

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 26TH DAY OF APRIL 2022 AT 6:00 P.M. IN THE
MEETING ROOM OF THE ADMINISTRATION BUILDING
117 N. 2ND ST., GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plan Commission was called to order by the Vice-Chairman, Steve Warner. The following staff members were present: Chris Godlewski, Plan Director; Jason Auvil, Planning Manager; Mae Kratzer, Planner; Laura Gilbert, Administrative Manager; and Don Shuler, Attorney for the Board.

Roll Call.

Present: Phil Barker, Steve Edwards, Steve Warner, Lori Snyder, Tom Stump, Roger Miller, Brian Dickerson, Frank Luchesse.

Absent: Jeff Burbrink.

2. The application for multiple amendments to the text of the Elkhart County Zoning Ordinance, for the Elkhart County Plan Commission, on property located in the geographic area to which the amendments to the text of the Elkhart County Zoning Ordinance applies is all lands within Elkhart County, including all the Townships: Cleveland, Osolo, Washington, York, Baugo, Concord, Jefferson, Middlebury, Olive, Harrison, Elkhart, Clinton, Locke, Union, Jackson, and Benton, but excluding the jurisdictions of the City of Goshen, the City of Elkhart, and the Town of Nappanee was presented at this time.

Chris Godlewski presented the proposed amendments to the Zoning Ordinance. He explained yellow highlights in the document are additions and red highlights are redactions. Mr. Warner stated the Plan Commission and staff worked on these amendments for several months.

Sarah Mills, Savion Energy, 422 Admiral Blvd., Kansas City, MO, was present to speak on the Zoning Ordinance amendments. She submitted a letter containing her comments [Attached to file as Exhibit #1]. She stated she appreciates the effort from staff to put the proposed amendments together, and they find it to be a well informed and workable set of regulations. She added it accommodates solar projects but also protects the county's interest. She went on to read the submitted document addressing frequently asked questions and suggested language from other jurisdictions. Mr. Warner stated he was thankful to hear they are concerned about farm drainage, and he asked how they determine where the drainage is located. Mrs. Mills responded they use existing county and land owner maps along with a survey of the property to locate drainage systems. She went on to say the solar arrays are then designed around the existing drainage systems to ensure they are not damaged.

Lynn Loucks, 60633 SR 19, President of Elkhart County Farm Bureau, was present with comments on the proposed amendments to the Zoning Ordinance. He also submitted a document outlining his main points [Attached to file as Exhibit #2]. He then went on to read the submitted document. He shared their concern that the proposed amendments are not strong enough. He noted it is not defined in the amendments what is required in the application and indicates that the legislative body may require additional plans. He stressed they believe the standards and requirements should be spelled out in the Zoning Ordinance with the option to impose additional conditions when appropriate. He went on to touch on drought issues along with farm land concerns, which have made food production a Homeland Security issue. He stressed losing productive farmland with access to the Great Lakes Basin Aquifer when millions of acres of US crops are experiencing drought should

require environmental assessments. He asked why the county would consider covering thousands of productive acres of farmland in Elkhart County with solar panels.

Paul Steury, 303 Reservoir Place, came on as a big proponent of solar. He stated as an educator, he speaks about climate change a lot in his science classes, and alternative opportunities need to be considered. He stressed he believes this is a fantastic opportunity for the county. He noted he visited a solar farm in Starke and Pulaski County recently, and both counties involved are very excited about the possibilities and economic gains. He went on to say he also went past the Bremen solar farm, which will benefit the City of Bremen. He explained they are contemplating native grasses under the solar panels, which he stated do a good job of putting water back into the aquifer and ground-water system. He added Nipsco plans to be rid of all of their coal power plants by 2028 and replenished by renewables. He stated he believes this is an opportunity for Elkhart County to consider renewable energy resources.

