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PLANNING BOARD

**TOWN OF MOUNT PLEASANT PLANNING BOARD
SITE PLAN DENIAL**

**CES HAWTHORNE SOLAR, LLC
GATE OF HEAVEN CEMETERY**

JANE ABBATE
JAMES COLLINS
PATSY FUCALÉ
JOAN LEDERMAN
GEORGE PAPPAS
JOHN PIAZZA

OCTOBER 7, 2021

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|-------------------------|------------------------------------------------------------------------------|
| APPLICANT: | CES HAWTHORNE SOLAR, LLC |
| APPLICATION #: | SP #19-14 |
| LOCATION: | GATE OF HEAVEN CEMETERY, 10 STEVENS AVENUE WEST |
| ZONING DISTRICT: | R-20 ONE-FAMILY RESIDENCE ZONING DISTRICT |
| TAX DESIGNATION: | SECTION 112.17, BLOCK 1, LOT 20 AND SECTION 117.5, BLOCK 1, LOT 2 |
| ENGINEER: | WHITMAN |

WHEREAS, the Planning Board of the Town of Mount Pleasant, located in Westchester County, New York, has received an application for Site Plan Approval, submitted by CES Hawthorne Solar, LLC (herein after referred to as the "Applicant"); and

WHEREAS, the site is on the grounds of the Gate of Heaven Cemetery, 10 Stevens Avenue West, Valhalla, and is more specifically known and identified as Section 112.17, Block 1 Lot 20 and Section 117.5, Block 1, Lot 2 (herein after referred to as the "Site"); and

WHEREAS, the proposed action involves the installation of a 5.75-megawatt, direct current, ground mounted, photovoltaic solar panel array and related appurtenances

including switch gear, inverters, battery storage, transformers and a gravel driveway (herein after known as the “Proposed Action”); and

WHEREAS, the Site is located within the R-20 Zoning District; and

WHEREAS, the Site Plan consists of the following plans:

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| --- | ALTA Survey, prepared by TC Merritts Land Surveyors, undated. |
| --- | Topographic Survey, prepared by TC Merritts Land Surveyors, dated January 7, 2019, last revised January 23, 2017. |
| SP-0 | Title Sheet, prepared by Whitman, dated May 20, 2019. |
| SP-1 | Overall Site Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-1.1 | Site, Grading Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-1.2 | Site Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-1.3 | Site Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-1.4 | Site Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-1.5 | Site Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-2.1 | Steep Slopes Map, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-2.2 | Steep Slopes Map, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-2.3 | Steep Slopes Map, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-2.4 | Steep Slopes Map, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-2.5 | Steep Slopes Map, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-3.1 | Soil Erosion & Soil Conservation Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-3.2 | Soil Erosion & Soil Conservation Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-3.3 | Soil Erosion & Soil Conservation Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-3.4 | Soil Erosion & Soil Conservation Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-3.5 | Soil Erosion & Soil Conservation Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-4.0 | Soil Erosion & Soil Conservation Notes and Details, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-5.0 | Construction Details, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-6.0 | Construction Details, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-7.0 | Mitigation Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-8.0 | Landscape Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-8.1 | Landscape Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |
| SP-8.2 | Landscape Plan, prepared by Whitman, dated May 20, 2019, last revised February 26, 2021. |

WHEREAS, a duly noticed public hearing on the Proposed Action was conducted, at which time all interested parties were provided an opportunity to be heard on this matter; and

WHEREAS, the Proposed Action in its preliminary form was evaluated in conjunction with the Applicant’s petition to modify the R-20 zoning to allow for ground mounted solar facilities as a Special Permit Use based on certain conditions; and

WHEREAS, the Planning Board serving as Lead Agency for the SEQR review of the action of allowing for the development of ground mounted solar facilities in the R-20 zoning district, adopted a Negative Declaration on April 20, 2020, which concluded that

the proposed zoning amendment would not result in any significant adverse environmental impacts; and

WHEREAS, the documents submitted relative to the zoning amendment did not include full details of the site application; and

WHEREAS, after the Town Board amended the zoning code to permit ground mounted solar facilities as a Special Permitted Use based on certain conditions in the R-20 zone, the Planning Board has considered the Site Plan application, and all other materials submitted by the Applicant in support of this proposal, the comments of Town staff and consultants made via memoranda to the Planning Board (which memoranda are incorporated herein by reference), the verbal commentary made during the Planning Board's meetings pertaining to the review and evaluation of the proposed action, and the comments of the public;

NOW THEREFORE BE IT RESOLVED, that upon full consideration of the above, the Planning Board of the Town of Mount Pleasant hereby denies Site Plan Approval for Application #SP19-14 submitted by CES Hawthorne Solar, LLC, as described above, for the following reasons:

