

Town of Farmington Planning Board  
1000 County Rd. 8  
Farmington, NY 14425

December 9, 2019

**RE: Project Status Log – 12-09-2019**

Dear Town of Farmington Planning Board,

Delaware River Solar (“DRS”) is pleased to have the opportunity to bring the benefits of Community Solar to the Town of Farmington. DRS has proposed three (3), 2.388 Mega Watt ac Community Solar facilities that will generate, in the aggregate, approximately 7 MW of clean and “green” electricity that will be distributed over the existing electrical grid (the “Projects”) to local customers. Customers simply pay for the power they use like they do today, with no development or maintenance costs, and they know their power is generated locally by a renewable source at a discount to prevailing electricity rates.

This letter provides responses to statements made in a letter provided by the “Concerned Citizens” group at the December 4, 2019 public hearing, which is listed as #138 in the project abstract. DRS comments are provided below to each statement made, as they appear in the public record.

We thank the Town of Farmington for the thorough review of these projects and look forward to the continued review of the Site Plan, Subdivision, and Special Permit applications.

Sincerely,

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Daniel Compitello  
*Project Developer*



Comments and responses below:

**Comment 1**

- It is our position that the August 7<sup>th</sup> Neg Dec should be rescinded and a pos dec should be issued. Per SEQRA's regulations, "a lead agency **must** rescind a negative declaration when (i) substantive changes are proposed for the project; or (ii) new information is discovered." 6 N.Y.C.R.R. § 617.7(f).

**DRS Response:**

Since the August 7<sup>th</sup> Negative Declaration, no materially substantive changes have been proposed for the project, and no materially new information has been discovered. Changes that were made to the project, as represented in the November 1, 2019 Site Plan, are minimal and largely within the footprint of the originally proposed site plan and project. The megawatt capacity of the project has not changed, and the overall limit of disturbance of the development footprint has only marginally changed. Therefore, the Planning Board would be well within reason to decline to rescind the August 7<sup>th</sup> Negative Declaration, and instead, amend the Negative Declaration to account for the most recent site plan submitted on November 1, 2019. In fact, the assertion that the negative declaration **must** be rescinded is misleading, particularly given the fact that SEQR regulations at Section 617.7(e) provide that a lead agency may amend a negative declaration when changes are made to a proposed action, as is the case here, or when new information is discovered.

To the extent the Planning Board determines that the changes to the site plan necessitates a new SEQR determination, DRS respectfully submits that the Planning Board should issue a Negative Declaration. While there have been modest changes to the footprint of the project, there has been no change to the fundamental environmental issues examined by the Planning Board when it issued the original Negative Declaration on August 7, 2019.

We also state firmly, in light of these comments, that the presumption that the Planning Board has incorrectly followed SEQR and any provisions of 6 N.Y.C.R.R. § 617.7(f), without providing evidence of such, is misleading and does not prove any such allegations. We ask that the concerned citizens respect the training, knowledge and professional ability of the Town of Farmington staff, consultants and the full Planning Board, in their review and deliberations of SEQR.

**Comment 2**

- On November 20<sup>th</sup>, 2019 we submitted a letter to the Planning Board summarizing potentially significant environmental impacts which require further review. We also submitted a letter from our engineer which reviews and comments on the Developer's Stormwater Pollution Prevention Plan. We reviewed DRS' latest submissions, and we believe that the following potentially significant environmental impacts are still at issue.

**DRS Response:**

Noted.

**Comment 3**

- It is likely that one or more moderate to large impacts may occur because the Proposed Project will disturb a significant portion of land. The physical disturbance caused by the proposed Project has increased from 1.1 acres to 2.6 acres. This significant- the area to be disturbed by the project has more than doubled in size. Pre- and post-construction activities associated with earthwork, installation of the solar pv systems (including arrays and associated infrastructure), and project maintenance will disturb project land and may have the potential for significant impacts to land on the project site.

**DRS Response:**

The increase from 1.1 acres to 2.6 acres of disturbance reflects the current calculation for the area of soil disturbing activities during the construction process. The 1.5 acres increase from the August 2018 calculation incorporates approximately 1.1 acres of landscaping and 0.4 acres of area designated as construction material laydown locations. The installation of the landscaping (excavation for the tree

rootballs) will not physically disturb the entire 1.1 acres. The construction material lay down area denotes land that may be disturbed during construction, mainly as construction staging areas to hold supplies, parts and equipment before and as they are installed. This area will be seeded with a meadow mixture as construction is completed. As stated in the Schultz Associates November 1, 2019 Storm Water Pollution and Prevention Plan (SWPPP), the Bergmann Associates review of the SWPPP, and the MRB Group review of the SWPPP and the November 20<sup>th</sup> Lakeside Engineering comments on the SWPPP, the project will need to comply with both pre and post construction best management practices for storm water control. The change in disturbed acreage is not an unusual or unexpected finding, as all SWPPPs are living documents that oversee pre and post construction activities through the completion of construction, in order to comply with stormwater discharge best practices.

**Comment 4**

- The new area covered by Developer's revised site plans which extend the solar arrays to the south and east was not reviewed as part of Foundation Design's initial geotechnical study. This study noted shallow perched water conditions at 7 borings, and 3 of these borings (P-8, P-15, and P-22) are located in close proximity to areas where the project has been expanded. The Project site's soils are dense, rocky, and moisture sensitive, and it is unclear what soil conditions exist in the new project area without performing further testing.

