

Justin S. Greene
Commissioner, District 1

Lisa Cacari Stone
Commissioner, District 2

Camilla Bustamante
Commissioner, District 3



Adam Fulton Johnson
Commissioner, District 4

Hank Hughes
Commissioner, District 5

Gregory S. Shaffer
County Manager

CASE NO. 24-5200
RANCHO VIEJO SOLAR, LLC CONDITIONAL USE PERMIT (CUP)
RANCHO VIEJO LIMITED PARTNERSHIP, RANCHO VIEJO SOLAR, LLC,
AES CLEAN ENERGY DEVELOPMENT, LLC, APPLICANTS

ORDER

THIS MATTER came before the Santa Fe County Planning Commission (“Commission”) for hearing on February 3 and 4, 2025, on the application of Rancho Viejo Limited Partnership, Rancho Viejo Solar, LLC, and AES Clean Energy Development, LLC (jointly, the “Applicant”), for a conditional use permit to allow a 96-megawatt solar facility on 684+/- acres of an 828-acre tract (the “Property”). The proposed solar facility is to be located at 211 Twilight Way, which will be accessed via NM Hwy. 14. The subject property is zoned Rural Fringe (RUR-F). The Sustainable Land Development Code (Ordinance No. 2016-9; hereafter SLDC), at Appendix B (Use Matrix), illustrates that a commercial solar energy production facility is a Conditional Use within the RUR-F zoning district. In addition, the Applicant requested a twelve (12) month extension to the twenty-four (24) month time frame within which substantial construction must commence, as authorized by SLDC Section 4.9.6.10. The Commission, having reviewed the Application, staff report, and Hearing Officer’s recommended decision, and having conducted a public hearing, finds that the Application (including the requested 12-month extension) is well-taken and should be approved. The Commission makes the following findings of fact and conclusions of law.

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I. FINDINGS OF FACT

A. FACTUAL BACKGROUND

1. Applicant proposes a 96-megawatt solar facility on an 828-acre tract. The proposed solar facility will consist of a 680-acre solar facility, a 1-acre collector substation, a 3-acre battery energy storage system (BESS) containing no more than 38 CEN 40-foot containers, a 30,000-gallon above-ground water tank for fire protection, a maximum 5,000-gallon above ground water tank for potable water, and a 1,400-square foot operations building approximately 18-feet in height with an onsite septic system. Offsite and onsite improvements will consist of a 2.3-mile generation tie-in line (gen-tie) with 70-foot-tall steel monopoles within existing easements, and a 2.1-mile access road also within an existing easement.
2. The Property is in SDA-2, within Section 8, Township 15 North, Range 9 East (Commission District 5).
3. The proposed facility is a commercial solar energy production facility as that term is defined in Appendix A to the SLDC, and is therefore a conditional use within the RUR-F zoning district.

B. PROCEDURAL BACKGROUND

4. On November 4, 2021, as required by Table 4-1 and Section 4.4.3 of the SLDC, the Applicant presented the proposed CUP to the Technical Advisory Committee (TAC) at the regularly-scheduled bi-monthly meeting.
5. On August 22, 2024, as required by Table 4-1 and Section 4.4.4 of the SLDC, the Applicant conducted a pre-application neighborhood meeting on the CUP. The Applicant notified surrounding property owners as well as Certified

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Organizations (CO) and Registered Organizations (RO) of the meeting. A list of persons sent a mailing is contained in the record.

6. This Application was submitted on August 30, 2024.
7. On December 4, 2024, this request was presented to the Sustainable Land Development Code Hearing Officer. The Hearing Officer memorialized findings of facts and conclusions of law in a Recommended Order on this request. The recommendation of the Hearing Officer, based on the evidence presented, was for denial of the Conditional Use Permit request to allow a 96-Megawatt solar facility on an 828-acre tract within the Rural Fringe (RUR-F) zoning district.
8. Notice requirements were met as per SLDC Section 4.6.3, *General Notice of Application Requiring a Public Hearing*. In advance of a hearing on the application, the Applicant provided an affidavit confirming that public notice regarding the application was posted for fifteen days on the Property, beginning on November 13, 2024. Additionally, notice of hearing was published in the Santa Fe New Mexican on November 19, 2024, as evidenced by a copy of that notice contained in the record. Notice of the hearing was sent to owners of land within 500 feet (in fact, to owners of land within 1,120 feet) of the larger parcel of which the Property was a part until a subdivision of the larger parcel occurred in 2024, as well as to parties with standing and any pertinent CO's and RO's. A list of persons sent a mailing is contained in the record.
9. At the February 3, 2025 hearing, which carried over to February 4, forty-four (44) individual testified with eleven (11) individuals supporting and thirty-three (33) opposing the application. The issues identified were i) safety concerns due to explosion, possible gas emissions and thermal runaway resulting in wildfire; ii)

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the need for energy from renewable sources; iii) the impact on neighboring properties, both with respect to visibility and valuation; iv) the Applicant's history of fires, safety violations and pollution at its facilities across the county; v) the potential for lower and more consistent pricing for electricity; vi) potential loss of or inability to obtain home insurance; vii) location of proposed site relative to neighboring communities; viii) evacuation planning; ix) risk of known nearby of above ground natural gas regulator; x) concern of noise pollution; xi) location of proposed overhead transmission lines; xii) ground water and surface pollution; xiii) increased fire danger due to surrounding vegetation; xiv) fear of the use of older an outdated technology at the time development begins; xv) chemical used in fire suppression system; xvi) proposed solar project aligns with Santa Fe County's goals for the SGMP and SLDC; xvii) negative effects to the environment when life of the project ends; xviii) negative effects to the wildlife in the surrounding area; and xix) the need of solar power and battery energy storage.

C. CODE REQUIREMENTS

10. The applicable provisions of the SLDC are the following:

Section 4.9.6, Conditional Use Permits; and

Chapter 7, Sustainable Design Standards.

II. CONCLUSIONS OF LAW

11. The review comments from Santa Fe County Fire, third-party reviewer Atar Fire, the State Historical Preservation Office (SHPO), and reviews from County staff allow us to conclude that this application is in compliance with pertinent design, safety and fire standards set forth in the SLDC.

12. Based on evidence presented at the hearing, the Commission concludes that the Applicant has satisfied the Code criteria for approval of a Conditional Use Permit to allow a 96-megawatt solar facility on 684+/- acres of an 828-acre tract. The Commission also concludes that it is reasonable to grant a 12-month extension of the time frame in which substantial construction of the facility must commence, to a total of 36 months.
13. The Commission concludes that the proposed use will not:
- a. be detrimental to the health, safety and general welfare of the area;
 - b. tend to create congestion in roads;
 - c. create a potential hazard for fire, panic, or other danger;
 - d. tend to overcrowd land and cause undue concentration of population;
 - e. interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
 - f. interfere with adequate light and air; and
 - g. be inconsistent with the purposes of the Property's zoning classification or in any other way inconsistent with the spirit and intent of the SLDC or SGMP.
14. The conditions recommended by staff are reasonable and appropriate to ensure compliance with the SLDC.

WHEREFORE, by a majority [6-1] roll call vote, the Planning Commissioner hereby approves the Application for a Conditional Use Permit tract with an extension of twelve (12) months to allow a 96-Megawatt solar facility on an 828-acre tract located at 211 Twilight Way within Section 8, Township 15 North, Range 9 East (Commission District 5), subject to the following staff conditions:

- a. Compliance with all Reviewing Agencies' requirements, including the 90

conditions imposed by Santa Fe County Fire Prevention (see memo from Fire Marshal's office).

- b. The drilling or use of individual and/or shared wells for this use on this property is prohibited.
- c. The Applicant shall provide proper buffering and screening by installing a paneled fence to a portion of the proposed 8' tall fence that will be located on the southwest portion of the Property.
- d. Permanent fencing will be required around all designated archeological sites to delineate and preserve the integrity of these areas.
- e. Prior to the recordation of the CUP site development plan, all access roads shall be permitted through Santa Fe County, built out and inspected, with financial guaranties in place.
- f. The CUP site development plan showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the Applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
- g. Utilization of the 70-foot-tall steel monopoles will be required, as they have less of a visual impact. The poles will be required to blend into the natural landscape and shall be non-reflective.
- h. A decommissioning bond (may contain salvage value) will be required prior to recordation of the CUP Site Development Plan, and must be in place for the life of the project.
- i. The Applicant will be required to apply for all applicable Development Permits after the CUP recordation.

