



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director

DATE: July 13, 2006

SUBJECT: Plan Case 1998-M-06: A request to rezone a part of the Stone Creek Commons office park development from R-4, Medium Density Multiple Family Residential to B-3, General Business.

Introduction

This case is a request by The Atkins Group, LLC to rezone a 3.6 acre part of the Stone Creek Commons office park development from R-4, Medium Density Multiple Family Residential to B-3, General Business. Stone Creek Commons is a 40 acre tract of land located east and south of the intersection of Philo and Windsor Roads. This rezoning will essentially move an existing B-3/R-4 zoning boundary southwards to conform to the south side of the future Boulder Drive right-of-way where it will connect to Philo Road. The area proposed for rezoning is several hundred feet from any residential land uses (See attached maps)

The petitioners intend to develop the area immediately southeast of Windsor and Philo Roads as “The Pines at Stone Creek Commons” shopping center. The Pines will contain a mix of upscale commercial uses such as shops and restaurants to serve the city and nearby neighborhoods. The subject property would comprise the south end of the intended Pines shopping center. This property is closer to the intersection of Philo Road and Windsor road than the majority of the R-4 zoned areas in Stone Creek Commons to the south and east. Due to the future configuration of Boulder Drive the property is more logically a component part of the Pines commercial development on the B-3 zoned property than the R-4 zoned property. (See Exhibits “B” and “C”)

On July 6, 2006, the Urbana Plan Commission conducted a public hearing to consider the request and by a unanimous vote of 7-0 recommended that the Urbana City Council approve the rezoning.

Background

In April 1997, the Urbana City Council approved an amended annexation and development agreement with the Atkins Group that included the area proposed to be rezoned. The agreement was primarily directed toward the Stone Creek golf course development but it also addressed zoning, storm water detention, and other issues related to the 40 acre area that was then known as “the Rose Tract” and which is now called Stone Creek Commons.

Zoning was an issue of special concern for Stone Creek Commons. The property has split zoning with B-3 in the north part and R-4 on the south part. The split in zoning was a deliberate part of the annexation and development agreement that brought Stone Creek Commons into the city and was intended to create a transition from higher intensity commercial uses in the northwest corner near Philo and Windsor roads and low intensity office uses to the south and east which were closer to the existing residential subdivisions of Myra Ridge and Deerfield Trails.

The following is an excerpt from the text of the Annexation and Development Agreement approved by Council Ordinance 9697-86.

*Article III - Representations and Obligations of the Corporate Authorities –
Section 2. - Zoning and Zoning Approvals.*

“In as much as the Rosewood and associated developments are to be developed in the manner of a planned unit development pursuant to the authority of Section XI-14, the application of Section V-3 governing multiple buildings on a single lot of the Urbana Zoning Ordinance is hereby modified and the Corporate Authorities grant approvals for multiple buildings on a single lot in the areas to be zoned R-4 Medium Density Multiple Family Residential, R-5 Medium High Density Multiple Family Residential and B-3 General Business. In addition, the Corporate Authorities grant approval for what would otherwise be classified as special or conditional uses for the following uses:

(a) In the area to be zoned R-4 Medium Density Multiple Family Residential, the following uses are hereby approved: Residential Planned Unit Development, Professional and Business Office, and Private Kindergarten or Day Care Facility;

(b) In the area to be zoned R-5 Medium High Density Multiple Family Residential, the following uses are hereby approved: Private Kindergarten or Day Care Facility; and

(c) In the area to be zoned B-3 General Business, the following uses are hereby approved: Convenience Shopping Center/Commercial PUD, General Shopping Center/Commercial PUD and Private Kindergarten or Day Care Facility.

These provisions make it clear that while the area under consideration for rezoning could include multifamily residential uses by right under R-4 zoning, it was also considered appropriate for professional and business office uses in a business park type setting. This demonstrates both the

developer and the City have intended this location be developed for business uses rather than residential uses.

Current Zoning: R-4, Medium Density Multiple Family Residential

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the R-4, Medium Density Multiple Family Residential Zoning District is as follows:

“The R-4, Medium Density Multiple-Family Residential District is intended to provide areas for multiple-family dwellings at low and medium densities.”

