

**PLANNING AND ZONING COMMITTEE  
MEETING MINUTES  
October 25, 2006**

The Planning and Zoning Committee of the DeKalb County Board met on October 25, 2006 at 7:00 p.m. in the Gathertorium located in the DeKalb County Legislative Building. In attendance were Committee Members Roger Steimel, Marlene Allen, Howard Lyle, Eileen Dubin, and Pat Vary, and staff members Paul Miller and Derek Hiland. Audience members included William Paul Hopkins, John Chyson, David and Victoria Nay, Robert Morrison, Donna Praine, Ken Mundy, Scott Primroy and Greg Millburg.

Mr. Steimel, Planning and Zoning Committee Chairman, called the meeting to order, and noted that all members from the Committee were present except for Vince Faivre and Steve Slack.

**APPROVAL OF AGENDA**

Mr. Miller noted that a zoning application made by David and Victoria Nay for a Special Use Permit to allow a public stables with riding lessons on their property at 6739 Minnegan Road in Afton Township had been left off of the agenda. He stated that the public hearing has already been conducted and that the request is ready for consideration by the Committee and County Board. Materials related to the request, including the application, the Staff Report and the Hearing Officer's report, were available to the Committee. Mr. Miller suggested that the Nay's request be added to the agenda as item 7.a.

*Mr. Lyle moved to approve the amended agenda, seconded by Ms. Vary, and the motion carried unanimously.*

**APPROVAL OF MINUTES**

*Mrs. Dubin moved to approve the minutes of the September 27, 2006 meeting of the Planning and Zoning Committee, seconded by Mrs. Vary, and the motion carried unanimously.*

**SPECIAL USE PERMIT** -- Request of Josephine and Paul Hopkins for approval of a Special Use Permit for "Josie's Antiques" on property located at 15454 State Rte. 38 in Cortland Township, Petition CO-06-18

Mr. Miller explained that Josephine and Paul Hopkins have filed an application for a Special Use Permit to approve the continued operation of "Josie's Antiques," a retail store located in a barn at 15454 State Route 38 in Cortland Township. The 2.58-acre subject property is zoned A-1, Agricultural District with an Interim Special Use Permit for antique sales, and is located on the south side of Rt. 38, between Chase Road and Hinckley Road. The Interim Special Use for the antique sales has been in place for the past 10 years, last having been approved for a period of five years in 2001. The Interim Special Use expired on September 20, 2006. The petitioners are now requesting a Special Use Permit that would allow the retail use of the agricultural buildings to be permanent.

DeKalb County Hearing Officer Kevin Buick conducted a public hearing on the request on October

5, 2006. The petitioners presented evidence and testimony in support of the request to continue the Special Use, including a petition of support signed by approximately 350 persons. Discussion focused on how many square feet are devoted to the retail use, and the need to provide parking spaces in accordance with the requirements of the Zoning Ordinance. The hours, days and number of employees has not increased. No members of the public spoke in favor of or in opposition to the request. The Hearing Officer has forwarded his Report and Recommendation, and recommends approval of the Special Use Permit with conditions.

Mr. Steimel stated that he is familiar with the antique business and that it is well run and popular.

Ms. Vary inquired whether it was clear how much square footage is associated with the business, as this is the basis for the required parking. Mr. Miller responded that, if approved, the petitioners will have to work with staff to determine the required parking. No Variation from the parking standards has been requested, so the regulations will have to be met. Mr. Miller also noted that no change has been requested by the petitioners from conditions related to days and hours of operation.

*Following further discussion, Mr. Lyle moved that the Special Use Permit be approved, with conditions, seconded by Mrs. Allen, and the motion carried unanimously.*

#### **STORMWATER MANAGEMENT PLAN -- Consideration of a Countywide Stormwater Management Plan and Ordinance**

Mr. Miller explained that the DeKalb County Stormwater Management Planning Committee has forwarded to the Planning and Zoning Committee a finalized draft countywide Stormwater Management Plan and Stormwater Management Ordinance. In preparation of these documents, the Stormwater Management Planning Committee has undertaken a number of tasks in accordance with the enabling State legislation set forth in 55 ILCS 5/5-1062.2, including: getting approval of the draft Plan and Ordinance from the Office of Water Resources of the Department of Natural Resources; sending copies of the draft Plan and Ordinance to each of the counties surrounding DeKalb; publishing a notice and sending copies of the notice and the draft Plan and Ordinance to each of the municipalities, as well as to persons and organizations that had expressed interest in the process; and conducting a public hearing on September 28, 2006.

