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Agenda Date: 10/20/2010

Agenda Placement: 9B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

FROM: Melissa Gray for Hillary Gitelman - Director
Conservation, Development & Planning

REPORT BY: Jeff Sharp, PRINCIPAL PLANNER - 259-5936

SUBJECT: Small Wind Energy Systems Zoning Ordinance Amendment P10-00243-ORD

RECOMMENDATION

SMALL WIND ENERGY SYSTEM ZONING ORDINANCE, COUNTY-INITIATED ZONING CODE TEXT AMANDMENT P10-00243-ORD

CEQA Status: Negative Declaration Prepared. According to the proposed negative declaration, the project would not have any potentially significant environmental impacts. This project is applicable to parcels greater than 2 acres in size zoned Agricultural Preserve (AP), Agricultural Watershed (AW) and Industrial District (I), a number of which are included on the lists of hazardous waste sites enumerated under Government Code §65962.5.

Request: First reading and recommendation of adoption of an ordinance, as provided for under California Assembly Bill 45 (Blakeslee. Distributed generation: Small Wind Energy Systems (2009)), permitting the installation of small wind energy systems in the unincorporated areas of Napa County that are outside urbanized areas, on parcels greater than 2 acres in size in the AP, AW, I zoning districts. The ordinance establishes a process for the issuance of administrative and conditional use permits for these systems, subject to specified conditions regarding aspects of the system's location so as to be protective of Napa County's unique and diverse environmental resources. By providing for the safe and effective use of small wind energy systems to foster the local production of renewable energy, there should be reduced local consumption of centralized utility-supplied electricity.

Ordinance Title: AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, REPLACING REPEALED CHAPTER 18.117 WITH A NEW CHAPTER 18.117 TO TITLE 18 OF THE NAPA COUNTY CODE REGULATING THE INSTALLATION AND USE OF SMALL ENERGY WIND SYSTEMS OUTSIDE URBANIZED AREAS IN THE UNINCORPORATED PORTIONS OF NAPA COUNTY

Resolution Title: A RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, ESTABLISHING PROCESSING FEES FOR PERMITTING SMALL WIND ENERGY SYSTEMS IN THE UNINCORPORATED PORTIONS OF NAPA COUNTY

Staff Recommendation: That the Planning Commission conduct a public hearing and recommend that the

Board of Supervisors adopt the proposed negative declaration, adopt the proposed ordinance, and adopt the proposed resolution.

Staff Contact: Jeff Sharp, (707) 259-5936, jeff.sharp@countyofnapa.org or Hillary Gitelman, (707) 253-4805, hillary.gitelman@countyofnapa.org

EXECUTIVE SUMMARY

Proposed Action:

That the Planning Commission:

1. Recommends Board of Supervisors adoption of the proposed negative declaration, finding that the proposed ordinance and resolution would have no potentially significant environmental impacts.
2. Recommends Board of Supervisors adoption of the proposed ordinance, finding that the proposed ordinance is consistent with the Napa County General Plan, and does not result in internal inconsistencies within Napa County zoning regulations.
3. Recommends Board of Supervisors adoption of the Resolution establishing permitting fees for small wind energy conversion systems.

Discussion:

The purpose and intent of proposed ordinance is to provide a uniform and comprehensive set of standards for the entitlement and operation of small energy wind systems, designed for onsite home, farm, and small commercial use which are used primarily to reduce onsite consumption of utility power. The regulations proposed are designed to protect public health, safety, and community welfare while at the same time not unduly restricting the development of small wind energy systems. The proposed ordinance contains development standards for small wind energy systems and requirements for special studies relating to the assessment of natural resources to assure that future systems are sited, designed and operated in such a manner as to avoid significant impacts on environmental resources, including special-status species and their habitats, and preserve the visual quality of the natural and built environment of Napa County. The proposed regulations have been developed to comply with the standards for development and use of small wind energy systems as provided in Government Code section 65893 et seq (California Assembly Bill 45 (Blakeslee. Distributed generation: Small Wind Energy Systems (2009)).

