

**Re: Solar Farm Follow-up**

From: "Ann Morgan" <amorgan@webster-ma.gov> 07/02/18 10:21 AM  
To: "Sharyn Morin" <skmorin@hotmail.com>  
Attachments: 2017\_07\_31\_Rezoning Proposal.pdf (247.1 kB); mgl 40A section 3.pdf (148.9 kB); mgl 40A section 9B.pdf (66.2 kB); 2018\_June\_Rezoning Proposal.pdf (374 kB); 2018\_May\_Rezoning Proposal.pdf (660.9 kB); DECISION\_Batten Street Solar\_STAMPED.pdf (1.9 MB);

---

Dear Ms. Morin -

Thank you for submitting your comments. I will include this letter, the attachment (Notice of Decision) and my response on the July 16th Planning Board agenda under Correspondence. It will be forwarded to the Board and posted to the website.

With regards to your questions, below is some information to help you with the issues you raised.

1. Special Permit - Solar Project - Batten Street: Massachusetts General Law (MGL), Chapter 40A, Section 3 (attached - see second to last paragraph) precludes Massachusetts municipalities from prohibiting solar energy systems. In a nutshell, this includes all zoning districts which means that State law says that solar energy systems must be allowed anywhere regardless of zoning districts. You'll note that there are a number of other uses that have this same legal protection whereby State law overrides local zoning or other permitting requirements. However, the State does give municipalities various rights to grant special permits with regards to solar (see MGL, Chapter 40A, Section 9B - Solar Access - attached) after a local zoning ordinance has been adopted. Webster adopted such an ordinance at the October 19, 2015 Town Meeting: Section 650, Article XI - Solar Use Facilities.

As such the Special Permit granted for this project was procedural correct in accordance with State law and local law and is not considered "spot zoning" as zoning does not apply to solar uses.

2. Spot Zoning - The "classic" definition of spot zoning is "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners." Another definition: spot zoning occurs when a parcel is singled out for different zoning treatment than neighboring parcels for the economic benefit of the landowner unless a substantial public benefit can be determined. There's a lot of case law on this subject. However, the Attorney General's office approves any rezoning proposal which passes Town Meeting. They review each request based on the legal standards determined by land use law. They have the final say and can overturn Town Meeting action.

Regarding the Old Worcester Road properties - this has come before Town Meeting three times in different forms all from the same petitioner.

2017, July: The first request, to rezone a 2 acres from Single Family Residential (SFR) to Business without Sewer (B5). There was a public hearing before the Planning Board who recommended passage at Town Meeting. This was not considered spot zoning because the adjacent properties to the south are also zoned B5. This change just expanded an existing district - it did not create a stand alone district. Town Meeting approved this as did the Attorney General.

2018, May: The second request, to rezone two parcels to Industrial - one of the parcels, zoned B5 was the same parcel that was rezoned from SFR in July 2017; the second parcel, 5.5 acres, was zoned Single Family residential. In this case, which you note in your email, the applicant was seeking to essentially rezone a total of approximately 7.5 acres to industrial. The Planning Board held a public hearing which you attended and voted to not recommend passage of the article because of spot zoning as the adjacent zoning district to south is B5 and to the north is SFR. This proposal would create a stand alone zoning district not adjacent to or an expansion of the abutting districts which is considered "spot" (see attached map). This warrant article was defeated at Town Meeting and, therefore, did not progress to the Attorney General's office for review. The 5.5 acres remained SFR zoning and the 2 acre parcel remained B5 zoning.

2018, June: The third request was to rezone just the 5.5 acre parcel to B5 (see attached map) The Planning Board held a public hearing and recommended passage at the June 25 Special Town Meeting. You'll see from the map (attached) that the proposed rezoning shows an expansion of the existing B5

zone which is not considered "spot" as it is not a stand alone zoning district. Town Meeting passed the warrant article and the materials have been sent to the Attorney General's office for review.

3. Is the solar project "spot" zoning. No. Solar projects are not subject to zoning in accordance with State law. The Old Worcester Road "spot" zoning discussion with regards to the May 2018 proposal was based on the fact that the applicant was trying to create a stand alone district, not the expansion of the abutting districts.

4. *If Nexamp has failed to comply with the Conservation Commission requirements and/or has failed to replace the dead trees behind the Hospital, then the approval should be withdrawn for these reasons alone,*

Conservation Commission requirements / conditions are based on their Order of Conditions and ConCom legal requirements. The Planning Board Special Permit / Site Plan Approval and their Order of Conditions are not legally bound to each other so you can't rescind one permit if the conditions of the other permit are not met. There is legal and procedural recourse if an Applicant fails to meet the conditions of any Town permit. You should contact Mary Overholt directly regarding the Order of Conditions for this project but the Planning Board has no legal authority to rescind its Special Permit on the premise that the ConCom Order of Conditions was not met.

Replacement of dead trees at the Hospital and rescinding the Special Permit for the solar project in your neighborhood - that Hospital solar project received a Special Permit which is separate from the Special Permit granted for the solar project in your neighborhood. These two permits are not connected in anyway from a legal perspective and the Town can not conditionally approve, reject or rescind these types of permits based the performance or conditions of the other. Yes, the applicant is the same and it does show bad faith that they haven't maintained the landscaping at the hospital. Unfortunately, the conditions of the Hospital Special Permit did not include and performance standards or surety for the establishment and maintenance of the landscaping. The Special Permit for the project in your neighborhood does require both (see attached). Conditions of Approval are enforceable by the Town.

I hope this answers all your questions. There are some pretty advanced Massachusetts land use law issues identified in your email which explains the length of my response which is really a condensed version of complicated material. Feel free to call me at the office if you have additional questions.

## **Ann V. Morgan**

Town Planner  
Director of Planning & Economic Development  
Town of Webster  
350 Main Street  
Webster, MA 01570  
508-949-3800 x1002  
[www.webster-ma.gov](http://www.webster-ma.gov)

---

-----Original Message-----

From: "Sharyn Morin" <[skmorin@hotmail.com](mailto:skmorin@hotmail.com)>

To: [amorgan@webster-ma.gov](mailto:amorgan@webster-ma.gov)

Cc: [planning@webster-ma.gov](mailto:planning@webster-ma.gov)

Date: 07/01/18 07:00 AM

Subject: Solar Farm Follow-up

Dear Ms. Morgan / Planning Board:

I am in receipt of your Notification of Decision letter dated 06/26/2018 (copy attached). I do have a question regarding the Decision, as follows:

Please explain the difference between "Special Permit" and "Spot Zoning."

Regarding the Solar Farm off of Batten Street, the Industrial use of this land parcel (which is zoned as Single Family Residential) was granted via a "Special Permit." All of the surrounding properties are zoned as Single Family Residential, Agricultural or Conservation. There are no nearby properties zoned as either Business or Industrial. There are numerous abutters who are residing in Single Family Residential homes, who objected to the Industrial use of the land parcel. Yet, the Planning Board approved the Industrial use of this land parcel.

Regarding the land parcel located off of Old Worcester Road, which is owned by St. Joseph's Church. At the very same meeting that the Solar Farm was approved via "Special Permit", the Planning Board rejected the Church's request to change the land parcel from Single Family Residential to Industrial, citing "Spot Zoning". In this case, there are no Single Family Residential homes that directly abut the property. The direct abutters are Leo Construction, the old Webster Sheet Metal and St. Joseph's cemetery. No Single Family Residential homeowners would be negatively impacted by the Industrial use of this land parcel. Furthermore, given the direct abutters, it is unlikely that this parcel will be developed for Single Family Residential homes. Yet, the Planning Board denied the request.

