



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE
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Minutes for the meeting of Grant County Planning and Zoning/Board of Adjustment.

Members present: Nancy Johnson Mike Mach Bob Spartz Tom Adler Tom Pillatzki Gary Lindeman

Alternates present: Don Weber Mark Leddy

Members absent: Richard Hansen

Others present: Tellus Waddell Dave Phillips Timothy Gapp Wanda Lau Diane Lau Kurt Jensen Jim Wohlleber Allen Amdahl Neal Homan Dave Gonzenbach

Agenda for the meeting of Grant County Planning and Zoning/Board of Adjustment.

Meeting Date: **June 12, 2017 Meeting Time: 4:00 P.M. The Court Room- 3rd floor**

1. Call Meeting of the Planning & Zoning to Order by Chair Johnson
2. Approval of Minutes:
 - a. Monday, May 8, 2017 Mach makes a motion to approve the minutes and add the letter of acknowledgement for ex parte' conversations to the minutes. Second by Spartz. After discussion corrections were made and the motion carries 7-0.
 - b. Information request from Chris Healy- added to the minutes of the meeting May 8, 2017 by board amendment and adoption above. Pillatzki adds a statement that they were not influenced by those conversations.
3. Plat Approvals
 - a. Jason Grabow, owner requests the plat of Lot 1 of Jason Grabow addition, located in the N1/2NE1/4 of Section 25, Township 121 North, Range 49 West of the 5th P.M., Grant County, South Dakota. (Kilborn Township) Motion by Mach second by Lindeman carries 7-0.
4. Adjourn as the Grant County Planning & Zoning Board

Call Meeting of the Grant County Board of Adjustment to Order

5. Acknowledgement of Grant County Board of Adjustment Procedural and Rules of Conduct
6. Seat any alternates present at this time. Don Weber for Richard Hansen
7. Conditional Use/Variance Requests/Rezoning
 - a. Permit No. VAR05092017, Kranz Well & Excavation, Owner, Chuck Kranz Applicant of North 200' of OL O in SE1/4 NE1/4 & Lot 1 Liebe's Eastside Sub in S1/2NE1/4 Section 05, Township 120, Range 48 of the 5th Principal Meridian, Grant County, South Dakota. (Alban Township) The request, if granted, would, allow the addition of 16x50 office & parts room to East side of existing building to be approximately 40 ft from 480th Ave. Siting this is a 50' ROW as heard from Highway Superintendent Schultz and he has no issue with it to be 13 ft outside the ROW. Lindeman points out conflict of interest as he has done business with him in the past. Atyeo-Gortmaker states this is not going to be a conflict of interest as there are many of us that have done business with the Kranz's Motion by Mach second by Pillatzki carries 7-0.
 - b. Permit No. VAR05172017B, Jeff Schuelke, Owner/Applicant of N1/2SW1/4 of Section 24, Township 119, Range 48 of the 5th Principal Meridian, Grant County, South Dakota. (Vernon Township) The request, if granted, would, allow the planting of trees approximately 15 feet from lot line of shrubs and evergreens. Included with the documentation is a map and adjoining landowner signature. Motion by Weber second by Mach carries 7-0.
 - c. Permit No. VAR05172017C, Jeff Schuelke, Owner/Applicant of NE1/4 exc Lot 1 Vali Acres Subdivision of Section 10, Township 119, Range 49 of the 5th Principal Meridian, Grant County, South Dakota. (Madison Township) The request, if granted, would, allow the planting of trees approximately 15 feet from lot line of shrubs and evergreens. A map and signature of the adjoining landowner as well. Motion by Spartz second by Lindeman carries 7-0.

- d. Ron Anderson, VAR05172017D to build a shop located West side of 479th Ave and 158th Ave to encroach on 479 with East wall within 120' of 479th. Mach motions to approve second by Weber carries 7-0.
- e. Permit No. CUP05232017A, CUP05232017B & CUP05232017C by Apex Clean Energy Holdings, LLC on behalf of Dakota Range I & II, 310 4th St NE, Ste 200, Charlottesville, VA 22902, Applicant in Osceola, Mazeppa, Twin Brooks & Stockholm Townships of the 5th Principal Meridian, Grant County, South Dakota. (See proposed facility in maps as published and publicly available in the P&Z Office) The Conditional Use requests, if granted, would permit the applicant to construct (2) 150 turbine 300 MW wind energy system with up to 110 turbines and build a 345 kV interconnection transmission facility including poles, conductors (wires), on-site substation and necessary equipment for applicant to build and operate a wind farm in Blooming Valley, Farmington, Lura, and Mazeppa Townships.

Johnson recuses from the proceedings as she has a business relationship with property signed up with easements. Tom Pillatzki, Vice-Chair assumes the running of the meeting for this agenda item after a short recess to seat alternate Mark Leddy.

Pillatzki opens the hearing to public comment for Apex and calls on the representatives from Dakota Range. Mark Mauersberger, with the attendees, Molly- Attorney, Chris-Sound & Shadow Flicker, Nate- project developer, Karlis- VP of development, Dave- Environment, Albert- Public Affairs, Dave & Patrick. Pillatzki clarifies this presentation covers all 3 permit requests.

Power Point for the proposed project that is showing they meet or exceed all requirements of section 1211 that meets or exceeds section 504 and provides information and answer questions and to meet the team.

Bullet points for qualifications, history, other projects around the country, wind/renewables have attracted larger audience- Microsoft, Google, IKEA, etc. Clean Energy shift.

Project overview with Dakota Range up to 300 megawatts with 109 turbines with 150 between Codington and Grant, access roads, fiber lines and substations and transmission lines permitted through the state. CUP with Grant and Codington to come with the state as well. 3 permanent MET towers. This site is best for the wind resource and transmission lines with BSSE and sufficient transfer of energy. Conservative estimates for the real world with community and landowner support with several in the audience supporting in body. Commodity prices are down and this is a great way to hedge a bet for fluctuations in commodity.

Project footprint- macro view and micro view, community benefits with 70 landowners and ½ million already paid out, operation is 10 fte paid jobs with millions being paid out to landowners over time, tax revenues of 710,000 per year with 30 years is 21 million dollars as shown on the picture of where those monies will flow. Strong community partner, 2 year presence in Summit, large donations to Summit school, community events- fog days, fire department, History club for a trip to DC, and we plan ongoing investment and involvement.

Schedule: land wrapped up soon, CUP issued for counties and then to state, environment Q2, construction Q2 2019 as the variance is for Q3 interconnection to Ottetail with their built line at the mercy of their line.

Nate Pedder, Engineer, Apex is a proactive community partners, setbacks required by ordinance- 5 types of turbine examples undetermined for what type is going to be used and could change the setback according to the type that is used. Noise is set at 50 dBa in ordinance with theirs at maximum to be 42 dBa nonparticipants and the analysis will be updated with the final design and will continue to meet or exceed, shadow flicker is not a requirement in ordinance but they supply the information to the board to pledge they are going to keep that under 40 hours each year and the average for them will be under 5 minutes each day with non-participants being under 30 hours per year.

Environmental studies conducted since December 2015 and revision of project boundary to minimize risk to sensitive areas. Decommissioning is a point of conversation with the expectations there would be partial resale of turbine components a gain of \$40,000 per turbine a 4 million dollar gain.

3 special requests of the board in the approval of the CUP: 1. To treat 1, LLC and 2, LLC to not have a setback between them and to assume they would be 1 project. 2. Ability to install underground collection lines overhead when constructability makes it unreasonable to install them underground. 3. CUP become void with a 3 year limit of SD siting permit issuance expected in Q1 2018. Dakota Range agrees to comply with all of the Wind Energy provisions including setbacks,

sound limits and of design requirements. For a CUP the board is required to find that it is empowered to grant the CUP and the granting of the CUP will not adversely affect public interest. We believe we meet the criteria for approval of the permit and you are empowered to grant the CUP as they are located in the Agricultural land zoning District which is where a wind energy system is an allowed conditional use that we will not adversely affect the public interest by following the zoning guidelines as well as providing economic benefits to the community.

With that we would like to request that the board grant all 3 CUP for Dakota Range. Spartz understands everything will be underground with the exception of the transmission line. Mach asks if the power is sold- Mauersberger states they are working with multiple interested counter parties they are working with in multiple party negotiations and solid hedge options so they do not have to have a PPA to start construction in the timelines he discussed. Mach asked how tall the MET towers are at hub height which is not listed but in tab 3 examples of hub height. Leddy asks to explain the transmission line tie in and a description- Pedder replies a collector substation where underground 34.5 KV to switch overhead at 345 KV. This location has not been finalized as it is Ottetail that prescribes those locations and a site can be secured at that time with 5-10 acres. Pillatzki asks about the number of turbines- grant is 109.

