



VILLAGE OF BRIARCLIFF MANOR PLANNING BOARD

To: Mayor Steven A. Vescio and the Village Board of Trustees

From: Village Planning Board

Date: February 17, 2023

Subject: Briarcliff Solar LLC – 345 Scarborough Road - Report to the Village Board of Trustees regarding Special Permit Application

At the January 12, 2023 and February 9, 2023 Planning Board Meetings, the Planning Board heard a presentation on behalf of Briarcliff Solar LLC (the “Applicant”) on their Application for a Special Permit for use of property located at 345 Scarborough Road (the “Project Site”) as a “Large-scale solar collection system” pursuant to Village Code Chapter 220-6.J.(15) subject to review and approval by the Village Board of Trustees (the “BOT”). The Application was referred to the Planning Board by the Village Board of Trustees at their December 6, 2022 meeting. The Planning Board participated in a joint site visit with the BOT on February 3, 2023.

We understand that the Applicant is proposing to construct a pair of collocated 5.0-MWAC community solar facilities that are 7.5-MWDC on the approximately 95.5-acre Project Site that currently contains the vacant former Philips Research Laboratory. In addition to the special permit, the Applicant will also require Site Plan Approval, a Steep Slope Permit (Chapter 220-15), a Tree Removal Permit (Chapter 202), and potentially a Wetland Permit (Chapter 218) all under the purview of the Planning Board.

At the January 12, 2023 and February 9, 2023 meetings, the Planning Board discussed the Application and asked the Applicant a number of questions regarding the proposed project. First, the Planning Board is in general support of solar as a use and recognizes its importance as a tool in meeting the State’s renewable energy goals. This comment should not be considered an endorsement of the specific application but to confirm that renewable sources of energy have broad value. During the meetings, the Planning Board raised the following issues and concerns specific to the use of the Project Site as a large-scale solar system for consideration by the BOT:

- **Steep Slopes** - There appears to be significant tree clearing and ground disturbance in areas with slopes of 15-25% and 25% and above. While the solar panels themselves may not cause an adverse impact to the slopes, tree clearing, ground disturbance and any potential grading may pose a problem. In addition, Village Code limits development activities on slopes between 15-25% and prohibits development activities, with a few exceptions, on slopes of 25% and above, as follows:

"220-15D.

- (1) *Slopes 25% or more. No land shown on either the Village of Briarcliff Manor Slopes Map or a site-specific steep slopes map shown as having slopes of 25% or more shall be developed or in any way physically modified, except when, in the opinion of the Planning Board, said development or modification is deemed necessary for access, land or natural terrain preservation or enhancement, or some other necessary purpose. These steep lands may be used as or may comprise a portion of development areas so long as such development areas have sufficient "nonsteep" space for the particular type of development proposed and in accordance with the requirements of this chapter.*
- (2) *Slopes 15% to 25%. No land shown on either the Village of Briarcliff Manor Slopes Map or a site-specific steep slopes map shown as having slopes of 15% to 25% shall be developed or in any way physically modified, except when, in the opinion of the Planning Board, said land may be used for a use permitted within the zoning district within which it is located, without creating an adverse impact on the natural terrain ("Natural resources" is not defined herein and above in "Protection of Steep Slopes" the term "natural terrain" is used.) of the Village of Briarcliff Manor, including but not limited to land erosion and flooding. In the review and approval procedures established in this chapter, the Planning Board is further empowered to mandate development techniques which in its opinion may preserve the steep slopes."*

As you are aware, the authority to grant a steep slope permit rests with the Planning Board; however, given that development may not be permitted on areas of slopes 25% or more, except when in the opinion of the Planning Board, said development or modification is deemed necessary for "some other necessary purpose." This is a significant question for the Planning Board and historically, the Planning Board has not granted exceptions to development on areas with slopes of 25% or greater. We understand that based on these concerns, the Applicant has revised its plans to pull the solar array largely out of areas with slopes of 25% and above. However, given the ramifications of this issue on the proposed project layout, size, site plan, etc. additional information as to the "necessary purpose" of the proposed project and the actual impact of the project on the steep slopes should be provided and consultation with the Planning Board should be considered.

- **Tree Clearing** – Significant tree clearing is proposed to accommodate the proposed solar project. The Applicant has conducted a Tree Inventory and stated that many of the trees proposed for removal are invasive. The Planning Board is concerned with the potential loss of trees on the site. These trees, invasive or not, still remove the same amount of CO₂ as a non-invasive tree. Further, clarification should be provided as to whether the trees are invasive or non-native. Further, as noted above, tree clearing, ground disturbance, and potential grading are proposed in areas with slopes of 15-25% and 25% and above. Such clearing could result in increased stormwater runoff downslope to residential uses located along Charter Circle. Tree removal and the solar installation itself could result in a potential loss of habitat and interrupt existing migration corridors. These potential impacts must be studied. Further, the New York State Endangered and Threatened Species list is being updated in January/February 2023 and the project should be evaluated against the updated list.
- **Stormwater** – In addition to the comments above regarding concerns with stormwater runoff related to tree clearing, ground disturbance and potential grading in areas with steep slopes, the solar panels themselves will change stormwater management on the site. The Stormwater Pollution Prevention Plan should be carefully coordinated with the Village Engineer, Consulting Engineer, and the New York State Department of Environmental Conservation to ensure that stormwater impacts are properly addressed and mitigated.
- **Landscape Buffer** – Landscaping and screening of the facility from adjacent residential properties and adjoining roadways is critically important. Additional detail should be provided on the landscaping/screening within the proposed 200-foot buffer.
- **Security** – Site security is important and should be carefully considered as part of the special permit review process. The Applicant should also address ways to enhance Village access to the Croton Aqueduct while also maintaining proper site security.
- **Wetlands** - the Project Site contains regulated wetlands and potential impacts could occur. Based on review of the application by the Village's Wetlands Consultant, it was determined that a Wetlands Permit will be required since the proposed project will result in disturbance to a wetland buffer area. Wetlands Permits fall under the purview of the Planning Board and potential impacts related to wetland/wetland buffers should be closely coordinated between the BOT and the Planning Board.

Many of the issues above have been addressed by the Village's Environmental Consultant, Alexandra Moch, and her report to the Board of Trustees should be carefully reviewed.

Finally, as previously raised in our January 4, 2023 letter to the BOT regarding SEQR Lead Agency and in light of our comments above, we again request that the BOT establish a review process for the project that is closely coordinated with the Planning Board at every step of the SEQR process. The Planning Board

requests the opportunity to review and provide comment on draft SEQR deliverables prior to documents being accepted by the BOT for public review (i.e. if a Positive Declaration is issued the Planning Board requests to review and comment on a draft Scoping Document, preliminary Draft Environmental Impact Statement, preliminary Final Environmental Impacts Statement, etc.). This will ensure that the Planning Board's concerns related to their subsequent approvals are adequately addressed in the SEQR process undertaken by the BOT. Further, given the technical nature of the permits before the Planning Board, the Planning Board has the experience and technical expertise to best assist the BOT with the review of these technical elements.

We thank you for the opportunity to provide our comments on the proposed Special Permit Application. Should you have any questions or comments on any of the above please do not hesitate to contact David Turiano, Village Engineer or Josh Subin, Village Counsel.

Sincerely,



Malcolm Netburn, Chairman

Cc: Josh Ringel, Village Manager
David Turiano, Village Engineer/Building Inspector
Jeffrey Gaspar, Village Building Department
Christine Dennett, Village Clerk
Sarah K. Yackel, Village Planner
Josh Subin, Village Counsel