September 27, 2022

Mr. Ronald Prellwitz
Chair
Hopkinton Planning Board

Re: Significant Adverse Impacts to Property Values and Environment from Skunk Hill Solar Proposal

Dear Chairman Prellwitz and Members of the Planning Board,

I am writing to offer comment on the planning board's discussion during the regular August meeting of the Skunk Hill Solar application for master plan approval and to provide additional information on the significant adverse environmental impacts from the proposed project which will inevitably occur if it is approved and constructed.

Adverse Impact to Property Values

Mr. James Houle, a RI Certified General Appraiser, provided sworn expert testimony to the Board that concluded in his initial report:

"[W]e feel that negative impact to residential properties in the area is unavoidable. We can state with assurance that there will be a diminution of value to surrounding properties."

Mr. Houle cited a September 2020 study by Professor Corey Lang of the University of Rhode Island that addressed the concept of negative impact to value to properties within one mile of a utility-level installation of a solar array. Mr. Houle noted that Professor Lang's study identified a direct adverse impact to property values near solar installations:

"His conclusions were that within 1 mile of a large solar array, property values were shown to decrease an average of 1.7% and that within 0.1 miles, that impact increases to 7%."

"There are 64 residential abutters located within 200 feet of the site of the proposed Skunk Hill solar project. All of these properties – and many more – fall within the 1/10 of a mile radius (528 feet) identified by Professor Lang as showing an average negative decline in value of 7%. This amounts to an average decline in value of $21,000 for a $300,000 home, with some individual homes incurring greater (or lesser) losses."

In fact, the average value of homes abutting Skunk Hill is very likely over $500,000 per home. Furthermore, a radius of 1/10th of a mile encompasses far more homes than the 64 abutters who lie within the legal 200 feet radius.

If the home equity of all of the properties within 1/10th of a mile were impaired by 7%, the aggregate loss to nearby Hopkinton residents would easily exceed $2 million in this densely

<u>populated neighborhood</u>. Clearly, if all of the homes within a 1-mile radius lost an average of 1.7%, the cumulative losses would be *much greater*.

At the request of one of the planning board members, Mr. Houle also performed some additional studies of the effect on property values for residential properties in Rhode Island that are located in close proximity to utility scale solar installations.

For properties in the vicinity of the solar installation on Woodville-Alton Road in Hopkinton, Mr. Houle found an average diminution of 8.8%.

For two clusters of solar arrays in different areas of West Greenwich, Mr. Houle found an average diminution of 4.64% and 5.64%, respectively.

These additional findings by Mr. Houle – based upon actual sales data for homes in RI that ae located near commercial solar installations – *fully support* Mr. Houle's prior conclusions and the findings of the URI study published by Professor Lang.

One planning board member declared that he didn't believe the numbers because he abuts a solar project and his own property assessment increased during an extraordinarily bullish housing market. Mr. Houle clarified that the issue is not whether the value of such a home could increase in a rising market, but whether it lost value *relative to* comparable homes that were *not* made *less desirable* by their proximity to an industrial development.

In fact, the board member related that the tax assessor had told him that his property value *would have risen even more* if he did *not* abut the solar project – essentially proving the point.

A second planning board member – the one who had requested the additional of properties near RI solar installations - stated that she thought that the estimates of Mr. Houle and Professor Lang were "a little high" based upon an unnamed study she had read "about five years ago."

But then the same member declared that everyone in the room *knows* that the project will *definitely* have an adverse impact on nearby property values – but that the abutting property owners *should have known better* than to buy property next to an undeveloped residential lot.

The member agreed that the project would inevitably diminish residential property values, but then, in effect, placed the blame on the 64 abutters and insisted that the significant adverse impact to Hopkinton residents *should be of no concern to the planning board*. That's life.

First, I would like to remind the planning board that the sworn expert testimony of Mr. Houle remains *completely uncontested* by any qualified expert. The applicant has not provided any expert opinion to the contrary and has not rebutted a single word of this testimony.

Second, a reference by a planning board member to an unspecified study that no one has read and which has not been offered into the record does not constitute an expert opinion, much less a rebuttal of Mr. Houle's testimony.

But above all, if a majority of the planning board truly believes that they should *not be concerned* with the fact that – by their own admission – *a decision to approve this project will cause abutters and other residential neighbors to suffer millions of dollars in property value diminution*, our town is in serious trouble.

As I noted in my letter to the planning board dated September 24, 2022, the bait and switch tactics of solar developers in Hopkinton, including the successful effort by the solar industry to enact legislation that wipes out much of the incremental property tax revenue that our town expected to receive from these projects, will cost Hopkinton more than $8 million over the 35-year projected life of the projects, compared to the town's previous projections.

The *only* incremental tax revenue that the Town of Hopkinton will receive from the Skunk Hill project - now that the new solar revenue act has been passed (thank you Mr. Craven and Speaker Shekarchi) - is the "tangible property tax" for renewable energy. For a 20MW project, calculated at the rate of $5000 per MW, this amounts to $100,000 of incremental revenue per year. That amounts to $3.5 million in revenue over the projected 35-year life of the project, as projected by the applicant.

Based upon the expert testimony of Mr. Houle and the findings of Dr. Corey Lang it seems clear that the only way that the town can generate this $3.5 million in revenue is to force a hapless group of its own residents – abutters and neighbors - *to suffer an impairment to their collective home equity that will likely exceed this amount!*

I absolutely believe, as do many others, that this should be of grave concern to the planning board.

Mr. Houle's findings are relevant to the Board and his conclusions are sound, fully supported by the evidence and uncontested by the applicant or any competent expert testimony.

Significant Adverse Environmental Impacts

State law and the Hopkinton Land Development and Subdivision Regulations require that the planning board make a positive finding that there will be **"no significant negative environmental impacts**" as a prerequisite to approving any master plan application. In the absence of such a positive finding, the Board cannot approve the master plan.

No one – including not even the expert environmental witness for the applicant – has ever disputed that there will be "*significant negative environmental impacts."*

The developer has *not disputed* that the subject parcels are part of an officially designated "unfragmented forest"; nor that the subject area has been designated as *"prime habitat"* for the threatened Northern Long-Eared Bat - which the Department of Interior proposed on March 23, 2022 to reclassify as an "Endangered Species" that is threatened with extinction (see below and attached).

The developer has *not rebutted* any of the expert testimony of Ms. Linda Steere, who called attention to a host of adverse environmental impacts that are certain, or likely, to ensue if the project is constructed.

Ms. Steere testified that the subject parcel includes prime habitat for the northern long-eared bat and that it lies within a section of land that is officially designated as "unfragmented forest" which has extremely high conservation value – one of only six such core forests in Hopkinton.

Though two members of the planning board expressed skepticism whether the forest was actually "unfragmented," this is an *official designation*, not a subjective determination for the planning board to make.

Ms. Steere cited *numerous* recent state policy documents which all *uniformly discourage* the clear cutting of trees in "*unfragmented forests*" for the installation of privately owned, utility-scale, commercial solar energy projects.

She noted that the **RI state renewable energy procurement process** actually *prohibits* the purchase of solar energy from projects that have clear cut trees in unfragmented forests.

She noted that the **RIDEM Freshwater Wetlands Stormwater Construction Permitting Guidance for Solar-Arrays,** promulgated in 2021, states that:

*"The clearing of forests and other green spaces (including farmland) for the siting for groundmounted solar arrays is **strongly discouraged**. Avoiding forested sites and existing open space may alleviate environmental concerns and accelerate the permitting process." [emphasis added]*

The **Rhode Island Conservation Act**, enacted in 2021, states in part:

*"Forest land should be maintained to meet Rhode Island's aggressive climate change goals through carbon sequestration and storage. **Core forest land and connecting natural areas should be conserved to prevent ongoing fragmentation of the state's forests**. Moreover, forest conservation is necessary to protect and maintain water quality and important wildlife habitat."*

Ms. Steere cited the comprehensive study, "**The Value of Rhode Island Forests**," published in 2019 by RI Forest Conservation Advisory Committee and the RI Tree Council, with input from a host of other agencies and stakeholders, which concluded that:

"Fragmentation is one of the greatest threats to Rhode Island's forests and many wildlife species that rely on them for habitat."

