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DeKalb County Government
Sycamore, Illinois

Planning and Zoning Committee Meeting
(September 25, 2019)

The Planning and Zoning Committee of the DeKalb County Board met September 25, 2019 at 6:30 p.m. in the DeKalb County Administrative Building, Conference Room-East, in Sycamore, Illinois. In attendance were Committee Members: Steve Faivre, John Frieders, Tracy Jones, Roy Plote, Craig Roman, and Suzanne Willis; and Community Development Department staff: Derek Hiland and Marcellus Anderson. Also, in attendance were: Greg Millburg, of the DeKalb County Farm Bureau; Mike Wiersema, of Waste Management; Attorney Richard Schmack; and, Dennis Leifheit.

CALL TO ORDER

Mr. Faivre, Planning and Zoning Chairman, called the meeting to order.

APPROVAL OF AGENDA

Ms. Willis moved to approve the agenda, seconded by Mr. Jones, and the motion carried unanimously.

PUBLIC COMMENTS

Mr. Schmack confirmed that he and Mr. Leifheit would get a chance to speak when the Committee discussed the proposed language of the Concealed Carry Temporary Use permit.

APPROVAL OF MINUTES

Mr. Pietrowski moved to approve the minutes of June 26, 2019 and August 28, 2019 Committee meetings, seconded by Mr. Frieders, and the motion carried unanimously.

NEW BUSINESS

MEYER VARIATION REQUEST

Mr. Hiland informed the Committee that Aaron and Courtney Meyer had applied for a Variation to waive the restriction of Section 8.04.B.2 of the DeKalb County Zoning Ordinance in order to allow the expansion of a legal, non-conforming residential residence which would result in the increase of the non-conformity. He explained that the Meyers were proposing to renovate and reorient their house located at 13810 Derby Line Road, Genoa, in Genoa Township. He reported that the Hearing Officer held a public hearing on September 12, 2019, and that the Hearing Officer recommended approval of the requested Variation.

Mr. Pietrowski moved to recommend approval of the variation request, seconded by Mr. Jones, and the motion carried unanimously.

STORMWATER ORDINANCE TEXT AMENDMENT

Mr. Hiland informed the Committee that the Stormwater Management Committee had forwarded a recommendation for the County Board to amend the DeKalb County Stormwater Management Ordinance. He explained that the recommendation called for two amendments. The first being to amend Section 10.4 of the Ordinance to address changes implemented to the Illinois State Water Survey Bulletin 70, which resulted in the need to modify the language of the Stormwater Management Ordinance regarding methods for generating runoff hydrographs. The second item being to replace the words “Planning Director” throughout the entire document with the words “Community Development Director” to bring the Stormwater Ordinance into line with existing named titles and departments of the County.

Mr. Jones moved to recommend approval of the recommendation, seconded by Mr. Roman.

Mr. Jones inquired whether or not most of the changes were mainly technical in nature. Mr. Hiland responded that they were, and elaborated on the nature of Bulletin 70 and how it impacted the County’s Ordinance.

Mr. Pietrowski inquired whether or not existing projects would be impacted by this change. Mr. Hiland responded that the changes would not apply to existing projects approved by preliminary or final plat on or before December 31, 2019. Mr. Hiland also noted that every community in the County would have to adopt at or better language to what is being suggested.

Mr. Faivre inquired whether this change would be limited to only the unincorporated areas of the County. Mr. Hiland replied that it would apply to all unincorporated areas and any incorporated areas which have not yet adopted a Stormwater Management Ordinance. He added that those municipalities which did have a Stormwater Management Ordinance have indicated that they would be adopting similar language.

Mr. Jones inquired whether or not the County had any actual discretion regarding these changes, given that the State has adopted them. Mr. Hiland noted that if the County did not adopt the language, the County would no longer be compliant with state law, with whatever liabilities that would entail.

Mr. Frieders inquired as to how much bigger a retention pond would have to be under the new regulations. Mr. Hiland responded that he did not know offhand, but believes that this question had been raised in the Stormwater Committee meeting. He noted that he would have to contact those members of that Committee which were more versed in the technical aspects of the change to get an answer to that question.

