

## **Commercial Energy Uses Allowed in Zones**

### **11 March 2010**

**Question:** Which commercial energy development uses should be allowed in which zones?

Resource Zones: All commercial energy uses will be listed as allowed uses in all resource zones. Any limitations will be based on criteria to protect identified resources and adjacent properties and uses.

Non-Resource Zones:

Question 1: Should commercial energy project accessory uses be allowed in non-resource zones?

Option 1: Yes, subject to practicable alternatives criteria such as that listed at the bottom of this document, in addition to conditional use review criteria. We could also increase the notification area from 300' (non-resource) to 500' or greater (resource) to include more property owners in the process.

Pros: Creates flexibility. Burden of proof is on applicant to prove why they have to site the accessory uses on non-resource land. All affected property owners are notified and can provide comments and have appeal rights.

Cons: Creates unease for non-resource zoned property owners about potential impacts.

Option 2: No.

Pros: Easy to administer and eliminates potential unease of non-resource zoned property owners.

Cons: Could eliminate the ability to establish the commercial energy project on adjacent resource zoned properties even though the accessory uses and the commercial energy project would not have adversely impacted the non-resource zones.

Option 3: Identify specific zones where this would be allowed.

Pros: Once zones are identified it would be easy to administer.

Cons: Difficult and potentially inequitable about which zones this would and wouldn't be allowed in. Could eliminate the ability to establish the commercial energy project on adjacent resource properties where this is not allowed even though the accessory uses and the commercial energy project would not have adversely impacted the non-resource zones.

Staff Recommendation: Option 1 with any additional amendments to the criteria listed at the bottom of this document.

Question 2: Should commercial energy projects be allowed in non-resource zones?

Option 1: Yes. Any limitations will be based on criteria to protected identified resources and adjacent uses which would eliminate the majority of projects. If yes, energy development accessory uses would not need to be a separately listed use.

Pros: Creates flexibility such as allowing a beneficial wind tower or a solar project in a rural community that is commercial but creates little impact. It is important to point at that as efficiencies increase, greater amounts of energy will be produced with smaller devices that have fewer and fewer negative impacts.

Cons: Even though most commercial uses would never be permitted it creates unease for non-resource zoned property owners because it is a listed use. Potential developers are set up for failure if most commercial uses would not be allowed in non-resource zones based on review criteria. This could result in Wasco County being seen as overly restrictive, more so than if they were simply excluded from non-resource zones altogether.

Option 2: No.

Pros: Easy to administer and eliminates unease of non-resource zoned property owners.

Cons: Eliminates the potential for community projects that could be very beneficial and have little to no impact.

Option 3a: Allow Commercial Energy Development projects in all non-resource zones subject to community interest test criteria such as that listed at the bottom of this document, in addition to all other criteria. This could be further limited to specific types of commercial energy projects but this may be very difficult to determine and could potentially limit viable projects.

Pros: Creates flexibility and doesn't send the wrong signal to developers because it is limited to community oriented project.

Cons: Still may create potential unease of surrounding non-resource zoned property owners.

Option 3b: Same as 3a above but limit the use to specific zones located in or around cities or rural communities. Zones and/or distances would have to be specified.

Staff Recommendation: Option 3a.

Commercial Energy Development Accessory Use Practicable Alternative Criteria: Commercial energy development accessory uses will only be allowed in non-resource zones as necessary to establish the use in surrounding resource zones. To demonstrate that commercial energy development accessory uses are necessary, an applicant must show that practicable alternatives have been considered and that the use or uses must be sited in a non-resource zone due to all of the following factors:

1. The basic purpose of the commercial energy development project cannot be reasonably accomplished by siting it completely on resource zoned property;
2. The basic purpose of the commercial energy development project cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid non-resource zoned lands.; and
3. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed to be located on non-resource zoned lands. Such constraints include length, location and level of service of roads, length and location of transmission corridors, and other accessory infrastructure elements.

### Community Interest Test

To be considered a community oriented project, the commercial energy development project must meet all of the following factors:

1. The group initiating, sponsoring, or partnering with a developer is a community group as defined; (this wouldn't eliminate private businesses but they would have to be sponsored or partnered with a community group)

Need to define community group.

- Representatives are elected or appointed by property owners within geographic area
- Geographic area is defined
- Could be a water district board, fire district board, homeowners association, other.
- Need to be somewhat limited so one or a few property owners wouldn't be able to call themselves a community group and do this independently while not being supported by neighbors with similar zoning. Needs to truly be a community project.

2. The project will provide an identifiable benefit to property owners within the geographic area the community group represents; and (this could be power, money, or jobs if associated with a business)
3. The community group must notify all members within the geographic area of the community they represent and conduct a public meeting to solicit feedback regarding the proposed commercial energy development project prior to submitting a land use application. The notification list, agenda, and minutes of the meeting shall all be submitted as part of the application.