

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

515-382-7245

**MINUTES
STORY COUNTY
BOARD OF ADJUSTMENT**

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

ADJOURNMENT: 7:36 PM

PUBLIC PRESENT: Randy Collings, Carol Collings, David Fjelland, Ken Nelson, Gary Anderson, Scott Wendt, Julie Briggman, Mark Steffen, Karsen Rumpf, Rosann Rogers, Doug Rogers, Steve Thompson, Melissa Erickson

STAFF PRESENT: Leanne Harter, Planning and Development Director; Ryan Newstrom, Planner; Kristin Cook, Recording Secretary

APPROVAL OF AGENDA (MCU)

APPROVAL OF MINUTES (MCU)

August 7, 2013

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

NONE

Ms. Victoria Feilmeyer recused herself due to a conflict of interest regarding all three cases on the November 6, 2013 Board of Adjustment agenda.

OLD BUSINESS:

NONE

NEW BUSINESS:

7. I CUP06-13 SWANSON CONDITIONAL USE PERMIT

Applicant: Dale Swanson

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: Charlie Dissell

Parcel Number(s): 0733400100, 0733400300, 0733400400

STAFF PRESENTATION:

Mr. Charlie Dissell reviewed the proposed Conditional Use Permit as submitted. Mr. Dissell provided site shots of the proposed property and gave location information. Mr. Dissell reviewed current ownership and easements.

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

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

Mr. Dissell stated that staff recommends the following conditions of approval:

1. *An Acoustical Analysis shall be submitted with the application for zoning permit.*
2. *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.*
3. *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.*
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.*

Mr. Dissell 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.

BOARD COMMENTS:

Mr. David Miller asked for clarification regarding such that all land uses are already compliant. Mr. Miller also asked for clarification regarding the required sound study timing. Mr. Dissell stated that the applicant noted the said study would be performed before the November Board of Adjustment meeting.

APPLICANT COMMENTS:

Mr. Mark Steffen representing Mr. Dale Swanson

Mr. Steffen reviewed previous wind turbine projects conducted by Mr. Swanson. Mr. Steffen also explained the timing of the acoustical analysis. Mr. Steffen gave a description of the proposed CWECS.

Mr. Miller asked whether the current application has any subsequent changes as compared to previous applications from Mr. Swanson. Mr. Steffen stated the current project would have a

change in regards to the substation size also stating that all proposals will be within the regulations.

PUBLIC COMMENTS:

NONE

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 (3-0)*

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

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: *Scarlett/McGill (3-0)*

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

ORDER

MOTION: Move to approve the request as proposed by the applicant in Case No. CUP06-13, 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. ***An Acoustical Analysis shall be submitted with the application for zoning permit.***
2. ***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.***
3. ***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.***
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 (3-0)

Motion: McGill

Second: Scarlett

Voting Aye: McGill, Miller, Scarlett

Voting Nay: None

Not Voting: Feilmeyer

Absent: Steele

WHEREFORE, it is ordered that the application for a Conditional Use Permit (Case Number CUP06-13) by Dale Swanson for property generally located on an area of land at the northwest corner of the intersection of 650th Avenue (County Road S-27), and 220th Street, stretching ½ mile west of the intersection, and ¼ mile north, and legally described as the Southeast Quarter of Section 33, Township 84 North, Range 22 West of the 5th PM, Story County, Iowa, except for the Northeast Quarter of the Southeast Quarter thereof (Parcel Identification Numbers 07-33-400-100, 07-33-400-300 and 07-33-400-400), for a Conditional Use Permit for a "Commercial Wind Energy Conversion System (C-WECS) in the A-1, Agricultural Zoning District, is hereby *approved* as evidenced by the Board's findings that all standards of approval *have* been met with the application of the following conditions of approval:

1. An Acoustical Analysis shall be submitted with the application for zoning permit.
2. 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.
3. 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.
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.

NEW BUSINESS:

7. II CUP03-13 OPTIMUM WIND 1 CONDITIONAL USE PERMIT

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: Ryan Newstrom

Parcel Number(s): 1327300200, 1327300400, 1327400100, 1327400305, 1327400200, 1327400400

STAFF PRESENTATION:

Mr. Ryan Newstrom reviewed proposed Conditional Use Permit as submitted. Mr. Newstrom provided site shots of the proposed property and gave location information. Mr. Newstrom reviewed current ownership and easements.

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

Mr. Newstrom reviewed Inter-agency comments as submitted.

Mr. Newstrom reviewed the notifications in regards to the Board meeting.

Mr. Newstrom stated that staff recommends the following conditions for 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. *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.*
5. *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.*

Mr. Newstrom 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 CUP03-13.
2. The Story County Board of Adjustment approves the conditional use permit request, as put forth in case CUP03-13, with conditions.
3. The Story County Board of Adjustment denies the conditional use permit request, as put forth in case CUP03-13.
4. The Story County Board of Adjustment remands the conditional use permit request, as put forth in case CUP03-13, back to the applicant for additional information and further consideration.

BOARD COMMENTS:

Mr. Steve McGill questioned whether future expansion beyond this proposal would require additional approval. Mr. Newstrom stated that the Board is reviewing the application as submitted. Mr. Newstrom clarified stating that any change to the proposal would need to be presented before the Board at a future date as a modification.

