be delineated on the final subdivision plat and final site plan, prepared by LaBella Associates, for the Sky Solar Inc., West Solar Farm Project, identified as Project Number 2233568, to be dated 00/00/2024. There shall also be specified Construction Details for these improvements accepted by the Town Engineering Firm, MRB Group, D.P.C., the Town Highway Superintendent and the Town Water and Sewer Superintendent, and there shall be a formal dedication packet approved by the Town Board.
11. As a condition of this Special Use Permit approval, there is to be constructed and dedicated to the Town, an eight-inch-diameter water line, complete with all required fire hydrants, valves and required devices, along the entire west side of the above referenced remaining section of Commercial Drive thereby creating a looped water line system. As part of this water line project there is to be installed at the point of the stub connection referenced in Condition Number 10 above a valve to allow for the anticipated connection of a future water line that is to be installed by others between Corporate Drive East and the extension of Commercial Drive and within the dedicated right-of-way.
12. As a condition of this Special Use Permit approval, a detailed site lighting plan and illumination fixtures shall be included as part of an approved final site plan for the proposed solar farm.
13. As a condition of this Special Use Permit approval, a detailed landscaping plan with plantings acceptable to the property owner and Planning Board with a planting schedule shall be included as part of an approved final site plan. Also, Applicants or System Operators shall install the approved landscaping for the proposed solar farm to the extent feasible within the Town's established planting season prior to the Code Enforcement Officer's issuance of a Certificate of Compliance with final site plan, to provide a visual screen of the solar farm, and the Applicant or System Operator shall maintain such approved landscaping for the duration of the solar farm operation. In the event landscape plantings cannot be completed due to seasonal limitations when the solar farm is ready to commence operations, the Code Enforcement Officer is authorized to issue a Conditional Certificate of Compliance for a period up to May 31st of the following calendar year to allow the solar farm operation during such period until the landscape plantings required in the final site plan may be completed at the next earliest planting season.
14. As a condition of this Special Use Permit approval, security fencing permitted or required on the final site plan for the proposed solar farm shall not exceed eight (8) feet in height, though such fencing may contain barbed wire canted out and located at the top of said fence.
15. As a condition of this Special Use Permit approval, the solar farm system equipment may not exceed twelve feet in height, measured from the surface of the ground upon which the



- system equipment is located. Excluded from this condition are weather station equipment up to fifteen feet in height, even if used in conjunction with or for the benefit of the solar farm, as well as above-ground electrical wires, poles or equipment attached to poles needed for interconnection to above-ground utility distribution equipment maintained by the local electric utility providing interconnection of its network to the solar farm.
16. As a condition of this Special Use Permit approval, the solar farm shall adhere to the minimum lot size requirements for the LI Limited Industrial zoning district in which the project is located.
  17. As a condition of this Special Use Permit approval, the solar farm shall adhere to the maximum lot coverage requirement for principal uses within the LI Limited Industrial zoning district in which it is located.
  18. As a condition of this Special Use Permit approval, the solar farm shall adhere to the sign requirements for the LI Limited Industrial zoning district in which it is located.
  19. As a condition of this Special Use Permit approval, and prior to the commencement of any construction or operation of a proposed solar farm the Applicant or System Operator shall provide to the Town a financial plan in an approved Decommissioning Plan containing an irrevocable surety in sufficient amount and acceptable form by a reliable source entity on which the Town alone may draw to cover Town expenses incurred in decommissioning the solar farm and restore the property in the event that the Applicant or System Operator are unable or unwilling to do so within the time required. Applicant or System Operator shall remain responsible to reimburse the Town for expenses incurred in connection with their lot and solar farm in this Action in the event actual decommissioning and restoration costs and related expenses including Town engineering and legal fees exceed the surety available.
  20. As a condition of this Special Use Permit approval, and prior to the commencement of any construction or operation of the solar farm, and before the Special Use Permit is valid, the surety approved in the financial plan and Decommissioning Plan shall be provided in fact for the proposed solar farm and a record evidencing such fact shall be filed with the Town Clerk. Such surety shall be maintained by the Applicant or System Operator and shall continue to be kept valid for the entire existence and duration of the solar farm operation, expected to last for thirty years, together with the time involved in any extensions, decommissioning the solar farm, restoration work to reclaim the underlying land for industrial use again, and post-decommission monitoring, unless the property owner obtains appropriate approval from the Planning Board to use their property for a different permitted use (and then to restore the property to condition for that next approved use).
  21. As a condition of this Special Use Permit approval, the Applicant or System Operator shall direct the surety source to provide the Town with all the same notices regarding the surety for its benefit that the surety source provides to Applicant or System Operator, and at the same time.



22. As a condition of this Special Use Permit approval, the Applicant or System Operator must employ a qualified environmental monitor (EM) to oversee the construction of the solar farm, as well as restoration and follow-up monitoring. The EM is to be on site whenever construction or restoration work is occurring on the solar farm and must coordinate an appropriate schedule for inspections with the Ontario County Soil and Water Conservation District to protect the affected lands to the greatest extent possible.
23. As a condition of this Special Use Permit approval, after the construction of the proposed solar farm, and prior to the issuance of a Certificate of Compliance from the Code Enforcement Officer, the Applicant or System Operator shall provide the Town a post-construction certification from a professional engineer registered in New York State which attests to the solar farm's compliance with all applicable codes, safe industry practices, and the list of solar system materials and equipment that the Applicant or System Operator have identified to the Town when obtaining final site plan approval to be used in construction of the solar farm; and further, attests that the solar farm has been constructed according to the design standards approved by the Town in the final site plan.
24. As a condition of this Special Use Permit approval, the solar farm shall be deemed abandoned if, following site plan approval, initial construction of the solar system has commenced and is not completed within eighteen (18) months of issuance of the first building permit for the project. In such case, the provisions for abandonment under the Special Use Permit, Decommissioning Plan and Town Code shall take effect.
25. As a condition of this Special Use Permit approval, every three (3) years from the date of issuance of the Certificate of Compliance by the Code Enforcement Officer with the final site plan for this solar farm, and up to the final reclamation of the land, there shall be provided to the Code Enforcement Officer by either the Applicant or the System Operator for this solar farm a written report on the status and condition of their solar farm over the past three year term. Such report shall provide adequate information on the current status of the solar farm's operations, condition and safety. Such report shall include at least the following information: status of the surety; the solar farm's rated capacity for generating electricity and the solar electricity generated during the past term, broken down annually, and with references to all restrictions on the production of solar energy imposed by identified factors beyond the control of the Applicant of the System Operator; the identification and status of all contracts with RG&E or other utilities relating to the production and distribution of solar energy; current condition and operation of the solar system equipment; any indications of, or experiences with, fire in the past period at the solar farm; copies of notices received by the Applicant or System Operator by reason of the solar farm from other local, county, state or federal agencies; identification of the manufacturer and model of all solar panels installed and stored at the solar farm during the period sufficient for the Town to be able to determine all materials involved in the production of the solar panel, and the number of each such models on site at the solar farm and their location; results of the most recent soil sampling required under Condition No. 7 of this Special Use Permit Resolution; number and dates of replacements of solar panels and/or supports or significant equipment, including but not limited to the Bulk Energy Storage System's (BESS) components, and reason therefore; required plantings replaced or needing replacement and the plan for such replacement if incomplete; indications of significant

erosion or deterioration of equipment or components at the site; changes to the land use associated with the solar farm lot; and changes in ownership, operations, management or significant contractual relationships involving the solar farm occurring during the period; plus such additional information as may be reasonably requested by the Town Code Enforcement Officer in order to discharge his or her duties under the Town Code, Special Use Permit conditions and the Decommissioning Plan. The Town Code Enforcement Officer shall review such written report for compliance with applicable requirements and is entitled to request and obtain from the Applicant or the System Operator clarifying information or additional information needed to discharge his or her duties regarding the solar farms conditionally permitted use under this authorization. Failure to submit an adequate report as required herein shall be considered a violation subject to the penalties in Article X of Chapter 165 of the Town Code.

