

HARPER COUNTY, KANSAS

**Agenda Item No. 7
for October 25, 2016**

CONDITIONAL USE REPORT *

CASE NUMBER: CU-02-2016

APPLICANT: SGS Development, LLC
AGENT: Richard Chandler

REQUEST: Conditional Use requested to establish a Commercial Wind Energy Project to be located in the A-1 Agricultural District in the NE part of the County.

CASE HISTORY: This project is a continuation of the current CWEP already established in the County.

APPROX. LOCATION: Project encompasses portions of approximately 9 Sections East to West and 4.5 Sections North to South in 31-6 & 31-7

SITE SIZE: 11,937 acres more or less

PROPOSED USE: To establish a CWEP

ADJACENT ZONING AND EXISTING LAND USE:

North: **Kingman County, A-1 Agricultural District – Agricultural land**

South: **A-1 Agricultural District – Agricultural land**

East: **A-1 Agricultural District – Agricultural land**

West: **A-1 Agricultural District – Agricultural land**

* **NOTE:** This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses initially provided need to be evaluated with the evidence and reworded as necessary to reflect the Commission's considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator. A copy of the report should be provided to the applicant before the hearing. The completed report can be included within the minutes following the

statutory required summary of the hearing or attached thereto. The minutes and report should be forwarded to the Governing Body within 14 days to serve as a basis for their decision.

BACKGROUND INFORMATION:

This property is located in an area that has multiple wind turbines and gas and oil wells. A CWEP is already in place to the west of the area.

(See attached aerial photo with drawing.)

FACTORS AND FINDINGS: **

1. What are the existing uses and their character and condition on the subject property and the surrounding neighborhood? (See Adjacent Existing Land Use on page 1 of 4.)
 - > ***The property is surrounded by agricultural land and scattered rural dwellings.***
2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the request? (See Adjacent Zoning on page 1 of 4.)
 - > ***The property is zoned as the A-1 Agricultural District.***
3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?
 - > ***No.***
4. Would the request correct an error in the application of these regulations?
 - > ***No.***
5. Is the request caused by change or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
 - > ***The favorable results of the wind data from the MET (Meteorological) towers and the willingness of land owners to be leaseholders have significantly changed the area.***
6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?

> ***On-site sewage disposal and water supply will be necessary for construction and maintenance buildings meeting the County Sanitary Code.***

** **NOTE:** Of those factors considered as relevant to the requested change in zoning district classification or boundary, not all factors need to be given equal consideration by the Board in deciding upon its recommendation.

7. Would the subject property need to be platted or replatted or in lieu of dedications made for rights of way, easements, and access control or building setback lines?

> ***Due to the nature of the development and no division of land, platting is not required.***

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

> ***No.***

9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?

> ***This is an extension of the established CWEP to the West which includes over 45 square miles.***

10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

> ***For economic development in the County, this project will create temporary jobs and some permanent jobs. Land owners royalties are an added income.***

11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?

> ***Yes. The property could continue to be used for agricultural uses.***

12. To what extent would the removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

> ***While there will be considerable traffic and transport of heavy equipment and construction noise during development of the proposed project, the criteria for CWEP as a conditional use should minimize the on-going environmental effects on the leaseholders and the non-leaseholders.***

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

- > ***The proposed conditional use would be consistent with the zoning district classification and the intent and purpose of the zoning regulations by adhering to the criteria specified for a CWEP.***

- 14. is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?
 - > ***The Future Land Use section of Chapter 8 in the Comprehensive Development Plan for the Unincorporated Area of Harper County:2003-2020 indicates for the rural area that “Wind energy projects in the form of so-called “wind farms” may be feasible in certain locations if environmental concerns can be satisfactorily addressed and the necessary power grids can be established.”***

- 15. What is the nature of the support or opposition to the request?
 - > ***(To be determined at the hearing.)***

- 16. Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation?
 - > ***The proposed location in the County minimizes its effect on the overall general development of the County.***

- 17. By comparison, does the relative gain to the public health, safety or general welfare by not approving the request outweigh the loss in property value or the hardship imposed upon the applicant?
 - > ***The non-leaseholders outside the subject property area would be environmentally affected in a minimal way after construction is completed, however, the Applicant would experience a severe hardship in locating a comparable site.***

CONDITIONS: (Determine conditions, if any, applicable to the case with rewording if necessary and add additional conditions as deemed desirable.)

1.

cc: Applicant
Agent