ROLL CALL

Harry Baumgartner, Jr.	Jerome Markley
Angie Dial	Keith Masterson
	Mike Morrissey
Bill Horan	Tim Rohr
Richard Kolkman	John Schuhmacher

Michael Lautzenheiser, Jr., Director

The April 4, 2013 meeting of the Area Plan Commission was called to order at 7:05 p.m. by President Jerome Markley. Nine members were present for roll call. Jarrod Hahn and Finley Lane were absent

APPROVAL OF MINUTES:

Tim Rohr made a motion to approve the minutes from the March 7, 2013. Mike Morrissey seconded the motion; the motion carried 8-0-1 with John Schuhmacher abstaining.

OLD ITEMS:

V2012-007: James E. & Ollive L. Simmons

Michael Lautzenheiser, Jr updated the board on the violation and said that the property owner has started the process of removing the shed. They are working on correcting the violation, which is sufficient for the office.

V2012-032: K&K LLP / Colton R. Watson

Mr. Lautzenheiser explained to the board that both complete the petition paperwork for the combines and additions to their properties. Therefore, they are in the process of getting this completed.

V2012-036: Andrew B. Price

Andrew Price stated that he has purchased a home, but it is in need of major repairs. He is trying to get the repairs completed as quickly as possible. He does not believe that he would be able to move into the new house within the 30 days that are remaining. Mr. Price advised the board that there is currently no plumbing, no heat, and barely any electrical. He stated that he was unsure on a time frame due to bidding some of the work out to contractors. He explained that he is hoping to be in the house by mid to late summer. He said that if more time was granted that he would come back next month and update the board on his progress. The board agreed to an update that the next APC meeting.

NEW ITEMS:

Andy Antrim, attorney for the Wells County Area Plan Commission and Board of Zoning Appeals, explained what the APC's responsibility is. He stated that if the petition follows the requirements stated in the ordinance, then the APC must approve it. If the petition doesn't meet the ordinance requirements, then the board must state what is not meet as the reason for denying the petition. Mr. Antrim stated that the petition must have six votes to pass any motion.

A13-04-07 ROCKCREEK TWP., NE/4 27-27N-11E Blaine L & Tonya M Isch request approval for a 10.00 acre division of a minor subdivision. The property is located at 2164 W 200 N, Bluffton, IN 46714 and is zoned A-1.

Toyna Isch explained that they want to take 10 acres off of their 17.5 acres, which is where the house is located. This is being done for financial reasons and the bank advised them to split the property.

Mr. Lautzenheiser stated that the petition is in conformance with the ordinance and there are no issues with the property other than noting that a county legal tile crosses it.

Conditions:
Motion to Approve: Bill Horan
Second: Keith Masterson
Vote: 9-0

A13-04-08 ROCKCREEK TWP., NE/4 03-27N-11E A&T Lance LP (Alan Lance) requests rezoning approval for two parcels a 2.39 acre tract and a 4.14 acre tract to be zoned I-2. The property is located 5798 N 200 W, Uniondale, IN 46791 and is currently zoned A-1.

Alan Lance stated that he and his wife own the property. He provided the board with a handout of his talking points, along with a map of the location. He advised the board that the property is located on 224, less than five miles east of Interstate 69. He explained his business, Alan Aircraft Services Inc, and where it is currently operating out of. He stated that he's been on his one acre B-3 zoned plot since 1993. Mr. Lance advised the board of the financial set back his business took due to the recession in 2008. He stated that his family chose to live and set up a business in Wells County. He explained that the business is growing again due to international sales and military sub-contracts. Therefore, they will need a larger facility and will hire more employees down the road. It would be an industrial building with concrete drive and a parking lot for 15 or more employees. Most of the parts and equipment would be stored and repaired in that structure. It would also have loading docks and a space for an office and sales area. He advised the board that he is in good standings with a local bank. Mr. Lance explained that when the 6.53 acres on 200 W was purchased, he intended to expand his business to that location and have the area zoned for industrial purposes. The surrounding properties to this location are already zoned industrial. He has no intentions on living in the house located on the property. He advised the board that the parts and equipment that he sells is not junk and that almost nothing is scrapped. Mr. Lance stated that some of the parts in his inventory are valued greater than some of the surrounding houses and that the inventory is mortgaged for a far greater value than scrap prices. He said that his customers value the equipment that he provides and that they need his services. He stated that there are daily shipments with an annual expenditure of typically $30,000. He listed the types of local businesses where he has revolving charge accounts with.

