



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: AUGUST 3, 2020

TO: MENDOCINO HISTORICAL REVIEW BOARD MEMBERS

FROM: JULIANA CHERRY, PLANNER III

SUBJECT: BF 2020-0392 BUILDING PERMIT APPLICATION FOR 10900 FORD ST, MENDOCINO

On July 2, 2020, PBS received a building permit application to install roof mounted solar on an existing single-family residence located at 10900 Ford St, Mendocino (APN 119-170-08) (attached). This is located within Historical Zone A, but this site is not listed in the inventory of historic structures (Coastal Element Chapter 3.14 Appendix 1). (Noting that in 1990, the Review Board approved Permit MHRB 90-26 for modifications to previously approved plans, see Permit MHRB 90-09, to remodel an existing residence. The authorized revisions included: revision to front door, 10 new skylights, new patio wall, new patio door and siding changes, two new metal stovepipes and deletion of chimney, and revisions to siting and grading. Previously authorized permits include: MHRB-90-09; 90-26, 91-20 and 91-25 revising previous permits including 90-09; 93-27 guest cottage; 95-14 green house; 2009-27 decks; 2011-10; 2014-01 approving a 632 SF addition).

While MCC Section 20.760.045 lists solar collecting devices as an activity requiring Review Board approval, Government Code section 65850.5 prohibits discretionary review of same. County Counsel's Office provided in the 2014 County Counsel Opinion (Op. No. 14-0023) that:

"the Review Board's authority for reviewing solar energy systems is tempered by state statutes relating to solar energy systems. While the Review Board has authority to review and approve development pursuant to the provisions of the Coastal Commission-certified local coastal program, the Solar Rights Act requires administrative, nondiscretionary review of solar energy system installations. The state has not enacted any laws or regulations attempting to harmonize these competing policies since 2012, and no case law provides direction.

Our opinion remains that while the Review Board may adopt guidelines and make recommendations regarding solar energy systems, due to the Solar Rights Act, it does not have the authority to outright deny applications for such systems. We continue to recommend that Review Board approval of solar energy system installations should comply with the Solar Rights Act prohibition against placing unreasonable restrictions on these projects, as discussed in Opinion No. 12-0122."

This project is limited to installing solar on the roof of an existing structure, which qualifies as a "small residential rooftop solar energy system" pursuant to Government Code section 65850.5(j)(3). Building Permit BF_2020-0392 is to be reviewed under the Solar Rights Act, which prohibits local jurisdictions from requiring discretionary permits for these types of projects. Due to the competing policies of the Solar Rights Act and MCC Section 20.760.045, as it relates to requiring a discretionary permit (MHRB permit), and the lack of the ability for the Review Board to deny such a request, the Department determined an MHRB Permit Application would not be required. The Department found it most appropriate to place this project under Matters from Staff to allow the property owner an opportunity to confer with the Review Board. The Review Board is given an opportunity to comment and provide recommendations for the project, even when those recommendations cannot become enforceable conditions.

The contractor has prepared a description of the project and provided pictures of the residence that were

taken from a variety of public view points (attached). The panels would be mounted to the south-facing roof and would be oriented in the same plane as the roof. This design is consistent with the Secretary of the Interiors recommendations for solar installations in historic districts.

ATTACHED:

- A. BF_2020-0392 SITE PLAN WITH ARIAL IMAGERY
- B. BF_2020-0392 PLOT PLAN
- C. EMAIL FROM BRUCE ERICSON DATED 7-22-2020 WITH ATTACHMENTS
- D. GOVERNMENT CODE SECTION 65850.5

