

PLATTE COUNTY
PLANNING AND ZONING
JULY 14, 2010

Acting Chairman Bill Klein called the Platte County Planning and Zoning Commission regular meeting to order at 7:00 P.M. Commission members present were Bob Brockman and Dan Offe. Also present was Dennis Becker, Clerk to the Planning Commission.

The Commission reviewed the minutes from the June 9, 2010 meeting. Commission member Brockman made a motion to accept the minutes from that meeting. Commission member Dan Offe seconded the motion and it carried.

New Business

Item #1: Dennis Becker, Clerk to the Planning Commission, presented a Special Permit Request to allow the installation of one anemometer for wind monitoring in an Agricultural District from Pathfinder Renewable Wind Energy LLC, applicant, and Alan and Cheryl Reese Zimmerman, titleholders.

The applicant desires to construct an anemometer on property southwest of Wheatland, near Bordeaux.

There appear to be residences located approximately one to two miles to the north, northwest and northeast of the proposed site. A future wind farm might have more impact on these residences than the anemometer.

The anemometer is sixty meters in height. Pathfinder Renewable Wind Energy, LLC has stated that they will remove the structure to the satisfaction of the property owners.

ADVANTAGES: Anemometers/met towers are necessary for collection of information, this site would appear to have little impact on residences and the site is moderately remote.

DISADVANTAGES: This site has not previously been utilized for similar uses. In the long run, anemometers that are abandoned or fall into disrepair can become a liability.

AGENCY COMMENTS: No agency comments have been received by this office. The matter was routed to F.E. Warren Air Force Base.

OTHER COMMENTS: No other comments have been received.

COMPATIBILITY: Much like billboards, compatibility is often in the eye of the beholder. Properties that are both zoned Agricultural District and agricultural in use can be compatible, especially when moderately remote like this site.

ANALYSIS: This type of use is regulated by the County primarily to ensure that inappropriate sites are not chosen and to allow the County to place certain restrictions and conditions on such a use to minimize impact on neighboring properties.

The general site area has not been utilized for this type of use, but the site is significantly distanced from existing non-compatible uses, which gives this site merit as an appropriate area to consider initiation of such a use by permitting this tower. Any proposed wind farm will require application for a Special Permit with appropriate review at that time.

STAFF RECOMMENDATION: Staff recommends approval of this request to allow an anemometer/met tower in an Agricultural Zoning District, with the following conditions:

1. That a Zoning Certificate application be submitted, with fee based upon cost of the structure;
2. That this approval be voided if the anemometer is not constructed within two years;
3. That an anemometer unused as an active facility for a period exceeding one hundred eighty (180) consecutive days, or fallen into disrepair be required to be removed;
4. That the guy wires be made highly visible;
5. That the facility be constructed to all State and Federal standards and that the facility continually maintain compliance with all State and Federal agencies; and
6. That GPS coordinates for the anemometer location be provided to the Planning Office.

Acting Chairman Klein opened the floor to public comment. There was none.

Hearing no comments, Acting Chairman Klein closed public comment and brought the issue to the Board for discussion.

Hearing no Board discussion, Acting Chairman Klein called for a motion. Commission member Brockman moved to recommend do pass for the Special Permit request to allow the installation of one anemometer for wind monitoring in an Agricultural District with the six (6) staff recommendations in the Staff Report. Commission member Offe seconded the motion.

Acting Chairman Klein called for discussion, there was none; he called for questions, there were none. Chairman Klein called for the vote and the motion carried.

Item #2: Dennis Becker, Clerk to the Planning Commission, presented a Special Permit Request to allow the installation of one anemometer for wind monitoring in an Agricultural District from Pathfinder Renewable Wind Energy LLC, applicant, and the Preuit Trust, Thomas M. Preuit, Trustee, titleholder.

The applicant desires to construct an anemometer on property southwest of Wheatland, near Bordeaux.

There appear to be residences located approximately one mile to the northeast, one and one-half miles to the west and between two and three miles to the southwest of the proposed site. A future wind farm might have more impact on these residences than the anemometer.

The anemometer is sixty meters in height. Pathfinder Renewable Wind Energy, LLC has stated that they will remove the structure to the satisfaction of the property owners.

ADVANTAGES: Anemometers/met towers are necessary for collection of information, this site would appear to have little impact on residences and the site is moderately remote.

