

Minutes of the Land Use and Development Committee

The Land Use and Development Committee of the McLean County Board met on September 4, 2003 at 5:30 p.m. in Room 700, Law and Justice Center, 104 W. Front Street, Bloomington, Illinois.

Members Present: Chairman Gordon, Members Ahart, Johnson, Cavallini and Rackauskas

Members Absent: Members Johnson and Segobiano

Other Board Members Present: None

Staff Present: Mr. Terry Lindberg, Assistant County Administrator; Ms. Christine Northcutt, County Administrator's Assistant

Department Heads/
Elected Officials
Present: Mr. Phil Dick, Director, Building and Zoning, Mr. John Hamann, Zoning Officer, Building and Zoning Department; Mr. Jeff Tracy, Project Manager, County Highway Department

Others Present: Ms. Christine Brauer, McLean County Regional Planning Commission; Dr. Bruce Anderson, Mr. Steve Kuerth, Mr. Michael Merna and Ms. Pam Merna

Chairman Gordon called the meeting to order at 5:31 p.m. He stated that the first order of business is the approval of the August 7, 2003 minutes. Hearing no corrections, Chairman Gordon placed the Land Use Committee minutes of August 7, 2003 on file as presented.

Chairman Gordon presented the bills from August 31, 2003 which have been reviewed and recommended for transmittal to the Land Use and Development Committee by the County Auditor.

Motion by Motion by Cavallini/Ahart to recommend approval of the bills as presented by the County Auditor. Motion carried

Chairman Gordon stated that the first item for action requires a public hearing. He called the public hearing to order at 5:34 p.m. It is a request by Mr. Michael Merna and Ms. Pamela Merna to vacate a portion of Center Street between lot 1 in block 2 and lot 7 in block 1 in the Original Town of Merna.

Mr. Phil Dick, Director of Building and Zoning, stated that he had sent the Committee members his staff report and included a plat map of the Original Town of Merna. The area in question is noted on the map. The portion directly south has previously been vacated. Mr. Dick stated that he has forwarded a letter from the Road Commissioner stating that he is in support of vacating this portion of the street. The County Highway Department and the County Health Department are in support of this request as well.

Chairman Gordon called for the applicant, Mr. Michael Merna to speak to the Committee. Mr. Merna presented photographs of the area. He explained that he wishes to do this because he would like to put up a small building and there needs to be a 30 foot set-back from the public street. This requirement would cause the building to be right in front of his house. If the street is vacated, he would not need to have to take the 30 foot set-back.

Chairman Gordon asked if any County staff who have reviewed the proposal that would like to comment. There were none.

Chairman Gordon asked if there were any Committee members who would like to pose questions. Ms. Rackauskas asked if the street was considered County property. Mr. Dick replied that it is a platted street and is not owned by anyone. If it were built, it would be owned by the Township. There were no other questions.

Chairman Gordon asked if there were any other parties present that would like to comment on this case. There were none.

Mr. Dick stated that this public hearing was published in The Pantagraph on August 16, 2003. All property owners within 250 feet were notified on this public hearing.

Chairman Gordon declared the public hearing closed at 5:41 p.m.

Chairman Gordon informed the Committee that the staff recommendation states that this application meets the requirements of the Subdivision Ordinance and supports approval.

Motion by Ahart/Rackauskas to recommend approval to
Vacate a portion of Center Street between Lot 1 in Block
2 and Lot 7 in Block 1, in the Original Town of Merna,
File No. S-03-08. Motion carried.

The next item for business is a request by Mr. Steve Kuerth and Ms. Debra Kuerth for waiver of preliminary plan requirements for a two lot subdivision plat for the SDDK 3 subdivision.

Mr. Dick stated that he has sent Committee members his staff report and a plat map of the property. When this information was sent, out Mr. Dick had not received final approval from the County Health Department. That has subsequently been received. Before this subdivision can be recorded, a plat access certificate needs to be signed by the Illinois Department of Transportation (IDOT). That has not been received, but it is expected soon. Essentially, this proposed subdivision includes a farm house, a farm, some grain processing buildings and a machine shed. The applicant is a farmer. They currently rent the house out, but would like to be able to sell the house and still use the grain processing buildings and machine shed since they farm the area. In order to set aside this type of agricultural facility on a separate tract, you must complete the special use process, which Mr. Kuerth did on September 2, 2003. The County Highway Department has signed off on this and we have a plat access certificate from the Township Road Commissioner.

