



TOWN OF FREEPORT, MAINE
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TO: FREEPORT TOWN COUNCIL

FROM: CAROLINE PELLETIER, TOWN PLANNER

RE: RECOMMENDED ZONING ORDINANCE AMENDMENTS PERTAINING TO SOLAR ENERGY REGULATIONS

DATE: TUESDAY, SEPTEMBER 14, 2021

Background: At the Wednesday, August 4, 2021 Planning Board meeting, the Planning Board reviewed the following agenda item:

ITEM III: Public Hearing – Proposed Amendments to the Freeport Zoning Ordinance (pertaining to solar energy regulations)

This will be a public hearing to consider proposed amendments to the Freeport Zoning Ordinance pertaining to solar energy regulations. The following Sections of the Freeport Zoning Ordinance will be discussed:

- a. Section 104. Definitions - to increase the allowable size of a Large Solar Farm in the Commercial I (C-I) District to up to fifteen (15) acres;
- b. Section 409. Commercial I (C-I) District – to add Large Solar Farm as a permitted use subject to Site Plan Review;
- c. Section 412. Commercial IV (C-IV) District - to correct that the existing uses of Small Solar Farm and Large Solar Farm are subject to Site Plan Review, rather than Subdivision Review as currently listed; and,
- d. Section 534. Solar Energy Generation Systems – to prohibit the use of herbicides on solar farms and to add additional performance standards for Large Solar Farms in the Commercial I (C-I) District.

In June of 2019, the Freeport Town Council requested that the Planning Board study adding a definition and allowed districts for the use “Community Solar Farm”. The Planning Board worked with NorthStar Planning, Town staff and the Town Attorney to develop proposed language. The Board had lengthy discussions and discussed the proposed language at multiple meetings (8/7/19, 10/2/19, 11/6/19, 12/4/19, 1/8/20, & 3/4/20).

In February 2021, the Planning Board held a public hearing to discuss proposed amendments to the Freeport Zoning Ordinance regarding the uses and standards for Solar Energy Generation Systems. The amendments discussed included:

- a. Section 104. Definitions, including adding the uses of: Solar Energy Generation System, Accessory; Solar Farm, Small; and, Solar Farm, Large.

- b. The use of Solar Farm, Small which was proposed to be added as a permitted use, subject to Site Plan Review, to the following zoning district Sections of the Freeport Zoning Ordinance: Section 402. Rural Residential District I and Rural Residential District IA; Section 403. Rural Residential District II; Section 405. Medium Density Residential District II; Section 411. Commercial District III; Section 420. Local Business District; Section 421. Industrial District I; and, Section 425. Resource Protection II.
- c. The uses of both Solar Farm, Small and Solar Farm, Large which were proposed to be added as permitted uses, subject to Site Plan Review, to the following zoning district Sections of the Freeport Zoning Ordinance: Section 406. Medium Density Districts; Section 409. Commercial District I; Section 412. Commercial District IV; and, Section 422. Industrial District II.
- d. A new Section 534: Solar Energy Generation Systems was proposed along with associated amendments to Section 602: Site Plan Review.

Process: The Planning Board voted to recommend the proposed amendments (as discussed at the February 2021 meeting) to the Town Council. The recommendation was sent to the Council, with the following items flagged for additional discussion:

- 1) If the proposed large solar farm size of 30 acres was right for Freeport;
- 2) If the Town want to strengthen the pesticide/herbicide requirement; and,
- 3) If the Council wanted to consider a stronger buffering requirement along the front setbacks.

The Council took action to adopt the language in March of 2021, with the request that the Planning Board examine adding a restriction on herbicide use and with the changes that a large solar farm could have a solar array development area of up to ten (10) acres, and the use of a large solar farm would not be added as a permitted use (subject to site plan review) in the Commercial I (C-I) Zoning District.

After the language was adopted, an applicant approached the Council with a request for a contract zone to allow a solar farm in the Commercial I Zoning District. The Council instead referred the solar language back to the Planning Board for consideration of the following:

- 1) to allow large solar farms in the Commercial I (C-I) District, to be allowed to have up to fifteen (15) acres of solar array development area;
- 2) to consider having a setback requirement for the solar array development area; and,
- 3) to consider a standard that large farms be no closer than one mile to each other.

These items were discussed by the Planning Board in June 2021 and have been incorporated into the proposed amendments now being recommended to the Council. Part of that discussion included whether a setback for the solar array development area of 100 or 200 feet (from US Route One South) would be appropriate. The proposed language includes a 150 foot setback. Maps reflecting the approximate 100- or 200-foot setbacks are attached. A third map is also attached and shows the proposed setbacks along with the parcels that are ten (10) acres or greater in size.

An updated provision regarding herbicide use and some typographical errors have also been included in the proposed text. Since a prohibition on herbicide use is proposed, notification regarding this Planning Board hearing was sent to the Maine Department of Agriculture, Conservation and Forestry Board of Pesticides Control in accordance with State law.

Process: The Board discussed this item at the August 4, 2021 Planning Board meeting. Notification was mailed in accordance with the Planning Board Rules of Order and Procedure and included standard posting and circulation of the agenda. Legal ads for the public hearing were published in the Brunswick Times Record on 07/22/21 and 07/27/21. The Board received no written letters prior to the meeting, and no members of the public commented at the meeting.

Public Notice

PUBLIC HEARINGS

The Freeport Planning Board will hold public hearings on Wednesday, August 4, 2021 at 6:00 p.m. in the Freeport Town Hall Council Chambers to discuss the following proposed amendments to the Freeport Zoning Ordinance:

- 1) Changes to Section 104. Definitions and Section 601. Enforcement – pertaining to the functions, process and standards for the Board of Appeals. The language is being updated to provide consistency with State law. Some additional non-substantive text changes are also proposed.
- 2) Amendments pertaining to solar regulations including:
 - a. Section 104. Definitions - to increase the allowable size of a Large Solar Farm in the Commercial I (C-I) District to up to fifteen (15) acres;
 - b. Section 409. Commercial I (C-I) District – to add Large Solar Farm as a permitted use subject to Site Plan Review;
 - c. Section 412. Commercial IV (C-IV) District - to correct that the existing uses of Small Solar Farm and Large Solar Farm are subject to Site Plan Review, rather than Subdivision Review as currently listed; and,
 - d. Section 534. Solar Energy Generation Systems – to prohibit the use of herbicides on solar farms and to add additional performance standards for Large Solar Farms in the Commercial I (C-I) District.

