

**STORY COUNTY  
PLANNING AND ZONING**  
STORY COUNTY ADMINISTRATION  
900 6<sup>TH</sup> STREET  
NEVADA, IOWA 50201-2087

**515-382-7245**

**MINUTES  
STORY COUNTY  
BOARD OF ADJUSTMENT**

<b>DATE:</b> December 4, 2013	David Miller, Chair	2015
	Stephen McGill, Vice Chair	2012
<b>CALL TO ORDER:</b> 6:00 p.m.	*Victoria Feilmeyer	2014
<b>PLACE:</b> Public Meeting Room, 2 <sup>nd</sup> Floor	Lynn Scarlett	2013
Administration Building	Aaron Steele	2016
	(*) Absent	

**ADJOURNMENT:** 6:34 PM

**PUBLIC PRESENT:** Scott Wendt, Karsen Rumpf, John Boorman, Steve Thompson, Carol Collings, Randy Collings, Chuck Myers

**STAFF PRESENT:** Leanne Harter, Planning and Development Director; Kristin Cook, Recording Secretary

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**APPROVAL OF AGENDA (MCU)**

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**APPROVAL OF MINUTES (MCU)**

November 6, 2013

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**PUBLIC COMMENTS:** Opened 6:04 p.m. – Closed 6:04 p.m.

NONE

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**OLD BUSINESS:**

**Motion:** Move to remove case CUP09-13 Optimum Wind 2 Conditional Use Permit from the table.

**VOTE:** McGill/Scarlett (4-0)

Motion: McGill

Second: Scarlett

Voting Aye: Scarlett, McGill, Miller, Steele

Voting Nay: None

Not Voting: None

Absent: Feilmeyer

**6. I CUP07-13 OPTIMUM WIND 2 CONDITIONAL USE PERMIT - TABLED**

**Applicant:** Optimum Wind

**Nature of Request:** Conditional Use Permit to allow the construction and use of a

Commercial Wind Energy System (CWECS) in the A-1, Agricultural zoning district  
**Staff Member:** Leanne Harter  
**Parcel Number(s):** 1016200200, 1010300200, 1010100400, 1010100205,  
1010100110, 1010100300, 1010300100

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**STAFF PRESENTATION:**

Ms. Leanne Harter reviewed the proposed Conditional Use Permit as submitted. Ms. Harter provided site shots of the proposed property and gave location information. Ms. Harter reviewed current ownership and easements. Ms. Harter indicated that the current proposal is located within a floodplain.

Ms. Harter gave an overview of Conditional Use Permit standards of approval regarding CWECS. Ms. Harter also reviewed the proposed CWECS building specifications. Ms. Harter reviewed the current location of the proposed CWECS and its proximity to surrounding single-family dwellings.

Ms. Harter reviewed Inter-agency comments as submitted. Ms. Harter also reviewed dates of surrounding property owner notification and legal notices.

Ms. Harter reviewed the recommendation from the Planning and Zoning Commission:  
***On Monday, October 7, 2013, the Story County Planning and Zoning Commission recommended the following to the Board of Adjustment:***

***MOTION: The Story County Planning and Zoning Commission recommends conditional approval of the Conditional Use Permit, as put forth in case CUP07-13, to the Story County Board of Adjustment, and directs staff to place the item on the November 6, 2013, Story County Board of Adjustment agenda. (MCU)***

