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July 30, 2019

VIA ELECTRONIC MAIL (email: aaron@renewprop.com)

Aaron Halimi
RPCA Solar 4, LLC
655 Montgomery Ave., Suite 1430
San Francisco, CA 94111

Re: Benicia zoning text amendment

Dear Aaron:

This letter provides additional guidance on a zoning text amendment to facilitate a solar utility project ("Project") in the City of Benicia, North of Lake Herman Road (APN: 080-030-050; the "Property"). As you know, the Property is within the "OS – Open Space" zoning district. The uses within the "OS – Open Space" district are set forth in Chapter 17.36 of the Benicia Municipal Code (BMC).

As noted in our May 30, 2019 letter to you, the Project can amend the BMC to create and define a new land use classification of "Utilities, Solar" and permit that use in the "OS" zoning district, subject to a conditional use permit. Based on input from the Community Development Department, the Project should also amend Chapter 17.70 to address the conditions for developing a solar utility project in the City. The Project's compliance with these conditions would measure how the City would issue a conditional use permit for a solar utility use.

We have provided the proposed zoning text amendments to both BMC Chapters 17.36 and 17.70 to facilitate the Project below. All amendments are identified in **red font**.

I. Amendments to Chapter 17.36 (OS OPEN SPACE DISTRICT)

BMC § 17.16.040 Public and semipublic use classifications.

"Utilities, solar" means photovoltaic electric panels and appurtenant structures and facilities, designed to provide energy for off-site use such as a power purchase agreement, or direct sale of energy to a local utility company.

BMC § 17.36.030 Land use regulations.

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OS District: Land Use Regulations

	OS	Additional Regulations
Public and Semipublic		
Utilities, Major	U	(F)
Waste Facility	U	(F)
Utilities, Solar	U	(I)
Utilities, Minor	P	

OS District: Additional Use Regulations
[footnotes for L1 – H omitted]
(I) See BMC 17.70.420, Solar utilities.

II. Amendments to Chapter 17.70 (GENERAL REGULATIONS)

BMC § 17.70.420 Solar utilities.

The following standards shall apply to all solar utilities:

- A. Agricultural Protections. Solar utilities shall not be sited on any land subject to a Williamson Act Contract, unless the landowner has rescinded that contract pursuant to its terms.
- B. No Municipal Services. Solar utilities shall not require or benefit from municipal services, such as water or sewer services.
- C. Development Standards. Solar arrays shall comply with all applicable setback restrictions, including creek setbacks, for the applicable zoning district.
- D. Height. For ground-mounted installations, the maximum height shall not exceed 15 feet from finished grade.
- E. Noise. Noise levels shall be in compliance with the noise regulations identified in Chapter 8.20 BMC.
- F. Decommissioning. Upon ceasing operations, or if the facility is non-operational for a period of 12 months, the facility should be decommissioned (or deactivated and removed) in an efficient and thorough manner.

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G. Stormwater Management. All projects greater than one acre shall submit a Stormwater Pollution Prevention Plan and include erosion and sediment control best management practices into the plan.

H. Minimal Traffic. Solar utilities shall not generate new daily traffic trips during normal operation outside of occasional trips for maintenance.

We believe the proposed amendments to BMC Chapters 17.36 and 17.70 address the City's request for providing the appropriate conditions under which the City could issue a conditional use permit for the development of a solar utility, including the Project. We would be happy to discuss this further with the City Attorney or the Community Development Department upon your request.

Sincerely yours,

COBLENTZ PATCH DUFFY & BASS LLP



Jeff Dodd

jtd:JTD