See the attached exhibit “H” for further details on uses and regulations of the R-4 district.

Proposed Zoning: B-3, General Business

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the B-3, General Business Zoning District is as follows:

“The B-3, General Business District is intended to provide areas for a range of commercial uses wider than that of Neighborhood Business but at a lower intensity than Central Business, meeting the general business needs of the City.”

See the attached exhibit “I” for further details on uses and regulations of the B-3 district.

Adjacent Land Uses and Zoning Designations

This area is part of southeast Urbana that is developing a mix of residential and commercial uses. The majority of the Stone Creek Commons area is currently vacant but will eventually develop to the south and east. Further north across Windsor Road is vacant land owned by Meijer Inc. which is also zoned B-3, General Business. To the west is the University of Illinois Pomology agricultural research farm. In the event the university sells or leases the land for development the Urbana Comprehensive Plan designates the area for a future land use of mixed residential development and with community business at the southwest corner of Philo and Windsor Roads.

Issues and Discussion

2005 Comprehensive Plan

The Urbana 2005 Comprehensive Plan, Maps #13 and #14, show the area of the property with two Future Land Use designations: “Community Business” and “Office”. (See Exhibit “D”) The area on the map at the corner of Windsor and Philo Roads shown as Community Business is intended to be a general indication of what development is expected in the area without delineating an exact land use boundary. Both designations are generally compatible with the proposed B-3, General Business zoning. In summary, the proposed rezoning would be generally consistent with the overall goals and intent of the 2005 Comprehensive Plan.

Consideration

In considering the zoning map amendment for the subject property, the Council must consider effects upon the public health, safety, comfort, morals and general welfare of the community. The City's 2005 Comprehensive Plan and zoning law decisions in the Illinois Courts provide a framework for this consideration.

Comprehensive Plan Goals, Objectives and Policies

The proposed Zoning Amendment should be considered in light of the goals, objectives and policies contained in the 2005 Comprehensive Plan. The following objectives of the 2005 Urbana Comprehensive Plan relate to this case:

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

Objectives

16.1 Encourage a mix of land use types to achieve a balanced growing community.

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 25.0 Create additional commercial areas to strengthen the City's tax base and service base.

Objectives

25.2 Promote new commercial areas that are convenient to existing and future neighborhoods.

25.4 Find new locations for commercial uses and enhance existing locations so Urbana residents can fulfill their commercial and service needs locally.

Goal 28.0 Develop a diversified and broad, stable tax base.

Objectives

28.6 Increase the allocation of land devoted to tax-generating commercial uses in appropriate locations.

Goal 49.0 Avoid development patterns that can potentially create an over-dependency on the automobile.

Objectives

49.2 Increase land use densities to promote availability of transit service and walkability.

Rezoning Criteria

In the case of *La Salle National Bank of Chicago v. County of Cook* (the "La Salle" case), 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 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 change from the R-4 to B-3 zoning district designation will better recognize the long standing plans for a separation of commercial and office park uses to the north and south of Boulder Drive. It would also be consistent with the B-3 zoning designation of the property to the north. The planned route of Boulder Drive and the existing drainage lake offer a natural southern border for the extent of B-3 commercial zoning. The zoning change creates a transition from higher intensity commercial uses in the northwest corner near Philo and Windsor roads and low intensity office uses to the south and east closer to the existing residential subdivisions.

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 R-4, Medium Density Multiple-Family Residential and the value it would have if it were rezoned to B-3, General Business to permit the proposed use.

The petitioners propose to create a mixed use general business project at the southeast corner of Windsor and Philo Roads. The project will benefit from the expansion into the 3.6 acre area proposed to be rezoned. The value of the existing B-3 area and the added area proposed to be rezoned will be enhanced by their combination into a larger area with more flexible B-3 zoning.

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 of zoning on the value of the property. Therefore, any discussion pertaining to specific property values should be considered speculative.

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 expanded retail area of B-3 zoning will provide services to the nearby residents who will be able to bike or walk to the site.

