



**KITTTITAS COUNTY BOARD OF COMMISSIONERS  
STAFF REPORT**

TO: Kittitas County Board of Commissioners  
FROM: Lindsey Ozbolt, Community Development Services Planning Official  
RE: Proposed Amendments to Kittitas County Code Title 17.61C Regarding Overlay  
Zone 3 Solar Regulations  
HEARING DATE: April 16, 2019

**I. SUMMARY OF PROPOSED AMENDMENTS**

The proposed amendments to Kittitas County Code Title 17.61C Solar Power Production Facilities (SPPFs), specifically, KCC 17.61C.030, 17.61C.040, and 17.61C.050, include the following:

- All lands within Overlay Zone 1 will remain the same. These lands are designated by the Washington State Department of Agriculture (database) as agricultural land uses on its agricultural land use geodatabase regardless of their location within or outside of an irrigation district. SPPFs are prohibited in this zone unless they meet the permitting criteria in KCC 17.61C.060 which is not proposed to change.
- The current Solar Overlay Zone 2 is being proposed to split between the Overlay Zone 2 and Overlay Zone 3.
  - Overlay Zone 2 is proposed to consist of lands that are not designated as agricultural lands in the database and are located within an irrigation district boundary. Permitting requirements will remain the same in this Zone. Overlay Zone 2 permitting requires Conditional Use Permit approval.
  - The proposed Overlay Zone 3 will consist of lands that are not designated as agricultural lands in the database and are not located within an irrigation district boundary. Overlay Zone 3 permitting will require Administrative Conditional Use Permit approval.
- This proposed amendment includes updating the existing Solar Overlay Map to accommodate the new proposed Overlay Zone 3.

**II. BACKGROUND**

In March of 2018, the Solar Facilities Citizen Advisory Committee recommended three overlay zones to address SPPFs. Overlay Zone 1 contained irrigated agricultural lands, Overlay Zone 2 contained non-irrigated agricultural lands, and all other lands were included in Overlay Zone 3. SPPFs would require conditional use permit approval in Overlay Zones 1 and 2, with a Rural and resource Lands analysis required for Zone 1. SPPFs in Overlay Zone 3 would require an administrative conditional use permit up to 7 megawatts of energy produced. SPPFs that would generate more energy than that would require a conditional use permit.

On May 22, 2018, the Kittitas County Planning Commission conducted a public hearing to consider the proposed Solar Power Production Facilities regulations. The Planning Commission recommended approval of the regulations by a unanimous vote, with an amendment that SPPFs be prohibited in Solar Overlay Zone 1, and permitted outright in Solar Overlay Zone 3.

At the June 25, 2018 Board of County Commissioners public hearing, the Board directed staff to make revisions to the proposed map and ordinance to prohibit SPPFs on all agricultural lands, including irrigated and non-irrigated. In response to this direction, staff combined Overlay Zones 1 and 2 into one overlay zone, where all SPPFs are prohibited. All of the remaining lands became Overlay Zone 2, where SPPFs require conditional use permit approval.

The Board held a public hearing on September 10, 2018 to consider the revised map and ordinance. At that hearing, the Board approved the overlay map and ordinance as proposed, but directed staff to begin work on creating a new Overlay Zone 3 that would have less stringent permitting requirements, in order to incentivize SPPF development in areas where the County would like to direct this type of development.

On October 31, 2018, CDS Staff had a conversation with the Board during their Special CDS Study Session to discuss the potential amendments to Title 17.61C Solar Power Production Facilities. On November 26, 2018, CDS Staff further discussed potential criteria and permitting requirements for an Overlay Zone 3 with the Board during the regularly scheduled CDS Study Session. Board directed staff to move forward with the process for code amendment.

On March 12, 2019 an open record hearing was conducted by the Kittitas County Planning Commission to consider the proposed amendment to Title 17.61C, adding a third Solar Overlay Zone and associated updates to the existing Solar Overlay Map. Following a CDS staff presentation, public testimony, and commission deliberation the Kittitas County Planning Commission voted unanimously to recommend the Board of County Commissioners adopt the proposed changes as presented by CDS staff.

### **III. AUTHORITY AND PUBLIC NOTICE**

#### **A. Authority:**

Any change to development regulations shall be consistent with and implement the comprehensive plan in accordance with KCC 15B.04.010 & RCW 36.70A.040. According to KCC 15B.04.020, amendments to development regulations may be considered outside of the annual docket, provided appropriate public participation takes place in accordance with KCC 15B, Table B. Table B requires an open record Planning Commission public hearing. On March 12, 2019 the Kittitas County Planning Commission reviewed the proposed amendments in an open public hearing. The Planning Commission made a recommendation for approval to the Board of County Commissioners in accordance with KCC 15.B.01.030(3).

