



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Laurel Lunt Prussing

FROM: Elizabeth H. Tyler, FAICP, Director

DATE: March 31, 2011

SUBJECT: CCZBA-675-AT-10: A request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning Expansion of Non-Conforming Uses

Introduction & Background

The Champaign County Zoning Administrator is requesting a text amendment to the Champaign County Zoning Ordinance in Champaign County Case No. CCZBA-675-AT-10. The main purpose of this amendment is to allow for the limited expansion or reconstruction of nonconforming single-family residences.

The proposed Zoning Ordinance amendment is primarily intended to address zoning restrictions affecting Wilber Heights Subdivision, an unincorporated residential subdivision just outside and adjoining the City of Champaign. Wilber Heights was developed in the 1920's as a residential subdivision for workers at an adjacent foundry. Since Champaign County first adopted zoning Wilber Heights has been zoned Industrial. The Champaign County Zoning Ordinance has significant restrictions against repair and expansion of buildings with nonconforming uses. Currently, homeowners cannot upgrade or even make substantial repairs to their homes. This has severely limited residential property values. Rezoning properties within the Wilbur Heights subdivision to Residential is not feasible, as this has been attempted several times but failed due to City of Champaign protest procedures.

The proposed amendment is intended to allow for small expansions and remove the limits on the value of home repairs. The amendment would only apply to nonconforming single-family homes that existed as of October 10, 1973.

Specifically, the proposed County Zoning Ordinance amendment would include the following changes:

- Allow non-conforming single-family dwellings, built before October 10, 1973, to expand up to 1,500 square feet in floor area.

- Allow expansion of accessory buildings to the limits imposed by existing zoning.
- Nonconforming single-family structures may be relocated on the property. For example, a mobile home would be allowed to be relocated on a lot to make room for an addition.
- The definition of “ceases” would be amended to allow nonconforming uses to continue if vacant for seasonal vacations (up to 274 days) and when they are actively marketed for sale.
- New variances for nonconforming structures would be allowed for the first time. Applications would need to meet the variance criteria.
- Repairs and alterations to a nonconforming single-family structure will no longer be limited to 10% of the current replacement value.

The specific changes are detailed in the attached County ZBA memo dated February 9, 2011.

Issues and Discussion

Although this draft County Zoning Ordinance amendment is intended to address a specific development, it is important to note that it would apply to all nonconforming residential properties throughout the unincorporated county. Consequently, the City of Urbana should review the proposed amendment as potentially affecting land uses surrounding Urbana.

City of Urbana Policies

Champaign County’s proposed Zoning Ordinance should be reviewed for consistency with the City of Urbana’s *2005 Comprehensive Plan*. Specifically, Urbana’s comprehensive plan includes the following pertinent goals and objectives:

Goal 17.0 Minimize incompatible land uses.

Objective 17.1 Establish logical locations for land use types and mixes, minimizing potentially incompatible interfaces, such as industrial uses near residential areas.

Objective 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).

Objective 21.1 Coordinate with Champaign County on issues of zoning and subdivision in the ETJ.

Objective 21.2 Work with other units of government to resolve issues of urban development in unincorporated areas.

The proposed changes appear to be generally consistent with these goals and objectives. The proposed Zoning Ordinance text amendment would provide relief to homeowners from strict compliance with the Zoning Ordinance without opening the door to creating or allowing new land use conflicts.

Zoning Impacts

City and County planning staff have discussed how the proposed amendment would affect Urbana. County staff is unaware of any nonconforming single-family homes within Urbana's one-and-one-half mile extra-territorial jurisdictional (ETJ) area. The majority of the area in the ETJ is zoned AG-2, which allows single-family homes by right. Exceptions such as Scottswood Subdivision and Carroll Addition are mostly zoned R-2, Single-Family Residence; R-3, Two-Family Residence; and R-5, Mobile Home Park. Carroll Addition includes a mix of Residential, Business, and Industrial zoning and uses, but Carroll Addition has few homes which are nonconforming uses. Regardless, should any nonconforming single-family homes, constructed before October 10, 1973, exist in the ETJ, their floor area could increase up to 1,500 square feet.

Given Urbana's set of circumstances, and the limited nature of the relief from the County's nonconforming zoning laws, in City staff's opinion the proposed County Zoning Ordinance text amendment would not create land use conflicts for the City of Urbana.

Summary of Findings

1. Champaign County Zoning Case No. CCZBA 675-AT-10 would allow nonconforming single-family homes existing as of October, 1973 to expand up to a total of 1,500 square feet;
2. The proposed zoning ordinance text amendment would revise Subsections 8.2, 8.3, 8.4, 8.6 and 9.1 of the Champaign County Zoning Ordinance;
3. The proposed zoning ordinance text amendment is generally consistent with the City of Urbana's *2005 Comprehensive Plan's* goals and objectives;
4. The proposed text amendment would affect any nonconforming single-family homes constructed prior to October 10, 1973, including any within the City's one-and-one-half mile extra-territorial jurisdictional (ETJ) area.

Options

In CCZBA Case No. 675-AT-10, City Council has the following options:

- a. Defeat a resolution of protest for the proposed text amendments;
- b. Defeat a resolution of protest, contingent upon some specific revision(s) to the proposed text amendments; or
- c. Adopt a resolution of protest for the proposed text amendments.

Recommendation

At their March 24, 2011 meeting, the Urbana Plan Commission voted seven ayes to zero nays to forward this case to the City Council with a recommendation to **defeat a resolution of protest** for the proposed text amendment based upon the findings summarized above. City staff concurs with this recommendation.

Exhibits: Exhibit A: “Wilber Heights: Neighborhood Hangs on Against the Odds,” July 25, 2010
 Exhibit B: “Discussion Continues on Zoning Amendment to Help Wilber Heights Residents,” December 17, 2010.
 Exhibit C: Memorandum to the Champaign County ZBA, February 9, 2011.
 Exhibit D: Draft Minutes from the March 24, 2011 Plan Commission Meeting

cc: John Hall, Champaign County Zoning Administrator

RESOLUTION NO. 2011-04-009R

A RESOLUTION OF PROTEST AGAINST A PROPOSED TEXT AMENDMENT TO THE CHAMPAIGN COUNTY ZONING ORDINANCE

(Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning Expansion of Non-Conforming Uses)

Plan Case No. CCZBA 675-AT-10

WHEREAS, the Champaign County Zoning Administrator has petitioned the County of Champaign for a zoning text amendment to the Champaign County Zoning Ordinance in Champaign County ZBA Case No. 675-AT-10 to allow for the expansion of certain non-conforming residential uses that existed as of October 10, 1973; 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-675-AT-10: A request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning Expansion of Non-Conforming Uses"; and

WHEREAS, said amendment is generally consistent with the City of Urbana's 2005 Comprehensive Plan's goals and objectives; and

WHEREAS, said amendment would not affect future zoning or land use development decisions within the City's one-and-one-half mile extra-territorial jurisdictional (ETJ) area; and

WHEREAS, the Urbana Plan Commission, after considering matters pertaining to said Petition at their meeting of March 24, 2011, has recommended by a vote of seven ayes to zero nays that the Urbana City Council defeat a resolution of protest against the proposed text amendment to the Champaign County Zoning Ordinance; and

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed text amendment is not in the best interests 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 adopt a Resolution of Protest against the proposed text amendment as presented in CCZBA-675-AT-10.

Section 3. The City Clerk of the City of Urbana is authorized and directed to file a certified copy of this Resolution of Protest with the County Clerk of the County of Champaign, and to mail a certified copy of this resolution to the Petitioner, Mr. John Hall at 1776 East Washington, Urbana, Illinois 61801 and to the State's Attorney for Champaign County and Attorney for the Petitioner, at the Champaign County Courthouse, Urbana, Illinois, 61801.

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

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

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

Laurel Lunt Prussing, Mayor



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Wilber Heights: Neighborhood hangs on against the odds

By *The News-Gazette*

Created 07/25/2010 - 11:00am

Sun, 07/25/2010 - 11:00am

By LIZ CLANCY LERNER/For The News-Gazette

Editor's note: This report is part of a joint project of The News-Gazette and the University of Illinois Department of Journalism, in an ongoing examination of poverty and its related issues in Champaign County. The project is funded by the Marajen Stevick Foundation, a News-Gazette foundation; a matching grant from the John S. and James L. Knight Foundation, a journalism foundation based in Miami; and contributions from the UI. The project also has a [website](#)^[1] for this and other material, including user-generated content. You can find an interactive map of Wilber Heights [on the site here](#)^[2].

It doesn't take much to get Tom Lemke fired up.

Just ask him about his neighborhood – a place he has called home for 63 years – and his frustration is evident.

"They say we're a slum – run down. That's the way we've always been treated," Lemke said as he takes a deep breath from his oxygen mask, a treatment for chronic bronchitis. "We have really been abused ... and we have really tried to take care of the area."

Lemke, 64, lives in Wilber Heights. It's a neighborhood where, according to Champaign County Planning and Zoning documents, homes "are not encouraged to survive."

Champaign County passed an ordinance in 1973 intending to turn the neighborhood into a strictly industrial region. The regulation prohibits the rebuilding of or substantial repair to any home.

However, almost 40 years later, houses and residents still remain.

In Wilber Heights, abandoned homes sit next to recycling plants, which sit next to trash-filled lots that are adjacent to mobile homes – all within 36 acres.

"This wasn't a properly thought-out thing in the first place and it's so complicated that it's difficult to resolve at any time," said John Hall, the Champaign County planning and zoning director.

It is so complicated that even the spelling of the neighborhood is controversial. Residents have always known it as "Wilbur" Heights, with a "u." County documents and a 1960 newspaper article deem the correct spelling "Wilber."

Clyde Forrest is a professor emeritus in planning and zoning at the University of Illinois and has known about the zoning issues in Wilber Heights for 30 years.

EXHIBIT A

"I wouldn't categorize it as a terrible slum," said Forrest. "But it's an area that's not going to attract first-class residential development."

Residential development isn't the goal of the ordinance, which is why it contains rules against maintaining and rebuilding homes ^[3] in Wilber Heights.

