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**TOWN OF MARLBOROUGH
PLANNING BOARD
TECHNICAL REVIEW COMMENTS**

PROJECT NAME: INDEPENDENT SOLAR, LLC
PROJECT NO.: 20-9
PROJECT LOCATION: SECTION 95.4 , BLOCK 3 , LOT 7.210
REVIEW DATE: 29 JULY 2020
MEETING DATE: 3 AUGUST 2020
REPRESENTATIVE: LANGAN ENGINEERING

1. The Town's Ethic Code Disclosure is signed by a Gerald A. Leone, Jr. It is unclear this subjects connection to the project. Other forms are signed by a Matthew Bowers, while the property appears to be owned by Organic Valley, LLC, with a letter of agents signed by Robert A. Titanic, Jr.. Information pertaining to the connection to all parties identified above and their ability to sign for the LLC should be provided to the Planning Board and Planning Board Attorney for review.

Please find the letter from Cypress Creek's Corporate Secretary outlining the signatory authority granted to Gerald A Leone and Matthew Bowers for the application documents. Also included is the Articles of Organization for Organic Valley LLC, showing that Robert Titanic is the sole organizer and operator of the LLC and maintains the right to sign on its behalf wherever that occurs in this application.

2. A review of the Full Environmental Assessment Form identifies the project is located in Ulster County AG District #1. Based on the location in the AG District and disturbance of greater than 2.5 acres of property the project would be considered a Type I Action under SEQRA. This requires a coordinated review for all involved agencies. It is recommended the Town of Marlborough Planning Board declare its Intent for Lead Agency early in the review process.

Acknowledged and confirmed.

3. The Town of Marlborough should notify the Applicant of a requirement for a Pilot Agreement in accordance with applicable NYS Procedures Codes iregarding in Pilot Agreements for large scale solar projects.

Confirmed – Notices of intent to negotiate a PILOT agreement has been sent to the town, county, and school district. To date, responses have been received from the Town of Marlborough and Ulster County indicating an intent to negotiate a PILOT agreement.

4. The application materials submitted contain various references to solar farm acreage ranging from 30 acres to 14.9 acres of the site. All the documents should be coordinated with the actual site acreage and solar array acreage.

Acreage totals have been adjusted to be consistent throughout the application. Please note that the limit of disturbance acreage has been reduced to 28.3 acres. This limit of disturbance figure demonstrates the total area to be impacted within the fence line and includes ground disturbance from access road and utility pole installation. The “solar area” of 14.9 acres is comprised of the area taken up by the solar modules and related equipment, such as the inverter and transformer pad.

5. The EAF identifies the total acreage of the site as 63.2 acres with 30 acres to be physically disturbed. Total acreage is identified as 30 acres, however numerous Tax Map parcels are identified in portions of the application. Total area controlled by the Applicant or Project Sponsor should be identified in Section D-1-B.

Total area updated to 76.4 acres in the EAF. The total acreage owned/controlled by the applicant (Independent Solar) shall be roughly equivalent to the leased area, 28.3 acres. The landowner (Organic Valley LLC) shall retain control of the remaining acreage.

6. The EAF identifies the project in the NYS Coastal Zone Management area. The Town of Marlborough also has a local waterfront revitalization program which incorporates the subject property. Each of these programs should be evaluated with regard to the project.

Acknowledged and confirmed. Section B.i.ii. of the EAF has been updated to reflect the project’s location within the Town’s LWRP boundaries.

7. The project application only identifies one Tax Lot 7.210. however lease agreements and other documents identify additional Tax Lots including 7.111 & 7.220. This should be clarified and all lots utilized for the project should be included in all applications, owners consent and other documentation.

The project shall only include portions of parcels 7.210 and 7.111. Please find the amendment included in Exhibit B which removes parcel 7.220 from the original lease agreement. Language has been updated throughout the application to ensure consistency regarding parcel numbers.

8. A final decommissioning plan will be required to be submitted and approved.

Final decommissioning plan has been submitted. The final decommissioning estimate will be submitted as condition of approval.

