

CALIFORNIA COASTAL COMMISSION

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DATE: May 30, 2002

TO: Coastal Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director
Steven F. Scholl, Deputy Director
Chris Kern, North Central Supervisor

SUBJECT: **SONOMA COUNTY LCP AMENDMENT NO. 1-02 – Small Wind Energy Systems** (for public hearing and Commission action on June 13, 2002 in Long Beach)

Background.

Sonoma County's Land Use Plan (Coastal Plan) was certified by the Coastal Commission in 1981. In 2001, the Commission approved a package of updates to the Coastal Plan, most of which were relatively minor in scope, along with changes in the Coastal Zoning Ordinance and Coastal Administrative Manual, which together make up the County's certified Local Coastal Program. The County has since embarked on a more comprehensive revision of the Coastal Plan, including potentially more significant changes to plan policies to reflect changing conditions and new information. The County expects to submit this revision to the Coastal Commission sometime in the future as an LCP amendment.

In 2001, the Legislature passed and the Governor signed legislation addressing "small wind energy systems." (Government Code Section 65892.13) A small wind energy system is defined in the law as "a wind energy conversion system consisting of a wind turbine, a tower, 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 onsite consumption of utility power." This legislation, known as AB 1207, authorizes cities and counties until July 1, 2005 to provide by ordinance for the installation of small wind energy systems and to establish a process for the issuance of conditional use permits for such systems (see Exhibit 5).

Whether or not a local government adopts such an ordinance, small wind energy systems shall not be allowed where the policies of Local Coastal Programs would not permit

them. AB 1207 provides that where local governments opt to adopt an ordinance, small wind energy systems shall not be allowed where otherwise prohibited by, among other things, "a local coastal program and any implementing regulations adopted pursuant to the California Coastal Act." The law provides also that any local agency which has not adopted an ordinance meeting certain conditions on or before July 1, 2002 shall approve applications for a small wind energy system by right (that is, without the need for a conditional use permit), if certain conditions are met. Those conditions include, among others, that the size of the parcel in question is at least one acre in size and is located outside an urbanized area and that tower heights on parcels that are less than five acres in size not exceed 80 feet. However, even where a local government has chosen not to adopt an ordinance prior to July 1, 2002, AB 1207 specifically provides that a small wind energy system shall not be allowed where otherwise prohibited by the existing provisions of an LCP.

On May 14, 2002, the Sonoma County Board of Supervisors adopted an ordinance in response to the legislation described above and submitted it to the Coastal Commission as a proposed amendment to the County's certified Local Coastal Program Zoning Ordinance, asking for prompt review by the Commission prior to July 1, if possible. It is the Commission staff's position that even absent the proposed ordinance, Sonoma County's Local Coastal Program contains policies and standards that would regulate and potentially prohibit, in some circumstances, the issuance of a coastal development permit for new small wind energy systems. Even if local governments do not enact conditional use permit standards by July 1, 2002, only wind energy systems which meet existing LCP requirements will be allowed without the need for a conditional use permit until an ordinance is subsequently adopted. In any event, Commission staff sees no conflict between the proposed ordinance and the requirements of the Coastal Act or Local Coastal Program, and the staff has scheduled the matter for consideration as promptly as possible.

Summary of the Staff Recommendation.

This Local Coastal Program amendment includes proposed changes to the Coastal Zoning Ordinance to address the siting of small wind energy systems in Sonoma County's coastal zone. New zoning provisions are proposed to carry out existing policies of the certified Coastal Plan that provide for the protection of coastal resources such as environmentally sensitive habitat areas and scenic areas. The proposed new zoning provisions would ensure both that small wind energy systems would meet all existing requirements for new development in the coastal zone and would meet additional zoning standards specific to wind energy systems. In some zone districts, wind energy systems would be allowable only if the tower would be no higher than other structures allowed in the zone district, such as a residence or barn. In other zone districts, allowable wind energy systems could exceed the existing height limits for other structures such as houses or barns, but only subject to design review and application of a variety of standards intended to protect visual resources. On some parcels, small wind energy systems could be prohibited entirely, if applicable standards could not be met.

Staff recommends approval of the proposed amendment to the Coastal Zoning Ordinance as submitted.

List of Exhibits.

- Exhibit #1: Ordinance adopted May 14, 2002 by Sonoma County
- Exhibit #2: Cover letter dated May 22 and draft resolution of submittal
- Exhibit #3: County staff report dated May 14, 2002
- Exhibit #4: Coastal Plan Visual Resource Policies
- Exhibit #5: AB 1207

I. Staff Recommendation, Motion, and Resolution

MOTION: *I move that the Commission reject Amendment #1-02 to the Implementation Program for the County of Sonoma as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY AMENDMENT #1-02 TO THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby certifies Amendment #1-02 to the Implementation Program for the County of Sonoma as submitted and adopts the findings set forth below on grounds that, as amended, the Implementation Program conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the amendment to the Implementation Program will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amendment to the Implementation Program on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the amendment to the Implementation Program.

II. Standard of Review

Section 30513 of the Coastal Act provides, in part:

The commission may only reject ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan.

The standard of review for the proposed small wind energy system ordinance is the policies of the County's certified Land Use Plan (Coastal Plan). To approve the proposed amendment to the Coastal Zoning Ordinance, the Commission must find that the Zoning Ordinance as amended conforms with and is adequate to carry out the County's certified Land Use Plan.

III. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Background

Wind energy systems are not expressly identified in the existing certified Coastal Plan as an allowable use, although they are presumably allowable as “incidental” uses. For instance, **Chapter IV - Resources** addresses the protection and maintenance of agricultural and forest lands in the non-urbanized portions of the County’s coastal zone, and this chapter identifies a number of uses that are compatible with resource management activities and that require a coastal permit when new development is proposed. Under “Incidental Uses – Compatible Uses Requiring a Coastal Permit” the Coastal Plan includes the following related uses:

Public utility uses and activities associated with the erection, construction, alteration, or maintenance of gas, electrical, water, or communications facilities including transmission lines, telephone equipment buildings, substations, pumping stations, reservoirs, storage tanks and service yards.

Wind energy systems would appear to fall within the definition of “incidental uses”, if they are used to convert wind energy into electricity (as opposed to simply using wind energy to pump water, for instance). The small wind energy system ordinance that is the subject of this staff report addresses wind energy facilities that convert the kinetic energy of the wind into electrical energy. Therefore, such wind energy facilities would appear to be allowed as “Incidental Uses” by the Coastal Plan, subject to issuance of a coastal permit.

Section 26C-340 of the existing ordinance provides that “a coastal permit shall be required for any development occurring in the Coastal Zone...” except as provided in Section 26C-340.1 Exemptions and Categorical Exclusions. Wind energy systems are not now nor are they proposed by the County to be included in the list of permit exemptions, and therefore new systems would be subject to the requirement of a coastal permit.

The existing Coastal Zoning Ordinance does not specifically list “small wind energy systems” as allowable uses in various zone districts, but such uses are presumably allowable as “accessory buildings and uses appurtenant to the operation of the permitted uses”, which are generally included in the various zone districts in the ordinance, subject to applicable standards. In addition to the requirement for a coastal permit, the Zoning Ordinance provides that certain uses also require a zoning permit and others require a use permit. A zoning permit is utilized by Sonoma County for uses that are considered part of the principal permitted use of the property. A use permit is required for a conditional use, requiring specific findings by the County’s Board of Zoning Adjustments.

In summary, the proposed amendment to the Coastal Zoning Ordinance would further clarify that small wind energy systems are approvable under certain conditions, and not approvable under other conditions, and would make explicit additional zoning standards to which such systems are subject.

B. Description of the proposed amendment to the Coastal Zoning Ordinance

The small wind energy system ordinance adopted by Sonoma County includes the following major components (see Exhibit #1 for entire ordinance):

1. **Definitions of relevant terms** to be added to the Sonoma County Code, portions of which have been certified by the Coastal Commission as the Local Coastal Program's Implementing Ordinances.
2. **Standards and requirements** for the review of small wind energy systems, contained in a new "Section 26-325.8. Small Wind Energy Systems" that is proposed to be added to the Sonoma County Code.
3. Provisions adding small wind energy systems to the Coastal Zoning Ordinance's list of allowable uses in certain **commercial and public facilities districts**, requiring a coastal permit and zoning permit.
4. Provisions adding small wind energy systems to the Coastal Zoning Ordinance's list of allowable uses in certain **rural residential, agricultural, and timberland districts**, requiring either a coastal permit and a zoning permit or a coastal permit and a use permit, depending on the height of the tower that is proposed.

These four components are discussed below.

1. Definitions.

The proposed LCP amendment would add the following definition to the Sonoma County Code:

"Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics,...

Definitions are also provided for other relevant terms, such as "tower" and "wind energy system height".

2. Standards and requirements for the review of small wind energy systems: new Zoning Section 26-325.8.

The small wind energy system ordinance provides additional standards to be applied to the review of proposed small wind energy systems. Such standards are contained in Section 26-325.8, which the County proposes to add to the County Code (see Attachment #1, p. 3).

Section 26.325.8 would apply a number of restrictions to small wind energy systems. First, this section provides that "Only one small wind energy system tower per legal parcel shall be allowed." This standard ensures that groups of wind energy systems will not be allowed on any one parcel, and therefore that "windmill farms" will not result from approval of this ordinance.

Secondly, the ordinance provides, in part: "All small wind energy systems shall be subject to design review pursuant to Article XXIX of this Chapter to ensure compliance with the Coastal Act and Local Coastal Plan Visual Resource Policy 20..." The existing Coastal Zoning Ordinance already requires that new development in all zone districts conform with the visual resource recommendations of the Coastal Plan, and the above sentence assures that wind energy systems will be subject to the same requirement.

Third, in addition to procedural requirements, the ordinance includes several new substantive requirements. Among other things, for instance, the ordinance requires that a small wind energy system shall not be located on a site:

- within a Scenic Corridor as identified by the Coastal Plan;
- subject to a conservation, open space, or agricultural easement that does not specifically authorize a small wind energy system;
- listed in the National Register of Historic Places or the California Register of Historic Resources;
- within an "urbanized area".

Furthermore, the ordinance includes additional criteria providing that a small wind energy system shall not project above the top of visually prominent ridgelines; shall use natural landforms and existing vegetation for screening from view from public roads, public hiking trails, and public parks; and shall not significantly impair a scenic vista from a County or State designated scenic corridor or significantly impair a designated scenic view shed area as depicted on the Coastal Visual Resource Maps (which are part of the County's Local Coastal Program).

Finally, the ordinance provides additional standards that are not specifically related to the protection of coastal resources. For instance, the ordinance provides that wind energy systems shall be operated such that no electromagnetic interference is caused and shall not interfere with airport flight patterns or exceed certain noise limits.