Mr. Miller explained that the Committee then met on October 10, 2006 to review and consider the comments received and documents submitted at the public hearing. The Committee subsequently produced a final draft of the Plan and Ordinance for consideration by the County Board, and made specific recommendations, including: that the County Board adopt the Plan and Ordinance; that the effective date of the Stormwater Management Plan be the day it is approved and adopted by the County Board, but that the effective date of the Stormwater Management Ordinance be May 1, 2007 in order to allow sufficient time for the municipalities within the County to apply for exempt status from the countywide stormwater regulations; strongly recommending that Phase II of the Stormwater Management Plan commence as soon as practical; and strongly recommending that the

concerns and suggestions as to additional regulations and issues related to stormwater management, which were raised at the public hearing, be maintained and reviewed as part of Phase II of the Stormwater Management Plan.

Mr. Miller added that once the countywide Plan and Ordinance are approved, municipalities will be notified of the opportunity to file for exempt status., and that it is anticipated that each of the municipalities in DeKalb County will apply for exempt status. The Planning and Zoning Committee is requested to review the draft Plan and Ordinance, and the recommendations of the Stormwater Management Committee, and forward a recommendation of approval to the full County Board.

Finally, Mr. Miller explained that the approach set forth in the draft Plan consists of three phases. The first is intended solely to legitimize the stormwater management policies and regulations that the County currently has, so that the County may continue to conduct "business as usual" while it undertakes the lengthier, more contentious second phase. The second phase will probably require a reconstitution of the Stormwater Management Planning Committee to create a Policy Committee composed of appointed persons who are political or have expertise and interest, while the existing Committee becomes a Technical Committee. Mr. Miller explained that there are many important and possibly controversial issues that will be discussed, and it is important that the County be able to continue to regulate grading and stormwater management during the time it will take to work through those issues. Phase II of the Plan would include delineating the County watersheds, reworking stormwater regulations to reflect a watershed approach to management, and identifying where major stormwater projects are needed. Phase III would include details for such projects, including financing.

Ms. Vary asked why language that had been in a previous draft of the Plan which indicated that agricultural buildings should be required to have stormwater management plans had been removed in the final draft.

Mr. Miller explained that he had brought the issue to the attention of the Stormwater Management Planning Committee, telling them that some members of the Planning and Zoning Committee felt that there should be no such reference in the Plan, while others supported the reference. The Stormwater Management Committee decided to remove the language, on the premiss that the first phase of the Plan is intended to reflect the current policy of the County, which is to exclude agricultural buildings and structures from stormwater management regulations. Mr. Miller added that agribusinesses and agricultural buildings that are within or proximate to the floodplain are not now, nor would they be under the draft Plan and Ordinance, exempt.

Ms. Vary stated that removing the language concerning stormwater management for agricultural buildings from the preamble portion of the Plan would preclude the ability of the County to talk about such regulation in the future. Mr. Miller stated that he did not believe that would be the case. Phase II of the Plan would be an amendment, and the County would have the authority to change the Plan and Ordinance in any way it saw fit, including changing language that indicates agricultural

buildings should have no further regulation.

Ms. Vary stated that it is not necessary for the Plan to say that agriculture should be permitted with no further regulation. She stated that traditional farming, in the form of row cropping and similar activities, should remain exempt. But the County should have the right to consider whether agricultural buildings, some of which are quite large and have a high potential for negative effects on stormwater runoff, should be regulated in the same way as other large buildings.

*Ms. Vary moved that the Stormwater Management Plan be amended by removing the final sentence of the paragraph concerning "Agriculture", seconded by Ms. Dubin.*

Roger Steimel stated that the Law which enabled the Stormwater Plan and Ordinance had been dead in Springfield for nearly ten years, and it was only once agriculture was removed from legislation and allowed each County to govern agricultural grading the law passed in 2005.

