

PROJECT Auburn Data Center / Tower

PROJECT City Data Center / Tower
 project description 3395 CL 34

PROJECT CONTACTS

name	phone/fax	e-mail
Clint Krauer	925-1923	
Chris		
Norm		
Scott Brubaker		

documents enclosed

date	task/action	follow-up	start date	completion date
10-20-09	- Emailed Clint / issue request info how to get started		10-20-09	
10-29-09	emailed and waiting for info Clint	to client		
11/5/09	emailed to Brad & Norm - need permit info			
11/10/2009	emailed to Brad Stump - need structure & airport info			

notes

NOTES

Vikas Notes

11/11/2009 - met w/ Chris @ 12:57 pm & discussed the following

- 1) Clint approved to improve permit for tower, solely
- 2) B. Stump informed of
 - a. local airport approvals - Walker Power Airport notification
 - b. FAA approval - Indat need 100 ft above grade clear
 - c. Test structure act over 200 ft from runway
- 3) Waiting on response Chris said he would contact by Coach on airport? Brad would follow up w/ Indat. Chris forwarded everything to Scott Brubaker from Seattle.

November 9, 2009

Bldg / P/ing
REC. 11-12-2009
N

All Plan Commission Board Members

RE: 911 Communications Tower

Dear Plan Commission Board Member,

cc: to:
• Chris S.
• Scott Bowles
• Norm Yoder
•

The City of Auburn has petitioned my office for the approval of the construction of a 911 Communications tower along with several satellite dishes which are part of the proposed enhanced 911 communications facility.

Currently the Unified Development Ordinance does not cover Critical/Public Facilities. Critical/Public Facilities are generally considered to be exempt and as such do not require approval from the Plan Commission. Case law supports the general consensus that Critical/Public facilities are exempt, however I feel that the Unified development Ordinance should specifically state the types and under what circumstances the aforementioned structures are to be considered exempt.

Attached is a letter from David Kruse concerning case law in regards to Critical/Public facilities, as well as a Site-Plan of Auburn's proposed Enhanced 911 communication site.

I would like to begin initial discussion of the aforementioned matter at the November 18, 2009 Plan Commission Meeting.

Respectfully,



Clinton W. Knauer
Zoning Administrator
DeKalb County

ATTACHMENTS

DAVID A. KRUSE
ANDREW D. KRUSE
WM. JOSEPH CARLIN, JR.



KRUSE & KRUSE, P.C.

Attorneys at Law
143 E. NINTH STREET
P.O. BOX 108
AUBURN, INDIANA 46706-0108
TELEPHONE 260-925-0200
FACSIMILE 260-925-1228

DERALD D. KRUSE

1944-2006

Bldg 1/PINg
Rec. 11-12-2009
u

November 2, 2009

Clinton Knauer
DeKalb County Plan Commission
301 South Union Street
Auburn, Indiana 46706

RE: Utility companies

Dear Clinton:

I did some research on the public utilities zoning exemption laws. The concept comes under I.C. 36-7-4-1102 which states:

"36-7-4-1102. Advisory planning law supplemental. - ADVISORY.

The advisory planning law is supplemental to and does not abrogate the powers extended to agencies, bureaus, departments, commissions, divisions, or officials of state government by other statutes and these powers remain in effect. Powers of supervision and regulation by these entities of state government over political subdivisions or persons also are not abrogated and continue in effect. [IC 36-7-4-1102, as added by Acts 1981, P.L. 309, s. 23.]"

It has been held that public utilities are regulated by the Public Service Commission and are not subject to the provisions of the zoning act. See *Graham Farms, Inc. v. Indianapolis Power & Light Co.*, 233 N.E.2d 656 (1968). But, be aware that some cities and towns have opted out of the state Public Service Commission regulation. Also see *Darlage v. Eastern Bartholomew Water Corp.*, 379 N.E.2d 1018 (1978).

As you are aware, the old county zoning ordinance had the following provision:
"P. PUBLIC UTILITY INSTALLATIONS EXEMPT. Structures and land used for Public Utility installations so defined herein, while so used, shall not be affected by restrictions or regulations of this ordinance; provided however, that power substations, terminal facilities and treatment or processing plants are Contingent Uses and are subject to the provisions of this Ordinance."

As we discussed, I favor putting in the zoning ordinance any exemptions. This helps in the administration of the zoning laws in that the zoning administrator or his staff only needs to look at one source to find the law.

rec
11-12-2009
u

In addition, you may want to be sure that the law on exemption of mineral resources is also in the new ordinance. See I.C. 36-7-4-1103, to-wit:

"36-7-4-1103 Miscellaneous provisions; use and alienation of mineral resources and forests outside urban areas

Sec. 1103. (a) This section does not apply to a plan commission exercising jurisdiction in a county having a population of more than twenty thousand three hundred (20,300) but less than twenty thousand five hundred (20,500).

(b) ADVISORY - AREA. For purposes of this section, urban areas include all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.

(c) ADVISORY - AREA. This chapter does not authorize an ordinance or action of a plan commission that would prevent, outside of urban areas, the complete use and alienation of any mineral resources or forests by the owner or alienee of them."

The old zoning ordinance had the following provision:

"Q. MINERAL EXTRACTION EXEMPT. Nothing herein shall prevent, outside of urban areas, the complete use and alienation of any mineral resources or forests by the owner or alienee thereof. For the purpose of this paragraph, urban area shall include any land, or lots used for residential purposes where there are eight (8) or more residences within one quarter (1/4) mile square area and such other lands or lots as have been or are planned for residential areas contiguous (sic) to incorporated cities and towns."

You should also get the input of your professional planner, Brad Johnson. This letter should help you in presenting this issue to the Plan Commission.

Sincerely,

KRUSE & KRUSE, P.C.



David A. Kruse

DAK/
09-04

Clinton Knauer

From: Vivian Likes
Sent: Tuesday, October 20, 2009 5:40 PM
To: Clinton Knauer; Joyce Shopp
Cc: Chris Schweitzer; Scott Bowles; Mayor Norm E. Yoder; William Spohn
Subject: FW: AES TV Head End & Tower
Attachments: C101 Plot Plan.pdf; C110 Site Development Plan.pdf; City property CR 34.pdf

Clint
cc: Joyce

Mayor Yoder asked that I gather info from you as to what is required for approvals and construction for the proposals listed below.

If you would please outline the requirements for county approvals: such as; county bza for variances approvals, faa approvals, tall structures state approvals, any pc approvals, etc.
Also, what is required, plot plans, etc.

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Note: This site & proposal is located at the Auburn Electric Dept's. existing transformer station.

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This project consists of satellite dishes & small building for equipment & 300 ft. tower.

There will not be any sewer & water for this project.

- a. The attached development plan refers to C110 site development plan.
- b. This will be the 1st project (timeframe unknown)
- c. Contacts for this project:
 - i. Chris Schweitzer @ 260.333.0100
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This project consists of future building for central dispatching, the other bldg to the north, unsure as to timeframe or construction

There will be sewer & water for this project – so this could be in our ETJ area in the future.

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If I can be of any assistance let me know. Also, see Chris S. message below.

Thanks.
Viv

Vivian J. Likes, Zoning Administrator
City of Auburn, Indiana - Dept. of Building, Planning and Dev.
210 S. Cedar St. - PO Box 506 - Auburn, In 46706-0506
Ph: 260.925.6449 ext 1202
Fax: 260.920.3342
eml: vjlikes@ci.auburn.in.us

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To: Vivian Likes
Cc: Norm E. Yoder, Mayor; Scott Bowles; 'Bryan Reece, P.E.'
Subject: AES TV Head End & Tower

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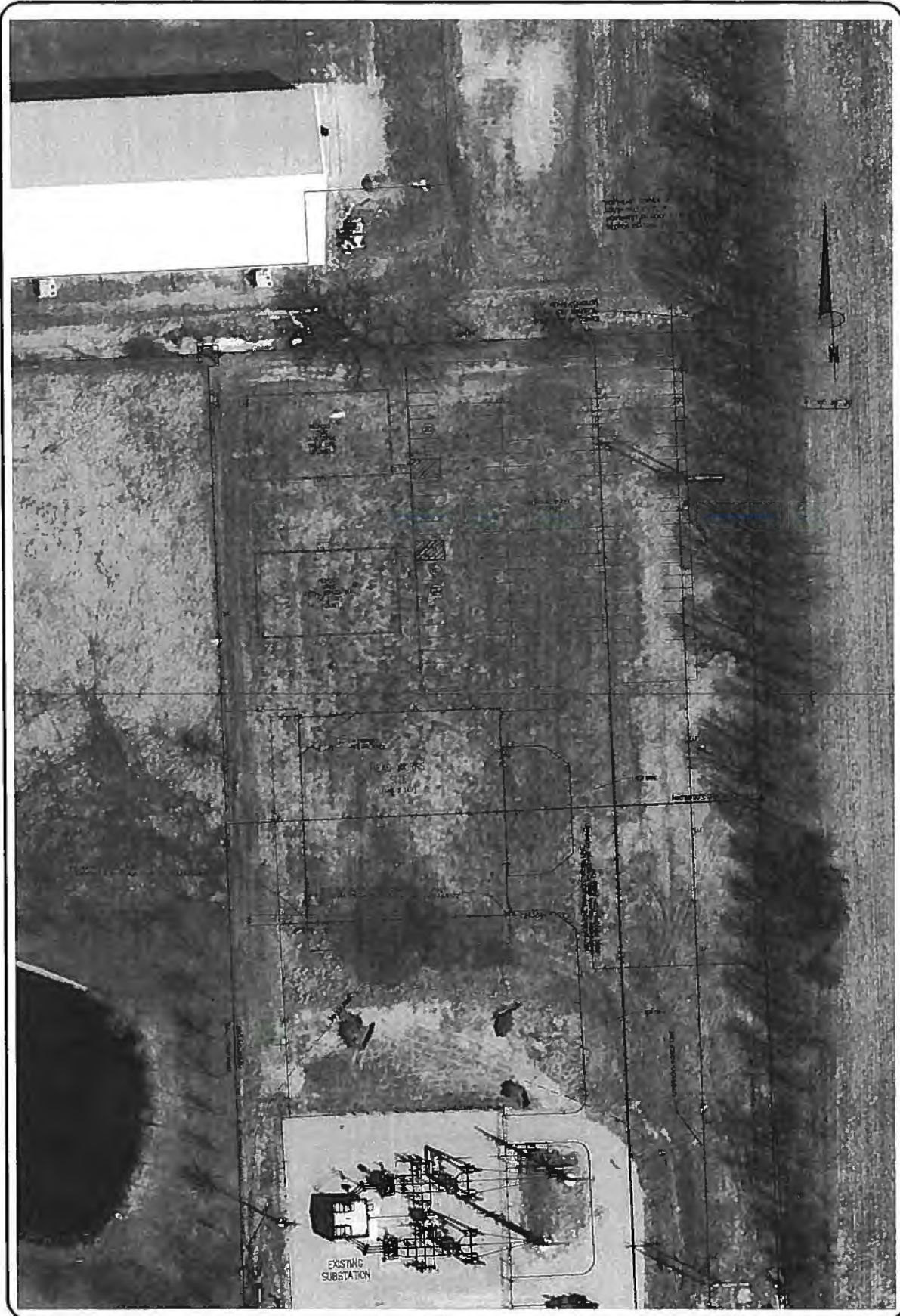
The tower is a 300 foot tower (not 200 as this version of the plan indicates)

