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Clarendon Town Board
16385 Church Street
Clarendon, NY 14429

RE: Public Comments to Draft Article VII, Section 730 – Alternative Energy System (Solar Powered) Utility Scale – dated 5/19/2020

Dear Clarendon Town Board:

Oriden appreciates the opportunity to provide public comments on the draft Article VII, Section 730 governing utility scale solar systems (“Solar Law”). Oriden understands that the Town Board has spent significant time, including obtaining input from an independent engineer, on the draft Solar Law. Generally, Oriden believes the proposed Solar Law is comprehensive and for the most part reasonable in terms of the permit and post-permit requirements. Oriden offers the below comments and suggestions that it believes would help clarify certain provisions of the proposed Solar Law and make the Solar Law more reasonable with respect to the following items.

1. Economic Impact Study
 - a. All utility scale solar projects perform pre-construction soil sampling. Rather than burden the Applicant with repeating soil sampling, the Town could instead require the Applicant to submit at least 10 (ten) soil samples from the existing data from the Applicant. Oriden recommends the language be edited to provide for the above option and only require pre-construction soil sampling if none provided by Applicant.
2. Decommissioning Plan
 - a. The language in Section 10 on decommissioning plan discusses providing a calculation of decommissioning costs plus 20% but the language in Section 25 discusses providing surety at the level of decommissioning costs plus 50%. Did the Town Board intend for these to be different? If not, Oriden would request that they be made consistent at 20% above the estimated decommissioning costs.
3. Special Permit Criteria and Restrictions – Property line/Public ROW Setback
 - a. Oriden suggests that an exception be made from a public utility ROW for the property line and public ROW setback and that this setback should instead be 100 feet. As an example, Oriden’s proposed solar project is located in close proximity to the existing National Grid 115 kV line. The 115 kV line already has a ROW around it, which National Grid deems acceptable in terms of a setback from its line to potential neighboring infrastructure. As there is essentially no possibility for future development or other types of uses in the ROW, Oriden believes that a 300 foot setback to the ROW is excessive and only results in wasted land that could otherwise be utilized for solar facilities. It would be logical to utilize as much land as possible in proximity to an electric line for a solar system since the two land uses are similar in nature and siting the solar array as close to an existing electric line as possible reduces electrical losses and encourages solar developers to site projects near existing electric lines as opposed to other property boundaries.
4. SEF Escrow Account



- a. Oriden is familiar with funding escrow accounts for Town use however the minimum amount in the escrow account has always been significantly less in Oriden's experience. One hundred fifty thousand dollars (\$150,000) is a very large sum of money to be sitting without any use, especially if it is to be maintained at this level for the life of the project. Oriden would suggest lowering this amount to \$25,000 as the language in Section 23 clearly requires that the money be replenished so it is unclear why the need for the high escrow account dollar level. At a minimum, Oriden suggests that, if the Town elects to keep the amount at \$150,000, that it only be required at that high of a level during permitting and not during post-permitting.
5. SEF Environmental Monitoring
 - a. Oriden believes that the language in the environmental monitoring regarding scientific assessment of regional nesting failures and territory abandonment is arbitrary and won't provide useful scientific information. First, there is no definition of a "special status species" provided and the one (1) mile distance is arbitrary and may include private land not able to be legally accessed. Second, Oriden is unaware of any basis for a stationary solar project causing nesting failures. Third, it will be impossible to tie a nesting failure or territory abandonment to the simple existence of a solar facility as there are a multitude of reasons for species nesting failures and territory abandonment. Oriden strongly encourages the Town Board to delete this section of the Environmental Monitoring section to avoid a time-consuming and likely contentious study process, the results of which will likely not have any practical impact.
6. Liability Insurance
 - a. Oriden recommends deleting the word "named" from Part 1, subpart a. Additional named insured is a specific insurance definition that is usually reserved for an affiliate of the primary insured party. A separate party such as the Town of Clarendon that has specific liability amounts (i.e. those in the proposed Solar Law) would just be an additional insured.

Thanks again to the Clarendon Town Board and all who worked on this solar system ordinance. Oriden looks forward to continuing to work with the Town and other stakeholders as it develops the Farwell Solar Project.

Respectfully,

A handwritten signature in black ink that reads "Seth Wilmore".

Seth Wilmore
Oriden LLC
Director, Sites & Permitting
412-580-3054