26. As a condition of this Special Use Permit approval, the surety requirement herein shall be re-evaluated every three (3) years in compliance with the Town Code and approved Decommissioning Plan for continued sufficiency considering changing cost factors and circumstances for decommissioning of the solar farm and restoration of the property. Potential rising cost factors warranting increase of the surety could include, for some examples, inflation, and increased expected costs for associated engineering expertise, compliance with new regulatory requirements, labor, equipment and seeding supplies. The presumptive amount of the surety applicable to the solar farm shall be determined by the Town Engineer based upon a current estimate of decommissioning, removal and restoration costs as provided in the Decommissioning Plan with the benefit of information contained in the latest reports by the Applicant or the System Operator as detailed in Conditions No. 26 and 35. The amount of the surety may be adjusted by the Town Board upon receipt of such a recommendation from the Planning Board based upon an updated cost estimate from the Town Engineer for anticipated expenses to be incurred for decommissioning the solar farm, restoration of the property and follow-up monitoring as provided in the decommissioning plan. Upon modification action by the Town Board, the surety requirement for the solar farm shall be so revised for the next three-year period as directed by the Town Board, and the Applicant or System Operator must provide a suitable and sufficient surety in the revised amount within the time required by the Town Board to continue to operate under this Special Use Permit. Record evidence of any revised surety is to be filed with the Town Clerk. Such surety, however revised, shall not constitute the total financial responsibility of the Applicant or System Operator to the Town, and the Applicant or System Operator shall remain responsible to compensate the Town for its reimbursable expenses incurred in response to issues involving their lots and the solar farm in this Action in the event actual reimbursable expenses, including Town engineering and legal fees, exceed the surety available.
27. As a condition of this Special Use Permit approval, should the required surety lapse or become inadequate for any reason, and sufficient surety not re-established to the Town's satisfaction within the time period designated by the Town after written notice of such re-establishment requirement of sufficient surety provided to Applicant or the System Operator for such solar farm, then the Special Use Permit may be revoked for such solar farm after notice and hearing if requested. Furthermore, failure to provide a form of surety acceptable to the Town within the Town's designated time shall constitute abandonment

of the solar farm and enable the Town to act under appropriate abandonment provisions of the Decommissioning Plan, the Special Use Permit and Town Code.

28. As a condition of this Special Use Permit approval, any damaged or malfunctioning solar panel(s) or arrays or other equipment shall be removed from the property within thirty (30) days of discovery by, or written notice of such condition provided to, the Applicant or the System Operator of the solar farm. Such solar panels, arrays or equipment may be replaced without requiring an amended site plan application or Special Use Permit, but records identifying such changes shall be kept by the System Operator and made available to the Code Enforcement Officer upon request and reported to the Town as part of the reports required in Conditions No. 26 and 35.
29. As a condition of this Special Use Permit approval, all taxes owed for the site property of the solar farm shall be current and no taxes left unpaid, nor shall the site property become subject to a tax lien foreclosure proceeding during the entire term of this Special Use Permit.
30. As a condition of this Special Use Permit approval, the solar farm shall continue to generate and transmit electricity at a rate of more than 10% of its rated capacity over a continuous period of one year. A failure to conform to those standards for a period of over one (1) year may be found to constitute evidence of abandonment, unless such reduced energy generation was limited by RG&E, New York State, or any other energy regulatory body that is beyond the control of the solar farm, or necessary for the operations of the solar farm, and the burden of establishing such reduction by factors beyond the solar farm's control to avoid a finding of abandonment shall be on the Applicant or System Operator. In addition, such energy generation curtailment must be noted in each report provided to the Town pursuant to Conditions No. 26 and 35.
31. As a condition of this Special Use Permit approval, any diseased, damaged, or failing plantings required for the solar farm discovered by the Applicants, System Operator or Code Enforcement Officer shall be replaced, in kind, within two months of discovery if found during the planting season between May 1 and November 1 of such year, otherwise not later than May 31st of the following year.
32. As a condition of this Special Use Permit approval, and for its duration, the Applicant or System Operator shall remain responsible to promptly reimburse the Town for the periodic costs associated with the services provided by the Town's Engineering Firm for tasks involved with assisting the Town to supervise their large-scale ground-mounted solar farm, including: (i) the review associated with determining expected decommissioning costs every three (3) years as part of the three-year evaluation of the sufficiency of the surety; (ii) evaluating soil sampling results of monitored items provided with third-year reports or final reports by the Applicant or System Operator; (iii) review of plans and permits associated with decommissioning or abandonment of the solar farm; (iv) assisting the Town with review and approval of the project Notice of Termination once construction of a solar farm is completed; and (v) other tasks requested by the Town to address issues raised by

