

**SHIAWASSEE COUNTY  
PLANNING COMMISSION BOARD MINUTES  
WEDNESDAY, APRIL 24, 2013**

**CALL TO ORDER:** Chair Don Dickmann called the regularly scheduled monthly County Planning Commission public hearing to order at 7:00 P.M. within the County Board of Commissioners' meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, in Corunna, MI.

**ROLL CALL:** **Present:** Glenn Love Jr., William Thelen, Bonnie Ott, Henry W. Martin II, Robert Ebmeyer, and Don Dickmann. **Absent:** None.

Also present: Peter J. Preston/Community Development Director, Linda Gene Cordier/Zoning Administrator, and County Commissioner/Robert McLaren.

**EXCUSED ABSENCE:** None.

**INTRODUCTION:** Preston introduced newly appointed board member, Robert Ebmeyer, to the board. Preston stated Ebmeyer would be fulfilling the vacancy representing "social" that was held by Fred Junger whom was term limited and had to step down. Preston noted that there was one (1) vacancy remaining representing "industrial".

**PLEDGE OF ALLEGIANCE:** Pledge of Allegiance led by Chair Dickmann.

**PROOF OF PUBLICATION:** Cordier stated the legal notice was placed within the Shiawassee Independent on Sunday, April 7, 2013. Chair Dickmann declared the hearing legally noticed.

**APPROVAL OF AGENDA:** Cordier informed the chair that the agenda had been amended prior to the meeting. Amended agendas were provided to the board members. A request to extend three (3) special land use permits that had previously been granted was added under old business. **Motion:** William Thelen moved to approve the agenda as amended. **Support:** Bonnie Ott. **Motion carried:** 6 ayes, 0 nays.

**APPROVAL OF BOARD MINUTES:** **Motion:** Ott moved to approve the County Planning Commission board minutes of March 27, 2013 as printed. **Support:** Glenn Love Jr. **Motion carried:** 6 ayes, 0 nays.

**BOARD OF COMMISSIONER COMMENTS:** County Commissioner Robert McLaren informed the board that the Board of Commissioners approved the rezoning request for Memorial Healthcare regarding the property in Middlebury Township earlier this month. The commissioners also approved a request from the Prosecuting Attorney's office to implement a Canine program that would allow a dog to be in court when a court case is associated with a youth. McLaren stated that in some cases a young child is afraid to be in the court room. A dog may help ease the fears if a dog is there by their side. It has been shown to provide a level of comfort for the young children. The dogs have gone through the Leader Dog program. The dog will stay within the Prosecuting Attorney's office during the trial and overnight with one of the prosecuting attorney's. Any liability associated with the program will be covered through the Sheriff's Department. There will be no cost to the County.

**CALL TO THE PUBLIC on NON-AGENDA:** None.

**OLD BUSINESS:**

Permit #PSUP12-03 (Wind Energy Test Facility)

*Applicant* – Baker Creek Wind LLC, Ann Arbor

*Owner* – Zachary Loynes, 7351 N. Baldwin Rd., Henderson

*Site Location* – Access from Baldwin Rd.

*Tax Identification of Parcel* – 78-001-12-400-002-00, Section 12, Fairfield Twp.

*Proposed* – 60 meter meteorological evaluation tower

Request to extend the Special Land Use Permit of May 23, 2012

Permit #PSUP12-05 (Wind Energy Test Facility)

*Applicant* – Baker Creek Wind LLC, Ann Arbor

*Owner* – David Williams, 8288 Henderson Road, Elsie

*Site Location* – Access from Henderson Rd.

*Tax Identification of Parcel* – 78-001-15-400-001-00, Section 15, Fairfield Twp.

