



**MILLARD COUNTY, UTAH
C-2 CONDITIONAL USE PERMIT**

**(APPLICATION #Z-2015-026)
PAVANT SOLAR II, LLC
SOLAR ENERGY SYSTEM (MAJOR)**

**I
OVERVIEW AND DECISIONS**

1. Pavant Solar II LLC, a Delaware limited liability company whose address is 1710 29th Street, Suite 1068, Boulder, Colorado 80301 has applied for a C-2 Conditional Use Permit by the filing of Application #Z-2015-026 to Millard County, Utah ("County") to allow the establishment and operation of a Solar Energy System (Major). The Solar Energy System (Major) is proposed on approximately 414.992 acres, owned by McCormwood Enterprises, acting by and through Greg Kesler and Kaylynn Kesler. The lands proposed to be used for a Solar Energy System (Major) are generally identified as located within five (5) deeded parcels in Sec 13, T19S, R5W and Sec 18, T19S, R4W (parcels 5911, 5909, 5910, 5910-1, 5745), Millard County Utah and as more accurately identified by Attachment A.
2. The Millard County Planning Commission considered Application #Z-2015-026 on October 7, 2015.
3. On October 7, 2015, the Millard County Planning Commission made a favorable recommendation to the Millard County Board Commissioners ("BOCC"), accompanied by findings, that Application #Z-2015-026 be approved with reasonable conditions.
4. The Millard County Planning Commission recommendation, and other materials related to Application #Z-2015-026 were considered by the by the BOCC on November 3, 2015.
5. On November 3, 2015, and following the receipt and consideration of all materials related to Application #Z-2015-026, the BOCC, the County land use authority for C-2 Conditional Use Applications made a final decision on Application #Z-2015-026.
6. The BOCC hereby now makes the following findings and decision.

**II
FINDINGS OF FACT**

The BOCC, the County's land use authority for C-2 Conditional Use Permits, now finds that with compliance by PAVANT SOLAR II LLC with the reasonable conditions identified by Sections III to VI herein, and required for a C-2 Conditional Use Permit approval, the requirements of the County Code, as applicable, can be met and further finds;

1. The proposed use, a Solar Energy System (Major), as defined by the Title 10, Millard County Code, is a C-2 Conditional Use in the Range and Forest (R&F) Zoning District of the County.



2. The Solar Energy System (Major) will comply with all requirements of the Zoning District, including area, setbacks, height, and all other requirements, as applicable.
3. The Solar Energy System (Major) will be conducted in compliance with all requirements of Title 10, Millard County Code and all other applicable land use ordinances, and all federal, state or local requirements and regulations, as applicable.
4. The property on which the Solar Energy System (Major) is proposed is of adequate size to permit the conduct of the use in a manner that will not be detrimental to adjoining and surrounding properties.
5. The Solar Energy System (Major) final site plan, to be provided meeting all requirements, as applicable, will comply with Title 10, Millard County Code and all other land use ordinances, and all federal, state, or local requirements and regulations.
6. The Solar Energy System (Major) complies with all applicable dedication requirements of the County and provides necessary infrastructure, as required.
7. The Solar Energy System (Major) will not, under the conditions required, be detrimental to the health, general welfare and safety of persons or injurious to property or improvements of the immediate area or County as a whole.

III

REASONABLE CONDITIONS OF APPROVAL

For the findings and reasons stated above, Application #Z-2015-026 is approved by the BOCC subject to the reasonable conditions: All materials identified in this Section shall be provided prior to any site disturbance, and the issuance of any Building Permit(s), with the exception of D-5, E-2, , and E-4.

A. PAVANT SOLAR II shall provide a detailed Final Site Plan, which will identify the exact location and type and size of all site improvements and facilities, and complying with all site planning standards for the RF Zoning District, including all setback, height, and other standards, and identifying the location of all photovoltaic panels, on- and offsite roads and accesses, and all associated structures and facilities, including the location and size of all accessory structures, storage and staging areas. The Final Site Plan shall be provided to the County Planner for review and recommendation by the Millard County Planning Commission and approval by the Board of County Commissioners (BOCC).