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 site is located at the intersection of two major roadways and is within walking distance of several growing residential subdivisions. With the B-3 zoning, the subject property will have the same zoning as the rest of the Pines commercial development extending southward from the corner of Philo and Windsor Roads. This type of commercial property is best served by the flexibility in different land uses permitted by the B-3 zoning designation. In addition, the planned route of Boulder Drive and the existing drainage lake offer a natural southern border for the extent of B-3 commercial zoning.

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.*

Another test of the validity of the current zoning district is whether it can be shown that the property has remained vacant for a significant period of time because of restrictions in that zoning district.

The petitioners have made no claim that the subject property has remained vacant due to the restrictions of the current R-4 zoning.

Summary of Findings

On July 6, 2006, the Urbana Plan Commission voted 7-0 to adopt the following findings and recommended approval of the requested rezoning to the Urbana City Council:

1. The proposed B-3, General Business zoning district for the subject site is generally consistent with the overall goals and intent of the 2005 Comprehensive Plan as well as the Future Land Use designation for the area.
2. The location of the site in close proximity to the major intersection of Windsor and Philo Roads in south Urbana makes it appropriate for rezoning to the B-3, General Business zoning district. The proposed zoning would also be consistent with the B-3 zoning designation of the property immediately to the north.
3. The rezoning complies with the intent of the land use provisions of the annexation agreement that brought Stone Creek Commons into the city.
4. The petitioner's request would allow for an upscale commercial development proposal to proceed which would be generally compatible with city goals for development in the vicinity.
5. The proposed rezoning appears to generally meet the LaSalle Case criteria.

Options

The City Council has the following options. In Plan Case No. 1998-M-06, the City Council may:

- a. Approve the request to rezone a part of the Stone Creek Commons office park development from R-4, Medium Density Multiple Family Residential to B-3, General Business.
- b. Deny the request to rezone a part of the Stone Creek Commons office park development from R-4, Medium Density Multiple Family Residential to B-3, General Business.

Recommendation

Based on the evidence presented in the discussion above, the Plan Commission voted unanimously to recommend **APPROVAL** of the request to rezone a part of the Stone Creek Commons office park development from R-4, Medium Density Multiple Family Residential to B-3, General Business. City Staff concur with the recommendation

Prepared by:

Paul Lindahl, Planner I

Attachments:

Draft Ordinance Approving a Rezoning
Draft Minutes of the July 6, 2006 Plan Commission meeting

Common Exhibit Packet for the Pines at Stone Creek Commons Plan Cases:
1998-M-06, Stone Creek Commons Rezoning
2003-S-06, Preliminary and Final Plat of The Pines at Stone Creek Commons

Cc:

The Atkins Group
Attn: Mark Dixon
2805 South Boulder Drive
Urbana, IL 61802

HDC Engineering, LLC
Attn: Bill Sheridan
201 W. Springfield Ave., Suite 300
Champaign, IL 61824-0140

Meyer Capel Attorneys
Attn: Jeff Davis
306 West Church Street
Champaign, IL 61820

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ORDINANCE NO. 2006-07-102

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF URBANA, ILLINOIS

(Rezoning of a Part of Stone Creek Commons Office Park Development
from R-4, Medium Density Multiple Family Residential to B-3, General
Business - Plan Case 1998-M-06)

WHEREAS, after due publication, a public hearing was held by the Urbana Plan Commission on July 6, 2006 concerning the petition filed in Plan Case No. 1998-M-06; and,

WHEREAS, The location of the site in close proximity to the major intersection of Windsor and Philo Roads in south Urbana makes it appropriate for rezoning to the B-3, General Business zoning district; and,

WHEREAS, The proposed zoning would also be consistent with the B-3 zoning designation of the property immediately to the north; and,

WHEREAS, The proposed B-3, General Business zoning district for the subject site is generally consistent with the overall goals and intent of the 2005 Comprehensive Plan as well as the Future Land Use designation for the area; and,

WHEREAS, The rezoning complies with the intent of the land use provisions of the annexation agreement that brought Stone Creek Commons into the city; and,

WHEREAS, The petitioner's request would allow for a commercial development proposal to proceed which would be generally compatible with city goals for development in the vicinity; and,

WHEREAS, The proposed rezoning appears to generally meet the LaSalle Case criteria; and,

WHEREAS, the Urbana Plan Commission voted unanimously 7 ayes and 0 nays to forward the case to the Urbana City Council with a recommendation to approve the rezoning request of the property herein described below from R-4, Medium Density Multiple Family Residential to B-3, General Business; and,

WHEREAS, the findings of the Plan Commission indicate that approval of the rezoning request would promote the general health, safety, morals, and general welfare of the public.

