

AGENDA ITEM: 6.

DATE: 12-21-09

STAFF REPORT

AMENDMENT TO TITLE 17 OF THE LANCASTER MUNICIPAL CODE (ZONING ORDINANCE)

DATE: December 21, 2009

TO: Lancaster Planning Commission

FROM: Planning Department

APPLICANT: City of Lancaster

LOCATION: City wide

REQUEST: Amendment to Title 17 (Zoning Ordinance) of the Municipal Code to regulate Co-located Small Wind Energy Systems (CSWES) in the commercial and industrial zones, and to allow Solar Electrical Generating Plants in rural residential zones subject to a conditional use permit

RECOMMENDATION: Adopt Resolution No. 09-37 recommending to the City Council approval of an amendment to the Zoning Ordinance, Title 17 of the Lancaster Municipal Code, in order to provide regulations for co-location of small wind energy systems in commercial and industrial zones with the addition of Sections 17.12.070.W, 17.16.060.A.14, and Section 17.40.690, and Section 17.08.070.Z to allow solar electrical generating plants in rural residential zones subject to a conditional use permit.

BACKGROUND: The Lancaster Municipal Code (LMC) does not presently establish guidelines for co-located small wind energy systems in the commercial and industrial zones. In addition, the zoning ordinance does not allow for the construction and operation of solar power plants in rural residential zones.

ENVIRONMENTAL REVIEW: The project is classified as a categorical exemption from the California Environmental Quality Act (CEQA) under Section 15303, Class 3. The ordinance amendment if approved would allow the placement of small wind energy systems as an accessory use in the commercial and industrial areas of the city, consistent with this exemption.

LEGAL NOTICE: Notice of Public Hearing was posted in three places, and noticed in a newspaper of general circulation per prescribed procedures.

ANALYSIS: The General Plan states under the Energy Resource section that the City will promote programs designed to reduce energy consumption, and to utilize alternative energy sources (Policy 3.6.6.). The proposed amendments are consistent with the General Plan by providing opportunities for installing Co-located Small Wind Energy Systems (CSWES), which would reduce energy consumption, and promote development and use of alternative energy systems.

The Zoning Ordinance Amendments as proposed would allow co-located small energy systems (CSWES) in commercial and industrial zones. The proposed amendment would permit CSWES by administrative approval in these zones subject to a Director's Review application (Category D). Staff is recommending the addition of Section 17.12.070.W for commercial zones, and 17.16.060.A for industrial zones.

The proposed amendment would allow for the installation of CSWES in commercial and industrial zones in order to accommodate small wind turbines on existing and newly proposed parking lot lighting fixtures, while preserving the attractive appearance of the community. The installation of CSWES would alter the overall height of the light poles by an additional 9 feet when measured from the center of the turbine. Existing light fixture would be replaced, and would not exceed City standards. The maximum height to the highest point of the blade on the CSWES in a vertical position would be 60 feet. The replacement light poles fixtures for the small wind energy systems would be compatible in design and color with remaining light fixtures on the site that are not modified for the installation of the CSWES.

The proposed CSWES have the potential to result in noise impacts to nearby properties. As a result, the applicant for a CSWES would be required to submit a noise study to demonstrate the noise level of the turbine, and to comply with the Noise Element of the General Plan, which is 70 dBA for commercial and industrial zones.

The necessary guidelines and regulations for the installation of CSWES in commercial and industrial zones would be established by the addition of Section 17.40.690. This section would address issues as to the location, setbacks, size and various other issues as they pertain to CSWES in commercial and industrial zones.

Currently, the Zoning Ordinance allows solar electrical generating plant plants only in heavy industrial zones with a Director's Review application. In order to address the increasing demand for alternative energy, staff is recommending the addition of Section 17.08.070.Z that would allow solar power plants in rural residential zones subject to a conditional use permit.