***CONDITIONS:***

- 1. All vehicular parking associated with the construction, operation, or maintenance of the C-WECS shall take place on site and shall not at any time take place in the public right-of-way.***
- 2. The applicant shall enter in to an agreement with the County for purposes of a decommissioning escrow account, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit.***
- 3. The applicant shall enter in to an agreement with the County for purposes of providing financial security for road and bridge restoration, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit.***
- 4. The applicant shall conduct a pre-construction survey in coordination with the impacted local road authorities to determine the pre-construction condition of the roads that will be used during construction of the C-WECS prior to an application for Zoning Permit.***
- 5. Story County road authorities shall be notified 24 hours prior to construction materials being transported across those respective jurisdiction's roads to the C-WECS site and shall give approval of the haul routes.***
- 6. The applicant shall provide completed plans for turbine interconnection design prior to an application for Zoning Permit. If the design proposes an overhead line, the applicant shall apply for a minor or major modification to the Conditional Use Permit to the Board of Adjustment as determined by the Director.***
- 7. The applicant shall provide a driveway entrance permit for access onto 590th prior to an application for Zoning Permit.***

8. ***Applicant shall meet with adjacent residents to fully discuss any shadow flicker mitigation that may be necessary before the November 6, 2013 Board of Adjustment meeting.***
9. ***Engineer's certification(s) shall be submitted with the application for zoning permit.***

***Motion: Gast***

***Second: Donaldson***

***Voting Aye: Gast, Vegge, Donaldson, Miller, Couser***

***Voting Nay: None***

***Not Voting: None***

***Absent: Struthers***

Ms. Harter presented the Board with four (4) alternatives:

1. The Story County Board of Adjustment approves the conditional use permit request, as put forth in case CUP07-13.
2. The Story County Board of Adjustment approves the conditional use permit request, as put forth in case CUP07-13, with conditions.
3. The Story County Board of Adjustment denies the conditional use permit request, as put forth in case CUP07-13.
4. The Story County Board of Adjustment postpones decision on the conditional use permit request, as put forth in case CUP07-13, and refers it back to the applicant for additional information.

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**BOARD COMMENTS:**

Mr. David Miller questioned the location of electrical lines. Ms. Harter indicated via sitemap the location of the proposed electrical lines stating that all lines will be underground.

**APPLICANT COMMENTS:**

None

**PUBLIC COMMENTS:**

None

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**FINDINGS OF FACT**

**MOTION: Move to adopt the Findings of Fact in the Staff Report, prepared for and presented to the Story County Board of Adjustment.**

***VOTE: McGill/Scarlett (4-0)***

Motion: McGill

Second: Scarlett

Voting Aye: Miller, Scarlett, McGill, Steele

Voting Nay: None

Not Voting: None

Absent: Feilmeyer

**DECISION**

**MOTION: Move to adopt the Decision regarding the Development criteria in the Staff Report, prepared for and presented to the Story County Board of Adjustment.**

***VOTE: McGill/Steele (4-0)***

Motion: McGill  
Second: Steele  
Voting Aye: Scarlett, McGill, Miller, Steele  
Voting Nay: None  
Not Voting: None  
Absent: Feilmeyer

## **ORDER**

***MOTION: Move to approve the request as proposed by the applicant in Case No. CUP07-13, as discussed by the Story County Board of Adjustment and in the Staff Report prepared for and presented to the Story County Board of Adjustment finding that all applicable standards of approval have been satisfied with the application of the following Conditions of Approval.***

- 1. All vehicular parking associated with the construction, operation, or maintenance of the C-WECS shall take place on site and shall not at any time take place in the public right-of-way.***
- 2. The applicant shall enter in to an agreement with the County for purposes of a decommissioning escrow account, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit.***
- 3. The applicant shall enter in to an agreement with the County for purposes of providing financial security for road and bridge restoration, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit.***
- 4. The applicant shall conduct a pre-construction survey in coordination with the impacted local road authorities to determine the pre-construction condition of the roads that will be used during construction of the C-WECS prior to an application for Zoning Permit.***
- 5. Story County road authorities shall be notified 24 hours prior to construction materials being transported across those respective jurisdiction's roads to the C-WECS site and shall give approval of the haul routes.***
- 6. Engineer's certification(s) shall be submitted with the application for zoning permit.***

***VOTE: McGill/Scarlett (4-0)***

Motion: McGill  
Second: Scarlett  
Voting Aye: Steele, McGill, Miller, Scarlett  
Voting Nay: None  
Not Voting: None  
Absent: Feilmeyer

