

Susan M. Hudson, Clerk of the Board
Vermont Public Service Board
112 State Street, 4th floor
Montpelier, VT 05602-2701

March 10, 2015

Re: CPG #NM-5006; Beach Properties Inc., d/b/a Basin Harbor Club (“BHC”)

Dear Ms. Hudson and PSB board members,

We have the following comments re: the Public Service Board (“the Board”) inquiry dated February 5, 2015, and Vermont Environmental Research Associates, Inc.’s (“VERA”) response dated February 20, 2015, with respect to the historic properties located immediately adjacent to BHC’s solar installation.

First, we note that the comments submitted by VERA were not responsive to the requests of the Board in its letter dated February 5, 2015, which asked that BHC “describe with particularity what investigation the Applicant undertook regarding these historic sites prior to filing the September 26, 2014 Application.” BHC and VERA failed to provide this information, so we can only presume that no investigation was done.

The applicant, Beach Properties Inc., d/b/a Basin Harbor Club, answered “NO” to the question on the application which reads “State whether the system will be located on, near, or within any of the following ... historic site or district.” In their response to the Board, VERA claims this was “an oversight.”

For the following reasons, we feel that this was not an oversight:

- On the Division of Historic Preservation’s web site, *Rule 4, Historic and Archeological Resources and the Act 250 Process* lists criteria and definitions, including “10 V.S.A. § 6001(9) [which] defines “historic site” as “any site, structure, district or archeological landmark which has been officially included in the National Register of Historic and/or the State Register of Historic Places ...”
- BHC advertises itself as “an historic resort” and is a member of “Historic Hotels of America,” a program created by The National Trust for Historic Preservation. According to the NTHP web site, “To be included in the program, hotels must be ... designated by the U.S. Secretary of the Interior as a National Historic Landmark or listed in or eligible for listing in the National Register of Historic Places ...” (Note: BHC is not listed on the National Register of Historic Places, but, according to the NTHP, is eligible to be.)
- Numerous structures on Basin Harbor property are listed on the State Historic Register; it is also the site of the Lake Champlain Maritime Museum, which documents history of the area.
- Eleven of Mile Point’s 24 properties are listed on the State Historic Register, including the two directly adjacent to/behind/west of the solar site.
- From the Ferrisburgh Town Plan, page 36, *Historic and Cultural Resources*, “There are 156 historic buildings listed on the State Register of Historic Places in Ferrisburgh ... [An] area of historic camps extends from Basin Harbor to Kellogg Bay.” On page 38 is a map of “Sites listed in the State Register of Historic Places,” from the Vermont Division of Historic Preservation, which includes sites on Mile Point as well as Basin Harbor property.
- Robert Beach, Jr., co-owner of Basin Harbor Club, is chairman of the Ferrisburgh Planning Commission and a member of the Ferrisburgh Zoning board and, as such, would be familiar with the Town Plan and historic sites in the area, including his own.
- Brian Goodyear, the Basin Harbor employee who was in charge of the solar project, has worked at Basin Harbor Club for 24 years and presumably would be familiar with its historic status.
- BHC and AllEarth Renewables (the installer) have significant resources at their disposal, including VERA.

On the “Certification” page of the application, above the signature line, it reads: “The undersigned declares, under the pains and penalties of perjury, that: (1) having exercised due diligence and made reasonable inquiry, the information which I have provided on this form and any attachments is true and correct to the best of my knowledge.” Below that, directly above the signature, in bold type, is this warning: **“Making false or misleading statements on this application is subject to penalties under 30 V.S.A. § 30 and/or revocation of any approval granted.”**

There is no way to tell who signed the application for the Certificate of Public Good.

The Board was told by VERA (in their letter dated February 13, requesting an extension), that “the signer of the application is out of the country.” We assume that “the signer” was Brian Goodyear, who was the BHC contact for the project, but the signature is not legible; when we e-mailed the Board to ask who signed the application, Judith Whitney, PSB Clerk, responded, “Unfortunately, I am unable to identify the signer.” In fact, there is no identifier, such as “print name here,” next to the signature on the application, even though the application is legally binding.