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

Section 1. The Zoning Ordinance and Zoning Map of the City of Urbana, Illinois, are herewith and hereby amended to change the zoning classification of the following described area from R-4, Medium Density Multiple Family Residential to B-3, General Business.

LEGAL DESCRIPTION:

A tract of land being a part of the Northeast Quarter of Section 28, Township 19 North, Range 9 East of the Third Principal Meridian, more particularly described as follows:

Beginning at the Northwest corner of the Northeast Quarter of Section 28, Township 19 North, Range 9 East of the Third Principal Meridian, proceed South 00° 00' 00" East 835.57 feet along the East line of the Northeast Quarter of said Section 28; thence North 90° 00' 00" East 40.00 feet to the Easterly right-of-way line of Philo Road, said point being the True Point of Beginning; thence South 89° 38' 30" East 654.43 feet parallel to the North line of the Northeast Quarter of said Section 28 to a point of intersection with a Southwesterly extension of the Southeasterly line of Lot 106 of Stone Creek Commons Subdivision No. 1, recorded as Document No. 2002R33058 in the Champaign County Recorder's Office; thence South 45° 24' 38" West 286.49 feet to a Westerly corner of Lot 107 of said Stone Creek Commons Subdivision No.

1; thence South 53° 46' 48" West 304.90 feet along the Westerly line and Westerly line extended of said Lot 107; thence 201.84 feet around a curve to the right having a radius of 220.00 feet, a chord length of 194.83 feet and a chord bearing of North 64° 00' 02" West; thence South 89° 43' 05" West 29.30 feet to the East right-of-way line of Philo Road; thence North 90° 00' 00" East 300.11 feet along said East right-of-way line to the True Point of Beginning, encompassing 3.63 acres, more or less, in Champaign County, Illinois.

PERMANENT PARCEL INDEX NUMBER:

Part of 93-21-28-200-033, 93-21-28-200-034, and 93-21-28-224-002

Section 2. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

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

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

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

Laurel Lunt Prussing, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the _____ day of _____, 2006, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled: "**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF URBANA, ILLINOIS** (Rezoning of a Part of Stone Creek Commons Office Park Development from R-4, Medium Density Multiple Family Residential to B-3, General Business - Plan Case 1998-M-06)", which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. _____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2006, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2006.

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

DRAFT

DATE: July 6, 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, Marilyn Upah-Bant, James Ward, Don White

MEMBERS EXCUSED: Bernadine Stake

STAFF PRESENT: Robert Myers, Planning Manager; Matt Wempe, Planner II; Paul Lindahl, Planner I; Tom Carrino, Economic Development Manager; Tony Weck, Community Development Services Secretary; Gale Jamison, Assistant City Engineer

OTHERS PRESENT: Catherine Connor, Kris Dressel, Rick Ford, Kitty Ford, Tom Jordan, Chris Manrique, Vicki Mayes, Joe Petry, Susan Taylor, Jeff Tock, Bill Sheridan, Matt Varble

Plan Case 1998-M-06 – A request by The Atkins Group, LLC to rezone a part of the Stone Creek Commons office park development, generally located at the southeast corner of Windsor and Philo Roads, from R-4, Medium Density Multiple Family Residential Zoning District, to B-3, General Business District Zoning District.

Plan Case No. 2005-S-06 – A request by the Atkins Group, LLC for approval of a Preliminary and Final Plat of The Pines at Stone Creek Commons Subdivision generally located at the southeast corner of Windsor and Philo Roads in south Urbana.

