

**MINUTES**  
**WILL COUNTY LAND USE AND DEVELOPMENT COMMITTEE**  
**April 14, 2009**

**Pledge of Allegiance**

Chairman Weigel led the pledge of allegiance.

**Call to Order:**

Chairman Weigel called the meeting to order at 10:30 a.m.

**Members Present at Roll Call:**

Tom Weigel, Debbie Rozak, Katrina Deutsche, Michael Wisniewski, and Sharon May.

**Members Absent:**

Kathleen Konicki

Chairman Weigel mentioned the passing of Board Member Dave Evans and expressed condolences to Mr. Evans' family.

**Staff Present:**

Brian Radner, Curt Paddock, Eileen Franz, Michael Smetana, Karl Palmquist, Anita Wesse, Howard Hamilton and Leigh Kelley.

**State's Attorney Present:**

Melanie Manning

**Others Present:**

See sign in sheet.

**Approval of Minutes:**

Michael Wisniewski made a motion to approve the minutes from Marcy 24, 2009; seconded by Debbie Rozak.

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**PRELIMINARY PLATS AND PLANNED UNIT DEVELOPMENTS (PUD)**

**FINAL PLATS**

**TABLED ZONING CASES**

**REMANDED ZONING CASES**

**NEW BUSINESS (ZONING CASES)**

**5754-V3 Lincolnway Comm. Dist. #210**

Chairman Weigel asked Mr. Smetana to open Case 5754-V3.

Mr. Smetana gave an overview. The applicant is requesting a Variance to eliminate parking bumpers, a Variance to eliminate 5' pedestrian access strip when more than 12 contiguous parking spaces are provided.

Staff is recommending approval of all three requests.

Hearing no further discussion, Chairman Weigel called for a motion.

**Michael Wisniewski made a motion to approve a Variance to eliminate parking bumpers (12.1-5-6); seconded by Sharon May.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**Debbie Rozak made a motion to approve a Variance to eliminate 5' pedestrian access strip when more than 12 contiguous parking spaces are provided (12.1-5-12); seconded by Michael Wisniewski.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**5755-V5 Lincolnway Comm. Dist. #210**

Chairman Weigel asked Mr. Smetana to open Case 5755-V5.

Mr. Smetana gave an overview. The applicant is requesting a Variance to eliminate off-street parking screening requirement, a Variance for width and length of off-street parking spaces, a Variance to eliminate parking bumpers and a Variance to eliminate 5' pedestrian access strip when more than 12 contiguous parking spaces are provided.

Staff is recommending approval of all four requests.

Hearing no further discussion Chairman Weigel called for a motion.

**Michael Wisniewski made a motion to approve a Variance to eliminate off-street parking screening requirement (12.1-5-4); seconded by Katrina Deutsche.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**Michael Wisniewski made a motion to approve a Variance for width and length of off-street parking spaces (12.1-5-9); seconded by Katrina Deutsche.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**Michael Wisniewski made a motion to approve a Variance to eliminate parking bumpers (12.1-5-6); seconded by Katrina Deutsche.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**Michael Wisniewski made a motion to approve a Variance to eliminate 5' pedestrian access strip when more than 12 contiguous parking spaces are provided (12.1-5-12); seconded by Debbie Rozak.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**5818-S Pina**

Chairman Weigel asked Karl Palmquist to open Case 5818-S.

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Mr. Palmquist gave a brief overview. The applicant is requesting a Special Use Permit for floodplain development (Parcel A) to allow excavation of two (2) shallow areas for water fowl.

Staff is recommending approval of a Special Use Permit for floodplain development (Parcel A).

Hearing no further discussion Chairman Weigel called for a motion.

**Sharon May made a motion to approve a Special Use Permit for floodplain development (Parcel A); seconded by Michael Wisniewski.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**5819-M Condich**

Chairman Weigel asked Mr. Smetana to open Case 5819-M.

Mr. Smetana gave a brief overview. The applicant is requesting a Map Amendment from A-1 to E-1. There were no objectors for this case.

Staff is recommending approval of a Map Amendment from A-1 to E-1.

**Michael Wisniewski made a motion to approve a Map Amendment from A-1 to E-1; seconded by Sharon May.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**5821-MV3 Moore**

Chairman Weigel asked Mr. Palmquist to open Case 5821-M.

Mr. Palmquist gave a brief overview. The applicant is requesting a Map Amendment from A-1 to R-3.

Staff is recommending approval of a Map Amendment from A-1 to R-3.

There were no objectors.

Hearing no further discussion Chairman Weigel called for a motion.

**Sharon May made a motion to approve a Map Amendment from A-1 to R-3; seconded by Debbie Rozak.**  
**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**PREAUTHORIZATION TO FORECLOSE**

**OTHER BUSINESS**

1. **Approval of draft text public hearing – Subdivision Ordinance Part 3, Article 32-05 , Ownership and Management of Open Space; Article 32-06, Legal Instrument for Permanent Protection; Article 32-07, Declaration of Consent for Maintenance Special Service Area; and additions to Part 6, Article 60, Definitions**

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Mr. Lazzara gave an overview of this topic. Section 32-05-A the word shall was changed to may.

Section 32-05-D- breaks down what allows us to create an SSA. The County has established and drafted and supported resolutions to not allow up front SSA's. This is a backup SSA in the event a maintenance program for natural areas that are part of the conservation design element fail. It is a backup SSA and only functions as an insurance policy.

32-05-E – This is specifically what is required to make the SSA valid and includes such things as a management plan, which allows for the County to review a budget to make sure things will be paid for in the event of upcoming maintenance, it also allows the County to have a procedure for conducting inspections. This is very important to ensure that improvements that are platted make it onto the property and are done in good faith.

The County will likely work with the Will South Cook Soil and Water Conservation District in seeking assistance in determining what are good management practices. We have a long- standing relationship with them and look forward to having their help.

32-06 – This is essentially the provision that allows for land to be conveyed into a trust or to be put into an easement for perpetuity.

Mr. Lazzara added all of the language before the LUDC today has been discussed with our consultant and reviewed by our State's Attorney's Office.

32-07-This is the declaration that does allow for the conservation areas to actually be platted and it is a requirement that would be put forward with the Recorder of Deeds.

Article 60 – This is the definition section. Mr. Lazzara explained that this was reviewed by our consultant and our State's Attorney's Office.

Mr. Lazzara reminded everyone that we had our consultant on-board two meetings ago and there was suggested language that went for review before our State's Attorney's Office, came back before this Committee for their approval, the language was crafted and is before you today and staff is looking for support in order to go forward to a public hearing with the entire conservation design portion of the Ordinance on April 28<sup>th</sup>, 2009 at 7p.m. in the lower level auditorium.

Mr. Lazzara stated staff is looking for support from the LUDC.

Mrs. Rozak asked if there had been any discussion with the Treasurer's Office and Mr. Paddock answered that the type of special service area being contemplated in this document would be an ad velorum type of special service area (meaning that it relates to a calculation, a property tax). The Treasurer's Office informed Mr. Paddock that this type of special service area does not impose an administrative burden. Other forms of SSAs can impose a degree of administrative burden.

The County Board passed an ordinance 07-477 that established a policy to cease entertaining requests for other local entities to act as their designated officer in the extension and collection of non- ad velorum special service areas. This was effective December 1, 2007. The method before the LUDC today is an ad velorum property tax form of maintenance SSA.

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Mrs. Rozak asked if the Treasurer's office would collect the money and put it in a special account and Mr. Paddock answered yes.

Mr. Kevin Hynes (Southwest Suburban Homeowners) approached and stated that he raised a question two meetings back about whether this proposal is intended to require the developer and ultimately the homeowners association to grant public access to the open space. He did not think that question had been answered yet, it has prevented the building community from making comments on the proposed SSA language because they do not know what the requirement will be.

Chairman Weigel stated the public would be allowed to use trails in subdivisions just like sidewalks.

Mr. Paddock stated Mrs. Manning had looked into this question and can give some insight.

Mrs. Manning asked Mr. Hynes to finish his question and he then asked if we are going to require homeowners to open up their property to anyone that wants to come in?

Mr. Lazzara answered that certain trails would be public and certain ones would be private. If they are somehow a segment of a regional trail system we would like to see them deemed as public. What will determine whether they are public or private is what they are designated on the plat. What is marked on the plat is what it will be. If a trail only serves an internal subdivision it would be private but if it is a segment that connects staff would like to see it as public.

Mr. Lazzara stated that he knows there will be a concern about the liability incurred if a homeowners association has a trail that is public in their holdings.

Mr. Hynes stated their concerns are much more than the liability if someone gets hurt, there is the added expense for maintenance using a trail system. If it is only a trail system we need to be clear that it is only trail systems that we want to open to the public and it is part of the plat. There are other features in open space that you would encourage to be open to the public we need to be clear about that as well. Mr. Hynes stated if I have a trail system in my development that is open to the public the maintenance costs are much higher than if it is only available to the residents in the development. Repairing a trail and its upkeep is much higher if you have greater use. The homeowner is now going to have to incur the cost of maintaining the trails for anyone that wants to use them. He does not think that is a responsibility most homeowners would want to take on. This would make it a lot more difficult to sell the house. You have the maintenance costs and the liability issue, he thinks this is potentially opening up a can of worms.

Mrs. May asked if it is a trail that is open to the public trail wouldn't an entity like the Forest Preserve be responsible for the maintenance of it and Mr. Lazzara answered that staff would love to have a homeowners association dedicated over to an entity but the problem is twofold. One we have to make sure the homeowners association wants to do it and two we have to have an accepting entity in place. There is a series of agencies that could assume ownership, a forest preserve, a township, a park district, a quasi independent non-for-profit conservation organization but the previously mentioned things would have to occur, the homeowners association would have to be in agreement to dedicate it over or let them assume maintenance or easement control of it and there would have to be an agency in place. This would be the perfect situation.

Mr. Hynes added that before the homeowner's association gets the property 80% of the homes have to be sold before the developer can turn it over. If a developer comes in after this ordinance is passed and wants to do a

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conservation design subdivision they will be holding this property for a long time and that includes the trails. You are then asking the developer to take on that responsibility and liability.

Chairman Weigel stated the developer could also transfer ownership to a park district or conservation group and Mr. Hynes stated if the park district wanted to take that on it would be great but what if the situation occurs where they cannot get anybody to take it over, the developer is then stuck with it.

Chairman Weigel stated it is up to the developer as to what he wants to do with his property and Mr. Hynes asked what if they cannot find somebody to take it over. You are asking a conservation organization to take a piece of property and accept responsibility for public liability. Those deals are not always in the best interest of the developer either. The intent needs to be spelled out in this document so the public knows what they are dealing with so that when this goes to public hearing the building community can make appropriate comments. He doesn't think that they have enough information to provide staff with any response to this portion of the document.

Mrs. May asked if a developer would be forced to put in a trail, what if there was no trail and Mr. Hynes stated that what he has heard for the last year is that we want trails and for the public to have access to it. If we don't want trails then put that language in. Mr. Hynes stated staff wants the developers to put in trails so the people of Will County even outside of this development can use that trail and the developer and/or homeowners association would have to take on the responsibility for public liability.

Mr. Lazzara explained that staff is hoping the developer would use the trail as a sales amenity and the developer will also incur a potential density bonus for including that trail.

Mr. Hynes stated you are giving a small density bonus but then asking the developer to take on an unknown and indefinite liability.

Mr. Paddock suggested that Mr. Hynes provide the specific language that he would like to see inserted so staff could address their concerns. The topic before the LUDC today is whether they approve the language that addresses the general set of concerns that have been discussed for three years so that it can go to public hearing. The comments that have been heard today could be observed and following public hearing staff would be doing considerable additional re-drafting of the proposed ordinance to address the concerns that were heard in the public hearing.

Chairman Weigel asked if staff had any additional language that would address Mr. Hynes' concerns and Mr. Paddock suggested Mr. Hynes have an attorney provide specific draft language that would address his concerns and staff would have our State's Attorney review it and following the public hearing would include this language in the whole series of things that would be before the Committee for the LUDC to consider including. Mr. Hynes would also have an opportunity at the public hearing to argue for the inclusion of his proposed language.

Mr. Hynes stated he wants to know what is the intent of this Committee of this proposal, the LUDC needs to answer that question then the building community can provide language. Is the answer that if a homeowners association has trails the County wants it open to the public and Chairman Weigel explained that if it is on the plat and part of a regional trail it would be open to the public and if it is a private development and they don't want people on it, it is up to the developer.

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Mrs. Rozak asked Mrs. Manning to address Mr. Hyne's concerns about the public liability and Mrs. Manning explained if the homeowners association owns it and opens it up to the public and the homeowners association is maintaining it the liability would be with the homeowners association. She does not see any liability to the County but we could request that the County be an additional insured on the insurance policy.

Mr. Hynes asked if Mrs. Manning had contemplated the idea that many of the statutes she enforces would place liability on the homeowners or is she only looking at it from an insurance perspective and Mrs. Manning answered that she is looking at this from the County's perspective.

Mr. Hynes stated there are a number of statutes that the State's Attorney and Attorney General enforces that would put strict liability on a homeowners association if they are required to open up open space to the public.

Mr. Hynes stated he would write a brief and Chairman Weigel stated he would appreciate him coming forward with some language.

Mr. Hynes stated that what he would be bringing forward would essentially say homeowners associations are not required to open the open space to the public at large.

Mrs. Rozak asked if it says that we are required and Mr. Paddock answered that Mr. Hynes is suggesting that by not having explicit language one way or the other that the ordinance is written in his view as unnecessary and confusing ambiguity, which he would like to see clarified by the addition of language that would specify that either it would be or wouldn't one way or the other. If he provides language it would be presented to the Committee as we go through that re-drafting process following the public hearing.

**Debbie Rozak made a motion to approve part 3, Articles 32-05, 32-06, 32-07 and additions to Part 6, Article 60 Definitions in the working draft dated April 7, 2009 as the hearing draft text for those sections of the Will County Subdivision Ordinance to approve as amended; seconded by Katrina Deutsche.**

**ALL IN FAVOR**

**MOTION CARRIED (4-0)**

Mr. Lazzara advised the Committee that the public hearing would be held on Tuesday, April 28<sup>th</sup> at 7:00 p.m. in the lower level auditorium and thanked the sub-committee and Chairman for keeping this on schedule.

**2. John B. Salisbury House Landmark Nomination – New Lenox**

Ms. Munro gave an overview of this request. This house is located in the Village of New Lenox and required staff to obtain a resolution from the Village of New Lenox authorizing the County to designate the property.

The applicants are also the property owners and are in full support of this landmark nomination. This house was nominated due to its local, historical and architectural significance.

Staff is recommending approval of this landmark designation.

**Sharon May made a motion to approve recommendation for landmark status to the John B. Salisbury House; seconded by Debbie Rozak.**

**ALL IN FAVOR**

**MOTION CARRIED (4-0)**

**3. Resolution Authorizing the County Executive to Award Bid to Wiss, Janney, Elstner Associates**

Ms. Munro gave an overview of this topic. It is a follow up to a grant agreement approved by the County Board in January. It is a federal grant through the Preserve America Program.

**Debbie Rozak made a motion to approve a resolution authorizing the County Executive to award Bid to Wiss, Janney, Elstner Associates, Inc. for 2009-56 Historic Survey consultant contract for Wilmington and Jackson Townships; seconded by Sharon May.**

**ALL IN FAVOR**

**MOTION CARRIED (4-0)**

**4. Zoning Ordinance Text Amendment – Sec. 8.22- Home Occupations**

Mrs. Franz reviewed the proposed changes: 1. The list of permitted uses had been removed due to the fact that it would be difficult to be completely inclusive of any use that would be appropriate as a home occupation. Provided that a use meets the other criteria set forth in Section 8.22, it will be permitted as a home occupation. 2. Retail sales have been included as an accessory use to permitted home occupations. 3. The sentence prohibiting the storage of hazardous substances has been removed to accommodate firearms dealers. Additionally, item 16 is no longer stricken and will be included in the Home Occupation text. It also is listed as a permitted special use permit in the residential districts. 4. Applicants will appeal a use that is considered prohibited to the Planning and Zoning Commission rather than the Zoning Administrator. 5. There have been minor changes to the list of prohibited uses. 6. There will now be a limit of two commercial vehicles per residentially zoned property. One vehicle will be allowed outside and one may be kept indoors.

Hearing no further discussion Chairman Weigel called for a motion.

**Katrina Deutsche made a motion to approve the proposed text changes to Section 8.22 (Home Occupations); seconded by Michael Wisniewski.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**5. Text changes to Sections 5.3 and 16.2 of the Will County Zoning Ordinance-Body Art Studios**

Mrs. Franz explained that this is another use that is currently not included in the Zoning Ordinance. Staff has provided a definition for Body Art Studios-An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instrument designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration. This definition does not include, for the purposes of the ordinance, ear piercing.

Staff is suggesting that this be a permitted use in the C-3 zoning district.

Mrs. Franz asked the LUDC for permission to take this to public hearing before the PZC and return with the proposed changes.

Chairman Weigel asked if the word tattoo could be added and Mrs. Franz answered yes.

**Katrina Deutsche made a motion to send this text amendment as amended regarding body art studio to the PZC for public hearing; seconded by Sharon May.  
ALL IN FAVOR**

**MOTION CARRIED (5-0)**

**6. Request for waiver of fees- Metropolitan Water Reclamation District of Greater Chicago**

Mr. Radner gave an overview of this topic. The Metropolitan Water Reclamation District of Greater Chicago will be doing a wetland project in Will County. They have not submitted their zoning application yet, but have requested the waiver of certain fees. Because they are taxing body they are already exempt from the zoning application fees but there is no provision in our ordinance that would allow them to be exempt from the building permit fee or site development permit fee and this request is to have these fees waived. If these fees are waived reviews would still be done. The Engineering staff would still review the permit and the Building Department would still review any buildings or anything constructed on the property, this would just exempt them from any fees.

