

Summary of Responses to Public Comments
DRS – Lansing – North Triphammer Solar

NY Lansing I, LLC
NY Lansing II, LLC
33 Lower Main Street / PO Box 384
Callicoon, NY 12723

July 29, 2024

Town of Lansing Building Department
29 Auburn Road
Lansing, New York 14882

Attn: John Zepko
Director of Planning and Code Enforcement

Re: North Triphammer Road,
North Parcel Project #1 – Solar Energy Facility
South Parcel Project #2 - Solar Energy Facility

Dear Mr. Zepko,

On July 10, 2024, the Town of Lansing (“Town”) Zoning Board of Appeals (“ZBA”) held a public hearing in consideration of use variances required for two solar projects, a 5.0 MW AC installation and a 3.0 MW AC installation located on North Triphammer Road, as proposed by affiliates of Delaware River Solar, NY Lansing I, LLC and NY Lansing II, LLC (the “Applicant”). The ZBA has requested that the Applicant provide a summary of comments received during the meeting, written comments received until 5:00 P.M. on July 17, 2024, and the Applicant’s responses thereto. Please find such a summary enclosed.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,



Mollie Messenger
Delaware River Solar

Summary of Responses to Public Comments
DRS – Lansing – North Triphammer Solar

1. Screening. Several community members commented that robust visual screening measures should be installed to shield views of the solar projects from neighboring property owners, roadways, and other public vantage points. Relatedly, some commenters expressed a request that screening measures and the maintenance thereof is mandatory and enforceable through mechanisms such as conditions on any approvals issued for the projects or through a bond.

Response: As indicated by Delaware River Solar’s CEO during the July 10th meeting, the Applicant is more than willing to implement a robust visual screening/landscaping plan that will include installing evergreen trees standing eight to ten feet in height at the time of planting. To the extent possible, the Applicant will utilize native plantings. The Applicant is also supportive of enforceable mechanisms for the implementation of such a visual screening/landscaping plan, and maintenance vegetative screening throughout the life of the project. The Applicant has been in communication with David Hernandez of Cayuga Landscaping. Mr. Hernandez has helped screen several solar fields around the area and is aware of the depth to bedrock issues that need to be considered at the project site. Mr. Hernandez has offered to advise the applicant on planting strategies and locations in order to provide adequate screening from neighboring parcels. The Applicant has also proposed engaging with Cayuga Landscaping to maintain the landscaping and ensure the plantings thrive. The Applicant has met with concerned neighbors at the site to try to address their specific screening needs. The Applicant has expressed to the neighbors that during construction, the landscaping plan will be revisited to make sure the screening proposed is adequate. Should more landscaping be needed in a particular area, then it will be provided to satisfy the concern. The new driveway location and screening of the adjacent homes will also be reviewed and screened accordingly. It is difficult to provide an exact landscaping plan for this area, prior to construction. The areas that need screening will be assessed prior to operation and a plan will be implemented. The project sponsor can work with the adjacent neighbor in this area to make sure the screening needs are met.

The Applicant’s overall goal on this issue is that neighboring property owners and community members alike are satisfied with the installed screening measures and how they will be maintained.

2. Noise. Some community members raised the issue of noise generated by inverters and rotating solar panels, and whether such noise will be audible from nearby properties.

Response: As indicated during the July 10th meeting, the Applicant will install the inverters in central locations on the project parcels. The distance between the inverters and nearby properties will render any noise they may generate inaudible from nearby properties. Any malfunctions that may occur during the life of the project resulting in elevated noise levels will be promptly addressed by maintenance crews following any complaint filed with the Town. Similarly, while the Applicant is unaware of any previous instances where rotating panels have caused elevated noise levels, should such a malfunction cause increased noise levels, maintenance crews will promptly address the issue. Absent any technical malfunctions, as stated in the Sungrow Test Report for the

