



Friends of Clifton Park Open Space, P.O. Box 821, Clifton Park, New York 12065

January 11, 2021

TESTIMONY BEFORE THE CLIFTON PARK TOWN BOARD

RE: Six Month Solar Facility Moratorium

By: Friends of Clifton Park Open Space

Our purpose here tonight is to deliver testimony for Friends of Clifton Park Open Space concerning a moratorium on Solar Facilities in the Town.

First and foremost, FRIENDS wishes to thank the Town Board for calling this hearing. FRIENDS enthusiastically supports a six-month solar facility moratorium in Clifton Park. Let me begin by saying that FRIENDS does not oppose solar power, but does believe that these installations should conform to the Conservation Residential Zoning in Western Clifton Park. In addition; we also have a keen interest in what the Town should do during this respite. *Attached* is a July 28, 2020 memo which FRIENDS sent to the Supervisor Phil Barrett and the Town Board with copies to the Planning Board, John Scavo Planning Director and David Miller, Chair of the Open Space, Trails and River Front Advisory Committee. This memo outlines the basic concerns FRIENDS has regarding solar projects in the Town, especially as they pertain to the Conservation Residential Zone.

Second, as part of the moratorium, FRIENDS requests that the Town Board commission a study which focuses on the impact of Solar Projects in the Western GEIS area (i.e., the Conservation Residential Zone authorized under 208-16 of the Town Code). It is this district which is being heavily impacted by commercial Solar Projects over the last few years. Of the 7 projects authorized or built, 5 are located in this zone. This solar panel development threatens to convert the Green “C” open space concept into a “Solar Panel Zone”. Balanced development of C.R. Zone, intended by the Code, is an imperative.

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Third, to compensate for the loss of open space, FRIENDS requests that any study of commercial solar projects in the CR Zone focus on three open space compensation and mitigation alternatives:

a) **Conditions and Safeguards (208-79. D. (6)):** This CR Zoning section allows the Planning Board to attach “conditions and safeguards” to a Special Use Permit (SUP) such as off-site or off-premise improvements to mitigate the impacts of the proposal, along with battery and fire safety precautions. The Town of Portville in Cattaraugus has done this with a variety of projects with Borrego Solar. Applying this approach would be at the discretion of the Planning Board.

b) **Community Benefits and Amenities (208-43.15):** This section states, “All proposed amenities to be provided by the applicant must show demonstrable benefit to the benefit area.” Since solar panels are not mentioned in this “incentive” section, a Residential Equivalent Incentive for Solar-Development (REIS) should be developed for the CR Zone. A cash methodology and model develop by FRIENDS is *attached*. Funds to compensate for the lack of open space could be made by the developer and extended to open space acquisitions so that these projects could benefit all town citizens. A land-based exchange incentive can also be derived from this cash model. These alternatives would require Town Board action.

c) **PILOT Funds:** The Town presently receives Payments In Lieu Of Taxes—or PILOT—funds for approved solar projects. These funds do not directly compensate the Town’s CR zone for the LOSS of open Space and therefore the current approach does not advance the goal of preserving the rural character of the district. A private gain becomes a loss for all citizens. The Town Board should consider requiring a “solar mitigation fee” as a part of the negotiated PILOT package. This fee could be based on the REIS model mentioned above in order to benefit the town as a whole.

FRIENDS commends the Town Board for considering this solar facility moratorium and urges its passage tonight. Recent circumstances have shown us how important open space has been to Clifton Park citizens during the pandemic. So, we trust that the Board will endorse a study to include an investigation and assessment of the three CR Zone compensation and mitigation alternatives outlined above.

Respectfully submitted,
Friends of Clifton Park Open Space

ATTACHMENT: JULY 28, 2020 LTR, RE: FCPOS CONCERNS FOR SOLAR IN CR ZONE

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July 28, 2020

Re: Acquisition of Open Space in Solar Projects

To: Philip Barrett, Clifton Park Town Supervisor, Clifton Park Town Board Members

Friends of Clifton Park Open Space continues to be concerned about the site plan review process and approvals of solar projects in the western Clifton Park Green "C" area. The Town has approved 7 such projects and 5 of them have been in the GEIS area. With more and more emphasis on solar generation by NYS, and with more and more open land in western Clifton Park, it is inevitable that more of these projects will be proposed.

We believe it is imperative that the town establish a process to review these projects with the importance of open space in mind, and hold these projects to the same standards for open space preservation & protection as other development projects in the Conservation Residential Zone.

- Today, landowners feel they can protect their lands from residential development by conceding to solar generation projects instead. If there are temporary easements on their properties, then the landowner can repay some previous tax benefits as part of their financial arrangements. But these paybacks are minimal and no other protections are in effect to take their place.
- For other forms of development, the CR Zone requires preservation of portions of buildable land as well as a 50% set-aside of the total parcel as dedicated open space. There is no good reason why these solar uses cannot also adhere to the incentive program and be subject to the same open space requirements as residential projects.
- Why are solar developers not paying comparable incentives required of residential developers when the permitted density is exceeded? Without such considerations, then both citizens and residential developers are being disadvantaged by the existing solar project approval process.

