

MINUTES OF REGULAR MEETING

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

**DATE: May 09, 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, Tony Fabri, Nancy Greenwalt (VC), Ralph Langenheim (C), Brendan McGinty, Steve Moser, Jon Schroeder

OTHER COUNTY BOARD

MEMBERS PRESENT: Barbara Wysocki

MEMBERS ABSENT: None

STAFF PRESENT: Jeff Roseman, John Hall, Lori Busboom, Jamie Hitt, Susan Monte, Frank DiNovo, John Dimit

OTHERS PRESENT: Roger Meyer, Ronald Minch, Rob Parker, Gary Webb, Harold Dean Mayfield, Harold Lawler, Mary Ellen Lawler, Richard Bishop, John Schmale, Joyce Schmale, David Kunde, Joyce Kunde, Larry Knox, David Atchley, Stephanie Alexander, Norman Stenzel, Herb Schildt, Tim Woodard, Cyndy Woodard, Justin Kneeland, Maris Kneeland, Mike Bateman, John Sapp, Mary Jenkins, Danny Jenkins, Hal Barnhart

1. Call to Order, Roll Call

The meeting was called to order at 7:05 p.m. The roll was called and a quorum declared present.

2. Approval of Agenda and Addendum

Mr. Schroeder moved, seconded by Mr. Doenitz to approve the agenda and addendum as submitted. The motion carried by voice vote.

3. Minutes of Previous Meeting

None

4. Public Participation

Mr. Roger Meyer, Engineer/Surveyor for Greenwood Lake 5th Subdivision stated that he was present to answer any questions which the Committee may have regarding the proposed subdivision.

Mr. Ronald Minch, who resides at 661 CR 3350N, Fisher, IL, distributed a handout to the Committee for review. He said that he is concerned with Case 181-05: Bateman Subdivision. He said that on January 13, 2005, the area flooded so badly that many of the residents were required to spend the night elsewhere because they could not get to their home. The area does have water issues and the ground will not pass percolation tests and the last thing that the area needs is another house constructed. He said that the subject site has been contoured and does not hold a lot of water although the placement of a home will displace the water on other properties. He said that he moved to the area because the lots were five acre lots not one acre lots. He requested that the Committee vote "no" on the proposed subdivision.

Mr. Rob Parker, who resides at 467 CR 2500N, Mahomet, IL, stated that he was present to hear information regarding the Revisions to Comprehensive Zoning Ordinance Amendments. He requested that the County leave the zoning as it is today.

Mr. Richard L. Bishop, who resides at 3514 N Highcross Rd., Urbana, IL, stated that he was present to hear information regarding the Revisions to Comprehensive Zoning Ordinance Amendments. He said that he is concerned that the Resource Protection Overlay has been removed and that the environmental protections have been degraded considerably.

Ms. Stephanie Alexander, who resides at 92 CR 2000N, Mahomet, IL, stated that she was present to hear information regarding the Revisions to Comprehensive Zoning Ordinance. She said that she lives along the Sangamon River and would like to see the County assist in the preservation of the natural areas.

Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, IL, stated that he was present to hear information regarding the Revisions to Comprehensive Zoning Ordinance Amendments. He said that he received the packet but has not had a chance to review. He said that he has reservations regarding the Stream Protection Buffer. He said that he is grateful for the proposed removal of the Resource Protection Overlay although the Public Resource Buffer is still troublesome in regard to compensation.

Mr. John Sapp, who resides at 392 E CR 2500N, Mahomet, IL, stated that he is also concerned with the buffer protection and public use restrictions in that it is removing some of his property rights. He said that the removal of the Resource Protection Overlay is a good idea although he would like to have more information regarding these issues. He said that many of the affected landowners are not present at tonight's meeting because they were not informed.

Mr. John Schmale, who resides at 505C CR 2500N, Mahomet, IL, stated that he opposes the proposed Summerfield Subdivision. He said that the proposed subdivision is directly adjacent to the Big Ditch Creek and the Sangamon River. He said that he owns land which is very close to

the proposed subdivision which happens to also be along the Big Ditch Creek and the Sangamon River and during the eight years that he has resided on this land there has been an increasing problem with increased velocity of water runoff. The bottomland was flooded last year at approximately 20 feet in depth and took out two 100-year old trees. He said that as landowners we all believe that we can do whatever we want to do with our land but in fact what we do does affect a lot of other people. The amount of flooding that we are starting to see with the Big Ditch Creek and the Sangamon River influences the people that live north of our property. He said that the allowance of this subdivision would significantly damage the area because of the increased velocity of flow of water which is being witnessed along the creek and the river.

