

**Background Section of May 24, 2022, Staff Report regarding Appeal of the proposed E-Group Byron Commercial Solar Facility Project (County File Nos. CDRZ21-03259/ CDLP21-02010)**

Project Description:

On April 22, 2021, E-Group SF, LLC (Applicant) submitted Land Use Permit Application #CDLP21-02010 and Rezone Application #CDRZ21-03259 seeking to rezone the subject parcel for inclusion within the Solar Energy Generation (-SG) Combining District for the purpose of establishing a commercial solar energy generation facility on the subject property. The applicant proposes to Rezone the subject parcel, located ±0.25 miles via dirt road from the western terminus of Byron Hot Springs Road in Byron, to be included in a Solar Energy Generation Combining District (-SG), in addition to its existing designation within a General Agricultural (A-2) zoning district.

Additionally, and contingent upon the approval of the proposed rezoning, the applicant proposes the installation of a 6.5-megawatt solar energy generation facility with an 8-megawatt-hour capacity battery storage system. The facility will include approximately 9,240 4-foot tall, ground-mounted solar panels placed across the northwest, southeast, and southwest quadrants of the 77-acre project site. The 8-megawatt hour battery storage unit would be constructed near the existing 230KV substation in the northeast quadrant of the site and cover approximately 34 acres. Lastly, the proposed facility will require interconnection to the Herdlyn Substation by trenching approximately 3.8 miles off site from the parcel's eastern boundary, to existing overhead power lines located along Byron Highway @ Holey Road. Based on the applicant's written project description submitted with this application, the trenching for this proposed power connection will entail a trench that is typically 18-inches wide and four feet deep along the gen-tie path, resulting in approximately 3,750 cubic yards of offsite grading.

Staff Recommendation Summary:

Staff recommends denying the proposed project because it would conflict with the General Plan, Zoning and other plans and programs previously approved by the County. The following is a brief list of some of the major considerations behind this recommendation:

- 1) The project is inconsistent with General Plan Policies designed to protect hillsides, ecologically significant areas, and natural land cover areas.
- 2) The project is inconsistent with Ordinance- required findings for approval of Rezoning applications
- 3) The project is inconsistent with numerous screening criteria of the County's 2018 Renewable Resource Study that was developed through an inclusive stakeholder to inform the County's 2020 updates to its land use policies.
- 4) The project will significantly impact ecologically significant areas in the County and conflict with the Conservation Strategy of the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan approved by the County, six other local agencies, the United States Fish and Wildlife Service and the California Department of Fish and Wildlife.
- 5) The project site consists of slopes well in excess of 26% throughout the proposed area of development.
- 6) The project would undermine existing policies designed to facilitate the growth of this land use in appropriate areas.

This Staff Report provides background on the proposed project, the Solar Energy Generation Combining District, a summary of the appellants' arguments (and staff responses) and a summary of the applicant's arguments (and staff responses).

Surrounding Land Use: The subject property is located in the Byron Hills area of eastern Contra Costa County. The area is generally characterized by rolling foothills of annual grassland. Brushy Creek and its tributaries meander around/through the subject property, flowing downhill in a generally easterly direction towards the relatively level Central Valley floor. The project vicinity is sparsely developed and consists of lands zoned for agricultural land uses. Vasco Road is located approximately 1.3 miles west of the project site. The Alameda County Line abuts the project area to the south. Buena Vista Windfarm, a commercial wind generation facility consisting of 38 turbine towers exists partially on the subject parcel, with two turbines located on the higher elevations of the property, with the remaining 36 turbines on adjacent lands to the west/northwest.

The greater vicinity includes the Byron Hills Management Area, which is an approximately 5,364-acre area managed by the East Bay Regional Park District (EBRPD) that includes the nearby Vasco Caves, Vasco Hills, and Byron Vernal Pools preserves. The property abutting the project site to the north is within the Byron Hills Management Area and is the site of future parklands under development according to EBRPD maps. The existing Buena Vista Windfarm is predominantly located upon a 213-acre parcel (APN 005-180-010) within the Byron Hills Management Area. The lease for the Buena Vista Windfarm expires on December 31, 2026, with an option to extend for an additional 10 years.

Existing Site Condition: The subject property is located on a hillside within the Byron Hills area. The project site predominantly consists of grazing land and is largely devoid of tree cover. Existing development on the subject property includes two wind turbines of the Buena Vista Windfarm, a 230KV substation, and a turbine access road. A small ranch building exists north of the substation which is generally unused or used for the purpose of maintaining the land. A tributary of Brushy Creek flows across the subject parcel from northwest to southeast.

#### Background on Solar Energy Generation Combining District:

The Contra Costa County Department of Conservation and Development was the recipient of the 2017 Sustainable Communities Planning Grant & Incentives program Best Practices Pilot. The grant provided funding for the *Contra Costa County Renewable Resources Study (Cadmus, December 2018)*, which sought to evaluate and quantify development potential for clean energy derived from a variety of renewable resources within the County. The Cadmus study evaluated renewable energy potential from sources including, solar, wind, biomass, and biogas, and found that rooftop and ground mounted solar offered by far the greatest energy-generating potential amongst all sources.

At the time of the study, the County had already taken significant steps to foster renewable energy resulting in a substantial amount of commercial-scale renewable energy production (both wind and solar), and a dramatic increase in rooftop solar development. However, based on the Cadmus Study's findings that substantial acreage of agricultural lands in east County may be compatible with Commercial Solar land uses where topographical, ecological, and agricultural concerns are relatively low, it was determined

that the County can further encourage the growth of renewable solar energy by taking action to guide and facilitate development of these resources at appropriate locations. Thus, the County sought to identify specific areas with relatively low land-use tradeoffs where commercial-scale facilities may potentially be located.

The County's efforts in this regard culminated in the 2020 updates to solar policies, which included zoning text amendments to facilitate the expansion of solar energy generation in the County, particularly for projects involving negligible or no land use tradeoffs such as commercial/industrial rooftops, on existing parking lots, and urban land unlikely to be developed, for which all zoning barriers to solar deployment were removed. The potential development of "greenfield" commercial solar projects within agricultural east County represents a relatively small but significant portion of the solar generation potential from all sources. As such, the Solar Energy Generation Combining District (-SG) was adopted in agricultural areas in East County, identifying such lands and excluding areas of high conservation and agricultural value in order to realize the generation potential on greenfield sites in areas where it does not conflict with other policy goals. The resulting -SG combining district consists of approximately 7,800 acres of agricultural-zoned farmland of marginal value (i.e., non-prime soil, no significant hillsides or natural land cover, low special status plant/animal species habitat value) located in the Byron, Bethel Island, and Jersey Island areas of unincorporated County. By identifying agricultural parcels with the necessary attributes to accommodate commercial solar development and excluding those parcels containing major agricultural resources and sensitive habitat, the approved -SG combining district balances the County's interest in encouraging local renewable energy production with other important policy goals in Eastern Contra Costa County. The proposed project site and surrounding vicinity were excluded from the -SG district on the basis of multiple screening criteria, including topography, natural land cover type, and parks/conservation lands.

1. **Topography:** Lands sloped more than 10% were excluded from the -SG district due to structural considerations related to installing ground mounted solar on sloped terrain, susceptibility to erosion and earthquake risks and the substantial aesthetic impacts of siting solar facilities in hilly areas. As shown on the below Figure 1, County Geographic Information System (GIS) resources indicate that the vast majority of the project site exceeds a 15% slope, with a substantial portion exceeding a 26% slope. Analysis of the proposed site plan (Exhibit L) agree with the GIS slope data. Based on scale measurements therefrom, the proposed site plan indicates that southwesterly portions of the project site consists of slopes between 26% to 55% in the areas where solar arrays are proposed to be installed. Thus, the project site is well in excess of the 10% slope screening criteria, and also exceeds 26% in slope. General Plan policies generally restrict development of all types on such steeply sloped lands.

