

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: April 06, 2006

PLACE: Brookens Gymnasium
1776 East Washington Street

TIME: 7:00 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Doug Bluhm, Dennis Goldenstein, Debra Griest, Joseph L. Irle, Richard Steeves, Melvin Schroeder, Roger Miller

MEMBERS ABSENT : None

STAFF PRESENT : Connie Berry, John Hall, Jaime Hitt, Leroy Holliday, Susan Monte

OTHERS PRESENT : Aleta Holt, Louis E. Largent, Jeff Wandell, Steve O'Connor, Wilson Clem, Melinda Clem, Joe Burke, Max Mitchell, Margaret Pribble, Scott Bidner, Ron Cook, Nancy Fermanian, Lewis Fox, Russell Taylor, Beverly Seyler, Richard Shiley, Dorothy Shiley, Brad Pribble, Don Fairfield, Steve Burdin, Jim Meadows, Bjorg Holte, Ralph Langenheim, Sherry Schildt, Herb Schildt, Treva Fox, Lou Wozniak, JoAnn Wozniak, Norman Stenzel, Don Wauthier, Duke Goodwin, Margaret Goodwin, Neil Malone, Paul Curtis, Randy Graham, Hal Barnhart, Gary Hockersmith

1. Call to Order

The meeting was called to order at 7:15 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

3. Correspondence

Mr. Hall distributed a letter from Scott Adair, Petitioner for continued Case 536-V-06. He said that Mr. Adair's case was continued to the June 15, 2006, ZBA meeting but he has contacted the fire protection district and has gathered the information that was requested from the Board. He said that Mr. Adair's letter indicates that it is his assertion that there is great economic impact from continuing the case until June 15th and has requested that the Board move the case at its earliest convenience. He said that the Board could accept Mr. Adair's correspondence and determine a continuance date for Case 536-V-06, at the next regularly scheduled ZBA meeting or consider a continuance date at this time.

Mr. Steeves moved, seconded by Mr. Schroeder to continue Case 536-V-06, Scott Adair to the April 27, 2006, ZBA meeting. The motion carried by voice vote.

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4. Approval of Minutes (March 02, 2006)

Ms. Monte noted that the second sentence on Page 12, Line 38 of the March 02, 2006, minutes should read as follows: He said that he does not know if #6 is regarding cost to manage the Ordinance or the cost to the individual to remove the tree.

Mr. Bluhm moved, seconded by Mr. Irle to approve the March 02, 2006, minutes as amended. The motion carried by voice vote.

5. Continued Public Hearing

Case 522-AT-05 TEXT AMENDMENTS PROPOSED AS PART OF PHASE ONE OF THE CHAMPAIGN COUNTY COMPREHENSIVE ZONING REVIEW (CZR) PARTS A-M.

Ms. Griest stated that at the March 02, 2006, the Board discussed Part I and as the minutes noted the Board did not reach a consensus for Item #8 of the Ordinance Objectives.

Mr. Bluhm stated that Ordinance Objective #8 PARTIALLY ACHIEVES. He said that there are a few questions highlighted in the distributed material which indicates that Ordinance Objective #8 does not fully achieve. He said that he believes two or three of the items do achieve and the other two do not.

Mr. Steeves stated that during his review of Ordinance Objective #8, Items a-e, he believes that he is not strong enough legally to place himself in the position to say “yes” or “no”. He said that as far as the legal aspects of the Ordinance Mr. Fletcher, Senior Assistant State’s Attorney, has indicated in his comments that the Board is within its realm to do these things. He said that with the amount of information that has been distributed to the Board he would say that Ordinance Objective #8, Items a-e ACHIEVES.

Mr. Irle stated that after reviewing the distributed information he would agree that Ordinance Objective #8 PARTIALLY ACHIEVES. He said that this is a legal undertaking and he has doubts as to if this is the right thing to do as far as regulating permits for removal of trees.

Mr. Schroeder, Mr. Goldenstein, Mr. Bluhm, Mr. Miller, Mr. Irle and Ms. Griest stated that Ordinance Objective #8 PARTIALLY ACHIEVES. Mr. Steeves stated that Ordinance Objective #8 ACHIEVES.

Mr. Hall clarified that the memorandum dated April 06, 2006, from the State’s Attorney indicates that in Mr. Fletcher’s opinion the amendment before the Board fully achieves all of those constitutional concerns.

Mr. Schildt called for a Point of Order. He said that Mr. Hall is the applicant and since no one else is allowed to speak during this deliberation process Mr. Hall should also not be allowed to speak.

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Ms. Griest stated that Mr. Hall wears two hats in serving this Board, one as the Board’s advisor and as in this case the lead petitioner. She said that the Board does count on Mr. Hall for council and advice.

Mr. Schildt stated that when Mr. Hall raises his hand so that he can say something the Board hasn’t solicited that input. He said that this issue is the differential between Mr. Hall acting on behalf of the Board and wearing the one hat and then acting as the Petitioner with the other hat.

Mr. Miller stated that it might be advisable for the Board to raise the question to Mr. Hall before he has to ask the question himself.

Ms. Griest stated that a consensus of the Board has indicated that Ordinance Objective #8 PARTIALLY ACHIEVES. She asked the Board if they would be willing to entertain an addition to the minutes that this is the Board’s opinion and any legal challenge on that basis should be referred to the Champaign County State’s Attorney.

Mr. Bluhm stated that no one on the Board is an attorney where they are qualified to review a lot of cases that the State’s Attorney goes through and this is only the Board’s personal view of Ordinance Objective #8. He said that this may not be exactly what Mr. Fletcher has advised but there are some items which have raised concerns in the Board’s opinions and that is why PARTIALLY ACHIEVES has been determined.

The consensus of the Board was that Ordinance Objective #8 PARTIALLY ACHIEVES.

Ms. Griest asked the Board if they still believe that Ordinance Objective #14 and #15 are not relevant to the merit of Part I.

The consensus of the Board was that Ordinance Objective #14 and 15 ARE NOT RELEVANT TO THE MERIT OF PART I.

Ms. Monte stated that Item #27.B(3)(e) should be revised as follows: The proposed Part I amendment is not economically sound because of the costs to the County of protecting woodlands and the burden placed on landowners (Ord. Obj.6). She said that an Item G. should be added to Item #4 indicating the East Bend Township Resolution No. 2006-0314, received April 06, 2006 and an Item H. indicating the City of Urbana’s protest. She said that these items should also be added to the Documents of Record as Items # 51 and 52.

Mr. Ronald J. Cook, who resides at 2799 CR 600E, Fisher read a prepared statement and submitted the statement as a Document of Record.

Mr. Irle moved, seconded by Mr. Miller to adopt the Summary of Evidence, Documents of Record and Finding of Fact for Case 522-AT-05, Part I, as amended. The motion carried by voice vote.

Mr. Bluhm moved, seconded by Mr. Irle to close the public hearing for Case 522-AT-05, Part I.

1 The motion carried by voice vote.

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3 **Final Determination for Case 522-AT-05, Part I:**
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5 Mr. Bluhm moved, seconded by Mr. Irle that pursuant to the authority granted by Section 9.2 of
6 the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County
7 determines that the Text Amendment requested in Case 522-AT-05, Part I, Should Not be Enacted
8 by the County Board.
9

10 The roll was called:

11			
12	Miller-yes	Schroeder-yes	Steeves-yes
13	Bluhm-yes	Goldenstein-yes	Irle-yes
14	Griest-yes		

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16 The consensus of the Board was to move to Part G, of Case 522-AT-05.

17
18 **Part G: Require a protective buffer around public parks and preserves within which construction or**
19 **uses that require Zoning Use Permit and outdoor lighting fixtures that direct light or glare onto the**
20 **adjacent public park or preserve are prohibited with certain exceptions.**
21

22 Ms. Monte stated that staff has provided a condition that would improve the meaning of the proposed text
23 amendment. She said that the condition would allow for building additions to a structure or a building that
24 was lawfully constructed on a lot or parcel prior to the effective date and being exempt from the Public
25 Resource Area Buffer. She said that the condition would allow for any addition to a building that exists
26 regardless of its location on a lot. She said that the way the Zoning Ordinance is presently proposed is that
27 someone could add on to any side of a building unless that side would encroach in to the Public Resource
28 Area Buffer.
29

30 Ms. Griest requested that Ms. Monte review the editorial changes to Public Review Draft 3. She said that a
31 previous meetings it was indicated that there would not be changes to the Ordinance as it was presented in
32 the November 14, 2005, draft.
33

34 Ms. Monte stated that since the distribution of the Public Review Draft 3 dated November 14, 2005, staff
35 has compiled a list of editorial, not substantive, corrections considered as necessary to the text of PRD3.
36 She said to date these editorial corrections include miscellaneous typos and three specific omissions from
37 the Chapter 6 Table of Authorized Uses as the Table was formatted and converted from the existing Zoning
38 Ordinance. She said that a list of necessary editorial corrections will be maintained as the public hearing
39 continues.
40

41 Ms. Griest read Item #18 of the Summary of Evidence for Part G, dated March 30, 2006.
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43 Mr. Irle stated that Part G DOES CONFORM with LURP 1.1.3 and/or LURP 1.1.4.

