

JEFFERSON COUNTY PLANNING COMMISSION
SOLAR TEXT AMENDMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW

File No. ZTA 19-03

On June 23, 2020, the Jefferson County Planning Commission (“Planning Commission”), pursuant to proper notice and a hearing, approved the Solar Text Amendment (“STA”), File No. ZTA 19-03, to amend the Jefferson County Zoning Ordinance (“Zoning Ordinance”) to allow solar facilities to be constructed as a Principal Permitted Use (“PPU”) in eight (8) zoning districts of the county, including the Rural District. On October 1, 2020, pursuant to proper notice and a hearing, the Jefferson County Commission (“County Commission”) approved the STA with an amendment which increased the setback from one hundred (100) feet to two hundred (200) feet. Opponents of the STA, as amended, subsequently filed suit seeking a preliminary injunction against enforcement of the STA, as amended, among other things. On December 10, 2020, the County Commission reached a settlement of the lawsuit vacating the STA, as amended, and returning the STA to the Planning Commission “for further review, consideration and public hearing...”

Pursuant to proper notice, meetings, and/or hearings held on February 9, 2021, February 23, 2021, and on March 9, 2021, the Planning Commission, upon further review and consideration of the Solar Text Amendment, finds and concludes as follows:

FINDINGS OF FACT

1. Under W.Va. Code §8A-7-8, the Jefferson County Zoning Ordinance, and related legal authority, the County Commission may amend the Zoning Ordinance as follows:

(a) Before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.

W. Va. Code Ann. § 8A-7-8

2. The Comprehensive Plan encourages the development of alternative energy sources, such as solar power generation. (Comp. Plan, pp. 89-90 and 93).

3. Solar facilities help to preserve the environment in that they generate low or no emissions. Moreover, the STA requires a “decommissioning plan” to restore land to its pre-solar condition after power production ceases and a bond to cover the costs of the decommissioning.

4. The Comprehensive Plan recognizes the need for flexibility in the use of agricultural properties in order to help struggling farm operators to continue to have viable business opportunities. (Comp. Plan, p. 38). Moreover, the Comprehensive Plan rejects the preservation of farms without farmers. “There must be a viable rural economy to maintain the rural landscape.” (Comp. Plan, p. 72).

5. Solar facilities, as a minimal and reversible impact on the environment, are more likely to retain the rural and farming character of Jefferson County than other forms of development.

6. The STA promotes the economic well-being of the county by creating jobs, increasing tax revenues and generating business opportunities for farmers and other landowners, while having a very low impact upon the environment.

7. The STA minimizes the aesthetic impacts of solar facilities by requiring screening, buffering and setbacks. Moreover, the economics of solar facilities require them to be located next to existing electrical substations and transmission lines which are already exempt from zoning restrictions as “essential utilities and equipment” under state law and county ordinance. W. Va. Code §§ 8A-1-2(f) (defining essential utilities) and 8A-7-3(e) (providing that essential utilities are a permitted use in any zoning district; and Zoning Ordinance §4.7 (exempting essential utility equipment from the Zoning Ordinance). By authorizing solar development near existing infrastructure which is already exempt from zoning restrictions, the STA further minimizes the aesthetic impacts of solar facilities.

8. The Comprehensive plan does support alternate and renewable energy sources. (See, for example, Section 2D, Infrastructure, p. 89-90, and Recommendation 8, p.93). However, an additional circumstance which was not anticipated or fully considered when drafting the Future Land Use Guide became apparent during the meetings before the Jefferson County Commission involving Rockwool. These meetings revealed the importance that many of the citizens of Jefferson County attach to favoring low impact commercial and industrial development which has low or no emissions. Solar facilities satisfy these concerns because they have low or no emissions, and otherwise have a minimal and reversible impact upon the environment. Consider the following examples which illustrate the importance of alternate energy to the citizens of Jefferson County:

a) 8/2/2018 JCC meeting, part 1 at 01:18:40

“I really feel like at this tipping point, we have the opportunity to bring in green energy. So what I want to ask you guys is instead of letting this company come in and destroy our community why don’t we look for better companies who are about saving our community? Why are we not progressing, we are regressing.”

b) 8/2/2018 JCC meeting, part 2 at 09:01

“There are renewable energy opportunities. Why not a solar farm on those 130 acres planned for Rockwool?”

- c) 8/2/2018 JCC meeting, part 2 at 14:49
“Why aren’t we bringing in clean jobs? Why aren’t we supporting green industries like renewable energy? The 21st century has been here for 18 years, when are we going to start living in it?”
- d) 8/2/2018 JCC meeting, part 2 at 18:20
“If you do want to subsidize something, subsidize smart energy and green technologies.”

CONCLUSIONS OF LAW

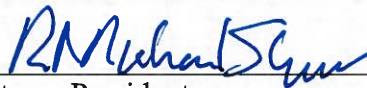
For the foregoing reasons, the Planning Commission finds and concludes that the Solar Text Amendment, File No. ZTA 19-03, is consistent with the Comprehensive Plan. To the extent that it may be inconsistent (if at all) the Commission finds that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area, which changes include the demand of citizens for green energy as evidenced during the meetings before the Jefferson County Commission concerning the Rockwool project.

Moreover, the Planning Commission advises the County Commission of the Findings and Conclusions herein and further concludes that it is appropriate to forward the STA to the County Commission for further consideration, modification and/or approval in accordance with State Law and the Zoning Ordinance.

By majority vote at a duly called meeting of the Jefferson County Planning Commission.

Dated this 9 day of March, 2021.

JEFFERSON COUNTY PLANNING COMMISSION



Its: President