



May 21, 2024

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: Public Hearing to Consider Adoption of a Ventura County-Initiated Ordinance Amending Articles 2, 5, 7 and 19 of the Ventura County Non-Coastal Zoning Ordinance to Amend the Definition for "Energy Production from Renewable Sources" and Add a Definition, Use Category, and Acreage Limitation for "Energy Storage" Facilities in Certain Zones; Find that Adoption of the Proposed Ordinance is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Sections 15061(b)(3) and 15308 (Case. No. PL24-0019).

A. RECOMMENDED ACTIONS:

1. **CERTIFY** that your Board has reviewed and considered this Board Letter and all exhibits hereto, the Planning Commission staff report and all exhibits thereto, and has considered all other materials and public comments received during the public comment and hearing processes.
2. **FIND**, on the basis of the entire record and as set forth in Section B of the Planning Commission Staff Report (Exhibit 1, PC-1), that adoption of the proposed ordinance amending Articles 2, 5, 7, and 19 of the Non-Coastal Zoning Ordinance (NCZO) (Exhibit 2, BH-1) is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15308 and 15061(b)(3) because the project consists of regulations for the benefit and protection of the environment and because it can be seen with certainty that there is no possibility the project may cause a significant effect on the environment; and **FIND** that no substantial evidence exists precluding the use of the above categorical exemption (CEQA Guidelines Section 15308) based on the presence of unusual circumstances or any other exception set forth in CEQA Guidelines section 15300.2.
3. **FIND**, on the basis of the entire record and as set forth in Sections A, B, and C of the Planning Commission staff report, that the proposed amendments to Articles 2, 5, 7, and 19 of the NCZO (Exhibit 2, BH-1) are consistent with the goals, policies and programs of the General Plan and good planning practices and are in the interest of public health, safety and general welfare.
4. **ADOPT** the proposed ordinance amending Articles 2, 5, 7, and 19 of the NCZO (Exhibit 2, BH-1).

5. **CONSIDER** the Planning Commission's additional recommendations to your Board for the County to 1) conduct a study regarding potential job impacts as a result of energy storage projects being developed in the Industrial zones, including potential job losses and/or job gains, and 2) based on this study consider initiating a subsequent legislative project to limit the acreage available for energy storage projects in the Industrial zones.
6. **SPECIFY** that the Clerk of the Board of Supervisors is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which these decisions are based.

B. FISCAL IMPACTS/MANDATES:

Mandated: No
Source of Funding: Planning Division Budget
Funding Match Required: None
Impact on Other Departments: None

<u>Summary of Revenues and Costs:</u>	<u>FY 2023-24</u>	<u>FY 2024-25</u>
Revenues:	\$0	\$0
Costs:		
Direct	\$33,180	\$0
Indirect-Agency/Dept.	\$ -	\$ -
Indirect-County CAP	<u>\$ -</u>	<u>\$ -</u>
Total Costs	\$33,180	\$0
Net Costs:	\$33,180	\$0
Recovered Indirect Costs:	\$ -	\$ -

The hours and staff time required to implement the proposed ordinance is approximately 20 hours to codify the NCZO amendments and begin tracking the 100-acre limitation in Agricultural Exclusive ("AE"), Open Space ("OS"), and Rural Agriculture ("RA") zones. There are sufficient appropriations in the FY 2023-24 Planning Division budget for the required staff time. Staff time would be used to complete post-adoption tasks such as codification of the ordinance amendments, training Planning Division staff, updating permit applications, websites, and County databases. Also depending on the direction provided by your Board, the level of work may entail a schedule that extends beyond FY 2023-24 into FY 2024-25.

FY 2023-24 Budget Projection for Planning – Division 2910				
	Adopted Budget	Adjusted Budget	Projected Actual	Estimated Savings/(Deficit)
Appropriations	\$ 10,415,656	\$ 11,022,266	\$ 10,043,696	\$ 978,570
Revenue	\$ 4,371,381	\$ 4,371,381	\$ 3,466,401	\$ (904,980)
Net Cost	\$ 6,044,275	\$ 6,650,885	\$ 6,577,295	\$ 73,590

Strategic Plan

The proposed amendments to NCZO Articles 2, 5, 7, and 19 (Proposed Amendments) support the County Strategic Plan Priorities – *Healthy, Safe, and Resilient Communities* and *Reliable Infrastructure and Sustainability* because they would 1) increase opportunities for investment in renewable energy infrastructure and support the green economy, thereby strengthening the County’s ability to recover from disasters and helping to support the job market and local economy, and 2) help conserve agricultural land and the natural environment.

