

**Planning Commission Minutes of September 28, 2009**

**2009-0071** Determine Appropriate Review Standards for Alternative Energy Sources (Study Issue) – RZ

**Rosemarie Zulueta**, Assistant Planner, presented the staff report. Ms. Zulueta commented that she had provided information to a Planning Commissioner who contacted her regarding section 19.56.030 in the proposed ordinance stating that the section was repealed in a recent code amendment, and that she and the Commissioner discussed development incentives for wind energy.

**Comm. Rowe** asked staff about wind energy systems, noise levels, and improving technologies. **Trudi Ryan**, Planning Officer, clarified that any wind system installed would need to comply with the noise regulations.

**Comm. Hungerford** asked staff about Attachment B, the proposed ordinance, section 19.12.240 regarding wind energy systems and Emerging Renewables Program. Staff discussed the kilowatt needs for the typical residence, and wind energy systems production. Comm. Hungerford referred to the proposed ordinance Chapter 19.56 and discussed with staff changes in terms and their location in the ordinance. Comm. Hungerford commented about the proposed ordinance, Table 19.18.030 and that he thought it was odd that biodiesel was included under K, “obnoxious, offensive or creates a nuisance”, and thought maybe biodiesel should have a separate category. Staff said this could be done.

**Comm. Rowe** asked staff why incentives are needed to encourage alternative energy sources with staff explaining the proposed incentives are included to be consistent with what the City did with solar energy incentives.

**Comm. Klein** discussed with staff Electromagnetic Interference and measurements referring to Attachment B, page 7, item (j) with staff commenting that the sources consulted did not address measurements and that this ordinance is designed to be revisited when more established guidelines are published.

**Comm. Sulser** discussed biodiesel with staff. He said the staff recommendation is potentially banning new environmental technology. Ms. Ryan said conversations with the Hazardous Materials Division of Public Safety resulted in the recommendation to prohibit the production of biodiesel fuels, not the use of it. Staff said home biodiesel production is currently too dangerous.

**Chair Chang** discussed with staff the height allowances for wind turbine structures. Chair Chang asked about the language in section 19.56.040 regarding Solar Energy Systems and Conditions of the Tentative Map.

**Chair Chang opened the public hearing.**

**Mei-Ling Stefan**, a Sunnyvale resident, thanked staff for the recommendation of forbidding home production of biodiesel. Ms. Stefan discussed concerns about staff's recommendation, Alternative 1A under Wind Energy and said she cannot support this alternative. She said she supports the idea of outreach meetings to review standards as guidelines as they become available in the future.

**Jim Griffith**, a Sunnyvale resident, commented about vertical access wind turbines being preferable to horizontal turbines in an urban setting and said he does not see vertical access wind turbines addressed in the proposed ordinance. He said that he would like to see an order of preference specified for vertical over horizontal access aesthetics and the mention of the benefits of vertical turbines as protection to the bird population.

**Michael Flores**, a Sunnyvale resident, commented that his understanding is there are multiple ways of home biodiesel production. He said he would prefer to see Alternative 2B under Biodiesel section recommended to allow further study of the subject of home biodiesel production. Mr. Flores commented about the height of electrical systems and suggested there be some distinction of the height measuring of the poles and the types of poles.

**John Cordes**, a Sunnyvale resident, commented that he thinks Alternative 2B in the Biodiesel section of the report is the better recommendation. He discussed biodiesel and said he does not think it should be prohibited for personal use as it is a way to save money and a move towards cleaner technology. He also commented that the design guidelines are too vague and he would like clearer guidelines. He said he does not think residents should be told what their towers should be built with or limit the use of guy wires.

**Chair Chang closed the public hearing.**

**Ms. Ryan** commented to Chair Chang further information about section 19.56.040 regarding Solar Energy Systems and Conditions of the Tentative Map.

**Comm. McKenna** said she understands the concern about safety with biodiesel however, she likes the idea that this subject would be looked at in a future study. Ms. Ryan said that the recommendation is based on the Hazardous Materials Division and whether there could be a new study would be based on their workload. Ms. Ryan said a provision could be included with the current staff recommendation. Comm. McKenna discussed with staff horizontal versus vertical wind energy systems. Comm. McKenna asked staff to discuss the design

concerns of the public and said that the language should be as clear as possible for the public to understand what staff wants. Ms. Ryan addressed the concerns.

**Comm. Rowe** commented that “minimizing the visual impact” is a vague statement and that a lot of code guideline language is vague. Staff said that the Planning Commission could recommend the language be looked at for clarity. Comm. Rowe discussed further with staff concerns mentioned by the public.

**Comm. Sulser** discussed with staff section 19.56.090 (c) regarding the wind towers being constructed of tubular steel and prohibiting the use of guy wires. Ms. Zulueta clarified that what staff would like is a monopole with no lattice. Ms. Ryan said the language could be changed to “monopole” and other materials could be equally acceptable.