From my perspective, the use of "Special Permit" is nothing more than a means to circumvent the law against "Spot Zoning" and that the Industrial use of the Batten Street parcel should not have been approved.

Please explain how the Solar Farm approval is not "Spot Zoning" by another name (Special Permit).

Additionally, please be aware that I will be following up with the Conservation Commission's Mary Overholt to confirm that Nexamp has complied with two provisions that Conversation Commission required:

1. The Army Corp of Engineers is supposed to complete an assessment of whether the ditch would be considered a resource area.
2. The Vernal Pool area shall be assessed during the 2018 season.

Finally, I will be checking behind the Hospital to confirm that Nexamp has replaced the dead trees, which they agreed to do.

If Nexamp has failed to comply with the Conservation Commission requirements and/or has failed to replace the dead trees behind the Hospital, then the approval should be withdrawn for these reasons alone, regardless of whether this approval can be considered "Spot Zoning."

Thank you,

Sharyn Morin



PLANNING BOARD

## TOWN OF WEBSTER

350 Main Street, Webster, MA 01570  
(508) 949-3800 x1002  
www.webster-ma.gov  
planning@webster-ma.gov

RECEIVED

2018 JUN 26 A 8: 31

TOWN CLERK'S OFFICE

### NOTIFICATION OF PLANNING BOARD DECISION

|  |  |
|--|--|
| Application Date Received:               | January 2, 2018  |
| Applicant:                               | Batten Street Solar, LLC   |
| Applicant Address:                       | 4 Liberty Square, Boston, MA 02109                                     |
| Owner                                    | Norman & Patricia Rudzinski, Town of Webster,<br>Esposito Realty Trust |
| Premises Affected:                       | 0 School Street, Webster, MA 01570                                     |
| To Allow:                                | Construction of a 1.3 MW ground mounted<br>photovoltaic solar project  |
| Hearing Notice Filed with Town Clerk:    | December 18, 2017  |
| Dates Mailed to All Parties in Interest: | December 19, 2017  |
| Dates Published in Local Newspaper:      | January 8 and January 15, 2018   |
| Planning Board Date:                     | 1/22/18, 2/12/18, 3/19/18, 4/9/18, 4/30/18                             |
| Date of Decision:                        | April 30, 2018   |
| Decision Filed with Town Clerk:          | June 26, 2018  |
| Action Taken:                            | Approved with Conditions   |

The Decision is on file with the application in the Office of the Town Clerk. Any appeal of the Decision must be made to a court of competent jurisdiction within twenty days from the date the decision was filed with the Town Clerk pursuant to §17, Chapter 40A of the General Laws of the Commonwealth of Massachusetts as amended. Project materials and the Planning Board Decision can be viewed on the Planning Board / Projects Under Review on the Town of Webster website ([www.webster-ma.gov](http://www.webster-ma.gov)).

Please contact the Planning Department if you have any questions. Thank you.

Paul LaFramboise, Chairman  
Webster Planning Board

**Part I** ADMINISTRATION OF THE GOVERNMENT

**Title VII** CITIES, TOWNS AND DISTRICTS

**Chapter** ZONING  
**40A**

**Section 3** SUBJECTS WHICH ZONING MAY NOT REGULATE;  
EXEMPTIONS; PUBLIC HEARINGS; TEMPORARY  
MANUFACTURED HOME RESIDENCES

---

*[ First paragraph effective until December 30, 2016. For text effective December 30, 2016, see below.]*

Section 3. No zoning ordinance or by-law shall regulate or restrict the use of materials, or methods of construction of structures regulated by the state building code, nor shall any such ordinance or by-law prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture,

floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, except that all such activities may be limited to parcels of 5 acres or more or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For such purposes, land divided by a public or private way or a waterway shall be construed as 1 parcel. No zoning ordinance or by-law shall exempt land or structures from flood plain or wetlands

regulations established pursuant to the General Laws. For the purposes of this section, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof. Said nursery stock shall be considered to be produced by the owner or lessee of the land if it is nourished, maintained and managed while on the premises.

*[ First paragraph as amended by 2016, 351, Sec. 1 effective December 30, 2016. For text effective until December 30, 2016, see above.]*

No zoning ordinance or by-law shall regulate or restrict the use of materials, or methods of construction of structures regulated by the state building code, nor shall any such ordinance or by-law prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land

on which the facility is located, or at least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, except that all such activities may be limited to parcels of 5 acres or more or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For such purposes, land divided by a public or private way or a waterway shall be construed as 1 parcel. No zoning ordinance or by-law shall exempt land or structures from flood plain or wetlands regulations established pursuant to the General Laws. For the purposes of this section, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof; provided, however, that the terms agriculture, aquaculture, floriculture and horticulture shall not include the growing, cultivation, distribution

or dispensation of marijuana as defined in section 2 of chapter 369 of the acts of 2012, marihuana as defined in section 1 of chapter 94C or marijuana or marihuana as defined in section 1 of chapter 94G. Said nursery stock shall be considered to be produced by the owner or lessee of the land if it is nourished, maintained and managed while on the premises.

No zoning ordinance or by-law shall regulate or restrict the interior area of a single family residential building nor shall any such ordinance or by-law prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. Lands or structures used, or to be used by a public service corporation may be exempted in particular respects from the operation of a zoning ordinance or by-law if, upon petition of the corporation, the department of telecommunications and cable or the department of public utilities shall, after notice given pursuant to section eleven and public hearing in the town or city, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public; provided however, that if lands or structures used or to

be used by a public service corporation are located in more than one municipality such lands or structures may be exempted in particular respects from the operation of any zoning ordinance or by-law if, upon petition of the corporation, the department of telecommunications and cable or the department of public utilities shall after notice to all affected communities and public hearing in one of said municipalities, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public. For the purpose of this section, the petition of a public service corporation relating to siting of a communications or cable television facility shall be filed with the department of telecommunications and cable. All other petitions shall be filed with the department of public utilities.

No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. As used in this paragraph, the term "child care facility" shall mean a child care center or a school-aged child care program, as defined in section 1A of chapter 15D.

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination. The provisions of this paragraph shall apply to every city or town, including, but not limited to the city of Boston and the city of Cambridge.

Family child care home and large family child care home, as defined in section 1A of chapter 15D, shall be an allowable use unless a city or town prohibits or specifically regulates such use in its zoning ordinances or by-laws.

No provision of a zoning ordinance or by-law shall be valid which sets apart districts by any boundary line which may be changed without adoption of an amendment to the zoning ordinance or by-law.

No zoning ordinance or by-law shall prohibit the owner and occupier of a residence which has been destroyed by fire or other natural holocaust from placing a manufactured home on the site of such residence and residing in such home for a period not to exceed twelve months while the residence is being rebuilt. Any such manufactured home shall be subject to the provisions of the state sanitary code.

No dimensional lot requirement of a zoning ordinance or by-law, including but not limited to, set back, front yard, side yard, rear yard and open space shall apply to handicapped access ramps on private property used solely for the purpose of facilitating ingress or egress of a physically handicapped person, as defined in section thirteen A of chapter twenty-two.

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.

No zoning ordinance or by-law shall prohibit the construction or use of an antenna structure by a federally licensed amateur radio operator. Zoning ordinances and by-laws may reasonably regulate the location and height of such antenna structures for the purposes of health, safety, or aesthetics; provided, however, that such ordinances and by-laws reasonably allow for sufficient height of such antenna structures so as to effectively accommodate amateur radio communications by federally licensed amateur radio operators and constitute the minimum practicable regulation necessary to accomplish the legitimate purposes of the city or town enacting such ordinance or by-law.

