

2023 June 2

Cranston Planning Commission
869 Park Avenue
Cranston, RI 02910

Dear Commissioners,

I read Mr. Nybo's letter of May 30. Has he confused the Planning Commission hearing with a court room? Is this his first draft of his brief to be presented to the next judge to hear the inevitable lawsuit? He writes that he "he wanted to comprehensively address many of the concerns" raised at the April 19 hearing. Yet, he failed to discuss critical issues such as:

His client's failure to meet the solar power ordinance top soil requirements at Lippitt.

The Lippitt solar project's devastating impact on wetlands.

The proposed selective pruning of the trees on the Lawrence property.

The impact of the interconnection process on the neighborhood.

I am not a lawyer and you are not judges so I will leave the legal arguments to the courts. I will respond to comments for which I have personal knowledge and experience with one exception. The 2017 court case revolved around the issue of agricultural lands, specifically, a corn field. The court's decision (Exhibit G) refers repeatedly to preserving agricultural lands. As Mr. Nybo quoted, "The Plan Commission was presented with no evidence to the contrary." First, the Natick site has nothing to do with agricultural land and, second, I suspect there the court will have plenty of evidence contradicting his client's position. Mr. Lapolla's testimony simply does not hold water when examined closely. Is any court going to believe that the Lippitt project was an act of "land preservation" and "non-intrusive to sensitive areas" in light of the evidence presented to the Commission?

6. DEM permits

Mr. Nybo believes that the Commission should except at face value the DEM's permit for the project and the related documents. The Lippitt project had all the necessary permits and you have seen photographic evidence of the applicant's failure to protect the wetlands at the Lippitt site. A permit allows an entity to build next to wetlands, nothing more. Clearly, the required documents do not mean wetlands will be protected. The impact of blasting and grading on the groundwater at Lippitt is obvious. The impact to the water table was not studied. Mr. Nybo fails to consider the impact of iron bacteria on adjacent wetlands, including those on city conservation land.

7. Glare

Here Mr. Nybo plays word games discussing only the solar panels. Do they float on air? No, they have frames attached to racks, which glow in the morning sun. The glare is seasonal depending on the angle and location of the sunrise. The glare appears with spring and dissipates during fall. It is all too real. Anyone who claims otherwise speaks with a level of ignorance that I would not expect from a solar developer.

Finally, regarding Mr. Nybo's comments about Drake Patten, his misguided derogatory remarks should have no place in this discussion.

Thank you,
Douglas Doe
178 Lippitt Ave.
Cranston

Attachment: 1-17-11 ordinance comments to state planning

2017 June 16

Benny Bergantino, Senior Planner
Dept. Of Administration
Division of Statewide Planning
One Capital Hill
Providence, RI 02908

Dear Mr. Bergantino,

I respectfully request that the Division of Statewide Planning return a negative recommendation for the Cranston Solar Performance Standards, CRN-17-01, for the following reasons:

- The ordinance encourages alternative energy development policies that are being discouraged or rejected by Rhode Island's neighbors.
- This ordinance continues the piecemeal approach to solar zoning policies in Cranston that, so far, have approved the clear cutting of 70 acres of woodlands.
- The primary foundation of the ordinance, "Preserve existing farmland and developable land that is currently undeveloped, by **temporally removing the development potential** through land banking by allowing the land to be used for passive alternative energy generation such as solar power," is inherently contradictory.
- Cranston has failed to enact comprehensive siting standards to protect the impact to adjacent residential and conservation land.
- Cranston Planning staff failed to disclose their role in drafting the ordinance allowing a private solar power developer and their attorney to present the ordinance as their own. This is neither good government nor good planning.
- Such actions have nothing to do with land conservation or solar performance standards.

Comments:

The foundation of the ordinance is the statement: “Preserve existing farmland and developable land that is currently undeveloped, by **temporally removing the development potential** through land banking by allowing the land to be used for passive alternative energy generation such as solar power.” The ordinance (line 76) proposes to include the language within the Comprehensive Plan’s Land Use section on preserving farmland with conservation actions: purchase the land, transfer or purchase of development rights, conservation easements, or use conservation subdivision regulations.

