MEETING MINUTES OF
THE CITY OF ELOY
PLANNING AND ZONING COMMISSION
Special Meeting
Wednesday, May 3, 2023
6:00 p.m.

I. CALL TO ORDER

Chairperson Paulson called the meeting to order at 6:00 p.m.

II. ROLL CALL

*One or more members of the Planning and Zoning Commission may attend by telephonic means.

Members present:
- Chairperson Steven Paulson
- Vice-Chairperson Conrad Tolson
- Commissioner Edward Sauceda
- Commissioner Allen Crawford
- Ex-Officio Sara Curtis

Members Absent:

- Alternate Commissioner Kathryn Meyers (Excused Absence)
- Commissioner Larry Brown (Excused Absence)

Staff present:
- Jon Vlaming, Community Development Director
- Belinda Cota, Planner
- Jeff Fairman, Economic Manager
- David Malewitz, City Manager
- Matt Rencher, Public Works Director/City Engineer
- Stephen Cooper, City Attorney

Others present/speakers:

- Micah Powell, City Mayor
- Daniel Snyder, Vice-Mayor
- Jose Garcia, City Council
- Kelly Weddle, Eloy Fire Chief
- Rob Jarvis, Eloy Fire District Division Chief
- Court Rich, Rose Law Group

- Tom Lozzi, Property Owner,
- Jake Painter, NextEra
- Philip Potfen, NextEra
- Ashley Campbell, NextEra
- Jackie Rich, TES
- Ty LeSueur, Property Owner
- Elijah Cardon, Property Owner
- Laura Shepley, Property Owner
- Ken Reycraft, Insight Land and Investments
- Kirk McCarville, Arizona Land Advisors

III. INVOCATION

Chairperson Paulson led the Invocation and requested a moment of silence.

IV. PLEDGE OF ALLEGIANCE

Chairperson Paulson led the recitation of the Pledge of Allegiance.

V. PUBLIC APPEARANCES

None.

VI. MOTION TO APPROVE THE JANUARY 18, 2023 MEETING MINUTES OF THE PLANNING AND ZONING COMMISSION.

Chairperson Paulson asked for a motion to approve the meeting minutes of the Planning and Zoning Commission. Vice-chairperson Tolson made a motion to approve the January 18, 2023 meeting minutes as presented. Commissioner Crawford seconded the motion as presented. The motion was approved with a vote 4-0.

VII. OLD BUSINESS: POSSIBLE DISCUSSION AND/OR ACTION ON THE FOLLOWING:

None.

VIII. NEW BUSINESS: POSSIBLE DISCUSSION AND/OR ACTION ON THE FOLLOWING:

A. CONDUCT A PUBLIC HEARING FOR A STAFF INITIATED REQUEST TO AMMEND THE ELOY CITY CODE, CHAPTER 21-ZONING: ARTICLE II. SECTION 21-2-1 ZONING DISTRICT AND MAP ESTABLISHED, ADD SOLAR GENERATING AND STORAGE FACILITY TO THE OVERLAY ZONING DISTRICT; ARTICLE II. SECTION 21-2-7 OVERLAY ZONING DISTRICTS BY ADDING SECTION 21-2-8 SOLAR GENERATING AND STORAGE FACILITIES; ARTICLE III. SECTION 21-3-1.39 SUPPLEMENTAL USE STANDARDS-SOLAR GENERATION FACILITIES;

ARTICLE IX. SECTION 21-9-1 DEFINITIONS; ARTICLE IX. SECTION 21-9-2 ACRONYMS; AND AMEND CITY'S OFFICIAL ZONING MAP TO ADD THE SOLAR GENERATING AND STORAGE FACILITY OVERLAY AND ITS DESIGNATED AREA. LETTERS RECEIVED BY THE CITY RELATED TO THIS CASE HAVE BEEN INCLUDED AS ATTACHMENTS FOR THE PUBLIC RECORD (CASE NO.: TA2023-006).

Chairperson Paulson Opened up the Public Hearing.

Mr. Vlaming introduced himself and informed everyone that the meeting was being recorded and was live and that there were copies of the agenda available at the entrance and began with a PowerPoint presentation with an overview of the proposed Zoning Map Amendments: Utility Scale Solar Generation Buffer/Utility Scale Solar Overlay/Utility Scale Expansion. The solar buffer distance map was showed and it revolved on why the City has taken a pause to have a community conversation about utility scale solar and how close solar should be located to Interstate 10 (I-10). He noted the map has a series of five (5) alternative buffer locations (identified in color and with a distance setback from the south side of I-10). There are also projects identified as "A", "C," "D," and "E" with project B being voluntarily removed by the applicant, and those projects are identified as proposed. There is also a proposed gateway corridor as the General Plan identifies an original corridor that would extend south from the existing interchange at State Route 87 (SR-87) as well as another corridor that also continues south from the future North/South Freeway/Interstate 10 intersection. Those future interchanges on those regional corridors provide an opportunity to establish gateways and additional setbacks and are identified in the draft amendment text. City Staff is recommending Alternative "B" which would allow for a bump out around the existing interchanges and a static 2,600 foot distance from the south side of the Interstate 10 Right-Of-Way (showed as the red dotted version). Alternative "D" would include most of portions of project "A" and it carves out a certain amount of the project, as it is within the 2,600 foot distance area. Alternative "C" includes all of project "A" within its boundary. Alternative "B" is a static 1,200 feet distance all the way across the south side of Interstate 10 and lastly, Alternative A, which identifies a zero foot distance from Interstate 10. Mr. Vlaming explained the intent of the buffer is to limit utility scale solar to allow economic development to expand future commercial, industrial and high density residential development, as Staff believes these lands will develop in the near future. Mr. Vlaming commented he was there to answer any questions about the buffer.

Mr. Court Rich, Rose Law Group, commented about the one project that is impacted by this buffer and that is Project "A", which is unfortunate as we are talking about one project and typical development does not work in half circles as noted on the map, but should relate to property line boundaries. He indicated that the quarter mile is sufficient and will protect the City and the development interests. He then showed some pictures that were taken at a quarter (1/4) of a mile away in Pinal County off of Highway 287 and Eleven Mile Corner Road. He indicated that one can barely see the solar panels, so he thought that there is not going to be a visual impact at that distance. He continued that the developer for Project "A" has been working with the City for a couple of years now and has spent over a million dollars preparing their project to come forward with an application to be considered by the Commission and the City Council. He added that the City should let them go through the zoning process and if the appointed and elected officials do not like the project, they can say no or they can say fix it. But, he continued, the idea that the City would give part of “A”, or most of “A”. He noted that it is like having part of your house or most of your house. There is no project with part of “A” or most of “A”. Mr. Rich indicated that he would leave the podium in the interest of time with the plea to allow these folks to work in good faith, based on the number of years they have invested and finish the process. He indicated that his client would propose picking Alternative “C”, or Alternative “B”, which both preserve proposed Project “A”. He then handed out two exhibits.

Mr. Tom Lozzi, introduced himself and said he is the property owner of proposed Project “A”, and the land that this buffer is affecting is his. He said it is hard to put 15 years in 3 minutes. He continued that he has owned the property for 15 years and has been trying to bring development to this area and has now been working with Savion for three years. He continued that he wants to develop solar on his property and asked everyone to please support Project “A.” Mr. Lozzi went on that he walked the property and said there are hundreds of acres. He added that Mr. Vlaming is optimistic, but he said he has spent millions of dollars on this property and he wants to move forward with solar. He added that if people want to farm their property wonderful, God bless them, but if the City has all the infrastructure on the north of I-10 and people want to build wonderful-but he wants to do solar on his property. He added that he has been at this for fifteen years in the making. Now all of the sudden, he continued, there are lines and no one is being impacted- yet he is being singled out. He added that he has been economically damaged, the property has been economically damaged and he is asking all of those present to look at the buffer alternative that Mr. Vlaming zig-zagged, as it would keep all of Project “A” there. He added he has invested a tremendous amount of money on this property, there is nothing going on, if people want to come along and build houses, there are thousands of acres all over the place to build them. But he is asking for support. He closed with the fact that he has spent a lot of time energy and effort and thanked the crowd very much.

Mr. Kirk McCarville introduced himself and commented that he submitted a letter for the record. He noted that he has been doing economic development for many years and that the only development he has seen are those developments at the interchanges where, at great expense, they were able to get utilities and added there will be no other development south of the Interstate 10 Freeway for a number of reasons. He pointed out that the City has identified future growth areas on the north side of the freeway where the infrastructure exists. He added that they should pay attention to the City’s document. He commented there is only one industry that can locate to the south of Interstate 10 that does not require the building of roads, power lines, and sewer. And, he continued that for every acre that is put into solar, the taxable income increases from fifty dollars per acre to a thousand dollars per acre. He noted it is a fact, and can be seen on the property tax receipt for the solar plants that are located within the Eloy city limits. He continued that the problem is a lot of those taxes go to the Casa Grande High School and Casa Grande Elementary School Districts because the projects are on the west side of Eleven Mile Corner Road (per School District boundaries) and anything south of the freeway (I-10) all of the taxable income would go to the Eloy school districts, which sorely need it, he said. He heard that very little property tax money is captured by the

City-only about 6 % to 8% and 70% goes to the schools-Eloy Elementary, Eloy Junior High, Eloy High School, Flood Control District, the Eloy Fire District. He noted that these proceeds represent massive cash flows- with no expense on the City's part. He followed with the notion that if these solar industries were coming to other communities, they would be rolling out the red carpet and not trying to put a planning and zoning overlay in place that is unnecessary. He finished with the City already has all the regulations it needs, people just need to come here. Lastly, he said that this whole exercise is a waste of time and damaging to the City-the only industry that can locate south of the freeway is solar-this is a classic mistake and should be stopped.

Mr. Ken Reycraft, represents TES Farm's two-thousand acres in Eloy. He and others had a meeting with the City several months ago with regards to the Sunland Gin interchange. As a result of that meeting they were told, they would need to build a waste water treatment facility in order to flush the toilets and develop their property. His client also owns the five-hundred and sixty acres at Toltec Road and I-10 with a similar situation- no utilities. He believes that any development that occurs south of I-10 today would involve a huge expense to any developer. He also thinks that solar would be a good interim use. He thought that after the solar has run its course, the City would be building houses and would be in a better financial position to build the infrastructure needed to serve future development. He noted that the red line for Project "E" is an arbitrary line and it only hurts those property owners at those interchanges.

Ty LeSueur (with LeSueur Investments and also represents Cardon Hyatt Companies and Cardon Bowden Investments) stated they are property owners in Eloy and own about five thousand acres, with most of it located south of the I-10 freeway including the proposed project Daybreak at Picacho, pecan farms and several other farms in that area. He indicated that the first parcel they purchased was more than 20 years ago. Over the past twenty years, they have had many opportunities as the City of Eloy has proceeded through the General Plan Amendment update, small area transportation planning, and wastewater master planning, water master planning, and flood control district planning. He continued that they have had several opportunities to come in and participate as stakeholders through the planning process and commented that this process seems a little bit different. The solar ordinance and map being adopted, has occurred without their input, but they wanted to show up at this meeting and wanted to express their concern that stakeholders, the individuals that are impacted by this decision have not had an opportunity to come down and try and help put together a plan that does not negatively and economically impact the properties that are being planned. He stated that it would be his recommendation to the Planning & Zoning Commission to slow the process down and not move forward with adopting any of the items that are on the agenda tonight. He stated that a stakeholder group should be convened to really make an effort to understand what the property owners would like to see and how they would like the property planned. He just wanted to reiterate the point to allow them to be part of the process and commented they have been involved in other solar projects in the City of Coolidge, Town of Florence and City of Casa Grande area. He stated that what they have seen is that not every solar project that is proposed is constructed in these areas. It appeared to him, that the City is looking to make decisions that may be a little short sighted, based on proposed solar projects rather than looking further out in order to prepare an ordinance that would guide projects that may or may not come to fruition. The idea of a stakeholders group is to understand all of the impacts before a decision is made would be much appreciated. He reiterated they are not in favor of adopting this map or the proposed text.

Commission Crawford asked how is his property going to be negatively impacted.

