

APPENDIX D: COUNTY ZONING DETERMINATION

Planning Department

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July 1, 2020

Dave Kobus
Scout Clean Energy & Horse Heaven Wind Farm, LLC
4865 Sterling Drive, Suite 200
Boulder, CO 80303

Email: Dave@scoutcleanenergy.com

Re: Zoning Determination/Interpretation

Dear Mr. Kobus,

Thank you for your inquiry and request for a zoning determination. Your request, dated July 1, 2020, seeks zoning clarity as it relates to the use of battery energy storage systems relative to BCC 11.17.070 (t), and specifically if a battery storage system/facility would be considered a "related support structure and other improvements" in the administration of BCC Title 11.

Further you request to apply for a wind tower facility with a battery storage system/facility within a single Conditional Use Permit and in turn a single SEPA Checklist.

Upon reviewing BCC Title 11, the Planning Department has determined the following findings:

1. BCC 11.030 identifies the applicable *definitions* related to the requests:

(167) "Solar Power Generator Facility, Major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and **storage batteries**. Major facilities are developed as the primary land use for a parcel on which it is located and does not meet the siting criteria for a minor facility in BCC 11.03.010(168).

(190) "Wind Turbine" means a machine with **turbine apparatus (rotor blades, nacelle and tower)** capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution or transmission lines, or electrical substations.

(191) "Wind Turbine Farms" means two or more wind turbines on one parcel.

2. BCC 11.17.07 identifies the following *uses* as requiring a conditional use permit the GMA Agricultural District.

(t) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions

(cc) Solar power generator facility, major.

Upon reviewing the request, Benton County and Code, and findings, the Planning Department has determined that a battery storage facility, whether it is a stand-alone facility or to be used in conjunction with another use, is a Solar Power Generator, Facility for the purposes of administering BCC Title 11.

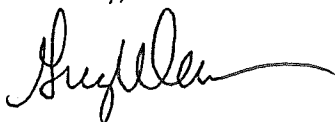
With this, a conditional use permit is required for a **wind turbine facility** under BCC 11.17.07(t) and a conditional use permit is required for a **solar power general facility**, major per BCC Title 11. 17.07 (cc).

Should an applicant choose to submit both conditional use application requests at the same time and with it, provide a description of how the projects are connected or related, the two (2) public hearings will appear before the Hearings Examiner on the same agenda. Additionally, under this scenario, a single SEPA Checklist and environmental determination for the two (2) uses may submitted for review.

Appeals of this determination may be made to the Benton County Planning Department. Appeals are scheduled to appear before the Benton County Hearings Examiner in a public hearing. Such an appeal must be made in writing (detailed explanation stating the reason for the appeal) and filed together with the appropriate appeal fee (\$700.00). This information shall be submitted to the Planning Department within fourteen (14) working days from the date of this letter. If an appeal is not submitted, the decision included in this letter is final and no further appeal may be made.

If you have any questions, please do not hesitate to contact our Department at 509-786-5612.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Wendt', with a long horizontal flourish extending to the right.

Greg Wendt
Planning Manager