ATTACHMENT A. BF_2020-0392 SITE PLAN WITH ARIAL IMAGERY

P-139154	MENDOCINO SOLAR SERVICE	GRID-TIED SOLAR POWER SYSTEM DREAPER RESIDENCE 10900 FORD ST MENDOCINO, CA 95460	SITE PLAN DOC. ID: 138154-17287-0 DATE: 6/22/20 CREATOR: B.E. REVIEWER: J.L. REVISIONS _____ _____ _____ _____ _____
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GENERAL NOTES	
<ol style="list-style-type: none"> 1 EQUIPMENT LIKELY TO BE WORKED UPON WHILE ENERGIZED SHALL BE INSTALLED IN LOCATIONS THAT PROVIDE MINIMUM WORKING CLEARANCES PER CEC 110.05. 2 CONTRACTOR SHALL USE ONLY COMPONENTS LISTED BY A NATIONALLY RECOGNIZED TESTING LABORATORY FOR THE INTENDED USE. 3 CONTRACTOR IS RESPONSIBLE FOR FURNISHING ALL MATERIALS AND SUPPLIES, INCLUDING RACKS, RAILS, RACEWAYS, AND OTHER ACCESSORIES NECESSARY FOR A COMPLETE AND OPERATIONAL PV SYSTEM. 4 ALL EMT CONDUIT FITTINGS SHALL BE LISTED AS WEATHERPROOF FITTINGS AND INSTALLED TO ENSURE A FRANTIGHT FIT. PER CEC 308.04Z. 	<ol style="list-style-type: none"> 1 (E) UTILITY METER, OUTDOOR 2 (E) MAIN SERVICE PANEL (MSP), OUTDOOR 3 (E) TRANSITION BOX (TB), OUTDOOR. OUTPUT CIRCUIT CONDUCTORS SHALL BE RUN IN EMT CONDUIT THROUGH THE INTERIOR OF THE BUILDING TO PROPOSED ROOF-MOUNTED PHOTOVOLTAIC (PV) ARRAY. 4 (E) PV ARRAY. PV MODULES SHALL BE 600W (BLACK FRAME BLACK BACKSHEET), 166" AZIMUTH. 5 ALL ARRAY CIRCUITS SHALL BE ROUTED THROUGH THE INTERIOR OF THE BUILDING, AND WHERE NECESSARY, THROUGH THE WALLS, FLOORING, AND CEILING. NO CONDUIT SHALL BE INSTALLED ABOVE THE ROOF.

1 SITE PLAN
PV-2 SCALE: 1" = 10'

BF 2020-0392

0627685

ATTACHMENT B. BF_2020-0392 PLOT PLAN

Plot Plan
Proposed Roof-mounted Solar Photovoltaic System
For George Dreaper and Maryanne Petrillo
10900 Ford St., Mendocino, CA
AP# 119-170-08



BF-2020-0392
DREAPER

ATTACHMENT C. EMAIL FROM BRUCE ERICSON DATED 7-22-2020 WITH ATTACHMENTS

From: Bruce Erickson <bruce@mendocinosolar.com>
To: Juliana Cherry <cherryj@mendocinocounty.org>
Date: 7/22/2020 1:00 PM
Subject: 10900 Ford St.
Attachments: Google view; View B.pdf; View F.pdf; Array Sketch1.jpg; Array Sketch 2.jpg

Hi Juliana,

I searched around for public vantage points to see the Dreaper garage roof where the solar panels will go. There are very few places where it can be seen, and these are pictures I took at those spots. They are around the high school gym and from the MCN parking lot. I attached a Google map showing where the site points were. I had thought I would take photos and then Photoshop the panels onto the roof, but there really isn't enough roof visible from anywhere to do this. The upper part of the roof is distantly visible behind the softball dugout and some vegetation from most angles. The only other places to see the garage roof are on private property where I could not go.

Perhaps this is enough visual material for the committee to see what the view impact of the solar array will be. I'm also attaching a Google sketch up rendering which may have a little bit of value. The building permit application I already submitted has a satellite view with the panels superimposed on it. Between all these things the committee should have an idea of what is being proposed. This is about the best I can do for visual documentation, and personally I feel it is quite sufficient for our meet-and-confer requirement. Please let me know if you have any other ideas.

Also, I believe you were going to send a suggestion or template for a memo that I could write, i.e., what it should include etc.

