

Planning, Zoning, and Agriculture
Committee Meeting
October 28, 2009

Members Present

Mr. Olthoff, Mr. Stauffenberg, Mr. James, Ms. McBride, Mr. Marcotte, Ms. Schmidt, Ms. Barber, Mr. Scholl, Mr. Hess, Mr. Tholen and Mr. Whitten

Members Absent

Mr. Tripp and Mr. Washington.

In Attendance

- **Board Members**

Mr. Bossert and Mr. Liehr

- **Department Heads**

- **Media**

Leigh Marcotte

1. Call to Order

The meeting was called to order by the Chairman, Mr. Olthoff, at 9:00 a.m. Quorum present.

2. Public Comment

Wesley Sons – Spoke regarding zoning violations of adjacent property.

3. Approval of Minutes – September 25, 2009

A motion to approve the September 25, 2009 minutes was made by Mr. Hess and seconded by Mr. James. Motion carried.

4. Building

- **Chapter 109 Flood and Stormwater Management Update (update only to Flood Sections)**

Mr. Pallissard gave a brief presentation regarding the flood map modernization program. A power point presentation with backup written information focused on:

- Flood Map Modernization

- Map Modernization Objectives

- The new Digital Flood Insurance Rate Maps

- Present Digital Flood Insurance Rate Maps

- Future Digital Flood Insurance Rate Maps

- Overview of the Map Modernization Process

- What Must a National Flood Insurance Program Participating Community Do?

- Benefits of the National Flood Insurance Program

- Floodplain Ordinance Proposal 2009

- What's new in proposed Digital Flood Insurance Rate Maps?

- What's new in proposed Ordinance?

A draft copy dated October 2009 of the "Chapter 109 Floods and Stormwater Management – Update to the Flood Sections Only" was distributed to the Committee.

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Mr. Pallissard advised that the documents were presented for the Committee's review. They are looking to come back to the PZA Committee in November for a recommendation to forward to the full County Board Meeting in December. This document has been forwarded to the State's Attorney's Office for their review as well as to the Department of Natural Resources. He said he had received an email yesterday from the Department of Natural Resources and they had advised that they had reviewed the information and had given their approval.

5. Zoning

- **ZBA Case #09-13; Relative to a request for a Text Amendment regarding Section 121-295 (Permit Small Wind Energy Conversion Systems in General Provisions of the Zoning Ordinance) of the Kankakee County Code. The petitioner is Kankakee County.**

Mr. Skimerhorn advised that over the past couple of years we have been adding various sections to the zoning ordinance in regards to wind towers for personal use and they felt it was time to bring it all together and allow them in all the districts. The text amendment before the Committee is language that will allow wind towers for personal use to be built in any of the zoning districts that they have and it outlines how that is to be done. The A-1/A-2 district was already approved about two (2) years ago; the I-2 and I-1 district was approved over the summer and for all other districts that are not listed, they will follow the A-1 agricultural districts regulations for wind towers. The only area in the unincorporated County that we still will not allow wind towers is in platted subdivisions.

A motion to approve the "Request for a Text Amendment Regarding Section 121-295 (Permit Small Wind Energy Conversion Systems in General Provision of the Zoning Ordinance) of the Kankakee County Code" was made by Mr. Scholl and seconded by Mr. Whitten. Motion carried.

- **Special Use Permit Discussion**

Mr. Scholl explained that his feeling was that we need something to hold people to precisely what that special use is for. If there are a series of complaints, we have a policy where these are brought back on an annual basis. The Committee would look at this and say they are still operating in this special use permit perimeter that is given or they are operating outside of and at that point, the Committee would refer this back to the State's Attorney to take action in order to look into this. He said he was very leery if a special use permit is being given and then the tendency to pull them away. We need to hold people accountable rather than say, "if they are not we will send a police out there and they will be ticketed". The police do not have the time nor the manpower or the expertise to deal with this, but we need something in place. The Committee should be made aware. They are exceeding what the Committee intended for the special use. We have given the special use permit as a Committee and Mr. Scholl felt we have a responsibility to follow up and say, that's more than what we intended – they are not living up to their commitment and therefore, we need to go to the next step.

Mr. Skimerhorn said there is a difference between what is intended and what is allowed. The Ordinance allows certain things for each special use regardless of what was intended by the Board. That can be limited by putting conditions upon the special use. We do have an opinion from our State's Attorney that says we can revoke a special use permit if it does not live up to the conditions that we place upon it. If we don't put conditions on it, there is not a lot that we can do. When you

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grant a special use permit you are granting property rights. You can put specific conditions on there that tie it to a specific business for a specific use.

Ms. Schmidt felt that Mr. Scholl had a good point. She asked could we pass an Ordinance that with a special use permit there will be a review every two (2) or three (3) years to make sure and be able to add conditions later.

Mr. Skimerhorn said to add conditions would require it to go all the way through the Public Hearing process again from the beginning. Those types of reviews could be put on an individual basis as opposed on each special use permit.

Ms. McBride said there seems to be a problem out in Pembroke with the people having a permit from the firing range and the problem is that the bullets are going too close to peoples houses and they said that the police has been called and they come out there and they have legal permits to have the type guns that they had, but it seems to be a safety issue that has started up within the last three (3) or four (4) months.

Mr. Skimerhorn said he was not aware of any permitted firing range in Pembroke Township. It could be a grandfathered one that he was not aware of. He asked Ms. McBride to see him after the meeting to give him the location and information on this issue.

Mr. James said in regards to the special use issue, maybe we should be issuing these with a recall where if we get a complaint we can recall them and adjust them at that time and they will know up front that they are subject to recall and they could lose it right off the bat if they are not in compliance or if they initiated something over and above what we intended for them to do.

Mr. Skimerhorn said he did not say you could not, but what he said was it had to be a condition placed on the special use before it is granted. Each special use that comes up, it needs to be a condition put on it.

Mr. Scholl said he was leery of just basing something like this upon a complaint. We have to be careful of how we deal with that.

Ms. Schmidt asked how would you start a hearing process to revoke a special use permit.

Mr. Skimerhorn said he would have to get a State's Attorney to do that, but he believed it was the same process.

Mr. Olthoff suggested that Mr. Skimerhorn research this issue for the next meeting.

6. Transportation

• 6000 N Corridor Update

Mr. Lammey advised that this is like the special use permit. He didn't know why this was on the agenda. There are two (2) parallel tracks in the 6000 North Interchange. One (1) of them is engineering studies and the other is funding. On the engineering studies side, the preliminary engineering is Phase I study is almost complete. Public Hearings will be held this fall; the

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environmental assessments have been given to the FHWA and to IDOT and we will see what happens on that one. Phase II of the preliminary engineering – the money has been budgeted for the \$800,000 and it will be awarded after the Phase I is complete. The third Phase of that is final engineering and no money has been budgeted for that. On the funding side, you may recall \$58,000,000 and change was budgeted in the six (6) IDOT budget (it's not in the next four (4) years) which means it is one of those projects that is in the budget but sort of not in the budget. The funding source for that is a little bit iffy right now. In our long range plan this has been the number one priority for a fair number of years and it has been a condition they approved by the feds four (4) years ago.

7. Old Business

Mr. Scholl sought clarification and said on a twenty (20) acre track concept, what is the parameters that people with twenty (20) acres can operate. If you have someone that doesn't take care of the adjacent property, what recourse is open to the property owner that's trying to keep the value of his property up and trying to maintain the esthetics of the neighborhood?

Mr. Pallissard said that was a property maintenance issue. He said they could go out and take a look at it and if we can see some violations, we can site folks for that.

Mr. Olthoff asked if there was a limit as to how many horses can be on so many acres and if they exceed that?

Mr. Pallissard said there are still agricultural statutes in the State of Illinois and if somebody decides they are over the five (5) acres and they want to put up a stable and have 10 to 15 horses in that stable, it is still in agricultural use. Five (5) acres is the number that the State of Illinois takes a look at. If it is agricultural, that's a tough call for us.

Mr. James said as he recalls, the number of horses of one (1) per acre came in to play in the Zoning Department when we were talking about Hobby Farms. They were not in an agricultural production operation.

Mr. Skimerhorn said they do have a section of our Ordinance that tells you how many horses you can have on a piece of property, but there is also a section of the State Statute that says that we cannot limit agriculture in any way, shape, or form and if you had five (5) acres, it does not matter what you are zoned.

8. New Business

None.

9. Adjournment

A motion to adjourn the meeting at 9:55 a.m. was made by Mr. Marcotte and seconded by Mr. James. Motion carried.

Bill Olthoff, Chairman
Chris Richardson, Administrative Assistant

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