

DOCKETED	
Docket Number:	23-OPT-01
Project Title:	Fountain Wind Project
TN #:	253290-2
Document Title:	County of Shasta Wind Ordinance Administrative Record Part 2 of 8
Description:	N/A
Filer:	Dawn Forgeur
Organization:	County of Shasta
Submitter Role:	Public Agency
Submission Date:	11/21/2023 6:50:19 PM
Docketed Date:	11/22/2023

Roll Call

PUBLIC COMMENT PERIOD - OPEN TIME

During the Public Comment - Open Time period, members of the public may address the Planning Commission on any matter not listed on the agenda that is within the subject matter jurisdiction of the Planning Commission.

PLANNING DIRECTOR'S REPORT

REGULAR CALENDAR

R1 Approval of Minutes:

Approve the minutes of the meeting held on November 10, 2021 as submitted.

R2 Potential Zoning and General Plan Changes and Moratorium Concerning Large Wind Energy

Systems: On November 10, 2021, by a 4-0 vote the Planning Commission directed staff to place the presentation of a report regarding options for regulating wind turbine developments and consideration of a resolution proposed by Commissioner Kerns recommending that the Board of Supervisors adopt a moratorium on wind turbine developments pending further study and potential changes to the County Zoning Plan and General Plan. Subsequent to the issuance of a memorandum from County Counsel regarding whether the County may legally impose a moratorium on the development of large wind energy systems, Commissioner Kerns proposed an alternative resolution recommending that the Board of Supervisors take specific actions with respect to wind turbine developments, including initiating the process to amend the County Zoning Plan and General Plan for consideration by the Commission. Staff Planner: Paul A. Hellman/ Supervisor District: All/ Proposed CEQA Determination: N/A. Staff recommends that the Planning Commission:

1. Receive a presentation from staff; and
2. Consider taking one of the following actions:
 - (a) Adopt a resolution, as initially proposed by Commissioner Kerns or with revisions, recommending that the Board of Supervisors adopt a moratorium on wind turbine developments and take other actions with respect to large wind turbine developments; or
 - (b) Adopt an alternative resolution, as also proposed by Commissioner Kerns or with revisions, recommending that the Board of Supervisors take specific actions with respect to wind turbine developments, including initiating the process to amend the County Zoning Plan and General Plan; or
 - (c) Direct staff to prepare a different resolution of intention to initiate an amendment to the County Zoning Plan to either establish specific regulations for large wind energy systems or to prohibit large wind energy systems for consideration by the Commission at a future meeting; or
 - (d) Direct staff to prepare a different resolution recommending that the Board adopt a resolution of intention to initiate an amendment to the County Zoning Plan to either establish specific regulations for large wind energy systems or to prohibit large wind energy systems for consideration by the Commission at a future meeting; and/or
3. Consider providing additional direction to staff.

ADJOURN

NOTES:

1. The Planning Commission, at their discretion, may limit individual/group testimony time in the interest of

facilitating the meeting to allow all persons who wish to comment the opportunity to do so.

2. Documents associated with the agenda are on file and available for review. The agenda, initial studies, staff reports, and minutes, can be found online at www.co.shasta.ca.us/drm/planning/planning-commission-meetings. Direct inquiries to: Department of Resource Management - Planning Division, 1855 Placer Street, Suite 103, Redding, CA 96001. Phone: (530) 225-5532.
3. Commission actions on tentative maps, use permits, variances, administrative permits, and zoning permits are final unless appealed to the Board of Supervisors. Appeals are subject to fees and filing deadlines. Appeal periods: tentative map, 10 calendar days; use permits, variances, administrative permits, and zoning permits, 5 calendar days. The notice of appeal shall identify, by application number, the action which is the subject of the appeal; shall state the action, finding or determination, and the date thereof, from which the appeal is taken; and shall specifically set forth the grounds upon which the appeal is based. No person wishing to appeal a decision of the Planning Commission should rely on an appeal filed by another person but instead should file their own separate appeal. No appeal shall be deemed to be filed unless any required fee is submitted to the clerk with the notice of appeal. Forms and instructions for filing appeals are available from the Clerk of the Board of Supervisors at 1450 Court Street, Suite 308B, Redding.
4. The Commission's action on Zoning applications establishes the next action. When the Commission recommends approval, the application is automatically scheduled for action by the Board of Supervisors; if the Commission denies the application, the application is not scheduled for Board action unless an interested party files a written request for such consideration. Fees and filing information are available from the Clerk of the Board of Supervisors or from the Planning Division.
5. Following Planning Commission action on a proposed General Plan Amendment any interested party may file a written request for a hearing by the legislative body on the Commission's recommendation by filing such a request with the Clerk of the Board of Supervisors within five calendar days after the Commission action.
6. If you challenge a Planning Commission action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.
7. The County of Shasta does not discriminate on the basis of disability in admission to, access to, or operation of its buildings, facilities, programs, services, or activities. The County does not discriminate on the basis of disability in its hiring or employment practices. Questions, complaints, or requests for additional information regarding the Americans with Disabilities Act (ADA) may be forwarded to the County's ADA Coordinator: Director of Support Services Shelley Forbes, County of Shasta, 1450 Court Street, Room 348, Redding, CA 96001-1676, Phone:(530) 225-5515, California Relay Service: (800) 735-2922, Fax: (530) 225-5345, E-mail: adaordinator@co.shasta.ca.us.

Individuals with disabilities who need auxiliary aids and/or services for effective communication in the County's programs and services are invited to make their needs and preferences known to the affected department or the ADA Coordinator. For aids or services needed for effective communication during Planning Commission meetings, please call the Department of Resource Management (530) 225-5532 five (5) business days before the meeting. This notice is available in accessible alternate formats from the affected department or the ADA Coordinator. Accommodations may include, but are not limited to, interpreters, assistive listening devices, accessible seating, or documentation in an alternate format.

REPORT TO THE SHASTA COUNTY PLANNING COMMISSION

<u>PROJECT IDENTIFICATION:</u> <u>REGULAR AGENDA</u>	MEETING DATE	AGENDA ITEM #
POTENTIAL ZONING AND GENERAL PLAN CHANGES AND MORATORIUM CONCERNING LARGE WIND ENERGY SYSTEMS	12/9/21	R2

RECOMMENDATION: That the Planning Commission:

1. Receive a presentation from staff; and
2. Consider taking one of the following actions:
 - (a) Adopt a resolution, as initially proposed by Commissioner Kerns or with revisions, recommending that the Board of Supervisors adopt a moratorium on wind turbine developments and take other actions with respect to large wind turbine developments; or
 - (b) Adopt an alternative resolution, as also proposed by Commissioner Kerns or with revisions, recommending that the Board of Supervisors take specific actions with respect to wind turbine developments, including initiating the process to amend the County Zoning Plan and General Plan; or
 - (c) Direct staff to prepare a different resolution of intention to initiate an amendment to the County Zoning Plan to either establish specific regulations for large wind energy systems or to prohibit large wind energy systems for consideration by the Commission at a future meeting; or
 - (d) Direct staff to prepare a different resolution recommending that the Board adopt a resolution of intention to initiate an amendment to the County Zoning Plan to either establish specific regulations for large wind energy systems or to prohibit large wind energy systems for consideration by the Commission at a future meeting; and/or
3. Consider providing additional direction to staff.

BACKGROUND AND DISCUSSION:

During the Planning Director’s Report to the Commission on November 10th, Commissioner Kerns distributed copies of a proposed resolution recommending that the Board of Supervisors (Board) adopt a moratorium on wind turbine developments pending further study and potential changes to the County’s zoning ordinance and general plan. Commissioner Kerns made a motion to place the presentation of a report regarding options for regulating wind turbine developments and consideration of the proposed resolution on the December 9th Planning Commission agenda, which was carried by a 4-0 vote.

On November 22nd, the attached memorandum from County Counsel Rubin E. Cruse, Jr. dated November 19, 2021, regarding whether the County may legally impose a moratorium on the development of large wind energy systems was provided to the commissioners via e-mail. County Counsel states that it is his understanding that the proposed moratorium is not designed to apply to “small wind energy systems,” which are used primarily to reduce on-site consumption of utility power and require the approval of an administrative permit, but rather to apply to large wind energy systems, similar to the Fountain Wind Project, which are classified as “public utilities” pursuant to section 17.02.430 of the County Zoning Plan and require the approval of a use permit by the Planning Commission or the Board in the event of an appeal of the Commission’s decision.

County Counsel’s conclusion is that the County would not be able to lawfully impose a moratorium on the development of large wind energy systems because the facts do not establish the existence of a “current and immediate threat to the public health, safety, or welfare.” County Counsel also states that the County does have the ability to consider amendments to the County Zoning Plan concerning the proposed development of large wind energy systems without adopting a moratorium and that either the Commission or the Board may initiate an amendment to the County Zoning Plan by adopting a resolution of intention to make such amendments.

County Counsel states that Government Code section 65858 authorizes the Board to adopt an urgency measure prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the County is considering or studying or intends to study within a reasonable time provided the Board finds that there is a “current and immediate threat to the public health, safety, or welfare.” County Counsel further states that the California Court of Appeal has held that, to satisfy this statutory requirement, there must be evidence that actual approval of a permit is imminent. County Counsel opines that the approval of a use permit for a large wind energy system is not imminent since there are no current applications pending, the County has discretion to deny use permits, there is no right to construct a large wind energy system unless a use permit is issued, the mere processing of a use permit does not pose a current and immediate threat to the public health, safety, or welfare because no rights will vest imminently, and no rights vest until a permit is granted and the applicant has thereafter acted upon the approval.

In light of this legal opinion from County Counsel, Commissioner Kerns has submitted an alternative resolution for the Commission’s consideration. The alternative resolution makes the following recommendations to the Shasta County Board of Supervisors:

1. That the Board of Supervisors direct the Planning Commission and staff to study the following on a county wide basis: (A) the potential impacts of wind turbine developments, particularly those that might be proposed to be located in areas of the County that are in or near communities, in or near woodland or forested areas, or in or near high fire danger zones, including whether such projects should not be allowed in such areas due to potential increased fire danger and impediments to firefighting efforts; (B) the potential impacts of wind turbine developments on aesthetics in Shasta County and the issue of visual blight, and addressing the protection of the rural nature and scenic beauty of Shasta County, and its mountain tops and ridge lines; (C) the potential impacts of wind turbine developments on woodland or forest resources, wildlife and other biological or natural resources; and (D) the potential impacts of wind turbine developments on historical, cultural, and tribal resources considered to be spiritually and culturally important to local tribes; and
2. That the Board of Supervisors direct the Planning Commission to initiate the appropriate process pursuant to Shasta County Code Section 17.92.080(B) and any other applicable provisions of the County Code, to study the issues outlined above, and review and consider any additional input from interested groups, experts, and the public that the Planning Commission may receive, and after completing the appropriate planning process, recommend appropriate changes to Shasta County’s Zoning Ordinances and General Plan, including consideration and adoption of an Open Space Plan or equivalent as part of the General Plan, to specifically address wind turbine developments, the potential impacts of such developments, and whether any such projects should be allowed in the County, and if so, where and under what conditions and restrictions; and
3. In the event that one or more use permit application(s) for future wind turbine developments are made before such changes to Shasta County’s Zoning Ordinances and General Plan are adopted, that the Board of Supervisors consider adoption of a temporary Moratorium on such developments in accordance with Government Code Section 65858, at the appropriate time and when applicable legal standards are met, to ensure that any such developments will be subject to any new Zoning Ordinances or General Plan provisions that may result from the planning process outlined above.

