

## Wind farm buffer zone won't affect property rights

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Stan Mundy stands on his land where it borders the Texaco property near Evansville north of the North Platte River on Wednesday afternoon. Mundy opposes a project to build an 11-turbine wind farm by Chevron Global Power Co. in which a buffer zone for one of the wind turbines will cross onto his property. (Kerry Huller, Star-Tribune)

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Thursday, February 5, 2009 9:30 PM MST

A couple of misunderstandings during Tuesday's public hearings about the proposed commercial wind farm near Evansville alarmed some neighbors who thought the project would infringe on their property rights.

These residents interpreted some comments to mean they would need county permission if they wanted to build a house, barn or other structure on their own property overlapped by a quarter-mile buffer around the 240-foot towers scheduled for installation this summer.

Thursday, county development director Blair Leist said the existing zoning regulations would not require anyone to obtain a land use variance permit to build a structure other than a second single-family residence on their property.

However, Leist would be open to amending the regulations to avoid similar disputes in the future.

That relieved Stan Mundy, who was among the residents opposing Chevron Global Power Co.'s request for the county commission to allow it to erect 11 wind turbines on the former Texaco property north of the North Platte River. The commission voted 3-1 to approve the project.

"Blair said I can build anything I want," Mundy said Thursday.

The now-resolved potential conflict was not the fault of Chevron Global, which followed the new emergency regulations for commercial wind farms approved by the county commission in September, company representative Monte McKillip said.

Chevron Global will begin probably in May trucking the nearly half-million pound, 1.5 megawatt turbines -- including towers, nacelles and blades; and not including millions of pounds of concrete and rebar -- to the 880-acre site west of Cole Creek Road. The turbines will be generating power later this year, according to Chevron officials.

The wind farm and the county's regulations could have generated a property rights lawsuit.

Mundy's property on Lake Drive shares a fence line on the southeastern part of Chevron Global's property.

Mundy didn't like the prospect of looking north to see some of the towers not counting the span of their three blades, and gathered 114 neighbors' signatures on a petition opposing the project.

But he disliked an apparent consequence of the recently approved county's emergency commercial wind farm regulations even more.

Each tower must have a quarter-mile buffer in all directions that has no existing primary structure. Primary structures include residences, barns, child care centers, hospitals and commercial buildings, Leist said.

According to a map of the wind farm site distributed by Chevron Global, those buffers in some places cross the company's property lines and extend into surrounding land, including Mundy's.

No primary structures exist in the approximately eight acres within the buffer zone crossing Mundy's property line.

But as the discussion intensified at the public hearing on Tuesday, Mundy came to believe he would have to obtain a land use variance to construct a building in the buffer area.

Mundy wondered why he would need to obtain anything from the county besides a building permit because it's his land, which he owned before the wind farm project came along.

By Wednesday, he'd contacted an attorney and was ready to take legal action, he said.

On Thursday, Mundy decided to test the regulations by calling the development department to obtain a building permit for a structure within the buffer zone on his land, and learn whether he would need a variance, too, he said.

Leist told him his property was in an "urban agriculture" zone, which does not require such a variance for a building other than another single-family residence, Leist and Mundy said.

If Mundy wanted to build a second single-family residence on his property, he would need to subdivide his 53 acres to create a new 10-plus-acre lot for that house just like any other owner of "urban agriculture" land, Leist said.

However, Mundy will not be able to sue Chevron for creating a nuisance because of the buffer zone, Leist said.

Leist does not foresee any similar problems with landowners whose property is zoned "urban agriculture" and overlapped by the quarter-mile buffer zones in eight other areas besides Mundy's he said.

He would be open to amending the wind farm regulations requiring companies building wind farms to have the quarter-mile buffer zone entirely within their property lines.

"That's certainly something to consider," Leist said.

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