BELVIDERE - BOONE COUNTY
PLANNING DEPARTMENT

401 Whitney Boulevard, Suite 300, Belvidere, Illinois, 61008  PH 815 544-5271  FAX 815 547-9214

January 14, 2015

ADVISORY REPORT

CASE NO: 03-2015                   APPLICANT: Cleverdon and Kenney; WECS T A

REQUEST:
The applicants, David Cleverdon and Karen Kenney, 21123 Grade School Road, Caledonia, Illinois, 61011 and 22879 LeRoy Center Road, Capron, Illinois, 61012 are requesting a text amendment to the Boone County Zoning Ordinance regarding Section 4.8 Wind Energy Conversion Systems (WECS) adding language to Section 4.8.1. PURPOSES stating: Assure the protection of health, safety, welfare and property values for all Boone County residents and landowners; and proposing changes to Section 4.8.7. H SETBACKS by striking Section 1 (establishing setbacks of 1000 feet from primary structures) and Section 4 (regarding waivers by the county or property owners) and proposing the following language: 1. From all property lines, all WECS towers shall be setback a distance of not less than 2,640 feet or 6.5 times the height of the WECS including the blades at the highest point, whichever is greater; 2. From public roads third party transmission lines and communication towers: all WECS towers shall be setback a distance of not less than 2,640 feet or 6.5 times the height of the WECS including the blades at the highest point, whichever is greater; 3. All WECS towers shall have a minimum setback distance (in Boone County, Illinois) from the municipality of Sharon, WI of not less than 1.5 miles.

The proposed text amendment reads as follows:

4.8. WIND ENERGY CONVERSION SYSTEMS SITING

4.8.1. Purpose. It is the purpose of this Section to:

1. Assure the protection of health, safety, welfare and property values for all Boone county residents and landowners.

2. Assure that any development and production of wind-generated electricity in Boone County is safe and effective.

3. Facilitate economic opportunities for local residents.

4. Promote the supply of wind energy in support of Illinois’ statutory goal of increasing energy production from renewable energy sources.

4.8.2. Applicability. This ordinance governs the siting of wind energy conversion systems (WECS) and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECSs with an aggregate generating capacity of 1.5 MW
or less and that locate the WECS on their own property are not subject to requirements of this Section.

4.8.3. **Prohibition.** No WECS or Substation governed by section 4.8.2 of this ordinance shall be constructed, erected, installed, or located within Boone County unless prior siting approval (approved special use and building permit issuance) has been obtained for each individual WECS and Substation pursuant to this Ordinance.

4.8.4. **Special Use Permit Requirements.** In addition to the standards and criteria established in Section 2.7, herein, no Special Use Permit shall be granted for the use(s) listed below unless evidence is presented to establish that the standards and criteria set forth herein have been met.

4.8.5. **Definitions.** The following words and terms when used in the interpretation and administration of this Section 4.8 shall have the meaning set forth herein except where otherwise specifically indicated.

**Applicant:** Shall mean the entity or person who submits to the County an application for the siting of any WECS or Substation.

**Financial Assurance:** Shall mean reasonable assurance from a credit-worthy party; examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.

**Operator:** Shall mean the entity responsible for the day-to-day operation and maintenance of the WECS and substations, including any third party subcontractors.

**Owner:** Shall mean the entity or entities with an equity interest in the WECS(s), including their respective successors and assignees. Owner does not mean (1) the property owner from whom the land is leased for locating the WECS, unless the property owner has an equity interest in the WECS, or (2) any person holding a security interest in the WECS 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 at the earliest practicable date.

**Professional Engineer:** Shall mean a qualified individual who is licensed as a professional structural engineer in the State of Illinois.

**Primary Structure:** Shall mean, for each property, the structure that one or more persons occupy the majority of the time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes such structures as hunting sheds, storage sheds, pool houses, unattached garages and barns.

**Substation:** Shall mean the apparatus that connects the electrical collection system of the WECS and increases the voltage for connection with the utility’s transmission lines.

**Wind Energy Conversion System (WECS):** Shall mean all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower,
electrical components, WECS foundation, transformer and electrical cabling from the WECS tower to the Substation.

**WECS Project:** Shall mean the collection of WECS(s) and substations specified in the siting approval application pursuant to Section 4.8.6 of this ordinance.