County Counsel is of the opinion that the foregoing recommendations are lawful.

As outlined below, alternatives to the adoption of the initial resolution or the alternative resolution proposed by Commissioner Kerns include the adoption of a different resolution of intention to initiate an amendment to the County Zoning Plan to either establish specific regulations for large wind energy systems or to prohibit large wind energy systems or the adoption of a resolution recommending that the Board adopt a resolution of intention for either purpose. If the Commission elects to initiate an amendment to the Zoning Plan or to recommend that the Board do so, the Commission would need to provide general direction to staff with respect to the nature of the amendments to the County Zoning Plan they would like staff to prepare for future consideration by the Commission and the Board.

ALTERNATIVES:

The following alternatives to the adoption of the initial resolution or alternative resolution proposed by Commissioner Kerns are available:

1. Direct staff to prepare a different resolution of intention to initiate an amendment to the County Zoning Plan to either establish specific regulations for large wind energy systems or to prohibit large wind energy systems for consideration by the Commission at a future meeting.
2. Direct staff to prepare a different resolution recommending that the Board adopt a resolution of intention to initiate an amendment to the County Zoning Plan to either establish specific regulations for large wind energy systems or to prohibit large wind energy systems for consideration by the Commission at a future meeting.
3. Continue the item to request additional information.

CONCLUSION:

The initial resolution proposed by Commissioner Kerns would recommend that the Board of Supervisors adopt a moratorium on wind turbine developments. As outlined in the attached memorandum, County Counsel's opinion is that the County would not be able to justify a moratorium on large wind energy systems as posing a current and immediate threat to the public health, safety, or welfare. Therefore, staff recommends that the Commission not adopt the initial resolution proposed by Commissioner Kerns.

If the Commission feels that the County Zoning Plan and General Plan should be amended to either establish specific regulations for large wind energy systems or to prohibit large wind energy systems, then the Commission may adopt the alternative resolution proposed by Commissioner Kerns, or direct staff to prepare a different resolution of intention to initiate an amendment to the Zoning Plan for either purpose or direct staff to prepare a different resolution recommending that the Board adopt a resolution of intention for either purpose. In addition to, or in lieu of, directing staff to prepare a resolution for consideration by the Commission at a future meeting, the Commission may provide additional direction to staff with respect to the regulation of large wind energy systems by the County of Shasta.



PAUL A. HELLMAN
Director of Resource Management

PAH/trh/All Districts

Regulation of Large Wind Energy Systems

12/9/2021

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Attachments: Initial Draft Resolution

Alternative Draft Resolution

Memorandum from Rubin E. Cruse, Jr., County Counsel, regarding "Moratorium on Large Wind Energy Systems," November 19, 2021

RESOLUTION NO. 2021-___**A RESOLUTION OF THE SHASTA COUNTY PLANNING COMMISSION
RECOMMENDING TO THE BOARD OF SUPERVISORS THE ADOPTION OF A
MORATORIUM ON WIND TURBINE DEVELOPMENTS IN SHASTA COUNTY
PENDING FURTHER STUDY AND POTENTIAL CHANGES TO THE COUNTY'S
ZONING ORDINANCES AND GENERAL PLAN TO BETTER GUIDE FUTURE
DEVELOPERS AND THE PUBLIC**

WHEREAS, on June 22, 2021, the Shasta County Planning Commission conducted a public hearing where it considered Fountain Wind LLC's application for approval of a use permit for the Fountain Wind Project, a wind energy generation development, Use Permit 16-007; and

WHEREAS, after receiving presentations from staff, the applicant, various groups, and receiving public comment, the Planning Commission unanimously denied the application of Use Permit 16-007 by a vote of 5 to 0; and

WHEREAS, the Commission denied Use Permit 16-007 due to several significant and unavoidable issues both in the Final Environmental Impact Report (FEIR) and in public testimony during the special meeting, as well as comprehensive reviews of the Draft EIR along with public testimony, both written and oral, received over the last 2.5 years. The FEIR stated that the proposed project was for the construction of up to 72 wind turbines and associated infrastructure with the actual number and location to be determined at a future date (FEIR pp. 1-3). The FEIR noted significant and unavoidable issues concerning the impacts of the project on the aesthetics of the area, impacts to selected wildlife species, impacts to forest resources, and impacts to Native American culture. The Commission found that the FEIR erred in not addressing the significant impact of the removal of aerial firefighting capability due to the location and height of the proposed structures, thus putting the communities of Round Mountain, Montgomery Creek, Moose Camp, Big Bend, and Burney into a significantly dangerous position. The Commission acknowledged that there would be a significant revenue increase to Shasta County during the buildout phase of the project. However, looking at the long term, the financial return would be minimal and, therefore, did not constitute an overriding circumstance. The Commission noted that those who spoke in favor of the project were from out of the project area, while all of those within the project area were against the project. With these considerations, the Commission found that the establishment, operation, and maintenance of the subject use, under the circumstances of the particular case will be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or will be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County (Shasta County Code subsection 17.92.020.F); and

WHEREAS, on June 25, 2001, the Applicant for the Fountain Wind project timely appealed the determination of the Planning Commission; and

WHEREAS, on October 26, 2021, the Board of Supervisors of the County of Shasta considered the appeal by Fountain Wind, LLC of the Shasta County Planning Commission's denial of Use Permit 16-007 for the Project, a renewable wind energy generation development consisting of the construction, operation, maintenance, and ultimately the decommissioning of up to 72 wind turbines and associated transformers together with the associated infrastructure and ancillary facilities in unincorporated Shasta County on approximately 4,464 acres of a 29,500-acre leasehold comprised of 76 Shasta County Assessor's parcels operated as managed forest timberlands located approximately one mile west of the existing Hatchet Ridge Wind Project, 6 miles west of Burney, CA and 35 miles northeast of Redding, CA, in accordance with Section 17.92.020 of the Shasta County Ordinance Code, Title 17, Zoning; and

WHEREAS, the Applicant proposed modifications to the Project; and

WHEREAS, the Board of Supervisors received and reviewed the proposed Project, including the modifications to the Project proposed by the Applicant following the filing of its appeal, along with all draft, final, and supporting documents of the environmental impact report (EIR) prepared in compliance with the California Environmental Quality Act (CEQA), staff reports, correspondence to the County concerning the application, in addition to a report from the Director of Resource Management; and

WHEREAS, a duly noticed public hearing on the Final EIR and the Project was conducted by the Board of Supervisors on October 26, 2021, at which time all interested persons were given an opportunity to comment which were considered in accordance with the modified procedures for the conduct of the Board of Supervisors resulting from the current COVID-19 pandemic and in compliance with orders and recommendations of federal, state, and local authorities, and those comments were considered by the Board of Supervisors; and

WHEREAS, the Board of Supervisors received testimony regarding the following detrimental impacts of the proposed project: impacts to aesthetics; potential increased fire danger; impediments to firefighting efforts; damage to wildlife; damage to natural resources; and damage to cultural of tribal resources; and

WHEREAS, after independent consideration and determinations of the Board of Supervisors following its de novo review of the application, the CEQA determination, and the issues on appeal, the Board of Supervisors of the County of Shasta made the following use permit finding: The establishment, operation, and maintenance of the subject use, under the circumstances of the particular case, will be detrimental to the health safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or will be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County. Testimony was received regarding potential increased fire danger and impaired emergency evacuation and/or hindrance of firefighting efforts. Testimony was received from residents in the area regarding the impaired aesthetics of the region caused by visual blight. Testimony was received by residents and tribal members regarding encroachment on and impact to historical, cultural, and tribal resources considered to be spiritually and culturally important to local tribes. Testimony was also received that the detriment to the health, safety, peace, morals,

comfort, and general welfare of persons residing or working in the area of the project and the County, in general, outweighed the proposed benefits to the County. In addition to the testimony received, documents were presented to the Board and made a part of the record that supported the testimony received and the findings made herein; and

WHEREAS, the Board of Supervisors affirmed the decision of the Planning Commission's denial of Use Permit 16-007 and denied Use Permit 16-007 as originally proposed and as modified by the Applicant, by a vote of 4-1; and

WHEREAS, following the denial of Use Permit 16-007 by the Planning Commission, the appeal, and the final denial of Use Permit 16-007 by the Board of Supervisors, the Planning Commission met on December 9, 2021; and

WHEREAS, at the meeting of the Planning Commission on December 9, 2021, the Planning Commission discussed the issue of a potential moratorium (the "Moratorium") on future wind turbine developments pending further study of the issues raised by the Planning Commissioners and the Board of Supervisors in denying the permit for the Fountain Wind project, and pending potential changes to the County Zoning Ordinances and General Plan, and otherwise, to provide future developers additional guidance in advance concerning such projects that might be proposed in the future, as well as to further protect the public from the types of potential negative impacts that led to the denial of the use permit for the Fountain Wind project; and

WHEREAS, following discussion and public comments on the proposed Moratorium, and due consideration by Shasta County Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Shasta recommends to the Shasta County Board of Supervisors:

1. That a Moratorium on future wind turbine developments in Shasta County be adopted until such time as the County considers the following on a county wide basis: (A) studies of the potential impacts of wind turbine developments, particularly those that might be proposed to be located in areas of the County that are in or near communities, in or near forested areas, or in or near high fire danger zones, including whether such projects should not be allowed in such areas due to potential increased fire danger and impediments to firefighting efforts; (B) studies of the potential impacts of wind turbine developments on aesthetics in Shasta County and the issue of visual blight, and addressing the protection of the rural nature and scenic beauty of Shasta County, and its mountain tops and ridge lines; (C) studies concerning the potential impacts of wind turbine developments on forest resources, wildlife and other biological or natural resources; and (D) studies concerning the potential impacts of wind turbine developments on historical, cultural, and tribal resources considered to be spiritually and culturally important to local tribes; and
2. Following completion of the further studies outlined above, and after receiving any additional input from interested groups, experts, and the public that the Planning

Commission and/or Board of Supervisors may receive, and after undertaking the appropriate processes, (A) the Board of Supervisors determines whether any future wind turbine developments will be allowed in Shasta County, given the rural nature of the county, high fire danger in the County, and the potential impacts posed by such projects; and (B) makes and adopts appropriate changes to Shasta County's Zoning Ordinances and General Plan, including consideration and adoption of an Open Space Plan or equivalent as part of the General Plan, to specifically address industrial wind turbine developments, the potential impacts of such developments, and whether any such projects will be allowed in the County in the future, and if so, in what area or areas of the County, and under what conditions and restrictions.

