



Planning Commission Staff Report

MEETING DATE: JULY 10, 2013
DEPARTMENT: PLANNING
ITEM DESCRIPTION: ONE- YEAR TIME EXTENSION FOR A CONDITIONAL USE PERMIT TO INSTALL AND OPERATE A 13 MEGAWATT SOLAR FARM
OWNER: MV SOLAR LLC
ADDRESS: 2001 WEST GARNET AVENUE

STAFF RECOMMENDATIONS

CASE NUMBER	RECOMMENDATION
5.1236 TE - CUP	APPROVAL of One-Year Time Extension with conditions

PROJECT DESCRIPTION:

The applicant, MV Solar LLC, for a one-year time-extension for a previously approved conditional use permit (CUP) for the installation and operation of a 13 megawatt solar energy conversion system (SECS) project at 2001 West Garnet Avenue; Zone E-I Section 16/T3S/R4E & Section 21/T3S/R4E.

ISSUES:

- Project has received one previous time extension

BACKGROUND INFORMATION:

<i>Related Relevant Prior City Actions</i>	
7/22/1998	Planning Commission approves a CUP for the installation of 10 – 233 foot tall wind turbines on a 78-acre parcel.
6/9/2010	Planning Commission approves CUP application for a solar power generating facility.
6/27/2012	Planning Commission grants a one-year time extension request from June 9, 2012 until June 8, 2013,

<i>Most Recent Ownership</i>	
5/13/1998	Venture Pacific Inc. – Land Owner
	MV Solar, LLC – Owner of proposed solar farm – lease holder

Field Check	
June 2013	Staff has visited site to view current conditions.

Details of Application Request	
Site Area	
Net Area	77 - acres – total parcel 24 - acres – solar farm limits

Surrounding Property	Existing General Plan Designations	Existing Land Use	Existing Zoning Designations
Subject Property	Industrial w/Wind Energy Overlay	Wind Turbines	E-1
North	Industrial w/Wind Energy Overlay	Wind Turbines	E-1
South	Open Space Watercourse w/Wind Energy Overlay	Wind Turbines	Watercourse
East	Industrial w/Wind Energy Overlay	Wind Turbines	E-1
West	Open Space Desert (County of Riverside)	Wind Turbines	County of Riverside

DEVELOPMENT STANDARDS:

Proposed project compared to E-I Zone Development Standards:

	E-I Zone Requirements	Proposed Project
Minimum Lot Size	5 acres	77 acres (conforms)
Minimum Lot width & depth	250 feet x 250 feet	conforms
Maximum Lot Coverage	No limit for energy uses	conforms
Setbacks	Minimum 50 feet	40 feet sides, 45 foot front (Approved with AMM)
Buildings & landscape	Min 25 feet front yard setback for bldgs & 25% of such front yard shall be landscaped	First 15 feet of Garnet Av frontage is landscaped (conforms)
Fencing	Maximum 8 feet, barbed wire is permitted	8 feet and barbed wire (conforms)
Building Height	30 feet	11 feet for service bldgs (conforms)
Outdoor storage	Adequately screened & enclosed	conforms

BACKGROUND AND SETTING

The subject site is an approximately 77-acre parcel located on West Garnet Avenue, west of Indian Canyon Drive. The site is developed with ten existing wind energy conversion system turbines (WECS) that were approved as Case 5.0779 CUP and an Edison substation (known as the Mountain View substation). The project proposes to install approximately 24 acres of fixed-mount solar collectors and related service roadways and structures for inverters, transformers, and other equipment on the vacant land around the existing turbines.

The project site is located on the south side of the I-10 freeway, west of Indian Canyon Drive, north of the Whitewater River wash and north of the Union Pacific railroad right-of-way. The area is zoned Energy-Industrial and is surrounded by existing wind turbine installations. Immediately to the west is an area of unincorporated county land with a small tract of residential uses.

The project site is accessed from West Garnet Avenue, which is the frontage road for the I-10 in this part of the city. Non-paved service roads located between the panels will provide access to the panels for routine washing, maintenance and servicing. The panels are designed to be mounted on stationary racks and are located approximately four feet above the ground to minimize scouring of the panel surfaces due to blowsand. The top of the panels are approximately nine feet above grade.

ANALYSIS

Section 94.02.00 of the Zoning Code states that extensions of time for a CUP may be allowed by demonstration of good cause. The applicant submitted a letter on May 22, 2013 and states that the time extension is requested because they have applied for, but have been unable to receive a Power Purchase Agreement (PPA) from the California Utility Commission. Without the PPA, they are unable to commence construction of the proposed project. The City's Ordinance has no specific findings for extension of time for previously approved projects; however, in reviewing the request, Staff considered if the circumstances below have changed such that the approval might need reconsideration. Staff's analysis is provided below on each of the factors to be considered by the Planning Commission.

1. *Any changes to the project's overall plan and site configuration.*

The applicant's response: *"There have been no changes to the configuration of the site layout since our request from last year"* Staff notes that the east bound off/on-ramps at the new interchange at West Garnet Road and Interstate 10 are now complete allowing for greater vehicle access to the site and agrees with the applicant's statement.

2. *Specific steps taken by the applicant over the past year to advance the project.*

The applicant's response: *"In the past year, we have bid MV Solar into two solicitations held by the three major investor-owned utilities, specifically targeting projects under 20 MW (the Renewable Auction Mechanism, RAM 2 and RAM 3 in May and November 2012). While we were unsuccessful in securing a contract for the project in these particular solicitations, we have continued to work to improve the project's attractiveness. In particular, the utilities have signaled that they prefer projects that provide secure Resource Adequacy. In April of 2013, submitted a request to the California Independent System Operator to study upgrading the project's interconnection status from Energy Only to Full Capacity Deliverability, which would improve the Resource Adequacy attributes of the project."* Staff believes that the applicant has continued to take steps that will advance the project in the future.

3. *Recent developments and uses within the surrounding area*

Recent development nearby the site is the completion of the east bound off/on ramps of Interstate 10 at West Garnet Avenue. The California State Highway Administration has completed the new interchange at North Indian Canyon Drive and Interstate 10 providing greater access to the subject site.

4. *The applicable policies of the General Plan, zoning ordinance and other regulations*

Staff has reviewed the project, surrounding area and underlying zoning regulations and determined that no significant changes have occurred that would suggest that the project is no longer in keeping with the neighborhood or the City's development policies and standards.

5. *Any off-site improvements, installation of infrastructure and other changes within 400 feet radius of project site.*

The developer has not installed any infrastructure or completed any off-site improvements on the project site.

Staff has proposed a set of amended conditions of approval. These changes are in response to revisions in applicable fees, standards and regulations. The additions or modifications to the Conditions of Approval are as follows:

Engineering Conditions – Grading # ENG 20, ENG 21, ENG 22; WQMP # 30; Drainage ENG 32. The Engineering Department also confirmed that traffic volumes around the project location have not changed appreciably to require a revised traffic study.

ENVIRONMENTAL ASSESSMENT

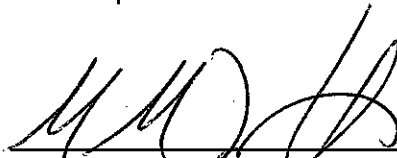
A Mitigated Negative Declaration (MND) was previously adopted by the Planning Commission for the project. Pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, the preparation of further environmental documentation is not necessary at this time because the circumstances of the project have not changed and will not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The time extension request would not result in any new environmental impacts beyond those already assessed in the initial study and mitigated negative declaration.

NOTIFICATION

A hearing notice is not required for a time extension request.



Glenn Mlaker, AICP
Assistant Planner



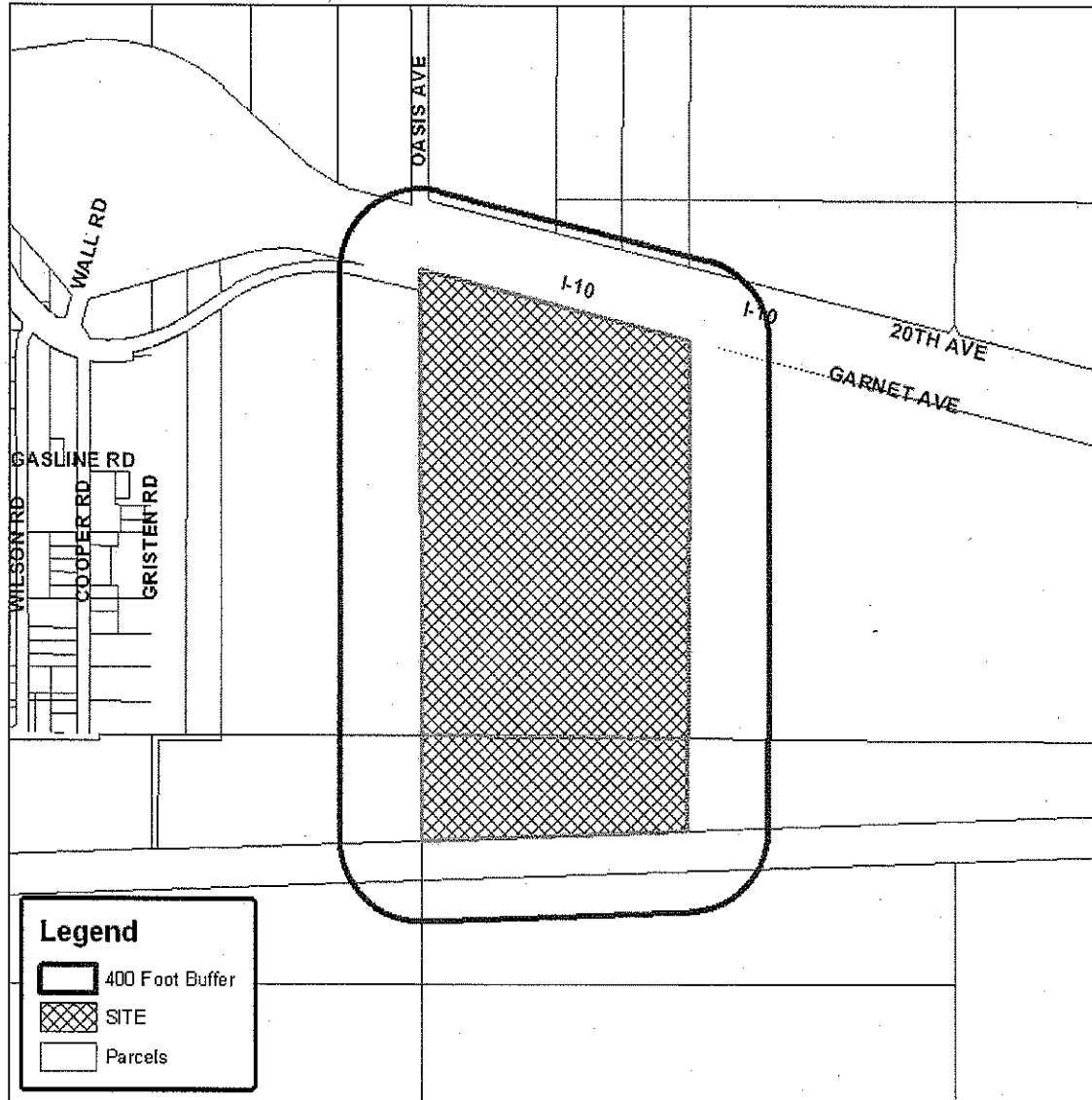
M. Margo Wheeler, AICP
Director of Planning Services

Attachments:

1. Vicinity Map
2. Draft Resolution
3. Revised Conditions of Approval
4. Original Planning Commission Staff Report
5. Site Plan
6. Letter from Applicant
7. Minutes 6/9/2010 & 6/27/2012 Planning Commission Meetings



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 5.1236 CUP TE
Time Extension

APPLICANT: MV Solar LLC
(Formerly AES Solar, LLC)

DESCRIPTION: A request for a one-year time extension on the approval for a 13 MW solar energy production facility on roughly 24 acres of a 77 acre parcel at 2001 Garnet Road, Zone "E-I", Section 16/T3/R4.

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING A ONE-YEAR TIME EXTENSION FOR A PREVIOUSLY APPROVED CONDITIONAL USE PERMIT FROM JUNE 9, 2013 TO JUNE 8, 2014; FOR CONSTRUCTION OF A 13 MEGAWATT SOLAR ENERGY CONVERSION SYSTEM AT 2001 WEST GARNET, ZONE E-1 (ENERGY-INDUSTRIAL), SECTION 16/T3S/R4E.

WHEREAS, MV Solar, LLC (Formerly AES Solar LLC), ("Applicant") filed a request with the City pursuant to Section 94.02.00(F) (Conditional Use Permit, Time Limit for Development) of the Palm Springs Zoning Code for a one-year time extension to commence construction for Case 5.1236 CUP / 7.1338 AMM located at 2001 West Garnet Road; and

WHEREAS, on June 9, 2010, at a duly noticed public hearing of the Palm Springs Planning Commission, the Commission reviewed the materials associated with Case 5.1236 CUP / 7.1338 AMM and voted 6-0-1 (Munger absent) to approve the case subject to conditions of approval; and

WHEREAS, Zoning Code Section 94.02.00(F) denotes that extensions of time on the approval of Conditional Use Permits may be granted by the Planning Commission upon demonstration of good cause by the applicant, and

WHEREAS, the Planning Department has reviewed this project under the provisions of the California Environmental Quality Act (CEQA), and has determined that a time extension request is considered a "project" pursuant to the terms of the California Environmental Quality Act (CEQA).

WHEREAS, a Mitigated Negative Declaration was previously adopted by the Planning Commission on June 9, 2010 for the project., and;

WHEREAS, the Planning Commission has carefully reviewed and considered all of the evidence presented in connection with the hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented.

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

SECTION 1: Pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, the preparation of subsequent environmental

analysis, addendum to the environmental study or further environmental documentation is not necessary at this time because there are no changed circumstances of the project that would result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The time extension request would not result in any new environmental impacts beyond those already assessed in the certified environmental impact report.

SECTION 2: The applicant has demonstrated “good cause” for requesting a time extension of the previously CUP approval because they have applied for, but not yet received their Power Purchase Agreement from the California Utility Commission, without which they are unable to commence construction.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves a one-year time extension for Case 5.1236 CUP / 7.1336 AMM, from June 9, 2013 to June 8, 2014 for the construction of a 13 megawatt solar energy production facility at 2001 West Garnet Road, subject to the conditions of approval set forth in Exhibit A.

ADOPTED this 10th day of July 2013.

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Margo Wheeler, AICP
Director of Planning Services

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RESOLUTION NO. ____

EXHIBIT A

Case 5.1236 CUP TE - A Time Extension Request for a Conditional Use Permit
for a 13 MW solar energy conversion system at

2001 West Garnet Avenue

Revised July 10, 2013

CONDITIONS OF APPROVAL

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the City Engineer, the Director of Planning Services, the Director of Building and Safety, the Chief of Police, the Fire Chief or their designee, depending on which department recommended the condition.

Any agreements, easements or covenants required to be entered into shall be in a form approved by the City Attorney.

ADMINISTRATIVE CONDITIONS

- ADM 1. Project Description. This approval is for the project described per Case (5.1236 CUP); except as modified with the approved Mitigation Monitoring Program and the conditions below;
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans, date stamped (1/14/10) including site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division except as modified by the approved Mitigation Measures and conditions below.
- ADM 3. Conform to all Codes and Regulations. The project shall conform to the conditions contained herein, all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, and any other City County, State and Federal Codes, ordinances, resolutions and laws that may apply.
- ADM 4. Minor Deviations. The Director of Planning or designee may approve minor deviations to the project description and approved plans in accordance with the provisions of the Palm Springs Zoning Code.
- ADM 5. Indemnification. The owner shall defend, indemnify, and hold harmless the City of Palm Springs, its agents, officers, and employees from any claim, action, or proceeding against the City of Palm Springs or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Palm Springs, its legislative body, advisory agencies, or administrative officers concerning Case 5.1236 CUP. The City of Palm Springs will promptly notify the applicant of any such claim, action, or proceeding against the City of Palm Springs and the applicant will either undertake defense of the matter