In accordance with KCC 15B.01.030(2), the Kittitas County Board of Commissioners shall hold a public hearing to review the recommendations of the Planning Commission as well as any written and oral testimony. The Board of County Commissioners shall consider proposed amendments and issue a decision in resolution or ordinance form.

#### **B. Public Notice:** Notice of the public hearing was published in the Daily Record on April 1, 2019 and April 8, 2019 and in the Northern Kittitas County Tribune on April 11, 2019. A press release announcing the public hearing was issued on April 1, 2019.

#### **IV. COMPREHENSIVE PLAN**

KCC 15B.04.010 & RCW 36.70A.040 require development regulations to be consistent with and implement the comprehensive plan. The following Goals, Policies, and Objectives (GPO) from the Kittitas County Comprehensive Plan relate to the proposed amendment:

GPO 6.36 Develop a study area encompassing the entire county to establish criteria and design standards for the siting of solar farms.

GPO 8.3 The County shall promote the retention of its overall character by establishing zoning classifications that preserve rural character identified to Kittitas County.

GPO 8.5 In order to protect and preserve Resource Lands, non-resource development and activities on adjacent Rural lands shall require preservation of adjacent vegetation, existing landforms (e.g. ravines) or use of other methods that provide functional separation from the resource land use.

GPO 8.8 A certain level of mixed uses in rural areas and rural service centers is acceptable and may include limited commercial, service, and rural industrial uses.

GPO 8.9 Protecting and preserving resource lands shall be given priority. Proposed development allowed on and adjacent to resource lands shall be conditioned to protect resource lands from negative impacts from that development.

GPO 8.17 Land use development within the Rural area that is not compatible with Kittitas County rural character or agricultural activities as defined in RCW 90.58.065(2)(a) will not be allowed.

GPO 8.21 Kittitas County will provide criteria within its zoning code to determine what uses will be permitted within rural zone classifications in order to preserve rural character.

#### **VI. ENVIRONMENTAL REVIEW**

Kittitas County issued a Determination of Nonsignificance (DNS) for the proposed amendments on February 21, 2019 in accordance with WAC 197-11-340(2) and KCC 15A.04.020(2). Any action to set aside, enjoin, review, or otherwise challenge the administrative SEPA action on the grounds of noncompliance with the provisions of 43.21C RCW, was due on or before March 8, 2019 at 5:00pm.

#### **VII. AGENCY AND PUBLIC COMMENTS**

CDS received several comments during the SEPA comment period. In addition, several comments were submitted following the Planning Commission hearing notice. CDS received substantive SEPA comments from the Washington State Department of Fish and Wildlife, the Yakima Training Center, KVFR, and Norm Peck. These comments are provided in your review materials and also combined into a summary matrix.

The Planning Commission hearing notice resulted in the submission of two comment letters. Two letters were received from Mentor Law Group, representing J.P. and Jan Roan and Nelson Gelbvieh Ranch, LLC. These comments are provided in your review materials and also included in the above mentioned summary matrix.

All of the above comments were provided to the Planning Commission for the hearing on March 12, 2019.

## VIII. ANALYSIS AND RECOMMENDATION

KCC 15B.04.010 & RCW 36.70A.040 require development regulations to be consistent with and implement the comprehensive plan. The proposed amendment is consistent with and implements the comprehensive plan, because an Overlay Zone 3 encourages Solar Power Production Facility development outside of irrigated agricultural lands through a less strenuous administrative permitting process. Additionally, no changes are being proposed to Overlay Zone 1, thereby protecting agricultural lands as designated by the database regardless of their location within or outside of an irrigation district. On March 12, 2019 the Kittitas County Planning Commission reviewed the Solar Overlay Zone amendment materials and voted unanimously to recommend approval of the proposed amendment as presented by staff. Therefore, staff recommends that the Board of County Commissioners **approve** the amendment to add a third Solar Overlay Zone to KCC 17.61C and the updated Solar Power Production Facilities Overlay Map depicting the Zone 3 Overlay area and changes to the Zone 2 Overlay area and direct staff to prepare the enabling documents for the next regularly scheduled Board Agenda Meeting.