



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

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MEMORANDUM

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Chris Bazar, Director, Community Development Agency
Albert Lopez, Planning Director

DATE: April 11, 2013

SUBJECT: Draft Solar Policies for East County Area Plan

BACKGROUND

The Transportation and Planning Committee last heard this item on September 13, 2012 when the committee considered draft general plan amendments to address issues related to the siting of utility-scale solar energy facilities (SEFs) in the rural East County. The draft policies are based on input from seven community meetings held since June of 2011. The meeting attendees included property owners, solar industry representatives, environmentalists, agriculturalists, and staff from various government agencies and neighboring jurisdictions. If adopted, the draft policies will be incorporated into the East County Area Plan (ECAP), the general plan for the eastern portion of the County where interest in developing SEFs has been the highest.

At the September meeting, your committee directed staff to revise the draft policies to reflect your input, and to hold a community meeting to obtain feedback from the public before bringing the revised policies back to the committee. The community meeting was held on November 29, 2012. The revised draft policies are attached.

DISCUSSION

The proposed goal is to "maximize the production of solar photovoltaic energy to the extent feasible, while minimizing potential biological, agricultural, visual, and other environmental impacts." The draft policies are intended to facilitate the attainment of this goal by supporting solar energy development while requiring mitigation to address potential impacts.

The policies would apply to ground-mounted solar installations that generate power for off-site use. Since these facilities tend to be much more land intensive than roof-mounted or ground-mounted solar systems that generate power primarily for on-site use, they also tend to have the greatest impacts. Under current county development regulations, with only building permits, solar panels can be placed on any existing legal roof. Other than utility-scaled projects there has been limited permit activity to install ground mounted solar to power on-site non-residential uses (e.g. wineries, quarries etc.). In these limited cases staff has required Conditional Use Permits.

Policy Options

The main issues that have come out of discussions of the draft policies are whether SEFs should be allowed on parcels designated as important farmland, as defined by the State Department of Conservation (DOC), and whether SEFs should be allowed on parcels under Williamson Act contract. Another issue that has been raised is whether a cap on the overall acreage to be developed with SEFs would be appropriate. In order to simplify comparison of the various policy alternatives, Table 1 below presents three options. Option A includes the most restrictive versions of the policies; Option B includes moderate versions of the policies; and Option C includes the least restrictive versions of the policies. A more detailed explanation of each issue follows the descriptions of the options.

Table 1 – Options for Siting SEFs on Important Farmland			
Land Use Measures	Option A Most Restrictive	Option B Moderate	Option C Least Restrictive
Allow SEFs on Important Farmland	No	Yes, with findings listed in text below	Yes
Require 1:1 mitigation for loss of Important farmland	Not Applicable	Yes, see Draft Policy 5	Yes, see Draft Policy 5
Allow SEFs on land under Williamson Act Contract	Maintain existing limit for compatible uses in Uniform Rule 2 (10% of parcel or 10 acres, whichever is less). Discourage contract cancellation.	Adopt Draft Policy 6 to allow more coverage than what is currently allowed by Uniform Rule 2 if development is consistent with Principles of Compatibility. Discourage contract cancellation.	Adopt Draft Policy 6 to allow more coverage than what is currently allowed by Uniform Rule 2 if development is consistent with Principles of Compatibility. Allow contract cancellation with findings of public good.
Overall Acreage Cap	Yes, 1,000-acre cap applied to SEFs in entire East County	Yes, 1,000-acre cap applied to SEFs on Important Farmland	No

Option A – Most Restrictive

Under Option A, SEFs would not be allowed on parcels designated as Important Farmland; therefore, most of the Mountain House area would not be available for SEF development. This alternative would prevent the loss of existing Important Farmland and raptor foraging habitat provided by the alfalfa that is currently cultivated in the area. If Option A is adopted, solar companies who have expressed interest in siting facilities in Mountain House may consider locating in other parts of the county such as North Livermore, or may consider not locating here at all.

In addition, Option A would maintain the existing coverage limit of 10% of the parcel or 10 acres, whichever is less, for compatible uses on property under Williamson Act contract and would not include Draft Policy 6 which would allow more coverage if the proposed development is found consistent with the Principles of Compatibility.

