



Los Alamos County  
Community Development Department  
**BOARD OF ADJUSTMENT STAFF REPORT**  
**July 27, 2020**

**Subject:** Case No. WVR-2020-0091  
**Owner/Applicant:** Owners, Marilyn and Barnham Smith; Applicant Greg Mechels, Select Solar,  
**Property Address:** 116 Piedra Loop  
**Case Manager:** Anita Barela, Associate Planner

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**Case No. WVR-2020-0091**

A request for a 15-foot waiver (15') Waiver to one of the required twenty-five foot (25') side yard setbacks. The Los Alamos County Code of Ordinances, Chapter 16, Development Code, requires setbacks to be established at the time of site plan approval, in this zoning district. If approved the Waiver will allow for the construction of a solar array to be built ten feet (10') from the East and Southeast property lines. The property is located at 116 Piedra Loop, in the La Senda A Subdivision and is zoned R-A (Residential Agricultural district).

**Board Action Options**

**Motion Option 1:**

I move that the Board of Adjustment **approve** Case No. WVR-2020-0091

A request for a 15-foot waiver (15') Waiver to one of the required twenty-five-foot (25') side yard setbacks. The Los Alamos County Code of Ordinances, Chapter 16, Development Code, requires setbacks to be established at the time of site plan approval, in this zoning district. If approved the Waiver will allow for the construction of a solar array to be built ten feet (10') from the East and Southeast property lines for the reasons stated in the staff report, reasons determined during the public hearing, and adoption of findings of fact, subject to the following conditions:

1. The applicant shall obtain a building permit prior to construction.
2. No structures shall be installed on or across any dedicated easements, as applicable.

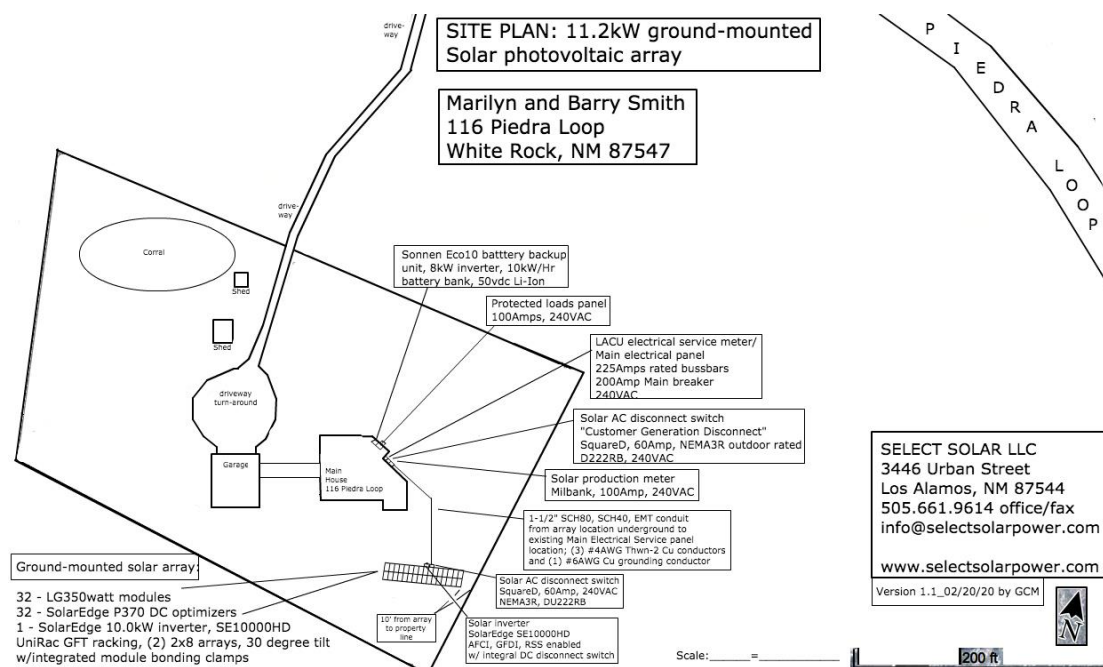
**Motion Option 2:**

I move that the Board of Adjustment **deny** Case No. WVR-2020-0091 with the finding that it does not meet the Criteria of Section 16-157 for the following reason(s):

1. The applicant has not demonstrated that the request is not a self-imposed hardship.

## I. Summary

The Los Alamos County Code of Ordinances, Chapter 16, Development Code, Article XIII, Site Development Requirements, Residential Agricultural Districts, R-A District, requires a minimum side yard setback of twenty-five (25) feet as measured from the property line. The applicant is requesting a fifteen-foot waiver to allow for the construction of a solar array. If approved, the structure will be located ten (10) feet from the side property line. Except for the side yard requirements, the property meets all development standards, including other required setbacks established for this zoning district.



