

Town of Union
PLAN COMMISSION MONTHLY MEETING
Minutes of March 29, 2012

The Town of Union Plan Commission monthly meeting was called to order at 7:02 p.m. on Thursday, March 29, 2012 at the Evansville Fire Station, 425 Water St., Evansville, WI by Chairman Alvin Francis. Members present included Chairman Francis, Vice Chairman Doug Zweizig, Eric Larsen, Renee Exum, and Dave Pestor. Building Inspector Bob Fahey, Town Supervisors Kim Gruebling and George Franklin, Town Chairman Kendall Schneider, Clerk Regina Ylvisaker, and Town Attorney Lis Shea were also in attendance.

Approve February 23, 2012 meeting minutes

Alvin Francis noted that within the "Public Comment" portion of the minutes, wording should be changed to indicate that Ruth Ann Montgomery submitted information regarding a meeting held 50 years ago; current wording suggests that she had attended the meeting.

Doug Zweizig noted that on Page 3 of the minutes, at the top of page, paragraph beginning "Zweizig wanted to know how pasturing cattle on conservancy land is regulated. Kraemer said pasturing it's not a regulated activity..." should be changed to "Kraemer said pasturing is not a regulated activity."

Zweizig also noted that on page 9, the statement "Begley feels that the ordinance is asking companies to comprise their system and the integrity of what they're putting out there." should be changed to read "Begley feels that the ordinance is asking companies to compromise their system and the integrity of what they're putting out there."

Motion to approve minutes of the March 29, 2012 Plan Commission meeting as amended made by Zweizig/Pestor. Motion carried by unanimous voice vote.

Public comment (10 minutes max. per issue)

No public comments.

Public Hearing: Review and Recommendation to the Board Action on Request made by Leo Sendelbach, 333 Lincoln St., Evansville, WI to change the zoning classification of a portion of parcel #6-20-192, located at 8026 N. Hwy. 14, Evansville, WI. The applicant requests 1 acre of the total 72 acre parcel be rezoned B-1, with the remaining 70 acres retaining A-1 zoning.

Public hearing opened at 7:06 p.m.

The applicants explained that the acreage has previously been used by CR Stone, and prior to that by Helgesen Motors for auto sales. The intention with the current request is for Symdon Motors to use it for auto sales/storage. Driveway will remain in the same location.

Public hearing closed at 7:08 p.m.

Eric Larsen clarified that Symdon will be using the lot, not Evansville Ford which is located next door to the lot.

Lis Shea noted that the comprehensive plan would need to be amended to accomplish this rezone, as the future land use map indicates 'residential' for future land use on this parcel. The parcel is bordered by other commercial parcels, so future residential use does not make sense.

Zweizig asked if a conditional use permit had been issued in the past for the other prior uses; without that he would view the request as a new request and not take into consideration the historical commercial use of the parcel. Renee Exum felt that the request was a reasonable use of the land. Exum questioned whether a land division was needed; Shea noted one reason the request may have been submitted as a rezone only may be due to the fact that the parcel is in the extra territorial jurisdiction of the City of Evansville and a land division would require their approval and compliance with their zoning. Building Inspector Bob Fahey stated that the Town's zoning ordinance does not prohibit rezones without land divisions, and other municipalities in the area do so.

Fahey clarified that the minimum lot size of the B1 zoning district is 40,000 square feet, just under one acre. Shea did note that there is a question of how to measure setbacks in this situation, which is not made clear in the zoning code. She suggested that the Town could condition approval on a deed restriction which would clarify for zoning purposes the boundary between the zoning districts and allow for clear setbacks. Shea also brought up the question of whether having two zoning designations on one parcel would be problematic for the assessor; Clerk Regina Ylvisaker stated that she had not heard back from the assessor as of today but felt that it would be unlikely that it would be a problem for them as they routinely assess portions of parcels differently.

