



Board Summary Report

File #: 22-585

Agenda Date: 10/25/2022

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To: Board of County Commissioners

Through: Bryan Weimer, Director, Public Works & Development Department

Prepared By:

Diane Kocis, Energy Specialist, Public Works & Development

Presenter: Diane Kocis, Energy Specialist, Public Works & Development

Subject:

Amendment of the Land Development Code to include a New Administrative Application Process and New Requirements for Small Solar Systems, Case LDC22-001

Purpose and Request:

The purpose of this hearing is to seek BOCC approval of the draft Small Solar System regulations, as an amendment to the existing administrative solar rules in the Land Development Code.

Background and Discussion: This is a county-initiated Land Development Code (LDC) amendment to update the administrative process and requirements for small solar systems, also known as community solar gardens. The new regulations will replace the existing Memorandum of Understanding (MOU) provisions for administrative approval with new regulations and the administrative process set forth therein and will also bring the County's rules into alignment with the State's rules.

CRS 40-2-127(1)(b) recognizes that “[i]t is in the public interest that broader participation in solar electric generation by Colorado residents and commercial entities be encouraged by the development and deployment of distributed solar electric generating facilities, known as community solar gardens...” In 2019, the state amended this section by the adoption of HB19-1003, the Colorado Community Solar Gardens Modernization Act. The Act increased the maximum size of a community solar garden from 2 megawatts (MW) to 5 (MW) and requires all photovoltaic electrical work on a facility greater than 2 MW to be supervised by a licensed master electrician, licensed journeyman electrician or a licensed residential wireman, in order to comply with all applicable electrical codes and standards. The act also provided for increasing the allowed size of solar

gardens to 10 MW in 2023, if approved by the Public Utilities Commission.

Community solar gardens allow Colorado residents to participate in renewable energy programs by signing up with a solar developer, who acquires land for a panel array of 5 MW. Customers get an electricity credit on their electric bill, and low-income residents can get a full subsidy paid for by a renewable energy fund charged to each utility bill in Colorado.

In April 2022, staff presented options for new rules to the Board of County Commissioners (Board) in a study session and summarized other jurisdictions' rules. After drafting some rules similar to those in other jurisdictions and some based on staff's experience with applications and operation of historic solar gardens, staff sent the draft rules out for stakeholder review twice. Input from the first round of stakeholder comments was incorporated into the revised draft rules.

The County's draft administrative small solar system rules have provisions for: Detailed Application Materials Requirements; Application Public Noticing; Compliance with County Building and Engineering Standards; Setbacks Conforming with the Zone District; Setbacks from Designated Outside Activity Areas and from Surface Water and Riparian Areas; Floodplain Restriction; Health and Safety (including the requirement for emergency service providers "Will Serve" letter); 24-Hour Contact Information; Directional Signage; Compliance with the Relevant Fire District's Solar Development Standards; Fire Prevention Procedures; Locked Perimeter Gates; Vegetation Management Plan; Incident Reporting; Weather-Related Emergency Responses; Glare Analysis; Access Roads; Visual Mitigation; Fencing; Perimeter Fence Locks; Decommissioning; Insurance; and Transfer or Sale of Facilities to a New Operator. Please refer to Table 1 for a summary of the draft Small Solar System rules by category.

On September 6, 2022, Planning Commission held a public hearing on the proposed Small Solar System regulations. No stakeholders or members of the public spoke at the hearing. One Planning Commissioner asked that the rules specify compliance with all State and Federal rules, which was in the draft rules and she also asked that wording be added for the proper disposal of any materials that cannot be recycled when a facility is decommissioned. Planning Commission voted 6-0 to recommend approval of the regulations to the Board. In accordance with Planning Commission's recommendation, Planning staff is presenting to the BOCC for adoption the Small Solar System regulations presented with this Report.

Fiscal Impact: Fiscal impact is expected to be minor and will entail increased staff time in Planning for review of more application materials.

Alternatives: The Board of County Commissioners has four alternatives:

1. Approve the Land Development Code amendment as it is currently written and as recommended by the Planning Commission;
2. Approve the Land Development Code amendment with specific changes;

3. Continue to a date certain for specific revisions;
4. Deny the Amendment.

Alignment with Strategic Plan:

- Be fiscally sustainable
- Provide essential and mandated service
- Be community focused

Staff Recommendation: Staff recommends that all of the draft rules in their current form proceed to adoption, as recommended by the Planning Commission on September 6, 2022.

Concurrence: The Public Works & Development Department director and Planning Division managers concur with the Planning Commission's recommendation for approval of the draft Small Solar System rules. On September 6, 2021, the Planning Commission voted 6-0 to recommend approval of the proposed rules to the Board.