



DEPARTMENT OF PLANNING AND BUILDING

Promoting the wise use of land – Helping to build great communities

DATE: January 22, 2015

TO: Planning Commission

FROM: James Caruso, Senior Planner

SUBJECT: Supplemental Staff Report for the Renewable Energy Streamlining Program (RESP)

Background

As discussed in previous staff reports, the RESP proposes a streamlined process to encourage the development of smaller (<20 MW) renewable energy facilities in the unincorporated area of the county. At the January 8, 2015 study session on the RESP, your Commission and members of the public raised questions regarding the specifics of the streamlined process, including how it would differ from the present permit process for such facilities, who oversees the permit process, how self-mitigation works, how technical reports are reviewed and how streamlined decisions are appealed.

Land Use Permits

There are generally four types of land use permits issued by the County:

- Zoning Clearance (ministerial) – a routine approval that is issued when a land use or development meets all applicable provisions of the Land Use Ordinance (issued for single family dwellings in many areas).
- Site Plan Review (ministerial) – considers the greater effects these uses may have upon their surroundings, and characteristics of adjacent uses that could have detrimental effects upon a proposed use.
- Minor Use Permit (MUP) – a discretionary permit that provides for public review of significant land use proposals to insure the proper integration into the community of land uses which, because of their type or intensity, may only be appropriate on particular sites, or may only be appropriate if they are designed or laid out in a particular manner. Minor Use Permits require a public hearing conducted by a staff hearing officer.

- Conditional Use Permit (CUP) – a discretionary permit similar to a MUP but significant enough to warrant a hearing before the Planning Commission instead of a hearing officer.

Each type of land use permit follows similar paths until the approval step. Each type of land use permit also has its own appeal path. The following table summarizes the role of the review authority in approving land use permits and hearing appeals.

Table 1
Role of the Review Authority

Land Use Permit Type	Planning Director	Planning Commission	Board of Supervisors
Zoning Clearance	Decision	Appeal	Appeal
Site Plan review	Decision	Appeal	Appeal
Minor Use Permit	Decision ¹		Appeal
Conditional Use Permit	Recommendation	Decision	Appeal
Variance	Recommendation	Decision	Appeal

1. A public hearing is conducted by a hearing officer.

Permit Application Process

Application Contents

Each type of land use permit application must provide certain site information.

Zoning Clearance – A Zoning Clearance is a *ministerial* permit that, “... certifies that the land use or development will satisfy all applicable provisions of this Title. Title 22 requires that the following information be part of an application for a Zoning Clearance:

- Site location and dimensions
- Road access and improvements
- Building and structures
- Easements
- Utilities
- Site improvements
- Landforms
- Additional information such as drainage plan, grading plan, fires safety plan.

The Planning Director shall approve a Zoning Clearance application when the proposed project or use satisfies all applicable provisions of this Title.

Site Plan Review – According to Title 22, Site Plan Review is required by this Title for projects more intensive than those requiring a Zoning Clearance. Like the Zoning Clearance, a Site Plan Review is also a ministerial land use permit.

Site Plan Review applications must include all of the information required for a Zoning Clearance and the following:

- Preliminary floor plans
- Architectural elevations
- Adjacent land use information
- Landscape Plan
- Counter map

All land use permit applications from Site Plan Review through Conditional Use Permits are required to provide certain information, when applicable, in support of the proposed project, including:

- Agricultural buffers
- Archaeological Reports
- Botanical and Biological Reports
- Noise Study
- Tree Inventory
- Visual Analysis

Minor Use Permits– Title 22 states that the application content of MUPs is the same as for Site Plan Review. The major difference in the processes is that MUP approval can be subject to a public hearing before a Hearing Officer if requested. MUPs are subject to CEQA and may be elevated to the Planning Commission if, at the discretion of the Director, the Minor Use Permit application may generate substantial public controversy or involve significant land use policy decisions. Major steps in the MUP application process include:

- Environmental determination
- Administrative hearing
- Hearing Notice
- Notice of Final Action

Conditional Use Permits – According to Title 22, the content of a Conditional Use Permit application shall be the same as required for Site Plan Review. A CUP follows a hearing process similar to a MUP, except a CUP is heard by the Planning Commission.

Site Plans: Completeness Review and Referrals to Other Agencies

Just like discretionary applications, Site Plan Review applications are subject to a “completeness review” within 30 days of application submittal. The applicant is informed within 30 days of any additional information that is required to “complete” the application. During this 30-day review period, the Department will inform many County and state agencies of the application through a “project referral.” The referral process is the same for Site Plan Review, MUPs and CUPs and may include the following agencies:

- APCD
- Public Works
- Cal Fire
- Health Department
- Cities
- RWQCB
- Special Districts
- Public utilities

Environmental Review for Site Plans

Site Plan review applications are subject to CEQA under certain circumstances. LUO section 22.62.040 states that an environmental determination is required for a Site Plan Review application if,

“Where a Site Plan Review application is required by Chapter 22.52 (Drainage) or Chapter 22.14 (Combining Designations) to include a drainage plan, or where Chapter 22.14 or Article 4 (Standards for Specific Land Uses) otherwise require an environmental determination, the determination shall occur in compliance with Section 22.62.050.B, before the processing steps of Subsections B.2 through B.3.”

Based on this section, renewable energy projects may go through environmental review under the same circumstances as any other Site Plan Review application. In this case, there would either be a separate environmental document prepared for the project or the Program Final EIR certified for the RESP might be the appropriate document to use.

Site Plan Approval

The Planning Director is the approval authority for Zoning Clearances, Site Plan Review and MUPs. Site Plan Review applications shall be approved if,

“...the proposed project satisfies all applicable provisions of this Title.” An appeal of the Director’s decision may be filed by any aggrieved person, *“... within seven days of the decision; provided the only basis for an appeal, or action on an appeal by the appeal body shall be whether the proposed use satisfies all applicable provisions of this Title.”*

Process Comparison

The application process for Site Plans, MUPs and CUPs is similar, as shown in the following table.

**Table 2
Process Comparison**

Process Step	Site Plan Review	Minor Use Permit	Conditional Use Permit
Pre-application meeting	✓	✓	✓
Application packet	✓	✓	✓
Referrals to Agencies	✓	✓	✓
Special Reports (e.g. Biological, Archaeological)	✓	✓	✓
Peer Review of Special Reports	X	X	X
Environmental Review	✓	✓	✓
Public Hearing Notice	X	✓	✓
Appeal	✓	✓	✓

The process followed by Site Plan Review and MUPs is exactly alike until the public hearing step. A MUP requires that written notice of a public hearing be sent to property owners within 300 feet of the project site. The public hearing is called a Planning Director Hearing and a single senior staff member acts as the hearing officer. Site Plan Review does not have a noticed hearing. The difference in process time between a MUP and Site Plan Review can be substantial. A typical MUP can take 4-9 months while Site Plan Review should normally take less than 90 days.

Use of Technical Reports

The Department receives various technical reports with most ministerial and discretionary permit applications. These technical reports include: biological reports, botanical reports, geologic reports, cultural resource reports and water reports. These types of reports are prepared by professionals that are on a County-maintained list of approved consultants. The Department issues Requests for Qualifications to update the lists of approved consultants regularly and provides the lists on the Department's website. Technical reports are subject to peer review if the issue is particularly difficult or controversial.

In the case of the RESP, the technical reports for biological or botanical resources, for example, are relatively simple. The RESP requires these reports to indicate the presence of sensitive species. No further analysis or discretion is needed in order to find whether the site and project are eligible for a streamlined process or must go through the discretionary MUP process.

Projects that Require Site Plan Review (from Tables 2-2 and 2-3, Land Use Ordinance Section 22.06.030 and 22.08.030)

The following uses listed in Table 2-2 that also meet the criteria described below (from Table 2-3) typically require Site Plan Review. However, in some areas, special planning area standards in Articles 9 and 10 of the Land Use Ordinance may require a higher level of land use permit.

Industry, Manufacturing and Processing Uses

Concrete, Gypsum and Plaster Products*

Paving Materials*

Recycling – Collection Stations

Stone and Cut Stone Products*

Structural Clay and Pottery Products*

Warehousing, Wholesaling and Distribution**

*Allowable use limited to manufacturing operations for which the raw materials are extracted on-site.

**Use limited to facilities that support approved agricultural production or processing on the same site.

Recreation, Education and Public Assembly Uses

Clubs, Lodges and Private Meeting Halls

Rural Recreation and Camping - Incidental Camping (10 or fewer units)

Hunting and Fishing Clubs

Public Parks and Playgrounds

Swim and Racket Clubs

Retail Trade Uses

Agricultural Retail Sales

Services

Temporary Construction Yards

Transportation, Communication and Utilities

Transit Station and Terminals

Vehicle Storage

From Table 2-3, Land Use Ordinance

Characteristic	Criteria	Site Plan Review
Dwellings	Number of proposed units	5-15
Manufacturing & Processing, Outdoor Storage	Gross floor area or outdoor use area	10,000 square feet to 19,999 square feet
Retail Trade, Services, and all other nonresidential use groups	Gross floor area or outdoor use area	2,500 square feet to 9,999 square feet
	And traffic circulation	And/or drive-in or drive through
Site Disturbance	Area of site of grading requiring a permit or removal of vegetation	N/A
Impervious Surface	Area per site of site coverage by paving and structures	N/A

Comparison of Existing Permit Levels to Proposed Permit Levels in the RESP

Under the current Land Use Ordinance, permit requirements are established for wind energy conversion systems (WECS) and electric-generating plants. Projects such as solar photovoltaics are generally considered electric-generating plants when they provide some portion of energy generated on-site for sale. Projects are generally allowable with a Minor Use Permit in several land use categories. Projects smaller than 40,000 square feet may be allowable with Zoning Clearance, although ground-mounted projects are generally approved with a Minor Use Permit as described above.

The proposed RESP would establish new “tiers” of solar electric facilities (SEFs) and WECS. Streamlining with Site Plan Review would be available for specified tiers of facilities in certain land use categories. Higher tiers are subject to Minor Use Permit and Conditional Use Permit. The tiers are intended to simplify and clarify permit requirements.

The Renewable Energy Combining Designation identifies areas in the unincorporated county where streamlining would be appropriate for certain tiers meeting additional standards. Within the Renewable Energy Combining Designation, Tier 2 and 3 SEFs are eligible for permit streamlining that is unavailable outside of the Renewable Energy Combining Designation. Areas within the combining designation are those where renewable energy development may be more feasible, including areas with proximity to infrastructure, the absence of conservation easements, and the absence of areas designated for the protection of unique biological issues.

By establishing separate tiers of facilities and the Renewable Energy Combining Designation, the RESP can provide streamlining for appropriate projects in the right locations. To benefit from streamlining, a proposed project would need to 1) be located on an allowable land use category, 2) meet the criteria of the appropriate “tier” of energy-generating facility, and 3) meet applicable RESP standards.

A comparison of current and proposed land use permit requirements is shown in **Table 4**. Please note that the complete land use permit requirements, including existing and proposed considerations for land subject to Land Conservation Act contract and site criteria, are provided in the proposed RESP in the table of allowable land uses and permit requirements for renewable energy facilities and in other standards in Section 22.32.030 of the Land Use Ordinance (please refer to Attachment 4 to the main January 22nd staff report, starting at Section 19). For instance, regardless of land use category, the RESP prohibits siting of tiers 1 – 4 on Class I or Class II soils. The potential streamlining with the RESP is shown below, for projects that meet proposed criteria for the appropriate tier.

Table 4

	AG	RL	RR	RS	RSF	RMF	OP	CR	CS	IN D	OS	REC	PF
Current Requirements													
WECS	MUP	MUP	MUP	NA	NA	NA	NA	NA		NA	MUP	MUP	MUP
Other Electric Generating Plants - Less than 40,000 square feet	P	P	P	NA	NA	NA	NA	NA	P	P	P	NA	P
Other Electric Generating Plants - 40,000 square feet or more	MUP	MUP	MUP	NA	NA	NA	NA	NA	A2 [1]	A2	A2	NA	MUP
RESP – Inside and Outside the RE													
Tier 1 - 20 acres or less	SP	SP	SP	NA	NA	NA	SP	SP	SP	SP	SP	SP	SP
Tier 4 – greater than 160 acres	CUP	CUP	CUP	NA	NA	NA	NA	NA	CUP	CUP	NA	NA	CUP

[1] Site disturbance table is used with the A2 use.

RESP – Inside the RE													
Tier 2 - 40 ac. or less*	SP	SP	SP	NA	NA	NA	SP	SP	SP	SP	NA	NA	SP
Tier 3 – 160 acres or less*	SP	NA	NA	NA	NA	NA	NA	NA	SP	SP	NA	NA	NA
RESP – Outside the RE													
Tier 2 - 20 acres or less	MUP	MUP	MUP	MUP – up to 20 acres only	MUP – up to 20 acres only	MUP – up to 20 acres only	MUP	MUP	MUP	MUP	NA	NA	MUP
Tier 3 – 160 acres or less	CUP	CUP	CUP	CUP – up to 20 acres only	CUP – up to 20 acres only	CUP – up to 20 acres only	NA	NA	CUP	CUP	NA	NA	CUP

NA: Use not allowable

P: Permitted use, Zoning Clearance

SP: Permitted use, Site Plan Review

A2: Allowable use subject to the land use permit required by the specific use standards

MUP: Minor Use Permit required

CUP: Conditional Use Permit required

*Tier 2 and Tier 3 projects that do not meet the streamlining criteria of the Renewable Energy Combining Designation (Section 22.14.100) are eligible for discretionary permits as outlined in Chapter 22.32.

Previously Approved Renewable Energy Projects

The Department has recently approved four Minor Use Permits for small (20 acres or less) solar projects in the north county. The following table shows how these four projects would be affected by the RESP.

Table 5

Project	Power Rating	Acreage	Biological Resources	Soils Type	Additional Distribution	Streamlined?
Scherz	0.5 MW	20 acres	6 species within 5 miles	3 acres Important Ag Soils	None	No- Not on previously disturbed site
Finley	1.5 MW	14.8 acres	5 species within 5 miles	Important Ag Soils	None	No- Not on previously disturbed site and in Williamson Act
Jardine	1.0 MW	20 acres	13 species within 5 miles	19 acres Important Ag Soils	None	No- Not on previously disturbed site
Hill	0.45 MW	5.5 acres	4 species within 5 miles	All Important Ag Soils	None	No – Not on previously disturbed site

Based on the size of each project (20 acres or less), these solar projects would potentially fall into Tier 1 as they cover less than 20 acres. The potential for these projects to streamline as Tier 1 facilities with the RESP is based on several criteria:

- **Soils.** All of the above projects are located partially or completely on Important Agricultural Soils, but are not located on Class I or Class II irrigated soils. According to the proposed RESP, they meet qualifying site criteria for soils type and are eligible for streamlining.
- **Project site disturbance.** While the projects meet the criteria for soils, each of the four projects was located on land that would not meet Tier 1 criteria for site disturbance. Streamlining is available for projects sited on land that is graded, disturbed, or altered or for projects located on land that was previously developed for industrial or commercial purposes and degraded or contaminated and then abandoned and underused. Since each of the four previously approved projects were in locations that do not meet site disturbance criteria, they would not be eligible for streamlining as Tier 1 SEFs.
- **Biological Reports.** The biological reports prepared for the projects state that the California Natural Diversity Database found several sensitive species within 5-10 miles of each project site. The RESP states that streamlining can occur only if the biological report determines that there is no **potential** to find sensitive species on the site. Staff has proposed a revision to this requirement (described later in this report) to delete “potential” from the criteria so that a project could be streamlined if there is no presence of sensitive species on the project site. Under this proposed revision, these biological reports would have to be more site-specific for purposes of complying with streamlining requirements based on the proposed change to language regarding biological reports.

- **Land Conservation contracts.** Projects proposed on land subject to Land Conservation Act (Williamson Act) contracts must still comply with the Land Conservation Act Rules of Procedure. Proposed projects on contracted land that are consistent with Rules of Procedure would be eligible for streamlining with Site Plan Review only when 10 acres or less in site area. Of the sample projects, only the Finley project was located on land in Williamson Act. The Finley project would not be eligible for streamlining as it covers over 10 acres and is already in Williamson Act.
- **Land use designation.** These projects were sited on Agriculture land use categories. Even if inconsistent with the criteria above, if these projects were included in the Renewable Energy Combining Designation, they could still qualify for Site Plan Review as Tier 2 SEFs as long as they met the development standards in Subsection F including:
 - The permit requirements of other agencies
 - Absence of sensitive species
 - Wildlife fencing
 - 500-foot setbacks from specified sensitive habitat and species
 - 50-foot setbacks from other identified habitats
 - Submittal of archaeological reports

“Self-Mitigation”

The County employed an iterative approach to development of the RESP that was informed by the EIR analyses. As each section of the RESP was completed, environmental analysis was conducted and then changes were made to the code or performance standards were added to reduce or eliminate impacts that were identified. In essence, this project analysis and feedback loop constituted a comprehensive alternatives analysis where a version of the RESP was analyzed and then revised to avoid environmental impacts.

The performance standards contained in the RESP are intended to result in “self-mitigation” for most projects. Projects that cannot demonstrate avoidance of environmental impacts (i.e., do not meet the standards) are required to complete a discretionary review process and comply with CEQA. This self-mitigating aspect is why there are no mitigation measures in the EIR. Any action that would be considered a mitigation measure for the RESP is included as a performance standard.

Additional Revisions to the RESP

Staff and the consultant team have continued to review the RESP and recommend revisions to the Public draft released in November. The following changes are highlighted in Attachment 4 to the main January 22nd staff report:

1. Revise the accessory solar definition to include facilities up to three acres (instead of ½-acre).
2. Revise Tier 1 standards in Section 22.14.100 for the Renewable Energy Combining Designation to remove the need to comply with the standards in Section 22.14.100 F.
3. Revise the maximum size of a facility to three acres on an open space parcel in a cluster land division.

The following additional changes are recommended:

4. The Agricultural Preserve Review Committee (APRC) recommends changes to the streamlining and permitting of renewable energy facilities on Williamson Act lands. The APRC recommends:
 - a. Allowing renewable energy projects on Williamson Act subject to standards (see Attachment 6 of original 1-22-15 staff report)
 - b. Allowing the potential for streamlining for projects up to 10 acres.
 - c. Allowing renewable energy projects through Minor Use Permit approval for projects up to 20 acres. Projects over 20 acres would not allowed on Williamson Act land.

The changes needed in the RESP to reflect this recommendation are as follows (**see red highlights**):

Section 22.14.100 A2 (page 9 of 64 Attachment 4)

1. Land Conservation Act. Permit requirements of this Section (22.14.100) shall apply to proposed SEFs on land subject to a Land Conservation Act contract within an RE Combining Designation as follows.
 - a. If a proposed SEF is greater than 10 20 acres in total area within an RE Combining Designation and is subject to a Land Conservation Act Contract:
 - (1) The project shall be ineligible for the permit requirements established by this Section (22.14.100) but may elect to comply with standards of this section to streamline other aspects of project review.
 - (2) The project shall require a Minor Use Permit (or Conditional Use Permit if otherwise required by Chapter 22.32 or the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2)).
 - (3) The project shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself Williamson Act itself and any changes that may be made to it.

b. If a proposed SEF is 20 acres or less in total area and subject to a Land Conservation Act contract Contract within an RE Combining Designation, the project is allowable in all land use categories if the proposed SEF meets the site eligibility criteria for Tier 1 SEFs in Chapter 22.32 (Energy-Generating Facilities).

c. If a proposed SEF is 20 acres or less in total area and subject to a Land Conservation Act contract within an RE Combining Designation, but is when inconsistent with the site eligibility criteria for Tier 1 SEFs, the project may qualify as Tier 2 or Tier 3 SEF if the proposed SEF meets the site eligibility criteria established in this Section (22.14.100).

Section 22.32.030 (page 23 of 64 Attachment 4)

Notes

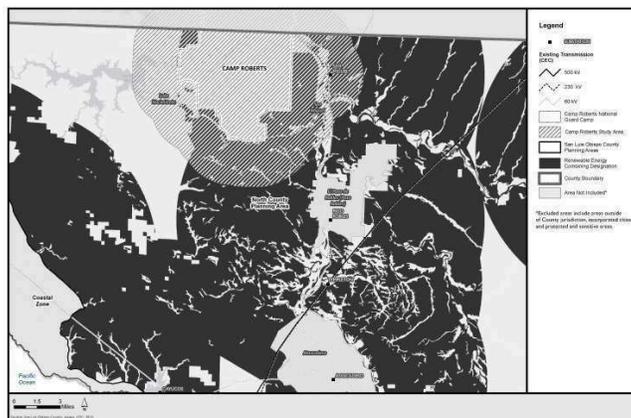
- (1) See Article 8 and this Chapter for definitions of the listed land uses.
- (2) See Article 9 for any restrictions or special permit requirements for a listed use in specific community or area.
- (3) L.U.C. means "land use category." See Section 22.04.020, Table 2-1, for a key to the land use category abbreviations.
- (84) Land uses on property under Land Conservation Act contracts must adhere to the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it.
- (5) The size of the SEF shall be measured as the total area of the facility, inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.
- (6) For Tier 1 SEF projects proposed on land under Land Conservation Act contract up to 20 acres in size, the permit requirements of this Chapter shall apply. Tier 1 SEFs shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it.
- (7) For Tier 2 – Tier 4 projects proposed on land under Land Conservation Act contract:
 - a. Proposed projects up to 10 20 acres in size may be reviewed by Department of Planning and Building staff for consistency with the Rules of Procedure and the Principles of Compatibility unless a discretionary use permit is required by Title 22, in which case the REF project shall be presented to the Agricultural Preserve Review Committee for a recommendation to the Review Authority. The Agricultural Preserve Review Committee shall base their review on the criteria in the Rules of Procedure and the Principles of Compatibility.
 - b. Proposed projects greater than 10 20 acres shall require, a Minor Use Permit or Conditional Use Permit as required by this Section, and the project shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it. For purposes of determining permit requirements for WECS proposed on land under Land Conservation Act contract, the area shall be measured as the total area of site disturbance.

5. Delete the word “potential” as in “potential presence of sensitive species” per botanical or biological reports in 22.32 and 22.14. This change will require site specific biological reports to determine the presence of sensitive species on the site. The ability to streamline the land use permit will depend on the finding in the biological report.

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If Botanical Reports or Biological Reports prepared as part of the proposed SEF permit application indicate the presence or **potential** presence of state or federally listed wildlife or plant species or designated critical habitat, the permit requirements and standards of Chapter 22.32 (Energy-Generating Facilities) apply and no alternative requirements are available within the RE Combining Designation. Exceptions to this requirement may apply to ground-mounted SEFs **less than 40 acres in total project area** if the proposed project is located in the San Joaquin Kit Fox Habitat Area and **meets the following criteria**

6. Add the Camp Roberts CRIA map. The County and Camp Roberts have defined an area around the Camp that requires the County to refer projects to the Camp. This area appears on the RE combining designation map.



Next Hearing

The next hearing for the RESP is scheduled for February 5, 2015. The Final EIR will be delivered to your Commission during the week of January 26th. County and consultant staff will provide a presentation on the Final EIR at that hearing.



Promoting the wise use of land
Helping build great communities

**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING**

STAFF REPORT

PLANNING COMMISSION

MEETING DATE January 22, 2015	CONTACT/PHONE James Caruso 781-5702 jcaruso@co.slo.ca.us	APPLICANT County of San Luis Obispo	FILE NO. LRP2014-00015
SUBJECT Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend portions of the following documents in order to encourage the development of certain renewable energy projects in the most suitable locations in unincorporated inland areas of the county through a Renewable Energy Streamlining Program (RESP): 1) Framework for Planning (Inland), Part I of the Land Use and Circulations Elements (LUCE) of the County General Plan; 2) the Carrizo, North County, San Luis Obispo, and South County Area Plans, Part II of the LUCE; 3) the Official Maps, Part IV of the LUCE; 4) the Conservation and Open Space Element of the County General Plan; 5) the Land Use Ordinance, Title 22 of the County Code; and 6) the Rules of Procedure to Implement the California Land Conservation Act of 1965. The proposed amendments would: 1) establish a Renewable Energy combining designation where the land use permitting of certain renewable energy projects is streamlined, for example, through the use of Site Plan Review instead of Minor Use Permits; 2) establish new performance standards that renewable energy projects must meet; and 3) revise the Rules of Procedure to Implement the Land Conservation Act of 1965 to allow certain renewable energy projects on contracted land.			
RECOMMENDED ACTION Recommend to the Board of Supervisors approval of General Plan Amendment and Ordinance Amendment LRP2014-00015 as shown in Exhibits LRP2014-00015:C, D and E based on the findings listed in Exhibits A and B.			
ENVIRONMENTAL DETERMINATION The Environmental Coordinator found that there is evidence that the project may have a significant effect on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq. and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addresses potential impacts on: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gases and Climate Change, Hazards and Hazardous Materials, Land Use and Planning, and Noise and Water Resources. Measures are proposed to address these impacts and are included as Land Use Ordinance standards in the RESP. Overriding considerations were determined necessary based on significant and unavoidable impacts associated with Aesthetics, Agricultural Resources and Land Use and Planning.			
LAND USE CATEGORY All	COMBINING DESIGNATION Proposed RE (Renewable Energy)	ASSESSOR PARCEL NUMBER Countywide	SUPERVISOR DISTRICT(S) All
PLANNING AREA STANDARDS: Not Applicable			
EXISTING USES: Not Applicable			
SURROUNDING LAND USE CATEGORIES AND USES: Not Applicable			

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Community Advisory Groups, Community Services Districts, Agricultural Commissioner, County Parks, Cal Fire, Cal Trans, Air Pollution Control District	
TOPOGRAPHY: Not Applicable	VEGETATION: Not Applicable
PROPOSED SERVICES: Not Applicable	AUTHORIZED FOR PROCESSING DATE: July 9, 2013
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER SAN LUIS OBISPO CALIFORNIA 93408 (805) 781-5600 FAX: (805) 781-1242	

PROJECT BACKGROUND

This RESP is intended to encourage and streamline permitting of renewable energy projects, primarily solar and wind energy projects, in the most suitable locations in the inland area of the county. It accomplishes this primarily by revising permitting requirements in the Land Use Ordinance for certain renewable energy projects. This will result in more certainty of outcome for the project developer while reducing the time and cost required to permit these projects. The RESP is funded by a grant from the California Energy Commission (CEC) that was awarded to five California counties.

The RESP implements the following policy and programs in the Conservation and Open Space Element (COSE) of the County General Plan to designate and protect areas that contain renewable energy resources and to streamline planning and development rules, codes, and processing in order to encourage renewable energy development.

COSE Policy 6.8 Renewable Energy Resources

Designate and protect areas that contain renewable energy resources such as wind, solar, geothermal, and small hydroelectric.

- Implementation Strategy E 6.8.1- Mapping of resources
Use state, federal, or other available data to map areas that contain renewable energy resources.
- Implementation Strategy E 6.8.2 - Renewable energy combining designation
Amend the Framework for Planning, the Area Plans, and the Land Use Ordinance (LUO) by establishing and applying a Renewable Energy (RE) combining designation based on the mapping in Energy Implementation Strategy 6.8.1.

The RESP implements the County’s Comprehensive County Energy Strategy, which included the following strategy:

“Examples of regulatory relief could come in the form of a programmatic approach that simplifies the discretionary permit process, including allowing specific renewable projects to occur with a ministerial review. Additionally, the County sponsored legislation in the form of AB 2161 (Achadjian) that would allow the County to compete for a funding as a “qualified

county” to further streamline the process for solar energy facility projects. If appropriated, there may be up \$7,000,000 of funding available for “qualified counties” to apply for statewide. It appears that there is likely to be outside funding available to finance a County led initiative in order for the Board to direct staff to prioritize removal of regulatory barriers to incentivize development and deployment of future SEFs or renewable energy.”

In April 2013, the County Board of Supervisors adopted a resolution supporting submittal of a grant application to the California Energy Commission (CEC) for a Renewable Energy and Conservation Planning Grant for \$638,152. The grant agreement with the CEC was executed in June 2013. The agreement states that all work under the grant must be completed prior to March 31, 2015. A consultant team was hired to help the Department prepare the RESP.

Stakeholder Engagement

During the early stages of project development, the project team conducted a series of interviews with 17 key stakeholders from select organizations throughout San Luis Obispo County. The purpose of outreach was to collect feedback on renewable energy project development, such as appropriate land characteristics, design considerations for all types of renewable energy installations, and the role of the County in attracting more renewable energy projects. Stakeholders represented a broad cross-section of interested parties in the county, including renewable energy and agriculture industry members, researchers, environmental advocates, and other members of the community.

The stakeholder engagement process identified attitudes toward renewable energy, use of agricultural lands and balancing environmental protection with renewable energy development. The project team interviewed a total of 17 people representing industry, agriculture, environmental organizations and interested members of the public.

The following issues were identified through the engagement process and have been prioritized as areas of consensus and considerations during the preparation of RESP:

- Opportunity exists to streamline small scale distributed generation projects countywide through code updates, separate from creation of a Renewable Energy combining designation. Small-scale distributed generation projects can potentially be processed with ministerial permits in urban and developed areas.
- For larger-scale renewable energy facilities, the Renewable Energy combining designation should encompass areas with high opportunity and should not be limited by current infrastructure constraints. A broader combining designation is desirable to provide flexibility that anticipates new technologies and emerging opportunities.
- Code updates should clearly describe standards and mitigations for distributed generation renewable energy facilities that are less than approximately 100–150 acres rather than utility-scale.
- The RESP should identify a collaborative process for project review and entitlement that involves both County staff and project developers at all key stages in the entitlement process.

These four issues have been addressed in the RESP. Accessory renewable energy projects are proposed to be streamlined through a simple “Zoning Clearance” process and Tier 1-3 solar projects would be streamlined through the Site Plan review process. Site Plan review would be available to projects that meet a comprehensive set of performance standards regarding, for example, agricultural and biological resources, setbacks from property lines and water bodies. In addition, the RE combining designations are very broad-based, covering a 10-mile diameter around each electrical substation.

PROJECT SUMMARY

Opportunities and Constraints Technical Study (OCTS)

One of the first steps in developing the RESP was to prepare an OCTS to identify and map opportunities and constraints for development of renewable energy. The OCTS identifies the high opportunity areas for placement of the RE combining designation where development of renewable energy resources can most feasibly be streamlined. Key resource and infrastructure requirements for renewable energy development, as well as environmental considerations, were evaluated to establish areas in the unincorporated county suitable for renewable energy development.

The OCTS identifies both resource constraints and infrastructure capacity in areas most suitable for renewable energy development. These are areas in the unincorporated county that:

- Capture renewable energy resource potential
- Have access to the electric transmission/distribution and other infrastructure (e.g., roads, water, etc)
- Minimize environmental impacts by avoidance of sensitive resources based on a set of environmental factors

The OCTS concludes that streamlining renewable energy development is likely in three percent of the unincorporated county, or approximately 54,000 acres. Streamlining renewable energy projects with some level of mitigation is potentially likely in approximately 63 percent of the unincorporated county, or 1,344,000 acres. The remainder of the unincorporated area is unsuitable for renewable energy development. These areas are state and federal jurisdictions and parkland, open space areas and conservation areas. The OCTS served as a basis for subsequent stakeholder input and identification of the location of the RE combining designation.

Streamlining

The goal of the RESP is to encourage and streamline the development of distributed generation renewable energy facilities, also known as distributed energy resources, in suitable locations. These facilities are generally 160 acres or less in size. The Conservation and Open Space Element, as it is proposed to be revised, defines distributed energy resources by facility size and purpose:

“Distributed energy resources (DER) are small, modular, energy generation and storage technologies that provide electric capacity or energy located where it’s

needed, often at a customer's location. These facilities are typically owned by non-utility entities, such as generation developers or utility customers that offset all or part of the customer's on-site electrical load. DER's typically produce less than 20 megawatts (MW) of power near the point of use and include wind turbines, photovoltaics (PV)..."

The RESP defines renewable energy projects in four "tiers" ranging from Tier 1, smaller projects less than 20 acres in size, all the way up to Tier 4 projects, which could cover more than 160 acres. Also included are renewable energy projects that are accessory to uses on the site, such as the solar facilities found at some wineries.

The RESP encourages Tier 1, 2 and 3 renewable energy projects by revising the permitting process for an identified class of projects in settings that allow for the more streamlined review. The streamlined permit process is called "Site Plan Review" and is described in the Land Use Ordinance:

"...is required by this Title for projects more intensive than those requiring a Zoning Clearance. Site Plan Review considers the greater effects these uses may have upon their surroundings, and characteristics of adjacent uses that could have detrimental effects upon a proposed use."

The Site Plan Review process does not require noticing, public hearings or individual environmental review (if the RESP EIR can be used for the project) and provides a clear set of project requirements at the beginning of the process. The streamlined process provides more certainty in the result for the project applicant and reduces the time needed to permit the proposed project.

It is also important to note that project streamlining can only occur in certain areas and with a certain level or "tier" of renewable energy project. Lands with sensitive resources such as threatened, rare and/or endangered species habitat, for example, are not good candidates for streamlining. The presence of these types of resources adds complexities to permit review and also involves federal and state agency review and approvals that cannot be streamlined at the local level. The use of Site Plan Review for permit streamlining allows for the submittal of studies as part of the permit application that show how the proposed project on a particular site qualifies for streamlining.

Summary of Proposed Revisions to Policies and Ordinances

The RESP proposes changes to General Plan elements, the Land Use Ordinance and the Land Conservation Act (Williamson Act) Rules of Procedure. These revisions are needed to 1) reflect the policy choice to streamline renewable energy development, 2) establish the Renewable Energy (RE) combining designation, 3) identify the process for streamlined projects as well as non-streamlined projects, and 4) reflect proposed revisions to the Land Conservation Act Rules of Procedure that will allow renewable energy facilities on contracted land. Please also refer to the staff report for the January 8 study session in Attachment 9 for details about the proposed RESP.

Proposed Revisions to the LUCE

The proposed revisions to the Land Use and Circulation Element (LUCE) are found on pages 1-10 in Attachment 3. The revisions to the LUCE add an RE combining designation description to each area plan document in the chapters describing the combining designations. For example, on page 5 in Attachment 3, the following description of the RE combining designation is added to the South County Area Plan:

Renewable Energy (RE). Identifies areas throughout the South County Planning Area where renewable energy production is favorable and prioritized. Within these areas, the County encourages distributed renewable energy development by streamlining permit requirements and environmental review in a manner that would not degrade ecosystems, agricultural resources, and other environmental resources.

Similar language is proposed in the other inland area plans. In addition, a description of the purpose and objectives of the RE combining designation is added to Chapter 7 of Framework for Planning.

Proposed Revisions to the COSE

The proposed revisions to the Conservation and Open Space Element (COSE) reflect that the program to implement this RESP will have been implemented. Accordingly, the strategy to establish an RE combining designation and implementing LUO standards is deleted. In addition, the policy to protect and designate areas with renewable energy resources is revised by adding language that states: “Continue to explore and encourage the development of renewable energy resources through further streamlining actions.”

The proposed revisions to the COSE also include the following revised, more detailed definition of distributed generation, called “distributed energy resources”:

Distributed energy resources (DER) are small, modular, energy generation and storage technologies that provide electric capacity or energy located where it's needed, often at a customer's location. These facilities are typically owned by non-utility entities, such as generation developers or utility customers that offset all or part of the customer's on-site electrical load. DER's typically produce less than 20 40 megawatts (MW) of power near the point of use and include wind turbines, photovoltaics (PV), fuel cells, microturbines, reciprocating engines, combustion turbines, cogeneration, and energy storage systems. DER systems may be either connected to the local electric power grid or isolated from the grid in stand-alone applications.

Staff also proposes to add a new definition of Utility-Scale Renewable Energy Resources in the glossary of the COSE.

All of the preceding and related revisions to the COSE are described in Attachment 3 starting on page 11.

Proposed Revisions to the Land Use Ordinance

The most important parts of the RESP are found in the Land Use Ordinance (LUO), Title 22 of the County Code. The LUO is where land use permit levels are determined for the different land use categories, the various combining designations are described, and the process for development in those designations are detailed, together with development standards for various land uses. For example, in the existing LUO, standards for the Sensitive Resource Area (SRA) combining designation in Section 22.14.100 require adoption of special findings, limit development in sensitive areas and require different levels of permits than are required elsewhere in certain cases. Special standards for the Historic Site (H) combining designation in Section 22.14.080 specify permit levels, establish special minimum parcel sizes and require the recordation of special restrictions.

The RESP establishes a new Renewable Energy combining designation, together with development standards in Section 22.14.100. The major provisions of this new Section include the following, which are found in Attachment 4 on the listed page numbers:

- Page 9 - Applicability of the RE combining designation to lands subject to Land Conservation Acts contracts (see following section for a complete discussion of Land Conservation Act issues)
- Page 10 – Basic streamlining requirements in the RE combining designation:
 - Cannot include new transmission or distribution lines outside RE
 - Cannot be located on Class I or II soils
 - Cannot be located within a Sensitive Resource Area for visual resources
 - Cannot be subject to conservation easements prohibiting energy generating facilities
 - Cannot be located in Recreation or Open Space land use categories
 - Cannot be located in the Airport Review Area (AR) combining designation
- Page 11 – Tier 1 streamlining requirements to be eligible for Site Plan Review [proposed to be moved to Section 22.32 (pages 31-32) – see discussion below]:
 - 20 acres or less
 - Inside or outside the RE combining designation
 - Not on Class I or II soil
 - Either on previously disturbed land or in Commercial or Industrial land use designations on land degraded or contaminated.
- Pages 11-13 - Tier 2 and 3 streamlining requirements in the RE combining designation to be eligible for Site Plan Review
 - 40 acres or 160 acres or less
 - Not in OS or REC land use categories
 - Not located on Important Agricultural Soils
 - Complies with specific development standards (subsection F):
 - Meets biological standards
 - Wildlife fencing
 - Setbacks from sensitive species and habitats
 - Meets archeological standard
 - Meets agriculture standard
 - Meets screening requirements

Another important part of the LUO changes occur in Section 22.32 that identifies all the development standards that all types of renewable energy projects must meet. These requirements address projects both within and outside of the RE combining designation. The changes to LUO section 22.32. start on page 18 of Attachment 4.

- Page 19, Attachment 4 – Identifies Zoning Clearance requirements (over-the-counter approval) for accessory renewable energy facilities. These facilities, primarily small-scale roof and ground-mounted solar facilities, are incidental to the principal use of a site and produce energy to support the principal use of the site.
 - Provides energy for on-site use only
 - Not in Flood Hazard or Sensitive Resource Area combining designations
 - If ground mounted, no larger than ½-acre (staff is now recommending that the previously proposed ½-acre limitation be increased to 3.0 acres)
 - Not located within 100 feet of a public road
 - Is not on Class I or II soils
 - Not subject to environmental permits

Development of wind energy systems (Wind Energy Conversion System or WECS) are also proposed to be streamlined in section 22.32. WECS are also identified in Tiers 1-3 as follows:

1. Tier 1 – Roof or structure-mounted facilities require a Zoning Clearance
2. Tier 2 – Minor Use Permit if ground-mounted, not taller than 100 feet and a cumulative rated capacity of under 2 MW
3. Tier 3 – If WECS do not meet Tier 2 criteria, a Conditional Use Permit is required

WECS are not allowable in the Airport Review Area (AR) combining designations around the San Luis Obispo and Paso Robles Airports per the Airport Land Use Plans for those airports (the Oceano Airport AR combining designation is not affected by the RESP).

All development standards for WECS are found on pages 38-40 in Attachment 4.

The LUO contains planning area standards that address specific development issues in many urban neighborhoods and rural areas. In many places, there are “limitation on use” standards that call out the land uses that are allowable in the area covered by the standards. Often, these standards limit allowable land uses to a narrow range of uses that do not include renewable energy facilities. The RESP revises these standards by adding renewable energy facilities or accessory renewable energy facilities as allowable uses. This would remove existing prohibitions on those uses in specific land use categories or sites in the following areas:

North County Planning Area

- Stockdale and Wellsona Roads
- Spanish Camp and Almira Park
- San Miguel
- Santa Margarita
- Sites near and within Shandon
- Templeton

- Heritage Ranch and Oak Shores
- Pozo

San Luis Obispo Planning Area

- O'Connor Way/West Foothill area
- Irish Hills
- Edna and Buckley Roads
- West of Bear Valley Estates
- Squire Canyon
- Avila Valley and San Luis Bay Estates

South County Planning Area

- Tiffany Ranch Road
- Nipomo and Santa Maria (Oso Flaco) Valleys
- Willow Road/Via Concha
- Oceano
- Nipomo
- Palo Mesa

Renewable energy projects or accessory renewable energy facilities would be allowable in these areas pursuant to LUO sections 22.14 (RE combining designation) or 22.32.

Proposed Changes to the Rules of Procedure

The Rules of Procedure to Implement the Land Conservation Act of 1965 are the local rules for administering the Land Conservation Act. The Rules currently do not allow energy generating facilities on contracted land.

The Agriculture Preserve Review Committee (APRC) met several times to discuss issues surrounding renewable energy projects on contracted land. At its meeting of December 8, 2014, the Committee recommended allowing renewable energy facilities on contracted land under limited circumstances, subject to extensive standards. For example, the recommended standards require that:

- Each property must meet and maintain the current eligibility criteria in the Rules of Procedure for both establishment of an agricultural preserve and entering into a land conservation contract as well as the "Minimum Parcel Size for Conveyance" required by each contract. A land owner with a contract not compliant with current eligibility standards may apply to requalify their property and enter into a new replacement contract as part of the application process for a renewable energy facility (REF).
- A REF project may not be located on prime or potentially prime soils. (any soils classified as Class 1 if irrigated or Class 2 if irrigated by the Natural Resource Conservation Service soils survey)
- REF projects are not allowed on properties qualifying for preserves and contracts as High Productivity Prime Land (Small specialized Farms)

- The acreage of the REF site shall be in addition to the minimum parcel size required for the preserve
- REF project acreage may not exceed 10% of the total acreage within a land conservation contract up to a maximum of 20 acres
- REF projects on up to 10 acres are subject to Site Plan Review and REF projects between 10 and 20 acres in size are subject to a discretionary permit

The APRC's complete recommendations are recommended by staff and are detailed in the exhibit in Attachment 5 and memo in Attachment 6.

Revisions to the Draft RESP

Following release of the Draft RESP in November 2014, staff, the consultant team and other reviewers have noted areas where revisions to the RESP are needed to properly reflect the EIR's conclusions and findings, as well as streamlining concepts such as allowing Tier 1 projects to proceed with lesser review. Staff-recommended revisions to the Draft RESP are included in Attachments 3 and 4 and indicated with shading to distinguish them from the original revisions in the November 2014 Draft RESP. These latest staff-recommended revisions are also shown in Attachment 7, accompanied by brief comments stating the reasons for the changes. While few major changes are proposed, some changes are noteworthy:

- Increase the maximum acreage of an accessory renewable energy facility for on-site use from ½ to three acres
- Make accessory renewable solar electric facilities an allowable use in the Airport Review Area combining designation, but prohibit other types of renewable energy projects. This is needed to make the RESP consistent with the Airport Land Use Plans, which currently do not allow renewable energy facilities in the airport areas.
- Reflect the requirements for project review in the Camp Roberts area as recommended in the Camp Roberts Joint Land Use Study
- Reflect that Tier 1 projects are not affected by the development standards for the RE combining designation in Section 22.14.100 F
- Correct the Tier 2 wind energy permit requirement to Minor Use Permit approval
- Revise the maximum area for renewable energy facilities in open space parcels in cluster land divisions to a maximum of three acres as an accessory use only
- Revise the permit requirements within and outside of the RE combining designation so that solar electric facilities on up to 20 acres require a Minor Use Permit (instead of Site Plan Review in the Draft RESP) in the Residential Single-Family (RSF), Residential Multi-Family (RMF) and Residential Suburban (RS) land use categories

Additional changes to the Draft RESP may be presented to your Commission at future public hearings as we hear from additional stakeholders.

CEQA REVIEW

A programmatic Draft Environmental Impact Report (DEIR) has been prepared for the RESP. The DEIR was developed at the same time as the specifics of the RESP were developed. The RESP as proposed went through an environmental review process in an iterative fashion so that as impacts were identified, changes could be made to the RESP that eliminated the impact. The RESP performance standards are the result of this iterative environmental review process.

As explained in the January 8, 2015 study session staff report (see Attachment 9), the Project Description (Chapter 2.0) describes renewable energy project buildout under the program. The County EnergyWise Plan includes a goal to increase renewable energy production from small and large-scale renewable energy facilities to account for 10% of total local energy use. Based on current energy demand, that goal is 150 MW on 1,500 acres of land. That is the basis for the environmental analysis in the DEIR.

The results of the environmental analysis emphasize two resource areas: agriculture and agricultural soils and biological resources. As a result, the streamlining performance standards associated with these two resource areas are extensive. For example, Tier 1 solar projects are eligible for a streamlined permit process if they meet the following standards:

- a. Not sited on Class I or II soils, and
- b. Proposed on land that is graded, disturbed, or altered, consistent with definitions for “Development,” “Grading,” or “Site Disturbance” in the Land Use Ordinance¹, or
- c. If not consistent with item b above, is located on land that was previously developed for industrial or commercial purposes and degraded or contaminated and then abandoned or underused.
- d. The project may be subject to and must comply with any other permitting requirements by local, state or federal agencies.
- e. Botanical reports or biological reports prepared as part of the proposed SEF application do not indicate the presence or potential presence of state or federally-listed wildlife or plant species or designated critical habitat. Otherwise, a Minor Use Permit is required and the project is not eligible for Site Plan Review unless the project meets the exception described in Item f. below.)
- f. If not consistent with Item e above, the project is still eligible as a Tier 1 SEF for Site Plan Review if it meets the following: 1) is in San Joaquin Kit Fox habitat area, 2) the botanical or biological report does not identify any other state or federally-listed species, and 3) the project includes the standard mitigation ratio and all applicable kit fox conditions for grading and building.

The preceding standards address the major agricultural and biological resource issues by ensuring that sensitive resources do not exist on the Tier 1 site and that the most valuable agricultural soils are not affected. Permit streamlining of Tiers 2 and 3 add additional requirements. For example, note that in i below, streamlining of Tiers 2 and 3 requires that the projects not be located on Important Agricultural Soils. Tier 1 projects have a lesser threshold and must only avoid Class I and II soils. The standards for streamlining Tiers 2 and 3 are:

¹ **Site Disturbance.** Any activity that involves clearing, grubbing, grading, or disturbances to the ground such as stockpiling or excavation.

- a. If greater than 20 acres, not located on land subject to a Land Conservation Act contract
- b. If less than 20 acres and subject to a Land Conservation Act contract, additional standards may apply beyond those listed here
- c. No additional energy transmission or distribution lines constructed in an RE combining designation and no easements over parcels outside the RE combining designation
- d. No new transmission lines to tie into the grid
- e. Not sited on Class I or II soils
- f. Not located in a Sensitive Resource Area for visual resources
- g. Site not subject to a conservation easement prohibiting energy generating facilities
- h. Not located in the Recreation or Open Space land use categories
- i. In the Agriculture land use category, is not sited on any type of Important Agricultural Soils as defined in the Conservation and Open Space Element, unless sited on Important Agricultural Soils designated solely as Highly Productive Rangeland Soils by the Conservation and Open Space Element. The proposed project may be located on Highly Productive Rangeland Soils or sited on other areas of the parcel without any Important Agricultural Soils.

As is explained in the DEIR, Tier 1 projects are not subject to the more extensive performance standards a-i so that they are better able to be streamlined and realize the goals of the RESP. Streamlining of Tiers 2-3 can be subject to additional performance standards due to their size and the fact that Tier 1 projects are streamlined to further the goals of the RESP and County policy.

The DEIR concludes that Class I (significant and unavoidable) impacts to agricultural resources will occur. The Class I impacts to agricultural resources arise from the streamlining of ground-mounted Tier 1 SEFs on Important Agricultural Soils other than Class I and II or prime soils. In those situations, no compensation for the loss of agricultural soils is required, such as providing conservation easements, as is required for Tiers 2-4. The DEIR states that the purpose of the program is to encourage and streamline renewable energy development and such a mitigation measure would “run counter to the primary objectives of the Program.”

A second Class I impact has been identified for visual impacts in the Aesthetics chapter. This determination includes impacts of the buildout scenario (150 MW on 1,500 acres of land) and the policy change to allow permit streamlining of these projects. The DEIR concludes (page 3.1-16):

“While these existing and proposed County Code requirements will minimize the visual impacts of solar installations, the site-specific setting and visual characteristics of all future SEFs proposed under the streamlining program cannot be known. Therefore, potential remains that certain SEFs could result in an aesthetic incompatibility within public view. Potential for this impact is considered significant, unavoidable, and adverse (Class I).”

The DEIR also reaches this same conclusion regarding the policy change that will streamline certain solar projects through Site Plan review. There is no feasible mitigation for these potential impacts.

The Final EIR (FEIR) will be distributed during the last week of January 2015. The FEIR consists of the DEIR, all comments received on the DEIR, and the County's written responses to those comments. Changes to the DEIR are then highlighted in the FEIR. The CEQA findings will then be finalized based on the conclusions of the FEIR and included in Attachment 2.

LEGAL NOTICE

The RESP was prepared as a result of work sponsored by the California Energy Commission. It does not necessarily represent the views of the Energy Commission, its employees, or the State of California. The Commission, the State of California, its employees, contractors, and subcontractors make no warranty, express or implied, and assume no legal liability for the information in this document; nor does any party represent that the use of this information will not infringe upon privately owned rights. This report has not been approved or disapproved by the Commission nor has the Commission passed upon the accuracy of the information in this report.

ATTACHMENTS

1. Exhibit A – CEQA Findings
2. Exhibit B – Findings
3. Exhibit LRP 2014-00015:C – Amendments to the Land Use and Circulation Elements and the Conservation and Open Space Element of the County General Plan
4. Exhibit LRP 2014-00015:D – Amendments to the Land Use Ordinance, Title 22 of the County Code
5. Exhibit LRP 2014-00015:E – Amendments to the Rules of Procedure to Implement the Land Conservation Act of 1965
6. Agricultural Preserve Review Committee memo dated December 22, 2014
7. Revisions to the Draft RESP
8. Correspondence
9. Planning Commission staff report, January 8, 2015

Staff report prepared by James Caruso and reviewed by Mike Wulkan

CEQA FINDINGS

(to be provided prior to February 5, 2015)

ATTACHMENT 2 – LRP2014-00015:B FINDINGS

FINDINGS

- A. The proposed amendments are consistent with the Land Use Element and other adopted elements of the general plan because the Renewable Energy Streamlining Program (RESP) will: 1) implement policies of the Conservation and Open Space Element (COSE) to encourage and streamline the development of distributed generation renewable energy projects; 2) create a Renewable Energy Combining Designation as directed by implementation strategies of the COSE; and 3) remove obstacles to the development of distributed generation renewable energy projects, consistent with balancing the development of renewable energy projects with the protection of natural resources as directed by the COSE.
- B. The proposed amendments will streamline the permitting and development of certain renewable energy projects by:
1. Providing for a ministerial Site Plan Review permitting process for distributed generation renewable energy projects that meet rigorous performance standards that ensure protection of natural resources;
 2. Providing a Programmatic Environmental Impact Report that can be used to evaluate environmental effects of renewable energy projects in place of individual, time consuming environmental review of projects; and
 3. Allowing renewable energy projects subject to streamlining in areas where these projects were previously not allowed by planning area standards.
- C. The proposed amendments will protect the public health, safety and welfare of the area residents by:
1. Providing for rigorous performance standards in order for renewable energy projects to be approved through a streamlined permit process;
 2. Protecting agricultural resources while at the same time allowing small renewable energy projects to be considered on contracted land, consistent with the Land Conservation Act; and
 3. Providing for adequate screening of proposed renewable energy projects from public views, and protecting important biological, cultural and soil resources while encouraging the development of distributed generation renewable energy projects.

Highlights indicate a change from the November 17, 2014 Public Review Draft RESP

Exhibit LRP 2014-00015:C Amendments to the Land Use and Circulation Elements and the Conservation and Open Space Element of the County General Plan

I. Amend the Land Use and Circulation Elements of the County General Plan, Framework for Planning (Inland), Chapter 7, page 7-1 as follows:

A. COMBINING DESIGNATIONS

Summary of Designations

The LUE uses the following ~~ten nine~~ combining designations: [Amended 1996, Ord. 2776]

AR Airport Review: Applied to areas identified in the various county airport land use plans where proposed developments receive special review (to avoid land uses incompatible with airport operations), as well as areas within airport approach and departure patterns.

GSA Geologic Study Area: Applied to: areas identified in the Alquist-Priolo Geologic Hazard Zones Act as "Special Studies Zone" (Public Resources Code Section 2622); to areas within urban and village reserve.

II. Amend the Land Use and Circulation Elements of the County General Plan, Framework for Planning (Inland), Chapter 7, page 7-2 to insert the following combining designation definition following the Extractive Resource Area summary:

EX₁ Extractive Resource Area: Applied to areas, including active mines, which the California Department of Conservation's Division of Mines and Geology has classified as containing or being highly likely to contain significant mineral deposits. Any such areas which are subsequently formally designated by the State as containing mineral deposits of statewide significance should be included in the EX combining designation subject to an amendment of the Land Use Element [Amended 1991, Ord. 2498].

NOTE: The classification information developed by the State is contained in a report titled "Special Report 162, Mineral Land Classification of Portland Cement Concrete Aggregate and Active Mines of All Other Mineral Commodities in the San Luis Obispo - Santa Barbara Production-Consumption Region, 1989." That report, together with the accompanying classification maps, are incorporated by reference herein as though set forth in full [Amended 1991, Ord. 2498].

RE Renewable Energy Area: Applies to areas where renewable energy production is favorable and prioritized. Within these areas, the County encourages distributed renewable energy development by streamlining permit requirements and environmental review in a manner that would not degrade ecosystems, agricultural resources, and other environmental resources.

III. Amend the Land Use and Circulation Elements of the County General Plan, Framework for Planning (Inland), Chapter 7, page 7-10 to insert the description of the proposed renewable energy combining designation following the description of the TDCS/TDCR Transfer of Development Credits-Sending and Receiving Sites description as follows:

RE – RENEWABLE ENERGY AREAS

Purpose

1. To encourage and support the development of local renewable energy resources, conserving energy resources and decreasing reliance on environmentally costly energy sources.
2. To identify areas of the county where: (1) renewable energy production is favorable, (2) the production of distributed renewable energy resources is prioritized, and (3) permit requirements are structured to streamline the environmental review and processing of land use permits for solar electric facilities (SEFs).
3. To protect the development and use of locally appropriate distributed renewable energy resources in priority areas in a manner that will not degrade ecosystems, agricultural resources, and other environmental resources.
4. To notify landowners and the general public of areas where development of renewable energy resources is prioritized.

General Objectives

The Land Use Ordinance should provide detailed criteria for the review and processing of renewable energy projects to achieve the following objectives:

1. Where feasible, standards should simplify and streamline the land use permit and environmental review process for renewable energy facilities.
2. Performance standards for renewable energy facilities shall protect environmental resources, agricultural resources, and surrounding communities.

IV. Amend the Land Use and Circulation Elements of the County General Plan (Inland, Part II), The Area Plans, Carrizo Area Plan, Section 6.2, Area Plan Combining Designations, Page 11.6-2 to add the Renewable Energy combining designation as follows:

9. Renewable Energy (RE). Identifies areas where renewable energy production is favorable and prioritized. Within these areas, the County encourages distributed renewable energy development by streamlining permit requirements and environmental review in a manner that would not degrade ecosystems, agricultural resources, and other environmental resources.

V. Amend the Land Use and Circulation Elements (Inland, Part II) of the County General Plan, The Area Plans, North County Area Plan, Section 6.2, Area Plan Combining Designations, Page III.6-10, to add the Renewable Energy combining designation as follows:

Transfer of Development Credits Receiving Site

56. **Smith Property Transfer of Development Credits Receiving Site (TDCR).** A parcel map (CO 98-194, Smith) has been recorded on this site located at the intersection of El Pomar Drive and Moss Lane. This parcel map was approved as a receiving site for transfer of development credits (TDCs) in accordance with the Land Use Ordinance.
57. **Spanish Lakes Transfer of Development Credits Receiving Site (TDCR).** A cluster subdivision (Tract 2308, Spanish Lakes) has been recorded on a site located between Creston Road and South River Road, south of Paso Robles. This tract was approved as a receiver site for transfer of development credits (TDCs) in accordance with the Land Use Ordinance, and the TDCs were used to achieve higher density than would otherwise be allowed for the applicable land use category.

Renewable Energy (RE)

58. **Renewable Energy (RE).** Identifies areas throughout the North County Planning Area where renewable energy production is favorable and prioritized. Within these areas, the County encourages distributed renewable energy development by streamlining permit requirements and environmental review in a manner that would not degrade ecosystems, agricultural resources, and other environmental resources.

VI. Amend the Land Use and Circulation Elements (Inland, Part II) of the County General Plan, The Area Plans, San Luis Obispo Area Plan, Section 6.2, Area Plan Combining Designations, Page IV.6-6, to add the Renewable Energy combining designation as follows:

Renewable Energy (RE)

1. **Renewable Energy (RE).** Identifies areas throughout the San Luis Obispo Planning Area where renewable energy production is favorable and prioritized. Within these areas, the County encourages distributed renewable energy development by streamlining permit requirements and environmental review in a manner that would not degrade ecosystems, agricultural resources, and other environmental resources.

VII. Amend the Land Use and Circulation Elements (Inland, Part II) of the County General Plan, The Area Plans, South County, Section 6.2, Area Plan Combining Designations, V.6-1, to add the summary of the Renewable Energy combining designation as follows:

6.2 Area Plan Combining Designations

The following combining designations are located within the South County Planning Area:

Summary of Combining Designations

The Land Use Element uses the following ~~seven~~ combining designations inland of the coastal zone. Some combining designations are not applicable to the South County Planning Area:

AR Airport Review: Special review areas that are identified in the various County and Paso Robles airport land use plans where proposed developments are reviewed to avoid land uses incompatible with airport operations.

GSA Geologic Study Area: Areas within urban and village reserve lines that are subject to "moderately high to high" landslide risk or liquefaction potential; and to land outside urban reserve lines subject to high landslide risk potential, according to the Seismic Safety Element.

FH Flood Hazard: Flood-prone areas identified through review of available data from various federal, state or local agencies.

H Historic Site: Areas of unique historical significance.

SRA Sensitive Resource Area: Areas having high environmental quality and special ecological or educational significance.

EX Energy or Extractive Area: Areas where oil, gas or mineral extraction occurs, is proposed or where the State Geologist has identified petroleum or mineral reserves of statewide significance, and areas of existing or proposed energy-producing facilities.

EX1 Extractive Resource Area: Areas, including active mines, that the California Department of Conservation's Division of Mines and Geology has classified as containing or highly likely to contain significant mineral deposits.

RE Renewable Energy Area: Areas with potential for renewable energy development in order to prioritize such development and provide streamlined permit requirements.

VIII. Amend the Land Use and Circulation Elements (Inland, Part II) of the County General Plan, The Area Plans, South County Area Plan, Section 6.2, Area Plan Combining Designations, IV.6-6, to add the Renewable Energy combining designation as follows:

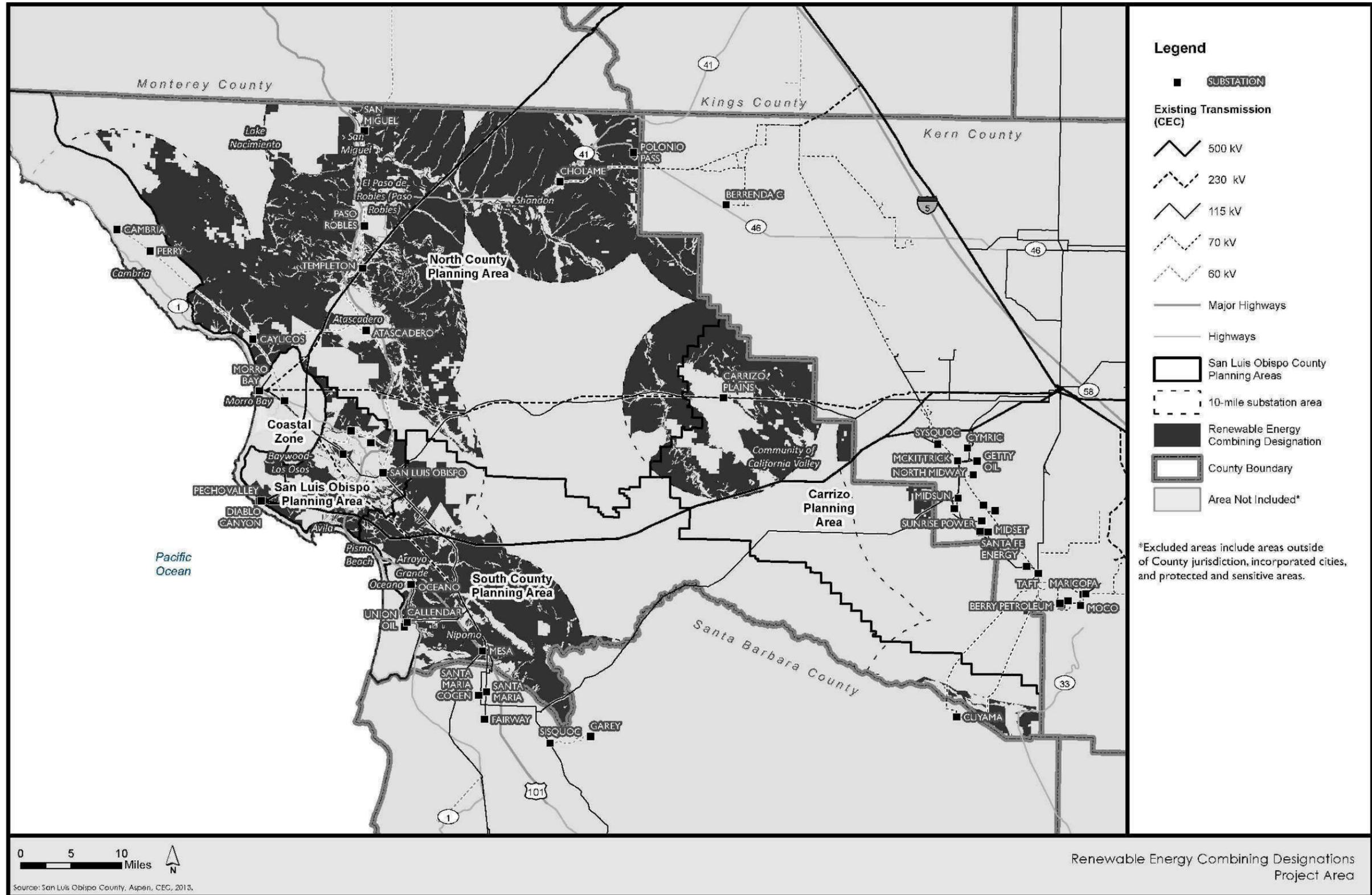
Transfer of Development Credits Site (TDCS)

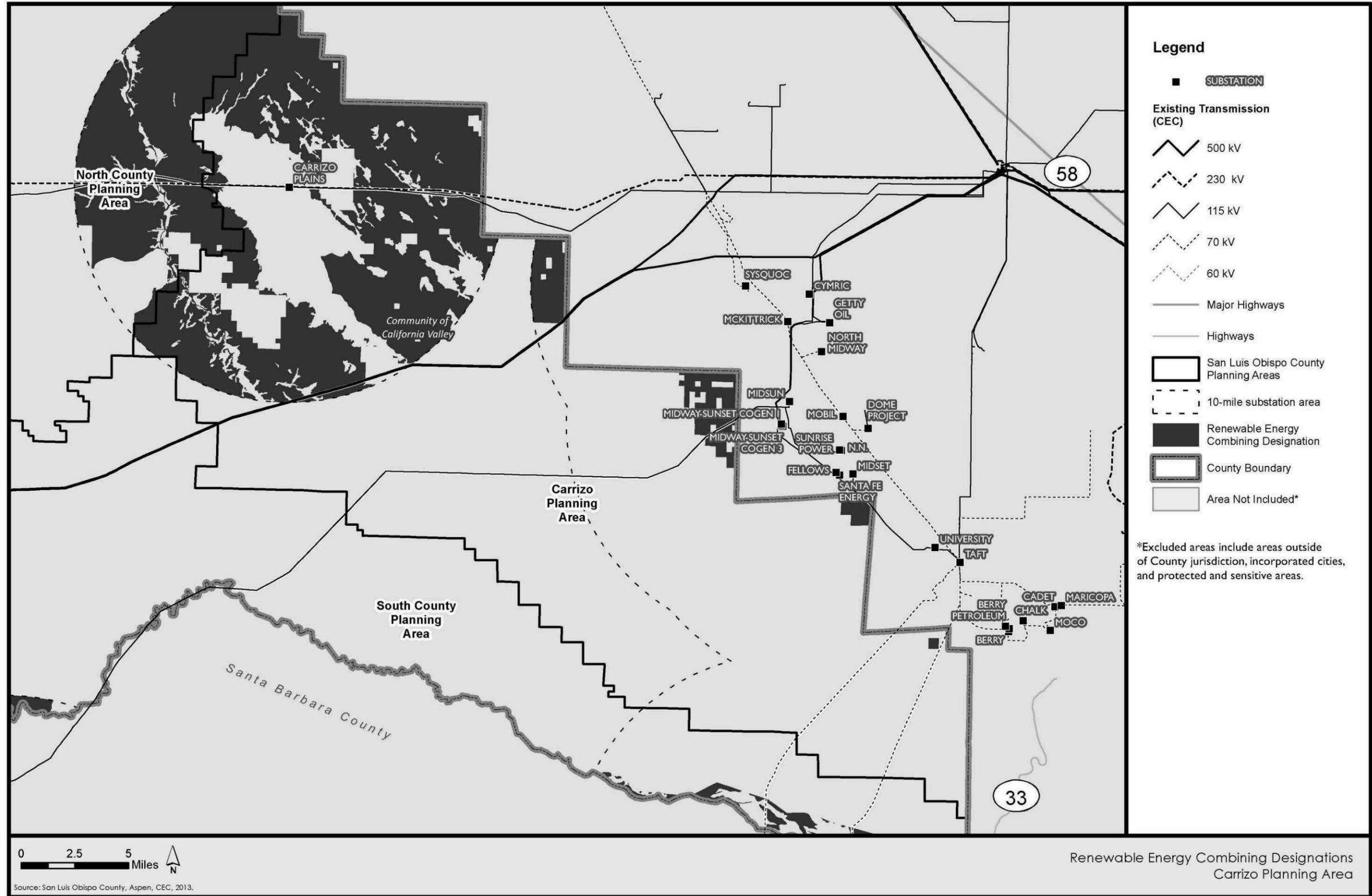
1. **Nipomo Bluffs (TDCR).** The area defined by 1996 Assessor Parcel Numbers 092-021-035 and 092-031-018, 019, commonly referred to as the Nipomo Bluffs project, has been determined to be eligible to be considered for the Transfer of Development Credit Receiving Site (TDCR) Combining Designation. A determination on the density shall occur during review of a tentative map by the Review Authority.
2. **Black Lake Specific Plan (TDCR).** The area defined in the Black Lake Specific Plan, has been determined to be eligible to be considered for the Transfer of Development Credit Receiving Site (TDCR) Combining Designation. Specific density, use and permit requirements are set forth in the Specific Plan.
3. **Black Lake Canyon (TDCS).** The narrow marsh extending inland from Dune Lakes has been determined to be eligible to be considered for the Transfer of Development Credit Sending Site (TDCS) Combining Designation. Sites in this area shall only be reviewed as to method of determining development value and issuance of bonus credits by the Review Authority. The guarantee of conservation shall be based on the method that would otherwise have been used to determine eligibility as a sending site.

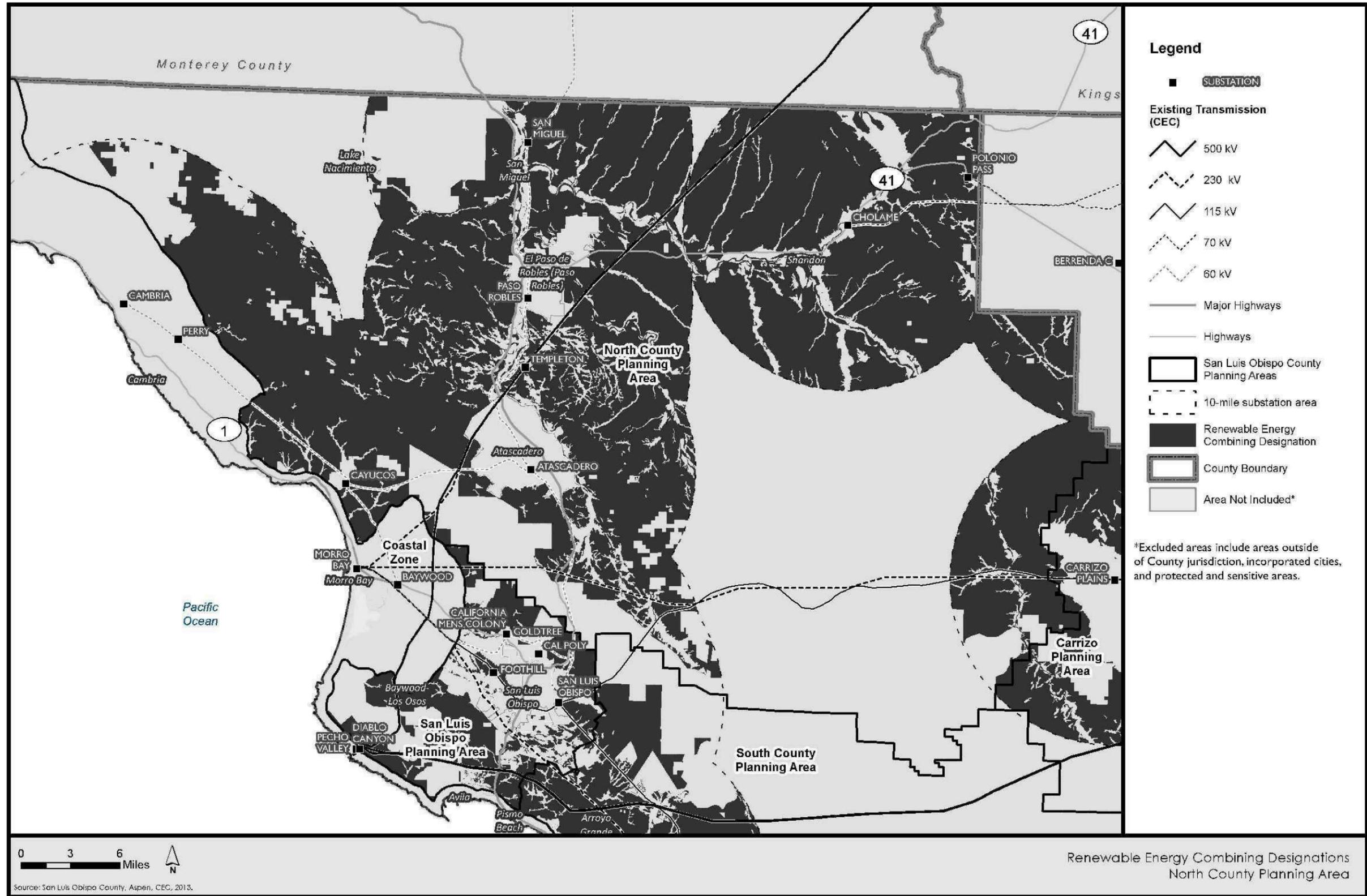
Renewable Energy (RE)

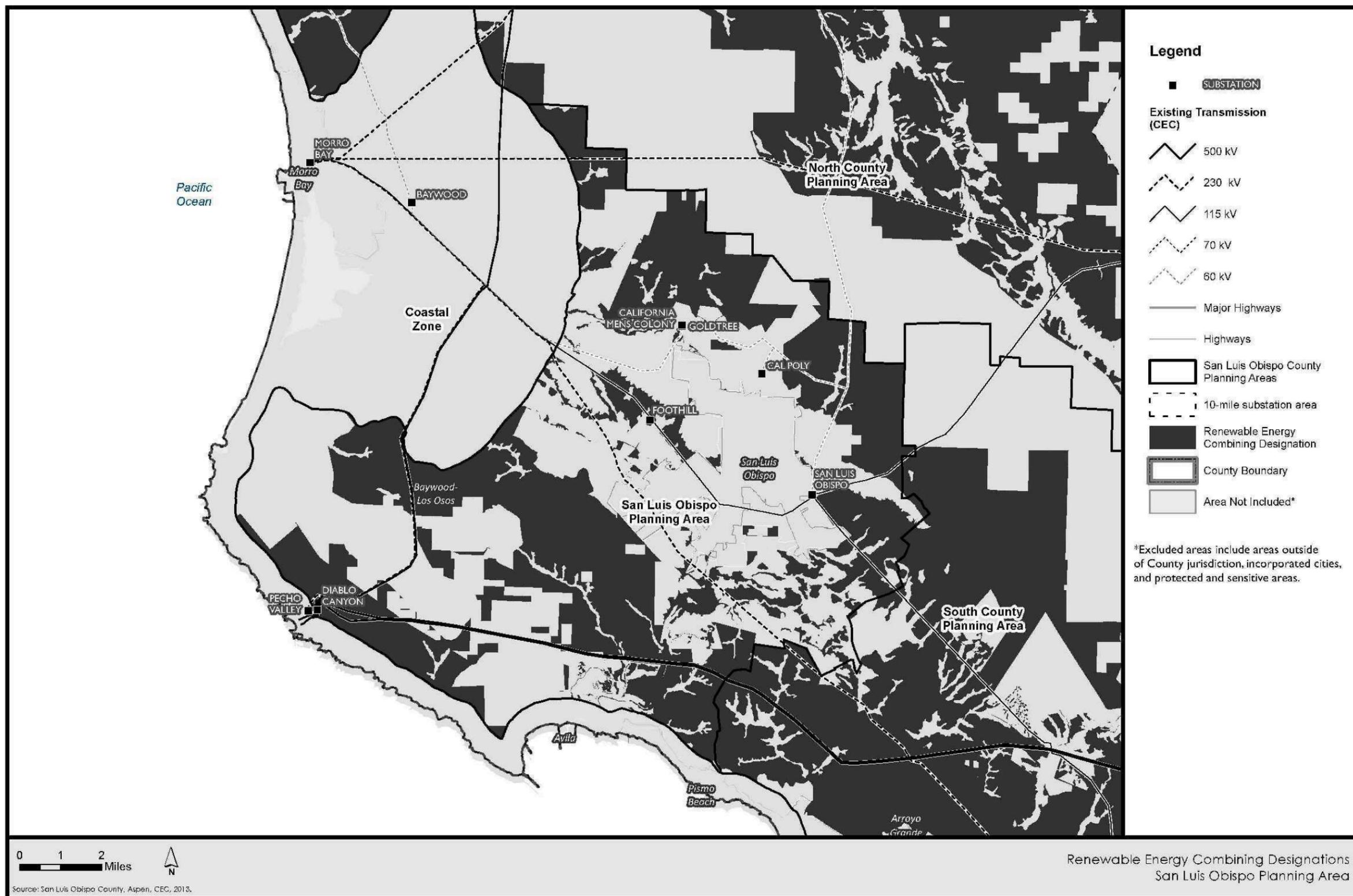
Renewable Energy (RE). Identifies areas throughout the South County Planning Area where renewable energy production is favorable and prioritized. Within these areas, the County encourages distributed renewable energy development by streamlining permit requirements and environmental review in a manner that would not degrade ecosystems, agricultural resources, and other environmental resources.

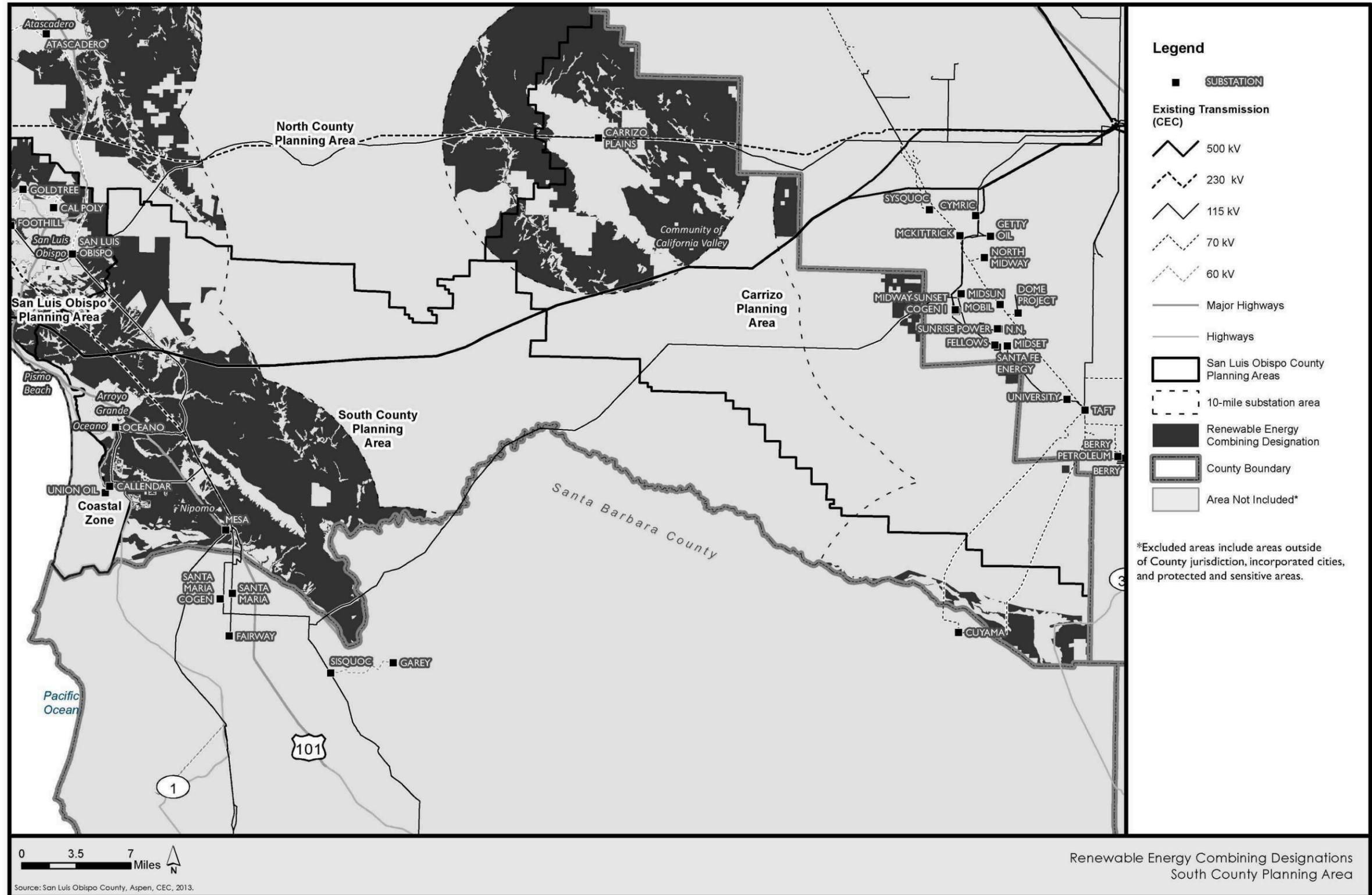
IX. Amend the Land Use and Circulation Elements of the County General Plan, The **Area Plans Official Maps (Inland, Part **IIIV**).** The following maps of the Renewable Energy Combining Designation will be added to the Element.











X. Amend the Conservation and Open Space Element of the County General Plan, Energy Chapter, Page 5-21 as follows:

Policy E 6.2 Commercial solar and wind power and other renewable energy systems

Encourage and support the development of solar and wind power and other renewable energy systems as commercial energy enterprises.

Implementation Strategy E 6.2.1 Review of large solar projects

Evaluate large-scale commercial solar projects (i.e. over ~~20~~ 40-MW) to favor technologies that maximize the facility's power production and minimize the physical effects of the project. Physical effects include, but are not limited to, noise, area of land disturbance and water use.

XI. Amend the Conservation and Open Space Element of the County General Plan, Energy Chapter, Page 5-22, Text Box, as follows.

Distributed energy resources (DER) are small, modular, energy generation and storage technologies that provide electric capacity or energy located where it's needed, often at a customer's location. These facilities are typically owned by non-utility entities, such as generation developers or utility customers that offset all or part of the customer's on-site electrical load. DER's typically produce less than 20-40 megawatts (MW) of power near the point of use and include wind turbines, photovoltaics (PV), fuel cells, microturbines, reciprocating engines, combustion turbines, cogeneration, and energy storage systems. DER systems may be either connected to the local electric power grid or isolated from the grid in stand-alone applications. – California Energy Commission

XII. Amend the Conservation and Open Space Element of the County General Plan, Energy Chapter, Page 5-23 as follows:

Policy E 6.8 Renewable Energy Resources

Designate and protect areas that contain renewable energy resources such as wind, solar, geothermal, and small hydroelectric. Continue to explore and encourage the development of renewable energy resources through further streamlining actions.

Implementation Strategy E 6.8.1 Mapping of resources

Use state, federal, or other available data to map areas that contain renewable energy resources.

Implementation Strategy E 6.8.2 Streamlining of Renewable Energy Facilities

- a. Encourage further broad-based environmental review for renewable energy projects that can be used to streamline the approval of future projects.

Revise existing streamlining efforts in the future as major technological changes occur.

~~Amend the Framework for Planning, the Area Plans, and the Land Use Ordinance (LUO) by establishing and applying a Renewable Energy (RE) combining designation based on the~~

~~mapping in Energy Implementation Strategy 6.8.1. The RE designation and implementing LUO standards are to:~~

- ~~b. Encourage the development of renewable energy while maintaining a high level of environmental quality;~~
- ~~c. Avoid areas that are not appropriate for renewable energy due to existing incompatible uses; and~~
- ~~d. Protect areas of renewable energy resources, as well as existing and expanding renewable energy projects, from encroachment by incompatible land use categories and development.~~

XIII. Amend the Conservation and Open Space Element of the County General Plan, Energy Chapter, Page 5-35, Table E2 as follows:

Implementation Strategies	Responsible Department or Agency ¹	Priority	Timeframe to Start	Possible Funding Sources ²
IS E 6.8.2 Streamlining energy combining designations of Renewable Energy Facilities	PB	High	2010	DB, grants

XIV. Amend the Conservation and Open Space Element of the County General Plan, Glossary, Page 12-5 as follows:

Distributed Energy Resources (DER): Small, modular, energy generation and accessory storage technologies that provide electric capacity or energy located where it's needed, often at a customer's location or close to a load center. These facilities are typically owned by non-utility entities, such as generation developers or utility customers that offset all or part of the customer's on-site electrical load. DER's typically produce less than ~~20~~ 40 megawatts (MW) of power near the point of use and include wind turbines, photovoltaics (PV), fuel cells, microturbines, reciprocating engines, combustion turbines, cogeneration, and energy storage systems. DER systems may be either connected to the local electric power grid or isolated from the grid in stand-alone applications.

XV. Amend the Conservation and Open Space Element of the County General Plan, Glossary, Page 12-14 is proposed to be amended as follows:

Renewable energy: Energy from sources that regenerate and are less damaging to the environment, including but not limited to ~~such as~~ solar, wind, biomass, and small-scale hydroelectric power.

XVI. Amend the Conservation and Open Space Element of the County General Plan, Glossary, Page 12-16 as follows:

Utility-Scale Renewable Energy Resources: Large energy generation and storage technologies that are connected to the electric power grid and that generate electricity or energy primarily for off-site use producing more than 20 megawatts (MW) of power. Technologies may include wind turbines, photovoltaics, fuel cells, microturbines, reciprocating engines, combustion turbines, cogeneration, and energy storage

Highlights indicate changes from the November 27, 2014 Public Review Draft RESP

**EXHIBIT LRP2014-00015: D
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING THE LAND USE ORDINANCE,
TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE,
RELATIVE TO THE RENEWABLE ENERGY STREAMLINING
PROGRAM (RESP)**

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 22.04.030, Table 2-1 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

**TABLE 2-1
LAND USE CATEGORIES AND COMBINING DESIGNATIONS**

Map Symbol	Land Use Category Name
Agricultural and Rural Categories	
AG	Agriculture
RL	Rural Lands
Residential Categories	
RR	Residential Rural
RS	Residential Suburban
RSF	Residential Single-Family
Commercial and Industrial Categories	
OP	Office and Professional
CR	Commercial, Retail
CS	Commercial, Service
IND	Industrial
Special Purpose Categories	
OS	Open Space
REC	Recreation
PF	Public Facilities
Combining Designations	
AR	Airport Review Area
EX	Energy and Extractive Resource Area
EX1	Extractive Resource Area
FH	Flood Hazard

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Map Symbol	Land Use Category Name
GSA	Geologic Study Area
H	Historic Site
LCP	Local Coastal Plan Area
<u>RE</u>	<u>Renewable Energy Area</u>
SRA	Sensitive Resource Area
TDCR	Transfer of Development Credit Receiving Site
TDCS	Transfer of Development Credit Sending Site

SECTION 2: Section 22.06.030A of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

A. Permit requirements. Table 2-2 provides for land uses that are:

1. Allowed subject to the approval of the land use permit required by Section 22.08.030 (Project-Based Permit Requirements). These are shown as "A1" uses in the table;
2. Allowed subject to the approval of the land use permit required for the particular use by Article 4 (Standards for Specific Land Uses). These are shown as "A2" uses in the table;
3. Permitted subject to the approval of a Zoning Clearance (Section 22.62.030). These are shown as "P" uses in the table;
4. Permitted subject to the Site Plan Review approval (Section 22.62.040). These are shown as "SP" uses in the table;
5. Allowed subject to the approval of a Minor Use Permit (Section 22.62.050). These are shown as "MUP" uses in the table; and
6. Allowed subject to the approval of a Conditional Use Permit (Section 22.62.060). These are shown as "CUP" uses in the table.

Note: where the last column ("Specific Use ~~Standards~~ Regulations") in Table 2-2 includes a section number, the regulations in the referenced section apply to the specific use; however, the provisions of Article 3 (Site Planning and General Development Standards) shall also apply.

SECTION 3: Section 22.06.030.C of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

C. Uses not listed. A land use that is not listed in Table 2-2 or is not shown in a particular land use category is not allowed, except as follows, or as otherwise provided by Section 22.06.040 (Exemptions from Land Use Permit Requirements).

1. Where a proposed land use is not specifically listed in Table 2-2, the Director will review the proposed use when requested to do so by letter and, based upon the characteristics of the use, determine whether any of the listed uses is equivalent to that proposed.

2. Upon a written determination by the Director that a proposed unlisted use is equivalent in its nature and intensity to a listed use, the proposed use will be treated in the same manner as the listed use in determining where it is allowed, what permits are required, and what standards affect its establishment.
3. Determinations that specific unlisted uses are equivalent to listed uses will be recorded by the Department, and will be considered for incorporation into ~~the~~ this Title through amendment as soon as is practical.
4. At the discretion of the Director, allowable use interpretation requests may be forwarded to the Commission for determination. Determinations by the Director may be appealed to the Commission in compliance with Section 22.70.050.
5. If a proposed use is found by the review authority to not be equivalent to any listed use, the proposed use shall be deemed not allowed.

[22.01.041.d]

SECTION 4: Section 22.06.030.C, Table 2-2 for Agricultural, Resource, and Open Space Uses of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

**TABLE 2-2
ALLOWABLE LAND USES AND PERMIT REQUIREMENTS**

Land Use ^{(1) (2)}	Permit Requirements By L.U.C. ⁽³⁾						Specific Use Standards
	AG ⁽⁸⁾	RL	RR	RS	RSF	RMF	
Agriculture, Resource, and Open Space Uses							
Ag Processing	A2	A2	CUP				22.30.070
Agricultural Accessory Structures	P	P	P	P			22.30.030,060
Animal Facilities - Specialized, except as follows	CUP	CUP	CUP	CUP			22.30.100
Animal hospitals & veterinary medical facilities	MUP	MUP	CUP				22.30.100
Beef and dairy feedlots	CUP	CUP					22.30.100
Fowl and poultry ranches	MUP	MUP	MUP	MUP			22.30.100
Hog ranches	CUP	CUP					22.30.100
Horse ranches and other equestrian facilities	MUP	MUP	MUP	MUP	CUP		22.30.100

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Land Use ^{(1) (2)}	Permit Requirements By L.U.C. ⁽³⁾						Specific Use Standards
	AG ⁽⁸⁾	RL	RR	RS	RSF	RMF	
Kennels ⁽⁶⁾	A1	A1	A1	A1	A1	A1 ⁽⁷⁾	22.30.100
Zoos - Private, no display open to public	MUP	MUP	MUP				22.30.100
Zoos - Open to public							22.30.100
Animal Keeping	A2	A2	A2	A2	A2	A2	22.32.090
Crop Production and Grazing	A	A1	A2	A2	A2	A2	22.30.200
Energy-generating facilities ⁽⁹⁾ Electricity generation - Except WECF	A2	A2	A2	<u>A2</u>	<u>A2</u>	<u>A2</u>	22.32
Electricity generation - WECF	MUP	MUP	MUP				22.32.050
Fisheries and Game Preserves	A1	A1	A1				
Forestry	A1	A1	A1	A1			
Mines and quarries	A2	A2	A2				22.36
Nursery Specialties	A2	A2	A2	A2			22.30.310
Petroleum Extraction	A2	A2	A2	A2			22.34

Key To Permit Requirements

Symbol	Permit Requirement	Procedure is in Section:
A1	Allowable use, subject to the land use permit required by 22.08.030, Table 2-3	22.08.030
A2	Allowable use, subject to the land use permit required by the specific use standards.	22.30
P	Permitted use, Zoning Clearance required. (4)	22.62.030
SP	Permitted use, Site Plan Review required. (4)	22.62.040
MUP	Conditional use - Minor Use Permit required. (4)	22.62.050
CUP	Conditional use - Conditional Use Permit required. (4)	22.62.060
	Use not allowed. (See 22.06.030.C regarding uses not listed.)	22.06.030.C

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Land Use ^{(1) (2)}	Permit Requirements By L.U.C. ⁽³⁾							Specific Use Standards
	OP	CR	CS	IND	OS	REC	PF	
Agriculture, Resource, and Open Space Uses								
Ag Processing			A2	A1				22.30.070
Agricultural Accessory Structures			P	P	SP(5)	P	P	22.30.030,060
Animal Facilities - Specialized, except as follows	CUP	CUP	CUP	CUP		CUP	CUP	22.30.100
Animal hospitals & veterinary medical facilities	A1	A1	A1	A1		MUP	A1	22.30.100
Beef and dairy feedlots				CUP				22.30.100
Fowl and poultry ranches	MUP			MUP			MUP	22.30.100
Hog ranches	MUP			MUP				22.30.100
Horse ranches and other equestrian facilities	MUP	MUP	MUP	MUP		MUP	MUP	22.30.100
Kennels (6)	A1	A1	A1	A1		A1(7)	A1	22.30.100
Zoos - Private, no display open to public	MUP	MUP	MUP	MUP		MUP	MUP	22.30.100
Zoos - Open to public						CUP	CUP	22.30.100
Animal Keeping		A2	A2	A2	A2	A2	A2	22.32.090
Crop Production and Grazing	A2	A2	A2	A2	A1	A1	A1	22.30.200
Energy-generating facilities ⁽⁹⁾ Electricity generation - Except WECF	<u>A2</u>	<u>A2</u>	A2	A2	A2	<u>A2</u>	A2	22.32

Land Use ^{(1) (2)}	Permit Requirements By L.U.C. ⁽³⁾							Specific Use Standards
	OP	CR	CS	IND	OS	REC	PF	
Electricity generation WECF			MUP	MUP	MUP		MUP	22.32.050
Fisheries and Game Preserves					SP(5)	A1		
Forestry					SP(5)	A1		
Mines and quarries					SP(5)	A1	A2	22.36
Nursery Specialties		A2	A2	A2				22.30.310
Petroleum Extraction			A2	A2	SP(5)	A2	A2	22.34

SECTION 5: Section 22.06.030.C, Table 2-2 for Agricultural, Resource, and Open Space Uses of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding a new footnote (9) as follows:

(9) This use may not be allowable in every land use category. Refer to the standards in Chapter 22.32.

