

Town of Farmington Planning Board  
1000 County Rd. 8  
Farmington, NY 14425

January 8, 2020

**RE: Project Status Log – 1-8-2020**

Dear Town of Farmington Planning Board,

Delaware River Solar (“DRS”) is pleased to have the opportunity to bring the benefits of Community Solar to the Town of Farmington. This letter provides the following information useful to the Special Use Permit and Subdivision applications under review by the Planning Board at the January 15, 2020 meeting:

1. Decommissioning Plan – updated with Decommissioning Cost Estimates for the current November, 2019 Site Plan, and to include the requested example Decommissioning Plan Agreement and financial surety methods;
2. In-line responses to Town Code pertinent to Special Use Permit criteria for “Large Scale Ground-Mounted Solar PV Systems”;
3. In-line responses to Town Code pertinent to Subdivision and Site Plan criteria applicable for “Large Scale Ground-Mounted Solar PV Systems”

We thank the Town of Farmington for the thorough review of these projects and look forward to the continued review of the Site Plan, Subdivision, and Special Permit applications.

Sincerely,

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Daniel Compitello  
*Project Developer*



Included herein are in-line responses to the following sections of  
Town Code:

1. Section 10. §165.65.3.8. Abandonment and decommissioning,  
and;
  - (6) Special use permit conditions.

Section 10. §165.65.3.8. Abandonment and decommissioning.

- (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 attract nuisance.

**DRS Response:**

Noted. Please refer to the Project Memorandum and Decommissioning Plan.

- (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.

**DRS Response:**

Noted.

- (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.

**DRS Response:**  
Noted.

- (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 decommissioning plan approved by the Planning Board.

**DRS Response:**  
Noted. Please see Decommissioning Plan.

- (5) Decommissioning and removal.

[a] Decommissioning and removal of a commercial solar PV system shall consist of:

- (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.

**DRS Response:**  
Noted. Please see Decommissioning Plan.

- (2) Disposal of all solid and hazardous waste in

accordance with local, state and federal waste disposal regulations.

**DRS Response:**

Noted. Please see Decommissioning Plan.

(3) Restoration of the ground surface and soil.

**DRS Response:**

Noted. Please see Decommissioning Plan.

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

**DRS Response:**

Noted. Please see Decommissioning Plan.

[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 to not adversely affect community character or the environment.

**DRS Response:**

Noted. Please see Decommissioning Plan.

[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 §165.65.3.(5) above and include:

**DRS Response:**

Noted. Please see Decommissioning Plan.

(6) Special use permit conditions. The following conditions shall apply to all special use permits issued for a Large Scale Ground-Mounted Solar PV Systems. No special use permit shall be issued unless the Planning Board finds that the conditions have been or will be met.

- [a] A licensed engineer's estimate of the anticipated operational life of the system.

**DRS Response:**

Noted. Please refer to the Project Memorandum and Decommissioning Plan which states the Projects have an anticipated lifespan of 30 years.

- [b] Identification of the party responsible for decommissioning.

**DRS Response:**

Noted. See Decommissioning Plan. DRS and the Project Companies are responsible for decommissioning the system, or, in the event DRS and the Project Companies are not able to decommission the system, the Town of Farmington may use the decommissioning form of surety provided and updated every three years to decommission the system.

- [c] Description of any agreement regarding decommissioning between the responsible party and the landowner.

**DRS Response:**

Noted. Please refer to the Lease Agreement between DRS and the landowners, which states terms for removal of system and restoration of premises associated with decommissioning. The acceptance of the Decommissioning Plan by the Planning Board will incorporate the plan as part of the Special Use Permit associated with the Projects, and will constitute the plan for decommissioning and site restoration referenced in the lease agreement.

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

**DRS Response:**

Provided in Decommissioning Plan.

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

**DRS Response:**

Provided in Decommissioning Plan.

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

**DRS Response:**

Provided in Decommissioning Plan.

- [g] A 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.

**DRS Response:**

See Decommissioning Plan. To obtain such financial surety, DRS requires the Town state in writing what form of surety is acceptable – i.e. a bond, deposit, or other financial instrument.