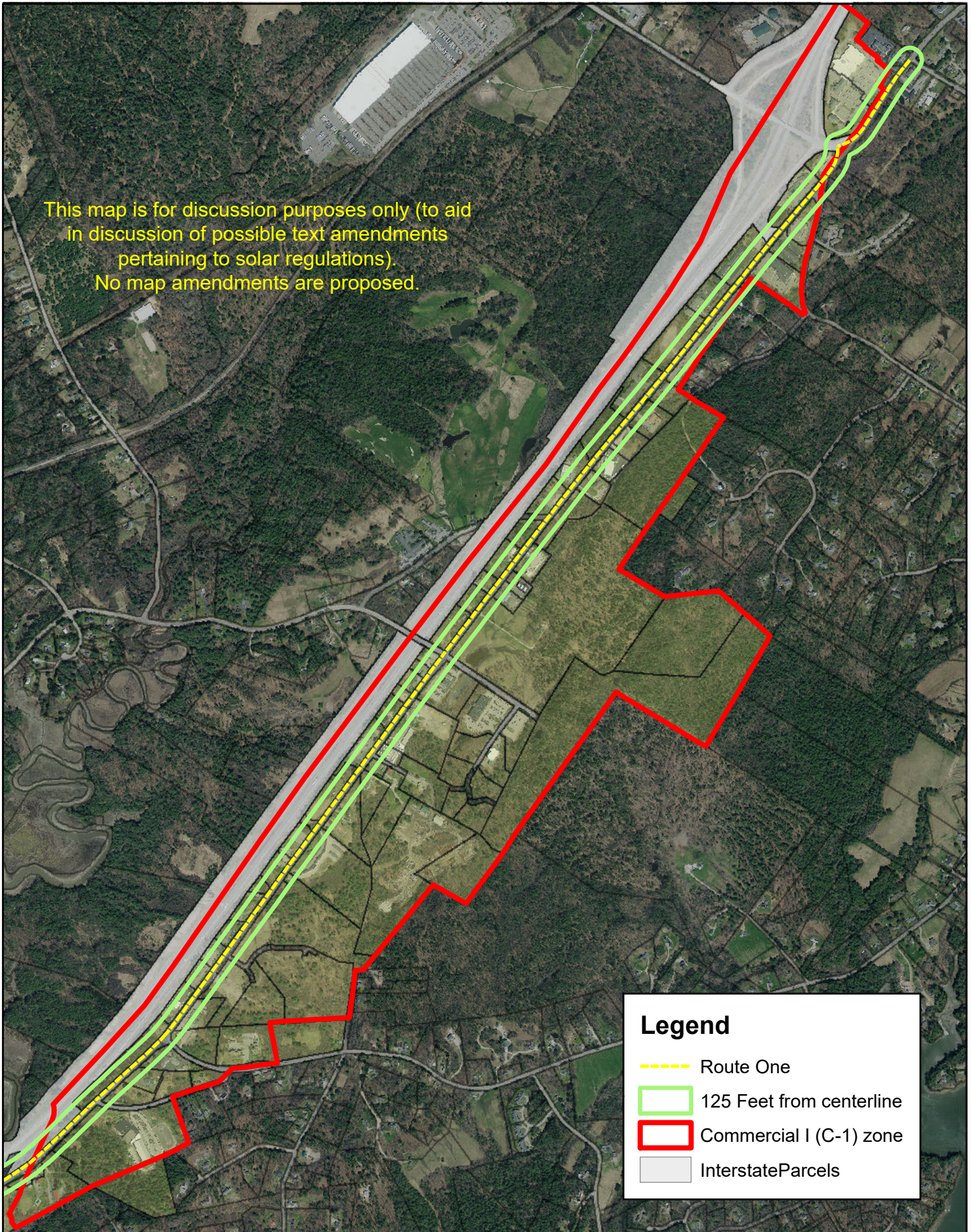
The public is welcome to attend. The meeting agenda and associated materials can be viewed at the Freeport Town Office or on the Town's website at www.freeportmaine.com

Recommendation from the Planning Board: The Planning Board made the following motion:

MOVED AND SECONDED: That the Freeport Planning Board recommends that we change the text as written for the proposed amendments to the Freeport Zoning Ordinance pertaining to Solar Energy Regulations with one note that in Section 3 for Performance Standards for Small Solar Farms and Large Solar Farms that the minimum setback for Large Solar Farms in the C-I District of 150 feet from U.S. Route One and they may not locate within one mile of the solar array development area of another Large Solar Farm in the C-I District and the Board will revisit all of these Solar amendments within a year to see how they play out in the real world and if any applicants are having challenges with the setbacks. The Board finds it consistent with the Freeport Comprehensive Plan and that it promotes environmental stewardship of the land and helps natural resources and displays Freeport's sustainability. (Child & Jortner)

