

**City of Evansville Plan Commission
Regular Meeting
Tuesday, August 1, 2023, 6:00 p.m.**

MINUTES

1. **Call to Order** at 6:04pm.

2. **Roll Call:**

Members	Present/Absent	Others Present
Mayor Dianne Duggan	P	Colette Spranger (Community Dev. Director)
Aldersperson Gene Lewis	P	Jason Sergeant (City Administrator)
Aldersperson Abbey Barnes	P	Richard Kersten, Lester Kersten, Gerald Kersten
Susan Becker	P	Bill/Barb Krumweide, Chris Gransee, Brian Smith
John Gishnock	P	Don Templeton, Ben Corridon, John Helgesen,
Mike Scarmon	P	Joe Geoffrion, Andy Phillips, Wanda Keniston,
Eric Klar	P	Jim Baldauf, Paula Ostrowski, Pat Galecki
		Alvin Francis, Larry Meier, Allison/Mike Hilliard,
		Rich Templeton, Ken Updike, Mike Sullivan,
		Jim/Sheri Ackley, Emil/JoAnne Quast, Pat Lentz
		Deb Tomlin, Kaye Crocker, Ivy Otto,
		Guy /Julie Kunz

3. **Motion to approve the agenda, by Becker, seconded by Klar. Approved unanimously**

4. **Motion to waive the reading of the minutes from the July 6th, 2023 meeting and approve them as printed, by Becker, seconded by Barnes. Minor edits noted. Approved unanimously.**

5. **Civility Reminder.** Duggan noted the City's commitment to conducting meetings with civility.

6. **Citizen appearances other than agenda items listed.** None.

7. **Action Items**

A. Review and Recommended Motion of Land Division Application 2022-0292 for a Zero Lot Line Certified Survey Map on parcel 6-27-559.5051 (Lot 51, Westfield Meadows)

i. Staff Report and Applicant Comments. Applicant from RM Berg General Contractors was present. Spranger summarized the application, noting that it was very similar to other zero lot line divisions approved by the City in recent years. The applicant will also be submitting a joint cross access and maintenance agreement, which is currently underway.

ii. Public Hearing. Mayor Duggan opened a public hearing at 6:04pm. No comments. Public hearing was closed at 6:04pm.

iii. Plan Commissioner Questions and Comments

None.

- iv. *Motion for Common Council to approve a certified survey map to divide parcel 6-27-559.5051 into two lots for a two-family twin residence, located at Lot 51 Westfield Meadows, finding that the application is in the public interest and meets the objectives contained within Section 110-102(g) of city ordinances, with the condition the final CSM and joint cross access and maintenance agreement is recorded with Rock County Register of Deeds.*

Motion by Becker, seconded by Klar. Approved unanimously.

B. Review and Recommended Motion of Land Division Application 2023-0199 for a two lot Certified Survey Map on parcel 6-20-119.1 in the Town of Union within the City's Extraterritorial Jurisdiction (14904 Bullard Road)

- i. **Staff Report and Applicant Comments.** Spranger explained that this lot division within the City's extraterritorial jurisdiction can be approved by Plan Commission due to its ability to be further subdivided at a later date. The applicants have submitted a potential plat that creates developable lots.
- ii. **Public Hearing.** Mayor Duggan opened a public hearing at 6:09pm. Gerald Kersten, who farms nearby, voiced concerns about stormwater impacts from Lot 2 being paved. Duggan and Spranger explained that the City only has say over land divisions within the Town of Union and the matter would be better answered by Town or Rock County decision makers.
- iii. **Plan Commissioner Questions and Comments.** None.
- iv. *Motion for Common Council to approve a certified survey map creating two lots from parent parcel 6-20-119.1 located at 14904 Bullard Road, Town of Union, finding that the application is in the public interest and meets the objectives contained within Sections 110-230 and 110-102(g) of city ordinances, with the following conditions:*
1. *The final certified survey map is recorded with Rock County Register of Deeds, along with the record of decision from the City outlining these conditions.*
 2. *The applicant fulfills any other obligations set forth by the Town of Union and Rock County.*
 3. *No further land division of these parcels occur prior to August 8, 2043 unless superseded by one or both of the following:*
 - i. *An update to Article VII of the City's Subdivision ordinance, last amended by Ordinance 2020-12; or*
 - ii. *The Town of Union and City of Evansville enter a boundary agreement.*

Motion by Becker, seconded by Duggan. Approved unanimously.

C. Review and Recommended Motion of Land Division Application 2023-0200 for a lot line adjustment on parcel 6-20-340 in the Town of Union within the City's Extraterritorial Jurisdiction (8439 N Birdie Lane)

- i. **Staff Report and Applicant Comments.** Spranger reported that the application was to correct the parcel's legal description. It is currently listed as an outlot, which appears to be a hold-over from when the lot was created from a combination of a buildable lot and outlot. The Town approved a building permit and the County approved a private on-site wastewater system permit for the property. The boundaries of the tax parcel ID assigned

- to this land is unchanged. No new lot is being created; therefore, the City's Subdivision Ordinance does not apply.
- ii. **Public Hearing.** Mayor Duggan opened a public hearing at 6:17pm. Pat Lentz, 8348 N. Cemetery Road, questioned why other land divisions in the extraterritorial jurisdiction required 35 acres when a building was separated from the remainder of the lot. Staff reiterated that there was no land division occurring with this application; the certified survey map was the tool needed to amend the legal description. Public hearing closed at 6:18pm.
 - iii. **Plan Commissioner Questions and Comments.** None.
 - iv. **Motion to Recommend Common Council approve a Certified Survey Map for parcel 6-20-340 in the Town of Union and finding that the application is in the public interest and meets the objectives contained within Section 110-102(g) of city ordinances with the condition the applicant files the final certified survey map with the Rock County Register of Deeds.**

Motion by Becker, seconded by Klar. Approved unanimously.

~~**D. Review and Recommended Motion of Land Division Application 2023-0226 for a final subdivision plat and development agreement on parcel 6-27-930 (Historic Standpipe Point)**~~

- ~~i. Staff Report and Applicant Comments~~
- ~~ii. Public Comment~~
- ~~iii. Plan Commissioner Questions and Comments~~
- ~~iv. Motion with Conditions~~

E. Review and Recommended Motion of Land Division Application 2023-0192 for preliminary plat on parcel 6-20-218B in the Town of Union within the City's Extraterritorial Jurisdiction (Conifer Hills, Fourth Addition)

- i. **Staff Report and Applicant Comments.** Spranger explained that the only difference between this application and the one denied by Common Council in May 2023 was that the applicant felt it important to resubmit the plat and acknowledge there were in fact covenants associated with the land. Covenants and other types of land restrictions are agreements between private parties. The City does not and will not enforce them nor consider them as part of an application. Staff stand by their recommendation to deny the application.
- ii. **Public Hearing.** Mayor Duggan opened a public hearing at 6:20pm. Spranger shared two comments received over the phone. Shari Rasmussen expressed the covenant's commitment to preserve woodlands, which she feels would be threatened by this plat. Kathy Wiedel re-expressed a concern about the number and size of the lots, noting that stormwater and erosion control would be harder to maintain with more lots. Public hearing was closed at 6:21pm.
- iii. **Plan Commissioner Questions and Comments.** None.
- iv. **Motion to deny application 2023-0192 for a preliminary plat on parcel 6-20-218.B, finding that the application is inconsistent with Chapter 110 of the Municipal Code and with the City of Evansville Comprehensive Plan.**

Motion by Becker, seconded by Barnes. Approved unanimously.

F. Review and Recommended Motion of Annexation Application 2023-0194 to attach four parcels totaling 241.45 acres from the Town of Union to the City of Evansville

- i. Staff Report and Applicant Comments.** Spranger began by explaining that the rest of the applications on tonight's agenda were inter-related and that questions that arose during the public hearing might be asked to wait to be answered if it was more appropriate to be discussed in conjunction with another application. Plan Commission has different criteria to consider for different applications.

