



Ecklund Township



Board

Randy Schafer – Supervisor
Donald Sorch Jr – Supervisor
Gary Vennie - Supervisor
Misty Schafer - Clerk
Dorene Sorch - Treasurer

CONDITIONAL USE PERMIT NO. 2010-003

Notice of a special meeting of the Ecklund Township board of supervisors for the purpose of considering the issuance of a conditional use permit to applicant, Baldwin Wind, LLC, to construct, operate, and maintain an electrical substation within Ecklund Township was published in the Bismarck Tribune on July 1st, 2010, and the Leader News on July 8th, 2010.

The Board of Supervisors met in special session on July 19th, 2010 at Wilton, North Dakota, and received the recommendations and final report of the township zoning commission regarding the application. The zoning commission recommendation and final report was that a conditional use permit be granted to Baldwin Wind, LLC.

Ecklund Township is zoned for agricultural uses, with other compatible uses to be allowed after issuance of a conditional use permit in the discretion of the township board of supervisors. The application for a conditional use permit is to allow Baldwin Wind, LLC to construct, operate and maintain an electrical substation at the location of the Northeast ¼ Section 20, Township 142 North, Range 79 West of the Fifth Principal Meridian, Ecklund Township, Burleigh County, North Dakota, as shown on the attached exhibit.

The Board considered the recommendation of the township zoning commission and, having discretion to allow Baldwin Wind, LLC in accordance with the township's zoning ordinance, upon resolution duly made, seconded and adopted, GRANTS a conditional use permit to allow Baldwin Wind, LLC to construct, operate and maintain an electrical substation on the described property within the township as shown on the attached exhibit, subject to the following conditions:

- 1. LAND USE AND BUILDING TYPE:** Construct, operate and maintain an electrical substation.
- 2. BUILDING LOCATION:** No building may be erected, less than three hundred (300) feet from any street or road.
- 3. TEMPORARY STRUCTURES:** No trailer, basement, tent, shack, garage, barn or other outbuilding erected in the tract may be used as a residence at any time, nor is any residence of a temporary character permitted.

4. DWELLING: No dwelling.

5. LIVESTOCK AND POULTRY: No animals.

6. EASEMENTS: Easements for installation and maintenance of utilities and drainage facilities must be reserved as shown on the attached exhibit. Within these easements, there may not be placed or retained any structure, planting or other material which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area and all improvements in it shall be maintained continuously by the property owner, except for those improvements for which a public authority or utility company is responsible. No utility may be placed on the boundary line of the easement.

7. OIL AND MINING OPERATIONS: No oil drilling, oil development. Oil operations, oil refining, quarrying or mining operations of any kind may be permitted. No derrick or other structure designed for use in boring for oil or natural gas may be erected, maintained or permitted.

8. GARBAGE AND REFUSE DISPOSAL: Property may not be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste must be kept in covered, sanitary containers. Incinerators and outside burning are prohibited.

9. SUBDIVISION OF LOTS: No lot may be further subdivided.

10. NUISANCES: No noxious or offensive activity may be carried on upon property, nor may any nuisance be maintained.

11. PET CONTROL REQUIREMENT: No pets.

12. SEWAGE DISPOSAL: Sewage disposal systems and facilities must meet the Burleigh County standard for individual sewage systems, must be permitted, and must be inspected and approved by the Bismarck Fire Inspection and Environmental Health Division.

13. ROADS: All roads and approaches must comply with Burleigh County road specifications.

14. AGRICULTURAL INCIDENTS: Nothing in this Conditional Use Permit may be construed to restrict or limit any of the normal incidents of ranching or farming in those areas of Ecklund Township that are outside the substation, including noise, dust, odors, and traffic.

15. MODIFICATION, ENFORCEMENT AND SEVERANCE: This permit may be modified only by the act of the Ecklund Township Board of Supervisors or such other government body acting in accordance with North Dakota law. The failure of property owner to comply with any condition of this Conditional Use Permit is a violation of the permit and may be cause for revocation of the permit or such other remedy as is available for the enforcement of this permit and Ecklund Township zoning ordinances. A landowner is responsible for all costs which are incurred to comply with this permit. If any provision of this permit is determined by a court with jurisdiction over the matter to be unenforceable, the offending provision is to be struck from this permit and the balance of the conditions are to be construed to

continue in effect and to be enforceable.