**Part I** ADMINISTRATION OF THE GOVERNMENT

**Title VII** CITIES, TOWNS AND DISTRICTS

**Chapter** ZONING

**40A**

**Section 9B** SOLAR ACCESS

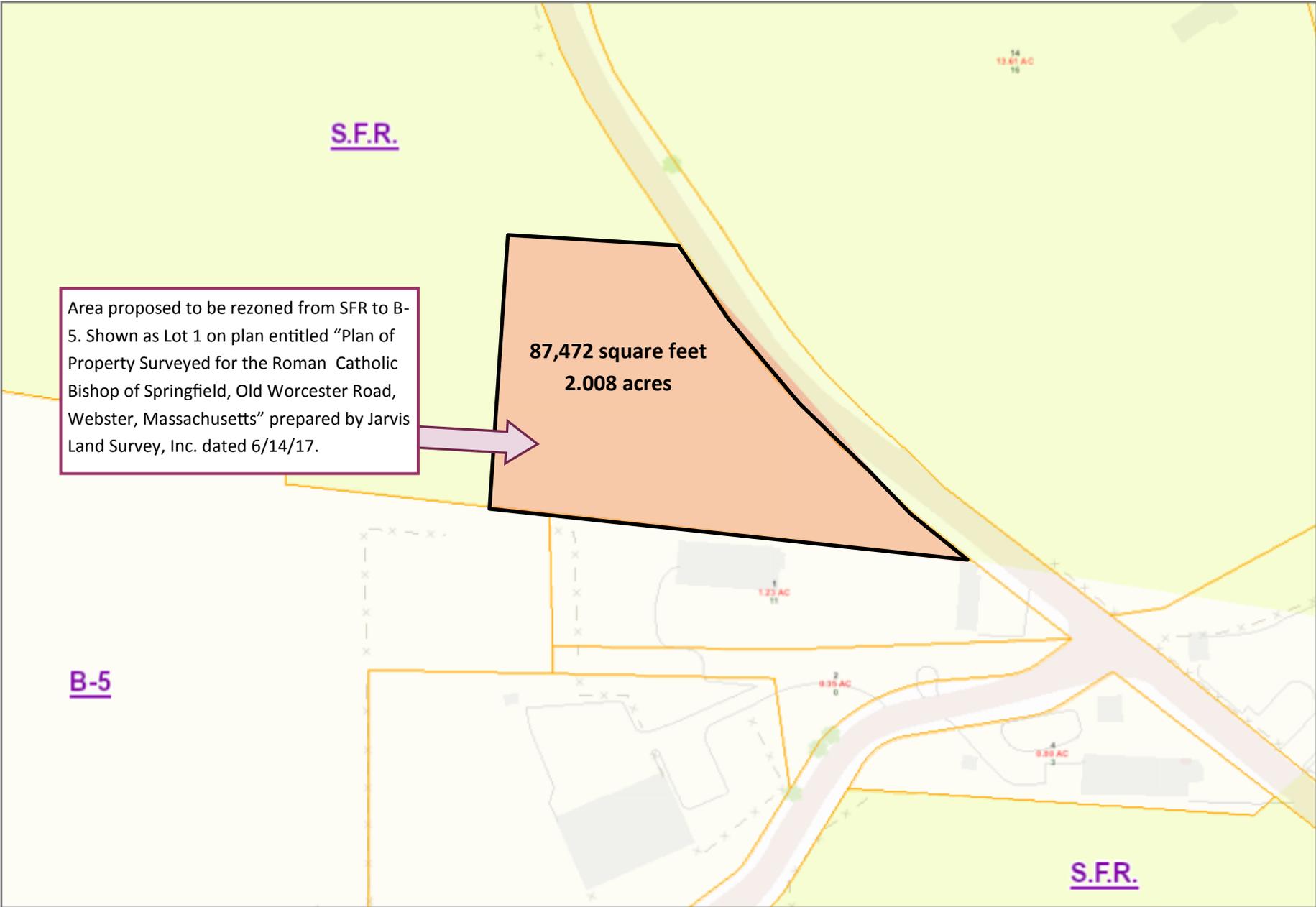
---

Section 9B. Zoning ordinances or by-laws adopted or amended pursuant to section five of this chapter may encourage the use of solar energy systems and protect solar access by regulation of the orientation of streets, lots and buildings, maximum building height limits, minimum building set back requirements, limitations on the type, height and placement of vegetation and other provisions. Zoning ordinances or by-laws may also establish buffer zones and additional districts that protect solar access which overlap existing zoning districts. Zoning ordinances or by-laws may further regulate the planting and trimming of vegetation on public property to protect the solar access of private and public solar energy systems and buildings. Solar energy systems may be exempted from set back, building height, and roof and lot coverage restrictions.

Zoning ordinances or by-laws may also provide for special permits to protect access to direct sunlight for solar energy systems. Such ordinances or by-laws may provide that such solar access permits would create an easement to sunlight over neighboring property. Such ordinances or by-laws may also specify what constitutes an impermissible interference with the right to direct sunlight granted by a solar access permit and how to regulate growing vegetation that may interfere with such right. Such ordinances or by-laws may further provide standards for the issuance of solar access permits balancing the need of solar energy systems for direct sunlight with the right of neighboring property owners to the reasonable use of their property within other zoning restrictions. Such ordinances or by-laws may also provide a process for issuance of solar access permits including, but not limited to, notification of affected neighboring property owners, opportunity for a hearing, appeal process and recordation of such permits on burdened and benefited property deeds. Such ordinances or by-laws may further provide for establishment of a solar map identifying all local properties burdened or benefited by solar access permits. Such ordinances or by-laws may also require the examination of such solar maps by the appropriate official prior to the issuance of a building permit.

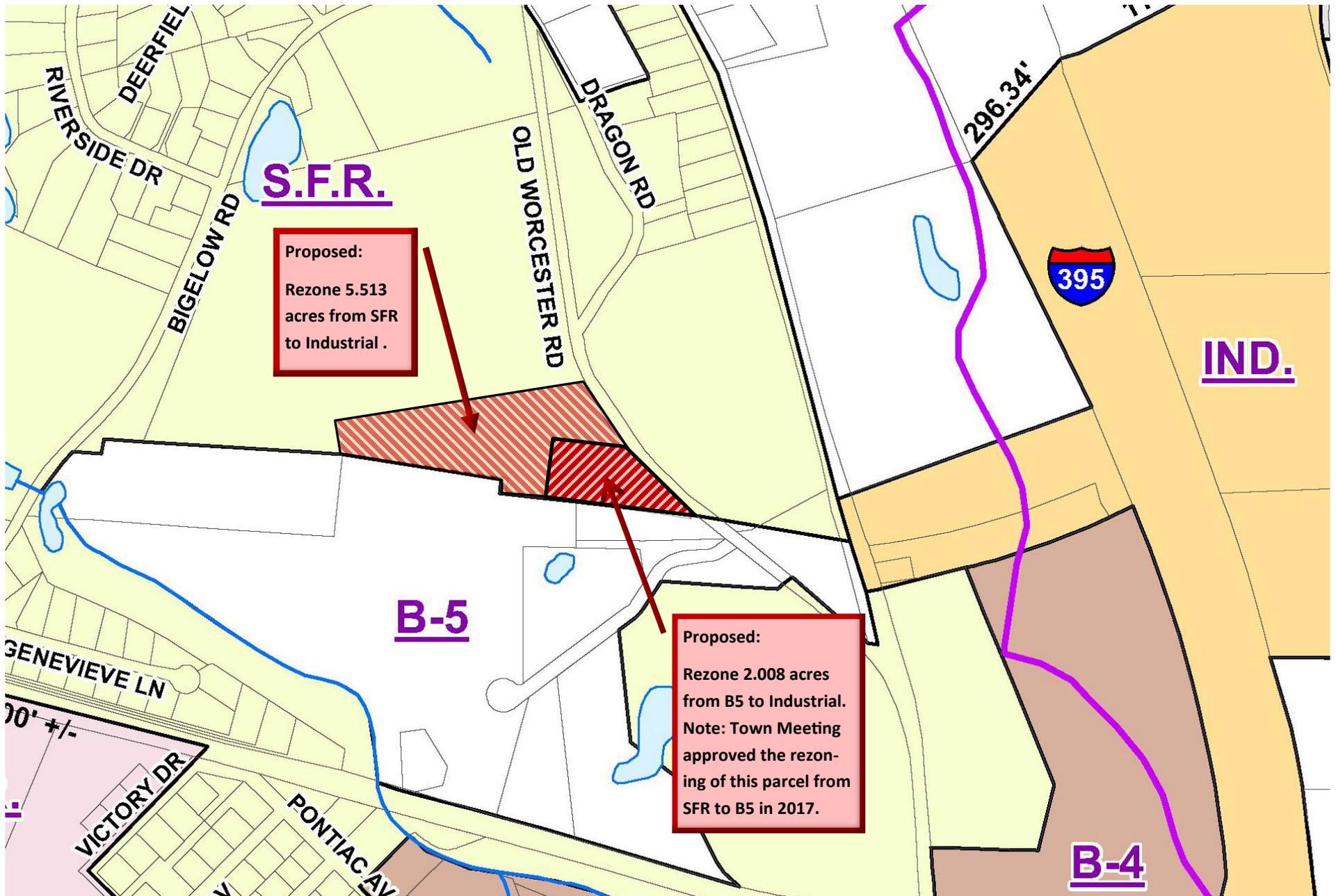
# Proposed Old Worcester Road Zoning Map Amendment—Webster, Massachusetts