Zweizig feels a specific boundary description is needed, and would recommend tabling the request until next month when such a description could be available. He clarified that no additional application fees would be required. Exum expressed concerns about the change of zoning without a land division, and what precedent would be set by that. Francis felt the application should proceed as it is in front of the Commission, with a new map available for review and approval at the Town Board meeting. Exum felt a deed restriction with clear boundaries of the two zoning districts included should be required. Shea noted that the zoning ordinance changing the zoning couldn't go through until the future land use map in the comp plan was amended. A comp plan amendment requires notice/posting. Therefore, the application can be tabled and the comp plan amendment can be noticed and placed on the agenda for next month's Plan Commission meeting, and the Commission would then be able to ask the applicant for a map that meets the requirements requested by the Commission.

Motion to table the application made by Leo Sendelbach, 333 Lincoln St., Evansville, WI to change the zoning classification of a portion of parcel #6-20-192, located at 8026 N. Hwy. 14, Evansville, WI, specifically 1 acre of the total 72 acre parcel be rezoned B-1, with the remaining 70 acres retaining A-1 zoning, until the April Plan Commission meeting made by Larsen/Zweizig.

Exum questioned whether an actual CSM would be needed, and if so would it be possible to have it by the next meeting? A CSM will eventually be needed.

Friendly amendment to original motion to specify that the tabling of the application is to allow for the applicant to provide a specific map outlining the boundaries of the proposed B1 zoning district and a certified survey map.

Fahey noted that asking an applicant to provide a full fledged certified survey map is asking a lot if the request has not yet been approved, as the maps are costly. Asking the applicants to provide a preliminary survey map would be more appropriate.

Friendly amendment to amended motion to require a preliminary survey map outlining the boundaries of the proposed B1 zoning district.

Roll call: Eric Larsen – yes; Renee Exum – Yes; Alvin Francis – Yes; Doug Zweizig – Yes; Dave Pestor – Yes. Motion carried 5-0.

Larsen clarified that the reason for the application is to come into compliance with the ordinance, as they are currently not in compliance.

Request by Zweizig to notice a hearing on the amendment to the comp plan, that amendment being consideration of adding the land from the Evansville city boundary to Bullard Road to into the commercial future land use category.

Public Hearing: Review and Recommendation to the Board Action on Request made by Kathy Edmonds, Trustee of the Hans Kleisch Trust & Tillie Kleisch Trust, 14506 W. Golf Air Dr., Evansville, WI to change the zoning and divide the parcel, #6-20-119, located at 9827 N. Hwy. 14 and 9813 N. Hwy. 14, Evansville, WI. The applicant requests that the existing 111.8 acre parcel be divided and rezoned as follows: (1) 1 acre lot zoned Rural Residential, (1) 5 acre lot zoned A-3, and (1) ~108 acre lot zoned A-1.

Public hearing opened at 7:37 p.m.

Kat Edmonds explained the reason for the request. To divide the lots other ways would have resulted in encroachment when the bi-level home used the barns. This area is also designated for future commercial land use. The one acre lot is an unusual shape to allow for inclusion of the septic mound system in the lot. Exum asked why the 5 acre lot was not brought south to be in line with the border of neighboring parcel 6-20-119.1; Edmonds explained that the surveyor was told to create a 5 acre parcel and that is what was created, and she would not have a problem moving it in line with the neighboring parcel if necessary.

Francis stated that 17.06 (3)(c) allows for a conditional use separation without amending the comp plan. Larsen noted that only structures that existed prior to the creation of the zoning ordinance can be separated, and he believes the house on the one acre lot was built after the zoning ordinance was created. It was clarified that the existing ordinance is dated 2006 and the home was built prior to that, therefore a conditional use separation would be allowed on both lots. The applicant was agreeable to changing the request to a conditional use separation.

Public hearing closed at 7:53 p.m.

Larsen noted that a buildable lot will be created with the third 110 acre lot. Past practice of the Commission has been to request deed restrictions in these situations.

