

APPENDIX B – ABERCROMBIE TOWNSHIP CONDITIONAL USE PERMIT

**NORTH DAKOTA
ABERCROMBIE TOWNSHIP**

**APPLICATION OF FLICKERTAIL SOLAR
PROJECT, LLC FOR CONDITIONAL USE
PERMIT FOR FLICKERTAIL SOLAR PROJECT**

**FINDINGS AND RESOLUTION GRANTING
CONDITIONAL USE PERMIT**

INTRODUCTION

On June 30, 2023, Flickertail Solar Project, LLC (Flickertail), submitted an application for a Conditional Use Permit (Application) to Abercrombie Township (the Township) for the Flickertail Solar Project (the Project).

On November 20, 2023, the Township Board of Supervisors (Board) and Township Zoning Commission (Zoning Commission) held a joint special meeting and joint public hearing on the Application.

At the November 20, 2023 joint special meeting and joint public hearing, the Zoning Commission considered the Application, and other information presented on the Application. Based upon the Application and all other information presented, the Zoning Commission makes the following findings and recommendation:

FINDINGS OF FACT

1. The Project will be owned by Flickertail Solar Project, LLC.
2. The Project, which includes a solar energy generating system, battery energy storage system (BESS), and associated facilities, is a utility as defined in Section 6.6.2.1 of the Abercrombie Township Zoning Regulation (Ordinance).
3. The Project will be located within the Agricultural District. Pursuant to Section 5.1.3.17 of the Abercrombie Township Zoning Regulation (Ordinance), “utilities” (as defined in Section 6.6.2.1 of the Ordinance) located in the Agricultural District are a conditionally permitted use requiring a Conditional Use Permit.
4. In the Application, Flickertail requested a Conditional Use Permit for the Project.
5. In the Application, Flickertail submitted the information required pursuant to Sections 6.6.2, 8.2, and any other applicable provisions of the Ordinance. Flickertail also paid all applicable fees required by the Ordinance.
6. Flickertail has committed to obtaining all permits required for the Project, including any approvals required from the North Dakota Public Service Commission (PSC).

7. The Project is located on 3,487.5 acres (Project Area) in the following sections:

Township Name	County	Township-Range	Sections
Abercrombie	Richland	134N-49W	03, 05, 08, 09, 10, 11, 12, 14, 15, 16, 22

8. Flickertail has secured voluntary lease agreements, easement agreements, or purchase options with landowners for the Project.

9. The planned nameplate capacity for the solar energy generating system is up to 300 megawatt (MW) alternating current (AC) of solar energy capacity. The BESS will be capable of up to 150 MW/600 MWh of storage.

10. Flickertail provided an updated Preliminary Site Plan at the public hearing. The final Project layout may change depending on a number of factors, but will comply with all applicable requirements. Flickertail will provide the Project's updated layout to the Township prior to commencement of construction.

I. Compliance With Applicable Ordinance Requirements and Commitments

11. A public hearing was held and notice was provided in accordance with Ordinance Section 8.2.2 and 8.2.3 (incorporating by reference Ordinance Sections 8.1.1 and 8.1.2).

12. The Project has been designed in accordance with, and Flickertail has committed to complying with, the General Requirements for Utilities set forth in Ordinance Section 6.6.2.

13. The Project has been designed in accordance with, and Flickertail has committed to complying with, the applicable requirements and Flickertail's voluntary commitments as set forth in **Exhibit A**.

14. As set forth in Flickertail's Application for a Conditional Use Permit and supporting materials presented at the public hearing, the Project meets the conditional use standards set forth in Ordinance Section 8.2.6.

ZONING COMMISSION RECOMMENDATION

1. The Zoning Commission recommends approval of Flickertail's Application for a Conditional Use Permit for the Project.

Based upon the information presented and the findings and recommendations of the Zoning Commission, the Board hereby adopts the following:

RESOLUTION


1. A Conditional Use Permit is issued to Flickertail Solar Project, LLC for the construction, operation, and maintenance of a solar energy generation system, battery energy storage system, and associated facilities known as the Flickertail Solar Project.

2. In the Project Area, Flickertail is authorized to site, construct, operate and maintain the Project.

3. The Project must comply with all applicable setback requirements and Flickertail's commitments.

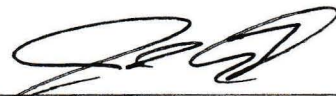
Dated this 20th day of November 2023.

RECOMMENDED FOR APPROVAL BY ABERCROMBIE TOWNSHIP ZONING COMMISSION

By: 
Chairman, Abercrombie Township Zoning
Commission

Date: 11-20-23

APPROVED BY ABERCROMBIE TOWNSHIP BOARD OF SUPERVISORS

By: 
Chairman, Abercrombie Township Board of
Supervisors

Date: 11-20-23

ATTEST

By: 

Date: 11-20-23

The motion to approve the foregoing resolution was made by Supervisor Bruce Olson and seconded by Supervisor John Flaa and upon a vote being taken thereon:

The following voted YEA: Flaa, Olson

The following voted NAY: Gorder

The majority of the Township Board of Supervisors having voted aye, the motion carried and the resolution was duly adopted.

EXHIBIT A

Project Setbacks and Voluntary Commitments		
North Dakota Public Service Commission		
Solar Energy Generating System and Utility-Scale Energy Storage (Battery Energy Storage System) - Regulatory Setback Requirement	Project Commitment	Explanation
Areas within 1,200 feet of the geographic center of an ICBM launch facility or launch control facility	N/A	N/A
Areas within 30 feet (9.14 meters) on either side of a direct line between an ICBM launch facility and a missile alert or launch control facilities to avoid microwave interference	N/A	N/A
Areas within 500 feet of an inhabited rural residence*	Aboveground Project components, including fencing, will be located at least 500 feet from any inhabited rural residence, unless a waiver is obtained	N/A
Areas within 500 feet of an inhabited rural residence*	The BESS will be set back at least 1,320 feet (1/4 mile) from an inhabited rural residence, unless a waiver is obtained	As requested, Flickertail will apply a 1,320 (1/4-mile) setback for the BESS, unless waived
Abercrombie Township		
Ordinance Setback Requirement	Project Compliance	Explanation
All buildings and structures shall be placed at least 100 feet from county and state highway rights-of-way	Aboveground Project components, including fencing, will be set back at least 150 feet from the centerline of county roads and state highways	As requested, Flickertail will apply a 150-foot setback from the centerline of county roads and state highways
All buildings and structures shall be placed at least 75 feet from the township road rights-of-way	Aboveground Project components, including fencing, will be set back at least 150 feet from the	As requested, Flickertail will apply a 150-foot setback from the centerline of township roads

Project Setbacks and Voluntary Commitments		
	centerline of township roads	
Tree plantings and shelterbelts shall be planted 120 feet from center of N and W roads and 100 feet from the center of S and E roads	<p>Tree planting and shelterbelts, including screening, will be set back at least 120 feet from the centerline of any road</p> <p>Any trees planted as part of the Project will be located outside of the Project fence and will be set back 120 feet from the centerline of a road</p>	As requested, Flickertail will apply a 120-foot setback from the centerline of any road for tree plantings
The minimum front yard, measured from the front lot line, shall not be less than 75 feet for properties abutting township roads and 100 feet for properties fronting on other rights-of-ways	Aboveground Project components, including fencing, will be set back at least 150 feet from the centerline of township road and other rights-of-way	As requested, Flickertail will apply a 150-foot setback from the centerline of township road and other rights-of-way for front yards
The minimum rear yard, measured from the rear lot line, shall not be less than 50 feet	Aboveground Project components will comply with this setback requirement	N/A
The minimum side yard, measured from the side lot line, shall not be less than 50 feet	Aboveground Project components will comply with this setback requirement	N/A
Additional Voluntary Commitments		
Setback Requirement	Project Commitment	Explanation
N/A	The Project Area will be at least 1 mile from the Village of Galchutt (measured at the northern boundary of the SW ¼ of Section 26-134N-49W)	As requested, Flickertail will apply a 1-mile setback from the Village of Glachutt, described as one mile from the northern boundary of the SW ¼ of Section 26-13N-49W
N/A	No laydown areas in Section 26-134N-49W	As requested, Flickertail will not locate any laydown areas in Section 26-134N-49W
N/A	Flickertail will not utilize the portions of Galchutt Drive, 172 ½ Avenue SE, Galchutt	As requested, Flickertail will not utilize the portions of these roads within Section 26

Project Setbacks and Voluntary Commitments		
	Street, or Galchutt Avenue located within Section 26 for construction traffic	for construction traffic
* As set forth in NDCC Section 49-22-05.1(3), the setback may be waived by the owner.		