

MINUTES OF REGULAR MEETING

**Champaign County Environment
& Land Use Committee
Champaign County Brookens
Administrative Center
Urbana, IL 61802**

**DATE: January 10, 2005
TIME: 7:00 p.m.
PLACE: Meeting Room 1
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

MEMBERS PRESENT: Jan Anderson, Patricia Busboom, Chris Doenitz, Nancy Greenwalt (VC), Ralph Langenheim (C), Brendan McGinty, Steve Moser, Jon Schroeder

OTHER COUNTY BOARD

MEMBERS PRESENT: Barbara Wysocki

MEMBERS ABSENT: Tony Fabri

STAFF PRESENT: Jeffrey Roseman, Susan Monte, Connie Berry, Joel Fletcher, Frank DiNovo

OTHERS PRESENT: Hal Barnhart, Steve Shoemaker, Beverly Seyler

1. Call to Order, Roll Call

The meeting was called to order at 7:04 p.m. The roll was called and a quorum declared present.

2. Approval of Agenda

Ms. Anderson moved, seconded by Mr. McGinty to approve the agenda as submitted. The motion carried by voice vote.

3. Minutes of Previous Meeting

None

4. Public Participation

Mr. Steve Shoemaker, who resides at 405 Avondale, Champaign, IL addressed Item #9 of the

Agenda. He said that the issue of accessory apartments in rural districts was addressed during the August 30 and December 8, 2004 ELUC meetings. He said that during the December 08, 2004 ELUC meeting Mr. Schroeder raised some concern regarding adequate sanitation for accessory apartments in the rural districts. Mr. Shoemaker addressed those concerns with submitted language verifying that sufficient evidence must be submitted verifying that all necessary site development standards can be met that ensure compliance with all applicable zoning and public health regulations as well as any other public safety issues that may be deemed necessary to preserve and protect life and property values in the immediate area. He requested that the Committee support Item #9.

Mr. Hal Barnhart, Co-Chairman of the Champaign County Farm Bureau Land Use Committee, read the following statement in relation to Item #9: The Champaign County Farm Bureau Land Use Committee which met January 6, 2005 will forward to the full Champaign County Farm Bureau Board for action at its January 20, 2005 meeting, a recommendation that the Champaign County Farm Bureau support Champaign County Land Use Regulatory Policy 1.9 in its current form but oppose any change in policy which would allow accessory apartments on a permanent basis, which we believe is tantamount to allowing duplexes in the rural districts. The current Champaign County Zoning Ordinance Section 5.1.6: R-3 Two Family Residence states that the R-3, Two Family Residence District is intended to provide areas for Single and Two Family Dwellings, set on medium sized building lots and is intended for application within or adjoining developed areas where community facilities exist. Substantially changing Policy 1.9 would greatly confuse and subvert the intent of the zoning districts. The City of Champaign does not allow accessory dwellings in their Single Family (SF-1) District and the City of Urbana likewise prohibits duplexes in their R-1 District, conditionally permits them in the R-2 District and permits them in the R-3 district.

It has been stated that this policy change will further the goal of farmland preservation. That claim is incorrect. It may increase density, however with no concomitant provision to reduce the number of lots by right, it will have no effect on farmland preservation. The issues of septic, water, traffic and rural/urban land use conflict have been extensively discussed at previous meetings. Those concerns are shared but will not be further addressed here.

5. Correspondence

Ms. Greenwalt moved, seconded by Ms. Anderson to accept and place on file the following correspondence: A. City of Urbana Draft Comprehensive Plan; and B. IDNR-Map Modernization. The motion carried by voice vote.

6 County Board Chair's Report

Ms. Wysocki informed the Committee that a regional meeting concerning the issue of rural poverty will be held at the Student Union on the University of Illinois campus. She stated that she will confirm the dates of the regional meeting and inform the entire County Board at the January 20, 2005 County Board meeting.

7. Request for Support of HB 4910-Eliminating Inoperable Vehicle Loophole from the State Statute 55 ILCS/5/12002 of the County Code.

