



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: February 25, 2020

Subject: Solar Energy Facilities - Zoning and General Plan Updates

RECOMMENDATION(S):

1. OPEN the public hearing on Resolution No. 2020/39, Ordinance No. 2020-07, Ordinance No. 2020-08, and Ordinance No. 2020-09, RECEIVE testimony, and CLOSE the public hearing
2. DETERMINE that adoption of Resolution No. 2020/39, Ordinance No. 2020-07, Ordinance No. 2020-08, and Ordinance No. 2020-09 is exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.35 and CEQA Guidelines section 15061(b)(3).
3. ADOPT Resolution No. 2020/39, amending the General Plan to allow commercial solar energy facilities in areas designated on the Land Use Element Map as Commercial, Light Industry, or Heavy Industry, and conditionally allow commercial solar energy facilities in Agricultural Lands (County File #GP19-0001).
4. ADOPT Ordinance No. 2020-07 (The Solar Energy Facility Ordinance), regulating commercial solar energy facilities in the general commercial (C), light industrial (L-I),

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **02/25/2020** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 25, 2020

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Joseph W. Lawlor Jr, AICP
(925)674-7802

By: June McHuen, Deputy

cc:

heavy industrial (H-I), and planned unit (P-1) districts, and in the Solar Energy Generation (-SG) combining district (County File #ZT19-0004).

RECOMMENDATION(S): (CONT'D)

5. ADOPT Ordinance No. 2020-08, establishing the Solar Energy Generation (-SG) combining district to allow commercial solar energy facilities on land within an agricultural district that is combined with an -SG district, after the issuance of a land use permit (County File #ZT19-0004).

6. ADOPT Ordinance No. 2020-09 (rezoning), applying the Solar Energy Generation (-SG) Combining District to specified agricultural districts in Bethel Island, Byron, Discovery Bay, and Jersey Island (County File #RZ19-3251).

7. DIRECT the Department of Conservation and Development to file a CEQA Notice of Exemption with the County Clerk.

FISCAL IMPACT:

The cost of preparing this ordinance has been funded by the Department of Conservation and Development.

BACKGROUND:

Renewable Resources Potential Study

The proposed General Plan and Zoning Text Amendments, and Rezoning are being considered following considerable County efforts to encourage the development of local renewable energy. Notable achievements in these efforts include the Board's 2015 adoption of the Climate Action Plan, 2017 decision to join the Marin Clean Energy (MCE) community choice aggregation energy program, 2017 decision to join the *We Are Still In Coalition* with its commitment to ambitious action on climate change, and 2018 completion of the Contra Costa County Renewable Resources Potential Study. The proposed actions are a culminating next step in the County's ambitious renewable energy goals.

In 2017, Contra Costa County received a grant from the California Strategic Growth Council to study the potential for renewable energy generation within the County and evaluate options to facilitate the development of renewable resources. The Renewable Resource Potential Study found that the greatest opportunity to increase the amount of renewable energy generated in the County would be with solar energy, in two forms. The first was rooftop solar installed on buildings and parking lots, and the second was with ground-mounted solar. The Study included a number of recommendations for the County to consider, including making changes to the County General Plan and Zoning Code to facilitate greater opportunity for solar energy generation on both infill and green field sites.

In agricultural East County, the study identified farmland of marginal value for potential green field development. Identifying this area in the Study had complimentary benefits. First, by excluding prime agricultural and sensitive habitat resources, the identified area is generally preferable to solar developers as these sites may offer lower site preparation, acquisition, and mitigation costs. Second, the preservation of these resources aligns with the County's long-term planning interests in East County.

Based on the recommendations of the Study, on December 18, 2018, the Board of Supervisors directed Staff to prepare draft amendments to the County General Plan and Zoning Code that would expand the area within which an applicant could apply for a Land Use Permit, and explore incentives and other means of encouraging the construction of solar energy projects on commercial rooftops, parking lots, and underutilized land in commercial, industrial, and other infill areas.

Current Status of Solar in the County

Pursuant to California Government Code Section 65850.5 and guidance provided in the California Solar Permitting Guidebook published by the Governor's Office of Planning and Research, the Department of Conservation and Development (DCD) routinely approves solar energy projects where the energy produced will be utilized on-site. However, until December 2017, the County did not have an ordinance that allowed commercial solar resources where the energy produced would be sold to an off-site purchaser.

In December of 2017, as a stopgap measure until the aforementioned renewable Resources Potential Study recommendation could be implemented, the Board of Supervisors adopted amendments to the text of the General Plan and Ordinance Code that allowed commercial solar energy facilities in the General Commercial, Light Industrial, and Heavy Industrial zoning districts after issuance of a Land Use Permit. The amendments did not include development standards or allow for development of commercial solar energy projects in agricultural areas. Development of projects in more sensitive agricultural and rural areas was expected to be addressed after a comprehensive review in the Renewable Resources Potential Study.

Proposed Amendments

A. Resolution No. 2020/39 General Plan Text Amendment:

The proposed County-initiated amendment to the 2005-2020 Contra Costa County General Plan would allow commercial solar energy facilities in areas designated on the Land Use Element Map as Commercial (CO), Light Industry (LI), or Heavy Industry (HI), and conditionally allow commercial solar energy facilities on Agricultural Lands (AL) designated areas. The attached maps show the commercial and industrial land use designations (Attachment 5) and the location of the areas where the Solar Energy

Generation (-SG) combining zoning district designation would be applied (Attachment 6).

The CO, LI, and HI designations currently allow commercial scale solar facilities after issuance of a land use permit. The changes to the CO, LI, and HI designations would allow commercial scale solar facilities located on buildings and existing parking lots in commercial and industrial areas with ministerial review. These facilities would still require building permits; however, Planning would only review conformance with the standards of the Solar Ordinance. This change would address a situation faced by multiple property owners and developers within commercial and industrial areas of the County, in which a development may have low energy needs but ample space for solar panels (i.e. warehouse rooftops and parking lots). Furthermore, the less cumbersome review aligns with the County's efforts to encourage the development of local renewable energy.

In certain AL designated areas, the Amendment would allow discretionary review of new commercial solar energy facilities by the Department of Conservation and Development. By requiring Land Use Permits in these areas, the County would retain its ability to condition or deny projects that might be incompatible with neighboring uses or conflict with long-term economic development or habitat and agricultural preservation goals. Furthermore, the Zoning Ordinance would limit the issuance of Land Use Permits for commercial solar energy facilities to areas within the -SG combining district. As it is currently designed, the -SG combining district excludes all but lower-value agricultural lands and sensitive habitat resources, balancing the County's interest in encouraging local renewable energy with its long-term planning considerations in East County.

Staff notes that the Land Use Element's description of the Heavy Industry land use designation and Ordinance Code Chapter 84-62 – Heavy Industrial District both refer back to and incorporate their Light Industry/Light Industrial counterparts. For this reason, solar energy projects may be permitted in light and heavy industrial areas by amending only the Light Industry and Light Industrial portions of the General Plan and Zoning Code, respectively. Additionally the PS designation, which is also located within the proposed overlay area, allows for wide variety of public and private uses so no changes are required to this designation.

B. Ordinance No. 2020-07 Solar Energy Facilities Ordinance:

Staff has prepared a draft Solar Energy Facilities Ordinance, included as Attachment 2, pursuant to the direction of the Board on December 18, 2018. The Ordinance would add Chapter 88-30 to the County Ordinance Code to allow the establishment of commercial solar energy facilities in the general commercial (C), light industrial (L-I), heavy industrial (H-I), and planned unit (P-1) districts, and in the (-SG) combining district. The Ordinance includes definitions, standards, and the process for permitting commercial solar energy facilities. A land use permit would be required prior to the establishment of a commercial solar energy facility unless the facility is exempt from this requirement.

Exempt facilities include facilities installed on the roof of an existing building or on a parking canopy at an existing parking lot.

C. Ordinance No. 2020-08 Solar Energy Generation (-SG) Combining District:

The Ordinance would add Chapter 84-88 to the County Ordinance Code to establish the Solar Energy Generation (-SG) Combining District. The district authorizes the establishment of commercial solar energy facilities on land within an agricultural district that also is within a solar energy generation combining district, after the issuance of a land use permit. With the concurrent rezoning action, the district would apply to select agricultural parcels in the eastern portion of the county, as recommended in the Renewable Resources Potential Study.

