

AGENDA ITEM: 8.

DATE: 10-18-10

STAFF REPORT

AMENDMENT TO TITLE 17 OF THE LANCASTER MUNICIPAL CODE (ZONING ORDINANCE) NON-COMMERCIAL WIND ENERGY SYSTEMS

DATE: October 18, 2010

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 modifying the Wind Energy requirements to regulate Non-Commercial Wind Energy Systems (NC-WES) in the Rural Residential Zones (RR-1 and RR-2.5 only)

RECOMMENDATION: Adopt Resolution No. 10-47 recommending to the City Council approval of an amendment to the Zoning Ordinance, Title 17 of the Lancaster Municipal Code.

Add Sections:

- 17.08.060.Z, and 17.08.337;

Amend Sections:

- 17.04.240, 17.08.070.DD, 17.08.335.C, 17.08.335.G (Revised Diagram)

BACKGROUND: The Lancaster Municipal Code (LMC) establishes guidelines for the installation of Wind Energy devices (either vertical or horizontal) in the residential zones. The zoning ordinance currently states that a Conditional Use Permit is required for all Non-Commercial Wind Energy Systems, excluding vertical axis wind turbine system (VAWTS) located in residential zones meeting certain height and size restrictions, which require a Director's Review application. This request would also exclude NC-WES from the Conditional Use Permit process in the RR-1 and RR-2.5 zones.

ENVIRONMENTAL REVIEW: The potential effects of the proposed ordinance are adequately discussed in the final EIR adopted for the City's General Plan, and certified under City Council Resolution No. 09-52 on July 14, 2009. Pursuant to Section 15162 of the State CEQA Guidelines no further environmental review is required.

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

ANALYSIS: A non-commercial wind energy conversion system is an apparatus for converting kinetic energy from wind to mechanical or electric energy. Wind energy is an abundant, renewable, and nonpolluting energy resource, and when converted to electricity, reduces dependence on nonrenewable energy resources and reduces air and water pollution that results from conventional sources. In 2001, the California legislature passed Assembly Bill 1207, which promoted small wind turbine installations and established incentives. The City of Lancaster adopted zoning regulations approximately one year ago to allow for certain types of vertical axis wind turbines (VAWTs) in residential zones.

Under the proposed ordinance, wind energy systems defined as Non-Commercial Wind Energy Systems (NC-WES) would require the filing of a Director's Review application. Staff believes that the application fee should be Category "B" of the Director's Review, which is currently three hundred fifty dollars (\$350). Other types of wind energy systems would still require submittal of a conditional use permit.

A wind energy system would be defined as a NC-WES if it has a blade area diameter of 12 feet or less and is proposed to be located on a parcel of not less than 40,000 square feet in the RR-1 and RR-2.5 zones. Maximum tower height, pursuant to State law, would be 65 feet, except on parcel 5 acres or larger where an 80-foot height is permissible. A NC-WES could only be located on a parcel that already contains a primary use, and must be located to the rear of a primary structure not less than 30 feet from a property line. The normal safety requirements (overspeed control, etc.) that generally apply to wind energy systems would also apply to NC-WES. Noise levels at the property line could not exceed 65 decibels.

An applicant would be required to submit, along with the application, a set of mailing labels for all property owners within 300 feet of the proposed site. Those owners would receive a mailed notice a minimum of 10 days prior to a decision on the application by the Planning Director. Any objections received would be considered by the Director prior to making a decision on the application to approve, approve with conditions, or deny the request. The Director's decision is appealable to the Planning Commission in accordance with the City's uniform appeal procedures.

The two issues that normally arise with (NC-WES) are noise, and aesthetics. The different types of wind turbines provide varying noise levels. The most common non-commercial NC-WES is a wind turbine with rotating blades that can have two sources of noise, one from the gear box and the other from the rotating blades. The City's General Plan (Table III-1) establishes an outdoor maximum CNEL of 65 dBA for residential uses. The noise level for these types of NC-WES is generally around 65 dBA, which would be similar to noise levels from air conditioners and pool equipment. The noise levels can increase with wind speeds; however, with increased wind speeds, the ambient background noise also increases, which will partially mask the noise level generated by the wind turbine.

The issue of aesthetics is in many cases a matter of personal taste. However, the restriction of NC-WES to rural residential zones on lots of at least 40,000 square feet is likely to create fewer issues than it

would in more urban areas of the City. Other issues, such as a lattice tower versus a monopole installation, are best dealt with on a case-by-case basis, so the ordinance does not contain those specific requirements.

By approving the proposed amendments and modifications to the current Zoning Ordinance, rural property owners in the RR-1 and RR-2.5 zones would have the ability to construct NC-WES subject to a Director's Review application. The application for a Director's Review would be less costly than the conditional use permit and would expedite the process, making it easier to access alternative energy while still allowing for notification of immediately surrounding property owners and consideration of their comments.

Respectfully submitted,

Randie Davis, Assistant Planner

RESOLUTION NO. 10-47

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 (ZONING ORDINANCE) MODIFYING THE WIND ENERGY REQUIREMENTS TO REGULATE NON-COMMERCIAL WIND ENERGY SYSTEMS (NC-WES)

WHEREAS, staff is recommending amendments to Title 17 of the Lancaster Municipal Code, the Zoning Ordinance, modifying the wind energy requirements to regulate Non-Commercial Wind Energy System (NC-WES) in Rural Residential zones (RR-1 and RR-2.5); 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 proposed amendments was held on October 18, 2010; and

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

1. The proposed Zoning Ordinance amendment is consistent with General Plan Policy No. 3.6.6 which states: "Consider and promote the use of alternative energy such as wind energy and solar energy", and it will not alter the land use patterns and requirements established by the General Plan; and
2. The proposed amendments to the Lancaster Municipal Code will not adversely affect the public health, peace, comfort or welfare, because amending the application process would not affect the existing land use and still allow for a public notification/comment process; and
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 procedural modification and would not alter land; and
4. The Commission hereby finds the environmental findings adopted by the City Council Resolution No. 09-52 on July 14, 2009, are valid for the amendment because the project is consistent with the General Plan. Therefore, no further environmental review is required pursuant to Section 15162 of the State CEQA Guidelines.

5. A uniform and comprehensive set of standards, conditions, and procedures for the placement of Non Commercial – Wind Energy Systems (NC-WES) is necessary to encourage the generation electricity for on-site use, increasing the use of renewable energy within the City.

NOW, THEREFORE, BE IT RESOLVED:

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

PASSED, APPROVED and ADOPTED this 18th day of October 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster