

Piatt County
Zoning Board of Appeals

May 9, 2023

Minutes

The Piatt County Zoning Board of Appeals met at 7:00 p.m. on Tuesday, May 9, 2023 in Rm 104 of the Piatt County Courthouse. Chairman Loyd Wax called the meeting to order. The roll was read. Attending were Jim Harrington, William Chambers, Kyle Lovin, Dan Larson, States Attorney Sarah Perry and Keri Nusbaum. County Board members in attendance: Jerry Edwards, Todd Henricks, Kathleen Piatt, and Gail Jones.

MOTION: Lovin made motion, seconded by Harrington to approve the minutes from March 23, 2023 as written. On voice vote, all in favor and the minutes were approved.

Public Comments: Attorney Amy Antonioli and Alan Moore from Apex made comments regarding changes they would like to see in the proposed ordinance. Ms. Antonioli distributed a draft ordinance labeled 'APEX DRAFT'. (Attached)

New Business

The ZBA reviewed the proposed amendments to the Piatt County Zoning Ordinance Appendix A for Wind Energy Conversion Systems over 500 kW. Changes are required to the ordinance due to P.A. 102-1123. SA Perry made suggestions for changes and additions to the text amendment. The ZBA members discussed the changes required by the state. The ZBA considered the Zoning Factors for Text Amendments.

ZONING FACTORS FOR TEXT AMENDMENTS – 5-9-2023
WECS Ordinance

1. Does the proposed text amendment promote the health, safety, morals, or general welfare of the public
The ZBA members voted unanimously (5-0) that the proposed text amendment does not promote the health, safety, morals, or general welfare of the public.
2. Will the proposed text amendment be injurious to the use and enjoyment of other property within the immediate vicinity
The ZBA members voted unanimously (5-0) that the proposed text amendment could possibly be injurious to the use and enjoyment of other property within the immediate vicinity.
3. Will the proposed text amendment diminish property values of other property within the immediate vicinity
The ZBA members voted unanimously (5-0) that the proposed text amendment will likely diminish property values of other property within the immediate vicinity.
4. Does the proposed text amendment take into consideration whether there is adequate infrastructure (i.e. roads, utilities, drainage)
The ZBA members voted unanimously (5-0) that the proposed text amendment does take into consideration whether there is adequate infrastructure.
5. Is the proposed text amendment in harmony with the overall comprehensive plan of the county?
The ZBA members voted unanimously (5-0) that the proposed text amendment is not in harmony with the overall comprehensive plan of the county.

6. Would the proposed text amendment compete with or impede the existing zoned uses of other property within the zone
The ZBA members voted unanimously (5-0) that the proposed text amendment would compete with or impede the existing zoned uses of other property within the zone.
7. Would the proposed text amendment create a hardship on landowners within the zone
The ZBA members voted unanimously (5-0) that the proposed text amendment would create a hardship on landowners within the zone.
8. Would it create a hardship on landowners within the zone if the text amendment were not made
The ZBA members voted unanimously (5-0) that there may be an inconvenience created for some landowners within the zone if the text amendment is not made.
9. Would the proposed text amendment have a harmful impact upon the soil
The ZBA members voted unanimously (5-0) that this question is not applicable to the text amendment as written.

MOTION: Chambers made motion, seconded by Larson to recommend the Text Amendment to the WECS ordinance to the County Board with the changes discussed. Roll was called: All voted in favor and the motion passed.

Chairman Wax called for a 10-minute recess.

At 8:26 p.m. the ZBA resumed the meeting. Nusbaum introduced the proposed changes to the Piatt County Zoning Ordinance. These include the addition of definitions and changes to Article X. I for Solar Energy Systems needed to comply with P.A. 102-1123.

The ZBA members reviewed the changes, had a short discussion and reviewed the zoning factors.

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MOTION: Harrington made motion, seconded by Lovin to recommend approval of the text amendment to the County Board. Roll was called, all in favor and the motion carried.

The County Board will consider the amendments at the next meeting on May 17.

MOTION: Lovin made motion, seconded by Larson to adjourn. On voice vote, all in favor and the meeting adjourned at 8:47 p.m.

