McLEAN COUNTY

Planning & Zoning Commission

A G E N D A

Monday, April 18, 2022

Time	Item
7:00 PM	A request for zoning change submitted by Otter Tail Power Company, whose post office address is Devils Lake, ND, involving land described as Lot 1 of Outlot B in SE¼ of Section 22, Township 145 North, Range 82 West, of McLean County (0.997 acres). The above-named applicant seeks a zoning change to allow the construction of a new electrical substation to serve the area, as proclaimed in subsection 4 of section 5.2.4 of the revised McLean County Zoning Ordinance as adopted on September 1, 1982, and as amended on March 26, 2020.
7:00 PM	A variance request submitted by Danna and Robert Bossert III, whose post office address is Minot, ND, requesting a variance of the setback requirements of the McLean County Zoning Ordinance involving land described as Lot 4B – Crooked Lake Subdivision (Township 148-80). The above-named applicant seeks a variance to allow the construction of a structure closer than the required 25 feet from the front lot line, as proclaimed in subsection 4 of section 5.2.4 of the revised McLean County Zoning Ordinance as adopted on September 1, 1982, and as amended on March 26, 2020.
7:00PM	NOTICE OF ZONING AMENDMENTS Under § 1.11 of the Revised McLean County Zoning Ordinances, if a zoning permit application pertaining to the subject matter of these amendments is received by the county after the county commission adopts and approves publishing of these amendments, the application will be considered by the commission under any final amendments that are enacted into law. The amendments are: 2.3. General subdivision information. The applicant shall describe or outline the existing conditions of the site and proposed development as necessary to supplement the required drawings. This information may include, but is not limited to: a. data on existing covenants.

b. land characteristics

c. information describing the subdivision proposal such as:

1. Number of residential lots.
2. Typical lot width and depth.
3. Business area.
4. Playgrounds.
5. Park areas.
6. Other public areas.
7. Proposed protective covenants.
8. Proposed utilities and street improvements.

d. all Subdivision developers must provide acknowledgement that all utilities have been contacted for planning purpose.

The pre-application procedures do not require a formal application or fee.

Within fifteen (15) days after submittal, the McLean County Land Use Administrator or McLean County Auditor shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations. When the Land Use Administrator or McLean County Auditor finds the plans and data do not meet the objectives of the subdivision regulations, he/she shall state the reasons for its rejection and what changes are required for approval.

If it has been determined by the McLean County Land Use Administrator or McLean County Auditor that the plans and data submitted by the subdivider do meet the requirements of these regulations, the subdivider shall prepare a preliminary plat.

2.4. The following data requirements are necessary for conditional approval of the Preliminary Plat.

2.4.1 Topographic Data. Shall include the following existing conditions except when otherwise specified by the McLean County Planning and Zoning Commission:

a. Boundary lines – bearings and distance.

b. Easements – location, width and purpose.

c. Streets on and adjacent to the tract, name, right of way width and location, type, width and elevation of surfacing, any legally established center line elevations, walks, curbs, gutters, culverts, etc.

d. Utilities on and adjacent to the tract, location, size and invert elevation of sanitary and storm sewers,

location and size of water mains, locations of fire hydrants, gas, electric and telecommunication lines, ~~fire hydrants, electric and~~ telephone poles and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to and size of those nearest. Also, show invert elevation of sewers.

e. Subsurface conditions on the tract. If required by the McLean County Planning and Zoning Commission and the County Engineer, location and results of tests made to ascertain the following;

1. Subsurface soil
2. Rock and ground water conditions

6.5.1 ELECTRICAL POWER TRANSMISSION LINES AND MORATORIUM RIGHTS.

1. Unless preempted by law,~~The~~ above ground transmission lines in excess of one hundred fifteen (115) kilovolts shall follow quarter section lines unless ~~otherwise~~ approved ~~by the landowner and~~ the McLean County Board of County Commissioners. ~~All electrical power transmission lines from wind or solar energy facilities are subject to §6.5.11(3) setbacks or avoidance zones. Any electrical power transmission line above 15 kilovolts (kV) must have a siting plan approved by the county before any installation or upgrade.~~ Electrical power transmission sites and routes must be selected to minimize disorder and adverse human, economic, agricultural, environmental, and wildlife impacts in the county. If the county finds the site of an electrical power transmission line will unduly harm any of these specified public interests, it can deny the site permit.

The county reserves the right to issue a moratorium for up to ~~(24)~~ twenty-four (24) months for the siting or building of any new electrical power transmission lines, or electrical or energy generation facilities if the county needs time or information to study the impact of additional transmission lines or generation facilities on the health, safety, morals, public convenience, general prosperity, and public welfare of the citizens of McLean County. If the county exercises its moratorium rights it shall do so by written resolution of the county commission that is then published on the county website and official county newspaper. Any person has a right to appear before the county commission to protest any moratorium.

