

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61801**

**DATE: March 2, 2006 PLACE: Brookens Gymnasium
1776 East Washington Street
Urbana, IL 61802**

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

MEMBERS ABSENT : Roger Miller

STAFF PRESENT : Connie Berry, Lori Busboom, Jamie Hitt, John Hall, Leroy Holliday, Susan Monte

OTHERS PRESENT : Herb Schildt, Lex Lane, Dorinda Sides, Jeramy Sides, Richard Connell, Robert Brunner, Brad Pribble, Phillip Geil, John Melchi, JoAnn Wozniak, Lou Wozniak, Rob Pennington, Jim Harper, Richard Shiley, Dorothy Shiley, Ross Brower, Donald Wauthier, Ruth Wene, Marilyn Bentley, Edith Carr, Esther Lindsey, David McCoy, Robert Toalson, Kenneth Smithenry, Amy HammackGilbert, Louis E Largent, Chris Doenitz, Jim Heimbürger, Margaret Pribble, Norman Duitsman, Eileen Duitsman, Gary Hockersmith, Rob Parker, R. L. Langenheim, LaVerna Harper, Everett Heiser, Steve Burdin, Aleta Holt, Sarah Holt, John Sapp, Louise Crider, Dean Crider, Joan Lane, Sandra Yarnell, James Yarnell, James Schwartz, Sue Summerville, Leroy Fairfield, Vern Zehr, Jeanne Zehr, Margaret Goodwin, Guy Christopher, Jim Gannaway, Mary Lou Gannaway, Jennifer Putman, Neil Malone, Bruce Stickers, Hal Barnhart, Norman Stenzel, Lisa Haynes, Eric Thorsland, Vincent Hock, Pam Wilken, Lester Frerichs, Dora Ehmen, Marian O'Bryan, Donald Fairfield, Greg Fairfield, Rodney Bertsch

1. Call to Order

The meeting was called to order at 7:07 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

3. Correspondence

None

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

4. Approval of Minutes (August 26, 2004 and January 31, 2006)

Mr. Irle moved, seconded by Mr. Bluhm to approve the August 26, 2004 and January 31, 2006, minutes as submitted. The motion carried by voice vote.

5. Continued Public Hearing

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

Ms. Griest informed the audience that in order to allow everyone the opportunity to comment on the proposed changes a three minute time limit will be imposed on public testimony. She requested that the testimony be limited to new information only.

Mr. Kenneth Smithenry declined to speak at this time.

Mr. Robert Toalson, Champaign Forest Preserves Commissioner read a prepared statement and submitted the statement as a Document of Record.

Mr. Gary Hockersmith declined to speak at this time.

Mr. John Melchi, who resides at 464 CR 2500N, Mahomet read a prepared statement and submitted the statement as a Document of Record.

Mr. Richard Shiley, who resides at 1157 CR 2300E, Sidney read a prepared statement and submitted the statement as a Document of Record. He said that 35 years ago he moved to his current residence which is located along the river near Sidney and north of the Frito Lay facility. He said that many years ago a Greenway Proposal was presented which is basically the same proposal as what is presented today but with a different name. He said that he protested against the Greenway Proposal and it didn't take to long when his fences were cut, property trashed, picnic tables thrown in the river and his boat disappeared. He said that he is concerned about the Stream Protection Buffer proposal because his land has changed approximately 12 foot due to the increased water speed. He said that he would appreciate it if the County would pay for a surveyor to determine where the centerline of the river is located so that he can be assured of what he can and cannot do on his property. He said that an impact study should be conducted by a group of people who know what they are doing and chosen by the farmers and the people who live along the river and not by the County Board.

Mr. Hall asked Mr. Shiley to clarify if he was requesting to have an impact assessment of the affects of the proposed zoning changes.

Mr. Shiley stated that he would like to have an impact assessment on what affect it would have on the river, the wildlife and the fish. He said that he and other landowners are taking care of their land and if this proposal is adopted they won't be able to maintain it. He said that there is not enough funding for

1 the County implement such a proposal.

2
3 Mr. Rodney Bertsch, who resides at 2306 Plymouth, Champaign stated that he is in the farmland real
4 estate business. He said that he does live in town although he does own property in rural Champaign
5 County and other states. He said that it is interference when someone attempts to tell him how he
6 should manage his property. He said that the County is trying to take control over something that the
7 landowners have paid dearly for and if the Board understands farming they realize that farming is not a
8 rich enterprise. He said that sometimes it takes three generations to pay for a piece of farm ground and
9 they are the ones who know how to manage and improve the property not a bunch of bureaucrats.

10
11 Mr. Lex Lane, who resides at 1207 CR 2500E, St. Joseph read a prepared statement and submitted the
12 statement as a Document of Record.

13
14 Dr. Robert Brunner, who resides at 4001 E Washington St, Urbana stated that he cannot impress upon
15 the Board enough the vast majority of people who have come before them to express their opposition of
16 these proposed restrictions. He said that this is restrictive government and the most valuable thing that a
17 human being has on this earth, except for his love of the Lord, is his private property and if these
18 restrictions are instituted it could initiate many lawsuits and people marching in the streets. He said that
19 he has spent his entire adult life being concerned about the environment and has given property to the
20 University of Illinois to be kept in perpetuity and the rights of the property owner trumps a handful of
21 people determining what the private property owner will do with his own private property. He asked the
22 Board to go home and review everything that has been said at tonight's hearing because the Constitution
23 assures everyone in this room that they will be able to determine the fate of their own property.

24
25 Mr. Phillip Geil, who resides at 2060B CR 125E, Mahomet asked who actually developed the current
26 proposals. He said that according to the memorandum there was supposed to be a committee formed to
27 produce a plan to attract or achieve broad support. He said that this group clearly did not include
28 anyone who is attending this meeting to complain about the current system or the proposed system
29 therefore how could this have been a group that was to attract broad support. He said that Land
30 Regulatory Policy 1.4.2. is supposed to protect agricultural drainageways and it far exceeds that. He
31 said that the memorandum regarding meetings of the ad-hoc bi-partisan working group states that the
32 drainageways will have a width that decreases with movement upstream. He said that the memorandum
33 indicates that the Stream Protection Buffer should only include areas that are also in the floodplain and
34 will exclude the upland area although it does not do that. He asked who developed the current proposal
35 which does not follow what the group proposed.

36
37 Ms. Monte stated that staff wrote the Ordinance draft. She said that the upland areas do have an
38 allowance that they maybe considered as a site for a house or accessory structure and a permit may be
39 requested to construct such a use on a bluff, however upland areas within the Stream Protection Buffer
40 are not exempt from the tree removal or vegetation removal requirement. She said that would be subject
41 to the 10% limit on tree removal. She said that the memorandum regarding meetings of the ad-hoc bi-
42 partisan working group includes directives that have been operationalized in the Ordinance draft and
43 there is more detail in the Ordinance draft.

1 Mr. Geil asked Ms. Monte what the relative amount of prime farmland that has been taken out of
2 agricultural production in recent years by annexation versus rural home development. He said that he
3 would guess that it is 500 acres per year that is taken out by home development.
4

5 Ms. Monte stated that the available statistic referenced was the one with regard to the Tax Assessor's
6 records in the reduction of the amount of land assessed as agriculture.
7

8 Mr. Geil stated that he was told that there was about 1600 acres per year taken out of production of
9 which 1100 acres was by annexation and 500 acres by home development.
10

11 Ms. Monte stated that those statistics were not reported by staff.
12

13 Ms. Griest stated that earlier testimony referenced such but also spoke about a substantial amount of the
14 acreage being related to city annexation.
15

16 Mr. Geil said that if only 13 people buy the 40 acre minimum, more land is being taken out of
17 production than 100 people with five acres.
18

19 Mr. Ross Brower, who resides at 1535 CR 2200E, St. Joseph stated that he concurs with Mr. Shiley and
20 Dr. Brunner and further emphasized the restrictive nature of the proposed amendments and how they do
21 restrict the use of his property and also the biased micro-management that is proposed by rules of how
22 they are to manage their property. He said that he feels that he and his wife manage their property very
23 well and the new regulations and the proposed amendments will greatly restrict both their use of their
24 land and how they would conduct management. He said that they have planted 250 trees on their
25 properties and have encouraged the growth of native plants and have a very nice area established. He
26 requested that the Board consider the property rights of the landowners in the County for their own land
27 management.
28

29 Ms. Griest asked Mr. Brower in what zoning district his properties were located.
30

31 Mr. Brower stated that his properties are located in the CR district.
32

33 Mr. John Sapp, who resides at 392E CR 2500N, Mahomet stated some of the previous commentary
34 discussed a buffer zone around County Forest Preserve property or Park District property. He said that
35 in comparing the previous commentary versus the current proposal it appears that the language has been
36 changed and is significantly more restrictive. He said that if the County in encouraging a 250 foot
37 buffer next to County Forest Preserve or Park District property staff needs to look at the current
38 proposal because the language is much broader in discussing any private resource area. He said that
39 there have been parcels placed in trusts which are called public resource areas and under the re-write
40 they would be subject to the 250 foot buffer and that is a huge impact on property owners. He said that
41 it has been ambiguous as to whether this is a text amendment or map amendment and requested that
42 property owners be sent a mailing. He said that since this is now being called a text amendment many
43 property owners do not know what is going on because they were not notified by mail. He said that if
44 the people involved were sampled it would be clear that they do not understand what is involved. He

1 said that it is not clear under the statute whether this is a map amendment or text amendment therefore
2 why not give the property owner, citizen, constituent, the benefit of the doubt and send them a
3 notification in the mail. He said that for a process that has been going for so long why rush it now at the
4 eleventh hour because it is more important to get it right. He said that he concurs with Mr. Shiley's
5 request for an impact assessment. He asked who wrote the memorandum regarding the responses to Mr.
6 Geil's questions. He said that this may be an instance where there is a special interest group writing
7 regulations and legislation and trying to use local government. He said that he noticed that included in
8 the group of negotiators was Professor Eric Freyfogle who is an environmentalist and extremist whose
9 specialty is land use law and wrote a book called, *The Land We All Share, Private Property for the*
10 *Common Good*. Mr. Sapp stated that this is not the value that most of the people in the County share.
11 He said that he believes that there are some people with an agenda who are fairly extreme who are
12 trying to hijack the process and push their views on the rest of the County.

13
14 Mr. Guy Christopher, who resides at 2060A CR 125E, Mahomet read a prepared statement and
15 submitted the statement as a Document of Record.

16
17 Mr. Neil Malone, Governmental Affairs Director for the Illinois Association of Realtors representing
18 members within the Champaign County Association stated that he has appeared before the Board at
19 previous hearings highlighting from a philosophical and constitutional prospective as to why this is a
20 terrible idea and then from an economical prospective as to how this will affect land value and usage in
21 Champaign County. He said the Objectives indicate that the Ordinance must be consistent with the
22 public values. He said that the fact that over one hundred landowners came to a meeting on the night of
23 a championship football game as well as two Illini Conference games proves that there is a vast majority
24 of the public that is in opposition of the proposed Ordinance. He said that the Objectives indicate that
25 the Ordinance must be easy for the average person to understand. He said that when he was explaining
26 the Ordinance changes to his members he compared the current Ordinance to a Hemingway Novel
27 because it was brief, to the point and was worded so that the public could understand it although it has
28 progressed to *War and Peace*, in its original Russian form. He said that Objectives indicate that the
29 Ordinance must be easy for staff to administer and enforce. He said that with regard to the river
30 setbacks as well as the tree removal portion it is very clear that there are some differences in opinion as
31 to what the Ordinance really says. He said that the Objectives indicate that the standards in the
32 Ordinance must be logically related to the ills that they are intended to prevent and the burdence of
33 compliance should be proportional to the damage prevented. He said that the Objectives indicate that
34 the Ordinance must be Constitutionally sound particularly with respect to the Fifth Amendment
35 limitation on the takings of private property. He said that the Objectives indicate that the Ordinance
36 should not intrude on the operation of the free market any more than is needed to achieve its purposes
37 and that the Ordinance should leave landowners with the maximum freedom of action possible. He said
38 that the Objectives indicate that the Ordinance should protect all citizens equally while recognizing
39 variations in the values and priorities of different groups and shall not impose disproportionate burdens
40 on certain groups such as small business or low income households and this will prohibit anyone who
41 cannot afford to purchase 40 acres from living out in the rural area. He said that the Objectives indicate
42 that the Ordinance should be flexible and adaptable to deal with unforeseen changes in life style,
43 business practices, patterns of development and technologies. He stated that he will submit his other
44 comments by e-mail for the Board's review.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

Mr. Herb Schildt, who resides at 398 CR 2500N., Mahomet stated that the Finding of Fact has three categories: Does Conform; Partially Conforms; and Does Not Conform. He said that there appears to be a fourth category that is missing and that would be: “Over Conforms” or “Conforms Inappropriately.” He said, for example, if you instruct your child to clean up his messy room and he throws everything out the window he has implemented your policy but he has not done it correctly. He said that another category would give the Board the option to say that “yes” it does conform but it does not do so in an appropriate manner. He thanked the ZBA for their time and attention to this important issue.

