



**RESOURCE MANAGEMENT
AGENCY
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETE VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: June 8, 2010 – REVISED

Public Hearing Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>						

CONTACT PERSON: Celeste Perez PHONE: (559) 624-7000

SUBJECT: Interpretation to the Tulare County Zoning Ordinance No. 352 for Solar and Wind Electrical Generation Facilities, County Wide

REQUEST(S):

That the Board of Supervisors:

1. Adopt zoning interpretation that Solar and Wind Electrical Generation Facilities are included within the meaning of Public and Private Utility Structures and that said facilities, where a Special Use Permit is required, shall be subject to a Development Agreement.
2. Accept the Resource Management Agency's three tier processing for Public and Private Utility applications:
Tier 1. Where a solar or wind electrical generating facility is designed for on-site consumption, the facility shall be considered an accessory use and permitted by right.
Tier 2. Where a solar and wind electrical generating facility is designed for on-site consumption and excess generation is for sale, the use shall be subject to a Special Use Permit and Development Agreement.
Tier 3. Where a solar and wind electrical generating facility is designed for sale, the use shall be subject to a Special Use Permit and Development Agreement.

SUMMARY:

The proposed zoning interpretation would permit solar and wind electrical

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generation facilities in all zone districts permitting Public and Private Utility Facilities Public Utility Structures subject to a Special Use Permit and Development Agreement. Exceptions to this requirement include: (1) Public Utility Facilities preempted by State and/or Federal Law; and (2) A Public Utility Facility designed and used for on-site consumption.

The research conducted by Resource Management Agency (RMA) staff in support of the zoning interpretation is contained in Exhibit A. In summary 23, Zone Districts permit Public Utility Structures by Special Use Permit. The existing General Plan and the Draft General Plan contain Goals and Policies Supporting alternative energy programs. The State of California Solar Initiative and Funding encourages the use of alternative energy facilities. The approval of the requested zoning interpretation would expand the definition of Public Utility Structures to include solar and wind facilities.

Resource Management Agency has 11 Special Use Permit Applications for Solar facilities filed which are being processed on the assumption that such use is a Public Utility Facility as defined by Tulare County Zoning Code.

ZONING INTERPRETATION AND APPLICATION:

RMA Planning staff has responded to the requested Special Use Permit Applications for Solar electrical generation facilities and has engaged both the Tulare County Farm Bureau and Tulare County Agricultural Advisory Committee regarding these electrical generation facilities being located on agricultural lands. The State of California Department of Conservation has produced an opinion paper relating to the placement of Public Utility Facilities on Williamson Act Contracted lands.

The proposed entitlement process is three tiered:

Tier 1. Where a solar or wind electrical generating facility is designed for on-site consumption, the facility shall be considered an accessory use and permitted by right.

Tier 2. Where a solar and wind electrical generating facility is designed for on-site consumption and excess generation is for sale, the use shall be subject to a Special Use Permit and Development Agreement.

Tier 3. Where a solar and wind electrical generating facility is designed for sale, the use shall be subject to a Special Use Permit and Development Agreement.

Note: Application of this zoning interpretation is further expanded and defined in a separate action when such Public Utility Facility is proposed to be located on prime or non-prime agricultural lands as well as lands under Williamson Act Contracts or Farmland Security Zones.

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FISCAL IMPACT/FINANCING:

Initial costs associated with the processing of these Special Use Permits are paid by the applicant in the form of a \$1,750 deposit. Subsequent costs, including staff time, are billed at the rate of \$100 per hour.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The interpretation that solar and wind electrical generation facilities are included within the meaning of Public and Private Utility Structures aligns with the Economic Well-Being and Quality of Life initiatives by providing economic development opportunities and promoting natural resource management and the continued improvement of environmental quality.

ALTERNATIVES:

1. Find that solar and wind electrical generation facilities not be included as a Public and Private Utility Structures.
2. Table the item and send back to staff for additional research and direct RMA Staff to stop the processing of Special Use Permit Applications for Solar Facilities.

INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

The Resource Management Agency Planning Branch referred the current batch of Special Use Permits for solar facilities to the follow departments and agencies for early comment:

TCRMA –Flood/Subdivisions/Surveyor/Permits Division
TCRMA – Building Division
TCHHSA – Environmental Health Services Division
TCRMA – Airport Land Use Commission
TCRMA – Countywide Planning Division
TC Fire Department
TCRMA – Solid Waste Division
TCRMA – Agricultural Commissioner
TCFB – Tulare County Farm Bureau
TCAAC – Tulare County Agricultural Advisory Committee
School Districts
Caltrans – District 6
Regional Water Quality Control Board District 5.
District Archaeologist
Department of Fish and Game
San Joaquin Valley Air Pollution Control District
Edison International
Southern California Gas Company

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ADMINISTRATIVE SIGN-OFF:

Jake Raper, Jr., AICP
RMA Director

cc: Auditor/Controller
County Counsel
County Administrative Office (2)

Attachment(s)

Exhibit A – Supporting Research and Analysis for zoning Interpretation
Attachment 1 – Solar facility locations General Zoning Map

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF INTERPRETATION)
TO THE TULARE COUNTY ZONING)
ORDINANCE NO. 352 FOR SOLAR)
AND WIND ELECTRICAL GENERATION)
FACILITIES, COUNTY WIDE)

RESOLUTION NO. _____.

UPON MOTION OF SUPERVISOR _____, SECONDED BY SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JUNE 8, 2010, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
 COUNTY ADMINISTRATIVE OFFICER
 CLERK, BOARD OF SUPERVISORS

BY: _____
 Deputy Clerk

* * * * *

1. Adopted zoning interpretation that Solar and Wind Electrical Generation Facilities are included within the meaning of Public and Private Utility Structures and that said facilities, where a Special Use Permit is required, shall be subject to a Development Agreement.
2. Accepted the Resource Management Agency's three tier processing for Public and Private Utility applications:
Tier 1. Where a solar or wind electrical generating facility is designed for on-site consumption, the facility shall be considered an accessory use and permitted by right.
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Tier 3. Where a solar and wind electrical generating facility is designed for sale, the use shall be subject to a Special Use Permit and Development Agreement.