Mr. Plote inquired whether the changes would apply to agricultural properties. Mr. Hiland replied that he was unsure exactly how the two state laws interacted with each other.

The motion to recommend approval of the proposed amendment to the DeKalb County Stormwater Management Ordinance was approved unanimously.

CONCEALED CARRY TEMPORARY USE ZONING TEXT AMENDMENT CONSIDERATION

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Mr. Hiland reminded the Committee that, at its previous meeting, Mr. Faivre informed the Committee that he had received a request from Dennis Leifheit and Attorney Richard Schmack asking that the Committee initiate a zoning text amendment to increase the total number of times that Temporary Use Permits could be issued to a particular property for its use as a temporary concealed carry qualifying range from twelve (12) times per calendar year to twenty-four (24) times per calendar year. It was decided that the Committee would address the matter at its September meeting. Mr. Hiland then described to the Committee the process taken to develop the current language governing this particular Temporary Use permit and how the Committee at the time settled on twelve (12) times a year. Mr. Hiland informed the Committee that while they could direct staff to pursue this particular text amendment, the petitioners could also submit an application for the text amendment.

Mr. Schmack asserted their willingness to work with staff to develop the proposed text language.

Mr. Jones asked Mr. Hiland to describe the process for submitting and adopting a text amendment, and Mr. Hiland did so.

A discussion was had between the Committee, Mr. Leifheit, Mr. Schmack, and Mr. Hiland regarding the costs for pursuing a text amendment, with Mr. Schmack asserting his belief that text amendments should come from the Committee, and Mr. Hiland explaining why it was appropriate for the petitioner to apply for the application instead.

Mr. Pietrowski noted that a particular property can normally have no more than two Temporary Use permits issued for it in any calendar year. He voiced his opinion that twelve times per year should be ok, but that twenty-four times seemed too high.

Mr. Leifheit elaborated on why he was seeking to increase the number of times to twenty-four, and explained why he did not think getting a Special Use Permit would work.

Mr. Faivre inquired if anyone else had applied for a Temporary Concealed Carry Range permit. Mr. Hiland noted that no one else in 2019 had applied as of the date of the meeting. He did note that two people had applied in 2018.

Mr. Leifheit asserted that there were other instructors out in the County operating without permits, and also explained why he could not make use of the established local commercial ranges.

Mr. Schmack then presented his argument as to why the current language was inadequate and needed to be changed.

Mr. Jones asked whether or not a Special Use permit for a commercial gun range on the property would be more appropriate. Mr. Hiland responded that by the nature of the Special Use Permit process it would, while Mr. Schmack explained why they could not pursue a Special Use Permit on the property where the temporary range permits have been held.

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Mr. Hiland elaborated on staff's position why allowing for twenty-four times a year was too much, asserting that acquiring a Special Use Permit for the property would be more appropriate, and elaborating on the liability risks the County would take if it did approve such a change.

Mr. Plote inquired whether the temporary permit was assigned to each day or a weekend. Mr. Hiland explained that the Temporary Use Permit covered one occurrence. The Committee inquired whether Mr. Leifheit could schedule to host more than one class on one day, or maybe arrange for the shooting portion of several classes over a couple of weeks to occur one day. Mr. Leifheit replied that it was possible, but not in every case, explaining the differing schedules for different types of classes and the desire for participants to finish the class in one day.

Ms. Willis suggested that the State's Attorney be consulted regarding potential liabilities that may come from increasing the number to twenty-four times a year. Mr. Leifheit asserted that leaving the regulations as they are or requiring that he get a Special Use Permit would put him out of business. Mr. Faivre noted that the County cannot just approve a change that would place itself at risk of violating state law.

The Committee decided by consensus not to take any action on this proposal as they felt the existing regulations sufficed.

