



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

### MEMORANDUM

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

**FROM:** Elizabeth, H. Tyler, Director, Community Development Services

**DATE:** July 17, 2003

**SUBJECT:** CCZBA-404-AM-03: Request by Robert and Rita Wingler for a zoning map amendment to rezone 2014 High Cross Road from County AG-2 to County B-2. Resolution of Protest.

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### Introduction & Background

Robert and Rita Wingler have petitioned the Champaign County Board for a zoning map amendment for their property at 2014 High Cross Road from AG-2, Agriculture to B-2, Neighborhood Business. The property for years has contained a restaurant called the Apple Dumplin'. The Wingler's have operated the restaurant as a legally non-conforming use in the AG-2 zoning district. In June 2003 a fire damaged a significant portion of the restaurant. The damage was significant enough that the property lost its non-conforming rights under the Champaign County Zoning Ordinance. The Wingler's have indicated their intention to rebuild and reopen the restaurant. In order to do so, the property must be rezoned to a classification that allows restaurant uses.

On July 10, 2003 the Urbana Plan Commission considered the matter and recommended that the City Council defeat a resolution of protest against the rezoning. For additional information regarding the request, please refer to the Plan Commission memorandum dated July 1, 2003.

### Issues and Discussion

The petitioner intends to reconstruct the restaurant to be larger with more storage space and with the ability to accommodate more parking. The property is approximately one acre in size. Although B-2 Zoning is required, the petitioner is also required to obtain approval of a special use permit from the Champaign County Zoning Board of Appeals as well. The Special Use Permit will address the details of the restaurant operations. The City of Urbana can review and comment on special use permit requests but does not have protest rights. To date, the Champaign County Zoning Board of

Appeals and the Environment and Land Use Committee have endorsed the proposed map amendment. The County Board will consider the case on July 24, 2003.

The Urbana Plan Commission considered the case in relation to the LaSalle Criteria and the stated goals and objectives of the City's Comprehensive Plan. The site is identified in the City's ETJA Plan with a future land use designation of commercial. Some members of the Plan Commission had general concerns about other activities that could be established on the property when it is in the B-2 district. In particular, it was suggested that the restaurant not be allowed to include alcohol sales, entertainment uses and that the hours of operation be limited to 6:00 a.m. to 8:00 p.m. Staff noted that those concerns are better suited for the special use permit request and that the comments would be forwarded to the Champaign County Zoning Board of Appeals for their consideration (see attached).

### **Summary of Staff Findings**

At the July 10, 2003 meeting, the Urbana Plan Commission adopted the following findings:

1. The proposed rezoning will promote compatible development within the ETJ.
2. The proposed rezoning will promote neighborhood business development in an area where the Urbana's ETJ Future Land Use Map recommends commercial.
3. The proposed zone change is consistent with policies of both the City and the County which promote contiguous growth and compatibility of land uses.
4. The evaluation of the current surrounding County zoning, the proposed City ETJ projections and the LaSalle Criteria indicate that the zoning change request is justified.

### **Options**

In CCZBA Case #404-AM-03, the City Council has the following options:

- a. Defeat a resolution of protest for the proposed map amendment.
- b. Adopt a resolution of protest for the proposed map amendment.

### **Staff Recommendation**

At the July 10, 2003 Plan Commission meeting, the Commission voted 6-1 to recommend that the Urbana City Council **defeat a resolution of protest** for the proposed map amendment based upon the findings summarized above. Staff concurs with this recommendation.

Attachments:

- 1) Draft Ordinance for Resolution of Protest
- 2) Aerial Photo
- 3) Champaign County Staff Report and Zoning Board of Appeals Finding of Fact
- 4) Letter from Rob Kowalski to John Hall describing comments from Urbana Plan Commission
- 5) Draft Plan Commission Minutes from March 21, 2002

c: John Hall, Champaign County Planning and Zoning

**RESOLUTION NO. 2003-07-017R**

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

(2014 High Cross Road / Apple Dumplin' Restaurant)

WHEREAS, Robert and Rita Wingler, have petitioned the County of Champaign for a map amendment to the zoning map of the Champaign County Zoning Ordinance in Champaign County ZBA Case No. 404-AM-03 to rezone 2014 High Cross Road from the AG-2, Agricultural Zoning District to the B-2, Neighborhood Business Zoning District; 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-404-AM-03; and

WHEREAS, the Urbana Plan Commission held a meeting on July 10, 2003 to consider the request against the goals and objectives of the City of Urbana Comprehensive Plan as well as the LaSalle Criteria and subsequently recommended by a vote of 6 to 1 that the Urbana City Council defeat a resolution of protest against the proposed map amendment; and

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed 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 map amendment as presented in CCZBA-404-AT-03.