Chris

Christopher W Schweitzer, AICP, GISP
Manager
Auburn Essential Services
210 S Cedar St, 2nd Floor City Hall / PO Box 506
260.333.0100 ext 1701
260.920.3354 fax
260.235.0405 mobile
Visit us at www.AuburnEssentialServices.net

Your Community Network.

Auburn Essential Services (AES), a division of the Auburn Electric Department is a municipal project that provides Internet, phone & TV* services over a community-owned fiber optic network. To learn more, contact AES at 333.0100 or online at www.AuburnEssentialServices.net (*TV available 2010)



DATE: 6/21/2011
 TIME: 11:30 AM
 DRAWN BY: [Name]
 CHECKED BY: [Name]

PROJECT: [Name]
 SHEET: [Number]
 TOTAL SHEETS: [Number]

SCALE: 1" = 20'
 NORTH ARROW: [Symbol]

OWNER AND LOCATION
 AUBURN ESSENTIAL SERVICES - AUBURN, INDIANA
 HEAD WORKS PROJECT
 TITLE
 PLOT PLAN


Spectrum
 TRANSMISSION CORPORATION
 1601 North Main Street
 Auburn, Indiana 47006
 (219) 627-3600 Fax 877-6138

PROJECT: [Name]
 SHEET: [Number]

Vivian Likes

From: Brad Stump - City Messaging Account
Sent: Tuesday, November 10, 2009 3:47 PM
To: Vivian Likes
Cc: Chris Schweitzer; Russ Couchman; Clinton Knauer
Subject: RE: AES TV Head End & Tower
Attachments: Permit Requirements Review 11-10-2009.pdf; faa7460_1.pdf; City property CR 34.pdf; C101 Plot Plan.pdf; C110 Site Development Plan.pdf

Vivian,

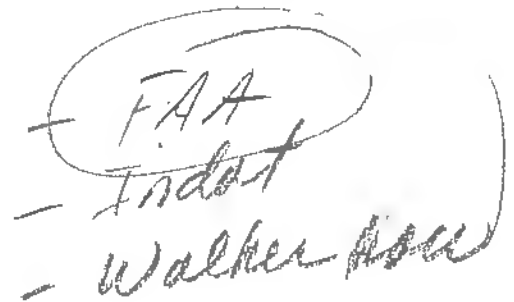
Sorry for the delay, I was out of the office yesterday. I have attached a letter to answer your questions regarding permitting requirements as I understand them. You are correct that the site does appear to lie 5,000' from the edge of the buffer for the DeKalb County Airport however the site does actually lie within the buffer for the Walker-Rowe airport so they will need to be part of the permit review process.

I also attached the files you sent me so everyone else can see the documents I used as a basis for my review in case they have any questions.

Please let me know if you need anything else or if I didn't answer all your questions. Have a great afternoon!

Respectfully,

Brad Stump, GISP
GIS Coordinator
100 S Main St
Auburn IN 46706
260-927-2356 (Voice)
260-925-0060 (Fax)
bstump@ci.auburn.in.us



- FAA
- Indot
- Walker Rowe

From: Vivian Likes
Sent: Thursday, November 05, 2009 10:35 AM
To: Brad Stump - City Messaging Account
Subject: AES TV Head End & Tower

Brad,

Clint K. informed me he informed you about the project, we are doing the dishes & tower 1st. Clint oked verbally subject to whatever other approvals are required.

Since you are the airstrip guru tell me what we gotta do.

According to the gis maps it seems we may be about 5,000 ft. from the edge of the airport 5 nautical mile buffers for dekalb & walker row airport buffers.

Also, do we fall within the tall structure act, is this a separate approval from the state?

Can you tell me what we need to do on that part.

Hope this makes sense

Above are proposals

Viv

DeKalb County Central United School

Parker, Richard Leo & Dostle E.
3406

DeKalb Co. Central United School Dist.
4330

DeKalb Central High School Renovation Bldg. Corp.
Private

County Road 427

129

3453

Gibson Holdings, LLC

possible
future
data center

central
dispatch
bldg

300 Ft. High
Communication
Tower & other
structures

DeKalb Co. Central United School D

city of Auburn

Inchew, Roger D. & Jean P.

Schaeffer, Conrad P. & Carole E.

3395

DeKalb County GIS Department

Brad Stump, Coordinator

100 South Main Street
260-927-2356

Auburn, IN 46706
260-925-0060 Fax

November 10, 2009

Vivian Likes
Zoning Administrator
PO Box 506
Auburn IN 46706

RE: Review of proposed tower site for Central Communications facility (CR 34)

Vivian,

Below are my observations of the planned telecommunication tower for the proposed central communications site off County Road 34 just east of County Road 427. All of the following calculations and determinations are based on the approximate tower site location and planned structure height indicated on the source materials sent to me. It should be possible to make a more accurate determination, if necessary, once a proposal is made regarding the final tower location and height.

Because this tower will exceed a height of over 200' above ground level at the proposed site it will be required to file a Federal form 7460-1 "Notice of Proposed Construction or Alteration" with the FAA. This allows the FAA to review the project and make a determination if the structure presents a hazard to aerial navigation. The form can, and should, be filed electronically via the following website (<https://ocaaa.faa.gov/ocaaa/external/portal.jsp>). Filing electronically will speed up the time significantly (cuts the time by around a month). I will attach a PDF copy of the form to the email conveying this letter so you can see the form.

As far as the State is concerned, this tower is subject to the Tall Structures Act (IC 8-21-10). The site is within the 5nm buffer for the Walker-Rowe airport. Fortunately the site is outside the 5nm buffers for the DeKalb County Airport (5000'±) and the Harrold Airport (12,000'±) so only the Walker-Rowe Airport is involved in the review process.

A permit would appear to be required for the tower construction based on the following excerpt from IC 8-21-10-3:

IC 8-21-10-3

Permit requirements

Sec. 3. (a) Unless a permit has been issued by the department, a person may not erect, alter, or add to the height of any structure which falls within any one (1) of the following categories:

(1) Any construction or alteration of more than two hundred (200) feet above ground level at its site.

Notification must be provided to the Walker-Rowe Airport owner based on the following excerpt from IC 8-21-10-3:

(c) A person applying for a permit under subsection (a) must provide notice, at the time of the filing of the application for a permit, to the owner of a public use airport located within a five (5) nautical mile radius surrounding the structure, regardless of county lines, if the structure that is the subject of the permit is:

- (1) a new structure; or
- (2) an existing structure to which additional height is added.

The notification must be made according to the following provisions of the Tall Structures Act per the following excerpt from IC 8-21-10-3:

(e) Notice under subsections (c) and (d) must be sent by certified or registered mail, with return receipt requested, and must include the:

- (1) name, telephone number, and a contact person for the:
 - (A) applicant;
 - (B) department; and
 - (C) plan commission that has jurisdiction over the site of the structure;
- (2) location of the structure, including a legal description;
- (3) height of the structure; and
- (4) Federal Aviation Administration aeronautical study number assigned to the application, if applicable to the type of permit for which notice is required.

The applicant must provide written evidence that the structure doesn't violate the obstruction standards provided in the Tall Structures Act based on the following excerpt from IC 8-21-10-3:

(i) An applicant for a permit under subsection (a) must provide written evidence to the department that the structure being constructed does not violate section 7 of this chapter with regard to an existing public use airport, if a public use airport is located within a five (5) nautical mile radius surrounding the structure that is the subject of the permit.

(j) Unless a denial of permit is issued by the department, a Determination of No Hazard to Air

Navigation from the Federal Aviation Administration is a permit under this section, and a separate permit will not be issued by the department.

The proposed site appears to be approximately 17,000 feet from the reference point of the Walker-Rowe Airport. A Nautical Mile is 6,076 feet. This would appear to place the proposed tower site at an approximate distance of 2.80± nautical miles from the reference point of the Walker-Rowe Airport. The tower site elevation is 894± feet MSL therefore proposed tower height of 300 feet above ground level would indicate a maximum tower elevation of 1194± feet MSL. Per the INDOT Master Airport record the elevation of the airport is estimated to be 900 feet MSL (GIS contours appear to confirm this estimate). **This would place the proposed maximum tower height at approximately 294 feet above the elevation of the airport elevation and within 3 nautical miles of the airport reference point. This would appear to indicate INDOT should deny the permit based on the following excerpt from IC 8-21-10-7:**

Obstruction standards

Sec. 7. (a) This section applies to:

- (1) an existing public use airport; and
- (2) a public use heliport.

