

# Town of Union PLAN COMMISSION MEETING Minutes of March 25, 2010

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The Town of Union Plan Commission regular meeting was called to order on Thursday, March 25, 2010 at 7:00 pm by Chairman Alvin Francis. Members in attendance included Doug Zweizig, Doug Lee, Kim Gruebling, Dave Pestor, Eric Larsen, and Renee Exum. Town Chairman Kendall Schneider, Town Supervisor Don Krajeck, and Clerk Regina Ylvisaker were also in attendance.

### **Approve February 25, 2010 Plan Commission Minutes**

A correction on page 3 was noted by Doug Lee; first paragraph, change "is" to "a".

Motion to approve the minutes of the February 25, 2010 Plan Commission meeting as corrected made by Doug Lee. Second by Dave Pestor. Motion carried by unanimous voice vote.

### **Public Comment (10 minutes max/issue)**

A presentation was given on Creekside Place. It is a community center to be built in Evansville on the corner of Church & Maple Streets, with a senior center located within. It is anticipated that the operation will be up and running in Spring 2011. \$1.2 million has already been raised for construction; the yearly operating costs will be around \$200,000 annually, which will come from the Peckham endowment.

Doug Zweizig reported that he has been appointed to the PSC Wind Siting Council.

### **Discussion: Working Lands/Farmland Preservation Initiatives**

Moved to after stormwater ordinance agenda item.

All Plan Commission members except Eric Larsen were able to attend the working lands meeting on March 16. Alvin Francis noted that Rock County will be holding another meeting at the Rock County Courthouse on April 6 to further discuss the issue. The public is welcome. Members should notify Regina Ylvisaker if they attend the April 6 meeting so they can receive the appropriate per diem.

The group agreed that there is a need to sit down and discuss what policies the Town should implement, now that there is more information available about the program and possible scenarios the Town may face. Tom Sweeney noted that the Town can invite Rock County Land Conservation Department and Planning Department staff back again for further discussion, so the Town can be sure it is very clear on what it decides to do and the implications it will have. Sweeney also noted that Rock County will do the home farm/base farm tract mapping upon request, but he is unsure if a fee would be involved.

Motion that either the Town Board Chairman or Town Clerk inquire with Wade Thompson about the possibility of getting the maps produced, and request that the Board approve the mapping made by Kim Gruebling. Second by Doug Zweizig. Motion carried by unanimous voice vote.

Per Sweeney, it will be visible on the maps if there are residences located on the farms.

**Public Hearing: Review and action on request made by Dustin Hawkins, 13775 Chestnut Drive, Eden Prairie, MN for a land division and zoning change to separate off home and 3 acres from the existing 46 acre parcel located in the SW ¼, SW ¼ of Section 18, parcel #6-20-147. The current parcel is zoned A-1; the resulting 3 acre parcel would be rezoned A-3, and the parent parcel would retain A-1 zoning.**

Public hearing opened at 7:17 p.m.

The request was tabled at the last Plan Commission meeting, and the request was changed from 5 acres to 3 in the interim.

Steve Lathrop, Combs & Associates, was in attendance. He submitted a revised sketch map changing the request to 3 acres to address the Plan Commission's concerns regarding preserving farmland. He would ask that for a positive recommendation to the Board on the request.

Kim Gruebling noted that conversion fees, in the amount of \$2,864, will need to be paid to the Town if the rezoning is approved. Applicant Dustin Hawkins stated he was aware that he would need to pay fees, however he was not sure of the amount.

Francis noted the letters and emails that were received from neighbors and read in at last month's meeting.

Hawkins stated that the feeling he got after last month's meeting was that reducing the amount of acreage split off would be keeping with the idea of preserving farmland, and he felt that the request would be acceptable once this change was made. He noted that Laura Meixelsperger's comments stated that she felt the split should be kept to the minimum amount of acreage allowed, which it is at this time, so in his opinion her views should be taken as being favorable toward the split. He noted that with a deed restriction, the remaining acreage will remain farmland and achieve the goal of farmland preservation.