**Motion: Move to request the Story County Board of Supervisors direct staff to review shadow flicker in regards to CWECs regulations.**

***VOTE: McGill/Scarlett (3-0)***

Motion: McGill  
Second: Steele  
Voting Aye: Steele, McGill, Miller, Scarlett  
Voting Nay: None

Not Voting: None  
Absent: Feilmeyer

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**NEW BUSINESS:**

**7. I CUP08-13 OPTIMUM WIND 3 CONDITIONAL USE PERMIT**

**Applicant:** Optimum Wind

**Nature of Request:** Conditional Use Permit to allow the construction and use of a wind turbine in the A-1, Agricultural and C, Commercial zoning district

**Staff Member:** Leanne Harter

**Parcel Number(s):** 1105400300, 1105400100

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**STAFF PRESENTATION:**

Ms. Leanne Harter reviewed the proposed Conditional Use Permit as submitted. Ms. Harter provided site shots of the proposed property and gave location information. Ms. Harter reviewed current ownership and easements.

Ms. Harter gave an overview of Conditional Use Permit standards of approval regarding CWECS. Ms. Harter also reviewed the proposed CWECS building specifications. Ms. Harter reviewed the current location of the proposed CWECS and its proximity to surrounding single-family dwellings.

Ms. Harter reviewed Inter-agency comments as submitted. Ms. Harter also reviewed dates of surrounding property owner notification and legal notices.

Ms. Harter stated that staff recommends the following conditions of approval:

1. *All vehicular parking associated with the construction, operation, or maintenance of the C-WECS shall take place on site and shall not at any time take place in the public right-of-way.*
2. *The applicant shall enter in to an agreement with the County for purposes of a de-commissioning escrow account, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit.*
3. *The applicant shall enter in to an agreement with the County for purposes of providing financial security for road and bridge restoration, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit. Story County Planning and Development Staff Report Case Number CUP08-13 Optimum 3 Conditional Use Permit Request.*
4. *The applicant shall conduct a pre-construction survey in coordination with the impacted local road authorities to determine the pre-construction condition of the roads that will be used during construction of the C-WECS prior to an application for Zoning Permit.*
5. *Story County road authorities shall be notified 24 hours prior to construction materials being transported across those respective jurisdiction's roads to the C-WECS site and shall give approval of the haul routes.*
6. *The applicant shall provide a driveway entrance permit for access onto T Avenue prior to an application for Zoning Permit.*

Ms. Harter reviewed the Story County Planning and Zoning Commission Recommendation as follows:

***On Monday, November 4, 2013, the Story County Planning and Zoning Commission recommended the following to the Board of Adjustment:***

***MOTION: The Story County Planning and Zoning Commission recommends conditional approval of the Conditional Use Permit, as put forth in case CUP08-13, to the Story County Board of Adjustment, and directs staff to place the item on the December 4, 2013, Story County Board of Adjustment agenda. (MCU)***

**CONDITIONS:**

1. *All vehicular parking associated with the construction, operation, or maintenance of the C-WECS shall take place on site and shall not at any time take place in the public right-of-way.*
2. *The applicant shall enter in to an agreement with the County for purposes of a de-commissioning escrow account, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit.*
3. *The applicant shall enter in to an agreement with the County for purposes of providing financial security for road and bridge restoration, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit.*
4. *The applicant shall conduct a pre-construction survey in coordination with the impacted local road authorities to determine the pre-construction condition of the roads that will be used during construction of the C-WECS prior to an application for Zoning Permit.*
5. *Story County road authorities shall be notified 24 hours prior to construction materials being transported across those respective jurisdiction's roads to the C-WECS site and shall give approval of the haul routes.*
6. *The applicant shall provide a driveway entrance permit for access onto T Avenue prior to an application for Zoning Permit.*