**Comm. Hungerford** discussed with staff how the monopoles are measured including when the pole is mounted on a house.

**Comm. Klein** discussed with staff that an application for a wind energy system in a Heritage District would be considered under a Miscellaneous Plan Permit.

**Comm. Rowe** discussed with staff what would happen under the existing code if someone wanted to produce their own biodiesel for personal use with staff saying that it is considered a nuisance at this time, however the code is not precise about it.

**Comm. McKenna** moved to recommend to City Council: for Alternative 1A, to adopt the proposed ordinance found in Attachment B to establish development standards and permitting requirements for small wind energy systems; for Alternative 2A, to adopt the proposed ordinance (Attachment B) to prohibit biodiesel production in residential zones and adding “and that the prohibition be lifted when the Department of Public Safety develops regulations and guidelines for home biodiesel production for personal use”; for Alternative 3A, to use existing Zoning and building/electrical codes to review proposed installations of fuel cells; for Alternative 4A, to use existing Zoning and building/electrical codes to review proposed installations of geothermal heating/cooling systems; and direct staff to monitor the changes in alternative energy technology and return to Council to consider possible amendments to the City’s regulations if significant changes suggest that modifications are desirable. Comm. Klein seconded the motion. Comm. Klein clarified with Comm. McKenna that the motion includes Alternative 2A prohibiting and adding Alternative 2B which directs the Department of Public Safety to further study the subject of home biodiesel production for personal use and develop guidelines and regulations for such use. Comm.

**Klein offered a Friendly Amendment to modify the proposed ordinance, Table 19.56.100, adding requirements under the Miscellaneous Plan Permit column for Wind Energy Systems located in a Heritage District or on a heritage building. The maker of the motion accepted the Friendly Amendment. Comm. Klein offered a Friendly Amendment to modify the proposed ordinance, 19.56.090 (c), removing “Towers shall be constructed of tubular steel” and adding language that the tower shall be a monopole design, not specifying the composition of the tower. The maker of the motion accepted the Friendly Amendment.**

**Comm. Hungerford offered a Friendly Amendment to modify the proposed ordinance, Table 19.18.030, moving the language “including manufacture of biodiesel fuel” from 7.K to a separate category. The Friendly Amendment was acceptable to the maker and seconder of the motion.**

**Comm. McKenna** said that she thinks this motion is a good recommendation on changing technologies and she knows this will be revisited again. She said she is pleased staff is looking at the newer technologies, and glad to approve this and pass it on to City Council.

**Comm. Klein** said this recommendation regarding wind power is a first stepping stone. He said he is glad staff would be revisiting the new technologies issue every couple of years and that alternative energy sources are one way a homeowner can decrease their reliance on a larger system, which improves Sunnyvale. He said the report was educational and he looks forward to the Planning Commission reviewing the first application for wind power.

**Comm. Rowe** said this was one of the more enjoyable sessions on Planning Commission as it involved the City, public and the Planning Commission. She said that this creates a living document that can be changed when necessary, as soon as is necessary, which is a good start.

**Chair Chang** said he would be supporting the motion. He said this is a moving target and as new regulations come from other cities and the Federal government reviews regulations, this issue can be revisited. He said he thinks it is good the Commission did not recommend a major prohibition on biodiesel as it would be good to have the capability with the safety concerns also addressed.

**ACTION:** Comm. McKenna made a motion on 2008-0071 to recommend that City Council: for Alternative 1A, to adopt the proposed ordinance found in Attachment B to establish development standards and permitting requirements for small wind energy systems; for Alternative 2A, to adopt the proposed ordinance (Attachment B) to prohibit biodiesel production in residential zones and adding Alternative 2B “directing the Department of Public Safety to further study the subject of home biodiesel production for personal use and develop guidelines and regulations for such use”; for Alternative 3A, to use existing Zoning and building/electrical codes to review proposed installations of fuel cells; for Alternative 4A, to use existing Zoning and building/electrical codes to review proposed installations of geothermal heating/cooling systems; and direct staff to monitor the changes in alternative energy technology and return to Council to consider possible amendments to the City’s regulations if significant changes suggest that modifications are desirable; to modify the proposed ordinance, Table 19.56.100, adding requirements under the Miscellaneous Plan Permit column for Wind Energy Systems located in a Heritage District or on a heritage building; to modify the proposed ordinance, 19.56.090 (c), removing “Towers shall be constructed of tubular steel” and adding language that the tower shall be a monopole design, not specifying the composition of the tower; to modify the proposed ordinance, Table 19.18.030, moving the language “including manufacture of biodiesel fuel” from 7.K to a separate category. Comm. Klein seconded. Motion carried, 6-0, with Vice Chair Travis absent.

**APPEAL OPTIONS:** This recommendation will be forwarded to City Council and is scheduled to be considered at the October 20, 2009 Council meeting.