DULY PASSED AND ADOPTED this 9th day of December 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

PATRICK WALLNER, Chair
Planning Commission
County of Shasta, State of California

ATTEST:

PAUL A. HELLMAN, Secretary
Planning Commission
County of Shasta, State of California

RESOLUTION NO. 2021-___**A RESOLUTION OF THE SHASTA COUNTY PLANNING COMMISSION
RECOMMENDING TO THE BOARD OF SUPERVISORS THAT FURTHER STUDY
OF WIND TURBINE DEVELOPMENTS IN SHASTA COUNTY BE UNDERTAKEN
AND TO INITIATE THE PROCESS FOR POTENTIAL CHANGES TO THE
COUNTY'S ZONING ORDINANCES AND GENERAL PLAN TO BETTER GUIDE
FUTURE DEVELOPERS AND THE PUBLIC**

WHEREAS, on June 22, 2021, the Shasta County Planning Commission conducted a public hearing where it considered Fountain Wind LLC's application for approval of a use permit for the Fountain Wind Project, a wind energy generation development, Use Permit 16-007; and

WHEREAS, after receiving presentations from staff, the applicant, various groups, and receiving public comment, the Planning Commission unanimously denied the application of Use Permit 16-007 by a vote of 5 to 0; and

WHEREAS, the Commission denied Use Permit 16-007 due to several significant and unavoidable issues both in the Final Environmental Impact Report (FEIR) and in public testimony during the special meeting, as well as comprehensive reviews of the Draft EIR along with public testimony, both written and oral, received over the last 2.5 years. The FEIR stated that the proposed project was for the construction of up to 72 wind turbines and associated infrastructure with the actual number and location to be determined at a future date (FEIR pp. 1-3). The FEIR noted significant and unavoidable issues concerning the impacts of the project on the aesthetics of the area, impacts to selected wildlife species, impacts to forest resources, and impacts to Native American culture. The Commission found that the FEIR erred in not addressing the significant impact of the removal of aerial firefighting capability due to the location and height of the proposed structures, thus putting the communities of Round Mountain, Montgomery Creek, Moose Camp, Big Bend, and Burney into a significantly dangerous position. The Commission acknowledged that there would be a significant revenue increase to Shasta County during the buildout phase of the project. However, looking at the long term, the financial return would be minimal and, therefore, did not constitute an overriding circumstance. The Commission noted that those who spoke in favor of the project were from out of the project area, while all of those within the project area were against the project. With these considerations, the Commission found that the establishment, operation, and maintenance of the subject use, under the circumstances of the particular case will be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or will be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County (Shasta County Code subsection 17.92.020.F); and

WHEREAS, on June 25, 2001, the Applicant for the Fountain Wind project timely appealed the determination of the Planning Commission; and

WHEREAS, on October 26, 2021, the Board of Supervisors of the County of Shasta considered the appeal by Fountain Wind, LLC of the Shasta County Planning Commission's denial of Use Permit 16-007 for the Project, a renewable wind energy generation development consisting of the construction, operation, maintenance, and ultimately the decommissioning of up to 72 wind turbines and associated transformers together with the associated infrastructure and ancillary facilities in unincorporated Shasta County on approximately 4,464 acres of a 29,500-acre leasehold comprised of 76 Shasta County Assessor's parcels operated as managed forest timberlands located approximately one mile west of the existing Hatchet Ridge Wind Project, 6 miles west of Burney, CA and 35 miles northeast of Redding, CA, in accordance with Section 17.92.020 of the Shasta County Ordinance Code, Title 17, Zoning; and

WHEREAS, the Applicant proposed modifications to the Project; and

WHEREAS, the Board of Supervisors received and reviewed the proposed Project, including the modifications to the Project proposed by the Applicant following the filing of its appeal, along with all draft, final, and supporting documents of the environmental impact report (EIR) prepared in compliance with the California Environmental Quality Act (CEQA), staff reports, correspondence to the County concerning the application, in addition to a report from the Director of Resource Management; and

WHEREAS, a duly noticed public hearing on the Final EIR and the Project was conducted by the Board of Supervisors on October 26, 2021, at which time all interested persons were given an opportunity to comment which were considered in accordance with the modified procedures for the conduct of the Board of Supervisors resulting from the current COVID-19 pandemic and in compliance with orders and recommendations of federal, state, and local authorities, and those comments were considered by the Board of Supervisors; and

WHEREAS, the Board of Supervisors received testimony regarding the following detrimental impacts of the proposed project: impacts to aesthetics; potential increased fire danger; impediments to firefighting efforts; damage to wildlife; damage to natural resources; and damage to cultural of tribal resources; and

WHEREAS, after independent consideration and determinations of the Board of Supervisors following its de novo review of the application, the CEQA determination, and the issues on appeal, the Board of Supervisors of the County of Shasta made the following use permit finding: The establishment, operation, and maintenance of the subject use, under the circumstances of the particular case, will be detrimental to the health safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or will be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County. Testimony was received regarding potential increased fire danger and impaired emergency evacuation and/or hindrance of firefighting efforts. Testimony was received from residents in the area regarding the impaired aesthetics of the region caused by visual blight. Testimony was received by residents and tribal members regarding encroachment on and impact to historical, cultural, and tribal resources considered to be spiritually and culturally important to local tribes. Testimony was also received that the detriment to the health, safety, peace, morals,

comfort, and general welfare of persons residing or working in the area of the project and the County, in general, outweighed the proposed benefits to the County. In addition to the testimony received, documents were presented to the Board and made a part of the record that supported the testimony received and the findings made herein; and

WHEREAS, the Board of Supervisors affirmed the decision of the Planning Commission's denial of Use Permit 16-007 and denied Use Permit 16-007 as originally proposed and as modified by the Applicant, by a vote of 4-1; and

WHEREAS, following the denial of Use Permit 16-007 by the Planning Commission, the appeal, and the final denial of Use Permit 16-007 by the Board of Supervisors, the Planning Commission met on December 9, 2021; and

WHEREAS, at the meeting of the Planning Commission on December 9, 2021, the Planning Commission discussed the need for further study of the issues raised by the FEIR, and by the Planning Commissioners and the Board of Supervisors in denying Use Permit 16-007, but on a county wide basis, and the need for changes to the County Zoning Ordinances and General Plan, and otherwise, to provide future wind turbine developers additional guidance in advance concerning such projects, as well as to protect the public from impacts similar to those that led to the denial of Use Permit 16-007; and

WHEREAS, the Planning Commission further discussed that pending the adoption of changes to the County's Zoning Ordinances and General Plan to address the issues posed by potential future wind turbine development(s) in Shasta County, it may be appropriate if and when applicable legal standards are met, to issue a moratorium (the "Moratorium") on future wind turbine development(s), in accordance with Government Code Section 65858, pending completion of the planning process to ensure that any such development(s) will be subject to any changes to the Zoning Ordinances and General Plan that may be adopted to address such issues concerning future wind turbine development(s) in Shasta County; and

WHEREAS, following discussion and public comments on the need for further study, potential changes to the County's Zoning Ordinances and General Plan, and the proposed Moratorium, and due consideration by the Shasta County Planning Commission;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Shasta recommends to the Shasta County Board of Supervisors:

1. That the Board of Supervisors direct the Planning Commission and staff to study the following on a county wide basis: (A) the potential impacts of wind turbine developments, particularly those that might be proposed to be located in areas of the County that are in or near communities, in or near woodland or forested areas, or in or near high fire danger zones, including whether such projects should not be allowed in such areas due to potential increased fire danger and impediments to firefighting efforts; (B) the potential impacts of wind turbine developments on aesthetics in Shasta County and the issue of visual blight, and addressing the protection of the rural nature and scenic beauty of Shasta County, and its mountain tops and ridge lines; (C)

the potential impacts of wind turbine developments on woodland or forest resources, wildlife and other biological or natural resources; and (D) the potential impacts of wind turbine developments on historical, cultural, and tribal resources considered to be spiritually and culturally important to local tribes; and

2. That the Board of Supervisors direct the Planning Commission to initiate the appropriate process pursuant to Shasta County Code Section 17.92.080(B) and any other applicable provisions of the County Code, to study the issues outlined above, and review and consider any additional input from interested groups, experts, and the public that the Planning Commission may receive, and after completing the appropriate planning process, recommend appropriate changes to Shasta County's Zoning Ordinances and General Plan, including consideration and adoption of an Open Space Plan or equivalent as part of the General Plan, to specifically address wind turbine developments, the potential impacts of such developments, and whether any such projects should be allowed in the County, and if so, where and under what conditions and restrictions; and
3. In the event that one or more use permit application(s) for future wind turbine developments are made before such changes to Shasta County's Zoning Ordinances and General Plan are adopted, that the Board of Supervisors consider adoption of a temporary Moratorium on such developments in accordance with Government Code Section 65858, at the appropriate time and when applicable legal standards are met, to ensure that any such developments will be subject to any new Zoning Ordinances or General Plan provisions that may result from the planning process outlined above.

DULY PASSED AND ADOPTED this 9th day of December 2021, by the Shasta County Planning Commission by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

PATRICK WALLNER, Chair
Planning Commission
County of Shasta, State of California

ATTEST:

PAUL A. HELLMAN, Secretary
Planning Commission
County of Shasta, State of California

MEMORANDUM

Office of the County Counsel
Rubin E. Cruse, Jr., County Counsel

TO: Members of the Shasta County Planning Commission
Matthew P. Pontes, County Executive Officer
Paul Hellman, Director of Resource Management

FROM: Rubin E. Cruse, Jr., County Counsel 

DATE: November 19, 2021

RE: Moratorium on Large Wind Energy Systems

On November 10, 2021, the Shasta County Planning Commission directed staff to place on the December 9, 2021 Shasta County Planning Commission agenda a proposed resolution concerning a moratorium on large wind energy systems in Shasta County.