- and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.
- ADM 6. Maintenance and Repair. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation all structures, sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.
- ADM 7. Time Limit on Approval. Approval of this Conditional Use Permit shall be valid for a period of two (2) years from the effective date of the approval. Once constructed, the Conditional Use Permit, provided the project has remained in compliance with all conditions of approval, does not have a time limit.
- ADM 8. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05.00. Permits will not be issued until the appeal period has concluded.
- ADM 9. Public Art Fees. This project shall be subject to Chapters 2.24 and 3.37 of the Municipal Code regarding public art. The project shall either provide public art or payment of an in lieu fee. In the case of the in-lieu fee, the fee shall be based upon a per-acre fee of \$4,000 per acre. Acreage in this case means the net acreage inclusive of all panels, service roads, inverters, transformers and other electrical enclosures or devices as well as any habitable structures and parking areas proposed as part of this project. Should the public art be located on the project site, said location shall be reviewed and approved by the Director of Planning and Zoning and the Public Arts Commission, and the property owner shall enter into a recorded agreement to maintain the art work and protect the public rights of access and viewing.
- ADM 10. Park Development Fees. The developer shall dedicate land or pay a fee in lieu of a dedication, at the option of the City. The in-lieu fee shall be computed pursuant to Ordinance No. 1632, Section IV, by multiplying the area of park to be dedicated by the fair market value of the land being developed plus the cost to acquire and improve the property plus the fair

share contribution, less any credit given by the City, as may be reasonably determined by the City based upon the formula contained in Ordinance No. 1632. In accordance with the Ordinance, the following areas or features shall not be eligible for private park credit: golf courses, yards, court areas, setbacks, development edges, slopes in hillside areas (unless the area includes a public trail) landscaped development entries, meandering streams, land held as open space for wildlife habitat, flood retention facilities and circulation improvements such as bicycle, hiking and equestrian trails (unless such systems are directly linked to the City's community-wide system and shown on the City's master plan).

- ADM 11. Conditional Use Permit Availability. The applicant shall provide a copy of this Conditional Use Permit to all buyers and potential buyers

ENVIRONMENTAL ASSESSMENT CONDITIONS

- ENV 1. Coachella Valley Multiple-Species Habitat Conservation Plan (CVMSHCP) Local Development Mitigation Fee (LDMF) required. All projects within the City of Palm Springs, not within the Agua Caliente Band of Cahuilla Indians reservation are subject to payment of the CVMSHCP LDMF prior to the issuance of certificate of occupancy.
- ENV 2. California Fish & Game Fees Required. The project is required to pay a fish and game impact fee as defined in Section 711.4 of the California Fish and Game Code. This CFG impact fee plus an administrative fee for filing the action with the County Recorder shall be submitted by the applicant to the City in the form of a money order or a cashier's check payable to the Riverside County Clerk prior to the final City action on the project (either Planning Commission or City Council determination). This fee shall be submitted by the City to the County Clerk with the Notice of Determination. Action on this application shall not be final until such fee is paid. The project may be eligible for exemption or refund of this fee by the California Department of Fish & Game. Applicants may apply for a refund by the CFG at www.dfg.ca.gov for more information.
- ENV 3. Mitigation Monitoring. The mitigation measures of the environmental assessment shall apply. The applicant shall submit a signed agreement that the mitigation measures outlined as part of the negative declaration or EIR will be included in the plans prior to Planning Commission consideration of the environmental assessment. Mitigation measures are defined in the approved project description.
- ENV 4. Cultural Resource Survey Required. Prior to any ground disturbing activity, including clearing and grubbing, installation of utilities, and/or any construction related excavation, an Archaeologist qualified according to the Secretary of the Interior's Standards and Guidelines, shall be employed to survey the area for the presence of cultural resources identifiable on the

ground surface.

- ENV 5. Cultural Resource Site Monitoring. There is a possibility of buried cultural or Native American tribal resources on the site. A Native American Monitor shall be present during all ground-disturbing activities. (check for duplication in engineering conditions)
- a). A Native American Monitor(s) shall be present during all ground disturbing activities including clearing and grubbing, excavation, burial of utilities, planting of rooted plants, etc. Contact the Agua Caliente Band of Cahuilla Indian Cultural Office for additional information on the use and availability of Cultural Resource Monitors. Should buried cultural deposits be encountered, the Monitor shall contact the Director of Planning. After consultation the Director shall have the authority to halt destructive construction and shall notify a Qualified Archaeologist to further investigate the site. If necessary, the Qualified Archaeologist shall prepare a treatment plan for submission to the State Historic Preservation Officer and Agua Caliente Cultural Resource Coordinator for approval.
 - b). Two copies of any cultural resource documentation generated in connection with this project, including reports of investigations, record search results and site records/updates shall be forwarded to the Tribal Planning, Building, and Engineering Department and one copy to the City Planning Department prior to final inspection.

PLANNING DEPARTMENT CONDITIONS

- PLN 1. Outdoor Lighting Conformance. Exterior lighting plans, including a photometric site plan showing the project's conformance with Section 93.21.00 Outdoor Lighting Standards of the Palm Springs Zoning ordinance, shall be submitted for approval by the Department of Planning prior to issuance of a building permit. Manufacturer's cut sheets of all exterior lighting on the building and in the landscaping shall be included. If lights are proposed to be mounted on buildings, down-lights shall be utilized. No lighting of hillsides is permitted.
- PLN 2. Water Efficient Landscaping Conformance. The project is subject to the Water Efficient Landscape Ordinance (Chapter 8.60.00) of the Palm Springs Municipal Code and any state water efficiency ordinances. The applicant shall submit a landscape and irrigation plan to the Director of Planning for review and approval prior to the issuance of a building permit. Landscape plans shall be wet stamped and approved by the Riverside County Agricultural Commissioner's Office prior to submittal. Prior to submittal to the City, landscape plans shall also be certified by the Desert Water Agency that they are in conformance with the State Water Efficient Landscape Ordinance. Refer to Chapter 8.60 of the Municipal Code for specific requirements. (See Chapter 8.60.020 for exemptions)

- PLN 3. Conditions Imposed from AAC Review. The applicant shall incorporate the following comments from the review of the project by the City's Architectural Advisory Committee:
- a. Consider use of local indigenous (chuperosa, bottlebrush, palo verde, etc); plants that can survive the harsh winds.
 - b. Consider use of 3/8's inch rock or larger for ground cover/dust control; anything smaller will blow away.
- PLN 4. Sign Applications Required. No signs are approved by this action. Separate approval and permits shall be required for all signs in accordance with Zoning Ordinance Section 93.20.00. The applicant shall submit a sign program to the Department of Planning Services prior to the issuance of building permits.
- PLN 5. Flat Roof Requirements. Roof materials on flat roofs must conform to California Title 24 thermal standards for "Cool Roofs". Such roofs must have a minimum initial thermal emittance of 0.75 and minimum initial solar reflectance of 0.70. Only matte (non-specular) roofing is allowed in colors such as beige or tan. Bright white should be avoided where possible."
- PLN 6. Screen Roof-mounted Equipment. All roof mounted mechanical equipment shall be screened per the requirements of Section 93.03.00 of the Zoning Ordinance.
- PLN 7. Surface Mounted Downspouts Prohibited. No exterior downspouts shall be permitted on any facade on the proposed building(s) that are visible from adjacent streets or residential and commercial areas.
- PLN 8. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 9. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
- PLN 10. Compacted gravel parking area. The Planning Commission approved the construction of the parking lot in compacted gravel consistent with the gravel roadbed standards elsewhere on the project. ADA parking spaces must still conform to ADA requirements.

POLICE DEPARTMENT CONDITIONS

- POL 1. Developer shall comply with Section II of Chapter 8.04 "Building Security Codes" of the Palm Springs Municipal Code.

BUILDING DEPARTMENT CONDITIONS

BLD 1. Prior to any construction on-site, all appropriate permits must be secured.

ENGINEERING DEPARTMENT CONDITIONS

The Engineering Division recommends that if this application is approved, such approval is subject to the following conditions being completed in compliance with City standards and ordinances.

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the City Engineer.

