



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

**m e m o r a n d u m**

**TO:** Mayor Laurel L. Prussing and Members of the City Council

**FROM:** Elizabeth H. Tyler, FAICP, Director

**DATE:** March 5, 2009

**SUBJECT:** CCZBA 611-AM-08: Request by Casey's Retail Company to amend the Champaign County Zoning Map from R-5, Manufactured Home Park to B-4, General Business for a 1.04 acre tract of land located at 2218 E University Avenue

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**Introduction**

CCZBA 611-AM-08 is a request to rezone a 1.04-acre parcel at 2218 E University Avenue from R-5, Manufactured Home Park Zoning District to B-4, General Business Zoning District. Casey's is proposing to redevelop the subject property as a Casey's General Store (a gas station and convenience store). This case was reviewed at the February 19, 2009 Plan Commission meeting and was forwarded to the City Council with a recommendation to defeat a resolution of protest for the proposed rezoning. The case came before the City Council at their March 2, 2009 meeting, at which time the Council requested the case be sent to the March 9, 2009 Committee of the Whole meeting to address concerns about appropriate zoning districts and screening from nearby residences.

At the January 29, 2009 County Zoning Board of Appeals meeting, a public hearing was held on this case during which adjoining property owners expressed concerns regarding adequate screening and the appropriateness of the County B-4 zoning designation. The Board continued the hearing to their May 14, 2009 meeting to allow the petitioner time to address this concern.

As the petitioner is proposing to construct a Casey's General Store on the subject parcel, a new sanitary sewer permit would be required from the Urbana-Champaign Sanitary District (UCSD). Under an intergovernmental agreement with the UCSD, any property owner outside the corporate limits of Urbana wishing to connect to sanitary sewer service and annex to the UCSD must also agree to annex to the City of Urbana at such time as their property is contiguous. If the petitioners request is approved and the property is rezoned to County B-4, Casey's would then need to petition the City to enter into an annexation agreement. The annexation agreement can be used to stipulate the City zoning district for the subject property upon annexation and can include controls regarding screening and operation limits.

## Zoning Options

### County Zoning

The subject property is currently zoned County R-5, Manufactured Home Park. The lot is 1.04 acres and contains a vacant single-family house on the property. Developing the property as a Manufactured Home Park is not viable due to the size and location of the lot.

The surrounding properties are in a variety of zoning districts (see table below). According to the Champaign County Department of Planning and Zoning, the property to the North is in two County zoning districts: the western portion is zoned County R-5 and the eastern portion is zoned County R-1. This particular lot is also in two City future land use categories: the western portion is Multi-Family Residential and the eastern portion is Residential.

Location	County Zoning	Existing Land Use	Urbana Comprehensive Plan - Future Land Use
<b>Site</b>	R-5, Manufactured Home Park	Single Family Residence	Multi-Family Residential
<b>North</b>	Split-zoning: R-5 to the west and R-1 to the east	Single Family Residence	Split: Multi-Family Residential to the west and Residential to the east
<b>East</b>	R-1, Single-Family Residential	Fire Station	Residential
<b>South</b>	I-1, Light Industry	Commercial	Community Business
<b>West</b>	B-2, Neighborhood Business	Multi-Family Residential	Multi-Family Residential

The petitioners have requested rezoning to County B-4, General Business Zoning District, which would allow the proposed use by right. Although the subject property is located on a Federal highway and adjacent to a fire station and an industrial zoning district, it is also adjacent to a single-family residential zoning district. At the suggestion of Council, staff has reviewed the County's B-4 zoning district and believes that County B-2, Neighborhood Business Zoning District would be more appropriate than the higher intensity B-4 for this particular location. The intent of the County B-2 Zoning District is to:

*“...provide areas for the convenience of adjacent residential areas, and to permit only such uses as are necessary to satisfy limited basic shopping needs which occur daily or frequently.”*

If the subject lot were rezoned to County B-2, the proposed use would require a County Special Use Permit (SUP). County standards for an SUP would ensure that the proposed site plan would be specifically approved by the County Board, thereby allowing stricter controls regarding screening the single-family property to the north and the multi-family property to the west. Staff discussed this option with a representative from Casey's who was open to this idea.

