

MEMORANDUM

TO: Cleveland Township Planning Commission
c/o Tim Ewing, Chairperson
FROM: Michael A. Kronk
DATE: August 22, 2007
SUBJECT: Wind Energy Systems

Dear Planning Commission Members:

My compliments to all of you on your efforts in drafting a proposed Ordinance Amendment to cover Wind Energy Systems. At Mr. Ewing's request, I have reviewed the draft ordinance, the County Planning Commission comments, and the specific questions posed. Hopefully, this memo will address the Planning Commission's concerns/questions.

General Comments

The following are very general comments, most of which are items of clarification rather than substance. Some may reveal my lack of understanding of a complete Wind Energy System (and I assume the commission has already reviewed that type of material), but the following at least raise questions or concerns on my part.

1. Section 4.23: As a suggestion, on the second line, where the systems are identified, perhaps a clause or word could be inserted, such as "personal", "owner/consumer" or "property site specific" before the words "...Wind Energy Systems...".

This would, I believe, clarify any concerns regarding distinguishing commercial wind farms as opposed to individual Wind Energy Systems for consumption by the property owner on whose land the system is located.

2. Section 4.23(2)(e): Does the Planning Commission wish to strike the word "primarily"? Phrasing this in another fashion, by including the word "primarily", it leaves open the option that the WES could serve others than the consumer at the site. Just a thought.
3. Section 4.23(4): For whatever it is worth, I share the concerns expressed by County Planning. It would be my thought that any "waiver" of the minimum setback requirements would mandate a public hearing. There are

many reasons for this suggestion, and they include but are not limited to:

- (a) Requirement of Permission: Although I did not specifically research the law regarding this comment, it is my general recollection that requiring signed permission from adjoining owners for a particular type of use (or setback) is not permitted under Michigan law. The particular case I am thinking of involved locating a mobile home park in a community as long as all property owners within 300' of the boundaries signed a letter or document approving the placement of the mobile home park. The Court struck that down as an invalid and overly broad requirement.

Basically, if one seeks a waiver, it would be my recommendation that it be done through the standard ZBA process.

- (b) Adjoining Parcels/Abutting Parcels: Section 4(a) speaks of abutting parcels and similar language is found in 4(b).

Again, I share the concerns expressed by County Planning. Further, and from a much more practical standpoint, township residents who are simply trying to be "nice neighbors" might agree to a reduced setback or locating a tower right on the property line, but the legal effect could potentially result in that property owner losing coverage under their homeowners insurance if the tower were ever to collapse or fall upon their home or outbuildings.

Accordingly, the Planning Commission may wish to give some thought to striking the language starting on line 4 of Section 4(b) with the word "however" through the end of that section, and likewise, the last sentence in Section 4(a). If it appears that several requests are being made to share wind tower structures in the future, then the Planning Commission may wish to consider an amendment to address such circumstances.

This comment is made with the recognition that the Planning Commission has spent extended time addressing the entire amendment. However, it might be better to start with more restrictive provisions, and then expand permission for joint use, etc. as the township sees wind energy systems developing.

(c) Section 4.23(4)(j) Finish/Paint: Under (j)(1), the Tower is to be either a neutral color, or a "galvanized steel finish". Help me out on this point, but isn't galvanized steel extremely "shiny" or "light reflective", at least at first? Would not such a finish defeat the desire of limiting visual obtrusiveness?

4. Language: Under section 4.23(4)(1), I would suggest that the first four words of the second line be removed. And take out the words "...the regulated and permitted as..." on the third line and substitute the word "considered" or "deemed". This is simply a suggestion for clarification purposes.

5. Additional Comment: Although not specifically mentioned in the ordinance, I would highly recommend that the township consider placing a limitation on the number of WESs on a particular parcel. Right now, as one County Planner noted, there are no limits, and as long as I can meet the setbacks, I could put a row of 10, 15 or 20 WESs on my property, even if I only own 6 or 7 acres. Is this what the Planning Commission believes the township would want?

Again, perhaps starting out with a restriction to 1, with any additional ones being done through the ZBA process, it would give the township time to evaluate the development of WESs in the township. If all goes well, and it appears 2 or 3 such towers are necessary to serve an individual, residential home, then the ordinance can be amended in the future.

Again, it is my assumption that the Planning Commission has reviewed the mechanical process of setting setbacks, height limits, noise, etc. In that regard, I think the language of 4.23(4) is very good. However, in recent discussions with an individual who has studied WESs, there might be two, additional points for the Planning Commission's consideration, which I would identify as follows:

- (1) Does the 125' setback provide enough distance to avoid the "fan" effect of a windmill in creating shadows and interrupted light on adjoining parcels?
- (2) Has the Planning Commission evaluated the distance that accumulated snow and ice might be "flung" from the blades of the windmill during severe winter weather? Again, is 125' enough?

Hopefully, these comments will be of assistance to the Planning Commission as it makes a final review of the proposed amendment. Overall, the amendment is drafted well, and the above are simply thoughts and comments that I feel the Planning Commission should review, even if no changes are made to the proposed amendment.

As always, if the Planning Commission has any questions or concerns, please do not hesitate to contact me and I will endeavor to respond to the same.

Respectfully submitted.