STREETS

- ENG 1. The Engineering Division recommends deferral of off-site improvement items (identified as "**Deferred**") at this time due to lack of full improvements in the immediate area. The owner(s) shall execute a street improvement covenant agreeing to construct all required street improvements upon the request of the City of Palm Springs City Engineer at such time as deemed necessary. The covenant shall be executed and notarized by the property owner(s) prior to approval of the Grading Plan or issuance of grading or building permits. A current title report; or a copy of a current tax bill and a copy of a vesting grant deed shall be provided to verify current property ownership. A covenant preparation fee in effect at the time that the covenant is submitted shall be paid by the applicant prior to issuance of any grading or building permits.
- ENG 2. Any improvements within the public right-of-way require a City of Palm Springs Encroachment Permit.
- ENG 3. Submit street improvement plans prepared by a registered California civil engineer to the Engineering Division. The plan(s) shall be approved by the City Engineer prior to issuance of any building permits. **Deferred**

W. GARNET AVENUE

- ENG 4. Dedicate an additional 28 feet to provide the ultimate street right-of-way width of 88 feet along the entire frontage.
- ENG 5. Construct 6 inch curb and gutter, 32 feet from centerline along both sides, and along the entire frontage, in accordance with City of Palm Springs Standard Drawing No. 200. **Deferred**

- ENG 6. Construct a 6 inch concrete driveway, unless otherwise approved by the City Engineer, from the property line to the edge of pavement.
- ENG 7. Construct a minimum 24 feet wide driveway approach in accordance with City of Palm Springs Standard Drawing No. 201. **Deferred**
- ENG 8. Construct a 5 feet wide sidewalk behind the curb along the entire frontage in accordance with City of Palm Springs Standard Drawing No. 210. **Deferred**
- ENG 9. Remove existing pavement and construct full width pavement with a minimum pavement section of 3 inches asphalt concrete pavement over 6 inches crushed miscellaneous base with a minimum subgrade of 24 inches at 95% relative compaction, or equal, from edge of proposed gutter to edge of proposed gutter along the entire frontage in accordance with City of Palm Springs Standard Drawing No. 110 and 330. **Deferred**
- ENG 10. All broken or off grade street improvements shall be repaired or replaced.

ON-SITE

- ENG 11. Access roads shall be designed and constructed at a minimum width of 24 feet, have approved all-weather surfacing sufficient to support an emergency vehicle weighing 73,000 pounds gross vehicle weight, and as required in accordance with Section 902.2.2.2 of the California Fire Code. Access roads shall be centered within a 33 feet clear space without any encroachment by fences or equipment in accordance with the details shown on the approved site plan. At locations in which two access roads intersect, the turning radius at the edge of the roadways shall be 35 feet.

SANITARY SEWER

- ENG 12. Sanitary sewer service is not available to the property; the applicant shall coordinate required sanitary sewer service with Mission Springs Water District.

GRADING

- ENG 13. Submit a Grading Plan prepared by a California registered Civil engineer to the Engineering Division for review and approval. The Grading Plan shall be approved by the City Engineer prior to issuance of grading permit.
- a) A Fugitive Dust Control Plan shall be prepared by the applicant and/or its grading contractor and submitted to the Engineering Division for review and approval. The applicant and/or its grading contractor shall be required to comply with Chapter 8.50 of the City of Palm Springs Municipal Code, and shall be required to utilize one or more "Coachella Valley Best Available Control Measures" as identified in the Coachella Valley Fugitive Dust Control Handbook

for each fugitive dust source such that the applicable performance standards are met. The applicant's or its contractor's Fugitive Dust Control Plan shall be prepared by staff that has completed the South Coast Air Quality Management District (AQMD) Coachella Valley Fugitive Dust Control Class. The applicant and/or its grading contractor shall provide the Engineering Division with current and valid Certificate(s) of Completion from AQMD for staff that have completed the required training. For information on attending a Fugitive Dust Control Class and information on the Coachella Valley Fugitive Dust Control Handbook and related "PM10" Dust Control issues, please contact AQMD at (909) 396-3752, or at <http://www.AQMD.gov>. A Fugitive Dust Control Plan, in conformance with the Coachella Valley Fugitive Dust Control Handbook, shall be submitted to and approved by the Engineering Division prior to approval of the Grading Plan.

- b) The first submittal of the Grading Plan shall include the following information: a copy of final approved conformed copy of Conditions of Approval; a copy of a final approved conformed copy of the Site Plan; a copy of current Title Report; a copy of Soils Report; a copy of the associated Hydrology Study/Report; and a copy of the project-specific Water Quality Management Plan.

ENG 14. Prior to approval of the Grading Plan, the applicant shall obtain written approval to proceed with construction from the Agua Caliente Band of Cahuilla Indians, Tribal Historic Preservation Officer or Tribal Archaeologist. The applicant shall contact the Tribal Historic Preservation Officer or the Tribal Archaeologist at (760) 699-6800, to determine their requirements, if any, associated with grading or other construction. The applicant is advised to contact the Tribal Historic Preservation Officer or Tribal Archaeologist as early as possible. If required, it is the responsibility of the applicant to coordinate scheduling of Tribal monitors during grading or other construction, and to arrange payment of any required fees associated with Tribal monitoring.

ENG 15. In accordance with an approved PM-10 Dust Control Plan, perimeter fencing shall be installed. Fencing shall have screening that is tan in color; green screening will not be allowed. Perimeter fencing shall be installed after issuance of Grading Permit, and immediately prior to commencement of grading operations.

ENG 16. Perimeter fence screening shall be appropriately maintained, as required by the City Engineer. Cuts (vents) made into the perimeter fence screening shall not be allowed. Perimeter fencing shall be adequately anchored into the ground to resist wind loading.

ENG 17. Within 10 days of ceasing all construction activity and when construction activities are not scheduled to occur for at least 30 days, the disturbed areas on-site shall be permanently stabilized, in accordance with Palm Springs Municipal Code Section 8.50.022. Following stabilization of all disturbed areas, perimeter

fencing shall be removed, as required by the City Engineer.

- ENG 18. Long Term Stabilization and Dust Control. Those portions of the site that are to be graded, cleared, and grubbed of natural vegetation for the installation of the solar panel structures shall be provided with a long term soil stabilization program acceptable to the City of Palm Springs to control wind borne dust and particulates. This may either be an overlay of gravel at sizes of 3.4: or larger or other equivalent means as approved by the Dust Control Management Division of the City Public Works Department.

~~To control fugitive dust control emissions during future operations of the solar facility and to reduce the project's operation dust emissions to below a level of significance, the project shall be required to complete soil stabilization efforts outside of the landscaped areas. The soil stabilization efforts could include the reestablishment of low growing native vegetation under and between the panels to obtain a vegetative cover equivalent to the existing condition; or applying long term chemical stabilizers under and between the solar panels as necessary to control long term emissions of fugitive dust during high wind events. In addition, the project shall install stabilization over the internal roads with gravel or routine applications of chemical stabilizers as outlined in the City's guidelines (Palm Springs Municipal Code Section 8.50.02) and application for preparing a Fugitive Dust Control Plan. Additional stabilization measures may be required by the City in the future.~~

- ENG 19. Drainage swales shall be provided adjacent to all curbs and sidewalks to keep nuisance water from entering the public streets, roadways, or gutters. **Deferred**
- ENG 20. A Notice of Intent to comply with the California General Construction Stormwater Permit (Water Quality Order 2009-0009-DWQ as modified September 2, 2009) is required for the proposed development via the California Regional Water Quality Control Board online SMARTS system (Phone No. ~~(760) 346-7491~~). A copy of the executed letter issuing a Waste Discharge Identification (WDID) number shall be provided to the City Engineer prior to issuance of a grading permit.
- ENG 21. Projects causing soil disturbance of one acre or more, must comply with either the General Permit for Stormwater Discharges Associated with Construction Activity or the General Permit for Stormwater Discharges Associated with Construction Activity from Small Linear Underground/Overhead Projects, and shall prepare and implement a stormwater pollution prevention plan (SWPPP). As of September 4, 2012, all SWPPPs shall include a post-construction management plan (including Best Management Practices) in accordance with the current Construction General Permit. The project applicant shall cause the approved final project-specific WQMP to be incorporated by reference or attached to the project's SWPPP as the Post-Construction Management Plan. A copy of the up-to-date SWPPP shall be kept at the project site and be

available for review upon request.

