

## DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

### FINDINGS OF FACT

From the Hearing held on May 27, 2009

Upon hearing and considering the representations and the evidence of the parties concerned, the Board finds the facts in the matter to be as follows:

1. On April 1, 2009, Kneehill County Municipal Planning Commission approved Development Permit #3032-09, said application made by Fortuna GP Inc. and FPLE Canadian Wind UCL for the placement of a 1.5 MW wind turbine located on the NW 19-34-24 W4M (turbine #8). This intact quarter section presently contains a single farm residence in the north east corner.
2. Notice of Decision of the Municipal Planning Commission was mailed to the Applicant on April 8, 2009
3. On April 22, 2009, an appeal of this decision was made by Carl and Tanya Scheunert siting concerns over the placement of wind turbines which may directly or adversely affect them and their families well being. They request the setbacks be increased to 1.5 km from adjacent landowner residences.
4. Notice of the date of the hearing was provided to all involved parties on May 11, 2009, as required under the Municipal Government Act. The hearing was originally scheduled for May 21, 2009 meeting the time requirements of the MGA. The appellant requested the hearing be rescheduled to May 27, 2009, at 9:00 am, and provided written agreement to this extension.
5. Under Kneehill County's Land Use Bylaw 1564 ("LUB"), the quarter is zoned "A" Agricultural Lands. Wind Energy Conversion Systems are a discretionary use for "A" Agricultural Lands.
6. Wind Energy Conversion Systems are regulated under Part VII, Section 61 of Kneehill County's LUB.
7. The Applicant's application meets or exceeds all minimum requirements required to date at the municipal, provincial and federal levels with respect to this development.

In consideration of the above and having regard to the provisions of the Municipal Government Act, the Subdivision and Development Appeal Board acknowledges that:

1. It must take into consideration relevant and material information provided by the Appellant and the Applicant in this matter, as well as any other relevant material and information provided to it at the hearing.
2. Its jurisdiction is determined having regard to the Municipal Government Act, the applicable planning documents and planning principles. The

Board must take into consideration and comply with Kneehill County's Municipal Development Plan LUB.

3. It has an obligation to deal fairly and equitably with the Appellants and the Applicant in this matter taking into account the affect of the proposed development on neighbouring parcels of land.

**THEREFORE IT IS THE DECISION OF THE BOARD TO:**

1. Deny the appeal on development permit #3032-09 and uphold the decision of the Municipal Planning Commission.
2. Add the following condition:
  - The developer is responsible for making suitable arrangements with the utility companies and Kneehill County Operations department for provision of services.
3. Condition (i) as imposed by the Municipal Planning Commission will be moved in its entirety, as is, to become the last and final condition stated as part of this development.

**REASONS FOR THE DECISION**

1. The conditions imposed by the Municipal Planning Commission on this Development Permit were inconsistent with the conditions imposed, or intended to be imposed on all of the development permits which form part of the overall Ghost Pine Development project. The foregoing amendments to the conditions imposed on the issuance of the development permit will ensure the conditions imposed on this development are consistent with those imposed on the overall project.
2. The Board prefers the scientific evidence and study presented by the Applicant over that presented by the Appellant. The Board concludes the evidence presented by the Applicant was more reliable than that presented by the Appellant as it had been tested by peer review and was consistent with the current legislation, regulations and guidelines as set out by municipal, provincial and federal jurisdictions for the placement of wind turbines.
3. The Board concludes the evidence presented by the Appellant is insufficient to substantiate the Appellant's claim of potential adverse medical and health risks to adjacent residents from the placement of wind turbines
4. The Board concludes the evidence presented by the Appellant is insufficient to substantiate the Appellant's claim of potential interference with the enjoyment of their property and/or reduced property values on adjacent properties as a result of the placement of wind turbines.
5. Wind Energy Conversion Systems are a discretionary use for "A" Agricultural Lands and the proposed development meets or exceeds all minimum requirements at the municipal, provincial and federal levels applicable to Wind Energy Conversion Systems

6. The Applicant has, as of this date, complied with or exceeded all minimum standards and regulations as set out by municipal, provincial and federal jurisdictions including those discussed specifically in this appeal related to noise levels, development set-backs and public consultations.
7. The Board concludes the proposed development would not materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Dated this 8<sup>th</sup> of June, 2009, at Kneehill County in the Province of Alberta

**Kneehill County Subdivision and Development Appeal Board**

  
\_\_\_\_\_  
Darcy Penner, Chairperson