(b) If any of the obstruction standards set forth in this subsection are exceeded, the proposed structure is presumed to have a substantial adverse effect upon the safe and efficient use of the navigable airspace and would be a hazard to air navigation if constructed. Except as provided in section 9 of this chapter, the department shall not issue a permit for any proposed structure that would exceed any of the following obstruction standards:

- (1) A height that is five hundred (500) feet above ground level at the site of the object anywhere in the state.
- (2) A height that is two hundred (200) feet above ground level or above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of a public-use airport, excluding heliports, and that height increases in the proportion of one hundred (100) feet for each additional nautical mile of distance from the airport up to a maximum of five hundred (500) feet.

The proposed tower location and height do not appear to negatively impact any of the imaginary surfaces established by Federal Aviation Regulations (FAR) Part 77 nor IC 8-21-10-8 (Section 8 of the Tall Structures Act). Additionally, in my opinion, the proposed tower location and height do not appear to impact any existing or proposed instrument approach and would not appear to have any significant effect on VFR operations. **These facts do significantly help support a waiver as provided for in the excerpt of IC 8-21-10-9 shown below:**

Waiver of strict compliance with obstruction standards

Sec. 9. The department may, in its discretion, waive strict compliance with the standards set forth in section 7 of this chapter based upon a clear and compelling showing by the applicant for a permit that:

- (1) the proposed structure would be between five hundred (500) and one thousand (1,000) feet above ground level at its site and would not be located within two (2) statute miles of an interstate or major arterial highway, a major waterway, or a visual omni range (VOR) radial that supports a significant volume of visual flight rules (VFR) traffic;
- (2) the proposed structure would be between five hundred (500) and one thousand (1,000) feet above ground level at its site and would not be located within two (2) statute miles of the centerline of any regularly used visual flight rules (VFR) transition route between an airport and any radio navigation aid or any other airport;
- (3) the proposed structure would be located in an approved antenna farm or would be shielded by another structure; or
- (4) the proposed structure would not affect a planned or existing primary instrument approach to a runway at an existing or proposed public-use airport, and would not have a significant effect on visual flight rule (VFR) operations.

I discussed the waiver possibilities with INDOT and their initial indication is that there would presently not appear to be an issue with this site. Lighting requirements will almost certainly be imposed on the tower due to the height however this is typical of nearly all structures of this height. If the group believes it to be beneficial I will be willing to act as the liaison with the INDOT Office of Aviation to assist with any waiver procedures.

Zoning and other development matters are, as you already know, topics that Clint Knauer and others will address.

Hopefully this has addressed the questions you had regarding the tall structures act.

Respectfully,

Brad Stump, GISP
GIS Coordinator
100 S Main St
Auburn IN 46706
260-927-2356 (Voice)
260-925-0060 (Fax)
bstump@ci.auburn.in.us

encl.

cc: Chris Schweitzer, IS Manager
Russ Couchman, Airport Manager
Clint Knauer, Zoning Administrator

From: Vivian Likes
Sent: Thursday, November 05, 2009 10:29 AM
To: Bill L. Walters
Subject: FW: AES TV Head End & Tower

Bill please review for permits
Clint has verbally approved & will issue improvement location permits when city is ready to acquire.
Let me know if you need add'l info
You may contact me and Chris Schweitzer
See info below
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Vivian J. Likes, Zoning Administrator
City of Auburn, Indiana - Dept. of Building, Planning and Dev.
210 S. Cedar St. - PO Box 506 - Auburn, In 46706-0506
Ph: 260.925.6449 ext 1202
Fax: 260.920.3342
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Cc: Norm E. Yoder, Mayor; Scott Bowles; 'Bryan Reece, P.E.'
Subject: AES TV Head End & Tower

Viv,

Enclosed is the DRAFT overview of the site...

The tower is a 300 foot tower (not 200 as this version of the plan indicates)

Chris

Christopher W Schweitzer, AICP, GISP
Manager
Auburn Essential Services
210 S Cedar St, 2nd Floor City Hall / PO Box 506
260.333.0100 ext 1701
260.920.3354 fax

260.235.0405 mobile

Visit us at www.AuburnEssentialServices.net

Your Community Network.

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From: Clinton Knauer
Sent: Monday, November 02, 2009 2:07 PM
To: Chris Schweitzer
Subject: RE: AES Tower / Construction

Chris,

We are good to go.

I have spoken with all parties involved and the consensus is that case law is sufficient to exempt critical/public facilities. I am still going to amend the ordinance to state that all public/critical facilities are exempt, however, it is not necessary for me to have the ordinance amended to exempt the 911 tower and dishes.

We will still need to re-zone the property to Institutional before the call center is constructed, but again I do not foresee any problems.

Any other questions do not hesitate to contact me.

Respectfully,

Clinton W. Knauer
Zoning Administrator
DeKalb County

From: Chris Schweitzer
Sent: Friday, October 30, 2009 1:30 PM
To: Clinton Knauer
Cc: Vivian Likes; Mayor Norm E. Yoder; Scott Bowles
Subject: AES Tower / Construction

Hey Clinton,

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I know the Mayor and Vivian is working with you on the logistics – let me know if I can assist in any way. And please let me know of timeline concerns.

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To: Norm E. Yoder, Mayor; Stuart Tuttle; Vivian Likes
Cc: Scott Bowles; 'Bryan Reece, P.E.'
Subject: FW: AES Tower / Construction



I guess we just need to know what permits, if any?

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I know the Mayor and Vivian is working with you on the logistics – let me know if I can assist in any way. And please let me know of timeline concerns.

Chris

Vivian Likes

Subject: RE: AES Tower / Construction

First, we'll need an improvement location permit from you for the Tower & dishes and I assume, if any, equipment bldgs for these items

Second: I understand you are saying we are good to go, but I thought there was a state statute IC8-21-10-3 permit requirements, but I think it may come after we acquire permits from you.

Unless this is exempt also. I usually check with Brad Stump since he is the airport expert for me.

Typically, I require someone to notify the local airport & acquire their written approvals before we issue any permits.

I can't see how this is any problem for the Walker/Rowe Waterloo Airport since we aren't far from the 5 mile buffer

- Sec. 3 (1) any construction or alteration of more than 200 ft. above ground level at its site and
- (3) (c) A person applying for a permit under subsection (a) must provide notice, at the time of the filing of the application for a permit, to the owner of a public use airport located within a five (5) nautical mile radius surrounding the structure, regardless of county lines, if the structure that is subject to the permit is (1) a new structure; or (2) an existing structure to which add'l height is added and also subsections (e) (1) thru (4).

Third, Do you want us to contact Bill Walters to find out what permits are needed and who needs to be licensed:

1. Footing/Footer permit
2. New Structure or Accessory Structure permits
3. Electrical permits
 - a. Premise electrical for the dishes
 - b. Premise electrical for the tower

Licensed Contractors:

1. General Contractors (constructing the structures)
2. Electrical Contractors
- 3.

Is there any

From: Chris Schweitzer
Sent: Monday, November 02, 2009 2:07 PM
To: Norm E. Yoder, Mayor; Stuart Tuttle; Vivian Likes
Cc: Scott Bowles; 'Bryan Reece, P.E.'
Subject: FW: AES Tower / Construction



I guess we just need to know what permits, if any?

Vivian Likes

From: marilyn gearhart [marilyn.gearhart@sbcglobal.net]
Sent: Monday, November 02, 2009 9:57 PM
To: Vivian Likes
Subject: Re: City Council representative to Plan Commission to replace Greg Kenner

Thanks for the Welcome!

Dick Stahly was the one who suggested the position to me. I thought about it and decided I would enjoy working with you and Bill..and the others, of course. As you have probably guessed, it is one of my areas of interest. So I emailed Norm to share my interest, and the rest is history. After the Council Meeting, I spent a little time with Dick and his wife. They filled me in on the time, location, etc. I'll try to remember where to sit. I'm definitely planning on attending.

As for meeting with you and Bill, Tuesday early afternoon, Wednesday late afternoon, or any time on Thursday is fine with me. Friday is completely committed. Either email or call -- 925-9623 -- to let me know when is best for you.

Looking forward to working with you,
Marilyn

m 11-3-2009
emailed to schedule appt

ⓐ wed 11-3-2009 ^{between} 2:30-4:30.

State Code Tall Structures (Tower Onfe)

IC 8-21-10-3

Permit requirements

Sec. 3. (a) Unless a permit has been issued by the department, a person may not erect, alter, or add to the height of any structure which falls within any one (1) of the following categories:

(1) Any construction or alteration of more than two hundred (200) feet above ground level at its site.

(2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one (1) of the following slopes:

(A) One hundred (100) to one (1) for a horizontal distance of twenty thousand (20,000) feet from the nearest point of the nearest runway of any public-use airport with at least one (1) runway more than three thousand two hundred (3,200) feet in actual length, excluding heliports.

(B) Fifty (50) to one (1) for a horizontal distance of ten thousand (10,000) feet from the nearest point of the nearest runway of any public-use airport with its longest runway no more than three thousand two hundred (3,200) feet in actual length, excluding heliports.

(C) Twenty-five (25) to one (1) for a horizontal distance of five thousand (5,000) feet from the nearest point of the nearest landing and takeoff area of any public-use heliport.

(3) Any construction or alteration of traverse ways used, or to be used, for the passage of mobile objects if the standards set forth under subdivisions (1) and (2) would be exceeded, but only after the heights of these traverse ways are increased by:

(A) Seventeen (17) feet for an interstate highway where overcrossings are designed for a minimum of seventeen (17) feet vertical distance.

