



# PLANNING & ZONING STAFF SUMMARY REPORT

**MEETING DATE: JANUARY 17, 2023**

**CASE # ETZ 2023-02**

## ROSWELL-CHAVES COUNTY EXTRATERRITORIAL PLANNING AND ZONING COMMISSION

<b>ACTION REQUESTED:</b>	Special Use Permit for a Community Solar Facility in the Rural Suburban District
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<b>LAND OWNERS:</b>	Orlando Gutierrez Robert and Rosa Gutierrez
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<b>LOCATION &amp; LEGAL:</b>	1800 E. Alameda Street Lot 7 of the Suburban Homes Subdivision
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<b>ITEM SUMMARY</b>	<p>Robert Gutierrez is proposing an outdoor Recreational Vehicle storage facility on a 5-acre vacant lot located at 1800 E. Alameda Street. The property is zoned R-S Rural Suburban District. The area to the west is inside City Limits and is zoned R-2 Residential District. The property to the north is zoned Commercial C-1 with a SUP for a Community Solar Facility. The properties to the south and west are zoned Rural Suburban. This property did have a SUP for a communication tower from 1997 to 2010. Prior to that, the property was used for farming. Orlando Gutierrez has signed the application as the property owner since it's still under a Real Estate Contract. Mr. Gutierrez has prepared a site plan showing the location of the parking stalls and office/home. Access would be limited to Alameda Street. Alameda Street only has 20' of right of way in this area. Article 25 states reasons for granting a SUP; 1. shall not be a danger to public health and safety; 2. shall not be detrimental to the economic welfare of the county; 3. shall Not be a nuisance; 4. shall meet the use standard for R-S district; 5. shall be compatible with the surrounding area; 6. shall conform with the 2016 Comp. Master Plan.</p>
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<b>SUPPORTING DOCUMENTS</b>	Staff Report, Application, Warranty Deed, Development Plan & Chaberton Solar Capitan LLC information, Vicinity Map.
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**SUMMARY BY:** Louis Jaramillo –Planning & Zoning Director

# STAFF'S REPORT

## CASE # ETZ 2023-02

Mr. Gutierrez is proposing an outdoor Recreational Vehicle storage facility on a 5-acre vacant lot located at 1800 E. Alameda Street. The proposed property is located on a lot that is adjacent to Roswell city limits. The lot may have access to City Water Service from the west. This property did have a SUP for a communication tower from 1997 to 2010, when it was removed. Prior to that, the property was used for farming. The property is under a Real Estate Contract with Orlando Gutierrez, father to Robert. Mr. Gutierrez did sign the application upon Staff's request.

The proposed site and the properties to the south and west are zoned R-S Rural-Suburban District. The residential properties to the west are within the city limits of Roswell and are zoned R-2 Residential District. The property to the north is zoned C-1 Commercial with a SUP for a Community Solar Facility.

Access to the proposed property is solely from Alameda Street, a 25'-wide chip sealed, County maintained road from Meadow Brook Road west to the proposed property (city limits). Alameda Street has a 20' right-of-way in this same location but then expands to 60' r-o-w from the City Limits to Atkinson Ave. which is city maintained.

The 2016 Comprehensive Master Plan encourages new commercial or industrial uses be located in areas that are not injurious to residential neighborhoods and, when possible, along major highways and arterial roads. (Land Use 4.3) The Future Land Use Scenario map recommends this area as Mid-Density Residential (5-10 residential homes per acre) use which is really not possible in the ETZ area due to the 5-acre minimum lot size in the ETZ area.

Article 25 of the Roswell-Chaves County Extraterritorial Zoning Ordinance No. 80-1 states that a Special Use Permit shall not be transferable from one property owner or location to another. It lists four considerations the Commission must take into account when acting on a SUP. It also states six reasons for granting a Special Use Permit-1. Shall not be a danger to public health and safety; 2. Shall not be detrimental to the economic welfare of the county; 3. Shall not be a nuisance; 4. Shall meet the use standard for R-S district; 5. Shall be compatible with the surrounding area; 6. Shall conform with the 2016 Comp. Master Plan. The Article notes thirteen development restrictions or conditions the Commission may require as part of the approval such as screen fencing, additional setback requirements and size of the array farm, just to name a few. Finally, Article 25 gives reasons for revoking or terminating the Special Use Permit, such as but not limited to, failure to begin construction, the restrictions and conditions have not been met, or the use becomes detrimental to the public's health and safety. (See attachment)

Should the Special Use Permit receive favorable consideration, Staff recommends the following Conditions of Approval:

1. A twenty-four (24) foot wide hard pack, weather proof (gravel, chip-seal, pavement or concrete), service road shall be required to the home-office, for fire and other emergency vehicles.
2. Storage areas shall consist of a hard pack surface with gavel for dust control.
3. Three paved or concrete standard parking spaces (9'x18') and one, paved or concrete, ADA van accessible parking space with loading and unloading area shall be required for the public.
4. A minimum (6) six-foot security fence around the perimeter of the facility
5. Mr. Gutierrez shall apply for any and all necessary building and electrical permits from Chaves County.
6. The location and development of the outdoor storage area shall conform to the presented and approved site plan that is included in this report. Changes or modification by the Commission may be necessary for public health, safety and welfare or to compliance with other Conditions of Approval listed. Any modification to the location or an increase in size of the facility **made after** this public hearing shall require ETZ Commission's approval at a second public hearing.
7. All on-site lighting shall be shielded from traffic, surrounding properties and shall comply with the NM Night Sky Act.
8. Failure to complete the construction of the outdoor facility within one (1) year shall result in the Special Use Permit being terminated.
9. Failure to maintain the outdoor storage area and fencing, parking of inoperable vehicles on the property, mechanical repair of vehicles, and any other use other than outdoor RV storage shall result in the termination of the Special Use Permit.

