



# BOCC STAFF REPORT

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**BOCC Hearing Date:** September 9, 2026

**Case Planner:** On behalf of Elbert County: Mary Geisinger, Planner & Jen Gardner, Senior Planner – Logan Simpson

**Application:** **Shepherd Solar; SUR-2026-0002**

**Applicant:** Natalie Aiello; BayWa Renewables

**Subject Property:** Parcel Nos. 1926300138, 1831000038, and 1936000044

**Property Owner:** J and D Farm Properties, LLC c/o Donna Maranville; Chad and Cindy Maranville; Jack and Linda Maranville

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## Project Summary

The applicant, BayWa Renewables, is requesting approval of a Special Use by Review land use permit to construct and operate a solar energy facility across approximately 1,990 acres with a battery energy storage system (BESS) and operations & maintenance building (O&M).

## Background & Existing Conditions

The application for Special Use by Review (SUR) is contingent upon the concurrent approval of the 1041 Areas and Activities of State Interest application for the Shepherd Solar Project.

The subject properties total approximately 3,300 acres, with the historical use being dry upland agriculture and grazing. The proposed project would only utilize approximately 1,990 acres of the total subject properties to focus infrastructure around the interconnection location and access points, and preserve the remaining acreage for agriculture infrastructure and sensitive habitats.

The Project is a proposed utility-scale renewable energy development consisting of a 199-MW photovoltaic solar energy facility with an associated 100-MW battery energy storage system (BESS).

## Site Characteristics

**Site Description:** The subject area is three parcels each ranging in size from 320 acres to 640 acres, encompassing a total development area of approximately 1,990 acres. All of the subject parcels are zoned Agriculture (A) and historically have been utilized for grazing and dry upland fields. Surrounding properties are all zoned Agriculture (A). The closest property with zoning other than Agriculture is a single parcel zoned Agriculture-Two (A-2), over a mile from the project site at the closest point.

**Floodplain:** Property contains a FEMA Zone A Floodplain along a stream going west to east.



**Wetlands:** There are nine documented, non-jurisdictional wetlands within the project area. There are six ephemeral stream swales throughout the site.

**Access:** The project proposes six access points from County Road 149, County Road 153, County Road 50, and County Road 46.

### **Timeline of Project**

- Pre-Application Meeting – April 23, 2025
- Community Meeting – December 8, 2025
- Application First Submittal – March 12, 2026
- Application Completeness Determination – April 9, 2026
- Application Second Submittal – April 28, 2026
- Application Completeness Determination – May 26, 2028
- 1<sup>st</sup> Referral Period – May 28 to June 26
- 2<sup>nd</sup> Referral Period – July 22 to August 6
- Mailed notice sent to surrounding property owners within 2,640' radius – August 19, 2026
- Public notice sign posted at subject property – August 10, 2026
- Newspaper notification published in Elbert County News – July 30, 2026
- Planning Commission Public Hearing – September 1, 2026
- Board of County Commissioners Public Hearing – September 9, 2026

### **Public Notification**

The applicant followed the public notification procedure as outlined in ECZR, Article II.E., which included newspaper notice to *Elbert County News*, mailed notification to surrounding property owners within a 2,640' radius, and public notice signs posted at the subject property. Notifications were completed at least 14 days prior to the Planning Commission Public Hearing.

### **Community Meeting & Public Comment**

The Applicant hosted a community meeting at the Hope Community Center in Simla on December 8th, 2025. The event was noticed per Elbert County requirements. Elbert County community members shared questions about long-term land stewardship, decommissioning obligations, visual and environmental effects, fire safety, electricity distribution, and local economic benefits. The Applicant provided a project overview presentation explaining the project's size and configuration, use of existing grid infrastructure, preliminary timeline, and future project decommissioning.

A second community meeting was held by the applicant on April 2, 2026 in the Elbert County Agriculture Building. Approximately 18 people signed in at the meeting. Concerns and questions from the public included topics such as safety, natural disasters, drainage, water, site selection, property values, and construction.

Seven public comments were received by Elbert County as of September 1, 2026. Concerns from property owners included property values, noise, environmental impacts, and land use effects on existing agricultural operations.



## **Referral Process**

The project had two referral periods occurring in June 2026 and July 2026, and final revisions submitted in August 2026. The main revisions to the project included clarity on water and sewer use, updates to preliminary site plans, updates to narrative on existing conditions and traffic plans. The following agencies responded during the referral periods:

- Elbert County Planning
- Elbert County Assessor's Office
- Elbert County Clerk and Recorder
- Elbert County Building Department
- Elbert County Office of Emergency Management
- Elbert County Public Health
- Elbert County Public Works, Engineering
- Elbert County Public Works, Road and Bridge
- Elbert County Sheriff's Office
- Elbert County Historical Society
- Big Sandy Fire District
- Elizabeth Fire
- Colorado Geological Survey (CGS)
- Colorado Division of Water Resources (DWR)
- Colorado Department of Public Health and Environment
- Colorado Parks and Wildlife (CPW)

There are no outstanding objections from any referral agencies. However, additional conditions have been requested from Public Works.

## **Planning Commission Public Hearing**

During the Planning Commission Public Hearing, there were ten (10) public comments from area residents, all in opposition of the project. The primary concerns from residents were around natural hazards, traffic impacts, area character, soil, health, and wildlife. Planning Commission asked the applicant questions and expressed concerns around traffic, community benefits, water, financing, setbacks, siting, human and property health and welfare, and natural hazards. The Planning Commission voted 5-2 to recommend denial of the Special Use by Review (SUR) permit to the Board of County Commissioners based upon the applicant not meeting the following criteria:

- ECZR Article III. Section E.5. (a): The use is in harmony and compatible with the surrounding area and neighborhood.
- ECZR Article III Section E.5. (f): The use will be adequately landscaped, buffered, and screened.
- ECZR Article III Section E.5. (g): The use will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Elbert County.

