

MINUTES
WILL COUNTY LAND USE AND DEVELOPMENT COMMITTEE
May 26, 2009

Pledge of Allegiance

Chairman Weigel led the pledge of allegiance.

Call to Order:

Chairman Weigel called the meeting to order at 10:30 a.m.

Members Present at Roll Call:

Tom Weigel, Debbie Rozak, Katrina Deutsche, Michael Wisniewski and Sharon May.

Members Absent:

Kathleen Konicki

Staff Present:

David Dubois, Curt Paddock, Steve Lazzara, Anita Wesse and Leigh Kelley.

State's Attorney Present:

Melanie Manning

Others Present:

See sign in sheet.

Approval of Minutes:

Conservation Design

Adoption of Text Amendments to the Subdivision and Zoning Ordinances regarding Conservation Design Subdivision for transmittal to the Will County Board

Mr. Paddock gave a few brief introductory comments. He explained that a few items from the original stakeholders group meeting did not receive full resolution prior to the last LUDC meeting so a second meeting of the stakeholders group was held last week. Chairman Weigel was in attendance of that meeting where all remaining business of that particular group was completed and that remaining material is what we will go over today.

Mr. Paddock advised the Committee that it is staff's hope that the outcome of today's meeting be this Committee's adoption of a draft that would then go onto the Executive Committee and ultimately the County Board. Mr. Paddock also stated that the staff is extremely grateful to the members of the stakeholders group for all of their hard work.

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Mr. Paddock added that prior to today there was thorough review of the entire document by the State's Attorney's Office, which might result in some modifications to the stakeholder comments. The changes suggested by our Assistant State's Attorney Melanie Manning will be discussed.

Chairman Weigel asked Mr. Dubois to introduce the stakeholders that were present and Mr. Dubois introduced Jim Paul, Ders Anderson, Steven Gregory, Kimberly Mitchell and Debbie Bell. Chairman Weigel thanked them for their great efforts.

Mr. Dubois went through some of the written comments that were made at the second stakeholders meeting:

- A comment was received regarding the mowing of golf courses, what percentage could be and what could not be mowed. This was addressed by adjusting percentages and more specifically identifying the areas on the golf course and that seemed to be a consensus of the stakeholders committee.
- There was conversation regarding the terminology of management plans. It was determined that there be an initial management plan developed and then a long-range management plan for maintenance of the open space areas.
- The Conservation Foundation made suggestions that there be consistency in terminology with regard to a Land Conservation Agency and providing a definition and staff did that.
- A comment was submitted requesting clarification for some of the definitions such as LEED, there were modifications made to some of the definitions with regard to: Environmentally Sensitive, Hedgerows, Land Conservation Agency and what the Management plans are.
- Language was introduced that pertained to revisiting the ordinance within a certain amount of time, particularly the conservation design section, to see if it is working or not working.
- Language from Debbie Bell and Three Rivers with regard to providing some kind of notification to property owners within the SSAs prior to any enacting of a levy.

Mr. Dubois then reviewed some text changes recommended by the stakeholders group.

Page 53, 30-01-C. Review Period- there is now a five- year review period and it requires convening a working group and specifies who is in the working group.

Mrs. Rozak stated that once the Plat Committee convenes do they give a recommendation to the County Board? Mr. Dubois explained that based on this particular text he would anticipate that it would be very similar to what we do now, but this text requires the convening of a working group of interested parties to be involved in the process.

Mrs. Rozak asked for clarification, would they make a recommendation and Mr. Dubois explained that this particular working group as recommended would be involved in reviewing Part 3 of the document with the different agencies and interest groups and discuss how this has been working or what could be done to fix it to make it better.

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Chairman Weigel stated they would give their recommendation to the Plat Committee and Mr. Paddock explained that this is a specific recommendation from the stakeholders group. Mr. Paddock further explained that the fundamental purpose is to see how the entire ordinance is working and what are the effects of it. A group would convene to make those findings and then would provide them to the Plat Committee and what the Plat Committee did with those recommendations would be completely up to their discretion.