(B) Fifteen (15) feet for any other public roadway.

(C) Ten (10) feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.

(D) Twenty-three (23) feet for a railroad.

(E) For a waterway or any other traversed way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

(b) Unless:

(1) a permit for construction in a noise sensitive area has been approved by the department;

(2) the holder of a permit for construction in a noise sensitive area has filed a copy of the permit for construction in a noise sensitive area with the county recorder of the county in which the structure is located, as provided in subsection (d); and

(3) a certified copy of the recorded permit for construction in a noise sensitive area, with the recording data from the county recorder on the copy of the permit, has been received by the department;

a person may not erect a building used for a noise sensitive purpose within an area lying one thousand five hundred (1,500) feet on either side of the centerline and the extended centerline of a runway for a distance of one (1) nautical mile from the boundaries of any public use airport

(c) A person applying for a permit under subsection (a) must provide notice, at the time of the filing of the application for a permit, to the owner of a public use airport located within a five (5) nautical mile radius surrounding the structure, regardless of county lines, if the structure that is the subject of the permit is:

- (1) a new structure; or
- (2) an existing structure to which additional height is added.

(d) A person applying for a permit for construction in a noise sensitive area under subsection (b) must provide notice, at the time of the filing of the application for a permit, to the owner of a public use airport if the public use airport is located within a distance of one (1) nautical mile from the boundary of the property that contains the building used for a noise sensitive purpose.

(e) Notice under subsections (c) and (d) must be sent by certified or registered mail, with return receipt requested, and must include the:

- (1) name, telephone number, and a contact person for the:
 - (A) applicant;
 - (B) department; and
 - (C) plan commission that has jurisdiction over the site of the structure;
- (2) location of the structure, including a legal description;
- (3) height of the structure; and
- (4) Federal Aviation Administration aeronautical study number assigned to the application, if applicable to the type of permit for which notice is required.

(f) The applicant for a permit under subsection (b) shall record each permit issued by the department in the office of the county recorder for the county where the structure is located, not later than five (5) business days after the department issues the permit. If a structure is located in more than one (1) county, the county that contains the majority of the structure is the county in which the permit must be filed.

(g) A permit issued under subsection (b) is valid only after the department receives a certified copy of the recorded permit with the recording data from the county recorder of the county in which the structure is located.

(h) A permit issued under subsection (b) must contain the following statement:

"The permittee acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit experiences or may experience significant levels of aircraft operations, and that the permittee is erecting a building designed for noise sensitive use upon the real estate, with the full knowledge and acceptance of the aircraft operations as well as any effects resulting from the aircraft operations."

(i) An applicant for a permit under subsection (a) must provide written evidence to the department that the structure being constructed does not violate section 7 of this chapter with regard to an existing public use airport, if a public use airport is located within a five (5) nautical mile radius surrounding the structure that is the subject of the permit.

(j) Unless a denial of permit is issued by the department, a Determination of No Hazard to Air Navigation from the Federal Aviation Administration is a permit under this section, and a separate permit will not be issued by the department.

As added by P.L.117-1983, SEC.1. Amended by P.L.54-2002, SEC.2.

IC 36-7-4-918.5

Board of zoning appeals; variance from development standards

Sec. 918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. A variance may be approved under this section only upon a determination in writing that:

(1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the "practical difficulties" standard prescribed by this subdivision.

(b) Before approval of a proposal involving a structure regulated under IC 8-21-10 may become effective, the board of zoning appeals must have received:

(1) a copy of:

(A) the permit for the structure issued by the Indiana department of transportation;

or

(B) the Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration; and

(2) evidence that notice was delivered to a public use airport as required in IC 8-21-10-3 not less than sixty (60) days before the proposal is considered.

As added by P.L.357-1983, SEC.14. Amended by P.L.54-2002, SEC.6.

Vivian Likes

From: Brad Stump - City Messaging Account
Sent: Friday, March 04, 2005 2:24 PM
To: Sally Rowe
Cc: Vivian Likes; Russ Couchman; 'Paul Shaffer'
Subject: Requiementfor tower company notification to airport
Attachments: Tall structure construction notification info for PC & BZA.doc

Sally,

Per your request I have attached a Word doc containing highlighted excerpts from state law relating to a tower company's requirement to notify the owner of a public-use airport when their proposed project is within 5 nautical miles of the airport property. Note that the permit referenced in the first section is the permit from INDOT and/or approval from the FAA. Also note that notice is required to be done by certified mail and to contain, at a minimum, several specific pieces of information. This has not been done with ether tower application. I am also copying this info to the City on the chance that they may have the same question or need to know the same information.

The Airport Manager, our consulting engineering firm and I have reviewed the two sites (one County and one City) and will submit a letter containing our comments to the appropriate Board of Zoning Appeals. I want to thank both the County and the City planning departments as they have been the ones to provide the required information rather than the two tower companies who were legally required to provide the notice when filing for permits with the FAA and/or INDOT. The aviation department director from the airport's consulting engineering firm commented that tower companies do this all the time and then, if/when caught, claim that they had no idea that a public airport was within 5 nautical miles. He noted that there is federal and/or state information readily available that tells them if a public use airport is within 5 nm of their proposed site. His experience is that the tower company will often just play dumb and figure that most communities are not educated enough to know that this notification and comment period exists or that it is legally required. The gentleman from the tower company that I talked to seemed to support this theory because he commented that no one else requires them to do this but "if DeKalb County and Auburn want to follow the law to the letter then he commends us" and that we "should do whatever we feel we need to do". The Board of Aviation does not intend on preventing anyone from erecting a tower as long as it is erected in accordance with the law and is not a potential hazard to air navigation. Our comments to the Boards of Appeals will be based solely on those principals.

Thanks again for your help in obtaining the information. I will make a map for you, either electronic or hard copy, showing all of the 5 nm "bubbles" around the county's three public-use airports so you can use this in the future to make sure these tower guys have their notification issues covered before they go in front of the BZA. Based on this situation, conversations with the other two public-use airports and my own past knowledge of other tower projects throughout the county we probably need to put something together to send to the other communities as well (Garrett, Butler, Waterloo, and Hamilton).

Respectfully,

Brad Stump
GIS Coordinator
100 S Main St
Auburn IN 46706
260-927-2356 (Voice)
260-925-0060 (Fax)
bstump@ci.auburn.in.us

Vivian Likes

From: Brad Stump - City Messaging Account
Sent: Thursday, March 03, 2005 3:45 PM
To: William Spohn
Cc: Vivian Likes; Sally Rowe
Subject: Request for tower information

Importance: High

Bill,

I apologize for the last minute request but can you please have someone make me a copy of the BZA application, site plan and supporting information for the proposed telecomm tower development in the SW part of Auburn. I believe Jim Phillips is the developer and the site is in the neighborhood of the Ball Brass facility. I am meeting with the County Airport Manager tomorrow AM to review this info. I was told by a representative of Mr. Phillips that they would send me the info ASAP however I have not received it. We now have two towers being proposed within 5 nm radius of the airport yet neither has given us the notice as required by IC 36-7-4-918.5 (excerpt below). The County tower is scheduled for a hearing on 3/7 but we were first notified on the morning of 3/2 and only given the final location in an email a few minutes ago. The tower in the City we have been told is scheduled for a hearing on 3/22 but we were first notified verbally on the afternoon 3/2 and given only a few details such as general location.

Excerpt from IC 36-7-4-918.5

(b) Before approval of a proposal involving a structure regulated under IC 8-21-10 may become effective, the board of zoning appeals must have received:

(1) a copy of:

(A) the permit for the structure issued by the Indiana department of transportation; or

(B) the Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration; and

(2) evidence that notice was delivered to a public use airport as required in IC 8-21-10-3 not less than sixty (60) days before the proposal is considered.

The tower in the County is also likely within 5 nm of the Walker-Rowe airport east of Waterloo so they also need to notify that airport. I will look into the tower in the City and let you know if they have to notify any other airport so you can discuss this with the applicant. Thanks in advance. Again, apologize for the last minute request but I was told we would be given the info and they have failed to deliver thus far.

Brad

Vivian Likes

From: Chris Schweitzer
Sent: Friday, October 30, 2009 1:30 PM
To: Clinton Knauer
Cc: Vivian Likes; Norm E. Yoder, Mayor; Scott Bowles
Subject: AES Tower / Construction

Hey Clinton,

Following up to our conversation – we are hoping to be authorized to begin construction as early as December.

I know the Mayor and Vivian is working with you on the logistics – let me know if I can assist in any way. And please let me know of timeline concerns.

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Vivian Likes

From: Vivian Likes
Sent: Thursday, October 29, 2009 12:29 PM
To: Clinton Knauer
Cc: Joyce Shopp
Subject: FW: AES TV Head End & Tower
Attachments: C101 Plot Plan.pdf; C110 Site Development Plan.pdf; City property CR 34.pdf

Whaz Up?

V

From: Vivian Likes
Sent: Tuesday, October 20, 2009 5:40 PM
To: Clinton Knauer; Joyce Shopp
Cc: Chris Schweitzer; Scott Bowles; Norm E. Yoder, Mayor; William Spohn
Subject: FW: AES TV Head End & Tower

Clint
cc: Joyce

Mayor Yoder asked that I gather info from you as to what is required for approvals and construction for the proposals listed below.

If you would please outline the requirements for county approvals: such as; county bza for variances approvals, faa approvals, tall structures state approvals, any pc approvals, etc.
Also, what is required, plot plans, etc.

The City of Auburn will have 2 projects going on @ 3395 CR 34 in the near future.
Note: This site & proposal is located at the Auburn Electric Dept's. existing transformer station.

I'll refer to the projects as the following:

- 1) Project A – City of Auburn Communications Tower (300 Ft. high) (timeframe of development unknown at this time – but still need info soon)
This project consists of satellite dishes & small building for equipment & 300 ft. tower.
There will not be any sewer & water for this project.
 - a. The attached development plan refers to C110 site development plan.
 - b. This will be the 1st project (timeframe unknown)
 - c. Contacts for this project:
 - i. Chris Schweitzer @ 260.333.0100
 - ii. Scott Bowles (I will forward this info to you later)

- 2) Project B - DeKalb Co. Central Dispatch project (timeframe of development unknown at this time)
This project consists of future building for central dispatching, the other bldg to the north, unsure as to timeframe or construction
There will be sewer & water for this project – so this could be in our ETJ area in the future.
 - a. The attached plot plan refers to C101 Plot Plan
 - b. This will be the 2nd project (timeframe unknown)
 - c. Contacts for this project:

- i. Chris Schweitzer @ 260.333.0100
- ii. Scott Bowles (I will forward this info to you later)

If I can be of any assistance let me know. Also, see Chris S. message below.

Thanks.

Viv

Vivian J. Likes, Zoning Administrator
City of Auburn, Indiana - Dept. of Building, Planning and Dev.
210 S. Cedar St. - PO Box 506 - Auburn, In 46706-0506
Ph: 260.925.6449 ext 1202
Fax: 260.920.3342
eml: vjlikes@ci.auburn.in.us

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JOB NO. 1000454
 DATE 6/20/2008
 DRAWN BY STW
 CHECKED BY BHR
 SCALE 1"=30'
 DRAWING NO. C101

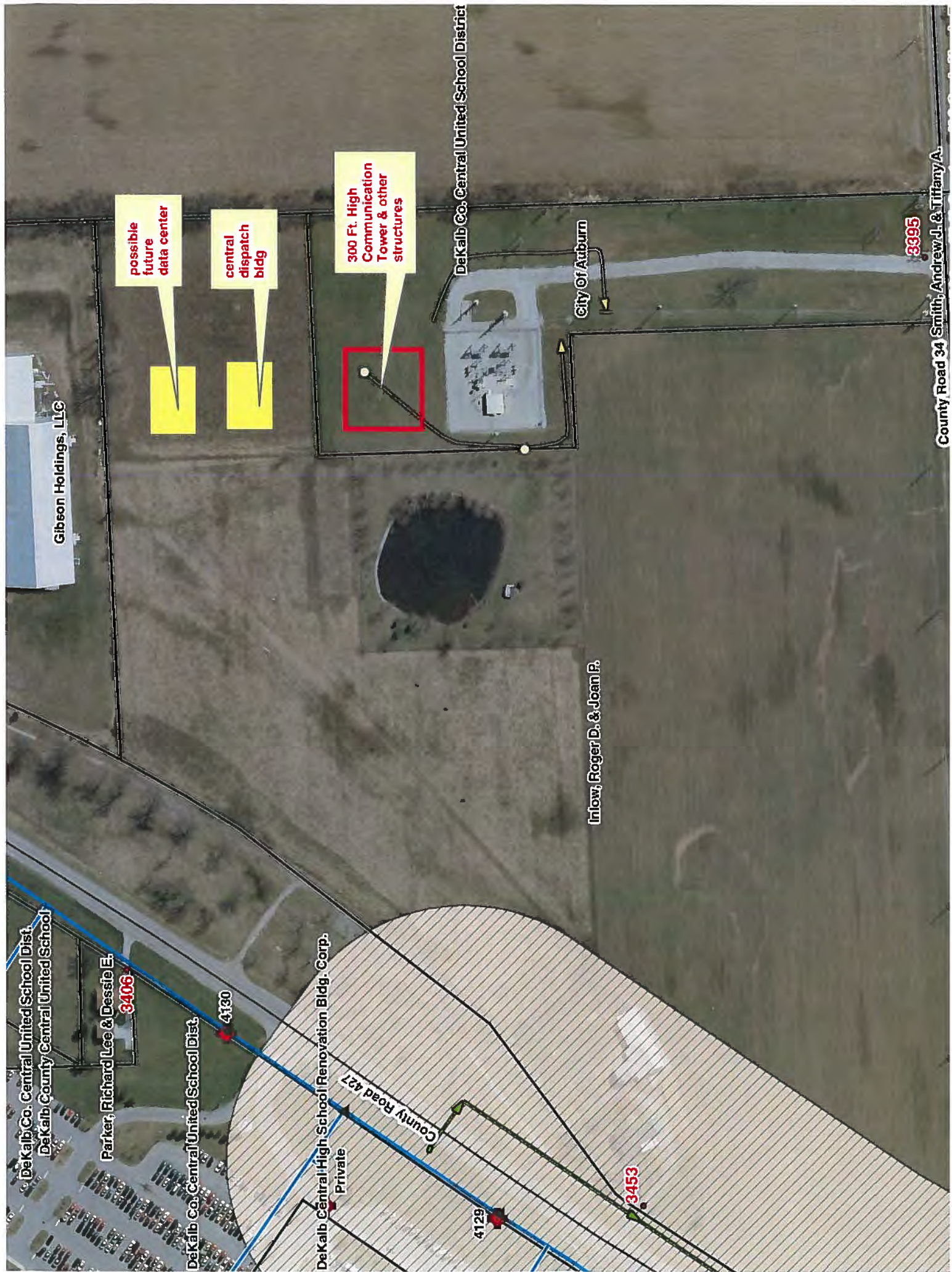
REVISIONS
 NO. DESCRIPTION
 00000000

SHEET NO.
 DATE

OWNER AND LOCATION
 AUBURN ESSENTIAL SERVICES - AUBURN, INDIANA
 HEAD WORKS PROJECT
 TITLE
 PLOT PLAN

8534 North County Line Road
 Auburn, Indiana 46708
 (317) 627-4000 Fax 627-4943

8534 NORTH COUNTY LINE ROAD
 AUBURN, INDIANA 46708



possible future data center

central dispatch bldg

300 Ft. High Communication Tower & other structures

Gibson Holdings, LLC

DeKalb Co. Central United School District

City Of Auburn

Inlow, Roger D. & Joan R.

DeKalb Co. Central United School Dist.
DeKalb County Central United School

Parker, Richard Lee & Dessie E.
3406

DeKalb Co. Central United School Dist.

DeKalb Central High School Renovation Bldg. Corp.
Private

County Road 427

3395

County Road 34 Smith, Andrew J. & Tiffany A.

4130

4129

3453

Micro WECS

1) Application Process. Applicant shall submit the following materials:

- a) A WECS Location Permit Application,
- b) Site Plan, with the following additional requirements:
 - 1) Location of the Micro WECS,
 - 2) Structures within a distance of 2 times the total height,
 - 3) All overhead utilities within a distance of 2 times the total height, &
 - 4) Location of exterior wiring associated with Micro WECS.
- c) Signed, notarized copy of the interconnection agreement for grid-connected systems,
- d) Letters
 - 1) Letters from affected properties granting waiver of setback or sound requirements, if applicable,
 - 2) Letter of Non-Objection or similar from the FAA, as necessary,
- e) A maintenance plan, &
- f) System Specifications:
 - 1) Manufacturer & model,
 - 2) Total system height, rotor size, ground or building clearance,
 - 3) Tower and tower foundation blueprints or drawings for tower-mounted systems, &
 - 4) One or three line electrical diagram.
- g) Other materials deemed necessary by the Plan Director to ensure compliance with this Ordinance.
- h) Expiration. The permit shall expire if:
 - 1) The Micro WECS is not installed within one (1) year. A one (1) year extension may be granted,
 - 2) The Micro WECS is declared abandoned, or
 - 3) The Micro WECS is declared unsafe.

2) Zoning.

Micro WECS shall be a permitted use in all zones.

3) Height.

- a) Building-mounted Micro WECS shall not extend more than fifteen (15) feet above the highest point of the structure it is attached to.
- b) Tower-mounted Micro WECS shall have a total height not taller than the tallest permitted primary structure building height for the zone in which it is located.

4) Setbacks.

- a) The setback shall be measured horizontally from the center of the base of the tower for tower-mounted Micro WECS and from the edge of the swept area for building-mounted Micro WECS.
- b) The minimum setback for tower-mounted Micro WECS from non-participating property lines shall be the required minimum setback for an accessory structure for the zone in which it is located.
- c) The minimum setback for tower-mounted Micro WECS from any structures, parking areas, or commonly used outdoor areas on non-participating properties, public road right-of-ways, and overhead utilities shall be 1.1 times the total height.
- d) Tower-mounted Micro WECS shall be setback so that the fall zone does not extend into the buildable area for a primary structure on non-participating properties.
- e) The minimum setback for an experimental Micro WECS shall be double the required minimum setback.

- f) The minimum setback from non-participating property lines for guy wires shall be the required minimum setback for an accessory structure in the zone in which it is located or ten (10) feet, whichever is less.
- g) Setbacks may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance, &
 - 2) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

5) Sound.

- a) Sound shall be measured at non-participating property lines and road right-of-ways.
- b) All Micro WECS shall comply with the County noise regulations as defined in Section 10.07 of the Steuben County Zoning Ordinance, except for during short term events, such as severe wind storms and utility outages.
- c) If the ambient sound level exceeds the above standards, the maximum sound level at the property line shall be ambient sound level + 5 dB.
- d) Sound requirements may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance &
 - 2) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

6) Interference

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

7) Safety

- a) Access.
 - 1) The tower shall not be climbable for a height of eight (8) feet above the ground unless the applicant proves it would not be a public hazard.
 - 2) All access doors to the tower and exterior electrical equipment shall be locked when not attended.
- b) Operation.
 - 1) The operator shall keep a maintenance record which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to one (1) time per year.
 - 2) All Micro WECS shall be equipped with both automatic and manual overspeed controls.
 - 3) All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.
- c) Clearance.
 - 1) Horizontal-axis Micro WECS shall have a minimum ground clearance of twelve (12) feet.
 - 2) Vertical-axis Micro WECS shall have a minimum ground clearance necessary to not be a hazard.
 - 3) Building-mounted Micro WECS shall have a minimum building clearance from the swept area equal to the blade length.
- d) All Micro WECS shall display appropriate warning signs, such as electrical warnings and emergency contact information.
- e) All guy wires shall be clearly visible to a height of six (6) feet above ground level.

