

Minutes of the Land Use and Development Committee

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

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

Members Absent: Members Segobiano and Rackauskas

Staff Present: Mr. John Zeunik, County Administrator; Ms. Christine Northcutt, County Administrator's Assistant

Department Heads/
Elected Officials
Present:

Mr. Phil Dick, Director, Building and Zoning;
Mr. Michael Behary, County Planner; Mr. Jeff Tracy,
County Highway Department

Others Present: Ms. Christine Brauer, McLean County Regional Planning Commission, Dr. Frank Koe, Ms. Peggy Kaufman and Mr. Dallas Kaufman, Mr. Dan Flansch and Ms. Janelle Flansch, Mr. Todd Reinhardt

Chairman Gordon called the meeting to order at 5:33 p.m. Chairman Gordon placed the Land Use Committee minutes of April 3, 2003 on file as presented.

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

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

Chairman Gordon informed the Committee that the first item for business requires a public hearing. It is a request from Dr. Frank Koe for approval of a preliminary subdivision plan for 355 lots in the Franklin Heights Subdivision. Chairman Gordon called the public hearing to order as of 5:36 p.m. Chairman Gordon asked Mr. Phil Dick, Director of Building and Zoning to present the application and exhibits.

Mr. Dick stated that the property in question is located at the northwest corner of Ft. Jesse Road and Towanda-Barnes Road. It has been rezoned by the Zoning Board of Appeals. The portion of the subdivision that is being looked at today is the portion that is for single-family dwellings and townhouses. It also includes a planned development that allows for lots smaller in size and also offers different types of housing not typically offered in this community. It is unique because it will have public water and sewer. Because it is unique, the County staff and the Town of Normal staff have been involved in the planning. It has to be a joint effort since it is not contiguous to the Town of Normal. The plan has been that the County and the Town of Normal would jointly approve the plans for the subdivision. Mr. Jeff Tracy from the County Highway Department has been working with Dr. Koe. There is a public hearing at the Town of Normal this evening to discuss this project. The subdivision has around 80 alley lots. It has some regular single-family dwellings and it has some town-homes. The plan is not complete as far as the County staff is concerned. There are some modifications that need to be made. The staff recommends that if the applicant can get amended plans that show all of the necessary improvements to the Building and Zoning Department by June 12th, the plans can be reviewed at that time. A stand-up meeting would be necessary to approve or deny the plans at that time.

Mr. Tracy added that he has presented his recommendations to the Committee in the agenda packets. He noted that if he received the revised plans by June 12, he would put them at the top of his agenda. Chairman Gordon introduced Dr. Frank Koe to make his presentation.

Dr. Koe stated that he has worked on this plan with the Town of Normal for the last five years. Anytime there have been recommended modifications, he worked to address these requests. The Town of Normal approved this plan in October 2001 and it has been since been revised. Mr. Paul Russell, Executive Director, McLean County Regional Planning Commission stated that this particular plan is better than the previous version and is a good solid plan.

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Dr. Koe stated that he wants to meet the needs of the Town of Normal and the County. He wants something that both the County and the Town of Normal will be proud of. The recommendations that Mr. Tracy has given to him on were presented on May 30th. Therefore, Dr. Koe informed the Committee that he has not had a lot of time to work on these issues. He did try to do as much as possible. The streets with a scheduled 50' right of way have been changed to reflect a 60' right of way. Many of the other issues in Mr. Tracy's recommendations are not required by the Town of Normal. Dr. Koe informed the Committee that he has already fulfilled all of the Town of Normal's requirements. He stated that he will work to fulfill the County's requests as well. Some of the information that is required is readily available from his engineering firm. All they have to do is to print the information out from a disk. They have been given a copy of the requirements. If it is not done right now, it will be done sooner or later. As for the sewer and water, when the license is applied for through the Environmental Protection Agency (EPA) many of these concerns will be taken care of at that time. Dr. Koe advised the Committee he will not proceed with the sewer project until all requirements are met. He feels that the object of this meeting should not be to approve his sewer plan, but to approve the plan that he has presented. He has the option to put in a tertiary treatment sanitary system but, he would rather have a public sewer system. The lots are more desirable with city sewer and water. He requests that the Committee passes the current plan tonight contingent on the fact that he will work to change the items that Mr. Tracy has listed.

Chairman Gordon asked if there were any additional comments from County staff. Mr. Dick stated that the procedure to establish subdivisions in the County only requires County Board approval at this stage. The final plats and construction plans are approved administratively. If Dr. Koe has met the required changes by June 12th it should be approved. If it is not satisfactory at that time, it should be continued to the next Committee meeting, which is tentatively scheduled for July 10th.

Chairman Gordon asked if there were any questions from the Committee Members. Ms. Ahart asked how many lots were to be townhomes. Dr. Koe showed Ms. Ahart, on the map, where the townhomes were located. There are small and larger townhomes available. The subdivision also has three lakes and is designed to be pedestrian friendly.

Mr. Cavallini asked how many acres are the lakes. Dr. Koe replied that the smallest is around three acres. The others two are four acres and six acres.

Mr. Cavallini asked how the sewers could be attached to the Town of Normal. Dr. Koe responded that the sewer attaches to the Town of Normal easement. It is then dedicated to the Town of Normal and is maintained by them, even though it is not contiguous to the Town. The County has no responsibility in the sewer.

Ms. Johnson asked Dr. Koe if he was prepared to make modifications to his plan, as per Mr. Tracy's request, in regards to the items that are not related to the sewer. For example, #2 in the recommendation states streets onto Ft. Jesse and Towanda-Barnes should be designed to reflect the proposed widening of both roads. Dr. Koe responded that those roads are either already widened or proposed by his engineer to be widened. Ms. Johnson asked if these plans would be completed by June 12th. Dr. Koe replied that he has instructed his engineer to look at the list and try to make the modifications. The one item that his engineer cannot satisfy is the #8 in relation to the sewer. When Dr. Koe applies for his license from the EPA, all of the requested information available at that time.

Chairman Gordon asked if the area south of the proposed Franklin Heights subdivision was to be developed commercially. Mr. Dick replied that area is totally separate from the proposed subdivision. Chairman Gordon then asked what are the chances of Dr. Koe having all of the modifications made by June 12th so the Committee can make a recommendation from the revised plans. Dr. Koe stated that some items have already been addressed. Some of the information required is readily available. Some of the other information (like #8) will take some time. Mr. Dick suggested that perhaps the plans could be made available the morning of the County Board Meeting in the Building and Zoning Department so the Committee members could review the plans more fully before making a decision. Chairman Gordon asked if the Committee could just schedule the stand-up meeting in the Building and Zoning Office. Mr. Zeunik said that would be fine. It would be termed a "Special Committee Meeting". Chairman Gordon asked the Committee Members if that was okay with them. The Committee agreed. Dr. Koe stated that he was hoping that the Committee will conditionally approve the plan contingent to the improvements being made.

Chairman Gordon asked if anyone had any other comments. Hearing none, he closed the Public Hearing at 6:03 p.m.

Chairman Gordon asked how the Committee would like to proceed on this issue. Mr. Cavallini asked what Mr. Tracy's opinion was on the proposal. Mr. Tracy replied that he will not recommend approval to the Committee unless and until everything on his list of recommendations is addressed.

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Chairman Gordon stated that while some plans are approved contingent to improvements being made, normally it is most appropriate when there are only a few loose ends. This particular situation has more loose ends than what is customary. The Committee will review the plan at the Special Committee Meeting on June 17th.

Mr. Dick asked if the plan is not satisfactory at the June 17th meeting, can this issue be continued until the next scheduled meeting of the Land Use and Development Committee. If the Committee meets on July 10th rather than July 3rd, it will not present a problem. Chairman Gordon suggested it may be best to discuss next month's meeting time.

Motion by Cavallini/Johnson to move the July
Land Use and Development Committee Meeting
To July 10, 2003 from July 3, 2003. Motion carried.

