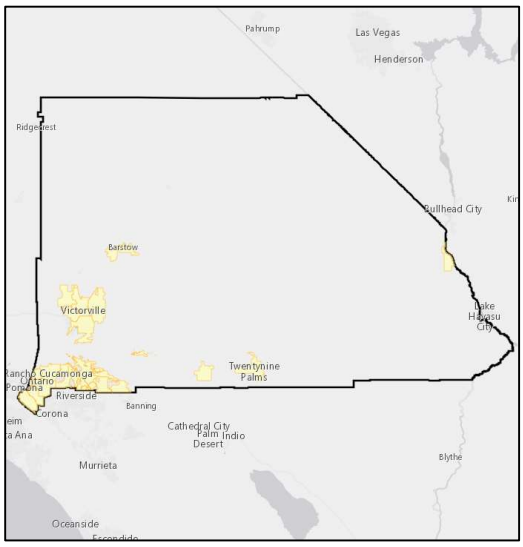
# LAND USE SERVICES DEPARTMENT
# PLANNING COMMISSION STAFF REPORT

**HEARING DATE: March 6, 2025** **AGENDA ITEM #2**

**Project Description:**

**Project No:** PROJ-2024-00063
**APNs:** N/A
**Applicant:** Joseph Guastadisegni
**Community:** Countywide / 1st-5th Districts
**Location:** Countywide
**Staff:** Maryn Wells, Planner III
**Rep:** Joseph Guastadisegni
**Proposal:** A Development Code Amendment to Subsection 84.26.030(a) to increase the maximum allowable kilowattage (kW) for residential accessory wind energy systems from 10 kW to 25 kW.

**Vicinity Map**




35 Hearing Notices Sent on: February 18, 2025

Report Prepared by: Maryn Wells, Planner III

**SITE INFORMATION**
Parcel Size: N/A
Terrain: N/A
Vegetation: N/A

| | AGENCY | COMMENT |
|---|---|---|
| City Sphere of Influence: | N/A | N/A |
| Water Service: | N/A | N/A |
| Sewer Service: | N/A | N/A |

**STAFF RECOMMENDATION:** That the Planning Commission recommends that the Board of Supervisors: **FIND** the Project is within the scope and covered by the Program Environmental Impact Report; **ADOPT** the Findings for approval of the Development Code Amendment; **ADOPT** an ordinance to amend Subsection 84.26.030(a) of the Development Code to increase the maximum allowable kilowattage from 10 kW to 25 kW for residential accessory wind energy systems; and **DIRECT** Land Use Services Department to file a Notice of Determination.[1]

[1] In accordance with Section 86.12.040(a) of the Development Code, the action is a recommendation item to the Board of Supervisors and is not appealable expect in the case of a recommended disapproval.

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## PROJECT DESCRIPTION AND BACKGROUND:

The proposal includes an application to amend Subsection 84.26.030(a) of the Development Code to increase the allowable maximum kilowatts (kW) generated by residential accessory wind turbines from 10 kW to 25 kW (Project or Development Code Amendment). The purpose of the increase in allowable kilowattage is to accommodate advances in accessory wind turbine technologies that have occurred since the current maximum was established.

*Prior Commission and Board Action*

The current 10-kW maximum was adopted with Ordinance No. 4188, which amended the Development Code relative to small wind energy systems. Prior to Ordinance No. 4188, Accessory Wind Energy Units were limited to one per parcel unless property was 20 acres or greater, and then one unit per 10 acres up to a maximum of three. For systems 50' or less, the limitation was two units per five acres. Ordinance No. 4188 deleted the limitation by the number of systems only and instead limited the number of systems to a maximum of produced wattage of the combined systems, noting at the time that 2.7 kW was the smallest industry standard. The October 4, 2012, Planning Commission Staff Report (Exhibit C) clarifies the goal was to not necessarily limit the number of units, but to ensure that energy generation remained an accessory use.

The Planning Commission recommended the Board of Supervisors approve the amendment on October 4, 2012. The item was considered by the Board of Supervisors on November 6, 2012 and was adopted at the November 27, 2012, Board meeting.

*Current Proposal*

In the years since the 10-kW maximum was established by Ordinance No. 4188, advances in wind energy technologies have resulted in greater energy generation capabilities from small, site-oriented turbines. According to the United States Department of Energy, "small wind turbines used in residential applications typically range in size from 400 watts to 20 kilowatts."[1] The Applicant has requested the 25-kW threshold to accommodate new turbine models that can produce slightly more than 20 kW. For example, one of the models sold by the Applicant, the Excel 15, generates a maximum of 22.6 kilowatts. While the earlier Excel 10 model could generate a maximum of 10 kW and is allowed by the current development standards, this model can now be less cost-effective than the newer systems. The newer systems are more efficient and have reduced noise levels than existing equipment. Amending the maximum kilowatts in the Development Code to 25 kW for residential accessory use would allow a wider variety of turbine models to be sold and installed for throughout San Bernardino County.

## PROJECT ANALYSIS:

Consistency with Countywide Plan: Though the Development Code limit is currently 10 kW for residential accessory wind systems, the Renewable Energy and Conservation (REC) Element allows a maximum of 70 kW generated by site-oriented ground-mounted accessory wind energy systems (Exhibit D). The Project's proposed increase to 25 kW is therefore consistent with the REC Element. The Project is consistent with RE Goal 2 for the County to be home to diverse and innovative renewable energy systems that provide reliable and affordable energy to our unique Valley,

[1] https://www.energy.gov/energysaver/installing-and-maintaining-small-wind-electric-system

Mountain, and Desert regions. The Project is also consistent with Policy RE 2.3.1 to monitor emerging renewable energy technologies and amend County development standards as needed to accommodate suitable new technology types.

Code Compliance Summary: The Project amends the maximum number of kilowatts that can be generated by residential wind accessory systems. No changes are proposed to required setbacks, maximum height, or other development standards for residential accessory wind energy systems.

**PROPOSED DEVELOPMENT CODE CHANGES:**

| ***Table 84-14a*** | | |
|---|---|---|
| ***Maximum Number of Accessory Wind Energy Systems*** | | |
| | ***Type of System*** | ***Requirements*** |
| Maximum number of kW | Residential | ~~10 kw~~ 25 kW |
| | Non-residential | 50 kW or verified actual energy use |
| Maximum number of turbines in the system | Building-mounted turbines | Based on the maximum number of kW |
| | Tower-mounted turbines | Based on the maximum number of kW. Only 1 turbine shall be attached to each tower. |
| | Combined building- mounted and tower turbines | Based on the maximum number of kW. Only 1 turbine shall be attached to a tower. |

**ENVIRONMENTAL REVIEW:**

California Environmental Quality Act (CEQA): The Project is an activity within the scope and covered by the Program Environmental Impact Report prepared for the San Bernardino County General Plan Update, including the Supplemental Environmental Impact Report for the Greenhouse Gas Reduction Plan and Addendum prepared for the REC Element (SCH No. 2005101038) (collectively the Program EIR).

Pursuant to Section 15168, subd. (c) of the CEQA Guidelines, later activities in a program must be examined in the light of a program EIR to determine whether an additional environmental document must be prepared. If the agency finds that no subsequent EIR would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land uses as described in the program EIR.

The Program EIR previously evaluated the environmental impacts of the REC Element, including associated changes to the Development Code that would be required to implement the REC Element. Specifically, the Program EIR indicates that “[c]hanges to the Development Code are required in

order to implement the policies in the REC Element. Development Code amendments work in tandem to codify the rules and strategies associated with and guided by the vision, goals, policies and objectives identified in the REC Element." As indicated above, Table 1 of the REC Element summarizes the Element's renewable energy production and provides that the typical power generation authorized for ground-mounted accessory systems is up to approximately 70 kW (standard layout). Policy RE 2.3.1 further directs the County to monitor emerging renewable energy technologies and amend County development standards as needed to accommodate suitable new technology types. Accordingly, a development code amendment to increase the maximum allowable kW for accessory energy systems consistent with the REC Element is within the scope of the Program EIR and no new environmental document is required.

None of the circumstances necessitating preparation of additional CEQA review as specified in Section 15162 of the CEQA Guidelines are present. Adoption of the Project will not directly cause any new construction, nor would it directly impose other changes that would create significant environmental impacts. All new development proposals will also be evaluated under CEQA at the time of application and processing through County's routine planning and building permitting process and will also comply with existing policies and requirements in the County's Policy Plan and Development Code. Furthermore, as a separate and independent basis, the Project qualifies for an exemption from CEQA pursuant to Section 15183 of the CEQA Guidelines, in that the proposed increase in allowable kilowattage for residential wind energy systems is consistent with the allowable maximums outlined in the REC Element.

## PUBLIC COMMENTS AND NOTICES

In accordance with Section 86.07.020 of the Development Code, hearing notices were sent to interested parties on February 18, 2025, and published in local newspapers on February 24, 2025, advertising the Planning Commission hearing to be held on March 6, 2025.

As of February 28, 2025, one public comment was received opposing the Project due to concerns about visual impacts.

**RECOMMENDATION:** That the Planning Commission recommend the Board of Supervisors:

1) **FIND** that the Development Code Amendment is covered by the Program Environmental Impact Report pursuant to California Environmental Quality Act Guidelines Section 15168(c)(2);
2) **ADOPT** the findings for approval of the Development Code Amendment;
3) **ADOPT** an ordinance to amend Subsection 84.26.030(a) of the Development Code to increase the maximum allowable kilowattage from 10 kW to 25 kW for residential accessory wind energy systems; and
4) **DIRECT** the Land Use Services Department to file a Notice of Determination in compliance with the California Environmental Quality Act.

**ATTACHMENTS:**
**EXHIBIT A:** Findings
**EXHIBIT B:** Proposed Ordinance
**EXHIBIT C:** October 4, 2012, Planning Commission Staff Report
**EXHIBIT D:** REC-Element Table 1

# EXHIBIT A: Findings

**FINDINGS:**

A DEVELOPMENT CODE AMENDMENT TO SUBSECTION 84.26.030(a) TO INCREASE THE ALLOWABLE KILOWATTAGE (KW) FOR WIND TURBINES FROM 10 KW MAXIMUM TO 25 KW MINIMUM ON A RESIDENTIAL PROPERTY; 1st-5th SUPERVISORIAL DISTRICTS; PROJ-2024-00063.

**1. THE PROPOSED AMENDMENT IS CONSISTENT WITH THE GENERAL PLAN AND ANY APPLICABLE COMMUNITY PLAN OR SPECIFIC PLAN.**

The proposed amendment is consistent with the Policy Plan, including the Renewable Energy and Conservation (REC) Element. Table 1 of the REC Element summarizes the renewable energy production described in the Element's goals, policies, and implementation strategies and identifies the typical power generated by site-oriented accessory ground-mounted wind energy systems to be up to approximately 70 kW of power. Both the Development Code's current 10-kW maximum and the Project's proposed 25-kW maximum for residential accessory wind energy systems are below the 70-kW limit set by the REC Element. Updating the Development Code would specifically implement the following goals and policies:

**RE Goal 2: The County will be home to diverse and innovative renewable energy systems that provide reliable and affordable energy to our unique Valley, Mountain, and Desert regions.**

Amending the Development Code to allow site-oriented wind energy systems to produce up to 25 kW will allow for updated wind turbine technology to be utilized throughout the Valley, Mountain, and Desert Regions.

**RE Policy 2.3: Encourage the use of feasible emerging and experimental renewable energy technologies that are compatible with County regulatory standards.**

With improvements in wind energy systems technology, site-oriented turbines can produce more energy than previous technologies. The Development Code Amendment would allow County residents to purchase and install more current technologies.

**RE 2.3.1: Monitor emerging renewable energy technologies and amend County development standards as needed to accommodate suitable new technology types.**

The proposed amendment is intended to amend the maximum kilowattage generated by residential accessory wind turbines, which would allow newer wind energy technologies to be utilized on residential parcels within the County.