B. Associated with the Final Site Plan PAVANT SOLAR II shall provide plans and information to the County Planner for review and recommendation by the Millard County Planning Commission and approval by the BOCC addressing the following items:

- B-1. Site Vegetation Protection of all threatened or endangered species that may be identified on the site, as required by Item C-2
- B-2. Water Use, including required monthly and annual use.
- B-3. General Construction Practices and Methods.
- B-4. Site Reclamation Measures.
- B-5. Storm Water Control.
- B-6. Hazardous Materials Management.



- B-7. Construction Waste & Human Waste Management, and
- B-8. Construction Worker Safety, including emergency response protocols.

C. In addition to the Final Site Plan required by Item A and the associated materials required by Item B of this part, PAVANT SOLAR II shall also provide the following plans and information to the County Planner for review and recommendation by the Millard County Planning Commission and approval by the BOCC:

- C-1. A Soil Stabilization and Fugitive Dust Control Plan, employing best management practices appropriate for the site.
- C-2. An environmental assessment that considers all site wildlife, avian, and vegetation including the identification and the location of all threatened or endangered species and identifying necessary mitigation measures, as required and approved by the State of Utah Department of Wildlife Resources and State of Utah Department of Natural Resources.
- C-3. A Perimeter or Phase Site Fencing Plan, recognizing possible wildlife and grazing impacts.
- C-4. A Site or Phase Lighting Plan, using motion activated and fully shielded and cut-off lighting devices.

D. The following items shall be required and provided:

- D-1. A County Road Maintenance Agreement established between the County & Pavant Solar II that addresses issues of possible County road deterioration as a result of construction equipment used during construction. Such Agreement shall be reviewed and revised, as necessary, by the County Attorney and approved by the BOCC. This Agreement shall include provisions for adequate road maintenance and repair bonding for any road deterioration caused by Pavant Solar during construction, acceptable to the County Attorney, and all other performance guarantees and guarantee periods, as determined necessary by the County Attorney, and approved by the BOCC.
- D-2. Site Security Plan, approved by the County Sheriff's Office, and to remain on file in the Offices of the County Planner and County Sherriff. Included in the Site Security Plan shall be provisions that address site emergency and normal shutdown procedures and County public safety communication protocols.
- D-3. A Utah Pollutant Discharge Elimination System (UPDES) General Permit for Construction and a Storm Water Control Plan, including all necessary erosion control measures, as required and approved by the Utah Department of Environmental Quality, provided to the County Planner and to remain on file in the Office of the County Planner.
- D-4. A Site Reclamation, Decommissioning, and Abandonment Plan, including and identifying all surety and other guarantees, as agreed upon by the applicant and the owner of the private property, and provided to the County Attorney and County Planner and to remain on file in the Office of the County Attorney and Office of the County Planner.
- D-5. A Traffic Management Plan, formulated in consultation with the County Roads Department, for all County roads and streets and municipal streets used or impacted during construction is provided to the County Planner and to remain on file in the Office of the County Planner.
- D-6. A Fire Management Plan, formulated in consultation with State and Local agencies. Such Plan shall be approved by the County Fire District and shall be provided to the Fire District prior to any site disturbance and to remain on file in the Office of the



- County Planner and the County Fire Marshall. The Fire Management Plan shall identify all defensible space for fire protection in accordance with the County's Wildland-Urban Interface Code.
- D-7. Necessary Warning Signage is placed on site perimeter fencing, electrical equipment and site entrances. No advertising of any description shall be permitted on any Solar Energy System (Major) facilities.
- D-8. A copy of all required Federal & State Permits and Licenses required for the Solar Energy System (Major) are provided to the County Planner and to remain on file in the Office of the County Planner.
- D-9. PAVANT SOLAR II shall include all construction contracts/agreements that all construction workers must reside in appropriate and designated housing facilities and locations and no temporary construction worker housing shall occur on the site or in any undesignated areas or remote locations of the County.
- E. Building Permit and Necessary Site Inspections
- E -1. Prior to the issuance of a Building Permit, all fees and charges applicable to the review, approval, and issuance of the Pavant Solar II Energy System (Major) C-2 Conditional Use Permit and Building Permit shall be paid in full.
- E-2. Prior to any site disturbance or construction occurring on the Solar Energy System (Major) site a Pre-Construction meeting shall be held with all necessary County Officials and Staff and other State and Local agencies and independent service providers, as determined necessary by the County representative.
- E-3. A Building Permit shall be required and issued by the County Building Official for all construction associated with the Solar Energy System (Major) and all Building Permit fees paid. The Building Permit shall remain valid during the entire construction period, as provided by the County's Building Codes, as adopted. The Building Permit Application shall include a set of structural plans, approved and stamped by a licensed structural engineer. The issuance of a valid Building Permit, as required by this condition, shall not occur until all other conditions, as applicable, have been met and complied with fully, as determined by the County representative, as provided herein.
- E-4. At least monthly during the construction period, and at other times as determined necessary by the BOCC thereafter, an authorized representative of Pavant Solar II shall provide the BOCC a Solar Energy System (Major) project report via email or other means.