Paul Lindahl, Planner I, gave the staff report for these two cases together. He introduced the requests for the rezoning and for the preliminary and final plats. He gave a brief background of the annexation and development agreement for the proposed site. He described the proposed site and the surrounding properties noting their land uses and zoning designations. He reviewed the La Salle National Bank criteria that pertained to the rezoning case for the proposed site. He read the options of the Plan Commission. He mentioned that there were representatives from the Atkins Group present to answer any questions.

Chair Pollock opened the public hearing up to take input from any interested parties in the audience.

Mark Dixon, Director of Real Estate for The Atkins Group, stated that he was pleased to be before the Plan Commission and that The Atkins Group appreciates the effort of City staff to be patient with them and to work with them through the years as the proposed project has evolved.

He mentioned that they have spent the last couple of years working with the residents of Myra Ridge Subdivision, Deerfield Trails Subdivision and Stone Creek Subdivision in discussing the proposed center. As seen in Exhibit K, this would be a neighborhood retail center that would be quite different than most others in the area. There will be a lot of open space and a lot of commons area. The focus would be in the north end, Phase I, where they have an artist making a sculpture for the project. There will be a board walk that runs through the proposed property. There will be ample parking for a mix of retail and restaurant uses.

One of the reasons they are before the Plan Commission is because as you reach towards the pond, they want to make connectivity for both pedestrians and bicyclists from the existing bike path on Windsor Road through the center and head back toward the pond. Around the pond, there will be a walking trail. These design elements are very similar to what has already been built at Meadowbrook. He believes that the mix use development would bring a strong unity to southeast Urbana. It is within walking distances of most residences.

They planned to have lighting that would be sympathetic to the area. It would taper off at night, so that there would not be any glare into the residential neighborhoods. The design also honors the widening of Windsor Road eventually as planned by the City.

He stated that he was available to answer any questions from the Plan Commission.

Mr. Hopkins inquired as to how the rest of the parcel might develop. At the moment, there are two residential streets stubbing out at the property line. He assumed that they would connect to the undeveloped parcels in the future. Mr. Dixon explained that Boulder Drive would be a reverse J. Boulder Drive would extend to the south and curve around the pond, and then it would head back to Philo Road. The curvature of Boulder Drive would create the transition between the office park and the residential neighborhoods. The transition of the entire area would go from retail to office park to residential.

Mr. Hopkins questioned whether what is currently zoned R-4 would need to be rezoned as well. Mr. Dixon stated that the proposed use would be allowed by right. Mr. Lindahl added that the OP, Office Park Zoning Classification, is mentioned in the Table of Uses; however, there are not any properties in the City of Urbana that is currently zoned OP. As part of the annexation agreement, office park or business uses were specifically added to be allowed in the R-4 Zoning District in the balance of the lot.

Mr. Hopkins asked if there would be any connections to any of the three stubs that remain from the residential. Mr. Dixon said no.

With no further comments from the audience, Chair Pollock closed the public input portion of the hearing.

Mr. Myers noted that when you look at the Future Land Use Map in the Comprehensive Plan, the shaded areas on the south side of Windsor Road is diagrammatic. The City of Urbana was trying to show in the map that community business is envisioned at this corner, but at the time the plan was completed the exact boundaries of this use could not be determined. We have come to a point where there is more specificity about the plans for the proposed retail development, and now The Atkins Group is essentially applying to conform the existing commercial zoning here with the south boundary line of their new commercial development.

Mr. Ward moved that the Plan Commission forward Plan Case No. 1998-M-06 and Plan Case No. 2005-S-06 to the Urbana City Council with a recommendation for approval. Mr. Grosser seconded the motion.

Mr. Ward commented that he lives within walking distance of the proposed development, and he is delighted with the project. Therefore, he is pleased to support it.

Mr. Pollock stated that the proposed development appears to be a truly well conceived plan. The City has been waiting for a long time to have something on the proposed parcel that would be compatible with surrounding areas, and the proposed plan looks like we will have it.

Roll call on the motion was as follows:

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

The motion was passed by unanimous voice vote.