**2. THE PROPOSED AMENDMENT WOULD NOT BE DETRIMENTAL TO THE PUBLIC INTEREST, HEALTH, SAFETY, CONVENIENCE, OR WELFARE OF THE COUNTY.**

The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County in that the proposed amendment brings the

Development Code into closer alignment with the REC Element. The REC Element was evaluated as part of an Addendum to a Program Environmental Impact Report, as further disrobed in the CEQA finding below, and concludes that amendments to the Development Code, like the Project, that will implement the REC Element will not create a new or different impacts previously considered by the Program EIR. Adoption of the Project will not directly cause any new construction, nor would it directly impose other changes that would create significant environmental impacts. All new development proposals will be evaluated at the time of application and processing through County's routine planning and building permitting process and will also comply with existing policies and requirements in the County's Policy Plan, programmatic mitigation, and Development Code standards.

**3. THE PROPOSED AMENDMENT IS INTERNALLY CONSISTENT WITH OTHER APPLICABLE PROVISIONS OF THE DEVELOPMENT CODE.**

The proposed amendment is internally consistent with other applicable provisions of the Development Code. Only the maximum energy generation is proposed to increase. No changes are proposed to required setbacks, maximum height, or other development standards for accessory wind turbines in residential zoning districts.

**ENVIRONMENTAL FINDINGS:**

The environmental findings, in accordance with Chapter 85.03.040 of the San Bernardino County Development Code, are as follows:

Pursuant to provisions of the California Environmental Quality Act (CEQA) and the San Bernardino County Environmental Review guidelines, the above referenced Project has been determined an activity that is within the scope of the Program Environmental Impact Report prepared for the San Bernardino County General Plan Update, including the Supplemental Environmental Impact Report for the Greenhouse Gas Reduction Plan and Addendum prepared for the REC Element (SCH No. 2005101038) (collectively the Program EIR). The Program EIR previously evaluated the environmental impacts of the REC Element, including associated changes to the Development Code that would be required to implement the REC Element. Specifically, the Program EIR indicates that "[c]hanges to the Development Code are required in order to implement the policies in the REC Element. Development Code amendments work in tandem to codify the rules and strategies associated with and guided by the vision, goals, policies and objectives identified in the REC Element." Table 1 of the REC Element provides that the typical power generation authorized for ground-mounted accessory systems is up to approximately 70 kW (standard layout). Policy RE 2.3.1 further provides for the County to monitor emerging renewable energy technologies and amend County development standards as needed to accommodate suitable new technology types. Accordingly, a development code amendment to increase the maximum allowable kW for accessory energy systems consistent with the REC Element is within the scope of the Program EIR and no new environmental document is required.

None of the circumstances necessitating preparation of additional CEQA review as specified

in Section 15162 of the CEQA Guidelines are present. Adoption of the Project will not directly cause any new construction, nor would it directly impose other changes that would create significant environmental impacts. All new development proposals will also be evaluated under CEQA at the time of application and processing through County's routine planning and building permitting process and will also comply with existing policies and requirements in the County's Policy Plan, programmatic mitigation, and Development Code standards.

Furthermore, as a separate and independent basis, the Project is determined to be exempt from CEQA pursuant to Section 15183 of the CEQA Guidelines, in that the proposed increase in allowable kilowattage for residential wind energy systems is consistent with the allowable maximums outlined in the REC Element. The Project is a Development Code Amendment to increase the allowed maximum energy generation for residential accessory wind energy systems from 10 kW to 25 kW.

END OF FINDINGS

# EXHIBIT B: Proposed Ordinance

**ORDINANCE NO.**

**An ordinance of San Bernardino County, State of California, to amend Subsection 84.26.030(a) of Division 4 of Title 8 of the San Bernardino County Code, relating to maximum allowable kilowattage for residential wind energy systems.**

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

SECTION 1. The Board of Supervisors of San Bernardino County finds that:

(a) Properly noticed public hearings have been held before the Planning Commission and the Board of Supervisors ("Board") of San Bernardino County, State of California, pursuant to the Planning and Zoning Law (Government Code sections 65000 *et seq*.) and the San Bernardino County Development Code (San Bernardino County Code sections 81.01.010 *et seq*.) for the text amendments set forth within this ordinance.

(b) This ordinance has been determined by the Board to be consistent with the San Bernardino County Policy Plan, including the Renewable Energy and Conservation Element ("REC Element"). The text amendments will work in tandem to codify updated rules and strategies associated with and guided by the vision, goals, policies, and objectives identified in the REC Element.

SECTION 2. Subsection 84.26.030(a) of the San Bernardino County Code is amended, to read:

**Section 84.26.030 Development Standards.**

(a) *Maximum Number of Accessory Wind Energy Systems*. The maximum number of accessory wind energy systems on a single parcel is determined by the total combined rated kW hours for all the wind turbines in a system. Wind turbines are defined in § 810.01.250(m)(4) of this Title. The maximum number of accessory wind energy systems is as follows:

| *Table 84-14a* | | |
|---|---|---|
| ***Maximum Number of Accessory Wind Energy Systems*** | | |
| | ***Type of System*** | ***Requirements*** |
| Maximum number of kW | Residential | ~~10~~ 25 kW |
| | Non-residential | 50 kW or verified actual energy use |
| Maximum number of turbines in the system | Building-mounted turbines | Based on the maximum number of kW |
| | Tower-mounted turbines | Based on the maximum number of kW. Only 1 turbine shall be attached to each tower. |
| | Combined building-mounted and tower turbines | Based on the maximum number of kW. Only 1 turbine shall be attached to a tower. |

SECTION 3. This ordinance shall take effect 30 days from the date of adoption.

_____
DAWN ROWE, Chair
Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF THE BOARD

LYNNA MONELL, Clerk of the
Board of Supervisors

_____

STATE OF CALIFORNIA )
) ss.
SAN BERNARDINO COUNTY )

I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County, State of California, hereby certify that at a regular meeting of the Board of Supervisors of said County and State, held on the _____ day of _____, 20__, at which meeting were present Supervisors:_____
_____
_____,
and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to wit:

AYES: SUPERVISORS:

NOES: SUPERVISORS:

ABSENT: SUPERVISORS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this ____ day of _____, 20__.