DISADVANTAGES: This site has not previously been utilized for similar uses. In the long run, anemometers that are abandoned or fall into disrepair can become a liability.

AGENCY COMMENTS: No agency comments have been received by this office. The matter was routed to F.E. Warren Air Force Base.

OTHER COMMENTS: No other comments have been received.

COMPATIBILITY: Much like billboards, compatibility is often in the eye of the beholder. Properties that are both zoned Agricultural District and agricultural in use can be compatible, especially when moderately remote like this site.

ANALYSIS: This type of use is regulated by the County primarily to ensure that inappropriate sites are not chosen and to allow the County to place certain restrictions and conditions on such a use to minimize impact on neighboring properties.

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STAFF RECOMMENDATION: Staff recommends approval of this request to allow an anemometer/met tower in an Agricultural Zoning District, with the following conditions:

1. That a Zoning Certificate application be submitted, with fee based upon cost of the structure;

2. That this approval be voided if the anemometer is not constructed within two years;
3. That an anemometer unused as an active facility for a period exceeding one hundred eighty (180) consecutive days, or fallen into disrepair be required to be removed;
4. That the guy wires be made highly visible;
5. That the facility be constructed to all State and Federal standards and that the facility continually maintain compliance with all State and Federal agencies; and
6. That GPS coordinates for the anemometer location be provided to the Planning Office.

Acting Chairman Klein opened the floor to public comment. There was none.

Hearing no comments, Acting Chairman Klein closed public comment and brought the issue to the Board for discussion.

Hearing no Board discussion, Acting Chairman Klein called for a motion. Commission member Offe moved to recommend do pass for the Special Permit request to allow the installation of one anemometer for wind monitoring in an Agricultural District with the six (6) staff recommendations in the Staff Report. Commission member Brockman seconded the motion.

Acting Chairman Klein called for discussion, there was none; he called for questions, there were none. Chairman Klein called for the vote and the motion carried.

Item #3: Dennis Becker, Clerk to the Planning Commission, presented a Special Permit Request to allow the installation of one anemometer for wind monitoring in an Agricultural District from Pathfinder Renewable Wind Energy LLC, applicant, and H. Larry and Gaynell Ashenhurst, titleholders.

The applicant desires to construct an anemometer on property southwest of Wheatland, near Bordeaux.

There appear to be residences located approximately one to two miles to the north, and two to three miles to the northeast and to the northwest of the proposed site. A future wind farm might have more impact on these residences than the anemometer.

The anemometer is sixty meters in height. Pathfinder Renewable Wind Energy, LLC has stated that they will remove the structure to the satisfaction of the property owners.

ADVANTAGES: Anemometers/met towers are necessary for collection of information, this site would appear to have little impact on residences and the site is moderately remote.

DISADVANTAGES: This site has not previously been utilized for similar uses. In the long run, anemometers that are abandoned or fall into disrepair can become a liability.

AGENCY COMMENTS: No agency comments have been received by this office. The matter was routed to F.E. Warren Air Force Base.

OTHER COMMENTS: No other comments have been received.

COMPATIBILITY: Much like billboards, compatibility is often in the eye of the beholder. Properties that are both zoned Agricultural District and agricultural in use can be compatible, especially when moderately remote like this site.

ANALYSIS: This type of use is regulated by the County primarily to ensure that inappropriate sites are not chosen and to allow the County to place certain restrictions and conditions on such a use to minimize impact on neighboring properties.

The general site area has not been utilized for this type of use, but the site is significantly distanced from existing non-compatible uses, which gives this site merit as an appropriate area to consider initiation of such a use by permitting this tower. Any proposed wind farm will require application for a Special Permit with appropriate review at that time.

STAFF RECOMMENDATION: Staff recommends approval of this request to allow an anemometer/met tower in an Agricultural Zoning District, with the following conditions:

1. That a Zoning Certificate application be submitted, with fee based upon cost of the structure;
2. That this approval be voided if the anemometer is not constructed within two years;
3. That an anemometer unused as an active facility for a period exceeding one hundred eighty (180) consecutive days, or fallen into disrepair be required to be removed;
4. That the guy wires be made highly visible;
5. That the facility be constructed to all State and Federal standards and that the facility continually maintain compliance with all State and Federal agencies; and
6. That GPS coordinates for the anemometer location be provided to the Planning Office.

Acting Chairman Klein opened the floor to public comment. There was none.

Hearing no comments, Acting Chairman Klein closed public comment and brought the issue to the Board for discussion.

