

Alexandra Ladd, Growth Management Department Director  
Santa Fe County  
per email [aladd@santafecountynm.gov](mailto:aladd@santafecountynm.gov)

Regarding virtual public meeting October 22, 2024  
Santa Fe, October 25, 2024

Dear Mrs. Ladd,

I have five items I want to bring to your attention in relation to the virtual public meeting hosted by the County on Tuesday October 22, 2024.


The first thing is the time between the public's availability of the Staff's report and the time of the Hearing officer's meeting, see screen shot 1. Seventy-two hours will be too short. We as residents have the right to properly prepare ourselves for our public comments. An intervenor to the procedure will need even more time. What needs to be done to make Staff's report available at an earlier time?

County's shared content 100%

## Other CUP Process Questions

- **Does County staff make recommendations to the hearing officer in advance of the meeting? Does the public have access to these materials?**  
Staff's report will be available via the published agenda on the County's website 72 hours before the meeting and is fully accessible to the public. Staff's ultimate role is to determine whether the project is compliant with SLDC requirements, not whether the project "should" be approved. Staff will also recommend conditions of approval if the decision-making body approves the project. \*Staff is not making the decision!\*
- **Please identify members of the Technical Advisory Committee (TAC).**  
Staff from Building & Development Services, Planning, GIS, Fire Department, Utilities, Public Works, Sustainability, Affordable Housing, County Managers Office and Legal participate on the TAC Committee.

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Screen shot 1

My second question concerns screen shot 2, showing a slide presented by Staff, titled "Why is the proposed project considered a CUP?" The answer seems to be that in Rural Residential zoning this use (I assume referring to the proposed project as commercial solar) is eligible for a CUP. Consequently, the use matrix from the 2016 SLDC is mentioned as being consistent with this use, followed by "Rural Residential zoning allows for commercial use."

## Why is the proposed project considered a CUP?

The SLDC approved by the BCC (ordinance no. 2016-009) provides the framework for evaluating proposed land uses. Commercial solar is permissible under the SLDC as a Conditional Use Permit (CUP) which is why the CUP process has been followed. There are no alternative rules in effect to use.

In Rural Residential zoning this use is allowed as a CUP Under Appendix B – Use Matrix, page B-16 which identifies Commercial Solar and Energy production facilities in this zoning district. Rural Residential zoning allows for commercial use.

(As per correspondence from County Manager Greg Shaffer in a letter dated July 24, 2023.)



Screen shot 2

However, when looking at the use matrix, commercial solar is not allowed in Rural Residential zoning, see Table 1 adapted from the 2016 SLDC.

SUSTAINABLE LAND DEVELOPMENT CODE																			
Use	Function	Structure	Activity	Agriculture/ Horticulture	Rural	Rural Fringe	Rural Residential	Residential Fringe	Residential Estate	Residential Community	Traditional Community	Commercial Neighborhood	Special Use	Community General	Industrial General	Industrial Light	Public Institutional	Planned Development	Special Conditions
Commercial solar energy production facility				C	C	C	X	X	X	X	C	C	C	C	P	P	X	P	

Table 1: Adapted from the use matrix

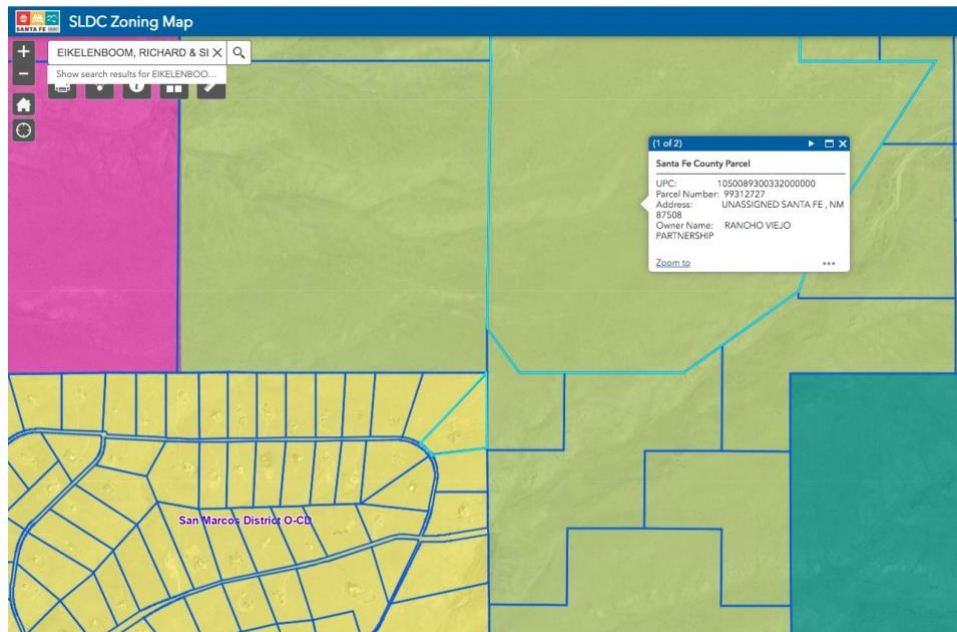
Can you please explain what made Staff conclude that Rural Residential zoning allows for commercial (solar) use?