- ENG 22. In accordance with City of Palm Springs Municipal Code, Section 8.50.022 (h) 8.50.025 (e), the applicant shall post with the City a cash bond of two thousand dollars (\$2,000.00) per disturbed acre at the time of issuance of first permit for mitigation measures for erosion/blowsand relating to this property and development.
- ENG 23. Geotechnical/Soils Report prepared by a California registered Geotechnical Engineer shall be required for and incorporated as an integral part of the grading plan for the proposed development. A copy of the Geotechnical/Soils Report shall be submitted to the Engineering Division with the first submittal of a grading plan (if required) or prior to issuance of any permit.
- ENG 24. The applicant shall provide all necessary geotechnical/soils inspections and testing in accordance with the Geotechnical/Soils Report prepared for the project. All backfill, compaction, and other earthwork shown on the approved grading plan shall be certified by a California registered geotechnical or civil engineer, certifying that all grading was performed in accordance with the Geotechnical/Soils Report prepared for the project. Documentation of all compaction and other soils testing are to be provided even though there may not be a grading plan for the project. No certificate of occupancy will be issued until the required certification is provided to the City Engineer.
- ENG 25. The applicant shall provide pad elevation certifications for all building pads in conformance with the approved grading plan, to the Engineering Division prior to construction of any building foundation.
- ENG 26. In cooperation with the Riverside County Agricultural Commissioner and the California Department of Food and Agriculture Red Imported Fire Ant Project, applicants for grading permits involving a grading plan and involving the export of soil will be required to present a clearance document from a Department of Food and Agriculture representative in the form of an approved "Notification of Intent To Move Soil From or Within Quarantined Areas of Orange, Riverside, and Los Angeles Counties" (RIFA Form CA-1) prior to approval of the Grading Plan. The California Department of Food and Agriculture office is located at 73-710 Fred Waring Drive, Palm Desert (Phone: 760-776-8208).

WATER QUALITY MANAGEMENT PLAN

- ENG 27. A Final Project-Specific Water Quality Management Plan (WQMP) shall be submitted to and approved by the City Engineer prior to issuance of a grading or building permit. The WQMP shall address the implementation of operational Best Management Practices (BMP's) necessary to accommodate nuisance water and storm water runoff from the site. Direct release of nuisance water to adjacent property or public streets is prohibited. Construction of operational BMP's shall be incorporated into the Grading Plan.

- ENG 28. Prior to issuance of any grading or building permits, the property owner shall record a "Covenant and Agreement" with the County-Clerk Recorder or other instrument on a standardized form to inform future property owners of the requirement to implement the approved Final Project-Specific WQMP. Other alternative instruments for requiring implementation of the approved Final Project-Specific WQMP include: requiring the implementation of the Final Project-Specific WQMP in Covenants, Conditions, and Restrictions (CC&R's); formation of Landscape, Lighting and Maintenance Districts, Assessment Districts or Community Service Areas responsible for implementing the Final Project-Specific WQMP; or equivalent. Alternative instruments must be approved by the City Engineer prior to the issuance of any grading or building permits.
- ENG 29. Prior to issuance of certificate of occupancy or final City approvals, the applicant shall: (a) demonstrate that all structural BMP's have been constructed and installed in conformance with approved plans and specifications; (b) demonstrate that applicant is prepared to implement all non-structural BMP's included in the approved Final Project-Specific WQMP, conditions of approval, or grading/building permit conditions; and (c) demonstrate that an adequate number of copies of the approved Final Project-Specific WQMP are available for the future owners (where applicable).
- ENG 30. ~~For industrial facilities subject to the General Permit for Stormwater Discharges Associated with Industrial Activity as defined by Standard Industrial Classification (SIC) code, prior to issuance of certificate of occupancy, the applicant shall demonstrate that General Permit coverage has been obtained by providing a copy of the Notice of Intent submitted to the SWRCB and a copy of the notification of the issuance of a Waste Discharge Identification (WDID) Number or other proof of filing.~~

DRAINAGE

- ENG 31. All stormwater runoff passing through the site shall be accepted and conveyed across the property in a manner acceptable to the City Engineer. For all stormwater runoff falling on the site, on-site retention or other facilities approved by the City Engineer shall be required to contain the increased stormwater runoff generated by the development of the property. Provide a hydrology study to determine the volume of off-site tributary flow entering the site and required stormwater runoff mitigation measures for the proposed development. If off-site drainage is co-mingled with on-site drainage, then both shall be treated. Final retention basin sizing and other stormwater runoff mitigation measures shall be determined upon review and approval of the hydrology study by the City Engineer and may require redesign or changes to site configuration or layout consistent with the findings of the final hydrology study.

ENG 32. This project ~~shall~~ ~~will~~ be required to install measures in accordance with applicable National Pollution Discharge Elimination System (NPDES) Best Management Practices (BMP's) included as part of the NPDES Permit issued for the Whitewater River Region from the Colorado River Basin Regional Water Quality Control Board (RWQCB). The applicant is advised that installation of BMP's, including mechanical or other means for pre-treating contaminated stormwater and non-stormwater runoff, ~~shall~~ ~~will~~ be required by regulations imposed by the RWQCB. It shall be the applicant's responsibility to design and install appropriate BMP's, in accordance with the NPDES Permit, that effectively intercept and pre-treat contaminated stormwater and non-stormwater runoff from the project site, prior to release to the City's municipal separate storm sewer system ("MS4"), to the satisfaction of the City Engineer and the RWQCB. Such measures shall be designed and installed on-site; and provisions for perpetual maintenance of the measures shall be provided to the satisfaction of the City Engineer, including provisions in Covenants, Conditions, and Restrictions (CC&R's) required for the development (if any)..

GENERAL

- ENG 33. Any utility trenches or other excavations within existing asphalt concrete pavement of off-site streets required by the proposed development shall be backfilled and repaired in accordance with City of Palm Springs Standard Drawing No. 115.
- ENG 34. All proposed utility lines shall be installed underground.
- ENG 35. All existing utilities shall be shown on the improvement plans required for the project. The existing and proposed service laterals shall be shown from the main line to the property line.
- ENG 36. Upon approval of any improvement plan by the City Engineer, the improvement plan shall be provided to the City in digital format, consisting of a DWG (AutoCAD 2004 drawing file), DXF (AutoCAD ASCII drawing exchange file), and PDF (Adobe Acrobat 6.0 or greater) formats. Variation of the type and format of the digital data to be submitted to the City may be authorized, upon prior approval of the City Engineer.
- ENG 37. The original improvement plans prepared for the proposed development and approved by the City Engineer shall be documented with record drawing "as-built" information and returned to the Engineering Division prior to issuance of a final certificate of occupancy. Any modifications or changes to approved improvement plans shall be submitted to the City Engineer for approval prior to construction.
- ENG 38. Nothing shall be constructed or planted in the corner cut-off area of any intersection or driveway which does or will exceed the height required to

maintain an appropriate sight distance per City of Palm Springs Zoning Code Section 93.02.00, D.

- ENG 39. All proposed trees within the public right-of-way and within 10 feet of the public sidewalk and/or curb shall have City approved deep root barriers installed in accordance with City of Palm Springs Standard Drawing No. 904. **Deferred**
- ENG 40. This property is subject to the Coachella Valley Multiple Species Habitat Conservation Plan Local Development Mitigation fee (CVMSHCP-LDMF). The LDMF shall be paid prior to issuance of Building Permit.

TRAFFIC

- ENG 41. As determined by the Preliminary Traffic Memorandum submitted by Aztec (dated January 12, 2010), the following mitigation measure will be required:
- a) During the construction of the project, advance temporary "Trucks Entering" signs shall be installed at the W. Garnet Avenue intersections with N. Indian Canyon Drive and Wall Road, to notify motorists of the potential for higher than normal turning movements entering and exiting the project site. As necessary, flaggers shall be utilized to stop motorists while oversized vehicles enter and exit the project site.
- ENG 42. A minimum of 48 inches of clearance for handicap accessibility shall be provided on public sidewalks or pedestrian paths of travel within the development. **Deferred**
- ENG 43. Construction signing, lighting and barricading shall be provided during all phases of construction as required by City Standards or as directed by the City Engineer. As a minimum, all construction signing, lighting and barricading shall be in accordance with Part 6 "Temporary Traffic Control" of the California Manual on Uniform Traffic Control Devices for Streets and Highways, dated January 13, 2012 September 26, 2006, or subsequent editions in force at the time of construction.
- ENG 44. This property is subject to the Transportation Uniform Mitigation Fee which shall be paid prior to issuance of building permit.

FIRE DEPARTMENT CONDITIONS

- FID 1. These conditions are subject to final plan check and review. Initial fire department conditions have been determined on the site plan dated and received on 1/14/2010. Additional requirements may be required at that time based on revisions to site plans.

