



**TOWN OF COVENTRY, RI
DEPARTMENT OF PLANNING & DEVELOPMENT**

STAFF REPORT

Project Name:	Moo Cow Solar
Project Type:	Unified Development Review (Major Land Development w/ associated Dimensional Variance)
Plan Review Phase:	Preliminary Plan
Applicants:	NARYA LLC (Lot 27.1) and Moo Cow, LLC (Lot 28)
Owner:	EDPR NA Distributed Generation, LLC
Address:	2446 Victory Highway
Plat / Lot / Zone:	AP 304 Lots 27.1 and 28 Zone RR-5 Lot Size 109 Acres
Existing Use:	Single-Family Residence
Proposed Use:	Major Solar Installation
Description:	The applicant proposes to construct a 4.4 MW Direct Current (DC) Ground-Mounted solar array on approximately 9.4 acres of the subject parcel.

I. PROJECT INFORMATION

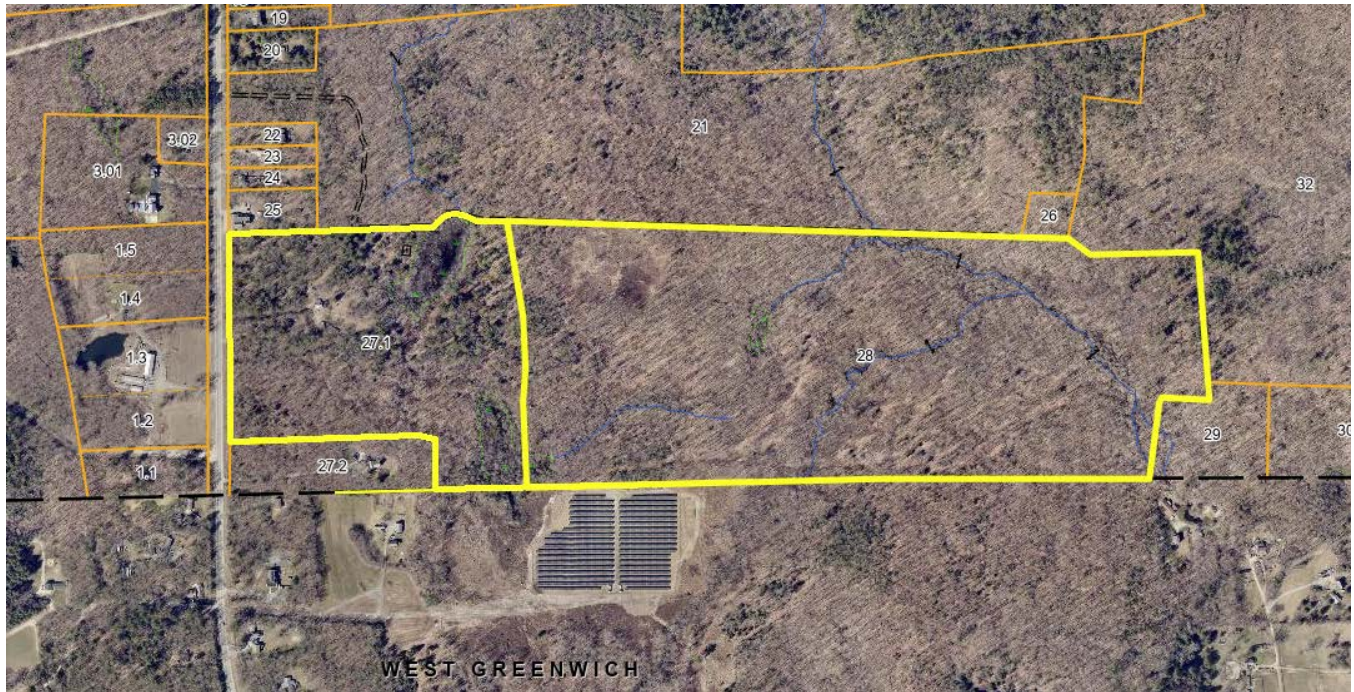
Overview

This matter comes before the Planning Commission for a Preliminary Plan review of a proposed solar energy project. The applicant proposes to build a 4.4 megawatt (MW) solar energy project on a largely vacant parcel of land located at 2446 Victory Highway for interconnection with Rhode Island Energy. The solar installation will consist of ground-mounted solar panel arrays, a transformer, switchgear, electrical equipment. This Major Land Development project received Master Plan approval from the Planning Commission on May 30, 2023, and a Special Use Permit from the Zoning Board of Review on August 2, 2023.

