

ORDINANCE NO. 954

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, AMENDING TITLE 17 OF THE MUNICIPAL CODE, TO MODIFY THE REQUIREMENTS FOR CERTAIN WIND ENERGY SYSTEMS IN THE RURAL RESIDENTIAL (RR-1 AND RR-2.5) ZONES

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 and a desire to encourage the use of renewable energy by allowing Non-Commercial Wind Energy Systems (NC-WES) in Rural Residential Zones (RR-1 and RR-2.5 only) with a more efficient review and approval process; and

WHEREAS, the amendment to Title 17 of the Lancaster Municipal Code will modify the current requirements by requiring a Director's Review application (Category "B"), to regulate NC-WES in Rural Residential Zones (RR-1 and RR-2.5 only) in lieu of the current requirement for a Conditional Use Permit, and thereby would reduce applicable fees and time necessary for approval; and

WHEREAS, the establishment of the proposed regulations for wind energy systems would streamline the process, and make it easier and less expensive for property owners to use this form of alternative renewable energy; and

WHEREAS, the City Council finds that small wind energy systems, designed for non-commercial residential use, 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, 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 energy sources; and

WHEREAS, small wind energy systems enhance the reliability and electrical generation quality of the power grid, reduce peak power demands, increase in-state electricity generation, diversify the City of Lancaster's energy supply portfolio, and provide a competitive supply market by promoting consumer choice; 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 hereby makes the following findings in support of the Ordinance:

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 Council 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.

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

Section 1. Delete and Replace under Section 17.04.240: "Wind energy conversion system" to read as follows:

Wind energy conversion system "means a mechanism which is designed to utilize the natural movement of air as a means of generating electricity." The following terminology as it pertains to wind energy conversion systems is listed below:

"**AWEA** means American Wind Energy Association."

"**FAA** means Federal Aviation Administration."

"**Guy Wires** means wires or cables used in tension to support a tower."

"**Non-Commercial Wind Energy System ("NC-WES")** means a small wind energy system suitable for Rural Residential Zone (RR-1 and RR-2.5 only) meeting the requirements of Section 17.08.337, consisting of a wind turbine, tower, blades, associated controls and 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 power by converting mechanical energy into electricity.”

“**Tower** means the portion of the NC-WES upon which the wind turbine is mounted.”

“**Tower Height** means the height above grade of the fixed portion of the tower measured from the ground to the top of the tower, excluding the wind turbine, blades and wind-measuring devices.”

“**USGS** means the United States Geological Survey.”

“**Vertical Axis Wind Turbine(VAWTS)**” means a small scale, non-commercial vertical axis wind turbine system, designed with a vertical axis, suitable for residential zones consisting of a wind turbine, tower, blades, associated controls and 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 power by converting mechanical energy into electricity.”

“**Wind Turbine** means a non-commercial small wind turbine consisting of a wind turbine generator and rotors, which has a rated capacity of not more than 100 kilowatts (kW) and which converts kinetic energy in wind into mechanical energy.”

Section 2. Add Section: 17.08.060.Z to read as follows:

“Z. Non-Commercial Wind Energy Systems in the Rural Residential Zones (RR-1 and RR-2.5 only) pursuant to the requirements of Section 17.08.337. (See Article V of Chapter 17.08 for standards.)”

Section 3. Amend Section: 17.08.070.DD to read as follows:

“DD. Wind energy conversion systems for private and public use, excluding NC-WES and VAWTS allowed pursuant to Section 17.08.060.Y. and 17.08.060.Z (See Article XI of Chapter 17.40 for standards.)”

Section 4. Amend Section: 17.08.355.C to read as follows:

“C. Definitions. Definitions for the administration of this Section are contained within Section 17.01.240.”

Section 5. Delete Diagram under Section 17.08.335.G and replace with Attachment 1:

Section 6. Add Section 17.08.337 (see Exhibit “A”)

Section 7. 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 _____, 2010, and placed upon its second reading and adoption at a regular meeting of the City Council on the ____ day of _____, 2010, by the following vote:

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)
CITY OF LANCASTER) ss

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. 954, for which the original is on file in my office.