If adopted by the Planning Commission, the proposed resolution, among other things, recommends to the Shasta County Board of Supervisors that a moratorium on large wind energy systems in Shasta County be adopted until such time as the County studies and considers the potential impacts of such wind turbine developments on a county wide basis.

Based on the language in the proposed resolution, it is my understanding that the recommended moratorium is for large wind energy systems, similar to the proposed Fountain Wind Project, that was recently denied by the Planning Commission and the Board of Supervisors. I understand that the recommended moratorium is not designed to apply to “small wind energy systems,” which may be authorized under Shasta County Code § 17.88.030 upon the issuance of an administrative permit.¹

The following memorandum addresses the question of whether the County of Shasta may legally impose a moratorium on the development of large wind energy systems.

The conclusions can be summarized as follows:

1. Based on an evaluation of the current circumstances, the County would **not** be able to lawfully impose a moratorium on the development of large wind energy systems because the facts do not establish the existence of a “current and immediate threat to the public health, safety, or welfare.”

¹ A “small wind energy system” means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics . . . and which will be used primarily to reduce on-site consumption of utility power. Shasta County Code § 17.88.035(A).

2. The County has the ability to consider amendments to the County Zoning Plan concerning the proposed development of large wind energy systems without adopting a moratorium. The Board of Supervisors or the Planning Commission may initiate an amendment to the County Zoning Plan by adopting a resolution of intention to make such amendments. Shasta County Code § 17.92.080(B).
3. Should any such amendments to the County Zoning Plan be adopted before action is taken to approve a future application for a large wind energy system, the application would then be subject to any such amendments to the County Zoning Plan.

Government Code § 65858 authorizes the Board of Supervisors to adopt an urgency measure prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the County is considering or studying or intends to study within a reasonable time. However, the Board of Supervisors shall not adopt such an urgency measure unless the urgency measure contains findings that there is a “current and immediate threat to the public health, safety, or welfare.”

The California Court of Appeal has held that, to satisfy this statutory requirement, there must be evidence that actual approval of a permit is imminent. *California Charter Schools Assn v. City of Huntington Park*, 35 Cal. App. 5th 362 (2019).

In that case, the City of Huntington Park attempted to impose a moratorium on the establishment of new charter schools within its borders. The Huntington Park Municipal Code required charter schools to obtain conditional use permits, which could be either approved or disapproved at the discretion of the City.

The Court of Appeal struck down the City’s moratorium as being unlawful because there was no evidence that actual approval of a use permit for a new charter school was imminent. No applications had been submitted. There had only been some inquiries and requests for meetings. The Court of Appeal stated “mere inquiries, requests, and meetings, do not constitute a current and immediate threat” within the meaning of Government Code § 65858.

The following facts indicate that actual approval of a use permit for a large wind energy system is not “imminent” as defined by case law.

1. Under the Shasta County Code, a public utility, such as a large wind energy system, is allowed in all zoning districts *with the approval of a use permit*. Shasta County Code § 17.88.100(B). The Shasta County Code also provides that wind energy systems that are not considered “small wind energy systems” may be permitted with an approved use permit. Shasta County Code § 17.88.035. The Director of Resource Management has informed me that there are no current applications pending for a use permit for a large wind energy system in Shasta County.
2. Use permits are discretionary actions, subject to approval by the Planning Commission and subject to appeal to the Board of Supervisors. Unless a use permit is issued, there is no right to construct such a project in any zone. *California Charter Schools Assn v. City of Huntington Park*, 35 Cal. App. 5th 362 (2019).

3. With a use permit, the County has discretion to deny or impose conditions on the use permit. No rights vest until a permit is granted and the applicant has thereafter acted upon the approval to his or her detriment. *California Charter Schools Assn. v. City of Huntington Park*, 35 Cal. App. 5th 362 (2019).
4. **The mere processing of a development application, such as a use permit, does not pose a current and immediate threat to the public health, safety or welfare because no rights will vest imminently.** *Id.* at 371; *Building Industry Legal Defense Foundation v. Superior Court*, 72 Cal. App. 4th 1410 (1999).

Based on the foregoing legal authorities, the County would not be able to justify a moratorium on large wind energy systems as posing a current and immediate threat to the public health, safety, or welfare. Under the current Shasta County Code, no person is able to construct a large wind energy system until after a use permit is approved and the County has discretion to deny the permit.

The County has the ability to consider amendments to the County Zoning Plan concerning the proposed development of large wind energy systems without adopting a moratorium. The Board of Supervisors or the Planning Commission may initiate an amendment to the County Zoning Plan by adopting a resolution of intention to make such amendments. Shasta County Code § 17.92.080(B).

Should any such amendments to the County Zoning Plan be adopted before action is taken to approve a future application for a large wind energy system, the application would then be subject to any such amendments to the County Zoning Plan. The applicant who wishes to develop undeveloped land has no vested right in the existing zoning. *Gilliland v. County of Los Angeles*, 126 Cal. App. 3d 610 (1981).

REC:lk

PLANNING COMMISSION

1855 Placer Street, Suite 103
Redding, California 96001
(530) 225-5532
(530) 245-6468 FAX

Commissioner James Chapin, District 1
Commissioner Tim MacLean, District 2
Commissioner Steven Kerns, District 3
Commissioner Donn Walgamuth, District 4
Commissioner Patrick Wallner, District 5

AGENDA

REGULAR MEETING OF THE SHASTA COUNTY PLANNING COMMISSION

Thursday, January 13, 2022, 2:00 p.m.

In addition to this Regular Meeting, the Planning Commission welcomes you to its regularly scheduled meetings which are scheduled for the second Thursday of each month at 2:00 p.m. in the Board of Supervisors Chambers on the second floor of the Shasta County Administration Center, 1450 Court Street, Suite 263, Redding, California.

TO ADDRESS THE COMMISSION: Members of the public may directly address the Planning Commission on any agenda item on the regular calendar before or during the Commission's consideration of the item. In addition, the Planning Commission provides the members of the public with a Public Comment-Open Time period, where the public may address the Commission on any agenda item and may address the Commission on any matter not listed on the agenda that is within the subject matter jurisdiction of the Planning Commission. Pursuant to the Brown Act (Govt. Code section 54950, et seq.), **Commission action or discussion cannot be taken** on non-agenda matters, but the Commission may briefly respond to statements or questions and, if deemed necessary, refer the subject matter to the appropriate department for follow-up and/or to schedule the matter on a subsequent Commission agenda.

PRESENTATION OF DOCUMENTS: All items presented to the Planning Commission during a public hearing, including but not limited to letters, e-mails, petitions, photos, maps or other kinds of information shall become a permanent part of the record and must be submitted to the clerk of the commission. It is advised that the presenter create copies in advance for their own records. If you have documents to present for the members of the Planning Commission to review, please provide a minimum of eight copies.

The Planning Commission's decision on any noticed public hearing item may be appealed to the Board of Supervisors. See "Notes" at the end of the regular agenda.

CALL TO ORDER

Pledge of Allegiance

Roll Call

ELECTION OF 2022 CHAIR AND VICE-CHAIR

PUBLIC COMMENT PERIOD - OPEN TIME

During the Public Comment - Open Time period, members of the public may address the Planning Commission on any matter not listed on the agenda that is within the subject matter jurisdiction of the Planning Commission.

PLANNING DIRECTOR'S REPORT

REGULAR CALENDAR

R1 Approval of Minutes:

Approve the minutes of the meeting held on December 9, 2021 as submitted.

R2 Zone Amendment 21-0001 and Use Permit 21-0001 (LW Holdings, LLC): LW Holdings, LLC has requested to change the zoning of Assessor's Parcel Number 307-170-013 from the Public Facilities combined with Mineral Resource Buffer (PF-MRB) zone district to the Mixed Use combined with Mineral Resource Buffer (MU-MRB) zone district and a use permit to redevelop the 5.66-acre former North Woods Discovery School property into a recreational vehicle, boat, and mini-storage facility comprised of fourteen buildings for approximately 53,862 square feet of storage space. The project site is located in the Mountain Gate area at 14732 Bass Drive, Redding, CA 96003, approximately 0.1 miles southeast of the intersection of Bass Drive and Wonderland Boulevard (Assessor's Parcel Numbers 307-170-012 and 307-170-013). The proposal includes repurposing four buildings, demolishing three buildings, and constructing ten new buildings containing a total of 216 storage spaces ranging in size from 187 to 480 square feet. The proposal also includes a 1,140-square-foot office/caretaker's residence, grading to prepare the site for improvements, paving for parking and drive aisles, landscaping, drainage improvements, fencing, abandonment of an onsite sewage disposal system, installation of an onsite wastewater treatment system, and other ancillary onsite improvements. Staff Planner: Luis A. Topete. Supervisor District: 4. Proposed CEQA Determination: Mitigated Negative Declaration. Staff recommends that the Planning Commission:

1. Conduct a public hearing.
2. Close the public hearing.
3. Adopt a resolution recommending that the Shasta County Board of Supervisors: a) adopt the California Environmental Quality Act (CEQA) determination of a Mitigated Negative Declaration; b) adopt the recommended findings listed in Resolution 2022-001 including modifications, if any, as determined by the Planning Commission; and c) introduce, waive the reading of, and enact an ordinance to amend the Zoning Plan of the County of Shasta identified as Zone Amendment 21-0001 including modifications, if any, as determined by the Planning Commission.
4. Adopt a resolution recommending that the Shasta County Board of Supervisors: a) adopt the California Environmental Quality Act (CEQA) determination of a Mitigated Negative Declaration; b) adopt the recommended findings listed in Resolution 2022-002 including modifications, if any, as determined by the Planning Commission; and c) approve Use Permit 21-0001, based on the recommended findings and subject to the conditions of approval set forth in Exhibit A to Resolution 2022-002 including modifications, if any, as determined by the Planning Commission.

R3 Potential Zoning Changes Concerning Large Wind Energy Systems: On December 9, 2021, by a 4-0 vote the Planning Commission directed staff to prepare a resolution of intention to initiate an amendment to the Shasta County Zoning Plan prohibiting the development of large wind energy systems in the unincorporated area of Shasta County. Staff Planner: Paul A. Hellman. Supervisor District: All. Proposed CEQA Determination: N/A. Staff recommends that the Planning Commission:

1. Receive a presentation from staff; and
2. Adopt the proposed resolution of intention to initiate an amendment to the County Zoning Plan prohibiting the development of large wind energy systems, including modifications, if any, as determined by the Planning Commission.

