

MINUTES
SAN DIEGO COUNTY PLANNING COMMISSION
Regular Meeting – July 23, 2010
DPLU Hearing Room, 9:00 a.m.

The meeting convened at 9:09 a.m., recessed at 10:15 a.m., reconvened at 10:39 a.m. and adjourned at 11:42 a.m.

A. ROLL CALL

Commissioners Present: Beck, Brooks, Norby, Riess

Commissioners Absent: Day, Pallinger, Woods

Advisors Present: Harron (OCC); Lantis, Peeva (DPW)

Staff Present: Aquino, Beddow, Farace, Gibson, Giffen, Johnston, Kahler, Lubich, Morgan, Ramaiya, Rosenberg, Rowan, Stiehl, Wright, Jones (recording secretary)

B. Statement of Planning Commission's Proceedings, Approval of Minutes for the Meeting of July 9, 2010

Action: Brooks - Riess

Approve the Minutes of July 9, 2010, as revised by Chairman Beck to consideration be given to utilizing MSCP funding as a possible source for funding the PACE program if and where there is an overlap with North-County MSCP acquisitions.

C. Public Communication: Opportunity for members of the public to speak to the Commission on any subject matter within the Commission's jurisdiction but not an item on today's Agenda.

There were none.

D. Announcement of Handout Materials Related to Today's Agenda Items

E. Requests for Continuance: None

F. Formation of Consent Calendar: Items 4 (P76-085W⁵ & R07-012), 5 (P08-041) and 6 (P00-025W²).

G. Director's Report:

No report was provided.

POD 09-006, Agenda Item 1:**1. Solar Energy Ordinance, POD 09-006, Countywide**

Proposed amendments to the San Diego County Zoning Ordinance to ensure consistency with current County practices for permitting solar energy systems. Solar energy systems utilized for onsite energy consumption are currently and would continue to be allowed by-right in the County as an accessory use in all agricultural, civic, commercial, industrial, and residential zones upon approval of a Building Permit; energy systems utilized for offsite energy are currently required to obtain a Major Use Permit. The proposed Ordinance amendments would continue to require a Major Use Permit for offsite solar energy systems for project areas 10 acres or larger, and would now require an Administrative Permit for project areas less than 10 acres. As a result, all offsite solar energy systems would continue to require discretionary review. The proposed amendments would not change the current setback or height regulations applicable to solar energy systems in the Zoning Ordinance; they are intended to set reasonable standards and procedures for the installation and operation of solar energy systems to improve and enhance public welfare and safety, and to implement the San Diego County General Plan.

Staff Presentation: Lubich

Proponents: 2; **Opponents:** 0

Discussion:

Staff's proposed Zoning Ordinance amendments would codify the County's current practices for permitting solar energy systems, and clarify, update and improve the County's solar energy regulations. The goal is to encourage energy conservation, promote the growth of solar energy systems, and reduce energy costs through utilization of alternative, passive and renewable energy resources.

Staff explains that photovoltaic solar energy systems intended for onsite use are currently allowed by right in all zones as an accessory use upon issuance of a Building Permit; whereas solar energy systems for offsite use are currently require a Major Use Permit. The proposed Ordinance would contain a two-tiered framework for photovoltaic systems. The first tier would address onsite use solar energy systems, which would continue to be allowed by right, and the energy produced from these systems must be used predominantly onsite.

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The second tier consists of offsite use solar energy systems wherein the project area is less than 10 acres. Systems within this tier would be permitted upon issuance of an Administrative Permit. Offsite uses in project areas greater than 10 acres would require a Major Use Permit. Solar power plants and all other forms of energy other than photovoltaic solar energy would require a Major Use Permit. Both types of Permits would require discretionary and environmental review, and compliance with County requirements including but not limited to the BMO, RPO, stormwater management, etc. All projects would be reviewed and mitigated on a case-by-case basis.

Staff further explains that industry professionals expressed concerns regarding the acreage limits for Administrative Permits versus Major Use Permits for offsite use photovoltaic solar systems. The 10-acre threshold was established to allow for roughly a one-megawatt solar energy system; larger systems would likely result in increased infrastructure requirements. In addition, the 10-acre limit is consistent with zoning proposed in the General Plan Update.

Staff is commended by audience members and the Planning Commissioner for the efforts undertaken to develop the proposed amendments. Audience members urge the Planning Commission to support development and implementation of a mechanism that would retain the property tax revenues in the areas most impacted by industrial solar energy system generators, such as Boulevard, Borrego, Jacumba, Potrero and Campo.

