

MINUTES

REGULAR MEETING OF THE LANCASTER PLANNING COMMISSION

September 17, 2012

CALL TO ORDER

Chairman Vose called the meeting to order at 6:00 p.m.

INVOCATION

Vice Chair Hall did the invocation.

PLEDGE OF ALLEGIANCE

Commissioner Terracciano led the Pledge of Allegiance to the flag of the United States of America.

ROLL CALL

Present: Commissioners Cook, Harvey, Smith, Terracciano, Vice Chair Hall, and Chairman Vose.

Absent: Commissioner Malhi.

Also present were the Deputy City Attorney (Joe Adams), Planning Director (Brian Ludicke), Associate Planner (Chuen Ng), Associate Planner - Environmental (Jocelyn Swain), City Engineer (Michelle Cantrell), Recording Secretary (Joy Reyes), and an audience of approximately 64 people.

CONSENT CALENDAR

1. APPROVAL OF MINUTES

It was moved by Commissioner Terracciano and seconded by Commissioner Harvey to approve the Minutes from the Regular Meeting of August 20, 2012. Motion carried with the following vote (4-0-2-1):

AYES: Commissioners Cook, Harvey, Terracciano, Vice Chair Hall.

NOES: None.

ABSTAIN: Commissioner Smith and Chairman Vose.

ABSENT: Commissioner Malhi.

The Commission concurred to move Item No. 2 - Residential Zones Update after Item No. 6.

CONTINUED PUBLIC HEARINGS

3. Conditional Use Permit No. 11-07

Chairman Vose opened the continued public hearing at 6:05 p.m., to hear request by Silverado Power, LLC to construct a 10 megawatt (MW) photovoltaic solar electric generating facility in the Rural Residential 2.5 (RR-2.5) Zone, 40± gross acres located at the southeast corner of 110th Street West and Avenue J.

The staff report was presented by Jocelyn Swain.

Chairman Vose reminded the audience of procedures in addressing the commission and time allotted.

Applicant Garrett Bean stated a consent letter was given to staff in agreement to the conditions of the project, and he was accompanied by a biologist if there were any questions.

There were 13 speaker cards, as follows:

Speaker 1: Mel Layne stated he is President of the Greater Antelope Valley Economic Alliance (GAVEA), whose mission is to attract and bring business to the Antelope Valley (AV). Several years ago, when it was apparent the AV would be targeted, because of transmission lines for development of solar energy, he set out to work with developers that would provide employment economic benefits. Representing GAVEA, Mr. Layne stated he has testified before the Los Angeles and Kern County Commissions for the on-going solar projects, and concluded that the AV is a great place for renewable energy.

Speaker 2: John Dewar stated he is presently working on one of the solar projects in the area. He has observed that people who are employed in this industry are saving their homes, are able to spend money within the community, work on something that is environmentally sound, and are content that they can pay their bills. He is in favor of the project.

Speaker 3: David Gomez, representative of the National Electrical Contractors Association, and International Brotherhood of Electrical Workers (NECA/IBEW); organization which put people to work offering a five-year apprenticeship in solar and other training. He represents over 600 electrical contractors in L.A. County, and over 10,000 electricians in Los Angeles. He concluded that he is in favor of the projects, which are environmentally safe.

Speaker 4: Pat Chiodo stated he is President of the Fairmont Town Council, and has participated in negotiations with NRG, and recently joining the area are Antelope Valley Solar 1

(AVSR1), Silverado, and Renewable Resources. One of the major complaints he has received from neighbors of Antelope Acres and the Oso area is that they are tired of looking at junk yards. The L.A. County is working with AVSR1, and will be putting in water tolerant plant life, which NRG agreed to plant 4,800 trees. He stated that he read the conditional use permit 148-page reports, and there was no mention of sight breaks or sound barriers; although the report does specify the sound will not be significant past the property sight line. The statement sounds good but questioned the procedure that would be used to stop the sound from going past the property line. He stated if some type of landscaping was used around the project that possibly would eliminate the complaints, lower the sound, and reduce dust. He concluded that with AVSR1, many workers are from Arizona and Nevada; they receive per diem, purchase homes, sign-up with address for the AV, and are called "quasi locals". This is a problem that needs to be addressed.

Speaker 5: Marshal Chance stated he has been a resident in the area for over 10 years, and works at one of the solar sites. He testified that hiring local contractors saved him from losing his home. The project is good for the area.

Speaker 6: Susan Zahnter questioned whether piecemealing was at stake in the Mitigated Negative Declaration (MND) prepared for both of the Silverado projects. She reported that Los Angeles County is reviewing six other Silverado projects, and requiring an Environmental Impact Review (EIR). There are also adjacent projects totaling over 16,924 acres, which she opined is a huge cumulative impact to consider, not just the two Silverado smaller projects. She is concerned the MND is not going to address substantial impact of the scenic view shared around the poppy reserve, as well as air quality problems. AVSR1, while following best management practices, has been unable to control fugitive dust, and read in the MND that the responsibility for taking resident complaints concerning dust control is the Project Manager. She opined that there should be someone of high level besides Antelope Valley Air Quality Management District (AVAQMD), for example, to address these concerns or complaints. She concluded, with regards to the cumulative impact referencing project site map C-01, Note No. 9, that in accordance to California Environmental Quality Act (CEQA), all reasonable perceivable projects are to be considered and included in the report, and she did not find the projects in the MND.

Speaker 7: Ashley Hartman stated she is a resident of Antelope Acres, and the residents are facing a total of 32 solar plants being built in said area by different solar companies. She expressed that the residents of Antelope Acres have chosen to live in that area to be separated from the noise and businesses in the city. Therefore, being surrounded by future solar farms would take away the reason for the residents to live in Antelope Acres. She grew up in the area and went to Del Sur School, which will also be surrounded by one of the solar farms. She is in the process of purchasing a home, plans to marry, start a family, and live in Antelope Acres; however, once her home is surrounded by solar farms, the resale value will plummet; many neighbors have shared with her that they would leave their homes. She stated that Silverado has viewed their town as ugly and needing an upgrade; the barn that was built is an eye sore and has rusted. She questioned if anyone wanted to see a field of glass and metal, and move to the west side to be bombarded with businesses. She commented the AV was known for agriculture and aerospace, which profited the community. She opined that the profit from the solar farms for the area would be destruction of their property and community. She acknowledged that the solar farms would increase the workforce; however, no permanent jobs are offered or economic increase. She stated that Silverado has not completed any jobs as a company. As informed by

Silverado to the Antelope Acres residents, the reliance is on other companies to build the solar farms. She concluded that she does not want to be sold as Silverado's testing grounds, and contrary to Silverado's beliefs, the residents do not want money, parks, trees, and mitigation of any kind. They just want to continue their rural way of life. The residents are not against solar energy power, but are against destruction and disruption of their community. There are other places to build solar farms.

Speaker 8: Terri Hartman stated she also shared her concerns in the August 20th public hearing. She felt Silverado was angry at the residents of Antelope Acres, because they were not offered money, a community center, or park; the only thing Silverado could do for the community is to move the project out of the residents' backyard. Silverado could make all the promises they want, however Silverado has not built a solar plant, and there are no models to be reviewed as requested by the residents; the models are the solar plants already built in the community. She recalled, from the August 20th meeting that Vice Chair Hall stated he was satisfied with the chain link fence that surrounds the solar field off Highway 138. She inquired if he would like to view that sight each morning from his back door. She opined that Silverado has severely underestimated the water that would be needed for the project. She voiced her plea to the developers to view the bigger picture of how the projects are affecting the community. She asked that the solar plants be moved away from the community, which would be costly to the solar companies, but there would be more support from the communities if the plants were not so close to the residences and schools. Residents were not given the opportunity to voice their opinions at the commencement of the project; therefore an environmental impact statement is requested to be conducted for the entire west valley.