Ms. Lynn Scarlett questioned the number of CWECS already in the proposed area. Mr. Newstrom gave the locations of current CWECS.

APPLICANT COMMENTS:

Mr. Steve Thompson

Mr. Thompson stated he is the CEO of Optimum Wind. Mr. Thompson gave an overview of the proposed project.

Mr. Miller asked Mr. Thompson to share some background. Mr. Thompson shared his background regarding C-WECS and Optimum Wind.

PUBLIC COMMENTS:

Mr. Ken Nelson

Mr. Nelson asked for clarification regarding the size of the proposed project.

Mr. Doug Rogers

Mr. Rogers stated concern regarding the effect to the landscape.

Mr. Thompson

Mr. Thompson stated the proposed project includes two CWECS. Mr. Thompson stated that future CWECS is dependent upon Alliant Energy and the amount of energy storage capability.

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 (3-0)

Motion: McGill

Second: Scarlett

Voting Aye: Scarlett, McGill, Miller

Voting Nay: None

Not Voting: Feilmeyer

Absent: Steele

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 (3-0)

Motion: McGill

Second: Scarlett

Voting Aye: McGill, Miller, Scarlett

Voting Nay: None

Not Voting: Feilmeyer

Absent: Steele

ORDER

MOTION: Move to approve the request as proposed by the applicant in Case No. CUP03-13, 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.

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. 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.**
- 5. 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.**

VOTE: Scarlett/McGill (3-0)

Motion: Scarlett

Second: McGill

Voting Aye: Miller, Scarlett, McGill

Voting Nay: None

Not Voting: Feilmeyer

Absent: Steele

WHEREFORE, it is ordered that the application for a Conditional Use Permit (Case Number CUP03-13) by Optimum Wind Renewables for property generally located on an area of land one mile southeast of the City of Huxley, and legally described as Section 27, Township 82 North, Range 24 West of the 5th PM, Story County, Iowa (Parcel Identification Numbers 1327300200, 1327300400, 1327400100, 1327400305, 1327400200, 1327400400), for a Conditional Use Permit for a "Commercial Wind Energy Conversion System (C-WECS) in the A-1, Agricultural Zoning District, is hereby *approved* as evidenced by the Board's findings that all standards of approval *have* been met 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. 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.
5. 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.

NEW BUSINESS:

7. III CUP07-13 OPTIMUM WIND 2 CONDITIONAL USE PERMIT

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

STAFF PRESENTATION:

Ms. Leanne Harter reviewed proposed Conditional Use Permit as submitted. Ms. Harter provided site shots of the proposed property and gave location information. Mr. Newstrom 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 current location of the proposed CUP and its proximity to surrounding single-family dwellings.

Ms. Harter reviewed Inter-agency comments made by affected County Departments.

Ms. Harter reviewed the notifications in regards to the Board meeting.

Ms. Harter stated proposed conditions of approval as follows:

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.

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.

BOARD COMMENTS:

Mr. Miller asked for clarification regarding future expansion. Ms. Harter stated that any future expansion would be covered under condition number six.

Ms. Harter expanded on the concern of road concerns reviewing the County Engineer's role regarding said concern. Ms. Harter indicated possible access points via site map.

Mr. Miller asked staff for clarification regarding the new proposed location of the most northern CWECS. Ms. Harter stated the new location is proposed to be located in the same initial parcel. Ms. Harter also stated that the Board could request a new site plan indicating any changes.

Mr. McGill asked whether the proposal should be tabled and remanded back to staff to resolve previously discussed concerns. Ms. Harter reviewed possible options for tabling the proposal and schedule for such.

APPLICANT COMMENTS:

Mr. Steve Thompson

Mr. Thompson addressed driveway access concerns stating that the best choice would be to vacate the current Level B road. Mr. Thompson also reviewed an alternate solution as crossing adjacent property owner's land.

Mr. Thompson stated that an overhead line is proposed due to the distance from the proposed CWECS and the substation being so great.

Mr. Thompson stated that an alternate location of one of the CWECS has been proposed which would move the location of the turbine to a more southerly and westerly location within the same parcel. Mr. Thompson indicated the proposed location change via site map.

PUBLIC COMMENTS:

Mr. Scott Wendt

Mr. Wendt stated his concerns regarding staff technical requirement to be greater and to include the decommissioning plan and shadow flicker. Mr. Wendt went on to define shadow flicker and gave an overview of possible health concerns regarding such. Mr. Wendt requested detailed information regarding the decommissioning plan of the proposed CWECS.

Mr. Randall Collings

Mr. Collings stated concern with the proposed land use.

MOTION: 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 and directs staff to place CUP07-13 on the December 4, 2013 Board of Adjustment agenda under Old Business.

VOTE: Scarlett/McGill (3-0)

Motion: Scarlett

Second: McGill

Voting Aye: Scarlett, McGill, Miller

Voting Nay: None

Not Voting: Feilmeyer

Absent: Steele

OTHER BUSINESS:

NONE

STAFF COMMENTS:

Ms. Harter invited Board members to tour the Ames Mine.

BOARD COMMENTS:

Mr. Miller asked staff to be ready for regulation review regarding CWECS. Ms. Harter stated a written letter would need to be submitted to the BOS to direct staff to review proposed changes.

ADJOURNMENT: 7:36 PM

Approval of Minutes

Title and Date