Audience members believe the 10-acre limit would restrict the amount of energy generated locally under the feed and tariff contract. They suggest revising the proposed Ordinance by encouraging use of various alternative photovoltaic technologies currently available.

During the Planning Commission's discussion following public testimony, Chairman Beck notes that the Findings for Biological Resources within Staff's Impact Analysis only refer to Federal and State regulations, and make no mention of the County of San Diego's Resource Protection Ordinance, Biological Mitigation Ordinance, and the Multiple Species Conservation Program. Following reassurances from Staff that proposals must comply with County of San Diego requirements and regulations, Chairman Beck requests that future Impact Analyses specify as much. Chairman Beck and his fellow Commissioners are also assured that all the necessary procedures are in place to prevent abuse of the Administrative Permit process.

POD 09-006, Agenda Item 1:

Action: Riess - Norby

Recommend that the Board of Supervisors adopt Staff's recommendations, including Chairman Beck's recommendation that the language in Staff's Impact Analyses include references to County of San Diego regulations and Ordinances.

Discussion of the Action:

Commissioner Norby suggests that the recommended 30-inch side-yard height limit for the solar energy stems be increased, but Staff explains that the intent is to ensure that the systems are unobtrusive and do not result in visual impacts.

Ayes:	4 -	Beck, Brooks, Norby, Riess
Noes:	0 -	None
Abstain:	0 -	None
Absent:	3 -	Day, Pallinger, Woods

POD 10-007, Agenda Item 2:**2. Wind Turbine System Revisions, POD 10-007, Countywide**

Proposed amendment to the Zoning Ordinance for interim changes to wind turbine regulations while more comprehensive changes to these regulations are under further environmental review. The amendment will allow additional small-sized wind turbines with an Administrative Permit under the "Medium Wind Turbine" provisions. Existing size limitations will remain in place. The amendment will also remove references to California Assembly Bill 1207 that was repealed in 2006.

Staff Presentation: Stiehl

Proponents: 3; **Opponents:** 1

Discussion:

In February 2009, the Board of Supervisors directed Staff to develop comprehensive streamlined regulations for the County's Wind Turbine Ordinance. In early 2010, the draft Ordinance was released for public review and, due to comments received; Staff determined that an EIR is necessary to address some of the proposed revisions. It is not anticipated that the streamlined regulations will be available until 2011. In the interim, Staff is proposing changes that will allow applicants additional opportunities for the installation of small wind turbine systems under the Medium Wind Turbine provisions via an Administrative Permit. These minor revisions will also eliminate references to State laws that no longer apply, including references to AB 1207.

Currently, applicants are limited to two wind turbine systems with an Administrative Permit. Staff's recommendations will provide greater flexibility by allowing up to five small systems under the Medium Wind Turbine provisions. Weight, area and height requirements will remain the unchanged. Staff also recommends that Findings be added to the Medium Wind Turbine section of the Zoning Ordinance for consistency with other sections of the Zoning Ordinance where Findings are required in conjunction with Administrative Permits. Following Staff's presentation, Commissioner Norby recommends that Staff's Report to the Board of Supervisors reflect that renewable energy also provides enormous benefits to transportation fleet by greatly reducing man-made pollution.

POD 10-007, Agenda Item 2:

A member of today's audience expresses concern that Staff's recommendations will reduce accessibility for owners of small parcels to obtain wind energy. He recommends that the definition of Small Wind Turbine systems be revised to allow at least two turbines, because he believes two small ones are still less intrusive than one large system. Staff explains his suggestion could be somewhat problematic, in that allowing more than one system by right requires CEQA review to evaluate potential environmental impacts. The audience member also notes that applicants must triple setback requirements under the Medium Wind Turbine designation, in addition to providing an approximate \$10,000 deposit to the County. Staff clarifies that County programs exist which will allow fee waivers for by-right turbine systems.

Chairman Beck is very impressed with the vertical axis wind turbine technology exhibited today that powers small wind turbine systems, and recommends that it be investigated to determine whether it could be utilized in larger systems. He also discusses concerns raised in previous hearings regarding the biological impacts posed by larger wind turbine systems, particularly on the avian and bat population.

Other audience members are very supportive of the County's progress in developing measures for encouraging use of clean and renewable sources of energy, and inform the Planning Commission that applicants recoup installation costs and Use Permit fees through State rebates. Commissioner Riess is also very supportive of Staff's endeavors and requests that information be provided in the future regarding whether new technology has been developed to reduce possible noise impacts. Commissioner Norby, too, commends Staff and supports ensuring that homeowners retain the ability to independently install and operate home energy systems without interference from utility service providers.