Mr. Shiley stated that his property is zoned CR Conservation Recreation. He said that he grows herbs, perennials and Christmas trees and they raise chickens and make their own maple syrup. He said that the Champaign County Supervisor of Assessments has taken away his farm status and asked how this will effect him in regard to zoning.

Ms. Griest asked Mr. Shiley to contact staff with specific questions regarding his property.

Mr. Louis Wozniak, who resides at 401C CR 2425N, Mahomet stated that he and his wife are in concurrence with many of the other witnesses. He said that he listened to some of the comments that the Board made after the last public hearing and it appears that there are a lot of dark issues that the Board feels is good about the proposal although there are many issues which do not sit well with some of the members. He said that it is his understanding that the Zoning Board of Appeals will make a recommendation to the Environment and Land Use Committee by which ELUC will vote upon a recommendation to forward to the full County Board. He said that this issue does not have to go to ELUC if this Board feels that the proposals are inappropriate. He said that the ZBA could introduce a resolution that the Board will not vote on this proposal until these dark issues are resolved in some sensible manner.

Mr. Vincent Hock, who resides at 2638 CR 600E, Mahomet stated that he has not addressed the Board since the first meeting in January and he wanted to thank the Board and Mr. Hall for all of their work. He said that Mr. Hall has been very professional and helpful in regard to his specific property. He said that as a farm operator in Champaign County and a member of the Champaign County Farm Bureau he disagrees with the CCFB’s support of this project. He said that it was his understanding that all drainageways within an agricultural district were exempt from the setbacks because the setbacks are controlled outside of the County’s jurisdiction. He said that he does agree that a 75 foot setback on a drainageway that is outside of an agricultural jurisdiction is excessive and the same with the 25 foot setback on drainage tile. He said that if the public really wants to show their dissatisfaction with the proposal then they should submit a class action suit which will delay the process. He said that without a consensus of the cities of Urbana, Champaign, Mahomet, Savoy and Rantoul the noble effort will go to waste because of planned annexations. He said that if we cannot interface with the local governments then the annexation process is going to extend out into best prime farmland. He said that if the County can restrict best prime farmland practice then why can’t the cities be restricted. He said that he totally disagrees with anyone who believes that the farmers totally disregard their ground because they are the best stewards of the ground because they have the highest investment in that ground.

3/02/06

AS APPROVED APRIL 06, 2006

ZBA

1 Mr. Hall stated that the Stream Protection Buffer does not exist when there is an established Drainage
2 District. He said that the Drainageway Protection doesn't have anything to do with where agricultural
3 operations can occur. He said that agricultural operations are completely exempt.

4
5 Mr. Eric Thorsland, who resides at 480 CR 2500N, Mahomet stated that despite the Ordinance's
6 wordiness, with a few exceptions, it matches the Land Use Regulatory Policies that the County has
7 already adopted. He said that his mother told him to take care of his land because they are not making it
8 anymore. He said that the value of his land is not what he gets for it but what he gets from it. He said
9 that there is a limited amount of space in Champaign County and this is a long-reaching plan. He said
10 that a sheep farmer once told him that he can always sell the wool from his sheep but he can only sell
11 the meat once.

12
13 Mr. Hal Barnhart, who resides at 469 CR 1500N, Champaign stated that one of the realtors implied that
14 the 1 per 40 acres constituted someone being required to purchase 40 acres for a residential lot and this
15 is not true. He requested that staff explain what 1 per 40 means.

16
17 Mr. Hall stated that 1 per 40 acres is not 40 acres to place a house on. He said that someone could place
18 a house on 40 acres or one acre but either way one home per 40 acres is all that will be allowed.

19
20 Ms. Griest stated that an easier way to state this would be that there can be one buildable lot created for
21 each 40 acres and no more, by-right.

22
23 Ms. Monte stated that the existing Ordinance has the Rural Residential Overlay Rezoning process and in
24 the proposed Ordinance it has been modified to be called Rural Planned Development which is
25 prohibited on best prime farmland. She said that the Rural Planned Development is a rezoning and
26 special use process which requires Board review, public hearing and County Board approval. She said
27 that, if possible, a landowner may choose to annex to one of the municipalities.

28
29 Mr. Schildt stated that the reason why the 1 per 40 has been referred to as having to buy 40 acres is
30 because once you cut the lot off you are left with a remainder lot that can never be built upon. He said
31 that even though, in theory, if you can convince the landowner of 40 acres to sell you the one lot then
32 there is no problem but if not people are going to stumble into small acreage parcels that can never be
33 built upon and this is a real problem.

34
35 Mr. Hall stated that this problem has existed in Champaign County since 1999 and this will not relieve it
36 to any extent.

37
38 Mr. Schildt stated that one of the issues that continue to arise is as follows: The owner of 40 acres dies
39 and two children inherit two twenty-acre parcels. Does this create a race to the zoning office to find out
40 who gets to build on the first lot and couldn't that lead to significant heartache when they find out what
41 the rules are. He said that he doesn't believe that most people misunderstand the affect of the proposal
42 and do understand that if they have less than 40 acres that there may be trouble down the road for
43 development.

1 Mr. Vincent Hock stated that recently he discovered that his original surveys were incorrect and at
2 significant expense had his farm surveyed. He said that if he was in the areas that were going to be
3 impacted by the proposals he would be concerned about the added expense that may be incurred having
4 the property surveyed for assurance of the property's boundary locations. He said that he hasn't heard
5 any concern from the County about the burden that this will place on the property owners.
6

7 Mr. Malone stated that if he owned a 40 acre parcel he would have the right to build one house on the
8 parcel and if he dies and passes the property on to his two heirs who decides which 20 acres is buildable.
9 He said that the value of the two parcels will be vastly different because one lot would have
10 development potential and the other would not. He said that the Ordinance should be flexible and
11 adaptable to deal with unforeseen changes in lifestyle, business practice, patterns of development and
12 technology.
13

14 Ms. Aleta Holt, who resides at 450 CR 2675N, Mahomet asked what "never be built on" means.
15

16 Ms. Monte stated that as long as the property in the County's zoning jurisdiction, excluding agricultural
17 activity, a Zoning Use Permit could not be issued for a home or structure.
18