Weber asks if it is American made- most are GE but Vestas are modeled as well that is determined by availability and price- American will be used when we can, Pedder adds that most of the components are actually US made, Weber points out there is a plant 95 miles from here that is laying off people.

Spartz is looking at maps where lines are running- appears they are acrossed non-participating lands. Mapbook #9 page 9-10 numerous of them and according to the scale it looks like there is a line from 135t North acrossed some that is nonparticipating parcel. Pedder shows the shaded pink are nonparticipants and the diagonal red lines are setbacks for wind turbines and the line you are referring to is a collection line that runs through that setback but it stays on participating parcels. So we can run collection inside the setback they just can't put a turbine inside that setback. Spartz states according to his thing- Pedder reclarifies on Amdahl the pink with the red diagonals just showing a nonparticipating parcel setback. Spartz asked about overhead to work with landowners to keep on section lines or field lines so you aren't messing with the farmland- Mauersberger states that is always the goal but for the 1 ½ mile is paid for and permitted through the state.

Pillatzki asked about how many participants there are- Mauersberger states it is about 80 agreements with 70 landowners with 300 mw majority signed done. Future phasing into Roberts County more land assembly will be required later. Adler asked about decommission being done? Most not in business long enough, like them, mostly there are upgrades to the new technology but expect to have similar taking down as putting up. Adler asks if the land goes back to use as it was before with removal of concrete, etc. Down to 36 inches is covered in the permit. Leddy asks the percentage of land use for those participating and it was not available without a ball park.

Pillatzki begins by calling upon those in favor to present testimony for 5 minutes each. Anyone signed up to speak. Timothy Gapp 45844 144th St Summit- landowner in Western County and member of Economic development. He has worked 10 plus year in getting wind in our area with a good resource. Some good progress and some setbacks over the years. Transmission setup and economy and other areas things are coming together. Opportunity work with Dakota Range and Apex for atleast the last 3 years they are hands on and work closely with community with actually having an office and hiring local individual. 3 years they participated in community and local events and demonstrated they are going to be a good partner. There are other wind companies too that they have worked with and hoping to see progress and get some wind towers turning up there. 4 things to be taken advantage of- 1. wind resource 2. no emissions and renewable 3. employment and income 4. improve tax revenue Supporting wind and Apex.

Pillatzki asks 3 times for those in favor to appear at the microphone. Pillatzki then asks 3 times for those opposed to appear at the microphone with a 5 minute limit. No one has appeared so Pillatzki closes the public hearing. He then calls upon P&Z officer Atyeo-Gortmaker to make a presentation of any other information she has received. Atyeo-Gortmaker reports she has nothing to report to the board. Final report is included on the table for the shadow flicker report- this is not a requirement but it is part of the binder for your consideration.

Pillatzki asks the board if there are any other questions. Weber states the board should have all the documents no later than 2 weeks for the BOA meeting. Atyeo-Gortmaker states this is part of the state board as well but often you are waiting on experts so anything you need to have addressed is

in your binder with the statement in the binder stating that you would be receiving that later. That happens everywhere there are timing issues but they make it available to you to review. It is part of a larger permit but is not something you make a determination on but it is part of a larger record that the state makes a determination upon. You just need to receive that.

Pillatzki states this portion of the meeting is for the board to address any further questions they have by directing a question to the audience or applicant and only that individual may respond and no further testimony can be made unless by question from the board. Are there any more questions from the board.

Lindeman asks Pedder about shadow and sunlight going through the blades and how many revolutions per minute the turbines have. 15 give or take. One sentence description of who is: Apex Clean Energy System- Karlis, VP of Development, states they are a US based company in Charlottesville. We develop build and operate utility scale wind energy in the United States as a private company. He then asks if they have local investors and Karlis states not to his knowledge.

If there are not any more questions the chair would like to see a motion for the first CUP05232017A, and as a point of clarification Pillatzki reads to the board that they may Grant the motion; deny; or table the request and conditions must be said aloud at time of motion if they are to be applied and reasoning must accompany these conditions. Findings of Fact: need to be included in motion as well. (Why we approved/disapproved) Atyeo-Gortmaker read the description of the CUP for the board.