Further discussion on the motion indicated some members were not inclined to remove the language from the Plan. Mr. Steimel asked Mr. Miller if the Plan could be amended at any time in the future. Mr. Miller stated that it could. Mr. Steimel indicated that traditional farming practices have allowed for the livelihood of many families in DeKalb County, including his own, and to ask the farmers to begin controlling release rates and incur expenses related to abiding the rules would make earnings difficult.

Ms. Vary responded that she agreed and would stand up for traditional farming, that her concern was with the stormwater impacts of agricultural buildings, not traditional farming activities. She noted that if the language regarding no further regulation of agriculture is not removed from the preamble of the Plan, those who oppose the idea of stormwater management plans for agricultural buildings will argue that subsequent phases cannot and should not include such regulation.

*Ms. Vary moved to amend her motion to remove only the words, " **without additional regulation**", seconded by Mrs. Dubin. The motion to amend the previous motion failed on a vote of two "yes" and three "no," with Committee members Allen, Lyle, and Steimel voting "no."*

*The original motion to amend the draft Stormwater Management Plan by removing the final sentence of the paragraph concerning "Agriculture" failed on a vote of one "yes" and four "no," with Committee members Allen, Lyle, Steimel and Dubin voting "no."*

Mr. Steimel stated that the issue concerning whether or not agricultural buildings and structures should be subject to stormwater management regulations can be addressed in Phase II, and that the County needs to legitimize the regulations it now has while that discussion takes place.

*Following further discussion, Mrs. Allen moved to recommend adoption of the Stormwater Management Plan and Ordinance, seconded by Mr. Lyle. The motion carried with four "yes" votes*

*and one "no" vote, with Ms. Vary voting no.*

**SIGN REGULATIONS AMENDMENT** -- Presentation by staff of a possible amendment to the Sign Regulations of the Zoning Ordinance regarding temporary signs to address the possibility of off-premise signs for associated with seasonal uses

Mr. Miller stated that at its last regularly-scheduled meeting, the Planning and Zoning Committee evaluated possible changes to the Sign Regulations of the Zoning Ordinance regarding signs associated with seasonal uses, as well as "coming soon"-type signs associated with approved projects. As requested by the Committee, staff drafted regulations that would accommodate multiple temporary on-site signs associated with uses such as farmers markets and roadside stands, as well as regulations that would permit the "future home of" signs for new projects. Staff also researched and drafted regulations that would allow off-premises signs for permitted or approved seasonal uses.

Mr. Miller continued by stating that staff recommends against creating a regulation that would allow the use of off-premises signs by seasonal uses, since fairness and equitable treatment would require similar approval of other temporary signs for a wide variety of uses and events. This could lead to a proliferation of signage in rural, unincorporated portions of the County, creating visual clutter, and would run contrary to the purpose of the Sign Regulations to provide for orderly regulation of signage. Mr. Miller noted that an additional issue relates to the type of off-premises signs. The Sign Regulations distinguish between signs placed in the ground and "portable" signs, which would be signs on wheels. Portable signs are currently prohibited by the Zoning Ordinance.

Mr. Miller introduced a possible amendment to accommodate off-premises signs. He stated that if off-premises signs are to be permitted, staff recommends that such be restricted to listed permitted and special uses, and further that Sign Permits be required. Section 7.10.B. of the Zoning Ordinance, regarding Special Displays and Other Temporary Signs can be amended to add a regulation that allow off-premises signs, not exceeding 16 square feet in area, to be in place not more than nine months in a calendar year, and not located within the 40-foot sight triangle nor within 500 feet of another such off-premise sign. It would also be the written intent of the regulations that the signs be for identification and direction and not for advertisement.

Mr. Miller continued by stating that staff notes that the above change is not without possible negative ramifications. Currently, the prohibition against off-premises signs is unambiguous. If the regulation above, or something similar to it, is adopted, it opens the door to allow off-premises signs as a general category. The regulation is intended to restrict the permission to off-premises signs of a certain type and under certain conditions, but efforts to enforce this restriction can prove difficult. Advocates for other types of off-premises signs, intended for other uses and events (such as the temporary signs identifying and directing motorists to new subdivisions, which signs have been identified as nuisances and eyesores), will seek to use the new regulations to argue that their off-premises signs should also be permitted. In general, any change in zoning regulations from restrictive to permissive creates the likelihood of pressure to allow additional uses for which the new

permission is not intended. This consequence should be borne in mind as the Committee deliberates on this issue.

Mr. Miller in conclusion stated that he contacted the surrounding Counties regarding off premise signage and found that Winnebago, Ogle and Lee Counties allow off-premises signs, while McHenry, Kane, Kendall and, currently, DeKalb, prohibit them.

Mr. Steimel stated that he feels there is a need to accommodate needs that are legitimate regarding off premise signage.

Representatives from St. John Lutheran Church of Sycamore were in attendance and requested that the Committee consider allowing permanent, off-premises directional signage for non-for-profit organizations. The Church members noted the Adopt-A-Highway Signs that can be found throughout the County and in areas particularly around municipalities. Mr. Miller stated that the Adopt-A-Highway signs are placed there by either the County Highway Department or by the Township Road Commissioner and signs placed within municipal boundaries are not under the jurisdiction of County Zoning Ordinances.

Mr. Miller noted that one option for uses that want off-premises directional signs is to work with Township Road Commissioners or the Highway Department to see if such signs can be accommodated in the public rights-of-way. He noted that if off-premises directional signs are to be on private properties, it would require yet another amendment to the Sign Regulations.

Ms. Vary inquired how one is to distinguish between "identification" and "advertisement." Mr. Miller noted that the distinction can be subjective, and that it can be a source of dispute whether or not an element of a sign is necessary for identification or constitutes advertisement. But, he added, this is what would be required of staff if the County allows off-premises signs but seeks to restrict the content to identification and direction. If that content is not restricted, the signs that go up could be garish, distracting to motorists and annoying to adjoining property owners.

Following further discussion, it was agreed that staff should check with County Engineer Bill Lorence regarding the rules that govern placement of directional signs in County road rights-of-way, and that staff should draft possible language to accommodate permanent off-premises signs on private properties. The information should be presented at the next meeting of the Planning and Zoning Committee for consideration.

*As this item was strictly informative, no action was taken.*

**SPECIAL USE PERMIT** -- Request of David and Victoria Nay for approval of a Special Use Permit to allow the establishment and operation of a public horse stables, including the provision of riding lessons, on property located at 6739 Minnegan Road in Afton Township, Petition AF-06-15. Mr. Miller stated that David and Victoria Nay 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 owned by the Nays. The 15-acre subject property is located on the north side of Minnegan Road, approximately 2,600 feet east of Anderland Road, in Afton Township. The parcel is zoned A-1, Agricultural District. The DeKalb County Hearing Officer, Ronald Klein, conducted a public hearing on September 21, 2006, at which the petitioners presented evidence, testimony, and exhibits in support of the requested Special Use Permit, and no persons testified in favor and none in opposition thereafter. The Hearing Officer has made his findings of fact and recommended that the requested Special Use Permit be approved, subject to conditions. Mr. Miller concluded by stating that the Planning and Zoning Committee is requested to make a recommendation to the full County Board on the requested Special Use Permit in the form of an ordinance.

Committee members reviewed the application materials, the Staff Report and the Hearing Officer's recommendation. Mr. Nay confirmed that the petitioners have no difficulties with any of the proposed conditions of approval.

*Following further discussion, Mrs. Allen moved to approve the Special Use with conditions, seconded by Ms. Vary, and the motion carried unanimously.*

**NOVEMBER MEETING** -- Discussion of the end-of-year schedule for P&Z Committee meetings

Mr. Miller noted that the regularly-schedule meeting of the Committee would fall on Thanksgiving Day Eve. Following discussion, the Committee members agreed to reschedule the meeting for November 29, 2006. The Committee also discussed moving the meeting in December, which would fall on December 27, 2006, but after further reviewing the calendar, the Committee decided to leave the December meeting date as scheduled unless no further items were brought to the Committee for consideration.

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

**Respectfully submitted,**

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

DH:dh

P:\Zoning\P&ZCommittee\Minutes\2006 Minutes\P&ZOct06.wpd