

WINNEBAGO COUNTY, IOWA
BOARD OF ADJUSTMENT
RESOLUTION #180918C

WHEREAS, the special exception application of EDF RENEWABLES to permit a wind energy conversion system in an AG (Agricultural) District, has been filed with the Zoning Administrator for submission to this Board under Case #180918C; and

1. WHEREAS, said application requests that this Board grant approval to permit a wind energy conversion system in an AG (Agricultural) District, located within the perimeter of
Township 100N, Range 26W, (LINCOLN Township) Sections 7,8 & 17-36
Township 100N, Range 26W, (BUFFALO Township) Sections 1-16 & 21-22
Township 100N, Range 25W, (EDEN Township) Sections 19,20 & 29-32
Township 100N, Range 25W, (KING Township) Sections 6&18; all in Winnebago County, Iowa.

WHEREAS, this Board conducted a public hearing on 09.18.2018 in accordance with the provisions of Winnebago County Ordinance No. 21, and has given the public an opportunity to be heard; and

WHEREAS, being familiar with the involved real estate and the surrounding area, after careful consideration of the evidence submitted and the testimony given at the public hearing, this Board has determined that the special exception will not adversely affect public interest and is in compliance with the Winnebago County Land Use Plan and Zoning Ordinance; and

WHEREAS, a motion to grant approval of a special exception to permit a wind energy conversion system in an AG (Agricultural) District subject to the following conditions and variances was made by Enderson, seconded by Abele, and carried by the following vote:

Ayes: Abele, Benson, Enderson, & Thompson
Nays: Hassebroek
Absent: None

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of Winnebago County, Iowa:

DECISION: That the request for a special exception approval to permit a wind energy conversion system in an AG (Agricultural) District, be, and the same is hereby approved subject to the following conditions and variances from side and rear yard setback requirements for EDF RENEWABLES:

1. EDF RENEWABLES shall provide satisfactory site location information to the Zoning Administrator with every request for a final Zoning Certificate that would allow construction of any part of the wind farm to proceed.
2. All Turbines and Project substations shall observe the following setbacks: [Note – all measurements shall be from the center point of the Tower (or from the nearest above-ground nonfence structure at a substation site) to the nearest point on any Occupied Residence, Occupied Nonresidential Building, or Confinement Feeding Operation Building; or to the nearest Property Line of any other Protected Area.]

A.

<u>Protected Area</u>	<u>Set Back Requirement</u>
Adjacent Property Lines	600 feet or 110% of the Total Height whichever is greater
Occupied Residence	1,600 feet
Occupied, Non-residential Building	1,600 feet
Confinement Feeding Operation Building	600 feet or 110% of the Total Height whichever is greater
Public Road Right-of-Way	600 feet or 110% of the Total Height whichever is greater
Public Drainage District Right-of-Way	
Open Ditch	300 feet
Tile (centerline)	100 feet
Public Conservation Area	600 feet or 110% of the Total Height whichever is greater
Cemetery	1,200 feet
City Limits	1,600 feet from the Corporate Limits

3. EDF RENEWABLES shall honor all requirements of the Winnebago County Zoning Ordinance as to setbacks from property lines of properties within or adjoining the wind farm unless EDF RENEWABLES obtains voluntary, written agreements and waivers of rear or side yard setback requirements, as appropriate, from adjoining landowners in all instances where it proposed to build meteorological towers or wind turbines (“turbines”) with towers or rotors less than the 15 feet from side property lines, 20 feet from rear property lines, or overhanging properties within or adjoining the Wind Farm.
4. EDF RENEWABLES shall construct the project in full accordance with generally accepted good engineering practices and in accordance with all applicable State and Federal regulations.
5. EDF RENEWABLES shall obtain all required governmental permits from other governmental agencies and an FAA determination of no hazard to air navigation before construction.
6. EDF RENEWABLES shall work with local rescue authorities to ensure they have knowledgeable personnel who can implement or assist with a rescue from a wind turbine or meteorological tower. All training time and equipment (e.g. climbing harnesses) for local authorities to train and practice skills will be at EDF RENEWABLES expense.
7. Any emergency fire/rescue action performed by local fire/rescue departments will be chargeable to EDF RENEWABLES so there will be no cost to the County or the fire/rescue departments involved.
8. Should shadow flicker affect any adjoining property owner outside the boundaries of the project, EDF RENEWABLES shall remedy the problem on a case-by-case

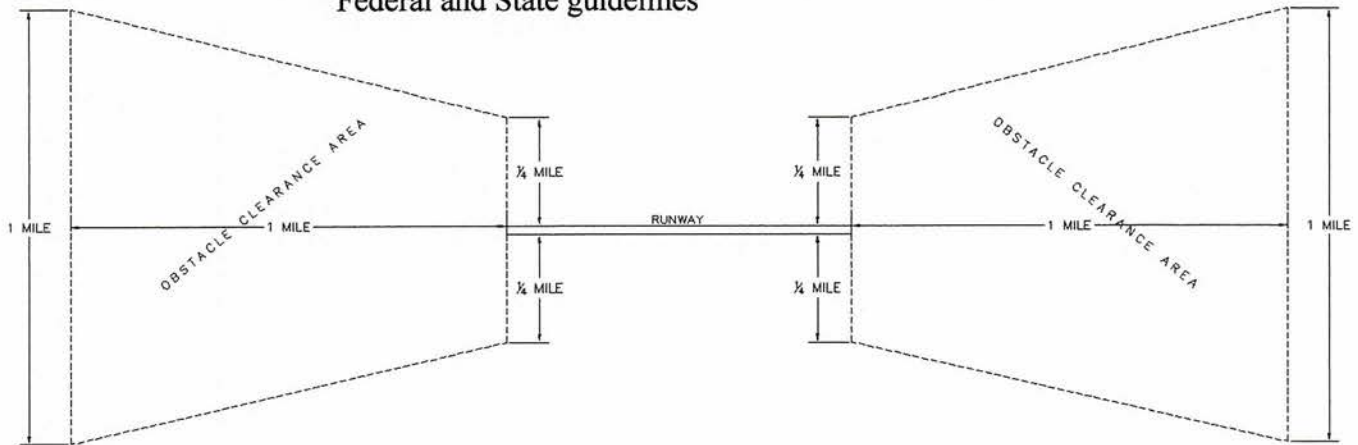
basis by undertaking measures such as (1) planting of trees and other vegetation; (2) installation of awnings; or (3) possible operational restrictions.