**Findings of Fact:**

1. The proposed Special Use Permit-outdoor RV storage (**does or does not**) conform with the requirements for approving a Special Use Permit as stated in Article 25 of the Roswell-Chaves County ETZ Ordinance 80-1.
2. The proposed Special Use Permit-outdoor RV storage (**does or does not**) correspond with the recommendations of the Chaves County 2016 Comprehensive Master Plan.
3. Owner's within 100 feet of the proposed Special Use Permit have been notified of this public hearing by certified and standard mail, per Section 2.5 of the Roswell-Chaves County Extraterritorial Zoning Ordinance No. 80-1. Staff has received a number of phone calls concerning this case but no protest letters have been received at the time of this writing.

- 4. Planning and Zoning Staff have advertised this meeting in the local Roswell Daily Record and on the Chaves County website 15 days prior to today's public hearing per the Roswell-Chaves County Extraterritorial Zoning Ordinance No. 80-1.**



# ROSWELL- CHAVES COUNTY ETZ/ CHAVES COUNTY ZONING APPLICATION

Case Number: ETZ 2023-2 Date Received: 12/2/2022 Fee: \$ 350.00

Type of Request:  Rezoning     Special Use     Variance     Change of Use

Owner's Name: Robert Gutierrez Olevado S. Gutierrez

Mailing Address: 625 E 6th St Roswell NM 88201 Phone Number: 575-973-2647

Agent's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Roswell-Chaves County ETZ     Chaves County

Case Address: 1800 E Alameda St

Legal Description: Suburban Homes Lot 7

Parcel Number: 4-137-062-256-167-00000

Present Land Use: Vacant land

Intended Land Use: Storage business

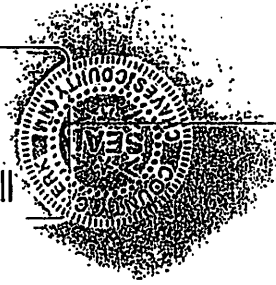
Present Zoning: \_\_\_\_\_ Requested Zoning: Commercial

Reason for Requested: (Attach Letter if necessary) would like to create a storage facility that would store Commercial Motor Vehicles, Camper Trailers, Utility trailers, etc. with Graveled lot and marked spaces

**PLEASE INCLUDE ALL DEVELOPMENT PLANS, SITE PLANS, AND /OR BUSINESS PLANS**

**I ACKNOWLEDGE THAT I HAVE BEEN INFORMED OF THE DATES, TIMES, AND LOCATIONS OF THE PUBLIC HEARINGS FOR WHICH I OR MY AGENT SHALL ATTEND IN ORDER TO FULFILL THE REQUIREMENTS OF THIS APPLICATION.**

Robert Gutierrez Olevado S. Gutierrez    12-2-22  
 Owner's Signature    Date



## NOTICE OF REAL ESTATE PURCHASE AGREEMENT

Please be advised that Orlando S. Gutierrez, a married man dealing in his sole and separate property whose address is 2105 East Second St. Roswell New Mexico 88201, as Seller entered into a Real Estate Purchase Agreement with Robert R. Gutierrez a single man, and Rosa V. Gutierrez a married woman dealing in her sole and separate property as joint tenants, whose address is 2105 East Second Street Roswell New Mexico 88201. As Purchasers on the 3<sup>rd</sup> day of March 2020, under the terms and conditions of which the purchasers agreed to purchase the following described real property located in Chaves County, New Mexico:

Lot 7 of Suburban Homes Subdivision. In the County of Chaves and State of New Mexico as shown on the Official Plat filed in the Chaves County Clerk's Office on December 3, 1909, and recorded in Book A of Plat Records, at page 143.

With warranty covenants.

TOGETHER WITH all improvements thereon;

SUBJECT TO Patent, reservations, and easements of record and to taxes for the year 2020 and subsequent years.

A copy of said Real Estate Contract is held by a Total Escrow Services, Inc., Escrow Agent, at 1096 Mechem Drive #G 12 Ruidoso New Mexico 88345.

WITNESS our hands and seal on this the 3<sup>rd</sup> day of March 2020.

