



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

memorandum

TO: Urbana Plan Commission

FROM: Paul Lindahl, Planner I

DATE: August 18, 2006

SUBJECT: CCZBA 546-AM-04: Request by Deborah and Michael Insana to amend the Champaign County Zoning Map 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.

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 24 acre tract parcel lies within one and one-half miles of the Urbana city limits. As a result, the City of Urbana has protest rights over the rezoning request. The Plan Commission must vote to make a recommendation to the City Council that would result in either a “protest” or “no protest” of the rezoning. A municipal protest would require a three-fourths super majority of affirmative votes for approval of the request by the County Board. After the City’s Plan Commission’s discussion and vote upon a recommendation, the Urbana City Council will meet to review the Commission’s recommendation and 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 case 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 within the Champaign County Department of Planning and Zoning (CCDPZ) Preliminary Memorandum attached hereto. The following discussion of the issues involved will summarize the essential parts of this information as it pertains to the City’s planning jurisdiction.

Most importantly, the County rezoning approval is not the same thing as subdivision approval. Because the parcel lies within one and one-half miles of the Urbana city limits the City has jurisdiction over the subdivision of land into separate legal parcels. Any subdivision must comply with the City of Urbana Subdivision and Land Development Code regulations.

Issues and Discussion

County Zoning

According to the Champaign County Zoning Ordinance, 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. Briefly stated the County reviews considerations of whether the subject property is most suitable to be retained as agricultural farmland or for the type of development proposed.

One of the most important 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. Broadly stated 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 soil type, soil suitability for agricultural production, and soil suitability for residential development.

The City of Urbana does not use a LESA or LE factor type analysis as a basis for land use determinations either in zoning, or subdivision development and simply reports the findings of the County in this regard.

Please see the attached County Preliminary Memorandum for detailed information on the County methodology. 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 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.”

Staff feels that the proposal would generally conform to the Comprehensive Plan's future land use designation of Residential for the surrounding area. The proposed development would not be inconsistent with the description of a Residential (suburban pattern) type of development.

The final layout of the lots and the site engineering would need to be evaluated 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 is required to consider 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 extensively 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 not be incompatible with the goals and objectives of the 2005 Comprehensive Plan.

City of Urbana Zoning

In evaluating the proposed rezoning from the City's perspective one question to address is does the use 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. In the event of a subdivision being 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. Since the County created the RRO overlay district there has not been an amendment to the City's conversion table to indicate what City zoning district a property with County RRO designation should become. Therefore, the underlying County AG-2, Agriculture district designation would convert directly to City AG, Agriculture.

It is common practice for tracts that are to be annexed into the City to have annexation agreements that stipulate a different zoning designation be made from that described by Urbana Zoning Ordinance Table IV-1. At this time Mr. and Mrs. Insana have not submitted their subdivision to the City for formal review and there has been no discussion in terms of annexation.

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 Staff Findings

1. The proposed rezoning and land use is generally compatible with the surrounding County zoning and land uses.
2. The proposed rezoning is not incompatible with the Urbana Comprehensive Plan Future Land Use residential designation for the surrounding areas.
3. A 12 lot single family residential subdivision would be generally acceptable in a City residential zoning district in the event of any potential future annexation of the subject property.
4. The proposed zoning change is not incompatible with the land use policy goals of both the City and the County which promote contiguous growth and compatibility of land uses.
5. The evaluation of the LaSalle Criteria reiterates the findings above. The proposed zoning change is acceptable because the site and surrounding area are generally suitable for the proposed zoning district, and the change will not be injurious to the general welfare of the public.

Options

The Plan Commission 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.

The Urbana Plan Commission may:

- a. Forward the plan case to the City Council with a recommendation of “no protest”; or
- b. Forward the plan case to the City Council with a recommendation of "no protest", contingent upon specific provisions to be identified; or
- c. Forward the plan case to the City Council with a recommendation of “protest”.

