

September 11, 2025

Town of Ancram Planning Board
Ancram Town Hall
1416 County Route 7
Ancram, New York 12502

Re: Ancram Solar Site Plan & Special Use Permit Application

Supplemental Submission Materials

Per the discussion at the August 7th Planning Board meeting and the verbal commitment made to the Board, Ancram PV LLC has provided the following materials in support of continued application review:

- **Utility Correspondence** — Documenting coordination with Central Hudson regarding the viability of pad-mounted interconnection equipment as requested by the Board.
- **Revised Civil Drawings** — Updated to include supplemental screening measures to further mitigate visual impacts from proposed interconnection utility poles.
- **Viewshed Map & Additional Visual Impact Assessment (VIA)** — A 2-mile radius viewshed analysis based on existing topography and vegetation, supplemented with additional visual simulations to assist the Board's assessment of the *magnitude* of impact, not just potential visibility.

We hope that the Planning Board can empathize with the applicants' concern that eight months into the review process — and following a four-month period without comments from the board or their consultants — we are now receiving requests for supplemental materials. While we remain committed to providing any information needed for the Board to make a well-informed decision, we believe it is important to work within a clear and finite review process. Continued requests for new materials many months from now could present challenges to maintaining a predictable and efficient path forward.

Comparable Regional Projects

Columbia County currently hosts or is constructing at least 13 community scale solar projects including:

- **ELP Greenport Solar** – 7 MW (Operational since March 2020) - 42°14'15.2"N 73°47'11.0"W
- **ELP Kipp Solar** – 5 MW (Operational since 2023) - 42°12'07.9"N 73°47'00.1"W
- **ELP Kinderhook Solar** – 7.5 MW (Operational since September 2020) - 42°28'01.4"N 73°41'41.7"W
- **ELP Ghent Solar** – 4.3 MW (Operational since November 2021) - 42°16'42.8"N 73°42'32.3"W
- **SunStream Hudson Solar** – 5.4 MW (Operational Since 2016) - 42°12'19.1"N 73°47'53.8"W
- **Nexamp Old Mill Road Solar A Ghent** – 6.9 MW (Operational Since 2023) - 42°18'06.9"N 73°42'50.3"W
- **Nexamp Old Mill Road Solar B Ghent** – 6.9 MW (Operational Since 2023) - 42°18'06.9"N 73°42'50.3"W
- **Clover Meadow Solar** – 7.3 MW (Operational Since 2025) - 42°16'11.8"N 73°45'03.8"W
- **Catskill View Solar** – 7.5 MW (Under Construction) - 42°16'15.1"N 73°44'43.3"W
- **Claverack Solar 1** – 7.5 MW (Operational Since 2024) - 42°16'19.8"N 73°43'45.0"W
- **ELP Claverack Solar** – 7.5 MW (Recently Operational) - 42°14'55.6"N 73°44'18.4"W
- **ELP Livingston Solar** – 6.3 MW (Recently Operational) - 42°10'09.0"N 73°46'07.0"W
- **ELP Roe Jan Solar** – 3.9 MW (Under Construction) - 42°06'07.4"N 73°49'45.7"W

While each application is reviewed individually, all of the above projects are substantially larger (3-7x) than Ancram PV LLC's proposal and none received a SEQR Positive Declaration. This is consistent with similar-sized solar projects across the region, which typically receive Negative Declarations, particularly when they meet local zoning and regulatory requirements.

SEQR Response

At the 8/7/25 Planning Board meeting, the board had identified the following SEQR Part 2 items as potentially resulting in “moderate to large impacts”: **9c, 9d, 9e, 17a, 17c, and 18f.**

Item 9c – The proposed action may be visible from publicly accessible vantage points:**i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii.****Year round:**

