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Fred A. York (1930-1989)

August 30, 2021

Via Email

Honorable Mayor & City Council  
City of Grosse Pointe Woods  
20025 Mack Plaza  
Grosse Pointe Woods, MI 48236

**RE: Solar Energy Ordinance**

Dear Mayor & Council:

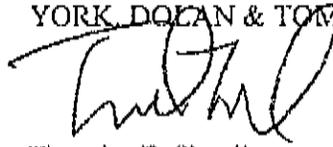
Pursuant to the direction of the Committee of the Whole ("COW"), the enclosed revised Solar Energy Ordinance was reviewed by a Subcommittee of the Planning Commission and ultimately, the Planning Commission, for recommendation to this body.

On August 27, 2021, the Planning Commission reviewed the ordinance and has suggested changes with particular to the viewing of solar panels or solar shingles from any street. The Planning Commission recommended that they not be viewed from any street, unless they are not distinguishable from standard building shingles. The second revision was to permit the Planning Commission to review and make a recommendation as to any variance request regarding a proposed solar energy system.

Procedurally, if the COW is generally agreeable to these changes, this matter will then go forward to City Council for first reading. In the interim, should you have any questions regarding same, please do not hesitate to contact me. We remain,

Very truly yours,

YORK, DOLAN & TOMLINSON, P.C.



Timothy D. Tomlinson

TDT/jabh

Enclosure

cc: Bruce Smith (Via Email w/Enclosure)  
Lisa K. Hathaway (Via Email w/Enclosure)  
Gene Tutag (Via Email w/Enclosure)

ORDINANCE NO. - \_\_\_\_\_

AN ORDINANCE TO ADOPT ARTICLE XVII SOLAR ENERGY SYSTEMS,  
CHAPTER 8, BUILDINGS AND BUILDING REGULATIONS, SEC. 8-501  
TO ELIMINATE THE REQUIREMENT THAT  
PANELS BE LOCATED WITHIN 4 FEET OF ANY PEAK,  
EAVE OR VALLEY, TO PROVIDE THAT THE  
INSTALLATION OF THE SOLAR ENERGY SYSTEM SHALL  
COMPLY WITH THE MICHIGAN RESIDENTIAL CODE,  
AND TO PROVIDE FOR APPEALS TO THE CITY COUNCIL.

THE CITY OF GROSSE POINTE WOODS ORDAINS:

ARTICLE XVII  
SOLAR ENERGY SYSTEMS

Sec. 8-501. - *Solar* energy systems.

*Solar Energy System* means an accessory to a main structure, or accessory structure, or use, which is comprised of a combination of solar collector(s) and ancillary solar equipment used to generate electricity primarily for consumption on the property on which the system is located. A Solar Energy System can include a photovoltaic or solar thermal system that uses the sun's energy to produce electricity or heat.

*Solar Panel* means a grouping, module, or array of photovoltaic cells that produce electricity from sunlight.

A *solar* energy system is permitted in any city zoning district. However, it shall be unlawful for any person to install or operate a *solar* energy system unless all of the following conditions are met:

(1) A building permit and any necessary mechanical, plumbing and electrical permits shall be secured prior to the start of the installation of a *solar* energy system.

Dimensioned plans are required with the building permit application.

(2) Only rooftop *solar* energy systems are permitted. Freestanding or wall-mounted *solar* energy systems are not permitted.

(3) The *solar* energy system installation shall be configured to the degree practicable to have a minimal visual impact as seen from ~~the any~~ street. Accordingly, ~~systems~~ Systems that are visible from ~~any~~ the street must be either composed of solar shingles building-integrated components (such as ~~solar~~ shingles) that are not distinguishable from standard building shingles. ~~readily evident,~~ or be designed and mounted to match the shape, proportions, and slope of the roof.

(4) Installation of *solar* energy system equipment, including the rails and panels, are subject to the height limitations of the specific zoning district where they are being installed.

(5) ~~Solar panels shall not be located within four feet of any peak, eave or valley to maintain adequate accessibility.~~ The placement and installation of roof top solar energy systems shall comply with the

Michigan Residential Code in effect at the time the building permit application for the system is received by the city.

