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4 **MINUTES OF REGULAR MEETING**

6 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

7 **1776 E. Washington Street**

8 **Urbana, IL 61801**

10 **DATE: May 25, 2006**

**PLACE: Brookens Gymnasium
1776 E. Washington St.**

12 **TIME: 7:00 p.m.**

Urbana, IL 61802

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

17 **MEMBERS ABSENT :** None

19 **STAFF PRESENT :** Lori Busboom, John Hall, Jamie Hitt, Susan Monte

21 **OTHERS PRESENT :** Don Fairfield, Norman Stenzel, Hal Barnhart, Scott Bidner, Sherry Schildt,
22 Herb Schildt, Jim Rector, Duke Goodwin, Margaret Goodwin, Louis
23 Wozniak, Aleta Holt, Sarah Holt, Amy Murray, Brad Pribble, Ron Cook,
24 Margaret Pribble, Ralph Langenheim

27 **1. Call to Order**

28
29 The meeting was called to order at 7:05 p.m.

31 **2. Roll Call and Declaration of Quorum**

32
33 The roll was called and a quorum declared present.

35 **3. Correspondence**

36
37 None

39 **4. Approval of Minutes**

40
41 **Mr. Irle moved, seconded by Mr. Goldenstein to approve the May 4, 2006, minutes as submitted. The**

1 motion carried by voice vote.

2

3 5. Continued Public Hearing

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

7

8 Ms. Monte distributed the following documents pertaining to Part F of Case 522-AT-05 to the Board for
9 review: 1) Page 24 of 24 of the Revised Draft Finding of Fact and Final Determination for Part F, ; and 4)
10 Attachment A, Corrected as of May 23, 2006.

11

12 Mr. Hall informed the audience that the information distributed to the Board is available for public review
13 and may be picked up at the table located at the rear entrance.

14

15 Ms. Monte reviewed the changes made to Chapter 22 with regard to drainageway protection. She said that
16 staff expanded and clarified the list of best available information shown in Subsection 22.10.300 so that
17 people would better understand how a drainageway is identified. She said that Subsection 22.20.600 was
18 added to describe drainageways exempt from drainageway setback requirements namely intermittent
19 drainageways that serve an upstream tributary area of 5 acres or less. She said that significant changes to
20 the drain tile setback provisions include removal of the following provisions: allowing capping of drain tiles
21 and; related provisions requiring an easement for a drain tile. She said that provisions to allow for rerouting
22 a drain tile have been added to the text and appear in Subsections 22.30.700 and 22.30.800.

23

24 Mr. Bluhm asked Ms. Monte which provision was taken out regarding a drain tile encountered during
25 construction.

26

27 Ms. Monte stated that the State's Attorney recommended that Subsection 22.30.700.C(b) be removed.

28

29 Mr. Hall stated that granting an easement for the drain tile would be a great idea, but it cannot be required in

1 the Zoning Ordinance.

2

3 Ms. Griest asked Ms. Monte if the latest round of corrections as of May 23, 2006, have satisfied the State's
4 Attorney's concerns and whether the Board is free to proceed with Part F.

5

6 Ms. Monte stated that the concerns of the State's Attorney with regard to Part F have been met, and the
7 Board is free to proceed with Part F.

8

9 Ms. Griest asked the Board if they wanted to proceed with the Finding of Fact and Final Determination for
10 Part F.

11

12 Ms. Griest requested Ms. Monte compare the text changes to the conditions that the Board was previously
13 considering.

14

15 Ms. Monte stated that Item 23 of the Revised Draft Finding of Fact dated May 19, 2006, describes the
16 condition that the Board was considering at the last meeting. She said that the condition regarding capping
17 of the drain tile has been incorporated into the text of Public Review Draft 3 as revised 5/19/06.

18

19 Ms. Griest stated that she understands that the Revised Draft Finding of Fact dated May 19, 2006, references
20 the Board's findings for Part F as discussed at the last meeting, but so that everyone understands what they
21 might have been reserving their opinion upon, she would like staff to explain what changes occurred to the
22 text that eliminated the need for the conditions. She said that Ms. Monte indicated that text was added
23 regarding the definition of a drainageway and to further clarify how a drainageway setback is measured. She
24 said that in reading the text, it appears that the language of the Board's previously considered conditions
25 were picked up and incorporated into the text, therefore eliminating the need for the conditions.

26

27 Ms. Monte stated that Ms. Griest's explanation regarding elimination of the previously considered
28 conditions is accurate.

29

1 Ms. Griest stated that at the May 4, 2006, ZBA meeting the consensus of the Board was that a condition
2 needed to be approved prior to the ZBA's assessment regarding whether Part F achieves Ordinance
3 Objective #3. She said that since the need for a condition has been eliminated, the Board needs to make a
4 recommendation regarding Ordinance Objective #3.

5
6 Mr. Steeves stated that part of the Board's discussion regarding Ordinance Objective #3 was that it was
7 unknown as to how much work is involved in administering the drainageway protection provisions.

8
9 Mr. Hall stated that no new information has been received regarding the amount of work that will be
10 involved.