- construction, operation, monitoring and/or decommissioning of the solar farm, such as site inspections or attendance at Town meetings.
33. As a condition of this Special Use Permit approval, any termination or abandonment of the Distributed Generation Interconnection Agreement regarding electricity provision and payment from the solar farm between the Applicant or System Operator and RG&E may be found to constitute abandonment of the solar farm and authorize the Planning Board to revoke the Special Use Permit after notice and hearing if requested.
  34. As a condition of this Special Use Permit approval, the Applicant or System Operator shall provide the Town with an annual report regarding their solar farm operations beginning a year after the Certificate of Compliance with the final site plan issued by the Code Enforcement Officer. Such annual report shall be in writing and show the rated capacity of the solar system and the amount of electricity that was generated by the system and transmitted to RG&E and the electric grid over the most recent twelve-month period, along with references to all restrictions on the production of solar energy imposed by identified factors beyond the control of the Applicant or System Operator. The annual report shall identify changes to solar panels used and the reasons therefore, and provide the number, location and kind (by manufacturer and model) of replacement solar panels. The annual report shall identify plantings needing replacement and the plan for their replacement. The annual report shall also identify any change of ownership or operator of the solar farm and/or the ownership of the lot upon which the solar farm is located and shall identify any change in the party responsible for decommissioning and removal of the solar farm. Furthermore, every third year, to coincide with the filing of evidence of financial surety and requisite soil sampling, the annual report shall be subsumed within the three-year report provided for in Condition No. 26. Failure to submit an adequate report as required herein shall be considered a violation subject to the penalties in Article X of Chapter 165 of the Town Code and may be considered evidence of abandonment.
  35. As a condition of this Special Use Permit approval, significant physical changes made to the lot or significant equipment modifications made to the solar farm that differ from the final site plan without prior Town approval is unauthorized and shall authorize the Town to revoke the Special Use Permit after notice and hearing if requested; provided, however, that significant equipment modifications shall not include replacement of damaged, nonfunctioning or underperforming solar panels, arrays or other equipment if notice thereof is included in the annual report for that period required by Condition No. 35. Any physical changes made to, or proposed to, the solar farm after final site plan approval that disturb .1 acre or more, or changes to equipment (other than ordinary maintenance or replacement of damaged, nonfunctioning, or underperforming solar panels, equipment, components or structures that does not disturb any soils on the site), shall require submission of an application to the Planning Board for an amended Special Use Permit and shall also be subject to an amended final site plan.
  36. As a condition of this Special Use Permit approval, the solar farm shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than ten percent (10%) of its rated capacity over a continuous period of one year, unless such energy generation was limited by RG&E, New York State, or any other energy regulatory body

beyond the control of the System Operator or solar farm. Such energy generation curtailment can occur beyond the control of the solar farm and shall be noted in each report provided to the Town, as outlined in Conditions No. 26 and 35. However, the time at which the solar farm shall be deemed abandoned may be extended by the Planning Board for up to one year, provided the Applicant or System Operator present to the Board a viable plan outlining the steps and schedules for placing the solar farm in service or back in service within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the Applicant or System Operator prior to any abandonment. Extenuating circumstances as to why the solar farm has not been operating or why construction has not been completed may be considered by the Board in determining whether to grant an extension.

