

# DRAFT

**PLANNING AND ZONING COMMITTEE  
MEETING MINUTES  
February 27, 2013**

The Planning and Zoning Committee of the DeKalb County Board met on February 27, 2013 at 7:00 p.m. in the Conference Room East located in the DeKalb County Administration Building. In attendance were Committee Members Anita Jo Turner, John Emerson, Julia Fauci, Charles Foster, Frank O'Barski, Dan Cribben, and Paul Stoddard. Also in attendance were Roger Craigmile, Jim Nilles, Greg Millburg, County Board Members Mark Pietrowski Jr. and Anthony Cvek, County Administrator Gary Hanson, and Planning, Zoning and Building Department staff members Paul Miller and Rebecca Von Drasek.

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

### **APPROVAL OF AGENDA**

*Ms. Fauci moved to approve the agenda, seconded by Mr. O'Barski, and the motion carried unanimously.*

### **APPROVAL OF MINUTES**

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

### **SPECIAL USE PERMIT**

Mr. Miller explained to the Committee that Jeff J. Marshall has filed a petition for approval of a Special Use Permit to allow a landscaping business to continue operating on property at 14701 Gurler Road in Cortland Township. The 40-acre subject property is located approximately 6,300 feet east of the intersection of Somonauk and Gurler Road, and is zoned A-1, Agricultural District. The application has been filed in accordance with the requirements of Section 9.02.B of the Zoning Ordinance.

The required public hearing was held on February 7, 2013 by DeKalb County Hearing Officer Dave Dockus. The petitioner provided testimony and exhibits in support of the requested Special Use, explaining that the operation is seasonal, and that crews of six to 12 employees stage at the subject property in the morning and evening. There is an existing area for employees to park, and one paved and signed space for the handicapped would be provided as required by State law. An existing shed is used for storage of equipment and vehicles, and there are outside concrete bins for storage landscaping materials. Staff advised the petitioner on the need to comply with the requirements of the Health Department on sanitary facilities for employees, and the possibility of having to retrofit the storage building to meet County Building Codes. One member of the public spoke in favor of the request and no one spoke in opposition.

Mr. Miller reported that the Hearing Officer has submitted his findings, and recommends approval of the Special Use Permit with conditions.

Mr. Stoddard asked if the applicant had any objections to the conditions and if he could comply. Mr. Marshall indicated that he could comply with the conditions.

Mr. O'Barski confirmed that approval of a landscaping business was not setting a new precedence within the A-1 District.

Ms. Fauci stated that she approved of the condition to store the vehicles within the building.

Mr. Foster indicated that he disagreed with this condition. Mr. Miller explained that the Ordinance requires this standard unless the Special Use Permit specifically states an exemption to the requirement. Mr. Miller also pointed out that the petitioner has no objections to the condition.

Mr. Cribben asked staff for the history of the application. Mr. Miller noted that the issue initiated as a complaint.

Mr. Foster asked if the complaint was written. Mr. Miller explained that staff accepts most complaints by phone, and does not accept anonymous complaints.

Mr. Stoddard confirmed that the complainant was informed of the public hearing for the Special Use. Staff responded that the complainant was informed by phone and mail.

The Committee and County Board members present briefly discussed having conditions tied to Special Use Permits. Mr. Miller explained reasons for conditional approval, pointing out that conditions guarantee the property owner operates their business in compliance with what was presented to the County Board. He emphasized that the conditions limit a use so that intensification or expansion of the use requires further County review.

*Mr. Stoddard moved to recommend approval of the Special Use Permit with conditions, seconded by Mr. O'Barski, and the motion carried unanimously.*

## **DISCUSSION ITEM – Planning, Zoning, and Building Fees**

### **Zoning Application Fees**

Mr. Miller reviewed the January discussion by the Committee regarding various fees charged by the Planning, Zoning and Building Department. He highlighted the fact that the Committee had directed staff to review revenues and possible new lines of revenue in order to bring them closer to the cost of Department services. Mr. Miller reviewed the February 14, 2013 staff report which detailed a proposed "application account" method which would require applicants to pay for the hourly services of staff rather than pay a set fee amount.

Ms. Fauci observed that future applicants might not want to speak with higher paid staff when working through an application to avoid higher fees. She added that the practice of billing for time spent is common within many industries, such as the design and legal industries. Mr. Miller responded that the small nature of the Planning, Zoning, and Building Department requires specific staff for specific aspects of each application.

Mr. Foster stated that he was not in favor of an open-ended fee structure. He asserted that the County could not bill by the hour because it could lead to accusations of discrimination and could appear arbitrary. He supported increasing the existing flat-fee structure. He also encouraged staff to track time on these projects so that the Committee could further review the data related to the County's cost for processing zoning applications.

Mr. Miller noted that under a flat-fee, the actual costs of processing discretionary zoning applications would continue to entail all County property owners subsidizing those individual property owners who make such applications. This is standard for most zoning authorities, but is part of the reason that Department costs exceed revenues.

Mr. Stoddard agreed that staff should begin tracking time so that the Committee would have some recent examples of the real costs of processing an application versus the fees paid. Mr. Miller agreed that staff would begin tracking time to process Zoning applications and would report back to the Committee within six months.

Mr. Foster reiterated that he would rather subsidize an application and not risk discriminating against an applicant through an open-ended billing system.

