

# **Town of Union PLAN COMMISSION MEETING January 31, 2008**

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The Town of Union Plan Commission regular meeting was called to order on Thursday, January 31, 2008 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, Rich Templeton and Kim Gruebling. Also in attendance: Town Chairman Kendall Schneider, Town Supervisors George Franklin and Don Krajeck, Town Engineer Greg Hofmeister, Town Attorney Matt Dregne, Building Inspector Bob Fahey, and Clerk Regina Ylvisaker. Plan Commission member Mike Exum was not in attendance.

### **Approve November 29, 2007 Plan Commission Minutes**

Motion to approve the minutes of the November 29, 2007 meeting made by Eric Larsen. Second by Kim Gruebling. Motion carried by unanimous voice vote.

### **Wind Turbine Study Committee: Presentation of Recommendation of the Committee**

Chairman Francis removed himself from the discussion due to a conflict of interest; Co-chair Doug Zweizig presided over the discussion. Zweizig explained that the purpose of the agenda item was for the Plan Commission to receive a presentation from the Wind Turbine Study Committee, and that a public hearing would be held at a future meeting; there will be no public comment tonight. Zweizig gave a brief overview and history of the committee.

Tom Alisankus, Wind Turbine Study Committee chair, presented the committee's findings. The Committee has worked hundreds of hours on the project, met almost weekly since the Committee was formed. Members conducted on-site visits to wind farms of a nature similar to what is being proposed in the Town of Union, some members went to the state of Oregon to tour wind farms. Regarding his position of Committee Chair, Alisankus wanted it to be clear from the start that facts would be the only factor in the Committee's recommendation, not personal feelings, emotions, etc. The sourcebook put together by the Committee is made up of extensive research conducted by Committee members. State law only allows the Committee and Plan Commission to regulate health & safety issues related to wind energy. Items that could not be addressed included necessity of having met towers to properly measure wind speeds in the area of the proposed sites; issue of what construction of turbines would do to farmers land; divisiveness to the community; property values; and decommissioning of turbines. These issues are not in the Committee's final report, but the Committee felt it was important to let the Plan Commission know these issues are out there. Regarding the ordinance, the Committee began by looking at the Wisconsin state model draft ordinance for wind turbines. The intention of the state's model ordinance was that it was to be used as a model/starting point by communities when developing their own ordinances. An open records request was made by a Committee member in an effort to obtain the scientific and medical info that was used to create the state's model ordinance; in the state's response the Committee found that there was no scientific or medical documentation used to create ordinance. Instead, the Committee received minutes from meetings used to create the ordinance. It appears that the ordinance was written predominately by a power company from Florida (Florida Power and Light).

Representative Brett Davis was involved in the Committee and was surprised to learn the history of the state's ordinance; he will be researching the issue further. Setbacks and sound turned out to be the two major issues that were addressed by the Committee. If setbacks and sound issues are addressed, there should be no health and safety issues with turbines. Committee found that the majority of scientific and medical information stated that appropriate setbacks are ½ mile from property line and 1000' from residence. These are the setback requirements used in the ordinance drafted by the Committee. Audiologists, physicists, acoustical engineers, doctors and residents provided information regarding sound issues. Also looked to the World Health Organization for information, as their standards regarding sound have been adopted by all civilized countries except the United States. To ensure that sound is not a problem, appropriate studies must be done before hand. Committee also sent out questionnaire to "stakeholders", asking for scientific information they used to come up with their standpoints on the issues. Any potential problems with sound can be solved with proper siting and proper testing ahead of time. One significant problem the Committee identified was enforcement; once turbines are erected, what are the methods available to resolve problems?

Copies of sourcebook and recommended ordinance have been provided to the Plan Commission and Town Board. Zweizig recommended that the Town attorney, Town engineer, and building inspector should have copies as well; Alisankus will provide. Alisankus informed the Commission that three additional attorneys reviewed the draft ordinance, all of whom wrote back favorable responses to the Committee. Zweizig asked for confirmation that the sourcebook and draft ordinance were available at the Eager Free Public Library? Jim/Cathy Bembinster confirmed that the sourcebook is there, and all related materials. Alisankus recommended that interested parties review the final report and sourcebook, and Committee members would be happy to respond to any questions residents may have. Committee member contact information is in sourcebook at the library.

Zweizig asked if the Plan Commission felt it would be ready to recommend approval of the ordinance to the Town Board following the February 28 meeting/public hearing? Attorney Matt Dregne asked the Commission if they would want additional legal review of the ordinance? If desired, the review should be done prior to the public hearing. Alisankus clarified that the attorney reviews the Committee had done were not meant to supplant review by the Town attorney, and feels Town attorney review is still appropriate. Attorney Dregne stated the legal review could be done by mid-February. Eric Larsen asked if the ordinance development process was ahead of schedule? It was confirmed that it was. Kim Gruebling will not be at the February meeting, but feels there should be a separate meeting with only the wind energy ordinance on the agenda. Marty Johnson would like to see legal review done and distributed to the Commission with enough time for Commission members to thoroughly review prior to the February meeting, holding a public hearing at the March meeting. Attorney Dregne mentioned that the Small Wind Energy ordinance is on the Town Board meeting agenda for their February 7, 2008 meeting, and wondered if the committee reviewed it for consistency with the proposed draft large wind energy ordinance? Alisankus stated that the Committee decided it was not their duty to compare the two, they were charged with dealing with only large wind energy.

Zweizig would not be available for a March meeting. Johnson would like to have the public hearing on the regular meeting night. Final decision: at February 28, 2008 regular Plan Commission meeting, the Commission will review comments from Town Attorney; at March 27,

2008 regular Plan Commission meeting hold a public hearing and recommend adoption to Town Board.

Zweizig commended the Committee members for their work and dedication. Chairman Kendall Schneider asked Alisankus if the Committee felt the duties they were charged with were complete, that they could be officially discharged from service by the Plan Commission? Alisankus felt their duties were complete in that they provided a draft ordinance and supporting documents, but the Committee should remain intact for the time being to attend future meetings and answer any Board or Commission questions.

**Public Hearing: Hatlen Bros., 12826 W. State Road 59, Evansville, WI requests a land division and zoning change for parcel #6-20-5, to separate off existing farm buildings from the current 193 acre parcel. Resulting parcels would be (1) 186 acre parcel zoned A-1, and (1) 7 acre parcel zoned A-3.**

Ron Combs was in attendance representing the Hatlen Bros. He stated the intention of this request is to separate off the existing house and farm buildings, rezone the resulting 7 acre parcel to A-3, and for Tom Hatlen to eventually build a new home on the remaining 186 acre parcel on East Union Road, with the driveway accessing East Union Road instead of Highway 59.

Francis asked why the request is asking for more than the standard 5 acres? Tom Hatlen explained the factors taken into consideration, including the fact that there are 7 outbuildings plus the house on the property, the lot is surrounded by a steep bank, waterway, and terrace. Additional land was requested to deal with these issues. Francis stated he calculated a lot size of 7.5 acres from the map provided with the request; Combs stated the additional .5 acre is most likely due to the required dedication to highway; the lot itself is only 7 acres. Francis assumed that up to 7 animal units would be allowed on a 7 acre lot, and a variance would be needed for more; Bob Fahey confirmed this was accurate.

Public hearing opened at 7:40 pm.

Rich Templeton asked Hatlen what the plans were for the buildings across Highway 59; Hatlen stated there are no plans for them at this time. Zweizig mentioned the issue of having a historical site on the property, likely the house which was built in 1849-1850, is it registered as historic building? Combs stated the house is not registered as a national historic site, could be a county historical site, but is unsure. Larsen asked if Hatlen's plan is to sell the existing house and outbuildings? This is Hatlen's eventual plan, once market improves.

Public hearing closed at 7:49 pm.

Francis was curious why the owner was not permitted to build on lot as it sits now? Fahey explained that a second house is only allowed on an A1 parcel if the second house is used by hired hand, or a similar situation. With this scenario a conditional use permit would be needed; however, the permit would not be approved, as there would be no hired hand living in the second house as the farm is not operating. Gruebling mentioned this parcel is located within a farmland preservation area, and divisions are normally limited to 5 acres; he feels 7 acres is too large a parcel and is not critical in this case given layout of buildings. Johnson stated that having a few extra acres can encourage farmland preservation and make the property more

marketable, as it would encourage people to put animals on property and utilize the land in an agricultural way; if the land ran right to the buildings there would be no chance to have any animals. Francis agrees with Hatlen, the lot size fits in with water and land management needs, and he supports increased acreage to make more saleable. Larsen agrees as well, due especially to number of buildings on lot (7). Attorney Dregne stated that according to the current Town of Union zoning ordinance, a parcel of land within an A1 zoning district, with a conditional use permit, can create an additional parcel of not more than 5 acres and the remaining land cannot be further developed – meaning remaining large parcel. If the request is approved as submitted and the zoning changed to A3, if the owner came back for an additional land division he would need a conditional use permit and the Plan Commission would have authority at that point to approve or deny the permit.

