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From: Eric Bibler <ebibler@gmail.com>
Sent: Monday, March 22, 2021 5:47 AM
To: Stephen Moffitt; Alfred W. DiOrio; Sharon Davis; Bob Marvel; Scott Bill Hirst; Geary, Michael J {FLNA}; Emily Shumchenia; Keith Lindelow; Ron Prelwitz; Carolyn Light; John Pennypacker
Cc: Elizabeth Cook-Martin; Brian Rosso; James Lamphere; Talia Jalette; Stephen Sypole; James Marusak; Margaret Hogan
Subject: Ten Reasons Why the Town Council Should Prohibit Industrial Solar Installations on Farms
Attachments: Marsh Farm_Summary of 10 YR Tax History.pdf; Marsh Farm_Summary of Tax Assessment Under Farm, Forest and Open Space (FFOS) .pdf; MARSH FARM_Property Cards and Tax History.pdf; Gmail - RE_ Property tax discount for property in FFOS_tax assessor response to questions.pdf; DISCUSSION OF HOPKINTON FARM VIABILITY ORDINANCE.pdf

Mr. Stephen Moffitt
President
Hopkinton Town Council

Mr. Alfred DiOrio
Chair
Hopkinton Planning Board

March 21, 2021

Re: Ten Reasons Why the Town Council Should Prohibit Industrial Solar Installations on Farms

Dear President Moffitt, Chairman DiOrio, Members of the Hopkinton Town Council and the Planning Board,

As the town council moves closer to the conclusion of public hearings on proposed amendments to the town's master solar ordinance, I am writing once again to urge the Council not to allow industrial solar development in the residential zone in Hopkinton *under any circumstances*.

Above all, I respectfully urge the town council end the the terribly ill-conceived entitlement for "farmers" that was naively enacted in 2016 under Chapter 247 by a former town council that unleashed a reckless barrage of solar development in Hopkinton in the mistaken belief that the rampant proliferation of these industrial projects would prove to be a great benefit to the town and its residents.

As we all know, Hopkinton residents have universally rejected this "vision" for the future of the town that they love and the projects that have already been built have caused incalculable distress.

One needs only to drive past horribly intrusive solar projects on Palmer Circle, Alton Bradford Road, Maxson Hill or Route 3 - and soon Frontier Road - as many of us do every single day to comprehend the damage that has already been done.

And as we all know, the experience has been even more traumatic for residents who have suddenly found themselves powerless to prevent their "safe, secure and attractive neighborhoods" transformed into industrial complexes overnight.

For the record, I am a strong supporter of the Farm, Forest and Open Space (FFOS) program which rewards property owners who pledge their land to conservation with significant tax breaks.

This is beneficial to the town, by preserving its rural character, and a fair bargain, in my opinion, since property owners must commit not to develop the property for 15 years.

Full disclosure: I own 13 acres purchased in 1987 and 1994 and currently have 10 acres of this property committed to the FFOS program. I've committed to conserve the property from development and I receive a substantial tax adjustment in return.

Nonetheless, I have been extremely disturbed by the tenor of the debate over the proposed repeal of Chapter 247, which is **not** the "Farm Viability Ordinance" enacted in 2003, with full integrity, but is, in fact, a *one page amendment* tacked onto the Farm Viability Ordinance in 2016, *whose only purpose was to create a lucrative loophole that allows "farmers" - and only farmers - to profit from industrial solar development in the RFR-80 zone.*

Anyone who dares to point out the glaring defects in this misguided amendment is routinely attacked for failing to support our farmers or to appreciate the hard life that they lead. Advocates publicly insist that the town's farmers are burdened by onerous tax payments on their properties and need a new, or supplemental, source of income to enable them to continue farming. Immediately thereafter, the proponents of installing commercial solar systems on farms - "solar farming" - conjure up a scorched earth vision of every large property in town being sold for housing development, resulting in a skyrocketing mill rate for taxpayers.

But my biggest problem with the debate over the 2016 amendment to permit solar development on farms is that proponents of retaining this measure - routinely ignore the most obvious facts about this terrible town policy, including all of the following:

1. Leasing land to an unrelated business entity that operates an industrial solar power plant on a farm in the residential zone is not a "farm related activity."

There is clearly a huge difference between the intent of the 2003 Farm Viability Ordinance (Chapter 173) and the ill-conceived 2016 Amendment (Chapter 247). The original ordinance promoted farm related activities; the subsequent amendment promotes industrial solar sprawl in the residential zone.