	6.5.3 CHEMICAL FERTILIZER PLANTS, COAL GASIFICATION PLANTS, ELECTRICAL POWER GENERATING PLANTS (EXCEPT WIND OR SOLAR GENERATORS), REFINERIES AND PETROCHEMICAL PLANTS. 1. A preliminary public hearing shall be conducted in the county concerning site location, needs of the plant, size and location of construction crews, employees, roads, housing, community facilities, and county and community services. 2. The applicant shall provide twelve (12) copies of an environmental impact statement for distribution to the appropriate agencies. 3. Written evidence of approval by any necessary state or federal permitting agency shall be provided. 4. Written evidence of approval for a water permit from the North Dakota State Water Commission shall be provided. 5. Applicants shall conform to all requirements regarding preservation, removal, or relocation of historical or archaeological artifacts. 6. The county may require an applicant for a site permit for a new electrical power generation plant to provide the following written documentation: ~~a. the proposed plant's greenhouse gas and other pollutant release spectrum so the public can determine the plant's impact to air quality and climate change;~~ ~~b. base load power plant needs in the relevant Regional Transmission Organization (RTO), including black or brown out or reliability risks in the RTO;~~ a. impacts of the proposed plant on any other electrical generation plant in the county; b. impacts of the proposed plant to any coal mining activity in the county. 7. The county reserves the right to deny or hold in abeyance any ~~site~~ conditional use permit until any or all lands that are under mining control are released from their bonds and returned to private ownership. 6.5.11 WIND and SOLAR ENERGY FACILITIES GENERAL PROVISIONS. 1. Public hearing required. a. A preliminary public hearing shall be conducted in the county concerning site location, needs of the operation and company employees regarding roads, housing, community facilities and county and community services. The county may create avoidance zones to the proposed site locations after considering

	input from organized townships within the project area, the projects road plan, impacts to other economies, impacts to other electrical generation sources, residential property use and rights, and impacts to mine-able lignite deposits. Through an avoidance zone, the county may deny siting locations that materially adversely impact these specified interests, or condition a permit so mineral rights do not incur a burden of removing surface structures before mineral rights are exercised. These hearings are separate from any environmental impact statement process that may be required. ~~2.~~ b. The county incorporates and adopts all North Dakota Public Service Commission (NDPSC) laws and rules found in NDCC chapters 49-22 and 49-22.1, and NDAC chapter 69-06 as the county wind energy generation ordinance and may enforce those rules or laws independent of the NDPSC. The county reserves the right to list rules in addition to, or more restrictive than, NDPSC rules and those reservations and restrictions are enumerated in paragraph three (3). 3. County reservations and restrictions: a. Turbine setback from any nonparticipating landowner's property line is one and one half the height of the turbine plus seventy- five (75) feet from the centerline, unless a site specific variance is granted; b. Turbine setback from a nonparticipating landowner's occupied residence is twenty-five ~~(25)~~ hundred (2500) feet, unless a site specific variance is granted; c. Turbine setback from an unimproved section line or other public right of way is two hundred (200) feet, and one and one half (1.5) times the height of the turbine plus seventy-five (75) feet from state, county, or township maintained roadways, unless another setback applies or a site specific variance is granted; d. Turbine(s) and any electrical power transmission lines from NDPSC permitted wind or solar facility, ~~turbines,~~ whether they are within the county or intrastate, ~~and whether they were installed for existing energy sources,~~ or new or upgraded energy sources, shall be setback at least one (1) mile beyond the ordinary high water mark of the Missouri River, Lake Sakakawea, and Lake Audubon. However, this setback does not apply to power lines that must cross one of these water bodies. In that circumstance, applicants should take all feasible efforts to minimize the impact of the power line on wildlife and adjacent private property within one mile of the water body. An applicant should determine the feasibility of boring the power line under

	the water body, but the county does not reserve jurisdiction to require that; e. Fees. The ~~special~~ conditional use permit fee is .001 (1/10th of 1%) of the value of each wind turbine. If a turbine is in an organized township this fee will be provided to that township. An application fee of $1000 shall be payable at the time of application for a ~~special~~ conditional use permit, with the remainder of the ~~special~~ conditional use permit fee remitted by the applicant prior to building permit application(s); f. The county reserves the right to reject ~~a wind turbine permit~~ an application if the project could have a material adverse impact to area property values, agriculture, or wildlife. g. The county may require written assurance from a permit applicant and a party interested in purchasing the project's power output before giving planning and zoning consideration to the project. A permit does not authorize construction of the project until the permittee has a power purchase agreement, hedge agreement, or some other mechanism for sale of or revenue generation for the majority of the electricity to be generated by the project. This section does not apply if the project is or will be owned by an electric utility company applicant. h. The owner of an approved wind or solar energy facility shall send written notice to the county auditor of any change in ownership of the facility and include the contact information of the subsequent purchaser. The purchaser of a wind energy facility shall keep the county updated with contact information and other matters pertinent to the county's zoning permit and comply with all permit conditions. i. A permit application shall include an environmental study that has been done in consultation with the US Fish and Wildlife Service, North Dakota Game and Fish Department, and any other relevant government agency required by the North Dakota Public Service Commission during the state permitting process; j. Before issuance of a conditional use permit, the county shall be provided the location of turbines, and after conditional use permit issuance, adjustments in that location less than two hundred and fifty (250) feet do not require county approval unless an adjustment infringes on a county setback requirement; k. Construction of the project must be completed within four (4) years of a permit being issued unless good cause is shown to extend that date;

	l. The county must approve overweight truck limits on any roads within the county's jurisdiction, and the company must repair any damage caused by the project to public or private roads at its expense; FULL NOTICE OF THESE AMENDMENTS WITH THE ATTACHMENT CAN BE FOUND ON THE COUNTY WEBSITE: www.mcleancountynd.gov Following the adoption and publication of these amendments, THE COUNTY WILL HOLD A PUBLIC HEARING ON THE AMENDMENTS AT 7:00 P.M. IN THE UNDERWOOD CITY BUILDING, 88 LINCOLN AVE, UNDERWOOD, NORTH DAKOTA, ON APRIL 18, 2022. Submitted by Ladd Erickson, McLean County State's Attorney, and adopted and approved for publication by the McLean County Commission on March 15, 2022.

***Note* THE PLANNING AND ZONING COMMISSION WILL MEET** ON THE AMENDMENTS AT 7:00 P.M. IN THE UNDERWOOD CITY BUILDING, 88 LINCOLN AVE, UNDERWOOD, NORTH DAKOTA, ON APRIL 18, 2022.