C. EXECUTIVE SUMMARY

The 2040 General Plan contains policies and programs that support agricultural and open space lands conservation, renewable energy, the green economy, and battery energy storage. Your Board provided direction on the development of a Renewable Energy Program on September 26¹ and December 19², 2023 that implements the following General Plan policies and programs:

- Policy COS-8.10, Battery Energy Storage Systems,
- Policy EV-4.4, Renewable Energy Facilities,
- Program COS-O, Assessment of Land Near Electrical Transmission and Distribution Lines, and
- Program HAZ-O, Solar Concentration Restriction for Naval Base Ventura County.

This Board-directed program will be implemented over three phases; the Proposed Amendments before your Board today would complete Phase 1. Phase 1 would codify the November 29, 2023, Planning Director Use Equivalency Determination that found battery energy storage as equivalent to the “energy production from renewable sources” and “warehousing and storage” use categories in the NCZO (Exhibit 1, PC-5). Through this determination, battery energy storage is currently an allowed use under the NCZO within the AE, OS, RA, Industrial Park (“M1”), Limited Industrial (“M2”), General Industrial (“M3”), and Industrial (“IND”) zoning districts with either a Conditional Use Permit (CUP)

¹ Link to the September 26, 2023, Board Letter, Exhibits, Staff Presentation, and written Public Comments: <https://ventura.primegov.com/portal/item?id=260578>

² Link to the December 19, 2023, Board Letter, Exhibits, Staff presentation, and written Public Comments: <https://ventura.primegov.com/portal/item?id=262821>

or a Planned Development permit (PD). To protect AE, OS, and RA zoned lands, the Proposed Amendments would also include a cumulative 100-acre limitation on energy storage in these zones.

D. BACKGROUND AND DISCUSSION

Project Background

On September 26, 2023, your Board reviewed the Renewable Energy Project Siting Assessment³ completed pursuant to General Plan Program COS-O and heard a staff presentation with options for General Plan and/or zoning ordinance amendments. After consideration of public comments and deliberation, your Board directed staff to promptly return with another option that more directly responds to the immediate demand for the development of battery storage systems which are needed to meet County and State clean energy goals.

On November 29, 2023, the Planning Director issued a Use Equivalency Determination (Exhibit 1, PC-5) which, in finding energy storage to be equivalent to the renewable energy production land use, allowed battery energy storage facilities to be located in the OS, AE, and RA zones and clarified the permit pathway for such facilities in the M1, M2, M3, and IND industrial zones.

On December 19, 2023, your Board heard another staff presentation on options for NCZO amendments to address the General Plan policies and programs that apply to renewable energy and battery energy storage. After deliberation, your Board directed staff to proceed with amendments for a three-phase "Renewable Energy Program" which includes the following:

- Phase 1: Amend the NCZO to codify the November 29, 2023, Planning Director Use Equivalency Determination and limit the cumulative number of acres that can be developed for energy storage in the OS, AE, and RA zoned lands to 100 acres. These proposed amendments are before your Board today.
- Phase 2: Amend the General Plan and NCZO to add a lot coverage exemption for renewable energy facilities located on Agriculture and Open Space designated lands and on AE and OS zoned lands, draft development standards for renewable energy projects, and prohibit solar concentration arrays⁴.

³ Link to the Renewable Energy Siting Assessment as presented to the Board on September 26, 2023 (Exhibit 1 – County of Ventura Renewable Energy Project Siting Assessment): <https://ventura.primegov.com/portal/item?id=260578>

⁴ Program HAZ-O, Solar Concentration Restriction, states: "The County shall modify the NCZO and CZO, if necessary, to prohibit the placement and use of facilities that use solar concentration for generation of commercial power that could generate glare and potential to disable pilots and impact flight or test operations at Naval Base Ventura County." This type of solar facility was reviewed by Planning Staff and the Board of Supervisors supported a recommendation to prohibit these facilities countywide due to their large scale, excessive aesthetic impacts, and other siting and design factors that make them unlikely to be built in the unincorporated areas.

- Phase 3: The Planning Director will identify the timing to complete a renewable energy restriction overlay zone in the next Division Work Plan commencing in Fiscal Year 2026-27.