Francis read in an email from Marion Tong:

*Dear Union Town Board Members,*

*My husband and I received the updated request in the mail and because I probably will again not be able to attend this hearing, I like to provide my point of view this way:*

*Despite the proposed change from 5 to 3 acres, the situation is still the same: Mr. Hawkins wants to sell part of his existing parcel to a buyer who obviously is either not interested or does not have the means to buy the parcel in its entirety. By allowing him to do so, the board would not be able to deny building permits to others in the same situation without facing possible lawsuits.*

*I am sorry that Mr. Hawkins obviously overextended himself by buying this land (which was at the time rather inexpensive) and built this house, but due to the economy a lot of people are in the same situation and would appreciate the possibility to sell off part of a larger property.*

*The general question remains: why does this issue needs to be brought up. The existing rules clearly state that a minimum of 35 acres are needed to get a building permit, a rule Mr. Hawkins was well aware of at the time he bought the property. These rules were put in place even before we bought our property which is more than 15 years ago. At that time it seemed to be important to preserve farmland and stop splitting up fields to accommodate people who decided to live "in the country". I would assume that this idea to stop urban sprawl is nowadays even more important than it was 15 years ago.*

*For me it is different if a farmer asked for a split of a few acres to accommodate his children or family members who help working the land or take over the farming operation but in cases like this one I think it is unnecessary and unacceptable to bent the set rules.*

*I also like to point out the situations other communities faced after they made amendments. In various cases they found themselves in the middle of several lawsuits, brought on not only from other community members who also wanted to be able to split their land, but from the new community members who at some point realized that living in the country is different than living in city limits and started complaining from manure spread and therefore smell, to slow moving tractors being on the roads, farmers working the fields early in the morning or late at night, so people felt disturbed by noise and lights.*

*Or of course we could end up in a situation like down the road in Green County and have right in the middle of farmland three buildings next to each other as close as in city limits. As far as I am concerned, we chose to live here because of the space between neighbors, enjoying the view, and being able to have animals. To be able to look into my neighbors windows or hear through walls what is going on next door was never an option I would have chosen. I definitely understood Ms. Meixelsperger's feelings when Mr. Hawkins' house despite available 46 acres was built directly across her bay window and most certainly affected her privacy.*

*To summarize my opinion: There is really no need to discuss this matter any further. The rules need to apply to all members in the community and should not be changed because of a person's financial predicament.*

*Respectfully,  
Marion Tong  
18251 W. Emery Rd  
Evansville*

Hawkins stated that when originally building the home, he respected the 35 acre law; there is no deed restriction at this time, and by deed restricting the parcel it will stay farmland. He feels there is no way a farmer can buy the house and farm the land, and make a living. The house was built following the rules in place at the time and he is trying to preserve the farmland as best he can at this time with this request.

Public hearing closed at 7:29 p.m.

Lee stated that any other landowners could do the same thing, split off a house and sell farmland. Larsen asked what the problem would be if that occurred. He feels there is more control over the land with a deed restriction that without, and requiring one in such a situation would be appropriate. Dave Pestor suggests that maybe the amount of acreage required in our ordinances for the different ag zones is causing a problem. Feels we are losing farmland because of our ordinances, and causing more problems by trying to look to the future and guess what other people are going to do.

Zweizig thinks that deed restricting is a good idea, but the Town would be setting up two parcels with inconsistent uses. One reason that has been brought up for approving the division is to increase taxes; Zweizig does not think that increasing the tax base should be a consideration when land divisions and rezoning requests are reviewed. Larsen thinks that being favorable to the town and not being a detriment to the town are two entirely different ways of looking at things.