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

(seal)

“EXHIBIT A”

SECTION 17.08.337 - Non-Commercial Wind Energy System (NC-WES)

- A. **Purpose and Intent.** It is the purpose and intent of this section to promote the safe, effective and efficient construction, and use of NC-WES in the Rural Residential Zones (RR-1 and RR-2.5 only). These regulations are intended to assure that NC-WES 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 Non-Commercial Wind Energy Systems in the Rural Residential Zones (RR-1 and RR-2.5 only), and subject to approval of a Director’s Review in accordance with Article VI of Chapter 17.32. The definitions contained in Section 17.04.240 regarding wind energy conversion systems shall apply to this section.
- C. **Development Standards.** An NC-WES shall be subject to all applicable regulations of the Rural Residential Zones (RR-1 and RR-2.5 only) in which it is proposed, except that the following standards shall take precedence over the regulations of the Rural Residential Zones to the extent that they differ.
1. **Accessory Use.** A NC-WES is considered to be an ancillary structure and may only be placed on a parcel already developed with a primary use, or placed on a parcel concurrent with the development of a primary use.
 2. **Minimum Lot Size.** The minimum parcel size shall be 40,000 square feet.
 3. **Location of NC-WES.**
 - a. **Setback.** A NC-WES shall be located:
 - i. Behind the primary building within the buildable area of the parcel (exclusive of required front, side, and rear yard areas),, and located a minimum of 30 feet from any property line. (Note: Setback distances shall not apply to guy wires or anchors).
 - ii. Shall not be located within or over drainage, utility, or other established easements.
 - iii. Each wind turbine shall be setback from the nearest above-ground public communication or electrical line by a distance which is equivalent to the height of the wind turbine.
 4. **Blade Clearance.** No part of an NC-WES blade shall extend within 15 feet of the ground, trees, or any other structure.
 5. **Maximum Tower Height.** Tower Height shall not exceed 65 feet above grade on any parcel of 5 acres or less. Parcels greater than 5 acres in size may have a maximum tower height of 80 feet.
 6. **Maximum Blade Rotor Area Diameter.** The overall diameter of the blade area shall not exceed 24 feet.
