

STATE OF ILLINOIS)
)SS
COUNTY OF DEKALB)

ORDINANCE 2007-06

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT
TO ALEJANDRO AND ANNE BENAVIDES
FOR A PUBLIC STABLE
ON PROPERTY COMMONLY KNOWN AS 17325 JERICHO ROAD
IN SQUAW GROVE TOWNSHIP**

WHEREAS, Alejandro and Anne Benavides have filed an application for a Special Use Permit to allow the establishment and operation of a public horse stables, including the provision of riding lessons, on property commonly known as 17325 Jericho Road in Squaw Grove Township, said property being zoned A-1, Agricultural District and legally described as shown in Exhibit "A" attached hereto; and

WHEREAS, following due and proper notice by publication in the Daily Chronicle not less than fifteen (15) nor more than thirty (30) days prior thereto, and by mailing notice to all owners of property abutting the subject property at least ten (10) days prior thereto, the DeKalb County Hearing Officer conducted a public hearing on November 30, 2006, at which the petitioners presented evidence, testimony, and exhibits in support of the requested Special Use Permit, and one person testified in favor and none in opposition thereto; and

WHEREAS, the Hearing Officer, having considered the evidence, testimony and exhibits presented has made his findings of fact and recommended that the requested Special Use Permit be approved, subject to conditions, as set forth in the Findings of Fact and Recommendation of the DeKalb County Hearing Officer, dated November 30, 2006, a copy of which is appended hereto as Exhibit "B"; and

WHEREAS, the Planning and Zoning Committee of the DeKalb County Board has reviewed the testimony and exhibits presented at the aforesated public hearing and has considered the findings of fact and recommendations of the Hearing Officer, and has forwarded a recommendation to the DeKalb County Board that the Special Use Permit be granted in accordance with the recommendation of the Hearing Officer; and

WHEREAS, the DeKalb County Board has considered the findings of fact and recommendations of the Hearing Officer and Planning and Zoning Committee, and has determined that granting the Special Use Permit to allow the public horse stable and riding lessons on the subject property is consistent with the requirements established by Section 9.02.B.3. of the DeKalb County Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF DEKALB COUNTY, ILLINOIS, as follows:

SECTION ONE: The Findings of Fact and Recommendation of the DeKalb County Hearing Officer, Exhibit "B" attached hereto, is hereby accepted, and the findings of fact set forth above are hereby adopted as the findings of fact and conclusions of the DeKalb County Board.

SECTION TWO: Based on the findings of fact set forth above, a Special Use Permit is hereby granted to allow the establishment and operation of a public horse stables, including the provision of riding lessons, on property located at 17325 Jericho Road and legally described in Exhibit "A" attached hereto.

SECTION THREE: This Special Use Permit is subject to the condition that the layout and use of property, parking, fencing, buildings and activity areas on the subject property shall be in substantial accordance with the Site Plan and materials submitted as part of the petitioners' Special Use Permit application, received October 26, 2006.

SECTION FOUR: This Ordinance shall be in full force and effect upon its adoption by the County Board of DeKalb County, Illinois.

SECTION FIVE: Failure of the owners or other party in interest or a subsequent owner or other party in interest to comply with the terms of this Ordinance, after execution of such Ordinance, shall subject the owners or party in interest to the penalties set forth in Section 11.05.A. and B. of the DeKalb County Zoning Ordinance.

PASSED BY THE COUNTY BOARD THIS 21ST DAY OF FEBRUARY, 2007, A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

Legal Description of Subject Property

Parcel 1:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 5, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE SOUTH 89 DEGREES 14 MINUTES 06 SECONDS EAST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, 1427.69 FEET FOR THE POINT OF BEGINNING; THENCE NORTH 1 DEGREE 28 MINUTES 13 SECONDS EAST PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER, 500.0 FEET; THENCE SOUTH 89 DEGREES 14 MINUTES 06 SECONDS EAST PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER, 575.25 FEET TO THE EAST LINE OF THE WEST THREE-FOURTHS OF SAID SOUTHWEST QUARTER; THENCE SOUTH 1 DEGREE 28 MINUTES 13 SECONDS WEST ALONG SAID EAST LINE, 500.0 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 89 DEGREES 14 MINUTES 06 SECONDS WEST ALONG SAID SOUTH LINE, 575.25 FEET TO THE POINT OF BEGINNING, IN SQUAW GROVE TOWNSHIP, DEKALB COUNTY, ILLINOIS.

Parcel 2:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 5, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE SOUTH 89 DEGREES 14 MINUTES 06 SECONDS EAST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, 1471.25 FEET; THENCE NORTH 1 DEGREE 28 MINUTES 13 SECONDS EAST PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER 500.0 FEET FOR THE POINT OF BEGINNING; THENCE NORTH 1 DEGREE 28 MINUTES 13 SECONDS EAST PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER 81.94 FEET; THENCE SOUTH 89 DEGREES 14 MINUTES 06 SECONDS EAST PARALLEL WITH THE SOUTH LINE SAID SOUTHWEST QUARTER 531.69 FEET TO THE EAST LINE OF THE WEST THREE-FOURTHS OF SAID SOUTHWEST QUARTER; THENCE SOUTH 1 DEGREE 28 MINUTES 13 SECONDS WEST ALONG SAID EAST LINE 81.94 FEET; THENCE NORTH 89 DEGREES 14 MINUTES 06 SECONDS WEST PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER 531.69 FEET TO THE POINT OF BEGINNING, IN SQUAW GROVE TOWNSHIP, DEKALB COUNTY, ILLINOIS.

P.I.N.s: 15-13-300-009 & 15-13-300-007

Petition: SQ-06-22
Date: November 30, 2006

FINDINGS OF FACT

This matter comes before the DeKalb County Zoning Hearing Officer on November 30, 2006, for consideration of Petition requesting approval of a Special Use Permit in accordance with Section 9.02.B.2 of the DeKalb County Zoning Ordinance to allow the operation of a public stable, including horse riding lessons, on property located at 17325 Jericho Road, Hinckley, Illinois.

The application of the Petitioner was duly filed in accord with the DeKalb County Code. The Petition and its attachments are incorporated into the record of proceedings herein by reference.

Publication of Notice

The notice of public hearing has been duly published in accord with the DeKalb County Code. A certificate of publication has been received into the record and reflects publication in the Daily Chronicle on September 12, 2006. Correspondence has been sent to all adjacent property owners.

Location of Subject Property

The subject property is located on the north side of Jericho Road, approximately 2600 feet east of East Sandwich Road in Squaw Grove Township, DeKalb County, Illinois.

Site Characteristics

A. Location - Access

The subject parcel totals 7.60 acres and is presently zoned A-Agricultural and is used as the location for a set of farm buildings and pasture. All surrounding land is zoned Agricultural. Access is to Jericho Road, and the parcel lies approximately one and one half miles from Hinckley, the nearest incorporated community, in the Hinckley-Big Rock School District and in the Hinckley Fire District. The parcel is designated Industrial on the Unified Future Land Use Plan of the DeKalb County Unified Comprehensive Plan.

B. Soils - Drainage

Soils are 154A Flanagan silt loam and 356A Elpaso silty clay loam. There is no indication of wetlands or flood plain on the parcel in question.

C. Proposed Use

Plans call for the use of the existing buildings on the property for a public stable and for horse riding lessons.

D. Water Supply/Sewage Disposal

The property is served by two wells and a septic system.

E. Correspondence

Correspondence was received from William Lorence, County Engineer, who forwarded a note indicating support for the position of the Township Road Commissioner. The DeKalb County Soil & Water Conservation District submitted a letter indicating no objection to the proposed special use on the property. Mr. Robert Drake, Director of DeKalb County's Environmental Health Division, verbally commented that Petitioners should provide adequate washroom facilities to the public.

Persons appearing on behalf of the Petitioner:

The Petitioner, Mr. Alejandro Benavides, appeared on his own behalf. He stated that he resides on the property in question. He wishes to provide boarding for horses and also to provide riding lessons. He stated that the property is presently zoned Agricultural, and that there are several buildings on the property which were previously a large feed lot for feeding lambs and sheep. He has begun converting the existing buildings by adding stalls and other facilities to accommodate horses. He stated that on the property he also does organic gardening and has an orchard.

Mr. Benavides testified that he anticipates that he would not have more than 15 horses on the property. This could result in as many as 20-30 people on a given day, and the maximum traffic would be 15 cars in any given day. He stated that there is adequate parking on the property for this type of traffic. He has a large portion of the property blacktopped, and there are 13 parking slots plus a spot for one handicapped parking place. The property could accommodate more parking spots.

He has done a substantial amount of landscaping on the property and submitted a number of pictures illustrating the landscaping.

He has a sign presently located on the property which is four feet high and six feet wide, being a wood sign facing Jericho Road. He does not plan on any additional signs.

He stated that there are two wells on the property and more than enough water capacity to serve 15 horses. Previously the wells were sufficient to provide water for a large number of

sheep.

There is a bathroom near the stable for use by the public.

He stated that if he does provide riding lessons, he would be only teaching one or two students at any given time and does not plan on having any events on the property where large numbers of people would be present.

He expects his hours of operation to be from 7:00 A.M. to 7:00 P.M. Monday through Sunday.

He stated that he had contacted the Mayor of Hickley and determined that the Village of Hinckley supports his proposal. He also submitted a letter from his neighbor to the east, namely William Wehri, who supports the proposal, and he said he was not aware of any neighbors who objected to the proposal.

He said there would be no activity which would generate noise such that it would be a problem for his neighbors. Most of the activities will be indoors, and there are no other houses within 500 feet or more from his property. Most of his neighboring properties are also buffered with trees which would further limit any interference from noise.