3. Small wind energy systems in certain commercial and public facilities districts.

Small wind energy systems would be added to the list of uses allowable in the following districts, subject to a coastal permit:

Rural Services (CS)
Commercial Tourist (CT)

Community Commercial (C2)
Agricultural Services (AS)
Commercial Fishing (CF)
Public Facilities (PF)

These districts allow a variety of commercial uses such as small-scale retail and personal services businesses, visitor-serving uses such inns and restaurants, and public facilities such as water supply facilities. Under the proposed amendment to the Coastal Zoning Ordinance, small wind energy systems would be allowed in each district "subject to the applicable criteria set forth in Section 26C-325.8 and the height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant."

The requirements of Section 26C-325.8 of the Coastal Zoning Ordinance are described above. The "height limit of the use to which the use is appurtenant" means that the height limit for small wind energy systems in the cited zone districts would be the same as the height limit for the structure for which electrical energy would be provided. As an example, the existing Coastal Zoning Ordinance provides that in the CS zone district, the height limit for residential structures west of Highway One is 16 feet; east of Highway One and visible from designated scenic roads, the height limit is 24 feet; and east of Highway One and not visible from scenic roads is 35 feet, all measured above the average level of the parcel. The phrase "height limit of the use to which the use is appurtenant" means that wind energy systems providing electricity to a residence would be subject to the same height limit as the residence itself.

In the CS zone district, the height limit for commercial structures west of Highway One is 24 feet; east of Highway One and visible from designated scenic roads, the height limit is 24 feet; east of Highway One and not visible from scenic roads is 35 feet, again measured 4.commercial structures would be subject to these same height limits. In sum, wind energy systems in the zone districts listed above could be approved with a tower no higher than the height currently allowed for other structures permissible on the property, under existing zoning requirements.

4. Small wind energy systems in certain rural residential, agricultural, and timberland districts.

Small wind energy systems would be added to the list of uses allowable in the following districts. Depending on the height of the structure proposed, a coastal permit and a zoning permit or a coastal permit and a use permit would be required:

Land Intensive Agriculture (LIA)
Land Extensive Agriculture (LEA)
Diverse Agriculture (DA)
Resources and Rural Development (RRD)
Resources and Rural Development/Agricultural Preserve (RRDWA)
Timberland Production (TP)
Agriculture and Residential (AR)

Rural Residential (RR)

These districts allow a variety of resource production uses such as the raising of farm animals, the growing of crops, and farm dwellings. Under the proposed amendment to the Coastal Zoning Ordinance, small wind energy systems would be allowed in each of these districts in one of two ways.

The first way would be for wind systems that would be no higher than other structures permitted on the property and would be subject to a coastal permit and a zoning permit. A project could be approved through a coastal permit and a zoning permit if it did not exceed the lesser of: (a) the height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant, or (b) thirty five (35) feet" (emphasis added), subject to the applicable criteria set forth in Section 26C-325.8. A local coastal permit for these wind systems would only be appealable to the Coastal Commission to the extent that the project is appealable based on a factor (such as the project's geographic location) other than its status with respect to the principal permitted use of the property.

The second way in which wind energy systems could be allowed in the cited zone districts would apply if the height of a proposed tower would exceed the height limits for other structures allowable on the property. In this case, wind systems would be subject to a use permit rather than a zoning permit, as well as a coastal permit. In other words, a wind system with a structure height "greater than either of: (a) the permitted height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant, or (b) thirty five (35) feet" (emphasis added), subject to the applicable criteria set forth in Section 26C-325.8, could be approved under a coastal permit and a use permit. The maximum height for a small wind energy system would be 65 feet on a parcel less than five acres in size or 80 feet on a parcel of five acres or more in size. A development requiring a use permit is a conditional use under the County's zoning ordinance, requiring the adoption of specific findings of approval following a public hearing. Where a use permit is required, a proposed development is appealable to the Coastal Commission, even if (for instance) located east of the first public road paralleling the sea or otherwise outside the Commission's geographic appeal area.

In summary, under the proposed zoning ordinance amendment, wind energy systems that meet the criteria of Section 26C-325.8 are allowable with a coastal permit, if they are no higher than 35 feet high or the height of the use to which they are appurtenant (whichever is less), whereas wind systems that meet the criteria of Section 26C-325.8 but are higher than 35 feet high or the height of the use to which they are appurtenant are allowable with a use permit. The maximum height for small wind energy systems in any zone district is 65 feet on a parcel less than five acres in size or 80 feet on a parcel of five acres or more in size.

C. Summary of existing Land Use Plan provisions

1. Environmentally sensitive areas.

The existing certified Local Coastal Program contains a number of provisions that would apply to proposed small wind energy systems, just as these provisions apply to other types of new development in the County's coastal zone. For instance, the Coastal Plan includes in Chapter III a series of policies providing for the protection of environmentally sensitive habitat areas. Policy #9 (the County's land use plan policies are identified in the Coastal Plan as "Recommendations", but they serve as policy standards that must be applied to the review of development proposals) prohibits construction of permanent structures within riparian areas and a 100-foot-wide buffer area, except for developments dependent on the riparian resource. Wind energy facilities would be subject to this policy, just as other types of development are, and consequently would not be allowable in riparian areas or buffers.

Policy #18 of the Environmental Resources chapter similarly prohibits construction in wetlands, except for the uses permitted in Coastal Act Section 30233. Small wind energy systems, if proposed to be sited in a wetland, would be subject to the same standards as other proposed developments. In summary, the coastal permit review process that would be carried out in connection with any proposed wind energy facility would require the County to find consistency of any such facility with Coastal Plan policies addressing environmentally sensitive resources, such as those cited above.

2. Visual resources.

A potentially significant coastal issue raised by small wind energy systems is that of protection of visual resources. Wind energy conversion systems typically involve towers, designed to capture maximum wind energy at or above the height of surrounding buildings and trees, and such towers can potentially adversely affect the visual quality of scenic coastal areas through effects such as interrupting natural panoramas, introducing "modern"-appearing structures into largely undeveloped rural areas, and creating conflicts with the existing character of small-scale historic communities. Therefore the provisions of the Local Coastal Program that address the protection of visual resources merit particular attention.

The Coastal Plan's **Chapter VII - Visual Resources** includes policies that apply to the construction of facilities such as small wind energy systems (see Exhibit #4 for a complete list of Chapter VII policies). The policies include the following:

#1 Prevent development (including buildings, structures, fences, paved areas, signs, and landscaping) from obstructing views of the shoreline from coastal roads, vista points, recreation areas, and beaches.

This policy would apply to small wind energy systems, just as to other buildings or structures, and would require that such systems not block coastal views from public areas, including Highway One, vista points, and parks.

In addition to the possibility of view blockage, the impacts of a small wind energy system may also include the introduction of an element not compatible with the historic and scenic quality of an area. The following Coastal Plan policy would require consideration of such impacts:

#2 Prohibit development which will significantly degrade the scenic qualities of major views and vista points.

The County's review of proposed small wind energy systems under this policy would ensure that impacts other than actual view blockage would be taken into account.

Two additional policies that are of particular significance to the County's review of small wind energy systems are the following:

#9 Locate and design development to fit the setting and to be subordinate to the pre-existing character of the site.

#11 Relate structures in size and scale to adjacent buildings.

These policies require consideration of the factors that constitute the site's pre-existing character, including the degree to which it is undeveloped and not characterized by "industrial-appearing" uses such as steel towers, rotors, and other components of wind energy systems, as well as the size and scale of existing buildings, such as houses, farm buildings, and other structures.

D. Conformity of the proposed zoning ordinance to the certified Land Use Plan

The proposed zoning ordinance is consistent with and adequate to carry out the certified Land Use Plan (Coastal Plan) in several ways. First, the small wind energy systems ordinance maintains existing requirements of the Coastal Plan regarding protection of environmentally sensitive habitat areas. (In certifying the County's Coastal Plan, the Commission has previously found that applicable policies regarding the protection of environmentally sensitive resources are consistent with the requirements of Chapter 3 of the Coastal Act.) No exceptions to existing Coastal Plan standards and requirements are provided by the new ordinance for small wind energy systems, and therefore such systems must meet the same requirements as any other type of development, including policies that protect riparian areas, wetlands, and other sensitive areas.

Secondly, small wind energy systems must meet existing visual resource protection policies contained in the Coastal Plan. The Commission has previously found that applicable policies regarding the protection of visual resources are consistent with the requirements of Chapter 3 of the Coastal Act. Those policies provide direction to coastal

permit decision-makers regarding the siting and sizing of structures in Sonoma County's coastal zone. No exceptions to existing Coastal Plan visual resource standards and requirements are provided by the new ordinance for small wind energy systems, and therefore the same policies would apply to small wind energy systems as apply to other types of development.

Thirdly, the proposed ordinance provides additional zoning standards for the protection of visual resources. These new standards are specifically tailored to small wind energy systems and are intended to carry out existing Coastal Plan policies, including those that apply to visual resources. In the most sensitive visual resource areas, namely "Scenic Corridors" as identified by the Coastal Plan, small wind energy systems would be prohibited altogether by the proposed ordinance. Such prohibition is consistent with the Coastal Plan Visual Resources Policies #1 and #2 that prohibit development that would block or degrade scenic views.

Outside "Scenic Corridors", wind energy systems would not be prohibited entirely by the proposed ordinance, but would be subject to certain mandatory requirements in order to be approved. One key requirement is a prohibition against projecting above the top of visually prominent ridgelines. This requirement is consistent with visual resource policies of the Coastal Plan such as Policy #25, which states "Design and site structures to preserve unobstructed broad views of the ocean from Highway 1 and to minimize visual impacts. Cluster structures to the maximum extent feasible." The proposed prohibition on siting wind systems that would project above ridgelines would act to minimize visual impacts, consistent with the Coastal Plan policy, by requiring project proponents to design wind energy systems in ways that could be fully screened from public view behind existing ridges, for instance, or could be reduced in size so as to avoid projecting above a ridgeline.

The existing Coastal Plan includes a variety of policies that protect coastal visual resources. The proposed amendment to the Coastal Zoning Ordinance requires that small wind energy systems meet existing zoning standards as well as new, more specific, zoning standards that carry out the relevant Coastal Plan policies. In sum, the proposed amendment is consistent with and adequate to carry out the policies of the Coastal Plan.

E. California Environmental Quality Act

The Coastal Commission's review and development process for Local Coastal Programs and amendments to them has been designated by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does use any environmental information that the local government has developed.

In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public

Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment.

As discussed above, the proposed small wind energy systems ordinance is consistent with the County's Land Use Plan and will not have any significant adverse environmental impacts. The Commission incorporates its findings on land use plan conformity at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse effects of the project that have been received as of the writing of this report. Therefore, the Commission finds that approval of the proposed amendment to the Zoning Code will not result in significant environmental effects within the meaning of the California Environmental Quality Act.