IV

CONTINUING VALIDITY AND REQUIRED COMMUNICATION

1. The approval of this C-2 Conditional Use Application (#Z-2015-026) shall be reviewed on, or before, November 3, 2016 by the BOCC at which time, if a Building Permit Application has not been approved and a valid Building Permit issued, the BOCC may extend the approval to November 3, 2017 upon a an application for extension from Pavant Solar II LLC, and a recommendation to do so by the County Planner and County Attorney. The C-2 Conditional Use Application approval may be further extended by the BOCC to November 3, 2018 upon a recommendation from the County Planner and County Attorney and with a finding by the BOCC of *extenuating circumstances beyond the control of PAVANT SOLAR II LLC*. If construction is not commenced by November 3, 2018, this C-2 Conditional Use Application approval shall lapse and this C-2 Conditional Use Permit shall expire and be void.



- 2. The BOCC shall identify and designate the County Planning and Zoning Administrator as the contact person to act as the County representative in all administrative matters required herein and for the efficient administration of the C-2 Conditional Use Permit and for coordination and communication with PAVANT SOLAR II LLC and the various County Offices and Staff.
- 3. The County's representative and PAVANT SOLAR II LLC, communicating and coordinating together, shall have the obligation and responsibility to insure that all conditions of approval and this C-2 Conditional Use Permit are met and complied with.

V

OTHER REQUIREMENTS AND STANDARDS

- 1. The PAVANT SOLAR II LLC shall abide by all federal, state and local laws, as applicable, for the entire life of the Solar Energy System (Major). Nothing in this decision shall be deemed to authorize any public or private nuisance or to constitute a waiver or exception to any law, ordinance or rule, except to the extent that it authorizes the establishment of a Solar Energy System (Major), on the site identified by Attachment A.
- 2. This approval and this C-2 Conditional Use Permit shall not be interpreted to authorize the establishment of any other uses, including but not limited to: Electric Substation (Major), Electric Transmission Right of Way (Major), or Electric Transmission Right of Way (Minor). If such uses are required in support of, or for the use of the Solar Energy System (Major), such uses shall obtain the necessary approvals, as required by Title 10, Millard County Code.
- 3. PAVANT SOLAR II LLC is proposing to establish a Solar Energy System (Major) in an area where various agricultural uses and other activities exist, or may exist in the future. The notarized signature of the Managing Director of PAVANT SOLAR II LLC, on behalf of PAVANT SOLAR II LLC, is recognition and agreement that PAVANT SOLAR II LLC will not bring any claim of nuisance against any agricultural or agricultural-related activity, including any nuisance that may arise because of odor, dust, noise, or other impact provided such agricultural uses or agricultural-related activity employs normal or accepted practices.
- 4. All changes and modifications to this C-2 Conditional Use Permit shall be considered by the Millard County Planning Commission and BOCC as an amendment to this Permit and shall be required to comply with all procedures of the County, in effect and as applicable, for the application and consideration of a C-2 Conditional Use Permit Amendment Application.
- 5. The BOCC reserves the right to initiate an amendment to this C-2 Conditional Use Permit if such amendment is required to protect the health, general welfare and safety of persons, property or improvements in the immediate area, or County as a whole. Any such amendment shall comply with all procedures of the County, in effect and as applicable, for the application and consideration of a C-2 Conditional Use Permit Amendment Application.
- 6. Any inconsistencies or ambiguities in the materials and information provided to the County by PAVANT SOLAR II LLC, to date or in the future, shall be interpreted and applied in favor of the County.