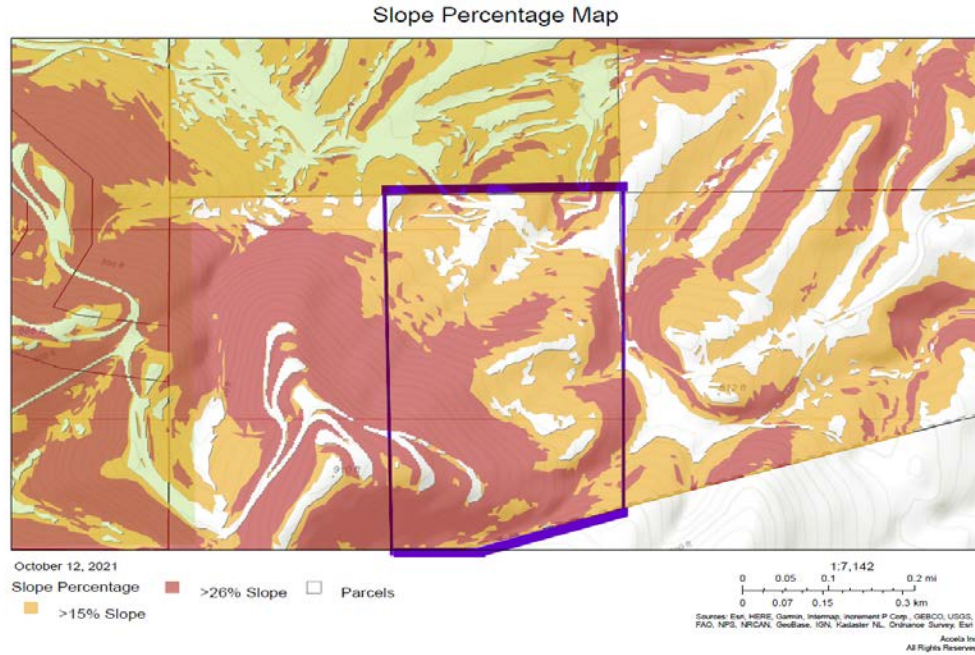


Figure 1

2. **Natural Land Cover Types:** The Cadmus Study included an analysis of the United States Geological Service (USGS) Multi-Resolution Land Characteristics mapping data to identify regions of Eastern Contra Costa County characterized by natural land cover types. Such regions have high habitat value and may also pose viewshed concerns. Figure 2 below was adapted from the series of maps in the Cadmus Study entitled, "Evaluation of Constraints for Siting Solar Outside the Urban Limit Line". It displays land cover classifications for eastern Contra Costa County. According to the study, screening for both natural land cover types and for steep terrain was sufficient to ensure that no high conservation priority areas designated by the East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan (HCP/NCCP) were included in the parcels listed as suitable for solar. The project has a Grassland/Herbaceous natural land cover and was thereby excluded under the "natural land cover" criterion. The project location would have also been excluded from the -SG combining district on the basis of being within the HCP/NCCP High Priority Acquisition Area (see Figure 3 below), had the need for this screening criterion not been rendered redundant by slope and natural land cover screening.

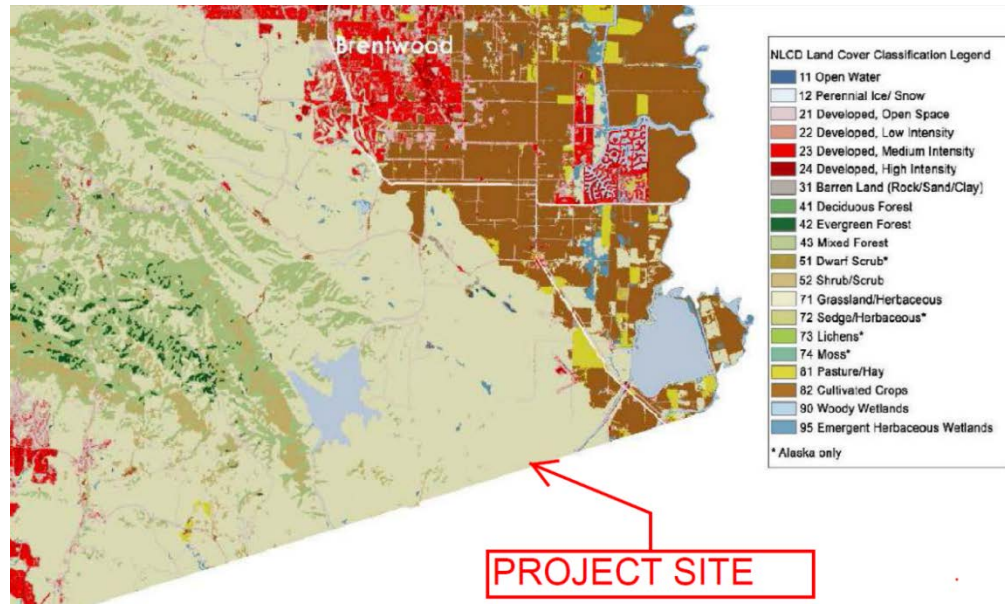


Figure 2

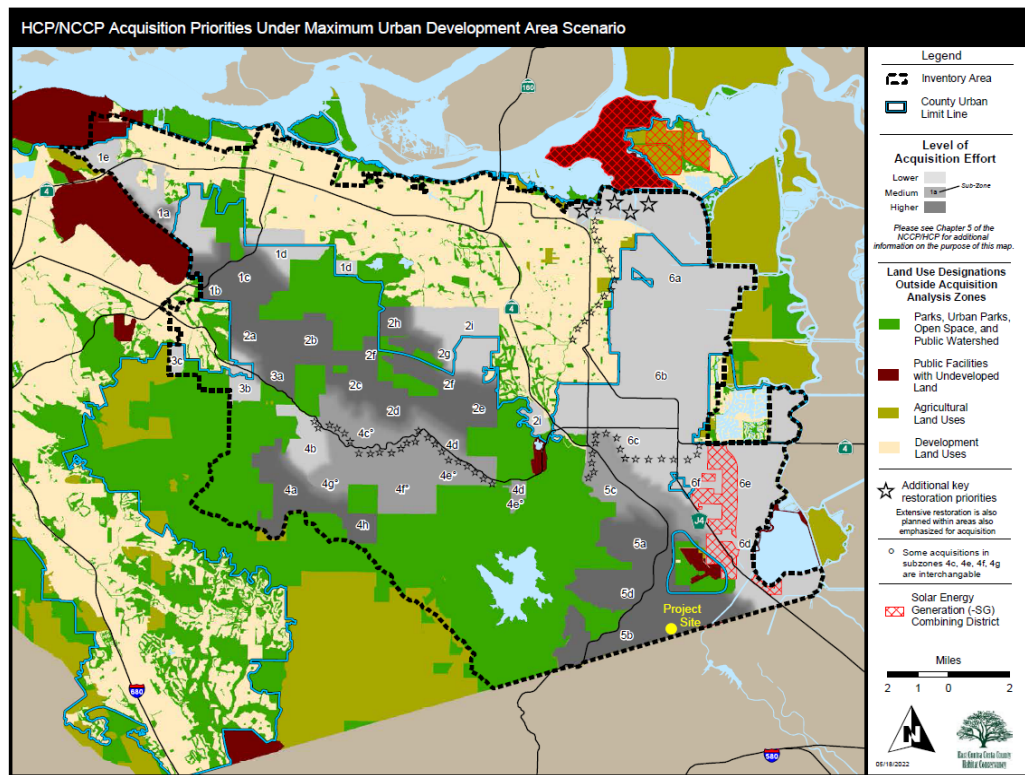


Figure 3

3. **Park Lands / Conservation Easements:** Parks and conservation easements were not considered potential areas for large scale solar, with the exception of those areas having existing parking lots and detention basins. There are no existing parking lots or detention



basins located on the subject property. As shown in Figure 4 below, the project site is surrounded by park lands and conservation lands to the west, east, and north. Considering that the surrounding area predominantly consists of park lands and lands under agricultural preserve contracts, the project site and surrounding area was not considered suitable for inclusion within the -SG combining district.