Mr. LeSueur responded, currently by restricting the type of uses that can occur on these properties would negatively impact their ability to plan for the future. He continued that this proposed ordinance would restrict uses on land, which is the way they would like to plan it.

Mr. Vlaming asked to Mr. LeSueur if Mr. Lozzi or Savion had reached out to him, as it does not sound like they have yet.

Mr. LeSueur responded that Savion reached out to them and had some discussions as they are the owners of the pecan tree farm and to determine if a buffer would minimize any negative impact to trees that have been there for fifty years. He indicated that Project "A" is approximately 60-80 feet from their pecan trees.

Mr. Vlaming asked how long have those discussions been going on.

Mr. LeSueur responded in the last two weeks.

Mr. Vlaming thanked him and asked which alternative he would prefer.

Mr. LeSueur responded they have not had time to review and scrutinize the plan. He commented they have the property at I-10 and Highway-87, where the Barrett Road interchange is located, and wanted to understand how this would impact the future roadway, so they would have to spend some time learning that. He continued that they are less concerned for the buffer on I-10 and more interested in determining an appropriate buffer to ensure the solar panels would not have a negative impact on their nut orchard. That would be their primary concern and secondarily, to understand the conditions, if a solar project is approved. He was wondering what would be left if they decided to look for a different type of development other than solar use. He finished with the fact that the idea of a chain link fence being proposed may or may not be the best approach for future development.

Jake Painter with NextEra (Ocean side, CA) stated that the idea of residential or industrial data centers will not all occur and commented that his firm competes against those business. He continued that they are not competing here, but they are interested in being in this place at this time. He added that a lot of the owners are glad to see them come in because they had plans to have communities develop, and these plans did not take off. He added that about 20% of solar projects actually get built, so right now the City lost Project "B" and further down the line it is killing the NextEra project. So he continued, 50% of the project is already gone and commented he is not sure how City Staff came up with picking 50% of the projects, but he added, they do it for a living and they are right 25% of the time. They do not want to be in the business of picking winners because that is difficult.

Philip Potfen with EDF Renewables, Project "E" (on the latest map) stated that the City took 50 plus acres where he paid good money. He indicated that they would like that back in (added to the map) as they have way of using it and would like to keep it if they could. He commented on the written section that identified the physical impact. Their desire is to have a conventional master plan/residential community developed that is the kind that everyone in Arizona seems to want. He said they are not exactly in an economic upturn here. He pointed out that he will be paying increased property taxes (maybe not as much as individual homes) but they will be paying a lot of money. The vast portion of the taxes is allocated toward the schools, County and City. However, he noted, one would want to also quantify the lack of services each project would be putting on the City in exchange for increased taxes. One would not have to bring water lines to the project, or sewer, and with minimal or no police service, no one calling about loud parties or things like that or people fighting with each other and the police having to come out. All the tax money going to the school is not generating any students and all of that has to be weighed together. He went on that this is the here and now. He wanted to echo a comment made by Mr. LeSueur "I have been on both sides of this and none of these get built". They do not get built unless there is a power purchase agreement executed. He added that sometimes the project is on in the winning side and sometimes it's on the losing side. He brought up several issues that they would like the City to work on: water rights that go with the property to disappear (Chairperson Paulson commented that it will be part of the second portion of the agenda item).

Vice-chairperson Tolson asked about the 50 plus acres that were removed. Mr. Philip Potfen responded they do own the additional acreage and would like the City to include them. Vice-chairperson Tolson asked Mr. Vlaming what the owner can do with his property. Mr. Vlaming responded it represents the historical pattern that was approved and adopted by the City Council many years ago and the project represents half or fifty percent of that acreage, the southern portion of the property is not interested in solar at this time. Staff is trying to maintain continuity with these projects and wants the projects to have contiguity and not be like a "checkerboard". Mr. Vlaming said one other option is to acquire the other thirty acres and make it "whole". But, he continued, this is just a recommendation on the table and there is a little ways to go. Vice-chairperson Tolson asked if the northwest corner cannot be solar, Mr. Philip Potfen responded that they have leased forty (40) acres and own ten point six (10.6) acres. Vice-chairperson Tolson asked if they could do something. Mr. Vlaming responded this property, like many others, has been annexed, entitled, master planned. He continued that many of these properties have development agreements that have sat idle for twenty years. Having set that the path of growth is in this direction, development is coming. He finished that the fifteen (15) years that Mr. Lozzi is talking about, that is in the past, we are going to be looking at a new day in Eloy. Growth is coming and is not going to be data centers.

Mrs. Jackie Rich, administrative partner of TES Farms in Phoenix, Arizona (and is not related to Mr. Court Rich). They own eighteen-hundred (1,800) acres of vacant land that is for sale in Eloy. All of the land has been around for the last sixty (60) years and their property is tied to Eloy's prosperity. Mrs. Rich commented that they know that Eloy lacks sufficient water on all of the vacant properties. Restricting where the solar facilities can be built by establishing buffers is going to doom some properties to be vacant and unusable if they cannot get water. She is concerned that it could be their property which is in the cut-out areas recommended by Alternative “E”. She continued that they own property near Sunland Gin Road, and near Toltec which are being cut out by the proposed buffer. If this happens, and they end up with vacant land, they are not going to enjoy paying property taxes forever which it feels like they already have-which would restrict Eloy’s productive tax base. She said that they have their fingers crossed that the Department of Water Resources would give Eloy more water and then they would be able to develop the areas that she is talking about and others, but they would have the time to get buffers in place, but not now when there is not enough water to go around. She also said that they have concerns about the cut-out along Toltec Road as they have received inquiries of solar and they know it has solar potential. She added she attended another meeting and spoke and wrote another letter. She noted that there has not been many other solar applicants that are large owners come to the City and thought she was the only one. She continued that she only found out about the meeting by sheer luck. She also expressed that she is concerned that there has not been a lot of outreach. She said, as Mr. LeSueur had mentioned, there should be more of a planning process that would involve more people-she would completely support that. She urged the Commission to not make a recommendation tonight as they do not have all the information about water, or enough representatives from the public to give feedback. She also commented that if the Commission moves forward with an alternative tonight, to move ahead with the most flexible and least restrictive approach, would be Alternative “A.”

