

LAND USE AND DEVELOPMENT COMMITTEE:
Member Gordon, Chairman, presented the following:

**FINDINGS OF FACT AND RECOMMENDATION
OF THE McLEAN COUNTY ZONING BOARD OF APPEALS**

This is the findings of fact and the recommendation of the McLean County Zoning Board of Appeals to the McLean County Board concerning an application of High Trail Wind Farm, LLC, Old Trail Wind Farm, LLC and Zilkha Renewable Energy, LLC in case SU-05-09. They are requesting a special use to allow a Major Utility (wind farm of up to 275 wind tower generators that are each up to 499 feet in height) with a waiver to allow up to 16 towers to be as close as 400 feet to an R-1 Single Family Residence District rather than 2,000 feet as required and to be allowed to apply for a building permit for the first phase up to three years after County Board approval rather than one year as allowed and to be allowed to apply for building permits for the second phase up to five years after beginning construction of the first phase on property which is part of Townships 23N Range 4E (Dawson Township), 23N Range 5E (Arrowsmith Township) & 23N Range 6E (Cheneys Grove Township) of the 3rd P.M., McLean County, IL and is located south of 1400 North Road, east of 2400 East Road, north of 800 North Road and west of 4100 East Road.

After due notice, as required by law, the Zoning Board of Appeals held a public hearing in this case on July 5 and July 6, 2005 in Rooms 1406 and 1407, Community Commons Building, Heartland Community College, 1500 W. Raab Road, Normal, IL and hereby report their findings of fact and their recommendation as follows:

PHYSICAL LAYOUT - The 19,192 acre properties are primarily in crop production and pasture. The property is generally relatively flat and is sloping in some areas. The properties have frontage on Illinois Route 9 and various County and township roads. Access for the proposed use is covered by two road agreements: 1) between the applicant and McLean County; and 2) between the applicant and Dawson, Arrowsmith and Cheneys Grove Township Road Commissioners.

SURROUNDING ZONING AND LAND USE - The land is in the A-Agriculture District and is primarily surrounded by land in the A-Agriculture District; several of the properties are adjacent to land in the R-1 Single Family Residence District.

ANALYSIS OF STANDARDS - After considering all the evidence and testimony presented at the hearing, this Board makes the following analysis of the standards contained in the McLean County Zoning Ordinance regarding the recommendation by the Zoning Board of Appeals as to whether the County Board should grant or deny the proposed special use.

STANDARDS FOR RECOMMENDING:

1. The proposed special use will not be detrimental to or endanger the health, safety, morals, comfort, or welfare of the public. This standard is met if a mitigation agreement is made between the applicant and Craig and Rose Grant to provide a planting screen between two proposed wind turbines in Section 36 in Dawson Township and the Grant property.

The applicant is proposing to build a Major Utility (Wind Power Generating Facility) on 19,192 acres in an area that is primarily used and surrounded by land that is used for crop production. The Zoning Ordinance lists a Major Utility as a special use in the Agriculture District. The applicant is proposing to build a maximum of 275 wind turbines. The proposed wind turbines will meet the 499 foot maximum height requirement as measured from the

ground to the tip of the blade. The blades and hub are approximately 100 meters (328 feet) in diameter and the hub is approximately 100 meters (328 feet) above the ground. The wind turbines will meet the 30 foot side and rear setback requirements as measured from the tip of the blade to property lines of non participating properties. The applicant will set back the wind turbines from roads 1.1 times the height from the edge of road rights-of-way as measured from the tip of the blade.

The applicant has hired a consultant to conduct a bird study which states, "Overall risk is assessed to be low for most species and moderate for some species of raptors. Small numbers of fatalities are probable, though there is little chance of significant impacts to any species." There will not be a significant impact on birds and bats according to a biologist at Illinois State University. The applicant has also conducted a cultural resource evaluation to identify and assess any potential impact on cultural, historic and archaeological resources located within the project area. The selected turbine sites were found to be clear of such resources.