Site and Existing Conditions

The subject parcel is comprised of two lots. AP 304, Lot 27.1, is approximately 33 acres in size and has about 980 feet of frontage on Victory Highway, which is a state roadway. AP 304, Lot 28 is larger (76 acres) and landlocked. The parcel primarily features wooded areas and wetlands; Lot 27.1 hosts an abandoned single-family house and two historic cemeteries. Abutting land uses include single-family

residential, agricultural/commercial (the Old Sawmill Farm shop), and a solar installation directly across the town line in West Greenwich.



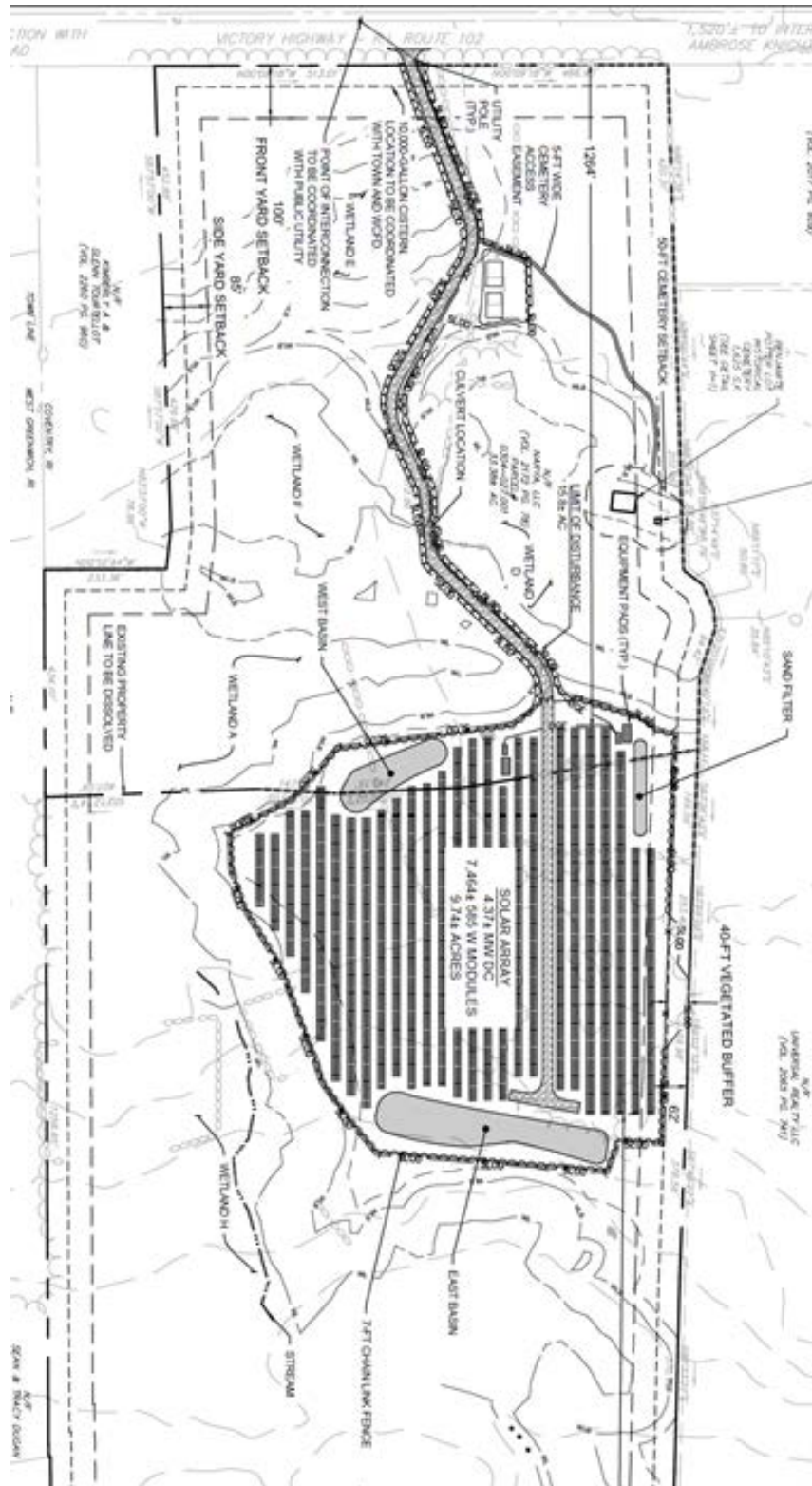
Proposed Conditions

A Site Plan Exhibit is provided on the following page. The applicant proposes to merge Lots 27.1 and 28 and construct a 4.4 MW, ground-mounted solar array on approximately 9.7 acres centered over the western end of what is currently Lot 28. The proposed array will be enclosed by a 7-foot chain link fence containing 13.4 acres. The fence will also enclose associated electrical equipment, utility poles, and stormwater detention basins. The enclosed area will be cleared, grubbed, loamed, and seeded. The total area contained within the Limits of Disturbance, including shade tree cutting, will amount to 15.4 acres.

An existing gravel driveway connecting Lot 27.1 with Victory Highway will be widened, improved, and extended to provide access to the solar array. The driveway will be angled/curved on its approach to obstruct views of the solar installation, consistent with § 255-XXI-2140E(3)(c) of the Zoning Code. Once it reaches the installation, it will pass through due east and terminate in a hammerhead turnaround on the other side of the array.

The existing single-family house located along the existing driveway will be demolished; a 5-foot-wide cemetery access easement will diverge from the roadway west of where the house stands. A 10,000-gallon cistern will be installed near the driveway's interconnection with Victory Highway to facilitate fire protection. The applicant has provided additional details, including an electrical diagram, operation and maintenance plan, a decommissioning plan/agreement, and a shading analysis for consideration.