My third issue is with the last paragraph of that slide. Staff refers to a letter from County Manager Greg Shaffer, as explanation for why the proposed project should be considered a CUP. I attached that letter as Exhibit 1. Nowhere in his letter is the term "Rural Residential" mentioned.

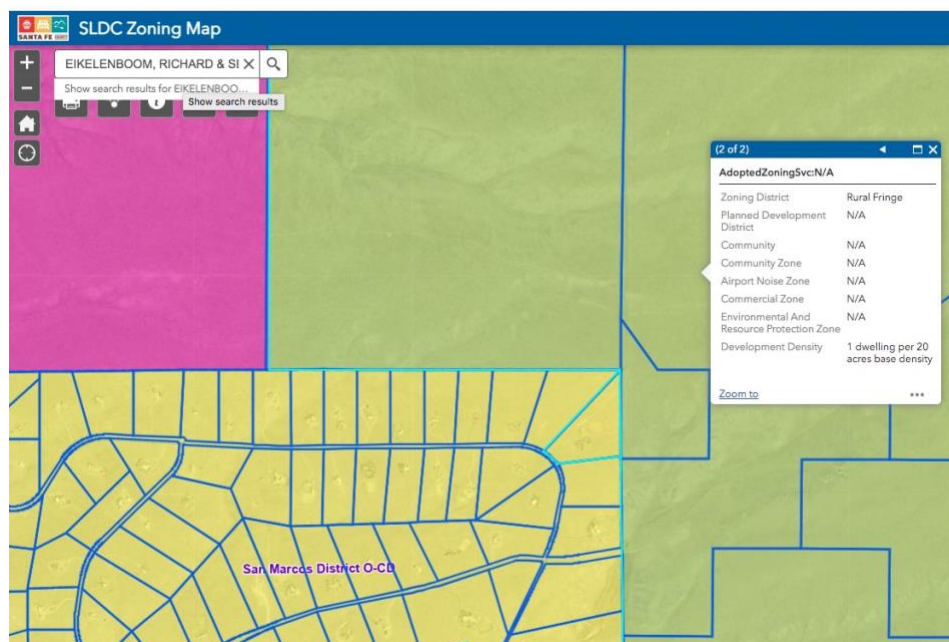
Can you please explain what this letter is doing in this context and why Staff allows incorrect information to be used to inform residents about procedures surrounding renewable energy?

My fourth issue is with the zoning of the proposed project. Figure 1 shows the location of the project, Figure 2 shows the zoning. As you can see, the zoning for the project is Rural Fringe.

<https://sfcomaps.santafecountynm.gov/mapsvc/apps/webappviewer/index.html?id=dea8fcef5092468883caf0d691852bcd>



**Figure 1: Location of the RVSP**



**Figure 2: Zoning for the RVSP**

Can you please explain what made Staff conclude that the zoning for this project is Rural Residential?

My fifth issue is with the eligibility for a CUP for the proposed project. Slide 1 of your presentation which mentioned large-scale solar, was the first time it was admitted we are dealing here with a utility scale electric power generation facility. Large-scale solar is a better fitting definition than the much more limited commercial solar definition.

It is not very credible to try to pass this project off as a commercial solar facility. Your remark, that you would rather face this project than a coal plant, was remarkably to the point. It was not inappropriate at all. The County would not permit a coal plant in this location and neither should they permit large-scale solar.

If we can agree that large scale solar, an electric power generation facility and the RVSP are all synonyms for the same sort of installation, you can see that, contrary to what was presented to the public during that meeting, such a facility is not eligible for a CUP permit in a Rural Fringe zone, see Table 2.

SUSTAINABLE LAND DEVELOPMENT CODE																			
Use	Function	Structure	Activity	Agriculture/ Ranching	Rural	Rural Fringe	Rural Residential	Residential Fringe	Residential Estate	Residential Community	Traditional Community	Commercial Neighborhood	Mixed Use	Commercial General	Industrial General	Industrial Light	Public Institutional	Planned Development	Special Conditions
Gas or electric power generation facility		6400		C	C	X	X	X	X	X	X	X	X	X	C	C	C	P	

Table 2: Adapted from the use matrix

I hope to receive answers to my questions and thank you for your time in this matter,

Sincerely,

Santa Fe, October 25, 2024



Dr. Selma Schievel MD PhD  
 President of the RO "New Mexicans for Responsible Renewable Energy"  
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 Santa Fe, NM 87508  
 303-548-5225  
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CC: Jordan Yutzy, Building and Development Manager, [jyutzy@santafecountynm.gov](mailto:jyutzy@santafecountynm.gov)