Hearing no Board discussion, Acting Chairman Klein called for a motion. Commission member Brockman moved to recommend do pass for the Special Permit request to allow the installation

of one anemometer for wind monitoring in an Agricultural District with the six (6) staff recommendations in the Staff Report. Commission member Offe seconded the motion.

Acting Chairman Klein called for discussion, there was none; he called for questions, there were none. Chairman Klein called for the vote and the motion carried.

Item #4: Dennis Becker, Clerk to the Planning Commission, presented a Special Permit Request to allow the installation of one anemometer for wind monitoring in an Agricultural District from Pathfinder Renewable Wind Energy LLC, applicant, and William H. and Sally K. Jolley, titleholders.

The applicant desires to construct an anemometer on property southwest of Wheatland, near Bordeaux.

There appear to be residences located approximately one mile to the north and to the south, one to two miles to the northeast, southeast and southwest and two to three miles to the northwest of the proposed site. A future wind farm might have more impact on these residences than the anemometer.

The anemometer is sixty meters in height. Pathfinder Renewable Wind Energy, LLC has stated that they will remove the structure to the satisfaction of the property owners.

ADVANTAGES: Anemometers/met towers are necessary for collection of information, this site would appear to have little impact on residences and the site is moderately remote.

DISADVANTAGES: This site has not previously been utilized for similar uses. In the long run, anemometers that are abandoned or fall into disrepair can become a liability.

AGENCY COMMENTS: No agency comments have been received by this office. The matter was routed to F.E. Warren Air Force Base.

OTHER COMMENTS: The Planning Office had a telephone call from a neighbor who objected to the proposed site for placing this anemometer stating there is a private runway in the area. The applicant was advised of this concern and has discussed the issue with the individual. The applicant can detail that conversation to the Commission at the meeting.

Quoting Platte County Wind Regulations, Chapter IX. Federal, State and Local Requirements, Item B. Local Aviation Facilities, "The applicant(s) will minimize all applicable concerns and/or potential impacts with existing local public or private aviation facilities."

COMPATIBILITY: Much like billboards, compatibility is often in the eye of the beholder. Properties that are both zoned Agricultural District and agricultural in use can be compatible, especially when moderately remote like this site.

ANALYSIS: This type of use is regulated by the County primarily to ensure that inappropriate sites are not chosen and to allow the County to place certain restrictions and conditions on such a use to minimize impact on neighboring properties.

The general site area has not been utilized for this type of use, but the site is significantly distanced from existing non-compatible uses, which gives this site merit as an appropriate area to consider initiation of such a use by permitting this tower. Any proposed wind farm will require application for a Special Permit with appropriate review at that time.

STAFF RECOMMENDATION: Staff recommends approval of this request to allow an anemometer/met tower in an Agricultural Zoning District, with the following conditions:

1. That a Zoning Certificate application be submitted, with fee based upon cost of the structure;
2. That this approval be voided if the anemometer is not constructed within two years;
3. That an anemometer unused as an active facility for a period exceeding one hundred eighty (180) consecutive days, or fallen into disrepair be required to be removed;
4. That the guy wires be made highly visible;
5. That the facility be constructed to all State and Federal standards and that the facility continually maintain compliance with all State and Federal agencies; and
6. That GPS coordinates for the anemometer location be provided to the Planning Office.

Acting Chairman Klein opened the floor to public comment.

Victor E. Garber, Land Agent, representing the applicant, Pathfinder Renewable Wind Energy LLC, addressed the siting issue. He reported that he has discussed the issue with the neighbor, Fred Meyer, and they have reached an agreement to allow the siting of the anemometer subject to an agreement that provides for written notice for removal within ninety (90) days if the private runway use is reactivated. Mr. Garber read the agreement to the Commission. (A signed copy will be provided for the file.)

Acting Chairman Klein asked Mr. Meyer if the agreement was acceptable. Mr. Meyer said it appeared to be; however, he desired to have it reviewed by his attorney prior to signing and making a copy available.

Hearing no additional comments, Acting Chairman Klein closed public comment and brought the issue to the Board for discussion.

Hearing no Board discussion, Acting Chairman Klein called for a motion. Commission member Offe moved to recommend do pass for the Special Permit request to allow the installation of one

anemometer for wind monitoring in an Agricultural District with the six (6) staff recommendations in the Staff Report and adding a condition to read “That a copy of the signed, notarized agreement between Pathfinder Renewable Wind Energy LLC and Mr. Meyer as partner for White Tail Ranch, LLC, become part of the file.” Commission member Brockman seconded the motion.