See Exhibit 1.

The property is occupied by a single-family residence with two accessory structures. Adjacent properties are fully developed and contain single family residential land uses.

Los Alamos County Assessor's data indicate the subject property is 114,563 square feet. The existing dwelling unit is approximately 2,254 square feet. The existing accessory structures are a 1100 square foot garage a 200 square foot shed, and another smaller shed approximately 100 square feet. The existing lot coverage\* is approximately 0.031%. The proposed 550 square foot solar array would bring the lot coverage to 0.036%, which is below the 10% maximum lot coverage allowed in a RA zoning district.

\*Per Sec. 16-9, Definitions, of the Los Alamos County Code of Ordinances, "Lot coverage means the percentage of the lot area covered by structures, including accessory buildings, main buildings and detached buildings as defined elsewhere in this chapter. Lot coverage includes all aboveground structures."

A thirteen (13) foot wide utility easement runs along the driveway, parallel to the property line and would be unaffected by the proposed construction. No other easements are located on the property.

Via email, on the Thursday, Jun 23, 2020 deadline, the Inter-Departmental Review Committee reviewed the request and voted (5-0) to forward this request to the Board of Adjustment without a recommendation of approval or denial. See Exhibit 4.

The Waiver application was properly and legally advertised, posted and noticed. The Planning Division received one letter in support of the Waiver from the property owners immediately adjacent to the subject property. No other comments had been received at the time of publication of this report. See Exhibit 5.

## **II. Waiver Review Criteria**

***Sec. 16-157: During the course of review of any waiver request, the board of adjustment shall base its decision on all the following criteria. The board of adjustment shall approve, approve with conditions and limitations, or deny the request depending on the extent to which the request meets or fails to meet these criteria:***

***(a) Granting of the waiver will not cause an intrusion into any utility or other easement unless approved by the owner of the easement, and***

Applicant Response: he proposed location for a ground-mounted solar PV array at the residence of Marilyn and Barham Smith, 116 Piedra Loop, White Rock NM, will not cause an intrusion into any utility easement or other easement. The existing equestrian easement between the two lots is already fenced.

The proposed array location is within the existing fence line of the Smith's property. Neighbors have approved of the proposed location and written a letter to this effect; included with submittals

Staff Response: The proposed construction will not be placed over any known easements.

***(b) The waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship has not been self-imposed, and***

Applicant Response: The waiver request is due to several reasons:

Most of the Owners' property lies above shallow basalt bedrock; the corner of the lot where the array is proposed for installation has deeper soil that can be excavated to the proper depth for array foundations. The Owners, Marilyn and Barham Smith have worked extensively to preserve the Piñon pine and other trees and vegetation on their property; the proposed array location prevents the need for any tree removal for array shading.

RA zoning setback is 25'; We are requesting a waiver for a 10' setback, which is common for most town lots.

Staff Response:

Staff agrees with applicant's response. We feel it's best to preserve natural vegetation as much as possible.

***(c) Granting of the waiver will not create a health or safety hazard or violate building code requirements, and***

Applicant Response: he proposed location for a ground-mounted solar array will not create a health or safety hazard or violate building code requirements.

The proposed location is behind all existing dwellings, is in an area that is not highly visible and will be within the existing fence line of the Owners' property.

Staff Response: One purpose of the Waiver request, as stated in the application, is to alleviate health and safety hazards associated with the exposed entryway. If the Waiver is approved, the applicant will be required to secure a Building Permit and construct the addition in compliance with all applicable Building Code requirements.

***(d) Granting of the waiver will not create any significant negative physical impacts on property within 100 yards of the subject property such as reduced sight lines, loss of privacy, decreased security, increased noise, objectionable odors, intrusion of artificial light, the casting of unwanted shadows, or similar negative impacts.***

Applicant Response: The proposed location of the ground-mounted solar PV array will not create any negative physical impacts on property within 100 yards.

The closest neighbors that share the common side lot line with where the array would be located have seen the proposed site, discussed the location with the Owners, and written a letter of approval granting their permission.

Staff Response: The proposed addition is not likely to create any negative physical impacts to the subject property or to any properties in the immediate vicinity. Staff concurs with the applicant's response.

#### **Staff Recommendation:**

Staff has applied the applicable review criteria for a Waiver of the 25-foot required side yard setback and recommends approval of the waiver.

### **III. PUBLIC NOTICE**

Notice of this public hearing has been given per the requirements of the Los Alamos County Code of Ordinances, Chapter 16, Development Code, Sec. 16-192(b), including by U. S. mail to owners of real property located within 100 yards of the subject property.

### **IV. Findings of Fact**

1. This public hearing was announced by publication in the Los Alamos Daily Post, the Newspaper of Record for Los Alamos County, on Thursday July 9th, 2020. Property owner notices were mailed via first class mail to all owners of real property located within 100 yards of the subject property, per the requirements contained in Article V, §16-193 of the Los Alamos County Development Code.
2. The request was properly and sufficiently noticed, and no objections have been received as of the publication date of this report.
3. This and adjacent properties are residentially developed and are zoned R-A (Residential Agricultural).
4. The applicant owns the subject property.
5. The subject property is located in the La Senda A Subdivision and consists of 114,463 square feet of area. The proposed residence including attached garage is 3,464 Ft<sup>2</sup> of area, yielding a lot coverage factor of .02%. The maximum lot coverage permitted in the R-A zoning district is 10%.

6. Approval of this Waiver will allow the petitioner to construct a new solar array that will encroach fifteen (15) feet into east side yard setbacks.
7. The Interdepartmental Review Committee (IDRC) voted 5-0, via email, to forward this petition to the Board of Adjustment with a recommendation of approval.

#### **V. Exhibits**

- |           |  |
|-----------|--|
| Exhibit 1 | Application, and Site Plan   |
| Exhibit 2 | Vicinity Map of the subject property                                   |
| Exhibit 3 | List of property owners of record within 100 yards of subject property |
| Exhibit 4 | Interdepartmental Review Committee (IDRC) Report                       |
| Exhibit 5 | Letter from David and Anne Paulson 122 Piedra Loop                     |

# LOS ALAMOS

Community Development

## WAIVER APPLICATION

Los Alamos County Community Development Department  
1000 Central Ave, Suite 150, Los Alamos NM 87544  
(505) 662-8170

*Note: The Board of Adjustment considers Applications for Waivers at a public hearing. Waiver means an adjustment of dimensional requirements, parking regulations, or design standards contained in the Land Development Code. Waivers shall not apply to regulations controlling density or land use.*

**Describe the Waiver request:**

Request to locate ground-mounted solar array with eastern end of array 10' from lot line instead of typical 25' requirement for RA zoned lot.  
Majority of lot has shallow basalt bedrock that is not diggable without blasting and lot Owners Marilyn and Barham Smith have worked very hard for many years to save trees that shade other areas of yard. Neighbors, Dave & Anne Paulson have granted permission, letter included.

**Address of Property to which the Waiver Request applies:**

116 Piedra Loop, White Rock NM 87547

Zoning District: R-A Acreage: 2.63 Lot Coverage: \_\_\_\_\_ Related Applications (if any): \_\_\_\_\_

**APPLICANT** (Unless otherwise specified, all communication regarding this application shall be to Applicant):

Name: Select Solar LLC, Greg Mechels Phone: 505-661-9614 Cell #: 505-470-6607  
Please Print

Address: 3446 Urban Street, Los Alamos NM 87544 Email: greg@selectsolarpower.com

Greg C Mechels 5/27/2020  
SIGNATURE DATE

**PROPERTY OWNER** (If different from Applicant)

☐ Check here if same as above

Name: Marilyn and Barham Smith Phone: \_\_\_\_\_ Cell #: 505-699-0941  
Please Print

Address: 116 Piedra Loop, White Rock NM 87547 Email: latoty07@gmail.com  
Owner's Address

*My signature below indicates that I authorize the Applicant to make this Waiver application on my behalf.*

Marilyn K. Smith Barham W. Smith 5/27/2020  
SIGNATURE DATE

**THIS SECTION TO BE COMPLETED BY THE COMMUNITY DEVELOPMENT DEPARTMENT**

**For County Use:**

Date of Submittal: \_\_\_\_\_ Staff Initial: \_\_\_\_\_

CDD Application Number: \_\_\_\_\_ Fees Paid: \_\_\_\_\_

Revised: 12/30/15



#### WAIVER REVIEW CRITERIA:

The Los Alamos County Code of Ordinances, Chapter 16, Development Code, Sec. 16-157 establishes four (4) criteria upon which the Board of Adjustment shall base its decision to approve, approve with conditions and limitations, or deny the waiver request. The Board's decision shall depend upon the extent to which the request meets or fails to meet these criteria. Please review each of the criteria listed and provide short comments on how your application meets the criteria in the space provided. (Attach additional sheets if needed.)

- (a) ***Granting of the waiver will not cause an intrusion into any utility or other easement unless approved by the owner of the easement; and***

The proposed location for a ground-mounted solar PV array at the residence of Marilyn and Barham Smith, 116 Piedra Loop, White Rock NM, will not cause an intrusion into any utility easement or other easement. The existing equestrian easement between the two lots is already fenced. The proposed array location is within the existing fenceline of the Smith's property. Neighbors have approved of the proposed location and written a letter to this effect; included with submittals.

- (b) ***The waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship has not been self-imposed; and***

The waiver request is due to several reasons:

Most of the Owners' property lies above shallow basalt bedrock; the corner of the lot where the array is proposed for installation has deeper soil that can be excavated to the proper depth for array foundations. The Owners, Marilyn and Barham Smith have worked extensively to preserve the Piñon pine and other trees and vegetation on their property; the proposed array location prevents the need for any tree removal for array shading.

RA zoning setback is 25'; We are requesting a waiver for a 10' setback, which is common for most town lots.

- (c) ***Granting of the waiver will not create a health or safety hazard or violate building code requirements; and***

The proposed location for a ground-mounted solar array will not create a health or safety hazard, or violate building code requirements.

The proposed location is behind all existing dwellings, is in an area that is not highly visible and will be within the existing fence line of the Owners' property.

- (d) ***Granting of the waiver will not create any significant negative physical impacts on property within 100 yards of the subject property such as reduced sight lines, loss of privacy, decreased security, increased noise, objectionable odors, intrusion of artificial light, the casting of unwanted shadows, or similar negative impacts.***

The proposed location of the ground-mounted solar PV array will not create any negative physical impacts on property within 100 yards.

The closest neighbors that share the common side lot line with where the array would be located have seen the proposed site, discussed the location with the Owners, and written a letter of approval granting their permission.

#### SUBMITTALS:

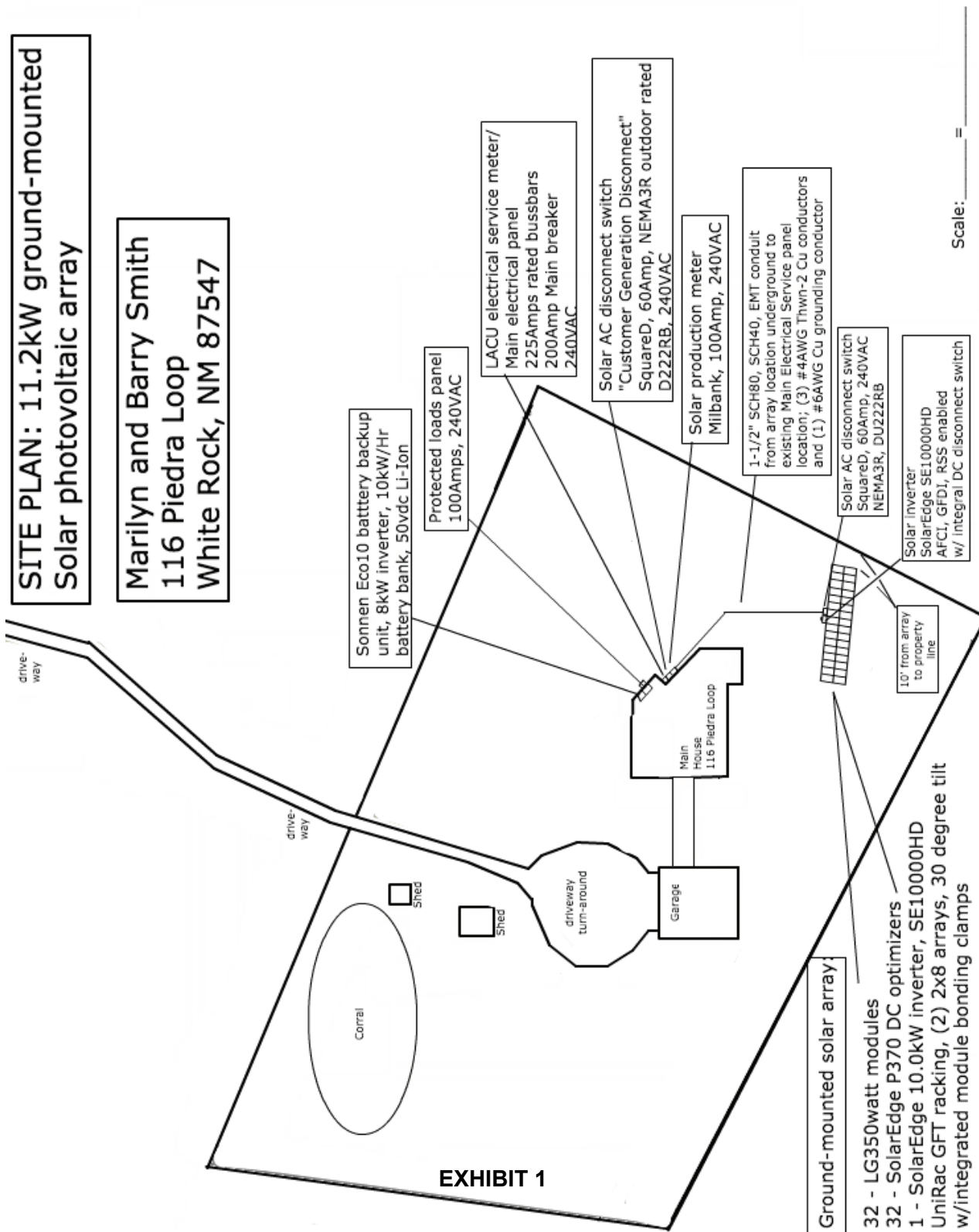
Provide all information necessary for a complete review of the Waiver request. Check each of the boxes to indicate which information you have provided, and, if possible, also provide one complete copy of all materials on disk:

- ☐ Proof of property ownership.
- ☐ A scaleable drawing including all information pertinent to the waiver request:
  - ☐ Existing and proposed lot coverage.
  - ☐ Show and label the footprint of all existing buildings and structures on the site.
  - ☐ Show, dimension and label all existing and proposed easements.
  - ☐ Show, dimension and label all existing and proposed setbacks.
  - ☐ Show, dimension and label building/structure elevations.
- ☐ Other. Describe: \_\_\_\_\_

**SITE PLAN: 11.2kW ground-mounted Solar photovoltaic array**

**Marilyn and Barry Smith  
116 Piedra Loop  
White Rock, NM 87547**

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**EXHIBIT 1**

**SELECT SOLAR LLC**  
3446 Urban Street  
Los Alamos, NM 87544  
505.661.9614 office/fax  
info@selectsolarpower.com  
[www.selectsolarpower.com](http://www.selectsolarpower.com)



Version 1.1\_02/20/20 by GCM

200 ft

Scale: \_\_\_\_\_ = \_\_\_\_\_

32 - LG350watt modules  
32 - SolarEdge P370 DC optimizers  
1 - SolarEdge 10.0kW inverter, SE10000HD  
UniRac GFT racking, (2) 2x8 arrays, 30 degree tilt  
w/integrated module bonding clamps



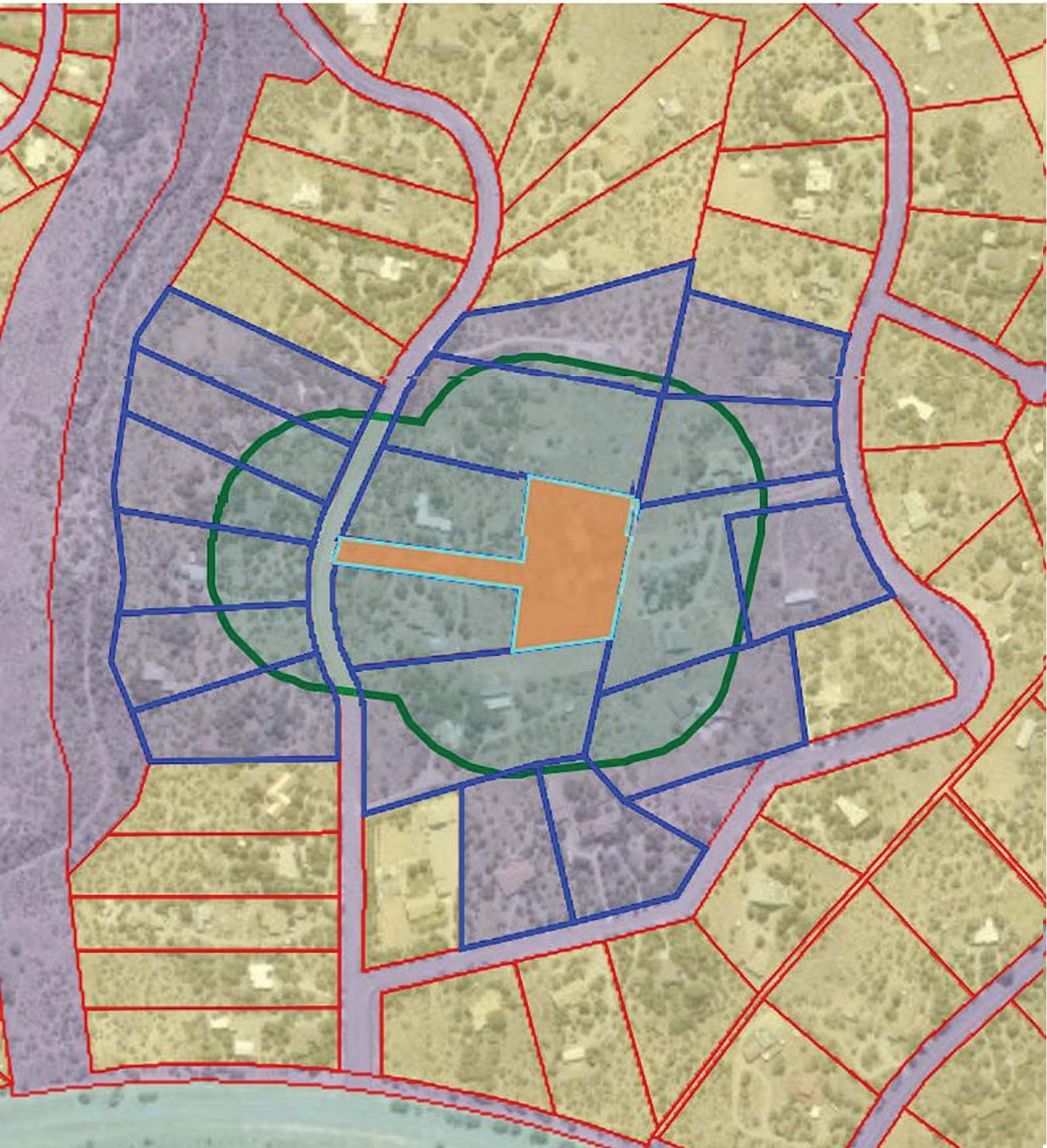
VICINITY MAP 116 Piedra Loop



Sources: Esri; HERE; Garmin; Intelmap; incremental Corp.; GEBCO; USGS; FAO; NPS; NRCAN; GeoBase; IGN; Kataster; NL Ordnance Survey; Esri Japan; METI; Esri China (Hong Kong); (c) OpenStreetMap contributors; and the GIS User Community



