

LIVINGSTON COUNTY ZONING BOARD OF APPEALS

FINDINGS AND RECOMMENDATION

APPLICATION NO.: SU-7-14

**PLEASANT RIDGE WIND
ENERGY PROJECT**

The Applicant, Pleasant Ridge Energy LLC, (“Applicant”) has applied for a special use for a wind energy conversion system (“WECS”) identified as the “Pleasant Ridge Wind Energy Project” or “Project”. Applicant is a subsidiary of Invenergy Wind Development North America LLC. Both Applicant and Invenergy Wind Development North America LLC are affiliates of Invenergy LLC. Applicant, Invenergy Wind Development North America LLC and Invenergy LLC, and their affiliated entities and parent and subsidiary entities are sometimes collectively referred to as “Invenergy.” The Project is proposed to be located in Livingston County, Illinois, in the Townships of Pleasant Ridge, Forrest, Fayette, Eppards Point, Indian Grove, Chatsworth, Charlotte, Belle Prairie and Avoca. The Applicant proposes to construct up to 136 wind turbines generating up to 250 megawatts (“MW”) of power. Associated facilities that would be part of the Project include graveled roads to access each turbine, above and below surface electrical cabling to collect and transmit the power to a substation for the Project and a generator tie in line to a Commonwealth Edison Substation.

Pursuant to the Chapter 56. Zoning, Article VIII. Wind Energy and Article X. Special Uses, of the Livingston County Code, involving the siting of a “WECS”, this constitutes the findings and recommendation of the Zoning Board of Appeals (“ZBA”) concerning the Project submitted to the Livingston County Board (“County Board”).

Summary of the Proposed Project:

The Applicant proposes to install up to 136 turbines and associated facilities as set forth above. The Project is located in the South Central/Southeast portion of Livingston County, Illinois, in the Townships of Pleasant Ridge, Forrest, Fayette, Eppards Point, Indian Grove, Chatsworth, Charlotte, Belle Prairie and Avoca.

The Project area is generally located west of 3400 East Rd. and east of 1600 East Rd. The southern edge of the Project is 100 North Rd. and the Project extends north to the existing McDowell Commonwealth Edison Substation on 1500 North Rd. The Project covers an area of approximately 58,300 acres. Nearly 36,400 acres of land are under contract with land owners for Project facilities. Eleven (11) of the proposed turbines are

located within one and one-half miles of the incorporated municipality of the Village of Forrest, Illinois.

All of the property that is part of the Project is located within the “AG” Agricultural District. The land is all privately owned and currently used for agricultural purposes.

Central Components of the Project:

Wind turbines: Applicant proposes to install either or both of two different turbine models for the Project. These are the GE 1.79-100, a 1.79 megawatt system and the GE 1.7-103, a 1.7 megawatt system. Each of the proposed turbines is tubular, has a non-reflective tower with a nacelle at the top of the tower, and has a rotor with three blades. Some of the turbines for each model will have blades that are Low Noise Trailing Edge (“LNTE”) and both models of turbines will have a hub height of 262.5 feet. Applicant will build private gravel access roads from the public right of way to the turbine locations.

Applicant has submitted information about each of the possible turbine models with either conventional or LNTE blades, including a separate noise study performed for each version of the models.

Transmission lines: Applicant proposes to install underground electrical lines to collect the energy produced by the turbines connected to a project substation. An above-ground electrical line will be installed from the project substation along a line north of 1200 North Rd., to a point south of the McDowell Commonwealth Edison Substation on 1500 North Rd., with this transmission line going north to this Commonwealth substation, as shown in the application materials submitted by the Applicant for the Project. Any additions to the transmission line system will need to be addressed as part of a separate special use application because they were not included as part of the Application under review for this Project.

Substation: The substation is located on the south side of 1500 North Rd., between 1700 East and 1775 East Roads. At the substation, the electricity generated by the Project will connect to an existing transmission line owned by Commonwealth Edison. The electricity from the Project will be placed on the transmission grid becoming available to be sold to local utilities, or other customers within the transmission grid.

Operations and Maintenance Center: Applicant did not include an operations and maintenance center in the Application.

Construction Headquarters and Laydown Area: During construction of the Project, the construction headquarters and laydown area will be located along and west of

2700 East Rd(Illinois Route 47) in the North East Quarter of the Southeast Quarter of Section 28 of Pleasant Ridge Township.

Livingston County Zoning Regulations:

Chapter 56. Zoning, of the Livingston County Code and the Livingston County Zone Map classify land as being located in various zoning districts. Pursuant to Chapter 56. Zoning, Article III., Districts, Article VIII., Wind Energy, and Article X., Special Uses, of the Livingston County Code, wind energy conversion systems are permitted as a special use in the AG Agricultural District. In addition Chapter 56. Zoning, Article VIII., Wind Energy, provides extensive requirements concerning the application materials, design and installation requirements, operation requirements and other regulations.

Pursuant to Section 56-692(b), of the Livingston County Code, a proposed special use application shall be the subject of a public hearing before the Zoning Board of Appeals, and in the case of a WECS, the County Board has reserved the authority to grant approval of this type of special use.

The Application:

Applicant submitted its Application to the County on August 20, 2014. Applicant submitted additional information with cover letters dated October 15, 2014 and November 7, 2014. Applicant also presented a substantial amount of information in the form of testimony and exhibits entered into the record at the hearing held by the ZBA.

The Livingston County Regional Planning Commission

On February 2, 2015, the Livingston County Regional Planning Commission held a public meeting and reviewed the proposed Application. **The Planning Commission determined that the proposed Project was not in compliance with the Livingston County Comprehensive Plan, and issued its findings in writing to the ZBA.** The findings of the Planning Commission have been made part of the record in this matter.

The Public Hearings

The public hearings for the Application occurred at three locations: Pontiac Township High School (“PTHIS”), 1110 Indiana Avenue, Pontiac, Illinois; Walton Centre (“Centre”), 110 W. Locust Street, Fairbury, Illinois; and the Livingston County Historic Courthouse (“Courthouse”), 112 W. Madison Street, Pontiac, Illinois; with hearings on the following dates at the locations indicated:

November 17, 2014 (PTHS)	February 23, 2015 (CENTRE)
November 18, 2014 (PTHS)	February 25, 2015 (CENTRE)
November 19, 2014 (PTHS)	March 10, 2015 (CENTRE)
November 24, 2014 (CENTRE)	March 16, 2015 (CENTRE)
December 8, 2014 (CENTRE)	March 18, 2015 (CENTRE)
December 9, 2014 (CENTRE)	March 25, 2015 (CENTRE)
December 15, 2014 (CENTRE)	April 7, 2015 (CENTRE)
December 17, 2014 (CENTRE)	April 9, 2015 (CENTRE)
January 12, 2015 (CENTRE)	April 13, 2015 (CENTRE)
January 14, 2015 (PTHS)	April 21, 2015 (COURTHOUSE)
January 21, 2015 (PTHS)	April 27, 2015 (COURTHOUSE)
January 22, 2015 (CENTRE)	April 29, 2015 (COURTHOUSE)
January 26, 2015 (PTHS)	May 7, 2015 (COURTHOUSE)
January 29, 2015 (CENTRE)	May 12, 2015 (COURTHOUSE)
February 9, 2015 (PTHS)	May 20, 2015 (COURTHOUSE)
February 10, 2015 (CENTRE)	May 21, 2015 (CENTRE)
February 17, 2015 (CENTRE)	June 2, 2015 (COURTHOUSE)
February 18, 2015 (CENTRE)	June 4, 2015 (COURTHOUSE)

At the commencement of the hearing, Charles Schopp, the Livingston County Zoning Administrator, identified and placed in the record the notice of publication of the hearing that was published in the Pontiac Daily Leader, and identified and placed in the record a copy of the notice of the hearing mailed to property owners in the vicinity of the proposed Project.

Applicant was represented at the hearing by attorney Michael T. Blazer. The Applicant presented several expert witnesses testifying in support of the Application. Kevin Parzyck provided a general overview of the proposed Project and provided information about Invenergy. Jacob Baker testified concerning the design of the turbines and components of the turbines, and identified other Invenergy wind energy projects in the United States. David Rautmann testified regarding the Applicant's decommissioning plan. Mark Thayer and Michael MaRous testified as to property values. Joanne Blank testified about shadow flicker and compatibility with land use. Michael Hankard testified with regard to a noise analysis for the project. Doctors Mark Roberts and Jeffery Ellenbogen testified concerning the health issues related to wind energy. Terry VanDeWalle gave a summary of the avian and bat surveys that were conducted at the Pleasant Ridge site. David Loomis testified about the economic impact of wind farms. Andrew Downey testified as a land agent for the Pleasant Ridge Wind Energy Project.

Pleasant Ridge Energy LLC then completed its initial presentation.

Applicant and its witnesses were then made available for questions from the ZBA, units of local government including school districts, interested parties represented by an attorney, other interested parties and Livingston County staff and consultants.

Numerous interested parties testified concerning the Project.

The following persons spoke in favor of the Project.

Julia Fosdick and Larry Fosdick testified that they had researched Invenergy and found it to be a reputable wind energy company. Roger Brown commented on his positive experiences with an existing farm on which a wind turbine is located and about the economic benefits of wind energy projects. Patrick Harms and Duke Harms, local property owners who will have wind turbines constructed on their property if the Project is approved, testified in favor of the Project. Lance Yednock, Ron Schneeman, Duane Durham and Brian Olson, construction workers who had worked on other wind energy projects, all testified in favor of the Project based on their experience as having been part of the construction of other wind energy projects and the benefits resulting from the jobs created by the construction process. Brent Johnston testified about the economic importance of wind energy facilities. Henry Gauwitz from Lacon, IL, in Marshall County, testified as to the economic benefits of a wind farm in his county and that they have not had any problems with this wind farm.

Jim Gulliford testified as the president of the Board for the Village of Forrest, Illinois. Mr. Gulliford spoke about the benefits to the Village of the Project and that the Village Board had approved the location of eleven (11) towers within 1.5 miles of the corporate limits of the municipality.

Robert Lenz stated he was the attorney for the nine (9) township road districts involved in the Project and that the road commissioners were close to finalizing road usage agreements with the Applicant.

Jeff Bryan, superintendent of Tri Point High School, spoke in support of the Project and submitted a formal letter of support to the ZBA.

Numerous interested parties testified against the Project. Attorney Phillip A. Luetkehans represented a group of approximately ninety-two (92) local individuals calling themselves the United Citizens of Livingston County. Mr. Luetkehans called expert witnesses to present evidence against the Project. Mr. Luetkehans called Tom Hewson whose decommissioning analysis differed from the Applicant's decommissioning plan.

Dr. Jerry Punch testified that noise generated by wind turbines could have an adverse effect on human health and Mr. Aaron Gruen gave his opinions on wind energy economics.

Also testifying against the Project were individual interested parties including Margi Hall and Sharon Roberts about their negative experiences with the Minonk Wind

project. Wesley Egelhart spoke about his experiences with a wind energy project in LaSalle County. Dr. Alan Whitman commented about a limited study involving the effects of wind turbines on geese, but acknowledged that there is very little hard research on how wind turbines affect animals. Judy Campbell testified about a Livingston County environmental survey and commented on the limited residential construction in the Odell, Illinois area. Tarry Knauer spoke about her concerns as to wind energy. Mark Aberle set forth his concern that residential property values may be adversely affected. Kelly Kinate expressed his concern that the Project area is heavily populated; that the decommission proposal from the Applicant was inadequate; and that residential property values would be reduced. Glen Schrof then expressed his views on the actual cost of wind energy.

Other interested parties testifying against the Project were Marvin Stichnoth about his experiences with wind energy in Iroquois County and the noise generated from wind turbines and Paula Kelson and Nate Kelson commented on health concerns related to wind energy projects. Nelson Zehr spoke about participation considerations for the Project. Amber Severson characterized the Project as an industrial energy project subsidized by the federal government and expressed her concerns about the potential negative effects of wind energy.

Mr. Luetkehans then called Michael McCann, a real estate appraiser, who testified concerning potential negative impacts upon residential property values resulting from the presence of a wind farm. He recommended that there be a property value guarantee plan as a special use condition funded by the Applicant, if the Project is approved.

More objector testimony came from Brad Steidinger, a local realtor, about residential property values. Dan Bieck commented about wind turbine syndrome and as veterinarian expressed concerns on how turbine noise may affect animals. Ambiro Cavazos also commented about wind turbine syndrome.

Marshall Newhouse from Boone County continued the testimony in opposition to the Project questioning the validity of the decommissioning figures. Willa Verkler expressed her concerns about how prime farmland will be adversely affected and her beautiful country view will be irreparably changed. She also stated that she believes that the Project does not comply with zoning guidelines two, five, and six.

More concerned citizen testimony came from the Bell family, Bryan, Whitney and their daughter Brenna, who did not want their view changed, were worried about health issues, and felt that the Project did not meet applicable zoning guidelines because it was inconsistent with the comprehensive plan and zoning ordinance, endangered public health, as well as adversely affected residential real estate values. Don Slagel testified about noise concerns. Then Nancy Homerding stated that she was against the project and was concerned about decommissioning issues. David Boomgarden testified at length about drainage issues. Suzanne Bell from Altona, Illinois in Henry County, commented about her experiences living within a wind farm. Linda Ambrose testified that many people in the area do not want this wind farm and they do not want their

farmland destroyed. Rick Miller commented about the amount of rock needed to build foundations for the wind turbines and about his concerns for Fugate Woods because some of the turbines were so close to this wooded area.

Additional interested party testimony came from Karen Branz who expressed her concerns for her family and others. Cindy Kaisner did not want her health and well being jeopardized. Ed Maubach stated his views that the Project does not meet applicable zoning standards and guidelines. Marcus Maier, testified about wind turbine noise levels. Laura Kerber asked the ZBA to consider those that have the most to lose as a result of this Project.

John Dassow testified about his concerns for the wildlife near wind turbines. Lori Schahrer told her story of how she does not want the quality of her life changed. Cheryl Hoffman testified about how the Project will affect school financing, and the need to carefully review whether there are any financial benefits to the local district. Steve Knauer commented about the density of residents in the proposed Project area and that none of the witnesses had testified that the quality of life would improve if the Project was built. Tom Ambrose stated that he believed the proposed Project was an industrial complex. John Hayes commented on wind farm noise and potential health effects from the wind farm noise. Ted Harke testified with regard to his experience with a wind farm near his residence in Vermillion County, Illinois.

Tom Brucker, an attorney representing Indian Grove Township, presented a copy of a resolution approved by the township requesting that setbacks for turbine towers be increased from their present distances.

Other witnesses continued testifying against the Project.

Susan Gero commented about the need to preserve farmland. Barb Cook spoke about her health concerns relating to rotating objects such as wind turbine blades. Rebekah Fehr spoke about the impact on the community, experiences that others have had with wind farms in other areas, potential noise issue concerns and she stated that she believes the Project does not meet the special use standards and guidelines. Harvey Zehr testified about the population density of the proposed wind farm in comparison to other wind farms and his thoughts on economics, health and decommissioning.

More opposition testimony was presented by Connie Dassow speaking as to her concerns about the lack of protection from potential risks caused by wind farms. Leslie Chouinard from Morris, Illinois, asked that consideration be given as to how a wind energy project can adversely affect the whole community. Quin Zehr commented on the lack of community support for the Project. Matthew Kaisner testified about the number of wind turbines that will be near his rural residential property if the Project is built. Megan Dassow spoke about the concerns she has about aerial applications within wind farm areas, medical helicopters, the effect on cultural resources and living in the area of a wind farm project. Ruth Wessels related that in her view that the Application does not

meet the applicable zoning standards and guidelines and that it would be detrimental to public health, safety, comfort and general welfare of the community. Jo Whitman objected to the Project because she believes the Application does not comply with the requirements for a special use and she has heard nothing indicating that the Project is good for the community. Sharon Schrof commented that the location of the Project is in one of the more heavily populated areas of Livingston County. John Slagel stated his concerns about noise issues related to wind energy projects.

Kent Zimmerman spoke about his concerns as to what effect the proposed wind farm would have on the quality of his family's life. Dieter Elbert expressed his concerns on the effect the wind turbines would have on his cattle operation. George Busch commented on his opposition to the proposed wind energy project which completed the presentation of evidence at the hearing.

Applicant then presented rebuttal witnesses. Michael Hankard testified about the noise analysis reports related to this Project. Dr. Mark Roberts testified that there was no substantiated evidence that people living in or near a wind farm area suffered adverse health effects as a result of the operation of such a facility. Michael MaRous testified about the effect of wind farms on residential property values in the United States, and questioned some of the testimony presented by those opposed to the Project. Kevin Parzyck, offered a new, good neighbor agreement option, and a property value guarantee proposal

Interested party surrebuttal came from John Slagel on noise analysis issues, Brad Steidinger as to the adverse effect on residential property values and John Hayes who also addressed noise analysis issues.