The restrictions

Lemke, a retired mechanic, and his wife Velma raised their three children in Wilber Heights. Their home is a well-maintained two-story structure, which at one time was the source of a lot of trouble for them.

Eleven years ago, a driver lost control of his car, crashing into the home's front porch and destroying it. Lemke was about to rebuild his porch when the Champaign County planning and zoning department told him he couldn't.

The zoning ordinance prohibits any resident in Wilber Heights from adding on or renovating more than 10 percent of a home's square footage. (The entire zoning ordinance is online here ^[4], an 853KB pdf.)

So if a fire were to burn down a house in Wilber Heights, the homeowner could not legally rebuild on his lot. And in Lemke's case, he could not legally replace his porch. So, following ordinance rules, he kept the renovation to 10 percent.

Three concrete steps now lead to the front door of his house. It's not what he wanted, but it is what the county demanded.

The restrictions also affect home prices, because residents cannot substantially improve their homes. According to a 1992 planning and zoning document from a former Champaign County zoning administrator, Frank DiNovo, "They are also unlikely to be able to realize a market value of their property very much greater than its current use value as a dwelling."

The size of the lots also prevents individuals from selling for much higher industrial property prices.

"Industrial property is typically worth five times more than residential, but the homeowners would have to sell at the same time. If they sold one at a time, that wouldn't happen," said Forrest. But lifelong residents are not likely to move at the same time.

Yet, commercial properties have not been selling as well as residential properties because – as with residential mortgages – loans for commercial properties have not been as available as they once were, said Fred McDonald, president of the Champaign County Association of Realtors.

While federal stimulus money has been used to help jump-start residential property sales, it's not been available for commercial property, McDonald said.

"Commercial (property) now is a bigger concern," he said.

Wilber Heights and the surrounding area has been a good draw for business with its proximity to Interstates 74, 57 and 72, said Matt Wavering, a real estate agent with Coldwell Banker Commercial Devonshire Realty.

Because of that transportation hub, the city has pushed for higher industrial use in the area, he said.

And as the area has developed into warehousing and industrial uses, property values have become low, Wavering said.

Houses in Wilber Heights have sold for less than \$50,000, he said.

Further, industrial property is the least valuable of commercial property, Wavering said.

Typically, industrial land in an industrial park will sell for between \$1.50 and \$2 a square foot compared to retail property, which can sell for up to \$15 a square foot, he said.

Wilber Heights and Market Street are the cutoff between retail and industrial property, Wavering said.

"On the industrial side, values are lower," he said.

If one of the area's rental properties stops generating rental income, then "the land becomes worth more than the house," Wavering said.

Housing for workers

Wilber Heights was developed as a single-family residential neighborhood in 1928, primarily to give workers from the Clifford-Jacobs Forging Company a place to live. Its main roads, Wallace, Wilber and Paul avenues, intersect First through Fifth streets and sit just east of Champaign's Market Place Mall.

When the area was built, there was no zoning in place outside the city limits. When the county zoning ordinance was approved, in 1973, Wilber Heights was split into two categories, both industrial.

The ordinance acknowledges that some buildings already in existence didn't match the zoning – they were "non-conforming uses."

"It is the intent of this ordinance to permit these non-conformities to continue until they are removed," the ordinance says. "It is further the intent of this ordinance that such non-conforming uses ... shall not be enlarged upon, expanded, or extended."

The area east of Fourth Street is zoned for heavy industry; the area west of Fourth, for light industry.

In 1982, while millions of dollars were being poured into construction of Market Place Mall, residents of Wilber Heights watched as the county ordinance stifled the neighborhood's growth and maintenance.

While no numbers are easily available, it is estimated that at its peak, Wilber Heights was home to close to 200 residents, many of them families.

Now there are about 60 residents, most of them senior citizens.

They have called the neighborhood home, raised their children there, and formed roots in Wilber Heights for over 60 years. A few, like Otto Pruett and his wife Iverna – both in their 80s – say they're too old to move, while others say they couldn't afford to do it.

None of the residents asked for the ordinance change, and none of 14 who were interviewed for this report recalled being told it was going to happen.

Lemke remembers feeling helpless when he first heard of the ordinance just after it was passed in 1973.

EXHIBIT A

"We did not know (anything) about it until it was all said and done," he said.

He's not the only one who remembers it that way. With her husband Virgil, Susie Roderick raised her three sons in Wilber Heights. She said she never received notification of the zoning change, either.

"Wouldn't you think that something that important, we would have gotten something in the mail instead of a little thing in the newspaper?" said Roderick, who has lived in Wilber Heights for more than 50 years. "We didn't know anything about it."

John Hall said the county commission did all it was supposed to do at the time.

"At a bare minimum, the county is only required to put a notice in the paper," he said. Even now, some zoning matters require only a notice to be published in the newspaper, but others require everyone living within 250 feet of a proposed change to receive a formal notice individually by mail. He added that zoning staff will keep in touch with residents who ask to be notified of any proposed change in their zoning.

While he was not the director at the time of the change, Hall agrees that the current zoning in Wilber Heights is a problem.

"Right now our ordinance is causing properties to go into disrepair and that is counter to everything in a zoning ordinance," said Hall.

Effects of the zoning

The consequences of the zoning are obvious. It began as a slow, steady deterioration of the neighborhood that continues today.

Residents began moving out, industrial businesses began moving in, and houses that weren't sold were abandoned.

The core group in the neighborhood that remains deals with far more than ordinance-restricting maintenance and rebuilding.

Lemke said it also discourages county, city and township government from maintaining their roads and listening to their complaints.

Lemke believes the local governments see the neighborhood as a lost cause because "they think we'll be out of here soon anyway, why spend the time and money?"

Other residents echo his sentiment.

As part of a group interview, 12 residents gathered in Susie Roderick's back yard to discuss their concerns.

With sounds of forging equipment pounding in the background, residents started naming the struggles they face. But the noise from the surrounding industries was not on that list.

"The noise don't bother us. We're used to it," said Mike Roderick, who is Susie's son. He was raised in Wilber Heights and now owns a home a few houses away from where grew up.

"It don't bother us as much as those big semis that drop and tear up the road," he said.

Many of the trucks that Roderick speaks of go in and out of Clifford-Jacobs, the forging company that has been in the neighborhood since 1923, five years before the residents

EXHIBIT A

began to build. But the addition of more industry, including a recycling company, concrete plant and portable toilet company, means more traffic.

Of the dozen intersections in the neighborhood, only a few contain stop signs.

Ken Mathis, the supervisor for Somer Township, said "By practice we don't place stop signs or speed limit signs."

He said, "it is an issue that should be discussed with the county sheriff's office."

Therein lies another major problem in Wilber Heights.

Who is responsible?

The majority of the roads in Wilber Heights are under Somer Township jurisdiction, while one of the roads is technically in the city of Champaign.

Lemke said when he has a problem, he gets "the run-around."

He said the township will say it's a county issue, the county will say it is a city issue, and back and forth it goes.

"If it takes a mediator to get between the city of Champaign and the county and the township to iron this out, then so be it," said Lemke.

Stan James is the Champaign County Board member who represents Wilber Heights. He has visited the neighborhood thinks the situation needs to be fixed.

"We owe this to these folks. We allowed this to occur in their neighborhood. We, the politicians, the one who make the decisions, are the one to blame," said James.

Though the issue has yet to be discussed at a county board meeting, James said he will continue to help find a solution.

What's next

Forrest was vocal in his concern over the ordinance change back in 1973, and today looks at the situation and sees three possibilities.

"They (the county) can regulate, they can tax and they can buy up land through eminent domain," he said. "The county could undertake a study to find the neighborhood blighted and could buy and clear the neighborhood and they could create a relocation plan, or they could do nothing."

There hasn't been much pressure to do anything in recent years.

"There are legally acceptable ways to deal with an area like this," said Forrest. "But I haven't heard of anything that is really pushing the county to specifically push this."

When asked what it would take to make progress, he said, "the neighbors coming together."

Ultimately, it is up to the county board to make changes. John Hall wants what is best for the residents and said he would be willing to change the wording in the current language on non-conforming uses to give residents the opportunity to renovate and rebuild their homes.

"Please note that the ordinance limits annual renovation to no more than 10 percent of the replacement value, but we only require permits for new construction and so we have no idea when someone is remodeling or renovating," Hall said in a recent e-mail.

He said he plans to propose a change to the ordinance at the August county board meeting.

He plans to let the residents know when this will happen so that "they can be a part of the discussion." Otherwise, "it's a waste of time" said Hall.

Between now and the August meeting, Hall said he is "still reviewing ordinances from similar counties to see what rules they have" and will ask the state's attorney what legally can be done.

Lemke is waiting for that day. He said he's sick of the strict rules and back and forth with the county and township. After 63 years, he's starting to think about living elsewhere – which means the county would be one home closer to getting its original wish.

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Discussion continues on zoning amendments to help Wilber Heights residents

NEIGHBORHOODS, WILBER HEIGHTS, WILBUR HEIGHTS, ZONING ODINANCE - By pdempsey on Friday, December 17, 2010 - 17:09

Pam G. Dempsey — The Champaign County Zoning Board of Appeals took comments Thursday night on proposed changes to zoning ordinances that will give Wilber Heights residents more freedom to improve their homes.

Wilber Heights – a small neighborhood located on north Market Street behind Market Place Mall – is a mix of industrial and residential property. A nearly 40-year-old county ordinance zoned the area industrial, despite the heavy mix of residential property.

Because of the zoning, existing homes were deemed nonconforming, which prevented owners from making improvements to their properties beyond 10 percent of their replacement value annually. Owners also cannot replace, expand or rebuild their homes.

Since then, property values have declined, road conditions have been neglected and there's been an increase in abandoned property, residents have said.

If approved, the proposed changes would allow owners of any nonconforming dwelling to enlarge, expand, extend, replace, rebuild or relocate the dwelling.

Half a dozen Wilber Heights-area residents attended a public hearing on the proposed ordinance amendments, but only one spoke.

"I don't know why we can't rebuild," said Homer Kirby, 88, who has lived in Wilber Heights since 1947. "If you had a house burn down, what would you do? Where would we go? Things are getting pretty hard and I'm getting pretty old."