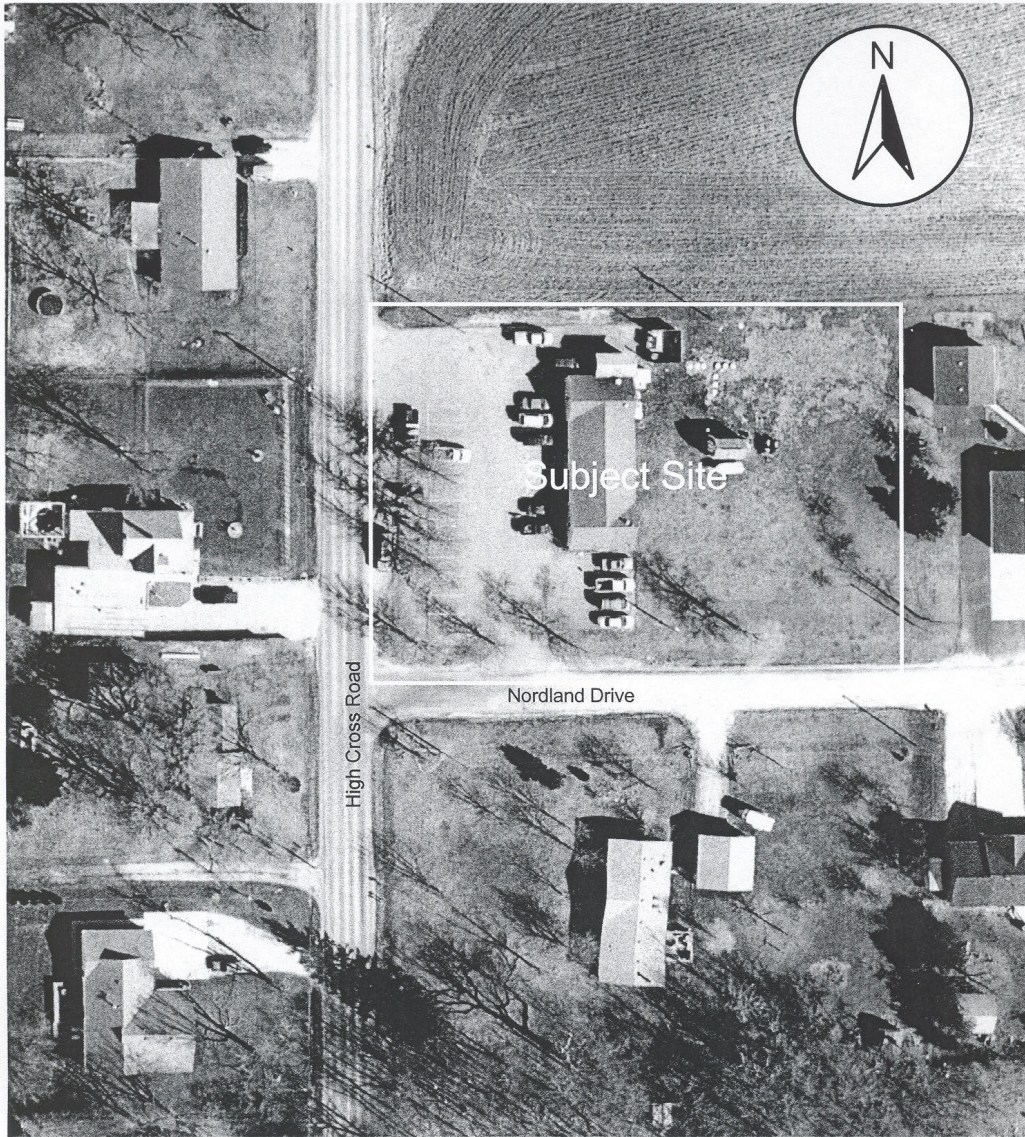
PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

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

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Tod Satterthwaite, Mayor

# Exhibit : Aerial Photo



CCZBA-404-AM-03  
Rezoning Request from  
AG-2 to B-2  
2014 High Cross Road  
Apple Dumplin' Restaurant Site

Prepared July 2, 2003 by Community Development Services - mrb

Mr. John Hall, Interim Director  
Champaign County Department of Planning and Zoning  
1776 East Washington Street  
Urbana, IL 61802

July 15, 2003

Dear John:

On July 10, 2003 the Urbana Plan Commission held a meeting and discussed the Apple Dumplin' rezoning request at 2014 North High Cross Road. Bob and Rita Wingler were in attendance and offered some helpful background on the request and their intentions to rebuild the restaurant. The Plan Commission recommended to the Urbana City Council that the city not protest the rezoning request. The Council will make the final recommendation at their meeting on July 21, 2003. I will immediately rely to you their decision.

At the Plan Commission meeting on July 10<sup>th</sup>, some Commissioners indicated general concern with the County B-2 zoning district at that site and the activities that are permitted in that zone. It was proposed by one Commissioner that the "no protest" recommendation be conditioned that there would not be any licenses issued for entertainment uses or the sale of alcohol and that the hours of operation be limited from 6 a.m. to 9 p.m.

City staff advised the Plan Commission that adding specific conditions in conjunction with rendering an opinion on the rezoning is inconsistent with how we interpret state statute as it pertains to rezoning requests. Nevertheless, it was promised that the concerns of the Urbana Plan Commission would be forwarded to the County along with a copy of the minutes of the meeting so the County Zoning Board of Appeals may consider them in conjunction with the proposed special use permit to re-establish the restaurant.

Please feel to call me if you have any questions about the meeting.

Sincerely,

Rob Kowalski, AICP  
Planning Manager

Cc: Libby Tyler, Urbana Plan Commission Members  
Enclosure: Draft Plan Commission minutes from the meeting of July 10, 2003