2. Qualification for the "right" to install solar energy on a farm requires *only* that the applicant show \$2500 in farm income "for one of the past two years." There is no requirement to show a history of farming and no commitment to continue farming.

If a farm property opts out of Farm, Forest and Open Space less than 15 years after entering the program, the property owner must pay significant tax penalties.

But if a "farmer" leases land for a 1 to 3 acre industrial solar installation and then exits the FFOS program *the next year*, there is NO PENALTY in terms of the operation of the solar facility and the income derived from it. Once installed, the "right" to operate the facility is essentially grandfathered and **perpetual**, regardless of the future status of the property.

3. There is no means test for "poor farmers" who "need our help" to remain "viable." *Anyone* with a large enough property who qualifies for the FFOS program and generates minimal "farm income" - including very wealthy landowners - can qualify.

In Hopkinton, you can't qualify for any of the tax exemptions for "senior" unless: a) you are over 65 (or over 85); b) you've lived in Hopkinton for 5 years; c) you've owned your own home in Hopkinton for 5 years; and d) you qualify as a low income resident based upon a sliding scale to determine the level of discount.

But there is no test of "viability" in the farm viability amendment; and barely any identification with past, or future, farming.

There are many residents in Hopkinton who are undeniably in need and could benefit from assistance from the town. But the current program under Chapter 247 does literally nothing to identify and support Hopkinton residents whose financial "viability" is truly at risk.

4. Currently, firewood counts as a "farm product" for the sake of showing "farm income" of \$2500 for ONE year (one of the past two years).

That means that *a property owner can qualify by clearing land for the solar installation, cutting trees and selling firewood.*

5. Property owners in the FFOS program *already* receive SUBSTANTIAL property tax discounts under state statutes.

"Excess acreage" under the farm program is assessed at just \$300 an acre - a 90% discount the standard Hopkinton assessment of \$3000 per excess acre.

Excess acreage in the forestry program is assessed at just \$115 per acre - a 96% discount from the standard assessment.

Vacant properties that are contiguous to a building lot are assessed solely on the basis of excess acreage, which is much less than Fair Market Value to begin with - before applying the FFOS discount. The implication is that the tax discounts for such property are often well in excess of 95%.

6. A property owner who leases land to a solar developer under the current "Farm Viability" entitlement stands to reap a HUGE financial windfall, which has been estimated by the Chair of our Conservation Commission to equal \$90,000 upfront and \$10,000 or more per year in annual rent per acre of solar panels.

This financial temptation makes it inevitable that more property owners in the FFOS program, which currently encompasses several thousand acres, will be tempted to exercise their "right" to install solar power plants throughout Hopkinton, with the perverse result that solar development will continue to proliferate throughout the RFR-80 zone.

7. The prospective tax revenue that accrues to the Town of Hopkinton from solar installations on farms is *negligible*.

The output from a 1 acre solar installation is approximately 250kW. Since the tangible property tax for renewable energy is \$5 per W, the incremental tax revenue for the town is a mere \$1250 per year per acre of solar installations on farms.

There are no significant one-time fees from permitting fees or any increased tax revenue from reassessing the value of the underlying property.

Former town council members routinely justified industrial solar development in Hopkinton by insisting that "the town needs the revenue." But with farm projects, the only people who cash in are the property owner and an unrelated solar operator who owns the facility.

What tax revenue?

8. The tangible and intangible cost to the community, through the further sacrifice of the rural character of Hopkinton, is incalculable.

Abutters, nearby property owners and all residents in Hopkinton suffer from the denigration of the rural character of our residential zone. In 2020 the Town of Hopkinton - aka "Solar City" - was the only town in Rhode Island where property values declined.

9. Proliferation of small solar projects throughout Hopkinton will magnify the burden - and the risk - of monitoring and regulating industrial solar facilities in town when it has already been vividly demonstrated that the town planning office lacks the resources or the expertise to ensure compliance with the applicable town ordinances.

This problem will grow exponentially as solar projects age, especially if the number of projects continue to mushroom.

10. There currently appears to be unanimity of opinion on the town council to amend the town's master solar ordinance to prohibit industrial ground mounted solar development *everywhere* in Hopkinton, except for: a) contaminated sites; and b) farms.

It is literally maddening to contemplate the incongruity of the town council agreeing to prohibit industrial solar development everywhere in Hopkinton, including commercial or manufacturing property, but to allow this industrial development ONLY in the residential zone....on farms!

How does it make sense to limit industrial solar development to the residential zone?

