

# **Town of Union PLAN COMMISSION MEETING Minutes for November 29, 2007**

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The Town of Union Plan Commission regular meeting was called to order on Thursday, November 29, 2007 at the Eager Free Public Library, 39 W. Main Street, Evansville at 7:00 p.m. by Alvin Francis, Chairman. Members present included Alvin Francis, Doug Zweizig, Marty Johnson, Eric Larsen, Mike Exum, Rich Templeton and Kim Gruebling. Also in attendance: Town Engineer Greg Hofmeister, Town Attorney Matt Dregne, Building Inspector Bob Fahey, and Clerk Regina Ylvisaker.

### **Approve October 25, 2007 Plan Commission Minutes**

Motion to approve minutes from October 25, 2007 Plan Commission meeting as written made by Doug Zweizig, second Marty Johnson. Motion carried by unanimous voice vote.

### **Wind Turbine Study Committee Status Update**

Jim Bembinster provided the Plan Commission with an update of the progress the Wind Turbine Study Committee had made in the previous weeks. Information requests have been sent out to various stakeholders.

### **Public Hearing: To discuss Small Wind Energy Ordinance with recommendation to Town Board for adoption.**

Alvin Francis reviewed the completed ordinance with recommendations made by Attorney Matt Dregne.

Public hearing opened at 7:06 pm.

Jim Bembinster stated that the Wind Turbine Study Committee has looked into small turbines, and found that the level of sound produced varies greatly between different models, manufacturers, etc. He would encourage citizens who wish to put up a turbine to research the sound issue prior to erecting.

Zweizig inquired about the need to have the Building Inspector on the property prior to issuing a permit? Bob Fahey stated that he usually visits all sites prior to issuing permits. With that in mind, Zweizig felt there should be language under Section 11, sub. A stating that the Building Inspector may enter any property to which a building permit has been issued. Kim Gruebling voiced a concern about what the process would be if a citizen complained about the noise from a turbine, who would be responsible for the cost of reviewing the noise level and enforcing any violations?

Public hearing closed at 7:11 p.m.

Fahey suggested under Section 8, sub. F, deleting "post construction" and replacing with the statement "during and upon completion of construction." Mike Exum presented the scenario of two neighbors who want to share a tower, and neither has enough property to satisfy setback requirements, are they able to erect a tower if an agreement of some sort is entered into? Attorney Dregne stated that the Town cannot deny easements, but can not recognize them for zoning purposes.

Motion to recommend the Town Board adopt Small Wind Energy Ordinance as drafted by Attorney Dregne with amendments discussed made by Kim Gruebling, second by Marty Johnson.

Roll Call Vote: Alvin Francis – Yes; Doug Zweizig – Yes; Mike Exum – No; Rich Templeton – Yes; Eric Larsen – Yes; Marty Johnson – Yes; Kim Gruebling – Yes.  
Motion carried 6-1.

Attorney Dregne suggested adding the review and adoption of the Small Wind Energy Ordinance to the Town Board meeting agenda for the January 3, 2008 meeting, allowing the Board to adopt the Ordinance as an amendment to Chapter 17.

**Public Hearing: Richard Affholder, 4316 Robin Meadow Lane, Eau Claire, Wisconsin 54701 requests a land division and zoning change to create a 16-lot residential subdivision zoned rural residential, from the current 20.2 acre parcel (#6-20-81) zoned A1, located in the NE 1/4 SW 1/4, of Section 10, Fire # 10250 N. Hwy. 14.**

Public hearing opened at 7:25 p.m.

Ron Combs presented the request. He stated he has met with the Wisconsin Department of Transportation regarding access concerns; there will be only one access point to the development off of Highway 14 and all driveways will access an interior road. Access to the cemetery would be relocated off of Highway 14 and onto the interior road. (An updated map was provided by Ron Combs) Currently, the Town of Union Smart Growth map shows future commercial development from the Evansville Golf Course to Union along Highway 14; he feels residential development would be more appropriate in that there is currently residential development around the parcel in question.

Attorney Dregne asked for clarification regarding how the proposed lots would be accessed? Combs stated that all lots would access a new interior road, either by access strips or on a cul-de-sac.

Drew Mackendrick, Holt Road: Considering that the DOT is already concerned about access points on this stretch of road, only having one access point still means that there are a large number of cars entering and leaving that stretch of road. A twenty-year resident; feels this amount of traffic is unwarranted, as this road is already unsafe.

Marshall Mennenga: Friend of Affholders, is representing them at the meeting. Louise Affholder was a Larson, and has owned the property in question for many years. The Affholders are retired, and feel it is time to sell the property and get the best value they can for it.

Comments from residents received by the Plan Commission regarding the request were read in by Chairman Francis. Clerk Ylvisaker read in comments received via email from residents.

Combs addressed concerns brought up by residents in the read-in comments: clarified that the retention pond included in the development plan is required to be able to handle a 100-year storm; at this time there is no intent to fence in the property unless requested by the Plan Commission; the storm water currently entering the Hutchins property between lots 11 & 12 on new map. Johnson stated that there is a large culvert at that location, large enough to walk under. Combs explained that water would be directed

toward the roadway and to an outlot storm water pond. Regarding trespassing concerns, Combs stated that trespassing laws apply to all properties and would apply to neighboring properties around the development. With regard to traffic concerns, Combs stated that visibility was good at the access point location, and access to all lots would be concentrated to one point. Additionally, the intersection would be built to state standards, would include a bypass lane if required by state, and would be built to higher standards than other roads. Highway 14 is one of the first roads plowed and salted in the Township; the State will be dealing with the entire section of the highway in future, as it is in the DOT's long range plan. A DOT inspector was on-site to determine best point of access.

Drew Mackendrick: It may be the best location for an access point, but the development will still add 32 cars to traffic. Highway 14 is a major artery with numerous accidents, maintains that the development is ill advised.

Jean Larson, Holt Rd.: Is the DOT's long range plan to fix this section of road, and if so is there a timeline? Combs stated that it is part of the long range plan but there is no timeline at this point. How does this fit into the comprehensive plan and desired development? Francis explained that the area in question was planned for commercial development in the Smart Growth Plan. Larson agrees with Mackendrick; she travels this road every day, and in the last month have been 15 near miss accidents between 6 & 7:30 am. Agrees that they (landowners) should be able to do what they want with their land, but there should be no more subdivisions until the traffic issues are dealt with.

Doug Lee: The section of Highway 14 from the golf course through Union was planned for commercial development for a reason.

Kim Gruebling stated that on the scoring sheet, the applicants indicated there are no historical features on the site; feels this is not accurate, as the property is next to a cemetery and the original Town of Union was located there. Civil war soldiers are buried in the cemetery. Gruebling asked if the applicants obtained any statements from the State Historical Society that there is no historical value? Combs stated he was on the State Historical Society website, which mentioned the cemetery but nothing else. Combs stated that they recognize the cemetery is a historical site, and will be supplying a second access point to the cemetery through the development plan. Gruebling asked for clarification that all research done into the historical value/features of the land was done on the Web? Combs stated yes. Also noted by Combs was that the proposed development would be eliminating 9 residential lots that were created in the Town decades ago. Exum stated that the cemetery is listed on the Rock County Historical Society website, including a list of names of individuals buried there. Exum brought up a legal question, as this is the first time the Town has dealt with a subdivision located next to a cemetery. The boundary of the cemetery is unclear, should something archaeological be done to locate burial plots, etc? Attorney Dregne stated that there are special considerations in this instance, which he would have to research further. Combs clarified that the only development being done is adding a driveway leading to cemetery, not developing cemetery itself. There are definite boundary lines at the cemetery in question, but whether the cemetery extends beyond the boundary lines is unknown.

Zweizig questioned why page 2 of the application was not checked off? Fahey stated he did not check it off on the copy the Plan Commission received. Additionally, there were other pages missing on the copy the Plan Commission received, which were included in

the original application. Combs stated they made the copies; it was their oversight that pages were missing.

Public hearing closed at 7:51 p.m

Scoring sheet discussion: Francis questioned the site soil type; it is unclear on the form if it is type two or three. Gruebling felt soil type should be scored 0, not 20. Combs stated the land is comprised mostly of type two soil, but a small amount of type three is present, which is why he scored the way he did.

Page 2, Smart Growth area? Combs felt that the Smart Growth map at face value shows that the area is planned for development, whether the development is commercial or residential is irrelevant. Gruebling feels it is cut and dried that it is planned commercial development; Exum was of the opinion that the statement should be reworded/rewritten as it could be read two ways. Gruebling would score a zero on this question, as the area is shown to be planned commercial development and it is being requested to put residential on it. Kim felt it is clear that the map intends commercial; does the Smart Growth plan need to be changed if the zoning was changed? Attorney Dregne believes that the Town's zoning ordinance and/or subdivision ordinance states that any rezones or land divisions need to be consistent with the Comprehensive Plan, and therefore it would need to be changed. He further stated that the process to make such a change would need to include public participation. Francis feels that the area in question is in a Smart Growth area, and that defining commercial development for the area was arbitrarily extended to East Union Road. Gruebling and Larsen both felt strongly that the decision to plan commercial development in the area in question was not arbitrary, instead was a part of a two year process.

