

**** Release at Board of Selectmen Meeting January 25, 2016 ****

Testimony in Opposition
Nagog Pond Water Treatment Project – Town of Concord
January 25, 2016

My name is Carolyn Kiely. I live at 11 Parkland Lane in Acton – part of the Quail Ridge community. I am an environmental lawyer with significant local, state, and federal experience.

My comments are going to focus on:

1. Why the maps of this project are misleading and have resulted in town staff saying that this project can be approved, when it is contrary to your zoning regulations.
2. Why this Special Permit application is the incorrect method of permitting this project,
3. Why further archaeological study is needed, and protection of an archaeological resource located within the solar panel array needs protection, and
4. Why this project is wrong for Acton.

The Use Special Permit application before you defines the project as follows:

“... the Town of Concord is proposing to replace their existing ozone disinfection facility with a new state of the art water treatment plant. The new treatment plant will include state of the art treatment technologies ... The Town is also proposing a solar photovoltaic array accessory use.”

Presently, Concord does most of its water treatment down-stream. Only ozone disinfection takes place at the present building on the site. Concord's water supply customers receive perfectly fine water under the current system of water treatment. I should know – I was a customer of Concord's water when I was renting in Concord for six months before moving to Acton.

The present building contains 1,760 square feet. The new building will be 9,338 square feet – a 530% increase in size! Total lot coverage is increasing from 17,374 square feet to 47,526 square feet – a 275% increase. The proposed building will be two stories – vs. the one story, small structure presently at the site. And with the clear-cutting necessary for the solar array, the tree clearing will make the huge structure not only visible both on the Quail Ridge and Acorn Park side of Nagog Pond, but the building will also be visible across the pond. Additional details on the solar array portion of the project will be provided by Barry Elkin, also of Quail Ridge. And Robert Sekuler will also provide comments.

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I can NOT see the proposed project from my backyard. I am NOT her to make a NIMBY statement. However, I do feel strongly that this project is wrong for Acton, primarily because:

1. Concord has a policy of “no new water customers in Acton.” As such, no new water customers in Acton will get the benefit of this project.
2. No new electricity will be supplied directly to Acton through this project.
3. The work is proposed for a Zone A Water Supply Area, and there are significant restrictions on what can and can not be built in a Zone A Water Resource Area.
4. A significant archaeological finding was uncovered in 1994 that now falls within the solar array area. This site needs to be uncovered, protected, and a new archaeological study conducted on the separate parcel of land that was not studied in 1994, yet which is being developed under the proposal before you.

In terms of supporting any portion of this project, we support replacing the intake pipe only.

1.0 Why the Maps Are Misleading

Concord’s maps of this project are misleading. The address for this project is as follows: 180 and 182 Skyline Drive. Why is it two street numbers? Because it is two lots located right next to each other. This IS NOT one parcel of land.

The following are the two parcels of land involved here.

- The original parcel, which contains the dam, intake pipe and the present building, was acquired sometime between 1909 and 1914.
- The second parcel, which is totally open space at present, was acquired from the Palmer family in 2003.¹ This second parcel is where most of the solar array panels are proposed to be located.

The maps before you do not show you lot lines.

¹ Concord’s Feasibility Study for this project, which is posted on Acton’s Docu-Share web-site, incorrectly identifies the source of acquisition of this parcel in Table 1-1 on page 1-2. The table incorrectly identifies the land as being obtained by Concord in a “land swap with Acton for the purpose of constructing a water treatment facility.” This is incorrect. The deed clearly shows that the grantor is “Gloria W. Palmer,” and nowhere in the deed does it say that the land will be used to construct a water treatment facility.

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The map contained in is Concord's Feasibility Study for this project (Attachment A) shows the two lots that comprise this project. These lots are:

1. "Fourth Parcel" which contains the Nagog Pond Dam and the Town of Concord Ozone Facility, AND
2. Lot C4-32.

Why is it important that this is two lots, and not one lot? BECAUSE YOUR ZONING BYLAWS APPLICABLE HERE APPLY PER LOT. And your staff recommendations are therefore incorrect because the staff was applying the Acton zoning bylaws as if this project was being conducted on one parcel of land, which it is not.

It should also be noted that Concord's own Feasibility Study for this project, which is contained on your docu-share web-site, explicitly tells Concord that the issue of separate lots is important and must be addressed by Concord.

1.1 Zoning Bylaws Require Accessory Uses to Support the Principal Uses on the Same Lot

Concord claims that the solar panels are an "accessory use" of the project. Under your zoning guidelines regarding Accessory Uses for solar, section 3.8.4.10 specifies that the solar systems :

"primarily benefit and support the PRINCIPAL USE(S) on the same LOT."

HERE, WE HAVE A SOLAR ARRAY ON ONE LOT, AND A WATER TREATMENT FACILITY ON A DIFFERENT LOT. According to your bylaw, the solar array MUST serve a principal use ON THE SAME LOT for it to be an accessory use. It doesn't do that, and must be disallowed BECAUSE IT IS NOT AN ACCESSORY USE ON THIS LOT.

Concord's own feasibility study cautions Concord to be careful regarding uses of individual lots that comprise the entirety of this project. The Feasibility Study provides as follows:

"... a solar system that is accessory to the water treatment facility should be allowed **ON THE SAME LOT**,"²

"... it appears that Section 3.8 of the Acton Zoning By-Laws may allow a solar system as an 'accessory use' **ON THE SAME LOT** with the water supply principal use...,"³ and

"Further analysis would need to be performed to determine if adjoining

² Nagog Pond Watershed and Solar Feasibility Study, July 17, 2013 Draft, page 2-14.

³ Nagog Pond Watershed and Solar Feasibility Study, July 17, 2013 Draft, page 2-14.

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lots can be treated as 'the same lot' for these purposes."⁴

Concord has not shown you the individual lots that comprise this project because, if they did so, it would violate your zoning bylaws. And Concord has known since 2013 when the Feasibility Study was prepared for them that the solar panels needed to be included ON THE SAME LOT in order for them to be considered an "accessory use" in accordance with your zoning bylaws.

What you have here is the principal use of Lot C4-32 is a solar array. Do your Zoning rules allow Lot C4-32 to have as its principal use a solar array? NO. Barry Elkin will address this issue in his testimony.

Unfortunately, because this project was presented with one map that did not identify lot lines, your Planning Department staff believed that this was one lot. That is why your staff indicates in its memorandum that, under ZBL section 3.8.4.10, the solar panels are "a by-right accessory use to any principal land use." However, since the solar array is located on a separate lot, it is not accessory under your bylaws and must be denied.

1.2 State Application of Article 97 of the Massachusetts Constitution By Lot

This project requires Certification under MEPA – the Massachusetts Environmental Policy Act. The MEPA Certification is to be issued after preparation of these comments. Therefore, my public comments will address the state determination under MEPA for this project.

As to the issue of this project being conducted on individual lots, the issue for MEPA is whether Article 97 of the Massachusetts Constitution applies. Article 97 does not allow "public lands" to be used for any other purpose without:

1. A two-thirds vote of town meeting,
2. A two-thirds vote of the legislature, and
3. Compliance with any restrictions on future uses of a parcel that are contained in the sources of funding of the individual properties.

Concord's own consultants in their Feasibility Study explicitly indicated that Article 97 applies to this entire project, and to both lots. To date, Concord has chosen to disregard the recommendation of its own consultant as to the application of Article 97, and has not undertaken the state-mandated process. We argued to the state that both parcels must go through the Article 97 process, just as Concord's own consultants recommended. Parcel C4-32 because this process converts forested open space to a solar panel array. This site is presently undeveloped, and adding anything to it is a change in use. And the "Fourth Parcel" because it is a change in

⁴ Nagog Pond Watershed and Solar Feasibility Study, July 17, 2013 Draft, page 2-14.

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use from an ozone disinfection facility to a full-scale water treatment plant involving eight different chemical processes.

You must note that Concord, in its special permit application, states that “there is no change in the principal use of the site (the treatment of public drinking water). There is a new accessory use: solar photovoltaic array.” This is incorrect. As to Lot C4-32, the change in use is going from vacant forested open space to a solar array as a principal use. As to the “Fourth lot,” the use is changing from an ozone disinfection facility into a full scale water treatment plant. This section of the application before you must be changed by Concord to accurately reflect the project, and the individual parcels that comprise the project.

We are still waiting for the state’s determination regarding the application of Article 97 to this project.

