

LAND USE SERVICES DEPARTMENT



COUNTY OF SAN BERNARDINO

ADVANCE PLANNING

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DENA M. SMITH
Director

December 8, 2009

Sent by U.S. Mail and e-mail

Mr. Craig Hoffman, Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

DOCKET	
09-AFC-5	
DATE	<u>DEC 08 2009</u>
RECD	<u>DEC 10 2009</u>

Subject: Abengoa Mojave Solar Application for Certification (09-AFC-5)

Dear Mr. Hoffman:

This is to confirm our recent discussion regarding the Energy (EN) Overlay as it may apply to this project. The Land Use Services Department is working toward rescinding the EN Overlay as it requires an additional hearing and thus poses a potential delay to projects seeking funding under ARRA, the American Recovery and Reinvestment Act of 2009 (aka the Economic Stimulus Plan).

In lieu of the EN Overlay, the Department is recommending the attached draft standards for renewable energy generation facilities be included in the County Development Code.

These actions will require hearings before the County Planning Commission and Board of Supervisors. The Planning Commission hearing is scheduled for December 17, 2009, and the Board hearing will be scheduled thereafter. I hope this clarifies our discussion. Feel free to call me at 909-387-4371 with any questions.

Sincerely,

Carrie Hyke, AICP, Principal Planner
Environmental and Mining Team
Advance Planning Division

Attached: Draft Chapter 84.29, Renewable Energy Generation Facilities

- cc: Andrew Silva, District Analyst, First Supervisorial District
- Dena Smith, Director, Land Use Services
- Jim Squire, Deputy Director, Advance Planning
- Judy Tatman, Principal Planner
- Wes Reeder, County Geologist
- Susanne Huerta, California Energy Commission
- Amanda Stennick, California Energy Commission
- Paul Marshall, California Energy Commission
- Negar Vahidi, Aspen Environmental Group

CHAPTER 84.29 RENEWABLE ENERGY GENERATION FACILITIES

Sections:

- 84.29.010 Purpose
- 84.29.020 Applicability and Land Use Zoning Districts
- 84.29.030 Wind Energy Development standards
- 84.29.040 Solar Energy Development standards
- 84.29.050 Special Fencing Standards
- 84.29.060 Decommissioning requirements

84.29.010 Purpose

The purpose of this Chapter is to establish standards and permit procedures for the establishment, maintenance and decommissioning of renewable energy generation facilities. These regulations are intended to ensure that renewable energy generation facilities are designed and located in a manner that minimizes visual and safety impacts on the surrounding community.

Adopted Ordinance ____ (2009)

84.29.020 Applicability and Land Use Zoning Districts

This Chapter provides development standards for wind and solar renewable energy generation facilities.

The Land Use Zoning Districts that allow renewable energy facilities are limited to the following:

RC (Resource Conservation)

AG (Agriculture)

FW (Floodway)

RL (Rural Living) Note: If a facility is proposed solely in the Rural Living land use zoning district, it must include a minimum of 20 acres in the development proposal.

IR (Regional Industrial)

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84.29.030 Wind Energy Development Standards

(a) **Height limits.** Wind generator machine and associated meteorological tower overall height shall not exceed 500 feet. For the purposes of this chapter, machine height shall be measured as follows:

- (1) Overall machine height of horizontal axis machines shall be measured from grade to the top of the structure, including the uppermost extension of any blades.
- (2) Machine height of vertical axis or other machine designs shall be measured from grade to the highest point of the structure. Further restrictions may apply to ensure aviation safety.

(b) **Setbacks and Spacing.** Wind generator setbacks shall be as follows:

- (1) **Setback Where Adjacent Parcels Contain Less Than 40 Acres.** A minimum wind generator setback of two times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) or 500 feet, whichever is less, shall be maintained from exterior project boundaries where the project site is adjacent to existing parcels of record that contain less than 40 acres and are not zoned as any of the compatible districts, which are as follows.

RC (Resource Conservation)
AG (Agriculture)
FW (Floodway)
RL (Rural Living)
IR (Regional Industrial)

The Director may allow a reduction in this setback, not to exceed a minimum setback of one times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) if a letter of consent from the owner(s) of record of adjacent parcels is filed with the County Advance Planning Division.

- (2) **Setback Where Adjacent Parcels Contain 40 Acres or More.** A minimum wind generator setback of one and one-half times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) or 500 feet, whichever is less, shall be maintained from all exterior project boundaries. The Director may allow a reduction or waiver of this setback requirement in accordance with both of the following provisions:

- (A) The project exterior boundary is a common property line between two (2) or more approved wind energy projects or both properties are located within compatible districts as listed above; and
 - (B) The property owner of each affected property has filed a letter of consent to the proposed setback reduction with the Director.
- (3) **Setback from Off-site Residence(s) On Adjacent Parcels.** In all cases, regardless of parcel area, a minimum wind generator setback of one and one-half times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) or 1,500 feet, whichever is greater, shall be maintained from any off-site residence. The Director may allow a reduction in this setback, not to exceed a minimum setback of one times the overall machine height, if a letter of consent from the owner(s) of record of the adjacent parcel is filed with the Director.
- (4) **Setback from On-site Residences and Accessory Structures Designed for Human Occupancy.** A minimum wind generator setback of one times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blade) shall be maintained from any on-site residence or accessory structure designed for human occupancy.
- (5) **Setback from Public Highways and Streets, Public Access Easements, Public Trails, and Railroads.** A minimum wind generator setback of one and one-half times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blade) shall be maintained from any publicly maintained public highway or street. A minimum wind generator setback of one times the overall machine height shall be maintained from any public access easement or railroad right-of-way. A minimum wind generator setback of 150 feet shall be maintained from the outermost extension of any blade to any public trail, pedestrian easement, or equestrian easement.
- (6) **Project Interior Wind Generator Spacing.** Wind generator spacing within the project boundary shall be in accordance with accepted industry practices pertaining to the subject machine.
- (c) **Compliance with aviation law and Department of Defense restrictions.** The wind generator machines shall comply with all applicable Federal Aviation Administration requirements and the State Aeronautics Act (Public Utilities Code Section 21001 et seq.). Additionally, the local Department of Defense contact person(s) shall be notified and clearance from the Department of Defense shall be required for all wind generators.

84.29.040 Solar Energy Development Standards

- (a) **Setbacks.** Solar energy generating equipment and their mounting structures and devices shall be set back from the property line either pursuant to the standards in the Land Use Zoning District, or 130 percent of the mounted structure height, whichever is greater.

84.29.50 Special Fencing Standards

Special fencing standards may be applied without a variance in recognition of the capital costs of renewable energy facilities. Total fence heights allowed are inclusive of any height extension devices such as slanted razor-wire panels.

- (a) **Fencing on street side.** Chainlink fencing up to 8 feet in height may be installed no closer than 15 feet from the right-of-way on streetside boundaries. Security devices such as razor-wire height extensions may only be directed inward to the property, and may not extend beyond the property boundary to overhang the right-of-way.
- (b) **Fencing on interior boundaries.** Chainlink fencing up to 8 feet in height may be installed along the property line on interior (non-streetside) boundaries. Security devices such as razor-wire height extensions may only be directed inward to the property, and may not extend beyond the property boundary to overhang any other property.
- (c) **Electric Fencing.** Electric fencing is not allowed.

84.29.060 Decommissioning Requirements

- (a) **Closure Plan.** Following the operational life of ____ years, the project owner shall perform site closure activities to meet federal, state and local requirements for the rehabilitation and revegetation of the project site after decommissioning. The Applicant shall prepare a Closure, Revegetation, and Rehabilitation Plan and submit to the Planning Division for review and

approval prior to occupancy. Under this plan, all aboveground structures and facilities shall be removed to a depth of three feet below grade, and removed offsite for recycling or disposal. Concrete, piping, and other materials existing below three feet in depth may be left in place. Areas that had been graded shall be restored to original contours. Succulent plant species shall be salvaged prior to construction, transplanted into windrows, and maintained for later transplanting following decommissioning. Shrubs and other plant species shall be revegetated by the collection of seeds, and re-seeding following decommissioning.

(b) Compliance with other requirements. Project decommissioning shall be performed in accordance with all other plans, permits and mitigation measures that would assure the project conforms with applicable requirements and would avoid significant adverse impacts. These plans include the following as applicable:

- Water Quality Management Plan
- Erosion and Sediment Control Plan
- Drainage Report
- Notice of Intent and Stormwater Pollution Prevention Plan
- Air Quality Permits
- Biological Resources Report
- Incidental Take Permit, Section 2081 of the Fish and Game Code
- Cultural Records Report

The County may require a Phase 1 Environmental Site Assessment be performed at the end of decommissioning to verify site conditions.

Adopted Ordinance _____ (2009)

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