

BILL EMLÉN
Director
(707) 784-6765

TERRY SCHMIDTBAUER
Assistant Director
(707) 784-6765

MIKE YANKOVICH
Planning Services Manager
(707) 784-6765

DEPARTMENT OF RESOURCE MANAGEMENT



**SOLANO
COUNTY**

675 Texas Street, Suite 5500
Fairfield, CA 94533-6342
(707) 784-6765
Fax (707) 784-4805

www.solanocounty.com

Planning Services Division

Agenda Item No. 1

TO: Solano County Planning Commission
FROM: Nedzlene Ferrario, Senior Planner
SUBJECT: Draft Solar Energy Ordinance
DATE: July 16, 2015

I. RECOMMENDATION:

- A. California Environmental Quality Act (CEQA): Determine that Categorical Exemption Section 15308, Class 8 of CEQA, is appropriate.
- B. Draft Ordinance: Adopt a resolution recommending that the Board of Supervisors APPROVE the Ordinance amending Chapter 28 of the Solano County Code.

II. ENVIRONMENTAL ANALYSIS:

Section 15308, Class 8 of CEQA is applicable to actions taken by regulatory agencies, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

The adoption of this ordinance involves establishing land use developments standards that are intended to protect the environment; therefore, it falls in a class of projects that the Secretary of Resources has determined not to have significant on the environmental and declared to be categorically exempt from the requirement for the preparation of environmental documents.

III. EXECUTIVE SUMMARY:

The revised draft ordinance proposes to prohibit commercial solar energy facilities in zones which promote agriculture, residential lifestyle and protects environmentally sensitive areas; and conditionally allowing such facilities in certain commercial and industrial zoning districts. The draft proposes allowing solar energy facilities that provide power for land uses or operations on the property, ground mounted or rooftop, in any zone; and regulated as incidental or accessory to the existing land use operations. The draft is consistent with the Agricultural Advisory Committee (AAC) recommendation.

IV. **BACKGROUND:**

The Department of Resource Management (DRM), in conjunction with the AAC, revised an earlier draft of the County's Solar Ordinance. The earlier draft proposed prohibiting commercial solar energy facilities in the A-40 and A-80 zoning district, reserved for Prime Farmland and conditionally allowing such facilities on A-20 and A-160, reserved for Non-Prime Farmland. The concept of conditionally allowing commercial solar facilities on Non-Prime Farmland was opposed by the AAC. The AAC desired an ordinance that prohibits such facilities on all agricultural zones to prevent the conversion of agricultural land to non-agricultural land use.

V. **DISCUSSION:**

Commercial solar facilities are comprised of many rows of solar arrays which collectively cover the land. In addition, the facilities include generator tie lines to connect the project to the transmission grid, operations and maintenance buildings, substation, sewage disposal systems, access roadways and are usually manned by employees. The facilities are typically leased for 20-25 years. Such facilities are industrial in character and have the potential to cause the loss of farmland, loss of habitat, limits soil permeability, glare and nuisances to adjacent land uses. According to the County Assessor's office, such facilities are exempt from property tax reassessment.

Currently, there are no commercial solar facilities operating within the unincorporated area of the County. In 2013, the Board of Supervisors enacted a moratorium prohibiting development of commercial solar facilities, but that moratorium will expire on October 18, 2015. Because the County's zoning ordinance does not specifically address commercial solar facilities, the County would have processed a proposal for a commercial solar facility as a public service facility prior to the Board's enactment of the moratorium. A public service facility is a conditionally permitted land use in most zoning districts, including the County's agricultural and residential zoning districts. When the moratorium expires in October, the County would once again process commercial solar proposals as public service facilities unless the ordinance is amended to include regulations specifically addressing commercial solar facilities.

The current draft proposes to prohibit commercial solar energy facilities in all Agricultural Zoning Districts, which includes Exclusive Agriculture, Suisun Marsh Agricultural, Suisun Valley Agricultural and Industrial-Agricultural District, consistent with the AAC recommendation. To prevent unnecessary conversion, the draft prohibits commercial solar facilities in the Rural Residential, Residential Traditional Community, Watershed and Conservation, Marsh Protection, Park, Commercial Recreational and Industrial Water Dependent zones.