## **Considerations for Decision**

The following could be taken into consideration for a decision on the application for Shepherd Solar SUR-2026-0002:

- All submittal requirements have been met. A development agreement is not required for this SUR.
- No outstanding objections from referral agencies.
- One comment was received prior to the community meeting about non-involvement in the project, with their land not being within the proposed project area.
- One public comment in opposition of the application and 4 public comments in support of the application have been received as of 8/31/2026. Additional concerns from nearby property owners and County residents about potential impacts have also been reported.
- Ten public comments in opposition were presented at the Planning Commission Hearing.
- Subject site is situated to utilize existing transmission lines.
- Located near the existing Rush Creek Wind Project and situated away from population centers.
- Project integrates wildlife corridors through the site.

### **Findings & Review Criteria**

The following criteria, found in ECZR Article III.E, shall be considered by the Elbert County Community and Development Services (CDS) Director, the Planning Commission, and the Board of County Commissioners in the review of applications for SUR:

**a) The use is in harmony and compatible with the surrounding area and neighborhood;**

A solar facility is an allowable land use on Agriculture (A) zoned properties with a Special Use by Review permit. The proposed project integrates setbacks from property lines, public rights-of-way, floodplains, wetlands, and waterbodies. The use does not interfere with agricultural activities on adjacent properties, with minimal water use anticipated over the lifetime of the project. The project is strategically located to integrate connection with the existing Tri-State transmission line.

**b) The use will not have an undue burden on available infrastructure;**

There will be no new water wells and no use of existing water wells on-site. An on-site septic system will be permitted through Elbert County Public Health and will be minimal in size. No significant impacts on the existing road system were identified, however additional traffic studies will be required prior to finalization of a Road Use Agreement. The facility would supplement the existing electrical infrastructure and power supply for Elbert County.

**c) The use will not unduly increase traffic congestion or burden the existing road systems;**

The proposed use will likely cause an increase in traffic on the existing nearby roadways, particularly during the construction phase. Two routes, County Road 149 and County Road 169, are currently identified as the primary preferred access routes, with County Road 133 and County Road 46 as other potential options. A traffic plan was prepared as part of the application packet (Appendix K). A final traffic plan and study will be required prior to finalization of the Road Use Agreement.

Elbert County Public Works has reviewed the application and discussed with the applicant future requirements. As part of a Road Use Agreement (RUA), a full traffic study and road condition assessment will be needed. The applicant has responded to all comments. A condition of approval for a Road Use Agreement is recommended.

**d) The use will not cause significant air, odor, water, noise, or light pollution;**

Review of the SUR proposal by various experts, including Elbert County Public Health, Elbert County Public Works, Elbert County Office of Emergency Management and others, has not resulted in any anticipated significant air, odor, water, noise, or light pollution. Lighting on the site is limited to security lighting and lighting around the substation. There is no anticipated noise or odor associated with the facility. There is also no anticipated air or water pollution with the proposed solar use. The proposed project will complete a Stormwater Management Plan; Spill Prevention, Control, and Countermeasure (SPCC) plan; and Air Pollutant Emission Notices (APENs) prior to construction.

**e) All sanitation requirements will be met;**

The SUR application was reviewed by Elbert County Public Health (ECPH). All necessary permits and approvals from ECPH will be required at time of development. ECPH has no objection to the approval of the SUR application.

**f) The use will be adequately landscaped, buffered, and screened;**

The SUR Exhibit illustrates a significant setback from external property lines and public rights-of-way in order to help buffer the project from public view. The project area is setback an average of 170 feet from most roadways around the project site, including County Road 149, 46, 50, and 54. The BESS and substation are also located over 1,500 feet from County Road 149 and over half a mile from adjacent property structures. In addition, vegetative screening will be utilized around the substation, O&M building, and BESS portion of the Project site to screen the facility from adjacent properties. Visual renderings are provided from a variety of vantage points near the subject site. All vegetation screening will be within the property line of the project, with a minimum 30-foot buffer. A Vegetation Management Plan and Landscaping Plan are included within Appendix E.

**g) The use will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Elbert County;**

The SUR application was reviewed by the Elbert County Office of Emergency Management, Elbert County Public Health, Elbert County Public Works, Elbert County Sheriff's Office, and Big Sandy Fire Protection District with no objections or noted health or safety concerns.

According to the application materials, the proposed project is designed with multiple layers of safety to protect workers, the public, and surrounding properties. The project will comply with all applicable federal, state, and local regulations and will incorporate industry best practices to ensure safe construction, operation, and maintenance. Additional information is available in section 3.2(h) of the application narrative.

**h) Supplemental Standards are met for specific uses, as applicable.**

There are no applicable supplemental standards for the proposal (per ECZR Article V.D.).



### **Potential Conditions of Approval**

Should the Board of County Commissioners decide to recommend approval for Shepherd Solar SUR-2026-0002, the following conditions of approval may be appropriate:

1. The applicant shall remove signs within two (2) weeks of the conclusion of all notified meetings, public hearings, or decisions. Signs not removed within two (2) weeks may be removed by Elbert County, subject to reasonable charges for removal.
2. The Special Use by Review shall not become effective until all fees are paid and the Special Use by Review Exhibit is recorded.
3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners' approval.
4. The Special Use by Review (SUR) approval is contingent upon approval of the concurrent Major 1041 application.
5. A Road Use Agreement (RUA), and associated requirements, must be finalized with Elbert County Public Works and executed before beginning any construction on site.
6. All required and pertinent "final" plans shall be submitted to Public Works and Public Health prior to the completion of construction permits.