Article \_\_\_\_\_ - Special Town Meeting , July 31, 2017



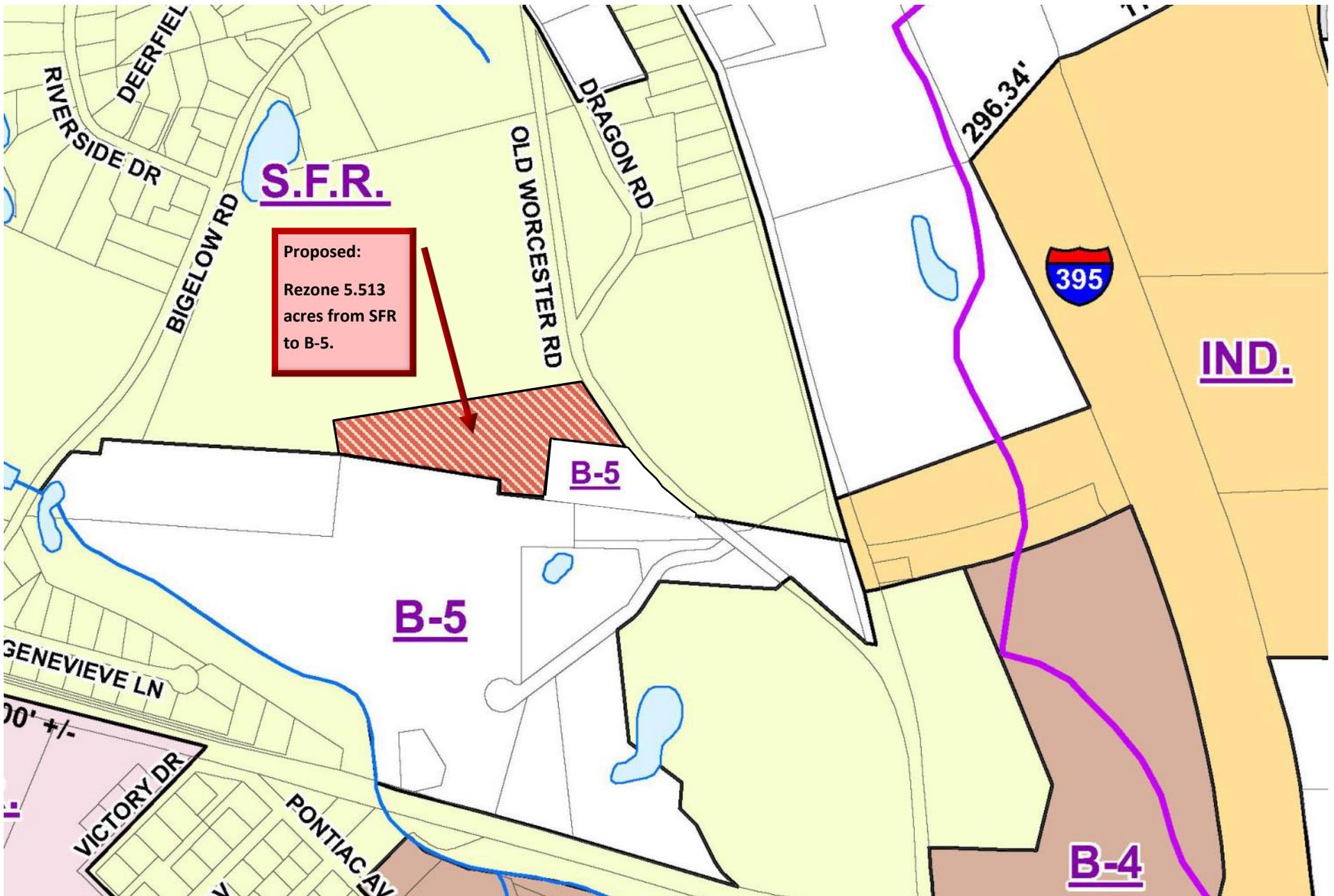
Proposed Rezoning of two parcels on Old Worcester Road—May 14, 2018 Town Meeting

Surrounding Zoning—Not to Scale



Proposed Rezoning—1 Lot on Old Worcester Road—June 25, 2018 Special Town Meeting

Surrounding Zoning—Not to Scale



WEBSTER PLANNING BOARD

DECISION

SPECIAL PERMIT & SITE PLAN APPROVAL

0 School Street Solar Project  
Webster, MA 01570

At a meeting held on May 21, 2018 the Webster Planning Board voted to approve the Special Permit and Site Plan Approval and Conditions for:

**Name of Applicant:** Batten Street Solar, LLC, 4 Liberty Square, Boston, MA 02109.

**Name of Property:** Norman & Patricia Rudzinski (Assessor ID 10-A-17)  
**Owner(s)** Town of Webster (Assessor ID 10-A-29)  
Esposito Realty Trust (Assessor ID 10-A-33)

**Property Location:** 0 School Street (off Batten Street and Malden Drive)  
Webster, MA 01570

**Plan Set Entitled:** Batten Street Solar PV Project, Webster, Massachusetts, 1000-KW (AC)  
Dated December 2017, Revised through February 6, 2018  
9 sheets

**Prepared By:** Woodard & Curran  
40 Shattuck Road, Suite 110, Andover, MA 01810

The **APPROVED** Special Permit and Site Plan for the construction a 1.3 MW Ground Mounted Photovoltaic Project identified as **EXHIBIT #27 to be modified in accordance with this Decision** complies with the purpose, specifications, and criteria set forth in Section 650, Article XI: Solar Use Facilities and Section 650, Article VII: Sections 52-60 Site Plan Review of the Webster Zoning Bylaws.