The annexation application is the first step towards granting approvals for a large agribusiness user to construct a soybean oilseed processing facility in Evansville. The user, CHS Oilseed Processing (CHS), has brokered land control with the current landowners of the properties being considered for this site. Four of those properties are within the Town of Union. The landowners have jointly petitioned the City and the State Department of Administration for annexation. City staff believe the application for these lands to come into the City is one that is consistent with the City's Comprehensive Plan and the policies therein. Plan Commission can recommend that Common Council approve the ordinance annexing these lands into the City. The ordinance will be voted on at the September Common Council meeting.

- ii. Public Hearing.** Mayor Duggan opened a public hearing at 6:34pm. Alvin Francis, Town of Union Plan Chairman, asked why the facility was not being built in the Town. Staff replied that the location had been identified by the user as an ideal one, given their need to access City facilities and utilities and its location along the railway. The City does not allow users to connect to its utilities without being in the City. There were other questions regarding the water source and the wastewater plans for the facility, which are still being worked out with the applicant and engineers. Public hearing was closed at 6:42pm.

- iii. Plan Commissioner Questions and Comments.** None.

- iv. Finding the annexation is consistent with the Comprehensive Plan, the Plan Commission recommends Common Council approval of Ordinance 2023-08 and the Annexation agreement, annexing territory to the City of Evansville, with the following conditions:**

- 1. The applicant signs and accepts the Annexation agreement.**
- 2. Remove all dwellings, buildings, structures, private septic systems and wells unless otherwise agreed to through a development agreement with the City.**
- 3. Back taxes for the Town of Union are reimbursed per Annexation agreement.**
- 4. DOA reviews and deems annexation to be in the public interest.**

Motion by Becker, seconded by Barnes. Approved unanimously.

G. Review and Recommended Motion of Land Division Application 2023-0196 to combine six lots to create two lots (CHS Oilseed Processing)

- i. Staff Report and Applicant Comments.** Spranger explained the lots being combined includes the four lots in the annexation application as well as two additional lots already within the City. This is only valid if Common Council approves the annexation and if CHS records the CSM with the County.

ii. **Public Hearing.** Mayor Duggan opened public hearing at 6:48pm. Hearing no comment, public hearing was closed at 6:48pm.

iii. **Plan Commissioner Questions and Comments.**

iv. **Motion with Conditions**

Motion to recommend that Common Council approve the preliminary certified survey map for parcels that include 6-27-958.07, 6-27-959.6, 6-20-219B, 6-20-318, 6-20-317.01, and 6-20-305, finding that the application is in the public interest and meets the objectives contained within Section 110-102(g) of city ordinances, with the following conditions:

1) Common Council approves Annexation Ordinance 2023-08.

2) Final Certified Survey Map adjusted to include corrected road right of way parcels, utility easements, and/or out lots as directed by the City.

3) The Final Certified Survey Map is approved by the City and recorded with Rock County Register of Deeds.

Motion by Becker, seconded by Klar. Approved unanimously.

H. Review and Recommended Motion of Rezoning Application 2023-0197 to rezone lands from agricultural to industrial use (CHS Oilseed Processing)

i. **Staff Report and Applicant Comments.** Spranger discussed why some of the parcels were being rezoned and others were not in the application.

ii. **Public Hearing.** Mayor Duggan opened public hearing at 7:07pm. Gerald Kersten expressed concern for semi traffic and how it may be affected by this project. There was a traffic study done relating to this project which showed the traffic increase would be minimal. Julie Koontz stated the noise level from the Mankato plant reached 51 decibels. Public hearing was closed at 7:16pm.

iii. **Plan Commissioner Questions and Comments**

iv. **Motion with Conditions**

Motion to recommend that Common Council approve Ordinance 2023-10, Rezoning 311.49 acres of Territory from Agriculture (A) to Heavy Industrial (I-2) subject to the following conditions:

1) Common Council Approves Ordinance 2023-08.

2) Common Council Approves Ordinance 2023-09.

3) Common Council Approves Land Division Application 2023-0196.

4) Applicant records Certified Survey Map with Rock County Register of Deeds.

Motion by Becker, seconded by Duggan. Approved unanimously.

I. Review and Recommended Motion of Conditional Use Permit Application 2023-0193 for an Agricultural Service Use (CHS Oilseed Processing)

i. **Staff Report and Applicant Comments.** Spranger explained that CUPs dictate what can actually happen on site and that this would be contingent on all of the other applications. Spranger explained the proposed use is for soybean processing and an

oil refinery with a rail yard. Spranger did not recommend action being taken on this application at this meeting as the City is awaiting further information.