Chairman Weigel asked Mr. Radner what staff's recommendation was and Mr. Radner explained that he did not have a position on the matter. It is up to the LUDC to decide what the policy should be. Mr. Radner informed the Committee that in the past the LUDC has not waived building permit fees or site development fees.

Mr. Paddock advised Chairman Weigel that representatives of the Metropolitan Water Reclamation District were present and available to answer questions.

Joe Schuessler- Principal Civil Engineer for the Metropolitan Water Reclamation District. He gave an overview of their proposed project. They are requesting the fee waivers since this project would benefit the local water quality and the water quality going downstream. They are putting significant funds into the construction of this.

Mr. Wisniewski asked what kind of investment dollars are significant and Mr. Schuessler answered approximately nine million dollars.

Mr. Wisniewski asked staff approximately how much fees are we talking about waiving and Mr. Radner answered that we did not have their application yet but the estimate is around \$10,200.

Mr. Wisniewski asked if they would be using federal, state, local or City of Chicago funds and Mr. Schuessler answered that they are a separate taxing body and they would be using their own funds.

Mrs. Rozak asked if they are already having some fees waived and Mr. Radner answered the zoning fees would be waived and they would be quite substantial because it is a large number of acres and they are being waived as per previous ordinance passed by the County Board that would exempt taxing bodies.

Mr. Paddock explained that this organization is also seeking fee waivers from Crest Hill as well and Mr. Schuessler answered that is correct.

Mrs. May asked staff about the ten thousand dollar fee, what is it used for and Mr. Paddock explained that when the board established the schedule for all of the fees charged there are state laws that mandate that those fees are established in relationship to the County's cost incurred in processing the application. The fees reimburse general revenue funds for staff time, supplies and equipment, etc that are necessary to process and review the

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application. As Mr. Radner indicated if the LUDC waived the fees, those reviews would still take place, the County will incur those costs.

Mrs. Rozak stated she absolutely agreed with Mr. Radner, she did not remember ever waiving these fees. We are a taxing body also and we have a responsibility to our taxpayers and we will still expend this time and not get anything back for it. We are already making a great gesture to waive the fees we are waiving.

Mr. Brendan O'Connor (representative of the Water Reclamation District) stated that they were aware of certain fees that should be paid but believed they were the fees more associated with the actual staff time being expended. He asked the Board to take into account that it is a governmental project and there is a regional benefit and it is not necessarily a City of Chicago issue. They are their own entity and more of a regional entity than a City of Chicago entity and the work is being done on land owned by them within Will County. He asked for a governmental acceptance in terms of the waiver of the fees.

Hearing no further discussion Chairman Weigel called for a motion to waive the zoning fees but not the building permit fees.

**Debbie Rozak made a motion to approve to waive the zoning fees but not the building permit fees; seconded by Michael Wisniewski.**

Chairman Weigel asked Mr. Radner if this motion was correct and he answered that the zoning fee is already waived so there is no action required for that. If they wanted to take action on the building permit review fee and the site development permit review fee that would be your motion.

Mr. Paddock asked Mrs. Manning to comment on this that if no motion is taken or the Committee decides not to take any action. If their intent was to maintain the existing fee structure in this instance the Committee would not need to do anything. Is that correct and Mrs. Manning answered yes.

Mr. Paddock stated if it was the Committee's intent to waive certain fees then they would need to pass a motion to that effect. If the Committee takes no action then the existing fee structures remain in place and would be applied to this instance.

Chairman Weigel stated the LUDC needed to give them a message that we don't want to waive our building permit fees.

Chairman Weigel asked Mrs. Rozak if she wished to withdraw her original motion and she said yes.

Chairman Weigel asked if anyone wished to make a motion to not waive the building permit fee and site development fee and no one spoke. No action was taken.

Mr. O'Connor asked if this was a denial of their request for waiver of fees and Mr. Weigel answered yes. Mr. O'Connor asked if the denial was a recommendation back to the Executive Committee and would it ultimately end up in front of the entire County Board and Mrs. Manning answered that it dies here.

Mrs. Rozak asked if it was actually a denial or is it that no action was taken and Mrs. Manning answered no action was being taken so it technically is not a denial.

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Mr. O'Connor stated that no action was taken on this vote and Chairman Weigel answered yes.

**REPORT**

**ADJOURNMENT**

**Michael Wisniewski made a motion to adjourn; seconded by Debbie Rozak.**

**ALL IN FAVOR**

**MOTION CARRIED (5-0)**

The meeting recessed at 11: 28 a.m.