The ordinance provides for the issuance of an administrative permit providing a system meets the specified development standards, and requires a use permit if the development standards cannot be met. Those systems that cannot be administratively approved will require individual CEQA review as a component of the use permit processing. The proposed regulations limits the locating of eligible systems to parcels greater than 2 acres in size in the AP, AW, and I zoning districts. It requires a biological study to, among other things, ensure the systems will not adversely impact birds and bats or other environmental resources such as special status plants. It also requires that systems be located in such a manner so as minimize adverse visual impacts. A copy of the proposed ordinance, setting forth all the permitting requirements, is attached for the Commission's review and reference.

The County-initiated text amendments constitutes the addition of a new Chapter 18.117, entitled Small Wind Energy Systems, and amendment of section 18.126.030, (Administrative Permits, Issuance) of the County's Zoning Code. The added chapter replaces repealed Chapter 18.117, also entitled Small Wind Energy Systems, which automatically sunset on July 1, 2005 and was subsequently repealed as of January 1, 2006.

The Zoning Code currently allows for the establishment of noncommercial wind energy conversion systems with the grant of a use permit in the Agricultural Preserve (AP), Agricultural Watershed (AW), Industrial District (I), and Timber Preserve (TP) zoning districts (at present, no TP district is provided for on the County's zoning map). A noncommercial wind energy conversion system is specifically defined in Chapter 18.08.390, and conditions the height, setback, energy use, blade diameter and generation capacity of proposed systems in these districts (blade diameter may not exceed thirty-two feet and unit capacity may be no greater than 25kw). These specific provisions allowing for the establishment of wind energy systems in Napa County have been in place since 1983 (Ord. 757 § 7) and will remain in effect where not in conflict with the proposed ordinance.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Negative Declaration Prepared. According to the proposed Negative Declaration, the project would have no potentially significant environmental impacts. The proposed ordinance (project) would apply to parcels greater than 2 acres in size in the Agricultural Preserve (AP), Agricultural Watershed (AW), and Industrial (I) zoning districts of the County, a number of which are included on the lists of hazardous waste sites enumerated under Government Code §65962.5.

BACKGROUND AND DISCUSSION

Proposed Small Wind Energy Systems Ordinance

Property Affected: The proposed ordinance would apply to parcels greater than 2 acres in size in the Agricultural Preserve (AP), Agricultural Watershed (AW), and Industrial (I) zoning districts of the County

Current Zoning: AP (Agricultural Preserve), AW (Agricultural Watershed) and I (Industrial)

General Plan Designation: AR (Agricultural Resource), AWOS (Agriculture, Watershed, and Open Space) and I (Industrial)

Discussion:

Assembly Bill 45 - Distributed generation: Small Wind Energy Systems (2009)

Assembly Bill 45 (Blakeslee, 2009) recently added Article 2.11 (commencing with Section 65893), entitled "Wind Energy" to the Government Code. The new code provides that if a local agency has not adopted an ordinance for the issuance of permits for qualified small wind energy systems ("systems") outside of defined urbanized areas in accordance with its provisions by January 1, 2011, a county may do so at a later date, but any applications submitted between January 1, 2011 and the adopted date of that future ordinance must be approved through a ministerial permit, providing the proposed system meets the requirements of Government Code §65896(b). Any later enacted permitting ordinance could be no more restrictive on specified conditions than those contained in Government Code §65896(b). Those specified conditions limit the County's ability to regulate systems with respect to notice, tower height, setback, noise level, visual effects, turbine approval and drawings and engineering analysis. The newly added Wind Energy Government Code sections allow systems up to eighty feet

in height to be installed on parcels of 1 to 5 acres and up to one hundred feet in height on parcels greater than 5 acres, and setbacks no greater than the systems height.

County ordinances adopted prior to January 1, 2011 are not so constrained by the conditions enumerated in Government Code §65896(b).

Existing Regulations

Title 18 (Zoning) of the Napa County Code currently allows for the establishment of noncommercial wind energy conversion systems with the grant of a use permit in the Agricultural Preserve (AP), Agricultural Watershed (AW), Industrial District (I), and Timber Preserve (TP) zoning districts (at present, no TP districts are provided for on the County's zoning map).

