

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

PETITION NO. 1598 – Windsor Solar One, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 3.0-megawatt AC solar photovoltaic electric generating facility located at 445 River Street, Windsor, Connecticut, and associated electrical interconnection.	Petition No. 1598
	February 1, 2024

The Town of Windsor, Connecticut (“Town”) hereby submits the following response to the Interrogatories that were directed to Town by petitioner Windsor Solar One, LLC (“WSO” or “Petitioner”) on February 1, 2024.

- 1. Please reference Interrogatory No. 56 issued by the Town to WSO. Were alternative sites within the Town explored for the Amazon Site? If so, please describe all efforts the Town required for the alternative sites to be explored by Amazon.**

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

WSO would have to ask Amazon, as the Town does not select sites for prospective businesses. Unlike WSO, Amazon was subject to the requirements and procedures as set forth in the Town Zoning Regulations (“Zoning Regulations”). Through its zoning map, the Town Planning and Zoning Commission (“TPZC”) identifies areas suitable for warehouses and distribution facilities. Prospective businesses, their consultants, and/or preferred developers choose a site within industrially zoned areas. Through its Zoning Regulations, the TPZC determines what uses are allowed by right and what uses or aspects of permitted uses require a special permit, which gives the TPZC the discretion to place conditions on or deny the proposed use. The Zoning Regulations did not and would not permit the Amazon facility to be developed and operated in an agricultural zoning district.

- 2. Please reference Interrogatory No. 56 issued by the Town to WSO. Do any residences have year-round views of the Amazon facility? Has any landscaping been installed to mitigate views?**

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

Yes, at ninety-five (95) feet in height on top of a plateau, visually screening the entire facility from residential view is impossible. Notwithstanding the foregoing, the Amazon facility is in an industrial zoning district, which permits warehouses and distribution centers. The TPZC attempted to mitigate views through the retention of as much existing vegetation as possible, the addition of a vegetive buffer to the rear of the site, and the dual-purpose sound wall, which screens both noise and the visual impacts of truck traffic and site lighting. In addition to the foregoing trees were required to be planted to further mitigate the visual impacts of the Amazon facility.

- 3. Please reference Interrogatory No. 56 issued by the Town to WSO. What lighting plan was approved by the Town for the construction of the Amazon facility? Are the lights on throughout the night or is there a time for lighting shutdown. Approximately how far is this lighting visible?**

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

A photometric plan based on the Institute of Electrical and Electronics Engineers (IEEE) and DarkSky International (DSI) recommendations, incorporating full-cutoff light fixtures, was reviewed and approved by the TPZC as part of the site plan and special use approvals. Amazon also added dark-activated blinds to the offending windows, which would not have been a requirement for a four-story office building allowed by right in this location.

The elevation of the facility relative to the surrounding residential areas allows views below the cutoff horizon of the full-cutoff light fixtures. As the light is directed downward on the site, only a narrow band of glare is visible. While not directly illuminated with architectural lighting, the rear of the building is indirectly illuminated by light reflected off concrete pavement from full-cutoff fixtures concealed behind the sound wall. There are lights on throughout the night due to it being a 24-hour operation.

- 4. Has the Town ever required the construction of a landscaped berm as a condition of zoning or siting approval for a project located in the Town of Windsor? If so, please describe such berm requirements.**

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

Yes, where feasible and prudent, the TPZC regularly requires landscaped berms as part of a visual buffer between industrial and residential uses and to screen truck loading areas from public streets. There are no specific requirements, as every proposed project is

different based on the height of what needs to be screened, the width of the buffer area available to accommodate stable slopes, existing vegetative buffers, the proximity of residential uses, etc. The TPZC has required berms as high as eighteen (18) feet, plus additional landscaping at the crest of a berm in front of the Dollar Tree distribution center. The Walgreens distribution center, the Bradley Logistics Center, five warehouse/flex buildings in the New England Tradeport, four manufacturing and warehouse facilities on the north side of Day Hill Road, including another Amazon distribution facility, and many other facilities have landscaped berms to screen truck loading areas, outside storage, and other undesirable views. The Zoning Regulations require ground mounted solar facilities that offset on-site power to be screened to the extent practical.

5. If an undulating berm of ten to twelve feet in height were to be construed at the WSO site, how wide would such a berm need to be in order to ensure a slope of 3:1 ratio or less?