 7. **Compliance with Aviation Safety Standards.** The NC-WES shall comply with all applicable Federal Aviation Administration (FAA) requirements, including any necessary approvals for installations within an adopted Airport Land Use Plan, Air Installation Compatibility Use Zone (AICUZ), or other recognized over-flight area.

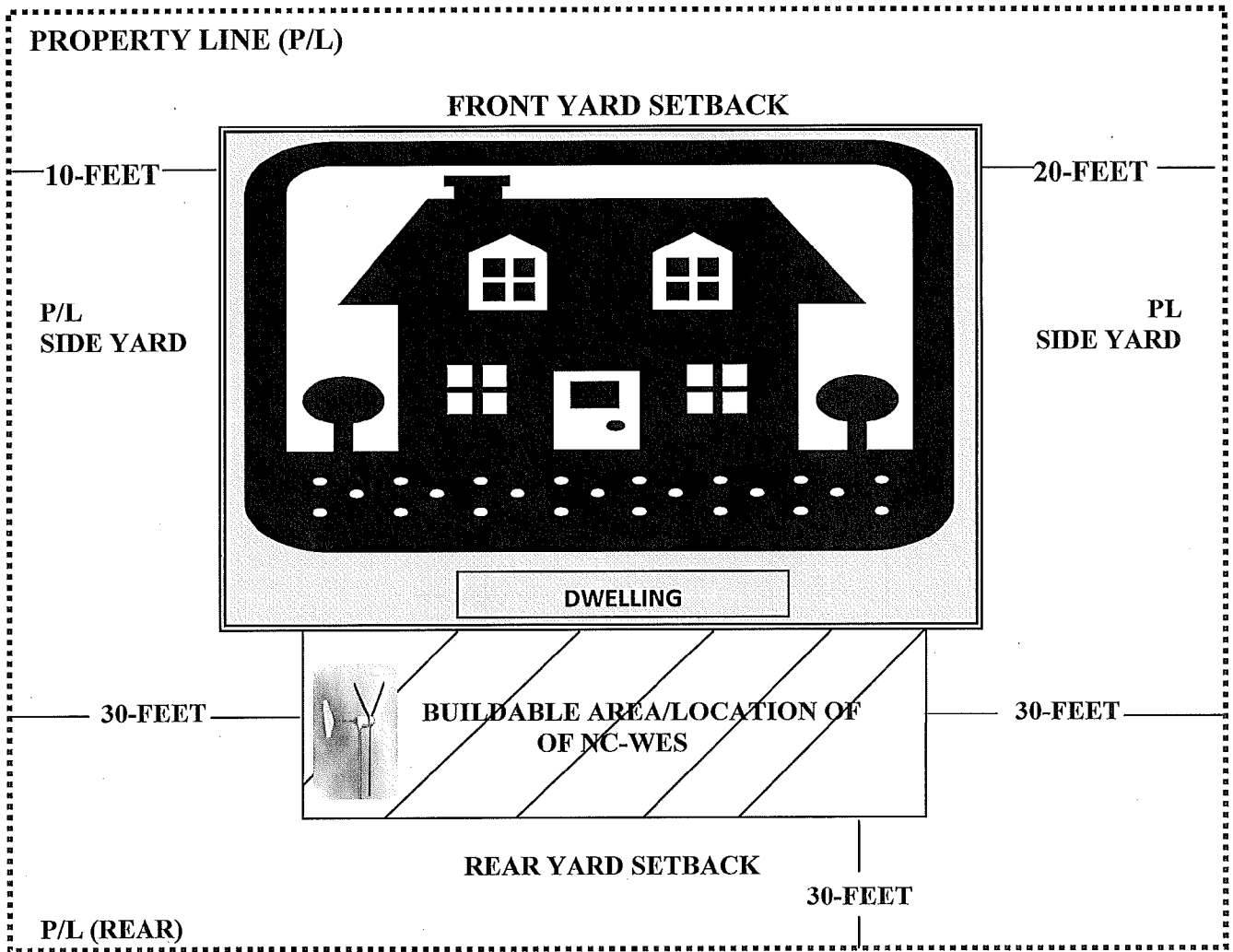
8. **Wind Turbine Approval.** Wind Turbines must be approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the AWEA.
9. **Design.** An NC-WES must be designed and constructed in accordance with the following:
 - a. **Colors.** The colors used in the construction materials or finished surface shall be muted and visually compatible with surrounding development.
 - b. **Lighting.** Lighting of the Tower shall only be permitted if required by, and done in conformance with, the requirements of the FAA.
 - c. **Noise.** Noise from an NC-WES shall not exceed 65 decibels at any property line.
 - d. **Visual Effects.** Any NC-WES that is placed within the view shed of a designated Scenic Highway or vista shall be assessed for its visual effects, and appropriate conditions relating to setting, buffers, and design of the facility.
 - e. **Climbing Apparatus.** All climbing apparatus must be located at least fifteen (15) feet above the ground, and the tower must be designed to prevent climbing within the first fifteen (15) feet.
 - f. **Automatic Overspeed Controls.** An NC-WES shall be equipped with both manual and automatic overspeed controls to limit the blade rotation speed to within the design limits of the NC-WES.
 - g. **Access Doors.** If an NC-WES is equipped with access doors, all access doors shall be lockable.
10. **Signs.** One sign, limited to eighteen (18) inches in length and one (12) inches in height, shall be posted at the base of the Tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the phone number of the property owner to call in the event of an emergency.
11. **Maintenance.** NC-WES shall be maintained in an operational condition that poses no potential safety hazards.
12. **Removal.** Within six (6) months after the operation of an NC-WES has ceased the permittee shall remove the N-WECS, clear the site of all equipment, and restore the site as nearly as practicable to its condition prior to the installation of the N-WECS. Failure to remove such NC-WES as required above shall constitute a public nuisance.