However, commercial solar facilities may be compatible with land use types in Commercial and Manufacturing zoning districts, particularly in the more intensive zones such as Highway Commercial (C-H), Neighborhood Commercial (C-N), Commercial Service (C-S), Manufacturing – Limited (M-L); Manufacturing – General (M-G-1/2) and Manufacturing (M-G-3). These zones while limited in supply and for the most part developed, creates the potential for rooftop facilities or over parking lots. The concept is supported by the AAC. Refer to Exhibit B for the zoning districts, note that currently no properties are zoned C-O or M-L; however, such zones are included in the proposal to allow for future potential rezones. Specific information shall be provided at the public hearing.

Land use compatibility and environmental review would be evaluated through a Planning Commission level conditional use permit process and development standards of the applicable zone. In order to ensure that there are adequate funds to remove the facility during decommissioning or to restore the site to preconstruction standards or better, financial assurance in the form of bond or letter of credit shall be prepared to cover the costs of removal and restoration.

The current draft continues to support the provision of photovoltaic power for on-site land use operations in any zone. Such facilities would be regulated as accessory uses.

Additionally, the draft includes a height exception for roof mounted solar energy panels. The roof mounted panels may exceed the height limit of the structure to a maximum of five (5) feet above the roof surface.

Finally, the draft includes an exception for a small scale Agricultural Research Facility involving UC Davis and SolAgra to research the feasibility of growing crops under solar panels on Ryer Island and provide power to Reclamation District 501, consistent with the Board of Supervisor's exception to the Interim Urgency Ordinance prohibiting commercial solar while it is in effect. The conditional use permit application was filed in May and is currently in progress.

The intent was to allow one commercial solar facility with an agricultural research component on Ryer Island. If the Planning Commission desires to allow other commercial solar facilities with an agricultural research component in other parts of the County, then the Planning Commission should direct staff to prepare the appropriate language.

ATTACHMENTS:

- Exhibit A - Draft Ordinance
- Exhibit B - C & M Zoning
- Exhibit C - Draft Resolution

DRAFT FOR PLANNING COMMISSION REVIEW

ORDINANCE NO. 2015 - _____

AN ORDINANCE AMENDING CHAPTER 28 OF THE SOLANO COUNTY CODE TO ESTABLISH LAND USE REGULATIONS FOR COMMERCIAL SOLAR ENERGY FACILITIES AND ON-SITE SOLAR ENERGY SYSTEMS IN THE UNINCORPORATED AREA OF SOLANO COUNTY

The Board of Supervisors of the County of Solano ordains as follows:

SECTION I: PURPOSE

The purpose of this ordinance is to establish the land use regulations for commercial solar energy facilities and on-site solar energy systems in the unincorporated county. This ordinance prohibits the conversion of land resources to commercial scale solar energy facilities and places an emphasis on the development of on-site solar energy systems that provide power for the land use or operations on the property. The ordinance protects Solano County's valuable agricultural resources, residential and environmentally sensitive areas from unnecessary conversion and provides for commercial scale facilities in the commercial and manufacturing districts. This ordinance supersedes Section 3 of Ordinance No. 2014-1751 and Section 2 of Ordinance No. 2015-1756.

SECTION II: DEFINITIONS

The following definitions are added, in alphabetical order, to Section 28.01 of Chapter 28 of the Solano County Code:

Commercial Solar Energy Facility:

A commercial solar energy facility is a solar energy conversion system and associated control or conversion electronics that converts solar energy to utility power for the primary purpose of resale or off-site use.

Solar Energy System:

Any solar energy collector, together with associated equipment and structural design features of a building, whose primary purpose is to provide for the collection of solar energy for on-site space heating, cooling, or water heating, or for electric generation that is used solely to meet or offset on-site electric load. A solar energy system is incidental to the land use of the property and is subject to the requirements of Chapter 6.3. A ground mounted solar energy system shall comply with the development standards of the zoning district for accessory structures.

