

WABASH COUNTY PLAN COMMISSION

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WABASH COUNTY PLAN COMMISSION **BOARD MEETING MINUTES**

September 7, 2017

**Wabash County Plan Commission Board
Wabash County Court House
Wabash IN 46992**

Board Members: Curt Campbell, Randy Curless, Scott Givens, Patty Godfroy, Doug Rice, Christian Rosen, David Schuler, Cheri Slee, Joe Vogel, Attorney Larry Thrush, Plan Director Mike Howard, Secretary Libby Cook

Present: Curt Campbell, Randy Curless, Scott Givens, Patty Godfroy, Christian Rosen, Cheri Slee, Joe Vogel, Larry Thrush, Mike Howard, Libby Cook, Mark Guenin, Sean and Natalie Unger, Patrick Hess, Donna & Mike Wendt, Chris Lochner, Kevin Lochner, Andy Oswalt, Deanna & Sam Unger, Doug Lehman, Kent Dyson

Scott Givens, Board Chairman, called the meeting of the Wabash County Plan Commission to order at 7:00 PM on September 7th, 2017. Mr. Givens asked for a motion to approve the minutes of the August 3rd, 2017 meeting. Curt Campbell made the motion to approve the minutes as written, this was seconded by Joe Vogel. The motion was approved.

Mr. Givens: The first item on the agenda is a Special Exception request by Andy Oswalt to construct 2 small ponds on his property in Noble Twp.

Mike Howard: Andy Oswalt lives at 6848 W 200 S, Wabash, in Noble Township. He is looking at putting in 2 small ponds on his property, both ponds meet all the setbacks. The first pond does have a wetland area involved. He has worked with the U.S. Army Corp of Engineers and has approval from them, there is no permitting required by them, but stipulations as far as where he can and can't put dirt and where he can and cannot be with equipment because of the wetland area. He has also decided that he would like to put in a second pond. Board reviewed aerial photos of the property. The acreage for pond #1 will be .3 to .5 acres based on how far he can reach out without being in the wetland area. He needs no variances from property line or roadway setbacks, it meets all setbacks. There are no floodplain or flowage easement issues. This pond would be a natural flow for the outlet, there will be no dam. The depth will be

determined by how far he can reach. No emergency overflow. The watershed into the dam is approximately 5 acres. On pond #1 the area would have a geothermal feed.

The second pond will be constructed after finishing the first pond. The Second pond would be about ¼ of an acre. No variances are required as it will meet all setback requirements. There will be no dam on this pond, there is a watershed into it of about 5 acres, and there is no geothermal feed into this one. Both of these ponds have no certified drains that would be an issue for the drainage board. They would be about 1/3 of a mile from any regulated drains.

The Department of Natural Resources has marked out where Mr. Oswalt can work within the wetland area. Andy is asking for a favorable recommendation to the Board of Zoning Appeals. The Board of Zoning Appeals will vote on each of the ponds separately.

Curt Campbell: Do you already have geothermal heating?

Andy Oswalt: Yes, it discharges out into the wetland area where pond 1 will be.

Curt Campbell: I make a motion to give a favorable recommendation to the Board of Zoning Appeals regarding the two ponds.

Scott Givens asked for a second to the motion.

Randy Curless seconded the motion. Motion passed, the PCB gave a favorable recommendation to the Board of Zoning Appeals.

Scott Givens: Next on the agenda is Legacy Ridge Estates / Unger Mountain Re-Plat and Special Exception permit in Noble Township. At the last meeting we took under advisement the petition of Sean and Natalie Unger for Unger Mountain. Does anyone have any questions they would like to ask Larry or Mike or anyone at this time? (No response)

Scott Givens: The Chair will now take a motion to either approve or deny the petition for partial vacation of the plat of Legacy Ridge Estates.

Joe Vogel made the motion to deny the request for a partial vacation of the plat at Legacy Ridge.

Curt Campbell: Should we present it in a negative fashion, or should the motion be in a positive fashion?

Scott Givens: If you are agreeing with the motion to deny it then yes it would be a yes vote to deny if you so choose.

Curt Campbell: I think by Parliamentary Procedure it should be presented in a positive fashion, if you want to deny it.

Larry Thrush: It is a motion to deny, so if you agree with the motion to deny it should be a yes vote.

Patty Godfroy: I think what he means is that if the first person would have said motion to approve, but since he was the first person he said to deny.

Mike Howard: The motion can be made either way, as long as the people who are voting understand which way the motion is made to either approve or deny.

Scott Givens: I have a motion, is there a second?