Request to extend the Special Land Use Permit of May 23, 2012

Permit #PSUP12-04 (Wind Energy Test Facility)

*Applicant* – Baker Creek Wind LLC, Ann Arbor

*Owner* – Glen Nethaway, 1500 N. Warren Rd., Ovid

*Site Location* – Access from Warren Road

*Tax Identification of Parcel* – 78-005-10-100-002-00

Request to extend the Special Land Use Permit of May 23, 2012

Preston informed the chair that the three (3) special use permits and site plans were approved last year; however, construction had not commenced due to a change in ownership. Preston passed out a memo received verifying BP Wind Energy North America Inc. (known as BP Wind) acquired title to Orisol and Baker Creek Wind LLC. The request for an extension is needed because they didn't meet the six (6) month construction requirement. After review of the "changed" conditions, it appears that conditions will be similar and possibly the same. All three (3) permits are for placement of a 60 meter test tower on each site location. Preston noted the extensions are needed so BP can proceed with securing Plan Review and Building Permits for the installation of the test towers. Preston added he would recommend that a six-month extension be granted. The reasoning behind the six (6) month requirement for construction to commence is due the fact that ordinance language could change within that time frame or changes to the surrounding area. A review of the area and ordinance language verified there has been no change and again recommended the extensions be granted so the permit holder could move forward.

Cliff Williams, representing Orisol and on behalf of BP, explained BP has contracted with Orisol with the wind energy project. The special use permits will need to be transferred into BP's name.

Preston replied it was handled under old business based on the fact permits had been granted. They are requesting extensions and a transfer of ownership.

**Motion:** Ott moved to grant a six (6) month extension to permit numbers #PSUP12-03, #PSUP12-05, and #PSUP12-04. **Support:** Henry W. Martin III.

**Discussion:** Thelen asked if six (6) months would be enough time. Williams replied that BP had informed him that it was. They are proposing to move forward with construction within the next few months if the extensions are granted. It was approximately this same time last year that we were granted the special land use permits and then in the summer we began the process of selling the project, which was sold to BP. Closing took place in November.

**Roll Call: Ayes to approve:** Henry W. Martin III, Glenn Love Jr., William Thelen, Robert Ebmeyer, Bonnie Ott, and Don Dickmann. **Nays:** None. **Motion carried:** 6 ayes, 0 nays.

**NEW BUSINESS:**

**Special Land Use/Site Plan Approval (PSUP12-02)**

**Applicant** – DeAnn M. Markva, 7494 E. Prior Road, Durand, MI

**Property Owners** – DeAnn M. and Frank J. Markva, 7494 E. Prior Road, Durand, MI

**Site Location** – 7494 E. Prior Road, Durand, MI

**Tax Id.** – 78-012-32-100-001-06, Section 32, Vernon Township

**Zoning District** – A-2, Agricultural Production/Rural Residential

**Proposed** – Commercial Dog Kennel

**Ordinance Reference** – Section 4.3.43 (Kennels, Commercial)

Preston provided the staff report. The property is located within Section 32 of Vernon Township on a 5.7 acre parcel of ground. There is an existing home on the property and occupied by the applicant. The area is mostly agricultural with some single-family dwelling homes in the vicinity. The applicant submitted a hand-drawn site plan with her application. Normally, a professionally drawn site plan is required. The Planning Commission has the option to waive this requirement if they feel the site plan is adequate. If the board decides to waive the requirement of an engineered site plan, a motion to waive that requirement will be needed.

Preston noted that some items that were not provided on the site plan were: 1) Was a sign proposed. If so the size and location must be provided. 2) Identify the zoning on the site plan and zoning of all adjacent parcels including across the road from the proposed request. 3) A detailed use description with regard to the boarding and treatment of animals that will not be owned by the applicant, hours that the animals are allowed in the outdoor run areas and type of plan to ensure the animals do not escape. 4) Is on-site lighting proposed? 5) How will the animal waste be disposed of? 6) Distance from the south and west property lines.

Preston continued that the proposed kennel would be located in the basement of the single-family home, which is setback from Prior road about 330 feet. The basement area is approximately 1300 square feet. The basement area layout includes an office area, sitting area, and crate area. Access from the basement to the rear yard fenced-in area is anticipated by a ramp. The proposed parking area appears to be in compliance with ordinance provisions. Barrier free parking and access to the home may be required by the building official if this request is approved. Lighting was not mentioned and needs to be addressed by the board. Landscaping does not appear to be an issue unless additional landscaping is requested by the board.

The application has been reviewed by the Site Plan Review Committee, Township, and a copy provided to the Animal Control Officer. Cordier informed the Animal Control Officer that she would notify him if this board granted approval including the number of dogs she would be limited to before he completed his inspection. The inspection requirement and approval from the Animal Control Officer would be a condition of approval if the special land use permit is granted. The Drain Office recommended approval. Response from the Environmental Health Department had not been received.