- [h] Financial surety. Prior to the issuance of a building permit and every three (3) 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 (3) years thereafter, as provided herein.

**DRS Response:**

**Provided in Decommissioning Plan and Decommissioning Agreement.**

- [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.

**DRS Response:**

**Noted. Cost Estimate provided in Decommissioning Plan. DRS requests the Town Engineer provide comments on the Decommissioning Plan and cost estimates prior to the January 15, 2020 Planning Board meeting.**

- [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.

**DRS Response:**

Noted.

Regarding Annual Reporting of rated capacity and energy generation, this is required by NYSERDA as well. Under the NY Sun program DRS is obligated to provide NYSERDA this data in hourly real-time increments, and NYSERDA is obligated to make this data publicly available on a website showing all Community Solar distributed generation resources in operation in New York State. Data is searchable and downloadable in any time format for the life of the system in database and map formats.

Visit: this website for more information:

<https://der.nyserda.ny.gov/data/>

- [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.

**DRS Response:**

Noted, and provided in Decommissioning Plan.

## Included herein are in-line responses to the following sections of Town Code:

1. [§ 144-12 Preliminary plan checklist.](#)
2. [§ 144-18 Lots and lot sizes.](#)
3. [§ 165-65.3 Solar Photovoltaic \(PV\) Systems](#)

### § 144-12 Preliminary plan checklist.

A. The preliminary subdivision plan shall show or be accompanied by the following information:

(1) Proposed subdivision name or identifying title;

**DRS Response:**

The subdivision name “Delaware River Solar, LLC Solar Energy Facility ~Yellow Mills Road” is located in the lower right corner of the Plat.

(2) Date, North point and scale. The plan shall be at a scale of no more than 100 feet to the inch;

**DRS Response:**

The original date, July 3, 2018 and scale is located in the lower right corner of the Plat. The latest revision date is located in the Revision Block. The north arrow is located south of the intersection of Yellow Mills Road and Fox Road.

(3) Name of the owner of the property;

**DRS Response:**

The name of the current owners are located in the Site Development Statistics.

(4) Name of the engineer, surveyor, or architect responsible for the plan;

**DRS Response:**

The name of the Engineer and Surveyor responsible for the subdivision is located within the Certification statement above the map title.

(5) Tract boundaries with bearings and distances;

**DRS Response:**

Bearings and distances are shown for the complete project parcel as well as the proposed property lines.

(6) Contours at vertical intervals of 20 feet as determined from a topographic survey or a topographic survey map of the US Geological Survey. In the case of steep or unusual tracts, the Planning Board may require contours at such lesser intervals as it finds necessary for study and planning of the tract;

**DRS Response:**

Located on the Site Plan, Sheets S-1, S-2 and L-1.

(7) Delineation of any land exceeding a slope of 10%, land within a NYSDEC Freshwater Wetland, land within a FEMA Special Flood Hazard Zone or lands otherwise designated by Chapter 165, Zoning, as being within an Environmental Protection Overlay District;

**DRS Response:**

Steep slopes are shown within the topography on the Site Plan, Sheets S-1, S-2 and L-1. The wetland and flood hazard zones are also shown on the Plat.

(8) Delineation of limits of any land to be disturbed in any manner including areas to be cut, filled, excavated, or graded and contours, both existing and proposed, at vertical intervals of no more than five feet for areas within such limits;

**DRS Response:**

Lands to be disturbed are shown on the Site Plan, Sheets S-1, S-2 and L-1. Grading will be limited to stripping and eventual replacement of topsoil.

(9) Location and description of all swales, ponds, basins, fences, dikes or other devices required to control soil erosion and sedimentation or otherwise comply with the provisions of the Town Soil Erosion and Sedimentation Control Law contained elsewhere in the Town Code;

**DRS Response:**

These features are located on the Site Plan, Sheets S-1, S-2 and L-1.