In any case, because “the signer” was apparently unavailable for comment due to being “out of the country” (even though one of our Mile Point property owners lives “out of the country,” in London, yet is easily reachable by telephone and email), VERA was apparently hired by the applicant, or by AllEarth Renewables, to answer the Board’s February 5 inquiry on behalf of BHC.

We find this unacceptable — VERA cannot possibly speak to the applicant’s intent regarding their answering “NO” on the application, nor is VERA’s analysis comprehensive or acceptable since “this type of research needs to be done by a qualified architectural historian,” according to a letter to the Board from the Division of Historic Preservation dated March 6, 2015, whose investigation also revealed that, in addition to the standing structures historic site concerns, the BHC solar installation is located in an area of high archeological sensitivity for Native American archeological sites, and may have had an undue adverse effect on one or more significant archeological sites.

Below are a few points we would like to make, in response to VERA’s report:

Re: Whether the applicant has taken generally available mitigating steps which a reasonable person would take to preserve the character of the historic site:

The applicant has taken no mitigating steps to specifically preserve the character of the historic area, since the applicant did not acknowledge the historic sites existed.

Furthermore, the only “general” mitigating step taken was to site the array near an existing hedgerow on the west side, which only partially blocks the array from adjacent historic properties; in many places the Trackers are visible above the hedgerow. The installation is so huge (the size of a football field, and 20 feet high), it would be impossible to screen. It is in full view from both Mile Point Road and Schoolhouse Road. (See photos attached, which you’ll note differ somewhat from the photos of same submitted by VERA.)

The “area of potential effects” is, for us the entrance to our properties, as well as the adjacent land of those closest to the array (Johnston, Wisnowski & McGuire). Our “viewshed” is more than that from our windows facing west — it is also our entrance. Mile Point Road is a narrow dirt road, and because this is largely a seasonal recreational area, the road is used by children and adults alike as a place to play (walk, run, bike) and enjoy nature in the peaceful, pastoral character of our historic community. For the Johnstons,

Wisnowskis and McGuires, this viewshed extends to the meadow in front (east) of their properties, used for recreation as well as family gatherings and parties ... separated from the solar installation by the narrow hedgerow of varying heights.

Despite the fact that they are located on the lakeshore, the Wisnowski property viewshed is primarily to the east; due to geographic limitations, there is little useable property on the west side of this home. The front door and porch face east. The solar panels, visible above the hedgerow in places, will significantly alter the viewshed and outdoor experience of this historic property.

In fact, the site is located as close to our property and as far away from Basin Harbor Club as possible, and completely hidden (by buildings and trees) from Basin Harbor Club guests. (*See attached maps.*)

When we met with Basin Harbor's Brian Goodyear to discuss the project, Brian told us that Basin Harbor Club chose the site because they wanted to keep the entrance to their resort "rural and agricultural." We feel the same way about our own entrance, now disfigured by this installation.

Re: Whether there is interference on the part of the proposed project with the ability of the public to interpret or appreciate the historic qualities of the site:

The solar array significantly interferes with the public's ability to interpret and appreciate the historic homes. The solar array is sited on the only access road to 11 historic properties. It is impossible to view any of these properties without first seeing and passing by an array of solar panels the size of a football field—not ground-mounted panels but instead 25 articulating Trackers, each one the size of two UPS trucks stacked on top of each other. The applicant incorrectly noted that this is a private road/area; in fact, many of these homes are income-generating rental properties and the road is used by property owners, renters, neighbors, tourists, and friends/guests walking, running, biking, or driving in and out of Mile Point.

Re: Whether there will be cumulative effects on the historic qualities of the site by the various components of a proposed project which, when taken together, are so significant that they create an unacceptable impact:

In their report, VERA has inaccurately described the solar installation as "one feature" when in fact the installation represents 25 separate installations—25 Trackers, individually mounted, 30 feet apart. Where for 125 years there has been a bucolic field of wildflowers, now there is an industrial sea of steel the size of a football field, visually overwhelming and dramatically out of scale with our historic properties. These 25 solar panels together create an unacceptable impact. At 150 kw, this industrial array is at the very limit of Vermont's "medium-size" standards; in Massachusetts, based on acreage, it would qualify as "large-scale" and be subject to more regulations and site considerations.