1.3 DEP Guideline for Solar Project to Power Water Systems

Concord will be arguing that they are authorized to install a solar array on this land because of DEP’s Guideline for Proposed Wind and Solar Energy Projects on Lands Owned or Controlled By Public Water Systems for Drinking Water Purposes. However, this guideline (which is INCLUDED in the Feasibility Study) clearly states that reasonable municipal rules still apply. The exact language in the guideline is as follows: “Note: The public water supplier may need to seek additional approvals from other entities and/or MassDEP, including, but not limited to, **municipal approval**, legislative approval pursuant to Article 97, and MEPA approval...”⁵ Therefore, Concord must comply with BOTH this DEP Guideline AND Acton’s zoning bylaws. The zoning bylaws can not be ignored even with compliance with this DEP guideline for solar power on drinking water supply lands.

2.0 Concord Needs to Amend the Original Variance From the Board of Appeals

The building is presently at the site because of the following:

- A variance granted by the Board of Appeals for a “drinking water disinfection facility.”
- A Site Plan Special Permit granted by the Board of Selectmen
- A Special Use Permit granted by the Board of Selectmen, and
- A Flood Plain Special Permit issued by the Selectmen.

In this instance, Concord is seeking to totally bypass the Variance process. However, without the Variance, this building could not be here. The Variance was needed because the ozone building exceeded the authority under Acton’s Zoning rules. To

⁵ The Nagog Pond Watershed and Solar Feasibility Study (July 17, 2013), Attachment C.

expand the facility, the proper method for permitting this process is to amend the original Variance issued by the Board of Appeals. That has not been done here, and needs to be done.

There is caselaw regarding this.⁶ Under the caselaw, the court concludes as follows: “we do not think the Legislature intended in G.L. c. 40A, Section 6, to authorize the expansion of uses having their genesis in a variance pursuant to the more generous standard applicable to a special permit.” The cases indicate that “It would be anomalous if a variance, by its nature sparingly granted, functioned as a launching pad for expansion as a nonconforming use.” **So, under the law, a facility that is originally permitted via a variance must continue through the variance process, and it is not allowed for that same facility to receive its next permit through the site plan and use plan special permit processes only.** Town Counsel review of the caselaw and this proposal is therefore needed before you can legally act on this proposal.

It is my interpretation of the caselaw that, before you can act on the Special Permit requests, this proposal needs to go before the Board of Appeals to amend the variance issued for this facility. The requested variance needs to apply to both the proposed building and the proposed solar array because both are expanded uses of the originally-permitted ozone disinfection facility.

It should also be noted that, under G.L. C 40A, Section 11, variances and special permits, to be valid, need to be recorded in the registry of deeds. Copies of the 1994 variance and the 1994 Site Plan Special Permit contained in the application before you do not bear Registry recording information. If Concord did not record the variance and special permits, then they may not be legally effective. Town Counsel should also look at this.

3.0 Archeological Implications From This Project

Concord’s supplemental materials posted on January 11th contain an Archeological Study performed in 1994 at the time the original ozone building was being permitted. This study finds that “a single historic quarry pit was documented outside the project area.” The pit “was identified, located east of the proposed disinfection facility and south of the proposed access road.” (Attachment B)

“EAST” AND “SOUTH” OF THE DISINFECTION FACILITY PLACES THAT HISTORIC PIT SQUARELY IN THE MIDDLE OF THE PROPOSED SOLAR ARRAY (Attachment B). The 1994 archeological study needs to be reexamined, the location of the historic structure located, and efforts need to be taken to ensure that this historic structure is not harmed by this proposed project.

⁶ Case: Cesar A. Mendes vs. Board of Appeals of Barnstable & Others, 28 Mass. App. Ct. 527 (January 11-1990 – April 17, 1990), references other applicable cases.

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In addition, the parcel where the majority of the solar panels are proposed to be located has not undergone an archaeology study because Concord did not own that land until 2003. Under Massachusetts law (MGL Ch 9, Sections 26-27), projects that receive state or federal permits (which this project does) **MUST** be reviewed by the Massachusetts Historical Commission for impacts to historical and archaeological resources. It should be noted that Concord, in its Environmental Notification Form (ENF) to the state, indicated that there are no archaeological issues associated with this project. However, based on Concord's own 1994 report, we know that there is one significant archaeological site on the property, and the newly acquired property was never assessed for archaeological significance. It is likely that, since several archaeological sites exist within the general area of the activity, that additional sites could possibly be found within the newly acquired parcel.⁷ Before any construction or clear-cutting of trees is performed, at a minimum the following needs to occur:

- a. The site of the historic quarry pit that was identified in 1994 needs to be identified,
- b. A plan needs to be provided to protect that site,
- c. No solar panels can be placed around the site,
- d. A complete archaeological study needs to be conducted on the land acquired from the Palmer family in 2003,
- e. The new archaeological study needs to be reviewed and approved by the state, and
- f. The ENF filed with the state needs to be modified to indicate that compliance with the Massachusetts Historical Commission needs to be achieved.

4.0 Why This Project is Wrong for Acton

4.1. No Benefits of Water or Electricity to Acton From This Project

Concord states that the beneficiaries of this project are the 70 businesses and homes along Great Road in Acton who are served by Concord's water. However, these 70 customers are **EXISTING** customers. And these 70 customers comprise less than 1%

⁷ Concord will argue that the 1994 archaeological report concludes that "no further investigations are recommended." That "no further investigation" recommendation was made based on the Scope of Work (SOW) of the 1994 investigation. The only areas studied in 1994 included (1) the defined proposed disinfection facility site, and (2) the defined proposed access road. No further areas were archaeologically studied. Therefore, the "no further investigations are recommended" recommendation in 1994 is inapplicable in 2016 because (a) a significantly larger, and more intrusive, area is proposed to be impacted from this proposal, (b) there is an additional lot impacted that wasn't owned by Concord in 1994, and (c) the area where the 1994 study uncovered a historical structure is immediately impacted because it is in the middle of the solar panel array proposed by this project, which Concord does not identify in its maps as a structure to be protected.

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of the water supply customers in Acton. These 70 customers will continue to get their water from Concord with or without this project.

What Concord has neglected to tell you is that they have a policy with regard to providing water to additional Acton customers. That policy is as follows – and I quote: **“No new customers in Acton.”** Acton’s Water District staff provided this information to me. Let me quote you the staffer’s exact words:

“...Concord water service in Acton, this has been happening for a long time. The latest connection in Acton was a fire service provided to a condominium/apartment building in the past year or so. Prior to that, the early 2000’s was **the last new connection** when the Trader Joe’s/Staples plaza was built. **Since then, it has been Concord’s policy not to take on new customers in Acton.**”

Acton is being rushed into approving this project, when absolutely no additional water customers in Acton are contemplated. You must look out for the best interests of the environment and the citizens of Acton.

Barry Elkin will address the lack of electricity from this project to Acton in his testimony.

4.2 Massachusetts Regulations for Water Supply Protection Areas:

Concord’s maps show a 400’ “arc” running through the middle of this project (Attachment C). The land inside of this 400’ area is a Surface Water Supply Protection Area, which is regulated by the state. These areas establish buffers around public water supply sources to control uses that might contaminate them.

Nagog Pond is a surface water source that is characterized as “Zone A.” Zone A lands require extra protection under the law. As proposed, the entirety of the proposed building and as much as 50% of the proposed solar array falls within 400 feet of Nagog Pond.

Concord expressly recognizes this 400’ zone of protection in its Environmental Notification Form to the state when it provides as follows: With regard to their Watershed Resource Protection Plan proposed for the project, it states that “The Protection Plan ... does include the **reduced development requirements** for lands within 400’ of a surface water source.”⁸ The 400’ “arc of protection” is clearly marked on the maps before you. I disagree with Concord’s assertion that they have met these reduced development requirements for the following reason: The state requirements for Watershed Protection in areas within 400’ of a surface water source **apply to individual lots**. Concord’s own Nagog Pond Watershed & Solar

⁸ Source: Environmental Notification Form, Page 7.

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Feasibility Study states as follows: **“Further analysis would need to be performed to determine if adjoining lots can be treated as “the same lot” for these purposes.”** Concord has not met the requirements for reduced development in each of the individual lots that comprise this project. Additional information and analysis is necessary in order to determine that reduced development sufficient to protect the watershed **on each lot** is included.

Taking the solar panels outside of the 400’ arc may result in reduced economic benefit to Concord from the smaller array, and would appear to require the panels to be located entirely outside of the 400’ arc and solely within the backyards of Quail Ridge residents. However, Barry Elkin will present the arguments regarding why the panels are not allowed to be located close to the back of homes, and must be moved away. **If the panels are not allowed to be located within the 400’ arc of a water supply protection area, and they are not allowed under Acton’s zoning bylaws to be located close to the backyards of homes, then the panels can not be sited on this property.**

5.0 Conclusion

In conclusion, I urge you to:

1. Require this project to go through the Variance process before the Board of Appeals to amend the Variance that presently exists for the site,
2. Disallow the use of the solar panel array as an “accessory use” because it is on a separate lot from the water treatment plant, and therefore does not fit the definition of “accessory use” under your zoning bylaws,
3. Further study the archaeological history of this site, and protect the existing archaeological find that sits in the middle of the solar array, and
4. Ensure that the citizens and environment of Acton are protected from this project.