16. ATTORNEYS FEES: To the extent permitted by law, if Ecklund Township is the prevailing party, a court may award the township such reasonable attorney fees as the township incurs to enforce the conditions of this permit against property owner who violates any condition of this permit. An award of attorney fees is to be in addition to other relief awarded by the court.

17. FEE: The fee for this permit is five hundred dollars PLUS one tenth of one percent of the value of the dwellings and other buildings which are constructed. Applicant has paid five hundred dollars of the fee. One tenths of one percent of the estimated value of the dwellings and other buildings to be constructed on property as estimated by the state building inspector must be paid before construction. (applicant has paid \$112,500 for the one tenth of one percent)

18. LOT OWNER CONSENT: Property owner must acknowledge and agree to the conditions of this permit by filing a signed copy of the permit with the clerk of the Ecklund Township Board before commencing construction of any improvement on the property. There is no additional fee for this filing.

All conditions and limitations of this permit run with the above described land and shall be binding on the applicant, Baldwin Wind, LLC, and his successors and assigns.

This Conditional Use Permit will not be effective until it is recorded by the Burleigh County Recorder and must be returned to the township clerk within 60 days. If an extension is needed, it must be in written request to Ecklund Township Clerk with valid reason and requested length. If Conditional Use Permit is not returned to clerk within 60 days, this permit is null and void. Applicant is responsible for obtaining recordation and is to bear the expense of recordation.



Ecklund Township



Conditional Use Permit Signature Page

Board

- Randy Schafer - Supervisor
- Donald Sorch Jr - Supervisor
- Gary Vennie - Supervisor
- Misty Schafer - Clerk
- Dorene Sorch - Treasurer

Dated this 20th Day of July 2010, Ecklund Township Board of Supervisors

Randy Schafer
 Randy Schafer, Supervisor

Donald Sorch
 Donald Sorch, Supervisor

Gary Vennie
 Gary Vennie, Supervisor

Robert Allen Brugioni

Robert Allen Brugioni
 Accepted and Agreed;

State of North Dakota
County of Burleigh

The Foregoing Ecklund Township Conditional Use Permit, Consisting of Four Pages, Including This Page, was Acknowledged by: Randy Schafer, Donald Sorch, Gary Vennie, Robert Allen Brugioni, before me this 20th Day of July, 2010.

Misty Schafer
 Notary Public, Burleigh County, North Dakota

MISTY SCHAFFER
 Notary Public
 State of North Dakota
 My Commission Expires June 15, 2012

June 15, 2012
 My Commission Expires



Ecklund Township



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- Donald Sorch Jr - Supervisor
- Gary Vennie - Supervisor
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VARIANCE NO. 2010-001

Baldwin Wind LLC has requested a variance for the setback of the substation, site lies within 300 feet of township road namely 279th Ave NE and 52nd Street. This was requested to gain better access to the substation.

The setback will be set at a minimum of 80 feet from the centerline of the road to their fence.

There was no one that attended the hearing that testified against the request to put the substation inside the 300 foot setback.

Baldwin Wind's, LLC request was unanimously approved by the zoning commission and ratified by Ecklund Township Board.

The recordation of the variance will be at Baldwin Wind's, LLC expense. This variance runs with the land.

Legal Description: Northeast ¼ Section 20, Township 142 North, Range 79 West of the Fifth Principal Meridian, Ecklund Township, Burleigh County, North Dakota

Randy Schafer - Chairman of Ecklund Township Board

Gary Vennie - Supervisor

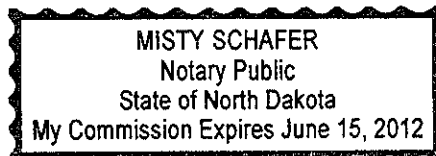
Don Sorch Jr - Supervisor

State of North Dakota
County of Burleigh

The Foregoing Ecklund Township Conditional Use Permit, Consisting of Four Pages, Including This Page, was Acknowledged by:

Randy Schafer, Gary Vennie, Don Sorch Jr.

, before me this 20th Day of July, 2010.

Notary Public, Burleigh County, North Dakota

June 15, 2012

My Commission Expires