



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

“Building Partnerships – Building Communities”

KITTTIAS COUNTY PLANNING COMMISSION STAFF REPORT

TO: Kittitas County Board of County Commissioners
FROM: Dan Carlson, AICP, Community Development Services Director
RE: Proposed Amendments to Kittitas County Code Regarding Solar Regulations and Maximum Lot Coverage
HEARING DATE: June 25, 2018

I. SUMMARY OF PROPOSED AMENDMENTS

The proposed amendments to Kittitas County Code include the following:

- New proposed KCC 17.11.060 amending maximum lot coverage standards within urban growth areas to match associated cities.
- Amendments to KCC 17.16.040 and 17.22.040, referring to the new KCC 17.11.060.
- New proposed KCC 17.61C adopting regulations for siting of Solar Power Production Facilities (SPPF), including adoption of a Solar Power Production Facilities Overlay Map. The regulations include three solar overlay zones, permitting requirements, submittal requirements, procedures, development standards, review criteria, and abandonment and decommissioning requirements.
- Amendment to KCC 15A.03.060 referring to mailed notice requirements of new KCC 17.61C.
- Amendment to 17.61.010 to remove reference to “solar farm” or “solar farms.”
- Amendments to KCC 17.15 to add Solar Power Production Facilities to land use tables

II. BACKGROUND

Maximum Lot Coverage

KCC 17.16.040 limits the ground area covered by all buildings to a maximum of 30% in the residential zoning district. KCC 17.22.040 establishes the same standard for the Rural Residential zone. In study sessions with the Board of Commissioners earlier this year, the Commissioners determined that the maximum lot coverage within urban growth areas should match the associated city, and the Commissioners directed staff to proceed with a code amendment. The addition of new KCC 17.11.060 would require maximum lot coverage within urban growth areas to be consistent with the associated cities.

On May 22, 2018, the Kittitas County Planning Commission conducted a public hearing and recommended approval of the proposed amendment to maximum lot coverage standards by a unanimous vote.

Solar Power Production Facilities

On January 10, 2017, the Kittitas County Board of Commissioners placed a moratorium on applications for solar projects that qualify as major alternative energy systems due to increased interest in solar projects and

concerns related to impacts to agricultural activities and surrounding land uses. This moratorium was placed in accordance with RCW 36.70A.390. On March 9, 2017, the Board conducted a public hearing to consider maintaining the moratorium for six months. After receiving and considering testimony at the public hearing, the Board decided to keep the moratorium effective for six months.

According to RCW 36.70A.390, a moratorium may be effective for up to one year if a work plan is developed for related studies providing for the longer period of time. On July 10, 2017, the Board conducted a public hearing to consider maintaining the moratorium for one year with an adopted work plan. After receiving and considering testimony at the public hearing, the Board decided to keep the moratorium in effect until January 10, 2018.

As a part of the work plan, the Solar Facilities Citizen Advisory Committee was formed. The committee met several times and conducted one community open house in order to draft standards and criteria for the siting of solar facilities, but was not going to be able to complete the work by January 10, 2018. At a public hearing on January 3, 2018, the Board extended the moratorium until July 10, 2018.

On March 1, 2018 the committee completed its work and recommended proposed regulations and an overlay map. The Board of County Commissioners conducted a work session with the committee on March 30, 2018, and directed staff to make certain changes to the proposed regulations and overlay map. Staff completed these revisions and submitted the regulations and overlay map to the Kittitas County Prosecutor's Office for legal review. Legal counsel provided comment and staff made final revisions to the ordinance on April 25, 2018.

The proposed Solar Power Production Facilities (SPPFs) regulations and overlay map would create three solar overlay zones. Solar Overlay Zone 1 is characterized by high-quality agricultural districts dominated by irrigated commercial agriculture. Zone 2 is primarily characterized by non-irrigated agricultural lands, and Zone 3 is predominantly public lands. A conditional use permit would be required for SPPFs in Zone 1 and Zone 2. In Zone 3, SPPFs generating up to 7 megawatts would require an administrative conditional use permit, and SPPFs generating greater than 7 megawatts would require a conditional use permit. The proposed regulations include submittal requirements, including a Rural and Resource Lands Analysis for proposed facilities in Zone 1. The Rural and Resource Lands Analysis would include a description of the property, proposed facilities, and an analysis of potential alternative sites in order to demonstrate compliance with KCC 17.60A.015(7). Proposed development standards would address size and spacing of proposed facilities, screening or fencing, glare and lighting, minimum setbacks, maximum height, maximum lot coverage. The proposed regulations also include procedures, review criteria, and abandonment and decommissioning requirements for proposed facilities.