He does not think there will be any significant increase in traffic and pointed out that Jericho Road is not a heavy traffic road in any event.

He stated that the property was historically a feed lot for hundreds of sheep and also was used for pasture. He intends to continue using the pasture property for the same purpose and does not expect to add any new buildings on the property.

There is a large area for trailers to come onto the property and unload horses when necessary and to turn around. In fact, there are two driveways into the property, one paved and one gravel, so it would be possible to come in on one driveway and leave on the other one. He does not anticipate that there would be more than one or two trailers on the property at any given time.

Mr. Joe Diedrich of 620 East Prairie Street, Hinckley, Illinois 60520 appeared and testified that he is the Mayor of Hinckley and that the Village Board discussed the matter at length and that there was no objection from any member of the Village Board or from the people visiting the Village Board meeting on the night that it was discussed. He spoke in favor of the proposal.

The undersigned viewed the property on November 22, 2006.

RECOMMENDATION

The undersigned finds that the proposed Special Use complies with all applicable provisions of the applicable District regulations. The proposed Special Use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is located or to the public welfare at large. The undersigned further finds that the location and size of the Special Use, the nature and intensity of the operation involved, and the location of the site will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with applicable zoning district regulations. The farm buildings which are the subject of this proposal, have always been used for agricultural purposes and, in fact, were the location of a large sheep feeding operation for many years. Accordingly, it does not appear that having 15 horses on the property would cause a problem in the neighborhood. There appears to be adequate parking and loading areas on the property, adequate water supply, and adequate bathroom facilities. There were no objectors and, in fact, the representative of the nearest incorporated village, Hinckley, and the next door neighbor are in favor of the proposal. Accordingly, the undersigned hereby recommends approval of this request for a Special Use Permit on the property.

Respectfully submitted,

Ronald G. Klein
Hearing Officer

DeKalb County
Planning/Zoning/Building Department

110 East Sycamore Street
Sycamore, IL 60178
(815) 895-7188
Fax: (815) 895-1669

MEMORANDUM

TO: Planning and Zoning Committee

FROM: Paul R. Miller, AICP
Planning Director

DATE: October 26, 2006

SUBJECT: Benavides Special Use Permit
Petition SQ-06-22

Alejandro and Anne G. Benavides have filed a petition for approval of a Special Use Permit in accordance with Section 9.02.B.2 of the DeKalb County Zoning Ordinance to allow the operation of a public stable, including horse-riding lessons, on property located at 17325 Jericho Road. The 6.6-acre subject property is located on the north side of Jericho Road, approximately 2,600 feet east of East Sandwich Road, in Squaw Grove Township. The parcel is zoned A-1, Agricultural District.

DeKalb County Hearing Officer Ron Klein conducted a public hearing on the request on November 30, 2006. The petitioners presented evidence and testimony in support of the request for the Special Use on the 7.06-acre parcel, and indicated that the business might accommodate a maximum of 15 horses being boarded. The petitioners also indicated that there is adequate room for parking of cars and horse trailers, and that riding lessons would be limited to one or two students at a time. One member of the public spoke in favor of the request, and none spoke in opposition.

The Hearing Officer has forwarded his Report and Recommendation, and recommends approval of the Special Use Permit. The Planning and Zoning Committee is requested to consider the application and the recommendation of the Hearing Officer, and forward a recommendation to the full County Board for action in the form of an ordinance to approve the request. Staff recommends that, if the Committee determines to recommend approval, such approval be conditioned on the business and site being in conformance with the application and testimony at the hearing.

cc: Alejandro Benavides

PRM:prm

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STATE OF ILLINOIS)
)SS
COUNTY OF DEKALB)

ORDINANCE 2007-07

**AN ORDINANCE AMENDING
THE DEKALB COUNTY ZONING ORDINANCE
REGARDING “DAY CARE HOME” IN THE A-1 DISTRICT,
AND GRANTING A SPECIAL USE PERMIT
ON PROPERTY COMMONLY KNOWN AS
1818 BRICKVILLE ROAD IN SYCAMORE TOWNSHIP**

WHEREAS, Section 4.02 of the DeKalb County Zoning Ordinance, Appendix A of the DeKalb County Code, sets forth the permitted and special uses which are possible within the A-1, Agricultural District; and

WHEREAS, the Zoning Ordinance does not include “day care home” as a permitted or special use in the A-1, Agricultural District, and yet there are existing properties within that zoning district from which day care home businesses currently operate; and

WHEREAS, Racquel L. Whitney, part owner of property zoned A-1, Agricultural, located at 1818 Brickville Road in Sycamore Township and legally described as shown in Exhibit “A” attached hereto, has petitioned the County Board to amend the text of the Zoning Ordinance to add “day care home” to the list of special uses in the A-1, Agricultural District, and has further petitioned the County Board for approval of a Special Use Permit to approve use of the subject property as a day care home in reliance on said Zoning Text Amendment; and

WHEREAS, following due notice published in The Daily Chronicle not less than fifteen (15) nor more than thirty (30) days prior thereto, and by mailing notice to all owners of property abutting the subject property at least ten (10) days prior thereto, a public hearing was conducted on December 7, 2006 by the DeKalb County Hearing Officer regarding proposed amendment to the DeKalb County Zoning Ordinance to add “day care home” to the list of special uses in the A-1 District, and to grant a Special Use Permit on property located at 1818 Brickville Road for use as a day care home, and two members of the public asked questions and one spoke in opposition to the requested Special Use Permit; and

WHEREAS, based on the testimony given at the public hearing, the Hearing Officer forwarded to the Planning and Zoning Committee of the DeKalb County Board his findings and recommendation that the proposed amendment to the Zoning Ordinance be approved, and that a Special Use Permit be granted, with conditions, as set forth in the Findings of Fact, dated December 7, 2006, attached hereto as Exhibit “B”; and

WHEREAS, the Planning and Zoning Committee has considered the proposed amendment and Special Use Permit application, and the recommendations of the Hearing Officer, and has

forwarded a recommendation to the full County Board that the proposed Zoning Ordinance Text Amendment be adopted to include "day care home" in the list of Special Uses in the A-1 District, and has recommended that the Special Use Permit requested to permit the operation of a day care home on the subject property be approved; and

WHEREAS, the DeKalb County Board has considered the recommendations of the Planning and Zoning Committee and the Hearing Officer, and has determined that it is in the best interest of the citizens of the County to amend the Zoning Ordinance to add "day care home" to the list of special uses in the A-1, Agricultural District, and that granting a Special Use Permit to allow use of the property at 1818 Brickville Road for a day care home is consistent with the findings required by Section 9.01.B.3 of the DeKalb County Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF DEKALB COUNTY, ILLINOIS, as follows:

SECTION ONE: The findings and recommendation of the DeKalb County Hearing Officer, Exhibit "B" attached hereto, and the recommendation of the Planning and Zoning Committee are hereby adopted as the findings and conclusions of the DeKalb County Board.

SECTION TWO: The following amendment to the DeKalb County Zoning Ordinance, Appendix A of the DeKalb County Code, is hereby approved: The following shall be added in alphabetical order to Section 4.02., A-1, Agricultural District., C. *Special land uses and developments*. 1 of the DeKalb County Zoning Ordinance:

Day care home.

SECTION THREE: Based on the findings of fact set forth above, a Special Use Permit is hereby granted to allow the operation of a day care home on property located at 1818 Brickville Road in Sycamore Township and legally described in Exhibit "A" attached hereto.

SECTION FOUR: This approval of a Special Use Permit is subject to the following conditions:

1. Operation of the day care home shall be in accordance with the application for Special Use Permit submitted by the petitioners and received by the County on October 30, 2006;
2. The day care home business shall serve no more than eight (8) children at any given time;
3. There shall be no employees other than the residents of the property at 1818 Brickville Road;
4. The hours of operation of the day care home shall be limited to 6:00 a.m. to 6:00 p.m. Monday through Friday;
5. The visual character of the subject property shall remain residential;

6. The Special Use Permit shall terminate at such time as Racquel L. Whitney no longer resides on the property or is no longer licensed by the State as a day care operator.

SECTION FIVE: This Ordinance shall be in full force and effect upon its adoption by the County Board of DeKalb County, Illinois.

SECTION SIX: Failure of the owners or other party in interest to comply with the terms of this Ordinance, after execution of such Ordinance, shall subject the owners or party in interest to the penalties set forth in Section 11.05.A. and B. of the DeKalb County Zoning Ordinance.

ADOPTED BY THE COUNTY BOARD THIS 21ST DAY OF FEBRUARY, 2007, A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

Legal Description of the Subject Property

Exhibit "A"

Parcel 1:

Lot 1 of Lind's Subdivision, a subdivision on part of the Southwest Quarter of Section 20, Township 41 North, Range 5 East of the Third Principal Meridian, according to the plat thereof recorded in Book "P" of Plats, Page 47, as Document No. 359067, on June 15, 1971, in DeKalb County, Illinois.

Parcel 2:

A parcel of land in the Southwest Quarter of Section 20, Township 41 North, Range 5 East of the Third Principal Meridian, described as follows: Beginning at the Northwest corner of said Southwest Quarter; thence Southerly along the West line of said Section, a distance of 1225.18 feet to the centerline of Brickville Road; thence Southeasterly, along said centerline, a distance of 342.26 feet to the Southwesterly corner of Lot 1 of Lind's Subdivision; thence Northeasterly, along the Northwesterly line of said Lot 1, a distance of 33 feet for the point of beginning; thence continuing along said Northwesterly line, a distance of 231.32 feet to the Northwesterly corner of said Lot 1; thence Northwesterly along an extension of the Northeasterly line of Lind's Subdivision, a distance of 25.29 feet to the Southerly right of way line of Peace Road; thence Southwesterly along a line parallel to and 25.8 feet from said Northwesterly line of Lot 1, a distance of 301.5 feet; thence Southeasterly 38.8 feet to the point of beginning, all in Sycamore Township, DeKalb County, Illinois.