LYNNA MONELL, Clerk of the
Board of Supervisors of
San Bernardino County,
State of California

_____
Deputy

Approved as to Form:

TOM BUNTON
County Counsel

By:_____
JOLENA E. GRIDER
Deputy County Counsel

Date: _____

**EXHIBIT C: October 4, 2012, Planning Commission Staf Report**

**LAND USE SERVICES DEPARTMENT**
**PLANNING STAFF REPORT**

HEARING DATE: October 4, 2012 AGENDA ITEM NO: 3

Project Description:

| | |
|---|---|
| **Applicant**: | Land Use Services Department |
| **Proposal**: | A Development Code Amendment to revise the regulations relative to small wind energy systems and the Accessory Wind Energy Systems Permit. |
| **Community**: | Countywide |
| **Location**: | Countywide |
| **JCS**: | P200900407 |
| **Staff**: | Jim Squire |

## Background

In October 2001, Assembly Bill 1207 was passed by the State legislature pertaining to small wind energy systems, commonly referred to as "windmills" or "wind turbines." This bill became effective July 1, 2002 and provided development standards for these systems for "non-urbanized" areas. It also allowed any local agency to adopt an ordinance that established procedures and development standards for the installation of these systems within its jurisdiction. Such ordinance could not be more restrictive than State law relative to notice, tower height, setbacks, turbine approval and engineering analysis.

The new State law prompted the County to reevaluate its provisions for these systems. The Board of Supervisors adopted a more comprehensive set of regulations on November 5, 2002, following review and recommendation by the Planning Commission. The Development Code regulations adopted by the Board provided a streamlined approval process that lessened the inconvenience to consumers by allowing installation of these systems with just a building permit rather than requiring a Conditional Use Permit (CUP) as allowed by the State law. This was intended to minimize the time and cost required to obtain approval for wind turbines.

These adopted regulations proved to be inadequate for the protection of the residents within the County. Primarily, the visual impacts of these wind energy systems and the lack of notice to the surrounding property owners had the most dramatic and emotional reactions from the residents within the various neighborhoods of the County, particularly in the Oak Hills area.

Due to the numerous complaints from local residents, staff reevaluated the 2002 Development Code procedures to address these issues associated with the permitting process for wind turbines. On September 8, 2005, staff presented a set of revisions to the Planning Commission, which were ultimately adopted by the Board on December 20, 2005, to provide a uniform and comprehensive set of standards, conditions, and procedures for the placement of these systems in a manner that minimizes visual and

Action taken by the Planning Commission on this item may be appealed to the Board. Yes ☐ No ☒
Note: Recommendations to the Board of Supervisors are not appealable.

safety impacts on the surrounding neighborhoods and the community. The proposed changes would allow the use of proven wind-driven generators for energy recovery and require safeguards to ensure the maintenance of the health, safety and welfare of the citizens of the county.

Since that time, new technologies have been developed to generate electricity with smaller, less impactful systems that need to be recognized by the County in its development standards for these systems. Recently wind energy proponents have been frustrated by development standards that they believed hampered their attempts to employ new wind electrical generation technologies such as roof-mounted systems and small-blade technology. Limitations on the number of turbines permitted and separation requirements made it difficult to design effective new roof- or building-mounted systems.

In response to requests from various industry representatives, staff has evaluated the current regulations relative to these systems, along with those from other jurisdictions, and has determined that the County should amend the Code to reflect these new technologies and to clarify other provisions of the Code.

The proposed code amendment would revise the regulations for accessory wind energy systems relative to the following issues:

**Number of Accessory Wind Energy Units**

***Existing:*** Limited to one per parcel unless property is 20 acres or greater. Then, limit is one/10 acres up to a maximum of 3. If systems are 50' or less, the limitation is two/five acres.

***Proposed:*** Deletes the limitation by number of systems only. Limits the number of systems to a maximum of produced wattage of the combined systems (10 kW for residential and 50 kW for non-residential or the demonstrated/ verified use of energy onsite (Note: 2.7 kW is the smallest industry-approved standard.)

***Explanation:*** The goal was to not necessarily limit the number of units, but to ensure that energy generation remained an accessory use.

The County proposal will ensure that wind energy systems remain accessory uses by limiting the amount of energy produced to energy that could be used on-site. The maximum power generation was based on typical usage estimated by the American Wind Energy Association.

**Building-mounted Systems**

***Existing:*** Does not define building-mounted systems and separation requirements prohibit more than one building-mounted system per parcel.

***Proposed:*** Requires applicants to meet manufacturer's separation requirements, but allows the possibility of multiple units to be located on one parcel.

***Explanation:*** The proposed change addresses the new technologies (i.e., smaller units but greater numbers of units needed).

**Separation Requirements**

***Existing:*** Requires separation of 240 ft. between systems on the same parcel.

***Proposed:*** Requires applicants to meet manufacturer's separation requirements.

***Explanation:*** Both towers and building mounted systems need to be located appropriately to function efficiently. It is not just a matter of separation between the units, but in the case of tower-mounted systems, minimum separation between buildings, trees and other towers to avoid regions of high turbulence flow. The setback can be up to 500 feet from structures or trees.

**Permit Requirement**

***Existing:*** Requires an approved Accessory Wind Energy Permit (a discretionary permit) for all systems that are greater than 35 feet in height.

***Proposed:*** Maintains the exemption from the permit requirement if only a single unit is proposed for a parcel. However, if multiple units are proposed for a parcel, the exemption from the permit requirement would not apply even if the units are 35 feet or less in height.

***Explanation:*** The revision allows for the notification of neighbors when multiple units are proposed.

**Noise**

***Existing:*** Requires the noise performance standards in Section 83.01.080 (Noise) be applicable for these systems, except during short-term events (e.g., utility outages, windstorms, etc.).

***Proposed:*** Maintains the applicability of the County noise standards. However, the code amendment would add a requirement for an applicant to submit the noise ratings as published by the manufacturer of a system proposed for installation at the time of the submittal of an application for an Accessory Wind Energy System Permit so these noise ratings can be evaluated. If multiple systems are being proposed, the noise ratings shall be modified to address the number of systems being installed.

***Explanation:*** This code section was drafted to recognize that when multiple wind energy systems are installed on a site, noise impacts will increase as well.

**Turbine Certification**

***Existing:*** Requires the approval of the system's turbine by the California Energy Commission or certified by a national program (i.e., National Electrical Code (NEC), American National Standards Institute (ANSI), and Underwriters Laboratories (UL).

***Proposed:*** Requires the approval of the system's turbine by the California Energy Commission as eligible in its Emerging Renewables Program pursuant to Section 25744 of the Public Resources Code or have been certified by a national program recognized and approved by the California Energy Commission including the Clean Energy States Alliance.