# 116 Piedra Loop 300 Foot Map



**July 27, 2020**

EXHIBIT 3

DUB PAVEL A & DEMESHKO IRINA  
103 LA SENDA RD  
LOS ALAMOS, NM, 87547

POTOCKI MARK L & TSUGIKO REVOC LIVING TRU...  
105 LA SENDA RD  
LOS ALAMOS, NM, 87547

METZGER-THORP JEANETTE & MURPHY CYNTHI...  
110 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

STEWART ELIZABETH  
111 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

O'BRIEN REVOC TRUST  
107 LA SENDA RD  
LOS ALAMOS, NM, 87547

SHAFER BARRY P  
113 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

NOLL PHILLIP D JR & MONICA D REVOC TRUST  
114 PIEDRA LP  
LOS ALAMOS, NM, 87547

MATTHEWS CHRISTOPHER & DENISE  
113 B LA SENDA RD  
LOS ALAMOS, NM, 87547

JONES ROLLIN T & REBECCA N  
113 A LA SENDA RD  
LOS ALAMOS, NM, 87547

SMITH BARHAM W & MARILYN K  
116 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

JAEGERS PETER J & LISA A  
115 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

JOHNSON MIKKEL B & LYNNE M REVOC TRUST  
118 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

SHORT MARK & AUDRA J REVOC TRUST  
117 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

HAAS JAMES K & KELLY K  
119 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

PAULSON DAVID L & ANNE M  
122 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

MCCLELLAN JOHATHAN & KRISTIE  
121 PIEDRA LOOP  
LOS ALAMOS, NM, 87547

BERL FREDRICK J & THERESA K  
117 LA SENDA RD  
LOS ALAMOS, NM, 87547

COBBLE JAMES A & VICKI B  
124 A PIEDRA LP  
LOS ALAMOS, NM, 87547

DI LEVA LESLIE V & THAMES PATRICIA A  
115 LA SENDA RD  
LOS ALAMOS, NM, 87547

**IDRC CONDITIONS & COMMENTS VIA EMAIL: 116 Piedra Loop, June 23, 2020**

**CONDITIONS AND COMMENTS FOR WAIVER APPROVAL**

**FOR JULY 27 HEARING DATE**

Via email, the Interdepartmental Review Committee (IDRC) reviewed the application and unanimously approved the application with one condition from Public Works; **No structures shall be installed on or across any dedicated easements, as applicable.**

**VOTING MEMBERS WHO SENT COMMENTS**

<b>Planning Division, Community Development</b>	Ryan Foster, Principal Planner	✓
<b>Engineering Division, Public Works</b>	Eric Martinez, Engineering	✓
<b>Department of Public Utilities</b>	James Alarid, via email.	✓
<b>Juan Rael</b>	Traffic & Street Mgr./Traffic Engineer	✓
<b>Public Works/ Env. Services</b>	Angelica Gurule	✓



David L. & Anne M. Paulson

122 Piedra Loop  
White Rock, NM 87547

May 18, 2020


Los Alamos County Community Development Department  
1000 Central Ave, Suite 150, Los Alamos NM 87544  
(505) 662-8120

Planning and Zoning Commission, Board of Adjustment,

We are writing to you concerning the planned 11.2kW ground-mounted solar PV array installation for our neighbors, Marilyn K. and Barham W. Smith, 116 Piedra Loop, White Rock NM 87547.

We have discussed the installation with Mr. and Mrs. Smith and approve of their variance request to locate the array 10' from our shared side lot line, instead of the 25' typically required in RA zoning.

Sincerely yours,

The block contains two handwritten signatures in cursive. The first signature is 'David Paulson' and the second is 'Anne M. Paulson'. They are written in dark ink and are connected by the word 'and' written in a smaller, less distinct cursive script.

David L. and Anne M. Paulson

Re: 11.2kW ground-mounted solar photovoltaic array variance application;  
Marilyn K. & Barham W. Smith, 116 Piedra Loop, White Rock NM 87547,  
505.699.0941, latoty07@gmail.com

Contractor:

Select Solar LLC, 3446 Urban St., Los Alamos, NM 87544 505.661.9614  
[info@selectsolarpower.com](mailto:info@selectsolarpower.com) NM#373363