

Potter, Dan

From: Sam Carlson <samuelccarlson@gmail.com>
Sent: Thursday, July 13, 2017 5:44 PM
To: PSD - Planning Standards
Subject: New Haven's Determination Request Comments

I would like to submit the following comments regarding the Town of New Haven's Town Plan and the Town's request that the PSD determine that the plan deserves "substantial deference" in proceedings of the Public Utility Commission. In the interest of full transparency, I would like to clarify that I am not a resident of the Town of New Haven. Furthermore, I am employed as a solar developer and so have a vested interest in the Plan's review by the PSD.

First off, I would like to pose some questions about the process of preparing the Town Plan submitted for the PSD's consideration:

Is the PSD aware that the New Haven Planning Commission prepared a draft Town Plan published on its website during the Fall of 2016 (a plan which included significant elements with respect to renewable energy planning and siting), which the New Haven Select Board subsequently removed from the website so that it could publish its own draft plan?

Does it strike the PSD as odd that the Town Plan submitted for the PSD's consideration was prepared by the Town's hired legal counsel (Cindy Hill), and one Select Board member (Doug Tolles, no longer a Select Board member)? (Note: this fact was repeatedly stated during the Public Hearing itself)

Is the PSD aware that Ms Hill and Mr. Tolles have worked tirelessly for the past 3 years to stop almost any and all solar development in the Town of New Haven, including those projects which fully complied with all elements of the existing Town Plan and which were invisible from all public viewpoints and all private residences?

Did the PSD notice at the public hearing that no members of the New Haven Planning Commission were in attendance, and that not a single member of the New Haven Planning Commission spoke in favor of this plan?

Does the PSD have any evidence at all that members of the New Haven Planning Commission participated in the drafting of the Town Plan submitted for the PSD's approval?

Secondly, I would like to offer some specific comments about the substance of the Town Plan.

1. Page 63 - stating, "..New Haven does not allow any solar panels on any parcel if the electricity is to be used or credited to meters off-site" directly violates the basic rule for net metering (5.100) formalized on July 1, 2017, and deprives citizens of Vermont of their right to virtual net metering. Basing its argument on the fact that more electricity is generated within the town than is consumed is weak logic and, again, has no basis in Rule 5.100.
2. Page 63 - stating "Potential areas suitable for solar photovoltaic siting in the Town of New Haven are those areas already developed as net-metering or standard offer projects...and residential and local business properties for on-site use", is clearly not a factual statement. There remain many other potential areas suitable for solar siting which would comply with all of the Town's reasonable siting and screening standards (although not with the unreasonable ones, discussed below). I can personally identify two such sites, which would be invisible to all public viewpoints and from all private residences.
3. Page 58 - emphasizing the "fragility" of GMP's distribution circuits as an argument for stopping renewable energy development in the Town of New Haven is clearly outside the competence of either Cindy Hill or Doug Tolles. As the PSD well knows, every net metered solar project beyond a simple rooftop project is carefully evaluated by GMP through

either a Fast Track Analysis or a Feasibility Study (often both). GMP is in a far better position than the Town of New Haven to make any judgements about the stability and reliability of its electrical distribution system, in assessing the potential for additional solar development in the Town of New Haven.

4. Page 64 - stating "Additional Standard Offer projects are not of a scale appropriate for development in New Haven" just because they are bigger structures than others in town, and arguing that their size "inherently degrades the intact rural, scenic and historic landscape" has no logic. If a Standard Offer solar project is sited correctly, there is nothing about its size which "inherently degrades" the landscape. This is just melodramatic and illogical rhetoric.

5. Page 66 - Consistency with State Energy Goals - (B) 25 by 25 - The Town may have met this goal for heating and electricity, but has certainly not met this goal for transportation.

