

CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

PUBLIC SERVICE COMPANY OF NM Special Exception No:..... **12ZHE-80053**  
(TIERRA RIGHT OF WAY SERVICES, LTD., Project No: ..... **Project# 1009151**  
AGENT) request(s) a special exception to Hearing Date: ..... 03-20-12  
Section 14-11-1 thru 14-11-9: a PERMIT FOR Closing of Public Record: ..... 03-20-12  
SOLAR RIGHTS for an existing solar site on Date of Decision: ..... 03-29-12  
all or a portion of Lot(s) REEVES STATION,  
PNM zoned IP, located at 4400 PASEO DEL  
NORTE NE (D-17)

**STATEMENT OF FACTS:** The applicant, Public Service Company of New Mexico, requests a permit for solar rights for an existing solar site. Susie Rogers and Laurie Moye, agents for the applicant, testified that the 80 acre site is south of Paseo del Norte and west of Jefferson. The surrounding properties are undeveloped parcels with not buildings or vegetation at this time. The agents submit that this proposed use will not interfere with the surrounding property owners' enjoyment of their land. The agents were notified that if approved the use would be limited to what currently exists, any expansion would need approval from this office. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

Based on all of the testimony and a review of the entire file, it is determined there is substantial evidence to make the following findings and conclusions:

**FINDINGS AND CONCLUSIONS:** The applicant, with permissive solar panels, is here in the present. To deny his solar rights request based on speculative development would be unjust. The applicant has complied with all of the requirements for the appropriate placement of the solar panels.

(A) Solar Energy; Permits Section 14-11-3 **INTENT** states, inter alia, the Ordinance is intended to create orderly, harmonious, and economically sound development in order to promote the health, safety, convenience, and general welfare of the citizens of the city.

(B) "The city recognizes that economic benefits can be derived for the people of the city from the use of solar energy. The city encourages the use of solar energy."

In this case, the solar collector and related solar rights created will be beneficially used.

The solar rights will not unreasonably interfere with the enjoyment of other sites, either the enjoyment of present use or perspective uses as indicated by zoning or adopted plans.

Finally, there is a rebuttable presumption that solar rights which do not limit the height of potential buildings more than is normally permissive height regulations of the Zoning

code will not unreasonably interfere with the enjoyment of the other sites. See Section 14-11-7(c)(3).

I find that the applicant has met his burden and therefore approve this request.

**DECISION:** Approved.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on April 13, 2012 in the manner described below:**

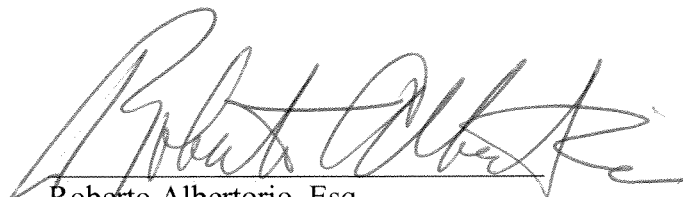
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellants.

Please note that pursuant to Section 14. 16. 4. 4. (B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.



Roberto Albertorio, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
PNM, 414 Silver Ave., SW, Mailstop MS1030, 87102  
Susie Rogers, 718 Central Ave., SW, 87102  
Laurie Moye, PNM, Alvarado Square 0600, 87158  
Doug Campbell, PNM, Alvarado Square 0600, 87158  
Tom Kelly, PNM 414 Silver Ave., SW, 87102