(6) *Solar* panels shall not project more than one foot above the roof deck.

(7) The following additional design standards shall apply:

a. *Solar* panels shall be arranged so that the panels do not reflect sunlight or glare onto adjacent buildings, properties or roadways.

b. The system shall use materials and colors that ~~blend into~~ are visually-compatible with the existing roof or wall design.

c. The system shall include high quality mesh to enclose the space between the roof surface and the *solar* panels to deter animal nesting.

(8) If a system is defective or not in operation for a period of 12 months, the system shall be deemed a nuisance. The current owner of the property shall be required to either remove the system or repair it at the owner's expense.

(9) Denials of an application may be appealed to the city council after review and recommendation by the planning commission. An applicant seeking an exception to the provisions of this article shall pay a hearing notice fee set by council resolution. The city shall mail a notice of the hearing to adjacent property owner(s) and property owners located directly across the street from the applicant (as determined by the Building Official), at least seven (7) days prior to the hearing date.

(10) On appeal, the planning commission and city council may consider the following along with other information:

a. Balancing relative hardships between the property owner and adjacent property owners.

b. Whether special circumstances or conditions exist.

c. General health, safety, and welfare of the neighborhood.

Fund Balance Account No. 365-000-395.000 into Grosse Gratiot Drain Capital Outlay Account No. 365-445-980.000 to cover cost overruns for the Milk River Drain project.

Motion carried by the following vote:

Yes: Bryant, Gafa, Granger, Koester, McConaghy, McMullen, Novitke  
No: None  
Absent: None

Motion by Granger, seconded by Bryant, regarding **contract: compost and mulch recycling**, that the City Council approve a contract with Detroit Mulch LLC for a five-year period ending August 31, 2025, in an amount not to exceed \$25,000,00 per year, funds to be taken from Solid Waste/Disposal Contractual Services Account No. 226-528-818.000, contingent upon receipt of appropriate insurance.

Motion carried by the following vote:

Yes: Bryant, Gafa, Granger, Koester, McConaghy, McMullen, Novitke  
No: None  
Absent: None

The Mayor issued a **Proclamation** in recognition of **Prostate Cancer Awareness**.

Motion by Gafa, seconded by Bryant, regarding **First Reading: An Ordinance to Adopt Article XVII Solar Energy Systems, Chapter 8, Buildings and Building Regulations, Sec. 8-501** to eliminate the requirement that panels be located within 4 feet of any peak, eave or valley, to provide that the installation of the solar energy system shall comply with the Michigan Residential Code, and to provide for appeals to the City Council, that the City Council concur with the amendment of this ordinance, to set a date of September 14, 2020, for a second reading and final adoption, and to publish same by title in the Grosse Pointe News.

Substitute Motion by Gafa, seconded by Koester, regarding **First Reading: An Ordinance to Adopt Article XVII Solar Energy Systems, Chapter 8, Buildings and Building Regulations, Sec. 8-501** to eliminate the requirement that panels be located within 4 feet of any peak, eave or valley, to provide that the installation of the solar energy system shall comply with the Michigan Residential Code, and to provide for appeals to the City Council, to refer this item to the Committee-of-the-Whole.

Next, the solar ordinance was discussed – **An Ordinance to Adopt Article XVII Solar Energy Systems, Chapter 8, Buildings and Building Regulations, Sec. 8-501 to eliminate the requirement that panes be located within 4’ of any peak, eve or valley, to provide that the installation of the solar energy system shall comply with the Michigan Residential Code, and to provide for appeals to the City Council.** The Building Official provided an overview regarding the solar ordinance. This ordinance has been discussed with the Planning Commission and City Council regarding panels, location, and setbacks on the roof. When the ordinance was drafted twelve years ago, the state building code did not have regulations regarding setbacks or placement of the panels. The 2018 building code established provisions and are in conflict with the current fire code. He recommended providing the Building Official and Director of Public Safety some latitude to make modifications and it will eliminate the need for variances. One concern from the past is 80% of homes are located on an east/west street. If a home is located on the south side, panels can be placed on the southern exposure/rear. If a home is located on the north side, the northern exposure does not get enough sun. The proposed ordinance indicates that you can have a solar installation if it is visible from the street if you use solar shingles or some product that is not clearly a solar installation visible from the street. One problem is the technology is lagging behind. It is expensive to install solar shingles making it a large cost difference dependent upon which side of the street the house is located. He recommended the ordinance move to a first reading, remove it from Chapter 50, and place it into Section 8 of the City Code.