Option A would also include a cap of 1,000 acres on the total acreage allowed for SEF development throughout the entire unincorporated East County. An increase in the cap could be considered if the 1,000 acre limit is reached.

Option B – Moderately Restrictive

Option B would allow development of SEFs on important farmland in accord with Draft Policy 5. As written, the proposed policy would protect at least half of the remaining important farmland in the Mountain House area by requiring 1:1 mitigation either off-site through the placement of conservation easements on an equal amount of comparable land within the county, or on-site through an approved agricultural management plan which would ensure that at least half of the parcel would remain in agricultural production while the SEF is in operation. Requiring that the following findings be made before a development can be approved would provide additional protection.

Suggested Findings:

- The distance between the proposed SEF and the location where the project connects to the grid is minimized to avoid potential adverse impacts to the agricultural viability, open space and visual character of the surrounding properties.
- Potential adverse impacts on the repowering efforts in the Altamont Pass Wind Resource Area (APWRA) have been minimized.
- The proposed SEF will benefit residents of the county by providing a source of clean, renewable energy.
- The loss of important farmland resulting from the development of the SEF will not discourage the continuation of agricultural operations on adjacent property and will not adversely affect agriculture in the county as a whole.

Option B would maintain the existing coverage limit of 10% of the parcel or 10 acres, whichever is less, for compatible uses on property under Williamson Act contract, but would also include Draft Policy 6 which would allow more coverage if the proposed development is found consistent with the Principles of Compatibility. Cancellation of contracts to allow for more intensive SEF developments would be discouraged.

Option B would include a cap of 1,000 acres on SEF development allowed on Important Farmland. An increase in the cap could be considered if the 1,000 acre limit is reached.

Option C – Least Restrictive

Under Option C, SEFs would be allowed on Important Farmland and mitigation for the loss of Important Farmland would be required in accord with Draft Policy #5, but no additional findings would be applied.

Option C would maintain the existing coverage limit of 10% of the parcel or 10 acres, whichever is less, for compatible uses on property under Williamson Act contract, but would also include Draft Policy 6 which would allow more coverage if the proposed development is found consistent with the Principles of Compatibility. Cancellation of contracts to allow for more intensive SEF developments would be allowed, assuming that the findings required by state statute can be made.

Option C would not include an overall acreage cap.

Important Farmland Definitions

An important issue discussed at the September committee meeting was whether SEFs should be allowed on Important Farmland, which includes Prime, Farmlands of State-wide Importance, and Unique Farmlands as defined by the California Department of Conservation (DOC) Farmland Mapping and Monitoring Program. The DOC updates maps every two years after consulting with the county and others about where changes in land use have occurred. Analysis of soil characteristics is based on the Natural Resources Conservation Service (NRCS) digital soil survey.

The State uses the following definitions for the three categories classified as Important Farmland:

Prime Farmland: “Farmland with the best combination of physical and chemical features able to sustain long term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.”

Farmland of Statewide Importance: “Farmland similar to Prime Farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.”

Unique Farmland: “Farmland of lesser quality soils used for the production of the state's leading agricultural crops. This land is usually irrigated, but may include nonirrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the four years prior to the mapping date.”

The question of whether to allow SEFs on Important Farmland and, if so, how much, was discussed at the November 29th community meeting. Some property owners in attendance suggested that the State's Important Farmland designations are out of date and no longer reflects current conditions. Staff consulted the County Agricultural Advisory Committee (AAC) at their January 22, 2013 meeting. The committee members present supported the continued use of the state designations, stating that the soil classifications on which the designations are based have not changed and are still relevant.

SEFs on Important Farmland

Most of the County's remaining Important Farmland is located either in the Mountain House area in the northeast corner of the County or in the South Livermore Valley. Thus far, developers of SEFs have shown the greatest interest in the Mountain House area. Several factors make this area particularly attractive for SEFs. Mountain House is in close proximity to the PG&E Kelso and Tesla substations which provide access to the electrical grid. Also, the terrain in the Mountain House area is relatively flat which would make the installation and operation of the solar panels easier than in hillier areas.