11
12 Ms. Griest stated that her notes from the May 04, 2006, ZBA meeting indicated that the Board felt that
13 Ordinance Objective #3 is **PARTIALLY ACHIEVED** with a condition.

14
15 Mr. Goldenstein stated that his notes reflected the same.

16
17 Ms. Griest stated that she did not have any notes indicating that a condition was approved, therefore the
18 Board should revisit Ordinance Objective #3 and either propose a condition or remove the reference to a
19 condition and determine whether it achieves, partially achieves or does not achieve.

20
21 Mr. Steeves stated that the Board was previously considering a condition, but he got the impression that a
22 condition was not needed if the determination was **PARTIALLY ACHIEVES** because it is unknown as to
23 how much additional work will be placed upon staff to administer and enforce the drainageway protection
24 provisions.

25
26 Mr. Hall stated that the May 4, 2006, minutes, indicate that the condition which was being referred to be the
27 condition which was relevant to Ordinance Objective #1 and that condition is no longer required.

28
29 Ms. Griest stated that the Board needs to finalize the determination for Ordinance Objective #3 based upon

1 the revised language.

2

3 Mr. Irle stated that Ordinance Objective #3 PARTIALLY ACHIEVES without conditions.

4

5 **The consensus of the Board was that Part F PARTIALLY ACHIEVES Ordinance Objective #3.**

6

7 Ms. Griest read Ordinance Objective #5. She said that on May 4, 2006, the consensus of the ZBA was that a
8 condition needed to be approved prior to the ZBA assessing whether Part F achieves Ordinance Objective
9 #5.

10

11 Mr. Goldenstein stated that Ordinance Objective #5 PARTIALLY ACHIEVES because it is unknown what
12 the resources or time restraints will be for the County at any given time or in the future.

13

14 Mr. Bluhm agreed with Mr. Goldenstein's determination. He said that staff has reviewed information to
15 form a guideline on how to complete the measurements of the drainageway setbacks and the County does
16 have limited resources.

17

18 **The consensus of the Board was that Part F PARTIALLY ACHIEVES Ordinance Objective #5.**

19

20 Ms. Griest noted that she appreciates staff's efforts to add additional scientific and informational resources
21 and incorporating that into the text.

22

23 Ms. Griest read Ordinance Objective #8. She said that on May 4, 2006, the consensus of the ZBA was to
24 delay their assessment of whether Part F achieves Ordinance Objective #8 until a later date so that comment
25 could be received from the State's Attorney.

26

27 Mr. Steeves stated that a letter was submitted by Joel Fletcher, Senior Assistant State's Attorney
28 commenting on Ordinance Objectives #8 and #9.

29

1 Ms. Monte stated that at the May 04, 2006, ZBA meeting staff indicated that Mr. Fletcher might have
2 additional concerns which need to be addressed and that he therefore recommended that the Board delay
3 their final determination. She said that staff has addressed the concerns that Mr. Fletcher originally raised
4 with the expanded text listing the scientific references and maps that would be utilized in assessing
5 drainageway locations and there is not further need to delay the Board’s determination because no further
6 information is expected from Mr. Fletcher.

7
8 Mr. Steeves stated that Ordinance Objective #8 ACHIEVES. He said that if there was definite conflict then
9 Mr. Fletcher would have pointed it out to the Board.

10
11 **The consensus of the Board was that Part F ACHIEVES Ordinance Objective #8.**

12
13 Ms. Griest read Ordinance Objective #9. She said that on May 4, 2006, the consensus of the ZBA was to
14 delay their assessment of whether Part F achieves Ordinance Objective #9 until a later date.

15
16 Mr. Louis Wozniak, who resides at 401C CR 2425N, Mahomet called a point of order. He said that since
17 material has been sent and text has been changed it appears that, at a minimum, additional evidence should
18 be allowed from the public before the Board makes its determination. He said that he consulted with his
19 attorney and he said that Part F does not conform to the Fifth Amendment because it is a taking of private
20 property without compensation. He said that the public has not had the opportunity to enter any new
21 evidence.

22
23 Ms. Griest assured Mr. Wozniak that, before the Board makes its final determination, the public would be
24 allowed to speak.

25
26 Mr. Wozniak asked if the determination of “achieves” or “not achieves” is a matter of public record. He
27 asked if the determination would be changed after additional testimony is received.

28
29 Ms. Griest stated that it is not the intent of the Board to change their determination after public testimony

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1 has been received. She said that the Environment and Land Use Committee directed the Board to cease
2 taking public testimony once they feel that they have enough information. She said that the Board is
3 operating under that governance.

4
5 Mr. Hall stated that the Petitioner does want to see this case move along, and as far as he knows, there hasn't
6 been any new evidence presented since the Board began preparing their determinations regarding the
7 LURP's or Ordinance Objectives. He said that the text has been modified somewhat to correct some
8 problems and he would expect the Board, prior to the final determination, to ask the audience if there is any
9 relevant testimony to be added.

10
11 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet asked if the corrected Chapter 22 replaces the
12 Chapter 22 which is Public Review Draft Ordinance #3.

13
14 Mr. Hall stated that the corrected May 23, 2006, Attachment A replaces the Chapter 22 which is included in
15 Public Review Draft Ordinance #3.

16
17 Mr. Steeves stated that Ordinance Objective #9 ACHIEVES. He said that, with his limited knowledge in
18 these areas, if the Ordinance has been reviewed by Mr. Fletcher, Senior Assistant State's Attorney and it has
19 received his approval, then he must determine that Ordinance Objective #9 ACHIEVES.

20
21 **The consensus of the Board was that Part F ACHIEVES Ordinance Objective #9.**

22
23 Ms. Griest read Ordinance Objective #10. She said that on May 4, 2006, the consensus of the ZBA was to
24 delay their assessment of whether Part F achieves Ordinance Objective #10 until a later date.

25
26 Mr. Bluhm stated that Ordinance Objective #10 ACHIEVES. He said that Mr. Fletcher, Senior Assistant
27 State's Attorney, requested that certain provisions be eliminated from the text and the text has been revised
28 to accommodate his request. He said that the addition of the definition of intermittent drainageways that
29 serve an upstream tributary area of 5 acres or less as being exempt from the requirement for a Drainagway

1 Setback is consistent with this Ordinance Objective, therefore it ACHIEVES.

2

3 **The consensus of the Board was that Part F ACHIEVES Ordinance Objective #10.**

4

5 Ms. Griest read Ordinance Objective #11. She said that on May 4, 2006, the consensus of the ZBA was to
6 delay their assessment of achievement by Part F or Ordinance Objective #11 until a later time.

7

8 Mr. Irle stated that Ordinance Objective #11 PARTIALLY ACHIEVES. He said that even though the staff
9 has tried their utmost to draft the language to achieve the purposes of this Ordinance Objective, public
10 testimony has indicated that there are a lot of landowners who feel that it interferes with the maximum
11 freedom of action possible.

12

13 Mr. Bluhm agreed with Mr. Irle's determination. He said that a landowner has the right to apply for a
14 variance, therefore giving them some level of additional freedom.

15

16 **The consensus of the Board was that Part F PARTIALLY ACHIEVES Ordinance Objective #11.**

17

18 Mr. Irle stated that overall, Part F PARTIALLY ACHIEVES the Ordinance Objectives based upon the
19 utilized scoring system. He said that the majority of the items have been determined to PARTIALLY
20 ACHIEVE and no items were determined as DOES NOT ACHIEVE, and the remainder of the items were
21 determined to ACHIEVE, or were not relevant to the merit of Part F.

22

23 Ms. Griest asked if additional clarification is required, or do the earlier comments included in the minutes of
24 the individual points serve as adequate substance behind Mr. Irle's recommendation.

25

26 Mr. Hall stated that he would believe that the earlier comments would serve as being adequate, and if the
27 Board is comfortable with what Mr. Irle stated, then so be it.

28

29 **The consensus of the Board was that overall, Part F PARTIALLY ACHIEVES for the reasons cited**

1 by Mr. Irle.

2

3 Ms. Monte stated that the documents distributed at tonight's meeting regarding Part F will be added to the
4 Documents of Record. She noted that Item #17.C of the Revised Draft Finding of Fact dated May 19, 2006,
5 will be updated to include the two added best available information items for a total of eight items under
6 #17.C.

7

8 Ms. Griest stated that at this time she will move to the witness register. She noted that the testimony will be
9 limited to three minutes and only testimony relevant to Part F will be accepted.

10

11 Mr. Jim Rector, who resides at 9 Dunlap Woods, Sidney, stated that he was not in attendance at the last
12 meeting. He said that Page 20, Line 25 of the May 4, 2006, minutes indicates that Mr. Bluhm stated that if a
13 property is not in a drainage district, then there is no setback, but if the Army Corps of Engineers wanted to
14 come in they would have their right-of-way. He said that the cleaning of the Salt Fork probably needed 75
15 feet to do their maintenance. Mr. Rector stated that the Salt Fork River does not need cleaning and 75 feet
16 on either side of the Salt Fork River is wide enough to place the Dan Ryan Expressway in. He said that this
17 is 3/4ths of his backyard, and there is no reason why this needs to be done. He submitted a recent
18 commentary from the May 21, 2006, News Gazette regarding the Army Corps of Engineers. He extended
19 an invitation to each ZBA member for a tour of the Salt Fork River area from the Upper Salt Fork Drainage
20 District area to the south county line. He said that the concept that the Salt Fork needs to be cleaned and
21 maintained is wrong.

22

23 Ms. Griest asked the Board and staff if they had any questions for Mr. Rector and there were none.

24

25 Mr. Louis Wozniak, who resides at 401C CR 2425N, Mahomet stated, with regard to the Ordinance
26 Objectives, that it appears that if the Board is going to follow the directives or advice of Mr. Fletcher, who is
27 one attorney, then why have the item on the list to begin with and have Mr. Fletcher decide the
28 determination of the item and save the time. He said that Mr. Fletcher is an attorney and there are several
29 other attorneys in the area and each attorney has their own opinions. He said that he consulted his attorney

1 and his attorney’s opinion was totally opposite of Mr. Fletcher’s opinion and that the proposed text is illegal
2 and unconstitutional because it is a “taking” of private property.