37. As a condition of this Special Use Permit approval, a solar farm which has been abandoned or found abandoned by the Town shall be decommissioned and removed from the lot on which it is located. The Applicant or System Operator shall be held responsible to physically remove all components of the solar farm within one year of abandonment or in accordance with the requirements of the approved decommissioning plan if an earlier period is so agreed and approved. Removal of the solar farm system and equipment shall be in accordance with a Decommissioning Plan approved by the Planning Board and as required by the Town Code and the Special Use Permit.
38. As a condition of this Special Use Permit approval, the Applicant or System Operator shall prepare a decommissioning plan (“Decommissioning Plan”) for the solar farm which is acceptable to the Town and binds each the Applicant or System Operator individually to remove their solar farm from its lot location at their expense and restore the land to its prior approved condition in a timely fashion also at their expense in accordance with the Town Code, these Special Use Permit conditions, and other lawful requirements. Such Decommissioning Plan shall include a decommissioning funds agreement satisfactory to the Town and executed by System Operator and shall comply with the conditions of this Special Use Permit and the Town Code in addition to addressing other foreseeable issues involved when the solar farm operation comes to a managed conclusion, or the solar farm is abandoned. The Special Use Permit for the lots shall not become effective until each Applicant or System Operator agree to a Town-approved Decommissioning Plan for such lot.
39. As a condition of this Special Use Permit approval, the Decommissioning Plan shall be implemented by the Applicant or System Operator and/or the Town when the solar farm on the lot in this Action ceases operation at the end of its useful life, or is abandoned in whole or part earlier, and associated physical structures are to be removed as decommissioning and restoration of the property.
40. As a condition of this Special Use Permit approval, and as a required part of an approved Decommissioning Plan, the Applicant or System Operator shall provide the Town Engineer with an engineering estimate of the anticipated operational life of the solar farm, a schedule showing the expected time frame over which decommissioning will occur and for completion of site restoration work, and a detailed estimate of the full cost of decommis-



- sioning the solar farm and restoring the associated lot to its prior condition; and Town approval of said Decommissioning Plan shall not be made unless the Town Engineer reviews and accepts those estimates as reasonable and acceptable under the foreseeable circumstances.
41. As a condition of this Special Use Permit approval, and as a required part of an approved Decommissioning Plan, the Applicant or System Operator shall provide the Town with a copy of any agreement between property owners or System Operator regarding decommissioning of a solar farm other than the Decommissioning Plan to which the Town is a party.
  42. As a condition of this Special Use Permit approval, the Environmental Monitor (EM) employed by the Applicant or System Operator regarding the solar farm shall be available upon demand from the Code Enforcement Officer for any issue involved with the Decommissioning Plan or the decommissioning or restoration processes. Furthermore, any change in Environmental Monitor and/or its contact information during the life of the solar farm shall be promptly provided to the Code Enforcement Officer.
  43. As a condition of this Special Use Permit approval, upon conclusion of a solar farm operation, or upon the revocation or termination of the Special Use Permit for such solar farm, all aboveground solar array equipment and structures are to be removed from such lot reasonably and promptly by the Applicant or System Operator as provided herein, and all lot areas usable for industrial use prior to the solar farm construction and operation are to be restored by the Applicant or System Operator to benchmark soil conditions, subject to minor deviations as are acceptable by the landowners, the Planning Board, and the Ontario County Soil and Water Conservation District.
  44. As a condition of this Special Use Permit approval, decommissioning of the solar farm consists of physical removal of all above-ground and below-ground equipment, solar panels, support structures and foundations, including but not limited to all solar arrays, inverters, transformers, machines, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site, except that buried electrical lines and conduit, or footings or foundations more than four feet deep, may be left in the ground as provided by the Town Code and *Guidelines* to minimize disturbance of the soils, and such removal may be further limited to some extent if specified in these conditions. For example, upon petition to the Planning Board, the Board may permit the Applicant or the System Operator to leave certain underground or above-ground improvements in place such as some or all of the planted landscape buffer, provided the owner can show that such improvements are part of a reasonable plan to use the improvements or redevelop the site, are not detrimental to such redevelopment or restoration and do not adversely affect community character or the environment.
  45. As a condition of this Special Use Permit approval, decommissioning of the solar farm also consists of final soil sampling as provided in the SAP (Sampling and Analysis Plan) referenced in Condition No. 7, and restoration of the ground surface and soil of the associated lot to the benchmark soil conditions determined by the SAP in Condition No. 7,

subject to minor deviations as are acceptable by the landowners, the Planning Board, and the Ontario County Soil and Water Conservation District.