Thank you.

Sincerely,

Carolyn M .Kiely, Esq.

Attachment A: Nagog Pond Watershed & Solar Feasibility Study, July 17, 2013,
Figure 1: Concord Owned Watershed Parcels Map

Attachment B: An Archaeological Site Locational Survey for the Water Disinfection System, Acton, Massachusetts, Figure 5, Survey Unit 2 (STPS 11-17)

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Attachment C: Site Plan Special Permit map

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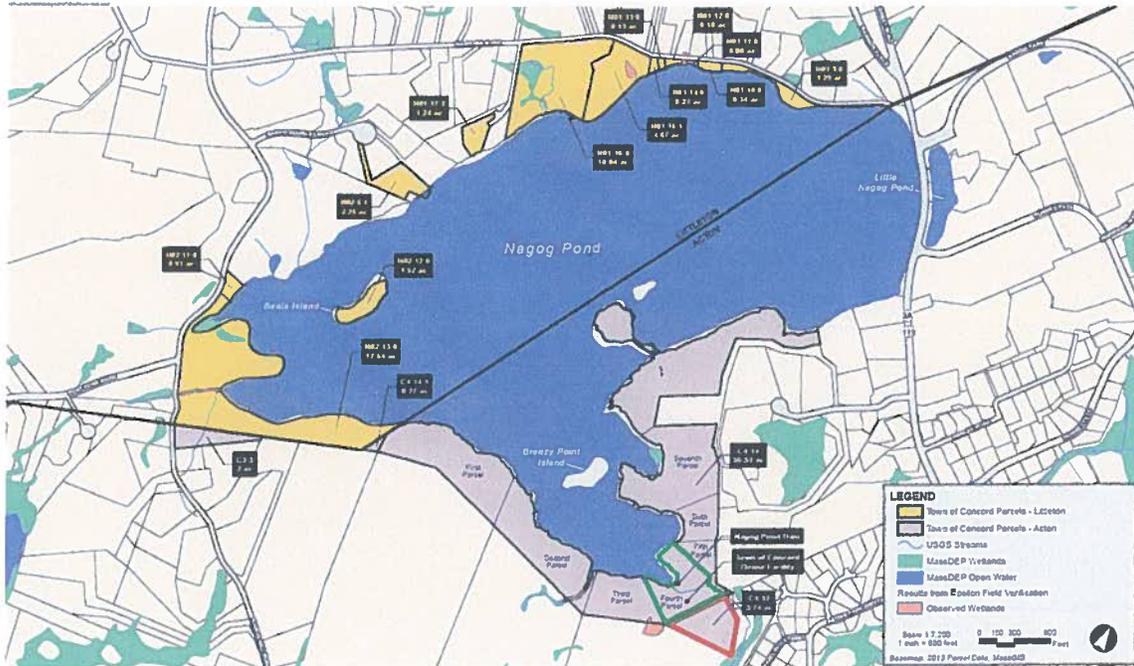


Figure 1 Concord Owned Watershed Parcels Map

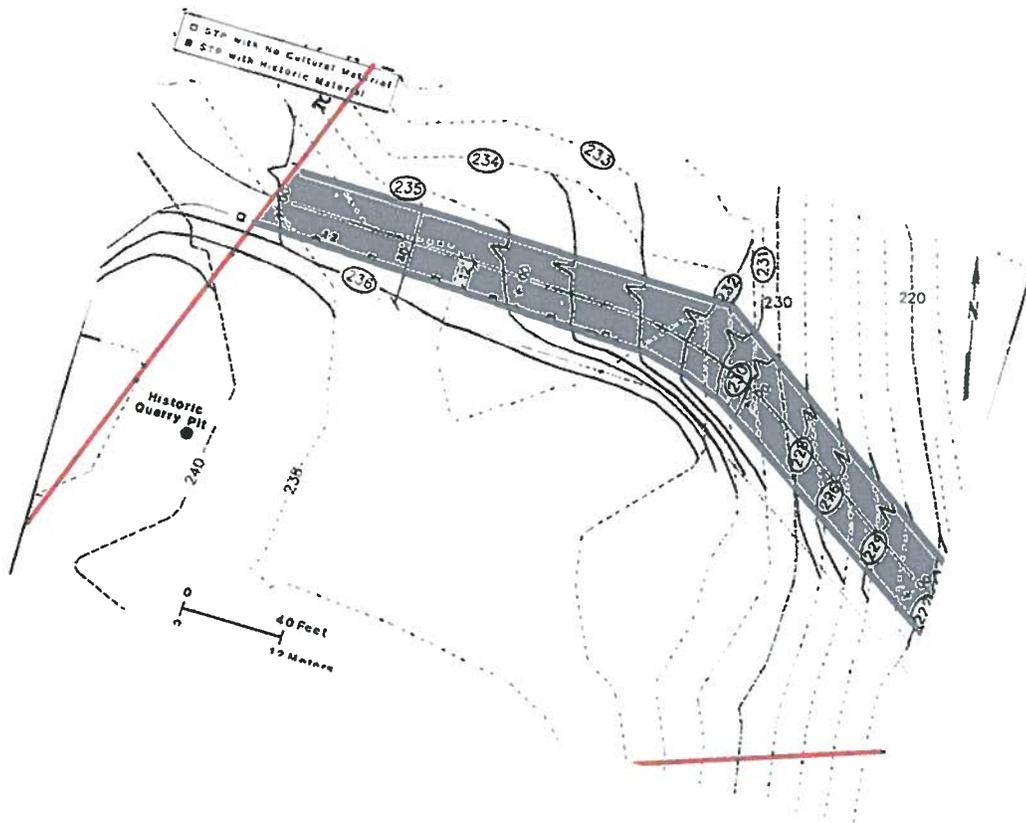


Figure 2 Archaeological Site Locational Survey for the Water Disinfection System, Acton

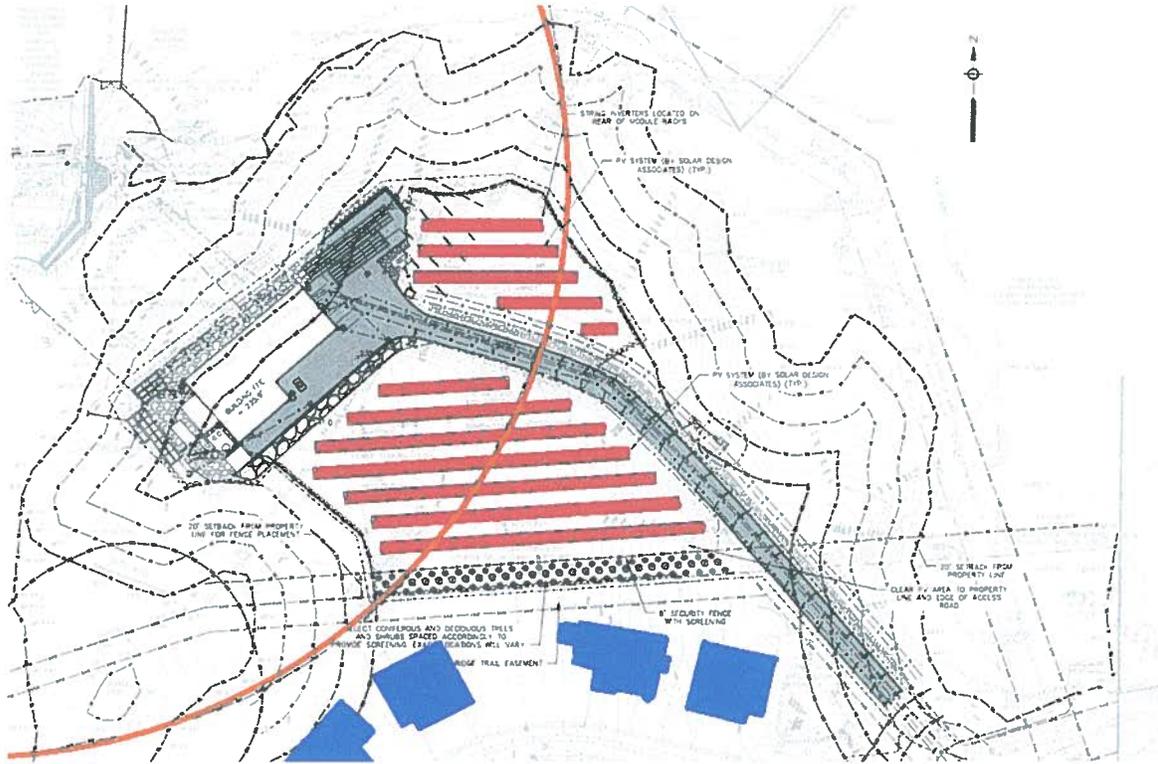


Figure 3 Site Plan Special Permit map

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Carolyn Kiely
Testimony Addendum

This statement augments the formal statement already prepared regarding the Town of Concord's Proposed Nagog Pond Water Treatment Project. In order to understand my testimony, background needs to be provided.

