

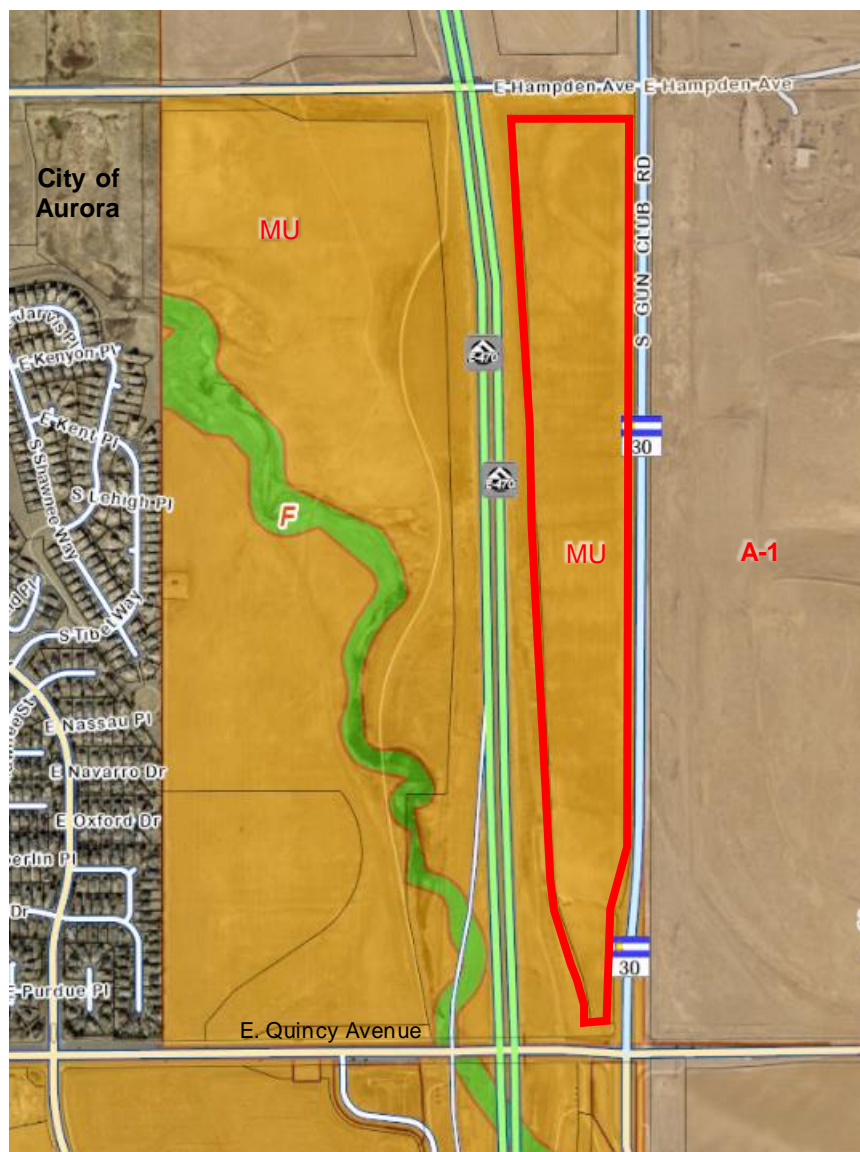
**ARAPAHOE COUNTY PLANNING COMMISSION
PUBLIC HEARING
FEBRUARY 18, 2025
6:30 P.M.**

SUBJECT: CASE NO. CZ24-001, LOWRY REZONING

MOLLY ORKILD-LARSON, PRINCIPAL PLANNER

LOCATION AND VICINITY MAP

The subject property is located on the northwest corner of E. Quincy Avenue and S. Gun Club Avenue in Commissioner District #3.



Subject Property (shown in red above)

ADJACENT SUBDIVISIONS, ZONING, AND LAND USE

- North - Zoned Agricultural One (A-1), Lowry Environmental Protection Cleanup Trust Fund - future small solar facilities,
- South - Zoned Mixed Use (MU), E-470 Public Highway Authority/Arapahoe County – vacant.
- East - Zone A-1, City and County of Denver - Lowry Superfund Site.
- West - Zoned MU, E-470 Public Highway Authority – vacant and Arapahoe Park and Recreation District – open space/future trailhead.

PURPOSE AND REQUEST

The applicant, SunShare LLC, on behalf of the property owner, Lowry Environmental Protection Cleanup Trust Fund, seeks approval of a rezoning application. The subject property is 56.7 acres and zoned MU. This application proposes to rezone the parcel from MU to A-1 to develop a 5 megawatt (MW) small solar facility on the property.

Small solar facilities (solar panels generating 5MW or less) are only permitted on Agricultural and Industrially zoned property. If the rezone is approved, the proposed solar facility would need to obtain approval of an Administrative Energy Facility site plan application. The proposed solar garden will be unmanned and will not require water and sanitary sewer service. Gas and electric lines traverse the eastern boundary of the subject site. The gas lines will be left undisturbed, but the solar facility proposes to connect to Xcel Energy distribution lines.

The facility will have access from S. Gun Club Road and is anticipated to generate 20 to 40 vehicle trips per day during construction (two to four months). Once construction is complete, two site visits are expected to occur every quarter.

BACKGROUND

The parcel is an undeveloped agricultural property that is currently dryland-farmed.

To the east of the subject site is the Lowry Landfill which has operated as a landfill since 1964 and accepts both municipal solid and industrial liquid waste. In 1984, due to groundwater contamination, the Environmental Protection Agency (EPA) placed the landfill on its National Priorities List of sites to be addressed under the federal remediation program known as Superfund. The landfill has been undergoing extensive containment remedy since its listing.

Though not required by the terms of the EPA-selected remedy, Denver and Waste Management and Lowry Environmental Protection Cleanup Trust Fund purchased properties a half mile around the site as an additional level of assurance for the remedy. This was intended to prohibit future groundwater use and to control future land use around the site. Any future use of these lands will be compatible with the remedy, conform to certain restrictive covenants, and comply with all regulations to ensure the protection of public health and the environment.

The land within the half-mile area is managed by the Lowry Environmental Protection Cleanup Trust (Lowry Trust) which oversees the uses of these lands. To assist with their supervision, the Lowry Trust Master Plan was created, and its primary goal is to identify land uses that are compatible with the Lowry Landfill remedy. The Master Plan identifies the subject site as being located in Section 1 which allows renewable energy generation, solar farms, and other forms of

renewable energy production. The proposed land use associated with this rezone request is in alignment with the Lowry Trust Master Plan in that it is a land use with no permanent human-occupied structures and does not require access to water and sanitary sewer services, thereby removing any concern for contamination from the Superfund site. The site will mainly be developed with unmanned solar panels.

NEIGHBORHOOD OUTREACH AND PUBLIC COMMENT

The applicant sent a mailed notice and posted the property for a neighborhood outreach meeting held on November 15, 2023, at the Central Recreation Center. No public or adjacent property owners attended the meeting.

ANALYSIS OF A REZONING APPLICATION

Staff review of this application included a comparison of the proposal to: 1) applicable policies and goals outlined in the Comprehensive Plan; 2) a review of pertinent Land Development Code regulations; and 3) an analysis of referral comments.

1. The Comprehensive Plan

The subject parcel is located within the Lowry Trust Properties and future land uses will be determined on a case-by-case basis with an emphasis on the proposed development's impact on, and compatibility with, adjacent land uses, infrastructure capacity, the site and surrounding institutional controls and land use restrictions and their implementation, and findings of the most recent EPA five-year review of the Lowry Superfund Site approved remedy. The Lowry Trust Master Plan identifies energy facilities to be located on this parcel, and therefore, staff believes that the proposed use complies with the Comprehensive Plan.

This proposal complies with the Comprehensive Plan as follows:

Policy GM 1.2 – Encourage Infill Development and Redevelopment.