Randy Curless seconded Mr. Vogel's motion. Mr. Givens asked if there was any further discussion. There was no response. Following a roll call vote of the eligible Board members the motion to deny was passed, 6 to 0.

Scott Givens: Next we have a petition to approve or deny the vacate of certain of the restrictive covenants of Legacy Ridge Estates. Is there a motion to approve or deny the petition to vacate certain covenants of the Legacy Ridge Estates.

Patty Godfroy made the motion to deny the petition for the vacate of certain restrictive covenants.

Scott Givens asked if there was a second to the motion.

Randy Curless seconded the motion. Mr. Givens asked if there was any further discussion. There was no response. After a roll call vote of eligible Board members the motion to deny was passed, 6 to 0.

Scott Givens, now we have to entertain a motion to approve or deny a re-plat of Legacy Ridge Estates. Is there a motion?

Randy Curless made the motion to deny the petition for the re-plat of Legacy Ridge.

Joe Vogel seconded the motion. Mr. Givens asked if there was any further discussion There was no response. After a roll call vote of the eligible Board members the motion to deny was approved, 6 to 0.

Scott Givens, we will proceed to the Special Exception.

Mike Howard: Part four is the Special Exception request which has not been heard at any point in time at any meetings. At this time there are two Special Exceptions open. SE #5 was submitted by Mr. Lehman at the time the re-plat was submitted. Mr. Howard called on Sean Unger and asked if he would like to withdraw Special Exception #5 and hear Special Exception #8. Sean Unger replied that he would like it presented "how I talked to you about it the other day". Okay you would withdraw Special Exception #5 and go ahead with Special Exception #8.

Doug Lehman: May we have a moment? He then spoke with Sean and Natalie Unger and Mark Guenin.

Mike Howard: Special Exception #5 is being withdrawn.

Mike Howard then called on Sean and Natalie Unger and asked them to explain their new plan.

Sean Unger then presented his proposal for Special Exception #8. If I can't run the tower where it currently is commercially, then my parents have 20 acres of ground to the west of both my property and Legacy Ridge Estates. I have talked with them (parents) about tearing down a current barn because I have always intended to have this tower built on Elliott Road where I live so that it looks out on the Prairie. In the beginning I thought the only place I could have built the tower was on my original five acres. I didn't want to put it on the top of my property, separate an acre and a half out, because I didn't want it to be invasive to my neighbors in Legacy Ridge Estates, funny enough. I have other options that probably make more sense than what you have in front of you, I could put it south of Legacy Ridge Estates, I would have less excavating to do, but I don't want it to be a black eye on Unger Mountain. When I started my tree company 11 ½ years ago I didn't put my name on it. I was always worried about something happening and getting sued. When I started planning this three years ago I was proud to put my name on it. I asked one of my neighbors, Brad Farlow, if he would have any interest in selling property along Elliott Road at the base along the bottom part of the drive. He said that he did, but didn't know if it could be done because of the covenants within Legacy Ridge. We spent a few weeks going over all of this with Metz and Bunnell doing the research, so I am a little upset and hardened by all of this. I thank all of you for your diligence, and I understand, and I am very thankful for everything you have done. I have neighbors saying that my deed is invalid, that perplexes me because I wonder what I paid for. After talking with Mr. Howard last week I am happy to know that the tower itself is not in danger, I just can't run it commercially. I have \$10,000 in annual expenses on this in auto belays because I tried to build this tower safe for everybody I have more auto belays on this probably than anyone in Indiana to cut down on staffing. I encourage people from the council or committee to come out and visit, it is a wonder. It sits below the hill, I understand that when the leaves come off the trees it can be viewed by two of the homes in Legacy Ridge, the house that I bought the land off of and now the Lochner property, before it was Sposeep's. I feel glad that after the July meeting my parents as they were leaving they spoke with the Lochner's, my dad said something about the tower, the Lochner's said who said anything about the tower, we don't have a problem with the tower, it is the fact that the covenants have been broken. I understand where their issue is with this, it is a covenants issue. That is a back story it doesn't pertain to this, I feel like I had to state that. I don't want this to be a black eye on Unger Mountain, so I am not building this to the south of Legacy Ridge Estates. I told Mr. Wendt that in a conversation back in January we had a good 11 minute conversation, he said he just wanted to remain neutral, that he didn't want any part of this, I understood that. Something happened between now and then to change this. What we have is roughly 20 acres on Elliott Road, my main concern is where it says climbing tower that is what I will be talking to the builders tomorrow about getting started on for next year. Mr. Howard said I should do my diligence on presenting everything on this that Unger Mountain could grow to be. I was looking to make this small. It was a scary proposition for me to build one of these, they don't have these, they have them at church camps, 4-H camps. They have zip line courses going up, there is a nice one at Roanoke that I would recommend to anybody. But I wanted to keep something that was concentrated, to keep down the staffing. I may be getting out of my tree work to do this, but that is fine. The climbing tower is the first thing I want to focus on next year, I am not 100 % in.

Then the winter tubing hill, if I get out of tree work I will need something to do for the winter. Last winter would have been a struggle, but you can make snow at night, ask the people at the ski resort in southern IN. The tubing hill will be multiple runs, but if it comes to it I can come in front of you again. It won't be invasive to any of the neighbors down there. If that works out it can grow to other things. The climbing tower and the cabin if I can't run it where it is currently is commercially, which I guess now I can't, I will be moving the cabin down there and having a new tower 3 or 4 sided built, I figure if I am going to build it again it will be bigger and better. It is three sided now, please come out and take a look at it. Then a pavilion, I hate that I have to ask my dad to tear down a barn, especially one with hewn beams, but I am planning to build a pavilion using the beams. That may not happen this year. We have a roadway that was put in a few years ago that goes all the way to 550 West, on that path there is an option for a high ropes course in the bottom of the ravine then a zip line course that would stretch back and forth over the ravines. I will be fully involved with it at that time, there will be no coming back. I don't see any reason why that can't happen. I got out of farming last year to do this, luckily I still have my tree work which has been good to me. I have been hitting it hard so I have enough money to do this. Do you have any questions for me?

Mike Howard: One thing that you stated early on that concerns me, I don't think we are quite on the same page. As far as your current climbing wall, the current climbing wall actually sits within Legacy Ridge, therefore, by being denied the replat, the vacate, and the covenants, it is my belief that it cannot stay there.

Sean Unger: How does that break any of your rules though, they don't even know if they can tax it when I went there, as a structure as is. They have never seen anything like it. It meets the height thing, it isn't an issue.

Mike Howard: Right, I agree with you about the height that it does meet the setbacks. I don't know, I can't answer that question. To me that is something that is probably going to have to go back to the attorneys.

Sean Unger: It is 3 poles, a 42 foot platform in the air, and the third side is open, so it is actually only 2 sides, well 3 sides 2 sides with climbing surfaces up 46 feet and the platform at 42.

Mike Howard: I have tried to be very upfront and honest with you. I just don't have the answer.

Sean Unger: Where do I get that answer, I am just trying to find out.

Mike Howard: That is what we are going to have to figure out.

Curt Campbell: You are just planning on leaving it?

Sean Unger: I may take one side off, the flat side. Cause I will be recuperating the cost here. I have the 5 auto belays I can recoup \$16,000.00 on it so those will be coming off. The flat side I may take it off. The side you see from the road, the amazing side, it is the side with the outcroppings and the chimney, that one it makes no sense to take it off, it's all scrap.

Curt Campbell: So you are not going to be using it?

Sean Unger: I would use it for personal use. I would carry it with the insurance, I have been talking with three insurance companies now. The builders will not take the wall down. I will take it down myself if I have to, I don't guarantee, we'll figure it out.

Randy Curless: So you would just be using this as a personal thing, not commercial?

Sean Unger: It will be used as it has been. I have had people in the community on this, family, friends, people I don't even know. We had seven people go through the training session last year. It doesn't matter if it is myself or 10 people who go through the training it still costs the same \$1,000.00 each year for recertification. I was able to get 7, and some were just friends who I was able to get at the last minute. Between myself, my wife, and my mother we have been taking any free time that we have to accommodate family, friends and people in the community that want an opportunity to do this. I haven't made a dime on this, I have refused to take a dime if people have tried to give me money, I can't put myself in that situation.

Randy Curless: To me, and this is going to get down to a legal thing. The climbing wall is not a building, not a residence, that has already been established. If it is not a commercial enterprise I don't see it being anything different than a swing set type thing, it's recreation that somebody puts up in a yard.

Sean Unger: Like a large tree stand.

Randy Curless: Anything in their yard for their own personal recreational use. That would be my take on it.

Scott Givens: I thought maybe you could use a crane to move the climbing tower.

Sean Unger: They looked into the possibility, the builders tried to figure out if they could put it on a flatbed, if they could take a crane, the possibility of a helicopter. And they knew that they would have to reinforce the third side, and then if they replaced it, it might not be right. It is about safety first, everything is about safety with this. That is why people just don't go out and put these up. That is why I have \$7,000.00 in insurance on it every year.

Sean Unger: Taking the auto belays off and maybe the flat side because I might be able to recuperate the flat side on another tower, I told the builders that I would call them tomorrow.