Some members of the agricultural and environmental communities have spoken against allowing SEFs on Important Farmland in order to protect the County's limited remaining land with these designations. Members of the Agricultural Advisory Committee have stressed the importance of requiring mitigation for the loss of any important farmland resulting from SEF development and enforcing requirements for restoration plans in the event that a SEF stops operating. Existing ECAP Policy 71 states: “The County shall conserve prime soils (Class I and Class II, as defined by the USDA Soil Conservation Service Land Capability Classification) and Farmland of Statewide Importance and Unique Farmland (as defined by the California Department of Conservation Farmland Mapping and Monitoring Program) outside the Urban Growth Boundary.” ECAP Policy 72 states: “The County shall preserve the Mountain House area for intensive agricultural use.” ECAP defines intensive agricultural use as “... high yield agricultural

production including vineyards, orchards, and row crops as distinguished from low-intensity agriculture such as cattle and horse grazing.” Draft Policy 5 and Program 2 are intended to further address these concerns.

In addition, representatives of environmental groups have suggested that locating SEFs in the Mountain House area, in close proximity to the existing windfarms in the Altamont Pass, may increase avian mortality in the Altamont Pass Wind Resource Area (APWRA) by displacing raptors that would otherwise forage on the SEF sites and driving them toward the wind turbines. Draft Policy 9 is intended to address this concern.

SEFs on land under Williamson Act Contract

Solar panels are considered a compatible use under Uniform Rule 2, Section II.E.3 of the County’s Williamson Act regulations; however, coverage of parcels under contract is limited to 10% or 10 acres, whichever is less. The AAC considered this amount of solar development to be adequate to provide power on-site to a relatively large agricultural facility, such as a large winery. Any solar facility that would cover a larger area would require cancellation of the contract. It was the position of the committee that a large-scale solar facility generating power for off-site use is not appropriate on property under Williamson Act contract as it would be detrimental to the agricultural use on the property. Members of the public have suggested that this size restriction be changed to allow larger solar facilities on property under contract. Draft Policy 6 would allow solar developments that exceed the current coverage limit for compatible uses if they are found consistent with the Principles of Compatibility in Uniform Rule 2, Section I (incorporated from Government Code Section 51238.1).

Principles of Compatibility:

1. The use will not significantly compromise the long-term productive agricultural capability of the contracted property or on other contracted lands in agricultural.
2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted property or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the contracted property may be deemed compatible if they relate directly to the production of commercial agricultural products on the contracted property or neighboring lands, including activities such as harvesting, processing, or shipping.
3. The use will not result in the significant removal of adjacent contracted land from agricultural use or open-space use.
4. The use will not result in the significant increase in the density of the temporary or permanent human population that could hinder or impair agricultural operations on the contracted property.

State statute establishes the process for contract cancellation which requires the Board of Supervisors to make certain findings, including a finding that the cancellation is in the public interest. ECAP Policy 86 states: “The County shall not approve cancellation of Williamson Act contracts within or outside the County Urban Growth Boundary except where findings can be made in accordance with state law, and the cancellation is consistent with the Initiative [Measure D]. In no case shall contracts outside the Urban Growth Boundary be canceled for purposes inconsistent with agricultural or public facility uses.”

Proposed Temporary Cap on SEFs

While many large-scale SEFs are currently being built throughout the state, future demand for this type of development is uncertain; and, in addition, the long-term impacts of these facilities are still being determined. With this uncertainty in mind, at the September committee meeting staff recommended an initial overall cap of 1,000 acres on SEF development in the East County (see Option A above). As an

alternative, this cap could be applied only to SEFs on Important Farmland (see Option B above). In either case, if the 1000-acre cap is reached the County can assess whether it is appropriate to raise the cap to allow additional SEFs; this could be done through a future amendment to the ECAP.

NEXT STEPS

Staff requests that your committee provide direction as to which policy option, or combination of options, is preferred. If your committee directs staff to proceed with the general plan amendment, the next step will be to conduct the CEQA analysis. The level of this analysis will be determined through the policies themselves as well as through preparation of an initial study. Once the CEQA document has been completed, the proposed policies will be presented to the Planning Commission for their recommendation; and then to the Board of Supervisors for final adoption. The timeframe for this process will largely be determined by the type of CEQA document that must be prepared.

ATTACHMENTS

- Draft Solar General Plan Policies to be added to the East County Area Plan (ECAP)