SITE PLAN EXHIBIT



Zoning

The subject parcel is zoned RR-5 (Rural Residential on minimum 5-acre lots). At the time the application was submitted, the proposed use (“Major Solar Installation”) was permitted in that zone via Special Use Permit; accordingly, the applicant sought and received a Special Use Permit before proceeding to Preliminary Plan.

Major Solar Installations are defined in the Zoning Code as ground-mounted solar installations designed primarily to generate and sell electricity to a utility company for resale to consumers which occupy an area of 40,000 square feet or more.

Per § 255-XXI-2140E(2) of the Zoning Code, “all medium and major solar installations maintain the property line setbacks for nurseries or greenhouses as set forth in dimensional regulations;” however, maximum lot coverage is fixed at 15%, rather than the 10% threshold otherwise associated with nurseries and greenhouses in an RR-5 zone. Additionally, § 255-XXI-2140E(3)(b) specifies that Major Solar Installations must maintain a minimum 40-foot vegetated buffer between the solar installation and all property boundaries.

The Table below provides relevant dimensional standards for major solar developments in an RR-5 zone.

TABLE 6-4

Rural Residential RR5	MINIMUM LOT		MINIMUM SETBACK (feet)			MAXIMUM LOT COVERAGE
	Area	Frontage	Front	Side	Rear	
	5 acres	300 feet	100	85	150	15%

The proposal will require dimensional relief because the proposed solar array would encroach approximately 23 feet into the required 85-foot side setback on the parcel’s northern boundary. (Note that this encroachment does not extend so far northwards as to impact the required 40-foot vegetated buffer.)

The merger of Lots 27.1 and 28 primarily serves to reduce the amount of relief required. A portion of the solar array is proposed to be built over the (existing) shared lot line between 27.1 and 28; if this lot line was not removed, the solar array here would encroach into additional setbacks and buffers. The applicant has requested in its Project Narrative that this Administrative Subdivision be accomplished by action of the Planning Commission (i.e. as a component of approving the Preliminary Plan application).

Finally, because this project includes both a Major Land Development decision and a Dimensional Variance decision, it triggers Unified Development Review. Accordingly, the Planning Commission will vote to approve or deny both requests.

Approvals

The Planning Commission's Preliminary Plan approval would entail Major Land Development, Dimensional Variance, and Administrative Subdivision components. This project will require the following approvals from other decision-makers:

- Special Use Permit (*received – decision dated 8/2/23*)
- Western Coventry Fire District (*received – email dated 4/24/24*)
- RI Department of Environmental Management
 - Wetland Edge Verification (*received – letter dated 7/14/23*)
 - Freshwater Wetlands Permit (pending)*
- RI Department of Transportation
 - Physical Alteration Permit (pending)*
- Coventry Town Engineer – Soil Erosion and Sedimentation Control Permit (due at later stage)
- Coventry Building Official – Demolition and Building Permits (due at later stage)
- Rhode Island Energy – Approval for Interconnection (direct permitting with State)
- Town Council – Approval for Perpetual Care of the two historic cemeteries (due at later stage)

**Staff recommends positive consideration of conditioning the pending RIDEM and RIDOT permits to the Final Plan Application, consistent with comments from the Technical Review Committee.*

Waivers/Variations

Staff would support granting waivers for the following items:

- Sidewalks – Such infrastructure does not presently exist on-site and would be isolated from any existing network.
- Curbing – The applicant is proposing to remove a portion of the existing bituminous curb to widen the curb cut in conjunction with widening the driveway; they propose to replace the curb in-kind.
- Street Trees – The only anticipated change to the existing wooded buffer along the parcel's 980 feet of frontage would be the widening of the curb cut and driveway to 75 feet. Trees would not be planted in the driveway; there is no gap to fill elsewhere along the parcel's frontage; and the existing conditions along the road would be protected by the required 40-foot vegetated buffer for Major Solar Installations in residential zones, as this buffer applies to all perimeter lot lines.
- Streetlights – Such infrastructure does not presently exist along this portion of Victory Highway and the proposed use generates virtually zero additional traffic along the right-of-way. Additionally, the Western Coventry Fire District is not seeking streetlights.

Interdepartmental Review and Comments

Please see the attached reports from the Technical Review Committee for interdepartmental comments on this application. Note that the Preliminary Plan application was reviewed twice; the May meeting reflected committee members' comments on the current application materials which were revised based on feedback provided at the February meeting.

Decommissioning

As noted in § 255-XXI-2140E(8), "The property owner and the owner/operators of the solar installation shall be jointly and severally responsible for removing all obsolete, abandoned or unused equipment within 12 months after a solar installation has ceased operations." Removal of said equipment shall be completed in accordance with an approved Decommissioning Plan.

Under normal circumstances, the solar facility's owner and/or operator would undertake removal once the installation has reached the end of its useful life. The code also notes that if the solar installation has been nonoperational for at least one year, it is considered abandoned; if the owner and/or operator fails to remove the solar installation within 150 days of abandonment, the Town may take unilateral action to remove the solar installation without further notice at the owner's and/or operator's expense.

To that end, § 255-XXI-2140E(11) requires applicants to "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 installation and restore the landscape." Furthermore, "the amount and form of said surety shall be determined by the Planning Commission with review and input by the Town Engineer, Town Finance Director and Town Solicitor and such other Town officials as deemed necessary."

The applicant submitted a plan which included an Opinion of Probable Decommissioning Cost. The estimated surety amount provided in this document is **\$473,000**, accounting for inflation as required by the relevant section of code. Following feedback, recommended edits, and requests for clarification from the Town Engineer, the applicant requested to provide the updated surety estimate with its Final Plan Application.

Staff would recommend a Condition of Approval to defer the bond/surety setting to the Final Plan stage of review, which would entail bringing the Final Plan application back before the Planning Commission.