SECTION 6: Section 22.08.030, Table 2-3 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

**TABLE 2-3
PERMIT REQUIREMENTS BASED ON PROJECT CHARACTERISTICS**

Land Use or Development Characteristic	Criteria ⁽¹⁾	Permit Requirement			
		Zoning Clearance	Site Plan Review	Minor Use Permit	Conditional Use Permit
Dwellings	Number of proposed single- or multi-family dwellings per site ⁽²⁾	4 or fewer	5 to 15	16 to 24	25 or more
Manufacturing & Processing, Outdoor Storage ⁽³⁾	Gross floor area or outdoor use area	Less than 10,000 sf, or change in "A1" uses ⁽⁵⁾	10,000 sf to 19,999 sf	20,000 sf to 39,999 sf	40,000 sf or more
Retail Trade, Services, and all other nonresidential use groups ⁽⁴⁾	Gross floor area or outdoor use area	Less than 2,500 sf, or change in "A1" uses ⁽⁵⁾	2,500 sf to 9,999 sf	10,000 sf to 19,999 sf	20,000 sf or more
	and traffic circulation	with no drivein or drivethrough	and/or drivein or drivethrough	and/or drivein or drivethrough	

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Land Use or Development Characteristic	Criteria ⁽¹⁾	Permit Requirement			
		Zoning Clearance	Site Plan Review	Minor Use Permit	Conditional Use Permit
		or drivethrough			
Site Disturbance	Area per site of grading requiring a permit, or removal of native vegetation ⁽⁶⁾	Less than 1 acre ^(6Z)	N.A. ^(6Z)	1 to 3 acres	More than 3 acres
Impervious Surface	Area per site of site coverage by paving and structures ⁽⁶⁾	Less than 1 acre ^(6Z)	N.A. ^(6Z)	1 to 3 acres	More than 3 acres

Notes:

- (1) All criteria are cumulative for a single site (e.g. a proposed 3-unit expansion of an existing 39 unit apartment requires Conditional Use Permit approval).
- (2) Or number of dwellings proposed to be constructed by a single developer, in a single subdivision that was recorded before March 19, 1962.
- (3) Includes all uses listed under the Manufacturing & Processing land use group by Table 2-2, and the specific use identified by Table 2-2 as Storage Yards and Sales Lots.
- (4) Includes all uses listed under the Retail Trade, Services, and all other land use groups by Table 2-2, except Residential, Manufacturing & Processing, and Outdoor Storage.
- (5) When an allowed use (an "A1" use in Table 2-2) in an existing building is to be replaced with another allowed use that is required by Chapter 22.18 to have equal or less parking than the use being replaced, approval of a Zoning Clearance is required regardless of what permit was necessary for the original building, provided the building satisfies all applicable provisions of Chapter 22.72 (Nonconforming Buildings, Structures, Parcels, and Signs).
- (6) Permit requirements and site disturbance characteristics for energy-generating facilities are identified in Chapter 22.32 (Energy-Generating Facilities).
- (6Z) A grading permit, drainage plan review, or erosion and sedimentation plan review may be required by Chapter 22.52 (Grading and Drainage); and/or construction permits may be required by the Building and Construction Ordinance, Title 19 of this Code.

SECTION 7: Section 22.10.090.C.2.c.8 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

~~(8) Solar collectors. Solar electric facilities and wind energy conversion systems may exceed Not more than five feet above the height limits specified in Subsection C.1 up to the maximum limits established in Chapter 22.32 for the proposed project.~~

SECTION 8: Section 22.10.140.A of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding a new Section 22.10.140.A.5 as follows:

5. Solar electric facilities, wind energy conversion systems, and other renewable energy facilities as allowed by Chapter 22.32 (Energy-Generating Facilities) with special setback standards. Where Chapter 22.32 establishes larger setback requirements than those identified in this Chapter, the larger setbacks shall apply.

SECTION 9: Section 22.10.140.H of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding a new Section 22.10.140.H.5 as follows:

5. **Solar electric facilities, Tier 1.** Tier 1 roof-mounted solar electric facilities as described by Section 22.32.050 (Solar Electric Facilities) of this Title not exceeding 10 feet in height may project into the required setback up to 15 feet, and no closer than 3 feet to the property line.

SECTION 10: Chapter 22.14 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding a new Section 22.14.100 as follows:

22.14.100 – Renewable Energy (RE) Area

- A. Purpose. The Renewable Energy (RE) Combining Designation is used to encourage and support the development of local renewable energy resources, conserving energy resources and decreasing reliance on environmentally costly energy sources. Specifically, the purpose of the RE Combining Designation is to:
1. Identify areas of the county where: (1) renewable energy production is favorable, (2) the production of renewable energy resources is prioritized, and (3) permit requirements are structured to streamline the environmental review and processing of land use permits for solar electric facilities (SEFs).
 2. Protect the development and use of locally appropriate distributed renewable energy resources in priority areas in a manner that will not degrade ecosystems, agricultural resources, and other environmental resources.
 3. Notify landowners and the general public of areas where development of renewable energy resources is prioritized.

This combining designation does not limit the development of SEFs outside of this combining designation where it is an allowable use identified in Section 22.06.030 (Allowable Land Uses and Permit Requirements) and regulated by the special use standards in Chapter 22.32 (Energy-Generating Facilities).

- B. Applicability.

1. The permit requirements of this Section shall apply only to proposed SEFs meeting the site criteria of this Section. Where other accessory or primary uses are proposed that indirectly support proposed SEFs, the applicable permit requirements for the additional use(s) shall be determined as described in Chapter 22.06 (Allowable Land Uses and Permit Requirements by Land Use Category). For purposes of determining

permit requirements and standards as established by this Section, the size of the SEF shall be measured as the total area of the facility inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use, unless otherwise noted, inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use. The size of ground-mounted SEF shall be measured as directed by Section 22.32.030.A. Where other accessory or primary uses are proposed that indirectly support proposed SEFs, the applicable permit requirements for the additional use(s) shall be determined as described in Chapter 22.06 (Allowable Land Uses and Permit Requirements by Land Use Category).

2. Land Conservation Act. Permit requirements of this Section (22.14.100) shall apply to proposed SEFs on land subject to a Land Conservation Act contract within an RE Combining Designation as follows.
 - a. If a proposed SEF is greater than 20 acres in total area within an RE Combining Designation and is subject to a Land Conservation Act Contract:
 - (1) The project shall be ineligible for the permit requirements established by this Section (22.14.100) but may elect to comply with standards of this section to streamline other aspects of project review.
 - (2) The project shall require a Minor Use Permit (or Conditional Use Permit if otherwise required by Chapter 22.32 or the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2)).
 - (3) The project shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself Williamson Act itself and any changes that may be made to it.
 - b. If a proposed SEF is 20 acres or less in total area and subject to a Land Conservation ~~Act contract Contract~~ within an RE Combining Designation, the project is allowable in all land use categories if the proposed SEF meets the site eligibility criteria for Tier 1 SEFs in Chapter 22.32 (Energy-Generating Facilities).
 - c. If a proposed SEF is 20 acres or less in total area and subject to a Land Conservation Act contract within an RE Combining Designation, but is when inconsistent with the site eligibility criteria for Tier 1 SEFs, the project may qualify as Tier 2 or Tier 3 SEF if the proposed SEF meets the site eligibility criteria established in this Section (22.14.100).

3. The standards of this Section shall not apply to proposed SEFs that meet the following criteria. When a proposed SEF does not meet any of the following criteria, the project shall be subject to permit requirements of Chapter 22.32 (Energy-Generating Facilities) or other applicable sections of this Title:
- a. Include energy transmission or distribution facilities within an RE Combining Designation and involve easements over parcels outside of an RE Combining Designation.
 - b. Require new transmission lines to tie in to the electric grid.
 - c. Are considered accessory energy-generating facilities or Tier 1 solar electric facilities, which are allowable uses as regulated by Chapter 22.32 (Energy-Generating Facilities).
 - d. Sited on Class I or Class II soils, consistent with the areas included in the RE Combining Designation map established by Part III of the Inland Framework for Planning – Land Use Element.
 - e. Located within visual Sensitive Resource Areas.
 - f. Parcels subject to conservation easements that prohibit energy-generating facilities.
 - g. Parcels in the Recreation (REC), ~~and~~ Open Space (OS), Residential Single-Family (RSF), Residential Multi-Family (RMF), or Residential Suburban (RS) land use categories designations.
 - h. Parcels in the Airport Review (AR) Area.
4. Other planning area standards. Where Article 9 (Community Planning Standards) or Article 10 (Community Area Standards) apply to a parcel within an RE Combining Designation, the standards of Article 9 and Article 10 shall prevail over the requirements of this Section (22.14.100).
5. Other combining designations. Projects located within other combining designations shall meet the required findings and standards for those combining designations, including but not limited to Flood Hazard Area (FH), Historic Site (H), and Sensitive Resource Area (SRA) Combining Designations.
- C. Application content. Applications for proposed SEFs within the RE Combining Designation shall include descriptive and plan information as necessary to determine compliance with the requirements of this Section 22.14.100 (Renewable Energy Area) and an application form and other information prepared as specified in Sections 22.60.040.B, 22.60.040.D, and 22.62.040 for Site Plan Review. As noted in Section 22.60.040E, the Director may waive some or all application content requirements at the written request of the applicant if it is demonstrated that the absence of the documentation will not reduce the ability of the

Director to evaluate the compliance of the proposed project with the standards of this Title. Proposed SEFs eligible for Zoning Clearance as determined by part E of this Section shall submit application and information required by Sections 22.60.040B and 22.62.030.

D. General requirements. The applicable standards for renewable energy technologies described in Chapter 22.32 (Energy-Generating Facilities) shall apply to all renewable energy facilities proposed within the RE Combining Designation. When standards of Chapter 22.32 conflict with this Section, the standards of this Section shall prevail.

E. Permit requirements. ~~A proposed roof- or structure-mounted SEF within the RE Combining Designation may be eligible for Zoning Clearance as described in Subsection 4-1-3.~~ If a ground-mounted SEF is proposed within the RE Combining Designation and meets the criteria of this Section, the project may be eligible for Site Plan Review as described in Subsections ~~2-41-3~~. If an SEF is proposed within the RE Combining Designation but does not meet the criteria of this Section, the project is subject to the permit requirements and standards of Chapter 22.32 (Energy-Generating Facilities).

1. ~~Tier 1 SEF. A proposed SEF that is no more than 20 acres, or that is roof- or structure-mounted, is allowable within and outside the RE Combining Designation subject to Zoning Clearance or Site Plan Review, as established in Chapter 22.32 (Energy-Generating Facilities). No additional streamlining or standards for Tier 1 SEFs are provided in this Section (22.14.100). Tier 1 SEF, Roof- or Structure-Mounted. A proposed SEF that is located on the roof or structure of a use that is conforming per Chapter 22.72 of this Title is allowable with Zoning Clearance in accordance with Chapter 22.32.~~

~~2. Tier 1 SEF, Ground-Mounted. A proposed SEF that is ground-mounted, no more than 20 acres in total area within the RE Combining Designation, and complies with all development standards of Subsection F of this Section is allowable with Site Plan Review. The proposed SEF shall also meet one of the following criteria:~~

~~a. Is proposed on land that is graded, disturbed, or altered; consistent with definitions for "Development," "Grading," or "Site Disturbance" in this Title, or~~

~~b. Is located on land that was previously developed for industrial or commercial purposes and degraded or contaminated and then abandoned or underused.~~

If a proposed project is ground-mounted and 20 acres or less in size but does not meet the criteria for a Tier 1 SEF in Chapter 22.32 Subsection ~~2~~, the project may be eligible for Site Plan Review as a Tier 2 or Tier 3 SEF within the RE Combining Designation, as described below in Subsections ~~3~~-4. If a project is proposed within the RE Combining Designation but does not meet the criteria for Tier 2 or Tier 3 SEFs as outlined in this Section (22.14.100), the permit requirements and standards of Chapter 22.32 (Energy-Generating Facilities) apply.

3.2. Tier 2 SEF. If a proposed SEF meets the following criteria and is 40 acres or less in total area of the facility within the RE Combining Designation, the project may be considered a Tier 2 SEF eligible for Site Plan Review. Proposed SEFs that are 40 acres or less in size that do not meet the criteria for a Tier 2 SEF described in Subsections a–~~ec~~ may be determined to be a Tier 3 SEF based on the criteria of Subsection 4 below. To be eligible for Site Plan Review within the RE Combining Designation as a Tier 2 SEF, a proposed project must be consistent with the following criteria:

~~a.~~ Total area of the proposed SEF is no more than 40 acres in area, measured as the total area of the facility inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.

~~b.a.~~ a. Is proposed on a parcel included in any land use category (vacant or not), except for Open Space (OS), ~~or Recreation (REC), Residential Single-Family (RSF), Residential Multi-Family (RMF), or Residential Suburban (RS).~~

~~b.~~ b. In the Agriculture (AG) land use category, is not sited on any type of Important Agricultural Soils as defined in the Conservation and Open Space Element, unless sited on Important Agricultural Soils that are designated as solely Highly Productive Rangeland Soils by the Conservation and Open Space Element. The proposed project may be located on solely Highly Productive Rangeland Soils or sited on other areas of the parcel without any Important Agricultural Soils.

c. Complies with all development standards of Subsection F of this Section.

If a proposed project is 40 acres or less in size within the RE Combining Designation but does not meet the criteria in Subsection 2, the project may be eligible for Site Plan Review as a Tier 3 SEF within the RE Combining Designation, as described below in Subsection 3. If a project is proposed within the RE Combining Designation but does not meet the criteria for Tier 2 or Tier 3 SEFs as outlined in this Section (22.14.100), the permit requirements and standards of Chapter 22.32 apply and no alternative requirements are available within the RE Combining Designation.

4.3. Tier 3 SEF. If a proposed SEF meets the following criteria and is 160 acres or less within the RE Combining Designation, the project may be considered a Tier 3 SEF eligible for Site Plan Review. To be eligible for Site Plan Review within the RE Combining Designation, a proposed project must be consistent with the following criteria:

Total area of the proposed SEF is no more than 160 acres in area, measured as the total area of the facility inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.

a. Is proposed on a parcel included in the Commercial Service (CS), Industrial (IND), or Agriculture (AG) land use categories (vacant or non-vacant).

- b. In the Agriculture land use category, is not sited on any type of Important Agricultural Soils as defined in the Conservation and Open Space Element, unless sited on Important Agricultural Soils that are designated as solely Highly Productive Rangeland Soils by the Conservation and Open Space Element. The proposed project may be located on solely Highly Productive Rangeland Soils or sited on other areas of the parcel without any Important Agricultural Soils.
- c. Complies with all development standards of Subsection F of this Section.

If a proposed project is 160 acres or less in size within the RE Combining Designation but does not meet the criteria in Subsection 3.4 of this Section, the permit requirements and standards of Chapter 22.32 apply and no alternative requirements are available within the RE Combining Designation.

- 5.4. Tier 4 SEF. A solar electric facility that is greater than 160 acres is considered a Tier 4 SEF and shall require a Conditional Use Permit, as identified by Chapter 22.32 (Energy-Generating Facilities). No alternative requirements or streamlining for Tier 4 SEFs apply within the RE Combining Designation.

F. Development standards. In addition to applicable site criteria in Subsections E(2) – E(4), proposed ground-mounted Tier 2 and Tier 3 SEFs within the RE Combining Designation eligible for Site Plan Review shall comply with all standards in Section 22.32.040.A, 22.32.040.C, 22.32.040.D, and 22.32.050.B-D of this Title, in addition to the following, as applicable shall comply with all standards in Section 22.32.040 of this Title and the following as applicable:

1. Requirements of this section do not preclude authorities and requirements of other local, state, and federal agencies, including but not limited to the San Luis Obispo County Air Pollution Control District, California Department of Fish and Wildlife, California Department of Transportation, United States Fish and Wildlife Service, and the United States Army Corps of Engineers.
2. If Botanical Reports or Biological Reports prepared as part of the proposed SEF permit application indicate the presence or potential presence of state or federally listed wildlife or plant species or designated critical habitat, the permit requirements and standards of Chapter 22.32 (Energy-Generating Facilities) apply and no alternative requirements are available within the RE Combining Designation. Exceptions to this requirement may apply to ground-mounted SEFs less than 40 acres in total project area if the proposed project is located in the San Joaquin Kit Fox Habitat Area and meets the following criteria
 - a. Botanical Reports or Biological Reports do not indicate the presence of additional state or federally listed wildlife or plant species or designated critical habitat on or adjacent to the project site.

- b. The project site of the proposed SEF is less than 40 acres in area, measured as total project site inclusive of total site disturbance. For all other purposes of determining consistency with standards of this Section (22.14.100), the area of the SEF shall be calculated as otherwise directed by Subsection 22.14.100.B1.
- c. The project complies with the standard mitigation ratio and all applicable kit fox conditions for grading and building plans set forth by the Director.
- ~~2. Tier 2 less than 40 acres comply~~
3. Ground-mounted SEFs that propose fencing where sensitive wildlife is present shall include wildlife-friendly fencing that is no higher than 48 inches and allows for the free movement of species.
4. Ground-mounted SEFs proposed on remediated brownfield sites (areas that have been developed for industrial or commercial purposes, polluted, and then abandoned or underused before remediation); or SEFs proposed on disturbed areas with site disturbance such as grading, paving, development, or other improvements shall meet the following:

 - a. The Site Plan Review application shall include a Habitat Assessment prepared by a qualified biologist.
 - b. Provide setbacks from any special-status plant species and habitat that could support special-status plant or wildlife species as specified in the Habitat Assessment for the proposed project, including federally and state-listed Threatened and Endangered, Candidate, and Rare Species; California Species of Special Concern; California Fully Protected Species; and California Rare Plant Rank 1B and 2 plants.
5. Ground-mounted SEFs shall be set back a minimum of 500 feet from any of the following identified on the site, if identified in the Biological Report, required by Section 22.60.040 of this Title:

 - a. Sensitive vegetation and habitat that could support special-status species.
 - b. Special-status species that could occur on the site or adjacent properties.
6. Ground-mounted SEFs shall be set back a minimum of 50 feet from any seasonal or perennial wetlands, drainages, vernal pools, or any other potentially jurisdictional features.
7. Ground-mounted SEFs shall provide a Archeological Report to demonstrate avoidance of any historical resources or unique archeological resources. The Archeological Report shall include the following information:

 - a. California Historic Resource Information Center (CHRIS) search to identify previous projects and previous resources identified in the project.

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- b. Archival map research to identify overall sensitivity for historic-era resources as well as -locations of built resources of at least 45 years of age.
- c. Where these studies identify any potential resources on the proposed project site, the applicant shall also submit the following:
 - (1) One hundred percent (100%) field survey of the proposed project area where all identified resources are recorded on forms required by the State Historic Preservation Officer (SHPO).
 - (2) Correspondence with Native American contacts provided by the Native American Heritage Commission (NAHC) and a search of the sacred lands database maintained by the NAHC to identify sensitive resources.
 - (3) A technical report presenting the results of these studies, the identification of any resources that might be historic resources, and management and treatment recommendations for these resources in a report format meeting SHPO guidelines to identify measures the project would employ to avoid direct or indirect impacts to any potential resources.
- 8. Ground-mounted SEFs proposed on undisturbed areas with no development or site improvements shall provide revegetation for any vegetation to be removed, as follows:
 - a. Provide a minimum 3:1 offset ratio for vegetation to be removed and that is identified as sensitive by the California Department of Fish and Wildlife, including but not limited to riparian vegetation.
 - b. Provide a minimum 1:1 offset ratio for any other vegetation to be removed that is identified by the Biological Report required in Section 22.60.040 as in Subsection 5 above (sensitive vegetation and habitat that could support special-status species on the site or adjacent properties).
 - c. When landscaping is required, it shall include drought-tolerant, non-invasive species to avoid or minimize watering requirements, be compatible with the surrounding native vegetation, and include at least 80 percent native species.
- 9. In the Agriculture (AG) land use category, SEFs proposed on active agricultural uses or SEFs proposed on Highly Productive Rangeland, as defined in the Conservation and Open Space Element, shall meet the following:
 - a. For projects proposed on land in an active agricultural use, the project shall provide a conservation easement as follows in consultation with the Agriculture Department, which shall be on land that supports grazing or uses similar to those within the project site that would be lost due to the proposed project:

- (1) A conservation easement located within San Luis Obispo County at a 1:1 ratio on land that can support agricultural uses at the same intensity as the affected agricultural uses at the proposed project site, or
 - (2) A conservation easement located within San Luis Obispo County at a 3:1 ratio on land that can support agricultural uses at a lower the same intensity than as the affected agricultural uses on a parcel other than at the proposed project site.
- b. SEFs proposed on Highly Productive Rangeland should be sited to minimize impacts to Important Agricultural Soils to the maximum extent feasible, in consultation with the Agriculture Department. Where that is not feasible, SEFs proposed on Highly Productive Rangeland Soils shall provide the following:
- (1) A conservation easement located within San Luis Obispo County at a 1:1 ratio on Highly Productive Rangeland Soils or other Important Agriculture Agricultural Soils of comparable suitability for agricultural production at the proposed project site, or
 - (2) A conservation easement located within San Luis Obispo County at a 3:1 ratio on Highly Productive Rangeland Soils or other Important Agriculture Agricultural Soils of comparable suitability for agricultural production on a parcel other than the proposed project site.
- c. To determine the suitability of proposed easement sites for purposes of addressing the conversion of agricultural uses or Highly Productive Rangeland, the Agriculture Department shall evaluate criteria related to the intensity and suitability of the site for agriculture, including but not limited to soil capability, available water supply, existing on-site land uses, parcel size, and land use designation.
- e.d. If a proposed SEF demonstrates dual-use design measures that ensure the long-term productivity of agricultural uses on site, or protects agricultural uses or Highly Productive Rangeland Soils through other means, the SEF is allowable without a conservation easement through a Minor Use Permit in consultation with the Agriculture Department. Techniques to allow for continuation of agriculture uses (dual-use) or protection of Highly Productive Rangeland Soils may vary based on underlying parcel and site characteristics, but can be achieved through multiple design features. Examples include, but are not limited to:
- (1) The installation of SEFs on poles with no disturbance to soils or crops,
 - (2) Elimination of concrete bases, or
 - (3) Mounting panels off the ground using other technologies while continuing agricultural uses or protecting soils underneath.

10. Proposed SEFs shall be sited to be screened from residences and roadways to the maximum extent feasible using existing site features such as natural topography, vegetation, and structures. Where a proposed project cannot be screened using existing features, the project shall provide additional landscaping, screening, or wildlife-friendly fencing where the project abuts public roads.

SECTION 11: Section 22.14.100 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by renumbering the existing content to read as follows:

~~22.14.100~~110 - Sensitive Resource Area (SRA)

SECTION 12: Section 22.14.110 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by renumbering the existing content to read as follows:

~~22.14.110~~120 - Transfer of Development Credit Sending Site (TDCS)

SECTION 13: Section 22.14.120 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by renumbering the existing content to read as follows:

~~22.14.120~~130 - Transfer of Development Credit Receiving Site (TDCR)

SECTION 14: Section 22.22.140.F.1 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

1. **Open space parcel required.** A cluster division shall include at least one open space parcel. For land use categories other than Residential Single-Family and Multi-Family, such parcel may be used for one of the allowable residential units, provided that the building site does not exceed 6,000 square feet and is defined on the recorded map. Otherwise, the open space parcel shall not be developed with structural uses except as follows: (1) in the Rural Lands, Residential Rural, and Residential Suburban land use categories: agriculture accessory buildings; (2) in the Recreation, Residential Single-Family, and Residential Multi-Family land use categories: community buildings, community residential accessory structures, parking structures, parking spaces, and driveways. The open space parcel in all land use categories may be used for any of the following: Crop production or rangeland; historic, archaeological, or wildlife preserves; water storage or recharge; leach field or spray disposal area; scenic areas; protection from hazardous areas; public outdoor recreation; or other similar open space use; or renewable energy facilities generating energy for on-site use subject to the requirements in Chapter 22.32 (Energy-Generating Facilities), not to exceed 3 acres 25 percent of the area of the open space parcel.

SECTION 15: Section 22.22.150.B.8.c of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- c. Structural uses allowed in defined open space areas. The area proposed for agricultural land and/or open space preservation is not to be developed with structural uses other than:

(1) A ranch/farm headquarters including up to two of the residential units allowed pursuant to Subsection B9, residential accessory structures and farm support housing, which may be approved or modified after the initial Conditional Use Permit approval through Minor Use Permit, provided that the building site does not exceed 2.5 acres.

(2) Areas set aside for the preservation of historic buildings identified by the Land Use Element, to be delineated on the recorded map.

(3) Agricultural accessory structures or agricultural processing uses essential to the continuing agricultural production of food and fiber in the immediately surrounding area, ~~or renewable energy facilities generating energy for on-site use~~, which may be approved or modified after the initial Conditional Use Permit approval through Minor Use Permit approval, which shall not occupy an aggregate area of the site larger than ~~five~~ 5 acres.

(4) Renewable energy facilities generating energy for on-site use may be allowed on up to 3 acres 25 percent of the open space area subject to the requirements in Chapter 22.32 (Energy-Generating Facilities).

SECTION 16: Chapter 22.32 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Chapter 22.32 – ~~Electric~~ Energy-Generating Facilities

SECTION 17: Section 22.32.010 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

22.32.010 – Purpose

This Chapter provides standards to regulate and mitigate the potential adverse effects of various types of ~~electric generating plants~~ energy-generating facilities.

SECTION 18: Section 22.32.020 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

22.32.020 – Applicability

The land use permit requirements of this Chapter apply to the new construction of energy-generating ~~facilities~~ land uses.

A. Exemptions.

1. Previously permitted projects. Energy-generating facilities approved prior to the effective date of this Section shall not be required to meet the requirements of this Chapter, except that physical modification or alteration to an existing energy-generating facility that materially alters the size, type, or electrical components of the facility which are directly engaged in the production of

energy or storage of energy shall be subject to this Section. Only the modification or alteration shall be subject to this Section as follows:

- a. Staff determinations of substantial conformance with the original permit do not require the issuance of new permits.
 - b. Routine operation, maintenance, or in-kind replacements do not require the issuance of new permits.
2. Accessory renewable energy-generating facilities.
- a. An accessory renewable energy-generating facility (see definition in Chapter 22.80) that ~~is ground-mounted and~~ provides energy for on-site uses shall be subject to the permit requirements of this chapter only when ~~does not require a land use permit unless~~ the facility meets one or more of the criteria listed in Subsection b. ~~If proposed Applications for accessory renewable energy-generating facilities do not meet the criteria in Subsection b and shall demonstrate compliance with all applicable standards for the proposed energy-generating facility~~ provided in this Chapter and any other applicable provisions of this Title ~~, the project shall require Zoning Clearance.~~
 - b. An accessory renewable energy-generating facility shall require a land use permit ~~(other than a Zoning Clearance)~~ as established by ~~Section 22.32.030 of~~ this Chapter if the facility meets one or more of the following criteria:
 - (1) Provides energy for sale to off-site uses.
 - (2) Is within an area designated Open Space (OS) or Recreation (REC).
 - (3) Is within ~~an Airport Review,~~ a Flood Hazard, or Sensitive Resource Area Combining Designation.
 - (4) Is a ground-mounted facility that is greater than ~~21,780 square feet~~3 acres in area ~~(exclusive of the total parcel area).~~
 - ~~(4)~~(5) Is a rooftop wind energy conversion system (WECS)
 - ~~(5)~~(6) Is located within 100 feet of any adjacent property or public road.
 - (7) Is proposed on a parcel with no existing or apparent use or development on the property.

~~(6)(8) Is not consistent with definitions for "Use, Accessory" in this Title and accessory to active, on-site uses.~~

~~(7) Is sited on Class I or II soils.~~

~~(9) Is subject to environmentally related permits.~~

~~B. Other area standards. Where a parcel is subject to standards for combining designations in Chapter 22.14, or the standards in Article 9 (Planning Area Standards) or Article 10 (Community Planning Standards), the standards of those sections shall prevail over the requirements of this Chapter (22.32, Energy-Generating Facilities), except for accessory energy-generating facilities within the Airport Review (AR) Area consistent with the criteria in Subsection 22.32.020.A.2.~~

SECTION 19: Section 22.32.030 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

~~22.32.020-22.32.030~~ Development Standards Permit and Application Requirements

~~The following permit and application requirements apply to all energy generating facilities, except where other provisions of this Chapter establish different requirements.~~

- A. Permit requirements. Except where county land use permit authority is preempted by state law, and except where other provisions of this Chapter establish a different permit requirement, the required land use permit for energy-generating facilities is determined as described below.
1. ~~by Non-renewable energy-generating facilities.~~ Permit requirement is determined by the area in square feet per site of grading or the removal of natural ground cover as follows.

PERMIT REQUIREMENTS FOR NON-RENEWABLE ENERGY-GENERATING FACILITIES

Permit Requirement	Area of Site Disturbance
Zoning Clearance	Less than 40,000 sf
Minor Use Permit	40,000 sf or more

2. Energy storage.
 - a. Energy storage shall require a Conditional Use Permit where it meets any of the following criteria:
 - (1) It is the primary use of the site.

- (2) It is proposed on a site with no existing or apparent use or development.
- b. Energy storage that is accessory to a primary use shall be subject to the permit requirements and development standards of the primary use.
3. Renewable energy facilities.
- a. Permit requirements for SEFs within the Renewable Energy (RE) Combining Designation seeking Site Plan Review are established in Section 22.14.100 (Renewable Energy Area).
- b. Permit requirements for renewable energy facilities, including but not limited to SEF outside of the RE Combining Designation, are determined based on land use and land use category:

ALLOWABLE LAND USES AND PERMIT REQUIREMENTS FOR RENEWABLE ENERGY FACILITIES BY LAND USE CATEGORY

<u>Land Use</u> ^{(2), (2)}	<u>Permit Requirements By L.U.C.</u> ⁽³⁾						<u>Notes/Site-Specific Standards</u>
	<u>AG</u> ⁽⁴⁾	<u>RL</u>	<u>RR</u>	<u>RS</u>	<u>RSF</u>	<u>RMF</u>	
<u>Bioenergy Facilities</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>				Refer to <u>22.32.04022.32.030.</u>
<u>Solar Electric Facilities (SEF)</u> ⁽⁵⁾							
<u>Tier 1 SEF: up to 20 acres</u> ⁽⁶⁾	<u>A2</u> ⁽⁶⁾	<u>A2</u>	<u>A2</u>	<u>A2</u>	<u>A2</u>	<u>A2</u>	Allowable only where minimum site criteria are met. Refer to <u>22.32.04022.32.030</u> and <u>22.32.050.</u>
<u>Tier 2 SEF: up to 40 acres</u> ⁽⁷⁾	<u>A2</u> ⁽⁷⁾	<u>A2</u>	<u>A2</u>	<u>A2</u> ⁽⁸⁾	<u>A2</u> ⁽⁸⁾	<u>A2</u> ⁽⁸⁾	Permit requirements vary by area. Refer to <u>22.32.04022.32.030</u> and <u>22.32.050.</u> ⁽⁸⁾⁽⁹⁾
<u>Tier 3 SEF: up to 160 acres</u> ⁽⁷⁾	<u>A2</u> ⁽⁷⁾	<u>A2</u>	<u>A2</u>	<u>A2</u> ⁽⁸⁾	<u>A2</u> ⁽⁸⁾	<u>A2</u> ⁽⁸⁾	Permit requirements vary by area. Refer to <u>22.32.04022.32.030</u> and <u>22.32.050.</u> ⁽⁸⁾⁽⁹⁾
<u>Tier 4 SEF: greater than 160 acres</u> ⁽⁷⁾	<u>CUP</u> ⁽⁷⁾	<u>CUP</u>	<u>CUP</u>				Refer to <u>22.32.04022.32.030</u> and <u>22.32.050.</u>

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Land Use ^(21, 2)	Permit Requirements By L.U.C. ⁽³⁾						Notes/Site-Specific Standards
	AG ⁽⁴⁾	RL	RR	RS	RSF	RMF	
Solar Thermal Facilities Solar thermal facilities – all technologies ⁽⁷⁾⁽¹⁰⁾	CUP ⁽⁷⁾	CUP	CUP				Refer to <u>22.32.040</u> <u>22.32.030</u> and 22.32.050.
Wind Energy Conversion Systems (WECS)							
Tier 1 WECS: roof- or structure-mounted ⁽⁶⁾	P	P	P				Refer to <u>22.32.040</u> <u>22.32.030</u> and 22.32.060.
Tier 2 WECS: ground-mounted up to 100 feet tall and no more than rated capacity of 2 MW for all turbines ⁽⁶⁾	MUP ⁽⁷⁾	MUP	MUP				Refer to <u>22.32.040</u> <u>22.32.030</u> and 22.32.060.
Tier 3 WECS: greater than 100 feet tall or with a rated capacity of 2 MW or more for all turbines ⁽⁶⁾	CUP ⁽⁷⁾	CUP					Refer to 22.32.030 and 22.32.060.

Notes

(1) See Article 8 and this Chapter for definitions of the listed land uses.

(2) See Article 9 for any restrictions or special permit requirements for a listed use in specific community or area.

(3) L.U.C. means “land use category.” See Section 22.04.020, Table 2-1, for a key to the land use category abbreviations.

(84) Land uses on property under Land Conservation Act contracts must adhere to the County’s Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it.

(5) The size of the SEF shall be measured as the total area of the facility, inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.

(6) For Tier 1 SEF projects proposed on land under Land Conservation Act contract up to 20 acres in size, the permit requirements of this Chapter shall apply. Tier 1 SEFs shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it.

(7) For Tier 2 – Tier 4 projects proposed on land under Land Conservation Act contract:

1. Proposed projects up to 20 acres in size may be reviewed by Department of Planning and Building staff for consistency with the Rules of Procedure and the Principles of Compatibility unless a discretionary use permit is required by Title 22, in which case the REF project shall be presented to the Agricultural Preserve Review Committee for a recommendation to the Review Authority. The

Agricultural Preserve Review Committee shall base their review on the criteria in the Rules of Procedure and the Principles of Compatibility.

2. Proposed projects -greater than 20 acres shall require a Minor Use Permit or Conditional Use Permit as required by this Section, shall be required and the project shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it. For purposes of determining permit requirements for WECS proposed on land under Land Conservation Act contract, the area shall be measured as the total area of site disturbance.

(8) Tier 2 – Tier 3 SEFs are allowable up to 20 acres in size when proposed on parcels in the Residential, Single-Family (RSF); Residential, Multi-Family (RMF); or Residential, Suburban (RS) land use designations.

(9)(e) For projects proposed in the Renewable Energy Combining Designation, if the project is consistent with criteria of the RE Combining Designation, alternative permit requirements may apply. Refer to Section 22.14.100 (Renewable Energy Area).

(10) Solar heating and hot water systems are separately defined in Article 8, and are generally allowable as accessory energy-generating facilities, consistent with the criteria of this Chapter.

Key To Permit Requirements

<u>Symbol</u>	<u>Permit Requirement</u>
<u>A2</u>	<u>Allowable use, subject to the land use permit required by the specific use standards.</u>
<u>P</u>	<u>Permitted use, Zoning Clearance required.</u>
<u>SP</u>	<u>Permitted use, Site Plan Review required.</u>
<u>MUP</u>	<u>Conditional use, Minor Use Permit required.</u>
<u>CUP</u>	<u>Conditional use, Conditional Use Permit required.</u>
	<u>Use not allowed.</u>

ALLOWABLE LAND USES AND PERMIT REQUIREMENTS FOR RENEWABLE ENERGY FACILITIES BY LAND USE CATEGORY

<u>Land Use (1, 2)</u>	<u>Permit Requirements By L.U.C. (3)</u>							<u>Notes/Site-Specific Standards</u>
	<u>OP</u>	<u>CR</u>	<u>CS</u>	<u>IND</u>	<u>OS</u>	<u>REC</u>	<u>PF</u>	
<u>Bioenergy Facilities</u>			<u>CUP</u>	<u>CUP</u>			<u>CUP</u>	<u>Refer to 22.32.030 22.32.040.</u>
<u>Solar Electric Facilities (SEF) (4)</u>								
<u>Tier 1 SEF: up to 20 acres (5)</u>	<u>A2</u>	<u>A2</u>	<u>A2</u>	<u>A2</u>	<u>A2</u>	<u>A2</u>	<u>A2</u>	<u>Allowable only where minimum site criteria are met. Refer to 22.32.040 22.32.030 and 22.32.050.</u>
<u>Tier 2 SEF: up to 40 acres (6)</u>		<u>A2</u>	<u>A2</u>	<u>A2</u>			<u>A2</u>	<u>Permit requirements vary by area. Refer to</u>

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Land Use ^(1,2)	Permit Requirements By L.U.C. ⁽³⁾							Notes/Site-Specific Standards
	OP	CR	CS	IND	OS	REC	PF	
								22.32.040 22.32.030 and 22.32.050. ⁽⁷⁾
Tier 3 SEF: up to 160 acres ⁽⁶⁾			A2	A2			A2	Permit requirements vary by area. Refer to 22.32.040 22.32.030 and 22.32.050. ⁽⁷⁾
Tier 4 SEF: greater than 160 acres ⁽⁶⁾			CUP	CUP			CUP	Refer to 22.32.040 22.32.030 and 22.32.050.
Solar Thermal Facilities Solar thermal facilities – all technologies ⁽⁶⁾			CUP	CUP				Refer to 22.32.040 22.32.030 and 22.32.050
Wind Energy Conversion Systems (WECS)								
Tier 1 WECS: roof- or structure-mounted ⁽⁶⁾			P	P	P		P	Refer to 22.32.040 22.32.030 and 22.32.060.
Tier 2 WECS: ground-mounted up to 100 feet tall and no more than rated capacity of 2 MW for all turbines ⁽⁶⁾			MUP	MUP			MUP	Refer to 22.32.040 22.32.030 and 22.32.060.
Tier 3 WECS: greater than 100 feet tall or with a rated capacity of 2 MW or more for all turbines ⁽⁶⁾			CUP	CUP				Refer to 22.32.040 22.32.030 and 22.32.060.

Notes

(1) See Article 8 and this Chapter for definitions of the listed land uses.

(2) See Article 9 for any restrictions or special permit requirements for a listed use in a specific community or area.

(3) L.U.C. means “land use category.” See Section 22.04.020, Table 2-1, for a key to the land use category abbreviations.

(4) The size of the SEF shall be measured as the total area of the facility, inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.

(5) For Tier 1 SEF projects proposed on land under Land Conservation Act contract up to 20 acres in size, the permit requirements of this Chapter shall apply. Tier 1 SEFs shall comply with the County's Rules of Procedure to

Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it.

(6) For projects proposed on land under Land Conservation Act contract greater than 20 acres, a Minor Use Permit shall be required and the project shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it. For purposes of determining permit requirements for WECS proposed on land under Land Conservation Act contract, the area shall be measured as the total area of site disturbance or grading.

(7) For projects proposed in the Renewable Energy Combining Designation, if the project is consistent with criteria of the RE Combining Designation, alternative permit requirements may apply. Refer to Section 22.14.100 (Renewable Energy Area).

(6) Solar heating and hot water systems are separately defined in Article 8, and are generally allowable as accessory energy-generating facilities, consistent with the criteria of this Chapter.

Key To Permit Requirements

<u>Symbol</u>	<u>Permit Requirement</u>
<u>A2</u>	<u>Allowable use, subject to the land use permit required by the specific use standards.</u>
<u>P</u>	<u>Permitted use, Zoning Clearance required.</u>
<u>SP</u>	<u>Permitted use, Site Plan Review required.</u>
<u>MUP</u>	<u>Conditional use, Minor Use Permit required.</u>
<u>CUP</u>	<u>Conditional use, Conditional Use Permit required.</u>
	<u>Use not allowed.</u>

4. Permit requirements for all other energy-generating facilities not identified in this Section are determined by Chapter 22.06.

B. Application contents. In addition to any specific requirements later in this Section, land use permit applications shall comply with the requirements of Chapter 22.62 (Permit Applications) and shall also describe:

1. The physical and operating characteristics of the facility; the proposed design capacity of the facility; the operating schedule; how the electric energy shall be used for on-site purposes or for off-site distribution; and if any electric energy shall leave the site, the physical and contractual arrangement for tying-in, or connecting, to other facilities.;
2. For discretionary projects, alternatives ~~Alternatives~~ to the proposed facility and to distinct or separable aspects of the proposal. This will include reliability, as well as economic and environmental advantages and disadvantages.;
3. Plans for any overhead or underground transmission lines, transformers, inverters, switchyards, or any required new or upgraded off-site transmission facilities, ~~and~~

4. For energy-generating facilities that require a Site Plan Review, an application form and other information prepared as specified in Section 22.60.040, ~~B.~~ 22.60.040.D, and 22.62.040 for Site Plan Review. As noted in Section 22.60.040E, the Director may waive some or all application content requirements at the written request of the applicant if it is demonstrated that the absence of the documentation will not reduce the ability of the Director to evaluate the compliance of the proposed project with the standards of this Title.
5. For energy-generating facilities eligible for Zoning Clearance as determined by ~~Section 22.32.030 of~~ this Chapter, an application form and information required by Section 22.60.040B and 22.62.030 of this Title.
6. For Tier 4 SEFs and discretionary non-renewable energy-generating facilities, 4-
the number and characterization by trades of the estimated construction and operation force. If construction is estimated to take over six months, the construction workforce will be estimated for each six-month period and will include estimates of numbers of locally hired employees and employees who will move into the area, and a discussion of the estimated impact that employees moving into the area will have on housing, schools, and traffic.
7. Proposed energy-generating facilities that require a discretionary permit that are located in the Camp Roberts Study Area (see Figure) shall be referred by the County to Camp Roberts for review and comment.

CAMP ROBERTS STUDY AREA

[PLACEHOLDER]

- C. Approvals from other agencies. If another public agency must approve the proposed facility, the applicant shall:
 1. Describe the requirements of that agency; summarize the agency's procedures for acting on the proposed use, and describe the studies, analyses, and other data collection which the applicant or agency will perform in order to resolve each substantive requirement of the agency.
 2. List the required actions related to the proposed facility by other public agencies and utilities and a schedule for application and approval of those actions.
 3. Provide a copy of necessary state and federal permits and all written comments and decisions made by officials of the agencies listed prior to the start of construction.
- D. Information from other applications. An applicant may incorporate by reference any information developed or submitted in any other application for the project, provided the applicant submits a copy or summary of the referenced material, identifies the permitting

process in which it was submitted and the outcome of that permitting process, and explains the relevance of the information to the approval standards of this Title.

SECTION 20: Section 22.32.030 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

22.32.030 22.32.040 – Development Standards and General Requirements

The following development standards are applicable to all types of energy-generating facilities allowable by this Title, as identified below. Note that general standards are not exclusive. Projects may be subject to multiple types of standards from Subsections A – C.

A. General standards applicable to all energy-generating facilities.

1. Decommissioning and restoration. A decommissioning and restoration plan shall be submitted that includes the removal of all facility elements and reclamation of the site. Plans shall address: removal of all facility elements and reclamation of the site including but not limited to evaluation of adjacent grasses and vegetation, soil preparation, seed/crop planting, and watering and fertilization (if necessary). Removal and restoration shall also address all facility elements, including but not limited to solar modules, trackers, tracking, posts, power station electrical equipment, underground conduits and cables, concrete pads, fences, security lighting, and access road gravels.