Thanks,
Bruce

Bruce Erickson
Mendocino Solar Service
707-937-1701
707-937-1741 fax
PO Box 1252
Mendocino, CA 95460

"Serving the Solar System"

GOOGLE VIEW

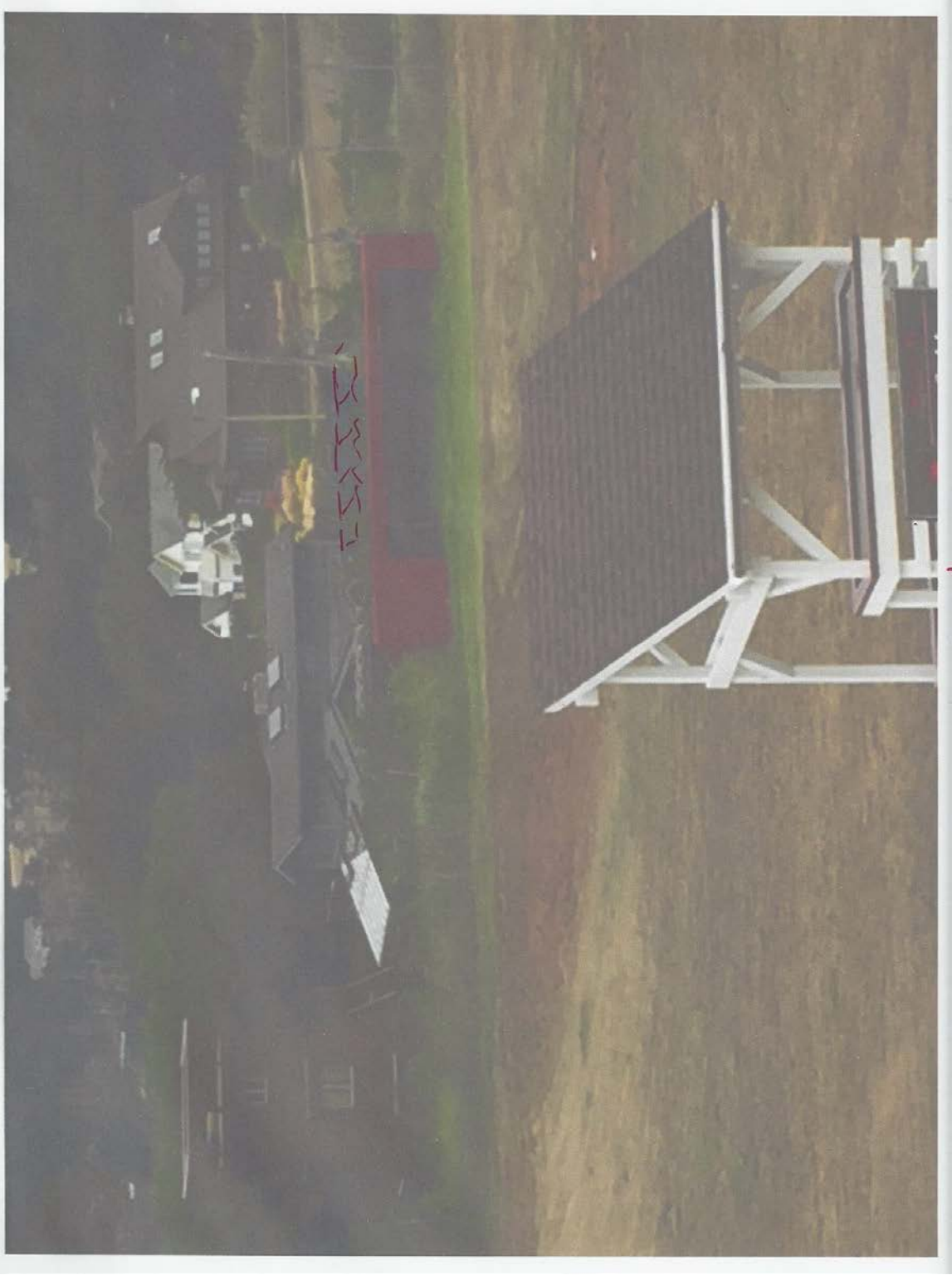


Dreaper solar array view points, 10900 Ford St.