Special Permit shall lapse after two years (2) and the Site Plan Approval shall lapse after three (3) years from the date the Decision was filed in the Town Clerk's Office in accordance with Massachusetts General Law. Extensions of time for either the Special Permit or the Site Plan Approval may, for good cause, may be extended by the Planning Board upon the written request of the applicant.

**On Behalf of the Planning Board:**



Paul LaFramboise, Chairman

6-25-18

Date

Filed with the Town Clerk on: Date:



Robert Craver, Town Clerk

June 26, 2018

Date

## **I. BACKGROUND**

The Application for a Site Plan Review was formally submitted on January 2, 2018. It is noted that the Applicant had submitted an identical application on October 16, 2017. The public hearing for that application commenced in accordance with Zoning By-law. During the course of the hearing, membership of the Planning Board diminished to the point where a super majority vote could not be achieved. The Applicant requested to withdraw the application without prejudice with the intent to resubmit once new membership was appointed to the Board. The Board voted to grant this request on December 11, 2017 (see EXHIBIT #1). At the time of resubmission the Applicant requested to transfer all submittals from the previous project file to the new application file and further requested the Board to waive all submission fees. Both requests were granted.

The Applicant coordinated with Town staff on scheduling a public hearing for the new application. The public hearing was scheduled for January 22, 2018. In order to meet the legal advertising deadline, staff posted a notice of the public hearing with the Town Clerk on December 18, 2017 and schedule an advertised public hearing notice in the Worcester Telegram & Gazette to be published on January 8 and January 15, 2018. Both of these actions were completed in advance of the submission of a formal application for the purposes of ensuring that the second application could be properly processed with regards to posting a public hearing, notifying abutters and advertising the public hearing notice in accordance with Massachusetts General Law.

The public meeting on the Application was opened on January 22, 2018 (no testimony taken) and continued on February 12<sup>th</sup> (no testimony taken), March 19<sup>th</sup> (no testimony taken), April 9<sup>th</sup> and April 30, 2018. The entirety of the public hearing was conducted in the Community Room of the Webster Police Department. Abutters were notified by Certified First Class, Return Receipt Mail. Surrounding towns were notified by First Class Mail.

The following Board members were present at the public hearing: Chairman Paul LaFramboise, Vice Chairman Michael Dostoler, Members Thomas Klebart, Sharon McMahan, and Daniel Morin. Prior to the opening of the public hearing both Ms. McMahan and Mr. Morin stated that they had conflicts of interest. Mr. Morin is an abutter within 300 feet of the project site and Ms. Morin's stepson is a direct abutter to the site. Both stated their belief that they could remain impartial in the matter. Chairman LaFramboise invoked the rule of necessity to allow both member to be eligible to vote as they had stated their conflicts for the record and that no Associate Members had been appointed to fill the existing vacancies thereby eliminating the possibility of substituting members who have conflicts. At the public hearing, all those wishing to speak to the matter were heard.

Ms. Denise Cameron of Woodard & Curran and Joe Fiori and Christopher Dominguez of Nexamp presented the Application to the Board on behalf of the Owner. Also present was Chuck Eaton of CME, the Board's consulting engineer. At the public meeting, all those wishing to speak to the petition were heard.

## **II. FINDINGS OF FACT**

- F1. During the public hearing the Applicant reviewed the application. Joe Fiori of Nexamp and Denise Cameron of Woodard and Curran were present to discuss the project. Mr. Fiori provided a history of the site noting an earlier proposal for a residential subdivision. The project would, in effect, restore the property by fixing some of the problems created in the past, specifically the drainage issue associated with the wetland. He reviewed the nature of the community solar project including net metering as well as the financial benefit to the Town in the form of taxes. The project has been revised to reflect

comments received. All told, Mr. Fiori stated that the project would provide substantial improvements to the benefit of many including the Town. Ms. Cameron presented the plan. She reviewed two designs to resolve the drainage problem in the wetland area noting that the Conservation Commission preferred the covered pipe option. To date they have received their Order of Conditions from the Conservation Commission, made some modifications the pole locations.

- F2. During the public hearing the Applicant and the Board discussed screening and visual impacts to the abutters. Ms. Cameron reviewed the landscaping plan. Most trees on site would remain except dead trees which would be removed. The solar panels would be primarily installed in the areas that already clear. No lighting is proposed. There is no barbed wire on the fencing proposed. The landscaping plan includes 138 plantings with a 15 to 25 foot no disturb area proposed. In addition they intend to maintain and protect the existing evergreen buffer of approximately 35 feet in certain areas. Ms. Cameron stated that they would be six feet tall at the time of installation. The Board noted that the planting plan at Hubbard State Hospital was inadequate and didn't do a good job at screening the project. Mr. Fiori stated that his company also manages that site and he was aware that those plants weren't thriving. He spoke with the operations and maintenance team and they plan to replace the dead plant material. Mr. Fiori stated that they are proposing a different species of plant, giant arborvitae, for this project. They grow to up to 30 feet with an 8'-10' spread. The landscaping consultant has confirmed that this was an excellent choice as they are more substantial and easily maintained. Mr. Fiori stated that they would offer a two year surety agreement for \$18,000 to ensure that the plants thrive and replace any that die in the first two years. The Board stated their preference for an escrow account instead of a bond as bonds have been problematic for the Town in the past. Mr. Fiori stated that the solar panels were designed to absorb the sunlight, not reflect it, so that there would be little to no visual impacts. Mr. Fiori noted that the site would be fenced in, that it would be a standard 7 feet high chain link fence, the height of which is allowed by right. The Board suggested that the fence be coated in black vinyl to reduce the visual impact to the neighbors. The Board finds that the Applicant complied with this request.
- F3. During the public hearing the Applicant and the Board discussed site drainage as it relates specifically to the significant wetlands area on the south side of the site. It was noted the problem was created when at an earlier time by the Owner. An agreement with the Town resulted in the construction of a drainage trench which allowed the water to drain off the site onto the abutting Town owned land. No formal agreement was reached on how that trench would be maintained. The trench no longer properly drains and a number of problems have arisen since which has caused property damage to the abutters due to dead trees falling onto abutting property. Ms. Cameron reviewed the plan noting a solution to the problem was designed based on the preferred plan approved by the Conservation Commission. The Board stated that a maintenance plan and agreement between the Town and the property owner should be agreed upon to prevent future problems.
- F4. During the public hearing the Board and the Applicant discussed one waiver request: Section 650-91 D(3) – Utility Connections which requires that all utility connections from large-scale solar photovoltaic shall be underground. Mr. Fiori reviewed the waiver request. The waiver request is based on fiscal constraints and design preferences set by the utility company which will not be known until the project is further in development. He reviewed two potential options including locations of the poles along the access road and the type of utility interconnection to support each. One design would require additional 5' x 5' concrete pads which would add more concrete to the site and creating more site disturbance. Mr. Fiori suggested a compromise solution – two poles on the Rudzinski property

and one pole on the Esposito property where the interconnection would be made. He noted that some of the area residents prefer that all three poles and associated equipment be located on the Rudzinski property as they would be further away from the residential areas and therefore would reduce noise impacts. Mr. Fiori noted that the poles would be thirty to forty feet away from the nearest residence and did not generate an excessive amount of noise in terms of decibels and duration. The Board asked for more information about the number of poles being proposed. Mr. Fiori stated that a total of six are proposed – three for Nexamp operations to transfer from the equipment pad to three poles required by the utility company which would transfer to the interconnection. He noted that they won't know the actual requirements from the utility company until construction has commenced and that three poles may not be necessary. They just won't know until later as the utility company doesn't get involved in the design stage and only provides the requirements much later in the process. The Board asked about the existing poles along the street adjacent to the project and if any upgrades were required to accommodate the increased loading of additional electricity into the system. Mr. Fiori stated that they would need to replace the pole at the site entrance for the interconnection. Some upgrades on the existing poles in the area would be required to accommodate the additional power load but that is not a part of this project. The utility company would be responsible for that work.

