



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

P L A N N I N G D E P A R T M E N T

December 9, 2020

Agenda Item#
December 15, 2020

Chris Bazar
Agency Director

Albert Lopez
Planning Director

224 West Winton Ave
Room 111

Hayward, California
94544-1215

phone
510.670.5400
fax
510.785-8793

www.acgov.org/cda

Honorable Board of Supervisors
County of Alameda
1221 Oak Street, Suite 536
Oakland, CA 94612

Dear Board Members:

SUBJECT: APPEAL BY GOLDEN GATE AUDUBON SOCIETY / AUDUBON CALIFORNIA

- from the decision of the East County Board of Zoning Adjustments to:
- a. Certify the Final Subsequent Environmental Impact Report (FSEIR), tiered under the Altamont Pass Wind Resource Area (APWRA) Repowering Final Program Environmental Impact Report, SCH#2010082063, describing the environmental impacts of the proposed project; and
 - b. Approve Conditional Use Permit PLN2017-00201 to allow the project to be constructed, described as follows:

Repowering of an estimated 671 existing or previously existing wind energy turbine sites with up to 40 new turbines with a maximum production capacity of 109.5 megawatts (MW; reduced in approval from 144.5 MW originally proposed), using turbines rated between 2.3 and 2.8 MW per turbine repowering (reduced in approval from turbines rated up to 4.0 MW per turbine), on fifteen nearly contiguous parcels on approximately 2,600 acres in the eastern portion of the APWRA, bordering both sides of Altamont Pass Road west of Grant Line Road, both sides of Mountain House Road north of Grant Line Road, generally west of Bethany Reservoir and southeast of the intersection of Christensen and Bruns Roads, bearing Assessor's Parcel Numbers: 99B-7750-6; 99B-6325-1-4; 99B-6325-1-3; 99B-7375-1-7; 99B-7400-1-5; 99B-7300-1-5; 99B-7050-4-6; 99B-7050-1-9; 99B-7050-4-1; 99B-7350-2-1; 99B-7350-2-15; 99B-7350-2-5; 99B-7500-3-2; 99B-7500-3-1; and 99B-7600-1-1.¹

RECOMMENDATIONS:

East County Board of Zoning Adjustments (EBZA): On February 13, 2020 the EBZA certified the FSEIR and approved the project, respectively by Resolutions 20-01 and 20-02. The EBZA approval was for a reduced-size alternative yielding only 109.5 MW and turbines rated at no more than 2.8 MW of capacity, with most turbines rated at 2.3 MW per turbine, including one parcel exclusively for an Operations and Maintenance (O&M) facility.

Planning Staff: Planning staff recommends the Board of Supervisors deny the appeal and uphold the certification of the FSEIR, and in part deny and in part grant the appeal of the project, by approval of a revised project and revised conditions of approval. The revised project would have a capacity of 50 MW, using no more than 16 total turbines, each rated at up to 4.0 MW on 11 parcels.

¹ Fifteen APNs as listed in application; APN 99B-7750-11-0 was added for an Operations and Maintenance (O&M) facility per EBZA Resolution Z-20-02 of February 13, 2020, recital paragraph No. 1. However, due to a typographical error, APN 99B-6325-1-3 was not shown in condition No. 1 (Approval), which showed only APN "99".

The Planning staff recommendation is consistent with an agreement between the applicant and the appellants (referenced in the letter attached as Exhibit A).

BACKGROUND

The subject application (PLN2017-00201) was submitted in late 2017 as a proposal to repower two site areas that had been previously approved for repowering (PLN2015-00198, for up to 36 MW of capacity) and also to repower other parcels that had historically contained wind turbines. In the fall of 2018, the application was prepared for a hearing by the EBZA under the same type of environmental review under the California Environmental Quality Act (CEQA) as used for three other repowering projects (Summit Wind, PLN2014-00056; Golden Hills North, PLN2015-00157; and the prior iteration of the Sand Hill project by a different operator for PLN2015-00198). This level of review uses ‘tiering’ under the 2014 Program EIR with a checklist incorporating site-specific studies of biological resources, aesthetics, air quality, cultural resources, geology, hydrology, noise and potential transportation effects resulting from project construction and operation. The primary objective of the checklist was to validate that the later project would not result in new or different or more severe impacts on the environment than were identified in the 2014 Altamont Pass Wind Resource Area (APWRA) Repowering Program - Environmental Impact Report (PEIR).

