

AS ACTED UPON DURING A DULY NOTICED OPEN MEETING OF THE TOWN BOARD OF THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK, HELD AT THE HENRIETTA TOWN HALL AT 475 CALKINS ROAD, HENRIETTA, NEW YORK ON DECEMBER 6, 2023 AT 6:00 P.M.

RESOLUTION #25-409/2023 To approve an Incentive Zoning Application No. IZ2023-001 by GreenSpark Solar for EH Henrietta Solar 1, LLC (Lehigh South Solar 1) and EH Henrietta Solar 2, LLC (Lehigh South Solar 2).

On Motion of  
Supervisor Schultz

Seconded by  
Councilmember Bellanca

WHEREAS, GreenSpark Solar has submitted two Special Use Permit applications for their Lehigh South Solar 1 and Lehigh South Solar 2 Projects, Special Use Permit Nos. SP2023-043 and SP2023-044, respectively, for installation at a property located along the Lehigh Valley Trail, Tax ID #189.02-1-5, and which are being reviewed as a single composite application with regards to State Environmental Quality Review and Incentive Zoning to avoid segmentation issues; and

WHEREAS, GreenSpark Solar has submitted Incentive Zoning Application IZ2023-001 for the combined projects requesting the benefit under the Rural Residential Incentive Zone, §295-34.10[A], with the requested incentive of a Complementary Use Incentive of a large-scale solar array on a non-farm parcel under §295-34.11[A](3)(f), and with the proposed amenity of the construction of a permanent bandshell, including solar panels on the roof, for Veterans Memorial Park, with an aggregate value of at least \$150,000.00, under §295-34.12[A](5), with the total aggregate value assigned to the two projects on a pro-rata basis of their respective nominal megawatt power generation; and

WHEREAS, the Town Board believes the requested incentive of a large-scale solar array on the Property is appropriate given the intent and purpose of the Incentive Zoning, as well as the 2019 Update to the Comprehensive Land Use Plan in which the Incentive Zoning was a portion of, as it makes use of a parcel that is land-locked by the Lehigh Valley Trail, the New York State Thruway, and surrounding developments, in a manner that generates minimal traffic and also allows for complementary trails through the required natural vegetative buffers around the array as well as enhancing the "Sustainable Henrietta" vision as noted below; and

WHEREAS, the Town Board believes the amenity offered represents a significant enhancement to a parkland's recreational facilities, with the Park and Recreation Advisory Board listing a new bandshell at or near the top of their list of improvements to the Town's parklands and recreational facilities, and the amenity is also a strong tie-in to the "Sustainable Henrietta" vision with not only the enhancement of the Town Center, but also the sustainable power generation of the solar panels on the bandshell's roof; and

WHEREAS, public hearings were held for both Special Use Permit applications and their associated Incentive Zoning application in a manner consistent with law on Wednesday, November 15, 2023 and Wednesday, December 6, 2023, at which time all interested parties were allowed to speak; and

WHEREAS, on December 6, 2023, in accordance with the New York State Quality Review Act ("SEQR"), the Town Board, as the Lead Agency, issued a Negative Declaration for the Project (the "Negative Declaration") via Town Board Resolution #25-408/2023; and

WHEREAS, the Town Board has completed careful deliberation of the facts, including the criteria for granting incentive approvals as set forth in Town Code §295-34.15 and as set forth in Schedule "A" attached hereto and made a part hereof, the requested benefit and the proposed amenity, and how these align with the Town's Comprehensive Land Use Plan, especially in light of the 2011 Update to the Comprehensive Land Use Plan that outlined, in the summary section, the convergence of three key elements:

- Community Building – advanced by improving the band shelter in our park facility located in the new Town Center the plan called to build, with said band shelter used for community-wide events, including book readings, performances, summer concerts, and a farmer's market,
- Green Infrastructure – advanced by the addition of the two large-scale solar projects as well as the solar panels on the roof of the band shelter, and
- Economic Development – advanced by the revenues generated by the solar projects, as well as providing much-needed additional power supply to the grid,

with the three elements combining to form a "Sustainable Henrietta," as noted in the aforementioned summary.

THEREFORE, BE IT RESOLVED, that the Town of Henrietta approves the Incentive Zoning Application No. IZ2023-001 allowing the requested construction of two large-scale solar arrays of 5 MW AC (SP2023-043) and 1.875 MW AC (SP2023-044) with the proposed amenity provided of a permanent bandshell with a benefit value of \$109,500.00 and \$40,500.00 respectively, with a total aggregate value of at least \$150,000.00, with the details, design, and agreement for the construction or contribution towards the construction of the proposed permanent bandshell be executed between the Applicant and the Town prior to the issuance of any building permits for the construction of the proposed solar energy system.

BE IT FURTHER RESOLVED, that the approval of the complementary use as the incentive allows the applicant to apply for a Large-Scale Solar Energy System on a non-farm property, subject to obtaining a Special Use Permit in accordance with §295-73 of Article XVI of the Town of Henrietta Zoning Code, and thus without the requirement for being an active farm, contained in §§295-73[D](1)–(6) and (26), and without the requirement for an associated agricultural easements/deed restrictions, contained in §295-73[D](20), but nonetheless, the remaining items of §295-73 still apply, as do other applicable portions of Article XVI for Solar Energy Systems.

BE IT FURTHER RESOLVED, that this approval of Incentive Zoning Application No. IZ2023-001 will expire after 12-months unless construction has started on either the large-scale solar array or on the community benefit of the bandshell, at which time the approval would become permanent. This deadline may be extended by request to the Town Board in the same manner as an extension request for a Special Use Permit extension.

Duly put to a vote:

Councilmember Sefranek	Aye
Councilmember Bolzner	Aye
Councilmember Page	Aye
Councilmember Bellanca	Aye
Supervisor Schultz	Aye

RESOLUTION ADOPTED

## Schedule “A”

### Incentive Zoning Considerations for GreenSpark Solar Application IZ2023-001

GreenSpark Solar made two initial Incentive Zoning applications, one for the Lehigh South 1 & 2 large-scale solar projects, application IZ-2023-001, and one for Tobin Road, application IZ-2023-002. After initial hearings and discussions, it was determined that incentive zoning for Tobin Road ran contrary to the Farmland Protection Plan and would be better handled through an updated Solar Law that allowed for the preservation of farmland for a farm other than where the solar array was located.

For the Lehigh South 1 & 2 application, it was determined that the most appropriate route was to provide an amenity that made a significant improvement to a Town parkland/recreation facility in exchange for the incentive of allowing the complementary use of large-scale solar on a non-farm property.

The Planning Board identified some potential improvements, including for the parkland/recreation facility as well as improvements to the Lehigh Valley Trail. However, after further discussion, because the Lehigh Valley Trail was being improved as part of another related development, namely the Lehigh Ridge Subdivision, and as part of an adjacent development, namely the Masonic Care Community, it was felt that making improvements to the Lehigh Valley Trail ran a bit contrary to §295-32.14 (3).

When parkland improvements were raised, the Town shared the priority list of parkland and recreation facility improvements from the Town’s Park and Recreation Advisory Board and GreenSpark suggested building the roof for a permanent bandshell at Veterans Memorial Park and including solar panels on the roof of the bandshell. This suggestion was believed to be a strong tie-in to the project and also very well aligned to the “Sustainable Henrietta” concept described in the 2011 Update to the Comprehensive Land Use Plan, which focused on building a Town Center, which includes Veterans Memorial Park, on sustainability efforts, which includes renewable energies like solar, and on economic development, which includes generating power from a large-scale solar. The project appeared to be a marriage of all three.

GreenSpark initially offered \$100,000 in incentive zoning benefits to the Town for the Lehigh South 1 & 2 solar projects, but in discussions among the Town Board and Town personnel, it was believed that due to the scale of the project, the \$150,000 level was more appropriate. In addition to the contribution towards the construction of the new bandshell, the Town will also receive offsets against its electrical charges from the power generated by the solar panels on the roof of the bandshell, providing additional benefit to the community.

The proposed amenity is not immediately adjacent to the property receiving the benefit but is located further north along the Lehigh Valley Trail which connects to and continues through Veterans Memorial Park. The property receiving the benefit is landlocked by the New York State Thruway to the north, the Masonic Care Community property to the west, a residential subdivision to the east, and an active farm to the south. As such, a complementary use such as solar power generation, allows the owner of the property to generate income from their property while creating a minimal impact on the surrounding properties.

This minimal impact is especially important considering that the Lehigh Valley Trail bifurcates the property, cutting the majority of the parcel off from the only available access road to the west. In addition, because the Town’s Solar Codes require large transition buffers around the large-scale solar arrays, those buffers can house additional hiking trails accessible from the Lehigh Valley Trail. In addition, the access road from the west can be used to provide access to the Lehigh Valley Trail for the County, who owns and operates the linear park, and provides opportunities for Parkland Alienation, should that be required to install a permanent access across the trail.

