

PLATTE COUNTY
PLANNING AND ZONING
MAY 12, 2010

Chairman Marty Shepard called the Platte County Planning and Zoning Commission regular meeting to order at 7:00 P.M. Commission members present were Bill Klein, Sherry Maston and Dan Offe. Also present were Dan Kirkbride and Tim Millikin, County Commissioners; Eric Jones, County Attorney; Kenneth Kennedy and Dan Kennedy, County Engineering and Dennis Becker, Clerk to the Planning Commission.

The Commission reviewed the minutes from the April 14, 2010 meeting. Commission member Maston 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 request for a continuance to the July 14, 2010 meeting for a Special Permit to subdivide portions of the existing T/Subdivision in a Residential District from American Renewable Energy Associates, applicant, and Charles A. and Douglas C. Frederick, titleholders.

Chairman Shepard called for a motion. Commission member Maston moved to recommend do pass for the continuance request to the July 14, 2010 meeting for the Special Permit request to subdivide portions of the existing T/Subdivision in a Residential District. Commission member Dan Offe seconded the motion.

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

Item #2: Dennis Becker, Clerk to the Planning Commission, presented a Special Permit request to allow a wind farm in an Agricultural District from Chugwater Flats Energy Project, LLC (Novelution Wind, LLC), applicant, and various titleholders.

The applicant desires to construct a wind farm on the above properties. This application is for Phase I and for Phase II. Phase I was approved by the Wyoming Department of Environmental Quality/Industrial Siting Division on March 30, 2010.

There were fifteen (15) conditions of approval for Phase I including to obtain and maintain all required State and local permits and approvals. (Copy attached.)

All portions of this Special Permit application pertaining to Phase II will be issued contingent upon approval from the Wyoming Department of Environmental Quality/Industrial Siting Division for Phase II. The applicant has indicated they will obtain that approval prior to the start of construction.

Phase 1 will consist of approximately 143 WECS with a capacity of 214.5 MW; Phase II will consist of approximately 151 WECS with a capacity of 226.5 MW. The WECS towers, manufactured by General Electric, are 100 meters in height with a rotor diameter of 82.5 meters. The project will be constructed over a three (3) month period of time. Anticipated peak workforce during this time is 194 employees; permanent workforce for Phase I is anticipated to be 17 to 18 people.

Approximately seven (7) residences are located inside the wind farm project boundaries and no opposition exists as to the anticipated location of the towers. The life expectancy of a GE Turbine is 20 to 25 years. At the end of the turbine's life, if it is not upgraded, the turbines will be removed, the fiberglass from the blades will be landfilled and everything else on the turbine unit will be recycled. Concrete will be taken down to three (3) feet underground.

Haul routes for heavy vehicle traffic to transport material and equipment is defined as North County Line Road (all 5 miles from State Highway 313 to its northern termination), Hellbaum Road (East 2 miles), South Moon Road (all four miles from State Highway 314 to its southern termination and Slater Road (East 2 miles).

ADVANTAGES: Wind farms would seem to complement other energy sources. This site is relatively removed from nearby residences. There would appear to be little impact on residences except visually. The project should have tax benefit to the County and should provide some temporary employment as well as several long-term positions.

DISADVANTAGES: The site has not previously been utilized for similar uses and this type of use is relatively unfamiliar to Platte County. There are concerns about creating hazardous environments for birds and bats and perhaps, even affecting big game migration.

In the long run, towers that are abandoned or fall into disrepair can become a liability.

AGENCY COMMENTS: Platte County Parks and Recreation District found no area for concern regarding this request

Platte County Resource District has no comments to recommend regarding this application at this time.

Wyoming Game and Fish Department provided comments from a letter to the applicant dated December 21, 2009 wherein they expressed concern in two sections having minimal impacts for crucial winter range for mule deer and they recommended siting turbines outside of winter range or minimizing turbine placement and road networks through that area. In addition they included

recommending a standard stipulation of ¼-mile buffer around prairie sharp tailed grouse leks. They stated that if the project is designed with no runoff west toward Chugwater Creek there is no need to conduct geomorphological monitoring and noted that Boxelder Creek is a closed system and there is no need to monitor culverts and 5% or greater roads.

In a letter dated March 16, 2010 they address a bat acoustical report for four sections indicating the northernmost legal section contains Anabat station CF2 near a plateau edge and for turbines in this area the applicant's environmental consultant and Wyoming Game and Fish should determine setbacks from ridges, bluffs, etc., to minimize impacts to bats. That letter also addresses plains sharp-tailed grouse leks within the vicinity of the project and recommend 1) if siting within big game winter ranges cannot be avoided, suspend construction activities from November 15-April 30 and 2) turbines and all related infrastructure should occur outside ¼ mile from perimeter of leks.

In their final letter dated April 14, 2010, Wyoming Game and Fish Department states their concerns have been addressed in WYDEQ's Industrial Siting process and they have no additional terrestrial or aquatic concerns pertaining to this permit. (Copy of comments attached.)

The Planning & Project Manager for the Wyoming Military Management Office has no comments regarding this application.

The matter was routed to the following agencies: (At the time of this report no response has been received.)

Eric Jones/Platte County Attorney
Jane Carlson/Platte County Emergency Management Services
Kenneth Kennedy/Platte County Engineer
Dallas Mount/Platte County UW Cooperative Extension Service
Bob Shoemaker/Platte County Weed & Pest Control
Jim Lockman/Platte County Road & Bridge
Superintendent/Platte County School District #1
John Laughlin/SHPO
Ron Ewald/Waste Water Division DEQ
Monte Buchanan/Land Quality Division DEQ
Barb Sahl/Water Quality Division DEQ
Donna Zern/Qwest
Communicomm
Chugwater Telephone
United States Postmasters/ Chugwater, Wheatland
Lowell Fleenor/WYDOT
Gale Kittell/Platte County Fire Warden
Chugwater Fire District
Scott Scheller/Wheatland Fire Chief
Steve Keigley/County Sheriff
Brian Kelly/US Fish & Wildlife

Todd Stevenson, Superintendent/Glendo & Guernsey State Parks
Town of Chugwater
BNSF Railway
FE Warren AFB
TDS/Torrington
State Land Office
Platte County Crop Dusters
Wheatland REA
USDA/Grant Stumbough
US Bureau of Reclamation
US Bureau of Land Management
FAA/Jeff Graves/Denver
Baker & Associates Engineering/Torrington
Goshen County BOC
Goshen County Planning

OTHER COMMENTS: No comments received at the time of this report.

COMPATIBILITY: 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 somewhat remote from residential uses like this site. Facilities of this type are clearly visible and cannot be hidden from view.

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 and on other things, like the environment. With potentially high visual impact and semi-permanent uses of this nature the County should also be considering sites where such uses might be more appropriate than other sites.

There have been no negative comments on this proposal from nearby landowners or from the general public.

This general site area has not been utilized for these types of uses, but is significantly distanced from most non-compatible uses, which gives this site merit as an appropriate area to initiate such uses. Setbacks as outlined in the Platte County Wind Energy Siting Regulations will apply.

Environmental issues and historical preservation matters can be best addressed locally through input and recommendations from those State and Federal agencies that have experience and expertise in these matters.

The applicant has provided all LLC articles of organization and the authority to sign documentation for the County's review, copies of all memorandums of leases for the County's review and all required Federal permits for the County's review. In addition, the applicant has provided a copy of the required proof of liability insurance in the amount of \$1 million as well as a Decommissioning Plan.

This type of use appears to be a positive thing for the County, if necessary local issues are regulated to a reasonable and sufficient standard.