Ms. Rackauskas asked if Mr. Dick anticipated receiving IDOT's plat access certificate by the September 16th County Board Meeting. Mr. Dick stated that they cannot record the subdivision unless they sign the certificate. It is anticipated that there will not be any problem for them to do so. They may do a design change to the existing entrance, but that is not anticipated. Mr. Dick recommends that the Committee approve this application contingent on the IDOT access certificate being received. Ms. Ahart asked why the Committee should approve the request before IDOT issues its approval. Mr. Dick stated that Mr. Kuerth has a buyer for the house and can sell it as soon as this subdivision is recorded. If the Committee does not approve it this month, then Mr. Kuerth will have to wait until the October County Board meeting for approval.

Motion by Cavallini/Ahart to recommend provisional approval in accord with the recommendations of staff to waive preliminary plan requirements and a two lot final subdivision plat for the SDDK 3 subdivision, File No. S-03-09. Motion carried.

The next item for action is the preliminary subdivision plan by Dr. Frank Koe. Dr. Koe needs to gain approval from both McLean County and the Town of Normal. The Town of Normal has not yet made a decision on this plan. Chairman Gordon stated that it would be awkward for the County to approve this proposal if the Town of Normal has not yet granted approval. Ms. Rackauskas stated that this will be annexed into the Town of Normal so it has to fit into their plan first and foremost. Chairman Gordon stated that Dr. Koe has asked that the County preliminarily approve this and then await the Town of Normal's decision. The Town of Normal will vote on this proposal on September 15th. Ms. Rackauskas stated that she would rather table this item and wait to hear what the Town of Normal decides. Ms. Ahart stated that she does not want to hold up Dr. Koe because he did meet all of the County's requirements. Ms. Rackauskas stated that she would rather not consider this item at a stand up meeting prior to the September 16th Board Meeting. This is an item which deserves more contemplation than what a stand up meeting offers. Chairman Gordon stated that he would also rather continue this until the October meeting.

Motion by Rackauskas/Ahart to continue the item "*Request Approval of a preliminary subdivision plan for 355 lots in the Franklin Heights Subdivision – File S-03-02*" to the **October 2, 2003** Land Use Committee meeting. Motion carried.

The next item is a continued discussion of the Sharf gravel pit. Mr. Dick stated that he was not completely successful in obtaining a schedule from the Scharf's as to when all of the requested work would be completed. Mr. Dick stated that he has met with Mr. Brian Hug, Assistant State's Attorney on a couple of occasions in this regard. Mr. Hug has been in touch with Mr. Frank Miles, the Scharf's attorney. Mr. Dick stated that he has spoken to Mr. Don Adams of the Farnsworth Group on two occasions. The most recent conversation took place on September 2nd. Mr. Adams informed Mr. Dick that the Farnsworth Group had finished doing the topography and mapping of the site. The TSC company will be doing the boring to determine the stabilization of the banks. They had not been able to get to the boring before the large rainfall and will now have to wait due to the instability of the bank. Mr. Hug does not have a schedule of events as to when the gravel pit will be in compliance. Ms. Rackauskas asked why that has not been received yet. Mr. Dick replied that they do not know yet when they will be able to complete the boring and get the gravel pit into compliance. Ms. Ahart asked if a guard rail or barricade has been placed between the road and the lake to protect the people on the road. Mr. Jeff Tracy, County Highway Department, stated that he drove by there the other day and the Scharf's have done a little bit of work on the berm to shore it up. Ms. Rackauskas stated that the berm was supposed to be in place before they ever began drilling. She stated that she would like a reason why the Committee has not received a timeline of events. Mr. Tracy stated that everything hinges on the test borings that TSC will perform. Until they know the soil composition, they will not be able to design a plan.

Ms. Ahart asked why the County is not doing anything. Mr. Tracy stated that he spoke with the Scharf's and they did build up the berm a bit. Ms. Rackauskas asked what other alternative does the Committee have to push these people. Mr. Tracy stated that you can ask them to shore up the berm, but that is about it. Ms. Rackauskas stated that she would like to demand precise dates in which the boring will take place. Ms. Ahart stated that this needs to be done before bad weather approaches and someone is injured. Ms. Rackauskas stated that the Committee needs to ask legal counsel to take whatever steps are necessary to shut the Scharf's operation down, because nothing has been done to meet the conditions that the Committee has requested. Mr. Dick replied that something has been done. Mr. Scharf has contracted with two engineering firms and an attorney to deal with this situation. Ms. Rackauskas stated that she doesn't want to hear that he has talked to someone. She wants to see a plan in writing. Chairman Gordon stated that he would like to note that the enforcement capacities of every level of government are being affected by fiscal constraints. Even if we have the enforcement capacity, this would not be the only issue they are dealing with.