Chair Dickmann asked if there were any questions before he opened the floor for the applicant's presentation.

Thelen questioned the lot size and wondered when the maximum 2.5 acre lot size requirement went into effect?

Cordier replied that the 2.5 acre ruling within the agriculturally zoned areas went into effect in June 1999. She had researched Markva's lot size of 5.7 acres and verified the land division was completed prior to the 1999 ordinance.

Chair Dickmann asked Ms. Markva if she would like to present her request to the board.

DeAnn Markva replied that she was under the understanding that everything had been taken care of after she had met with staff in the office. She didn't think she had to come back. They raise show dogs, which her daughter participates in. Markva said she also breeds dogs. Her oldest daughter is in college now and her youngest is five. She didn't have any plans to take in other dogs, but would like the ability to do so once in awhile. The commercial kennel is basically for her show dogs. The animal waste will be bagged and picked up by Waste Management Services. Markva stated she had contacted them and they said that was acceptable. There are no plans for additional lighting to the home.

Chair Dickmann discussed the site plan and asked if the dogs will be housed in the basement within the 12-crate units along the wall?

Markva answered yes, that is what she has. She is requesting the ability to have up to a maximum of 20 dogs in the future. They may decide to build a separate building in the future for the dogs so she could have up to 30 dogs at any given time. Markva stated she could accept 20 within her home at this time.

Chair Dickmann replied that if the board were to grant her a kennel permit for up to 20 dogs and she decided to build a separate kennel or seek additional dogs, she would have to come back before this board for review and consideration of approval to amend her permit and site plan.

Chair Dickmann opened the floor to the board for discussion.\

Thelen questioned Markva that Waste Management was agreeable to placing the animal waste in bags for roadside pick-up for disposal at the landfill?

Markva answered yes.

Dickmann talked about the trees located along the west lot line and if they had plans for replacement should any of them if the die.

Markva stated yes. They like trees and the seclusion it provides.

Dickmann discussed her plans for access in and out of the home for the dogs.

Markva stated right now she generally takes them upstairs to let out. If there was an emergency, she could use the basement window.

Dickmann asked what type of dogs did she raise.

Markva informed the board she raised Papillion's, which are a small breed.

Ebmeyer asked if the township granted approval.

Preston answered that the Township Planning Commission recommended denial and the Township Board recommended approval with the stipulation that it be limited to 20 dogs within the home.

Thelen informed Preston that the applicant has indicated tonight she was willing to limit the dogs to 20.

Preston stated the application could be amended this evening to reflect up to 20 dogs and that she can always come back in the future to consider amending the permit and site plan for additional dogs.

Love stated he was concerned with the access to the outdoors from a ramp, especially in an emergency situation.

Markva again noted that her dogs were small and that she didn't have any plans to bring a larger dog into her house to board.

Martin asked if she had received anything in writing from Waste Management approving the method of animal waste disposal by weekly roadside trash pick-up.

Markva answered no; but there wasn't a lot of animal waste with small dogs.

Martin stated he had contacted Waste Management to see if they picked up animal waste from dogs and was informed if it was a commercial kennel then it is considered commercial waste disposal.

Preston replied they should consider this more of a "home" business rather than a typical commercial dog kennel operation based on what we've heard. We have granted commercial dog kennels in the past that have required their own septic system for animal waste disposal.

Chair Dickmann opened the floor for public comment in support of the request. Hearing none, the floor was opened for public comment in opposition of the request. Hearing none, Dickmann noted a response had been received from Vernon Township. The Township Planning Commission recommended denial and the Township Board recommended approval with recommendations. Dickmann closed the public hearing and called for board deliberation. He noted the board had three (3) options; postpone, approve with conditions, or deny.

Preston informed the board that a special land use permit for a commercial dog kennel in Vernon Township was approved by this board in 2006, which was located approximately 1½ miles from Mrs. Markva's home. That parcel contained approximately 5.1 acres. The board approved the applicant a special use permit for up to 20 dogs with the conditions that a copy of the commercial kennel license was provided to the office, verification of proper animal waste disposal, and maintain the buffer strip between the kennel and property line.