Figure 14. Parks, Open Spaces and Conserved Agricultural Lands

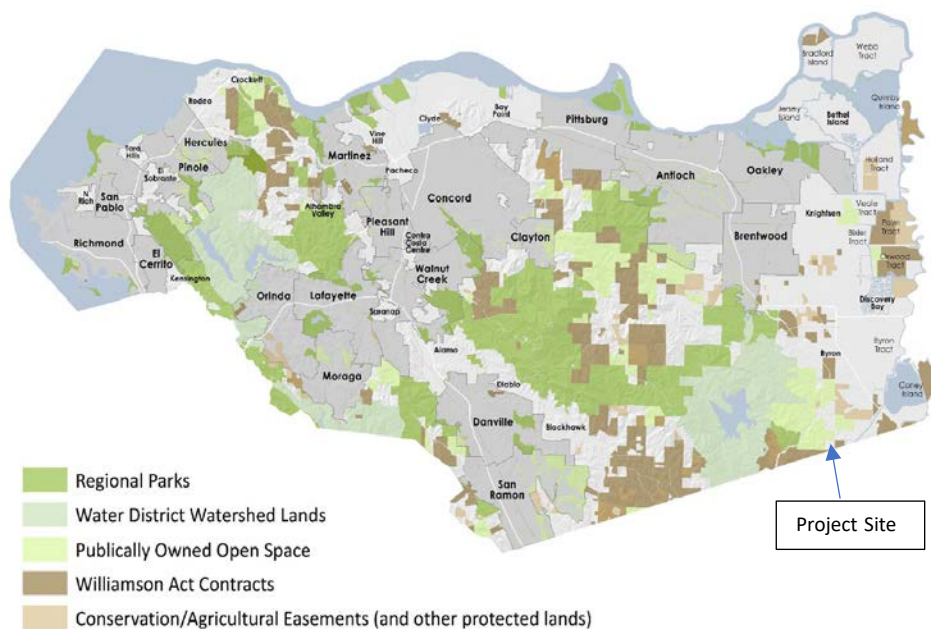


Figure 4

Based on the foregoing discussion, the project site and its vicinity were not identified as lands suitable for inclusion in the -SG district due to multiple criteria constraints. Therefore, the proposed rezoning is not appropriate for the subject parcel, or those in the vicinity.

Pursuant to County Ordinance Code Section 26-2.1806 (Rezoning Standards), a request for change of the land use district applicable to the subject property shall be contingent upon the existence of three findings. Staff believes that the following two findings do not exist for the project:

- a. *The change proposed will substantially comply with the General Plan;*

**Project Deficiency:** As detailed below, the project conflicts with policies of the Contra Costa County General Plan that are collectively designed to preserve significant ecological areas, native and nonnative vegetation, wildlife habitats, wildlife migration corridors, open grasslands, and hillsides exceeding 26% in slope - all of which are predominantly characteristic of the subject property and the greater Byron Hills area.

General Plan Policy #	Policy
3-70	Southeastern Contra Costa County contains a range of natural and cultural resources which warrant special recognition in the General Plan... The southeastern portion of the County is blessed with archaeological and wildlife resources which are unique and worthy of long-term protection and preservation.
8-6	Significant trees, natural vegetation, and wildlife populations generally shall be preserved.
8-7	Important wildlife habitats which would be disturbed by major development shall be preserved, and corridors for wildlife migration between undeveloped lands shall be retained.
8-8	Significant ecological resource areas in the County shall be identified and designated for compatible low-intensity land uses. Setback zones shall be established around the resource areas to assist in their protection.
8-9	Areas determined to contain significant ecological resources, particularly those containing endangered species, shall be maintained in their natural state and carefully regulated to the maximum legal extent. Acquisition of the most ecologically sensitive properties within the County by appropriate public agencies shall be encouraged.
8-13	The critical ecological and scenic characteristics of rangelands, woodlands, and wildlands shall be recognized and protected.
8-14	Development on hillsides shall be limited to maintain valuable natural vegetation, especially forests and open grasslands, and to control erosion. Development on open hillsides and significant ridgelines throughout the County shall be restricted, and hillsides with a grade of 26 percent or greater shall be protected through implementing zoning measures and other appropriate actions.
8-15	Existing vegetation, both native and non-native, and wildlife habitat areas shall be retained in the major open space areas sufficient for the maintenance of a healthy balance of wildlife populations.
9-1	Permanent open space shall be provided within the county for a variety of open space uses.
9-2	Historic and scenic features, watersheds, natural waterways, and areas important for the maintenance of natural vegetation and wildlife populations shall be preserved and enhanced.

A detailed discussion of the specific general plan policies conflicting with the proposed project are discussed in further detail in the attached findings for denial (EXHIBIT B). Therefore, staff does not find the project to be in compliance with the General Plan.

- b. *The uses authorized or proposed in the land use district are compatible within the district*

*and to uses authorized in adjacent districts;*

**Project Deficiency:** The parcels immediately east and north of the subject site are a portion of the approximately 5,364-acre Byron Hills Management Area managed by the East Bay Regional Park District (EBRPD). The General Plan Land Use Element specifies that the construction of commercial uses is inconsistent within the Parks and Recreation (PR) land use designation. Further, annual grasslands located between existing EBRPD-managed preserve lands and the Alameda County line to the south (a geographic area including the project site) were specifically identified in the East Contra Costa County Habitat Conservation Plan / Natural Community Preservation Plan (HCP/NCCP) as critical to maintain linkages between preserve lands in Contra Costa County and those within Alameda County to the south in order to maintain migration corridors for special status grassland species which are dependent on large non-fragmented expanses of suitable habitat. The fragmentation of suitable habitat existing on private lands located between the existing preserve lands and Alameda County can be detrimental to the viability of habitat suitable to special status plant/ animal species - both adjacent to the preserve and even within the preserve itself. Thus, Commercial solar generation facilities are not compatible with the PR General Plan land use designation in which these abutting park lands are located.

Adjacent parcels east and southwest of the subject property are subject to Williamson Act contracts with the County. The respective Agricultural Preserve Contracts specify that these lands shall not be used for any purpose, other than the production of food, fiber, and compatible uses listed in the A-4 Agricultural Preserve District within Contra Costa County Ordinance Code. Commercial solar activity is not an allowed use within the A-4 district and the -SG district ordinance (Section 84-88.202) does not authorize the establishment of commercial solar activity within the A-4 district. Thus, the establishment of commercial solar facility on the subject property would be incompatible with existing Agricultural Preserve contracts applicable to these abutting parcels.

Therefore, based on the incompatibility of the proposed land use with those that are permitted under present zoning on every adjoining parcel, the project would result in a condition where the land use is incompatible with those permitted on adjoining parcels and within adjacent zoning districts.

Following an initial review of the project proposal, Community Development Division (CDD) staff advised the applicant on May 21, 2021, of staff's intent to recommend denial of the proposed rezone based on the above-mentioned inconsistencies with General Plan policies and zoning ordinances applicable to commercial solar activities and rezoning approvals.

The applicant expressed a continued interest in pursuing the proposed project. CDD staff and the applicant agreed to stop processing the applications, including environmental review, until such time as staff's initial recommendation has been evaluated by the appropriate planning authority. The project was



scheduled on the November 10, 2021, agenda for the County Planning Commission (CPC) meeting with a staff recommendation for denial.

During the November 10, 2021, CPC meeting, the applicant presented testimony in support of the project proposal. Additionally, speakers associated with various trade organizations provided testimony in support of renewable energy and the jobs that they create. This specific project, according to testimony provided to the applicant will provide approximately 150 union jobs during the four-to-five-month construction window and a projected operating and maintenance budget of approximately 15.4 man-hours per month during the project's lifespan. Testimony was also received from other organizations supporting the County's Solar Overlay Zone which provides guidance on placement of solar so that it does not conflict with other County priorities and opposing this project based on the proposed location. After considering the testimony, the CPC decided by a 4-3 vote to reject staff's recommendation for denial in favor of allowing further planning review of the project before a discretionary decision is made.

Appeal of the County Planning Commission's Decision:

The County received two appeals of the CPC's decision. On November 17, 2021, the County received an appeal of the CPC's decision from the East Bay Regional Park District. On November 19, 2021, the County received a second appeal of the CPC's decision from Save Mount Diablo. On March 8, 2022, the applicant provided a response letter to the appeals. The appeals and applicant response are included as Exhibits C & D respectively. Staff has summarized the points in the letters received and has provided a discussion of each point below:

Appeal Points:

1. Appeal Point #1: The decision is detrimental to publicly funded efforts to protect endangered species habitat in Eastern Contra Costa County. If the proposed project is approved, it would establish precedent impacting the successful implementation of the multi-jurisdictionally approved Habitat Conservation Plan / Natural Communities Conservation Plan (HCP / NCCP).

Staff Response #1: Staff agrees. The project site and surrounding lands are within an area identified by the East Contra Costa County HCP/NCCP as a high-priority conservation area due to the presence of habitat to support state and federally protected species. The site is bounded on two sides by land protected for this purpose and within a larger zone identified for conservation by local, state and federal agencies. The hilly topography and natural land cover that is characteristic of the area has scattered wetland features and provides habitat for protected amphibians, nesting and foraging habitat for raptors, and other species as discussed in the HCP/NCCP and in the applicant's biological resource assessment. The protection of habitat for endangered species is a priority for the County and was considered in the development of the Solar Energy Generation (-SG) Combining District. As discussed in the County's Renewable Resources Potential Study ("the Cadmus Study"), properties that were of medium or high priority for conservation were not recommended for solar development to avoid conflict with other County commitments and priorities.