**WECS Tower:** Shall mean the support structure to which the nacelle and rotor are attached.

**WECS Tower Height:** Shall mean the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

**4.8.6 Special Use Application Requirements.** In addition to the Special Use Permit requirements per Section 2.7, a WECS Applicant shall meet with county representatives in a pre-application meeting and submit to Boone County descriptions, site plans, studies, reports, certifications and approvals demonstrating compliance with the ordinance.

A. A pre-application meeting shall be held with representatives from the Planning Department, Building Department, County Highway Department, impacted Township, the Boone County Soil and Water Conservation District and all other applicable departments and agencies as determined by the Planning Department.

B. In addition to a special use permit application per section 2.7, a WECS applicant shall submit to the Boone County Planning Department a "WECS Project Summary," including, to the extent available:

1. A general description of the project, including its approximate name plate generating capacity, the potential equipment manufacturer(s), type(s) of WECSs, number of WECSs and name plate generating capacity of each WECS, the maximum height of the WECS tower(s) and the maximum diameter of the WECS(s) rotors.

2. A description of the general location of the project.

3. A description of the Applicant, Owner, and Operator, including their respective business structures (business form).

4. A general business plan outlining all major WECS related events that will take place over the useful life of the WECS project.

5. The names, addresses, and phone numbers of the Applicants, Owners, Operators, and all property owners included in the Application.

6. A site plan for the installation of WECSs showing the planned location of each WECS tower, guy lines and anchor bases (if any), Primary Structure(s), property lines including identification of adjoining properties, setback lines, public access roads and turnout locations, substations, electrical cabling from the WECS tower to the substations, ancillary equipment, third party
transmission lines, and layout of all structures within the geographical
boundaries of the setback established in Section 4.8.7.H.

7. All required studies, reports, certifications, and approvals demonstrating
compliance with the provisions of this Ordinance (including but not limited
to: Natural Resource Areas, Bird and Bat Migration Paths, Shadow Flicker,
Noise Levels, Vibration Levels).

8. The Applicant shall notify the Planning Department of any changes to this
information that occur while the Special Use Permit application is pending.

C. For Special Use Permit applications involving multiple WECS towers, only one
application is required. Although processed as one Special Use, each tower
within a WECS Special Use shall be charged the established Special Use fee.

4.8.7 Design and Installation.

A. Design Safety Certification.

1. WECSs shall conform to applicable industry standards, including those
of the American National Standards Institute (ANSI). Applicants shall
submit certificates of design compliance that equipment manufacturers
have obtained from Underwriters Laboratories (UL), Det Norske Veritas
(DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third
party.

2. Following the granting of siting approval and Special Use Permit under
this Ordinance, a professional structural engineer shall certify, as part of
the building permit application that the foundation and tower design of
the WECS is within accepted professional standards, given local soil and
climatic conditions.

B. Controls and Brakes. All WECS shall be equipped with a redundant braking
system. This includes both aerodynamic over speed controls (including variable
pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes
shall be operated in a fail-safe mode. Stall regulation shall not be considered a
sufficient braking system for over speed protection.

C. Electrical Components. 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.

D. Color. Towers and blades shall be painted white or gray or another non-
reflective, unobtrusive color. No advertisement or signs shall be allowed.
E. **COMPLIANCE WITH THE FEDERAL AVIATION ADMINISTRATION.** The applicant for the WECS shall comply with all applicable FAA requirements. Evidence of compliance shall be submitted with the siting request.

F. **WARNINGS:**

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

2. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of fifteen (15) feet from the ground.

G. **CLIMB PREVENTION.** All WECS towers must be un-climbable by design or protected by anti-climbing devices including, but not limited to:

1. Fences with locking portals at least six (6) feet high; or

2. Anti-climbing devices twelve (12) feet vertically from the base of the WECS tower.

H. **SETBACKS.** All WECS towers shall provide the following minimum setbacks:

1. **From Primary Structure(s):** One thousand (1,000) feet any primary Structure. The distance shall be measured from the point of the Primary Structure foundation closest to the WECS tower to the center of the WECS tower foundation. The owner of the Primary Structure may waive this setback requirement but in no case shall a WECS tower be located closer to a Primary Structure than 1.10 times the WECS tower’s height.

2. **1. From all property lines, not part of the Special Use petition:** All WECS towers shall be setback a distance of at least not less than two thousand six hundred forty (2640) feet or 6.5 times the height of the WECS tower including the blades at the highest point, whichever is greater. 1.10 times the WECS tower’s height. The County may waive this setback requirement.