Staff Recommendation

Based upon the findings above, Staff recommends that the Plan Commission forward to the City Council a recommendation to **defeat a resolution of protest**.

Attachments:

CCDPZ = Champaign County Department of Planning and Zoning

- A) CCDPZ Preliminary Memorandum, dated August 11, 2006 w/ Draft Findings of Fact
- B) Aerial Photo
- C) Urbana Comprehensive Plan Future Land Use Map

cc: John Hall, Champaign County Planning and Zoning



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.

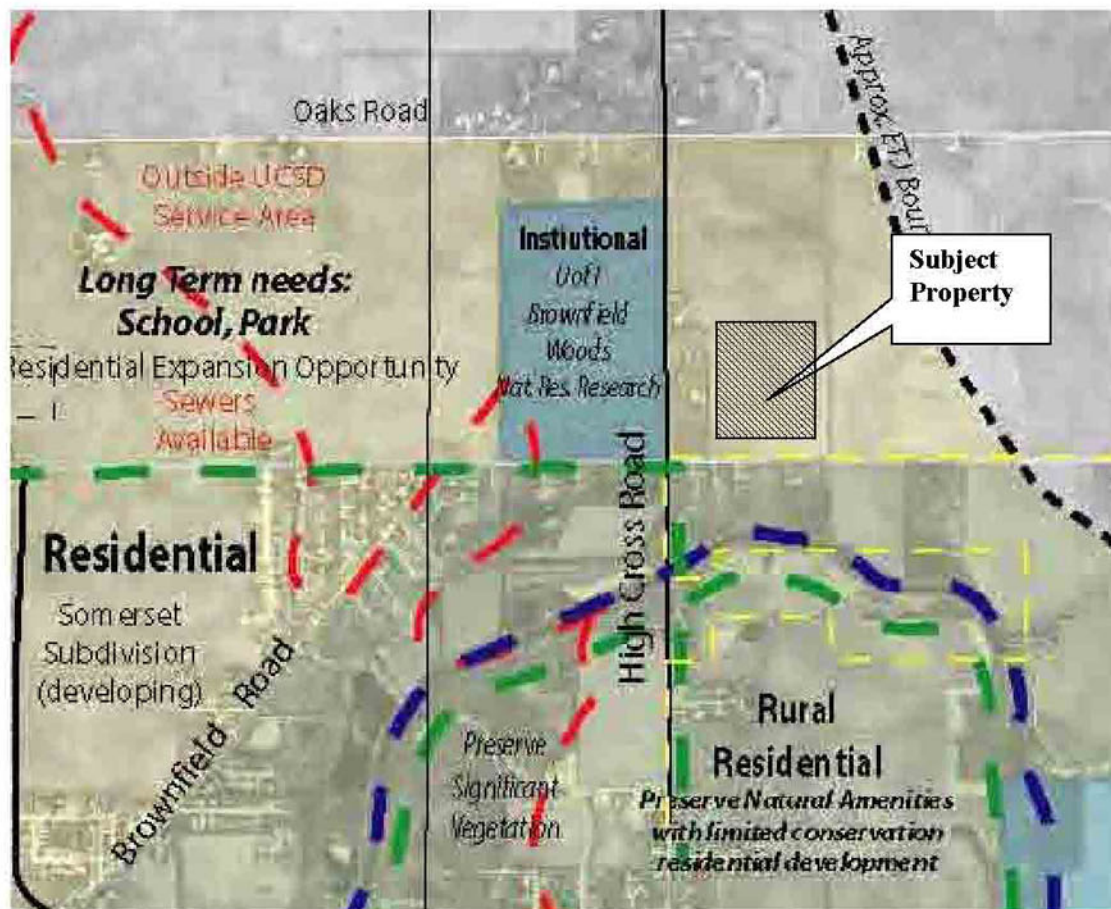
Petitioner: Insana
Location: Airport Road
Zoning: County AG-2, Agriculture

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
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