Tamara Boucher, Rockcreek Township resident, stated that this is exactly the kind of project that the community needs.

Kent Wolf, neighbor to the project location, stated that he is in favor of Mr. Lance bring jobs into Wells County, but the property looks like a junk yard. He also commented on a former junk yard down the street from this location and the neighbors having issues with it. He has no issues with Mr. Lance constructing a building to put the stuff inside. He also stated his concerns with lowering the property value of the surrounding homes if it is left as is.

Dave Smith, neighbor, stated that it's a difficult place to make a turn off of State Road 224 on to 200 W due to stuff on the corner. He advised that there is a business property down State Road 224 that has a fence around it and is up for sale. He stated that the proposed location was a safety hazard before Mr.

Lance purchased the property due to weeds. He also commented on the fact that there was a former junk yard near this location. He stated that when Mr. Lance first purchased the property that it was to be a repair garage and that did not occur.

Viola Wolf, Kent's wife and neighbor to the project location, stated that they did not know about any of this until the sign went up in the yard. She said that the property hasn't changed since Mr. Lance has purchased the property. She also stated her concerns about this lowering their property value.

Mr. Lance stated that he intends to grow his business and this is the most obvious next step, but he is unsure of the timeline for completion of it. He is working with the bank to get the funds and also working with the state. He chose this area because it was designed to be zoned industrial. He explained why he did not purchase the business property east on this location.

Michael Lautzenheiser, Jr. explained what the board has to pay reasonable regard to when reviewing a rezoning request. He stated that the current comprehensive plan calls for the concentration of zoning types rather than having them spread out in a large area along state and federal highways. The zoning map already provides industrial areas in and around the Uniondale area. He explained the current zoning of the site and stated that the site currently is in violation of the ordinance. Mr. Lautzenheiser stated that the most desirable use for the property was for it to remain as agricultural or rural residential. He explained that I-2 zoning is the most extreme industrial zoning classification. Therefore, there is to be a buffer of other industrial and business zonings between I-2 and residential. He suggested to the board an unfavorable recommendation to the County Commissioners. Then he explained the role of the APC in the decision.

Mike Morrissey expressed his concerns with the I-2 zoning at that location. Other board members questioned the reason for the I-2 zoning.

Conditions:
Motion: Do Not Pass recommendation to County Commissioners: Mike Morrissey
Second: Richard Kolkman
Vote: 8-1 (Keith Masterson)

A13-04-09 CHESTER TWP., LIBERTY TWP., & NOTTINGHAM TWP. Multiple locations. Wells County Wind, LLC (APEX) requests approval for a modification of petition A12-11-33 & A12-11-34 for Phase 1 & Phase 2 of a Large WECS project with 87 – 1.7MW turbines. The multiple properties are zoned A-1.

Mike Morrissey and Keith Masterson recused themselves from the meeting before the two WECS petition discussion occurred, due to advice from the attorney for the APC.

Mark GiaQuinta, attorney with Haller & Colvin in Fort Wayne and represents Apex Wind Energy Holdings, explained what would be presented, which is the modification of the existing development plan, the request for approval of the new development plan and the request for the waiver of the reciprocal setbacks. He then went into the presentation of Wells County Wind LLC's (Apex) request for modification of height on the project turbine model as long as the height is approved by the FAA and the new height of the turbine model meets all of the requirements of the Wells County WECS ordinance.
He stated that with this request, the approval would be granted by the director upon reviewing the plans and would not have to go before the entire APC board. He explained why the existing process, that was already approved, is consistent with this request. He expressed their concern that imposing a specific height limitation is beyond the requirement of the existing ordinance. He also addressed their willingness to work within a height limitation that the board may impose. Mr. GiaQuinta stated that section 14 of the zoning ordinance provides for a modification to a previously approved development plan as long as the