Motion to approve the request from Hatlen Bros., 12826 W. State Road 59, Evansville, WI for a land division and zoning change for parcel #6-20-5, to separate off existing farm buildings from the current 193 acre parcel. Resulting parcels would be (1) 186 acre parcel zoned A-1, and (1) 7 acre parcel zoned A-3 made by Eric Larsen. Second by Marty Johnson.

Roll Call Vote: Alvin Francis – Yes; Doug Zweizig – Yes; Rich Templeton – Yes; Eric Larsen – Yes; Marty Johnson – Yes; Kim Gruebling – No. Motion carried 5-1.

**Public Hearing: Robert Janes, 8739 N. Territorial Road, Evansville, WI requests a land division and zoning change for parcel #6-20-197, to create a residential subdivision. The parcel is located at the SW corner of County Hwy. M and Territorial Road. The current 53.7 acre parcel would create 29 lots; zoning would be changed from A-1 to RR.**

Ron Combs, representing Robert Janes, presented an overview of the map of the proposed subdivision. In the northwest corner of the development is a stormwater management area. Lots average 1.5 acres in size, largest is 1.8 acres. They have met with the Rock County Planning Department and reviewed plan with them. The County agreed that a class B intersection should be built at the County Highway M intersection, as well as a class B intersection at the Territorial Road intersection as suggested by Greg Hofmeister. Combs noted that the area is identified for residential development in the Town's smart growth plan.

Public hearing opened at 8:08 pm

The current map indicates cul-de-sacs run to the property line, they could be expanded to the property to the west in the future. The cul-de-sacs could be turnarounds, as required by the Plan Commission and Town Engineer. The parcel to west, also owned by Janes, could be developed in the future. The parcel to the west is 76 acres and has Janes' residence is currently located on it. The subdivision plan submitted has no driveway access to the perimeter roads. Regarding setbacks on Territorial Road, Combs stated they used 50 feet as that is the minimum the county requires, a larger setback is probably appropriate (100-110') or as required by the Town. Zweizig asked if the outlot meets the 10% requirement for conservation easement? Combs stated it is very close to 10%, and noted that the area is currently being used in this capacity (stormwater management). Supervisor Don Krajeck asked how the proposed change to the intersection at County Highway M would affect the existing driveway on the east side of County M, which is a shared drive. Combs stated that the offset will be on the west side of the road and won't affect driveway. Schneider brought up the recommendation of the Town Engineer to take additional land at Territorial Road and County M for future

intersection repair. Combs stated that Rock County did not feel that it was feasible to change the intersection to a right angle intersection. An official traffic count on County M and Territorial Road has not been done. Rich Templeton asked if a pond will be put into the outlot? Combs stated a pond currently exists there, and will handle additional stormwater.

Penny Davidson, North Court: Will there be a minimum square footage requirement for homes built in the subdivision? Concerned about retaining property values of neighboring properties. Janes stated that there are no covenants put together yet, however the lot sizes dictate larger homes and that is their intention. Janes stated that the estimated development timeframe of 3-6 years is a guess, and will depend upon the market.

Dennis Midthun, owner of 42 acres on NW corner of County M and Territorial Road: Indicated he was not notified of the request and was not on the list of neighboring property owners provided to the clerk by the applicant. He indicated he is planning to submit a development plan to the Town for his property, and wonders how this request will affect his plan? The only effect the approval of this plan would have on Midthun's property is that the number of lots approved would be applied against the current maximum of 50 lots approved in a 2 year timeframe.

