

Anthony Angelone

From: Horan, Jessica <JHoran@eriecountypa.gov>
Sent: Monday, August 21, 2023 1:49 PM
To: Anthony Angelone
Subject: FW: Review Comments-Venango Solar

Good afternoon Attorney Angelone,
Although, the PA MPC: Section 913.2. Governing Body's Functions; Conditional Uses indicates that the responsibility to grant or deny Conditional Use applications lies with the municipal governing body, we have completed your request to review the Wilson Solar application for Conditional Use in Venango Township. Our senior municipal planner, John McGranor has provided the following comments for consideration.

Feel free to contact us if you have any questions.

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From: McGranor, John <JMcGranor@eriecountypa.gov>
Sent: Tuesday, August 8, 2023 11:27 AM
To: Horan, Jessica <JHoran@eriecountypa.gov>
Subject: Review Comments-Venango Solar

Good Morning Jessica,

As per your request, I've reviewed the Venango Township conditional use application by Wilson Solar, LLC. Their request letter asks for our review comments "pursuant to the PA Municipalities Planning Code" (MPC). I'm not aware of any MPC requirement for County review of conditional use applications. However, given the size, scope and potential impact of this project, it was nice of the Township to ask for our review comments. My review focused primarily on the application narrative. The letter sized plan copies are too small to be legible. While I didn't notice any obvious problems with them, Pete will give them a more thorough review if/when a land development plan is submitted for the County's review.

It is ultimately the role and responsibility of the Township and its municipal solicitor to interpret the Township's ordinances. I'm not an attorney, and my comments are not intended to be legal advice. However, I did review the application for compliance with the Township's Zoning Ordinance and Solar Ordinance No. 1 of 2023. In my opinion, the application/proposed project appears to comply with the Township's ordinances with two exceptions.

1. The applicant requests conditional use approval from the Township's Zoning Hearing Board. This is an obvious error. The Township's Board of Supervisors is the approval body for conditional uses.
2. The Township's solar ordinance permits Principal Solar Energy Systems as a conditional use in A-1 and I-1. It does not permit them in R-1. One of the project parcels and a portion of a second parcel are zoned R-1. These parcels will need to be rezoned to A-1. The applicant has acknowledged the need for a zoning amendment within the application. My recommendation is for the Township to address the rezoning request as a separate



application, even if the request is processed concurrently with the conditional use application. In accordance with State Law (MPC) the Township must provide the County with a 30 day review/comment period for any proposed zoning amendment. As you are aware, the County's comments are non-binding.

In addition to the Township's ordinances, I also reviewed the proposed project for consistency with the County's Comprehensive Plan, Future Land Use Map. It should be noted that the County's plan is for planning purposes only. It carries no legal weight, and consistency, while desirable, is not legally required.

The project includes 15 parcels. One of the parcels is located in a Designated Future Growth Area, and a solar development on that parcel is consistent with County plans. The remaining 14 parcels are designated Rural Resources. In a few cases, small portions are designated Conservation. The Conservation areas mirror the FEMA flood hazard area, and based on the project plans, it does not appear that any development is proposed within the flood hazard areas.

With respect to the areas designated Rural Resources, the County plan defines its Rural Resource area as *"An area described in a municipal or multi-municipal plan within which rural resource uses, including, but not limited to, agriculture, timbering, mining, quarrying, and other extractive industries, forest and game lands and recreation, and tourism are encouraged and enhanced, development that is compatible with or supportive of such uses is permitted, and public infrastructure services are not provided except in villages."*

Solar developments are commonly located in rural/agricultural areas, and often are co-located with agriculture. Therefore, in my opinion, it can be argued that solar development is "compatible" with agriculture and other rural uses, and is therefore consistent with the County's plan within the Rural Resource Area.

If/when a rezoning of the R-1 parcels to A-1 is proposed, the rezoning will also be consistent with County plans since these parcels are located within the County's Rural Resource Area.

Please let me know if you have any questions.

John

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