C-1 Zone Proposed Solar Setback 100 feet from Route One.*

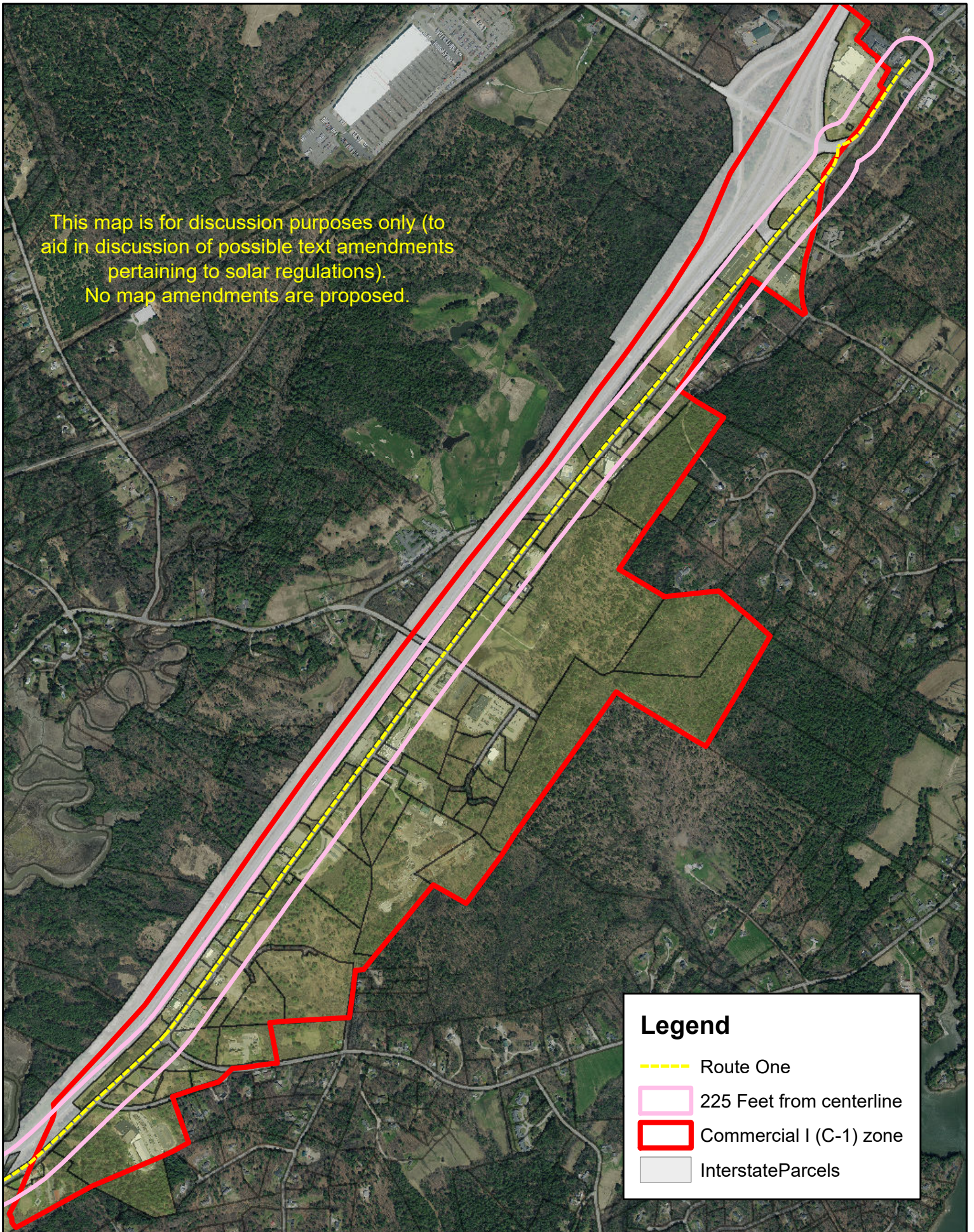
* Approximate distance given 125 feet from the road centerline assuming a 50 feet wide road.



C-1 Zone Proposed Solar Setback 200 feet from Route One.*

* Approximate distance given 225 feet from the road centerline assuming a 50 feet wide road.

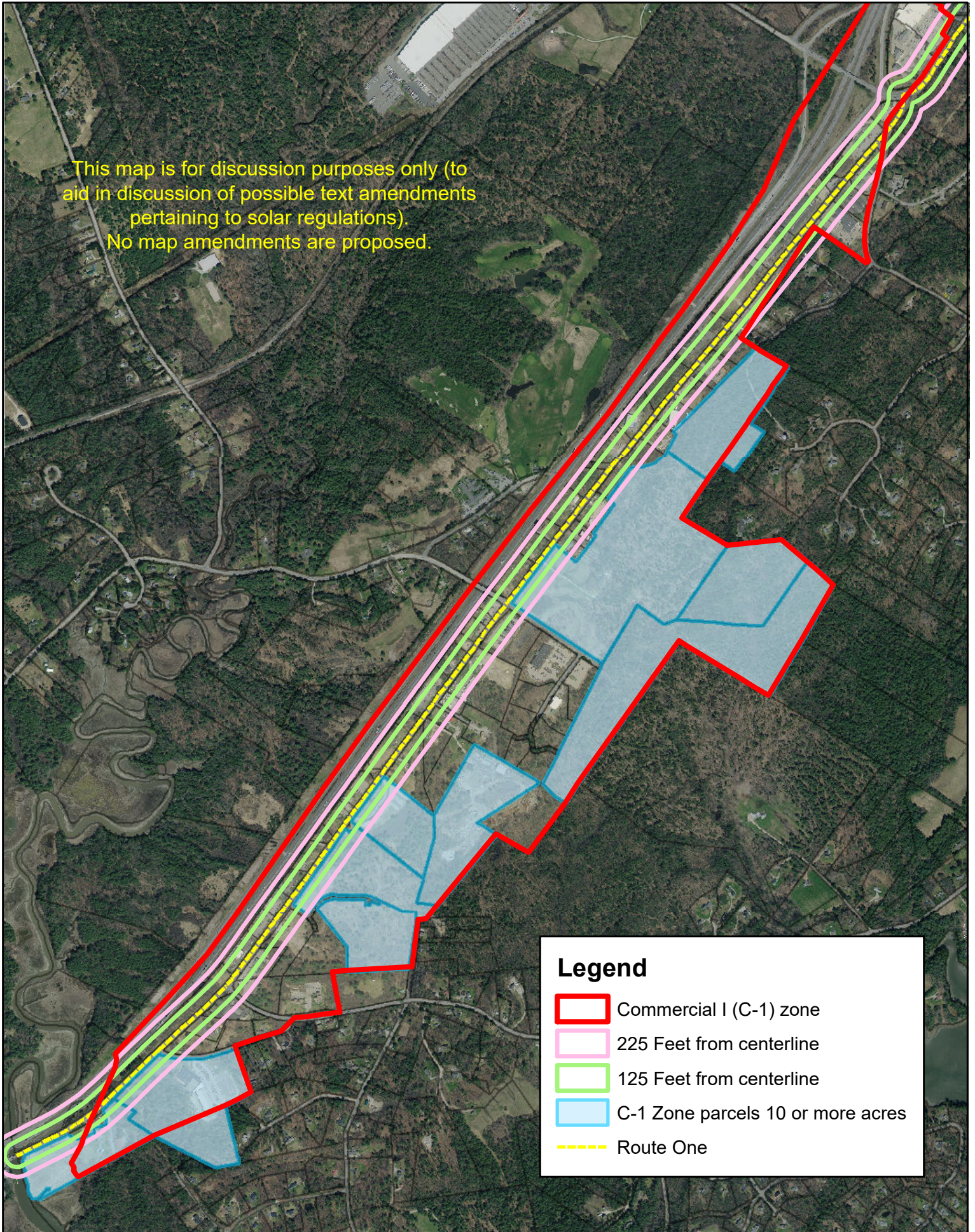
This map is for discussion purposes only (to aid in discussion of possible text amendments pertaining to solar regulations).
No map amendments are proposed.