Respectfully submitted,

Keri Nusbaum
Piatt County Zoning Officer

May 9, 2023

Piatt County Zoning Board of Appeals
Piatt County Courthouse
101 West Washington, Room 105
Monticello, IL 61856

Dear Chairman Wax and Members of the Piatt County Zoning Board of Appeals:

On behalf of Apex Clean Energy (“Apex”), we recognize the hard work the Piatt County staff and members of the Zoning Board of Appeals (“ZBA”) have put into drafting the proposed amendments to the Piatt County Zoning Ordinance, Appendix A: Standards for Wind Energy Conversion Systems Over 500kW (the “WECS Ordinance”), and the opportunity to offer public comments. As the ZBA is aware, and as discussed below, a new state law limits Piatt County’s ability to restrict or regulate wind projects. Piatt County must revise its WECS Ordinance by May 27th to comply with the new law. Apex submits these comments because we are concerned that the draft ordinance falls short of this mandate.

Apex has been working within the Piatt County community for more than five years and has previously submitted a siting approval permit application for the County Board’s consideration. Apex is currently in the process of preparing a new application under the revised Piatt County WECS Ordinance for a new wind project in Piatt County. The new wind project will include improvements and lessons learned from Apex’s previous application submittal. It will generate important tax revenue for Piatt County while allowing farmers to utilize their land as they see fit, and protecting Piatt County’s residents and resources. As an interested party and user of the WECS ordinance, we are offering comments on the proposed WECS ordinance amendments and an alternative draft ordinance for the Zoning Board of Appeals’ consideration. The alternative draft ordinance (attached) reformats and reorganizes the ordinance in a way that makes it more workable from a user’s perspective and adds clarifying language consistent with recent amendments to the Illinois Counties Code regarding counties’ authority to set standards for commercial wind energy facilities. Our comments on the ZBA’s proposed ordinance amendments are set forth in more detail below.

Since Apex submitted its application for the Goose Creek Wind Farm, the General Assembly has determined that wind is an appropriate land use in every county and that no county can set standards that prohibit wind development. P.A. 102-1123, *eff.* Jan 27, 2023. Recent amendments to the Illinois Counties Code set standards for commercial wind energy facilities.

language of Section XVI should be subject to any revisions made in the AIMA for each commercial wind energy facility.

- Hearing procedures and timelines. The Piatt County Zoning Ordinance does not currently set forth a hearing process for special use permit applications and we recommend that it at a minimum incorporate a reference to the minimum hearing requirements set forth in the Illinois Counties Code, 55 ILCS 5/5-12009.5 and the additional notice, hearing, and decision timelines set forth in Section 5-12020(c). Without these requirements, important instructions as to the hearing process are missing, and both the applicant and public will be disadvantaged. We note that due process requires hearings to be conducted in a manner that allows the presentation of evidence that is relevant and not repetitive.

We support amendments that are workable and will allow for the future development of wind energy projects that are beneficial to the community. Strong support in Piatt County for wind projects exists. We have over 150 agreements with landowners who look forward to participating in the Apex wind energy project and believe it is a good investment for the community. We hope our comments will be helpful in the ordinance amendment process and we stand ready to answer questions at any time.

Sincerely,


Amy Antonioli

AA

PIATT COUNTY ZONING ORDINANCE

APPENDIX A STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS OVER 500 kW

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weather conditions. Light Detection and Ranging (LiDAR) technology may be used in place of Meteorological Towers.

- G. “Nonparticipating property” means real property that is not a participating property.
- H. “Nonparticipating residence” means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the commercial wind energy is filed with the county.
- I. “Occupied community building” means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the WECS Project is filed with the county: a school, place of worship, day care facility, public library, or community center.
- J. “Operator” means the person or entity responsible for the day-to-day operation and maintenance of the WECS(s), including any third-party subcontractors. The Operator must be a qualified wind power professional. All references to Operator in the Ordinance shall include Operator’s successors-in-interest and assigns.
- K. “Owner” means the entity or entities with a direct equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS Project solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS Project at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.
- L. “Participating property” means real property that is the subject of a written agreement between a WECS Project and the owner of the real property that provides the Owner an easement, option, lease, or license to use the real property for the purposes of constructing a WECS Project or supporting facilities. “Participating property” also includes real property that is owned by Owner for the purpose of constructing a commercial wind energy facility or supporting facilities.
- M. “Participating residence” means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the commercial wind energy facility is filed with the county.
- N. “Professional Engineer” means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- O. “Protected lands” means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights Act, or registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

Substation or operations and maintenance building in connection with a WECS Project.