The East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan (HCP/NCCP), the regional plan adopted by the County, the Cities of Brentwood, Clayton, Oakley and Pittsburg, the East Bay Regional Park District and the Contra Costa County Flood Control and

Water Conservation District to conserve habitat and recover special status species. The HCP/NCCP was also approved by the United States Fish and Wildlife Service and the California Department of Fish and Wildlife and is the basis for the regional endangered species permits issued to the seven local agencies enabling these local agencies to perform or approve development activities where compatible with the HCP/NCCP).

The County's General Plan includes policies that require the identification and preservation of ecological resources, hillside lands, and grasslands - both native and nonnative. Though the applicants suggest that potential biological impacts can be studied and mitigated at the project level, the appellants express concern that the land use policy implications of approving this project – where General Plan conservation and open space policies unambiguously encourage low intensity land uses and conservation measures – could encourage further development of high habitat value lands throughout Contra Costa County.

In staff's view, approval of the project would adversely affect the orderly development of property within the County (finding #3 in attached findings for denial). Staff agrees that allowing the proposed land use in an area where such use is prohibited may encourage similar proposals for other parcels in the Vasco Hills, Byron Vernal Pools, Byron Hills, and other ecologically sensitive areas for inclusion within the -SG combining district. The continued successful implementation of the HCP/NCCP is largely dependent upon the County's consistent interpretation and application of General Plan Conservation and Open Space policies which overwhelmingly support the preservation and protection of the project vicinity from high intensity land uses such as commercial solar.

2. Appeal Point #2: The project is inconsistent with General Plan Policies that require the protection of critical ecological characteristics of rangelands and limit development on hillsides.

Staff Response #2: Staff agrees. Staff included a finding in the attached findings for denial (Attached Exhibit B), which details multiple general plan policies (e.g., General Plan Policies: #8-8, #8-9, #8-14, #3-70) that conflict with the proposed project due to the critical ecological importance of this region of the County. More specifically:

- **General Plan Conservation Policy #8-8**, states that “significant ecological resource areas shall be identified and designated for low intensity land uses.” The ecological significance of this area of the County is declared in General Plan Policy 3-70 and is confirmed in the scientific analysis performed in developing the East Contra Costa County HCP/NCCP. The project site and parcels in the vicinity are designated as high priority conservation lands under the HCP/NCCP due to the ecological and habitat value provided by their natural land cover. These parcels are important as individual sites, but also because together, they provide habitat connectivity within the region.
- **General Plan Conservation Policy #8-9** states that “areas determined to contain significant ecological resources, particularly those containing endangered species shall be maintained in their natural state and carefully regulated to the maximum legal extent”.

- **General Plan Conservation Policy 8-14** restricts hillside development and states that “hillsides with a grade of 26 percent or greater shall be protected through implementing zoning measures and other appropriate actions”. A substantial portion of the project site exceeds 26% in grade. Portions of the proposed solar array are located on slopes between 40-55% according to the project plans. The project proposes a zoning measure that would allow for intensified hillside development which is in conflict with this policy and the County’s past application of this policy as it relates to discretionary decisions.
3. Appeal Point #3: Approving the project at this location would disregard the findings that informed the creation of the Solar Energy Generation (-SG) Combining District in 2020.
  4. Appeal Point #4: The project would result in an unorganized, haphazard approach to authorizing solar facilities.
  5. Appeal Point #5: The County would lose clear, comprehensive guidance on the establishment of Commercial Solar Generation facilities within Contra Costa County.

Staff Response #3-5: Staff agrees. The approval of the proposed project would be at odds with the findings and recommendations of the Renewable Resource Potential Study which informed the establishment of the -SG combining district on certain agricultural-zoned lands in east Contra Costa County.

Significant research has been completed over the past decade regarding the framework for identifying least-conflict land for solar development in California, including noteworthy publications such as the *Solar Energy Facility Permit Streamlining Guide* (California County Planning Directors Association, February 3, 2012), *A Path Forward; Identifying Least-Conflict Solar PV Development in California’s San Joaquin Valley* (Berkeley Law, May, 2016), and *A New Solar Landscape: Improving County-Level Landscape Planning for Utility-Scale Solar PV Facilities* (Berkeley Law, UCLA School of Law, November, 2018). Based on these studies, it is widely agreed that site selection, viable economics, and access to transmission infrastructure are among the most significant barriers to the introduction of more solar facilities on technically optimal, least-conflict lands statewide.

Of these identified barriers, site selection is the one barrier which the County can directly influence through zoning ordinance and General Plan policies. In 2020, the County moved forward to address this through the establishment of the -SG district, which provides clear direction to applicants related to site selection.

The County has implemented principles of landscape-level planning to identify least-conflict lands in locations presumed appropriate for the development of commercial solar facilities. Obtaining discretionary applications can be a lengthy and costly process that is borne entirely by the developer, with no guarantee that a project will ultimately be approved. The establishment of the -SG district reduces some risk associated with discretionary applications for commercial solar facilities by pre-identifying areas where topographical, ecological, habitat, and agricultural

concerns are comparatively low. A site-specific CEQA analysis is still required on a project-by-project basis to ensure that proposed commercial solar facilities within the -SG district will not result in significant environmental impacts, however, much of the uncertainty surrounding the County's consideration of various Land Use, Agricultural, Conservation, and Open Space policies, as they pertain to commercial solar development, has been removed by identifying presumed appropriate locations for such development. By promoting development within least-conflict lands in east county, County planning staff time processing these applications can be streamlined and overall processing time on average would be reduced due to fewer competing land uses and less potential for controversy over site selection. Therefore, the most effective way for the County to promote the development of commercial solar facilities in the long term is to continue to adhere to the landscape-level planning principles that informed the current solar policy, and which form the consensus view among objective studies on the topic.

There is no disputing that interconnection costs and access to electrical distribution infrastructure can significantly impact economic viability for utility-scale commercial solar facilities. However, the lack of nearby infrastructure is not unique to -SG designated land. This is a statewide phenomenon where transmission substations are typically clustered near urbanized populated areas and existing power generation (typically fossil fuel powered) facilities. The deployment of commercial PV facilities in agricultural lands lacking transmission infrastructure presents novel challenges to the state's transmission and support infrastructure. The applicant's suggested approach for an ad-hoc process to consider Commercial Solar Activities outside of the -SG generation zone does not fundamentally address the need for additional transmission infrastructure in east county and is not entertained by any of the aforementioned studies as an effective policy recommendation to promote their development. Therefore, the project proposal does not further the County's goal to promote the development of commercial solar and associated infrastructure *at appropriate locations*.

Transmission development occurs at the state level, primarily under the purview of the California Independent System Operator (The CAISO). The CAISO conducts an annual Transmission Planning Process, which includes coordination with California Energy Commission, California Public Utilities Commission, and others to accurately assess system wide electricity supply and demand and renewable energy requirements. The most effective solutions to transmission infrastructure deficiencies, as identified by UCLA and UC Berkeley Schools of Law (*A New Solar Landscape: 2018*), involve improving coordination between State and Local agencies. Although the County does not directly control transmission plans, it can promote the development of transmission infrastructure at appropriate locations within the County through zoning codes and General Plan policies. In east county, the establishment of the -SG District assists State policy makers to this end by identifying specific areas where future renewable energy development can occur – thereby informing their evaluation of current and future transmission needs. It is not surprising that infrastructure upgrades proximate to the -SG district did not occur immediately following its adoption in February 2020, considering that transmission development is generally planned and financed in decade-long timescales, while individual generation projects operate on much shorter

timescales. However, by maintaining clear and consistent guidance on where Commercial Solar Facilities can be permitted via General Plan Policies and Solar Zoning Ordinances, the County is better able to predict and communicate current and future infrastructure needs to the CAISO and other relevant agencies involved in California Transmission Planning. Thus, although limiting commercial solar development to the existing -SG combining district does not directly affect transmission development, this type of local landscape-level planning has been shown to be an integral component of facilitating infrastructure development by improving coordination between relevant local and state agencies.

6. Appeal Point #6: The continued prohibition of the proposed land use in lands with high habitat values and adjacent to conservation lands reduces potential conflict between conservation and renewable energy needs.

Staff Response #6: Staff agrees. General Plan Conservation policies encourage a restrictive view of appropriate land uses in ecological resources areas, specifically General Plan Conservation Policy #8-9, which requires preservation of such areas in their natural state by carefully regulating “to the maximum legal extent”. The current solar policies support the County’s conservation policies by prohibiting the proposed land use in ecologically sensitive areas. There is no demonstrable need for the County to expand the -SG district to include such areas.

7. Appeal Point #7: The solar ordinance is working as intended.

Staff Response #7: Staff agrees. The Board’s approval of the Solar Energy Generation Combining District is one tool to facilitate renewable energy. The Cadmus Study highlighted greater potential for renewable energy in urban areas where establishment of solar would have little or no conflict with other policy goals and this potential is increasingly being utilized. Building permits issued by the Department of Conservation and Development have resulted in a substantial yearly increase in solar energy generation in the County. According to California Energy Commission data<sup>1</sup>, Contra Costa County led all Bay Area counties in 2020, the most recent year for which data is available, in existing Solar capacity (in MW). The 2020 zoning text amendments removed substantial barriers to solar development in the County by permitting certain Commercial Solar projects by right within commercial and industrial zoning districts, and others via discretionary review process, namely through the establishment of the -SG combining district. The total capacity (inclusive of residential rooftop permits and commercial solar permits in MW) of new solar systems permitted by the County has increased dramatically since the 2020 updates to solar policy. These permits totaled roughly 21 MW and 34 MW of new solar generation capacity in 2020 and 2021 respectively. To date this year, building permit application submittals proposed to County building officials (and approved by planning) total an additional 32.75 MW of new commercial solar capacity. Significant development of renewable energy is occurring within the County in areas where adopted policies are designed to encourage them.

#### Applicant’s Responses to Appeals:

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<sup>1</sup> [California Solar Energy Statistics and Data \(https://ww2.energy.ca.gov/almanac/renewables\\_data/solar/index cms.php\)](https://ww2.energy.ca.gov/almanac/renewables_data/solar/index cms.php)

**1. Applicant’s Contention #1: The appeals are procedurally invalid and meritless**

Staff response: Staff disagrees. The appeals from East Bay Regional Park District (EBRPD) and Save Mount Diablo were received by CDD staff on November 17, 2021, and November 19, 2021, respectively, prior to the November 22, 2021, appeal deadline. The appeals collectively assert that the project is inconsistent with the General Plan and that this project would be detrimental to the habitat value of priority conservation areas within Eastern Contra Costa County, including preserve lands owned by an appellant directly abutting the project sites northern and western property lines. The East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (NHCP/NCCP – Attached Exhibit K) states that it is critical to maintain linkages between existing preserve and the grasslands located between preserve lands and Alameda County to the South in order to maintain migration corridors for special status species dependent on grassland and wetland habitats. These species include amphibians, protected raptors and the San Joaquin kit fox (SJKF). These species are dependent on large non-fragmented suitable habitat. The fragmentation of suitable habitat existing on private lands located between the existing preserve lands and Alameda County can be detrimental to the viability of SJKF habitat adjacent to the preserve and even within the preserve itself. Similarly, the protection of grassland habitats with scattered seasonal wetland features is critical to the maintenance of California tiger salamander and California red legged frog breeding and dispersal habitat. Thus, the record does support claims that the project can negatively affect the habitat value of appellant property. As such, the appeals are procedurally valid in that they assert damage to the value of appellant property and general plan inconsistency.

**2. Applicant’s Contention #2: E-Group’s proposed solar technology provides a unique opportunity for Contra Costa County**

Staff Response: Staff disagrees. The applicant contends that the proposed use of new dual-axis tracker technology “addresses the most significant site compatibility concerns raised in the County’s assessment... steep slopes and agricultural uses”. Staff’s primary concerns with the proposed project pertain to conflict with policies to conserve ecological and park resources and protect the natural beauty of the County. Moreover, the use of the technology does not address the stated compatibility concerns with this area of eastern Contra Costa County for the Byron Hills area as detailed below:

- Steep Slope Compatibility: The County Renewable Resource Potential Study (Cadmus Study) excluded agricultural parcels where land was sloped more than 10% due to structural consideration, erosion and earthquake risk, and aesthetics. The applicant contends that such lands were inappropriately excluded on this basis because they did not consider emerging technologies that can be adapted to such land, namely the proposed dual-axis arrays. The proposed project is on land with slopes of 26% or higher. Such lands are an integral part of the County’s scenic landscape and have ecological value. In recognition of these intrinsic values, and the scarcity of such lands within the

County, development of all types is restricted Countywide on slopes exceeding 26% by the below land use, conservation, and open space policies within the General Plan.

- Land Use Policy #3-12: Preservation and buffering of agricultural land shall be encouraged as it is critical to maintaining a healthy and competitive agricultural economy and assuring a balance of land uses. Preservation and conservation of open space, wetlands, parks, hillsides and ridgelines should be encouraged as it is critical to preserve the continued availability of unique habitats for wildlife and plants, protect unique scenery, and provide a wide range of recreational opportunities.
- Implementation measure #3-t: Enforce the restrictions on open hillsides and significant ridgelines in the Open Space Element and protect hillsides with a grade of 26 percent or greater through implementing zoning and other appropriate measures and actions.
- Conservation Policy #8-14: Development on hillsides shall be limited to maintain natural vegetation, especially forests and open grasslands, and to control erosion. Development on hillsides and significant ridgelines throughout the County shall be restricted, and hillsides with a grade of 26 percent or greater shall be protected through implementing zoning measures and other appropriate actions.
- Open Space Scenic Resources Policy #9-11: ...Slopes of 26 percent or more should generally be protected and are generally not desirable for conventional cut-and-fill pad development. Development on open hillsides and significant ridgelines shall be restricted.

Comparing the proposed site plan to the attached GIS map (Exhibit F) depicting the site's slope percentage, it is apparent that the proposed location of solar arrays primarily corresponds with portions of the subject property identified as exceeding 26% slope. The applicant claims that the "steepest slopes upon which the development is proposed are less than 20%". However, scale measurements taken from the proposed site plan (ANNOTED SITE PLAN EXHIBIT L) agree with the GIS slope percentage figures. According to the topographic contours thereon, the southwestern hillside on which the vast majority of the solar arrays are proposed to be constructed consists of slopes between 26.8% and 33.2%. The site plan indicates even steeper slopes at higher elevations. Solar panels proposed between 600' - 700' contours are on slopes as high as 54% per the project plans, far exceeding the General Plan threshold. For decades the County has routinely restricted the development of steeply sloped lands countywide. Staff recommends that Commercial Solar land uses should be treated in a manner consistent with any other discretionary land use proposal involving similarly steep lands. Performing a formal CEQA review for the project would not change the physical characteristics of the land or the general plan policies restricting land uses thereon. Therefore, project denial is warranted on this basis.



Aesthetics of Hillside Development: The Cadmus Study also noted that hillside solar development may impact community aesthetics because they are so visible from far away. The applicant presented the attached simulation to the County Planning Commission (EXHIBIT M) confirming that the aesthetic impacts of the project proposal would be prominently visible for miles in the distance, including from the Byron Highway. Byron Highway is designated as a scenic route in the Transportation and Circulation Element of the General Plan. The extent to which the project would be visible from scenic routes was not known to staff prior to the applicant's presentation to the CPC on November 10, 2021. Based on EXHIBIT M, staff has additional concerns that the proposal is inconsistent General Plan Policy #5-49, which reads "scenic views observable from scenic routes shall be conserved, enhanced, and protected to the extent possible". The applicant contends that aesthetic impacts of the proposed project are not significant because the prior development of windfarms in the surrounding area has already significantly degraded the visual quality of the area. However, as discussed in the attached CPC staff report, windfarm turbines and associated infrastructure existing on the subject property are limited to small portions located along the periphery of the parcel. The interior of the parcel is devoid of structures, except for a pair of PG&E electrical transmission line support towers shown in attached photos (EXHIBIT N).