STAFF RECOMMENDATION: The Planning Office recommends approval of this request to allow a wind farm in an Agricultural Zoning District, with the thought that the Planning Commission and the Board of County Commissioners consider the following conditions for consideration as requirements of approval:

1. That all portions of this Special Permit application pertaining to Phase I are issued contingent upon the fifteen (15) terms and conditions as approved by the Wyoming Department of Environmental Quality/Industrial Siting Division on March 30, 2010;
2. That all portions of this Special Permit application pertaining to Phase II are issued contingent upon obtaining approval from the Wyoming Department of Environmental Quality/Industrial Siting Division for Phase II;
3. That the facility be constructed to all State and Federal standards and that the facility continually maintain compliance with all State and Federal agencies;
4. That this approval be conditional upon issuance and approval of required State permits;
5. That this approval be conditional upon the approved Long-Term Road Maintenance and Improvements Agreement with Platte County;
6. That the applicant be subject to all requirements in the Platte County Wind Energy Siting Regulations;
7. That Zoning Certificate applications for structures be submitted per standard County requirement;
8. That the applicant provide the location of each proposed tower and the location of each guy wire at the time they submit Zoning Certificate applications;
9. That the applicant provide the location of all primary structures at the time they submit Zoning Certificate applications;
10. That the applicant identify the property boundary lines at the time they submit Zoning Certificate applications;
11. That the applicant identify each setback at the time they submit Zoning Certificate applications;
12. That the applicant identify each turnout location at the time they submit Zoning Certificate applications;
13. That the applicant provide specific substation identification at the time they submit Zoning Certificate applications;

14. That the applicant provide the location of transmission lines at the time they submit Zoning Certificate applications;
15. That the applicant provide the location of all structures at the time they submit Zoning Certificate applications;
16. That the applicant provide for review the Road Agreement with Goshen County;
17. That the applicant provide financial assurance for roads as determined by the Board of Commissioners;
18. That the applicant address decommissioning issues (i.e., triggering events, engineers report of costs and financial assurance, as determined by the Board of Commissioners); and,
19. That this Special Permit be reviewed in six (6) months.

Chairman Shepard opened the floor to public comment. Steve Sherard from Sherard, Sherard and Johnson addressed the Commission on behalf of Novelution Wind, LLC, known as Chugwater Flats Energy Project, LLC. He introduced applicants Thomas Laviolette, President and Jessica Laviolette, Managing Director. He thanked the various Platte County departments involved in processing this application request for his client. He explained the involved process of obtaining the Wyoming Industrial Siting Council permit required because this project is in excess of \$175 million. He added that the permit was only for Phase I and is an on-going process and they must go before that council to amend the permit and get their approval for Phase II which is why they are asking this Commission to approve both phases now. He welcomed questions from the Commission members.

Eric Jones, County Attorney, told the Commission that at the hearing by the Wyoming Industrial Siting Council, Dan Kirkbride, Chairman of the Board of Commissioners, spoke in favor of this project and addressed the issue of impact funds. Chugwater Mayor Carol Ash also spoke in favor of the project. The Town of Wheatland was not an interested party at that hearing.

Dan Olind, local citizen, asked questions regarding planned use or preference by the applicant for local contractors, the bidding process for those jobs, the status of feeder and transmission lines, tower placement and general aesthetics. The applicants explained they are collecting information and resumes and those applications are available on line adding that preference is for local contractors if they can meet the requirements. They also said that turbine construction at this site must be done in June, July and August due to wind metering conditions and it is possible that this summer may only see road work and cabling and no actual turbine construction. They commented that feeder and transmission lines are all proprietary information and no developer is discussing that issue. They indicated that required setbacks will be met and there will be little visibility from I-25 or the bluffs.

Commission member Offe asked about eminent domain and if all the land owners were in place. Attorney Sherard responded they were and there are no problems.

Gregor Goertz, local citizen, expressed many concerns, not specifically in opposition to the application, but because this is the County's first such project and if it goes wrong it will make it difficult for other projects. His concerns included the mapping he has seen seems vague for a project of this magnitude, the turbine density appears to make the project unfeasible, view sheds, road widths during construction, transmission lines, power purchase agreements, financial viability and decommissioning. The applicants stated that the entire Wyoming Industrial Siting Council application is available on line and the council did not require that transmission lines be secured prior to construction; there is no power purchase agreement without the council's certification. They add that road widths will meet GE specifications and reclamation is covered in their leases with the landowners.

