

Kent County Planning Commission

TELEPHONE 410-778-7475

Kent County Government Center
400 High Street
Chestertown, Maryland 21620

FACSIMILE 410-810-2932

17 December 2018

P. Thomas Mason, President
County Commissioners of Kent County
400 High Street
Chestertown, MD 21620

Re: Zoning Text Amendment – Special Exception for Solar Energy Utility Scale Systems in the Rural Residential (RR), and Community Residential (CR) Zoning Districts

Dear Mr. Mason:

At its 6 December 2018 meeting, the Kent County Planning Commission conducted a public hearing and reviewed the application of Fair Promise Family Limited Partnership/Morgnec Road Solar, LLC who propose amendments to Article V, Sections 4.3 and 6.3 and Article VII, Section 7 of the *Kent County Land Use Ordinance*. The applicants are proposing to amend these provisions to allow “utility scale solar energy systems” as a Special Exception Use in the Rural Residential (RR) and Community Residential (CR) Districts and to establish additional standards.

Specifically, the applicants propose to **ADD** the following:

District Regulations, Special Exceptions
Rural Residential (RR) and Community Residential (CR) Districts: Article V, Sections 4.3 and 6.3 respectively:

RR, Article V, Section 4.3

25.5. **SOLAR ENERGY SYSTEMS, UTILITY SCALE**

CR, Article V, Section 6.3

20.75. **SOLAR ENERGY SYSTEMS, UTILITY SCALE**

Special Exceptions, Special Exception [Uses and Performance Standards]: Article VII, Section 7:

57.75 SOLAR ENERGY SYSTEMS, UTILITY SCALE, IN RR AND CR PROVIDED:

- A. SOLAR COLLECTION DEVICE OR COMBINATIONS OF DEVICES ARE DESIGNED AND LOCATED TO AVOID GLARE OR REFLECTION ONTO ADJACENT PROPERTIES AND ADJACENT ROADWAYS AND SHALL NOT INTERFERE WITH TRAFFIC OR CREATE A SAFETY HAZARD.**
- B. SCREENING CAPABLE OF PROVIDING YEAR-ROUND SCREENING, IS PROVIDED ALONG ALL SIDES THAT DO NOT COLLECT ENERGY. SCREEN SHOULD BE A MINIMUM OF 50 FEET IN WIDTH**



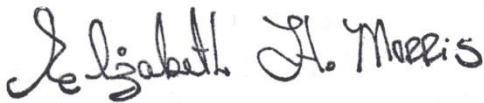
AND MAY BE PLACED WITHIN THE SETBACKS. EXISTING VEGETATION WITHIN THE DESIGNATED BUFFER AREA MAY BE USED TO SATISFY THE BUFFER STANDARDS.

- C. SETBACKS OF SOLAR COLLECTION DEVICES OR ACCESSORY STRUCTURES:
 - I. 75 FEET FROM LOT LINES OF ADJACENT PROPERTIES.
 - II. 100 FEET FROM ANY ROAD OR RIGHT-OF-WAY.
 - III. INTERNAL BOUNDARIES ON ADJOINING PROPERTIES TO BE USED FOR A SINGLE SOLAR ENERGY SYSTEM SHALL NOT BE SUBJECT TO THE SETBACK PROVISIONS HEREIN.
- D. EXISTING TOP SOIL SHALL NOT BE REMOVED FROM THE SITE.
- E. THE SOLAR COLLECTION DEVICES SHALL BE ENCLOSED BY FENCING.
- F. SOLAR PANELS AND RACKING SYSTEMS SHALL NOT EXCEED 20' IN HEIGHT. LIGHT POLES, INTERCONNECTION AND RELATED EQUIPMENT SHALL NOT EXCEED 45 FEET IN HEIGHT.
- G. INSTALLATION OF THE *SOLAR ENERGY SYSTEM* SHALL NOT ADVERSELY IMPACT ADJACENT PROPERTIES.
- H. ALL *STRUCTURES* ASSOCIATED WITH THE *SOLAR ENERGY SYSTEMS* SHALL BE NEITHER VISUALLY INTRUSIVE NOR INAPPROPRIATE TO ITS SETTING.
- I. ALL SOLAR COLLECTION DEVICES SHALL BE REGISTERED WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
- J. THE APPLICANT SHALL DEMONSTRATE THAT THE *SOLAR ENERGY SYSTEM* SHALL NOT UNREASONABLY INTERFERE WITH THE VIEW OF, OR FROM, SITE OF SIGNIFICANT PUBLIC INTEREST, SUCH AS PUBLIC PARKS, A NATIONAL OR STATE DESIGNATED SCENIC BYWAY, A STRUCTURE LISTED IN THE KENT COUNTY HISTORIC SITE SURVEY, AND HISTORIC DISTRICT, OR THE CHESAPEAKE BAY OR ITS TRIBUTARIES.
- K. THE MINIMUM PARCEL SIZE (OR GROUP OF PARCELS) ON WHICH THE SOLAR ENERGY SYSTEM MAY BE LOCATED (INCLUDING REQUIRED LANDSCAPING AND BUFFERS) SHALL BE NOT LESS THAN 150 ACRES NOR SHALL IT EXCEED 400 ACRES.
- L. THE *SOLAR ENERGY SYSTEM* SHALL BE LOCATED WITHIN A TWO (2) MILE RADIUS ON EITHER SIDE OF THE ELECTRIC TRANSMISSION LINES WITH A CAPACITY EQUAL TO OR GREATER THAN 69 KV OR SIMILAR SIZED UTILITY SUBSTATIONS.
- M. TREE REMOVAL SHALL BE MINIMIZED, AND ANY REMOVAL SHALL BE MITIGATED IN ACCORDANCE WITH THE CRITICAL AREA PROGRAM REQUIREMENTS.
- N. THE *SOLAR ENERGY SYSTEM* SHALL COMPLY WITH ALL APPLICABLE FEDERAL AND STATE REGULATIONS.

Following a lengthy discussion and consideration of testimony, the Planning Commission voted unanimously to send an unfavorable recommendation for the proposed amendments as discussed based on the following findings:

- The County identified and designated locations suitable for larger/utility scale renewable resource facilities through Renewable Energy Task Force recommendations made in 2011. The RETF reconvened in 2015 to review the existing *Ordinance* provisions in this regard. At that time, the Planning Commission and County Commissioners found that the standing renewable energy provisions served the needs of the public and remained consistent with the Ordinance and Comprehensive Plan.
- Therefore, the Commission does not find that a public need now exists for the proposed text amendment.
- Further, the County has designed zoning districts in which the proposed use is already permitted.
- Many parcels zoned RR and CR are located within mapped designated growth areas, as well as within Tier 1, 2, and 3 Areas. Therefore, this proposal is inconsistent with municipal growth areas.
- The purposes of the RR and CR Districts are to provide for residential development, as well as commercial uses which support the communities and provide economic development opportunities.
- The amendment has been put forward solely for the interest of the applicant, as it is compatible with the developer's business model with no economic development potential for the County.
- The proposed amendment deviates from the Comprehensive Plan, as the scale of the proposal is neither consistent with the Comprehensive Plan nor the Intent of the Zoning Districts to which this proposal applies.

Sincerely,
Kent County Planning Commission

A handwritten signature in dark ink, reading "Elizabeth H. Morris". The signature is written in a cursive, flowing style.

Elizabeth H. Morris
Chairman
EHM/agm