Chairperson Paulson asked if there was anyone who wanted to discuss any other comments about the Utility Scale Solar Generation Buffer/Utility Scale Solar Overlay/Utility Scale Expansion.

Mr. Court Rich asked if he could add an additional comment to Mr. LeSueur’s comment as a neighbor to Project “A”. H indicated that it is important and have talked to him in person and wanted to make sure that those types of issues are always addressed with any project that is developing next to another use and those issues can be worked through the rezoning process. He knows his client would be committed to work with them.

Mr. Vlaming made a couple of comments. If the Commission was to make a recommendation for buffer Alternative E, Project “A” which has approximately 1,645 acres, would leave it to an 880 acre project for solar, basically 50% of the project would still be available for solar. There would be a buffer between Project “A” and Mr. LeSueur’s property. He noted that in terms of Mr. LeSueur’s property-not all of his property is annexed in the City, a portion is located within unincorporated Pinal County and a portion is in the City-just for the record. He continued, in terms of Mr. McCarville’s comments, he talked about the High School boundary, that is on Eleven Mile Corner Road but it ends on Phillips Road and then turns west. He added, so the balance of those projects with regards to taxes for the school, it is a fifty-fifty split. In terms of the notifications that this project or that this community conversation is new, Staff has been holding meetings with the Commission and City Council since early February 2023, those meetings have been publicly notified and have been videotaped just like it is being videotaped tonight. He continued that they have been talking to the community for a while and would be happy to continue the conversation but for the record this item did not just appear. When we talked about solar uses, we are not talking about just in the interim. People think the interim is a short term use, but at a minimum this solar uses will extend 25 to 30 years in the first phase, and the second phase would be in addition to that. So when you look at the timeframe, you have to look at a longer view of where we are at now and where we are going. So from that standpoint, when we have a 25 to 30 year window, we should be protecting and saving our corners at those interchanges. Mr. Vlaming also commented he has had conversations with developers adjacent to Toltec Road for conventional development and continue to have those conversations for economic development interests. He reiterated those areas with proximity to the interchanges represent opportunities for conventional development that would generate higher taxes than these would with solar. He finished with this is something to consider as to how we are looking at this.

Mr. Court Rich had an additional comment to add that half of a house is not a house. Why, he noted, if you make Project “A” smaller, you would still have 800 acres. But if you go through the process of developing a utility scale solar project, one has to apply for interconnection identifying the project size. He added that they have already done that, and cannot change that size. He noted that they have been through a Request For Proposal with utilities showing a project with a certain size. If the project gets cut in half, there is no project. There is a reason behind why Mr. Rich said that. He mentioned he distributed to the City Council previously economic studies that were completed for Project “E” and “A”. Between those projects alone, there are twenty-six million dollars of revenue to the Santa Cruz School District. He thanked the Commission for the opportunity to speak.

Chairperson Paulson asked if anyone had any comment on the proposed buffer on the map. Vice-Chairperson asked about the inset on Map 1 for the proposed boundaries for Project “A” would were marked in yellow. Mr. Vlaming responded yes, that would be approximately 6,500 acres.

Mr. Vlaming moved to a 2nd map, with areas with constructed and designed solar projects to the north. He indicated that those areas are within the City of Eloy and those outside the perimeter are located outside Eloy city limits, in other jurisdictions. There are three projects to the north that have been planned and approved and two have been developed. There is a project to the south, which is NextEra with 320 acres that has been approved for Solar Generating and includes a larger area to the south of Eloy City limits in Pinal County. He continued that there are four additional projects that have been identified as illustrated on the previous map, Projects “A, C, D and E.” As identified on Project “E”, it does not include the 50 acre tract of land, it also does not include half of the property for Project “A”- that portion that is all yellow that is not cross hatched. This would support Alternative “E” on the buffer and allow approximately 800 acres of project “A” to move forward and would allow Project “C, D, and E” to move forward, as well including the 320 acres of the NextEra approved solar project. He noted “Why are they located in this area?” Because of existing electrical substations located on the map. The maps also show the transportation infrastructure connectivity such as North-South Corridor and the I-10. South of I-10, the City’s proposal is to connect with I-11 which is the green corridor that parallels I-

10 that is a long term regional reliever for I-10. At this point, that is what has been recommended by Staff in terms of the solar overlay for a recommendation of 5,025 acres that would identify the acreage limits for the solar overlay, which represents approximately seven percent (7%) of the total incorporated area of the City of Eloy. That solar overlay boundary would be that which the City would entertain proposals and complete the next steps in terms of reviewing each of the projects to move forward. Mr. Vlaming noted that this is where the City is at in terms of the requests. But, he said, getting back to the question of what is the City's appetite for how much solar is wanted, initially staff had showed the southern area as part of the solar overlay as the City did not know who was out there. But based on these projects, that are the ones that have come forward, there is also one other request that has been put forth in terms of expansion. Mr. Vlaming also mentioned that one of the provisions is not to allow solar generating north of I-10. South of I-10 is open for discussion and determination. During the time staff had the entire solar overlay to the south of I-10, staff received input that NextEra was interested in expanding additional acreage to their approved conditional use permit for 320 acres. Part of their expansion includes Pinal County land. He then asked if there were any questions.

Mr. Jay P. with NextEra commented that NextEra would like to be considered and that their project is within Eloy's Elementary and Santa Cruz School Districts. Vice-chairperson Tolson commented he had heard that the property tax revenues go away over time. Mr. Vlaming responded, they do not go away, they depreciate. They would be the highest once they are put on the ground and would depreciate over time.

Chairman Paulson asked if there were any other input on the maps.