(10) Datum to which contour elevations refer. Where reasonably practicable, datum shall refer to USGS established elevations;

**DRS Response:**

The horizontal datum is referenced to NAT83 and the vertical datum is referenced to NGVD88. Contours are shown on the Site Plan, Sheets S-1, S-2 and L-1.

(11) All existing watercourses, tree masses and other significant natural features;

**DRS Response:**

Existing watercourses and trees are shown on the Site Plan, Sheets S-1, S-2 and L-1.

(12) All existing buildings, sewers, water mains, culverts, petroleum or petroleum product lines, fire hydrants and other significant man-made features and utilities;

**DRS Response:**

These items are shown on the Site Plan, Sheets S-1, S-2 and L-1.

(13) All existing streets on or adjacent to the tract, including names, right-of-way widths and pavement widths; the Planning Board shall have the right to name new streets in accordance with historic characteristics of the community and in accordance with the Ontario County 911 Emergency Communications Local Law;

**DRS Response:**

The existing streets, widths and names shown on the Plat.

(14) All existing property lines, easements and rights-of-way and the purpose for which the easements or rights-of-way have been established;

**DRS Response:**

The existing property lines and rights-of-ways shown on the Plat.

(15) Location and width of all proposed streets, alleys, rights-of-way, easements, and proposed lot lines;

**DRS Response:**

The proposed cross access and utility easement is shown on the Plat.

(16) Location and dimensions of all playgrounds, public buildings, public areas and other parcels of land proposed to be dedicated to or reserved for public use;

**DRS Response:**

Does not apply.

(17) Location and widths of all proposed driveway intersections with streets and sight distances therefrom. Suitable means of access must be shown for each lot unless such lot is to be annexed to an existing parcel. Subsequent driveway locations shall be completed in such a manner as to comply with sight distance standards as promulgated by AASHTO and/or ITE;

**DRS Response:**

These items are shown on the Site Plan, Sheet S-1.

(18) Estimated location, size and invert elevations of all proposed sanitary and storm sewers and location of all manholes, inlets and culverts;

**DRS Response:**

Does not apply.

(19) Estimated location and size of all proposed water mains, laterals, hydrants, meters and valves;

**DRS Response:**

Does not apply.

(20) Where required by New York State Department of Health regulations, the proposed locations, sizes, and design of individual septic tanks and associated leach fields. Regardless of such regulations the locations and results of tests conducted to determine soil percolation capabilities and deep soil profiles must be provided. At least one potential septic disposal site must be tested for each individual lot unless such lot is to be annexed to an existing parcel or unless public sanitary sewer is to be provided;

**DRS Response:**

Does not apply.

(21) Wherever practicable, the names of owners of all abutting unplotted land and the names of all abutting subdivisions;

**DRS Response:**

The adjacent property lines and land owner names are shown on the Plat.

(22) Where the preliminary plan covers only a part of the subdivider's entire holdings, a separate sketch shall be submitted of the prospective street lot and utility layout for the remainder of the land including an estimated time schedule for phasing of the entire project;

**DRS Response:**

Does not apply.

(23) Copies of proposed deed restrictions, if any, shall be attached to the preliminary plan;

**DRS Response:**

Does not apply.

(24) Current zoning of the land including all setback dimensions for said zoning district;

**DRS Response:**

The current land zoning and setback dimensions are located in the Site Development Statistics on the Plat.

(25) A completed agricultural data statement form identifying whether the site lies within an area which is further regulated under § 283-a of Town Law, as amended;

**DRS Response:**

A completed Agricultural Data Statement was submitted on July 17, 2018 with the original submission.

(26) Anticipated time schedule for completing development of the site; and

**DRS Response:**

The anticipated time frame for completing construction can be found in the Project Summary, it is estimated to take approximately 12 weeks once construction starts.

(27) Special information on conditions identified by the Planning Board at sketch plan review.

**DRS Response:**

Does not apply.

## § 144-18 Lots and lot sizes.

A. Lot sizes and dimensions shall not be less than those specified in Chapter 165, Zoning, of the Code of the Town of Farmington unless the provisions thereof are to be modified by the Planning Board pursuant to Town Law § 278, as amended.

