

# MONTGOMERY COUNTY PLAN COMMISSION

## **Certification of No Action Taken by Plan Commission Regarding Proposed Text Amendments to Article 13 (Solar Farms) of the Zoning Ordinance**

On May 25, 2022, the Montgomery Plan Commission certified and delivered to the Board of County Commissioners its certification which contained a favorable recommendation for text amendments to Article 13 (Solar Farms) of the Montgomery County Zoning Ordinance.

On June 27, 2022, the Board conducted a public hearing on the proposed amendments and considered an ordinance which would have made the proposed changes part of the Zoning Ordinance. The matter was continued until July 11, 2022. On July 11, 2022, the Board amended the proposed text amendment, certified its decision, and returned the proposal to the Plan Commission.

On August 24, 2022, the Plan Commission conducted a public hearing on the amendment returned by the Board of Commissioners. After considering the amendment, the certification of the Board of Commissioners, and public comments made at the public hearing and received in writing, the Plan Commission considered a motion to disapprove the amendments proposed by the Board of Commissioners. The Plan Commission voted 4 in

favor and 3 against that motion, which failed because it lacked a majority votes of all members (5 votes). The Plan Commission also considers a motion to approve the amendments proposed by the Board of Commissioners. The Plan Commission voted 3 in favor and 4 opposed to that motion, and, therefore, that motion also failed. No other motions were made.

Because more than 45 days have passed since the Board of Commissioners returned the proposed text amendment to the Plan Commission with amendments, and because the Plan Commission took no action to either approve or disapprove of the proposed amendment, I hereby certify that under Indiana Code 36-7-4-607(E)(4) the proposed amendments of the Board of Commissioners to the text amendment relating to Article 13 of the Zoning Ordinance stand as passed by the Board of Commissioners on July 11, 2022.

Therefore, as a result of this certification and the operation of Indiana Code §36-7-4-607(e)(4)(A), Ordinance 2022-23, which amends the text of the Montgomery County Zoning Ordinance stands, and Sections 13.04 and 13.10 are hereby amended to read as follows:

**“13.04 Setbacks:** The following setbacks apply to all ground-mounted solar panels and arrays:

Description	Setback	Comments
Distance from property line	100 feet	
Distance from center of road, alley of public way	100 feet	But not in right of way
Distance from property line if adjoining property has a residence	200 feet	

When the solar facilities for a single project encompass multiple parcels, there is no required setback from a property line for the internal property lines in the project. Access roads, and distribution poles and wires may be located within the set-backs but may not be located in a road right-of-way.

An adjacent landowner who benefits from the required setbacks may waive all or a portion of the setback by executing a written waiver agreement with the operator of the solar facility. This waiver must be recorded and filed with the Zoning Administrator. “

And

**“13.10 Fencing:** All solar energy systems, farms and facilities shall be surrounded by a security fence not less than eight (8) feet in height and not more than twelve (12) feet in height in order to prevent unauthorized access. All fences will be painted black or coated with black vinyl or similar coating. All gates will be locked. The applicant will place a sign, not to exceed eight square feet in area, which contains the name and address of the operator and an emergency telephone contact number for the operator.”

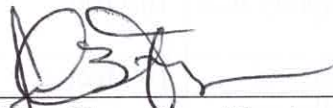
All other provisions of the Montgomery County Zoning Ordinance which are not expressly amended by this decision, remain in full force and effect.

The Planning Administrator will deliver this certification to the Board of Commissioners.

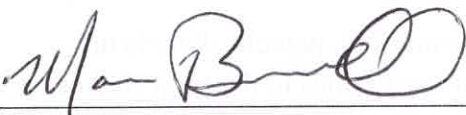
Dated: August 26, 2022

Certified by:

Montgomery County Plan Commission

By:   
\_\_\_\_\_  
John Frey, President

Attest:

  
\_\_\_\_\_  
Marc Bonwell, Secretary