



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY  
BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR  
JABLONS COASTAL PERMIT AND USE PERMIT**

Item No:	C1	Project ID No:	10-0005
Applicant:	NextEra Energy Resources	Application No:	CP 10-30 and UP 10-15
Property Address:	5488 Middle Road, Petaluma	Owner:	David Jablons & Tamara Hicks
Hearing Date:	August 26, 2010	Assessor's Parcel:	100-050-29
		Planner:	Lorene Jackson

**RECOMMENDATION:** Approve with Conditions  
**APPEAL PERIOD:** September 10, 2010  
**LAST DATE FOR ACTION:** September 14, 2010

**PROJECT DESCRIPTION:**

The applicant, NextEra Energy Resources, on behalf of property owners David Jablons and Tamara Hicks, proposes to install a temporary 197.7-foot high meteorological research tower on a 157-acre agricultural parcel. The stand-alone tower would be a 10-inch diameter galvanized steel tube that tapers to 8 inches at the top. The tower would be anchored by twelve ¼-inch guy wires: three guy wires placed on each of four axes at intervals of 131, 148, and 167 feet from the tower. The tower would be located on a ridge and maintain the following setbacks: 572 feet from the northerly property line, 400 feet from the easterly property line, and 1,046 feet from the southerly property line. Small meteorological research and bat monitoring devices will be attached to the tower, along with a solar panel to power the instruments. Installation of the met towers would not result in substantial grading. Access to the tower would be by existing farm roads. The meteorological instruments would collect data to inform future decisions regarding the suitability of the area for wind energy production. The collected data would be transmitted wirelessly for further analysis off-site. The temporary research tower would be removed within 1-5 years of installation, depending on the information collected.

**GENERAL INFORMATION:**

Countywide Plan:	C-AG1 (Coastal, Agriculture, 1 unit/30-60 acres)
Zoning:	C-APZ-60 (Coastal, Agricultural Production Zone, 1 unit/60 acres)
Lot size:	157 acres
Adjacent Land Uses:	Agriculture
Vegetation:	Pasture grassland, native and introduced vegetation
Topography and Slope:	Moderate to steep slope
Environmental Hazards:	None

## **PLAN CONSISTENCY:**

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan, which encourages the development of local renewable energy resources. The proposed project would help assess the viability of wind energy in that portion of the County, a key step in efforts to provide local sources of energy. Information collected from this project would be shared with the Marin County Energy Authority. Please refer to the plan consistency findings contained in the attached resolution.

## **PROJECT ANALYSIS:**

### ***Setting***

The project site is located on the ridgeline of a 157-acre property. The property is characterized by grassy rolling hills and currently used for agriculture, including the grazing of livestock and farmstead cheese production. The nearest neighbor is on Middle Road, approximately 2,000 feet east of the project site. The site is approximately 1.1 miles from neighboring farms along Whitaker Bluff Road and approximately 0.75 mile from a short public viewing area along Valley Ford Franklin School Road. The town of Dillon Beach is approximately 1.5 miles south westerly of the proposed site.

A review of the Marin County GIS indicates there are no groves of mature native trees, wetlands, streams, or habitats for special-status species of plants or animals in proximity of the proposed tower. Further, the GIS does not indicate that there are very steep slopes, fault traces, or landslides in proximity to the proposed location of the tower. The property is subject to a Williamson Act contract and to a Marin Agricultural Land Trust (MALT) agricultural conservation easement.

On September 9, 2009, Coastal Permit, Use Permit, and Design Review approval was granted to the subject property for expansion of a two-story farm house, two-story barn with two units of farm worker housing, two mobile farm worker living units, farmstead cheese processing, future tasting/retail operations, and mobile cheese production facility, along with associated improvements for on-site water supply and septic systems. The farm also operates an occasional outdoor education camp for youth.

### ***Background***

On July 23, 2009, the applicant filed for a pre-application consultation to determine the appropriate permitting process for the proposed project, as well as a similar project on nearby Assessor's Parcel Number 100-050-07. The current application was filed on January 8, 2010. A concurrent application is being processed for the neighboring site (Cornett Coastal Permit 10-31 and Use Permit 10-16.) The applicant submitted site plans identifying the location of the project and the route of access. Project descriptions were submitted with specifications for the tower, installation, guy wire placement, and discussion of the bat monitoring. On June 9, 2010, the applicant installed an approximately 20-foot pole with a red flag on top to indicate the location of the project and visibility from the closest roadways. Staff met the applicant on site to verify the location of the site and assess visual impacts. While the locator pole was not visible from Middle Road, Whitaker Bluff Road, and Valley Ford Franklin School Road, the full extent of the tower may be visible, although it would be thin and unobtrusive.