ADJOURN

NOTES:

1. The Planning Commission, at their discretion, may limit individual/group testimony time in the interest of facilitating the meeting to allow all persons who wish to comment the opportunity to do so.
2. Documents associated with the agenda are on file and available for review. The agenda, initial studies, staff reports, and minutes, can be found online at www.co.shasta.ca.us/drm/planning/planning-commission-meetings. Direct inquiries to: Department of Resource Management - Planning Division, 1855 Placer Street, Suite 103, Redding, CA 96001. Phone: (530) 225-5532.
3. Commission actions on tentative maps, use permits, variances, administrative permits, and zoning permits are final unless appealed to the Board of Supervisors. Appeals are subject to fees and filing deadlines. Appeal periods: tentative map, 10 calendar days; use permits, variances, administrative permits, and zoning permits, 5 calendar days. The notice of appeal shall identify, by application number, the action which is the subject of the appeal; shall state the action, finding or determination, and the date thereof, from which the appeal is taken; and shall specifically set forth the grounds upon which the appeal is based. No person wishing to appeal a decision of the Planning Commission should rely on an appeal filed by another person but instead should file their own separate appeal. No appeal shall be deemed to be filed unless any required fee is submitted to the clerk with the notice of appeal. Forms and instructions for filing appeals are available from the Clerk of the Board of Supervisors at 1450 Court Street, Suite 308B, Redding.
4. The Commission's action on Zoning applications establishes the next action. When the Commission recommends approval, the application is automatically scheduled for action by the Board of Supervisors; if the Commission denies the application, the application is not scheduled for Board action unless an interested party files a written request for such consideration. Fees and filing information are available from the Clerk of the Board of Supervisors or from the Planning Division.
5. Following Planning Commission action on a proposed General Plan Amendment any interested party may file a written request for a hearing by the legislative body on the Commission's recommendation by filing such a request with the Clerk of the Board of Supervisors within five calendar days after the Commission action.
6. If you challenge a Planning Commission action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.
7. The County of Shasta does not discriminate on the basis of disability in admission to, access to, or operation of its buildings, facilities, programs, services, or activities. The County does not discriminate on the basis of disability in its hiring or employment practices. Questions, complaints, or requests for additional information

regarding the Americans with Disabilities Act (ADA) may be forwarded to the County's ADA Coordinator: Director of Support Services Shelley Forbes, County of Shasta, 1450 Court Street, Room 348, Redding, CA 96001-1676, Phone:(530) 225-5515, California Relay Service: (800) 735-2922, Fax: (530) 225-5345, E-mail: adacoordinator@co.shasta.ca.us.

Individuals with disabilities who need auxiliary aids and/or services for effective communication in the County's programs and services are invited to make their needs and preferences known to the affected department or the ADA Coordinator. For aids or services needed for effective communication during Planning Commission meetings, please call the Department of Resource Management (530) 225-5532 five (5) business days before the meeting. This notice is available in accessible alternate formats from the affected department or the ADA Coordinator. Accommodations may include, but are not limited to, interpreters, assistive listening devices, accessible seating, or documentation in an alternate format.

REPORT TO THE SHASTA COUNTY PLANNING COMMISSION

<u>PROJECT IDENTIFICATION:</u> <u>REGULAR AGENDA</u>	MEETING DATE	AGENDA ITEM #
POTENTIAL ZONING CHANGES CONCERNING LARGE WIND ENERGY SYSTEMS	1/13/22	R3

RECOMMENDATION: That the Planning Commission:

1. Receive a presentation from staff; and
2. Adopt the proposed resolution of intention to initiate an amendment to the County Zoning Plan prohibiting the development of large wind energy systems.

BACKGROUND AND DISCUSSION:

During the Planning Director’s Report to the Commission on November 10th, Commissioner Kerns distributed copies of a proposed resolution recommending that the Board of Supervisors (Board) adopt a moratorium on wind turbine developments pending further study and potential changes to the County’s zoning ordinance and general plan. Commissioner Kerns made a motion to place the presentation of a report regarding options for regulating wind turbine developments and consideration of the proposed resolution on the December 9th Planning Commission agenda, which was carried by a 4-0 vote.

A memorandum from County Counsel Rubin E. Cruse, Jr. dated November 19, 2021, concluded that the County would not be able to lawfully impose a moratorium on the development of large wind energy systems because the facts do not establish the existence of a “current and immediate threat to the public health, safety, or welfare.” County Counsel also states that the County does have the ability to consider amendments to the County Zoning Plan concerning the proposed development of large wind energy systems without adopting a moratorium and that either the Commission or the Board may initiate an amendment to the County Zoning Plan by adopting a resolution of intention to make such amendments.

In light of this legal opinion from County Counsel, Commissioner Kerns submitted an alternative resolution which was provided to the Commission for their consideration prior to the December 9th meeting. The alternative resolution recommended that the Board direct the Commission and staff to study the potential impacts of wind turbine developments on a countywide basis and to recommend appropriate changes to Shasta County’s zoning ordinances and general plan. The alternative resolution also recommended that the Board consider the adoption of a temporary moratorium on wind turbine developments in the event a use permit application for a wind turbine development is filed before changes to the zoning ordinances and general plan are adopted.

On December 9th, staff presented the alternative resolution proposed by Commissioner Kerns and several alternative actions the Commission make take, public testimony was received from Steve Johnson, Tony Ankis, Beth Messick-Lattin, and Gary Cadd, and the Commission discussed the merits of the various actions under consideration. By a 4-0 vote, the Commission directed staff to prepare a resolution of intention to initiate an amendment to the County Zoning Plan prohibiting the development of large wind energy systems in the unincorporated area of Shasta County.

ALTERNATIVES:

The following alternatives to the adoption of the proposed resolution of intention are available:

1. Do not adopt the proposed resolution of intention.

Regulation of Large Wind Energy Systems

1/13/2022

Page 2

2. Adopt the proposed resolution of intention with revisions.
3. Continue the item to request additional information.

CONCLUSION:

The proposed resolution of intention to initiate an amendment to the County Zoning Plan prohibiting the development of large wind energy systems was prepared by staff as directed by the Commission on December 9th. If the proposed resolution of intention is adopted by the Commission, staff will submit proposed amendments to the County Zoning Plan to the Commission for consideration and recommended action.



PAUL A. HELLMAN
Director of Resource Management

PAH/trh/All Districts

Attachment: Draft Resolution of Intention

RESOLUTION NO. 2022-003

**RESOLUTION OF INTENTION OF THE SHASTA COUNTY PLANNING
COMMISSION TO CONSIDER AMENDMENTS TO THE SHASTA COUNTY
ZONING PLAN REGULATING LARGE WIND ENERGY SYSTEMS**

WHEREAS, the County of Shasta has adopted a Zoning Plan identified as Title 17 (Zoning) of the Shasta County Code.

WHEREAS, the County of Shasta may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

WHEREAS, California Government Code section 65850 authorizes the County of Shasta to adopt ordinances that regulate the use of buildings, structures, and land and the intensity of land uses.

WHEREAS, the Zoning Plan regulates small wind energy systems, which are defined as wind energy conversion systems consisting of a wind turbine, a tower, and associated control or conversion electronics used primarily to reduce on-site consumption of utility power.

WHEREAS, private wind energy production systems not classified as small wind energy systems are regulated by the Zoning Plan as public utilities, which are permissible in all zone districts with the approval of a use permit.

WHEREAS, the adverse impacts of private wind energy production systems not classified as small wind energy systems, particularly with respect to wildfire, aerial firefighting, aesthetics, biological resources, and historical, cultural, and tribal resources, are of significant concern to many residents of Shasta County as evidenced by the numerous public comments received regarding the proposed Fountain Wind Project between 2019 and 2021.

WHEREAS, the vast majority of the unincorporated area of Shasta County is designated as being in the Very High Fire Hazard Severity Zone as recommended by the California Department of Forestry and Fire Protection.

WHEREAS, the Shasta County Planning Commission is of the opinion that private wind energy production systems not classified as small wind energy systems are incompatible in the Very High Fire Hazard Severity Zone.

WHEREAS, amendments to the Zoning Plan to define and regulate private wind energy production systems not classified as small wind energy systems in the unincorporated area of Shasta County, should be considered, in furtherance of the public necessity, convenience, and general welfare.

NOW, THEREFORE, BE IT RESOLVED, that the Shasta County Planning Commission, pursuant to section 17.92.080(B) of the Shasta County Code, hereby intends to consider amendments to the Zoning Plan to regulate private wind energy production systems not classified as small wind energy systems in furtherance of the public necessity, convenience, and general welfare.

BE IT FURTHER RESOLVED, that such proposed regulations consist of defining private wind energy production systems not classified as small wind energy systems as large wind energy systems and prohibiting the development of such systems in the unincorporated area of Shasta County.

BE IT FURTHER RESOLVED, that the Shasta County Department of Resource Management is directed to study the matter, propose amendments to the Zoning Plan, and submit any proposed amendments to the Shasta County Planning Commission, in accordance with section 17.92.080 of the Shasta County Code, for the Planning Commission's consideration and recommended action.

DULY PASSED AND ADOPTED this 13th day of January 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

_____, Chair
Planning Commission
County of Shasta, State of California

ATTEST:

PAUL A. HELLMAN, Secretary
Planning Commission
County of Shasta, State of California

PLANNING COMMISSION

1855 Placer Street, Suite 103
Redding, California 96001
(530) 225-5532
(530) 245-6468 FAX

Commissioner James Chapin, District 1
Commissioner Tim MacLean, District 2
Commissioner Steven Kerns, District 3
Commissioner Donn Walgamuth, District 4
Commissioner Patrick Wallner, District 5

AGENDA

REGULAR MEETING
OF THE
SHASTA COUNTY PLANNING COMMISSION
Thursday, April 14, 2022, 2:00 p.m.

In addition to this Regular Meeting, the Planning Commission welcomes you to its regularly scheduled meetings which are scheduled for the second Thursday of each month at 2:00 p.m. in the Board of Supervisors Chambers on the second floor of the Shasta County Administration Center, 1450 Court Street, Suite 263, Redding, California.

TO ADDRESS THE COMMISSION: Members of the public may directly address the Planning Commission on any agenda item on the regular calendar before or during the Commission's consideration of the item. In addition, the Planning Commission provides the members of the public with a Public Comment-Open Time period, where the public may address the Commission on any agenda item and may address the Commission on any matter not listed on the agenda that is within the subject matter jurisdiction of the Planning Commission. Pursuant to the Brown Act (Govt. Code section 54950, et seq.), **Commission action or discussion cannot be taken** on non-agenda matters, but the Commission may briefly respond to statements or questions and, if deemed necessary, refer the subject matter to the appropriate department for follow-up and/or to schedule the matter on a subsequent Commission agenda.

