

Minutes of the September 25, 2008
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 307
Plymouth, IN 46563

MINUTES

President, Dennis Thornton, called the Marshall County Plan Commission meeting to order at 7:30 p.m. on Thursday, September 25, 2008, in Room 203 of the Marshall County Building. Present were: Commission Members, David Dinius, Larry Fisher, Don Morrison, Bob Yoder, Tom Chamberlin, Deb Griewank, and Dennis Thornton, Plan Director Ralph Booker, Secretary Lori Lowry, and interested parties were present. Members Ronnie McCartney and Judd Rouch were absent.

The first item of business was the review of the minutes from the August 28, 2008, meeting. **Mr. Dinius moved and Mrs. Griewank seconded the motion to approve the minutes as corrected. The motion passed by acclamation.**

The second item of business 08-PC-06 DEBAM, LLC – A request for a zoning change from A-3 (non-conforming) to C-2 with written commitments, located at 4669 North Michigan Rd., Plymouth, IN, North Twsp. Mr. Bruce Manring was present to represent his request. Mr. Booker gave his report and presented the findings of fact. The applicants are requesting a change in the zoning of the property from agricultural residential to commercial highway for light manufacturing, machine shops, retail trade, services excluding automotive sales and services and wholesale trade. The property was re-zoned in November of 2007 to A-3. This property has been in a commercial use before zoning in 1974. Thus it is a “grandfathered” commercial use. The applicant asked about expanding the use with a new building. I ruled it could not be expanded since it was zoned A-3. The applicant was given

the option of re-zoning the property or asking for a Variance of Use. They decided to get a limited re-zoning for the property.

Mr. Booker reminded the board that there had been three cases already before the board, one in 1994 and two in 1998. One was for an expansion of an existing non-conforming commercial use and two were variance of uses.

Mr. Morrison moved and Mr. Dinius seconded the motion to open for public hearing. The motion passed by acclamation.

- Kevin Gardner – Lives directly across from this property and believes Mr. Manring keeps his property looking nice. His concern was what the change of zoning entailed and what else could go their in the future.
- Lori Kiefer – Lives directly north of this property. Is concerned about what type of business will be allowed in this re-zoning and the setbacks.
- Mark Shafer-Lives directly south of this property. Wanted to know where he plans to put the new building.

Mrs. Griewank moved and Mr. Fisher seconded the motion to close the public hearing. The motion passed by acclamation.

After a lengthy discussion the board and applicant agreed on the following written commitments:

1. The Marshall County Plan Commission retains the right to require a site plan review for any additional business wishing to locate in the rezoned area;
2. Permitted uses are;

Residential Uses

- Accessory Structure

Agricultural Uses

- Crop Production
- Nursery and Greenhouse

Finance, Insurance, and Real Estate Uses

- Commercial Banking
- Insurance Carriers and Related Activities
- Offices of Real Estate Agents and Brokers
- Offices of Real Estate Appraisers
- Securities, Commodity Contracts, and Other Financial Investments and Related Activities

Manufacturing

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- Computer and Electronic Product Assembly
- Warehouse for Vehicle Storage

Retail Trade

- Building Material and Garden Equipment and Supplies Dealers
- Clothing and Clothing Accessories Stores
- Commercial Bakeries
- Electronic Shopping and Mail-Order Houses
- Electronics and Appliance Stores
- Florists
- Food and Beverage Stores
- Furniture and Home Furnishings Stores
- Health and Personal Care Stores
- Office Supplies, Stationery, and Gift Stores
- Pet and Pet Supplies Stores
- Retail Bakeries
- Sporting Goods, Hobby, Book, and Music Stores

Services

- Carpet and Upholstery Cleaning Services
- Caterers
- Electronic and Precision Equipment Repair and Maintenance
- Exterminating and Pest Control Services
- Home and Garden Equipment Repair and Maintenance
- Laundries and Drycleaners (Coin-Operated)
- Medical and Diagnostic Laboratories
- Packaging and Labeling Services
- Personal and Household Goods Repair and Maintenance
- Photofinishing
- Photography Studios, Portrait
- Printing and Related Support Activities
- Re-upholstery and Furniture Repair
- Telephone Call Centers
- Travel Arrangement and Reservation Services
- Welding Shop

Wholesale Trade

- Merchant Wholesalers, Durable Goods

Manufacturing

- Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing

3. There shall be no outside storage or activity associated with any business.

4. The above commitments are enforceable through the Marshall County zoning ordinance and any violation of the above commitments will be subject to the violation procedure as prescribed within the Marshall County Zoning ordinance.

Mr. Dinius moved that this request be given a favorable recommendation and be passed on to the Commissioner's with all of the restrictions that are listed, seconded by Mr. Fisher. Motion carried with a voice vote 7-0.