P.I.N.s: 06-20-300-002 & -027

Petition: SY-06-23
Date: December 7, 2006

FINDINGS OF FACT

This matter comes before the DeKalb County Zoning Hearing Officer on December 7, 2006, for consideration of a Petition requesting first that the DeKalb County Zoning Ordinance be amended to allow a Special Use Permit to be granted for a day care business in the A-1, Agricultural District and secondly, if such an amendment is granted, to allow a Special Use Permit for property at 1818 Brickville Road, Sycamore, Illinois, which is located in the A-1, Agricultural District, to permit a day care business.

The application of the Petitioner was duly filed in accord with the DeKalb County Code. The Petition and its attachments are incorporated into the record of proceedings herein by reference.

Publication of Notice

The notice of public hearing has been duly published in accord with the DeKalb County Code. A certificate of publication has been received into the record and reflects publication in the Daily Chronicle on November 19, 2006. Correspondence has been sent to all adjacent property owners.

Location of Subject Property

The subject property is located at 1818 Brickville Road, Sycamore, Illinois at the northeast corner of the intersection of Brickville and Peace Roads.

Site Characteristics

A. Location - Access

The subject parcel totals one acre and is presently zoned A-1, Agricultural District and is used as the location of a residence where Petitioner presently operates a day care center. The surrounding property to the north, to the south, to the east and west is all residential, however, the property immediately adjacent to the east is zoned A-1 as is some property located to the west. Access is to Brickville Road and the property is located adjacent to Peace Road. The property is located close to the City of Sycamore (less than 1 1/2 miles), the nearest incorporated community in the Sycamore School and Fire Districts. The parcel is designated for residential

use in the Future Land Use Plan of the DeKalb County Unified Comprehensive Plan.

B. Proposed Use

The Petitioner desires to operate a day care business on the subject property.

C. Correspondence

Correspondence was received from the DeKalb County Soil & Water Conservation District indicating that they have no objection to the proposal and from William Lorence, County Engineer, indicating no objection to the proposal. No other correspondence was received..

Persons appearing on the issue of whether or not the DeKalb County Zoning Ordinance should be amended to permit day care homes in the A-1, Agricultural District:

The Petitioner, Racquel L. Whitney, testified that she felt that the ordinance should be amended. She stated that there are many unemployed mothers home with their children who could use the extra income operating a day care home, and there are many children in need of day care services. She felt that this was true throughout the County, in the rural areas as well as in the urban areas. She stated that many times parents had to leave home on short notice and having day care services in their vicinity would be very helpful.

Mr. Tim Hunter of 724 Reynolds Road, Sycamore, Illinois testified that he felt ordinances are subject to change and due to economic changes it would be in order to allow this amendment. He stated he felt there was a real need for day care homes in the County, and he saw no disadvantage to having them in rural areas.

Mr. Paul Miller, the DeKalb County Zoning Director, pointed out that if the amendment were granted, the County Board would still retain control because each applicant would still have to apply for a Special Use Permit regardless of where they were located in the County. He also pointed out that the reason Agricultural Districts are zoned Agricultural is that they are primarily for agricultural uses. He pointed out that there may be more demand for day care in a high density district and that we should consider the possibility of additional wear and tear on the roads if the amendment is granted.

Persons speaking in opposition or requesting the proposal to grant a Special Use Permit on the property at 1818 Brickville Road in the event that the amendment to the Zoning Ordinance is granted:

Racquel L. Whitney of 1818 Brickville Road, Sycamore, Illinois, the Petitioner, testified that they have two driveways into their property, one used for the business and one used for personal use. There are four parking spaces in the "business driveway," and they would stripe them to clearly identify their location. She stated that no one picks up children when the traffic is heavy because they are at work and so she did not feel they would adversely affect the traffic situation in front of their home. She stated that they own one acre, and it is fenced with a high

board fence and that they have a two story playground within the fenced area. They are five doors from North Grove School, and so it is a good location for a day care home. She stated that it is very accessible because of the proximity of Peace Road and Brickville Road, and that although their property is zoned A-1, Agricultural, it is not used for agricultural purposes.

She stated that she is licensed to have eight children, three of whom must be under 24 months of age and five of whom must be over 24 months of age. She now has a total of six children, including her own five year old, however, two are leaving tomorrow. She has operated a day care home at other locations since 2004.

She stated she had received no complaints from her neighbors. They do want a sign approximately four feet by two feet in size although her husband, James Whitney (who was also present), said that it is not absolutely essential that they have a sign.

She further stated that they are monitored on a regular basis by DeKalb County DCFS and all inspections are unannounced. She has had no problem with her licensing agency.

Mrs. Barbara Hunter of 724 Reynolds Road, Sycamore, Illinois asked whether the sign would be permanent and was told that it would be. She stated that she had no objection to the request.

Mr. Tim Hunter of 724 Reynolds Road, Sycamore, Illinois stated that he and his wife have lived adjacent to the property since January and understand that the business has been operated on the location since June 20. He said that traffic has not been an issue as far as he could tell.

Mr. Miller asked whether or not the license could be amended to allow for more than eight children and was told by Mrs. Whitney that it could be amended to have as many as ten children, however, Mrs. Whitney stated that she would not want more than eight because she could not afford to have employees help and did not want to have employees.

She stated that all of the visitors enter on the east side driveway and that usually there was only one car there at any given time.

The undersigned viewed the property on December 6, 2006.

FINDINGS AND RECOMMENDATION

On the issue of whether or not the DeKalb County Zoning Ordinance should be amended to permit day care homes in the A-1, Agricultural District, the undersigned recommends that the amendment be granted. The undersigned finds that there is a need for day care services throughout the County in the residential areas as well as in the rural areas. The County Board would still retain control over each individual request, and the present case is a good example of why the amendment should be granted. Although this property is zoned Agricultural, it is clearly in a residential area and is not used for agricultural purposes. It would appear that there is as great a need for day care services in the rural areas as in the residential areas, and the

undersigned does not believe there is any disadvantage to amending the ordinance in this respect. There may be some additional impact on traffic, however, the undersigned believes it would be minimal. Certainly it wouldn't generate any more traffic than a large agricultural operation would generate.

As to the issue of whether a Special Use should be granted to the property which is the subject of this Petition at 1818 Brickville Road, Sycamore, Illinois, in the event that the County Board sees fit to amend the ordinance, then the undersigned recommends that a Special Use Permit be granted to the subject property. It would appear to be an ideal location for a day care home, being very accessible to Peace Road and Brickville Road. There is a large board fence on a one acre lot which would appear to create a safe and appropriate environment for children. The license is for eight children and based on the testimony presented, it has a minimal impact on traffic in the area. Petitioner is experienced as a day care center operator, and the evidence indicates there is a need for the services in the community. Accordingly, the undersigned hereby recommends that a Special Use Permit be granted for the property at 1818 Brickville Road, Sycamore, Illinois to permit a day care home subject, however, to the following conditions: 1) There shall be no more than eight children at any given time; 2) The Petitioner shall have no employees working on the property; 3) The hours of operation shall be limited from 6:00 a.m. - 6:00 p.m. Monday through Friday; 4) The character of the property shall remain residential; and 5) The Special Use Permit shall terminate at such time as the Petitioner no longer resides on the property or is no longer licensed for a day care center.

Respectfully submitted,

Ronald G. Klein
Hearing Officer

DeKalb County
Planning/Zoning/Building Department
110 East Sycamore Street
Sycamore, IL 60178
(815) 895-7188
Fax: (815) 895-1669

MEMORANDUM

TO: Planning and Zoning Committee

FROM: Paul R. Miller, AICP
Planning Director

DATE: January 16, 2007

SUBJECT: Whitney Zoning Text Amendment and Special Use Permit
Petition SY-06-23

Racquel L. Whitney, part owner of 1818 Brickville Road, has filed a request for a Zoning Text Amendment to establish, "day care home" as a Special Use in the A-1, Agricultural District. The petitioner has also petitioned for a Special Use Permit for the property located at 1818 Brickville Road in Sycamore Township, in reliance on the proposed Text Amendment. The single-family residential property is located at the northeast corner of the intersection of Brickville and Peace Roads, and is zoned A-1, Agricultural District.

DeKalb County Hearing Officer Ron Klein conducted a public hearing on the proposed Text Amendment and Special Use Permit on December 7, 2006. The petitioner explained the rationale and justification for the proposed Amendment to include "day care home" in the list of possible Special Uses in the A-1 District, indicating the need for day care services for parents commuting to places or work. Adding the use would also present a business opportunity for stay-at-home moms. One person spoke in favor of the proposed Text Amendment, and none in opposition thereto. Staff noted that making "day care home" a Special Use would mean the County Board would decide on a case-by-case basis whether or not each proposed use was appropriate in each proposed location, but also noted that the use is not in the A-1 District currently because such businesses are expected to be in places of higher residential concentration.

The petitioner also gave testimony in favor of approving such a Special Use on the property at 1818 Brickville Road, noting that it has two drive entrances to facilitate drop-off and pick-up of children, as well as a fenced in rear yard. The petitioner indicated that the day care business is regulated by the State and limited to not more than eight children, and that she is a licensed operator. Two members of the public asked questions and one spoke in opposition to the proposed use.

