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TESTIMONY TO THE VERMONT SENATE AND HOUSE NATURAL RESOURCES AND
ENERGY COMMITTEES HEARING ON RENEWABLE ENERGY SITING
MARCH 24, 2015

SUBMITTED BY THE APPLE HILL HOMEOWNERS ASSOCIATION
BENNINGTON VERMONT
BILL KNIGHT, PRESIDENT
Lora K. Block, Peter Lawrence

BACKGROUND

1. Our neighborhood, consisting of 35 homes of which 31 have been organized into the Apple Hill Homeowners Association for several decades. The Association is structured under ByLaws, which, among other things bind us with deed restrictions relating to acceptable uses of our homes and streets. One of the restrictions forbids commercial uses. The neighborhood can be entered and exited only by one road, which deadends.

2. In summer of 2014 the Association and residents learned, completely by accident, that Chelsea Solar had purchased 27 acres adjacent to our neighborhood intending to build two solar farms and using our residential street as access for construction and maintenance. We learned about this impending project only when a resident saw heavy equipment arrive, apparently intending to begin exploratory construction even before PSB approval.

3. We then learned that although various State agencies had been notified of the land purchase and the State Supreme Court had issued a decision concerning the project that allowed Chelsea Solar to enter into a utilities contract with the State for solar power, The Association, as an abutting landowner did not receive notification. Only 2 of the abutting neighbors received notice. Chelsea Solar appears to have understood the deed restriction on commercial use, but felt they could proceed anyway. We had no money to fight that in court.

4. This put our Association on the defensive to protect our deed restrictions and the character of our neighborhood since so much had already been decided on the State level.

5. We attempted to gain Party Status through the PSB, but were denied due to technicalities. We learned that the PSB process is confusing, complicated and expensive (since legal assistance is required because the process is so complicated). The current process of gaining Party Status actively discourages neighbors and abutting landowners from being heard and their concerns from being addressed. We therefore had no formal way to have our siting concerns addressed related to our deed restrictions, aesthetics, excess wind, clearcutting 27 acres of hardwood and our property values.

6. We reviewed recent PSB decisions that disallowed neighbors' concerns from being admitted as testimony from the "average person" who might have aesthetic concerns. Our Association or individual residents could not easily become either an Interested Party or be heard as an "average person."

7. It was clear that as an Association we did not have enough time, money or power to stop the project or to protect the 27 acres of trees that are going to be clearcut. Our recourse was to enter into an MOU with Chelsea Solar so that construction traffic would be rerouted to a public road outside of Apple Hill residential streets to mitigate that impact on our neighborhood.

8. Members of our Association are not against solar as an energy source. However, our experiences with this project indicate that there are problems with current legislation and PSB regulations and processes that we believe need revision, as stated below:

SUMMARY OF CONCERNS AND RECOMMENDATIONS

1. THE CURRENT SYSTEM FOR SITING OF SOLAR PROJECTS LACKS PROACTIVE AND COHERENT PLANNING

a. We recommend reversing the current siting process. Legislation should be written to require all towns through Planning and Zoning Boards and Regional Planning Commissions to proactively identify sites that ARE available and usable for solar projects. A statewide database should then be compiled for the use of Solar Companies seeking sites for solar farms.

b. The PSB permitting process should require those companies to show cause why those preselected areas are NOT their choice for siting, before seeking a permit for other sites.

c. For example, the solar project at the former Green Mountain Racetrack in Pownal made good use of a site that was not suitable for many other uses. There are other such parcels and brownfields that can be identified and used in preference to areas requiring clearcutting of trees or permanently ruining prime agricultural land.

2. THE CURRENT SYSTEM PROVIDES NO LOCAL BENEFITS AND DESTROYS LOCAL RESOURCES

a. Current legislation and permitting leaves the State and all residents and localities at the mercy of private solar corporations (mostly from out of state, whose shareholders reap the economic benefit) to buy land where they see fit and then push the project on a town or neighborhood despite the loss of farmland, woodlands and other local planning concerns. Town plans can be ignored. Deed restrictions can be overridden.

b. Towns and residents not only lose local green resources such as open land or wooded acreage, which define Vermont, they in addition GET NO LOCAL ECONOMIC BENEFIT from these solar projects. Our electric rates do not get reduced in return for losing these resources.

3. CURRENTLY THERE IS A LACK OF EFFECTIVE, TIMELY AND ONGOING LOCAL NOTICE AND INPUT:

a. Legislation and regulations should require increased communication and transparency with neighbors and localities by requiring proactive and continuous notification to neighbors and town selectboards/zoning and planning boards about all anticipated projects as they begin to be negotiated with the State, and to provide easier and more transparent methods for these entities and affected neighbors to testify and have input.

b. Legislation should reverse the apparent interpretation by the PSB that any neighbor or local individual who has aesthetic concerns about a project that they believe ruins their views and enjoyment of their habitation is *ipso facto* not an "average person" whose opinion must be taken into account in the permitting. This is a Catch-22 interpretation that cannot have been intended in the original legislation.

c. The legislation should be revised to require timely and ongoing NOTICE at the very beginning of Project planning and throughout the permitting process to allow local collaboration with initial siting,

construction and maintenance of solar projects.

d. Once a permit is granted, affected neighbors and local municipalities should be entitled by legislation to receive notification about ongoing construction routes and schedules, and to receive contact information for the individuals responsible for the Solar Project so responsible parties can be contacted regarding concerns related to construction and ongoing operations.

4. THE PROCESS FOR GAINING STANDING AND PARTY STATUS IS TOO ONEROUS AND DISCOURAGES CITIZEN PARTICIPATION BY THOSE MOST AFFECTED

a. Legislation should be revised to make it easier, clearer and less expensive for neighbors to achieve Standing and Party Status. Under the current system input and concerns of neighboring landowners are not considered important.

b. Currently this process is too complicated and technical; it's not clear to the public what the difference is between being an Intervenor or an Interested Party and how or why to become one or the other.

5. THE DECOMMISSIONING PROCESS AND REQUIREMENTS SHOULD INCLUDE LOCAL INPUT AND HAVE STRICTER STANDARDS

a. The Apple Hill Association was informed by Chelsea Solar that they are required to put money into an escrow account with the State for decommissioning. They were very vague about what their plans would be to accomplish decommissioning.

b. We think requirements should go further. We recommend that legislation should stipulate that the State decommissioning approvals require the land to be returned as much as possible to its original state, with sensitivity to the aesthetic concerns and property values of affected neighbors. Otherwise we fear local neighborhoods can be left with irreparable scars on the landscape.

c. We recommend that legislation require towns, local agencies and abutting neighbors to receive timely notice of all decommissioning plans so their concerns can be included in the permitting and approval of those plans.

d. We recommend that legislation require town governments, relevant local agencies and abutting neighbors to receive notification when decommissioning activity begins, and they continue to be kept informed of decommissioning activities.