A. Bonding. Following permit approval and prior to any work on the proposed site, the applicant shall post a surety bond in favor of the County, conditioned on conformance with all applicable conditions, restrictions, and requirements of this Title and any conditions required by the permit. Such guarantee is in addition to any bond required by the state. The total value of this bond will be established through the Conditional Use Permit review and approval process, and will be administered in compliance with Section 22.64.040. Bonding for decommissioning energy-generating facilities. Prior to acceptance of a discretionary permit application for an energy-generating facility, the applicant shall submit a cost estimate of the decommissioning work for review by the County or qualified third party consultant approved by the County. A bond shall be posted in the amount identified in the cost estimate prior to issuance of any construction permits.

B. Environmental quality assurance. An Environmental Quality Assurance Program covering all aspects of construction and operation shall be submitted prior to construction of any project component. This program will include a schedule and plan for monitoring and demonstrating compliance with all requirements of the Conditional Use Permit. Specific requirements of this Environmental Quality Assurance Program will be determined during the environmental review process and Conditional Use Permit review and approval process.

2. ~~C~~-Clearing and revegetation. The land area exposed and the vegetation removed during construction shall be the minimum necessary to install and operate the facility. Topsoil must be stripped and stored separately. Disturbed areas no longer required for operation will be regraded, covered with topsoil, and replanted during the next appropriate season.
3. ~~D~~-Utility interconnect. All distribution lines, electrical substations, and other interconnection facilities shall be constructed to the specifications of the utility. A statement from the utility confirming that the proposed interconnection is acceptable shall be filed with the County building inspector prior to the issuance of any building permit. Interconnection shall conform to procedures and standards established by the California Public Utilities Commission.

~~E. Other requirements. Development standards in addition to those specified in this Section and in this Chapter may be imposed through conditions of approval where Minor Use Permit or Conditional Use Permit approval is required.~~

4. Undergrounding of electrical equipment. All electric distribution lines of low to medium voltage less than 60 kV shall be located underground up to the low-voltage side of the step-up transformer, to the point of on-site use, or to the utility-interface point of an on-site substation.
5. Safety signage. The project shall include electrical safety signage on all arrays in the immediate vicinity of all wiring and all electrical conduits to reduce the risk of electrical shock and fire. All signage shall use weather-resistant and fade-proof materials to provide reasonable notice to protect employees and visitors.
6. Easements. Any application for a renewable energy facility or distribution lines requiring easements across parcels other than those under the control of the project applicant, or involving multiple parcels, shall provide evidence of necessary easements prior to the issuance of a building permit. The applicant shall also provide evidence of adequate noticing for all impacted landowners and regulatory agencies

B. Bonding. The permit application for any energy-generating facility except for Tier 1 SEF, Tier 1 WECS, and accessory energy-generating facilities shall include a cost estimate of the decommissioning work with the decommissioning and restoration plan required by Subsection 22.32.040.A, for review by the County or qualified third-party consultant approved by the County. A bond shall be posted in the amount identified in the cost estimate prior to issuance of any construction permits.

B.C. Standards applicable to energy-generating facilities requiring a discretionary permit.

1. Environmental quality assurance. Projects that require a discretionary permit per this Section Chapter shall submit an Environmental Quality Assurance Program covering all aspects of construction and operation prior to construction of any

project component. This program will include a schedule and plan for monitoring and demonstrating compliance with all requirements of the land use permit. Specific requirements of this Environmental Quality Assurance Program will be determined during the environmental review process and land use permit review and approval process.

~~2. Bonding for decommissioning. Energy-generating facilities requiring a discretionary permit per this Section shall submit a decommissioning report for review and approval with a cost estimate of the decommissioning work for review by the County or qualified third-party consultant approved by the County. A bond shall be posted in the amount identified in the cost estimate prior to issuance of any construction permits.~~

~~3. Standards applicable to energy-generating facilities requiring a discretionary permit that are ground-mounted (including renewable and non-renewable energy-generating facilities).~~

~~a. Decommissioning and restoration. Proposed energy-generating facilities that are ground-mounted shall submit a decommissioning and restoration plan for the facility that includes the removal of all facility elements and reclamation of the site. Plans shall address: removal of all facility elements, including but not limited to solar modules, trackers, tracking, posts, power station electrical equipment, underground conduits and cables, concrete pads, fences, security lighting, and access road gravels and reclamation of the site including but not limited to evaluation of adjacent grasses and vegetation, soil preparation, seed/crop planting, and watering and fertilization (if necessary).~~

4.2. Standards applicable to renewable energy facilities requiring a discretionary permit.

a. Recycling and disposal plan for renewable energy facilities. Projects subject to a discretionary permit per this Section shall submit a recycling and disposal plan for renewable energy infrastructure, including photovoltaic panels, in order that project structures not pose a risk to human health or the environment. The recycling and disposal plan should include panels that are broken during all project phases, including transport, installation, operation, and after project decommissioning. The plan shall specify how these project components will be disposed of in a manner that will not pose a risk to human health or the environment, and the costs of such disposal.

~~C.D. Standards applicable to all ground-mounted energy-generating facilities that are ground-mounted.~~

1. Requirements of this section do not preclude authorities and requirements of other local, state, and federal agencies, including but not limited to the San Luis Obispo

County Air Pollution Control District, California Department of Fish and Wildlife, California Department of Transportation, United States Fish and Wildlife Service, and the United States Army Corps of Engineers.

2. Proposed ground-mounted energy-generating facilities otherwise eligible for a Site Plan Review shall be subject to a Minor Use Permit, unless this Chapter (22.32, Energy-Generating Facilities) otherwise requires a Conditional Use Permit, if Botanical Reports or Biological Reports prepared as part of the permit application indicate the presence or potential presence of state or federally listed wildlife or plant species or designated critical habitat unless the proposed project is located in the San Joaquin Kit Fox Habitat Area and meets the following criteria.

~~a. Is ground-mounted;~~

~~b.a. The project site of the proposed energy-generating facility is ~~is~~ 20 acres or less; measured as total project site inclusive of total site disturbance. For all other purposes of determining consistency with standards of this Chapter (22.32, Energy-Generating Facilities), the area of the facility shall be calculated as otherwise directed by Subsection 22.32.030;~~

~~e.b. Botanical Reports or Biological Reports do not indicate the presence of additional state or federally listed wildlife or plant species or designated critical habitat on or adjacent to the project site; and~~

~~d.c. The project complies ~~Complies~~ with the standard mitigation ratio and- all applicable San Joaquin Kit Fox Habitat Area conditions for grading and building plans set forth by the Director.~~

3. Abandonment of ground-mounted facilities. When any ground-mounted energy-generating facility ceases to produce energy on a continuous basis for 12 months, it shall be considered abandoned and a public nuisance unless the owner or operator demonstrates by substantial evidence satisfactory to the Director of Planning and Building Department that there is no intent to abandon the facility. Owners or operators are required to remove all equipment and facilities and to restore the site to the original condition upon abandonment. Facilities deemed by the County to be unsafe and facilities erected in violation of this Section shall also be considered abandoned.

- a. The Code Enforcement Officer or any other employee of the Planning and Building Department shall have the right to request documentation and/or affidavits from the system owner/operator regarding the system's usage and to make a determination as to the date of abandonment or the date on which other violation(s) occurred.

- b. Upon a determination of abandonment or other violation(s), the Director of Planning and Building shall send a notice thereof to the owner or operator,

indicating that the responsible party shall remove the energy-generating facility and all associated facilities, and remediate the site to its approximate original condition within 90 days of notice by the Director of Planning and Building, unless the County determines that the facilities must be removed in a shorter period to protect public safety. Alternatively, if the violation(s) can be addressed by means other than removing the energy-generating facility and restoration of the site, the Director may advise the owner or operator of such alternative means of resolving the violation(s).

- c. In the event the responsible parties have failed to comply, the County's Director of Planning and Building or his or her designee may remove the energy-generating facility and restore the site and may thereafter (a) draw funds from any bond, security, or financial assurance that may have been provided, or (b) initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard.
4. Standards applicable to ground-mounted renewable energy facilities (including projects requiring a ministerial or discretionary permit).
 - a. Ground-mounted renewable energy facilities shall avoid siting on exposed bedrock, rock outcrops, or significant ridgetops.
 - b. Ground-mounted renewable energy facilities shall provide an Integrated Pest Management Plan to identify measures for weed control. Measures may include, but are not limited to, native ground cover, livestock grazing to control grasses, manual harvest, or vegetative management.

D.E. Other requirements. Where this Section does not specify development standards for a proposed energy-generating use, the County will establish standards through the required land use permit.

SECTION 21: Section 22.32.050 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by replacing the existing content in its entirety with new content to read as follows:

22.32.050 – Solar Electric Facilities

- A. Permit requirements. Permit requirements by land use category for SEFs are summarized in Section 22.32.030 of this Chapter. Where requirements vary based on the technology and site criteria, requirements shall be as described in Subsections 1–3.
 1. Calculation of SEF size. For purposes of this Section, the size of the proposed SEF shall be measured as the total area of the facility inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.

Attachment 2N
ATTACHMENT 4: LRP2014-00015:D

2. Applicability of SEF permit requirements. The permit requirements of this Section shall apply only to the proposed SEF, inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use. Where other accessory or primary uses are proposed that indirectly support the proposed SEF, the applicable permit requirement for the additional use shall be determined as described in Chapter 22.06 (Allowable Land Uses and Permit Requirements by Land Use Category).
3. Applicable permit requirements for SEFs based on site criteria.
 - a. Tier 1 SEF, Roof- or Structure-Mounted. If a proposed SEF located on the roof or structure of a use that is conforming per Chapter 22.72 of this Title, the project shall require Zoning Clearance.
 - b. Tier 1 SEF, Ground-Mounted. If a proposed SEF is 20 acres or less, is not located on Class I or Class II soils, and is located to meet one or more of the site eligibility criteria presented in ~~(1a)~~–~~(2e)~~ below, the project is considered a Tier 1 SEF and shall require Site Plan Review. Projects seeking Tier 1 site eligibility must meet the following criteria:
 - (1) Is located on land that is graded, disturbed, or altered; consistent with definitions for “Development,” “Grading,” or “Site Disturbance” in this Title, or
 - (2) Is located on land that was previously developed for industrial or commercial purposes and degraded or contaminated and then abandoned or underused.

Proposed SEFs that are 20 acres or less but do not meet the Tier 1 site eligibility criteria may be considered a Tier 2 SEF eligible for a Minor Use Permit when consistent with the standards of Subsection c below.

- c. Tier 2 SEF. If a proposed SEF is 40 acres or less, is not located on Class I or Class II soils, and is located to meet the site eligibility criteria in (1)–(3) below, the project is considered a Tier 2 SEF and shall require a Minor Use Permit. Proposed projects that are 40 acres or less and located in the Renewable Energy (RE) Combining Designation may be eligible for Site Plan Review when consistent with the site criteria in Section 22.14.100 (Renewable Energy Combining Designation). Projects located outside of the RE Combining Designation seeking Tier 2 site eligibility must meet the following criteria
 - (1) Is not located on Class I or Class II soils, and
 - (2) Is ground-mounted, and

- (3) Located in urban areas, or located in rural areas on sites designated as Commercial Service (CS) or Industrial (IND).

Proposed SEFs that are 40 acres or less but do not meet the Tier 2 site eligibility criteria may be considered a Tier 3 SEF allowable with a Conditional Use Permit when consistent with the standards of Subsection ~~ed~~.

- d. Tier 3 SEF. If a proposed SEF is 160 acres or less, is not located on Class I or Class II soils, and does not meet the criteria for Tier 1 or Tier 2 SEFs described above in Subsections a ~~and b - - c~~ and is located outside of a Renewable Energy (RE) Combining Designation, the project is considered a Tier 3 SEF and shall require a Conditional Use Permit where allowable in ~~Section 22.32.030~~table below. Proposed projects that are 160 acres or less and located in the RE Combining Designation may be eligible for Site Plan Review when consistent with the site criteria in Section 22.14.100 (Renewable Energy Combining Designation).
- e. Tier 4 SEF. An SEF that is greater than 160 acres and is not located on Class I or Class II soils is considered a Tier 4 SEF and shall require a Conditional Use Permit where allowable in table below.

B. Setbacks.

- 1. Roof- or structure-mounted SEFs are subject to the setback areas for the type of structure on which they are mounted as regulated by Section 22.10.140.
- 2. The minimum setbacks for ground-mounted SEFs are determined as follows:

MINIMUM SETBACKS FOR GROUND-MOUNTED SOLAR ELECTRIC FACILITIES⁽¹⁾

<u>Land Use</u>	<u>Setback</u>		
	<u>Front</u>	<u>Side</u>	<u>Rear</u>
<u>Rural Areas</u>			
<u>Tier 1 and Tier 2 SEF⁽²⁾</u> 40 acres or less	25 feet	10% of lot width to a maximum of 30 feet, but not less than 15 feet, on sites less than 1 acre. Minimum of 30 feet on sites 1 acre or larger	30 feet
<u>Tier 3 SEF</u> 160 acres or less	50 feet	30 feet	50 feet
<u>Tier 4</u> More than 160 acres	100 feet	100 feet	100 feet

Land Use	Setback		
	Front	Side	Rear
Urban and Village Areas			
<u>Tier 1 and Tier 2 SEF⁽²⁾</u> 40 acres or less	15 feet	10% of lot width to a maximum of 20 feet, but not less than 10 feet, on sites less than 1 acre Minimum of 30 feet on sites of one acre or larger in net area	15 feet
<u>Tier 3 SEF</u> 160 acres or less	20 feet	20 feet	20 feet
<u>Tier 4 SEF</u> More than 160 acres	100 feet	100 feet	100 feet

Notes:

- (1) Proposed SEFs shall also comply with the following minimum setbacks where applicable:
- All SEFs shall be set back a minimum of 100 feet from all adjacent parcels in Open Space and Recreation land use categories.
 - All SEFs shall be set back a minimum of 50 feet from any seasonal or perennial wetlands, drainages, and vernal pools, except as follows.
 - All SEFs requiring a Site Plan Review or discretionary review shall be set back a minimum of 500 feet from any of the following where it is identified in the biological report:
 - Sensitive vegetation and habitat that could support special-status plant or wildlife species.
 - Special-status species that could occur on the site or adjacent properties.
 - Any seasonal or perennial wetlands, drainages, vernal pools, and any other potentially jurisdictional features where sensitive wildlife is present.
- (2) Tier 1 and Tier 2 solar electric facilities that are 40 acres or less in size shall be set back from all adjacent parcels in a Residential land use category 10 feet more than the minimum setbacks.

C. Height limits.

1. Measurement of height. The height for all SEFs shall be measured as the vertical distance from the highest point of the SEF to the average of the highest and lowest points where the vertical planes of the SEF would touch the roof surface (for roof-mounted SEFs) or the ground (for ground-mounted SEFs).
2. Height limits. The maximum heights for ground-mounted and roof-mounted SEFs are provided below, respectively:

HEIGHT LIMITS FOR GROUND-MOUNTED SOLAR ELECTRIC FACILITIES

<u>Land Use</u>	<u>Land Use Category</u>	
	<u>Residential (RR, RS, RSF, RMF), Open Space, Recreation, and Public Facilities</u>	<u>All Other Land Use Categories</u>
<u>Tier 1, 2, and 3 SEF</u> <u>160 acres or less</u>	<u>15 feet</u>	<u>25 feet</u>
<u>Tier 4 SEF</u> <u>More than 160 acres</u>	<u>Not applicable</u>	<u>45 feet</u>

MAXIMUM HEIGHT LIMITS FOR ROOF-MOUNTED SOLAR ELECTRIC FACILITIES

<u>Land Use</u>	<u>Land Use Category</u>			
	<u>Agriculture and Rural Lands (AG, RL)</u>	<u>Residential (RR, RS, RSF, RMF)</u>	<u>Commercial and Industrial (OP, CR, CS, IND)</u>	<u>Open Space, Recreation, Public Facilities</u>
<u>All solar electric facilities</u>	<u>No more than 5 feet</u>	<u>No more than 3 feet</u>	<u>No more than 5 feet</u>	<u>No more than 3 feet</u>

D. Other special standards for SEFs. In addition to the general standards applicable to all energy-generating facilities, the following standards shall apply to SEFs.

1. All SEFs shall use nonreflective surfaces that minimize glare to the greatest extent feasible.
2. Tier 1 roof- or structure-mounted SEFs shall be integrated with roofing materials and/or blended with a structure’s architectural form. Any roof- or structure-mounted SEF and its equipment shall be designed to be removed at a later date for the roof to be returned to its original pre-project condition.
3. Rotating SEFs shall have tracking system design and shall not create concentrated reflections directed at occupied structures, recreation areas, Sensitive Resource Areas, or public roads.
4. Ground-mounted SEFs shall be located a minimum of 18 inches from the ground to allow wildlife movement and line of sight for wildlife.
5. Lighting. If lighting is required, it shall be activated by motion sensors, fully shielded, and a downcast type so the light does not spill onto adjacent parcels or illuminate the night sky.
6. In the Flood Hazard Combining Designation, solar equipment, wiring, and other supportive electric equipment (such as inverters or transfer switches) shall be located above the base flood elevation.

7. SEFs requiring a discretionary permit shall be sited for screening from residences, Sensitive Resources Areas for visual resources, and areas subject to Highway Corridor Design Standards. Screening measures shall use existing site characteristics to the greatest extent feasible, including existing vegetation and natural topography. Where a project cannot be sited to provide adequate screening, the project shall provide additional screening such as landscaping, or wildlife-friendly fencing shall be provided.
8. SEFs shall not be sited on designated Class I or Class II soils. Where proposed on parcels with Class I and Class II soils, the SEF shall be sited on other areas of the parcel.
9. SEFs requiring a discretionary permit proposed in the Agriculture (AG) land use category on land in an active agricultural use or on Important Agricultural Soils, as defined in the Conservation and Open Space Element, shall meet the following:
 - a. For projects proposed on land in an active agricultural use, the project shall provide a conservation easement as follows in consultation with the Agriculture Department, which shall be on land that supports grazing or uses similar to those within the project site that would be lost due to the proposed project:
 - (1) A conservation easement located within San Luis Obispo County at a 1:1 ratio on land that can support agricultural uses at the same intensity as the affected agricultural uses at the proposed project site, or
 - (2) A conservation easement located within San Luis Obispo County at a 3:1 ratio on land that can support agricultural uses at a lower the same intensity as than the affected agricultural uses on a parcel other than at the proposed project site.
 - b. For projects proposed on parcels with Important Agricultural Soils, the project should be sited to minimize impacts to Important Agricultural Soils to the maximum extent feasible in consultation with the Agriculture Department. Where that is not feasible, projects proposed on Important Agricultural Soils shall provide the following:
 - (1) A conservation easement located within San Luis Obispo County at a 1:1 ratio on Important Agricultural Soils of comparable suitability for agricultural production at the proposed project site, or
 - (2) A conservation easement located within San Luis Obispo County at a 3:1 ratio on Highly Productive Rangeland Soils or other Important Agricultural Soils of comparable suitability for agricultural production on a parcel other than the proposed project site.

c. To determine the suitability of proposed easement sites for purposes of addressing the conversion of agricultural uses or Highly Productive Rangeland, the Agriculture Department shall evaluate criteria related to the intensity and suitability of the site for agriculture, including but not limited to soil capability, available water supply, existing on-site land uses, parcel size, and land use designation.

e.d. If a proposed project demonstrates dual-use design measures that ensure the long-term productivity of agricultural uses on site, or protects Important Agricultural Soils through other means, the project is allowable without a conservation easement through a Conditional Use Permit in consultation with the Agriculture Department. Techniques to allow for continuation of agriculture uses (dual-use) or protection of Highly Productive Rangeland Soils may vary based on underlying parcel and site characteristics, but can be achieved through multiple design features. Examples include, but are not limited to:

- (1) The installation of SEFs on poles with no disturbance to soils or crops;
- (2) Elimination of concrete bases, or
- (3) Mounting panels off the ground using other technologies while continuing agricultural uses or protecting soils underneath.

SECTION 22: Section 22.32.060 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by replacing the existing content in its entirety with new content to read as follows:

Determination of permit requirements for wind energy conversion systems (WECS). Permit requirements for WECS are identified in **Table X** of Section 22.32.030 of this Chapter by land use category. Where allowable, WECS requirements vary based on technology and system type as described in Subsections 1 – 3.

1. Tier 1 WECS. A wind energy conversion system that is mounted on a roof or structure of a conforming use per 22.72 of this Title is considered a Tier 1 WECS and shall require a Zoning Clearance where allowable.
2. Tier 2 WECS. A wind energy conversion system is considered a Tier 2 WECS and shall require a **Minor Use Permit Site Plan Review** where allowable if it meets all of the following criteria:
 - a. Is ground-mounted.
 - b. Is no greater than 100 feet tall, as measured from the natural grade below the wind turbine to the uppermost extension of any blades.

- c. Has a cumulative rated capacity of 2 MW or less for all turbines proposed on the site.
- 3. Tier 3 WECS. A wind energy conversion system that is ground-mounted and does not meet the criteria for Tier 2 WECS is considered a Tier 3 solar WECS and shall require a Conditional Use Permit where allowable.

B. Setbacks.

- 1. Tier 1 WECS (roof- or structure-mounted) are subject to the setbacks for the type of structure on which they are mounted as specified in Section 22.10.140.
- 2. Ground-mounted WECS.
 - a. The minimum setbacks for ground-mounted WECS are determined by project height, as measured from the lowest point to the highest point of the WECS, as shown below.

**MINIMUM SETBACKS FOR GROUND-MOUNTED WIND ENERGY
CONVERSION SYSTEMS⁽¹⁾**

<u>Land Use</u>	<u>Setback</u>		
	<u>Front</u>	<u>Side</u>	<u>Rear</u>
<u>Tier 2 WECS</u>	<u>Minimum of two times the overall machine height on sites less than 5 acres</u>		
	<u>Minimum of three times the overall machine height on sites more than 5 acres</u>		
<u>Tier 3 WECS</u>	<u>Minimum of three times the overall machine height</u>		

Notes:

- (1) All ground-mounted WECS shall also comply with the following minimum setbacks where applicable:
 - a. 50 feet from any seasonal or perennial wetlands, drainages, and vernal pools.
 - b. 500 feet from any wetlands or riparian zones, or from any location found to serve as a nesting or roosting site for any sensitive bird or bat species or any species of raptor.

C. Height limits.

- 1. Measurement of height. The height for all WECS shall be measured as the vertical distance from the lowest point of the WECS to the uppermost extension of any rotor, for both roof-mounted and ground-mounted systems.
- 2. Height limits. The maximum heights for WECS are shown in the table below. For roof- or structure-mounted WECS, these height limits may exceed the maximum height limits for the structure established in Section 22.10.090 (Height Measurement and Height Limit Exceptions).

HEIGHT LIMITS FOR WIND ENERGY CONVERSION SYSTEMS⁽¹⁾

Land Use	Land Use Category	
	Agriculture, Rural Lands, and Public Facilities (AG, RL, PF)	All Other Land Use Categories
Tier 1 WECS	10 feet	5 feet
Tier 2 WECS	100 feet	100 feet
Tier 3 WECS	600 feet	500 feet

Notes:

(1) All WECS in the Vertical Obstruction Camp Roberts Influence Areas shall not exceed 75 feet in height, as described in Subsection 22.32.060.D of this Chapter.

D. Other Special Standards for Wind Energy Conversion Systems

1. All ground-mounted WECS shall be sited to maintain natural grades and shall use existing roads for access to the extent possible. Any grading or road construction that is required shall be the minimum necessary to locate the system and establish sufficient access. The land use permit application shall demonstrate that an alternative site on the parcel is less suitable for other reasons.
2. Tier 1 roof- or structure-mounted WECS shall be designed to be removed at a later date for the roof to be returned to its original pre-project condition.
3. **Ground-mounted** WECS ~~requiring a discretionary permit~~ shall not be sited on designated Class I or Class II soils. Where proposed on parcels with Class I and Class II soils, the WECS shall be sited on other areas of the parcel.
4. A WECS shall not generate noise levels exceeding any standards of the Noise Element of the San Luis Obispo County General Plan. The system shall be designed and constructed in compliance with the California Building Code and the National Electric Code. The safety of the design and construction shall be certified by a California-licensed mechanical, structural, or civil engineer.
5. For a WECS with multiple turbines, each turbine shall be separated from all others by a distance at least equal to that of the diameter of the rotors.
6. Tier 3 WECS shall be located to minimize visual impacts to residences, Sensitive Resource Areas for visual resources, and areas subject to Highway Corridor Design Standards.

7. Ground-mounted WECS within the Vertical Obstruction Camp Roberts Influence Areas (see Figure) shall not exceed 75 feet in height.

VERTICAL OBSTRUCTION CAMP ROBERTS INFLUENCE AREAS

[PLACEHOLDER]

7.8. The design of all WECS shall be as follows:

~~a. be as follows:~~

~~b.a. All~~ All materials and surfaces shall be that are nonreflective and of an unobtrusive color.

~~e.b.~~ The WECS and individual components shall carry all appropriate warning signs.

~~d.c.~~ Guy wires shall be avoided to the extent possible. If they are necessary, all guy wires shall be marked with bird deterrent devices as recommended by the US Fish and Wildlife Service or the California Department of Fish and Wildlife.

~~e.d.~~ No exterior lighting shall be allowed except for lighting required by the Federal Aviation Administration, which shall be at the lowest allowable intensity.

~~f.e.~~ All turbines shall be equipped with manual and automatic overspeed controls capable of limiting the blade rotation speeds to within the design limits of the system.

~~g.f.~~ Ground-mounted WECS shall be designed to prevent climbing within the first 12 feet. Any climbing apparatus shall be located at least 12 feet above the finished grade.

~~h.g.~~ No portion of a blade of a ground-mounted WECS shall extend within 20 feet of the finished grade.

~~i.h.~~ The lowermost extension of any rotor of a Tier 2 or Tier 3 WECS shall be 30 feet above the highest existing occupied structure or tree within a 250-foot radius. A modification to this standard may be approved by the Review Authority if the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

SECTION 23: Section 22.80.030.A on page 8-4 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Accessory Renewable Energy-Generating Facilities. ~~Ground-mounted Energy-generating~~ facilities accessory to any principal use and customarily a part thereof engaged in the production of energy from sources that regenerate, as defined under “Renewable Energy Facilities.” Accessory renewable energy-generating facilities are incidental to the principal use and consistent with the definition for “Use, Accessory” in this Title. The energy produced by accessory renewable energy-generating facilities primarily and generate energy primarily for supports the principal use of the site. Includes roof-mounted energy-generating facilities, which are further

defined under “Energy-Generating Facilities,” **but does not include roof-mounted wind energy conversion systems (WECS).**

SECTION 24: Section 22.80.030.A on page 8-5 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Agricultural Accessory Structure (land use): An uninhabited structures or buildings designed and built to store farm animals, implements, supplies, or products (not including commercial greenhouses which are included under “Nursery Specialties,” or buildings for agricultural processing activities) that contains no residential use and is not open to the public. Also include greenhouses engaged in agricultural research as the primary use. Agricultural accessory structures can also include but not be limited to wind- and solar-powered devices used for direct climate control, and water pumping or other conversion of wind, ~~or~~ solar, or bioenergy energy to mechanical, electrical, or thermal power used on-site. Wind energy conversion systems and solar electric facilities ~~machines~~ for electric power generation are separately defined. Includes barns, grain elevators, silos, and other similar buildings and structures. [Amended 1989, Ord. 2411; 1995, Ord. 2740].

SECTION 25: Section 22.80.030.B on page 8-9 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Bioenergy Facilities. Facilities engaged in the production of renewable energy from combustion or decomposition of biomass or biogas including forest and other wood waste, agriculture and food processing wastes, organic urban waste, waste and emissions from water treatment facilities, landfill gas, and other organic waste sources. Bioenergy can be used to generate renewable electricity, liquid fuels, and biogas. Primary types of bioenergy are biomass, landfill gas, digester gas, and municipal solid waste. Bioenergy facilities are a type of renewable energy facility and included under “Energy-Generating Facilities” and “Renewable Energy Facilities” as defined by this Title.

SECTION 26: Section 22.80.030.D on page 8-20 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Distributed Energy Resources (DER). Small, modular, energy generation and accessory storage technologies that provide electric capacity or energy located where it’s needed, often at a customer’s location or close to a load center. These facilities are typically owned by non-utility entities, such as generation developers or utility customers that offset all or part of the customer’s on-site electrical load. DER’s typically produce less than 20 megawatts of power near the point of use and include wind turbines, photovoltaics (PV), fuel cells, microturbines, reciprocating engines, combustion turbines, cogeneration, and energy storage systems. DER systems may be either connected to the local electric power grid or isolated from the grid in stand-alone applications. DER systems are a type of energy-generating facility and included under “Energy-Generating Facilities” as defined by this Title.

SECTION 27: Section 22.80.030.E on page 8-23 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

~~**Electric-Generating Plants**~~ **Energy-Generating Facilities (land use).** Facilities engaged in the generation and distribution of ~~electrical energy for sale and the accessory energy storage systems to support them.~~ The ~~electricity-energy~~ may be generated from oil, gas, coal, or nuclear fuels or from "alternate" sources including but not limited to water, wind, the sun, biogas, or municipal or agricultural wastes. This includes "cogeneration," which means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by electric power production or the reverse. See also ~~"Wind Energy Conversion System."~~ Includes, but is not limited to:

- a. Electric-generating plants generating electricity for sale.
- b. Renewable energy facilities producing energy for on- or off-site use such as "Solar Electric Facilities" or "Wind Energy Conversion Facilities" as defined by this Title.
- c. "Non-Renewable Energy Facilities" defined by this Title, such as power plants fueled with natural gas.

Energy Storage. Energy storage technologies store energy and deliver it to the electric grid or an end user at a later time. This includes both small, battery systems and independent, freestanding facilities, such as flow batteries, flywheel devices, compressed air energy storage, or pumped hydro energy storage (PHES) technologies. Accessory energy storage that supports on-site energy production is included separately under the primary on-site energy-generating facility, including "Solar Electric Facilities," "Wind Energy Conversion Facilities," or other types of "Energy-Generating Facilities" as defined by this Title.

SECTION 28: Section 22.80.030.N on page 8-46 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Non-Renewable Energy Generating Facilities. Facilities that generate or store energy from non-renewable sources such as oil, gas, or coal. Non-renewable energy generating facilities are a type of energy-generating facility and included under "Energy-Generating Facilities" as defined by this Title.

SECTION 29: Section 22.80.030.R on page 8-59 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Renewable Energy Facilities (REF). Facilities that generate or store energy from sources that regenerate as defined by the California Public Resources Code, including but not limited to energy conversion systems such as bioenergy, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current (California Public Resources Code Section 25741.a.1). Renewable energy facilities are a type of energy-generating facility and included under "Energy-Generating Facilities" as defined by this Title. Includes "Bioenergy Facilities," "Solar Electric Facilities," "Solar Heating and Hot Water

Systems,” “Solar Thermal Facilities,” and “Wind Energy Conversion Systems” as defined by this Title.

SECTION 30: Section 22.80.030.S on page 8-68 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Solar Electric Facilities (SEF). Any solar electric system including the components and subsystems that, in combination, convert solar energy into electric energy suitable for use. Includes, but is not limited to, photovoltaic systems and the accessory solar energy storage systems to support them. Transmission lines located off the site of the facility are included under "Pipelines and Transmission Lines." Electrical substations are included under "Public Utility Facilities." Solar thermal systems are included under “Solar Thermal Energy Facilities.” Solar electric facilities are a type of renewable energy facility and included under “Energy-Generating Facilities” and “Renewable Energy Facilities” as defined by this Title.

Solar Heating and Hot Water Systems. Solar energy systems that capture the sun's radiant energy, convert it into heat energy, store this heat in insulated storage tank(s), and deliver the stored energy as needed to either the domestic hot water or heating system for on-site uses. Solar heating and hot water systems are a type of renewable energy facility and included under “Energy-Generating Facilities” and “Renewable Energy Facilities” as defined by this Title.

Solar Thermal Energy Facilities. The components and subsystems that concentrate sunlight on a relatively small area to create high temperatures that vaporize water or other fluids to drive a turbine for generation of electric power. Solar thermal energy facilities are a type of renewable energy facility and included under “Energy-Generating Facilities” and “Renewable Energy Facilities” as defined by this Title.

SECTION 31: Section 22.80.030.W on page 8-77 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

Wind Energy Conversion Systems (WECS). Devices which converts wind energy to a form of usable energy or provide storage of wind energy including all equipment and accessory structures related to the system, including but not limited to wind turbines, mounting posts, on-site transmission lines, operations and maintenance buildings, and other related accessory structures. WECS producing electricity are included here; those used for direct climate control, water pumping, or other conversion to mechanical or thermal power, are included under "Agricultural Accessory Structures." Transmission lines located off the site of the facility are included under "Pipelines and Transmission Lines." Electrical substations are included under "Public Utility Facilities." (SIC: Group 49) (Amended 1989, Ord. 2411). WECS are a type of renewable energy facility and included under “Energy-Generating Facilities” and “Renewable Energy Facilities” as defined by this Title.

SECTION 32: Section 22.94.082.C starting on 9-56 (excluding Figure 94-39 which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

|

C) Commercial Retail (CR) - Stockdale Road area.

The following standards apply within the Commercial Retail land use category on Stockdale Road, as shown in Figure 94-39.

1) Limitation on use. Land uses shall be limited to the following

Animal keeping	Offices, temporary
Bars and night clubs (limited to 60 customer seats)	Outdoor sports and recreation
Caretaker residence	Pipelines and transmission lines
Convenience and liquor stores (limited to 2,000 square feet)	Public safety facilities
Crop production and grazing	Public utility facilities
<u>Energy-generating facilities (limited to renewable energy facilities)</u>	Recycling collection stations
Food and beverage products manufacturing	Residential accessory uses
General retail (limited to 2,000 square feet)	Restaurants (limited to 60 customer seats)
Grocery stores (limited to 1,500 square feet)	Small scale manufacturing
Mail order and vending	Vehicle storage

2) Permit Requirement. Minor Use Permit approval is required for any new use and any expanded use that increases use area more than 10 percent, unless a Conditional Use Permit is otherwise required by this Title.

SECTION 33: Section 22.94.082.D, starting on page 9-57 (excluding Figures 94-40 and 94-41) which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

D) Commercial Service (CS) - Wellsona Road area. The following standards apply within the Commercial Service category from the vicinity of the intersection of Highway 101 and Wellsona Road to the Exline Road intersection with the highway, as shown in Figure 94-40.

1) Limitation on use – Wellsona Road area. Allowable land uses on the Wellsona Road properties shown in Figure 94-40 are limited to:

Agriculture and accessory structures	Recreational Vehicle Parks
Bars and night clubs	Recycling and scrap
Bed and breakfast inns	Recycling collection stations
Caretaker residence	Residential accessory use
Concrete, gypsum, and plaster products	Restaurants
Construction contractors	Small scale manufacturing
Convenience and liquor stores (limited to 2,000 square feet)	Stone and cut stone products
Crop production and grazing	Storage, accessory
<u>Energy-generating facilities (limited to renewable energy facilities)</u>	Storage yards

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Existing motorcycle dealers	Temporary offices
Gas stations	Transmission facilities
General retail (limited to gifts, novelties, souvenirs, and antiques)	Truck stops
Grocery stores (maximum gross floor area of 5,000 square feet)	Vehicle and freight terminals
Hotels, motels if associated with truck stops as uses	Vehicle storage
Mail order and vending	Warehousing
Personal services	Wholesale and distribution
Public safety facilities	

2) Limitation on use - Other Commercial Service properties. Land uses shall be limited to the following for other Commercial Service properties shown in Figure 94-40. Retail sales are limited only to the incidental sale of goods produced, assembled or manufactured on the site. All other sales shall be wholesale to other businesses only.

Ag accessory structures	Recreational vehicle parks are also an allowable use on a property at Exline and Stockdale Roads, as shown in Figure 94-41.
Caretaker residence	Small scale manufacturing
Concrete, gypsum, and plaster products	Stone and cut stone products
Construction contractors	Storage, accessory
Crop production and grazing	Storage yards
<u>Energy-generating facilities (limited to renewable energy facilities)</u>	Temporary offices
Existing motorcycle dealers	Transmission facilities
Public safety facilities	Vehicle and freight terminals
Recycling and scrap	Vehicle storage
Recycling collection stations	Warehousing
Residential accessory use	Wholesale and distribution

3) Permit requirement. Minor Use Permit approval is required for all new uses, or expanded uses that increase use area more than 10 percent, unless a Conditional Use Permit is otherwise required by this Title.

SECTION 34: Section 22.94.082.E on page 9-65 (excluding Figure 94-48 which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

E) Industrial (IND). The following standards apply within the Industrial land use category located at Wellsona Road east of Highway 101 as shown in Figure 94-48.

- 1) Limitation on use. Land uses shall be limited to fuel dealers, energy-generating facilities (limited to renewable energy facilities), and those listed in Table 2-2, Section 22.06.030 within the Manufacturing and Processing group as allowable, permitted, or conditional

in the Industrial land use category. Retail trade uses are only allowed incidental to the manufacture, assembly or processing of products on the same site.

- 2) Permit requirement. Minor Use Permit approval is required for all proposed uses, unless a Conditional Use Permit is otherwise required by this Title.

SECTION 35: Section 22.94.082.G.4 starting on page 9-68(excluding Figures 94-53 which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 4) Spanish Camp Area. The following standards apply only to the area south of Charolais Road, east of Highway 101, as shown in Figure 94-53.
 - a) Limitation on use - Spanish Camp area. Land uses shall be limited to the following, in compliance with the land use permit requirements of Section 22.06.030: agricultural accessory structures; crop production and grazing; caretaker residence; animal keeping; energy-generating facilities (limited to renewable energy facilities); home occupations; residential accessory uses; single-family dwellings; storage-accessory; and temporary construction yards.

SECTION 36: Section 22.94.082.G.5 starting on page 9-69(excluding Figure 94-54, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 5) Almira Park area. Allowable land uses within the Almira Park area as shown in Figure 94-54 are limited to agricultural accessory structures; crop production and grazing; caretaker residences; animal keeping; energy-generating facilities (limited to renewable energy facilities); home occupations; residential accessory uses; single-family dwellings; storage-accessory; temporary construction yards; and bed and breakfast inns.

SECTION 37: Section 22.94.090.C starting on page 9-78 (excluding Figure 94-65, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- C) Commercial Service (CS). The following standards apply within the Commercial Service land use category.
 - 1) **Highway 46 between Shandon and Cholame - Commercial Service area.** The following standards apply to the area located on the northwest side of Highway 46 between Shandon and Cholame, which is 200 feet wide with 390 feet of frontage on Highway 46 extending southwesterly from the intersection of the highway and the easterly line of the northwest quarter of Section 2, Township 26 South, Range 15 East as shown on Figure 94-65.
 - a) **Limitation on use - service commercial area.** Land uses shall be limited to the following, subject to the land use permit requirements of Section 22.06.030: Metal Industries - Fabricated; Small Scale Manufacturing; Agricultural Processing (excluding wine tasting and special events); Energy-Generating Facilities (limited to Accessory Renewable Energy Facilities that are an accessory use); Warehousing (no wholesale or retail sales from the site), Caretaker's Quarters and Residential

Accessory Uses. All uses are limited to the producing, assembling, manufacturing, and storing of goods and products that are for rural or agricultural applications or operations

- b) **Permit requirement.** Minor Use Permit approval is required for all new or expanded uses, unless a Conditional Use Permit is otherwise required by this Title.
- 2) West Centre and Highway 46. The following standards apply to the property near the intersection of West Centre Street and State Highway 46. [Figure 24-66](#)
- a) Permit requirement. Conditional Use Permit is required prior to the first entitlement on the site. The Conditional Use Permit shall specify the permit requirements for the full build-out of the site for all new construction. If a separate entitlement has not been obtained prior to the master Conditional Use Permit for the Peck Ranch Master Plan area required by Section 22.110.050.B.1, development of this site shall be included as part of that master Conditional Use Permit.
- b) ~~b~~-Limitation on use. Allowable uses shall be limited to Ag Processing, Animal hospitals and veterinary medical facilities, Crop Production and Grazing, Nursery Specialties, Small Scale Manufacturing (limited to artisan/craftsman type operations), Indoor Amusement and Recreation Facilities, Energy-Generating Facilities (limited to **Accessory** Renewable Energy ~~F~~Facilities), Automobile Service Stations and Gas Stations, Restaurants, Libraries and Museums, Outdoor Sports and Recreational Facilities, Public Assembly and Entertainment Facilities, General Retail, Restaurants, Lodging and Personal Services.

3)

SECTION 38: Section 22.96.050.A starting on page 9-94 (excluding Figure 96-8, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

A. Agriculture (AG). The following standards apply within the Agriculture land use category.

1. **O'Connor Way / West Foothill Area.** The following standards apply to development projects that are accepted as complete for processing after September 20, 2002 and only to lands within the Agriculture land use category in the O'Connor Way / West Foothill Area, as shown in Figure 108-10.

***Guideline:** Development should be designed to blend with the existing rural development and preserve the rural and agrarian character of the area.*

- a. **Limitation on Use.** Uses identified in Table O, Part I of the Land Use Element as "A" or "S" uses are limited to: agricultural accessory structures; agricultural processing; airfields and landing strips; animal raising and keeping; bed and breakfast facilities; caretaker residence; churches; communications facilities; crop production and grazing; eating and drinking places; energy-generating facilities ~~electric generating plants~~ (solar energy ~~electric~~ facilities and wind energy conversion systems & WECF only); farm equipment and supplies; farm support quarters; fisheries and game preserves; food and kindred products; forestry; home occupations; libraries and museums; membership organization facilities; mining; mobilehomes; nursery specialties; offices, temporary; outdoor retail sales; petroleum extraction; pipelines

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and transmission lines; public safety facilities; public utility facilities; residential accessory uses; residential care (for 6 or fewer); roadside stands; rural recreation and camping; schools- specialized education and training; single family dwellings; small scale manufacturing; specialized animal facilities; storage accessory; temporary construction trailer parks; temporary construction yards; temporary dwelling; temporary events; warehousing; and wholesaling and distribution.

SECTION 39: Section 22.96.050.B starting on page 9-94 (excluding Figure 96-9, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

B) Rural Lands (RL). The following standards apply within the Rural Lands land use category.

- 1) Irish Hills - Limitation on use. Land uses within the Irish Hills (see Figure 96-9) shall be limited to the following, in compliance with the land use permit requirements of Section 22.06.030: ag accessory structures; animal facilities; crop production and grazing; nursery specialties; energy-generating facilities (limited to renewable energy facilities); communications facilities; animal keeping; residential accessory uses; single-family dwellings; mobile homes; temporary dwellings; roadside stands; outdoor retail sales; accessory storage; pipelines and transmission lines.
- 2) San Luis Obispo Sub-area – Limitation on use. All land uses identified by Section 22.06.030 as allowable, permitted, or conditional in the Rural Lands land use category within the San Luis Obispo Sub-area (as shown in Figure 96-1) may be authorized in compliance with the land use permit requirements of that Section, except residential care, correctional institutions, and uses listed by Table 2-2, Section 22.06.030 in the Industry, Manufacturing and Processing use group.

C) Industrial (IND) – Edna and Buckley Roads - Limitation on use. Land uses on the shaded parcel within the Industrial land use category shown in Figure 96-10 shall be limited to construction contractors, caretaker residences, ~~and~~ storage yard (sales lots prohibited), and energy-generating facilities (limited to accessory renewable energy facilities).

SECTION 40: Section 22.96.050.E.2 starting on page 9-96 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- a) Limitation on Use. Uses identified in Table O, Part I of the Land Use Element as "A" or "S" uses are limited to: agricultural accessory structures; animal raising and keeping; bed and breakfast facilities; caretaker residence; cemeteries and columbaria; churches; communications facilities; crop production and grazing; energy-generating facilities; ~~electric generating plants~~ (solar electric facilities and wind energy conversion systems solar and WECF only); farm equipment and supplies; fisheries and game preserves; forestry; home occupations; mobile homes; nursery specialties; offices, temporary; public safety facilities; public utility facilities; residential accessory uses; residential care (for 6 or fewer); roadside stands; secondary dwellings; single family dwellings; specialized animal facilities; storage accessory; temporary dwelling;

and existing school, pre to secondary, and existing outdoor sports and recreation facilities.

SECTION 41: Section 22.96.050.E.3 starting on page 9-96 (excluding Figure 96-11, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 3) West of Bear Valley Estates (Tract 502). The following standards apply only to the parcel located west of Tract 502 as shown in Figure 96-11.

Limitation on use. Land uses shall be limited to agricultural accessory structures, animal keeping, ~~and~~ crop production and grazing, and energy-generating facilities (limited to renewable energy facilities).

SECTION 42: Section 22.96.050.F.3 starting on page 9-104 (excluding Figure 96-17, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 3) Squire Canyon. The following standards apply to the Residential Suburban land use category in Squire Canyon (see Figure 96-17).

- a) Limitation on use. Land uses in the area northeast of the intersection of Squire Canyon and Indian Knob roads shall be limited to the following (as required by Ordinance 824): agricultural accessory structures; crop production and grazing; energy-generating facilities (limited to renewable energy facilities); communications facilities; animal keeping; animal facilities (with the only use limited to keeping not more than six adult dogs per parcel, with a kennel license being required for raising more than four adult dogs, in compliance with County Code Section 9.04.120); home occupations; residential accessory uses; single-family dwellings; temporary dwellings; pipelines and transmission lines.