Ms. Rackauskas stated that Mr. Scharf made an agreement with the County stating that he would take care of this situation and he needs to show proof that he is complying. Chairman Gordon stated that the Committee needs to consult with the County legal staff to gain their view of where things stand. Ms. Ahart stated that the safety of this road is her main concern. Ms. Rackauskas stated that the lack of manpower is not an excuse because the County granted permission to these people to mine in the first place, so we must monitor this situation. Chairman Gordon stated that he is not trying to offer excuses for this situation, just trying to point out unfortunate realities. Ms. Rackauskas stated that she would like to hear from the County's attorney. Mr. Dick stated that he requested that Mr. Brian Hug attend this meeting this month and last and he was unavailable. Chairman Gordon asked Mr. Dick if he could make it clear to Mr. Hug that it is very important that he be in attendance at the next Land Use Meeting. Mr. Cavallini asked if a guard rail or barrels could be put into place so as to promote safety. Mr. Tracy stated that can be done, but there is an expense involved. Mr. Cavallini asked Mr. Tracy if he could get some cost estimates for a couple of different options and report them to the Committee. Mr. Tracy replied that he could have them in a couple of days. Ms. Rackauskas asked if the Scharf's could be asked to pay for a guard rail or barrels. Mr. Dick stated that he will ask Mr. Hug to come to the next meeting and he can answer specific questions. Mr. Dick also asked if Mr. Tracy would bring estimates to the next meeting. He replied that he could have them within a couple of days and that he will give them to Mr. Dick. Chairman Gordon suggested that Ms. Sally Rudolph, Chair of the Zoning Board of Appeals be invited to the next meeting as well. The Committee agreed.

Mr. Tracy stated that as the Township Road Commissioner, he would be glad to meet with any member of the Committee at the site for further explanation if they wish. Ms. Ahart stated that she would like to meet him there. Chairman Gordon said he would not be available to meet with them but, would like to hear from Ms. Ahart regarding the situation. Chairman Gordon stated that the conversation will be continued at the next Land Use Meeting.

Chairman Gordon informed the Committee that nearly a year ago, the County Board endorsed our participating in the formation of a Resource Conservation and Development area sponsored by and run by the U.S. Department of Agriculture (USDA). Chairman Gordon stated that Mr. Dick had suggested that copies of the application draft be passed out to the Committee for review. This application will go through the Natural Resources Conservation Service and then be reviewed by a team of federal civil servants and agencies. The USDA, Environmental Protection Agency and other agencies are involved.

This application is one of several being submitted by hopeful RC and D's in Illinois. Last year 28 applications were submitted nationwide, of which no more than six or seven were approved. One that was approved was from the Post Oak Flats, Illinois RC and D. It was an application that was pending for 13 years. Chairman Gordon states that he remains hopeful.

Chairman Gordon asked if there were any other business or communications. Ms. Rackauskas informed the Committee that the seminar which she attended in Rockford with Ms. Sally Rudolph, Ms. Christine Brauer and Mr. John Hamann was very informative.

Mr. Terry Lindberg, Assistant County Administrator, informed the Committee that they should consider scheduling a Stand-up Committee meeting to take care of a perfunctory matter. In 2001, the County received an Illinois Tomorrow Grant to develop a Countywide land use development guide. It was decided that Regional Planning would be the entity to handle that task. The County would be the recipient of the money and it would be paid to Regional Planning for services performed. This did not get completed in 2002. At the Stand-up meeting, the Committee would be asked to approve a budget amendment to appropriate the balance available in order to pay a bill submitted by Regional Planning for work performed. This was not placed on the agenda so it cannot be done this evening. Chairman Gordon asked Mr. Lindberg if he would amend the Emergency Appropriation to have the County Board date rather than the Committee meeting's date. Mr. Lindberg stated that he would make the necessary change.

There being no further business to come before the Committee, Chairman Gordon adjourned the meeting at 6:59 p.m.

Respectfully submitted,

Christine Northcutt
Recording Secretary