C-1 Zone parcels greater than or equal to 10 acres

* Buffers of 125 and 225 feet are approximate distances to 100 and 200 feet from the parcel's lines assuming a 50 feet wide road.

This map is for discussion purposes only (to aid in discussion of possible text amendments pertaining to solar regulations).
No map amendments are proposed.



**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

Section 104. Definitions

Solar Farm, Large or Large Solar Farm: A Solar Energy Generation System that (i) may be roof or ground-mounted; (ii) primarily generates and delivers electricity to the energy grid for off-site consumption; and (iii) if it is ground-mounted, has a Solar Array Development Area that is 87,120 square feet (2 acres) or greater but less than 10 (ten) acres, except for in the Commercial I (C-I) District, where the Solar Array Development Area may be 87,120 square feet (2 acres) or greater but less than 15 (fifteen) acres. *{Amended, Effective 03/16/21}*

Section 409. Commercial District I “C-I”

A. Purpose: *{Amended, Effective 02/04/20}*

It is the intent of this District to provide for suitable locations for commercial uses and mixed use developments which are appropriately situated at highway locations and to encourage an attractive entrance to the Town of Freeport. This District comprises land along the U.S. 1 corridor from Yarmouth to the plaza just north of Desert Road and is the major local connector between Yarmouth and Freeport. This district is intended to be flexible with regard to minimum lot size, road frontage requirement, and setbacks from property lines provided points of access onto U.S. Route One are limited, and design standards are met.

B. Permitted Uses:

1. Single Family Dwelling
2. Two Family Dwelling
3. Agriculture *{Amended, Effective 06/18/13}*
4. Agritourism Activity *{Amended, Effective 06/18/13}*
5. Timber Harvesting
6. Peddler on Private Property subject to the requirements of Section 526

The following uses are subject to site plan review regardless of size: *{Amended, 03/19/19}*

7. Public or Private School
8. Commercial School
9. Outdoor Recreation School
10. Auto Repair Service Garage subject to the standards of Sec. 409.D.6 listed below
11. Auto Service Station
12. Retail Trade up to 15,000 s.f. building footprint
13. Commercial Sales and Service - Outdoor
14. Business and Professional Offices
15. Commercial Recreation – Indoor and Outdoor
16. Public Utilities
17. Convenience Store with Gas Pumps

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

18. Restaurant
19. Restaurant - Drive-Up
20. Restaurant - Carry-Out
21. Bed and Breakfast Inn
22. Hotel/Motel
23. Boatyard
24. Public and Private Assembly Indoor
25. Parking Facility
26. Commercial Sales and Service
27. Manufacturing and Processing
28. Day Care Center Facilities
29. Auto Sales for up to 30 vehicles stored outdoors
30. Flea Markets
31. Art Gallery and Museum
32. Residential Health Care Facility
33. Nursing Home
34. Construction Services
35. Research and Development Facility
36. Parking area for open space *{Amended, Effective 12/02/14}*
37. Artisan Food and Beverage *{Amended, Effective 02/04/20}*
38. Vehicle wash center *{Amended, 03/19/19}*
39. Mixed Use Development *{Amended, Effective 02/04/20}*
40. Food Truck, as an accessory to any permitted use that is subject to Site Plan Review, and subject to the provisions for Section 526A. – Food Trucks *{Amended, Effective 02/04/20}*

The following uses are permitted 300 feet or more from the easterly edge of the U.S. Route One right-of-way **or if closer than 300 feet from the easterly edge of U.S. Route One the standards of Section 409.D.8 shall be met**, and are subject to site plan review regardless of size: *{Amended, Effective 02/04/20}*

41. Multiple Family Dwelling
42. Warehouse and Storage Facility
43. Wireless Telecommunication Facilities
44. Truck Facilities
45. Small Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*
46. Large Solar Farm, subject to the standards of Section 534

C. Space and Bulk Standards

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

1. Minimum lot size and road frontage requirement if the building(s) or use(s) is/are connected to the public water and sewer system and if one of the following conditions exists or is provided¹: *{Amended, Effective 10/03/17}*
 - a. there is no more than one access point (existing or proposed) per lot of record as of May 6, 2008 on U.S. Route One, or
 - b. the only access point off U.S. Route One is shared with an adjacent lot or lots and the lot or lots sharing the access points don't have other access points on U.S. Route One; or
 - c. a lot has more than one existing access point per lot of record as of May 6, 2008; provided, however, that (i) in these situations the Project Review Board may relocate some or all of the access points, (ii) the development shall not have more access points than exist on May 6, 2008, and (iii) the Project Review Board may in its discretion limit access points to a number less than the number existing on May 6, 2008 if the Project Review Board shall determine that the maintenance of the number of access points existing as of May 6, 2008 is likely to²:
 - A. detract from public safety considering such factors such as accidents in the area, traffic volumes, road geometrics, types and frequency of traffic moving to and from existing uses within 1,000' of the proposed use; or
 - B. adversely effect the ability of vehicular traffic to maintain the existing speed limit; or
 - C. threaten an environmentally sensitive area,

West side of U.S. Route One and lots in the C-1 District just prior to May 6, 2008

| | |
|--|-------------|
| Minimum lot size | 20,000 s.f. |
| Minimum land area per dwelling unit if part of a mixed use development | 10,000 s.f. |
| Road frontage requirement | none |

East side of U.S. Route One other than lots in the C-1 District just prior to May 6, 2008

| | |
|---|-------------|
| Minimum lot size | 40,000 s.f. |
| Minimum land area per dwelling unit within 300' of U.S. Route One | 40,000 s.f. |
| Minimum land area per dwelling unit 300' or beyond U.S. Route One | 15,000 s.f. |

¹ It is the intent of this section to provide the incentives of reduced minimum lot sizes and road frontage requirements for developments that limit or share access points on to U.S. Route One. The limitation of access points on U.S. Route One applies to developments that intend to take advantage of the incentives of reduced minimum lot sizes and road frontage requirements when a new lot is created. The limitation of access points does not apply to existing developments, buildings, or uses or to existing developments, buildings, or uses that propose a change of some sort but that are not creating a new lot. For more information on the intent of this section refer to the Freeport Comprehensive Plan, Section VI.B – Future Land Use Directions – Commercial.

² It is the intent of this section to give the Project Review Board the authority to consider allowing two access points if the two access points existed prior to May 6, 2008. This exception was intended for proposed developments that are expected to have a minimal increase in traffic such as small residential developments or commercial uses with limited traffic needs, and for proposed developments that can easily meet the standards of this section.

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

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|--|-------------|
| Minimum land area per dwelling unit if part of a mixed use development | 10,000 s.f. |
| Road frontage requirement | none |

2. Minimum lot size and road frontage requirements for lots that do not meet the requirements of Section 409.C.1 above

West side of U.S. Route One and lots in the C-1 District just prior to May 6, 2008

| | |
|---------------------------|----------|
| Minimum lot size | 1 acre |
| Road frontage requirement | 300 feet |

East side of U.S. Route One other than lots in the C-1 District just prior to May 6, 2008

| | |
|---------------------------|----------|
| Minimum lot size | 3 acres |
| Road frontage requirement | 300 feet |

3. Maximum building height: *{Amended, 03/19/19}* 35 feet
Projects that meet the criteria of Sec. 409.D.7 are eligible for a maximum height of 45 feet.

4. Maximum impervious surface to lot area: 70%

5. Minimum setback *{Amended, 03/19/19}*
- | | |
|--------|---------|
| front: | 15 feet |
| side: | 15 feet |
| rear: | 15 feet |

Projects that meet the criteria of Sec.409.D.5 are eligible for a minimum side and rear setback of 5'.

D. Other Standards: *{Amended, 06/18/19}*

1. Outdoor storage for non-residential uses is prohibited in the front setback. Outdoor storage areas shall be fenced.
2. For all uses subject to Site Plan Review, in the front setback, in a strip extending along the entire frontage of Route One, except for driveways, for a depth of 15 feet, landscaping is required. Landscaping is also required in all side setbacks for a depth of 15 feet extending from the front property line to the furthest back edge of the developed area (buildings, parking lots, other impervious surface). The Project Review Board shall determine whether the side landscaping shall consist of plantings and/or retention of the natural cover. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side landscaped setbacks. *{Amended, 03/19/19}*
3. Items for sale are allowed within all of the required setbacks.
4. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

5. The side and rear setback requirements may be reduced to a minimum of 5' if the proposed building is adjacent to an existing building used for commercial purposes, if a lot shares access, parking, and/or other facilities with another lot, or if environmental constraints on the property limit the logical location of buildings to be closer to the property line. *{Amended, 03/19/19}*
6. Building heights up to 45' are allowed provided the building can be adequately screened from U.S. Route One, I-295, Old South Freeport Road and South Freeport Road as applicable with existing trees and the building is 300' or greater from U.S. Route One. *{Amended, 03/19/19}*
7. The Performance Standards of Section 527 are applicable.
8. For uses that require outdoor storage of materials or the operation/storage of large equipment (other than inventory for sale), or outdoor equipment that is accessory to vehicle wash centers such as vacuuming devices, the Project Review Board shall require screening that visually obscures the storage area(s) or accessory uses to vehicle wash centers and/or reduces the ambient noise level of the use to the greatest extent practicable. Such screening may include plantings, retention of existing vegetation, berms, fences, or other vegetative or constructed barriers to mitigate the visual and auditory impact of the development on the surroundings. *{Amended, 03/19/19}*

The final shape, size and location of all screening shall be determined, at the discretion of the Project Review Board. In determining the shape and size of the screening, the board shall consider the amount of land being used for outdoor storage, the type of screening being used, the amount of noise that may be generated by the outdoor storage, the proximity of the outdoor storage to the road, and the amount of natural vegetation being maintained.

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

Section 412. Commercial District IV “C-IV”

{Amended, Effective 08/06/19}

A. Purpose:

This District is intended to provide suitable locations for a variety of higher density residential and commercial uses which benefit from nearby major highway connections and existing public utilities. Open space and/or buffers are required to provide a buffer between higher density development and adjacent lower density residential properties and to protect environmentally sensitive areas.

B. Permitted Uses:

The following uses are subject to site plan review regardless of size:

1. Two-Family Dwelling
2. Multiple-Family Dwelling
3. Public or Private School
4. Commercial School
5. Outdoor Recreation School
6. Local convenience goods stores accommodating local needs such as but not limited to retail bakeries, delicatessens, candy, nut and fish stores, fruit and vegetable stores, grocery and food stores, 5 & 10 stores, hardware stores, auto parts supply, book stores, branch banks, dry goods stores and florist shops;
7. Personal service stores such as but not limited to beauty and barber shops, laundromats, cleaners, photography studios, shoe, jewelry and household appliance repair services and alterations services;
8. Supermarket
9. Business and Professional Offices
10. Commercial Recreation - Indoor
11. Commercial Recreation - Outdoor
12. Municipal Facilities
13. Public Utilities
14. Warehouse and Storage Facilities
15. Commercial Sales and Service
16. Truck Facility
17. Manufacturing and Processing which does not involve the basic refinement of bulk raw material
18. Hotel/Motel
19. Day Care Center Facilities
20. Convenience Store with Gas Pumps
21. Auto Service Station
22. Auto Repair Service Garage
23. Restaurant

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

24. Restaurant - Carry Out
25. Restaurant - Drive-up
26. Construction Services
27. Public Assembly
28. Private Assembly
29. Wireless Telecommunication Facility (See Sec. 528)
30. Parking area for open space *{Amended, Effective 12/02/14}*
31. Artisan Food and Beverage *{Effective 12/17/14}*
 - a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks
32. Medication Assisted Treatment Facility for Opioid Addiction *{Effective 10/04/16}*
33. Small Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*
34. Large Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*

The following uses are subject to subdivision review:

3335. Commercial Open Space Subdivision for two-family and/or multiple-family dwellings.
- ~~34. Small Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*~~
- ~~35. Large Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*~~

C. Space Standards for Lots which are Not Within Subdivisions as Listed in Section D below:

1. Minimum Lot Size:
20,000 s.f. provided curb cuts on Hunter Road or Desert Road are at least 300 feet apart on the relevant side of the road; otherwise the minimum lot size is 1 acre. The minimum lot size of lots having frontage on roads other than Hunter Road or Desert Road is 20,000 s.f. provided that access to the lot is on a driveway serving 2 or more lots; otherwise the minimum lot size is 1 acre.
2. Maximum Building Height: 35 feet
3. Minimum Road Frontage:
 - a. Minimum Road Frontage for Lots that have one or more access(es) that is not shared with other lots: 100 feet
 - b. No Minimum Road Frontage for lots that share an access with one or more other lots.
4. Maximum Impervious Surface to Lot Area Ratio: 70%
5. Minimum Setback:

| | |
|--------|---------|
| front: | 25 feet |
| side: | 25 feet |
| rear: | 25 feet |
6. Maximum Height - Wireless Telecommunication Facility (single user): 75 feet
Wireless Telecommunication Facility, Co-located: 125 feet