Proposed Amendments

This section provides a summary of the NCZO amendments proposed by way of this Board item which codify the November 29, 2023, Planning Director Use Equivalency Determination and implement the cumulative 100-acre limitation on the development of energy storage in the AE, OS, and RA zones. These amendments are shown in clean and legislative formats in Exhibit 2, BH-1 and BH-2 respectively.

Specifically, the Proposed Amendments before your Board consist of the following:

- (1) *Article 2 – Definitions:* The existing “energy production from renewable sources” title would be modified to “energy production from renewable sources and energy storage.” The definition would also be amended to remove examples of project types and allow flexibility for different types of energy storage uses.

A new definition is proposed for “energy storage”. It would be applied in amendments to Articles 5 and 7, as described in greater detail below.

Prior to the Planning Commission hearing on March 21, 2024 to consider the Proposed Amendments, staff recommended minor revisions to the above definitions, which were supported by the Planning Commission. The recommended revisions acknowledge energy storage is predominantly supplied by renewable energy but may include a small portion of energy from other sources until the State of California transitions to 100 percent renewable energy on or before the year 2040. In 2023, the State received approximately 59 percent of its energy from non-fossil fuel sources, with the rest made up from fossil fuels. Once energy is generated, it is fed into the larger power grid; thus, energy storage facilities currently store a mixture of non-fossil and fossil fuel generated electricity. The suggested revisions to the definitions of “energy production from renewable sources and energy storage” and “energy storage” are incorporated into Exhibit 2, BH-1 and BH-2 and are marked with a double underline or double strike out in Exhibit 2, BH-2.

- (2) *Article 5 – Uses and Structures by Zone:* Both the Open Space, Agricultural, Residential, and Special Purpose Zones Use Matrix in Section 8105-4, and the Commercial and Industrial Zones Use Matrix in Section 8105-5 would be modified as follows:

- Section 8105-4 consists of a table of allowed uses and permit types. The use “energy production from renewable sources” would be amended to “energy production from renewable sources and energy storage.” This use would continue to be allowed through a Planning Commission approved CUP in OS, AE, and RA zones. The amendments also include the addition of an asterisk

(*) that indicates special development standards apply to this use, as described in greater detail in Article 7 – Standards for Specific Uses (summarized below).

- Section 8105-5 would also be amended such that the use category “energy production from renewable sources” would be revised to read as “energy production from renewable sources and energy storage.” Beneath it, “energy storage” would be included as a subcategory. The new row for energy storage would allow the use in the M1, M2, and M3 zones with a Planning Director approved Planned Development (PD) permit because PD permits do not expire and industrial zones generally have characteristics that make them suitable sites for energy storage facilities.
- (3) *Article 7 – Standards for Specific Uses:* A new subsection, Section 8107-49, would be created to include development standards for “energy production from renewable sources and energy storage.” To ensure that energy storage facilities have limited impacts to lands in the OS, AE, and RA zones, this section would include a cumulative 100-acre limit specifically for energy storage allowed as a grid-scale principal use. The 100-acre limit would not apply to energy storage allowed as 1) an accessory use that serves an individual project, such as energy storage that powers pumps and equipment on a specific agricultural site, or 2) as part of a grid-scale solar project.

To ensure the most efficient application of the 100-acre limitation for energy storage, the proposed standard counts the area used for the battery structures and accessory equipment, but excludes the area used for ingress and egress to these facilities so that access roads would not be included in the cumulative acreage limitation. Additionally, minor clarification text is proposed to be added to Section 8107-49.1 to ensure that only approved projects will count and that energy storage projects in the OS, AE, and RA zones will not cumulatively exceed the 100-acre limitation. This text is incorporated into Exhibit 2, BH-1 and BH-2 and marked with a wave underline in Exhibit 2, BH-2.

- (4) *Article 19 – Old Town Saticoy Development Code:* The permitted uses in the Industrial Zoning District for the Old Town Saticoy Development Code table in Section 8119-1 are proposed to be amended for consistency with the proposed amendments described above under Article 5. The amendment to Article 19 will consist of adding a new “energy storage” use category row under the “warehousing and storage” category; the energy storage use will be allowable with a Planning Director approved Planned Development (PD) permit.