The third item of business was 08-PC-07 Marshall County Plan Commission - Mr. Booker presented a draft ordinance of a Wind Energy Conversion System.

AN ORDINANCE AMENDING CHAPTER 6, SECTION 230, CHAPTER 3, SECTION 120, LAND USE MATRIX, AND CHAPTER 13, DEFINITIONS OF THE MARSHALL COUNTY ZONING ORDINANCE

WHEREAS, the Marshall County Plan Commission has proposed an amendment to the Marshall County Zoning Ordinance as amended;

WHEREAS, The Marshall County Plan Commission did conduct a public hearing on September 25, 2008 after legal notification, and did recommend favorably on said Zoning Ordinance amendment; and,

WHEREFORE, the Board of County Commissioners of Marshall County, Indiana, did give legal notice and conducted a public meeting on the 20th day of October, 2008, in regard to said amendment.

Be it ordained by the (County Commissioners of Marshall County, Indiana; that the Marshall County Zoning Ordinance is hereby amended as follows:

Section 1: Change **Chapter 13, Definitions** to add the following definitions:

Large Wind System. A *WECS* that has a nameplate capacity (manufacturer's rating) of more than 50 kilowatts per *wind tower*, or a *total height* of more than 140', or a *swept area* of more than 40'. Any *WECS* meeting one or more of these criteria shall be considered a *large wind system*.

Micro Wind System. A building-mounted wind system that has a nameplate capacity (manufacturer's rating) of 10 kilowatts or less, and projects no more than 15' above the highest point of the roof; such building-mounted wind systems shall

not be considered a *wind energy conversion system*. *Micro wind systems* are subject to regulations in all zoning districts.

Small Wind System. A *WECS* that has a nameplate capacity (manufacturer's rating) less than or equal to 50 kilowatts per *wind tower*, and a *total height* of 140' or less, and a *swept area* of 40' or less.

Swept area. The diameter of the least circle encompassing all blades for a *WECS*.

Total height. Regarding *WECS*, the distance measured from the ground level at the base of the tower to the highest extension of the blade or rotor.

Wind Energy Conversion System (WECS). The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, *wind tower*, transformer, turbine, vane, *wind farm collection system*, wire, or other component used in the system.

Wind Farm. Two or more *large wind systems* on a single property *or* aggregated properties.

Wind Farm Collection System. All the low-voltage wiring and cabling connecting any wind turbine with another wind turbine or to a place where voltage is stepped up, commonly known as a substation or switching station.

Wind Tower. The monopole, freestanding, or guyed *structure* that supports the energy capture, conversion, storage and transfer components of a *WECS*. These *wind towers* are not attached to any *building*.

Section 2: Change CHAPTER 3, SECTION 120 LAND USE MATRIX by adding the following:

TRANSPERTATION, COMMUNICATIONS, UTILITIES

USE	A-1	A-2	A-3	T-1	L-1	C-1	C-2	I-1	I-2	MH	PUD
LARGE WIND SYSTEM	S	S				S	S	S	S		
MICRO WIND SYSTEM	p	P	p	p	p	P	P	P	P	p	p
SMALL WIND SYSTEM	p	p				P	P	P	P		
WIND FARM	S	S				S	S	S	S		

Section 3: Add to **CHAPTER 6, SECTION 230** as follows:

Wind Energy Conversion System (WECS) Standards

A. Intent

In order to protect the public health, safety, and general welfare of the community while accommodating the energy needs of residents and businesses, these regulations are necessary in order to:

1. facilitate the provision of wind energy conversion systems (WECS) services to the residents and businesses of Marshall County;
2. minimize adverse visual effects of WECS facilities through careful design and siting standards;
3. encourage the location of WECS in nonresidential areas through performance standards and incentives;

4. avoid potential damage to adjacent properties from WECS failure through structural standards and setback requirements.

B. Authority

The Marshall County Plan Commission is vested with the authority to review, approve, conditionally approve, and disapprove applications for WECS facilities, including sketch, preliminary, and final plans.

C. Public Purpose

Regulations of the siting of wireless WECS facilities is an exercise of valid police power delegated by the State of Indiana. The developer has the duty of compliance with reasonable conditions laid down by the Marshall County Plan Commission.

D. General Approval Standards

1. All *WECS* are subject to the air space control height and use restrictions surrounding airports per FAA requirements.
2. No *WECS* shall be illuminated unless required by a state or federal agency, such as the FAA.
3. The exterior surface of all *WECS*, including the *wind tower* and associated outbuildings shall be a non-reflective, neutral color.
4. Minimum clearance between blade tip and ground level is 30'.
5. The minimum separation distance between a *wind tower* associated with a *large and small wind system* and all surrounding property lines, overhead utility or transmission lines, other electrical substations, meteorological towers and *primary communications towers* shall be no less than 1.5 times the *total height* of the *wind tower*. This is measured from the base of each *wind tower*.
6. The minimum *setback* between a *wind tower* associated with a *large and small wind system* and *public street(s)* shall be no less than 1.5 times the *total height* of the *wind tower*.