- Z. "WECS Tower Hub Height" means the distance from the center of the rotor hub to the top surface of the WECS Tower foundation.
- AA. "WECS Tower Tip Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- BB. "Wind Tower/WECS Tower" means the support structure to which the nacelle and rotor are attached. Includes the wind turbine tower, nacelle, and blades.
- CC. "Shadow Flicker" means the phenomena that occurs when rotating wind turbine blades cast moving shadows upon stationary objects.

III. APPLICABILITY

- A. This Ordinance governs the siting of WECS(s) that generate electricity to be sold to wholesale or retail markets and associated Supporting Facilities.
- B. Owners of WECS(s) with an aggregate generating capacity of 500 kW or less who locate the WECS(s) on their own property are not subject to this Ordinance, but are subject to other special use requirements outlined in the Piatt County Zoning Ordinance.

IV. PROHIBITION

No WECS or WECS Project governed by Section III of this Ordinance shall be constructed, erected, installed or located within Piatt County unless prior special use permit application has been approved for each individual WECS or WECS Project and associated Substation or a group of WECS Projects and associated Substations under an application pursuant to this Ordinance.

No construction of a WECS or WECS Project or any part thereof may begin until a WECS Building Permit is obtained from the Zoning Officer.

V. SPECIAL USE PERMIT APPLICATION

A Wind Energy Conversion System Special Use Permit may only be authorized in the A-1 or AC zoning districts subject to the following standard conditions.

- A. To obtain special use approval, the Applicant must first submit a special use permit application to the Piatt County Zoning Officer.
- B. The special use permit application shall contain or be accompanied by the following information:

7. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.
 8. All applications for determinations of No Hazard to Air Navigation from the FAA.
 9. Financial assurance that the project can be developed as proposed before the construction permit is issued.
 10. Any other information normally required by the County as part of its Zoning Ordinance, including NRI/~~fire~~ **LESA**
 - ~~11~~ reports for each parcel to host a turbine.
 12. An executed AIMA agreement with the Illinois Department of Agriculture. A proposed Decommissioning Plan for the WECS Project including cost estimations.
 13. Information demonstrating the WECS Project will avoid protected lands.
 14. Information demonstrating that the Mahomet Valley Water Aquifer Authority has been notified of the proposed project and provided with a site plan.
 15. Information concerning roads to be used and negotiation of a Road Use Agreement with any county, municipality, township or village road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, upgrades and decommissioning, or maintenance of WECS(s) or Substation(s).
 16. A map showing the location of the drainage districts delineated in Piatt County's Geographic Information System (GIS) data, that overlaps with the WECS Project, along with a list of any overlapping drainage districts ("Overlapping Drainage District"). Applicant shall forward a copy of the full Special Use Permit Application to the drainage **district commission** of any Overlapping Drainage District and that district's attorney within five (5) days of filing such an application.
- C. The applicant shall provide 14 complete copies of the WECS special use application upon submittal of the WECS special use application fee. A minimum of one copy shall be submitted in electronic format. The County or the Applicant may request a different number of paper or electronic copies.
- D. Applications are not considered filed until reviewed and accepted. The Applicant shall notify the County of any material changes to the information provided in Section **V.B** above that occur while the special use permit application is pending. Material changes to the application are not permitted once the notice of the public hearing has been published, unless requested or permitted by the County,

fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

C. *Electrical Components*

1. All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g., ANSI and International Electrical Commission).
2. Intra-project Power and Communication Lines: All power lines used to collect power from individual turbines and all communication lines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line.