Discussions with the Assessor's Office indicate that the proposed project would not interfere with the property's Williamson Act contract.

The Marin Agricultural Land Trust (MALT) recently purchased an agricultural conservation easement on the subject property that limits non-agricultural development on the property. MALT reviewed the proposed project and approved the project since it is temporary and would have no discernable impact on the agricultural values of the property or its soil and water quality. (Please see Attachment 8.)

Federal Aviation Administration regulations do not require aviation lights on towers lower than 200 feet in this locale. However, given the location of the tower on top of a ridgeline, the Manager of the Gross Field Airport recommended the installation of aviation lights and a colored band on the top of the tower for safety. While the proposed project is not a wind energy conversion system (WEC), it is noted that Marin County Code Section 22.71.060.5l requires aviation warning lights and prominent markings of an international orange color on WEC facilities that exceeds a height of 175 feet.

The project was also reviewed by the Marin County Department of Public Works and Marin County Fire Department. Received comments are attached. The public notice was posted on the subject property on Middle Road and Valley Ford Franklin School Road. At the time this report was prepared, no public comments had been received.

#### **RECOMMENDATION:**

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Jablons Coastal Permit and Use Permit.

- Attachments:
1. Proposed Resolution recommending approval of the Jablons Coastal Permit and Use Permit
  2. CEQA Exemption
  3. Location Map
  4. Assessor's Parcel Map
  5. Project Plans – Exhibits A and B
  6. Department of Public Works Memo, January 25, 2010
  7. Marin County Fire Department, Scott Alber Email, February 8, 2010
  8. Marin Agricultural Land Trust Letter, August 12, 2010

Jablons StaffRpt.doc

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO.

A RESOLUTION APPROVING  
JABLONS COASTAL PERMIT (10-30) AND USE PERMIT (10-15)  
5488 MIDDLE ROAD, PETALUMA  
PROJECT ID 10-0005

ASSESSOR'S PARCEL 100-050-29

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**SECTION I: FINDINGS**

- I. WHEREAS NextEra Energy Resources, on behalf of property owners David Jablons and Tamara Hicks, proposes to install a temporary 197.7-foot high meteorological research tower on a 157-acre agricultural parcel. The stand-alone tower would be a 10-inch diameter galvanized steel tube that tapers to 8 inches at the top. The tower would be anchored by twelve ¼-inch guy wires: three guy wires placed on each of four axes at intervals of 131, 148, and 167 feet from the tower. The tower would be located on a ridge and maintain the following setbacks: 572 feet from the northerly property line, 400 feet from the easterly property line, and 1,046 feet from the southerly property line. Small meteorological research and bat monitoring devices will be attached to the tower, along with a solar panel to power the instruments. Installation of the met towers would not result in substantial grading. Access to the tower would be by existing farm roads. The meteorological instruments would collect data to inform future decisions regarding the suitability of the area for wind energy production. The collected data would be transmitted wirelessly for further analysis off-site. The temporary research tower would be removed within 1-5 years of installation. The subject property is located at **5488 Middle Road, Petaluma** and is further identified as **Assessor's Parcels 100-050-29**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 26, 2010 to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15303, 15304, and 15306 of the CEQA Guidelines because it entails construction of a temporary accessory structure that would collect meteorological and bat information. The project would not result in potentially significant impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with principally permitted uses and the C-APZ-60 (Coastal, Agricultural Production Zone, 60-acre minimum lot size), zoning district development standards due to the following factors:

While the C-APZ-60 zoning district is one of the most restrictive districts in Marin County and prohibits most forms of development that are unrelated to agricultural production, the construction or alteration of electric facilities may be authorized in these districts by a Use

Permit approval pursuant to Marin County Code (MCC) Section 22.57.033.171. The proposed project is considered an electrical facility because its' purpose is to provide meteorological data to ascertain whether the area is suitable for the production of wind-generated electricity. The project is deemed minor and incidental to the development on the property because the met towers would be installed and operated on a temporary basis, and are therefore exempted from Design Review requirements pursuant to MCC Section 22.82.030I.

- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan (CWP) due to the following factors:

The proposed project is consistent with the C-AG1 (Coastal, Agriculture, 1 unit/30-60 acres) land use designation for the subject property and surrounding area since it would be an accessory use that is ancillary to and compatible with agricultural use of the property. The project constitutes 1.5% of the property and is consistent with Agriculture and Food Policy AG-1.6 which calls for dwellings and non-agricultural development to be less than 5% of the land area of a property.

The proposed project is consistent with the Energy and Green Building Policy EN-2.3 to promote renewable energy. The proposed project would help identify possible sites for production of wind energy, as called for in Implementing Program EN-2.b. As conditioned, wind data collected from the research tower would be shared with the Marin Energy Authority (MEA). This information would be used to expand MEA's data on wind energy potential in the area, and would be consistent with Implementing Program EN-2.a. The proposed project would further the objectives of the Energy and Green Building policies contained in the CWP, without compromising the agricultural productivity of the properties.

Additionally, the proposed project would not result in any grading or the removal of vegetation, would not adversely affect riparian areas, wetlands, or habitats of special-status species, and would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Coastal Permit application (MCC Section 22.56.130I) and that this project conforms to the requirements of Local Coastal Program, Unit II, as specified below.

**A. Water Supply**

No on-site water services will be required as part of the proposed project.

**B. Septic System Standards**

No on-site sanitation services will be required as part of the proposed project.

**C. Grading and Excavation**

No grading will be required for this project. No road and site improvements are required for access during construction and operation.

#### **D. Archaeological Resources**

A review of the Marin County Archaeological Sites Inventory Maps on file in the Planning Division indicates that the subject property is located in an area of archaeological sensitivity and would not entail substantial disturbance of the soil. Nonetheless, as a standard condition of approval, if archeological resources are discovered during site preparation or construction, the applicants would have to follow archeological preservation protocol, including cessation of work and evaluation by a qualified archeologist to determine if any modification to the project would be required.

#### **E. Coastal Access**

The subject property is not located between the sea and the first public road, or adjacent to a coastal area identified by the Local Coastal Program Unit II, where public access is desirable or feasible. The site is not located near any tidelands or submerged lands subject to the public trust doctrine.

#### **F. Housing**

The proposed project will have no impact upon the availability of affordable housing stock because no modifications to existing residences are entailed in the temporary development.

#### **G. Stream and Wetland Resource Protection**

The project site is not situated in an area subject to the County riparian protection policies as identified on the Natural Resources Map for Unit II of the Local Coastal Program or near any ephemeral or intermittent stream indentified on the USGS Quadrangle Maps for the project area.

#### **H. Dune Protection**

The project site is not located near dunes or in a dune protection area of the Local Coastal Program.

#### **I. Wildlife Habitat**

Review of resource maps and field inspection by Planning staff indicates there are no known rare or endangered animal species at or near the project site. No significant alteration of land or removal of vegetation indentified for habitat protection in the Local Coastal Plan is proposed. Further, an integral part of the project will be to collect data on bat presence and activity, including seasonal changes in species composition.

#### **J. Protection of Native Plant Communities**

Review of resource maps and field inspection by Planning staff indicates there are no known rare or endangered plant species at or near the project site. No significant alteration of land or removal of vegetation is proposed.

**K. Shoreline Protection**

The proposed project is not located adjacent to the shoreline or within a bluff erosion zone.

**L. Geologic Hazards**

The project site is not located in the Alquist Priolo Zone. The Marin County Community Development Agency – Building and Safety Division will determine seismic compliance with the Uniform Building Code.

**M. Public Works Projects**

The proposed project will not affect any existing or proposed public works project in the area.

**N. Land Division Standards**

No land division or property line adjustment is proposed as part of this project.

**O. Visual Resources**

The tower is located in an area where no existing coastal views would be impaired or obstructed. The project is over 2,000 feet from the nearest farmhouse and public viewing places and would not obstruct significant views. While the nature of the tall research tower necessitates location on a ridgeline, given the narrow diameter of the tower and the distance to public viewing, the proposed project will be barely visible and compatible with the current use and character of the surrounding rural area.

**P. Recreation/Visitor Facilities**

The project would have no impact upon recreation or visitor facilities.

**Q. Historic Resource Preservation**

The subject property is not located within the designated historic preservation boundaries as identified in the Marin County Historic Study for the Local Coastal Program – Unit II.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory Use Permit findings (MCC Section 22.88.020I), as specified below.