1. The Planning Board serving as Lead Agency for the SEQR review of the proposed zoning amendment, did not have in its possession all of the relevant facts and data that has been subsequently submitted in support of the site plan application, at the time of the adoption of the Negative Declaration.
2. The submission of additional documentation from the Applicant, review comments from staff and consultants, correspondence from various environmental organizations and comments from the public, have brought to light additional serious concerns about the Proposed Action.
3. The Proposed Action does not comply with the Purpose of the Zoning Code set forth in §218-1 I. to *"encourage the wise use and sound management of natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of land."*
4. The Planning Board finds that the Proposed Action does not comply with several Special Permit General Standards as set forth in §218-28; specifically:
 - The extensive size of the solar facility which requires the clear-cutting of approximately 26 acres of forested land, is not in harmony with the appropriate and orderly development of the R-20 zoning district.
 - The proposed solar facility results in a markedly different appearance than would the continued use and operation of the site as a cemetery, which may therefore hinder and discourage the appropriate development of adjacent lands and impair the value thereof.

- The size and scope of the construction of a solar facility consisting of hundreds of photovoltaic solar panels in 7 separate areas of the Site mounted on racks of variable heights, approximately 7' to 15' tall, represents a more objectionable use of the site than the currently permitted use of the site as a cemetery, where headstones are typically 3' in height and where considerable landscaped open space would remain in-tact.
- 5. The Proposed Action does not comply with the "Purpose" established for Arrays of Ground Mounted Solar Panels for Generation of Electricity as set forth in §218-63.4. A. The clear-cutting of approximately 26 acres of forest fails to satisfactorily mitigate the impact of solar arrays on environmental resources, such as forests, wildlife and other protected resources.
- 6. The Proposed Action does not comply with "Standards and Requirements" for Ground Mounted Solar Panels for Generation of Electricity as set forth in §218-63.4. C. (8). The removal of trees 6" in diameter has not been minimized to the greatest extent possible. In fact, the Proposed Action involves clear-cutting approximately 26 acres of forest, with no effort to minimize or reduce tree removal whatsoever.
- 7. The Proposed Action does not comply with "Standards and Requirements" for Ground Mounted Solar Panels for Generation of Electricity as set forth in §218-63.4. C. (15) (a). The proposed landscaping plan which includes the installation of approximately 100 new trees, inadequately screens the proposed solar facility. Maintaining existing vegetation was not prioritized, and reliance on existing vegetation on neighboring property, such as the NYSDOT right-of-way, affords no assurance that the existing vegetation would remain in place to screen and buffer the facility during its operational lifespan.
- 8. In balancing the acknowledged benefits of solar energy generation, with the adverse consequences of the size and scope proposed by the Applicant including clear-cutting an existing forest, the Planning Board finds that in this location, the benefits of preserving the forest outweigh the benefits of the installation of a community solar facility, as proposed.
- 9. It is the understanding of the Planning Board that the demand for grave sites at the Gate of Heaven Cemetery, does not indicate the imminent clear-cutting of the on-site forest, rather, incremental smaller clearing would likely occur in the future if additional demand for grave sites exists. This represents a far more prudent and sustainable stewardship of the forest resource than the Proposed Action, given its proposed size and scope.
- 10. It is the opinion of the Planning Board that the Site is a particularly poor location for a community solar facility that does not significantly benefit the residents of the

Town of Mount Pleasant, when far more preferable alternative locations exist elsewhere in Town. Further, the size and scope of the Proposed Action is massive and the Applicant never proposed smaller alternatives.

11. The Archdiocese of New York has operated the Gate of Heaven Cemetery for many years, and will continue to operate the Site as a cemetery in perpetuity. Absent the community solar facility, the Site will continue to operate as it does today, whether the community solar facility is installed or not. The Proposed Action therefore has no bearing on the continued lawful operation of the cemetery. The economic benefits to the owner of leasing the Site to the Applicant are not a factor in the Planning Board's decision.
12. The Proposed Action results in encroachments into regulated steep slopes. The Purpose and Intent of Chapter 180, Steep Slope Protection, is to prevent erosion and sedimentation, prevent habitat disturbance and water quality degradation, protect scenic views and vistas, preserve trees, areas of vegetation and wildlife habitat and minimizing the area of land disturbance related to site development. If land disturbance is necessary, that it be done in an environmentally sound manner. The clear-cutting of the forested site as proposed to accommodate the Proposed Action is inconsistent with these objectives.
13. There is no imperative to install the proposed solar facility at this location. The Planning Board has stated on numerous occasions that such a facility would be more appropriately located in an area that does not require the clear-cutting of an existing forest, such as within an existing parking lot, or on the roof-top of one of the many large commercial buildings in Town. The presumed beneficial financial lease arrangements for the Gate of Heaven Cemetery and the Applicant should not override the proper evaluation of alternatives or the prudent minimization of adverse impacts resulting from the clear-cutting of the on-site forest.
14. The wetland delineation and analysis were restricted to on-site wetlands. No assessment of vernal pools and the species that may be utilizing those areas as habitat, was conducted. Both vernal pools and many of the species that utilize these areas warrant enhanced protection.
15. The wildlife survey did not assess species (mammals, birds and amphibians) at various times during the year, to properly document migratory patterns. Clear-cutting the existing forest has the potential to adversely impact annual wildlife cycles.
16. The Planning Board accepts and endorses the recommendation of the Pace University Energy and Climate Center, which stated in correspondence to the Planning Board dated June 1, 2021 that *"... it is essential that local communities deploy clean energy in a manner that safeguards natural resources such as forests. While recognizing the importance of advancing solar in New York State, the Pace*