D. Ordinance No. 2020-09 Solar Combining District Rezoning:

The rezoning would apply the newly created -SG combining district to a specific geographic area in East County as identified in the attached Pre-Ordinance maps (Attachment 4) and Overlay Summary Area Map (Attachment 6). The area was initially identified in the Renewable Resources Potential Study by applying filters to identify the lands most suitable for commercial solar development in East County. These filters included slope, natural land cover, soil quality and classifications, zoning overlay status, General Plan land use designation, elevation, proximity to transmission lines and substations, and other factors. By including properties with necessary attributes for commercial solar development and excluding major agricultural and sensitive habitat resources, the area balances the County's interest in encouraging local renewable energy with its long-term planning considerations in East County.

County Planning Commission Hearing and Outreach

The County Planning Commission held a public hearing on January 22, 2020 for the General Plan and Zoning Text Amendments, and Rezoning of selected agricultural parcels, for the purpose of allowing commercial solar energy facilities. Following the staff presentation on the matter, the Planning Commission discussed the impacts of the proposed changes on industrial, commercial, and agricultural parcels throughout the County. At the conclusion of their discussion on January 22, 2020, the County Planning Commission voted to recommend that the Board approve the proposed General Plan and Zoning Ordinance amendments and rezoning. No public comments were provided on the item.

In addition to the Planning Commission hearing, various stakeholders were consulted throughout the preparation of the Renewable Resources Potential Study and the ensuing solar zoning and general plan update. Feedback was solicited from community organizations operating in the County, environmental groups, local renewable energy project developers, utility stakeholders and energy supply stakeholders (both PG&E and

MCE), the Contra Costa County Sustainability Commission, and citizens at large. Four public meetings were held in 2018 to solicit input on the Renewable Resources Potential Study. Additionally, the proposed solar zoning and general plan updates were presented to the Bethel Island Municipal Advisory Council and the Town of Discovery Bay Community Services District at their public meetings on February 11, 2020 and August 27, 2019, respectively. Staff also offered a presentation to the Byron Municipal Advisory Council but the meetings at which the presentation was to be heard were canceled.

Growth Management Performance Standards Findings

A. Traffic: Policy 4-c of the Growth Management Element of the General Plan requires a traffic impact analysis of any project that is estimated to generate 100 or more additional AM or PM peak-hour trips. The General Plan and Zoning Text Amendments, and Rezone of selected agricultural parcels, for the purpose of allowing commercial solar energy facilities, is not expected to increase traffic trips. Furthermore, commercial solar energy generation facilities located at new project sites would require a land use permit; thus any specific traffic impacts would be reviewed subsequently.

B. Water: The General Plan and Zoning Text Amendments, and Rezone would change where and how commercial solar facilities are allowed to be established throughout the County. These facilities are not expected to require or impact water services. Furthermore, commercial solar energy generation facilities located at new project sites would require a land use permit; thus any specific water service impacts would be reviewed subsequently.

C. Sanitary Sewer: The General Plan and Zoning Text Amendments, and Rezone would change where and how commercial solar facilities are allowed to be established throughout the County. These facilities are not expected to require or impact sanitary services. Additionally the Solar Energy Facility Ordinance prohibits development above septic systems or leach fields unless approved by the Environmental Health Division. Furthermore, commercial solar energy generation facilities located at new project sites would require a land use permit; thus any specific sanitary service impacts would be reviewed subsequently.

D. Fire Protection: The General Plan and Zoning Text Amendments, and Rezone would change where and how commercial solar facilities are allowed to be established throughout the County. These facilities are not expected to require or impact fire protection services. Furthermore, commercial solar energy generation facilities located at new project sites would require a land use permit; thus any specific fire service impacts would be reviewed subsequently.

E. Public Protection: The General Plan and Zoning Text Amendments, and Rezone would change where and how commercial solar facilities are allowed to be established throughout the County. These facilities are not expected to require or impact public

protection services. Furthermore, commercial solar energy generation facilities located at new project sites would require a land use permit; thus any specific public protection service impacts would be reviewed subsequently.

F. Parks and Recreation: The General Plan and Zoning Text Amendments, and Rezone would change where and how commercial solar facilities are allowed to be established throughout the County. These facilities are not expected to require or impact Parks and Recreation services. Furthermore, commercial solar energy generation facilities located at new project sites would require a land use permit; thus any specific Parks and Recreation service impacts would be reviewed subsequently.

