

Minutes:

Addison County Regional Planning Commission

Joint Act 250/Section 248 Committee and Energy Committee

4:30 pm October 1, 2015

Attendees: Ross Conrad, Ellen Kurrelmeyer, Stephen Pilcher, Jeremy Grip, Chico Martin, Ed Payne, Steve Revell, Ron Crawford, Mary Anne Sullivan, Jim Walsh, Staff: Adam Lougee, Tim Bouton, Josh Donabedian

1. Call to Order @ 4:33 by Ellen
2. Review of minutes. Motion to accept by Chico, Seconded by Steve R. Motion passed
3. Review and edits of 45 Day notice draft. Edits were made to the draft for review by the full commission at the regular meeting on October 14. If approved, the document will be sent to the developer of each 45 day notice array. Document will also be sent to every solar developer on file as a heads up. A motion was made and seconded that the joint committees send the edited document along to the full commission. Motion passed. (Edited document attached.)
4. Review and edits of proposed siting and decommissioning guidelines from ACRPC to town planning commissions. Draft was reviewed and edited for submission to the full commission prior to distribution. A motion was made and seconded that the joint committees send the edited document along to the full commission. Motion passed. (Edited document attached.)
5. Adjourn @ 6:38

Addison County Regional Planning Commission

14 Seminary Street Middlebury, VT 05753 www.acrpc.org Phone: 802.388.3141 Fax: 802.388.0038

To: Susan Hudson
Vermont Public Service Board
112 State Street 4th Floor
Montpelier, VT 05602-2701

Date: ___/___/___ (date)

From: Submitter
Address
City/State

RE: Comments of the Addison County Regional Planning Commission on the 45 Day Notice Letter of _____ regarding a proposed ___kw solar generation facility at _____ in the Town of _____, Vermont

Dear Ms Hudson and _____,

This letter comprises the Addison County Regional Planning Commission's (ACRPC) response to the 45-day notice of intent to file a petition for a Certificate of Public Good for a ___kw solar electric generation facility submitted by _____ to be located at _____ in the Town of _____.

BACKGROUND

The ACRPC regional plan most recently adopted in December of 2011, includes the following in its vision statement:

"In the future, the Addison Region will be a place where...
17. People continue to be attracted by the aesthetic qualities
of both the natural and humanly built landscape"

The regional plan further qualifies that vision with the following goals:

- "A. Support development patterns that will maintain the historic character of the region; namely urban centers and villages separated by rural countryside.
- G. Encourage conservation and efficient use of energy and the development of renewable resources.
- K. Encourage the efficient use of the region's natural resources...and the proper restoration of the aesthetic qualities of the area."

The ACRPC regional plan calls out the desire to support development of renewable resources but includes strong statements concerning preservation of the aesthetics of the region.

Addison Bridport Bristol Cornwall Ferrisburgh Goshen Leicester
Lincoln Middlebury Monkton New Haven Orwell Pantton Ripton
Salisbury Shoreham Starksboro Vergennes Waltham Weybridge Whiting



ACRPC SOLAR PROJECT REVIEW

After review by the Act 250 subcommittee charged with Section 248 applications, the ACRPC has determined that solar electric generating facilities in the region collectively constitute "Substantial Regional Impact" as defined in the regional plan:

"Projects which trigger one or more of the following will be considered to be projects with substantial regional impact

e. Location or expansion of...power generation and transmission facilities

g. Projects which will have significant off-site impacts on regionally important resources located at a distance from the project site."

The ACRPC regional plan indicates that our support for alternative energy must be tempered against the impacts on these critical resources. We therefore have determined that **any solar electric generation facility proposed within the region of greater than 125kw will be closely reviewed by the Act 250 committee** for its impacts to these critical resources prior to granting any determination that the project meets the **requirement to comply with the "orderly development of the region."**

Throughout the regional plan, in sections devoted to Scenic Resources, Energy, and Future Land Use, a recurring theme is the focus on the importance of aesthetics, viable farmland, and wildlife resources. These comprise a large part of what draws people to the region, and drives the regional economy.