## City Zoning

In the event the subject property is annexed into the City, its County zoning designation would be converted to a City zoning designation on the basis of Urbana Zoning Ordinance Table IV-1, unless otherwise provided for through an annexation agreement. (See table below.)

**TABLE IV-1. COUNTY TO CITY ZONING CONVERSION**

<i>Former Zoning District Champaign County</i>	<i>New Zoning District City of Urbana</i>
<i>C-R Conservation-Recreation</i>	<i>CRE Conservation-Recreation-Education</i>
<i>AG-1 Agriculture</i>	<i>AG Agriculture</i>
<i>AG-2 Agriculture</i>	<i>AG Agriculture</i>
<i>R-1 Single Family Residence</i>	<i>R-1 Single Family Residential</i>
<i>R-2 Single Family Residence</i>	<i>R-2 Single Family Residential</i>
<i>R-3 Two Family Residence</i>	<i>R-3 Single and Two-Family Residential</i>
<i>R-4 Multiple Family Residence</i>	<i>R-4 Medium Density Multiple Family Residential</i>
<i>R-5 Manufactured Home Park</i>	<i>AG Agriculture</i>
<i>B-1 Rural Trade Center</i>	<i>B-1 Neighborhood Business</i>
<i>B-2 Neighborhood Business</i>	<i>B-1 Neighborhood Business</i>
<i>B-3 Highway Business</i>	<i>B-3 General Business</i>
<i>B-4 General Business</i>	<i>B-3 General Business</i>
<i>B-5 Central Business</i>	<i>B-4 Central Business</i>
<i>I-1 Light Industry</i>	<i>IN Industrial</i>
<i>I-2 Heavy Industry</i>	<i>IN Industrial</i>

Should the subject property be rezoned to County B-2, the zoning would automatically convert to City B-1, Neighborhood Business, unless otherwise stipulated in an annexation agreement. According to the Urbana Zoning Ordinance, the intent of the B-1, Neighborhood Business Zoning District is:

*“...to provide commercial areas of limited size, for basic trade and personal services for the convenience of adjacent residential areas, for needs recurring regularly or frequently.”*

The Urbana Zoning Ordinance classifies a Casey’s General Store as a “convenience store”, which would require a Special Use Permit in Urbana’s B-1 Zoning District. This SUP could be granted by the annexation agreement. The proposed use and site plan generally comply with the development regulations (setbacks, height, floor area ratio, open space, etc.) of the City B-1 zoning district. Additional screening requirements could be applied through the SUP. Although not listed in Table IV-1, the City B-2, Neighborhood Business-Arterial District may be more appropriate to the site than B-1 due to the subject lot’s location on a Federal highway.

According to the Urbana Zoning Ordinance, the intent of the B-2, Neighborhood Business-Arterial District is:

*“...to provide areas of limited size along arterial streets in proximity to low density residential areas for a limited range of basic commercial trade and personal services. This district is also intended to provide areas for new high density residential uses. These business and residential uses may occur in the same structure.”*

The proposed use would require a Conditional Use Permit (CUP) in Urbana’s B-2 Zoning District. The proposed site plan generally complies with the development regulations of the B-2 district, but a CUP (like an SUP) could ensure appropriate screening above that required by the Urbana Zoning Ordinance for uses permitted by right. A CUP (like an SUP) can be granted in the annexation agreement.