County Attorney Jones stated there is no bonding; the County has copies of the short form lease which does not address decommissioning and the County does not have privity to lease negotiations. He added that there is legislation coming in to play indicating that the State of Wyoming will take over financial assurance for decommissioning that will preempt anything the County does.

Hearing no additional comments, Chairman Shepard closed public comment and brought the issue to the Board for discussion. Commission member Klein clarified that the applicant plans to complete Phase I this summer including the turbines without knowing where the transmission lines will come through and is this something this Commission needs to look at beforehand. Commission member Maston stated that if this is approved it is on the plan as presented and if it changes in the future they must come back. Chairman Shepard said that the Commission's responsibility is to determine whether or not to recommend issuing a permit; not where the transmission lines run, they are not asking us for a permit to run transmission lines.

Commission member Klein asked if the applicant agreed with the condition for a review in 6 months. The applicant indicated that was fine because they must also do it for the State.

Commission member Offe asked if the County permits transmission lines. County Attorney Jones stated that transmission lines are governed by the Public Service Commission which trumps other entities; new or additions to lines will be done via public hearings prior to construction of those lines. Attorney Sherard cited an example of how that worked with Basin Electric.

Chairman Shepard asked if projects less than \$175 million don't require the State permit. The applicant said that was true but now it is any project with 20 towers or less adding that the State process was very organized and eliminated potential problems; lesser projects can opt to go through the process.

Chairman Shepard also asked about the conditions identifying the guy wires and the road turnouts. County Attorney Jones replied that while turbines don't have guy wires, any remaining or additional anemometers do. The applicant stated that turnouts from County roads will be approved by County Road and Bridge and the County Engineer.

Commission member Maston referred to the comments about turbine siting and density. The applicants stated there are projects with more turbines per square mile and for this project the layout was done by professionals. Chairman Shepard again stated that the Commission cannot make those determinations. County Attorney Jones said the setbacks in the regulations are the method used by the County to deal with density and view sheds and while the FAA and other agencies will determine tower placement the applicant will provide the County with GPS locations which can be matched with structures on record at the Assessor's Office. He stated that the applicants have met with the conditions in the Staff Report and any remaining information required has to come when it physically occurs and the County Engineer will have final say. He added that the Goshen County Attorney is working on a road agreement as one of the haul roads is partially in Goshen County. He commented that issues of financial assurance will be determined by the Board of Commissioners; the County has a long term road agreement in place and that decommissioning with triggering events is also an issue for the Board of Commissioners. County Attorney Jones said the applicants have met all the requirements to obtain a wind farm permit.

Commission member Maston asked the County Attorney if consideration was given to a possible rezone of the property to Industrial District. County Attorney Jones replied that the land still retains its agricultural use for the landowner. Chairman Shepard said a rezone would open the door for other industrial uses.

Commission member Klein asked if there is any history of a wind farm being unused and torn down. The applicant replied that has happened to an older one in New York. The applicant added that the scrap value exceeds the decommissioning costs and the future plans for this project are to update turbines; and no turbines will be constructed until transmission lines are in place; they won't be sitting there waiting for transmission lines but we can't go forward without this permit.

Hearing no further Board discussion, Chairman Shepard called for a motion. Commission member Klein moved to recommend do pass for the Special Permit request to allow a wind farm in an Agricultural District with the nineteen (19) staff recommendations in the Staff Report. Commission member Maston seconded the motion.

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

With no further public business Commission member Maston made a motion to adjourn. Commission member Offe seconded the motion. Chairman Shepard called for discussion, there was none; question, there was none. Chairman Shepard then called for the vote and the motion carried. The meeting closed at 8:10 P.M.

Respectfully Submitted, Dennis Becker, Clerk to the Planning Commission