



# Interoffice Memo

DATE: December 5, 2024

PHONE: 909-387-4110

FROM: **LUIS RODRIGUEZ, CONTRACT PLANNER III**  
Land Use Services Department

TO: Honorable Planning Commission

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**SUBJECT: AGENDA ITEM # 4: AMENDED CONDITIONS OF APPROVAL**

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The purpose of this Interoffice Memo is to inform the Planning Commission that the Conditions of Approval (Exhibit B) have been amended since the circulation of the Staff Report as follows:

1. Staff recommends the deletion of Condition Nos. 11, 30, 50, 53, 56, and 63 and amendments to Condition Nos. 10, 17, 39, 70 and 73 (as those conditions are listed in the Staff Report) mostly due to irrelevancy to the scope of the project as shown below:

**10 Development Impact Fees** - Status: Outstanding Per Development Code Section 84.29.040 (d), the developer of an approved commercial solar energy generation facility shall pay a Public Safety Services Impact Fee on an annual basis according to the prescribed schedule of 15 acres or greater at a rate of \$157.00 per acre. The total for this initial fee will be \$3,611.00 based on the project site of 23 acres. Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances, and the per acre annual impact fee shall be adjusted annually based on the Consumer Price Index for All Urban Consumers (CPI-U) for the Los Angeles-Riverside-Orange County, California area.

**Recommendation:** Amend this condition to reflect the annual adjustment of the Consumer Price Index.

**11 Condition Compliance** - Status: Outstanding

~~The project site, especially the solar panel structural undersides shall be adequately screened and buffered per § 83.02.060 Screening and Buffering. This Section provides standards for the screening and buffering of adjoining land uses, equipment, and outdoor storage areas, and surface parking areas. The project site shall comply with the following applicable requirements of this Section. (a) Screening Between Different Land Uses. (1) An opaque screen consisting of plant material, a minimum of ten feet in width, and six feet in height, shall be installed along parcel boundaries whenever a commercial, institutional or industrial development adjoins a residential land use zoning district. (2) The maximum height of fences shall comply with the provisions of Chapter 83.06 (Fences, Hedges, and Walls). (b) Mechanical Equipment, Loading Docks, and Refuse Areas. (1) Roof or ground mounted mechanical equipment (e.g., air conditioning, heating, ventilation ducts and exhaust, etc.), loading docks, refuse storage areas, and utility services shall be screened from public view from adjoining public streets and rights-of-way and surrounding area(s) zoned for residential or open space uses. (2) The method of screening shall be architecturally compatible with other on-site development in terms of colors, materials, and architectural style.~~

**Recommendation:** Delete this condition. Not required for other similar solar projects. Condition #71 addresses fence and screening issues.

**17 Underground Utilities** - Status: Outstanding

Unless waived as authorized below, no new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128 and avoids disturbing any existing/natural vegetation or the site appearance. Upon submittal of an approved California Public Utilities Commission General Order Exemption from the required undergrounding of the electrical supply per General Order 128, Section I, General Provision 15.1, the San Bernardino County Land Use Services Department will waive this condition. The applicant must also submit approved by Southern California Edison to connect overhead with transmission lines across National Trails Highway.

**Recommendation:** Amend this condition to include a waiver process in accordance with General Order 128.

**30 F70 Additional Requirements** - Status: Outstanding

~~In addition to the Fire requirements stated herein, other onsite and off-site improvements may be required which cannot be determined at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.~~

**Recommendation:** Delete this condition. Not required for other similar solar projects.

**39 (50 in revised COAs) Lighting Plans** - Status: Outstanding

~~The developer shall submit for review and approval to County Planning a photometric study demonstrating that the project light does not spill onto the adjacent properties, or public streets. Lighting fixtures shall be oriented and focused to the onsite location intended for illumination (e.g. walkways). Lighting shall be shielded away from adjacent sensitive uses, including the adjacent residential development, to minimize light spillover. The glare from any luminous source, including on-site lighting, shall not exceed 0.5 foot-candle at the property line. This shall be done to the satisfaction of County Planning, in coordination with County Building and Safety. Lighting shall comply with Table 83-7 "Shielding Requirements for Outdoor Lighting in the Mountain Region and Desert Region" of the County's Development Code (i.e. "Dark Sky" requirements). All lighting shall be limited to that necessary for maintenance activated and security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic. All signs proposed by this project shall only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, by direct stationary neon lighting or in the case of an approved electronic message center sign, an alternating message no more than once every five seconds.~~

**Recommendation:** Amend this condition to reflect new Dark Sky Ordinance provisions.

**50 (71 in revised COAs) Preliminary Acoustical Information** - Status: Outstanding

~~Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to the EHS for review and approval. For information and acoustical checklist, contact EHS at (800) 442-2283.~~

**Recommendation:** Delete this condition. A Noise Study was previously provided with CEQA technical studies. No further acoustic analysis is required.