***Explanation:*** Staff from the California Energy Commission recommended revising the language to more accurately reflect the industry standards for system review.

**Definitions**

***Existing:*** Defines relative terms for accessory wind energy systems.

***Proposed:*** Makes minor language changes to ensure that systems are truly accessory by requiring that the energy produce must be more than 50% of that used onsite.

***Explanation:*** These changes ensure that these systems are truly accessory.

**Miscellaneous**

***Existing:*** Accessory wind energy systems were omitted from the Industrial and Special Purpose Land Use Zoning district Land Use Table.

***Proposed:*** Adds these uses in the table.

***Explanation:*** The omission of these uses from the table was clearly an oversight by staff. These zones are referred to in Chapter 84.26 so this correction is necessary to allow accessory systems in all districts in this table subject to the requirements for an Accessory Wind Energy Permit.

These proposed changes will allow greater flexibility in the design of wind energy systems to produce the needed energy while minimizing the impacts to the local neighborhoods.

These proposed changes have been prepared after reviewing the regulations of various other jurisdictions and industry developments and requirements. Recently adopted wind energy system ordinances by the following communities were reviewed in the development of this draft code amendment: Town of Apple Valley, City of Hesperia, Kern County, Marin County, Riverside County, San Diego County and Santa Barbara County. County staff consulted with representatives from the California Energy Commission, County of San Diego Land Use Planning Department, City of Hesperia and the County of Santa Barbara Planning Department. Documents on wind energy regulations prepared by the American Planning Association, the American Wind Energy Association and US Department of Energy were also consulted.

A public meeting was conducted on September 18th in the community of Oak Hills with approximately 32 people in attendance to present this proposed ordinance and one other project. Staff explained the intent of the ordinance and there was no strong opposition to the proposed changes.

**FINDINGS:**

1. The proposed amendment is consistent with the General Plan and any applicable community plan or specific plan because these changes only revise the existing regulations relative to small wind energy systems to recognize the use of small, less impactful systems;

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County;

3. The proposed amendment is internally consistent with other applicable provisions of this Development Code; and

4. The proposed amendment is exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the CEQA Guidelines as the proposed change does not have the potential to cause a significant effect on the environment.

**RECOMMENDATION:** The Planning Commission recommends that the Board of Supervisors:

A. ADOPT the proposed ordinance to amend the Development Code regulations relative to accessory wind energy systems and permits;

B. ADOPT the findings as contained in the staff report; and

C. FILE the Notice of Exemption.

ATTACHMENTS:

1. Proposed Development Code Changes
2. Notice of Exemption

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# Proposed Development Code Change

# Small Wind Energy Systems

## Table 82-17
## Allowed Land Uses and Permit Requirements
## for Industrial and Special Purpose Land Use Zoning Districts (continued)

| LAND USE<br>*See Division 10 (Definitions) for land use definitions* | PERMIT REQUIRED BY DISTRICT | | | | | | Specific Use Regulations |
|---|---|---|---|---|---|---|---|
| | IC | IR | IN | SD-RES[5] | SD-COM[5] | SD-IND[5] | |
| **TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE** | | | | | | | |
| Ambulance, taxi, or limousine dispatch facility | M/C | M/C | M/C | M/C | M/C | M/C | |
| Broadcasting antennae and towers | M/C | M/C | M/C | CUP | CUP | CUP | |
| Broadcasting studio | M/C | M/C | M/C | CUP[3] | CUP[3] | CUP[3] | |
| Communication contractor | M/C | M/C | M/C | M/C[7] | M/C[7] | M/C[7] | |
| Electrical power generation[6] | CUP | CUP | CUP | — | — | — | |
| Parking lots, accessory | P[2] | P[2] | P[2] | P[2] | P[2] | P[2] | |
| Parking structures | P[2] | P[2] | P[2] | M/C | M/C | M/C | |
| Pipelines, transmission lines, and control stations [4] | [4] | [4] | [4] | [4] | [4] | [4] | |
| Sewage treatment and disposal facility [6] | — | — | CUP | — | — | — | |
| Solid waste disposal [6] | — | — | CUP | — | — | — | |
| Transportation facility | M/C | M/C | M/C | M/C | M/C | M/C | |
| Truck Stop | M/C | M/C | — | — | — | M/C | |
| Truck Terminal | M/C | M/C | — | — | — | M/C | |
| Utility facility | CUP | CUP | CUP | CUP | CUP | CUP | |
| Water treatment plants and storage tanks | — | CUP | CUP | — | CUP | CUP | |
| Wind energy system, accessory | S | S | S | S | S | S | 84.26 |
| Wireless telecommunications facility | S | S | S | S | S | S | 84.27 |
| **OTHER** | | | | | | | |
| Accessory structures and uses | P | P | P | P | P | P | 84.01 |
| Temporary special events | TSP | TSP | TSP | TSP | TSP | TSP | 84.25 |
| Temporary structures and uses | TUP | TUP | TUP | TUP | TUP | TUP | 84.25 |

**KEY**

| | | | |
|---|---|---|---|
| A | Allowed use (no planning permit required) | PD | Planned Development Permit required (Chapter 85.10) |
| P | Permitted Use; Site Plan Permit required (Chapter 85.08) | SUP | Special Use Permit required (Chapter 85.14) |
| M/C | Minor Use Permit required; unless a Conditional Use Permit required in compliance with Section 85.06.050 (Projects That Do Not Qualify for a Minor Use Permit) | S | Permit requirement set by Specific Use Regulations (Division 4) |
| | | TSP | Temporary Special Events Permit required (Chapter 85.16) |
| CUP | Conditional Use Permit required (Chapter 85.06) | TUP | Temporary Use Permit required (Chapter 85.15) |
| MUP | Minor Use Permit required (Chapter 85.06) | — | Use not allowed |

# CHAPTER 84.26 ACCESSORY WIND ENERGY SYSTEMS - ~~ACCESSORY~~

**Sections:**



## 84.26.010 Purpose

As allowed by Government Code Section 65892.13, the purpose of this Chapter is to provide a uniform and comprehensive set of standards for the placement of accessory wind energy systems on parcels in unincorporated areas of the County in order to encourage the generation of electricity for on-site use, thereby reducing the consumption of electrical power supplied by utility companies. These regulations are intended to ensure that accessory wind energy systems are designed and located in a manner that minimizes visual and safety impacts on the surrounding community.