Acting Chairman Klein called for discussion, there was none; he called for questions, there were none. Chairman Klein called for the vote and the motion carried.

Item #5: Dennis Becker, Clerk to the Planning Commission, presented a Special Permit Request to allow commercial aggregate extraction in an Agricultural District from Alexander Construction Company, applicant, and Dorothy Louise Finnerty, titleholder.

The applicant has been working with the State Department of Environmental Quality (DEQ) to consider a gravel quarry on this property. The site had previously been used for this purpose by WYDOT during the construction of I-25 but has not been actively used since that time. This would essentially be a reuse of a former site. The proposal would disturb a maximum of ten (10) acres. Any future expansion beyond the ten (10) acres will require an additional request via another Special Permit through this Commission.

The proposed site is surrounded by Agricultural Zoning District with no Residential Zoning within a mile and a half. The nearest residences appear to be in Slater. The haul road, currently a two-track road, is from Highway 314. The applicant proposes to work with WYDOT to widen this road in order to allow commercial truck access to the property.

Crushing equipment will be used at this site, to be located in the pit area. Crushing will occur, material will be stockpiled and the crusher will be moved out. No blasting will be done at this mine as it is a sand and gravel mine. Hours of operation will be from 7AM to 7PM Monday through Saturday and occasionally on a Sunday if weather conditions require catching up on crushing.

ADVANTAGES: The primary benefit would be to allow the applicant to produce additional gravel for which there is an increasing need from many consumers in Platte County and the surrounding area. The site has good access to the State Highway system.

The quarry is proposed to be a small operation which will operate intermittently throughout the year. There are no residences in the immediate vicinity of this site. This site has been previously used for this purpose.

DISADVANTAGES: Mining that is not accomplished with care for the environment can excessively scar the land visually and can damage natural resources like soils and water, as well as cultural resources.

COMPATIBILITY: This type of use can be compatible with agricultural uses, particularly dry land grazing.

AGENCY COMMENTS: SHPO indicates they have reviewed the project report and find the documentation meets the Secretary of the Interior's Standards for Archaeology and Historic Preservation and concur that no historic properties will be affected by the project as planned. They recommend the County of Platte allow the project to proceed in accordance with state and federal laws subject to the following stipulation: "If any cultural materials are discovered during construction, work in the area shall halt immediately, the federal agency must be contacted, and the materials evaluated by an archaeologist or historian meeting the Secretary of the Interior's Professional Qualification Standards." (Copy of comments attached.)

The Office of State Lands and Investments indicates they do not object to this Special Use Permit request.

Platte County Resource District notes there may be some suitability limitations involved with a soil type associated with dwellings and small commercial buildings, ponds and embankments, roads, streets and shallow excavations, in addition to potential as a source of gravel. (Please call this office if you would like a copy of the Resource District report.)

Wyoming Game & Fish comments they have no terrestrial wildlife concerns. They add that to minimize impacts to the aquatic resources of Richeau Creek, they recommend 1) Accepted best management practices are implemented to ensure that all sediments and other pollutants are contained within the boundaries of the work area. Disturbed areas that are contributing sediment to surface waters as a result of project activities should be promptly re-vegetated to maintain water quality 2) Equipment should be serviced and fueled away from streams and riparian areas. Equipment staging areas should be at least 150 feet from riparian areas 3) To prevent the spread of aquatic invasive species, they recommend following the guidelines outlined in the Aquatic Invasive Species in Wyoming brochure. If equipment has been used in an area known to contain aquatic invasive species, the equipment will need to be inspected by an authorized aquatic invasive species inspector certified in the state of Wyoming prior to its use in any Wyoming water. If aquatic invasive species are found, the equipment will need to be decontaminated. (Copy of comments attached.)