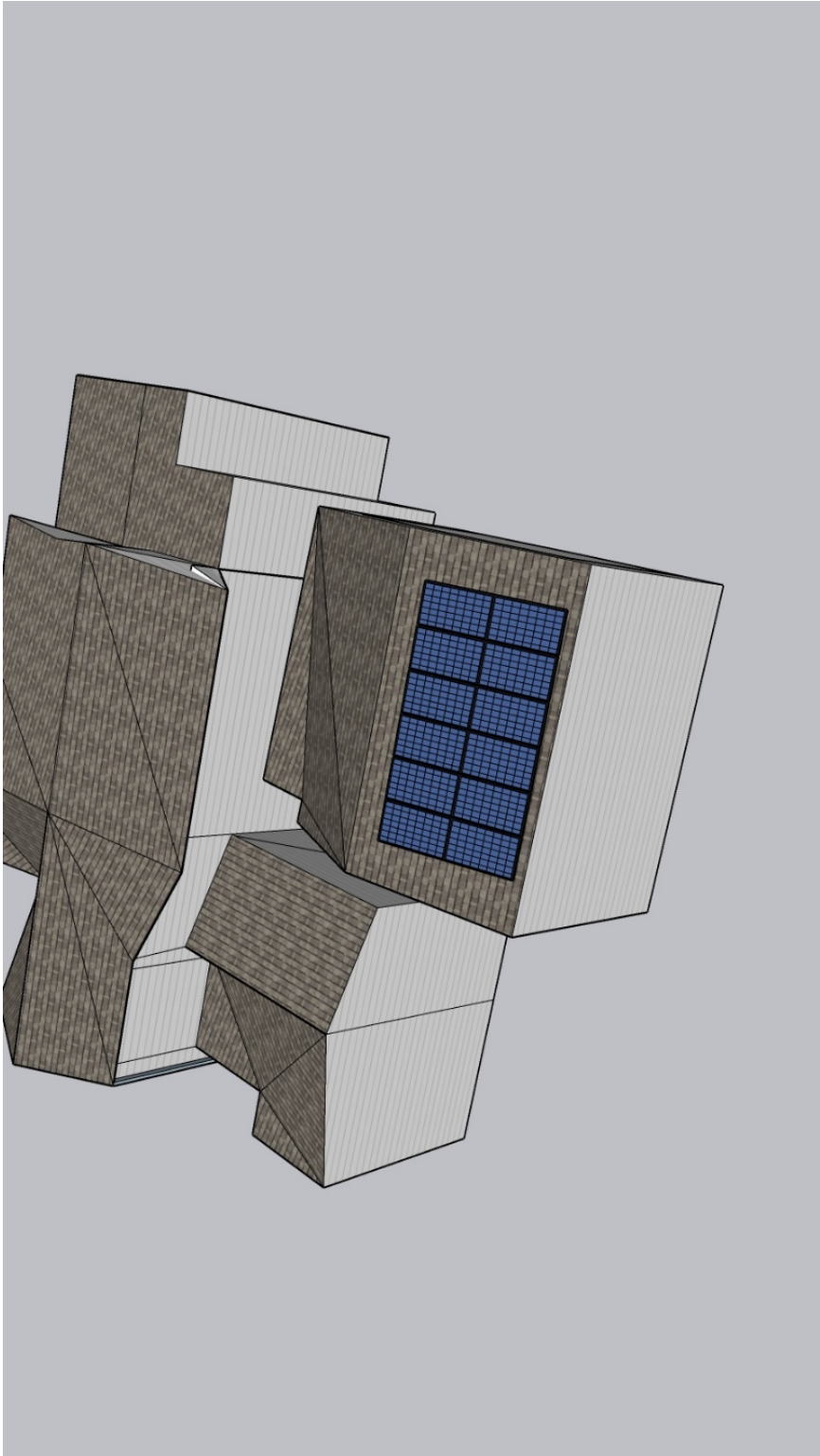
VIEWS B



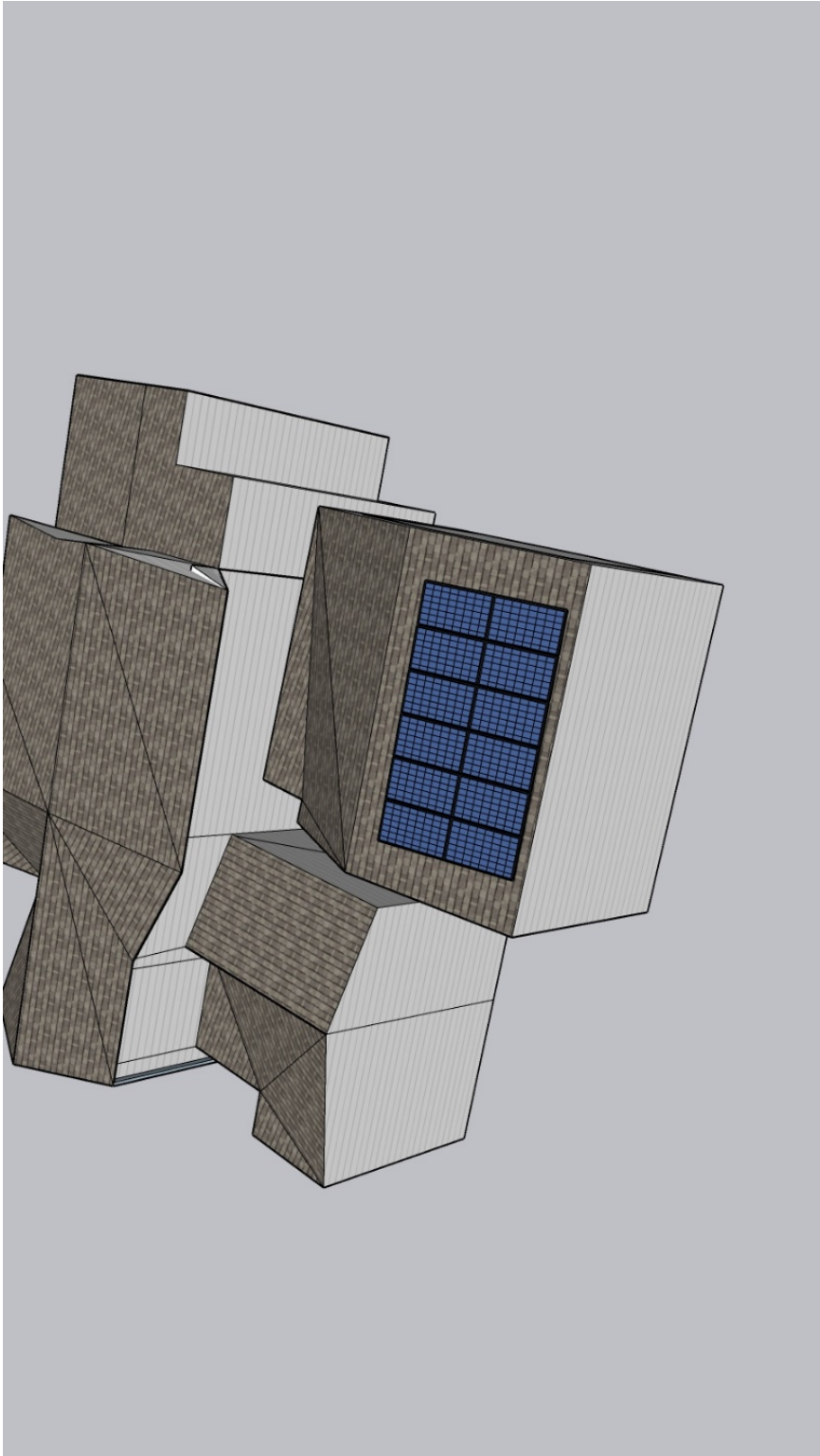
VIEWS F



ARRAY SKETCH 1



ARRAY SKETCH 2



ATTACHMENT D. GOVERNMENT CODE SECTION 65850.5

**State of California****GOVERNMENT CODE****Section 65850.5**

65850.5. (a) The implementation of consistent statewide standards to achieve the timely and cost-effective installation of solar energy systems is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern. It is the intent of the Legislature that local agencies not adopt ordinances that create unreasonable barriers to the installation of solar energy systems, including, but not limited to, design review for aesthetic purposes, and not unreasonably restrict the ability of homeowners and agricultural and business concerns to install solar energy systems. It is the policy of the state to promote and encourage the use of solar energy systems and to limit obstacles to their use. It is the intent of the Legislature that local agencies comply not only with the language of this section, but also the legislative intent to encourage the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting for such systems.

(b) A city or county shall administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Review of the application to install a solar energy system shall be limited to the building official's review of whether it meets all health and safety requirements of local, state, and federal law. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the solar energy system will not have a specific, adverse impact upon the public health or safety. However, if the building official of the city or county makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the city or county may require the applicant to apply for a use permit.

