

Written Findings of the Clark County Board of Adjustment  
Hearing for Conditional Use Permit – Crocker Wind Farm, LLC  
CU1-17

The Board of Adjustment finds and rules as follows:

1. That Crocker Wind Farm, LLC, has properly submitted a written application to obtain a Conditional Use Permit for a Wind Energy System (WES).
2. That all information required for the granting of the permit has been submitted to Board of Adjustment pursuant to Section 4.21.03(15) of the Clark County Zoning Ordinance.
2. That proper notice of the request for the Conditional Use Permit and the time and place of public hearing was properly provided to adjacent landowners.
3. That notice of the public hearing was properly published in the Clark County Courier.
4. That the Board of Adjustment is empowered under Section 4.21 of the Clark County Zoning Ordinance to grant a Conditional Use Permit for applicant to construct and operate a Wind Energy System.
5. That it appears the project as detailed will have the capacity to meet or exceed all standards and regulations of the Federal Aviation Administration and all South Dakota state statutes, as well as those of other federal and state agencies having regulatory oversight of Wind Energy Systems.
6. That the project as detailed properly addresses all mitigation requirements, including but not limited to questions of site clearance, topsoil protection, soil compaction, livestock protection, and fencing concerns.
7. That the project as detailed properly addresses identification of state, county, and township “haul roads” and notification to the respective governmental bodies.
8. That the project as detailed properly addresses the necessity of proper repair and maintenance of “haul roads” and the entry of agreements with the state, county, and townships to mandate the repair, maintenance, and other conditions under written haul road agreements.
9. That the project as detailed provides for the minimization of turbine access roads, the constructions of the roads in a manner allowing passage of farm machinery, and the construction with materials as required by the zoning ordinance.
10. That the project as detailed provides for proper repair to private roads, if damaged.
11. That the project as detailed provides for the proper control of construction dust.

12. That all necessary soil erosion and sediment control plans will be properly submitted to the County prior to construction.

13. That based upon the size and scope of the project, related footprint minimization, and testimony from landowners impacted by a current wind farm located in the county and sited with setbacks of 1,000 feet from existing off-site residences, the proper setback for this WES shall be  $\frac{3}{4}$  of mile from existing off-site, non-participating residences, measured from the wall line of the neighboring principal building to the base of the WES tower.

14. That based upon testimony from those concerned with the peace and tranquility of local cemeteries and the remains of loved ones, the proper setback from cemeteries shall be one mile.

15. That all other ordinance setbacks will be met or exceeded by the applicant.

16. That private property considerations necessitate that the setback distances may be less than established by these findings if adjoining landowners agree to lesser setbacks and such agreement is recorded and filed with Clark County Administration Official.

17. That applicant has conducted a third-party telecommunications study and any electromagnetic interference disruptive of microwave, television, radio, or navigation signals is unlikely.

18. That testimony provided by Interstate Telecommunications Cooperative does necessitate that applicant make agreement with the cooperative, specifically incorporating the terms and conditions contained in a Resolution proposed by Interstate Telecommunications Cooperative which resolution is a part of the file in this matter.

19. That the project as detailed requires all towers to be marked and lighted as required the FAA; however, the peace and tranquility of county residents requires that the applicant shall make a good faith effort to employ an Aircraft Detection Lighting System designed to turn blinking lights atop wind turbines on or off, based on the presence or absence of aircraft in the vicinity of the WES, and that it shall as soon as practicable, commission a study to determine the feasibility of such a system, including pros, cons, and estimated costs, with the study being presented to the Board of Adjustment and the Board of Adjustment reserving the right to mandate such a system after review of the feasibility study.

20. That the project as detailed calls for turbine spacing of a minimum of three rotor diameters.

21. That the project, having a  $\frac{3}{4}$  mile setback, will comply with all footprint minimization requirements.

22. That the project as detailed meets the minimum requirements for all collector and feeder lines.

23. That applicant will submit a decommissioning plan within 120 days of completion of construction and has the ability to meet all other decommissioning requirements, including the decommissioning of any abandoned towers, if any.