3. **2. From public roads, third party transmission lines, and communication towers:** 1.10 times the WECS tower’s height all WECS towers shall be setback a distance of not less than two thousand six hundred forty (2640) feet or 6.5 times the height of the WESC tower including the blades at the highest point, whichever is greater.

3. **All WECS towers shall have a minimum setback distance (in Boone County of the State of Illinois) from the municipality of Sharon, Wisconsin of not less than one and one-half (1.50) miles.**
4. The Applicant does not need to obtain a variance from the County upon waiver by either the County or property owner of any of the above setback requirements. Any waiver of any of the above setbacks shall run with the land and be recorded as part of the chain of title in the deed of the subject property.

I. COMPLIANCE WITH ADDITIONAL REGULATIONS. Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

There are no other proposed changes to the remaining WECS Section of the ordinance.

xxxxxxxxxxx = (Standard text) existing text within the zoning code; no changes proposed.
xxxxxxxxxxx = (Strike through text) text that is proposed to be deleted from the zoning code.
xxxxxxxxxxx = (Yellow highlighted text) new text that is proposed to be inserted into the zoning code

BACKGROUND AND SUMMARY OF FINDINGS:
In 2005, Boone County received its first application for a wind tower use. At that time there was no language in the Zoning Ordinance pertaining to wind energy conversion systems (WECS) except that they required a special use. The review of the application was a very time consuming and contentious topic; the project was eventually denied in a court of law. Due to that experience, it was evident that more defined language regarding WECS was required in the Zoning Ordinance so that the next application could be addressed more adequately.

In 2008, Boone County adopted a new Zoning Ordinance with a section dedicated to WECS requirements. The Zoning Ordinance took five years to complete (started in late 2003). At the time, the planning staff researched WECS state regulations and how the projects were reviewed in other counties. When the Zoning Ordinance was adopted in 2008 by the County Board, it was agreed on that the language proposed for WECS was adequate.

In December of 2011 with speculation of a wind project locating in Boone County, a select group of residents started to urge the County to amend the existing WECS regulations. These discussions were heard at the Planning, Zoning and Building Committee meetings and were not public hearings. As directed, the planning staff looked into other counties regulations, especially those counties with firsthand experience with wind projects to see what worked and what did not work for their codes and processes. One thing made clear through the discussions with other counties was that WECS should be a special use and the code should remain relatively vague with site specific conditions of approval being used to regulate the WECS. In meeting with Lee County, representatives stated that there had been no significant problems with their wind projects or their ordinance’s regulations. Lee County staff was directed to change their ordinance after the urging of a select group of Illinois residents and after two continuous years of research and revisions, the language change proposed was not approved by the Lee County Board.

Members of the Planning, Zoning and Building Committee each chose a specific portion of the WECS regulations to review. These sections were: setbacks, decommissioning, fees, road agreements and property rights. It was determined that road agreements are too site-specific to have one general agreement in the code that would apply to all projects; therefore, all road
agreements will be a condition of approval. County and Township officials and their attorneys will negotiate agreements following a suggested template. The planning staff also explained that fees are not part of the Zoning Ordinance. A separate ordinance shall be prepared to enact the revised building permitting fees. The matter of property rights was also determined to be a matter that is regulated by state and federal law and did not need to be placed in the Zoning Ordinance. The main proposed revisions were regarding setbacks and decommissioning.

Section 4.8.7H addresses WECS setbacks. The major changes being proposed are:

**Primary Structures:** The setback was increased from 1,000 feet to 2,000 feet with a built-in waiver; reduce the setback to 1,200 feet. The planning staff is not supportive of the proposed setback increases. According to the Illinois Institute for Rural Affairs’ 2011 Wind Survey Utility Scale County Matrix that was updated as of July 19, 2011, the largest setback in Illinois is 1,500 feet. The reasoning for the 2,000-foot setback was to keep WECS from locating near those who do not want WECS in the county. The planning staff believes that the proposed 2,000-foot setback is arbitrary and capricious and recommends that the setback be no more than 1,500 feet with a waiver to reduce the setback to 1,200 feet.