The Hearing Officer has submitted his Findings of Fact and recommendations and recommended approval of both the Zoning Text Amendment and the Special Use Permit, with conditions (see attached). The Planning and Zoning Committee is requested to consider the facts and testimony from the hearing and the recommendations of the Hearing Officer and forward recommendations on the proposed Text Amendment, and then to the full County Board

for action by ordinance. The Committee may recommend approval, approval with modifications, or denial of the proposals. If the Zoning Text Amendment is not approved, the Special Use Permit cannot be approved. If the Committee is inclined to recommend approval of both, staff recommends the conditions suggested by the Hearing Officer, including: 1). There shall be no more than eight children at any given time; 2). The Petitioner shall have no employees working on the property; 3). The hours of operation shall be limited from 6:00 a.m. - 6:00 p.m. Monday through Friday; 4). The character of the property shall remain residential; and 5). The Special Use Permit shall terminate at such time as the Petitioner no longer resides on the property or is no longer licensed for a day care center.

cc: Racquel Whitney

PRM:prm

P:\Zoning\Text Amendments\P&ZMemos\Whitney.SY_06_23.wpd

STATE OF ILLINOIS)
)SS
COUNTY OF DEKALB)

ORDINANCE 2007-08

**AN ORDINANCE GRANTING A USE VARIATION
FOR A SINGLE FAMILY HOME ON A VACANT PARCEL
LOCATED ON THE WEST SIDE OF EAST COUNTY LINE ROAD
IN CORTLAND TOWNSHIP**

WHEREAS, Leonard and Judith Baumgartener have filed an application for a Use Variation to allow the construction of one single-family home on a vacant one-acre parcel located on the west side of East County Line Road, approximately 2,000 feet south of Barber Greene Road in Cortland Township, said property having been legally recorded and existing prior to October 20, 1976, being zoned A-1, Agricultural District, and legally described as shown in Exhibit "A" attached hereto; and

WHEREAS, following due and proper notice by publication in the Daily Chronicle not less than fifteen (15) nor more than thirty (30) days prior thereto, and by mailing notice to all owners of property abutting the subject property at least ten (10) days prior thereto, the DeKalb County Hearing Officer conducted a public hearing on January 4, 2007, at which the petitioner presented evidence, testimony, and exhibits in support of the requested Use Variation, and no members of the public testified in favor of the petition and none in opposition thereto; and

WHEREAS, the Hearing Officer, having considered the evidence, testimony and exhibits presented, has made his findings of fact and recommended that the requested Use Variation be approved, as set forth in the Findings of Fact and Recommendation of the DeKalb County Hearing Officer, dated January 10, 2007, a copy of which is appended hereto as Exhibit "B"; and

WHEREAS, the Planning and Zoning Committee of the DeKalb County Board has reviewed the testimony and exhibits presented at the aforesated public hearing and has considered the findings of fact and recommendations of the Hearing Officer, and has forwarded a recommendation to the DeKalb County Board that the Use Variation be granted in accordance with the recommendation of the Hearing Officer; and

WHEREAS, the DeKalb County Board has considered the findings of fact and recommendations of the Hearing Officer and Planning and Zoning Committee, and the DeKalb County Board has determined that granting the Use Variation to allow the construction of one single-family home on the subject property is consistent with the requirements established by Sections 10.01.C and 10.02.C. of the DeKalb County Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF DEKALB COUNTY, ILLINOIS, as follows:

SECTION ONE: The Findings of Fact and Recommendation of the DeKalb County Hearing Officer, Exhibit "B" attached hereto, is hereby accepted, and the findings of fact set forth therein are hereby adopted as the findings of fact and conclusions of the DeKalb County Board.

SECTION TWO: Based on the findings of fact set forth above, a Use Variation is hereby granted to allow the construction of one single-family home on property located on the west side of East County Line Road in Cortland Township and legally described in Exhibit "A" attached hereto.

SECTION THREE: This Ordinance shall be in full force and effect upon its adoption by the County Board of DeKalb County, Illinois.

PASSED BY THE COUNTY BOARD THIS 21ST DAY OF FEBRUARY, 2007 A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

Legal Description of Subject Property

A PART OF LOT 130 IN SECTION 13, TOWNSHIP 40 NORTH, RANGE 5, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF COUNTY CLERK'S SUBDIVISION FILED IN THE OFFICE OF THE RECORDER OF DEKALB COUNTY, ILLINOIS ON MAY 15TH, 1903, IN BOOK "D" OF PLATS, PAGE 1 TO PAGE 4 IN DEKALB COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT AN IRON STAKE IN COUNTY LINE ROAD MARKING THE SOUTHEAST CORNER OF LOT 130 OF THE COUNTY CLERK'S SUBDIVISION IN SECTION 13, TOWNSHIP 40 NORTH, RANGE 5, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS SAME IS RECORDED IN THE COUNTY RECORDER'S OFFICE OF DEKALB COUNTY, ILLINOIS ON MAY 15TH, 1903, IN BOOK "D" OF PLATS, PAGE 1 TO 4; RUNNING THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 130, AT AN ANGLE OF 90 DEGREES 29 MINUTES MEASURED COUNTERCLOCKWISE FROM THE EAST LINE OF SECTION 13 AND BEING THE EAST LIN OF SAID LOT 130, A DISTANCE OF 208.72 FEET TO AN IRON STAKE; RUNNING THENCE NORTHERLY, PARALLEL WITH THE SAID EAST LINE, 208.72 FEET TO AN IRON STAKE; RUNNING THENCE EASTERLY, PARALLEL WITH THE AFORESAID SOUTH LINE, 208.72 FEET TO AN IRON STAKE ON THE EAST LINE AFORESAID WHICH IS 208.72 FEET NORTH OF THE PLACE OF BEGINNING; RUNNING SOUTHERLY ALONG SAID EAST LINE 208.72 FEET TO THE PLACE OF BEGINNING. ALL LYING AND BEING IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 40 NORTH, RANGE 5, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DEKALB COUNTY, ILLINOIS.

P.I.N.: 09-13-200-010

Leonard and Judith Baumgartner
Use Variation
Petition No. CO-06-24
Date: January 10, 2007

FINDING OF FACT

This matter came before DeKalb County Zoning Hearing Kevin Buick Officer on January 4, 2007 for a Public Hearing with respect to a Petition seeking a Use Variation pursuant to Section 10.01.F of the DeKalb County Zoning Ordinance to permit construction of the single family residence on a parcel that is less then 40 acres in size.

The application of the Petitioners was duly filed in accordance with the DeKalb County Code.

The Petition and its attachments are incorporated into the Record of Proceedings herein by reference.

A Staff Report dated December 18, 2006, prepared by Planning Director Paul R. Miller is also incorporated herein. No other correspondence was received regarding this request.

Publication of Notice

The Notice of Public Hearing was duly published in accordance with the DeKalb County Code in the Daily Chronicle on December 17, 2006.

Location of Subject Property

The parcel is a vacant one-acre parcel located on the west side of E. County Line Road, approximately 2000 feet south of Barber Greene Road, in Cortland Township.

Site Characteristics

1. Location-Access

The subject parcel totals one acre and is presently zoned A-1, Agricultural District. The property is currently being used agriculturally, in connection with the farming of the adjoining 100-acre farm parcel owned by Petitioner, Leonard Baumgartner and his sister Betty Reingart. Access to the property would be from E. County Line Road.

2. Soils-Drainage

No soil report was provided by Petitioners, but the soil condition and drainage issues would appear to support agricultural use and would also support a septic field for a single family dwelling if the Use Variation were granted.

3. Proposed Use

The Petitioners wish to construct a single-family detached dwelling on the property if the Use Variation is granted.

4. Water Supply/Sewage Disposal

There are no facilities located on the parcel at the present. Bob Drake, Director of the Environmental Health Division of the DeKalb County Health Department, has previously indicated that the size of the parcel and the soil would be satisfactory for the installation of a private sewage disposal system, provided that the septic system was located on the western portion of the lot and the well for water service would be located on the eastern portion of the lot.

Correspondence

No correspondence was received with regard to this current Use Variation Application; however, as noted above correspondence had previously been received dated February 23, 2006, from Bob Drake in connection with Petitioner's previous application for a Use Variation which was denied in March of 2006. Mr. Drake's correspondence referenced appropriate locations for the possible installation of a private sewage disposal system and also noted suitable locations for a well for the parcel if a single family residence were to be constructed.

Correspondence was also received with regard to the Petitioners' previous initial Use Variation Application from DeKalb County Engineer William Lorence, dated February 9, 2006. In his February 9th correspondence, Mr. Lorence stated that if the Use Variation were to be granted, he would seek a provision in the final ordinance eliminating access to E. County Line Road should alternative local street access become available in the future. Mr. Lorence further noted that because E. County Line Road is rapidly approaching arterial status, a minimum set back of 100 feet from the existing right-of-way would be appropriate from the County's perspective. (i.e. 50 feet additional added to the existing 50 foot requirement).

Site Visit

The undersigned previously had viewed the property on March 1, 2006. No changes to the subject parcel have been made since that time.

Persons Appearing on Behalf of the Petitioner:

Petitioners **Leonard and Judith Baumgartner** were present at the Public Hearing and appeared through their attorney, **Richard Schmack**.

Attorney Schmack asked that the Hearing Officer acknowledge previous testimony and evidence provided by Mr. and Mrs. Baumgartner at the Hearing taking place on March 2, 2006, in the interest of avoiding repeating the same facts and testimony. There is ample logic in doing so,

and therefore the undersigned will simply note that all testimony and evidence previously presented by the Baumgartners shall be incorporated into the Record of Proceedings for this particular Use Variation request. In summary, Mr. Baumgartner and his wife Judith had acquired the subject one-acre parcel from Leonard Baumgartner's mother, Esther, in 1969. The parcel was given to Leonard in exchange for labor provided by he and his wife to Esther Baumgartner in support of the larger operation farm during the 1960's. Mr. and Mrs. Baumgartner currently live in a farm house located on the corner of Barber Green Road and East County Line Road but have held this property since acquisition as a separate one-acre parcel with the stated intent of passing it on to their daughter and her husband for the purpose of building a home. They recognize that current County Zoning regulations prohibit building a house on a parcel less than 40 acres in size, but believe that with the change in zoning regulations undertaken by the County in 2006 regarding the specific criteria for Use Variation, they now will qualify for the variation.

