



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning and Economic Development Division*

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

**TO:** Bruce K. Walden, Chief Administrative Officer

**FROM:** Elizabeth H. Tyler, AICP, City Planner

**DATE:** January 31, 2002

**SUBJECT:** CCZBA-273-AT-00 (Part B): Request by Champaign County Zoning Administrator for an omnibus text amendment to the Champaign County Zoning Ordinance regarding requirement of a reclamation agreement and performance guarantee for certain structures/site changes

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**Introduction & Background**

The Champaign County Zoning Administrator is requesting an omnibus text amendment to the Champaign County Zoning Ordinance to amend Sections 6.1 and 9.1.11 to require a reclamation agreement and performance guarantee for removal of a structure or physical change to a site that is not found to be readily adaptable to an alternative use. The proposed amendment was initially prompted by a Special Use Permit request to allow a demonstration wind turbine at a site along U.S. Route 150 west of Champaign.

This amendment is Part B of an omnibus text amendment that was originally proposed in the Spring of 2001. The remaining parts (A, C, and D) of this text amendment pertained to special use permits. On May 10, 2001, the Plan Commission moved to recommend that the City Council not protest the text amendment. At their meeting on May 21, 2001, the City Council moved to not pass Resolution 2001-05-015R protesting the text amendment. Part B was withheld from action by the Champaign County Zoning Administrator pending further research and direction from the County State's Attorney regarding reclamation bonding for certain structures/uses.

The required research has been completed and the County Zoning Administrator is now proposing an amendment to the Zoning Ordinance to require a reclamation agreement to provide for removal of the above-ground portion of the structure or physical change from the site; site grading; interim soil erosion control; and below-ground restoration, including final grading and surface treatment. The reclamation agreement shall include cost estimates for removal and site restoration. A performance guarantee in the form of an irrevocable letter of credit in the amount of 150% of an independent

engineer's cost estimate to complete removal of the structure is required. The text amendment also allows for County use of the performance guarantee to restore the site in the event of abandonment or other clear lack of response from the landowner.

The proposed text amendment is under review by the Champaign County Zoning Board of Appeals with action expected at their meeting on January 31, 2002. Additional concerns to be addressed by the Zoning Board of Appeals include disadvantages to cash deposits, feasibility of irrevocable letters of credit, and renewal of letters of credit in the event of bankruptcy. These concerns are addressed in the Supplemental Memorandum, dated January 25, 2002 (attached). Also attached are proposed changes to the Text Amendment and a Draft Finding of Fact and Final Determination of the Champaign County Zoning Board of Appeals, dated January 31, 2002.

Further background information and discussion regarding the proposed amendment is provided in the memorandum to the Urbana Plan Commission dated January 18, 2002 and attached memoranda from the Champaign County Department of Planning & Zoning.

The proposed text amendments are of interest to the City of Urbana as they may affect zoning and land use decisions within the City's one-and-one-half mile extra-territorial jurisdictional (ETJ) area. Since development within this area may abut development within the corporate limits of the City or may eventually be annexed into the City's corporate limits, some level of consistency in zoning regulations is also desirable. By State law, the City has an obligation to review zoning decisions within its ETJ area for consistency with the City's comprehensive plan. A municipal protest of the proposed amendment enforces a three-fourths super majority of affirmative votes for approval of the request at the County Board.

## **Issues and Discussion**

### **Part B: Reclamation Bond Requirement for Certain Structures**

This text amendment would require that a reclamation agreement and performance guarantee be provided for proposed structures that cannot be readily adapted to alternative uses. The need for this amendment in the County was raised by a proposed experimental wind turbine and by potential need for reclamation of pet cemeteries. The Zoning Board of Appeals was concerned about the public burden that could be associated with abandonment of structures approved by special use that could not be readily adaptable to another use. Posting of a reclamation bond or other guarantee would help to ensure that the cost of dismantlement or reclamation was available.

This amendment allows for protection of the public interest and would not negatively affect the City of Urbana. The primary special uses that are allowable in the City that could potentially pose removal or reclamation issues are telecommunications antennas and towers. Section V-11.S. of the Urbana Zoning Ordinance sets forth provisions for removal of abandoned antennas and towers at the owner's expense and posting of a bond in the event the owner is not willing to agree to the removal

provision. No further additions to the Urbana Zoning Ordinance to address this issue are recommended.

## Summary of Findings

1. The proposed text amendments are generally consistent with the Urbana Zoning Regulations and Comprehensive Plan Goals and Objectives.
2. The proposed text amendments would improve the enforcement and follow-up requirements for certain Special Use Permits issued by Champaign County.
3. Comparable text amendments to the City of Urbana Zoning Ordinance are not necessary.
4. The proposed text amendments would not pose a significant detriment to the City of Urbana or to the extra-territorial jurisdiction of the City of Urbana.

## Options

The City Council has the following options for action in CCZBA Case #273-AT-00 (Part B):

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

## Recommendation

The Plan Commission reviewed the proposed text amendment at their meeting on January 24, 2002 and recommended unanimously (by a vote of 5-0) that the City Council **defeat a Resolution of Protest** for the proposed text amendment. Staff concurs with this recommendation.

### Attachments:

- 1) Draft Resolution of Protest
- 2) Champaign County Department of Planning & Zoning, Supplemental Memorandum, January 25, 2002
- 3) Draft Finding of Fact and Final Determination of Champaign County Zoning Board of Appeals, January 31, 2002
- 4) Draft Excerpt of Minutes, Plan Commission meeting of January 24, 2002.

c: Susan Monte, Champaign County Planning and Zoning

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RESOLUTION NO. 2002-02-012

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

(Omnibus text amendment regarding requirement of a reclamation agreement and performance guarantee for certain structures and site changes - Plan Case CCZBA 273-AT-00, Part B)

WHEREAS, Frank DiNovo, Champaign County Zoning Administrator, has petitioned the County of Champaign for an omnibus amendment to the text of the Champaign County Zoning Ordinance in Champaign County ZBA Case No. 273-AT-00 to amend Sections 6.1 and 9.1.11 to require a reclamation agreement and performance guarantee for removal of a structure or physical change to a site that is not found to be readily adaptable to an alternative use; 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-273-AT-00 (Part B): Omnibus text amendment regarding requirement of a reclamation agreement and performance guarantee for certain structures and site changes"; and

WHEREAS, the Urbana Plan Commission, after considering matters pertaining to said Petition at their meeting of January 24, 2002, has recommended by a vote of 5 to 0 that the Urbana City Council defeat a resolution of protest against the proposed omnibus 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 omnibus text amendment is in the best interest 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 defeat a Resolution of Protest against the proposed omnibus text amendment as presented in CCZBA-273-AT-00, Part B.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

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Tod Satterthwaite, Mayor