Summary of Responses to Public Comments
DRS – Lansing – North Triphammer Solar

Inverter Noise, submitted to the Town the inverters generate a low humming sound of roughly 68.2 dBA at 32.8 feet. For clarification, 70 dBA is equivalent to a vacuum. As you move further away from the inverter, the sound decreases dramatically. A diagram and visual noise analysis were sent to the Town illustrating that at 150 feet from the inverter, the dBA is reduced to approximately 47 dBA which is equivalent to a stream or moderate rainfall. As the distance increases, the dBA is significantly reduced. For these projects, the inverters will be located a minimum of 480 feet from any adjoining residence, rendering any sound they produce inaudible to nearby property owners and passersby alike. Similarly, barring any technical malfunctions, the rotational mechanism of the solar panels is generally silent. The noise study for the Terrasmart single axis tracker panel motor was submitted to the Town demonstrating the minimal noise emitted.

3. Glare. Some community members commented that reflective glare from the solar installations could potentially affect nearby properties and roadways.

Response: As indicated during the July 10th meeting, the solar panels are designed to absorb light, not reflect it. As a result, solar installations do not generally cause problems related to glare. By way of example, some airports (*i.e.*, Indianapolis International), which are highly sensitive to the potential effects of reflective glare on aviation safety, have allowed large-scale solar projects to be constructed within just a few feet from runways and other sensitive airport facilities. Additionally, the Applicant has obtained a “Determination of No Hazard” for these solar projects from the Federal Aviation Administration (“FAA”), meaning that glare from the solar facilities will not have an adverse effect of aviation safety. Moreover, the Applicant’s landscaping plan shows that the solar panels will be mostly shielded from the view of nearby property owners and drivers through the use of vegetative screening measures. If the panels are not visible, then any potential reflective glare will be similarly mitigated.

4. Location. Some community members commented on the location of the solar facilities in a residential zone and asked why the installations needed to be constructed near residential homes.

Response: The Applicant has conducted an intensive site selection analysis for these projects, which concluded that the subject parcels are the only suitable property for solar facilities of this size. An overview of this site selection process is detailed below:

The Applicant started by identifying every parcel over 10 acres in size in the Town of Lansing located within a quarter mile of a three-phase circuit. This is because upgrading more than 1,320 feet of three-phase distribution wire to interconnect the projects is cost prohibitive. As a result of this phase of the site selection process, DRS was able to identify only a handful of potentially viable parcels (*i.e.*, those within ¼ mile of a three-phase circuit).

Next, the Applicant considered the size and other dimensional constraints of each property. That means, accounting for assumed setbacks from property boundaries, wetlands, steep slopes, and other features, a viable parcel must have sufficient acreage to

Summary of Responses to Public Comments
DRS – Lansing – North Triphammer Solar

support solar installations that can fill the local circuit's supply capacity. Using this criterion and with the help of GIS software, the Applicant was able to shorten its original list of 183 potentially viable parcels to 28.

While the proximity of a suitably sized parcel to a three-phase circuit are basic requirements of project viability, the nearby circuit must also have sufficient capacity on the line and at the substation to accommodate 8 MW AC of solar power generation. To assess capacity, the Applicant used NYSEG's hosting capacity maps and interconnection queue data to identify which parcels were near three-phase circuits with sufficient capacity to accommodate the projects. This narrowed the list of viable parcels down to just a few properties.. After contacting these landowners to gauge interest in leasing land to a solar company, the only properties that remained viable options were the North Triphammer road parcels. This is because some property owners did not respond to the Applicant's inquiries or otherwise indicated they were not interested in leasing their land.

For these reasons, even though the projects will be located within a residential zone, the subject parcels are the only property in the immediate area that are suitable for a solar development of this kind.

5. Landscaping and Maintenance. Some community members requested additional information with regard to how landscaping and maintenance plans will be implemented over the useful life of the projects.