Motion to recommend to the Board approval of the request made by Kathy Edmonds, Trustee of the Hans Kleisch Trust & Tillie Kleisch Trust, 14506 W. Golf Air Dr., Evansville, WI to use a conditional use separation to change the zoning and divide the parcel, #6-20-119, located at 9827 N. Hwy. 14 and 9813 N. Hwy. 14, Evansville, WI and rezone as follows: (1) 1 acre lot zoned Rural Residential, (1) 5 acre lot zoned A-3, and (1) ~108 acre lot zoned A-1 with the

remaining 108 acre lot to be deed restricted for no further residential development made by Larsen/Zweizig.

Shea clarified that the deed restriction could be removed or released in the future.

Roll call: Eric Larsen – yes; Renee Exum – Yes; Alvin Francis – Yes; Doug Zweizig – Yes; Dave Pestor – Yes. Motion carried 5-0.

Public Hearing: Review and Recommendation to the Board Action on Extension of Conditional Use Permit held by Larry & Bonnie Luchsinger for a wireless telecommunications tower and facility located on parcel #6-20-224A in the NE ¼ of Section 26 along Cty. Rd. M. This is an existing Conditional Use Permit last approved in March 2007 for a period of 5 years.

Public hearing opened at 8:14 p.m.

Francis asked who is using the tower now; Charter Communications is currently the owner of the tower, Nextel Sprint is the operator of the antennas on the tower.

Public hearing closed at 8:15 p.m.

Zweizig has no problems with the conditional use permit as it stands, except that the tower ordinance is being developed. He believes that extending the CUP for a shorter period of time than usual, and revisiting once the tower ordinance is done, is a good way to proceed.

Exum asked how much of a CUP can be changed; Shea felt that as long as changes are in line with the general regulations already existing in the CUP it is acceptable. The Town has gotten something in writing from applicants in the past when changes have been made.

Motion to recommend to the Board approving continuing the existing Conditional Use Permit held by Larry & Bonnie Luchsinger for a wireless telecommunications tower and facility located on parcel #6-20-224A in the NE ¼ of Section 26 along Cty. Rd. M for a period of one year, to be reviewed at the Plan Commission meeting held in March 2013, made by Zweizig/Larsen.

Roll call: Eric Larsen – yes; Renee Exum – Yes; Alvin Francis – Yes; Doug Zweizig – Yes; Dave Pestor – Yes. Motion carried 5-0.

Telecommunication Tower, Antenna, and Facilities Siting Ordinance Development

Renee Exum recused herself from the discussion, as the legal firm she works for has been retained by AT&T in this matter.

Regarding communication with the Center for Municipal Solutions (CMS): Zweizig would like to discuss their input and how they could be engaged in the process. The Commission also needs to recommend to the Board a length of time for extending the moratorium, which the Board will be acting on at their April 10 meeting.

Regarding CMS, Francis initially got in touch with them. Basically, they would write the tower ordinance for the Town, and meet with the Town one time prior to developing it to discuss what to include and what issues the Town would like addressed.

Motion to request that the Board enter into an agreement with the Center for Municipal Solutions for the purpose of developing a telecommunications ordinance made by Zweizig/Larsen.

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

The Commission should have received a copy of the Town of Montrose telecommunications ordinance from Kendall Schneider; he believes the ordinance is good and worth reviewing.

Zweizig would like to handle the meeting with CMS and subsequent development of the ordinance in a closed meeting, and would recommend that the Board consider that. He made the recommendation in light of the adversarial approach taken by AT&T's lawyer, who he felt was intentionally frightening the residents and attempting to intimidate public officials.

Larsen followed by illustrating how the lawyer stated that there were six cases in the draft ordinance where the Town was illegally putting itself in the place of the FCC, yet when he provided us with his mark-up of the ordinance, he could site only a single instance.

Regarding extending the moratorium, Zweizig made a motion that someone from the Town Board talk to CMS regarding a timeline, otherwise he recommends a 6 month extension. Second by Larsen. Motion carried by unanimous voice vote.

Motion to adjourn made by Larsen/Zweizig. Motion carried by unanimous voice vote. Meeting adjourned at 8:48 pm.

Respectfully submitted by Clerk Regina Ylvisaker.

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