Larsen asked, regarding 2B, what is considered a development? Johnson stated it means residential development. Larsen felt that the definition of subdivision is debatable, and needs clarification so everyone is on the same page.

Zweizig voiced concerns regarding traffic, but felt the concerns may not be important if the Plan Commission will not approve residential development in an area designated for commercial development. Francis believes that as good an argument could be made for residential development as for commercial development in this area. Gruebling stated that the intention of the Smart Growth plan was to avoid small pockets of development scattered throughout the Township.

Regarding changing the Smart Growth plan and map, Exum feels there will be many applications presented that do not follow the plan and didn't know how appropriate it would be to continually change the plan and map to allow development.

Greg Hofmeister noted that the number of trip-ends per resident residential would be less than the number of trip-ends if commercial development.

Motion to recommend denying the request made by Richard Affholder, 4316 Robin Meadow Lane, Eau Claire, Wisconsin 54701 for a land division and zoning change to create a 16-lot residential subdivision zoned rural residential, from the current 20.2 acre parcel (#6-20-81) zoned A1, located in the NE 1/4 SW 1/4, of Section 10, Fire # 10250 N. Hwy. 14, and preliminary plat made by Kim Gruebling. The reason for the recommendation is the Smart Growth map specifies this area for commercial development. Motion seconded by Eric Larsen.

Francis stated that the applicant should be allowed to withdraw their application pending a request to change the Smart Growth designation in the area in question.

Roll Call Vote: Alvin Francis – No; Doug Zweizig – Yes; Mike Exum – Yes; Rich Templeton – Yes; Eric Larsen – Yes; Marty Johnson – Yes; Kim Gruebling – Yes.  
Motion carried 6-1.

Ron Combs requested a definition of “Smart Growth commercial.”

**Public Hearing: Joel Deckert, 224 Kenwood Dr., Thienville, WI requests a conditional use permit and land division to separate off existing house and farm buildings from its existing A1, 120 acre parcel (#6-20-149) located in the SE ¼, SE ¼ of Section 18. Resulting parcels would be 3 acres zoned A1, and 117 acres zoned A1.**

Public hearing opened 8:28 p.m.

Doug Lee: Stated that this property has been a dump since this person has owned it (2 years), felt that the owner does not take care of property. Is currently rental property, believes the prospective buyer will continue renting. Stated that a hole had been dug in backyard and refuse buried in it. Is not in favor of approving the land division if the property remains rental, however if the new owner would take better care of the property and respect the neighborhood he would have no problems with the land division.

Drew Mackendrick: Feels that the land division maintains the integrity of the farmland surrounding it, unobstructed plowable tillable land, and the division may be a good idea. Would like to see an improvement on the property.

Public hearing closed at 8:31 p.m.

Larsen questioned if by approving this request, would another A1 parcel (remaining 117 acres) be created that could be built upon? Yes. Rich Templeton clarified that the property could only be built upon by the person that owns it, not their children, etc as the property across the road from the one in question was not allowed to do so.

Exum asked if there would be a difference long term if the property is zoned A1 or A3? Fahey stated that the Smart Growth map shows this area as a large agricultural area, and these divisions to split off farm buildings have been consistently done for 14 years. No further development of the remaining 117 acres would be allowed under the Smart Growth plan. Attorney Dregne was of the opinion that the Smart Growth plan should state “no further division” instead of “no further development” to clarify this point, and outlined the process to make the change (amendment, consisting of public hearing, proper notice, place on agenda).

Motion to recommend approval of the request from Joel Deckert, 224 Kenwood Dr., Thienville, WI for a conditional use permit and land division to separate off existing house and farm buildings from its existing A1, 120 acre parcel (#6-20-149) located in the SE ¼, SE ¼ of Section 18. Resulting parcels would be 3 acres zoned A1, and 117 acres zoned A1, as well as approval of preliminary CSM, made by Marty Johnson. Second by Kim Gruebling. The rationale to support this decision is that the application request conforms to the Smart Growth plan.

Roll Call Vote: Alvin Francis – Yes; Doug Zweizig – Yes; Mike Exum – Yes; Rich Templeton – Yes; Eric Larsen – Yes; Marty Johnson – Yes; Kim Gruebling – Yes. Motion carried 7-0.

