

**TOWN OF PARACHUTE, COLORADO
RESOLUTION NO. 2018-23**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF PARACHUTE, COLORADO APPROVING WITH CONDITIONS A SPECIAL USE PERMIT FOR PROPERTY LOCATED AT 540 PARACHUTE AVENUE IN THE TOWN OF PARACHUTE FOR A SOLAR GARDEN.

WHEREAS, Microgrid Energy (the “Applicant”) submitted an application for a special use permit for a solar garden (the “Application”) to be located on 0.5 acres of the property located at 540 Parachute Avenue in the Town of Parachute, identified as Garfield County Parcel No. 2409-121-24-008 (the “Property”);

WHEREAS, the Property is owned by the Garfield County Housing Authority (the “Owner”);

WHEREAS, Owner and have entered a lease for the Property, and Applicant is authorized to otherwise submit the Application;

WHEREAS, pursuant to the Review Procedures Chart (Table 1.1) at Section 15.01.220 of the Code, an application for special use permit is a two-step review process and the Planning Commission reviews an application and makes a recommendation to the Board of Trustees;

WHEREAS, the Applicant wishes to construct a solar garden, which is an undefined use in the Code but most closely identified with the use “Public Utility Facilities – Above Ground”;

WHEREAS, the Property is zoned Medium Density Residential (MDR);

WHEREAS, pursuant to Schedule of Uses contained at Section 15.02.230 of the Code, retail marijuana cultivation facility and medical marijuana optional premises cultivation operation uses are special uses in the LI Zone District and retail marijuana product manufacturing facility, retail marijuana store, retail marijuana testing facility, medical marijuana infused products manufacturer, and medical marijuana testing facility uses are permitted uses in the LI Zone District;

WHEREAS, pursuant Section 15.02.210.A of the Code, uses designated as special uses are contingent uses which may or may not be appropriate in a particular location depending on the nature of the proposed use, its relationship to surrounding land uses and its impact on traffic capacities, potential environmental effects, compatibility with the neighborhood, and conformance with the comprehensive plan;

WHEREAS, pursuant to Section 15.02.210.C of the Code, in considering an application for special use, the Planning Commission and Board of Trustees shall consider: (1) the compatibility of the use with adjacent uses and adjacent zone districts, as applicable, including the use’s potential traffic generation, noise, lighting, parking requirements, and general deleterious

effects on such adjacent uses and properties; (2) conformance with the comprehensive plan; and (3) the applicant's history of zoning compliance within the Town;

WHEREAS, pursuant to Section 15.02.210.D of the Code, the Board of Trustees may impose conditions on a special use approval designed to lessen the adverse impacts, if any, of the special use, to protect the health, safety and welfare of Town residents, and to ensure compliance with all other applicable provisions of the Code;

WHEREAS, pursuant to Section 15.01.260 of the Code, a land use approval for a special use shall be 1 year; however, if, within the duration of the approval, no required subsequent application has been filed, or authorized use established or building permit or other development action taken, the approval shall expire, except, for good cause, the granting authority may grant a single extension of the approval for a time period not to exceed the amount of the initial approval's duration;

WHEREAS, pursuant to Section 15.02.210.E of the Code, the Board of Trustees may, in its discretion, specify that the length of the special use approval: (1) be personal to the original applicant, (2) run with the original location for which the permit is approved, or (3) be otherwise transferable, upon such terms and conditions specified by the Board of Trustees; and, in the absence of any specific findings or orders of Board of Trustees concerning the length of an approved special use, the special use approval shall be deemed to be non-transferable and personal to the applicant;

WHEREAS, pursuant to Sections 15.01.420 and 15.01.270.F of the Code, approval of a special use pursuant to PMC Section 15.02.210 shall be considered a site specific development plan, approval of which creates a vested property right for a period of three (3) years, which may be extended where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles, and market conditions:

WHEREAS, a vested property right means the right to undertake and complete development and use of property under the terms and conditions of a site specific development plan and be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the Town

WHEREAS, pursuant to Section 15.01.270.G of the Code, the Town may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and failure to abide by such terms and conditions may, at the option of the Town Board, after public hearing, result in the forfeiture of vested property rights;

WHEREAS, the Planning Commission reviewed the Application at a public meeting, found the Application in conformance with the review criteria set forth in Section 15.02.210.C, and recommended the Board of Trustees approve of the Application, subject to conditions; and

WHEREAS, the Planning Commission of the Town of Parachute reviewed the Application at a public meeting, finds the Application in conformance with the review criteria set forth in Section 15.02.210.C as it relates to the solar garden and recommends the Board of Trustees approve of the Application for a special use permit for Public Utility Facilities – Above Ground subject to the conditions set forth in Exhibit A which is incorporated herein (the “Conditions”).

NOW THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE TOWN OF PARACHUTE, COLORADO THAT:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. The Board of Trustees hereby approves Applicant’s Application and issues this Resolution as a special use permit for the solar garden as a Public Utility Facilities – Above Ground on the Property subject to the conditions set forth on Exhibit A.

Section 3. This Resolution shall be recorded in the public records of Garfield County, Colorado.

INTRODUCED, PASSED, APPROVED, AND ADOPTED by a vote of 6 to 0 of the Board of Trustees of the Town of Parachute, Colorado at a regular meeting held at Town Hall in the Town of Parachute, Colorado on the 9 day of April, 2018 and approved by the Mayor on the 9 day of April, 2018.



**BOARD OF TRUSTEES OF THE
TOWN OF PARACHUTE, COLORADO**

By Roy B. McClung
Roy B. McClung, Mayor

ATTEST:

Lucy Cordova
Lucy Cordova, Town Clerk

EXHIBIT A

1. Applicant shall ensure appropriate screening.
2. To the extent required by the Parachute Municipal Code, the applicant shall submit a detailed site plan in compliance with the Code.
3. The Applicant shall comply with Section 15.07.305 of the Code – General Requirements for all Uses throughout the life of the project.
4. Use of the Property shall conform to adopted fire codes applicable to the Town of Parachute and recommendations on emergency access and other appropriate safety measures as suggested by the Grand Valley Fire Protection District and the Town of Parachute Police Department.
5. All representations made in the Applicant's written material or verbally as reflected in the minutes of the public meetings or hearings where the Application was presented to the Commission and/or Board of Trustees are considered part of the Application and binding on the Applicant.
6. Applicant shall reimburse the Town for any and all fees, including consulting costs, incurred in the review of the Application.
7. A resolution approving the Application shall be recorded in the public records of Garfield County.