D. Review and Decision Process.

1. **Application.** A Director's Review application in accordance with Article VI of Chapter 17.32 shall be filed for a NC-WES meeting the requirements of this Section.
2. **Notice of Application.** The applicant shall submit as part of the Director's Review, a list of all owners of real property as listed on the latest county assessor's equalized assessment roll, located within 300 feet of the boundaries of the parcel on which the NC-WES is proposed. Written notices shall be given by mail to all such owners of the intent to consider the application for a NC-WES at least 10 days prior to a decision on the application.
3. **Consideration by Planning Director.** The Planning Director shall review the application for conformance with the requirements of this section and consider any comments received prior to making a decision on the request. The Planning Director shall approve, approve with conditions, or deny the application. Any decision of the

Planning Director may be appealed to the Planning Commission in accordance with Chapter 2.44 of the Lancaster Municipal Code.

DIAGRAM 1
NC-WES
RR-1 and RR-2.5 Zones

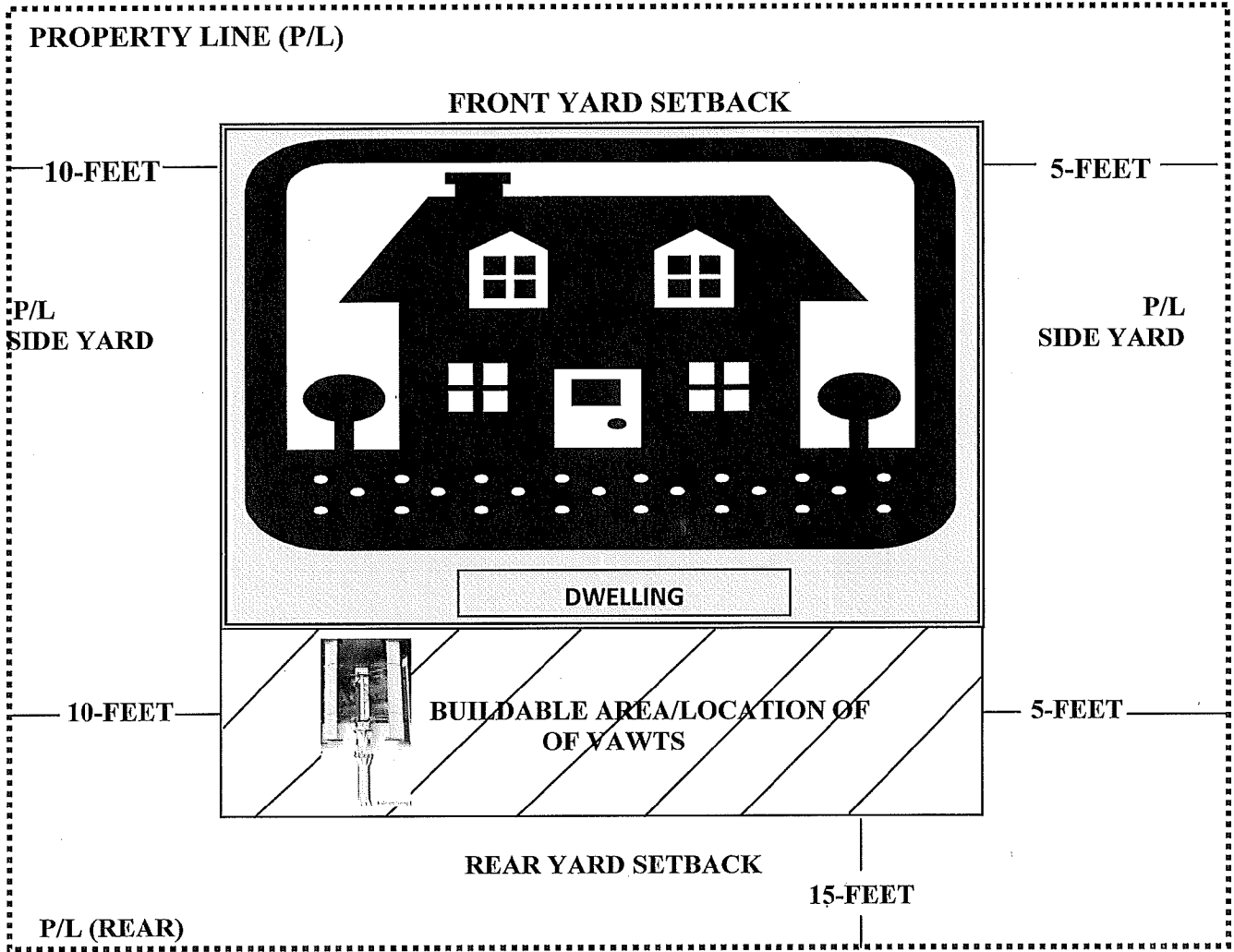


Sample of RR-1 Zone

ATTACHMENT I

**DIAGRAM 1
VAWTS**

R-7,000, R-10,000 and R-15,000 Zones Only



Sample of R-7,000 Zone

PLANNING COMMISSION

ACTION APPROVED (7-0-0-0) with an amendment **AGENDA ITEM:** 8.
to the Draft Ordinance (Exhibit A) Section 17.08.337.C.6,
amending the diameter from 12 feet to 24 feet.

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 *BZ*

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.

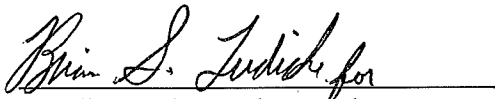
An applicant would be required to submit, along with the application, a set of mailing labels for all property owners within 300 feet of the proposed site. Those owners would receive a mailed notice a minimum of 10 days prior to a decision on the application by the Planning Director. Any objections received 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.

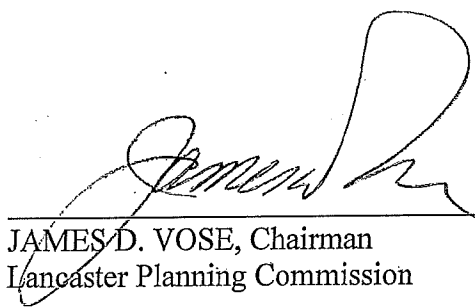
5. A uniform and comprehensive set of standards, conditions, and procedures for the placement of Non Commercial – Wind Energy Systems (NC-WES) is necessary to encourage the generation electricity for on-site use, increasing the use of renewable energy within the City.

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: Commissioners Hall, Harvey, Malhi, Terracciano, Wheeler, Vice Chairman Jacobs, and Chairman Vose.
NOES: None.
ABSTAIN: None.
ABSENT: None.



JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:



BRIAN S. LUDICKE, Planning Director
City of Lancaster