



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: Planning and  
Development  
Department No.: 053  
For Agenda Of: March 31, 2020  
Placement: Departmental  
Estimated Time: 1 hour  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Supervisors

**FROM:** Department Lisa Plowman, Director, Planning & Development  
Director(s) (805) 568-2086  
Contact Info: John Zorovich, Deputy Director, Energy & Minerals Division  
(805) 568-2519

**SUBJECT:** **George and Cheryl Bedford Appeal of the County Planning Commission's action granting Preliminary Design Review approval of the Strauss Wind Energy Project, Case Nos. 20APL-00000-00008 & 18BAR-00000-00113; Third and Fourth Supervisorial Districts**

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**County Counsel Concurrence**

As to form: Yes

Other Concurrence: N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

Staff recommends that your Board take the following actions:

- a. Deny the appeal, Case No. 20APL-00000-00008;
- b. Make the required findings for approval of Preliminary Design Review for the Strauss Wind Energy Project (Case No. 18BAR-00000-00113), including California Environmental Quality Act (CEQA) findings (Attachment 1);
- c. After considering the environmental document prepared and adopted for the SWEP (Certified Final Supplemental Environmental Impact Report 18EIR-00000-00001/SCH#2018071002), including the Final SEIR Revision Letter dated November 12, 2019, determine that, as reflected in the CEQA findings (Attachment 4), Preliminary Design Review approval of the Strauss Wind Energy Project is within the scope of 18EIR-00000-00001 and the Final SEIR Revision Letter, and that no additional environmental review is required pursuant to State CEQA Guidelines Section 15162;
- d. Grant *de novo* Preliminary Design Review approval of the Strauss Wind Energy Project (Case No. 18BAR-00000-00113).

The Strauss Wind Energy Project involves 22 parcels in the Third and Fourth Supervisorial Districts:

- The project wind turbine site consists of 11 parcels and is near the intersection of San Miguelito Road and Sudden Road, southwest of the City of Lompoc: Assessor Parcel Numbers (APNs) 083-100-008, 083-250-011, 083-250-016, 083-250-019, 083-090-001, 083-090-002, 083-090-003, 083-080-004, 083-100-007, 083-100-004, and 083-090-004.
- The project electrical transmission line runs from the wind turbine site in a northeast direction into the City of Lompoc and traverses 11 parcels: APNs 093-140-016, 083-060-013, 083-030-031, 083-030-005, 083-030-006, 083-110-012, 083-110-007, 083-110-008, 083-060-017, and 083-110-002, 099-141-034.

Refer back to staff if the County Board of Supervisors takes other than the recommended action.

### **Summary Text:**

#### **Project Description**

The BAR application (Case No. 18BAR-00000-00113) is a request for Design Review approval of the Strauss Wind Energy Project (SWEP), a utility-scale windfarm consisting of 29 wind turbines up to 492 feet tall and appurtenant facilities, including operations and maintenance building, substation, switchyard, and a transmission line to connect to the PG&E grid. The onsite substation would be approximately one acre in size, equipped with equipment that would step up electrical voltage from 34.5 kV to 115 kV, fenced with a locked gate and serve as the originating point of the transmission line. The 7.3-mile transmission line would have approximately 44 double steel H-frame structures and wood triple poles, approximately 75 feet in height. The project switchyard would be approximately one quarter acre in size, fenced with a locked gate, and would connect the transmission line to the PG&E electrical system. An onsite 5,000-square foot operations and maintenance (O&M) facility would be located near the center of the project site. Approximately 12 miles of existing roads would be modified and 8 miles of new roads would be constructed (see Site Plan in Attachment F of Attachment 3 of this Board letter).