24. That all turbine models under consideration by the applicant meet county requirements with respect to height from ground surface and color and finish and shall be singular, tubular design.

25. That evidence presented at the hearing indicates that that with a  $\frac{3}{4}$  mile setback, noise levels will not exceed 50dBA, as defined in the zoning ordinance, at the perimeter of the principal and accessory structures of existing off-site residences, businesses, and buildings owned or maintained by a governmental entity.

26. That questions relating to entrance and exit to affected property and proposed structures thereon have been adequately addressed with reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

27. That there are no questions or concerns with respect to off-street parking and loading areas, and any questions or concerns with respect to economic impact, noise, glare or other effects on adjoining properties and other properties in the district have been addressed.

28. That there are no questions with respect to utilities, refuse and service areas relating to location, availability and character.

29. That there are no questions relating to screening and buffering.

30. That there are no questions with respect to required yards and other open spaces.

31. That evidence presented at the hearing was sufficient to prove that the granting of the conditional use would not adversely affect the public interest.

32. That the evidence presented at the hearing was sufficient to prove that the conditional use is generally compatible with adjacent properties and other property in the district.

33. That the Conditional Use Permit was approved with the following conditions:

The setback distance from existing off-site, non-participating residences shall be  $\frac{3}{4}$  mile measured from the wall line of the neighboring principal building to base of the WES tower, unless otherwise negotiated pursuant to the zoning ordinance.

The construction and operation of the WES shall be done in a manner so as to not interfere with the maintenance and operation of other utility and telecommunication lines, specifically incorporating the terms and conditions contained in a Resolution proposed by Interstate Telecommunications Cooperative which resolution is a part of the file in this matter.

The applicant shall make a good faith effort to employ an Aircraft Detection Lighting System designed to turn blinking lights atop wind turbines on or off, based on the presence or absence of aircraft in the vicinity of the WES and shall, as soon as practicable, commission a study to determine the feasibility of such a system, including pros, cons, and estimated costs, with the study being presented to the Board of Adjustment.

The applicant is required to meet or exceed all standards and regulations of the Federal Aviation Administration, the State of South Dakota, and any other agency of the federal or state government with the authority to regulate Wind Energy Systems.

The applicant shall make all reasonable efforts to protect county and township roads and shall enter into road haul agreements with Clark County and all affected townships. The applicant shall employ an on-site contact person to deal with any county or township road issues or complaints during construction of the WES.

The applicant shall, at a minimum, meet all standards dictated in the zoning ordinance or proposed in its application if more stringent than the zoning ordinance, including but not limited to the following categories: Mitigation Measures; Roads, Setbacks, Electromagnetic Interference; Lighting; Turbine Spacing; Footprint Minimization; Collector Lines; Feeder Lines; Decommissioning; Abandoned Turbines; Height from Ground Surface; Tower Design; Noise; Permit Expiration Limitation of three years; and any other conditions the Board of Adjustment deems necessary.

The setback shall be at least one mile from cemeteries.

The applicant shall provide an updated project map showing accurate project area boundaries, the movement of tower 56, the elimination of tower 58 (potentially affecting a private airstrip), and updated setbacks.

The approval of this conditional use permit is subject to and shall become final only upon the Board of Adjustment's approval of written findings mandated by the zoning ordinance which findings will be presented for approval at the next scheduled meeting of the Board of Adjustment.

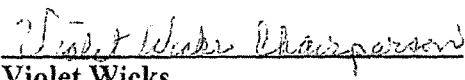
34. Approval was based upon the following vote:

Voting Yes on the motion to approve said permit were:

Bob Bjerke, Francis Hass, Richard Reints, Violet Wicks

Voting No on the motion to approve said permit was:

Chris Sass

  
Violet Wicks  
Violet Wicks  
Chairperson, Board of Adjustment