

County of Hawai'i

LEEWARD PLANNING COMMISSION

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JUL 06 2010

Nex Gen Energy Partners, LLC
1881 9th Street, Suite 120
Boulder, CO 80302

Gentlemen:

Use Permit No. 10-000021

Applicant: Nex Gen Energy Partners, LLC

Request: To Allow the Construction of a Wind Turbine (Alternate Renewable Power Source) That Would Provide Electrical Power to Operate Existing Sewage Treatment Plant

Tax Map Key: 6-8-2:19

The Leeward Planning Commission at its duly held public hearing on June 18, 2010, voted to approve the above-referenced application to allow the construction of a 155-foot high wind energy tower within the Open (O) zoned district that would provide electrical power to operate the existing Waikoloa Village sewage treatment plant. The area involved is located approximately $\frac{3}{4}$ mile north of Waikoloa Road in the vicinity of the existing sewage treatment Plant, Waikoloa, South Kohala, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a Use Permit to allow the construction of a 155-foot tall wind turbine and related improvements to provide electrical power to operate the existing sewage treatment plant on the subject property, which was approved by Special Permit No. 690. The proposed request consists of a 155-foot tall Northern Power Systems wind turbine situated on a 100-square foot (10-foot x 10-foot) concrete foundation within an 8-foot high chain link perimeter security fence in a permit area of 700 square feet in size. There will also be an electrical meter pedestal installed adjacent to the tower.

The objective of the proposed request is to utilize a more cost effective and sustainable power source that is consistent with the objectives of the Hawai'i Clean Energy Initiative and the Hawai'i 2050 Plan. The proposed wind turbine would be connected into the plant power system to provide a supplemental power source and reduce the amount of HELCO power needed to run the sewage treatment plant.

In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permits, requires that such action conform to the following guidelines:

- A. The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan;
- B. The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties; and
- C. The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure.

The proposed use meets the guidelines for approval of a Use Permit, for the reasons outlined below:

The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code and the County General Plan. The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses, as well as consistency with the goals and polices of the General Plan.

The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The General Plan designation for this property is Open, which allows for parks and other recreational areas, historic sites, and open shoreline areas. The request is consistent with the Energy and Public Utilities elements of the General Plan. A goal and policy of the Energy element is to strive towards energy self-sufficiency and to encourage the development of alternate energy resources, which includes wind energy.

In the Zoning Code, wind energy facilities may be permitted in the Open zoned district through the issuance of a Use Permit, provided that the property is situated within the State Land Use Agricultural District. The proposed request is consistent with the South Kohala Community Development Plan, which states "South Kohala is blessed with strong winds and ample sunlight throughout the year. The County should support the development of more natural energy generating facilities."

Based on the above, the proposed request is consistent with the Zoning Code, the County General Plan and the South Kohala Community Development Plan.

The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties. The project site is located about a ½-mile west (makai) of Waikoloa Village in the western portion of an approximate 4,907-acre parcel. The surrounding properties to the east are within Waikoloa Village. Lands within Waikoloa Village are zoned for single family (RS), multiple family (RM), commercial (CV) and open (O) uses and consist of single family dwellings, multiple family dwellings, golf courses, a commercial area and vacant land. Properties situated several hundred feet to the west are zoned for commercial (CV), multiple family (RM), residential-agricultural (RA) and agricultural (A) and consist mainly of vacant land associated with the Aina Lea development. The land to the north and south of the project site is the subject parcel, which is zoned Open. The nearest dwellings are located within Waikoloa Village approximately a ½-mile away.

The topography of the property is uneven. The location where the wind turbine will be located will be within a hollow of the land, which will create a natural visual block to the surrounding properties. Therefore, it is anticipated that the approval of the request will not have a substantial, adverse impact to the community's character or to surrounding properties.

The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, school improvements, police and fire protection and other related infrastructure. For the foreseeable future, Hawai'i will continue to be dependent on petroleum to meet its energy demands. Fortunately, Hawai'i is endowed with a variety of natural energy resources that are renewable for low polluting sources of electricity. Hawai'i's dependence on imported petroleum provides the incentive for the promotion of energy efficiency and the development of technologies to harness natural energy resources (solar, hydrologic, wind, and geothermal) and to convert solid waste into a fuel resource.

The County of Hawai'i must decrease economic vulnerability and energy costs. To do so, the County must combine the efforts of energy efficiency and the development

of natural renewable energy alternatives that reduce the dependence on imported fossil fuels and increase energy self-sufficiency. The applicant is proposing to use a wind turbine provide supplemental electrical power to operate the existing sewage treatment plant and decrease their dependency on HELCO.

The process of generating energy from wind simply uses the force and speed of wind to rotate the blades on windmills. This wind energy can be used to generate electricity through windmill electrical generators or by pumping water into storage for use in hydroelectric power systems. Wind energy is a relatively clean form of energy, in that it produces no emissions or chemical waste.

As the wind turbine will be an un-manned facility, infrastructure and services such as water, sewer, police and fire will not be required. Electricity and telephone services are available to the site. Access to the site is via a gravel access easement on the subject property from Waikoloa Road, which is a paved roadway in excellent condition that is owned and maintained by the County. Therefore, the requested use will not burden public agencies to provide additional services or related infrastructure.

In addition to the criteria for granting a Use Permit, the request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Area. The project site is located over 4 miles from the nearest shoreline and is not located in the Special Management Area, and therefore will not be impacted by coastal hazards and beach erosion. There are no identified coastal recreational resources, coastal scenic and open space resources, coastal ecosystems, and beach or marine resources in the area. Thus, the proposed request will not adversely impact coastal resources.

Additionally, there is no record of a designated public access to the shoreline or mountain areas that traverses the property. In a letter dated December 21, 2009, the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) stated that no historic properties will be affected by this undertaking. There is no evidence that any valued cultural, historical or natural resources exist on the project site and there is no evidence of any traditional and customary Native Hawaiian rights being practiced on or near the site.

Based on the above, the request is approved by the Leeward Planning Commission subject to the following conditions:

1. The applicant, successors or assigns shall comply with all of the stated conditions of approval.

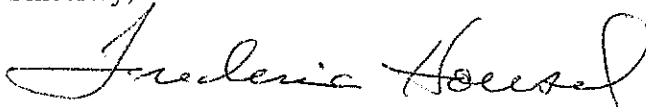
2. Construction of the proposed wind turbine shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-5-167 and 25-2-72, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify proposed structures, access easements, parking areas and any fencing associated with the use. The wind turbine plans shall be stamped by a structural engineer.
3. The applicant shall paint the wind turbine a color that will best blend with their immediate surroundings. Prior to Plan Approval, the applicant shall submit a photo-simulation of the site with the proposed wind turbine and color scheme to the Planning Director for review and approval of the color choice.
4. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
5. Within one hundred and twenty (120) days of the permanent abandonment of the wind turbine, the applicant shall remove the wind turbine and accessory structures. The applicant shall provide written notification to the Planning Director of such removal.
6. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
7. An initial extension of time for the performance of conditions of the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
 - B. Granting of the time extension would not be contrary to the General Plan or the Zoning Code.
 - C. Granting of the extension would not be contrary to the original reasons for the granting of the permit.

- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
8. Should any of the conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate the revocation of the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Frederic Housel, Chairman
Leeward Planning Commission

Lnexgenenergypartnersuse10-000021lwpc1
cc: Tinguely Development, Inc.
Department of Public Works
Department of Water Supply
County Real Property Tax Division-Kona
Planning Department - Kona
Mr. Gilbert Bailado