Elijah Cardon with Cardon Bowden Investments, commented they are partners in properties with LeSueur Investments and Cardon Hyatt Companies and that they are part of the solar expansion map. Their property has a purchase option with NextEra and understands the entire project has been excluded from being able to move forward, and noted that his family is damaged by that. He commented there is only so much one can do with property in the City of Eloy, especially right now with the water situation being increasingly dire so there is not a whole lot one can do. If the water gets cut more and more, he does not see how the City can take the only use that is left for property owners in the area to make the most out of their property. He stated he is opposed to the proposed ordinance and commented that he loved the idea, like his partner Mr. LeSueur stated getting together a stakeholder's group to sit down at the table and discuss things. He feels taken back through the whole process, because personally he just found out about it two weeks ago. His group owns a pecan orchard that has been talked about tonight and his pecan manager told him about it because he heard about it from a neighbor. He said that is not the way the property owners should be finding out about this stuff. He added, the publicity for this agenda item has been lacking and there are things that do not even affect him about the ordinance that do not make sense such as: the water relinquishment. He noted, why relinquish water rights when you are only doing solar? If there is not a potential for the water to go back to the property owner, then the person would not be able to farm their land because the City has relinquished the water rights. Mr. Cardon commented that he knows from the City's perspective, and he does not live in the City, that one would want to protect it, and one would want what is best for Eloy. He said he wants what is best for Eloy too. He thanked the Commission for the opportunity to speak. Mr. Vlaming asked if he could disclose where the property is located. Mr. Cardon responded, Section 1, 12, 25, 30, and some property in unincorporated Pinal County, which totals 2,300 acres.

Mr. Court Rich commented he also represents other property owners and commented about Project “E”-that chopping off the 50 acre piece in his opinion is arbitrary and asked the Commission to revisit and allow it to move forward and be included in the overlay.

Mr. McCarville commented there was a solar generation case recently in Pinal County by a farmer with a Planning Board vote of denial and a Board vote 5-0 in favor. He noted that the future of farming is bleak as there is much more farmland than there is water. He continued that some of the farms are going to go away, or they can become solar or they can become tumbleweeds. He said the idea for any possible development in the near future is pure fantasy. He mentioned he is in this business and works with industrial prospects, “10-Eight Industrial Park,” “Cotton City Industrial Park” and they are putting users there. He does not see anything locating south of I-10 because of the cost of development is prohibitive. He said the same is true with the Planned Area Developments (PAD)-none of those are going to happen.

Mr. John Donley, farms a lot of the area within Project “A,” and all of project “D”. He commented that he has never seen a map where a subdivision gets built around a circle. He asked why the City feels they have a right to take away the land and not allow a property owner to do what he wants to do with his land. He mentioned he is part of the CAIDD Board and commented they are reduced approximately fifty percent (50%) on the farming acreage because of the water cost and availability. He believes that solar is a great use to come in to take up some of the ground and some of the water could be used on someone else’s farm.

Mrs. Ashley Johnson, developer with NextEra, commented that they have concerns with the new proposed solar overlay. One concern is the acreage limitation for all approved and future solar projects. Once the acreage capacity has been met, future developers might be deterred from approaching new opportunities in the area. The reduced overlay area seems to already meet this limit. Unfortunately, she continued, NextEra’s proposed expansion area is excluded from the proposed solar overlay-despite its meeting all the criteria of a preferred applicant that was listed in section 1, such as being south of I-10, contiguous within an approved solar generation facility, etc. She noted that while the overlay itself seems to contradict itself with which those preferences are made, she asked and urged the City to further reflect on the input and comments that already have been submitted. She added that because the new draft does not seem to take into consideration the concerns that have been raised. Solar projects offers benefits to communities that you are all aware of but, what makes NextEra stand out, they become ingrained into the communities they work with. NextEra is part of the fabric that they become active in community and engage meaningful organizations. She added that Eloy has such a special spot on her heart, she loves the community and all the people she has had the privilege to work with. She understands the amount of solar acreage that is being proposed in Eloy. NextEra is committed to working with the

City to sustainably develop solar in a way that respects the City's needs. However, she fears that this ordinance would ultimately prevent solar development from taking place. While she understand the intent of the City, to protect the community and its character, she strongly urges the Commission to reconsider the overlay and the ordinance as it is currently written. The future of Eloy holds so much potential, but she is fearful the ordinance is limiting and potentially limits what solar can bring to the city.

Mrs. Nora Shapley commented that they sold their land to NextEra. She added, there is no water, so NextEra saved them. She said, with all the solar coming in she said thank "you solar" from all the farmers. Because there is no water, you cannot grow anything. She commented that her dad used to say "we used to farm 8 days a week, 13 months a year" but, you cannot do it anymore. He was a Mayor in Coolidge and used to say "it is cheaper growing people than it is growing crops". She thanked the Commission and commented she knows they would make the right decisions.

Being no further comments regarding the solar overlay, Chairperson Paulson moved to the next item.

Mr. Vlaming commented on the next item that would be the proposed text amendment in the packet that was posted with two versions, one with track changes and one would be the clean version. In addition to that for those of you who picked up an agenda at the front there were hard copies of another version that had red text. The reason being those are requested changes by some of the folks who contacted him today. He wanted to put up to consideration and those represent the text changes as it pertains to the supplemental use regulations in "Section 3-1.39". He noted that the City Staff received a lot of input and certainly it has evolved over the last couple of weeks-and continues to evolve today. He suggested a way to approach it as, it is eight pages go through by page numbers, so we can scroll through the document and if anyone has questions or comments to let us know.

Chairperson Paulson asked if anyone in the Commission had any comments. Being none, he asked about item A.2. Regarding the limit to 5,025 acres. He commented that he personally had a problem with that, as it is way too small. Mr. Vlaming explained that the 5,025 acres reflects the staff's recommendation of the solar overlay area. Mr. Vlaming asked if he had an amenable acreage in mind. Chairperson Paulson responded to be perfectly honest he did not think it should be in there and could be addressed as need be. Mr. Vlaming asked if, in his mind, there should not be a cap on acreage. Chairperson Paulson responded it should be flexible. Once you put something in an ordinance that is how it would be until it gets amended he said. He asked what City of Coolidge percentage is. Mr. Vlaming responded it is at sixteen percent (16%) of their incorporated area acreage. Chairperson Paulson said he was open to suggestions as he thinks the proposed acreage is too restrictive. Also, the whole issue of the water rights-he commented that it seems that they would end up in litigation. Mr. Vlaming responded that in conventional development typically those rights are extinguished and so with this type of development it is not unreasonable to ask to be extinguished as well. He added he appreciated everyone's opinion and if the project is not going to use those water rights, and the project wants to move ahead, that is a decision of business you make. Chairperson Paulson responded, but conventional development uses water. Mr.

Vlaming responded the developer would basically convert the water to different type of use and the City feels that the water right should be extinguished so those credits could be used wherever they are needed for development. He noted that there is no mystery that water resources will tighten for everybody and there is not a reason to leave them (water credits) sitting there and not be usable.

There was a discussion on the proposed Text:

#A.1. Solar Overlay Area- Mr. LeSueur commented on the 4th bullet point-regarding to be located contiguous to an existing and approved utility scale solar generation facility. He asked until they have one, how would they meet that standard. It seems like an interesting requirement and something that probably needs to be addressed. Mr. Vlaming responded, good question, staff received good input on that over the last day or two and will respond on #6 when they get to that. They would have a threshold of the solar overlay area and that would provide the jumping off point to establish the boundary for future projects.

#A.2. Solar Generation Facility-Mr. Rich expressed his agreement with Chairperson Paulson there is inconsistency between #1 and #2 for applications to expand the foot print, if there is a good project- they should be able to present it to the Commission but, #2 does not seem to work, it should say something to the effect of it is limited to the amount of so many acres unless is expanded to in accordance to #1.

Mr. McCarville commented it is a self-regulating industry, it will limit itself. The transmission to support this project is extremely expensive, extremely hard to duplicate and he doubts that they would ever get to twelve or thirteen percent (12 or 13 %). There are only two substations and most of them they are at or near capacity. This is a self-limiting industry. It does not have to be over-regulated. You are talking about a market function, let the market say how many acres can be sustained. It would be limited to the infrastructure cost to support these projects.

Jake Painter commented if they are not within the solar overlay how would they proceed. Would this be a moratorium if it says here are the four projects and then get to try to win and if those projects do not win too bad, there is no solar? Or would it allow for expansion and he would like to know how that would that work. Mr. Vlaming commented that in terms of the solar overlay itself, that could be expanded basically with a request to the City Council. It is expandable to whenever someone wants to make an application for City Council consideration to expand the overlay, if that is where the Commission wants to go but, there will be recommendations.

#3. Project Size-Ex-Officio Curtis asked for a clarification on the map with the green for the possible NextEra expansion if it is not within the solar overlay. Mr. Vlaming responded no, it is not within the solar overlay. And he confirmed that the additional NextEra expansion could be part of the amendment to be included/added with the proposed solar overlay.

#3.A. Setback- no comments

#4 Lot Coverage-Mr. Rich commented on the previous proposal that it was at one percent (1 %) and now is at three percent (3 %). He noted that this is how much land can be covered by things other than solar panels-so it refers to battery storage, facilities, and inverter paths, substation yards, structures for maintenance and those kinds of things. So depending how large the project is, the lot coverage is larger or smaller. He commented he represents other projects besides Project "A and E" and some of their concern relates to the size of the project. He thought that it is cutting it very close, in fact too close for his comfort. He suggested five percent (5%) would be more reasonable. He noted that he is not sure what the concern is, and as a matter of flexibility, would like the Commission to consider that it be bigger. Mr. Vlaming responded that the 1% was based on the analysis of what has already been developed in the City of Eloy up to the north. During the calculation of the acreage, subtracting all the arrays and giving it 1%, he noted that there is plenty of square feet for those facilities on those existing solar projects. So his question back was if he thinks they need more than 1% and staff is giving 3%, what else is going on that the City does not know. He asked if Mr. Rich would like to explain to everyone and to that end, does the community want to have a solar battery storage field. He noted that maybe that is a question to the Eloy Fire District, to determine how they feel about this particular subject. Mr. Rich responded, Arizona is cashing in on economic development opportunities in terms of battery manufacturing, so it would be awkward for Arizona and municipalities all at once, to be against battery storage as they are creating a lot of development opportunities. He commented that many developers have been working with the fire officials and officials around the state doing training, talking them through it, obviously they have to approve these projects before they would ever get built and certainly if there are concerns to work out. He noted that some of the developers have expressed concern and do not think going from three to five (3 to 5%) is a problem, but to give the flexibility to propose what they need for their project.

#5 Building Height-Mr. Jake Painter commented that this item and the previous item that he would like it to be kept flexible. Ex-officio Curtis asked what would be the height that they would need. Mr. Jake Painter responded he has no problem with the proposed fifteen (15) foot, but would recommend to allow the flexibility and not box something in. Mr. Vlaming asked when the panels need to be replaced how would that be done, because looking at the project that has been completed to the north, the panels are basically set off the ground approximately five (5) feet and the reason being is so one could replace them manually by standing on the ground so one would not want to have the panels standing very tall as the replacement might not be able to be manually replaced by someone standing on the ground. Mr. Jake Painter responded that Mr. Vlaming was absolutely right as the way technology is right now one would see the panels are changed manually as it is the most efficient way to do it. He is only saying to maintain flexibility and allow the Commission and City Council to make that decision at the time that they would need to make that decision. Mr. Vlaming commented that the thought is the City does not want to see something super tall and are not looking for technology that would create a lot of vertical obstructions within our community. That is the underlying premise to keep them close to the ground that appears where the technology is and that is the rationale behind that. Mr. Donley gave some examples to look at, City Council Chamber building height or Gold Bond as you can see the building from Red Rock, AZ. He noted that he did not understand why fifteen (15) feet should be the height. Mr. Vlaming commented as technology changes, staff is amenable to update and amend the ordinance.

#6 Contiguous-Mr. Rich wanted to say thank you to Mr. Vlaming for working with him before the meeting and appreciates the proposed change as it was a technical fix and would like to encourage the Commission to adopt it.

#7 Site Development Standards- No comments.