**Platted Subdivision:** This category is new and was created to protect those residential subdivisions (very limited number) in the county that have remaining vacant lots. The setback of 1,400 feet or 3.5 times the tower height appears excessive to the planning staff considering a 500 foot tower at 3.5 times the tower height would be setback a distance of 1,750 feet. This number is greater than any other setback in the state and was suggested without any reasoning as to why. The planning staff would suggest that the category be treated the same as a developed lot with a setback of 1,500 feet with a waiver to bring it down to 1,200 feet.

**Undeveloped Parcels:** This category and the setback of 1.1 times the tower height is currently part of the WECS ordinance. The language was amended to clarify the language and phrase it in a similar manner to the proposed language. The reason why an undeveloped platted subdivision parcel and undeveloped parcel are being treated differently is that a parcel within a platted subdivision is more likely to be buildable while a parcel within the county may only be buildable if it is a Lot of Record.

**Public Roads:** The setback of 1.1 times the tower height is currently part of the WECS ordinance. Language was added to include easements as well.

**Wellheads:** This is a new category that is being proposed due to the recent pipeline expansion in Boone County. It addresses wellheads and other above ground fixtures. The proposed setback of 1,200 feet with a waiver to reduce the setback to 1.1 times the tower height was indicated to be suggested by industry representatives.

**Liquefied Storage:** This is a new category that is being proposed, again due to concern over gas lines in Boone County. The setback of 1,600 feet was indicated to be recommended by industry representatives due to safety concerns from impact or vibrations from a collapse.
Again, this category due to concerns over the pipelines in Boone County. The setback of 1,600 feet was indicated that it was recommended by industry representatives due to safety concerns from impact or vibrations from a collapse.

The planning staff believes that the individual elements of utilities and utility easements do not need to be called out separately but that a general setback of 1.1 times the height of the tower from all utility easements is adequate. There was no documentation from any utility providers stating reason for the proposed setbacks. The setbacks should be the same as they are from roadways.

The existing WECS ordinance states that a decommissioning plan shall be formulated at the time of the special use application. This means that a plan that the county is acceptable of would have to be submitted as part of the wind project application. The county has the ability to not approve the decommissioning plan which would prevent a special use application from being submitted. The proposed language specifically states what the county is expecting in the plan instead. When being this detailed in a Zoning Ordinance, there is a risk that the county will avertedly tie its hands when the time comes to create a decommissioning and site reclamation plan. One change that the staff did make was in regards to time limits that would trigger the decommissioning of a tower. It was originally requested to be six months, but after consulting the State’s Attorney, it was decided that it should be changed to twelve months in order to keep special uses for WECS comparable to all other special uses which have a twelve month time limit before revocation of the use.

On December 19, 2012, the Boone County Board approved a portion of the original text amendment focusing on the decommissioning plan; the entire setback section (4.8.7.H) was sent back to the Zoning Board of Appeals for further review. The setback portion of the text amendment was sent back based on the advice of the State’s Attorney as significant changes were proposed to the language (setbacks measured from primary structure were changed to setbacks measured from property lines). The text amendment proposal at that time reads as follows:

4.8.7.H.Setbacks. All WECS towers shall provide the following minimum setbacks:

1. WECS towers shall be setback a distance of one and one-half miles from a municipal zoning jurisdiction unless the Applicant has submitted a setback waiver from all municipalities within one and one-half mile of the WECS (65 ILCS 5/11-13-26).

2. From non-participating property lines: Three times the WECS tower’s height. The distance shall be measured from the point of the property line closest to the WECS tower foundation. The owner of the property may waive this setback requirement but in no case shall a WECS tower be located closer to a property line than 1,200 feet. The applicant does not need to obtain a variance from the county upon waiver by the property owner of this setback requirement. Any waiver of this setback shall run with the land and be recorded as part of the chain of title in the deed on the subject property.
3. From **platted subdivision**: 1,500 feet or 3.5 times the WECS tower height, whichever is greater from the platted lot line. The distance shall be measured from the point of the platted lots nearest property line to the center of the WECS tower foundation.

4. From public roads, **all utility easements, access easements, recorded easements, third party transmission lines, and communication towers**: 1.10 times the WECS tower’s height.

5. From water wellheads: **Three times the WECS tower’s height.** This separation may be reduced to a minimum of 1.1 times the WECS tower’s height upon submission of a private waiver signed by the owners of the wellhead. The private waiver must specify the agreed minimum separation.

6. From liquefied natural **gas storage** or liquefied petroleum gas storage or gasoline and volatile oils storage exceeding a 10,000-gallon capacity in the aggregate: **Three times the WECS tower’s height.**

7. From an **easement for a gas pipeline**, a hazardous liquid pipeline and/or an underground water main: **Three times the WECS tower’s height.**

8. There shall be a one-mile buffer around all restricted landing areas, regional airstrips and airports.

ipment = (Green highlighted text) summery of previously proposed text to be inserted into the zoning code, but not approved.

The public hearing for the originally proposed text amendment had three days of public testimony with additional public comment at the Planning, Zoning and Building Committee and the County Board meetings. The majority of the information presented was not based on first-hand testimony; individuals with the first-hand knowledge were not present for cross examination or to answer public hearing questions leaving many unanswered questions and conflicting testimony.

After months of hearings and discussion, the motion failed to receive enough votes to pass at the December 19, 2012 board meeting, so the proposals for setbacks were not approved.

After the November election of the County Board, the most recent application for a WECS setback amendment was submitted requesting greater setback than previously requested and denied.

The planning staff has the following comments based on professional opinion.

The staff believes that the amendment to add “Assure the protection of health, safety, welfare and property values for all Boone County residents and landowners,” is not really needed. That is the purpose of the entire Zoning Ordinance as stated in 55ILCS 5/5-12001, Authority to regulate and restrict location and use of structures giving municipalities the authority to regulate through the
Zoning Ordinance. Perhaps a more logical location for the statement would be in the first chapter on the first page of the ordinance; however, it is general planner knowledge that it is the purpose of the Zoning Ordinance.

As in the last proposals, the planning staff does not support increasing setbacks from 1.1 times the height of the tower or 1000 feet from primary structures to “From all property lines all WECS towers shall be setback a distance of not less than two thousand six hundred forty (2640) feet or 6.5 times the height of the WECS tower including the blades at the highest point, whichever is greater” and eliminating the opportunity for waivers. As stated in Section 4.8.1.3. Purpose, it is the purpose of this Section to promote the supply of wind energy in support of Illinois’ statutory goal of increasing energy production from renewable energy sources. At the last hearings, it is staff’s belief there was no evidence presented stating that one setback was more correct than another. A setback of 2640 feet from property lines would virtually not allow towers to be constructed in Boone County and there is no opportunity for a waiver. The staff believes that this in conflict with the zoning ordinance, the tool that implements the concepts of the Belvidere-Boone County Comprehensive Plan. Of the evidence presented with this application, only Exhibit 2, Wind Turbines, Noise and Health—a United Kingdom Study by Dr. Amanda Harry suggested any setback distances and that distance was 1.5 miles or 7920 feet. The study also suggests that further investigation is needed to set a reasonable setback. Exhibits 6 and 7 are county ordinances outside of Illinois. Two of the ordinances have setbacks of 5280 from the property line and two of setbacks of 2640 from the property line. These setbacks served to stop the development of WECS projects in their counties. The companies considering an application walked away from all four counties once the ordinances were adopted.

The planning staff is not supportive of increasing setbacks from public roads, third party transmission lines, and communication towers of 1.10 times the WECS tower’s-height to all WECS towers shall be setback a distance of not less than two thousand six hundred forty (2640) feet or 6.5 times the height of the WESC tower including the blades at the highest point, whichever is greater. There is no submitted evidence to support the need for the greater setback. If the Illinois Tollway Authority, the Illinois Department of Transportation, local municipalities or other utility provider felt that such a setback was required, it would currently be written in their guidelines.

The planning staff is not supportive of adding the statement “All WECS towers shall have a minimum setback distance (in Boone County of the State of Illinois) from the municipality of Sharon, Wisconsin of not less than one and one-half (1.50) miles.” The Illinois State Compiled Statutes require a 1.5-mile setback from all municipalities. During the special use process, the setback for all municipalities would be applied. The staff does not believe that it is legal to call out one particular municipality in the zoning ordinance as the rules are general to all.

The planning staff believes that the arguments from the previous Boone County Regional Planning Commission’s review of WECS setback proposed amendments, although smaller than those currently proposed are still relevant for this proposal. There are inconsistencies with the stated purposes and the prohibitive proposed setbacks.