A noncommercial wind energy conversion system is specifically defined in Chapter 18.08.390, and conditions the height, setback, energy use, blade diameter and generation capacity of proposed systems in these districts (blade diameter may not exceed thirty-two feet and unit capacity may be no greater than 25kw). These specific provisions allowing for the establishment of wind energy systems in Napa County have been in place since 1983 (Ord. 757 § 7).

Napa County's Wind Energy Resources

Wind power is seen as a renewable source of energy with significant potential to contribute to our nation's energy needs. Small wind energy systems consist of a single turbine, scaled appropriately for personal use. Generally, turbines large enough to provide a significant portion of electricity for a typical U.S. home require more than one acre of property and are best suited for rural areas (US Dept. of Energy 2005). As such, small scale residential systems are typically dispersed, unlike commercial utility-scale systems, and located on small acreages of land. These small systems can be economical if sited properly in areas with winds averaging over 10-12 mph (e.g. class 2 winds or greater).

Napa County contains approximately 34,977 acres of land (or roughly 7%) with estimated average wind speeds of 10.1-11.2 mph and 437 acres land with average winds higher than 11.2 mph (measured at 30m) (California Energy Commission 2003). In general, suitable wind energy areas in Napa County exist in the upper elevations of the County's north-south ridgelines and in the southern most portions of the County closest to San Pablo Bay.

Proposed Ordinance

The purpose and intent of the ordinance is to provide a uniform and comprehensive set of standards for the entitlement and operation of small energy wind systems, designed for onsite home, farm, and small commercial use which are used primarily to reduce onsite consumption of utility power. The regulations are designed to protect the public health, safety, and community welfare while at the same time not unduly restricting the development of small wind energy systems. The regulations contain development standards for small wind energy systems and require special consideration and/or studies relating to the assessment of natural resources for future proposed projects to assure that systems are sited, designed and operated in such a manner as to avoid significant impacts on environmental resources, including special-status species and their habitats, and to preserve the visual quality of the natural and built environment of the County. The regulations have also been developed to comply with the standards for development and use of small wind energy systems as provided for in Government Code section 65893 et seq. (Assembly Bill 45 (Blakeslee, 2009))

The ordinance provides for the issuance of an administrative permit providing a system meets the specified development standards, and requires a use permit if the development standards cannot be met. Those systems that cannot be administratively approved will require individual CEQA review as a component of the use permit processing.

The proposed ordinance limits the locating of eligible systems to parcels greater than 2 acres in size in the AP,

AW, and I zoning districts. It requires a biological study to, among other things, ensure the system will not adversely impact birds and bats or other environmental resources such as special status plants. It also requires the system be located in such a manner so as minimize adverse visual impacts.

A copy of the proposed ordinance, setting forth all the permitting requirements, is attached for the Commission's review and reference.

CEQA Compliance

An initial study has been prepared and a negative declaration is proposed for adoption in accordance with the California Environmental Quality Act (CEQA). The analyses performed in the initial study did not identify any significant effects resulting from the proposed ordinance, nor did it discover any significant environmental impacts that require mitigation. The proposed ordinance warrants approval of a Negative Declaration of Environmental Impact.

Environmental issues of greatest concern associated with small wind energy systems include noise, visual appearance and biological effect. Rapidly expanding technology and recent research by the wind energy industry, academics and governments worldwide, have allayed many unknowns about the impacts these systems have on the environment. Systems utilizing preset day technology and engineering are increasingly more efficient, quiet, safe, and cost effective and lessen the severity of commonly held environmental concerns.

The proposed ordinance includes development standards, limitations and protective measures that avoid and minimize potential adverse impacts to the environment. If a system does not qualify for approval under these protective measures, a use permit will be required and will be subject to appropriate CEQA review and findings to ensure that the proposed system does not substantially adversely cause impacts.

General Plan and Zoning Consistency

The County's General Plan (as amended by Resolution 09-88, June 23, 2009) includes a number of policies encouraging the development of distributed wind energy generation as it relates to the reduction of local greenhouse gas emissions that contribute to climate change. The General Plan specifically promotes the economic and environmental health of Napa County by conserving energy, increasing the efficiency of energy use, and producing renewable energy locally (Goal CON-16). Established policies in the Plan include the promotion of research and the development and use of advanced and renewable energy technology through expedited permit processing or other incentives, securing grants to support the implementation of photovoltaic, wind, and other renewable energy technologies, and encouraging the use of renewable energy resources in residential, commercial, industrial, and agricultural projects and uses (Policy CON-68). General Plan encourages the County 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 the County's environmental quality (Policy CON-70).