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

D. Space and Bulk Standards for Lots in Open Space Commercial Subdivisions approved after August 6, 2019

1. Net residential density per dwelling unit; two family and multiple family – 1 unit per 2,904 s.f. (15 units per acre) of net residential acreage
2. Maximum impervious surface to lot area excluding designated open space 90%
3. Allowable number of stories 3 stories
4. Setbacks for developments with property in common ownership front: 25 feet
rear: 50 feet
side: 25 feet

For developments that will be divided into individual lots:

4. Minimum lot area per dwelling unit; two family and multiple family - 4,000 s.f.
5. Minimum road frontage 30 ft.
6. Minimum setback for commercial open space subdivisions front: 10 feet
rear: 10 feet
side: 5 feet

E. Prohibited Uses:

1. Manufacture, fabrication, disposal or any use of asbestos products
2. Paper Manufacturing
3. Petroleum and petrochemical refining and reprocessing
4. Production of lubrication oils and grease
5. Manufacture of explosives including, but not limited to, ammunition and fireworks
6. Offal or dead animal disposal and reprocessing
7. Abattoirs and slaughterhouses

F. Other Standards:

1. For developments that require open space, the open space shall be delineated by using the following priority system:
 - a. first priority – establish buffer of at least 50 feet where the Commercial District is adjacent to the Rural Residential District.
 - b. second priority – open space includes primary conservation areas to the greatest extent practical
 - c. third priority – at the discretion of the owner
2. If open space is not required, a 25 foot buffer shall be required where the adjacent property within this District is presently used for residential purposes. A 100 foot buffer strip shall be required where it abuts residential districts
3. Landscaping is required in the front setback as per Section 527.E.
4. The Performance Standards of Section 527 are applicable. *{Amended, Effective 01/02/18}*

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

Section 534. Solar Energy Generation Systems *{Amended, effective 03/16/21}*

The purpose of this Section 534 is to allow for the construction and operation of Solar Energy Generation Systems by establishing appropriate standards to ensure safe, effective, and efficient use of Solar Energy Generation Systems that are compatible with existing surrounding uses.

A. General Standards.

1. Accessory Solar Energy Generation Systems, Small Solar Farms, and Large Solar Farms must obtain all applicable permits from the Freeport Codes Enforcement Officer, including but not limited to building and electrical permits.
2. Accessory Solar Energy Generation Systems, Small Solar Farms, and Large Solar Farms shall be subject to the standards of the Freeport Design Review Ordinance and/or the Freeport Village Overlay District, as applicable.

B. Additional Standards for Accessory Solar Energy Generation Systems.

1. An Accessory Solar Energy Generation System shall be permitted wherever accessory structures or uses are permitted and shall conform to the standards for such accessory structures or uses of the applicable zoning district(s).
2. The maximum height of a roof-mounted Accessory Solar Energy Generation System shall be the maximum building height set forth in the applicable zoning district(s). The maximum height of a ground-mounted Accessory Solar Energy Generation System shall be 25 feet or the height of the principal structure, whichever is less.
3. Roof-mounted Accessory Solar Energy Generation Systems are not subject to Site Plan Review.
4. Ground-mounted Accessory Solar Energy Generation Systems accessory to uses other than single and two family dwellings are subject to Site Plan Review by the Freeport Project Review Board, per Section 602 of this Ordinance.

C. Standards for Small Solar Farms and Large Solar Farms.

1. Site Plan Review. Small Solar Farms and Large Solar Farms are subject to Site Plan Review by the Freeport Project Review Board, per Section 602 of this Ordinance.
2. Application Requirements. In addition to all of the applicable site plan review submission requirements set forth in Section 602.D.4 of this Ordinance, the following additional submissions are required unless waived by the Project Review Board.

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

- a. Name(s) and contact information for the owner, operator and installer of the proposed system and the name(s) of the owner of the subject property on which the Small Solar Farm or Large Solar Farm is to be located.
- b. Cover letter describing the project, including details regarding the subject property on which the Small Solar Farm or Large Solar Farm will be located; the construction schedule and anticipated commercial operation date; dimensions of all major components of the Small Solar Farm or Large Solar Farm, including the solar panel specifications, manufacturer(s), and manufacturer-identified period of time for which the solar photovoltaic (PV) technology will be economically feasible for its intended use (referred to in this Section 534 as “useful life”); and a detailed description of how the project complies with each applicable standard of this Ordinance.
- c. A deed, lease, lease option agreement, or similar legal instrument describing the applicant’s right, title, and interest to the subject property and right of access to the subject property from the nearest public roadway.
- d. Site photos showing existing site vegetation, existing and adjacent structures, and views of and from the subject property.
- e. Plans, prepared by a professional engineer, professional surveyor, or licensed landscape architect containing, at minimum, the following information:
 - i. The proposed location of the Small Solar Farm or Large Solar Farm in relation to existing lot lines and natural features (including but not limited to vegetation, streams, and wetlands), as well as existing and proposed deed and lease lot lines, structures, fencing, roads and rights-of-way, driveways, parking areas, curb cuts on the subject property, easements, and underground and overhead utility lines.
 - ii. The proposed location of all Solar Energy Generation System components (including solar collectors (including the location of all inter-panel space), mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure), all existing and proposed structures, all existing and proposed impervious surfaces, all areas proposed to be cleared of vegetation, and their physical dimensions, including the dimensions and square footage of the Solar Array Development Area.
 - iii. A landscaping plan reflecting the location of any existing and proposed screening and demonstrating compliance with all applicable buffer requirements of this Ordinance.
 - iv. Scaled elevation drawings of all Solar Energy Generation System components (including solar collectors (including the location of all inter-panel space), mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure) and all existing and proposed structures, foundations, supports, fencing, security barriers, vegetation, and landscaping.

**Proposed Amendments to the Freeport Zoning Ordinance
(pertaining to solar energy regulations)**

As recommended to the Freeport Town council at the August 4, 2021 Planning Board Meeting

- v. For ground-mounted Small Solar Farms or Large Solar Farms, a statement prepared and stamped by a professional engineer certifying that the proposed Solar Energy Generation System design is safe in terms of its strength, stability, security, and grounding.
- f. Documentation that the Small Solar Farm or Large Solar Farm complies with applicable state and federal laws and rules. Include copies of applications submitted to and permits granted by state regulatory agencies, including any applications and permits related to the interconnection of the Small Solar Farm or Large Solar Farm to the energy grid.
- g. A decommissioning plan for the removal of the Small Solar Farm or Large Solar Farm and stabilization of the site, consistent with the requirements of Section 534.C.3.f.i. A decommissioning plan shall include a proposed decommissioning time schedule and details of how the owner or operator of record of the Small Solar Farm or Large Solar Farm will ensure completion of the following tasks:
 - i. Physical removal of all Solar Energy Generation System components (including solar collectors, mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure), structures, foundations, supports, fencing, and security barriers from the site.
 - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal laws and rules.
 - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion and return the site to substantially its pre-construction state. Native, pollinator-friendly seed mixtures shall be used to re-vegetate areas the greatest extent practicable.
- a. Proof of financial capacity to build, maintain, and remove the Small Solar Farm or Large Solar Farm, including evidence which satisfies the requirements of Section 534.C.3.e.i. This proof should include documentation of the cost of constructing the Small Solar Farm or Large Solar Farm, as well as a statement or other documentation from a bank or lending institution that the owner of the Small Solar Farm or Large Solar Farm has secured adequate financing to cover the cost of construction.
- b. The following additional submission requirements apply to applications for Large Solar Farms:
 - i. Written documentation from the Maine Historic Preservation Commission (MHPC) regarding any known or likely historic, prehistoric, or archeological resources located in or on the subject property. If such resources are identified, the applicant shall submit a plan demonstrating compliance with the requirements of Section 534.C.3.d.i.

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- ii. Written documentation from the Maine Natural Areas Program (MNAP) regarding the presence of rare or exemplary natural communities located on the subject property, including any critically imperiled (S1) or imperiled (S2) natural communities or plant species. If such resources are identified, the applicant shall submit a plan demonstrating compliance with the requirements of Section 534.C.3.d.ii.
 - iii. Written documentation from the Maine Department of Inland Fisheries and Wildlife (MDIFW) regarding known locations of rare, endangered, threatened, and special concern species; essential and significant wildlife habitats (including waterfowl and wading bird habitats, deer wintering areas, and significant vernal pools); and significant fisheries habitats (including Atlantic salmon spawning, limited spawning, and rearing habitats) on the subject property. If such resources are identified, the applicant shall submit a plan demonstrating compliance with the requirements of Section 534.C.3.d.iii.
 - iv. For Large Solar Farms that trigger review by the Maine Department of Environmental Protection (MDEP) pursuant to the Site Location of Development Act (Site Law), 38 M.R.S.A. §§ 481-490, a copy of the Site Law application submitted to MDEP and any permits granted by the MDEP at the time of submission of the application to the Town.
3. Performance Standards for Small Solar Farms and Large Solar Farms.
- a. Dimensional Standards.
 - i. The maximum height of any ground-mounted Small Solar Farm or Large Solar Farm shall be twenty-five (25) feet. Height shall be measured from the lowest point of the Solar Energy Generation System components above grade to the highest point of the solar photovoltaic (PV) technology when oriented at maximum tilt or any other structures. This maximum height limitation does not apply to the transmission and distribution lines.
 - ii. The minimum setback of any part of the Solar Array Development Area and any other proposed structures shall conform to requirements of the applicable zoning district or twenty (20) feet from any lot lines, whichever is greater. This minimum setback does not apply to fencing or transmission and distribution lines.
 - iii. For Small Solar Farms or Large Solar Farms permitted in the following districts (RR-IA, C-I, C-III, C-IV, MD-A, MD-B, LB, I-I, I-II) which abut the following districts (RR-I, RR-IA, RR-II, RP-I, RP-II, MDR-I, MDR-II, V-I, V-II, VMU-1 and VMU-2), the Solar Array Development Area and any other proposed structures shall meet the minimum setback requirements of the applicable zoning district or following minimum whichever are greater:
 - (a) Front: 50 feet
 - (b) Side: 50 feet
 - (c) Rear: 75 feet

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iv. In addition to the performance standards in Section 534.C.3.a.iii above, Large Solar Farms in the Commercial I (C-I) District must also meet a minimum setback of 150 feet from the US Route One right-of-way and may not locate within one mile of the solar array development area of another large solar farm within the Commercial I District.

b. Design & Aesthetics.

- i. Buffer Zones. The Small Solar Farm or Large Solar Farm shall, at minimum, conform to the requirements of the applicable zoning district and, where applicable, to the requirements of Section 506 of this Ordinance. For purposes of applying Section 506 to a Small Solar Farm or Large Solar Farm, (i) the Solar Array Development Area and any proposed structures shall be considered the “building or structure” to be buffered, and (ii) stands of trees shall be used to meet the buffer requirement only if the trees do not interfere with the capture of unobstructed flow of solar insolation (sunlight) by the solar photovoltaic (PV) technology.
- ii. Stormwater Management. The Small Solar Farm or Large Solar Farm shall conform to the requirements of Section 529 of this Ordinance.
- iii. Lighting. The Small Solar Farm or Large Solar Farm shall conform to the requirements of Section 521.A of this Ordinance.
- iv. Land Clearing, Soil Erosion, and Habitat Impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the Small Solar Farm or Large Solar Farm, including the need to maximize the capture of unobstructed flow of solar insolation (sunlight). Native, pollinator-friendly seed mixtures shall be used to re-vegetate cleared areas to the greatest extent practicable. Herbicide use shall be prohibited and pesticide use shall be avoided or minimized. No prime agricultural soil or significant volume of topsoil or prime agricultural soil shall be removed from the site for installation or repair of the Small Solar Farm or Large Solar Farm.
- v. Additional Performance Standards for Commercial Districts (C-I, C-III, C-IV). If the Small Solar Farm or Large Solar Farm is proposed to be located in a Commercial District (C-I, C-III, or C-IV), the requirements of Section 527 of this Ordinance shall apply; provided, however, that the requirements of Section 527.B (Building Design) shall only apply to proposed structures, if any, and not to the Solar Array Development Area. For purposes of applying Section 527.E (Front landscaped setback) to a Small Solar Farm or Large Solar Farm, (i) the Solar Array Development Area and any proposed structures shall be considered the “structure” whose appearance is to be softened, and (ii) landscaping using trees and preservation of existing mature trees shall be required only if such trees do not interfere with the capture of unobstructed flow of solar insolation (sunlight) by the solar photovoltaic (PV) technology.

