

**Town of Union
PLAN COMMISSION MEETING
Minutes of April 28, 2011**

The Town of Union Plan Commission regular meeting was called to order at 7:00 p.m. by Chairman Alvin Francis on Thursday, April 28, 2011 at the Evansville Fire Station, 425 Water St., Evansville, WI. Members in attendance included Chairman Francis, Vice Chairman Doug Zweizig, Dave Pestor, and Eric Larsen. Chairman Kendall Schneider, Town Supervisors George Franklin and Kim Gruebling, Town Attorney Matt Dregne, and Clerk Regina Ylvisaker were also in attendance.

Approve March 31, 2011 Plan Commission Minutes

Regina Ylvisaker will add Board approval of Town Engineer review of Tower and Antenna Ordinance to Board meeting agenda for May 5 meeting.

Motion to approve minutes of the March 31, 2011 Plan Commission meeting as written made by Doug Zweizig. Second by Alvin Francis. Motion carried by unanimous voice.

Public Comment (10 minutes max/issue)

Website posting issue has been resolved between Eric Larsen and Ylvisaker; meetings should be posted and visible and documents retrievable.

Public Hearing: Review and Recommendation to Town Board action on request made by Bank of Monticello, P.O. Box 388, Monticello, WI 53570 to separate off 7 acres from the existing ~100 acre parcel located in the SE ¼, NE ¼ of Section 6, #6-20-38, 17802 W. Holt Rd. The applicants are requesting the parent parcel retain A1 zoning, and the resulting 7 acre parcel be rezoned A3.

Public hearing opened at 7:05 p.m.

The requestors are splitting off the 7 acre parcel to separate off the buildings on existing parcel; 5 acres wasn't enough to encompass all the buildings. The purpose of the division is to sell the buildings to Jeff Trumpy so he can continue to live there, and sell the remaining 93 acres as farmland.

George Franklin asked who owns the land now; currently owned by Bank of Monticello, they have offers to purchase pending approval of the land division. It was clarified that the 93 acre lot would create a buildable lot. The parcel is in the extraterritorial jurisdiction of Brooklyn, and per Matt Dregne their approval will be needed on the land division but not the zoning change.

Public hearing closed at 7:11 p.m.

Alvin Francis stated he calculated 7.4 acres with the dimensions provided on the map; surveyor will recheck, their intention is 7.0 acres and they will adjust the lot lines if needed to achieve this.

Doug Zweizig would like the Building Inspector and/or Clerk to let people know that they should be more descriptive when answering the question "Reason for Request and Statement of Intended Use" on application form, to help in the Plan Commission's scoring of the request.

Larsen questioned if the land division is consistent with a future possible rural residential area, and also if someone building a house on the 93 acre parcel fit with rural residential. Francis is in favor of the split because of the large area of the remaining parent parcel.

Scoring sheets: soil type is arguable between types 2 and 3; farm buildings may be located on some of the better soil.

Zweizig would feel differently about the division if the land was in farmland preservation and not a future rural residential development area. Francis feels a potential issue might be the trailer on the home, which would no longer be allowed under the proposed A3 zoning.

Motion to recommend to the Town Board approval of the request made by Bank of Monticello, P.O. Box 388, Monticello, WI 53570 to rezone the proposed 7 acre parcel to A3 zoning and retain A1 zoning on the 93 acre parent parcel made by Eric Larsen. Second by Dave Pestor.

Roll call: Alvin Francis – Yes; Doug Zweizig – Yes; Eric Larsen – Yes; Dave Pestor – Yes.
Motion carried 4-0.

Motion to recommend to the Town Board approval of the request made by Bank of Monticello, P.O. Box 388, Monticello, WI 53570 to separate off 7 acres from the existing ~100 acre parcel located in the SE ¼, NE ¼ of Section 6, #6-20-38, 17802 W. Holt Rd. made by Eric Larsen. Second by Dave Pestor.

If the Town wants to investigate the removal of the trailer home on the 7 acre property, Dregne recommends getting a legal opinion on the feasibility of the requirement prior to the Board meeting. The Board could add this as a condition of approval if they choose to. The Plan Commission could make an additional motion to have the Board address it. Dregne thinks the issue should be addressed as a condition of zoning, not land division.

Roll call: Alvin Francis – Yes; Doug Zweizig – Yes; Eric Larsen – Yes; Dave Pestor – Yes.
Motion carried 4-0.

Motion to recommend to the Board denying the change in zoning unless a legal opinion has been received from legal counsel regarding whether the owner will be required to conform to the A3 zoning requirements regarding the number of dwellings, or that they condition their approval of the change in zoning on the removal of the trailer made by Eric Larsen. Second by Doug Zweizig.

Roll call: Alvin Francis – Yes; Doug Zweizig – Yes; Eric Larsen – Yes; Dave Pestor – Yes.
Motion carried 4-0.

Zweizig noted that another option would be to increase the size of the lot to allow for the second dwelling.

Discussion/Action: Evansville Comp Plan Amendments (to begin at approx. 8:00 pm)

Larsen believes both the City and Town need to be on the same page regarding understanding the goals of both entities and what each would allow regarding such as lot sizes, development, etc. Agreed by all.

