#### **FINAL AGENDA**

## The Charlestown Planning Commission will hold a Special Meeting on Tuesday July 11, 2017 @ 7:00 PM Council Chambers

- 1. Call to Order
- 2. Roll Call
- 3. Planning Commission Comments
  - 4. ADVISORIES
    - a. Proposed Ordinance #375 Amendment to Zoning Ordinance; Section 37.D (5) Specific Land Use Standar
  - 5. Comprehensive Plan Update
  - a. Review and Discussion of Comprehensive Plan draft chapters
  - b. Review schedule
  - 6. Adjournment



## **Planning Commission**

Charlestown Town Hall Charlestown, RI 02813

#### **SCHEDULED**

AGENDA ITEM (ID # 3412)

Meeting: 07/11/17 07:00 PM Department: Planning Commission Category: Advisory Opinion Prepared By: Barbara Beauchaine Initiator: Barbara Beauchaine

Sponsors:

DOC ID: 3412

Discussion and /Or Potential Action And/Or Vote(S)
Concerning: Proposed Ordinance #375 Amendment to
Zoning Ordinance; Section 37.D (5) - Specific Land Use
Standards and Conditions, Utilities, Major Solar Farms, to be
Heard at a Town Council Public Hearing on August 15, 2017;
Advisory to the Town Council.

## PUBLIC NOTICE TOWN OF CHARLESTOWN

Notice is hereby given that the Town Council of the Town of Charlestown will conduct a public hearing, open to the public, on August 15, 2017 at 7:00 p.m. at the Charlestown Town Hall, 4540 South County Trail on the following proposed amendment to the Code of Ordinances. Opportunity shall be given to all persons interested to be heard upon the matter of the proposed ordinance. The following proposed amendments are under consideration and may be adopted and/or altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the public hearing. The proposed amendments are available for review and/or purchase at the Town Clerk's Office between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Holidays.

## ORDINANCE NO. 375 AN ORDINANCE AMENDING CHAPTER 218 - ZONING

**Section 1.** The Town Council of the Town of Charlestown hereby ordains that Chapter 218 of the Code of Ordinances, Town of Charlestown entitled Taxation is amended as follows:

Note: Words set as strikeover are to be **deleted** from the ordinance; words set in <u>underline</u> are to be **added** to the ordinance.

#### ARTICLE VI. LAND USE REGULATIONS

# SECTION 218-37. Specific Land Use Standards and Conditions.

29 D. Utilities

- (1) Generally
- (2) Telecommunications Towers/Poles
- (3) Private Utility Towers and Buildings
- (4) Residential Wind Energy Facilities

Proposed new subsection as follows:

### (5) Major Solar Farms

(a) Purpose. The purpose of this section is to permit the installation and operation of major solar farms in Charlestown, and to provide interim standards that address public health, safety and welfare in the placement, design, construction, monitoring, modification and removal of major solar farms and minimize negative impacts on scenic, natural and historic resources of the town.

(b) <u>Definitions</u>. The following terms are defined for use in applying the provisions of this subsection, and shall supplement those terms defined in Section 218-5:

### **SOLAR FARM**

All components utilized for the conversion of sunlight into electricity by means of photovoltaics, including solar panels or arrays, and all supporting equipment and structures.

#### MAJOR SOLAR FARM

A solar farm designed for the production and sale of electricity to the utility through an enrollment in one of the state's renewable energy programs, which complies with the site standards set forth in 5(d) - (f).

### SOLAR FARM LOT COVERAGE

The total area of the parcel disturbed due to infrastructure or equipment associated with the major solar farm.

#### UTILITY INFRASTRUCTURE

An electric substation or any electrical sub-transmission or transmission circuit (a power line operated at high voltages between 34.5 kV and 500 kV that is capable of transmitting electrical energy over large distances).

