



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

memorandum

TO: Bruce K. Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director, Community Development Services

DATE: September 14, 2006

SUBJECT: CCZBA 546-AM-06: Request by Deborah and Michael Insana to rezone 24 acres of AG-2 zoned land by adding the Rural Residential Overlay (RRO) zoning designation to allow for the construction of up to 12 single family homes.

Introduction

A petition has been submitted to the Champaign County Department of Planning and Zoning requesting a change in zoning to allow a residential development on a 24 acre tract of land on the north side of Airport Road east of High Cross Road. The property is zoned County AG-2, Agriculture and has been in agricultural use for many years.

The Champaign County Zoning Board of Appeals (CCZBA) met to review the case on Thursday, August 17th 2006. The case was continued until the October 25th CCZBA meeting so more information on the location of agricultural drainage tiles could be gathered. After a determination is made by the CCZBA the case will proceed to the County Environment & Land Use Committee (ELUC) for review and then on to the County Board.

The proposed rezoning is of interest to the City of Urbana as it lies within the City's one-and-one-half mile extra-territorial jurisdictional (ETJ) area. The City has subdivision and land development jurisdiction within the ETJ area, while the County holds zoning jurisdiction. Under State law, in cases of proposed rezoning where the affected land lies within a city's ETJ, the corporate authorities of that city may protest the rezoning. A municipal protest of the proposed rezoning enforces a three-fourths super majority of affirmative votes for approval of the request at the County Board.

The City has the obligation to review zoning decisions within its ETJ area for consistency with the City's Comprehensive Plan. The review is important because development in the ETJ may abut property within the corporate limits of the City or could eventually be annexed into the City.

At their August 24, 2006 meeting the Urbana Plan Commission voted 8-0 to recommend "no protest" to the City Council.

The Urbana City Council may vote to either approve or defeat a resolution of protest. If a resolution of protest is passed it must be filed with the Champaign County Clerk. In that manner the result of the vote on the resolution would be forwarded to the County.

Background

Detailed background information on the rezoning case, including location and zoning maps, is contained in the attached Champaign County Department of Planning and Zoning (CCDPZ) Preliminary Memorandum. The following discussion of the issues involved summarizes this information as it pertains to the City's planning jurisdiction.

Because the parcel lays within one and one-half miles of the city limits the City has jurisdiction over the subdivision of land into separate legal parcels. Any subsequent subdivision must comply with the City of Urbana Subdivision and Land Development Code regulations. Topography, site engineering, and drainage are topics of review in such cases and would be addressed by the Urbana Plan Commission if a subdivision was presented.

Issues and Discussion

County Zoning

The Champaign County Zoning Ordinance states that:

“The AG-2, Agricultural District is intended to prevent scattered indiscriminate urban development and to preserve the agricultural nature within areas which are predominantly vacant and which presently do not demonstrate any significant potential for development. This district is intended generally for application to areas within one and one-half (1-1/2) miles of existing communities in the County.”

According to the Champaign County Zoning Ordinance single-family homes are permitted by right within the AG-2 district. However the County Zoning Ordinance permits subdivisions in the AG-2 district only as follows:

“Subdivisions totaling not more than three lots, less than 35 acres each, from any parcel of land existing in the same dimensions and configurations as on 1/1/98. No Subdivisions totaling more than three lots less than 35 acres each from any parcel of land existing on 1/1/98 and/or with new streets or private access ways shall be created unless a Rural Residential Overlay District has been created.”

The Rural Residential Overlay (RRO) zoning district is required for subdivisions of more than three lots (whether at one time or in separate divisions) and/or new streets in the rural districts of AG-1, AG-2, and CR. The RRO district is an overlay zoning designation that is in addition to the pre-existing (underlying) rural zoning. Approval of the RRO district does not change any of the existing basic requirements of the underlying districts. All other restrictions such as permitted uses, setbacks, lot coverage, etc. remain in effect.

An RRO is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the RRO District. The County reviews considerations of whether the subject property is most suitable to be retained for farmland uses or for the type of development proposed.

One of the County review criteria is the LESA (Land Evaluation and Site Assessment) system and the Land Evaluation (LE) factor score it produces for the subject site. The LE factor score is intended to determine whether the subject property is “best prime farmland”, and if so should it be preserved for agricultural uses. The basis for that identification lays in analysis of the soil type, and the soil suitability for agricultural production or residential development. The County analysis indicates that this property is not “best prime farmland”. The County’s conclusion in this case is that the subject property is well suited for the RRO district designation and the proposed residential development.

City of Urbana Policies

City of Urbana 2005 Comprehensive Plan - Future Land Use Designations

The City of Urbana 2005 Comprehensive Plan future land use designation for the site is “Residential”. The Plan states:

“Residential areas contain primarily single-family housing, but may contain a variety of compatible land uses. Urban development patterns are often found in older neighborhoods, with an emphasis on pedestrian traffic. Suburban development patterns are found in newer areas, with larger lots served by a well-connected street network with pedestrian and bicycle facilities.”

Because the rezoning is intended for a residential use the proposal will conform to the Comprehensive Plan’s future land use designation of “Residential” for the surrounding area. The proposed development would also be consistent with the description of a “Residential” (suburban pattern) type of development.

The final layout of the lots and the site engineering would be evaluated at a later time as part of the City of Urbana major subdivision review process.

City of Urbana 2005 Comprehensive Plan - Goals and Objectives

The following Goals and Objectives of the 2005 Urbana Comprehensive Plan relate to this case:

Goal 15.0 Encourage compact, contiguous and sustainable growth patterns.

Objectives

15.1 Plan for new growth and development to be contiguous to existing development where possible in order to avoid “leapfrog” development.

Goal 16.0 Ensure that new land uses are compatible with and enhance the existing

community.

Objectives

- 16.2 Preserve agricultural lands and environmentally sensitive areas outside the growth area of the city.
- 16.3 Encourage development in locations that can be served with existing or easily extended infrastructure and city services.
- 16.5 Consider the impact of new development on public services and the ability to provide those services cost effectively.

Goal 17.0 Minimize incompatible land uses.

Objectives

- 17.1 Establish logical locations for land use types and mixes, minimizing potentially incompatible interfaces, such as industrial uses near residential areas.
- 17.2 Where land use incompatibilities exist, promote development and design controls to minimize concerns.

Goal 21.0 Identify and address issues created by overlapping jurisdictions in the one-and-one-half mile Extraterritorial Jurisdictional area (ETJ).

Objectives

- 21.1 Coordinate with Champaign County on issues of zoning and subdivision in the ETJ.
- 21.2 Work with other units of government to resolve issues of urban development in unincorporated areas.

When evaluating zoning amendment requests in the ETJ, the City considers their potential impact in relation to the intent of the Comprehensive Plan. Consistency with Champaign County Land Use Goals and Objectives should also be considered. Relevant Champaign County goals and objectives are discussed in the County's Memoranda. Some of these goals and policies coincide with those of the City of Urbana's Comprehensive Plan. In summary, staff finds that the rezoning to RRO designation to accommodate the proposed subdivision would be compatible with the goals and objectives of the 2005 Comprehensive Plan.

City of Urbana Zoning Compatibility

In evaluating the proposed rezoning from the City's perspective one question to address is whether the proposed use would match the type of uses that would be permitted in the same or similar zoning district in the City. The City of Urbana does not have a Rural Residential Overlay zoning district designation. When any subdivision is annexed into the City, the property's County zoning designation is converted to a City zoning designation on the basis of Urbana Zoning Ordinance Table IV-1 which is intended to provide for a directly comparable designation. Therefore, in the case of the subject property the underlying County AG-2, Agriculture district designation would convert directly to City AG, Agriculture.

The La Salle National Bank Criteria

In the case of *La Salle National Bank v. County of Cook (La Salle)*, the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed by the Petitioner.