WYDOT's responds there appears to be some impact on WYDOT facilities and comments include 1) No new accesses will be approved for this application 2) No modifications of any kind may be made to any existing access unless an access permit is submitted and approved prior to any changes being made. The requested change of use of the existing access(es) will require access permits to be submitted and approved as per state statute prior to any changes being made to the access or prior to any site construction. All new accesses or access changes may require the applicant to construct at their expense all necessary highway modifications to protect the integrity, function, or safety of the highway facility. The modifications may include, but are not

limited to, striping, signage, turn lanes, acceleration/deceleration lanes, drainage culverts, signals, etc. WYDOT will require a traffic impact study in order to assess impacts to WYO 314 and any required intersection modifications. Applicant should be made aware that dependent on Pit Area traffic and damage to the highway, applicant may be subject to severe load weight and size restrictions and/or seasonal hauling restrictions. WYDOT is skeptical that WYO 314 will withstand numerous truckloads of material to be hauled without causing extensive road damage. Restrictions will be enacted quickly upon initiation of any road damage. (Copy of comments attached.)

The matter was routed to the EPA, and the Director of DEQ as well as DEQ Active Mine Reclamation, Air Quality, Land Quality, Water Quality and Soil & Hazardous Waste.

OTHER COMMENTS: At the time of this report no other comments have been received.

ANALYSIS: The application appears to meet the minimum standards of required information considering the small nature of this proposal.

Landowners should always have the ability to request a beneficial use of their property, but causing detriment to other landowners should be of equal concern. Small mining operations can be mixed judiciously with other uses. This request will have an impact on future land uses in this area as only industrial type uses and agricultural uses will be compatible on the immediately adjacent areas.

The Wyoming Department of Environmental Quality does regulate such uses through Land Quality, Air Quality and Water Quality permitting and is responsible for review and enforcement of environmental issues. The applicant states that dust abatement will be implemented as required by the DEQ/Air Quality Division. In addition, the applicant indicates that storm water and run-off control will be handled according to DEQ/Water Quality Division specifications. While Alexander Construction Company does not anticipate any water runoff, as ground conditions in the area are very porous, they will contour the mine so that any surface water in the event of a storm will drain directly into the mine. Storm water control and erosion control will be maintained using silt fences, rock check dams, straw waddles and small sumps.

Restrictions already in the Aggregate Extraction section of the Rules and Regulations do apply. The County could also consider making formal requests to WYDOT to consider signage and acceleration/deceleration lanes in the interest of public safety and traffic flow if deemed necessary and appropriate.

The applicant indicates that when all aggregate is exhausted the land will be returned to agricultural use. In addition, they indicate that they will operate the pit intermittently throughout the year. The potential for road damage will be reduced as the site will not have trucks in and out on a daily basis throughout the entire year.

STAFF RECOMMENDATION: Staff makes no recommendation to approve or deny this request to allow a commercial gravel pit with a crushing operation in an Agricultural District; however, does recommend that any approval include consideration of the following conditions, plus any others that might be deemed appropriate:

1. Stipulate that the County may review and consider revocation of this Special Permit approval if knowledgeable of any State or Federal violations on this property;
2. That this approval be conditional upon approval of required State permits, with the understanding that final approval is expressly not granted until issuance of required State permits;
3. That this approval be for a maximum of ten (10) acres total and be confined within the SW1/4 of Section 23, Township 22 North, Range 67 West;
4. That no derelict vehicles or miscellaneous junk be stored on the site during the life of the operation;
5. That the applicant be subject to all requirements in the Aggregate Extraction Section of the Platte County Zoning Rules and Regulations; and
6. That this be reviewed on a complaint basis.

Acting Chairman Klein opened the floor to public comment. There was none.

Hearing no comments, Acting Chairman Klein closed public comment and brought the issue to the Board for discussion.

Commission member Offe inquired about the source of water for dust control. Don Hale stated there is no well on the site and they would either purchase water and haul it in or use water from the creek. The property owner, Mrs. Finnerty, stated she has first water rights on the creek and it has water available most of the time.

Commission member Brockman asked the applicant if they understood and were in agreement with the conditions. They indicated they were.

Hearing no further Board discussion, Acting Chairman Klein called for a motion. Commission member Offe moved to recommend do pass for the Special Permit request to allow commercial aggregate extraction in an Agricultural District with the six (6) staff recommendations in the Staff Report. Commission member Brockman seconded the motion.

Acting Chairman Klein called for discussion, there was none; he called for questions, there were none. Acting Chairman Klein called for the vote and the motion carried.

With no further public business Commission member Brockman made a motion to adjourn. Commission member Offe seconded the motion. Acting Chairman Klein called for discussion,

there was none; question, there was none. Acting Chairman Klein then called for the vote and the motion carried. The meeting closed at 7:35 P.M.

Respectfully Submitted, Dennis Becker, Clerk to the Planning Commission