

MEMORANDUM

TO: Don Spann, Chair
Planning Board Members

FROM: Andrew H. Deci, Assistant Town Planner

DATE: **June 11, 2020**

RE: Solar Energy Conversion Systems as Principal Use

Based on the comments received during the public hearing on May 19, 2020 and the subsequent discussion by the Planning Board, the draft has been revised to require the habitat mitigation fee only for Solar Energy Conversion Systems, not all commercial uses.

Summary: *Revisions are proposed to the Zoning Ordinance to define and regulate solar farms. The ordinance amendment defines principal-use Solar Energy Conversion Systems, establishes performance standards for the use, and identifies where stand-alone solar farms may be located. In addition to regulating solar farms, the proposed changes establish a habitat mitigation fee **for commercial uses**, based on the Natural Areas Plan. The ordinance amendment is championed by the Topsham Solar Advocates.*

The proposed ordinance language has been drafted to permit solar energy conversion systems as a principal use in various zoning districts. Topsham Solar Advocates, a group of Topsham citizens, have been meeting to develop regulations for solar farms within our community; staff has met with them and facilitated the development of the draft you have for consideration.

This proposal does not change the permissibility of accessory residential solar facilities or commercial accessory solar facilities less than 1 megawatt. Solar facilities on residences or which power commercial businesses on the same property are not affected by this ordinance and will continue to be permitted.

Given the number of inquiries the Town is receiving from commercial solar developers interested in principal use solar projects, the modification of state laws and incentives for solar energy, and the interest of local citizens, now seems to be the time to develop a definition and permit solar farms in Topsham.

The proposed ordinance:

- Defines the use (*see the definitions section; three categories of farms are defined based on their size*)
- Indicates which districts the use is permissible in (*see the use table; each category of farms is indicated as either permitted or not permitted in each of Topsham's zoning districts*) and prohibits the largest size of farm from being located in the highest priority areas of the Natural Areas Plan (*see footnote #27 on the Table of Use Regulations*)
- Indicates the permitting process for developing the use (*see the applicability section; all solar energy conversion systems require site plan approval*) and the necessary submission items for a review to be conducted (*see the submission requirements section; in addition to the standard site plan requirements, developers must submit additional documentation related to operations of the facility*)

- Indicates the size constraints for solar facilities (*see the dimensional standards section; all solar facilities must abide by the underlying zoning constraints*)
- Establishes specific performance standards for the use (*see the performance standards section; requirements are provided for both siting & impact and design of the facility*)
- Requires developers to establish a decommissioning plan and provide surety to allow the Town to remove a facility if it is abandoned (*see the abandonment, decommissioning, and surety section*)

In addition to these use-specific requirements, the ordinance language establishes a habitat mitigation fee ~~for all commercial uses~~ within certain areas of Topsham, based on the Natural Areas Plan. *See proposed §225-60.19F, Habitat Mitigation Fee.*

The fee is intended to disincentivize and/or mitigate development within the more sensitive habitat areas. Two tiers of fees are proposed, both based on a percentage of the Average Value per Acre of Single Family land—a concept proposed to mirror the open space and recreation requirements of the subdivision ordinance. ~~For commercial uses, the fee is calculated based on the total square footage of disturbance; for solar energy conversion systems,~~ the fee is calculated based on the total square footage of disturbance or facility size (whichever is greater). Proceeds of the fees are to be used for conservation purposes, in the same way subdivision open space and recreation fees are used.