Based upon this information, planning staff recommends denial of case 03-2015.
Staff Review. Upon receiving an application requesting an amendment, or upon an instruction from the County Board or Zoning Board of Appeals that it will consider a proposed amendment, the Zoning Administrator shall review the proposed amendment to evaluate its conformity with the Comprehensive Plan and the Zoning Ordinance. The Zoning Administrator may deliver copies of the proposed amendment to appropriate County departments and government agencies for review and comment. Prior to the scheduled public hearing, the Zoning Administrator shall deliver to the Regional Planning Commission and the Zoning Board of Appeals a written report incorporating or summarizing the comments of the Zoning Administrator, planning consultant, county departments, and/or other agencies.

Action by the Zoning Board of Appeals. The Zoning Board of Appeals shall hold a public hearing on the proposed amendment. In considering the amendment, the Zoning Board of Appeals shall review the proposed amendment, findings set forth in Section 2.10.2.C below, the report of the Zoning Administrator, and any oral and written comments received by the Zoning Board of Appeals before or at the public hearing or otherwise made part of the record of the Zoning Board of Appeals on the application. Based on this information, the Zoning Board of Appeals shall submit, within a reasonable time, a report including a determination of findings and a recommendation to the County Board on whether or not the proposed amendment should be adopted.

Action by the County Board. After receiving the recommendations and report of the Zoning Board of Appeals, the County Board shall, within 30 days, review the recommendations and report and may accept the findings and recommendations of the Zoning Board of Appeals in whole or part or may reject them in whole or in part, or the County Board may refer the matter back to the Zoning Board of Appeals for further consideration.
ATTACHMENTS

2. Letter from Boone County Health Dept, William Hatfield, Dated January 12, 2015
Jan 14, 2015
9015 Marengo Road
Garden Prairie, IL 61038

To: Bonus Township Supervisor

The Bonus Township Planning Commission met at 7:00 pm on January 13, 2015 to consider 03-2015, the Zoning Ordinance Text Amendment for WECS. Present were Phillip Paladino, Bonnie Bartell, William Pysson and Karl Dahlin.

Bonnie Bartell made a motion to accept changes with the exception of the excessive setback requirements and the inability of the county to waive the setback requirements and the assurances of protection of property values as referred to in 4.8.1.1 Seconded by Phil Paladino.

By a 4-0 vote we oppose the excessive setbacks as outlined in this proposed text change amendment. We disagree with the country's loss of ability to allow variances to setbacks. There are no facts to substantiate the safety and health concerns specifically referred to in the application.

Phillip Paladino

cc: Belvidere-Boone County Planning Department
January 12, 2015

Kathy Miller  
Belvidere-Boone County Planning Dept.  
401 Whitney Blvd., Suite 400  
Belvidere, IL 61008

Re: Notice of Hearing 03-2015 Cleverdon and Kenny Zoning Ordinance Text Amendment for WECS

Dear Kathy,

We are in receipt of the text amendment for the above referenced case.

Our office has no comments on this request.

Thank you,

[Signature]

William L. Hatfield  
Director of Environmental Health
Ms. Kathy Miller, Interim Planning Director  
Belvidere-Boone County Planning Department  
401 Whitney Blvd., Suite 300  
Belvidere, Illinois 61008

RE: Notice of hearing 03-2015; Cleverdon and Kenny  
Zoning Ordinance Text Amendment for WECS

Dear Ms. Miller,

I have reviewed the proposed text amendment, H 2., that pertains to roads. In my opinion the proposed setback distance of 2,640 feet or 6.5 times the height of the WECS including the blades at the highest point is excessive. I have not seen any data that shows debris from falling wind towers travels that far of a distance. In viewing the wind turbines along I-39 that are closest to the local roads in that area the setback distance appears to be in the 500 foot range.

The setback distance needs to provide a safe distance for motorists from falling wind tower debris but not at a distance that is excessive and would automatically eliminate a project.