Response: As indicated during the July 10th meeting, regular maintenance (*i.e.*, mowing, tree care, snow plowing, etc.) will be part of the Applicant's forthcoming revised landscaping plan, which will be submitted to the Town. Maintenance will be conducted by local contractors, if available, in compliance with such plan. Additionally, the Applicant is open to any suggested enforceable conditions in any approval that may be issued by the ZBA or another board related to ongoing maintenance, tree replacement, and complaint procedures

6. Decommissioning. Some community members asked for additional information with regard to how the solar projects will be decommissioned after its useful life.

Response: The Applicant has submitted a decommissioning plan to the Town as part of the proposed solar developments. This plan is intended to return the property to a state similar to its pre-construction condition after decommissioning. As a security measure, the plan includes a decommissioning bond that the Town can call upon to effectuate the decommissioning after its useful life or after the project is non-operational for a certain period.

7. Wildlife. Some community members indicated that additional investigation should be conducted with regard to impacts of the projects on local wildlife.

Response: The Applicant has conducted various analyses with respect to impacts to local wildlife and suitable habitat. Included in these investigations is a review as to whether

Summary of Responses to Public Comments
DRS – Lansing – North Triphammer Solar

any threatened, endangered, or other listed species (both flora and fauna) are known to exist on or near the subject properties. According to the New York State Department of Environmental Conservation (“NYSDEC”), there are no records of sensitive species on the subject parcels or within the surrounding area. This notwithstanding, the Applicant will avoid, to the maximum extent practicable, any impacts to wetlands, which usually serve as habitat for various species, and will use plantings indigenous to New York State and the local area as vegetative screening to reduce potential impacts to the environment. Should the Applicant encounter any threatened or endangered or other listed species on the property during construction, the DEC will be contacted and the appropriate mitigation measures will be initiated as warranted. A site survey to look for any habitat of endangered species on the site has been ordered. The report will be sent to the Town when it is completed.

8. Standard of Review. One commenter stated that the ZBA should apply the standard variance criteria for use variances under Town Law § 267-b to the applications, rather than the standard set forth under applicable Court of Appeals precedent for public utilities, as established by *Consolidated Edison Co. of New York, Inc. v. Hoffman*, 43 N.Y.2d 598 (1978), and *Matter of Cellular Tel. Co. v. Rosenberg*, 82 N.Y.2d 364 (1993).

Response: The Applicant respectfully refers the ZBA to the July 9, 2024 letter from Matthew B. Liponis of Hodgson Russ, LLP for a response related to this comment.

9. Other Land Uses. Some community members asked whether the subject parcels can be used for other types of developments (*i.e.*, a residential subdivision).

Response: As indicated by another community member during the July 10th meeting, the subject properties are not suitable for residential development. This is due to (1) the shallow bedrock on the property, which restricts or prevents construction of necessary public improvements such as sewer and drinking water systems, and (2) the absence of any required infrastructure on most of the land, such as roads, sewer, and water systems, the installation of which would present a heavy financial burden on any potential developer. Additionally, as one community member also indicated during the July 10th meeting, efforts to continue farming both parcels have proven unsuccessful. Because solar facilities, such as these projects, do not require water and sewer infrastructure, they represent the most suitable use of the parcels, particularly in light of the site selection analysis, as detailed above.

10. Oak Tree Grove – End of Bean Hill Lane. One community member asked whether a grove of oak trees, which stands at the end of Bean Hill Lane, can remain undisturbed.

Response: Currently Bean Hill Lane does not extend all of the way to the property line for the road parcel. In between the road parcel and the project parcel is an approximate 20' wide parcel that has been designated for the Town's water main. The proposed clearing on the project parcel is 62' from the project parcel north boundary. In total there will be an approximately 82' buffer of existing trees and foliage that will not be disturbed. The trees in this area will remain undisturbed.

Summary of Responses to Public Comments
DRS – Lansing – North Triphammer Solar

11. Cost of Electricity Generated by the Projects. One community member asked how much the Applicant will charge members of the public for electricity produced by the solar facilities.

Response: Members of the public who participate in the community solar program can generally expect to save somewhere between 5% and 10% on their monthly electricity bill. Any potential savings, however, are controlled by NYSEG, which issues monthly bills to its customers.

12. Effect on Value of Nearby Properties. Some community members asked whether the solar installations will lower the value of residential real estate close to the projects and asked whether the Applicant will purchase local homes or make payments to homeowners in the event of any devaluation.

Response: While we cannot comment, without concrete evidence, on the effect of a solar installation on neighboring property values, anecdotal accounts suggest that if the solar facility is properly screened and inaudible from nearby residential parcels, buyers generally do not discount offers based on proximity to solar fields. The Applicant does not intend to purchase nearby homes or make monthly payments to local homeowners as this is not industry practice.

13. Applicant's Financial Statements and Similar Records. Some community members asked that the ZBA require the Applicant to provide copies income statements, lease agreements, project budgets, and other commercially sensitive information as part of the variance requests.

Response: Income statements and similar documentation is not relevant to the ZBA's inquiry as to whether the requested variances should be granted. These records also contain commercially sensitive information and will therefore not be shared by the Applicant. Other information related to lease agreements has already been shared with the ZBA. For example, the subject parcels will be leased from Jack Young, the property owner and chairman of the ZBA who has recused himself from consideration of the application, as is appropriate under New York State law.

14. Site plan and other approval conditions. Some members of the community are concerned that when Delaware River Solar sells the project to the new project owner conglomerate that the agreed upon conditions will not be enforceable.

Response: The approved site plans and conditions will be honored by, and are fully enforceable against, any new project owner. There were a few neighbors who were concerned with existing landscaping. The existing vegetative conditions will remain and additional screening will be installed if there is a location where the projects viewed is disturbing.

Summary of Responses to Public Comments
DRS – Lansing – North Triphammer Solar

15. Who is Delaware River Solar? Some community members asked for more information about the Applicant, Delaware River Solar.

Response: Delaware River Solar has developed 75 operating projects in New York State since 2016. The power generated from those solar projects have powered approximately 35,000 homes. New York State has a very progressive goal to increase solar energy capacity statewide. Under the Climate Leadership and Community Protection Act (“CLCPA”), 70% of the state’s electricity must come from renewable sources by 2030 on the path to a zero emissions grid.

After Delaware River Solar develops a solar project, a larger conglomerate will agree to the terms set between the town and Delaware River Solar and purchase the project for continual project operations of 30 years. These operations will directly contribute to the renewable energy goals set forth under the CLCPA. After the 30-year life of the project, the project owner will decommission the project (*see* Response to Question No. 6 for more information). Decommissioning also includes removing the 8 total above ground poles which are used to carry the generated electricity directly to the grid.

The proposed Solar Facility for Project #1 would generate approximately 7,700,000 kWh/year, equivalent to the electricity consumption of 700 homes. The proposed Solar Facility for Project #2 would generate approximately 4,900,000 kWh/year, equivalent to the electricity consumption of 490 homes.

16. Where are the solar panels manufactured? Some community members asked whether the panels and inverters are manufactured in the United States or abroad.

Response: Solar panels and inverters will be purchased at the time of construction, and they will be manufactured for this specific project. Solar panels and inverters, regardless of the country that they are manufactured/assembled in, must comply with all American safety, climactic, aging and performance standards.

17. Other Solar Project Decisions. One community member asked why a solar project in northern Lansing was not approved.

Response: The Applicant cannot comment on other solar development projects with which it is not involved.

18. Taxes and Tax Implications. One member of the community asked whether the solar development will receive tax benefits in the form of a payment in lieu of taxes (“PILOT”) or other arrangement with the Town and/or Tompkins County, and what the implications of such an arrangement will be on local or county taxes.

Response: The Applicant has contacted the Town Supervisor with respect to a potential PILOT agreement, which under New York State Law, can be for an amount up to the value of taxes the project would otherwise be required to pay in taxes. The Applicant

Summary of Responses to Public Comments
DRS – Lansing – North Triphammer Solar

cannot comment as to whether a PILOT agreement or the project as a whole would affect local and county taxes.

