

# APPLE VALLEY, CALIFORNIA

## AGENDA MATTER

**Subject Item:**

**CONDITIONAL USE PERMIT NO. 2011-005, WHICH IS A REQUEST TO ALLOW THE INSTALLATION OF SIX (6), ROOF-MOUNTED WIND TURBINES. THE PROPERTY IS FIVE (5) ACRES IN SIZE WITHIN THE LOW DENSITY RESIDENTIAL (R-LD) ZONING DISTRICT (REFERRED TO COUNCIL BY THE PLANNING COMMISSION).**

**Applicant:**

Mr. Steven Klopping

**Location:**

The project site is located at 20412 Oriole Road (APN 0434-042-60).

**Summary Statement:**

On June 15, 2011, the Planning Commission conducted a duly noticed, public hearing for Conditional Use Permit No. 2011-005. Following consideration of the information within the staff report (attached), public testimony and subsequent Commission discussion, a final determination could not be reached due to a 2-2 vote of the Commission. Vice-Chairman Larry Cusak was absent from this meeting. In accordance with Development Code Section 9.12.130 "Referral to Next Succeeding Review Authority", the Planning Commission voted to refer Conditional Use Permit No. 2011-005 to the Town Council for its consideration.

(Continued)

**Recommended Action:**

**Open the public hearing and take public testimony.**

**Close the public hearing. Then:**

1. Find that Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270 (a), that a project which is denied is Exempt from CEQA.
2. Find the Facts presented within the staff report and the record as a whole as discussed and considered by the Council, including the negative finding that, the proposed wind energy conversion system will be located on a detached garage and will be visible from Oriole Road. The installation of multiple roof tops WECS would have a negative impact on the aesthetics of the surrounding area.
3. Deny Conditional Use Permit No. 2011-005

**Proposed by:** Planning Division **Item Number** \_\_\_\_\_

**Town Manager Approval:** \_\_\_\_\_ **Budget Item**  Yes  No  N/A

The applicant proposes to install six (6), roof-mounted wind turbines. The turbines will be operated as an accessory use to the existing single-family residence located on a five (5)-acre site. Pursuant to the Development Code, a Conditional Use Permit is required when installing more than one (1) wind energy conversion system (WECS). The Development Code establishes standards for the placement of WECS to ensure that the systems are installed in a manner that will not significantly detract from existing views.

The wind turbines would be located on the roof of a 686 square foot, detached garage. Surrounding uses include existing single-family residences located on two and one-half (2-1/2)-acre parcels to the north, east and west. The property to the south is forty (40) acres in size and is currently vacant. The nearest habitable structure is located approximately 150 feet east of the proposed WECS installation.

The Development Code requires WECS to be located behind the rear line of the primary structure on the site. The detached garage is not located behind the residence as required. The height and setbacks to the rear and side yard property lines, together with the submitted noise analysis, are in compliance with the required site development standards as identified in Development Code Section 9.78 "Wind Energy Conversion Systems".

The Commission discussion focused primarily upon neighborhood aesthetics. The Commission was also concerned with the established site development standards for WECS and the Commission's authority to deviate from those standards; specifically, its ability to waive the standard that WECS must be located behind the rear line of the primary structure. Two (2) of the Commissioners were further concerned that approving Conditional Use Permit No. 2011-005 might set a precedent relating to standards that have not been addressed in the Development Code.

Photographs were requested by the Commission; however, none were available at the time of the Planning Commission hearing. Staff has since received photographs from the manufacturer that depict similar projects located in San Diego County. A photograph of a fascia mounted turbine located at 16011 El Paso Drive in unincorporated Apple Valley. Photographs have been provided of a multiple roof-top WECS located on a commercial building at 17494 Main Street in Hesperia. The wind was quite strong when the pictures were taken; however, only one (1) of the installed turbines appeared to be operating properly. The photographs are attached to this report for the Council's review.

On December 11, 2001, the Town of Apple Valley adopted Ordinance No. 241, which established standards and criteria for the placement of wind turbines. On February 9, 2010, the Town Council adopted Ordinance No. 403, which updated Development Code Section 9.78 "Wind Energy Conversion Systems" by substantially relaxing the development standards and installation requirements for wind turbines, also known as wind energy conversion systems (WECS). Formulating development standards applicable to multiple roof-top WECS was not considered since the concept was not brought forth for discussion during the Planning Commission's workshop that was attended by several members of the wind turbine industry.

It is staff's opinion that, when modifying the Development Code to permit rooftop WECS within the residential zones, it was not with the intent to encourage multiple rooftop units on a single structure. The Council may wish to consider initiating a Development Code Amendment that would adopt specific site development standards for the installation of multiple, roof-mounted WECS, such as minimum lot size and number of units that would be allowed.

In accordance with Development Code Section 9.16.090 "Required Findings", before approving a Conditional Use Permit, the Director, Commission or Council, as appropriate, shall find that certain circumstances apply. The Planning Commission, based upon a 2-2 vote, could not support a motion for approval which is a denial of the proposal. Staff believes that permitting the installation of multiple rooftop WECS would have a negative impact upon the aesthetics of the surrounding area and has provided its Findings for denial and recommended actions for consideration. Two (2) Commissioners were in support of the proposal; therefore, staff has provided Findings for approval, recommended Conditions of Approval and recommended actions for approval for the Council's consideration. The Findings for approval are based upon the two (2) Planning Commissioners' discussions supporting the project at the June 15<sup>th</sup> Planning Commission meeting.

**Conditional Use Permit Findings (Denial):**

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed Wind Energy Conversion System (WECS) is in compliance with the General Plan Land Use and zoning designation. The subject property is five (5) acres in size which allows for the installation of WECS, subject to Planning Commission's approval of a Development Permit. More than one (1) WECS requires the Planning Commission's review and approval of a Conditional Use Permit.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;

Comment: The proposed WECS is in compliance with the General Plan Land Use and zoning designation. The WECS will be painted a non-reflective gray. However, even painted gray, the multiple rooftop WECS would have a negative impact upon the aesthetics of the surrounding area.

