

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 21-2939-NM

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| Petition of Randolph Davis Solar LLC for a certificate of public good, pursuant to 30 V.S.A. §§ 248 and 8010, authorizing the installation and operation of a 500 kW group net-metered solar electric generation system in Randolph, Vermont |  |
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**Affidavit of Michael Binder and Joan Allen**

1. Our names are Michael Binder and Joan Allen. We adjoin the property on Davis Road proposed for a 500 kW solar array by Norwich Solar Technologies. Our address is 1953 Davis Road, Randolph Center, VT
2. We attended the Randolph Planning Commission (RPC) meeting on December 7, 2021.
3. The position of Secretary of the RPC is vacant, and the meeting was recorded by the town for the purpose of having a town official write the minutes. We have obtained and listened to the recording.
4. Four of the Planning Commission Members were present and one was absent:  
Sonny Holt, Chair - Present  
Camden Walters, Vice Chair - Present  
VACANT, Secretary  
Perry Armstrong - Present  
VACANT  
Miles Hooper – Present  
Paul Rea – Absent
5. The first item of new business was a discussion of the request by us for the RPC to rescind the Preferred Sites Letter that it issued at the June 1, 2021 meeting to Norwich Solar Technologies (NST) for their Davis Road Solar Project.

6. All members of the RPC had copies of our October 21, 2021 letter in which we point out that the steep slopes of the project violate the prohibition in the town plan of development on slopes greater than 25%.
7. We presented to the RPC members a copy of Exhibits RDS MS-2 and RDS MS-3 that had been submitted to the Public Utilities Commission (PUC). These exhibits clearly show that parts of the array itself was on 40% slopes.
8. There was some discussion of whether the steep slopes prohibition applies to the entire disturbed area, or just the area directly under the solar array.
9. RPC Chairman Holt stated "I was surprised when this 25% slope issue came up and I asked Norwich Technologies to take the distance from north and south and east and west and tell me what those slopes are. And they came back and said the average slope north south is 15.5% and the average slope east west is 10%".  
[0:23:25 in the audio recording made by the town]
10. It was agreed by the other RPC members that the town plan slope prohibition does not permit averaging a steep slope with a flat area.
11. It was accepted by all RPC members that parts of the solar array are on slopes greater than 25%, and that a majority of the disturbed area was on slopes greater than 25%.
12. There was some sentiment by RPC Members Armstrong and Holt to ask NST to come back before the RPC and defend their position that the Davis Road Solar array project was in conformance with the town plan. A member of the audience warned the RPC that they should not engage with NST and it's not the job of the RPC to work with the developer. We also objected to that plan because we feel that the RPC should rescind the Preferred Sites letter, and only then have NST come back before the RPC if they wish to defend or modify their plan.
13. We learned at the RPC meeting that RPC Chairman Holt had already reached out to NST [see quotation 9.].
14. Ultimately the RPC resolved that Trevor Lashua [Randolph Town Manager who was in attendance] would email the town attorney to inquire about how to rescind the Preferred Sites Letter and whether the town might incur legal liability for doing so.
15. It is unclear to us whether the RPC will contact NST to defend their project plan.

16. We feel, based on the comments we heard at the meeting that the RPC may ultimately rescind the preferred Sites Letter. We have transcribed some of these comments from the audio recording:
- a. RPC Chairman Holt: "There are definitely slopes greater than 25%, probably much greater than 25%" [0:23:00 in the audio recording made by the town]
  - b. RPC Member Hooper or Walters (?): "It seems to me we need to rescind the letter" [0:37:49 in the audio recording made by the town]
  - c. RPC Member Armstrong: "Well I'm not quite ready to rescind the letter. I think before you rescind the letter I think its upon them to prove to us so they can easily do that by hiring a surveyor and going in there and getting the appropriate information that we can review" [0:37:52 in the audio recording made by the town]
  - d. RPC Member Hooper: "Why don't we just do the real thing we should have done in the beginning and rescind it and make them come and get a surveyor make them provide proper data do proper methods" [0:39:34 in the audio recording made by the town]
  - e. RPC Chairman Holt: "I tend to agree with Perry we can say that it appears that they are in violation of the 25% requirement and unless you can prove otherwise we plan to rescind the letter of preferred site that was sent forward" RPC Member Armstrong: [continuing] Based on misrepresentation" [0:43:47 in the audio recording made by the town]
  - f. RPC Member Hooper: "so looking at the map it seems like roughly a quarter to a third of the array is on those steeper slopes"[0:46:18 in the audio recording made by the town]
  - g. RPC Member Walters: "this diagram [PUC Exhibit RDS MS-3] is their own document saying that section is in violation of what we're written and I don't remember going over this I don't remember hashing out any kind of discussion about this I don't remember this being presented. I feel like we've been hoodwinked by people who have a vested interest in not showing us certain [interrupted by RPC Chairman Holt]" [0:48:34 in the audio recording made by the town]
  - h. RPC Chairman Holt: "When they came to us in June to ask for support there was no question of steep slopes that came up and I find it hard to

believe they would intentionally try to deceive us" [0:48:57 in the audio recording made by the town]

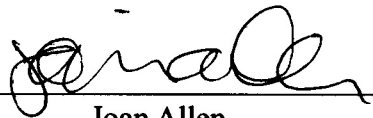
- i. RPC Member Hooper: "the fact of the matter is that there is a section of the proposed array that is outside the parameters of what we have written in our town plan. Am I understanding that correctly?" [0:50:00 in the audio recording made by the town]
- j. RPC Member Hooper: "Obviously this [slopes] was not a factor that was ever discussed [at the June PC meeting]... that's probably partially our fault for not knowing the text better and asking them questions, so we can take some responsibility for that. Norwich wasn't forthcoming with that" [0:56:16 in the audio recording made by the town]

-----end affidavit-----

I, Michael Binder and I, Joan Allen, do hereby swear and affirm under the penalty of law that the information provided in our affidavit is accurate to the best of our knowledge and that we have personal knowledge of, and are able to testify as to the validity of the information contained in our affidavit.



Michael Binder



Joan Allen

State of  
County of

The foregoing instrument was signed and acknowledged before me this 13 day of December 2021 at Randolph, VT by Michael Binder and Joan Allen who acknowledged this act to be their free act and deed.



Notary Public

Name of Notary: Nikol Ware

Commission Expires: 01/31/23

