



PETITIONER EXHIBIT
1 FILE # Solar Ordinance
DATE 2/10/22
RECEIVED LG

MEMORANDUM

TO: Elkhart County Plan Commission
FROM: JPR Corp.
DATE: 2022-02-10
RE: **Proposed Elkhart County Solar Energy Zoning Overlay Ordinance – General Comments**

JPR appreciates the opportunity to provide our input with regard to the above-mentioned proposed zoning overlay district. As you might be aware, JPR has direct related project experience associated with this type of land use, both locally and in other communities in our general region.

Accordingly, and as you review and discuss this important topic, JPR would offer the following comments:

- A minimum separation of 200 linear feet between proposed project infrastructure and occupied residential “non-participating” dwellings is reasonable, similar to requirements adopted in other communities that have proven effective, and in line with general guidance issued by Indiana University’s Environmental Resilience Institute.
 - We would, however, suggest not using the term “setback” within the ordinance as it relates to this issue to avoid confusion with general building setback related requirements, and would suggest simply the words “minimum separation distance” or something similar.
- We agree with using existing buffering and/or screening requirements within the existing ordinance in order to minimize impact on neighboring properties.
 - We would suggest, however, given the relatively unique manner in which these projects are developed via leased land, etc., that flexibility with regard to the buffering/screening location should be given. There may be occasions where neighboring properties would prefer the buffering to be located on their property as opposed to the project’s property, and the zoning overlay should allow for that. (Without having to change the zoning on the neighboring agriculturally or residentially zoned land)
- There has been much discussion about using or even requiring the use of earthen berms in buffering and/or screening areas. We believe that’s because earthen berms have been utilized in many locations where industrially used/zoned land has been developed adjacent to residential uses.
 - JPR would suggest certainly allowing for the use of berms if or when doing so makes sense or is desired by a project developer for some reason, but this should not be a requirement. The construction of these items is always subject to other detailed site design and/or grading and drainage considerations, and simply requiring these as part of buffering/screening could create significant complications with respect to a local watershed and drainage patterns.
- Fencing is also a topic included in the proposed overlay district and has been much discussed.

- With regard to fencing, JPR would suggest requiring it certainly, but not specifying its actual location. Early draft info indicates that the fence location should be at the building setback line, or on the “project side” of the buffering area. That location would then preclude the landowners from having a perimeter fence on the property itself, which as most know is quite common especially in agricultural areas.
- If this draft requirement is resultant of concern some have expressed related to having a ‘fence right on their property line to look at,” then we would point out that such a concern should already exist, because any property owner can install a fence on or very near their property line anywhere in Elkhart County, in most cases without a permit of any kind.
- As part of the site plan preparation/review process of any project contained in the new overlay district, we feel the following specific items should be considered/included in addition to other typical site plan requirements associated with any type of significant development in Elkhart County:
 - Studies, impact statements, etc., prepared by appropriately qualified Professionals with regard to impact to farmland, wildlife, watersheds, drainage patterns should be required to accompany any submitted site plan.
 - Are provisions in proposed infrastructure to allow for the free travel of certain wildlife appropriate if the project is above a certain minimum area?
 - Detailed landscaping plans that include plan and profile views of buffering areas, regionally appropriate seed mixes and other planting information, anticipated maintenance, etc., also prepared by appropriately qualified Professionals.
 - Lighting plan, including a photometric analysis, with typical details, lighting specifications, intensities, etc. (to demonstrate compliance with site lighting specifications in ordinance)
 - Grading and drainage plan including overall watershed analysis, mitigation of any/all impacts to existing drainage patterns, etc.
 - Dimensional plan showing specific locations of specific proposed infrastructure, driveways, buffering areas, etc.
- With respect to other land uses that are specifically allowed in A-1 zoned land in Elkhart County, such as a single-family residential subdivision with streets, sidewalks, and storm water related infrastructure, there is a certain obligation to approve/permit a project if the proposed project in question has demonstrated compliance with all applicable regulations. Will the proposed zoning overlay ordinance include language to obligate local officials to approve a project developed pursuant to it? Or, is there other more generic applicable language in this regard elsewhere in the zoning ordinance that addresses this question?

CONCLUSION:

JPR appreciates the opportunity to provide this input and is in full support of Elkhart County considering such an ordinance, because we feel that these types of projects will be an important part of the overall electrical grid, *upon which we all depend for far too many reasons to list here*, as reliance on fossil fuels continues to decrease in the years to come.