

**SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, N.Y.
AND REPLY TO MUNICIPALITY**

Submit this form with full statement of proposed action (as described in GML 239-m(c)) at www.Erie.gov/IRonline, OR mail a hard copy (retain a copy for your files) to: Erie County Division of Planning, 95 Franklin Street, Room 1053, Buffalo, N.Y., 14202

DO NOT WRITE IN THIS SPACE

Case No.: SP-23-394

Postmark/Delivery Date: 6/15/23

The proposed action described herein is referred in accordance with the provisions of NYS General Municipal Law §239 1 - nn
A Municipal Referral Map is available to help determine whether an applicable action is subject to referral.

Description of Proposed Action

1. Name of Municipality: Town of North Collins

§239-m(4)(b) provides that the county shall have 30 days after receipt of a full statement of the proposed action to reply.

If the county fails to reply within such period, the referring body may take final action.

However, any county reply received after 30 days but 2 or more days prior to final action by the referring body shall be subject to §239-m(5)

The referring body shall file a report of its final action with the county within 30 days per §239-m(6).

2. Hearing Schedule:	Date <u>7/12/23</u>	Time <u>7:30 PM</u>	Location <u>North Collins Town Hall</u>
3. Action is before:	<input checked="" type="checkbox"/> Legislative Body	<input checked="" type="checkbox"/> Board of Appeals	<input checked="" type="checkbox"/> Planning Board
4. Action consists of:	<input type="checkbox"/> New Ordinance	<input type="checkbox"/> Rezone/Map Change	<input type="checkbox"/> Ordinance Amendment
	<input checked="" type="checkbox"/> Site Plan	<input checked="" type="checkbox"/> Variance	<input checked="" type="checkbox"/> Special Use Permit
			<input type="checkbox"/> Other: _____
5. Location of Property:	<input type="checkbox"/> Entire Municipality	<input checked="" type="checkbox"/> Address: <u>12274 Gowanda State Road</u>	
5a. S.B.L. of Property:	<u>316.00-1-1</u> <u>Lawtons, New York 14091</u>		
6. Referral required as site is within 500' of:	<input type="checkbox"/> State or County Property/Institution	<input checked="" type="checkbox"/> Municipal Boundary	<input checked="" type="checkbox"/> Farm Operation located in an Agricultural District
	<input type="checkbox"/> Expressway	<input checked="" type="checkbox"/> County Road	<input checked="" type="checkbox"/> State Highway
			<input type="checkbox"/> Proposed State or County Road, Property, Building/Institution, Drainageway
7. Proposed change or use: (specify the action, such as the scope of variances or site plans)	<u>The project is a ground-mounted solar energy installation (5 MW), requiring variances for setbacks from northern property line and railroad, and for the access road being located on prime soils. The project also requires a special use permit and site plan approval.</u>		
8. Other remarks:	_____		
9. Submitted by:	<u>Heike Jacob, AICP</u> Email: <u>hjacob@wendelcompanies.com</u>		
10. Return Address:	_____		

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 6/15/23. The Division herewith submits its review and reply under the provisions of applicable state and local law, based on the information submitted with this referral.

1. ☐ The proposed action is not subject to review under the law.
2. ☐ Comment on proposed action is attached hereto.
3. ☐ The proposed action is subject to review; Recommendation on Proposed Action is attached hereto.
4. ☒ No Recommendation; proposed action has been reviewed and determined to be of local concern.

By the Division of Planning:  Date: 7/14/23

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5a. S.B.L. of Property:	<u>316.00-1-18.8</u>	<u>Lawtons, New York 14091</u>	
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(specify the action, such as the scope of variances or site plans) requiring a special use permit and site plan approval.

8. Other remarks: _____

9. Submitted by: Heike Jacob, AICP **Email:** hjacob@wendelcompanies.com

10. Return Address: _____

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4. ☒ No Recommendation; proposed action has been reviewed and determined to be of local concern.

By the Division of Planning: *Timothy P. Scuma* **Date:** 7/14/23



COUNTY OF ERIE

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING
DIVISION OF PLANNING AND ECONOMIC DEVELOPMENT

DANIEL CASTLE, AICP
COMMISSIONER

THOMAS E. BAINES, ESQ.
DEPUTY COMMISSIONER

July 14, 2023

Jacob Heike, AICP
Wendel
375 Essjay Road, Suite 200
Williamsville, NY 14221

Re: **Anderson I & II Solar Arrays**

Location: **12274 & 12276 Gowanda State Road**
Review No.: **SP-23-394**

Dear Mr. Heike:

Pursuant to Section 239 of the New York General Municipal Law, the Erie County Department of Environment and Planning (DEP) is in receipt of the above-referenced action referred to us on June 15, 2023.

As stated in the Lead Agency letter dated April 6, 2023, DEP offers the following comments:

- According to the *Erie County Agricultural and Farmland Protection Plan* (2012), the subject properties are located directly adjacent to a parcel that is presently under a conservation easement. The Plan strongly discourages non-agricultural uses in such areas as a means of preserving contiguous areas of farmland and other open space. In addition, the subject properties are located within the Erie County Southeast Agricultural District and the proposed project would result in the loss of two large agricultural parcels, contrary to the intent of the Plan.
- The Natural Resources Conservation Service Soil Survey Geographic Database (SSURGO) states that the project area is largely comprised of the Prime Farmland if Drained soil classification. This is defined as meeting all the Prime Farmland criteria except depth to mean high water table. The Town should ensure that the applicant takes steps to allow the site to return to agricultural use following the decommissioning of the project, including limiting the addition of fill material to the site to the extent practicable.
- Solar projects exempted from local property taxes under Real Property Tax Law Section 487 may be subject to a payment-in-lieu-of-taxes (PILOT) agreement. The developer must notify DEP of their intent to construct such projects. Within sixty days, DEP will notify the developer if a PILOT agreement is required. Notices must be mailed to:

Attn: Sarah Gatti
Erie County Department and Environment and Planning
95 Franklin Street, Floor 10
Buffalo, NY 14202

- The Town should ensure that the applicant posts a performance bond in an amount equal to 150% of the total decommissioning estimate amount, consistent with the Town of North Collins Solar Energy Systems code.
- The proposed action includes a road crossing of the Buffalo Southern Railroad, which is owned by Erie County and operated by the Erie County Industrial Development Agency (ECIDA). The applicant must contact ECIDA regarding the proposed crossing.
- As the proposed project site is located within an archaeologically sensitive area, the Town should not grant final site plan approval until the State Historic Preservation Office has stated its satisfaction or otherwise concurred with the applicant's findings regarding the project's potential impacts on archaeological resources.
- Comments from the Erie County Division of Highways regarding the Seneca Road right-of-way, if any, will be sent separately.

This review pertains to the above-referenced action submitted to DEP. This should not be considered sufficient for any County approvals. The Town of North Collins and/or the developer must still obtain any other permits and regulatory approvals applicable to this project.

Sincerely,



Timothy P. German
Planner