Speaker 9: Kathy Porter stated she is speaking in opposition of all three Silverado projects on the agenda, and her concern is mainly environmental. She stated there are two kinds of solar generations; (1) the utility scale large plants; and (2) distributed generation (solar on rooftops). She commended the City of Lancaster for the encouragement of solar rooftops and parking structures, and added she is in favor of that form of solar. She stated the utility scale solar that is on the ground is not environmentally sound, and destroys the ground and the habitat. She stated that projects have been proposed not only in the Antelope Valley, but all the desert areas in California, Nevada, and Arizona. The Antelope Valley has a wider destruction area of desert land because of these solar farm projects. She stated the projects also require transmission lines that have to cross such a distance that at times electricity is lost during transmission, which affects the efficiency of the service, and disrupts the community as well. She emphatically requested that the number of solar projects be reduced.

Speaker 10: Dawn Dykeshouse stated she grew up in Antelope Acres, and feels the project is too close to the schools. She attended Del Sur School, her husband grew up in the area, and wants their children to grow up in a rural area surrounded by agriculture as they did - not with solar panels as the rural scenery. She stated that as a parent she is deeply disturbed about the number of solar fields being installed in the area, with this project totaling 293 acres next to the Del Sur School. The project is going to create much dust that will be blowing into the school; the dust will not be a small amount, but almost 300 acres of an open field dirt area blowing. She inquired if anyone could imagine the potential health risk for children who are exposed to this amount of dust for a long period of time. Not only the children, but wildlife would be displaced and possibly enter the schools. She stated the photo voltaic panels contain toxic materials; solar is far too new for studies conducted to be deemed adequate related to health risks that could affect their children. She stated that between LA County and the current

projects, the Antelope Acres will be completely surrounded with 33 projects; the value of the homes will decrease. In closing, she asked the Commission to consider that if they had children attending school, if they would want a company to come in their area and completely surrounded them with solar farms, decreasing the value of their home.

Speaker 11: Dannon Shaughnessy stated she also grew up in Antelope Acres and attended Del Sur School. She stated it is very disturbing to know that solar plants are being built in close proximity to the school, and no one has notified the parents of students attending Del Sur School. She inquired as to what would happen to the 33 solar plants after 25 years. They were informed the solar plants would be torn down; what would that do to the town? She concluded that one or two solar plants in the area at a distance from the school may be permitted, but 33 solar plants are too many.

Speaker 12: Dolly Cannavan stated she has been a resident of Antelope Acres for 24 years, and agree with the opposing views of the residents in the community not wanting to be surrounded by solar plants. She stated that she is concerned about the water that would need to be used during the construction, and while the site is being used. She stated that Silverado and any other solar companies are mandated by Los Angeles County to use only 500-acre-feet of ground water; the project will need more than that, and would have to bring in reclaimed water. Her concern is the type of water, what long-term effects it would have on the local ground water, and whether the solar companies use secondary or tertiary water. She read that secondary water would eventually flood the ground with contaminates; in effect polluting the water and raising levels of harmful minerals. Solar companies are coming to the area because it is cheaper to connect to the existing power lines and substations, and it is doubtful the solar companies are willing to spend \$400 per acre-foot to get the tertiary water. She inquired how the water would be brought in, whether water lines would be installed to bring in treatment from the facilities of project sites. This could result in construction issues and traffic problem in the area.

Speaker 13: Robert Kerekes stated he is President of the Antelope Acres Town Council, which has not taken an official position on the solar projects at the present time. He is speaking in opposition to the three Silverado sites. He referenced to Agenda Item No. 6, and stated that a 58-acre farm has been added to the area, and read that the farm is 0.19 percent of prime farmland. Farmland is scarce and the farmers are gone. He stated there is a loss of locally produced alfalfa farms, an increase of carbon dioxide from alfalfa farms introduced in the area, a major loss of wildlife (presented photos). He opined that the EIR should have taken more time than two days as he noticed in the report. He also stated that the schools will be surrounded by projects. He inquired if there would be special setbacks, and if Lancaster had a green code, for example, requirement for trees every ten feet.

Chairman Vose declared for the public hearing to remain open, and requested staff to respond to concerns raised by the speakers.

Jocelyn Swain responded, as follows:

- *Project sites looking like junk yards*, commented by the President of the Fairmont Town Council. The City is requiring the projects to completely surround the entire perimeter of the site with landscaping with heights exceeding the maximum height of the chain link fence to screen the site from view on the public roadways. Also, projects are required to

provide drought tolerant plants on the perimeter. On projects that have existing trees and landscape along the perimeter, the developer is requested to incorporate and not remove, because the existing vegetation has been well established.

- *“Piecemealing” issue.* Silverado is looking to acquire several properties in the Antelope Valley. The east and south sides of the project site have open property; if Silverado were to acquire the property and chose to move forward, the condition would apply. The City has not received any request that said property is scheduled for development. Brian Ludicke interjected that the subject property to the east and the south are currently designated as Urban, which cannot be used as a solar project under the current land use. An application would have to be submitted to the City to request a Zone Change in the General Plan. Vice Chair Hall inquired if Urban meant R-7,000 or RR-2.5 could be utilized. Brian Ludicke stated that urban density is up to 6.6 units to an acre, however, there is a specific plan overlay that exists on the property; any type of urban development project primarily requires the review and approval of a specific plan through the City. Chairman Vose stated that if there was an issue concerning the utilization of water on a typical urban setting on individual residential property of one-acre-foot per year, the subject project is substantially less. Jocelyn Swain stated the general plan/zoning issue does not apply to the subject project (CUP 11-07), as it does to project CUP 12-08 and CUP 12-09; in the subject project the property is zoned as RR-2.5. The one-acre-foot per single family residence is for urban use, approximately 330,000+ gallons per acre-foot, which is a substantial amount of water that could be utilized for residential purposes. The project is required to use approximately one-acre feet per year, whereas RR-2.5 at 40 acres would consume approximately 40-acre feet per year.
- *Secondary versus Tertiary water use for constructions, and ground water.* The project would be required to use tertiary water. The waste water treatment plant is in the process and close to converting to tertiary treatment water. By State of California standards, tertiary treated water can be utilized on anything except direct human contact; the project would be required to use this type for dust control for their site. Wells may or may not exist in the project site, though none was found; developers have the right to use the wells if found, but cannot drill or dig new wells. If existing wells are not being utilized, the developers are required to close the wells according to all existing regulations.
- *Rooftop and parking lot solar* are one type of distributed generation, and are “behind the meter projects”. Distributed generation can also refer to small scale commercial that connects directly in to the distribution lines that run through the residential area. In the State of California, up to 5% of the peak load of a territory (e.g., Southern California Edison’s (SCE) territory up to the 5% peak demand) can be provided from the behind-the-meter projects. Projects on rooftops of houses, businesses, and solar shade structures in parking lots provide electricity to the use that is on the property; these projects are not commercial scale. The State has mandated by 2020 that 33% of electricity has to come from a renewable source. Vice Chair Hall inquired of the possibility of water contamination concerns expressed by the Antelope Acre residents, as well as water usage. Jocelyn Swain responded that the Antelope Acres are on septic tanks and ground water wells; tertiary water is used for ground water recharged, by putting it in basins or re-inject it into wells to beef up the ground water supply. Vice Chair Hall asked how septic tanks perform. Brian Ludicke stated the water flows through various pipes that have holes to disperse out to the ground; waste water travels through a layer of soil, and the organisms in the soil essentially clean the water. If enough liquid is produced, it would hit the water

table; the permeability of the soil allows it to go down that far. Septic tanks allow the water to return to the ground. In response to Vice Chair Hall's question, Brian Ludicke added that the one-acre feet per year of water used for cleaning the panels is highly unlikely to reach the ground water table. Commissioner Harvey inquired if the water table had been compromised as mentioned by some of the residents. Brian Ludicke stated he did not have knowledge of the reading of the existing ground water table, and assumed the residents with private wells would have the wells checked periodically.