1. *The existing land uses and zoning of the nearby property.*

This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.

The subject property is a vacant tract of farmland while the surrounding area consists primarily of farmland, with rural residences to the immediate west and others scattered farther to the south and east. Land use patterns are shown in the Land Use figure attached to the Champaign County Preliminary Memorandum.

County zoning surrounding the subject properties is AG-2 to the east, west, and north, and CR, Conservation-Recreation to the south as shown in the figure attached to the Champaign County Preliminary Memorandum. The proposed RRO designation rezoning would be generally consistent with the zoning and land use pattern found in the vicinity of the site.

2. *The extent to which property values are diminished by the restrictions of the ordinance.*

This is the difference in the value of the property as zoned and the value it would have if it were rezoned to permit the proposed use.

It should be noted that City Planning Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact on the value of the property. Therefore, any discussion pertaining to property values must be considered speculative.

The existing property has been in agricultural use for many years. Rezoning from agriculture to allow for residential development can be reasonably expected to increase the value of a property, due to the appeal of the rural atmosphere of the surrounding area.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.*

4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

The question here applies to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?

The current restrictions associated with the agricultural zoning of the property are designed to protect prime farmland and promote efficient use of energy and other resources. Isolated residential development on the urban fringe could ultimately block expansion of urban development depending on its pattern and character. Any negative impacts due to traffic, safety, noise, and aesthetic concerns caused by residential development may also be considered in the light of current surrounding agricultural uses. In this case, it is unclear if any potential harm to the public would be caused by rezoning to the RRO designation as proposed or if any public harm would be offset by potential gains to the property owners from realizing a higher appraised value.

5. *The suitability of the subject property for the zoned purposes.*

The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.

The Champaign County Planning and Zoning office has determined the subject property is well suited to the proposed use under their criteria of review. The City of Urbana Planning Division does not dispute the criteria or basis of review used by the County or their conclusions in this instance. The Comprehensive Plan Future Land Use designation of Residential indicates the City has found the location to be suitable for residential development.

6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

The site has been in agricultural use for many years. To the City's knowledge there has been no indication of significant land development demand in the subject area that the current agricultural designation has thwarted.

Summary of Findings

1. The proposed rezoning and land use is generally compatible with the surrounding County zoning and land uses.
2. The proposed rezoning is compatible with the Urbana Comprehensive Plan Future Land Use residential designation for the surrounding areas.
3. The proposed zoning change is generally consistent with the land use policy goals of both the City and the County which promote contiguous growth and compatibility of land uses.
4. The proposed zoning change generally meets the LaSalle Criteria because the site and surrounding area are suitable for the proposed zoning district, and the change will not be injurious to the general welfare of the public.

Options

The City Council has the following options in CCZBA Case No. 546-AM-06, a rezoning request to place a RRO district designation on the underlying AG-2 district.

- a. Defeat a resolution of protest for the proposed rezoning; or
- b. Adopt a resolution of protest of the proposed rezoning.

Recommendation

At their August 24, 2006 Plan Commission meeting, the Commission voted 8-0 to recommend the Urbana City Council **defeat a resolution of protest** of the proposed rezoning based upon the findings above. City Staff concurs with this recommendation.

Prepared by:

Paul Lindahl, Planner I

Attachments:

CCDPZ = Champaign County Department of Planning and Zoning

- 1) Draft Resolution of Protest
- 2) Minutes of August 24, 2006 Urbana Plan Commission public hearing.
- 3) Aerial Photo
- 4) Urbana Comprehensive Plan Future Land Use Map
- 5) CCDPZ Preliminary Memorandum, dated August 11, 2006 w/ Draft Findings of Fact

cc: John Hall, Champaign County Planning and Zoning

RESOLUTION NO. 2006-09-022R

**A RESOLUTION OF PROTEST AGAINST A PROPOSED MAP AMENDMENT TO THE
CHAMPAIGN COUNTY ZONING MAP**

(A 24 Acre Tract of Land on the North Side of Airport Road
Approximately 750 feet East of Highcross Road / Deborah and
Michael Insana)

WHEREAS, Deborah and Michael Insana, have petitioned the County of Champaign for a map amendment to the zoning map of the Champaign County Zoning Ordinance in Champaign County ZBA Case No. 546-AM-06 to apply the Rural Residential Overlay (RRO) zoning designation to a 24 acre tract of land on the North side of Airport Road approximately 750 feet East of Highcross Road currently zoned AG-2 Agricultural; and

WHEREAS, pursuant to the provisions of State of Illinois Compiled Statutes 55 ILCS 5/5-12014 that states in cases of any proposed map amendment where the land affected lies within 1 1/2 miles of the limits of a zoned municipality, the corporate authorities of the zoned municipality may by resolution issue written protest against the proposed map amendment; and

WHEREAS, said amendment has been submitted to the City of Urbana for review and is being considered by the City of Urbana under the name of "CCZBA-546-AM-06"; and

WHEREAS, the Urbana Plan Commission held a meeting on August 24, 2006 to consider the request against the goals and objectives of the City of Urbana Comprehensive Plan as well as the LaSalle Criteria and subsequently voted eight (8) ayes, zero nays to recommend that the Urbana City Council DEFEAT a resolution of protest against the proposed map amendment; and

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed map amendment IS NOT in the best interest of the City of Urbana.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The City Council finds and determines that the facts contained in the above recitations are true.

Section 2. That the Urbana City Council hereby resolves that the City of Urbana, pursuant to the provisions of 55 ILCS 5/5-12014, does hereby APPROVE a Resolution of Protest against the proposed map amendment as presented in CCZBA-546-AM-06.

PASSED by the City Council this _____ day of _____, 2006.

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2006.

Laurel Lunt Prussing, Mayor

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: August 24, 2006
TIME: 7:30 P.M.
PLACE: Urbana City Building
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Jane Burris, Ben Grosser, Lew Hopkins, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant, James Ward, Don White

MEMBERS EXCUSED: None

STAFF PRESENT: Robert Myers, Planning Manager; Jeff Engstrom, Planner I; Becca Bicksler, Community Development Associate; Teri Andel, Planning Secretary

OTHERS PRESENT: Brandon Bowersox, Betsey Cronan, Paul Debevec, Debbie Insana, Emily Laugesen, Susan Taylor, Dianna Visek

NEW PUBLIC HEARINGS

CCZBA-546-AM-06 – Rezone 24 acres in Champaign County to allow for the development of 12 single-family residential lots in the AG-2 zoning district by adding the Rural Residential Overlay (RRO) Zoning District, north side of Airport Road just east of High Cross Road.

Robert Myers, Planning Manager, presented the staff report for this case. He gave a brief introduction and background regarding the process and the City's responsibility for reviewing the proposed County rezoning. He talked about the County zoning classification of RRO, Rural Residential Overlay. He pointed out staff's review of the future land use designations and goals and objectives of the 2005 Comprehensive Plan, as well as the La Salle National Bank Criteria, that pertained to the proposed rezoning. He summarized staff findings and read the options of the Plan Commission. He presented staff's recommendation, which is as follows:

Based upon the findings in the written staff report, staff recommends that the Plan Commission forward to the City Council a recommendation to defeat a resolution of protest.

Mr. Pollock inquired if the proposed rezoning is approved, then the subdivision would be developed according to the City of Urbana's subdivision regulations and building requirements. Mr. Myers replied yes. The improvements to the property would have to meet all of the City's subdivision standards. Should it be annexed sometime in the future, then it would at least have been built to the City's standards.

Mr. Pollock asked if this is currently farmland. Mr. Myers replied he believed it is currently pasture.

Ms. Stake moved that the Plan Commission forward the proposed case to the City Council with a recommendation to defeat a resolution of protest. Mr. Ward seconded the motion.

Mr. Pollock pointed out that the case is listed on the agenda as a 06 case, but on the staff report it is listed as 04. He assumed that staff would correct this.