**A. The establishment, maintenance, or conducting of the use for which this Use Permit is sought will not be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood for the reasons listed below:**

1. The proposed project would be temporary and incidental to the primary agricultural use of the land.
2. The proposed project would not adversely affect the surrounding natural environment relative to vegetation, species habitats, and on-site drainage. The proposed temporary use has been determined to be categorically exempt from the requirements of the California Environmental Quality Act pursuant to Sections 15303, 15304, and 15306.
3. Since there is no plumbing associated with this project, there would be no impact on existing water or sewer to the subject or surrounding properties.
4. The installation of this research tower would have no adverse impact on existing traffic and parking.
5. The proposed project would not result in significant adverse visual impacts because of the small diameter of the tower and because the distance to public viewing areas is nearly 0.4 miles. Please see Section VI.O above.
6. As conditioned, the granting of the proposed Use Permit on the subject property would not be detrimental to the health, safety, comfort, or welfare of persons working or residing in the surrounding neighborhood. Since the tower would be situated on a ridgeline, aviation lights and a colored band would be required on the top of the tower for safety. There is no public health risk associated with the project. Power needs of the tower would be met with a small solar panel. Communication of collected data would be via a cellular connection contained in the tower's electronics.
7. The Marin County Planning Department provided public notice of the project to all properties within 600 feet of the subject property and, at the time this report was prepared, no adverse comments have been received
8. The proposed project is consistent with Section 22.88.010.11I, which would allow for the issuance of a future use permit to permit the construction of wind energy conversions systems, subject to the provisions of a separate Use Permit and the standards and requirements of Section 22.71I.



## SECTION II: CONDITIONS OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Jablons Coastal Permit (CP 10-30) and Use Permit (UP 10-15) subject to the conditions as specified below:

### Marin County Community Development Agency - Planning Division

1. Pursuant to Sections 22.56.130I (Coastal Permit) and 22.88.020I (Use Permit) of the Marin County Code, the Jablons Coastal Permit and Use Permit are approved to install a 197.7-foot high meteorological research tower with a maximum diameter of 10 inches and supported by twelve guy wires to be located as follows: three guy wires placed on each of four axes at intervals of 131, 148, and 167 feet from the tower. The tower is approved to maintain the following setbacks: 572 feet from the northerly property line, 400 feet from the easterly property line, and 1,046 feet from the southerly property line. The tower is approved to support small meteorological research and bat monitoring devices, all of which would be solar powered. No grading is approved for installation or access. The subject property is located at **5488 Middle Road, Petaluma** and is further identified as **Assessor's Parcels 100-050-29**.
2. Development and use of the facility shall conform to site plans identified as **Exhibit A**, entitled "Proposed Meteorological Tower Location" for the Jablons/Hicks property, consisting of 7 sheets prepared by NextEra Energy Resources, received June 18, 2010, and **Exhibit B**, entitled "60-Meter NRG Met Tower", consisting of 8 pages prepared by NextEra Energy Resources, received January 8, 2010, both Exhibits on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a complete set of revised plans for review and approval by the Community Development Agency staff depicting the approved scope of work and following changes. Once approved, the plans shall be incorporated into the approved project file as **Exhibit A1** and shall supersede Exhibit A.
  - a. Revise plans to include the installation of an aviation warning light on the top of the tower and an aviation orange band painted on the top, subject to approval of the Gness Field Airport Manager.
4. All components of the project flashing shall be an appropriately subdued and non-reflective surface.
5. No exterior lighting is approved as part of this application.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit and Use Permit Conditions of Approval as notes.
7. The applicant shall provide hourly wind speed data gathered throughout the duration of testing to the Marin Energy Authority annually.

8. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
9. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.
10. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations.
11. This Use Permit is subject to revocation procedures contained in Section 22.88.040I of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the public interest, health, safety, convenience, or welfare of the County.

### **SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by substantially completing all conditions of approval and commencing the allowed use by **August 26, 2012**, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid for up to **5 years of operation** from the date of the Final Building Permit Inspection, unless the conditions of approval are violated, in which case the Use Permit may be revoked. The applicant shall submit an application to renew the Use Permit at least 60 days prior to the expiration of the Use Permit. Should the Use Permit expire without benefit of a renewal, all equipment and structure shall be removed and the site shall be returned to its preexisting conditions.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency – Planning Division, Room 308, Civic Center, San Rafael, before **4:00 p.m. on September 10, 2010.**

**SECTION IV: ACTION**

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 26<sup>th</sup> day of August 2010.

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JOHANNA PATRI  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary