

AGENDA ITEM: 3.

DATE: 08-20-12

STAFF REPORT

CONDITIONAL USE PERMIT NO. 11-07

DATE: August 20, 2012
TO: Lancaster Planning Commission
FROM: Planning Department
APPLICANT: Silverado Power, LLC
LOCATION: 40± gross acres at the southeast corner of 110th Street West and Avenue J
REQUEST: Construction of a 10 megawatt (MW) photovoltaic solar electric generating facility in the Rural Residential 2.5 (RR-2.5) Zone

RECOMMENDATION: Adopt Resolution No. 12-14 approving Conditional Use Permit No. 11-07

BACKGROUND: On June 18, 2012, the Planning Commission granted a 60-day continuance to the August 20, 2012, Planning Commission meeting in order address concerns that had been brought to the attention of Silverado Power, LLC.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated NU (Non-Urban Residential) by the General Plan and zoned RR-2.5 (Rural Residential, one dwelling unit per 2.5 acres) and is vacant. The General Plan designation, zoning, and land use of the surrounding properties are as follows:

| | <u>GENERAL PLAN</u> | <u>ZONING</u> | <u>LAND USE</u> |
|-------|--|-----------------------------|--------------------------|
| NORTH | County | A -2-2 (Heavy Agricultural) | Single Family Residences |
| EAST | UR-SP (Urban Residential with a Specific Plan Overlay) | SP (Specific Plan) | Vacant |
| SOUTH | UR-SP | SP | Vacant |
| WEST | County | A-2-5 (Heavy Agricultural) | Vacant |

PUBLIC IMPROVEMENTS: Avenue J forms the northern boundary of the project site, and 110th Street West forms the western boundary of the project site. Both of these roads are improved with one travel lane in each direction. No other roadways are located near the project site.

ENVIRONMENTAL REVIEW: Review of pertinent environmental documents has disclosed no significant adverse impacts from the proposed project after mitigation measures have been applied. Potential effects are discussed more fully in the attached Initial Study. The Initial Study prepared for the proposed project was sent to the State Clearinghouse (SCH# 2012051050) for public review. This 30-day public review period ended on June 14, 2012. Comments from several property owners, the California Department of Fish and Game, and the Native American Heritage Commission have been received regarding this project. A copy of the comment letters and staff responses is attached. Based on this information, staff has determined that a Mitigated Negative Declaration is warranted. Notice of Intent to prepare a Mitigated Negative Declaration has been legally advertised.

Effective January 1, 1991, applicants whose projects have the potential to result in the loss of fish, wildlife, or habitat through urbanization and/or land use conversion are required to pay filing fees as set forth under Section 711.4 of the Fish and Game Code. Pursuant to Section 21089(b) of the Public Resources Code, the approval of a project is not valid, and no development right is vested, until such fees are paid.

LEGAL NOTICE: Notice of Public Hearing was mailed to all property owners within a 1,500-foot radius of the project, posted in three places, posted on the subject property, and noticed in a newspaper of general circulation per prescribed procedure.

ANALYSIS: The applicant, Silverado Power LLC, is requesting a conditional use permit for the construction and operation of a photovoltaic (PV) solar electric energy generating facility in a Rural Residential Zone. The proposed project consists of rows of PV panels, which would either be fixed or on trackers. These panels would generate 10 megawatts (MW) of electricity. According to Section 17.080.70.DD of the Lancaster Municipal Code, a conditional use permit is required for the construction and operation of a solar plant in a Rural Residential Zone.

The City of Lancaster has determined that the development and use of alternative energy is beneficial to the community, and this determination is evident in the decisions made by the City Council. The City Council has implemented several solar and wind energy programs/ordinances, has installed solar panels on City facilities, and has moved to become a provider of solar generated electricity to local school districts and other entities. Additionally, the City's General Plan has several objectives/policies pertaining to alternative energy. These objectives/policies address the need to develop new sources of energy as well as reduce energy consumption. The proposed project is consistent with the City's goals as addressed in Policy 3.6.6, "Consider and promote the use of alternative energy such as wind energy and solar energy," and Specific Action 3.6.6(a), "Work with utility companies and private enterprises in their efforts to incorporate alternative energy resources including...solar energy".

The project site is vacant and is zoned RR-2.5. The proposed project would operate year-round, producing a total of 10 MW of renewable electric power during daytime hours. Power generated by the proposed project would be sold to Southern California Edison. The proposed project consists of rows of photovoltaic panels. These panels would either be fixed or mounted on trackers (single or dual axis), depending upon the chosen technology. These photovoltaic panels would convert sunlight directly into electrical energy without the use of heat transfer fluid or cooling water. Six inverter/electrical equipment pads would be located throughout the project site. A substation would be located on the northeastern portion of the project site, and would feed the electricity to the Antelope Substation located at 90th Street West and Avenue J, via a gen-tie line. A chain-link fence would surround the project site, and a 10-foot landscaped area would be provided between the fence and property line to screen the development from the surrounding uses. Access to the project site would be provided via a gate on Avenue J.

Irrevocable offers of dedication would be provided for Avenue J, Avenue J-4, 110th Street West, and 107th Street West. Avenue J and 110th Street West would be dedicated at 50 feet from centerline; Avenue J-H and 107th Street West would be dedicated at 32 feet from centerline.

A Master Plan of Drainage facility is proposed to run through the southeastern corner of the project site. This earthen channel is proposed to be 50-feet wide and 7-feet deep. The applicant shall provide an irrevocable offer of dedication for this future facility.

The proposed project has the potential to impact views from the surrounding roads and nearby residences. The photovoltaic panels would be approximately 10 feet high, with a maximum height of 14 feet. The height of the panels is dependent upon the specific technology chosen by the applicant. While the views of the project site would change, the development would not impede long-range views. Additionally, the project site would be fenced and landscaped around the entire perimeter.

The proposed project would generate environmental impacts during construction with respect to biological resources, geology/soils, and noise. The construction of the proposed project has the potential to impact burrowing owls and coast horned lizards during vegetation removal and grading operations. The applicant is required to conduct pre-construction burrowing owl and coast horned lizard surveys prior to the issuance of any permits. In the event that either species are encountered on the project site during the surveys, the applicant shall coordinate with the California Department of Fish and Game (CDFG) to determine the appropriate procedures/mitigation. Additionally, there are several swales located on the project site. These swales do not contain riparian vegetation or riparian habitat. However, the CDFG or the Regional Water Quality Control Board (Lahontan) could claim jurisdiction over the swales as Waters of the State or the Porter-Cologne Act, respectively. The applicant is required to coordinate with both agencies, and obtain a Streambed Alteration Agreement and/or Report of Waste Discharge permit, if deemed necessary. Therefore, potential impacts would be less than significant.

The applicant is required to prepare and implement a dust control plan in accordance with AVAQMD Rule 403, which would ensure that impacts from dust during construction are minimal.

Construction of the proposed project would generate noise, which has the potential to impact surrounding land uses including the three residences/ranches located on the north side of Avenue J. Mitigation measures are required, which would reduce noise impacts to a less than significant level. Minimal amounts of noise would be generated by the operation of the proposed project and only during routine maintenance, as the panels and any tracking system would be silent. Most of the time the facility would be remotely operated, and no noise would be generated.

Therefore, staff is recommending that the Commission approve the conditional use permit subject to the proposed conditions, based on the site having sufficient area to accommodate the proposed development, adequate access and services being available for the use, and the lack of significant adverse effects on the surrounding area.

Respectfully submitted,

Jocelyn Swain, Associate Planner - Environmental

cc: Applicant
Engineer

RESOLUTION NO. 12-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 11-07

WHEREAS, a conditional use permit has been requested by Silverado Power, LLC, to allow the construction and operation of a 10 MW photovoltaic solar electric generating facility on approximately 40± gross acres located at the southeast corner Avenue J and 110th Street West in the Rural Residential 2.5 Zone as shown on the attached site plan; and

WHEREAS, an application for the above-described conditional use permit has been filed pursuant to the regulations contained in Article I of Chapter 17.32 and Chapter 17.42 of the Lancaster Municipal Code; and

WHEREAS, a notice of intent to consider the granting of a Conditional Use Permit has been given as required in Article V of Chapter 17.32 of the Lancaster Municipal Code, and in Section 65905 of the Government Code of the State of California; and

WHEREAS, staff has performed necessary investigations, prepared a written report, and recommended approval of this conditional use application, subject to conditions; and

WHEREAS, this Commission hereby certifies that it has reviewed and considered the information in the Mitigated Negative Declaration prepared for the proposed project in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act prior to taking action; and

WHEREAS, this Commission hereby finds, pursuant to Section 21082.1 of the Public Resource Code, that the Mitigated Negative Declaration prepared for the proposed project reflects the independent judgment of the City of Lancaster; and

WHEREAS, this Commission hereby finds that the Initial Study determined that the proposed project could have a significant effect on the environment; however, there will not be a significant effect in this case with the implementation of mitigation measures as detailed in Exhibit "A"; and

WHEREAS, public notice was provided as required by law and a public hearing was held on August 20, 2012; and

WHEREAS, this Commission hereby adopts the following findings in support of approval of this application:

1. The proposed use would be located on 40± gross acres at the southeast corner of Avenue J and 110th Street West, and will be in conformance with the General Plan land use designation of Non-Urban Residential.

2. The proposed project is a 10-megawatt photovoltaic solar electric generation facility with a conditional use permit, which is consistent with General Plan Policy 3.6.6 that states, “consider and promote the use of alternative energy such as wind energy and solar energy.”
3. The requested use at the location proposed will not:
 - a. Adversely affect the health, peace, comfort, or welfare of persons living in the surrounding area, because the proposed use will be screened from the surrounding residential uses by landscaping and the panels and trackers are silent.
 - b. Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, because City development standards will be met and adequate parking is provided. The proposed panels are approximately 10 feet in height and would not exceed a maximum of 14 feet, which is under the maximum height regulations of the Rural Residential zones, and are designed with adequate setbacks from the adjacent street.
 - c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare, because adequate sewer, water, drainage, and improvements will be part of the project.
4. The proposed use will not adversely affect nearby residents, because the proposed use would be screened by landscaping, the maximum height of the panels are 14 feet, the panels and trackers are not noise generators, and there is limited vehicle traffic that would occur once construction has been completed.
5. The proposed site is adequate in size and shape to accommodate the photovoltaic solar electric generation facility, landscaping, and other development features prescribed in the Zoning Ordinance or as otherwise required in order to integrate said use with the use in the surrounding areas.
6. The proposed site is adequately served:
 - a. By Avenue J and 110th Street West, which are of sufficient width and improved as necessary to carry the anticipated daily vehicle trips such use would generate; and
 - b. By other public and private service facilities, including sewer, water, fire, and police services as required.
7. The proposed use will not result in a significant effect on the environment, because all potential impacts have been found to be less than significant with the inclusion of mitigation measures as noted in the environmental review section of the staff report prepared for this project.

NOW, THEREFORE, BE IT RESOLVED:

1. This Commission hereby approves the Mitigated Negative Declaration prepared for this project with the finding that although the proposed Conditional Use Permit could have a significant effect on the environment, there will not be a significant effect on the environment after mitigation measures have been applied to the project.

2. This Commission hereby adopts the Mitigation Monitoring Program, Exhibit "A".

3. This Commission hereby approves Conditional Use Permit No. 11-07, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 20th day of August 2012, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster

ATTACHMENT TO PC RESOLUTION NO. 12-14
CONDITIONAL USE PERMIT NO. 11-07
CONDITIONS LIST
August 20, 2012

GENERAL ADVISORY

1. All standard conditions as set forth in Planning Commission Resolution No. 10-23 shall apply, except Condition Nos. 47, 48, and 49.
2. Applicant shall comply with the requirements of California Sales and Use Tax Regulation 1699, subpart (h), Regulation 1699.6 and Regulation 1802, subparts (c) and (d), respectively, and shall cooperate with the City regarding their direct and indirect purchases and leases to ensure compliance with the above sections, including, if necessary, the formation and use of buying companies, and the direct reporting of purchases of over \$500,000.
3. Per the direction of the Planning Director, no unscreened outdoor storage of any kind would be allowed on the site.
4. Per the direction of the Planning Director, barbed wire is acceptable on the top of the fence to provide site security, but not razor wire.
5. The applicant shall provide restroom facilities for use by maintenance staff.

ADDITIONAL CONDITIONS

6. Per the direction of the Director of Public Works, dedicate the following right-of-way for streets:
 - Avenue J at 50 feet from centerline
 - 110th Street West at 50 feet from centerline
7. Per the direction of the Director of Public Works, grant an irrevocable offer of dedication for the following streets:
 - Avenue J-4 at 32 feet from centerline
 - 107th Street West at 32 feet from centerline
8. Per the direction of the Director of Public Works, grant an irrevocable offer of dedication for the future 50-foot Master Planned Drainage channel located at the southeast corner of the project site.
9. Per the direction of the Director of Public Works, the applicant shall pave any driveways that take access from any of the paved streets.
10. Per the direction of the Director of Public Works, the applicant shall obtain a right-of-way agreement for the generation-tie line from the project site to the Antelope Substation.

11. Per the direction of the Planning Director, the applicant shall install a 10-foot wide landscaped planter along the perimeter of the project site for screening purposes.
12. Per the direction of the Director of Public Works, any public street surfaces damaged by construction traffic shall be restored to its pre-existing condition.
13. The applicant shall defend, indemnify, and hold harmless the City and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City concerning this conditional use permit, and the use(s) and development permitted by its approval. The City shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense; this condition shall not be imposed if the City fails to promptly notify the applicant or fails to cooperate fully in the defense.

MITIGATION MEASURES

14. A pre-construction burrowing owl survey shall be conducted within 30 days prior to the start of construction/ground disturbing activities. If burrowing owls or sign thereof are discovered during the survey, the applicant shall contact the Department of Fish and Game to determine the appropriate mitigation/management requirements for the species.
15. A pre-construction coast horned lizard survey shall be conducted within 30 days prior to the start of construction/ground disturbing activities. If coast horned lizards are discovered during the survey, the applicant shall contact the California Department of Fish and Game to determine the appropriate mitigation/management requirements for the species.
16. The applicant shall consult with the California Department of Fish and Game to determine whether or not a Section 1602 Streambed Alteration Agreement is required prior to the development of the project site. If a Streambed Alteration Agreement is required, it shall be obtained prior to the issuance of any permits (e.g., grading, etc.).
17. The applicant shall coordinate with the Lahontan Regional Water Quality Control Board to determine whether the applicant is required to obtain a Report of Waste Discharge prior to the development of the project site. If this permit is required, it shall be obtained prior to the issuance of any permits (e.g., grading, etc.).
18. A Dust Control Plan in accordance with Antelope Valley Air Quality Management District (AVAQMD) Rule 403 shall be submitted prior to the start of grading/construction activities.
19. Construction operations shall not occur between 8 p.m. and 7 a.m. on weekdays or Saturday or at any time on Sunday. The hours of any construction-related activities shall be restricted to periods and days permitted by local ordinance.

20. The on-site construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process to the owner shall be established prior to construction commencement that will allow for resolution of noise problems that cannot be immediately solved by the site supervisor.
21. Electrically powered equipment shall be used instead of pneumatic or internal combustion powered equipment, where feasible.
22. Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far away as practicable from noise-sensitive receptors.
23. The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only.
24. No project-related public address or music system shall be audible at any adjacent receptor.
25. All noise producing construction equipment and vehicles using internal combustion engines shall be equipped with mufflers, air-inlet silencers where appropriate, and any other shrouds, shields, or other noise-reducing features in good operating condition that meet or exceed original factory specification. Mobile or fixed “package” equipment (e.g., arc-welders, air compressors, etc.) shall be equipped with shrouds and noise control features that are readily available for the type of equipment.