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## RE: Meeting 1.22.15

From: **Yana Ness** (yanan@co.williams.nd.us)  
Sent: Thu 1/29/15 4:42 PM  
To: Jody Weflen (jodwef@hotmail.com)  
Cc: **Simmon Logan** (simmonl@co.williams.nd.us)  
1 attachment  
administrator@co.williams.nd.us\_20150129\_171948.pdf (1633.2 KB)

Jody,

The copies of Township letters are attached. Below are the answers to your questions:

*<The planning and zoning only wants a recommendation from City of Tioga and Tioga Airport?*

As per official decision letter sent to the applicant "The letters of review and confirmation from the city of Tioga and FAA/airport should be submitted to Williams County Development Services."

*<The planning and zoning will vote on whether or not Lindahl Wind Project/Tradewinds gets a CUP for the met towers?*

The Planning and Zoning Commission will vote on a recommendation. The Board of Commissioners will afterwards vote on final decision.

*<If the CUP gets approved then it will go on to County Commission meeting and PSC those will also have to approve before the met towers will get put up?*

The Planning and Zoning Commission will give a recommendation to the Board how to proceed. They will not give any final approval or denial. Only the Board of Commissioners makes the final decision. Even if The Planning and Zoning Commission makes a recommendation to deny, the Board might still approve it. Yes, they need to get all necessary permits, including building permits before the met towers can be erected.

50 PU-15-482 Filed: 10/8/2015 Pages: 7  
Exhibit 48



# From Williams Zoning Ordinances.

## F. NONCONFORMING USES

The lawful existence or use of a structure or a parcel of land present at the time of adoption or amendment of this Ordinance may be continued although such use or existence does not conform with the provisions of this Ordinance.

It is the intent of this Ordinance that while such nonconformities may be continued in their present state, they shall not be permitted to expand. The total structural repairs or alterations in a nonconforming structure shall not, during its life, exceed 50 percent of the assessed value of the structure unless permanently changed to a conforming use. If a nonconforming use is discontinued for a period of more than 24 months, any future use of that land or structure shall be made to be in conformity with this Ordinance.

## G. CONDITIONALLY PERMITTED USES (Exception: Animal Feeding Operations - See Section VIII and Wind Energy Facilities See Section IX.)

The development and administration of this Ordinance is based on the division of Williams County into districts within which the uses of land and buildings are mutually compatible. However, there are certain uses which, because of their unique characteristics, cannot be classified as unrestricted permitted uses in any particular district or districts without consideration in each case of the impact of those uses upon adjoining lands or public facilities. Such uses, nevertheless, may be necessary or desirable in a particular district provided that due consideration is given to location, development and operation of such uses.

1. No conditional use permit shall be granted by the County Commission unless the applicant shall have met all of the following criteria;

- a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.
- b. The conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.
- c. The conditional use shall not impede the normal and orderly development of the surrounding property.
- d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided.
- e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street. The conditional use shall conform to all applicable regulations of the district within which it is located.



3. Final grading
4. Topsoil replacement
5. Groundwater monitoring, if necessary

2) Present technical report to affected Township for their recommendation.

3) County receives Township recommendation and schedules public hearing before County Planning Commission.

- a) Planning Commission reviews technical information.
- b) Planning Commission receives County-wide citizen input.
- c) Planning Commission makes recommendation to County Commission.

4) County Commission receives Planning Commission recommendation; and

- a) Holds additional hearing
- b) If County has different perspective than Township, meet with Township Officials
- c) Delay action until Health Department concludes study, reject proposal, or approve conditionally

5) North Dakota State Health Department reviews application for waste disposal facility.

6) Industrial waste shall not be moved or disposed of in Williams County when it causes a hazard, discomfort, or annoyance to the residents. The regulations for the disposal of industrial waste in Williams County will be done by the following methods:

- a) Industrial sites:
  1. Industrial companies shall ensure that waste will not leave the industrial site unless it is in solid form. Waste shall be mixed with other material until it meets the requirements of solid form.
  2. The industrial company shall purchase Williams County Hauling Permits from the Williams County Sheriff's Department. For each load hauled the industrial company shall initiate portion #1 of a Williams County Hauling Permit at the industrial site. Each load will require a separate permit.

b) Transporters:



## SECTION IX

4th amendment - 04/12/2010

### WIND ENERGY FACILITIES

Wind is a renewable alternative, non-polluting energy resource and its conversion to electricity will reduce our dependence on non-renewable energy resources and decrease air and water pollution that results from the use of conventional energy sources.

#### 1. PURPOSE

- a. This ordinance provides a regulatory framework for siting, construction and operation of a wind energy facility in the County that will preserve the safety and well being of residents and facilitate equitable and orderly development.