EXHIBIT NO.	1
APPLICATION NO.	
SONOMA COUNTY LCP Amendment (Major)	
No. 1-02 (Page 1 of 9)	

ADOPTED
5-14-02

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 26C OF THE SONOMA COUNTY CODE RELATIVE TO SMALL WIND ENERGY SYSTEMS

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

SECTION I. The Board finds that the adoption of this Ordinance is necessary to protect the public health, safety, and welfare. The Board further finds and declares that the adoption of this Ordinance is intended to promote clean, renewable, alternate energy sources; reduce reliance and demand upon the state electric grid; and implement the requirements of Government Code Section 65892.13 relating to wind energy while protecting the scenic and natural resources of Sonoma County.

SECTION II. Section C-18 (Definitions) of Chapter 26C of the Sonoma County Code is hereby amended as follows:

(a) Section 26C-18 (Definitions) is amended to revise the definition of "tower" to read as follows:

"Tower" means the support structure, including guyed, monopole and lattice types, upon which antennas are located as part of a telecommunication facility or upon which a wind turbine (or other mechanical device) is mounted as part of a small wind energy system.

(b) Section 26C-18 (Definitions) is amended to add the following definitions pertaining to small wind energy systems to read as follows:

"Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, 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 onsite consumption of utility power.

“Tower height” means the height above grade of the fixed portion of the tower, excluding any telecommunication antennas or a wind energy system or its blades.

“Wind energy conversion system” means a machine used to convert the kinetic energy of the wind into a usable form of electrical energy, including wind turbine generators, rotors, and blades.

“Wind energy system height” means the height above grade of the fixed portion of the tower including the vertical length of any extensions such as the rotor blade.

SECTION III. Sections 26C-130 (CS); 26C-140 (CT); 26C-150 (C2); 26C-160 (AS); 26C-170 (CF) and 26C-182 (PF) of Chapter 26C of the Sonoma County Code are amended as follows:

(a) The following sections are added (and existing sections renumbered) to read as shown below. Section 26C-130(b)(11) [CS]; Section 26C-140(b)(15) [CT]; Section 26C-150(b)(12) [C2]; Section 26C-160(c)(9) [AS]; Section 26C-170(b)(6) [CF]; Section 26C-182(p) [PF]:

(11), (15), (12), (9), (6), (p) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8 and the height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant.

SECTION IV. Sections 26C-20 (LIA), 26C-30 (LEA), 26C-40 (DA), 26C-50 (RRD), 26C-60 (RRDWA), 26C-70 (TP), 26C-80 (AR), and 26C-90 (RR) of Chapter 26C of the Sonoma County are amended as follows:

(a) The following sections are added (and existing sections renumbered) to read as shown below. Section 26C-20(c)(13) [LIA]; Section 26C-30(c)(13) [LEA]; Section 26C-40(c)(13) [DA]; Section 26C-50(c)(16) [RRD]; Section 26C-60(c)(15) [RRDWA]; Section 26C-70(c)(13) [TP]; Section 26C-80(c)(12) [AR]; Section 26C-90(c)(12) [RR]:

(13), (13), (13), (16), (15), (13), (12), (12) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8 and the lesser of the height of: (a) the height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant, or (b) thirty five (35) feet.

SECTION V. Sections 26C-21 (LIA), 26C-31 (LEA), 26C-41 (DA), 26C-51 (RRD), 26C-61 (RRDWA), 26C-71 (TP), 26C-81 (AR), and 26C-91 (RR) of Chapter 26C of the Sonoma County are amended as follows:

(a) The following sections are added (and existing sections renumbered) to read as shown below. Section 26C-21(c)(17) [LIA]; Section 26C-31(c)(21) [LEA]; Section 26C-41(c)(22) [DA]; Section 26C-51(c)(27) [RRD]; Section 26C-61(c)(21) [RRDWA]; Section 26C-71(c)(6) [TP]; Section 26C-81(c)(21) [AR]; Section 26C-91(d)(17) [RR]:

(17), (21), (22), (27), (21), (6), (21), (17) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8, where such systems are greater than either of: (a) the permitted height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant, or (b) thirty five (35) feet.

SECTION VI. Section 26C-325.8 is hereby added to the Sonoma County Code to read as follows:

"Sec. 26-325.8. Small Wind Energy Systems

(a) **Purpose.** The purpose of this section is to promote clean, renewable, alternate energy sources; reduce reliance and demand upon the state electric grid; and implement the requirements of Government Code Section 65892.13 relating to wind energy while protecting the scenic and natural resources of the Coastal Zone of Sonoma County, pursuant to Coastal Act Section 30251, and the health, safety, and welfare of its residents.

(b) **Establishment of Small Wind Energy Systems.** Small wind energy systems shall be established in accordance with the provisions of this section. A small wind energy system shall not be located on a site that is any of the following:

(1) Within a Scenic Corridor as identified by the Coastal Plan or Open Space Element of the General Plan;

(2) Within a Special Studies Zone established in compliance with the Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code Section 2621 et seq.);

(3) Subject to a conservation easement established in compliance with Civil Code Section 815 et seq., that does not specifically authorize a small wind energy system;

(4) Subject to an open space easement established in compliance with Government Code Section 51070 et seq., that does not specifically authorize a small wind energy system;

(5) Subject to an agricultural conservation easement established in compliance with Public Resources Code Section 10200 et seq., that does not specifically authorize a small wind energy system;

(6) Subject to a Williamson Act contract established in compliance with Government Code Section 51200 et seq., that does not specifically authorize a small wind energy system;

(7) Listed in the National Register of Historic Places, or the California Register of Historic Resources, in compliance with Public Resources Code Section 5024.1, or contains a structure that is so listed;

(8) Less than one (1) acre in size;

(9) Within an "urbanized area" as defined in Government Code Section 65892.13.

(c) Standards. All small wind energy systems shall be subject to design review pursuant to Article XXIX of this Chapter to ensure compliance with the Coastal Act and Local Coastal Plan Visual Resource Policy 20. In addition, all small wind energy systems shall comply with the following standards:

(1) All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.

(2) The safety of the design and construction of all small wind energy systems shall be certified by the manufacturer's engineering staff.

(3) All small wind energy systems shall be equipped with manual and automatic over speed controls. The conformance of rotor and over speed control design and fabrication with good engineering practices shall be certified by the manufacturer's engineering staff.

(4) Tower-climbing apparatus and blade tips of the small wind energy system shall be no closer than fifteen (15) feet from ground level unless the facility is enclosed by a six-foot high fence.

(5) Small wind energy systems shall be operated such that no electromagnetic interference is caused.

(6) Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports or within the scope of the Airport Land Use Plan.

(7) Maximum power output shall be 10 KW.

(8) Only one small wind energy system tower per legal parcel shall be allowed.

(9) The small wind energy system tower shall be set back from any property line by a minimum distance equivalent to the tower system height and a minimum of ten feet from any other structure, provided that it also complies with any applicable fire setback requirements pursuant to Section 4290 of the Public Resources Code.

(10) A small wind energy system tower shall not exceed a maximum height of sixty-five (65) feet on a parcel less than five acres, or a maximum height of eighty (80) feet on a parcel of five acres or more; provided that, in all cases, the system shall comply with all applicable Federal Aviation Administration (FAA) requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the 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).

(11) A small wind energy system shall be designed, installed, and operated so that noise generated by the system shall not exceed the maximum noise levels applied pursuant to the Noise Element of the General Plan, except during short-term events including utility outages and severe wind storms.

(12) A turbine proposed for a small wind energy system shall have been approved by the California Energy Commission (CEC) as qualifying under the Emerging Renewables Fund of the CEC's Renewables Investment Plan, or certified by a national program recognized and approved by the CEC.

(13) A small wind energy system shall be located pursuant to the following criteria: (a) it shall not project above the top of visually prominent ridgelines, (b) it shall use natural landforms and existing vegetation for screening from view from public roads, *public* hiking trails, and *public* park access areas, and (c) appurtenant utility lines shall be underground where economically practical.

(14) A small wind energy system shall not significantly impair a scenic vista from a County or State designated scenic corridor or significantly impair a designated scenic view shed area as depicted on the Coastal Visual Resource Maps. A small wind energy system shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

(15) Where vegetation is removed in the construction of a small wind energy system or an access road to the system, landscaping shall be required to minimize visual impacts, avoid erosion, and maintain the stability of the soils.”

(16) Small wind energy system towers and all components shall be of a nonreflective, unobtrusive color best suited to blend the system with the surrounding landscape. For example, a tower in a wooded setting should be painted a dark color and a tower in an open setting may be a lighter gray color to blend with the sky and clouds.

(17) No advertising sign or logo shall be placed or painted on any tower where it would be visible from a public place. A system or tower manufacturer’s logo may be displayed on a system generator housing in an unobtrusive manner.

(18) Signs warning of high voltage electricity shall be posted on stationary portions of the small wind energy system or its tower and at gated entry points to the project site at a height of five feet above ground.

(19) Upon abandonment or termination of the use, the entire facility, including all equipment, tower, turbine, etc., shall be removed and the site restored to its pre-construction condition or other authorized use.

(d) Application requirements. In addition to the standard submittal requirements for a zoning permit, use permit, or coastal permit and design review, the permit application for a small wind energy system shall include all of the following information and materials:

(1) Standard drawings and an engineering analysis of the system's tower, showing compliance with the Uniform Building Code (UBC), and certification by a California-licensed professional mechanical, structural, or civil engineer. A 'wet stamp' shall not be required on the drawings and analysis if the application demonstrates that the system is designed to meet the most stringent wind requirements (UBC wind exposure D), the requirements for the worst seismic class (UBC Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot.

(2) 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.

(3) Information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.

(4) Evidence that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant intends, and so states in the application, that system will not be connected to the electricity grid.

(5) Evidence that the proposed height of the tower does not exceed the height recommended by the manufacturer or distributor of the system.

(6) A copy of a preliminary title report for the subject property dated no more than thirty (30) days prior to the filing of the application. Copies of any applicable contracts or easement documents listed above in Section 26C-325.8(b)(3) shall also be submitted.

(7) Evidence that the proposed system will not exceed the noise standards in Section 26C-325.8(c)(11) above.

(8) For sites with an SR or SD zoning designation on any portion of the property, or on a parcel adjacent thereto, or for sites within a community separator, or scenic landscape unit, the applicant shall submit a visual analysis, which may include a computerized photographic simulation of the proposed project and which shall discuss the visual context of the facility in the landscape. For all other sites, a visual analysis may be required if needed to determine whether the proposed system meets the requirements of Section 26C-325.8(c)(13)-(16).

(9) Color samples of the proposed facility.

(e) Notice. At least ten (10) days prior to the issuance of a zoning permit or a use permit for a small wind energy system, notice of the proposed permit shall be mailed to all property owners within three hundred (300) feet of the property on which the system is proposed to be located. The notice shall include a site plan and one elevation with dimensions for such system. In the event an appeal of a zoning permit for a small wind energy system is filed pursuant to Section 26C-471, a hearing on the project shall be required.

SECTION VII. This Ordinance shall be reviewed periodically for its effectiveness, including at least one full review no later than three (3) years from the date of adoption.