19 Ms. Holt asked if the property comes within a city's jurisdiction could it then be developed.
20

21 Ms. Monte stated that the County has no control what a landowner does upon annexation to a
22 municipality.
23

24 Ms. Holt asked why the 40 acres was chosen.
25

26 Ms. Monte stated that this is a proposed reduction in the intensity of development in the rural districts in
27 line with the Land Use Regulatory Policies.
28

29 Ms. Griest stated that the 40 acres was the number chosen for this particular text.
30

31 Ms. Holt stated that it seems like an easy package for development.
32

33 **The Board recessed at 8:25 p.m.**

34 **The Board resumed at 8:40 p.m.**
35

36 Ms. Griest thanked the audience for the amount of time and their investment in coming to share their
37 views with the Board. She said that many of the attendees have attended every meeting and even though
38 it may appear that the Board is not being interactive they have listened carefully and heard everyone's
39 messages. She said that the Board will not officially close the public testimony for Case 522-AT-05, but
40 she is not going to call upon anyone else to present new evidence at tonight's hearing and does not
41 expect to call for new evidence at the next hearing. She said that the task before the Board is to
42 complete the Finding of Fact on this wealth of information as it is divided into 8 separate sections. She
43 asked the members of the Board how they would like to proceed. She said that she would like to hear
44 observations from the Board members regarding what they saw in the Draft Ordinance and what they

1 heard
2 in the testimony which they find is particularly good, flawed or conflicted in some manner.

3
4 Mr. Irle stated that some portions, such as Part A, B, C, D and M which will not require a lot of
5 discussion and determination as to whether the entire package is acceptable or not. He said that he
6 would rather look at some of the other portions which perhaps may be more problematic or more
7 acceptable. He said that Part I would be one of those which vast portions are problematic from the
8 viewpoint that they may not be enforceable and may be perceived as a “taking.”

9
10 Mr. Steeves stated that he agrees with Mr. Irle regarding Part I. He said that some portions of Part I
11 appear to be impossible to administer and enforce therefore he would have to say that it does not
12 conform.

13
14 Mr. Schroeder excused himself from the meeting.

15
16 The consensus of the Board was to review the Finding of Fact for Part I.

17
18 **Part I: Require a protective buffer along streams and drainageways within the CR District that**
19 **are located both outside of an established drainage district and within a wooded area, with certain**
20 **exceptions. Within the protective buffer, construction or uses that require a Zoning Use Permit**
21 **are prohibited and restrictions are placed on the removal of mature trees and the disturbance of**
22 **surface vegetation.**

23
24 Ms. Griest stated that the Board will review the worksheet for Case 522-AT-05, Part I.

25
26 Mr. Steeves asked Ms. Griest if it is necessary for the Board to review each LURP or if there are
27 LURP’s that DO NOT CONFORM recommend that Part I not be enacted.

28
29 Ms. Griest stated that it is an individual Board member’s choice on their total vote per item. She said
30 that the Board member must determine if the weight of the evidence sways their opinion or judgments
31 overall for Part I. She said that if there is one single item that is so overwhelmingly burdensome or out
32 of line that makes the rest of it unacceptable then it may influence that individual Board member’s vote
33 differently than it may influence a different Board member’s vote. She said that she would appreciate
34 those concerns being shared by each Board member so that the entire Board understands those
35 overwhelming concerns so that ELUC understands what the Board found problematic and why a
36 particular segment was found unacceptable. She said that the Board has a responsibility to tell ELUC
37 what they liked and did not like.

38
39 Mr. Bluhm stated that the Board should review each individual LURP. Mr. Bluhm stated that LURP
40 1.1.3 PARTIALLY CONFORMS. He said that he can see where the conversion of farmland is
41 minimized and the potential for conflicts with agriculture can be minimized but when you get into the
42 disturbance of natural areas, rivers, or waterways it probably conforms but not in the way that it should.
43 He said that when you get into infrastructure and public services out into the County it will only
44 partially conform.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

Mr. Irle agreed with Mr. Bluhm's assessment.

The consensus of the Board was that LURP 1.1.3 PARTIALLY CONFORMS.

Mr. Irle stated that LURP 1.1.4 CONFORMS.

Mr. Bluhm agreed with Mr. Irle's assessment.

The consensus of the Board was that LURP 1.1.4 CONFORMS.

Mr. Goldenstein stated that LURP 1.7.1 CONFORMS.

Mr. Irle stated that he agreed with Mr. Goldenstein's assessment because as it reads it is hard to come up with any other conclusion but CONFORMS.

Ms. Griest stated that perhaps 1.7.1 excessively conforms.

Mr. Hall stated that Item #26 of the Finding of Fact for Part I should be revised to indicate the following: Land Use Regulatory Policy (LURP) 1.7.1 is the policy most relevant to Part I of Case 522-AM-05 and LURP 1.7.1 states as follows:. He said that in staff's opinion the Draft Ordinance does no more than only PARTIALLY CONFORM with LURP 1.7.1.

The consensus of the Board was that LURP 1.7.1. PARTIALLY CONFORMS.

Ms. Griest stated that the Board will now review the Ordinance Objectives. She read Ordinance Objective #1.

Mr. Irle stated that Ordinance Objective #1 DOES NOT ACHIEVE.

Mr. Bluhm agreed with Mr. Irle's assessment.

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

Ms. Griest read Ordinance Objective #2.

Mr. Bluhm stated that Ordinance Objective #2 DOES NOT ACHIEVE because the tree permit process is hard for anyone to understand.

The consensus of the Board was that Ordinance Objective #2 DOES NOT ACHIEVE.

Ms. Griest read Ordinance Objective #3.

Mr. Goldenstein stated that Ordinance Objective #3 DOES NOT ACHIEVE because staff cannot

1 enforce it unless someone is reported for cutting down a tree.

2
3 **The consensus of the Board was that Ordinance Objective #3 DOES NOT ACHIEVE.**

4
5 Ms. Griest read Ordinance Objective #4.

6
7 Mr. Steeves stated that Ordinance Objective #4 DOES NOT ACHIEVE because most wooded areas
8 must be managed and not just left alone. He said that it is not logical to only allow three trees to be cut
9 without a permit when a wooded area should be properly managed.

10
11 Mr. Irle stated that he agrees with Mr. Steeves assessment because the ills are not proportionate to the
12 Ordinances that they are protected by. He said that he does not see that there is a lot of damage
13 occurring presently therefore he believes that the proposed standards are excessive and unbalanced.