- F5. During the public hearing the Board and the Applicant discussed noise impacts. Mr. Fiori stated that the equipment mounted to the poles would generate 40 – 50 decibels which would be heard if you were standing close. The noise level drops off significantly as you move away from the equipment. He added that a substantial amount of screening had been added to the plan which would serve to diffuse noise impacts to the neighbors.
- F6. During the public hearing the Board received testimony from Ian Cole, 5 Malden Drive. He noted that his property directly abuts the site entrance and that he continued to be concerned about the placement of utility poles on the property where the site access and interconnection will be made. He urged the Board to deny the waiver request noting that the impacts of an industrial use in a residential neighborhood would have significant impacts and that the neighbors should be afforded the highest protections. Mr. Cole noted that there was no guarantee that National Grid would be sensitive to the impacts to the neighborhood when issuing their requirements to Nexamp for the interconnection. Anything the Board approves would be locked in. The waiver request is based on a business decision as the underground utility connection is more expensive. He added that National Grid does not have hard and fast rules regarding the feasibility of above or below ground interconnections. Mr. Cole noted that he had recently submitted a letter to the Board outlining his ongoing concerns such as the difficulty in mitigating visual impacts, the decibel levels associated with the transformer, and the uncertainty of the future placement of utility poles under the discretion of the National Grid. Mr. Fiori stated that he appreciated Mr. Cole's comments noting that underground interconnections are not standard industry practice and that Mr. Cole was correct, that it was based on a business decision due to cost. He explained the constraints of designing that system based on the site lay out and spacing required for poles. He noted that the option which includes the poles versus the pad mounted units was less environmentally intrusive. Mr. Fiori added that they were trying to balance all the site needs and constraints within the context of cost and felt that the additional screening and wetland mitigation were of significant benefit to the neighbors.
- F7. During the public hearing the Board received testimony from Mr. James Lenhart, 17 Malden Drive. He noted that the six proposed poles were significantly fewer than the number that would be required if the site were developed as a residential neighborhood. Mr. Cole stated that poles in residential

neighborhood would be spaced out as opposed to the poles for the solar project which would all be grouped together. Mr. Fiori noted that there would be a level of uncertainty about pole location as they wouldn't get the specifications from National Grid until the construction phase. The Board asked about which pole the transformer would be located. Christopher Dominguez of Nexamp stated that it would be affixed to the second or third pole, would be about the size of a five gallon bucket, and would generate very little noise. Cables would be on all poles. Mr. Fiori reviewed the number of poles and ownership thereof. The project owners, presently Nexamp, would own three of the poles and National Grid would own the other three. Mr. Dominguez noted that the poles mirror each other as required and that they would be in the vicinity of the inverter equipment. Mr. Fiori stated that the utility company prefers that their poles be as close to the inverter as possible but they had pushed them back on the current design. Mr. Klebart asked what would happen if the utility company rejected that design and how many poles would be required if the waiver wasn't granted. Mr. Fiori stated that in the first scenario where the waiver was granted, there would be six poles, and if the waiver wasn't granted that there would be three poles which would be owned by the utility company. To reduce the amount of visual impact the Board requested that one of the poles be positioned off the site access road so that it was on the Esposito property and the two remaining poles are positioned on the Rudzinski property.

- F8. During the public hearing the Board and the Applicant discussed the decommissioning agreement. Mr. Eaton noted that that the decommissioning surety would be funded over a five year period and that the Town would review it every five years after that to ensure validity and amount. He noted that decommissioning proposal was different than what is required in the Webster Zoning By-law. No back up information was provided to justify the figure they had arrived at and that they had used the average costs from some of their other existing projects. He added that it would be at the Board's discretion to determine if it was satisfactory. Mr. Fiori noted that the decommissioning surety of \$13,000 over a five year period would be provided. Mr. Fiori explained the formula for arriving at that figure which included salvage cost of materials and removal costs. He estimated a total of \$50,000 to fully decommission and remove the project which included the salvage costs of various materials such as copper, aluminum and steel. The Board asked if there was any salvage value in the solar panels. Mr. Fiori stated that there may be some value in the silicone but that wasn't included in the calculations as there wasn't enough information to determine a number. The Board asked about the form of surety that they plan to submit. Mr. Fiori stated that he would prefer to assess his options between bond and escrow, the form which would have to be agreed upon as a condition of the Special Permit approval if granted. The Board noted that bonds have not been a reliable form of surety for the Town in the past and that cash escrow would be preferable. Mr. Fiori stated that he would like the flexibility to consider all options but they would be willing to discuss the matter further. Tom Reidy of Bacon Wilson, representing Nexamp, reviewed the bond process and noted that the Board had broad authority to negotiate surety.
- F9. During the public hearing the Board received testimony from Sharyn Morin, 36 Batten Street. She asked if any new information had been received from the Army Corps of Engineers regarding the drainage ditch. She said that the Conservation Agent, Mary Overholt, told her that she was waiting on a determination. Mr. Fiori noted that the issue was under the jurisdiction of the Conservation Commission which they were working with. He noted that the vernal pool reassessment was underway. Ms. Cameron noted that they are required to comply with the Order of Conditions issued by the Conservation Commission prior to the start of construction. Ms. Morin asked why the landscaping surety was only set for two years and how would maintenance issues be addressed when the surety was

released. Mr. Fiori noted that surety covers the installation and warranty coverage for plant material but that they have a maintenance staff who monitors the site after the surety expires. The Board asked if two years were enough. Ms. Morgan stated that she recommended a three year surety to ensure proper installation, replacement of material that failed to thrive, especially for material that fails within the first year. Mr. Fiori noted that they have a written agreement with the landscaping company regarding warranty of plant material. Ms. Morin asked about the height of the proposed on site utility poles and if they would be visible above the tree line. Mr. Fiori noted that they would be 40 to 50 feet in height and that some of the existing mature trees around the site would block their visibility from Batten Street and Malden Drive. They will be visible in some cases but the poles were 100 to 200 feet off the road and that there was a tall, mature head row on both sides of the access road which will remain

- F10. During the public hearing the Board received testimony from Mr. Michael Finamore, 108 Douglas Road, stated that he had been approached by the project owner to cut down trees on his property which would shade the future solar panels. He noted that he gave his permission but wanted to know why he wasn't notified about this public hearing as he was an abutter. Ms. Morgan stated that the solar project being considered on the property abutting his was not the same project that is presently before the Board.

### **III. DECISION**

- A. At their meeting of April 30, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Webster Planning Board (motion by Mr. Dostoler, seconded by Mr. Klebart) voted unanimously, 5-0, to **GRANT** the Applicant's request for a waiver from Section 690-91, Section D(3) – Utility Connections with the condition that a single utility pole be placed on what is known as the Esposito property (Assessor ID Lot 10-A-29).
- B. At their meeting of April 30, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Webster Planning Board (motion by Mr. Dostoler, seconded by Mr. Klebart) voted unanimously, 5-0, to **APPROVE** the Site Plan with **CONDITIONS**.

### **IV. CONDITIONS of APPROVAL**

The following constitutes conditions of approval by the Webster Planning Board:

#### **Standard Conditions**

1. This Special Permit and Site Plan Approval specifically authorizes the construction of a ground mounted photovoltaic solar generating facility and associated equipment and site improvements not to exceed 1.3 megawatts as described in the EXHIBITS and FINDINGS of this DECISION.
2. In accordance with Massachusetts General Law c. 40A, Section 9, this Special Permit shall lapse after three years from the date of the signed DECISION if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, may be extended by the Planning Board upon the written request of the Applicant and by modification of this Special Permit.