SCENIC RESOURCES / AESTHETIC MITIGATION

The regional plan's Natural Resources scenic resources subsection cites impacts to the scenic resources by alternative energy projects in the following way:

"SCENIC RESOURCE GOALS:

C) Support the development of alternative energy sources and an efficient telecommunications network when such facilities do not have adverse environmental or aesthetic impacts.

To meet this Goal it is our Objective to:

...b) Minimize the impacts of alternative energy producing plants through careful siting based on a thorough analysis."

It is important to recognize that the Objective calls for minimizing rather than reducing and/or lessening and refers to adverse rather than "undue" adverse aesthetic impacts.

In the regional plan's Energy section, the following objectives specifically address concerns relating to the degradation of the natural, agricultural and scenic resources in the region:

“Goal D.

That energy infrastructure and services do not cause undue adverse impact to the health and safety of residents or on the environmental quality of the Addison Region.

To meet this Goal, it is our Objective:...

d. For utilities and individuals seeking Certificates of Public Good for projects in the Addison Region to work with affected landowners, municipalities and ACRPC to develop appropriate aesthetic mitigation plans prior to filing their Section 248 applications.”

ACRPC specifically requests the following, to satisfy the Regional Plan's aesthetic mitigation requirements:

Prior to filing a Section 248 application, the developer will consult affected landowners, municipalities and ACRPC to develop appropriate aesthetic mitigation plans:

1. Appropriate plans, will effectively address the concerns of “affected landowners” with the understanding that “affected” landowners are not limited to abutting landowners.
2. Minimization of aesthetic impacts will include limiting visibility year round from a public highway.
3. Use existing topography, development or vegetation on the site where possible.
4. New landscape screening will consist of native plants planted to a hedgerow depth of 20 ft and of a size so that the screen will be fully complete and meeting its intended function year-round within 5 years of planting. Use of existing landscape features is encouraged rather than new plantings where possible. Use of plants beneficial to wildlife and pollinators is encouraged.
5. Landscape plantings must be maintained and losses replaced within 8 months for the duration of the useful life of the project.
6. Locate the structures on the site to keep them from being “skylined” above the horizon from all public vantage points.
7. Projects should be sited within a property such that, if possible, no pre-existing hedgerows or forest will be disturbed.
8. Use supports which provide the minimum height of panels needed for functionality
9. While 30VSA 248(s) identifies certain standard setbacks which are generally suitable in many Vermont towns, it also gives the Public Service Board the latitude to adjust those same setbacks if appropriate.

Many communities in the Addison Region are located within the broad Champlain Valley noted for its working landscape and far reaching vistas. To reduce potential adverse

impacts within these communities, ACRPC requires the standard setback from a public highway to be 350ft and 150ft from side and rear lot lines for projects located within significant viewsheds as identified in this plan and in any municipal development plan.

In addition, to meet overarching Goal "K" which refers to "the proper restoration of the aesthetic qualities of the area.", any application must include a decommissioning plan.

The decommissioning plan must include:

- : financial guarantees adequate to implement the plan including an "escalator" clause of fund any additional costs due to inflation.
- : The guarantees and responsibility for decommissioning must be a condition of the CPG.
- : Any future transfer of ownership of the project must also include assignation of the financial guarantees to the new owners.
- : The plan will be implemented at the end of the useful life of the project. The useful life of the project is considered to be when the production of electricity falls below 60% of the design capacity identified in the CPG or at the expiration of the CPG if clearly stated in the original permit.

LAND USE

To meet the regional plan's goal of preserving critical agricultural soils, no portion of any project can result in the removal from agricultural production of "prime agricultural soils" as identified by the Vermont Agency of Agriculture, Food and Markets. The term "removal" will refer to an encumbrance for a period of greater than 5 years.

ACRPC further supports our natural resources and public safety by prohibiting construction in mapped floodplains (500yr flood), river corridors as defined by the VT Agency of Natural Resources, and Class I or II wetlands. For any projects proposed within the Addison Region, the potential impacts to existing wildlife "corridors" by perimeter fencing and other impacts to wildlife must be addressed.

The ACRPC regional plan's Land Use section adopts the zoning districts of its member communities as its own land use plan. Accordingly, commercial/industrial development such as solar generation is most appropriate within previously identified commercial and industrial zones and ACRPC support for alternative generation facilities is strengthened for projects proposed for those areas.