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

The underlying design of the undulated berm is the responsibility of the petitioner. We will assume that a “slope of 3:1 ratio or less” is referring to a slope of three feet horizontally to one foot vertically. As there are slopes on both sides of a berm, the horizontal proportion is doubled (i.e. six feet of width for every one foot of height). A berm undulating vertically between 10 and 12 feet would be 60 to 72 feet wide at its base. To undulate horizontally would add width in accordance with the degree of undulation. It should be noted that a 2:1 slope is a stable, mowable slope that would only be 40 to 48 feet wide for a berm undulating vertically between 10 and 12 feet high. A 2:1 berm undulating between 4 to 6 feet high, supplemented with plantings, as proposed by the Town, would only be 16 to 24 feet wide.

6. Please reference Interrogatory No. 56 issued by the Town to WSO. What is the height of the Amazon facility that was approved by the Town?

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

The Amazon facility is ninety-five (95) feet tall, which is permitted in an industrial zone by special use as approved by the TPZC. The ninety-five (95) foot tall Amazon facility is not and would not be permitted as of right in an agricultural zone.

7. Please reference Interrogatory No. 56 issued by the Town to WSO. What is the distance of the closest residence of the Amazon facility that was approved by the Town?

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

The nearest residence is 182 Eastwood Circle at approximately five hundred ninety-six (596) feet from the corner of the Amazon building and four hundred eighteen (418) feet from the nearest sound wall through a deciduous forest.

- 8. Please reference Interrogatory No. 56 issued by the Town to WSO. Has the Town ever received any noise complaints regarding the construction and/or the operation of the Amazon facility? If so, please describe those complaints and how those complaints were resolved.**

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

Compliant(s) of a metallic hammering noise was registered during the construction of the facility. The Town investigated the complaint, confirmed the noise, and reached out to the general contractor to identify the source and address it. Construction noises during authorized construction hours specified in the Town noise ordinance are exempt from that ordinance. The Town has not received any formal noise complaints regarding the operation of the Amazon facility.

- 9. Does the Town ever require entities that are seeking zoning approvals in the Town to construct a project to explain whether the entity plans on selling or transferring its project? If so, please describe that process.**

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

Yes, the TPZC often inquires into whether projects will be held or sold by developers when they have concerns about the operation and/or maintenance of the project to determine the level of accountability and responsiveness should problems arise, which occasionally leads to conditions of approval to hold future owners accountable. Unlike projects submitted through the TPZC, the Petitioner's project has a useful projected life of twenty-five (25) years, which is a temporary use. Decommissioning plans are not applicable to most projects submitted through the TPZC, as commercial buildings are a more permanent use.

- 10. Has the Town ever ordered an applicant to conduct any studies to determine the economic impact a proposed project may have on abutting property values in the Town of Windsor? If yes, provide describe such studies. If not, why not?**

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

All other sites and proposed uses in Town are subject to the Zoning Regulations. The zoning map and Zoning Regulations were carefully constructed to weigh the interests of residents and business owners, including, but not limited to economic impact. Residents of the Town are put on notice by the Zoning Regulations regarding the permitted uses in their zoning district and in the zoning districts abutting their property. The project proposed by WSO is not subject to Zoning Regulations the zoning map, or by the review of the TPZC, which may cause unanticipated economic impacts on abutting property values.

11. Please reference Interrogatory No. 56 issued by the Town to WSO. What wildlife was displaced from the Amazon project that was approved by the Town?

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

The State Department of Energy and Environmental Protection (DEEP) identified the American Kestrel and Eastern Box Turtle as possible listed species on the site. The developed area of the site was a former shade-grown tobacco field covered by netting and required regular hand picking through the later part of the growing season, making it an unlikely habitat for wildlife. There was minimal disturbance to the surrounding woodlands and wetlands.

To mitigate any impacts and environmentally enhance the site, the contract was ordered to perform daily perimeter sweeps for Eastern Box Turtles trapped inside the silt and construction fencing and to move them to safety. Disturbed areas to the rear were planted with a wildflower mix designed to serve pollinators such as bees, butterflies, and hummingbirds, while storm drainage basins were planted with a wetland mix. The perimeter of stormwater basins was planted with a mix of shrubs designed to provide forage and habitat to birds, mammals and the aforementioned Eastern Box Turtle, including Serviceberry, Chokeberry, Abelia, Red Dogwood, Witch Hazel and Prairie Dropseed.

12. Please reference Interrogatory No. 56 issued by the Town to WSO. Were more environmentally friendly alternatives explored for the construction of the Amazon project that was approved by the Town? Please describe such alternatives.