3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;

Comment: The proposed WECS has been designed with adequate setbacks. The use is not anticipated to generate excessive noise, vibration, traffic or other disturbances; however, even painted gray, the multiple rooftop WECS would have a negative impact upon the aesthetics of the surrounding area.

4. That there are public facilities, services and utilities available at the appropriate levels, or that these will be installed at the appropriate time, to serve the project as they are needed;

Comment: There are existing improvements available to serve the site.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: The proposed WECS will be located on a detached garage and will be visible from Oriole Road. The installation of multiple roof tops WECS would have a negative impact on the aesthetics of the surrounding area.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The proposal is not anticipated to result in any traffic increase.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;

Comment: The proposal is not anticipated to result in any traffic increase.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: Under the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is Categorically Exempt under Section 15061(a)(4) for projects in which the local authority denies.

9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;

Comment: Under the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is Categorically Exempt under Section 15061(a)(4) for projects in which the local authority denies.

10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use, and the conditions under which it would be maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Comment: The proposed WECS, by its design and operating characteristics, and with adherence to the conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare. However, the installation of multiple rooftop WECS will have a negative impact upon the aesthetics of the surrounding area, and due to this negative impact, cause detrimental harm to properties and improvements in the area.

11. That the proposed conditional use will comply with all of the applicable provisions of this title;

Comment: The proposed WECS does not comply with the Development Code requirement to place WECS behind the residence. Placement of more than one (1) WECS on the rooftop would be a negative impact on the aesthetics of the residence.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The proposed WECS is proposed with material and textures compatible with the site and surrounding area; however, even painted gray, the multiple rooftop WECS would have a negative impact upon the aesthetics of the surrounding area.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The proposed WECS will be located on a detached garage and will be visible for Oriole Road. The installation of multiple rooftop WECS would have a negative impact upon the aesthetics of the surrounding area.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.

Comment: The proposed WECS will be located on a detached garage and will be visible for Oriole Road. The installation of multiple rooftop WECS will have a negative impact upon the aesthetics of the surrounding area.

15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The proposed WECS will not require additional points of access or effect the existing circulation of the site.

**Conditional Use Permit Findings (Approval):**

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed Wind Energy Conversion System (WECS) is in compliance with the General Plan Land Use and zoning designation. The subject property is five (5) acres in size which allows for the installation of WECS, subject to Planning Commission's approval of a Development Permit. More than one (1) WECS requires the Planning Commission's review and approval of a Conditional Use Permit.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;

Comment: The proposed WECS is in compliance with the General Plan Land Use and zoning designation. The WECS will be painted a non-reflective gray. Although the multiple rooftop WECS would be visible from the right-of-way and adjacent properties, the project is not anticipated to have a negative impact upon the aesthetics of the surrounding area due to the 142-foot setback from the street and the five (5)-acre lot size.

3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;

Comment: The proposed WECS has been designed with adequate setbacks. The use is not anticipated to generate excessive noise, vibration, traffic or other disturbances. Although the multiple rooftop WECS would be visible from the right-of-way and adjacent properties, the project is not anticipated to have a negative impact upon the aesthetics of the surrounding area.

4. That there are public facilities, services and utilities available at the appropriate levels, or that these will be installed at the appropriate time, to serve the project as they are needed;

Comment: There are existing improvements available to serve the site.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: The proposed WECS will be located on a detached garage and will be visible from Oriole Road. Due to the 142-foot setback from the street and the five (5)-acre lot size, the project is not anticipated to have a negative impact upon the aesthetics of the surrounding area.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The proposal is not anticipated to result in any traffic increase.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;

Comment: The proposal is not anticipated to result in any traffic increase.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: The Project is Categorically Exempt from further environmental review under Section 15303(e) of the State Guidelines to Implement the California Environmental Quality Act (CEQA).

9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;

Comment: The Project is Categorically Exempt from further environmental review under Section 15303(e) of the State Guidelines to Implement the California Environmental Quality Act (CEQA).

10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use, and the conditions under which it would be maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Comment: The proposed WECS, by its design and operating characteristics, and with adherence to the conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare. Although the multiple rooftop WECS would be visible from the right-of-way and adjacent properties, the project is not anticipated to have a negative impact upon the aesthetics of the surrounding area due to the 142-foot setback from the street and the five (5)-acre lot size.

11. That the proposed conditional use will comply with all of the applicable provisions of this title;

Comment: The proposed WECS is a permitted use with the approval of a Conditional Use Permit. Although the multiple rooftop WECS would be visible from the right-of-way and adjacent properties, the project is not anticipated to have a negative impact upon the aesthetics of the surrounding area due to the 142-foot setback from the street and the five (5)-acre lot size.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The proposed WECS is proposed with material and textures compatible with the site and surrounding area. Although the multiple rooftop WECS would be visible from the right-of-way and adjacent properties, the project is not anticipated to have a negative impact upon the aesthetics of the surrounding area due to the 142-foot setback from the street and the five (5)-acre lot size.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The proposed WECS will be located on a detached garage and will be visible for Oriole Road. Although the multiple rooftop WECS would be visible from the right-of-way and adjacent properties, the project is not anticipated to have a negative impact upon the aesthetics of the surrounding area due to the 142-foot setback from the street and the five (5)-acre lot size.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.

Comment: The proposed WECS will be located on a detached garage and will be visible for Oriole Road. Although the multiple rooftop WECS would be visible from the right-of-way and adjacent properties, the project is not anticipated to have a negative impact upon the aesthetics of the surrounding area due to the 142-foot setback from the street and the five (5)-acre lot size.

15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The proposed WECS will not require additional points of access or effect the existing circulation of the site.



**Recommended Action for Approval:**

**Open the public hearing and take public testimony.  
Close the public hearing. Then:**

- A. Determine that the Project is Categorical Exempt from further environmental review under Section 15303(e) of the State Guidelines to Implement the California Environmental Quality Act (CEQA).
- B. Find the facts presented in the staff report support the required Findings for approval and adopt the Findings.
- C. Approve Conditional Use Permit, subject to the attached Conditions of Approval.
- D. Direct staff to file a Notice of Exemption.

**Attachments:**

- 1. Photographs of similar installations
- 2. Minute excerpts from the Planning Commission meetings of June 15, 2011
- 3. Planning Commission report from June 15, 2011
- 4. Recommended Conditions of Approval



San Diego County



San Diego County



San Diego County



San Bernardino County – 16011 El Paso Drive, Apple Valley



17494 Main Street, Hesperia



17494 Main Street, Hesperia

**DRAFT  
MINUTES  
EXCERPT**

**TOWN OF APPLE VALLEY  
PLANNING COMMISSION  
Regular Meeting  
June 15, 2011**

**CALL TO ORDER**

At 6:02 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for June 15, 2011, was called to order by Chairman Tinsley.

**ROLL CALL**

**Planning Commission**

Roll call was taken with the following members present: Commissioner David Hernandez;; Commissioner Jason Lamoreaux;; Commissioner Mark Shoup;; and Chairman B.R. "Bob" Tinsley. Absent: Vice- Chairman Larry Cusak

**STAFF PRESENT**

Lori Lamson, Assistant Director of Community Development; Carol Miller, Senior Planner; Douglas Fenn, Senior Planner; Pam Cupp, Associate Planner; Richard Pedersen, Deputy Town Engineer; Haviva Shane, Town Attorney; and Debra Thomas, Planning Commission Secretary.

**2. Conditional Use Permit No. 2011-005.**

**Applicant:** Mr. Steven Klopping

**Location:** The project is located at 20412 Oriole Road; APN 0434-042-60.

Chairman Tinsley opened the public hearing at 6:30 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed by the Planning Division.

Commissioner Shoup inquired whether this is a request for a Conditional Use Permit or Development Permit.

Discussion ensued regarding the fundamental difference between Conditional Use Permits and Development Permits, as well as the Development Code requirements relating to wind turbines.

Ms. Mary Pritchett of Phelan, and representative of the manufacturer Dyocore, explained the dynamics of the company's wind turbines giving detail about how kilowatts are calculated and the test used to obtain decibel levels.

Ms. Pritchett described the system as very pleasant to look at and could be installed anywhere, She further commented it had been accepted by the California Energy Commission and requested the Commission find in favor of the project.

Further discussion ensued about how the system operates, its installation and potential to reduce electricity bills.

Mr. Steve Klopping, the applicant, gave a description of the subject property and expressed his desire to acquire wind turbines as an alternative energy source. He added that, with the nearest neighbor being one-quarter mile away, he did not believe the system would be invasive. He extended his appreciation to the Commission for its consideration and approval of this project.

Commissioner Shoup questioned how high, from the top of the roof, the wind turbines would stand.

Mr. Klopping responded it was fifty-four (54) inches from the top of the roof to the top of the blade. The unit is a little larger than a satellite dish.

### **PUBLIC COMMENT**

Dr. Ron Tascione commented on his knowledge of wind turbine systems for the Commission to consider.

Mr. Hunter Gaska, Phelan, expressed his concern with the CBC rebate program and the performance of smaller wind turbines.

Chairman Tinsley closed the public hearing at 7:02 p.m.

Commissioner Hernandez asked to see photographs of a home with this particular system in place. He was concerned with the aesthetics of wind turbines being bunched together on a roof and on too many houses in one area.

Commissioner Lamoreaux voiced concern about setting a precedent but commented he would prefer this design versus a mounting the turbines on ninety (90)-foot pole.

Commissioner Shoup had no concerns and would prefer these six (6) small wind turbines rather than one large unit. In addition, he asked if notice had been given to the neighboring residents and if staff had received any complaints.

Ms. Cupp responded the residents were noticed and no complaints had been received.

Commissioner Lamoreaux asked staff its recommendations with respect to the Development Code

Ms. Lori Lamson, Assistant Director of Community Development, explained that the Town Council had directed staff to revisit wind and solar energy regulations, specifically those pertaining to roof-mounted systems. Staff will bring potential modifications before the Commission for its consideration and in turn forward a recommendation to the Town Council for a Development Code Amendment.

Chairman Tinsley stated he believed it would be premature to approve this project prior to the Development Code amendment.

Lengthy discussion ensued regarding options the Commission might consider as it relates to this particular project.

Ms. Haviva Shane, Town Attorney, explained the Commission can make Findings on this item; however, she recommended the Commission continue the item so staff could revise its Findings and bring back those Findings for the Commission consideration.

**MOTION:**

Motion by Commissioner Hernandez, seconded by Chairman Tinsley, that the Planning Commission move to deny Conditional Use Permit No. 2011-005, without prejudice, based upon the following negative Findings:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town:

Comment: The proposed WECS will be located on a detached garage and will be visible from Oriole Road. The installation of multiple roof tops WECS would have a negative impact on the aesthetics of the surrounding area

2. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan.

Comment: The proposed WECS will be located on a detached garage and will be visible from Oriole Road. The installation of multiple roof tops WECS would have a negative impact on the aesthetics of the surrounding area.

3. That the proposed conditional use will comply with all of the applicable provisions of this title.

Comment: The proposed WECS will be located on a detached garage and will be visible from Oriole Road. The installation of multiple roof tops WECS would have a negative impact on the aesthetics of the surrounding area

**ROLL CALL VOTE:**

Ayes: Commissioner Hernandez  
Chairman Tinsley  
Noes: Commissioner Lamoreaux  
Commissioner Shoup  
Abstain: None  
Absent: Vice-Chairman Cusack  
The motion failed by a 2-2-0-1 vote



Lengthy discussion ensued on the options the Commission has to determine whether to approve or deny this Conditional Use Permit.

**MOTION:**

Motion by Commissioner Shoup, seconded by Commissioner Lamoreaux, that the Planning Commission move to:

1. Continue the public hearing for Conditional Use Permit No. 2011-005, directing staff to bring back Findings for approval at the July 20, 2011 meeting.

**ROLL CALL VOTE:**

Ayes: Commissioner Lamoreaux  
Commissioner Shoup  
Noes: Commissioner Hernandez  
Chairman Tinsley  
Abstain: None  
Absent: Vice-Chairman Cusack  
The motion failed by a 2-2-0-1 vote

Lengthy discussion ensued on the options the Commission has to determine whether to approve or deny this Conditional Use Permit.

**MOTION:**

Motion by Commissioner Shoup, seconded by Commissioner Hernandez ,that the Planning Commission move to:

1. Forward the request for Conditional Use Permit No. 2011-005 to the Town Council for review.

**ROLL CALL VOTE:**

Ayes: Commissioner Hernandez  
Chairman Tinsley  
Commissioner Lamoreaux  
Commissioner Shoup  
Noes: None  
Abstain: None  
Absent: Vice-Chairman Cusack  
The motion passed by a 4-0-0-1 vote



## TOWN OF APPLE VALLEY PLANNING DIVISION

# Staff Report

- AGENDA DATE:** June 15, 2011
- CASE NUMBER:** Conditional Use Permit No. 2011-005
- APPLICANT:** Mr. Steven Klopping
- PROPOSAL:** A request to approve a Conditional Use Permit to allow the installation of six (6), roof-mounted wind turbines. The property is five (5) acres in size within the Low Density Residential (R-LD) zoning district.
- LOCATION:** The project is located at 20412 Oriole Road (APN 0434-042-60).
- ENVIRONMENTAL DETERMINATION:** The Project is Categorically Exempt from further environmental review under Section 15061(a)(4) of the State Guidelines to Implement the California Environmental Quality Act (CEQA) for projects in which the local authority denies.
- CASE PLANNER:** Ms. Pam Cupp, Associate Planner
- RECOMMENDATION:** Denial

### **PROJECT AND SITE DESCRIPTION**

- A. Project Size  
The property is 5.36 acres in size.
- B. Surrounding General Plan Designations:
- |              |                                  |
|--------------|----------------------------------|
| Project Site | - Low Density Residential (R-LD) |
| North        | - Low Density Residential (R-LD) |
| South        | - Low Density Residential (R-LD) |
| East         | - Low Density Residential (R-LD) |
| West         | - Low Density Residential (R-LD) |

C. Surrounding Zoning and Land Use:

Project Site	- Low Density Residential (R-LD); existing single family residence
North	- Low Density Residential (R-LD); existing single family residence
South	- Low Density Residential (R-LD); vacant
East	- Low Density Residential (R-LD); existing single family residence
West	- Low Density Residential (R-LD); existing single family residence

Analysis:

A. General:

The applicant proposes to install six (6), roof-mounted wind turbines. Pursuant to the Development Code, a Conditional Use Permit, reviewed and approved by the Planning Commission, is required when installing more than one (1) wind energy conversion system (WECS). The Development Code establishes standards for the placement of WECS to ensure that the systems are installed in a manner that will not significantly detract from existing views. The Conditional Use Permit process affords the Commission, and public, the opportunity to review and comment on the aesthetics and site design standards of the proposed WECS.

B. Site Analysis:

The project site is five (5) acres in size and located within the Low Density Residential (R-LD) zoning designation. The site contains an existing single-family residence with a detached garage. The property is located on Oriole Road, which has not been dedicated to the Town, improved or maintained at this time. The project site is adjacent to existing single-family residences on two and one-half (2-1/2) parcels to the north, east and west. The property to the south is forty (40) acres in size and is currently vacant. The nearest habitable structure is located approximately 150 feet east of the proposed WECS installation.

The applicant proposes to install six (6) wind turbines on the roof of the detached garage. The garage is 686 square feet in size with an asphalt-shingled gabled roof line. The turbines will be installed on the southeasterly facing area of the garage roof, which is situated approximately 142 feet from the front property line. The garage is located in front of the rear line of the residence. As proposed, the wind turbines are not located to the rear of the residence, as required by the Development Code.

The prevailing winds in Apple Valley range from 5-10 knots/hour (6 to 12 mph) from the south/southwest to the northeast. The United States energy commission reports that the average California household consumes approximately 580 kilowatt hours per month. The six (6) WECS proposed collectively have an estimated monthly output of 1,800 watts, which is equal to 1.8 kilowatt hours per month, based upon an average wind speed of twelve (12) miles per hours, and as identified on the attached specification sheet.

The noise study provided indicates that, when operating in a fifteen (15) mile per hour wind, the unit will produce a noise level below forty (40) dBA at the property line. The Development Code permits a maximum noise level of fifty (50) dBA as measured at the property line. As the wind speed increases, so will the noise produced.

C. Architecture Analysis:

The Code permits roof-mounted WECS subject to the maximum height permitted within the applicable zoning designation. The maximum height permitted within the Low Density Residential (R-LD) zone is thirty-five (35) feet. The proposed WECS will have a maximum height of sixteen (16) feet, eight (8) inches and is in compliance with Development Code standards. The WECS are all uniformly sized with a blade length of thirty (30) inches. The metal structure and hardware will be grey in color. The blades are aluminum and will maintain a dull aluminum appearance.

D. Summary:

This is the first roof-mounted application to be brought forward for review by the Planning Commission. There are similar multiple device WECS located in Hesperia; however, such multiple installations have been accomplished by locating the several WECS upon a single, free-standing monopole. The City of Hesperia does not currently permit rooftop WECS within single-family zones; however, the city will be revisiting its Code to consider permitting rooftop WECS within all residential zones.

The Town's Development Code permits roof-mounted WECS with the Planning Commission's review and approval of a Development Permit. The installation of multiple WECS requires the Planning Commission's review and approval of a Conditional Use Permit. It is staff's opinion that when modifying the Development Code to permit rooftop WECS within the residential zones, it was not with the intent to encourage multiple rooftop units on a single structure.

The efficiency of rooftop WECS has yet to be established by the California Energy Commission. When reviewing this request, the Commission should consider whether the potential for energy production outweighs the potential negative aesthetic impacts that may result from this use. The efficiency and technology of the roof-mounted units have not advanced sufficiently, thus requiring six (6) WECS on one roof in order to generate enough power to offset a small portion of the actual kilowatt hours billed monthly. Approving this proposal would condone the negative appearance and set a precedent that may result in the proliferation of multiple WECS upon single-family rooftops.

E. Noticing:

This item was advertised as a public hearing in the Apple Valley News newspaper on June 3, 2011. Property owners within 1,000 feet of the project site were notified of the June 15, 2011 Planning Commission meeting. No public comment has been received by staff regarding this proposal at the time this staff report was written.

