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DeKalb County Government  
Sycamore, Illinois

**Planning and Zoning Committee Minutes  
(December 3, 2013)**

The Planning and Zoning Committee of the DeKalb County Board met on December 3, 2013 at 7:00 p.m. in the Conference Room East located in the DeKalb County Administration Building. In attendance were Committee Members Charles Foster, Dan Cribben, Anita Jo Turner, Frank O'Barski, John Emerson, Julia Fauci, and Paul Stoddard. Also in attendance were County Board member Anthony Cvek, Tracy Jones, and John Frieders, Greg Millburg of the DeKalb County Farm Bureau, Charles Brown, Don Willrett, James E. Walter, Nicholas A. Nagele, Jim Quinn, Jamie Walter, Steve Drendel, and County staff members Paul Miller, Gary Hanson, Richard Schmack, and Rebecca Von Drasek.

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

**APPROVAL OF AGENDA**

*Mr. Foster moved to amend the agenda to include a Public Comment item, seconded by Mr. Stoddard, and the motion carried with six in favor and Ms. Turner opposed.*

*Mr. O'Barski moved to approve the agenda as amended, seconded by Mr. Stoddard, and the motion carried unanimously.*

**APPROVAL OF MINUTES**

*Mr. Stoddard moved to approve the minutes of the October 23, 2013 meeting of the Planning and Zoning Committee, seconded by Mr. O'Barski, and the motion carried unanimously.*

**TEXT AMENDMENT**

Mr. Miller reported to the Committee that the DeKalb County Farm Bureau has filed a petition for Amendments to Article 2, Definitions, and Section 4.02.B, A-1 Agricultural District, Permitted Land Uses and Developments, of the DeKalb County Zoning Ordinance. The proposed Amendments are to amend the definitions of "agriculture", "Agribusiness" and "Ancillary Use", and to amend the list of permitted uses in the A-1 District. The Zoning Text Amendments have been filed in accordance with the requirements of Section 10.04.C of the Zoning Ordinance.

The required public hearing was held on October 18, 2013 by Hearing Officer Ron Klein. The petitioner presented testimony in support of the requested changes to the definitions of “agriculture” and “agribusiness.” It was explained that the purpose of the proposed Amendments is to recognize that the nature of agriculture has changed over the years, and farmers engage in a wide variety of activities in support of their farm operations. The changes to the definitions are intended to recognize this wider range of agriculturally-related activities and to assure that these are treated in the same way as other agricultural purposes with respect to zoning and building regulation. Two persons spoke in favor of the changes, and none in opposition. Staff raised a number of concerns related to the proposed changes, including the likelihood that the changes would allow certain activities by right that in the past have been subject to approval by the County Board.

The Hearing Officer has submitted his Findings of Fact and Recommendation, and has recommended that Amendments be approved by the County Board as set forth in that Recommendation. The Hearing Officer’s recommendation is to approve Amendments, but the definitions vary from those in the request from the Farm Bureau and from the recommendation of staff as set forth in the September 13, 2013 Staff Report.

Mr. Miller noted that his Staff Report to the Planning and Zoning Committee, dated November 25, 2013, raised some concerns with the recommendations of the Hearing Officer, and presented alternative definitions of “agriculture” and “agribusiness” for consideration by the Committee. Mr. Miller added that, after providing the Staff Report to the petitioner, staff met with representatives of the Farm Bureau and created a final version of the definitions that is acceptable to both parties. Mr. Miller provided the Committee with a handout of the final version, and explained that even with agreement there are consequences to the proposed changes. He noted that the final language addresses Staff’s concern regarding equal treatment of identical uses, but that the proposed changes will allow more uses by right, including some that are currently Special Uses. Some of these Special Uses, such as wineries and distilleries, have been controversial in the past, and allowing them by right removes the opportunity for neighbors to have a voice in the decision-making process. Mr. Miller noted that the Committee could recommend any of the various iterations of the proposed Text Amendments, draft its own revisions, or deny the request.

Mr. Foster asked Charles Brown, attorney for the petitioner, if the language in the handout is agreeable. Mr. Brown responded that provided the record of the meeting and the language of the ordinance reflect the legislative intent to exclude “agricultural purposes” from County zoning authority, the Farm Bureau was willing to accept the proposed language. He iterated that the intent of the legislation is to recognize that modern agriculture has evolved to include more than the growing of crops or the raising of livestock, and noted that this means that a property can be used for agricultural purposes even if there are no crops or livestock on a given piece of property.

Mr. Miller agreed that the “where as” clauses within the ordinance presented to the County Board would reflect the legislative intent.

Ms. Turner stated that she had hoped a consensus could be reached and asserted that the language appeared to be a good compromise.

The Committee briefly discussed hypothetical scenarios. Mr. Miller explained that if a property owner and staff disagree with an interpretation by Staff, an Appeal can be filed.

Mr. Schmack explained the Appeal process to the Committee, noting the Hearing Officer would decide the issue if Staff and the property owner disagree over whether or not a proposed use is an “agricultural purpose.” Mr. Schmack also opined that the proposed language in the handout would make more black and white the decisions for Staff, but would not eliminate all the gray areas that require interpretation.

Ms. Fauci stated she was happy that there would be less ambiguity.

Mr. Schmack read aloud a portion of an e-mail that had been sent to Staff which set forth his opinion that the interpretation of the enabling legislation as it relates to county zoning authority and agriculture. He said that interpretations of land use by Staff should reflect that “agricultural purposes” are to be liberally construed in favor of particular uses being deemed agricultural in order to fully effectuate the legislative intent expressed by the statutory exclusion of agriculture from counties’ regulatory authority.

Mr. O’Barski stated that he liked the proposed language and asserted that even though there may be issues in the future, the broadening of the definition will be more permissive.

Ms. Turner recognized County Board Member Tracy Jones. Mr. Jones thanked the Committee for their consideration of the Text Amendment. He emphasized his support that the legislative intent be reflected in the ordinance approving the Amendments, as well as in the minutes from this meeting.

*Mr. Foster moved to approve the Text Amendments per the language agreed upon by County Staff and the petitioner, seconded by Mr. Stoddard, and the motion carried unanimously.*

## **HEARING OFFICER REIMBURSEMENT**

Mr. Miller explained that DeKalb County uses appointed Hearing Officers to conduct and produce findings on zoning matters, including Special Uses, Variations, zone changes, planned developments, Text Amendments, and Appeals. The Hearing Officers are reimbursed for their time at a rate of \$350 for the first hour of a hearing, and \$50 for each additional half-hour, for most hearings. The reimbursement for Variations is \$250 for the first hour and \$50 for each

subsequent half-hour. Mr. Miller asked the Committee if it should increase the reimbursement for the initial hour by \$100.

*Ms. Fauci moved to increase the fee by \$50, seconded by Mr. Stoddard. After a brief discussion, Ms. Fauci withdrew her motion.*

*Mr. Cribben moved to forward the Resolution raising the Hearing Officer's compensation rate as presented in staff's October 9, 2013 staff report, seconded by Mr. Emerson, and the motion carried unanimously.*

### **EVERGREEN VILLAGE MITIGATION PROJECT**

Mr. Miller informed the Committee that an offer to purchase the Evergreen Village property, based on the appraisal approved by the State IEMA office, was made by the County to the property owner. The offer was, however, rejected the property owner, who has indicated that he will provide Staff with a counter appraisal to forward to the State for review. The expectation is that the alternative appraisal will be forthcoming by the end of 2013. Mr. Miller explained that the mitigation project is on hold until an offer is accepted and a closing date is set.

*Mr. Stoddard left at 7:40 p.m.*

Mr. Miller also noted that staff is continuing to gather the necessary contractors to complete phases of the mitigation project. He said that the DeKalb Housing Authority has been awarded the Park Management bid, and that a firms have been selected for the demolition and asbestos testing of the mobile homes.

Mr. Miller also reported on the County's other mitigation project on Thompson Road. He explained that the property has been purchased by the County and that a demolition firm was to be selected following a bid opening on December 5, 2013.

### **PUBLIC COMMENT**

No comments were offered.

### **ADJOURNMENT**

The Planning and Zoning Committee is next scheduled to meet Wednesday, January 22, 2014 at 7:00 p.m. in the Conference Room East.

*Mr. Emerson moved to adjourn, seconded by Mr. O'Barski, and the motion carried unanimously.*

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**Respectfully submitted,**

**Anita Jo Turner**  
**Planning and Zoning Committee Chairman**

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