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.

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. At that hearing the Planning Commission shall review the proposed amendments and make a recommendation to the Board of County Commissioners in

accordance with KCC 15.B.01.030(3). The Kittitas County Planning Commission conducted a public hearing on May 22, 2018 and made recommendations to the Board of County Commissioners regarding the proposed amendments. According to KCC 15B.01.030(2), The Board shall review and act on the recommendations of the Planning Commission.

- B. Public Notice: Notice of the public hearing was published in the Daily Record on June 7, 2018 and June 14, 2018 and in the Northern Kittitas County Tribune on June 14, 2018.

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 amendments:

GPO 2.29 Kittitas County shall seek consistency in development regulations in urban growth areas with adjacent cities and when appropriate where rural development may impact future urban growth. This may be accomplished through:

- Coordination through the Conference of Governments
- Development of Interlocal agreements
- Use of overlay zones such as Rural Transition Zones

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

GPO 8.1 Rural lands are characterized by a lower level of services; mixed residential, agricultural and open space uses; broad visual landscapes and parcels of varying sizes, a variety of housing types and small unincorporated communities.

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 May 1, 2018 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 May 18, 2018 at 5:00pm. No appeals were filed.

VII. AGENCY AND PUBLIC COMMENTS

A. Agency Comments

Agency comments were submitted by Washington Department of Fish and Wildlife and Washington Department of Natural Resources (See Master Record, Public Comments July 2017 – March 2018).

B. Public Comments

Many public comments have been submitted both during and after the Solar Facilities Citizen Advisory Committee work (See Master Record, Public Comments July 2017 – March 2018 and Public Comments March 2, 2018 – May 22, 2018).

C. Planning Commission Hearing

The following written comments were submitted for the Planning Commission Public Hearing:

Jessica C. Kuchan, Mentor Law Group, PLLC, on behalf of E. James Nelson, letter received May 16, 2018: Ms. Kuchan commented that the Nelson property should be designated Solar Overlay Zone 3 rather than Solar Overlay Zone 1 and commented that Solar Overlay Zone classifications are arbitrary and vague.

Futurewise, letter received May 18, 2018: Futurewise commented that SPPFs convert agricultural land to non-agricultural uses and this is a violation of GMA; that the Rural and Resource Lands Analysis does not preclude approval and is not a requirement for non-irrigated agricultural land; that proposed regulations do not provide a time limit on use, therefore the use isn't temporary; and that solar facilities should only be allowed on agricultural buildings, forestry buildings, and agricultural and forestry residences on lands designated Commercial Agriculture or Commercial Forestry.

Ben Serrurier, Cypress Creek Renewables, letter received May 21, 2018: Mr. Serrurier commented that the overlay mapping is not consistent with solar overlay zone descriptions and that regulations should include a process for landowners to easily resolve parcel-specific inconsistencies.

Dave Nerpel, letter received May 22, 2018: Mr. Nerpel commented that SPPFs should not be permitted in Solar Overlay Zone 1; that proposed KCC 17.61C.060(7) should require the Rural and Resource Lands Analysis to be prepared by Washington State licensed engineer; and that exceptions to the Rural and Resource Lands Analysis should be removed.

Dick Carkner, Save Our Farms, letter received May 23, 2018 (after Planning Commission public hearing): Mr. Carkner requested that SPPFs be prohibited in Solar Overlay Zone 1.

The following agency comment was submitted for the Planning Commission Public Hearing:

Washington State Department of Natural Resources (DNR), letter received May 14, 2018: DNR commented that there are five DNR Parcels in Solar Overlay Zone 1 that DNR believes should be Solar Overlay Zone 3.

All of the written comments are included in the attached Master Record.