SECTION VIII. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION IX. This ordinance shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for or against the same, in The Press Democrat, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma introduced on the __ day of _____, 2002, and finally passed and adopted this __ day of _____, 2002, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

KERNS____ **SMITH**____ **KELLEY**____ **REILLY**____ **CALE**____

AYES ____ **NOES** ____ **ABSTAIN** ____ **ABSENT** ____

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

EEVE T. LEWIS, County Clerk and
ex-officio Clerk of the Board of
Supervisors





COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403-2829
(707) 565-1900 FAX (707) 565-1103

May 22, 2002

Mr. Peter Douglas, Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RECEIVED

MAY 24 2002

CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 2

APPLICATION NO.
SONOMA COUNTY LCP

Amendment (Major)
No. 1-02

(Page 1 of 4)

Re: PLP02-0024 Coastal Zoning Ordinance Amendment
Small Wind Energy Systems

Dear Mr. Douglas:

Attached please find a proposed minor amendment to the Sonoma County Coastal Zoning Ordinance that was adopted by the Board of Supervisors on May 14, 2002. A draft resolution dated June 4, 2002, is attached and, when approved by the Board, will formally authorize submission of a Coastal Zoning Ordinance and Local Coastal Plan amendment related to the regulation of Small Wind Energy Systems pursuant to a new state law, Government Code Section 65892.13. This letter is being sent in advance to reserve space on the Coastal Commission's June agenda, if necessary.

The new state law is intended to expedite the permitting and construction of an alternative energy source, wind turbines. The law provides that a local agency must abide by certain standards in the regulation of these tower/turbine systems, and provides further that if a local agency does not adopt an ordinance by July 1, 2002, then the agency must approve such systems that conform to the law's criteria until such time that a local regulation is adopted.

The new state law left local agencies some discretion over siting and visual impacts. To that end, the County of Sonoma has prepared and adopted amendments to its Zoning Ordinance and Coastal Zoning Ordinance that implement General Plan and Local Coastal Plan policies related to protection of scenic resources. The ordinance amendments were based upon policy direction last year from the Board of Supervisors and the Planning Commission, as well as upon consultation with Mr. Steve Scholl of your staff and planners from other counties. The county is familiar with wind turbine generators inasmuch as we have had applications for such facilities. We have had public hearings on two of the applications, and there was discussion at those hearings about the pending state law and the draft county ordinance. Neither of the applications was in the Coastal Zone, but given the potential wind resource within the County's coastal areas, we consider it likely that such an application could be forthcoming.

The County requests that you as Executive Director find the proposed Coastal Ordinance to be a *de minimis* or minor amendment to the County's Local Coastal Plan. As noted, state law makes approval of some of these systems a matter of right if a local agency has not adopted an ordinance by July 1, 2002. To ensure that the County meets that deadline, we ask that you consider this request one requiring rapid action. To assist you in your consideration, I have attached the following items:

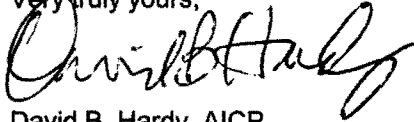
- The draft Board of Supervisors resolution authorizing submittal of the amendment
- A copy of the Coastal Zoning Ordinance amendment adopted by the Board
- The staff reports on the ordinance amendments.

You will note that no environmental document was prepared, and that the Board found the amendments to be categorically exempt pursuant to CEQA Guideline Sec. 15308. The proposed amendments provide regulation that does not currently exist for structures that have special state authorization and funding and that are currently allowed uses pursuant to state law and as accessory structures to permitted uses. After consulting with your staff, the ordinance was drafted so that the height limit of the wind towers would be tied to the existing permitted height limits of the use to which the wind energy system would be appurtenant.

Mr. Peter Douglas
May 22, 2002
Page 2 of 2

I appreciate your cooperation and that of your staff in this matter. When the Board of Supervisors acts upon the formal resolution of submittal, I will forward it to your office by overnight mail. If you have any questions regarding this or need more information, please do not hesitate to call me at (707) 565-1924.

Very truly yours,



David B. Hardy, AICP
Project Planner

cc: Pete Parkinson, PRMD Interim Director
Steve Scholl

Att.

Resolution Number

County of Sonoma
Santa Rosa, California

DRAFT

June 4, 2002
PLP 02-0024 David Hardy

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF SONOMA, STATE OF CALIFORNIA, AUTHORIZING SUBMISSION OF A MINOR AMENDMENT TO THE LOCAL COASTAL PLAN AND COASTAL ZONING ORDINANCE TO REGULATE THE PERMITTING AND SITING OF SMALL WIND ENERGY SYSTEMS.

WHEREAS, the California Legislature approved AB1207 regarding Small Wind Energy Systems, and the Governor has signed the new law, codified as Government Code Section 65892.13, which, if local governments do not adopt conforming regulations by July 1, 2002, will allow certain wind generators by right until a local government adopts such conforming regulations; and

WHEREAS, the Board of Supervisors directed staff to prepare a Coastal Zoning Ordinance amendment to regulate the permitting and siting of small wind energy systems in the Coastal Zone; and

WHEREAS, the proposed ordinance has been reviewed pursuant to the California Environmental Quality Act and determined exempt from CEQA under Section 15308, Actions by Regulatory Agencies for protection of the environment; and

WHEREAS, a 1/8th page notice of the public hearings were published in the Santa Rosa Press Democrat, a newspaper of general circulation within the affected area of the ordinance, on April 2, 2002; and

WHEREAS, at their regularly scheduled and duly noticed meeting on May 2, 2002, the Planning Commission, held a public hearing on the proposed ordinance, and although members of the public listened to the presentation, no public member spoke regarding the ordinance, and with a 5-0 vote the Planning Commission recommended that the Board of Supervisors approve the amendments; and

WHEREAS, interested members of the public, the wind energy industry, and Coastal Commission staff were consulted in the preparation of the ordinance and were notified of the hearing, and a copy of the draft ordinance was available at the public library in downtown Santa Rosa; and

WHEREAS, in accordance with the provisions of law, a duly noticed public hearing was held on May 14, 2002, by the Board of Supervisors at which time all interested persons were given an opportunity to hear and be heard; and one member of the public, Mr. Harlan Kant, spoke to the Board and asked the Board to make the permitting process more streamlined and affordable to be consistent with the intent of the new state law; and

WHEREAS, the Board of Supervisors makes the following findings:

1. A new state law (Government Code Section 65892.13) intended to further the development of alternative energy systems, and to encourage construction of small wind energy systems that use turbines to create electricity, would allow by right the installation of small wind energy system towers up to 80 feet tall, subject to certain criteria, if a local jurisdiction does not adopt an ordinance to regulate small wind energy systems by July 1, 2002.
2. The Sonoma County General Plan Resource Conservation Element encourages alternative energy systems that are compatible with environmental quality, including visual and biotic

resources, and authorizes the preparation of guidelines for development of various potential energy sources, including wind resources.

3. The General Plan states that wind tower projects in a designated community separator, scenic corridor, scenic landscape unit, or in the coastal area should require a visual analysis to determine project impacts and mitigation measures.
4. The Sonoma County Local Coastal Plan contains policies to protect the scenic vistas along the coastline, including design review of projects subject to a coastal permit.
5. The proposed ordinance will implement the scenic and visual resource protections of the General Plan and the Local Coastal Plan policies as they apply to proposed small wind energy systems, and will not result in a relaxation of standards enacted to prevent degradation of the environment.
6. The proposed Coastal Zoning Ordinance amendment may be considered minor in nature because it does not propose any change in land use or any change in the allowable use of property and sets standards for regulating uses already permitted by law.
7. The proposed ordinance is consistent with the General Plan and its policies and the Local Coastal Plan and its policies.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors authorizes staff to submit this proposed ordinance amendment forthwith to the California Coastal Commission and designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

BE IT FURTHER RESOLVED that the County of Sonoma submits this amendment to Zoning Code Section 26C of its Local Coastal Program as an amendment that: (a) will take effect immediately upon Executive Director or Commission approval without suggested modifications; or (b) will require formal local government action after Commission approval with suggested modifications. The County of Sonoma hereby certifies that it will carry out its Local Coastal Program in conformity with the Coastal Act.

SUPERVISORS VOTE:

Cale: Smith: Kelley: Reilly: Kerns:

Ayes: Noes: Absent: Abstain:

SO ORDERED.



COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

EXHIBIT NO. 3

APPLICATION NO.
SONOMA COUNTY LCP
Amendment (Major)
No. 1-02

(Page 1 of 9)

DATE: May 14, 2002 at 2:15 p.m.

TO: Board of Supervisors

FROM: David Hardy, Project Planner

SUBJECT: PLP 02-0024, Small Wind Energy System Ordinance

Action of the Planning Commission:

At its regularly scheduled meeting on May 2, 2002, the Planning Commission, with a 5-0 vote, recommended that the Board of Supervisors adopt the proposed Zoning Ordinance and Coastal Zoning Ordinance amendments to regulate the permitting and siting of small wind energy systems pursuant to Government Code 65892.13, with modifications.

The revised draft amendments dated May 6, 2002, in the Board packet (Attachment pages 1-18) reflect the changes recommended by the Planning Commission, with deletions in ~~strike-out~~ and additions in *italics*. The draft amendments dated April 18, 2002, are those submitted to the Planning Commission.

ISSUES DISCUSSED AT THE PUBLIC HEARING

Issue #1: Consistency with Coastal Zoning Ordinance

Discussion

After the staff report was prepared, staff had further discussions with Coastal Commission staff regarding the state's processing of the proposed Coastal Zoning Ordinance amendment. Commission staff was concerned that the ordinance not allow more intense uses than currently permitted, i.e. allowing a 35 foot tall structure as a permitted use in a zone district where the existing height limit is 16 feet or 24 feet. Coastal Commission staff suggested that the permitted use height limit for a small wind energy system be equal to the height limit for which the use is appurtenant. So, if the system is in a residential zone with a 16 foot height limit, the tower could only be 16 feet tall. If the system was in an agricultural district east of Highway 1 and providing electricity for agricultural uses, then the tower could be 50 feet tall. Systems exceeding these limits would require a use permit and would be subject to the 65 and 80 foot maximum height limits applicable outside the Coastal Zone.

Resolution

Language to enact this concern is contained in the revised draft submitted for the Board's consideration. The new permitted use language in Sections III and IV reads: "Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8 *and the height limit of the use (residential, commercial, or agricultural) to which the system is appurtenant.*"

Issue #2: Removal upon Termination of Use

Discussion

The Commission expressed concern that the draft Ordinance does not provide for removal of a small wind energy system when it is no longer being used.

Resolution

An additional standard has been added to Section VI (c) to require removal upon termination of use. This language is derived from the County Telecommunications Ordinance.

Issue #3: Periodic Review

Discussion

The draft Ordinance provides for a five year review by staff in a report to the Board. Commissioners noted that the state law sunsets in three years (July 1, 2005). It was also noted that the Census Bureau's mapping of "urbanized areas" is not complete. Commissioners suggested that instead of waiting five years to review the ordinance, that perhaps a review within one year would be more appropriate.

Resolution

Staff concurs that a review earlier than five years is appropriate, and suggests that the PRMD Director bring the matter to the Commission in the latter half of 2003, depending upon the number of applications received and other changed circumstances. In addition, the Ordinance has been revised to require review within three years, which would be prior to the state's sunset provision.

Issue #4: Visual Impacts and Siting

Discussion

Commissioners expressed concern about visual impacts and siting. One Commissioner was concerned about a situation where a zone district in which a wind tower would be a permitted use is surrounded by a zone district where it is prohibited. Another Commissioner asked that consideration be given in application requirements Section VI (d) (8) to requiring visual analysis in areas defined as "expanded green belt" as defined in the Open Space District's Acquisition Plan 2000.

Staff notes that the standards regarding visual resources (#13 through 16) are derived from the General Plan. Staff would also observe that where zoning districts meet, there are likely to be uses permitted in one district that are prohibited in the adjacent district. With regards to the proposed Ordinance, it is important to remember that even where a wind energy system is a permitted use, it is still subject to notice to property owners within 300 feet of the parcel on which the system is located. Regarding the Open Space plan language, staff expressed concern about using the Open Space District's Acquisition Plan as the basis for regulatory determinations.

Resolution

The Commission recommended that the draft ordinance be modified to use the Open Space District's "expanded greenbelt areas" as one of the criteria for requiring expanded visual impacts. Staff and County Counsel will confer with legal counsel for the Open Space District regarding this recommendation and we will provide additional information at the May 14 hearing.

List of Attachments:

Draft Board of Supervisors C.E.Q.A. Resolution
Draft County Zoning Ordinance Amendments
Draft County Coastal Zoning Ordinance Amendments
Planning Commission Minutes dated May 2, 2002
Planning Commission Staff Report dated May 2, 2002
Planning Commission Resolution No. 02-020



Sonoma County Planning Commission STAFF REPORT

Sonoma County Permit and Resource Management Department
2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

FILE: PLP 02-0024
DATE: May 2, 2002
TIME: 2:30 p.m.
STAFF: David Hardy

Board of Supervisors hearing on
May 14, 2002 at 2:15 p.m.

SUMMARY

Applicant: County of Sonoma

Location: Countywide and Coastal Zone
All APN

Subject: Small Wind Energy System Ordinance

PROPOSAL: Zoning Ordinance and Coastal Zoning Ordinance amendments to regulate the permitting and siting of small wind energy systems pursuant to Government Code 65892.13.

Environmental Determination: Categorically Exempt under CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

General Plan: All Designations

Specific/Area Plan: All

Land Use:

Ord. Reference: Section 26-88-135 (New)

Zoning: All

RECOMMENDATION: Recommend that the Board of Supervisors adopt the proposed Zoning Ordinance amendment and Coastal Zoning Ordinance amendment.

ANALYSIS

Background:

Last year, the state Legislature approved and the Governor signed into law AB 1207, regulating small wind energy systems. These are typically pole- or tower-mounted small turbine generators creating electricity to be used at a person's home, farm, or business, and not for offsite uses or sale. Sponsored by the wind energy industry, the legislation is intended to foster development of this alternative energy source. The new law, Government Code Section 65892.13, will require local governments to approve certain wind energy facilities up to 80 feet in height outside of "urbanized areas" by right if a local government does not adopt an ordinance by July 1, 2002. The legislation sets certain standards that local governments must adhere to, but leaves the issues of aesthetics and visual impacts for local governments to regulate. If a local ordinance is adopted, state law allows local government to require a use permit for small wind energy systems.

This proposed Ordinance would implement the provisions of AB1207 and regulate the location and permitting of small wind energy systems, which are those eligible for the California Energy Commission's Emerging Renewables Fund that subsidizes turbines that generate 10 kilowatts or less of electricity. It does not apply to the classic windmill that converts wind energy to mechanical energy to pump water on farms, nor does it apply to "wind farms" with more than one tower per site, such as the Altamont Pass in Alameda County. A wind farm would be regulated by the County as a "public service facility." Also, the Ordinance does not apply to the wind machines used in vineyards to prevent frost damage, since these machines convert mechanical energy into kinetic wind energy, the reverse of a wind turbine generator.

As the Legislature considered AB 1207 last year, and as two applications for these wind turbine generators were filed with PRMD, staff presented the Board of Supervisors and the Planning Agency with criteria for processing wind energy facilities. The proposed Ordinance generally follows those guidelines, especially as to how the projects would be treated in certain zoning districts. Staff has contacted several other counties as to their approach to wind energy systems. The result is that the proposed Ordinance encompasses the basic approach set forth in the memorandum to the Board of Supervisors dated May 22, 2001, as well as visual resource protection policy language from the General Plan, the Local Coastal Plan, and other counties.

The pre-emptive aspects of AB 1207 (G.C. 65892.13 (f)) apply only to small wind energy systems on parcels at least one acre in size and "outside an 'urbanized area'." AB 1207 leaves to local government the decision of whether to permit the systems within the "urbanized area." The administrative problem is defining an "urbanized area" because the definition relies upon U.S. Census Bureau data that is either outdated (from the 1990 Census) or is not yet available from the 2000 Census in an easily accessible format. The Census Bureau is projecting release in late 2002 of maps in a computerized Adobe Acrobat graphics format on the Internet. The proposed Ordinance simplifies matters by excluding the wind energy systems from areas zoned R1, R2, R3, and PC, since those are generally found in urbanized areas.

Project Description:

The Ordinance allows wind turbine generators up to 80 feet in height on a parcel of five acres or more, up to 65 feet on a parcel less than five acres, and prohibits their installation on parcels less than one acre in size regardless of zoning district. The Ordinance provides for setbacks equal to the system height, and sets criteria to minimize visual impacts in scenic areas and the Coastal Zone, including screening. The Ordinance sets forth a series of 18 standards with which a project must comply in order to be approved. These standards are intended to minimize impacts, especially visual impacts, to insignificance so that these projects would be exempt from environmental review. Depending upon the height and location of a proposed facility, the ordinance requires facilities to obtain either a Use Permit or a Zoning Permit with noticing to properties within 300 feet, and, in the Coastal Zone, a Coastal Permit and Design Review or a Use Permit.

The proposed Ordinance prohibits small wind energy systems in the R1, R2, R3, and PC districts because these districts generally have smaller parcels and are generally within "urbanized areas" where they aren't required to be permitted by the new state law. For inland areas, small wind energy systems up to 65 feet or 80 feet (depending on parcel size) could be permitted with a zoning permit with noticing in the following zoning districts: CO, C1, C2, C3, LC, RC, AS, K, MP, M1, M2, M3, PF. Small wind energy systems between thirty five (35) feet and 65 or 80 feet in height would require a use permit in the following zoning districts: LIA, LEA, DA, RRD, RRDWA, TP, AR, RR. These zoning districts are generally consistent with the Board of Supervisors' direction last year. Upon further consideration, staff is now suggesting that facilities 35 feet or less, which is the regular height limit in most zoning districts and a common height of utility poles, be subject only to a zoning permit with noticing in all zone districts except the R1, R2, R3 and PC, where they are prohibited.

In the Coastal Zone, small wind energy systems would be permitted subject to obtaining a zoning permit and coastal permit with noticing in the following coastal zoning districts: CS, CT, C2, AS, CF, PF. Small wind energy systems thirty five (35) feet or less in height would be permitted in all zone districts (except

R1, R2, and PC, where they are prohibited) subject to obtaining a coastal permit and zoning permit with noticing. Small wind energy systems greater than thirty five (35) feet in height would require a use permit and coastal permit in the following zoning districts: LIA, LEA, DA, RRD, RRDWA, TP, AR, RR. Design Review is required in all zoning districts, in accord with the existing provisions of the Coastal Zoning Ordinance as well as the view protection policies of the Local Coastal Plan.

Small wind energy systems are precluded from sites located within a Scenic Corridor identified by the Open Space Element of the General Plan; in an Alquist-Priolo Earthquake Fault Zone; on the National Register of Historic Places; and where prohibited by a conservation, open space, or agricultural easement or Williamson Act contract.

DISCUSSION OF ISSUES

Issue #1: General Plan Consistency

The Ordinance contains provisions to mitigate visual impacts, making it consistent with the policies of the Open Space Element of the General Plan (i.e., OS-2e regarding siting near exposed ridgelines. See Issue #3 below). The Ordinance furthers the policy goal RC-12 of the Resource Conservation Element to develop alternative energy sources "which are compatible with environmental quality, including visual and biotic resources." The Ordinance is consistent with Objective RC-12.1 to "Prepare guidelines for development, management and conservation of various potential energy sources, including...wind resources." The Ordinance is consistent with policy RC-12g which states: "Consider visual impacts in reviewing any discretionary wind...tower project in a designated community separator, scenic corridor, scenic landscape unit, or in the coastal area. Require a visual analysis to determine project impacts and mitigation measures."

Small wind energy systems must comply with the noise standards of the General Plan Noise Element, and the applicant must provide evidence of that.

Issue #2: Application in the Coastal Zone

AB1207 provides that "A small wind energy system shall not be allowed *where otherwise prohibited by any of the following*:

- (A) A local coastal program and any implementing regulations...
- (B) The California Coastal Commission, pursuant to the Coastal Act...."

Currently, the Local Coastal Plan (LCP) does not specifically address small wind energy systems and does not prohibit them outright. Nevertheless, a small wind energy system is clearly within the LCP definition of "development" and so a coastal permit and the LCP policies would apply. Staff at the Coastal Commission is currently reviewing the matter and has tentatively opined that a facility would be subject to a Coastal Permit and the provisions of an LCP relevant to the location of a proposed facility.

Of greater concern is the ability to make this proposed Ordinance effective in the Coastal Zone prior to the July 1, 2002 deadline. A Coastal Zoning Ordinance amendment is not fully effective until ratified by the Coastal Commission, which is unlikely to act on this prior to July 1.

Government Code Section 65892.13 (f)(12), which is the subdivision discussing what happens if an ordinance is not in place by July 1, 2002, states "No other local ordinance, policy, or regulation shall be the basis for a local agency to deny the siting and operation of a small wind energy system under this subdivision." Coastal Commission staff has noted that local governments act as "quasi State agencies" with regard to administration of the Local Coastal Plan and the Coastal Act, and that therefore, the County may still have a basis to deny a project in the Coastal Zone that does not meet the standards set forth in the LCP.

Issue #3: Scenic Resource Protection

Scenic resource protection is an area where it appears the Legislature has left local governments some discretion. The new law states that an ordinance "may impose conditions on the installation of small wind energy systems that include, but are not limited to... *view protection, aesthetics...*" AB 1207 does not have language limiting what the County can do in this regard—unlike the restrictions placed on setbacks, height, etc. In the proposed Ordinance, the critical language is found in standards 13 through 16 which provide that a small wind energy system shall be located so that: it does not project above the top of visually prominent ridgelines; it uses natural land forms and vegetation for screening; it does not significantly impair a scenic vista from a County or State designated scenic corridor or scenic vista on the Coastal Visual Resource Maps; and it is painted a non-reflective color to blend with the background landscape. Project sites located on properties with an SR zoning or on a property adjacent thereto must provide a visual analysis.