**F. Development Permit Findings:**

As required under Section 9.17.080 of the Development Code, prior to approval of a Development Permit, the Planning Commission must make the following Findings:

That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed Wind Energy Conversion System (WECS) is in compliance with the General Plan Land Use and zoning designation. The subject property is five (5) acres in size which

allows for the installation of WECS, subject to Planning Commission's approval of a Development Permit. More than one (1) WECS requires the Planning Commission's review and approval of a Conditional Use Permit.

That the location, size and design of the proposed structures and improvements are compatible with the site's natural landforms, surrounding sites, structures and streetscapes;

Comment: The proposed WECS is in compliance with the General Plan Land Use and zoning designation. The WECS will be painted a non-reflective gray. However, even painted gray, the multiple rooftop WECS would have a negative impact upon the aesthetics of the surrounding area.

That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of development between adjacent land uses;

Comment: The proposed WECS has been designed with adequate setbacks. The use is not anticipated to generate excessive noise, vibration, traffic or other disturbances; however, even painted gray, the multiple rooftop WECS would have a negative impact upon the aesthetics of the surrounding area.

That the building, site and architectural design are accomplished in an energy efficient manner;

Comment: The proposed WECS must be constructed in accordance with the Uniform Building Code. When in operation, the project may reduce the property's energy consumption; however, the products efficiency does not outweigh the potential for negative aesthetic impact upon the surrounding residential area.

That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The proposed WECS is proposed with material and textures compatible with the site and surrounding area; however, even painted gray, the multiple rooftop WECS would have a negative impact upon the aesthetics of the surrounding area.

That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The proposed WECS will be located on a detached garage and will be visible for Oriole Road. The installation of multiple rooftop WECS would have a negative impact upon the aesthetics of the surrounding area.

That the amount, location, and design of open space and landscaping conforms to the requirements of this Code, enhances the visual appeal and is compatible with the design and function of the structure(s), site and surrounding area;

Comment: The proposed WECS will be located on a detached garage and will be visible for Oriole Road. The installation of multiple rooftop WECS will have a negative impact upon the aesthetics of the surrounding area.

That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;

Comment: The proposed WECS will be located on a detached garage and will be visible for Oriole Road. The installation of multiple rooftop WECS will have a negative impact upon the aesthetics of the surrounding area.

That excessive and unsightly grading of hillsides does not occur, and the character of natural landforms and existing vegetation are preserved where feasible and as required by this Code;

Comment: The project will not include any grading or alterations to the existing natural landforms or vegetation.

That historically significant structures and sites are protected as much as possible in a manner consistent with their historic values;

Comment: The project is proposed on a lot with an existing single-family residential home and there are no known historical structures on the site.

That there are public facilities, services and utilities available at the appropriate levels, or that these shall be installed at the appropriate time, to serve the project as they are needed;

Comment: There are existing improvements available to serve the site.

That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists;

Comment: The proposed WECS will not require additional points of access or effect the existing circulation of the site.

That the proposed development's generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The proposed WECS will be located on a developed, residential site. The proposed use will not create any increase in traffic.

That traffic improvements and or mitigation measures are provided in a manner adequate to maintain a Level of Service "C" or better on arterial roads and are consistent with the Circulation Element of the Town General Plan;

Comment: The proposal is not anticipated to result in any traffic increase.

That environmentally unique and fragile areas such as the knolls, areas of dense Joshua trees, and the Mojave River area shall remain adequately protected;

Comment: The proposal is within the Low Density Residential (R-LD) zoning designation and not within any significant environmentally unique or fragile areas.

That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: Under the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is Categorically Exempt under Section 15061(a)(4) for projects in which the local authority denies.

That there are no other relevant negative impacts of the proposed use that cannot be mitigated;

Comment: Under the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is Categorically Exempt under Section 15061(a)(4) for projects in which the local authority denies.

That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained, will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan; and

Comment: The proposed WECS, by its design and operating characteristics, and with adherence to the conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare. However, the installation of multiple rooftop WECS will have a negative impact upon the aesthetics of the surrounding area, and due to this negative impact, cause detrimental harm to properties and improvements in the area.

That the proposed development will comply with each of the applicable provisions of this Code and applicable Town policies, except approved variances.

Comment: The proposed WECS does not comply with the Development Code requirement to place WECS behind the residence. Placement of more than one (1) WECS on the rooftop would be a negative impact on the aesthetics of the residence.

RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

Find the facts presented in the staff report support the required Findings for Denial and adopt the Findings.

Deny Conditional Use Permit No. 2011-005, without prejudice, whereby allowing the applicant to reapply with an alternative design.

Prepared By:

Reviewed By:

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Pam Cupp  
Associate Planner