#7.A. Pre and Post Construction Property-Mr. Rich commented he had an issue with the last sentence as it talks about failure to six months, which result in revocation. He added that certainly the City should have the right and should enforce the issue and the provisions of maintenance. The issue is that there is no procedure set up and there is no notice. He continued that these are multi-hundreds of millions of dollars of investment and in order to make those investments, developers understand they need to maintain these projects. So in his mind, this needs a few more sentences added that there will be a process in place, there will be given notice and a certain amount of time to fix the issue, how much time is needed and if they do not comply, then certainly get after those guys. They just want a process to be put in place around that. Mr. Vlaming commented that the key word at the start of the sentence is persistent. The City Code does not have a definition in the Zoning Code and a definition of Persistent will be added to the Zoning Code. The City has Code Compliance individuals, and from a Code Compliance stand point, the City is looking for voluntarily compliance. City Staff would go the extra mile for voluntary compliance. He continued that there is a process in place and the City abides by it. A representative of Avantus from the E. Camelback Phoenix office, who represents Project "D", wanted to identify that they want a more formal process outlined as this could make the financing very difficult. The financial institutions put the capital up to build these projects and that is why they would like more steps included between persistent failure and revocation of a permit.

#7.B. Conforming Development-No comments

#7.C. Project Zoning Amendment-no comments

#7.D. Site Plan Approval-There were some updated comments, Staff had a couple of word changes added on the hard copy. Mr. Rich asked if there was a phased development if that was suggesting you need a Site Plan. Mr. Vlaming responded it does not prohibit phasing, but a Site Plan of the entire site would be required with the proposed phasing.

#7.E. Perimeter Landscape Treatment-no comments

 # 7.F. Solar Generation Perimeter Security-no comments

 # 7.G. Lighting-no comments

 # 7.H. Noise-Mr. Rich had a comment that solar panels do not make noise and gave an example that the limitation of 30 decibels that would be like a library conversation or lower. By that measure, he said you could not drive a truck on the property at night with that limitation. When the batteries are generating, there could be a hum that could be audible to the side of the property, there could also be work, and maintenance activity, if it is too restrictive that would put them in violation. Mr. Vlaming commented that it really depends where the facilities are located and this is in reference to the perimeter of the site-that is the reason for the extended setbacks. There will be adjacent property owners out there adjacent to these facilities and probably would like to have quiet enjoyment on their properties, so staff just wanted to respect that. Mr. Rich asked how the City would measure that and the background noise. Mr. Vlaming asked if Mr. Rich was aware of any technology that would be noisy in the property because, when he has been out to the solar properties that have been developed, it is just a hum internal to the project and asked if anyone knows of a project that the City is not aware of, to please share. Mr. Rich responded no, there is not.

#7.I. Construction or Building Inspections-For any time for inspections purposes, these are operating as industrial plants, it was commented that it should be a noticed supervised inspection to prevent anyone from getting hurt. Mr. Vlaming asked if it could be 24 hours' notice.

#7.J. Pre-Operational Training-No comments.

#7.K. Regulatory Compliance-No comments.

#7.L. Regional Land Use Impacts and Mitigation-No comments.

#7.M. Minor and Major Arterial Road dedication-No comments.

#7.N. Interim Arterial Road Improvements-No comments.

#7.O. Internal Project Emergency Response Access-No comments

7.P. Battery Storage Systems-No comments

#7.Q. Ground Water Extinguishments-Mr. Rich commented that they have several issues from a policy perspective, those rights last forever and when they extinguish them, the City uses those extinguishment credits towards the groundwater replenishment district. But what it does to the property owner, is it takes those rights away forever from them. He added that if we believe that this area for industrial use or job creating uses, residential in the future and having those grandfathered rights, the owner would be able to use them on their property and be able to develop. But once the water rights go away, now the only way they can develop, is if the City has excess credits that they can use on that site. He noted that it's making it more difficult for the second life of the project in 25 years, when they come back to conventional development. Not to mention when you are a farmer and we all heard from farmers about water that they do not have the ability to farm. We are hopeful that there would be new sources and the drought would end and there will be replenishment in the ground water. His final point from the legal side perspective, is that these are uses that require water service from the City. We have to build roads have access for fire. We have to put up a fence for security-all of the things one gives and takes for development but you give water when you get water. But solar does not need any water, so there is no relationship. The biggest benefit of solar in the desert is that it does not use water, so all these farmers that are using water today and having issues with it, can shut that down for a while as they figure out the water situation in Arizona. He added that the City does not have the ability to take something that is not proportionate to serve the needs of the development. He hoped the Commission would reconsider.

Mr. McCarville commented when the market crashed a few years ago, he was a broker in water rights, etc. He heard a lot about extinguishing credits and that ADWR (Arizona Department of Water Resources) passed a rule that lasted 6 or 7 years that basically made the credits worthless. They were originally good for 100 years and now they are only good for 20 years. So, it takes five times as many to fund a water development and that market collapses, can one take those credits and balance the water shortage of eight million acre feet in the Pinal County AMA. In thirty years, maybe the water rights would retire or solar technology uses a lot less. If these lands can be put into productive use thirty years from now, there is no benefit to retire their water rights now. He asked, why not give the land owner something, because sometimes they lease the land to the solar companies, so it gives little benefit and does a great harm.

Ed Brown, pastor at First United Methodist Church spoke. He commented about growing crops underneath the solar panels.

Mr. Donley asked if the solar panels are not using water why take the water rights away. What good does it do to the land owner? Because after the solar panels go away, after twenty-five to thirty years from now, and suggested to take the water rights after it develops into residential. Until then, do not make the land owners make that decision.

Jake Painter with NextEra Energy commented that the water right provision makes it very difficult to talk a lease with solar land owners because if the solar company is going to lease the land, and the water rights go away, it would take a lot of value from the property owner. People who just want to lease would move from that situation. He also said this provision would push people away. Mrs. Tracy Hamilton with Avantus commented regarding the water extinguishment that the biggest issue is the lease provision, leases do not include irrigation grandfather rights. The ground water rights are property rights and cannot be transfer to Eloy by the lessee. A developer might go through the process and commented they do not have the ability to do anything with regards to the water rights as they belong to the land, the land owner.

#8.A. Decommissioning Plan-Staff had a couple of minor changes as shown on the hard copy, for the record. No comments.

