

204 Long Pond Road
Plymouth MA 02360
March 9, 2018

Paul McAuliffe
Director of Inspectional Services
Building Department
Town of Plymouth
26 Court Street
Plymouth MA 02360

Re: Request for Enforcement and for a Stop Work Order with regard to Zoning Permit # Z20160009 (“Zoning Permit) and Special Permit Case No. 3751R (“Special Permit”) issued to Petitioner Kingstown Corporation for a sand and gravel mining project on land owned by Inhabitants of Plymouth County, Parcel Id. 088-000-054-000, Plymouth MA.

Dear Mr. McAuliffe,

This is a request pursuant to G.L. c. 40A, § 7 for enforcement of the Town of Plymouth Zoning Bylaw and for a stop work order with regard to the above-referenced property.

This request is made on behalf of a coalition of residents and organizations who will be aggrieved if the request and stop work order are not issued. The signatories are identified on the attached signature pages.

The grounds for this request are as follows:

- The Special Permit is based on the finding that the “proposed end use for the site is installation of a solar array facility.” Special Permit Case No. 3751R, Finding 5. The basis of this finding was a July 14, 2014 letter from Blue Wave Capital. *See* Special Permit Case No. 3751, at 4.¹
- The Special Permit and Zoning Permit were based on findings by the Zoning Board of Appeals that the volume of sand and gravel to be removed is “incidental to and required to allow the solar facility to be constructed, Reason 2, Special Permit, and that the mining of 201,000 cubic yards of material is “the minimum necessary to construct the proposed solar facility.” Special Permit Case No. 3751R, Reason 4.

¹ Mr. Main (voting no): “He did believe that ultimately the end use would have been a solar field; however, he expressed concern that there was no firm commitment, and Blue Wave did not respond to the RFP” *Id.* at 4. Mr. Peck (voting yes) “was inclined to support with a condition of procuring an end-use agreement.” *Id.* at 4. Mr. Conner (voting yes): “he believed Blue Wave was committed” *Id.* at 5.

- Since the Special Permit was issued, new information—in the form of testimony under oath before the Massachusetts Land Court—shows that the sand and gravel mining project is neither “incidental to” nor “required for” the installation of a solar facility, even if such a facility were not a prohibited use. Specifically, Aiden Foley, a representative of Blue Wave Capital, the company that was put forth by Kingstown as interested in developing an industrial solar installation on the site, testified at the Land Court trial that removing sand and gravel **is not “required for” installation of a solar facility** on the County Wood Lot. *See Trial Transcript Excerpt Attached Hereto* as Exhibit 1, 4/20/17 Tr. 70:16-24. (Q: (Mr. Cassidy) “...once the trees and shrubbery are cleared in the county wood lot there, how much sand and gravel would need to be extracted in order to put up a solar array? A (Mr. Foley): “Well, I would answer the way that we don’t necessarily need any.” Importantly, Mr. Foley was a witness for Kingstown Trucking at the trial.²
- The land where the sand and gravel removal and site preparation allowed under the Special Permit and Zoning Permit will be conducted is zoned Rural Residential, RR40 under the Plymouth Zoning Bylaw § 205-40.
- No permit has been issued for the construction of a solar facility on the site.
- Since the Special Permit was issued in October 2015, the Zoning Bylaw has been amended to add § 205-77 which governs Ground Mounted Solar Photovoltaic Systems (GMSPS). Under § 205-77, the solar facility that was proposed by Kingstown Corporation as the “end use” for the sand and gravel mining operation approved under the Special Permit is a prohibited use on the property. Therefore the Special Permit and Zoning Permit are based on an “end use” finding for a use that presently may not lawfully be conducted on the site.
- New information also shows the presence of at least one species listed under the Massachusetts Endangered Species Act on the County Woodlot requiring a filing with the Natural Heritage and Endangered Species Program. See Exhibit 2 hereto.
- The June 9, 2014 Environmental Impact Statement submitted in support of the Special Permit application is outdated and incomplete in part because it fails to take into account the habitat for species listed under the Natural Heritage and Endangered Species Program.