14
15 Ms. Griest stated that the Board has not seen a substantial demonstration of the damage that is being
16 proposed to be prevented. She said that what the Board has heard in testimony and have seen through
17 other experience has indicated that the landowners have been reasonable stewards of their land.

18
19 Mr. Irle stated that Mr. Steve Stierwalt, Chairman of Champaign County Soil and Water Conservation
20 District indicated that 75% of the County's streams are enrolled in the filter strip program which will by
21 nature reduce the sedimentation load in the streams.

22
23 Ms. Griest stated that if the County wants to encourage management in a particular direction there has to
24 be an economic benefit for people to participate in those programs rather than regulatory program to
25 restrict them from utilization in a different way and the SWCD is doing that.

26
27 Mr. Hall stated that purpose of regulation is not to encourage people to do good things and it is not to
28 ask them to do anything but merely establishes a minimum level of what is required. He said that the
29 County could encourage people to do a lot of things but what is the minimum level that the County
30 could find acceptable for management of woodlands.

31
32 Mr. Bluhm stated that the last sentence of Ordinance Objective #4 states: The burden of compliance
33 should be proportional to the damage prevented. He said that the Board hasn't heard a lot of damage
34 testimony but the burden of our compliance that staff would have to take to assure that no one cuts more
35 than three trees is too high versus what we are trying to prevent.

36
37 Mr. Goldenstein stated that the damage that has been reported has been from wind, lightning or beavers.

38
39 Ms. Griest stated that she believes that the Ordinance proposed is excessive regulation.

40
41 **The consensus of the Board was that Ordinance Objective #4 DOES NOT ACHIEVE.**

42
43 Ms. Griest read Ordinance Objective #5.

1 Mr. Steeves requested an explanation of Ordinance Objective #5.
2

3 Mr. Hall stated that staff attempted to find the best scientific data available to base the tree removal
4 permit upon. He said that it has been demonstrated that finding the best standard is difficult and what is
5 proposed seems to go beyond what a lot of the recommendations are.
6

7 Ms. Monte stated that Part I is multi-faceted. She said that when the Board considers Part I they are not
8 only discussing the tree removal permit but also the buffer restriction, vegetative controls and tree
9 removal permit.
10

11 Ms. Griest stated that the Board is not afforded the freedom to modify the text to say that a certain
12 portion achieves, partially achieves, or does not achieve. She said that the Board was informed at the
13 beginning of the hearings that they had to review it as an entire body and did not have the right to
14 change any text. She said that the Board does not have the right to condition the text because the Board
15 was not asked to write the Ordinance but evaluate, hear testimony and weigh it objectively. She said
16 that there may be some element where the strengths far out weigh the weaknesses or vice versa. She
17 said that the weaknesses in Part I are significant enough that they may over shadow any strengths that
18 may exist.
19

20 Mr. Bluhm agreed with Ms. Griest. He said that staff may have the best scientific data available for the
21 150 foot Stream Protection Buffer but the SWCD has a paid incentive for the farmers to maintain a
22 setback of 120 foot. He said that it conflicts when the County's restrictions are greater than a paid
23 program for the landowner.
24

25 Mr. Hall stated that there are different goals that are trying to be achieved. He said that the County has
26 LURP 1.7.1 which states that the setback must be much farther than what the CRP buffers would ever
27 do.
28

29 Mr. Bluhm stated that it is a discrepancy and it is hard for the public to understand.
30

31 Mr. Irle stated that it is not the scientific information that it is based upon but setting the standard and
32 that part is arbitrary. He said that when some of the standards are arbitrary there is concern about how
33 that conclusion was derived. He said that in one way Ordinance Objective #5 is achieved because it is
34 based on staff's best efforts to provide all of the material for the Board to arrive at these standards.
35

36 **The consensus of the Board was that Ordinance Objective #5 PARTIALLY ACHIEVES.**
37

38 Ms. Griest read Ordinance Objective #6.
39

40 Mr. Steeves stated that if someone needs to cut down a tree they are required to hire an arborist or other
41 professional to complete a report on the type of tree which adds a lot of cost that does not seem
42 reasonable to the landowner. He said that he does not know if #6 is regarding cost to manage the
43 Ordinance or the cost to the individual to remove the tree.
44

3/02/06

AS APPROVED APRIL 06, 2006

ZBA

1 Mr. Hall stated that his interpretation would be the total cost to the County for administering the
2 program and to the individuals for complying with the program.

3
4 Mr. Steeves stated that this is an awful costly event for the County and the individual landowner to cut
5 down a dead tree.

6
7 Mr. Irle stated that he looked at it as an environmental cost to the County.

8
9 Mr. Steeves stated that if you look at as the cost to the individual landowner then you are taking money
10 out of their pocket but if you look at it from Mr. Irle's standpoint then it is making a long term value on
11 the long term concept and isn't costing money. He asked if the cost of getting rid of the tree is worth it
12 under the way the regulation is stated. He said that he agrees with the overall concept of protecting the
13 woods but in managing the woods it has become very costly.

14
15 Mr. Irle stated that Ordinance Objective #6 PARTIALLY ACHIEVES.

16
17 **Mr. Irle and Ms. Griest stated that Ordinance Objective #6 PARTIALLY ACHIEVES.**
18 **Mr. Bluhm, Mr. Goldenstein and Mr. Steeves stated that Ordinance Objective #6 DOES NOT**
19 **ACHIEVE.**

20
21 Ms. Griest stated that there are unrealized economic costs of doing nothing as well.

22
23 Mr. Goldenstein stated that it is costing the landowner money to replant trees which is a big benefit to
24 the County because he is replacing the trees that he removed.

25
26 Ms. Griest read Ordinance Objective #7.

27
28 Mr. Bluhm stated that Ordinance Objective #7 DOES NOT ACHIEVE. He said that the cost of
29 compliance for the landowner in hiring an arborist to identify trees to determine which ones can and
30 cannot be cut down, prepare the paperwork for the permit and inventory of the trees is burdensome on
31 the landowner. He said that the cost to administer the Ordinance will be high.

32
33 **The consensus of the Board was that Ordinance Objective #7 DOES NOT ACHIEVE.**

34
35 Ms. Griest read Ordinance Objective #8.

36
37 Mr. Irle stated that Ordinance Objective #8 DOES NOT ACHIEVE. He stated that Item #3 of the
38 Finding of Fact indicates the following: If any court of competent jurisdiction declares any part of this
39 Ordinance to be invalid, no other provision of the Ordinance will be affected unless it is specifically
40 included in the ruling. He said that there may be a good many portions of Part I that may not be
41 enforceable due Ordinance Objective #8(a-e).