First, Concord initial Special Permit Application included a map showing all of the solar panels sited to the right of the access road. (original map attached). All of the solar panels in Concord's original Special Permit Application were sited on the same lot as the proposed water treatment plant. As such, the solar panels were described by Concord as "accessory" under the Acton Zoning Bylaw 3.8.4.10.

However, while this proposal was going through review by Acton's Conservation Commission, the Town of Concord revised its drawings and changed the location of the solar panel array (new map attached). The new plan places the solar panels **primarily on a separate lot** from the proposed water treatment plant.

Under the new proposal, the solar panels are no longer accessory to the treatment plant. The solar panels that are located on a separate lot are **primary** to that lot -- not accessory. **But Concord did not amend the wording of the Special Permit Application before you to address the primary nature of the solar panels on the second lot.**

Therefore, the Special Permit Application discusses the original plan. The new plan is not addressed in the Special Permit Application before the Selectmen. The bylaws quoted, and assertion that the solar panels are "accessory" to the project, refer to the original plan. Because there are now two lots involved, and the solar panels are not accessory to the project, there is a disconnect between the justification contained in the Special Permit Application and the new plan before you.

The text of the Special Permit Application before the Board of Selectmen needs to be revised to specifically address the new plan that the Board of Selectmen is being asked to approve through the Special Permit process.

Attachments:

1. Original Plan Provided with the Special Permit Application
2. Revised Plan Provided for the Special Permit Application

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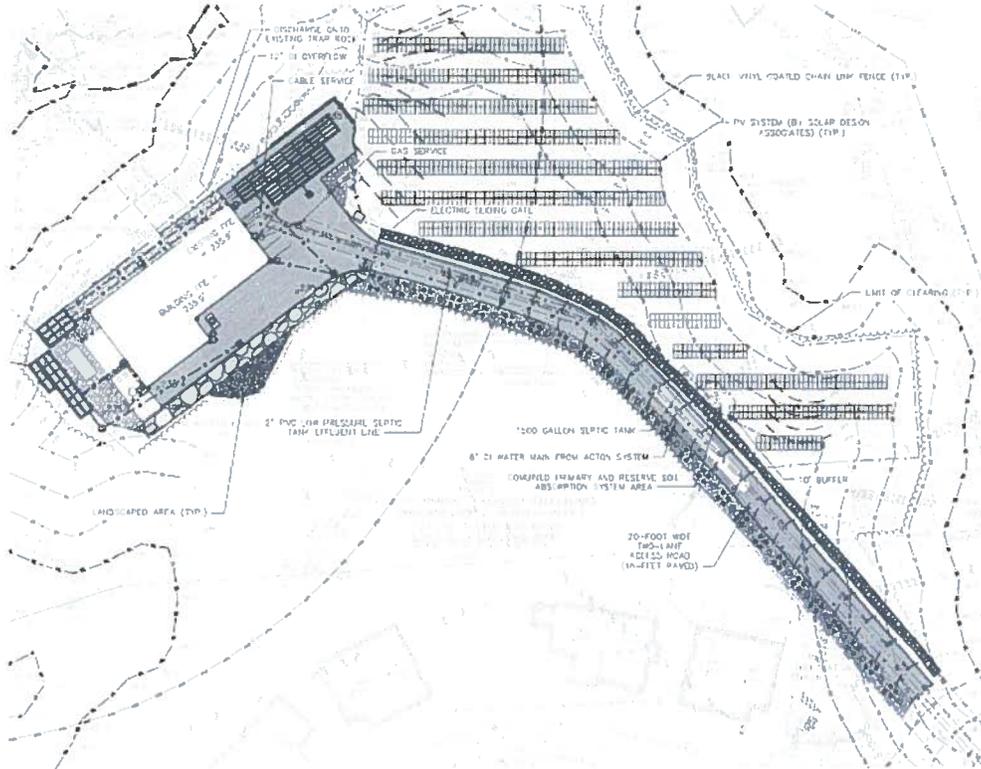


Figure 1 Original Plan - One Lot

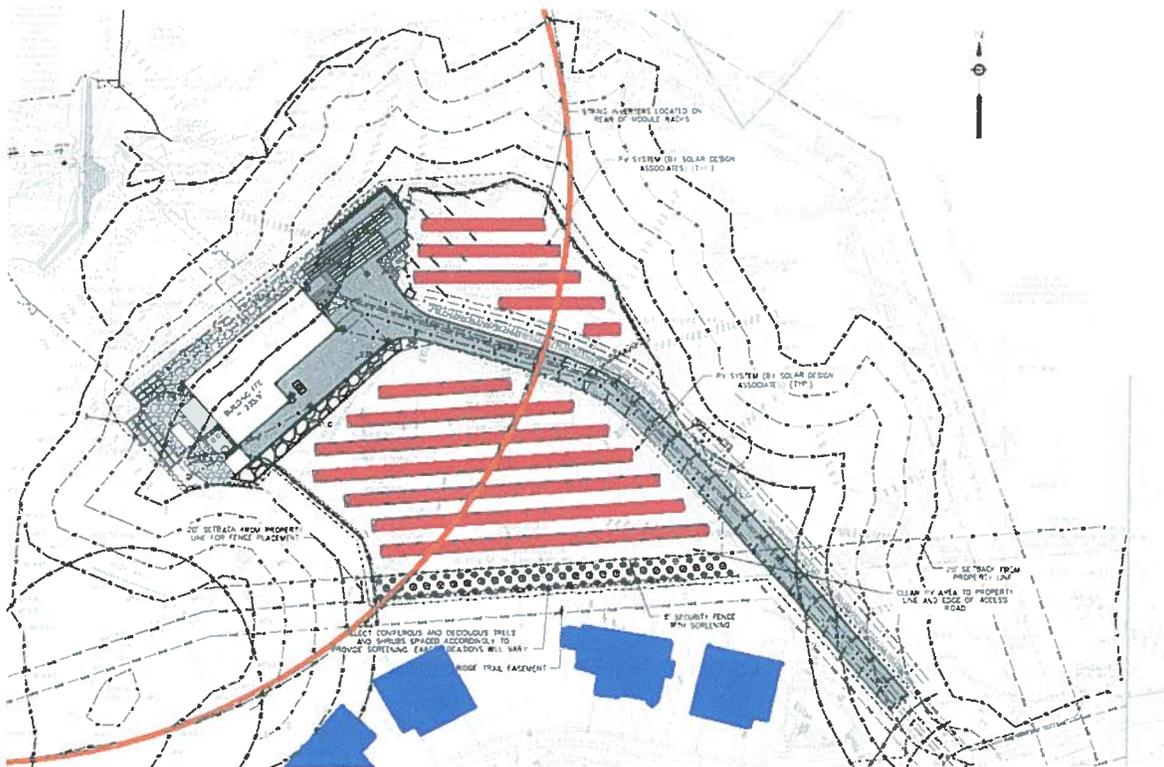


Figure 2 - Revised Plan - Two Lots

Testimony in Opposition
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January 25, 2016

My name is Barry Elkin, and I live at 57 Skyline Drive in Acton. I am going to do something I never thought I would be doing – speaking out against the installation of solar panels. Specifically the solar panel array proposed to be installed on Skyline Drive at Nagog Pond by the Town of Concord. After all, solar panels are good for the environment, and help lessen our dependence on fossil fuels. So why am I doing this. To set the record straight, this is not a NIMBY, or Not in My Backyard argument. I live over ½ mile from the proposed installation. It doesn't impact me in the least. My argument is based upon the application of subjective values, as well as the application of objective regulatory requirements.

Let's start with the subjective arguments. To do this we need a set of criteria to determine if the proposed Skyline Drive location is a reasonable one to place solar panels. Reasonable people can disagree over the definition of satisfactory location, so I am going to make this easy. I will defer totally to the Town of Concord, and use their principles for determining when a location is not satisfactory for location of solar panels. That eliminates a lot of unnecessary debate.

In 2011, The Town of Concord Board of Selectmen established and charged a Solar Siting Committee to identify and evaluate land for the purpose of hosting ground-based solar arrays within the Town of Concord. In a well written, and thoroughly thought out 118 page report dated October, 2011, the Town of Concord's own committee defined the criteria used for solar panel site selection within the Town of Concord. According to that report¹, some of the reasons to define a site as "Unacceptable" include:

- **Present or potential use for agriculture, forestry, recreation, or conservation land clearly outweighs value of solar site.**
- **Site is forested and it is unlikely to be acceptable to cut trees; or major impact on other vegetation.**
- **Site is critical for wildlife.**
- **Solar array on site would have potentially adverse impact on neighboring town(s).**
- **Site judged to have adverse impact on neighbors if used as solar site**

The property at Nagog Pond meets every one of the above reasons the Town of Concord Siting Committee defines as being "Unacceptable" for use for a solar panel array. What logic justifies a Town of Concord Selectmen appointed committee defining unacceptable one way in Concord, and the Concord DPW another way in Acton?