Curt Campbell: If I remember right no one could just come in and use this, you have it situated such that they can't.

Sean Unger: The standards for building these call for 10 feet you have to have inaccessible and the same for insurance, it is 11 feet inaccessible. They have removable handholds on the bottom 11 feet. It takes me about 15 minutes to get the two sides up. It looks a lot cleaner than having swinging gates to lock it off.

Larry Thrush: What is the second Special Exception for? I thought you were going to move this somewhere else.

Mike Howard: Not necessarily that he said move but he is looking at an alternate place to put his business at. I still go back to the fact that the Board just voted and denied the re-plat, His structure is on property that is part of Legacy Ridge. We have denied the vacate, denied changing of any of the covenants, denied the re-plat. Therefore if it goes back to the way it was, the tower is sitting on what would be Farlow's property.

Sean Unger: How could I have a legal deed and be on Farlow's property?

Mike Howard: You and I have talked about that, I said that is not a question for me to answer that would be for the attorneys to figure out.

Sean Unger: I figured that was a county issue.

Mike Howard: I am going by our County Ordinance which says, a re-plat has to be approved before being recorded, unfortunately it was not caught and it was recorded which it should not have been.

Sean Unger: I am just wondering what I paid for, what did I spend \$100,000.00 on? It is not a big deal, it is just money, but it is a big deal.

Mike Howard: I understand what you are saying.

Sam Unger: On this re-plat too, when we purchased the farm 40 years ago, the one next to ours one reason was for the ravine. The water comes down onto the prairie from the ravine, we put a ditch up to catch all that water in the early 70's. One reason I kept dragging my feet on doing anything with this was that ravine is always going to stay with the farm. The Wendt's had asked my dad at one time if they could purchase more ground from him and he denied their request because of the ravine.

Mike Wendt: No he denied it because of the harvest of the trees.

Sam Unger: No, I know better because I own half of it when you moved there, it is Unger Trust. He asked me about it because he couldn't do it without my mom or my consent. I said remember dad that is the reason why we bought this farm. I told Sean, and this is what we need to get approved, that I would lease it to him on a long term lease because I want it to always stay with the farm. He should inherit it someday. But if something should happen to him and Natalie should remarry and it gets out then I got a fight on my hands in the middle of the farm, and I don't want to go through this again. No offense to Natalie, I would expect her do something else. I am just having this struggle with Legacy Ridge, which my parents sold to begin with, which I don't want to have to go through again. I just want it to be known that what Sean is asking that I will be the one to have to get it rezoned I guess to recreation. Sean will have a 30 year lease or whatever if that is possible. I was very reluctant to do this, I think that is where he wanted his wall to begin with but I said no. I got very upset with the people fighting over little

things and I said Sean you can do it there. I first told them I came up with 1 ½ acres next to Legacy Ridge, I would give that to him. He said no, that he didn't want to be right up there. The lease, I don't know if that would be legal Larry, I don't know to give him a lease to do that. We will have to get this figured out. But I am fully behind him.

Larry Thrush: That is another issue. If you convert this from an outdoor commercial recreational enterprise to a private recreational development it still requires a Special Exception.

Sean Unger: Why is that, because it is a tower that people haven't been able to say what it is. Like I said they don't even know if they can assess it.

Larry Thrush: Who is they?

Sean Unger: I went to the Courthouse, I always go to the wrong place it seems like.

Larry Thrush: Well we are the people who decide this.

Sean Unger: It is a structure, like 10 ft. x 10 ft. x 10 ft with the poles, it is open on one side like we just discussed here. Is that a building? Is that a tree stand?

Mike Howard: I understand what you are saying. As I look at it, as a reference, when wind farms became a commodity in different counties, I know for a fact, because we had two private individuals put them in. The state was scratching their heads, how to assess these, but that doesn't deny the fact that it is still there or that it is what it is.

Sean Unger: A wind farm the base on that can't be in the same thing.

Mike Howard: I know, but at some time the state will tell the county that they are to be assessed at a specified rate.

Sean Unger: But we aren't there yet, are we?

Mike Howard: As far as the state doing it not yet, they haven't heard anything back from the state. That still doesn't mean that it is not there.

Sean Unger: That is the thing this isn't new, I don't understand that.

Mike Howard: That still doesn't mean that it is not there.

Larry Thrush: The activity that you are describing, if it is not going to be an outdoor commercial recreational enterprise then it is a private recreational development and still requires a Special Exception.

Sean Unger: A special exception for what, what is that?

Mike Howard: The application process that we are going through now for your new location.