SECTIONS III through XII: COMMERCIAL SOLAR ENERGY FACILITY PROHIBITION

Permitting: Amend corresponding Land Use Tables to prohibit commercial solar energy facility in the following zoning districts:

- Exclusive Agriculture (A) Districts
- Suisun Marsh Agricultural (A-SM) Districts

EXHIBIT A

- Suisun Valley Agricultural (A-SV) Districts
- Industrial-Agricultural Service (I-AS) District
- Industrial Water Dependent (I-WD) District
- Rural Residential (R-R) Districts
- Residential Traditional Community (R-TC) Districts
- Commercial Recreation (C-R) District
- Commercial Recreation (C-R-L) District
- Watershed and Conservation (W) District
- Marsh Protection (MP) District
- Park (P) District

SECTIONS XII and XIV: CONDITIONALLY ALLOW COMMERCIAL SOLAR ENERGY FACILITIES IN COMMERCIAL AND MANUFACTURING ZONING DISTRICTS

Permitting: Amend corresponding Land Use Tables to allow commercial solar energy facilities in the following zoning districts subject to a Use Permit approval by the Planning Commission. Commercial Solar Energy Facilities shall be subject to the development standards of the zoning district. Financial assurances shall be provided in order to ensure that there are adequate funds to restore the site to preconstruction standards or better, in the form of bond or letter of credit.

- Highway Commercial (C-H) District
- Neighborhood Commercial (C-N) District
- Commercial Service (C-S) District
- Commercial Office (C-O) District
- Manufacturing – Limited (M-L) District
- Manufacturing – General (M-G-1/2) District
- Manufacturing – General (M-G-3) District

SECTION XV: AMEND SECTION 28. 93 GENERAL HEIGHT REGULATIONS AND EXCEPTION

Section 28.93 (General Height Regulations and Exceptions) of Chapter 28 of the Solano County Code is amended to add a new Subsection 28.93(A)(5), as follows:

5. Roof mounted solar energy systems may exceed the height limits of the primary or accessory structure, to a maximum of five (5) feet above the roof surface.

SECTION XVI: AGRICULTURAL RESEARCH FACILITY

Notwithstanding the definition of Commercial Solar Energy Facility provided in Section II of this ordinance, a use permit application submitted prior to May 7, 2015 shall be processed and acted upon as an application for an agricultural research facility, if the proposed facility meets all of the following criteria:

- 1) The facility is a limited-term demonstration project, involving the University of California, Davis, designed to research the feasibility of simultaneously using land for both agricultural production and commercial solar energy production;

- 2) A component of the research conducted at the demonstration project shall analyze changes in soil flora, fauna, and chemistry under the panels as well as environmental impacts to the area around the project site;
- 3) The facility will be located on Ryer Island in the A-80 zoning district with no more than 2.2 acres developed with solar photovoltaic panels;
- 4) Water rights and other mitigation rights associated with the project site remain with the property for the term of the demonstration project; and
- 5) At the end of the demonstration project's useful life, the site will be returned to its pre-project agricultural conditions.

SECTION XVII:

This ordinance will be effective thirty (30) days after its adoption.

SECTION XVIII:

A summary of this ordinance will be published once within fifteen (15) days after its adoption in the Fairfield Daily Republic, a newspaper of general circulation.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on **(Date)** by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____