Thelen agreed that Markva's dogs were small so there wouldn't be a lot of animal waste to be disposed of. It probably depended on whom you talked with at Waste Management for guidelines. The board did note on the request from 2006 that it was up to the owner to properly take care of the animal waste. That permit also stated no boarding or training of dogs unless the S.U.P. was amended, and that the noise level be kept at a minimum.

Chair Dickmann asked if the Markva's had an on-site septic system. Markva answered yes.

Chair Dickmann asked Preston to proceed with the standards for approval unless the board had additional questions.

**GENERAL STANDARDS FOR APPROVAL:**

1. The special use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

**Staff: The petitioned use and structure is proposed in an agriculturally zoned area with limited residential dwellings in the immediate area. The proposed use and structure are not anticipated to be outside of the parameters outlined in the Ordinance for such facilities. The applicant will need to provide a use description of what will take place on site.**

Board Comments: Concur with staff's findings.

2. The special use shall not inappropriately change the essential character of the surrounding area.

**Staff: The petitioned use and structure is proposed in an agricultural area with limited residential dwellings in the immediate area. The proposed use and structure are not anticipated to be outside of the parameters outlined in the Ordinance for such facilities.**

Board Comments: Concur with staff's findings.

3. The special use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also is in keeping with the natural character and environmental quality of the site.

**Staff: The petitioned use and structure are substantially screened and buffered from the limited residential dwellings in the immediate area. Review by other agencies, such as the Drain Commission and the Health Department, are intended to address environment issues that may be present.**

Board Comments: Concur with staff's findings. Provisions should be noted to replace any vegetation that may have died for proper maintenance and buffering.

4. The special use shall not be hazardous to adjacent property or involve use, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, ground vibration, water runoff, fumes, light, or glare.

**Staff: The petitioned facility is not anticipated to generate off-site impacts as described under this item. Compliance with standards set forth under the Ordinance and review by other agencies to establish compliance with their standards should prevent such extraneous impacts.**

Board Comments: A detailed use description is needed; a statement from Waste Management accepting animal waste through weekly trash pick-up, and comments from the Environmental Health Department should be obtained before the board moves forward on the request.

5. The special use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.

**Staff: Other than general services such as police, fire and emergency services, no additional public facilities are anticipated to be necessary.**

Board Comments: Concur with staff's findings.

6. The special use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.

**Staff: Other than general services such as police, fire and emergency services, no additional public facilities are anticipated to be necessary.**

Board Comments: Concur with staff's findings.

7. The special use shall be consistent with the intent and purpose of this Ordinance and the objectives of the County Land Use Plan.

**Staff: Subject to providing outstanding information, the petitioned facility is consistent with the allowable uses of the underlying zoning district, meets the standards outlined for the specific use and the designation for this property under the Shiawassee County Future Land Use Plan.**

Board Comments: It generally complies; concur with staff's findings.

8. For special uses in the A-1, A-1½, A-2 Districts, approval of a permit shall be further determined on the basis of the proposed land use's effect on a loss of prime agricultural land or on the right-to-farm of any adjacent farm.

**Staff: The petitioned use and structure do not appear to impact the use of adjacent farmland.**

Board Comments: Concur with staff's findings.

Chair Dickmann asked the board if they had additional questions and, if not, a motion was in order.

Discussion: The board felt there were too many outstanding issues and that the application should be tabled.

Preston reviewed the outstanding issues and noted the applicant has agreed to amend the application to allow for 20 adult dogs. Additional information needed: 1) Inventory of existing vegetation so as to keep track for replacement purposes should anything die. 2) Follow-up with verification and regulations for commercial trash disposal of animal waste. 3) Rules and regulations, if any, from the Shiawassee County Environmental Health Department. 4) Approval by all other agencies including Animal Control. 5) Waiver of Site Plan requirements. 5) Review of additional improvements. 6) Trash receptacles screened per Ordinance requirements.

Martin agreed that several items were still missing. Also, in the past, they have generally received professionally drawn site plans with a request.