42
43 Mr. Hall reminded Mr. Irle of the memorandums from the State's Attorney that were given to the Board.
44

1 Mr. Irle stated that he had gotten the memorandums from the State’s Attorney.

2
3 Mr. Hall verified that it is the Board’s opinion that staff has not answered their concerns about these
4 legal issues.

5
6 Mr. Irle stated no.

7
8 Mr. Hall stated that staff has not sent the Board anything that is unconstitutional.

9
10 Mr. Irle stated that Mr. Steeves previously stated that some of this has to be taken from a personal side.
11 He said that he has a problem with some of the *eminent domain* issues that are currently going on in the
12 County and the public feels that the Part I proposals are a “taking” and the two relate.

13
14 Ms. Griest stated that there was extensive discussion about personal property rights and the taking of
15 personal property rights as well as what was permissible under zoning regulation and what was not
16 protected by zoning regulation. She said that this particular segment goes beyond the statutory
17 allowance for zoning against the protection for trees and vegetation and that is where she feels that the
18 County is getting into equal protection issues and the “taking” of private property. She said that she
19 understands that the County has opposed staff on this issue but statutorily she does not feel that the trees
20 and the vegetation should be protected under the Zoning Ordinance. She said that she believes in
21 environmental protection but she does not believe that this is the proper method to achieve it.

22
23 Ms. Monte stated the Board is being asked to make an assessment about whether this Ordinance is
24 constitutionally sound and not one Board member is an attorney although the Board has received the
25 advice from the State’s Attorney.

26
27 Ms. Griest stated that the Board’s opinion was requested.

28
29 Mr. Bluhm stated that in regard to Ordinance Objective #8(e) the comment was made that a farmer
30 could go out and clear-cut an area if desired yet someone who is not a farmer and owned the same area
31 could not clear-cut it. He said that this is not equal protection.

32
33 Mr. Hall stated that the State law makes the difference between farming and not farming.

34
35 Mr. Goldenstein stated that even though State law states that agriculture is exempt the Ordinance is not
36 being equal.

37
38 Ms. Monte stated that agriculture is exempt from the entire Ordinance except for setbacks.

39
40 Mr. Hall stated that the Severability Clause is one of those nuts and bolts clauses that have to be in every
41 Ordinance because things do happen and must be included for the Ordinance to be sound.

42
43 Ms. Griest stated that the Severability Clause indicates that if any portion of Part I is declared to be
44 invalid then that segment comes out and the rest of the Ordinance remains standing. She said that the

3/02/06

AS APPROVED APRIL 06, 2006

ZBA

1 Board's question is whether they believe that Part I will stand on its own and hold up and it is her
2 opinion that it will not because it lacks in some areas that are subject to challenge and might be
3 successful.

4
5 Mr. Hall asked if staff should obtain information from the State's Attorney to deal with the Board's
6 concerns.

7
8 Ms. Griest stated that information from the State's Attorney will not affect her overall assessment of
9 Part I.

10
11 Mr. Hall stated that Ordinance Objective #8 is the most important thing in this whole list of objectives
12 and LURPs. He said that if staff hasn't convinced the Board that we have met these constitutional
13 requirements then we have a real problem and staff hasn't done their job.

14
15 Ms. Griest stated that it is not the Board's intent to state that staff has not done their job but she is not
16 convinced.

17
18 **The consensus of the Board was to defer a decision on Ordinance Objective #8 at this time.**

19
20 Ms. Griest read Ordinance Objective #9.

21
22 Mr. Steeves stated that he does not feel that he is qualified to address Ordinance Objective #9. He said
23 that he is not aware what the Illinois Religious Freedom Restoration Act has to do with cutting down a
24 tree.

25
26 Mr. Bluhm stated that the Board members are not lawyers therefore they cannot interpret whether or not
27 it is able to conform.

28
29 Mr. Irlle stated that based on the fact that no contrary testimony has been received then Ordinance
30 Objective #9 would have to be indicated as ACHIEVES.

31
32 Ms. Griest stated that the Board has received testimony regarding the Enabling Statute for Zoning that
33 indicated that some of the items, such as vegetation were not protected under zoning. She said that
34 building in a protected area is related to zoning but the preservation of vegetation and trees is not.

35
36 Mr. Hall stated that staff has worked closely with the State's Attorney on this subject and staff would
37 not have brought this before the Board if there were any serious reservations on the part of the State's
38 Attorney.

39
40 Ms. Griest stated that Ordinance Objective #9 PARTIALLY ACHIEVES.

41
42 Mr. Steeves asked if this is the issue where the State's Attorney sent a letter to the Illinois Attorney
43 General with a list of 10 questions regarding procedural and substantive issues related to CZR but no
44 response has been received.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

Ms. Monte stated that the State’s Attorney did send a list of questions to the Attorney General and one question did pertain to the County’s authority to regulate vegetation. She said that staff does not know when a response will be received from the Attorney General. She said that is why Item #3 of the Finding of Fact includes the Section 2.8.

Ms. Griest stated the Board understands that there is a back door but staff is indicating that they would not have sent this to the Board if it did not pass the muster of legal review. She asked if this is the case why is the Board being asked to evaluate it for legal review if it is outside of the Board’s purview. She said that if the Board is not qualified to evaluate it and staff doesn’t want the Board’s opinion then it shouldn’t be on the list.

Mr. Irle stated that Ordinance Objective #9 does partially achieve its goals but there are certain portions that would be questionable.

The consensus of the Board was that Ordinance Objective #9 PARTIALLY ACHIEVES.

Ms. Griest read Ordinance Objective #10.

Mr. Irle stated that there isn’t any portion of Ordinance Objective #10 that he can point to and say that it does not achieve it. He said that there has not been any legal testimony to the contrary therefore he would have to indicate that Ordinance Objective #10 ACHIEVES.

Ms. Griest stated that there hasn’t been any testimony that says that it would impose redundant regulation where there are other state, local or federal regulations that already adequately address those concerns. She said that it does not impose regulations where the County authority is pre-empted. She said that we may not all like the categories or the terminology it has been consistent. She said that she would agree with Mr. Irle in that Ordinance Objective #10 ACHIEVES.

Mr. Goldenstein stated that a statement should indicate that no testimony has been received to the contrary.

The consensus of the Board was that Ordinance Objective #10 ACHIEVES.

