

**PLANNING AND ZONING COMMITTEE
MEETING MINUTES
March 23, 2005**

The Planning and Zoning Committee of the DeKalb County Board met on March 23, 2005 at 7:00 p.m. in the Conference Room East located in the DeKalb County Administration Building. In attendance were Committee Members Roger Steimel, Patricia Vary, Marlene Allen, Eileen Dubin, Vince Faivre and Steve Slack, and staff members Paul Miller and Cky Ready. Committee member Howard Lyle was absent. Audience members included: Matt Schmitt, Donna Bunton, Pat Dashney, Greg Millburg, Nedra Ericson, Janet Johnson, Jeff Whelan and Mike Wiersema

Mr. Steimel, Chairman of the Planning and Zoning Committee, called the meeting to order. Mr Steimel also noted that all Committee members were present except for Mr. Lyle.

APPROVAL OF MINUTES

Ms. Vary moved to approve the minutes for the February 23, 2005 meeting of the Planning and Zoning Committee, seconded by Mrs. Dubin, and the motion carried unanimously.

APPROVAL OF AGENDA

Mrs. Allen moved to approve the agenda, seconded by Ms. Vary, and the motion carried unanimously.

ZONING TEXT AMENDMENTS – Request of DeKalb County for Zoning Ordinance update Text Amendments, Petition DC-04-32

Mr. Miller pointed out that the Planning and Zoning Committee and staff have been working on possible changes to the Zoning Ordinance since May of 2004. The first public hearing regarding the possible changes was held on December 16, 2004. The majority of the attention at that hearing focused on the proposal to rezone all property A-1, and grandfather all non-agricultural uses so they could remain being used, so that there would not be any non-agricultural districts that could be sought by those proposing new development in unincorporated DeKalb County. Following the December 16 hearing, members of the Planning and Zoning Committee asked staff to look into alternatives to accomplish the same goal without rendering any properties “legal non-conforming.” Staff researched the options and came up with the idea of rezoning the non-agricultural zoning districts to “conservation” districts. This entails changing the title of these districts and the purpose and intent of each district to make it clear that those districts, rather than allowing construction of new houses, for instance, would allow preservation of existing houses and lots that are zoned residential and apply to those properties so zoned and not apply to any other properties zoned agricultural. Under this proposal, any growth and development in unincorporated DeKalb County would only occur through a Special Use or planned development process, both of which require County Board approval and may include conditions of approval. Unlike straight zoning changes to zoning districts R-1, R-2, B-1 and M-1, granting an approval to

a Special Use or planned development would be specific to a project and to a property and not set a precedent for surrounding properties.

Mr. Miller stated that the public hearing regarding possible changes to the Zoning Ordinance was reopened to present this new proposal on February 24, 2005. Another minor change also considered at the reopened hearing was to allow residential or agricultural properties of two or more acres in size to have farm animals without restriction. This proposal addresses the concern from some owners of large residential lots who want to be allowed to have horses. The hearing was attended by approximately 80 people, and 18 people spoke, approximately one-half in favor and one-half opposed. The Hearing Officer has recommended approval of the proposal to change the title of those four districts, R-1, R-2, M-1 and B-1, to Residential Conservation 1, Residential Conservation 2, Manufacturing Conservation and Business Conservation. He noted that the change would not be harmful or problematic, because nothing would be made non-conforming, and in fact nothing would be rezoned. No rules applied to one of those four districts would change.

Mr. Miller pointed out that what is before the Committee is all of the possible changes to the Zoning Ordinance that have been discussed over the past year. These include expansions of the definitions section of the Zoning Ordinance, some title changes to administrative officers and committees, and zoning district changes such as the addition of "agritainment" as both a Permitted and a Special Use in the A-1 District. The Committee is requested to forward an ordinance to the full County Board for action on the full potential changes to the Zoning Ordinance.