Adopted Ordinance 4011 (2007)

## 84.26.020 Applicability

This Chapter provides development standards for accessory wind energy systems.

Adopted Ordinance 4011 (2007)

## 84.26.030 Development Standards

**(a) Maximum Number of Accessory Wind Energy Systems. ~~Number of units and required separation~~.** ~~Normally, only one unit per parcel shall be allowed. However, additional units may be allowed at the rate of one unit for every 10 acres to a maximum of three units. The acreage requirement may be met by one parcel or the total acreage of multiple parcels held under common ownership. Units shall be installed with at least 240 feet separation from each other. If the units are to 50 feet in height, a maximum of two units may be installed per five acres. For every additional five acres, one additional unit may be added not to exceed a maximum of five units. Additionally, the separation between the units may be reduced to twice the height of the systems~~. The maximum number of Accessory Wind Energy Systems on a single parcel is determined by the total combined rated kW hours for all the wind turbines in a system. Wind turbines are defined in Section 810.010.250 (m)(4) of this Title. The maximum number of Accessory Wind Energy Systems is as follows:

**Table 84-14a**
**Maximum Number of Accessory Wind Energy Systems**

| | Type of System | Requirements |
|---|---|---|
| **Maximum Number of kW** | Residential | 10 kW |
| | Non-Residential | 50 kW or verified actual energy use |
| **Maximum Number of Turbines in the System** | Building-Mounted Turbines | Based on the maximum number of kW |
| | Tower-Mounted Turbines | Based on the maximum number of kW<br>Only 1 turbine shall be attached to each tower |
| | Combined Building Mounted and Tower Turbines | Based on the maximum number of kW<br>Only 1 turbine shall be attached to a tower |

**(b) Maximum tower height.** The tower height limitations in Table 84-~~12~~ 14b (Maximum Tower Heights for Accessory Wind Energy Systems) shall apply to all accessory wind energy systems, provided that the application for a system includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system. ~~For roof-mounted systems, refer to Subsection 83.02.040(c)(2)(V) relative height limit exceptions.~~

**Table 84-~~14~~14b**
**Maximum Tower Heights for Accessory Wind Energy Systems**

| Land Use Zoning District (parcel size within zoning district) | Region | | |
|---|---|---|---|
| | Valley | Mountain~~62~~ | Desert |
| AG | 80’ | 80’ | 120’ |
| RC | 80’ | 80’ | 120’ |
| ~~RL (1 acre to less than 2.5 Acres)~~ | ~~65’~~ | ~~65’~~ | ~~80’~~ |
| RL ~~(acres to less than 5 acres)~~ (minimum one-half acre) | 65’ | 65’ | 80’ |
| RL-5, RL-10, RL-20, RL-40 ~~(5 acres or greater)~~ | 80’ | 80’ | 100’ |
| RM (minimum one-half acre) | 52.5’ | 52.5’ | 52.5’ |
| RS (minimum one-half acre) | 52.5’ | 52.5’ | 52.5’ |
| All other land use zoning districts | 65’ (1) | 65’ (1) | 80’ (1) |

Note:
(1) Or the maximum structure height specified in Division 2 (Land Use Zoning Districts and Allowed Land Uses) for the land use zoning district in which the system is located, whichever is greater.

**(c) System Separation Requirements.** All units located on the same parcel shall be separated from each other in accordance with the manufacturer’s recommended distances.

**(~~c~~d) Setbacks.** The minimum setback from any property line shall be equal to the system height.

**(~~d~~e) Climbing apparatus.** Climbing apparatus shall be located at least 12 feet above the ground, and the tower shall be designed to prevent climbing within the first 12 feet.

**(ef) Lighting.** Tower structure lighting shall be prohibited unless required by another code or regulation.

**(~~f~~g) Noise.** The noise performance standards in Section 83.01.080 (Noise) shall apply, except during short-term events (e.g., utility outages, windstorms, etc.). The noise ratings as published by the manufacturer of a system proposed for installation shall be submitted to the County for review at the time of the submittal of an application for an Accessory Wind Energy System Permit. If multiple systems are being proposed, the noise ratings shall be modified to address the number of systems being installed.

**(gh) Visual effects.** An accessory wind energy system shall not substantially obstruct views of adjacent property owners.

**(~~h~~i) Location.**

(1) An accessory wind energy system shall be placed or constructed below any major ridgeline when viewed from any designated scenic corridor as identified in the Open Space Element of the General Plan and in Chapter 82.19 (Open Space (OS) Overlay).

(2) An accessory wind energy system shall <u>not</u> be:

(A) Located within a scenic corridor as identified in the Open Space Element of the General Plan and in Chapter 82.19 (Open Space (OS) Overlay).

(B) Allowed where otherwise prohibited by any of the following:

(I) The Alquist-Priolo Earthquake Fault Zoning Act.

(II) The terms of any easement.

(III) The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources.

**(~~i~~j) Turbine certification.** ~~The system's turbine shall be approved or shall have been approved by the California Energy Commission or certified by a national program (i.e., National Electrical Code (NEC), American National Standards Institute (ANSI), and Underwriters Laboratories (UL).~~All Wind Turbines in an Accessory Wind Energy System shall be approved by the California Energy Commission as eligible in its Emerging Renewables Program pursuant to Section 25744 of the Public Resources Code or has been certified by a national program recognized and approved by the Energy Commission including the Clean Energy States Alliance.

**(~~j~~k) Engineering analysis**. The application shall include standard drawings and an engineering analysis of the system's tower, showing compliance with ~~the Uniform~~

~~Building Code (UBC) or~~ the California Building Code (CBC) or the California Residential Code (CRC) and certification by a professional mechanical, structural, or civil engineer licensed by the State. However, a wet stamp shall not be required, provided that the application demonstrates that the system is designed to meet the:

(1) ~~UBC~~ CBC or CRC requirements for the applicable wind speed and exposure ~~D~~;

(2) ~~UBC~~ CBC or CRC requirements for ~~Seismic Zone 4~~the applicable seismic design category;

(3) Requirements for a soil strength of not more than 1,000 pounds per square foot; or

(4) Other relevant conditions normally required by a local agency.