6. Page 74 - the Town Plan cited a recent survey of Town residents with respect to renewable energy, and argued correctly that a majority of residents are in favor of reasonable screening, siting and size requirements. However, this Plan neglects to include the fact that in a survey conducted by the Planning Commission of the Town of New Haven in 2015, 18/68 respondents "strongly supported" energy-related projects in the Town of New Haven and another 15/68 respondents "supported" such projects (33 in total in favor), compared to 15/68 respondents who "strongly opposed" and 10/68 respondents who "opposed" such projects (23 opposed, with the rest neutral). In other words, the Town's own survey of its residents provides data that shows that 43% more respondents are in favor of renewable energy development than are opposed, which this Town Plan makes virtually impossible.

7. Page 74 - the Town Plan arbitrarily declares that the largest net metered renewable energy facility is 15 KW, and states, "No other energy generation facility type or size shall be considered a permitted use in any district in the Town." This, again, is a clear violation of Rule 5.100. Furthermore, such a declaration is a violation of a private landowner's right to develop/use their land as desired, subject to Rule 5.100.

8. Page 75 - the Town Plan states all energy generation plant permits must include provisions for system abandonment, decommissioning and site restoration. This is clearly a usurpation of the power of the State of Vermont to set the rules for energy generation plant permitting, and exceeds the power of the town of New Haven. Furthermore, stating that an energy generation plant must provide the Town with sureties to guarantee decommissioning is unequal treatment to other commercial development in the Town. When a power equipment store is established in the Town of New Haven and a building constructed, does the Town insist that the store owner provide a bond to finance the building's deconstruction and return to the site's original condition?

9. Page 75 - Access - stating that renewable energy project access roads should be shared is a great idea, if only the PSD and Public Utility Commission would issue a ruling that such shared infrastructure would not place the projects "in close proximity" and hence be disallowed.

10. Page 76 - Conservation Areas - stating that development of energy plants on conserved land (such as land conserved through the Vermont Land Trust) is prohibited is a usurpation of the power of the Vermont Land Trust to determine what activities are permitted or prohibited on the conserved land. In fact, Vermont Land Trust has recently changed its policies to permit development of small solar facilities (up to 150 KW), particularly when the landowner is the beneficiary of at least 50% of the power generated. This is because VLT recognizes that such solar facilities can help farmers generate additional income and/or save on their electricity expenditures, thereby increasing farm sustainability and supporting achievement of Vermont's renewable energy goals. It is not for the Town of New Haven to determine the Vermont Land Trust's policies with respect to land conserved through the Vermont Land Trust.

11. Page 77 - Agricultural Soils - stating that energy projects must not be sited or otherwise impact agricultural soils classified as "prime", regardless of the project's size, makes little sense and has no justification. Many farmers want to lease some of their land for solar development to generate guaranteed diversified income so that they can keep the rest of their farm in agriculture, as opposed to going bankrupt, selling their farm, and seeing it divided up into 10 acre "ranchettes". Putting a solar array on agricultural soil does not remove any soil and, in fact, allows that soil to

regenerate over time so that when the array is decommissioned and the poles removed from the ground the soil will be more productive and "prime" than ever.

In summary, putting the Town's conditions and siting requirements (e.g.- no siting on prime agricultural land, no siting of a project greater than 1/2 acre in a forested area, no project larger than 15 KW, no project causing any loss of the working landscape, no siting on conserved land, etc.,etc., etc.), it is clear that the INTENT of this draft Town Plan is to prevent any additional renewable energy development except what is used on-site, and even that under few and very constrained circumstances.

The intent of this Town Plan clearly runs counter to the intent of Act 174. Counselor Hill and ex-Select Board Member Tolles may have ticked all the required boxes of the PSD's guidance for municipal plans under Act 174, but the conclusions and policies drawn do not flow logically or legally from the analysis and existing State of Vermont rules for renewable energy development.

Finally, I would suggest that this Plan risks establishing a very dangerous precedent. If it is approved by the PSD its contents will be "copy and pasted" by numerous other Town Plans currently in the revision process. The PSD then will be faced with a very major contradiction between (i) the State of Vermont's goal of achieving 90% renewable energy by 2050 and (ii) the Town Plans it blesses.

I therefore suggest that this Town Plan be denied "substantial deference" in consideration of energy projects by the State of Vermont.

Thank you for your attention and consideration of these comments.

Sam

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