19. Noise and Dust from Access Road. One community member indicated that dust from the gravel access road could be kicked up when used.

Response: Outside of the initial construction period, the access road will be rarely used. Dust and noise from cars or trucks driving on the access road will therefore be negligible over the life of the project.

20. Impacts to Wetlands. One community member asked about the impacts that will be caused to wetlands on the site.

Response: The wetlands on the project site were delineated based on a scientific definition using the three-parameter approach used by the Army Corps of Engineers (ACOE) that require the simultaneous presence of hydric soils, hydrophytic vegetation, and wetland hydrology. This, however, does not necessarily translate to a jurisdictional or regulatory definition. Most relevant for this project site is the additional criteria for ACOE jurisdiction resulting from the May 2023 Supreme Court decision regarding Sackett v. Environmental Protection Agency. Under this decision, a jurisdictional wetland must be directly associated with a significant waterway.

As a part of the proposed solar project, 0.36 acres of identified wetlands are proposed to be disturbed via the construction of access roads. This disturbance is allowable under United States Army Corps of Engineers (USACE) Nationwide Permit 14 (the permit for linear transportation projects), which allows for the discharge of dredged or fill material causing the loss of less than 0.5 acres of waters of the United States (WOTUS) for projects that impact non-tidal WOTUS. (These WOTUS are non-tidal.) This approval is provided that the developer must submit a pre-construction notification to the district engineer prior to commencing the activity. (It should also be noted that the impacted wetlands are still pending jurisdictional determination by the USACE.) Furthermore, although it is not required, the developer is proposing to create a 0.85-acre wetland mitigation bank on the site contiguous with the existing wetlands using non-invasive wetland plant species, so as to offset the impact of the access roads.

21. Fencing. One community member asked about the height of the fence, its construction and maintenance, and visual impacts from the fence.

Response: The fence will be an 8-ft. tall deer fence, which will be constructed inside of any screening measures implemented by the Applicant. The fence will be maintained throughout the life of the project.

22. Transformer. One member of the community asked for additional details regarding any transformers that may be used as part of the project.

Summary of Responses to Public Comments
DRS – Lansing – North Triphammer Solar

Response: The transformers on site are oil filled – FR3 transformers. Natural Esters is a less flammable fuel that is environmentally friendly. These oils are typically seed oil based with a flash point of 300 degrees C. There is about 500 gallons of oil per transformer. The specification sheet was included with this submission to the Town for more information.

23. Traffic. One community member asked if traffic impacts from individuals who want to see the solar project have been addressed.

Response: The Applicant does not anticipate any traffic impacts from spectators of the solar fields. Once the project is completed, there will be a maintenance vehicle once a month to check the system. The traffic concerns for a solar field are a smaller impact than a single-family home.

24. Capacity Factor. One community member asked what the availability and capacity factor of the project will be.

Response: Before construction, the Applicant will not have specific capacity factor figures for this project. Capacity factor is a percentage that measures how often a power plant operates at maximum power over a specific period of time. It's calculated by dividing the actual energy produced by the maximum possible energy output during that time. For example, if a generator with a power rating of 1500 kW produces 3,942,000 kWh in a year when it could have produced 13,140,000 kWh if it ran at full power for the entire year, then its capacity factor for that year would be 30%. This question can be revisited after operation has started on the project.

25. Dispatch Agreement. One commenter asked if the Applicant has entered into a dispatch agreement with NYISO.

Response: NYISO is not an organization the applicant will be working with as this is not a large scale, transmission, project that requires this agreement.

26. Above-ground Utility Poles. Some community members asked whether the limited above-ground utility poles can be eliminated from the site plan.

Response: The Applicant has reduced the number of above-ground utility poles to the maximum extent possible per NYSEG. For interconnection purposes, some utility lines must be above ground that design is not in control of the project developer. The electric company has the sole design standard requirement approval.