- 2. The proposed special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted or substantially diminish property values in the immediate area.** This standard is met provided that no wind turbine tower is located closer than 600 feet to the nearest R-1 Single Family Residence District as measured from the tip of the turbine blade. The surrounding property that is currently used for crop production will continue to be desirable for such use.

The applicant is proposing to build the facility in two phases. Phase one will consist of approximately 137 towers and the second phase will consist of the remaining approximately 138 towers. The applicant is requesting to be allowed to apply for a building permit for the first phase up to three years after the County Board approval rather than one year as allowed, and to be allowed to apply for building permits for the second phase up to five years after beginning construction of the first phase.

The following studies, surveys or assessments were submitted with the application and shall be considered part of the application: A microwave beam path analysis by ComSearch; a telecommunication study by ComSearch that includes a TV broadcast off-air reception measurement report; two noise impact assessments, 1) by Noise Solutions, Inc. and 2) by Wind Engineers, Inc.; an avian risk assessment by Curry & Kerlinger, LLC; an archeological survey by Archaeological Consultants, Inc., with a compliance letter from the Illinois Historic Preservation Agency; and an area aviation study by Aviation Systems, Inc. Resumes for people completing these assessments are also part of the application.

Microwave beam paths approved by the Federal Communications Commission will not be interrupted by any proposed tower. The applicant has met with airport officials to clarify that tower locations are compatible with local airport landing patterns; the aviation study shows that the tower locations will meet the Federal Aviation Administration (FAA) lighting requirements and site approval for each wind turbine within the project area. According to a noise impact assessment, "The minimum distance needed to maintain compliance with the State of Illinois Noise Regulations is 655 feet from the V82 wind turbine (one of the types of proposed wind turbines) to the nearest residence." The applicant is proposing a minimum 1,500 foot setback from a wind turbine to the nearest residence. The applicant will provide engineering plans certified by a registered engineer

that each tower and wind turbine is designed and built according to appropriate national standards. The avian study indicates that there is no indication that large numbers of migrating or wintering birds use the project site or that the project site is on a significant migration pathway; the site did not reveal high densities or availability of prey that could attract large numbers of raptors to the turbine areas.

3. **The proposed special use will not impede the orderly development of the surrounding property for uses permitted in the district.** This standard is met. Nearby land that is suitable for crop production will continue to be suitable for such use. The applicant has decommissioning agreements with each land owner. The applicant will set up an escrow account in the amount of \$25,000 per wind turbine beginning twelve years after the start of commercial operations. The decommission fund is intended to cover the cost of removing the project infrastructure, restoring the leased premises to their original condition, and removing the foundation pedestal to 40 inches below grade.
4. **Adequate utilities, access roads, drainage and/or other necessary facilities have been or will be provided.** This standard is met. The applicant is proposing to build gravel access roads to each tower. The towers do not require septic systems or wells. The applicant will install underground utilities along the access roads to each of the tower sites. The applicant proposes to build two electrical substations within the project area. An operations and maintenance facility is proposed to be built outside the town of Arrowsmith. The operation and maintenance facility will be served by a private well and septic system approved by the County Health Department. Once the wind farm is built, it will permanently employ approximately 45 people.
5. **Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.** This standard is met provided a written road agreement is approved by the County Board and Dawson, Arrowsmith and Cheney's Grove Townships as a condition of this approval. The applicant has been working with the County and three townships to obtain road agreements to maintain the roads and provide adequate access during the construction process.
6. **The establishment, maintenance and operation of the special use will be in conformance with the preamble to the regulations of the Agriculture District.** This standard is met provided the following has occurred after completion of Phase I and before beginning Phase II: 1) the applicant has requested a meeting with the Director of Building and Zoning; 2) a meeting takes place with the applicant and staff of the McLean County Department of Building and Zoning where the applicant will adequately address problems or concerns that are identified through Phase I by the Director of Building and Zoning; and 3) any items brought up at this meeting that cannot be adequately addressed according to the Director of Building and Zoning will need to be appealed to the Zoning Board of Appeals for resolution at their next available meeting.