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2 Mr. Goldenstein, Mr. Miller, Mr. Steeves, Mr. Schroeder, Mr. Bluhm and Ms. Griest agreed with Mr. Irle's
3 recommendation that Part G, DOES CONFORM with LURP 1.1.3 and/or LURP 1.1.4.
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5 **The consensus of the Board was that Part G, DOES CONFORM with LURP 1.1.3 and/or LURP 1.1.4.**
6

7 Mr. Bluhm stated that Part G. DOES NOT CONFORM to LURP 1.7.1. He said that 1.7.1 indicates that
8 development authorized By-Right or as a Conditional Use will be allowed in or near known natural areas,
9 sites of historic or archeological significance, County Forest Preserves, or other parks and preserves, only if
10 they are located so as to minimize disturbance of such areas. He said that Part G. indicates that development
11 will not be allowed within 250 feet of such areas and that therefore there is a contradiction between the
12 statements.
13

14 Mr. Hall stated that Part G. suggests that if someone is closer than the 250 foot buffer then they are not
15 minimizing disturbance. He said that LURP 1.7.1 will allow development in or near only if located so as to
16 minimize disturbance. He said that LURP 1.7.1 was developed five years ago and revised in the fall of
17 2005.
18

19 Mr. Steeves stated that "in or near" is being more clearly defined as within 250 feet.
20

21 Mr. Bluhm stated that it appears that LURP 1.7.1 is being revised to state the 250 foot requirement. He said
22 that when he reads LURP 1.71 it indicates that he can build up to 10 feet away from a natural area of forest
23 preserve as long as he takes great precautions and it is located to minimize disturbance.
24

25 Mr. Hall stated that someone could build within a 10 foot setback but the evidence in Item #13 of the
26 Summary of Evidence talks of how the distance varies depending on the kind of disturbance that someone is
27 trying to minimize and what it is that someone is trying to minimize disturbance to. He said that the
28 amendment proposed a distance of 250 feet and based on the evidence that has been submitted in the public
29 hearings 30 feet would not minimize disturbance to the degree that a 250 foot buffer would minimize
30 disturbance. He said that in terms in achieving the policy it is the same old thing a greater buffer may
31 achieve the policy more but when reviewed under the Ordinance Objectives it is also creating a greater
32 burden on landowners.
33

34 Mr. Bluhm asked if, with the current standards, could someone build within 30 feet of their property line.
35

36 Mr. Hall stated yes. He said that this is the problem that LURP 1.7.1 is trying to correct.
37

38 Ms. Griest stated that Item #13 of the Draft Finding of Fact indicates that the width of 250 feet as the
39 proposed Public Resource Area Buffer is an arbitrary limit selected by staff, based on a review of available
40 sources of information including the Environmental Law Institute publication in 2003 entitled *Conservation*
41 *Thresholds for Land Use Planners* contained a summary of the findings of various studies conducted that
42 included recommendations regarding minimum buffer width. She said that with this recommendation the
43 question that has somewhat been bouncing around in the back of her mind is that this particular proposal
44 exempts parcels that are nearer that 250 feet to the proposed Resource Buffers if a roadway separates them.

1 She said that LURP 1.7.1 is to minimize impacts on natural areas therefore if someone was to place lighting
2 or structures that produced additional impacts in normal setback range from the center of the road wouldn't
3 those have an equal or similar impact on those protected areas.
4

5 Ms. Monte stated that as noted in Item #13, it is a wide variable range of distances but 250 feet was selected.
6 She said that if you consider connectivity and natural barriers that occur in the landscape a road is a pre-
7 existing condition and serves as a break in the connectivity around a natural area such as those in the Public
8 Resource.
9

10 Ms. Griest stated that there is no provision in the amendment for new roads from being placed adjacent to
11 these parcels. She said to say that a road is a pre-existing condition may not be entirely accurate. She said
12 that people will be told that they will not be able to build within the 250 foot buffer but there are no
13 restrictions regarding a road being placed next to the resource protection area and building on the other side
14 of it.
15