#8.B. Decommissioning Cost Estimate-No comments

#8.C. Decommissioning Estimate Pier Review-No comments

#8.D. Decommissioning Cost Estimate Update-No comments

#9. Decommissioning Financial Assurances-No comments

#9.A. Letter of Credit for Full Decommissioning-Staff had a couple of minor changes as shown on the hard copy, for the record. Mr. Rich thanked Jon as earlier they went back and forth and one of his biggest concerns on this section of the text amendment is a requirement that the applicant put up a guaranty which is totally appropriate but then on item #8.C. there is a requirement that the land owner essentially do the same thing. So there would be two guaranties from two different levels. Certainly the applicant for these projects in many cases are massive, credit worthy organizations and their letters of credit would be more important to the City than the underlying land owner. He commented that Mr. Vlaming made the changes to clarify the applicant/owner of the facility to post that guaranty. There is also a clean-up that happened is subjection *#10* and wanted to highlight it, where it still contemplates that the applicant does not do the clean-up and that the land owner will do it as a guaranty and it can be cleaned up and with the intent of the changes in subsection *#9*.

#9.B. Tiered Securitization-Mr. Vlaming indicated there were some changes as it integrated into #9A-No additional comments.

#9.C. Decommissioning Guaranty- This subsection was strike through and integrated into *#9.A.*

#9.D. Letter of Credit Escalator-This subjection is now #9.C. because the previous one was removed. A representative from Avantus wanted to comment on #8.B. salvage values being excluded from the decommissioning cost. This physical infrastructure is at the end of its life, but there is hardware that has some value and it should be accounted for. There were no additional comments.

 # 9.E. Decommissioning Securitization Review-This subjection is now #9.D. No comments.

#9.F. Receipt of Securitization Funds-This subjection is not #9.E. No comments.

#10. Applicant/Property Owner Obligation-Staff had a couple of comments on the hard copy. Mr. Rich commented there are a couple of sentences that show six (6) months and it should say six month or the time period agreed to in the decommissioning plan. Someone from the audience commented some of the projects do not take six months to build and the larger ones are going to take longer to decommission. And it was suggested that if there could be more time, depending on the size, that would be helpful. Mr. Vlaming clarified that with a decommissioning plan, that timeframe could be noted so it is part of the decommissioning plan approved by the City.

#11. Applicant/Property Owner Default-No comments.

#11.A. Equipment/Building Removal-No comments.

#11.B. Infrastructure Removal-No comments.

#11.C. Partial Decommissioning-No comments.

Chairperson Paulson asked if anyone had questions or comments on the Acronyms-No comments.

Being no further comments, Chairperson Paulson closed the public hearing.

B. CONSIDERATION, DISCUSSION, AND RECOMMENDATION TO THE ELOY CITY COUNCIL FOR APPROVAL, APPROVAL WITH CONDITIONS, DENIAL OR CONTINUANCE OF CASE NO.: TA2023-006

Chairperson Paulson asked for approval, approval with conditions, denial or continuance of Case No.: TA2023-006. Vice-Chairperson Tolson made a motion to continue the case. Commissioner Sauceda seconded the motion as presented. The motion was approved with a vote 4-0.
AYES: Chairperson Paulson, Vice-Chairperson Tolson, Commissioner Sauceda and Commissioner Crawford

NAYS: None.

Mayor Powell thanked those who attended and commented he doesn't usually allow City Council meetings to go this long but understands the importance of this case. He thanked the Commissioners, Staff and those who were present to make this right for the City. He commented he is aware there are many entities involved and the City wants to make this right. And he thanked everyone for partaking on this and that it is not often that there is an open dialog between Council meeting and Commission meeting. What the City of Eloy is trying to do, he noted, is to be transparent and try to be more open outside the box. He thanked Jon and Belinda as they have a lot to do with bringing this item back. He hoped it would not take two and a half hours for his Council to approve this item and it would probably take less time at the next meeting. He wished everyone a good evening.

Mr. Rich asked if the City had a date that the case would be continued to and Mr. Vlaming responded that Staff would determine that later and would let everybody know with plenty of advance notice.

C. CONDUCT A PUBLIC HEARING FOR A STAFF INITIATED TEXT AMENEMDNT TO THE ELOY CITY CODE, CHAPTER 21-ZONING REVISING, PORTION OF SECTION 21-9-1 DEFINITIONS AS IT PERTAINS TO HOTEL OR MOTEL (REVISED), GUEST ROOM (NEW) AND TRANSIENT PURPOSED (NEW) CASE NO.: TA2023-007.

Chairperson Paulson opened the Public Hearing.

Mr. Vlaming gave a brief introduction of the project and commented that those definitions are part of the meeting packet as noted and are pretty self-explanatory and Staff needs them to separate what is a Hotel, Motel and a Group Home. Vice-chairperson Tolson had a question under the Hotel/Motel definition and commented about a hotel that typically provides breakfast and commented it is not universal and it is not necessary to have in there and the reference to a Bell Hop. Under guest room instead of cooling facility he suggested temperature control or heating and cooling.

Hearing no other comments, Chairperson Paulson closed the public hearing.

D. CONSIDERATION, DISCUSSION, AND RECOMMENDATION TO THE ELOY CITY COUNCIL FOR APPROVAL, APPROVAL WITH CONDITIONS, DENIAL OR CONTINUANCE OF CASE NO.: TA2023-007.

Chairperson Paulson asked for approval, approval with conditions, denial or continuance of Case No.: TA2023-007. Vice-chairperson Tolson recommended amending the text and made a motion to approve with the amendments noted below. Commissioner Crawford seconded the motion with the proposed amendments. The motion was approved with a vote 4-0.

Proposed amendments to the text: remove Bell Hop and change guest room served with cooling facility to temperature control.
AYES: Chairperson Paulson, Vice-Chairperson Tolson, Commissioner Sauceda and Commissioner Crawford
NAYS: None.

IX. INFORMATIONAL ITEMS:

None.

X. COMMUNICATIONS:

A. EX-OFFICIO MEMBER ANNOUNCEMENTS

None.

B. COMMUNITY DEVELOPMENT DIRECTOR ANNOUCEMENTS

None.

XI. MOTION TO ADJOURN.

Chairperson Paulson asked for a motion to adjourn. Commissioner Crawford made a motion to adjourn and was seconded by Vice-chairperson Tolson. The adjournment passed with a vote of 4-0 and the meeting adjourned at approximately 8:54 p.m.