Mr. David Kunde, who resides at 505F CR 2500N, Mahomet, IL, stated that he agrees with Mr. Schmale. He said that he has lived in the area a few more years than the Schmales and his property is closer to the Big Ditch Creek and he has noticed a consistent increase in the depth and frequency of flooding. He said that as the housing projects are allowed to be developed more and more water is being dumped into the Big Ditch Creek and the Sangamon River.

Mr. David Atchley, Engineer for Case 459-AM-04: Tim and Cyndy Woodard and Chris Creek said that there are concerns regarding drainage and if there is still a question then a second, independent engineer should be brought in to review. He said that drainage is reduced by grass in yards versus corn fields.

Mr. Larry Knox, Trustee for the Knox Family Trust said that he was available to answer questions about the Greenwood Lake Subdivision.

5. Correspondence

The consensus of the Committee was to place on file a letter from Brian T. Schurter dated April 20, 2005, regarding adoption of Compromise and Rantoul Township Planning Commissions.

6 County Board Chair's Report

None

A1. Revisions to Comprehensive Zoning Ordinance Amendments

Mr. DiNovo stated that the zoning provisions have not been worked out in detail. He said that the distributed memorandum is only an outline of the provisions which need to be written.

Mr. Langenheim stated that the provisions will go before the Zoning Board of Appeals and then back to ELUC in the form of a concrete proposal. He noted that the Committee is not approving any of the information within the memorandum but only permitting it to come before the Committee and the full Board.

Mr. McGinty moved, seconded by Ms. Greenwalt to direct staff to revise the pending Zoning Ordinance amendments as outlined in the May 05, 2005, memorandum from Frank DiNovo.

Mr. McGinty moved, seconded by Mr. Doenitz to allow public testimony regarding the Revisions to Comprehensive Zoning Ordinance Amendments. The motion carried by voice vote.

Mr. Herb Schildt, Chairman of the Newcomb Planning Commission asked if the protests which were submitted by the Newcomb Township Board on Case 415-AT-03, will still be valid even if Case 415-AT-03 is revised therefore requiring a majority of 3/4 vote of the County Board for approval.

Mr. Fletcher stated that he would need to review the revisions to Case 415-AT-03 to determine if a new case would be required.

Ms. Greenwalt stated that she would like hear from one of the members of the *ad hoc* bi-partisan working group.

Mr. Moser stated that it is apparent that someone will file a protest against the final document which will require 21 votes to pass the Zoning Ordinance. He said that personally he is concerned with farmland and how it is going to be protected. He said that he does not care for the RPO but he does understand that there are certain people along the Sangamon and the Salt Fork which are concerned about buffers. He said that these people are justifiably concerned because there are issues such as septic tanks and disposal systems which do not work well in soils which are predominant along the river. He said that he is also concerned with the people which live in these areas and their rights. He said there are two elements to this beginning which is that the RPO is gone and the buffer is along the main channels of the Sangamon, Middlefork, Saline Branch and Salt Fork Rivers. He said that it was difficult to write the original ordinance and it is difficult to rewrite the ordinance therefore he requested that the public have a little patience. He said that the final product must be something that 21 Board members are going to vote for or it isn't going to happen.

Ms. Greenwalt asked if the one dwelling per 40 acres is for property located in the AG-1 district or for all land.

Mr. Moser stated that the one dwelling per 40 acres is for the agricultural districts.

Mr. Fabri stated that this is presented as a bi-partisan solution by eliminating the RPO and reducing the buffers therefore he is concerned that this new product will not protect the natural areas in the conservation-recreation zones or floodplain.

Mr. Langenheim stated the information included in Mr. DiNovo's memorandum indicates what the bi-partisan group feels has an opportunity to be approved by a 3/4 majority of the County Board. He said that the RPO is being eliminated and the buffers reduced. The lot sizes will give greater protection to prime farmland and the environmental impact statement will be required for rural subdivisions.

Ms. Greenwalt stated that she understands the compromise for the RPO but why less density in

the agricultural districts and not in the conservation-recreation districts.