EXCUSED: Supervisors _____

ERIN HANNIGAN, Chairwoman
Solano County Board of Supervisors

ATTEST:
Birgitta E. Corsello, Clerk
Board of Supervisors

By: _____
Jeanette Bellinder, Chief Deputy Clerk

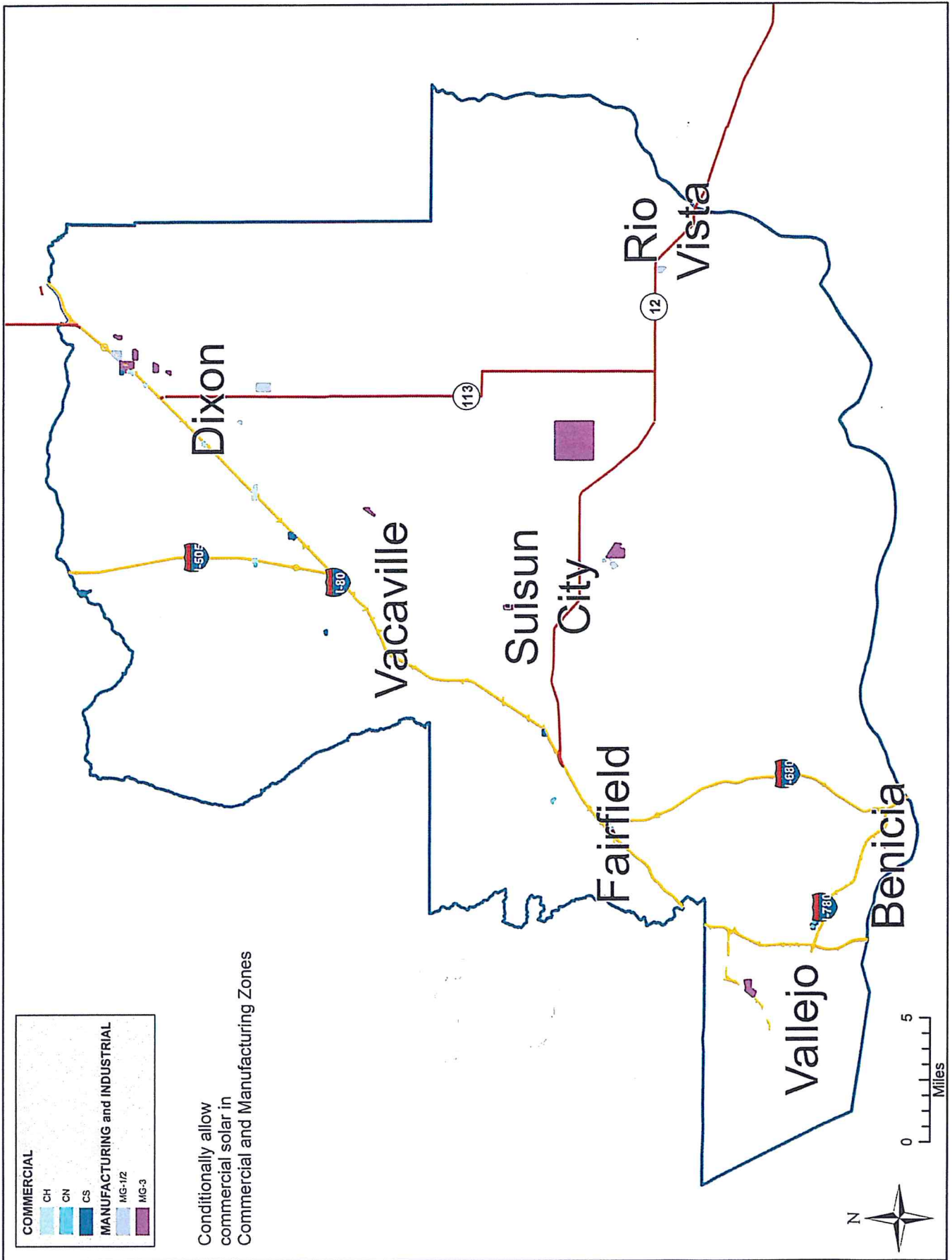


EXHIBIT B

**SOLANO COUNTY PLANNING COMMISSION
RESOLUTION NO. XX**

WHEREAS, the Solano County Planning Commission has considered an ordinance (Exhibit A) pertaining to amending Chapter 28 of the Solano County Code, and;

WHEREAS, said Commission has reviewed the report of the Department of Resource Management and heard testimony relative to the subject application at the duly noticed public hearing held on July 16, 2015, and;

WHEREAS, after due consideration, the said Planning Commission has made the following findings in regard to said proposal:

1. The Categorical Exemption Section 15308 Class 8 of the California Environmental Quality Act is appropriate in that the adoption of this ordinance involves establishing land use development standards and permitting procedures that are intended to protect the environment, and;
2. The proposed ordinance is consistent with the General Plan, and;
3. The proposed ordinance will promote the general welfare of the County by establishing land use regulations for commercial solar energy facilities and on-site solar energy systems in the unincorporated area of Solano County.

BE IT, THEREFORE, RESOLVED, that the Planning Commission of the County of Solano does hereby recommend that the Board of Supervisors approve the proposed ordinance.

I hereby certify that the foregoing resolution was adopted at the regular meeting of the Solano County Planning Commission on July 16, 2015 by the following vote:

AYES:	Commissioners	_____

NOES:	Commissioners	_____
EXCUSED:	Commissioners	_____

By: _____
Bill Emlen, Secretary