The City's Zoning Ordinance is intended as a regulatory document to implement the goals, policies and objectives contained within the City's General Plan. By approving the proposed amendments to the current Zoning Ordinance, this would further implement the policies set forth in the General Plan by allowing alternative small energy systems in the commercial and industrial zones, as well as utilizing rural residential areas for furthering development of solar power plants.

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Respectfully submitted,

Randie Davis, Assistant Planner

RESOLUTION NO. 09-37

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AMENDMENTS TO TITLE 17 OF THE LANCASTER MUNICIPAL CODE, THE ZONING ORDINANCE

WHEREAS, staff is recommending amendments to Title 17 of the Lancaster Municipal Code, the Zoning Ordinance, to regulate Co-located Small Wind Energy Systems (CSWES) in the commercial and industrial zones and to allow solar electrical generating plants in rural residential zones subject to a conditional use permit; and,

WHEREAS, notice of intention to consider the amendments to Title 17 of the Lancaster Municipal Code has been given in accordance with Section 65090 of the Government Code of the State of California; and

WHEREAS, staff has prepared a written report recommending approval of the amendments; and

WHEREAS, a public hearing on the petition was held on December 21, 2009; and

WHEREAS, this Commission hereby adopts the following findings in support of approval of these amendments:

1. The proposed amendments are consistent with the General Plan, because it will not alter the land use patterns and requirements established by the General Plan, and it will promote the use of alternative energy consistent with Policy 3.6.6.
2. The proposed amendments to the Lancaster Municipal Code will not adversely affect the public health, peace, comfort or welfare, because development standards would regulate the installation and maintenance of CSWES in commercial and industrial zones and the conditional use permit process will allow for adequate review for solar power plants in rural residential zones.
3. The modification to the Lancaster Municipal Code would not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because the proposed wind energy use is an accessory to existing legally permitted structures in the commercial and industrial zones and not in areas that are in their natural state, and appropriate environmental review will be necessary in conjunction with the conditional use permit for solar power plants in rural residential zones.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby recommends that the City Council to approve the Ordinance to amend Title 17 of the Lancaster Municipal Code as attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 21st day of December 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LANCASTER, CALIFORNIA, AMENDING
TITLE 17 OF THE LANCASTER MUNICIPAL CODE,
THE ZONING ORDINANCE

WHEREAS, the City Council of the City of Lancaster, finds that it is necessary to amend Title 17 of the Municipal Code (Zoning Ordinance) based on increasing energy demands facing California by allowing Co-located Small Wind Energy Systems (CSWES) in commercial and industrial zones with a Director's Review application; and

WHEREAS, the Attorney General Bill Lockyer from the California Department of Justice has determined in a report dated April 2004 that the State of California has a shortage of reliable electricity supply; and

WHEREAS, wind energy is an abundant, renewable, and nonpolluting energy resource, which when converted to electricity, reduces dependence on nonrenewable energy resources and reduces air and water pollution that results from conventional sources; and

WHEREAS, the City Council finds that the Legislature of the State of California recognized the need to promote all feasible adoption of clean, renewable, and distributed energy sources by enacting the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code); and

WHEREAS, the City Council finds that small wind energy systems, designed for use in commercial and industrial settings, are recognized by the State Energy Resources Conservation and Development Commission as an excellent technology to help achieve the goals of increased in-state electricity generation, reduced demand on the state electric grid, increased consumer energy independence, and nonpolluting electricity generation; and

WHEREAS, the establishment of regulations for small-scale CSWES would streamline the ability for property owners to utilize alternative energy sources; and

WHEREAS, the amendment to Title 17 of the Lancaster Municipal Code will modify the current requirements by allowing CSWES in commercial and industrial zones subject to a Director's Review, and thereby would reduce fees and time necessary for approval; and

WHEREAS, the City Council hereby makes the following findings in support of the Ordinance:

1. The proposed amendments are consistent with the General Plan, because it will not alter the land use patterns and requirements established by the General Plan, and it will promote the use of alternative energy consistent with Policy 3.6.6.
2. The proposed amendments to the Lancaster Municipal Code will not adversely affect the public health, peace, comfort or welfare, because development standards

would regulate the installation and maintenance of CSWES in commercial and industrial zones and the conditional use permit process will allow for adequate review for solar power plants in rural residential zones.

3. The modification to the Lancaster Municipal Code would not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because the proposed wind energy use is an accessory to existing legally permitted structures in the commercial and industrial zones and not in areas that are in their natural state, and appropriate environmental review will be necessary in conjunction with the conditional use permit for solar power plants in rural residential zones.

4. A uniform and comprehensive set of standards, conditions, and procedures for the placement of CSWES is necessary to regulate the generation of electricity for on-site use, thereby reducing the consumption of electrical power supplied by utility companies.

THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Title 17 of the City of Lancaster Municipal Code is hereby amended as follows:

Section 1. Add Section 17.12.070.W and 17.016.060.A.14 to read as follows:

Small Wind Energy Systems (Co-located), subject to the requirements of Section 17.40.690.

Section 2. Add Article XIV, Co-located Small Wind Energy Systems (CSWES), Section 17.40.690 as provided in Exhibit A.

Section 3. Add Section 17.08.070.Z to read as follows: Solar electrical generating plants in the RR zones.

Section 4. That the City Clerk shall certify to the passage of this Ordinance, and will see that it is published and posted in the manner required by law.

I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the _____ day of _____, 2009, and placed upon its second reading and adoption at a regular meeting of the City Council on the ____ day of _____, 2009, by the following vote:

Ordinance No.

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AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)ss
CITY OF LANCASTER)

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of
Lancaster, California, do hereby certify that this is a true and correct copy of the original
Ordinance No. _____, for which the original is on file in my office.

WITNESS MY HAND AND SEAL OF THE CITY OF LANCASTER, on this _____
day of _____, _____.

(seal)

“EXHIBIT A”

ARTICLE XIV

CO-LOCATED SMALL WIND ENERGY SYSTEMS

SECTION 17.40.690 – Co-located Small Wind Energy Systems (CSWES)

- A. Purpose and Intent.** It is the purpose and intent of this section to promote the safe, effective and efficient construction and use of CSWES on commercial and industrial lots within the city limits of the City of Lancaster. These regulations are intended to assure that CSWES are designed and located in a manner that minimizes visual, noise, and safety impacts on the surrounding community.
- B. Applicability** These specific standards are applicable for all Co-located Small Wind Energy Systems in commercial and industrial zones allowed subject to approval of a Director’s Review in accordance with Article VI of Chapter 17.32.
- C. Definitions.** The following are definitions of specialized terms and phrases used in this section. Definitions of general terms and phrases are located in Chapter 17.04 Section 17.04.240 (Definitions).
1. **Co-located Small Wind Energy System (CSWES)** shall mean a wind energy conversion system that is located on a pole with site lighting below the turbine, which has a rated capacity of 8kW or less.
 2. **Temporary Meteorological Tower (met tower)** shall mean a temporary structure which includes the tower, base plate, anchors, guy cables and hardware, anemometers, (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at any given location.
 3. **Co-Located Wind Energy System Height** shall mean the vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.
- D. Restriction on Use of Electricity Generated by CSWES.** A CSWES shall be used exclusively to supply electrical power for on-site consumption. Electrical power generated by the CSWES exceeding on-site consumption may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by that company to the parcel for on-site use, as long as no net revenue is produced by such excess electrical power. CSWES, as allowed pursuant to this section shall not be used for commercial production or profit.
- E. Property Development Regulations.** A CSWES shall be subject to all applicable regulations of the commercial and industrial zones in which it is proposed, except that the following standards shall take precedence over the regulations of the commercial and industrial zones to the extent that installation of Co-located Small Wind Energy Systems

(CSWES) where permitted by a Director's Review application, shall be constructed in the following manner:

1. **Minimum development/parcel size:** Developments of a minimum of 20 acres or more with parking lot light fixtures at a minimum of 25 feet in height.
2. **Setbacks:** Co-located Small Wind Energy Systems shall meet the following setbacks:
 - a. A distance equal to the tower height from any abutting private properties that are not part of the development.
 - b. A distance equal to the tower height from any overhead utility lines, unless written permission is granted by the affected utility.
 - c. A distance equal to 150 feet from any property that is residentially used or designated.
3. **Noise:** Co-located Small Wind Energy Systems shall meet the following criteria with respect to noise:
 - a. A site-specific noise study or the manufacturer's engineered sound studies shall be submitted for review to verify that the noise level will comply with the Noise Element of the General Plan.
 - b. On-site noise levels for each unit shall not exceed 70 decibels (dBA) except during short-term events, such as utility outages and severe windstorms.
 - c. Noise levels at the property line of the development site shall not exceed 70 decibels, if the adjacent use is a commercial or industrial use, and shall not exceed 65 decibels, if the adjacent use is residential.
4. **Aesthetics:** Co-located Small Wind Energy Systems shall meet the following criteria with respect to aesthetics:
 - a. All proposed replacement poles for a CSWES system shall be of the same design, shape and color as the remaining light poles throughout the parking lot.
 - b. The wind turbine housing and the blades of the CSWES system shall not be brightly colored. The turbine housing should be white, sky colored, or should coordinate with the color palette approved for the project buildings, subject to the approval of the Planning Director.
 - c. The physical size of the turbine shall not extend beyond 36 inches from the center of the pole.

- d. The maximum diameter of the blades shall not exceed 16 feet.
 - e. All electrical transmission lines from the tower shall be installed underground.
5. **Access:**
 - a. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - b. The pole shall be designed and installed so as to not provide step bolts or a ladder.
6. **Lighting:**
 - a. A Co-located Small Wind Energy System (CSWES) shall not be illuminated unless such lighting is required by the Federal Aviation Administration. A light temporarily used to inspect a turbine, tower and associated equipment is permissible, providing said light is only used for inspection purposes and not left on for an extended period of time.
 - b. The height of the light fixture on the structure itself shall not be altered from its original height as previously permitted or as permitted by the reviewing authority when co-locating a CSWES in a parking lot.
7. **Height:** Co-located Small Wind Energy Systems shall meet the following criteria with respect to height:
 - a. The maximum CSWES height shall be sixty (60) feet at the highest point with one of the blades at its highest vertical point.
 - b. The maximum height of the center of the turbine shall not exceed 53 feet.
 - c. The maximum diameter of the blades from the lowest point to the highest point shall not exceed 16 feet.
8. Temporary meteorological (Met) towers shall be permitted under the same standards as those for a CSWES facility. Approval for a temporary met tower shall be valid for a maximum of 30 days.
9. **Signs:** All signs, other than the manufacturer's or installer's identification, and appropriate warning signs, shall be prohibited.
10. **Building Permit:** Applicable building permits shall be required for a CSWES.

11. **FAA Height Restrictions:** The system shall comply with all applicable Federal Aviation Administration requirements, including but not limited to Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports. These regulations apply to any installation within 20,000 feet of an airport and exceeding specific heights based on specific FAA and airport parameters.
 12. **Abandoned/Inoperative CSWES:** Any CSWES deemed to be abandoned or inoperative for a period of six (6) months, shall constitute a public nuisance pursuant to Chapter 8.28 of the Lancaster Municipal Code. The property owner shall abate such nuisance in accordance with Section 8.28.050, of the Lancaster Municipal Code. The City shall retain the right to abate such nuisance in accordance with the procedures and requirements of Chapter 8.28.
- F.** The Planning Director may require additional design criteria or other information as deemed necessary to integrate the proposed CSWES with the surrounding area.