In September, the Champaign County Board directed Zoning Administrator John Hall to draft amendments to help residents in Wilber Heights improve their properties.

"Arguably, Champaign County has one of the **two** most restrictive zoning ordinances on nonconforming dwellings," Hall said Thursday. The restrictive ordinances are "leading to the degradation of the (Wilber Heights) neighborhood."

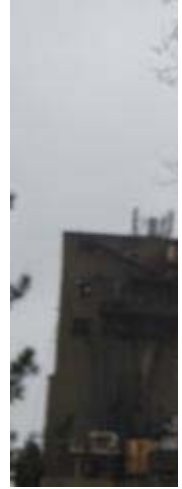
Hall told the zoning board of appeals that he proposed more amendments than requested by the county board in part to resolve issues that Wilber Heights resident Tom Lemke raised in prior conversations. Those amendments include:

- Allowing expansion up to a total 1,500 square footage for nonconforming dwellings that were 1,200 square feet or less on Oct. 10, 1973 – the date the zoning was changed for the Wilber Heights area.
- Allowing variances for the expansion of nonconforming dwellings too close to the property line. Variances are exceptions to the zoning ordinances that are considered on a case-by-case basis.
- Clearly defining the words "cease" and "abandoned" in the ordinance.

Hall also proposed an amendment to remove size limits on accessory buildings for those nonconforming dwellings. For example, residents would be able to expand their garages without a size limit, like the neighboring businesses are allowed to do now.

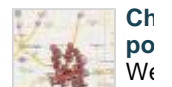
Thursday's public hearing is the first step in a process to amend the ordinance that could take several months.

"We want to give every ample opportunity to let concerns be known to the zoning board of appeals," Hall said earlier.



Picture by: CU

Recent Con



This includes objections by local municipalities. If any municipality objects, a minimum of 21 county board members would need to approve the changes for the proposed amendments to take effect. Without objections, only 14 members would need to approve the changes.

Final action on the amendments could take place by April, Hall said.

The zoning board of appeals is set to discuss this issue next on Jan. 6.

Tags: [Neighborhoods](#), [Wilber Heights](#), [Wilbur Heights](#), [zoning ordinance](#)

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EXHIBIT B



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CASE NO. 675-AT-10Champaign **PRELIMINARY MEMORANDUM**County **December 10, 2010**

Department of

Petitioner: **Zoning Administrator****PLANNING &
ZONING**

Prepared by: **John Hall**
 Zoning Administrator
J.R. Knight
 Associate Planner

Brookens
 Administrative Center
 1776 E. Washington Street
 Urbana, Illinois 61802

(217) 384-3708

Request: **Amend the Champaign County Zoning Ordinance as follows:****Part A**

1. In the first four un-numbered paragraphs of Section 8 clarify that nonconforming dwellings may be enlarged, expanded, extended, replaced, rebuilt, or relocated as authorized herein.
2. Revise subsection 8.1.2 to authorize that once two or more contiguous lots or combination of lots and portions of lots that individually do not meet any dimensional, geometric, lot access or other standards are brought into common ownership, that portions of said lots may be used separately or conveyed to a different owner provided that a variance is granted.

Part B

1. Revise paragraph 8.2.1 B. as follows:
 - a. Limit applicability to the total expansion since October 10, 1973.
 - b. Revise the limit on expansion of a nonconforming single family dwelling as follows:
 - (1) A nonconforming single family dwelling which had less than 1,200 square feet of building floor area may expand up to a total floor area of 1,500 square feet provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
 - (2) A nonconforming single family dwelling which had more than 1,200 square feet of building floor area may expand by up to 200 square feet or 25% of building floor area, whichever is greater provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
 - (3) Eliminate the limit on the amount of accessory buildings.
2. Revise paragraph 8.2.1 C. so that the limit on expansion applies to the total expansion since October 10, 1973.
3. Revise subsection 8.2.2 to provide that nonconforming dwellings may be moved on the lot as authorized in subsection 8.4.1.
4. In Subsection 8.2.3 clarify "ceases".

Part C

1. Revise subsection 8.3.1 to authorize that a nonconforming structure may be enlarged if authorized by variance.
2. Revise subsection 8.3.3 to authorize that a nonconforming structure may be moved without conforming to the regulations and standards of the district provided that the new location is authorized by variance.

Part D

1. Revise Subsection 8.4.1 as follows:
 - a. Authorize that a nonconforming dwelling may be expanded as authorized in subsection 8.2.1. provided that a variance is required if

there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.

- b. Authorize that a nonconforming dwelling may be reconstructed in the existing location if authorized by zoning use permit or a different location if authorized by variance provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
 - c. Authorize that expansion of a nonconforming dwelling as authorized in subsection 8.2.1 may occur at the same time as reconstruction.
2. In Subsection 8.4.5 clarify “abandoned” and “discontinued”.

Part E

- 1. Revise Subsection 8.6 as follows:
 - a. Authorize that a nonconforming dwelling may be expanded as authorized in subsection 8.2.1 or reconstructed as authorized in subsection 8.4.1.
 - b. Authorize that a nonconforming dwelling has no limit on the value of repair or replacement that may occur within a 365 day period and that may include bearing walls.

Part F

- 1. In paragraph 9.1.2 C. require that for any Zoning Use Permit authorizing construction as authorized in Section 8 on a nonconforming dwelling in a zoning district in which a dwelling is not an authorized principal use, the Zoning Administrator shall provide notice that the zoning district does not authorize a dwelling as a principal use and shall indicate in general what types of principal uses are authorized as either business uses or industrial uses.
-

BACKGROUND

For all Background in this case please see the Memo to the Champaign County Board Committee of the Whole.

ATTACHMENTS

- A Memo to Champaign County Board Committee of the Whole dated August 30, 2010 (included separately)
- B Section 8 of Champaign County Zoning Ordinance (included separately)
- C Paragraph 9.1.9 B of the Champaign County Zoning Ordinance
- D Excerpted Definitions from Zoning Ordinance
- E Proposed Draft Amendment

*Champaign County, Illinois
Zoning Ordinance*

9.1.9 VARIANCES

A. Table of VARIANCE Classifications and Presiding Authority

VARIANCE Classification	Presiding Authority
ADMINISTRATIVE VARIANCE: Deviation of 10 percent or less from regulation or standard of this ordinance related to the location of STRUCTURES or to bulk requirements	May be authorized by the Zoning Administrator in accordance with Section 9.1.10.
Minor VARIANCE: Contested ADMINISTRATIVE VARIANCE Deviation of 10 percent or less from numerical regulation or standard of this ordinance not related to the location of STRUCTURES or to bulk requirements Deviation of more than 10 percent but not exceeding 25 percent from numerical regulation or standard of this ordinance	May be granted by the Hearing Officer or by the BOARD in accordance with Paragraph 9.1.5B and the requirements of this Section.
Major VARIANCE: Deviation exceeding 25 percent from numerical regulation or standard of this ordinance. Waiver from nonnumerical regulation or standard of this ordinance. <i>Deviation from numerical regulation or standard of the Champaign County Storm water Management Policy or Champaign County Special Flood Hazard Areas Ordinance.</i> <i>Waiver from nonnumerical regulation or standard of the Champaign County Storm water Management Policy or Champaign County Special Flood Hazard Ordinance.</i>	May be granted by the BOARD in accordance with the requirements of this Section.

B. Prohibited VARIANCES

At no time shall the BOARD or the Hearing Officer grant a VARIANCE in the following instances:

1. To grant a VARIANCE to allow a USE not permissible under the terms of this ordinance in the DISTRICT involved, or any USE expressly or by implication prohibited by the terms of this ordinance in said DISTRICT.
2. To waive compliance with any municipal, state, or federal regulation incorporated into this ordinance.

*Champaign County, Illinois
Zoning Ordinance*

SECTION 9.1.9 VARIANCES - CONTINUED

3. To waive compliance with any procedural requirement contained in this ordinance.
4. To waive compliance with regulations pertaining to **NONCONFORMING LOTS, STRUCTURES, or USES**, except as specifically authorized in Section 8.
5. To authorize any **USE or CONSTRUCTION** prohibited by Section 14.2.1.

C. VARIANCE Criteria

1. A **VARIANCE** from the terms of this ordinance shall not be granted by the **BOARD** or the Hearing Officer unless a written application for a **VARIANCE** is submitted demonstrating all of the following.
 - a. that special conditions and circumstances exist which are peculiar to the land or **STRUCTURE** involved which are not applicable to other similarly situated land or **STRUCTURES** elsewhere in the same zoning **DISTRICT**;
 - b. that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted **USE** of the land or **STRUCTURES** or **CONSTRUCTION** on the **LOT**;
 - c. that the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant;
 - d. that the granting of the **VARIANCE** is in harmony with the general purpose and intent of this ordinance;
 - e. that the granting of the **VARIANCE** will not be injurious to the neighborhood, or otherwise detrimental to the public health safety or welfare.
2. No **NONCONFORMING USE** of the neighboring lands or **STRUCTURES** in the same **DISTRICT**, and no permitted **USE** of lands or **STRUCTURES** in other **DISTRICTS** shall be considered grounds for the issuance of a **VARIANCE**.

ACCESSORY BUILDING: A BUILDING on the same LOT with the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.

AREA, BUILDING: The total area taken on a horizontal plane at the largest floor level of the MAIN OR PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and non-permanent CANOPIES and planters.

BUILDING: An enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter or enclosure of persons, animals, and chattels.

BUILDING, MAIN or PRINCIPAL: The BUILDING in which is conducted the main or principal USE of the LOT on which it is located.

COVERAGE: The percentage of the LOT AREA covered by the BUILDING AREA.

DWELLING, SINGLE FAMILY: A DWELLING containing one DWELLING UNIT.

LOT: A designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.

NONCONFORMING LOT, STRUCTURE or USE: A LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.

NONCONFORMING PREMISES: A NONCONFORMING LOT with a NONCONFORMING STRUCTURE located on it.

PREMISES: A LOT or tract of land and any STRUCTURE located thereon.

STRUCTURE: Anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES including BUILDINGS, walls, fences, billboards, and SIGNS.

STRUCTURE, MAIN OR PRINCIPAL: The STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.