**DRS Response:**

The proposed Lot sizes and dimensions are in excess of the minimum required.

B. Lot sizes and dimensions in excess of the minimum standards of Chapter 165, Zoning, shall be required by the Planning Board should the Board find that the size and dimensions of lots as proposed endanger the health, safety or welfare of the community or the environment.

**DRS Response:**

The proposed Lot sizes and dimensions are in excess of the minimum required.

C. Where sanitary sewage disposal is to be provided by individual facilities and evidence indicates that the minimum requirements of Chapter 165, Zoning, with respect to lot width and size may not be adequate for such provision, the Planning Board may require that tests to determine adequacy, in accordance with the rules and regulations of the State Department of Health, entitled "Sewers." Such tests shall be conducted at the expense of the developer to determine the adequacy of the proposed lot size considering the existing grade and soil conditions. In all such cases where the tests indicate a larger lot size to be necessary, the Board may employ the services of a registered and qualified independent sanitary engineer for advice as to the minimum lot size and/or facilities necessary to prevent unsanitary conditions and hazards to the public health. In such cases, the cost of retaining these services of a qualified engineer shall be borne by the developer.

**DRS Response:**

Does not apply.

D. All lots shall share a common boundary with either a public road or a private road that shall be maintained by a homeowner's association or legal equivalent association reviewed by the Planning Board and approved by the New York State Attorney General.

**DRS Response:**

All land within the subdivision will remain under the ownership of the current landowner. A majority of the road frontage is to remain pasture.

E. Residential lots greater than two acres shall not have lot depths greater than 2 1/2 times the lot width except as may be specified in Chapter 165, Zoning, of the Code of the Town of Farmington.

**DRS Response:**

This project does not create residential lots.

F. Depth and width of parcels laid out or reserved for nonresidential use shall be sufficient to provide satisfactory space for off-street parking and unloading, or such other use as is proposed, consistent with the provisions of Chapter 165, Zoning.

**DRS Response:**

There is ample off street parking provided for within the site plan.

G. Side lot lines shall be substantially perpendicular to street lines.

**DRS Response:**

Proposed lot lines are generally perpendicular and/or parallel to the street lines.

H. If remnants of land exist after subdividing, they shall be incorporated into existing or proposed lots or, if acceptable to the Town, proposed for dedication to the Town for public use.

**DRS Response:**

All remaining lands are part of Lot 1, which includes the existing farmstead.

I. Double frontage lots are prohibited, except where employed to prevent vehicular access to major traffic streets or where otherwise required by unusual topographic conditions.

**DRS Response:**

Does not apply.

J. No division of land shall result in any parcel becoming landlocked or inhibit access to the remainder of the site by agricultural equipment used in conducting normal agricultural operations.

**DRS Response:**

The proposed subdivision does not create a land locked parcel, the project is designed to allow for free movement for agricultural purposes.

K. All lots to be located at intersections that are to be dedicated shall provide for conduit underneath the public right-of-way to facilitate future utility extensions.

**DRS Response:**

Does not apply.

## § 165-65.3 Solar Photovoltaic (PV) Systems.

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.

**DRS Response:**

DRS has submitted a Special Use Permit Application to the Town of Farmington Planning Board.

(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.

**DRS Response:**

The proposed project adheres to the required setbacks (see b. below). The location of the proposed ground mounted system is fixed and therefore will not track or change position during its operation.

(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 so as 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.

**DRS Response:**

The proposed ground mounted solar collectors are setback a minimum of 40' to all proposed property lines, are 366.4' from the Yellow Mills Road right-of-way and 307.4' from the Fox Road right-of-way. All natural screening vegetation will remain within the 25 foot buffer zone and is to be augmented with at least 51 evergreen trees and 330 Arborvitae located throughout the project site. A majority of the evergreen trees are located to provide a visual screen from the existing homes in the area and the Arborvitae are located to screen, as much as practicable, the system from the roadways.

[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 located in a residential district.