Mr. DiNovo stated that the understanding was that the “as-of- right” development was one dwelling per 40 acres everywhere but the difference is that on the non-best prime farmland someone would have the opportunity to apply for a rural planned development where on best prime farmland the opportunity would not be available. He said that one of the other changes is that the maximum number of lots which are possible for a rural planned development is reduced from one per five acres to one per ten acres.

Mr. Moser stated that it only takes seven people to kill this whole thing.

Ms. Greenwalt stated that staff has put a lot time, effort and money into this project and asked if the members of the Committee should go back to their respective caucuses to receive direction as to whether they want to direct staff to work for the next six to twelve months on the re-write.

Ms. Busboom moved that the Chair call the question.

Mr. Langenheim emphasized that the re-write will come back to ELUC in July.

The motion carried with one opposing vote.

7. Case 181-05: Bateman Subdivision. Combined Area General Plan and Final Plat approval for a two-lot minor subdivision of an existing residential lot located in the CR Zoning District in Section 18 of East Bend Township.

Mr. Doenitz moved, seconded by Mr. McGinty to recommend approval of Case 181-05: Bateman Subdivision Area General Plan including three waivers of minimum subdivision standards and recommend approval of the Final Plat with two waivers and one condition.

Ms. Anderson stated that she did visit the site and questioned why the new house was proposed to be built so close to the existing house and she wondered why they would want to put another house so close to the existing home.

Mr. Hall stated that the new lot meets the average lot width requirement therefore the new house will not be any closer to the lot lines than any other house can be built in the rural districts. He said that the lot meets the minimum, but not far beyond, but that some of the lots in this development are close to 300 feet wide and this will not be anywhere near that. He said the house where Mr. Bateman resides is located on a very small area north of the river and is still on three acres and still meets the minimum requirements. Mr. Hall pointed out that just because Mr. Bateman wanted to do this to his house ELUC did not have to approve it.

Ms. Anderson asked if the trees would be removed.

Mr. Hall stated that a house could be built on the site with no apparent necessary loss of trees and there will be 100 feet of river frontage.

Ms. Anderson also questioned how the proposed subdivision might prevent a house from being

built on prime farmland or in a wooded area and she wondered how that would be guaranteed.

Mr. Hall explained that there is no guarantee and is just a consideration to help the Committee understand the trade-offs the may be involved in considering the request.

The motion carried with four opposing votes.

8. Case 182-05: Greenwood Lake 5th Subdivision. Preliminary Plat, Engineering Drawing and Final Plat Subdivision approval for a six-lot subdivision of an existing 10.5 acre tract in the AG-1 District and RRO District located in Section 21 of East Bend Township, pursuant to Case 468-AM-04.

Mr. Hall distributed a memorandum dated May 09, 2005 for the Committee's review. He said that the memorandum indicates that the proposed improvement to the existing street has been revised again and a letter of approval has been received from the East Bend Township Highway Commissioner and the Sangamon Valley-Dewey Fire Protection District. The County Engineer gave his approval this afternoon therefore the condition related to his approval is no longer required although the condition regarding the proposed street improvement is still necessary. He reviewed the proposed cul-de-sac improvements.

Ms. Anderson moved, seconded by Ms. Busboom to recommend approval of Case 182-05: Greenwood Lake 5th Subdivision Preliminary Plat including three waivers and recommend approval of the Final Plat with one waiver and one condition. The motion carried with one opposing vote.

9. Case 459-AM-04: Tim and Cyndy Woodard and Chris Creek. Request to amend the zoning map to allow for the development of 10 single-family residential lots, (as amended on November 24, 2004) in the CR, Conservation-Recreation Zoning District by adding the Rural Residential Overlay (RRO) Zoning District. Location: A 40 acre tract of land in the Northeast Quarter of the Northwest Quarter, Section 36 of Newcomb Township and fronts the south side of CR 2500N and on the west side of CR 4400E at the intersection of CR 2500N and CR 550E.

Mr. Schroeder moved, seconded by Ms. Greenwalt to recommend denial of Case 459-AM-04: Tim and Cyndy Woodard and Chris Creek to amend the Zoning Map to allow for the development of 10 single family residential lots (as amended on November 24, 2004) in the CR Conservation Recreation Zoning District by adding the Rural Residential Overlay (RRO) Zoning District.