- FID 2. Fire Department Conditions were based on the 2007 California Fire Code. Four complete sets of plans for fire alarm and fire protection systems must be submitted at time of the building plan submittal.
- FID 3. **Access During Construction (CFC 503):** Access for firefighting equipment shall be provided to the immediate job site at the start of construction and maintained until all construction is complete. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13'6". Fire Department access roads shall have an all weather driving surface and support a minimum weight of 73,000 lbs.
- FID 4. **Buildings and Facilities (CFC 503.1.1):** Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.
- FID 5. **Fire Department Access:** Minimum width of 24' Fire Department Access Roads shall be provided and maintained in accordance with (Sections 503 CFC) along the perimeter and interior roadways.
- FID 6. **Surface (CFC 503.2.3):** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus (73,000 lbs. GVW) and shall be surfaced so as to provide all-weather driving capabilities.
- FID 7. **Premises Identification (CFC 505.1):** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4" high with a minimum stroke width of 0.5".
- FID 8. **Turning radius (CFC 503.2.4):** The required turning radius of a fire apparatus access road shall be determined by the fire code official. Fire access road turns and corners shall be designed with a minimum inner radius of 25 feet and an outer radius of 43 feet. Radius must be concentric.
- FID 9. **Security Gates (CFC 503.6):** The installation of security gates across a fire apparatus access road shall be approved by the fire chief. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained at all times. Approved security gates shall be a minimum of 14 feet in unobstructed drive width on each side with gate in open position.

- Secured automated vehicle gates or entries shall utilize approved Knox access switches as required by the fire code official. Secured non-automated vehicle gates or entries shall utilize an approved padlock or chain (maximum link or lock shackle size of ¼ inch) when required by the fire code official.
- FID 10. **Key Box Required to be Installed (CFC 506.1):** Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location.
- FID 11. **Location of Knox boxes:** A Knox box shall be installed at every locked gate. Boxes shall be mounted at 5 feet above grade. Show location of boxes on plan elevation views. Show requirement in plan notes.
- FID 12. The small buildings to be built on this property site are beyond the five-minute fire department emergency response time as defined in Section 202. An approved automatic fire sprinkler system is required in any building, regardless of gross fire area. Based on the specific use of this facility, the non combustibile building materials such as steel or concrete block and the absence of water at this project the Palm Springs Fire Department will not require the installation of an automatic fire sprinkler system but will require an alternative clean agent extinguishing system as per NFPA 2001, *Standard on Clean Agent Fire Extinguishing Systems*.

END OF CONDITIONS



Planning Commission Staff Report

Date: June 9, 2010

Case No.: 5.1236 – CUP / 7.1338 AMM

Type: Conditional Use Permit / Administrative Minor Modification

Location: 2001 West Garnet Avenue

APN: 668-412-001 and 669-040-006

Applicant: AES Solar US, LLC

General Plan: IND (Industrial)

Zone: E-I (Energy – Industrial)

From: Craig A. Ewing, AICP, Director of Planning Services

Project Planner: Ken Lyon, Associate Planner

PROJECT DESCRIPTION:

The applicant has requested a conditional use permit (CUP) for the installation and operation of a 13 megawatt solar energy conversion system (SECS) project. The proposed solar system will be co-located with ten existing wind energy conversion system turbines (WECS) on approximately 77 acres at 2001 West Garnet Avenue; Zone E-I Section 16/T3S/R4E & Section 21/T3S/R4E. An Administrative Minor Modification is included seeking minor reductions in setbacks in accordance with the Zoning Code.

RECOMMENDATION:

That the Planning Commission adopts the Mitigated Negative Declaration as an adequate environmental document for the proposed project and its associated impacts and approves Case 5.1236 CUP; subject to the conditions in the attached draft resolution.

PRIOR ACTIONS:

1. On March 22, 2010 the Architectural Advisory Committee (AAC) reviewed the project and voted 6-0-1 (Parker absent) to recommend approval to the Planning Commission. The committee offered the following comments;
 - Consider providing tours, especially to school children; include informational boards for informing/educating tour groups, adequate parking for a bus and related facilities (applicant noted this may be possible to coordinate at their offices nearby).
 - Consider use of local indigenous (chuperosa, bottlebrush, palo verde, etc); plants that can survive the harsh winds.
 - Consider use of 3/8's inch rock or larger for ground cover/dust control; anything smaller will blow away.

BACKGROUND AND SETTING:

The subject site is an approximately 77-acre parcel located on West Garnet Avenue, west of Indian Canyon Drive. The site is developed with ten existing wind energy conversion system turbines (WECS) that were approved as Case 5.0779 CUP and an Edison substation (known as the Mountain View substation). The project proposes to install approximately 24 acres of fixed-mount solar collectors and related service roadways and structures for inverters, transformers, and other equipment on the vacant land around the existing turbines.

The project site is located on the south side of the I-10 freeway, west of Indian Canyon Drive, north of the Whitewater River wash and north of the Union Pacific railroad right-of-way. The area is zoned Energy-Industrial and is surrounded by existing wind turbine installations. Immediately to the west is an area of unincorporated county land with a small tract of residential uses.

The project site is accessed from West Garnet Avenue, which is the frontage road for the I-10 in this part of the city. Non-paved service roads located between the panels provide access to the panels for routine washing, maintenance and servicing. The panels are designed to be mounted on stationary racks and are located approximately four feet above the ground to minimize scouring of the panel surfaces due to blowsand. The top of the panels are approximately nine feet above grade.

The existing site is proposed to be scraped and cleared of existing vegetation. A twelve foot wide landscaped area is proposed along the Garnet Avenue frontage. It is not proposed to be irrigated. Five parking spaces are proposed for periodic use by service vehicles in a service yard area adjacent to the Mountain View electrical substation, however there are no permanent workers or residents on the parcel. (AES's primary operations office is located approximately 1.5 miles east at 19435 Ruppert Street.) An eight foot high chain link fence with barbed wire at the top is proposed around the perimeter of the site.

A project summary is attached for further description of the project.

Surrounding Land uses:

The project site is located in an industrial area in the northern portion of the City. The western boundary of the site is also the City Limits and the land west of the project site is unincorporated County of Riverside. Existing wind turbines are located on parcels on all sides of the project site. A small cluster of residential uses are located approximately 0.3 mile west of the project site in the County of Riverside.

Table 1: Surrounding Land Uses, Zoning and General Plan Uses

Orientation	Land Use	General Plan	Zoning
North	Wind Turbines	Industrial w/Wind Energy Overlay	E-I
South	Wind Turbines	Open Space Watercourse w/Wind Energy Overlay	Watercourse
East	Wind Turbines	Industrial w/Wind Energy Overlay	E-I
West	Wind Turbines	Open Space Desert (County of Riverside)	County of Riverside

ANALYSIS:

General Plan

The General Plan designation of the subject site is industrial (Ind). The industrial land use designation accommodates a variety of industrial, manufacturing, laboratories, warehouse and other similar uses. The site also lies within the Wind Energy Overlay area. This overlay area is intended to encourage alternative energy generating systems such as Wind Energy Conversion Systems (WECS) and is generally located along the whitewater floodplain in areas designated in the City's General Plan as Open Space Desert, industrial, Watercourse, and Regional Business Center land uses. As such, the project is consistent with the General Plan because it proposes a type of use envisioned for this area of the City.

Zoning

The project is located in the Energy-Industrial (E-I) zone. Solar Energy Collection Systems (SECS) are permitted in the E-I zone subject to a Conditional Use Permit (CUP) pursuant to PSZC Section 92.17.2.01. The development standards of the zone require setbacks of 50 feet from any property line. Fences may be a maximum of eight feet in height and may be permitted with barbed wire on top for security purposes.

Table 2: Proposed project compared to E-I Zone Development Standards:

	E-I Zone Requirements	Proposed Project
Minimum Lot Size	5 acres	77 acres (conforms)
Minimum Lot width & depth	250 feet x 250 feet	conforms
Maximum Lot Coverage	No limit for energy uses	conforms
Setbacks	Minimum 50 feet	40 feet sides, 45 foot front (Requires AMM to conform)
Buildings & landscape	Min 25 feet front yard setback for bldgs & 25% of such front yard shall be	First 15 feet of Garnet Av frontage is landscaped (conforms)

	landscaped	
Fencing	Maximum 8 feet, barbed wire is permitted	8 feet and barbed wire (conforms)
Building Height	30 feet	11 feet for service bldgs (conforms)
Outdoor storage	Adequately screened & enclosed	conforms

Minor Modification. The applicant has submitted a minor modification (AMM) application seeking a 20% reduction in the setbacks, from fifty (50) feet to forty (40) feet for the sides and 50 feet to 45 feet for the Garnet Road front setback. The findings for evaluating Minor Modifications are outlined in PSZC Section 94.06.01 and are analyzed below. With the approval of the AMM, the proposed project conforms to the development standards of the E-I zone as noted above.