Pages 61 & 62, 32-02-B. - 5. - There was further modifications and golf courses would be allowed provided they meet certain requirements as a Certified Audubon Cooperative Sanctuary, which requires an application and inspections by that agency and is a good status to have. Howard Hamilton informed Mr. Dubois that if a golf course receives this designation, in many instances, this embodies what staff would like to see in conservation design with preservation of natural resources.

Page 62, 32-02-B. (c) - This language was clarified further that no more that 50% of the open space in the golf course may be fairways, putting greens, practice areas, and other areas maintained solely by mowing and was a consensus of the stakeholders.

Page 65, 32-05-C. - 5. – This language was initially submitted by Ms. Bell and further modified by the stakeholders group and the purpose of this language on the Maintenance Special Service Area is to provide the property owner specifically within that designated Maintenance Special Service Area would be noticed in writing and there would be a non-binding public hearing held by the Plat Committee to hear their concerns regarding the situation that has brought them to that point regarding the County possibly enacting the levy ordinance on the property and to see if there could be some kind of resolution to the issues on the property before the next step was taken. There would be a publication and a public hearing. At this point in the process you would have already had the purposing ordinance for the Maintenance Special Service Area and the establishing process so it would be there when the levy would be established or could be enacted. This does not require a statute but would be something the County would introduce into the ordinance that would require before they take that last step, a meeting of the homeowners, to discuss their concerns.

Article 60 Definitions - Grasslands and Land Conservation Agency were clarified and LEED was defined. Maintenance Special Service Area was modified as well as Management Plan to make the terminology consistent.

Mature Woodland was refined with the word mature being struck and in order to be consistent with the language within the ordinance mature was also struck. It was the consensus of the stakeholders group that this appeared to address everyone's concerns with regard to what woodland is.

Mr. Dubois then went through the changes that staff is recommending.

Page 53, 31-01-C - Mr. Dubois deferred to Mrs. Manning and asked her to explain her text changes to this section. Mrs. Manning stated her concern to the stakeholders suggested language is they want to, by ordinance, require the stakeholders group to re-convene and review how it has been going. Mrs. Manning does not think it is appropriate or enforceable for an ordinance to require a number of people from certain industries to get together to review one of our ordinances. What would be proper is a review period where this Committee or a stakeholders group could be established, we just could not require by ordinance a stakeholders committee to come together.

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Mrs. Manning read her suggested change for Section 31-01-C. - No later than five years from the date of passage of the initial Conservation Design Ordinance, the County Board, or a committee, sub-committee or commission thereof, shall consider whether amendments are necessary to Part 3 and consistent with recommendations of the Land Resource Management Plan, to encourage new or improved conservation design building practices which may have been developed and which may have application in Will County, to correct deficiencies or difficulties which may have developed in administration of Part 3, or for such other reasons as the County Board may determine.

Mrs. Rozak stated that she liked Mrs. Manning's suggestions much better.

Mr. Dubois advised the Committee that staff recommended the Committee make a motion to accept/deny or modify the changes as proposed by Mrs. Manning.

Michael Wisniewski made a motion to approve the staff recommended changes with regard to Review Period Language; seconded by Katrina Deutsche.

ROLL CALL VOTE: May, Deutsche, Weigel, Rozak and Wisniewski voted "yes".

ALL IN FAVOR

MOTION CARRIED (5-0)

Conversation ensued regarding the new member of the LUDC.

Page 55, 30-01-G. - 7. – Mr. Dubois explained this pertains to the waiving of certain requirements for curb and gutter, pavement widths and right-of-way widths and this is actually up to the Township Highway Commissioner as to whether or not those things could be waived. The Highway Commissioner has the signature on the final plat. Mrs. Manning explained that she changed this language because it accurately reflects what happens. We do not have the final say the Highway Commissioner does, so it would be contingent upon the Highway Commissioner's approval. It is an accurate statement of the facts.

- Curb and gutter, pavement widths, right-of-way widths, and sidewalk requirements will be waived or modified in a conservation design subdivision contingent upon the approval of the appropriate highway authority.

Katrina Deutsche made a motion to approve the staff recommended changes to Page 55 with regard to the Highway Commissioner; seconded by Michael Wisniewski.