II. DIMENSIONAL VARIANCE

Findings of Fact

Staff has conducted a review of the Dimensional Variance component of this application for conformance with required standards set forth in RIGL Section 45-24-41. Staff's findings are as follows:

RIGL § 45-24-41. General provisions – Variances. (d)(1) states, "That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30(a)(16)"

1. The applicant indicated in its Zoning Narrative that further review of the wetlands on-site and design of the necessary stormwater facilities obligated it to relocate some panels further north than it anticipated at Master Plan.
2. The size of the solar array remains unchanged, and the encroachment into the required side setback remains outside of the required 40-foot buffer.

RIGL § 45-24-41. General provisions – Variances. (d)(2) states, "That the hardship is not the result of any prior action of the applicant"

3. The encroachment into the northern side setback reflects the applicant's intent to maintain the size of the solar array as approved at Master Plan without impacting pre-existing wetland complexes on site.

RIGL § 45-24-41. General provisions – Variances. (d)(3) states, "That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based"

4. The solar array has been set back from Victory Highway, consistent with the Planning Commission's advice offered during early 2021 to another applicant who had proposed siting a solar array on the same subject parcel, but closer to the road.
5. The required 40-foot vegetated buffer will not be impacted by the 23-foot encroachment into the required 85-foot side setback. The applicant is proposing to bolster the existing vegetated buffer with additional plantings to further screen the solar array from the abutting property.
6. The abutting property (AP 304, Lot 21) is a vacant lot which partially falls within a Natural Heritage Area. The lot is also divided into three segments by two separate streams which run the full length of the parcel from north to south. Given that the portion of Lot 21 which is adjacent to the proposed solar array lies in the middle segment, and given the constraints associated with establishing a new wetland crossing in a Natural Heritage Area, the development prospects of this portion of Lot 21 doubtful. Therefore, granting relief is unlikely to adversely impact the abutting property.

RIGL § 45-24-41. General provisions – Variances. (d)(4) states, “In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief. The zoning board of review, or, [planning board] in unified development review, has the power to grant dimensional variances where the use is permitted by special-use permit.”

7. The applicant indicated in its Zoning Narrative that the proposed design attempts to balance the approved size of the solar array with the Commission’s preference for siting away from Victory Highway as well as necessary factors, such as providing sufficient stormwater facilities and avoiding wetlands.
8. The applicant’s Zoning Narrative is well-conceived and provides a foundation of information for positive consideration of the requested Dimensional Variance.

Recommendation

Staff finds this proposal consistent with the standards for required Dimensional Variance findings of fact set forth in RIGL Section 45-24-41. Staff therefore recommends that the Planning Commission adopt the documented findings of fact and approve the Dimensional Variance application with a condition that the applicant receive approval of its Final Plan – Major Land Development application.

III. MAJOR LAND DEVELOPMENT

Findings of Fact

Staff has conducted an orderly, thorough, and expeditious technical review of this Preliminary Plan application for conformance with required standards set forth in RIGL Section 45-23-60, as well as in the Town of Coventry’s Subdivision and Land Development Regulations, and finds as follows:

RIGL § 45-23-60. Procedure – Required findings. (a)(1) states, “The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies.”

1. The Comprehensive Community Plan is currently in the process of being updated and the current version does not discuss renewable energies such as solar arrays. The latest update to the Zoning Ordinance with respect to Solar Power Generators was last update in July 2017. In previous applications, the Planning Commission has demonstrated that the scale of a solar installation and the intensity of its use of the underlying land is a critical measure in determining consistency with the Comprehensive Plan. Using these criteria, the proposed solar array is consistent with the Comprehensive Plan.

RIGL § 45-23-60. Procedure – Required findings. (a)(2) states, “The proposed development is in compliance with the standards and provisions of the municipality’s zoning ordinance.”

2. The project received a Special Use Permit on August 2, 2023 to allow the proposed Major Solar Installation use.
3. The applicant proposes to encroach by approximately 23 feet into the required 85-foot northern side setback. Provided that Lots 27.1 and 28 are merged, the proposal meets all other Zoning standards.
4. Preliminary Plan approval is conditioned upon obtaining relief in the form of a Dimensional Variance.
5. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Coventry Zoning Code.