Chairman Beck also commends Staff's efforts and voices his support of homeowner-driven energy independence, but notes that the system is currently structured to allow utility service providers to assume control of this technology. He greatly supports adoption of County regulations and Ordinances to encourage lower-impact technology, but cautions that biological impacts on the avian and bat population must be resolved. Chairman Beck recommends that more focus be placed on vertical axis turbine systems because they appear to result in fewer environmental impacts.

Action: Norby - Riess

Recommend that the Board of Supervisors:

POD 10-007, Agenda Item 2:

1. Find that the project as proposed complies with the California Environmental Quality Act (CEQA) because a Notice of Exemption dated June 1, 2010 and on file with the Department of Planning and Land Use has been prepared and is proposed for adoption by the Board of Supervisors; and
2. Adopt the Form of Ordinance amending the Zoning Ordinance related to small, medium and large wind turbine systems.

Ayes: 4 - Beck, Brooks, Norby, Riess
Noes: 0 - None
Abstain: 0 - None
Absent: 3 - Day, Pallinger, Woods

SPA 10-001 and R01-001, Agenda Item 3:**3. East Otay Mesa Specific Plan Amendment (SPA) 10-001 and Zone Reclassification R10-001, Otay Subregional Plan Area**

The primary objective of the East Otay Mesa Specific Plan is to facilitate its development as a major employment area for southern San Diego County by providing adequate land for light and heavy industrial use. This item would modify the East Otay Mesa Business Park Specific Plan - Subareas 1 and 2 - to recombine the two Subarea Plans into a single plan called the East Otay Mesa Business Park Specific Plan. The proposed SPA and zone reclassification would modify the boundary of the Specific Plan in response to Proposition A, the East Otay Mesa Recycling Collection Center and Landfill Ordinance, and would change the zone for approximately 33 acres of land from S-88 to RS-40. The SPA would make minor changes to the Land Use and Circulation Element of the Specific Plan, and would update certain policies and development regulations defined by the Specific Plan. The primary purpose of the proposed modifications is to streamline the permitting process for numerous, active permit applications within East Otay Mesa and to bring the Specific Plan into conformance with changes made to the General Plan by Proposition A.

Staff Presentation: Rosenberg, Rowan

Proponents: 4; **Opponents:** 1

Discussion:

The East Otay Mesa Business Park Specific Plan is currently divided into two Subareas: Subarea 1 is the western portion and its Plan was adopted in 2002. Subarea 2 is the eastern portion and is the original Specific Plan adopted in 1994. The scope of the proposed Specific Plan Amendment (SPA) was limited by Staff resources and funding; however, Staff worked extensively with the Property Owners Association (POA) to identify and review proposed changes to the Specific Plan. When the amendment process was initiated, Staff clarified that changes could not be processed if they would trigger a supplemental or subsequent EIR. In addition, Staff made it clear that the County would not prepare specialized traffic, visual or other environmental reports.

Staff believes the SPA will simplify the permitting process by providing a single regulatory document and one consistent set of land use regulations. The SPA will also modify regulations that would unnecessarily inhibit development. In addition, the SPA responds to Proposition A, a voter Initiative passed in June 2010 that established a landfill in the southwest portion of the Specific Plan. The SPA would

SPA 10-001 and R01-001, Agenda Item 3:

remove the landfill site from the Specific Plan and modify the Plan boundary. A small area left isolated by that Initiative would also be removed from the Specific Plan. The 33-acre isolated area would be rezoned Rural Residential 40. Staff believes that zone is similar in its use and density to the current Rural Residential designation of the Specific Plan.

A General Plan Amendment is not being processed at this time; however, the General Plan Update would redesignate this area as Rural Lands 40 to make it consistent with designations on surrounding properties. The SPA would relocate the commercial overlay to an area closer to Otay Mesa Road, and expand the overlay from 40 to 56 acres. The SPA would also reclassify two Specific Plan roads four to two lanes. Staff's proposed SPA includes many changes that benefit landowners in the East Otay Mesa. Requests were accommodated whenever possible, and a delay to the amendment process would affect ongoing Permit applications.

The East Otay Mesa area does not have Community Planning or Sponsor Group representation, but it is represented by the Property Owners Association and their representatives submitted a letter stating general support for the proposed amendment, but listing outstanding issues. The POA representatives maintain that no CEQA or environmental has been performed, thus application of a landfill buffer overlay is premature. They point out that 110 acres of the landfill site will remain undeveloped and could be used as a buffer. POA representatives also question the rationale for imposing lodging restrictions or requiring Use Permits in the district commercial designation at this time, because CEQA analysis will be performed during the application process. In addition, POA representatives discuss slope height restrictions, which they believe are too restrictive and also premature without environmental review.