E. PLANNING COMMISSION HEARING

On March 21, 2024, the Planning Commission voted 5-0 to approve Resolution 24-04. This resolution, the staff report, staff presentation, public comments, and associated exhibits from the hearing are included as Exhibit 1. In addition to recommending that your Board adopt the proposed ordinance, the Commission also provided the following additional recommendations for your Board’s consideration:

1. To direct Planning staff to further study potential job impacts as the result of energy storage projects in the Industrial zones, including potential job losses and/or job gains;
2. Based on the results of this study, consider initiating a subsequent legislative project to limit the acreage available for energy storage projects in the Industrial zones; and
3. During Phase 2 of the Renewable Energy Program, include a development standard that energy storage facilities be located adjacent to, or as close as possible to, existing electrical infrastructure in the AE, OS, and RA zones.

Should your Board opt to pursue items 1 and/or 2 above, additional time and expense would be required to conduct the study and analysis which may require a budget adjustment in FY 2024-25 and could delay implementation of Phase 1. To avoid delaying the approval of the Phase 1 amendments before your Board today, Planning staff could pursue items 1 and 2 above during Phase 2 of the Renewable Energy Program by expanding the work scope and timeframe to complete this legislative project. Based on Planning's previous industrial lands studies, there are limited locations within the industrial zones of the unincorporated county for energy storage facilities.

The Planning Commission also supported Planning staff's recommended revisions to the definitions in Article 2, as described above in Section D(1), which are reflected in Exhibit 2, BH-1 and BH-2.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Proposed Amendments are a "project" as defined by CEQA (Public Resources Code, §21000 et seq.) and the CEQA Guidelines (California Code of Regulations, title 14, §15000 et seq.).

As identified in Section B of the Planning Commission staff report (Exhibit 1. PC-1), the Proposed Amendments are exempt pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility the amendments may cause a significant effect on the environment. Currently, there is no established limitation on the amount of land that can be devoted to energy storage in the OS, AE, and RA zones. The project limits the number of acres in these zones that can be used for energy storage facilities. Therefore, the Proposed Amendments are protective of the environment and will not cause a significant effect upon it.

Additionally, the Proposed Amendments are exempt pursuant to CEQA Guidelines section 15308 (Class 8) as a regulatory action to assure the maintenance and protection of the environment, and no unusual circumstances or other exceptions set forth in CEQA Guidelines section 15300.2 preclude application of the Class 8 exemption. The Proposed Amendments merely codify an existing Planning Director Use Equivalency Determination that already allows battery energy storage in the OS, AE, and RA zones, and the Proposed Amendments limit the number of acres that are allowed to be utilized for energy storage in those zones. Therefore, the Proposed Amendments maintain and protect the existing environment.

The Proposed Amendments are also programmatic so subsequent individual projects will be reviewed for environmental impacts through the discretionary approval process.

G. NOTICE AND PUBLIC COMMENTS

The Planning Division published a public notice and summary of the proposed amendments in the Ventura County Star on May 9, 2024, and emailed approximately 1,150 recipients on the General Plan's interested parties list, incorporated cities, and the list of stakeholders who have been engaged with Planning staff and previous commented during hearings on this topic. To date, no public comments have been received.

This Board item was reviewed by County Counsel, Auditor-Controller's Office, and the County Executive Office. If you have any questions regarding this matter, please contact Donald Nielsen, Project Planner, at (805) 650-4047 or by email at Donald.Nielsen@ventura.org. You may also contact Aaron Engstrom, Area Plans and Resources Section Planning Manager, at (805) 654-2963 or by email at Aaron.Engstrom@ventura.org.



Dave Ward, AICP, Director
Ventura County Planning Division

Attachments:

Exhibit 1: Planning Commission Staff Report dated March 21, 2024, including Exhibits PC-1 – PC-5 (Exhibits shown with Prefix “PC” below for “Planning Commission”)

- PC-1 - Planning Commission Staff Report
- PC-2 - Planning Commission Resolution 24-04
- PC-3 - Clean Version of Proposed NCZO Ordinance Amendments
- PC-4 - Proposed NCZO Ordinance Amendments in Legislative Format
- PC-5 - Planning Director Use Equivalency Determination for Battery Energy Storage
- PC-6 - Slideshow Presentation
- PC-7 - Public Comments from Planning Commission Hearing

Exhibit 2: Board of Supervisors Packet dated May 21, 2023 (Exhibits shown with prefix “BH” below for “Board Hearing”)

- BH-1 - Proposed NCZO Amendments, Clean Version for Final Adoption
- BH-2 - Proposed NCZO Amendments, Legislative Version with Staff Explanations