Chairman Gordon stated that if this issue needs to be revisited after the Special Committee meeting on June 17th there will be time to have a Public Hearing published. Mr. Zeunik suggested that it may be an option to recess tonight's meeting until 8:15 a.m. on June 17th. Chairman Gordon and the Committee agreed that this option was the best way to resolve this situation. Chairman Gordon thanked Dr. Koe. There were no further questions for him at this time.

Chairman Gordon informed the Committee that the next item for action is a request by Mr. Dallas Kaufman and Mrs. Peggy Kaufman to waive the \$550 Special Use Permit fee. Mr. Phil Dick stated that a copy of the letter that the Kaufman's received upon being approved for the Special Use permit was in the Committee's packet. It clearly states that the permit expires one year from the date that the County Board approves it. The Kaufman's did not realize this so when they returned more than a year later, the Building and Zoning Department did not have authority to approve the building permit and the issue had to be taken back to the Zoning Board of Appeals. This is not completely unique. This is the fourth time this year that someone's permit has expired. The Kaufman's have paid an additional \$550 for a second permit. The Committee will be deciding whether to refund any of the second fee. Ms. Ahart asked if the Committee has ever waived a fee in the past. Mr. Dick replied there have been fees waived in other special situations. There has never been a Special Use Permit fee waived for a permit that has expired. Ms. Ahart asked if there was any criteria to take into consideration. Mr. Dick replied that the Department has no authority to waive fees, it must be a Committee decision to recommend to the County Board.

Ms. Kaufman stated that she and her husband spoke to the Assistant State's Attorney and he suggested that they take this to the Land Use and Development Committee. When they came in to get their permit, they were informed that it had expired. Construction was to begin the next day. Ms. Kaufman informed the Committee that they are not aware that they ever received the confirmation letter which states that the permit expires in one year. She stated that they did receive the *Findings of Fact*. She stated that they were never made aware that the permit was only good for a year. Applicants are not informed during the Zoning Board of Appeals meeting of the one-year time frame. She asked Mr. Dick if the Building and Zoning Department ever informs applicants that there is a one year time restriction. Mr. Dick replied that fact is mentioned during the application process. Mr. Cavallini asked if there was a reference to the time restriction on the application. Mr. Dick replied that it is not on the application. The Building and Zoning Department helps applicants fill out the application and usually tells them at that time that the permit expires in one year. Mr. Dick stated that the confirmation letter is buff in color and it is the only piece of paper that tells applicants that their permit has been approved. It is copied and the copy is put in the individual's file. The Findings of Fact that is sent with the confirmation letter does not state that the permit has been approved. Chairman Gordon asked if it conceivable that the confirmation letter was missed. Mr. Dick replied that the buff colored, original letter would be in the file or somewhere. There was a copy in the file, which indicates that the original was sent out. Ms. Johnson asked if there was any other communication from the Building and Zoning Department which states that the permit is approved and or that it is only good for one year. Mr. Dick stated that other the bill for the notice, there is nothing else sent. Ms. Johnson asked if they did not get that then how would they know if there application was approved. Mr. Dick stated that is typically discussed during the application process. The Building and Zoning Department usually asks applicants when they are planning on building their home, because the permit is only good for one year.

Chairman Gordon stated that the Kaufman's circumstances are highly irregular and there is no precedence to go on. They had many other things to deal with at the time with their child's illness. Mr. Cavallini stated that there is probably room for improvement in the way that the Building and Zoning Department handles the application process. There is also the possibility of misplacing a document. He suggested that a compromise is probably in order.

Motion by Cavallini/Ahart to recommend a refund
Equal to one-half of the Special Use Permit fee to
Mr. Dallas and Mrs. Peggy Kaufman.

Chairman Gordon asked if there was any other discussion on the motion. Ms. Johnson stated that she is comfortable with the motion as is because it is the result of both parties taking responsibility. The County could have been more vigilant in letting the Kaufman's know that it is only a one year permit. The Kaufman's admit that they could have misplaced the letter which states that it is a one year permit.

Motion carried.