D. *Aesthetics and Color*

1. Towers and blades shall be painted a non-reflective, unobtrusive color, such as white, gray or another color that mitigates the visual impact of the structure. No advertisement shall be visible on the blades or tower.
2. A vegetative screening 150' in diameter shall be placed around each substation and operations and maintenance building. This shall consist of hardy species of fast-growing trees such as arborvitae, with a minimum height of 8' at planting. The screening shall be properly maintained, and any dead or dying trees shall be replaced at the next planting season. A pollinator friendly mix shall be maintained in the area between the tower and the required vegetative screening. This condition may be waived by the Participating Landowner hosting the turbine.
3. Perimeter fencing having a minimum height of 6' and a maximum height of 25' shall be installed at a distance of 135' from the outside edge of the base of the turbine (approximately 270' in diameter). Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Said fence, gates and locks shall be maintained in good condition. This condition may be waived by the Participating Landowner hosting the turbine.

E. *Turbine Consistency*

To the extent feasible, the project shall consist of turbines of similar design and size, including tower height. All turbines shall rotate in the same direction.

F. *Compliance with the Federal Aviation Administration*

The WECS shall comply with all applicable FAA requirements.

L. *Setback Requirements*

WECS Towers shall be sited as follows, with setback distances measured from the center of the base of the WECS Tower.

1. Occupied Community Buildings: 2.1 times the maximum blade tip height of the WECS Tower to the nearest point on the outside wall of the structure.
2. Participating Residences: 1.1 times the maximum blade tip height of the WECS Tower to the nearest point on the outside wall of the structure.
3. Nonparticipating Residences: 2.1 times the maximum blade tip height of the WECS Tower to the nearest point on the outside wall of the structure.
4. Boundary Lines of Participating Property: None.
5. Boundary Lines of Nonparticipating Property: 1.1 times the maximum blade tip height of the WECS Tower to the nearest point on the property line of the nonparticipating property.
6. Public Road Rights-of-Way: 1.1 times the maximum blade tip height of the WECS Tower to the center point of the public road right-of-way.
7. Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Houses or Outbuildings): 1.1 times the maximum blade tip height of the WECS Tower to the nearest edge of the property line, easement, or right-of-way containing the overhead line.
8. Overhead Utility Service Lines to Individual Houses or Outbuildings: None.
9. Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands: 2.1 times the maximum blade tip height of the WECS Tower to the nearest point on the property line of the fish and wildlife area or protected land.
10. An incorporated village or municipality must approve of the location of any tower to be located within 1.5 miles of the corporate limits of such incorporated village or municipality.
11. All WECS shall be sited so that industry standard computer modeling indicates that any occupied community building or nonparticipating residence will not experience more than thirty (30) hours per year of shadow flicker under planned operating conditions.

The setback requirements may be waived by the written consent of the owner(s) of each affected property. The Applicant does not need obtain a variance from the

P. *Use of Public Roads*

1. An Applicant proposing to use any County, municipality, township or village road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s), shall:
 - a. Identify all such public roads; and
 - b. Obtain applicable weight and size permits from relevant government agencies prior to construction.

2. To the extent an Applicant must obtain a weight or size permit from the County, municipality, township or village, the Applicant shall:
 - a. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
 - b. Enter into a road use agreement with the County and each affected Road District that includes the following provisions, at a minimum:
 - i. Project layout map;
 - ii. Transportation impact analysis;
 - iii. Pre-construction plans'
 - iv. Project traffic map;
 - v. Project scope of repairs;
 - vi. Post-construction repairs;
 - vii. Insurance;
 - viii. Financial Security in forms and amounts acceptable to the County; Construction phase;
 - ix. Operations phase; and
 - x. Obligations for the decommissioning phase.

3. Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal, must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation or road repair for damage reasonably related to roads used

approval from the drainage district, except that the facility owner shall repair or pay for the repair of all damage to the drainage system caused by the construction of the WECS Project within a reasonable time after construction of the WECS project is complete.

Prior to the public hearing, the facility owner must have entered into the Agricultural Impact Mitigation Agreement required by 55 ILCS 5/5-12020(c). The facility owner's compliance with the AIMA shall be a condition of the special use.