Staff clarifies that the Subarea 2 Specific Plan contains slope limitations of 15 feet between adjacent building pads, and the 1994 EIR was based on that policy. Staff is retaining that policy but loosening it by allowing an increase in slope height to 20 feet between adjacent building pads without additional CEQA studies, or 30 feet upon submittal of a visual study. With respect to revising the District Commercial designation to allow lodging for more than 100 rooms by right, Staff does not support this request and believes the current regulations are appropriate. In addition, this request is outside the limits identified for this amendment. Staff clarifies that the District Commercial area is located near the eastern edge of the Specific Plan and adjacent to areas planned for industrial use. Currently lodging for 100 or less rooms is allowed by right; lodging over 100 rooms requires a Major Use Permit.

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The POA has requested that all-metal buildings be allowed throughout the Specific Plan, though they are currently limited to mixed industrial areas. Staff's proposed SPA would expand that to heavy industrial areas. Staff believes permitting all-metal buildings elsewhere is outside the scope of the SPA and, without design guidelines, the proliferation of all-metal buildings within light industrial and business technology park areas would have a detrimental impact on the development of the Mesa envisioned by the Specific Plan.

The POA has expressed concern about the landfill buffer overlay established in response to passage of Proposition A. Landowners believe it is premature to establish an overlay, and maintain that the buffer should be located within the landfill site itself. Staff recommends establishing the buffer now at the advice of Counsel. The purpose of this 1,000-foot wide buffer is to minimize land use incompatibilities, but Staff has developed a compromise that would prohibit schools and outdoor participant sports, and relies on a Minor Use Permit process to minimize land-use conflicts. This compromise also gives DPLU the right to waive the Use Permit requirement if a buffer is established within the landfill site. Staff reminds the Planning Commission that nearly all developable land within the buffer is owned by the same group who owns the landfill.

The POA has also requested that extractive uses be allowed within Subarea 2 with an approved Major Use Permit. Staff's proposed SPA would allow extractive use in Subarea 2, but it would be limited to Permits that are active when the SPA is adopted. Staff is concerned about permitting extractive uses as proposed by the property owners because mining would not be compatible with the industrial development anticipated in the Mixed Industrial area. In addition, the Rural Residential area contains significant biological resources, and are major amendment areas of the MSCP. The Planning Commission is reminded that State-level permitting is required on this landfill.

Commissioner Norby observes that good planning, by nature, is premature. He informs Staff that metal buildings do have a place in design, and could be very efficient, effective, inexpensive and unusual building alternative that could work, particularly if a design overlay can be applied. Staff reminds the Planning Commission that the current Specific Plan prohibits all-metal buildings, and the design requirements do not address metal buildings. The Commission is also reminded that the property owners' request is outside the scope of today's SPA.

Action: Riess - Brooks

Recommend that the Board of Supervisors:

SPA 10-001 and R01-001, Agenda Item 3:

Adopt the Environmental Review Update Checklist form for the project's previously approved environmental documents dated June 1, 2010 and on file with the Department of Planning and Land Use;

Adopt the Resolution of Approval for the proposed Specific Plan Amendment (SPA 10-001) for the East Otay Specific Plan; and

Adopt the Form of Ordinance (R10-001) for the proposed Zone Reclassification.

Ayes:	4 -	Beck, Brooks, Norby, Riess
Noes:	0 -	None
Abstain:	0 -	None
Absent:	3 -	Day, Pallinger, Woods

P76-085W⁵, R07-012, Agenda Item 4:

4. Mt. Miguel Covenant Village; Major Use Permit Modification, P76-085W⁵ and Zone Reclassification R07-012, Spring Valley Community Plan Area

Proposed Major Use Permit Modification and Zone Reclassification to allow new construction and reconfiguration of an existing continuing care retirement community known as the Mount Miguel Covenant Village. The 26.5-acre project was originally established in 1965 and currently consists of 275 residential units, including 48 assisted living units and 99 skilled nursing beds. The proposed modification would permit 54 additional residential units, or a total of 329 units. The proposed Zone Reclassification would change the story limit from 2 to 3 stories for the proposed Village Center building, and would change the current Zoning from RR2 (Rural Residential) to RU 14.5 (Residential Urban). The project site is located at 325 Kempton Street in the Spring Valley Community Plan Area.