#### **Background**

On January 28, 2020, the Board of Supervisors approved a Conditional Use Permit (CUP) and a Variance for the SWEP. A CUP is subject to Design review (Land Use Development Code Section 35.82.060.D.4), and SWEP has undergone design review from the Central Board of Architectural Review (CBAR) at seven noticed public hearings. At the December 13, 2019 meeting, CBAR preliminarily approved the Design Review of SWEP (Case No. 18BAR-00000-00113). The CBAR preliminary Design Review approval was then appealed by two appellants to the Planning Commission. On February 26, 2020, the County Planning Commission granted *de novo* Preliminarily Design Review approval of SWEP (Attachment 2). The Planning Commission affirmed the December 13, 2019 decision of CBAR to grant Preliminary Design Review approval of SWEP, made the required Design Review findings, and determined that Preliminary Design Review approval of the project is within the scope of 18EIR-00000-00001 and the Final SEIR Revision Letter, and that no additional environmental review is required pursuant to State CEQA Guidelines Section 15162. Design Review of SWEP is discussed in detail in the Planning Commission staff report, dated February 18, 2020 (Attachment 3). In their decision to grant Preliminarily Design Review approval of the project, the Planning Commission weighed all of the evidence presented to them, including public testimony and written submissions.

#### **Appellant Appeal Topics and Staff Responses**

On March 5, 2020, Juarez, Adam & Farley, LLP on behalf of George and Cheryl Bedford (20APL-00000-00008) filed an appeal of the County Planning Commission's February 26, 2020 action granting

Preliminary Design Review approval of the Strauss Wind Energy Project (Attachment 5). The appeal was filed in a timely manner. The analysis of the issues raised on appeal and staff's responses are provided below:

Appeal Issue 1: The appellant asserts that CBAR members admitted on the record that they did not review the wind turbines generator (WTG) structures and could not make the nine required Design Review findings on said structures. Because of this, the appellant asserts that both the CBAR's Preliminary Design Review approval and the Planning Commission's affirmation of Preliminary Design Review approval was improper and an abuse of discretion.

Staff response: CBAR reviewed the WTGs at a number of CBAR meetings before granting Preliminary Design Review approval on December 13, 2019. At the September 14, 2018 CBAR meeting, CBAR asked the applicant to provide photo simulations for selected public viewing locations and drawings and example photos of the WTGs. The applicant's photo simulations were provided to CBAR in an October 3, 2018 staff memorandum, with a caveat that the applicant's photo simulations were currently being independently reviewed by the consultant preparing the environmental analysis of the SWEF. On October 30, 2018, CBAR attended a site visit to view the project (mainly the WTGs) from several of the chosen public viewing vantage points (Jalama Beach, La Purisima State Park, and the intersection of North 7<sup>th</sup> Street and Tangerine Avenue). The photo simulations and field views of the WTGs were discussed at the November 9, 2018 CBAR meeting. In a May 30, 2019 memorandum, CBAR members were provided with the hyperlink to review the SWEF Draft Supplemental EIR, which included the EIR consultant's photo simulations of SWEF.

At the December 13, 2019 CBAR meeting, during preliminary deliberations, several CBAR members initially expressed concern with making the required Design Review findings as they apply to the WTGs. However, during their subsequent deliberations, the CBAR acknowledged the technical limitations with respect to the height, design and location of the WTGs. Ultimately, the CBAR's motion to make the required Design Review findings was made "for the project as a whole." As such, the CBAR did review the WTG structures and made the nine required findings "for the project as a whole," including the WTGs.

On February 26, 2020, the Planning Commission considered and granted Preliminary Design Review approval *de novo* based on the Findings in Attachment A of the Planning Commission staff report, dated February 18, 2020 (Attachment 3). The Findings consider the entire project while acknowledging that the project has technical limitations on revising the height, design and location of certain project components (i.e., WTGs, substation, switchyard, and transmission line). Similarly, the Board is considering this appeal of the Planning Commission's decision *de novo*. Staff recommends the Board of Supervisors make the Findings for approval in Attachment 1 of this Board letter, which apply to all aspects of the project subject to Design Review.

Appeal Issue 2: The appellant asserts that the language in Land Use Element Visual Policy No. 2 was used improperly to override the language of codified law. The appellant further asserts that a policy is meant to outline general guiding principles but does not carry the force of law. The appellant also asserts that both CBAR and the Planning Commission failed to comply with the language of the nine Design Review

findings and that Visual Policy No. 2 does not provide the discretion to circumvent making the required findings for the project's wind turbines.