Parking

Parking standards are regulated by Section 93.06.00 of the City's Zoning Code. There is no specific quantity of off-street parking prescribed for energy uses. The proposed project has no permanent employees or residents on site however periodic service and maintenance vehicles and workers will access the site on roughly a weekly basis and will use the proposed compacted gravel service roads to access all the panels for routine cleaning, inspection, repair and maintenance. The applicant has proposed an off-site parking area to accommodate five vehicles.

Parking lots are required to be developed with asphalt or concrete surfaces and curbs. The project is proposed with gravel service drives. The parking area is proposed to be constructed with compacted gravel, and thus does not conform to that requirement of the Zoning Code.

Architecture

The control building and other equipment enclosures are simple masonry structures with flat roofs. The buildings are painted neutral colors and are provided with basic security lighting with cut-off angles to control light spillage and glare.

Landscape

The applicant proposes a minimum of landscaping, primarily along the Garnet Avenue frontage. The materials consist of drought and wind tolerant plant species such as palo verde, bottle brush and chuperosa. Within the site, the existing vegetation will be scraped and cleared. Gravel will be laid as a dust control measure on areas between and under the panels, and service roadways are comprised of compacted gravel as well.

REQUIRED FINDINGS:

Minor Modification Findings.

Section 94.06.01(A)(5) provides that setbacks may be reduced up to 20% of the requirement for the zone. The E-I zone requires energy uses to be set back from perimeter property lines by 50 feet. The applicant is seeking a 20% reduction to 40 feet

for the side yard setbacks and a 10% reduction to 45 feet for the front (Garnet Avenue) setback. Before an administrative minor modification may be approved all the following findings must be made:

- a). *The requested minor modification is consistent with the general plan, applicable specific plan(s) and overall objectives of the zoning ordinance;*

The request to reduce the side and front yard setback is permitted by the Zoning Code Section 94.06.01. The General Plan also allows minor adjustments in development standards to enhance the overall development of a proposed project. The subject project proposes perimeter gravel service roads and fencing, with the edge of the solar panels proposed at 40 feet from the side property lines and 45 feet from the front property line. The panels are nine feet in height at the upper edge of the racks.

- b). *The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the minor modification;*

The surrounding parcels will not be adversely affected as a result of the requested reduction in setbacks because the proposed solar panels are relatively low in height and pose no adverse impact in terms of views, shade or other obstruction or impacts onto adjacent parcels.

- c). *The approval or conditional approval of the minor modification will not be detrimental to the health, safety, or general welfare of persons residing or working on the site or in the vicinity; and*

The proposed reduction in side setback of 10 feet and reduction in front setback of 5 feet will pose no adverse impact to persons working or residing on or around the project site. The project is provided with adequate service roads around the entire project site for adequate access and clear space for servicing and maintaining the proposed panels.

- d). *The approval of the minor modification is justified by environmental features, site conditions, location of existing improvements, or historic development patterns of the property or neighborhood.*

The project site is an open, industrial area primarily used for the installation of wind turbines (WECS). The environmental features of the site are essentially flat and the surrounding land uses are similar alternative energy producing uses. The development patterns in the area and adjacent uses are compatible and complementary to the proposed solar panel uses; no adverse impact would occur.

Staff has therefore concluded that the requested minor modification to reduce the perimeter side yard setbacks by 20% from 50 feet to 40 feet and the front setback from 50 feet to 45 feet is reasonable and consistent with the findings of the PSZC.

Conditional Use Permit Findings.

The Conditional Use Permit process outlined in Section 94.02.00 of the Zoning Code requires the Planning Commission to make a number of findings for approval of the permit. Those findings are analyzed by staff in order below:

- 1) *That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code.*

The applicant proposes solar collector uses (solar energy conversion systems (SECS) on an approximately 77 acre site in the E-I zone. Solar collector uses are permitted in the E-I zone subject to a conditional use permit.

- 2) *That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.*

The E-I zone is intended for the development of alternative energy uses and other incidental industrial uses. The SECS array proposed will augment the production of electrical energy, similar to that of the existing WECS on the site. The General Plan land use designation for the subject parcel is industrial. Solar collector uses are complementary to the existing alternative energy producing industries in and around the project site and are not detrimental to existing or future uses specifically permitted in the zone.

- 3) *That the site for the intended use is adequate in size and shape to accommodate such use, including yards, setbacks, walls or fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses of land in the neighborhood.*

The proposed site is approximately 77 acres and the project proposes approximately 24 acres of solar collectors mounted on fixed frames. Service roads and auxiliary buildings are proposed in support of the solar collector installation. The project is proposed with perimeter fencing and security lighting that will conform to the City's outdoor lighting ordinance. Minor adjustments in the setback requirements for the perimeter of the site are within the allowable limits set forth in the Zoning Code under Section 94.06.01 *Minor Modification*.

- 4) *That the site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use.*

The project is designed to provide adequate access to the public streets via an entrance and service drive off West Garnet Avenue. The project does not produce traffic impacts that would reduce the Level of Service (LOS) for the network of public roads in the vicinity. Therefore the project is consistent with this finding.

That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards. mitigation measures outlined in an environmental assessment.

A draft set of conditions of approval necessary to ensure compliance with the Zoning Ordinance requirements and to ensure the public health, safety and welfare are proposed and included in Exhibit A of this staff report.

CONCLUSION:

The proposed project is consistent with the General Plan and Zoning Code and is recommended for approval by the AAC. The project is consistent with the findings for a Conditional Use Permit and for a Minor Modification for the reduction of perimeter yard setbacks. The project will contribute to the City's growing number of alternative energy industries and provide an additional source of electrical energy generation for the region.

ENVIRONMENTAL DETERMINATION:

This CUP application is considered a project under the definitions of the California Environmental Quality Act (CEQA). The City has evaluated the project under CEQA Guidelines and a Mitigated Negative Declaration has been prepared and circulated for public comment. No comments have been received that would necessitate recirculation of the environmental analysis. Staff believes the analysis is a complete description of the project, its potential adverse impacts and the owner/applicant has agreed in writing to the recommended Mitigation Measures that will reduce any potentially significant impacts to less than significant levels.

NOTIFICATION:

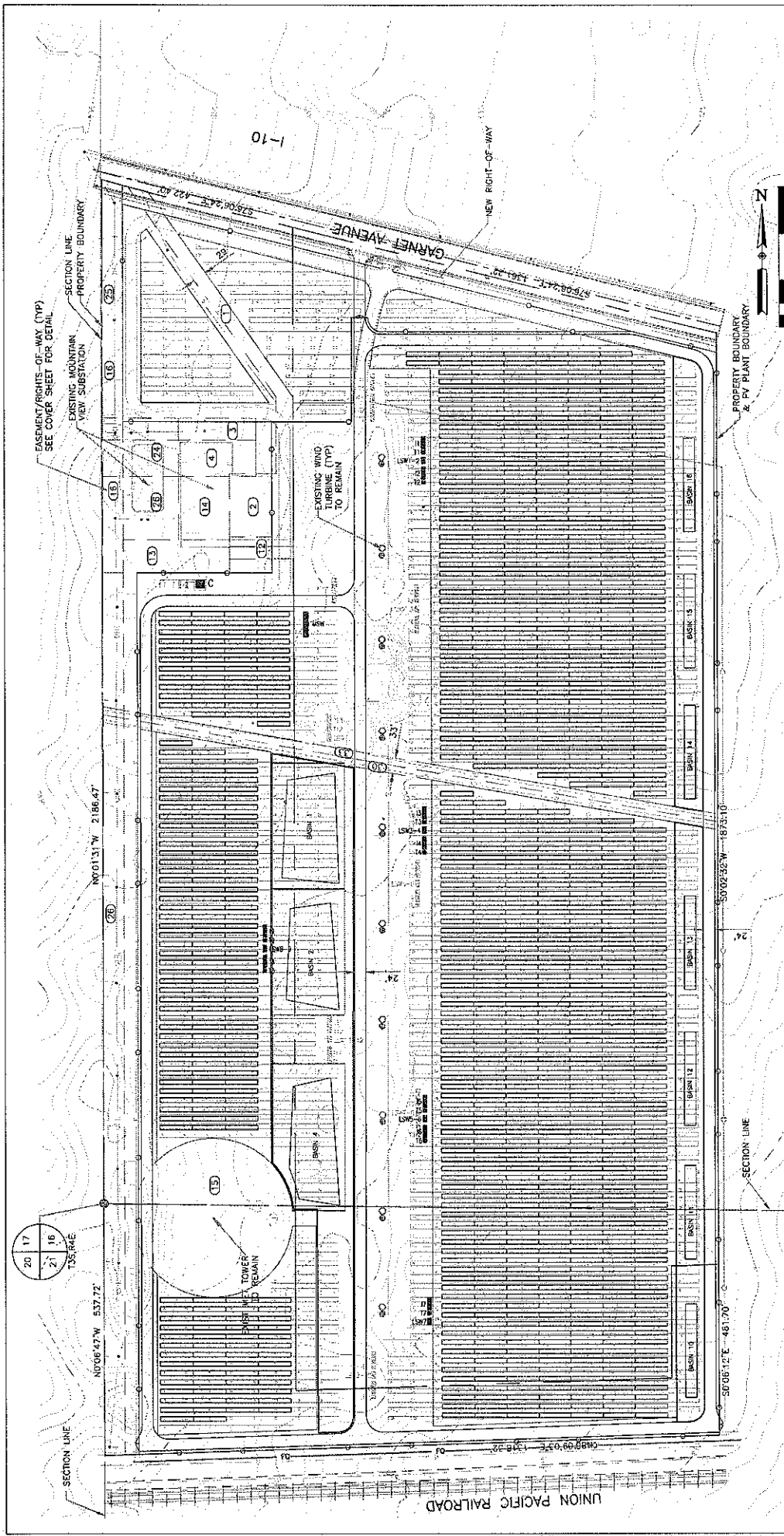
A notice was mailed to all property owners within a four hundred foot radius. As of the writing of this report, no correspondence from the public has been received by staff.

