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REPLY TO:

Tarrytown Office

May 23, 2023

Hon. Supervisor Paul Feiner and  
Councilmembers of the Town Board  
Town of Greenburgh  
177 Hillside Avenue  
Greenburgh, New York 10607



RE: NineDot Energy  
Proposed Zoning Text Amendment to  
Section 285-37.1 Battery Energy Storage Facilities

Hon. Supervisor Feiner and  
Councilmembers of the Town Board:

We are the attorneys for NineDot Energy ("NineDot") in connection with its request for a Zoning Text Amendment to Section 285-37.1 of the Town of Greenburgh ("Town") Zoning Code ("Zoning Code") entitled "Battery Energy Storage Systems" in order to update the Zoning Code with standards encouraged by the New York State Public Service Commission ("PSC") and the New York State Energy Research and Development Authority ("NYSERDA").

Pursuant to our site visit and discussions with the Town Planning Department, enclosed please find an amended proposed Zoning Text Amendment. I have also enclosed a check in the amount of \$8,500.00, representing the requested escrow fee for the Town consulting engineer.

Thank you for your consideration. If you have any questions or require any additional documentation, please do not hesitate to call me at (914) 333-0700.

Respectfully submitted,  
Snyder & Snyder, LLP

Robert D. Gaudioso

RDG/dac  
Enclosures  
cc: NineDot

TOWN OF GREENBURGH

PROPOSED AMENDMENT TO §285-37.1  
“BATTERY ENERGY STORAGE SYSTEMS”

Local Law No. ---/2023

A local law amending Chapter 285 of the Code of the Town of Greenburgh entitled, “Zoning,” pursuant to New York State Constitution Article IX and New York Municipal Home Rule Law Section 10, New York Environmental Conservation Law, Article 8 (SEQR).

**BE IT ENACTED** by the Town Board of the Town of Greenburgh:

**§1 Title**

**§2 Legislative Findings and Intent.**

**§3 Amendment to §285-37.1(D)(18) Permitting Requirements for Tier 2 Battery Energy Storage System.**

**§4 Supersession.**

**§5 Severability.**

**§6 Effective Date.**

**§1 Title.**

This law is entitled “A local law amending Section 285-37.1, of the Code of the Town of Greenburgh, entitled ‘Battery Energy Storage Systems’ to alter the dimensional requirements for site size, systems size, setbacks and height for Tier 2 Facilities.”

**§2 Legislative Findings and Intent.**

The Town Board of the Town of Greenburgh finds it in the best interest of the Town to Section Chapter 285-37.1 of the Code of the Town of Greenburgh to (1) provide the ability for more properties to be potentially suitable for the location, construction and operation of Battery Energy Storage Systems; (2) advance local and State renewable energy, energy storage, and sustainability initiatives contained in “New York’s 6 GW Energy Storage Roadmap: Policy Options for Continued Growth in Energy Storage” and “New York State Senate Bill S6599 – Climate Leadership & Community Protection Act” while balancing overall safety and neighborhood character in accordance with the 2016 Comprehensive Plan; and (3) mitigating the impacts of Battery Energy Storage Systems on adjacent

properties and environmental resources such as opens spaces, forests, wetlands/watercourses, wildlife and other protected resources, while providing bulk dimensional requirements that comply with current and future technologies in this ever rapidly evolving industry.

**§3 Amendments to §285-37.1(D)(18)**

Section 285-37.1(D)(18) of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

(18) Specific special permit standards.

(a) Site size. Tier 2 Battery Energy Storage Systems can be situated on lots with a minimum of 80,000 square feet in the CA, CB, DS, IB, and UR (Neighborhood Shopping/Planned Commercial) Districts Tier 2 Battery Energy Storage Systems can be situated on lots with a minimum of 40,000 square feet in the OB, OB-1, LOB, LI, GI, PD, and PED Districts. Tier 2 Battery Energy Storage Systems must be situated on a property with a minimum of five acres in the One-Family Residence Districts and only when the system is accessory to an existing municipal building, government use, building of religious worship, private school, hospital, Assisted-living facility, Continuing-Care Retirement Community, or Continuum of Care Facility.

(b) Systems size. Tier 2 Battery Energy Storage Systems shall not exceed ~~6,000~~ 8,000 kWh in the One-Family Residence, CA, CB, DS, IB, LOB, ~~OB~~, OB-1, and UR Districts (Neighborhood Shopping/Planned Commercial). The maximum Battery Energy Storage System footprint shall not exceed 1400 square feet in the One-Family Residence, CA, CB, DS, IB, LOB, ~~OB~~, OB-1, and UR (Neighborhood Shopping/Planned Commercial) Districts, with associated cabinets not to exceed a combined footprint of 300 square feet. Tier 2 Battery Energy Storage Systems shall not exceed ~~12,000~~ 50,000 kWh in the OB, GI, LI, PD and PED Districts. The maximum Battery Energy Storage System footprint shall not exceed ~~3,500~~ 15,000 square feet in the GI, LI, OB, PD and PED Districts.

(c) Setbacks. Tier 2 Battery Energy Storage Systems in the One-Family Residence, CA, CB, DS, IB, OB, OB-1, LOB, LI, GI, PD, PED and UR District (Neighborhood Shopping/Planned Commercial) shall be setback a minimum of 100 feet from property lines, unless reduced or increased by the Planning Board in instances where such reduction or increase is supported in connection with the Hazard Mitigation Analysis, to the satisfaction of the Planning Board. The Planning Board shall not, however, approve an installation to be closer than 50 feet to a property line. Tier 2 Battery Energy Storage Systems shall be setback a minimum of 100 feet from all principal on-site and off-site buildings, unless reduced or increased by the Planning Board in instances where such setback reduction (not to be less than 10 feet from the building) or increase is supported in connection with the Hazard Mitigation Analysis, to the satisfaction of the Planning Board. For proposals in the GI, LI, OB, PD and PED Districts exceeding ~~6,000~~ 40,000 kWh, there shall be additional setback requirement of ~~300~~ 200 feet from property line of the nearest one-family residence.

(d) Height. Tier 2 Battery Energy Storage Systems shall not exceed ~~10~~ 12 feet in height.

(e) ...

(f) ...

(g) In the event regulated trees are proposed for removal in connection with the facility, the Applicant shall be required to plant replacement tree or trees having an environmental value of 120% for each tree to be removed, which shall be selected from the Town of Greenburgh Official Replacement Planting List. In the event trees cannot be planted on-site to meet this requirement, the Applicant must plant trees on public lands in the vicinity of the project site, in coordination with the Commissioner of the Department of Community Development and Conservation and the Commissioner of the Department of Public Works, to satisfy the requirement.

**§4 Supersession:**

Pursuant to New York Municipal Home Rule Law, Section 22, this law is intended to supersede any other inconsistent provision of law.

**§5 Severability:**

If any clause, sentence, paragraph, subdivision, section or part of this law or the application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**§6 Effective Date:**

This law shall take effect immediately upon filing with the Secretary of State.