Alan Hymans, of Patrick Engineering, testified that Livingston County hired his firm to review the Application and provide comments. A checklist was prepared which confirmed that all of the items required under the applicable ordinances were addressed in the Application. He also confirmed that most of the turbines satisfied setback requirements, but that further review with the Applicant as to remaining turbines was necessary. This witness also stated that Patrick Engineering performed its own noise modeling study, and the study produced results consistent with the noise study presented by the Applicant.

There being no further persons wishing to testify, the ZBA concluded testimony in the matter on May 20, 2015.

Throughout the hearing process, the ZBA worked closely with the Applicant and other interested parties, including those represented by counsel, to coordinate scheduling and minimize appearances and travel requirements for witnesses from out of the area. At various times during the hearing, testimony and questioning of certain witnesses was continued, or taken out of the normal order, to allow other witnesses with time constraints

to appear and testify. The ZBA appreciates the efforts of the Applicant and other interested parties and their counsel in scheduling matters.

All persons who testified did so under oath and were made available for questioning by other participants at the hearing.

On May 20 and 21, 2015, the Applicant and other persons who participated at the hearing were provided with an opportunity to make a closing statement to the ZBA. The Applicant was then permitted to make a final rebuttal closing statement. The ZBA closed the public hearing on May 21, 2015.

Standards for Special Use

Section 56-692(b), of the Livingston County Code sets forth the following standards for special uses:

1. The proposed Special Use is to be located in a District wherein such use may be permitted; and
2. The requirements set forth in the District and this Article for such Special Use will be met; and
3. The Special Use is consistent with the spirit, purpose and intent of these regulations, will not substantially and permanently injure the appropriate use of neighboring property, and will not be detrimental to the public convenience and welfare.

Findings of the Zoning Board of Appeals

The Zoning Board of Appeals, having reviewed the Application materials, the testimony by the applicant and other interested parties, and the additional information submitted during the public hearings in form of exhibits and after deliberation on the matter, issues the following findings:

Standard 1. The proposed Special Use is to be located in a District wherein such use may be permitted:

The Application meets this standard as a Special Use.

Standard 2. The requirements set forth in the District and this Article for such Special Use will be met:

The Applicant did not satisfy this standard.

Standard 3(i). The Special Use is consistent with the spirit, purpose and intent of these regulations:

The Applicant generally satisfied this standard but this finding is subject to and modified by the other more specific findings set forth herein.

Standard 3(ii). The Special Use will not substantially and permanently injure the appropriate use of neighboring property:

The Applicant did not satisfy this standard.

Standard 3(iii). The Special Use will not be detrimental to the public convenience and welfare:

The Applicant did not satisfy this standard.

Application Guidelines.

In addition to the standards set forth in Section 56-692(b) of the Livingston County Code, the ZBA also considered the special use application with regard to the following guidelines:

1. Is consistent in all respects to the Livingston County Comprehensive Plan and Chapter 56. Zoning, of the Livingston County Code.

The Applicant did not demonstrate compliance with this guideline.

2. It will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare:

The Applicant did not demonstrate compliance with this guideline.

3. It is located in a zoning district where such use is permitted:

Yes, as a Special Use.

4. It complies with the requirements set forth in the zoning district where it is to be located and all requirements as specified in Section 56-684 of the Livingston County Code, except in each instance as such regulations may be modified by the Board of Appeals:

The Applicant did not demonstrate compliance with this guideline.

5. It will not be injurious to the use and enjoyment of other property in the immediate vicinity for the uses already permitted, or substantially reduce the value of neighboring property:

The Applicant did not demonstrate compliance with this guideline.

6. It will not impede orderly growth, development and improvement of surrounding properties for those uses permitted in the zoning district:

The Applicant did demonstrate compliance with this guideline.

7. It is provided or will be provided with adequate utilities, access roads, drainage and necessary facilities:

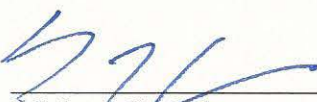
The Applicant did demonstrate compliance with this guideline.

8. It is provided with ingress and egress and so designed as to minimize traffic congestion in the public streets:

The Applicant did demonstrate compliance with this guideline.

Recommendation

Based upon the findings stated above, the Zoning Board of Appeals hereby recommends to the Livingston County Board that the application for Special Use No. SU-7-14 for the installation of a wind energy conversion system be denied.



Michael Cornale
Acting Chairman, Zoning Board of Appeals

6-4-15

Date