- Brian Ludicke responded to the issue of cadmium telluride and certain types of solar panels. The U.S. Department of Energy's Brookhaven National Laboratory studies have indicated there are no risks to health and environment, and recycling the modules at the end of their useful life resolves environmental concerns. Furthermore, the laboratory stated that by displacing fossil fuel offer greater environmental benefits, and the photovoltaic modules using cadmium telluride appear to be more environmentally friendly than the current uses of cadmium (e.g., rechargeable batteries for cell phones).
- Vice Chair Hall asked for clarification on the difference between mitigated negative declaration and EIR, and why the proposed site did not require an EIR. Jocelyn Swain explained there are three different levels of environmental review under CEQA: (1) an Exemption is the lowest level, which are categories of projects the State has determined do not have significant impact, thereby are exempt from CEQA; (2) an Initial Study is used to clear a project, or screen a project to determine if the project needs an EIR, or weed out issues that do not necessarily reach a level of significance; and (3) an EIR is used when a significant impact on a resource that cannot be mitigated. The proposed project has a mitigated negative declaration; the Initial Study showed some impacts that could potentially have significant effects; however, with the incorporation of mitigation measures, those impacts are less than significant, therefore, an EIR is not warranted. An EIR would be required for projects of the scale, size, or type that resulted in significant impact.
- Chairman Vose recalled comments relative to the impact of fencing. He stated the City has requirements to screen projects whether residential, commercial or industrial. He observed during the field visits that there are numerous barbed wire or chain-linked type fencing in the rural areas, especially in the Antelope Acres. These types of projects invite potential vandalism and theft issues, to which Jocelyn Swain agreed.
- Chairman Vose inquired about the transmission lines of the project. Jocelyn Swain stated the west side of the AV is attractive to solar companies, because of the transmission lines running through the AV that can be tied into the distribution center; all lines running through Antelope Acres area are above ground.
- Chairman Vose restated previous speaker's comment that the technology of the photovoltaic system is too new to evaluate. Brian Ludicke cited the term was referencing to the different photovoltaic systems, for example, the thin film cadmium telluride that arguably has toxic material. As previously indicated in reference to the study by the U.S. Department of Energy's Brookhaven National Laboratory, there is no recognized environmental hazard from the use of these panels.
- Brian Ludicke recounted the comments of project placement near schools. He stated that this project is located at 110th Street West and Avenue J, therefore, is nowhere near the Del Sur School.

- Chairman Vose inquired concerning cumulative impacts. Brian Ludicke stated that cumulative impacts are CEQA requirements, and cautioned that when reviewing the current type of project, there may be cumulative effects that are found to be on the contrary. For example, if the project site were to be observed as a development of single family residences or commercial, this would not only affect the constructions, but would have long lasting effects that are part of the operation of the project (e.g., traffic, noise, air quality from the vehicles). When one is looking at cumulative effects as the proposed project does not create increased vehicle movement, impact schools, or public facilities that draw people. The major concern evaluated by staff is the air quality impacts that occur during construction, and modeling has been observed from the AVAQMD. If all projects were to begin construction all at the same time, there may be a cumulative impact; however, this is unlikely to occur, since projects have their own timeline.
- Brian Ludicke stated the issue of aesthetics and view sheds were brought up. There are certain kinds of aesthetics that are considered as impacts under CEQA, but views from private property are not.
- Chairman Vose interjected inquiring as to the possibility of a number of this type of solar projects being built at the same time that could potentially trigger either a focused or a broader environmental impact report. Given the hundreds of tract maps that had come before the Commission over the years, no assumption was made that those would be built at the same time, asserting whether there is parallel between these two types of projects. Brian Ludicke stated the difficulty of these types of projects is the steps that have to be taken in the process that are outside of the land use planning purview. The developer would not only need approval from the land use authority (the City), but a power purchase agreement must be in place before moving forward with the project. They are also required to have an engineering study to allow them to tie in to the generating system. All these construction/permitting processes will prevent projects from occurring at the same time. As an example, the City has approved numerous solar projects on the Westside, and to date only one is under construction. Chairman Vose inquired if the current project was less intrusive than a commercial project, a 40-acre single family residential development, or an operation employing hundreds of personnel. Brian Ludicke stated the difference is that on the present project, unlike a commercial, residential, or industrial project, there is not a need for the same support system. The project's major off-site work has a generation tie-line that takes the power into point of connection to the system, and everything else is a matter of what happens on the project site and the traffic that is generated during that construction phase.
- Jocelyn Swain provided a summary on visual impact as raised by Chairman Vose, stating that under (CEQA standards) impacts to views, private views are not protected. A property owner has the right to develop their property as allowed by the zoning ordinance. What are protected are views from public areas. These projects are relatively low scale, which will not affect the view of the surrounding mountain ranges.

There was no rebuttal from the applicant.

Chairman Vose commented to Michelle Cantrell regarding the impacts to roadways, and requested an explanation of what the conditions meant. Michelle Cantrell stated that it is the responsibility of the applicant to bring back City roadway condition to its original or existing conditions prior to construction. The City inspectors are to inspect and take photos of the

roadway prior to construction, and work with the applicant during the pre-construction meeting to come into some type of agreement in reference to the roadway condition. Chairman Vose asked Jocelyn Swain of the status of the roadways; she stated the permits were pulled in August 2012, at which time staff training began; and construction is in progress. She visited the project site and the pot holes (beyond City's boundary) along Avenue I from 110th Street West through in to town were all filled as of today.

Public hearing closed at 7:22 p.m.

It was moved by Vice Chair Hall and seconded by Commissioner Cook to adopt Resolution No. 12-14 approving Conditional Use Permit No. 11-07. Motion carried with the following vote (6-0-0-1):

AYES: Commissioners Cook, Harvey, Smith, and Terracciano, Vice Chair Hall, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Malhi.

4. Conditional Use Permit No. 12-14

Chairman Vose opened the public hearing at 7:23 p.m. to hear a request by Antelope Valley Northside Foursquare Church, to allow a church in an existing building in the SP 08-01 Zone, located at 540 West Lancaster Boulevard, Suite 105.

The reading of the staff report was waived since an uncontested hearing letter was received from the applicant stating agreement to the conditions of approval as stated in the staff report. Applicant, Tim Lee, was present and available for questions. There were none in the audience who wished to speak in opposition to the request. Public hearing closed at 7:24 p.m.

It was moved by Commissioner Harvey and seconded by Commissioner Smith to adopt Resolution No. 12-24 approving Conditional Use Permit No. 12-14. Motion carried with the following vote (6-0-0-1):

AYES: Commissioners Cook, Harvey, Smith, Terracciano, and Vice Chair Hall, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Malhi.

NEW PUBLIC HEARINGS

5. Conditional Use Permit No. 12-11

Chairman Vose opened the public hearing at 7:25 p.m. to hear a request by Sunlight Partners, to construct a 1.5 megawatt (MW) photovoltaic solar electric generating facility in the Rural Residential-2.5 (RR-2.5) Zone, located 20± gross acres at the northwest corner of 80th Street West and Avenue H-12.

The staff report was presented by Jocelyn Swain.

Vice Chair Hall pointed out that during the agenda review there was discussion about this smaller sized project generated significantly less power, and asked Jocelyn Swain to clarify. Jocelyn Swain responded this is a CREST project, a program under Edison that limits the size of the fields to 1.5 megawatts or in 1.5-megawatt increments, with each its own distinct project (e.g., having its own an individual meter). This is simply a different program for adopting solar projects.

Chairman Vose stated a letter was received from Mark Roberts of Sunlight Partners that cited contradictory statements of acceptance of conditions. The applicant came forward to confirmed acceptance of all conditions.

