

**PLANNING AND REGULATIONS COMMITTEE
MEETING MINUTES
November 22, 2004**

The Planning and Regulations Committee of the DeKalb County Board met on November 22, 2004 at 7:00 p.m. in the DeKalb County Administration Building; Conference Room East. In attendance were Committee Members Roger Steimel, Howard Lyle, Marlene Allen, Eileen Dubin, Vince Faivre, James MacMurdo, Steve Slack, Sally DeFauw and Pat Vary, and staff members Paul Miller, Marcellus Anderson and Basia Kardaras. Audience members included: Dwain Larson, Leslie Larson, Alice Larson, and Gary Lothson.

Mr. Steimel, Chairman of the Planning and Regulations Committee, called the meeting to order, and noted that all members were present.

APPROVAL OF MINUTES

Mrs. Allen moved to approve the minutes for the October 27, 2004 meeting of the Planning and Regulations Committee, seconded by Mr. Lyle, and the motion carried unanimously.

APPROVAL OF AGENDA

Mr. Steimel added a discussion item in order to review comments and feedback regarding the scheduled "open houses" for the possible changes to the DeKalb County Zoning Ordinance. Mr. MacMurdo moved to approve the agenda, seconded by Ms. Vary, and the motion carried unanimously.

ZONING MAP AMENDMENT -- Request of Dwain Larson to rezone a one-acre property on the north side of Lions Road in Sandwich Township from R-1, Residential District to B-1, Business District, with a Special Use Permit for an auto repair facility, Petition SA-04-30.

Mr. Miller stated that Dwain Larson, representing the property owner, has filed an application for a Zoning Map Amendment and Special Use Permit for property located on the north side of Lions Road, approximately 1,430 feet east of South Dayton Street, in Sandwich Township. The 1.16-acre property is currently zoned R-1, Residential District. The proposal is to rezone the property to the B-1, Business District and grant a Special Use Permit to allow a vehicle service and repair facility. The required public hearing was conducted on October 28, 2004 by DeKalb County Hearing Officer Ron Klein. At the hearing, the petitioner presented exhibits and testimony in support of the proposed zone change. The petitioner proposes to improve the property with a paved and curbed parking lot and convert the building to his auto repair business. The Mayor of Sandwich spoke in favor of the zone change, explaining that the recommendation of Residential use on the City's comprehensive plan does not reflect what the City had envisioned for the future use of properties along Lions Road. Staff noted that if the zone change is approved, any of the permitted uses in the B-1 District could take place on the property by right, without oversight or approval by the County Board. Staff also pointed out that there is no adjacent B-1 zoning, and that the requested zone change would not be in compliance with the recommendations of the Unified Comprehensive Plan, and therefore the request would be "spot zoning." No other members of the public spoke in favor of or in opposition to the petition. Mr. Miller noted that the subject property had been rezoned from agricultural to residential in 1996 by the previous property owner. The property already included at that time the pole building that is currently on the site. No house was ever constructed on the property, and the petition before the County would rezone the property again and allow it to be used as an automobile repair business. Mr. Miller stated that the petitioner's business has been in the City of Sandwich for many years, but that the petitioner is seeking a new location because of rising rental costs for his existing facility.

Mr. Steimel questioned when the existing building was built and if it was it zoned A-1 at the time. Mr. Larson clarified that the building was erected in 1992 and at that time the zoning was A-1.

Mrs. Allen noted that the previous owner, Mr. Webb, erected the building to store his machinery and construction equipment, in order to support his small business. She added that this request is a hardship case and that the Larson's have been in business in Sandwich for 38 years. This was an opportunity for the Larson's to continue a viable business in the community and avoid being subject to rent increases.

Ms. Vary mentioned her concern with the request constituting “spot zoning,” and with the uncertainty of future business uses should the auto repair business not get started or close in the future.

Mr. Steimel asked if Special Use conditions would apply in this case.

Mr. Miller said that there would be conditions tied to the Special Use permit, however, not to the rezoning of the property. If the auto repair business closed, the property would be zoned B-1, and any permitted use could occur there without any County conditions or oversight.

Mr. Faivre asked if the zoning were changed, would there be any bearing if the Larson’s, or future owners, wanted to operate another type of business on the property.

Mr. Miller stated that any permitted use could take place without County approval, but any new Special Use would need to get a new Special Use Permit.

Ms. Vary asked if in the future the property could be rezoned back to A-1.

Mr. Miller noted that rezoning the property would require a new application and public hearing.

Mr. Faivre acknowledged staff’s opposition to the requested change, and stated that staff was doing it’s job in making that recommendation since it is staff’s responsibility to abide by the Comprehensive Plan. However, Mr. Faivre pointed out that it was the responsibility of the County Board to address any grey areas that might make deviating from the Comprehensive Plan the right thing to do, and determine the most appropriate course of action. Mr. Faivre supported the rezoning from R-1 to B-1 and the granting of a Special Use with the conditions recommended by the Hearing Officer.

Ms. Vary opposed the rezoning in order to stay consistent and true to the Comprehensive Plan and, at the same time, avoid spot zoning and control growth.

Mr. MacMurdo supported the rezoning, and felt Mr. Larson could make a viable business out of an otherwise unusable piece of property.

Mr. Lyle, Mr. Slack, Mrs. Allen, and Mrs. Dubin were also in favor of the rezoning.

Ms. DeFauw stated that she felt that there were too many grey areas associated with the request, and therefore opposed the rezoning.

Mrs. Steimel was in favor of the change as long as the appropriate conditions were attached to the Special Use Permit.

Mrs. Allen moved to approve the Map Amendment and Special Use Permit, including the conditions recommended by the Hearing Officer, seconded by Mr. Lyle. The motion carried with seven “yes” and Ms. Vary and Ms. DeFauw voting “no.”

DISCUSSION ITEM -- Scheduled Open Houses for the proposed changes to the DeKalb County Zoning Ordinance.

Mr. Steimel asked staff and the Committee if they had any feedback regarding the scheduled Open Houses for the possible changes to the Zoning Ordinance.

Mr. Miller mentioned that along with advertisement in the Chronicle, DeKalb County News, The Midweek and WSQ Radio, staff had distributed a memo to DeKalb County Lawyers, the association of realtors, the association of builders and the Farm Bureau, regarding the proposed changes and scheduled times for the open houses. Mr. Miller concluded that after receiving several calls from concerned individuals, he was able to fully outline the changes and in turn, received a more positive response.

Mr. MacMurdo advised staff to be prepared to address the concerns of those who live in the subdivisions such as Ellen Oaks in order to alleviate any concern amongst the owners of large residential properties.

Ms. Vary asked Mr. Miller the main reason for the proposed changes so that she might be better able to explain it to her constituents.

Mr. Miller explained that the proposal to eliminate all of the zoning districts except for agricultural, and to "grandfather" all non-agricultural uses and properties, is aimed at potential new growth, not existing uses. All existing non-agricultural uses would be able to continue to be bought and sold, repaired, replaced and expanded without any additional regulations. The new regulations are aimed at the developer who gets an option on the farm field next to a subdivision and requests rezoning for more houses, arguing that it would merely be an extension of the existing residential zoning district. With the change, there would be no residential zoning district to extend.

Mr. Faivre mentioned a concern posted by a reader in the Chronicle that focused on set backs pertaining to hog farms.

Mr. Miller clarified that the changes would not have any effect on the set back requirements pertaining to hog farms, since those setbacks are not dependent on zoning districts.

Mr. MacMurdo suggested that staff compile a FAQ sheet to post on the County web site after the open houses. Mr. Miller agreed that could be done.

Mr. Steimel concluded the meeting by advising the Committee that the December meeting would be cancelled. The one business item that would have been on that agenda will be carried over to the January, 2005 meeting. Mr. Steimel also extended his thanks to the Committee for being able to serve with them, and asked everyone to remember Cliff Simonson during the holidays. He also thanked Mr. MacMurdo for his dedication and service on the Committee.

Mr. Miller also thanked the Committee for their dedication and expertise.

ADJOURNMENT - *Motion to adjourn by Mr. MacMurdo, seconded by Mr. Lyle, and the motion carried unanimously.*

Respectfully submitted,

**Roger Steimel, Chairman
Planning and Regulations Committee Chairman**