The potential adverse impact of the project is minimal since it generates almost zero traffic once installed, has large transition buffers and will have additional vegetative screening installed where needed, so that it will provide no

visual impact on the surrounding properties. The land was an abandoned golf course and so there is no impact on agriculture and the majority of the property will remain open space, thus creating far less adverse impact on open space compared to other allowed uses. The access road will have to cross a stream and associated narrow wetlands, so those potential adverse impacts will need to be mitigated as part of the site plan process. In the public hearings it was noted that there is often debris that flows north on the stream so the bridge over the stream should be designed to minimize the potential of damming from the accumulation of this debris.

The proposed bandshell amenity will be situated on top of the current bandshell platform, which is 50' wide and 85' deep. The roof will be designed with a clear span of 50' and with the concept of an increasing height from the back of the bandshell to the front of the bandshell. The current plan is for GreenSpark to design and build the roof structure, complete with solar panels, and the Town to construct the walls of the bandshell, including any additional facilities, such as a stage and stage access, restrooms, a storage room, and a utility room. If the roof and solar panels cost less than \$150,000 to build and equip, the balance would be put towards the material costs to construct the walls and additional facilities.

To allow the project to move forward with property acquisition, financing, and approvals, the incentive zoning would be approved now with the details of the bandshell itself to be worked out over the next few months working towards a building plan and construction agreement between the Town and GreenSpark with the understanding that a building permit will not be issued for the construction of the solar array until after the construction agreement between the Town and GreenSpark has been fully executed.

The Incentive Zoning approval will expire 18-months after the resolution date unless construction has begun on either the amenity of the bandshell or the incentive of the solar arrays.

# GREENSPARK SOLAR

December 1st, 2023

Steve Schultz, Town of Henrietta Supervisor  
Town of Henrietta Town Board  
475 Calkins Road  
Rochester, NY 14623

Dear Mr. Schultz and Members of the Board,

We are submitting this updated Incentive Zoning Application per § 295-34.13 of the Town Code, in support of our Special Use Permit applications for the Lehigh South Solar 1 and Lehigh South Solar 2 projects. The proposed projects are two adjacent ground-mounted photovoltaic solar arrays to be located within tax parcel 189.02-1-5, measuring at 6.739 MW-DC, 5 MW-AC, and 2.414 MW-DC, 1.875 MW-AC, respectively. The projects will be owned by GreenSpark Solar subsidiaries EH Henrietta Solar 1 LLC and EH Henrietta Solar 2 LLC, respectively, under a lease agreement with landowner Lehrwood Estates LLC, and constructed and operated by Sustainable Energy Developments, Inc, D.B.A. GreenSpark Solar.

We are seeking the incentive provided for under § 295-34.11C(1) of a waiver of the area / dimensional requirements required under § 295-73D(20) of the Town's solar code (to secure an agricultural conservation easement across 96.09 acres) in exchange for sufficient qualifying amenities in accordance with § 295-34.11.

We offer to provide **the amenity of a bandshell for Veterans Memorial Park** at 595 Calkins Road under §295-34.12[A](5), creation of public parks, pocket parks (i.e., use of small vacant parcels), or community meeting areas. We will dedicate **\$150,000** to this project, split between both projects based on megawatts. Since Lehigh Valley I is 5 MW and Lehigh Valley II is 2 MW, LVI would get assigned 5/6.875 (\$109,500) of the incentive zoning amenity and LVII would get assigned 1.875/6.875 (\$40,500) of the incentive zoning amenity.

The 2011 Update to the Comprehensive Land Use Plan shows the intersection of Community Building (improving park facilities, the band shelter is used for community-wide events in the Town Center), Green Infrastructure (solar arrays to provide energy without emissions), and Economic Development (generating power and revenue from the output of the arrays). Our clean energy project paired with our proposed incentive zoning amenity demonstrates how corporate and town interests can be achieved in a mutually beneficial fashion to create a Sustainable Henrietta.



Loyal to People. Loyal to Planet

[greensparksolar.com](http://greensparksolar.com) | 585 265 2384

# GREENSPARK SOLAR

None of the amenities proposed above would otherwise result from the project without the granting of the requested incentive as they do not hold utility specific to the project's goals, and are therefore outside of the base project scope.

We look forward to pursuing this improvement to further the Town of Henrietta's land use and development goals with your support of this project.

Sincerely,



Kevin Schulte  
CEO, GreenSpark Solar  
Manager, EH Henrietta Solar 1 LLC  
Manager, EH Henrietta Solar 2 LLC



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