Ms. Harter presented the Board with four (4) alternatives:

1. *The Story County Board of Adjustment approves the conditional use permit request, as put forth in case CUP06-13.*
2. *The Story County Board of Adjustment approves the conditional use permit request, as put forth in case CUP06-13, with conditions.*
3. *The Story County Board of Adjustment denies the conditional use permit request, as put forth in case CUP06-13.*
4. *The Story County Board of Adjustment postpones decision on the conditional use permit request, as put forth in case CUP06-13, and refers it back to the applicant for additional information.*

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**BOARD COMMENTS:**

None

**APPLICANT COMMENTS:**

None

**PUBLIC COMMENTS:**

None

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**FINDINGS OF FACT**

**MOTION:** Move to adopt the Findings of Fact in the Staff Report, prepared for and presented to the Story County Board of Adjustment.

**VOTE:** McGill/Steele (4-0)

Motion: McGill

Second: Steele

Voting Aye: Miller, Scarlett, McGill, Steele

Voting Nay: None

Not Voting: None  
Absent: Feilmeyer

## **DECISION**

**MOTION: Move to adopt the Decision regarding the Development criteria in the Staff Report, prepared for and presented to the Story County Board of Adjustment.**

**VOTE: McGill/Scarlett (4-0)**

Motion: McGill  
Second: Scarlett  
Voting Aye: Scarlett, McGill, Miller, Steele  
Voting Nay: None  
Not Voting: None  
Absent: Feilmeyer

## **ORDER**

**MOTION: Move to approve the request as proposed by the applicant in Case No. CUP08-13, as discussed by the Story County Board of Adjustment and in the Staff Report prepared for and presented to the Story County Board of Adjustment finding that all applicable standards of approval *have* been satisfied with the application of the following Conditions of Approval.**

1. All vehicular parking associated with the construction, operation, or maintenance of the C-WECS shall take place on site and shall not at any time take place in the public right-of-way.
2. The applicant shall enter in to an agreement with the County for purposes of a de-commissioning escrow account, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit.
3. The applicant shall enter in to an agreement with the County for purposes of providing financial security for road and bridge restoration, and a copy of the signed agreement shall be submitted to the Planning and Development Department along with or prior to an application for Zoning Permit.
4. The applicant shall conduct a pre-construction survey in coordination with the impacted local road authorities to determine the pre-construction condition of the roads that will be used during construction of the C-WECS prior to an application for Zoning Permit.
5. Story County road authorities shall be notified 24 hours prior to construction materials being transported across those respective jurisdiction's roads to the C-WECS site and shall give approval of the haul routes.
6. The applicant shall provide a driveway entrance permit for access onto T Avenue prior to an application for Zoning Permit.

**VOTE: Steele/Scarlett (4-0)**

Motion: Steele  
Second: Scarlett  
Voting Aye: Steele, McGill, Miller, Scarlett  
Voting Nay: None  
Not Voting: None  
Absent: Feilmeyer

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**OTHER BUSINESS:**

**8.I Election of Officers**

***MOTION: Move to elect Dave Miller as Chair of the Story County Board of Adjustment for year 2014.***

Motion: McGill

Second: Scarlett

Voting Aye: Scarlett, Steele, McGill

Voting Nay: None

Not Voting: Miller

Absent: Feilmeyer

***MOTION: Move to elect Steve McGill as Vice-chair of the Story County Board of Adjustment for year 2014.***

***VOTE: Scarlett/Steele (3-0)***

Motion: Scarlett

Second: Steele

Voting Aye: Scarlett, Steele, Miller

Voting Nay: None

Not Voting: McGill

Absent: Feilmeyer

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**STAFF COMMENTS:**

Ms. Harter informed Board members that the Planning and Zoning Commission is searching for new members.

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**BOARD COMMENTS:**

None

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**ADJOURNMENT: 6:34 PM**

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**Approval of Minutes**

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**Title and Date**