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- j. Prior to recordation of the CUP Site Development Plan, the Applicant will be required to renew its access permit from NMDOT.
- k. Applicant shall obtain an approved liquid waste permit from NMED prior to the submittal for a Development Permit.
- l. The Applicant is required to work in consultation with the appropriate flood zone authorities to address the requirements specified in Chapter 7, Section 7.18.9.1. of the SLDC for any steel monopole located within a Zone A flood hazard area and submit the findings to staff for the record.
- m. Construction activity to be limited to a Monday-through-Saturday 7am to 7pm work schedule. Any deviation from these construction hours will require 48 hours' notice to Santa Fe County and neighboring property owners.
- n. Prior to operations, the Applicant shall request and pass all required inspections and obtain a Santa Fe County Business License.
- o. A detailed water budget is to be submitted and reviewed by Glorieta Geoscience and Santa Fe County Utilities Division.
- p. The Applicant will be required to provide a Smoke and Plume Model that will be reviewed by Santa Fe County Fire Prevention prior to the recordation of the CUP.
- q. Santa Fe County shall be reimbursed by the Applicant for the third-party reviews conducted by Atar Fire and Glorieta Geoscience pertaining to this submittal prior to the recordation of the CUP.
- r. Per Santa Fe County Fire Prevention requirements, a 10' noncombustible defensible space will be required as part of an overall 30' defensible space around the perimeter of the proposed development and to be illustrated on the recorded CUP Site Development Plan.

- s. Construction debris must be disposed of in a solid waste container and hauled off to an authorized landfill as needed for compliance with NMED regulations.

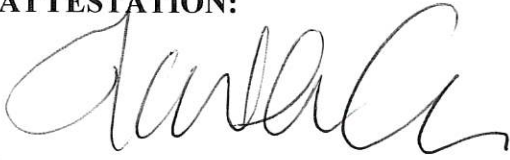
APPROVED AND ADOPTED this 20th day of March, 2025.

SANTA FE COUNTY PLANNING COMMISSION



Erik Aaboe, Chairperson

ATTESTATION:



Katharine E. Clark, County Clerk



SFC CLERK NEW MEXICO DEED03/24/2025

APPROVED AS TO FORM:



Walker Boyd, County Attorney

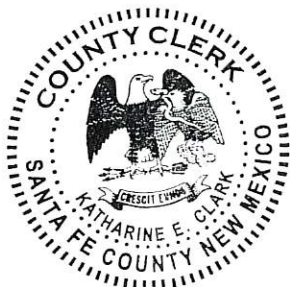
NOTICE OF RIGHT OF APPEAL


Ordinance 2016-9, the Sustainable Land Development Code, Chapter 4, Section 4.5.4. Appeal of a Final Decision of the Planning Commission. Any party with standing may appeal a final decision of the Planning Commission to the Board. The application seeking an appeal of a decision of the Planning Commission must be filed with the Administrator. An appeal from a decision of the Planning Commission must be filed within thirty (30) working days of the date of the decision and recordation of the final development order by the Planning Commission. The application shall be forwarded by the Administrator to the Board. The Administrator shall provide to the Board a copy of the record of the proceedings below of the decision appealed. The appeal shall be placed on the docket of the Board for consideration on the next available agenda. An appeal of the decision of the Planning Commission shall be reviewed de novo by the Board. The timely filing of an appeal shall stay further processing of the application unless the Board determines that special circumstances exist.

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COUNTY OF SANTA FE) PLANNING COMMISSION OR
STATE OF NEW MEXICO) ss PAGES: 9

[Hereby Certify That This Instrument Was Filed for
Record On The 24TH Day Of March, 2025 at 09:14:23 AM
and Was Duly Recorded as Instrument # 2055136
of The Records Of Santa Fe County



Deputy  Witness My Hand And Seal Of Office
Katharine E. Clark
County Clerk, Santa Fe, NM