8) Standards

a) Towers.

- 1) A tower-mounted Micro WECS may be mounted on guyed, lattice, freestanding, or monopole towers.
- 2) A tower mounted Micro WECS in a Lake Residential zone shall be mounted on a monopole tower only.
- 3) An engineering analysis may be required for building mounted Micro WECS.

b) Appearance.

- 1) Micro WECS shall be a non-obtrusive, non-reflective color.
- 2) Alternative color schemes may be approved without requiring a variance, if the following conditions are met:
 - a) The proposed color scheme is consistent with FAA guidelines, or
 - b) Darker colored blades may be allowed to reduce icing concerns, &
 - c) The proposed color scheme will better serve the intent of this Ordinance.
- 3) The system shall be maintained in good condition and appearance at all times, consistent with industry standards.
- 4) Systems shall not display any commercial advertising, except for a reasonable display of the owner, operator, or manufacturer.

c) Wiring.

- 1) All exterior wiring connections to the Micro WECS shall be installed underground.
- 2) Wiring may be above ground if the following conditions are met:
 - a) Above ground wiring will better serve the intent of this Ordinance,
 - b) It will not create an undue safety hazard, &
 - c) Burying of wires will cause an excessive hardship.

d) Lighting.

- 1) Micro WECS shall have no lighting unless required by the FAA.
- 2) Tower lighting shall be the lowest intensity allowable by the FAA.
- 3) Tower lighting shall not be strobe or pulsating unless required by the FAA.
- 4) Strobe lighting shall be preferred to pulsating lighting.
- 5) Tower lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.

9) Decommissioning/Removal.

- a) Any Micro WECS which has not produced electricity for a period of twelve (12) months shall be considered abandoned.
- b) Abandoned Micro WECS shall be removed or reconditioned at the owner's expense within three (3) months notice to take action.
- c) Unsafe Micro WECS shall be removed or made safe within a reasonable time as determined by the Plan Director.
- d) The County may remove any abandoned or unsafe Micro WECS not removed or reconditioned by the owner within the allowed time at the owner's expense.

Small WECS and MET Towers

1) Application Process. Applicant shall submit the following materials:

- a) A WECS Location Permit Application,
- b) Site Plan, with the following additional requirements:
 - 1) Location of the Small WECS or MET Tower,
 - 2) Structures within a distance of 2 times the total height,
 - 3) All overhead utilities within a distance of 2 times the total height, &
 - 4) Location of exterior wiring associated with Small WECS or MET Tower.
- c) GIS Mapping and Addressing Form,
- d) Signed, notarized copy of the interconnection agreement for grid-connected systems,
- e) Letters
 - 1) Letters from affected properties granting waiver of setback or sound requirements, if applicable,
 - 2) Letter of Non-Objection or similar from the FAA, as necessary,
- f) A maintenance plan,
- g) A sound-level analysis,
- h) System Specifications:
 - 1) Manufacturer & model,
 - 2) Total system height, rotor size, ground clearance,
 - 3) Tower and tower foundation blueprints or drawings for tower-mounted systems, &
 - 4) One or three line electrical diagram.
- g) Other materials deemed necessary by the Plan Director to ensure compliance with this Ordinance.
- i) Expiration. The permit shall expire if:
 - 1) The Small WECS or MET Tower is not installed within one (1) year. A one (1) year extension may be granted,
 - 2) The Small WECS or MET Tower is declared abandoned, or
 - 3) The Small WECS or MET Tower is declared unsafe.

2) Zoning.

- a) Small WECS and MET Towers shall be a permitted use in the following zones: Agricultural, Environmental Control, Residential-2, Residential-3, Local Business, General Business, Accommodation Business, Industrial-1, and Industrial-2.
- b) Small WECS shall be a special exception use in the following zones: Lake Residential, Residential-1, and Mobile Home.

3) Height.

- a) Small WECS and MET Towers on parcels less than two (2) acres in size shall have a total height of less than one hundred (100) feet or forty (40) feet above any tree lines within a distance of two (2) times the total system height, whichever is greater.
- b) Small WECS and MET Towers on parcels two (2) acres and larger shall have a total height of less than two hundred (200) feet.
- c) Small WECS and MET Towers shall comply with all applicable FAA .

4) Setbacks.

- a) The setback shall be measured horizontally from the center of the base of the tower.
- b) The minimum setback for Small WECS from non-participating property lines shall be the required setback for a primary structure for the zone in which it is located.

- c) The minimum setback for Small WECS from any structures, parking areas, or commonly used outdoor areas on non-participating properties, public road right-of-ways, overhead utilities, lakes, rivers, and wetlands shall be 1.1 times the total height.
- d) Small WECS shall be setback so that the fall zone does not extend into the buildable area for a primary structure on non-participating properties.
- e) The minimum setback for an experimental Small WECS shall be double the required minimum setback.
- f) The minimum setback for MET Tower from occupiable structures, non-participating properties, and rights-of-ways shall be 2 times the total height.
- g) The minimum setback from property lines for guy wires shall be the required minimum setback for an accessory structure in the zone in which it is located or ten (10) feet, whichever is less.
- h) Setbacks may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance, &
 - 2) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

5) Sound.

- a) Sound shall be measured at non-participating property lines and road right-of-ways.
- b) All Small WECS shall comply with the County noise regulations as defined in Section 10.07 of the Steuben County Zoning Ordinance, except for during short term events, such as severe wind storms and utility outages.
- c) If the ambient sound level exceeds the above standards, the maximum sound level at the property line shall be ambient sound level + 5 dB.
- d) Sound requirements may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance &
 - 2) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

6) Interference.

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

7) Safety.

- a) Access.
 - 1) The tower shall not be climbable for a height of ten (10) feet above the ground unless the applicant proves it would not be a public hazard.
 - 2) All access doors to the tower and exterior electrical equipment shall be locked when not attended.
- b) Operation.
 - 1) The operator shall keep a maintenance record which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to one (1) time per year.
 - 2) All Small WECS shall be equipped with both automatic and manual overspeed controls.
 - 3) All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.
- c) Clearance
 - 1) Horizontal-axis Small WECS shall have a minimum ground clearance of twelve (12) feet.
 - 2) Vertical-axis Small WECS shall have a minimum ground clearance necessary to not be a hazard.

- d) All Small WECS shall display appropriate warning signs, such as electrical warnings and emergency contact information.
- e) All guy wires shall be clearly visible to a height of six (6) feet above ground level.

8) Standards.

a) Towers.

- 1) A Small WECS or MET Tower may be mounted on guyed, lattice, freestanding, or monopole towers.
- 2) A Small WECS located in a Lake Residential or Mobile Home zone shall be mounted on a monopole tower only.

b) Appearance.

- 1) Small WECS or MET Towers shall be a non-obtrusive, non-reflective color.
- 2) Alternative color schemes may be approved without requiring a variance, if the following conditions are met:
 - a) The proposed color scheme is consistent with FAA guidelines, or
 - b) Darker colored blades may be allowed to reduce icing concerns, &
 - c) The proposed color scheme will better serve the intent of this Ordinance.
- 3) The system shall be maintained in good condition and appearance at all times, consistent or better than industry standards.
- 4) Systems shall not display any commercial advertising, except for a reasonable display of the owner, operator, or manufacturer.

c) Wiring.

- 1) All exterior wiring connections to the Small WECS or MET Tower shall be installed underground.
- 2) Wiring shall be located at a depth to prevent any damage from freezing or frost and to prevent interference with drain tiles.
- 3) Wiring may be above ground if the following conditions are met:
 - a) Above ground wiring will better serve the intent of this Ordinance,
 - b) It will not create an undue safety hazard, &
 - c) Burying of wires will cause an excessive hardship.

d) Lighting.

- 1) Small WECS or MET Towers shall have no lighting unless required by the FAA.
- 2) Tower lighting shall be the lowest intensity allowable by the FAA.
- 3) Tower lighting shall not be strobe or pulsating unless required by the FAA.
- 4) Strobe lighting shall be preferred to pulsating lighting.
- 5) Tower lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.

9) Decommissioning/Removal.

- a) Any Small WECS which has not produced electricity for a period of twelve (12) months shall be considered abandoned.
- b) Abandoned Small WECS or MET Towers shall be removed or reconditioned at the owner's expense within three (3) months notice to take action.
- c) Unsafe Small WECS or MET Towers shall be removed or made safe within a reasonable time as determined by the Plan Director.
- d) The County may remove any abandoned or unsafe Small WECS or MET Towers not removed or reconditioned by the owner within the allowed time at the owner's expense.

Medium WECS

1) Application Process. Applicant shall submit the following materials:

- a) AWECs Location Permit Application,
- b) Site Plan, with the following additional requirements:
 - 1) Location of the Medium WECS,
 - 2) Structures within a distance of 2 times the total height,
 - 3) All overhead utilities within a distance of 2 times the total height, &
 - 4) Location of exterior wiring associated with Medium WECS.
- c) GIS Mapping and Addressing Form,
- d) Signed, notarized copy of the interconnection agreement for grid-connected systems,
- e) Letters
 - 1) Letters from affected properties granting waiver of setback or sound requirements, if applicable,
 - 2) Letter of Non-Objection or similar from the FAA, as necessary,
- f) A maintenance plan,
- g) A sound-level analysis,
- h) Certification by a licensed engineer that the tower design is sufficient to withstand wind load requirements for structures as defined by BOCA,
- i) System Specifications:
 - 1) Manufacturer & model,
 - 2) Total system height, rotor size, ground clearance,
 - 3) Tower and tower foundation blueprints or drawings for tower-mounted systems, &
 - 4) One or three line electrical diagram.
- j) Decommissioning Plan, including:
 - 1) Anticipated life span of Medium WECS,
 - 2) Estimated decommissioning costs, in current dollars, &
 - 3) How costs for decommissioning will be paid.
 - 4) The County may require financial security consistent with County practices to pay for decommissioning .
- k) Other materials deemed necessary by the Plan Director to ensure compliance with this Ordinance.
- l) Expiration. The permit shall expire if:
 - 1) The Medium WECS is not installed within one (1) year. A one (1) year extension may be granted,
 - 2) The Medium WECS is declared abandoned, or
 - 3) The Medium WECS is declared unsafe.