Staff response: As previously discussed in the Planning Commission staff report dated February 18, 202 (Attachment3), under County Code Section 2-33.14, Design Review includes review of the project "for conformity with the purpose of [County Code Chapter 2-33] and the applicable comprehensive plan policies and zoning regulations." Staff does not recommend that the Board "override" or "circumvent" the required Design Review findings for the project. Instead, consistent with the requirements of the County Code, when making the required Design Review findings, the Board should consider the purpose of applicable comprehensive plan and zoning regulations. In this case, there are several relevant LUDC sections and the Comprehensive Plan Policies that relate to visual aspects of wind energy projects, including the following:

- LUDC Chapter 35.57 (Wind Energy Systems) identifies the types of wind energy facilities that are allowed in the Inland area and the zones in which they are allowed. The LUDC also provides regulations for their location and operation and establishes development standards for these facilities. As stated in the LUDC, "these provisions are intended to encourage wind energy development while protecting public health and safety."
- County LUDC Section 35.30.090(E)(3)(d) states: Wind turbines allowed in compliance with Chapter 35.57 (Wind Energy Systems) may exceed applicable height limits where compliance would render operations technically infeasible.
- County LUDC Section 35.57.050 Development Standard K - Visual impact states: The [wind energy] system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible, the wind energy system:
  1. Shall not project above the top of ridgelines.
  2. If visible from public viewing areas, shall use natural landforms and existing vegetation for screening.
  3. Shall not cause a significantly adverse visual impact to a scenic vista from a County or State designated scenic corridor.
  4. Shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.
- Comprehensive Plan Land Use Element Visual Resource Policy 2 states: In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, *except where technical requirements dictate otherwise*. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.

The purpose of these applicable LUDC and Comprehensive Plan policies is to encourage wind energy development, while acknowledging that technical requirements may limit design flexibility, and that adverse visual impacts should be minimized to the greatest extent feasible. Accordingly, the findings for

Design Review approval, (included as Attachment 1), acknowledge the nature of the project, including those components for which technical requirements limit design flexibility. Consideration of these relevant LUDC and Comprehensive Plan policies is not improper or an abuse of discretion.

**Final Design Review**

If the Board of Supervisors denies the appeal, SWEP would be required to return to CBAR for Final Design Review approval. SWEP is tentatively scheduled to be considered for Final Design Review at CBAR's April 3, 2020 meeting. If CBAR grants final approval on April 3, 2020, that approval may not be appealed to the Commission unless an appellant can demonstrate that the project for which final approval was granted does not substantially conform to the project that was granted preliminary approval (LUDC Section 35.102.020.C.2.b).

**Fiscal Impacts:**

Budgeted: Yes

Total costs for processing the appeals are approximately \$6,000.00 (25 hours of staff time). The costs for processing appeals of projects in the Energy, Minerals & Compliance Division are borne completely by the applicant. Funding for processing this appeal is budgeted in the Planning and Development Permitting Budget Program, as shown on page D-269 of the adopted 2019-20 Fiscal Year budget.

**Special Instructions:**

The Planning & Development Department shall fulfill all noticing requirements. The notice shall appear in the Santa Barbara News Press and Lompoc Record and mailed to neighboring property owners and interested parties. A minute order of the hearing shall be forwarded to the Planning and Development Department, Hearing Support, Attention: David Villalobos.

**Attachments:**

1. Findings for Approval
2. Planning Commission Action Letter dated March 3, 2020
3. Planning Commission Staff Report, dated February 18, 2020
4. Environmental Documents:
  - a. Strauss Wind Energy Project Final Supplemental EIR Revision Letter No. 1 dated November 12, 2019  
<https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyrddhu3dggkqy/file/557017531689>
  - b. Strauss Wind Energy Project Final Supplemental EIR w/ hyperlink  
<https://cosantabarbara.app.box.com/s/flqzilaqdx59r3ma0hykvuescl4ys6b>
  - c. Lompoc Wind Energy Project Final EIR hyperlink:  
<https://cosantabarbara.app.box.com/s/w2g404315q3sk40afxkf6srdnpq46u45>
5. Bedford Appeal Application, Case No. 20APL-00000-00008

**Authored by:**

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