

**SANTA FE COUNTY
SLDC HEARING OFFICER**

Case No. 24-5200

Applicants: Rancho Viejo Limited Partnership, Rancho Viejo Solar, LLC; AES Clean Energy Development, LLC

Application for Conditional Use Permit

**REQUEST TO CONDUCT PRELIMINARY HEARING TO IDENTIFY PARTIES WITH STANDING
AND ADDRESS OTHER PROCEDURAL ISSUES**

The Santa Fe County Growth Management Department (Land Use Division; hereafter the “Division”) requests that the Sustainable Land Development Code (SLDC) Hearing Officer conduct a public hearing for the purposes of i) identifying what parties will be granted the status of a party with standing; and ii) identifying what procedural guidelines the Hearing Officer will adopt (or consider adopting) for the December 4, 2024 special meeting on the merits of the conditional use permit application that is the subject of this case.

Several individuals have submitted requests or motions that they be acknowledged as parties in interest and/or intervenors in this case. Given the significant public interest in this proceeding, the Division believes it would be in the public interest for the Hearing Officer to establish some procedural ground rules for the December 4 special meeting. Specifically, the Division requests that the Hearing Officer consider and rule on the following issues. To the extent the SLDC (Ordinance No. 2016-9) or the County’s Rules of Order (Resolution No. 2009-2) address any of these issues, relevant provisions are identified.

1. **What time limitations, if any, will apply to the applicant and Division staff for their presentations?** Time limits on such presentations are not addressed in the SLDC or the Rules of Order, and are rarely, if ever, imposed.
2. **Which organizations and individuals, if any, will have the status of “an adverse party with standing”, “an interested party with standing”, or “a person claiming an interest in the outcome” of the case?** These terms are used in SLDC §§ 4.7.2.1.2 and 4.7.2.1.3, and at Part V.B.6 of the Rules of Order. The terms are not defined, and the Division takes the

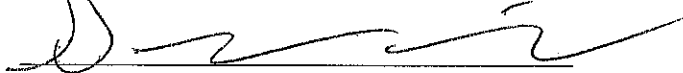
position that the Hearing Officer has the authority to make the determination regarding which organizations or individuals qualify for any given status.

- 3. How much time will be allocated to members of the public in general wishing to speak?** SLDC §4.7.2.1.3 and Part V.B.8 of the Rules of Order both provide for the governing body to accept testimony and evidence from members of the public. Both provisions specifically authorize the governing body to impose reasonable time limits. Limits of 3 and 5 minutes have been imposed in the past. While the reasonableness of a time limit is determined in the context of the circumstances for any given case, both limitations have withstood judicial scrutiny in New Mexico's appellate courts.
- 4. How will cross-examinations be conducted?** SLDC §§ 4.7.2.1.2, 4.7.2.1.3 and 4.7.2.1.4 all allow for cross-examination of the applicant and of any other person offering testimony or evidence. The Rules of Order, at part V.B.3, authorize a "party" to a proceeding to "cross examine any staff member who participates in the presentation of the staff report." Part V.B.5 of the Rules of Order clarifies that a party's right to cross examine the applicant extends to any witness called by the applicant. According to the same SLDC sections cited above, a party seeking cross examination must notify the Hearing Officer that cross examination is desired before the speaker is dismissed. Finally, SLDC §4.7.2.1.2 authorizes the Hearing Officer to establish reasonable time limits for cross examination.
- 5. What time limitations, if any, will apply to parties with standing for their presentations?** This issue is not addressed in the SLDC or Rules of Order. The Division believes this restriction to be left entirely to the Hearing Officer's discretion.

The Division believes it is most appropriate to consider these issues – and any other procedural issues the Hearing Officer deems relevant -- at a preliminary public hearing, so that the public can participate in, and be aware of, the discussions and decisions reached.

The Division recognizes that the Hearing Officer may benefit from advance knowledge of the organizations and individuals who are seeking the status of a party with standing, as well as the basis for such parties' claims. The Division therefore recommends that these matters be addressed at a special meeting immediately prior to the November 14 regular meeting, and that the notice for the special meeting require that all parties wishing to participate as a party with standing notify the Hearing Officer (via the Division) of their request no later than three days prior to the November 14 hearing.

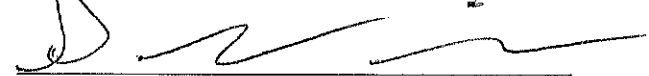
Respectfully submitted,



Dominic Sisneros
Building and Development Supervisor
Growth Management Department
505-995-2725
djsisneros@santafecountynm.gov

Certificate of Service

I certify that a copy of this document was sent on November 1, 2024 by electronic mail to the Applicant, all persons who have entered an appearance and/or requested to be included in this proceeding as parties with standing, and all registered organizations and community organizations entitled to notice.



Dominic Sisneros