2) Zoning.

- a) Medium WECS shall be a permitted use in the following zones: Agricultural, Industrial-1, and Industrial-2.
- b) Medium WECS shall be a special exception use in the following zones: Environmental Control, Lake Residential, Residential-1, **Residential-2, Residential-3, Mobile Home, Local Business, General Business, Accommodation Business, Industrial-1, and Industrial-2**

3) Height.

- a) Medium WECS on parcels less than two (2) acres in size shall have a total height of less than one hundred (100) feet or forty (40) feet above any tree lines within a distance of three (3) times the total system height, whichever is greater.

- b) Medium WECS on parcels two (2) acres and larger shall have a total height of less than two hundred (200) feet.
- c) Medium WECS shall comply with all applicable FAA rules & regulations.

4) Setbacks.

- a) The setback shall be measured horizontally from the center of the base of the tower.
- b) The minimum setback for Medium WECS from non-participating property lines and public lakes shall be 1.5 times the total height.
- c) The minimum setback for Medium WECS from occupied structures on the participating properties, public road right-of-ways, overhead utilities, rivers, and wetlands shall be 1.1 times the total height.
- d) The minimum setback for Medium WECS from occupied structures on adjacent properties shall be 2 times the total height.
- e) The minimum setback for an experimental Medium WECS shall be double the required minimum setback.
- f) The minimum setback for mechanical or electrical sheds shall be the required setback for an accessory structure for the zone in which it is located.
- g) Setbacks may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance, &
 - 2) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

5) Sound.

- a) Sound shall be measured at non-participating property lines and road right-of-ways.
- b) All Medium WECS shall comply with the County sound regulations as defined in Section 10.07 of the Steuben County Zoning Ordinance, except for during short term events, such as severe wind storms and utility outages.
- c) If the Medium WECS produces a pure tone, the standard shall be reduced by five (5) dB.
- d) If the ambient sound level exceeds the above standards, the maximum sound level at the property line shall be ambient sound level plus five (+5) dB.
- e) Sound requirements may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance &
 - 2) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

6) Interference.

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

7) Safety.

- a) Access.
 - 1) The tower shall not be climbable for a height of fifteen (15) feet above the ground unless the applicant proves it would not be a public hazard.
 - 2) All access doors to the tower and exterior electrical equipment shall be locked when not attended.
- b) Operation.
 - 1) The operator shall keep a maintenance record which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to two (2) times per year.
 - 2) All Medium WECS shall be equipped with both automatic and manual overspeed controls.

- 3) All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.
- c) Clearance.
 - 1) Horizontal-axis Medium WECS shall have a minimum ground clearance of twenty (20) feet.
 - 2) Vertical-axis Medium WECS shall have a minimum ground clearance necessary to not be a hazard.
- d) All Medium WECS shall display appropriate warning signs, such as electrical warnings and emergency contact information.
- e) Blades shall utilize stick-free surface coatings.

8) Standards.

- a) Towers.
 - 1) Medium WECS may be mounted on freestanding or monopole towers.
 - 2) Medium WECS in Lake Residential, Residential-1, and Mobile Home zones shall be mounted on a monopole only.
- b) Appearance.
 - 1) Medium WECS shall be a non-obtrusive, non-reflective color.
 - 2) Alternative color schemes may be approved without requiring a variance, if the following conditions are met:
 - a) The proposed color scheme is consistent with FAA guidelines, or
 - b) Darker colored blades may be allowed to reduce icing concerns, &
 - c) The proposed color scheme will better serve the intent of this Ordinance.
 - 3) The system shall be maintained in good condition at all times.
 - 4) Systems shall not display any commercial advertising, except for a reasonable display of the owner, operator, or manufacturer.
- c) Wiring.
 - 1) All exterior wiring connections to the Medium WECS shall be installed underground.
 - 2) Wiring shall be located at a depth to prevent any damage from freezing or frost and to prevent interference with drain tiles.
 - 3) Wiring may be above ground if the following conditions are met:
 - a) Above ground wiring will better serve the intent of this Ordinance,
 - b) It will not create an undue safety hazard, &
 - c) Burying of wires will cause an excessive hardship.
- d) Lighting.
 - 1) Medium WECS shall have no lighting unless required by the FAA.
 - 2) Tower lighting shall be the lowest intensity allowable by the FAA.
 - 3) Tower lighting shall not be strobe or pulsating unless required by the FAA.
 - 4) Strobe lighting shall be preferred to pulsating lighting.
 - 5) Tower lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.
- e) Flicker.

The applicant, owner, or operator shall make reasonable steps to eliminate or mitigate flicker or blade glint on non-participating, occupiable structures, major roads, and road intersections.

9) Decommissioning/Removal.

- a) Any Medium WECS which has not produced electricity for a period of twelve (12) months shall be considered abandoned.
- b) Abandoned Medium WECS shall be removed or reconditioned at the owner's expense within six (6) months notice to take action.
- c) Unsafe Medium WECS shall be removed or made safe within a reasonable time as determined by the Plan Director.

- d) The County may remove any abandoned or unsafe Medium WECS not removed or reconditioned by the owner within the allowed time at the owner's expense.
- e) All structures, equipment, and waste associated with the Medium WECS shall be disposed of properly.
- f) Land shall be restored to a depth of three (3) feet below grade.
- g) Disturbed land shall be revegetated within a reasonable period of time.
- h) Decommissioning requirements may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance, &
 - 2) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

Draft 3-3

Large WECS

1) Application Process. Applicant shall submit the following materials:

- a) A WECS Location Permit Application,
- b) Site Plan, with the following additional requirements:
 - 1) Location of the Large WECS,
 - 2) Structures within a distance of 3 times the total height,
 - 3) All overhead utilities within a distance of 2 times the total height,
 - 4) Location, including depth when buried, of exterior wiring associated with Large WECS, &
 - 5) Location of known microwave transmission lines within a radius of 3 times the total height.
- c) GIS Mapping and Addressing Form,
- d) Signed, notarized copy of the interconnection agreement for grid-connected systems,
- e) Letters,
 - 1) All letters from affected properties granting waiver of setback or sound requirements,
 - 2) Letter of non-objection from the FAA,
- f) A maintenance plan,
- g) A sound-level analysis,
- h) Certification by a licensed engineer that the tower design is sufficient to withstand wind load requirements for structures as defined by BOCA,
- i) System Specifications:
 - 1) Manufacturer & model,
 - 2) Total system height, rotor size, ground clearance, &
 - 3) Tower and tower foundation blueprints or drawings.
- j) Decommissioning Plan, including:
 - 1) Anticipated life span of Large WECS,
 - 2) Estimated decommissioning costs, in current dollars,
 - 3) How costs for decommissioning will be paid,
 - 4) The County may require financial security consistent with County practices to pay for decommissioning .
- k) Other materials deemed necessary by the Plan Director to ensure compliance with this Ordinance.
- l) Expiration. The permit shall expire if:
 - 1) The Large WECS is not installed within one (1) year. A one (1) year extension may be granted,
 - 2) The Large WECS is declared abandoned, or
 - 3) The Large WECS is declared unsafe.

2) Zoning.

Large WECS shall be a special exception use in the following zones: Agricultural, Environmental Control, Local Business, General Business, Accommodation Business, Industrial-1, and Industrial-2.

3) Height.

Large WECS shall comply with all applicable FAA rules & regulations.

4) Setbacks.

- a) The setback shall be measured horizontally from the center of the base of the tower.
- b) The minimum setback for Large WECS from non-participating property lines and public lakes shall be 2 times the total height.
- c) The minimum setback for Large WECS from occupied structures on the participating properties, public road right-of-ways, overhead utilities, rivers, and wetlands shall be 1.1 times the total height.

- d) The minimum setback for Large WECS from occupied structures on non-participating properties shall be 3 times the total height.
- e) The minimum setback for an experimental Large WECS shall be double the required minimum setback.
- f) The minimum setback for mechanical or electrical sheds shall be the required setback for an accessory structure for the zone in which it is located.
- g) Setbacks may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance,
 - 2) Proposed distances are consistent with industry standards, &
 - 3) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

5) Sound.

- a) Sound shall be measured at non-participating property lines and road right-of-ways.
- b) All Large WECS shall comply with the County sound regulations as defined in Section 10.07 of the Steuben County Zoning Ordinance, except for during short term events, such as severe wind storms and utility outages.
- c) If the Large WECS produces a pure tone, the standard shall be reduced by five (5) dB.
- d) If the ambient sound level exceeds the above standards, the maximum sound level at the property line shall be ambient sound level plus five (+5) dB.
- e) Sound requirements may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance &
 - 2) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

6) Interference.

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

7) Safety.

- a) Access.
 - 1) The tower shall not be climbable for a height of twenty (20) feet above the ground unless the applicant proves it would not be a public hazard.
 - 2) All access doors to the tower and exterior electrical equipment shall be locked when not attended.
- b) Operation.
 - 1) The operator shall keep a maintenance record which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to two (2) times per year.
 - 2) All Large WECS shall be equipped with both automatic and manual overspeed controls.
 - 3) All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.
- c) Clearance.
 - 1) Horizontal-axis Large WECS shall have a minimum ground clearance of forty (40) feet.
 - 2) Vertical-axis Large WECS shall have a minimum ground clearance of twenty (20) feet.
- d) All Large WECS shall display appropriate warning signs, such as electrical warnings and emergency contact information.
- e) Blades shall utilize stick-free surface coatings.
- f) The applicant(s), owner(s), developer(s), and/or operator(s) shall work with local emergency officials to develop an emergency response plan.

