ORDINANCE NO. 1590

AN AMENDMENT EXEMPTING WIND TURBINE GENERATORS WITHIN LAND
ZONED A-160 FROM ORDINANCE NO. 1574, AN INTERIM ORDINANCE
PROHIBITING SPECIFIC NON-AGRICULTURAL USES IN THE EXCLUSIVE
AGRICULTURAL (A) DISTRICTS

WHEREAS, on May 4, 1999, the Board of Supervisors adopted Ordinance No. 1574, An Interim Ordinance Prohibiting Specific Non-Agricultural Uses in the Exclusive Agricultural (A) District, Adopted as an Urgency Measure; and

WHEREAS, Ordinance No. 1574 placed a temporary moratorium on the development of specified non-agricultural uses in areas zoned for agriculture, even though such uses would otherwise be allowed under the County’s zoning ordinance, subject to a use permit; and

WHEREAS, Ordinance No. 1574 provides that the moratorium will expire on March 22, 2001; and

WHEREAS, the primary purpose of Ordinance No. 1574 is to preserve and protect the County’s agricultural industry and lands; and

WHEREAS, one of the land uses that is temporarily prohibited by Ordinance No. 1574 is “Wind turbine generators that require a use permit”; and

WHEREAS, a developer has recently approached the County with a proposal to commence a substantial development of new wind turbines in the Montezuma Hills area of the County, which is zoned as A-160 (non-prime agricultural lands); and

WHEREAS, the developer has represented that the proposed project is economically feasible due in large part to federal tax credits for wind energy, which tax credits will apply to the project only if the turbines are actually constructed by the December 31, 2001 expiration date for the credits; and

WHEREAS, the developer has represented that in order to complete construction of the proposed turbines by December 31, 2001, the permits for the project must be in place and construction must commence no later than March of 2001; and

WHEREAS, the developer has represented that because of the lengthy environmental review that must take place before permits can be issued, Ordinance No. 1574 as presently drafted would effectively foreclose its ability to obtain the needed tax credits, and would have the potential to jeopardize the economic feasibility of the project; and
WHEREAS, the County zoning ordinance presently allows wind turbine generators on land zoned exclusive agriculture, provided the standards for a use permit are met; and

WHEREAS, the agricultural areas in southeastern Solano County, which includes Montezuma Hills, has been identified in the Energy Element of the Solano County General Plan as one of two prime wind resource areas in the County; and

WHEREAS, land zoned A-160 is identified as extensive agricultural land consisting of rolling and hilly slopes that are not suited for irrigated agriculture with uses that include dryland farming and grazing activities; and

WHEREAS, wind turbine development in land zoned A-160 is consistent with the County's policy goal of preserving and protecting local agricultural industry and lands, because it does not interfere with the existing agricultural land uses in those areas, such as grazing and dryland farming; and

WHEREAS, the developer of the proposed wind turbine project have requested that the County amend Ordinance No. 1574 to exempt from the moratorium wind turbine generators within land zoned A-160; and

WHEREAS, the proposed amendment would merely allow applications for wind turbine generator projects within the A-160 zone to proceed through the usual permitting process, including the necessary environmental review under the California Environmental Quality Act (CEQA), and a determination of compliance with the County's general plan; and

WHEREAS, due to special circumstances affecting the economic feasibility of new wind turbine generator projects, and the minimal potential for wind turbine generator projects in the A-160 zone to negatively affect agricultural industry and lands, it is appropriate to exempt from Ordinance No. 1574 applications for wind turbine generator projects in the A-160 zone; and

WHEREAS, in addition to the exemption requested by the developer of the proposed wind turbine project, an additional amendment to Ordinance No. 1574 is necessary to bring the ordinance into conformance with a recent Court of Appeal decision, Building Industry Legal Defense Foundation v. Superior Court (1999) 72 Cal.App.4th 1410; and

WHEREAS, that case appears to hold that a moratorium ordinance may prohibit the approval of development applications, but may not prohibit the accepting and processing of such applications; and

WHEREAS, Ordinance No. 1574 prohibits the County staff from accepting or processing development applications while the moratorium is in effect, apparently in
contradiction to the foregoing Court of Appeal decision; and

WHEREAS, the County wishes to bring Ordinance No. 1574 into conformance with the foregoing decision;

THEREFORE, the Board of Supervisors of the County of Solano ordains as follows:

Section 1.

Section 1, subsection 1(j) of Ordinance No. 1574 shall be amended to read:

(j) Wind turbine generators that require a use permit (Section 28-50(b)(4)), except for wind turbine generators located in the A-160 zone;

Section 2.

Section 1, subsection (2) of Ordinance No. 1574 shall be amended to read:

2. During all times that this interim ordinance is in effect, the Solano County Planning Commission, the Zoning Administrator, the Building Official, and the Department of Environmental Management shall not render an approval of any permit for the non-agricultural uses listed in subdivision (1) in the Exclusive Agricultural (A) districts.

Section 3.

This amended interim ordinance is an urgency measure and takes effect immediately. Before the expiration of fifteen (15) days, a summary of this ordinance shall be published once with the recorded vote of the Supervisors in the Fairfield Daily Republic, a newspaper of general circulation in Solano County.
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Passed and adopted by the Solano County Board of Supervisors at its regular meeting on July 25, 2000, by the following vote:

<table>
<thead>
<tr>
<th>AYES:</th>
<th>Supervisors</th>
<th>Carroll, Kromm, Silva, Thomson, and Chairwoman Kondylis</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOES:</td>
<td>Supervisors</td>
<td>None</td>
</tr>
<tr>
<td>EXCUSED:</td>
<td>Supervisors</td>
<td>None</td>
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</tbody>
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ATTEST:
Michael D. Johnson, Clerk
of the Board of Supervisors

By: Maggie Jimenez, Deputy Clerk