

Zoning Commission Minutes

April 30, 2015
3:00 pm

Chairman Russ Hoff called the meeting of the Stark County Zoning Commission to order. Chairman Hoff, Larry Messer, Kurt Froelich, Duane Grundhauser, Klayton Oltmanns, Jay Elkin, Sue Larsen and Gene Jackson present. Also present were State's Attorney Tom Henning, Planner Steve Josephson, and Nicole Roberts of the Auditor's office.

Jay Elkin moved to approve the minutes from the February 26, 2015 meeting. Klayton Oltmanns seconded. All voted Aye and motion carried.

Chairman Hoff announced a change of order on the agenda. The public hearing on Agenda Item #6 will be held prior to the public hearing on Agenda Item #5.

Bakken Shale Development, LLC is requesting a Preliminary Plat of the Bakken Estates Second Addition Subdivision located on a parcel located on all of Lots 3 through 8, Block 1 of Bakken Estates and all of Government Lot 3 of on the northwest quarter of Section 4, Township 139, Range 94 containing approximately 52.89 acres.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of the Preliminary Plat of the Bakken Estates Second Addition Subdivision located on a parcel located on all of Lots 3 through 8, Block 1 of Bakken Estates and all of Government Lot 3 of on the northwest quarter of Section 4, Township 139, Range 94 containing approximately 52.89 acres following staff recommendations for Bakken Shale Development, LLC. Klayton Oltmanns seconded. Roll call vote. All voted Aye and the motion carried.

Staff recommends approval of the preliminary plat request subject to the following conditions:

- 1. Prior to final plat approval, the applicant needs to submit a written statement from the County Road Superintendent that Bakken Estates Second Subdivision will be accessed by roads that meet the County's minimum standards;**
- 2. Prior to final plat approval, the applicant shall submit an estimate of the cost of providing required improvements based upon county design standards.**
- 3. Prior to final plat approval, a formal request for service from Southwest District Water shall be submitted to the County Planning and Zoning Commission.**
- 4. Prior to adoption of the final plat, a final stormwater management plan shall be reviewed and approved by the County Engineer. The applicant shall be responsible for the cost of the of the stormwater management plan's review.**
- 5. Prior to adoption of the final plat, all roads and road alignments shall be approved by the County Road Superintendent and the County Engineer.**
- 6. Prior to final plat approval, the applicant shall arrange for the County Weed Officer to inspect the property for all new and invasive and noxious weeds. If required by the County Weed Officer, the developer shall be responsible for implementing a Weed Control Plan as approved by the County Weed Control Office. The developer shall provide a copy of the Weed Officer's report and required weed control plan to the Stark County Zoning Administrator.**

7. Prior to final plat approval, the applicant shall submit a plan to the County Road Superintendent for dust control and erosion control during construction of the project.

Chairman Hoff opened the public hearing on a request from Brian and Wanda Woch-Farnsworth. The request is for a zoning change from Agriculture to Agriculture Residential on a parcel located in the SW1/4 of Section 11, Township 140, Range 97 containing approximately 15 acres.

Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Klayton Oltmanns moved to recommend to the Stark County Board of Commissioners the approval of the zoning change from Agriculture to Agriculture Residential on a parcel located in the SW1/4 of Section 11, Township 140, Range 97 containing approximately 15 acres following staff recommendations for Brian and Wanda Woch-Farnsworth. Gene Jackson seconded. Roll call vote. All voted Aye and the motion carried.

STAFF RECOMMENDATION: Approval of the proposed rezoning based upon the following finding:

- The proposed rezoning is consistent with the development pattern in the vicinity.

The request is consistent with the following objectives of the Stark County Comprehensive Plan:

- LAND USE-Strive to protect the agricultural integrity of rural areas; and
- LAND USE-Avoid conflicts between land uses.

Chairman Hoff opened the public hearing on a request from Carlton LeBeff. The request is for a Conditional Use Permit for a Fuel and Bulk Storage Facility on a parcel located at 12963 38P Street SW on Lot 2, Block 1 of the Norwegian Creek Subdivision on approximately 9.15 acres.

Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Gene Jackson moved to recommend to the Stark County Board of Commissioners the approval of a Conditional Use Permit for a Fuel and Bulk Storage Facility on a parcel located at 12963 38P Street SW on Lot 2, Block 1 of the Norwegian Creek Subdivision on approximately 9.15 acres following the amended staff recommendations to include emergency management. Jay Elkin seconded. Roll call vote. All voted Aye and the motion carried.