Attorney Schmack identified the physical surroundings of the subject parcel as one acre located at the southeast corner of the larger 100 acre tract currently farmed by Leonard Baumgartner and his sister. Mr. Schmack noted that Mr. Baumgartner and his sister inherited the larger tract four years ago upon the death of Esther Baumgartner.

Leonard Baumgartner, 21981 E. County Line Road, Maple Park, testified that he and his sister do not farm the larger parcel (and subject parcel) themselves anymore. They cash rent the land at a rental value of \$135.00 per acre. The subject one-acre parcel owned specifically by Leonard and Judith Baumgartner, receives the same rent as the larger farm parcel and therefore Mr. Baumgartner estimated his current return on the property that is the subject of this Petition at \$135.00 per year. Mr. Baumgartner noted that the real estate tax bill for the property consumes a significant portion of the \$135.00 per year rent.

Mr. Baumgartner testified at the hearing that his daughter and son-in-law would plan to build a house on the subject parcel. He stated his plan would be to sell the one-acre parcel at a somewhat discounted amount.

William M. Ring, Jr., 702 Willow Street, Maple Park, testified that he is in the construction trade. He is the son-in-law of the Petitioners. He believes that a one-acre parcel would attain a value of \$65,000.00 to \$80,000.00 if it were a buildable lot.

Leonard Baumgartner testified that he had no one else to sell the one-acre lot to if it could not be built upon. He noted that the subject parcel is a corner lot, which represented "somewhat less productive farm land" than the balance of the larger farm parcel.

Attorney Schmack noted his belief that the subject one-acre parcel is not useful as a separate tract of land, and that it was simply fortuitous that Leonard Baumgartner has ownership interest in the surrounding tract of land. He felt that only the surrounding land owner would have any interest in the property and stated that the property cannot receive a reasonable return since its value is below that of similar land in the zoning classification. He further noted that distinct one-acre parcels of land are not typical in the A-1 Agricultural District, and that the plight of the owner was due

solely to the changes in zoning law which has rendered a formerly buildable lot non-buildable now without the Use Variation.

William Ring testified as to his plans to build a 2400 square foot ranch house on the subject parcel, if the Use Variation were to be granted. He stated that there were several other houses on small lots located in the general area, and therefore the location of this house would not change the character of the locality to any great extent if the Use Variation were granted and the house were to be built. He stated that he did not believe that construction of the house, should the Use Variation be granted, would injure adjacent property or reduce property values in any way.

Planning Director Paul Miller questioned the Petitioners regarding whether they had consulted with the owners of the surrounding property about purchasing the one-acre piece of land. Mr. Baumgartner responded that there had been no discussions about it, but he did not believe his sister would be willing to pay more than \$9,500.00 an acre for such a sale.

Lydia Johnson, 2223 Larson Road, Sycamore, testified that she lived in the area and that it was her understanding that the subject property was always going to be used for a residence. She indicated she had no objection to the granting of the Use Variation, either as an individual or as the Cortland Township Supervisor.

Testimony or Comments from Other Interested Persons at the Public Hearing:

There were no other comments in favor of, nor opposed to, the proposed Use Variation by those in attendance at the Public Hearing.

Staff Input

Planning Director, Paul Miller, stated that the DeKalb County Comprehensive Plan discourages scattered residences among agricultural uses throughout the county. He felt that this proposed Use Variation would run counter to these principles and should be denied.

Mr. Miller stated that the Petition brought by these Petitioners is unique in terms of a Use Variation in that it relies solely upon the 2006 revisions to the criteria set forth in Section 10.01.F. Those revisions removed the financial hardship criteria; that is, the premium price that was always the guidepost of decisions with respect to Use Variations applied for in the past is no longer available to inform the Use Variation decision under these circumstances (property acquired prior to October 20, 1976). Mr. Miller stated that this change places a greater emphasis on the balance of the variation criteria to be scrutinized in evaluation of these requests.

Mr. Miller states his belief that variations are a way to provide relief from burdensome requirements. He felt that it was inappropriate for a Petitioner to go through the process of making the request without demonstration of genuine hardship, and felt that the County Board must conclude, in evaluating such requests for Use Variations, that the criteria (as presented) argue for the relief sought. Here, Mr. Miller stated, the question that he felt remained unanswered was "What is the particular hardship?"

In response to Mr. Miller's comments, **Tammy Ring**, 702 Willow, Maple Park, asserted that she believed a hardship in the current circumstances involved the possibility that grandchildren might not be raised on the same land as the rest of the family. She further stated that allowing people to live on farm land, close to nature, was very important and to deprive them of that was a hardship. William Ring questioned Mr. Miller as to whether he felt it was a hardship for parents who created a plan to hold property for this purpose, and carried it out, only to have their plan taken away by the County, fell into that category. Mr. Miller replied that, while there was a certain subjective element in the criteria, allowing decisions with regard to Use Variations to be made on such a basis had to be scrutinized in light of the reality that hundreds of people may wish to live on land that their family held or owned, or be "close to nature," but the decision that the County Board would be weighing must focus on land management policy concerns oriented toward a larger picture.

Petitioners' Final Word

Attorney Richard Schmack summarized his client's position by arguing that his clients had a specific plan in place with regard to this parcel since they acquired it in the late 1960's, knowing that it was buildable as a residential lot at that time. He noted that the Baumgartners began the process of digging a foundation on the subject parcel before shifting to the location where they currently reside, and stated that it would be manifestly unfair to prevent the Petitioners from accomplishing their intended goal. The Petitioners had retained the lot for nearly 40 years and for the vast majority of that time it had been a buildable lot, "until the County took away the ability to do that when the County repealed the "Lot of Record" provisions in 1993," depriving the Baumgartners of a great deal of the value of this property. Mr. Schmack stated his disagreement with the Planning Director's comments and indicated that he did not feel that the issue of value had been "repealed" as asserted by Mr. Miller, but rather stated that the changes to the provisions simply restored the situation back to the same position that existed between the years 1993 and 2000.

FINDING and RECOMMENDATION

Section 10.02 of the DeKalb County Zoning Ordinance has changed since the Petitioners' first effort to obtain a Use Variation in March of 2006. The provisions still vest exclusive authority in approving or denying a request for a Use Variation to be solely that of the DeKalb County Board. Use Variations are only authorized to permit the construction of one single family detached dwelling on any parcel less than 40 acres in size, which was legally recorded and existing prior to October, 1976, had Agricultural District zoning prior to September 18, 1991, and where no dwelling unit exists thereon on said dates.

It is my perception that the Use Variation criteria was created by the County to fix a specific, limited class of individuals who had arguably suffered economic or other type of harm as a result of the changes in the Zoning Ordinance. There is no dispute that Petitioners meet the qualifications set forth in 10.02.A or 10.02.B with regard to Use Variations.

Section 10.02.C was amended on October 18, 2006, through the adoption by the DeKalb County Board of Ordinance 2006-23 Amending the Criteria for Use Variations. Section 10.02.C

now provides the following:

In addition to considering the standards set forth in Section 10.01.C above in making such written Findings of Fact and recommendation the Hearing Officer shall consider the following Findings of Fact:

1. The Petitioner must have purchased the property prior to December 31, 1993, *or acquired the property prior to October 20, 1976;*
2. The Petitioner must demonstrate that the property was buildable under the applicable zoning regulations at the time it was purchased.

The Hearing Officer shall also consider such factors as:

3. *If the property was purchased after October 20, 1976*, did the Petitioner pay premium price for the property because it was buildable (for example, substantially more than agricultural land was selling for at that time)? and,
4. Whether the property is viable for agriculture or any other reasonable use.

Because these Petitioners have demonstrated that the property was acquired prior to October 20, 1976, they are wholly relieved of the obligation to demonstrate that the property was “purchased” or that the Petitioner’s “paid a premium price for the property because it was buildable.” There appears to be no dispute that the property was, indeed, buildable at the time that it was acquired and further the testimony of Petitioners credibly demonstrated that the property was acquired in the late 1960’s, well in advance of the October 20, 1976 date set forth in the recently-amended Ordinance. The Petitioners therefore have demonstrated that they have met subsection one and two of Section 10.02.C. The Petitioners are further relieved of the obligation to provide any demonstration regarding subsection three. In considering subsection four, the Hearing Officer notes that the property is obviously viable for agriculture at one level, given its current use for that purpose. This would distinguish this parcel from certain circumstances where soil conditions, land topography, water flow and availability might otherwise wholly militate against agricultural use. Nevertheless, the comments of Petitioners’ counsel to the effect that this one-acre parcel would not, in and of itself, sustain or support a reasonable rate of return if used for agricultural purposes does merit consideration. The current circumstances that exist are, indeed, fortuitous in that by cooperation with the adjoining land owner, agricultural use may be made of this particular parcel. However, it is hard to imagine a one-acre farm, with no residence, being economically viable or otherwise logically sustainable.

Consideration of the standards of variations as set forth in Section 10.01.C of the Zoning Ordinance are also to be reviewed in these circumstances. A variation is not to be granted if “the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district in which it is located.” Under these circumstances, it would appear that Petitioners indeed cannot obtain a reasonable return if a single one-acre parcel is to be used for farmland purposes.

Next, the plight of the owner must be due to unique circumstances in order to grant a variation under Section 10.01.C.2. Here, the question of unique circumstances presents a significant challenge for the County Board in determining whether to grant this Use Variation. The undersigned believes that Petitioners have submitted some facts relating to what could be considered to be unique circumstances relating to the desire to maintain this property within the family and that it was held for a nearly 40-year period by Petitioners for this explicit purpose with the full knowledge that it was to be a buildable lot for a home site (before zoning ordinance changes usurped that possibility). However, staff correctly pointed out at the Hearing that there is nothing which restricts this family from simply selling the property (once it has attained “buildable” status) to outside individuals, rendering these “unique” circumstances somewhat superfluous, or at least calling them into question.

Continuing on with the criteria, the next standard that must be met is that the variation, if granted, will not alter the central character of the locality. Based upon the testimony and evidence received at the Public Hearing, it appears that the addition of a single family residence on this particular parcel of ground would not alter the essential character of the locality, given the existence of other isolated home sites in the particular area. Staff’s objection to the request and assertion that allowing this Use Variation will permit such a residence to usurp farm land area, as acting to the detriment of the desired goals of the County Board to preserve farm land is noted, but it nevertheless appears based upon the testimony received that this particular Variation would not alter the essential character of this particular locality in any meaningful way.

With regard to the balance of the standards for Variations, it would appear that there is not legitimate dispute that the conditions upon which the Petition for Variation is based would not be applicable, generally, to other property within the same zoning classification. It would appear that the purpose of this Variation is not based exclusively upon a desire to make more money out of the property. It is further clear that the alleged difficulty or hardship has not been created by the owner of the property, since the hardship arises by virtue of the County Board’s actions in rendering the previously buildable one-acre lot to be non-buildable under the amended zoning regulations in 1993. It does not appear that the granting of the Variation would be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. The proposed variation does not appear to present any danger that it would impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public’s safety, substantially diminish or impair property values within the neighborhood, nor adversely effect the health, morals, or general welfare of the public.

The issue of “particular hardship” as identified in Section 10.01.C.4.a was assailed specifically by Planning Director Miller in the Hearing, and the responses by Petitioners to the effect that the particular hardship in this case “involved their family’s ability to raise their children on land owned by the family” does not make a strong case to invoke land planning concerns, since this type of circumstance could be generally applicable on an overly broad basis.

The undersigned nevertheless recommends that the Use Variation be granted based upon Petitioners’ ability to fulfill, under the totality of the circumstances, the criteria as set forth by the

County Board. The particular hardship, in this case, appears to me to involve the “orphaned” nature of this one-acre lot of record, previously existing and meeting all past criteria for buildability, which dissolved in 1993. This now creates an incongruous situation with regard to this parcel and these circumstances. There is little doubt that a single acre farm lacks value or makes good sense as a farm parcel. There appears to be a finite class of individuals to which the exemptions available under 10.02 apply, and I believe that these Petitioners fall within that class. I do not believe that granting a Use Variation in this relatively unique circumstance threatens or jeopardizes in any way the 40-acre rule, or the County’s long-held policy of preserving farm land.

With due deference to Staff’s concerns, the granting of the Use Variation appears to the undersigned to be the right thing to do, and I accordingly make that recommendation and place the matter into the hands of the County Board.

Respectfully submitted,

KEVIN E. BUICK

Alternate Hearing Officer
DeKalb County

DeKalb County
Planning/Zoning/Building Department

110 East Sycamore Street, 4TH Floor
Sycamore, IL 60178-1497
(815) 895-7188
Fax: (815) 895-1669

MEMORANDUM

TO: Planning and Zoning Committee

FROM: Paul R. Miller, AICP
Planning Director

DATE: January 16, 2007

SUBJECT: Baumgartner Use Variation
Petition CO-06-23

Leonard and Judith Baumgartner, the property owners, have filed a petition for a Use Variation for a vacant one acre parcel located on the west side of East County Line Road, approximately 2,000 feet south of Barber Greene Road, in Cortland Township. The petition is to allow the construction of one single-family detached dwelling on an agriculturally-zoned parcel of less than 40 acres in size. The subject property is zoned A-1, Agricultural District.

A public hearing on the requested Use Variation was held by DeKalb County Hearing Officer Kevin Buick on January 4, 2007. The petitioners indicated that the vacant one-acre parcel had originally been a buildable lot when acquired, and that Mr. Baumgartner's mother had given the lot plus one other to the petitioners as compensation for their 10 years of labor on her farm. The petitioners built their house on one lot, and would like to give the other to their daughter and son-in-law as a buildable lot.

Staff noted that this is the first request for a Use Variation since the County Board amended the criteria to allow that a petitioner need not demonstrate that a premium price was paid for the lot. Staff asserted this financial consideration has in the past been the primary consideration of particular hardship on Use Variation requests. This change places an emphasis on the need to show a particular hardship that is not financial. The petitioners responded that allowing a house on this property has been their intention from the time it was acquired, and that prior to the County changing the regulations in 1993, the property had substantial value as a residential lot. No members of the public spoke in favor of and none in opposition to the request.

The Hearing Officer has submitted his Findings and Recommendation, in which he recommends approval of the Use Variation (see attached). The Planning and Zoning Committee is requested to forward an ordinance for approval to the full County Board, and may recommend approval, conditional approval or denial of the proposal.

cc: Leonard and Judith Baumgartner
Richard Schmack, attorney for petitioner

STATE OF ILLINOIS)
)SS
COUNTY OF DEKALB)

ORDINANCE 2007-09

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT
FOR AN AGRIBUSINESS
LOCATED AT 450 WEST ADAMS STREET
IN CLINTON TOWNSHIP**

WHEREAS, Conserve FS, Inc. has filed an application for a Special Use Permit in order to allow construction of a new storage building and continued operation of an agribusiness on property located at 450 West Adams Street in Clinton Township, said property being zoned A-1, Agricultural District with a Special Use and legally described as set forth in Exhibit "A" attached hereto; and

WHEREAS, the Special Use designation on the subject property was applied retroactively to the agribusiness which has existed on the property for many years, and the proposed new structure will exceed ten percent (10%) of the combined floor area of the existing structures on the property, and therefore a Special Use Permit by County Board ordinance is required to accommodate the existing use and proposed expansion; and

WHEREAS, following due and proper notice by publication in the Daily Chronicle not less than fifteen (15) nor more than thirty (30) days prior thereto, and by mailing notice to all owners of property abutting the subject property at least ten (10) days prior thereto, the DeKalb County Hearing Officer conducted a public hearing on January 11, 2007, at which the petitioners presented evidence, testimony, and exhibits in support of the requested Special Use Permit, and no members of the public testified in favor and none spoke in opposition thereto; and

WHEREAS, based on the evidence, testimony and exhibits, the Hearing Officer has made his findings of fact and recommended that the Special Use Permit be granted, as set forth in the Findings of Fact and Recommendation of the DeKalb County Hearing Officer, dated January 15, 2007, a copy of which is appended hereto as Exhibit "B"; and

WHEREAS, the Planning and Zoning Committee of the DeKalb County Board has reviewed the testimony presented at the afore mentioned public hearing and has considered the findings of fact and recommendations of the Hearing Officer has forwarded to the DeKalb County Board a recommendation of approval of the requested Special Use Permit, subject to conditions; and

WHEREAS, the DeKalb County Board has considered the recommendation of the Planning and Zoning Committee and the findings of fact and recommendation of the Hearing Officer, and has determined that granting approval of the requested Special Use Permit to allow a new building and the continued operation of the agribusiness is consistent with the requirements established by Section 9.01.B.3. of the DeKalb County Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF DEKALB COUNTY, ILLINOIS, as follows:

SECTION ONE: The Findings of Fact and Recommendation of the DeKalb County Hearing

Officer, Exhibit "B" attached hereto, is hereby accepted, and the findings of fact set forth therein are hereby adopted as the findings of fact and conclusions of the DeKalb County Board.

SECTION TWO: Based on the findings of fact, a Special Use Permit for an agribusiness in the form of storage and sales of agricultural chemicals, fertilizer and seeds and provision of related agricultural services, located at 450 West Adams Street in Clinton Township, is hereby approved, including the construction and use of a new storage building on property legally described in Exhibit "A" attached hereto.

SECTION THREE: Approval of this Special Use Permit is subject to the following conditions:

1. Construction and operations of the agribusiness, including the proposed structure, shall be in substantial accordance with the petitioner's application, received on December 11, 2006; and
2. The petitioner install landscaping along the common lot line with the adjoining residential property to the south in order to screen and buffer the appearance and operations on the subject property, said screening being subject to review and approval by the Planning, Zoning and Building Department staff.

SECTION FOUR: This Ordinance shall be in full force and effect upon its adoption by the County Board of DeKalb County, Illinois.

PASSED BY THE COUNTY BOARD THIS 21ST DAY OF FEBRUARY, 2007, A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

Legal Description of Subject Property

Lots A and B of Waldee Industrial Subdivision, a subdivision of part of the East Half of Section 16, Township 38 North, Range 4, East of the Third Principal Meridian, according to the plat thereof recorded in Book "N" of Plats, Page 16 as Document No. 323923 on October 30, 1964 in DeKalb County, Illinois.

Lot C of Waldee Industrial Subdivision, being a part of the East Half of Section 16, Township 38 North, Range 4 East of the Third Principal Meridian, DeKalb County, Illinois, as per plat thereof recorded in the Recorder's Office of DeKalb County on October 30, 1964 and recorded in Volume "N" of Plats, Page 16 as Document No. 323923, situated in the County of DeKalb and the State of Illinois.

P.I.N.: 14-16-401-006.

FINDING OF FACT

This matter came before DeKalb County Zoning Hearing Officer Kevin Buick on January 11, 2007, for consideration of a request for an amendment to a Special Use Permit by Conserve FS to allow a building addition for property located at 450 West Adams Street in Clinton Township, Illinois. The property is located at the extreme west end of Adams Street, just outside the Village limits of the Village of Waterman, in Clinton Township. An amendment of the Special Use Permit is sought because it is believed that the building will consist of greater than ten percent of the total floor area of all existing buildings on the property.

The application of the Petitioner was duly filed in accordance with the DeKalb County Code. The Petition and its attachments are incorporated in the Record of Proceedings by reference.

Publication of Notice

The Notice of Public Hearing was published in the Daily Chronicle on December 24, 2006.

Location of Subject Property

The subject property is located on the west end of Adams Street, adjacent to the corporate limits of the Village of Waterman. Access to the property is through Adams Street.

Site Characteristics

1. Surrounding Uses and Zoning

A single residence lies to the south of the subject property, and businesses lie to the direct east of the subject property in the incorporated territory of the Village of Waterman. Zoning is A-1 to the west and south, and agricultural use is prevalent on the north, south, and west side of the property.

2. Proposed Use

The property will continue to be used by Conserve FS as an agri-business which previously was operated for many years as a pre-existing, legal non-conforming use in the A-1 Agricultural District. The property contains an office, existing shops, chemical storage, seed storage, and fertilizer storage. The proposal is to construct a building to expand seed storage by adding another warehouse on the eastern portion of the property.

3. Comprehensive Plan

The future land use plan recommends industrial use of the subject property, but it appears that this designation was applied by the Village of Waterman as part of its comprehensive plan to reflect existing use of the property and the industrial use to the immediate east located within the Village of Waterman. The proposed additional seed storage area for this property would not be contrary to the goals or objectives of the comprehensive plan.

4. Procedural Issues

Pursuant to the Staff Report prepared by Derek M. Hiland, Assistant Planner, dated December 28, 2006, it appears as though no original Special Use Permit has been identified or located by staff with regard to this use. While this is filed as an "amendment," and such is the obvious nature of what is requested and sought by Petitioner, the absence of information relating to original approval of this type of use requires the undersigned and County Board to make specific findings with regard to the Special Use associated with the subject premises. Toward that end, at the time of preparation of this report, the undersigned does not have information regarding the total square footage of buildings located upon subject premises. Nevertheless, it is apparent that the proposed construction of the additional seed warehouse building sought by Petitioner would represent an increase of more than ten percent of the existing square footage and such is not contested by Petitioners.

Correspondence

A Staff Report prepared by Derek M. Hiland, Assistant Planner, dated December 28, 2006 was received and incorporated into the record of proceedings by reference. Correspondence was received from DeKalb County Engineer William G. Lawrence, indicating his support of the Road Commissioner with regard to the subject application. No other correspondence was received with regard to this matter.

Site Visit

The undersigned conducted a site visit on January 10, 2007.

Persons Appearing on Behalf of the Petitioner:

Dave Horras, 450 West Adams, Waterman, appeared on behalf of Petitioner Conserve FS, Inc. He indicated that he did not ordinarily appear at these types of proceedings, and that the individual who did, Stan Tobias was unavailable for the Public Hearing. He confirmed that Petitioner has been in operation for many years at this location operating an agricultural business on the premises. Mr. Horras stated that the proposal was to build an additional building for the purposes of storing seed corn, seed beans, field seeds and turf seeds. He characterized the structure as a simple pole structure, with a concrete floor. The size of the building would be 54 feet by 100 feet. It would be used for dry storage, and would not be heated. There was a possibility that some metal parts would be stored in the building as well.

Mr. Horras indicated that the construction of the building would not involve any significant changes to the topography or landscape of the site, except to perhaps install some gravel to improve the drainage in the area. He was uncertain as the specifics of any discussion with neighboring property owners, but indicated that the feed back that he had received indicated no concern by the property owners with regard to the proposed new building.

Mr. Horras stated that he would insure that, at the time of construction of the structure, the Petitioner complied with all parking requirements, landscaping requirements, and storm water management requirements. He stated that he understood the building permit process but was not the normal contact person within the company for this type of situation therefore did not have a great deal of details as to what the process would ultimately entail. Mr. Horras indicated that the relationship with the land owner to the south was very good, and that he was unaware of any discussion with regard to the property owners to the east (Hintzsche), although he stated that he knew that Hintzsche wanted to sell its property to Conserve FS and was not aware of any specific discussions, positively or negatively, with regard to construction of the building with Hintzsche.

In response to a question from Planning Director Paul Miller as to whether Petitioner would be willing to install a row of evergreen trees to act as a buffer with regard to the property to the south, Mr. Horras indicated that his company would possibly entertain such a process but thought that perhaps poplars might be a better choice than evergreens. He stated that they would only consider this, obviously, if this were something that was desirable to the neighbors to the south as well. Mr. Horras believed that the building would be of benefit to neighboring property because he felt that it would allow trucks to take full loads to the site and therefore it would cut down on truck traffic.

Mr. Horras noted that the seed product was a “bulky” product, and stated that it was necessary for his business to sell seed in order to generate sufficient revenues to maintain economic viability.

Staff comments centered upon a request for calculation of the square footage so that staff could keep track of further modifications that may be necessary in the future to ascertain whether or not the ten percent standard would be triggered such that an amendment to a Special Use would be necessary in the future. Staff further sought conditions relating to additional landscaping by the property owner to the east to the west on the lot line that staff felt would be a “good neighbor” gesture on Petitioner’s part.

Petitioner final comments related to its willingness to work with any and all zoning regulations to bring the property into full compliance. Mr. Horras reiterated his willingness to entertain the possibility of some sort of tree landscaping with the neighbor to the south, provided that the neighbor to the south was seeking the same. Mr. Horras indicated that he would likely be in a position to follow up by the time the County Board’s Planning and Zoning Committee met to consider this proposed Special Use amendment.

Findings and Recommendations

I find that Petitioner has met the conditions of Section 9.02.B.3 to establish a Special Use and having met the necessary criteria. I find that the proposed Special Use complies with all applicable

provisions of the applicable district regulations. I find that the proposed Special Use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is located nor to the public welfare at large.

I find that the location and size of the Special Use, the nature and intensity of the operations conducted in connection with the it, and the location of the site in connection with respect to streets giving access to it are such that the Special Use will not dominate the immediate property so as to prevent development and use in accordance with the applicable Zoning District regulations. I further find that the proposed additional building will benefit the appropriate operation of the property in connection with the Special Use and will not do harm to the above considerations.

I find that off street parking and loading areas will be provided in accordance with the standards set forth in the regulations, and that adequate utility, drainage, and other such necessary facilities have been or will be provided. I find that the proposed use can be operated in such a manner that is not detrimental to the permitted developments and uses in the district, can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area, and in all other respects conforms to the applicable regulations of the district in which it is located. I find that the operation of this agri-business is desirable to preserve and promote the public health, safety, and general welfare of DeKalb County.

It would be my recommendation that the County Board consider imposing a requirement upon Petitioner that appropriate screening landscaping be installed between subject premises and the neighbors to the south, provided that the neighbors to the south agree to this. It is my expectation that the County Board will be in possession of this information by the time that the Planning and Zoning convenes its January meeting, and would suggest that it act in accordance with such information as may be provided subsequent to that preparation of this report.

I recommend that the County Board favorably consider and adopt an Ordinance formally establishing a Special Use with regard to subject premises for the operation of an agri-business, grant the request to increase the scope of operation of the agri-business to incorporate the construction of a new seed warehouse 54 feet by 100 feet on the eastern portion of the subject premises, subject to the condition that Petitioner screen the southern edge of the property through appropriate tree planting, as may be desired by the neighbors to the south. I would further condition the granting of the Special Use Permit and expansion thereof to be subject to approval of such landscaping by staff.

Respectfully submitted,

KEVIN E. BUICK

DeKalb County Hearing Officer

STATE OF ILLINOIS)
)SS
COUNTY OF DEKALB)

ORDINANCE 2007-10

**AN ORDINANCE AMENDING ARTICLE 7
OF THE DEKALB COUNTY ZONING ORDINANCE
REGARDING SIGN REGULATIONS**

WHEREAS, Article 7 of the DeKalb County Zoning Ordinance contains regulations related to signs; and

WHEREAS, the A-1, Agricultural District regulations permit certain seasonal uses which typically employ multiple on-site signs as well as off-site directional signs, and further newly-approved permitted and special uses in all zoning districts typically use “coming-soon” or “future home of”-type signs, but the Sign Regulations of Article 7 do not permit such signs; and

WHEREAS, therefore, under the direction of the Planning and Zoning Committee of the DeKalb County Board, the Planning, Zoning and Building Department has prepared and submitted an application for Amendments to the text of Article 7 to allow multiple temporary on-site signs, temporary off-site signs, and temporary “coming-soon”-type sign, as set forth below; and

WHEREAS, following due notice published in The Daily Chronicle not less than 15 days in advance, a public hearing was conducted on January 11, 2007 by the DeKalb County Hearing Officer regarding the proposed Zoning Text Amendments, and one person spoke in favor of the proposal and none in opposition thereto; and

WHEREAS, based on the testimony given at the public hearing, the Hearing Officer has forwarded to the Planning and Zoning Committee of the DeKalb County Board his findings and recommendation that the proposed amendments to the Zoning Ordinance be approved, as set forth in the Findings of Fact and Recommendation, dated January 15, 2007, a copy of which is appended hereto as Exhibit “A”; and

WHEREAS, the Planning and Zoning Committee has considered the proposed Text Amendments and the recommendation of the Hearing Officer and has forwarded a recommendation to the full County Board that the proposed amendments be adopted; and

WHEREAS, the County Board of DeKalb County has determined that it is in the best interests of the citizens of the County to amend Article 7 of the DeKalb County Zoning Ordinance in accordance with the proposed text;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF DEKALB COUNTY, ILLINOIS, as follows:

SECTION ONE: The findings and recommendation of the DeKalb County Hearing Officer,

Exhibit "A" attached hereto, are hereby adopted as the findings and conclusions of the DeKalb County Board.

SECTION TWO: Article 7 of the DeKalb County Zoning Ordinance, Appendix A of the DeKalb County Code, is hereby amended as follows:

1. Section 7.07.A regarding permitted signs in the Agricultural District is amended to add the following in alphabetic order:

Identification and advertisement signs associated with permitted seasonal uses and with seasonal uses regulated by special use permit, not exceeding thirty-two (32) square feet in gross surface area. Such signs shall be temporary and shall not remain in place for a period of more than nine (9) months in any calendar year, as regulated by a temporary sign permit that shall be limited to a period not to exceed nine (9) consecutive months. Such temporary signs may be approved in addition to signage permitted under subsections 2. and 3. above. The number and locations of such signs associated with any given seasonal use shall be set forth in an application for a temporary sign permit, subject to review and approval by the Zoning Administrator. Where conflicts exist between this regulation and the provisions of an ordinance approving a special use permit for a seasonal use, the special use ordinance shall prevail.

2. Section 7.07.A is amended to add the following in alphabetic order:

Construction signs associated with approved permitted and special uses, not exceeding thirty-two (32) square feet in gross surface area. One (1) such sign shall be permitted on each frontage. Such signs shall be removed on the issuance of an occupancy permit for the associated building or commencement of operation of the use on the subject property.

3. Section 7.09.A. is amended to add the following in alphabetic order:

Construction signs associated with approved permitted and special uses, not exceeding one hundred and twenty (120) square feet in gross surface area. One (1) such sign shall be permitted on each frontage. Such signs shall be removed on the issuance of an occupancy permit for the associated building or commencement of operation of the use on the subject property.

4. The current text of Section 7.10.B. is amended to add the following underlined language:

Special Displays and Other Temporary Signs -- The following temporary signs may be approved by the Zoning Administrator:

1. Banners and pennants.

2. Signs announcing openings.
3. Seasonal or special occasion signs such as special events and special business hours.

These signs may be permitted for up to a thirty (30) day time period. Such signs may be extended beyond the thirty (30) day time period, but only upon review and approval by the Planning and Zoning Committee. The use of such devices for special promotions shall be limited to three (3) such events for each business in a calendar year with a maximum time period of fourteen (14) days for each event. These events may be consecutive.

4. Temporary off-premises directional/identification signs for listed permitted and special uses in the Agricultural District. Such signs may be permitted by Sign Permit on private properties for a period not to exceed nine (9) months in any calendar year. Temporary off-premises directional/identification signs shall not exceed eight (8) feet in height and sixteen (16) square feet in area. Such signs shall not be located within the forty (40)-foot sight triangle and shall be set back a minimum of ten (10) feet from any property line. No temporary off-premises directional/identification sign shall be located within 500 feet of any other off-premises sign, and such signs shall not be illuminated. Not more than one off-premises directional/identification sign shall be permitted per property frontage. It is the intent of this regulation that temporary off-premises directional/ identification signs shall be for the purpose of identification and direction and not for advertisement.

SECTION THREE: This Ordinance shall be in full force and effect upon its adoption by the County Board of DeKalb County, Illinois.

ADOPTED BY THE COUNTY BOARD THIS 21ST DAY OF FEBRUARY, 2007, A.D.

Chairman, DeKalb County Board

ATTEST:

DeKalb County Clerk



KEVIN E. BUICK
DEKALB COUNTY HEARING OFFICER (ALT.)
PLANNING, ZONING & BUILDING DEPT.

2040 Aberdeen Court
Sycamore, IL 60178

E-MAIL ADDRESS: kbuick@fosterbuick.com

January 15, 2007

Attn.: Mr. Paul Miller
DeKalb County Planning & Zoning Building Dept.
110 East Sycamore Street
Sycamore, Illinois 60178

Re: Proposed Sign Regulations Text Amendment
Petition: DC-07-01

Dear Mr. Miller:

This is to advise you that on January 11, 2007, in the DeKalb County Administration Building, Conference Room East, a public hearing was held with regard to proposed text amendments to Article 7, Sign Regulations, of the DeKalb County Zoning Ordinance. The nature of the proposed amendments are intended to add regulations related to temporary signs, both on-site and off-site, and "coming soon"-type signs for approved projects. The zoning amendments were filed in accordance with the requirements of Section 10.04.C of the DeKalb County Zoning Ordinance.

A public notice, published in the Daily Chronicle on December 24, 2006, was received into the record. Planning Director **Paul Miller** spoke at the hearing regarding the proposed amendments, and a full recitation of his remarks is contained in the Staff Report prepared by him, dated December 18, 2006, which is also incorporated into the record herein by reference. There were two people in attendance at the public hearing who offered comments, **Robert Faivre** of 16380 S. Somonauk Rd, Cortland, and **Dave Horras**, 8592 Byron Hills, Byron.

The proposed zoning text amendments are as follows:

1. Language is proposed to amend Section 7.07.A regarding permitted signs in the agricultural district to add a regulation allowing multiple on-site temporary identification and advertising signs associated with seasonal uses;

2. Language is proposed to modify Section 7.07.A regarding permitted signs in the agricultural district, and to modify Section 7.09.A regarding permitted signs in the commercial and manufacturing districts to add a regulation allowing on-site “coming soon”-type signs for approved uses; and
3. Language is proposed to amend Section 7.10.B regarding special displays and other temporary signs to add a regulation allowing temporary off premises signs associated with permitted seasonal and temporary uses in the agricultural district.

With regard to the first proposed text amendment, Planning Director Miller spoke regarding the new paragraph which would control on-premises signs, and is particularly directed at so-called “agri-tainment” activities such as farmers markets, road side stands, and Christmas tree stands. Mr. Faivre, owner of Camelot Christmas Tree Sales on Somonauk Road asked several questions regarding the specifics of the proposed regulations. Mr. Miller’s responses expressed that the intent of the proposed new regulations was to provide guidance and restrictions in terms of signage that might be located upon the premises of these types of operations. The regulations are oriented toward governing the on-site advertising and discretionary signage with regard to such operations, and appear to create an appropriate framework for regulating this activity. Mr. Miller testified that a \$100.00 deposit, along with a \$20.00 fee, would be collected from individuals wishing to erect such signage in accordance with the new proposed regulations. Mr. Miller further noted that conflicts between the new regulations and operations subject to a special use permit would be resolved in favor of the Special Use Permit restrictions.

The second text amendment relates to on-site signs announcing construction projects that are approved but not constructed, specifically “future home of,” or “coming soon” types of signs. Currently, no regulation appears to permit this and the recognition of the need to regulate this type of sign seems appropriate to the undersigned. Staff has discerned that an inconsistency which currently exists with regard to the treatment of “construction signs” which does not appear to cover these circumstances. In other words, a construction company is currently able to erect signs identifying contractors, painters, and the like as long as the signs are attached to trailers on the construction site. At the Public Hearing, Mr. Miller noted that his office is frequently contacted by churches, or other commercial operations seeking to erect a sign denoting that the location will be the “future home of _____ Church.” While Mr. Miller questioned the value or need for this type of sign, it is apparent that there is public desire for this, and Mr. Miller conceded that satisfying curiosity might also provide justification for these types of signs in addition to the “pride” or identification notions of the owner. Given that there appears to be some clamor for these types of signs, it would appear to the undersigned highly logical to provide some basis and recognition for their existence and regulation, and I accordingly recommend that the County Board favorably consider adopting this text amendment as well.

With regard to temporary off-premises signs advertising and directing traffic to seasonal uses,

Mr. Miller expressed staff's opposition to the third proposed text amendment because of his concern that there would be a potential need for a subjective determination by staff as to whether the content of the sign actually fulfills that stated purpose of (for example) directing traffic to the subject premises as opposed to advertising. The regulations appropriately provide for limited size (half of the largest sign otherwise permitted in the relevant zoning district), and for elimination for any such signage from the 40-foot sight triangle with regard to any intersection. As noted by Planning Director Miller at the Public Hearing, currently off-site signs simply are not permitted. He did note that their occasional existence is, nevertheless, undeniable. There will be a ten foot set back requirement, and the signs would need to be 500 feet from any other such sign, with a further restriction of only one per property frontage. Finally, any person seeking to put up any such sign must get permission from the property owner before installing the off-site sign.

Staff has taken the position that it is not in favor of this text amendment because of the potential for abuse, and the potential for establishing a precedent for off-site signage. Robert Faivre, 16380 S. Somonauk Road, Cortland, Illinois, noted that the signs that he sees for off-site direction currently seem to go into the right-of-way without permission being sought. Mr. Miller noted that the intent of the regulation is that the signs be used for identification and direction, not advertisement. He raised concern as to whether a company's logo placed on the sign would indeed give rise to a concern that such was "advertising" as opposed to identification and direction purposes. Mr. Miller further noted that these were to be temporary signs, and could not exist for greater than nine months out of the year. In response to a question from Dave Horras, 8592 Byron Hills, Byron, Illinois, Mr. Miller stated that a directional sign would in fact be permitted under the regulations. He further clarified that Adopt-a-Highway signs would not be governed by this type of regulation.

Based upon the Staff Report and the testimony received at the Public Hearing, the undersigned does note the concern that Mr. Miller raises with regard to proposed text amendment three has legitimate merit. Nevertheless, in the undersigned's opinion, the regulations do appear to be as "content-neutral" as possible under the circumstances and the County's effort to bring some clarification and governance in this regard does seem to be appropriate. I therefore recommend the adoption of text amendment number three, based upon the desirability of imposing reasonable and appropriate regulation over off-site signs.

Respectfully submitted,

Kevin E. Buick, Hearing Officer