Ken Lyon
Associate Planner

Craig A. Ewing, AICP
Director of Planning Services

Attachments:

1. 400' Radius Map
2. Draft Resolution & Conditions of Approval
3. Reduced Site Plan and Elevations
4. Project Summary Description
5. Environmental Analysis and Mitigated Negative Declaration



ENGINE PROJECT TO BE BUILT UNDER ONE CONSTRUCTION PHASE & BY PLANT BOUNDARY.

This drawing is the property of AES Solar Energy, LLC. It shall not be reproduced, copied, transferred, disclosed or disposed of, directly or indirectly, nor used for any purpose other than that for which it is specifically furnished. The equipment/details shown in the drawing may be covered by patents.

PROJECT: MOUNTAIN VIEW SOLAR
DATE: 10/06/2010
DRAWING NO.: 10AW SITE PLAN-ALTERNATIVE 2
SCALE: 1"=100'
SHEET NO. OF 21

DESIGNED BY	CHECKED BY	DATE
DRAWN BY	APPROVED BY	
PLANNED BY		
FIELD NO.		
PROJECT NO.		
CLIENT		
LOCATION		



13-MW FOOTPRINT
10-MW FOOTPRINT
PROPOSED RETENTION BASIN



4301 North Fairfax Drive
 Suite 360
 Arlington, VA 22203
 tel 1(703) 682 6603
 fax 1 (703) 682 1157
 www.aes-solar.com

City of Palm Springs
 Department of Planning Services
 c/o Mr. Craig Ewing
 3200 Tahquitz Canyon Way
 Palm Springs, CA 92263
 Phone 760 323 8245 Fax 760 322 8360

RECEIVED

MAY 22 2013

May 21, 2013

PLANNING SERVICES

RE: SECOND TIME EXTENSION REQUEST (TE) FOR THE CASE 5.1236 CUP - A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A 13 MEGAWATT SOLAR ENERGY COVERSION SYSTEM INSTALLATION AT 2001 WEST GARNET AVENUE, ZONE E-I, SECTION 16/T3S/R4E & SECTION 21/T3S/R4E

MV Solar, LLC ("Applicant") is requesting a second time extension for the Conditional Use Permit ("CUP") for our project previously approved CUP from June 9, 2012 to June 8, 2013 by the City of Palm Springs Planning Commission. Although MV Solar has participated in several of the California utilities' renewable RFPs over the past three years, we have been unable to secure a Power Purchase Agreement ("PPA") to date. Without a PPA, we have been unable to initiate the construction of the project. MW Solar will continue in earnest to pursue a PPA, and will develop this project upon securing a PPA.

We kindly request the extension of our CUP for the maximum amount allowed by the Planning Commission. A check in the amount of \$ 881.00 is attached to this letter.

Sincerely,

Patricia L. Rollin
 By: _____

Title: Vice President

Date: 21 May, 2013

668-412-001

161314

1. PUBLIC HEARINGS:

- 1A. Case 5.1236 CUP / 7.1338 MMA (Mountain View Solar Project) - A request for a Conditional Use Permit and a Minor Modification by AES Solar US, LLC, for a 13 megawatt solar energy conversion system (SECS) on an approximately 77-acre parcel located at 2001 West Garnet Avenue, Zone EI (Energy-Industrial) Sections 16 & 21. (Project Planner: Ken Lyon, Associate Planner)**

Ken Lyon, Associate Planner, provided background information as outlined in the staff report dated June 9, 2010.

Chair Cohen opened the public hearing:

- Nathan Potter, AES Solar, representing the applicant, spoke of the benefits of the project that includes no need of further build-out with the co-locations of two energy power plants and the compatibility of the land use.
- Williams Barnes, representing AES Wind Energy Inc., land and wind turbine owner, stated that they have evaluated the proposal and believe it is a compatible use of the site; he encouraged the Commission to approve the Conditional Use Permit.
- Scott McKenzie, engineering team, (responded to questions from the Commission) explained that the surface grading and gravel is for spacing and even layout of the panels, as well as, dust control.
- Nathan Potter, responded to questions from the Commission in reference to the safety precautions in place in the event of a catastrophic accident.

There being no further appearances the public hearing was closed.

Marcus Fuller, Assistant Director of Public Works, explained that gravel was one option given to the applicant for dust control measures.

Commissioner Scott commented that this is an exciting opportunity for Palm Springs in an area that can't be used for anything else.

M/S/C (Bill Scott/Doug Donenfeld, 6-0, 1 absent/Leslie Munger) That the Planning Commission adopt the Mitigated Negative Declaration (MND) and approve Case 5.1236 CUP and 7.1338 MAA, subject to the Conditions of Approval; and allow compacted gravel for parking.

- 1B. Case 5.1237 GPA / PD 357 (Legacy Palm Springs) - An application by Tappan Enterprises, Inc. for an assisted living facility of approximately 89,000 gross square feet. The application includes a General Plan Amendment (GPA) changing the land use designation from Neighborhood Community Commercial (NCC) to High Density Residential (HDR) and a Planned**

1. CONSENT CALENDAR:

ACTION: To approve, Items 1A and 1B, as part of the Consent Calendar.

Motion Philip Klatchko, seconded by Leslie Munger and unanimously carried 6-0 on a roll call vote.

AYES: Leslie Munger, Tracy Conrad, Philip Klatchko, J.R. Roberts, Chair
Donenfeld, Vice Chair Hudson

ABSENT: Lyn Calerdine

1A. Minutes of May 23, 2012

Approved, as part of the Consent Calendar.

1B. Case 5.1236 CUP / 7.1336 AMM TE - A request by MV Solar, LLC (formerly AES Solar, LLC) for a one year time extension for a previously approved conditional use permit for a 13 Megawatt solar energy production facility on approximately 24 acres located at 2001 West Garnet Avenue, Zone E-I (Energy-Industrial). (Ken Lyon, Associate Planner)

Approved, as part of the Consent Calendar.

2. OTHER BUSINESS:

2A. Case 3.3038 MAA Appeal - An appeal by Eisenhower Medical Center of the Planning Director's decision to approve landscape lighting for the medical office building located at 151 South Sunrise Way, Zone RA (Resort Attraction of Section 14 Specific Plan), Section 15. (David A. Newell, Associate Planner)

Associate Planner Newell provided background information as outlined in staff report dated June 27, 2012.

Commissioner Roberts noticed that there may be a major security problem in this area, but concluded that it would not be solved by using brighter lights.

Vice Chair Hudson concurred with Commissioner Roberts that increasing the lighting level will not address the security problems. Vice Chair Hudson suggested placing a security guard on the premises to address the safety issues.