*RIGL § 45-23-60. Procedure – Required findings. (a)(3) states, “There will be no significant negative environmental impacts from the proposed development as shown on the **final** plan, with all required conditions for approval.” (emphasis added)*

6. This finding pertains specifically to the final plan; however, no significant environmental impacts are anticipated.
7. The March 2023 update of the Rhode Island Natural Heritage map shows that the subject parcel does not fall within a Natural Heritage Area overlay.

RIGL § 45-23-60. Procedure – Required findings. (a)(5) states, “All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.”

8. The subject parcel will have adequate permanent physical access to a public right-of-way (Victory Highway).
9. The proposed development provides for safe and adequate circulation for vehicular traffic as well as for emergency vehicles.

Recommendation

Staff finds this proposal consistent with the standards for required findings of fact set forth in RIGL Section 45-23-60 as well as with the Town of Coventry’s Subdivision and Land Development Regulations. Staff therefore recommends that the Planning Commission adopt the documented findings of fact and **approve** the Preliminary Plan application, subject to the conditions denoted below. In approving this Preliminary Plan application, it is understood that the Planning Commission also approves the merger of Lots 27.1 and 28 as requested by the applicant.

Conditions of approval

1. Preliminary Plan approval is conditioned upon strict adherence to the associated Special Use Permit Application and Dimensional Variance Application as presented and approved.
2. The Final Plan application will be brought before the Planning Commission for approval of the Major Land Development as well as bond/surety setting.
3. The applicant will submit a revised Opinion of Probable Decommissioning Cost addressing the Town Engineer's comments with its Final Plan Application. This cost estimate will form the basis of the surety/bond setting.
4. The applicant shall submit applicable RIDEM and RIDOT permits with its Final Plan application.
5. The existing, abandoned single-family house located on Lot 27.1 of the subject parcel shall be demolished. The Building Department shall determine whether or not lead paint abatement is required when the applicant applies for a demolition permit.
6. The applicant shall provide draft easement documents for access to the historic cemeteries with its Final Plan Application. During construction, the applicant shall mark the corners of both cemeteries with granite bounds and place the cemeteries in perpetual care with the Cemetery Fund of the Town of Coventry. Assessment and perpetual care of the site shall be approved by the Coventry Town Council.
7. No signs shall be allowed on the security perimeter fencing except for a sign displaying the installation name, address and emergency contact information, and repassing/warning/danger signs to ensure the safety of individuals who may come in contact with the installation. No sign shall exceed four square feet in area. Externally lit signs must be orientated such that the light is directed away from any adjacent properties and traffic arteries.
8. The property owner and the owner/operators of the solar installation shall be jointly and severally responsible for removing all obsolete, abandoned or unused equipment within 12 months after a solar installation has ceased operations. Removal shall include:
 - a. Physical removal of all systems, structures, equipment, wiring and security from the site both above and below ground.
 - b. All removed components shall be recycled whenever feasible.
 - c. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations; and
 - d. Stabilization or revegetation of the site as necessary to minimize erosion. The Town may allow the owner or operator to leave landscaping or designated below grade foundations in order to minimize erosion and disruption to vegetation.
9. Unless otherwise approved in writing by the Planning Commission, all major and medium solar installations shall be removed in accordance with their approved decommissioning plan. Prior to beginning decommissioning operations, the owner or operator shall notify the Building

Official by certified mail of the proposed dates for discontinuing operation of the installation and commencing removal activities, and the anticipated date for completing the decommissioning.

10. Absent prior written approval from the Planning Commission extending the time for removal of a solar installation for extenuating circumstances, a solar installation shall be considered abandoned when it has been nonoperational for more than one year. If an owner or operator fails to remove a solar installation within 150 days of abandonment, the Town may take unilateral action to remove the solar installation without further notice at the owner's or operator's expense.
11. All material modifications to a solar installation made after issuance of the required building permit shall require approval by the Planning Commission. Any addition to the size of the area will require a new application.

Pursuant to Article XII. Appeals, Subsection A. Procedure for Appeals to the Board of Appeal of the Coventry Subdivision Regulations, the decision of the Planning Commission herein may be appealed in writing by any party aggrieved by said decision to the Coventry Board of Appeal. Any such appeal shall be made within 20 days of the day of the decision is recorded and posted in the Town Clerk's Office.