Applicant Mark Roberts stated this project is a distribution level project that requires a 1.5-megawatt project. They are utilizing a larger footprint because they are employing tracking, and engineered sites so there are no shading impacts for tracking. He also pointed out there is a significant “thinning out” process on solar projects, and a majority of projects proposed are no longer viable projects due to challenges of obtaining interconnection agreement, PPAs, and the CUPs. Since the project is only connecting to distribution lines, there has to be capacity on the circuit, and at the substation; if the capacity is not met, they cannot move forward with the project. He emphasized that he wanted to make the public aware that there is a biological mitigation fee of \$770 per acre that is collected; all the projects are paying this amount to the City. Sunlight Partners is working with a local landowner, and have reached out through various correspondences to landowners directly affected by the project. He concluded that cumulative impacts have to be viewed as impacts that do not get mitigated.

There were five (5) speaker cards, as follows:

Speaker 1: James Oliver stated that he has been a resident of the area for 51 years. He is not against solar, septic, or sewage treatment, as long as they not scattered all over the area; solar projects should be placed in one large area (e.g., on Avenue D near Highway 14). A 14-foot high fence would be too high, and he compared it to the fence at Mira Loma Prison. The residents do not want the solar plant in their area.

Speaker 2: Dawn Dykehouse stated she is most disturbed by misleading comments in reference to septic tanks. The houses do not have pipes that go right into a ground water. A company pumps out water from the tank and taken to a treatment facility. Their septic water do not go back into the ground water. She expressed her dismay of the overlapping projects.

Speaker 3: Dannon Shaughnessy pressed the point of the residents' stand on being inundated with solar plant projects.

Speaker 4: Dolly Cannavan stated that no one has been notified of all the solar plant projects coming in and believed that only people within 150 feet were notified, upon which Chairman Vose clarified that notices are sent to property owners within a 1,500-foot radius.

Speaker 5: Robert Kerekes stated that when cumulative impacts are being discussed, it is as though the area and its residents are living in the City; they live in the country. He opined that cumulative impact will affect wildlife and corridors; wildlife has moved out of the area. In the evening time, there is lighting and tremendous glare coming from TUUSO project structures. On page 17 in reference to the project site to be fenced in with trees and landscaping, he was pleased with this information included in the conditions. He concluded that night lighting in the area is far more than is wanted by Antelope Acres residents; this will have a cumulative effect in the area. He reiterated there was not enough time for review of the biological survey.

Public hearing remains open for Applicant's rebuttal.

Applicant stated they do not anticipate night lighting; possibly gate lighting. The timeline to build the plant is six weeks. It is ideal to place all projects in one place, but it is not feasible; project has to go where SCE allows (capacity on distribution lines), and property owners are willing to work with them. Chairman Vose inquired what the intent of grading was on the site, whether mass or low grading, or remain as it is. Applicant responded it is to remain as it is with low impact development; entrance moved to limit the amount of grading, and only doing grading where necessary.

Commissioner Cook asked Jocelyn Swain to explain the process for notification and response (to comments). Jocelyn Swain responded that public hearing notices are sent out for any projects going to public hearing. Standard State law requires notices to be sent out to all property owners within a 300-foot radius. Nonetheless, the City's notification requirement is 500-foot radius in urban residential, commercial, or industrial zones; and 1500-foot radius in a rural residential zone. Chairman Vose pointed out that in addition to meeting State law and the City's notification requirements, the information is also available online on the City's website. Jocelyn Swain affirmed and cited that notices are also advertised in the newspapers, and signs are posted on the project sites. She added that she also maintains a solar list for individuals interested in being placed on the distribution list to receive notices for solar projects; anyone interested may contact her to be added to this list.

Chairman Vose commented that on page 29 of the Initial Study, the school district names are called out as Antelope Valley Joint Union High School District and Westside Union School District. Jocelyn Swain stated the CEQA regulations view the school differently; viewed as impact to school with increased student population requiring the construction of an additional school. That is the standard for impacts to schools; and the State has determined by statute that the payment of school mitigation fees is adequate mitigation. Chairman Vose inquired if there were wells on the site. Jocelyn Swain stated the study shows no wells found on the site. Chairman Vose raised some of the concerns from the speakers: cumulative impact, glare, wildlife, protected species, height of the panels in relation to the height of the fence, and landscaping. Jocelyn Swain cited that for this project, the panel height at full tilt position will

not exceed 8 feet, and will not be higher than the fence. Landscaping will be placed around the perimeter of the site to screen the fencing.

Vice Chair Hall in reference to page 27 of the Initial Study read statement No. 4 concerning onsite construction supervisor's responsibility to receive and resolve noise complaints, and inquired if clarification of this process can be provided to Mr. Oliver. Jocelyn Swain responded that there has to be a sign posted on how noise complaints are to be handled on the site with a phone number to directly contact the project site supervisor, and information on the appeal process to the developer, in this case, Mark Roberts or his appointed designee. If the noise complaint cannot be resolved through the site supervisor or project developer, the residents have the right to come to the City and speak with the inspectors.

Public hearing closed at 7:52 p.m.

It was moved by Commissioner Smith and seconded by Commissioner Cook to adopt Resolution No. 12-18 approving Conditional Use Permit No. 12-11. Motion carried with the following vote (6-0-0-1):

AYES: Commissioners Cook, Harvey, Smith, Terracciano, and Vice Chair Hall, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Malhi.

The meeting was recessed at 7:52 p.m.

The meeting was reconvened at 8:03 p.m. by Chairman Vose.

6. Development Agreement No. 89-01, General Plan Amendment No. 12-02, Zone Change No. 12-02, Conditional Use Permit No. 12-08, and Conditional Use Permit No. 12-09

Chairman Vose opened the public hearing at 8:03 p.m. to hear a request by Silverado Power, LLC, to (1) rescind Development Agreement No. 89-01 on the subject properties; (2) amend General Plan land use designation for the subject properties from UR (Urban Residential) to NU (Non-Urban Residential); (3) rezone subject properties from R-7,000 (Single Family Residential, minimum lot size 7,000 square feet) and R-10,000 (Single Family Residential, minimum lot size 10,000 square feet) to RR-2.5 (Rural Residential, minimum lot size 2.5 acres); (4) construct a 20 megawatt photovoltaic solar generating facility in the RR-2.5 Zone; (5) construct a 40 megawatt photovoltaic solar generating facility in the RR-2.5 Zone, located on two separate sites: (1) 135± acres generally bounded by Avenue G, Avenue H, 90th Street West, and 95th Street West (CUP 12-08); and (2) 158± acres bounded by Avenue H, Avenue H-8, 100th Street West, and 105th Street West (CUP 12-09).

Chairman Vose stated the Commission will take action on all five recommendations under one hearing. Speakers for any of the five actions would address their comments once within the allotted three minutes.

The public hearing opened at 8:03 pm.

Chairman Vose commented on the process the Commission undertakes in consideration of this and any other agenda items. The Commission meets one week before a regular meeting; this special meeting is open to the public. It is a staff briefing on agenda items, where the Commission may discuss at length staff's analysis of a project. The Commission does not deliberate nor take action during this meeting.

The Commission has received a considerable amount of information in reference to this agenda item (No. 6), including the comments received two days prior to the meeting in the form of an 850+ page booklet and a CD. Additional comments received were the 160-page correspondents, the 13-page document from Silverado, the 96-page staff report and additional 21 supporting pages, comments received from the speakers, letter from the Westside Union School District, and a support letter from Mr. Reca, the property owner for a portion of this project, who also is farming a 77-acre alfalfa field on Avenue G and 95th Street West. Chairman Vose cited that he has read every page of the aforementioned documents. The Commission has had a considerable amount of exposure to this project well in advanced of this public hearing, as well as the opportunity to visit the sites. Chairman Vose extended his gratitude to everyone who had provided the comments and all other documents.

The staff report was read by Jocelyn Swain. An uncontested hearing letter was received from the applicant stating agreement to the conditions of approval as stated in the staff report.

