

March 27, 2019

Planning Board
8 Newmarket Road
Durham, NH 03824

RE: Solar Energy Systems ordinance amendments

Good evening,

In my comments last October 10, I urged you not to view allowing any type of solar energy system just about anywhere as Durham's "silver bullet" to address climate change. My perspective has not changed.

My focus tonight is primarily on how the draft ordinance addresses **enterprise systems**. The points that I will elaborate on include:

1. Enterprise systems should be **prohibited in all residential zones**.
2. The **minimum setback** for enterprise systems should be more than 100 feet and perhaps proportional to the scale of the proposed system.
3. **Buffering** of enterprise systems and installations along our scenic roads and gateways should be better defined.
4. The placement of enterprise systems raises questions about **the common good**, i.e., the benefit and interests of all.

Elaboration on the above points

1) The real estate mantra of "location, location, location" rings true for most people when they choose a home. We move to a place with an understanding, imperfect though it may be, that we will enjoy certain features of that place that we perceive at the moment of our decision. A residential zone is expected to remain residential. Commercial intrusions are inappropriate and destroy community trust in the basic protections one might reasonably expect. Enterprise systems should be **prohibited in all residential zones**.

2) A one-hundred-foot setback for a large enterprise system does not uphold the ordinance's purpose. i.e., that it respects "aesthetics and the rural character and scenic landscape of Durham."

Has any Board member actually driven along our roads our gateways and scenic roads, and paced off 100 feet from a front property line to try to visualize what the impact of an enterprise solar energy system might look like under the proposed solar ordinance?

A few years ago, I and a few other residents did pace off 100 feet from Route 4 on the property formerly known at the Durham Business Park. It's remarkable how short that distance is, particularly when considering the placement of a large manmade structure. That exercise led to the negotiation with the property owner of a larger setback that

preserves a sense of the natural setting along the Oyster River and Johnson Creek that we all enjoy today.

Residents moved to, and continue to live in Durham at least in part because we appreciate our natural setting and rural character. Ninety-three percent (93%) of respondents to our recent Master Plan survey indicated that having an attractive natural setting was very important or somewhat important to making Durham a place where they want to live. Two years ago, participants in the Master Plan forum on the future land use chapter “spoke of the ‘abundance of open land and trees,’ and the ‘rural character.’”

Quoting from the Future Land Use chapter of the Master Plan, adopted by the Planning Board in January 2018:

The Vision and Community Character chapter of the Durham Master Plan, adopted in 2015, committed to the following vision for Durham’s future:

In 2025 and beyond, Durham is a balanced community that has successfully maintained traditional neighborhoods, natural resources, rural character, and time-honored heritage...

...The Durham community deeply values aesthetics and the character of the landscape.

Without adequate setbacks, large enterprise systems could, at the least, alter and, at the worst, obstruct scenic vistas—a key aspect of our appreciation of our natural setting. That loss *will not* buy us the type of gain we need to alter the course of climate change but it *will* be cause for sorrow, particularly if we could have done better.

Please revise the setback requirement to take into account a proportionality to the mass of a proposed enterprise system and a more appropriate-size setback.

3) Buffers and buffering need clarification. In the enterprise system section of the draft what, exactly, does "buffered...in accordance with the Site Plan regulations" mean? This should be clarified.

The current Site Plan definition of *buffer* reads:

Buffer. A vegetated area or zone separating a development from a sensitive resource or neighboring property.

Does this mean that the installer must plant new vegetation if existing vegetation is inadequate, and what would “inadequate” look like? Should the buffer consist of native plants or do we really want to see berms and fencing along our gateways?

In addition, “sensitive resource” is not defined in the Site Plan regulations, leaving one open to the “I know it when I see it” line of argument.

Plus, the Site Plan regulations Appendix A: Recommended Landscaping Measures states:

Where appropriate, it is recommended that natural wooded or vegetated areas existing on property boundaries be preserved as a visual buffer to adjacent areas. To be an adequate buffer and maintain the area as a viable natural ecosystem, the buffer should be at least 50 feet wide, preferably wider. Larger trees on the edge of this buffer, should have root systems protected from damage.

4) My final point is that, as you are well aware, the ordinance has opened to public discussion very thorny issues. One that has not been fully addressed might fall under the umbrella of the “common good,” specifically with respect to enterprise systems.

On one hand, it is certainly to the common good, i.e., society’s benefit to replace fossil fuels with renewable energy sources. On the other hand, is it fair or just to allow enterprise systems that may be operated by companies far from Durham to derive profits at the cost of Durham residents’ enjoyment of the very landscape that drew them to—and holds them in—Durham?

One such company, NextEra Energy Resources, is based in Florida. Its investment portfolio includes the Seabrook nuclear power plant and may soon include a 54-acre solar farm in the city of Concord, according to a recent article in the *Concord Monitor*. Frankly, this feels too close for comfort to the relinquishing of much of our recent development to national student housing operations based in Alabama or Texas. Are we really willing to turn over more community assets to investors who are not socially vested in our community?

Another part of this picture is that it could establish one set of community amenities for those who are fortunate enough to enjoy nature’s beauty from their own private property and those who do not, such as many residents of downtown neighborhoods, who draw on the region’s beauty as they drive along public roads past privately-owned properties.

New England has an abundance of sunshine and open fields are perfect sites for large solar energy systems. They are also few and far between in New England today. They also provide a type of beauty universally acknowledged.

The late philosopher Dennis Dutton gave a TED talk in a series called “What Is Beauty?” He said, “Consider briefly an important source of aesthetic pleasure, the magnetic pull of beautiful landscapes.” One could conclude from his talk that we are “hardwired,” as a species to appreciate the very scenic vistas that this ordinance would allow enterprise systems to compromise—whether or not we are consciously aware of the beauty, it informs our quality of life.

Some argue that our eyes become accustomed to additions to familiar views such as television satellite dishes—and solar panels. Human beings are indeed highly adaptable, so we do “absorb” these additions. But the subconscious intrusion of industrial apparatus into natural scenic vistas absolutely interrupts our appreciation of the natural world. Pure scenic vistas are increasingly rare.

So, yes, this ordinance challenges us at the intersection of philosophical and legal points, but so, too, the first page of Durham’s zoning ordinance the purpose section lays out the very conflict embodied in tonight’s discussion:

“Among other purposes, this chapter is specifically adopted to preserve air and water quality; to conserve open space and agricultural resources; to encourage the installation and use of renewable energy systems and protect access to renewable energy sources; to protect natural and scenic resources from degradation...”

I appreciate that the Planning Board has worked hard to weigh the community's competing interests, envision future scenarios, and eliminate vagueness and confusion from the language of the draft. I imagine that you would like to wrap it up and be done with it.

But I hope you will be willing to try one more time, perhaps keeping in mind an explicit item in the 2015 *Oregon Planning Commissioner's Handbook's* list of the responsibilities of planning commissioners, planning staff, and elected officials, and that is to:

- ***Foster beauty.*** *The protection and enhancement of a community's aesthetic qualities can do much to make life in that place more productive, satisfying and thereby ultimately more efficient and beneficial.*

Sincerely yours,

Robin Mower