9. If any television or radio frequency interference is shown to be created by the wind farm, EDF RENEWABLES shall mitigate any problems on a case-by-case basis.
10. EDF RENEWABLES shall furnish the Zoning Administrator "as built" certified drawings of all construction upon completion showing the location of all wind turbines, meteorological towers, roads, electrical collection lines, substations and other substantial wind farm improvements.
11. EDF RENEWABLES shall provide adequate dust control measures as may be reasonably required by the County during construction and shall repair any roads, drainage facilities or other infrastructure improvements damaged by EDF RENEWABLES construction or maintenance activities.
 - A. EDF RENEWABLES shall establish and provide contact information for one point of contact responsible for the owner, tenant, contractor, and all sub-contractors involved in the construction and maintenance activities.
 - B. The applicant shall acquire all necessary permits prior to construction including but not limited to, access permits, overweight, over width, over height moving permits, construction within the right of way permits and utility permits from the Engineer's office.
 - C. All construction and maintenance equipment and materials shall be delivered to the sites on haul roads designated by the County Engineer.
 - D. Haul roads are to be upgraded by EDF RENEWABLES to handle construction traffic and future maintenance traffic. Haul roads are to be maintained, including blading, application of granular surfacing, and repair of other surface damage by EDF RENEWABLES for the duration of the construction.
 - E. On granular surfaced haul roads, the applicant shall be responsible for applying dust control in front of residences and ensure that the treated areas are effective and remain effective. If numerous dust control applications are required, it shall be the responsibility of the applicant to provide the dust control re-applications in a timely manner or upon direction of the County Engineer.
 - F. The County Engineer and a representative of the applicant shall visually inspect and review all haul roads prior to construction and re-review all roads after construction to determine the amount of damages sustained by the roads due to construction activities. The applicant shall be responsible for reimbursing the Winnebago County Secondary Road Department for all costs associated with construction and repair of said haul roads to the satisfaction of the County Engineer.

12. All Turbine sites shall be required to have individual 911 rural address signs at each access road. All other signs except those required for safety and directional purposes (or otherwise authorized by the County) shall be prohibited in the Project Area.

13. EDF RENEWABLES shall comply with setback distance for all Private and/or Public Airports governed by the rules and regulations of the Federal Aviation Administration (“FAA”) and/or any laws or rules of the State of Iowa that are applicable. An Applicant shall not construct a Turbine in violation thereof.

A. See example standard detail for protected area below in addition to Federal and State guidelines



14. A Component of a wind energy conversion system shall be considered a “discontinued use” (i) after one continuous year of being non-operational (unless a plan is approved by the County outlining the steps and schedule for returning the Component to service); or (ii) upon revocation of the Special Exception Permit. Once declared to be a discontinued use, the Components shall be subject to removal pursuant to this Section. This Project shall have Decommissioning Plan approved by the Board of Supervisors. Such Plan shall contain:

- A. A description of the Project Components, and a sequence and description of the activities required to remove same in compliance with this Section.
- B. A report prepared by a qualified third-party (to be approved by the Board in advance) setting forth the procedures and estimated net cost associated with the removal of the Components (other than Feeder Lines) to a depth of 48 inches and the accompanying restoration of the surface.
- C. Cash, an irrevocable letter of credit, or a performance bond running in favor of the County in an amount no less than the total estimated net removal/restoration costs as determined by said report. Said security must be in place at the time the Project is completed, and must remain in effect until decommissioning is completed. No such security shall be cancelable without notice to the Zoning Administrator. Each year, the Permit Holder shall provide proof that such security is in effect at

the same time as the annual report to the assessor is made for purposes of the real estate tax assessment.

D. The report prepared under b.) above shall be updated and provided to the County (i) at least every five (5) years, and (ii) upon any proposed transfer of the Special Exception Permit. Should any update indicate a change in the decommissioning costs, the security required under c.) above shall be adjusted accordingly.

E. No transfer/assignment of the Special Exception Permit shall be effective without a corresponding transfer/assignment of the obligations and financial security required under the Decommissioning Plan, as approved by the Board of Supervisors.

15. This Special Exception Permit may be reviewed at any time in the future upon the request of the applicants or a majority of the Board of Adjustment members.

16. This Special Exception Permit shall expire two (2) years after the date of approval if work is begun within one hundred eighty (180) days of approval or after one hundred eighty (180) days if no substantial beginning of special exception use or construction has occurred.

FINDINGS OF FACTS: That the above described decision is based on the following findings of fact:

1. The proposed wind energy conversion system will be an asset to the community.
2. The proposed wind energy conversion system will be in harmony with the surrounding land use in Winnebago County, Iowa and will not significantly disrupt current agricultural activities.

Filed this 18th day of September, 2018 in the Office of the Zoning Administrator.


Chairperson, Board of Adjustment

Harley Hassebroek


Zoning Administrator