Mr. Greenwalt moved, seconded by Ms. Anderson to support HB 4910-Eliminating an Inoperable Vehicle Loophole from the State Statute 55 ILCS 5/12002 of the County Code.

Ms. Busboom stated that within a three mile radius of her home there are five locations which have inoperable vehicles on the properties. She said that some of the inoperable vehicles are not 25 years or older and these nuisances are being dealt with when they are reported to the Department.

Ms. Greenwalt questioned how many complaints have been received which involve vehicles which are 25 years or older.

Mr. Roseman stated that he is not aware of the number of complaints which involve vehicles which are 25 years or older. He said that nuisance complaints such as this are not considered "high priority".

Ms. Greenwalt questioned if the nuisance complaints regarding inoperable vehicles are not considered "high priority" due to the priority list which ELUC approved in 2004.

Mr. Roseman stated that Ms. Greenwalt was correct.

Ms. Busboom stated that these inoperable vehicles have deteriorating batteries and oil dripping from these cars into the soil. She said that many times there are rodents and animals living in these vehicles which impose health and safety issues on the public.

Mr. Roseman stated that there are 312 current complaints on file at the Department and those complaints are prioritized based on life safety issues. He stated that a breakdown of the 312 complaints can be provided at the February meeting.

Mr. Schroeder questioned when HB 4910 will be brought at the General Session.

Mr. Roseman stated that he is not aware of when HB 4910 will be brought to the General Session. He said that HB 4910 has been at the Committee level since February 2004.

Mr. Schroeder questioned if there was a coinciding senate bill.

Mr. Roseman stated that he not aware of a coinciding senate bill.

The consensus of the Committee was to support HB 4910-Eliminating an Inoperable Vehicle Loophole from the State Statute 55 ILCS 512002 of the County Code.

Mr. Moser requested that the record indicate that he does not support HB 4910.

8. Request to amend the Special Flood Hazard Area Ordinance

Ms. Greenwalt moved, seconded by Ms. Anderson to recommend approval of the request to amend the Special Flood Hazard Area Ordinance.

Mr. Roseman stated that the amendment would reinstate the fees and add a Table of Contents to the existing Special Flood Hazard Area Ordinance. He said that when the Ordinance was adopted in 2003 the fees were not incorporated therefore all Floodplain Permits and Floodplain Determinations have not had fees attached. He noted that the fees have not increased but do need to be reincorporated into the Ordinance. He said that there are two items in Section 10 which require minor typographic revisions prior to final approval.

The motion carried by voice vote.

9. Multiple Dwellings: Accessory Apartment and/or Temporary Accessory Dwelling and the term "family".

Mr. Roseman distributed a memorandum dated January 10, 2005 for the Committee's review. He said that the State's Attorney's office has reviewed the definition of "family" and has indicated that the definition is constitutional and that a more restrictive definition would be too restrictive.

Ms. Greenwalt moved, seconded by Mr. Anderson to accept the amended version of Policy 1.9 as follows: Accessory Apartments will be permitted in rural districts to provide assistance to property owners for health or economic reasons only upon appropriate review and approval to ensure such land use activities conform with the intent of other County policies and regulations: A. One accessory apartment will be permitted within a single-family residential structure to provide assistance to property owners, provided that sufficient evidence is submitted verifying that all necessary site development standards can be met that ensure compliance with all applicable zoning, and public health regulations as well as any other public safety issues that may be deemed necessary to preserve and protect life and property values in the immediate area.

Ms. Busboom questioned how temporary accessory structures would be enforced.

Mr. Roseman stated that the property owner would sign a yearly affidavit indicating that the use was still required. He said that once the affidavit is not filed and proper notice is given, the property owner will be required to remove the temporary accessory structure. He said that one of the reasons why Policy 1.9 indicates an accessory apartment rather than an accessory structure is because when the accessory apartment is no longer required it can be incorporated back into the primary residence. He said that the temporary structure, which is proposed to be allowed in the Draft Ordinance, allows temporary manufactured homes. He said that temporary structures of any kind will be problematic for enforcement.

