

**PLANNING AND ZONING COMMITTEE  
JOINT MEETING MINUTES  
June 28, 2006**

The Planning and Zoning Committee of the DeKalb County Board met on June 28, 2006 at 7:00 p.m. in the Conference Room East located in the DeKalb County Administration Building. In attendance were Committee Members Roger Steimel, Marlene Allen, Patricia Vary, Vince Faivre, Eileen Dubin, Howard Lyle and Steve Slack, and staff members Paul Miller, Derek Hiland and Toby Petrie. Audience members included Ken Anderson, Robert Rood, Richard Schmack, Tammie Ring, Judy and Leonard Baumgartner and Jordan Gallagher.

Mr. Steimel, Planning and Zoning Committee Chairman, called the meeting to order, and noted that all members from the Committee was present.

**APPROVAL OF MINUTES**

*Mr. Faivre moved to approve the minutes of the April 26, 2006 meeting of the Planning and Zoning Committee, seconded by Mr. Lyle, and the motion carried unanimously.*

*Mrs. Allen moved to approve the minutes of the May 24, 2006 joint meeting of the Planning and Zoning and Highway Committees, seconded by Ms. Vary, and the motion carried unanimously.*

**APPROVAL OF AGENDA**

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

**CONCEPT PLAN REVIEW** -- Request of Mike and Sheila Dillon for review of a Concept Plan for a proposed planned development subdivision, Willow Creek Estates Second Addition, located north of Perry Road and east of State Rte. 23, in Afton Township.

Mr. Miller briefed the Committee on the proposed concept plan by stating Mike and Sheila Dillon, representing Rosemary Gallagher, the property owner, submitted a Concept Plan for a proposed addition to the Willow Creek Estates Subdivision. The project would be a planned development consisting of 31 single-family residential lots located on 41 acres. The subject property is located on the east side of State Rte. 23, north of Perry Road, in Afton Township, and is currently zoned PD-R, Planned Development - Residential. He explained that the Concept Plan was reviewed by staff, and is now before the Planning and Zoning Committee for consideration and non-binding direction on the proposed project.

Jordan Gallagher stated that Willow Estates, a single-family residential development consisting of 18, 100' x 200' lots fronting on the east side of State Rte. 23 and the north side Perry Road, was approved in 1959. In July of 1970, the County approved Willow Creek Estates, a subdivision by property owners Robert and Rosemary Gallagher, consisting of seven single-family residential lots fronting on a new road, Willow Run Drive, that extends north from Perry Road, east of Rte. 23. In

November of 1972, the First Addition to Willow Creek Estates was approved, consisting of four additional lots fronting on an extension of Willow Run Drive. The Gallaghers have returned to ask the County to allow for the completion of the proposed subdivision that was, in Mr. Gallagher's words, "promised to them over 40 years ago." He indicated that the intention is not to aggressively develop the land but gradually sell residential lots over time.

Mrs. Dubin asked whether or not the proposed concept plan was drawn using the 1960 standards. Mr. Gallagher assured the Committee that the plan was drawn using the standards from today.

Mrs. Allen verified that if the lots were developed before being contiguous to a municipality they would each have their own septic and well systems.

Mr. Steimel inquired whether or not the drainage from the proposed subdivision would affect the surrounding homes and septic systems. Mr. Gallagher stated that Wendler Engineering stated that no problems would be encountered by the proposed drainage as shown on the Concept Plan.

Mr. Miller asked whether the Gallaghers were aware that approval of a Final Plan would require construction of the roads in one year, or was the petitioner asking to phase the improvements over time? Mr. Gallagher stated that there would not be any objection to phasing the development, but that it was understood that the roads would need to go in within a year of approval even if the lots do not sell but one or two each year.

Ms. Vary stated that these type of subdivisions are in complete contradiction to what the County is trying to do. Developments like these are taxing on services and schools, to name a few of the impacted public services. Mr. Gallagher responded that this development was committed to by the County forty years ago and this County Board should adhere to those past promises.

Mr. Miller explained that the concept plan review was an informal process and the Gallaghers are to take the Committee's questions and suggestions into consideration in order to determine a direction of action. He clarified the difference between the Planned Development Residential Zoning, which is the zoning process that this proposal would follow, and the residential conservation zoning districts that are in place on other properties throughout the County.

Mr. Slack asked if the County is saying to Gallaghers that this property should never be developed. Mr. Miller responded that the effect of the Unified Comprehensive Plan and the County Zoning Regulations for planned developments, which restrict approval to properties designated as appropriate for development on the Future Land Use Plan, means that the County is actually saying the petitioner can develop this property at some time in the future, just not now. In the future, the County could amend the Comprehensive Plan to show this property is appropriate for development, or change its policies or zoning regulations to make it clear this property can develop, or the City of DeKalb could annex down to the property and it could develop by approval of the City. Mr. Miller characterized development of the property now as premature.

Mr. Steimel indicated to Mr. Gallagher that some members of the Committee clearly had some reservations about the project.

Following further discussion, Mr. Gallagher stated that he and his clients had enough information to consider whether or not to proceed with the project and thanked everyone for their time.

**BUILDING CODE UPDATES** -- Recommendation by Chief Building Inspector for updates to the adopted Building Codes

Mr. Miller stated the Committee considered the recommendation of staff at the April 26, 2006 meeting, for updates to the County codes of regulations applicable to the construction of new buildings and structures in unincorporated DeKalb County. These updates are done every three or four years, and are necessary because the industry standards for minimum safety are improved each year and new construction technology and materials must be factored into the regulations and practices. The County last updated its adopted Building Codes in June of 2002.

Toby Petrie, Chief Building Inspector, prepared and submitted a list of recommended updated codes for adoption, along with amendments that reflect local practice. He stated that the Committee previously requested staff to seek the input of local building contractors on the proposed changes. Staff subsequently met with representatives of the DeKalb Builders Association on May 16, 2006. Mr. Petrie continued by stating there was general agreement on the majority of changes being proposed, but some disagreement on the recommended residential energy requirements. Specifically, the 2003 Code under consideration places DeKalb County in a climactic region that has a higher insulation requirement than that required in the currently adopted Building Code. Representatives of the Builders Association were in attendance to express their opinions, and indicated that the home builders felt the new insulation requirements were too strict and would add unnecessary costs to new houses.. Mr. Petrie explained that the 2006 Building Code had just been issued, and it places DeKalb County in a less restrictive climactic zone, thereby lowering the insulation requirement. He suggested that a compromise position would be to adopt a local amendment to the 2003 Code to require the insulation requirements of the 2006 Code. This would be less stringent than the 2003 Code but more restrictive than the current Code.

Mr. Miller asked the Committee to review these recommendations, and forward a motion to the full County Board for adoption by ordinance. Because this is an amendment to the County Code, no public hearing is required.

Committee discussion focused on the insulation requirements. Representatives of the Homebuilders Association explained the changes in construction practices and building materials that would be needed in order to meet even the 2006 insulation requirements. Mr. Petrie explained that the additional costs to new home buyers would be offset by savings in heating and air conditioning bills within a matter of a few years. Ken Anderson of the Homebuilders Association explained that he

himself built his own home to the higher standard, but felt that it should be up to each home owner as to whether or not to spend the additional money.

Ms. Vary expressed the opinion that with rising fuel costs, it made sense to require houses to be better insulated to reduce heating and air conditioning bills.

Mr. Faivre indicated that it is difficult enough for new home buyers to afford to build without the County adding costs that might not be justified. He preferred to leave it to the discretion of the home buyer as to whether or not to build to the more restrictive standard. Mr. Steimel agreed.

*Ms. Vary moved to amend the County Building Code in accordance with the recommendations of staff, adopting the 2003 IROC Code with amendments, including the 2006 IROC standards for insulation values. The motion was seconded by Mrs. Dubin and the motion failed with four "no" (Allen, Faivre, Lyle and Steimel) and three "yes" votes (Vary, Slack and Dubin).*

The Committee asked the Builders Association how they felt regarding the proposed changes and the Association members indicated that they had no problem with the recommendations of staff to adopt the 2003 IROC, but leaving the current insulation requirements the same because the 2003 requirements would cost the builders and homeowners more money.

*Mr. Faivre moved to amend the County Building Code in accordance with the recommendations of staff, adopting the 2003 IROC Code with amendments, including leaving the standards for residential insulation values unchanged. The motion was seconded by Mrs. Allen and the motion carried with five "yes" (Allen, Faivre, Lyle, Stack and Steimel) and two "no" votes (Vary and Dubin).*

**ZONING TEXT AMENDMENT--** Discussion of possible amendment to the Use Variation provisions of the Zoning Ordinance

Mr. Miller explained that the Committee and County Board had recently considered the petition of a property owner for a Use Variation (Baumgartner, Petition CO-06-02). The primary issue under consideration for the petition became whether or not the petitioners paid a "premium price" for the property or not, and what the Zoning Ordinance intends or should intend by this evaluation criteria. Although the County Board denied the petition, Committee members indicated at that time that the Use Variation regulations should be revisited and reviewed, with an eye toward potential changes to and clarification of the regulations.

The issue now before the Committee is whether or not the Use Variation regulations should be amended to broaden the conditions under which a property owner may qualify for a lot of less than 40 acres to be buildable for a residence. Mr. Miller concluded by stating that the Committee may wish to take this opportunity to consider the Use Variation regulations in general, and to consider the effect of the existing regulations, as well as the effects of potential changes, on the land use policies of the County and practicalities of interpretation and administration of the regulations.

Ms. Vary stated that the County had a sunset clause for building on lots of less than 40 acres that ended in 1993, then the County determined that the Use Variation needed to be available for anyone

who for whatever reason missed the deadline. She suggested that maybe the Use Variation had not been broadcasted enough, but she assumed that now most people know about the Use Variation option. The Committee considered eliminating the "loophole" two years ago, and Ms. Vary suggested that a new sunset clause be enacted for a final two-year window of opportunity for the Use Variation. After that, the 40-acre rule would apply.

Mr. Faivre and Mr. Lyle both disagreed with the proposal of adopting a new sunset clause for lots of less than 40 acres, explaining that the Use Variation procedures existed as a matter of fairness.

Mr. Slack stated that everyone already knew what position he takes on the issue of the Baumgartners. He stated that other than the issue of whether or not the Baumgartners made a payment, their situation meets all of the other criteria for a Use Variation. He stated that he did not feel that amending the criteria to allow payment by labor in lieu of cash would open the floodgates of applications, and he indicated that, although staff had identified 1,800 lots of less than 40 acres, the majority of those would not meet the other criteria.

Mrs. Dubin stated that she agreed with Mr. Slack, and that the Committee should change the ruling and let the Baumgartners build.

Mrs. Allen responded that there is no way of knowing in the Baumgartner case that the transfer of land would not be considered a gift.

Mr. Steimel stated that he was not in favor of a new sunset clause for Use Variations. He indicated that the Committee tries to be fair in assessing Use Variation requests, and felt that it would make it a lot easier to make decisions in cases like the Baumgartners if the reasons for the land being given were documented. He felt that labor could be a documented "premium price" and that the regulations should be amended to reflect this option.

Ms. Vary stated that the Committee is considering a Use Variation for the third generation, not the original recipients of the land. She asked whether the County Board could re-vote on the issue.

Mr. Faivre responded by stating that he would rather consider a change to the rules than vote on the Baumgartner request again, because the vote would probably turn out the same way.

Richard Schmack, representing the Baumgartners, stated he would be willing to work with staff to craft an amendment to the Use Variation regulations. Mr. Miller stated that it would be difficult to codify how much labor, what kind of labor, and who did the labor, in a way that would not make it easy for many people to qualify. Mr. Schmack suggested that what was unique about the Baumgartner case was the fact that they acquired the lot in question before 1976, which is the date by which the subject property of a Use Variation must have existed to qualify. Mr. Miller suggested that the issue might be resolved by adding to the existing Use Variation criteria that requires the owner to have purchased the property prior to 1993 the caveat, "or acquired the property prior to 1976." This would avoid the issue of how it was acquired, by labor or gift or good luck, and it would also make it clear that the long-time owner has a right to seek a Use Variation.

After further deliberation, the Committee directed Mr. Miller to draft an amendment for the Use Variation criteria that would continue all of the existing criteria, but add language that would allow a qualifying property owner to have acquired the parcel prior to 1976.

*Mr. Slack made a motion that staff draft a Zoning Text Amendment to add language regarding a property owner having "acquired the lot prior to 1976", said draft amendment to be submitted to the Planning and Zoning Committee at its next meeting. The motion was seconded by Mr. Lyle and carried unanimously.*

**FIREWORKS CODE AMENDMENT** -- Request of County Administration for an amendment to the fireworks provisions of the County Code

Mr. Miller stated that the proposed amendment before the Committee was brought by the County Administration Office and the State's Attorney to bring the current Code into compliance with the insurance requirements by the State of Illinois for detonating fireworks.

Some discussion was held regarding the current administration of the Fireworks regulations. Mr. Miller indicated that the changes are not intended to add any additional layers of regulation or inspection.

*Ms. Vary moved to amend the Fireworks Provisions of the County Code as proposed, seconded by Mrs. Allen, and the motion carried with six "yes" (Allen, Dubin, Lyle, Stack, Steimel and Vary) and one "no" vote (Faivre).*

**SIGN REGULATIONS** -- Discussion regarding the Sign Regulations of the Zoning Ordinance

Mr. Miller explained that there are two policy issues before the Committee regarding the sign regulations of the Zoning Ordinance. One is whether the Sign Regulations should be amended to correct apparent inconsistencies in the treatment of signs on a district or lot-by-lot basis, and the second is commercial uses should have the same set of sign regulations regardless of zoning district. He added that Mr. Steimel had requested that the Committee consider this issue and provide direction to staff. After reviewing the regulations, staff recommends, at a minimum, that a Text Amendment to address the existing inconsistencies in Ordinance language is appropriate. He explained that Jim Johnson, owner of DeKalb Implement, would like the Committee to consider whether commercial uses in the A-1 District should not have the same signage options as uses in commercial districts, or at least more options than one sign per frontage. He added that Calvary Lutheran Church, located at Perry Road and West County Line Road in Milan Township, has recently requested that the County consider changing the rules for church signage in the A-1 District, to allow the same size sign (50 square feet) as permitted for churches in residential districts.

The Committee agree to vote on each proposed change separately. There was general agreement that the existing Sign Regulations should be amended to make it clear that signs are regulated on a zoning district, rather than lot-by-lot, basis.

*Ms. Vary made a motion to direct staff to prepare a Zoning Text Amendment for Article 7 of the*

*Zoning Ordinance to amend the sign regulations to make it clear regulations are by district and not by primary use on each lot. The motion was seconded by Mr. Lyle and carried unanimously.*

Discussion was held regarding commercial signs. Mr. Miller explained that commercial uses differ from some other types in typically needing to both identify the use and advertise. He suggested, however, that allowing as much or as many signs in the agricultural district as is allowed in the commercial district may not be appropriate, given the differing character of the areas. A compromise would be to allow commercial uses in the agricultural zoning district to have two primary signs, as permitted in the commercial district, but to restrict the size and heights of those signs to the standards for the agricultural district. Following discussion, the Committee agreed.

*Ms. Vary made a motion to direct staff to prepare a Zoning Text Amendment for Article 7 of the Zoning Ordinance to amend the regulations for commercial uses in agricultural districts to allow such uses to have two primary signs. The motion was seconded by Mrs. Dubin and passed with six "yes" (Allen, Dubin, Faivre, Lyle, Steimel and Vary) and one "no" vote (Slack).*

Mr. Miller explained that church signs often include reader boards. Churches in residential districts are allowed signs of 50 square feet, but in agricultural districts are restricted to 32 square feet. For churches located on roads with posted speed limits of 55 mph, it can be difficult to read signs unless the letters are large enough. Larger letters require larger signs, which is why Calvary Lutheran was requesting an amendment to allow church signs in the agricultural district to be the same size as church signs in residential districts. Committee members asked Mr. Miller's professional opinion. Mr. Miller responded that it is not a requirement that church signs include reader boards, and that changeable type signs can actually be a distraction to motorists. He suggested that the requested change is not appropriate in the agricultural district. Following discussion, the Committee agreed, and chose not to direct staff to prepare an amendment for church signage.

**ADJOURNMENT** - *Ms. Vary moved to adjourn, seconded by Mr. Lyle, and the motion carried unanimously.*

**Respectfully submitted,**

**Roger Steimel**  
**Planning and Zoning Committee Chairman**

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