

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
Email: dennisdkurtz@gmail.com

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.¹ 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

¹ 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.

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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 read 'Gregory S. Shaffer', with a long horizontal stroke 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