California law requires local jurisdictions to maintain consistency between their general plan and zoning. In this case, the zoning text changes anticipated would not change the fundamental precepts of existing zoning provisions in place since 1983 (Ord. 757 § 7). The Zoning Code currently allows for the establishment of noncommercial wind energy conversion systems with the grant of a use permit in the Agricultural Preserve (AP), Agricultural Watershed (AW), Industrial District (I), and Timber Preserve (TP) zoning districts as specifically defined in Chapter 18.08.390. These specific provisions have been in place since 1983 (Ord. 757 § 7) and will remain in effect with passage of the proposed ordinance. Under certain conditions, the proposed ordinance affords an administrative approval process, thereby furthering the County's goal of encouraging and utilizing clean, renewable energy sources and reducing the consumption of centralized utility-supplied electricity.

The proposed zoning code text amendments effectively limit the allowable locations of small wind energy

systems so they do not conflict with any applicable land use plan, policy, or adopted zoning regulation.

The proposed text amendments advance the following goals and policies of the Napa County General Plan summarized below:

Goal AG/LU-6: Create a stable and predictable regulatory environment that encourages investment by the private sector and balances the rights of individuals with those of the community and the needs of the environment.

Policy CC-10: Consistent with the County's Viewshed Protection Program, new developments in hillside areas should be designed to minimize their visibility from the County's scenic roadways and discourage new encroachments on natural ridgelines. The County shall continue implementation of the Viewshed Protection Program and shall apply the protective provisions of the program to all public projects.

Policy CC-38, 39 and 42: Adherence to the County's standards for maximum exterior and indoor noise levels for various types of land uses, including noise compatibility guidelines, and the County's Noise Ordinance.

Goal CON-3: Protect the continued presence of special-status species, including special-status plants, special-status wildlife, and their habitats, and comply with all applicable state, federal, or local laws or regulations.

Policies 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.

Policy CON-16: The County shall require a biological resources evaluation for discretionary projects in areas identified to contain or potentially contain special-status species based upon data provided in the Baseline Data Report (BDR), California Natural Diversity Database (CNDDDB), or other technical materials.

Policy CON-17: Preserve and protect native grasslands, serpentine grasslands, mixed serpentine chaparral, and other sensitive biotic communities and habitats of limited distribution.

Goal CON-15: Reduce emissions of local greenhouse gases that contribute to climate change.

Goal CON-16: Promote the economic and environmental health of Napa County by conserving energy, increasing the efficiency of energy use, and producing renewable energy locally.

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

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.

Conclusion

The proposed ordinance recognizes the rapidly expanding technologies that are making small wind energy systems more efficient, quiet, safe, and cost effective. The text amendments are intended to recognize the shortage of the State's electricity supply and its programs encouraging the use of small wind energy systems, while limiting obstacles to their construction and use. The proposed ordinance advances the County's General Plan goals and policies that promote the use of renewable energy sources and technologies. The proposed

ordinance establishes development standards, procedures, and environmental resource protection measures that minimize potential adverse environmental impacts.

Attachments

The CEQA document, proposed ordinance, and proposed resolution are attached along with public comments received as of the date of this Agenda Letter. Also attached is a document showing staff changes to the proposed ordinance that was circulated and attached to the Notice of Intent to Adopt a Negative Declaration, recording changes that were made subsequent to the NOI's circulation. The changes do not substantively affect the prior version of the ordinance, nor alter the environmental conclusions reached in the proposed Negative Declaration.

SUPPORTING DOCUMENTS

- A . Proposed Ordinance
- B . Summary of Ordinance Revisions after NOI
- C . Proposed Resolution
- D . Comment - Bulding Division 10.11.10
- E . Comment - Mike Bergey 10.06.10
- F . Negative Declaration of Environmental Impact

Napa County Planning Commission: Approve

Reviewed By: Melissa Gray