

RESOLUTION NO. 2010-89

A RESOLUTION APPROVING THE APPLICATION FOR ZONING USE BY EXCEPTION PERMIT TO CONSTRUCT A TWO-TOWER WINDMILL ENERGY PROJECT IN AN A-2 AGRICULTURAL RESIDENTIAL ZONING DISTRICT (812 PHEASANT RUN ROAD).

WHEREAS, the Planning Commission has considered an application for a zoning use by exception permit submitted by Brian Bowers to construct a two-tower windmill energy project in an A-2 Agricultural Residential Zoning District (812 Pheasant Run Road); and

WHEREAS, the Planning Commission, subsequent to a public hearing held November 1, 2010, recommended approval of the use by exception request for Section 90-144 (8) Wind Generating System for Brain Bowers to allow him to construct a two-tower windmill energy project, with the following conditions:

1. Setbacks to follow state regulations;
2. The wind turbines will not exceed 50 dBA at the nearest structure occupied by humans;
3. All turbines or towers shall be a solid color, either white, grey, or tan and finishes shall be matte or non-reflective;
4. Only regulatory signage is allowed; and
5. Decommissioning plan must be approved by the City Council;

subject to the following "Findings of Fact" being:

- staff's recommendation and
- consistency with the comprehensive plan, and the current and future land use map; and

WHEREAS, the City Council considered the aforesaid application and recommended conditions of the Planning Commission to allow for the construction of a two-tower windmill energy project in an A-2 Agricultural Residential Zoning District (812 Pheasant Run Road) subsequent to a public hearing held November 2, 2010; and

WHEREAS, the Zoning Administrator presented and recommended the following conditions regarding the use by exception request of Brian Bowers:

1. Setbacks to follow Sate Regulations and keep all ice shatter zones off of adjoining properties;
2. The wind turbines will not exceed 50 dBA at the nearest or proposed structure occupied or to be occupied by humans;
3. All turbines or towers shall be a solid color, either white, grey, or tan, and finishes shall be matte or non-reflective;
4. All commercial/utility WECS shall have a sign or signs posted on the tower, transformer, and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information. No other non-regulatory signage is allowed;

5. A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed from the site within 270 days. This period may be extended by the Zoning Administrator. Each commercial/utility WECS shall have a Decommissioning Plan outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon being discontinued use. The Plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities;
6. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground;
7. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower;
8. Lighting, including lighting intensity and frequency of strobe, shall adhere to FAA requirements. Red or amber strobe lights shall be used during nighttime illumination. Red pulsating incandescent lights should be avoided;
9. All communications and feeder lines installed as part of a WECS shall be buried, when feasible. Feeder lines installed shall not be considered an essential service;
10. Solid and hazardous wastes, including but not limited to, crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable rules and regulations; and
11. The applicant shall be responsible for the immediate repair of damage to public drainage systems and roadways stemming from construction, operation, or maintenance of the WECS.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the Council accepts the recommendations of the Zoning Administrator and approves the application subject to the above-stated "Findings of Fact."

PASSED AND APPROVED this 2nd day of November, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk