

STATE OF ILLINOIS)
)SS
COUNTY OF DEKALB)

ORDINANCE 2009-09

**AN ORDINANCE ESTABLISHING
A PERIOD OF ASSESSMENT OF
COMMERCIAL WIND TOWERS**

WHEREAS, on June 17, 2009, the DeKalb County Board approved Ordinance 2009-05, which granted a Special Use Permit for the construction and operation of a commercial wind farm consisting of 119, 263-foot-tall, 1.5 megawatt electricity-generating wind towers on properties comprising approximately 22,000 acres in unincorporated Shabbona, Milan, Afton and Clinton Townships; and

WHEREAS, the project approved by Ordinance 2009-05 consists of the first such commercial, electricity-generating wind towers to be located in DeKalb County; and

WHEREAS, the public hearing process for the wind farm raised questions specific to the potential impacts of wind towers, including but not limited to: effect on the value of surrounding properties; effect on the visual aesthetics of the area where wind towers are constructed; effect of “shadow flicker” associated with spinning blades; effect of noise associated with wind towers; effects on birds and bats; effect on drainage in the area around the towers; effect on aerial spraying of adjoining farms; effects on television, radio, microwave and internet reception; and impacts to public roads used by construction traffic associated with wind towers; and

WHEREAS, the Planning and Zoning Committee of the DeKalb County Board discussed at its meetings of June 24 and July 22, 2009 the idea of a period of assessment of the real impacts, positive and negative, of the approved, existing and operating commercial wind farm, during which period no expansion of an existing wind farm or of any new proposed wind farm would be processed, considered, or approved, for a period of three years; and

WHEREAS, the DeKalb County Board finds it to be in the interest of the public health, safety and welfare to establish a period of time for an assessment of the actual impacts of commercial wind towers, based upon data generated by the project approved by Ordinance 2009-05, and for evaluation and action on that assessment if such is deemed appropriate, during which time County staff shall not process, nor the County Board act upon, any application for a Special Use Permit or Amendment to a Special Use Permit for commercial wind towers; and

WHEREAS, the County Board anticipates that a period of three full years is necessary to evaluate the real impacts of commercial wind towers on surrounding

properties and the County as a whole, commencing from the issuance of the first Occupancy Permit for a commercial wind tower that is part of the project approved by Ordinance 2009-05;

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

SECTION ONE: The above recitals are hereby specifically incorporated into the terms of this Ordinance as if fully set forth in this Section One. Based on these recitals, the DeKalb County Board hereby establishes a period of assessment of the real impacts, positive and negative, of an approved commercial wind farm, during which period there shall be no action on any Special Use Permit and Amendments to Special Use Permit applications for the construction and operation of commercial electricity-generating wind towers within unincorporated DeKalb County, said period of assessment to commence upon execution of this Ordinance and to continue for a period of three years beyond the date of the issuance of the first Occupancy Permit for a commercial wind tower approved by DeKalb County Ordinance 2009-05.

SECTION TWO: This Ordinance hereby repeals and supercedes any Ordinance and any section, article or provision of the DeKalb County Code to the extent that such Ordinance and any section, article or provision of the DeKalb County Code is in conflict with any provision of this Ordinance. Any such Ordinance and any section, article or provision of the DeKalb County Code so in conflict with any provision of this Ordinance shall however remain in full force and effect as the same might relate to any other application or request other than for the approval of electricity-generating wind towers.

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 19TH DAY OF AUGUST, 2009, A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

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**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
DeKalb County Planning Director

DATE: July 13, 2009

SUBJECT: Felix Zoning Map Amendment
Petition SY-09-09

Dawn Felix, the property owner, has filed an application for a Zoning Map Amendment for property located at 16161 Whipple Road in Sycamore Township. The request is to rezone the single-family residential property from A-1, Agricultural District, to PD-R, Planned Development - Residential District. The 2.5-acre subject property is located on the north side of Whipple Road, approximately 3,140 feet east of State Rte. 23, and is zoned A-1, Agricultural District.

The required public hearing was conducted on June 25, 2009 by DeKalb County Hearing Officer Kevin Buick. At the hearing, the petitioner presented testimony in support of the request, asserting that the requested zone change would make the subject property conforming with respect to the County Zoning Ordinance. It was noted that the Future Land Use Plan of the DeKalb County Unified Comprehensive Plan shows the subject property as appropriate for Residential use, and that the adjoining property to the west is currently zoned PD-R. It was also asserted that the trend of development is toward residential uses. Staff noted that the Comprehensive Plan recommends a specific density of residential use of three to six units per acre, not just any type of residential use, and further recommends that the non-agricultural uses shown on the Future Land Use Plan occur through annexation to a municipality. Staff also pointed out that the nonconforming lot could be brought into compliance by purchasing additional adjoining acreage, and expressed concern that approval of this request would set a precedent for other agricultural properties that adjoin properties zoned PD-R. Staff recommended denial of the request.

The Hearing Officer has forwarded his report, and recommends approval of the Zoning Map Amendment (see attached Findings of Fact). The Planning and Zoning Committee is requested to review this application and forward a recommendation to the full County Board in the form of an ordinance. The Committee may recommend approval, approval with conditions, or denial of the request.

cc: Dawn Felix
Richard Schmack, attorney for petitioner

STATE OF ILLINOIS)
)SS
COUNTY OF DEKALB)

ORDINANCE 2009-10A

**AN ORDINANCE DENYING A ZONING MAP AMENDMENT
FOR A SINGLE-FAMILY RESIDENCE
ON PROPERTY LOCATED AT 16161 WHIPPLE ROAD
IN SYCAMORE TOWNSHIP**

WHEREAS, Dawn Felix, the property owner, has submitted an application for a Zoning Map Amendment for property located at 16161 Whipple Road in Sycamore Township and legally described as shown in Exhibit "A" attached hereto, to rezone the 1.4-acre subject property from A-1, Agricultural District to PD-R, Planned Development - Residential to accommodate an existing single-family residence, said application having been submitted in accordance with the requirements of Article 10 of the DeKalb County Zoning Ordinance; 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 June 25, 2009 at which the petitioner presented evidence, testimony, and exhibits in support of the requested Zoning Map Amendment, and no member of the public spoke in favor of the request and none in opposition thereto; and

WHEREAS, the Hearing Officer has considered the evidence, testimony and exhibits presented at the public hearing and has made findings of fact and recommended that the Zoning Map Amendment be approved, as set forth in the Findings of Fact and Recommendation of the DeKalb County Hearing Officer, dated July 8, 2009, a copy of which is appended hereto as Exhibit "B"; and

WHEREAS, the Planning and Zoning Committee of the DeKalb County Board has considered the evidence and testimony from the public hearing and the findings of fact and recommendations of the Hearing Officer, and has forwarded to the DeKalb County Board a motion to deny the requested Zoning Map Amendment, based on the following findings:

1. The planned land use for the subject property as shown on the DeKalb County Unified Future Land Use Plan is Mixed Residential with a density of three to six units per acre, whereas the existing use is one single-family residence on 1.4 acres;
2. The existing uses in the general area of the property in question are a mixture of agricultural uses on agriculturally-zoned property and residential uses on residentially zoned property, but the existing house on the subject property was constructed as a farm residence, consistent with the surround agricultural uses, and then subsequently split off from the farm without regard to County zoning lot-size regulations, rather than being developed as a single-family residence on residentially-zoned property;

3. The zoning classification of property within the general area of the subject property is A-1, Agricultural, Planned Development- Residential, and Residential Conservation District - 1, but the house was constructed as a farm dwelling on property zoned for agricultural use, rather than as a single-family residence on property zoned for residential use;
4. The subject property was suitable for the uses permitted in the A-1, Agricultural District at the time the house was constructed, as it was part of a 40-acre tract. To the extent the subject 1.4-acre property is no longer suitable for uses in the A-1 District, it is the consequence of the actions of the previous and current property owners, taken without regard to County zoning regulations;
5. There has been no trend of development in the general area in the past decade;
6. Property values would not be diminished if the subject property is rezoned to the PD-R, Planned Development - Residential District, nor would they be enhanced;
7. The subject property is not vacant;
8. The proposed rezoning would be detrimental to the public welfare, as the change would be at odds with the general policy and approach of DeKalb County and the City of Sycamore that residential uses should occur through annexation, which policy is intended to avoid conflicts between residential and agricultural uses, reduce the costs of providing public infrastructure and services to residences, and preserve the rural character of unincorporated DeKalb County;
9. The alleged hardship faced by the applicant that motivates the request for rezoning is the consequence of the actions of the current and former property owner, and approving the requested zone change would grant an unfair advantage and benefit to the property owner over other property owners in the County who abide by the zoning regulations; and
10. The zone change, if granted, would establish a negative precedent with regard to circumventing the minimum lot size requirement in the A-1, Agricultural District, whereby any owner of a 40-acre or larger farm located adjacent to property zoned PD-R in an area designated for future residential use on the DeKalb County Unified Future Land Use Plan could expect to be allowed to build a house on the farm, divide the house off on as little as five acres, and subsequently be granted PD-R zoning; and

WHEREAS, the DeKalb County Board has considered the recommendation of the Planning and Zoning Committee and the report and findings of fact of the Hearing Officer, and has determined that the requested Zoning Map Amendment to change the zoning of the subject property from A-1, Agricultural District to PD-R, Planned Development - Residential District would not be consistent with the findings required by Section 10.04.F of the DeKalb County Zoning Ordinance;

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

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

SECTION TWO: Based on the findings of fact adopted herein, the request of Dawn Felix for a Zoning Map Amendment to rezone the property located at 16161 Whipple Road

in Sycamore Township and legally described as set forth in Exhibit "A" from A-1, Agricultural District to PD-R, Planned Development - Residential District, is hereby denied.

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 19TH DAY OF AUGUST, 2009, A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

Legal Description of the Subject Property

That part of the Northwest quarter of the Northwest Quarter of section 14, Township 41 North, Range 5 East of the Third Principal Meridian, described as follows: Commencing at the Northwest corner of said section; Thence Easterly, along the North line of said section, 661.84 feet to the Northwest corner of the East half of the Northwest Quarter of said Northwest Quarter for a point of beginning; Thence continuing Easterly along said North line, 200.0 feet; Thence Southerly, at an angle of 89° 46' 58" measured counterclockwise from said North line, parallel with the west line of said East half, 329.0 feet to the centerline of Whipple Road; Thence Northwesterly, at an angle of 84° 04' 45" measured counterclockwise from the last described course, along said centerline, 201.07 feet to the West line of said East half; Thence Northerly, at an angle of 90° 55' 15" measured counterclockwise from said centerline, along said West line, 307.5 feet to the point of beginning, containing 1.461 acres, all in Sycamore Township, DeKalb County, Illinois.

P.I.N.s: 06-14-100-034.

STATE OF ILLINOIS)
)SS
COUNTY OF DEKALB)

ORDINANCE 2009-10B

**AN ORDINANCE APPROVING A ZONING MAP AMENDMENT
FOR A SINGLE-FAMILY RESIDENCE
ON PROPERTY LOCATED AT 16161 WHIPPLE ROAD
IN SYCAMORE TOWNSHIP**

WHEREAS, Dawn Felix, the property owner, has submitted an application for a Zoning Map Amendment for property located at 16161 Whipple Road in Sycamore Township and legally described as shown in Exhibit "A" attached hereto, to rezone the 1.4-acre subject property from A-1, Agricultural District to PD-R, Planned Development - Residential to accommodate an existing single-family residence, said application having been submitted in accordance with the requirements of Article 10 of the DeKalb County Zoning Ordinance; 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 June 25, 2009 at which the petitioner presented evidence, testimony, and exhibits in support of the requested Zoning Map Amendment, and no member of the public spoke in favor of the request and none in opposition thereto; and

WHEREAS, the Hearing Officer has considered the evidence, testimony and exhibits presented at the public hearing and has made findings of fact and recommended that the Zoning Map Amendment be approved, as set forth in the Findings of Fact and Recommendation of the DeKalb County Hearing Officer, dated July 8, 2009, a copy of which is appended hereto as Exhibit "B"; and

WHEREAS, however, the Planning and Zoning Committee of the DeKalb County Board has considered the evidence and testimony from the public hearing and the findings of fact and recommendations of the Hearing Officer, and has forwarded to the DeKalb County Board a motion to deny the requested Zoning Map Amendment; and

WHEREAS, the DeKalb County Board has considered the recommendation of the Planning and Zoning Committee and the report and findings of fact of the Hearing Officer, and has determined that the requested Zoning Map Amendment to change the zoning of the property at 16161 Whipple Road from A-1, Agricultural District to PD-R, Planned Development - Residential District to accommodate an existing residence would be consistent with the findings required by Section 10.04.F of the DeKalb County Zoning Ordinance;

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

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

SECTION TWO: Based on the findings of fact adopted herein, the request of Dawn Felix for a Zoning Map Amendment to rezone the property located at 16161 Whipple Road in Sycamore Township and legally described as shown in Exhibit "A" attached hereto, from A-1, Agricultural District to PD-R, Planned Development - Residential District, is hereby approved, and the DeKalb County Zoning Map shall be amended to reflect said zone change.

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 19TH DAY OF AUGUST, 2009, A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

Legal Description of the Subject Property

That part of the Northwest quarter of the Northwest Quarter of section 14, Township 41 North, Range 5 East of the Third Principal Meridian, described as follows: Commencing at the Northwest corner of said section; Thence Easterly, along the North line of said section, 661.84 feet to the Northwest corner of the East half of the Northwest Quarter of said Northwest Quarter for a point of beginning; Thence continuing Easterly along said North line, 200.0 feet; Thence Southerly, at an angle of 89° 46' 58" measured counterclockwise from said North line, parallel with the west line of said East half, 329.0 feet to the centerline of Whipple Road; Thence Northwesterly, at an angle of 84° 04' 45" measured counterclockwise from the last described course, along said centerline, 201.07 feet to the West line of said East half; Thence Northerly, at an angle of 90° 55' 15" measured counterclockwise from said centerline, along said West line, 307.5 feet to the point of beginning, containing 1.461 acres, all in Sycamore Township, DeKalb County, Illinois.

P.I.N.s: 06-14-100-034.

STATE OF ILLINOIS)
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COUNTY OF DEKALB)

ORDINANCE 2009-11

**AN ORDINANCE AMENDING
THE FEE FOR A SITE DEVELOPMENT PERMIT AS SET FORTH IN
THE COUNTYWIDE STORMWATER MANAGEMENT ORDINANCE
FOR DEKALB COUNTY**

WHEREAS, Illinois State law, 55 ILCS 5/5-1062.2, grants to DeKalb County the authority to prepare and adopt a countywide plan for the management of stormwater runoff, including regulations for the management of natural and man-made drainageways, watershed plans, for the purpose of consolidating the existing stormwater management framework into a united, countywide structure and setting minimum standards for floodplain and stormwater management; and

WHEREAS, in accordance with the above-cited law, the DeKalb County Board on November 15, 2006 adopted Ordinance 2006-28, which approved a Stormwater Management Ordinance containing regulations for stormwater management; and

WHEREAS, the Stormwater Management Ordinance, Section 7, Site Development Permit, subparagraph 11, sets forth a fee of \$300 for a Site Development Permit, and said fee has remained unchanged since first adopted by the County in 1997; and

WHEREAS, the Planning, Zoning and Building Department staff has reviewed with the County Engineer the costs associated with processing, reviewing, issuing, monitoring and closing applications for Site Development Permits, and has established an average cost of \$400 per application; and

WHEREAS, accordingly, the Planning and Zoning Committee of the DeKalb County Board has considered the recommendation of the Planning, Zoning and Building Department staff regarding increasing the fee for a Site Development Permit, and has recommended that the County Board amend Section 7 of the Stormwater Management Ordinance to increase the fee for a Site Development Permit from \$300 to \$400 per application; and

WHEREAS, the County Board of DeKalb County, having considered the recommendation of the Planning and Zoning Committee, has determined that it is in the best interests of the citizens of the County that Section 7 of the Stormwater Management Ordinance should be amended as set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF DEKALB

COUNTY, ILLINOIS, as follows:

SECTION ONE: The findings above and the recommendation of the Planning and Zoning Committee are hereby adopted as the findings and conclusions of the DeKalb County Board.

SECTION TWO: Section 7 of the DeKalb County Stormwater Management Ordinance, subparagraph 11(b), is hereby amended to change the fee for grading plan review by the County Engineer to \$300, and change the fee for additional meetings or plan reviews or field inspections to \$75 per hour.

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 19TH DAY OF AUGUST, 2009, A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

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STATE OF ILLINOIS)
)SS
COUNTY OF DEKALB)

ORDINANCE 2009-12

**AN ORDINANCE AMENDING ORDINANCE 2003-09 AND
SECTION 14-3 OF THE DEKALB COUNTY CODE
REGARDING BUILDING PERMIT FEES
FOR COMMERCIAL WIND TOWERS**

WHEREAS, Section 14-3 of the DeKalb County Code sets forth fees for building permits in DeKalb County; and

WHEREAS, the DeKalb County Board passed Ordinance 2003-09 on May 21, 2003 amending Section 14-3 by establishing a building permit fee for commercial wind towers of \$550 per tower; and

WHEREAS, the County Board has a policy of requiring that the cost of reviewing building plans and conducting building inspections be borne by the person generating those costs, which means that building permit fees should offset the cost to the County of reviewing, issuing and administering those permits; and

WHEREAS, the Planning and Zoning Department, which is responsible for administering building permits, has re-evaluated the costs in man-power, materials and overhead of reviewing building permits for commercial electricity-generating wind towers and of conducting the required schedule of inspections during construction of such towers, and has recommended a fee of \$650 per wind tower; and

WHEREAS, the Planning and Zoning Committee of the DeKalb County Board has considered the recommendation of the Planning and Zoning staff for an amendment to Ordinance 2003-09 and Section 14-3 of the DeKalb County Code to update the fee for building permits for commercial wind towers, and had forwarded to the full County Board a recommendation of approval of an amendment to increase the building permit fee for wind towers; and

WHEREAS, the DeKalb County Board finds it to be in the interest of the public health, safety and welfare to amend the DeKalb County Code to increase the building permit fee for commercial wind towers to offset the cost of reviewing, issuing and inspecting such structures;

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

SECTION ONE: The above recitals are hereby specifically incorporated into the

terms of this Ordinance as if fully set forth in this Section One. Based upon these recitals and the recommendation of the Planning and Zoning Committee, County Board Ordinance 2003-09 and the DeKalb County Code, Chapter 14, Buildings and Building Regulations, Article 1, In General, Section 14-3(a), Building permit fees, (4), Commercial, industrial, institutional, is hereby amended as follows:

- e. Commercial wind towers and accessory structures..... \$650

SECTION TWO: 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 19TH DAY OF AUGUST, 2009, A.D.

Chairman, DeKalb County Board

ATTEST:

County Clerk

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- (23) Somonauk Road from 5395 feet south of Illinois Route 38 to Perry Road
- (24) Somonauk Road from Perry Road to Precision Road
- (25) East County Line Road from Illinois Route 64 to Village Limits of Maple Park
- (26) Lee Road from West County Line Road to Shabbona Road
- (27) Waterman Road from Perry Road to Duffy Road
- (28) Peace Road from Illinois Route 23/Plank Road to Illinois Route 64

(b) The county engineer shall cause appropriate signs identifying the prohibition to be installed at the entrances of all restricted roads as identified in subsection (a).

(c) That all ordinances or parts of ordinances in conflict with this

Ordinance are hereby repealed.

(d) That this Ordinance shall be in full force and effect after its passage and approval as provided by law.

ADOPTED BY THE COUNTY BOARD THIS 19TH DAY OF AUGUST, 2009 A.D.

Chairperson, DeKalb County Board

ATTEST:

County Clerk