The Applicant shall contact affected landowners for their knowledge of drainage facilities locations prior to the proposed construction. To the extent practical and to the extent that drainage facilities may be affected by the construction, in cooperation with the drainage district, the Applicant will identify and mark drainage facilities prior to construction.

VIII. CONSTRUCTION AND OPERATION

A. *Building Permit*

A WECS Building Permit will be issued by the county after a WECS Project has obtained a Special Use Permit from the County Board and the Zoning Officer determines that all conditions imposed by the Special Use Permit, if any, have been satisfied. The WECS Building Permit shall require the Applicant (WECS Permittee) to deliver a written "Notice to Proceed" for the WECS Project to the county prior to commencement of construction of the WEC Project. The Term "commencement of construction", as used in the Ordinance, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvements, etc.) regarding the WECS Project.

B. *Maintenance*

Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section **VII.A.1** of this Ordinance. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the Owner or Operator shall confer with a relevant third-party certifying entity identified in Section **VII.A.1** of this Ordinance to determine whether the physical modification requires re-certification.

C. *Site Assessment*

To ensure that the subsurface conditions of the site will provide proper support for the WECS Towers and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer with respect to each WECS Tower location, as part of its WECS Building Permit. The Applicant shall follow the guidelines for Conservation Practices Impact Mitigation submitted by the County Soil and Water Conservation District (or equivalent regulatory agency).

4. The Applicant and the Operator, at the Applicant's expense, shall take immediate actions to minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves or television signals and to eliminate any such interference that impacts local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, caused by the operation of the WECS, including weather radar. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the WECS Project Summary and Site Plan, as set forth in Section V(B)(1) and V(B)(3) of this Ordinance. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant and the Operator, at Applicant's expense, shall take reasonable measures to minimize and mitigate such anticipated interference and with regard to interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant and the Operator, at Applicant's expense, shall take all necessary and available commercial measures to eliminate any such interference. If, after construction of the WECS, the Applicant (WECS Permittee) or Operator receives a written complaint related to the above-mentioned interference, the Applicant (WECS Permittee) shall take commercially reasonable steps to respond to the complaint, except in the case of a complaint of interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications. In the case of local, government public safety communications, the Applicant (WECS Permittee) and the Operator, at the Applicant's expense, shall immediately take all necessary and available commercial measures to eliminate any such interference.

E. *Coordination with Local Fire Department*

1. Prior to issuance of building permits the Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.
2. Prior to the issuance of building permits, the Owner or Operator shall cooperate with the local fire department to develop and implement a fire protection plan in coordination with local emergency response authorities to ensure that all the appropriate emergency services agencies are cognizant of actions required in the event of a fire or other emergency at the wind power facility. In addition, the owner or operator of the wind power facility shall provide training for, and the necessary equipment to, local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the wind project.
3. Prior to issuance of building permits, an emergency operation plan shall be submitted to the Piatt County EMA director for review and approval.

turbine noise levels are given due consideration as it relates to the health and enjoyment of those individuals.

J. *Birds and Bats*

The Applicant, at its expense, shall have a third party, qualified professional conduct an avian and wildlife impact study and submit said study to the County as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated so as to avoid and if necessary mitigate a substantial adverse impact on birds and/or bats.

IX. ADDITIONAL TERMS AND CONDITIONS

- A. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Special Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for the relevant discipline.
- B. The County may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the WECS Project during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the WECS Project is performed in compliance with applicable electrical and building codes. The cost and fees incurred by the County in retaining said inspector or engineer shall be promptly reimbursed by the Applicant of the WECS Project.
- C. The Applicant shall provide locked metal gates or a locked chain at the access road entrances of all the wind turbine generator locations. An exception may be made when the landowner has signed a written statement which states that the owner does not want a locked metal gate installed and the statement has been provided to the County.
- D. The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest and assigns. If any provision in this Ordinance, or conditions placed upon the operation of the Commercial Wind Energy Facility is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, provisions in this Ordinance are severable.
- E. The Applicant shall provide an executed road use agreement between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation, to the County showing approved entrances prior to the issuance of any WECS Building Permit or prior to construction of the WECS Project.
- F. No wind turbine generator shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would