Roll call was as follows:

Mr. Hopkins	-	Yes	Mr. Pollock	-	Yes
Ms. Stake	-	Yes	Ms. Upah-Bant	-	Yes
Mr. Ward	-	Yes	Mr. White	-	Yes
Ms. Burris	-	Yes	Mr. Grosser	-	Yes

The motion was approved by unanimous vote.



CCZBA Case: Champaign County Zoning Map Amendment
546-AM-06: Request for rezoning to allow for the development of 12 single family residential lots on a 24 acre tract of land in the AG-2, Agriculture district by adding the Rural Residential Overlay (RRO) zoning designation.

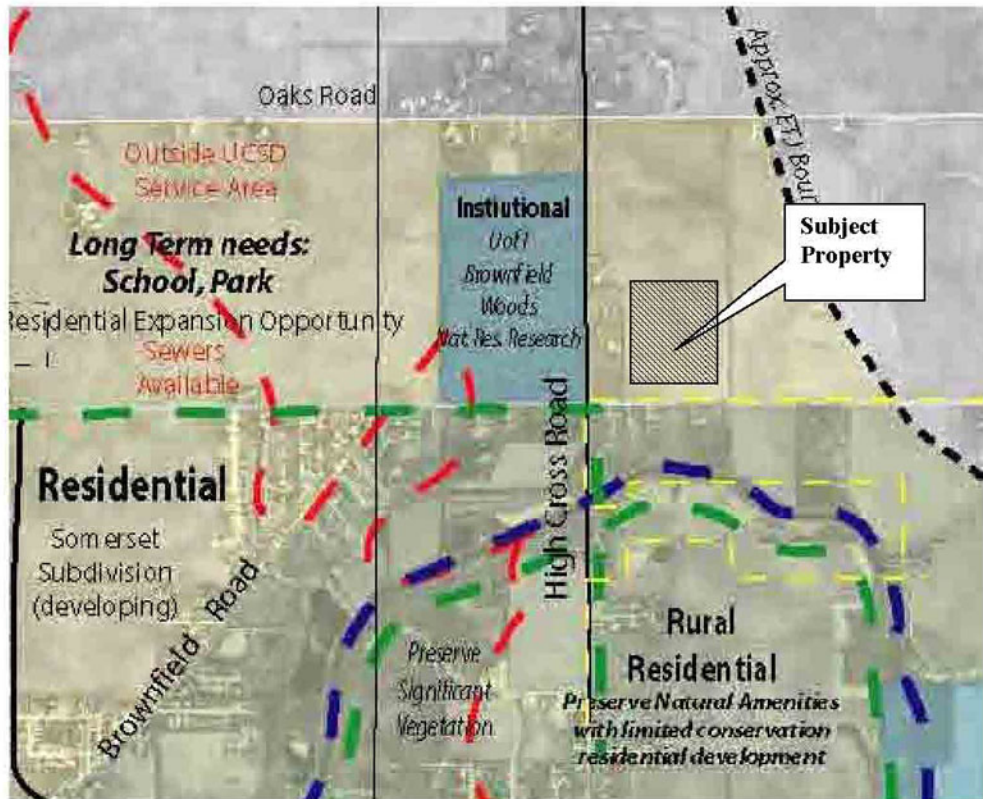
Petitioner: Insana
Location: Airport Road
Zoning: County AG-2, Agriculture

Prepared 8/17/06 by Community Development Services - pal

Future Land Use

EXHIBIT "D"

Source: Comprehensive Plan Future Land Use
Map # 2, p.73 – Detailed Section



CCZBA Case: Champaign County Zoning Map Amendment
546-AM-06: Request for rezoning to allow for the development of 12 single family residential lots on a 24 acre tract of land in the AG-2, Agriculture district by adding the Rural Residential Overlay (RRO) zoning designation.

Petitioner: Insana
Location: Airport Road
Zoning: County AG-2, Agriculture