46. As a condition of this Special Use Permit approval, decommissioning of the solar farm also consists of stabilization and revegetation of the associated lots with native seed mixes and/or plant species (excluding invasive species) preferred by the property owners to minimize erosion.
47. As a condition of this Special Use Permit approval, decommissioning of the solar farm also consists of disposal of any solid and hazardous waste and contaminants from the lot in accordance with local, state, and federal waste disposal regulations.
48. As a condition of this Special Use Permit approval, the Applicant or System Operator must provide monitoring and remediation of the solar farm site for a period of no less than two years after site restoration. General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, vegetative cover, drainage and repair of severed subsurface drain lines, fences, etc. The Applicant or System Operator shall remain responsible to remediate problems with the property attributable to the construction, operation, or decommissioning of a solar farm arising during the monitoring and remediation period. The Applicant or System Operator may petition the Planning Board to reduce their surety upon decommissioning, as well as terminate their surety at the conclusion of this two-year monitoring period, which surety reduction or termination may be approved by the Town Board upon such recommendation by the Planning Board after consideration of the conditions of the property at such time and the Town's expected expenses relating to anticipation of any further remediation.
49. As a condition of this Special Use Permit approval, if the Applicant or System Operator fail to decommission and remove an abandoned solar farm in accordance with the requirements of this Special Use Permit, Decommissioning Plan or the Town Code, the Town is authorized to enter upon the lot associated with such abandoned solar farm with all necessary or advantageous equipment and labor (either by itself and staff or through arrangements with others authorized or appropriate such as the local utility provider or competent contractors) to carry out the decommissioning itself and remove the solar farm components and waste and restore the property to roughly its agricultural condition prior to the construction and operation of the abandoned solar farm. In such case, the Town may not be held responsible for damage to any equipment or land, nor has any obligation to protect, preserve or salvage any equipment or assets on the lot belonging to Applicants and/or System Operator. The failure of the Applicant or System Operator to timely decommission a solar farm themselves as required shall be deemed a forfeiture of their ownership interests and rights in the solar farm equipment and materials on site, entitling the Town to scrap or dispose of all such equipment and materials as the Town deems fit or convenient; provided, however, that taking such limited and temporary control of the lot and its contents to decommission the solar farm shall not impose any duties or responsibilities upon the Town due to its presence on the property or its control of solar farm components and waste to complete decommissioning as implied agent for the Applicant or System Operator; and the Applicant or System Operator shall remain responsible to indemnify the Town



- for all its expenses incurred in having to carry out the decommissioning and restoration work that was the responsibility of the Applicant or the System Operator.
50. As a condition of this Special Use Permit approval, a reasonable determination by the Code Enforcement Officer that a solar farm has been abandoned subjects the Applicant or System Operator to the procedures for abandonment provided by the Town Code in Section 165-65.3 [H], the Decommissioning Plan, and these Special Use Permit conditions.
  51. The Applicant or the System Operator have the responsibility to keep the Town provided with current addresses for receipt of Town notices. Accordingly, as a condition of this Special Use Permit approval, Town provision of written or electronic notice to the Applicant or System Operator according to the current addresses on record with the Town at the time for the Applicant or the System Operator shall constitute sufficient notice of Town action to the Applicant or System Operator involved at such time regardless of whether the Applicant or System Operator actually receives such notice at such address, receives such notice late, or receives such notice at all.
  52. As a condition of this Special Use Permit approval, in the event the Applicant or System Operator resorts to court action against the Town, its agencies, or Code Enforcement Officer or other Town personnel engaged in official duties to resolve a dispute involving continuance of operations of a solar farm (which could result in decommissioning) or decommissioning-related issues, which action prompts the Town to incur legal expenses for attorney fees and associated filing fees and other litigation expenses in order to respond in court so as to protect its rights and interests, such Applicant or System Operator commencing court action shall be responsible to indemnify the Town for its legal fees and expenses incurred in responding to the litigation commenced by the Applicant or System Operator, including appeals and claims about the Applicant's or System Operator's indemnification of the Town's legal fees and expenses. In the event the Town commences court action against the Applicant or System Operator to protect or enforce the Town's rights or responsibilities under the Town Code, these Special Use Permit conditions or a Town contract, regarding a solar farm's continuance of operations or decommissioning-related issues, and substantially prevails in an order, judgment or settlement, such the Applicant or System Operator shall be responsible to indemnify the Town for its legal fees and expenses incurred in such litigation, including appeals and claims about the Applicant's or System Operator's indemnification of the Town's legal fees and expenses. The Applicant or System Operator is required to indemnify the Town for legal fees and litigation expenses shall pay such obligation in full within thirty days of written notice of the indemnification amount sought by the Town. The failure of the Applicant or System Operator to pay such indemnification amount on time shall entitle the Town to recover such amount from the surety provided to the Town by the Applicant or System Operator in connection with the solar farm. Alternatively, in addition to any other remedies available to the Town under law or equity, any indemnification amount not paid or covered by the Applicant's or System Operator's surety shall be assessed against the associated lot and Applicant's property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon and shall be enforced and collected, with interest, by the same officer and in the same manner, by the same proceedings, at the same