SECTION 43: Section 22.98.062.B.3.c starting on page 9-156 (excluding Figure 98-12, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- c) Limitation on use. Land uses shall be limited to the following, in compliance with the land use permit requirements of Section 22.06.030: agricultural accessory structures; animal keeping; crop production and grazing; animal facilities (horse ranches and other equestrian facilities only); energy-generating facilities (limited to renewable energy facilities); caretaker residences; home occupations; mobile homes; residential accessory uses; single-family dwellings; storage, accessory; and public utility facilities. Notwithstanding the provisions of this standard, it is the applicant's responsibility to ensure that any proposed land uses comply with the Tiffany Ranch covenants, conditions and restrictions (CC&Rs).

SECTION 44: Section 22.98.072.A.3.a starting on page 9-172 (excluding Figure 98-22, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- a) Limitation on use. Land uses are limited to the following within **the** Agriculture land use category in the Nipomo and Santa Maria (Oso Flaco) Valleys, subject to the land use permit requirements of Section 22.06.030:

Ag processing	Mobile homes
Agricultural accessory structures	Nursery specialties (Conditional Use Permit required)
Animal keeping	Outdoor retail sales
Communications facilities	Pipelines and power transmission lines
Crop production and grazing	Residential accessory uses
<u>Energy-generating facilities (limited to accessory renewable energy facilities)</u>	Roadside stands
Farm support quarters	
Home occupations	Single-family dwellings
Mining and concrete batch plants (within the area along the Santa Maria River shown in Figure 98-23 which corresponds to the EX1 or subsequently designated EX combining designation)	Temporary dwellings

SECTION 45: Section 22.98.072.F.1.a starting on page 9-181 (excluding Figure 98-30, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- F) Recreation (REC)/Public Facilities (PF). The following standards apply within the Recreation/Public Facilities land use category in the rural portions of the South County planning area.

- 1) Northwest corner of Willow and Via Concha. The following standards apply only to the property shown as Area B in Figure 98-30.

- a) Limitation on Use.

(1) Land uses within the REC/ PF land use category shall be limited to: Schools - Elementary and Secondary, and energy-generating facilities (limited to accessory renewable energy facilities), if the site is acquired and developed by the Lucia Mar Unified School District.

- (2) Land uses within the REC/ PF land use category shall be limited to Crop Production and Grazing, Outdoor Sports and Recreation, Energy-generating facilities (limited to renewable energy facilities), Parks, and active and passive Open Space if the site is not acquired and developed by the Lucia Mar Unified School District.

SECTION 46: Section 22.104.030.C -starting on page 10-12 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- C) Open Space (OS). The following standards apply within the OS land use category.
- 1) Limitation on use. Land uses shall be limited to: a single shooting range, equestrian facilities and incidental camping, hiking and riding trails, picnic areas; grazing and other agricultural uses; energy-generating facilities (limited to renewable energy facilities); public utility facilities; communication facilities; and pipelines and transmission lines, in compliance with the land use permit requirements of Section 22.06.030.
 - 2) Limitation on use - Open space lots. Use of the open space lots in Tracts 424, 446, 447, 452, 466, 474, and 475 shall be limited to hiking and riding trails, energy-generating facilities (limited to renewable energy facilities), and approved facilities for recreational, drainage, and utility purposes. These lots shall be retained in permanent open space. Open space lots in future subdivisions shall be subject to this Limitation on use.

SECTION 47: Section 22.104.030.E- starting on page 10-13 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- E) Residential Rural (RR). The following standards apply within the RR land use category.
- 1) Limitation on use. Land uses shall be limited to single-family dwellings, residential accessory uses, home occupations, animal keeping and agricultural uses, and energy-generating facilities (limited to renewable energy facilities) in compliance with the land use permit requirements of Section 22.06.030.

SECTION 48: Section 22.104.030.F.2 starting on page 10-14 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 2) **Limitation on use - Open space lots.** Use of the open space lots in new land divisions shall be limited to agricultural uses, energy-generating facilities (limited to renewable energy facilities that are an accessory use), biking and riding trails, and approved facilities for recreation, drainage and utility purposes. These lots shall be retained in permanent open space use.

SECTION 49: Section 22.104.030.G.1 starting on page 10-14 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 1) **Limitation on use.** Land uses shall be limited to single-family dwellings, residential accessory uses, home occupations, animal keeping and agricultural uses, and energy-generating facilities (limited to accessory renewable energy facilities that are an accessory use), in compliance with the land use permit requirements of Section 22.06.030.

SECTION 50: Section 22.104.040.C.1 starting on page 10-19 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 1) **Limitation on use.** Land uses within areas designated for open space shall be limited to riding and hiking trails, energy-generating facilities (limited to renewable energy facilities), and utilities, in compliance with the land use permit requirements of Section 22.06.030.

SECTION 51: Section 22.104.040.F.1 starting on page 10-20 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 1) **Limitation on use.** Land uses shall be limited to single-family dwellings, residential accessory uses, home occupations, ~~and~~ religious facilities, and energy-generating facilities (limited to renewable energy facilities that are an accessory use), in compliance with the land use permit requirements of Section 22.06.030.

SECTION 52: Section 22.104.050.B.1 starting on page 10-22 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

B) Commercial Retail (CR). The following standards apply within the CR land use category.

1. **Limitation on use.** Land uses shall be limited to bars and night clubs, convenience and liquor stores, single-family dwellings, gas stations, general retail, grocery stores, ~~and~~ restaurants, and energy-generating facilities (limited to accessory renewable energy facilities that are an accessory use), in compliance with the land use permit requirements of Subsection B.2.

SECTION 53: Section 22.104.050.C on page 10-23 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- C) **Residential Suburban (RS) - Limitation on use.** Land uses within the RS land use category shall be limited to single-family dwellings, ~~and~~ religious facilities, and energy-generating facilities (limited to renewable energy facilities that are an accessory use), in compliance with the land use permit requirements of Section 22.06.030.

SECTION 54: Section 22.104.060.B.3.a on page 10-26 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

1. **Location and Limitation on use.** Land uses shall be limited to:

<u>Energy-generating facilities (limited to renewable energy facilities)</u>	Outdoor retail sales (plaza festivals and art shows)
Accessory storage	Personal services
Bars and night clubs	Recreational vehicle park (on the southerly half of the site)
Convenience and liquor stores	Restaurants
Gas stations	Small scale manufacturing
Grocery stores, and general retail (tourist oriented, limited to 2,000 square feet each, to total no more than 30,000 square feet in areas 1 and 2)	
Hotels and motels	

SECTION 55: Section 22.104.060.D-E on page 10-27 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- D) **Industrial (IND) - Limitation on use.** Land uses within the Industrial land use category shall be limited to: offices; accessory storage; storage yards; vehicle and freight terminals; ~~and~~ warehousing; and energy-generating facilities (limited to renewable energy facilities).
- E) **Recreation (REC) - East of Mission Street - Limitation on use.** Land uses in the area within the Recreation land use category located east of Mission Street as shown in Figure 104-4 shall be limited to religious facilities, libraries and museums, outdoor sports and recreation, energy-generating facilities (limited to accessory renewable energy facilities that are an accessory use), temporary events, or other similar uses that can be found compatible and consistent with the existing cultural resources, in compliance with the land use permit requirements of Section 22.06.030.

SECTION 56: Section 22.104.070.C-D on page 10-35 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- C) **Industrial (IND).** The following standards apply within the Industrial land use category.
- 1) **Limitation on Use - Railroad property.** Allowable land uses are limited on lands in Southern Pacific Railroad ownership to offices, accessory storage, storage yards, vehicle and freight terminals, pipelines and transmission, public utility facilities and warehousing; and energy-generating facilities (limited to renewable energy facilities).
- D) **Recreation (REC).** The following standards apply within the Recreation land use category.
- 1) **Limitation on use.** Land uses shall be limited to libraries and museums, membership organization facilities, outdoor sports and recreation, public assembly and entertainment, sports assembly, temporary events, government offices and caretaker residences, and energy-generating facilities (limited to accessory renewable energy facilities that are an accessory use).

SECTION 57: Section 22.104.080.A.5.a on page 10-38 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

5. **Energy and water conservation.** New development shall implement the following water and energy-saving measures: Installation of low flow or dual flush toilets, low flow shower heads and water faucets and energy efficient appliances; drip irrigation or micro-sprayers on appropriate landscaped areas; Use of devices such as soil monitors and rain shutoff devices for all automatic irrigation systems; and use of mulch in non-turf areas, permeable hardscape to the extent feasible, soil amendments to increase soil moisture holding capacity of soil and native low water using landscaping.

In addition, new development shall include at least four of the following conservation techniques:

- a. Install renewable energy facilities or alternative energy equipment and devices such as solar heating and hot water systems ~~thermal heating~~.

SECTION 58: Section 22.104.080.E.2 on page 10-53 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 2) **Limitation on use.** Land uses shall be limited to the those in the following use groups: Industry, Manufacturing and Processing, excluding concrete, gypsum and plaster products, recycling - scrap and dismantling yards, and stone and cut stone products; Recreation, Education & Public Assembly, excluding outdoor sports and recreation facilities and sports assembly; Services (includes offices); Retail Trade-limited to uses that are in support of the business park; and Agriculture, Resource, and Open Space-limited to agricultural processing and nursery specialties and energy-generating facilities (limited to accessory renewable energy facilities that are an accessory use) only.

SECTION 59: Section 22.104.080.F.1 on page 10-54 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- 1) **Limitation on use.** Allowable uses shall be limited to Ag Processing, Energy-Generating Facilities (limited to Renewable Energy Facilities only), Animal hospitals and veterinary medical facilities, crop production and grazing, nursery specialties, Small Scale Manufacturing (limited to artisan and craftsman-type operations), Indoor Amusement and Recreation Facilities, Outdoor Sports and Recreational Facilities, Public Assembly and Entertainment Facilities, Automobile Service Stations/Gas Stations, General Retail, Restaurants, and Lodging, and Personal Services.

SECTION 60: Section 22.104.080.G on page 10-55 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- G) **Recreation (REC) - Limitation on use.** Within the Recreation land use category, uses are limited to: Crop Production and Grazing, Energy-Generating Facilities (limited to Renewable Energy Facilities only), Recycling - Collection Stations, Libraries and Museums, Outdoor Sports and Recreational Facilities, Public Assembly and Entertainment Facilities, Sports Assembly, Temporary Events, and Outdoor Retail Sales. Areas adjacent to Crawford W. Clarke Memorial Park are limited to the expansion of the community park.

SECTION 61: Section 22.104.090.D.3 on page 10-63 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- a. **Limitation on use.** Allowable land uses shall be limited to Building Materials and Hardware and incidental outdoor storage, Nursery Specialties, Energy-Generating Facilities (limited to Renewable Energy Facilities that are an accessory use), and Vehicle and Freight Terminals.

SECTION 62: Section 22.104.090.D.4.a on page 10-64 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

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- a. **Limitation on use.** Land uses shall be limited to agricultural processing, agricultural accessory structures, caretaker residence, crop production and grazing, energy-generating facilities (limited to renewable energy facilities that are an accessory use), incidental offices, accessory storage, outdoor storage yards, and vehicle and freight terminals.

SECTION 63: Section 22.104.090.F.3 on page 10-65 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

3. **Limitation on use - Railroad property.** Allowable land uses are limited to: offices; accessory storage; storage yards; vehicle and freight terminals; ~~and~~ warehousing; and energy-generating facilities (limited to renewable energy facilities that are an accessory use).

SECTION 64: Section 22.104.090.G.2.a on page 10-66 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- a. **Limitation on use.** Land uses shall be limited to libraries and museums, outdoor sports and recreation, ~~and~~ public assembly and entertainment, and energy-generating facilities (limited to accessory renewable energy facilities that are an accessory use) in compliance with the land use permit requirements of Section 22.06.030.

SECTION 65: Section 22.104.090.G.3.c on page 10-67 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- c. **Limitation on use.** Land uses shall be limited to indoor amusement and recreation facilities, libraries and museums, outdoor athletic facilities, public parks and play-grounds, schools, sports assembly, temporary events, health care services, social service organizations, caretaker quarters, offices, public assembly and entertainment facilities, ~~and~~ transit stations and terminals, and energy-generating facilities (limited to renewable energy facilities), in compliance with the land use permit requirements of Section 22.06.030.

SECTION 66: Section 22.104.090.G.4.b on page 10-69 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- b. **Limitation on use.** Land uses shall be limited to indoor amusement and recreation facilities, libraries and museums, outdoor athletic facilities, public parks and playgrounds, schools, sports assembly, temporary events, health care services, social service organizations, caretaker quarters, offices, public assembly and entertainment facilities and transit stations and terminals, and energy-generating facilities (limited to renewable energy facilities), in compliance with the land use permit requirements of Section 22.06.030.

SECTION 67: Section 22.106.010.C on page 10-79 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- C) **Commercial Retail (CR).** The following standards apply within the Commercial Retail land use category.

- 1) **Avila Valley.** The following standards apply only to Avila Valley (see Figure 106-1), to the specific areas listed.
 - a) **Limitation on use.** Land uses shall be limited to highway and tourist oriented uses and energy-generating facilities (limited to accessory renewable energy facilities ~~that are an accessory use~~).
 - b) Permit requirement. Conditional Use Permit approval is required for all uses.
 - c) Access - Commercial site at San Luis Bay Drive and Highway 101. Primary access to the commercial site shall be from San Luis Bay Drive.
- 2) **San Luis Bay Estates.** The following standards apply only to the San Luis Bay Estates (see Figure 106-2), to the specific areas listed.
 - a) **Limitation on use.** Land uses in the commercial village shall be limited to bars and night clubs, convenience and liquor stores, financial services, general retail, grocery stores, health care services, offices, personal services, public assembly and entertainment, ~~and~~ restaurants, and energy-generating facilities (limited to accessory renewable energy facilities ~~that are an accessory use~~).

SECTION 68: Section 22.106.010.E.2 on page 10-82 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

2. **San Luis Bay Estates.** The following standards apply only to the San Luis Bay Estates (see Figure 106-2), to the specific areas listed.
 - a) **Limitation on use.** Land uses shall be limited to the following, in compliance with the land use permit requirements of Section 22.06.030: accessory storage; bars and night clubs; caretaker residence; convenience and liquor stores; grocery stores; hotels and motels; indoor amusements and recreation; outdoor sports and recreation; pipelines and transmission lines; public safety facilities; restaurants; rural recreation and camping; temporary events, and energy-generating facilities (limited to accessory renewable energy facilities ~~that are an accessory use~~).

SECTION 69: Section 22.106.010.F.2 on page 10-85 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

2. **San Luis Bay Estates.** The following standards apply only to the San Luis Bay Estates (see Figure 106-2), to the specific areas listed.
 - a) **Limitation on use.** Land uses within the residential clusters shall be limited to: home occupations; residential accessory uses; single-family dwellings; temporary dwellings; public safety facilities; public utility facilities; pipelines and transmission lines and storage accessory, and energy-generating facilities (limited to renewable energy facilities ~~that are an accessory use~~). The range of uses allowed shall be further refined through preparation

of the project Master Use Permit, so that uses will be compatible with the character of each cluster.

SECTION 70: Section 22.108.040.C.3.a on page 10-97 (excluding Figure 108-11, which is not proposed for change) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- a. **Limitation on use.** Land uses shall limited to the following, in compliance with the land use permit requirements of Section 22.06.030: grocery stores; restaurants; offices; financial services; personal services; consumer repair services; general retail; building materials and hardware; indoor amusements and recreation; gas stations; and multi-family or caretaker dwellings, and energy-generating facilities (limited to accessory renewable energy facilities), except that gas stations shall not be allowed within Area "A" on Figure 108-11.

SECTION 71: Section 22.108.050.F on page 10-119 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- F. **Recreation (REC) - Limitation on use.** Land uses within the Recreation land use category between Highway 1 and the railroad right-of-way shall be limited to recreational vehicle parks in compliance with Ordinance 1215, and energy-generating facilities (limited to accessory renewable energy facilities that are an accessory use).

SECTION 72: Section 22.108.050.H.3.a on page 10-121 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

- a. **Limitation on use.** Land uses shall be limited to the following, in compliance with the land use permit requirements of Section 22.06.030: mobile home parks; except that on 1989 Assessor Parcel Number 75-032-05 as shown in Figure 108-23, land uses shall be limited to: animal keeping; crop production and grazing; energy-generating facilities (limited to renewable energy facilities); religious facilities; membership organization facilities; home occupations; one single-family dwelling or mobile home; residential accessory uses; public safety facilities; storage, accessory; pipelines and transmission lines; and public utility facilities.

SECTION 73: Section 22.108.060.B.1 on page 10-123 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

1. **Limitation on use.** Land uses shall be limited to: bars and night clubs; caretaker dwellings; consumer repair services; convenience and liquor stores; financial services; gas stations; general retail; hardware stores; indoor amusements and recreation; offices; personal services; restaurants, and energy-generating facilities (limited to accessory renewable energy facilities that are an accessory use).

SECTION 74: Section 22.108.060.C.1 on page 10-125 97 (excluding Figure 108-26, which is not proposed for change)of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

1. Limitation on Use. The allowed uses are as follows:

- a. "previously-approved uses" per D890413D are allowed, including: golf course and related uses, specific commercial uses within the "Village Center", single family residences, eating and drinking places;
- b. additional uses as follows: hotel (not to exceed 103-units), a facility of an approximate 14, 000 square foot footprint (pro-shop, hotel registration, and full service restaurant (200 seat)), employee housing, additional "Village Center" use to allow general public to conduct meetings and social events, ~~and~~ child care facilities, and energy-generating facilities (limited to **accessory** renewable energy facilities **that are an accessory use**).

SECTION 75: Based on the findings attached hereto as Exhibit LRP2014-00015:C¹ and incorporated herein as if set forth in full, the Board of Supervisors hereby certifies that the FEIR has been prepared and completed in compliance with the California Environmental Quality Act, California Public Resources Code Section 21000 et seq., that the Board of Supervisors reviewed and considered the information contained in the FEIR and the information submitted prior to and during public hearings on the project prior to approving the amendments, and that the FEIR reflects the lead agency's independent judgement and analysis.

SECTION 76: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 77: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

SECTION 78: In accordance with Government Code Section 25131, after reading of the title of the ordinance, further reading of the ordinance in full is waived.

¹ The Findings will be provided as an attachment to the staff report when the RESP is presented to the Planning Commission and Board of Supervisors as part of a public hearing.

Attachment 2N
ATTACHMENT 4: LRP2014-00015:D

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 20_____, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED

AS TO FORM AND CODIFICATION:

RITA L. NEAL

County Counsel

By:_____

Deputy County Counsel

Dated:_____

Proposed Amendments County of San Luis Obispo Rules of Procedure to Implement the California Land Conservation Act of 1965

Renewable Energy Streamlining Program

Public Review Draft

November 2014

SECTION 1: Table 2 of the Rules of Procedure, is amended to read as follows:

Add a new Use Group entitled “Renewable Energy Facilities”.

		Coastal Zone	
USE GROUP	INLAND AREA	PRIME SOILS	NON-PRIME SOILS
Renewable Energy Facilities	<u>Appendix 1</u>	<u>No</u>	<u>No</u>

SECTION 2: Appendix to the Rules of Procedure, are amended as follows:

Add Appendix 6 to the Ag Preserve Rules of Procedure:

Tier 2 through 4 REF projects are allowed on contracted land if they can satisfy the following criteria:

1. These criteria apply to Renewable Energy Facilities only, not “Non-Renewable Energy Facilities” as defined in Title 22 which are not allowed uses on contracted land.
2. Each property must meet and maintain the current eligibility criteria in the Rules of Procedure for both establishment of an agricultural preserve and entering into a land conservation contract as well as the “Minimum Parcel Size for Conveyance” required by each contract. A land owner with a contract not compliant with current eligibility standards may apply to requalify their property and enter into a new replacement contract as part of the application process for a REF project.
3. The site area acreage for the REF shall not be located on areas of the property/parent parcel with soils types necessary to qualify for establishment of an agricultural preserve and entering into a land conservation contract.
4. An REF project must not involve removal of existing cultivated areas of the property unless the same or equal value crops are planted on equal quality soils. (There shall be no net decrease in the amount of cultivated land associated with the REF project).
5. An REF project may not be located on prime or potentially prime soils. (Any soils classified as Class 1 if irrigated or Class 2 if irrigated by the Natural Resource Conservation Service soils survey).
6. REF projects are not allowed on properties qualifying for preserves and contracts as High Productivity Prime Land (Small specialized Farms)
7. For properties qualifying as a Prime Land Preserves the site area acreage for REF projects shall be in addition to the minimum acreage required to meet the 40 acre eligibility criteria. (Example: An REF project on prime land preserve property must exceed 40 acres by the amount of the REF site acreage).

8. For properties qualifying as a Mixed Use (irrigated non-irrigated use) shall be required to have acreage consistent with the 80 to 160 acre minimum parcel size based on eligible soils classes and uses. The acreage required for the REF site shall be in addition to the applicable minimum parcel size.
9. For properties qualifying as Dry Land Preserves (non-irrigated Class 3 & 4 soils) minimum 160 acres in size — with 100 acres of Class 3 & 4 qualifying soils and current or historical dry farm agricultural use) the acreage required for the REF site shall be in addition to minimum parcel size of 160 acres.
10. For properties qualifying as Rangeland Preserves (Class 6 & 7 or better soils and minimum 320 acres in size — with 100 acres of Class 6 & 7 qualifying soils and 100 acres with soils moderately to well-suited as rangeland) the REF project site shall be in addition to the minimum parcel size of 320 acres.
11. REF project acreage may not exceed 20% of the total acreage within a land conservation contract.
12. The proposed REF project must be found consistent with the Principles of Compatibility in the Williamson Act [Government Code Section 51238.1(a) et seq.].
13. REF projects up to 20 acres in size may be reviewed by Department of Planning and Building staff for consistency with the Rules of Procedure and the Principles of Compatibility unless a discretionary use permit is required by Title 22, in which case the REF project shall be presented to the Agricultural Preserve Review Committee for a recommendation to the Review Authority. The Agricultural Preserve Review Committee shall base their review on the criteria in the Rules of Procedure and the Principles of Compatibility.
14. REF projects over 20 acres in size on contracted land shall require Minor Use Permits (or conditional use permits if otherwise required by Title 22) and shall be presented to the Agricultural Preserve Review Committee for a recommendation to the Review Authority for the use permit. The Agricultural Preserve Review Committee shall base their review on the criteria in the Rules of Procedure and the Principles of Compatibility.

**EXHIBIT LRP 2014-00015:E
AMENDMENTS TO THE RULES OF PROCEDURE
TO IMPLEMENT THE LAND CONSERVATION ACT OF 1965**

Amendments to Table 2 Agricultural and Compatible Uses for Lands Subject to Land Conservation Contracts and Farmland Security Zone Contracts

- The current USE GROUP “Electric Generation Plants” (renamed “Energy Generating Facilities” in the draft Renewable Energy Streamlining Program) to be retained as referenced in Table 2 – not allowed on contracted land.
- Add a new USE GROUP entitled “Renewable Energy Facilities” allowed subject to the criteria in new Appendix E 6 on property under contract in the Inland area of the county.
- Add note 12 to Table 2 referencing proposed Land Use Ordinance Section 22.32.020.A.2 Accessory Renewable Energy-Generating Facilities. On-site use Renewable Energy Facilities are allowed on contracted land subject to Title 22.
- Add note 13 to Table 2 referencing Appendix E 6 Criteria for RESP

The criteria to be added to the Rules of Procedure as Appendix E 6 are as follows:

Renewable Energy Facility (REF) projects are allowed on contracted land if they can satisfy the following criteria:

- a) These criteria apply to Renewable Energy Facilities only, not “Non-Renewable Energy Facilities” (“Electric Generation Plants” renamed “Energy Generating Facilities” in the draft Renewable Energy Streamlining Program) as defined in Title 22 which are not allowed uses on contracted land.
- b) Each property must meet and maintain the current eligibility criteria in the Rules of Procedure for both establishment of an agricultural preserve and entering into a land conservation contract as well as the “Minimum Parcel Size for Conveyance” required by each contract. A land owner with a contract not compliant with current eligibility standards may apply to requalify their property and enter into a new replacement contract as part of the application process for a REF project.
- c) A REF project may not be located on prime or potentially prime soils. (Prime or potentially prime soils are any soils classified as Class 1 or Class 2 by the Natural Resource Conservation Service soils survey).
- d) REF projects are not allowed on properties qualifying for preserves and contracts as High Productivity Prime Land (Small specialized Farms).

- e) For properties qualifying as a Prime Land Preserve the site area acreage for REF projects shall be in addition to the minimum acreage required to meet the 40 acre eligibility criteria. (A REF project on prime land preserve property must exceed 40 acres by the amount of the REF site acreage).
- f) For properties qualifying as Mixed Use (irrigated and non-irrigated uses) the required acreage shall be consistent with the 80 to 160 acre minimum parcel size based on eligible soils classes and uses. The acreage required for the REF site shall be in addition to the applicable minimum parcel size.
- g) For properties qualifying as Dry Land Preserves (non-irrigated Class 3 & 4 soils, minimum 160 acres in size — with 100 acres of Class 3 & 4 qualifying soils and current or historical dry farm agricultural use) the acreage required for the REF site shall be in addition to minimum parcel size of 160 acres.
- h) For properties qualifying as Rangeland Preserves (Class 6 & 7 or better soils and minimum 320 acres in size — with 100 acres of Class 6 & 7 qualifying soils and 100 acres with soils moderately to well-suited as rangeland) the REF project site shall be in addition to the minimum parcel size of 320 acres.
- i) REF project site acreage may not exceed 10% of the total acreage of the property under a land conservation contract up to but not to exceed 20 acres in size.
- j) The proposed REF project must be found consistent with the Principles of Compatibility in the Williamson Act [Government Code Section 51238.1(a) et seq.].
- k) All REF projects shall be reviewed by Department of Planning and Building staff through Site Plan application for projects up to 10 acres in site area and Minor Use Permit for projects over 10 acres in site area. All REF projects shall be reviewed for compliance with the above criteria. REF projects subject to Minor Use Permit review (or Conditional Use Permit if otherwise required) shall be presented to the Agricultural Preserve Review Committee for a recommendation to the Review Authority. The Agricultural Preserve Review Committee shall base their review on the criteria in the Rules of Procedure and the Principles of Compatibility.



SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

Promoting the wise use of land - Helping to build great communities

DATE: December 22, 2014

TO: Planning Commission and Board of Supervisors

FROM: Bill Robeson, Agricultural Preserve Review Committee *BR*

SUBJECT: Agricultural Preserve Review Committee recommendation for proposed amendments to the Rules of Procedure to Implement the Land Conservation Act of 1965 to allow Renewable Energy Facilities (REF) on contracted land and implement streamlining measures from the Renewable Energy Streamlining Program (RESP)

RECOMMENDATION

The Agricultural Preserve Review Committee recommends approval of amendments to the Rules of Procedure to Implement the Land Conservation Act of 1965 to allow Renewable Energy Facilities on properties under land conservation (Williamson Act) contract as compatible uses subject to specific criteria in proposed Appendix F.

DISCUSSION

Introduction

On December 8, 2014 the Agricultural Preserve Review Committee (APRC) met to consider a proposal by the Department of Planning and Building to amend The Rules of Procedure to Implement the Land Conservation Act of 1965 to allow Renewable Energy Facilities on properties under land conservation (Williamson Act) contract as compatible uses with amendments to Table 2 (Agricultural and Compatible Uses for lands Subject to Land Conservation Contracts and Farmland Security Zone Contracts), and subject to specific criteria in proposed Appendix F.

Planning Department staff presented information on the RESP review criteria for different size projects and the permit processing requirements (permit level) being proposed.

Staff to the Agricultural Preserve Review Committee presented information regarding the integration of the Streamlining Program into the Rules of Procedure and the implications for the Williamson Act program.

The Committee discussed a number of issues pertaining to the siting of renewable energy facilities on different types and sizes of properties such as prime land preserves and dry land preserves (and corresponding land conservation contracts) as well as the appropriate permit level and size of facilities.

The Draft Environmental Impact Report, released on November 17, 2014, was transmitted to and considered by Committee Members (as required by state law) along with the staff report, prior to the meeting and the resulting recommendation.

The recommended Amendments are as follows:

A. Amendments to Table 2 of the Rules of Procedure (Agricultural and Compatible Uses for lands Subject to Land Conservation Contracts and Farmland Security Zone Contracts)

1. The current USE GROUP "Electric Generation Plants" (renamed "Energy Generating Facilities" in the draft Renewable Energy Streamlining Program) to be retained as referenced in Table 2. (This USE GROUP includes facilities that are not renewable energy facilities).
2. Add a new USE GROUP entitled "Renewable Energy Facilities" allowed subject to the criteria in new Appendix F on property under land conservation contract in the Inland area of the county (only).
3. Add note 12 to Table 2 referencing proposed Land Use Ordinance Section 22.32.020.A.2 Accessory Renewable Energy-Generating Facilities which includes a description of on-site Renewable Energy Facilities and permitting levels. (On-site use facilities are currently allowed and would continue to be, as recommended by the Agricultural Preserve Review Committee.)

B. The criteria (to be added to the Rules of Procedure as Appendix F) as recommended by the Review Committee are as follows:

Renewable Energy Facility (REF) projects are allowed on contracted land if they can satisfy the following criteria:

1. These criteria apply to Renewable Energy Facilities only, not "Non-Renewable Energy Facilities" ("Electric Generation Plants" renamed "Energy Generating Facilities" in the draft Renewable Energy Streamlining Program) as defined in Title 22 which are not allowed uses on contracted land.
2. Each property must meet and maintain the current eligibility criteria in the Rules of Procedure for both establishment of an agricultural preserve and entering into a land conservation contract as well as the "Minimum Parcel Size for Conveyance" required by each contract. A land owner with a contract not compliant with current eligibility standards may apply to requalify their property and enter into a new replacement contract as part of the application process for a REF project.
3. A REF project may not be located on prime or potentially prime soils. (Prime or potentially prime soils are any soils classified as Class 1 or Class 2 by the Natural Resource Conservation Service soils survey).
4. REF projects are not allowed on properties qualifying for preserves and contracts as High Productivity Prime Land (Small specialized Farms).

5. For properties qualifying as a Prime Land Preserve the site area acreage for REF projects shall be in addition to the minimum acreage required to meet the 40 acre eligibility criteria. (Example: An REF project on prime land preserve property must exceed 40 acres by the amount of the REF site acreage).
6. For properties qualifying as Mixed Use (irrigated and non-irrigated uses) the required acreage shall be consistent with the 80 to 160 acre minimum parcel size based on eligible soils classes and uses. The acreage required for the REF site shall be in addition to the applicable minimum parcel size.
7. For properties qualifying as Dry Land Preserves (non-irrigated Class 3 & 4 soils, minimum 160 acres in size — with 100 acres of Class 3 & 4 qualifying soils and current or historical dry farm agricultural use) the acreage required for the REF site shall be in addition to minimum parcel size of 160 acres.
8. For properties qualifying as Rangeland Preserves (Class 6 & 7 or better soils and minimum 320 acres in size — with 100 acres of Class 6 & 7 qualifying soils and 100 acres with soils moderately to well-suited as rangeland) the REF project site shall be in addition to the minimum parcel size of 320 acres.
9. REF project site acreage may not exceed 10% of the total acreage of the property under a land conservation contract up to but not to exceed 20 acres in size.
10. The proposed REF project must be found consistent with the Principles of Compatibility in the Williamson Act [Government Code Section 51238.1(a) et seq.].
11. All REF projects shall be reviewed by Department of Planning and Building staff through Site Plan application for projects up to 10 acres in site area and Minor Use Permit for projects over 10 acres in site area. All REF projects shall be reviewed for compliance with the above criteria. REF projects subject to Minor Use Permit review (or Conditional Use Permit if otherwise required) shall be presented to the Agricultural Preserve Review Committee for a recommendation to the Review Authority. The Agricultural Preserve Review Committee shall base their review on the criteria in the Rules of Procedure and the Principles of Compatibility.

PROPOSED REVISIONS TO THE DRAFT RENEWABLE ENERGY STREAMLINING PROGRAM DATED NOVEMBER 17, 2014

All page numbers are references to page numbers in Draft Renewable Energy Streamlining Program dated November 17, 2014. Changes to the November 17 text are highlighted, shown in legislative format and preceded by the reasons for the changes. These changes are included in Attachments 3 and 4 as highlighted text.

Page 11: correction to reference of the Land Use and Circulation Elements:

County of San Luis Obispo General Plan, Land Use and Circulation Elements, The **Area Plans Official Maps** (Inland, Part IV). The following maps of the Renewable Energy Combining Designation will be added to the Element.

Page 29, Subsection 22.06.030.C, Table 2-2: minor formatting revisions to a superscripted footnote:

<u>Energy-generating facilities</u> ⁽⁹⁾ Electricity generation - Except WECF	<u>A2</u>	<u>A2</u>	A2	A2	A2	<u>A2</u>	A2	22.32
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Page 30, Section 22.08.030, Table 2-3: minor formatting edit (underlining added) to show proposed addition:

Impervious Surface	Area per site of site coverage by paving and structures ⁽⁶⁾	Less than 1 acre ⁽⁶⁾	N.A. ⁽⁶⁾	1 to 3 acres	More than 3 acres
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Page 32, Subsection 22.14.100.B.1: clarification of calculation of SEF area:

1. The permit requirements of this Section shall apply only to proposed SEFs meeting the site criteria of this Section, inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use. The size of ground-mounted SEF shall be measured as directed by Section 22.32.030.A. Where other accessory or primary uses are proposed that indirectly support

proposed SEFs, the applicable permit requirements for the additional use(s) shall be determined as described in Chapter 22.06 (Allowable Land Uses and Permit Requirements by Land Use Category). For purposes of determining permit requirements and standards as established by this Section, the size of the SEF shall be measured as the total area of the facility inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use, unless otherwise noted.

Page 32, Subsection 22.14.100.B.2: minor edits for 1) consistent references to the Land Conservation Act, and 2) clarification of applicable SEF permit requirements for SEFs on land under Land Conservation Act contract:

2. Land Conservation Act. Permit requirements of this Section (22.14.100) shall apply to proposed SEFs on land subject to a Land Conservation Act contract within an RE Combining Designation as follows.
 - a. If a proposed SEF is greater than 20 acres in total area within an RE Combining Designation and is subject to a Land Conservation Act Contract:
 - (1) The project shall be ineligible for the permit requirements established by this Section (22.14.100) but may elect to comply with standards of this section to streamline other aspects of project review.
 - (2) The project shall require a Minor Use Permit (or Conditional Use Permit if otherwise required by Chapter 22.32 or the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2)).
 - (3) The project shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Williamson Act itself and any changes that may be made to it.
 - b. If a proposed SEF is 20 acres or less in total area and subject to a Land Conservation Act contract Contract within an RE Combining Designation, the project is allowable in all land use categories if the proposed SEF meets the site eligibility criteria for Tier 1 SEFs in Chapter 22.32 (Energy-Generating Facilities).
 - c. If a proposed SEF is 20 acres or less in total area and subject to a Land Conservation Act contract within an RE Combining Designation, when inconsistent with the site eligibility criteria for Tier 1 SEFs, the project may qualify as Tier 2 or Tier 3 SEF if the proposed SEF meets the site eligibility criteria established in this Section (22.14.100).

Page 33, Subsection 22.14.100.B.3: clarification for applicability of Airport Review Combining Designation:

3. The standards of this Section shall not apply to proposed SEFs that meet the following criteria. When a proposed SEF meets any of the following criteria, the project shall be subject to permit requirements of Chapter 22.32 (Energy-Generating Facilities) or other applicable sections of this Title:
 - a. Include energy transmission or distribution facilities within an RE Combining Designation and involve easements over parcels outside of an RE Combining Designation.
 - b. Require new transmission lines to tie in to the electric grid.
 - c. Are considered accessory energy-generating facilities or Tier 1 solar electric facilities, which are allowable uses as regulated by Chapter 22.32 (Energy-Generating Facilities).
 - d. Sited on Class I or Class II soils, consistent with the areas included in the RE Combining Designation map established by Part III of the Inland Framework for Planning – Land Use Element.
 - e. Located within visual Sensitive Resource Areas.
 - f. Parcels subject to conservation easements that prohibit energy-generating facilities.
 - g. Parcels in the Recreation (REC) ~~and~~ Open Space (OS), Residential Single Family (RSF), Residential Multi Family (RMF) or Residential Suburban (RS) land use designations.
 - h. Parcels in the Airport Review (AR) Area.

Page 34, Subsection 22.14.100.E: minor revisions for clarity of permit requirements, with subsequent revisions to numbering in Subsections 22.14.100.E.2-5:

- E. Permit requirements. ~~A proposed roof- or structure-mounted SEF within the RE Combining Designation may be eligible for Zoning Clearance as described in Subsection 1.~~ If a ground-mounted SEF is proposed within the RE Combining Designation and meets the criteria of this Section, the project may be eligible for Site Plan Review as described in Subsections ~~1 – 3 2-4~~. If an SEF is proposed within the RE Combining Designation but does not meet the criteria of this Section, the project is subject to the permit requirements and standards of Chapter 22.32 (Energy-Generating Facilities).
 1. Tier 1 SEF. A proposed SEF that is no more than 20 acres, or that is roof- or structure-mounted, is allowable within and outside the RE Combining Designation subject to Zoning Clearance or Site Plan Review, as established in Tier 1 SEF, Roof- or Structure-

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~~Mounted. A proposed SEF that is located on the roof or structure of a use that is conforming per Chapter 22.72 of this Title is allowable with Zoning Clearance in accordance with Chapter 22.32 (Energy-Generating Facilities). No additional streamlining or standards for Tier 1 SEFs are provided in this Section (22.14.100).~~

~~2. Tier 1 SEF, Ground-Mounted. A proposed SEF that is ground-mounted, no more than 20 acres in total area within the RE Combining Designation, and complies with all development standards of Subsection F of this Section is allowable with Site Plan Review. The proposed SEF shall also meet one of the following criteria:~~

~~a. Is proposed on land that is graded, disturbed, or altered; consistent with definitions for “Development,” “Grading,” or “Site Disturbance” in this Title, or~~

~~b. Is located on land that was previously developed for industrial or commercial purposes and degraded or contaminated and then abandoned or underused.~~

If a proposed project is ground-mounted and 20 acres or less in size but does not meet the criteria ~~for a Tier 1 SEF~~ in Chapter 22.32 Subsection 2, the project may be eligible for Site Plan Review as a Tier 2 or Tier 3 SEF within the RE Combining Designation, as described below in Subsections 2.3-4. If a project is proposed within the RE Combining Designation but does not meet the criteria for Tier 2 or Tier 3 SEFs as outlined in this Section (22.14.100), the permit requirements and standards of Chapter 22.32 (Energy-Generating Facilities) apply.

~~2.3. Tier 2 SEF. If a proposed SEF meets the following criteria and is 40 acres or less in total area of the facility within the RE Combining Designation, the project may be considered a Tier 2 SEF eligible for Site Plan Review. Proposed SEFs that are 40 acres or less in size that do not meet the criteria for a Tier 2 SEF described in Subsections a-c e may be determined to be a Tier 3 SEF based on the criteria of Subsection 3.4 below. To be eligible for Site Plan Review within the RE Combining Designation as a Tier 2 SEF, a proposed project must be consistent with the following criteria:~~

~~a. Total area of the proposed SEF is no more than 40 acres in area, measured as the total area of the facility inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.~~

~~a. b. Is proposed on a parcel included in any land use category (vacant or not), except for Open Space (OS), or Recreation (REC), Residential Single Family (RSF), Residential Multi Family (RMF) or Residential Suburban (RS).~~

~~b.-c. In the Agriculture (AG) land use category, is not sited on any type of Important Agricultural Soils as defined in the Conservation and Open Space Element, unless sited on Important Agricultural Soils that are designated as solely Highly Productive Rangeland Soils by the Conservation and Open Space Element. The proposed~~

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project may be located on **solely** Highly Productive Rangeland Soils or sited on other areas of the parcel without any Important Agricultural Soils.

c. -d. Complies with all development standards of Subsection F of this Section.

If a proposed project is 40 acres or less in size within the RE Combining Designation but does not meet the criteria in Subsection 2, the project may be eligible for Site Plan Review as a Tier 3 SEF within the RE Combining Designation, as described below in Subsection 3. If a project is proposed within the RE Combining Designation but does not meet the criteria for Tier 2 or Tier 3 SEFs as outlined in this Section (22.14.100), the permit requirements and standards of Chapter 22.32 apply **and no alternative requirements are available within the RE Combining Designation.**

3. 4. ~~—~~ Tier 3 SEF. If a proposed SEF meets the following criteria and is 160 acres or less within the RE Combining Designation, the project may be considered a Tier 3 SEF eligible for Site Plan Review. To be eligible for Site Plan Review within the RE Combining Designation, a proposed project must be consistent with the following criteria:

~~a. —~~ **Total area of the proposed SEF is no more than 160 acres in area, measured as the total area of the facility inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.**

~~a. b.~~ Is proposed on a parcel included in the Commercial Service (CS), Industrial (IND), or Agriculture (AG) land use categories (vacant or non-vacant).

b. -c. In the Agriculture land use category, is not sited on any type of Important Agricultural Soils as defined in the Conservation and Open Space Element, unless sited on Important Agricultural Soils **that are** designated as **solely** Highly Productive Rangeland Soils by the Conservation and Open Space Element. The proposed project may be located on **solely** Highly Productive Rangeland Soils or sited on other areas of the parcel without any Important Agricultural Soils.

c. -d. Complies with all development standards of Subsection F of this Section.

If a proposed project is 160 acres or less in size within the RE Combining Designation but does not meet the criteria in Subsection **3.4** of this Section, the permit requirements and standards of Chapter 22.32 apply **and no alternative requirements are available within the RE Combining Designation.**

4. 5. ~~—~~ Tier 4 SEF. A solar electric facility that is greater than 160 acres is considered a Tier 4 SEF and shall require a Conditional Use Permit, as identified by Chapter 22.32 (Energy-Generating Facilities). No alternative requirements or streamlining for Tier 4 SEFs apply within the RE Combining Designation.

Page 36, Subsection 22.14.100.F: clarifications to applicability of RE Combining Designation standards for Tier 2 and 3 SEFs:

- F. Development standards. In addition to applicable site criteria in Subsections E(2) – E(4), proposed ground-mounted SEFs within the RE Combining Designation **eligible for Site Plan Review** shall comply with all standards in Section 22.32.040.A, 22.32.040.C, 22.32.040.D, and 22.32.050.B-D of this Title, **in addition to and** the following, as applicable:

Page 36, Subsection 22.14.100.F.2: revisions for 1) clarity, and 2) refinements to Tier 2 – Tier 3 applicability:

2. If Botanical Reports or Biological Reports prepared as part of the proposed SEF permit application indicate the presence or potential presence of state or federally listed wildlife or plant species or designated critical habitat, the permit requirements and standards of Chapter 22.32 (Energy-Generating Facilities) apply and no alternative requirements are available within the RE Combining Designation. Exceptions to this requirement may apply to ground-mounted **Tier 1 and Tier 2** SEFs **less than 40 acres in total project area** if the proposed project is located **on parcels** in the San Joaquin Kit Fox Habitat Area and **meets the following criteria:**
 - a. Botanical Reports or Biological Reports do not indicate the presence of additional state or federally listed wildlife or plant species or designated critical habitat on or adjacent to the project site. **as follows:**
 - b. The project site of the proposed SEF is less than 40 acres in area, measured as total project site inclusive of total site disturbance. For all other purposes of determining consistency with standards of this Section (22.14.100), the area of the SEF shall be calculated as otherwise directed by Subsection 22.14.100.B1.
 - a. **Tier 1 SEFs, ground-mounted, less than 20 acres located in the San Joaquin Kit Fox Habitat Area that comply with the standard mitigation ratio and all applicable kit fox conditions for grading and building plans set forth by the Director.**
 - c. b. **Tier 2 SEFs, less than 40 acres; The project is acres, located in the San Joaquin Kit Fox Habitat Area that **comply complies**** with the standard mitigation ratio and all applicable kit fox conditions for grading and building plans set forth by the Director.

Page 37, Section 22.14.100.F.4-5: minor revisions for clarity and to remove redundancy:

4. Ground-mounted SEFs proposed on remediated brownfield sites (areas that have been developed for industrial or commercial purposes, polluted, and then abandoned or underused before remediation); or **SEFs proposed on** disturbed areas with site disturbance such as grading, paving, development, or other improvements; shall meet the following:

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- a. The Site Plan Review application shall include a Habitat Assessment prepared by a qualified biologist.
 - b. Provide setbacks from any special-status plant species and habitat that could support special-status plant or wildlife species as specified in the Habitat Assessment for the proposed project, including federally and state-listed Threatened and Endangered, Candidate, and Rare Species; California Species of Special Concern; California Fully Protected Species; and California Rare Plant Rank 1B and 2 plants.
5. Ground-mounted SEFs shall be set back a minimum of 500 feet from any of the following on the site **if identified** in the Biological Report; required by Section 22.60.040 of this Title:
- a. Sensitive vegetation and habitat that could support special-status species.
 - b. Special-status species that could occur on the site or adjacent properties.