Jay Little, 1300 Eden St., Elkhart, was present to speak on the proposed amendments. He stated he does not believe taking farm ground out of food production for solar panels is a valid argument against solar, due to the amount of food thrown away by local grocery stores. He added he is worried about the state of the world and potentially not being able to obtain oil or natural gas from other countries. He stressed he believes it is time to start using more solar energy on residences and large projects. Mr. Little explained he worked at a strip mine in southern Indiana 35 years ago, and he saw a lot of pollution. He went on to say he believes there are still places where grass cannot grow in that area due to the sulfur. He stated he is in favor of the current Zoning Ordinance amendments, but he believes things should be laid out for the fire department etc. He stressed he wants to see solar in the county, because he has seen a lot of pollution in his lifetime.

Reed Davis, 501 Morning Oaks Dr., Westville, IN was present to give his comments on the proposed amendments. He stated he is representing the Indiana Land & Liberty Coalition, which is a grass-roots conservative coalition, which focuses on promoting an all of the above energy approach including legacy energy solutions as well as newer energy solutions. He stressed they view themselves as testifiers and defenders of land, liberty, and the rights of citizens of this state. He drew the Boards attention to page 4-7 and 4.216 where he read the goal of the new overlay district. He mentioned they need to be cognizant of the adjoining land owners and find a middle ground. He stated he believes this document does a good job of finding the middle ground with land owner rights. He went on to say it promotes the economic community of the county but also protects the private property rights of land owners. He then addressed 6-19 which lays out the guidelines for solar uses in the county. He continued saying he wished he saw more documents laid out this way, as he believes many counties have gone too far with restrictions. He mentioned going too far keeps solar developers from trying to move into that county. He stressed he believes this promotes alternative energy production and economic growth in the county.

Jimmy Gardner, 60125 CR 21, Goshen, was present, and stated he believes this document is a good middle ground. He went on to say he was impressed with the input that was allowed at the public hearings. He stressed he believes this is fantastic for the county with setting a precedence for renewable energy in the community. He explained he promotes apprenticeships within schools to bring young men and women into the building trades, and these projects train them and give them opportunities for life long careers. He added this opens the door for renewable energy in the county, and the Commissioners can always amend it, if problems arise. He stressed this is a good starting point and great document.

Adam Young, 11355 CR 46, Millersburg came on and thanked staff for the time that was put into the ordinance amendments. He expressed his concern about the vagueness of parts of the amendments, and he believes developers would appreciate it be more laid out for what is needed. He noted they know that some locals will benefit from solar arrays, but there are also people who will be harmed by solar in the county. He mentioned wildlife corridors are not addressed, and he questioned what it means to balance property rights. Mr. Young mentioned Elkhart County has a lot of manufacturing, and he believes those buildings could benefit from roof-mounted solar arrays. He stressed loosing farm ground is a concern. He also asked what the process would look like to an adjacent property owner, and if there is an avenue for public input.

James Kuhlenschmidt, 22468 Spicewood Dr., Goshen came on and stated this is a good start, but he believes it is missing the specific details that are needed for unified applications. He mentioned each applicant will have a different idea of what the suggested plans entail, if it is not specified. He encouraged them to define what each plan should entail to hold the applicants to the same standard. He noted July 1st is no longer a deadline, because the State Law that passed is voluntary for each county. Mr. Kuhlenschmidt noted the EPA has decided to start cracking down on coal plants and their ash emissions as of January of this year, which will cause some of the plants to shut down. He stated if too much reliable energy is replaced by solar and wind power, there will be brown outs and power problems, which has happened in Texas. He stressed small-modular nuclear is a cleaner and more reliable option. He added solar and wind power are not green or renewable; they are dependent on the sun and wind. He went on to say when an area reaches 30% renewable energy the brown outs begin. He stressed not all farm ground is equal, and the ground in this area is serviced by the Great Lakes Basin and associated aquifer. He went on to say it is the largest source of fresh water in the world, and this area is easily irrigated as opposed to areas that are likely to have drought. He suggested farm ground that does not have as easy of access to water be utilized for solar farms. He mentioned their concern is large solar operations on valuable farm land, and they are not against small operations on houses, barns, etc.