Council Member Koester wants to see an ordinance that applies the same to all houses including cost and is therefore against this amendment. The Chair concurred. Council Member Granger concurred and stated the cost is a concern. Council Member Vaughn stated he has not given northern exposure enough study, believes he does not have enough information, and he would be interested in seeing what other surrounding communities are doing. Council Member McConaghy concurred.

The City Attorney stated the ordinance would be removed from Chapter 50 - Zoning and moved to Chapter 8 – Building, which is another component to discuss. The Committee might want to send this item back to the Planning Commission for additional study.

Motion by Granger, seconded by McConaghy, regarding solar ordinance amendment, that the Committee-of-the-Whole refer this item to the Planning Commission for further study, particularly in light of Mr. Vaughn’s comments, with recommendations to come back to City Council.

Motion carried by the following vote:

Yes:	Brown, Bryant, Gafa, Granger, Koester, McConaghy, Vaughn
No:	None
Absent:	None

Discussion ensued regarding **soundstage policy and rental fees.** The Director of Public Services stated the soundstage policy has not been updated in a long time. The soundstage is currently being rented for \$1,000.00, less than it costs to deliver and pick up, and it is time to update the fees to recover costs. Costs include employees and putting



MINUTES OF THE REGULAR MEETING OF THE PLANNING COMMISSION OF THE CITY OF GROSSE POINTE WOODS HELD ON JULY 27, 2021, IN THE COUNCIL-COURT ROOM OF THE MUNICIPAL BUILDING, 20025 MACK AVENUE, GROSSE POINTE WOODS, MICHIGAN.

The meeting was called to order at 7:02 p.m. by Chair Bailey.

Roll Call: Chair Bailey  
Planning Commissioners: Fuller, Gilezan, Hamborsky, Profeta, Vitale  
Absent: None  
Also Present: Building Official Tutag,  
Administrative Assistant Modrack

The Planning Commission, Administration, and the audience Pledged Allegiance to the Flag.

**MOTION** by Fuller, seconded with a friendly amendment by Profeta, that all items on tonight's agenda be received, placed on file, taken in order of appearance as amended; that under item 10, Council Report/s, June 12 is corrected to June 21.

Motion carried by the following vote:

YES: Bailey, Fuller, Gilezan, Hamborsky, Profeta, Vitale  
NO: None  
ABSENT: None

The Chair recognized Council Representative Vaughn who was in attendance.

**MOTION** by Vitale, seconded by Gilezan, that the April 27, 2021 Planning Commission Minutes be received and placed on file as presented.

Motion carried by the following vote:

YES: Bailey, Fuller, Gilezan, Hamborsky, Profeta, Vitale  
NO: None  
ABSENT: None

The next item was **General Discussion: Solar Panels**. Building Official Tutag presented an overview of the City's Solar Ordinance and the State's Solar Ordinance. Discussion ensued and the Building Official answered questions from the Commission. The Chair suggested forming a Solar Ordinance Revision Subcommittee to discuss language and then present findings at the next Planning Commission meeting. Commissioner Hamborsky, Gilezan and Vitale will be part of the Solar Ordinance Revision Subcommittee.

**MOTION** by Hamborsky, seconded by Gilezan that a Solar Ordinance Revision Subcommittee is formed.

7-27-21 (2)

Motion carried by the following vote:

YES: Bailey, Fuller, Gilezan, Hamborsky, Profeta, Vitale

NO: None

ABSENT: None

The next item was **General Discussion: Outdoor Patios**. Commissioner Vitale brought up the fact that the Commission may want to explore a standard for outdoor patios along Mack Avenue. Discussion ensued and the Building Official answered questions from the Commission. Chair Bailey will include this in the Streetscape Subcommittee tasks.