Page 38, Section 22.14.100.F.8-9 minor revisions for clarity:

8. Ground-mounted SEFs proposed on undisturbed areas with no development or site improvements shall provide revegetation for any vegetation to be removed, as follows:
- a. Provide a minimum 3:1 offset ratio for vegetation to be removed and that is identified as sensitive by the California Department of Fish and Wildlife, including but not limited to riparian vegetation.
 - b. Provide a minimum 1:1 offset ratio for any other vegetation to be removed that is identified **by the Biological Report required in Section 22.60.040 as** ~~sensitive~~ **and habitat** that could support special-status species on the site or adjacent properties.
 - c. When landscaping is required, it shall include drought-tolerant, non-invasive species to avoid or minimize watering requirements, be compatible with the surrounding native vegetation, and include at least 80 percent native species.
9. In the Agriculture (AG) land use category, SEFs proposed on active agricultural uses or SEFs proposed on Highly Productive Rangeland, as defined in the Conservation and Open Space Element, shall meet the following.:
- a. For projects proposed on land in an active agricultural use, the project shall provide a conservation easement as follows **in consultation with the Agriculture Department**, which shall be on land that supports grazing or uses similar to those within the project site that would be lost due to the proposed project:

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- (1) A conservation easement located within San Luis Obispo County at a 1:1 ratio on land that can support agricultural uses at the same intensity as the affected agricultural uses at the proposed project site, or
 - (2) A conservation easement located within San Luis Obispo County at a 3:1 ratio on land that can support agricultural uses at a lower the same intensity than as the affected agricultural uses on a parcel other than at the proposed project site.
- b. SEFs proposed on Highly Productive Rangeland should be sited to minimize impacts to Important Agricultural Soils to the maximum extent feasible, in consultation with the Agriculture Department. Where that is not feasible, SEFs proposed on Highly Productive Rangeland Soils shall provide the following:
- (1) A conservation easement located within San Luis Obispo County at a 1:1 ratio on Highly Productive Rangeland Soils or other Important Agricultural Soils of comparable suitability for agricultural production at the proposed project site, or
 - (2) A conservation easement located within San Luis Obispo County at a 3:1 ratio on Highly Productive Rangeland Soils or other Important Agricultural Soils of comparable suitability for agricultural production on a parcel other than the proposed project site.
- c. To determine the suitability of proposed easement sites for purposes of addressing the conversion of agricultural uses or Highly Productive Rangeland, the Agriculture Department shall evaluate criteria related to the intensity and suitability of the site for agriculture, including but not limited to soil capability, available water supply, existing on-site land uses, parcel size, and land use designation.
- d. If a proposed SEF demonstrates dual-use design measures that ensure the long-term productivity of agricultural uses on site, or protects agricultural uses or Highly Productive Rangeland Soils through other means, the SEF is allowable without a conservation easement through a Minor Use Permit in consultation with the Agriculture Department. Techniques to allow for continuation of agriculture uses (dual-use) or protection of Highly Productive Rangeland Soils may vary based on underlying parcel and site characteristics, but can be achieved through multiple design features. Examples include, but are not limited to:
- (1) The installation of SEFs on poles with no disturbance to soils or crops,
 - (2) Elimination of concrete bases, or
 - (3) Mounting panels off the ground using other technologies while continuing agricultural uses or protecting soils underneath.

Page 41, Section 22.32.020: minor revisions for consistency with proposed definitions for Article 8:

22.32.020 – Applicability

The land use permit requirements of this Chapter apply to the new construction of energy-generating ~~facilities-land uses~~.

Page 41-42, Section 22.32.020.A.2: edits to 1) criteria for accessory renewable energy-generating facilities to allow rooftop SEFs as accessory, 2) increase the maximum size for accessory renewable energy-generating facilities,

2. Accessory renewable energy-generating facilities.
 - a. An accessory renewable energy-generating facility (see definition in Chapter 22.80) that ~~is ground-mounted and~~ provides energy for on-site uses ~~shall be subject to the permit requirements of this chapter only when does not require a land use permit unless~~ the facility meets one or more of the criteria listed in Subsection b. ~~If proposed Applications for~~ accessory ~~renewable~~ energy-generating facilities ~~do not meet the criteria in Subsection b and shall~~ demonstrate compliance with all applicable standards ~~for the proposed energy-generating facility~~ provided in this Chapter and any other applicable provisions of this Title, ~~the project shall require Zoning Clearance.~~
 - b. An accessory renewable energy-generating facility shall require a land use permit as established by ~~Section 22.32.030 of~~ this Chapter if the facility meets one or more of the following criteria:
 - (1) Provides energy for sale to off-site uses.
 - (2) Is within an area designated Open Space (OS) or Recreation (REC).
 - (3) Is within ~~an Airport Review,~~ a Flood Hazard, or Sensitive Resource Area Combining Designation.
 - (4) Is a ground-mounted facility that is greater than ~~3 acres~~ ~~21,780 square feet~~ in area).
 - (5) Is located within 100 feet of any adjacent property or public road.
 - (6) Is proposed on a parcel with no existing or apparent use or development on the property.
 - ~~(7) Is sited on Class I or II soils.~~
 - (7) Is subject to environmentally related permits.

B Other area standards. Where a parcel is subject to standards for combining designations in Chapter 22.14, or the standards in Article 9 (Planning Area Standards) or Article 10 (Community Planning Standards), the standards of those sections shall prevail over the requirements of this Chapter (22.32, Energy-Generating Facilities), except for accessory energy-generating facilities within the Airport Review (AR) Area consistent with the criteria in Subsection 22.32.020.A.2.

Page 42, Section 22.32.030: edits to correct proposed revisions to existing text.

SECTION 19: Section ~~22.32.030~~ Section 22.32.020 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to read as follows:

~~22.32.020 22.32.030~~ – ~~Development Standards~~ Permit and Application Requirements

Page 44, Section 22.32.030.3.a: minor edits to include a section reference

3. Renewable energy facilities.
 - a. Permit requirements for SEFs within the Renewable Energy (RE) Combining Designation seeking Site Plan Review are established in Section 22.14.100 (Renewable Energy Area).

Page 44, Allowable Land Uses and Permit Requirements Table: 1) minor grammatical edits, and 2) corrections to table notes for consistency with proposed revisions:

ALLOWABLE LAND USES AND PERMIT REQUIREMENTS FOR RENEWABLE ENERGY FACILITIES BY LAND USE CATEGORY

<u>Land Use</u> ^(1, 2)	<u>Permit Requirements By L.U.C. ⁽³⁾</u>						<u>Notes/Site-Specific Standards</u>
	<u>AG</u> ⁽⁴⁾	<u>RL</u>	<u>RR</u>	<u>RS</u>	<u>RSF</u>	<u>RMF</u>	
<u>Bioenergy Facilities</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>				Refer to 22.32.030 <u>22.32.040</u> .
<u>Solar Electric Facilities (SEF)</u> ⁽⁵⁾							
<u>Tier 1 SEF: up to 20 acres</u> ⁽⁶⁾	<u>A2</u> ⁽⁶⁾	<u>A2</u>	<u>A2</u>	<u>A2</u>	<u>A2</u>	<u>A2</u>	Allowable only where minimum site criteria are met. Refer to 22.32.030 <u>22.32.040</u> and <u>22.32.050</u> .
<u>Tier 2 SEF: up to 40 acres</u> ⁽⁷⁾	<u>A2</u> ⁽⁷⁾	<u>A2</u>	<u>A2</u>				Permit requirements vary by area. Refer to 22.32.030 <u>22.32.040</u> and <u>22.32.050</u> . ⁽⁸⁾

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Land Use ^(1, 2)	Permit Requirements By L.U.C. ⁽³⁾						Notes/Site-Specific Standards
	AG ⁽⁴⁾	RL	RR	RS	RSF	RMF	
Tier 3 SEF: up to 160 acres ⁽⁵⁾	A2 ⁽⁷⁾	A2	A2				Permit requirements vary by area. Refer to 22.32.030 , 22.32.040 and 22.32.050 . ⁽⁸⁾
Tier 4 SEF: greater than 160 acres ⁽⁵⁾	CUP ⁽⁷⁾	CUP	CUP				Refer to 22.32.030 , 22.32.040 and 22.32.050 .
Solar Thermal Facilities Solar thermal facilities – all technologies ⁽⁷⁾	CUP ⁽⁷⁾	CUP	CUP				Refer to 22.32.030 , 22.32.040 and 22.32.050 .
Wind Energy Conversion Systems (WECS)							
Tier 1 WECS: roof- or structure-mounted ⁽⁵⁾	P	P	P				Refer to 22.32.030 , 22.32.040 and 22.32.060 .
Tier 2 WECS: ground-mounted up to 100 feet tall and no more than rated capacity of 2 MW for all turbines ⁽⁵⁾	MUP ⁽⁷⁾	MUP	MUP				Refer to 22.32.030 , 22.32.040 and 22.32.060 .
Tier 3 WECS: greater than 100 feet tall or with a rated capacity of 2 MW or more for all turbines ⁽⁵⁾	CUP ⁽⁷⁾	CUP					Refer to 22.32.030 , 22.32.040 and 22.32.060 .

Notes

(1) See Article 8 and this Chapter for definitions of the listed land uses.

(2) See Article 9 for any restrictions or special permit requirements for a listed use in a specific community or area.

(3) L.U.C. means “land use category.” See Section 22.04.020, Table 2-1, for a key to the land use category abbreviations.

(4) Land uses on property under Land Conservation Act contracts must adhere to the County’s Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it.

(5) The size of the SEF shall be measured as the total area of the facility, inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.

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(6) For Tier 1 SEF projects proposed on land under Land Conservation Act contract up to 20 acres in size, the permit requirements of this Chapter shall apply. Tier 1 SEFs shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it.

(7) For Tier 2 – Tier 4 projects proposed on land under Land Conservation Act:

1. Proposed projects up to 20 acres in size may be reviewed by Department of Planning and Building staff for consistency with the Rules of Procedure and the Principles of Compatibility unless a discretionary use permit is required by Title 22, in which case the REF project shall be presented to the Agricultural Preserve Review Committee for a recommendation to the Review Authority. The Agricultural Preserve Review Committee shall base their review on the criteria in the Rules of Procedure and the Principles of Compatibility.

2. Proposed projects greater than 20 acres shall require a Minor Use Permit shall be required and the project shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it. For purposes of determining permit requirements for WECS proposed on land under Land Conservation Act contract, the area shall be measured as the total area of site disturbance.

(8) For projects proposed in the Renewable Energy Combining Designation, if the project is consistent with criteria of the RE Combining Designation, alternative permit requirements may apply. Refer to Section 22.14.100 (Renewable Energy Area).

(9) Solar heating and hot water systems are separately defined in Article 8, and are generally allowable as accessory energy-generating facilities, consistent with the criteria of this Chapter.

Page 46, Table 2-2: 1) minor grammatical edits, and 2) clarifications due to inapplicability of Land Conservation Act footnotes to the following land use categories:

ALLOWABLE LAND USES AND PERMIT REQUIREMENTS FOR RENEWABLE ENERGY FACILITIES BY LAND USE CATEGORY

Land Use ^(1, 2)	Permit Requirements By L.U.C. ⁽³⁾							Notes/Site-Specific Standards
	OP	CR	CS	IND	OS	REC	PF	
Bioenergy Facilities			CUP	CUP			CUP	Refer to 22.32.030 22.32.040.
Solar Electric Facilities (SEF) ⁽⁴⁾								
Tier 1 SEF: up to 20 acres ⁽⁵⁾	A2	A2	A2	A2	A2	A2	A2	Allowable only where minimum site criteria are met. Refer to 22.32.030 22.32.040 and 22.32.050.
Tier 2 SEF: up to 40 acres ⁽⁶⁾		A2	A2	A2			A2	Permit requirements vary by area. Refer to 22.32.030 22.32.040

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Land Use ^(1, 2)	Permit Requirements By L.U.C. ⁽³⁾							Notes/Site-Specific Standards
	OP	CR	CS	IND	OS	REC	PF	
								and 22.32.050. ⁽⁵⁾
Tier 3 SEF: up to 160 acres ⁽⁶⁾			A2	A2			A2	Permit requirements vary by area. Refer to 22.32.030 22.32.040 and 22.32.050. ⁽⁵⁾
Tier 4 SEF: greater than 160 acres ⁽⁶⁾			CUP	CUP			CUP	Refer to 22.32.030 22.32.040 .
Solar Thermal Facilities Solar thermal facilities – all technologies ⁽⁶⁾			CUP	CUP				Refer to 22.32.030 22.32.040 and 22.32.050
Wind Energy Conversion Systems (WECS)								
Tier 1 WECS: roof- or structure-mounted ⁽⁶⁾			P	P	P		P	Refer to 22.32.030 22.32.040 and 22.32.060 .
Tier 2 WECS: ground-mounted up to 100 feet tall and no more than rated capacity of 2 MW for all turbines ⁽⁶⁾			MUP	MUP			MUP	Refer to 22.32.030 22.32.040 and 22.32.060 .
Tier 3 WECS: greater than 100 feet tall or with a rated capacity of 2 MW or more for all turbines ⁽⁶⁾			CUP	CUP				Refer to 22.32.030 22.32.040 and 22.32.060 .

Notes

- (1) See Article 8 and this Chapter for definitions of the listed land uses.
- (2) See Article 9 for any restrictions or special permit requirements for a listed use in a specific community or area.
- (3) L.U.C. means “land use category.” See Section 22.04.020, Table 2-1, for a key to the land use category abbreviations.
- (4) The size of the SEF shall be measured as the total area of the facility, inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use.
- (5) ~~For Tier 1 SEF projects proposed on land under Land Conservation Act contract up to 20 acres in size, the permit requirements of this Chapter shall apply. Tier 1 SEFs shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it.~~

~~(6) For projects proposed on land under Land Conservation Act contract greater than 20 acres, a Minor Use Permit shall be required and the project shall comply with the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Table 2), individual Contracts, the provisions of the Land Conservation Act itself and any changes that may be made to it. For purposes of determining permit requirements for WPCS proposed on land under Land Conservation Act contract, the area shall be measured as the total area of site disturbance or grading.~~

~~(57) For projects proposed in the Renewable Energy Combining Designation, if the project is consistent with criteria of the RE Combining Designation, alternative permit requirements may apply. Refer to Section 22.14.100 (Renewable Energy Area).~~

~~(6) Solar heating and hot water systems are separately defined in Article 8, and are generally allowable as accessory energy-generating facilities, consistent with the criteria of this Chapter.~~

Page 48, Section 22.32.030.B: 1) minor revisions for clarity in cross-references, 2) clarifications in formatting for proposed additions to existing text:

B. Application contents. In addition to any specific requirements later in this Section, land use permit applications shall comply with the requirements of Chapter 22.62 (Permit Applications) and shall also describe:

1. The physical and operating characteristics of the facility; the proposed design capacity of the facility; the operating schedule; how the electric energy shall be used for on-site purposes or for off-site distribution; and if any electric energy shall leave the site, the physical and contractual arrangement for tying-in, or connecting, to other facilities.;
2. ~~For discretionary projects, alternatives~~ Alternatives to the proposed facility and to distinct or separable aspects of the proposal. This will include reliability, as well as economic and environmental advantages and disadvantages.;
3. Plans for any overhead or underground transmission lines, transformers, inverters, switchyards, or any required new or upgraded off-site transmission facilities.;

~~4.~~ 4. For energy-generating facilities that require a Site Plan Review, an application form and other information prepared as specified in Section 22.60.040 ~~B,~~ 22.60.040.D, and 22.62.040 for Site Plan Review. As noted in Section 22.60.040E, the Director may waive some or all application content requirements at the written request of the applicant if it is demonstrated that the absence of the documentation will not reduce the ability of the Director to evaluate the compliance of the proposed project with the standards of this Title.

~~5.~~ 5. For energy-generating facilities eligible for Zoning Clearance as determined by ~~Section 22.32.030 of~~ this Chapter, an application form and information required by Section 22.60.040 ~~B~~ and 22.62.030 of this Title.

~~6.~~ 4. For Tier 4 SEFs and discretionary non-renewable energy-generating facilities, 4.
~~t~~The number and characterization by trades of the estimated construction and

operation force. If construction is estimated to take over six months, the construction workforce will be estimated for each six-month period and will include estimates of numbers of locally hired employees and employees who will move into the area, and a discussion of the estimated impact that employees moving into the area will have on housing, schools, and traffic.

7. Proposed energy-generating facilities that require a discretionary permit that are located in the Camp Roberts Study Area (see Figure) shall be referred by the County to Camp Roberts for review and comment.

CAMP ROBERTS STUDY AREA

[PLACEHOLDER]

Page 49, Section 22.32.030: minor revisions and reorganization for clarity

~~22.32.030~~ 22.32.040 – Development Standards and General Requirements

The following development standards are applicable to all types of energy-generating facilities allowable by this Title, as identified below. Note that general standards are not exclusive. Projects may be subject to multiple types of standards from Subsections A – C.

A. General standards applicable to all energy-generating facilities.

1. Decommissioning and restoration. A decommissioning and restoration plan shall be submitted that includes the removal of all facility elements and reclamation of the site. Plans shall address: removal of all facility elements and reclamation of the site including but not limited to evaluation of adjacent grasses and vegetation, soil preparation, seed/crop planting, and watering and fertilization (if necessary). Removal and restoration shall also address all facility elements, including but not limited to solar modules, trackers, tracking, posts, power station electrical equipment, underground conduits and cables, concrete pads, fences, security lighting, and access road gravels.

~~2. A. Bonding. Following permit approval and prior to any work on the proposed site, the applicant shall post a surety bond in favor of the County, conditioned on conformance with all applicable conditions, restrictions, and requirements of this Title and any conditions required by the permit. Such guarantee is in addition to any bond required by the state. The total value of this bond will be established through the Conditional Use Permit review and approval process, and will be administered in compliance with Section 22.64.040.~~ Bonding for decommissioning energy-generating facilities. Prior to acceptance of a discretionary permit application for an energy-generating facility, the applicant shall submit a cost estimate of the decommissioning work for review by the County or qualified third party consultant approved by the County. A bond shall be posted in the amount identified in the cost estimate prior to issuance of any construction permits.

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~~B. Environmental quality assurance. An Environmental Quality Assurance Program covering all aspects of construction and operation shall be submitted prior to construction of any project component. This program will include a schedule and plan for monitoring and demonstrating compliance with all requirements of the Conditional Use Permit. Specific requirements of this Environmental Quality Assurance Program will be determined during the environmental review process and Conditional Use Permit review and approval process.~~

~~2.3.~~ C. Clearing and revegetation. The land area exposed and the vegetation removed during construction shall be the minimum necessary to install and operate the facility. Topsoil must be stripped and stored separately. Disturbed areas no longer required for operation will be regraded, covered with topsoil, and replanted during the next appropriate season.

~~3.4.~~ D. Utility interconnect. All distribution lines, electrical substations, and other interconnection facilities shall be constructed to the specifications of the utility. A statement from the utility confirming that the proposed interconnection is acceptable shall be filed with the County building inspector prior to the issuance of any building permit. Interconnection shall conform to procedures and standards established by the California Public Utilities Commission.

~~E. Other requirements. Development standards in addition to those specified in this Section and in this Chapter may be imposed through conditions of approval where Minor Use Permit or Conditional Use Permit approval is required.~~

~~4.5.~~ Undergrounding of electrical equipment. All electric distribution lines of low to medium voltage less than 60 kV shall be located underground up to the low-voltage side of the step-up transformer, to the point of on-site use, or to the utility-interface point of an on-site substation.

~~5.6.~~ Safety signage. The project shall include electrical safety signage on all arrays in the immediate vicinity of all wiring and all electrical conduits to reduce the risk of electrical shock and fire. All signage shall use weather-resistant and fade-proof materials to provide reasonable notice to protect employees and visitors.

~~6.7.~~ Easements. Any application for a renewable energy facility or distribution lines requiring easements across parcels other than those under the control of the project applicant, or involving multiple parcels, shall provide evidence of necessary easements prior to the issuance of a building permit. The applicant shall also provide evidence of adequate noticing for all impacted landowners and regulatory agencies

B. Bonding. The permit application for any energy-generating facility except for Tier 1 SEF, Tier 1 WECS, and accessory energy-generating facilities shall include a cost estimate of the decommissioning work with the decommissioning and restoration plan required by

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Subsection 22.32.040.A, for review by the County or qualified third-party consultant approved by the County. A bond shall be posted in the amount identified in the cost estimate prior to issuance of any construction permits.

- C. Standards applicable to energy-generating facilities requiring a discretionary permit.
1. Environmental quality assurance. Projects that require a discretionary permit per this Chapter Section shall submit an Environmental Quality Assurance Program covering all aspects of construction and operation prior to construction of any project component. This program will include a schedule and plan for monitoring and demonstrating compliance with all requirements of the land use permit. Specific requirements of this Environmental Quality Assurance Program will be determined during the environmental review process and land use permit review and approval process.
 2. Bonding for decommissioning. Energy-generating facilities requiring a discretionary permit per this Section shall submit a decommissioning report for review and approval with a cost estimate of the decommissioning work for review by the County or qualified third-party consultant approved by the County. A bond shall be posted in the amount identified in the cost estimate prior to issuance of any construction permits.
 - ~~3. Standards applicable to energy-generating facilities requiring a discretionary permit that are ground-mounted (including renewable and non-renewable energy-generating facilities):~~
 - ~~a. Decommissioning and restoration. Proposed energy-generating facilities that are ground-mounted shall submit a decommissioning and restoration plan for the facility that includes the removal of all facility elements and reclamation of the site. Plans shall address: removal of all facility elements, including but not limited to solar modules, trackers, tracking, posts, power station electrical equipment, underground conduits and cables, concrete pads, fences, security lighting, and access road gravels and reclamation of the site including but not limited to evaluation of adjacent grasses and vegetation, soil preparation, seed/crop planting, and watering and fertilization (if necessary).~~
 - 3.4 Standards applicable to renewable energy facilities requiring a discretionary permit.
 - a. Recycling and disposal plan for renewable energy facilities. Projects subject to a discretionary permit per this Section shall submit a recycling and disposal plan for renewable energy infrastructure, including photovoltaic panels, in order that project structures not pose a risk to human health or the environment. The recycling and disposal plan should include panels that

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are broken during all project phases, including transport, installation, operation, and after project decommissioning. The plan shall specify how these project components will be disposed of in a manner that will not pose a risk to human health or the environment, and the costs of such disposal.

D. Standards applicable to all ~~ground-mounted~~ energy-generating facilities ~~that are ground-mounted~~.

1. Requirements of this section do not preclude authorities and requirements of other local, state, and federal agencies, including but not limited to the San Luis Obispo County Air Pollution Control District, California Department of Fish and Wildlife, California Department of Transportation, United States Fish and Wildlife Service, and the United States Army Corps of Engineers.

2. Proposed ground-mounted energy-generating facilities otherwise eligible for a Site Plan Review shall be subject to a Minor Use Permit, unless this Chapter (22.32, Energy-Generating Facilities) otherwise requires a Conditional Use Permit, if Botanical Reports or Biological Reports prepared as part of the permit application indicate the presence or potential presence of state or federally listed wildlife or plant species or designated critical habitat. ~~Exceptions to this requirement may apply to ground-mounted energy-generating facilities if unless~~ the proposed project is located in the San Joaquin Kit Fox Habitat Area and meets the following criteria.

~~a. Is ground-mounted;~~

~~a. The project site of the proposed energy-generating facility is ~~is~~ 20 acres or less, measured as total project site inclusive of total site disturbance. For all other purposes of determining consistency with standards of this Chapter (22.32, Energy-Generating Facilities), the area of the facility shall be calculated as otherwise directed by Subsection 22.32.030;~~

~~b. Botanical Reports or Biological Reports do not indicate the presence of additional state or federally listed wildlife or plant species or designated critical habitat on or adjacent to the project site; and~~

~~c. ~~The project complies~~ ~~Complies~~ with the standard mitigation ratio and all applicable San Joaquin Kit Fox Habitat Area conditions for grading and building plans set forth by the Director.~~

3. Abandonment of ground-mounted facilities. When any ground-mounted energy-generating facility ceases to produce energy on a continuous basis for 12 months, it shall be considered abandoned and a public nuisance unless the owner or operator demonstrates by substantial evidence satisfactory to the Director of Planning and Building Department that there is no intent to abandon the facility. Owners or operators are required to remove all equipment and facilities and to restore the site to the original condition upon abandonment. Facilities deemed by the County to be

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unsafe and facilities erected in violation of this Section shall also be considered abandoned.

- a. The Code Enforcement Officer or any other employee of the Planning and Building Department shall have the right to request documentation and/or affidavits from the system owner/operator regarding the system's usage and to make a determination as to the date of abandonment or the date on which other violation(s) occurred.
 - b. Upon a determination of abandonment or other violation(s), the Director of Planning and Building shall send a notice thereof to the owner or operator, indicating that the responsible party shall remove the energy-generating facility and all associated facilities, and remediate the site to its approximate original condition within 90 days of notice by the Director of Planning and Building, unless the County determines that the facilities must be removed in a shorter period to protect public safety. Alternatively, if the violation(s) can be addressed by means other than removing the energy-generating facility and restoration of the site, the Director may advise the owner or operator of such alternative means of resolving the violation(s).
 - c. In the event the responsible parties have failed to comply, the County's Director of Planning and Building or his or her designee may remove the energy-generating facility and restore the site and may thereafter (a) draw funds from any bond, security, or financial assurance that may have been provided, or (b) initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard.
4. Standards applicable to ground-mounted renewable energy facilities (including projects requiring a ministerial or discretionary permit).
- a. Ground-mounted renewable energy facilities shall avoid siting on exposed bedrock, rock outcrops, or significant ridgetops.
 - b. Ground-mounted renewable energy facilities shall provide an Integrated Pest Management Plan to identify measures for weed control. Measures may include, but are not limited to, native ground cover, livestock grazing to control grasses, manual harvest, or vegetative management.
- E. Other requirements. Where this Section does not specify development standards for a proposed energy-generating use, the County will establish standards through the required land use permit.

Page 54, Section 22.32.050, minor addition for a new section header:

22.32.050 – Solar Electric Facilities

- A. Permit requirements. Permit requirements by land use category for SEFs are summarized in Section 22.32.030 of this Chapter. Where requirements vary based on the technology and site criteria, requirements shall be as described in Subsections 1–3.

Page 54, Section 22.32.050.3.b: minor corrections to section references:

1. Applicable permit requirements for SEFs based on site criteria.
 - a. Tier 1 SEF, Roof- or Structure-Mounted. If a proposed SEF located on the roof or structure of a use that is conforming per Chapter 22.72 of this Title, the project shall require Zoning Clearance.
 - b. Tier 1 SEF, Ground-Mounted. If a proposed SEF is 20 acres or less, is not located on Class I or Class II soils, and is located to meet one or more of the site eligibility criteria presented in (a1)–(e2) below, the project is considered a Tier 1 SEF and shall require Site Plan Review. Projects seeking Tier 1 site eligibility must meet the following criteria:
 - (1) Is located on land that is graded, disturbed, or altered; consistent with definitions for “Development,” “Grading,” or “Site Disturbance” in this Title, or
 - (2) Is located on land that was previously developed for industrial or commercial purposes and degraded or contaminated and then abandoned or underused.

Proposed SEFs that are 20 acres or less but do not meet the Tier 1 site eligibility criteria may be considered a Tier 2 SEF eligible for a Minor Use Permit when consistent with the standards of Subsection c below.

- c. Tier 2 SEF. If a proposed SEF is 40 acres or less, is not located on Class I or Class II soils, and is located to meet the site eligibility criteria in (1)–(3) below, the project is considered a Tier 2 SEF and shall require a Minor Use Permit. Proposed projects that are 40 acres or less and located in the Renewable Energy (RE) Combining Designation may be eligible for Site Plan Review when consistent with the site criteria in Section 22.14.100 (Renewable Energy Combining Designation). Projects located outside of the RE Combining Designation seeking Tier 2 site eligibility must meet the following criteria

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- (1) Is not located on Class I or Class II soils, and
- (2) Is ground-mounted, and
- (3) Located in urban areas, or located in rural areas on sites designated as Commercial Service (CS) or Industrial (IND).

Proposed SEFs that are 40 acres or less but do not meet the Tier 2 site eligibility criteria may be considered a Tier 3 SEF allowable with a Conditional Use Permit when consistent with the standards of Subsection ~~c~~d.

- d. Tier 3 SEF. If a proposed SEF is 160 acres or less, is not located on Class **I** or Class II soils, and does not meet the criteria for Tier 1 or Tier 2 SEFs described above in Subsections a - **c and b** and is located outside of a Renewable Energy (RE) Combining Designation, the project is considered a Tier 3 SEF and shall require a Conditional Use Permit where allowable in **Section 22.32.030 table below**. Proposed projects that are 160 acres or less and located in the RE Combining Designation may be eligible for Site Plan Review when consistent with the site criteria in Section 22.14.100 (Renewable Energy Combining Designation).

Page 59, Section 22.32.050.D.7: minor revisions for clarity:

7. SEFs requiring a discretionary permit shall be sited for screening from residences, Sensitive Resources Areas for visual resources, and areas subject to Highway Corridor Design Standards. Screening measures shall use existing site characteristics to the greatest extent feasible, including existing vegetation and natural topography. Where a project cannot be sited to provide adequate screening, the project shall provide additional screening such as landscaping, or wildlife-friendly fencing **shall be provided**.
8. SEFs shall not be sited on designated Class I or Class II soils. Where proposed on parcels with Class I and Class II soils, the SEF shall be sited on other areas of the parcel.
9. SEFs requiring a discretionary permit proposed in the Agriculture (AG) land use category on land in an active agricultural use or **on** Important Agricultural Soils, as defined in the Conservation and Open Space Element, shall meet the following:

Page 59, Section 22.32.050.D.9: minor additions for Agriculture Department coordination:

9. SEFs requiring a discretionary permit proposed in the Agriculture (AG) land use category on land in an active agricultural use or **on** Important Agricultural Soils, as defined in the Conservation and Open Space Element, shall meet the following:

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- a. For projects proposed on land in an active agricultural use, the project shall provide a conservation easement as follows **in consultation with the Agriculture Department**, which shall be on land that supports grazing or uses similar to those within the project site that would be lost due to the proposed project:
- (1) A conservation easement located within San Luis Obispo County at a 1:1 ratio on land that can support agricultural uses at the same intensity as the affected agricultural uses at the proposed project site, or
 - (2) A conservation easement located within San Luis Obispo County at a 3:1 ratio on land that can support agricultural uses at **the same a lower** intensity **as than** the affected agricultural uses **on a parcel other than at** the proposed project site.
- b. For projects proposed on parcels with Important Agricultural~~real~~ Soils, the project should be sited to minimize impacts to Important Agricultural Soils to the maximum extent feasible, **in consultation with the Agriculture Department**. Where that is not feasible, projects proposed on Important Agricultural~~real~~ Soils shall provide the following:
- (1) A conservation easement located within San Luis Obispo County at a 1:1 ratio on Important Agricultural~~real~~ Soils **of comparable suitability for agricultural production** at the proposed project site, or
 - (2) A conservation easement located within San Luis Obispo County at a 3:1 ratio on Highly Productive Rangeland Soils or other Important Agricultural~~real~~ Soils **of comparable suitability for agricultural production** on a parcel other than the proposed project site.
- c. **To determine the suitability of proposed easement sites for purposes of addressing the conversion of agricultural uses or Highly Productive Rangeland, the Agriculture Department shall evaluate criteria related to the intensity and suitability of the site for agriculture, including but not limited to soil capability, available water supply, existing on-site land uses, parcel size, and land use designation.**
- d. If a proposed project demonstrates dual-use design measures that ensure the long-term productivity of agricultural uses on site, or protects Important Agricultural Soils through other means, the project is allowable without a conservation easement through a Conditional Use Permit **in consultation with the Agriculture Department**. Techniques to allow for continuation of

agriculture uses (dual-use) or protection of Highly Productive Rangeland Soils may vary based on underlying parcel and site characteristics, but can be achieved through multiple design features. Examples include, but are not limited to:

- (3) The installation of SEFs on poles with no disturbance to soils or crops;
- (4) Elimination of concrete bases, or
- (5) Mounting panels off the ground using other technologies while continuing agricultural uses or protecting soils underneath.

Page 60, Section 22.32.060: minor revisions to Section references and corrections for consistency:

SECTION 22: Section 22.32.060 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by replacing the existing content in its entirety with new content to read as follows:

Determination of permit requirements for wind energy conversion systems (WECS). Permit requirements for WECS are identified in ~~Table X of~~ Section 22.32.030 of this Chapter by land use category. Where allowable, WECS requirements vary based on technology and system type as described in Subsections 1 – 3.

1. Tier 1 WECS. A wind energy conversion system that is mounted on a roof or structure of a conforming use per 22.72 of this Title is considered a Tier 1 WECS and shall require a Zoning Clearance where allowable.
2. Tier 2 WECS. A wind energy conversion system is considered a Tier 2 WECS and shall require ~~a Minor Use Permit Site Plan Review~~ where allowable if it meets all of the following criteria:
 - a. Is ground-mounted.
 - b. Is no greater than 100 feet tall, as measured from the natural grade below the wind turbine to the uppermost extension of any blades.
 - c. Has a cumulative rated capacity of 2 MW or less for all turbines proposed on the site.
3. Tier 3 WECS. A wind energy conversion system that is ground-mounted and does not meet the criteria for Tier 2 WECS is considered a Tier 3 solar WECS and shall require a Conditional Use Permit where allowable.

Page 62, Section 22.32.060.C- D: minor revisions to standards:

HEIGHT LIMITS FOR WIND ENERGY CONVERSION SYSTEMS⁽¹⁾

<u>Land Use</u>	<u>Land Use Category</u>	
	<u>Agriculture, Rural Lands, and Public Facilities (AG, RL, PF)</u>	<u>All Other Land Use Categories</u>
<u>Tier 1 WECS</u>	<u>10 feet</u>	<u>5 feet</u>
<u>Tier 2 WECS</u>	<u>100 feet</u>	<u>100 feet</u>
<u>Tier 3 WECS</u>	<u>600 feet</u>	<u>500 feet</u>

Notes:

(1) All WECS in the Vertical Obstruction Camp Roberts Influence Areas shall not exceed 75 feet in height, as described in Subsection 22.32.060.D of this Chapter.

D. Other Special Standards for Wind Energy Conversion Systems

1. All ground-mounted WECS shall be sited to maintain natural grades and shall use existing roads for access to the extent possible. Any grading or road construction that is required shall be the minimum necessary to locate the system and establish sufficient access. The land use permit application shall demonstrate that an alternative site on the parcel is less suitable for other reasons.
2. Tier 1 roof- or structure-mounted WECS shall be designed to be removed at a later date for the roof to be returned to its original pre-project condition.
3. Ground-mounted WECS requiring a discretionary permit shall not be sited on designated Class I or Class II soils. Where proposed on parcels with Class I and Class II soils, the WECS shall be sited on other areas of the parcel.
4. A WECS shall not generate noise levels exceeding any standards of the Noise Element of the San Luis Obispo County General Plan. The system shall be designed and constructed in compliance with the California Building Code and the National Electric Code. The safety of the design and construction shall be certified by a California-licensed mechanical, structural, or civil engineer.
5. For a WECS with multiple turbines, each turbine shall be separated from all others by a distance at least equal to that of the diameter of the rotors.
6. Tier 3 WECS shall be located to minimize visual impacts to residences, Sensitive Resource Areas for visual resources, and areas subject to Highway Corridor Design Standards.

7. Ground-mounted WECS within the Vertical Obstruction Camp Roberts Influence Areas (see Figure) shall not exceed 75 feet in height.

VERTICAL OBSTRUCTION CAMP ROBERTS INFLUENCE AREAS MAP

[PLACEHOLDER]

8. The design of all WECS shall be as follows:
- a. All materials and surfaces that are nonreflective and of an unobtrusive color.
 - b. The WECS and individual components shall carry all appropriate warning signs.
 - c. Guy wires shall be avoided to the extent possible. If they are necessary, all guy wires shall be marked with bird deterrent devices as recommended by the US Fish and Wildlife Service or the California Department of Fish and Wildlife.
 - d. No exterior lighting shall be allowed except for lighting required by the Federal Aviation Administration, which shall be at the lowest allowable intensity.
 - e. All turbines shall be equipped with manual and automatic overspeed controls capable of limiting the blade rotation speeds to within the design limits of the system.
 - f. Ground-mounted WECS shall be designed to prevent climbing within the first 12 feet. Any climbing apparatus shall be located at least 12 feet above the finished grade.
 - g. No portion of a blade of a ground-mounted WECS shall extend within 20 feet of the finished grade.
 - h. The lowermost extension of any rotor of a Tier 2 or Tier 3 WECS shall be 30 feet above the highest existing occupied structure or tree within a 250-foot radius. A modification to this standard may be approved by the Review Authority if the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

Page 63, Section 22.80.030.A: edits to definition for accessory REFs:

Accessory Renewable Energy-Generating Facilities. Ground-mounted Energy-generating facilities accessory to any principal use and customarily a part thereof engaged in the production of energy from sources that regenerate, as defined under “Renewable Energy Facilities.” Accessory renewable energy-generating facilities are incidental to the principal use and consistent with the definition for “Use, Accessory” in this Title. The energy produced by accessory renewable energy-generating facilities and generate energy primarily supports for the principal use of the site. Includes roof-mounted energy-generating facilities, which are further defined under “Energy-Generating Facilities?”, but does not include roof mounted wind energy conversion systems (WECS).

Page 65, Section 22.80.030.E: minor clarifications to definition for consistency:

Energy Storage. Energy storage technologies store energy and deliver it to the electric grid or an end user at a later time. This includes both small, battery systems and independent, freestanding facilities, such as flow batteries, flywheel devices, compressed air energy storage, or pumped hydro energy storage (PHES) technologies. Accessory energy storage that supports on-site energy production is included separately under the primary on-site energy-generating facility, including “Solar Electric Facilities,” “Wind Energy Conversion Facilities,” or other types of “Energy-Generating Facilities” as defined by this Title.

Page 44, Section 22.98.030.E: minor clarifications

- a) Limitation on use. Land uses are limited to the following within **the** Agriculture land use category in the Nipomo and Santa Maria (Oso Flaco) Valleys, subject to the land use permit requirements of Section 22.06.030:

Ag processing	Mobile homes
Agricultural accessory structures	Nursery specialties (Conditional Use Permit required)
Animal keeping	Outdoor retail sales
Communications facilities	Pipelines and power transmission lines
Crop production and grazing	Residential accessory uses
<u>Energy-generating facilities (limited to accessory renewable energy facilities)</u>	Roadside stands
Farm support quarters	
Home occupations	Single-family dwellings
Mining and concrete batch plants (within the area along the Santa Maria River shown in Figure 98-23 which corresponds to the EX1 or subsequently designated EX combining designation)	Temporary dwellings

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Air Pollution Control District
San Luis Obispo County

December 31, 2014

James Caruso
San Luis Obispo County Department of Planning & Building
976 Osos Street, Room 200
San Luis Obispo, CA 93408-2040

SUBJECT: SLOAPCD Comments Regarding the San Luis Obispo County Renewable Energy Streamlining Program (ED13-196) Draft Environmental Impact Report

Dear Mr. Caruso,

Thank you for including the San Luis Obispo County Air Pollution Control District (SLOCAPCD) in the environmental review process. We have completed our review of the Draft Environmental Impact Report for the above referenced project. The Program will encourage and streamline permitting of certain renewable energy projects in the most suitable locations in the unincorporated area of the county. This will be accomplished through ordinance revisions and associated update to policies. The Program will include development of a new Renewable Energy (RE) Combining designation to identify the locations of the most suitable area for renewable energy development. The Program will also revise related County codes and procedures, including the Williamson Act Rules of Procedure. Additionally, special attention will be given to streamlining the permitting of on-site renewable energy facilities, such as parking lot-covered solar and small wind generators.

The following are SLOCAPCD comments that are pertinent to this NOP.

GENERAL COMMENTS

As a commenting agency in the California Environmental Quality Act (CEQA) review process the SLOCAPCD assesses air pollution impacts from both the construction and operational emissions with separate significant thresholds for each. **Please address the action items contained in this letter, with special attention to items that are highlighted by bold and underlined text.**

SPECIFIC COMMENTS

CONSTRUCTION PHASE EMISSIONS

Page 3.3-21 through 3.3-23

The DEIR lists SLOCAPCD construction mitigation measures that might be applicable to a project under the Renewable Energy Streamlining Program. In addition to the measures

*SLO County Renewable Energy Streamlining Program
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listed on pages 3.3-21 through 3.3-2, **the following measures may also be applicable and should be added to this section.**

Construction Permit Requirements

Portable equipment, 50 horsepower (hp) or greater, used during construction activities may require California statewide portable equipment registration (issued by the California Air Resources Board) or a SLOCAPCD permit. Operational sources may also require SLOCAPCD permits.

The following list is provided as a guide to equipment and operations that may have permitting requirements, but should not be viewed as exclusive. For a more detailed listing, refer to the Technical Appendices, page 4-4, in the SLOCAPCD's 2012 CEQA Handbook.

- Power screens, conveyors, diesel engines, and/or crushers
- Portable generators and equipment with engines that are 50 hp or greater
- Electrical generation plants or the use of standby generator
- Internal combustion engines
- Rock and pavement crushing
- Unconfined abrasive blasting operations
- Tub grinders
- Trommel screens
- Portable plants (e.g. aggregate plant, asphalt batch plant, concrete batch plant, etc)

To minimize potential delays, prior to the start of the project, please contact the SLOCAPCD Engineering Division at (805) 781-5912 for specific information regarding permitting requirements.

Demolition of Asbestos Containing Materials

Demolition activities can have potential negative air quality impacts, including issues surrounding proper handling, demolition, and disposal of asbestos containing material (ACM). Asbestos containing materials could be encountered during demolition or remodeling of existing buildings. Asbestos can also be found in utility pipes/pipelines (transite pipes or insulation on pipes). **If building(s) are removed or renovated; or utility an/or underground pipelines are scheduled for removal or relocation, this project may be subject to various regulatory jurisdictions, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M - asbestos NESHAP).** These requirements include, but are not limited to: 1) written notification, within at least 10 business days of activities commencing, to the SLOCAPCD, 2) asbestos survey conducted by a Certified Asbestos Inspector, and, 3) applicable removal and disposal requirements of identified ACM. Please contact the SLOCAPCD Enforcement Division at (805) 781-5912 for further information.

Developmental Burning

Effective February 25, 2000, **the SLOCAPCD prohibited developmental burning of vegetative material within San Luis Obispo County.** If you have any questions regarding these requirements, contact the SLOCAPCD Enforcement Division at 781-5912.

Hydrocarbon Contaminated Soil

Should hydrocarbon contaminated soil be encountered during construction activities, the SLOCAPCD must be notified as soon as possible and no later than 48 hours after affected

SLO County Renewable Energy Streamlining Program
December 31, 2014
Page 3 of 5

material is discovered to determine if a SLOCAPCD Permit will be required. In addition, the following measures shall be implemented immediately after contaminated soil is discovered:

- Covers on storage piles shall be maintained in place at all times in areas not actively involved in soil addition or removal;
- Contaminated soil shall be covered with at least six inches of packed uncontaminated soil or other TPH –non-permeable barrier such as plastic tarp. No headspace shall be allowed where vapors could accumulate;
- Covered piles shall be designed in such a way to eliminate erosion due to wind or water. No openings in the covers are permitted;
- The air quality impacts from the excavation and haul trips associated with removing the contaminated soil must be evaluated and mitigated if total emissions exceed the SLOCAPCD's construction phase thresholds;
- During soil excavation, odors shall not be evident to such a degree as to cause a public nuisance; and,
- Clean soil must be segregated from contaminated soil.

The notification and permitting determination requirements shall be directed to the SLOCAPCD Engineering Division at (805) 781-5912.

Construction Phase Idling Limitations

If the projects will have diesel powered construction activity in close proximity to any sensitive receptor, the project shall implement the following mitigation measures to ensure that public health benefits are realized by reducing toxic risk from diesel emissions:

To help reduce sensitive receptor emissions impact of diesel vehicles and equipment used to construct the project, the applicant shall implement the following idling control techniques:

1. California Diesel Idling Regulations
 - a. **On-road diesel vehicles** shall comply with Section 2485 of Title 13 of the California Code of Regulations. This regulation limits idling from diesel-fueled commercial motor vehicles with gross vehicular weight ratings of more than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles:
 1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and,
 2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 1,000 feet of a restricted area, except as noted in Subsection (d) of the regulation.
 - b. **Off-road diesel equipment** shall comply with the 5 minute idling restriction identified in Section 2449(d)(2) of the California Air Resources Board's In-Use off-Road Diesel regulation.

SLO County Renewable Energy Streamlining Program
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Page 4 of 5

- c. Signs must be posted in the designated queuing areas and job sites to remind drivers and operators of the state's 5 minute idling limit.
 - d. The specific requirements and exceptions in the regulations can be reviewed at the following web sites: www.arb.ca.gov/msprog/truck-idling/2485.pdf and www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf.
2. Diesel Idling Restrictions Near Sensitive Receptors
In addition to the State required diesel idling requirements, the project applicant shall comply with these more restrictive requirements to minimize impacts to nearby sensitive receptors:
- a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
 - b. Diesel idling within 1,000 feet of sensitive receptors shall not be permitted;
 - c. Use of alternative fueled equipment is recommended; and
 - d. Signs that specify the no idling areas must be posted and enforced at the site.

Dust Control

Dust control measures were outlined on page 3.3-14 and 3.3-15. Since water use is a concern due to drought conditions, where possible, the applicant should implement SLOCAPCD's approved dust control measures, other than the use of water, on areas such as roads. If also possible, paving of high-use roads would be extremely beneficial for air quality. To improve the dust suppressant's long-term efficacy, the applicant shall also implement and maintain design standards to ensure vehicles that use the on-site unpaved road are physically limited (e.g., speed bumps) to a posted speed limit of 15 mph or less.