(c) Applicability. Only major solar farms are regulated under the provisions of this section. This interim solar zoning ordinance shall be effective through January 1, 2018. Any special use permit or development plan review process initiated for a major solar farm which meets all of the site standards criteria before January 1, 2018 shall be subject to this ordinance. Major solar farms are allowed by special use permit in all districts with the exception of open space and recreation (OSR) as well as traditional village district and historic village overlay districts, where it is a prohibited use. Major solar farms are excluded from the prohibited use, "Electric Generating Plant," Section 218-38(B)(14).

#### (d) Design and Development Standards

- 1. Setback and Height and Coverage Requirements
  - i. <u>Setbacks. A major solar farm shall meet all setback requirements for a principal structure in the property's zoning district.</u>
  - ii. Height and Placement. The height and placement of a major solar farm shall be a function of the site characteristics and panel design to achieve maximum efficiency, and of factors such as placement to allow the movement of farm animals and/or wildlife underneath or between the panels, and shall not exceed a height of 15 feet, unless a dimensional variance is obtained from the Zoning Board of Review.

- iii. Open Space. With respect to major solar farms located in residential districts only, the amount of land area set aside as open space shall be a minimum of 40% of the total parcel, excluding state and federally regulated riparian areas, wetlands and associated buffers; steep slopes; and conservation easements.
- 2. Electrical Wiring and Connections. Electrical wiring and connections from the solar energy system to any building(s) they serve shall be underground to the extent compatible with the topography and site conditions, unless the electrical lines must come aboveground at their termination point to connect to the building or utility line receiving the solar-generated electricity.
- 3. Vegetative Management, Landscaping, Screening

- i. Vegetative Buffers. Major solar farms may be required to include a vegetative buffer to effectively screen the solar array from adjoining and inconsistent uses or from a public or private roads. The buffer may be comprised of existing vegetation and/or supplemental landscaping, as set forth in the approved landscape plan.
- ii. Tree Clearing. Any tree clearing associated with the construction of a major solar farm shall be limited to no greater than 7% of the total land area of the lot minus wetland, wetland buffers and areas where slopes exceed 15%.
- iii. <u>Pesticides.</u> No pesticides are to be used for vegetative management or other purposes in association with the operations and maintenance of a major solar farm.
- iv. Pollinator Habitat. To support and promote greater pollinator habitat, major solar farms shall use a seed mixture qualified to meet the criteria of a pollinator garden, as established by the Minnesota Department of Natural Resources or as developed in coordination with the University of Rhode Island Master Gardener Program, in re-seeding a site following construction. Proper long-term maintenance plans ensuring the livelihood of the Pollinator Habitat shall be included in the Operations and Maintenance Plan provided to the commission for their review and approval.
- 4. <u>Dual Uses. Property owners shall explore any other dual agricultural uses</u> that may be compatible inside of the fence-lines of the major solar farm.
- 5. Soil Conservation. Soil disturbance shall be kept to a minimum. No soil defined as prime farmland soil by the RI Geographic Information System shall be removed from the property as a result of a solar farm. Soils compatible with the original land quality occupied by the major solar farm shall be used in returning the state to its original state, as further outlined

137		in the Operations and Maintenance Plan for the review and approval by
138		the commission.
139		the commission.
140	(e) Sit	te Requirements. The following site standards apply to any major solar
141		rm:
142		. <del></del>
143	1.	Security. A security fence shall surround the perimeter of the installation
144		in conformity with any applicable regulatory or code requirements,
145		including the requirements of the National Electric Code. The Planning
146		Commission shall approve the height and materials of the security fence.
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148	2.	Emergency Access. Reasonable accessibility for emergency service
149		vehicles shall be required. The system owner or operator shall provide a
150		copy of the project summary, electrical schematic and site plan to the local
151		fire chief. Upon request the owner or operator must cooperate with local
152		emergency services in developing an emergency response plan. All means
153		of shutting down the solar farm must be clearly marked, and the owner or
154		operator must identify a responsible person for public inquiries throughout
155		the life of the installation.
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157	3.	Signage. No signs are allowed on the security perimeter fencing except
158		for a sign displaying the installation name, address and emergency contact
159		information, and trespassing/warning/danger signs to ensure the safety of
160		individuals who may come in contact with the installation. No sign shall
161		exceed two (2) square feet in area.
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163	4.	<u>Lighting</u> . Major solar farms shall not be lighted.
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165	5.	Proximity Requirement. Major solar farms shall not be permitted on lots
166		located in excess of a 1,500 foot radius from utility infrastructure.
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168	(f) <u>Ac</u>	dditional Requirements
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170	1.	Code Requirements. Following the granting of a special use permit by the
171		Zoning Board of Review, such installations must meet all building and
172		electrical code requirements and obtain all necessary state and local
173		permits. The installation must also comply with the applicable utility
174		requirements for interconnection to the electrical distribution system, with
175		verification provided by the utility. Following installation, the major solar
176		energy array shall be subject to periodic inspections by the Charlestown
177		Building Official.
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(g) <u>Application Procedures for Major Solar Installations</u>