(c) A city, county, or city and county may not deny an application for a use permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

(d) The decision of the building official pursuant to subdivisions (b) and (c) may be appealed to the planning commission of the city, county, or city and county.

(e) Any conditions imposed on an application to install a solar energy system shall be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible.

(f) (1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) Solar energy systems for heating water in single family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the California Plumbing and Mechanical Codes.

(3) A solar energy system for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(4) No later than January 1, 2021, an application to install a solar energy system shall include a reference to the requirement to notify the appropriate regional notification center of an excavator's intent to excavate, pursuant to Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1, before conducting an excavation, including, but not limited to, installing a grounding rod.

(5) No later than January 1, 2021, the Office of Planning and Research shall add a reference to the California Solar Permitting Guidebook regarding the requirement to notify the appropriate regional notification center of an excavator's intent to excavate pursuant to Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1, before conducting an excavation, including, but not limited to, installing a grounding rod.

(6) A city, county, or city and county shall not be liable for any damages associated with the failure of a person required to obtain a solar energy system permit to notify the appropriate regional notification center of an intended excavation.

(g) (1) On or before September 30, 2015, every city, county, or city and county, in consultation with the local fire department or district and the utility director, if the city, county, or city and county operates a utility, shall adopt an ordinance, consistent with the goals and intent of subdivision (a), that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems. In developing an expedited permitting process, the city, county, or city and county shall adopt a checklist of all requirements with which small rooftop solar energy systems shall comply to be eligible for expedited review. An application that satisfies the information requirements in the checklist, as determined by the city, county, and city and county, shall be deemed complete. Upon confirmation by the city, county, or city and county of the application and supporting documents being complete and meeting the requirements of the checklist, and consistent with the ordinance, a city, county, or city and county shall, consistent with subdivision (b), approve the application and issue all required permits or authorizations. Upon receipt of an incomplete application, a city, county, or city and county shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

(2) The checklist and required permitting documentation shall be published on a publically accessible internet website if the city, county, or city and county has an

internet website and the city, county, or city and county shall allow for electronic submittal of a permit application and associated documentation, and shall authorize the electronic signature on all forms, applications, and other documentation in lieu of a wet signature by an applicant. In developing the ordinance, the city, county, or city and county shall substantially conform its expedited, streamlined permitting process with the recommendations for expedited permitting, including the checklists and standard plans contained in the most current version of the California Solar Permitting Guidebook and adopted by the Governor's Office of Planning and Research. A city, county, or city and county may adopt an ordinance that modifies the checklists and standards found in the guidebook due to unique climactic, geological, seismological, or topographical conditions. If a city, county, or city and county determines that it is unable to authorize the acceptance of an electronic signature on all forms, applications, and other documents in lieu of a wet signature by an applicant, the city, county, or city and county shall state, in the ordinance required under this subdivision, the reasons for its inability to accept electronic signatures and acceptance of an electronic signature shall not be required.

(h) For a small residential rooftop solar energy system eligible for expedited review, only one inspection shall be required, which shall be done in a timely manner and may include a consolidated inspection, except that a separate fire safety inspection may be performed in a city, county, or city and county that does not have an agreement with a local fire authority to conduct a fire safety inspection on behalf of the fire authority. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized, however the subsequent inspection need not conform to the requirements of this subdivision.

(i) A city, county, or city and county shall not condition approval for any solar energy system permit on the approval of a solar energy system by an association, as that term is defined in Section 4080 of the Civil Code.

(j) The following definitions apply to this section:

(1) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by a city, county, or city and county on another similarly situated application in a prior successful application for a permit. A city, county, or city and county shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code.

(2) "Electronic submittal" means the utilization of one or more of the following:

- (A) Email.
- (B) The Internet.
- (C) Facsimile.

(3) "Small residential rooftop solar energy system" means all of the following:

(A) A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.

(B) A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the city, county, or city and county and paragraph (3) of subdivision (c) of Section 714 of the Civil Code.

(C) A solar energy system that is installed on a single or duplex family dwelling.

(D) A solar panel or module array that does not exceed the maximum legal building height as defined by the authority having jurisdiction.

(4) "Solar energy system" has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code.

(5) "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(Amended by Stats. 2019, Ch. 494, Sec. 2. (AB 754) Effective January 1, 2020.)