



CITY OF WARWICK

FRANK J. PICOZZI, MAYOR

TO: Mayor Frank J. Picozzi
FROM: Tom Kravitz, Planning Director
CC: Bruce Keiser, Project Coordinator
Susan Ayrassian, Chief of Staff
DATE: August 30, 2021
RE: Appendix A – Zoning - Solar Ordinance – PCO-6-20 Sub B

Mayor,

Please know I have reviewed the above-referenced draft ordinance that is scheduled to be heard by the City Council on September 20, 2021. I would like to touch on two items; the larger land use view, and operational process of the ordinance itself if passed by the Council.

The bigger picture land use view relates to the notion of whether the City intends to allow solar arrays in the City and in which districts. I understand there has been concern about allowing such in the residential and open space districts. While the ordinance appears to contain adequate language to control size, scale, setbacks, and proper screening, the decision to permit solar arrays within these and other zones rests exclusively with the City Council's executive authority as you know.

The other matter relates to process and how the policy will be operationalized by staff and public bodies. The ordinance acts like a floating zone and requires review and action by the Town Council on each request that comes before it. This is no different than an applicant requesting a zone or use amendment under the existing framework authorized through RIGL 45-24-51. As a matter of fact, RIGL 45-24-51 is referenced in the proposed ordinance. If there is a perception that this ordinance will remove the City Council from contentious public debates over solar, I must dispel that view.

Therefore, the Council could consider amendment of the zoning use table along with additional solar language as a new section in Zoning section 500 Special Regulations, as opposed to this overlay which is Council-intensive, and therefore, time consuming. Using the standard framework established by RIGL 45-24 (Zoning) and RIGL 45-23 (Subdivision/Land Development) does not absolve the City Council from making the decision about which districts permit solar, but they only have to do it one time theoretically.

The ordinance contains beneficial language which can be used for a new, separate zoning section. There are also some aspects I would recommend changing or eliminating. My thoughts on those are listed below. Perhaps the City Council will table the current matter and give me one month to propose a new section along with use table amendments.

Page 2 – Because lines 12-17 exist, I would eliminate lines 38-40 which are redundant. Lines 18-23 include reference to the Building Official. Is that department aware of and comfortable with the policy? Because lines 33-35 exist, remove lines 21-23.

Page 3 – Lines 1-3 reference the Building Official. Is that department aware of and comfortable with the policy? Lines 10-13 seem to discuss occupancy. Why is this definition in this ordinance? It is not addressed anywhere else and perhaps was included erroneously.

All references to old growth trees and forests should be replaced with mature trees and forests. A licensed forest professional and arborist once told me there are no old growth trees or forests in Rhode Island. The term old growth is reserved for the likes of Sequoia and Redwood forests.

Page 6 – Consider eliminating lines 42 and 43 which is the last sentence in the statue which is already referenced.

Page 7 – Line 18. Confirm whether ‘permitting authority’ is referring to the Planning Board and if so, amend. Lines 28-31 imply a change can be made without going back to the City Council. This will place staff in difficult situations and lead to confusion and inconsistency with respect to what was approved by the City Council which must review specific plans prior to effectuating the zone changes. Lines 39-44 creates a 5 year monitoring situation by staff. Post policy follow-up is rarely effective because it is at odds with how the government operates generally. Staff time is consumed with advancing new initiatives put forth by elected officials and it is very likely board composition will change within such a 5 year period. Perhaps stick with the 1-year timeframe in the existing zoning ordinance and delete this section altogether.

Page 11 – Table. With respected to setbacks, if one looks at the table under location, I assume we are talking about not just ‘any overlay zoning district...’ but the actual solar overlay districts as approved by City Council as they come forward on a case by case basis as required by this ordinance...

General comment – In situations where the ‘City’ is referenced as an approval authority, we should specify which city authority; (i.e., the Planning Board, City Council, Administrative Officer, Building Official etc.), due to the interplay between all of these entities.

Page 13 – Lines 7-15. This could be viewed as an unstructured development exaction. Sites can be cleared within limits of RIDEM’s rules related to land clearing. I believe the limit is 1 acres prior to RIDEM review. Focus should therefore be on the solar application, location of proposed panels, and perimeter buffering. To the extent perimeter buffering was cleared prior to application, those trees should of course be restored as part of the application. A similar provision (or perhaps reiteration of the same) is listed on page 14, section d, lines 34-39.

Page 18 – Lines 3-6. This is a good provision that requires assistance from the Building Official as do section 11 and 4 on page 19.