USE: The specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.

Attachment E Annotated Draft Ordinance
DECEMBER 10, 2010

Part A

- 1. In the first four un-numbered paragraphs of Section 8 clarify that nonconforming dwellings may be enlarged, expanded, extended, replaced, rebuilt, or relocated as authorized herein.**

Within the DISTRICTS established by this ordinance or by amendments that may later be adopted, there exist LOTS, PREMISES, STRUCTURES, ACCESSORY STRUCTURES, USES, and ACCESSORY USES of land which were lawful before this ordinance was effective or amended, but which would be prohibited, regulated, or restricted under the provisions of this ordinance or future amendments.

It is the intent of this ordinance to permit these non-conformities to continue until they are removed, except as otherwise herein provided, but not to encourage their survival. Such non-conformities are declared by this ordinance to be incompatible with the permitted STRUCTURES and USES of land and STRUCTURES in the DISTRICTS involved. It is further the intent of this ordinance that such NONCONFORMING USES of land, PREMISES, or STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged upon, expanded, or extended except as provided for herein, nor to be used as grounds for adding other STRUCTURES or USES prohibited elsewhere in the same DISTRICT.

A NONCONFORMING USE of land, PREMISES, STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged, expanded, or extended after October 10, 1973, or after the effective date of an ordinance amendment rendering such USE NONCONFORMING except as otherwise herein provided. Attachment to a STRUCTURE, PREMISES, or land, of any additional SIGNS intended to be seen off the PREMISES, or land, shall be prohibited. The addition of other USES which are prohibited in the DISTRICT involved shall not be permitted.

A NONCONFORMING USE or a NONCONFORMING STRUCTURE which is nonconforming only because of failure to provide required off-street PARKING SPACES or LOADING BERTHS shall have all the rights of a conforming USE or STRUCTURE provided that no further reduction of off-street PARKING or LOADING BERTHS takes place.

- 2. Revise subsection 8.1.2 to authorize that once two or more contiguous lots or combination of lots and portions of lots that individually do not meet any dimensional, geometric, lot access or other standards are brought into common ownership, that portions of said lots may be used separately or conveyed to a different owner provided that a variance is granted.**

8.1.2 Once two or more contiguous LOTS or combination of LOTS and portions of LOTS which individually do not meet any dimensional, geometric, LOT ACCESS or other standards are brought into common ownership the LOTS involved shall be considered to be a single LOT for the purpose of this ordinance. No portion of said LOT shall be used separately or conveyed to another owner which does not meet all the dimensional, geometric, LOT ACCESS and other standards established by this ordinance unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

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Attachment E Annotated Draft Ordinance
DECEMBER 10, 2010

Part B

1. **Revise paragraph 8.2.1 B. as follows:**
 - a. **Limit applicability to the total expansion since October 10, 1973.**
 - b. **Revise the limit on expansion of a nonconforming single family dwelling as follows:**
 - (1) **A nonconforming single family dwelling which had less than 1,200 square feet of building floor area may expand up to a total floor area of 1,500 square feet provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.**
 - (2) **A nonconforming single family dwelling which had more than 1,200 square feet of building floor area may expand by up to 200 square feet or 25% of building floor area, whichever is greater provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.**
 - (3) **Eliminate the limit on the amount of accessory buildings.**
- B. ~~ANONCONFORMING SINGLE FAMILY DWELLINGS~~ which is a NONCONFORMING USE of land may be expanded by ~~no more than 200 square feet and by construction of no more than one new ACCESSORY BUILDING~~ or addition to an existing ~~ACCESSORY BUILDING~~ provided that the total area of such ~~ACCESSORY BUILDING~~ is not more than 650 square feet. as follows:**
1. A SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land and was 1,200 square feet or less in building floor area (not including basement) on October 10, 1973, may expand up to a total building floor of 1,500 square feet provided that a VARIANCE is required if there is more than one PRINCIPAL USE on the LOT and the LOT AREA is less than required in Section 4.3.4. The expansion may occur all at one time as part of a total reconstruction or replacement as authorized by Section 8.6.
 2. A SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land and exceeded 1,200 square feet in building floor area (not including basement) on October 10, 1973, may be expanded by a total of 200 square feet or 25% of building floor area, whichever is greater, compared to the building floor area that existed on October 10, 1973, provided that a VARIANCE is required if there is more than one PRINCIPAL USE on the LOT and the LOT AREA is less than required in Section 4.3.4. The expansion may occur all at one time as part of a total reconstruction or replacement as authorized by Section 8.6.
 3. Expansion of existing or construction of any new ACCESSORY BUILDING shall conform to the regulations and standards for the DISTRICT in which it is located.

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**Attachment E Annotated Draft Ordinance
DECEMBER 10, 2010**

2. **Revise paragraph 8.2.1 C. so that the limit on expansion applies to the total expansion since October 10, 1973.**
- C. NONCONFORMING nonresidential USES which are permitted as of right in the R-1, Single Family Residence District and are not otherwise permitted by Special Use Permit may be expanded by a total of no more than 25% of building floor area compared to the building floor area that existed on October 10, 1973, and height, lot coverage, and off-street parking and loading area only if a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.
3. **Revise subsection 8.2.2 to provide that nonconforming dwellings may be moved on the lot as ~~authorized in subsection 8.4.1.~~ provided that a variance is granted.**
- 8.2.2 No such NONCONFORMING USE of land shall be moved in whole or in part to any other portion of the LOT or tract of land occupied on the effective date of adoption or amendment of this ordinance except that a SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land may be moved on the LOT provided that a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.
4. **In Subsection 8.2.3 clarify “ceases”.**
- 8.2.3 If any such NONCONFORMING USE of land ceases for any reason for a period of more than 180 consecutive days except for seasonal vacations lasting less than 275 consecutive days and that occur no more often than once in any 365 consecutive days or except when actively marketed for sale or rent by the posting of a sign on the front LOT LINE of the property, any subsequent USE of such land shall conform to the regulations and standards set by this ordinance for the DISTRICT in which such land is located.

Part C

1. **Revise subsection 8.3.1 to authorize that a nonconforming structure may be enlarged if authorized by variance.**
- 8.3.1 No such STRUCTURE may be enlarged or ALTERED in a way which increases its nonconformity unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.
2. **Revise subsection 8.3.3 to authorize that a nonconforming structure may be moved without conforming to the regulations and standards of the district provided that the new location is authorized by variance.**
- 8.3.3 Should any STRUCTURE be moved for any reason for any distance whatever, it shall thereafter conform to the regulations and standards for the DISTRICT in which it is located after it is moved unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

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**Attachment E Annotated Draft Ordinance
DECEMBER 10, 2010**

Part D**1. Revise Subsection 8.4.1 as follows:**

- a. **Authorize that a nonconforming single family dwelling may be expanded as authorized in subsection 8.2.1. provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.**
- b. **Authorize that a nonconforming single family dwelling may be reconstructed in the existing location if authorized by zoning use permit or a different location if authorized by variance provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.**
- c. **Authorize that expansion of a nonconforming single family dwelling as authorized in subsection 8.2.1 may occur at the same time as reconstruction.**

- 8.4.1** No existing STRUCTURE devoted to a USE not permitted by this ordinance in the DISTRICT in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or ALTERED except in changing the USE of such STRUCTURE to a USE permitted in the DISTRICT in which it is located except as otherwise herein provided .
- 8.4.2** Any NONCONFORMING USE may be extended throughout any parts of the BUILDING or STRUCTURE which were manifestly arranged or designed for such USE at the effective date of adoption, or amendment, of this ordinance, but no such USE shall be extended to occupy land outside of such STRUCTURE except as otherwise herein provided.

2A. In Subsection 8.4.5 clarify “abandoned” and “discontinued”.

- 8.4.5** When a NONCONFORMING USE of a BUILDING or STRUCTURE or of a PREMISES is discontinued or abandoned for 180 consecutive days or for 540 days during any 1,095 day period except for seasonal vacations lasting less than 274 consecutive days and that occur no more often than once in any 365 consecutive days or except when actively marketed for sale or rent by the posting of a sign on the front LOT LINE of the property, the STRUCTURE or the PREMISES shall thereafter not be used except in compliance with the regulations and standards of the DISTRICT in which it is located.

2B In Subsection 8.4.6 provide for replacement of nonconforming single family dwelling.

- 8.4.6** Where NONCONFORMING USE status applies to a PREMISES, removal or destruction of the STRUCTURE shall eliminate the NONCONFORMING USE status of the land, except as it may qualify as a NONCONFORMING LOT of record except as otherwise herein provided.

Attachment E Annotated Draft Ordinance
DECEMBER 10, 2010

Part E

1. **Revise Subsection 8.6 as follows:**
 - a. **Authorize that a nonconforming dwelling may be expanded as authorized in subsection 8.2.1 or reconstructed as authorized in subsection 8.4.1.**
 - b. **Authorize that a nonconforming dwelling has no limit on the value of repair or replacement that may occur within a 365 day period and that may include bearing walls.**

8.6 Repairs or Maintenance

On any STRUCTURE devoted in whole or in part to any NONCONFORMING USE, or which itself is NONCONFORMING, work may be done in a period of 365 consecutive days on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not to exceed 10% of the then current replacement value of the STRUCTURE, provided that the volume of such BUILDING or the size of such STRUCTURE as it existed at the effective date of the adoption, or amendment, of this ordinance shall not be increased except as follows:

- A. As otherwise herein provided; and
- B. There is no limit on the value of repair or replacement for a SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any STRUCTURE or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Part F

1. **In paragraph 9.1.2 C. require that for any Zoning Use Permit authorizing construction as authorized in Section 8 on a nonconforming dwelling in a zoning district in which a dwelling is not an authorized principal use, the Zoning Administrator shall provide notice that the zoning district does not authorize a dwelling as a principal use and shall indicate in general what types of principal uses are authorized as either business uses or industrial uses.**

- C. **Issuance of Zoning Use Permit**

1. The Zoning Administrator shall retain the original copy of the Zoning Use Permit and shall mark such Permit whether approved or disapproved and for any Zoning Use Permit authorizing construction on a SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land in a zoning DISTRICT in which a SINGLE FAMILY DWELLING is not an authorized PRINCIPAL USE, the Zoning Use Permit shall include a notice that the zoning district does not authorize a SINGLE FAMILY DWELLING as a PRINCIPAL

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Attachment E Annotated Draft Ordinance
DECEMBER 10, 2010

USE and shall indicate in general the types of PRINCIPAL USE authorized as either business uses or industrial uses.