3
4 Ms. Griest asked Mr. Wozniak if during his discussions with his attorney he requested his attorney’s opinion
5 on Part F individually or on the Draft Zoning Ordinance as a whole.

6
7 Mr. Wozniak stated that it was specifically on Part F and the 75 foot setback requirement. He said that his
8 attorney alluded to a different section of the Draft Ordinance.

9
10 Ms. Griest asked the Board and staff if they had any questions for Mr. Wozniak and there were none.

11
12 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet stated that, with the rewrite of Part F and the
13 promises that were consistently made about not rewriting the Draft Ordinance 3 until it went to ELUC, it
14 seems like the final determination should be delayed until a mailing of the revised Part F could be reviewed
15 by all interested parties who have indicated an interest in the proceedings. He said that the expansion of the
16 buffer by the new way of measurement is probably going to affect some people that previously were not
17 affected.

18
19 Ms. Griest asked the Board and staff if they had any questions for Mr. Schildt.

20
21 Mr. Hall stated that he would hope that anyone who wanted to comment on the drainage setback would have
22 had ample opportunity already to have done so and the change regarding the measurement of the
23 drainageway setback is a minimal change.

24
25 Mr. Schildt stated that it did change how his land is affected. He said that many, many people in Newcomb
26 Township are along the Sangamon River, and they will be impacted by the increased setback and that most
27 of them, other than the people who are present at tonight’s hearing, do not realize that this change has
28 happened.

29

1 Ms. Griest stated that the ZBA did discuss this issue at the last public hearing, and the Board felt that they
2 were providing adequate relief with the ability to request a variance. She said that anyone who is on the
3 mailing list for a full mailing packet should have received the minutes from the May 4, 2006, meeting and
4 they still have an opportunity to submit their comments and concerns in writing and those comments and
5 concerns will be forwarded to ELUC.

6
7 Mr. Schildt stated that he is not arguing about the Ordinance, but the promise that was made to everyone and
8 suddenly it was changed. He said that only the people present at tonight's meeting realize that there have
9 been changes. He said that the promise that no changes would be made to Public Review Draft 3 was
10 repeated throughout the hearing process and now suddenly the promise has changed. He said that it seems
11 that if the final determination is not delayed so that the public can review the Revised Part F, it will not look
12 good.

13
14 Ms. Griest asked the audience if anyone else wished to present testimony at this time and there were none.

15
16 Ms. Griest closed the public testimony on Part F.

17
18 Mr. Hall stated that the News Gazette Article dated May 21, 2006, submitted by Mr. Jim Rector at the May
19 25, 2006, meeting should be added as a Document of Record.

20
21 **Mr. Irle moved, seconded by Mr. Steeves to adopt the Summary of Evidence, Documents of Record
22 and Finding of Fact for Part F. The motion carried by voice vote.**

23
24 **Mr. Bluhm moved, seconded by Mr. Steeves to close the public hearing for Case 522-AT-05, Part F.
25 The motion carried by voice vote.**

26
27 **Final Determination for Case 522-AT 05, Part F:**

28
29 **Mr. Irle moved, seconded by Mr. Bluhm that pursuant to the authority granted by Section 9.2 of the**

1 **Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
 2 **determines that the Text Amendment requested in Case 522-AT-05, Part F, as it appears in the Public**
 3 **Review Draft 3 Zoning Ordinance revised 5/19/06, should be enacted by the County Board as**
 4 **requested.**

5

6 The roll was called:

7

8	Bluhm-yes	Goldenstein-yes	Irle-yes
9	Miller-yes	Schroeder-yes	Steeves-yes
10	Griest-yes		

11

12 Ms. Griest stated that the Board will now review Case 522-AT-05, Parts J & L. She said that the Board will
 13 consider Parts J & L jointly.

14

15 Ms. Monte distributed the following documents pertaining to Parts J and L to the Board for review: 1) Case
 16 522-AT-05 Parts J and L Revised Draft Finding of Fact and Final Determination dated May 25, 2006; 2)
 17 Case 522-AT-05 Part J Handout dated May 25, 2006; and 3) Strikeout Version of Subsection 37.60.200
 18 dated May 25, 2006.

19

20 Ms. Monte read the text of the added Paragraph C to Subsection 37.60.200 (Sending Tract).

21

22 Mr. Hall stated that the Board had previously reviewed this option for someone who was considering
 23 development. He said that this is a process in which a developer could have a sending tract which would
 24 send potential dwelling units to a receiving tract upon approval of the County Board. He said that
 25 previously when the Board reviewed this option, the Board was concerned they how it would be
 26 documented in the land records that the County keeps. He said that staff discovered that there is a way to
 27 file a miscellaneous document with the Recorder of Deeds. He said that someone who is proposing a
 28 development and approval is received from the County Board before they can file the Plat of Subdivision
 29 and begin selling the lots on the receiving tract they would be required to record a miscellaneous document

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1 so that all future land owners of the sending tract, the prospective buyers, would be aware of the
2 arrangement. He said that this is a zoning arrangement and is always subject to review in another zoning
3 case, therefore, this recorded document would be provided for public information only.
4

5 Ms. Monte stated that the added Paragraph C under Subsection 37.60.200 is one change that staff is
6 proposing to Part J, which is the Rural Planned Development provisions that are located in Chapter 37. She
7 said that Part L is a series of 10 miscellaneous procedural changes. She said that in order to address a
8 concern of the Senior Assistant State's Attorney, a specific revision is proposed to Chapters 34, 35 and 37 as
9 follows: Remove the word 'preponderantly' to describe required findings in Subsection 34.40.200;
10 Subsection 35.20.300; Subsections 37.90.300 and 37.100.300. She said that the Zoning Board of Appeals
11 will need to make findings that support their determination.
12

13 Ms. Griest stated that the distributed documents regarding Parts J & L should be added to the Documents of
14 Record. She asked the Board if there were additional changes that needed to be added to the Summary of
15 Evidence and there were none. She said that the Board will now review the Land Use Regulatory Policies
16 that are most relevant to Part J.
17

18 Ms. Griest read Land Use Regulatory Policy 1.2. She said that in her opinion this policy is discussing the
19 preservation of best prime farmland opposed to other aspects or workability, or whether it is a good or bad
20 choice. She said that this is an objective decision on whether the recommendation strives to preserve best
21 prime farmland.
22

23 Mr. Hall agreed with Ms. Griest's interpretation of LURP 1.2.
24

25 Mr. Irle stated that, due to the very narrow scope of LURP 1.2, best prime farmland is to be preserved and it
26 is clear that development is not allowed on best prime farmland that has a LESA score of 85 or better and
27 therefore he would state that Part J DOES CONFORM to LURP 1.2.
28

29 **The consensus of the Board was that Part J DOES CONFORM to LURP 1.2.**

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Ms. Griest read Land Use Regulatory Policy 1.1.4.

Mr. Bluhm stated that Part J DOES CONFORM to LURP 1.1.4. He said that the policy is trying to minimize any conversion of farmland and utilizing Part J will accomplish that goal. He said that LURP 1.1.4, Items LURP b thru e are attained in the rezoning process and in the special use process through the ZBA.

The consensus of the Board was that Part J DOES CONFORM to LURP 1.1.4.

Ms. Griest read Land Use Regulatory Policy 1.3.5.

Mr. Goldenstein stated that Part J DOES CONFORM to LURP 1.3.5.

The consensus of the Board was that Part J DOES CONFORM to LURP 1.3.5.

Ms. Griest read Land Use Regulatory Policy 1.5.1.

Mr. Steeves stated that the text appears to be worded in a negative form. He requested an explanation of LURP 1.5.1.

Mr. Hall stated that LURP 1.5.1 is very similar to the way that the Board reviews RROs. He said that if the Board finds that a site is “unsuited overall” it would not recommend RRO approval and that basically, that is what LURP 1.5.1. is asserting. He said that in order to be recommended for approval the development has to be better than “unsuited overall.”

Ms. Griest stated that the phrase, “will not be allowed on other than best prime farmland” can be misread to indicate that it could only be considered on best prime farmland.

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1 Mr. Hall stated that the Board knows that this is not possible because there are other policies that already
2 prohibit that.

3

4 Mr. Steeves stated that if it requires discretionary review it will only be on best prime farmland.

5

6 Mr. Hall stated that the LURPs look at Champaign County soils as falling into two general types: “best
7 prime farmland” and “other than best prime farmland.”

8

9 Mr. Goldenstein stated that if LURP 1.5.1. was reworded then it would make more sense.

10

11 Ms. Monte indicated that the Board cannot change the text of LURP 1.5.1.

12

13 Mr. Bluhm stated that LURP 1.5.1. indicates that the development will not be allowed if it is “unsuited
14 overall.” He said that if a development is reviewed by the ZBA and it is found that it is not adequate, then it
15 can be denied.

16

17 Mr. Steeves stated that it is hard for him to indicate whether Part J conforms to LURP 1.5.1. if he does not
18 understand what LURP 1.5.1 is saying.

19

20 Mr. Bluhm stated that it is basically saying that development will not be allowed on soils that are not best
21 prime farmland if the site is unsuited overall for the development.

22

23 Ms. Monte stated that even if a development is not located on best prime farmland doesn’t mean that it is
24 going to be allowed because the site has to be suited overall.

25

26 Mr. Steeves asked if the use is unsuited, why restrict it to best prime farmland.

27

28 Mr. Hall stated that it is the suitability of the site that is being determined, not the use, just like the Board is
29 required to do in the current RRO process.

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Mr. Irle stated that, to him, the text indicates that if it suited because it is not best prime farmland, then it could still be determined as unsuitable based on one condition. He said that in the past the Board has said that there may be four or five reasons why it may be suited, but there may be one predominant factor that tells them that it is unsuited and that one reason may have more weight than all of the other factors combined. He said, as an example, that perhaps there is a gas well that the Board is concerned about, and that one reason could make the overall determination unsuited. Mr. Irle stated that he is having trouble forming the language to justify PARTIALLY CONFORMS OR DOES NOT CONFORM.