1. <u>General Compliance.</u>

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i. <u>Development Plan Review Required.</u> All applications shall be subject to the provisions of Article XII, Development Plan Review, requiring review and approval of the site plan by the Charlestown Planning Commission.

- ii. Special Use Permit. A major solar farm is only permitted by special use permit and in conformance with the design and development standards and application requirements in Sections 218-37(5)(d),(e), (f) and (g)(2).
  - a. Major solar farms are allowed by special use permit in all districts with the exception of OSR, the traditional village district and historic village overlay district where it is a prohibited use
- Building Permit. A building permit must be issued by the Charlestown Building Department prior to the installation of a major solar farm.

  Such installations must be in compliance with all state building and electrical code requirements and National Electric Code requirements for solar photovoltaic systems.
- iv. Emergency Services Review. The major solar farm owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the town's fire chief. Upon request the owner or operator shall work with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation;
- 2. Application Requirements. Applications for a major solar farm requiring a special use permit by the Zoning Board of Review and site plan review by the Planning Commission shall include the following materials:
  - i. Existing Conditions Plan. The applicant shall submit an existing conditions plan showing all current land uses and structures and environmental features including wetlands, floodways, unique vegetation and landscape features, wooded areas, steep slopes, ledge and existing contours at two foot intervals (see Section 14.4 Minor Subdivision Preliminary Plan Checklist in the Charlestown Subdivision and Land Development Regulations);
  - ii. Site Plan. The applicant shall submit a site plan containing the following information: showing locations and dimensions of all proposed structures and the layout of the solar farm, including total area of impact, solar farm lot coverage, and maximum height;
    - a. The boundaries of the property and the area, including dimensions and square footage of the total installation and number of arrays, showing where the solar arrays are proposed to be installed;
    - b. Engineering details and specifications, including diagrams of electrical components and the proposed interconnection to the

- 228 local utility system, along with a description of the major 229 system components to be used; c. Existing and proposed grading, clearing and/or placement of 230 231 vegetation; 232 d. Location of existing and proposed electric lines; 233 e. Location and perimeters of existing and proposed easements 234 and underground utilities: 235 f. The construction schedule and any phasing schedule for 236 development of the major solar farm; and 237 g. Details regarding any potential for solar glare from the facility. 238 Landscape and Buffer Plan. The applicant shall submit a landscape and iii. 239 buffer plan indicating changes in site vegetation (proposed clearing or 240 removal of existing vegetation) and methods to screen the solar farm 241 from adjoining roads and properties; Utility notification. No major solar farm shall be constructed until 242 iv. 243 evidence has been given to the Town that the utility company that 244 operates the electrical grid where the major solar farm is to be located 245 has been informed of the solar photovoltaic facility owner or operator's 246 intent to install an interconnected customer-owned generator. 247 v. Operation and Maintenance Plan. The applicant shall submit a plan for 248 the operation and maintenance of the major solar farm, which shall 249 include measures for maintaining safe access to the major solar farm. 250 stormwater control, as well as general procedures for operational 251 maintenance of the major solar farm. Maintenance shall include, but be 252 not limited to, fence maintenance, ongoing system operation, structural 253 repairs, vegetative management, and integrity of security measures.; 254 Liability Insurance. The applicant shall submit proof of liability vi. 255 insurance, and a summary of the intended decommission plan; and 256 vii. Additional materials. The applicant shall submit additional information, 257 reports or other information required by the Town to make an informed 258 decision. 259 260 (h) Abandonment and Decommissioning. 261 262 1. Removal requirements. Any major solar farm which has reached the end of its 263 useful life or has been abandoned consistent with other provisions of Chapter 264 218, Zoning, shall be removed. The owner or operator shall physically remove 265
  - the facility no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Town by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