16 Ms. Monte stated that Public Review Draft 3 allows construction of a street only if it is necessary to create
17 lots authorized as a Conditional Use or to otherwise make economic use of the property and only if it is
18 located to affect the smallest possible area of a Public Resource Area Buffer. She said that there is some
19 limitation on when a new road could be constructed and it must satisfy the condition. She said that as an
20 example of when a new road may be allowed to be constructed within a Public Resource Area, a property
21 may include areas up against woods or a Public Resource Area apart from the road access and the landowner
22 may desire to divide off and sell a parcel which is located further into the woods.
23

24 Mr. Hall stated that given the limited development rights in Public Review Draft 3 someone could create a
25 parcel, which is allowed By-Right, if a street is constructed but the obvious thing would be to create a flag
26 lot. He said that if this is the only place because of the unique shape of the property to create the By-Right
27 lot, then someone could certainly do it. He said that it is written this way so someone could receive the
28 benefit of their right to create that lot. He said that it is a derogation of the benefit that the buffer is suppose
29 to provide but it is fair to do that if it is allowed By-Right.
30

31 Ms. Griest asked if Public Review Draft 3 is passed in its present form would property owners which own
32 existing parcels next to a newly declared natural area retain the same rights that they had when they
33 purchased their property.
34

35 Mr. Hall stated that those property owners would still have the right to create any lot and those lots would be
36 exempt from the Public Resource Buffer.
37

38 Mr. Irle asked if pre-existing lots with pre-existing buildings are allowed to rebuild within the 250 foot
39 buffer if those pre-existing buildings were destroyed.
40

41 Ms. Monte said that any existing lot or structure would be exempt if it falls within the 250 foot buffer.
42

43 Ms. Griest asked if a vacant pre-existing lot which was platted prior to the adoption of PRD3 could build

1 within the 250 foot buffer.

2
3 Ms. Monte stated that if the lot has a buildable area outside of the 250 foot buffer then it is not exempt. She
4 said that the lot would be required to have a minimum buildable area outside of the buffer to be eligible for
5 the buffer. She said that if it does not have a buildable area outside of the 250 buffer then the entire lot is
6 exempt.

7
8 Ms. Griest asked if there is a protected area and there is some farm ground and four platted buildable lots
9 those lots remain buildable lots.

10
11 Ms. Monte stated that if there is a minimum buildable area outside of the buffer on each of those lots then
12 they are buildable lots, but if not then they are still good zoning lots no matter what. She said that this is a
13 provision which is directed to vacant lots and that it will shift the location of the development on a lot
14 outside of the buffer, but either way the lot can be built on.

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16 Ms. Griest asked if the lot is only 200 feet wide and all of that 200 feet is inside the 250 foot buffer the lot is
17 totally exempt.

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19 Ms. Monte stated yes.

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21 Mr. Steeves stated that the discussion has been about a 250 foot buffer outside of a Resource Protection
22 Area . He said that the smallest Resource Protection Area is 14 acres. He asked if we are looking for a 250
23 foot buffer why we are going outside of the resource area instead of drawing the 250 foot buffer from inside
24 the resource area. He asked if the County desires a buffer to protect something why isn't the buffer made
25 inside the 14 acres included in the Resource Protection Area rather than outside the 14 acres. He said that
26 some of the areas of the Resource Protection Area are 1500 acres, 700 acres, 39 acres, etc. He said that the
27 County desires a 250 foot buffer but is taking it outside the Resource Protection Area rather than inside the
28 Resource Protection Area.

29
30 Ms. Griest asked why the County is not going to require that any new areas that are created must have the
31 250 foot buffer within the Resource Protection Area.

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33 Mr. Steeves stated that this would eliminate the landowner which is outside the Resource Protection Area
34 having to provide protection for an area which he does not own.

35
36 Mr. Irlle stated that the same thought has occurred to him also. He said that the Board is trying to decide if
37 Part G conforms to LURP 1.7.1. He said that Part G is attempting to address a problem that he is not sure
38 exists in sufficient quantities to justify additional regulation. He said that from the testimony received there
39 is no evidence that there is such a substantial impact on wildlife or vegetation inside these preserves that has
40 been so dramatically effected that there needs to be a 250 foot buffer created. He said that testimony has
41 been received from the Champaign County Forest Preserve which indicated that there are landowners who
42 own private land and have private trails and they think of the land owned by the Forest Preserve as their
43 own. He said that farmers receive the same type of trespass all of the time with adjacent landowners but is it
44 a significant enough problem to create such a restrictive buffer to offset the problem.

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2 Ms. Griest stated that some of the resource areas which are cited for protection are closed to the public for
3 recreational activities and some of those areas are public parks that encourage public use.
4

5 Mr. Irle stated that this is true. He said that he grew up playing softball at Ford Harris Park and there are a
6 lot of people at the park therefore placing a buffer strip around it doesn't seem necessary. He said that the
7 Board has not received a lot testimony from anyone who has completed a scientific survey indicating that
8 there have been a lot of problems with outside interference along the natural area's property lines.
9

10 Mr. Steeves stated that testimony was received during a previous case that indicated that the light and noise
11 was being discussed by the neighbors but the representative from the University of Illinois, owner of the
12 adjacent land, indicated there was no impact on the wildlife in the natural area.
13

14 Mr. Irle stated that at some point over the Board's term testimony would have been received about such an
15 outstanding problem but no such testimony has been received.
16

17 Mr. Bluhm recommended that Item #18 regarding LURP 1.7.1 be deferred until later in the meeting and
18 move to Item #19 of the Draft Finding of Fact.
19

20 Ms. Griest stated the Board will now review the Ordinance Objectives and read Ordinance Objective #1.
21

22 Mr. Steeves stated that based on the public's testimony it appears that the public perceives that this is a
23 "taking" although the State's Attorney's Office indicates differently. He said that Ordinance Objective #1
24 DOES NOT ACHIEVE.
25

26 Mr. Irle stated that he agrees with Mr. Steeve's assessment. He said that at times when he reads the
27 objectives he wonders if the testimony received during the creation of the Ordinance contradicts what this
28 Board has heard during these public hearings. He said that based on the testimony that this Board has
29 received during the public hearings he would state that Ordinance Objective #1 DOES NOT ACHIEVE.
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31 Mr. Goldenstein, Mr. Bluhm, Mr. Schroeder, Mr. Miller indicated that Ordinance Objective #1 DOES NOT
32 ACHIEVE.
33

34 Ms. Griest stated that Ordinance Objective #1 DOES NOT ACHIEVE with the consistency of the public's
35 values. She said that she does think that the public understands what is being said.
36

37 **The consensus of the Board was that Ordinance Objective #1 DOES NOT ACHIEVE.**
38

39 Ms. Griest read Ordinance Objective #2.
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41 Mr. Irle stated that Ordinance Objective #2 DOES ACHIEVE.
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43 **The consensus of the Board was that Ordinance Objective #2 DOES ACHIEVE.**

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Ms. Griest read Ordinance Objective #3.

Mr. Bluhm stated that Ordinance Objective #3 DOES ACHIEVE. He said that the ordinance is spelled out very clearly and should be very easy to enforce.

The consensus of the Board was that Ordinance Objective #3 DOES ACHIEVE.

Ms. Griest read Ordinance Objective #4.

Mr. Steeves stated that Ordinance Objective #4 DOES NOT ACHIEVE. He said that he has difficulty identifying exactly what it is that being protected and the need for it. He said that in reviewing the sizes of the areas cited for protection he cannot imagine that a 250 foot buffer extending outside is going to prevent a large amount of damage.

Mr. Irle stated that the testimony received has not indicated a need for the amount of regulation that is proposed. He agreed that Ordinance Objective #4 DOES NOT ACHIEVE.

The consensus of the Board was that Ordinance Objective #4 DOES NOT ACHIEVE.

Ms. Griest read Ordinance Objective #5.

Mr. Bluhm stated that the staff followed the best information available to propose different buffers and the range listed was not a set standard. He said that staff has attempted not to be over zealous with their recommended 250 foot buffer yet they have tried to protect as much of the natural areas as possible. He said that Ordinance Objective #5 PARTIALLY ACHIEVES.

Mr. Irle stated that he agrees with Mr. Bluhm's recommendation. He said that staff utilized the Land Use Regulatory Policies and items to support the proposal not items to go against the proposal. He said that Ordinance Objective #4 PARTIALLY ACHIEVES.

Mr. Goldenstein stated that he agrees with Mr. Bluhm and Mr. Irle. He said that staff was hindered by the fact that after the public testimony was began they were limited in making modifications to the text.

The consensus of the Board was that Ordinance Objective #5 PARTIALLY ACHIEVES.

Ms. Griest read Ordinance Objective #6.

Mr. Steeves asked which side is the Board to consider for the cost and benefits for the buffer. He asked if it is the cost and benefits for preventing damage or loss to the property being protected.

Mr. Hall stated that the cost of not being able to do something on a 250 foot buffer should be weighed with the benefits of the disturbance that is being minimized.

1 Ms. Griest stated that she considers the cost to the County as a factor as well. She asked that in changing the
2 Ordinance is there adequate staff to administer and enforce or if adopted will there an undue burden placed
3 upon staff.
4

5 Mr. Goldenstein stated that there is a question on how economically sound this will be if the 250 feet comes
6 inside or outside the buffer and which side of the line will be economically impacted.
7

8 Mr. Miller stated that from a landowner's viewpoint there is no way this can be economically sound. He
9 said that there has been testimony received indicating that it will not be economically sound.
10

11 Mr. Irlle stated that there will be consequences economically if the 250 foot buffer is inside the natural area
12 because there are no taxes within the natural areas. He said that testimony received from the realtors and
13 landowners indicates that the value of properties surrounding the natural areas will be diminished. He said
14 that if this is true then the County will be impacted due to diminishing real estate values.
15

16 Mr. Steeves stated that if the buffer reduces the buildable area of the property then it is not economically
17 sound.
18

19 Mr. Miller stated that Ordinance Objective #6 DOES NOT ACHIEVE.
20

21 Mr. Irlle stated that Ordinance Objective #6 PARTIALLY ACHIEVES. He said that when the cost of
22 administration is considered the ordinance should not be much of a burden for staff to administer.
23

24 **Mr. Irlle, Mr. Bluhm, Mr. Goldenstein and Ms. Griest stated that Ordinance Objective #6**
25 **PARTIALLY ACHIEVES.**
26

27 **Mr. Miller, Mr. Steeves and Mr. Schroeder stated that Ordinance Objective #6 DOES NOT**
28 **ACHIEVE.**
29

30 Ms. Griest read Ordinance Objective #7.
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32 Mr. Bluhm stated that Ordinance Objective #7 ACHIEVES.
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34 **The consensus of the Board was the Ordinance Objective #7 ACHIEVES.**
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36 Ms. Griest read Ordinance Objective #8.
37

38 Mr. Steeves stated that based on the opinion from the State's Attorney the Ordinance is fully in compliance
39 therefore relying on this opinion he would state that Ordinance Objective #8 ACHIEVES.
40

41 Mr. Irlle stated that the State's Attorney has indicated that the Ordinance is legal and enforceable. He said
42 that he is not sure that even though it is legal and enforceable that it is the right thing to do therefore he
43 would stated that Ordinance Objective #8 PARTIALLY ACHIEVES.

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2 **Mr. Irle, Mr. Bluhm, Mr. Goldenstein, Mr. Miller, Mr. Schroeder and Ms. Griest stated that**
3 **Ordinance Objective #8 PARTIALLY ACHIEVES.**
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5 **Mr. Steeves stated that Ordinance Objective #8 ACHIEVES.**
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7 Ms. Griest read Ordinance Objective #9.
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9 Mr. Bluhm stated that Ordinance Objective #9 ACHIEVES.
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11 **The consensus of the Board was that Ordinance Objective #9 ACHIEVES.**
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13 Ms. Griest read Ordinance Objective #10.
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15 Mr. Bluhm stated that Ordinance Objective #10 ACHIEVES.
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17 **The consensus of the Board was that Ordinance Objective #10 ACHIEVES.**
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19 Ms. Griest read Ordinance Objective #11.
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21 Mr. Irle stated that Ordinance Objective #11 DOES NOT ACHIEVE because there would be a less intrusive
22 ordinance that would not impact the free market or the freedom of the landowner which is currently allowed.
23
24 **The consensus of the Board was that Ordinance Objective #11 DOES NOT ACHIEVE.**
25
26 Ms. Griest read Ordinance Objective #12.
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28 Mr. Steeves stated Ordinance Objective #12 DOES NOT ACHIEVE because it impacts a very small portion
29 of citizens of the County. He said that those citizens which own land which are adjacent to the sited natural
30 areas and it is very unfair to those landowners.
31
32 Mr. Irle stated that he agrees with Mr. Steeves. He said that the ordinance does impose a disproportionate
33 burden on the people that on property around the sited areas. He said that Ordinance Objective #12 DOES
34 NOT ACHIEVE.
35
36 Mr. Bluhm stated that he agrees with Mr. Steeves and Mr. Irle. He said that it is disproportionate in the fact
37 that the 250 feet across the road was not included.
38
39 Mr. Goldenstein and Mr. Miller, Mr. Schroeder and Ms. Griest agreed.
40
41 **The consensus of the Board was that Ordinance Objective #12 DOES NOT ACHIEVE.**
42
43 Ms. Griest read Ordinance Objective #13.
44