Mr. Bluhm stated that he would review what the Board has done in the past for RROs and this is totally different. He said that all of the site-specific criteria must be reviewed by the Board during the review process and that gets the Board to the point of determining whether a site is suited overall or not. He said that, in following what the Board has done in the past with the RROs, he would tend to say that Part J DOES CONFORM to LURP 1.5.1 because the Board is still going through the process of identifying each site-specific concern that pertains to a property. He said that the discretionary review allows the Board to determine that if the site is unsuited in one general area, then the site is not suited overall.

Mr. Steeves stated that he agrees with Mr. Bluhm's determination.

The consensus of the Board was that Part J DOES CONFORM to LURP 1.5.1.

Ms. Griest read Land Use Regulatory Policy 1.5.3.

Mr. Steeves stated that Part J DOES CONFORM to LURP 1.5.3. He said that with the site-specific assessments that are required, the Board would be able to determine whether the existing infrastructure would support or not support, or whether improvements would be required to support the proposed development.

Mr. Irle stated that he agrees with Mr. Steeves' determination. He said that the entire purpose of Part J is for

1 the rural development to decrease, which would lighten the burden on the local infrastructure and taxing
2 bodies.

3
4 Mr. Bluhm stated that he also agrees with Mr. Steeves' determination. He said that some of the added
5 criteria which has been put into the process of the number of dwellings allowed so that it doesn't increase
6 the ADTs on the road for more than it can handle were not included in the past.

7
8 **The consensus of the Board was that Part J DOES CONFORM to LURP 1.5.1.**

9
10 Ms. Griest read Land Use Regulatory Policy 1.5.4.

11
12 Mr. Bluhm stated that Part J DOES CONFORM to LURP 1.5.4 for the same reasons stated in the
13 determination for LURP 1.5.3.

14
15 **The consensus of the Board was that Part J DOES CONFORM to LURP 1.5.4.**

16
17 Ms. Griest stated that there are specific, required findings that are included in the proposal for each of these
18 two parts.

19
20 Ms. Griest stated that the Board will review the Land Use Regulatory Policies that are relevant to Part L.

21
22 Ms. Griest read Land Use Regulatory Policy 1.1.4.

23
24 Mr. Irlé stated that Part L DOES CONFORM to LURP 1.1.4. He said that stringent Findings of Fact are
25 required for approval of a rezoning or special use and also pre-application conferences are required.

26
27 **The consensus of the Board was that Part L DOES CONFORM to LURP 1.1.4.**

28
29 Ms. Griest read Land Use Regulatory Policy 1.3.5.

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Mr. Bluhm stated that Part L DOES CONFORM to LURP 1.3.5. He said that the specific findings which are required for a requested rezoning and special use permit and the pre-application process clarifies many of the misconceptions.

The consensus of the Board was that Part L DOES CONFORM to LURP 1.3.5.

Ms. Griest read Land Use Regulatory Policy 1.5.1.

Mr. Steeves stated that Part L DOES CONFORM to LURP 1.5.1. He said that the regulations give the Board guidance during their review of a requested special use and clarifies the Board’s assessments during their determination of a whether a site is suitable for a proposed use.

The consensus of the Board was that Part L DOES CONFORM to LURP 1.5.1.

Ms. Griest read Land Use Regulatory Policy 1.5.3.

Mr. Goldenstein stated that Part L DOES CONFORM to LURP 1.5.3.

The consensus of the Board was that Part L DOES CONFORM to LURP 1.5.3.

Ms. Griest read Land Use Regulatory Policy 1.5.4.

Mr. Irle stated that Part L DOES CONFORM to LURP 1.5.4.

The consensus of the Board was that Part L DOES CONFORM to LURP 1.5.4.

Mr. Bluhm moved, seconded by Mr. Irle to recess the Board for a five-minute break. The motion carried by voice vote.

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The Board recessed at 8:58 p.m.

The Board resumed at 9:09 p.m.

Ms. Griest stated that the Board will review the achievement of Ordinance Objectives by Parts J and L jointly unless she specifically indicates otherwise.

Ms. Griest read Ordinance Objective #1.

Mr. Goldenstein stated that Parts J and L ACHIEVE Ordinance Objective #1.

Mr. Miller agreed with Mr. Goldenstein's determination.

Mr. Steeves stated that he is having difficulty agreeing with Mr. Goldenstein's testimony based on the public testimony which has been received during the public hearings, although if whether they agree or don't agree with it does not apply, then he will have to agree with Mr. Goldenstein's determination.

Mr. Irle and Mr. Bluhm and Ms. Griest agreed with Mr. Goldenstein's determination.

The consensus of the Board was that Parts J and L ACHIEVE Ordinance Objective #1.

Ms. Griest read Ordinance Objective #2.

Mr. Irle stated that Parts J and L ACHIEVE Ordinance Objective #2.

The consensus of the Board was that Parts J and L ACHIEVE Ordinance Objective #2.

Ms. Griest read Ordinance Objective #3.

1 Mr. Irle stated that Parts J and L PARTIALLY ACHIEVE Ordinance Objective #3. He said that nothing in
2 the Ordinance is “easy” for staff to enforce.

3
4 Mr. Bluhm stated that, on one side, he would say that it ACHIEVES, but that on the other side, there are a
5 few things in the Ordinance which leans him towards PARTIALLY ACHIEVES, and therefore he will agree
6 with Mr. Irle’s determination.