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- c. Safety.
 - i. Small Solar Farm or Large Solar Farm shall comply with all applicable codes and ordinances, including but not limited to, the Town of Freeport Building Code Ordinance, the Town of Freeport Electrical Code Ordinance, the Town of Freeport Fire Protection Code, the Town of Freeport Floodplain Ordinance, and Shoreland Zoning.
 - ii. A sign shall be installed on the property to identify the owner or operator of the Small Solar Farm or Large Solar Farm and provide a 24-hour emergency contact phone number. Additional signage may be required, per the Town of Freeport Electrical Code Ordinance and the Town of Freeport Fire Protection Code. All signage shall also conform to the Town of Freeport Sign Ordinance.
 - iii. All electrical and control equipment for a ground-mounted Small Solar Farm or Large Solar Farm shall be labeled and secured to prevent unauthorized access.
 - iv. For any ground-mounted Small Solar Farm or Large Solar Farm, fencing shall be installed around the perimeter of the Solar Array Development Area. Where fencing is used, fences should be elevated by a minimum of 5 inches to allow for passage of small terrestrial animals.
- d. Protection of Natural and Cultural Resources.
 - i. If any portion of the Small Solar Farm or Large Solar Farm includes an archaeologically sensitive area or a structure listed in the National Register of Historic Places or is considered by the Maine Historic Preservation Commission (MHPC) as likely to contain a significant archaeological site or structure, the applicant shall conduct archaeological surveys or submit information on the structure, as requested by the MHPC. If a significant archaeological site or structure is located in or on the subject area, the applicant shall demonstrate that the proposal will cause no or minimal impact to the archaeological site or structure, either by project design, physical or legal protection, or by appropriate archaeological excavation or mitigation.
 - ii. If any portion of the Small Solar Farm or Large Solar Farm lies within an area identified by the Maine Natural Areas Program (MNAP) as containing rare or exemplary natural communities, including any critically imperiled (S1) or imperiled (S2) natural communities or plant species, the applicant shall demonstrate that the proposal will cause no or minimal impact to any such identified resources. The plan shall provide for protection of the identified resources in a manner acceptable to MNAP or in accordance with the recommendations of a biologist with demonstrated experience with the identified resources. In the latter situation, the report prepared by the biologist shall assess the potential impact of the Small Solar Farm or Large Solar Farm on the identified resources and any adjacent areas that are important to the maintenance of the identified resources and shall describe appropriate mitigation

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measures to ensure that the Small Solar Farm or Large Solar Farm will have minimal impacts on the identified resources.

- iii. If any portion of the Small Solar Farm or Large Solar Farm lies within an area identified and mapped by the Maine Department of Inland Fisheries and Wildlife (MDIFW) as containing rare, endangered, threatened, and special concerned species; designated essential and significant wildlife habitat; or fisheries habitat concern, the applicant shall demonstrate that the proposal will cause no or minimal impact to any such identified resources. The plan shall provide for protection of the identified resources in a manner acceptable to MDIFW or in accordance with the recommendations of a wildlife biologist with demonstrated experience with the identified resources. In the latter situation, the report prepared by the wildlife biologist shall assess the potential impact of the Small Solar Farm or Large Solar Farm on the identified resources and any adjacent areas that are important to the maintenance of the identified resources and shall describe appropriate mitigation measures to ensure that the Small Solar Farm or Large Solar Farm will have minimal impacts on the identified resources.
- e. Financing and Insurance.
 - i. The owner or operator of record of the Small Solar Farm or Large Solar Farm shall secure financing to fully construct the Solar Energy Generation System before any construction or pre-construction site preparation activity (including, but not limited to, any clearing of vegetation) begins.
 - ii. Prior to commencing operations, the owner or operator of record of the Small Solar Farm or Large Solar Farm shall obtain and maintain for the full length of the useful life of the Small Solar Farm or Large Solar Farm, liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- f. Decommissioning and Removal; Performance Guarantee; Abandonment.
 - i. The owner or operator of record of a Small Solar Farm or Large Solar Farm shall, at its expense, be responsible for the decommissioning and removal of the Small Solar Farm or Large Solar Farm, in compliance with a decommissioning plan approved by the Project Review Board, within 12 months of the end of the useful life of the solar photovoltaic (PV) technology, or within 90 days of the receipt of a notice to the owner or operator of record of a determination by the Codes Enforcement Officer that the Solar Energy Generation System has been abandoned. A Solar Energy Generation System shall be considered abandoned if it ceases to generate electricity for a consecutive period of 12 months. The Project Review Board may extend the 12-month decommissioning deadline if the applicant demonstrates that the solar photovoltaic (PV) technology is likely to remain economically feasible for its intended use for longer than 12 months after the end of its manufacturer-identified useful life.

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- ii. For any ground-mounted Large Solar Farm, or any ground-mounted Small Solar Farm with a Solar Array Development Area that is 43,560 square feet (1 acre) or greater in size: A performance guarantee in the form of an escrow account, irrevocable letter of credit, or other form satisfactory to the Town Manager covering the cost of the decommissioning plan shall be delivered to the Town Manager at the time of Project Review Board approval. The amount of the performance guarantee shall be determined by the Project Review Board according to the time schedule for the decommissioning, shall be in an amount equal to 125% of the projected total cost of decommissioning and removing the Small Solar Farm or Large Solar Farm and restoring the site to its pre-construction condition, plus any adjustments for reasonable inflation estimates. The amount shall include a breakdown of costs of the various stages of decommissioning, if any. The performance guarantee shall remain in force until the Codes Enforcement Officer certifies that the site has been rehabilitated according to the approved decommissioning plan. Failure to complete the decommissioning plan approved by the Project Review Board shall constitute a violation of this Ordinance, subject to enforcement and legal action as provided in Section 601. In addition, if there is a default of any obligation to decommission a project under this Section 534 or if the Solar Energy Generation System is not removed within 90 days after a determination of abandonment made pursuant to Section 534.C.3.f.i, the Town may call upon the performance guarantee and cause the decommissioning plan to be implemented pursuant to the terms of that guarantee.
- g. Additional Performance Guarantee.
The Project Review Board as a condition of approval may require the applicant to post a performance guarantee to ensure completion of site improvements associated with a Small Solar Farm or Large Solar Farm, as provided in Section 602.C.1.j.