XI. COMPLAINT RESOLUTION

The Applicant shall, at its expense and in coordination with the County, develop a system for logging and investigating complaints related to the WECS Project. The Applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the County. All costs and fees incurred by the County in attempting to or resolving complaints shall be reimbursed by the Applicant of the WECS Project. The Applicant shall also designate and maintain for the duration of the WECS Project either a local telephone number or a toll-free telephone number and an email address as its public information inquiry / and complaint "hotline" which shall be answered by a customer service representative 24/7 basis. The Applicant shall post the telephone number(s) and email address(es) for the customer service representative(s) in a prominent, easy to find location on their websites and at the WECS Project site on signage.

XII. LIABILITY INSURANCE AND INDEMNIFICATION

- A. Commencing with the issuance of construction permits, the Applicant, Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$40 million in the aggregate. An annual certificate of insurance shall be provided to the county, with the county being added as an additional insured on the policy to the extent the County is entitled to indemnification in accordance with Section **XII.B**.

Insurance coverage shall be maintained without interruption from the date of permitting through the decommissioning of all wind turbines. Certificates of insurance acceptable to the county and I compliance with this section shall be filed with the county prior to the commencement of any work on the WECS and thereafter upon renewal or replacement of each required policy of insurance. The certificates and the insurance policies required under this section shall contain a provision that coverages afforded under the policies shall not be cancelled or allowed to expire until at least 60 days written notice has been given to the county.

- B. Applicant, Owner or Operators shall defend, indemnify and hold harmless the County and its officials, employees and agents (collectively and individually, the "*Indemnified Parties*") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or in part out of the negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant's, Owner's or Operator's selection, construction, operation, upgrade, and removal of the WECS and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

- H. Upon conclusion of the evidence and final arguments, the Zoning Board of Appeals will prepare and submit “findings of fact” and a final recommendation to the County Board.
- I. Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation in the County’s consideration of the special use application.

XIV. PERMIT DECISION FACTORS

The County Board shall approve a WECS Special Use Permit application or modification of an approved Special Use Permit if the request is in compliance with the standards and conditions imposed in Public Act 102-1123 (55 ILCS 5/5-12020) and conditions imposed under any other State and/or federal statutes and regulations in addition to those specified in this Ordinance.

A. *Special Use Permit Conditions and Restrictions*

The County Board may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the WECS Project as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.

B. *Revocation.*

1. In any case where a Special Use Permit has been approved for a WECS Project, the Applicant shall apply for a WECS Building Permit from the County, and all other permits required by other government or regulatory agencies to commence construction and commence and actively pursue construction of the Project within thirty-six (36) months from the date of the granting of the Special Use Permit. If the Applicant fails to apply for a WECS Building Permit from the County and all other permits required by other government or regulatory agencies prior to construction and/or fails to commence and actively pursue construction of the Project within the thirty-six (36) month period, then without further action by the County Board, the Special Use Permit authorizing the construction and operation of the WECS Project shall be automatically revoked and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the County Board, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Special Use Permit.
2. The Special Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the WECS Project or the WECS ceases to operate for more than twelve (12) consecutive months for any reason.

existing County ordinance provisions addressing the resolution of such default(s) shall govern.

XVI. PENALTIES

A failure to obtain applicable building permit(s) for the construction of a Wind Energy Conversion System or failure to comply with the requirements of a building permit or the provisions of this Ordinance shall be deemed a violation of this ordinance. The State's Attorney may bring an action to enforce compliance of the requirements of this Ordinance by filing an action before the Piatt County Ordinance Violation Hearing Department or by filing an action in the Circuit Court for an injunction requiring conformance with this ordinance or seek such other order as the court deems necessary to secure compliance with this ordinance. Any person who violates this ordinance shall be fined not less than twenty-five dollars nor more than five hundred dollars. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. Nothing herein shall prevent the County from seeking such other legal remedies available to prevent or remedy any violations of this ordinance.