Coastal Act Section 30251 provides "...Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...." Visual Resource policies 1, 2, and 3 of the Sonoma County Local Coastal Plan implement this state law and provide a means to mitigate potential project impacts. LCP Policies 19 and 20 set forth further procedural means (i.e. design review) to prohibit development that would degrade scenic qualities. The Coastal Zoning Ordinance is more restrictive than the inland ordinance in this regard, with Design Review required to ensure consistency with the LCP policies.

Widespread utilization of small wind energy systems is a potential concern, however, there are some practical as well as regulatory constraints. First, the small wind systems can cost \$40,000 or more, and the cash outlay is substantial, even with the California Energy Commission subsidies. Second, there can only be one small wind energy system per parcel under the Ordinance, and the parcel must be at least an acre in size. Third, the systems are not going to work everywhere because of the topographic variations. If there is not enough wind on one's parcel, or the topography precludes siting, then the system will not make practical sense.

Issue #4: Environmental Review

Staff considers adoption of the Ordinance exempt from environmental review pursuant to Section 15308 of the CEQA Guidelines, Actions by Regulatory Agencies for Protection of the Environment, which states: "Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption." The proposed Ordinance involves "procedures for the protection of the environment," specifically protection of the County's scenic resources pursuant to the General Plan and the Local Coastal Plan. In the absence of adoption of this Ordinance, the baseline environmental condition would be the state regulatory scheme requiring that the County approve any small wind energy system application meeting the criteria of the new state law whose pre-emptive provisions take effect July 1, 2002.

While AB 1207 gives local agencies the discretion to require, and therefore to deny, a conditional use permit, the basis to deny a conditional use permit under AB 1207 would appear to be limited to lack of conformance with the standards set forth in the state law, in the absence of local criteria established by ordinance. The Ordinance can require visual analysis; it requires screening when necessary; it provides a requirement to paint facilities to blend with their background; it prohibits ridge top facilities; and it provides greater discretion regarding placement in sensitive viewsheds than the state law. Even where the Ordinance allows small wind energy systems as a permitted use, the standards apply. A project that does not meet the County standards is prohibited. Even a project entitled to a zoning permit under this Ordinance will be subject to greater standards than a pre-empted project obtaining a conditional use permit subject only to the criteria of state law. Since there is greater environmental protection by adoption of this Ordinance with its scenic resource protection standards than would occur otherwise under state

law, categorical exemption under CEQA is appropriate for adoption of this Ordinance. The Ordinance imposes standards; it does not relax them.

With regard to PRMD's processing applications for small wind energy systems, staff recommends that they generally be treated as Categorically Exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines as New Construction of Small Structures. Examples of the exemption include but are not limited to single family dwellings, small apartment buildings, commercial buildings up to 10,000 square feet in size in urbanized areas, and accessory structures. The application of CEQA to alternative energy projects is considered in a report prepared by the staff of the California Energy Commission on "Distributed Generation CEQA and Permit Streamlining." (Wind energy projects are considered within the scope of "distributed generation" (DG) projects, as are solar power, photovoltaic electrical generation, and co-generation facilities.) With reference to Section 15303 of the CEQA Guidelines, the CEC staff writes: "It does not state specifically that DG facilities would qualify as small new equipment and facilities in small structures, but certain types of DG may qualify if they have small footprints and the site's zoning allows power generation to occur there." One characteristic of the small wind energy system is a small footprint, certainly for the tower itself, and the electrical generation is narrowly limited to being appurtenant to an existing use on the property.

Nevertheless, there may be situations where a categorical exemption is not appropriate. CEQA Guidelines Section 15300.2 prohibits the use of a Categorical Exemption whenever there is a reasonable possibility that the project could have a significant impact. In such cases, an initial study will identify potential issues and the means to mitigate a potential impact.

Issue #4: Scope of Regulation

AB1207 provides that a local ordinance "...*may* impose conditions on the installation of small wind energy systems that include, but are not limited to, notice, tower height, setback, view protection, aesthetics, aviation and design safety requirements. However, the ordinance *shall not* require conditions on notice, tower height, setbacks, noise level, turbine approval, tower drawings, and engineering analysis, or line drawings that are more restrictive than..." the criteria set forth in the law. The proposed Ordinance adheres to the statutory restrictions in the legislative list.

The Legislative Counsel's Digest of the bill suggests that local agencies *must* approve these systems. "This bill would also require a local agency to approve an application for a small wind energy system by right if specified conditions are met...." The Legislative Analysis of the bill provides the following observation:

"If a city or county adopts a local ordinance under AB1207, local officials can require applicants to obtain conditional use permits before they set up towers and turbines outside urbanized areas. If an applicant meets the statute's requirements, then local officials must issue the conditional use permit. But the concept of a use permit necessarily implies the power to deny an application. If an applicant fails to adhere to the bill's requirements, local officials can still deny the permit."

It is important to note that AB 1207 was amended numerous times in the State Senate, and it appears that the Legislative Counsel text and perhaps the legislative analysis did not keep pace with all of the amendments. The key point is that the statute provides that a local ordinance "may impose conditions ... that include...view protection [and] aesthetics," which this Ordinance does.

STAFF RECOMMENDATION

Recommend that the Board of Supervisors approve the proposed Zoning Ordinance amendment and Coastal Zoning Ordinance amendment.

LIST OF ATTACHMENTS

- EXHIBIT A: Proposed Zoning Ordinance Amendment
 - EXHIBIT B: Proposed Coastal Zoning Ordinance Amendment
 - EXHIBIT C: Text of AB1207 (Government Code Section 65892.13)
 - EXHIBIT D: Table of Zone Districts
 - EXHIBIT E: Advertisement for a Small Wind Turbine
 - EXHIBIT F: Draft Resolution
-

Bodega Harbour. Bodega Harbour Subdivision located just south of Bodega Bay is a second home development begun in 1969. Development is proceeding at a steady pace.

This subdivision has a design review procedure which is evident in the development which has occurred. The residences relate to one another with few homes dominating.

Structures are large one-and-a-half to two-story structures with unpainted wood exteriors and varied modern architectural designs. To establish a continuity of design between homes, the design guidelines require that roof slopes conform to those established by existing adjacent structures. The community also encourages architectural forms of new homes to relate to adjacent structures. This strategy goes a long way toward providing a sense of design unity. Other unifying features are a 16 foot height limit, size limits, and indigenous landscaping guidelines. Fences are used for screening of service yards and not to delineate property boundaries. Grading must be minimized. Roofs, trim, and driveways are of dark, non-reflective materials. Garages and other accessory buildings must relate to the main structure on the site and be physically connected.

Valley Ford. Valley Ford received its name from the fact that an old Indian and Spanish ford across the Estero Americano was located there. This historic community has evolved over the years and has no distinct architectural theme. Styles include Greek Revival, Queen Anne, Western Falsefront, Italiante, and bungalow. Many of the existing buildings date to the 1870's and 1880's. Several have been identified as worthy of landmark status.

RECOMMENDATIONS

View Protections

1. Prevent development (including buildings, structures, fences, paved areas, signs, and landscaping) from obstructing views of the shoreline from coastal roads, vista points, recreation areas, and beaches.
2. Prohibit development which will significantly degrade the scenic qualities of major views and vista points.
3. Except in rural community and urban service areas, require a minimum setback of 100 feet from the right-of-way along scenic corridors and greater where possible. However, permit a 50 foot setback when sufficient screening exists to shield the structure from public view. Where the General Plan policies and standards are more restrictive than the above standards, development shall comply with the General Plan or Coastal Plan policies, whichever are more restrictive, provided that no development shall be approved which does not comply with Coastal Plan policies.

Alterations of Landforms

4. Minimize visual destruction of natural landforms caused by the cutting, filling, and grading for building sites, access roads and public utilities by:

Concentrating development on level areas so that steeper hillsides are left undisturbed.

Prohibiting new development which requires grading, cutting, or filling that would significantly and permanently alter or destroy the appearance of natural landforms

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Restoring landforms as completely as possible after any permitted temporary alteration during construction, timber harvesting, or mineral extraction

Constructing roads, buildings, and other structural improvements to fit the natural topography

Sharing private roads and driveways

Landform Guidelines

5. Minimize visual impact of development on hillsides by:

Requiring construction or grading to follow the natural contours of the landscape

Prohibiting development and grading on hillsides with grades more than 30 percent

Designing structures to fit hillside sites rather than altering the landform to accommodate buildings designed for level sites

Concentrating development near existing vegetation

Promoting roof angles and colors which blend with hillsides

6. Minimize the visual impacts of development on terraces by:

Prohibiting development in open fields in rural areas

Minimizing the number of structures and clustering them near existing natural or man-made vertical features

Designing structures to be in scale with the rural character of the region

7. Minimize the visual impact of development on ridges by:

Prohibiting development in rural areas that projects above the ridgeline silhouette

Locating development adjacent to existing vegetation

Prohibiting the removal of tree masses which destroy the silhouette of the ridgeline form

8. Minimize the visual impact of development on inland valleys by:

Concentrating development within existing communities

Requiring development outside of communities to be located on the edge of the valley or within existing tree clusters leaving the valley floor and agricultural land open

Natural Landscape Compatibility

9. Locate and design development to fit the setting and to be subordinate to the pre-existing character of the site.

Community Compatibility

10. Design structures to be compatible with existing community characteristics.
11. Relate structures in size and scale to adjacent buildings.
12. Locate and design all development to minimize the impacts of noise, light, glare, and odors on adjacent properties and the community at large.

Utilities

13. Require that all new distribution line extensions be placed underground.

Vegetation

14. Discourage the removal of significant trees except through legitimate logging operations.
15. Locate and design new development to minimize tree removal.
16. Prohibit removal of windbreaks unless required because of the disease.
17. Prohibit the planting of vegetation west of Highway 1 which could block coastal views.
18. Encourage the use of appropriate native plants for landscaping. A Native Plant List for the Sonoma County Coast will be made available at Sonoma County PRMD.

Procedure

19. Require design review for all new development in Urban and Rural Community Service areas. This requirement may be waived by the Director of PRMD on parcels not visible from and east of Highway 1.
20. Require design review for:
 - A. All new development within designated scenic view shed areas as depicted on the Coastal Visual Resource Maps (incorporated herein by reference and on file in County PRMD. The following criteria shall be used in evaluating the projects:
 1. New structures proposed within a scenic view shed area shall, to the maximum extent feasible, be designed and sited to preserve existing views of the ocean and shoreline as viewed from scenic corridor routes.
 2. New structures proposed within a scenic view shed area shall, to the maximum extent feasible, be screened from scenic corridor route view by existing topography and vegetation.
 3. Development authorized within scenic view shed areas shall be subject to the condition that neither topography nor vegetation shall be altered or removed if doing so would expose the development to view from any scenic corridor route.