Gruebling stressed the importance of having a developer's plan in this type of situation, to resolve any issues that may arise. Feels that a subcommittee should be assembled to work with developer to draft developers plan. Schneider stated that the requested zoning could be approved now, with lot development approved at a future date. The plat approval process could be phased in. Gruebling stated that one way to control development at the Town level is by zoning; can the Town partially rezone something? Attorney Dregne indicated yes; stressed that land division decisions must be made in accordance with existing ordinances and smart growth plans. When approving zoning changes, there is more leeway, as the Town must take into consideration health, safety, etc issues for the Township as a whole. The Town could change the zoning of a part of the land requested in application, would want to have a preliminary plat to approve as a whole and subsequently approve partial final plats. Dregne warned that the process can become involved and confusing for all parties involved. Combs stated that they are willing to go into a developer's agreement with regard to the number of lots and phasing, but not with regard to zoning. The whole project needs to be designed up front to manage storm water effectively; therefore all zoning must be approved up front. Combs stated that they will plat in phases over 3 years. Attorney Dregne reminded the Commission and requestor of the need to take into consideration the 50 lot per year limit. Currently the lot limit has been interpreted as a rolling two year timeframe; Randy Shotliff indicated he was of the belief that it was a fixed period of time. Combs felt that phasing would probably be 9-10 lots per year. At this time they will only ask for a zoning change, and then enter into developer's agreement.

Public hearing closed at 8:41 pm.

Scoring sheets were reviewed by the Commission.

Attorney Dregne recommended that in the future agendas should have items broken out for such requests to 1) public hearing of request, and 2) potential action on request (recommendation to Board, etc.)

Motion to approve the request from Robert Janes, 8739 N. Territorial Road, Evansville, WI for a land division and zoning change for parcel #6-20-197, to create a residential subdivision. The parcel is located at the SW corner of County Hwy. M and Territorial Road. The current 53.7 acre parcel would create 29 lots; zoning would be changed from A-1 to RR made by Doug Zweizig. Second by Eric Larsen.

The foregoing motion was changed to: Motion to grant conceptual approval to the sketch map provided within the request made by Robert Janes, 8739 N. Territorial Road, Evansville, WI for a land division and zoning change for parcel #6-20-197, to create a residential subdivision. The parcel is located at the SW corner of County Hwy. M and Territorial Road. The current 53.7 acre parcel would create 29 lots; zoning would be changed from A-1 to RR made by Doug Zweizig. Second by Eric Larsen. Attorney Dregne asked for clarification regarding whether the developer expect to go to the Town Board for conceptual approval of sketch map, including public hearing? Consensus was yes. Zweizig stated that he would expect that runoff and other issues would be addressed as put forth by the Town Engineer in his memo to the commission regarding the request.

Doug Zweizig amended the motion to add that the developer will come back with a preliminary plat map that will address engineers concerns and provide a phasing plan. Second by Eric Larsen.

Roll Call Vote: Alvin Francis – Yes; Doug Zweizig – Yes; Rich Templeton – No; Eric Larsen – Yes; Marty Johnson – Yes; Kim Gruebling – Yes. Motion carried 5-1.

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

Attorney Dregne reviewed his November 26, 2007 memo and the options outlined within it. Three approaches were presented. If none of the suggested approaches are formalized and used, the process will remain on a first come first served basis (as was demonstrated tonight). Francis asked what would be involved in formalizing an approach? Attorney Dregne stated that no formal structure is needed for first come first served process, but would be needed if other approaches are used. As demonstrated by the spreadsheet provided by Larsen, the Town is not facing getting close to the 50 lot limit at this time. Gruebling's opinion was to leave it first come first serve. Zweizig expressed concern about limiting one developer to a certain number of lots per year, felt this would negatively affect infrastructure development in subdivisions, and take away flexibility, phasing options, etc. Johnson agreed that the first come first served approach should remain in place.

**Discussion of Commercial Land Use Designation of the Town of Union Comprehensive Plan. Question: Does this include B-1 Districts, CHI Districts, M-1 Districts, and PUD Districts?**

Francis felt this was an appropriate question to ask following November's meeting, and questions raised at the meeting. Advised Plan Commission members should think about this issue, consider making changes if appropriate. Johnston stated the Commission could have a public hearing, etc to make changes to maps, or wait until October for the annual Comprehensive Plan review to make any changes. Agreed that the issue does need more investigating, research.

Attorney Dregne asked if, with regard to the wind energy ordinance review, the Plan Commission wants anyone to review small wind energy ordinance after review of large wind energy ordinance for consistency? Consensus was yes; the Town Board will table review and adoption of the Small Wind Energy Ordinance until review is complete.

Motion to adjourn made by Eric Larsen; second by Doug Zweizig. Meeting adjourned at 9:35 pm.

*Respectfully submitted by:  
Regina Ylvisaker, Clerk*

Note: Minutes are considered draft until reviewed and approved by the Town Board at a properly noticed meeting