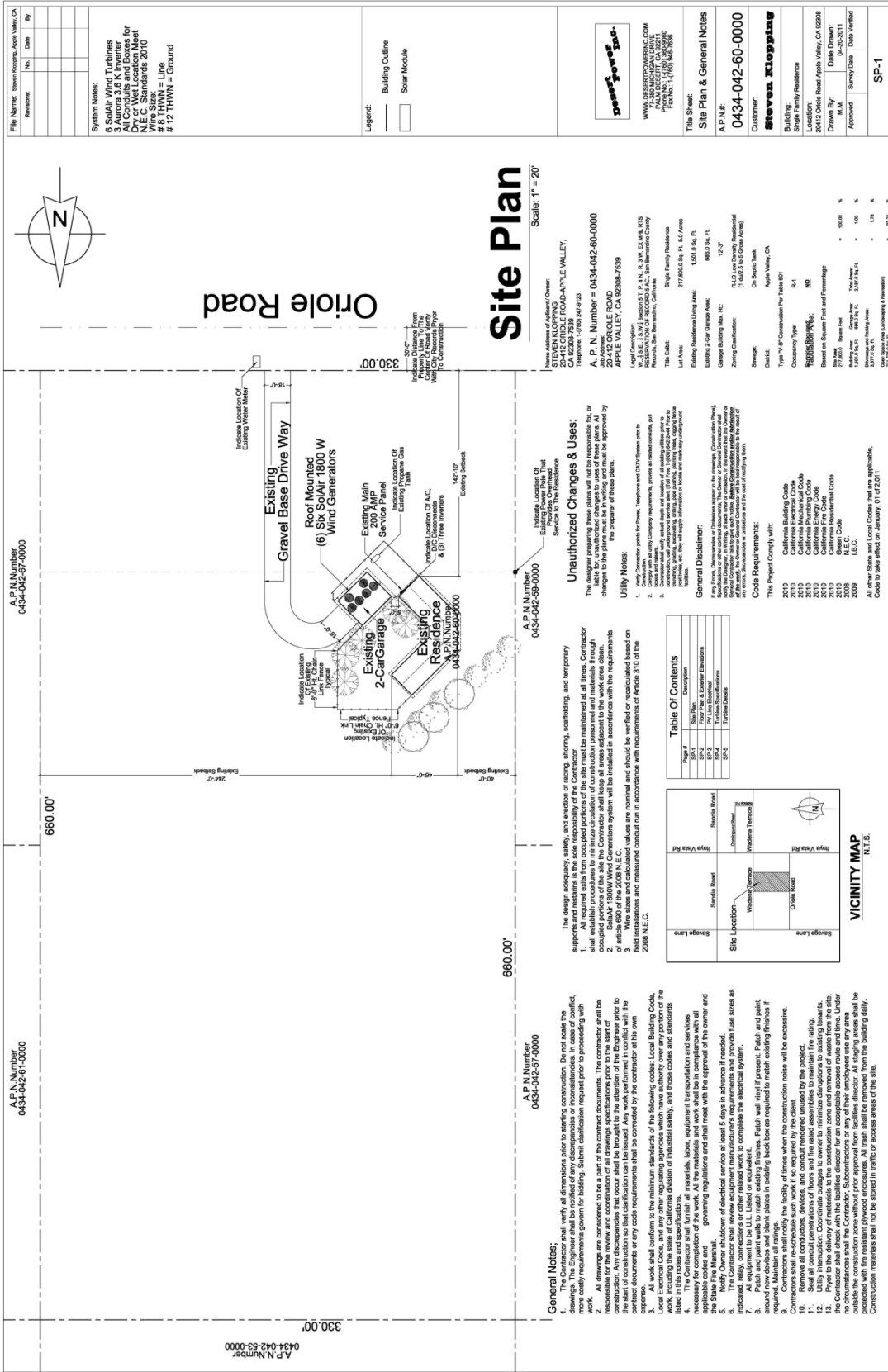
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Lori Lamson  
Assistant Director of Community Development

ATTACHMENTS:

1. Recommended Conditions of Approval
2. Site Plan
3. Elevation
4. Specification Sheets
5. Zoning/Location Map





**General Notes:**  
 1. The design adequacy, safety, and erection of piling, shoring, scaffolding, and temporary bracing shall be verified by a Professional Engineer. The contractor shall be responsible for obtaining all permits required by local, state, or federal agencies for any activities on or near the site. All required permits shall be obtained prior to the start of construction.  
 2. Safety: 1800V Wind Generators system will be installed in accordance with the requirements of Article 690 of the 2008 N.E.C.  
 3. Safety: 1800V Wind Generators system will be installed in accordance with the requirements of Article 690 of the 2008 N.E.C.  
 4. The contractor shall verify all dimensions prior to starting construction. Do not scale the drawings. The Engineer shall be notified of any discrepancies or inaccuracies. In case of conflict, more costly requirements govern for bidding. Submit certification request prior to proceeding with work. All drawings are considered to be a part of the contract documents. The contractor shall be responsible for the review and coordination of all drawings specifications prior to the start of construction. The contractor shall be notified of any discrepancies or inaccuracies at the start of construction so that clarification can be issued. Any work performed in conflict with the contract documents or any code requirements shall be corrected by the contractor at his own expense.  
 5. All work shall conform to the minimum standards of the following codes: Local Building Code, Local Electrical Code, and any other applicable codes which have authority over any portion of the project.  
 6. The contractor shall furnish all materials, labor, equipment transportation and services necessary for the completion of the project.  
 7. The contractor shall maintain a clean and safe construction site at all times. The contractor shall be responsible for removing all materials, equipment, and debris from the site upon completion of the project.  
 8. The contractor shall provide adequate lighting and safety barriers around the work area.  
 9. The contractor shall notify the facility of times when the construction noise will be excessive.  
 10. Contractors shall re-schedule such work if so required by the client.  
 11. Shall all conditions of the contract documents shall be strictly followed.  
 12. Utility interruptions: Coordinate outages to owner to minimize disruptions to existing tenants.  
 13. The contractor shall check with the facility or owner for an acceptable access route and time. Under no circumstances shall the Contractor, Subcontractors or any of their employees use any area reserved for the exclusive use of the facility.  
 14. Construction materials shall not be stored in traffic or access areas of the site.

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SP-2 Phot Plan & Exterior Elevations

SP-3 General Notes

SP-4 Turbine Specifications

SP-5 Turbine Details

**VICINITY MAP**  
N.T.S.

**Unapproved Changes & Uses:**  
 The designer/owner/purchaser/contractor shall be responsible for any and all changes to the design. The contractor shall be responsible for any and all changes to the design. The contractor shall be responsible for any and all changes to the design. The contractor shall be responsible for any and all changes to the design.

**Utility Notes:**  
 1. Verify connection points for Power, Telephone and CCTV system prior to construction.  
 2. Verify that all electrical conduit is installed prior to construction.  
 3. Verify that all electrical conduit is installed prior to construction.

**General Disclaimer:**  
 This project is a preliminary design. The contractor shall be responsible for any and all changes to the design. The contractor shall be responsible for any and all changes to the design. The contractor shall be responsible for any and all changes to the design.

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**VICINITY MAP**  
N.T.S.