The intent of the Agricultural District states, "Provide for the location and govern the establishment and operation of land uses which are compatible with agriculture and are of such a nature that their location away from residential, commercial and industrial areas is most desirable."

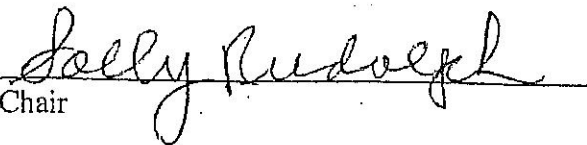
7. **The proposed special use, in all other respects, conforms to the applicable regulations of the Agriculture District. This standard is met.**

After considering all the evidence and testimony presented, this Board finds that the application meets all the standards as found in the McLean County Zoning Ordinance provided the following conditions are met: 1) a mitigation agreement is made between the applicant and Craig and Rose Grant to provide a planting screen between two proposed wind turbines in Section 36 in Dawson Township and the Grant property; 2) no wind turbine tower is located closer than 600 feet to the nearest R-1 Single Family Residence District boundary as measured from the tip of the turbine blade; 3) a written road agreement is approved by the County Board and Dawson, Arrowsmith and Cheney's Grove Townships as a condition of this approval; and 4) the following has occurred after completion of Phase I and before beginning Phase II: 1) the applicant has requested a meeting with the Director of Building and Zoning; 2) a meeting takes place with the applicant and staff of the McLean County Department of Building and Zoning where the applicant will adequately address problems or concerns that are identified through Phase I by the Director of Building and Zoning; and 3) any items brought up at this meeting that cannot be adequately addressed according to the Director of Building and Zoning will need to be appealed to the Zoning Board of Appeals for resolution at their next available meeting; and the applicant will provide engineering plans certified by a registered engineer that each tower and wind turbine is designed and built according to appropriate national standards.

Therefore this Board recommends that a special use be granted on the property described above to allow a Major Utility (wind farm of up to 275 wind tower generators that are each up to 499 feet in height) with a waiver to allow up to 16 towers to be as close as 600 feet to an R-1 District rather than 2,000 feet as required and to be allowed to apply for a building permit for the first phase up to three years after County Board approval rather than one year as allowed and to be allowed to apply for building permits for the second phase up to five years after beginning construction of the first phase and that development follows the plans and specifications as presented with such minor changes as the Director of Building and Zoning may determine to be in general compliance with such plans and specifications and with zoning regulations, and provided compliance is made with all of the conditions of the previous paragraph.

ROLL CALL VOTE - The roll call vote was six members for the motion to recommend granting, none opposed and Member Elble was absent.

Respectfully submitted this 6th day of July 2005, McLean County Zoning Board of Appeals


Chair

Sally Rudolph, Chair
Tony Wheat
David Kinsella
James Finnigan
Jerry Hoffman
Michael Kuritz

Members Gordon/Dean moved the County Board approve a Request for Approval of High Trail Wind Farm, LLC, Old Trail Wind Farm, LLC and Zilkha Renewable Energy, LLC in Case SU-05-09 for a Special Use to allow a Major Utility (wind farm of up to 275 wind tower generators that are each up to 499 feet in height) with a waiver to allow up to 16 Towers to be as close as 600 feet to an R-1 Single Family Residence District rather than 2,000 feet as required, and to be allowed to apply for a Building Permit for the first phase up to three years after County Board approval rather than one year as allowed, and to be allowed to apply for Building Permits for the second phase up to five years after beginning construction of the first phase on property which is part of Townships 23N Range 6E (Cheneys Grove Township) of the 3rd P.M., McLean County, IL and is located south of 1400 North Road, East of 2400 East Road, north of 800 North Road and west of 4100 East Road. Clerk Milton shows all Members present voting in favor of the Motion. Motion carried.

Member Gordon stated the following: the General Report can be found on pages 153-155.