



July 28th, 2019

Anthony J. Hood
Chairman
DC Zoning Commission
441 4th Street, NW, Suite 200S
Washington, DC 20001

RE: ZC Case 19-04 – Proposed Text Amendment to Subtitles B, C, H, K, and U of Title 11 DCMR, ZONING REGULATIONS OF 2016 – Defining Community Solar Facility (CSF), Locating Zones in which a CSF is a Permitted or Special Exception Use, and Establishing Development Standards for a CSF

Dear Chairman Hood:

On behalf of New Columbia Solar (“NCS”), I am writing in support of the final text amendment and proposed rulemaking to the Zoning Regulations regarding community solar installations.

NCS is based in the District of Columbia and was explicitly established to serve the District’s solar market and empower the city to achieve its clean energy goals. Our mission is to make it as easy as humanly possible for residents and businesses in the District of Columbia to benefit from solar energy. As Co-founder and CEO I have been involved in the District’s Community Renewable Energy Facility (“CREF”) efforts since the notion was conceived as a viable policy for the District of Columbia in 2011, the subsequent legislation (2013) and finally the rulemaking process (2016). NCS is a fully-integrated developer, EPC, financier, owner and operator. Founded in 2016, we currently employ over 40 individuals, most of whom are residents of the District. As a company, NCS has been involved with more than 13 megawatts, or nearly \$50 million, of District based solar construction and financing, making us a leading commercial solar developer in the nation’s capital.

While the major components of CREF (or Community Solar Facility [CSF]) solar systems are no different than those of net-metered (“NEM”), solar systems - where the electricity is or exclusively intended for onsite use - CREF systems do play a critical role in enabling the District to achieve its clean energy goals. CREF enables District residents and businesses to receive more power through solar electricity by overcoming a number of challenges unique to the market. These challenges include older building stock, challenging permitting and interconnection process, credit worthiness of building electricity off-takers, the common utility of *triple-net lease arrangements* across the city, and relatively small market scale. Moreover, the interpretation of the Zoning Regulations prior to the emergency text amendment and aspects of the proposed rulemaking will have a particularly consequential effect on the District’s Solar for All program (“SfA”), which seeks to provide one-hundred thousand (100,000) low-income residents with electricity from solar energy systems located in the District of Columbia by 2032. This interpretation of the Zoning Regulations will effectively render the SfA program unviable given the District’s time requirements, budget cycle, matched with developer time requirements.

NCS has built our company to solve the challenges of deploying solar across the District and we have built the capacity to construct and finance a large portion of the solar market opportunity. The classification of

Solar Community Renewable Energy Facilities (CREFs) as a “Basic Utility” under the Zoning Regulations and the additional height and setback requirements in the use permissions in the proposed rulemaking are yet another challenge for our core business. As a participant in the Department of Energy and Environment’s (DOEE) Solar for All (SfA) program, NCS has a number of CREF projects in our pipeline that are in jeopardy of being permitted, which would be detrimental to the District meeting its ambitious renewable portfolio standard (RPS) and SfA goals. Additionally, our inability to receive permits in an economical and timely manner impedes our business’ work flow and our fundamental ability to continue to operate in DC. This has dire consequences on our employees, a majority of which are district residents. Many in our construction crew are hourly workers, reliant on consistent work opportunities. Their livelihood relies on our ability to keep a steady flow of projects moving through our pipeline in a manner consistent with forecasting NEM projects in the District.

While many of the amendments in the current emergency text amendment and proposed rulemaking are conducive to the development of CREFs, as mentioned, the height and setback requirements (*Measures no greater than twenty feet (20 ft.) in height; Where panels are sited no less than forty feet (40 ft.) from an adjacent property in the R, RF, or RA-1 zone*), are detrimental to the siting of CREFs adjacent to residential zones, regardless of their size. This language is present in the following sections: Revision to Use Permissions (Subtitle H, Chapter 11); Revision to Use Permissions (Subtitle K, Chapters 4, 6, and 9); and Revision to Use Permissions (Subtitle U, Chapters 2, 6, and 8). Community Solar Facilities are already subject to the height, yard and setback development standards of the zone in which they are located. Adding a setback requirement is superfluous.

We are already feeling the impacts of the emergency text amendment. NCS has already had 4 solar projects that faced significant downsizing or have become infeasible because of the existing emergency text amendment. If these requirements remain, they should be shifted into the relevant special exception use subsections of the regulations.

In addition, the inclusion of the Special Exception Requirements regarding tree planting and Department of Energy and Environment (DOEE) review for projects that do not comply with the Matter-of-Right standards seem to negate the very reason for the special exception and Board of Zoning Adjustment (BZA) process. The BZA process is intended for developers and community members to engage in a dialogue on potential projects and their impact on neighbors and community members. It is through this process that the various stakeholders can agree on a plan that works for all involved. Prescribing rigid requirements subverts the very process and should be excluded from the final rulemaking.

From a very practical sense, planting trees adjacent to solar arrays is potentially detrimental to the production of the project. Shading from said trees can negatively impact production and ultimately, could jeopardize its financing.

Ultimately, as previously mentioned, there is very little difference from a NEM solar system and a CREF. To the layman viewing the system from afar, there would be no appreciable disparity. Only upon careful study of the electrical line diagram or advanced knowledge of the technical characteristics of line-side and load-side interconnection could one determine the system type. From a zoning perspective, there seems to be little need for a distinction in classification and many of the existing zone-specific standards suffice. It is also important to note, that the District solar industry is moving in the direction of deploying the



majority of solar via CREF and the current interpretation of the Zoning Regulations and certain parts of the proposed rulemaking will fundamentally stifle that transition.

NCS is committed to working with the Zoning Commission to overcome this obstacle and we welcome the opportunity to develop a zoning pathway commensurate with the District's solar energy goals and which will not impede the District's growing solar industry.

Kind regards,

A handwritten signature in black ink, appearing to read "Mike Healy", with a long, sweeping horizontal stroke extending to the right.

Mike Healy, CEO & Member

Blue Ocean New Energy Ventures, LLC dba New Columbia Solar