The November, 2004 Draft EIR for the Buena Vista Wind Energy Project described the landscape character of the greater Byron Hills area (written when there were 179 wind turbines existing, compared to 38 today) as follows: "The project area is generally characterized by rounded hills and smooth contours, with occasional steep slopes... the absence of more substantive vegetation species is an important part of the area's visual character in that the predominance of the grassland permits the topography's smooth undulating forms to be revealed... the turbines tend to be... highly visible and often seen silhouetted against the sky but the visibility of the turbines varies, however, with distance, atmospheric conditions, and sun angle." This description does not convey a degraded landscape in 2004, and it especially should not be considered so now considering the aesthetic improvements resulting from the subsequent removal of 141 previously existing turbines, and dozens of miles of above-ground utility lines which formerly crisscrossed the region connecting strings of turbines. The trend of wind farm repowering projects improving community aesthetics continues in other projects in the vicinity. Last year, Altamont Winds LLC completed work on the Summit Winds Repower project, located 1.5 miles southwest of the project site in Alameda County. The project replaced 569 wind turbines with 23 turbines rated at 2.5MW each. Due to improvements in turbine efficiency (turbines today are now 2.5 times more efficient than those in use by Buena Vista), wind farm repowering projects in this area have consisted of projects that result in substantial visual benefit to the vicinity through the decommissioning of the vast majority of former turbine sites. The proposed solar project provides no such visual benefit to the surrounding area, rather, the project would replace the smooth undulating forms of the pictured hillsides with concentrated masses of darkly colored solar panels, which unlike the wind turbines, cannot be painted grey or white to better blend into the horizon when viewed from a distance.

Since the solar insolation (quality of photovoltaic resource) is relatively uniform across eastern County (Exhibit O), there is no technical advantage to solar generation at the project site compared to those parcels where commercial solar is an allowed use. Thus, the same project located within the predominantly flat -SG combining district, could achieve the same level of generation with a much smaller aesthetic impact simply by siting it on the relatively flat, low-lying land within the existing -SG district.

### **3. Applicant contention #3: The project would not impact critical habitat or species**

Staff Response: Staff disagrees. The proposed project would impact critical habitat suitable for endangered and/or special status species of plant and wildlife. The fact that the property is not designated by the United States Fish and Wildlife Service (USFWS) as “critical habitat” is not evidence to the contrary. As part of the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP / NCCP) Implementing Agreement, USFWS agreed that “lands within the inventory area of the HCP/NCCP will not be designated as critical habitat for any covered species that is federally listed” (ECCC HCP/NCCP pg. 10-12). The USFWS further committed to removing existing “critical lands” from their maps when funding allows. The HCP/NCCP identifies this area as important for conservation goals due to the high habitat value of the area. In April 2004, prior to HCP/NCCP implementation, USFWS proposed critical habitat for the California Red Legged Frog including “nearly all grassland, oak woodland, and chaparral in the inventory area”. Additionally, in August 2004 USFWS proposed critical habitat for California Tiger Salamander in four separate units within the HCP/NCCP inventory area including the Bethany Reservoir Unit (Unit 17), occurring between Vasco Road, Byron Highway and the Contra Costa/Alameda County line which includes/surrounds the project site. Furthermore, the applicant’s Biological Resource Assessment (Exhibit P) notes that the California Tiger Salamander specifically has a high potential to occur in the study area. Thus, the ecological and conservation value of the project site and vicinity are well established for these special status species and numerous others known to occur in the area which occupy or forage open grasslands.

The HCP/NCCP is a complex conservation strategy designed to achieve the County’s conservation goals by preserving, restoring, and managing the most ecologically sensitive areas in eastern Contra Costa County. The HCP/NCCP also provides permits to facilitate economic development, infrastructure, and housing projects within the urban limit line (ULL) through the issuance of streamlined permits for compliance with the state and federal Endangered Species Act. The HCP/NCCP was established with funding and participation from the USFWS and California Department of Fish and Game “to pursue a regional plan to protect the County’s biological resources and provided a coordinated and streamlined permitting process for the rapidly expanding cities within eastern Contra Costa County” (HCP/NCCP pg 1-2). Originally, discussions for regional conservation planning were focused on mapping biological resources, land use plans, and describing conservation priorities. When affected property owners grew “concerned that maps of biological resources and conservation priorities could affect their property rights and values without a program to buy land... the effort was transformed from a mapping study to a broad consensus-based public involvement process to explore and evaluate regional conservation planning concepts”. (HCP/NCCP pg 1-1).

A pillar of the HCP/NCCP is the creation and management of a fully functioning preserve system for habitat enhancement, restoration, creation, and species population enhancement. Additionally, the preserve system provides a framework for individual projects to compensate for habitat loss occurring from urbanized development by restoring or creating specific habitats and land cover types within the preserve. The preserve system is one of the key benefits of the HCP/NCCP as it avoids project-by-project permitting that often results in uncoordinated and biologically ineffective mitigation. The applicant's proposed project-by-project review of commercial solar proposals outside of the -SG district would potentially result in uncoordinated and biologically ineffective mitigation within this critical ecological area of the County.

In obtaining the State's approval for the HCP/NCCP pursuant to the California Natural Community Conservation Planning Act (NCCPA) section 2820, the County was required to demonstrate that the conservation plan achieves certain objectives including but not limited to the following:

- i: Conserves, restores, and provides for the management of representative natural and semi-natural landscapes;
- ii: Protects and maintains habitat areas that are large enough to support sustainable populations of covered species;
- iii: Incorporates a range of environmental gradients and high habitat diversity to provide for shifting species due to changing circumstances;
- iv: Sustains the effective movement and interchange of organisms between habitat areas in a manner that maintains the ecological integrity of the Preserve System.

The proposed land use in this area of the County undermines these goals and objectives as they pertain to grassland. Grassland goals include both preserving sufficient habitat to maintain viable population of grassland-dependent covered species *as well as enhancing* grass land to promote native biological diversity and habitat heterogeneity. The USFWS recommended the grasslands including the project site and greater Byron Hills area to be considered "critical habitat" for California Tiger Salamander and California Red-Legged Frog. In addition to the high habitat value provided to these special status species, the region provides excellent foraging opportunities for numerous special status species of raptors which are known to occur in the area. Furthermore, the HCP/NCCP notes that the San Joaquin Kit Fox (SJKF), a rare taxonomic subspecies imperiled globally and statewide, is particularly dependent upon grasslands in southeastern County. Although there are no documented occurrences of SJKF on the subject property and suitable SJKF habitat exists within existing protected lands, if "existing protected lands were isolated from the rest of the kit fox range to the south, they would not be large enough to support viable kit fox populations on their own. Therefore, it is critical to maintain linkages for kit fox between these existing protected areas and kit fox habitat outside the inventory area" (HCP/NCCP pg. 5-14). Similarly, the applicant's consulting biologist notes that "for the SJKF to succeed in an area, it needs large expanses of non-fragmented suitable habitat". The proposed project and the potential proliferation of similar projects within the Byron Hills area pose a threat to the critical linkages between protected lands located south and southeast of the project site. Based on (but not limited to) the above ecological considerations, the project site and greater Byron Hills area

have been identified on HCP/NCCP maps as a high priority area for acquisition due to the presence of high value habitat on these lands and their critical importance as linkages to important habitat north and south of the Byron Hills. As such, General Plan Conservation policies 8-6 through 8-9 are especially relevant to discretionary decisions in the Byron Hills area between existing protected lands and Alameda County to the south, including the subject property.

The HCP/NCCP does not prohibit development on the subject property or anywhere in the County. Broadly speaking, land use policy within the County is dictated by the urban limit line, zoning ordinances and General Plan policies. The subject property may be developed with any of the allowed uses within the A-2 Zoning District enumerated under County Ordinance section 84-38.402, or those enumerated under section 84-38.404 upon issuance of a land use permit. The HCP/NCCP acknowledges that the implementation of the conservation strategy may affect neighboring private lands and includes a "Neighboring Landowner Assurances (NLA) program to protect landowners near preserves from the regulatory consequences of covered species expanding their occurrence onto their land" (HCP/NCCP pg. 4-8). These assurances apply to nearby parcels actively being used for agricultural purposes at the time when the HCP/NCCP was established and only for ongoing "routine agricultural activities". Thus, the implementation of the conservation strategy does not preclude adjacent property owners from development projects involving "routine agricultural activities", namely the aforementioned permitted and conditionally permitted uses within the A-2 zoning district.