**53** (74 in revised COAs) **Water and Sewer - LAFCO** - Status: Outstanding

~~Water and/or Sewer Service Provider Verification. Please provide verification that the parcel(s) associated with the project is/are within the jurisdiction of the water and/or sewer service provider. If the parcel(s) associated with the project is/are not within the boundaries of the water and/or sewer service provider, submit to EHS verification of Local Agency Formation Commission (LAFCO) approval of either: 1. Annexation of parcels into the jurisdiction of the water and/or sewer service provider; or, 2. Out-of-agency service agreement for service outside a water and/or sewer service provider's boundaries. Such agreement/contract is required to be reviewed and authorized by LAFCO pursuant to the provisions of Government Code Section 56133.~~

**Recommendation:** Delete this condition. No water or sewer connection is proposed for this project.

**56** (77 in revised COAs) **Water System Permit** - Status: Outstanding

~~A water system permit will be required and concurrently approved by the State Water Resources Control Board — Division of Drinking Water. Applicant shall submit preliminary technical report in accordance with California Health and Safety Code §116527(c) to EHS and the State Water Resources Control Board. Application must be approved prior to initiating construction of any water-related development. Source of water shall meet water quality and quantity standards. Test results, which show source meets water quality and quantity standards shall be submitted to the Division of Environmental Health Services (EHS). For information, contact the Water Section at (800) 442-2283 and SWRCB-DDW at (916) 449-5577.~~

**Recommendation:** Delete this condition. No water or sewer connection is proposed for this project.

**63** (84 in revised COAs) **F06 Inspection by Fire Department** - Status: Outstanding

Permission to occupy or use the building facility (Certification of Occupancy ~~or Shell Release~~) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".

**Recommendation:** Revise per Fire Department response to the requested deletion of this condition by the applicant. This will allow the Fire Department to perform final inspection to verify roadway widths, turnouts, etc.

**70** (96 in revised COAs) **Grading/Land Disturbance Condition** - Status: Outstanding

A Dust Control Plan shall be submitted and accepted by the County and Mojave Desert AQMD prior issuance of any construction related permits. The Plan shall include methods to stabilize and/or bind the soil as part of construction and operational activities, along with screening to reduce potential dust to the east ~~and south~~ consistent with Development Code Findings 84.29.035(22).

**Recommendation:** Amend this condition to delete reference to the "south" because no residences are adjacent to the project on the south side.

**73** (99 in revised COAs) **Issuance/Building Permit Condition** - Status: Outstanding

~~Fencing. Install a 6 to 8-foot fence with slats for buffering along the property perimeter boundary for screening of the foundation structures that support the solar panels. Additionally, per Development Code Section 84.29.050 Special Fence Standards, "chain-link fencing up to eight feet in height may be installed no closer than 15 feet from the right-of-way on streetside boundaries. Security devices such as razor-wire height extensions may only be directed inward to the property and may not extend beyond the property boundary to overhang the right-of-~~

way." Fencing. Install a 6 to 8-foot steel tube fence along the entire perimeter of the project with privacy slats installed along the easterly and southerly property boundary for screening of from public view.

**Recommendation:** Amend this condition to require buffering along the easterly and southerly property boundary and delete reference use of razor wire height extensions.

2. Add conditions from the Land Development Division that were inadvertently omitted and to re-number the existing Conditions of Approval as needed. The added conditions from the Land Development Division are listed as Condition Nos 31-36, 42-47, 56-65, and 86-90 as shown below:

**31 Additional Drainage Requirements** - Status: Outstanding In addition to drainage requirements stated herein, other "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.

**32 Erosion Control Installation** - Status: Outstanding Erosion control devices must be installed and maintained at all perimeter openings and slopes throughout the construction of the project. No sediment is to leave the job site.