- It is important to note that SEQR distinguishes between visibility and significant adverse visual impact. The Town’s Solar Zoning Law fully anticipates that compliant projects may be visible from certain locations. Mere visibility, in and of itself, does not constitute a “moderate to large” impact under SEQR. If a project meets the Town’s adopted siting, screening, and setback standards—as this Project does—it is presumed to be compatible with the surrounding visual environment. Furthermore, if a project is over a mile away from a viewing location, it is extremely difficult to credibly argue that its visual presence will be significant or detrimental, regardless of size.
- Courts have held that visual impact must be significant and adverse in context — mere change in view is not enough to warrant a moderate to large impact / Positive Declaration.
- Project is sited over 800 ft from the nearest public road (at the closest point from Route 82 to the fenceline).
- Visual simulations show only intermittent, partial views from limited public vantage points during leaf-off conditions. Supplemental screening further reduces visibility year-round.
- The question under SEQR is not can you see the project, but what is the overall magnitude of visual impacts from publicly accessible vantage points. The SEQR handbook notes that significance is tied to factors such as irreversible impacts, threatens public health or safety, eliminating unique or important environmental resource (endangered species habitat, critical wetlands, etc.), regional effects beyond localized impact, results in significant increased traffic or demands on public infrastructure.

Item 9d – The situation or activity in which viewers are engaged while viewing the proposed action:

- Most views of the project will occur while traveling in a vehicle at speeds greater than 35 mph (speed limit on Cottontail Road), with roadways often lined with vegetation that further limits visibility.
- VIA simulations previously provided account for leaf-off conditions and still show limited and low-magnitude visibility.
- Screening with evergreen plantings will provide year-round mitigation.
- Planning Board members who attended site visits expressed no concerns surrounding visibility of public vantage points - likely due to distance, topography, and vegetation.

Item 9e – The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.

- The visual change is small in scale relative to the surrounding landscape—approximately 6 acres within a 90-acre parcel. The viewshed from Cottontail Road spans thousands of acres.
- Only a limited portion of the site is visible. Screening is intended to reduce visibility but also reduce the likelihood of the project from appearing to be in sharp contrast with the surrounding land uses. This project has made several efforts to add sufficient screening.
- Equipment height has been proposed 3 feet below maximum allowable height, and finish selections are designed to reduce reflectivity and contrast.
- For context, Millerhurst Farms—located only 0.6 miles east of the project entrance—occupies approximately 3.25 acres of barns, silos, accessory buildings, and access road. Each of our subarrays is slightly smaller than this farm footprint. Given the proximity, comparable size, lower structure height, and careful siting of our project, it would be difficult to reasonably conclude that our project would diminish public enjoyment.

Item 17a – The proposed action’s land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).

- From a SEQR review standpoint, 17a should not apply, as the response to 17 should be “No.” The proposed action is consistent with the adopted Comprehensive Plan and the Town’s zoning code. In fact, the Comprehensive Plan (Section 2.1.3) specifically calls for the implementation of appropriately scaled solar projects to generate electricity for the community.

- The project fully complies with the Town of Ancram Solar Zoning Law, which incorporates over 59 individual regulations and requirements—all of which have been satisfied. These standards are the legislative determination of what is visually compatible for the Town. If a project meets them, it is presumed to be acceptable.
- Project fully complies with the Town of Ancram Solar Zoning Law, which itself reflects the goals and strategy outlined in the Comprehensive Plan.
- The project footprint was reduced to remain under the 10-acre threshold, avoiding the need for a variance.
- The Town has zoned solar to be a special use in the Agricultural District only, the very district this project is located in, and has been designed to be consistent with the local solar law as it pertains to setbacks, height of structures, project size, maximum slope threshold, etc. The adoption of the new solar law in 2023 and having no need for an area variance or use variance supports the notion that the Town was anticipating this new land use of solar.
- The project was sited carefully utilizing 360 degrees of existing vegetation to help reduce contrast of surrounding land use patterns.
- According to the *Ancram Farming Guide Map to Farms & Recreation Areas*, 62% of Ancram's 27,475 acres are still being farmed today. That means 17,035 acres of Ancram is farmed. The approximately 7 acres of panels for this project would *temporarily* remove 0.041% of actively farmed land.

Item 17c – The proposed action is inconsistent with local land use plans or zoning regulations.

- Page 8 of the Comprehensive Plan 2019 identifies major accomplishments and advancements that took place since the 2010 plan was adopted. Among the list is the passage of wind power and solar laws and the use of New York State Unified Solar Permit to encourage solar panels.
- Pages 18-19 of the Comprehensive Plan 2019 outlines the town's environmental goals, one of which is to 'encourage the use of small and community scale renewable energy sources'. This section also outlines the goal to enhance environmental zoning which includes a subsection on solar and wind power, stating they should continue to allow solar and wind power for agricultural, residential, and small business use; as well as consider policies for appropriately scaled solar and wind projects to generate electricity for the community. Such policies were adopted in 2021.

- Part II of the Comprehensive Plan 2019 states that over 96% of those responding said ‘yes, in general’ to the 2010 goal of ‘environment’; meaning they view this goal as still being relevant.
- In 2021, Ancram filed a local law amending the zoning law with regard to solar energy generating systems. Community scale solar energy system is defined as “a solar energy system that is utility grid connected, not used to provide energy to an individual residence, farm, or business, established so that residents of the Town of Ancram can access the energy produced by the facility and obtain credit towards their electricity bills, and no larger than 10 acres in size”; this project fits that definition. (Article XIV. Definitions)
- The most recently adopted zoning law in 2023 includes highly restrictive regulations around solar meant to capture 5 goals to ensure development of solar protects the interests of the town- this project meets these goals as a well sited, fully compliant project that exceeds all requirements (located in only allowed district, under 10 acres, far exceeds required setbacks, 2 feet under height max, no environmental concerns like wetlands or species, protects steep slopes by not placing panels on slopes greater than 15%, etc)

Item 18f – Proposed action is inconsistent with the character of the existing natural landscape.

- Columbia County has 13+ existing and approved community solar projects—all significantly larger than this proposal—none of which received a Positive Declaration.
- At 0.96 MWac, this project is substantially smaller (3x–7x smaller than nearby projects).
- As proposed, the project will have minimal visual impacts affecting community character based off existing topography, existing vegetation, proposed vegetation, proximity to publicly accessible resources (primarily roadways).
- Agricultural districts in New York are dynamic working landscapes that routinely include barns, silos, irrigation equipment, and other visible infrastructure.
- The project’s scale, height, and finish are consistent with such working landscape features and less intrusive than other permissible uses in the district.
- While the Town of Ancram does not currently host a community-scale solar project, several residential-scale projects exist within the municipality, consistent with what is being proposed here.

- The proposed project is sited within the Agriculture Zoning District, which is the ONLY district where community solar is a permitted use.

To be absolutely clear, we remain confident that the project, as proposed and supported by the materials submitted to date, fully satisfies SEQR requirements and demonstrates that no significant adverse environmental impacts will occur. Nevertheless, we want the Planning Board to be fully aware of the procedural implications of a Positive Declaration under SEQR.

As lead agency under SEQRA, the Planning Board is vested with the task of identifying the “relevant areas of environmental concern” (see *Matter of Merson v McNally*, 90 NY2d 742, 751 [1997] (internal quotation omitted) which includes review of Part 2 of the FEAF to examine the range of possible impacts and their magnitude. Once the relevant areas of environmental concern are identified, the lead agency must make its determination of significance by relying upon the application materials submitted and expert analysis of same and cannot rely upon generalized community objections without documentation to support these objections. The New York Court of Appeals addressed this point in *Matter of Woek Broadcasting Corp. v Planning Bd. of Lloyd*, 79 NY2d 373, 384-385 [1992] where the Court held:

Although a particular kind or quantum of “expert” evidence is not necessary in every case to support an agency’s SEQRA determination, here, the record contains no factual evidence, expert or otherwise to counter the extensive factual evidence submitted by petitioner. To permit SEQRA determinations to be based on no more than generalized, speculative comments and opinions of local residents and other agencies, would authorize agencies conducting SEQRA reviews to exercise unbridled discretion in making their determinations and would not fulfill SEQRA’s mandate that a balance be struck between social and economic goals and concerns about the environment... However, generalized community objections such as those offered here in response to the comprehensive data provided by petitioner, cannot, alone, constitute substantial evidence, especially in circumstances where there was ample opportunity for respondent to have produced reliable, contrary evidence (internal citations omitted).

