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**RESOLUTION NO. 20- 384**

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO**

**APPROVE FRONT RANGE-MIDWAY SOLAR ENERGY PROJECT WIND  
AND/OR SOLAR ENERGY GENERATION PLAN AMENDMENT OVERLAY  
DISTRICT REZONE (WSEO-20-001)**

WHEREAS, Front Range-Midway Solar Project, LLC, and Savion, LLC, did file a petition with the Planning and Community Development Department of El Paso County for approval of an overlay rezoning to amend the Front Range Midway Solar Energy Project pursuant to Section 4.3.5, Wind and/or Solar Energy Generation Plan Overlay District (WSE-O), of the El Paso County Land Development Code (2019); and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on October 15, 2020, upon which date the Planning Commission did by formal resolution recommend approval of the subject Zone change petition with; and

WHEREAS, a public hearing was held by this Board on October 27,2020; and

WHEREAS, based on the evidence, testimony, exhibits, study of the master plan for the unincorporated area of the county, recommendations of the El Paso County Planning Commission, comments of the El Paso County Development Services Department, comments of public officials and agencies, and comments from all interested parties, this Board finds as follows:

Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners of El Paso County.

The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested parties were heard at those hearings.

The proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.

The proposed land use will be compatible with existing and permitted land uses in the area.

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The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.

For the above-stated and other reasons, the proposed Zoning is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED that the petition of Front Range-Midway Solar Project amendment for the following described unincorporated area of El Paso County be approved as described in Exhibit A, which is attached hereto and incorporated by reference;

BE IT FURTHER RESOLVED the following conditions/notation shall be placed upon this approval:

**CONDITIONS**

1. Prior to excavation or construction, approval of a site development plan by El Paso County for the solar array facility is required. Site development plan applications shall include, but are not limited to the following information:
  - a. Site development plan drawings;
  - b. Final drainage report;
  - c. Stormwater Management Plan and Report (SWMPR)
  - d. Any permits required by the Colorado Department of Public Health and Environment, if needed
  - e. Detailed reseeding plan;
  - f. Lighting plans and detailed specifications, including plans and specifications for temporary lighting, as applicable;
  - g. Sign plans, if signage is proposed;
  - h. Elevations of any above ground structures;
  - i. Emergency response plan, to be prepared in coordination with and acceptable to the El Paso County Office of Emergency Management;
  - j. Noxious weed management plan, to be prepared in coordination with and acceptable to El Paso County Environmental Services; and
  - k. Colorado Department of Health and Environment (CDPHE)-accepted surface and groundwater quality monitoring plans, if required.
  
2. The applicant shall provide copies of all required State and County air quality permits prior to approval of a site development plan application.

3. The applicant shall comply with all applicable local, State, and Federal laws and regulations regarding the use, disposal, storage, and transportation of solid and/or hazardous materials on and off site.
4. A County Erosion and Stormwater Quality Control Permit (ESQCP) shall be obtained prior to construction. All disturbed areas shall be promptly stabilized and re-vegetated in accordance with Best Management Practices (BMPs) as outlined in the Drainage Criteria Manual, Volume II.
5. The Board of County Commissioners, at a public hearing, shall have the authority to require the shutdown, removal, and/or relocation of any glare-causing component or components if the Board finds that any such component or components is/are creating a health and/or safety risk. Such shutdown, removal, and/or relocation requirement by the Board shall be based upon documented inspection of the facility by a County official at the applicant's expense.
6. The hours of operation during the construction and long-term maintenance of the project shall be limited to seasonal day time hours unless otherwise authorized by the Planning and Community Development Department Director prior to the proposed construction and/or maintenance. Requests to conduct nighttime construction activities shall be submitted to the Planning and Community Development Department Director at least two business days prior to the time of the proposed construction. Any failure to respond to the requests by the Planning and Community Development Department Director within two business days shall be interpreted as an approval of the request.
7. Site lighting, including temporary lighting, will be limited to that characterized in the Project Lighting Memo and Lighting Plan. The Detailed specifications shall be provided at the site development plan stage. All light fixtures shall be directional and positioned so that the light sources are concealed and fully shielded from adjacent properties and roadways, unless otherwise specifically authorized under the regulations of the Occupational Safety and Health Administration (OSHA) of the United States Environmental Protection Agency.

8. **The Board of County Commissioners may elect at an open and public hearing, following full published notice, to approve a rezoning of the properties included within the WSE-O boundary for the purpose of removing the overlay zoning if the applicant has not begun construction within two (2) years of the date of Board of County Commissioners approval.**
9. **Any approval of the WSE-O rezoning request is only valid with the additional approval of the concurrently reviewed 1041 permit. Failure to receive approval of the 1041 permit shall render approval of the WSE-O rezoning null and void.**
10. **At least six (6) months prior to the initiation of decommissioning activities, Developer shall prepare a Project Decommissioning and Site Restoration Plan (PDSRP) prepared in sufficient detail to identify, evaluate, and resolve all major deconstruction, environmental, hauling, and public health and safety issues reasonably anticipated by the developer on the date thereof and submit the same to the County for review and approval. The PDSRP shall describe the process that will be used to evaluate the options and select the measures that will be taken to restore, reclaim, or preserve the project site and to otherwise ensure the protection of the public against risks or dangers resulting from the project decommissioning. The PDSRP shall address provision for funding or bonding arrangements to meet the project site restoration or management costs and it shall include an estimate of market value of the equipment and salvage value of all other equipment and materials that do not have value at resale.**
11. **Developer shall provide notice to the Planning and Community Development Department of the date of initial delivery of power to the existing utility distribution system within 30 days following such date.**
12. **Developer, its successors or assigns, as the case may be, shall provide financial assurances sufficient for decommissioning costs in the form of a performance bond, guaranty or letter of credit, or cash to ensure the availability of funds for such costs to El Paso County no later than the beginning of year twenty (20) following the date of initial delivery of power. An updated engineering estimate of the amount of the decommissioning costs shall be provided by the developer to the County at least sixty (60) days and no sooner than ninety days prior to**

providing financial assurances to the County. If decommissioning should occur prior to year 20, an updated engineering estimate of the amount of the decommissioning costs shall be provided by the developer to the County at least 60 days and no sooner than 90 days prior to the start of decommissioning activities.

13. Any expansion, enlargement, or modification of the WSE-O Plan shall be subject to the provisions of Sections 4.3.5.E and F, as amended, of the El Paso County Land Development Code.
14. In recognition of past and current public use of El Hembra View, a private road easement, the applicant has voluntarily committed to the surrounding community to allow El Hembra View to remain open to the public during and after site construction. Rancho Colorado Boulevard and La Questa Road may be utilized during construction, as depicted in the haul route map. The applicant shall restore both roads to a drivable condition, as determined by the PCD Director in consultation with the County Engineer, at completion of site construction.
15. The approval is limited to the WSE-O plan as depicted. An amendment to the WSE-O Plan shall be required prior to development of any additional phases.
16. Development of the project shall be conducted in accordance with the regulations of El Paso County, conditions of approval and notations of the Board of County Commissioners and the accompanying documents/reports in the Planning and Community Development Department file for the rezoning application (WSEO-20-001).

#### **NOTATIONS**

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County

Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 27<sup>th</sup> day of October 2020, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By:    
County Clerk & Recorder



By:  \_\_\_\_\_ ATTEST:  
Chair

**EXHIBIT A**

Legal Description: Front Range-Midway WSE-O Plan Area

**Tract 1**

Fee Owner: El Paso County by and through the Board of County Commissioners of El Paso County, Colorado

ALL OF LOTS 152, 153 AND 155, MIDWAY RANCHES FILING NO. 7, EL PASO COUNTY, COLORADO.

AND

A portion of lots 149 and 150, MIDWAY RANCHES FILING NO. 7, as recorded under Reception No. 201085497 of the records of the El Paso County Clerk and Recorder, located in Section 17, Township 17 South, Range 65 West of the 6th P.M., El Paso county, Colorado and being more particularly described as follows:

Commencing at the Southeast corner of said Section 17, from which the East one-quarter corner of said Section 17 bears N00°49'21"E, a distance of 2643.52 feet and is the basis of bearings used herein; thence N46°44'55"W, a distance of 3928.85 feet to the North corner common to Lots 151 and 152 of said Midway Ranches Filing No. 7, said point also being a point on the South line of said Lot 150 and the point of beginning of the tract herein described; thence N90°00'00"W along the South line of said Lot 150, a distance of 1051.22 feet to the Southwest corner of said Lot 150 and a point on the Southeasterly right-of-way line of Boca Raton Heights (formerly Rancho Colorado Boulevard); thence along said Southeasterly right-of-way line, the following four (4) courses: 1.) thence N21°56'43"E, a distance of 29.14 feet; 2.) thence along the arc of a 930.00 foot radius curve to the right, through a central angle of 23°59'45", an arc length of 389.49 feet (the long chord of which bears N33°56'30"E, a long chord distance of 386.65 feet); 3.) thence N45°56'15"E, a distance of 476.24 feet to the West corner common to Lots 149 and 150; thence continuing N45°56'15"E, a distance of 671.08 feet; thence S00°00'00"W, a distance of 1145.69 feet to the point of beginning. Said tract contains 15.19 acres of land, more or less.

**Tract 2**

Fee Owner: Front Range Midway Solar Project, LLC, a Delaware limited liability company

Tract A, EL DORADO VILLAGE FILING NO. 1, County of El Paso, State of Colorado

AND

Lot 1, Midway Ranches Filing No. 8, El Paso County, State of Colorado

**Tract 3**

Fee Owner: Midway Development Company, Inc., a Colorado corporation

Lot 122 in MIDWAY RANCHES FILING NO. 7, El Paso County, Colorado, according to the recorded plat thereof.

**Tract 4**

Fee Owner: Powell Homes, LLC, a Colorado limited liability company

The South 200 feet of Lot 27, EL DORADO VILLAGE FILING NO. 1, County of El Paso, State of Colorado

**Tract 5**

Fee Owner: Public Service Corporation

The Northwest ¼ of the Northeast ¼ of Section 20, Township 17 South, Range 65 West of the 6<sup>th</sup> P.M., El Paso County, Colorado, except the West 145 feet thereof.

**Tract 6**

Fee Owner: USA Reclamation Service

The Northeast 1/4 of the Northwest 1/4 and the West 145 feet of the Northwest 1/4 of the Northeast 1/4 of Section 20, Township 17 South, Range 65 West of the 6<sup>th</sup> P.M., El Paso County, Colorado, except a tract of land located in the Northeast 1/4 of the Northwest 1/4 of the above said Section 20, more particularly described as follows:

Beginning at the Northwest corner of said Northeast 1/4 of the Northwest 1/4; thence Easterly along the North line of said Northeast 1/4 of the Northwest 1/4 a distance of 200 feet; thence Southerly parallel to the West line of said Northeast 1/4 of the Northwest 1/4 a distance of 200 feet; thence Westerly parallel to the North line of said Northeast 1/4 of the Northwest 1/4 a distance of 200 feet to a point on the West line of said Northeast 1/4 of the Northwest 1/4; thence Northerly along said West line 200 feet to the point of beginning.