Project Decommissioning

It is unclear from the data presented if the emissions associated with the decommissioning of the project are accounted for in the DEIR. Many of the potential actions required as part of the decommissioning efforts could cause air quality emissions (trenching, backfilling, removal of concrete pads etc.). **The emissions from potential decommissioning activities should be estimated and compared against the SLOCAPCD construction thresholds.**

OPERATIONAL PHASE EMISSIONS

Operational sources may require SLOCAPCD permits. The following list is provided as a guide to equipment and operations that may have permitting requirements, but should not be viewed as exclusive. For a more detailed listing, refer to the Technical Appendix, page 4-4, in the SLOCAPCD's 2012 CEQA Handbook.

- Portable generators and equipment with engines that are 50 hp or greater;
- Electrical generation plants or the use of standby generator;
- Internal combustion engines; and
- Cogeneration facilities.

Most facilities applying for an Authority to Construct or Permit to Operate with stationary diesel engines greater than 50 hp, should be prioritized or screened for facility wide health risk impacts. A diesel engine-only facility limited to 20 non-emergency operating hours per year or that has demonstrated to have overall diesel particulate emissions less than or equal to 2 lb/yr does not need to do additional health risk assessment. **To minimize potential delays, prior to the start of**

SLO County Renewable Energy Streamlining Program
December 31, 2014
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the project, please contact the SLOCAPCD Engineering Division at (805) 781-5912 for specific information regarding permitting requirements.

Unpaved Roads and Unpaved Areas

For larger projects, dust associated with unpaved roads could be an issue. If PM thresholds are exceeded on larger projects which include unpaved roads, one of the following should be implemented:

- a. For the life of the project, pave and maintain the operational roads; or,
- b. For the life of the project, maintain the private unpaved operational roads with a dust suppressant (See Technical Appendix 4.3 for a list of SLOCAPCD-approved suppressants) such that fugitive dust emissions do not impact off-site areas and do not exceed the SLOCAPCD 20% opacity limit.

Again, water use is a concern due to its limited supply and need for other uses, such as agriculture. Where at all possible, the applicant should implement SLOCAPCD's approved dust control measures, other than the use of water, on areas such as roads. If also possible, paving of high-use roads would be extremely beneficial for air quality. To improve the dust suppressant's long-term efficacy, the applicant shall also implement and maintain design standards to ensure vehicles that use the on-site unpaved roads are physically limited (e.g., speed bumps) to a posted speed limit of 15 mph or less.

Thank you for the opportunity to comment on this proposal. If you have any questions or comments, feel free to contact me at 781-4667.

Sincerely,

A handwritten signature in blue ink, appearing to read "Melissa Guise for".

Melissa Guise
Air Quality Specialist

MAG/arr

H:\PLAN\CEQA\Project_Review\3000\3800\3811-2\3811-2.doc



CALIFORNIA
NATIVE PLANT SOCIETY

December 30, 2014

TO: James Caruso
Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408

FROM: David Chipping: President, San Luis Obispo Chapter, CNPS
1530 Bayview Heights Drive
Los Osos, CA St., 93402

REF: RESP Draft EIR
Comments from San Luis Obispo Chapter of the California Native Plant Society

From our perspective, the RESP violates the basic principles of CEQA by limiting public participation and the opportunity for review. While fast tracking may be desirable for some small projects, the RESP allows 20 to 40 acre projects to be subject to only a diminished review, based solely on the proximity of the project to the electrical grid. The program, as proposed, draws large circles around these grid entry points so that it essentially encompasses most of the county, and the DEIR makes the unjustified claim that such large units of habitat will, 'in total', have no significant impact.

It appears that the County is trying to do the equivalent of a Natural Community Conservation Plan, where development is facilitated by science-based determination of areas suitable for development and for mitigation. NCCP plans require the lead agency to have a basic knowledge of the consequences of the proposed land use plan, which includes a reasonable botanic evaluation of the entire area encompassed by the plan. However, it is not clear how the County would determine the species that might be found within the projects allowed in each of these circles. We are concerned that the RESP appears to promise greater certainty of outcome to the developer and to limit public review of biological reports.

Regarding the DEIR, several issues require clarification for the Final EIR.

(1) There is no mention of plant species listed under the California Rare Plant Rank (formerly CNPS Listed) that are currently treated under CEQA as being equivalent to plants formally listed under the California and Federal Endangered Species Acts (CESA and FESA.) CNPS assumes that consideration of these species, together with mitigation for any significant impacts to such species, will continue under CEQA as before. CNPS requests that the FEIR affirm that performance standards such as 22.14.100 C will treat California listed species (Lists 1B through List 2) under the same standards as current

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CEQA review. The FEIR document could be strengthened and freed of ambiguity if CNPS 1B listed plants and vegetation communities (i.e. CEQA protected) were explicitly mentioned as full membership in the "special-status" category,. CNPS is concerned that the extensive coverage of Federal regulated taxa in the DEIR and the failure to allocate space to the treatment of species and plant communities covered by CEQA is an issue of balance that must be addressed in the FEIR.

An addition that states "CEQA Review required" to Tier 1-2-3 categories in the (untitled) table at would provide unambiguous clarity that documentation of impacts will be needed to be professionally reviewed and subject to CEQA guidelines.

(2) CNPS is concerned about an apparent conflict between the RESP goal: "The goal of streamlining is to increase the certainty of the permitting process" and the a-priori Statement of Impact 3-3-4 that impacts will be "less than significant" and that no mitigation will be required. If a project proposed under RESP will impact species, one would hope that the County would require redesign and avoidance, or sufficient mitigation, and so it cannot be said that either the program goal would be met or that the Statement 3-3-4 would remain true.

(2) If RESP were to change in any way the ability of interested parties to review submitted biological and botanical project surveys, this change in procedure should be clearly spelled out in the final document. Thus the equivalent ability of comment on a Draft EIR should be maintained in the RESP process.

(3) CNPS understands that qualified botanists must conduct botanical surveys, but would prefer that an applicant to the RESP process not be permitted to choose in-house consultants due to an inherent conflict-of-interest. Under current CEQA conditions a project proponent may submit botanical survey reports, but these are subject to review by an independent CEQA consultant in the EIR process.

(4) In the event that a Tier 1 Solar project is proposed to be subject to RESP by the developer, it is unclear how the County will determine that a project conforms to Proposed LUO 22.32.050.A.3.a. under the requirement that that land was both "previously developed for industrial or commercial purposes and degraded or contaminated and then abandoned or underused". While it is clear what the language intended, it should be clarified that any old and ceased industrial use from past centuries does not qualify the land for inclusion. CNPS suggests adding language to limit to parcels that are currently zoned industrial/commercial and which remain in a degraded condition.

(5) The DEIR uses a lot of space to describe plant communities while failing to list any that would receive special attention. This would be useful if some are identified as being of higher priority for conservation, but no such strategy is identified in the document. Apparently the only protection is given to designated wetlands. The FEIR might better explain how this section on vegetation types is to be used, and also why the designations

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given by the Manual of California Vegetation are not utilized, which is increasingly becoming the industry standard.

(6) The FEIR should discuss how the County can prevent a large project proponent from piecemealing; that is, breaking the project down into a series of smaller projects and then submit each component to the County for approval to avoid a more exhaustive review.

We thank you for this opportunity to comment, a process that we hope will continue under RESP.

David H Chipping

David Chipping
Chapter Conservation Committee

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Community Development

919 Palm Street, San Luis Obispo, CA 93401-3249
805.781.7170
slocity.org

December 31, 2014

James Caruso
County of San Luis Obispo, Department of Planning and Building
976 Osos St., Rm. 200
San Luis Obispo, CA 93408

SUBJECT: Comments regarding San Luis Obispo County Renewable Energy Streamlining Program, SCH No. 2014041090 (LRP2014-00015)

This letter serves as the City of San Luis Obispo's comment letter on the Draft Environmental Impact Report (DEIR) prepared for the San Luis Obispo County Renewable Energy Streamlining Program (RESP) Draft Environmental Impact Report.

The Community Development Department has noted several issue areas which should be addressed. Specifically, the City is concerned aspects of the Renewable Energy Streamlining Program (RESP) could result in adverse scenic resource impacts in the San Luis Obispo area. The RESP and associated County code revisions may also preclude the City's ability to identify and provide comments on renewable energy projects which have the potential to result in adverse effects on scenic resources.

City scenic resource protection policies should be incorporated into the regulatory setting discussion and effects of the RESP project on the City of San Luis Obispo should be included in aesthetic and visual resource impact analysis. The City of San Luis Obispo recently certified the Final Environmental Impact Report (FEIR) for the Land Use and Circulation Element Update Project (LUCE). The LUCE FEIR contains an updated discussion and analysis of the visual setting around San Luis Obispo including scenic corridors, visual landmarks, and scenic roads and vistas. The analysis and discussion in the LUCE Update EIR provides a consolidated and programmatic level discussion which could be readily incorporated into the discussion of the RESP EIR¹.

The August 2005, City/County Memorandum of Agreement should be considered in the RESP as project review levels are modified from discretionary to ministerial review. The 2005 MOA states that discretionary projects in the Planning Area should be referred to the City of San Luis Obispo. Streamlining proposals in the RESP and associated code revisions would modify certain projects from a discretionary level review to a ministerial level review, and may preclude the City from identifying and commenting on proposals with the potential to have significant scenic resource impacts to the City of San Luis Obispo. As an example, under proposed code revisions in County code section 22.32, review of Tier 1-Tier 3 Solar Electric Facilities (SEF) of up to 160 acres in size could be reviewed as a ministerial permit through the

¹ Section 4.1, Aesthetics, SLO 2035 Land Use and Circulation Element Update Draft Environmental Impact Report. Available at www.slo2035.com



Community Development

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site plan review process² if within the RE combining designation and consistent with site criteria of Section 22.14.100. Tier 1 Wind Energy Conversion systems mounted on uninhabited structures would have no height limitation and could receive ministerial site plan review. Based on recent discussions with County staff, the City understands a correction will be made for the review level of Tier 2 – (up to 100 foot tall, ground mounted) Wind Energy Conversion Systems (WECS) to require minor use permit review (shown incorrectly as site plan review). Renewable energy projects meeting qualifying criteria would not be eligible for the site plan review if within visual Sensitive Resource Areas, but it is not clear based on mapping provided in the RESP DEIR which areas are designated as visual Sensitive Resource Areas. County Sensitive Resource Area mapping does not coincide with City scenic roads and vistas, scenic corridors, and visual landmarks. It should also be clarified that RE projects in the San Luis Obispo Planning Area reviewed at the minor use permit and conditional use permit level will be referred to the City for review and comment.

The range of potential renewable energy projects, in terms of type, size, and location around the City of San Luis Obispo (and potentially affecting scenic corridors and visual landmarks such as the Irish Hills) could have specific and unique impacts which cannot be fully evaluated and disclosed in the scope of a County-wide Programmatic level EIR; and, therefore should be retained as discretionary level projects subject to further CEQA review at a specific project level. Retaining discretionary level review for projects which have the potential to impact the City of San Luis Obispo would also preserve consistency with the stated intent of the 2005 Memorandum of Agreement for development review coordination.³

Thank you for the opportunity to comment on the RESP DEIR. The City is ready to collaborate on the RESP project to identify project modifications and/or mitigation measures that could address impacts to the City.

The City requests to continue to be notified of any upcoming hearings on this project.

Please feel free to contact me if you have any questions or would like to arrange a meeting. I can be contacted by phone at 805-781-7166, or by e-mail: bleveille@slocity.org

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian Leveille".

Brian Leveille, AICP
Senior Planner
City of San Luis Obispo, Community Development Department

CC: San Luis Obispo City Council
Derek Johnson, Community Development Director

² County Code Section 22.62.040 identifies site plan review as a ministerial review

³ Exhibit B of August 2005 Memorandum of Agreement between the City and County of San Luis Obispo



December 18, 2014

James Caruso, Senior Planner
San Luis Obispo County
Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Delivered via email to: JHolland@co.merced.ca.us

RE: Renewable Energy Streamlining Plan (RESLSP)

Dear Mr. Caruso:

On behalf of the Defenders of Wildlife (Defenders) and California Chapter of The Nature Conservancy, thank you for the opportunity to comment on the Draft Renewable Energy Streamlining Program (RESLSP) for San Luis Obispo County. Our organizations are deeply engaged in the statewide discussion of renewable energy facility siting and natural resource conservation.

Defenders is dedicated to protecting all wild animals and plants in their natural communities. To that end, Defenders employs science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions in order to prevent the extinction of species, associated loss of biological diversity, habitat alteration, and destruction. As part of that work we produced the *Smart from the Start: Responsible Renewable Energy Development in the Southern San Joaquin Valley*¹ report.

The Nature Conservancy (“Conservancy”) is a global, non-profit organization dedicated to the conservation of biodiversity. We seek to achieve our mission through science-based planning and implementation of conservation strategies that provide for the needs of people and nature. The Conservancy has been actively involved in conservation planning and management in San Luis Obispo County, including especially at the Carrizo Plain National Monument where we are a Managing Partner along with the Bureau of Land Management and the California Department of Fish and Wildlife, for the past 30+ years. The Conservancy has also been actively involved in planning for renewable energy within the Western San Joaquin Valley of California. Most recently,

¹ Defenders of Wildlife, *Smart from the Start: Responsible Renewable Energy Development in the Southern San Joaquin Valley*, http://www.defenders.org/sites/default/files/publications/smartfromthestartreport12_print.pdf

Attachment 2N
ATTACHMENT 8 - Correspondence

the Conservancy has produced the report, *Western San Joaquin Valley Least Conflict Solar Energy Assessment*². The results of this assessment and accompanying map, which includes eastern San Luis Obispo County, are publicly available on the Conservancy's Science for Conservation website ([link](#)).

As we transition toward a clean energy future, it is imperative for our future and the future of our wild places and wildlife that we strike a balance between addressing the near term impact of industrial-scale solar development with the long-term impacts of climate change on our biological diversity, fish and wildlife habitat, and natural landscapes. To ensure that the proper balance is achieved, we need smart planning for renewable power that avoids and minimizes adverse impacts on wildlife and lands with known high-resource values.

Our organizations strongly support the development of renewable sources of energy to mitigate the increasing threat of climate change. However, if not located, built, and operated responsibly, energy projects can negatively impact biodiversity, harm wildlife and their important habitats, and diminish water resources.

We appreciate and support San Luis Obispo County's (County) efforts to plan for future renewable energy development and to incentivize well sited projects which do not degrade ecosystems, agricultural resources and other environmental resources. We have reviewed the draft RESP and offer the following comments.

Tiering

We support the tiered permitting approach which favors small, localized distributed renewable energy projects. We understand that County Planning Staff is preparing an errata sheet for the RESP and reserve our comments on the specific provisions of the RESP tiers until after the errata sheet is available.

Renewable Energy Combining Designation

We strongly support and advocate for landscape-level planning for renewable energy such as being done in the desert via the Desert Renewable Energy Conservation Plan and as The Conservancy produced in its' *Western San Joaquin Valley Least Conflict Solar Energy Assessment*. The proposed Renewable Energy Combining Districts (RE CD) appear to be primarily designed around the location of substations with capacity available for additional energy generation. The proposed RE CDs show little consideration of environmental constraints that create conflicts with renewable energy development and require arduous permitting and mitigation. By directing renewable energy development to these "preferred" areas for renewable energy development, without incorporating environmental constraints into the evaluation, the County is setting projects up for conflict with existing state and federal environmental regulations, which will negate any project streamlining that is intended to serve as an incentive for siting in these locations. We strongly urge the County to

² Butterfield, H.S., D. Cameron, E. Brand, M. Webb, E. Forsburg, M. Kramer, E. O'Donoghue, and L. Crane. 2013. Western San Joaquin Valley least conflict solar assessment. Unpublished report. The Nature Conservancy, San Francisco, California. 27 pages. http://scienceforconservation.org/downloads/WSJV_Solar_Assessment

Attachment 2N
ATTACHMENT 8 - Correspondence

revisit the proposed RE CDs and redesign them to provide more granular direction to development areas which are least impactful to biological, cultural, and agricultural resources. Moving forward without incorporating these constraints into the identification of RE CDs is likely to result in highly contentious projects located in environmentally sensitive lands.

Performance Based Streamlining

Performance based streamlining is a meaningful tool to incentivize well sited, well designed projects and we support its use in the RESP. Unfortunately, due to the overly broad, and largely indiscriminate extent of the proposed RE CDs we expect that the majority of projects located within the RE CDs will not qualify for streamlining. This in turn results in little incentive for renewable energy developers to proactively site and design projects which avoid or minimize impacts to high value biological, agricultural, and cultural resources. To achieve performance based streamlining, we recommend that the County refine the RE CDs to provide greater assurances to developers that their projects will move forward quickly in these areas.

Conclusion

Thank you for the opportunity to submit these comments. We support the County's efforts to engage in thoughtful planning for renewable energy and strongly encourage the County to revisit the criteria and design of the proposed Renewable Energy Combining Districts. Please include each of our groups on the notification list for the RESP. If you have any questions, please contact Kate Kelly at (530) 902-1615 or via email at kate@kgconsulting.net or Scott Butterfield at (707) 266-2003 or via email at scott_butterfield@tnc.org.

Respectfully submitted,



Kate Kelly
Energy and Land Use Consultant
Defenders of Wildlife



Laura Crane
Director, California Renewable Energy Initiative
The Nature Conservancy

Cc
Pablo S. Gutierrez, CA Energy Commission



Fw: Comments from Eric Greening on the Renewable Energy Streamlining Program DEIR

James Caruso to: Mike Wulkan

12/26/2014 10:22 AM

History: This message has been forwarded.

James Caruso
San Luis Obispo County
Department of Planning and Building
Senior Planner
(805) 781-5702
www.sloplanning.org

----- Forwarded by James Caruso/Planning/COSLO on 12/26/2014 10:22 AM -----

From: elquadrillo@charter.net
To: jcaruso@co.slo.ca.us
Date: 12/26/2014 08:15 AM
Subject: Comments from Eric Greening on the Renewable Energy Streamlining Program DEIR

Dear Mr. Caruso,

Thank you for the opportunity to comment on this document! Unfortunately, I have major concerns about it, and don't think it can be certified in its present form, or that the needed overriding considerations can be found. My main issues have to do with Agricultural Resources and Biological Resources, and with a state Renewable Energy Standard that makes the assumptions underlying overriding considerations tenuous at best.

Class I impacts are admitted for Agricultural Resources with the impact of the conversion of agricultural soils to non-agricultural uses. I would point out that pre-empting productive agricultural land for solar production actually pre-empts the solar production that is agriculture! Plants, by photosynthesizing, make solar energy available for the use of humans and other creatures, and that specific form of solar production should not be lightly tossed aside!!

I don't believe Class I impacts can be avoided for an impact that the DEIR wrongly claims won't rise to that level: "Implementation of the proposed program could conflict with existing zoning for agricultural use or with the Williamson Act Program ." I would ask that the staff reports and minutes for the relevant meetings of the SLO County Ag Preserve Review Committee, both those that have already occurred and those that take up the issue in the future prior to the issuance of a Final EIR on the RESP, be included in the record of this EIR, and responded to therein. The meeting of July 14th, 2014 is particularly enlightening. The minutes reflect that Terry Wahler promised that the changes to our County's Rules of Procedure would have their own environmental review. When I inquired as to the status of that review, I was told by Kami Griffin that, in fact, the environmental review of those changes is simply incorporated into this DEIR on the RESP. If that is the case, where is the needed analysis? Have any other counties in California implemented a similar program on which Williamson Act lands are eligible for streamlined conversion to non-photosynthesis energy production? If so, what is their track record? If not, are we the first county to do this, and how can we be sure the impacts won't rise to the level of Class I? Where is the inventory of specific parcels appropriate for this conversion? If there is to be no further CEQA review thereon, I see no evidence that the needed CEQA review of the site-specific impacts to agricultural resources, and to the county-wide viability of our

Willimason Act program, exists herein. Given the long time-frame for non-renewal, would contract cancellation be employed to streamline the conversion to non-photosynthesis energy production, and, if so, what would be the impact of these cancellation dominoes falling one after another?

Relative to Biological Impacts, I question the avoidance of Class I impacts claimed for: "Implementation of the proposed program could result in the loss of habitat for unique and special status species" and "Implementation of the proposed program could reduce the extent, diversity, or quality of native vegetation or other important resources." I fail to see how the public can be assured that these impacts will be kept insignificant.

On Page 3.4-34, the DEIR states: "Parcels intended for inclusion in the combining designation were screened to ensure there were no conservation easements or existing or intended biological conservation areas." Where is the evidence of this site-specific screening, or the record thereof? Where are the non-eligible parcels mapped? The maps in the DEIR seem to show even such obvious non-eligible areas as a slice of the Carrizo Plains National Monument as being within the combining designation.

On Page 3.4-35, the DEIR states: "The expectation of the RESP is that adherence to the proposed performance standards in the LUO will ensure the impacts to biological resources will be less than significant. Those projects that could have significant impacts to biological resources are required to obtain approval through the minor or conditional use process. The permit process requires site-specific biological reports that may result in mitigation measures specific to the projects."

If these mitigation measures are anything other than flat-out avoidance, their effectiveness is speculative. At what point would the public have access to the biological reports, and, if they are not part of a CEQA process, how would the public be able to respond to reports or proposed mitigations that raised questions. What resources exist within the County to insure mitigation monitoring and the effectiveness of the mitigations, over time, at keeping biological impacts insignificant? We are talking about conversion of significant areas from natural vegetation and wildlife habitat to industrial uses; other than avoidance, what mitigation can offer ASSURANCE, on every site, of keeping impacts insignificant such that Class I impacts need not be considered at the present time?

What is the justification for exempting the San Joaquin Kit Fox Recovery Area from even the minimal level of attention given other listed species habitat?

I do not believe overriding considerations can be found for this project because the projects done pursuant to this program will not likely reduce greenhouse gas emissions or meet the larger goal of containing climate change. This is because the California Renewable Energy Standard does not require the subtraction of impacts; it is an ADDITIVE standard.

Renewable projects do not replace non-renewable projects, but are in addition to existing ones, and allow for the creation of further ones so long as 1/3 of our electricity is renewably generated by 2020. In other words, the massive deployment of industrial-scale renewable energy facilities could actually spawn an expansion of non-renewable (fossil-fueled) energy production, at a 2-1 ratio favoring the non-renewable emitters.

This program and the analysis of its impacts require a huge amount of rethought!!

Many thanks,

Eric Greening



Fw: Sierra Club comment on RESP EIR

James Caruso to: Mike Wulkan

12/26/2014 10:22 AM

History: This message has been forwarded.

James Caruso
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----- Forwarded by James Caruso/Planning/COSLO on 12/26/2014 10:22 AM -----

From: "Santa Lucia Chapter of the Sierra Club" <sierraclub8@gmail.com>
To: <jcaruso@co.slo.ca.us>
Date: 12/23/2014 03:33 PM
Subject: Sierra Club comment on RESP EIR

Dear James,

We congratulate the County for creating a Renewable Energy Streamlining Program and appreciate the effort to find the appropriate balance between the commendable goal of increasing the proportion of local, distributed renewable energy generation and protecting agricultural and natural resources.

To that end, we support the Ag Preserve Review Committee's amendments proposing to limit to 20 acres those Tier 3 REF Projects that can be approved on a Site Plan Review. A facility of up to 10 acres could be processed ministerially, and facilities over 20 acres should require a Minor Use Permit.

We believe this strikes the right balance between the need to streamline the permitting process for distributed renewable energy projects and the need to protect the county's agricultural and environmental resources.

Thank you for this opportunity to comment,

Andrew Christie, Director
Santa Lucia Chapter of the Sierra Club
P.O. Box 15755
San Luis Obispo, CA 93406
(805) 543-8717

1-1

SAN LUIS OBISPO COUNTY



DEPARTMENT OF PLANNING AND BUILDING

Promoting the wise use of land - Helping to build great communities

DATE: January 8, 2015

TO: Planning Commission

FROM: James Caruso, Senior Planner

SUBJECT: Study Session #2 for the San Luis Obispo County Renewable Energy Streamlining Program

RECOMMENDATION

Staff recommends that your Commission conduct a study session on the County Renewable Energy Streamlining Program (RESP), receive public comments, and provide staff with questions or issues to be addressed at future hearings.

Background

San Luis Obispo County has developed this RESP that will encourage and streamline permitting of renewable energy projects, primarily solar and wind energy projects, in the most suitable locations. The RESP gives special attention to streamlining the permitting of accessory renewable energy facilities for on-site use such as rooftop and ground-mounted facilities, as well as small wind generators. The RESP applies in the inland area of the county only; it does not apply in the Coastal Zone.

The objectives of the RESP are accomplished through a variety of ordinance and General Plan revisions. One of the key features of the RESP is a new Renewable Energy (RE) Combining Designation to identify the most suitable areas for renewable energy development. The RESP also includes revisions to the Rules of Procedure to Implement the California Land Conservation Act of 1965.

A programmatic Draft Environmental Impact Report (Draft EIR) has been prepared to support streamlining of eligible on-site renewable energy projects as well as larger renewable energy projects. The Draft EIR and streamlining program were developed together so that impacts identified in the Draft EIR are addressed with "performance standards" for renewable energy projects in the RESP.

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Project Funding

On April 23, 2013, the County Board of Supervisors adopted a resolution supporting submittal of a grant application to the California Energy Commission (CEC) for a Renewable Energy and Conservation Planning Grant to fund mapping, streamlining and environmental analysis of eligible renewable energy projects. The CEC then awarded the County \$638,152 for the project. The County became eligible for this grant after Assemblyman Achadjian sponsored successful legislation that included the County in the grant program.

Following a competitive solicitation process, the County selected a consultant team to assist staff with program development. Due to the requirements of the CEC grant, the County must complete the RESP by March 2015.

Project Overview

The RESP implements policies and programs in the Conservation and Open Space Element (COSE) of the County General Plan to designate and protect areas that contain renewable energy resources and to streamline planning and development rules, codes, and processing to encourage renewable energy development.

The RESP defines renewable energy projects in four "tiers" ranging from Tier 1, smaller projects less than 20 acres in size, all the way up to Tier 4, which could cover over 160 acres. Also included are renewable energy projects that are accessory to uses on the site such as the solar facilities found at some wineries. These smaller facilities that supply electric power for on-site use would continue to be permitted with Zoning Clearance and building permits.

The RESP focuses on streamlining distributed generation renewable energy facilities, also known as distributed energy resources. These facilities are generally 160 acres or less in size. The Conservation and Open Space Element, as it is proposed to be revised, defines distributed energy resources by facility size and purpose:

"Distributed energy resources (DER) are small, modular, energy generation and storage technologies that provide electric capacity or energy located where it's needed, often at a customer's location. These facilities are typically owned by non-utility entities, such as generation developers or utility customers that offset all or part of the customer's on-site electrical load. DER's typically produce less than 20 megawatts (MW) of power near the point of use and include wind turbines, photovoltaics (PV)..."

Streamlining the permitting process for distributed generation projects is proposed in three ways:

1. Establish (and where already practiced, maintain) ministerial approval for smaller accessory renewable energy projects that provide power primarily for on-site uses. Ministerial approval does not include environmental review, public hearings or extensive application review. An application that meets strict performance standards to protect resources can proceed without further review.

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2. Create a RE Combining Designation for larger renewable energy projects up to 160 acres in size. The RE designations are circles ten (10) miles in radius, centered on electrical substations, in areas with fewer environmental constraints. Larger projects in these areas are designed to send power to the electrical grid with no on-site electric use. Electrical substations are the locations where these larger projects would tie into the grid. The size of the designations allows project proponents and landowners the flexibility to be part of the program if site characteristics (e.g. slope, vegetation, exposure) are conducive to a renewable energy project and if performance standards can be met.
3. Establish shortened application processing times and greater certainty through Site Plan Review for distributed generation (160 acres maximum) if the projects can meet performance standards, for example, limiting development to previously disturbed land and on certain types of soils.

Currently, most of the projects defined in Tiers 1 through 4 require at least a Minor Use Permit with individual environmental review and public hearings (exceptions are rooftop installations and small ground-mounted, accessory facilities). The RESP seeks a substantial increase in certainty of the outcome and substantially less time to complete the application process, especially for projects meeting the standards for Tiers 1, 2 and 3 through the use of the Site Plan Review process¹.

Table 1 on the following page provides a synopsis of the tiers and permitting requirements for solar electric facilities (SEFs) and wind energy conversion systems (WECS). It summarizes the streamlining accomplished by the proposed program.

¹ Site Plan Review is required by this Title for projects more intensive than those requiring a Zoning Clearance. Site Plan Review considers the greater effects these uses may have upon their surroundings, as well as the characteristics of adjacent uses that could have detrimental effects upon a proposed use. Like the Zoning Clearance, a Site Plan Review is also a ministerial land use permit.

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Table 1, Permit Requirements

Zoning Clearance	Site Plan Review	Minor Use Permit	Conditional Use Permit
Tier 1 SEF - roof- or structure-mounted Located on the roof or structure of a conforming use or structure	Tier 1 SEF, ground-mounted– 20 acres or less not on Class I or II soils and meets one of the following: <ul style="list-style-type: none"> • Previously developed or degraded lands in CS or IND categories, or • On land that is graded, disturbed or altered 	Tier 2 SEF – 40 acres or less outside an RE designation and meets the following: <ul style="list-style-type: none"> • Not on Class I or II soils • Ground-mounted • Located in urban areas or rural sites in the CS or IND categories 	Tier 3 SEF – 160 acres or less outside RE designations Tier 4 – more than 160 acres
	Tier 2 SEF– 40 acres or less in an RE designation, not on Class I or Class II soils, and meets all the following: <ul style="list-style-type: none"> • Other than OS or REC categories • Not sited on Important Ag Soils, unless sited on Highly Productive Rangeland 		
Tier 1 WECS, roof- or structure-mounted	Tier 3 SEF – 160 acres or less in an RE designation, not on Class I or Class II soils, and meets the following: <ul style="list-style-type: none"> • In the CS, IND or AG categories • Not on Important Ag Soils, unless sited on Highly Productive Rangeland 	Tier 2 WECS – Ground mounted and meets the following: <ul style="list-style-type: none"> • Up to 100 feet tall • No more than 2 mw capacity 	Tier 3 WECS – Greater than 100 feet or rated at more than 2 mw

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Revisions to County General Plan, Ordinances, and Procedures

The RESP uses the model solar ordinance developed by the California County Planning Director's Association, as well as the environmental analysis in the Draft EIR. The model ordinance was partially based on our County's Conservation and Open Space Element solar streamlining program.

The RESP primarily consists of revisions to Articles 1 – 8 of the Land Use Ordinance, Title 22 of the County Code. In addition, the RESP includes revisions to the County's land use framework to remove barriers to development of renewable energy facilities. These revisions are to:

- Framework for Planning, Part of I of the Land Use and Circulation Elements, as well as the Official Maps: amendments to establish and map the RE Combining Designation.
- Article 9 and Article 10 of Title 22, Planning Area Standards and Community Planning Standards: amendments to remove prohibitions on renewable energy facilities by including them in various standards that list allowable uses in certain areas.
- Conservation and Open Space Element: minor updates to goals, policies, and glossary to ensure consistency of renewable energy definitions with new distributed generation and technology definitions in Title 22.
- Land Conservation Act (Williamson Act) Rules of Procedure: revisions to allow electric-generating plants (electricity generation) subject to strict criteria.

A tabular summary of proposed revisions to general plan policies, the land use ordinance and Rules of Procedure is in Attachment 1. Many of the revisions are relatively minor or are needed for consistency purposes. The following issue discussion focuses on the more major issues: 1) renewable energy as an accessory use; 2) the RE Combining Designation; 3) streamlined permit levels and development standards; and 4) how to treat land subject to Land Conservation Act contracts.

The RESP's primary streamlining mechanism is the use of the Site Plan review process instead of Minor Use Permits. Through Site Plan review, staff can make sure that renewable energy projects meet the requirements of local, state and federal laws and are consistent with the County General Plan. This is described in more detailed in the following section, *Streamlined Permitting Development for Solar Electric Facilities (SEFs)*.

Accessory Uses

The RESP addresses accessory renewable energy-generating facilities in LUO Section 22.32.020 (page 42 of the Draft RESP). An accessory renewable-energy generating facility provides power primarily to on-site uses. A Zoning Clearance is required for accessory renewable energy facilities *unless* any of the following criteria are met. In that case, accessory renewable energy-generating facilities would require Site Plan Review or a discretionary land use permit, as required by Chapter 22.32 (as proposed):

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- a. Provides energy for sale to off-site uses
- b. Is within an Open Space or Recreation land use category
- c. Is within an Airport review, Flood Hazard or Sensitive Resource Area Combining Designation
- d. Is ground mounted and over ½-acre in area
- e. Is located within 100 feet of a public road
- f. Is proposed on a parcel with no use
- g. Is on Class I or II soils
- h. Is subject to environmentally-related permits

The proposed ½-acre limitation in d above is taken from the model solar ordinance developed by the California County Planning Director's Association. However, it, as well as other parts of the RESP, may be revised during the public hearing process. Since land uses such as large wineries can use the power provided by a three-acre solar facility solely on site, the Planning Commission could consider increasing the allowable size of an accessory renewable energy facility. This would be consistent with past practice, which has allowed accessory solar energy facilities larger than ½-acre with a Zoning Clearance.

Renewable Energy Combining Designation

The RE Combining Designation is established to streamline the approval of renewable energy projects in a studied and deliberate manner. The purpose of this combining designation is proposed in Section 22.14.100 (page 31 of the Draft RESP):

- a. Identify areas of the county where: (1) renewable energy production is favorable, (2) the production of renewable energy resources is prioritized, and (3) permit requirements are structured to streamline the environmental review and processing of land use permits for solar electric facilities.
- b. Protect the development and use of locally appropriate distributed renewable energy resources in priority areas in a manner that will not degrade ecosystems, agricultural resources, and other environmental resources.
- c. Notify landowners and the general public of areas where development of renewable energy resources is prioritized.

Areas included in the RE Combining Designation are those that are most conducive to streamlining permits for SEFs. They are shown in Figure 1. The RE Combining Designation includes inland, unincorporated county areas under the County's jurisdiction that **are not** located in the following sensitive areas with special resources or characteristics:

- Sensitive Resource Areas (SRAs) for visual resources
- Certain Highway Corridor Design Standard areas
- Areas covered by conservation easements
- Areas that have been or are intended for preservation for unique biological values

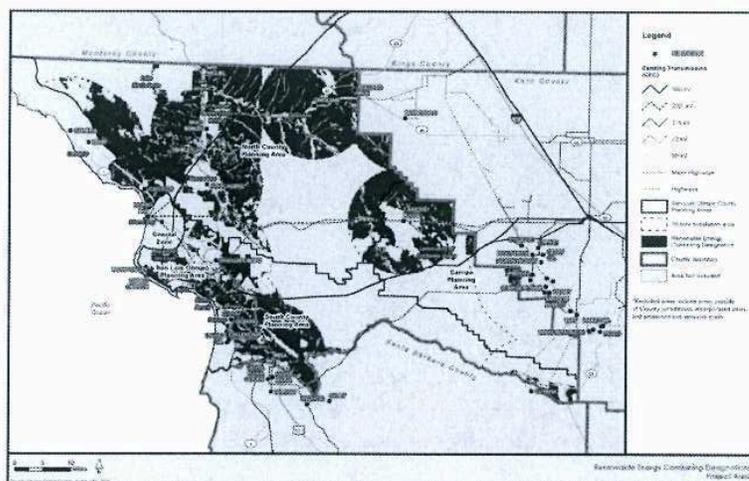
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- Recreation (REC) and Open Space (OS) land use categories
- Any areas beyond a 10-mile distance from an existing electrical substation
- Class I or Class II irrigated soils
- Federal and state-designated and managed public lands, such as state parks, national forests, and national monuments.

Figure 1, RE Combining Designations



The RE Combining Designations are located within 10-mile radii around existing electricity substations, as renewable energy projects are most likely to be located where electricity distribution tie-ins are most readily available, feasible, and cost-effective.

Streamlined Permitting Development for Solar Energy Facilities (SEFs)

Preceding Table 1 summarizes permit levels for the tiers of solar and wind energy development inside and outside RE Combining Designations. In general, the permitting process for Tier 1 SEFs that meet qualifying criteria are streamlined through Site Plan Review (SPR), both within and outside of the RE Combining Designation. Within the RE Combining Designation, larger Tier 2 – Tier 3 SEFs can qualify for SPR if consistent with additional criteria and standards. The RESP allows for streamlining of qualifying SEFs up to 160 acres in size. With current technologies, this size of project could equate to a facility with a capacity of about 20 MW.

All tiers of SEFs qualifying for SPR are contingent on the project and site meeting performance standards described below. These standards were developed through the concurrent environmental review process. As the environmental analysis was conducted, potential impacts of the RESP were identified. This led to changes to the RESP so that the identified impacts were addressed through the requirements of the ordinance itself. The result is that proposed Tier 1, Tier 2 and Tier 3

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projects meeting rigorous standards can be streamlined using the Site Plan Review process instead of Minor Use Permits. As SEF project sizes increase, the requirements for streamlining become more rigorous.

Ground-mounted Tier 1 SEFs (20 acres or less) that are either within or outside of an RE Combining Designation may be eligible for Site Plan Review if the proposed projects meet the following minimum criteria established in Section 22.32.050 A. (page 54 of the Draft RESP):

- a. Not sited on Class I or II soils, and
- b. Proposed on land that is graded, disturbed, or altered, consistent with definitions for "Development," "Grading," or "Site Disturbance"², or
- c. If not consistent with item b above, is located on land that was previously developed for industrial or commercial purposes and degraded or contaminated and then abandoned or underused.

Once a Tier 1 SEF meets the preceding criteria, it also must demonstrate consistency with the following standards applicable to all ground-mounted energy-generating facilities, established in Section 22.32.040 C. (page 52 of the Draft RESP). The following standards apply both within and outside of the RE Combining Designation.

- a. The project may be subject to and must comply with any other permitting requirements by local, state or federal agencies.
- b. Botanical reports or biological reports prepared as part of the proposed SEF application do not indicate the presence or potential presence of state or federally-listed wildlife or plant species or designated critical habitat. Otherwise, a Minor Use Permit is required and the project is not eligible for Site Plan Review unless the project meets the exception described in Item c below.)
- c. If not consistent with Item b above, the project is still eligible as a Tier 1 SEF for Site Plan Review if it meets the following: 1) is in San Joaquin Kit Fox habitat area, 2) the botanical or biological report does not identify any other state or federally-listed species, and 3) the project includes the standard mitigation ratio and all applicable kit fox conditions for grading and building.

If a Tier 1 SEF (20 acres or less) does not meet these standards, it may still qualify for Site Plan Review if it can meet the streamlining standards of Tier 2 or 3 in the RE Combining Designation. If the proposed project cannot meet streamlining requirements for Tiers 1-3, this section does not apply and the proposed project then has to proceed under Section 22.32 permitting requirements (Minor Use Permit or Conditional Use Permit, based on project characteristics).

² **Site Disturbance.** Any activity that involves clearing, grubbing, grading, or disturbances to the ground such as stockpiling or excavation.

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In order for a Tier 2 or 3 SEF to use the streamlined process in 22.14.100 (RE Combining Designation), the following performance standards must be met (LUO Section 22.14.100.b.2 – b.3, page 33 of the Draft RESP). Note that SEFs 20 acres or less in size that don't meet the Tier 1 criteria can still qualify for Site Plan Review as a Tier 2 or Tier 3 SEF in the RE Combining Designation if all standards are met.

- a. If greater than 20 acres, not located on land subject to a Land Conservation Act contract.
- b. If less than 20 acres and subject to a Land Conservation Act contract, additional standards may apply beyond those listed here.
- c. No additional energy transmission or distribution lines constructed in an RE Combining Designation and no easements over parcels outside the RE Combining Designation.
- d. No new transmission lines to tie into grid.
- e. Not sited on Class I or II soils
- f. Not located in a Sensitive Resource Area for visual resources.
- g. Site not subject to a conservation easement prohibiting energy generating facilities.
- h. Not located in the Recreation or Open Space land use categories.

Once the preceding minimum qualifying criteria are met, Subsection 22.14.100.E (page 34 of the Draft RESP) identifies additional site-specific criteria for Tier 2 and Tier 3 SEFs in the RE Combining Designation:

- a. Total area of the proposed SEF is no more than 40 acres in area, measured as the total area of the facility inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use (criteria for a Tier 2 SEF in the RE Combining Designation), or
- b. If not consistent with Item a above, is 1) in the Commercial Service, Industrial, or Agriculture land use categories; and 2) the total area of the proposed SEF is no more than 160 acres in area, measured as the total area of the facility inclusive of components and subsystems that, in combination, convert or store solar energy into electric energy suitable for use (criteria for a Tier 3 SEF in the RE Combining Designation).
- c. In the Agriculture (AG) land use category, is not sited on any type of Important Agricultural Soils as defined in the Conservation and Open Space Element, unless sited on Important Agricultural Soils designated as Highly Productive Rangeland Soils by the Conservation and Open Space Element. The proposed project may be located on Highly Productive Rangeland Soils or sited on other areas of the parcel without any Important Agricultural Soils.

Projects seeking streamlining as a Tier 2 or Tier 3 SEF in the RE Combining Designation must first meet the general and site-specific criteria described above. In addition, Subsection 22.14.100.F (page 36 of the Draft RESP) provides a set of development standards listed below for Site Plan Review for Tiers 2 and 3 (in lieu of a MUP).

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- a. The project may be subject to and must comply with any other permitting requirements by local, state or federal agencies.
- b. The botanical reports or biological reports prepared as part of the proposed SEF application do not indicate the presence or potential presence of state or federally listed wildlife or plant species or designated critical habitat. Otherwise, the permit requirements and standards of Chapter 22.32 (Energy-Generating Facilities) apply and no alternative requirements are available within the RE Combining Designation. In that case, a Minor Use Permit is required, unless the project meets the exception described in Item c below).
- c. If not consistent with Item b above, Tier 2 SEFs are still eligible for Site Plan Review if they meet the following: 1) are less than 40 acres in area, 2) are in San Joaquin Kit Fox habitat area, 3) the botanical or biological reports do not identify any other state or federally-listed species, and 4) the project includes the standard mitigation ratio and all applicable kit fox conditions for grading and building.
- d. Proposed fencing where sensitive wildlife is present shall include wildlife-friendly fencing that is no higher than 48 inches and allows for the free movement of species.
- e. Project applications on remediated land or on disturbed lands will include a Habitat Assessment.
- f. Provide setbacks from special status species pursuant to the Habitat Assessment.
- g. Provide 500-foot setbacks from sensitive vegetation and special status species.
- h. Provide 50-foot setbacks from any seasonal or perennial wetlands or drainages.
- i. Provide an archaeological report to demonstrate avoidance of historical and/or archaeological resources, including a California Historic Resource Information Center (CHRIS) search to identify overall sensitivity for historic-era resources as well as locations of built resources of at least 45 years of age. If studies identify any potential resources, additional site surveys, technical reports, and standards are required.
- j. SEFs proposed on undisturbed areas with no development or site improvements shall provide re-vegetation for any vegetation to be removed at a 3:1 ratio for sensitive vegetation and 1:1 for other vegetation.
- k. In the Agriculture land use category, if on active agricultural use, provide a conservation easement at a 1:1 ratio to support agricultural uses at the same intensity (3:1 ratio if the compensating land supports lower intensity uses).
- l. In the Agriculture land use category, if proposed on Highly Productive Rangeland Soils, provide a conservation easement at a 1:1 ratio on Important Agricultural Soils on the proposed site (3:1 ratio if the easement is off-site).
- m. SEFs shall be screened from roadways and residences to the maximum extent feasible.

Renewable energy facilities, whether inside or outside of the RE Combining Designation, also need to meet the applicable development standards in Section 22.32 (starting on page 41 of the Draft RESP). For example, page 56 includes a table of property line setback requirements and pages 57-58 contain height standards. There are additional performance standards for discretionary projects.

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Land Conservation Act

A substantial amount of land in the County is subject to Land Conservation Act contracts. These contracts reduce a property's tax based on value of agricultural products produced on the land. The development of uses other than agriculture on contracted lands must be done carefully with attention to compatibility issues. Under the existing Rules of Procedure to Implement the California Land Conservation Act of 1965, electric generating plants, including renewable energy facilities, are not listed as "compatible uses." Therefore, they are currently not allowable on contracted land. The RESP lifts the prohibition on renewable energy facilities on contracted land under strict permitting, size and siting requirements.

The Agriculture Preserve Review Committee (APRC) met several times to discuss issues surrounding renewable energy projects on contracted land. At its meeting of December 8, 2014, the Committee adopted a preliminary recommendation to allow renewable energy facilities on contracted land under limited circumstances, including:

- Each property must meet and maintain the current eligibility criteria in the Rules of Procedure for both establishment of an agricultural preserve and entering into a land conservation contract as well as the "Minimum Parcel Size for Conveyance" required by each contract.
- REF project acreage may not exceed 10% of the total acreage within a land conservation contract up to a maximum of 20 acres.
- On contracted land, REF projects on up to 10 acres are subject to Site Plan Review and REF projects between 10 and 20 acres in size are subject to a discretionary permit.

The APRC's complete recommendation is detailed in the memo in Attachment 2.