*

The above constitute the minimum requirements necessary for any project to comply with the "orderly development of the region" as has been identified by ACRPC.

Thank You,
Name

Addison County Regional Planning Commission

14 Seminary Street Middlebury, VT 05753 www.acrpc.org Phone: 802.388.3141 Fax: 802.388.0038

MEMORANDUM

From: Adam Lougee, Director
To: ACRPC Energy Committee
Date: September 30, 2015
Re: Siting guidelines for solar

Municipalities are increasingly expressing concern over the pace and scope of solar development in greenfields in their community. While a significant amount of siting criteria exist for natural resources, siting criteria addressing aesthetic issues are less prevalent. This document constitutes a draft of proposed guidelines to be recommended to municipalities from the Addison County Regional Planning Commission to address aesthetic issues. Municipalities should feel welcome to amend the document as they deem appropriate for their particular situation.

The scope of the testimony for any municipality choosing to participate in a Section 248 hearing on energy generation should stem from the language within the municipal plan and any duly adopted regulations implementing the plan that the municipality may adopt as allowed under Act 56. The municipal plan stands as the controlling document because statute requires that the Public Service Board ("PSB"), the quasi-judicial body overseeing the permitting of new generation structures, consider the proposed project within the context offered by the municipal plan.

Planning Commissions have the ability to propose amendments to the Plan to be adopted by the Selectboard (or voters, depending upon procedures adopted by each municipality) to include more specific siting criteria language within the plan. The Municipality's representative may include the siting criteria in testimony to persuade the PSB to make findings in favor of the municipality. When properly included in a municipal plan and filed as testimony before the PSB, a well-crafted solar policy supported by specific siting criteria should significantly influence the PSB's judgment within their obligation to give "due consideration" to recommendations of municipal officials and the land conservation measures contained in the municipal plans. The language below constitutes one suggestion of policies and criteria municipalities could consider adopting.

Addison	Bridport	Bristol	Cornwall	Ferrisburgh	Goshen	Leicester
Lincoln	Middlebury	Monkton	New Haven	Orwell	Panton	Ripton
Salisbury	Shoreham	Starksboro	Vergennes	Waltham	Weybridge	Whiting



PROPOSED ASTHETIC AND DECOMMISSIONING GUIDELINES REGARDING
COMMERCIAL SOLAR PROJECTS FOR INCLUSION IN MUNICIPAL PLANS.

The Municipality of _____ supports responsibly sited and developed renewable energy projects within its boundaries. It recognizes that to maximize profits, developers desire projects to be located in close proximity to electric power lines capable of transmitting the load proposed to be generated and easy access from major transportation networks for construction. However, it desires to maintain the working landscape, adopted conservation and habitat protection measures and scenic rural views important to its tourism economy and rural cultural aesthetic. Not all commercial or community scale solar projects proposed can meet this standard. Projects must meet the following community standards in order to be considered “orderly development” supported by this plan and in order to not unduly impact the aesthetics of the rural countryside this plan intends to protect:

1. Community Standards

A. Siting. Where a project is placed on the landscape constitutes the most critical element in the aesthetic siting of a project. Poor siting cannot be adequately mitigated. Accordingly, all renewable energy projects must evaluate and address the proposed site’s aesthetic impact on the surrounding landscape.

a. Good sites have one or more of the following characteristics:

- Roof-mounted systems;
- Systems located in close proximity to existing larger scale, commercial, industrial or agricultural buildings;
- Proximity to existing hedgerows or other topographical features that naturally screen the proposed array from view from at least two sides;
- Reuse of former brownfields or otherwise impacted property.

b. Poor Sites have one or more of the following characteristics:

- No natural screening;
- Topography that causes the arrays to be visible against the skyline from common vantage points like roads or neighborhoods;
- A location in proximity to and interfering with a significant viewshed (significant viewsheds within the Municipality of _____ include: _____ (This language could also be located in another section for broader application and referenced in this section. However, the references must be specific enough to provide people with notice of their existence in order to be effective.)
- The removal of productive agricultural land from agricultural use
- Sites that require public investment in transmission and distribution infrastructure in order to function properly.