7. *Large wind system(s)* must be located at least 1000' from any *dwelling unit*, except *dwelling unit(s)* located on-site. *Dwelling unit(s)* located adjacent to and off-site from a *large wind system* shall maintain these same minimum separation requirements. No *dwelling unit* shall be built less than 1000' from any existing *large wind system*.
8. *Wind Farms* occupying multiple parcels may have internal property line setbacks waived by execution of a written document signed by all land owners sharing such a property line. All such documents shall be recorded in the office of the Marshall County Recorder.
9. All *WECS* shall be located so that the level of noise produced by wind turbine operation heard off-site shall not exceed 55 dBA.
10. The base of all *WECS*, including any guy wires and *wind tower*, shall be totally and permanently enclosed by a security fence at least 6' high. All guy wires must be fenced if utilized. No fence is required if the climbing apparatus is enclosed inside the *wind tower* and the entry is secured, or if the climbing apparatus is located at least 12' above the ground level.
11. *WECS* and their associated outbuildings/cabinets shall meet all *setback* requirements for primary *structures* for the zoning district in which the *WECS* is located.
12. *Special Use* applications and *Improvement Location Permit* applications for a *large wind system* or a *wind farm* must be accompanied by a decommissioning plan detailing how the *large wind system* or *wind farm* will be dismantled and the land restored to its prior state. Such plan would be implemented when such *large wind system* or *wind farm* ceases operation for a period of 12 months, with or without notification to the *Plan Director*. The plan would include the removal of all portions of the *WECS*, including any components up to 4' below ground level. The decommissioning must be complete within 6 months. A bond may be required by the Plan Commission to implement the decommissioning plan.
13. All *WECS* shall be equipped with a manual and automatic braking device capable of halting operation.

14. All wiring for *wind farm collection system* shall be buried to the utility interconnection point.
15. No *WECS* shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, airport RF signals, television or wireless phone, or other personal communications systems would produce electromagnetic interference with signal transmission or reception unless proven, engineered technology exists to dispel such problems is incorporated into the plans (i.e. detuning or other such systems).
16. All *WECS* electrical equipment and connections must adhere to all applicable local, state, and national codes, and relevant national and international standards. The applicant may be required to finance outside inspectors deemed necessary by the Plan Commission.

F. WECS Facility Application Procedure and Approval Process

1. General Procedure

In addition to the information required elsewhere in the Marshall County Zoning Ordinance, development applications and approval for WECS facilities shall include the following supplemental information:

- a. A report from a qualified and licensed professional engineer which:
 - i. describes the tower height and design including a cross section, latitude, longitude, and elevation,
 - ii. describes the tower's capacity.
 - iii. document what steps the applicant will take to avoid interference with established public safety telecommunications;
 - iv. includes an engineer's stamp and registration number;
- and,

v . includes other information necessary to evaluate the request.

b. Before the issuance of a Improvement Location Permit, the following supplemental information shall be submitted:

i. a copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460 1) shall be submitted to the Plan Commission; and

ii. a report from a qualified and licensed professional engineer which demonstrates the WECS compliance with structural and electrical standards.

c. Within sixty (60) days of completion of the facility, the applicant shall provide the Plan Commission Office with an as built survey from a Registered Land Surveyor verifying the coordinates, height, and site plan of the wireless facility.

2. Site Plan Requirements

In addition to the Site Plan requirements found elsewhere in the Marshall County Zoning Ordinance, site plans for WECS facilities shall include the following supplemental information:

a. Location and approximate size and height of all buildings and structures within one thousand (1000) feet adjacent to the proposed WECS facility.

b. Site plan of the entire development, indicating all improvements.

c. Elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site.

Mr. Dinius moved and Mr. Fisher seconded the motion to open for public hearing. The motion passed by acclamation. There being no one to speak for or against Mr. Dinius moved and Mr. Morrison seconded the motion to close the public hearing. The motion passed by acclamation.

Mr. Dinius moved to forward this draft ordinance of the Commissioners with a favorable recommendation from the Plan Commission, seconded by Mrs. Griewank. Motion carried with a voice vote 7-0.

Other:

Mr. Booker informed the board that during the budget hearings they reduced the Plan Commission's budget. The items reduced were:

- Intern was cut by \$3,000
- Overtime was also reduced

There being no other business before the Plan Commission, a motion was presented and seconded to adjourn the meeting. The motion passed by acclamation and the meeting was adjourned.

Respectfully submitted,

Robert Yoder