

INDIAN RIVER COUNTY, FLORIDA
M E M O R A N D U M

TO: Jason E. Brown; County Administrator

THROUGH: Phillip J. Matson, AICP; Community Development Director

FROM: Ryan Sweeney; Chief, Current Development

DATE: January 7, 2022

SUBJECT: Consideration of Land Development Regulation (LDR) Amendments to Sections 901.03 and 911.06 Allowing Solar Facilities as a Permitted Use in all Agricultural Zoning Districts

It is requested that the data herein presented be given formal consideration by the Board of County Commissioners (BCC) at its regular meeting of January 18, 2022.

BACKGROUND

During the 2021 Legislative session, the Florida Legislature enacted SB 896, which requires solar facilities to be a permitted use in all agricultural zoning districts within an unincorporated area. Per the new state statute, solar facilities are required to comply with the setback and landscaped buffer area criteria for other similar uses in the agricultural districts.

Under the new statute, which is section 163.3205, Florida Statutes, solar facilities are production facilities for electric power that 1) use photovoltaic modules to convert solar energy to electricity that may be stored on site, delivered to a transmission system, and consumed primarily offsite; 2) consist principally of photovoltaic modules, a mounting or racking system, power inverters, transformers, collection systems, battery systems, fire suppression equipment, and associated components; and 3) may include accessory administration or maintenance buildings, electric transmission lines, substations, energy storage equipment, and related accessory uses and structures.

On November 9, 2021, the Board of County Commissioners (BCC) directed staff to proceed with a County-initiated land development regulation (LDR) amendment to allow solar facilities as a permitted use in all agricultural zoning districts.

PLANNING AND ZONING COMMISSION (PZC) RECOMMENDATION:

At its December 9, 2021 meeting, the PZC conducted a public hearing and considered the proposed ordinance. The PZC voted 6-0 to recommend that the BCC adopt the proposed ordinance (see attachment 1).

The BCC is now to consider the proposed solar facilities ordinance and adopt, adopt with modifications, or deny the ordinance at a second (future) public hearing for final adoption.

ANALYSIS

Currently, the County LDRs do not list solar facilities as an individual type of use. However, solar facilities have been approved in the unincorporated portions of Indian River County as a special exception use under the “Public and private utilities, heavy” use in the A-1, A-2, and A-3 zoning districts. In order to comply with the statutory requirements, County staff has drafted an ordinance which would allow solar facilities as a permitted use in the A-1, A-2, and A-3 zoning districts, but otherwise continue to meet the landscaping and buffer requirements for other “Public and private utilities, heavy” uses. Also, any new solar facility will require site plan approval, and must meet all applicable requirements of the County LDRs.

To date, the BCC has granted special exception use approval for a total of four solar facilities. Staff has not received any negative feedback on the previously approved solar facilities, and supports the proposed LDR amendment.

- **Ordinance Adoption Process**

Since the proposed amendment will change the list of allowable uses in a zoning district, the BCC must consider the subject LDR amendment ordinance at two separate hearings as required by state law (Florida Statutes Chapter 125.66). Under FS 125.66, those hearings must be held at least 10 days apart and one hearing must be held after 5:00 PM unless 4 or 5 BCC members vote to hold the hearings before 5:00 PM. Consequently, the BCC may hold a special call 5:01 PM hearing on or after January 28, 2022 or at one of the regular February BCC meetings if 4 or 5 Board members vote to have the second hearing at a regular meeting. Staff believes that holding the second hearing at a regular BCC meeting in February will be adequate. The first available meeting date for the second (final) hearing that will meet state requirements upon a vote of 4 or 5 BCC members is the regular BCC meeting of February 1, 2022.

RECOMMENDATION

Staff recommends that the Board of County Commissioners:

1. Direct staff to make any changes necessary to the proposed ordinance (if applicable); and
2. By a vote of 4 or 5 BCC members set the second, final adoption hearing for the regular BCC meeting of February 1, 2022 which is scheduled to begin at 9:00 AM.

ATTACHMENTS

1. Excerpt from Draft December 9, 2021 PZC Minutes
2. Draft Ordinance