According to the site plan submitted to the County, the floor area ratio of the proposed building is 0.08, well below the maximum 0.30 allowed in the B-1 zoning district and the 1.50 allowed in the B-2 zoning district. Additionally the proposed site plan would meet the 0.15 minimum open space ratio required in the B-2 district; the B-1 district does not have a minimum open space requirement. The required setbacks in the B-2 district are slightly more restrictive than those of the B-1 district: the required front yard in both districts is 15 feet; the required side yard is ten feet in B-2 and seven feet in B-1; and the required rear yard is 15 feet in B-2 and ten feet in B-1. According to the site plan, the proposal would meet all required setbacks. The screening requirements between the two districts are somewhat different, with the B-1 district being slightly more restrictive. The required number of parking spaces (including bicycle parking) is determined by use not by zone. Twelve spaces would be required; the proposal includes thirteen spaces. If the subject property becomes the subject of an annexation agreement with the City, more restrictive development regulations can be included in the agreement.

**Differences between B-1 and B-2 Zoning Districts**

<b>Regulations/Requirements</b>	<b>B-1 Zoning District</b>	<b>B-2 Zoning District</b>
Floor Area Ratio	0.30	1.50
Open Space Ratio	None	0.15
Required Yards		
Front	15 feet	15 feet
Side	7 feet	10 feet
Rear	10 feet	15 feet
Screening to Adjacent R-1		
Side yard	6 foot fence	6 foot fence
Rear yard	6 foot fence	Landscape buffer – 5 ft depth

One difference between the City B-1 and the B-2 zoning districts is that most residential uses are allowed by right in the B-2 district but require a Conditional Use permit in the B-1 district. The subject lot being located between a residential zoning district to the east and a commercial zoning district to the west suggests that the B-2 zoning district would be more appropriate.

## **Screening**

At the January 29, 2009 County Zoning Board of Appeals meeting, a public hearing was held on this case during which adjoining property owners expressed concerns regarding adequate screening. The Board continued the hearing to their May 14, 2009 meeting to allow the petitioner time to address these concerns. According to a Casey's Retail Company representative, they will be proposing a privacy wood fence along the rear property line to allay these concerns.

In addition to the screening requirements listed above, the Urbana Zoning Ordinance requires off-street loading areas to have headlight screening, which can consist of landscape screening or a fence.

## **Legal Issues Regarding Annexation Agreements**

The subject property lies less than 200 feet from the Urbana city limits. By State law, the City has an obligation to review zoning decisions within a one and one-half mile "extra-territorial jurisdiction" (ETJ) area for consistency with the City's Comprehensive Plan (see staff memorandum of February 13, 2009 for this analysis).

As a result of the Illinois Supreme Court's 2005 decision in Village of Chatham v. Sangamon County, the building and zoning ordinances of a municipality, and not those of the surrounding county, govern an area subject to an annexation agreement with that municipality. However, for properties that are not yet contiguous to the City, staff believe it more appropriate for a proposed rezoning case to go through the rezoning process with the County than with the City for the following reasons: (1) to respect traditional jurisdictional boundaries, (2) to provide the surrounding property owners with the opportunity to address their elected representatives regarding the proposed rezoning, (3) to ensure compatibility with the surrounding area, and (4) to ensure consistency across decisions.

Additionally, the City is supporting legislation proposed by State Representative Naomi Jakobsson which would amend the Illinois Municipal Code to include Champaign County in the list of counties exempt from the effects of the Chatham decision outside the extra-territorial jurisdiction. One of the main reasons the City supports this legislation is to prevent property owners negotiating with municipalities across the State for the most beneficial zoning designation, regardless of whether annexation would ever be able to occur as a practical matter.

## **Future Steps**

City staff recommends postponing the case until Casey's has time to present a screening proposal to the City Council. At that time, the City Council could recommend the County rezone the subject property to a lower-intensity zoning district as a condition of a resolution of no protest. The City could then draft an annexation agreement for the subject property which would designate the zoning district and any additional screening or operational requirements.

Prepared by:

Rebecca Bird, Planner

cc: John Hall, Champaign County Planning and Zoning  
Vegrzyn, Sarver and Associates, Inc. 24 E Green St, Ste 18, Champaign 61820  
Jean Thompson 203 N Smith Rd, Urbana