

DOCKETED

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Fountain Wind Project Response to Data Request LU2-03

LU2-03: For each specific land use and zoning designation traversed by the proposed project, please provide the applicable General Plan policies and zoning code section and Shasta County’s consistency determination of each particular project component with each policy and zoning requirement, and justification for consistency.

Response: Please see TN 249635, General Plan Consistency Matrix, regarding Project consistency with applicable County General Plan policies. Please see the below Zoning Consistency Matrix regarding Project consistency with the County’s zoning code.

Zoning Code Section	Consistency Determination	Project Consistency
Section 17.08.030 (TP Zone; Uses Requiring a Use Permit)	Inconsistent due to County’s prohibition on utility-scale wind projects	<p>The majority of the Project site is located in the County’s Timber Production (TP) zone. Under section 17.08.030 of the County’s zoning code, the erection, construction or alteration of a gas, electrical, water or communication facility, or other public improvements, in accordance with Government Code Section 51152, is allowed in the TP zone through approval of a use permit. Section 17.08.030 does not include any development standards (e.g., height, setbacks, lot coverage) that would apply to the Project.</p> <p>In its June 2021 staff report to the Planning Commission, County staff determined the Project is allowed in the TP zone with approval of a use permit. However, in 2022, the County prohibited utility-scale wind projects in all County zoning districts through the adoption of Zoning Code section 17.88.335. Accordingly, despite staff’s previous consistency determination, the Project is no longer consistent with the County’s zoning code.</p>
Section 17.64.040 (U Zone; Uses Requiring a Use Permit)	Inconsistent due to County’s prohibition on utility-scale wind projects	<p>A small portion of the site is located in the Unclassified (U) zone. Under section 17.64.040, all uses not otherwise prohibited by law and not inconsistent with any portion of the general plan are allowed in the U zone through approval of a use permit. Section 17.64.040 does not include any development standards (e.g., height, setbacks, lot coverage) that would apply to the Project.</p> <p>In its June 2021 staff report to the Planning Commission, County staff determined the Project is allowed in the U zone with approval of a use permit. However, in 2022, the County prohibited utility-scale wind projects in all County zoning districts through the adoption of Zoning Code section 17.88.335.</p>

Fountain Wind Project Response to Data Request LU2-03

Zoning Code Section	Consistency Determination	Project Consistency
		Accordingly, despite staff’s previous consistency determination, the Project is no longer consistent with the County’s zoning code.
<p>Section 17.88.100.B (Public uses, public utilities, and high voltage electrical transmission and distribution projects)</p> <p>Section 17.02.430 (Definitions)</p>	<p>Inconsistent due to County’s prohibition on utility-scale wind projects</p>	<p>Section 17.88.100.B. of the County’s zoning code allows public utilities in all zoning districts with approval a use permit, provided that findings are made that there is not a reasonable alternative site outside of a resource district, and the impacts from the project on the resource land have been reduced to the lowest reasonable level. Pursuant to section 17.02.430, private energy production facilities, such as the Project, are considered public utilities by the County. Section 17.88.100.B does not otherwise include any development standards (e.g., height, setbacks) that would apply to the Project.</p> <p>As provided in the County’s June 2021 staff report to the Planning Commission, the wind resource area within which the Project is located consists of an approximately 11-mile-wide swath of land that originates north of SR 299 East near the community of Big Bend and extends southwesterly to the southeast corner of the County. Land ownership within this swath consists of a mix of public and private land. The vast majority of private lands located within this swath are in resource zone districts. Lands within this swath that are not in a resource zone district consist of residentially and commercially zoned lands that are not of a size, distribution, and/or ownership pattern that would accommodate the Project. Accordingly, there is not a reasonable alternative site outside of a resource district for the Project.</p> <p>Further, the Project is proposed entirely within forested lands that are actively managed for timber production. Existing commercial and pre-commercial timber would be harvested, treated, and/or removed from the Project Site to allow development of the Project. A Timber Harvesting Plan (THP) would be drafted in accordance with requirements set forth in the Forest Practice Act (Pub. Res. Code §4582) and the Forest Practice Rules (CAL FIRE, 2019). The THP would specify the location of timber to be harvested, how it would be harvested, and environmental Best Management Practices (BMPs) that would</p>