**DRS Response:**

We responded to these comments raised at the November 20<sup>th</sup> public hearing, with a letter from Foundation Design, the geotechnical engineer, stating that the Geotech study will adequately cover the new site plan amendment on November 1, 2019. In their findings:

“For the type of construction proposed, it is our opinion that the existing exploration adequately portrays the subsurface conditions on the site. We do not expect drastic changes in the

subsurface conditions that would impact the conclusions and recommendations that we outlined in the July 9, 2019 Geotechnical Evaluation 4618.0. We point out that the existing boring data was spaced between 150 and 374 feet apart. Gaps between the existing boring data, similar to the array extension, were present with the previously submitted information.”

**Comment 5**

- It is unclear if impacts to sight line distances stemming from revisions to the site plan (moving solar pv systems and landscaping closer to Yellow Mills Road) have been evaluated. This is a major concern as the Project is located next to the Yellow Mills Road and Fox Road intersection. Further, potential traffic impacts during construction have not been evaluated.

**DRS Response:**

The intersection of Fox Road and Yellow Mills Road is a controlled intersection, and therefore, the intersection sight distance is governed by the departure sight triangle. The Departure Sight Triangle is measured from a point 15 feet from the nearest travel lane and is mainly located within the road right-of-way. The footprint of the project in both the originally proposed site plan, and the amended site plan dated November 1, 2019, will not impact the departure sight triangle of the intersection. For reference, the Approach Sight Triangle for an uncontrolled 55 mph intersection is 285 feet, and the proposed project has an approach sight distance of 508 feet, well over even the limit for an uncontrolled intersection. There also are no changes to traffic requirements of the proposed development, which meets AASHTO Intersection Sight Distance requirements. In short, there will be no impacts to Intersection Sight Distance, or changes in traffic impacts during construction or after construction.

**Comment 6**

- One or more moderate to large impacts to surface water and groundwater may occur because the Project site sits on top of an aquifer and contains two federally regulated and two state regulated wetlands, which are hydrologically connected to off-site wetlands and a stream. Pre- and post-construction activities associated with earthwork, installation of the solar pv systems (including arrays and associated infrastructure), and project maintenance may increase stormwater flows and sedimentation on the Project Site, impacting the quality of nearby waterbodies on and off the Project Site.

**DRS Response:**

There are no changes to the proposed development that would impact the Planning Board's August 7<sup>th</sup> Negative Declaration, which specifically addressed impacts to surface water and groundwater.

Furthermore, please refer to Abstract #137, the MRB Group December 4<sup>th</sup> "Preliminary Site Plan and SWPPP Cursory Review" letter in its entirety, and specifically on page 3, where they state:

"The Lakeside Engineering letter comes to the conclusion in multiple places that the hydrology modeling is incorrect as it does not model the solar panels as impervious cover, such as rooftop runoff. As mentioned above, NYSDEC has certain criteria that, when followed, results in mitigation of any potential stormwater impacts caused by the solar panel rows. The Planning Board will be requiring the project to be fully compliant with these stormwater regulations. It should also be noted that the perimeter vegetative screening should also provide some stormwater management benefits."

As MRB further states, not only will the Planning Board require the project to be fully compliant with NYSDEC stormwater regulations, the project will be independently inspected during construction for adherence to these regulations.

**Comment 7**

- Our engineer's letter reviewing and commenting on the developer's SWPPP disagrees with Bergman's conclusion that there will be essentially no change to the rate and volume stormwater runoff leaving the project site when comparing conditions before and after the construction. The densely massed configuration of the solar arrays will likely increase stormwater runoff. Soil compaction resulting from construction and maintenance activities will decrease water absorption and increase stormwater runoff on the Project Site. The fact that the Project will utilize best management practices does not negate the need for comprehensive review during the SEQRA process to determine the Project's potential impacts to surface water bodies on and off site. The placement of the arrays does not appear to follow the existing contours of the site, and very minimal permanent erosion and stabilization measures have been proposed.

**DRS Response:**

Again, as stated in the Schultz Associates SWPPP, the Bergmann review of the SWPPP, and the MRB Group review of the SWPPP and the November 20<sup>th</sup> Lakeside Engineering comments on the SWPPP, the project will need to comply with both pre and post construction best management practices for storm water control. It is a specific NYSDEC guidance to recognize the solar panels as impervious when the project meets specific NYSDEC requirements, which the proposed project is designed in accordance with and will comply with. There are no changes to the proposed development that would impact the Planning Board's August 7<sup>th</sup> Negative Declaration, which specifically addressed impacts to surface water and groundwater, except for the inclusion of a SWPPP, which serves for further protection against drainage matters. There are also no requirements under SEQRA that state the need for a "comprehensive review of potential impacts to surface water bodies on and offsite", that are not already addressed by SEQRA and thus reflected in the Planning Board's August 7<sup>th</sup> Negative Declaration, or, that are managed by the NYSDEC requirements of a SWPPP.

Finally, again, we state with emphasis, that presumptions made that

the Town Planning Board has incorrectly followed SEQR and any provisions of 6 N.Y.C.R.R. § 617.7(f), without providing evidence of such, does not prove any such allegations, and is simply misleading. We ask that the 'Concerned Citizens' group respect the training, knowledge and professional ability of the Town of Farmington staff, consultants and the full Planning Board, in their review and deliberations of SEQR. We also ask that the 'Concerned Citizens' group respect the rights of the Smith's, the landowners, and acknowledge that they have the due right to seek this development on their property, as any other landowner may under the laws of the Town of Farmington, Ontario County, New York State and the freedoms afforded by the Constitution of the United States of America.

**----- END OF COMMENTS -----**