**DRS Response:**

The proposed project meets the minimum setback requirement of 40 feet. The project was originally designed with 20 foot setbacks to the proposed interior property lines based on the determination that the "additional 120 feet ..." portion of the code would govern. A determination was made by the Planning Board (See 165 65.3 F 3 below) that the project met the requirements for utilizing the 40 foot setbacks as described above. The Town of Farmington Zoning Board of Appeals at the August 26, 2019 meeting denied the requested area variances for the 20 foot setbacks resulting in the current 40 foot setback design.

[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 located in a residential or an incentive zone district.

**DRS Response:**

This item does not apply to the project.

[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:

**DRS Response:**

Within the August 6, 2019 Town of Farmington Planning Board SEQR Determination of Significance the Planning Board found that the proposed project complies with the provisions in this Section of the Town Code.

[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.

**DRS Response:**

DRS has agreed to hire an Environmental Manager (EM) to oversee the project who will abide by the requirements of the Town Code.

[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.

**DRS Response:**

DRS has worked with the landowner to create a site layout that allows for the continued use by the farmer. This includes a pass through which will allow the cattle to access pastures west of the proposed system. See Construction Notes #7 on Sheet S-2.

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

**DRS Response:**

The proposed utility poles and overhead collection lines have been consolidated near the Fox Road entrance. Each system requires 4 utility poles outside the right-of-way and one within the right-of-way.

[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.

**DRS Response:**

The proposed access road is located along an existing fence line which divided the existing pastures.

[e] There shall be no cut and fill so as 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.

**DRS Response:**

The proposed access road will be constructed as a Limited Use Pervious Access Road. It will be installed at the existing grade (no cut or fill sections) and is designed to allow runoff to drain through the gravel fill material. See Construction Notes #8 on Sheet S-2.

[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.

**DRS Response:**

The proposed access road is shown as 12' wide.

[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.

**DRS Response:**

According to the landowner there are no tiles located within the limits of the project. The installation of the ground mounted solar system requires minimal grading activities, existing drainage pathways will not be altered.

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

**DRS Response:**

The proposed access road will installed at the existing grade (no cut or fill sections).

[i] Culverts and waterbars are to be installed to maintain natural drainage patterns.

**DRS Response:**

The existing drainage pathways will not be altered, the access road will be pervious and installed at current grade. Culverts and waterbars will not be needed for this project.

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

**DRS Response:**

The site plan provides for topsoil stockpile locations near the proposed access roads and material laydown areas to accommodate stripping of the topsoil. See Construction Notes #9 on Sheet S-2.

[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.

**DRS Response:**

The proposed parking, material drop off and laydown areas have been sized based on the areas required at similar construction sites.

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

**DRS Response:**

DRS acknowledges that all construction equipment shall remain within the proposed work area. See Construction Notes #10 on Sheet S-2.

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

**DRS Response:**

The cable installation will be parallel to the proposed access road and is included within the calculated work area. See Construction Notes #11 on Sheet S-2.

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

**DRS Response:**

Trenching for buried cable is the only activity which will result in subsoil excavation, it will be stockpiled adjacent to the work area and to the greatest extent possible used as backfill. See Construction Notes #12 on Sheet S-2.

[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.

**DRS Response:**

The cable installation is included within the calculated work area, excavated topsoil will be stockpiled adjacent to the work area and will be used for restoration. See Construction Notes #13 on Sheet S-2.

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

**DRS Response:**

Electric cables are shown as buried on the site plans to the riser poles near the Fox Road right-of-way. See Construction Notes #14 on Sheet S-2.

[q] Interconnect cables and transmission lines installed aboveground 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.

**DRS Response:**

The pasture fence line will be adjusted to keep all aboveground cables and transmission lines outside the active agricultural areas.

[r] All buried electric cables in cropland, hayland 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.

**DRS Response:**

All underground electric cables are to be buried at a depth of 48-inches. See Construction Notes #15 on Sheet S-2.

[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.

**DRS Response:**

While it is not anticipated that the cable installation will disrupt the natural soil drainage patterns (majority of the project site drains to the existing pond near Fox Road, proposed underground cable runs south to north towards Fox Road) DRS commits to consult with the OCSWCD if the situation occurs.