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

The Amazon project received substantial and detailed reviews from land use agencies. The Town's approval process is iterative, and with a project as large as the Amazon facility, can begin months before a formal application is made and result in many rounds of review,

comment, and revision before it is reviewed and approved by the TPZC. There is usually an open dialogue wherein the Town asks for reasonable improvements that may exceed requirements or suggests changes and alternatives that improve aesthetics; reduce potential hazards and maintenance issues; and reduce impacts on both abutters and the environment. Such changes might include setting clearing limits during construction and protecting significant trees; requiring daily wildlife sweeps for listed species during construction; specifying landscape plants that provide food and shelter for wildlife; adding berms, fences and walls to audibly and visually screen the project, adding house-side shields to the backs of light fixtures to cut glare; and creating grass swales and rain gardens and in lieu of pipes and dry basins to filter stormwater pollutants and sediment before it is released into the natural environment. The final approved plan is the culmination of that process and results in the best project for the community and the environment that the Zoning Regulations, the expertise and imagination of Town staff, and the cooperation of the applicant will allow.

During pre-application review, town staff suggested that the Amazon project be reversed to place the noisy truck docks on the opposite side of the building and the quieter employee parking in the rear, closest to the neighbors. An Army Corp of Engineers permit to fill a formerly drained irrigation pond stood in the way of this suggestion, which would have led to at least a year of delay in opening the facility.

- 13. Please reference Interrogatory No. 56 issued by the Town to WSO. Did the Town require that Amazon test its construction materials with the Toxicity Characteristic Leaching Procedure (TCLP) testing to determine if the materials would be characterized as hazardous waste at the time of disposal under current regulatory criteria? If so, please submit such information. If not, why not?**

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

Amazon was held to the requirements set forth in the Zoning Regulations.

- 14. Please reference Interrogatory No. 56 issued by the Twon to WSO. What health concerns were evaluated related to the dust that resulted from Amazon's construction activities and the risks such dust posed to the surrounding residents of the Amazon project?**

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

Dust was a concern during the construction of the Amazon facility. Additional dust control of disturbed areas was required and documented.

15. Please reference Interrogatory No. 56 issued by the Town to WSO. What environmental testing did the Town require prior to its approval of the Amazon project?

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

The Town required all environmental testing that is required within its Zoning Regulations. The Site was also tested for the presence of hydric soils to determine the boundaries of wetlands, watercourses and other bodies of water.

16. Please reference Interrogatory No. 56 issued by the Town to WSO. How many gallons of fuel or oil in cumulative volume did the Amazon project store above ground during construction? How many gallons of fuel or oil in cumulative volume is being stored by Amazon during operation? Did the Town request such fuel or oil information from Amazon during its approval process? If not, why not?

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

The requirements for above ground storage of fuel tanks are different in industrial zones than in agricultural zones. A building permit was pulled by Amazon for the storage of fuel, which fell under the Tier 2 reporting requirements of DEEP/OSHA. There was storage of propane tanks for temporary heating only, no diesel fuel. There were four sets of three 1,000-gallon tanks set above ground.

17. Please reference Interrogatory No. 56 issued by the Town to WSO. Did the Town request information from Amazon regarding hazardous substances that were stored at the Amazon project during construction or operation? If so, please provide such information. If not, why not?

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

No. This falls under the reporting requirements of DEEP/OSHA. The Town is notified if and when there is an incident that is required to be reported under the Emergency Planning and Community Right-to-Know, SARA Title III, CERCLA, RCRA, Federal Code of Regulations Title 40 (Environmental Protection) and/or Title 49 (Transportation) are reportable to the State Emergency Response Commission (Connecticut Department of Energy and Environmental Protection) at 860-424-3338 and the National Response Center, 800-424-8802 and the local community emergency coordinator.

18. Please reference Interrogatory No. 56 issued by the Town to WSO. Did the Town require any decommissioning bond and/or site restoration at the end of the useful life of the Amazon project? If so, please provide information related to the Amazon decommissioning. If not, why not?

Town objects to this Interrogatory to the extent that it is not sufficiently related to Connecticut Siting Council Petition No. 1598. Subject to and without waiving the foregoing objection, the Town responds as follows:

The Connecticut Siting Council requires a decommissioning plan in conjunction with a petition under their authority. The Town does not assume the end of life of a commercial building. There is no ownership requirement or defined process for determining future ownership, as zoning uses in Connecticut are attached to the land and not the owner of the land at the time of approval.