1 Mr. Steeves stated that Ordinance Objective #13 DOES NOT ACHIEVE since an arbitrary distance of 250
2 feet has been proposed which is not flexible or adaptable.
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4 Mr. Schroeder stated that Ordinance Objective #13 PARTIALLY ACHIEVES.
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6 Mr. Bluhm stated that Ordinance Objective #13 PARTIALLY ACHIEVES because there is flexibility for
7 current residences and buildings in the sited area for development.
8
9 Mr. Irle stated that Ordinance Objective #13 PARTIALLY ACHIEVES because there are exemptions
10 allowed for pre-existing conditions and rebuildable areas.
11
12 Mr. Goldenstein, Mr. Miller and Ms. Griest stated that Ordinance Objective #13 PARTIALLY ACHIEVES.
13
14 **Mr. Schroeder, Mr. Bluhm, Mr. Irle, Mr. Goldenstein, Mr. Miller and Ms. Griest stated that**
15 **Ordinance Objective #13 PARTIALLY ACHIEVES.**
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17 **Mr. Steeves stated that Ordinance Objective #13 DOES NOT ACHIEVE.**
18
19 Ms. Griest read Ordinance Objective #14.
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21 Mr. Bluhm stated that Ordinance Objective #14 IS NOT RELEVANT TO THE MERIT OF PART G.
22
23 **The consensus of the Board was that Ordinance Objective #14 IS NOT RELEVANT TO THE MERIT**
24 **OF PART G.**
25
26 Ms. Griest read Ordinance Objective #15.
27
28 Mr. Goldenstein stated that Ordinance Objective #15 IS NOT RELEVANT TO THE MERIT OF PART G.
29
30 **The consensus of the Board was that Ordinance Objective #15 IS NOT RELEVANT TO THE MERIT**
31 **OF PART G.**
32
33 Ms. Griest asked the Board if they would like to review the condition proposed by staff.
34
35 Mr. Steeves asked if the ordinance is reviewed and it is indicated that it PARTIALLY ACHIEVES the
36 suggested condition makes sense would PARTIALLY ACHIEVES open up the possibility of other
37 conditions.
38
39 Ms. Griest stated that when the proposed special condition proposed to be added to Subsection 21.30.400 is
40 cited under an item which indicates that the special condition will make the ordinance fully achieve. She
41 asked whether the staff would recommend that the condition not be suggested if the Board does not feel that
42 the special condition will fully achieve the Ordinance Objectives.
43

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1 Ms. Monte stated that perhaps more accurately the language should read MORE FULLY ACHIEVED. She
2 said that the special condition is only an option for the Board's consideration and is not dependent on
3 whatever opinion the Board has on the Ordinance Objectives. She said that there is no need to draft text if
4 the Board should decide to consider a condition. She said that the paragraph included under Item #15 of the
5 Ordinance Objective is only an explanation of why the Board may consider a condition and is not language
6 for the condition.

7
8 Mr. Bluhm stated that overall the condition has no bearing on his recommendations for the Ordinance
9 Objectives.

10
11 Mr. Steeves stated that Part G DOES NOT ACHIEVE the Ordinance Objectives. He said that the 250 foot
12 buffer should come from within the natural area and not outside of the natural area.

13
14 Mr. Bluhm stated that he agrees with Mr. Steeves because it is disproportionate in the fact that the 250 feet
15 across the road was not included.

16
17 Mr. Irle stated that Part G DOES NOT ACHIEVE based on the assessment of the charts and the weight that
18 he placed on each item.

19
20 Mr. Goldenstein, Mr. Miller, Mr. Schroeder and Ms. Griest stated that Part G DOES NOT ACHIEVE.

21
22 **The consensus of the Board was that Part G DOES NOT ACHIEVE the Ordinance Objectives.**

23
24 Ms. Griest stated that a recommendation is required for Item #18 regarding LURP 1.7.1.

25
26 Mr. Irle stated that Part G PARTIALLY CONFORMS with LURP 1.7.1 because it lists the potential need
27 for buffering in natural areas but not in the quantity proposed.

28
29 Mr. Bluhm, Mr. Goldenstein, Mr. Miller, Mr. Schroeder and Ms. Griest stated that Part G PARTIALLY
30 CONFORMS with LURP 1.7.1.

31
32 **The consensus of the Board was that Part G PARTIALLY CONFORMS with LURP 1.7.1.**

33
34 **The consensus of the Board was not to recommend a condition for Part G.**

35
36 Ms. Griest asked the audience if anyone who has signed the witness register would like to present new or
37 additional testimony for Part G only.