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

**DRS Response:**

DRS has worked with the landowner to create a site layout that includes temporary and permanent relocation of the cattle fences. See Construction Notes #16 on Sheet S-2.

[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.

**DRS Response:**

A concrete washout basin is provided and its use is governed with the SWPPP, including the removal of accumulated waste. See Construction Notes #17 on Sheet S-2.

[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.

**DRS Response:**

DRS commits to obtain all necessary permits for all portion of the project.

[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.

**DRS Response:**

Decompaction is specified with the SWPPP. See Areas Disturbed by Construction Notes #1 on Sheet S-2.

[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.

**DRS Response:**

Temporary access roads are to be regraded to existing contours upon completion of the project. See Areas Disturbed by Construction Notes #2 on Sheet S-2.

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

**DRS Response:**

Agricultural areas disturbed by the construction shall be reseed, areas within the solar facility shall be seeded with a meadow seed mixture as specified within the SWPPP. See Areas Disturbed by Construction Notes #3 on Sheet S-2.

[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.

**DRS Response:**

There are no known surface or subsurface drainage structures known to the existing landowner in the area of the project. The EM shall be notified of any structures encountered during construction and shall be replaced or repaired as required. See Areas Disturbed by Construction Notes #4 on Sheet S-2.

[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 decompacted 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.

**DRS Response:**

Restoration work is to be completed in dry weather.

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

**DRS Response:**

The project site will be cleaned up of all debris at the end of construction. See Areas Disturbed by Construction Notes #5 on Sheet S-2.

[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 subsurface drain lines, fences, etc.

**DRS Response:**

The project site will be monitored and maintained for at least 2 years after construction has ended. See Areas Disturbed by Construction Notes #6 on Sheet S-2.

[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.

**DRS Response:**

Areas of topsoil deficiency will be remediated with clean topsoil imported from off site. See Areas Disturbed by Construction Notes #6 on Sheet S-2.

[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, the Soil and Water Conservation District and the State Department of Agriculture and Markets.

**DRS Response:**

Upon decommissioning the project site will be returned to its current state of pasture. See the Decommissioning Plan. See Areas Disturbed by Construction Notes #7 on Sheet S-2.

[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.

**DRS Response:**

Upon decommissioning the any concrete, electric lines and access roads will be removed or abandoned as per the Decommissioning Plan. See Areas Disturbed by Construction Notes #8 on Sheet S-2.

[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 aboveground if required by the utility provider.

**DRS Response:**

Electric cables are to be installed underground up to the riser pole near the Fox Road right-of-way. Each system requires 4 utility poles outside the right-of-way and one within the right-of-way with overhead electric wires. The transformers and inverters are to be installed aboveground on concrete pads as indicated on the Site Plan.

[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.

**DRS Response:**

The proposed deer fence detail is shown on Sheet L-1. The fence shall be 8 feet in height above grade, fixed knot woven wire mesh for the purpose of enclosing the system.

[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.

**DRS Response:**

DRS is not proposing to use barbed wire.

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

**DRS Response:**

As provided in the Project Memo the racks will have a height of approximately 10' above adjacent grade, note that this may vary slightly based on the underlying ground slope, but will not exceed 12' in height.

[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.

**DRS Response:**

The minimum lot size proposed as part of the subdivision is 13.008 Acres.

[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.

**DRS Response:**

The proposed lots were sized to minimize the land required for the system and maximize the remaining agricultural lands. The lot coverage for the three lots are 23.5%, 24.9% and 22.0%. The maximum lot coverage allowed in the A-80 Agricultural zoning district is 25%.

[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.

**DRS Response:**

All required warning, safety and identifying signs will comply with the appropriate codes and standards, including the Town Zoning Code.

[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

**DRS Response:**

The proposed ground mounted solar systems are setback a minimum of 40' to all proposed property lines, they are located 366.4' from the Yellow Mills Road right-of-way and 307.4' from the Fox Road right-of-way.