#### 2. DEFINITIONS

- a. Wind Energy Conversion System (WECS) - any device such as a wind charger, windmill or wind turbine, which converts wind energy to a form of useable energy.
- b. Wind Energy Facility - one or more wind charger, windmill or wind turbine rated at 100 kilowatts name plate capacity or larger.
- c. Commercial WECS - a WECS of equal to or greater than 100 kilowatts in total name plate generating capacity.
- d. Non-Commercial WECS - a WECS of less than 100 kilowatts in total name plate generating capacity intended for private use. Construction of a non-commercial wind turbine shall require a Williams County Building Permit obtained from the County Building Inspector.

#### 3. GENERAL REOUIREMENTS

- a. All wind turbines shall be painted a non-reflective, non-obtrusive color.
- b. Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy Facility.
- c. Each Wind Turbine shall be marked with a visible identification number to assist with provision of emergency services, and the permittee shall file with local fire departments, law enforcement and the county emergency management



coordinator a Wind Energy Facility map identifying wind Turbine locations and numbers.

d. The design of buildings and related structures at wind energy facility sites shall, to the extent reasonable possible, use materials, colors, textures and location that will blend the wind energy facility to the natural setting and existing environment.

e. At wind energy facility sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape and agricultural operations within Williams County.

f. The permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the wind energy facility's life, unless otherwise negotiated with the affected landowner. When the permittee installs a gate where electric fences are present, the permittee shall provide for continuity in the electric fence circuit.

g. The permittee shall place electrical lines, known as collectors, and communications cables underground when located on private property. Collectors and cables shall also be placed within or adjacent to the land necessary for Wind Turbine access roads unless otherwise negotiated with the affected landowner.

h. The permittee shall place overhead feeder lines on public rights-of way, if a public right-of way exists, with approval from the governmental unit responsible for the affected right-of way, or the permittee may place feeder lines on private property in accordance with the easement negotiated with the affected landowner.

i. In order to ensure adequate wind access, Williams County encourages the use of private easements as a means to protect wind access.

j. The permittee shall provide copies or signed summaries of all leases and easements for Wind Turbines and associated equipment and infrastructure to be sited within Williams County and any written agreements between the prospective permittee and affected parties holding associated wind rights on adjoining properties.

k. The permittee shall identify all county, city, and township haul roads to be used [or construction purposes in the wind energy development project. The permittee is responsible for coordinating a pre-construction haul road inspection with all appropriate local road authorities to document existing haul road conditions, weight and size restrictions and damage agreements. It is understood that as a minimum condition, the haul road and bridges shall be restored to pre-construction conditions or better at the permittee's expense.

l. All wind turbines shall not be lighted except as required by FAA or other applicable authority.

#### 4. SETBACKS



a. All wind turbines shall be set back from the perimeter of the facility 2 1/2 times the rotor diameter.

b. All wind turbines shall be set back from existing structures 1400 feet. A variance for setback may be granted provided the permittee and affected landowner sign a waiver agreement.

c. Each wind turbine shall be set back from the nearest public road or above ground communication and electrical lines at a distance not less than two hundred (200) feet, determined at the center of the existing right-of-way.

#### 5. MINIMUM GROUND CLEARANCE

a. The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than seventy five (75) feet.

#### 6. CLOSURE-RESTORATION OF PROPERTY

a. Within 180 days of termination or abandonment of leases or easements for a wind energy facility in Williams County, the current Permittee shall cause, at its own expenses, removal of all structures to a depth of 4 feet below pre-construction grade.

#### 7. TRANSFER OF PERMIT

a. In the event of a change in ownership or controlling interest in a wind energy facility and the transfer of the permit, any successors and assigns of the original permittee must agree to abide by and comply with the requirements and conditions of the Permit for the duration of operation of a Wind Energy Facility permitted in Williams County. Within thirty (30) days of such change in ownership or controlling interest of any entity owning a wind energy facility, the permittee shall notify the County Zoning Administrator.

#### 8. APPLICATION FOR PERMIT

a. Applicants requesting Conditional Permitted Use for a Wind Energy Facility shall furnish scale drawings with dimensions including, but not limited to, plot plan, location of all wind turbine towers, guy wires, anchor points, buildings and structures.

*A net tower is a structure*

b. An environmental study shall be conducted to include, but not limited to, US Fish and Wildlife Services, US Army Corp of Engineers, ND Game & Fish Department, ND State Health Department.

c. Each application for Conditional Permitted Use for a Wind Energy Facility shall include an application fee of \$1000.00 with each individual WECS constructed requiring a \$500.00 building permit obtained from the Building Inspector for Williams County with a maximum fee of \$10,000.00.



d. A schedule for the proposed start and completion of construction of the Wind Energy Facility shall be furnished.

## 9. PUBLIC HEARING

a. Upon receipt of the application, the Zoning Commission and any experts it may retain, shall review the application and, in its discretion, may hold a public hearing on the application within no more than forty-five (45) days from receipt of application, providing at least fifteen (15) days notice prior to the hearing in the official newspaper of Williams County and mailing written notice to property owners within five hundred (500) feet of the proposed Wind Energy Facility. These hearings are separate from any environmental impact statement process that may be required.