Mr. Hall stated that there was testimony received from the public that there were adequate state regulations in place in regard to the Stream Protection Buffer. He said that he disagrees with this statement because there are no state regulations that do what the Stream Protection Buffer is trying to do therefore the Board heard conflicting testimony.

Ms. Griest stated that the testimony that was heard did not create a conflict. She said that the Board has heard a lot of testimony and some of it was hard facts and some was subjective and emotional but that does not mean that everything that was said was agreed with or disagreed with by this Board. She said that in her opinion she did not find the testimony to the contrary.

3/02/06

AS APPROVED APRIL 06, 2006

ZBA

1 Mr. Bluhm stated that the Board feels that Ordinance Objective #10 achieves Items a-c and no testimony
2 has been received to prove any different. He said that the County is still following the state regulations
3 and following them if possible.

4
5 Mr. Hall stated that he just wanted to remind the Board that there had been public testimony that was
6 much different.

7
8 Mr. Goldenstein stated that his statement could be changed to indicate that the Board has had very
9 limited testimony to the contrary.

10
11 Ms. Griest read Ordinance Objective #11.

12
13 Mr. Bluhm stated that the Ordinance should leave the landowners with the maximum freedom of action
14 possible and it does not allow that by limiting the number of trees that they can cut for maintaining that
15 woodlands and replanting trees. He said that he does not believe that Ordinance Objective #11 achieves.

16
17 Mr. Steeves stated that he would put the management of vegetation in the same category.

18
19 Mr. Bluhm stated that he is unsure of the intrusion on free market.

20
21 Mr. Hall stated that the Board should not adopt a regulation that does more than it absolutely needs to
22 do. He said that the free market statement can not be separated from infringing on peoples rights. He
23 said that it sounds like a cost issue but he believes that it is also a freedom of choice issue.

24
25 Mr. Bluhm stated that it is impending on their freedom to cut trees, replant trees, replace vegetation and
26 place a garden in a buffer area therefore he believes that Ordinance Objective #11 DOES NOT
27 ACHIEVE.

28
29 **The consensus of the Board was that Ordinance Objective #11 DOES NOT ACHIEVE.**

30
31 Ms. Griest read Ordinance Objective #12.

32
33 Mr. Steeves stated that costs implied for tree removal or changing some of the vegetation someone with
34 limited resources would be unable to comply although someone without limited resources could comply
35 therefore it is unfair.

36
37 Mr. Bluhm stated that he agrees with Mr. Steeves yet the Ordinance applies the rules to everyone
38 equally.

39
40 Ms. Griest stated that there is nothing in the Ordinance which is economically based.

41
42 Mr. Bluhm stated that Ordinance Objective #12 PARTIALLY ACHIEVES.

43
44 Ms. Griest agreed with Mr. Bluhm's assessment. She said that her sense of the particular segment is

1 that it emphasizes the values of some groups over others and perhaps she would not feel this way if
2 there had been a broader representation of non-environmental interests on the steering committee that
3 developed this but the interests were predominantly environmentally based. She said that there were
4 two outside parties both with environmental interests either in farmland protection or natural preserve
5 interests and had there been a third individual that could bring the prospective it might have changed her
6 mind.

7
8 **The consensus of the Board was that Ordinance Objective #12 PARTIALLY ACHIEVES.**

9
10 Ms. Griest read Ordinance Objective #13.

11
12 Mr. Steeves stated that Ordinance Objective #13 DOES NOT ACHIEVE. He said that there is no
13 flexibility in the portion of the Ordinance that deals with the management and all of the costs and
14 procedures that the landowners have to go through. He said that it does not achieve that ability to apply
15 itself to different scenarios and it is an all or nothing situation.

16
17 Mr. Irle stated that the Zoning Ordinance is a work in progress and there are always changes in the
18 works. He said that staff has made every effort to make the Ordinance as flexible and adaptable as
19 possible and there are always areas that are narrowly based and do not meet that proof therefore he feels
20 that Ordinance Objective #13 PARTIALLY ACHIEVES.

21
22 Mr. Bluhm agreed with Mr. Irle's assessment.

23
24 **Mr. Irle, Mr. Bluhm, Ms. Griest and Mr. Goldenstein stated that Ordinance Objective #13**
25 **PARTIALLY ACHIEVES. Mr. Steeves stated that Ordinance Objective #13 DOES NOT**
26 **ACHIEVE.**

27
28 **Mr. Goldenstein moved, seconded by Mr. Bluhm to extend the meeting to 10:15 p.m. The motion**
29 **carried by voice vote.**

30
31 Ms. Griest read Ordinance Objective #14 and requested an explanation from staff regarding its meaning.

32
33 Mr. Hall stated that the goal was to complete the amendments as quickly as possible. He said that the
34 decision was made to complete the amendments with no increase in staffing and no hiring outside
35 consultants therefore there is a contradiction.

36
37 Ms. Griest stated that she would not argue with Mr. Hall's statement and proposed that Ordinance
38 Objective #14 is irrelevant to the merit of the component of this phase.

39
40 Mr. Hall stated that the Board can not strike Ordinance Objective #14 but can elect not to make an
41 evaluation. He said that he Ordinance Objectives were adopted by ELUC and they are the only group
42 that can change them.

43
44 Mr. Goldenstein stated that this process could be done quicker if the Board was allowed to make

1 suggestive changes and not have to take it as written.

2
3 Mr. Hall stated that this is the quicker route in getting this to the County Board.

4
5 **The consensus of the Board is that Ordinance Objective #14 is not relevant to the merit of Part I.**

6
7 Ms. Griest read Ordinance Objective #15.

8
9 Mr. Bluhm stated that Ordinance Objective #14 is also not relevant to the merit of Part I.

10
11 Ms. Griest agreed with Mr. Bluhm’s assessment.

12
13 **The consensus of the Board is that Ordinance Objective #15 is not relevant to the merit of Part I.**

14
15 **Finding of Fact for Part I:**

16
17 Ms. Griest stated that the first sentence of Item #26 has been amended to read: Land Use Regulatory
18 Policy (LURP) 1.7.1 is the policy most relevant to Part I of Case 522-AM-05 and LURP 1.7.1 states as
19 follows:. She said that after review of the worksheet the Board concurred that LURP 1.7.1

20 **PARTIALLY CONFORMS.**

21
22 **Mr. Bluhm moved, seconded by Mr. Goldenstein that Item #27, regarding the Ordinance**
23 **Objectives DOES NOT ACHIEVE.**

24
25 Mr. Goldenstein stated that a footnote should be added indicating the following: 8-DOES NOT
26 ACHIEVE; 5-PARTIALLY ACHIEVES; 2-NOT RELEVANT to PART I. He said that the comments
27 from the worksheet should be included in the summary.