same procedures are complied with. He explained that if the modifications meet the ordinance under which the original development plan was approved, then it too must be approved as a ministerial act of the Area Plan Commission. He stated that his clients are seeking a modification to the previously approved petition to change their self-imposed condition of restricting the height of the turbines that Wells County Wind chooses to use. He restated that the ordinance does not have a height limitation. Mr. GiaQuinta explained that even though there is no height limit specifically stated in the ordinance, if the rest of the restrictions are reviewed then there is a height restriction imposed due to the setbacks, sound, and shadow flicker. He expressed that this would allow for the same flexibility that was done previously for changes made to the location of the turbine within the same parcel, as long as it complies with the rest of the ordinance and FAA regulations. He explained that as long as all of the other factors of the ordinance are met then the director has the authority to approve the location change within the same parcel or the turbine model change. He stated that they are asking the same thing to occur with the height. Then Mr. GiaQuinta began to list off some of the tallest turbines that are currently on the market. He stated that if the board believes that it is important to impose a height limit, they suggest that the director be given the flexibility to approve a height of up to 540ft to accommodate the best available technology that is on the market today, providing that type of turbine meets all of the other requirements for the WECS ordinance. Of course, any turbine over that height would come back to before the entire board for approval. He then concluded by stating that the project remains a permitted use in the A-1 zoning district. He quoted from the WECS ordinance on the fact that there is no height limitation except those imposed by the FAA. He explained that it would be consistent with the process and key components that are currently in place. He stated that if the board imposed a height limitation of 540ft, they would be prepared to work within that.

Rob Propes, development manager for the Apex Wind Energy, advised the board that the current height of the G.E. 1.7MW is 479ft.

Linda Sliger commented that she is not in the project area for the Wells County Wind I. She stated that in an article about G.E. turbines, they won't site a turbine that does not meet their minimum published standards for ice throw, which is about 1300ft for a 350ft turbine with a 300ft rotor. She then stated from another article about Vestas wind turbines, which says do not stay within a radius of 400 meters which is also 1300ft unless it's necessary. If it's a 1000ft setback, then the ice throw will be dangerous.

Jeff Moss, engineer, stated that the rotors have a 300ft diameter, which means that their top speed at which they can operate will be in hundreds of miles per hour. He explained that G.E. has their site setbacks for a reason and stated that if something happened to the turbine that the part could be launched from the turbine at that speed, which could hit anything within the setback.

Joan Null questioned the board about height requirements for other zoning classifications in the ordinance. She also questioned about the height restrictions for other structures and why they were in place. She then commented on the Alan Lance zoning request and the fact that seven people protested the petition due to the fact that it could negatively affect their property value and the board made a negative recommendation due to that fact. She stated that the opposition to the wind turbines should be listened to in the same manner that the opposition to Mr. Lances project was.

Troy Cale questioned how many board members were the same from when the wind project first started. He stated that he works on the railroad. He commented on some wind farms that he's traveled through and what occurred to them after a big wind storm came through during the last year. He explained how the turbines debris was scattered and it appeared that they exploded. He also expressed his concerns for kids near construction sites and also commented on how the visual aspects of the community will change.

Jane Leonard commented on how technology has come so far. She also stated that there are other things in life that could cause danger to people just because the item is there. She explained that the turbines

would have a wide radius around it from any dwelling and that there would be fences around the turbine so that children will stay out. She stated that she is afraid that the community will get left behind with new technological advances.

Cynthia Weist stated that she was opposed to the wind turbines.

Kay Moss commented that if the height is going to be increased then the setbacks should be increased as well.

Brenda Moody stated that there will be three turbines around her house. She explained that she thinks the turbines are beautiful and that they are better for the planet. She is supportive on the green issue, but she does not want the additional height. She expressed that there should be some variance on the turbines so that it could keep up with technology and be up to date so that they are safe.

Clarence Ostrander expressed his concerns for the rights of migratory birds. He stated that these animals have the right to fly through and turbines should not be put up because it will kill the migratory birds.

Jarod Studabaker questioned if the people's questions and concerns mattered to the board in making their decision. He also expressed his concerns if the board has done research on this and if there was data that they had.

Michael Lautzenheiser Jr. explained that the board is to determine if the specific plan meets the current ordinance. He stated that the ordinance has been in existence.

John Schuhmacher commented on the 1300ft that kept coming up in people's talks. He read off a list of distances from turbines to homes that was provided by Apex.

Jerome Markley explained that the board's decision on the petition has to be based on how it meets the ordinance and cannot be on popular opinion. He also discussed the new comprehensive plan being developed and how that could change the ordinance.

Adam Schwartz also commented on Alan Lances' rezoning request and how there were only seven people objecting to the look of the property. He reiterated the fact that there are more people that don't want the wind turbines than do because of the effect that it will have on their properties. He stated that the height increase should not be allowed.

Jim Petrie questioned how many more homes would be effected by the additional height. The board stated that there was no specific number. The petitioner had stated that before any permits would be issued that they would meet all of the requirements in the ordinance for each turbine.