For the reasons stated above, the coalition requests that you:

² Last week, the Land Court dismissed the appeal of Kingstown’s Special Permit on procedural grounds that the Plaintiffs in the case lacked standing. Therefore, the Court did not reach merits of the case, including addressing the clear and unopposed testimony by Kingstown’s witness that the sand and gravel removal project was neither incidental to nor required for the installation of a solar facility as required by the Bylaw.

- Immediately issue a stop work order prohibiting any and all work, including site preparation on the subject property;
- Immediately inform Kingstown Trucking and the Plymouth County Commissioners that any work on the site is prohibited; and
- Immediately suspend Zoning Permit # Z20160009 issued by your office on January 5, 2016.

Please feel free to contact me at 508-259-9154 if you wish to discuss this matter. Please direct your response to this request to me via email at megsheehan07@gmail.com with a hard copy to me care of 204 Long Pond Road, Plymouth MA 02360.

Thank you.



Margaret E. Sheehan, Esq.

Cc: Jeffrey Angley, Esq., Attorney for Kingstown Trucking Corp.
Plymouth County Commissioners
Zoning Board of Appeals, Town of Plymouth

SIGNATORIES TO MARCH 9, 2018
LETTER TO TOWN OF PLYMOUTH BUILDING DEPARTMENT
REQUESTING BYLAW ENFORCEMENT AND STOP WORK ORDER
ON COUNTY WOODLOT

NAME: Sharl Heller

ADDRESS: 201 Center Hill Road, Plymouth, MA 02360

SIGNATURE: Sharl Heller

And Citizens of Plymouth, MA listed below:

1. Christine Silva
 2. Fredrick Cook
 3. Richard Barry
 4. Harvey LeSueur
 5. Gene LaFond
 6. Malcolm MacGregor
 7. Dale Bryan
 8. Ed Russell
 9. Charlotte Emery Russell
 10. Paul Williams
 11. Linda Williams
 12. Denise Stowell
 13. Valerie Sabella
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14. Kate Stearns Barnes
 15. Christopher Vaughn
 16. Dorothy B. Price
 17. Leighton A. Price
 18. Lee Pulis
 19. Francis Lydon
 20. Aileen S. Briggs
 21. Sam Chapin
 22. Caroline Chapin
 23. Love Albrecht Howard
 24. Bruce R. Howard
 25. Griffin T. Howard
 26. Michael Hanlon
 27. Cyndi Balonis
 28. Denise Kedian
 29. John Kedian
 30. Lois E. Post
 31. Douglas R. Post
 32. Mettie Whipple

33. William S. Abbott
34. Nancy McSpadden
35. Jerry Levine
36. Ted Curtin
37. Donna Curtin
38. Mary Ellen Mastrorilli
39. Jay Wennemer
40. Frank Werny
41. Kelley O'Neel
42. John W. Hammond
43. Rosamond Dell Hammond
44. Patricia T. Baker
45. Preston Woodburn
46. Paula Marcoux
47. Bill Vickstrom
48. Susan Denehy
49. Dorie Stolley
50. Lisa Meeks
51. Susan Pond
52. Brooke Monroe
53. Glorianna Davenport
54. Patricia L. Parker
55. John B. Foye
56. James Hester
57. Elizabeth Hester
58. Geraldine Williams
59. Don Williams
60. Stacy Connor
61. Jason Speer
62. Peggy Arena
63. Judy A. Maffini
64. David C. Maffini
65. Sheila Sheridan
66. Justin Alexander
67. Gwen Alexander
68. Sheila Sadler
69. Jane Bishop
70. Nancy A. Nolan
71. Mary Almeida
72. Carol Strickland
73. Karl Stier
74. Susanne Lucas
75. Joan H Bartlett
76. Diana Baker Price
77. Betsy Hall
78. Wynn Gerhard
79. Roger Janson
80. Daniel Roderigues
81. Amy Hancock Ronemus
82. Charlie Pye
83. Sharyn Waters
84. Steve Valero
85. Claire Bennett
86. Rhiannon O'Donnabain
87. Rachelle Boucher