The proposed application is located in a designated growth area and is considered “infill” development. The proposed land use as part of this rezone application appears to be a compatible use for the site, given its proximity to contaminated property. Development of solar panels has a low safety risk compared to human-occupied buildings.

Policy GM 3.1 – Direct Future Development to Areas with Low Risks from Natural and Man-made Hazards

The subject property is located within areas of low risk from natural and man-made hazards. The site is not within a 100-year flood zone. The Colorado Geological Survey had no comments.

The site is within an airport-influence area of Buckley Space Force Base (Buckley) and Denver International Airport. Buckley sent the application to the Military Aviation and Installation Assurance Siting Clearinghouse/Department of Defense, and they indicated that the impacts of the proposed future land use would have minimal impact on military operations conducted in the area. The Denver International Airport had no comments.

GOAL PFS 6 – Ensure the Adequacy of Electric, Natural Gas, Telephone, Cable, and Internet in Existing and New Development

Xcel Energy can serve the property. Other services are not necessary since the proposed use will be unmanned.

GOAL PFS 7 – Ensure Existing and New Development have Adequate Police and Fire Protection Utilities in Existing and New Development

The Arapahoe County Sheriff's Office and South Metro Fire District will serve the property and have no objections or concerns to the rezoning of the property.

Strategy NCR 6.2(a) – Encourage the Development of Solar Energy Facilities

Rezoning this parcel to A-1 allows the property to be developed for a solar energy facility.

Policy PFS 12.2 - Consider Utility Needs to Support Growth and Development of the Region

This solar development will support existing and proposed developments in Arapahoe County by providing electricity.

Policy PFS 12.3 - Require Land Use Compatibility When Siting Local and Regional Utility Facilities

The proposed land use is compatible with the surrounding uses such as the small solar facilities to the north, industrial uses to the east, and E-470 to the west.

2. Land Development Code Review

Section 5-3.2.B, Rezoning (Zoning Map Amendment/Conventional Zone District) of the Land Development Code indicates the Board of County Commissioners may approve a rezoning application if the following approval criteria are met:

- a. Recognize the limitations of existing and planned infrastructure, by thoroughly examining the availability and capability of water, sewer, drainage, and transportation systems to serve present and future land uses.*

The small solar facility is proposed to be unmanned, therefore the need for water and sanitary sewer services will not be needed. The proposed use would generate electricity rather than utilize it. The road network in Arapahoe County can adequately serve the limited traffic generated by this proposed land use.

- b. Assure compatibility between the proposed development, surrounding land uses, and the natural environment.*

The proposed small solar facility is compatible with the surrounding land uses including the solar facilities to the north, landfill to the east, and E-470 to the west. There are pockets of the natural environment in the area including areas of the Arapahoe County Fair Grounds to the east and the Arapahoe Parks and Recreation open space and future trailhead to the west. The Lowry Landfill property also has vacant land to the east. These areas are separated from the subject site by either or both open space and public roads.

- c. *Allow for the efficient and adequate provision of public services. Applicable public services include, but are not limited to, police, fire, schools, parks, and libraries.*

The sheriff and fire district can serve the future facility. Provisions for schools, parks, and libraries do not apply to the proposed land use since it will not generate residential uses.

- d. *Enhance convenience for the present and future residents of Arapahoe County by ensuring that appropriate supporting activities, such as employment, housing, leisure-time, and retail centers are in close proximity to one another.*

The proposed land use shall enhance the existing and future residents and businesses of Arapahoe County by providing electricity to them.

- e. *Ensure that public health and safety is adequately protected against natural and man-made hazards which include, but are not limited to, traffic noise, water pollution, airport hazards, and flooding.*

There are no known man-made hazards on the property. The parcel is not within the 100-year floodplain but is within the airport influence area. The Buckley Space Force Base and Military Aviation and Installation Assurance Siting Clearinghouse/ DoD have reviewed the solar project and stated that it will have minimal impact on military operations conducted in the area.

- f. *Provide for accessibility within the proposed development, and between the development and existing adjacent uses. Adequate on-site interior traffic circulation, public transit, pedestrian avenues, parking, and thoroughfare connections are all factors to be examined when determining the accessibility of a site.*

The proposed land use will obtain access from S. Gun Club Road. Circulation within the property will be further defined with future land use applications.

- g. *Minimize disruption to existing physiographic features, including vegetation, streams, lakes, soil types, and other relevant topographical elements.*

The property is presently being farmed. When the site is developed with solar panels, the land between the panels will need to be stabilized by low-growing vegetation such as grasses. The site generally slopes to the south and west with two minor drainageways that bisect the site. Future site development will need to accommodate or avoid the existing drainage.

- h. Ensure that the amenities provided adequately enhance the quality of life in the area, by creating a comfortable and aesthetically enjoyable environment through conventions such as, the preservation of mountain views, the creation of landscaped open areas, and the establishment of recreational activities.*

The height of solar panels is to be no greater than eight feet in height and will be setback at least 100 feet from S. Gun Club Road. Travelers along the majority of S. Gun Club Road should be able to view the mountains in the west even with panels being installed. However, on the most northern portion of the site, the topography to the west rises, limiting the views of the mountains now. There will be open areas around the facility and these areas will be stabilized with vegetation.

- i. Enhance the useable open spaces in Arapahoe County and provide sufficient unobstructed open space and recreational area to accommodate a project's residents and employees.*

The proposed solar facility will have open areas between panels and between the panels and property line that will be vegetated. Due to safety risks, the facility will not be open for public recreation.

- j. Ensure the application complies with the requirements of this Resolution and is in general conformance with the Arapahoe County Comprehensive Plan.*

The proposed rezone and land use complies with the requirements and is in general conformance with the Arapahoe County Comprehensive Plan.

3. Referral Comments

Comments received during the referral process are summarized in the chart attached to this report. Any late responses will be conveyed verbally at the public hearing. No significant concerns were raised regarding the proposed rezoning.

STAFF FINDINGS

Staff has reviewed the plans, supporting documentation, referral comments, and external agency input in response to this application. Based upon a review of applicable policies and goals in the Comprehensive Plan, review of the development regulations, and analysis of referral comments, our findings include:

1. The proposed CZ24-001, Lowry Rezoning, generally conforms to the Arapahoe County Comprehensive Plan.
2. The proposed CZ24-001, Lowry Rezoning, meets the Arapahoe County Zoning Regulations and procedures, including those stated in Section 5-3.2 Rezoning (Zoning Map Amendment/Conventional Zone District) of the Land Development Code.

STAFF RECOMMENDATION

Considering the findings and other information provided herein, staff recommends approval of Case No. CZ24-001, Lowry Rezoning, subject to the following condition of approval:

1. Prior to signature of the final copy of these plans the applicant must address Public Works and Development staff comments and concerns.

Alternatives

The Planning Commission has alternatives that include the following:

1. Recommend approval of the proposed rezoning.
2. Continue to a date certain for more information.
3. Recommend denial of the proposed rezoning.

CONCURRENCE

The Public Works and Development Planning and Engineering Services Divisions have reviewed the application, and the Arapahoe County Public Works Department is recommending approval of this case.

PLANNING COMMISSION DRAFT MOTIONS – CZ24-001, LOWRY REZONING

Conditional Recommendation to Approve

In the case of CZ24-001, Lowry Rezoning, I have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant's presentation and any public comment as presented at the hearing and hereby move to recommend approval of this application based on the findings in the staff report, subject to the following condition:

1. Prior to signature of the final copy of these plans the applicant must address Public Works and Development staff comments and concerns.

Staff provides the following Draft Motions listed below as general guidance in preparing an alternative motion if the Planning Commission reaches a different determination:

Recommendation to Deny

In the case of CZ24-001, Lowry Rezoning, I have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant's presentation and any public comment as presented at the hearing and hereby move to recommend denial of this application based on the following findings:

1. *State new findings in support of denial as part of the motion.*

Continue to Date Certain:

In the case of CZ24-001, Lowry Rezoning, I move to continue the hearing to [*date certain*], 6:30 p.m., to obtain additional information and to further consider the information presented.