ALL IN FAVOR

MOTION CARRIED (5-0)

Page 57, 31-01-B – Mr. Dubois explained that this is a rounding change in the table for density and yield; it was rounded to three decimals to be consistent (Zoning District R-4, Maximum Base Density 3.485).

Sharon May made a motion to approve the change in the R-4 Zoning District's Maximum Base Density to 3.485; seconded by Debbie Rozak.

ALL IN FAVOR

MOTION CARRIED (5-0)

Page 59 31-05- Lot Area and Dimension Standards – Mr. Dubois explained this is additional language was suggested by Mrs. Manning and it further clarifies that no structures shall be exempt from Building Ordinance requirements.

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- Conservation design subdivisions are expressly exempt from the lot area, lot width, lot coverage and setback requirements of the Zoning Ordinance. No structures shall be exempt from the requirements of the Will County Building Ordinance; lots must be of size and shape to allow for compliance with applicable building codes

Michael Wisniewski made a motion to approve the staff recommended changes to 31-05, Lot Area and Dimension Standards; seconded by Debbie Rozak.

ALL IN FAVOR

MOTION CARRIED (5-0)

Page 63, Section 32-04 – Mr. Dubois explained that there was a lot of discussion surrounding this entire section as to what could be considered open space and what could not. Section 32-04 is titled Limited Credit for Certain Open Space Features; this section identifies those things for which you only get a partial credit. What came out of the stakeholders meeting is that 100% D & G could be considered as part of open space. Staff is recommending that 32-04 D. & 32-04 G. be struck.

Mrs. Rozak asked if staff is okay with leaving those numbers at 100% and Mr. Dubois explained that those changes were a consensus of Committee and represents a middle of the road consensus.

Debbie Rozak made a motion to delete 32-04- D. and 32-04-G.;

Conversation ensued regarding the removal of those two lines.

Mrs. Manning explained why the two lines should be removed and advised the Committee that it was her recommendation to either strike the word limited from the heading and it would read **Limited Credit For Certain Open Space Features** and list every possible one including the 100% ones, or get rid of the ones that are 100% and leave the heading alone.

Seconded by Katrina Deutsche.

ALL IN FAVOR

MOTION CARRIED (5-0)

Page 64, 32-05-A- Mr. Dubois explained that homeowners association was changed to property owners association in this section and throughout the document for consistency.

Mrs. Manning explained that the stakeholders group was trying to say they don't want this ordinance to require them to make certain areas accessible to the general public so she suggested, it would be cleaner and satisfy the intent, to say 'No open space in Articles 30-32 shall be required to be open to the general public unless ownership of said open space in conveyed to a unit of local government or some other governmental agency'.

Michael Wisniewski made a motion to approve the staff recommended changes to Section 32-05-A. Ownership and Management of Open Space; seconded by Debbie Rozak.

ALL IN FAVOR

MOTION CARRIED (5-0)

Page 64 – 32-05 -C. Mr. Dubois explained that with regard to 1,2 and 3 of this section the acronym MSSA has been added so that it is very clear this is a Maintenance Special Service Area.

Mrs. Manning explained that this was more for clean up and talks about when the Maintenance Special Service Area would be used and it now reflects more accurately when it would be used.

Mrs. Manning's suggested changes to 32-05-C.

1. Applicant acknowledges that the County Board shall propose and establish one or more Maintenance Special Service Areas pursuant to the Special Service Area Tax Law upon all taxable property within the subdivision. The Maintenance Special Service Area (MSSA) will be used as a backup funding mechanism in the event that the property owners association, or any other person or entity charged with maintenance and upkeep of the special service area, fails to adequately carry out and/or provide maintenance and upkeep of the special service area and/or perform its duties as provided in the initial or long term management plan as determined by the Plat Committee. In such an event, the County Board may enact an ordinance to levy an ad valorem special tax against all taxable property within the proposed Maintenance Special Service Area in order to fund the necessary maintenance and other costs set forth herein. See also Sec. 20-09-B and 20-09-C. In furtherance of this requirement, Applicant shall submit to the Plat Committee a fully executed MSSA Application.
2. Upon receipt of the MSSA Application the Plat Committee shall submit a Proposing Ordinance to the County Board for its consideration.
3. In the event the County Board adopts the Proposing Ordinance, an MSSA Hearing shall be held pursuant to the terms of the Proposing Ordinance and Special Service Area Tax Law.