Applicant representative Garrett Bean thanked the Commission for reviewing this project. The project team has made all effort to address all questions received thus far, and he discussed the two projects in order to address some of the concerns raised during this meeting.

Garrett Bean indicated that Silverado Power has worked through this project since its origination over three years ago. Silverado, as an entity, has not built a project yet, however, the executives and team has worked on over 500 megawatts of constructive projects. He presented a slide presentation, as follows:

- Silverado is focused on responsible solar development, and makes best effort to locate projects with minimal impacts; tying in to existing power lines adjacent to the site for distributed generation projects for "Summer" solar; creating a small gen tie line facility for "Springtime" solar. He summarized that their focus is to locate those projects around a facility with existing capacity, making these projects feasible.
- Silverado has looked at multiple sites. These two sites were chosen based on capacity, and on biological, cultural and geotechnical due diligence during the development cycle. Technical studies have determined that there are no significant biological, cultural or hazardous material issues at the site. These studies were conducted by recognized professionals (some present at this meeting). The team worked with the City to ensure potential impacts are mitigated to a less than significant level.

- “Summer” solar project location (Avenue H and 93rd Street West) for a 20-megawatt solar generating facility on 135 acres of land, generating enough power for over 4,000 homes. The project will interconnect to distribution lines directly to the east and south of the project site. Approximately 100 jobs are expected during peak construction, with numerous positive local economic impacts.
- “Springtime” solar (Avenue H and 105th Street West) is adjacent to the existing solar project by Recurrent Energy. This project is for a 40-megawatt facility on 158 acres of previously disturbed, underutilized land; this facility would provide power for over 8,000 home. The project will interconnect to Silverado’s Central Antelope Dry Ranch substation, one mile south of the project site. Approximate 150 jobs expected during peak construction, with numerous positive local economic impacts.
- Project design includes vegetative screening according to the provisions of the conditional use permit. Addressing dust control issues by utilizing panels on fixed systems that do not require excessive grading, unlike those on tracking systems. Garrett Bean pointed out that many concerns by residents have stemmed from other project developments throughout the Antelope Valley with different technological requirements and standards for construction; Silverado team learns from these issues, and uses this knowledge in addressing project design concerns. Silverado team has gone out with groups from the Dust Busters and the Antelope Valley Air Quality Management District (AVQMD) to identify the problems and find a resolution.
- Panel will be low profile, do not reflect light, and will not cause glare issues. Although allowable height is 14 feet, technical specifications show these panels to be approximately 6½ feet. Type of panel has not been decided, however, it will not be cad tell (cadmium telluride) panels. The project team has done extensive research for the perceived problems of cad tel panels.
- Noise issue had already been addressed by Jocelyn Swain per the staff report. This is a silent system. During the construction, Silverado is committed to reducing the noise level with mitigation measures.
- All lighting is downward facing for security purposes; not shining light into the sky.
- Issue of close proximity to school: Project team has been working with the various officials for the Del Sur School for the past year. The project team proposed a parking lot on school grounds to alleviate traffic concerns and safety hazard, but no formalized agreement. They attempted to sit down with the school board over a month ago, but were informed that it was not the appropriate time. They have been invited to present before the school board the day after this meeting. The project team will work with the school to mitigate any potential construction impacts, and make this project a safe development.
- Economic impacts to local community: The two projects would create 250 construction jobs, sustain and grow local businesses’ opportunities; as an example of this, Silverado has worked with All Valley Surveying who has benefitted by hiring locals. Third party economic studies indicated that these solar projects would create over \$40 million dollars in direct and indirect impacts, as well as induced economic impacts, such as wages, subcontracting with local businesses, healthcare, and spending in the community.

- Silverado is committed to being an active member of the local community, and understands that this is a concern of the community. They have made efforts to reach out to numerous local groups and individuals throughout the development process, including the Antelope Acres Town Council multiple times within the past year, schools and colleges, project neighbors, and local business organizations.

Commissioner Smith referred to Silverado's meeting with the school board, and asked as to the purpose of this meeting. Garrett Bean responded that his team has been in contact with the school board within the last month to present at their meeting. They hope to start a formalization process towards an agreement to build a parking lot, a need identified by the school principal; and to educate the community, and answer any questions or concerns. The high school district has embraced the idea of solar generation; there are installed ground-mounted solar panels on high school grounds. Silverado hopes to create a mutually benefitting relationship with the school district.

Vice Chair Hall ask why Silverado decided on providing the parking lot. Garrett Bean responded that currently, school employees and many of the parents park in the unpaved area on the south side of Silverado's property along 90th Street West. Silverado would like to be a good neighbor, and to create a safe drop-off zone for the children. Project team will discuss with the school to build a paved parking inside project area and on school property. Paving would decrease dust in the area.

Commissioner Harvey inquired in reference to the creation of 250 jobs into the area, whether there is a time moratorium for residency in the area posed on potential hires. Garrett Bean responded local hire is not a requirement; they are in support of local and non-local hires.

Chairman Vose clarified that the initial study for this project was distributed for public review ending July 10, 2012; and re-circulated for public review ending September 13, 2012. Over 1,000 pages of correspondence and comments have been received. Chairman Vose posed the question to the applicant as to whether he accepts all stated conditions in the staff report. Applicant confirmed his acceptance to all conditions.

There were 11 speakers, as follows:

Speaker 1: Mel Layne: commented on the common belief that the Antelope Valley would be covered by solar panels; as with tracts maps approved and expired throughout the valley, not all of these solar projects will ultimately be constructed. Southern California Edison informed him they have more applications from developers to tie into the SCE system than they can accommodate. Small portion of the 4,500-megawatt system as proposed would be able to tie into SCE transmission lines. It would take at least 10 years to get approval from the public utilities commission to build another transmission line. Power purchase agreement is difficult to obtain.

Speaker 2: John Dewar commented on the impact during construction, stating that from his experience with solar companies, extreme measures are taken to keep noise level down, dust level under control, jobs are safe, and minimal impact on public highways around project sites.

Speaker 3: David Gomez of the National Electrical Contractors Association and IBW stated he is in favor of both projects for jobs created. IBW provides 35% to 45% local hiring, and believes solar projects provide even higher percentages of local hires.

Speaker 4: Brooke O'Hanley of Lozeau, Drury, LLP, representing Loyola Local Union No. 300 and its members living in the Los Angeles County regarding the "Summer" solar and "Springtime" solar projects. Per the detailed comment letter (850-page document received two days prior to the public hearing) supported by expert evidence, there is at least a fair argument that the project may have significant adverse environmental impacts requiring an EIR under CEQA to fully analyze these impacts, and to propose mitigation measures and project alternatives. She asked that the Commission deny the certification of the revised IS/MND, and direct staff to prepare an EIR. Their team of experts, Matt Hagaman, former director of the US Environmental Protection Agency – Western Regional Division, and Dr. Shaun Smallwood, an expert ecologist, reviewed the revised IS/MND, and both concluded there is a fair argument the project may result in significant adverse environmental impacts. Three impacts highlighted, as follows:

1) (reviewed by Mr. Hagaman) Construction emissions estimates from site 1 are likely underestimated when compared to similar projects in Southern California and site 2. For example, the emissions estimate for the Sol orchard project, to be constructed on less than half the acreage and will generate less than half the power, are more than six times higher than the estimate for site 1. 2) (concluded by Mr. Hagaman) The revised IS does not adequately address the impacts of project construction in the nearby residence and school children at the nearby Del Sur Elementary School. The revised IS does not acknowledge that project construction will generate dust that will be transported by wind that will adversely affect nearby residences and school children by causing health problems, including aggravating asthma and decreasing lung functions. Brooke O'Hanley asked that the applicant prepare a dust control plan to be included in a draft EIR. 3) (concluded by Dr. Smallwood) Surveys conducted during three days in May 2011 to assess habitat suitability and detect special status species were insufficient, because many species would have been missed because of the time of the year or day the surveys were conducted. The site visits would have missed, for example, marlins and mountain plovers, which would have been far to the north in May. In the absence of adequate surveys, there's a fair argument that the project may have adverse impacts on these species. In conclusion, Brooke O'Hanley urged the Commission to find that the revised IS/MND is inadequate, and require preparation of a draft EIR, and only then consider the project for approval.

