

HARDIN COUNTY ZONING COMMISSION

REPORT/RECOMMENDATION IN SUPPORT OF PROPOSED AMENDMENT TO ORDINANCE 29, ARTICLE XXIII

This recommendation is made pursuant to Iowa Code and local ordinance(s).

The Commission voted on March 17, 2020 to approve and recommend to the Board of Supervisors changes to Article XXIII or Ordinance 29, regulating commercial wind energy conversion through conditional use permits.

In summary, the major, substantive changes include:

1. Increased wind turbine setback requirements;
2. Increased developer financial responsibility requirements;
3. Increased developer decommissioning requirements;
4. Increased submission requirements/procedures for conditional use permit.

The recommended changes are made in accordance with the comprehensive plan and Iowa law, and are designed to preserve the availability of agricultural land, to protect the health and general welfare, to promote the conservation of energy resources, and are made with reasonable consideration of the character of the area and the peculiar suitability of such area for particular uses with a view to the most appropriate use of land throughout Hardin County. (Iowa Code 335.5)

Background

In December 2019, the Hardin County Board of Supervisors passed a resolution placing a temporary moratorium “on C-WEC permit applications for the purpose of drafting and adopting any necessary and proper revisions to the C-WEC ordinance”. Through its resolution, the Board of Supervisors expressly identified several interests impacted by C-WEC development:

- a. Agriculture and drainage districts;
- b. New emergency communication infrastructure;
- c. Decommissioning;
- d. County infrastructure;
- e. Natural resources;
- f. Property rights.

Hardin County regulates C-WECs through zoning, specifically Article XXIII of Ordinance 29. By local ordinance and Iowa law, the task of drafting, and recommending for adoption, any revisions fell upon this Commission.

Process

In light of the resolution’s mandate, the Commission and the Zoning Director did the following:

- a. reviewed of the current ordinance;
- b. reviewed ordinances from other counties;
- c. reviewed industry publications and guidelines on best practices;
- d. received input from members of the public and professionals;
- e. worked through iterations of amendments with input from the community and industry;
- f. held public hearings, making revisions based on those hearings;
- g. approved and recommended for adoption amended Article XXIII.

In addition to the concerns identified by the resolution, the following interests were voiced during the public hearings held by the Commission in this process (as well as regular public meetings held by the Board of Supervisors), and were considered by the Commission:

- a. agricultural lifestyle/quality of life
- b. public health
- c. airspace
- d. economic benefits from development
- e. .

Analysis / Moratorium Grounds

Increased setbacks address private and public drainage concerns by reducing density of wind turbine placement. Greater spacing also reduces the interference with emergency communications. Increased setbacks also provides a buffer for natural resources and watersheds. The setbacks proposed still permit private property conditional use development while protecting the rights of adjacent property owners to be less burdened by flicker and noise from industrial activity in an agriculture zone.

Increased financial responsibility of the developer increases the equitable distribution of development costs and benefits by requiring the developer to provide more financial security up front for negative impacts to drainage infrastructure that can occur over the life of the conditional use permit, and shifts those burdens away from those engaged in agricultural use of the land. It also protects the County's emergency communications by directing turbine placement to areas with less impact on such communications.

Increased decommissioning requirements increases the likelihood of restoring the county's prime farm land and other natural resources by requiring the developer to provide more financial security up front for negative impacts on drainage infrastructure that can occur over the life of the conditional use permit, as well as assists in restoring the agricultural land. The proposed amendment also better defines "decommissioning" and better secures financial responsibility from original developers and assigns. This also protects the County's natural resources from disposal issues that exist and may exist in the future. By fortifying the decommissioning requirements, the amendment ensures that landowners can abate nuisances from abandoned wind conversion facilities.

Increased submission requirements and procedures increases the level of collaboration of all stakeholders, both during the planning and during the implementation of land use decisions under this ordinance for conditional use permits for commercial wind energy conversion in land zoned Agricultural. The proposed changes provide for collaboration between the County, its many boards and commissions,

local airports and area emergency agencies, as well as an opportunity for collaboration with various State and Federal agencies. Better communication to identify, avoid and address drainage concerns are ensured by involving drainage district trustees and the County Drainage Clerk. Involving the 911 Board and Emergency Management Commission identifies, avoids and addresses concerns posed to emergency services. Involving the County Solid Waste Commission ensures that solid waste is handled responsibly, and without over-burdening or monopolizing the county landfill, especially during construction and decommissioning. Involving the Federal, State and local environmentally conscious agencies helps ensure the County's natural resources are always considered during industrial development in sensitive agricultural and near green spaces. The amended ordinance protects property rights of landowners wanting to allow industrial development in the rural areas of the County, while balancing the rights and interests across a cross-section of the County.

Analysis / County Comprehensive Plan

Chapter 3: Land Use / Zoning of the comprehensive plan indicates that 71% of Hardin County's population lives in rural areas. It also notes that agricultural interests are protected. The comprehensive plan made recommendations for land use policy. It states:

“Most of rural Hardin County land is used for agricultural production. Prime farm land, conservation areas, timber, wilderness, the Iowa Falls Airport, and the Iowa River Greenbelt should be protected through smart land use planning. There are opportunities for developments in the rural areas that provide economic benefits, protect the area, and preserve key resources. This section provides guidance for Hardin County land use policy.”