**(~~k~~l) Compliance with aviation law.** The system shall comply with all applicable Federal Aviation Administration requirements and the State Aeronautics Act (Public Utilities Code Section 21001 et seq.).

**(~~l~~m) Compliance with electrical code.** The application shall include a line drawing of the electrical components of the system in sufficient detail to allow for a determination that the installation conforms to the ~~National~~ California Electric Code (CEC).

**(~~m~~o) Reduction in onsite electricity consumption.** The system shall be used primarily to reduce onsite consumption of electricity.

Adopted Ordinance 4011 (2007); Amended Ordinance 4098 (2010); Amended Ordinance XXXX (2012)

# CHAPTER 85.18 ACCESSORY WIND ENERGY SYSTEM PERMIT

**Sections:**



## 85.18.010 Purpose

As allowed by Government Code Section 65892.13, the purpose of this Chapter is to provide a uniform and comprehensive set of standards, conditions, and procedures for the placement of accessory wind energy systems on parcels in unincorporated areas of the County in order to encourage the generation of electricity for on-site use, thereby reducing the consumption of electrical power supplied by utility companies. These regulations are intended to ensure that accessory wind energy systems are designed and located in a manner that minimizes visual and safety impacts on the surrounding community.

Adopted Ordinance 4011 (2007)

## 85.18.020 Applicability

**(a) Accessory Wind Energy System Permit.** An accessory wind energy system, as defined by Section 810.010.250 (Definitions, "W") and where allowed by Division 2 (Land Use Zoning Districts and Allowed Land Uses), shall require an Accessory Wind Energy System Permit and shall be subject to the requirements and standards in this Chapter.

**(b) Exemptions.** A~~n~~ single accessory wind energy system that is 35 feet or less in height shall be exempt from the requirement to obtain an Accessory Energy System Permit. Multiple systems on the same parcel, even if they are 35 feet or less in height, shall be required to obtain an Accessory Wind Energy System Permit. All accessory wind energy systems shall comply with the standards outlined in this chapter, including those systems exempted from the Accessory Wind Energy System Permit Process pursuant to Section 85.18.020(b).

Adopted Ordinance 4011 (2007); Amended Ordinance 4098 (2010); Amended Ordinance XXXX (2012)

## 85.18.030 Procedures

**(a) Action.** The Director shall review and act upon an application for approval of an Accessory Wind Energy System Permit.

**(b) Procedure.** Staff Review With Notice in compliance with Section 85.02.030 (Staff Review with Notice).

**(c) Notification.**

**(1) Surrounding property owners.** Notice shall be given by first class mail or delivery to all surrounding property owners within 300 feet of the boundaries of the parcel of the subject site when ~~a request is submitted to the Department for review~~the application is accepted as complete.

**(2) Electric utility service provider.** If the applicant plans to connect the system to the electricity grid, the applicant shall submit documentation from the electric utility service provider that serves the proposed site confirming they have been informed of the applicant's intent to install an interconnected customer-owned electricity generator. If the applicant does not plan to connect the system to the electricity grid, notice to the electric utility service provider shall not be required.

**(3) Pest control service providers.** In the event an accessory wind energy system is proposed to be sited ~~in~~as an accessory to an agricultural use~~area~~ that may have aircraft operating at low altitudes, the applicant shall take reasonable steps to notify pest control aircraft pilots registered to operate in the County.

**(4) Military airspace authority.** An accessory wind energy system shall not be sited on land within a restricted military airspace without first giving adequate notice to the governing authority of that airspace.

**(d) Review Authority.** Director.

**(e) Findings required.** Before approving an application for an Accessory Wind Energy Permit, the Director shall find and justify that all of the following are true:

(1) The site for the proposed use is adequate in size and shape to accommodate the proposed use and all yards, open spaces, setbacks, walls and fences, parking areas, loading areas, landscaping and other features pertaining to the proposed use.

(2) The site for the proposed use has adequate access (i.e., the site design incorporates street and highway limitations).

(3) The proposed use will not have a substantial adverse effect on adjacent property or the use of the adjacent property (e.g., excessive noise, vibration, traffic, other disturbance, etc.) and will not have a substantial visual impact on adjacent property.

(4) The proposed use is consistent with the goals, policies, standards and maps of the General Plan and any applicable Community Plan or Specific Plan.

(5) The lawful conditions stated in the approval are deemed necessary to protect the public health, safety, and general welfare.

~~The design of the site has taken into consideration the potential for the use of solar energy systems and passive or natural heating and cooling opportunities in compliance with Government Code Section 65850.5.~~

Adopted Ordinance 4011 (2007)

## 85.18.040 Abandonment

Under normal occupancy, an accessory wind energy system that is not operated for a continuous period of 12 months shall be considered abandoned. The owners of the system shall remove all structures within 90 days of receipt of notice from the County advising the owner of the abandonment. If the system is not removed within 90 days, the County may remove all structures at the owner's expense.

Adopted Ordinance 4011 (2007)

**THIS SPACE INTENTIONALLY LEFT BLANK.**

## 810.01.250 Definitions, "W."

**(a) Wall Sign.** See "Sign."

**(b) Warehouse.** See "Storage Warehouse."

**(c) Warehouse Retail (see Land Use Tables).** A retail store that emphasizes the packaging and sale of products in large quantities or volumes, some at discounted prices, where products are typically displayed in their original shipping containers. Sites and buildings are usually large and industrial in character. Patrons may be required to pay membership fees.

**(d) Watercourse.** Any natural or man-made channel where water is concentrated or collected from a tributary drainage area. A lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**(e) Water-Intensive Landscaping.** Landscaping that has a plant factor of 0.7 or greater.

**(f) Watering Window.** The time within a 24 hour period in which an irrigation system is allowed to operated.

**(g) Water Use Classification of Landscape Species (WUCOLS).** The third edition of the publication from the University of California Cooperative Extension, the Department of Water Resources, and the Bureau of Reclamation regarding plant material and their water use needs.

**(h) Weather Sensing Devices.** Irrigation components that detect adverse weather conditions (e.g. rain, wind, frost, etc.) and will automatically override the pre-programmed irrigation schedule during adverse weather events.