Orlando S. Gutierrez  
Orlando S. Gutierrez

Robert R. Gutierrez  
Robert R. Gutierrez

Rosa V. Gutierrez  
Rosa V. Gutierrez

STATE OF NEW MEXICO )  
  )ss  
COUNTY OF CHAVES     )

On this the 3<sup>rd</sup> day of March of 2020, before me personally appeared Orlando S. Gutierrez a married man dealing in his sole and separate property, Robert R. Gutierrez a single man and Rosa V. Gutierrez a married woman dealing in her sole and separate property, to me known to be the persons described in and who executed the foregoing Notice or Real Estate Purchase Contract and acknowledged that executed the same as free act and deed.

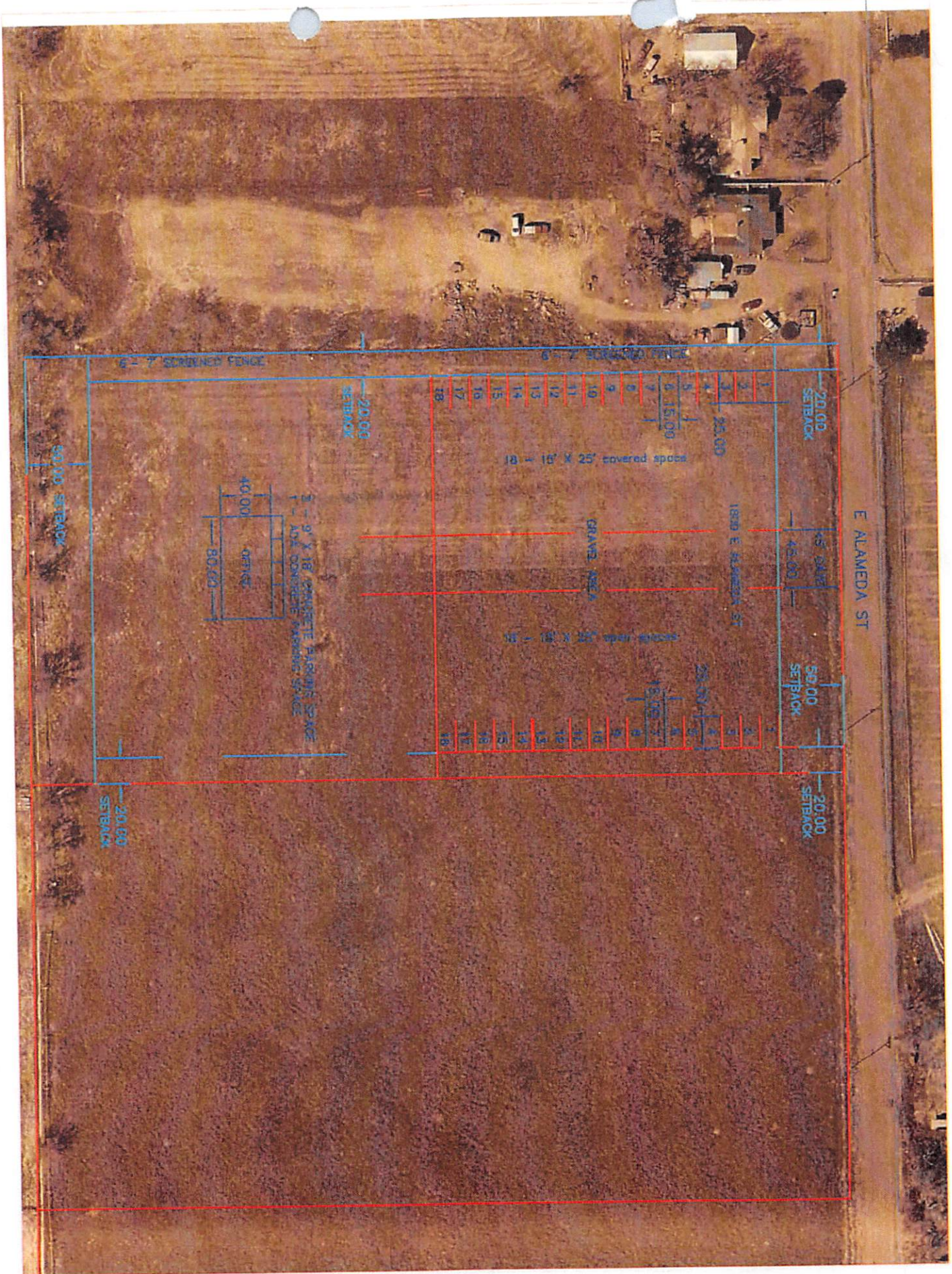
My Commission Expires:  
08/23/20

Briceyda Rangel  
Notary Public



Official Seal  
Briceyda Rangel  
State of New Mexico  
Notary Public

My Commission Expires: 08/23/20



E ALAMEDA ST

20.00  
SETBACK

45.00

59.00  
SETBACK

20.00  
SETBACK

1820 E ALAMEDA ST

25.00

25.00

6 - 7' SCREENED FENCE

18 - 18' X 25' covered space

GRAVEL AREA

90' X 120' X 120' X 120'

2 - 9' X 18' CONCRETE PARKING SPACE  
1 - ADA COMPLIANT PARKING SPACE



20.00  
SETBACK

20.00  
SETBACK

50.00  
SETBACK

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