



amp.energy

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T +1 303.653.9805

October 29, 2021

Dear Mr. DiCaprio,

Amp Solar Development, Inc ("Amp") is a developer of Community Solar projects and we are in seeking approvals to develop a 3.9 MW<sub>ac</sub> project in the Town of Amsterdam on the parcel of Land identified by Tax Map No. 56.4-2-4.1. AMP is pleased to submit the attached Application for Zoning/Use Permit and Sketch Plan on behalf of the owners Arthur & Alyce J. Banewicz.

It is our understanding that this property no longer meets the zoning requirements for Community Solar projects and it is our intent to apply for a Use Variance once you've completed your review. The fee for this application has been mailed directly to the Town and I apologize if this causes any inconvenience.

Please let me know if you have any questions or require further information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Terence Rasmussen".

Terence Rasmussen  
Director of Development  
437.216.7812  
trasmussen@amp.energy



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January 23, 2022

Dear Chairman Fariello and Members of the Zoning Board of Appeals,

Amp Solar Development, Inc ("Amp") is a developer of Community Solar projects and we are seeking a Use Variance to allow the development of a Community Solar Project on unused land within the Town of Amsterdam. As a part of our development process, we believe in communicating early and working with local communities to ensure our projects are built to the highest standards. We have had conversations with our potential project neighbors as well as the Town and it is our intent to continue these conversations and develop a project which meets the objectives of the recently enacted Solar Law Amendment.

### **Use Variance Sought**

AMP, working on behalf of ASD Truax Road NY2 Solar LLC, is seeking to develop a Utility-Scale Solar Energy System within the Town at the northeast corner of Truax Road & Chapman Drive, also identified as SBL 56.4-2-4.1. In order to develop such a project a use variance granting relief from Article VIII Section 35.2. of the Zoning Law is required. This section of the Law restricts Utility-Scale Solar Energy Systems to the B-1, B-2 and M-1 zoning districts. The site of the proposed project is located within the R-1 district. The included application contains supporting material, including a financial analysis completed by Storrs Associates, LLC, demonstrates that this application satisfies the requirements for the issuance of a Use Variance.

### **Use Variance Standard**

The proposed Community Solar Project satisfies the standard for the issuance of a Use Variance as described in the Town of Amsterdam Zoning Law Section 48.4, reproduced below:

- 1. For each and every permitted use under the zoning regulations for the particular district where the property is located the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence*

*Included in the application package is a "Use Variance Analysis" completed by Storrs Associates which completes a detailed financial analysis demonstrating that a reasonable rate of return cannot be realized from the uses permitted within the R-1 and the lack of return identified by the analysis is substantial.*

*The analysis shows that over the 25-year lifespan of the proposed solar project the owner will realize a Rate of Return of 393% compared to the existing use of -75%. The other feasible permitted use of one or more single family homes for rent returned a -7% rate of return. All other permitted uses are either infeasible or had lower rates of return.*



*moratorium on solar development in March 2021 and subsequent changes to the Zoning Law pertaining to Utility-Scale Solar projects have created the alleged hardship. Prior to the modifications to the Zoning Law, AMP undertook a diligent effort to identify a project site that complied with the Town's zoning and met the requirements of a community solar facility. The hardship created here was not self-created.*

*Subsequent to the zoning amendment, AMP conducted an analysis of feasible sites within the Town that could support a community solar use. Due to the use only being permitted within the B-1, B-2, and M-1, AMP identified roughly three (3) sites as viable for use. However, once existing site constraints are considered, the three identified sites are no longer viable for community solar.*

AMP looks forward to working with the ZBA and the Town of Amsterdam to ensure that, should a Use Variance be granted, this project is developed according to the strict standards developed by the Town. I would also like to highlight the fact that granting a Use Variance will not "open the floodgates" to solar development. Any solar developer seeking to develop a project requiring a Use Variance will be self creating their own hardship and not qualify for said variance.