7
8 **The consensus of the Board was that Parts J and L PARTIALLY ACHIEVE Ordinance Objective #3.**

9
10 Ms. Griest read Ordinance Objective #4.

11
12 Mr. Steeves stated that Parts J and L ACHIEVE Ordinance Objective #4. He said that the Ordinance is
13 trying to preserve best prime farmland and decrease the number of dwellings allowed in the rural area.

14
15 **The consensus of the Board was that Parts J and L ACHIEVE Ordinance Objective #4.**

16
17 Ms. Griest read Ordinance Objective #5.

18
19 Mr. Goldenstein stated that Parts J and L PARTIALLY ACHIEVE Ordinance Objective #5. He said that
20 this is based on the County’s limited resources and time restraints which are an unknown factor.

21
22 **The consensus of the Board was that Parts J and L PARTIALLY ACHIEVE Ordinance Objective #5.**

23
24 Ms. Griest read Ordinance Objective #6.

25
26 Mr. Steeves stated that Parts J and L PARTIALLY ACHIEVE Ordinance Objective #6. He said that his
27 determination is based on how one interprets “economically sound.” He said that there is a whole lot of
28 room for a lot of discretionary value and it is a point of view.

29

1 Mr. Irle stated that what he deems as important is the costs over the long term. He said that he believes that
2 Parts J and L ACHIEVE Ordinance Objective #6.

3
4 Mr. Goldenstein stated that he has trouble with the word “feasible.” He said that a discussion could take
5 place between the Board and the Petitioner as to what is and is not feasible and whose definition of feasible
6 is correct. He said that Parts J and L PARTIALLY ACHIEVE Ordinance Objective #6.

7
8 Mr. Miller, Mr. Schroeder and Ms. Griest stated that Parts J and L PARTIALLY ACHIEVE Ordinance
9 Objective #6.

10
11 Mr. Bluhm stated that Parts J and L ACHIEVE Ordinance Objective #6.

12
13 **The Board’s determination of 5-PARTIALLY ACHIEVE vs. 2-ACHIEVE indicates that Parts J and**
14 **L PARTIALLY ACHIEVE Ordinance Objective #6.**

15
16 Ms. Griest read Ordinance Objective #7.

17
18 Mr. Bluhm stated that he can see this two ways. He said that the cost of compliance should be minimized to
19 the extent possible and that a lot of people could look at that and state that the easier it is, the better it is but
20 what staff has proposed with the requirement of maps being drawn by certified engineers and the standards
21 which are involved, he believes that Parts J and L ACHIEVE Ordinance Objective #7.

22
23 Mr. Goldenstein and Mr. Miller agreed with Mr. Bluhm’s determination.

24
25 Mr. Steeves stated that he is unsure when costs are discussed.

26
27 Mr. Irle asked Mr. Steeves how an Ordinance like this can be written when you are trying to keep costs
28 under control. He said that all of the pertinent information must be backed up by professional opinions,
29 therefore it is tough to say that they are not being cost effective. He said that Parts J and L ACHIEVE

1 Ordinance Objective #7.

2

3 Mr. Steeves agreed with Mr. Irle's determination.

4

5 **The consensus of the Board was that Parts J and L ACHIEVE Ordinance Objective #7.**

6

7 Ms. Griest read Ordinance Objective #8.

8

9 Mr. Bluhm stated that Parts J and L ACHIEVE Ordinance Objective #8. He said that Mr. Fletcher, Senior
10 Assistant State's Attorney, has reviewed a lot of the things and some of the new proposals have eliminated
11 some of the current headaches in the current RRO. He said that everybody has to go through the same
12 process for a Rural Planned Development and everyone is treated equally.

13

14 **The consensus of the Board was that Parts J and L ACHIEVE Ordinance Objective #8.**

15

16 Ms. Griest read Ordinance Objective #9.

17

18 Mr. Goldenstein stated that Parts J and L ACHIEVE Ordinance Objective #9.

19

20 **The consensus of the Board was that Parts J and L ACHIEVE Ordinance Objective #9.**

21

22 Ms. Griest read Ordinance Objective #10.

23

24 Mr. Irle stated that Parts J and L ACHIEVE Ordinance Objective #10.

25

26 **The consensus of the Board was that Parts J and L ACHIEVE Ordinance Objective #10.**

27

28 Ms. Griest read Ordinance Objective #11.

29

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1 Mr. Irle stated that Parts J and L PARTIALLY ACHIEVE Ordinance Objective #11 due to the text included
2 in the second sentence of Ordinance Objective #11 regarding the landowners' maximum freedom of action
3 possible.

4
5 **The consensus of the Board was that Parts J and L PARTIALLY ACHIEVE Ordinance Objective**
6 **#11.**

7
8 Ms. Griest read Ordinance Objective #12.

9
10 Mr. Goldenstein stated that Parts J and L ACHIEVE Ordinance Objective #12.

11
12 Mr. Miller, Mr. Schroeder and Mr. Bluhm agreed with Mr. Goldenstein's determination.

13
14 Mr. Steeves stated that Parts J and L PARTIALLY ACHIEVE Ordinance Objective #12 because larger
15 landowners and smaller landowners are being treated differently.