The next item was the **Building Official's Monthly Report**, and the following items were presented for the months of June and July 2021:

- Sign variance request is coming up next Commission meeting for Estia Greek Street Food on Mack Avenue.
- Grosse Pointe Public Library considering making amendments to their Special Land Use, which will have to come before Planning Commission and City Council.
- Went over recent discussions with the City Attorney about proposed revisions to the City's Sign Ordinance.
- Went over recent discussions with the Mayor and City Attorney regarding potential revisions the Colonial Design Standards.
- The Building Department is extremely busy and shorthanded. Looking to hire a Property Maintenance Inspector and Electrical Inspector.
- Clearzoning update: approved by City Council in July and will reach out to Giffels Webster for an update to bring to next month's Planning Commission meeting.

The next item was **Council Reports**:

- Council member Vaughn reported on the June 21st Council meeting.
- Commissioner Profeta reported on the May 3<sup>rd</sup> Council meeting.
- Commissioner Gilezan had nothing to report on the May 17<sup>th</sup> Council meeting.
- Commissioner Profeta reported on the June 7<sup>th</sup> and 21<sup>st</sup> Council meetings.
- Commissioner Fuller reported on the July 12<sup>th</sup> and 19<sup>th</sup> Council meetings.
- Commissioner Gilezan will be reporting on the August 2<sup>nd</sup> Council meeting.
- Chair Bailey will be reporting on the August 16<sup>th</sup> Council meeting.

Under **New Business**, the following items were discussed:

- A. Chair Bailey gave an update regarding the vacant Planning Commission spots.
- B. Streetscape – Chair Bailey reported that outdoor patio standards will be added to the subcommittee tasks, new trashcans and benches are at the DPW, would like to take a photo of the new installments with the Commission, will be in contact with Streetscape Committee once installed.

PC 08-24-21

The next item was **Council Reports**:

- Commissioner Gilezan reported on the August 2<sup>nd</sup> Council meeting.
- Chair Bailey reported on the August 16<sup>th</sup> Council meeting.
- Commissioner Vitale will be reporting on the September 13<sup>th</sup> and 20<sup>th</sup> Council meetings.

Under **New Business**, the following items were discussed:

- A. **Solar Ordinance Subcommittee**: The subcommittee met earlier in August where recommended changes were discussed. City Attorney Tim Thomlinson presented the revised Solar Ordinance to Commissioners and discussion took place. The revisions made to the Solar Ordinance related to roof-mounted solar panels being visible from the street and the appeal process.

**MOTION** by Hamborsky, seconded by Fuller, to recommend to City Council the approval of the revised Solar Ordinance as submitted, including the changes requested to paragraph 3 and 7b.

Motion carried by the following vote:

YES: Bailey, Fuller, Gilezan, Hamborsky, Vitale

NO:

Absent: Profeta

Council Member Vaughn recommended that one or more members from the Solar Ordinance subcommittee be present for the City Council recommendation. Building Official Tutag agreed to make this happen.

- B. **2020 Vision Plan**: Commissioner Hamborsky did not have anything new to report.
- C. **Crosswalks/Pocket Parks**: Commissioner Fuller did not have anything new to report.
- D. **Streetscape Plan**: Chair Bailey is going to meet with Council Member Vaughn regarding the allocated grant money toward the existing Streetscape Plan, and will update the Planning Commission at the next meeting.

Under **Public Comment**, the following was heard:

- Council Member Vaughn: Music on the Lawn is August 27, 2021 from 7:00 p.m. – 10:00 p.m., beverages and food will be available for purchase at the event. The Community Bridge Walk is September 6, 2021 from 9:30 a.m. – 11:00 a.m. at Lake Front Park, the first 200 people to sign up get a t-shirt.
- Chair Bailey stated he was happy to see everyone healthy and mentioned the start of football is here.
- Margaret Potter, 1834 Allard Avenue, Grosse Pointe Woods, MI 48236

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