The applicant has advocated the position that the subject property was improperly excluded from the -SG district and that a site-specific review of the project, including CEQA analysis, is necessary before the County may appropriately exercise its discretion on this matter. They characterize the subject property as being of "low biological diversity and sensitivity", apparently based upon the Biological Resource Assessment (EXHIBIT P) that the applicant prepared for this project. The BRA indicates that on three visits to the site (5/12/2021, 5/13/2021, 6/30/2021) the biologists did not detect any occurrences of special status plants and documented only one occurrence of special status wildlife species (Western Burrowing Owl) on the subject property. Staff notes that on surrounding publicly owned properties that have been surveyed over multiple years there is an abundance of occurrences of special status species. Although the applicant proposes site-specific mitigations for special status wildlife species with high or moderate potential to occur in the project site, this does not reconcile the projects inconsistencies with the plain text of General Plan policies (8-6 through 8-9, 8-13, 8-14, and 8-15) which collectively require preservation of significant ecological areas, native and nonnative vegetation, wildlife habitats, wildlife migration corridors, open grasslands, and hillsides exceeding 26% in slope - all of which are predominantly characteristic of the subject property and the greater Byron Hills area. These policies are not limited to only those areas where special status plant and animal species are abundantly occurrent, but to generalized significant ecological resource areas. General Plan policy 3-70 identifies southeastern Contra Costa County as warranting "special recognition in the general plan" for the range of natural, cultural and wildlife resources which are "unique and worthy of long-term protection". Thus, the ecological significance of this area of Contra Costa County is well established in the record. Further, the County's conservation strategy involves not only preserving, *but enhancing* lands of high habitat value so as to increase potential for such

occurrences within and migrating through Contra Costa County. Therefore, due to the ecological significance of the Byron Hills area and the vital role it plays in the County's overall conservation strategy. In the view of staff, the proposed project is not compatible with the conservation of biological resources.

**4. Applicant contention #4: The existing -SG zone is insufficient to meet the County's renewable energy needs and is not working.**

Staff Response: Staff disagrees. There is adequate acreage inside the ULL as well as within the -SG zone to support continued, substantial expansion of renewable energy generation. The current policies are working to provide appropriate guidance and streamlined permitting for commercial solar energy facilities. The applicant cites interconnection costs, land availability, and land cost as the basis for the claim that land within the -SG district is not suitable for small scale solar development. The cost of land or the willingness of current landowners to sell/lease to the applicant are dependent on market forces and land use tradeoffs considered by individual property owners. The market for land for solar generation is not limited to the -SG designated lands in eastern Contra Costa County because energy generated by commercial solar installations is not bound by County lines and because options other than green-field development exist for commercial solar (e.g., buffer lands in industrial areas; rooftop/parking lot solar are of course other options but are generally used for onsite power needs). The regional/statewide market for commercial solar installations is largely beyond the County's control. The County's -SG zoning overlay is not intended to force conversion of agricultural lands, rather, it is intended to identify areas where commercial solar may be developed when market forces allow and where property owners are willing. Further, land availability and costs can change significantly over time. Thus, of the three mentioned cost factors, interconnection cost is the only one which was considered within the Cadmus Study.

There is no disputing that interconnection costs for utility-scale commercial solar projects increase with distance from existing transmission infrastructure. However, the lack of nearby infrastructure is not unique to -SG designated land. Throughout the Bay Area and State, transmission substations are typically clustered near urbanized populated areas and existing power generation (typically fossil fuel powered) facilities. The deployment of commercial PV facilities in agricultural lands lacking transmission infrastructure presents novel challenges to the state's transmission and support infrastructure. Additionally, while proximity (in miles) to the nearest substation is used as a rough estimating tool within the Cadmus study it may be misleading in the present discussion of interconnection costs for relatively small scale commercial solar such as the proposed project. The proposed "gen-tie" route terminates at an existing interconnection line point located near the intersection of Byron Hot Springs Road and Holey Road – approximately 1.5 miles North of Herdlyn Substation along Byron Highway. Furthermore, building permit plans for two previously approved 1MW and 5MW (Permit #'s BIPVC22-002460 & BIPVC21-003025 respectively) facilities show approved interconnections to Herdlyn Substation via existing utility poles along Byron Highway another 1.25 miles further to the North. Since interconnection via existing utility poles is possible along Byron Highway, a parcels distance from Byron Highway may better approximate interconnection costs in this specific circumstance, as

compared to the parcel's distance from Herdlyn Substation. The -SG district includes approximately 2,300 acres of land clustered around the Byron Highway Corridor in Eastern Contra Costa County. The vast majority of these parcels are within 3 miles or less to existing transmission lines along Byron Highway. The proposed "gen-tie" route from the subject property to the proposed point of interconnection is 3.8 miles in length and is longer than that of the majority of -SG designated lands (excluding Bethel Island and Jersey Island) which are predominantly located 3 miles or less from potential interconnection points along Byron Highway. The proposed project does not achieve a reduction of the length of the "gen-tie" route or associated costs relative to properly zoned parcels. However, the proposed project site has numerous land use conflicts (summarized in this report) that are not present in lands within the -SG overlay.

County solar policies are designed to encourage certain project types more so than others in order to maximize generation while minimizing trade-offs with competing land uses. The County's preference for the locations of solar deployment is reflected by the degree to which barriers have been removed for their establishment. The vast majority of solar generation potential in the County exists on existing residential, commercial, and industrial rooftops and parking lots. Such project types involve little to no land use trade-offs. As such, all planning barriers have been removed for these types of projects in order to encourage as many of these projects as possible. According to the *Cadmus Study*, the "4,600 MW of renewables [that] could come from the County alone underscores the importance of viewing this estimate as a technical potential estimate rather than guidance for policy. The 4,600 MW identified could comprise 46% of additional statewide renewables needed to achieve 50% renewables statewide", which far exceeds a proportional contribution from Contra Costa County towards statewide goals. Nevertheless, the County recognizes that ground mounted commercial solar on Agricultural Lands within the -SG district and commercial/industrial zoned lands also represent an opportunity to substantially increase solar development in the County at appropriate locations. The County's solar policies were updated in 2020 to allow the realization of this generation potential in agricultural East County through the establishment of the -SG combining district. It is not assumed that all -SG lands are appropriate for solar or do not involve potentially significant environmental impacts. It is not assumed that all -SG parcels will ultimately be developed with commercial solar facilities. To clarify the extent to which solar projects (from all sources) are being proposed/permitted within the County, staff has prepared the below Figures 5-7 based on County building permit data for solar permits of all types from 2016 to present.