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Champaign
County
Department of

**PLANNING &
ZONING**

Brookens

Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

To: Champaign County Board Committee of the Whole

From: John Hall, Director & Zoning Administrator

Date: August 30, 2010

RE: Direction to Zoning Administrator Regarding a Proposed Zoning Ordinance Text Amendment

Requested Action:

Amend the Champaign County Zoning Ordinance Requirements for Dwellings that are Nonconforming Uses by (1) Removing the Limit on Annual Maintenance and (2) Authorizing Reconstruction

BACKGROUND

A front page article in the Sunday, July 25, 2010, edition of *The News Gazette* was about Wilber Heights (a residential and industrial area immediately east of Market Place Mall) and the problems that the Champaign County Zoning Ordinance has caused for the residents. The problems discussed in the article exceed the jurisdiction of the Zoning Ordinance but the Zoning Ordinance seems to be at the heart of the major concerns of Wilber Heights residents.

ELUC last discussed zoning problems in Wilber Heights in August of 1992 and the memo from that time still serves as a good introduction (see attached memo). The relevant portion of the minutes from the August 13, 1992, ELUC meeting are also attached.

However, two important zoning problems were not mentioned in the August 6, 1992, memo and they are (1) the prohibition on reconstruction of a dwelling that is a nonconforming use (subsection 8.4.1 of the Ordinance) and (2) the annual limit on ordinary repairs to no more than 10% of current replacement value for a dwelling that is nonconforming use (subsection 8.6 of the Ordinance). These problems were a primary focus of the News Gazette article and are the focus of this memorandum and the subject of the proposed text amendment. These problems are not limited only to Wilber Heights but that neighborhood is probably the largest single part of the County zoning jurisdiction that is affected by these concerns.

LIMIT ON NORMAL MAINTENANCE AND RECONSTRUCTION ARE COUNTER TO THE PURPOSE OF THE ORDINANCE

One of the stated purposes of the Zoning Ordinance is to conserve the value of land, buildings, and structures throughout the County (see paragraph 2.(b) of the Ordinance). And, like all zoning ordinances, the Ordinance has rules for uses and buildings that were legal before the Ordinance was adopted but which would be prohibited under the Ordinance. The term for such uses and buildings is "nonconforming" and the rules for nonconformities are found in Section 8 of the Champaign County Zoning Ordinance.

Zoning Administrator
 Zoning Ordinance Text Amendment To Address Dwellings That Are Nonconforming Uses
AUGUST 30, 2010

The annual limit on ordinary repairs to no more than 10% of current replacement value for a dwelling that is a nonconforming use (subsection 8.6 of the Ordinance) is exceedingly restrictive and prevents older homes from being modernized.

The prohibition on reconstruction of a dwelling that is a nonconforming use (subsection 8.4.1 of the Ordinance) typically means that insurance cannot protect this major investment. Both rules mean that the value of dwellings like those in Wilber Heights is being degraded and not being conserved.

This is not an unintended consequence. Both of these provisions were part of the original Ordinance. The introductory narrative to Section 8 of the Ordinance makes it clear that the Ordinance is not intended to encourage the survival of nonconformities.

Neither of these requirements are subject to variance although in the past there have been improper variances granted for the replacement of dwellings that were a nonconforming use.

CHAMPAIGN COUNTY IS MORE RESTRICTIVE THAN SIMILAR COUNTIES

The zoning ordinance requirements for nonconformities for McLean, Macon, Sangamon, Peoria, and Rock Island counties were compared to the Champaign County Zoning Ordinance as background for this memo.

Of these five counties, Macon County is the only other county that has an annual limit on ordinary repairs and it too has a limit of no more than 10% of current replacement value for a dwelling that is a nonconforming use.

All of these counties prohibit the reconstruction of a dwelling that is a nonconforming use.

PROPOSED AMENDMENT

Attachment D is the proposed amendment and it consists of the following changes:

1. Revise and clarify subsection 8.2.1. The revision will increase the allowable expansion of a nonconforming dwelling from 200 square feet to 25% of the building floor area, or whichever is greater. This subsection will also be changed to use more standard wording to describe a dwelling that is a nonconforming use.
2. Revise subsection 8.4.1 to recognize the expansion authorized by subsection 8.2.1. and to allow reconstruction of a dwelling that is a nonconforming use.
3. Revise subsection 8.6 to recognize the expansion authorized by subsection 8.2.1. and to eliminate the limit on repair of a dwelling that is a nonconforming use.

ATTACHMENT

- A *Not Going Anywhere* from the Sunday, July 25, 2010, edition of *The News Gazette*
- B August 6, 1992, memorandum to ELUC
- C Excerpt of approved minutes of August 13, 1992, ELUC meeting
- D Proposed amendment

Champaign
County
Department of

**PLANNING &
ZONING**

1303 N. Cunningham Ave.
Urbana, Illinois 61801
(317) 594-3700
FAX (317) 528-2426

TO: Environment and Land Use Committee

FROM: Frank DiNovo

DATE: August 6, 1992

RE: Zoning Treatment of Nonconforming Residential Uses in the Wilbur Heights Area

REQUESTED ACTION

Approve general outline of a Zoning Ordinance text amendment to be filed by the Zoning Administrator regarding expansion of nonconforming residential uses.

BACKGROUND

The Wilbur Heights neighborhood is an area of approximately 36 acres located in Section 31 of Somer Township. The area is bounded by Market Street on the west, Wallace Avenue and the Reifsteck Tract on the north, 5th Street and Clifford Jacob's Forge on the east and Wilbur Avenue on the south (see attached map). Somewhat over half of the perimeter of the area is contiguous to the City of Champaign on the north, west, and south.

Wilbur Heights is characterized by highly intermixed residential commercial and industrial land uses. The area was developed as a single family residence development in 1928 in what was then a semi-rural location. The present pattern of use developed prior to the adoption of zoning. Under the City of Champaign's 1961 zoning ordinance existing single family residences were made nonconforming but mobile homes were permitted in the City's industrial classifications.

The County zoned the western 3/4ths of the area I-1, Light Industry and the eastern 1/4th I-2, Heavy Industry in 1973 following the pattern established by the City of Champaign. The County Zoning Ordinance is an "exclusive use district" type ordinance which does not permit dissimilar or incompatible uses in a single district; it does not permit residential uses in industrial districts. The County's decision to zone the area industrial extended the nonconforming status of the residential uses in Wilbur Heights.

Nonconforming uses may not be expanded or relocated on a lot. Consequently homeowners may not add to their residences or construct accessory buildings or structures. Although they may undertake interior remodeling and maintenance of their homes including replacing of heating, plumbing and electrical systems, re-roofing and making interior structural modifications.

The intent of these restrictions on nonconforming uses is to discourage their survival so that will sooner or later they will be abandoned and the land converted to more appropriate conforming land uses.

The zoning of the Wilbur Heights neighborhood was reconsidered in a Zoning Map Amendment Case filed in 1977 (236-AM-77). That case sought to rezone the entire neighborhood to R-2, Single Family Residence. The 1977 rezoning was denied due its impact on the numerous commercial and industrial uses in the neighborhood by rendering them nonconforming.

CURRENT STATUS

Although site-built residences were made nonconforming 30 years ago and mobile homes made nonconforming in 1973 many residential uses survive in the area. Abandonment and conversion of these nonconformities is proceeding very slowly. This is likely due to the poor condition of infrastructure in the area, the lack of sanitary sewer and the very small size of the residential lots, many of which are only 25 or 50 feet wide - a size unsuitable for most industrial uses. This small 36 acre area is entirely surrounded by land, developed or zoned for intense commercial or industrial use.

This situation leaves the area homeowners and the County in a difficult situation. Homeowners must contend with a neighborhood with inadequate infrastructure and many blighting influences. They also are unlikely to be able to realize a market value of their property very much greater than its current use value as a dwelling. The use value is also diminished by the inability to expand, even slightly, their nonconforming residential uses.

The County, on the other hand, is faced with difficult choices. The County could retain the industrial classification leaving the homes nonconforming and the homeowners disadvantaged. Alternately the area could be rezoned to a residential classification making the businesses nonconforming and creating a small enclave of residential zoning completely surrounded by commercial and industrial zoned areas. The area would also still have inadequate infrastructure, an admixture of incompatible commercial and industrial uses (which would remain legally until abandoned) and would have to share its streets with truck traffic serving the surrounding industrial areas.

In 1977 the County briefly considered and subsequently abandoned an effort to find a third alternative by creating a "Transition to Industrial" zoning district. This would have had the effect of legalizing all the existing uses in the area, essentially freezing it in its current condition indefinitely until market forces changed the mix of land uses.

PROPOSAL

Staff is not proposing a comprehensive solution to the problems posed by Wilbur Heights at this time. Current information on the neighborhood is lacking since the County has not seriously considered this question for 15 years. The demographic makeup, land uses, building condition, and land use trends in the area are not known clearly. It may also be preferable for local governments (the County and the City of Champaign) to take a more active role in shaping events in the area. This could be done, perhaps, by instituting a program to buy-out residences and consolidate the small parcels to be more readily marketable for industrial use and, possibly, undertaking infrastructure improvements to make it more developable. The pros and cons of this approach deserve careful consideration particularly with respect to how such an effort would be financed. In any case, a comprehensive solution awaits the time and resources required to develop alternatives.

In the meantime staff proposes a limited interim measure which would enhance the use value of residential property in Wilbur Heights without substantially contributing to the survival of the existing nonconforming uses. Specifically staff proposes a Zoning Ordinance Text Amendment that would.

1. permit a one-time expansion of existing nonconforming dwellings (excluding replacement of nonconforming mobile homes) up to the lesser of 100 sq. ft. or 20% of the gross first floor area; and
2. permit the construction of a single accessory building or addition to an existing accessory building up to, say, 300 sq. ft. (equivalent to a one car garage).