G. Flood Control and Drainage: The General Plan and Zoning Text Amendments, and Rezone would change where and how commercial solar facilities are allowed to be established throughout the County. These facilities are not expected to have substantial Flood Control or Drainage impacts. This is due to such facilities typically encompassing an impervious surface elevated above a pervious vegetated surface. Furthermore, commercial solar energy generation facilities located at new project sites would require a land use permit; thus any specific Flood Control or Drainage impacts would be reviewed subsequently to the submittal a land use permit application.

Rezoning Findings

A. Compliance With General Plan: The subject properties' rezoning to the -SG combining district is consistent with the underlying General Plan land use designations of AL and PS. With the concurrent adoption of the General Plan text amendments, which would allow for commercial solar development within the AL and PS districts, the rezoning would allow development that is permitted in the General Plan.

B. Compatibility: The subject properties currently host Public/Semi-Public and Agricultural uses. The rezone would add the -SG combining district to the subject area, which would allow commercial solar facilities. With the adoption of the concurrent zoning text amendment, commercial solar facilities would be allowed in these districts. Properties adjacent to the rezoned area are largely agriculturally zoned with a small amount of industrially and residentially zoned properties. Given that the solar energy facilities comply with the proposed development standards, the expected commercial solar energy facilities would be compatible with the adjacent districts. Specifically, the facilities would not be detrimental to the welfare of adjacent uses. Overall, the project is in harmony with the surrounding area and the uses established in the area.

C. Community Need: The subject properties' rezoning to the -SG combining district would allow for the development of commercial solar energy facilities on the subject properties following the issuance of a land use permit. Development of these facilities would increase the amount of renewable energy generated in the County ensuring the obtainment of its ambitious clean energy goals.

California Environmental Quality Act Findings

The General Plan and Zoning Text Amendments, and Rezoning are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code (PRC) Section 21080.35 and CEQA Guidelines section 15061(b)(3).

PRC section 21080.5 exempts the installation of a solar energy system on the roof of an existing building or at an existing parking lot. The proposed actions would authorize commercial solar energy systems without a land use permit on the roofs of existing buildings and existing parking lots in the Commercial, Light Industrial, and Heavy Industrial zoning districts, and in the Planned Unit zoning district when the underlying General Plan land use designation is commercial or industrial. Because the proposed actions do not involve a Clean Water Act Permit, an Endangered Species Act Permit, a streambed alteration permit, or the removal of any tree, the exceptions to PRC Section 21080.35 do not apply.

CEQA Guidelines section 15061(b)(3) is the “common sense exemption.” The proposed actions would also allow for the establishment of other commercial solar energy facilities in General and Heavy Agricultural, Commercial, Light Industrial, Heavy Industrial, and Planned Unit zoning districts after issuance of a land use permit. These projects would each be separate discretionary projects reviewed under their own subsequent CEQA analysis. Thus, it can be seen with certainty that there is no possibility that the proposed actions could have a significant effect on the environment.

Conclusion and Recommendations

The proposed General Plan and Ordinance Code Amendments, and Rezoning will be consistent with the goals and policies of the General Plan and with the intent and purpose of the County Zoning Ordinance. The commercial solar update would provide clear parameters for the establishment of commercial solar facilities, to ensure the health, safety, and general welfare of the community. Furthermore, the action is a culminating next step in the County’s renewable energy goals. Therefore, staff recommends the adoption of Ordinance No. 2020-07, Ordinance No. 2020-08, Ordinance No. 2020-09, and Resolution No. 2020/39 by the Board of Supervisors.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board decides not to adopt the proposed General Plan and Ordinance Code Amendments, then commercial solar energy facilities will continue to be disallowed in all agricultural areas, and all commercial solar energy facilities in commercial and industrial areas will continue to require a land use permit without specified development standards in place.

ATTACHMENTS

Resolution 2020/39

Attachment 1 - General Plan Amendment

Attachment 2 - Ordinance No. 2020-07 Solar Energy Facilities Ordinance

Attachment 3 - Ordinance No. 2020-08 Solar Energy Generation Combining District Ordinance

Attachment 4 - Ordinance No. 2020-09 Rezoning Maps

Attachment 5 - Commercial and Industrial General Plan Map

Attachment 6 - (-SG) Overlay Area Map

Attachment 7 - PowerPoint Presentation