Yet the zoning change allowing ground based solar by right within the A-80 zone is being used to justify the clear cutting of at least 70 acres of woodlands for the Lippitt Ave. and Seven Mile road projects. The Hope Road project will remove over 50 acres of prime and statewide important agricultural land from active cultivation. A member of the Cranston Planning staff told me that covering all of Cranston’s unprotected farmland with solar power projects would be good for Cranston. This is a direct contradiction of the city’s Comprehensive Plan’s Land Use action plan LU-10 and Natural Resources action plan NR-8.¹

City planners, councilmen, and developers have made the self-serving argument that covering agricultural land with solar panels for 20-30 years will be good for the soil. The Connecticut Department of Agricultural Commissioner’s comments for a 20 megawatt solar project on 102 acres of prime and important farmland soils rejected that assumption. Among his objections, “the development of solar facilities and associated construction techniques and placement of other infrastructure will damage soil resources and have long term impacts on agricultural productivity should the solar lease end and the fields be available for agriculture in the future.” Also the project was “counterproductive with the State’s goals of Farmland Protection, protection of prime and Important Farmland soils, and the promotion of agricultural economic development.”² (Letter attached) Surely the opinion of experts from the Conn. Dept. of Agriculture carries far more weight than that of politicians and developers.

Neighboring states have begun to confront the issue of developing farmland and forests for large ground base solar power projects. The Conn. Council on Environmental Quality issued a report, “Energy Sprawl in Connecticut” 2016 February 3. The report noted the expansion of solar power projects on agricultural land and clean undisturbed forests and describes the negative impacts of these projects. The report recommends that a siting system be created to give additional weight to projects that do not disturb farmland, grasslands, and forests. The system should not provide incentives for development of lands of ecological value.

Massachusetts reached the same conclusion during the development of its Solar Massachusetts Renewable Target (SMART) Program.³ The program rewards the use of landfills, brownfields,

¹ Cranston Comprehensive Plan. <http://www.cranstonri.com/generalpage.php?page=4190> (accessed 2017 June 29)

² Connecticut Department of Agriculture to Connecticut Siting Board, 2016 May 9. http://www.ct.gov/csc/lib/csc/pending_petitions/2_petitions_1201through1300/pe1224-deptagriculturecomments.pdf (accessed 2017 June 29).

³ Massachusetts Executive Office of Energy and Environmental Affairs. Development of Solar Massachusetts Renewable Target (SMART) Program. <http://www.mass.gov/eea/energy-utilities->

rooftops, and parking lots and removes incentives for the use of farmland, forests, and other ecologically sensitive land. In doing so the Mass. Department of Energy Resources accepted the recommendations of Mass Audubon, Mass Land Trust Coalition, the Nature Conservancy, and the Trustees of Reservations.

The Association of New Jersey Environmental Commissions issued a white paper, "Solar Siting and Sustainable Land Use," in 2012. The state's 2011 Energy Master Plan states, "*Although a number of utility-scale solar installations have been proposed for, and installed on, what were previously working farms, the Christie Administration does not support the use of ratepayer subsidies to turn productive farmland into grid-supply solar facilities.*" (NJ 2011 EMP, p.107)⁴ The white paper concluded, "New Jersey's solar energy goals can be accommodated by using rooftops, impervious surfaces, brownfields and abandoned mineral extraction sites. Invading critical areas, prime farmland, preserved lands or parks and open spaces is not needed to achieve these goals." (p. 12) The 2015 Update reinforces this policy, "...the State strongly discourages the use of ratepayer subsidies to turn productive farmland and open space into grid-supply solar facilities. The policy of encouraging the development of renewable energy resources should not undermine taxpayer programs and policies that emphasize the importance of preserving open space and farmland. (NJ 2015 EMP, Update, p. 29)⁵

Cranston's siting policy is a direct repudiation of these emerging progressive environmental policies. The Lippitt Ave. project is an egregious example.⁶ The project will require:

- A 60 acre clear-cut, scrapping off every shred of vegetation and wildlife
- Building a nearly two mile long gravel road
- Installing a 1.3 mile long chain link fence and
- Nearly 60,000 solar panels
- Plus transformers, invertors, buried wires, concrete pads and
- 14 foot wide stone infiltration ditches.