An alternative proposal could also permit larger expansions and/or expansions of other nonconforming uses otherwise permitted in the R-1 district (churches, schools, etc.) by Special Use Permit. Larger expansions, however, will go farther to encourage the survival of nonconforming uses. It might be appropriate to require that the ZBA make an explicit finding that the expansion would not tend to encourage survival of the nonconforming use or that the petitioner agree to an amortization period at the end of which the nonconforming use would cease.

This amendment certainly would not put these nonconforming residences on an equal footing with other residences. It would, however, make life in Wilbur Heights and a few similarly situated properties elsewhere somewhat easier until a comprehensive, long term solution can be developed.

1 responsibility to shut it down immediately. The motion was approved by a voice vote of 8-2.
2 Mr. Flessner and Mr. Crozier opposing.

3

4 E. One Day Recreation and Entertainment License for Champaign County Fire
5 Chiefs Association Rodeo, Champaign County Fairgrounds

6

7 Mr. Wolf moved, seconded by Mr. Smith, to approve the request for a one day recreation and
8 entertainment license for Champaign County Fire Chief's Association Rodeo at the
9 Champaign County Fairgrounds on September 5 and 6, 1992. The motion was approved by
10 a voice vote.

11

12 F. Nonconforming Residential Uses in Wilbur Heights Neighborhood

13

14 Mr. DiNovo stated that Wilbur Heights has been a difficult problem for the County for a long
15 time; it is a neighborhood with mixed industrial and commercial uses. Recently they have
16 received two separate requests to improve non-conforming uses in the area. One was a house
17 and another was a request to add on to an existing church. In cases of non-conforming uses,
18 if they are abandoned or destroyed beyond more than 50% of their value, the ordinance does
19 not allow their reconstruction. In theory, over time, because of the restrictions, non-
20 conforming uses in Wilbur Heights will "go away" and succeeding uses will conform to the
21 requirements of the district and be compatible to its neighbors. In Wilbur Heights, there is
22 an intermixture of uses. The area was platted into small residential lots but individual
23 properties are usually too small to be used for permitted commercial or industrial uses, so
24 this keeps people from selling their individual property for these uses, and realizing the full
25 value of their property unless someone was able to assemble a number of these parcels to
26 offer for commercial or industrial use. Even minor additions are not permissible for the
27 residents of this area.

28

29 Mr. DiNovo noted that he has discussed this with the City of Champaign, but no proposals
30 for a long-term solution have been found. However, in the interim it seems reasonable to
31 provide for a limited expansion of residential non-conforming uses or potentially non-
32 conforming uses that are otherwise permitted by right (i.e., the church) so people could get
33 more use value out of their property but still not improve it so much as to encourage the
34 survival of a non-conforming use, until a final resolution is developed. Mr. DiNovo is
35 proposing to permit by right a one-time expansion up to 100 square feet or 20% of the gross
36 square feet area, whichever is less (one 10X10 addition to a residence) and to allow up to a
37 300 square foot accessory building (i.e., a single car garage). This would accommodate a
38 person's need to get their car under cover versus accommodating a larger garage which would
39 make the house more attractive for resale for residential use in the market. Mr. DiNovo
40 stated that it may be that the County may have to consider a plan to purchase land on a
41 volunteer basis one by one, and assemble the land into realistic parcels for resale for
42 commercial or industrial uses in order to utilize this area properly.

43

44 Mr. Barker stated that we need to look at this carefully. In response to Mr. Barker's
45 question, Mr. DiNovo stated that Champaign has a pyramid type zoning ordinance, but these
46 uses would still be non-conforming in Champaign unless each annexation agreement
47 specifically allowed for it. Mr. Barker stated that Champaign has been playing with its
48 annexation agreements to allow whatever is in this area by right when they are annexed, and
49 he feels the ELUC must look at our Zoning Ordinance, and if this is allowed by right from

1 one classification to another classification, he feels we will get protests from both Champaign
2 and Urbana. If the County wants to take care of this, we will have to have the votes to
3 override the protests.

4

5 Ms. McGrath asked if these improvements are allowed, and if the County decides to go
6 ahead with a plan to purchase these properties, will the improvements make the property
7 more valuable, and therefore, cost the County more money to purchase? Mr. DiNovo stated
8 that it might, and the buy-out is a speculative project in that no funding source for such a
9 program has been identified. Mr. Barker agreed this is a dream that probably will never
10 occur. Mr. Barker reminded members that 10-12 years ago there was a federal program
11 where the County could buy people's property and relocate them. However, most people
12 were not interested in leaving the area. Mr. Lyke stated that he has previously been in favor
13 of having residential areas that are next to the cities being annexed. Mr. DiNovo stated that
14 the City of Champaign is willing to annex this area. Mr. Flessner stated that since we did
15 nothing in 1977, he feels we should allow these people to make minor improvements to their
16 property. In response to Mr. Smith's questions, Mr. Flessner stated that Somer Township
17 maintains the streets in this area, and the drainage is poor.

18

19 Mr. Lyke stated that it is inconsistent when we consider the future of Champaign for the
20 County to make improvements to this area where we may end up with a bigger problem in
21 terms of infrastructure. He would rather not spend the money on something that is or should
22 be or will be Champaign's problem to deal with.

23

24 Mr. Barker stated that what is really being requested here is to allow a person to put a
25 shower in his bathroom. Mr. DiNovo discussed the proposed dimensions with the City of
26 Champaign staff, and they did not have problems with this, as it allows a limited amount of
27 improvement. This would give people a limited degree of flexibility to allow them to enclose
28 a porch, build an air-lock entrance to the house, construct a small garage, etc. Ms. Putman
29 asked if there have been other requests in addition to the two mentioned. Ms. McGrath
30 questioned whether this would encourage people to stay in the area, and it appears that some
31 people have illegally constructed improvements without permits. She wondered if at some
32 point we could get rid of the houses, for example, which have a dirt floor. Mr. DiNovo stated
33 that this would displace people and we have no specific program to relocate them.

34

35 Ms. Putman stated that this nation, State or County do not have a program to provide low
36 cost suitable housing for people, and until that happens, she cannot see displacing people
37 from their home, regardless of how humble that dwelling is. Ms. Chato asked if this would
38 apply to all areas, and not just to Wilbur Heights area, and Mr. DiNovo stated that he was
39 proposing this as a text amendment. Mr. DiNovo stated that in 1977 there was discussion
40 about creating an industrial transitional zoning district which would allow for a mix of
41 residential, industrial and commercial uses. This is conceivable, but extremely tricky. Mr.
42 Wolf stated that he is inclined to agree with Jennifer, that people should be allowed to make
43 improvements to their property.

44

45 Mr. Barker stated that the proposed standards need to be discussed. Mr. Flessner stated that
46 an accessory building might have some industrial use in the future and would like to see this
47 larger. Mr. Lyke stated that he doesn't believe we should pump life or money into this area.
48 Mr. Barker asked if we could say that within the mile and a half jurisdiction certain things
49 are allowed; this would allow our rural community flexibility. Mr. DiNovo stated that we

1 have AG-1 U and AG-1 R and the boundary line is the mile and a half; this could be
2 amended; however, the mile and a half boundary is constantly changing, and it would be
3 better to designate a specific boundary. He believes that Champaign would not object to this
4 proposal. Wilbur Heights is an obstruction to development for the City of Champaign, and
5 it has been identified in the new comprehensive plan as a study area. Mr. DiNovo stated that
6 there are two ways to look at this. One is the question of keeping uniform districts with
7 compatible uses in them, and keeping incompatible uses separated, and to allow people to
8 realize the value of their property by eliminating mutual nuisance problems. Another way
9 is to look at what happens to people who own this property, because the individual properties
10 are not attractive enough for there to be a real market, so the market value is severely
11 depressed. No one in Wilbur Heights will be able to sell their property for its full value and
12 they may not get enough for their property to make it economically worthwhile to move.

13

14 Mr. Barker asked what the feasibility would be of putting a boundary on the area. Mr.
15 DiNovo stated that whatever is done, he would like to do it "by right." It might be possible
16 to allow the basic expansion and to allow a larger one by variance or special use permit on
17 a case by case basis.

18

19 Mr. Lyke stated that if we are going to enforce the ordinance, it should also be enforced in
20 Wilbur Heights and now we are talking about making it easier for people to want to remain
21 in the area, and he is opposed to it because of the future of the area.

22

23 Ms. McGrath stated that with the recent census conducted, it would be helpful to have
24 demographic information about the Wilbur Heights area, and help determine if this is an area
25 which houses extremely poor people who have no means to move or simply people who do
26 not want to move. Ms. Putman stated that she would like to know more about this area and
27 the community and its residents. Mr. Lyke stated that the "big picture" and the future of the
28 way the City of Champaign is going to go, he feels the City of Champaign should pay for this
29 area and he would like to see us work something out with the City of Champaign.

30

31 Mr. Barker stated that the reality is that a decision needs to be made tonight on whether to
32 allow Mr DiNovo to continue with this requested text amendment in order to allow the few
33 people who have requested these improvements to do so. Mr. Flessner asked where the
34 boundaries are, and Mr. DiNovo stated that the City has this area approximately 2/3rds
35 surrounded.

36

37 Ms. McGrath stated that unfortunately this area was not planned for residential and industrial
38 as Crestwood, which was mentioned by Ms. Chato. Ms. Chato stated that we are not
39 proposing to do anything with the infrastructure, and therefore she does not believe we would
40 be increasing the property value. Mr. Barker feels we will receive an official reaction from
41 the City of Champaign, and this would be good. Ms. McGrath stated that she would like to
42 have some demographic data available at the time the text amendment is proposed to the
43 Zoning Board of Appeals. Mr. DiNovo agreed.

44

45 Mr. Flessner moved, seconded by Ms. Chato, to instruct Mr. DiNovo to prepare a text
46 amendment to permit a one-time expansion of existing nonconforming dwellings (excluding
47 replacement of nonconforming mobile homes) up to the lesser of 100 sq. ft. or 20% of the
48 gross first floor area; and permit the construction of a single accessory building or addition

1 to an existing accessory building up to 650 square feet. The motion was approved by a vote
2 of 9-1 with Ms. McGrath's the single no vote.

3

4 **G. FY 1993 Planning and Zoning Contract**

5

6 Mr. Barker stated that Mr. Soltau was going to be present to discuss this issue, but the dates
7 of the meeting have been changed and therefore, Mr. Soltau cannot be present.

8

9 Mr. Barker noted that the Budget Committee discussed the Planning and Zoning budget, and
10 the engineer has been deleted from the present tentative budget; however, the Budget
11 Committee put nothing else back in other than what Mr. Herlofsky presented. There will be
12 a special Budget Committee meeting on August 31, 1992 to discuss the budget. Other items
13 of major concern was an additional person for the Public Defender and an additional clerical
14 person, and the long-range planning study and a nurse for the jail. Mr. Lyke asked if there
15 was anything for the Circuit Clerk's Office and Mr. Barker stated no.

16

17 This item will be carried over until next month's meeting.

18

19 **H. Other New Business**

20

21 **6. Old Business**

22

23 **A. County Participation in Joint County-City of Champaign Enterprise Zone**

24

25 Mr. Barker observed that the Enterprise Zone evaluation notes that the value of enterprise
26 zone projects to date is \$19 million, and he finds this hard to believe. He said he was
27 unaware that we had abated taxes on this amount of assessed evaluation. He does have a
28 meeting with Mr. Herlofsky, but he brings this issue up to start discussion on the Enterprise
29 Zone. We are talking about a great amount of tax abatement, and he doesn't believe we are
30 getting jobs or benefits from it. He doesn't feel it is a full abating district because the schools
31 are not involved in it. If an industry wanted to come into this community that would bring
32 economic benefit to this community, the County Board has full authority to abate the taxes
33 for this new industry, and he feels this is an important issue.

34

35 Mr. Lyke stated that he is in favor of getting out of the program, and would like to know how
36 we can do this. Ms. McGrath stated that Mr. Barker raised a good point in that the school
37 districts are not participating anyway. She also does not believe that an industry will come
38 or not come because of the tax abatement. Mr. DiNovo stated that if you look at the value
39 of these abatements only in relationship to construction costs, they are a small percentage of
40 the total but over time the total value of the abatement compared to the annual operating
41 costs of a business is minuscule.

42

43 Ms. Putman stated that she is concerned that no one from the City of Champaign is present
44 to discuss this. She feels strongly about this issue, and she called Bruce Knight several weeks
45 ago to discuss it. She would have appreciated hearing from them. Mr. DiNovo stated that
46 he has met with City of Champaign staff, and they were not prepared at a staff level to
47 establish a position on behalf of the City, and they wanted an opportunity to discuss it with
48 the Council before they make their position known. Mr. DiNovo stated that there were some
49 legal and technical questions to be answered, i.e. from DCCA. The first question is what is
50 our obligation with respect to businesses already in the enterprise zone. The answer is that

Proposed Ordinance Amendment
AUGUST 30, 2010

1. Revise and clarify subsection 8.2.1 as follows:

8.2.1 Expansion of NONCONFORMING USE

- A. No such NONCONFORMING USE of land shall be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this ordinance except as provided below.
- B. NONCONFORMING SINGLE FAMILY DWELLINGS A STRUCTURE that otherwise conforms to the R-1 DISTRICT requirements and that is a NONCONFORMING DWELLING may be expanded by no more than 200 square feet or no more than 25% of the building floor area, whichever is greater, and by construction of no more than one new ACCESSORY BUILDING or addition to an existing ACCESSORY BUILDING provided that the total area of such ACCESSORY BUILDING is not more than 650 square feet.
- C. NONCONFORMING nonresidential USES which are permitted as of right in the R-1, Single Family Residence District and are not otherwise permitted by Special Use Permit may be expanded by no more than 25% of building floor area and height, lot coverage, and off-street parking and loading area only if a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

2. Revise subsection 8.4.1 as follows:

8.4.1 No existing STRUCTURE devoted to a USE not permitted by this ordinance in the DISTRICT in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or ALTERED except in changing the USE of such STRUCTURE to a USE permitted in the DISTRICT in which it is located, except as follows:

- A. As provided in subsection 8.2.1.
- B. A STRUCTURE that otherwise conforms to the R-1 DISTRICT requirements and that is a NONCONFORMING DWELLING may be reconstructed in the existing location subject to the requirement of a Zoning Use Permit. The reconstruction may include the one time expansion as authorized in subsection 8.2.1.

3. Revise subsection 8.6 as follows:

8.6 Repairs or Maintenance

On any STRUCTURE devoted in whole or in part to any NONCONFORMING USE, or which itself is NONCONFORMING, work may be done in a period of 365 consecutive days on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not to exceed 10% of the then current replacement value of the STRUCTURE, provided that the volume of such BUILDING or the size of such STRUCTURE as it existed at the effective date of the adoption, or amendment, of this ordinance shall not be increased except as follows:

Proposed Ordinance Amendment
AUGUST 30, 2010

A. As provided in subsection 8.2.1.

B. For a STRUCTURE that otherwise conforms to the R-1 DISTRICT requirements but that is a NONCONFORMING DWELLING, there is no limit on the value of the repair or replacement other than as provided in subsection 8.2.1 and the replacement may include bearing walls.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any STRUCTURE or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

*Champaign County, Illinois
Zoning Ordinance*

SECTION 8 NON-CONFORMITIES

Within the DISTRICTS established by this ordinance or by amendments that may later be adopted, there exist LOTS, PREMISES, STRUCTURES, ACCESSORY STRUCTURES, USES, and ACCESSORY USES of land which were lawful before this ordinance was effective or amended, but which would be prohibited, regulated, or restricted under the provisions of this ordinance or future amendments.

It is the intent of this ordinance to permit these non-conformities to continue until they are removed, except as otherwise herein provided, but not to encourage their survival. Such non-conformities are declared by this ordinance to be incompatible with the permitted STRUCTURES and USES of land and STRUCTURES in the DISTRICTS involved. It is further the intent of this ordinance that such NONCONFORMING USES of land, PREMISES, or STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged upon, expanded, or extended except as provided for herein, nor to be used as grounds for adding other STRUCTURES or USES prohibited elsewhere in the same DISTRICT.

A NONCONFORMING USE of land, PREMISES, STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged, expanded, or extended after October 10, 1973, or after the effective date of an ordinance amendment rendering such USE NONCONFORMING. Attachment to a STRUCTURE, PREMISES, or land, of any additional SIGNS intended to be seen off the PREMISES, or land, shall be prohibited. The addition of other USES which are prohibited in the DISTRICT involved shall not be permitted.

A NONCONFORMING USE or a NONCONFORMING STRUCTURE which is nonconforming only because of failure to provide required off-street PARKING SPACES or LOADING BERTHS shall have all the rights of a conforming USE or STRUCTURE provided that no further reduction of off-street PARKING or LOADING BERTHS takes place.

8.1 NONCONFORMING LOTS of Record

8.1.1 In any zoning DISTRICT where SINGLE FAMILY DWELLINGS are permitted as a principal USE, a SINGLE FAMILY DWELLING and customary ACCESSORY BUILDINGS may be erected on any single LOT of record which was platted and recorded prior to October 10, 1973, provided that:

- A. such LOT must have been in separate OWNERSHIP and not in continuous FRONTAGE with other LOTS in the same OWNERSHIP as of October 10, 1973, and;
- B. such LOT must contain sufficient AREA and width to provide a lawful water supply and means of wastewater disposal;

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SECTION 8.1 NONCONFORMING LOTS OF RECORD - CONTINUED

- C. **YARD dimensions and other requirements not involving AREA or WIDTH, or both of such LOTS shall conform to the requirements for the DISTRICT in which said LOT is located; and**
- D. **for purposes of LOT AREA calculations, any LOT AREA devoted to permanent ponds and/or lakes shall be excluded from calculations of total LOT AREA.**

These provisions shall apply even though such NONCONFORMING LOTS fail to meet the current dimensional, geometric, LOT ACCESS or other requirements in their respective DISTRICTS.

- 8.1.2 **Once two or more contiguous LOTS or combination of LOTS and portions of LOTS which individually do not meet any dimensional, geometric, LOT ACCESS or other standards are brought into common ownership the LOTS involved shall be considered to be a single LOT for the purpose of this ordinance. No portion of said LOT shall be used separately or conveyed to another owner which does not meet all the dimensional, geometric, LOT ACCESS and other standards established by this ordinance.**
- 8.1.3 **In any zoning DISTRICT where TWO-FAMILY DWELLING STRUCTURES or MULTI-FAMILY DWELLING STRUCTURES are permitted by right, or where more than one MAIN or PRINCIPAL STRUCTURE or BUILDING is permitted as a SPECIAL USE or authorized under Section 4.2.1 D, any NONCONFORMING LOT of record which was not improved with such DWELLINGS, STRUCTURES or BUILDINGS on or before October 10, 1973, shall not be eligible for the location of a TWO-FAMILY DWELLING STRUCTURE or MULTI-FAMILY DWELLING STRUCTURE, or more than one MAIN or PRINCIPAL STRUCTURE or BUILDING for reasons of protecting the public health, unless said LOT contains a minimum AREA as follows:**
 - A. **A LOT without a PUBLIC WATER SUPPLY SYSTEM and without a connected PUBLIC SANITARY SEWER SYSTEM shall not be less than 20,000 square feet in AREA for the first DWELLING UNIT, or the first MAIN or PRINCIPAL STRUCTURE or BUILDING thereon, and 7,000 square feet for each additional DWELLING UNIT, or MAIN or PRINCIPAL STRUCTURE or BUILDING placed thereon.**
 - B. **A LOT served by a private well and a PUBLIC SANITARY SEWER SYSTEM shall not be less than 10,000 square feet in AREA for the first DWELLING UNIT, or the first MAIN or PRINCIPAL STRUCTURE or**

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SECTION 8.1 NONCONFORMING LOTS OF RECORD - CONTINUED

BUILDING placed thereon, and 7,000 square feet for each additional DWELLING UNIT, or MAIN or PRINCIPAL STRUCTURE or BUILDING placed thereon.

- C. A LOT served by a PUBLIC WATER SUPPLY SYSTEM and without a connected PUBLIC SANITARY SEWER SYSTEM shall not be less than 10,000 square feet in AREA for the first DWELLING UNIT, or the first MAIN or PRINCIPAL STRUCTURE or BUILDING placed thereon, and 7,000 square feet for each additional DWELLING UNIT, or MAIN or PRINCIPAL STRUCTURE or BUILDING placed thereon.

8.1.4 YARD Regulations and Standards for Single NONCONFORMING LOTS of record

- A. **FRONT YARD:** The FRONT YARD regulations and standards of the DISTRICT in which such LOT is located shall apply.
- B. **REAR YARD:** The REAR YARD regulations and standards of the DISTRICT in which such LOT is located shall apply.
- C. **SIDE YARD**
1. On such LOT with a width of 50 feet or more, two SIDE YARDS shall be provided as required by the regulations and standards of the DISTRICT in which such LOT is located.
 2. On such LOT less than 50 feet but not less than 27 feet in width, two SIDE YARDS shall be provided, each equaling 10% of the LOT width.
 3. On such LOT less than 27 feet but not less than 20 feet in width, the STRUCTURE located on such LOT shall have a width of not more than 90% of such LOT width. Only one SIDE YARD need be provided, equaling in width the difference between the LOT width and the maximum permitted width of the STRUCTURE. No other SIDE YARD need be provided. The wall of any BUILDING facing the side of the LOT on which no SIDE YARD is required shall be without openings and shall not be constructed as a common wall.

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8.2 NONCONFORMING USES of Land

Where, on the effective date of adoption or amendment of this ordinance, a lawful USE of land exists that is no longer permissible under the regulations and standards of this ordinance as adopted, or amended, such USE may be continued so long as it remains otherwise lawful subject to the following provisions:

8.2.1 Expansion of NONCONFORMING USE

- A. No such NONCONFORMING USE of land shall be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this ordinance except as provided below.
- B. NONCONFORMING SINGLE FAMILY DWELLINGS may be expanded by no more than 200 square feet and by construction of no more than one new ACCESSORY BUILDING or addition to an existing ACCESSORY BUILDING provided that the total area of such ACCESSORY BUILDING is not more than 650 square feet.
- C. NONCONFORMING nonresidential USES which are permitted as of right in the R-1, Single Family Residence District and are not otherwise permitted by Special Use Permit may be expanded by no more than 25% of building floor area and height, lot coverage, and off-street parking and loading area only if a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

8.2.2 No such NONCONFORMING USE of land shall be moved in whole or in part to any other portion of the LOT or tract of land occupied on the effective date of adoption or amendment of this ordinance.

8.2.3 If any such NONCONFORMING USE of land ceases for any reason for a period of more than 180 consecutive days, any subsequent USE of such land shall conform to the regulations and standards set by this ordinance for the DISTRICT in which such land is located.

8.3 NONCONFORMING STRUCTURES

Where, on the effective date of adoption or amendment of this ordinance, a lawful STRUCTURE exists that could not be built under the regulations and standards of this ordinance as adopted or amended, by reason of restrictions on LOT AREA, LOT COVERAGE, HEIGHT, YARDS, spacing between BUILDINGS, or other characteristics of the STRUCTURE or its location on the LOT, such STRUCTURE may be continued so long as it remains otherwise lawful subject to the following provisions:

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SECTION 8.3 NONCONFORMING STRUCTURES—CONTINUED

- 8.3.1** No such STRUCTURE may be enlarged or ALTERED in a way which increases its nonconformity.
- 8.3.2** Should such STRUCTURE be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.
- 8.3.3** Should any STRUCTURE be moved for any reason for any distance whatever, it shall thereafter conform to the regulations and standards for the DISTRICT in which it is located after it is moved.

8.4 NONCONFORMING USES of STRUCTURES

Where, on the effective date of adoption, or amendment, of this ordinance, a lawful USE or a STRUCTURE, or of a PREMISES, exists that is no longer permissible under the regulations and standards of this ordinance as adopted, or amended, such USE may be continued so long as it remains otherwise lawful subject to the following provisions:

- 8.4.1** No existing STRUCTURE devoted to a USE not permitted by this ordinance in the DISTRICT in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or ALTERED except in changing the USE of such STRUCTURE to a USE permitted in the DISTRICT in which it is located.
- 8.4.2** Any NONCONFORMING USE may be extended throughout any parts of the BUILDING or STRUCTURE which were manifestly arranged or designed for such USE at the effective date of adoption, or amendment, of this ordinance, but no such USE shall be extended to occupy land outside of such STRUCTURE.
- 8.4.3** If no structural ALTERATIONS are made, any NONCONFORMING USE of a STRUCTURE or of any PREMISES, may be changed to another NONCONFORMING USE provided that the BOARD, either by general rule or by making findings in the specific case, shall find that the proposed USE is equally appropriate to the DISTRICT as the existing NONCONFORMING USE. Such change in NONCONFORMING USE shall be considered a major VARIANCE and shall not be permitted except as provided in Section 9.1.9.
- 8.4.4** Any STRUCTURE, or any PREMISES, in or on which a NONCONFORMING USE is superseded by a permitted USE, shall thereafter conform to the regulations and standards of the DISTRICT in which such STRUCTURE or PREMISES is located, and the NONCONFORMING USE shall not be resumed.

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SECTION 8.4 NONCONFORMING USES of STRUCTURES – CONTINUED

- 8.4.5** When a NONCONFORMING USE of a BUILDING or STRUCTURE or of a PREMISES is discontinued or abandoned for 180 consecutive days or for 540 days during any 1,095 day period, the STRUCTURE or the PREMISES shall thereafter not be used except in compliance with the regulations and standards of the DISTRICT in which it is located.
- 8.4.6** Where NONCONFORMING USE status applies to a PREMISES, removal or destruction of the STRUCTURE shall eliminate the NONCONFORMING USE status of the land, except as it may qualify as a NONCONFORMING LOT of record.

8.5 Nonconforming SIGNS

- 8.5.1** SIGNS which were CONSTRUCTED in compliance with previous regulations, but which do not conform to the provision of this ordinance as of the date of its enactment, or thereafter shall be regarded as nonconforming SIGNS. All roof SIGNS shall be considered nonconforming SIGNS and subject to the provisions herein.
- 8.5.2** A nonconforming SIGN may not be:
- A. Changed to another nonconforming SIGN;
 - B. Structurally ALTERED so as to prolong the life of the SIGN;
 - C. Expanded;
 - D. Re-established after discontinuance for 90 days ; or STRUCTURE removed after discontinuance for 180 consecutive days;
 - E. Re-established after damage or destruction if the estimated expense of reconstruction exceeds 50% of appraised replacement costs.
- 8.5.3** Repair or replacement of a nonconforming SIGN with a SIGN of greater dimension than permitted by the ordinance and/or a SIGN in a location not permitted if a VARIANCE is granted by the BOARD in accordance with Section 9.1.9, and if the VARIANCE would not increase the nonconformity of the legal existing nonconforming SIGN.

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8.6 Repairs or Maintenance

On any STRUCTURE devoted in whole or in part to any NONCONFORMING USE, or which itself is NONCONFORMING, work may be done in a period of 365 consecutive days on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not to exceed 10% of the then current replacement value of the STRUCTURE, provided that the volume of such BUILDING or the size of such STRUCTURE as it existed at the effective date of the adoption, or amendment, of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any STRUCTURE or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

DRAFT

DATE: March 24, 2011

TIME: 7:30 P.M.

PLACE: Urbana City Building – City Council Chambers
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Jane Burris, Tyler Fitch, Lew Hopkins, Dannie Otto, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant

MEMBERS EXCUSED: Andrew Fell, Ben Grosser

STAFF PRESENT: Robert Myers, Planning Manager; Rebecca Bird, Planner I; Teri Anandel, Planning Secretary

OTHERS PRESENT: Jacob Barton, Ricardo Diaz, Joe Futrelle, Mayi Gere, David Gehrig, Bob Illyes, Mike Lehman, Don McClure, Jr., Raymond Morales, Migiko Nishikawa, Judith Pond, Alison Ruyle, Russell Rybicki, Tatyana Saprionova, Dan Sedgwick, Susan Taylor, Don Thorsen, James Webster

NEW BUSINESS

Case No. CCZBA-675-AT-10: A request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning Expansion of Non-Conforming Uses.

Robert Myers, Planning Manager, presented this case to the Plan Commission. He explained that the impetus for the proposed County text amendment was the land use and zoning conflicts caused by the mixed residential and industrial properties in the unincorporated Wilber Heights Subdivision in Champaign County. To resolve some of the issues and problems, Champaign County had attempted to rezone parts of the subdivision to Residential, but the City of Champaign protested the County's zoning map amendments because they were concerned that the County would be encouraging a residential subdivision right next door to an industrial park in the City of Champaign. Champaign County staff feels that the proposed text amendment would provide some relief to County regulations which now prevent residential homeowners there from repairing and renovating their homes.

He reviewed how the proposed County text amendment would affect the City of Urbana. Most of the area within the extra territorial jurisdiction (ETJ) is zoned AG-2, Agriculture. Although Carroll Subdivision is likewise a mixed residential/commercial/industrial area, it has few if any residential use nonconformities. To County staff's knowledge all the residences in Carroll Subdivision are zoned Residential. Therefore, City staff believes that the proposed text amendment would not affect properties within Urbana's ETJ. City staff recommended that the Plan Commission recommend to the City Council that they defeat a resolution of protest in this case.

Mr. Fitch moved that the Plan Commission forward Case No. CCZBA-675-AT-10 to the Urbana City Council with a recommendation to defeat a resolution of protest. Ms. Burris seconded the motion. Roll call on the motion was as follows:

Mr. Otto	-	Yes	Mr. Pollock	-	Yes
Ms. Stake	-	Yes	Ms. Upah-Bant	-	Yes
Ms. Burris	-	Yes	Mr. Fitch	-	Yes
Mr. Hopkins	-	Yes			

Mr. Myers noted that this case would go before the City Council on Monday, April 4, 2011.