Draft EIR

A Draft EIR (DEIR) has been prepared for the RESP. The Final EIR will be available in late January 2015. This DEIR is known as a "program" (or programmatic) EIR. According to the CEQA Guidelines, a Program EIR is:

"...is an EIR that may be prepared on a series of actions that can be characterized as one large project, and are related....in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program...."

The Project Description (Chapter 2.0) describes renewable energy project build out under the program. The County EnergyWise Plan includes a goal to increase renewable energy production from small and large-scale renewable energy facilities to account for 10% of total local energy use. Based on current demand, that goal is 150 MW on 1500 acres of land. That is the basis for the environmental analysis in the DEIR.

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The environmental review process helped shape the RESP, which went through many changes as a result of the iterative environmental analysis process. These revisions resulted in performance standards that would become part of the Land Use Ordinance. For example, the Site Plan review process was altered to require evidence that sensitive species do not exist on the proposed project site. Also, basic qualifications for a streamlined permit require such things as the correct soil type (i.e. not Class I or II), location outside of a Sensitive Resource Area (SRA) for visual resources, and the construction of no additional transmission lines to tie into the grid.

The DEIR has identified three Class I impacts of the RESP. These are significant and unavoidable impacts to the environment that could occur despite program changes and performance standards. The Class I impacts are:

- a. Aesthetics
- b. Agricultural Resources
- c. Land Use

Aesthetics

Class I Aesthetic impacts include both impacts of the build out scenario (identified above) and the policy change to allow permit streamlining of these projects. The DEIR concludes (page 3.1-16):

"While these existing and proposed County Code requirements will minimize the visual impacts of solar installations, the site-specific setting and visual characteristics of all future SEFs proposed under the streamlining program cannot be known. Therefore, potential remains that certain SEFs could result in an aesthetic incompatibility within public view. Potential for this impact is considered significant, unavoidable, and adverse (Class I)."

The DEIR also reaches this same conclusion regarding the policy change that will streamline certain solar projects through Site Plan review. There is no feasible mitigation.

Agricultural Resources

The Class I impacts to agricultural resources arise from the streamlining of ground-mounted Tier 1 SEFs on Important Agricultural Soils. In those situations, no compensation for the loss of agricultural soils is required, such as providing conservation easements, as is required for Tiers 2-4. The DEIR states that the purpose of the program is to encourage and streamline renewable energy development and such a mitigation measure would "run counter to the primary objectives of the Program."

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Land Use

The Class I impact for Land Use is the same as the Agricultural Resources impact above. In this case, the proposed Land Use Ordinance changes to allow Tier 1 SEFs on Important Agricultural Soils without offsetting mitigation could indirectly diminish the function of those lands, leading to an indirect Class I land use impact.

Alternatives

The alternatives analysis was primarily accomplished through the iterative nature of the environmental analysis. As each section of the Land Use Ordinance revisions was completed, environmental analysis was conducted and then changes were made to the proposed ordinance to reduce or eliminate impacts that were identified. In essence, this project analysis and feedback loop constituted a comprehensive alternatives analysis where an alternative was analyzed and then revised to avoid environmental impacts. The result was that numerous versions of the RESP (i.e., alternatives) were considered and dismissed from further evaluation, ultimately leading to the project evaluated in this EIR.

The alternatives analyzed in this DEIR were ultimately chosen based on each alternative's ability to feasibly attain the basic objectives of the RESP while avoiding or reducing one or more significant environmental effects.

1. Alternative 1 – Limited Combining Designation

Alternative 1 consists of an RE Combining Designation that is more limited in scope than that of the proposed RESP: rooftop and structure-mounted projects and ground mounted projects of 40 acres or less. This alternative would also limit streamlining (i.e. ministerial approvals) to only those projects that could be fully screened from public view adjacent to a project site, and would require that Tier 1 ground-mounted SEFs not be located on Important Agricultural Soils. The intent of this alternative is to reduce the project's Class I impacts to aesthetics and visual resources, agricultural resources, and land use and planning, and reduce overall impacts to other resource areas by substantially reducing the maximum allowed project footprint.

The primary objectives of the Program are to:

- Create a Renewable Energy (RE) Combining Designation that identifies locations where certain renewable solar electric facilities will qualify for permit streamlining if they meet specified standards and conditions for project size, site characteristics, and environmental protections.
- Revise the Land Use Ordinance to foster permit streamlining for other specified types of renewable energy facilities throughout the non-Coastal Zone portions of the unincorporated county (both within and outside of the RE Combining Designation).
- Support achievement of the County's goal to increase the production of renewable energy from small- and commercial-scale energy installations to account for 10 percent of total local energy by 2020 as presented in the County EnergyWise Plan.
- Provide a clear process and expectations for renewable energy projects in suitable locations that minimize environmental impacts.

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2. Alternative 2 – Smaller Combining Designation Footprint

Alternative 2 consists of a RE Combining Designation that excludes all land with Important Agricultural Soils. This would reduce the total acreage of the RE Combining Designation from 801,910 acres to approximately 483,570 acres, a reduction of approximately 40 percent. The sole intent of this alternative is to reduce the potential for Class I impacts associated with the conversion of agricultural land to nonagricultural uses, identified in the Sections 3.2 and 3.9. All other aspects of the RESP would remain unchanged.

3. Alternative 3 – No Project

Alternative 3 is the CEQA-mandated No Project Alternative. Under Alternative 3, existing policies governing renewable energy development in the county would remain in place. Environmental impacts may be reduced in some instances because all projects would be evaluated individually and with potentially greater scrutiny. However, Alternative 3 could also result in more cumbersome permitting processes with less certain outcomes, thus resulting in less renewable energy development than would occur under the RESP.

A comparison of the potential environmental impacts of the RESP and the three alternatives are shown in the following tables:

TABLE 4.0-2, ALTERNATIVES IMPACTS COMPARISON

Environmental Issue	Proposed RESP Impact Finding	Alternative		
		1 Reduced Scope	2 Reduced Footprint	3 No Project
Aesthetics and Visual Resources	Class I, III ³	<	<	<
Agricultural Resources	Class I, III	<	<	<
Air Quality	Class III	=	=	=
Biological Resources	Class III	=	=	=
Cultural Resources	Class III	=	=	=
Geology and Soils	Class III	=	=	=
Greenhouse Gases and Climate	Class III, IV	=	=	=

³ Multiple classes of impacts (i.e. Class I and III) in the same area can occur where the DEIR identifies more than one way to measure project impacts.

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Environmental Issue	Proposed RESP Impact Finding	Alternative		
		1 Reduced Scope	2 Reduced Footprint	3 No Project
Change				
Hazards and Hazardous Materials	Class III	=	=	=
Land Use and Planning	Class I, III	<	<	<
Noise	Class III	=	=	=
Water Resources	Class III	=	=	=

< Impacts less than those under proposed RESP

> Impacts greater than those under proposed RESP

= Impacts similar to those under proposed RESP

TABLE 4.0-3, COMPARISON OF ALTERNATIVES TO PROGRAM OBJECTIVES (FROM DRAFT EIR)

Objectives	Alternative		
	1 Reduced Scope	2 Reduced Footprint	3 No Project
Create a Renewable Energy (RE) Combining Designation that identifies locations where certain renewable solar electric facilities will qualify for permit streamlining if they meet specified standards and conditions for project size, site characteristics, and environmental protections.	✓	✓	×
Revise the Land Use Ordinance to foster permit streamlining for other specified types of renewable energy facilities throughout the non-Coastal Zone portions of the unincorporated county (both within and outside of the RE Combining Designation).	×	✓	×
Support achievement of the County's goal to increase the production of renewable energy from small- and commercial-scale energy installations to account for 10 percent of total local energy by 2020 as presented in the County EnergyWise Plan.	×	✓	×
Provide a clear process and expectations for renewable energy projects in suitable locations that minimize environmental impacts.	✓	✓	×

× Alternative does not meet the objective

✓ Alternative meets the objective

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Hearing Schedule

The hearing schedule for the RESP has been arranged to meet the California Energy Commission's grant deadlines. Your Commission will conduct hearings on the RESP and EIR on January 22, 2015 and February 5, 2015, with a final hearing on February 26, 2015. The grant agreement requires all billings to be submitted to the Energy Commission by March 31, 2015. The Board of Supervisors hearings are tentatively scheduled for March 10 and March 24, 2015.

The Final EIR will be available prior to your February 5, 2015 hearing. The final hearing will take place approximately one month from that date so that your Commission has adequate time to review the changes from the Draft to the Final EIR. In the meantime, the Draft EIR is available on the Department's web site or on a CD.

Attachments

Attachment 1: Summary of Proposed General Plan and Ordinance amendments

Attachment 2: Memo to Planning Commission from Agricultural Preserve Review Committee regarding proposed amendments to the Rules of Procedure to allow renewable energy facilities on contracted land

1-17

Attachment 1

Summary of Proposed General Plan and Ordinance Amendments

Summary of General Plan Amendments

Page No.	Document	Proposed Revision Description	Comments
3	Framework For Planning	Change nine combining designations to ten	Administrative revisions to add RE combining designations
4	Framework For Planning	Add RE combining designation definition	
5	Framework For Planning	Add RE combining designation general objectives	
6	Carizzo Area Plan	Add RE combining designation to area plan	
7	North County Area Plan	Add RE combining designation to area plan	
8	San Luis Obispo Area Plan	Add RE combining designation to area plan	
9	South County Area Plan	Add RE combining designation to area plan summary	
10	South County Area Plan	Add RE combining designation to area plan	
13-17	Area Plans	Add maps of RE combining designation	
20-22	Conservation and Open Space Element	Revise Energy Chapter policies programs and glossary	

Summary of Land Use Ordinance Amendments

General Development Standards

Page No.	LUO Section	Proposed Revision Description	Comments
25	Section 22.04.030	Add RE map symbol	
27/29	Section 22.06.030 Table 2-2	Consolidate Electricity Generation into energy generating facilities	This provides a single use group for all electricity generation
30	Table 2-3 footnotes	Note energy generating permit requirements in 22.32	
31	Section 22.10.090C	Move solar height standards to Section 22.32	Consolidate development standards in section 22.32
31	Section 22.10.140A	Move setback standards to Section 22.32	See above
31	Section 22.10.140H	Move setback projection to Section 22.32	See above

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**LUO Section 22.14
Renewable Energy Combining Designation
Establishment and Standards**

31-39	Section 22.14.100	Establishes the development requirements for projects in the RE designation	
32	Section 22.14.100B2	Establishes streamlining applicability to Williamson Act land. Currently, solar facilities are not allowed on Williamson Act land. Allows solar on Williamson Act land under strict requirements in Rules of Procedure	Only solar facilities 20 acres or less are eligible for streamlining on Williamson Act land. Larger projects are subject to MUP or CUP
33	Section 22.14.100B3	Establishes basic eligibility for streamlining in RE designation. Instead, the requirements of LUO section 22.32 apply to the project.	Projects cannot be streamlined in the RE if they meet one of the following: <ul style="list-style-type: none"> • Includes new transmission facilities • On Class I or II soils • In an SRA • In a conservation easement • In Recreation or Open Space category
34-36	Section 22.14.100 E	Establishes permit requirements for streamlining	Tier 1 projects can be streamlined if they: <ul style="list-style-type: none"> • On disturbed land • Land previously developed for commercial or industrial use Tier 2 and 3 can be streamlined if: <ul style="list-style-type: none"> • Not on land zoned open space or Rec • Not on Important Ag Soils
36-39	Section 22.14.100F	Establishes additional development standards for Tiers 2 and 3	Tier 2 and 3 can be streamlined if: <ul style="list-style-type: none"> • Site cannot have sensitive species (except SJKF) • 500 foot setback from sensitive vegetation

1-19

			<ul style="list-style-type: none"> • Avoids cultural resources • Provides for revegetation • Establish conservation easements for agricultural resource impacts • Sited to be screened from existing residences and roads.
40	Section 22.22.140.F.1 Section 22.22.150.B.8	Allows renewable energy facility in cluster open space parcel	Ground mounted solar as an accessory use would be allowed on a cluster open space parcel

LUO Section 22.32**Renewable Energy Development Standards**

41	Section 22.32.010	This section (22.32) establishes the development standards for all Energy Generating Facilities including renewable energy	Section 22.32 contains important development standards for all energy development projects
42-43	Section 22.32.020.A.2	Defines accessory renewable energy facilities	<p>Accessory renewable energy that is ground mounted for onsite use only</p> <ul style="list-style-type: none"> • Does not provide energy for offsite sale • In FH or SRA combining designation • ½ acre maximum • Not on Class I or II soil • Not subject to environmental permits
43-47	Section 22.32.030	Establishes permit requirements for renewable and non-renewable energy projects	
49-54	Section 22.32.040	Establishes development standards and general requirements	Identifies standards for discretionary projects
54-60	Section 22.32.050	Establishes permit	Identifies standards

1-20

		requirements and development standards	such as heights, setbacks, lighting, screening, and agriculture easements.
60-63	Section 22.32.060	Establishes development standards for wind energy conversion systems	Identifies standards such as height, setbacks, location, noise and visual

LUO Section 22.80

Land Use Ordinance Definitions

63-66	Section 22.80.030	Establishes definitions of new terms	Adds definitions of new terms used in the RESP including: <ul style="list-style-type: none"> • Accessory renewable energy facilities • Bioenergy Facilities • Distributed Energy Resources • Energy Generating Facilities • Renewable Energy Facilities Solar electric facilities
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LUO Section 22.94- 22.108

Revisions to Use Limitations in Specific Areas

66-67	22.94.082.C	North County-Stockdale Rd	Allow REF
67-68	22.94.082.D	North County-Wellsona Rd	Allow REF
69	22.94.082.G.4	North County – Spanish Camp	Allow REF
69	22.94.082.G.5	North County-Almira Park	Allow REF
69	22.94.090.C	North County – Shandon	Allow REF as accessory use
70	22.96.050.A	San Luis Obispo-O'Connor Way	Rename terms
71	22.96.050.B	San Luis Obispo-Irish Hills and Buckley Rd	Allow REF
71	22.96.050.E.2	San Luis Obispo-West Foothill area	Rename terms
72	22.96.050.E.3	San Luis Obispo-West of Bear Valley	Allow REF
72	22.96.050.F.3	San Luis Obispo – Squire Canyon	Allow REF
72	22.98.062.B.3.c	South County – Tiffany Ranch	Allow SEF
73	22.98.072.A.3.a	South County-Nipomo	Allow REF

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		and Santa Maria Valleys	
	22.98.072.F.1.a	South County – Willow and Via Concha	Allow REF as accessory use
74	22.104.030.C/E	North County - Heritage Ranch	Allow REF
74	22.104.030.F.2	North County-Heritage Ranch	Allow REF as an accessory use
75	22.104.040.F.1/B.1	North County-Oak Shores	Allow REF as an accessory use
76	22.104.060.B.3	North County-San Miguel	Allow REF
76	22.104.060.D-E	North County-San Miguel	Allow REF as accessory use
77-78	22.104.080.E2/F1	North County-Shandon	Allow REF
78	22.104.090.D.4.a/G.2.a	North County-Templeton	Allow REF as accessory use
79-80	22.106.010	South County-Avila Beach	Allow REF as accessory use
80	22.108.040/050/060	South County-Oceano	Allow REF as accessory use

1-22

Attachment 2



SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

Promoting the wise use of land - Helping to build great communities

DATE: December 22, 2014

TO: Planning Commission and Board of Supervisors

FROM: Bill Robeson, Agricultural Preserve Review Committee *BR*

SUBJECT: Agricultural Preserve Review Committee recommendation for proposed amendments to the Rules of Procedure to Implement the Land Conservation Act of 1965 to allow Renewable Energy Facilities (REF) on contracted land and implement streamlining measures from the Renewable Energy Streamlining Program (RESP)

RECOMMENDATION

The Agricultural Preserve Review Committee recommends approval of amendments to the Rules of Procedure to Implement the Land Conservation Act of 1965 to allow Renewable Energy Facilities on properties under land conservation (Williamson Act) contract as compatible uses subject to specific criteria in proposed Appendix F.

DISCUSSION

Introduction

On December 8, 2014 the Agricultural Preserve Review Committee (APRC) met to consider a proposal by the Department of Planning and Building to amend The Rules of Procedure to Implement the Land Conservation Act of 1965 to allow Renewable Energy Facilities on properties under land conservation (Williamson Act) contract as compatible uses with amendments to Table 2 (Agricultural and Compatible Uses for lands Subject to Land Conservation Contracts and Farmland Security Zone Contracts), and subject to specific criteria in proposed Appendix F.

Planning Department staff presented information on the RESP review criteria for different size projects and the permit processing requirements (permit level) being proposed.

Staff to the Agricultural Preserve Review Committee presented information regarding the integration of the Streamlining Program into the Rules of Procedure and the implications for the Williamson Act program.

The Committee discussed a number of issues pertaining to the siting of renewable energy facilities on different types and sizes of properties such as prime land preserves and dry land preserves (and corresponding land conservation contracts) as well as the appropriate permit level and size of facilities.

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Attachment 2

The Draft Environmental Impact Report, released on November 17, 2014, was transmitted to and considered by Committee Members (as required by state law) along with the staff report, prior to the meeting and the resulting recommendation.

The recommended Amendments are as follows:

A. Amendments to Table 2 of the Rules of Procedure (Agricultural and Compatible Uses for lands Subject to Land Conservation Contracts and Farmland Security Zone Contracts)

1. The current USE GROUP "Electric Generation Plants" (renamed "Energy Generating Facilities" in the draft Renewable Energy Streamlining Program) to be retained as referenced in Table 2. (This USE GROUP includes facilities that are not renewable energy facilities).
2. Add a new USE GROUP entitled "Renewable Energy Facilities" allowed subject to the criteria in new Appendix F on property under land conservation contract in the Inland area of the county (only).
3. Add note 12 to Table 2 referencing proposed Land Use Ordinance Section 22.32.020.A.2 Accessory Renewable Energy-Generating Facilities which includes a description of on-site Renewable Energy Facilities and permitting levels. (On-site use facilities are currently allowed and would continue to be, as recommended by the Agricultural Preserve Review Committee.)

B. The criteria (to be added to the Rules of Procedure as Appendix F) as recommended by the Review Committee are as follows:

Renewable Energy Facility (REF) projects are allowed on contracted land if they can satisfy the following criteria:

1. These criteria apply to Renewable Energy Facilities only, not "Non-Renewable Energy Facilities" ("Electric Generation Plants" renamed "Energy Generating Facilities" in the draft Renewable Energy Streamlining Program) as defined in Title 22 which are not allowed uses on contracted land.
2. Each property must meet and maintain the current eligibility criteria in the Rules of Procedure for both establishment of an agricultural preserve and entering into a land conservation contract as well as the "Minimum Parcel Size for Conveyance" required by each contract. A land owner with a contract not compliant with current eligibility standards may apply to requalify their property and enter into a new replacement contract as part of the application process for a REF project.
3. A REF project may not be located on prime or potentially prime soils. (Prime or potentially prime soils are any soils classified as Class 1 or Class 2 by the Natural Resource Conservation Service soils survey).
4. REF projects are not allowed on properties qualifying for preserves and contracts as High Productivity Prime Land (Small specialized Farms).

1-24

Attachment 2

5. For properties qualifying as a Prime Land Preserve the site area acreage for REF projects shall be in addition to the minimum acreage required to meet the 40 acre eligibility criteria. (Example: An REF project on prime land preserve property must exceed 40 acres by the amount of the REF site acreage).
6. For properties qualifying as Mixed Use (irrigated and non-irrigated uses) the required acreage shall be consistent with the 80 to 160 acre minimum parcel size based on eligible soils classes and uses. The acreage required for the REF site shall be in addition to the applicable minimum parcel size.
7. For properties qualifying as Dry Land Preserves (non-irrigated Class 3 & 4 soils, minimum 160 acres in size — with 100 acres of Class 3 & 4 qualifying soils and current or historical dry farm agricultural use) the acreage required for the REF site shall be in addition to minimum parcel size of 160 acres.
8. For properties qualifying as Rangeland Preserves (Class 6 & 7 or better soils and minimum 320 acres in size — with 100 acres of Class 6 & 7 qualifying soils and 100 acres with soils moderately to well-suited as rangeland) the REF project site shall be in addition to the minimum parcel size of 320 acres.
9. REF project site acreage may not exceed 10% of the total acreage of the property under a land conservation contract up to but not to exceed 20 acres in size.
10. The proposed REF project must be found consistent with the Principles of Compatibility in the Williamson Act [Government Code Section 51238.1(a) et seq.].
11. All REF projects shall be reviewed by Department of Planning and Building staff through Site Plan application for projects up to 10 acres in site area and Minor Use Permit for projects over 10 acres in site area. All REF projects shall be reviewed for compliance with the above criteria. REF projects subject to Minor Use Permit review (or Conditional Use Permit if otherwise required) shall be presented to the Agricultural Preserve Review Committee for a recommendation to the Review Authority. The Agricultural Preserve Review Committee shall base their review on the criteria in the Rules of Procedure and the Principles of Compatibility.



State of California – Natural Resources Agency
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



PLANNING COMMISSION

January 15, 2015

AGENDA ITEM: 5
DATE: 1/22/15

DO NOT REMOVE FROM FILE

James Caruso
San Luis Obispo County
Department of Planning and Building
976 Osos Street, Room 200
San Luis Obispo, California 93408-2040
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**Subject: Draft Programmatic Environmental Impact Report (PEIR)
San Luis Obispo County Renewable Energy Streamlining Program (ED13-196)
SCH No. 2014041090**

Dear Mr. Caruso:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft PEIR for the San Luis Obispo County Renewable Energy Streamlining Program (ED13-196) (RESP). The RESP would create a new Renewable Energy (RE) Combining Designation in the Land Use Ordinance (LUO) to provide ministerial approval for a range of solar and wind energy facilities. Discretionary review may be triggered by larger projects that require additional standards or conditions of approval. The Program will require revisions to the inland LUO (Title 22) for the development of distributed renewable energy resources, and wind energy and biomass conversion facilities that are either connected to the electric grid or serve on-site uses in stand-alone applications.

Although this comment letter is being sent after the end of the official comment deadline period, responses to which would need to be addressed in the Final PEIR, our comments are within the time frame which allows for their consideration by the County in their approval process, and may affect the streamlining program as it relates to the County's responsibilities to the CDFW as Responsible Agency. CDFW respectfully requests the County consider our comments in preparation of the Final PEIR and prior to PEIR approval. Our goal is to assist the County in their streamlining program by identifying classes of projects for which no additional permits would be required. Additionally, it is our intent to help protect project proponents from engaging in unknowing violations of other statutory and regulatory requirements if they participate in the County's streamlining process.

The RE Combining Designation, in providing only ministerial approval for certain classes of projects in certain locations, will result in a number of projects having no further environmental review per the California Environmental Quality Act (CEQA). The designation of areas and types of projects for which no further environmental review is necessary is part of the Project being reviewed in the PEIR. The PEIR would not be programmatic for those projects that would become ministerial because there would be no further review of those projects; therefore, the effects of those projects to become ministerial should be evaluated not at a programmatic level, but at a level sufficient to disclose the impacts of implementing the full range of hypothetical projects that would become ministerial as a result of the County proposed action. Evaluation of

Conserving California's Wildlife Since 1870

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the environmental effects of reclassifying areas and classes of projects as ministerial will need to rely on a level of detail sufficient to accurately identify the direct, indirect, and cumulative effects of streamlining the approval of such projects; and for identification of appropriate mitigation measures, including avoidance and minimization measures. Additionally, CDFW recommends that standards and criteria for all new projects include a "pre-screening" process, including sufficient survey information, which would support the qualification of specific projects as appropriate for ministerial approval, and provide the basis for subsequent environmental review of those projects which would not qualify for ministerial approval. Except for small solar rooftop projects that involve no ground disturbing activities, CDFW recommends the RESP require that a qualified biologist conduct biological studies to determine the potential for each individual project to impact species listed under the California Endangered Species Act (CESA), species listed under the federal Endangered Species Act (ESA), species included on other special-status lists, or impact sensitive habitat features (e.g., wetlands). If the biological studies determine that potential exists for special-status species or sensitive habitat features to occur on or near the project site, CDFW recommends that the project be excluded from ministerial consideration because of the potential for significant impacts. Additional species-specific surveys may be warranted and if species listed under CESA or ESA have the potential to occupy a site, consultation with CDFW and the United States Fish and Wildlife Service (USFWS), which administers ESA, would be necessary to determine avoidance measures or if a State or federal incidental take permit is necessary to comply with CESA and ESA, respectively.

Page ES-2 of the Draft PEIR states that implementation of the RESP may result in impacts to aesthetics and visual resources, agricultural resources, and land use planning that are considered significant, unavoidable, and adverse. However, statements of overriding consideration were not included in the PEIR.

Pages ES-2 and ES-3 of the Draft PEIR state that small solar energy facilities (SEFs) would not be required to participate in the conservation effort to preserve agricultural resources because it would be costly and limit the streamlining effort undertaken through implementation of the RESP. Choosing not to attempt to mitigate for the loss of agricultural resources does not make the impact unavoidable, only significant and adverse. CDFW recommends that projects with significant impacts be excluded from ministerial consideration.

The Draft PEIR identifies all RESP-related impacts to Biological Resources to be less than significant with incorporation of development standards. CDFW does not agree that implementation of the development standards as proposed would reduce significant impacts to less than significant levels. The RE Combining Designation in the Carrizo Plain area bisects identified natural landscape blocks and a wildlife movement corridor for pronghorn, San Joaquin kit fox (*Vulpes macrotis mutica*), a species listed as threatened pursuant to CESA, and birds. The only development standard is to keep fencing to a height of no greater than 42 inches. To help make the development standard more effective for pronghorn and other land animals, CDFW recommends the County include language that wildlife friendly fencing be constructed where the bottom of the fence is raised 18 inches from the ground with a smooth bottom wire and no greater than 42 inches in height. Please note that the fencing standard may help movement of adult pronghorn and other terrestrial wildlife through an RE facility, it does not improve chances for migrating birds or bats to navigate around wind turbines and these impacts may be significant. The RESP also requires a contribution to a conservation effort for San

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Joaquin kit fox when the project is located in a San Joaquin Kit Fox Habitat Area as identified by the County. While this effort is commendable and encouraged, it does not provide sufficient avoidance and minimization measures necessary to reduce potential impact and does not necessarily meet the requirements of CDFW or the USFWS for permitting purposes. Without avoidance, minimization, or if necessary, take authorization, the projects could result in significant impacts to the State and federally listed San Joaquin kit fox. Additionally, this approach may lead project proponents into a violation of the state and federal Endangered Species Acts if take of listed species occurs without the appropriate take authorization. CDFW recommends the County remove the San Joaquin kit fox language from the LUO and other documents as a path to a ministerial determination.

Pages 1.0-1 and 1.0-2 of the Draft PEIR includes a list of responsible agencies as defined in CEQA guidelines. CDFW is a responsible agency for purposes of issuing Lake and Streambed Alteration Agreements pursuant to Fish and Game Code sections 1600 et seq. and Incidental Take Permits pursuant to Fish and Game Code section 2081. CDFW requests that the County add us, as identified in the trustee agency list, to the list of responsible agencies in the Final PEIR.

The Draft PEIR indicates that all subsequent individual RE projects being proposed will be evaluated at the time of their proposal to determine if they are eligible for streamlined (ministerial) approval or if subsequent environmental review under CEQA is required. However, there does not appear to be any requirement for conducting studies to determine the potential for impacts to biological resources for individual projects. Page 2.0-9 of the Draft PEIR states that the RE Combining Designation will require additional biological studies where sensitive species may be present. If a proposed project will involve ground-mounted facilities, other ground disturbing activities, or use of wind turbines, the project has the potential to impact wildlife species and sensitive wildlife habitat such as riparian or vernal pool. Additionally, there is language in the Draft PEIR and the LUO that allows the Director to waive the need to submit information that will help determine eligibility for ministerial approval at the request of the applicant. The Department recommends that the option to waive a biological study be removed, because the potential for significant impacts to biological resources can not be determined without these studies. As mentioned above, CDFW recommends the County include a requirement in the Final PEIR and in the LUO and other affected documents for biological studies to be included in the submittal of any project, except for small, roof-mounted solar that does not involve ground-disturbing activities, for screening for ministerial or discretionary approval.

Table 3.4-1 in the Draft PEIR includes standards that need to be incorporated into RE projects, but most only specifically address those projects needing discretionary action and not ministerial projects. CDFW recommends that local policies be changed to include ministerial projects as well.

Pages 3.4-36 and 3.4-37 of the Draft PEIR indicate that Tier 1 wind energy conversion systems (WECSs) will be limited in height and therefore impacts to biological resources would be considered less than significant. Although Tier 1 WECS are defined as having a certain height limit depending on location and land use designation, it does not limit the number of WECs that can be installed. Even one wind turbine can cause a significant impact on bird or bat species if it is located in or near migratory paths, riparian areas, or stopover locations, and also has the

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potential to result in take of a listed species. Bird and bat impacts cannot be evaluated without site specific information and analysis. CDFW recommends the County make this a requirement for all WECS installations, including single, roof mounted WECSs.

The third sentence in the last paragraph on Page 3.4-43 of the Draft PEIR states that discretionary approval would be needed for proposed projects needing additional environmental approvals, but then precludes streambed alteration agreements and wetland fill permits. CDFW recommends this third sentence be changed to read, "This would **include** streambed alteration permits and wetland fill permits."

Figure 3.11-2 is a map showing impaired surface waters within the County. Many of these flow through RESP areas. These and other surface waters may require greater setbacks for adequate protection of water quality, aquatic species, and riparian habitat beyond the design standard of 50 feet.

LUO 22.14.10.F.3. requires the wildlife friendly fencing to allow wildlife movement through RE projects. CDFW recommends this language include a requirement to maintain an 18-inch gap between the bottom of the fencing and the surface and include a smooth wire as the bottom strand.

LUO 22.14.10.F.5. requires a 500-foot buffer around certain features, including those occupied by special-status species. CDFW recommends that this be specifically extended to all seasonal or perennial streams, wetlands, drainages, vernal pools or other jurisdictional features when they are occupied, potentially occupied, or provide habitat for special-status species.

LUO 22.14.10.F.6. requires a 50-foot setback from any seasonal or perennial wetland, drainage, vernal pool, or other jurisdictional features. Even without the presence or potential presence of species, this setback requirement may not be sufficient to protect the integrity of the water feature. For example, allowing construction of a WECS that requires a six-foot deep concrete foundation 51 feet from a vernal pool may compromise the impermeable layer that makes up the vernal pool habitat. If the hydrology cannot be maintained, the vernal pool's ability to function as before is compromised and prohibits its use by special-status species. In this example, vernal pool habitat is a sensitive habitat that if not appropriately protected would result in significant impacts. CDFW recommends the County increase the required setback distance to 250 feet from the top of banks or the outer edges of riparian habitat, whichever is greater to maintain hydrology, water quality, and associated riparian habitat.

LUO 22.14.10.F.8. provides for revegetation requirements for vegetation defined as sensitive or that may support special-status wildlife species. However, F.8.a. and F.8.b provide "offset ratios" and it is unclear to CDFW what exactly is required from these subsections of the LUO. CDFW recommends that if sensitive habitat or vegetation that may support special-status species is to be removed, that those impacts be mitigated through conservation of like vegetation/habitat at an off-site location to be protected and managed in perpetuity, with management funded through an endowment. If species listed as threatened or endangered pursuant to CESA or ESA may be impacted through habitat modification or vegetation removal (or other ground-disturbing activities), acquisition of an incidental take permit from CDFW and/or USFWS, respectively, may be warranted.

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CDFW also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource, pursuant to Fish and Game Code Section 1600 *et seq.* If Project activities are proposed that will involve work within the bed, bank, or channel of any watercourse, a Lake or Streambed Alteration Agreement may be necessary. The Project proponent should submit a Lake or Streambed Alteration Notification to CDFW for the Project. CDFW is required to comply with CEQA in the issuance or the renewal of a Lake or Streambed Alteration Agreement. Therefore, for efficiency in environmental compliance, we recommend that any stream disturbance be described, and mitigation for the disturbance be developed as part of the environmental review process. This will reduce the need for CDFW to require extensive additional environmental review for a Lake or Streambed Alteration Agreement for this Project in the future.

Fully protected species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited and CDFW cannot authorize their take. If fully protected species have the potential to be impacted through implementation of any project, fully address the species and provide appropriate avoidance measures in the environmental documents prepared for each project. Fully protected species in the study area include, but are not limited to, peregrine falcon (*Falco peregrinus*), bald eagle (*Haliaeetus leucocephalus*), golden eagle (*Aquila chrysaetos*), blunt-nosed leopard lizard (*Gambelia sila*), and California condor (*Gymnogyps californianus*).

Bird protection: CDFW has jurisdiction over actions which may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Sections of the Fish and Game Code that protect birds, their eggs and nests include Sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

If activities associated with individual projects will occur during the bird breeding season defined as January 1 through September 15, CDFW recommends surveys for active nests be conducted by a qualified wildlife biologist no more than 10 days prior to the start of the Project commencing and that the surveys be conducted in a sufficient area around the work site to identify any nests that are present and to determine their status. A sufficient area means any nest within an area that could potentially be affected by the Project. In addition to direct impacts, such as nest destruction, nests might be affected by noise, vibration, odors, and movement of workers or equipment. We recommend that identified nests be continuously surveyed for the first 24 hours prior to any construction related activities to establish a behavioral baseline. Once work commences, CDFW recommends all nests be continuously monitored to detect any behavioral changes as a result of the Project. If behavioral changes are observed, we recommend the work causing that change cease and CDFW consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no disturbance buffer of 250 feet around active nests of non-listed bird species and a 500 foot no-disturbance buffer around the nests of unlisted raptors until the breeding season has ended, or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from

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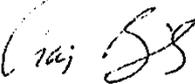
these no disturbance buffers may be implemented when there is compelling biological or ecological reason to do so, such as when the Project area would be concealed from a nest site by topography. Any variance from these buffers is advised to be supported by a qualified wildlife biologist and it is recommended CDFW be notified in advance of implementation of a no disturbance buffer variance.

We note that one of the proposed tiers for wind energy development is for turbines less than 100 feet tall. Turbines of similar height in the Altamont Pass region of California were the first at which high avian fatality rates were identified as a result of wind turbine operations. We would like to discuss further with you the specifications of wind turbines that the County may propose classifying as ministerial projects.

CDFW may have additional species-specific recommendations based on the results of the biological studies conducted for each Program project.

Thank you for the opportunity to provide input on this Draft PEIR for the RESP. If you have any questions regarding these comments, please contact Lisa Gymer, Senior Environmental Scientist (Specialist), at the address provided on this letterhead, by telephone at (559) 243-4014 extension 238 or by email at Lisa.Gymer@wildlife.ca.gov.

Sincerely,


for Jeffrey R. Single, Ph.D.
Regional Manager

cc: Christopher Diel, United States Fish and Wildlife Service
Christopher_Diel@fws.gov

Julie Vance, California Department of Fish and Wildlife
Lisa Gymer, California Department of Fish and Wildlife

organizations, have responsibilities to do their part to preserve and protect the county's biological resources. On the other, federal, state, regional, the County, and the incorporated cities have roles to regulate and encourage conservation and resource protection.

We will recognize success when...

- o *Restoration of important habitats such as streams, wetlands, woodlands, and corridors is underway.*
- o *The acreage and integrity of sensitive habitat such as oak woodlands, wetlands and streams and riparian vegetation is maintained or increased.*
- o *A network of major ecosystems has been established and is being managed.*
- o *A diversity of wildlife flourishes in the county's woodlands, streams, wetlands, and other habitats.*

Relationship to Other Elements, Plans, and Programs

This Element contains biological resource-specific policies. However, it and all the elements of the General Plan work together to form a cohesive set of goals, objectives, and policies that cumulatively preserve, enhance, and protect biological resources for generations to come.

The goals, policies, and implementation strategies in this chapter are designed to be consistent with the Agriculture Element, which is intended to balance protection of open space and biological resources with the needs of production agriculture and to minimize the impacts to ongoing production agriculture.

Many of the sensitive and scenic areas identified in this plan are already identified in the Land Use Element (LUE) by existing Sensitive Resource Area (SRA) combining designations. (Refer to Title 22, County Land Use Ordinance.) In those areas, standards in the LUE and Land Use Ordinance (LUO) protect sensitive resources and mitigate the effects of development. However, there are also other important sensitive and scenic areas and features that are currently not designated in the LUE, such as major ecosystems, key wildlife corridors, sensitive natural communities identified by the California Department of Fish and Game, oak woodlands identified by the California Department of Forestry, watersheds supporting native steelhead fisheries, and County Natural Area Preserves. The policies in this Element are intended to protect these important biological and ecological resources in vulnerable areas.

PLANNING COMMISSION

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BIOLOGICAL RESOURCES

CHAPTER 3

Major Issues

- 1) Integrated management approach. Increasing risk of degradation and/or elimination of natural resources requires coordinated and integrated management of the county's biological resources by public, private, nonprofit, and agricultural organizations at ecosystem and site-specific levels.
- 2) Land use conversion. Changing land uses, particularly conversion of agricultural and rural lands to residential and urban uses, adversely impact species and their habitats.
- 3) Wildlife protection. Changing land uses impact wildlife movement corridors and displaces wildlife.
- 4) Oak woodlands. Areas of oak woodlands and native trees are diminishing due to tree cutting, urban land conversion and displacement by exotic/non native species.
- 5) Wetland habitats. Changing land uses impact wetlands, steams, and riparian habitats.
- 6) Fisheries. Marine resources and fisheries are increasingly vulnerable to degraded habitat, polluted runoff, and sedimentation from urban development.

Goals, Policies, and Implementation Strategies

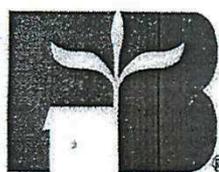
The intent of the following goals, policies, and implementation strategies is to identify and protect biological resources that are a critical component of the county's environmental, social, and economic well-being. Biological resources include major ecosystems; threatened, rare, and endangered species and their habitats; native trees and vegetation; creeks and riparian areas; wetlands; fisheries; and marine resources. Individual species, habitat areas, ecosystems and migration patterns must be considered together in order to sustain biological resources.



**TABLE BR-1
GOALS FOR BIOLOGICAL RESOURCES**

Goal BR 1	Native habitat and biodiversity will be protected, restored, and enhanced.
Goal BR 2	Threatened, rare, endangered, and sensitive species will be protected.
Goal BR 3	Maintain the acreage of native woodlands, forests, and trees at 2008 levels.
Goal BR 4	The natural structure and function of streams and riparian habitat will be protected and restored.
Goal BR 5	Wetlands will be preserved, enhanced, and restored.
Goal BR 6	The County's fisheries and aquatic habitats will be preserved and improved.
Goal BR 7	Significant marine resources will be protected.





SAN LUIS OBISPO COUNTY FARM BUREAU

4875 Morabito Place, San Luis Obispo, CA 93401
Phone (805) 543-3654 FAX (805) 543-3697

January 22, 2015

PLANNING COMMISSION

AGENDA ITEM: 5
DATE: 1/22/15

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Commissioners
San Luis Obispo County Planning Commission
976 Osos St.
Suite 200
San Luis Obispo, CA 93408

Re: Agenda Item 5, Renewable Energy Streamlining Program

Dear Commissioners:

Representing the San Luis Obispo County Farm Bureau I thank you for this opportunity to address the proposed Renewable Energy Streamlining Program (RESP). There are a number of positive proposals in the RESP but I have some questions regarding clarification for some of the terms and what the sections will actually do.

A basic question is how does the RESP improve the permitting process over what is in place today?

More specifically we are asking if a small ground mounted solar project to pump water to fill a stock trough or lighting for a corral is considered "accessory" or not as only "accessory" projects can have over-the-counter permit (zoning clearance) approval.

Page 19, "accessory" SEF:

Page 19, Attachment 4 – Identifies Zoning Clearance requirements (over-the-counter approval) for accessory renewable energy facilities. These facilities, primarily small-scale roof and ground-mounted solar facilities, are incidental to the principal use of a site and produce energy to support the principal use of the site.

- o Provides energy for on-site use only
- o Not in Flood Hazard or Sensitive Resource Area combining designations
- o If ground mounted, no larger than 1/2-acre (staff is now recommending that the previously proposed 1/2-acre limitation be increased to 3.0 acres)
- o Not located within 100 feet of a public road
- o Is not on Class I or II soils
- o Not subject to environmental permits

In the current fee schedule a zoning clearance would cost about \$280.

If the small solar project, using 1 to 3 solar panels is not considered accessory than the current proposal places the project in Tier 1 and a site plan appears to be the only option.

Tier 1 solar energy facilities (SEFs) are defined as:

- Under 20 acres, either inside or outside a renewal energy zone (RE),
- Not located within a Sensitive Resource Area for visual resources,
- Not subject to a conservation easement prohibiting energy generating facilities,
- Not located in a recreation or open space land use category and
- Not located in the airport review area combining designation.

As stated in the 2015 fee schedule Tier 1 projects site plan fees would be:

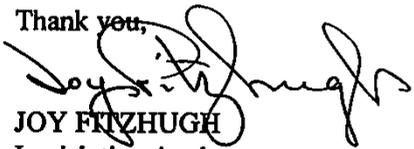
- Site Plan with an exemption (the least expensive) \$2,158
- Agricultural Commissioner's review \$520
- CalFire Review \$386

For a Total cost of \$3,064 Tier 1 SEF fees.

Thus, it appears that in the currently proposed RESP a rancher, needing a ground mounted solar system to pump water for a trough or light a corral, must get a site plan (LUO, page 11, Attachment 4: LRP2014-00015:D) which would apparently cost over \$3,000.

If this is true, then we are asking for a more equitable solution for those in agriculture that need a minimal watt, ground mounted, solar electric project which utilizes far less than 1 acre or 40,000 square feet.

Thank you,


JOY FITZHUGH
Legislative Analyst

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Land Use Permit Fees

See Footnotes 1, 3, 4, 5, 7, 36, 37 and specific notes cited for individual items

Fee Code	Fee Description	Base Fee	Public Works	Env Health	Cal Fire	AG Comm	Footnotes and Comments
	Oil Projects - Offshore	Processing Costs					See Footnotes 1, 38
S22A	Parcel Map/Tract Map with Conditional Use Permit / Development Plan with Categorical Exemption or General Rule Exemption or Previously Issued Environmental Document	\$ 5,678	\$1,037 per parcel	See Env Health	\$ 753	\$ 2,803	See Footnote 9. See Footnote 31 when application includes concurrent TDC receiver site determination.
S21	Parcel Map with Conditional Use Permit / Development Plan with Initial Study	\$ 9,198	\$1,037 per parcel	See Env Health	\$ 753	\$ 2,803	See Footnote 9. See Footnote 31 when application includes concurrent TDC receiver site determination.
S18A	Parcel Map with Categorical Exemption or General Rule Exemption or Previously Issued Environmental Document	\$ 4,659	\$1,037 per parcel	See Env Health	\$ 753	\$ 703	See Footnote 9. See Footnote 31 when application includes concurrent TDC receiver site determination.
S20	Parcel Map with Initial Study	\$ 7,924	\$1,037 per parcel	See Env Health	\$ 753	\$ 703	See Footnote 9. See Footnote 31 when application includes concurrent TDC receiver site determination.
T30A	Parcel or Tract Map - Final Map Evaluations for Compliance - Major	\$ 1,213					
T30	Parcel or Tract Map - Final Map Evaluations for Compliance - Minor	\$ 703					
L11	Plot Plan Adjustment Requests	\$ 16					
L04	Plot Plan with Building Permit / Zoning Clearance - First Structure	\$ 279					
L05	Plot Plan with Mechanical, Plumbing, Electrical or Other Building Permit / Over-the-Counter Permits	\$ 35					
L06	Plot Plan with Zoning Clearance for Additional Structures	\$ 111					
L52	Pre - Application Meeting	\$ 500		\$ 540		\$ 252	See Footnote 9
L53	Pre - Application Meeting with Site Visit	\$ 1,269		\$ 540		\$ 252	See Footnote 9
S62	Public Lot Request	\$ 2,805					
L60	Reclamation Plan	\$ 7,706					
	Request for Review of Proposed Negative Declaration	\$ 850					
X18/19A	Resource Conservation District (RCD) - Large Projects	\$ 375					See Footnote 25
X08/9A	Resource Conservation District (RCD) - Small Projects	\$ 275					See Footnote 25
T39 L80	Revised Plans Submitted - Substantial Conformity for All Land Use Applications	\$ 506					
R22	Road Name Request - Parcel Map / Tract Map / Lotline Adjustment	\$ 811					Per Road
R21 R25	Road Name Request Requiring a Public Hearing	\$ 1,491					Per Road
L20A	Site Plan with Categorical Exemption or General Rule Exemption or Previously Issued Environmental Document	\$ 2,156			\$ 386	\$ 520	See Footnote 7
L21	Site Plan with Initial Study	\$ 3,839			\$ 386	\$ 520	
J03	Specific Plan - New or Amend with Initial Study	\$16,500 deposit + processing cost		\$ 534		\$ 1,501	See Footnotes 1, 9
S60	Subdivision Ordinance Exceptions Request Concurrent with Map	\$ 1,415					
S61	Subdivision Ordinance Exceptions Request Not Concurrent with Map	\$ 4,161					
L65A	Surface Mine / Annual Inspection Fee (Tier I)	\$ 1,006					See Footnote 35
L65	Surface Mine / Annual Inspection Fee (Tier II)	\$ 2,315					See Footnote 35

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AGENDA ITEM:

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