3. This Site Plan Approval shall lapse after two years from the date of the signed DECISION if substantial site construction thereof has not sooner commenced except for good cause. Such approval may, for good cause, may be extended by the Planning Board upon the written request of the Applicant and by modification of this Site Plan Approval.
4. This Special Permit shall bind the Applicant and Owner and / or their future successors and assigns to all the conditions set forth in this DECISION. Any change in management and / or ownership of the solar generating facility shall require notification to the Planning Board within one month from the change in ownership / management of the facility.
5. This Special Permit shall not take effect until the DECISION has been recorded at the Worcester District Registry of Deed (WDRD) after the twenty day appeal period as expired in accordance with Massachusetts General Law. The Applicant / Owner shall provide the Planning Department with recording information such as the WDRD Book and Page Number and/or Instrument Number.
6. The work authorized by this Special Permit and Site Plan Approval DECISION shall be solely for the purposes noted within this DECISION. Changes to the plan presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the plan presented within the EXHIBITS of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.
7. By recording this Special Permit Decision at the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this DECISION.
8. The Applicant / Owner and all future assigns or successors shall adhere to monitoring and maintenance requirements set forth in Section 650-91 Sections F and G of the Webster Zoning By-law.
9. All inspections required as part of this Decision shall be coordinated by the Planning Department and the Board's consulting engineer.
10. No portion of the solar generating facility shall be activated until all local, state and federal requirements, including inspections, have been satisfied.
11. The Applicant shall install and maintain emergency access security features per the requirements of and to the satisfaction of the Police and Fire Departments.
12. The Applicant / Owner will be responsible for maintaining a positive peer review account with the Town to be coordinated by the Planning Department. Failure to do so may result in delays in scheduling inspections and issuance of permits.

**Conditions to be Met Prior to the Start of Construction**

13. Revise plans as follows:
  - a. Modify in accordance with waiver condition noted in Section III.A regarding utility pole placement.
  - b. Conditions of this Special Permit and Site Plan Approval including Waivers and date of approval to be included on the plan set.
  - c. New revision date on all sheets.
  - d. All sheets to be sequentially numbered.

14. Submit revised plan set (Condition #12) and submit to the Planning Board as follows:
  - e. One electronic copy to the Planning Board and the peer review engineer.
  - f. One full size (24" x 36") set to the Planning Board and one full size copy to the consulting engineer.
15. The Applicant must submit surety for the landscaping in form acceptable to the Board for \$18,000 to be valid for a three year period prior to the start of construction.
16. The Applicant must submit surety for decommissioning in a form acceptable to the Board for the amount of \$15,000 when fully funded over a five year period starting with \$3,000 when the project starts up and an additional \$3,000 annually after thereafter. Surety must be submitted and signed by both parties prior to the start of construction. The Applicant / Owner will submit a surety analysis every five years to ensure that the amount is adequate and to allow for adjustments at the discretion of the Board as needed.
17. The Applicant and/or Owner shall be responsible for obtaining all necessary permits.
18. The Applicant and/or Owner shall notify the Planning Board and consulting engineer of start of construction date.
19. Installation, inspection and approval by the Planning Board's consulting engineer of the sedimentation and erosion control must be completed prior to the start of construction. The Applicant / Owner shall coordinate with the consulting engineer to ensure this condition is met.
20. The Applicant / Owner will work with the Town Administrator to develop a construction and long term maintenance agreement for the covered pipe and trench system to be installed by the Applicant / Owner on the project site which will drain water onto the abutting Town-owned land. A copy of the final, signed agreement shall be transmitted to the Planning Department to be included in the project file for the record.

#### **Conditions to be Met During Construction**

21. Construction period inspections by the Planning Board's consulting engineer shall be coordinated with the Planning Department.

#### **Conditions to be Met After Construction**

22. In accordance with Section 650-59 of the Zoning By-law, an as-built plan prepared by a registered engineer or registered land surveyor shall be provided and approved by the Planning Board. The plan shall indicate all above and below grade improvements depicted on the approved site plan (EXHIBIT #28 as modified in accordance with this Decision).

#### **EXHIBITS**

The following documents were submitted as part of the Application:

- EXHIBIT 1. Application packet submitted and stamped by the Town Clerk on January 2, 2018; includes the following documents:

- Application for Special Permit and Site Plan Review and accompanying documentation; 4 pages.
- Correspondence from Woodard & Curran; Ground Mounted Solar Photovoltaic Project, Batten Street Resubmission of the Site Plan & Special Permit Application; dated October 24, 2017; 1 page.
- Correspondence from Woodard & Curran; Ground Mounted Solar Photovoltaic Project, Batten Street Site Plan & Special Permit Application; dated December 20, 2017; 1 page.
- Correspondence from Nexamp; Batten Street Solar LLC: 1.3 MW Ground Mounted PV Facility Schmidt Street (off Batten Street & Malden Drive); dated October 17, 2017; 3 pages.
- Certified Abutters List and associated documents, signed by the Assessor, dated December 14, 2017; 12 pages.
- Email Correspondence from the Conservation Agent to the Town Planner; Special Conditions for 0 School St. Solar Project; received January 2, 2018; 1 page.
- Correspondence from Nexamp, Borggaard Construction Corporation – Nexamp, Solar Farm Westminster MA – Dismantle, Dispose, & Reseed; dated April 8, 2015; 3 pages.
- Worksheet from Woodard & Curran; Infiltration Basin Sizing Calcs; dated October 16, 2017; 3 pages.
- Form, Commonwealth of Massachusetts; Form 11 – Soil Suitability Assessment for On-Site Sewage Disposal; revised August 2015; 3 pages.
- Plan; Test Pit Log – Batten Street Solar; prepared by Woodard & Curran; dated October 2017; 24” x 36”; 1 sheet.
- Plan Set; Batten Street Solar PV Project, Webster, Massachusetts, 1000-KW (AC); prepared by Woodard & Curran; dated October 2017; 11” x 17” and 24” x 36”, color; 9 sheets.
- Documentation from 2017 Submission (see SECTION I: BACKGROUND); includes the following:
  - Application Cover Letter, Woodard & Curran; dated October 24, 2017, received October 25, 2017; 1 page.
  - Plan: Existing Conditions Survey; prepared by WSP USA, Inc. for Woodard & Curran; dated April 26, 2017; oversized sheet; 1 sheet.
  - Plan Set; Batten Street Solar PV Project, Webster, Massachusetts, 1000-KW (AC); prepared by Woodard & Curran; dated October 2017; 24” x 36”; 9 sheets.
  - Bound application packet prepared by Woodard & Curran; dated October 2017; includes the following:
    - Introduction: Property Ownership and Easements
    - Introduction: Proposed Development
    - Introduction: Traffic, Environmental & Infrastructure Impacts