RECREATIONAL CANNABIS ZONING TEXT AMENDMENT CONSIDERATION

Mr. Hiland reminded the Committee that at the August Committee meeting Mr. Pietrowski asked that staff bring back considerations to this meeting regarding the State's new law allowing use, sale, processing, and production of recreational cannabis. He explained the Illinois Municipal League (IML), cities, and counties around the State have all found themselves attempting to draft regulations in response to the latest State regulations to either permit, prohibit, or regulate recreational cannabis in their jurisdictions. He informed the Committee that included in their packet was a draft ordinance created by the Illinois Municipal League, which attempts to define the six types of uses, and then puts the question in the County's lap to decide if the County wants to allow any of these six uses, and if so, where and what restrictions.

Mr. Faivre asked for more information about who created the draft ordinance. Mr. Hiland explained that the IML created the draft ordinance after the new laws were adopted. He added that he had also begun to work on language for the County to use, and that he had been in touch his peers in other counties and municipalities, but that no one has any language ready and in place yet. Mr. Hiland noted that the new laws go into effect on January 1, 2020, and that the County needs to have language into place before then if the County Board wants to limit the use, location or intensity.

Mr. Plote inquired whether the County could declare a moratorium while language was developed. Mr. Hiland responded that he did not believe that a moratorium would be necessary.

Mr. Faivre suggested forwarding the draft ordinance to the County Board, not to have them take any action on it, but to give the entire Board membership the opportunity to review and comment on the draft.

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Mr. Frieders inquired whether each community could have their own ordinance. Mr. Hiland affirmed that was the case.

Mr. Jones inquired about what would happen if the County took no action to adopt any language at this time, and wait to see what actions other counties take. Mr. Hiland responded that while the County could wait, it would put the County into a weaker position, and explained the potential downfalls of such a position.

After further discussion, the Committee decided to forward the draft ordinance to the Committee of the Whole for further review and discussion, to develop a direction for staff and the Committee to take in crafting language regulating these uses.

Mr. Roman moved to send the draft to the Committee of the Whole, seconded by Mr. Pietrowski, and the motion carried unanimously.

The Committee also directed staff to develop a recommendation matrix on which zoning districts the six uses should be placed in and whether they should be permitted or Special Uses in those districts.

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The Committee took a brief recess at 7:34 pm.

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OLD BUSINESS

DEKALB COUNTY LANDFILL ANNUAL REPORT

Mike Wiersema, District Manager for Waste Management, presented the annual report for the DeKalb County Recycling and Disposal Facility for 2018. The presentation included a slide show and information regarding: the history of the site; the current status of the existing and new cells; expansion into new areas of the facility; status of composting activity in 2018; and, gas collection and proposed uses for that gas.

RECYCLING ANNUAL REPORT

Mr. Hiland informed the committee that their packet included a copy of the 2018 Solid Waste Report, prepared by the DeKalb County Health Department. He noted that Greg Maurice, of the Health Department, was unable to attend the meeting. He then presented the highlights of the report for the Committee. The Committee then had a discussion with Mr. Wiersema regarding the recycling aspects of the report.

ZONING TEXT AMENDMENTS

Mr. Hiland noted that a proposal, submitted by Mr. Brown and Mr. Faivre, suggesting a number of zoning text amendments related to agriculture had been submitted to the Committee for its consideration. The discussion of the proposal was begun at the August Committee meeting. However, recognizing that expansive nature of the topic, the Committee decided to follow the suggestion of Mr. Hiland to instead of

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trying to address all of the proposed changes in one meeting, that the various elements of the proposal be broken down into smaller portions to be addressed over the next several Committee meetings. Mr. Hiland informed the Committee that the packet contained memos addressing four items for their consideration at the meeting: Use Variances; quarter-of-a-quarter sections; animals in residential districts; and, intermodal containers.

Use Variances -

Mr. Anderson informed the Committee about the history and purpose of the Use Variances, explaining its role in addressing a particular type of hardship suffered by certain land owners by the County's adoption of its 1991 Zoning Ordinance. He noted that the Proposal suggested revising the nature of the Use Variance to allow an avenue by which a property owner could petition the County Board to be allowed to build a house upon a lot, or a portion thereof, which had been created prior to 1998, which did not meet the minimum acreage requirement for on in the A-1 District. He then elaborated on the differences between the original language and Proposal, and the potential impacts that could occur were the County to adopt the language of the proposal. Mr. Anderson noted that what the Committee needed to ask itself was if the direction the Proposal would be taking the County is what the County Board would want.

Mr. Faivre noted that Mr. Brown was refining the proposed Use Variance language based on comments made at previous meetings, and would be bringing a revised version of the language.

Mr. Jones noted that he was open to change and cleaning up language of the Zoning Ordinance, but that he was in favor of the intent of 40-acre rule and was cautious about changes that might impact that intent.

The Committee discussed their concerns regarding the potential impact on the 40-acre rule and allowing more residential development in the agricultural areas of the County.

Mr. Anderson added that another item for the Committee's consideration, beyond the potential changes suggest in the Proposal, was that staff had been for a while considering recommending the elimination of the current Use Variance language all together, as being no longer needed or necessary, and gave the reasoning for this recommendation.

Mr. Faivre noted that the Proposal as first submitted to the Committee was being revised to address concerns that have been raised by staff and the Committee.

Mr. Pietrowski asked Mr. Millburg if he knew how many small farms existed in the County. Mr. Millburg responded that there were approximately nine hundred farms in the County, ranging from forty to four hundred acres in size.

Quarter of a Quarter Section as a Buildable Lot

Mr. Anderson informed the Committee that the Proposal included a recommendation to define "40 acres" as meaning a quarter of a quarter section, the intent being to allow property owners who own a quarter of a quarter section, which is supposed to be equal to forty acres, plus or minus, but which might not actually be forty acres due to errors committed during the time of the original surveying of the County, to construct a residence. Mr. Anderson noted that staff agreed with the intent of the proposed language, but argued that

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the most appropriate place for the change would be under Section 4.02.D.1 of the Zoning Ordinance. He also suggested that rather than equating forty acres to a quarter of a quarter section, that the language instead identify a quarter of a quarter section as meeting the minimum acreage requirement for a residence in the A-1 District.

The Committee agreed with the intent of the proposed change, and with staff's recommended revisions to its placement within the Zoning Ordinance and the form the language should take.

Animals in Residential Districts

Mr. Anderson informed the Committee that the Proposal suggested the removal of Section 5.09.C of the Zoning Ordinance, which allows for properties zoned for agricultural or residential uses, which are at least two acres or more in size, to have non-household domesticated animals. He explained that removing the reference to agricultural properties made sense as that use was covered elsewhere in the ordinance, but that the same could not be said for large residentially zoned lots, which are currently allowed to have such animals. He also noted that the language as written does not adequately express the County's policies on non-household domesticated animals on residentially zoned lots. Therefore, he noted that staff recommended that the section be retitled to "Animals in Residential Districts" and that the language be revised to properly convey the County's policies on the subject.

The Committee discussed their thoughts on the subject, including the idea of requiring different sized lots for different types of animals. Mr. Hiland cautioned that varying the language like that would be problematic, giving examples of potential problems, and argued for keeping the language simple.

Mr. Faivre noted that he generally agreed with the recommendation, but that he had concerns for how this might impact isolated small lots in the agricultural areas, feeling that such lots should be allowed to have animals regardless of their size. Mr. Hiland pointed out that such lots should be agriculturally zoned, not residential, thus this language would not affect them.

Intermodal Containers

Mr. Anderson informed the Committee that over that past few years, an increasing number of property owners had approached the County regarding using intermodal containers as either permanent or temporary storage buildings, but that the Zoning Ordinance had no language allowing for such uses. He noted that the Committee had previously indicated that they would be in favor of language allowing intermodal containers to be put to such uses. He then explained that being presented to them was language that would allow for intermodal containers to be used as permanent accessory structures and as temporary uses.

The Committee discussed some of the potential issues with treating intermodal containers as structures, but were open to including the language as part of the proposed changes.

OTHER BUSINESS

None

ADJOURNMENT

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Mr. Jones motioned to adjourn, seconded by Mr. Pietrowski, and the motion carried unanimously.

Respectfully submitted,

Steve Faivre
Chairman, Planning and Zoning Committee

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