Sincerely,



Terence Rasmussen  
Director of Development  
437.216.7812  
trasmussen@amp.energy

**cc:** Tom Di Mezza, Town Supervisor

**PROCESSING AN AGRICULTURAL DATA STATEMENT**  
**(Pursuant to Section 305-a of the Agriculture and Markets Law)**

- Any application requiring: Special use permit  
Site plan approval  
Use variance or  
Subdivision approval

Which requires approval by: A Planning Board  
Zoning Board of Appeals  
Town Board or  
Village Board of Trustees

Must submit an Agricultural Data Statement (ADS) if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district.

- Content of an Agricultural Data Statement requires:
  - Name and address of applicant,
  - Description of the proposed project and its location,
  - Name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundaries of the property upon which the project is proposed
  - A tax map or other map showing the site of the proposed project relative to the location of the farm operations identified in the **ADS**.
- The Clerk of the appropriate governmental entity is required to mail a written notice containing a description of the proposed project and its location to owners of land as identified by the applicant in the **ADS**.
- The local reviewing board must evaluate and consider the ADS to determine the possible impacts of the proposed project may have on the functioning of farm operations within the subject agricultural district.

**Procedural Considerations**

- A map of the town's agricultural district(s) should be well displayed within the municipal office where land use applications are submitted. The map will benefit both the applicant and municipal review officer in determining the

## NYS Town Law

### § 283-a. Coordination with agricultural districts program.

1. Policy of local governments. Local governments shall exercise their powers to enact local laws, ordinances, rules or regulations that apply to farm operations in an agricultural district in a manner which does not unreasonably restrict or regulate farm structures or farming practices in contravention of the purposes of article twenty-five-AA of the agriculture and markets law, unless such restrictions or regulations bear a direct relationship to the maintenance of public health or safety.
2. Agricultural data statement; submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by the town board, planning board, or zoning board of appeals pursuant to this article, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The town board, planning board, or zoning board of appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.
3. Agricultural data statement; notice provision. Upon the receipt of such application by the planning board, zoning board of appeals, or town board, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.
4. Agricultural data statement; content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.
5. Notice to county planning board or agency or regional planning council. The clerk of the town board, planning board, or zoning board of appeals shall refer all applications requiring an agricultural data statement to the county planning board or agency or regional planning council as required by sections two hundred thirty-nine-m and two hundred thirty-nine-n of the general municipal law.

TOWN VILLAGE CITY OF -----  
(circle one)

Application # -----

# Agricultural Data Statement

Date 01/24/2022 -----

**Instructions:** This form must be completed for any application for a special use permit, site plan approval, use variance or a subdivision approval requiring municipal review that would occur on property within 500 feet of a farm operation located in a NYS Dept. of Ag & Markets certified Agricultural District.

Applicant	Owner if Different from Applicant
Name: <u>ASD Truax Road NY2 Solar LLC</u> Address: <u>1550 Wewetta St., 4th Floor</u> <u>Denver, CO 80202</u>	Name: <u>Arthur J &amp; Alyce J. Banewicz</u> Address: <u>260 Truax Road</u> <u>Amsterdam NY, 12010</u>

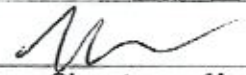
1. Type of Application: Special Use Permit; Site Plan Approval ;  Use Variance;  
(circle one or more)  Subdivision Approval

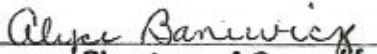
2. Description of proposed project: Development of a 5 MW Community Solar Project on abandoned farmland.  
The project will occupy ~25 acres of the existing 58.4 acres parcel.

3. Location of project: Address: Truax Road  
Tax Map Number (TMP) 56.4-2-4.1

4. Is this parcel within an Agricultural District?  NO  YES (Check with your local assessor if  
5. If YES, Agricultural District Number \_\_\_\_\_ you do not know)  
6. Is this parcel actively farmed?  NO  YES  
7. List all farm operations within 500 feet of your parcel. Attach additional sheets if necessary.

