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General Plan Consistency Memo



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David Morrison
Director

MEMORANDUM

To: Napa County Board of Supervisors	From: David Morrison, PBES Director
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Date: December 12, 2019

Re: Renewable Energy Systems Zoning Ordinance Text Amendment General Plan Consistency Memorandum

This memorandum outlines the relevant goals and policies of the Napa County General Plan, and analyzes whether or not the Renewable Energy Systems Ordinance (the Ordinance) conforms to the County General Plan, as required by Government Code Section 65402. This memorandum provides the basis upon which the Board of Supervisors may find consistency.

The purpose and intent of the proposed Ordinance is to repeal Small Wind Energy Systems (County Code Chapter 18.117) and to replace in its entirety with a new section Renewable Energy Systems which creates an administrative process for the approval of accessory on-site solar energy systems which will offset not more than 125% of the estimated energy demand for all legally established uses and meeting certain ministerial development standards. Additionally a new discretionary process is proposed for the review and approval of certain commercial renewable energy production facilities which may be authorized upon grant of a use permit within certain non-residential and non-agricultural zoning districts.

Because policies in the General Plan reflect a range of competing interests, the decision-makers are allowed to weigh and balance the Plan’s policies when applying them, and they have broad discretion to construe the policies in light of the Plan’s purposes. Balance does not require equivalence, but rather a weighing of pros and cons to achieve an acceptable mix.

The board of supervisors is the local government body charged by law with interpreting the County’s land use policies and rendering the final determination on a project’s consistency with the General Plan or lack thereof. (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 668.) Further, the Board has significant discretion in interpreting the County’s land use policies.

Relevant General Plan policies:

Policy AG/LU-12: No new non-agricultural use or development of a parcel located in an agricultural area shall be permitted unless it is needed for the agricultural use of the parcel, except as provided in Policies AG/LU-2.

Comment: Consistent - The ordinance will remove “other public utilities” from the list of land uses allowed in all zoning districts, and limit commercial renewable energy facilities to non-agricultural and non-residential areas.

Policy AG/LU-29: Governmental uses and public utility uses shall be permitted in appropriate locations. Only those new governmental and public utility uses which specifically implement programs mandated by the state or federal government shall be permitted in non-urban areas...

Comment: Consistent – The ordinance will clarify that privately owned and operated power generation facilities do not constitute a public utility or governmental use. The ordinance further clarifies that only public utilities and government uses that are exempt from local zoning due to State or Federal statutes qualify as public utility and/or governmental uses.

Policy AG/LU-39: The County will plan for the reservation of sufficient industrial property to satisfy future demands for orderly growth and economic development of the County. Non-agriculturally oriented industry shall not be located on productive agricultural lands, but should be located in areas more suitable for industrial purposes.

Comment: Consistent – The ordinance directs commercial renewable energy facilities to industrial and commercial areas, and prohibits such uses from agricultural areas.

Policy AG/LU-93: The County supports the continued concentration of industrial uses in the South County area as an alternative to the conversion of agricultural land for industrial use elsewhere in the county.

Comment: Consistent – The ordinance directs commercial renewable energy facilities to industrial and commercial areas, and prohibits such uses from agricultural areas.

Policy AG/LU-95: New land uses in the South County Industrial Areas shall be compatible with or buffered from adjacent industrial uses and consistent with the Land Use Compatibility Plan for Napa Airport.

Comment: Consistent – The ordinance was reviewed and endorsed by the Airport Land Use Commission on November 20, 2019. The ordinance prohibits commercial renewable energy facilities from locating with Airport Land Use Compatibility Zones A and B, which are the inner approach/departure path zones. The ordinance allows use permits to be granted for projects within airport influences areas provided they do not result in hazards, such as glare impacts, to aircraft.

Policy AG/LU-96: The Airport Industrial Area is planned for industrial and business/industrial park uses that support agriculture and meet industrial and business park needs consistent with the 1986 Airport Industrial Area Specific Plan...

Comment: Consistent – The ordinance allows accessory renewable energy power generation for all land use, and allows use permits in non-agricultural and non-residential districts for commercial renewable energy facilities which feed power into the public utility grid. The majority of land where commercial renewable energy facilities can be located is located within

the Napa Valley Business Park, which was title the Airport Industrial Area at the time of the General Plan’s adoption.

Policy AG/LU-117: The County shall seek to be involved to the extent possible in the decisions of local, state, federal, and other agencies regarding the location of energy generation facilities with the potential to negatively affect the visual character of the county.

Comment: Consistent – The ordinance complies with State and Federal statute governing regulation of renewable energy production.

Policy CON-13: The County shall require that all discretionary residential, commercial, industrial, recreational, agricultural, and water development projects consider and address impacts to wildlife habitat and avoid impacts to fisheries and habitat supporting special-status species to the extent feasible. Where impacts to wildlife and special-status species cannot be avoided, projects shall include effective mitigation measures and management plans.

Comment: Consistent – The ordinance contains design standards for both accessory renewable energy systems and commercial renewable energy facilities. The design standards limit the location of facilities, and require a discretionary review process for commercial facilities. Design standards address avoidance of impacts to environmental resources and require implementation of best management practices.

Policy CON-68: The County shall promote research and the development and use of advanced and renewable energy technology through the following actions:

- a) Use expedited permit processing or other incentives as promotion mechanisms.
- b) Assist in securing grants to support the implementation of photovoltaic, wind, and other renewable energy technologies to provide a portion of the County’s energy needs.
- c) Encourage the use of renewable energy resources in residential, commercial, industrial, and agricultural projects and uses.

Comment: Consistent – The ordinance permits accessory renewable energy systems, by right, for all legally established primary land uses within all zoning districts, which exceeds State and Federal mandates for production of onsite renewable energy. Residential, industrial, commercial and agricultural projects are all allowed to develop accessory renewable energy systems to meet their onsite needs. Building permits for accessory uses can qualify for expedited review as either over-the-counter permit or “quick permits” depending on the scale and scope of the system. The County does not charge impact mitigation fees for such uses as typically occurs within municipalities.

Policy CON-70: The County shall seek to increase the amount of energy produced through locally available energy sources, including establishing incentives for, and removing barriers to, renewable and alternative energy resources (solar, wind) where they are compatible with the maintenance and preservation of environmental quality.

Comment: Consistent – The ordinance allows, by right, accessory renewable energy systems for any legally established primary land use within all zoning districts. The ordinance also allows

commercial renewable energy systems to collocate on existing developed industrial properties without issuance of the use permit, as an incentive for existing developments to not only produce power for onsite needs, but produce excess renewable energy for sale into the public utility grid.

Policy CON-72: The County shall seek to reduce the energy impacts from new buildings by applying Title 24 energy standards as required by law and providing information to the public and builders on available energy conservation techniques, products, and methods available to exceed those standards by 15 percent or more.

Comment: Consistent – The ordinance allows accessory renewable energy systems that can be utilized by project developers to meet or exceed Title 24 energy standards.

The ordinance codifies the County’s current practices with regard to accessory renewable energy systems, and accessory emergency power generators. Codifying and refining current practices improves the predictability and stability of the regulatory process and ensures that project are held to a uniform set of standards. Most notably, accessory renewable energy systems will be limited to meeting the onsite needs of primary uses ensuring that they are not over built and function as power generation facilities.

The Ordinance provides flexibility in the use permit process for commercial renewable energy facilities to allow for solutions based on each unique site that best balance the needs of both property owners and the environment. The Ordinance does not allow any new non-agricultural uses on land designated for agriculture, and would not result in the conversion of agricultural zoned lands to non-agricultural use.