

CASE NO. 701-AT-11

SUPPLEMENTAL MEMORANDUM

MARCH 29, 2012

Champaign
County
Department of

Petitioner: **Zoning Administrator**

Prepared by: **John Hall, Zoning Administrator**
Andy Kass, Associate Planner

**PLANNING &
ZONING**

Request: Amend the Champaign County Zoning Ordinance as follows:

Part A. Revise paragraph 6.1.4 D.1. to require that documentation of design compliance with applicable industry standards be submitted prior to receiving a Zoning Compliance Certificate for either a WIND FARM or for any single WIND FARM TOWER.

Part B. Revise paragraph 6.1.4 F. as follows:

1. Revise subparagraph 6.1.4F.1. to require that agreements between the Applicant and the County Engineer shall not be forwarded to the County Board before the special use permit is forwarded and that all other agreements shall be executed prior to the close of the public hearing before the BOARD.
2. Delete subparagraph 6.1.4 F.1. u.
3. Add new subparagraph 6.1.4 F. 3. to require at the time of decommissioning a Roadway Use and repair Agreement with the appropriate highway authority.

Part C. Revise paragraph 6.1.4 J. to require the Applicant to submit a copy of the Agency Action Report or the Detailed Action Report, if applicable that is submitted to the Endangered Species Program of the IDNR as well as the response from IDNR.

Part D. Add new subparagraph 6.1.4 E.7. to require that a permanent soil erosion and sedimentation plan be submitted for all WIND FARM TOWER sites and access roads.

Part E. Revise subparagraph 6.1.4 S.1.(c)(3) to authorize flexibility in the locations of WIND TOWERS from what is indicated on the site plan provided that the final locations comply with any required waivers or special conditions of approval and the applicant conducts a noise study to verify compliance with the maximum allowable noise limit if the location of WIND TOWERS differ on the site plan submitted with the zoning use permit application from the site plan submitted with the special use permit application.

Part F. Strike the requirement for "reclamation agreement" for NON-ADAPTABLE STRUCTURES and WIND FARMS and replace with a requirement of "site reclamation plan" and add certain other related requirements as follows:

1. In Section 3 revise the definition of "NON-ADAPTABLE STRUCTURE" to include a WIND TURBINE TOWER and a WIND FARM TOWER as currently defined in Section 3.
2. Make the following revisions to paragraph 6.1.1A.:
 - a. Strike references to "reclamation agreement" and replace with "site reclamation plan"
 - b. Revise subparagraphs 6.1.1 A. 1. through 5 as follows:
 - (1) Require a site reclamation plan for NON-ADAPTABLE STRUCTURES.
 - (2) Require the site reclamation plan to be binding upon all successors of title to the land and require reclamation work be performed and that a letter of credit be provided for financial assurance.
 - (3) Limit consideration of salvage value to be as limited by paragraph 6.1.4P.
 - c. Revise subparagraph 6.1.1A.6. to strike "120 days" and replace with "180 days" and insert "or applicant" after "landowner".
 - d. Revise paragraph 6.1.1A. to add other related requirements.
3. Revise paragraph 6.1.4P. as follows:

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- a. **Revise paragraph 6.1.4P. to strike references to “reclamation agreement” and replace with “site reclamation plan”.**
- b. **Delete subparagraphs 6.1.4P.3. (d), (e), and (f) and add new subparagraphs to require the following:**
 - (1) **At the time of decommissioning a Roadway Use and Repair Agreement.**
 - (2) **The depth of removal of foundation concrete below ground shall be a minimum of 54 inches and require that replacement soil shall meet specified minimum standards of soil quality; depth; compaction; and drainage.**
- c. **Revise subparagraph 6.1.4 P.4. (a) to require an irrevocable letter of credit and an escrow account as financial assurance to be provided for the site reclamation plan.**
- d. **Insert new subparagraph 6.1.4 P.4.(b) to require the following:**
 - (1) **Authorize salvage value to be deducted from decommissioning costs, subject to meeting specified standards.**
 - (2) **Add requirements for determining estimated net salvage value based on the average salvage price of the past five years and including any deconstruction costs.**
 - (3) **Add a limit of 70% for the amount of estimated salvage value that may be deducted from estimated decommissioning costs.**
 - (4) **Require the site reclamation plan to provide for legal transfer of the STRUCTURE to the demolisher should the reclamation work be performed.**
 - (5) **Limit the maximum allowable credit for the salvage value of any WIND FARM TOWER to no more than the estimated decommissioning cost of removal of the above ground portions of that WIND FARM TOWER.**
- e. **Renumber existing subparagraph 6.1.4 P.4. (b)(5) to become new subparagraph 6.1.4 P.4. (d) and revise to require regular adjustment to the amount of financial assurance to ensure that it reflects current information by requiring an Illinois Professional Engineer to provide an updated report of estimates of decommissioning costs and salvage values.**
- f. **Revise paragraph 6.1.4P. to add other related requirements.**

*** NOTE: The description of the Request has been simplified from the legal advertisement.**

STATUS

This case was continued from the February 16, 2012, ZBA hearing. “Part E” of the proposed amendment has been revised since the March 23, 2012, supplemental memorandum and is included below. Additional evidence is proposed to be added to the Finding of Fact.

“PART E” REVISIONS

Part E. Revise paragraph 6.1.4S.1.(c)(3) to read as follows (double strike out and double underlining are new changes):

- (3) The separation of all WIND FARM structures from adjacent NON-PARTICIPATING DWELLINGS OR PRINCIPAL BUILDINGS or uses shall be as shown or dimensioned on the approved site plan ~~and that dimension shall establish the effective minimum separation that shall be required for any Zoning Use~~ for the SPECIAL USE Permit unless the Board authorizes a lesser separation in a special condition of approval or waiver, ~~if required that is also consistent with any required~~ and duly authorized waivers of paragraph 6.1.4C. Authorization of a lesser separation of less than 90% of that indicated on the approved site plan for the SPECIAL USE Permit shall require an updated noise study meeting the requirements of paragraph 6.1.4 I. Different locations for WIND FARM structures may be provided in the site plan for the provided that the final locations of WIND FARM TOWERS comply with any authorized waivers or special conditions of approval of the WIND FARM County Board SPECIAL USE Permit to be submitted with the Zoning Use Permit application. WIND FARM structures include WIND FARM TOWERS, substations, third party transmission lines, maintenance and management facilities, or other significant structures.

PROPOSED NEW EVIDENCE AND REVISIONS

Re-letter items 17. 1., 2., and 3. to 17. A., B., and C. and add new item 17. D as follows:

- D. Regarding the requirement of Part F.3.e. that the amount of financial assurance must be adjusted every year after year 13:
 - (1) It is unlikely that the financial assurance will need adjusted every year.
 - (2) It is possible that turbulent economic conditions could arise that might require annual updates.
 - (3) Even if the update were only required more often than once every two years “as needed” some amount of review would be necessary every year in order to determine if the financial assurance would need updating.
 - (4) Therefore it is reasonable to simply to require an annual update every year after year 13.