**(i) Wholesale.** A sale of commodities or goods to others for resale and not normally to the ultimate consumer. Sales can normally employ warehouses, open enclosures and office space for the assembly, storage, distribution and display of merchandise for large quantity sales to community or regional retailers, manufacturers, and agricultural, commercial, industrial, institutional and professional uses. Sales may include the rendering of services incidental to and supportive of the sale of merchandise.

**(j) Wholesaling and Distribution (see Land Use Tables).** Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to persons or companies. Examples of these establishments include:

- agents, merchandise or commodity brokers, and commission merchants

- assemblers, buyers and associations engaged in the cooperative marketing of farm products
- merchant wholesalers
- stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

Also includes storage, processing, packaging, and shipping facilities for mail order and e-commerce retail establishments.

**(k) Wine Tasting.** A facility or area within a winery where wine and related products are offered for retail sale, where wine may be tasted for a fee, or without charge.

**(l) Wildland.** Timber, range, watershed and brush lands not under cultivation and in which development is essentially nonexistent; usually rugged open space terrain.

**(m) Wind Energy System (see Land Use Tables).** A system that utilizes wind energy to pump a fluid or gas, or to drive a mechanical device to generate electricity. Related wind energy terms are defined as follows:

**(1) Accessory Wind Energy System.** ~~A wind energy conversion system consisting of a wind turbine and blades, a tower, and associated control or conversion electronics, which will be used primarily to reduce onsite consumption of utility power.~~ An Accessory Wind Energy System consists of one or more wind turbines that generate electricity primarily for the principal use on a site. (When referring to accessory wind energy systems, primarily means that more than 50% of the energy shall be used on site.) An accessory wind energy system includes all the wind turbines on a single lot or on multiple parcels in common ownership with a single, common land use. An Accessory Wind Energy System typically has a rated capacity of not more than 50 kilowatts. This capacity may be increased to a maximum of the actual demonstrated energy use for a specific site in question.

**(2) System Height.** The combined height of the tower, the turbine and any blade when at the 12 o'clock position.

**(3) Tower Height.** The height above grade of the fixed portion of the tower, excluding the wind turbine.

**(4) Wind Turbine.** A device which converts the kinetic energy of wind into a usable form of electric energy. A wind turbine may consist of a tower, turbine, support structures, electrical wires, guy wires and other related equipment.

# Notice of Exemption

To: ☐ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: County of San Bernardino
Land Use Services Department
Advance Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0182

☒ Clerk of the Board of Supervisors
County of San Bernardino
385 North Arrowhead Avenue, Second Floor
San Bernardino, CA 92415-0130

**Project Description**

**Applicant:** Land Use Services Department
**Proposal:** A Development Code Amendment to revise the regulations relative to small wind energy systems and the Accessory Wind Energy Systems Permit.
**Community:** Countywide
**JCS:** L612
**Staff:** Jim Squire

**Applicant**

County of San Bernardino
Land Use Services Department

385 N. Arrowhead Ave., First Floor
Address

San Bernardino, CA 92415-0182

(909) 387-4237
Phone

**Representative**

Terri Rahhal, Planning Director
Name

Same as Applicant
Address

Terri Rahhal, Planning Director
Lead Agency Contact Person

(909) 387-4237
Area Code/Telephone Number

Same As Applicant
Phone

Exempt Status: *(check one)*

☐ Ministerial [Sec. 21080(B)(1); 15268];
☐ Declared Emergency [Sec. 21080(B)(3); 15269(a)];
☐ Emergency Project [Sec. 21080(B)(4); 15269(b)];
☒ Categorical Exemption. State type and section: Review of Exemption § 15061(b)(3)

☐ Statutory Exemptions. State code number:
☐ Other Exemption:

Reasons why project is exempt: Since the proposed changes are simply recognizing building-mounted wind energy systems and small blade technologies and making minor revisions to the development standards for these systems, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and thus, the project is also exempt from the requirements of CEQA pursuant to state CEQA Guidelines §15061(b)(3).

*Signature* *Title* *Date*

☒ Signed by Lead Agency ☐ Signed by Applicant

Date received for filing at OPR:

# EXHIBIT D: REC-Element Table 1

## Table 1: Renewable Energy Generation Categories

| | Community-Oriented | | | | Utility-Oriented |
|---|---|---|---|---|---|
| | Accessory: Site-Oriented | | | | |
| Key Traits | Rooftop | Ground-Mounted Accessory | Neighborhood | Community | |
| **Typical Use** | Accessory structure in support of on-site consumption | Accessory structure in support of on-site consumption | Provides electricity primarily for adjacent use | Provides electricity primarily for local off-site use | Supplies electricity to the transmission grid |
| **Preferred Technology Types** | Solar PV and water heater energy systems<br><br>Geothermal<br>Wind energy systems | Solar PV and water heater energy systems<br><br>Geothermal<br>Wind energy systems | Solar PV energy systems<br><br>Geothermal | Solar PV energy systems<br><br>Bioenergy<br>Geothermal | Solar PV energy systems<br><br>Bioenergy |
| **Permit Type** | Building Permit | Building Permit | Minor Use Permit | Conditional Use Permit | Conditional Use Permit |
| **Approval** | Staff | Staff | Zoning Administrator | Planning Commission | Planning Commission |
| | | | | | |
| **Typical Size** | Varies depending on size of facility/ residential roof | Varies depending on on-site needs | Up to 5 acres in total area | Up to 60 acres in total area | More than 60 acres in total area - Limited Sites* |
| **Typical Power Generation** | Varies depending on facility/ residence size | Up to approximately 70 kW (standard layout) | Up to approximately 710 kW (standard layout) | Up to approximately 10 MW (standard layout) | More than 10 MW |
| | | | | | |
| Notes: | * Limited sites for utility-oriented development are specified in the Development Code | | | | |

**From:** Garry Lukas
**To:** Wells, Maryn
**Cc:** Supervisor Rowe; Cook, Paul
**Subject:** PROJ-2024-00063 Wind generator opposition to increase capacity
**Date:** Friday, February 28, 2025 7:56:58 AM

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I am a longtime Newberry Springs resident.
We are in opposition to power enhancements and additional wind generators.

The first of these unsightly structures in this valley are already destroyed.

They are temporary at best, unsightly, then abandoned and left in disrepair after wind damage.

Garry Lukas
35823 Harvard Rd
Newberry Springs Ca. 92365