Energy and Climate Center does not recommend clear-cutting healthy tree stands to clear land to install solar PV arrays. Trees are important for sequestering carbon and also for protecting biodiversity, preventing heat island effects, and providing a healthy environment in urban and suburban areas. Biodiversity is especially difficult to quantify and track, cannot be directly valued against other metrics like carbon reductions, and as a result, is chronically undervalued, contributing to ecosystem losses. Given that biodiversity is severely at risk and that many decades are required to fully replace all the environmental services provided by mature tree stands, tree removal should only be done sparingly."

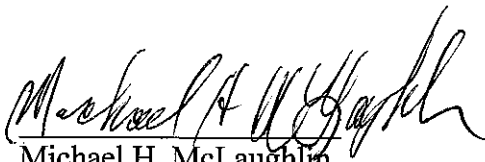
17. Ongoing streambank erosion and destabilization along the watercourse closest to Stevens Avenue West will be exacerbated as a result of the Proposed Action given its size and scope.
18. The Proposed Action does not comply with the provisions of Chapter 201 of the Town Code – Trees, as a full tree survey was not undertaken in accordance with the requirements of §201-11 (1). The representative transect survey submitted by the Applicant inadequately identified location, species, health and vigor of all trees within the areas of disturbance. As a result, an accurate calculation of the Existing Density Factor (EDF) and Replacement Density Factor (RDF) was not supported with actual accurate survey data.
19. The proposed installation of 100 new trees and shrubs does not adequately mitigate the clear-cutting of approximately 26 acres of existing forest.
20. A significant area of landscaped buffer used by the Applicant to screen the Proposed Action is located within the right-of-way of the Saw Mill River Parkway, and is owned by the New York State Department of Transportation. The Applicant provided no guarantee, in the form of an easement or license agreement, etc., documenting that the existing vegetation within the NYSDOT right-of-way would remain in place to serve as a visual buffer.
21. In addition to the Gate of Heaven Cemetery, the Town of Mount Pleasant supports several other cemeteries totaling over 820 acres and covering 5.3% of the Town. These cemeteries have established a community character that is extremely well defined and identifiable. The Proposed Action will be visible from numerous viewpoints, and from surrounding higher elevations. The solar facility represents an adverse visual impact that will negatively affect the well-established character of the community.
22. The acres of new impervious surfaces resulting from the installation of the solar panels, will unpredictably alter existing hydrological patterns, which results in an amplified potential for increased stormwater runoff rates and volumes, flooding, stream channel erosion and the transportation and deposition of sediment.

23. The stormwater runoff from the solar panels has the potential to increase waterborne pollutants, used in the cleaning and maintenance of the solar panels, and to suppress weeds and control vegetation in and around the solar arrays.
24. The Proposed Action and the clear-cutting of approximately 26 acres of existing forest, does not comply with the Policies, Purpose and Intent of the following local ordinances:
- Chapter 96 – Excavations and Topsoil Removal
 - Chapter 108 – Flood Damage Protection
 - Chapter 111 – Freshwater Wetlands
 - Chapter 180 – Steep Slope Protection
 - Chapter 183 – Stormwater Management and Erosion and Sediment Control.
 - Chapter 185 – Streams and Watercourses
 - Chapter 201 - Trees
 - Chapter 218 - Zoning

BE IT FINALLY RESOLVED, that this Site Plan Denial resolution shall have an effective date of October 7, 2021.

On a motion of Planning Board Member Patsy Fucale, Seconded by Planning Board Member Jane Abbate, this site plan denial resolution was adopted by the following vote:

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|---------------------------------|---------------|
| Michael H. McLaughlin, Chairman | <u>AYE</u> |
| Jane Abbate | <u>AYE</u> |
| James Collins | <u>Absent</u> |
| Patsy Fucale | <u>AYE</u> |
| Joan Lederman | <u>Absent</u> |
| George Pappas | <u>AYE</u> |
| John Piazza | <u>Absent</u> |


Michael H. McLaughlin
Chairman

10/7/21
Date

This Resolution Was Thereupon Duly Adopted