Mr. Hall stated that this case comes before the Committee with a recommendation of denial based on a tie vote at the ZBA. The findings recommended approval but the motion to approve the proposed map amendment failed, with only six members present, on a vote of 3 affirmative votes versus 3 votes against at the Zoning Board of Appeals meeting on April 14, 2005. He said that the only way a case does not come to the this Committee with a recommendation for denial is if the petitioner withdrawals the request. The petitioner has not withdrawn their request therefore it is before the Committee tonight.

Ms. Anderson requested information regarding the concerns of the Board members which denied the request.

Mr. Hall stated that he cannot provide such information because the findings were not written for denial. He said that there were two issues raised during construction of the findings which were traffic and drainage conditions.

Ms. Anderson stated that she did visit the site and noticed that there were homes all along the site. She said that she was amazed at the amount of traffic that traveled the road.

Mr. Hall stated that the road which goes west of Route 47 does carry more traffic than it should but most of the driveways for this subdivision outlet onto CR500E. He said that the pavement for CR600E is so wide that the traffic capacity is undetermined but it is known that the road carries a great amount of traffic.

Mr. Fletcher stated that the Committee must either change its position and approve the subdivision or change or supplement the findings but the Committee cannot leave the record as it is and follow the ZBA's recommendation.

Mr. Fabri asked if the Committee had the ability to change the findings which the ZBA drafted.

Mr. Hall stated that these are the findings which were drafted by the ZBA and all of the evidence has been presented to the Committee so that they can review and adopt new findings.

Mr. Langenheim stated that the ZBA has written a series of findings and then has acted contrary to those findings therefore ELUC is required to change those findings or recommend approval.

Mr. Fletcher stated that Mr. Langenheim was correct or ELUC could remand the case back to the ZBA or approve it based on the ZBA's findings.

Ms. Busboom moved, seconded by Mr. Fabri to remand Case 459-AM-04: Tim and Cyndy Woodard and Chris Creek back to the Zoning Board of Appeals.

Mr. DiNovo stated the Committee should be aware that this is a situation that is a feature of state law. The state law requires the ZBA to act by a super-majority to take any action in favor of the petitioner but only a simple majority to adopt findings. He said that it is entirely possible that you could have findings that go in one direction and action from the ZBA that does not follow that direction.

Mr. Fabri recommended that staff prepare a finding that would support the denial and present to ELUC for approval.

Mr. Hall stated that this case could be continued to the next meeting for Committee review.

Mr. McGinty stated that he does not feel that it is unreasonable to remand this case back to the

ZBA for clarification.

Mr. Schroeder stated that the ZBA will require direction for this Committee when this case is remanded back to them.

Mr. Fletcher stated that the Committee will be requesting the ZBA for clarification of the findings and final determination.

Ms. Busboom and Mr. Fabri accepted Mr. Fletcher's recommendation and amended their motion as follows:

Ms. Busboom moved, seconded by Mr. Fabri to remand Case 458-AM-04: Tim and Cyndy Woodard and Chris Creek back to the Zoning Board of Appeals for clarification of findings and final determination. The motion carried with one opposing vote.

10. Case 483-FV-04: Dan and Mary Jenkins. Request to authorize the following variances from the Champaign County Special Flood Hazard Area Ordinance: A. Request to authorize the construction and use of a residential garage with the following variances: (1) The floor of the garage shall be no more than one foot below the Base Flood Elevation and no more than two feet below the required Flood Protection Elevation instead of a the required Flood Protection which is one foot above the Base Flood Elevation; and (2) The garage shall be 720 square feet in area instead of no more than 500 square feet in area. B. Authorize the construction and use of two sheds each with the following variances: (1) The floor of each shed shall be no more than one foot below the Base Flood Elevation and no more than two feet below the required Flood Protection Elevation instead of at the required Flood Protection Elevation which is one foot above the Base Flood Elevation; and (2) Each shed shall be 1,320 square feet in area instead of no more than 500 square feet in area. Location: A 40 acre tract located in the West ½ of the East ½ of the Northeast Quarter of Section 10 of St. Joseph Township and that is located south of CR 1700N between the Salt Fork River and Chateau Drive.

Mr. Moser moved, seconded by Ms. Busboom to recommend approval of Case 483-FV-04: Dan and Mary Jenkins, Parts A & B.

Mr. Moser asked if the Jenkins own the existing manufactured home.

Ms. Hitt stated that the Jenkins do own the manufactured home and this will be their residence.