**Motion:** Martin moved to postpone the special land use and site plan application submitted by DeAnn Markva, 7494 E. Prior Road, Durand, MI, on Tax Id. 78-012-32-100-001-06, for a Commercial Dog Kennel, based on too many outstanding issues as outlined by Community Development Director, Peter J. Preston. **Support:** Glenn Love Jr. **Roll Call:** Ayes to Postpone: William Thelen, Bonnie Ott, Robert Ebmeyer, Glenn Love Jr., Henry W. Martin III., and Don Dickmann. Nays: None. Motion carried: 6 ayes, 0 nays.

### **COMMITTEE REPORTS:**

**Ordinance Revision:** Martin informed the board that the committee met at 5:00 P.M. prior to the Planning Commission hearing. Notes from the committee were taken by Ott. The committee has

received a draft copy of the ordinance to peruse. The new format will make it easier to read and understand. All text amendments will be added to the appropriate sections. The board is still looking at possible other text amendments to the ordinance prior to setting a hearing for recommendation of approval to the Board of Commissioners. Preston added that Orisol has some additional wind energy language for review and possible consideration of amendment to the wind energy section of the ordinance. Martin stated the next rewrite committee meeting will be at 5:00 P.M. on May 22<sup>nd</sup>.

**Future Planning:** Love stated the committee had reviewed five (5) application requests for P.A. 116 Agreements which involved properties within Sciota, Fairfield, and Hazelton Townships. The committee reviewed the requests and recommended approval to the Board of Commissioners. Preston noted that staff mailed a memo out earlier in the month to inform them of the Village of Lennon's Intent to Update their Master Land Use Plan. The plan is available for review. Cordier noted that she had just received a memo and CD from the City of Perry of their Intent to Update their Master Land Use Plan. Preston stated per statute, they have 63 days to review and make recommendations. Preston stated they would include them on the May agenda.

Martin recommended to Chair Dickmann that he appoint Bob Ebmeyer to the vacancy on the Future Planning Committee. Dickmann stated there still was one more vacancy on the Planning Commission and had thought of waiting to make board appointments until all vacancies were filled. Dickmann did ask Ebmeyer if he would be interested in filling the opening on the Future Planning Committee. Ebmeyer stated he would accept.

**Gravel Committee:** Dickmann stated he was the only person at this time on that committee. Dickmann stated the committee will need to make site visits as soon as the vacancies are filled as the committee didn't get to make their site visits last fall. Dickmann asked Thelen if he would like to fill the vacancy as Chairman on the Gravel Committee. Thelen stated he would accept. Dickmann noted that Cordier had notified Pine View Mining that their special land use permit and conditions of approval had not been complied with and that staff would be bringing it back before the Planning Commission for possible nullifying the permit. Cordier explained she had sent the Special Land Use Permit language for their signature and asked it to be returned so Preston and Junger could sign the documents and a reminder that as part of the requirements a bond would be required. As six (6) months was nearing and she hadn't heard from them, a second notice was mailed in January. The secretary informed her that she would have Mr. Rogers sign the document and return it with the bond. The office never received the document or the bond. A final notice letter was then sent on April 17<sup>th</sup> informing them that unless requirements had been met, it would be brought back to the Planning Commission for action to revoke the permit.

**By-Laws:** Chair Dickmann noted the By-Laws were passed out last month for review. A motion was in order to approve the By-Laws for 2013 unless changes were needed.

**Motion:** Thelen moved to approve the By-Laws as written. **Support:** Ott. Motion carried: 6 ayes, 0 nays.

**COMMUNICATIONS RECEIVED:** Martin noted that the Master Land Use Plan updates that were passed out last month would need to be included on the agenda next month for review and acceptance.

**DIRECTOR'S COMMENTS:** Preston noted that the Site Plan for Memorial Healthcare will be on the May agenda.

**PUBLIC COMMENTS:** Cliff Williams said he had some additional questions on wind energy. Preston stated that the subcommittee will be reviewing Orisol's proposed language changes.

Preston stated staff would be working with him on preparing the Transfer of Special Use Permit of the three (3) test towers.

**ADJOURNMENT:**

**Motion:** Martin moved to adjourn. **Support:** Thelen. Motion carried: 6 ayes, 0 nays. Meeting adjourned at approximately 8:05 P.M.

**Recording Secretary:** Linda Gene Cordier

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William Thelen, Vice Chairman  
County Planning Commission

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May 22, 2013  
Approval Date of Minutes