Steven Klopping  
 1500 N. GARDEN STREET  
 APPLE VALLEY, CA 92408  
 Phone No: (760) 942-5500  
 Fax No: (760) 942-7600

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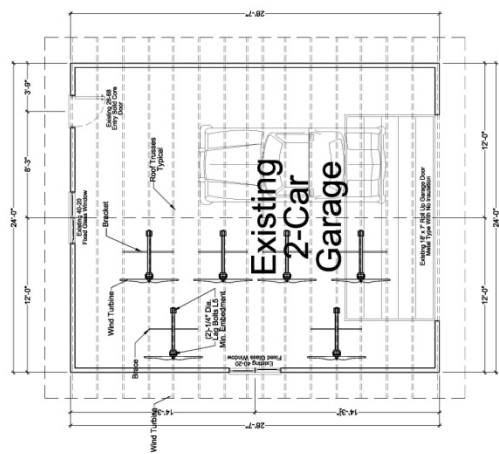
SP-3 General Notes

SP-4 Turbine Specifications

SP-5 Turbine Details

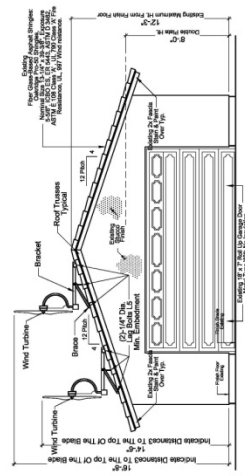
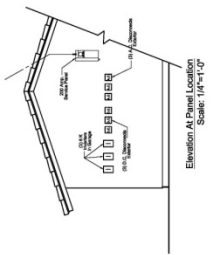
**VICINITY MAP**  
N.T.S.

File Name: Steven Klopping-2-Car Garage	No.	Date	By
Revision:			
<p>System Notes:          6 Savia Wind Turbines          3 Aurora 3.0 K Inverter          3 Aurora 3.0 K Controller          Dr. Co. Wall and Base for          N.E.C. Standards 2010          # 8 THWN - Line          # 12 THWN - Ground</p>			
Stamp:	Legend:		
<p>www.zssett.com          WWW.ZSSETPOWER.COM          14400 LINDSEY AVE. SUITE 101          FOLSOM, CA 95630          TEL: (916) 452-7200          FAX: (916) 452-7200</p>			
Title Sheet		Floor Plan & Exterior Elevations	
A.P.N. Number:	0434-042-60-0000	Customer:	Steven Klopping
Location:	Single Family Residence	Builder:	
Drawn By:	Steven Klopping	Checked By:	Steven Klopping
Date:	04/20/2011	Scale:	
Approved:		Survey Date:	
Date Verified:			
			SP-2

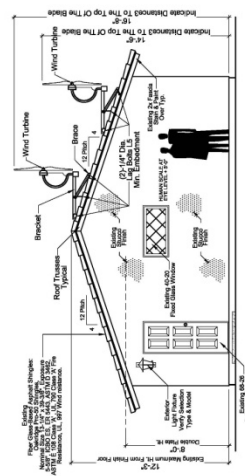


## Existing 2-Car Garage Floor Plan

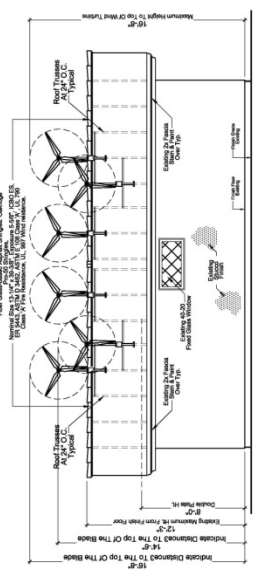
BUILDING DATA  
 Storage Area: 686.00 SQ. FT.  
 Wall Type



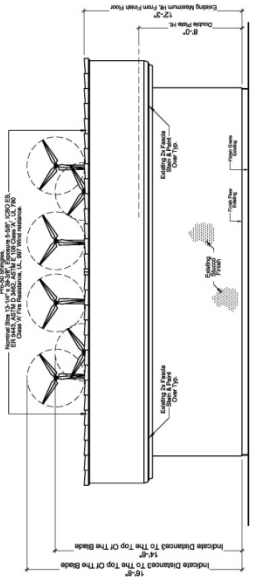
North East Elevation Side  
 Scale: 1/4"=1'-0"



South West Elevation Side  
 Scale: 1/4"=1'-0"



South East Elevation Side  
 Scale: 1/4"=1'-0"

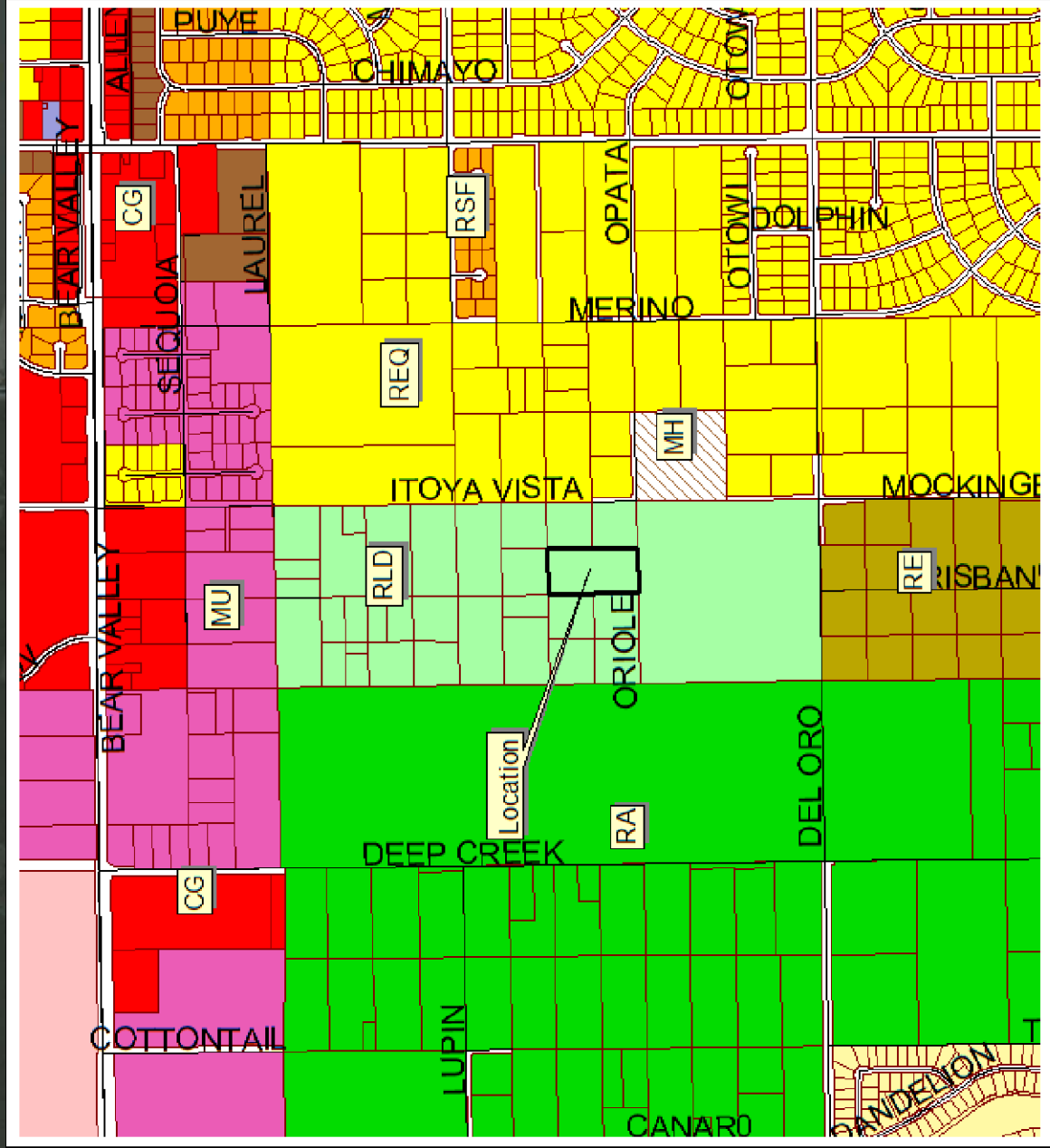


North West Elevation Side  
 Scale: 1/4"=1'-0"

- Note:
- Metal Structure & Brackets To be Grey Color
  - Blades of the Wind Turbine to be Dull Aluminum
  - No Equipment Other Than the one Noted on Plans will be Added

# Zoning/Location Map

Conditional Use Permit No. 2011-005



20412 Oriole Road  
APN 0434-042-60



- Residential Districts**
- (RV-LD) Very Low Density Residential (100/5+ per gross acre)
  - (RV) Residential Agriculture (100/2.5 gross/acre)
  - (RLD) Low Density Residential (100/2.5 to 5/acre/acre)
  - (RE) Estate Residential (1 acre/1 to 2.5 gross/acre)
  - (RE-34) Estate Residential 34 (1 acre/0.75 net acre)
  - (RE-20) Estate Residential (100/0.4 to 0.5 net acre)
  - (RSF) Single Family Residential (100/0.4 to 0.5 net acre)
  - (RM) Medium Density Residential (20 to 200 net acre)
  - (MHP) Mobile Home Park
  - (PRD) Planned Residential Development
- Commercial/Office Districts**
- (C-G) General Commercial
  - (C-V) Village Commercial
  - (C-S) Service Commercial
  - (C-P) Office/Professional
  - (C-R) Regional Commercial
- Industrial Districts**
- (I-P) Planned Industrial
  - (I-RE) Resource Extraction
- Other Districts**
- (P-F) Public Facilities
  - (OBC) Open Space Conservation
  - (OSR) Open Space Recreation
  - (MU) Mixed Use
  - (SP) Specific Plan
- Overlay Districts**
- (AO) Airport Overlay District
  - (AO) Airport Overlay District
  - (FH) Flood Hazard Overlay District
  - (PH-L) Flood Hazard/Lake Overlay District



**RECOMMENDED CONDITIONS OF APPROVAL**

Conditional Use Permit No. 2011-005

**Please note:** *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

**Planning Division Conditions of Approval:**

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley General Plan and the Development Code. This conditional approval, if not exercised, shall expire three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least sixty (60) days prior to the expiration date. The Development Permit becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. The applicant shall agree to defend, at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P3. The approval of Conditional Use Permit No. 2011-005 by the Town Council is recognized as acknowledgment of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.
- P4. The filing of a Notice of Exemption requires the County Clerk of the Board to collect a documentary handling fee of fifty dollars (\$50.00). The fee must be paid in a timely manner in accordance with Town procedures. No permits may be issued until such fee is paid.
- P5. The rendering presented to and approved by the Planning Commission at the public hearing shall be the anticipated and expected appearance of the structure upon completion.
- P6. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure, to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected as approved by the Planning Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission shall accurately reflect the structures, facilities and appurtenances expected and required to

be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.

- P7. Conditional Use Permit No. 2011-005 shall adhere to all provisions of the Development Code.
- P8. The height of the roof-top wind turbines shall not exceed seventeen (17) feet as measured from the nearest grade.
- P9. The wind turbines and all associated hardware shall be maintained in sound working order in conformance with manufacturer's specification at all times.
- P10. The physical appearance of the device shall be maintained in the manner approved by the Town Council. Any modification of the approved color (non-reflective gray) shall require Planning Commission review of an Amendment to Conditional Use Permit No. 2011-005.
- P11. Should the approved WECS become inoperable for a period exceeding 180 days, the unit shall be considered abandoned and removed within thirty (30) days of receipt of written notice from the Town notifying the owner of such abandonment.
- P12. The WECS shall not generate a sound level in excess of fifty (50) dBA, as measured at the nearest property line, during the hours of 7:00 a.m. to 10: p.m., nor a level in excess of forty (40) dBA during the hours of 10:00 p.m. to 7:00 a.m. except during extreme weather conditions. Failure of the WECS to operate properly and cause noise impacts shall require immediate maintenance and/or shutting down the turbine. If the turbine is not operative for more that 180 days, the unit shall be considered abandoned as described in Condition No. P11 above.

**Building and Safety Division Conditions of Approval:**

- B1. Submit plans and structural engineering; obtain permits for all structures.
- B2. All utilities shall be placed underground in compliance with Town Ordinance No. 89.
- B3. Page two (2) of the submitted building plans will be the Conditions of Approval.
- B4. Construction must comply with 2010 California Building Codes.

**- End of Conditions -**