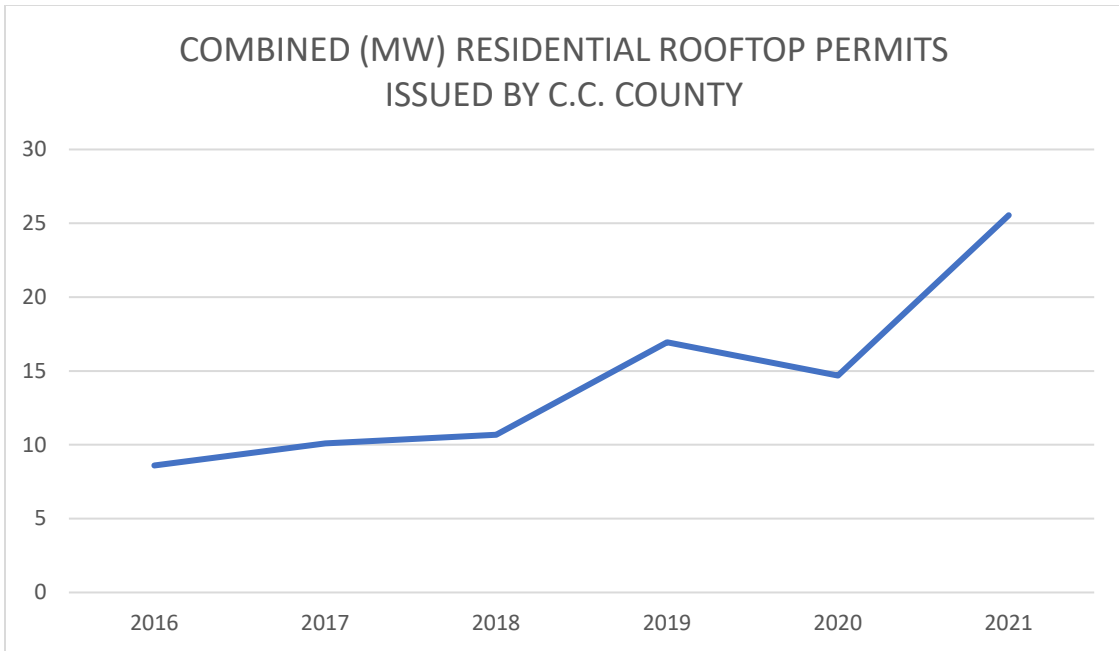


Figure 5

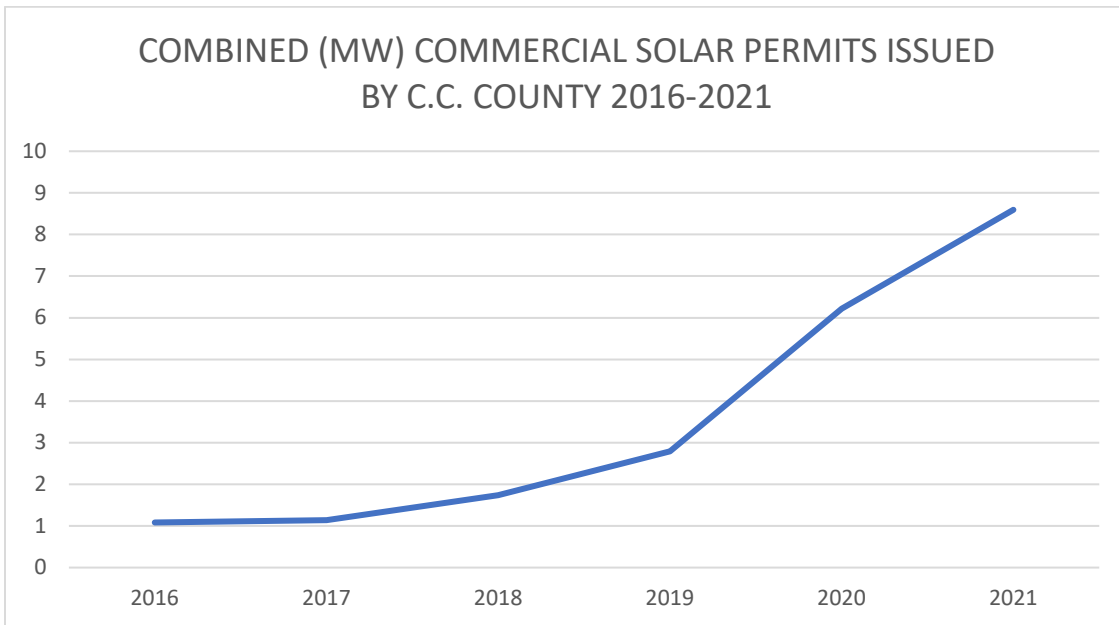


Figure 6



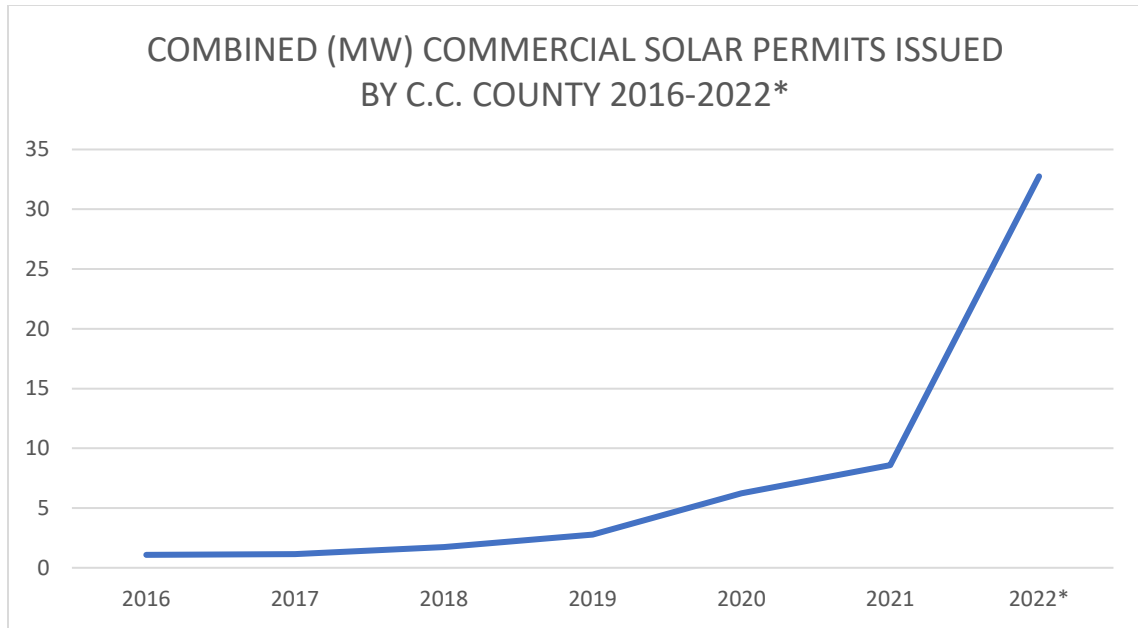


Figure 7- \* Indicates capacity from projects in Plan Check for which a building permit has yet to be issued (BIPVC22-001313, BIPVC22-00246, BIPVC22-000567)

The idea that the County can rely on zero-barrier solar projects to drive solar growth in the near term and still generate PV generation that results in a substantial contribution (in MW) towards statewide goals is not a mere hypothetical estimate in a report, it is confirmed by years of empirical data. The above figures demonstrate that the County has achieved consistent yearly growth in solar deployment. Additionally, according to statistics compiled by the California Energy Commission, Contra Costa County has led all Bay Area counties in commercial solar generation (in MW) for six years, predating the recent uptick in permitting activity (see Figure 8 below).

	2011 (MW)	2012 (MW)	2014 (MW)	2016 (MW)	2018 (MW)	2020 (MW)
<b>Contra Costa County</b>	<b>0</b>	<b>10.5</b>	<b>12.0</b>	<b>31.0</b>	<b>42.5</b>	<b>42.5</b>
Alameda County	1.0	14.5	14.5	14.5	17.8	17.8
Marin County	0	1.5	1.5	2.5	2.5	2.5
Napa County	0	2.0	2.0	2.0	2.0	2.0
San Francisco County	4.5	14.4	14.4	14.4	14.4	14.4
Santa Clara County	0	27.0	29.5	29.5	29.5	29.5
Solano County	2.0	13.3	29.8	17.8	25.7	32.0
Sonoma County	0	6.4	14.2	14.2	14.2	15.2

Figure 8- Existing Bay Area PV Generation Capacity (energy.ca.gov)

Despite ranking 51<sup>st</sup> amongst 58 California Counties in land area, Contra Costa County presently ranks 16<sup>th</sup> statewide in commercial solar generation. Except for Sacramento County (Ranked 10<sup>th</sup> statewide), no County in California under 1,000 square miles in area ranks higher than Contra

Costa County in this regard according to statistics compiled by the State. Since 2020 data, the most recent year available from the state, reflects generation from facilities already in operation that year, it does not begin to capture the true extent of the rapid yearly growth (depicted in Figures 5-7) the County has seen in building permits issued for this category since 2020. Based on the continued robust growth in the capacity added by commercial solar projects permitted since revising Solar Policies in 2020, staff does not find evidence that existing solar policies are not working.

**5. Applicant contention #5: The project would not result in haphazard zoning**

Staff Response: Staff disagrees. As outlined in the CPC staff report (pgs. 8-10) the project is inconsistent with ordinance required findings for rezoning applications due to inconsistency with general plan policies and proximity to incompatible land uses. The relevant general plan policies discussed in the attached findings for denial (Exhibit B) limit development in important ecological areas of the county, including the project site/vicinity. Therefore, it is staff's position that project approval would result in a condition where the uses authorized are not compatible to those authorized on adjoining parcels or within adjacent zoning districts. Based on staff's interpretation of general plan policies, appropriate land uses for the project site/vicinity consist of routine agricultural use (i.e., those permitted within its present zoning district) in consideration of the ecological significance of the region to the County's overall conservation strategy. There is no demonstrable need to expand the -SG district, especially into such ecologically sensitive areas. This position is supported by scientific analysis performed in establishing the HCP/NCCP, biological resource assessment provided by the applicant, numerous publications on landscape planning for commercial solar land use in California, and by the immediate success of recent County solar policy updates in dramatically increasing the development of commercial solar projects within the County.

**Conclusion:** In cumulative consideration of the steep slopes and natural land cover that is characteristic of the subject property, as well as the ecological significance of the Byron Hills area in general, the proposed land use would not be compatible with the relatively low-intensity uses that are currently permitted within the A-2 General Agricultural Zoning District in which the subject property is located. Upon analysis by CDD staff, the Cadmus Study's screening criteria that disqualified the subject property from the -SG district was found to be consistent with general plan policies designed to preserve significant ecological areas, native and nonnative vegetation, wildlife habitats, wildlife migration corridors, open grasslands, and hillsides exceeding 26% in slope - all of which are predominantly characteristic of the subject property and the greater Byron Hills area.