8) Standards.

a) Towers.

All Large WECS shall be mounted on monopole towers.

b) Appearance.

- 1) Large WECS shall be a non-obtrusive, non-reflective color.
- 2) Alternative color schemes may be approved without requiring a variance, if the following conditions are met:
 - a) The proposed color scheme is consistent with FAA guidelines, or
 - b) Darker colored blades may be allowed to reduce icing concerns, &
 - c) The proposed color scheme will better serve the intent of this Ordinance.
- 3) The system shall be maintained in good condition at all times.
- 4) Systems shall not display any commercial advertising, except for a reasonable display of the owner, operator, or manufacturer.

c) Wiring.

- 1) All exterior wiring connections to the Large WECS shall be installed underground.
- 2) Wiring shall be located at a depth to prevent any damage from freezing or frost and to prevent interference with drain tiles.
- 3) Wiring shall not cause interference with existing communication wiring.
- 4) Concrete armoring techniques shall be used at every location where a County drain and wiring cross.
- 5) Permanent, visible markers shall indicate the location of directional borings.
- 6) Wiring may be above ground if the following conditions are met:
 - a) Above ground wiring will better serve the intent of this Ordinance,
 - b) It will not create an undue safety hazard,
 - c) Burying of wires will cause an excessive hardship, &
 - d) Above ground wires are already present.

d) Lighting.

- 1) Large WECS shall have the minimum lighting required by the FAA.
- 2) Tower lighting shall be the lowest intensity allowable by the FAA.
- 3) Tower lighting shall not be strobe or pulsating unless required by the FAA.
- 4) Strobe lighting shall be preferred to pulsating lighting.
- 5) Tower lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.
- 6) Other lighting shall comply with the Steuben County Zoning Ordinance.

e) Flicker.

The applicant, owner, or operator shall make reasonable steps to eliminate or mitigate flicker or blade glint on non-participating, occupiable structures, major roads, and road intersections.

9) Decommissioning/Removal.

- a) Any Large WECS which has not produced electricity for a period of twelve (12) months shall be considered abandoned.
- b) Abandoned Large WECS shall be removed or reconditioned at the owner's expense within twelve (12) months notice to take action.
- c) Unsafe Large WECS shall be removed or made safe within a reasonable time as determined by the Plan Director.
- d) The County may remove any abandoned or unsafe Large WECS not removed or reconditioned by the owner within the allowed time at the owner's expense.
- e) All structures, equipment, and waste associated with the Large WECS shall be disposed of properly.
- f) Land shall be restored to a depth of three (3) feet below grade.
- g) Disturbed land shall be revegetated within a reasonable period of time.

h) Decommissioning requirements may be reduced without requiring a variance if the following conditions are met:

- 1) Such reduction will better serve the intent of this Ordinance, &
- 2) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

Draft 3-3

Wind Farms

1) Application Process. Applicant shall submit the following materials:

- a) Required application materials for the individual WECS within the wind farm as defined in this Ordinance,
- b) Project summary, including:
 - 1) General description of the project,
 - 2) Name-plate generating capacity,
 - 3) Name, address, and phone numbers of the Applicant(s), Owner(s), Developer(s), Operator(s), and all participating properties.
- c) Map of the project, including:
 - 1) Topography with contours of not more than ten (10) feet. Contours may be increased for steeper slopes with approval,
 - 2) Location of all turbines, MET towers, access roads, substations, wiring, and accessory structures,
 - 3) Location of all primary structures on participating properties,
 - 4) Location of non-participating primary structures within 4 times the total height of any WECS,
 - 5) Overhead utilities within 2 times the total height of any WECS,
 - 6) Location of known microwave transmission lines through the project area,
 - 7) Location of radio, television, and mobile-phone transmission towers within 4 times the total height from the project boundaries,
 - 8) Location of county tiles and drains within the project area and within 2 times the total height from the project boundaries,
- d) Transportation plan, approved by the County Highway Department and developed in conjunction with the County Highway Department, INDOT, Police, Fire, EMS, and Schools, &
- e) Emergency response plan.
- f) Wildlife impact study detailing the potential effects of the wind farm on animals, birds, and bats, &
- g) Financials.
 - 1) Financial security as approved by the County,
 - 2) Development impact fee as approved by the County, &
 - 3) Permit fees for wind farm and WECS as determined by the County.
- h) Expiration. The special exception shall expire if:
 - 1) Major construction of the wind farm does not begin within three (3) years. A one (1) year extension may be granted,
 - 2) The wind farm is declared abandoned, or
 - 3) The wind farm is declared unsafe.

2) Zoning.

Wind farms shall be a special exception use in the following zones: Wind Energy Conversion System Overlay.

3) Height.

- 1) All wind farm WECS shall comply with all applicable FAA rules & regulations.
- 2) All wind farm WECS shall comply with the applicable height requirements of this Ordinance.

4) Setbacks.

- a) Setbacks shall be measured horizontally from the center of the base of the tower.
- b) The minimum setback for WECS in a wind farm from non-participating property lines shall be 2.5 times the total height.
- d) The minimum setback for WECS in a wind farm from occupied structures on non-participating properties shall be 3 times the total height.
- b) All WECS within a wind farm shall comply with the applicable setbacks of this Ordinance.
- c) The minimum setback between a neighboring WEC shall be 1.1 times the total height.
- d) Setbacks may be reduced without requiring a variance if the following conditions are met:
 - 1) Such reduction will better serve the intent of this Ordinance,
 - 2) Proposed distances are consistent with industry standards, &
 - 3) Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

5) Sound.

- a) Sound measurements shall be made at the exterior border of the wind farm project, occupiable structures within the wind farm project, and major road right-of-ways.
- b) All WECS within a wind farm shall comply with the applicable sound requirements as defined in this Ordinance.

6) Interference.

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

7) Safety.

- a) Access.

All access doors to towers and exterior electrical equipment shall be locked when not attended.
- b) Operation.
 - 1) The operator shall keep a maintenance record which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to two (2) times per year.
 - 2) All WECS shall be equipped with both automatic and manual overspeed controls.
 - 3) All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.
- c) Emergency Response Plan.
 - 1) The applicant(s), owner(s), developer(s), and/or operator(s) shall work with local emergency officials to develop an emergency response plan.
 - 2) The applicant(s), owner(s), developer(s), and/or operator(s) shall provide any specialized training necessary for local emergency officials.
- d) The wind farm shall display appropriate signs with contact information for complaints and questions.

8) Standards.

- a) Towers.

All towers within a distance of 4 times the total height shall be of similar appearance.
- b) Appearance.
 - 1) All WECS within a distance of 4 times the total height shall be of similar appearance.
 - 2) All WECS shall be maintained in good condition at all times.
- c) Wiring.
 - 1) All feeder & communication lines shall be installed underground.

- 2) Wind farm wiring shall be installed so as to minimize potential conflicts with drain tiles.
 - 3) Wind farm wiring shall not cause interference with existing communication wiring.
 - 4) Wind farm wiring may be above ground if the following conditions are met:
 - a) Above ground wiring will better serve the intent of this Ordinance,
 - b) It will not create an undue safety hazard,
 - c) Burying of wires will cause an excessive hardship, &
 - d) Above ground wires are already present.
- d) Lighting.
- 1) The wind farm shall have the minimum lighting required by the FAA.
 - 2) Lights within the wind farm shall be synchronized.
- e) WECS Location.
- 1) WECS shall be located to minimize the impact on farming and other use of the land.
 - 2) WECS shall be located to minimize the visual impact on important views within the County.
 - 3) WECS shall be located to minimize the impact of wildlife.
- f) Access Roads.
- 1) Access roads shall be designed to reduce the impact on farming and other use of the land.
 - 2) Access road location shall be approved by the Highway Department.
 - 3) Access roads shall not impede the natural flow of water.
- g) Rotation.
- All WECS within a wind farm shall rotate in the same direction.
- 9) Other.
- a) Transportation Plan/Roads.
- 1) The applicant(s), owner(s), developer(s), and/or operator(s) shall develop a transportation plan illustrating which roads will be used for construction and operation of the wind farm with the Steuben County Highway Department and InDOT.
 - 2) The transportation plan shall be designed to minimize the impact on emergency responders and local schools.
 - 3) The applicant(s), owner(s), developer(s), and/or operator(s) shall be responsible for returning all roads used for construction to a condition at least equal to their pre-construction condition.
 - 4) The County may require a financial security, consistent with County Practices, to cover the costs of repairing roads
 - 5) The applicant(s), owner(s), developer(s), and/or operator(s) shall submit a plan each week detailing which roads will be affected and at what times due to construction to the Plan Commission, the Highway Department, the local police & fire departments, and local schools.
- b) Complaint/Concern Resolution.
- 1) The applicant(s), owner(s), developer(s), and/or operator(s) shall establish a twenty-four (24) hour, toll-free number for members of the public to call with complaints and concerns.
 - 2) The toll-free number shall be posted at construction sites and at intersections throughout the project area.
 - 3) The applicant(s), owner(s), developer(s), and/or operator(s) shall keep a log of calls, available for inspection by County Officials.
 - 4) Legitimate complaints shall be remedied within forty-eight (48) hours.
- c) Dust Control.
- Reasonable dust control measures shall be taken.
- d) Drains.
- The applicant(s), owner(s), developer(s), and/or operator(s) shall repair all County and private drain tiles damaged due to construction or maintenance of the wind farm to original or better condition within a reasonable time.