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- Physical removal of all major solar farms, structures, equipment, security i. barriers and transmission lines from the site.
- Disposal of all solid and hazardous waste in accordance with local, state, ii. and federal waste disposal regulations.

- iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The commission may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- 2. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the major solar farm shall be considered abandoned when it fails to operate for more than one year without the written consent of the town council and planning commission as it relates to the land development project approval. If the owner or operator of the major solar farm fails to remove the facility in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the town may physically remove the facility.
- (i) Financial Surety. Applicants proposing to develop major solar farm projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the facility and restore the landscape, in an amount and form determined to be reasonable by the commission (and subject to the review of the town solicitor). The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

**Section 2.** The Town Clerk is hereby authorized to cause said changes to be made to the Town of Charlestown's Code of Ordinances.

**Section 3.** This ordinance shall take effect immediately upon passage.

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Attested T	o Bv:		Passed By Town Council On:

Amy Rose Weinreich, CMC Town Clerk

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323	Advertised IN FULL in the Westerly Sun: April 17, 2017
324	Advertised BY REFERENCE in the Westerly Sun: April 24 and May 1, 2017

### TOWN OF CHARLESTOWN

## PLANNING DEPARTMENT

#### **MEMORANDUM**

**TO: Planning Commission** 

FROM: Jane Weidman, Town Planner

DATE: July 7, 2017

RE: Solar Energy Zoning Ordinance Amendments, Ord. # 375 (as revised); Advisory to the

Town Council

## Background/Schedule

As a result of the Planning Commission negative advisory (following review and discussion at the April 26<sup>th</sup> meeting), the GroSolar Company from Vermont made revisions to the advertised version of the Zoning Ordinance text amendment (Ord. # 375). The Town Council public hearing was opened at the May 8<sup>th</sup> meeting, but was continued to the June 12<sup>th</sup> meeting at the applicant's request to give them time to submit these changes in response to the Planning Commission's comments and concerns. However, because the changes and additions are considerable, it was agreed at the June Town Council meeting that a "clean" version of the ordinance be put together and re-advertised, and that another advisory by the Planning Commission on the updated version be done.

Because the public hearing on the solar amendments was scheduled for (or continued to) the August 15<sup>th</sup> Town Council meeting, the Planning Commission is being asked to complete their advisory before mid-July, in order for the Town Clerk to have time to advertise the updated Ordinance # 375. The July 11<sup>th</sup> workshop has been changed to a special meeting so that you are able to vote on the advisory.

## Major Solar Farm Proposed Zoning Amendments

The Planning Commission is being asked to comment on the marked up version of the advertised ordinance that was passed around in advance of the June 12<sup>th</sup> Town Council meeting, with some modifications. Summarized below are the changes to Ordinance # 375 from when you as a group last reviewed it (April meeting):

- Definition for "solar farm lot coverage" shortened to delete reference to percentage of total land area minus constraints.
- Applicability major solar farms are not to be allowed in the TVD and historic village overlay districts, and major solar farms are excluded from the definition of "electric generating plant" which is a prohibited use in town.
- Design and Development Standards lot coverage limit of 60% is replaced by a subsection on <u>open space</u> a minimum of 40% of a residentially zoned parcel used for a major solar farm must be set aside as open space, excluding constrained land.
- Design and Development Standards new section on electrical wiring and connections requiring that they be underground.
- Design and Development Standards section on soil conservation changed to remove prohibition of the stripping of topsoil and replacement with "return the land to its original state".
- Application Procedures subsection on special use permit expanded, including reference to zoning districts.
- Application Procedures new subsection on emergency services review.
- Application Procedures much expanded section on application requirements, particularly
  under the site plan subsection, and new subsections on utility notification and operation and
  maintenance plan.
- Abandonment and Decommissioning new and expanded section which details removal requirements, including notice, equipment disposal and site re-vegetation requirements, and provisions for financial surety.

The extent of these text changes do require another look at the ordinance as proposed by GroSolar, and that it be re-advertised prior to the continuation of the public hearing. Much of the additional language does serve to strengthen the ordinance, particularly that regarding emergency services, site plan application requirements, utility notification, operation and maintenance, and especially decommissioning. A change was also made to eliminate the inconsistency with the prohibited uses section of the zoning ordinance ("electric generating plant").

However, a number of factors that limit the application of the ordinance remain in place:

- 1. The definition of a major solar farm is one that is enrolled in a RI renewable energy program, meaning only companies that are successful applicants in the Renewable Energy Growth (REG) program can make use of the ordinance.
- 2. The proximity requirement limits major solar farms to land within a 1,500 foot radius from utility infrastructure, meaning that any parcel beyond this distance from the high voltage line running through Charlestown does not qualify.
- 3. Tree clearing on a site used for a major solar farm is restricted to no more than 7% of the total land area (minus constrained land), limiting the ordinance to sites which are predominately cleared.

Also the interim nature of the ordinance is still in place, with a sunset date of January 28, 2018.

### Other Material

Also sent to you are comments from representatives of two other solar companies:

June 1<sup>st</sup> letter from Soltage in opposition to the tree removal restriction.

June 9<sup>th</sup> letter from John Kenyon in opposition to the "spot zoning" aspect of the regulations and to the tree clearing restriction, and also to the lot coverage limit of 60% (since removed).

You also have a copy of the recently expanded solar regulations in South Kingstown (adopted June 12<sup>th</sup>). These amendments are pretty comprehensive, similar to what the Planning Commission originally reviewed for Charlestown, but more detailed. The highlights:

- Accessory solar arrays, defined as generating no more than 120% of the energy supporting the principal use (documentation required), and allowed by right in all districts. Accessory solar arrays also include roof-mounted systems.
- Small-scale, medium-scale and large-scale solar energy systems, defined by the size of the array: 1,750 SF or less, more than 1,750 SF but less than 40,000 SF, and 40,000 SF or more, respectively.
- Small, medium and large systems vary as allowed in the residential, commercial, industrial and government/institutional districts. All sized systems require a special use permit except in the GI Zone, where they are all allowed by right. All are prohibited in the R-30, R-20, R-10 and RM Zones, and no large-scale systems are permitted in any residential district.

- For the small and medium solar energy systems that are allowed in the residential districts (R-40, R-80 and R-200 Zones), a minimum of 5 acres of parcel size, and 10 acres of parcel size, respectively, are required, and no more than 10% of the lot area can be occupied by the solar array.
- Solar energy systems in the industrial districts are limited to 50% of the lot area, and systems in all other non-residential districts are limited to 30%.
- Development Plan Review or Major Land Development Review is required for most systems, even those allowed by right.
- Language is included to promote solar arrays in the GI Zone remediated landfills and other publicly owned and managed parcels.

## <u>Comments – Specific</u>

To make the Charlestown ordinance more widely applicable, the energy program enrollment and the proximity requirement should be eliminated.

The ordinance should be designed so as to not require the sunset clause, or at least give it a one or two year period rather than a (at best) 5 month one.

The lot coverage and tree clearing restrictions require more thought. The lot coverage got tangled up with the cluster open space requirements, I think, because Ruth used the cluster example to show how impactful the previously proposed 60% coverage could be on a parcel, especially in the R-3A Zone. I think replacing a lot coverage limit with reference to open space only confuses the issue, since "land set aside as open space" on a parcel to be used as a major solar farm is fundamentally different than that which is to be permanently protected and managed as part of a residential subdivision.

It makes more sense to go back to a lot coverage limit of some percentage, or to eliminate that requirement altogether and let each application be reviewed based on the individual site characteristics.

