

DRAFT

**PLANNING AND ZONING COMMITTEE
MEETING MINUTES
August 24, 2011**

The Planning and Zoning Committee of the DeKalb County Board met on August 24, 2011 at 7:00 p.m. in the Conference Room East located in the DeKalb County Administration Building. In attendance were Committee Members Ken Andersen, Dan Cribben, Ruth Anne Tobias, John Emerson, John Hulseberg, Pat Vary, and Jeff Whelan. Also in attendance were Roger Craigmile, Kenneth Johnson, Larry Anderson, Greg Millburg, and staff members Paul Miller and Rebecca Von Drasek.

Ken Andersen, Planning and Zoning Committee Chairman, called the meeting to order and noted that all members were present.

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Ms. Tobias moved to approve the minutes of the June 22, 2011 meeting of the Planning and Zoning Committee, seconded by Mr. Whelan, and the motion carried unanimously.

MAP AMENDMENT

Mr. Miller explained that the DeKalb County Forest Preserve District has filed a request for a Zoning Map Amendment to rezone a 43.26-acre property located on the south side of Cherry Valley Road, approximately 910 feet west of the intersection of Cherry Valley and Snake Road in Kingston Township, from A-1, Agricultural to FP/C, Floodplain/Conservation District. The property is commonly known as the Sparks property. The request is to accommodate use of the property by the Forest Preserve District.

The required public hearing was conducted on August 4, 2011 by DeKalb County Hearing Officer Ron Klein. The petitioner presented testimony detailing the proposed uses of the property, including ecosystem restoration and passive recreational uses. An existing enclosed structure would serve as a meeting place and education center. A parking lot and trails would also be constructed. Staff testified that FP/C would be consistent with the zoning for other parks and forest preserves throughout DeKalb County. A finalized parking plan would have to be submitted and approved, and the existing structure would need to be brought up to Building Code requirements due to the change in use from private to public. Three members of the public spoke at the hearing. The Hearing Officer forwarded his report and recommends approval of the Zoning Map Amendment.

Ms. Vary observed that the change would be consistent with the Unified Comprehensive Plan.

Mr. Cribben inquired if the property had any floodplain. Mr. Miller responded that there was no regulatory floodplain but there were some ponds.

Mr. Andersen asked if the Building Inspector was aware of any issues with approving the structures for use by the public. Mr. Miller responded that the Building Inspector did not anticipate problems with approving the structure, and the Director of the Forest Preserve has had a preliminary discussion about changes that would be needed to the structure to bring it up to Code.

Mr. Emerson moved to recommend approval of the Map Amendment, seconded by Ms. Tobias, and the motion carried unanimously.

SPECIAL USE

Mr. Miller explained that Faith World Outreach Church filed an application for a Special Use Permit for a church to allow the establishment and operation of a church on a 20.51-acre property located on the east side of Bucks Road, approximately 2,500 feet south of Cherry Valley Road, in Franklin Township. The subject property is zoned A-1, Agricultural District

A public hearing on the request was conducted on March 17, 2011 by DeKalb County Hearing Officer Ron Klein. The Hearing Officer subsequently issued a Report and Recommendation and recommended denial of the application. The Planning and Zoning Committee discussed the request at its meeting of May 25, 2011. At that meeting, additional information related to the Special Use request was discussed. In order that the petitioner and public be given an opportunity to consider and weigh-in on the additional information considered by the Committee, the County Board directed, at its meeting of June 15, 2011, that the matter be returned to the Hearing Officer for further consideration. The public hearing was re-opened on July 21, 2011. Planning and Zoning staff presented data indicating that there are 21 existing churches in unincorporated DeKalb County, three of which are on gravel or seal-coat only roads. All others have access to paved roads. The petitioner gave testimony to the effect that traffic associated with the church would be less damaging to a gravel road than is agricultural traffic. Staff also submitted portions of the Livestock Management Act related to the definition of places of public gathering as places where 50 or more persons regularly congregate, and the required setbacks therefrom. The petitioner offered that the church would restrict itself to only 49 members, and would further stipulate that the church would not at any time lodge any complaints about odors associated with livestock operations. Two members of the public spoke in favor of the request, and five persons spoke in opposition to the proposed Special Use. The Hearing Officer has submitted his supplemental findings and recommends denial of the Special Use Permit. Mr. Miller noted if the Committee recommends approval or approval with conditions, evaluation of the criteria for granting a Special Use Permit must be included, as the Committee cannot refer to the Hearing Officer's evaluation.

Mr. Andersen informed the Committee that his brother-in-law is the Road Commissioner in Franklin Township. He stated that this would not affect his decision and asked if anyone present objected to his voting on the issue. No objection was voiced.

Ms. Vary noted that she had visit the subject property and observed that the road was well-graded and adequate for two way traffic. She indicated that the both the County Engineer and Town Road Commissioner do not object to the use and find that the road is adequate. Ms. Vary also sought clarification of the restrictions referred to in the Livestock Management Facilities Act regarding “populated areas” consisting of places where 50 persons or more regularly meet. Ms. Vary asked how far the two livestock operations were from the Church property. The first operator estimated a half-mile distance, the second indicated three-quarters of a mile distance.

Mr. Johnson, attorney for the petitioner, asserted that the church would be willing to be a proponent of future expansions of the surrounding livestock facilities and emphasized that the Church has agreed to stipulate it will not object to odor and other nuisances.

Ms. Tobias asked if the a future County Board could constrain the Church. Mr. Miller responded that the conditions of approval could be used to state the agreed upon number of congregants but he noted that the Hearing Officer had observed that the County would not be able to track attendance numbers at services to confirm compliance.

Mr. Johnson added that individual members could not act on behalf of the Church.

Mr. Hulseberg stated that the need for any such stipulations by the Church emphasizes to him that this is the wrong place for this use.

Ms. Tobias asked how long the churches within DeKalb County had been in their current locations. Mr. Miller responded that in the past 15 years there were three other churches applications for a new church, all others predate his work at the County. He added that the length of time other churches have been in place was not specifically germane to the request in front of the Committee.

Mr. Andersen noted a typo in Mr. Klein’s report that stated the Church had agreed to limit attendance to 59, rather than the 49 as had been the actual agreement..

Mr. Emerson moved to recommend denial of the Special Use Permit, seconded by Mr. Cribben, and the motion carried with six members in favor, and Ms. Vary opposed.

TEXT AMENDMENT

Mr. Miller explained that, as directed by the Planning and Zoning Committee, the Planning, Zoning and Building Department staff filed a petition for Zoning Text Amendments following adoption by the County Board of the 2011 update to the DeKalb County Unified Comprehensive Plan. The proposed Text Amendments are intended to better implement the goals, objectives and recommendations of the updated Unified Comprehensive Plan, as well as to address questions, ambiguities, and interpretations of the zoning regulations. The Text Amendments are numerous and run the gamut from adding new definitions to the elimination of the Use Variation regulations. The complete text of the proposed amendments to the DeKalb County Zoning Ordinance was set forth in the application for Zoning Text Amendment.

The required public hearing was conducted by Hearing Officer Ron Klein on July 21, 2011. Staff presented the petition and summarized the changes. Particular attention was given to the proposal to eliminate the Use Variation regulations, which allow the possibility that a lot of less than 40 acres in size might be buildable for a residence provided certain specific criteria are met. Six members of the public spoke regarding the various proposed, three of who were opposed to the idea of eliminating the Use Variation provisions. The Hearing Officer also questioned the need for requiring a deed be recorded along with a 4.02.D.2. split of a farm house from the surrounding farm fields.

The Hearing Officer filed his report and recommends approval of the Text Amendments, with the exception of removing the Use Variation regulations and requiring a deed as part of a 4.02.D.2. split (see report). With respect to Use Variations, the Hearing Officer recommended that the regulations remain part of the Zoning Ordinance for an additional three to five years. With respect to the requirement of a deed to accompany a 4.02.D.2. plat, the Hearing Officer recommended that this Amendment be denied.

Mr. Whelan moved to approve the proposed Text Amendments in agreement with the recommendations of the Hearing Officer. The motion was seconded by Mr. Hulseberg.

Ms. Vary noted that she agreed with the Hearing Officer except in regard to the Use Variation. She observed that during the time she has served on the Planning and Zoning Committee, a number of applicants have sought this type of Variation and many did not qualify and were told no. Ms. Vary stated that the 40 acre rule had been in the County for a long time and the Use Variation had been an available for 20 years. This should have been sufficient time for any who needed the Use Variation regulations to do so.

Ms. Vary moved to amend the motion to include elimination of the Use Variation regulations. No second was made, and the motion failed.

Ms. Tobias asked if a farm house is split from the surrounding farm fields via the 4.02.D.2 process, could that house then be demolished and a new one built. Mr. Miller explained that the lot created through the 4.02.D.2 process creates a legal nonconforming residential lot. As such, the owner can demolish the old house and build a new one, provided a Building Permit for the new house is applied for within 180 days of the demolition.

Mr. Hulseberg stated that he agreed with the Hearing Officer's findings.

Following further discussion, Mr. Andersen called for a vote on the original motion.

The motion carried unanimously.

MONTHLY REPORT

The Committee made no comments.

PUBLIC COMMENTS

Mr. Andersen asked the public present if they had any comments for the Committee.

Mr. Aves asked Mr. Miller about the process of splitting off two acres with a residence constructed prior to August 19, 1979. Mr. Miller explained the 4.02.D.2 process and implications for splitting a house from the surrounding farm fields, including “encumbering” the remaining acreage as non-buildable for future houses.

ADJOURNMENT

The Planning and Zoning Committee is next scheduled to meet September 29, 2011 at 7:00 p.m. in the Conference Room East.

Ms. Whelan moved to adjourn, seconded by Mr. Cribben, and the motion carried unanimously.

Respectfully submitted,

Ken Andersen
Planning and Zoning Committee Chairman

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