Name: <u>Arthur Banewicz</u> Address: <u>260 Truax Road, Amsterdam</u> Is this parcel actively farmed? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	Name: <u>Patricia E. Burt &amp; John Ertel</u> Address: <u>184 McQuade Road, Amsterdam</u> Is this parcel actively farmed? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES
Name: _____ Address: _____ Is this parcel actively farmed? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES	Name: _____ Address: _____ Is this parcel actively farmed? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES

  
Signature of Applicant

  
Signature of Owner (if other than applicant)

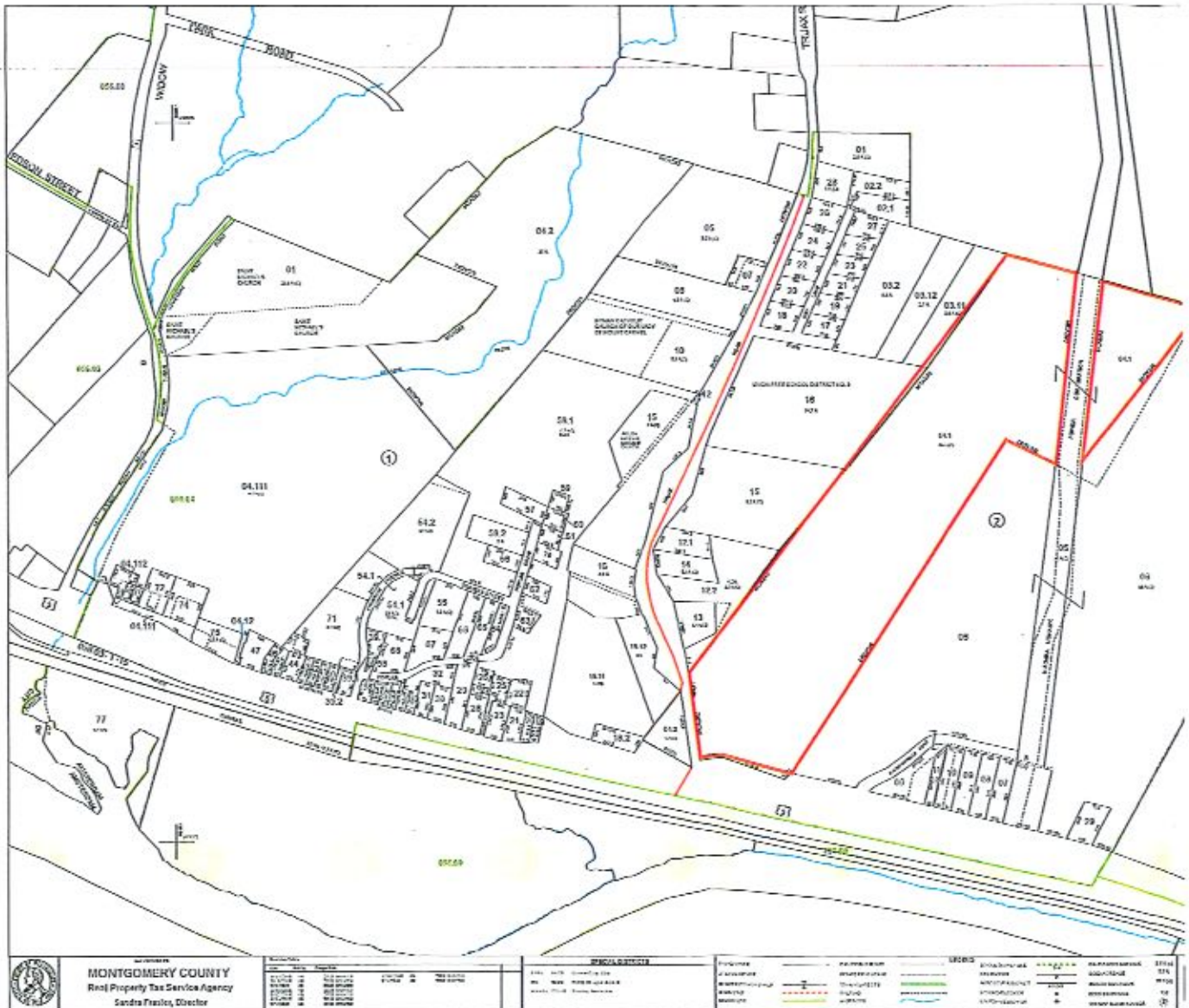
Reviewed by: \_\_\_\_\_  
Signature of Municipal Official Date

NOTE TO REFERRAL AGENCY: County Planning Board review is required. A copy of the Agricultural Data Statement must be submitted along with the referral to the County Planning Department.