Ms. Busboom stated that enforcement is already an issue then why would we want to approve such a proposal.

Mr. Roseman stated that Policy 1.9, allowing for accessory dwellings, has already been approved. He said that the big mechanism is how does the County effectively enforce it. He said that the County could hire more staff for the Department of Planning and Zoning for tracking and enforcement.

Mr. Moser stated that he cannot see someone turning in their neighbor for such a violation unless they are having differences. He questioned if this effects rental homes.

Mr. Roseman stated that Policy 1.9 does not affect rental homes.

Ms. Busboom questioned how this type of enforcement would be listed on the priority list.

Mr. Roseman stated that it would depend upon the seriousness of the complaint.

Ms. Greenwalt requested an explanation of the current Policy 1.9 in comparison to the proposed revised Policy 1.9.

Mr. DiNovo stated that currently no accessory dwelling units are permitted on the same lot. He said that if a lawful separate lot could be described from a parent tract then a manufactured home could be placed on that lot. He reminded the Committee that the proposed language is only for Policy 1.9 and not for the Zoning Ordinance.

Mr. Schroeder stated the he is opposed to the revised Policy 1.9 because it allows a temporary accessory structure "by-right". He said that a temporary accessory structure should be reviewed as a Special Use Permit through a public hearing and not as an over-the-counter review.

Mr. Roseman stated that temporary accessory apartments would be allowed if the requirements in Section 9.1.11 and Section 9.2 were met.

Mr. Schroeder stated that he understands that the requirements in Section 9.1.11 and Section 9.2 must be met for allowance of an accessory structure but Policy 1.9 does not indicate that a Special Use Permit through a public hearing is required.

Mr. DiNovo stated that the language used in the policy is "site specific review".

Ms. Busboom questioned if during the re-write of the Zoning Ordinance that temporary accessory apartments only be allowed by the approval of a Special Use Permit.

Mr. Roseman stated that a Special Use Permit is required additional staff time and costs will be incurred.

Ms. Busboom stated that for the protection of the rural community a Special Use Permit must be required through a public hearing.

Ms. Greenwalt questioned if the Comprehensive Zoning Review will also be amended.

Mr. Roseman stated that this language is only amending Policy 1.9. He said that upon approval an

amendment to the Zoning Ordinance would be required either immediately or in conjunction with CZR.

Ms. Greenwalt stated that due to the lack of a County Comprehensive Plan she finds it hard to decide on this issue.

Mr. McGinty questioned if currently temporary accessory structures are possible through a Special Use Permit.

Mr. Roseman stated no.

Ms. Greenwalt stated that Mr. DiNovo stated that if a separate lot could be described out of a parent tract then it would be possible for an additional dwelling to be placed on a lot. She questioned if this is a "by-right" issue or is it only because of the availability of the additional lot.

Mr. Roseman stated that a temporary accessory dwelling is not allowed in the current Zoning Ordinance but it does not mean that it isn't happening within the County. He said that many people are hesitant about reporting such violations, therefore the Department does not receive complaints.

Ms. Anderson questioned that if the revision of Policy 1.9 is approved would it allow a request like Mr. Shoemaker's be allowed.

Mr. Roseman stated that the revision would allow the accessory apartment to become permanent and not temporary. He said that under the draft language of the proposed Zoning Ordinance the accessory dwelling would be required to be a manufactured home and not part of a single-family structure.

Ms. Greenwalt stated that she cannot vote on this issue until she understands it.

Mr. Roseman stated that the Committee is only requested to approve or deny the proposed language for amending Policy 1.9. He said that there is not a request before the Committee for revising the Zoning Ordinance.

Ms. Greenwalt questioned if the policy revision will lead to an amendment to the Zoning Ordinance which will require temporary accessory dwellings to obtain a Special Use Permit through a public hearing.

Mr. Roseman stated that if approved such an amendment to the Zoning Ordinance could be proposed. He said that the current Policy 1.9 could be maintained with only removing the text "temporary". He said that either way a text amendment would be required to require a Special Use Permit for accessory dwellings.

Mr. Fletcher stated that a policy statement is before the Committee which needs to be implemented into the Ordinance. He said that the decision as to whether to require a Special Use Permit for accessory dwellings will be discussed at a later date.

Mr. DiNovo stated that an Item #5 could be added to Part B of Policy 1.9 indicating that approval is

subject to a public hearing. He said that this will give interested parties and neighbors an opportunity to give input into the decision. He noted that the public hearings cost the County more money than the collected application fee.

Mr. Moser stated that he does not believe that Mr. Shoemaker’s intent is to place another building on his property. He said that he is aware of people who park their motor homes on other properties with single family dwellings and live there all summer and questioned if they were in violation.

Ms. Anderson stated that she has viewed Mr. Shoemaker’s home and it would be much more appealing to allow an accessory apartment within the home rather than requiring a separate structure.

Ms. Busboom called for a roll call vote.

The vote was:

Anderson-yes	Busboom-no	Doenitz-no
Fabri-absent	Greenwalt-yes	Langenheim-yes
McGinty-yes	Moser-no	Schroeder-no

The motion failed.

10. CZR Phase One Informal Interviews

Ms. Monte distributed a memorandum dated January 06, 2005 for the Committee’s review. She stated that the memorandum is a summary of the 10 informal interviews of 6 individuals and 4 couples which took place during the period of 11/30/04 through 12/10/2004. She said that these informal interviews were valuable and much feedback was received regarding the proposed Phase One amendments pertaining to the protection of natural areas.

Ms. Busboom questioned if there are statistics which indicate how many of the people who were interviewed were rural residents vs. urban residents.

Ms. Monte stated that all of the persons interviewed were landowners of rural land affected by the proposed Phase One amendments.

Mr. Doenitz questioned why the names of the people interviewed were not included in the memorandum.

Ms. Monte stated that she could inform the Committee as to how persons were selected for the interviews, but that she wishes to respect their privacy and not disclose their identities. She said that the surveys conducted were not scientific but informal in nature. She said that names of potential interviewees were received from various County Board members and other interviewees were selected by staff in order to obtain representative feedback from a variety of outlying areas.

Ms. Busboom questioned if the survey included all areas of the County.

Ms. Monte stated that most referrals received by County Board members were potential interviewees from Newcomb, Mahomet and St. Joseph Townships. Other selected interviewees owned rural land in Sidney and Hensley Townships. She said that all persons interviewed were landowners affected by the Phase One amendments. She said that the memorandum provided was not meant to be a tally but an informative document representing the range of feedback received. She said the intent of the informal interviews was to: obtain additional feedback regarding proposed adjustments to some of the Phase One text amendments; to identify problems regarding these amendments not yet anticipated by staff; and to receive this feedback during the drafting stage of the Phase One amendments and prior to the next Phase One public hearing.

11. Direction Regarding Resumption of Comprehensive Zoning Review Hearings

Ms. Greenwalt moved, seconded by Mr. Schroeder directing staff not to proceed with the township hearings on Phase One of the Comprehensive Zoning Review, until a response to the State Attorney's office inquiry to the Attorney General's office has been received and staff should redirect its efforts in accomplishing the tasks outlined in Option C of the January 10, 2005 memorandum from Jeffrey Roseman, Zoning Administrator.

The motion carried.

12. Planning and Zoning Report

A. Case 445-AM-04: Hunter's Ridge RRO

Mr. Roseman stated that Case 445-AM-04 (Hunter's Ridge RRO) has been continued to the February 14, 2005 ELUC meeting. He said that the applicant has requested additional time and staff has not had adequate time to prepare the Finding of Fact.

Ms. Busboom questioned if new information has been received. She said that she has received numerous letters regarding this proposed RRO.

Mr. Roseman stated that a recommendation for denial was determined by the Zoning Board of Appeals on December 30, 2004 and will come before this Committee in February. He noted that Mr. Hall was ill and was unable to complete the final determination.

Ms. Busboom questioned if there will be anything differently presented to ELUC than what was presented at the ZBA meeting.

Mr. Roseman stated that the same information will be presented to ELUC that was presented to ZBA.

Mr. DiNovo stated that this case is a requested rezoning and there is no final decision until the County Board votes on the case. He said that the ZBA only made a recommendation for denial

and it must be forwarded on to the County Board level.

Mr. Moser if there is anything which will nullify the frontage protests which have been filed. He questioned if the RRO was revised would those frontage protests still be valid.

Mr. Fletcher stated that if it is the same zoning case then the frontage protests do not need to be resubmitted.

Mr. Roseman stated that this will remain as the same case. He said that the boundaries have changed from approximately 76 acres to 20 acres but the petition is on the entire 76 acres. Mr. DiNovo stated that the petitioner could seek to amend the petition and if so it would have an effect on the frontage protests.

Mr. Langenheim questioned if the petition is amended would the case be required to go back to the Zoning Board of Appeals.

Mr. Fletcher stated that if a hearing case was opened and there was a substantial change in the case it would be required to return to the ZBA.

Ms. Busboom stated that if the boundaries changed then it would have to started over so that the adjacent landowners could be notified.

Mr. DiNovo stated that the critical issue is what legal description is inserted into the Finding of Fact which is adopted by the ZBA.

Ms. Busboom stated that she feels for the neighboring residents and they should be notified of any changes.

B. Adult Entertainment Public Act

Mr. Roseman stated that the separation distance has been changed from 1000 feet to 3000 feet for adult entertainment uses. He said that staff requires input from the State's Attorney's Office regarding any sites through the County which may be available for such a use with the new distances. He said that the distance will require an amendment to the Zoning Ordinance.

C. Illinois Residential Building Code Public Act

Mr. Roseman stated that this is a contractual act between a builder and the buyer. Staff seeks direction regarding distribution of this act to the public during the Zoning Use Permit application process.

Mr. Fletcher stated that this Statute does not require the County to regulate building code standards for new construction. He said that this information does not involve the County and is only an informational handout.

Mr. Schroeder moved, seconded by Ms. Anderson directing staff to distribute the Illinois Residential Building Code Public Act during the Zoning Use Permit application process.

Ms. Busboom questioned if this is adding more work to the office.

Mr. Roseman stated that it is adding more work to the staff but if the Committee desires to inform the public about their options, then distributing a handout during the Zoning Use Permit application process is the time to do it.

Ms. Wysocki suggested that the Illinois Residential Building Code Public Act be placed on the website.

Mr. Schroeder questioned if this is placing building codes where there are none and the contractor can choose a building code which is within 100 miles of the property.

Mr. Roseman stated that Mr. Schroeder was correct.

Mr. Schroeder questioned who would enforce these chosen codes.

Mr. Roseman stated that he suspect that a hired building inspector would take care of the enforcement.

Mr. Schroeder questioned where this bill was originated.

Mr. DiNovo stated that someone was trying to protect homeowners who were in areas which do not have adopted building codes. He said that the homeowner and the builder must privately establish building code standards but they may chose to ignore this provision. He said that this would allow someone whom is building a home some leverage about what type of codes that they desire the home to be built and place those requirements within their contract with the builder.

Mr. Schroeder stated that if the State of Illinois desires to inform the public about such a provision then they should send brochures to the County for distribution.

The motion carried.

Mr. Roseman distributed and reviewed the Planning and Zoning Department Monthly Report for December, 2004.

13. Determination of Items to be placed on the County Board Consent Agenda

None

14. Adjournment

The meeting adjourned at 8:19 p.m.

Respectfully submitted,

Secretary to the Environment and Land Use Committee
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