STAFF RECOMMENDATION: Approval of the proposed conditional use based upon the following findings:

STAFF RECOMMENDATION: Approval subject to the following conditions:

1. The adoption of a conditional use permit shall limit impacts of commercial and industrial uses upon the existing agricultural and residential uses in the vicinity; and

2. Development of the subject property shall be limited through the inclusion of the following conditions.
 - a. **Development shall be limited to a 320,000 gallon fuel and bulk storage plant with a maximum of eight (8) tanks and a 30,000 gallon propane storage tank.**
 - b. **The location of the fuel and bulk storage plant shall be as generally shown on the drawings in the application dated March 24, 2015.**
 - c. **The developer shall be responsible for all maintenance associated with the fuel and bulk storage plant.**
 - d. **Access points serving the subject property shall be determined in accordance with Stark County regulations.**
 - e. **The storage tanks shall be placed in a concrete containment area. The loading bay for the storage tanks shall be paved.**
 - f. **The following actions will be required of the developer prior to obtaining building permits:**
 - i. **The developer shall plat the subject property in accordance with the Stark County Subdivision regulations**
 - ii. **Stark County shall complete, at the developer's expense, site plan review of the proposed fuel and bulk storage facility. Site plan review will be performed by a licensed engineer of the County's choosing with an expertise in fuel and bulk storage and similar facilities, and the review will include, but not be limited to, spacing, fire control issues, spillage prevention, and other activities related to operation of the facility.**
 - iii. **The developer shall work in concert with law enforcement and emergency responders to facilitate public safety.**
 - g. **Any proposed change of the conditional use permit, including location of the facility, shall require a hearing before the Stark County Planning and Zoning Board and approval from the Stark County Commission.**
 - h. **The permit may be revoked by the County Commission anytime the applicant is in non-compliance with any of the conditions set by the Planning and Zoning Board or the County Commission for the issuance of the permit.**
 - i. **Development of the subject property shall be performed in accordance with all applicable County, State and Federal rules and regulations.**

The subject property is currently zoned Industrial. As the surrounding area is either zoned Industrial and as the agricultural property to the north is undeveloped, the proposed conditional use is consistent with the following objective of The Stark County Comprehensive Plan:

- **LAND USE-Avoid conflict between land uses.**

Chairman Hoff opened the public hearing on a request from Melissa Hochmuth of NextEra Energy Resources. The request is for a conditional use permit for a Wind Energy Facilities and an electrical substation on parcels located in Sections 17, 18 and 19 of Township 139, Range 92, Sections 2, 3, 4, 7, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 29 of Section 139, Range 93, Sections 1,2,11,12,13,14, 24 and 25 of Township 139, Range 94, Sections 21,22, 26, 27,29,30,31, and 34 of Township 140, Range 93, and Sections 25, 26, 33, 34, 35 and 36 of Section 140 Range 94 on approximately 39,182 acres.

Chairman Hoff asked for anyone to speak for or against the zoning change. Cheryl Ryan, Lorrie Nantt, Kurt Martin, Thomas Messer, Craig Kubas, Frank Kirschenheiter, Dwight Schank, Dennis Hulsing, Russ Myran, Marvin Krank, Jim Miller, John Wanner, Matthew Collins representative for the concerned citizens of stark county, Nicole Tyrrell, Sheila Rothstein, Rob Murphy, Karen Messmer, Dana Christensen, Ty Dressler, Thomas Messer, Jody Hoff, Ed Krank, Suzanne Hunsicker, Laura Petri, Terri Thiel, John Steeple, Glen Gullickson, Art Hunsicker, Milt Myran all voiced their concerns about view, health, property values, sound, flicker flash, and expansion. Art Dohrmann, Brother Alis from Assumption Abbey, Luke Simons, Blaine Blackmen, Paul Jespersen, Larry Klinegartner, Nancy Klinegartner, Leland Brand, Duane Sattler, Breckon Jespersen, Lester James, Shirley James, Pete Solemsaas, Dennis Dohrmann, Jaydeen Brucille, Bob Jurgens, Vern Jurgens, Dennis Seivers all spoke in favor of the conditional use permit for Wind Energy Facilities. Chairman Hoff closed the public hearing.

Gene Jackson moved to recommend to the Stark County Board of Commissioners the denial for a conditional use permit for a Wind Energy Facilities and an electrical substation on parcels located in Sections 17, 18 and 19 of Township 139, Range 92, Sections 2, 3, 4, 7, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 29 of Section 139, Range 93, Sections 1,2,11,12,13,14, 24 and 25 of Township 139, Range 94, Sections 21,22, 26, 27,29,30,31, and 34 of Township 140, Range 93, and Sections 25, 26, 33, 34, 35 and 36 of Section 140 Range 94 on approximately 39,182 acres. Kurt Froelich seconded. Roll call vote. All voted Nay except Kurt Froelich and Gene Jackson voted aye. Motion failed.

Klayton Oltmanns moved to recommend to the Stark County Board of Commissioners the approval for a conditional use permit for a Wind Energy Facilities and an electrical substation on parcels located in Sections 17, 18 and 19 of Township 139, Range 92, Sections 2, 3, 4, 7, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 29 of Section 139, Range 93, Sections 1,2,11,12,13,14, 24 and 25 of Township 139, Range 94, Sections 21,22, 26, 27,29,30,31, and 34 of Township 140, Range 93, and Sections 25, 26, 33, 34, 35 and 36 of Section 140 Range 94 on approximately 39,182 acres following staff recommendations for Melissa Hochmuth of NextEra Energy Resources. Jay Elkin seconded. Roll call vote. All voted aye except Kurt Froelich and Gene Jackson voted nay and the motion carried.

Chairman Hoff opened the public hearing on a request from Melissa Hochmuth of NextEra Energy Resources. The request is for a conditional use permit for a 197 foot meteorological tower on a parcel located in the SE4 of Section 30, Township 140, Range 93 containing approximately 160 acres on a lease area of approximately 2.5 acres.

Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval conditional use permit for a 197 foot meteorological tower on a parcel located in the SE4 of Section 30, Township 140, Range 93 containing approximately 160 acres on a lease area of approximately 2.5 acres following staff recommendations for Melissa Hochmuth of NextEra Energy Resources. Klayton Oltmanns seconded. Roll call vote. All voted Aye and the motion carried.

STAFF RECOMMENDATION: Approval of the proposed conditional use based upon the following findings:

- 1. The location of the proposed project should not adversely impact the existing uses in the vicinity; and**
- 2. The conditional use shall be limited through the inclusion of the following conditions:**
 - a. Development shall be limited to a guy-wired meteorological tower (MET) to be used to be used to monitor and collect wind data;**
 - b. No outdoor storage shall be allowed on site;**
 - c. The maximum height of the MET shall be limited to 197 feet;**
 - d. The location of the MET shall be as generally shown on the drawing dated October 15, 2014;**
 - e. The duration of the conditional use permit shall be five and one-half years;**
 - f. The developer shall be responsible for all maintenance associated with the MET; and guys, and the driveways/roads accessing the tower;**
 - g. The developer shall provide a six-foot chain link fence around the MET and baseplate;**
 - h. Unless required by the Federal Aviation Authority, the MET shall not be lighted;**
 - i. If necessary, the developer, prior to construction, shall submit a letter from the Federal Aviation Administration (FAA) stating that the MET does not exceed the maximum height permitted under FAA rules and does not require lighting;**
 - j. Any proposed change of use of the MET, increase in height or change of location shall require a hearing before the Stark County Planning and Zoning Board and approval as well as approval from the Stark County Commission; and**
 - k. Development of the MET shall be performed in accordance with all applicable County, State and Federal rules and regulations.**
 - l. The applicant shall report to the Zoning Administrator if the tower is no longer in use. The tower shall be removed, at the applicant's expense, within six (6) months of this notice and the site shall be restored by the applicant to its pre-existing condition.**

Chairman Hoff opened the public hearing on a request from Melissa Hochmuth of NextEra Energy Resources. The request is for a conditional use permit for a 197 foot meteorological tower on a parcel located in the SE4 of Section 30, Township 140, Range 93 containing approximately 160 acres on a lease area of approximately 2.5 acres.

Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval conditional use permit for a 197 foot meteorological tower on a parcel located in the SE4 of

Section 30, Township 140, Range 93 containing approximately 160 acres on a lease area of approximately 2.5 acres following staff recommendations for Melissa Hochmuth of NextEra Energy Resources. Klayton Oltmanns seconded. Roll call vote. All voted Aye and the motion carried.

STAFF RECOMMENDATION: Approval of the proposed conditional use based upon the following findings:

3. **The location of the proposed project should not adversely impact the existing uses in the vicinity; and**
4. **The conditional use shall be limited through the inclusion of the following conditions:**
 - m. **Development shall be limited to a guy-wired meteorological tower (MET) to be used to be used to monitor and collect wind data;**
 - n. **No outdoor storage shall be allowed on site;**
 - o. **The maximum height of the MET shall be limited to 197 feet;**
 - p. **The location of the MET shall be as generally shown on the drawing dated October 15, 2014;**
 - q. **The duration of the conditional use permit shall be five and one-half years;**
 - r. **The developer shall be responsible for all maintenance associated with the MET; and guys, and the driveways/roads accessing the tower;**
 - s. **The developer shall provide a six-foot chain link fence around the MET and baseplate;**
 - t. **Unless required by the Federal Aviation Authority, the MET shall not be lighted;**
 - u. **If necessary, the developer, prior to construction, shall submit a letter from the Federal Aviation Administration (FAA) stating that the MET does not exceed the maximum height permitted under FAA rules and does not require lighting;**
 - v. **Any proposed change of use of the MET, increase in height or change of location shall require a hearing before the Stark County Planning and Zoning Board and approval as well as approval from the Stark County Commission; and**
 - w. **Development of the MET shall be performed in accordance with all applicable County, State and Federal rules and regulations.**
 - x. **The applicant shall report to the Zoning Administrator if the tower is no longer in use. The tower shall be removed, at the applicant's expense, within six (6) months of this notice and the site shall be restored by the applicant to its pre-existing condition.**

Chairman Hoff opened the public hearing on a request from Melissa Hochmuth of NextEra Energy Resources. The request is for a conditional use permit for a one hundred foot monopole radio tower to provide data transmission for wind energy facilities communications for a tract located on the NW4 of Section 12, Township 139, Range 94 containing a lease area of approximately 5.00 acres.

Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Sue Larsen moved to recommend to the Stark County Board of Commissioners the approval conditional use permit for a conditional use permit for a one hundred foot monopole radio tower to provide data transmission for wind energy facilities communications for a tract located on the NW4 of Section 12, Township 139, Range 94 containing a lease area of approximately 5.00 acres following staff recommendations for Melissa Hochmuth of NextEra Energy Resources. Larry Messer seconded. Roll call vote. All voted Aye and the motion carried.

STAFF RECOMMENDATION: Approval of the proposed conditional use based upon the following findings:

1. **The location of the proposed project should not adversely impact the existing uses in the vicinity; and**
2. **The conditional use shall to limited through the inclusion of the following conditions:**
 - a. **Development shall be limited to a free standing radio tower to support wind energy facilities;**
 - b. **The maximum height of the radio tower shall be limited to 100 feet;**
 - c. **The location of the tower and the accessory building shall be as generally shown on the drawings dated March 6, 2015 received as part of the application dated April 7, 2015;**
 - d. **The developer shall be responsible for all maintenance associated with the tower;**
 - e. **The developer shall provide a six-foot chain link fence around the perimeter of the pad;**
 - f. **Prior to construction, the developer shall submit a letter from the Federal Aviation Administration (FAA) stating that the tower does not exceed the maximum height permitted under FAA rules;**
 - g. **Any proposed change of use of the tower, increase in height or change of location shall require a hearing before the Stark County Planning and Zoning Board and approval as well as approval from the Stark County Commission; and**
 - h. **Development of the radio tower shall be performed in accordance with all applicable County, State and Federal rules and regulations.**

Chairman Hoff opened the public hearing on a request from Melissa Hochmuth of NextEra Energy Resources. The request is for a conditional use permit for a 262 foot lattice meteorological tower on a parcel located in the NW4 of Section 11, Township 139, Range 94 containing approximately 153 acres on a lease area of approximately 2.5 acres.

Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Duane Grundhauser moved to recommend to the Stark County Board of Commissioners the approval conditional use permit for a 262 foot lattice meteorological tower on a parcel located in the NW4 of Section 11, Township 139, Range 94 containing approximately 153 acres on a lease area of approximately 2.5 acres following staff recommendations for Melissa Hochmuth of NextEra Energy Resources. Jay Elkin seconded. Roll call vote. All voted Aye and the motion carried.

STAFF RECOMMENDATION: Approval of the proposed conditional use based upon the following findings:

- 1. The location of the proposed project should not adversely impact the existing uses in the vicinity; and**
- 2. The conditional use shall be limited through the inclusion of the following conditions:**
 - a. Development shall be limited to a lattice guy-wired meteorological tower (MET) to be used to be used to monitor and collect wind data;**
 - b. No outdoor storage shall be allowed on site;**
 - c. The maximum height of the MET shall be limited to 263 feet;**
 - d. The location of the MET shall be as generally shown on the drawing dated February 2, 2015;**
 - e. The developer shall be responsible for all maintenance associated with the MET; and guys, and the driveways/roads accessing the tower;**
 - f. The developer shall provide a six-foot chain link fence around the MET and baseplate;**
 - g. Unless required by the Federal Aviation Authority, the MET shall not be lighted;**
 - h. If necessary, the developer, prior to construction, shall submit a letter from the Federal Aviation Administration (FAA) stating that the MET does not exceed the maximum height permitted under FAA rules and does not require lighting;**
 - i. Any proposed change of use of the MET, increase in height or change of location shall require a hearing before the Stark County Planning and Zoning Board and approval as well as approval from the Stark County Commission; and**
 - j. Development of the MET shall be performed in accordance with all applicable County, State and Federal rules and regulations.**
 - k. The applicant shall report to the Zoning Administrator if the tower is no longer in use. The tower shall be removed, at the applicant's expense, within six (6) months of this notice and the site shall be restored by the applicant to its pre-existing condition.**

Jay Elkin moved to adjourn. Klayton Oltmanns seconded.