The SEQR Handbook provides that the following considerations be evaluated in determining whether to issue a positive declaration:

- (1) The significant impacts identified must relate to an environmental effect. Economic or social factors do not constitute a basis for a positive declaration.
- (2) The lead agency has taken a hard look at the relevant impacts in assessing the potential for significance.
- (3) The basis for the positive declaration is reasonably consistent with other determinations of significance by the same agency, given similar facts.
- (4) Whether the project, as proposed, includes mitigation measures that would eliminate one or more of the potentially significant adverse impacts or reduce one or more impacts to a level of non-significance (SEQR Handbook, 4th Ed. 2020, 86 (emphasis added)).

While RIC recognizes that the Planning Board shall review each application on a case-by-case basis to determine whether a positive or negative declaration is appropriate under SEQR, it is instructive that 13 community solar projects have been permitted in Columbia County, all of which are 3 to 7 times larger than the proposed Project and none of these projects received a positive declaration under SEQR. The reality is that a positive declaration would not be based on legally sufficient environmental impacts but rather on a community's dislike of a permitted use. The Ancram Town Board is the legislative body vested with authority to legislate on solar regulation. The Zoning Law went through a public review process and was adopted by the Town Board. The community had an opportunity to participate in the 2023 Zoning Law Update. Any objection to the use itself is not before the Planning Board but is better addressed to the Town Board as the body with legislative power.

A SEQR determination does not dictate whether an application is ultimately approved (see *Troy Sand & Gravel Co., v Town of Nassau*, 101 AD3d 1505, 1507 [3d Dept. 2012] (SEQRA determination did not predetermine Town's decision on permit application)). Rather, if a positive declaration is issued, the applicant and lead agency engage in scoping to focus the potential impacts to be analyzed in an Environmental Impact Statement ("EIS") and thereafter the EIS is prepared to more thoroughly analyze significant environmental impacts. We have already engaged in analysis and mitigation efforts that are commonly done as part of an EIS. For example, analyzing alternative sites, completing a more extensive viewshed map with additional VIA points, and increasing landscape screening are typically part of an EIS and are all things that we have already done. The opportunity for public participation is also required in the EIS process. While timeframes vary widely depending on the number of impacts evaluated, issuance of a positive declaration generally expands the timeframe for SEQR review by several months and does not dictate whether an approval will ultimately be issued.

If the EIS demonstrates that impacts can be avoided or mitigated to the maximum extent practicable — which this applicant has already shown in the record — the project can and should proceed to approval.

We respectfully submit that—based on the record, the scale of the project, and the supplemental information provided—none of these items rise to the level warranting a Positive Declaration.

Project Approval

Ancram PV, LLC remains fully committed to advancing this project collaboratively. To date, we have incurred significant project costs, with diligence beginning October 2022 and formal permitting initiated December 2024.

The project:

- Fully complies with over 59 unique and applicable regulations/requirements in the Town of Ancram Solar Zoning Law.
- Has been reduced in size to meet the 10-acre limit per the Town’s revised law, rather than seeking a variance which would leverage the Public Utility Standard precedent.
- Has provided information and analysis above and beyond what is required by law, at the Planning Board’s request.

The Applicant appreciates the substantial public interest in the Project as well as the thorough review by the Planning Board. The Applicant has engaged in an exhaustive analysis of potential environmental impacts and has modified the Project by incorporating additional landscape buffering in response to public comments. Despite the efforts undertaken to date, there remain a few residents that have expressed dissatisfaction with the Project in general. However, the Project is permitted as a special use under the Town Zoning Law. When a zoning law provides that a use is allowed by special use permit, it “is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood” (see *Matter of Barnes Rd. Area Neighborhood Assn. v Planning Bd. of the Town of Sand Lake*, 206 AD3d 1507, 1510 [3d Dept. 2002] (finding that Town’s issuance of a special use permit was not to be disturbed so long as it was not made in violation of lawful procedure, was not affected by an error of law and was not arbitrary and capricious), quoting *Matter of Blanchfield v Town of Hoosick*, 149 AD3d 1380, 1383 [3d Dept. 2017])).

While the Project is fully compliant with all Town of Ancram local laws, the Applicant thoroughly evaluated potential alternative Project locations on the Project site and has provided detailed explanations to the Planning Board and community as to why these identified alternative locations are not feasible due to environmental, engineering and economic constraints.

While there was discussion during the August Planning Board meeting regarding whether the Project is in compliance with the Town Comprehensive Plan, the Zoning Law has expressly incorporated the goals in the Comprehensive Plan—any argument that moderate to large environmental impacts may occur due to potential inconsistency with the Comprehensive Plan is without merit. Town Law §263 provides that zoning regulations shall be made in accordance with a comprehensive plan. The Town Zoning Law was updated in 2023 and this update included regulations specific for solar energy systems (Local Law No. 6 of 2023 or the “Zoning Law Update”). The Zoning Law Update was enacted after the Town most recently updated its Comprehensive Plan in 2019. Goal #2 outlined in the Comprehensive Plan includes the goal to: “[e]ncourage the use of small and community scale renewable energy sources” and specifically references a goal of developing policies for solar and wind projects to generate electricity for the community. The Zoning Law Update expressly provides that it was developed to implement the 2019 Comprehensive Plan (Article V(D)). Consistent with Goal #2 in the Comprehensive Plan, only community scale solar projects are permitted in the Town as the Solar Law includes a 10 acre maximum size for solar projects regardless of energy generating capacity (Article V(D), Solar Energy Systems (g)(2)). The Zoning Law Update expressly references that this maximum acreage provision was developed in accordance with the Comprehensive Plan (*id.*).

As the Project is fully compliant with the Zoning Law and Comprehensive Plan, finding a moderate to large impact related to consistency with community plans (FEAF Part 2, item 17) and consistency with community character (FEAF Part 2, item 18) is directly contrary to the Town’s previous adoption of the: (1) Comprehensive Plan; and (2) Zoning Law which includes solar energy regulations expressly tied to the Comprehensive Plan. To find moderate to large impacts to community plans and community character would mean that even when applicants propose a project fully compliant with local laws and the Comprehensive Plan, that the Board may ignore local policy and law and issue a positive declaration when a project is disfavored by the community. This reasoning also makes it impossible for any applicant to have an understanding as to what local requirements may be applied and deprives applicants of a fair opportunity for an impartial review.

At this point, we are unaware of any aspect of the proposal that is inconsistent with applicable law. If the Board believes otherwise, we respectfully request that be communicated clearly so it can be addressed.

In New York State, there is no inherent legal right for a private landowner to maintain an uninterrupted viewshed across another property. Courts have consistently held that “aesthetic impacts,” while a factor in land use review, must be evaluated within the framework of established zoning and environmental regulations—not as a stand-alone basis for denial. The Town of Ancram’s zoning code expressly contemplates the possibility that a permitted solar energy system may be visible from certain vantage points. The law requires screening and siting measures to *mitigate* visual impact, but it does not require elimination of all potential visibility. Visibility alone—particularly at distances greater than one mile—does not equate to a “moderate to large impact” under SEQR. Even for larger projects than ours, state case law and SEQR precedent recognize that visibility, without demonstrable adverse effect on community character or violation of a specific code provision, does not justify a positive declaration or denial of an otherwise compliant project.

SEQR & Zoning Review Standards

We are committed to securing a SEQR Negative Declaration and obtaining timely approvals for the Site Plan and Special Use Permit. While our preference remains to work collaboratively with the Board, we must emphasize that the applicant is entitled to have its application reviewed and decided strictly in accordance with the Town’s adopted regulations, SEQR standards, and applicable New York State law.

Should it become necessary, we are fully prepared to assert our rights under well-established case law holding that municipal boards may not deny, condition, or delay an application for reasons outside the bounds of the governing law or unsupported by substantial evidence in the record. SEQR determinations must be based on objective, site-specific impacts—not generalized community opposition, speculative harms, or subjective aesthetic preferences. Similarly, site plan and Special Use Permit reviews must be confined to the criteria enumerated in the zoning code, as consistently upheld by the New York courts.

We remain confident that the record supports a Negative Declaration and prompt approval; however, we will take all steps necessary to ensure that a compliant and lawfully submitted project is allowed to proceed without unlawful delay or denial.