time and with the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

53. As a condition of this Special Use Permit approval, upon request by the Code Enforcement Officer and within 48 hours thereof the Applicant or System Operator shall provide a person authorized to accompany the Code Enforcement Officer and/or Town staff, Town Engineer or Town consultant or contractor to enter the solar farm consistent with law in order to conduct official duties, monitor the solar farm site for continuing compliance with the final site plan, Special Use Permit and Town Code, and/or conduct operations under such authorities or Decommissioning Plan or Agreement, or take emergency or urgent actions to remediate problems existing or beginning at the solar farm or on its lot.
54. In the event any condition specified herein is violated or not met as required, in addition to any other actions the Board or Town may be authorized to take in such circumstances, the Board is authorized to revoke the Special Use Permit granted hereunder after notice of the proposed action to the Applicant or System Operator and a hearing if requested consistent with the Town Code. If the Special Use Permit is revoked for noncompliance with a condition, the Town may require cessation of the solar farm operation for noncompliance with law, and in the absence of a new special use permit grant under the law and Town Code then existing, further find the unpermitted solar farm abandoned, and invoke associated requirements and rights, along with other actions that may be warranted, consistent with the Town Code, Special Use Permit and Decommissioning Plan and Agreement.
55. As a condition of this Special Use Permit approval, Tax Map Numbers are assigned to the Lot that comprises the Sky Solar, Inc., West Solar Farm Project, is 29.07-1-84.112, as shown on the Filed Final Subdivision Plat for the Sky Solar, Inc., West Solar Farm Project, and as is to be shown on the Final Site Plan drawing for such lot prior to signature by the Planning Board Chairperson. In addition, a copy of the liber and page for the Final Subdivision Plat for this Project, is to be filed in the Town Development Office.

**BE IT FURTHER RESOLVED** that the Clerk of the Board is hereby directed to provide by U.S. Mailing, a certified copy of this resolution to the Involved and Interested Agencies and to the Town Clerk.

**BE IT FINALLY RESOLVED** that the Clerk of the Board is to provide copies of this resolution to: the Applicant, Sky Solar Inc., c/o Frank Ruffolo, 1129 Northern Boulevard, Suite 404 Manhasset, N.Y. 11030; Emily Lukasik, EIT, LaBella Associates, 300 State Street, Suite 201, Rochester, N.Y. 14618; the Town Highway and Parks Superintendent; the Acting Town Water and Sewer Superintendent; the Town Director of Planning and Development; the Town Code Enforcement Officer; the Town Fire Marshal; and the Town Engineering Firm, MRB Group, D.P.C., Attn: Lance S. Brabant, CPESC, Director of Planning Services.

The above resolution was offered by MR. VIETS and seconded by MR. DELUCIA at a meeting of the Planning Board held on Wednesday, September 18, 2024. Following discussion thereon, the following roll call vote was taken and recorded:

Adrian Bellis	Aye
Timothy DeLucia	Aye
Edward Hemminger	Aye
Regina Sousa	Aye
Douglas Viets	Aye

Motion carried.