Sean Unger: If this is on Brad and Tammy Farlow's property and we have a 99 year lease and if they file that Special Exception and they have a 99 year lease with me then am I able to use it if it is approved?

Larry Thrush: They have turned down three out of your four requests. You are not going to partially vacate the plat, you are not going to vacate certain of the restrictive covenants, we are not going to re-plat Legacy Ridge Estates.

Sean Unger: So what you are saying, there is a tower on Brad & Tammy Farlow's. So what I am saying is, if you're saying after I leave this meeting, after the gavel goes down, that this is their tower, is that not where we are at?

Larry Thrush: I don't know that issue, but you can't have that where it is without a Special Exception.

Sean Unger: So they can get the Special Exception? They would have to apply for it themselves.

Scott Givens: I think I know where he is coming from. Since Sean doesn't own it since the re-plat is not considered legal, what he is asking, Brad and Tammy it would go back to their ground you would revert the money back.

Sean Unger: I can't even take it down now because it is not mine.

Scott Givens: I think what he is asking is it would be Brad and Tammy Farlow's, it would go back to their responsibility to get a Special Exception within the covenants, or if it is legal within the covenants according to the covenants that were written by Mike Sposeep and the three people if it is legal within those. But it wouldn't be his to ask, it would be Brad and Tammy Farlow's, I see where you are coming from.

Larry Thrush: Do you have reason believe they (Farlow's) are going to apply for a Special Exception?

Sean Unger: I don't know, but these are all things that I have talked about with my father-in-law lawyer about the possibility. We have tried to keep them out of this altogether. It sounds like it is going to be their tower when I leave here, so I think they will be involved then. I have a \$60,000 tower on someone else's property because my deed is no good.

Larry Thrush: As it stands right now it is there illegally and it can't stay there.

Sean Unger: That is not helping me after I leave these doors as far as the question I just asked, as far as Brad and Tammy Farlow can they still apply for the Special Exception? I am trying to move forward with this, I am just trying to get as many answers as I can.

Larry Thrush: Why do you suppose this Board would approve Farlow's request when they just turned yours down?

Sean Unger: Because you are saying that I never owned the land. They have always owned the land.

Curt Campbell: Is there a difference between it being a commercial and just a private?

Larry Thrush: It still requires a Special Exception

Scott Gviens: Is that because of the covenants or because?

Larry Thrush: It is our county Ordinance.

Scott Givens: Is it because, does it fall under the covenants, Doug (Lehman) didn't you write the covenants?

Doug Lehman: Yes. I think it would be our position that if this goes back to Farlow's then it is a private recreational facility just like a basketball court, swimming pool, volleyball court, or baseball diamond, for the use incidental to the residents there and that can include friends and neighbors. As long as it is not being done as a commercial activity, I think it would be permissible. Just like if someone wanted to put a basketball court in their backyard, does that require a special exception? If somebody wanted to put in a swimming pool, volleyball court, croquet court, a merry-go-round, or a swing set, those are recreational uses incidental to a residence, and those are permitted under the covenants. I would agree with Larry if we are going to operate this as some kind of private club or something that just anybody could come to then at that point we are looking at a private recreational facility and that would probably require a Special Exception. But if we are limiting it to friends and neighbors then I don't think it is any different than having a basketball court on your property. It is not a building, that is clear under your definition it is not a building. It seems to me that it could be used as a recreational facility incidental to the residential use there.

Sean Unger: One last thing I will say, Mr. Thrush, you asked why this would be any different than if we voted these three things down already. I think it would maybe be different I think it would maybe be different by everything you have said here. You have assumptions that you came in here with, that the deed was no good, I never owned the land, or this and that. I think all those things would be different in a vote with it being that it's Brad and Tammy Farlow's. You can't define it as any kind of structure maybe, I still think it would be an elevated tree stand, if you look at it and especially if I take a side off of it, it's got one side on it. I think it very well could influence a vote.

Scott Givens: I think we have several things to discuss and for the attorneys to discuss and look at.

Mike Howard: I would like to go back to Special Exception #8 that is before the Board, and discuss that and see if there are any questions from the Board. There are several things even

with that presentation that we would want to look into. It goes back to your commercial facility or outdoor commercial recreational facility. I hadn't thought about it at the time, but I talked to you (Sean) about it the day you were here. Anything that you do down there, where you have people involved or public coming in it requires design release from the State Fire Marshall's Office. I gave you that information (Sean replied yes) to check with them and see. I don't know what they would require, but they would tell you and guide you through that. According to the Wabash County Ordinance it will require fencing, 4 feet high either woven or I would say woven wire or chain link fencing around the property, but the Board could look at that and say it may not need to be the entire property, maybe only in certain areas that might want to have some fencing. In your initial presentation when you talked about the re-plat you talked a little about hours of operation and days of operation and we haven't really considered that. These are things we are talking about that would pertain to the Special Exception. Area lighting, noise limitation, and the other thing that I don't know about is the restrooms and what would be required for public facility, parking.

Sean Unger: Who will I be affecting at the new location? Who am I affecting with lighting or noise where it is going to be built. That is why I am shifting it down where it is. Who would I be affecting with hours, lighting and noise?

Mike Howard: I just want to be sure we are on the same page. These are things we would have to discuss, things that are in the ordinance. I don't mean this to be adversely but to give an example, when Pefley expanded their lot and added the lighting we got a call from a neighbor who lives ½ mile away because the lights were misdirected and were shining in her living room window. At ½ mile away you wouldn't think it would affect them, but it did. Those are the things that we need make sure that we are all on the same page, so there are no misunderstandings down the road.

Sean Unger: And there wouldn't be any outdoor lighting, that would be something that I would have to come in before this Board later, that would be the second part, the tubing hill. I am starting with the climbing tower, and I think I've got a great thing here, ask anyone who has been on it.

Scott Givens: Does anyone on the Board have any questions?

Curt Campbell: Where do we need to go from here?

Mike Howard: If you are just looking at Special Exception #8, what Sean would be asking for is a favorable recommendation to the Board of Zoning Appeals for a public hearing.

Patty Godfroy: Do you know how many feet are between the property line and the proposed zip line?

Mike Howard: The setback requirement from a property line for any structure in an outdoor commercial recreational enterprise would be a minimum of 40 feet.

Patty Godfroy: So it would have to be 40 feet?

Mike Howard: Yes it would have to be a minimum of 40 feet.

Sean Unger: If it gets to that at some point, it won't be anywhere near 40 feet, it would be a lot more. That was just a line I put on there, I don't know how it is going to go.

Chris Lochner: We have kind of a rough sketch here. Where is the point of access for traffic, where is the parking berth load. We are agricultural and this is going to be recommended to go to the BZA to make an agriculture zone into a commercial/general business zone, is that correct? A Special Exception.

Mike Howard: A Special Exception to permit an outdoor recreational enterprise in an agriculture zone. We would not do a zoning change, we don't do spot zoning.

Pat Hess: Is the only thing this Commission does is to determine how the Special Exception request jives with the Comprehensive Plan?

Larry Thrush: Yes

Pat Hess: It seems to me that it would be a lot like the first Special Exception in that some of the goals in the Comprehensive Plan talk about protecting and enhancing the features of Wabash County in making it a desirable place to live. Residential areas should provide healthful surroundings for family life, protection of agricultural land from development. I haven't heard any discussion of your comprehensive plan. I have heard about the understandable hard feelings about the first attempt to put up the tower. I mean that is probably human nature that this would dominate this discussion. Really I think we need to have a discussion about this proposal that is woefully lacking of specifics. About how it jives with your Comprehensive Plan, or does it? You are not making a recommendation to the BZA that the Unger's are good people, because they are, I think everybody knows that. You have got to focus on what your Ordinance requires you to.

Curt Campbell: This particular land would not be used for any agriculture purposes, this is probably the best use of that particular land, it would be for recreational purposes. We are not talking farm land.

Pat Hess: I am not saying that it is not, but I am saying that maybe that should be the discussion.

Mike Howard: Going back to what Curt said, I have thought about that a lot. In the development of our new ordinances we are really cracking down on the use of ag land and what it is used for. To me, if I look at this ground and the contours and everything, this ground is not set for any type of development for residential, the best residential spot has been taken with Legacy Ridge, there really is not anything out there for any more residential that is not going to be an erosion issue or create drainage issues for the river bottom grounds. In my personal opinion it is ideal for what he is asking for. To say that it may not create an issue, I understand that the folks up at Legacy Ridge want a little more privacy and stuff like that, and I understand that. To me, it is ideal for what Sean is asking for. To say I feel it does follow the

Comprehensive Plan for the use that they are asking for. Now whether or not it gets approved is a whole different thing.

Pat Hess: I am just talking about the process. I looked at this for the first time 20 minutes ago. You have had it since August 22, you have had a lot of time to think about it and look at it with your comp plan.

Curt Campbell: We worked on the Comprehensive Plan for 3 years. It has been a big discussion the prime farm land, not wanting to build leaving that for agriculture purposes. This is the kind of area that is not going to affect farm land. Not wanting to build and leaving that for agricultural purposes.