Chairman Vose inquired whether the team of experts visited the project sites. Brooke O'Hanley responded that the experts have not visited the project sites. Chairman Vose referred to the PM10 issue cited by the speaker, and inquired where this project is located. Brooke O'Hanley responded that the Sol Orchard project is located in the general area of the project site.

Speaker 5: Virginia Stout shared Sunset magazine's article on the most endangered scenic area. The Mojave Desert was named as one of the top three due to the impact of solar panels, destroying the views and scenic wonders. She is saddened that the City would like to be a part of this reputation. Antelope Acres residents would have liked to see the area listed as one of the most scenic places to visit, instead of the prison-like sterile compound surrounded by trees, with homes in between. Ms. Stout referred to the heavy recreational trails (with GPS) that had been turned in to the county, and the trails running along 95th Street West, which they have negotiated with Standard Pacific for access around the trails. She is aware of other trails the County is looking into along 90th Street West that had not been referenced under this project. She did not see any proposal or requirements for dust control. Hydro-seeding does not work in this

area; chemicals used are blown by the wind; many workers are sent home due to dust issues. Ms. Stout is concerned about herbicides being blown by the wind to the students in the area. She asked that an EIR be required. The idea that the applicant will go before the school board shows a lack of respect for the students and parents who are impacted by all these.

Speaker 6: Dawn Dykehouse stated the number of solar projects may not seem many to people in the City of Lancaster, and asked that the Commission reflect back to the map showing all the projects in the area. They spoke with the school district on September 11 who informed that they have not heard from Silverado in at least a year. Jobs created are only temporary; she knows of two people constantly being laid-off in the solar industry. Ms. Dykehouse is concerned with proposed project sites continually being rezoned.

Speaker 7: Dannon Shaughnessy commented on the statement that not all projects will become fruitful, and residents are expected to accept it. She believes all proposed project will be built. She noted the difference between Westside School District (elementary and junior high) and the Antelope Valley High School Union School District. Del Sur School has no parking. Students are young developing kids; a lot of asthma problems. There's been a report of the Valley fever found in the dirt out in the area. She asked that an EIR be done to provide details addressing many of the concerns.

Speaker 8: Dolly Cannavan inquired whether the soil was tested for valley fever. It may take years before symptoms occur. She had a dog diagnosed with valley fever.

Speaker 9: Robert Kerekes stated the reports keep restating there are no migratory wildlife, while this corridor is well recognized for birds by the Audubon, American Bird Conservancy, and the LA County Planning Department. He has put together a report to show there is migratory bird in the area, as recognized by the County but not by the City. There is no consideration for the flight of these migratory birds over the area. The area has the highest rate of the Valley Fever; there are also other fungal diseases in the area including skin diseases. Bacteria affects both people and animals; he has dogs and cats with problems from the dust. The Antelope Acres is one of the worst blowing areas for wind; dust comes through thick.

Speaker 10: Terri Hartman commented that Silverado stated to try to place trees on one side, as long as it does not interfere with the panels. As stated, then the trees are not part of their plan for this project. She knows several people who work in this industry in areas near school, they are required to wear long sleeves and take precautions with the heat; workers have been taken out because of heat exposure. She is concerned with the noise, dust and solar panels surrounding the school and subjecting the kids to these issues on a daily basis. Addressing a comment stated earlier by Vice Chair Hall, Ms. Hartman commented that septic tanks leach lines release very little water into the ground, compared to 4,000 gallons of water dumped from a water truck, is not comparable.

Speaker 11: Colleen Schiller stated these solar plants are not there to benefit local communities, especially those living in rural areas; they are here for the LA basin. This is not about concerns with the environment; solar developers would not be here if it weren't for grants and subsidies. Solar projects are not cost effective; they will not produce power that's affordable without subsidies. Ms. Schiller is distressed that people are willing to destroy their rural way of life, as their forefathers lived when they came to the area. She would like environmental statements done on these projects and all the cumulative projects. She questioned the hesitation

in requiring fences for this project. Area residents love open wide spaces, the wind blowing, the tumbleweeds, the snakes and other animals. Allowing the solar projects to populate their area randomly will ruin property values, and deprive their children a chance to learn how to farm.

Chairman Vose turned to Deputy City Attorney Joe Adams to define the term “fair argument” by Brooke O’Hanley. The Deputy City Attorney asserted there is no clear definition. Much like defining the term “reasonable” in the law; there are a number of laws that use the term “reasonable”, and to determine whether or not something is reasonable, like a “fair argument”, one would have to look at the facts of any particular case; there is no bright-line standard. The Commission would have to determine whether or not there is a “fair argument”. Chairman Vose cited that the Deputy City Attorney had indicated the role and responsibility of each Planning Commissioner; that is, if the Commissioner were to determine that there is a fair argument, he could not recommend for approval the mitigated negative declaration. Chairman Vose understands and is aware of his role and responsibility as a Commissioner; he posed this question to provide the audience a better understanding of the process.

Public hearing remains open. Chairman Vose suggested staff to provide responses to the comments from the speakers, and allow applicant rebuttal.

Jocelyn Swain responded to the comments, as follows:

- *Dawn Dykehouse on rezoning.* A large portion of the project sites are currently zoned for urban residential uses. Even with the removal of the development agreement (either expiring or recommended for withdrawal), the underlying general plan designation and zoning allows for urban residential uses (single family homes, on 7,000 and 10,000 square-foot lots). The zoning would not change; therefore, any developer could come in and submit tract maps, and be in accordance with the zoning and general plan designations for urban residential uses. This really is a decision between urban residential uses and alternative energy use; this is not a decision between alternative energy use and open space farming. Chairman Vose added the underlying use would not be a conditional use permit, but a use by right (tentative tract map). Brian Ludicke expanded that any developer would have the ability to submit a tentative tract map on the site, the Commission would be bound to approve it if it complies with all the requirements of the City’s subdivision and zoning ordinances. He added that there are approved maps on these existing lots for approximately 700 single family lots that is part of the Del Sur Ranch project. This project was originally approved not only on this site but also on over 600 acres in the immediate area, equaling 2,500 single family lots, along with parks, commercial sites and other facilities. Chairman Vose cited that one of the recommendations for Agenda Item No. 6 would eliminate those rights. Brian Ludicke affirmed stating the recommendation would remove or rescind the development agreement to allow the City to redesignate and rezone the property; the City is prohibited in doing so under the current agreement. Chairman Vose added the Commission’s role is to take action on the recommendation of approval to the City Council; ultimately, it is the City Council who makes the final approval.
- *Trails agreement between Standard Pacific and Antelope Acres.* The City has a Master Plan of Trails and Bikeways, which includes trails through 110th Street West.

Furthermore, developers of larger projects are asked to put in trails and screening in keeping with the rural feel.

