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DeKalb County Government
Sycamore, Illinois

Planning and Zoning Committee Meeting
(October 23, 2019)

The Planning and Zoning Committee of the DeKalb County Board met October 23, 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, Mark Pietrowski, Roy Plote, Craig Roman, and Suzanne Willis; and Community Development Department staff: Derek Hiland and Marcellus Anderson. Also, in attendance were: Gary Hanson, DeKalb County Administrator; Tim Hughes, County Board member; Greg Millburg, of the DeKalb County Farm Bureau; Jim Hutcheson, Russell and Maureen Josh, John Emerson, Attorney Jeff Lewis, Attorney Sarah Gallagher Chami, Attorney Kevin Buick, Daniel Josh, and Robert Zeigler.

CALL TO ORDER

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

APPROVAL OF AGENDA

Mr. Faivre recommended that the agenda be amended to move the continued discussion of recreational cannabis regulations to after the discussion of the three New Business items.

Mr. Pietrowski moved to approve the agenda, amended to place the continued discussion of recreational cannabis regulations after the discussion of the three New Business items, seconded by Mr. Roman, and the motion carried unanimously.

APPROVAL OF MINUTES

Mr. Pietrowski moved to approve the minutes of September 25, 2019 Committee meeting, seconded by Mr. Roman, and the motion carried unanimously.

PUBLIC COMMENTS

None

NEW BUSINESS

JOSH MAP AMENDMENT

Mr. Hiland informed the Committee that Russel and Daniel Josh were seeking to rezone the property located at 1847 Brickville Road, in Sycamore Township from A-1, Agricultural District to PD-R, Planned Development – Residential District, so that he can build a single-family residence on the property. He reported that the Hearing Officer held a public hearing on October 3, 2019, and that the Hearing Officer had recommended that the petition be approval with conditions. He informed the Committee that they were

being asked to forward a recommendation to the County Board to approve, to approve with conditions, or to deny.

Mr. Pietrowski moved to recommend approval of map amendment with conditions, seconded by Ms. Willis, and the motion carried unanimously.

ZIEGLER SPECIAL USE PERMIT

Mr. Hiland informed the Committee that Robert Zeigler has requested a Special Use permit to utilize an existing agricultural building for the sale of used automobiles on his property located at 30975 Grant Road, in Genoa Township, and noted that the property was zoned A-1, Agricultural District. He then informed the Committee that the request was heard by the Hearing Officer on October 3, 2019, during which five (5) members of the public spoken in opposition to the petition, one person asked questions regarding the petition, and none spoke in favor of the petition. He noted that the Hearing officer had forwarded his Findings-of-Fact and had recommended that the petition be approved with conditions.

Ms. Willis moved to recommend approval, with conditions, of the petition, seconded by Mr. Jones.

Mr. Pietrowski questioned whether a used car business was really in line with an agricultural setting, noting that the neighboring property owners were against the proposed use. He then asked Mr. Hiland what was the next closest business to the subject property. Mr. Hiland responded that the Barn on Baseline (a non-profit animal shelter) would be closest, with the businesses within the City of Genoa being the next closest. Mr. Pietrowski inquired whether Mr. Zeigler would be selling any vehicles typically used in agriculture, such as tractors, etc.? Mr. Hiland responded that the Mr. Zeigler would be selling used or reconditioned vehicles. Mr. Zeigler clarified that he would be selling used cars and trucks, which would include pickup trucks.

Mr. Pietrowski asked John Emerson, former County Board member and neighboring property owner, to speak regarding the petition. Mr. Emerson asserted that he and the other surrounding land owners were against the petition, saying that the land should be kept agricultural, and voicing concerns that the business would eventually expand beyond the one building.

Mr. Pietrowski inquired whether the property was Mr. Zeigler's homesite, and whether any of it was used as farmland. Mr. Zeigler responded that he and his wife do live on the property, and that while he had rented out some of the land in the past, none of it was currently being used for agricultural purposes at the moment. Mr. Pietrowski also inquired whether the business was to be kept indoors, and Mr. Zeigler responded that yes, it would be.

Mr. Plote inquired whether there were any other businesses comparable to this in the County. Mr. Hiland noted two other businesses established within unused agricultural buildings during the time he has been in his position, but also asserted that there was nothing else truly similar to the use proposed by Mr. Zeigler. He noted that this is also why the Hearing Officer has recommended nine (9) conditions that be attached as conditions of approval for the request.

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Mr. Jones verified with Mr. Hiland that the property was zoned A-1, and inquired whether Mr. Zeigler's pole barn would have to meet commercial code, if approved for the business. Mr. Hiland responded that it would. Mr. Frieders then inquired whether it would have to meet State Accessibility Code requirements, and Mr. Hiland said it would. Mr. Plote inquired whether the structure was built with a cement stub wall or as a pole building. Mr. Zeigler replied that it was a pole building. Mr. Plote then inquired how would the building be reviewed. Mr. Hiland responded that a licensed engineer or architect would have to certify that the plans submitted will meet all necessary codes and standards. Mr. Jones noted that it can be tough to bring an existing agricultural building up to commercial code standard.

Mr. Frieders voiced his preference that businesses in the A-1 District be related to agriculture. Mr. Faivre noted that an RV storage business had been approved under this section of the code, and asked the Committee how was the proposed business really any different than that one; asking how can they justify approving that one, but not this one. Mr. Hiland then described how the proposed business differed from the previous RV business.

Mr. Jones inquired whether there were any restrictions as to the size or scope of the business, and what were Mr. Zeigler's plans regarding the plans. Mr. Faivre noted that the Hearing Officer had recommended that the business not be allowed to offer service or repair facilities. The Committee then discussed the possibility of him expanding the business. Mr. Hiland clarified that the ordinance would only allow him to operate the business within the pole barn indicated in the application; any expansion beyond that building would require an amendment to the Special Use approving the business. He then described some of the state requirements regarding a used car sales.

Mr. Plote noted that Mr. Zeigler would be saving on paying city sales taxes by being out in the county. Mr. Zeigler responded that the sales taxes for the sale of used vehicles is collected by the State and redistributed to local entities. Mr. Hansen clarified for the Committee how the sales taxes for used vehicles is collected, divided, and distributed.

Mr. Faivre inquired about the business' previous location in the City of Sycamore. Mr. Zeigler verified that the business had been located in the Sycamore from 2004 to 2010.

Mr. Plote inquired whether the Committee should consider limiting these uses to one per township. Mr. Pietrowski noted that anytime the Board approves one of these uses, it may be setting a precedent, and needs to keep that in mind as it makes its decisions.

Mr. Frieders inquired about what kind of signage could be put up. Mr. Faivre noted what the Hearing Officer included in his recommendations and Mr. Hiland described what Mr. Zeigler would be allowed per the Zoning ordinance.

Mr. Hiland read Section 4.02.B.1.w, which relates to the use of existing agricultural buildings for service or retail uses as a Special use in the A-1 District. He then talked about the language of the section and pointed out that the original authors could not have contemplated this kind of use when this language was written, and suggested that if the Committee feels the intent of the language should be more limiting, then the Committee should consider amending this language to reflect that intent. He noted that it is something

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they should consider for the future. Mr. Hiland noted that the Hearing Officer recommended nine (9) conditions, and that they could recommend approval of these conditions, or amend them, or send it back to a public hearing for further consideration.

Mr. Plote commented on the fact the cars to be sold would all be kept inside the building, instead of outside where they could be seen. Mr. Zeigler then explained how his business model would work and how the business of buying used cars has changed over time, in particular the use of the internet to conduct searches, transactions, and sales. He emphasized that he and his wife lived on the property and that they have no desire to have people randomly stopping by. He further asserted that not all of the used vehicles he would broker would ever even be brought to the site, sometimes being taken straight from the source location to the buyer's location without ever coming to the property. He noted that the State requirements to be a licensed used car dealer require that has an established place of business, with either a showroom or outside display area.

Mr. Plote inquired of Mr. Emerson whether a potential traffic increase was main issue he an the other neighbors had. Mr. Emerson responded that they were concerned about the potential traffic increase from buyers coming to view and test drive the vehicles. Mr. Emerson further emphasized their feelings that the area should be kept for agricultural uses. Mr. Plote pondered whether the neighboring property owners would have had the same objections if the proposed business had been an agritainment use, such as Jonamac or Whiskey Acres.

Mr. Frieders inquired as to the maximum number of cars the Mr. Zeigler would have at one time. Mr. Zeigler responded about six (6) to eight (8).

Mr. Willis noted that the language of the Zoning Ordinance requires that the proposed use be compatible and subordinate to agricultural uses, and described how she was having trouble seeing how this use was subordinate to agricultural use. Mr. Faivre responded by asking how was storing of RVs any different, then him and Ms. Willis discussed the differing views on the matter. Mr. Faivre then elaborated on his concerns about the potential of a lawsuit over issues like this, and noted that the Board is not justified denying a business just because the neighbors were against it. Mr. Jones agreed with Mr. Faivre saying that he felt he would have a hard time justifying denying it. Mr. Hiland then elaborated again on how the two businesses differed for one another, noting the potential amount of signage, and that Mr. Zeigler's business would be containing an office with office hours for customers, unlike the RV storage business. Mr. Hiland informed the Committee that they can recommend additional conditions to the ordinance being forwarded.

Mr. Plote inquired whether the Special Use permit would run with the property or be limited to only so long as the petitioner is owns the property. Mr. Hiland explained that it could be done either way, and elaborated on how the two options differed from one another.

Mr. Pietrowski cautioned the Committee to remember that once established, it would be harder to stop the use from potentially expanding in the future. Ms. Willis agreed with this concern. Mr. Faivre argued against this concern, and presented his reasons why he felt it was not a valid concern.

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Mr. Faivre suggested, that given the concerns voiced about the potential amount of signage, to restrict the business to only the one attached sign proposed by the petitioner. Mr. Pietrowski inquired whether the proposed sign was intended to be lit. Mr. Ziegler responded that the sign did not need to be lit. Mr. Faivre suggested that a condition be added limiting the business to the one, unlit, attached sign.

Mr. Jones stated he was ok with the conditions proposed by the Hearing officer, and felt that the Committee should recommend approval with those conditions. Mr. Faivre suggested amending the Hearing Officer's list of conditions to include one more limiting the business to only one, unlit, attached sign. Mr. Pietrowski voiced his belief that, with the proposed conditions, the proposed business should have a limited impact on the surrounding properties.

The Committee then entered a discussion on whether the Special Use permit should be limited to the petitioners only or allow it to run with the property.

Mr. Jones moved to amend the motion to add the following two conditions to the list of conditions:

- 1. No more than one, unlit, attached sign, of the type indicated in the application.*
- 2. Restrict the Special Use to the petitioners.*

Seconded by Mr. Frieders, and the amendment carried unanimously.

The amended motion to recommend approval of the proposed Special Use, with conditions, was approved unanimously.

CHAPTER 14 BUILDING CODE AMENDMENTS

Mr. Anderson informed the Committee that in June Ordinance 2019-33 was passed updating the Building Code series used by the County from an amended version of the 2006 series to an amended version of the 2015 series. He explained that the Code series are written to cover a wide variety of topics and possible regulations, and that counties looking to use these series routinely review and amend the code series prior to adoption to better serve the community in question. Mr. Anderson explained that staff had recently discovered that when the new, amended series was adopted, two proposed amendments which had been reviewed and deemed inappropriate for this county had been inadvertently let in the copy of the ordinance approved by Ordinance 2019-33. He noted that staff was recommending to address this oversight by amending Ordinance 2019-33 to remove these two amendments from the list of revisions, and was asking the Committee to review the proposed recommendation, and, if acceptable, to forward a motion to the full County Board to adopt the proposed amendment by ordinance.

Mr. Roman moved to approve the amendment to Ordinance 2019-33, seconded by Ms. Willis, and the motion carried unanimously.

DEMOLITION PERMIT FEES

Mr. Hiland reminded the Committee that on January 1, 2020, the County would begin requiring Demolition Permits for the removal of non-agricultural structures, to assure the proper destruction/removal of materials from and the restoration of former building sites, in compliance with the various local, state, and federal

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regulations. He noted that as with other permits, staff was recommending that fees be assigned to help mitigate the cost in time and resources spent in processing these permits. He informed the Committee that their packet included a list of the recommended fees staff was proposing for the new permits, and was asking that the Committee review these proposed fees, and if acceptable, to forward a motion to the full County Board to for adoption of these fees by ordinance.

The Committee briefly discussed with Mr. Hiland some of the elements that would be included in a Demolition Permit.

Ms. Willis moved to approve recommend approval of the adoption of the proposed Demolition Permit fee schedule, seconded by Mr. Pietrowski, and the motion carried unanimously.

RECREATIONAL CANNABIS ZONING TEXT AMENDMENT CONSIDERATION

Mr. Hiland reminded the Committee that at its September Committee meeting, the Committee had discussed the potential code updates to regarding recreational cannabis in DeKalb County. The Committee had also reviewed a model ordinance created by the Illinois Municipal League (IML), outlining each of the proposed uses. He noted that after much discussion, the Committee had determined that the full County Board should opine on the matter, and that the item had been sent to the Committee of the Whole for discussion. He also noted that the Committee had requested that he put together a matrix showing which of the County's zoning districts each use would likely fit in as a permitted or Special Use. Mr. Hiland recommended to the Committee that it would be better for the County to develop regulations now, rather than being reactive to the impending state allowance of these uses. He noted that the Committee packet also included a brief survey presenting each of the six use types to being created by the State, and asking the Board members whether that use was one that should be allowed in the County. He finished by asking the Committee for feedback on the direction staff should take in preparing regulations regarding this issue.

Mr. Hiland noted that recently DuPage County had opted to not allow for any of the uses in unincorporated parts of that County. Mr. Plote inquired whether Mr. Hiland had been in contact with Grundy County. Mr. Hiland replied that he had not, and was unaware of any other counties having taking action yet. He informed the Committee that he had been in close contact with his counterparts in a number of other counties, related what he knew of the status of their efforts to develop regulations.

Mr. Pietrowski stated that he was in favor of DeKalb County leading the way in developing regulations, noting that he was not in favor of an outright ban, and was in favor of allowing all six types of uses. He added that he would however recommend restricting "Dispensing Organizations" in the unincorporated portions of the County to retail type establishments only, and prohibiting "weed bar/restaurants" type establishments, where the product would be consumed onsite, noting his concerns with potential increases in DUI type incidents.

Mr. Faivre indicated that he liked the idea of taking a straw poll, and recommended sharing the entirety of the information in their packet with the whole Board. He did note that he had issues with the "dispensing Organization", and possibly the "Transporter", types of uses.

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Mr. Frieders recommended that the straw poll occur sooner rather than later, suggesting that it occur at the next County Board meeting. Mr. Faivre recommended that a discussion about it occur at the Committee of the Whole. The Committee further discussed the two possibilities.

Mr. Hiland explained that at this point, the Committee (and the Board) was just discussing what steps they wanted to take, but that once it was decided, the matter would have to be taken through the County's normal text amendment procedures, including things such as public notice and hearings, review by the Committee of the results those hearings, and eventual action by the County Board. Mr. Hiland highlighted that while the Board had "some" time, the Board needs to be mindful that the State codes were slated to start at the beginning of 2020.

Mr. Faivre inquired whether the Committee could direct staff to take the model ordinance, as it is, along with the matrix, to public hearing to start the process right-away. Mr. Hiland replied that it could, and elaborated further upon the status of the state regulations and potential issues.

Mr. Pietrowski moved to direct staff to create code, based on the matrix and the model ordinance, and to initiate the text amendment process to review and potentially adopt that code, seconded by Mr. Jones.

Mr. Hiland talked about some of the challenges he foresaw in developing the new code, such as: developing definitions of all the relevant terms and uses; deciding between just using the Special Use process as needed to develop regulations versus developing full regulations, similar to what the County did with sustainable energy systems; deciding on what conditions to include on the various uses; etc.

Mr. Faivre noted that he was in favor of taking what they had and moving forward with the hearing.

Mr. Plote noted that the Committee had previously not concerned itself with seeking out the opinion of other County Board Committees in the past when considering what actions it should take. The Committee and Mr. Hiland engaged in discussion regarding the benefits of sending the material straight to public hearing versus gathering more input for other County Board members and committees, coming to the conclusion that the straw poll should occur first.

The Committee discussed the best way to conduct the straw poll, concluding that it should be taken to the Committee of the whole. Mr. Hanson inquired they wanted to the poll to occur before the Committee of the Whole or during it. The Committee agreed that it should occur before the Committee of the Whole, so that it can be discussed at it, and directed Mr. Hanson to distribute the poll to the County Board members.

The motion directing staff to take the matter to public hearing was retracted.

EXECUTIVE SESSION – ALTERNATE HEARING OFFICER

Mr. Hiland noted that with the retirement of Mr. Ron Klein as primary Hearing Officer for DeKalb County, Mr. Dale Clark was elevated to Primary Hearing Officer and the County found itself in need of a replacement alternate Hearing Officer. And, informed them that due to this being a personnel matter, the Committee needs to go into executive session prior to discussing the matter.

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Mr. Pietrowski moved to move the Committee meeting into executive session, seconded by Mr. Jones, and the motion carried unanimously.

The Committee was in executive session for approximately 40 minutes.

Mr. Plote moved to leave executive session and resume the regular Committee meeting, seconded by Ms. Willis, and the motion carried unanimously.

Mr. Hiland noted that Committee deliberated the matter and came to the conclusion it wanted to offer both candidates positions as alternate Hearing Officers, with staff alternating between both candidates as hearings arose wherein the primary hearing officer recused himself or was unable to hear the matter. Both candidates agreed to the arrangement.

Mr. Hiland noted that the names of the candidates would be forwarded for the County Board approval.

NOVERMBER / DECEMBER COMMITTEE MEETING DATES

Mr. Hiland noted that the next two regularly scheduled Committee meeting dates would be November 27th, the day before Thanksgiving, and December 25th, Christmas Day. He reminded the Committee that because of the proximity of the holidays to the November and December meeting dates, the Committee has typically either forgone meeting during those two months, if not matters were forthcoming or rescheduled the meeting dates, often choosing one date in the beginning of December for a combined meeting covering both months.

The Committee discussed the matter and decided cancel the November 27th and December 25th meetings, and to instead have a combined meeting on December 9th.

ADJOURNMENT

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

Respectfully submitted,

Steve Faivre
Chairman, Planning and Zoning Committee

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