- Introduction: Additional Permits
  - Introduction: Natural Resources
  - Stormwater Management: Existing Conditions
  - Stormwater Management: Drainage Area
  - Stormwater Management: Proposed Conditions
  - Stormwater Management: Drainage Area
  - Stormwater Management: Stormwater Design
  - Stormwater Management: Calculation Method
  - Stormwater Management: Peak Flow Comparison
  - Stormwater Management: Massachusetts Stormwater Standards
  - Conformance with Town Code: Zoning ByLaw – Wetlands Protection Act (Chapter 636)
  - Conformance with Town Code: Zoning ByLaw –Decision Criteria for Site Plan Approval (Chapter 650-57)
  - Conformance with Town Code: Zoning ByLaw –Requirements for Solar Facilities (Chapter 650-91)
  - Appendix A: Locaiton Map & FEMA FIRMette
  - Appendix B: Drawings (Bound Separately)
  - Appendix C: Wetland Report
  - Appendix D: Drainage Area Figures & Stormwater Calculations
  - Appendix E: Operations and Maintenance & Decommissioning Plan
  - Appendix F: Proof of Right, Title, and Interest & Liability Insurance
  - Appendix G: Certified Abutters List
  - Appendix H: Boundary Survey
  - Appendix I: Interconnection Application, Electrical Diagram, & Equipment Data
- EXHIBIT 2. Town of Webster Planning Board Public Hearing Notice, stamped by Town Clerk on December 18, 2017; 1 page.
- EXHIBIT 3. Memorandum from the Conservation Agent; 0 School Street Batten Street Solar Project; dated November 13, 2017; 1 page.
- EXHIBIT 4. Correspondence from CME re: Application for Site Plan Review for Ground Mounted Photovoltaic Project, Batten Street, Webster, Massachusetts; dated and received November 13, 2017; 3 pages.
- EXHIBIT 5. Correspondence; Comments and photos submitted to the Conservation Commission; received November 13, 2017; 3 pages.
- EXHIBIT 6. Correspondence and Photos; submitted by Jason Cole, 5 Malden Drive; dated and received November 13, 2017; 8 pages.
- EXHIBIT 7. Correspondence and Photos; submitted by Jason Cole and Ian Cole, 5 Malden Drive; dated and received December 5, 2017; 11 pages.
- EXHIBIT 8. Email from the Webster Fire Chief; Re: Solar Project – Off Malden & Batten; received December 5, 2017; 4 pages.

- EXHIBIT 9. Correspondence from Woodard & Curran; Ground Mounted Solar Photovoltaic Project, Batten Street Site Plan & Special Permit Application – Response to Comments; dated December 8, 2017; 3 pages.
- EXHIBIT 10. Revised Application Materials submitted by Nexamp on December 5, 2017; includes the following:
- Correspondence from Nexamp; Batten Street Solar LLC: 1.3 MW Ground Mounted PV Facility Schmidt Street (off Batten Street & Malden Drive); 6 pages.
  - Revised Stormwater Data; Revised Post; prepared by Woodard & Curran; 68 pages.
  - Plan; AASHTO Ladder Truck Turning Template – Batten Street Solar; prepared by Woodard & Curran; dated December 2017; 24" x 36"; 1 sheet.
- EXHIBIT 11. Revised Application Materials submitted by Woodard & Curran; received January 17, 2018; includes the following:
- Correspondence from Woodard & Curran; Ground Mounted Solar Photovoltaic Project, Batten Street Site Plan & Special Permit Application – Response to Comments; dated January 17, 2018; 3 pages.
  - Correspondence from Nexamp; Batten Street Solar: 1.3 MW Ground Mounted PV Facility, Schmidt Street (off Batten Street and Malden Drive); dated October 17, 2017; 4 pages.
  - Revised Stormwater Data; Ditch Pipe Sizing; prepared by Woodard & Curran; 13 pages.
  - Plan Set; Batten Street Solar PV Project, Webster, Massachusetts, 1000-KW (AC); prepared by Woodard & Curran; dated October 2017, revised through January 17, 2018; 24" x 36", color; 9 sheets.
- EXHIBIT 12. Correspondence from CME re: Application for Site Plan Review for Ground Mounted Photovoltaic Project, Batten Street, Webster, Massachusetts; dated and received January 22, 2018; 3 pages.
- EXHIBIT 13. Request for Continuance of Public Hearing to February 12, 2018; submitted at the January 22 Public Hearing; 1 page.
- EXHIBIT 14. Public Hearing Sign In Sheet, January 22, 2018; 2 pages.
- EXHIBIT 15. Correspondence from Joseph McKenna, Testimony to Webster Zoning on Batten St. Solar; 7 Batten Street; dated and received January 22, 2018; 2 pages.
- EXHIBIT 16. Email from Lori Lenhart; Ditch Behind Malden Drive off Batten Property; received January 24, 2018; 1 page.
- EXHIBIT 17. Photos; submitted by Lori Dupont, 17 Malden Drive; submitted via email on January 25, 2018; 8 ½" x 11", color; 2 pages.
- EXHIBIT 18. Revised Application Materials submitted by Woodard & Curran; received February 9, 2018; includes the following:

- Correspondence from Woodard & Curran; Ground Mounted Solar Photovoltaic Project, Batten Street Site Plan & Special Permit Application – Response to Comments; dated February 7, 2018; 2 pages.
  - Correspondence from Nexamp; Batten Street Solar LLC: Overhead Utility Lines; dated January 29, 2018; 2 pages.
  - Correspondence from Nexamp; Batten Street Solar LLC: Decommissioning Surety; dated January 29, 2018; 4 pages.
  - Worksheet from Woodard & Curran; Infiltration Basin Sizing Calcs; dated October 16, 2017; 3 pages.
  - Revised Stormwater Data; Revised Post; prepared by Woodard & Curran; 68 pages.
  - Revised Stormwater Data; Pond Elevations, 100 Year Storm data; prepared by Woodard & Curran; 13 pages
  - Plan; Site Layout Plan – Batten Street Solar; prepared by Woodard & Curran; dated December 2017, revised through February 6, 2018; 24” x 36”; 1 sheet.
- EXHIBIT 19. Correspondence from Nexamp; Ground Mounted Solar Photovoltaic Project, Batten Street, Site Plan & Special Permit Application – Request for Continuance; dated and received February 9, 2018; 1 page.
- EXHIBIT 20. Correspondence from CME re: Application for Site Plan Review for Ground Mounted Photovoltaic Project, Batten Street, Webster, Massachusetts; dated and received February 9, 2018; 3 pages.
- EXHIBIT 21. Public Hearing Sign In Sheet, February 12, 2018; 1 page.
- EXHIBIT 22. Correspondence from Nexamp; Ground Mounted Solar Photovoltaic Project, Batten Street, Site Plan & Special Permit Application – Request for Continuance; dated and received March 19, 2018; 1 page.
- EXHIBIT 23. Public Hearing Sign In Sheet, March 22, 2018; 1 page.
- EXHIBIT 24. Correspondence from Netta Plante, 9 Malden Drive; dated March 22, 2018, received April 2, 2018; 1 page.
- EXHIBIT 25. Correspondence from Steve Grover, 8 Malden Drive; dated March 23, 2018, receive April 2, 2018; 1 page.
- EXHIBIT 26. Correspondence and Photos; submitted by Jason Cole and Ian Cole, 5 Malden Drive; dated March 28, 2018, received April 2, 2018; 8 pages.
- EXHIBIT 27. Correspondence from Sharyn Morin, 36 Batten Street; Special Permit – 0 School Street LLC, Malden Drive, Webster, Massachusetts; dated April 8, 2018, received April 9, 2018; 3 pages.
- EXHIBIT 28. Revised Application Materials submitted by Nexamp; received April 9, 2018; includes the following:
- Correspondence from Nexamp; Batten Street Solar LLC: 1.3 MW Ground Mounted PV Facility, Schmidt Street (off Batten Street & Malden Drive); dated April 9, 2018; 3 pages.

- Plan Set; Batten Street Solar PV Project, Webster, Massachusetts, 1000-KW (AC); prepared by Woodard & Curran; dated October 2017, revised through April 9, 2018; 11" x 17", color; 9 sheets.

EXHIBIT 29. Public Hearing Sign In Sheet, April 9, 2018; 2 pages.

EXHIBIT 30. Public Hearing Sign In Sheet, April 30, 2018; 1 page.