- We would all do well to remember the long-standing, citizen support of open space in Clifton Park. Early town surveys from both 2002 and 2007, as well as recent public input on the Town Center Park, show citizens consistently and increasingly approving more open and undeveloped spaces. Local news articles have sited Clifton Park’s plethora of open spaces for citizens to enjoy during the current pandemic—drawing more attention to the benefits of open space. Once again, drawing attention to how quality of life in one of the county’s fastest growing towns is a precious commodity to preserve.
- The town’s Special Use Permit (SUP) process has ignored the important Open Space Incentive Provisions of Section 208-43.13 in which the Town Board may require “community benefits or amenities”. These include permanent easements, fee simple protections and cash donations to the Town’s Open Space Fund account. To date, none of the approved solar projects have included any of these community benefits. Power supplied to the state grid is not a “community benefit”.
- To accommodate this trend, the Town must develop a “solar panel density” equivalent to the residential incentives. Otherwise, the “Conservation Residential Zone” could rapidly become an Industrial “Solar Panel Zone” with no incentives to preserve the zone’s intended Open Space character. By no stretch of the imagination are solar panel fields “open space”.
- ***The Town presently receives payments in lieu of taxes designed as PILOT funds for approved solar projects. But these funds do not compensate Town citizens for the LOSS of present-day open space. We recommend a “solar open space mitigation fee” be created by the Town as a component of the PILOT payments. This fee would be deposited in the Town’s “Open Space Fund” account. The purpose of this fee would be to help compensate the Town’s citizens for the loss of the open space covered by solar panels.***

We understand that these solar generation projects are easy for prospective developments. There is one landowner, one town entity, a solar developer armed with state incentives and—thanks to the open space programs—lots of open space in Western Clifton Park. Generally, no water or sewer infrastructure is required. These factors foreshadow western Clifton Park being blanketed with such projects. These projects threaten to undermine the objectives that the Town established for this area. Moreover, there are no good trade-offs for the loss of open space and wildlife habitat and scenic value—values which have proved to be so valuable to so many citizens.

We strongly urge the Town Board to examine this trend and enact an Open Space Mitigation Fee for solar projects that will provide an incentive for the preservation of open space. This approach will ensure the promise of the CR Zone is realized for citizens today and into the future.

Friends of Clifton Park Open Space

Cc: Clifton Park Planning Board

John Scavo, Clifton Park Planning Director

David Miller, Chair-Open Space, Trails & Riverfront Advisory Committee

ATTACHMENT: REIS—RESIDENTIAL EQUIVALENT INCENTIVE FOR SOLAR-DEVELOPMENT

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Residential Equivalent Incentives for Solar Development (REIS) in the CR Zone

Friends of Clifton Park Open Space (FCPOS) believe solar projects should be held to the same standards for open space preservation and protection as other development projects in the Conservation Residential Zoning area. The Western Clifton Park Land Conservation Plan and Generic Environmental Impact Statement (GEIS) established a new plan and zoning for the conservation of land resources and the preservation of rural character, and identified appropriate mitigation measures to minimize the environmental and social-cultural impacts of development.

The Conservation Reservation Land Conservation Plan was implemented to achieve the Town's vision for Western Clifton Park through a combination of regulatory and incentive-based growth management. The installation of an industrial facility—such as a solar farm—with a land-use density *greater* than that allowed for a comparable residential use is *incompatible* with the intent of the current Town Code. This proposal by FCPOS is intended to normalize the impact of Special Use Projects such as solar farms with other uses in the CR Zone.

Our solution to this issue starts by defining the solar development of a parcel as full or maximum development, and then asks: “what would the incentive costs be if the same parcel was fully developed as a residential subdivision?” The rules for Incentive Zoning are presented in detail in Section 208-43.12 thru 43.15 of the Town Code. So, we have the incentive costs for full development of a parcel under normal CR zoning rules and then we say, this same incentive cost should apply to full development of a parcel for a solar project. This concept is straightforward and logical; it also reflects the intent of the GEIS and is based on the Town's CR zoning rules.

Residential Equivalent Incentives for Solar Development (REIS) in the CR Zone, an example:

In considering a 70-acre solar development with 10 acres wetlands, the equivalent residential development would allow 20 dwelling units (DU) on 60-acres of unconstrained land in the CR Zone. With incentive zoning, the residential development would be allowed a 100% increase in density if they paid \$30,000 per additional dwelling unit. This 100% increase in density is equivalent to the Solar Project's full or maximum development of the parcel; therefore, the same incentives should apply.

Using the \$30,000 incentive fee for a solar project yields a present value for total REIS (Residential Equivalent Incentive for Solar-Development) of \$600,000 (20 DU X \$30k). If the REIS is paid over 25-years, then the REIS payment would be \$24,000 per year. If the project is 7-Megawatts and the PILOT is \$6,000 per Mw (about the average), then the REIS payment is about half of the Town's PILOT for open space. This approach recognizes that solar projects completely develop the unconstrained

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land without providing any of the open space amenities as identified by the GEIS for Western Clifton Park and as required by the Town's Conservation Residential Zoning. This method uses existing zoning regulations to determine a reasonable public benefit to compensate for this lack of open space preservation. Since the rules and regulations are all currently in place, the implementation of the REIS should be straight forward. Also, since no land transfer is involved—just cash—it will be easier for all parties to understand and agree to.

FCPOS recognizes that these solar developments are temporary and the open space will be preserved in the future. However, a lot can change in 25 years and there should be some preservation now. Here is why—In conservation residential developments, there are two components of the open space preservation requirements: the tangible—which is the 50% of the parcel that must be left undeveloped, and the intangible—the incentive fees to build to 100% or full development of the site. We are only asking that the solar projects also require the intangible portion of open space preservation which is the \$30,000 fee per dwelling unit. Should the solar project prove (in 25 years) to be temporary, then the parcel could be developed fully by just preserving the tangible portion (50% of the undeveloped parcel) as the incentive fees have already been paid.