The 7% tree clearing restriction is an arbitrary figure and there will be resistance from other solar companies who want to at least engage in a discussion of the pros and cons of using wooded areas versus farm fields. In addition, as pointed out at the April meeting, clearing could be done on a site before an application is submitted. This requirement should probably be eliminated.

#### Comments – General

As a planner, I do not agree that interpretation of the comprehensive plan leads to a finding that this ordinance is inconsistent with the plan; there is clearly language to support the alternate view. What is valid is the position stated by the Planning Commission in April that the comprehensive plan, now under rewrite, requires a better exploration of the issues related to energy production and use, and more carefully crafted goals and recommendations regarding alternative energy systems which are compatible with the town's landscape and character.

In addition to the fact that the comprehensive plan, as currently written, does not adequately guide the town's energy future, there is also the desire stated by the Planning Commission to take more time to consider the parameters for a solar ordinance and to include specific standards for commercial solar arrays.

However, this leaves the applicant in a catch-22. On the one hand, the Commission has offered a careful critique of the ordinance which assumes that if the applicant addresses these, the ordinance becomes acceptable. On the other hand, the Commission has stated that more time is needed to craft an ordinance better suited to the town. This appears to mean that even with the changes suggested above, a favorable advisory is not forthcoming because of the time issue (although a date of Sept. 1<sup>st</sup> to start work on a more comprehensive ordinance was picked).

In your earlier advisory there was language about doing it right and learning from other towns. It needs to be made clear what is lacking in the ordinance that is before you now. My suggestions:

- Redefine "major solar farm" and add definitions that identify accessory solar systems and systems that are not considered to be "major". This requires that size limits, if not capacity limits, be defined.
- Identify what type of solar array is allowed in each district, as South Kingstown did.
- Address lot coverage restrictions, preferably by district, other site standards and possible incentives to direct solar arrays to preferred sites i.e., small scale arrays on farmland, larger scale arrays on brownfields.

As a reminder, some of what is proposed above are elements that were removed from an earlier version of the ordinance as a result of discussion at the March 22<sup>nd</sup> Planning Commission meeting, during which it was agreed to reduce the scope of the ordinance and focus only on major solar arrays. The Planning Commission should decide which approach it would like to take now – a modified version of the major solar farm ordinance or the crafting of a more comprehensive ordinance to be done over the next couple months.

## ZONING

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3			PD	GWP	OSR	М	TVD	Reference
Commercial Uses Continued								7							
Perfumery														Y	
TVD Pet Grooming Services							1							Y	
Photo Studio					Y	Y	Y							Y	
Physical Therapist											_			Y	
Plumbing/Heating Supply Store						Y	Y	Y	-	Y	U			Y	
Product Assembler/Shipper					Y	Y	Y	Y	-	Y	U			Y	
Professional Office					Y	Y	Y			Y	U			Y	
Residential Water Treatment Srvs					Y	Y	Y	Y	-	Y	U	***************************************		Y	
Real Estate Services					Y	Y	Y	Y		Y	U	***************************************		Y	
Recreational Vehicles/Equip Sales						Y	Y	Y		Y	U	***************************************			
Restaurant					Y	Y	Y			Y	U			S	
Saw Mill .						Y	Y	Y							
Shoe Repair					Y	Y	Y			Y	U		· · · · · · · · · · · · · · · · · · ·	Y	
Shoe Store														Y	
Shopping Center					Y	Y	Y				U	***************************************		S	
Small Scale Woodworking Shop												***************************************		Y	***************************************
Major Solar Farms*	S	S	S	S	S	S	S	S	S		S		S	0	ARTICLE VI § 218-37
Specialty Food Store					Y	Y	Y	Y		Y	U			Y	
Supermarket						Y	Y	Y		Y	U			Y	
Tailor					Y	Y	Y			Y	U			Y	
Take Out Food Services										1				S	

### NOTES:

Y = Permitted Uses S = Special Use Permit U= Consult underlying district.

\* Major solar farms as defined in this ordinance shall not be included in prohibited uses.