¹ Concord Solar Siting Committee Report, October 2011, pages 5 - 11

During an Acton Conservation Commission hearing held on December 2, 2015, when asked if the solar panel array was designed to meet the needs of the water treatment facility only, or if it was sized to meet any other needs, the Town of Concord responded to the former – meeting the needs of the facility only. However; later in that same hearing, when asked by the Commission why the array could not be located elsewhere (such as within the boundaries of the Town of Concord), they responded that the array needed to be located in “Eversource territory” so that excess power could be sold to Eversource. Two obviously inconsistent statements. During a subsequent discussion I asked a member of the Concord proposal team about this, and he responded that sometimes things are said at meetings that are not completely thought out, and may not be correct. I see it differently. The statement made in the hearing is a “spontaneous utterance”, essentially an unintended statement that sheds light on the truth.

The basis for the inconsistency is most likely in the definition of how much power is needed by the facility. This is where engineering sleight of hand comes into play. At any point in time, the plant may be running at full capacity – every motor operating, every pump churning, every light turned on. During that period the solar panels may in fact not be up to the task of providing enough power for everything that’s operating. Having said that, there are other times when there may be less taking place – not everything operating, and significantly less power being consumed. It’s during those less strenuous times that excess power is available for sale to Eversource.

Solar panels can be placed anyplace, and have a positive environmental impact, offsetting the energy to be used at the Concord Water Treatment Plant. The Town of Concord will make it sound complicated, talking about things like “access points”, at least they tried to do that with me. But it is really very simple. If the Water Treatment Plant consumes X amount of electricity, and solar panels built anyplace else provide X amount of electricity, then the net environmental impact is zero. What Concord loses by placing the plant someplace else, perhaps in Concord, is the ability to sell power to Eversource. So this is absolutely and totally an economic issue, not an engineering or environmental matter.

Now for the more objective legal reason to forbid construction of the proposed solar panel array. It violates the Town of Acton Zoning Bylaws.

The Acton Zoning By-Law defines two categories of solar panel arrays, “Neighborhood” and “Industrial”.² A neighborhood array is prohibited from being more than one acre in size, and is primarily designed to benefit the energy needs of uses in the immediately surrounding area or neighborhood. An industrial array must be primarily designed to benefit all energy users regardless of location or vicinity to the installation.

Although primarily designed to benefit the energy needs of uses in the immediately surrounding area, the proposed solar array is significantly larger than one acre in size. The Zoning By-Law specifically states that size is determined by the total area of the vertical projection on the ground of all panels in the installation’s most horizontal tilt position and shall include all spaces between the panels³. Essentially, the entire area that the panels occupy – in this case at least 62,454 square feet⁴.

² Acton Zoning By-Law Section 3.6.5 and 3.6.6

³ Ibid.

⁴ Drawing C-9S attached to letter to Mr. Terry Maitland Acton Conservation Commission from Mr. Stephen Olson, Environmental Partners Group dated December 22, 2015

The proposed solar array does not fit the industrial category because it is not primarily designed to benefit all energy users regardless of location or vicinity to the installation. The operative word here is primarily. Concord defines the solar array as “an accessory solar photovoltaic (PV) array field to power the new facility”.⁵ The Nagog Pond Watershed and Solar Feasibility Study, calls the solar panels an “accessory to the water treatment facility.”⁶ So what we have is Concord defining their own new category – a neighborhood ground mounted solar array that is larger than one acre. Complete disregard for the Acton Zoning By-Laws.

But there’s more. Town of Acton Zoning Bylaws, clearly state “Not more than 1 acre of land shall be deforested for any one Ground-Mounted Industrial Solar Photovoltaic Installation”⁷. Engineering drawings submitted by Environmental Partners on behalf of Concord, specify that the total photovoltaic surface array will be 62,454 square feet⁸, all on current woodland. An acre is 43,560 square feet. That means that the amount of deforestation required exceeds Acton Zoning By-Law by almost 19,000 square feet, and that’s without any collateral deforestation needed to be done to provide a clear view of the sun.

The Town of Concord will argue that prohibiting the solar panels violates Massachusetts state law, specifically Part 1 Title VII Chapter 40A Section 3, which states “No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare”. Unfortunately the words “unreasonably regulate” is not defined. However, the Commonwealth of Massachusetts Department of Energy Resources of the Massachusetts Executive Office of Energy and Environmental Affairs published a document titled “Model Zoning for the Regulation of Solar Energy Systems”. This document opens by stating, “This model zoning and accompanying Guidance were prepared to assist Massachusetts cities and towns in establishing reasonable standards to facilitate development of solar energy systems.”⁹

With regards to land clearing, the Model Zoning Guide states, “Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of solar energy system or otherwise prescribed by applicable laws, regulations, and bylaws/ordinances.”¹⁰ Thereby providing a clear model for the existing Acton zoning Bylaw that provides for restriction on woodland clearing. Commentary included in the Model Zoning Guide states “DOER strongly discourages locations that result in significant loss of land and natural resources, including farm and forest land, and encourages rooftop siting, as well as locations in industrial and commercial districts, or on vacant, disturbed land. Significant tree cutting is problematic because of the important water management, cooling, and climate benefits trees provide.”¹¹

⁵ Letter from Mr. Stephen Olsen, Environmental Partners Group to Mr. Roland Bartl dated November 20, 2015.

⁶ Nagog Pond Watershed and Solar Feasibility Study Prepared by Environmental Partners Group, July 17, 2013 Page 25.

⁷ Acton Zoning By-Laws Section 3.11.3.7

⁸ Drawing C-9S attached to letter to Mr. Terry Maitland Acton Conservation Commission from Mr. Stephen Olson, Environmental Partners Group dated December 22, 2015

⁹ Model Zoning for Regulating Solar Energy Systems Department of Energy Resources Massachusetts Executive Office of Energy and Environmental Affairs December 2014 Page 1

¹⁰ Model Zoning for Regulating Solar Energy Systems Department of Energy Resources Massachusetts Executive Office of Energy and Environmental Affairs December 2014 Section 1.3.1.5

¹¹ Model Zoning for Regulating Solar Energy Systems Department of Energy Resources Massachusetts Executive Office of Energy and Environmental Affairs December 2014 Page 5

The Town of Concord has accepted the recommended words in their entirety into their Zoning Bylaws, signifying their recognition of “applicable laws, regulations, and bylaws”.¹² In fact, the feasibility study prepared on behalf of Concord in support of this project states that towns may impose reasonable regulations.¹³

The “Nagog Pond Watershed and Solar Feasibility Study” prepared by Environmental Partners states “... “the typical arrangement for such projects in New England is an array of flat PV panels set at a fixed 20 to 30 degree angle above the horizontal, facing south to south-southwest.”¹⁴

The proposed solar array does not conform to the Acton Zoning Bylaw in other ways. The Bylaw requires “Landscaping or architectural screening shall be provided to reduce the visual impact of installations and specifically to protect nearby receptors from danger, harm, or nuisance that may result from reflective solar glare of photovoltaic panels. Where necessary, panels shall be oriented or tilted in a manner to prevent such glare upon receptors.”¹⁵ As noted above, the panels will be oriented to face towards the south and southwest. This means they will be facing directly towards a number of two and three story homes. The Town of Concord has stated that the panels will be placed approximately 45 feet from the line separating their property from the land the homes sit on. The homes are only approximately 40 feet from that same property line. That means the southern border of the panels will be located less than 100 feet from the homes. The Town of Concord has not demonstrated how those homes, including upper floors, will be protected from solar glare.

The By-Laws also states “In the case of a Residential District location, the visual impact of the installation on its immediate abutters and on the nearby neighborhood has been effectively neutralized through appropriate designs, landscaping, or structural screening”¹⁶. The Town of Concord has presented few if any details regarding their plans to address these requirements. The only landscaping that is proposed is a sliver of trees located at the boundary between the homes in quail Ridge and the solar panels. Concord’s plan states: “select coniferous and deciduous trees and shrubs spaced accordingly to provide screening. Exact locations will vary.” A detailed landscaping plan is needed, including identifying tree heights. Any screening needs to totally block the view of the panels from the homes, even if this interferes with the efficacy of the solar panels.