Fountain Wind Project Response to Data Request LU2-03

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		<p>be implemented during harvesting. Accordingly, impacts from the Project on the forestry resource land have been reduced to the lowest reasonable level.</p> <p>In its June 2021 staff report to the Planning Commission, County staff determined the Project is permissible with approval of a use permit. Based on the above facts, County staff further determined that there was not a reasonable alternative site outside of a resource district for the Project, and that Project impacts on timberland resources had been reduced to the lowest reasonable level. However, in 2022, the County prohibited utility-scale wind projects in all County zoning districts through the adoption of Zoning Code section 17.88.335. Accordingly, despite staff’s previous consistency determination, the Project is no longer consistent with the County’s zoning code.</p>
Section 17.88.335 (Prohibiting large wind energy systems)	Inconsistent	In 2022, the County prohibited utility-scale wind projects in all County zoning districts through the adoption of Zoning Code section 17.88.335.
Section 17.88.035.A (Small wind energy systems, definitions)	Not Applicable	Section 17.88.035 applies to “small wind energy systems,” defined under Section 17.88.035.A as “wind energy conversion system[s] consisting of a wind turbine(s), a tower(s), and associated control or conversion electronics which will be used to reduce on-site consumption of utility electricity obtained via the electric grid or to enable on-site generation of electricity in lieu of connecting to the electric grid.” This section does not apply to the Project, a utility-scale wind project designed to deliver renewable wind energy to the larger grid.
Section 17.88.035.B (Small wind energy systems, authorization)	Not Applicable	Section 17.88.035.B provides that one small wind turbine may be permitted with an administrative permit, and two or more small wind turbines may be permitted with a use permit. This section applies to small wind energy systems and, therefore, does not apply to the Project. The Project proposes up to 48 utility-scale turbines on an approximately 4,464-acre project site.
Section 17.88.035.C (Small wind energy systems, tower height)	Not Applicable	Section 17.88.035.C allows small wind tower heights of not more than 65 feet on parcels between one and five acres, and tower heights of not more than 80 feet on parcels greater than five acres, provided the proposed height does not exceed the height recommended by the manufacturer or distributor of the system. Section 17.88.035.C allows tower heights in excess of these standards

Fountain Wind Project Response to Data Request LU2-03

Zoning Code Section	Consistency Determination	Project Consistency
		with a use permit. This section applies to small wind energy systems and, therefore, does not apply to the Project. The Project proposes utility-scale wind turbines with hub heights up to 328 feet and blade tip heights up to 610 feet. The turbines would be constructed and operated in compliance with manufacturer specifications.
Section 17.88.035.D (Small wind energy systems, setbacks)	Not Applicable	Section 17.88.035.D requires small wind turbine setbacks from the property line of no less than the height of the system, provided it also complies with any applicable fire setback requirements including, but not limited to, Section 4290 of the Public Resources Code as it may be amended from time to time. This section applies to small wind energy systems and, therefore, does not apply to the Project. The Project proposes setbacks of 1.5 times the turbine height from publicly maintained roads and three times the turbine height from adjacent parcels containing a residence. The Project also would comply with applicable firebreak, power line, and vegetation clearance requirements.
Section 17.88.035.E (Small wind energy systems, noise)	Not Applicable	Section 17.88.035.E requires that decibel levels from small wind energy systems shall not exceed noise standards established in the Noise Element of the General Plan, except during short-term events such as utility outages and severe wind storms. This section applies to small wind energy systems and, therefore, does not apply to the Project. Regardless, please see TN 249641, at pp. 6-7, demonstrating the Project's compliance with General Plan noise standards.
Section 17.88.035.F (Small wind energy systems, FAA compliance)	Not Applicable	Section 17.88.035.F requires small wind turbines to comply with applicable FAA and State Aeronautics Act requirements. This section applies to small wind energy systems and, therefore, does not apply to the Project. Regardless, the Project received FAA Determinations of No Hazard on July 1, 2021 and an extension on January 17, 2023. The FAA determined that the turbines would not have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Additionally, the nearest airport to the Project site is located approximately 20 miles northeast of the Project Site, and the Project is not located within an airport land use plan. Thus, the Project would have no impact related to airport operations.

Fountain Wind Project Response to Data Request LU2-03

Zoning Code Section	Consistency Determination	Project Consistency
Section 17.88.035.G (Small wind energy systems, electricity consumption)	Not Applicable	Section 17.88.035.G requires applicants to demonstrate that the small wind energy system will be used for on-site electricity consumption. This section applies to small wind energy systems and, therefore, does not apply to the Project. The Project is a utility-scale wind project designed to deliver renewable wind energy to the larger grid.
Section 17.88.035.H (Small wind energy systems, location requirements)	Not Applicable	<p>Section 17.88.035.H provides that small wind energy systems are not allowed where otherwise prohibited by any of the following:</p> <ol style="list-style-type: none"> 1. An airport land use plan 2. The Alquist-Priolo Earthquake Fault Zoning Act 3. Scenic highway protections 4. The terms of an open space conservation easement 5. The terms of an agricultural conservation easement 6. The terms of a Williamson Act contract 7. The listing of the site in the National Register of Historic Places or the California Register of Historical Resources <p>This section applies to small wind energy systems and, therefore, does not apply to the Project. Regardless:</p> <ol style="list-style-type: none"> 1. The Project is not located within an airport land use plan 2. No active faults are present within the Project site 3. The Project would not reduce the visual quality of views from designated or eligible scenic highways (see TN 249635, at p. 1, and TN 249636, at p. 1, regarding views from scenic highways) 4. The Project site is not subject to open space conservation easements 5. The Project site is not subject to agricultural conservation easements 6. The Project site is not subject to Williamson Act contracts 7. Based on the results of the previous analysis, the Project site contains one cultural resource that qualifies for listing in the California Register. The Project would avoid the resource, and otherwise mitigate any impacts to unknown resources discovered during construction in accordance with state law. Otherwise, the Project site is not listed in the National Register of Historic Places or the California Register of Historical Resources

Fountain Wind Project Response to Data Request LU2-03

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Section 17.88.035.I (Small wind energy systems, agricultural land)	Not Applicable	Section 17.88.035.I includes requirements for small wind energy systems on agricultural land that may have aircraft operating at low altitudes. This section applies to small wind energy systems and, therefore, does not apply to the Project. Regardless, the Project is not located on agricultural lands that may have aircraft operating at low altitudes.