4. New structures shall not be located on ridgelines or prominent hilltops, as viewed from scenic corridor routes, unless screened by existing topography and/or vegetation.
 5. Agricultural structures are exempted from scenic view protection policies if they are to be located landward of scenic corridor routes from which there are ocean or river views.
 6. Development proposed upon a parcel mapped in more than one view shed rating category shall, whenever feasible, be located within the area with the lowest view rating.
 7. Any satellite dish that requires a building permit shall be sited so that it is not visible from scenic corridor routes.
 8. Subdivisions proposals within scenic view shed areas shall be subject to the following: a) lots shall be clustered where potential visual impacts can be reduced (unless clustering is prohibited in agricultural districts), b) building envelopes shall be established so that residences are located upon the least visually sensitive areas, and c) driveways and access roads are hidden from public view whenever feasible.
- B. All new projects in areas mapped as Outstanding and Above Average View Areas on the Coastal Visual Resource Maps (incorporated herein by reference and on file in the County Planning Department). The following criteria relate to landform and vegetation categories identified on the View shed Composition Maps, and shall be used in evaluating the projects. Figures on Figure VII-10 graphically depict a number of the View shed Protection Criterion and policies.

Hillside/Woodland Location

1. Locate structures within or behind existing wooded areas such that they are screened from scenic corridor routes.
2. Retain existing trees to the maximum extent possible when locating structures. Removal of tree masses, which would interrupt or destroy ridgeline or hilltop silhouettes, is prohibited. Permits shall specify that existing vegetative screening shall not be pruned or removed if doing so would render the structure more visible from a scenic corridor route.
3. In order to ensure structures are integrated well into the landscape and to minimize the incidence of unsightly erosion scars, the applicant shall demonstrate that the amount of grading proposed is the minimum necessary to site the structure.

Cliffs and Bluffs Location

1. Locate structures within or behind existing tree cover such that they are screened from scenic corridor routes. When there is limited opportunity to screen proposed structures from scenic corridor routes, design review shall ensure that:
 - a) the structure's design compliments and is in scale with the surrounding environment.
 - b) if possible, structures shall be screened by using alternative siting or existing landforms,
 - c) when no other measures to screen development from scenic corridor routes are feasible, a landscape design is developed that relies upon native tree and shrub species to (1) screen the structure but not grow to block ocean or coastline views, (2) integrate the man-made and natural environments, and (3) effectively screen the structure from the scenic corridor route within 5 years.

Terrace/Grassland Location

Inland Valley Location

1. Locate structures near existing vegetation or topographic relief to screen them from the scenic corridor routes. When there is limited opportunity to screen proposed structures from scenic corridor routes, design review shall ensure that:
 - a) the structure's design complements and is in scale with the surrounding environment and existing community characteristics.
 - b) if possible, structures shall be screened by using alternative siting or existing landforms,
 - c) when no other measures to screen development from scenic corridor routes are feasible, a landscape design is developed that relies upon native tree and shrub species to: (1) screen the structure but not, over time, grow to block ocean or coastline views from scenic corridor routes, (2) integrate the man and natural environments, and (3) effectively screen the structure from the scenic corridor route within 5 years.

Terrace/Woodland Location

1. Locate structures within or behind existing wooded areas such that they are screened from scenic corridor routes.
2. Retain existing trees to the maximum extent possible when locating structures. Permits shall specify that existing vegetative screening shall not be pruned or removed if doing so will render the structure more visible from a scenic corridor route.

Hillside/Grassland Location

1. Locate structures near existing vegetation or topographic relief to maximize screening from the scenic corridor routes. When there is limited opportunity to screen proposed structures from scenic corridor routes, design review shall ensure that:
 - a) the structure's design compliments and is in scale with the surrounding environment and existing community characteristics.
 - b) if possible, structures shall be screened by using alternative siting or existing landforms,
 - c) when no other measures to screen development from scenic corridor routes are feasible, a landscape design is developed that relies upon native tree and shrub species to: (1) screen the structure but not grow to block ocean or coastline views, (2) integrate the man-made and natural environments and, (3) effectively screen structures from the scenic corridor route within 5 years.

2. When structures are proposed near ridgelines or prominent hilltops where there is insufficient vegetation to screen them from scenic corridor routes, they shall be located and designed so that they do not project above ridgeline or hilltop silhouettes.

3. In order to ensure structures are integrated well into the landscape and to minimize the incidence of unsightly erosion scars, the applicant shall demonstrate that the amount of grading proposed is the minimum necessary to site the structure.

21. Require compliance with community design guidelines, when applicable, or the overall Coastal Zone Design Guidelines.

22. Apply Coastal Zone Design Guidelines to all new coastal zone development in areas described in 19. and 20. except Bodega Harbour subdivision and The Sea Ranch. The guidelines apply to Bodega Bay town with the amendments described in 26.

23. Encourage formation of local design review committees to apply the Coastal Zone Design Guidelines.

24. Encourage adoption of local design criteria to augment or replace the Coastal Zone Design Guidelines, subject to County Design Review Committee review and approval.

Design Guidelines

25. Coastal Zone Design Guidelines

General. Design and site structures to preserve unobstructed broad views of the ocean from Highway 1 and to minimize visual impacts. Cluster structures to the maximum extent feasible.

Height. Limit residential building height to 16 feet west of Highway 1. However, an increase in height, to a maximum of 24 feet, is permissible if (1) the structure is no higher than 16 feet above

the corridor route grade directly across from the building site, and (2) the structure will not affect views to the ocean or be out of character with surrounding structures.

Limit building height to 24 feet east of Highway 1. However, an increase in height to a maximum of 35 feet is permissible if (1) the structure is no higher than 24 feet above the corridor route grade directly across from the building site, and (2) the structure will not affect water views, or be out of character with surrounding structures.

Height for residential structures is measured as the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof. (See Figure VII-11.) Where these requirements conflict with the height, site, and bulk criteria of Appendix B (Bane Bill), for those properties listed, the requirements of Appendix B shall be followed.

Bulk. Keep buildings in scale with their natural and man-made setting.

Siting. Utilize natural landforms and vegetation for screening. Minimize the alteration of natural landforms caused by grading, cutting, or filling. Prescribe building envelopes for lots west of Highway 1 in Timber Cove and other appropriate areas.

Building Materials and Color. Use natural materials and earth colors which blend with the vegetative cover of the site unless the building is a historic reproduction, in which case colors should be in keeping with the historic style. Encourage use of non-reflective exterior surfaces. Encourage composition shingle and shake roofs in harmonizing colors with the building exterior. Dark colors are preferred. Discourage tar and gravel roofs. Discourage metal window frames unless they are bronze anodized aluminum or baked enamel. Encourage dark and non-reflective driveway materials. To maintain natural drainage flows, the use of impervious material should be minimized.

Architectural Form. Encourage traditional architectural styles of the coast in older development areas and contemporary styles in newer subdivisions. Encourage pitched roofs and relate roof slopes to existing nearby buildings. Relate the architectural shape and style of new buildings to existing nearby structures and natural features. Design accessory buildings to be consistent with the main building architectural character, materials, and finishes.

Landscaping. Use indigenous plant materials in areas visible from public roads. Protect existing vegetation where possible. Utilize plant materials to integrate the man-made and natural environments and to screen and soften the visual impact of new development. Use landscaping to screen parking areas from public view. Landscape, grade, and fill areas as soon as possible to minimize soil erosion.

Fences. Discourage property line fences to minimize visual disruption of the natural terrain. Design fences as extensions of the main house. Materials should be the same as, or complimentary to, the building. Six foot fences are intended to be used only for screening of service yards, etc., and for privacy purposes.

Commercial. Design buildings which are compatible with the predominant design of existing buildings in the area and are of wood or shingle siding. Buildings should employ natural or earth colors, and use pitched, non-reflective roofs unless they are historic reproductions. Require that exterior lighting be functional, subtle, and architecturally integrated with the building style, materials, and colors. Limit maximum height to 24 feet unless the greater height will not have effect on coastal views and there are overriding considerations. Height for commercial structures

is measured as the vertical distance between the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof. Screen parking areas from view through use of plantings, design, and siting.

In Bodega Bay, reflect the nautical character of the harbor with wooden exteriors, stained or painted white or subdued earth colors. For heavy, commercial structures, permit textured metal in subdued colors with proper architectural detailing and landscaping to add visual interest and soften building lines.

Agricultural Structures. Locate large agricultural structures out of public view when possible. Encourage designs and materials which blend with the natural vegetative cover.

Signs. Relate signs to their surroundings in terms of size, shape, color, texture, and lighting so that they are complimentary to the overall design of the building and are not in visual competition with other conforming signs in the area. Insure that signing is subtle, unobtrusive, vandal proof and weather resistant, and if lighted, not unnecessarily bright. Avoid using struts, braces, kickbacks, or guy wires to support signs.

26. **Bodega Bay Core Area** (includes Taylor Tract and the residential area between Taylor Tract, Highway 1 and the proposed bypass). In addition to the Coastal Zone Design Guidelines, the following guidelines will be applied to Bodega Bay development. (Where conflicts occur, these guidelines supersede the general guidelines).

General. Site and design structures to take advantage of bay views without blocking views of neighboring structures.

Architectural Form. Encourage traditional building forms of coast buildings including Greek Revival, Salt Box, and simple cottage styles similar to existing homes. Encourage pitched roofs. Flat roofs may be appropriate where compatible with existing structures. Where a building is between two existing structures, the design should act as a transition between the two existing structures.

Height. Limit building height to 16 feet except that in major developments up to 15% of the units may exceed the height limit. Height for residential structures is measured as the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof. (See Figure VII-11.) Where these requirements conflict with the height, site, and bulk criteria of Appendix B (Bane Bill), for those properties listed, the requirements of Appendix B shall be followed.

Fences. Discourage property line fences over three feet in height and encourage traditional picket fences.

Materials and Colors. Encourage wood board or shingle siding. Encourage painted exteriors in colors similar to those existing in the town of Bodega Bay (i.e., rust, red, white, green, beige, brown, gray, yellow, and blue). Other colors must be approved by the Design Review Committee. Natural wood exteriors may be intermixed but should not dominate the new development area. Encourage wood trim windows painted in a contrasting, harmonizing color.

Streets. Encourage minimum paved street widths consistent with circulation, safety, and parking requirements to provide a sense of continuity between the new development and the original town.

Pedestrian Access. Require separated bike paths and walkways on one side of the street in new development areas.

Setbacks. Encourage some variation in setbacks.

Garages. Encourage use of detached garages in and adjacent to Taylor Tract. Single car garages may be appropriate.

27. **Bodega Harbor.** Continue to enforce Design Guidelines and Construction Regulations for Bodega Harbor Subdivision. Where homes within view corridors do not meet Bodega Harbor height, bulk and location conditions, the County Design Review Committee will review proposed plans for conformance with Coastal Plan view protection objectives.
28. **The Sea Ranch.** Continue to enforce The Sea Ranch Design Guidelines, incorporating the specified Height, Site, and Bulk Criteria provided for in Section 30610.6 (d) of the Public Resources Code. If a proposed residence does not meet the Height, Site and Bulk Criteria, the County may issue a variance as allowed in the adopted Height, Site and Bulk Criteria.