28
29 **The motion carried by voice vote.**

30
31 Ms. Griest asked the Board members if there were any special conditions that they would like to
32 include.

33
34 **The consensus of the Board was that there were no special conditions proposed for inclusion.**

35
36 Ms. Monte stated that Item #5.B(3)of the Finding of Fact should be amended as follows: Subsection
37 21.20.300 establishes actions, subject to restrictions, that are allowed within a Stream Protection Buffer
38 which are generally as follows:. She said that an Item #5.D(2)(c) should be added as follows: A general
39 description of other trees located within the Stream Protection Buffer.

40
41 Mr. Hall stated that as this Finding of Fact stands currently it does not have summaries of all of the
42 testimony that has been presented. He said that the Board can decide that the finding does not need
43 those summaries but previously those summaries were included. He said that if the Board decides that
44 the summaries are to be included then staff requires more time to complete the finding before final

1 action is taken.
2
3 Ms. Griest asked if staff is recommending that the Board not take final action tonight.
4
5 Mr. Hall stated yes, unless the Board has made a decision that the finding does not need to be that detail
6 oriented in regards to the testimony.
7
8 Mr. Irle stated that the inclusion of the testimony in the finding will not change his general conclusion
9 regarding Part I.
10
11 Ms. Griest asked Mr. Irle if the inclusion of the testimony would alter the reader's view of how he came
12 to that conclusion.
13
14 Mr. Irle stated that the material that has been included to date should give the reader a clear view of
15 what his conclusion is based upon.
16
17 Mr. Goldenstein stated that all that is to be added is the information that was distributed or submitted as
18 public testimony.
19
20 Mr. Hall stated that this information cannot be added if a final determination is made at tonight's
21 hearing.
22
23 Ms. Griest asked if each of the handouts that the Board has received is not included in each subset but
24 are comprehensive in the overall package.
25
26 Mr. Hall stated that they are listed in the Documents of Record except for the correspondence that was
27 received at tonight's hearing. He said that at some point the cycle has to be broken because new
28 documentation is received at each hearing.
29
30 Mr. Irle asked Mr. Hall if his concern is for the downstream decisions that need to be made at ELUC
31 and the County Board and any additional information that he may want to include for their behalf.
32
33 Mr. Hall stated that there is a good chance that the people downstream will not bother to review the
34 entire Finding of Fact. He said that the entire Finding of Fact will not be sent to the County Board but it
35 will be available if requested.
36
37 Mr. Irle stated that the inclusion of this information will not change his decision.
38
39 **Mr. Irle moved, seconded by Mr. Goldenstein to extend the meeting to 10:30 p.m. The motion**
40 **carried by voice vote.**
41
42 Mr. Goldenstein stated that his decision will not change and would like to have all of the submitted
43 information included in the Documents of Record.
44

3/02/06

AS APPROVED APRIL 06, 2006

ZBA

1 Mr. Hall asked if staff should stop incorporating all of the testimony in the other Findings of Facts. He
2 said that staff must treat each Finding of Fact in the same manner as Part I.

3
4 Mr. Goldenstein stated that if it is acceptable to have the information included in the Documents of
5 Record then that should be the standard throughout. He asked if the Documents of Record are only for
6 written testimony.

7
8 Mr. Hall stated yes, the Documents of Record are only for written testimony and the minutes of the case
9 includes the verbal testimony.

10
11 Mr. Bluhm stated that the audio minutes could be included in the Documents of Records. He said that
12 staff could spend another month incorporating the testimony into this finding.

13
14 Mr. Hall stated that one of the handouts for tonight included all of the testimony from the January 31st
15 hearing and has been formatted into all of the findings. He said that the January 4th testimony is mostly
16 done but not complete and that leaves the testimony from the January 17th meeting and tonight to be
17 incorporated.

18
19 Ms. Griest asked staff if they would have adequate time to incorporate all of the testimony into the
20 Finding of Facts prior to the next meeting. She asked if the Board accepted no further testimony at the
21 next meeting could final action be possible for Part I and subsequent parts. She said that it would be
22 inappropriate to include the verbal and written testimony in the findings of the other parts of this case
23 and not in Part I.

24
25 Mr. Hall stated that if the Board is comfortable staff could strike all of the testimony from all of the
26 findings and then it would not be an issue. He said that this would decrease the amount of work that
27 staff has to do and would decrease the amount of time that the Board and the public has to spend
28 reviewing the finding. He said that the minutes and the Documents of Record will be available for
29 review if desired.

30
31 Mr. Bluhm asked if any written submittal would be listed as a Document of Record.

32
33 Mr. Hall said that the minutes are understood to be a Document of Record but they are not listed as
34 such.

35
36 Mr. Bluhm asked Mr. Hall if the Board decides to attach everything as a Document of Record and not
37 include testimony in the Finding of Fact would staff desire time to redo the Finding of Fact for Part I
38 prior to final action.

39
40 Mr. Hall stated that staff could redo the Finding of Fact and final action could be taken at the next
41 meeting or the Finding of Fact could be edited during tonight's hearing.

42
43 Mr. Bluhm stated that the minutes are an understood Document of Record and the written testimony
44 should be included as a Document of Record.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

Mr. Irle stated that this would greatly expedite the process without diminishing the decision that the Board will make.

Mr. Hall stated that if the Board desired to take final action at tonight's hearing they could take action based upon all of the items relating to testimony being removed and all written testimony added to the Documents of Record.

Mr. Bluhm stated that Part I should be the first item on the agenda at the next meeting.

Mr. Hall stated that when the Board receives the revised Finding of Fact for Part I, all discussion of testimony will be deleted and written testimony listed as a Document of Record.

Mr. Bluhm moved, seconded by Mr. Goldenstein to continue Case 522-AT-05, Zoning Administrator to April 06, 2006. The motion carried by voice vote.

6. New Public Hearings

None

7. Staff Report

None

8. Other Business

Dennis Goldenstein stated that he would not be present at the April 13, 2006, ZBA meeting.

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

None

10. Adjournment

The meeting adjourned at 10:28 p.m.

Respectfully submitted

3/02/06

AS APPROVED APRIL 06, 2006

ZBA

1
2 Secretary of Zoning Board of Appeals
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

ZBA //

DRAFT SUBJECT TO APPROVAL DRAFT

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31