VI
C-2 CONDITIONAL USE PERMIT

This document shall act as a C-2 Conditional Use Permit for a Solar Energy System (Major), owned and operated by PAVANT SOLAR II LLC. This C-2 Conditional Use Permit shall be executed by the notarized signature of the Chair of the BOCC, on behalf of the County, and the notarized signature of the President of PAVANT SOLAR II LLC, on behalf of PAVANT SOLAR II LLC. Upon its execution this Conditional C-2 Use Permit shall be recorded in the Office of the Millard County Recorder, with copies provided to the BOCC, County Attorney, County Planner, and Managing Director of PAVANT SOLAR II LLC.

VII
EXECUTION

THE PARTIES, BY THEIR AUTHORIZED REPRESENTATIVES, EXECUTE THIS PERMIT THIS 6 DAY OF NOVEMBER 2015.

FOR MILLARD COUNTY BY:

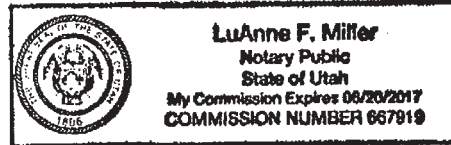
James I Withers THIS 6 DAY OF Nov., 2015
James I. Withers, Chairperson
Millard County Board of County Commissioners

Before me on this day personally appeared James I Withers, Chairperson, Millard County Board of County Commissioners and known to me to be the person whose name is subscribed to this instrument, and upon his oath acknowledged to me that he executed the same for the purposes and consideration herein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 6 DAY OF November, 2015.

LuAnne F. Miller
NOTARY PUBLIC

(SEAL)



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B: 604 P: 010 Fee \$25.00
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FOR PAVANT SOLAR II LLC BY:

MM THIS 4th DAY OF November, 2015,
Michael J. Martin, President
PAVANT SOLAR II LLC

Before me on this day personally appeared Michael J. Martin President, PAVANT SOLAR II LLC and known to me to be the person whose name is subscribed to this instrument, and upon his oath acknowledged to me that he executed the same for the purposes and consideration herein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 4th DAY OF November, 2015.

Meredith L. Goble
NOTARY PUBLIC

XIII
RECORDING

(SEAL)
MEREDITH L. GOBLE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20054010904
MY COMMISSION EXPIRES MARCH 27, 2017

1. This document, with its Attachment hereto shall be recorded in the Office of the County Recorder.
2. RECORDED THIS _____ DAY OF _____, 2015.

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ATTACHMENT A

**CUP- 2 Conditional Use Permit Application #Z-2015-026 Amendment
Addendum 1 – New Legal Description**

A portion of Section 13, Township 19 South, Range 5 West, Salt Lake Meridian and Section 18, Township 19 South, Range 4 West, Salt Lake Meridian, Millard County, Utah, described as follows:

Beginning at the Southeast corner of said Section 13;
thence North 89°16'31" West 2471.98 feet along section line;
thence North 26°58'02" West 360.30 feet;
thence North 31°27'13" West 1724.38 feet;
thence North 00°00'12" East 622.23 feet;
thence South 89°26'30" East 87.39 feet;
thence North 00°33'30" East 446.40 feet;
thence South 89°26'30" East 1673.07 feet;
thence North 00°31'46" East 1830.00 feet;
thence South 89°26'30" East 265.72 feet;
thence North 20°01'08" East 464.80 feet;
thence South 89°26'30" East 1974.64 feet;
thence South 12°17'37" East 520.62 feet;
thence South 00°31'53" West 1595.67 feet;
thence South 89°26'30" East 466.24 feet;
thence South 00°33'30" West 3026.32 feet to a point on section line;
thence North 89°15'14" West 1178.96 feet to the POINT OF BEGINNING.
Contains 18,077,067 square feet or 414.992 acres, more or less.

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