Based upon the information I am providing today this Board has no choice but to deny the proposal made by the Town of Concord for the following reasons:

- 1) The Town of Concord has proposed construction of a neighborhood photovoltaic array greater than one (1) acre in size in violation of Acton Zoning By-Laws.
- 2) The Town of Concord is proposing violating the requirements of Acton’s Zoning Bylaw by deforesting more than one acre.

¹² Zoning Bylaw Town of Concord dated May 2014 Section 7.9.6.2

¹³ Nagog Pond Watershed and Solar Feasibility Study Prepared by Environmental Partners Group July 17, 2013 Page 25.

¹⁴ Ibid Page 3-1.

¹⁵ Acton Zoning By-Laws Section 3.11.3.2

¹⁶ Ibid Section 3.11.4.2

- 3) There are no plans for the protection of the two and three story homes on Skyline Drive to meet the requirements of Acton Zoning Bylaw with regards to solar glare.
- 4) There are no well-defined plans to meet the requirements for Acton Zoning Bylaw with regards to mitigation of visual impact?

The previously mentioned Town of Concord Solar Siting Committee report states: "The Town of Concord and the Concord–Carlisle Regional School District together own about 848 acres of land in Concord in 73 parcels that are not designated as conservation land and/or are not protected by deed restrictions or other legal instruments. The Committee limited its focus to sites that could support at least one megawatt of power—i.e., at least five acres—to minimize the overhead cost of developing and operating the solar arrays. Of the remaining available sites, the Solar Siting Committee has identified six as being suitable for hosting ground based or utility-scale solar power systems and as worthy of further discussion and evaluation by Town government and residents. Together, these sites could accommodate approximately 12–19 megawatts of photovoltaic solar arrays. The Committee has also identified an additional three sites as suitable but for which legislative or regulatory hurdles exist."¹⁷

Perhaps it would be in all interests for Concord to consider one of the sites identified by their own committee, or to add capacity to one of their existing sites.

¹⁷ Concord Solar Siting Committee Report October 2011 Page V.

Testimony of Robert Sekuler
January 25, 2016

My name is Robert Sekuler. I live at 17 Parkland Lane in the Quail Ridge community.

I am submitting these comments on behalf of Quail Ridge and the concerned citizens of Acton.

Wildlife and Wildlife Habitat Impacts:

The solar array proposed by Concord was not under the jurisdiction of the Conservation Commission, and therefore the Conservation Commission did not address the impact of this project on wildlife and wildlife habitat. Therefore, addressing these important issues now falls under the jurisdiction of the Board of Selectmen.

There will be a direct impact on over an acre of forestland that will need to be clear-cut to facilitate placement of the solar panel array. Significant wildlife habitat presently exists within this area. Unfortunately the wildlife habitat in this area is thick due to the migration of wildlife from the adjacent area that was cleared to make way for a golf course, and now homes. This development caused the wildlife to retreat into this section of woods and it is their home.

It is important to note that wildlife that lives in forested areas is different from wildlife that lives in meadows. Forest animals are generally larger and prefer the cover of the trees and shrubs, while meadows primarily include smaller animals that can hide in the meadow grasses. Here, Concord is proposing to replace forestland with "meadow grasses" underneath solar panels. The forest habitat will be gone, forcing the wildlife that now lives there to seek new homes. Measures need to be taken to minimize this clear-cutting to protect the wildlife that is presently living there, and its habitat. The Conservation Commission unfortunately provided you with no guidance on how to do this. I believe that deforestation needs to be minimized and even eliminated to protect the wildlife and wildlife habitat at the project site.

Alternatives Analysis:

Concord presently treats its water downstream of the Nagog Ozone Disinfection Facility. Concord should consider expanding the facilities that presently treat the water downstream from Nagog Pond, and not expand the ozone facility in the

**** Release at Board of Selectmen Meeting January 25, 2016 ****

sensitive Nagog Pond watershed. Concord will tell you that they are under a mandate to improve their water treatment systems. But that mandate does not require them to install a new, full-service treatment plant at Nagog Pond. The treatment plant could be installed at any point downstream from the pond, and by doing so Concord would still be meeting the requirements for improving their water quality systems.

With regard to the solar panels, Concord told the state **that it only considered locations for the solar panels in “the entire Nagog Pond watershed.”**¹ Concord has solar panel locations in Concord, and the present closed Concord landfill has solar panel expansion capability. And, as you heard from Barry Elkin, Concord’s Solar Panel Siting Commission has identified other sites suitable for siting solar panels. So before you permit this project, please ensure that **Concord has fully evaluated alternative sites for project that are off-property. Neither the new large building, nor the solar array, need to be on these two parcels of land. The solar panels appropriately belong in Concord and not in Acton.**

Neither does Concord propose alternative sources of energy other than solar to power this plant. The plant can be run without solar power – the existing operations on the site are run without solar power. Concord needs to evaluate the alternatives to solar power for this project. The project can operate on power generated elsewhere, just as the current plant is operated from power generated elsewhere. Therefore the solar array at this location is not mandatory for the project. I urge you to delay issuing the special permit and require Concord to site the solar array and the building off-site and in Concord.

Stormwater Analysis:

A stormwater analysis is contained in the application before you. However, the stormwater management documents do not evaluate the stormwater impacts from the solar panels. In fact, the application alludes to the fact that the meadow seed mix that is proposed to be planted under the solar panels should take care of runoff. However, no calculations on runoff from solar panels are included in the stormwater analysis. That is serious omission.

We agree with the Acton Town Engineer who, in his report, indicated that “the applicant should address how stormwater runoff is being handled in this area” (i.e., the solar array). The stormwater portion of the site permit application needs to be modified and expanded to include the impacts of runoff from the solar panels. In addition, mitigation measures for solar panel runoff, and alternatives to the solar array to prevent runoff, need to be evaluated.

¹ Source: Environmental Notification Form (ENF) filed with the state, alternatives analysis section

Skyline Drive is a Private Road:

The street address for the project is Skyline Drive. Skyline Drive is a private road. Therefore, no trucks and/or staff accessing the facility can drive through Skyline Drive. So the entire burden of transportation to and from this project is through the Acorn Park development, which is problematic.

Quail Ridge is unable to post "private road" signs at the entry to Skyline Drive at the intersection with Great Road because the public must be able to access both the Palmer Kennel and the Quail Ridge Golf Club. If the Selectmen approve this project, we urge you to:

- Include language expressly prohibiting any access to the facility over the private Skyline Drive as it winds through the entirety of the Quail Ridge development, including at the entrance where the kennel and golf course are located.
- Create rules for traffic – including such things as hours during which trucks are allowed access to the facility, etc.
- Identify an Acton employee whom the public could contact with notice of violations of the transportation rules.

Septic Issue:

It should be noted that an approval for the proposed septic system and leach field will be needed from the Acton Board of Health. That requirement is not noted in the List of Municipal, State and Federal Permit Requirements contained in Attachment E to the Special Permit Application. The residents at Quail Ridge oppose further clear-cutting of trees for this project, including tree cutting that would be needed for the septic system location. Any special permit must require that tree cutting anywhere on the two properties be minimized, and also expressly require that Concord obtain Acton Board of Health approval for its septic system that minimizes the cutting of trees.

Building Aesthetics:

The exterior of the water treatment building is not described anywhere in the special permit application before you. The present building has an ugly cinder-block exterior that is in no way compatible with the history of Acton or Concord, and is a blight on the neighborhood. It is presently shielded from view and is not visible to abutters. However, the newly proposed water treatment plant is so large that it will be quite visible along the Nagog Pond shoreline and to abutters. At a minimum,

**** Release at Board of Selectmen Meeting January 25, 2016 ****

the exterior of the building should be brick, with no cinder block or metal wall panels, consistent with the history of the area.

I urge you to specify, in the special permit (if one is issued), that an Architectural Advisory Panel be convened to review the architectural drawings and to be able to determine the exterior aesthetics of the newly proposed building. It is imperative that a majority of the members of the Architectural Advisory Panel be local abutters to the project. Acton does have a Design Review Board who has initially reviewed the preliminary plans for the project. A member of the Design Review Board could be a member of the Architectural Advisory Panel.

Sounds Emanating From the Facility

Despite Concord's assertions that there will be no sounds coming from the proposed water treatment facility, residents are still concerned that the large number of processes being undertaken at the facility will in fact emit noise that will be bothersome to the neighborhood. We urge you to require, in any special permit that is issued, a sound emissions analysis (including modeling) to ensure that nearby residents can not hear the facility. We urge you to specify in the permit that "no sound" can be allowed to be issued from the facility. Meeting "code levels" for sound is unacceptable – we want no sound to be audible from the facility. Testing should be at night, when background noise is minimized, to ensure that the facility will not emit sounds that could disturb the sleep of nearby residents. In addition, we ask that Acton designate a town employee who could be notified in case of noise violations.

Conclusion:

In conclusion, this is a large project that will have significant impact on the local community, as well as the environment. We urge you to proceed slowly and fully evaluate all of the issues associated with this project. Issuing a speedy decision on this project will only benefit Concord and harm the citizens and the environment of Acton.

Sincerely,

Robert Sekuler

Lisa Tomyl

From: Rebecca Oddsund <rebecca@oddsund.com>
Sent: Thursday, January 21, 2016 11:26 AM
To: Board of Selectmen
Subject: Concord water project

Dear Board of Selectmen,

Please do not approve Concord's proposal at Nagog Pond. The plan has no benefits for the town of Acton and would mar one of town's treasured natural resources. I hope to attend the meeting on the 25th to voice my concern in person. But if I cannot attend, please know that I and many of my neighbors strongly oppose this plan.

Thank you,

Rebecca Oddsund

Rebecca Seel Oddsund
2 Abel Jones Place
Acton, MA 01720 USA
rebecca@oddsund.com

Lisa Tomyl

From: David <daspotts@msn.com>
Sent: Monday, January 18, 2016 7:40 AM
To: Board of Selectmen
Subject: Oppose Concord Nagog Pond Project

To the Acton Board of Selectmen:

I urge you to oppose the Nagog Pond Project that is being proposed for the Town of Acton. Concord has a policy of "no new customers in Acton," yet they want to expand their facility in Acton and destroy the environment and vista of the Nagog Pond watershed. The clear-cutting of trees that will be required to install the solar array is outside the bounds of Acton's zoning bylaws and should not be allowed, especially since it is in the backyards of Acton residents. This project belongs in Concord and not in Acton.

Sincerely,

David Spotts
978-287-4808

David Spotts, 11 Parkland Lane, Acton, MA 01720

Lisa Tomyl

From: rsekuler <sekuler@brandeis.edu>
Sent: Sunday, January 17, 2016 10:22 PM
To: Board of Selectmen
Subject: Concord's Proposed Water Treatment Plant

To members of Acton's Board of Selectmen:

My understanding is that in the 1880's or 1890's, the Massachusetts Legislature granted Concord the use of water from Nagog Pond. I ask that we imagine how the Legislature would respond TODAY if Concord approached it with that same request de novo.

I don't know what the legislative record shows, but it seems to me that in making its decision, the Legislature might have taken account of the two towns' population sizes. According to the 1900 US Census, Concord's population was more than twice Acton's (5,672 vs. 2,120). So the idea of diverting Nagog Pond water to Concord in 1900 probably seemed like not a big deal (for just 5,672 people), and not an unfair arrangement (taking water from the far smaller town to allow the larger town to have it). OK. But today's conditions are far different. According to the 2010 Census, Concord's population was 17,688, while Acton's was 21,924. I think that what might have seemed like not a big deal in 1880 or 1890, would today be a non-starter. Moreover, the new water treatment plant that Concord proposes would allow the smaller town to draw far more water from Nagog Pond than it does under the current arrangement. I say that because Concord Public Works officials' testified to our Conservation Commission that the new plant would allow Concord to draw Nagog Pond water 12 months a year after the change vs. 2 months a year now. This is galling, particularly as our own town's citizens are forced to depend on the very limited resource of groundwater wells for our water supply.

All of these considerations heighten my sense that what Concord proposes is terribly unfair to Acton's citizens. If the Board of Selectmen acquiesces to Concord's proposal, Concord receives all the benefits, while Acton bears all the burden, including the destruction of hundreds of Acton's trees whose root systems are so important in filtering our precious groundwater.

I urge the Board of Selectmen to do every thing in its power to deny Concord's proposal.

Sincerely,

Robert Sekuler
17 Parkland Lane
Acton MA

Lisa Tomyl

From: Linda Rhen <linda.rhen1@gmail.com>
Sent: Sunday, January 17, 2016 9:14 PM
To: Board of Selectmen
Subject: Objection to Proposal of Town of Concord to install solar panels near Skyline Drive
Attachments: Letter Acton January 17 2016.docx

Dear Selectmen,

Please find a letter outlining my objections to the Proposal to the Acton Board of Selectmen from the Town of Concord to clear cut trees and install solar panels on land behind Skyline Drive in Acton.

Their proposal has serious deficiencies, would harm the environment and cause serious problems for residents of Skyline Drive.

Thank you for your attention to this important matter. If you have questions, you can reach me at my address: 168 Skyline Drive, Acton, MA 01720, or 717-439-7247.

Linda Rhen

168 Skyline Drive
Acton, MA 01720
January 17, 2016

Selectmen Green, Berry, Adachi, Osman and Chang

Re: Request the Acton Board of Selectmen to deny the Town of Concord permission to install a solar panel array in conjunction with water treatment plant on Skyline Drive in the Quail Ridge development.

Dear Selectmen,

I am writing because I learned through other residence that the town of Concord plans to install a solar panel array on Skyline Drive property in connection with the Nagog Pond Water Treatment Plant upgrade.

I want to be clear that I have received no prior written notice from anyone, including the Town of Acton, the Town of Concord, or Pulte Homes regarding the plans to clear cut the trees and transform a wooded area into an industrial setting of solar panels.

You are likely aware that Pulte Homes has developed the land that is next to the proposed solar panel array. There are over 100 homes in this fairly new development. I purchased my new home on November 24, 2015 - less than two months ago. It is in a lovely setting, and I was told through the purchase and sales that the land behind Skyline Drive would remain undeveloped. There is currently a walking trail. The area is filled with trees, and of course there is wildlife.

The clear cutting of trees will destroy the wildlife habitat and have an impact on the environment. It makes no sense to me as a new resident of Acton, that Acton would allow, and in fact enable the Town of Concord to transform a beautiful area so drastically. The damage to the environment would be to Acton. The residents of Quail Ridge, and specifically those on Skyline Drive, like me, would see a drastic change in their environment, and likely a drastic drop in the value of our property.

Representatives of our community plan to provide detailed comments at your public meeting. I urge you to deny this project outright and protect the environment and citizens of Acton.

Sincerely,

Linda O. Rhen, Resident of the Residences at Quail Ridge

Lisa Tomyl

From: Lisa Munson <mgmunsonfamily@verizon.net>
Sent: Sunday, January 17, 2016 3:10 PM
To: Board of Selectmen
Subject: Concord Water Project?

To the Acton Board of Selectman:

I read with disgust Paula Goodwin's verbiage about wetlands bylaws in this week's Acton Beacon.

What a load of crap!

She has the audacity to publish that editorial about the conservation commission while that very conservation commission does not follow its own bylaws?

How dare she — and the Town of Acton — have the nerve to issue that diatribe of an editorial and flagrantly dismiss its own bylaws with respect to Concord's heist of our water reservoir. Acton completely ignored what is in the best interest of its citizens and the recommendations of respected environmental scientists.

I am personally so disgusted with Acton's perpetual half-hazard decisions and disgusted with how our town's "leadership" always cowers to Concord.

You want to destroy wetlands and cut down a forest in the name of solar energy while expecting your citizens to abide by conservation and wetland bylaws? Ha, I'm laughing.

Lead by example and follow your own rules.

-Lisa Munson

Lisa Tomyl

From: Nigel Godley <woodlane_consulting@verizon.net>
Sent: Friday, January 15, 2016 11:11 PM
To: Board of Selectmen
Subject: Concord's proposed Water treatment facility

The Selectmen should reject the building of this facility. There is no reason why Acton land should be used (and therefor spoiled) for the convenience of Concord residents. Concord has consistently denied the building of commercial facilities in its own town center, whereas Acton has permitted such facilities, no doubt readily used by Concord residents.

The water treatment facility will be placed on precious land, valued as buffer between two housing developments and already used for hiking and other recreational reasons. Why should this precious resource be spoiled for the convenience of selfish Concord residents?

Why does Acton always play "second fiddle" to Concord - there is just as much history here as there is in Concord. People who live in Acton, and pay taxes here have the first right to the use of the land and other facilities provided by the town.

If Concord needs such a facility let them build it on their own land.

Significantly, Concord chooses to build its waste treatment facilities right on Route 2, where they least inconvenience Concord residents, but where they are an eyesore to everyone else in the State who has to use this road. This selfish behavior must be stopped. It is time for Acton Selectmen to act in the best interest of the Acton town taxpayers, rather than agreeing to everything that Concord demands. It is bad enough that our own most beautiful pond no longer belongs to the Town, but let's not allow them to build industrial facilities here as well, just to avoid them having to build them in Concord.

Enough - its time to say a resounding "NO" to this proposal.

Nigel Godley, Acton resident and taxpayer for 42 years.