The following testimony was provided at the Planning Commission Public Hearing:

Dick Carkner: Mr. Carkner, representing Save Our Farms, testified that SPPFs should not be permitted in Solar Overlay Zone 1, and raised concerns about public investment in irrigation for agricultural lands.

Jeff Dunning: Mr. Dunning raised concerns regarding allowing SPPFs on agricultural lands and compliance with the Growth Management Act.

Colleen Donovan: Ms. Donovan commented that she supports retaining local control over land use decisions and that SPPFs should not be permitted within Solar Overlay Zone 1. She raised concerns regarding site restoration and rural character impacts from SPPFs.

Marlene Pfeifer: Ms. Pfeifer commented that land use decision-making should be retained in Kittitas County and that SPPFs should be prohibited in Solar Overlay Zone 1. She introduced a letter from Senator Judy Warnick requesting that the Planning Commission reject the use of prime farmland for Major Alternative Energy Facilities and proposing that Kittitas County Code reflect that designated sites for energy facilities be limited to industrial zoning or land which cannot be put to beneficial agricultural use (see Master Record, Page 439).

Ron Slater: Mr. Slater described his experience with his property on Vantage Highway. He stated he was told by a “solar company on the west side” that they are only interested in irrigated land for a solar facility and that his sagebrush land would not be a good candidate.

Karen Paulsen: Ms. Paulsen stated she has been following the Solar Facilities Citizen Advisory Committee and that she has two proposed solar facilities, with applications into EFSEC, within a mile of her property. She stated that with the new regulations, if these facilities were to go in, her property would not be able to put a solar facility in due to the proximity of the other solar facilities. She stated she would like to see some consistency between the solar zones.

Jim Nelson: Mr. Nelson stated that he owns property in section 27 and 28 in the Reecer Creek area. He gave an overview of his property and stated the solar overlay zone for his property is Zone 1 and the surrounding properties are Zone 3. He stated he would like to see the zoning overlays re-worked to meet the regulations.

Charles Weidenbach: Mr. Weidenbach stated he is a farmer in Kittitas County and is in favor of irrigated land not being allowed to have solar facilities.

Stephanie Wickstrom: Ms. Wickstrom stated that the Planning Commission has the authority to make the recommendation to the Board of County Commissioners and hopes that the Planning Commission will take their role seriously.

VIII. ANALYSIS AND RECOMMENDATION

A. Staff Recommendation

KCC 15B.04.010 & RCW 36.70A.040 require development regulations to be consistent with and implement the comprehensive plan. The proposed amendments would be consistent with and implement the comprehensive plan, because maximum lot coverage standards within urban growth areas would be consistent with adjacent cities, criteria and standards would be established for siting solar facilities,

overall rural character would be preserved through sizing, spacing, and screening requirements for solar facilities, and resource lands would be protected through sizing, spacing, and the Rural and Resource Land Analysis requirements. Therefore, staff recommended that the Planning Commission recommend approval of these amendments to the Board of County Commissioners.

B. Planning Commission Recommendation

On May 22, 2018, the Kittitas County Planning Commission conducted a public hearing to consider the proposed amendments to Kittitas County Code. The Planning Commission recommended approval of the amendment to maximum lot coverage standards by a unanimous vote. The Planning Commission recommended approval of the proposed SPPF regulations with an amendment that SPPFs be prohibited in Solar Overlay Zone 1, and permitted outright in Solar Overlay Zone 2. If adopted, this amendment would require changes to the rest of the ordinance. Staff has provided a track-changes version of the Planning Commission-recommended amendments to Kittitas County Code for SPPF development regulations (see attached). Also, if the Board adopts this amendment, potential SPPF development in Zone 1 on areas already committed to other uses (such as roadways, parking lots, runways, etc.) would require amendment of the Solar Overlay Map.

Attachments: Proposed Amendment to Maximum Lot Coverage Standards
Proposed Amendments to Kittitas County Code Regarding Solar Power Production Facilities
Proposed Solar Power Production Facilities Overlay Map
Planning Commission Recommendation – Proposed Amendments to Kittitas County Code Regarding Solar Power Production Facilities
Master Record for Proposed Solar Power Production Facilities Development Regulations