Sincerely,

Richard A. Lundin  
Boone County Engineer
(55 ILCS 5/5-12001) (from Ch. 34, par. 5-12001)
Sec. 5-12001. Authority to regulate and restrict location and use of structures.
For the purpose of promoting the public health, safety, morals, comfort and general welfare, conserving the values of property throughout the county, lessening or avoiding congestion in the public streets and highways, and lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters, the county board or board of county commissioners, as the case may be, of each county, shall have the power to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and other uses which may be specified by such board, to regulate and restrict the intensity of such uses, to establish building or setback lines on or along any street, trafficway, drive, parkway or storm or floodwater runoff channel or basin outside the limits of cities, villages and incorporated towns which have in effect municipal zoning ordinances; to divide the entire county outside the limits of such cities, villages and incorporated towns into districts of such number, shape, area and of such different classes, according to the use of land and buildings, the intensity of such use (including height of buildings and structures and surrounding open space) and other classification as may be deemed best suited to carry out the purposes of this Division; to prohibit uses, buildings or structures incompatible with the character of such districts respectively; and to prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder. Provided, that permits with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes shall be issued free of any charge. The corporate authorities of the county may by ordinance require the construction of fences around or protective covers over previously constructed artificial basins of water dug in the ground and used for swimming or wading, which are located on private residential property and intended for the use of the owner and guests. In all ordinances or resolutions passed under the authority of this Division, due allowance shall be made for existing conditions, the conservation of property values, the directions of building development to the best advantage of the entire county, and the
uses to which property is devoted at the time of the enactment of any such ordinance or resolution.

The powers by this Division given shall not be exercised so as to deprive the owner of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted, but provisions may be made for (i) the gradual elimination of the uses of unimproved lands or lot areas when the existing rights of the persons in possession are terminated or when the uses to which they are devoted are discontinued, (ii) the gradual elimination of uses to which the buildings and structures are devoted if they are adaptable to permitted uses, and (iii) the gradual elimination of the buildings and structures when they are destroyed or damaged in major part; nor shall they be exercised so as to impose regulations, eliminate uses, buildings, or structures, or require permits with respect to land used for agricultural purposes, which includes the growing of farm crops, truck garden crops, animal and poultry husbandry, apiculture, aquaculture, dairying, floriculture, horticulture, nurseries, tree farms, sod farms, pasturage, viticulture, and wholesale greenhouses when such agricultural purposes constitute the principal activity on the land, other than parcels of land consisting of less than 5 acres from which $1,000 or less of agricultural products were sold in any calendar year in counties with a population between 300,000 and 400,000 or in counties contiguous to a county with a population between 300,000 and 400,000, and other than parcels of land consisting of less than 5 acres in counties with a population in excess of 400,000, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes upon such land except that such buildings or structures for agricultural purposes may be required to conform to building or set back lines and counties may establish a minimum lot size for residences on land used for agricultural purposes; nor shall any such powers be so exercised as to prohibit the temporary use of land for the installation, maintenance and operation of facilities used by contractors in the ordinary course of construction activities, except that such facilities may be required to be located not less than 1,000 feet from any building used for residential purposes, and except that the period of such temporary use shall not exceed the duration of the construction contract; nor shall any such powers include the
right to specify or regulate the type or location of any poles, towers, wires, cables, conduits, vaults, laterals or any other similar distributing equipment of a public utility as defined in the Public Utilities Act, if the public utility is subject to the Messages Tax Act, the Gas Revenue Tax Act or the Public Utilities Revenue Act, or if such facilities or equipment are located on any rights of way and are used for railroad purposes, nor shall any such powers be exercised with respect to uses, buildings, or structures of a public utility as defined in the Public Utilities Act, nor shall any such powers be exercised in any respect as to the facilities, as defined in Section 5-12001.1, of a telecommunications carrier, as also defined therein, except to the extent and in the manner set forth in Section 5-12001.1. As used in this Act, "agricultural purposes" do not include the extraction of sand, gravel or limestone, and such activities may be regulated by county zoning ordinance even when such activities are related to an agricultural purpose.

Nothing in this Division shall be construed to restrict the powers granted by statute to cities, villages and incorporated towns as to territory contiguous to but outside of the limits of such cities, villages and incorporated towns. Any zoning ordinance enacted by a city, village or incorporated town shall supersede, with respect to territory within the corporate limits of the municipality, any county zoning plan otherwise applicable. The powers granted to counties by this Division shall be treated as in addition to powers conferred by statute to control or approve maps, plats or subdivisions. In this Division, "agricultural purposes" include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.

Nothing in this Division shall be construed to prohibit the corporate authorities of a county from adopting an ordinance that exempts pleasure driveways or park districts, as defined in the Park District Code, with a population of greater than 100,000, from the exercise of the county's powers under this Division.

The powers granted by this Division may be used to require the creation and preservation of affordable housing, including the power to provide increased density or other zoning incentives to developers who are creating, establishing, or preserving affordable housing. (Source: P.A. 94-303, eff. 7-21-05.)