

CITY OF HUXLEY

Notice of Huxley Zoning Board of Adjustment Meeting Notice and Agenda

For Monday, November 16, 2015 at 6:30 P.M.

City Council Chambers at the Huxley City Hall

PUBLIC NOTICE IS HEREBY GIVEN THAT THE HUXLEY ZONING BOARD OF ADJUSTMENT OF THE CITY OF HUXLEY, IOWA, WILL MEET IN THE CITY COUNCIL CHAMBERS ON THE FIRST FLOOR OF THE 3C'S, HUXLEY, IOWA, AT 6:30 P.M. ON MONDAY THE 16TH OF NOVEMBER, 2015 TO CONSIDER THE MATTERS ENUMERATED IN THE FOLLOWING AGENDA:

1. Roll Call/Introductions
2. Approval of minutes from the February 23, 2015 meeting.
3. Hearings;
 - 3.1 **PUBLIC HEARING; ON A REQUEST FOR A SPECIAL PERMIT UNDER SECTION 165.43(4)(K) OF THE ZONING ORDINANCES FOR PROPERTY LOCATED AT 1485 BLUE SKY BLVD., HUXLEY, IOWA**
 1. Chairman opens hearing
 2. Discussion
 3. Motion to close hearing
4. Motion to approve a Special Permit to property owner Van Houweling Property, under section 165.43(4) (K) of the Zoning Ordinances.
5. Miscellaneous business.
 - 5.1 Election of Board Chair and Vice Chair
- 6 Adjournment.

THIS NOTICE IS HEREBY GIVEN AT LEAST 24 HOURS PRIOR TO THE COMMENCEMENT OF THE MEETING SPECIFIED ABOVE. THIS WAS DONE BY ADVISING THE NEWS MEDIA WHO HAVE FILED A REQUEST FOR NOTICE AND BY POSTING THE NOTICE ON THE FRONT WINDOW IN THE LOBBY AREA IN CITY HALL THAT IS ACCESSIBLE TO THE PUBLIC. THIS WAS ALL PURSUANT TO CHAPTER 21 OF THE CODE OF IOWA.


John Halderman, Zoning Administrator CA

**ATTORNEY
MEMORANDUM**



JAMES E. NERVIG
ATTORNEY

T: 515-274-1450
F: 515-274-1488

jim.nervig@brickgentrylaw.com

6701 Westown Parkway, Suite 100 ♦ West Des Moines, Iowa 50266

MEMORANDUM

Confidential: Attorney/Client Privileged – Attorney Work Product

TO: Huxley Board of Adjustment
FROM: Jim Nervig
DATE: November 13, 2015
SUBJECT: SWECS Special Permit Application for 1485 Blue Sky Blvd.

On November 16, 2015, Huxley, Iowa, the Board of Adjustment will hold a public hearing on an application for special permit by property owner Van Houweling Property, LLC, under section 165.43(4)(K) of the Zoning Ordinances to allow the construction of a small wind energy conversion system (SWECS) on property located at 1485 Blue Sky Blvd., Huxley, Iowa.

The applicant requests a special permit granting an exception to the requirement of section 165.46(10)(A) that the minimum distance between any SWECS and any property line shall be a distance that is equal to 110 percent of the system height. The property line at issue is the southern boundary of the property adjoining the north right-of-way line of Blue Sky Blvd.

To qualify for the special exception, the applicant must establish that “the exception is reasonably necessary due to practical difficulties related to the land in question that prohibit the use of the subject property in a manner reasonably similar to that of other property in the same district, including, but not limited to, exceptional narrowness, shallowness or shape of the subject property, exceptional topographical conditions, location of public utilities or public improvements on or adjacent to the subject property, or other extraordinary or exceptional situation.”

If the Board chooses to grant the requested exception, the Board has authority to require that the applicant satisfy certain stated conditions which would be made a part of the special permit.

The concurring vote of at least three Board members is required to grant the permit.