Frank Nunley questioned what the FAA restrictions on height were. He also questioned what can keep Apex from keep requesting a taller turbine.

Tim Stepp commented on the fact that the wind turbines have been proven to be obsolete before they are even installed. He stated that there does need to be a height limit established. He believes that this was not thought through before the ordinance was implemented. He stated that no one thought about the ice throw when the ordinance was written because it's been documented that ice can be thrown over 1000ft. He advised that this is a safety hazard and the taller the tower the further the ice will go.

Tim Morris gave an analogy on changing the size of a building and yet still having to go before the board to do so. The board informed him that for just a building permit that a change like that would be handled in the office and wouldn't go before the board. Mr. Morris commented on the March 2012 meeting at

Southern Wells High School and the amount of time it took for the board to decide along with the manner that the board discussed and made their decision.

Matt Studabaker questioned whether the setback distance would also be increased with the height of the turbines. He stated that the higher the tower is the more people that will be affected by it. The board explained that the petitioner is just requesting a height modification and not a modification to the setback. Mr. Studebaker stated that he believes that the petition should be denied since there is no proposed increase to the setback distance.

Bill Horan clarified that the setback does increase because it is 1.1 times the height of the turbine.

Tammy Dunmoyer stated that the 1.1 times the height is from the property line, which doesn't change the 1000ft setback from a dwelling. The board stated that the turbines could move further from the home due to shadow flicker or noise. Ms. Dunmoyer stated that those factors were unknown at this meeting due to the exact height being unknown. She stated that the 1000ft setback was not sufficient and suggested that the board table their decision until the ordinance can be changed and a new one in place that is better for the home owners.

Sara Beaty addressed her concern with the fact that if the turbines were higher, then the foundation would have to be deeper and what effect that would have on the water table in the area.

Angela Miller stated her concerns about wireless service interruption if the height of the turbines were increased.

Tamara Boucher commented on the fact that there is a pending ordinance change that would affect the WECS projects. She stated that the petition should be tabled until after the new ordinance is in place, then any modifications would have to follow those changes to the ordinance. She asked the board to think about protecting the citizens of the county when they make their decision.

Jack Pace stated his dislike of the fact that Bluffton, Ossian, and the other towns have a two mile setback. He also commented on his displeasure of the existing ordinance.

Jim Berger questioned the proposal of the 1800ft setback and the fact that it's pending. He stated that the board represents the people and they should turn down the proposal. He too stated that the board should wait until the new setback is in force. He commented on the way this project came into the area and that a majority of the people in the area didn't have a choice to say whether they wanted the project or not. He stated that wind turbines should not be in Wells County.

Mr. Lautzenheiser clarified that ordinance setback amendment recommendation is pending the town boards and county commissioners' approval.

Erin Baumgartner questioned the number of times Apex can modify the petition. She stated that the board needs to listen to the members of the community.

Karen Harrold stated that there will be five turbines within a half a mile from her house. She commented on the fact that the department of fish and wildlife states that turbines should not be any closer than a mile from the home. She stated that ice can be thrown up to a half a mile away. She also commented that only 17% of the energy is put out and that it will cost twice as much to run the turbines. She addressed the issues that she had with the participation support agreement that she received from Apex and called it a bribe.

Ted Claghorn stated that the board should deny the height request. He also stated that the board needs to clarify the proposed ordinance setback change of the 1800ft from the property line and when it would go into effect and the fact that it will have no effect on this petition because the petition was in under the 1000ft setback of the current ordinance.

Daniel Hunt commented on the turbines in VanWert and the ones near Lafayette. He also questioned where the power would be going. He also addressed concerns about Miller Airport if these turbines' height increases.

Pam Probst commented on the lack of information that she received about the wind turbines coming into her area until she received the participation support agreement in the mail. She questioned the representation of the southern Wells area on the board and also the number of original board members that were in their position when this was originally voted on. She also questioned if the board had done an in depth study of the effects of wind farms. She requested that the board table the petition until the board did more research and study on the subject.

Tera Fredrickson stated that she feels the project has so many red flags. She commented on the number of wind companies filing bankruptcy and the number of them in lawsuits. She stated that BP had recently put its wind farm up for sale.

Mr. Claghorn questioned Apex if they could do a project in Wells County at the 1800ft setback from a property line.

Rob Propes stated that he went on the record, at that APC meeting when the setback was voted on, stating that even at 1500ft from property lines it would not be economical for them.

Bob Coolman asked for clarification on what the petitioner is requesting, if it was just for a simpler process if they wanted to adjust the height. He stated that he would like the board to vote no on the petition just for the safety issues alone. He commented that he feels the setbacks are not as big as they should be now. He also stated that he believes the whole project was ill-conceived.

Mark GiaQuinta addressed the board with his closing comments by restating that the request for an increase in the height go before the planning director to determine whether the proposed increase remains within the limits established for all of the ordinance requirements. He gave an analogy of a building that increased size which caused a drainage violation and what the director and board would have to do to help fix the issue. They are requesting that minor modifications be allowed so long that the rest of the ordinance requirements are met. He stated that they are willing to abide by a height limit for that process of going to the plan director. He restated that this is what is already being done with the location of the turbines and being able to move them within a parcel. Then he went on to discuss the fact that no increase can be done without meeting FAA regulations. He proceeded to list the requirements. He also commented on the rest of the ordinance regulations and again stated with all of the requirements in place it does cause a certain height restriction.

Mr. Propes commented that ice throw is an extremely rare event due to the operational protocol for the turbines for ice. He described what occurs with the turbine during this protocol for ice. He also addressed the participation support agreement and how they are using it to be good neighbors.

Kevin Davis, Vice President of Development for Apex Wind, addressed John Schuhmacher's question about the height of the turbine to its efficiency. Mr. Davis stated that there are different factors that go into the efficiency such as the higher the turbine the greater the wind speed in that area, and also the longer the blades are the more wind that can be captured. Both of those factors cause the turbine to generate more power. He stated that he believes that currently the tallest turbine is 520ft and they are

requesting 540ft to buffer that. He addressed that no matter the turbine make or height it has to meet the other requirements of the ordinance.

Michael Lautzenheiser, Jr. advised the board of their role in regards to conditions of development plans, as long as the conditions are reasonably necessary for the plan to satisfy the ordinance requirements. He explained the Indiana Code 36-7-4-1405(b)(1) where it states this. He stated the standard procedure for a development plan is to request the maximum and then the petitioner can build all or part of it. He explained that the approval of the November 2012 modification gave the condition of flexibility with the turbine model, as long as the height remained the same or decrease. This petition is asking to modify that to allow any turbine height. Mr. Lautzenheiser provided the board with an analogy of a warehouse structure development plan and it wishing to increase its square footage after the plan was approved. He explained that the petitioner should file with the biggest turbine that they could foresee wanting to use so that it can be shown to meet all of the requirements of the ordinance. His suggestion to the board would be to deny the request of modifications due to the fact that the board cannot vote on the compliance of anything greater that what is currently in the petition. The increase of size could cause additional setback, shadow flicker, and noise issues.

Jerome Markley explained to the board the possible motions that could be made. The possible motions being to approve as is, to approve with a specific height figure or to deny the modification. He also advised the board that the only way any motion can pass is by a majority of the total board members, therefore six votes would be needed to pass anything.

Tim Rohr made a motion to deny due to the fact that there are too many unknown variables. Harry Baumgartner, Jr. seconded the motion. The board voted and it was 5-1-1, John Schuhmacher stated that he wanted to abstain. The director and council for the APC informed him that he could not abstain. The board then voted again.

Conditions:
Motion to Deny: Tim Rohr
Second: Harry Baumgartner, Jr.
Vote: 6-1 (Bill Horan)

A13-04-10 CHESTER TWP., HARRISON TWP., LIBERTY TWP., & NOTTINGHAM TWP. Multiple locations. Wells County Wind II, LLC (APEX) requests approval for a Large WECS project with 71 – 1.7MW turbines. The multiple properties are zoned A-1.

Rob Propes, development manager with Apex Wind Energy, explained that the petition changed to 69 proposed turbines and that it is almost identical to the development plan that was approved by the APC in November 2012. He stated that they have designed the Wells County Wind II project area with the same standards, protocols, setback provisions (1200ft for non-participants), sound (48dBA for non-participants) and shadow flicker thresholds, and complaint resolution process that was agreed upon with the Wells County Wind I project. He stated that they are also seeking the flexibility of the turbine location on a parcel which was granted at the November 2012 meeting for the Wells County Wind I project. Mr. Propes advised that like the previous project, they will be committed to installing FAA approved state of the art lighting that minimizes scatter to reduce light pollution. They are also seeking a reciprocal setback waiver. He stated that like the other project, they are also sending out participation support agreements to those individuals that live within 2500ft of a turbine. Then, Mr. Propes went on to give a project overview and said that the project would be about 119MW with 69 turbines over about 23,000 acres, which is covered over long term lease agreements. He explained that these 1.7MW turbines total tip height would be about 479ft. They are projecting a target operation date of somewhere in the second quarter of 2015. He went on to explain how this project met the ordinance requirements. He explained that the decommissioning, road use and economic development agreements would be in place

before any improvement location permits were obtained. He stated that there were a couple of issues that were addressed in the director's opinion. The first of those being that six non-participating dwellings are over the 30 hours per year for shadow flicker maximum that Apex had voluntarily adopted. He also stated that the 30 hours was not based on real world scenario. He stated that the proposed remedy for the shadow flicker is to offer those individuals participation support agreements, if this is unsuccessful then those turbines would be removed from the project. The second issue in the director's opinion is that there are four turbines that do not comply with the 1.1 times the height setback. He explained the ways that these issues will be remedied either through setback waiver, participation support agreements, or signing the property up for a lease; if these options are unsuccessful then those turbines would be removed from the project. Mr. Propes then wanted to clarify some of the concerns with the setback distances from dwellings. He listed some of the distances and stated that a majority of the homes were beyond 1600ft. He went on to address the utilization of the public right of ways for the collection lines; and advised that this would be limited. He stated that their preferred method is to have private easements with land owners. Finally, Mr. Propes discussed the conditions and stated that they would like flexibility with the turbine model, its location on the parcel, along with the locations of the collection lines and access roads. All of those items would have to have approval by the Area Plan director and comply with the WECS ordinance prior to obtaining an improvement location permit. He also said that like the Wells County Wind I project, they are also requesting a two year time frame on changes to turbine model and the locations of access roads and collection lines without going before the entire APC board for approval.

William Morris, 1373 W 1050 S, addressed the possible impact to property values to non-participating residents who live close to a wind turbine. He discussed a report entitled "The Impact of Wind Power Projects on Residential Property Values in the United Sates: A Multi-Site Hedonic Analysis", which was written in 2009. This study was done in nine states with sales of homes within ten miles of 24 existing wind farms. He stated that the study indicated that with the modeling, there was no conclusive evidence of any property value impact that might occur around wind turbines. He explained that the study was funded by the Office of Energy Efficiency & Renewable Energy, which is part of the United States Department of Energy. He read the mission statement of that department. Mr. Morris then went on to discuss a report from 2011 entitled "Values in the Wind: a Hedonic Analysis of Wind Power Facilities". He then addressed the credentials of the authors of this report. He stated that this report appeared in the Land Economics Journal in 2012. Then, Mr. Morris quoted from the 2009 study on how the data was broken down into sale groups due to their proximity to the turbines. Next, he compared how the data was collected with the 2011 study versus the 2009 study. He quoted from the 2011 report which indicated there was significant property value loss in 2/3 of the areas studied. He did a comparison from Clinton County, New York, which was one of the areas studied in the 2011 report, and Wells County, due to the fact that the information from Clinton County closely resembles many characteristics of Wells County. He listed the comparisons in demographic, populations, and stated that their three wind farms total 186 turbines versus the proposed total of 156 for Wells County. Mr. Morris went on to explain the results of the study for Clinton County. He stated that homes within one, two, and three miles of a turbine had losses between 12 and 17 percent. He then used the formula that the 2011 study had on the number of homes near proposed turbines in Wells County. With an estimated 600 homes within one mile of proposed turbines, the potential loss could total around $14.375 million. Within one to three mile of the proposed turbines, there are an estimated 2,000 homes that could have a total potential property value loss of $31.581 million. Therefore, non-participating home owners in Wells County could experience a loss in property value totaling roughly $46 million. Mr. Morris stated that it's equally important to show the potential financial loses as well as the financial gains of a project. He then quoted from the zoning ordinance and explained how this scenario violates part of the ordinance.

Ray Shaw, 4912 S 200 E, stated that he was neither in favor of nor against the project. He just questioned how the power was going to get from the turbines to the grid and he also addressed the issue of tile repairs and the length of insurance for the work done to repair the damaged tiles.

Pat Hess, lawyer with Beckman-Lawson in Fort Wayne, listed the seven couples that he represents. He stated that his clients have issues with the ordinance and that it is too permissive to development plans. He commented on the review of the petition done by Michael Lautzenheiser, Jr. He addressed the four turbines that do not meet the setback of 1.1 times the height of the turbine, along with the one turbine that does not meet the two mile setback from a municipality (Bluffton). He then quoted from section 15-03 of the WECS ordinance in paragraph five. Mr. Hess addressed the fact that there was nothing stated to address this issue and the petition fails to meet the burden of proof required by all development plans. He stated that his clients are aware of the development plan standards and the petitions have not met a number of setbacks and standards, therefore the plan should be denied.

Chuck Brooks commented on when the board was first formed and talked about sell offs. He stated that the industrial wind farm is not compatible with the residential homes and the agricultural life that is in existence. He explained that when the project was coming in, it was kept quiet and there was not enough proper explanation of what was occurring. He commented on the uncertainty of the financial health of the wind company. He stated that the 1800ft setback from the property line that was voted on in February 2013 is good and he requested that the board not vote on anything until the setback issue is settled.

Sue Campbell stated that she initially thought that project would be smaller wind turbines not near any homes; however after she attended the first meeting she stated that she was shocked. She expressed her concerns with the turbines destroying the view and quality of life. She also commented about people not being able to develop on their own property. Ms. Campell stated that there are more people against the project than there are for it and explained that the signatures on the petition against the project proves that. She addressed the issue of the project dividing the community. She requested that the board vote no on the project.

Linda Sliger questioned the amount of acreage that is lease to the wind company, but is owned by individuals that do not live in the area. She also questioned how much of a road will get improved if it has an access road coming off of it. She too also wondered where the power that the turbines generate is going.

Ron Westfall stated that he received a participation support agreement and felt that it was an insult and that it looks like the wind company did not have any plan in mind when they placed the turbines.

Mr. Brooks commented on the fact that the wind turbines are industrial and have no place in an agricultural area. He stated that CAFOs are agricultural along with growing crops. He explained that the ethanol plant was industrial and people didn't want it either, but at least it's contained to one area. Plus the plant provided 50-60 jobs, where this project would have about 6-8 long term jobs.

Ted Sprunger stated that he is an insulator and has worked over in Ohio around the wind turbines and has spoken to residents there. He told the board of a gentleman that he had spoken with that stated he cleaned up broken blades that have gone at least 1000ft away from the tower. Mr. Sprunger commented on his machines that he uses to insulate and the blowers in them. He stated that he knows when a fan needs to be replaced because of the sound that it makes. He explained that this would be the same for the wind turbines. He commented on a piece of property that he was thinking about buying, but now with the wind turbines that are proposed to be near the property he is unsure if he wants it any longer.

Tim Weist questioned where the noise level was taken from to get the 48 decibel data. He also questioned how the turbine shut down worked during bad weather.

Joan Null stated that the petitions that the board hears should be compared as in apples to apples. She went back to discuss how Alan Lance's rezoning petition was handled and the fact that the land uses needed to be compatible. She stated that the wind turbines are industrial and that there would be no

buffer between them and the residential dwellings that are in the agricultural area. She suggested that the board turn down the proposal until the ordinance has been amended with the new setbacks that were already approved. She stated that they realize that the project for Wells County Wind I cannot be changed.

Troy Cale commented on the research that he did when he saw the signs go up for this project. He also addressed the impact that it has had on his family and relationships. He stated his concerns with the possibility of the turbines breaking down and coming apart. He stated that no one has the right to infringe upon his neighbors' property rights.

Rob Propes answered the questions that were asked by the public. He stated that the repairs to any of the tiles that they might damage will be guaranteed for life. He explained how the power from the turbines would get to the grid by using the connection point of the Keystone DPLE substation. The electricity with go from the turbines to the substation and the electrons will flow the path of least resistance and go to where there are places that people want to purchase the energy off the grid. He then addressed the question of where the decibel measurement would be taken from. The modeling analysis measures from all directions on the outside of the house, which could have a maximum of 48 dbA. The final question Mr. Propes addressed was that on how the turbine would be stopped during bad weather and breaks would be used to do so along with turning the turbine in a direction where it is not against the wind.

Michael Lautzenheiser, Jr. addressed the review of the petition for 71 turbines, which has decreased to 69, from Wells County Wind II. He stated that the petition meet the requirements of the ordinance expect in these areas:

- 4 turbines do not meet the 1.1 times the height setback.
    - K-05
    - K-08
    - N-14
    - K-10
- 14 residences that have over 30 hours per year of shadow flicker using the cloud cover discount model.
    - 6 of those are non-participating dwellings
- 1 turbine does not meet the 1000ft residential setback

Mr. Lautzenheiser stated the suggested voting options for the board. The project is filed as a whole and because there are items that do not meet the ordinance, the petition could be denied on those grounds. The project could also be approved with the conditions that those items that are in violation be fixed or removed. He also stated that the language of the document should be changed to meet the wording that was used in the conditions of the approved modification to the Wells County Wind I project in November 2012. He suggested approving the waiver of the reciprocal setback requirement as submitted. He then went on to further explain the reciprocal setback rule.

Mark GiaQuinta made an objection on the record to state that a denial of this petition would violate case law and explained that under the Tippecanoe County case, the board is required to provide the petitioner where they failed to meet the ordinance and the petition is allowed the opportunity to become compliant.

The board questioned when the County Commissioners would make a decision on the ordinance revision to the 1800ft setback. They were informed by APC council, Andy Antrim, that this petition would fall under the current ordinance setback (1000ft) due to the fact that the petitioners made a substantial investment into their plan prior to filing the petition and since that setback for the ordinance is not currently in place, they would still be under the ordinance at the time of the filing. Mr. Antrim advised of a 2009 case and a couple of other cases out of Indianapolis, where if the petitioner can show vested interest was made at the time of the initial filing, even if denied, then any modification or amended petitions would be heard under the former ordinance.

Mr. Lautzenheiser addressed some of the board members questions about conditional approvals. He stated that the turbines that do not currently comply with the ordinance would have to be moved to conform to the rules or removed from the project. He also discussed the waiver of the reciprocal setback and stated that it was not a condition. It is just something that the petitioner would like to do to lessen the infringement upon non-participating land owners' rights.

Both Mr. Antrim and Mr. Lautzenheiser advised the board of the possible options, which were to either deny and give the specific areas that the ordinance are not being met or to approve with conditions to meet the ordinance. The board's process of reviewing the petition is to determine whether it meets the ordinance or not and vote accordingly. Mr. Antrim advised that if the petition were denied and the specific areas were corrected then the petition could be resubmitted.

Mr. GiaQuinta commented on the Plat Committee's role and their recommendations to the petitioner, in the development plan process. He questioned whether they were binding or not and if the APC has official findings of deficiency and the Plat Committee's recommendations are just advisory. He explained that a flat denial without notification of the deficiency and time to correct the violations violates the case law stated in the Tippecanoe County case.

Tim Rohr made a motion to deny due to the fact that setbacks have not been met for some turbines and the shadow flicker of over 30 hours for some non-participating homes. Richard Kolkman seconded the motion. The board voted and it was 4-3, with John Schuhmacher, Bill Horan and Angie Dial opposing. Without a majority of the total board in favor of the motion, the motion did not pass.

Bill Horan made a motion to approve with the conditions that the turbines that are in violation of the the setback and shadow flicker requirements are moved to be compliance or eliminated; that the waiver of the reciprocal setback be granted; and that the height restriction language match that of the approve Wells County Wind I plans. John Schuhmacher seconded the motion. The board voted and it was 3-4, with Richard Kolkman, Jerome Markley, Tim Rohr, and Harry Baumgartner, Jr. opposing. Without a majority of the total board in favor of the motion, the motion did not pass.

Mr. GiaQuinta stated that his client would be willing to eliminate the turbines in violation at this time, if the board could make a motion on that, in order to move the petition along. Mr. Lautzenheiser listed the 14 turbines with the setback and shadow flicker violation. Mr. Propes stated that N-14 has a fully executed and notarized lease and assignment for that neighboring property. Mr. Antrim clarified that with removing the 13 turbines in violation from the project, the remaining turbines would be in compliance with the ordinance. This would change the project from 69 to 56 turbines.

Conditions:
Motion to Table until May meeting for a vote only: Tim Rohr
Second: John Schuhmacher
Vote: 7-0

DISCUSSION:

ADVISORY:
Tim Rohr made a motion to adjourn the meeting. Harry Baumgartner, Jr. seconded the motion and the motion passed with a vote of 7-0. The April 4, 2013 Area Plan Commission meeting adjourned at 12:02a.m on April 5, 2013.

Jerome Markley, President

ATTEST: Michael W Lautzenheiser Jr.
Michael Lautzenheiser Jr., Secretary