**Justin S. Greene**  
*Commissioner, District 1*

**Anna Hansen**  
*Commissioner, District 2*

**Camilla M. Bustamante**  
*Commissioner, District 3*



**Anna T. Hamilton**  
*Commissioner, District 4*

**Hank Hughes**  
*Commissioner, District 5*

**Gregory S. Shaffer**  
*County Manager*

July 24, 2023

**BY EMAIL AND REGULAR MAIL**

Dennis Kurtz, President  
The San Marcos Association  
PO Box 722  
Cerrillos NM 87010

RE: Commercial Solar Energy Production Facilities

Dear Mr. Kurtz:

I am writing in response to your January 3, 2023, letter to Santa Fe County (County) Commissioners and communications from other community members requesting that (1) the County impose a moratorium on commercial solar energy production facilities and (2) develop regulations to treat commercial solar energy production facilities as a Development of Countywide Impact (DCI) under Chapter 11 of the Sustainable Land Development Code (SLDC). Based on the following, County staff does not support these requests at this time.

First, there is no basis in existing County planning documents to treat commercial solar energy production facilities as a DCI. Neither the SLDC nor the Sustainable Growth Management Plan (SGMP) identifies this use as a potential DCI.

The SGMP has an entire element (Chapter 7) concerning renewable energy and energy efficiency premised on the following:

Energy sources which are not renewable, such as fossil fuels, are not only in limited supply but they contribute detrimentally to the environment, and adversely affect the sustainability of the economy. Greenhouse gas (GHG) emissions contribute greatly to climate change and its negative impact. The implementation of renewable energy and energy efficiency initiatives are vital to sustainability for the County. The SGMP sets forth policies to establish Santa Fe County as a model in the efficient production and use of renewable energy and energy self-reliance through the development of a local green workforce and renewable energy infrastructure.

Second, notwithstanding the above, the SLDC already goes into a significant detail regarding permissible, prohibited, and conditional use locations of commercial solar energy production facilities and contains safeguards to ensure that specific concerns with these facilities can be addressed in almost all instances. In those zoning districts where commercial solar energy production facilities are potentially allowed, they are, with limited

exceptions, a conditional use.<sup>1</sup> The approval criteria for conditional uses also ensure that general health, safety, and welfare concerns, as well as specific fire and other hazards, can be addressed, as follows:

**4.9.6.5. Approval Criteria.** CUPs [Conditional Use Permits] may only be approved if it is determined that the use for which the permit is requested will not:

1. be detrimental to the health, safety and general welfare of the area;
2. tend to create congestion in roads;
3. create a potential hazard for fire, panic, or other danger;
4. tend to overcrowd land and cause undue concentration of population;
5. interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
6. interfere with adequate light and air; and
7. be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the SLDC or SGMP.

In addition, the SLDC empowers the Planning Commission (and Board of County Commissioners on appeal) to “[i]mpose such reasonable standards, conditions, or mitigation requirements, in addition to any general standard specified in the SLDC or the SGMP, as the Planning Commission may deem necessary.” [SLDC, Section 4.9.6.6.]

County staff believes that these approval criteria and the authority of the Planning Commission and Board of County Commissioners (on appeal) to impose reasonable standards, conditions, or mitigation requirements are adequate to address any bona fide safety or other concerns related to approval criteria that may be demonstrated by competent evidence introduced at public hearings on conditional use permits.

Further, conditional use permits require hearings before the Hearing Officer and Planning Commission, as well as the Board of County Commissioners (if the Planning Commission’s decision is appealed to it). These hearings allow members of the public to both educate themselves concerning commercial solar energy production facilities as well as voice their concerns regarding such facilities.

The record created during the review and decision on conditional use permit applications for commercial solar energy production facilities could change County staff’s perspective. But, at this time, for the reasons stated above, County staff does not support

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<sup>1</sup> According to the use tables within the SLDC, there are already many areas where commercial solar energy production facilities are prohibited. The only zoning districts where commercial solar energy production facilities are a “permitted use” are Industrial General and Industrial Light (and, potentially, Planned Development Districts). Further, each community district has restrictions on where commercial solar energy production facilities may be located. As one example, commercial solar energy production facilities are not permissible within any zoning districts of the San Marcos Community District.

Dennis Kurtz  
July 24, 2023  
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either a moratorium on commercial solar energy production facilities or regulating such facilities as a DCI.

Thank you for your January 3 letter. Please do not hesitate to contact me should you wish to discuss County staff's views on these matters further.

Sincerely,

A handwritten signature in black ink, appearing to be 'G. Shaffer', with a long horizontal line extending to the right.

Gregory S. Shaffer  
County Manager

cc (by email):

Penny Ellis Green, Growth Management Department Director

Lisaida M. Archuleta, Growth Management Department Deputy Director