

# EL PASO



# COUNTY

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

April 3, 2018

Front Range-Midway Solar Project, LLC  
Dave Iadorola  
16105 W 113<sup>th</sup> Street, Suite 105  
Lenexa, KS 66129

Core Consultants  
Chris Haas  
1950 Littleton Blvd, Suite 109  
Littleton, CO 80120

This is to inform you that the above-referenced request for approval of an overlay map amendment (rezoning) for the Front Range-Midway Solar Array pursuant to Section 4.3.5, Wind and/or Solar Energy heard by El Paso County Planning Commission on April 3, 2018, at which time recommendation for approval was made. The 33 parcels, totaling 1,170 acres, are zoned RR-5 (Residential Rural), RR-2.5 (Residential Rural), and I-3 (Heavy Industrial). The parcels are located north of Rancho Colorado Boulevard and the Waste Management Landfill, south of Boca Raton Heights, east of Fort Carson, and west of Interstate 25.

The applicant is proposing to place the Wind and/or Solar Energy Generation Plan Overlay on the subject properties to allow for solar arrays and appurtenant components to include a substation. The 100.2 megawatt (MW) solar energy generation project is proposed to interconnect with either the Public Services Company (PSCo) or Western Area Power Administration (WAPA) supply system. A substation is proposed to connect the solar arrays to either the existing PSCo substation or the existing WAPA substation. If the proposed solar energy generation facility connects to the existing PSCo substation, then the connection will be via 115 kilovolt (kV) line. If the proposed project connects to the existing WAPA substation, then the connection will be via a 230 kV line.

The applicant has not secured a power purchase agreement (PPA) at this time. The PPA will be secured prior to submittal of the site development plan. If the PPA is not secured, the solar array project will not be constructed. A waiver is requested to defer providing the (PPA) until submittal of the site development plan application.

The applicant is proposing one phase of development of the overall solar energy project to include a solar array site, associated equipment, meteorological monitoring devices,

2880 INTERNATIONAL CIRCLE, SUITE 110  
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127  
FAX: (719) 520-6695

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mailed  
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electrical collection devices, seven (7) lay down areas, a substation, and the electrical transmission corridor with a maximum generating capacity of 100.2 MW. The applicant has agreed to maintain El Hembra View, a private road easement, during construction and to allow it to remain open in order to provide additional access to the community after completion of site construction. Rancho Colorado Boulevard and La Questa Road are proposed to be utilized during construction, as depicted in the haul route map. The applicants will restore them to a drivable condition at completion of site construction.

The applicant has secured a lease agreement with El Paso County on approximately 121 acres of the 1,170 acres proposed to be placed within the WSE-O overlay zoning district to be utilized for the solar array project as depicted on the WSE-O map (attached).

The parcels are included within the South Central Comprehensive Plan (1988) area.

This recommendation for approval is subject to the following:

#### **CONDITIONS OF APPROVAL**

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. Erosion and Stormwater Quality Control Permit (ESQCP);
  - e. Any permits required by the Colorado Department of Public Health and Environment, if needed
  - f. Detailed reseeding plan;
  - g. Lighting plans and detailed specifications, including plans and specifications for temporary lighting, as applicable;
  - h. Sign plans, if signage is proposed;
  - i. Elevations of any above ground structures;
  - j. Emergency response plan, to be prepared in coordination with and acceptable to the El Paso County Office of Emergency Management;
  - k. Noxious weed management plan, to be prepared in coordination with and acceptable to El Paso County Environmental Services; and
  - l. 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.
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. The applicant shall maintain El Hambre View, a private road easement, during construction and to allow it to remain open in order to provide additional access to the community after completion of site construction. Rancho Colorado Boulevard and La Questa Road may be utilized during construction, as depicted in the haul route map. The applicants 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-17-001).

### **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.

### **WAIVERS**

Section 4.3.5.D.2 of the Land Development Code states that, "A development impact mitigation agreement shall be required with all wind and/or solar energy generation plan overlay district applications." Staff is not requiring impact mitigation with this application due to the minimal, if any, impacts anticipated with the project. Therefore, the applicant is requesting a waiver of this section.

Section 4.3.5, Procedures Manual, P-AR-083-11, 1.5 *General Submittal List* of the Land Development Code identifies that a copy of the power purchase agreement shall be submitted with all wind and/or solar energy generation plan overlay district applications. A PPA has not been finalized to date due to ongoing negotiations between the applicant and the two (2) potential energy purchasers, PSCo and WAPA. No impacts are anticipated if the waiver is approved, as the solar array project will not be developed if the power purchase agreement is not finalized. Therefore, staff has no objection to the waiver request to defer the submittal of the power purchase agreement to submittal of the site development plan application.

The Planning Commission is advisory to the Board of County Commissioners.

Should you have any questions, or if I can be further assistance, please contact me at 719-520-6300.

Sincerely,



Kari Parsons, Project Manager/Planner II

WSEO-17-001