NOTE: Prior to including paragraph B below, the Municipality should have a serious discussion on whether limiting large arrays is a good idea. A 5 MW project will produce about as much power as thirty three 150kW projects. In some cases numerous projects could have a more significant impact on the community than one large project. If a municipality chooses to limit larger projects, it may consider Section B below.

B. Mass and Scale: The historical working landscape that defines ____ currently and that _____ desires to preserve is dominated by viewsheds across open fields to wooded hillsides (adapt accordingly to reflect the Municipality of ____). Rural structures like barns fit into the landscape because their scale and mass generally do not impact large tracts of otherwise open land. All commercial scale solar arrays shall also be limited in mass and scale, and/or have their mass and scale broken by screening, to fit in with the landscape. Commercial solar projects larger than ____ are larger than any other structure within the municipality of _____, cannot be adequately screened or mitigated to blend into the municipality's landscape and are therefore prohibited. (Define: What should be considered large? This uses a standard of larger than all other structures within the municipality. As a general rule, 150kW arrays cover about an acre of land. Consider aligning the limits on solar arrays with the jurisdictional thresholds set by the PSB.).

Projects found to have poor siting characteristics pursuant to the community standards contained in Section 1 above and other poor siting characteristics that a community may clearly define in their plan, (and/or projects found to violate the maximum mass and scale community standards contained in Section 2 above, *Use only if adopting Section 2*) violate the municipalities' standards regarding orderly development.

2. **Average person:**

For the purposes of this plan, either the municipal legislative body or the planning commission (depending upon which body is selected by the legislative body to represent the municipality before the Public Service Board in any Section 248 hearing), shall be deemed to represent the voice of the "average person" with respect to the "Quechee Test" when evaluating the aesthetics of a proposed solar array.

3. **Mitigation methods:**

In addition to properly siting a project, solar developers must take the following action to mitigate all project sites:

- a. Locate the structures on the site to keep them from being "skylined" above the horizon from public and private vantage points;

- b. Shorter panels may be more appropriate in certain spaces than taller panels to keep the project lower on the landscape.
- c. At a minimum, all solar arrays must observe the setback restrictions contained in Act 56 governing solar installations. However, developers are encouraged to increase setbacks to at least those listed in the Municipal Zoning Regulations within the Zoning District in which it lies.
- d. Use the existing topography, development or vegetation on the site to screen and/or break the mass of the array;
- e. In the absence of existing natural vegetation, the commercial development must be screened by native plantings beneficial to wildlife and pollinators that will grow to a sufficient height and depth to provide effective screening within a period of 5 years. Partial screening to break the mass of the site protect public and private views of the project.

Alternate Language for e:

All commercial development within the municipality of ___ that contains more than ___ acre(s) of involved property shall use ___% of the total construction price to landscape and effectively screen the project. (The appropriate municipal panel may reduce this amount appropriately based upon the existing amount of natural screening or topographical screening already in place.)

- f. Practice a “good neighbor policy”. The siting of the array should be done in such a manner that the array creates no greater burden on neighboring property owners or public infrastructure than it does on the property on which it is sited. As an example, a landowner may not site an array on his or her property in a location calculated to diminish the visual impact of the array from his or her residence, but places the array immediately within their neighbor’s or the public’s viewshed. Locating a solar array in a manner designed to reduce impacts on neighbors or public viewsheds constitutes reasonable mitigation.
- g. Use black or earthtone materials (panels, supports fences) that blend into the landscape instead of metallic or other brighter colors).

4. **Decommissioning and Restoration:**

All projects shall be decommissioned at the end of their useful life and the property shall be restored to its pre-project condition. Developers of all projects 100 kW and greater shall provide the municipality with appropriate assurances to guarantee funding exists to decommission the project. In keeping with the municipality of _____ desire to retain our agricultural land base, the end of the useful life of a solar array shall be deemed to be at the end of the initial contract for services with the power company.

NOTE: The language suggested above constitutes a starting point for a municipality to consider incorporating in its plan should it desire to enable more specific testimony on this

issue before the PSB. Once incorporated into the plan, the municipality's stated desire to participate and consistently apply its standards should provide it with a significantly stronger ability to influence decisions of the Public Service Board regarding solar siting within the municipality.