Chairman Gordon thanked the Kaufman's for their time. Mr. Cavallini stated that this situation has brought up an interesting point. Mr. Cavallini asked if there needs to be changes in the policy regarding notification of the one-year limit on permits. Mr. Dick replied that the Building and Zoning Department makes every attempt to let applicants know that there is a one-year stipulation on the permit. It can be listed on the application, but applicants do not usually take the application home or look at it for a long period of time, as it is filled out with the assistance of the Building and Zoning Department. There is a cover sheet that it could be listed on. Applicants could even sign the sheet so that it is verified that they have received the information. Mr. Dick pointed out that this problem is not common. Mr. Cavallini expressed that he would like to see applicants receive another piece of paper confirming the time limit. The Committee agreed. Mr. Dick stated that he would definitely do so.

The next item is a request by Mr. Dan Flanscha and Ms. Janelle Flanscha for a waiver of preliminary plan requirements and approval of a subdivision for the Flanscha subdivision. Mr. Dick stated that the Flanscha's own lot one and lot two in this subdivision. Because they may want to sell them at some time, they must be treated as separate parcels. This subdivision is required because there is an easement of access that is allowed to lot two. Once this is recorded, it gives lot two a right of access across this easement. A Special Use was approved on lot two by the County Board, contingent upon building a bridge or having this waiver request approved. Chairman Gordon stated that the staff recommendation is in support of the waiver of preliminary plan requirements and approval of the subdivision.

Motion by Cavallini/Ahart to Recommend Approval of
a Waiver of Preliminary Plan Requirements and a Two
Lot Final Subdivision plat for the Flanscha Subdivision.
Motion carried.

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The last item for action is a request by Mr. Todd Reinhardt to vacate a utility easement on the southwesterly five feet of Lot 9 and the northeasterly five feet of Lot 10 of the Don Owen Commercial Subdivision. This item requires a public hearing. Chairman Gordon called the public hearing to order at 6:45 p.m. Mr. Dick stated that the public hearing is required because when this subdivision was approved, it was approved through a public hearing process. Mr. Tracy at the County Highway Department and the Health Department have no problem vacating these easements. Typically, we like to see more easements, but, in this case the applicant wants to build structures across it, and it is appropriate. Chairman Gordon asked Mr. Reinhardt if he had any comments. Mr. Reinhardt stated when Mr. Don Smith had the subdivision designed that easement was not supposed to be in the plat across lots 9 and 10. Farnsworth & Wiley put it there by accident. There will be a building on the north side by Carver's restaurant. The building will be approximately 183 feet long so it will cross the easement. That is why the easement needs to be vacated. There were no comments or questions. Chairman Gordon declared the public hearing closed at 6:47 p.m.

Motion by Johnson/Ahart to recommend approval to vacate a utility easement on the southwesterly five feet of Lot 9 and the northeasterly five feet of Lot 10 of the Don Owen Commercial Subdivision. Motion carried.

Chairman Gordon stated that the item for information dealing with July's meeting date and time has been previously taken care of by the Committee. The next item is the Committee field trip. He asked if there was a particular day and or time that was good for the members of the Committee. Mr. Dick stated that the Committee can use a ShowBus on most Tuesdays or Thursday, June 26th the bus is also available. Ms. Ahart stated that she cannot take off any other days from work. She could take a Saturday or evening trip – after 4:00 p.m. Ms. Johnson stated that she has many evening commitments and she would have to know specifically what day so she could check her schedule. Tuesday, June 17, Tuesday, June 24 or Thursday, June 26 are the tentative dates that the Committee agreed to check. The Committee agreed to e-mail Mr. Dick with their preferences and he would get back with them with a specific date.

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The next item is the April and May permit activity report. The April report shows there were the same number of permits for dwellings as last year. The permit fees were up slightly because there were more zoning cases. Because of Dr. Koe's subdivision plat, the subdivision fees were up rather substantially. May's permit report shows an increase in permits.

The Building and Zoning Office is very busy. The office lost Enforcement Officer, Alan Otto and has replaced him with another retired former Fire Chief, Mr. John Hammond. The office is very pleased with him. The office also currently has an intern. There were no questions for Mr. Dick.

There being nothing further to come before the Committee at this time, Chairman Gordon recessed the meeting at 7:05 p.m.

Respectfully submitted,

Christine Northcutt
Recording Secretary