Under “Rural Development”, Chapter 3 states:

“The vast majority of rural Hardin County is rural. **Hardin County desires to maintain these areas as rural.** Farming is sensitive to the effects of land use change and intensity. The division of land into small parcels and the presence of non-farming activities can drastically affect farm operations. **In order to achieve the goal of protecting and preserving the agricultural industry, non-farm activities in rural farm areas should be tightly controlled.**” (emphasis added)

It further provides that Hardin County planning goals for rural areas include:

- “Protect and preserve natural resources and environmentally sensitive features. Natural resources include prime agricultural lands, timber, wetlands, and other locally important heritage sites”.
- “Rural commercial uses should be limited to those activities that are best suited to a rural location and are compatible with existing rural developments and agricultural goals and policies.”
- “Direct development to areas with physical characteristics which can accommodate development.”
- “Discourage development in areas with high corn suitability ratings, high water table, wetlands, flood plains, and environmentally sensitive areas.”

- “Protect the Iowa Falls Airport airspace. There are many uses that would present a height problem for aircraft . . .The Iowa Falls Airport is planning a cross wind runway so the airspace will be increased.”

Increased setbacks achieve increased preservation of prime farm land from less subdivisions and less interruption of drainage. Increased setbacks also increase protection and preservation of the other natural resources valued in Hardin County. They also increase protection of current and future airspace needs.

Increased financial responsibility of the developer increases the likelihood of directing development away from more sensitive areas of the county such as those with infrastructure and nature resources, to areas of the county with physical characteristics which can more economically accommodate such development.

Increased decommissioning requirements increases the likelihood of restoring the county’s natural resources.

Increased submission requirements and procedures increases the likelihood of achieving the mandate that non-farm activities should be tightly controlled.

Chapter 7: Economic Development of the comprehensive plan acknowledges that “commodity agriculture has remained the mainstay of the county’s economy”, and recognizes “a growing local foods system has become an ever more important outgrowth of that economy”. It further refers to the Region 6 Planning Commission “Comprehensive Economic Development Strategy (CEDS)” which is a long-range 20-year plan that listed ten major economic development goals, including: #1. Preservation and restoration of natural environment; #5 Support local food system; #9 Develop regional renewable clean energy sources.

Increased setbacks achieve increased agricultural development of prime farm land for both crop and livestock production through fewer subdivisions and less impact on drainage. Subdivisions make for less efficient farming. This supports the local food system. Increased setbacks also increase protection and preservation of the natural resources valued in Hardin County, and the recreation industry they support. Increased setbacks also increase protection of current and future airspace needs. Setbacks may pose an obstacle to commercial wind conversion projects, but variances and waivers can be obtained with due process.

Increased financial responsibility of the developer increases the likelihood of directing development away from more sensitive areas of the county such as those best suited for agriculture and shifts the burden away from those engaged in agricultural use of the land.

Increased decommissioning requirements increases the likelihood of restoring the county’s prime farm land and other natural resources.

Increased submission requirements and procedures increases the likelihood of achieving the mandate that non-farm activities should be tightly controlled.

Chapter 8: Agricultural & Natural Resources / Cultural Resources & Community Character of the comprehensive plan indicates that the county's residents soundly support preservation of agricultural land (96.4%). The County's farmland accounts for 93% of the land surface, and commodity crops and livestock sales are of great economic value to the county. Also, the County has numerous parks, trails, recreational facilities, wildlife areas and wetlands and is home to some of the most revered cultural resources including natural features and landscapes such as the Iowa River and Iowa River Greenbelt.

[See reasonable bases for Chapters 3 and 7 above]

Chapter 11: Implementation of the comprehensive plan adopts the Iowa Smart Planning Principles contained within Iowa Code Section 18B.1, and information specified in 18B.2(2), pursuant to Iowa Code 335.5. Smart planning requires the County to collaborate with individual stakeholders during planning of and implementation of land use decisions. It requires promotion of equitable distribution of development costs and benefits. It encourage promotion of clear and renewable energy use and efficiency. It stresses that development should conserve land and preserve historic resources. It emphasizes protection, preservation, and restoration of natural resources, agricultural land, and cultural and historic landscapes, and should increase the availability of open spaces and recreational facilities. It promotes building design that conserves natural resources and reduces waste and pollution. Smart Planning further considers the local geography, natural resources and natural hazards; current land use and conflicts, water drainage and potential impacts on local watersheds. Other considerations include the local heritage and quality of life.

[See reasonable bases for Chapters 3, 7 and 8 above]

Increased setbacks achieve increased agricultural development of prime farm land for both crop and livestock production through fewer subdivisions and less impact on drainage. Subdivisions make for less efficient farming. This supports the local food system. Increased setbacks also increase protection and preservation of the natural resources valued in Hardin County, and the recreation industry they support. Increased setbacks also increase protection of current and future airspace needs. Setbacks may pose an obstacle to commercial wind conversion projects, but variances and waivers can be obtained with due process. Increase setbacks also reduce the proximity of turbines to neighbors desiring to avoid blade flicker and preserving the natural esthetics of the rural landscape.

Increased financial responsibility of the developer increases the equitable distribution of development costs and benefits by requiring the developer to provide more financial security up front for negative impacts that can occur over the life of the conditional use permit, and shifts those burdens away from those engaged in agricultural use of the land.

Increased decommissioning requirements increases the likelihood of restoring the county's prime farm land and other natural resources by requiring the developer to provide more financial security up front for negative impacts that can occur over the life of the conditional use permit.

Increased submission requirements and procedures increases the level of collaboration of all stakeholders, both during the planning and during the implementation of land use decisions under this ordinance for conditional use permits for commercial wind energy conversion in land zoned Agricultural. The proposed changes provide for collaboration between the County, its many boards and commissions, local airports and area emergency agencies, as well as an opportunity for collaboration with various State and Federal agencies.

CONCLUSION / RECOMMENDATION

The recommended changes are made in accordance with the comprehensive plan and Iowa law, and are designed to preserve the availability of agricultural land, to protect the health and general welfare, to promote the conservation of energy resources, and are made with reasonable consideration of the character of the area and the peculiar suitability of such area for particular uses with a view to the most appropriate use of land throughout Hardin County.