

Beth McGee, Town Supervisor
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TOWN OF ENFIELD

Tompkins County Planning and Sustainability
121 East Court Street
Ithaca, NY 14850

August 21, 2019

Re: Review Pursuant to §239 -1, -m and -n of the New York State General Municipal Law

Action: Town of Enfield Site Plan Amendments for Solar Facilities

Dear Katherine Borgella,

This letter sets forth the comments and recommendations response to the August 6, 2019 letter from the Tompkins County Department of Planning and Sustainability regarding the June 24, 2019 draft of the Town of Enfield Addendum to the Site Plan Review Law (Solar Energy Law Addendum). The Enfield Town Board offers the following comments and recommendations:

1. **Tompkins County comment:** *“The proposed law would allow Ground-Mounted Solar Energy Systems, other than Large-Scale Solar Energy Systems (LSES), as accessory structures for residential use and exempt them from any site plan review law. We recommend that all Ground-Mounted Solar Energy Systems be allowed as an accessory use of the property, not just those for residential uses (page 6).”*

Enfield response: We recommend no change. The law, as written, fully complies with this recommendation already. Tompkins County has mistakenly read Section 5.B. of our law to only apply to residential lots. In fact, Section 5.B. applies to all properties other than Large-Scale Solar Energy Systems and treats those ground-mounted solar systems as accessory structures exempt from site plan review which is consistent with the county’s recommendation. On page 6 of the county’s TOOLS TO PROMOTE AND REGULATE THE DEPLOYMENT OF RENEWABLE ENERGY SYSTEMS, the county distinguishes the treatment of LSES when it recommends: *“Approval Process. Large-Scale Solar Energy Systems should be permitted either with a special use permit or with a site plan review and a public hearing on proposals should be required.”* In our draft law, LSES are required to undergo a site plan review and a public hearing, consistent with the county’s recommendations in its tools document.

2. **Tompkins County comment:** *“The proposed law would require a glare assessment survey for all LSES to address glare on other parcels of land. We recommend glare analyses only be required when there is a use nearby that is particularly sensitive to glare (page 8).”*

Enfield response: We recommend no change. We believe the burden to determine whether a glare issue exists should be put on the developer and not on the Town of Enfield. Glare assessments are relatively easy to prepare and inexpensive. The Chairman of the Town of Enfield’s Planning Board estimates that a glare

assessment for a very complicated site can be prepared for less than \$5,000. Furthermore, the Planning Board has the authority to waive this requirement where warranted.

3. **Tompkins County comment:** *“The proposed law would require LSES, including related fencing, be setback at least fifty feet from lot lines and at least 125 feet from the centerline of roads. We recommend not requiring more than 30 foot rear or side setbacks, excluding fencing. (Recommendations: Solar Systems, 2nd page, “Location on a property.”)”*

Enfield response: To accommodate the County’s comments, we recommend changing the rear and side setbacks to be 30 feet, *including* fencing. This seems to be consistent with the county’s recommendation in its tool which states: *“Large-Scale Solar Energy Systems should ... not be required to have more than 30 foot rear or side setbacks.”* There is nothing in their tool to indicate that such setback should not include fencing. We can see no rationale for excluding the fencing in this setback. According to the Chairman of the Town of Enfield’s Planning Board this is consistent with other towns’ laws in the area.

4. **Tompkins County comment:** *“The proposed law would limit the enclosed or fenced area of an LSES to 60% of the lot on which it is installed. We recommend that there be no lot coverage limitation, and that any stormwater management issues be addressed in other ways (page 8).”*

Enfield response: We recommend that no change be made. The county misunderstands the purpose for this provision in our law. It has nothing to do with stormwater management. Rather, it is intended to address the Town’s draft Comprehensive Plan’s vision to maintain the town’s rural character. The Town of Enfield does not have a zoning law so we cannot directly control where LSES can be erected. To help address this, we are limiting the size of any LSES on any one property to help the town maintain its rural character.

Comments:

- **Tompkins County comment:** *“The proposed law refers to a list of “areas of potential environmental sensitivity.” For clarity, it should not refer to resources “identified by Tompkins County Planning Department mapping services”, as we provide GIS maps using the original data provided to us and it is not an “official” source of those data for regulatory purposes.”*

Enfield response: We have revised the proposed law to delete this reference.

- **Tompkins County comment:** *“The proposed law requires notification of all property owners within one mile of the proposed LSES. We believe this is excessive, as the entire Town is only approximately 6 miles wide/long. We recommend using the notification of property owners within 600 feet of the proposal as currently provided for other site plan applications.”*

Enfield response: We recommend that no change be made. In a rural town such as Enfield, the number of residents within one mile of the property line of a parcel with a proposed solar energy facility is not onerous for an applicant to comply with. If a rolling field that was previously used for crops is converted to hundreds of solar panels, it will change the nature of a community. A country block is a mile. It is also a community. Residents deserve to know this is happening near their homes.

Town of Enfield

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- **Tompkins County comment:** *“The proposed law states that permit applications for LSES are deemed Type I projects under SEQRA. We assume the Town, in establishing the more restrictive Type I List, will be following the State requirements to conduct a public hearing, notify the commissioner of the Department of Environmental Conservation, and place a notice in the Environmental Notice Bulletin.”*

Enfield response: After consultation with the Chairman of the Town of Enfield’s Planning Board, we recommend rewording this section to state: *“Permit applications shall be deemed unlisted action under SEQRA. In fulfilling the requirements of the SEQRA, the Planning Board may require a Full Environmental Assessment Form for the proposed Large-Scale Solar Energy System.”* This is consistent with the SEQRA requirements which treat this type of permit application as an unlisted action.

- **Tompkins County comment:** *“The proposed law states that the Town Board shall be designated as the lead agency and the Planning Board as an interested party for the purposes of any SEQRA review. We reviewed The SEQR Handbook, Fourth Edition 2019 and found on page 183, in response to the question “May a municipal board delegate its SEQR duties to another board?” the Handbook states that every board with decision-making authority has a duty to consider the environmental effects of their decisions. We believe that delegating SEQRA review to a non-involved agency is not permitted. In the case of the proposed law, as currently written, the Planning Board is the decision-making authority and the Town Board is not involved in the approval process.”*

Enfield response: We agree with this comment from the County and have deleted the provision that would designate the Town Board as the lead agency.

Thank you for your guidance and review.

Sincerely,

Beth McGee, Supervisor
Town of Enfield