Jim Weaver, 57564 CR 115, Goshen, was present to speak on behalf of the emergency services. He suggested they look back at the input from the Benton Township meeting. He stressed emergency services are stretched thin in the county right now, and they do not have the time or men to train for solar situations. He went on to say solar fires require special training, and the fire department will be very careful around them. He noted there are numerous sites that need cleaned up in Elkhart County, and he is not interested in something that could create more. He stated he believes solar companies need to have a contract with their own emergency services for containment and clean-up.

Alex McIntyre, 524 S. 3rd St., Goshen, was present and stated he appreciates the work that has been done to put this together. He stressed he is in support of the amendments for the balance of property owner and neighboring owners rights. He stated he believes this is another way for people to make money in the county.

Ken Jones, Jr., Jones, Petrie, Rafinski, 325 S. Lafayette Blvd., South Bend, was present to speak on the proposed amendments. He went on to say he believes the setbacks are similar to when a M-1 or M-2 land use is put next to a more passive land use, which seems reasonable. He added he likes the use of may and not limited to, because he believes it gives the Plan Commission and legislative body flexibility when dealing with a site. He mentioned they have rezoned thousands of acres from A-1 to M-1 or M-2 without wildlife studies, so he does not believe they should always be

required. He added he agrees farmland preservation is important, but he also believes rezonings should be required for subdivisions then.

A motion was made and seconded (*Stump /Barker*) that the public hearing be closed, and the motion was carried with a unanimous vote.

Mr. Warner stated he heard at least 5 people say that the amendments are balanced but need some more details. He went on to say he believes the purpose of leaving it open was to address the details in the public hearing for each project. Mr. Godlewski agreed that was the purpose. He explained some of the plans need to be part of Ordinances adopted by other departments, as the Zoning Department is not an expert on them. He gave the example of Emergency Services Response Plans being addressed by Emergency Management. Mrs. Snyder stated she appreciates how the amendments find a middle ground, because they are unsure what is needed until requests come before the Board. Mr. Luchesse stressed this is what the Commissioners wanted when they denied the last large solar project, because it gives them a starting point. He went on to say this is a great starting place, but it is also an editable document that can grow. He added it allows for flexibility to add different requirements for specific projects. Mr. Dickerson asked how the setback requirements from aquifers were determined, and Mr. Godlewski stated the highest setback required by the Environmental Health Department is 100 ft. Mr. Dickerson asked if the setbacks could be increased for particular projects. Mr. Shuler responded an overlay allows for an increase to the setbacks for a project, but a particular reason for adjusting the requirements would be needed. Mr. Dickerson stated he does not believe it is fair to have different restrictions per site. Mr. Godlewski stressed there would need to be criteria that warrants a different setback for it to be imposed. Mr. Barker mentioned every project needs to be site specific, because there will be different elements to each site. He went on to say it may be wise to have a minimum requirement with the flexibility to increase the requirement based on the site. Mr. Stump stressed he wants the setbacks to be realistic. Mr. Dickerson noted the setback from property lines is 200 ft. and wellheads is 100 ft. He went on to suggest slightly larger setbacks. Mr. Godlewski responded what is spelled out is a minimum requirement. He added the amendments will come back to the Plan Commission, if the Commissioners make any significant changes. Mr. Miller stated he believes the 200 ft. minimum setbacks are larger than most in the Zoning Ordinance. Mr. Warner agreed with Mr. Miller's comments. Mr. Godlewski stated the Commissioners will hear the Zoning Ordinance Amendments on May 16, 2022, as long as it is passed on with a positive recommendation by the Plan Commission.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Steve Edwards that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for multiple amendments to the Elkhart County Zoning Ordinance be approved.

Vote: Motion passed (**summary:** Yes = 7, No = 1, Abstain = 0).

Yes: Phil Barker, Steve Edwards, Steve Warner, Lori Snyder, Tom Stump, Roger Miller, Frank Luchesse.

No: Brian Dickerson.

A motion was made and seconded (*Dickerson/Stump*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 7:02 p.m.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Steve Warner, Chairman