Staff Presentation: Wright

Proponents: 2; **Opponents:** 0

Discussion:

This Item is approved on consent.

Action: Riess - Brooks

Recommend that the Board of Supervisors:

1. Adopt the Environmental Findings;
2. Adopt the Ordinance changing the zoning classification of certain property in the Spring Valley Community Plan Area (Ref: R07-012); and
3. Grant Major Use Permit Modification P76-085W⁵, and impose the requirements and conditions set forth in the Major Use Permit Modification Form of Decision.

Ayes: 4 - Beck, Brooks, Norby, Riess
 Noes: 0 - None
 Abstain: 0 - None
 Absent: 3 - Day, Pallinger, Woods

P08-041, Agenda Item 5:

5. Yellow Brick Road Wireless Telecommunication Facility, Major Use Permit P08-041, Valley Center Community Plan Area

Proposed Major Use Permit to allow construction, operation, and maintenance of an unmanned wireless telecommunications facility at 30230 Yellow Brick Road in the Valley Center Community Plan Area. The proposed project consists of locating a total of 12 panel antennas and 24 transition modifying antennas (TMAs) onto two 40' tall faux broadleaf elm trees. Four of the 12 antennas will be installed at 35' on the tree located at the northeast corner of the property, and eight of the 12 antennas will be installed at 35' on the tree located at the southwest corner of the property. Supporting equipment includes six equipment cabinets mounted on a concrete pad, enclosed by a 9' 8" tall CMU block wall. The site contains an existing 48' tall water tank and two lattice towers (40' tall and 32' tall) that also would be retained. Access would be provided by a road easement connecting to Yellow Brick Road. The project site is located on, within unincorporated San Diego County.

Staff Presentation: Morgan

Proponents: 1; Opponents: 0

Discussion:

This Item is approved on consent.

Action: Riess - Brooks

Adopt the environmental findings and grant Major Use Permit P08-041, and make the Findings and imposes the requirements and Conditions as set forth in the Major Use Permit Form of Decision.

Ayes:	4 -	Beck, Brooks, Norby, Riess
Noes:	0 -	None
Abstain:	0 -	None
Absent:	3 -	Day, Pallinger, Woods

P00-025W², Agenda Item 6:

6. Borrego Boys and Girls Club Addition, Major Use Permit P00-025W², Desert Subregional Plan Area

Proposed Major Use Permit Modification to authorize construction and use of a 315 square-foot addition to an existing multi-purpose building. The addition would be placed on an existing pad, and would not require any new plumbing, outdoor mechanical equipment, or outdoor lighting. The project site is located a 630 Cahuilla Road in the Desert Subregional Plan Area.

Staff Presentation: Johnston

Proponents: ; Opponents:

Discussion:

This Major Use Permit Modification is approved on consent.

Action: Riess - Brooks

Grant Major Use Permit Modification P00-025W², and impose the requirements and conditions set forth in the Major Use Permit Form of Decision.

Ayes: 4 - Beck, Brooks, Norby, Riess
Noes: 0 - None
Abstain: 0 - None
Absent: 3 - Day, Pallinger, Woods

Administrative:

H. Report on actions of Planning Commission's Subcommittees.

None.

I. Results from Board of Supervisors' Hearing(s).

No report provided.

J. Designation of member to represent Commission at Board of Supervisors.

Commissioner Woods is nominated to represent the Planning Commission at the August 4, 2010 Board of Supervisors meeting, and Commissioners Day and Pallinger will serve as alternates.

K. Discussion of correspondence received by Planning Commission.

None.

L. Scheduled Meetings:

August 6, 2010	Regular Meeting, 9:00 a.m., DPLU Hearing Room
August 20, 2010	Regular Meeting, 9:00 a.m., DPLU Hearing Room
September 10, 2010	Regular Meeting, 9:00 a.m., DPLU Hearing Room
September 24, 2010	Regular Meeting, 9:00 a.m., DPLU Hearing Room
October 8, 2010	Regular Meeting, 9:00 a.m., DPLU Hearing Room
October 22, 2010	Regular Meeting, 9:00 a.m., DPLU Hearing Room
November 5, 2010	Regular Meeting, 9:00 a.m., DPLU Hearing Room
November 19, 2010	Regular Meeting, 9:00 a.m., DPLU Hearing Room
December 3, 2010	Regular Meeting, 9:00 a.m., DPLU Hearing Room

There being no further business to be considered at this time, the Chairman adjourned the meeting at 11:42 a.m. to 9:00 a.m. on August 6, 2010 in the DPLU Hearing Room, 5201 Ruffin Road, Suite B, San Diego, California.