



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: MARCH 26, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: TXT-33703 - APPLICANT/OWNER: CITY OF LAS VEGAS

** CONDITIONS **

STAFF RECOMMENDATION: APPROVAL.

1. Title 19.04.010 is hereby amended as follows:

19.04.010 LAND USE TABLES

**Table 2 Land Use Table
Utilities, Communications & Transportation**

USE	RESIDENTIAL												COMMERCIAL						INDUSTRIAL			
Small Wind Energy System (Ord. 5934 09/19/07)	U	R-A	R-E	R-D	R-1	R-CL	R-2	R-3	R-4	R-5	R-MH	R-MHP	P-R	N-S	O	C-D	C-1	C-2	C-PB	C-M	M	
		C	C	C											<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	
	Description: A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended primarily to reduce on-site consumption of utility power. The use is not to be deemed an accessory structure.																					
Conditional Use Regulations: 1. The minimum parcel size shall be two acres (net). *2. No small wind energy system is eligible for approval if all or part of the property is within a conservation easement or scenic highway corridor, or is listed on the State or National Registers of Historic Places, unless the applicant submits satisfactory evidence that the addition of a small wind energy system is not a violation of the rules that govern the development of the property. 3. The tower height (meaning the height above grade of the fixed portion of the tower, excluding the wind turbine itself) may not exceed the lesser of the following: a. The maximum height recommended by the manufacturer or distributor of the system, as demonstrated by evidence included with the application; or b. A height of 90 feet for a parcel less than 2 <u>two</u> net acres <u>or greater</u> , but <u>less than five net acres</u> in size, or a height of 110 feet on a parcel of 5 <u>five</u> net acres or more in size. 4. In the R-D Zoning District, the entire system must be set back at least 30 feet from the front property line and at least 10 feet from the side and rear property lines. In the R-A and R-E Zoning Districts, the entire system must be set back at least 50 feet from the front and side property lines, and at least 10 feet from the rear property line. 5. <u>In the O, C-1, C-2, C-PB, C-M, and M Zoning Districts, the entire system must be set back a minimum of 1.5 times the tower height from the front and corner side (if applicable) property lines and 1.1 times the tower height from the side and rear property lines. Further, the entire system must be set back a minimum of 1.5 times the tower height from any occupied structure on an adjacent property.</u> 6. No part of a system, including guy wire anchors, may be closer to any structure residential building or outbuilding that the sum of the following distances: the length of the tower, plus half the length of the blade diameter, plus an additional than 10 feet. 6 *7. A system shall not exceed 60dBA, as measured by a sound level meter at the closest neighboring inhabited dwelling. However, this level may be exceeded during short term events such as utility outages or sever windstorms. 7 *8. The applicant must submit proof of turbine certification approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association. 8 *9. A system must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. <u>Necessary approvals must be received prior to submittal to city for a building permit. For locations within the Airport Overlay District, the system must comply with all regulations and requirements applicable to that district.</u> 9 *10. A system must comply with all applicable fire codes and building codes.																						

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- ~~10.*11.~~ A building permit application for a system must be accompanied by:
- a. Standard drawings of the wind turbine structure including base, tower and footings;
 - b. An engineering analysis of the tower showing compliance with the International Building Code and certified by a licensed professional engineer; and
 - c. A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- ~~11. Before the installation of a system, the applicant must provide satisfactory evidence that the electrical utility provider has been informed of the applicants intent to install a system. An off-grid system shall be exempt from this requirement if the property is not served by an electrical utility provider.~~
- *12. No system shall be erected or moved onto any lot prior to construction of the main building unless a building permit has been issued for the construction of the main building.
- ~~13. The Special Use Permit provision of Section 19.04.040(B) do not apply to this use.~~

On-site Parking Requirement: No additional parking required beyond that which is required for the principal use(s) on the site.

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**** STAFF REPORT ****

APPLICATION REQUEST

This is a request to amend the Small Wind Energy System use entry in Table 2 of Title 19.04 to make corrections and provide provisions for the use in appropriate non-residential districts.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
06/14/05	Assembly Bill 236 was signed into law. This bill prohibits municipal governments from prohibiting in their zoning code or subdivision ordinance Systems which use solar or wind energy to reduce the costs of energy for a structure if such systems and structures are otherwise in compliance with applicable building codes and zoning ordinances, including those relating to the design, location and soundness of such systems and structures, to the extent the local climate allows for the use of such materials, technologies, resources and systems. [NRS 278.580 (4)(b)].
01/17/07	The City Council adopted Ordinance 5885, which was introduced as Bill No. 2006-97, to conditionally permit the Small Wind Energy System use in the R-A (Ranch Acres), R-E (Rural Estates), and R-D (Single Family Residential-Restricted) zoning districts. The Planning Commission and staff recommended approval of this Text Amendment (TXT-13719).

ANALYSIS

Title 19 has previously been amended to comply with the 2005 amendment to NRS 278.580. This change to the Nevada Revised Statutes required that Title 19 delineate how small wind energy systems would be implemented in the city. The zoning code amendment proposed here further clarifies the Small Wind Energy System conditional use regulations and increases the districts where the use is deemed appropriate. This is intended to encourage the use of wind-based energy generation as an ancillary use to the principle activity performed on-site in the R-A (Ranch Acres), R-E (Rural Estates), R-D (Single Family Residential-Restricted), O (Office), C-1 (Limited Commercial), C-2 (General Commercial), C-PB (Planned Business Park), C-M (Commercial/Industrial), and M (Industrial) zoning districts. Provided the conditional use regulations are met, the addition of a small wind energy generating system to a qualifying site may be approved as a part of the building permit process and will not require additional planning related approvals, public hearings, or interfere with established building height limitations.

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Previously, there were provisions for small wind energy generating systems only within the R-A (Ranch Acres), R-E (Rural Estates), and R-D (Single Family Residential-Restricted) zoning districts. This amendment continues to restrict the use to larger sites (two plus net acre parcels) in an effort to ensure that the tower structure, supports, guy wires and turbines do not encroach into the required setbacks. Restrictions are also included to ensure that the distance to the nearest on-site structure is at least 10 feet.

This amendment continues to further the objectives and policies of the Conservation Element of the Las Vegas Master Plan 2020. It does this by addressing the implementation actions that call for the promotion and use of alternative sources of energy (EC.6). Wind energy is an abundant, renewable, and nonpolluting energy resource and its conversion to electricity reduces our local dependence on nonrenewable energy resources and decreases air and water pollution that results from the use and production of conventional energy sources. The expansion of the districts where small wind energy systems are conditionally permitted helps to promote the use of this alternative source of energy.

The intensity of development typical in the O (Office), C-1 (Limited Commercial), C-2 (General Commercial), C-PB (Planned Business Park), C-M (Commercial/Industrial), and M (Industrial) zoning districts has prompted more stringent setback requirements than allowed in the R-A (Ranch Acres), R-E (Rural Estates), and R-D (Single Family Residential-Restricted) residential zones. The setbacks established for these non-residential zoning districts are consistent with standards discussed in the available literature and proposed under a number of model ordinances from various advocacy organizations, federal agencies and state and local government jurisdictions.

These changes to the Small Wind Energy System use will more clearly spell out the appropriate zoning districts for such systems and the basic standards to which such systems must comply. The recommendations are generally consistent with the standards endorsed by the American Wind Energy Association (AWEA) for Small Wind Energy Systems.

FINDINGS

The proposed text amendment will accomplish the following:

- Increase the applicable zoning districts where small wind energy systems can conditionally be permitted to include the O (Office), C-1 (Limited Commercial), C-2 (General Commercial), C-PB (Planned Business Park), C-M (Commercial/Industrial), and M (Industrial) zoning districts
- Requires compliance with applicable setbacks, with additional protection to existing neighboring structures for systems on non-residential parcels.
- Maintains requirements for the submission of proof of compliance with International Building Code, National Electrical Code, necessary approvals from the Federal Aviation Administration and/or the Clark County Department of Aviation, and system certification approved by the American Wind Energy Association.

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- Removes requirements for the submittal of notification to the utility provider.
- Allows, if all conditions are met, for approval as a part of the building permit review process. Pursuant to Title 19.04.040 (B), conditions related to qualifying lot size, tower height limitations, and setback provisions that are not met may be reviewed by application of a Special Use Permit.

The following table summarizes all proposed changes:

Code Requirements	Existing Regulations	Proposed Regulations
Title 19.04.010 Land Use Tables Small Wind Energy System	• Condition 3, Subparagraph (b) indicates: A height of 90 feet for a parcel less than 2 net acres in size, or a height of 110 feet on a parcel of 5 net acres or more in size. <i>This regulation conflicts with Condition 1 which requires a minimum net area of 2 acres and, per Condition 1,3 cant be waived.</i>	• Condition 3, Subparagraph (b) clarifies: A height of 90 feet for a parcel 2 net acres or greater, but less than 5 net acres in size, or a height of 110 feet on a parcel of 5 net acres or more in size.
	• No allowance is made for the use in any non-residential districts.	• The use is conditionally allowed in the O, C-1, C-2, C-PB, C-M, and M Zoning Districts • Setbacks are established that require that the entire system must be set back a minimum of 1.5 times the tower height from the front and corner side (if applicable) property lines and 1.1 times the tower height from the side and rear property lines. Further, the entire system must be set back a minimum of 1.5 times the tower height from any structure on an adjacent property.
	• Condition 5 indicates: No part of a system, including guy wire anchors, may be closer to any residential building or outbuilding that the sum of the following distances: the length of the tower, plus half the length of the blade diameter, plus an additional 10 feet.	• Condition 6 proposes: No part of a system, including guy wire anchors, may be closer to any structure than 10 feet.

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	• Before the installation of a system, the applicant must provide satisfactory evidence that the electrical utility provider has been informed of the applicants intent to install a system. An off-grid system shall be exempt from this requirement if the property is not served by an electrical utility provider.	• Condition deleted.
	• The Special Use Permit provisions of Section 19.04.040(B) do not apply to this use.	• Condition deleted. • If Conditions 1, 3, 4, 5, and 6 can not be met a Special Use Permit may be applied for pursuant to Section 19.04.040(B). • Conditions 2, 7, 8, 9, 10, 11, and 12 may not be waived or reduced as a part of a Special Use Permit application.

NOTICES MAILED

NEWSPAPER ONLY

APPROVALS

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PROTESTS

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