Francis stated that the reason three acres being discussed is that it is the minimum size of A3 parcels; he would like the parcel to be smaller but RR zoning is not allowed in the area. It is possible that the working lands program might change the situation on land like this if the Town decides to add A2 and A3 parcels into the program, which would make them eligible for smaller separations. The Town does not have to do this, it would be optional. Francis thinks the current A3 division is reasonable and he is in favor of it, and doesn't think that the Town is setting any precedent. Larsen thinks the laws are heading into the direction of allowing people more rights to divide up land, and the deed restriction would give the Town more control over this issue.

Zweizig agrees that it is possible that current farmers could build a house on a 50 acre parcel that they own and then sell off the house, the most valuable part of the property. Gruebling feels that with the new laws in effect, there will be speculation that these issues could happen, but the home farm mapping has to be done and this will cut down on the possibility of this occurring. Renee Exum thinks that when the zoning ordinance is reviewed, the idea of having approval for houses on A1 parcels come before the Plan Commission for approval should be discussed.

Motion to recommend to the Board approval of the request made by Dustin Hawkins, 13775 Chestnut Drive, Eden Prairie, MN for a land division and zoning change to separate off home and 3 acres from the existing 46 acre parcel located in the SW ¼, SW ¼ of Section 18, parcel #6-20-147. The current parcel is zoned A-1; the resulting 3 acre parcel would be rezoned A-3, and the parent parcel would retain A-1 zoning. The approval would be contingent upon receipt of conversion fee and the receipt of a deed restriction restricting any further development on the 43 acre parcel approved by the Town Attorney made by Dave Pestor. Second by Eric Larsen.

Roll call: Alvin Francis – Yes; Doug Zweizig – No; Renee Exum – No; Eric Larsen – Yes; Dave Pestor – Yes; Kim Gruebling – Yes; Doug Lee – No. Motion carried 4-3.

**Public Hearing: Recommendation to Town Board repeal of Chapter 19-Town of Union Adoption of Rock County Stormwater Management Ordinance (Chapter 28)**

Andrew Baker, Rock County Land Conservation, here to answer any questions. The County would administer the ordinance if the Town repealed their adoption of it.

Public hearing opened at 7:54 pm.

Attorney Matt Dregne suggested repealing the ordinance so the Town doesn't have to administer it. By repealing the Town's ordinance, the County will have to administer their Stormwater Management Ordinance. Baker stated that the County would look at situations where someone would disturb more than one acre. The County already administers the erosion control ordinance for the Town; stormwater would come into play both during and after construction and needs a long term stormwater maintenance agreement that is recorded with the register of deeds.

Rohloff's subdivision is the only development in the Town that needed stormwater management, and it occurred after this ordinance was in place. Town Engineer Greg Hofmeister worked with the County on it. There is no cost to the Town in administering the ordinance; applicant pays a permit fee to cover the County's administration costs, based on the size of the project.

Public hearing closed at 7:59 pm.

Motion to recommend to the Town board repealing Chapter 19-Town of Union Adoption of Rock County Stormwater Management Ordinance (Chapter 28) and adopting the Rock County Stormwater Ordinance made by Eric Larsen. Second by Doug Zweizig. Friendly amendment to take "and adopting the Rock County Stormwater Ordinance" from Larsen's original motion made by Kim Gruebling. Motion carried by unanimous voice vote.

**Review and possible recommendation to Town Board changes to ordinances including citation ordinance and related fee schedules.**

Nothing has been received from Tom Alisankus yet.

**Review and discussion of possible amendments and updates to the Town of Union Comprehensive Plan, including long/short term development designations on maps.**

Larsen stated that at the last EUIC meeting, it was reported that Evansville's Plan Commission would not take action on the map until they complete a 50 year plan, and they don't want any more development in the Town in their extraterritorial zoning area.

Pestor asked if any information has been determined regarding who owns the MET tower? The status of the CUP for the tower will be reviewed.

Motion to adjourn made by Kim Gruebling. Second by Eric Larsen. Meeting adjourned at 9:01pm

Respectfully submitted by Clerk Regina Ylvisaker.

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

4.6.10