However, due to a combination of factors in late 2018, including the larger scale of the project to yield over 144 MW (compared to an earlier iterations defined in the PEIR as only 34 MW), the use of turbines rated at 3.6, 3.8 or 4.0 MW per turbine when the typical turbine anticipated in the PEIR was 3.0 MW), and early results from other repowering projects indicating potentially higher fatality of golden eagles and other focal avian species due to wind energy operations, the appellant, with additional input from the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS), encouraged the County to reconsider the use of the checklist. By January of 2019, County Planning staff had advised the applicant that the County would begin to prepare a Subsequent EIR (SEIR) as defined by the CEQA Guidelines.

Approval. The SEIR was prepared and circulated for public comment in August 2019, and the Final SEIR was completed in January 2020. The project was brought to the EBZA for certification of the SEIR and the project’s approval on February 13, 2020. The EBZA approved the project in the form of the Smaller Turbine–Pre-Micro-Sited Layout Alternative as defined in the SEIR and as the Environmentally Superior Alternative for the purpose of the CEQA Guidelines. The Alternative used the results of a micro-siting study to select the turbine locations with the lowest comparative probability of adverse effects on birds based on knowledge of flight patterns relative to topography. Furthermore, because of the direct relationship between MW and avian mortality as analyzed in the PEIR and SEIR (that the latter increases proportionally with the former), the Alternative incorporated limitations on the size of turbines so as to reduce total capacity by about 24 percent (144.5 to 109.5 MW).

Appeal. The appeal asserted that the SEIR was inadequate in identifying sufficient mitigation measures and alternatives to avoid and reduce the adverse effects of the project on birds and bats, accuracy in assessing the severity of the project and alternatives’ impacts on birds and bats, and considering the cumulative impacts of all potential wind energy repowering buildout. The appeal letter also objected to the approval of the CUP and the approved Alternative for related reasons, in that it would not sufficiently serve to avoid and minimize bird and bat mortality, using the preferred micro-siting protocols of another researcher, monitoring, adaptive management and compensatory mitigation.

DISCUSSION

At the request of the appellants, and in light of the evidence in the record of golden eagle and Swainson’s hawk nests within or near the northeastern project parcels, staff facilitated discussions between the applicant

and the appellants, , with the participation of the state Office of the Attorney General and also consultation with the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS). Subsequently, the applicant began to negotiate an agreement with the appellants. The initial discussions were based on the appellants' prepared mitigation plan involving new micro-siting studies, elimination of ten to twelve turbine sites rated as high risk sites in the micro-siting studies done for the project by two separate researchers, curtailment of daytime turbine operations among certain turbine sites, potential use of detection and deterrent technologies, increased monitoring, new surveys for selected species, and several other measures. The result of the negotiation was primarily a combination of withdrawing four parcels from the project, eliminating 24 turbine sites, reducing capacity to 50 MW, allowing turbines rated up to 4.0 MW per turbine, and requiring four specific turbine sites to be evaluated for further micro-siting based on consultation with the County's ongoing Wind Repowering/Avian Protection Technical Advisory Committee (WRAP TAC). The jointly-signed letter from the appellants and the applicant is attached, along with a draft Resolution.

CONCLUSION

Staff has evaluated the appeal and the agreement between the appellant and the applicant, as described by the parties and summarized above, and finds that the certification of the SEIR by the EBZA was appropriate and that the appellant has in effect withdrawn its objection to the certification contingent on the agreed-upon changes to the project. As such, staff recommends the Board of Supervisors deny the appeal with regard to certification of the SEIR, in part grant the appeal and in part deny the appeal of the approval of the Conditional Use Permit, and approve the project as further specified in the attached draft resolution.

The complete record is attached.

Very truly yours,

DocuSigned by:

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Chris Bazar, Director
Community Development Agency

ATTACHMENTS:

Exhibit A, Resolution of Appeal of Sand Hill Wind Repowering Project – CUP Application No. PLN2017-00201 (jointly signed letter by appellant and applicant representative, 17 November 2020)

Appeal letter of Golden Gate Audubon Society (GGAS) and Audubon California to the February 13, 2020 Resolution to Certify the Subsequent Environmental Impact Report and Approve Conditional Use Permit Application No. PLN2017-00201

Resolutions Z-20-02 and 20-03, respectively to certify the SEIR and approve the CUP, including Exhibits
Draft Board of Supervisors Resolution R-2020-____, December 15, 2020

Final SEIR (not printed; document and related documents accessible from Planning Department website at:
http://acgov.org/cda/planning/landuseprojects/sand_hill_wind_project_b.htm)

Staff report to the EBZA for February 13, 2020, including prior staff report of September 12, 2019