Mr. Emerson agreed that the County may need higher fees but disagreed with open-ended fee schedules.

The Committee briefly discussed the process of tracking staff time.

Mr. Stoddard argued that businesses are good for the County and that increasing fees could become a hindrance and could discourage business growth.

The Committee briefly debated the discretionary nature of zoning applications and the need to subsidize the processing of these applications.

*Mr. Foster moved to recommend increasing the fixed structure of fees to a scale of \$200, \$800, or \$1,500 from the previous fixed rates of \$100, \$500, or \$1,000 and to increase the Hearing Officer's fees from \$250 to \$350 for Variations and from \$350 to \$450 for Special Use applications, seconded by Mr. Cribben.*

*Ms. Fauci made an amendment to the motion to increase the fixed structure fees to \$500, \$1,000, and \$2,000, seconded by Mr. O'Barski. Following a Role Call Vote the motion failed with three in favor (Fauci, O'Barski, and Turner) and four opposed (Cribben, Emerson, Foster, and Stoddard).*

*The Role Call Vote on Mr. Foster's motion passed with six in favor (Cribben, Emerson, Foster, O'Barski, Stoddard, and Turner) and Ms. Fauci opposed.*

### **Violation Fees**

Mr. Miller explained the method of handling property owner complaints and the process through which staff attempts to bring apparent County Code violations into compliance. He also described the Code Violation Hearing process, which results in the cases where staff is unable to obtain compliance. He observed that when a Code Violation Hearing is held, one way to bring revenues closer to costs would be for staff to report to the Hearing Officer the amount of staff time spent working toward compliance. He noted then the fines could be calculated to compensate the County. Mr. Miller added that there is a \$5,000 cap by State Statue on the amount the Hearing Officer can fine a property owner.

Ms Fauci observed that it was unfortunate that local government needed to spend an inordinate amount of time on "bad apples".

Mr. Foster appreciated that the amount of the fine was not open-ended.

Mr. Stoddard clarified that the Hearing Officer would be at liberty to incentive compliance by excusing some or the entire fine with compliance.

*Ms. Fauci moved to recommend staff report to the Hearing Officer staff time devoted to attempting to resolve apparent violations, seconded by Mr. O'Barski, and the motion carried unanimously.*

### **Site Development Permit Fees**

Mr. Miller reviewed the Site Development Permit process, whereby the County requires plans, reviews, and inspections on grading projects and activities near or within floodplains. He explained that staff time devoted to processing and tracking such permits is considerably higher than the \$100 "administrative" portion of the \$400 application fee.

Mr. Emerson suggested that the Planning, Zoning, and Building Department should not be involved at all in grading projects, and that they should be handled by the Highway Department. Mr. Miller explained that the Department was charged with these tasks because the Floodplain Regulations are part of the County Zoning Ordinance, and the Zoning Ordinance is administered by the Planning, Zoning and Building Department. Mr. Miller added that the regulations were first created following incidences where one property owner graded, excavated, or filled their property, resulting in flooding on adjacent properties and roadways.

Ms. Fauci agreed with the intent of the regulations to prevent property owners from negatively impacting others. She also asserted that, like zoning fees, the rate should be fixed.

The Committee briefly discussed Site Development projects and types of projects which might necessitate a Permit.

*Ms. Fauci moved to increase the Site Development Permit fee from \$400 to \$500, with the additional \$100 paid to the Planning, Zoning, and Building Department to cover the cost of processing Site Development Permits, seconded by Mr. O'Barski, and the motion carried with six in favor and Mr. Emerson opposed.*

Mr. Cribben asked staff to also begin tracking time on these Permits so that the Committee can review the actual cost of processing for these Permits. Mr. Miller agreed to do so.

### **Agricultural Building Permits**

Mr. Miller explained that as part of the directive from the Committee to review the costs of operating the Department in light of its revenues, staff brought to the January Committee meeting the observation that farm structures generate no building or zoning permit revenue even though the administration of agricultural permits generate costs. He had suggested that the County may wish put on its legislative agenda a request to change State law to allow a zoning fee for agricultural buildings, and to require a Building Permit for the construction of farm homes. Mr. Miller said that he had discussed the issue with Greg Millburg of the DeKalb County Farm Bureau, who had opined that the Farm Bureau would likely object to any such change in State law.

Ms. Fauci observed that the agricultural community is important to the County and did not support the idea of pursuing the right to charge fees.

Mr. Emerson stated he did not support a change.

After brief discussion, no action was taken on this topic.

### **DISCUSSION ITEM – Evergreen Village Mitigation Project**

Mr. Miller briefed the Committee on the status of the Evergreen Village Mitigation Project, explaining that staff was working with State agencies to better understand the laws that govern the mitigation project. These include the Uniform Relocation Assistance Act (URA), which is a complicated Federal law. Mr. Miller stated that even representatives from the State Emergency Management Agency have questions about how the URA applies to the Evergreen project. He added that staff has also been in discussions with a possible project manager who is familiar with the property acquisition and relocation assistance laws. Mr. Miller said he would continue to keep the Committee updated on the progress of the project.

### **ADJOURNMENT**

The Planning and Zoning Committee is next scheduled to meet March 27, 2013 at 7:00 p.m. in the Conference Room East.

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

**Respectfully submitted,**

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

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