

Hopkinton Planning Board
RI-95, LLC Major Land Development Master Plan
Expert Witness Statement of Peter Friedrichs

Contact information:

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Qualifications and experience:

I currently serve as the City Planner for the City of Newport, Rhode Island. This work builds upon a decade of progressive responsibility in the planning field and development industry, where I have worked for local government, real estate developers, contractors, architects, preservationists, and community advocates. This includes three years as the Director of Planning and Economic Development for the City of Central Falls, where I staffed the Planning Board and Zoning Board of Review and performed a myriad of other planning and economic development-related issues. In this capacity, I was the recipient of several awards, including Neighborhood Plan of the Year from the Rhode Island Chapter of the American Planning Association and policy awards from Grow Smart Rhode Island and the Congress for the New Urbanism for serving as the chief architect of the Central Falls Green and Complete Streets Ordinance. My resume is attached as Exhibit A for reference.

Introduction of the Issue:

My professional analysis is intended as public testimony regarding the Hopkinton Planning Board's Master Plan review of RI-95, LLC's Major Land Development application for a photovoltaic solar energy system and 15,000 square-foot building on Palmer Circle, AP 11 Lot 47A, a Commercial Special zoning district. The applicant intends to deforest much of the developable land, install acres of ground-mounted solar panels and construct a 15,000 square-foot building of unknown use. The below analysis is based on my review of the Hopkinton Comprehensive Plan and Zoning Ordinance, as well as other pertinent information, including a review of all publicly available information related to the applicant's request.

Analysis:

My analysis focuses on the findings of fact required to be made by the Board prior to granting of Master Plan approval, as described in the Rhode Island Land Development and Subdivision Review Enabling Act of 1992, as amended (RIGL 45-23).

Those required findings are enumerated in RIGL 45-23-60:

- (1) *The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;*
- (2) *The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance;*
- (3) *There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;*
- (4) *The subdivision, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans; and*
- (5) *All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.*

Finding 4 only applies to subdivisions, which the applicant has not petitioned the Hopkinton Planning Board for. The remaining required findings are analyzed in numerical order below.

- (1) *The proposed development is not consistent with the comprehensive community plan and has not satisfactorily addressed the issues where there may be inconsistencies;*

The applicant responded to public comment (including that of this planner) by reducing the size of the proposed solar farm from 127 acres to 106.1 acres. While this reduction does help with some of the Comprehensive Plan inconsistencies, the size of the facility is still massive. It is the opinion of this planner that a facility of such scale dwarfs other economic development activities in this targeted economic development area, positions Hopkinton as a utility-scale solar energy provider, which it does not appear is intended to be as part of its Comprehensive Plan. This planner strongly suggests a Comprehensive Plan amendment be adopted prior to any finding that a photovoltaic solar energy system of this scale be found consistent.

The first inconsistency is with Goal NR 1: *To preserve, conserve, and protect the significant natural resources of Hopkinton as an endowment for the future of the town.*

Natural resources are described in Hopkinton's Comprehensive Plan as air quality, mineral resources, wildlife, farmland/soil, plant diversity, woodlands, and water (Appendix A page 3), especially the Pawcatuck and Wood Rivers (p. 2). All of these natural resources are present on the subject property (pp. 23-25). Development is specifically cited in the Comprehensive Plan as threatening natural resources (p. 21), which is what is present in this instance. The proposed photovoltaic solar energy system overwhelms the site.

Regardless of whether or not the zoning ordinance allows the use, that does not mean that this project meets the standards for approval. The 23 MW system is a significant system able to support power needs in the region. This is not the intent of photovoltaic solar energy systems as described in the Hopkinton Comprehensive Plan. While renewable energy systems are not a direct goal of the Comprehensive Plan, various policies touch on the matter, such as Policy PSF 17: *Encourage renewable energy projects in the private sector* (although it is not clear to this planner why this policy is tucked into the Public Services and Facilities chapter) and Policy NR 5: *Promote energy self-sufficiency using renewable energy and energy conservation*. Policy PSF 17 is further explained by PSF recommendation 17: "adopt regulations that encourage **small scale** renewable energy installations." (Emphasis added). This proposed facility is not small scale. While not directly addressed, but especially considering the vast swath of the Town of Hopkinton identified as natural resources worthy of protection, it appears as though the intent of the Comprehensive Plan with regard to photovoltaic solar energy and other renewable energy systems is that small sites on already developed land would assist Hopkinton in becoming less reliant on outside energy sources. It does not appear that the intent is for Hopkinton to become a major regional energy producer, which this project would help put it on the path towards. One would think such an economic opportunity would be described in the Economic Development chapter of the Comprehensive Plan if it were so desired - *it is not*.

The importance of setting goals for renewable energy production in the Comprehensive Plan is essentially spelled out on slide 21 of a 2019 presentation on solar siting from the Rhode Island Division of Statewide Planning (who approve Comprehensive Plan amendments) and the Office of Energy Resources, available at:

http://www.energy.ri.gov/documents/renewable/Solar_Siting_Information_Public_PPT_Feb_2019.pdf. An additional resource regarding the avoidance of greenfield sites for solar farms is a

recent study by the Office of Energy Resources developed in response due the deluge of solar farm proposals in Rhode Island's rural communities. The study is available at

[https://www.synapse-](https://www.synapse-energy.com/sites/default/files/Solar_Siting_Opportunities_for_Rhode_Island_19-076.pdf)

[energy.com/sites/default/files/Solar_Siting_Opportunities_for_Rhode_Island_19-076.pdf](https://www.synapse-energy.com/sites/default/files/Solar_Siting_Opportunities_for_Rhode_Island_19-076.pdf) and a major conclusion is that no new development is needed to meet the state's energy needs. The 2021 renewable energy request for proposals

<http://www.purchasing.ri.gov/RIVIP/StateAgencyBids/7611868.pdf> incorporates this guidance and specifically prevents consideration of sources in "environmentally sensitive locations,"

further detailing that “Projects located on ... unfragmented forest parcels that are 250 acres or greater will not be considered as part of this RFP.” As shown in Figure 3 of the Wildlife Habitat Assessment, the 1,087 acres of the contiguous forest area will be impacted by the 106.1 acres to be cleared for the development.

This leads us to another inconsistency: Goal Conservation 1: To promote conservation of Hopkinton's natural resources, particularly protection of the ground and surface waters. In summary, a project of this scale at this location is inconsistent with the Comprehensive Plan. Further study regarding utility-scale solar development should be undertaken by the Planning Board prior to any consideration of whether the applicant “satisfactorily addressed the issues where there may be inconsistencies” could even be entertained.

- (2) *The proposed development is not in compliance with the standards and provisions of the municipality's zoning ordinance;*

There has been considerable evidence and testimony with regard to this finding submitted to the Board, including from a former Planning Board member, Peter Conopask, who was on the Planning Board at the time the zoning map change for the subject property was approved. This eyewitness testimony most strongly supports the idea that photovoltaic solar energy systems are not permitted on the subject property due to the conditions assigned to the zoning map change. This conclusion is additionally supported by legal analysis by Attorney Peter Skwirz. This evidence overwhelms flimsy conclusions from the zoning official and former Town Solicitor.

One area of the zoning ordinance that may not have been reviewed explicitly is A.1 of the PHOTOVOLTAIC SOLAR ENERGY SYSTEMS REQUIREMENTS section of the Photovoltaic Solar Energy Systems ordinance. This section grants the Planning Board discretion over increasing the buffer between photovoltaic energy systems and abutting residential zones. Immediately prior to the review of the subject petition at the October 7 Planning Board meeting, the Planning Board discussed the need to prevent tree topping within the buffer. This is important for this petition as well. The residential zones are to the south of the subject property, and in proximity to the area where the solar panels will be constructed. Without a large buffer that prohibits tree topping, the property owner could thin out the buffer to improve solar access for the panels. A large buffer that prohibits tree topping is needed to protect the adjacent residential zone.

It is ultimately the Planning Board’s duty to make a finding of whether the use is allowed and if the buffer should be increased, based on the information presented.

- (3) *There will be potentially significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;*

There have been several changes to the proposed development to address negative environmental impacts; however, reasonable and credible testimony has been provided from Elaine Caldarone, one of the Town of Hopkinton's representatives to the to the Wood-Pawcatuck Wild and Scenic River Stewardship Council, expressing concern about development within ¼ mile of the Canonchet Brook, a tributary of the Wood River, a federally-designated wild and scenic river. Increasing the setback from of the photovoltaic solar energy system to ¼ mile from the brook is not a big ask and should be easily accommodated in order to make this finding.

- (5) *All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.*

This requirement appears to be satisfied.

Recommendation:

It is the opinion of this planner that the scale of the project is too large given its conflicts with the first Conservation and Natural Resources goals and the lack of clarity regarding solar development for economic development purposes. The Board has received reasonable and credible eyewitness testimony from Mr. Conopask and legal analysis from Attorney Skwirz that the photovoltaic solar energy system use is not permitted on the subject property. A finding of no significant environmental impacts could be made with some alterations to the site plan. The requirement for access to a public street is satisfied. Two of the four findings may be satisfied; however, all four findings must be satisfied in order to issue Master Plan Approval. Therefore, the petition must be denied.

The Board must make its decision by the deadline prescribed in the Rhode Island Land Development and Subdivision Review Enabling Act of 1992, as amended.