**33 Joshua Trees** - Status: Outstanding Any land disturbance shall be kept at least 40 feet away from any Joshua tree in order for the design to be acceptable. If the proposed land disturbance is within 40 feet of a Joshua tree, then the applicant will need to submit a survey by a licensed arborist to verify that the proposed design will not detrimentally affect the tree. For all applications, plot plans must show the location of all Joshua trees on a parcel.  
<http://www.sbcounty.gov/Uploads/LUS/BandS/Handouts/IB-0016.pdf>

**34 Natural Drainage** - Status: Outstanding The natural drainage courses traversing the site shall not be occupied or obstructed.

**35 Project Specific Conditions** - Status: Outstanding Endangered Desert Plants. Compliance with Desert Native Plants Act. Removal actions of all plants protected or regulated by the Desert Native Plants Act (Food and Agricultural Code §§ 80001 et seq.) shall comply with the provisions of the Act before the issuance of a development permit or approval of a land use application. Provide a plant protection plan or removal plan prepared by a licensed biologist to be approved by the County LUS. Per the County General Plan Environmental Impact Report, provide a biological report and associated plan (uploaded as a separate attachment in the EZOP record) that shows any protected species including plant species with stems two inches or greater in diameter or six feet or greater in height including but not limited to those listed in: § 88.01.060 Desert Native Plant Protection. See related links: <https://countywideplan.com/resources/document-download/>  
[https://countywideplan.com/wpcontent/uploads/sites/68/2021/01/CWP\\_PolicyPlan\\_HardCopy\\_MainText\\_Table\\_s\\_2022\\_Sept\\_Adopted.pdf?x23421](https://countywideplan.com/wpcontent/uploads/sites/68/2021/01/CWP_PolicyPlan_HardCopy_MainText_Table_s_2022_Sept_Adopted.pdf?x23421)  
[https://codelibrary.amlegal.com/codes/sanbernardino/latest/sanberncty\\_ca/0-0-0-175924](https://codelibrary.amlegal.com/codes/sanbernardino/latest/sanberncty_ca/0-0-0-175924)

**36 Tributary Drainage** - Status: Outstanding Adequate provisions should be made to intercept and conduct the tributary off-site and on-site 100-year drainage flows around and through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed. The project site shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions.

**42 FEMA Flood Zone** - Status: Outstanding The project is located within Flood Zone D according to FEMA Panel Number 06071C4500J dated 9/2/2016. Flood hazards are undetermined in this area, but they are still possible. However, part of the site is located within a flood hazard area for the 100-year floodplain shown on the

Awareness Maps prepared by the California Department of Water Resources (DWR). Awareness floodplains identify the 100-year flood hazard areas using approximate assessment procedures. These floodplains will be shown simply as flood prone areas without specific depths and other flood hazard data. The requirements may change based on the recommendations of a drainage study accepted by the Land Development Division and the most current Flood Map prior to issuance of grading permit.

**43 NPDES Permit** - Status: Outstanding An NPDES permit - Notice of Intent (NOI) - is required on all grading of one (1) acre or more prior to issuance of a grading/construction permit. Contact your Regional Water Quality Control Board for specifics. [www.swrcb.ca.gov](http://www.swrcb.ca.gov)

**44 Regional Board Permit** - Status: Outstanding Construction projects involving one or more acres must be accompanied by Regional Board permit WDID #. Construction activity includes clearing, grading, or excavation that results in the disturbance of at least one (1) acre of land total.

**45 Drainage Improvements** - Status: Outstanding A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site 100-year drainage flows around and through the site in a safe manner that will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$750 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.

**46 Grading Plans** - Status: Outstanding Grading and erosion control plans shall be prepared in accordance with the County's guidance documents (which can be found here: <https://lus.sbcounty.gov/land-development-home/grading-and-erosion-control/>) and submitted for review with approval obtained prior to construction. All drainage and WQMP improvements shall be shown on the grading plans according to the approved final drainage study and WQMP reports. Fees for grading plans will be collected upon submittal to the Land Development Division and are determined based on the amounts of cubic yards of cut and fill. Fee amounts are subject to change in accordance with the latest approved fee schedule.

**47 Streambed Alteration Agreement** - Status: Outstanding California Department of Fish and Wildlife (CDFW) must be notified per Fish and Game Code (FGC) §1602. A streambed alteration agreement shall be provided prior to Grading permit issuance. Link to CDFW website at: <https://www.wildlife.ca.gov/Conservation/LSA>.