Sean Unger: I am not putting the tower south of Legacy Ridge Estates, I am not putting this in my back yard on my current ground where I could easily put it. I am trying to keep this away so that it is not invasive so it's the first thing you see when you come home above your houses, it's what you see when you come outside. That is why I have talked my father into tearing down a perfectly good barn to make a solution out of this. We don't use that barn, we have two pieces of equipment in it.

Scott Givens: Called on Sam Unger

Sam Unger: I want this to stay woods, I farm 300 acres below it, I don't want water rushing down, I have ditches drained, I have dredged every two years because of erosion. I have dealt with enough erosion. I want it to stay woods, He is tearing one building down and building another. I don't want to ever see any buildings in the ravine, I may have to move some things around, possibly build a tool shed. I am a farmer, I love the woods, Sean does too. We could use the trails. I may have to move some things around from down there, old equipment may have to sit somewhere else. I may have to build another building up there, that is the only level spot I've got eventually. As far as what Sean is wanting to do, I am going to lease it to him, it is not going to be sold it is always going to stay with our farm.

Scott Givens: I think this is a good area for what you are trying to do.

Sean Unger: I know that there are going to be all these variances.

Scott Givens: If I was going to pick on your plan, the only thing I would do is to look at the area behind the Wendt's. I know you said that you just squiggled a line there. I would want to physically go out there to see that.

Sean Unger: I would encourage you guys to do that.

Mike Wendt: Someone asked the distance on the squiggly line, the lines that are drawn on the map would be about 15 – 20 feet from the property line.

Sean Unger: I am comfortable with saying 100 feet then

I just don't know if they are opposed to this or for it.

Mike Wendt: At this point, with this drawing, no.

Mike Howard: Mike, understand that I just tried to copy off of the drawing that Sean brought me.

Pat Hess: What is required when they actually go before the Board of Zoning Appeals? Are they going to have to have a survey?

Mike Howard: We don't normally require a engineered or a legal survey, but we do basically sit down with them and draw it out and measure out the distances and tell them what they do have to be and write it out so that they do know what it has to be.

Pat Hess: So if it is approved, then it is approved subject to those drawings?

Curt Campbell: You are not asking for all of this to be approved right now are you?

Sean Unger: I am going to make it easier on the Board now, take out the blue line, (zip line area) make that straight across now. Take the west line of Legacy Ridge and go straight south to the south line for the area to be used. I can always come back 3 or 4 years in the future. I want to put everybody at ease. I will revisit that at another time. I am not looking to use that roadway at this time. We'll work with that for now.

Sam Unger: Would I still be able to use the roadway?

Sean Unger: Yes that is on your ground.

Chris Lochner: Who is applying for the Special Exception #8, is Sam's name on it or are Sean and Natalie's?

Mike Howard: Sean and Natalie Unger are the names on the application. One of the requirements that I have written down is that there will be a written document signed by Sam and Deanna Unger for the use of their ground for this purpose.

Chris Lochner: So you will table the recommendation until that happens, correct?

Mike Howard: I don't know why we would table the recommendation. The Plan Commission Board would be a motion for a recommendation even if the Board votes no it still goes to the BZA, with the understanding that the Plan Commission Board voted no. The thing is that what the Board is looking at here, as Mr. Hess said, there are several things that need to be answered, and I have made a list of those things. Those things would have to be answered at the BZA meeting or it would not go through approved by the BZA until answered.

Curt Campbell: It would be pending all those other things.

Scott Givens: So you are asking for a Special Exception for everything, the zip line, the climbing tower, sledding hill, and pavilion.

Patty Godfroy: Where is parking? Where will you put your customers cars?

Sean Unger: I am a big fan on not making it so commercial looking. It is an old barnyard, it has been a barnyard for many generations, it is solid. I don't want to just cover it with gravel. If you go to Hawkins Family Farm I am sure you are not parking on gravel, I have not been there I should go. I can't imagine that they would want to bring in all that stone. Parking would be in the grassy area.

Patty Godfroy: So you are saying south of the barn here?

Curt Campbell: Again, you are not talking large groups at any one time, it is all going to be similar to what we talked about before?

Sean Unger: No, If I make it 4 sided, the maximum group for the wall would be twelve. I feel I should make it 4 sided.

Mike Howard: We want to be sure that no one is backing out onto the road, and that they are not carrying mud onto the roadway. I don't see parking lot surface as a big issue. The Unger's don't want the lot all rutted up.

Joe Vogel: Some area around the barn looks like it already has some gravel.

Curt Campbell and Cheri Slee stated that you don't want any more runoff.

Joe Vogel: Why do you have to tear down the barn?

Sean Unger: I want the wall to be viewed.

Curt Campbell made the motion to give a favorable recommendation to proceed to the Board of Zoning Appeals, this was seconded by Cheri Slee. The motion passed, Special Exception #8 will be presented to the Board of Zoning Appeals at the September 26th meeting.

Sean Unger: As far as the existing tower?

Mike Howard: I don't have the answer.

Mark Guenin: It is not this Boards decision.

Scott Givens: Next on the agenda is the David Francis unsafe premise order.

Mike Howard: David Francis has an unsafe premise located at 55 S. Mulberry St. in Servia. He has been given the opportunity to appear tonight to present his case and a deadline of September

4, 2017 for the house to be taken down. He is not present tonight and the structure is still standing. We need a motion to have Larry Thrush proceed with legal action.

Joe Vogel made the motion to proceed, this was seconded by Randy Curless. The motion carried.

Mike Howard: We have been asked to look into setbacks for trails. We have been looking, but finding no information on setbacks for this purpose. One thing that we did find is a recommendation that the trails are located one hundred feet from the property line. I don't think you can use setbacks from property lines, it would have to be from structures. I looked at possibly keeping the trail in a straight line from the river, up the bluff and straight out to the road. This would move the trail farther west of the Gray property.

Mike Howard: The Grays' are not allowing the Wabash River Trail to use their river bottom property. The anticipated plan is to use the roadway in front of the Gray's home and then go along the west side of the Gray property, this would be on property owned by Tom Christman.

Patty Godfroy: Is the setback from the edge of the trail or the center of the trail?

Mike Howard: The setback would be to the edge of the berm of the trail.

Curt Campbell: Is this area tillable ground?

Mike Howard: Yes, but it currently is not being farmed. We will continue to research.

Scott Givens: Next on the agenda is mowing liens.

Mike Howard: I talked with the Board of Zoning Appeals and they gave their approval to create a new ordinance for 2018. If a property is not mowed within the time frame given, a contracted crew would mow and the county would put a lien on the taxes. One county is using a fee schedule of \$100.00 for the first hour of mowing and \$1.00 for every thirty minutes after that.

Joe Vogel: This would apply only to platted areas in the county?

Patty Godfroy: How high can the grass be?

Mike Howard. The Commissioner's Ordinance states 18 inches.

Cheri Slee: What about areas that have conservation grasses planted?

Mike Howard: They would just need to tell us that is what they are doing. Those areas would be excluded.

Scott givens: Where would the funds come from to pay the contracted mowing crew?

Mike Howard: We have money in the unsafe premise fund. We just need to be sure the payments go back to that fund.

Mike Howard gave further updates:

The Plan Director from Decatur County called, they have someone wanting to put in a 600 acre solar farm and were asking for information from our County Ordinance. Some local farmers have been approached about using 200 – 250 acres of farm ground for solar farms.

Curt Campbell: How would that be handled here?

Mike Howard: It would require a Special Exception.

Joe Vogel: I think we would need to look at setbacks from property lines. Can we go somewhere and look at a solar farm?

Mike Howard: I will check into taking a tour of a solar farm.

Curt Campbell: There is one in Carroll County, close to Burlington.

Scott Givens: Next on the agenda is complaint updates.

Mike Howard: Complaints have slowed down in the month of August. We are working on four properties in Urbana.

Scott Givens: Opened the floor for discussion.

Mike Wendt: Why haven't you passed the new County Ordinance? I would support you on passing it.

Mike Howard: We are working on a Parcel Review Committee, I want to include that in the new ordinance book.

Mike Wendt: If you are waiting to cover everything you will never get it completed, new things will keep coming up.

Curt Campbell: We have several things, for example how much ground to build a home on in agriculture areas.

Mike Howard: I would like to avoid as many amendments as possible. I know there are always going to be some.

Mike Howard: Regarding a property in Urbana, I would like for the Board to look at a letter suggesting fines for not mowing. Based on the current Ordinance the first violation could be up to \$2,500 and each additional fine could be up to \$7,500. I recommend a fine of \$500 and a second violation would have a fine of \$2,000 for this offender.

Scott Givens: This fine would be put on their taxes?

Christian Rosen: Made the motion to keep the fees for this as stated in the Ordinance.

Mike Howard: If he doesn't mow within 10 days of the notice the fees will be in effect.

Randy Curless: Seconded the motion, motion carried. Mr. Givens signed the Findings and Order.

Joe Vogel made the motion to adjourn the meeting. This was seconded by Christian Rosen. Meeting adjourned at 9:00 PM.

Libby Cook
Secretary, Wabash County Plan Commission Board