Mr. Moser stated that he has seen flood water in the area of the proposed buildings.

Ms. Hitt stated that approved flood vents are included in the construction of the garage so that the flood water will not be interrupted.

Mr. Moser asked if the junk along the property belongs to the petitioners.

Ms. Hitt stated that the junk belongs to a different property and if it is not removed then the case will be referred to the State's Attorney's office.

Mr. Moser asked if any fill will be brought onto the subject property.

Ms. Hitt stated that no fill is allowed. She said that the petitioners are aware of the danger of potential flooding.

Mr. Doenitz asked why this case is before the Committee if the request is to build below the base flood elevation.

Mr. Hall stated that the Ordinance does not prohibit such a request. He said that all construction which is below the base flood elevation will be constructed with flood resistant materials.

Ms. Hitt stated that the reason why the petitioners want the garage floor to be lower than the finished first floor is so that their driveway doesn't have to be as steep up to the garage. She said that the Illinois Department of Natural Resources has reviewed the petitioner's request and determined that no fill would be allowed although the IDNR Office of Water Resources has allowed a small amount of fill to elevate the garage floor but even with that fill the floor is still not to the first floor level (flood protection elevation). She said that the sheds will store equipment and the hay storage will be elevated. The shed will have flood vents so that the flood water can flow through the building.

Ms. Greenwalt asked if the ZBA's vote was unanimous.

Mr. Hall stated that the vote was unanimous.

Ms. Anderson stated that square footage which is requested is three times the allowed amount and asked how often the Committee has been asked to approve such a waiver.

Mr. Hall stated that the Committee has only reviewed 16 floodplain variances during the history of the Special Flood Hazard Area Ordinance. He said that there have been variances with much greater depths below the base flood elevation. He noted that the 500 square feet comes from a model ordinance and he is not aware of the basis of the requirement.

The motion carried by voice vote with four opposing votes.

11. Case 485-FV-04: Mayfield Builders. Request to authorize the following variances from the Champaign County Special Flood Hazard Area Ordinance: A. The floor of the garage shall be no more than one foot below the Base Flood Elevation and no more than two feet below the required Flood Protection Elevation instead of at the required Flood Protection Elevation which is one foot above the Base Flood Elevation; and B. The garage is 627 square feet in area instead of no more than 500 square feet in area. Location: Lot 35 of The Meadows Subdivision and that is commonly known as the residence at 2502 Appaloosa Lane, Mahomet.

Ms. Greenwalt moved, seconded by Mr. Schroeder to recommend approval of Case 485-FV-04:

Mayfield Builders, Parts A & B. The motion carried with three opposing votes.

12. Planning and Zoning Report
A. Monthly Report

Mr. Roseman presented an overview of the distributed April, 2005 Monthly Report.

B. Enforcement

Mr. Roseman stated that there were 253 open cases not counting the 21 cases which are currently with the State's Attorney's office. The State's Attorney's office has not had an opportunity to review the referred cases for their status. He presented an overview of the distributed memorandum indicating enforcement procedures

Mr. Schroeder stated that the Nuisance Ordinance needs to have some teeth written into it so that staff can take care of repeat violators.

Mr. Fletcher stated that the court system can issue fines to the repeat violators although the judges are reluctant to issue those fines. He said that his office would like to take a more aggressive approach to these violations but due to the lack of staff it is impossible at that time.

Mr. DiNovo stated that up until now the County has had an enforcement system which is the equivalent to a traffic cop letting a violator go because he slowed back down when you were stopped for speeding therefore you don't get a ticket. The County has been allowing people to make messes and then just because they clean up the messes, which should have never been made in the first place, they don't penalize them. He said that what is important is not so much of imposing an enormous fine on a few people but the certainty of imposing some sort of a fine on every single person that does not clean up their messes immediately. He said that there will be much better compliance if people understand that there are fines which will be imposed if they do not comply. He said that currently they receive three weeks to clean up the mess before they are referred to the State's Attorney's office.

Mr. Fletcher stated that the backlogged cases must be addressed first.

Mr. Roseman stated that he will provide further information regarding proposed enforcement procedures to the Committee at the June, 2005 meeting.

13. Other Business

None

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

None

15. Adjournment

The meeting adjourned at 8:40 p.m.

Respectfully submitted,

Secretary to the Environment and Land Use Committee

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