38
39 Ms. Monte stated that an Item G. should be added to Item #4 of the Finding of Fact dated March 30,
40 2006, indicating the East Bend Township Resolution No. 2006-0314, received April 06, 2006 and an
41 Item H. indicating the City of Urbana's protest. She said that these items should also be added to the
42 Documents of Record as Item # 50 and 51. She noted that Item #17 prohibits any new construction for
43 an addition onto an existing home could pose a hardship unless a modification is added to this draft.
44

1 Mr. Norman Stenzel, who resides at 545A CR 1900N, Champaign stated that there was question regarding
 2 the cost balance. He said that the information included the minutes of the March 2, 2006, meeting. He said
 3 that testimony was received from the Champaign County Forest Preserve indicating the benefit of a buffer.
 4 He read a portion of the written testimony received March 2, 2006 from Champaign County Forest Preserve
 5 District Commissioners Robert Toalson, Ruth Wiene and Vern Zehr on behalf of the Champaign County
 6 Forest Preserve District.

7
 8 Ms. Beverly Seyler, who resides at 2060A CR 125E, Mahomet stated that they live on a property which is
 9 directly adjacent to the new River Bend County Preserve. She said that the River Bend County Preserve
 10 land was not a County park at the time of their purchase, 20 years ago, but was designated as such one year
 11 ago. She said that the proposed amendment does directly impact their property and they do not believe that
 12 their 250 foot buffer will impact the park and there could easily be a 250 foot buffer within the park. She
 13 said the park was a former sand and gravel pit and at this time it is not a nature preserve therefore she
 14 opposes Part G. She said that in theory the County could acquire a one foot strip along the middle of the
 15 Sangamon River and by doing so they could acquire 250 feet on either side of that strip and create a 501 foot
 16 park so to speak and this is just one more reason to oppose Part G.

17
 18 Mr. Ron Cook, who resides at 2799 CR 600E, Fisher asked if he had a piece of property next to someone
 19 and he desired a windbreak would he have the right to trespass onto the neighbor's land to build the
 20 windbreak. He said that if not then that pretty much takes care of the question.

21
 22 **Mr. Bluhm moved, seconded by Mr. Goldenstein to adopt the Summary of Evidence, Finding of Fact**
 23 **and Documents of Record as amended. The motion carried by voice vote.**

24
 25 **Mr. Irle moved, seconded by Mr. Bluhm to close the public hearing for Case 522-AT-05, Part G. The**
 26 **motion carried by voice vote.**

27
 28 **Final Determination for Case 522-AT-05, Part G:**

29
 30 **Mr. Irle moved, seconded by Mr. Miller that pursuant to the authority granted by Section 9.2 of the**
 31 **Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
 32 **determines that the Text Amendment requested in Case 522-AT-05, Part G should not be enacted by**
 33 **the County Board as requested.**

34
 35 The roll was called:

36			
37	Schroeder-yes	Steeves-yes	Bluhm-yes
38	Goldenstein-yes	Irle-yes	Miller-yes
39	Griest-yes		

40
 41
 42 Ms. Griest stated that if the Board is not prepared to begin action on a new part tonight she would request
 43 that the Board indicate which parts they would like to review at the next public hearing regarding this case.

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Ms. Monte stated that the following sets of findings are not included with any recommended conditions: Part C; Parts E and H; J and L; and Part K. She said that Part F does have a recommended condition for the Board’s consideration. She said that Parts A, B,C and M include all of the changes to the proposed Table of Authorized Principal Uses and as standard conditions, intent statements and the formatting changes for the Board’s consideration.

Ms. Griest noted that there are six more segments for the Board’s review and final recommendation.

Mr. Bluhm recommended that the Board review Part F as the first element and Parts E and H as the second element at the next public hearing regarding Case 522-AT-05.

The consensus of the Board was to review Part F as the first element and Parts E and H as the second element at the next public hearing regarding Case 522-AT-05.

Mr. Irle recommended that, if time permits, the Board review Parts J and L as the third element at the next public hearing.

The consensus of the Board was, if time permits, to review Parts J and Las the third element at the next public hearing.

Mr. Irle moved, seconded by Mr. Bluhm to continue Case 522-AT-05 to the May 4, 2006, Zoning Board of Appeals meeting. The motion carried by voice vote.

6. New Public Hearings

None

7. Staff Report

None

8. Other Business

None

9. Audience Participation with respect to matters other than cases pending before the Board

None

10. Adjournment

The meeting adjourned at 9:46 p.m.

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Respectfully submitted

Secretary of Zoning Board of Appeals

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DRAFT SUBJECT TO APPROVAL DRAFT

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