Re: Whether there will be violation of a clear, written community standard which is intended to preserve the historic qualities of the site:

The guiding principles of the Ferrisburgh Town Plan notes the following goals (page 3):

- "To preserve and protect significant natural areas, habitats, ecological corridors, wetlands, shorelines and historic features; protect the environment; and provide for recreation."
- "Promote the preservation of historic structures and areas including villages, agricultural structures, public and private historic buildings, and remote areas of town."

The Town Plan notes that the homes along Lake Champlain represent a dense portion of Ferrisburgh's "historic pattern" (page 10), and the Plan demonstrates a clear written community standard intended to preserve the historic qualities of these historic homes, with an additional goal of identifying and maintaining Ferrisburgh historic records via the Ferrisburgh Historical Society. The history of Ferrisburgh is integral to the economics of the town, and this solar project is sited in — and in full view of — a dense, residential, historic area.

Timeline and third-party developer

When we requested more time/further consideration from BHC, hoping another location could be found on their 700 acres, we were told by the applicant that this project had been initiated by a "solar developer" named Mathew Rubin who needed to get the project done in 2014 for his tax credit purposes. Clearly the intention was to rush this project through, for his benefit, at our expense. *Why isn't his name on any of the documentation? Who owns this system? Who is getting the incentives and RECs, and claiming the depreciation?*

There was a five-week lapse from the receipt of our letter alleging that we were historic properties to the date of the the Board's inquiry. At the time our letter was written and e-mailed (December 30, 2014), only the wooden stakes were in the ground; by the time the Board sent their inquiry to BHC (February 5, 2015), the installation was nearly complete; it was finished and operational the third week of February.

Conclusion

The Public Service Board relies on applicants to submit accurate information to make this permitting process work; not doing so results in problems like this. The "historic site" is one of eight types of sites deemed important enough on this application to require its own (separate) page of explanation. It is the responsibility of the applicant to determine what the legal definition of "historic site" is, and to do the necessary research to determine whether to answer "YES" or "NO."

Dismissing this as "an oversight" is unacceptable. Checking "NO" on this application question was false and misleading — it streamlined the process for the applicant, put us citizens/neighbors at a tremendous disadvantage in defending ourselves, and may have unduly influenced the Board to approve the project.

As concerned citizens of Vermont, we respectfully request that the Certificate of Public Good be revoked and the installation removed.

Sincerely,

Suzanne Fay, 385 Mile Point Road
Donald Johnston, President, Mile Point Association, 293 Mile Point Road
Elizabeth McGuire, 243 Mile Point Road
Viki & Roger Williams, 19 O'Bryan Lane
Rena & Stewart Diana, 546 Mile Point Road
Candy Davidson, 381 Mile Point Road
& numerous other Mile Point property owners not immediately reachable

Attachments (4)

cc: Gov. Peter Shumlin, Sen. Claire Ayer, Sen. Chris Bray, Rep. Diane Lanpher, Rep. Warren Van Wyck,
Department of Public Service, Agency of Natural Resources

Basin Harbor Club solar array, 2-7-2015



Former view from entrance of Mile Point Road; McGuire, Wisnowski and Johnston properties are behind hedgerow of varying height



New view from entrance of Mile Point Road; array is size of a football field (150' x 350'); 25 Trackers each the size of two UPS trucks stacked (22' wide x 20' high).



View from west side of hedgerow, from Johnston/Wisnowski properties.



View from west side of hedgerow, Johnston/Wisnowski properties; note that Trackers are "resting" (flat) in this photo, so less visible.



View from Schoolhouse Road.



View from Mile Point Road looking south

BHC solar array, 2-7-2015



View from Mile Point Road looking south-southwest; note scale compared to person in photo. Hedgerow visible on right.



View from road at curve leading out of Mile Point shoreline area (Trackers visible over hedgerow).



View from Mile Point Road, driving out, just past hedgerow.



View from road at curve leading out of Mile Point shoreline area (Trackers visible over hedgerow).