# Screening Visuals

This document contains photos documenting the screening that currently exists along key site boundaries. This vegetation will remain through the construction and operational periods to ensure the project is hidden and does not alter the essential character of the neighborhood.

## Adjacent Parcels to the West



This photo was taken from the end of Gay Lane where it enters the site and is facing north. The adjacent landowner is well screened by existing vegetation.



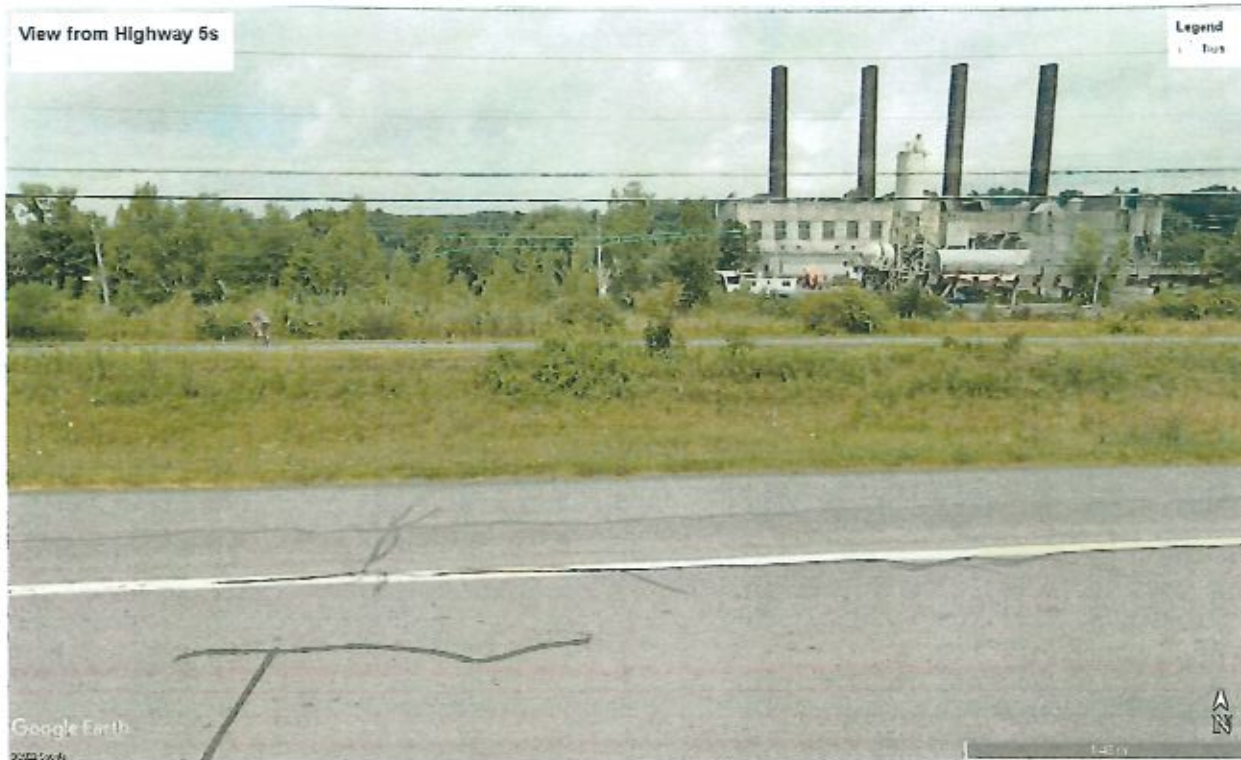
## Key Viewsheds

View from Highway 5



This photo is from immediately to the south of the site. Both the topography and the trees on the south side of the site effectively screen the site.

View from Highway 5s



This photo is across the river taken from highway 55. vegetation on this side of the river as well as trees on the site effectively screen the site.