PRESENTATION OF DOCUMENTS: All items presented to the Planning Commission during a public hearing, including but not limited to letters, e-mails, petitions, photos, maps or other kinds of information shall become a permanent part of the record and must be submitted to the clerk of the commission. It is advised that the presenter create copies in advance for their own records. If you have documents to present for the members of the Planning Commission to review, please provide a minimum of eight copies.

The Planning Commission's decision on any noticed public hearing item may be appealed to the Board of Supervisors. See "Notes" at the end of the regular agenda.

CALL TO ORDER

Pledge of Allegiance
Roll Call

PUBLIC COMMENT PERIOD - OPEN TIME

During the Public Comment - Open Time period, members of the public may address the Planning Commission

on any matter not listed on the agenda that is within the subject matter jurisdiction of the Planning Commission.

PLANNING DIRECTOR'S REPORT

REGULAR CALENDAR

R1 Approval of Minutes:

Approve the minutes of the meeting held on February 10, 2022 as submitted.

R2 Use Permit 22-0003 (Dickinson): Kevin and Danielle Dickinson have requested a use permit to legalize an existing Recreational Vehicle (RV) repair shop, installation services, RV sales, outdoor RV and trailer storage, and to construct a 2,560-square-foot RV repair structure, landscaping, and other ancillary onsite improvements. The 0.77-acre project site is located at 18691 Old Oasis Road, Redding, CA 96003 (Assessor's Parcel Number 074-100-030), on the east side of Old Oasis Road, approximately 0.18 miles south of the intersection of Oasis Road and Old Oasis Road. Staff Planner: Elisabeth Towers / Supervisor District: 1 / Proposed CEQA Determination: Exempt. Staff recommends that the Planning Commission:

1. Conduct a public hearing.
2. Close the public hearing.
3. Adopt a resolution to: a) find that Use Permit 22-0003 is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines sections 15301 and 15303; b) adopt the recommended findings listed in Resolution 2022-012, including modifications, if any, as determined by the Planning Commission; and c) approve Use Permit 22-0003, based on the recommended findings and subject to the conditions of approval set forth in Exhibit A to Resolution 2022-012, including modifications, if any, as determined by the Planning Commission.

R3 Zone Amendment 22-0001 Regulation of Wind Energy Systems County-Wide Text Amendment (Shasta County): The Planning Commission will hold a public hearing to consider recommending that the Board of Supervisors adopt an ordinance amending Title 17, Zoning Plan, of the Shasta County Code (SCC) by adding SCC Section 17.88.335 to define and prohibit large wind energy systems within the unincorporated area of Shasta County, amending SCC Section 17.88.035 to modify the definition of, and development regulations for, small wind energy systems, and amending SCC Section 17.88.100 to exclude large wind energy systems from being a permissible public utility with the approval of a use permit. Staff Planner: Paul Hellman. Staff recommends that the Planning Commission:

1. Conduct a public hearing.
2. Close the public hearing.
3. Adopt a resolution recommending that the Shasta County Board of Supervisors: a) find that Zone Amendment 22-0001 is not subject to the California Environmental Quality Act (CEQA) for the reasons stated in Resolution 2022-013; b) adopt the recommended findings listed in Resolution 2022-013, including modifications, if any, as determined by the Planning Commission; and c) introduce, waive the reading of, and enact an ordinance to amend the Zoning Plan of the County of Shasta identified as Zone Amendment 22-0001, including modifications, if any, as determined by the Planning Commission.

ADJOURN

NOTES:

1. The Planning Commission, at their discretion, may limit individual/group testimony time in the interest of facilitating the meeting to allow all persons who wish to comment the opportunity to do so.
2. Documents associated with the agenda are on file and available for review. The agenda, initial studies, staff reports, and minutes, can be found online at www.co.shasta.ca.us/drm/planning/planning-commission-meetings. Direct inquiries to: Department of Resource Management - Planning Division, 1855 Placer Street, Suite 103, Redding, CA 96001. Phone: (530) 225-5532.
3. Commission actions on tentative maps, use permits, variances, administrative permits, and zoning permits are final unless appealed to the Board of Supervisors. Appeals are subject to fees and filing deadlines. Appeal periods: tentative map, 10 calendar days; use permits, variances, administrative permits, and zoning permits, 5 calendar days. The notice of appeal shall identify, by application number, the action which is the subject of the appeal; shall state the action, finding or determination, and the date thereof, from which the appeal is taken; and shall specifically set forth the grounds upon which the appeal is based. No person wishing to appeal a decision of the Planning Commission should rely on an appeal filed by another person but instead should file their own separate appeal. No appeal shall be deemed to be filed unless any required fee is submitted to the clerk with the notice of appeal. Forms and instructions for filing appeals are available from the Clerk of the Board of Supervisors at 1450 Court Street, Suite 308B, Redding.
4. The Commission's action on Zoning applications establishes the next action. When the Commission recommends approval, the application is automatically scheduled for action by the Board of Supervisors; if the Commission denies the application, the application is not scheduled for Board action unless an interested party files a written request for such consideration. Fees and filing information are available from the Clerk of the Board of Supervisors or from the Planning Division.
5. Following Planning Commission action on a proposed General Plan Amendment any interested party may file a written request for a hearing by the legislative body on the Commission's recommendation by filing such a request with the Clerk of the Board of Supervisors within five calendar days after the Commission action.
6. If you challenge a Planning Commission action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.
7. The County of Shasta does not discriminate on the basis of disability in admission to, access to, or operation of its buildings, facilities, programs, services, or activities. The County does not discriminate on the basis of disability in its hiring or employment practices. Questions, complaints, or requests for additional information regarding the Americans with Disabilities Act (ADA) may be forwarded to the County's ADA Coordinator: Director of Support Services Shelley Forbes, County of Shasta, 1450 Court Street, Room 348, Redding, CA 96001-1676, Phone:(530) 225-5515, California Relay Service: (800) 735-2922, Fax: (530) 225-5345, E-mail: adaordinator@co.shasta.ca.us.

Individuals with disabilities who need auxiliary aids and/or services for effective communication in the County's programs and services are invited to make their needs and preferences known to the affected department or the ADA Coordinator. For aids or services needed for effective communication during Planning Commission meetings, please call the Department of Resource Management (530) 225-5532 five (5) business days before the meeting. This notice is available in accessible alternate formats from the affected department or the ADA Coordinator. Accommodations may include, but are not limited to, interpreters, assistive listening devices, accessible seating, or documentation in an alternate format.

REPORT TO THE SHASTA COUNTY PLANNING COMMISSION

<u>PROJECT IDENTIFICATION:</u> <u>REGULAR AGENDA</u>	MEETING DATE	AGENDA ITEM #
ZONE AMENDMENT 22-0001 REGULATION OF WIND ENERGY SYSTEMS COUNTY-WIDE (ZONING TEXT AMENDMENT)	4/14/22	R3

RECOMMENDATION: That the Planning Commission:

1. Conduct a public hearing.
2. Close the public hearing.
3. Adopt a resolution recommending that the Shasta County Board of Supervisors: a) find that Zone Amendment 22-0001 is not subject to the California Environmental Quality Act (CEQA) for the reasons stated in Resolution 2022-013; b) adopt the recommended findings listed in Resolution 2022-013; and c) introduce, waive the reading of, and enact an ordinance to amend the Zoning Plan of the County of Shasta identified as Zone Amendment 22-0001.

BACKGROUND AND DISCUSSION:

On January 13, 2022, the Planning Commission adopted attached Resolution No. 2022-003, a resolution of intention to consider amendments to the Shasta County Zoning Plan regulating large wind energy systems in the unincorporated area of Shasta County. In this resolution, the Planning Commission found that:

- The Shasta County Zoning Plan regulates small wind energy systems, which are defined as wind energy conversion systems consisting of a wind turbine, a tower, and associated control or conversion electronics used primarily to reduce on-site consumption of utility power.
- Private wind energy production systems not classified as small wind energy systems are regulated by the Zoning Plan as public utilities, which are permissible in all zone districts with the approval of a use permit.
- The adverse impacts of private wind energy production systems not classified as small wind energy systems, particularly with respect to wildfire, aerial firefighting, aesthetics, biological resources, and historical, cultural, and tribal resources, are of significant concern to many residents of Shasta County as evidenced by the numerous public comments received regarding the proposed Fountain Wind Project between 2019 and 2021.
- The vast majority of the unincorporated area of Shasta County is designated as being in the High and Very High Fire Hazard Severity Zones as recommended by the California Department of Forestry and Fire Protection.
- The Shasta County Planning Commission is of the opinion that private wind energy production systems not classified as small wind energy systems are incompatible in the High and Very High Fire Hazard Severity Zones.
- Amendments to the Zoning Plan to define and regulate private wind energy production systems not classified as small wind energy systems in the unincorporated area of Shasta County, should be considered, in furtherance of the public necessity, convenience, and general welfare.

Through the resolution of intention, the Planning Commission directed the Department of Resource Management to propose amendments to the Shasta County Zoning Plan defining private wind energy systems not classified as small wind energy systems as large wind energy systems and prohibiting the development of such systems in the unincorporated area of Shasta County, and to submit any proposed amendments to the Planning Commission for its consideration and recommended action.

The primary proposed amendments to Section 17.88.035, “Small wind energy systems,” of the Shasta County Code consist of the following:

- One wind turbine would be permitted with an approved administrative permit and two or more wind turbines would be permitted with an approved use permit.
- Tower heights in excess of 65 feet on parcels between one and five acres and 80 feet on parcels greater than five acres would be permissible with an approved use permit.
- Small wind energy systems would only be permissible in order to reduce on-site consumption of electricity obtained via the electric grid or to enable on-site generation of electricity in lieu of connecting to the electric grid.

The proposed amendments would allow for the potential of more than one wind turbine on a property and for wind turbine heights in excess of 80 feet; such allowances would require approval of a use permit by the Planning Commission, or by the Board of Supervisors if the Planning Commission’s decision is appealed. Because small wind energy systems would be limited to electricity generation capacities that do not exceed on-site electricity consumption, proposed systems exceeding the limits permissible under an administrative permit are anticipated to be the exception rather than the rule.

Proposed amendments to Section 17.88.100, “Public uses, public utilities, and high voltage electrical transmission and distribution projects,” of the Shasta County Code consist of precluding large wind energy systems from the provision allowing for public utilities to be permitted with an approved use permit.