What compelling reason does the town council have for extending this financial entitlement to "farmers" who already receive discounts of over 90% on their property taxes for farm and forest acreage; who are not required to demonstrate any financial need; and who are not required to "farm" for more than one year or to continue farming after the solar installation with a 30 year useful life is in the ground?

A Case Study: Property Tax History for a Hopkinton Farm

Since there seems to be such a great deal of confusion - and misinformation - about the tax burden borne by Hopkinton's farmers, I thought it would be useful to obtain some basic information on how the program works. To that end, please see my query to the town tax assessor and her response attached.

Here is the gist of the program, as described by our tax assessor:

Pricing differences in FFOS are mainly on the excess acreage outside of the building site and buildings or improvements. As far as a percentage discount, this is a moving target – since we assess at Fair Market Value. The value for typical excess acreage in Town is currently \$3,000 per acre, but this is subject to change as the land sales are examined upon revaluations....

FARM: mostly \$300 per acre on excess land unless there have been other items of research noted by an Owner (different farm uses, soil surveys, etc.). Farms are initially approved at the State level at the Dept. of Ag. And may be inspected from time to time.

FOREST: mostly \$115 per acre on excess land accompanied by State approval of a Forestry Plan/Certificate.

OPEN SPACE: Depending on the condition of the soils there are mainly 3 levels: Regular, Moderate and Severe: \$2,500/acre, \$2,000 per acre, \$1,000 per acre depending on soil surveys and additional Owner information.

As noted above, the primary discount is on excess acreage, but contiguous lots can essentially be combined for tax purposes, in many cases, into one building lot and

excess acreage, which yields substantial additional savings since it reduces the assessed value of the individual lots.

To illustrate the impact of these tax savings, I also thought it would be instructive to examine the circumstances of a typical Hopkinton farm.

One of the most prominent farmers in Hopkinton is Mr. Gary Marsh, who serves on our Conservation Committee and whose family roots in Hopkinton go back to the 1800's, and who owns with his wife approximately 252 acres that he actively farms. We would all like to see this legacy continue.

As a member of the Hopkinton Conservation Commission (HCC), Mr. Marsh has been a proponent of Chapter 247, the amendment to the Farm Viability Ordinance that allowed farmers to install industrial solar energy facilities in the RFR-80 zone. The Conservation Commission was the prime advocate of this amendment and the driving force behind its passage.

The Conservation Commission also invited the Business Development Manager for Green Energy (the developer of the Maxson Hill Solar project and the largest wind energy developer in Rhode Island) to serve as a "wind energy consultant" to help the Conservation Commission draft a new ordinance to allow the installation of 400 and 500 foot wind turbines in Hopkinton. The HCC did ultimately present the town council with a Proposed Wind Energy Ordinance, which the town council thankfully rejected.

At that time, Mr. Marsh was personally investigating the possibility of entering into a business relationship with a developer to install one, or more, industrial wind turbines on his farm if the town council voted to allow such development.

Mr. Marsh has also repeatedly insisted that Hopkinton's farmers need assistance, or some incremental source of income, in order to survive and that their long history of paying taxes in Hopkinton should entitle them to some consideration.

As can be seen from the attached analysis, annual property taxes on all of the Marsh properties are discounted by approximately 56%, which is a conservative estimate, by virtue of inclusion in the Farm Forest & Open Space program, resulting in a tax bill that is approximately 44% of the amount that would be paid on the appraised value.

Taxes on farm acreage are discounted by 90%, in line with the state program and our local parameters. As a result, the aggregate taxes on most of the 252 acres of farmland amount to a few hundred dollars on two of the properties and less than \$1400 for all of the excess acreage.

Taxes on the housing lot, buildings and structures are paid at the full rate.

Under the circumstances, it is hard to argue that property taxes are killing our farmers.

Conclusion

For all of the reasons enumerated above, and especially after acknowledging the substantial property tax discounts that participants in the Farm, Forest and Open Space program *already* receive, it is hard to argue that farmers are uniquely deserving any additional entitlements to preserve their "viability."

There is no free lunch, as the saying goes and there is a significant cost associated with this perversion of our zoning regime.

Every time a farmer installs a one to three acre "solar farm" on the premises, he contributes to the rampant solar sprawl our town has experienced and, in so doing, substantially degrades the integrity and the rural character of the RFR-80 residential zone.

I respectfully urge the town council to prohibit any further commercial solar development anywhere in Hopkinton - without exception - including farms.

Thank you for considering these concerns.

Sincerely,

Eric Bibler
Woodville Road

Cc: Town Clerk
Cc: Town Manager
Cc: Town Planner
Cc: Town Solicitor
Cc: Planning Solicitor