Motion by Mach to approve the CUP05232017A as presented second by Adler carries by roll call vote unanimously. Chair asks for a second motion to be made for second application. Motion by Don Weber to approve the CUP05232017B, with a second by Lindeman carries by roll call passes unanimously. Chair asks for a third motion to be made for third application ending in letter C. Motion by Lindeman second by Spartz and the vote by roll call is unanimous. Pillatzki relinquishes position of Chair back to Johnson and she is seated at the table again.

8. New Business

a. Board appointment policy and Johnson points out this is new from the Commissioners as it was overlooked for several years and will be published in the minutes of the commissioners. A few years back the policy was changed by the commissioners for the alternates to be appointed instead of having the commissioners serve to the Board of Adjustment. This is a follow up for that policy that creates the policy of appointment to the Planning & Zoning and Board of Adjustment.

b. Establishing board appointments by commissioner resolution names and appoints each of the current members to their post as they have served in prior years. This just establishes who is currently serving and the terms they are appointed to.

Mach was asked if he wished to address the board on behalf of the Commissioners. They copied this from another county and is needed for term limits. This maybe will help and as long as you are living and breathing you can continue to serve and catch manure. This kind of a tool for the commissioners to use and Kays had a hand in drawing up the resolution. His position is an at large position- he had the bad straw. Any other questions: Spartz asked about the 7 members and by his math it shows 8 members. He was miscounting 1&5 to be 2 members instead of a shared position between 1&5. #2 was read in clarification and it was understood.

c. Correction of Section 501:1 page 24 of ordinance to be added to your Zoning Manuals. 3 hole punch page 24 for the ordinance. Item #1 was supposed to be taken out as it discussed alternates of the county commission. Item #1 has been corrected to show those that are appointed to the Board by the Commissioners. Johnson states this needs to be placed in the binder when you get home.

d. Proposed Findings of Fact- Berg Farms, LLC; received today to be used as an example for the Apex too. These are just for review but no motion needs to be made at this time and you can choose to table to next meeting and email changes before next meeting to have reviewed by the attorneys. Also, provided on the table is the filing for the lawsuit.

Mach clarified and made a motion to table for review of the Findings of Fact to July 10 meeting with corrections given to Krista ahead of time so she can speak with legal counsel. Second by Pillatzki.

- e. Findings of Fact to Apex and they can be put together based upon the discussion. Have to board ahead of time so changes can be made ahead of time and approved at the meeting.

Atyeo-Gortmaker asked if they had basic findings to have considered. For example did they meet the regulations of the ordinance did the application meet and exceed the ordinance. What we need to work on is the Findings of Fact and perhaps a training. Why did you approve or deny the CUP- timely filed an application with the P&Z Administrator, legal description and notice is in proper order, The notice was published atleast 10 days prior to the meeting and you as the board are empowered by Section 504 as a quasi-judicial group that can make this decision for this permit. This can be standardized wording but if you look at the italicized wording in the Findings of Fact that are in front of you it bases these statements on ordinance so if you open your book you can see how those things guide you to create reasons that you made the motion and voted in a certain way.

In a review of last month's findings the reason there is a law suit is that the findings are not based on ordinance. What did you base your approval upon today? Have they presented the proper evidence? Did they follow your ordinance? Please pick it up from here and base your decision.

Mach states I think they went through the application and filled it out according to our ordinance and so I am ok with it. Johnson states that they met or exceed is the word that was used in their presentation and asked if there needed to be others. Atyeo-Gortmaker replied, No not if you don't want. You have based your decision on the ordinance and what they presented to you. Do you have to have a separate finding for each CUP. Pillatzki is asking if he needs to make a statement and whether he had already done that and it was pointed out that it needs to be spoken out of your mouth as to why you voted yes for the permit for today's deal. Pillatzki states that it is good economic gain for the county.

Johnson asked if that is enough. It was pointed out that this is part of ordinance and the board was again invited to examine section 1210 to see if there were other things they wish to point out for findings. No more being said the board moved on.

9. Old Business

10. Next meetings:

- a. Regular meeting: July 10, 2017 at 4 PM

11. Adjournment of the Grant County Board of Adjustment to Order Motion by Pillatzki second by Mach motion passes unanimously.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County