Assembly Bill No. 1207

CHAPTER 562

EXHIBIT NO.	5
APPLICATION NO.	SONOMA COUNTY I.C.P.
	Amendment (Major)
	1-02
(Page 1 of 9)	

An act to add and repeal Section 65892.13 of the Government Code, relating to wind energy.

[Approved by Governor October 5, 2001. Filed with Secretary of State October 7, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1207, Longville. Small wind energy systems.

(1) Existing law prohibits the legislative body of any city or county from enacting an ordinance that prohibits or unreasonably restricts the use of solar energy systems other than for the preservation or protection of the public health and safety.

This bill would authorize until July 1, 2005, a local agency to provide, by ordinance, for the installation of small wind energy systems, as specified, and to issue a conditional use permit for this purpose. The bill would also authorize a local agency to impose conditions on the installation of these systems, as specified. This bill would also require a local agency to approve an application for a small wind energy system by right if specified conditions are met and would authorize the local agency to charge a specified fee. By increasing the duties of local agencies, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 65892.13 is added to the Government Code, to read:

65892.13. (a) The Legislature finds and declares all of the following:

(1) California has a shortage of reliable electricity supply, which has led the Governor to proclaim a state of emergency and to issue numerous executive orders to lessen, and mitigate the effects of, the shortage. The executive orders, among other things, expedite and shorten the processing of applications for existing and new powerplants, establish

an emergency siting process for peaking and renewable powerplants, and relax existing air pollutant emission requirements in order to allow power generation facilities to continue generating much needed electricity.

(2) Wind energy is an abundant, renewable, and nonpolluting energy resource. When converted to electricity, it reduces our dependence on nonrenewable energy resources and reduces air and water pollution that result from conventional sources. Distributed small wind energy systems also enhance the reliability and power quality of the power grid, reduce peak power demands, increase in-state electricity generation, diversify the state's energy supply portfolio, and make the electricity supply market more competitive by promoting consumer choice.

(3) In 2000, the Legislature and Governor 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). As set forth in Section 399.6 of the Public Utilities Code, the stated objectives of the act include to "increase, in the near term, the quantity of California's electricity generated by in-state renewable energy resources while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents."

(4) Small wind energy systems, designed for onsite home, farm, and small commercial use, are recognized by the Legislature and 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. In June 2001, the commission adopted a Renewable Investment Plan that includes one hundred one million two hundred fifty thousand dollars (\$101,250,000) over the next five years, in the form of a 50 percent buydown incentive for the purchasers of "emerging renewable technologies," including small wind energy systems.

(5) In light of the state's electricity supply shortage and its existing program to encourage the adoption of small wind energy systems, it is the intent of the Legislature that any ordinances regulating small wind energy systems adopted by local agencies have the effect of providing for the installation and use of small wind energy systems and that provisions in these ordinances relating to matters including, but not limited to, parcel size, tower height, noise, notice, and setback requirements do not unreasonably restrict the ability of homeowners, farms, and small businesses to install small wind energy systems in zones in which they are authorized by local ordinance. It is the policy of

the state to promote and encourage the use of small wind energy systems and to limit obstacles to their use.

(b) The implementation of consistent statewide standards to achieve the timely and cost-effective installation of small wind energy systems is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern. It is the intent of the Legislature that this section apply to all local agencies, including, but not limited to, charter cities, charter counties, and charter cities and counties.

(c) The following definitions govern this section:

(1) "Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, 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 onsite consumption of utility power.

(2) "Tower height" means the height above grade of the fixed portion of the tower, excluding the wind turbine.

(d) Any local agency may, by ordinance, provide for the installation of small wind energy systems in the jurisdiction outside an "urbanized area," as defined in paragraph (2) of subdivision (b) of Section 21080.7 of the Public Resources Code pursuant to this section. The local agency may establish a process for the issuance of a conditional use permit for small wind energy systems.

(1) The ordinance may impose conditions on the installation of small wind energy systems that include, but are not limited to, notice, tower height, setback, view protection, aesthetics, aviation, and design safety requirements. However, the ordinance shall not require conditions on notice, tower height, setbacks, noise level, turbine approval, tower drawings, and engineering analysis, or line drawings that are more restrictive than the following:

(A) Notice of an application for installation of a small wind energy system shall be provided to property owners within 300 feet of the property on which the system is to be located.

(B) Tower heights of not more than 65 feet shall be allowed on parcels between one and five acres and tower heights of not more than 80 feet shall be allowed on parcels of 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.

(C) Setbacks for the system tower shall be no farther from the property line than the height of the system, provided that it also complies



with any applicable fire setback requirements pursuant to Section 4290 of the Public Resources Code.

(D) Decibel levels for the system shall not exceed the lesser of 60 decibels (dBA), or any existing maximum noise levels applied pursuant to the noise element of a general plan for the applicable zoning classification in a jurisdiction, as measured at the closest neighboring inhabited dwelling, except during short-term events such as utility outages and severe wind storms.

(E) The system's turbine must have been approved by the California Energy Commission as qualifying under the Emerging Renewables Fund of the commission's Renewables Investment Plan or certified by a national program recognized and approved by the Energy Commission.

(F) 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 requirements for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot, or other relevant conditions normally required by a local agency.

(G) 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 the 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).

(H) 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.

(2) The ordinance may require the applicant to provide information demonstrating that the system will be used primarily to reduce onsite consumption of electricity. The ordinance may also require the application to 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.

(3) A small wind energy system shall not be allowed where otherwise prohibited by any of the following:

(A) A local coastal program and any implementing regulations adopted pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) The California Coastal Commission, pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(C) The regional plan and any implementing regulations adopted by the Tahoe Regional Planning Agency pursuant to the Tahoe Regional Planning Compact, Title 7.4 (commencing with Section 66800) of the Government Code.

(D) The San Francisco Bay Plan and any implementing regulations adopted by the San Francisco Bay Conservation and Development Commission pursuant to the McAteer-Petris Act, Title 7.2 (commencing with Section 66600) of the Government Code.

(E) A comprehensive land use plan and any 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.

(F) The Alquist-Priolo Earthquake Fault Zoning Act, Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

(G) A local agency to protect the scenic appearance of the scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(H) The terms of a conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Division 2 of Part 2 of the Civil Code.

(I) The terms of an open-space 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.

(J) The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act, Division 10.2 (commencing with Section 10200) of the Public Resources Code.

(K) 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.

(L) 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.

(4) 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

local agency shall take reasonable steps, concurrent with other notices issued pursuant to this subdivision, to notify pest control aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agriculture Code.

(5) Notwithstanding the requirements of paragraph (1), a local agency may, if it deems it necessary due to circumstances specific to the proposed installation, provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the installation is proposed.

(6) Nothing in this section shall be construed to alter or affect existing law regarding the authority of local agencies to review an application.

(e) Notwithstanding subdivision (f), any local agency that has not adopted an ordinance in accordance with subdivision (d) by July 1, 2002, may adopt such ordinance at a later date, but any applications that are submitted between July 1, 2002, and the adopted date of the ordinance must be approved pursuant to subdivision (f).

(f) Any local agency which has not adopted an ordinance pursuant to subdivision (d) on or before July 1, 2002, shall approve applications for a small wind energy systems by right if all of the following conditions are met:

(1) The size of the parcel where the system is located is at least one acre and is outside an "urbanized area," as defined in paragraph (2) of subdivision (b) of Section 21080.7 of the Public Resources Code.

(2) The tower height on parcels that are less than five acres does not exceed 80 feet.

(3) No part of the system, including guy wire anchors, extends closer than 30 feet to the property boundary, provided that it also complies with any applicable fire setback requirements pursuant to Section 4290 of the Public Resources Code.

(4) The system does not exceed 60 decibels (dBA), as measured at the closest neighboring inhabited dwelling, except during short-term events such as utility outages and severe wind storms.

(5) The system's turbine has been approved by the State Energy Resources Conservation and Development Commission as qualifying under the Emerging Renewables Fund of the commission's Renewables Investment Plan or certified by a national program recognized and approved by the Energy Commission.

(6) The application includes standard drawings and an engineering analysis of the tower, showing compliance with the Uniform Building Code or the California Building Standards Code and certification by a licensed professional engineer. A wet stamp is not required if the application demonstrates that the system is designed to meet the most stringent wind requirements (Uniform Building Code wind exposure D),

the requirements for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot, or other relevant conditions normally required by a local agency.

(7) The system complies with all applicable Federal Aviation Administration requirements, including any necessary approvals for installations close to airports, and the requirements of the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code).

(8) The application includes 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.

(9) Unless the applicant does not plan to connect the system to the electricity grid, the application includes evidence, 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.

(10) A small wind energy system shall not be allowed where otherwise prohibited by any of the following:

(A) A local coastal program and any implementing regulations adopted pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) The California Coastal Commission, pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(C) The regional plan and any implementing regulations adopted by the Tahoe Regional Planning Agency pursuant to the Tahoe Regional Planning Compact, Title 7.4 (commencing with Section 66800) of the Government Code.

(D) The San Francisco Bay Plan and any implementing regulations adopted by the San Francisco Bay Conservation and Development Commission pursuant to the McAteer-Petris Act, Title 7.2 (commencing with Section 66600) of the Government Code.

(E) A comprehensive land use plan and any 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.

(F) The Alquist-Priolo Earthquake Fault Zoning Act, Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

(G) A local agency to protect the scenic appearance of the scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(H) The terms of a conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Division 2 of Part 2 of the Civil Code.

(I) The terms of an open-space 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.

(J) The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act, Division 10.2 (commencing with Section 10200) of the Public Resources Code.

(K) 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.

(L) On a site listed in the National Register of Historic Places or the California Register of Historical Resources pursuant to Section 5024.1 of the Public Resources Code.

(11) In the event that a proposed site for a small wind energy system is in an agricultural area that may have aircraft operating at low altitudes, the local agency shall take reasonable steps, concurrent with other notices issued pursuant to this subdivision, to notify pest control aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agriculture Code.

(12) No other local ordinance, policy, or regulation shall be the basis for a local agency to deny the siting and operation of a small wind energy system under this subdivision.

(13) No changes in the general plan shall be required to implement this subdivision. Any local agency, when amending its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the approval of small wind energy systems, must do so in a manner consistent with the requirements of this subdivision and the Permit Streamlining Act (commencing with Section 65920).

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the siting and operation of small wind energy systems.

(h) A local agency shall review an application for a small wind energy system as expeditiously as possible pursuant to the timelines established in the Permit Streamlining Act (commencing with Section 65920).

(i) Fees charged by a local agency to review an application for a small wind energy system shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(j) Any requirement of notice to property owners imposed pursuant to subdivision (d) shall ensure that responses to the notice are filed in a timely manner.

(k) This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2006, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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