The study found that *"solar development is an emerging threat to Rhode Island's forestland"* and devoted an entire Appendix to a discussion of policies to discourage the destruction of core forests through such clear cutting.

In previous testimony, Ms. Steere also referenced the **Rhode Island 2020 Forest Action Plan** published by RIDEM. This Action Plan *identifies prevention of forest fragmentation is identified as the single most important priority in listing the top five "issues of concern":*

"It should be noted that fragmentation exacerbates the issues that threaten Rhode Island's forests or impact its management and response for the priority issues two through five. Fragmentation is an underlying issue that contributes to, speeds, and intensifies the rate of change, the severity of conditions, and the exposure of forest types and habitats to these threats. Therefore, although fragmentation is addressed as the first priority issue, it will also be referenced as a factor in the discussion of Forest Health, Water, and Fire as priority issues."

None of these state laws, policies and guidelines conclude that the clear cutting of unfragmented core forest results in "no significant negative environmental impacts." On the contrary, *all* of them are loudly sounding the alarm and strongly discouraging this practice.

If a majority of the planning board renders a finding that there will be "no significant negative environmental impact" from clear cutting a valuable section of prime habitat in a core forest on the Skunk Hill site – in the absence of any competent evidence whatsoever to support such a finding – they will be contradicting the official findings of every relevant agency in the State of Rhode Island.

More Information on the Northern Long-Eared Bat

As noted above, the U.S. Department of Interior (DOI) filed notice on March 23, 2022 of its proposal to reclassify the northern long-eared bat from "threatened" to "endangered" (i.e. in danger of extinction).

As Ms. Linda Steere has previously testified, the subject parcels are officially classified as "prime habitat" for the long-eared bat.

At the most recent meeting, Attorney Robert Craven asked Mr. Jason Tefft, a professional logger, to offer his expert testimony to the Board concerning regulations that relate to bats. Mr. Tefft assured the Board that the fact that the northern long-eared bat is designated as a "threatened" species (soon to be "endangered") posed no impediment to destroying bat habitat and was no cause for concern.

I disagree.

First, there is no question that the destruction of such prime habitat for a threatened (endangered) species - which includes both *unfragmented forest* **and** a system of *caves* at Goat's Rock, which bats require for hibernation – would constitute a "significant negative environmental impact."

Second, I think it would be instructive for the planning board to take the time to review the proposal from the Department of the Interior which was entered into the federal register on March 23rd of this year, since it contains some very specific and relevant information about the reasons that DOI believes it is important to take this action (see attached).

Here are some relevant excerpts from the DOI proposal to list the northern long-eared bat as an endangered species:

"Proposed Listing Determination
Background

"The northern long-eared bat is a wide-ranging bat species found in 37 States…. The species typically overwinters in caves or mines and spends the remainder of the year inforested habitats…. Female northern long-eared bats produce a maximum of one pup per year."

The primary threat to the bats is "white nose syndrome, but other significant "stressors" include:

*"• **Habitat loss** (including but not limited to forest conversion or hibernacula disturbance or destruction) may include loss of suitable roosting or foraging habitat, resulting in longer flights between suitable roosting and foraging habitats due to habitat fragmentation, fragmentation of maternity colony networks, and direct injury or mortality. Loss or modification of winter roosts (i.e., making hibernaculum no longer suitable) can result in impacts to individuals or at the population level. However, habitat loss alone is not considered to be a key stressor at the species level, and habitat does not appear to be limiting."*

The purpose of the listing is to conserve the species from extinction:

"Available Conservation Measures

"Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in

public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below. ***The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act."***

The Notice goes on to detail possible protections that may be enacted or enforced (hibernacula are caves):

"Based on the best available information, the following activities may potentially result in a violation of section 9 of the Act if they are not authorized in accordance with applicable law; this list is not comprehensive:
(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the species, including import or export across State lines and international boundaries, except for properly documented antique specimens of these taxa at least 100 years old, as defined by section 10(h)(1) of the Act.
(2) Incidental take of the species without authorization pursuant to section 7 or section 10(a)(1)(B) of the Act.
(3) Disturbance or destruction (or otherwise making a hibernaculum no longer suitable) of known hibernacula due to commercial or recreational

activities during known periods of hibernation.
(4) Unauthorized destruction or modification of suitable forested habitat (including unauthorized grading, leveling, burning, herbicide spraying, or other destruction or modification of habitat) in ways that kills or injures individuals by significantly impairing the species' essential breeding, foraging, sheltering, commuting, or other essential life functions.
(5) Unauthorized removal or destruction of trees and other natural and manmade structures being used as roosts by the northern long-eared bat that results in take of the species.
(6) Unauthorized release of biological control agents that attack any life stage of this taxon.
(7) Unauthorized removal or exclusion from buildings or artificial structures being used as roost sites by the species, resulting in take of the species.
(8) Unauthorized building and operation of wind energy facilities within areas used by the species, which results in take of the species.
(9) Unauthorized discharge of chemicals, fill, or other materials into sinkholes, which may lead to contamination of known northern longeared bat hibernacula."

It seems clear from this Notice from the Department of the Interior that DOI *also* would discourage the wanton destruction of any officially designated "prime habitat" for the threatened (soon endangered) Northern Long-Eared Bat - *especially* habitat that includes: 1) unfragmented forest; 2) abundant wetlands; and 3) caves (hibernacula).

Again, it is inconceivable that the Hopkinton planning board could independently conclude – notwithstanding all of the evidence to the contrary and with no competent expert testimony to support such a finding – that the Skunk Hill Solar proposal would result in "no significant environmental impact."

In 2018 and 2019, Hopkinton residents packed the town hall and the middle school auditorium to plead with the planning board and the town council to hear their concerns, to preserve this fragile habitat and to act in the best interest of the community. Today, four years later, after countless interminably long meetings when members of the public have no opportunity to speak, and which sometimes have included comments from board members that evidence a callous disregard for their personal and collective interests, it is almost impossible to persuade residents to attend another meeting and make another attempt to speak.

"What's the point," they ask? No one is listening anymore. The planning board has its mind made up and has once again decided, rightly or wrongly, that they are powerless to do anything other than to "tweak" the proposed plan.

I disagree with these residents and I firmly believe that a majority of the planning board *will recognize* that the Board *does* have the authority and the responsibility, for all of the reasons cited – including especially the undeniable and unavoidable adverse environmental impacts of the proposed project – to DENY approval of this application. I continue to have faith that the planning board will consider all of the information provided and will exercise its authority to act in the best interest of our community.

It's true that the previous town council approved the rezoning for this project – to their bitter regret. But their approval is *contingent* upon also obtaining all necessary approvals from the planning board.

The planning board *does not have to approve this application and should absolutely refuse to do so*, based upon the evidence provided and the clear failure of the applicant to satisfy the required criteria for approval.

As the planning solicitor has informed the planning board in discussions of various recent court decisions, it is *the planning board* that has the authority to decide if these criteria have been met and *the court may not substitute its judgement for the judgement of the planning board* if the planning board's decision is based upon "competent legal testimony."

The buck stops here.

I don't believe that this should even be a particularly difficult decision. Our own town planner – a certified planning expert who has the respect of the board - has publicly stated on numerous occasions that this is "a terrible project that never should have been approved."

No one in our community – not even the town council members who previously voted to approve it - supports the project. And clearly, the weight of the evidence provided to the planning board by the objectors, which has never been rebutted by the applicant, clearly demonstrates that the proposal does not satisfy the minimum requirements for approval of the master plan – and never can.

Thank you for considering all of these concerns regarding the profound adverse impacts that the Skunk Hill Solar proposal will have upon our community and the environment – a fact which apparently no one denies.

I hope, at long last, one of the members of the board will publicly state an intention to offer a motion to DENY this application and so that the planning board and the community can devote their energies to other, more worthy discussions.

Respectfully submitted,

Eric Bibler
Hopkinton