Section 17.88.335, “Large wind energy systems,” is proposed to be added to the Shasta County Code. This section would define a large wind energy system as a wind energy conversion system that is not defined as a small wind energy system pursuant to subsection 17.88.035.A. of the Shasta County Code and would prohibit large wind energy systems in all zone districts of the unincorporated area of Shasta County.

Environmental Determination: Adoption of the ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) since it can be seen with certainty that this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

ALTERNATIVES: The following alternatives are available:

1. Recommend that the Board approve Zone Amendment 22-0001 with revisions.
2. Continue the public hearing to request additional information.
3. Do not adopt draft Resolution 2022-013, in which case the draft ordinance would not be considered by the Board of Supervisors.

CONCLUSION:

Staff is of the opinion that the proposed ordinance supports the public necessity, health, safety, convenience and general welfare of the citizens of Shasta County.

ZA22-0001 (Regulation of Wind Energy Systems)

4/14/2022

Page 3



PAUL A. HELLMAN

Director of Resource Management

PAH/trh/All Districts

Copies: Project File

Attachments: Planning Commission Resolution No. 2022-003 (Resolution of Intention)

Draft Resolution No. 2022-013

Draft Strikeout Ordinance

Draft Ordinance

RESOLUTION NO. 2022-003

**RESOLUTION OF INTENTION OF THE SHASTA COUNTY PLANNING
COMMISSION TO CONSIDER AMENDMENTS TO THE SHASTA COUNTY
ZONING PLAN REGULATING LARGE WIND ENERGY SYSTEMS**

WHEREAS, the County of Shasta has adopted a Zoning Plan identified as Title 17 (Zoning) of the Shasta County Code.

WHEREAS, the County of Shasta may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

WHEREAS, California Government Code section 65850 authorizes the County of Shasta to adopt ordinances that regulate the use of buildings, structures, and land and the intensity of land uses.

WHEREAS, the Zoning Plan regulates small wind energy systems, which are defined as wind energy conversion systems consisting of a wind turbine, a tower, and associated control or conversion electronics used primarily to reduce on-site consumption of utility power.

WHEREAS, private wind energy production systems not classified as small wind energy systems are regulated by the Zoning Plan as public utilities, which are permissible in all zone districts with the approval of a use permit.

WHEREAS, the adverse impacts of private wind energy production systems not classified as small wind energy systems, particularly with respect to wildfire, aerial firefighting, aesthetics, biological resources, and historical, cultural, and tribal resources, are of significant concern to many residents of Shasta County as evidenced by the numerous public comments received regarding the proposed Fountain Wind Project between 2019 and 2021.

WHEREAS, the vast majority of the unincorporated area of Shasta County is designated as being in the High and Very High Fire Hazard Severity Zones as recommended by the California Department of Forestry and Fire Protection.

WHEREAS, the Shasta County Planning Commission is of the opinion that private wind energy production systems not classified as small wind energy systems are incompatible in the High and Very High Fire Hazard Severity Zones.

WHEREAS, amendments to the Zoning Plan to define and regulate private wind energy production systems not classified as small wind energy systems in the unincorporated area of Shasta County, should be considered, in furtherance of the public necessity, convenience, and general welfare.

NOW, THEREFORE, BE IT RESOLVED, that the Shasta County Planning Commission, pursuant to section 17.92.080(B) of the Shasta County Code, hereby intends to consider amendments to the Zoning Plan to regulate private wind energy production systems not classified as small wind energy systems in furtherance of the public necessity, convenience, and general welfare.

BE IT FURTHER RESOLVED, that such proposed regulations consist of defining private wind energy production systems not classified as small wind energy systems as large wind energy systems and prohibiting the development of such systems in the unincorporated area of Shasta County.

BE IT FURTHER RESOLVED, that the Shasta County Department of Resource Management is directed to study the matter, propose amendments to the Zoning Plan, and submit any proposed amendments to the Shasta County Planning Commission, in accordance with section 17.92.080 of the Shasta County Code, for the Planning Commission's consideration and recommended action.

DULY PASSED AND ADOPTED this 13th day of January 2022, by the following vote:

AYES: CHAPIN, KERNS, MACLEAN, WALLNER
NOES:
ABSENT: WALGAMUTH
ABSTAIN:
RECUSE:



TIM MACLEAN, Chair
Planning Commission
County of Shasta, State of California

ATTEST:



PAUL A. HELLMAN, Secretary
Planning Commission
County of Shasta, State of California

RESOLUTION NO. 2022-013

**A RESOLUTION OF THE SHASTA COUNTY PLANNING COMMISSION
RECOMMENDING THAT THE SHASTA COUNTY BOARD OF SUPERVISORS
APPROVE ZONE AMENDMENT 22-0001
REGULATING SMALL AND LARGE WIND ENERGY SYSTEMS**

WHEREAS, the County of Shasta (County) has adopted a Zoning Plan identified as Title 17 (Zoning) of the Shasta County Code (SCC); and

WHEREAS, based on Planning Commission Resolution No. 2022-003, a resolution of intention to consider amendments to the Shasta County Zoning Plan to prohibit wind energy conversion systems other than small wind energy systems, County staff drafted an ordinance to define wind energy conversion systems not classified as small wind energy systems as large wind energy systems and to prohibit the development of such systems in the unincorporated area of Shasta County; and

WHEREAS, a duly noticed public hearing was held on April 14, 2022, at which time all interested persons were given an opportunity to comment and those comments were considered by the Planning Commission.

WHEREAS, the Shasta County Planning Commission has considered public comments and a report from the Planning Division.

NOW, THEREFORE BE IT RESOLVED, by the Shasta County Planning Commission that:

1. The foregoing recitals are true and correct.
2. The Planning Commission has independently reviewed and considered the proposed zone amendment, together with all public comments and a report from the Planning Division.
3. Adoption of the ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15060(c)(2) since it can be seen with certainty that this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.
4. The proposed Zone Amendment is consistent with the Shasta County General Plan on the basis that the ordinance prohibits a type of development that is incompatible in high risk fire hazard areas from locating in such areas (Objective FS-1), protects the natural scenery along scenic highways from new development which would diminish the aesthetic value of the scenic corridor (Objective SH-1), and guides development in a pattern that will respect the natural resource values of County lands and their contributions to the County's economic base and that will minimize land use conflicts between adjacent land uses (Objectives CO-3 & CO-4).
5. The Planning Commission recommends that the Shasta County Board of Supervisors introduce, waive the reading of, and enact an ordinance amending the Zoning Plan of the County of Shasta, identified as Zone Amendment 22-0001, by adding SCC Section 17.88.335 to define and prohibit large wind energy systems within the unincorporated area of Shasta County, amending SCC Section 17.88.035 to modify the definition of, and development regulations for, small wind energy systems, and amending SCC Section 17.88.100 to exclude large wind energy systems from being a permissible public utility with the approval of a use permit.

DULY PASSED AND ADOPTED this 14th day of April, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

TIM MACLEAN, Chair
Planning Commission
County of Shasta, State of California

ATTEST:

PAUL A. HELLMAN, Secretary
Planning Commission
County of Shasta, State of California

STRIKEOUT VERSION OF ORDINANCE NO. SCC 2022-_____

AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SHASTA
REGULATING SMALL AND LARGE WIND ENERGY SYSTEMS

The Board of Supervisors of the County of Shasta ordains as follows:

SECTION I.

Section 17.88.035, "Small wind energy systems," of the Shasta County Code is amended as follows:

Small wind energy systems may be permitted with either an approved administrative permit or use permit, subject to the following requirements. ~~Wind energy systems which do not meet the following requirements may be permitted with an approved use permit.~~

A. The following definitions govern this section:

"Small wind energy system" means a wind energy conversion system consisting of a wind turbine(s), a tower(s), and associated control or conversion electronics, ~~which has a rated capacity that does not exceed the allowable rated capacity under the Emerging Renewables Fund of the Renewables Investment Plan administered by the California Energy Commission, and which will be used primarily 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.~~

"Tower height" means the height above grade of the fixed position of the tower, excluding the wind turbine.

- B. One wind turbine may be permitted with an approved administrative permit. Two or more wind turbines may be permitted with an approved use permit.
- C. With an approved administrative permit, Tower heights of not more than sixty-five feet shall be allowed on parcels between one and five acres, and tower heights of not more than eighty feet shall be allowed on parcels of greater than five acres or more, provided that the application includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system. Tower heights in excess of the aforementioned limits may be permitted with an approved use permit.
- D. Setbacks for the system tower from the property line shall be no less than the height of the system, provided that it also complies with any applicable fire setback requirements including, but not limited to, pursuant to Section 4290 of the Public Resources Code as it may be amended from time to time.

- E. Decibel levels for the system shall not exceed the noise standards established in the Noise Element of the General Plan, except during short-term events such as utility outages and severe wind storms.
- ~~F. The system's turbine must have been approved by the California Energy Commission as qualifying under the Emerging Renewables Fund of the Commissions' Renewables Investment Plan or certified by a national program recognized and approved by the Energy Commission.~~
- ~~G. The application shall include standard drawings and an engineering analysis of the system's tower, showing compliance with the Uniform Building Code or the California Building Standards Code and certification by a professional mechanical, structural, or civil engineer licensed by this state. However, a wet stamp shall not be required, provided that the application demonstrates that the system is designed to meet the most stringent wind requirements (Uniform Building Code wind exposure D), the requirement for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than one thousand pounds per square foot, or other relevant conditions normally required by the current Building Code as adopted by the county.~~
- F. The system shall comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 [commencing with Section 21001] of Division 9 of the Public Utilities Code) as those requirements may be amended from time to time.
- ~~G. The application shall include a line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.~~
- G. The applicant shall provide information demonstrating that the system will be used primarily to reduce on-site consumption of electricity obtained via the electric grid or to enable on-site generation of electricity in lieu of connecting to the electric grid. The application shall include evidence, unless the applicant does not plan to connect the system to the electricity grid, that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator.
- H. A small wind energy system shall not be allowed where otherwise prohibited by any of the following:
 - 1. A comprehensive land use plan and implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code.
 - 2. The Alquist-Priolo Earthquake Fault Zoning Act, Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

3. The county to protect the scenic appearance of the scenic highway corridor pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of Streets and Highways Code.
 4. The terms of a conservation easement entered into pursuant to the Open-space Easement Act of 1974, Chapter 6.6 (commencing with Section 51070) of Division 1 of Title 5 of the Government Code.
 5. The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act, Division 10.23 (commencing with Section 10200) of the Public Resources Code.
 6. The terms of a contract entered into pursuant to the Williamson Act, Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code.
 7. The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources pursuant to Section 5024.1 of the Public Resources Code.
- I. In the event a small wind energy system is proposed to be sited in an agricultural area that may have aircraft operating at low altitudes, the county may take reasonable steps, concurrent with other notices issued pursuant to this subdivision, to notify aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agriculture Code as it may be amended from time to time.