**MINUTES AND
INFORMATION
FROM
FEBRUARY 23, 2015
MEETING**

Huxley Zoning Board of Adjustment Minutes

February 23, 2015 Regular Meeting
7:00 PM – Huxley Safe Room

1.0) CALL TO ORDER AND ROLL CALL: Chairman Ed Denbeste called the Meeting to order at 7:00 PM. ZBA members present:
Ed Denbeste, Roger Wheeler, John Rodhen, Paul Wilken, Allison Easter.

Guests Present: Mark DeYoung- Envision Construction
Staff Present: Justin Moore- Zoning Administrator
Consultants Present: Jim Nervig- Zoning Attorney; Brick Gentry

2.0) MOTION TO APPROVE THE MINUTES FROM THE FOLLOWING MEETINGS:
-Zoning Administrator Moore advised that staff was attempting to locate the December 21st 2010 minutes. Once they are located they will be approved at the next meeting.

3.0) PUBLIC HEARING:
The Zoning Board of Adjustment held a public hearing to discuss and act on an application from Envision Construction on a request for a variance on Lots 57 and 58 in North View Heights addressed as 101 and 103 Centennial Drive. Envision Construction applied for a Variance of 22 feet off of the 30 foot front yard setback on the west side of the lot and 10 feet off of the minimum 40 foot minimum lot width.

Mark De Young with Envision Construction spoke to the Board regarding his application and plans for the property. De Young stated the house would be 8 foot from the west property line at its nearest point. The structure would resemble the two patio home structures on the properties to the immediate east and reflect the same character.

Zoning Administrator Justin Moore advised that he denied the requested plans as they stood under city code due to square footage issues on the total lot area. Mr. DeYoung was then advised to file an application for a variance if he believed he needed to proceed with bringing the project before the board. Moore stated that lot 58 as platted is problematic and that a variance, if issued wouldn't be problematic in terms of impacting the City Code.

Chairman Ed DenBeste asked City Attorney Nervig what the rationale from a legal standpoint for a Variance was, as opposed to an exception or special permit. Nervig explained the legal rationale behind a Variance being the best option in this case.

Board member Easter advised she liked that the home resembled the others and felt it was not detrimental to the neighborhood.
Chairman Denbeste then closed the public hearing and asked if members had any other questions or concerns.

**Motion by Wilken to approve and issue a Variance on the front setback on the west side of the property.
Second by Easter. Motion Carried 5-0.**

4.0) MISCELLANEOUS BUSINESS:
Justin Moore updated the board of items that had occurred the past few years with regard to Zoning. Moore stated that there are a couple other possible issues in the community that could come before the board in the near future.

Chairman Ed Denbeste asked what sorts of rulings the board can issue. Moore advised of the different types of rulings that the Board of Adjustment could issue. Zoning Administrator Moore and City Attorney Nervig advised of different rulings.

5.0) ADJOURNMENT

**Motion by Wheeler to adjourn the Zoning Board of Adjustment Meeting at 7:55pm. Second by Wilken. 5
Ayes, 0-Nays. -Motion Carried-**

Ed Denbeste, Chairman

Prepared by: James E. Nervig, Attorney at Law, 6701 Westown Parkway, Suite 100, West Des Moines, IA 50266
515-274-1450
Return to: City of Huxley, 505 N. Main Ave., Huxley, IA 50124

**BOARD OF ADJUSTMENT
OF THE CITY OF HUXLEY, IOWA**

DECISION GRANTING VARIANCE

RE: Variance of 10 feet off the required 40-foot front yard, and 22 feet off the required 30-foot rear yard, for Lot 58 in Northview Heights, an Official Plat, now included in and forming a part of the City of Huxley, Story County, Iowa, having a local address of 101 and 103 Centennial Drive, Huxley, Iowa

On February 23, 2015, the Board of Adjustment of the City of Huxley held a public hearing on the Application for Variance filed by Envision Construction relating to the property described above. The Board considered the documents submitted on behalf of the applicant and the comments given on behalf of the applicant at the hearing. No comments or evidence in opposition to the Application were received by the Board. At the conclusion of the public hearing, the Board granted the variance as set forth above by a vote of five in favor and none opposed.

The Board finds that the applicant has established that exceptional hardship exists by reason of the exceptional narrowness and shape of the subject lot, and that the variance is justified under all of the requirements of section 165.43(3)(B) of the Huxley Zoning Ordinance.

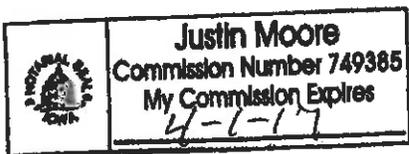
Accordingly, the Board Chairperson is authorized to execute this written Decision and to cause it to be filed of record in the office of the Recorder of Story County, Iowa.

Board of Adjustment

Edward Den Beste
Edward Den Beste, Chairperson

STATE OF IOWA, COUNTY OF STORY

This record was acknowledged before me on February 25, 2015, by Edward Den Beste, in his capacity as Chairperson for the Board of Adjustment of the City of Huxley.



Justin Moore
Notary Public

**NOTICE OF PUBLIC
HEARING FOR
THIS MEETING**

NOTICE OF PUBLIC HEARING

TO: ALL CITIZENS AND ALL PARTIES IN INTEREST WHO MAY BE ENTITLED TO NOTICE AND OPPORTUNITY TO BE HEARD ON A REQUEST FOR A SPECIAL PERMIT UNDER SECTION 165.43(4)(K) OF THE ZONING ORDINANCES FOR PROPERTY LOCATED AT 1485 BLUE SKY BLVD., HUXLEY, IOWA

You are hereby notified that at **6:30 o'clock p.m.** on the **16th day of November, 2015**, in the Nord-Kalsem Community Center, 204 W. Fifth St., Huxley, Iowa, the Board of Adjustment of Huxley, Iowa, will hold a public hearing on an application for special permit by property owner Van Houweling Property, LLC, under section 165.43(4)(K) of the Zoning Ordinances to allow the construction of a small wind energy conversion system (SWECS) on property located at 1485 Blue Sky Blvd., Huxley, Iowa. The applicant requests a special permit granting an exception to the requirement of section 165.46(10)(A) that the minimum distance between any SWECS and any property line shall be a distance that is equal to 110 percent of the system height. The property line at issue is the southern boundary of the property adjoining the north right-of-way line of Blue Sky Blvd.

All persons will have the opportunity to be heard on such proposals at such time and place.

Thereafter, the Board of Adjustment may take action on such request for a special permit without further notice or opportunity for hearing.

Dated the _____ day of _____, 2015.

Ed Denbeste, Chairperson

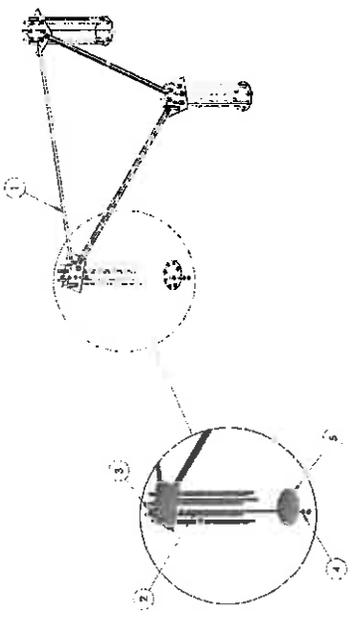
CITY CODE SECTIONS

- D. A SWECS shall not be installed within 20 feet laterally from any overhead electric power line (excluding secondary electric service lines or service drops).
- E. A SWECS shall not be installed within 10 feet laterally from any underground electric distribution line.
10. **Bulk Regulations.** A SWECS shall comply with all of the following bulk regulations; provided, however, that in the event of any conflict between the regulations of this subsection 10 and the bulk regulations of the particular district in which the SWECS is to be located, the regulations of this subsection 10 shall control:
- A. **Setbacks.** The minimum distance between any SWECS and any property line shall be a distance that is equal to 110 percent of the system height.
- B. **Minimum Lot Size.** The minimum lot size for a SWECS shall be one acre.
- C. **Maximum System Height.** The maximum system height of a SWECS shall be 200 feet.
- D. **Clearance of Blade.** No portion of any SWECS blade shall extend closer than 30 feet from the ground. No portion of any SWECS blade shall extend over parking areas, driveways or sidewalks. No portion of any SWECS blade shall extend within 20 feet of the nearest tree or structure.
11. **Automatic Over Speed Controls.** Every SWECS shall be equipped with manual (electronic or mechanical) and automatic over speed controls to limit the blade rotation speed within the design limits of the specific system.
12. **Restriction on Use of Electricity Generated.** A SWECS shall be used exclusively to supply electrical power for on-site use, except that excess electrical power generated by the SWECS and not presently needed for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code.
13. **Noise.** Except during short term events, including utility outages and severe wind events, every SWECS shall be designed, installed and operated so that the noise generated does not exceed the definition of nuisance noise and/or the maximum noise levels established in this Code of Ordinances.
14. **No Guy Wires.** Any SWECS tower shall be constructed without guy wires or ground anchors.
15. **Color and Finish.** Every SWECS shall be white or grey in color, unless a different color is approved by the City Council at the time of site plan approval. All finishes shall be matt or non-reflective.
16. **Lighting.** No light shall be installed on the tower, unless required to meet FAA regulations.
17. **Signage.** One sign, limited to four square feet, shall be posted at the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the phone number of the owner/operator to call in case of emergency. No other signs are permitted on the SWECS.

18. **Climbing Apparatus.** All climbing apparatus shall be located at least 12 feet above the ground, and the tower must be designed to prevent climbing within the first 12 feet.
19. **Maintenance.** Structures and facilities shall be well maintained in an operational condition that poses no potential safety hazard.
20. **Insurance.** The owner/operator of a SWECS must demonstrate adequate liability insurance of not less than one million dollars (\$1,000,000) coverage. The terms of the insurance policy must provide for coverage against any liability resulting from the use or collapse of the SWECS.
21. **Electromagnetic Interference.** Every SWECS shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SWECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference, including relocation or removal of the facilities, subject to the approval of the appropriate City authority. The conditional use permit may be revoked if electromagnetic interference from the SWECS becomes evident.
22. **Other Uses.** The tower may be used only for SWECS purposes and additionally for radio transmission purposes. No signs, flags, banners or any other uses are permitted on the tower.
23. **Removal.** If the SWECS remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed discontinued and abandoned and shall constitute a public nuisance. The owner/operator shall remove the abandoned system at their sole expense. Removal of the system includes the entire structure, including foundations, transmission equipment, and fencing from the property. Nonfunctioning or lack of operation may be proven by reports from the interconnected utility. If removal of towers and appurtenant facilities is required, the zoning administrator shall notify the owner/operator.
24. **Right of Entrance.** As a condition for authorization of a SWECS by the City, the owner/operator grants permission to the City to enter upon the property to inspect the SWECS and/or to remove the SWECS in the event that the SWECS is being maintained in violation of any of these regulations. Removal shall be at the sole expense of the owner/operator.
25. **Conditional Use Permit.** The Board of Adjustment may, by special permit after public hearing, authorize a SWECS that does not comply with the prohibition of a SWECS in a residential or commercial zoning district under subsection 9(A) and/or with any of the bulk regulations of subsection 10 of this Section 165.46, but only under circumstances where the proposed SWECS is to be an accessory use to: (i) a public building erected and used by any department of the City, Township, County, State or federal government; or (ii) a public or private educational institution having an established accredited curriculum. No such permit may be granted unless the Board determines: (i) that the SWECS is in compliance with all of the regulations of this section, other than subsections 9(A) and 10 of this section; and (ii) that the installation of the SWECS will be in harmony with the essential character of the neighborhood of the land in question. If requested by the applicant, the Board, as one of the terms of such permit, may allow the tower to be used for cellular and wide band communications purposes, which uses are otherwise prohibited by subsection 22 of this Section 165.46. In granting such permit, the Board may impose conditions on the

**SITE PLAN FOR
DOOSAN
FORKLIFT WIND
TOWER**

ITEM	PART NUMBER	DESCRIPTION	MATERIAL	QTY
1	000638	Assembly, Foundation Template, Luffax, 42m	See BOM	1
2	000444	Anchor Rod, 1-3/4" x 6'10", Min 1/2" thread either end, Galvanized	ASTM F1554 Grade 36	24
3	000445	Nut, Heavy Hex, 1-3/4"-5, ASTM A309 1	8.8	120
4	000453	Washer, Hardened, 3.3750DIN.9137 D,ASTM F436, Galvanized	8.8	48
5	000449	Plate, Reinforcing, Foundation Template	Steel, ASTM A572M, S50X3	3



DETAIL A
SCALE: 1/40

Notes:
1. This detail is intended for use in conjunction with the tower design.
2. The tower design is subject to change without notice.
3. All dimensions are in millimeters unless otherwise noted.
4. All dimensions are in millimeters unless otherwise noted.
5. All dimensions are in millimeters unless otherwise noted.
6. All dimensions are in millimeters unless otherwise noted.

NO.	REV.	DATE	DESCRIPTION
1			Issue for Review
2			Issue for Review
3			Issue for Review
4			Issue for Review
5			Issue for Review

Endurance
wind power

Endurance Luffax Tower
E-Series Luffax Tower

ALL DIMENSIONS ARE IN MILLIMETERS UNLESS NOTED OTHERWISE. ALL DIMENSIONS FOR ANCHOR RODS AND NUTS ARE TO BE TAKEN TO THE CENTER OF THE ROD OR NUT.

NO. 1504810
REV. 04/01/2014
JOB NO. 1504810

Project: Blue Sky Commons Plat 1, Lot 2
Location: Houston, TX
Client: Van West Group

Scale: 1/20
Date: 04/01/2014

Endurance
wind power

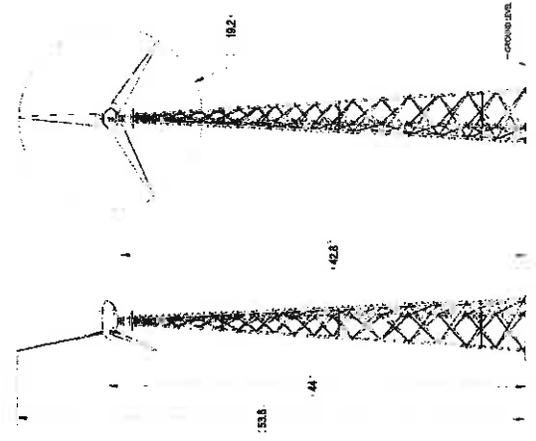
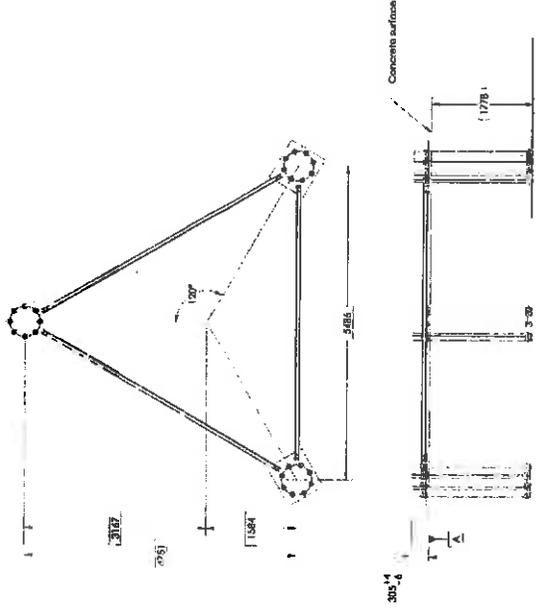
Endurance Luffax Tower
E-Series Luffax Tower

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Endurance
wind power

Endurance Luffax Tower
E-Series Luffax Tower

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Location: Houston, TX
Client: Van West Group

Scale: 1/20
Date: 04/01/2014

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