Lisa Tomyl

From: Lynn Kibblehouse <ejkibble@verizon.net>
Sent: Wednesday, January 13, 2016 9:50 PM
To: Board of Selectmen
Subject: Quail Ridge Resident/166 Skyline Drive

Acton Selectman,

I moved in to my house in Quail Ridge on Nov 6th 2016. I have NOT received a letter summarizing the plan of the Concord Water department. I had to find out this information from my neighbors. We purchased 166 Skyline for \$593,000 and had no idea that these solar panels were going to be placed in my backyard (and I mean literal in my backyard). As a new homeowner to Acton (I previously lived in Westford, Ma), I do not want to be looking at solar panels in my backyard. As a taxpayer to Acton, I hope that as selectman you can take a hard look at this proposal and take into account that the residence of Acton do not need to be looking at Concord's water treatment services in their backyards. There has got to be another solution!

I put faith in knowing that we have selectman to represent the residence of Quail Ridge. High taxpayers with no previous information to this plan prior to purchase. I will be attending the meeting on Jan 25th and addressing my concerns at that time. Please take this in to consideration when voting on this issue. We are counting on our Acton Selectman to protect the residence of Acton.

Sincerely,

Lynn Kibblehouse
166 Skyline Drive
Acton, Ma 01720

978-973-7126

Lisa Tomyl

From: Jayharley@aol.com
Sent: Thursday, January 14, 2016 6:03 PM
To: Board of Selectmen
Subject: article in the Jan 14 Beacon titled "Who is Governing Acton?"

Hello,

My wife and I are long time residents in Acton. I just read the article in the Jan 14 Beacon titled "Who is Governing Acton?". I was deeply alarmed by the article.

As a resident it is very easy to get lost and out of touch with the politics taking place around you. We were shocked that Concord MA has suddenly put itself in the position of environmental leader of Acton.

I suggest that Concord let Acton be in charge of their natural environment in Acton. Let Acton citizens vote to protect their resources just as Concord has stepped in to protect Walden Pond etc. If Concord wants to cut down acres of trees, for whatever reason, let it be in Concord.

Jay and Suzanne Jacobson
25 year residents of Acton

Lisa Tomyl

From: Harold Hyman <shandhh@verizon.net>
Sent: Friday, January 22, 2016 3:05 PM
To: Board of Selectmen
Subject: Say NO to Concord

Acton Board of Selectmen

DO NOT approve Concord's water project at Nagog Pond.

Susanne and Harold Hyman

19 Black Horse Drive,

Acton MA 01720

Lisa Tomyl

From: Peter Henry <petehenry12@gmail.com>
Sent: Friday, January 22, 2016 10:03 PM
To: Board of Selectmen
Subject: Do Not Approve Concord Water Project

My wife and I strongly oppose any agreement to extend the water project agreement with the Town of Concord at Nagog Pond. While we cannot stop the existing agreement, we should cease any further extension or expansion of the agreement. In the past this may have been "OK" from Acton's position, today it's onerous to Acton. Acton's water requirements require careful consideration, while Concord resells it's water to Bedford, making money as they do so, with no financial benefit to Acton.

No to any further expansion of the water agreement with Concord!

Peter Henry
15 Ticonderoga Road
Acton

Lisa Tomyl

From: Robert Schneider <rjschneider3@verizon.net>
Sent: Friday, January 22, 2016 10:43 PM
To: Board of Selectmen
Subject: Nagog Pond

Dear Board of Selectmen:

Please protect Acton's interests in Nagog Pond. When the 99 year lease to Concord was renegotiated some years ago, Acton reserved the right to utilize some of the water. This should encourage you to step up now to establish some "facts on the ground". I would suggest we start by drawing a portion of the treated water now, which will make later increases easier, when our wells run dry.

Sincerely,
Robert Schneider
Braebrook Rd.
Acton

Lisa Tomyl

From: berrigan21@comcast.net
Sent: Saturday, January 23, 2016 8:26 AM
To: Board of Selectmen
Cc: helen
Subject: Nagog pond no vote

please say no to concord on this water project at nagog pond.

from :
maurice and g. helen berrigan

21 oakwood road,acton ,ma

1-978-263-5630

Lisa Tomyl

From: Julie Greenspan <jngreenspan@gmail.com>
Sent: Saturday, January 23, 2016 10:31 AM
To: Board of Selectmen
Subject: Concord water project at Nagog

Dear Acton Town Selectmen,

Please do not approve the Concord water project at Nagog. If Concord needs an industrial power plant they should build it on Town of Concord land. Concord has rights to the water and land surrounding it, which is incredulous as it is, but they should not be able to take away from the beautiful land that surrounds it by building a power plant. That is all Acton can enjoy from Nagog pond, the beauty, and let's not give that up.

Thank you for your consideration.

Julie Greenspan
8 Overlook Dr.
Acton, MA

Lisa Tomyl

From: Kathy Jackson <kjack142@verizon.net>
Sent: Saturday, January 23, 2016 1:08 PM
To: Board of Selectmen
Subject: Concord Water Project

Dear Selectmen,

Please do not approve Concord's water project at Nagog Pond! If they want a bigger facility and industrial plant, they can find it in their own town! The arrogance of this plan is shameful. Our town does not exist to support them and we should protect our own environment and best interests above all.

Sincerely,
Kathy Jackson
142 Willow Street Acton

Lisa Tomyl

From: Frances Harris <franhar@verizon.net>
Sent: Saturday, January 23, 2016 2:16 PM
To: Board of Selectmen
Subject: Concord - Water Project

PLEASE, PLEASE, SAY NO TO CONCORD. THE OLD 99 YEAR LEASE FIASCO WAS BAD ENOUGH, BUT THIS PROJECT IS OUTRAGEOUS. OUR ELECTED SELECTPERSONS SHOULD NOT FALL FOR THIS SEEMINGLY ONE-SIDED "DEAL". PLEASE SAY NO !! THANK YOU.

F. HARRIS
ONEIDA RD.

Lisa Tomyl

From: garymazzo@verizon.net
Sent: Sunday, January 24, 2016 2:52 PM
To: Board of Selectmen
Subject: re: Water Treatment Expansion-STOP IT! No WAY!

Dear BOS:

I am disgusted after having only lived here since September 2015 in Quail Ridge that you folks would allow such an expansion of a water treatment facility and solar park with the potential to endanger wildlife and residents, not to mention ruining the landscape of our brand new home - that was not at a bargain price. There are the potential 150 homesites in Quail Ridge that will bear the brunt of this crazy idea of expanding Nagog Pond Treatment Facility. **Do you folks know how much we pay in taxes to live in the beautiful property with NO town services.** Give me a break! This development brings in way more money than a minute lease would bring in - trust me. Let Concord build their own water treatment plant! We do not want it and removing trees would just cause all kinds of drainage problems here and in the Acorn Park neighborhood. What are you folks thinking?????????

Second, maybe when our home values start going down because of this proposal, or our basements start flooding, we could all gather and execute a class action law suit against you folks for putting our lives in jeopardy, and causing loss of value to our homes. There has been much written in the papers, people have gathered, residents have opposed this project at the Conservation Commission level and in public outcry. The meeting tomorrow night will be packed - just reading the news on this smells of a rat! Do the right thing because it is the right thing to do and cancel this project. The Conservation Commission should be taken out of office for agreeing to such and dismissing the protests of Acton residents at Acorn Park and Quail Ridge. What happened to the democratic process. You were elected to keep the best interests of the town's residents in focus - HAVE YOU????????????????????

I expect the voices to be heard in a professional way, and we as an association will see this to the end.

Sincerely,
Dr. Gary Mazzola
32 Parkland Lane

Lisa Tomyl

From: Corinne Hogseth <corinnehog@verizon.net>
Sent: Monday, January 25, 2016 7:49 AM
To: Board of Selectmen
Subject: Vote Against Concord Plans on Nagog Pond

Dear Selectmen,

In case I am unable to attend tonight's meeting, I want to ensure that my opposition to Concord's proposal to expand their water treatment plant and build a solar array on Nagog Pond is noted. My reasons for this position include:

1. There is absolutely no benefit to Acton.
2. Concord's right use the water from Nagog Pond was granted in the 19th century, when Acton's population was a fraction of what it is today. Instead of turning over more of our own natural resources to Concord, we should be seeking assistance from Senator Eldridge, Representative Atkins and Representative Benson to overturn that outdated legislation and return full use of Nagog Pond to the residents of Acton.
3. I and many I have spoken with are tired of Concord treating Acton like its dumping ground. This is not the first time they have used our land or land immediately abutting Acton for projects they do not want to see within their own borders.
4. There will be environmental harm done to Acton for the sole benefit of Concord.

Please consider what is best for Acton and its residents and vote AGAINST allowing Concord to move forward with this project. For years, they have arrogantly and *correctly* assumed that their municipal needs will be met at the expense of the Town of Acton. Please do not allow that to be the case this time.

Kind regards,

Corinne Hogseth
61 Seminole Road