9. The Glare Analysis data sheets should be combined with a report identifying the process and procedures to perform a glare analysis and the results of the glare analysis and conclusions.

Please find the enhanced Glare Analysis narrative provided in Exhibit L, which explains the

methodology and results of the analysis. As shown in the report, no increase in glare is anticipated to result from the construction of the project at any of the observation points analyzed.

10. The Planning Board may wish to select additional locations to be reviewed for visual impacts and glare analysis based on their local knowledge and location of the project site in the landscape.

Please reference Exhibit M, which now includes a digital rendering and viewshed analysis of the project site from the Locust Grove estate. As shown in the rendering and analysis, most of the site will be not be visible from the estate due to the existing topography and vegetation. Additional visual renderings and viewshed analyses can be provided to the Planning Board upon request.

11. A Stormwater Pollution Prevention Plan has been submitted and is under review by this office.

Acknowledged.

12. Ulster County Department of Public Works will be an interested or involved agency for the site access road. Coordination with the Public Works Department regarding access to the site should occur.

Acknowledged and confirmed.

13. Comments from Jurisdictional Fire Department should be received.

Acknowledged and confirmed – Comment shall be sought from the Milton Fire Department regarding the project.

14. Project contains a battery storage facility which should be identified in the environmental documents.

The battery storage component of the project has been removed from the application. The project shall not include an energy storage system as currently proposed.

15. Landscaping Plans should be developed for the project site. Current plans identify landscaping by others.

A landscaping plan is now included in Exhibit D of the application.

16. Project renderings identified the project as being very visible from the Milton Turnpike. Planning Board may request additional visual mitigation be provided in this area consistent with Town Code.

Acknowledged, additional renderings from specific locations on Milton Turnpike can be supplied to the Planning Board upon request.

17. The deeds submitted do not identify the property being transferred to an LLC.

The deed demonstrating transfer to Organic Valley LLC is provided in Exhibit C of this application.

18. EAF Section B-i Coastal Resources, page 2 of 13 of the EAF should identify the project in an approved Local Waterfront Revitalization Program.

Section B.i.ii. of the EAF (Exhibit F) has been updated to reflect the project's location within the Town's LWRP boundaries.

19. Section B-g identifies that no structures are proposed however structures are identified for battery storage and other solar system components.

Based on experience obtaining SEQR negative declarations in other jurisdictions, solar equipment such as the PV modules, mounting equipment, fencing, utility poles, and transformer/inverter pads are not considered "structures" by the DEC. No other exterior structures beside the solar equipment outlined in the application shall be constructed. Examples of these negative declarations, and/or additional narrative justification can be provided upon request.

20. Page 10-f identifies the site has been used as a Municipal/commercial or solid waste facility. The answer is checked yes, however information is provided that it is located west and upgradient of the Custom Compost Facility. The subject property is not identified as a waste management facility.

The EAF asks whether the subject property or adjoining properties have been utilized as solid waste facilities. The response to this question remains unchanged, due to the presence of the Custom Compost Facility on the east-adjoining property.

21. Project has been identified by NYS Office of Parks, Recreation and Historic Preservation as potentially archeologically sensitive. A Phase IA/1B Archeological Survey is identified as being completed. This information must be submitted to the Planning Board as potential Lead Agency and the state agency for review.

Confirmed – Phase 1B arch survey has been completed by TRC. No potentially eligible sites were located during the survey, however confirmation by SHPO is currently pending. The results and consultation will be provided to the PB once complete.

22. Page E.3h identifies officially designated and publically accessible Federal, State and Local scenic and aesthetic resources. The Planning Board may wish to review the list of resources and any potential visual impacts including Locust Grove Estate, which was subject of a previous visual assessment for a solar project in the Town.

Acknowledged and confirmed.

Respectfully submitted,

**McGoey, Hauser and Edsall
Consulting Engineers, D.P.C.**

Patrick J. Hines
Principal

PJH/kbw