16
17 Mr. Irle stated that he agrees with Mr. Steeves in that it is almost impossible not to impose certain burdens
18 on some groups as opposed to the majority.

19
20 Ms. Griest stated that she agrees with ACHIEVES. She said that she understands the argument that Mr. Irle
21 and Mr. Steeves are making, but she does not believe that different size landowners will handle those
22 requirements differently, but the requirements are not being imposed upon them because of the size of their
23 holdings as a landowner.

24
25 **The Board's determination of 2-PARTIALLY ACHIEVE vs. 5-ACHIEVE indicates that Parts J and**
26 **L ACHIEVE Ordinance Objective #12.**

27
28 Ms. Griest read Ordinance Objective #13.

29

1 Mr. Irle stated that Parts J and L ACHIEVE Ordinance Objective #13. He said that there is flexibility and
2 adaptability built into the Ordinance due to the different steps involved in addition to the pre-application
3 screening process.

4

5 **The consensus of the Board was that Parts J and L ACHIEVE Ordinance Objective #13.**

6

7 Ms. Griest read Ordinance Objective #14.

8

9 Mr. Bluhm stated that Ordinance Objective #14 is not relevant to the merit of Parts J and L.

10

11 **The consensus of the Board was that Ordinance Objective #14 is not relevant to the merit of Parts J**
12 **and L.**

13

14 Ms. Griest read Ordinance Objective #15.

15

16 Mr. Steeves stated that Ordinance Objective #15 is not relevant to the merit of Parts J and L.

17

18 **The consensus of the Board was that Ordinance Objective #15 is not relevant to the merit of Parts J**
19 **and L.**

20

21 Ms. Griest indicated that at this time the Board will take public testimony regarding Parts J and L only.

22

23 Mr. Jim Rector, who resides at 9 Dunlap Woods, Sidney declined to speak.

24

25 Mr. Louis Wozniak, who resides at 401C CR 2425N, Mahomet declined to speak.

26

27 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet stated that because of the promises which were
28 previously made and since there is a change to the text of Part J, he requested that the final determination be
29 deferred.

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Mr. Irle asked if the Board or staff had any questions for Mr. Schildt and there were none.

Mr. Irle closed the public testimony for Case 522-AT-05, Parts J and L.

Ms. Griest requested a recommendation for Parts J and L overall.

Mr. Goldenstein stated that, overall, Parts J and L ACHIEVE the Ordinance Objectives.

The consensus of the Board was that Parts J and L ACHIEVE the Ordinance Objectives.

Ms. Griest asked the staff and Board if there were any other changes or additions to the Summary of Evidence, Documents of Record and Finding of Fact.

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

Mr. Irle moved, seconded by Mr. Bluhm to close the public hearing for Case 522-AT-05, Parts J and L. The motion carried by voice vote.

Final Determination for Case 522-AT-05, Parts J & L:

Mr. Goldenstein moved, seconded by Mr. Steeves that pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the Text Amendment requested in Case 522-AT-05, Parts J & L, as it appears in the Public Review Draft 3 Zoning Ordinance as revised 5/19/06, should be enacted by the County Board as requested.

The roll was called:

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1 **Goldenstein-yes** **Irle-yes** **Miller-yes**
2 **Schroeder-yes** **Steeves-yes** **Bluhm-yes**
3 **Griest-yes**

4
5 Ms. Griest stated that she would prefer not to start on Case 522-AT-05, Parts E & H at tonight’s hearing so
6 that the Board can start fresh at the Monday, June 5, 2006, CZR hearing.

7
8 Mr. Irle stated that he would prefer to begin with Parts E & H at the June 05, 2006, public hearing because
9 they are very straight forward.

10
11 Mr. Steeves indicated that he will not be present at the June 05, 2006, public hearing.

12
13 Mr. Hall stated that the Board must review the following remaining combined Parts of Case 522-AT-05:
14 Parts E & H; Parts A,B,C and M; and Part K and Part D, which stand alone. He said that Part K is
15 somewhat more related to the Parts E & H because it deals with performance standards for rezoning and
16 special use permits and Part D is commonly referred to as the “one per 40” requirement.

17
18 Mr. Schroeder if a full Board was required for the June 05, 2006, public hearing.

19
20 Ms. Griest stated no, that only a quorum of four members is required.

21
22 **The consensus of the Board was to hear the remaining parts of Case 522-AT-05 in the following order:**
23 **1. Parts E & H; 2. Parts A,B,C and M; 3. Part K; and 4. Part D.**

24
25 Ms. Griest stated that at the June 05, 2006, public hearing, the Board will hear Case 522-AT-05, Parts E & H
26 first and then move to Parts A,B,C and M.

27
28 Mr. Hall requested that at the June 05, 2006, public hearing the Board be prepared to hear a third case if
29 adequate time is available.

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Ms. Griest stated that, if adequate time is available at the June 05, 2006, public hearing, Part K will be the third case to be reviewed.

Mr. Schroeder moved, seconded by Mr. Goldenstein to continue Case 522-AT-05, Parts A-M to Monday, June 05, 2006, public hearing. 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 9:43 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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