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Holyoke City Clerk's
Holyoke, MA

February 1, 2022

The Honorable City Council
Council Chambers
City Hall
Holyoke, MA 01040

RE: Solar Zoning Ordinance and use of storage batteries

Dear Councilors:

This correspondence is regarding a request for legal opinion based on the Order filed by Councilor Vacon on November 30, 2021, whether the City Council can issue a special permit for a use that is not addressed in our zoning language, specifically placing a battery storage facility in a RA zone.

Due to a lack of detailed information concerning the exact nature of the project being considered, it is difficult to determine which sections in the zoning ordinances would apply. A direct connection as part of a solar array may be treated differently than a home solar powered generator for example.

According to the Holyoke Zoning Ordinance, this use is not allowed as a matter of right. The owner would have to apply for a special permit in accordance with section 5.4.1 which provides as follows,

"Except in the residential districts, more than one principal nonresidential structure may be erected on a lot, pursuant to a special permit issued by the Planning Board in accordance with Section 9.3 herein and the following conditions:

- 1. No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire;**
- 2. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles;**
- 3. All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises, and to each principal building.**

Essential services: Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply or disposal systems whether underground or overhead but not including wireless communication facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.”

There are strong limits on local control over solar fields. The current Holyoke solar ordinance is written (if battery storage is determined to be a necessary part for the solar installation) in such a way as to allow this use as a matter of right if it is not in any specifically exempted zone. The RA zone is specifically exempted.

Under Holyoke Zoning Ordinance Section 7.9.2 applicability, the solar facilities ordinance allows such a facility within the RA zone only with a special permit granted by the City Council. In addition depending on the scale of the solar project, there may also need to be a site plan review.

As a result, under existing ordinances, a special permit or a variance would be needed for a battery storage facility at the Elks location regardless of its connection to any solar facility. Should you have any questions or need anything further, please feel free to contact me.

Very truly your,

Mike D. Bissonnette
Assistant City Solicitor