Zweizig would like to tell City that their amendment is a good first draft; the City and Town are meeting together and once some policy is set at the Board/Council level then the amendment

should be back to the Plan Commissions for more work and discussion. Francis thinks the City has missed the history of the City and Town working together in the past on such issues. He noted that in 1978 an extraterritorial jurisdiction ordinance was developed by the City and was used for development of the Stoneridge and Golf Air subdivisions, and the goal was to keep development in the Township on poorer farmland. This is the reason why the Town had their development area in those locations in their comp plan, and continuing development in those areas makes sense to protect Town residents.

Dregne discussed the City's comp plan amendments and the growth map, specifically the phase three infill area that includes the Town's subdivisions. He believes the City is thinking that this is an area of growth for them but recognizes that growth in that area is difficult because of the rural subdivisions. From the City's standpoint, they likely feel they are "boxed in" in those areas and will exercise extraterritorial plat jurisdiction to prevent any further subdivision by the Town in that area. The City's proposed amendment requires plats in that area be planned for higher density lots and connection to City services.

Regarding annexation, Dregne explained the most common scenarios for annexation:

1. Direct Annexation by One-Half Approval (Wis. Stat. §66.0217(3)(a))
Under this approach, land may be annexed without consent by the filing of a petition with the City of Village signed by either of the following: A number of qualified electors residing in the territory equal to at least the majority of votes cast for governor in the territory at the last gubernatorial election, and either the owners of one-half the land in the area or the owners of one-half the real property in assessed value. If no electors reside in the territory, then the petition must be signed by either the owners of one-half the land in the area or the owners of one-half the real property in assessed value.
2. Annexation by Referendum (Wis. Stat. §66.0217(3)(b))
Under this approach, land may be annexed without consent by the filing of a petition for a referendum signed by a number of qualified electors residing in the territory equal to at least 20% of the votes cast for governor in the territory at the last gubernatorial election, and either the owners of one-half of the land in the area or the owners of one-half the real property in assessed value. The annexation would then need to be approved at a referendum election.

Other methods of annexation would require boundary changes resulting from boundary agreements between the municipalities.

Regarding extraterritorial jurisdiction, the City can adopt a subdivision ordinance which would apply extraterritorially and could regulate land use in the Town to some degree. Legal issues related to this include whether a City can deny a land division extraterritorially dependent upon the proposed use of the property. Currently a proposed land division cannot be denied dependent on proposed use.

Zweizig noted that at the last meeting many residents had concerns about the City's ability to simply annex their property. Dregne confirmed that this was not the case. The Plan Commission and residents also had concerns that the City would be able to "control" resident's property, via covenants or other methods, which would regulate what they could do. Dregne confirmed that this was also not the case.

Gruebling stated that the Town has plans to meet with the City, and thinks there is a high probability that to get boundary agreements the City and Town will need to go into mediation. He questioned how that process would work with regard to the open meetings law, and would subcommittees be an option. Dregne stated that if there is a governmental body involved in a meeting, the meeting is subject to the open meetings law. In order to avoid the open meetings law, the Board could delegate representatives. A subcommittee appointed by the City and/or Town would be a governmental body. Dregne felt it would be feasible that separate meetings/rooms with a mediator negotiating between the two groups would possibly allow them to meet in closed session. Schneider asked about the proposed amendment not following the City or Town's smart growth plans; Dregne stated that the City and Town comp plans don't need to be consistent with each other. Dregne did question whether the City followed the legal requirements when amending their plans. The City should also have a land division ordinance that applies extraterritorial jurisdiction.

It seems to many in attendance that everything is to the advantage of the City. Dregne explained that in some cases the City holds all the cards; if property owners want to annex into the City the Town can't do anything to stop them. If property owners don't want to annex, the City can't do anything to force them to annex. So the property owners are really the ones holding all the cards unless a boundary change is agreed upon by the municipalities. The City can limit or prevent land divisions in their extraterritorial plat jurisdiction; however they cannot deny based solely on the proposed use of the property.

Tower and Antenna Ordinance Development

The agenda item was moved ahead of Evansville Comp Plan amendments discussion.

Plan Commission members have received copies of the Town of Magnolia's tower and antenna ordinance and information from the WTA on tower ordinances via Don Krajeck. Zweizig feels that these documents seem to be dealing with cell towers and is unsure if they are the same as radio towers, etc. He would like the Town Engineer to provide insight on the issue, differences.

Ylvisaker will contact Magnolia's Town Clerk regarding obtaining their tower ordinance in Word format.

Discussion: Farmland Preservation

Francis had contact with Carrie Houston, from Rock County Planning and Development. She has provided a map entitled "Farmland Preservation Working Map" which is intended to represent how Union would appear on the Countywide Farmland Preservation Plan Map if she strictly adhered to the requirement that it be consistent with our comp plan. Ylvisaker will contact Houston regarding attending the next Plan Commission hearing to explain and discuss the map.

Discussion: Plan Commission Policies and Implementation Strategies

The group reviewed the land division worksheet updated by Larsen.

Motion to adjourn by Eric Larsen. Second by Dave Pestor. Meeting adjourned at 9:22 p.m.

Respectfully submitted by Clerk Regina Ylvisaker.

Note: minutes are considered draft until reviewed and approved by the Plan Commission at a properly noticed meeting.