**Public Hearing: Jeff Trumpy, 17802 Holt Rd., Brooklyn, WI requests a land division and zoning change from A-1 to Rural Residential (RR) in order to create 4 residential lots on the north side of Holt Rd. directly north of Crocker Rd, parcel #6-20-38, located in the SE 1/4 of the NE 1/4 of Section 6. Resulting rural residential lots would be .92 acres in size each, with the remaining 139.48 acres retaining A1 zoning.**

Jeff Trumpy stated that he participated in the Smart Growth committee. The land in question has type 3 soils, and has been pasture for many years. Trumpy felt he has a history of development and has built high quality homes. Additionally, he believes the development would help the intersection, as it may widen it. Stated that the development is close to Brooklyn, the lots are smaller than others he has developed. The rate of his development of land over the past 12 years has been slow.

Francis stated that the issue of traffic on Holt Road has been discussed previously. Trumpy would like to see the road connect to Highway 92 eventually.

Jean Larson: Stated that she lives directly behind Trumpy. Believes that Ladopolous wants to annex all the land in the area into the Village of Brooklyn. Trumpy's request was part of Ladopolous' original development request for the area, and included duplexes. Stated the hill approaching the Holt/Crocker Road intersection is a blind hill, with consistent accidents especially in winter. Wonders how this development fits into the Smart Growth plan? How many properties are currently vacant in Union? Do we need more development? Stated that Trumpy is currently running a corn drying operation, and semis are entering and leaving his property throughout the night. The proposed development will create more runoff issues, and create problems for neighboring farmers regarding manure runoff.

Drew Mackendrick: What does the Smart Growth plan say about this particular area? Francis stated that the area in question is designated Smart Growth residential. Mackendrick stated that the Brooklyn Comprehensive Plan is against this development, the Town of Rutland Comprehensive plan is against it as well. How can this development be justified in the middle of good farmland? Believes the lot sizes are consistent with city lot sizes, suggesting future plans for development. Drainage will be a problem. Safety, Smart Growth, and neighborhood integrity are not addressed in this request. He lives next to the intersection, has numerous semis going by his house every day, and is concerned about safety, sight lines, and stopping distances. Feels that Trumpy and Ladopolous are clearly working together to develop the area, even if the development is done on separate applications.

George Franklin: Stated that he received a call from neighbor with concern about the corner on Crocker Road, and he shares his concern. Not sure if the intersection will be made larger, but currently if a semi comes around the corner other cars must go in ditch to allow for passage. He is also concerned about lot size.

Trumpy stated that he feels many people on neighboring properties who support the development are not present at the meeting.

Doug Lee: Stated that the property has been pasture since Trumpy has owned it, wonders if it was farmed previously? Mackendrick stated that the land has been farmed by Trumpy.

Clerk Ylvisaker read in comments received via email from residents.

Public hearing closed at 9:02 p.m.

Scoring sheets review: Exum felt that the Town should approach the Village of Brooklyn regarding their desire to annex the land and discuss the issue. Attorney Dregne stated that in his experience, when someone is proposing to divide a parcel of land and only requests 4 lots but owns the surrounding land, the Town generally requires that the proposal show a development plan for the larger area to view street layout, storm water management, etc. Wonders if Union requires a development plan? Francis stated that in the past the Town has required extra intentions be shown, but believes that in this case the landowner is only trying to determine if development will be approved. Exum stated that the policy in the past has been to ask individuals to "show us later" the long term plan, but it has been required since Smart Growth. Gruebling believes that the request looks like a partnership between Trumpy and Ladopolous, as the development is sharing a new road; also feels that it should be viewed as a major land division (8 lots) not minor. Attorney Dregne felt that the ordinance is currently not clear regarding the requirement that a development plan be presented. Francis stated although the area is in the Smart Growth plan for development, the proposed road is not and traffic is a historic problem on Holt/Crocker Road. Concerns were expressed by Attorney Dregne that the proposed road was not on the map for future residential growth, as well as the fact that only half of the proposed road was on land owned by developer. Another issue was insufficient dedication of the road; Attorney Dregne felt the Town should request dedication of the entire future roadway. He also clarified that each application (Trumpy and Ladopolous) must be reviewed individually. Exum asked if there was an extraterritorial issue regarding this request? Attorney Dregne stated that the applicant needs approval from both the Town of Union and the Village of Brooklyn. Johnson stated that the prior issue with development in this area is that it is located directly over a groundwater recharge area, and locating septic systems in this area would not be feasible or responsible. Zweizig shares this concern, noting that both the Trumpy and Ladopolous applications are located in the groundwater recharge area.

Zweizig brought up concerns presented to the Plan Commission from Town Engineer Greg Hofmeister. Crocker Road will, in the future, be at least a collector or minor arterial roadway, therefore the Town must be sure that enough right of way is obtained. Overall, Hofmeister summarized his concerns that a significant amount of additional information is needed prior to approving the application.

Jeff Trumpy requested to withdraw his application, feeling that more planning is needed.

Motion that Jeff Trumpy must provide a statement of withdrawal in writing prior to the December 6, 2007 Town Board meeting, and recommending that if the statement is not received prior to the December 6, 2007 Town Board meeting that the application be denied made by Kim Gruebling. Second by Doug Zweizig.

Roll Call Vote: Alvin Francis – Yes; Doug Zweizig – Yes; Mike Exum – Yes; Rich Templeton – Yes; Eric Larsen – Yes; Marty Johnson – Yes; Kim Gruebling – Yes.  
Motion carried 7-0.

Fahey asked for clarification as to whether a future application would be considered a new application? Consensus was Yes, as the current application has been withdrawn.

Written statement requesting to withdraw request from Jeff Trumpy was received prior to the conclusion of the Plan Commission meeting on November 29, 2007.

**Public Hearing: Prairie Homes, LLC, 5440 Wilbur Rd. Suite 101, Waunakee, WI requests a land division and zoning change from A-1 to Rural Residential (RR) in order to create 4 residential lots on the north side of Holt Rd. directly north of Crocker Rd, parcel #6-20-32, located in the SW 1/4 of the NW 1/4 of Section 5. Resulting rural residential lots would be .92 acres in size each, with the remaining 152.84 acres retaining A1 zoning.**

Nick Ladopolous: Stated that the reason for minor land division, both himself and Trumpy wanted to create 4 lots on a CSM basis and give the Plan Commission the opportunity to participate in developing the overall plan. Stated that the land owned by Ladopolous and Trumpy will be developed, wanted to open the door to the Town for their input. The land in question is in the extraterritorial jurisdiction of the Village of Brooklyn. Development will take place eventually. It is his intention to bring Crocker Road to Highway 92.

Doug Lee: Feels the Plan Commission should consider the needs of the Township, not Mr. Ladopolous. Believes the Town will end up providing services for people who work in Madison, just live in the Town.

Drew Mackendrick: Stated that he spoke with a member of the Village of Brooklyn Plan Commission today, and according to him the Plan Commission is not in favor of this development.

Zweizig noted the environmental concerns in this area, asked Ladopolous if he had any response to these concerns? Ladopolous stated that there ways of developing that are sensitive to the environment, and he can develop the land this way. Zweizig stated that the application needs to address environmental concerns, traffic concerns, and that he would like to see the "big picture". Templeton expressed his frustration with the lack of decision making by the Plan Commission. Gruebling stated that he felt the Town should not lead people on and tell them if they bring this or that back to the Plan Commission it will be considered further. Smart Growth plan was done for a reason, and there is a good reason why requests are turned down.

Ladopolous requested the application be withdrawn.

Motion to accept withdrawal of application made by Prairie Homes, LLC, 5440 Wilbur Rd. Suite 101, Waunakee, WI requesting a land division and zoning change from A-1 to Rural Residential (RR) in order to create 4 residential lots on the north side of Holt Rd. directly north of Crocker Rd, parcel #6-20-32, located in the SW 1/4 of the NW 1/4 of Section 5. Resulting rural residential lots would be .92 acres in size each, with the remaining 152.84 acres retaining A1 zoning made by Kim Gruebling. Second by Rich Templeton.

Roll Call Vote: Alvin Francis – Yes; Doug Zweizig – Yes; Mike Exum – Yes; Rich Templeton – Yes; Eric Larsen – Yes; Marty Johnson – Yes; Kim Gruebling – Yes.  
Motion carried 7-0.

Written statement requesting to withdraw request from Nick Ladopolous on behalf of Prairie Homes LLC was received prior to the conclusion of the Plan Commission meeting on November 29, 2007.

**Discussion of Growth Management Policy language as provided by town attorney.**

Discussion deferred to next meeting.

Motion to adjourn made by Rich Templeton, second by Eric Larsen. Meeting adjourned at 10:01 p.m.

*Respectfully submitted by Regina Ylvisaker, Clerk*

*Minutes not official until approved by the Plan Commission at a properly noticed meeting.*