- ii. Public Hearing.** Mayor Duggan opened public hearing at 7:26pm. Ivy Otto expressed concern for how the development may affect the Evansville Wildlife Area. Julie Koontz expressed concern for how the plant may affect the water system in the area. Public hearing was closed at 7:32pm.
- iii. Plan Commissioner Questions and Comments.** Becker had a question about the amount of truck traffic generated by the site, 90 truck trips per hour is listed in the study, which refers to 45 trucks with one trip going in and one truck going out.
- iv. Motion with Conditions**

Motion to recommend that Common Council approve a Conditional Use Permit for an agricultural service use to operate a soybean processing facility per Section 130-344 and extend construction initiation timeframe to 730 days and operational use timeframe to 1,095 days per Section 130-109 on parcel 6-27-958.07 finding that the benefits of the use outweigh any adverse impacts and that the proposed use is consistent with the required standards and criteria for issuance of a Conditional Use Permit set forth in Section 130-104(3)(a through e) of the zoning ordinance subject to the following conditions;

- 1) Ordinance 2023-08 annexation is approved and signed by the mayor*
- 2) Ordinance 2023-09 comprehensive plan update is approved and signed by the mayor*
- 3) Ordinance 2023-10 rezoning is approved and signed by the mayor*
- 4) Common Council approved Land Division Application 2023-196*
- 5) Applicant records Certified Survey Map with Rock County Register of Deeds*
- 6) Site Plan application 2023-0195 is approved by Plan Commission*
- 7) The business operator shall obtain and maintain all City, State, County, and Federal permits and licenses as may be required*
- 8) Any substantial changes to the business model shall require a review of the existing Conditional Use Permit*
- 9) The use cannot create a public nuisance as defined by local and state law.*
- 10) The Conditional Use Permit is recorded with the Rock County Register of Deeds.*

Motion by Duggan, seconded by Becker. Approved unanimously.

J. Review of Site Plan Use Application 2023-0195 for a Soybean Oilseed Processing Plant (CHS Oilseed Processing)

- i. Staff Report and Applicant Comments.** Spranger explained that this is contingent on the rest of the applications. Spranger described the plan as it is submitted at the moment but that the design is subject to change. Spranger recommended no action being taken tonight on this application. Spranger stated the city is requesting a utility easement to the north of the property for future expansion.
- ii. Public Comment.** Julie Koontz asked about previous CHS plant closures, the plants in question were different types of plants than the proposed Evansville facility. There were additional comments regarding traffic and air quality in the area. Julie Koontz also asked about the approval process and if the public would get a vote. Duggan

explained the decision would be made by a vote by Common Council. Public comment ended at 8:22pm.

iii. Plan Commissioner Questions and Comments

iv. Motion with Conditions. None

K. Motion to Approve Resolution 2023-18 Public Participation Plan

Spranger explained how public participation is a required part of making a Comprehensive Plan Amendment.

Motion to approve Resolution 2023-18 Public Participation Plan

Motion by Becker, seconded by Klar. Approved unanimously.

L. Review and Recommended Motion of Comprehensive Plan Amendment Application 2023-0198 for an Agricultural Service Use (CHS Oilseed Processing)

i. Staff Report and Applicant Comments. Spranger reiterated the industrial use would need to be expanded to a larger area due to the size of the proposed project in relation to what was anticipated in the current Comprehensive Plan

ii. Public Hearing Mayor Duggan opened public hearing at 8:32pm. There was no public comment relevant to this application.

iii. Plan Commissioner Questions and Comments. None.

iv. Motion with Conditions

Motion to recommend that Common Council approves Ordinance 2023-09

Motion by Duggan, seconded by Becker. Approved unanimously.

8. Discussion Items

None.

9. Community Development Report

Spranger advised all application from CHS are available on the City website.

10. Next Meeting Date:

A. Tuesday, September 5, 2023 at 6:00 p.m.

11. Motion to Adjourn by Duggan, seconded by Klar. Approved unanimously at 8:35pm.