

**SOUTH DAKOTA
HUTCHINSON COUNTY
BOARD OF ADJUSTMENT**

**APPLICATION OF PREVAILING WIND PARK,
LLC FOR CONDITIONAL USE PERMITS FOR
THE UP TO 219.6 MW PREVAILING WIND
PARK PROJECT**

**FINDINGS OF FACT
CONDITIONAL USE PERMITS
PREVAILING WIND PARK, LLC
PERMIT NOS. ~~19C2,19C3,19C4,19C5,19C6,19C7~~**

INTRODUCTION

Prevailing Wind Park, LLC (Prevailing Wind Park or Applicant) is proposing to develop a Wind Energy System (WES), referred to as the Prevailing Wind Park Project or Project, in Bon Homme, Charles Mix, and Hutchinson counties, South Dakota. On April 17, 2019, Prevailing Wind Park submitted the County's required one-page application forms for six parcels located in agriculturally zoned property in Hutchinson County, a request for a determination under Section 509 of the Hutchinson County Zoning Ordinance (Ordinance) that the WES as proposed is a conditional use in the Agricultural District, and additional supporting documentation in the Supporting Materials for Conditional Use Permit Applications for the Prevailing Wind Park Project (collectively, Application). On May 6, 2019, the Hutchinson County Board of Adjustment (BOA) held a public hearing on the Application.

This matter having come before the BOA and the BOA having taken testimony and heard the evidence, the BOA approved by separate votes each of the six requested conditional use permits and enters the following Findings of Fact:

FINDINGS OF FACT

1. A WES generally, and the Project specifically, is similar to existing uses in an Agricultural District and the BOA determines it is a conditional use under Section 509 of the Ordinance.
2. The Project facilities will be located on six parcels within the Agricultural District. A WES located in the Agricultural District requires a conditional use permit.
3. In the Application, Prevailing Wind Park requested six conditional use permits for the Project.
4. In the Application, Prevailing Wind Park submitted all of the information required pursuant to Sections 509, 1805, and other applicable provisions of the Ordinance. Prevailing Wind Park also paid all applicable filing fees.

5. Notice of the public hearing regarding the Application was duly posted, mailed, and published in accordance with the notice requirements in Sections 1805(2) and 1803(3)-(5) of the Ordinance.

6. On May 6, 2019, a public hearing was held before the BOA in accordance with Ordinance Section 1805(3).

7. The BOA is empowered under Section 509 of the Ordinance to grant the conditional use permits.

8. As shown in the Application and at the public hearing, granting of the conditional use permits for the Project will not adversely affect the public interest.

9. With respect to Section 1805(5), the Application and testimony at the meeting allowed the Board to adequately review and determine that satisfactory provision and arrangement has been made for each requested Conditional Use Permit concerning:

A. *Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.* The proposed entrances and exits do not create a safety issue or hardship. Applicant will coordinate with applicable road authorities to ensure all necessary access, approach, utility, and right-of-way occupancy permits are obtained, and to reduce and mitigate potential impacts to area transportation. Applicant has entered into road use and maintenance agreements with Hutchinson County governing the use, improvement, repair, and restoration of roads within the county.

B. *Off-street parking and loading areas where required; with particular attention to the items in (A) above and the economic, noise, glare, odor or other effects of the conditional use on adjoining properties and properties generally in the district.* Applicant has made satisfactory provision and arrangement to minimize impacts to adjoining parcels and properties in the district related to off-street parking and loading areas. During operation, the Project will not require off-street parking and loading areas in Hutchinson County. The Project will not cause any adverse economic, noise, glare, odor, or other effects on adjoining properties and properties generally in the district. The proposed Project will have a positive economic benefit to the properties in the Project and the County as a whole. Applicant will comply with South Dakota Public Utilities Commission requirements for noise level and shadow flicker limits from the Project. The Project will not cause any adverse odors or other effects on adjoining properties and properties in the district.

C. *Refuse and service areas, with particular reference to the items in (A) and (B) above.* Applicant will meet all state and local requirements for any refuse from the construction and operation of the Project. Applicant has made sufficient arrangement for the storage and disposal of its refuse and its proposed service areas are sufficient. During construction, the main location for refuse and service will be at the Project's laydown area, where construction parts, etc., will be delivered for the site. Refuse created during

the operational phase of the Project will be collected and serviced at the O&M facility (located in Bon Homme County).

D. *Utilities, with reference to locations, availability, and compatibility.* Applicant will coordinate with the local utility providers to ensure utilities are available and compatible with the district.

E. *Screening and buffering with reference to type, dimensions, and character.* Applicant meets the established setbacks for screening and buffering. The Project will comply with all applicable local, State, and Federal requirements, including the setback requirements and/or commitments set forth in the Application.

F. *Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.* Applicant will have temporary signage during construction near turbine locations to identify turbines for both construction and emergency personnel. The Project will also have permanent signage for emergency response and safety. Applicant will follow FAA guidelines for marking towers and would implement the necessary safety lighting. Applicant will install and use an Aircraft Detection Lighting System if approved by the FAA for use for the Project.

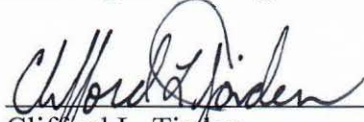
G. *Required yards and other open spaces.* Applicant has met all applicable setbacks.

H. *General compatibility with adjacent properties and other property in the district.* The Project will be located in the Agricultural District, in which a WES is a conditional use pursuant to Section 509. The Project will comply with all applicable County, state, and federal requirements, which will minimize any impacts on adjacent and surrounding properties. The Project will provide area landowners with a new source of income, while simultaneously allowing agricultural use to continue in and around the Project, consistent with the purposes of the Agricultural District. Based on the information provided, the Project has been designed to minimize impacts to existing environmental resources.

Each of the six conditional use permits was approved on May 6, 2019 by a vote of 7 yes and 0 no.



Kurt Schnabel
Planning and Zoning Committee Chairman



Clifford L. Tjaden
Zoning Administrator
Land Use & Environmental Control
Hutchinson County, SD

Date Signed: *7 May 2019*

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