**56 Construction Permits** - Status: Outstanding Prior to installation of road and drainage improvements, a construction permit is required from the County Department of Public Works, Permits/Operations Support Division, Transportation Permits Section (909) 387-1863 as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.

**57 Encroachment Permits** - Status: Outstanding Prior to installation of driveways, sidewalks, etc., an encroachment permit is required from the County Department of Public Works, Permits/Operations Support Division, Transportation Permits Section (909) 387-1863 as well as other agencies prior to work within their jurisdiction.

**58 Road Dedication/Improvements** - Status: Outstanding The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE) licensed in the State of California: National Trails Hwy (Major Highway – 104 feet) • Road Dedication. A 12-foot grant of easement is required to provide a half-width right-of-way of 52 feet, a 50-foot radius return grant of easement is required at the intersection of National Trails Hwy and Corral Road, and a 50-foot radius return grant of easement is required at the intersection of

National Trails Hwy and Southerly Property Line. Southerly Property Line (Quarter Sectional Line – 88 feet) • Road Dedication. A 44-foot grant of easement is required to provide a half-width right-of-way of 44 feet, and a 50-foot radius return grant of easement is required at the intersection of Southerly Property Line and Westerly Property Line. Westerly Property Line (Quarter Sectional Line – 88 feet) • Road Dedication. A 44-foot grant of easement is required to provide a half-width right-of-way of 44 feet. Corral Road (Quarter Sectional Line – 88 feet) • Road Dedication. A 44-foot grant of easement is required to provide a half-width right-of-way of 44 feet, and a 50-foot radius return grant of easement is required at the intersection of National Trails Hwy and Corral Road (Easterly Property Line). • Paved Access Road. This project is required to have a minimum 26-foot wide paved access road within 40-foot of right-of-way and designed to County Standard 114b that ties into a maintained paved public road. • Driveway Approach. Design driveway approach per County Standard 129a and located per County Standard 130. • Cul-de-sac Design. The proposed cul-de-sac shall be designed to County Standard 120.

**59 Road Standards and Design** - Status: Outstanding All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. Road sections shall be designed to Desert Road Standards of San Bernardino County and to the policies and requirements of the County Department of Public Works and in accordance with the General Plan, Circulation Element.

**60 Slope Easements** - Status: Outstanding Slope rights shall be dedicated where necessary.

**61 Slope Tests** - Status: Outstanding Slope stability tests are required for road cuts or road fills per recommendations of the Geotechnical Engineer to the satisfaction of the County Department of Public Works.

**62 Soils Testing** - Status: Outstanding Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to the County and a written report shall be submitted to the Permits/Operations Support Division, Transportation Permits Section of the County Department of Public Works prior to any placement of base materials and/or paving.

**63 Street Gradients** - Status: Outstanding Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of the County Department of Public Works confirming the adequacy of the grade.

**64 Transitional Improvements** - Status: Outstanding Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing sections shall be required as necessary.

**65 Utilities.** - Status: Outstanding Final plans and profiles shall indicate the location of any existing utility facility or utility pole which would affect construction, and any such utility shall be relocated as necessary without cost to the County.

**86 Drainage Improvements** - Status: Outstanding All required drainage improvements shall be completed by the applicant. The private Registered Civil Engineer (RCE) shall inspect improvements outside the County right-of-way and certify that these improvements have been completed according to the approved plans. Certification letter shall be submitted to Land Development.

**87 LDD Requirements** - Status: Outstanding All LDD requirements shall be completed by the applicant prior to occupancy.

**88 Private Roads/Improvements** - Status: Outstanding Prior to occupancy, all required on-site and off-site improvements shall be completed by the applicant. Construction of private roads and private road related

drainage improvements shall be inspected and certified by the engineer. Certification shall be submitted to Land Development by the engineer identifying all supporting engineering criteria.

**89 Road Improvements** - Status: Outstanding All required on-site and off-site improvements shall be completed by the applicant and inspected/approved by the County Department of Public Works.

**90 Structural Section Testing** - Status: Outstanding A thorough evaluation of the structural road section, to also include parkway improvements, from a qualified materials engineer shall be submitted to the County Department of Public Works.

The conditions have been updated as shown above and re-numbered accordingly. A copy of the updated conditions is attached for your consideration.

Attachment:

1. Conditions of approval