- *Dust control.* A dust control plan is a requirement prior to pulling any permits. The dust control plan requires a lay out exactly how dust will be controlled. AVQMD has specific requirements on what needs to be included in the plan. Silverado is also working with the Resources Conservation District and their Dust Busters program to identify mitigation measures that would be effective in controlling dust, and prevent reoccurrence of failed efforts. The Commission cannot make the AVQMD regulations less than what is required; however, it has the authority to impose more stringent requirements, such as adding a condition for a paved access to the school.
- *Migratory birds corridor.* A wildlife corridor is an area that is connected to patches of habitat. There are not patches of habitat that this is connecting to. This does not mean that birds are not using the area or the project site; it simply means there is no established corridor connecting to isolated areas of habitat.
- *Trees.* The project sites are being required to be landscaped around the entire perimeter, at a height that screens the development and the fencing; the type of vegetation is not specified in the requirement.
- *Construction emissions.* The reason Site 2 has higher air emissions it was assumed for the air emission calculation that the roadway is unpaved; driving on that road would generate the PM10. As the project moves forward, it was not the case as previously calculated; air emission would be less. If there are projects in other jurisdictions smaller in size with less megawatts but with significant impacts, it may be due to the threshold established by the air district they are in; or it may be due to the extent of their project grading requirements and soil conditions; they are not comparable to the Silverado project. Chairman Vose pointed out that should the Commission decide there is no option relative to the paved access to this project, and base paving is provided on Avenue H in front of the school, then PM10 would be further reduced.
- *Additional biological surveys.* Chairman Vose asserted that, speaking from personal experience, additional costly study/analysis ultimately carry the same conclusion. He opined that the protocols as outlined by the California Department of Fish and Game (CDFG) are extensive and thorough. Since the issue of additional study was raised, he inquired what has failed in the preparation of the initial study. Jocelyn Swain responded no failure was done on the initial study. They did a literature search, maintained by F&G, which records/identifies occurrences of different species that had been reported to them. If a biologist is not reporting occurrences of certain species to F&G, then this information will not be in their database. It is a starting point providing researchers an idea of what has been identified in the area. A survey and mapping of the project site vegetation were conducted by biologists during optimal seasonal growth in the Antelope Valley. All species, both plant and animal, that were observed were listed. They made a recommendation based on their observation, under the assumption that the literature search contains list of species with suitable habitat. This is how all biological reports are done by the City; however, this does not mean there is no room for improvement.
- *Environmental assessment and risk management.* The risk of chemical contamination exists because of past farming. The projects sites were reviewed by a qualified Phase

I Environmental Assessment preparer that included historical aerial photograph reviews, site visits, review of databases, meeting with different entities, such as current and previous property owners, fire department, City permits, site walks to look for areas that would be environmental concern. A portion of the site is used for active agricultural uses, and there was no evidence that owner is improperly using any pesticides or chemicals on the project site; what is being used for the alfalfa farm is done in accordance with the district regulation. Based on aerial photos, the other portion of the site was being used in the past for agricultural purposes; again, there was no evidence of improper use of any pesticides or chemicals on project site. Additionally, there are no occupied structures proposed on the site. If pesticides or chemical had been previously used on the site, there is standard for remediation for placing occupied structures or commercial development on the site. The Phase I report referenced earlier is for the Wal-Mart project on 60th Street West and Avenue L for an occupied building. Chairman Vose stated that Phase II environmental reports were also conducted on a number of sites, and all results from Phase I and Phase II showed no detection of contaminants. Jocelyn Swain responded to Chairman Vose' question stating that there has been no evidence of contamination resulting from studies conducted by the Department of Toxic Substances Control (DTSC) on similar projects within the City.

- Chairman Vose cited that, though in a less than timely manner, the Commission received a correspondence from the California Department of Fish and Game (CDFG) on surveying techniques and policies and procedures relative to burrowing owl and Swainson hawk. He inquired whether the proposed conditions for this project meet the CDFG requirements. Jocelyn Swain noted the preconstruction surveys for burrowing owls are fairly standard, especially when none was found at the site. The Swainson hawk preconstruction survey will be done according to the Swainson hawk protocol as established by CDFG.

Vice Chair Hall shared that when he was young, he noticed Avenue I was built at a higher elevation. This was done because most of that area was surrounded by swamps, which has allowed the Antelope Valley to become a great agricultural area. However, 70 acres of agricultural area required pumping 500-acre feet of water per year to grow crops. Consequently, the water table continued to drop. With less farming due to the solar farms, perhaps the water table will go back up. The former drive-in theater on Avenue H was a swampy little area, water running from Palmdale to Lancaster, and the Westside of valley was quite a bit under water. Agriculture is a way of life; he does not want to see it nor the rural life disappear. Farming has quite an impact on the valley.

Commissioner Cook stated that she in support of solar projects, because it is important to become self-sustaining. The rising cost of power through Edison and pumping water out of the ground makes it less feasible for farmers to continue operating.

Chairman Vose unless there is clear evidence that the analysis done that impacts cannot be mitigated; has seen no evidence tonight impacts identified by experts is sustained by any real evidence from opponent of this project (laborers union) indicates that their own experts have not visited the community, leads him to believe that they are all not necessarily serious about the environmental impact, but instead more serious about what they can extract from the applicant.

Garrett Bean came forward to clarify that when the 850-page comments (by Lozear Drury, LLP, representing LIUNA Local Union No. 300) arrived two days before the public meeting, Silverado did some due diligence on their part to research into the facts presented, and many of the comments were unfounded, as follows:

- *Construction emission estimates are six times higher than Sol Orchards.* When looking at construction/particulate emissions, site must be taken for what it is. The Sol Orchards project is not in the Antelope Valley; it is in San Diego - different soil and completely different environment. Being a biologist himself, he finds this to be very unprofessional.
- In the Phase I environmental assessments being conducted, Silverado had a Professional Geologist (PG) that is experienced in this area to conduct the assessments. They looked for environmental releases, went out to the site, reviewed other cases, and conducted tests in the area. After completing an extensive investigation, it was determined that there was no impact; it was less than significant. This Phase I report was already reviewed by the Department of Toxic Substances Control, and came to the same conclusion. The biologist who prepared the 850 pages of comments has not even looked at the project sites or area, was pulling information from different resources from different sites from other counties, and presented conclusions that are unfounded.
- The requirements established by the AVAQMD are based on the Federal Standards and significance thresholds for public health. This is the study conducted to determine whether it exceeds the significance thresholds to establish that there is a significant impact. That is what was done; they looked at the road as unpaved in order to place a provision to pave one of the roads. This is the reason why the site is very low in particulate emission because the road is paved. The geologist for the union law firm came to a conclusion haphazardly without looking into the facts.
- *Laid-off and rehired.* This occurred during the first project due to LA County inspectors failing to address UL certifications for the panels. Workforce had been rehired to catch up and complete the project.
- *Future of solar throughout the AV.* Not all projects will be built. These projects come online at different times, and are working with the utilities company on a daily basis. Each project has different commercial online dates (COD) established as they work through obtaining PPA (Power Purchase Agreement) and connection requirements. It is difficult for many solar companies to obtain PPA without setting up a foundation, as Silverado did early on in the process. Many of Silverado's projects have PPAs; they are real projects, and asked that the Commission support them.
- *Safety a high priority.* In order to meet OSHA standards, construction workers are required to wear construction hard hats, hydrate themselves, and take proper breaks. Workers are wearing the equipment as personal protective equipment, to ensure safety hazard conditions are not present while working at the site. Necessary precautions are taken to ensure the safety of the children next to the construction sites.

- *Groundwater* is 180 feet below ground surface. Very little amount of regular uncontaminated water are used to wash the panels; amount used is low enough to reach only the ground surface. Non-hazardous materials are being used to clean the panels.

Chairman Vose posed whether the applicant would accept, should the condition be placed, to improve the frontage of school site for circulation as determined appropriate by City Engineer, and improvements on 100th Street West from Avenue I as point of access for this project. Garrett Bean stated they would accept those conditions. Any condition the Westside Union School District may pose is independent of those required by the City.

Garrett Bean introduced biologist Mike McEntee from Chambers Group (CG).

Mike McEntee commented that the City has a rigorous process to approve biological consultants, and CG has been on the list for a long time. They have performed biological services for housing during the construction boom, infrastructure and solar projects.. They are familiar with the biological regions within the City. He noted that the accusations in the 850-page document are disturbing.

Mike McEntee addressed Dr. Small's comment on mountain plover surveys. CG focuses on what is required by law when conducting biological surveys on a project site; for example, there are specific regulations for BLM land, and forest service land. On May 2011, the US Fish and Wildlife withdrew the proposed rule for mountain plover as threatened or endangered; for that reason focused survey for that species was not performed during winter time. Other than this issue, he believes all other comments related to biological issues had been addressed.

Chairman Vose brought up the comment on golden eagle. Mike McEntee cited that golden eagles are common on the northern side of the Antelope Valley; however, on this project site and within a 10-mile radius of the project, there is absence of the right cliff structures for nesting habitat. Therefore, this was not part of their analysis, and they did not perform focused helicopter surveys in search of this species.

Chairman Vose inquired about badgers. Mike McEntee responded that badgers are common in the area and are protected by CDFG regulations; however, they are not listed as threatened or endangered species. They did not encounter badger dens or burrowing owls burrows during the survey. Chairman Vose asserted that it is not impossible for burrowing owls to inhabit the site. Mike McEntee agreed that burrowing owls are most likely to inhabit the area; for this reason, pre-construction burrowing owl surveys will be performed on the project site. Chairman Vose inquired if there are any irrigation stand pipes on the sites. There are not many, however, when a field is not being used, the ground squirrels come in and burrowing owls colonize those areas.

Chairman Vose questioned Mike McEntee that should the Commission reject the initial study and mitigated negative declaration, and require an environmental impact report, if there additional studies or requirements that may have been overlooked. The expert biologist responded that they would repeat exact same study, as they would have expired due to the timeline to conduct an EIR. Mike McEntee responded to Chairman Vose' question stating that

based on his experience in this area, field conditions would not change in any way within that time period.

Chairman Vose closed the public hearing at 9:41 p.m.

Deputy City Attorney Joe Adams affirmed that each recommendation would be taken as separate actions. Chairman Vose cited that to add or amend conditions relation to street improvements on Avenue H and/or Avenue I, it would be to Resolution No. 12-23.

It was moved by Commissioner Harvey and seconded by Commissioner Smith to adopt Resolution No. 12-19 recommending to the City Council rescinding of Development Agreement No. 89-01 on the subject properties. Motion carried with the following vote (6-0-0-1):

AYES: Commissioners Cook, Harvey, Smith, Terracciano, Vice Chair Hall, and Chairman Vose.
NOES: None.
ABSTAIN: None.
ABSENT: Commissioner Malhi.

It was moved by Commissioner Harvey and seconded by Commissioner Cook to adopt Resolution No. 12-20 recommending to the City Council approval of General Plan Amendment No. 12-02 on the subject properties. Motion carried with the following vote (6-0-0-1):

AYES: Commissioners Cook, Harvey, Smith, Terracciano, Vice Chair Hall, and Chairman Vose.
NOES: None.
ABSTAIN: None.
ABSENT: Commissioner Malhi.

It was moved by Commissioner Harvey and seconded by Commissioner Smith to adopt Resolution No. 12-21 recommending to the City Council approval of Zone Change No. 12-02 on the subject properties. Motion carried with the following vote (6-0-0-1):

AYES: Commissioners Cook, Harvey, Smith, Terracciano, Vice Chair Hall, and Chairman Vose.
NOES: None.
ABSTAIN: None.
ABSENT: Commissioner Malhi.

It was moved by Vice Chair Hall and seconded by Commissioner Cook to adopt Resolution No. 12-22 approving Conditional Use Permit No. 12-08. The approval of CUP No. 12-08 is not valid until the effective date of General Plan Amendment No. 12-02 and Zone Change No. 12-02. Motion carried with the following vote (6-0-0-1):

- AYES: Commissioners Cook, Harvey, Smith, Terracciano, Vice Chair Hall, and Chairman Vose.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Commissioner Malhi.

Vice Chair Hall opened the discussion on the language for modifying the condition in reference to the school frontage. Michelle Cantrell asked for clarification as to the Commission's intent, whether it wishes paving to extend only to the side and/or to the front of the school. Chairman Vose asserted to the proposal of reasonable street improvements around the school site that would improve long-term traffic, circulation and impacts. Michelle Cantrell suggested working with the School District to determine existing circulation patterns, and posed that the language be modified giving her the authority to work with the School District and determine the appropriate pattern on a paved driveway. Chairman Vose noted that on the Condition No. 6 (Attachment to PC Resolution No. 12-23), related to dedication of right-of-way, language should be included for adequate improvements to Avenue H, from the intersection of 90th Street West to a point to be determined by the City Engineer and the School District. Deputy City Attorney Joe Adams recommended the condition be subject to the approval of the City Engineer, without subjecting the School District to take formal action. The City has no mechanism to compel the School District to act on this matter; therefore, approval should be by the City Engineer, with instruction to work with the School District.

It was moved by Vice Chair Hall and seconded by Commissioner Cook to adopt Resolution No. 12-23 approving Conditional Use Permit No. 12-09, with an amendment to provide adequate street improvements as determined by the City Engineer. The approval of CUP No. 12-09 is not valid until the effective date of General Plan Amendment No. 12-02 and Zone Change No. 12-02.

Commissioner Smith suggested the previously stated location (Avenue H at the intersection of 90th Street West to a point to be determined) for improvements be declared in the motion. Vice Chair Hall restated his motion to adopt Resolution No. 12-23 approving Conditional Use Permit No. 12-09, with an amendment to provide adequate street improvements to the school frontage to improve circulation, subject to the approval of the City Engineer. Motion seconded by Commissioner Cook.

Motion carried with the following vote (6-0-0-1):

- AYES: Commissioners Cook, Harvey, Smith, Terracciano, Vice Chair Hall, and Chairman Vose.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Commissioner Malhi.

Chairman Vose stated that actions on this item (No. 6) will be presented before the City Council for their consideration and approval. Brian Ludicke added this pertains to the first three

actions by the Commission; the actions on the Conditional Use Permits (Nos. 12-08 and 12-09) would only go before the City Council in the event of a formal appeal being filed.

CONTINUED PUBLIC HEARING

2. Residential Zones Update

Chairman Vose opened the continued public hearing at 9:53 p.m., to hear the comprehensive update of the Residential Zoning Ordinance in Title 17, Chapter 8 of the Lancaster Municipal Code.

It was moved by Commissioner Cook and seconded by Commissioner Harvey to continue Residential Zones Update to the October 15, 2012, Planning Commission Meeting. Motion carried with the following vote (6-0-0-1):

AYES: Commissioners Cook, Harvey, Smith, Terracciano, Vice Chair Hall, and Chairman Vose.
NOES: None.
ABSTAIN: None.
ABSENT: Commissioner Malhi.

Vice Chair Hall requested that the additional comments accepted by staff would be noted in the draft residential zones update for review.

DIRECTOR'S ANNOUNCEMENTS

None.

COMMISSION AGENDA

The Commission agreed to Brian Ludicke's recommendation to reschedule the meetings of January and February 2013, to January 28 and February 25, 2013, respectively due to the Martin Luther King, Jr., Day and President's Day holidays.

Brian Ludicke clarified that the October 8th study session at 5:30 p.m. is separate from the joint meeting at 6:30 p.m. The Planning Commission/Architectural and Design Commission will hold a Joint Special Meeting for the Southeast Transit Village Planning Area (STVPA) efforts at 6:30 p.m., on Monday, October 8, 2012, in the Emergency Operations Center (EOC).

Commissioner Smith commended Jocelyn Swain for her time and attendance at the Planning Commission Meeting on her birthday.

PUBLIC BUSINESS FROM THE FLOOR - NON-AGENDA ITEMS

None.

ADJOURNMENT

Chairman Vose declared the meeting adjourned at 9:59 p.m., to the Special Meeting for Agenda Review on Monday, October 8, 2012, at 5:30 p.m., in the Planning Conference Room, City Hall.

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster