

DRAFT

**PLANNING AND ZONING COMMITTEE
MEETING MINUTES
May 25, 2011**

The Planning and Zoning Committee of the DeKalb County Board met on May 25, 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, John Hulseberg, Ruth Anne Tobias, John Emerson, Jeff Whelan, Pat Vary, and Dan Cribben. Also in attendance were Roger Craigmile, Stephen Feiden, Nate Feiden, Ken Johnson, Kathy Dabbs, Jeff Dabbs, 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. Whelan, and the motion carried unanimously.

APPROVAL OF MINUTES

Mr. Emerson moved to approve the minutes of the April 27, 2011 meeting of the Planning and Zoning Committee, seconded by Ms. Tobias, and the motion carried unanimously.

SPECIAL USE

Ms. Vary moved to put back on the table the petition by Faith World Outreach Church for a Special Use Permit, seconded by Mr. Hulseberg, and the motion carried unanimously.

Mr. Miller explained that Faith World Outreach Church had filed an application for a Special Use Permit for a church. Following the direction of the Planning & Zoning Committee at the April 27, 2011 meeting, staff had prepared draft findings of fact and possible conditions for the approval of the Special Use Permit by the Planning and Zoning Committee, set forth in a staff memo dated May 9, 2011. Mr. Miller briefed the Committee on the memo, pointing out the draft findings of fact assessing the review criteria set forth in Section 9.02.B.3 of the Zoning Ordinance. Possible conditions of approval included:

- 1). The church shall be established and operated in substantial accordance with the details within the application for Special Use Permit;
- 2). All proposed site improvements, including but not limited to the addition of washrooms and upgrades to the proposed “sanctuary” building to meet the requirements of the County Building Codes, the paving and striping of the driveway and parking area, the installation of parking lot lights, and compliance with the County Stormwater

Management Regulations, shall be completed prior to use of the subject property by the Church for church services and activities;

- 3). Church activities and services to which all church members are invited shall occur only within the “sanctuary” or outside on the subject property, and not within the single-family residence on the subject property;
- 4). Any church activity or event that will encourage attendance by non-members or the community at large shall require application for and approval of a Temporary Use Permit by the County Zoning Administrator;
- 5). Parking area lighting shall be on only during church activities that take place after dark;
- 6). The Faith World Outreach Church shall cause to be drafted and recorded in the County Recorder’s Office an affidavit stipulating that the Church will not register, nor participate in, any complaint related to agricultural activities on surrounding and nearby agricultural properties, nor pursue administrative or legal relief from such activities;
- 7). No additions to existing structures nor construction of new structures for use by the Church shall be permitted without an application for and approval of an amendment to this Special Use Permit.

Mr. Miller concluded by recommending that condition number seven be revised to better reflect the intent of the condition. He explained that any future expansion should have a consequence of requiring the church not only to seek an amended Special Use Permit, but to assess whether or not the entire length of Bucks Road would need to be improved to accommodate additional traffic. Mr. Miller opined that including this revised condition would make it clear that the improvement costs will be born by the use that necessitates the need for those improvements, and allow the church to consider those costs in future expansion planning.

Mr. Hulseberg indicated that he was inclined to approve the church use. However, he indicated that, upon reading the conditions, especially condition six, he realized that if the church needed to sign off on not complaining about agricultural activities in the area, it might not be in the right setting. He also stated that just because the church would sign such an agreement there was no guarantee that the church members would not complain.

Mr. Whelan stated that he had received calls from Township officials stating that the Township lacks any funds to improve or maintain Bucks Road beyond the current maintenance.

Mr. Emerson opined that the church should be adjacent to a town and noted his concern about non-agricultural growth in the agricultural parts of the County.

Mr. Cribben expressed concern about the regulatory burden the use would place on neighboring livestock operations. He stated that he felt the use would not comply with Section 9.02.B.3

because it would not promote the welfare of the neighboring livestock facilities. He noted that the Livestock Facilities Act lengthens the setback required when the facilities are in proximity to assembly uses.

Ms. Tobias stated that hearing the concerns of other Committee members gave her pause to consider the ramifications of allowing the church to operate within the Agricultural District.

Ms. Vary noted that she has always been bothered by Bucks Road's condition and agreed with Ms. Tobias that other Committee members concerns were valid. She noted that in her time on the Planning and Zoning Committee this was the first church in her memory not located on a major road.

Mr. Andersen informed the Committee that he had requested staff provide him with information regarding the number of churches within the unincorporated areas of DeKalb County. He noted that there were 21 churches and that the majority were surrounded by agricultural uses.

After a brief discussion of the report, the Committee concluded that the majority of churches in the unincorporated areas of the County were also located on hard surface roads.

Mr. Miller reminded the Committee that the Township Road Commissioner had no objection to the proposal. Mr. Andersen responded that the Township Road Commissioner had also stated that there were no funds to improve the road.

Mr. Whelan observed that the row crop agricultural would not be disturbed by the presence of a church, but that cattle and hog livestock facilities would continue to create odors which may conflict with approving this use.

Ms. Vary moved to recommend approval of the Special Use Permit with the conditions as presented and revised, seconded by Ms. Tobias, and the motion failed with Ms. Vary voting in favor and all others opposed.

Ms. Vary moved to recommend denial of the Special Use Permit, seconded by Mr. Hulseberg, and the motion carried unanimously.

SPECIAL USE

Mr. Miller briefed the Committee on the application submitted by Kathy and Jeff Dabbs for a Special Use Permit to allow a private dog kennel on property located at 3990 East Paw Paw Road in Paw Paw Township. The five-plus acre subject property is located on the east side of East Paw Paw Road, approximately 300 feet south of Chicago Road. The parcel is zoned A-1, Agricultural District. The required public hearing was conducted on April 28, 2011 by DeKalb County Hearing Officer Ron Klein. At the hearing, the petitioners provided evidence, testimony and exhibits in support of the proposed private kennel. The petitioners currently own 21 dogs, and the Special Use Permit is needed because the Zoning Ordinance treats six or more adult dogs as a kennel. An existing accessory building would be converted to provide runs for the dogs. Seven persons spoke in opposition to the proposed Special Use. A representative of the DeKalb

County Animal Control Department also recommended denial of the request, citing the poor condition of the dogs during past visits to the property and the inadequacy of the fencing. The Hearing Officer has submitted his findings and recommends denial of the Special Use Permit.

Ms. Vary noted that although the property owners' hearts are in the right place, she felt there were too many dogs on the subject property and would be voting to deny the application.

Ms. Tobias stated that she felt that there were too many dogs to assure each is provided with adequate care.

Mr. Emerson and Mr. Cribben stated that they would go along with the recommendations of Animal Control and the Hearing Officer.

Mr. Whelan noted that he opposed approval after reading in the Findings of Fact, and that many neighboring property owners were afraid of the dogs. Mr. Hulseberg agreed.

Mr. Andersen observed that although he had not visited the subject property, the photographs and testimony of the neighbors led him to question why this was not a Health Department issue.

Ms. Emerson moved to recommend denial of the Special Use Permit, seconded by Ms. Tobias , and the motion carried unanimously.

The applicant then submitted correspondence to the Committee and staff withdrawing the application.

DISCUSSION ITEM

Mr. Miller explained that the primary tool by which DeKalb County attempts to bring about the vision of its Comprehensive Plan is the Zoning Ordinance. He noted that the current Zoning Ordinance was adopted in 2005, following the adoption of the 2003 Unified Comprehensive Plan. The County Board adopted the new update to the 2003 Plan at its meeting on May 18, 2011. Mr. Miller emphasized that while the new Comprehensive Plan does not deviate in any substantial way from the land use policies, goals, and objectives of the previous Plan, it is still appropriate to review the regulations of the County Zoning Ordinance to assure that it remains effective in implementing the Comprehensive Plan. The updated Comprehensive Plan also creates an opportunity to revise regulations to address problems and ambiguities that have arisen in the past few years through administration of the Ordinance. He emphasized that the Staff Memo included in the Committee's packets titled "Possible Changes to Zoning Ordinance," dated May 10, 2011, detailed possible revisions for consideration by the Planning and Zoning Committee. Mr. Miller also explained that the issue was being brought before the Committee for direction and would come before the Committee as a formal Text Amendment application in the future if the Committee decided to pursue the Zoning Ordinance revisions.

Further Mr. Miller explained that there were two items which were larger policy questions, and 33 smaller revisions meant to clarify the existing text. The two items of substance detailed in the

May 10, 2011 memo were: 1) consideration of removing Use Variations, and; 2) consideration of adopting a Property Maintenance code.

Mr. Miller explained the possible elimination of the Use Variation regulations, which allow some property owners to seek relief from the 40 acre requirement to build a residence. He referred to it as a loophole originally created to accommodate land owners who lost development rights through previous Zoning Ordinance revisions. He noted that there were specific conditions the property owners needed to gain approval of a Use Variation. In conclusion, he stated that since 2003, ten years after the Use Variation regulations were adopted, there were 11 applications (one for the same property twice), of which five were denied and one withdrawn. By way of contrast, between 1994 and 2002, of the 34 applications for Use Variation, only five were denied. He asserted that more denials are being given because many of the recent applications were not qualified for the variation.

Mr. Whelan agreed with Mr. Miller that loopholes should be closed after some time has past, noting that 20 years has been a sufficient amount of time to apply for the Use Variation.

Following a brief discussion the Committee agreed through consensus that staff could include the removal of the Use Variation as part of the proposed Zoning Ordinance revisions.

The Committee discussed the pros and cons of a Property Maintenance code. Ms. Vary asked staff for more information regarding Property Maintenance regulations in surrounding counties. Mr. Miller offered that staff could further research the issue and the Committee could discuss Property Maintenance independent of the proposed Zoning Ordinance revisions.

The Committee reviewed the 33 other proposed revisions and directed staff to seek a Text Amendment updating the DeKalb County Zoning Ordinance.

MONTHLY REPORT

The Committee noted their appreciation for the report on the County's Building and Zoning Permits.

Mr. Andersen asked about the oversight of the Kishwaukee Community College. Mr. Miller explained that the building process is overseen by the State Board of Education. However the improvements at the College for grading and zoning appear to be under the County's jurisdiction. Mr. Miller noted that the County had only recently contacted the College to make them aware of the County's zoning authority.

PUBLIC COMMENTS

Mr. Andersen asked the public present if they had any comments for the Committee. No comments were offered.

ADJOURNMENT

The Planning and Zoning Committee is next scheduled to meet June 22, 2011 at 7:00 p.m. in the Conference Room East.

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

Respectfully submitted,

Ken Andersen
Planning and Zoning Committee Chairman

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