SECTION II.

Section 17.88.100, “Public uses, public utilities, and high voltage electrical transmission and distribution projects,” of the Shasta County Code is amended as follows:

- A. High voltage electrical transmission and distribution projects are permitted if a use permit is issued. Section 17.92.025 of this title governs those projects and sets forth various standards and requirements for applications, permit review, and related matters. In some cases, state and federal laws may regulate certain types or characteristics of these projects. This section shall be construed to provide the county with the maximum control consistent with such other laws.
- B. Public uses and public utilities, with the exception of large wind energy systems as defined in subsection 17.88.335.B. of this chapter, are permitted if a use permit is issued, except that public utility transmission lines, towers, distribution poles and lines, regardless of height, and gas pipelines, which are not associated with high voltage electrical transmission and distribution projects, are permitted uses.

- C. A use permit shall not be issued for a public use or utility or a high voltage electrical transmission and distribution project in a resource district unless 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.
- D. Notwithstanding subsections A and B and C of this section and Section 17.94.040, minor additions or alterations to existing public utility facilities or high voltage electrical transmission and distribution projects, such as construction of small, unmanned buildings or addition of microwave dishes to an existing tower, are permitted uses, and shall not require amendment of a use permit.
- E. Notwithstanding subsections A and B and C of this section, small, new public utility facilities or small, new facilities associated with existing high voltage electrical transmission and distribution projects, such as unmanned telecommunication relay or booster stations, are permitted if an administrative permit is issued.

SECTION III.

Section 17.88.335, Large wind energy systems,” is added to the Shasta County Code as follows:

17.88.335 Large wind energy systems.

A. Legislative Findings.

The Board of Supervisors finds as follows:

1. California Government Code section 65850 authorizes the County of Shasta to adopt ordinances that regulate the use of buildings, structures, and land and the intensity of land uses.
2. Pursuant to Article XI, Section 7, of the California Constitution, the County of Shasta may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and general welfare of its citizens.
3. The adverse impacts of large wind energy systems, particularly with respect to wildfire, aerial firefighting, aesthetics, biological resources, and historical, cultural, and tribal resources, are of significant concern to many residents of Shasta County as evidenced by the numerous public comments received between 2019 and 2021 regarding the proposed Fountain Wind Project.
4. The vast majority of the unincorporated area of Shasta County is designated as being in the High and Very High Fire Hazard Severity Zones as recommended by the California Department of Forestry and Fire Protection. Large wind energy systems are incompatible in the High and Very High Fire Hazard Severity Zones.

5. Regulations are needed to protect the public health, safety, and welfare of residents from the adverse impacts of large wind energy systems.
6. The Board of Supervisors enacts this section to prohibit large wind energy systems in furtherance of the public necessity, health, safety, convenience, and general welfare.

B. Definitions.

The following definition governs this section:

“Large wind energy system” means a wind energy conversion system that is not defined as a small wind energy system pursuant to subsection 17.88.035.A. of this chapter.

C. Prohibition.

Large wind energy systems are prohibited in all zone districts of the unincorporated area of the County of Shasta and no permit or approval of any type shall be issued therefor.

SECTION IV.

The County finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15060(c)(2) since it can be seen with certainty that this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

SECTION V.

If any section, subsection, sentence, clause, phrase, or provision of this ordinance or its application to any person or circumstance is held invalid for any reason, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause, phrase, or provision thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or provisions be declared unconstitutional or invalid.

SECTION VI.

All former ordinances and resolutions, or parts thereof, conflicting or inconsistent with the provisions of this ordinance are hereby superseded by this ordinance. The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance,

or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION VII.

This ordinance shall take effect and be in full force and effect 30 days after its passage. The Clerk shall cause this ordinance to be published as required by law.

DULY PASSED AND ADOPTED this XX day of XXXX, 2022, by the Board of Supervisors of the County of Shasta, State of California, by the following vote:

AYES:	X
NOES:	X
ABSENT:	X
ABSTAIN:	X
RECUSE:	X

LES BAUGH, CHAIR
Board of Supervisors
County of Shasta
State of California

ATTEST:

MATTHEW P. PONTES
Clerk of the Board of Supervisors

By: _____
Deputy

ORDINANCE NO. SCC 2022-_____

AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SHASTA
REGULATING SMALL AND LARGE WIND ENERGY SYSTEMS

The Board of Supervisors of the County of Shasta ordains as follows:

SECTION I.

Section 17.88.035, "Small wind energy systems," of the Shasta County Code is amended as follows:

Small wind energy systems may be permitted with either an approved administrative permit or use permit, subject to the following requirements.

A. The following definitions govern this section:

"Small wind energy system" means a wind energy conversion system 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.

"Tower height" means the height above grade of the fixed position of the tower, excluding the wind turbine.

- B. One wind turbine may be permitted with an approved administrative permit. Two or more wind turbines may be permitted with an approved use permit.
- C. With an approved administrative permit, tower heights of not more than sixty-five feet shall be allowed on parcels between one and five acres, and tower heights of not more than eighty feet shall be allowed on parcels greater than five acres, provided that the application includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system. Tower heights in excess of the aforementioned limits may be permitted with an approved use permit.
- D. Setbacks for the system tower from the property line shall be no less than the height of the system, provided that 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.
- E. Decibel levels for the system shall not exceed the noise standards established in the Noise Element of the General Plan, except during short-term events such as utility outages and severe wind storms.

- F. The system shall comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 [commencing with Section 21001] of Division 9 of the Public Utilities Code) as those requirements may be amended from time to time.

- G. The applicant shall provide information demonstrating that the system will be used to reduce on-site consumption of electricity obtained via the electric grid or to enable on-site generation of electricity in lieu of connecting to the electric grid. The application shall include evidence, unless the applicant does not plan to connect the system to the electric grid, that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator.

- H. A small wind energy system shall not be allowed where otherwise prohibited by any of the following:
 - 1. A comprehensive land use plan and implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code.
 - 2. The Alquist-Priolo Earthquake Fault Zoning Act, Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.
 - 3. The county to protect the scenic appearance of the scenic highway corridor pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of Streets and Highways Code.
 - 4. The terms of a conservation easement entered into pursuant to the Open-space Easement Act of 1974, Chapter 6.6 (commencing with Section 51070) of Division 1 of Title 5 of the Government Code.
 - 5. The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act, Division 10.23 (commencing with Section 10200) of the Public Resources Code.
 - 6. The terms of a contract entered into pursuant to the Williamson Act, Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code.
 - 7. The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources pursuant to Section 5024.1 of the Public Resources Code.

- I. In the event a small wind energy system is proposed to be sited in an agricultural area that may have aircraft operating at low altitudes, the county may take reasonable steps,

concurrent with other notices issued pursuant to this subdivision, to notify aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agriculture Code as it may be amended from time to time.

SECTION II.

Section 17.88.100, “Public uses, public utilities, and high voltage electrical transmission and distribution projects,” of the Shasta County Code is amended as follows:

- A. High voltage electrical transmission and distribution projects are permitted if a use permit is issued. Section 17.92.025 of this title governs those projects and sets forth various standards and requirements for applications, permit review, and related matters. In some cases, state and federal laws may regulate certain types or characteristics of these projects. This section shall be construed to provide the county with the maximum control consistent with such other laws.
- B. Public uses and public utilities, with the exception of large wind energy systems as defined in subsection 17.88.335.B. of this chapter, are permitted if a use permit is issued, except that public utility transmission lines, towers, distribution poles and lines, regardless of height, and gas pipelines, which are not associated with high voltage electrical transmission and distribution projects, are permitted uses.
- C. A use permit shall not be issued for a public use or utility or a high voltage electrical transmission and distribution project in a resource district unless 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.
- D. Notwithstanding subsections A and B and C of this section and Section 17.94.040, minor additions or alterations to existing public utility facilities or high voltage electrical transmission and distribution projects, such as construction of small, unmanned buildings or addition of microwave dishes to an existing tower, are permitted uses, and shall not require amendment of a use permit.
- E. Notwithstanding subsections A and B and C of this section, small, new public utility facilities or small, new facilities associated with existing high voltage electrical transmission and distribution projects, such as unmanned telecommunication relay or booster stations, are permitted if an administrative permit is issued.

SECTION III.

Section 17.88.335, Large wind energy systems,” is added to the Shasta County Code as follows:

17.88.335 Large wind energy systems.

A. Legislative Findings.

The Board of Supervisors finds as follows:

1. California Government Code section 65850 authorizes the County of Shasta to adopt ordinances that regulate the use of buildings, structures, and land and the intensity of land uses.
2. Pursuant to Article XI, Section 7, of the California Constitution, the County of Shasta may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and general welfare of its citizens.
3. The adverse impacts of large wind energy systems, particularly with respect to wildfire, aerial firefighting, aesthetics, biological resources, and historical, cultural, and tribal resources, are of significant concern to many residents of Shasta County as evidenced by the numerous public comments received between 2019 and 2021 regarding the proposed Fountain Wind Project.
4. The vast majority of the unincorporated area of Shasta County is designated as being in the High and Very High Fire Hazard Severity Zones as recommended by the California Department of Forestry and Fire Protection. Large wind energy systems are incompatible in the High and Very High Fire Hazard Severity Zones.
5. Regulations are needed to protect the public health, safety, and welfare of residents from the adverse impacts of large wind energy systems.
6. The Board of Supervisors enacts this section to prohibit large wind energy systems in furtherance of the public necessity, health, safety, convenience, and general welfare.

B. Definitions.

The following definition governs this section:

“Large wind energy system” means a wind energy conversion system that is not defined as a small wind energy system pursuant to subsection 17.88.035.A. of this chapter.

C. Prohibition.

Large wind energy systems are prohibited in all zone districts of the unincorporated area of the County of Shasta and no permit or approval of any type shall be issued therefor.

SECTION IV.

The County finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15060(c)(2) since it can be seen with certainty that this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

SECTION V.

If any section, subsection, sentence, clause, phrase, or provision of this ordinance or its application to any person or circumstance is held invalid for any reason, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause, phrase, or provision thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or provisions be declared unconstitutional or invalid.

SECTION VI.

All former ordinances and resolutions, or parts thereof, conflicting or inconsistent with the provisions of this ordinance are hereby superseded by this ordinance. The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance, or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION VII.

This ordinance shall take effect and be in full force and effect 30 days after its passage. The Clerk shall cause this ordinance to be published as required by law.