How can any reasonable planner conclude that this project is not development? To make matters worse, the project shares an 1800-foot boundary with the Knight Farm Conservation land purchased with funds from DEM and the Agricultural Land Preservation Commission and protected by conservation deed restrictions. City officials have the authority to require a 25-foot vegetated buffer along the boundary to protect the conservation values of the farm, but refused

clean-tech/renewable-energy/rps-aps/development-of-the-next-solar-incentive.html (accessed 2017 June 29).

⁴ 2011 New Jersey Energy Master Plan.

http://www.nj.gov/emp/docs/pdf/2011_Final_Energy_Master_Plan.pdf (accessed 2017 June 29).

⁵ New Jersey Energy Master Plan Update.

http://nj.gov/emp/docs/pdf/New_Jersey_Energy_Master_Plan_Update.pdf (accessed 2017 June 29).

⁶ Note: I am an abutter to the project's access road. The plans are available on the DEM website. <http://ri-dem-wetlands.s3.amazonaws.com/16-0202p.pdf> (accessed 2017 June 29).

because they consider the farm to be the buffer.⁷ Planners and Planning Commissions should understand that buffers are the responsibility of the developer not the adjacent property owners, public or private. I invited any city official to take part in a site visit to view the project's impact. None volunteered. This is a vivid reminder that the city has failed to enact a comprehensive solar ordinance. Indeed a city planner told me that such an ordinance was not necessary because the projects were just "panels and wires." This regressive thinking is in opposition to the policies adopted by Cumberland, Coventry, Exeter, South Kingstown, and Massachusetts communities (to name a few locations) and points to the need for the state to adopt ground based solar zoning requirements allowing for communities to adopt stronger language. Cranston solar developers face very few, if any, restrictions about what and where they can build within the A80 zone. The big controversy at the last Development Plan Review Committee meeting was the color of the chain link fence.

The current state Comp Plan Standards Manual adopted in 2016 January requires a Planning for Energy element. Renewable Energy Production and Consumption discussions belong in the Energy Element not along side land conservation methods. Renewable energy has been under discussion within Planning for almost 2 years. If the administration believes that the comp plan needs an energy component, then let us have a discussion of a comprehensive renewable energy policy that follows the current standards. Any discussion to amend the Comprehensive Plan should be an open transparent process. The city planners failed to uphold this requirement. A lawyer for a solar power developer presented this ordinance to city officials and the public during four public hearings. At no time did the city planners disclose that they had assisted in preparing the ordinance. The information was disclosed at the final city council meeting just before the vote because a city councilman asked the lawyer who wrote the ordinance. The lawyer hemmed and hawed requiring the councilman to ask the question three or four times.⁸ Why the deception over four public hearings?

The ordinance includes the statement: "The Zoning Ordinance should permit the development of renewable energy production facilities in appropriate areas, including, **without limitation**, in the A-80, M-1, M-2 and S-1 zoning districts..."

"Without limitation" in a residential zone. I've already noted the destruction caused by the current policy. If 60 acre clear-cuts are okay, then why not 80 or 100? When is enough enough? Do state planners really want to approve a policy of no limitations?

Cranston has rejected the common sense policies being adopted by Rhode Island communities and our neighbors in its zeal to collect additional tax revenue. City officials have laid out the red carpet for developers and worked with them behind closed doors to make their efforts as easy as possible. They refuse to protect existing conservation land, but have the audacity to claim that their policies belong along side conservation easements and other progressive policies. This amendment does not establish solar performance standards as Cumberland and other communities have done, but merely serves as a back dated justification for the 2015 zoning change that allowed ground based solar developments in the A-80 zone.

⁷ Cranston Ordinance 17.84.140 – Development and landscaping design standards.
https://library.municode.com/ri/cranston/codes/code_of_ordinances?nodeId=CO_TIT17ZO_CH17.84DEPLRE_17.84.140DELADEST (accessed 2017 June 29).

⁸ Cranston City Council Meeting, 2017 April 24. See video at 1:06:46.
<https://vimeo.com/215207605> (accessed 2017 June 29).

Please reject this ordinance and send a clear signal to all Rhode Island communities that state planners and administrators do not support Cranston's regressive policies.

Thank you,
Douglas Doe
178 Lippitt Ave.
Cranston, RI 02921
401-787-1958