Debbie Rozak made a motion to approve the staff recommended changes to Section 32-05-C. 1,2 & 3 Maintenance Special Service Area Requirement- numbers 1, 2 and 3; seconded by Katrina Deutsche. ALL IN FAVOR MOTION CARRIED (5-0)

Page 65, 32-05-C. -5. - Mrs. Manning explained that what was suggested is that a non-binding public hearing be required in addition to all the statutory public hearings that are required. By law that comes with certain duties and responsibilities, so you can't start limiting what is going to be heard or what sort of conversations there are going to be, that is not a public hearing. So instead of defining or trying to spell out what can be heard at the public hearing, she just added the word comment.

Mrs. Manning's suggested changes to Section 32-05-C. – 5: Prior to the County Board considering and voting upon enacting the levy ordinance for the established MSSA, all landowners within the MSSA shall be noticed in writing, via first-class mail, and a non-binding public hearing with the Plat Committee shall be held to hear comment. Notice of the time and place of such hearing shall also be published in a newspaper of general circulation in the County no less than fifteen (15) days before the hearing.

Michael Wisniewski made a motion to approve the staff recommended changes to Section 32-05-C. -5; seconded by Sharon May. ALL IN FAVOR MOTION CARRIED (5-0)

Page 65, 32-05-D. – There is further clarification changing Homeowner's Association to property owners association.

Michael Wisniewski made a motion to approve the staff recommended changes to Section 32-05-D; seconded by Debbie Rozak. ALL IN FAVOR MOTION CARRIED (5-0)

Article 60 Definitions – Mr. Dubois explained that (MSSA) was added to Maintenance Special Service Area, this is a staff recommended change.

Debbie Rozak made a motion to approve the staff recommended change to Maintenance Special Service Area (MSSA) in Article 60 Definitions; seconded by Sharon May.

ALL IN FAVOR

MOTION CARRIED (5-0)

Mr. Dubois explained that the following sentence was added to SSA Hearing and SSA Objection Period: This does not include the non-binding public hearing referenced in Article 32.

Mrs. Manning explained that within the body of the ordinance the SSA hearing and objection period is referenced and that is referencing what our obligations are by statute.

Debbie Rozak asked who would hear the non-binding public hearing and Mrs. Manning explained that the LUDC would hear it.

Mrs. Rozak asked how much notice would be given to the homeowner before they came before the LUDC and Mr. Paddock explained that there is an initial maintenance plan and a long-term maintenance plan. This becomes the standard for determining whether there is any need to enact the levy. The Land Use Department in conjunction with the Soil and Water Conservation District would go out and conduct periodic reviews and in the course of these reviews, which would be the early warning signal that there is a problem. Then the Department would be in contact with the property owners association to say either they are not carrying out the terms and conditions of the Maintenance Plan or perhaps there is a need to revise the Maintenance Plan because the performance standard, the actual results that were are trying to achieve does not appear to be occurring. There will be a lot of dialogue prior to enacting the actual levy.

Katrina Deutsche Made a motion to approve the staff recommended changes to SSA Hearing and SSA Objection Period in the Definitions Section; seconded by Debbie Rozak.

ALL IN FAVOR

MOTION CARRIED (5-0)

Mrs. Rozak asked if SSA Hearing and SSA Objection Period would be changed to MSSA and Mr. Paddock answered yes.

Mr. Dubois explained that staff recommends adding subdivision to Article 60 Definitions because it adds clarification.