Ms. Vary asked how many people (experts) were consulted on the "conservation districts" title change? Mr. Miller stated that the State's Attorneys Office, Ron Cope, a well-known land use attorney, representatives of the City of Elgin, which currently has residential "conservation" districts in place, a realtor who buys and sells properties zoned "residential conservation" and has for 10 years, and an appraiser in the city of Elgin and works with properties zoned "residential conservation" were all consulted. A local mortgage broker in DeKalb County was also consulted. He talked over the idea with some of the lenders with whom he works and concluded that the change in title to "conservation" district should not be a problem for property owners. Ms. Vary indicated support for the changes, stating that it would be one of the best tools to help manage growth in the County.

Mr. Steimel stated that County residents with whom he has talked indicated strong support for the Comprehensive Plan. He stated that the proposed change in zoning district titles is just one in a set of tools being updated to support and enforce the Comprehensive Plan. He noted that many who expressed opposition to the changes seem to be opposed to the idea of zoning in general, but noted that the County has had zoning many years and it has served the County well. Mr. Steimel indicated that he supports the proposed changes, and was glad that an alternative to making properties "legal non-conforming" was avoided.

Mr. Favire indicated that the possible changes to the Zoning Ordinance has been the issue that has generated the most phone calls since he has been on the County Board. He indicated

that most people, once they understand what the Committee is trying to do and how it works, are generally supportive of the changes, even if they started out opposed. He pointed out that zoning by its very nature is a restriction on a person's property rights, but it is also a protection of their property from what might happen next to them. Mr. Faivre indicated that more growth is coming to the County at a higher rate, and these changes are important to help manage that growth.

Ms. Vary moved to approve the zoning text changes, seconded by Mr. Faivre. The motion carried unanimously.

Mr. Steimel indicated that this item will be forwarded on to the next County Board meeting, which will be the third Wednesday of April.

SPECIAL USE PERMIT -- Request of Evangelical Lutheran Church of St. John for approval of a new church on a 15-acre parcel located at the northwest corner of Brickville and Motel Roads in Sycamore Township, Petition SY-05-04

Mr. Miller stated that the Evangelical Lutheran Church of St. John's, which was destroyed by fire in 2004, has since been looking for a new site. The Church has located a 15-acre property at the northwest corner of Brickville and Motel Roads, in Sycamore Township, zoned A-1, Agricultural District. St. John's has requested a Special Use Permit to allow the construction and operation of a church. The required public hearing was conducted on March 10, 2005 by Hearing Officer Ron Klein. Two members of the public spoke at the hearing, one spoke in favor and the other raised some concerns about storm water runoff. The Hearing Officer's report recommends approval of the Special Use Permit, with conditions.

Ms. Vary asked a question regarding the number of church members and the standard used to generate the minimum number of parking spaces. Mr. Miller responded that the standard from the Zoning Ordinance is one parking place for each four seats in the church. St. John's is proposing more than the minimum number of spaces required.

Mr. Steimel indicated that he was aware of the drainage issue, and had talked with Rick Hoffman, the current owner of the subject property as well as the owner of property to the south, which is the direction of stormwater drainage. He stated the Mr. Hoffman informed him that there is a 12" tile under Motel Road which stays underground all the way south for a few hundred feet, where there is a waterway that carries water away. Mr. Steimel stated that the Hoffman family is planning to tie into a 15" tile this year, which will provide excellent drainage.

Ms. Vary indicated that the location of the septic field is in poorly draining soil. Mr. Drake indicated that the revised plans are on his desk, and that the Church has moved the septic field to the southwest corner of the property, where the soils are better. Ms. Vary then asked about the need for a deceleration lane on Brickville or Motel Roads. Mr. Miller stated that

based on the evaluation of the County Engineer the volume of traffic would not justify such road improvements.

Mrs. Allen moved to approve the Special Use Permit, with conditions, seconded by Mr. Slack. The motion carried unanimously.

LANDFILL LICENSE ANNUAL RENEWAL -- Request of Waste Management West for renewal of the annual license to operate the DeKalb County Landfill on Somonauk Road in Cortland Township.

Mr. Miller indicated that every year the operator of the landfill is required to come to the County for a permit to continue operation for the next year. Generally Waste Management West gives a review of the operation of the landfill over the past year which includes how many tons of waste have been brought in, the recycling efforts of the landfill and the expected anticipated life of the landfill. The application for the annual license indicates that the landfill is continuing on it's current cell, which is located in the southwest end of the landfill. The cell was excavated in 2003 and has a capacity through 2005. The facility is accepting an average of 250 tons per day, and accepted a total of 88,00 tons of waste in 2004. The in-County volume of that waste was 82,500 tons, out-of-county was 5,700 tons, which is 6%. The landfill has an estimated remaining life of between 12 and 15 years.

Ms. Vary noted that there appeared to be a discrepancy in the application, since one report indicated a landfill life of another 10½ years, while another indicates 12 to 15 years. Mike Wiersema, representing Waste Management West, clarified that the one report is technical and relies on a State-mandated formula. The longer estimate is more practical and is based on the day-to-day observations and projections on the actual use of the landfill.

Discussion was then held on the general topic of the future of solid waste disposal in the County. Ms. Vary suggested that an ad hoc Committee may be appropriate to begin discussing and exploring the various options for the future. Mr. Slack stated that he understood it takes five years to get a new landfill operating from the time a site is selected. Staff noted that there are the full range of options before the County, from allowing the existing landfill to expand, to allowing the siting of a transfer station to have garbage hauled away to another landfill in another county, to doing nothing. Mr. Steimel pointed out that a new landfill in the County would, by law, have to be a regional landfill, accepting garbage from the east. He concluded the discussion by noting that the issue is very important, and suggesting that each of the Committee members give the topic more thought.

Mrs. Allen moved to approve the request for granting the annual landfill license, seconded by Mrs. Dubin. The motion carried unanimously.

COUNTY SOLID WASTE PLAN -- Request of DeKalb County Health Department for approval and adoption of five-year update to County Solid Waste Plan.

Pat Dashney gave a presentation to the Committee on solid waste for 2004. A 51% recycling rate was achieved, which was higher than the previous year. Total recycling was 58,352 tons. Ms. Dashney said projects this past year included the first electronics collection, netting 51,000 tons of electronic equipment in a four hour period, and an oil collection that generated over 10,000 gallons in a four hour period. Two waste oil days are proposed for 2005 this year instead of one.

Mr. Slack asked if 51% was higher than the State average. Mrs. Dashney indicated it was. Mr. Slack then inquired why there cannot be recycling in the unincorporated County. Ms. Dashney answered that it was a cost issue.

Mr. Steimel asked how many recycling drop off points were in the County. Ms. Dashney said there are four. She explained that there could be more, but there is an issue of monitoring these sites, since people put in stuff that doesn't belong, dumping furniture and other items.

Mrs. Dashney then went through the various tasks of the revised Solid Waste Plan, highlighting where major changes have been made to the Plan.

Mrs. Dubin moved to approve the updated Solid Waste Plan, seconded by Mrs. Allen. The motion carried unanimously.

INFORMATION - Outcome on Nelson subdivision litigation

Mr. Steimel presented a copy of an article from the Chicago Tribune, noting "DeKalb County Zoning Upheld." He then reviewed the basics of the Nelson case and praised Mr. Miller, Ron Cope, and all who were involved with the court case.

Mr. Miller added that, when it comes to lawsuits on zoning decisions, when a property owner or a developer is aggrieved of a decision that the County has made, the burden of proof lies on them to prove: 1) that the County's plan or rules are unconstitutional, depriving people of their property or rights without just compensation; and 2) that the County's decision is arbitrary and capricious. The judge in this case found that they had failed to prove either. Mr. Miller suggested that what is important for the Committee and the County Board to realize is that it is the consistency of the Board's decisions with regard to the Comprehensive Plan, and the uniform application of the zoning rules, that help the County prevail in lawsuits. Staff has pointed out before that every time the County Board deviates from the recommendations of the Comprehensive Plan, it makes it less likely that that Plan will become reality. But decisions that are contrary to the Plan also put the County in greater jeopardy in lawsuits. If the Plan says one thing and the Board allows something else, the decision runs greater risk of being found to be arbitrary and capricious. Mr. Miller praised the County Board for its commitment to the Comprehensive Plans over the years.

ADJOURNMENT - *Motion to adjourn by Mrs. Allen, seconded by Ms. Vary, and the motion carried unanimously.*

Respectfully submitted,

Roger Steimel, Chairman
Planning and Regulations Committee Chairman

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