Subdivision- The division of a parcel of land into two (2) or more parts, any one of which is less than five (5) acres for the purpose of transfer of ownership or possession, or building development, or any division of land where new easement of access or a new street is created, including, but not be limited to, the MSSA. The term also includes any division of land that attempts to avoid the requirements of this Ordinance. Where appropriate to the content, the term shall relate to the process of both subdivision and the development of land, to the land subdivided and/or developed, and shall include a resubdivision. The following shall not be considered a subdivision and shall be exempt from the requirements of this Ordinance:

- (a) a division of land which may be ordered or approved by a court or affected by testamentary or interstate provisions;
- (b) conveyances of land or interest therein for use as right-of-way for railroad or other public utility facilities and other pipelines which do not involve any new streets or easement of access;

- (c) the sale or exchange of parcels of land between owners of adjoining and contiguous land if additional lots are not hereby created, and the land from which the parcel is sold or exchanges is not reduced below the minimum size required by this Ordinance or other applicable law or ordinance;
- (d) the division of land into tracts or parcels of five (5) acres or more in size which does not involve any new streets or easements of access;
- (e) the sale is of a single lot of less than five (5) acres from a larger tract, the dimensions and configurations of said larger tract having been determined on October 1, 1973, and no sale prior to this sale of any lot or lots from said larger tract have taken place since October 1, 1973, and a survey of said single lot has been made by a registered land surveyor;
- (f) a conveyance made to correct errors in prior conveyances;
- (g) the conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with public use;
- (h) the conveyance of land owned by railroad or other public utility which does not involve any new streets or easements of access;
- (i) the division of lots or blocks of less than one (1) acre in any recorded subdivision which does not involve any streets or easements of access.

Sharon May made a motion to add the definition Subdivision in the Definition Section;

Mr. Wisniewski asked about woodlands and Mr. Dubois asked the Chairman if this could be discussed after the motion is made and Chairman Weigel agreed.

seconded by Debbie Rozak.

ALL IN FAVOR

MOTION CARRIED (5-0)

With regard to Mr. Wisniewski's question about the definition of Woodland and why it only referenced deciduous and not coniferous Mr. Paddock explained that he spoke with Ders Anderson of Openlands regarding this topic and explained that the Committee could add the wording 'healthy deciduous or coniferous trees'

Mr. Wisniewski asked if the word coniferous could be added and Mr. Paddock explained that it was up to the Committee.

Mr. Wisniewski made a motion to add the word coniferous to the definition of Woodland in the Definitions section; seconded by Sharon May.

ALL IN FAVOR

MOTION CARRIED (5-0)

Mr. Dubois explained that the Zoning Ordinance text based upon stakeholder recommendations adds R-4 as a permitted use it was the only change to the Zoning Ordinance that came out of the second stakeholders meeting.

Chairman Weigel suggested the following changes:

- Add Natural Preserves and its definition to Article 60 Definitions.
- Page 59, 31-04 – f. – after TOTAL AREA BASED DENSITY BONUSES add (i___ + ii___ + iii___). The next line Divide by the Net Site Area (from 31-03-B), need to be changed to (from 31-03-C). Same page at the

end of section f. add + ___% as shown in previous paragraphs a. thru e. Item 4. after Dwelling Units (from 31-02 or 31-03).

- Page 64, 32-05-B – this should be moved back up to the previous paragraph heading.

Mr. Wisniewski thanked the shareholders group and staff for all of their hard work.

Sharon May thanked everyone for all of the time they put into this.

Mr. Dubois asked for a motion to approve the changes as suggested by the Chairman.

Michael Wisniewski made a motion to approve the changes as suggested by Chairman Weigel; seconded by Katrina Deutsche.

ALL IN FAVOR

MOTION CARRIED (5-0)

Debbie Rozak made a motion to move the stakeholder draft as amended forward to the County Board; seconded by Michael Wisniewski.

ALL IN FAVOR

MOTION CARRIED (5-0)

FINAL PLATS

TABLED ZONING CASES

REMANDED ZONING CASES

NEW BUSINESS (ZONING CASES)

OTHER

REPORTS, COMMUNICATIONS, CORRESPONDENCE

ADJOURNMENT

Debbie Rozak made a motion to adjourn; seconded by Michael Wisniewski.

ALL IN FAVOR

MOTION CARRIED (5-0)

The meeting recessed at 11:48