



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### **memorandum**

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

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

**DATE:** August 11, 2005

**SUBJECT:** CCZBA 453-AM-04: Request by William and Peggy Campo to amend the Champaign County Zoning Map to change the zoning district designation at 2305 E. Oaks Road, Urbana, from AG-2, Agriculture to B-1, Rural Trade Center.

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### **Introduction**

A petition has been submitted to the Champaign County Department of Planning and Zoning requesting a change in zoning for 2305 E. Oaks Road from AG-2, Agriculture to B-1 Rural Trade Center. This site is currently being used as an automobile repair shop. The business has been established at this location for approximately eighteen months and is not in compliance with County Zoning use regulations. However it should be noted that the subject location has had a commercial building and has housed various commercial uses since at least 1972. The 0.62 acre tract parcel lies within one and one-half miles of the Urbana City Limits. As a result, the City of Urbana retains protest rights over the rezoning request.

In their memo dated July 29, 2005, Urbana Planning Staff reviewed the case according to established criteria and took the position that they could recommend the Plan Commission recommend “no protest” to the Urbana City Council. Staff completed the memo on July 28, 2005 and included all the information available at that time. In findings to support the “no protest” position Staff stressed the special conditions to be placed on the subject property as presented in the Champaign County Department of Planning and Zoning (CCDPZ) Staff Memoranda and Finding of Fact. At that time the proposed conditions were identified as Item 41 of the Findings of Fact in the County Supplemental Memorandum dated July 22, 2005. They are repeated below:

- 1. The zoning of the subject property shall be B-1 Rural Trade Center but the only authorized use on the subject property shall be limited to activities appropriate for and similar to the Zoning Ordinance definition of “minor automobile repair”.*
- 2. The property will be brought into compliance with all requirements of the Champaign County Zoning Ordinance within one year of the map amendment approval with the exception of the setback from Oaks Road or as authorized by variance.*

3. *The zoning district designation shall revert back to AG-2 Agriculture upon either of the following:*
  - A. *damage or destruction of the existing building by more than 50% of its replacement value; or*
  - B. *the cessation of a minor automobile repair business or the cessation of activities defined as minor automobile repair on the subject property in which case the Champaign County Department of Planning and Zoning shall be notified in writing upon the cessation of said use.*

The Champaign County Zoning Board of Appeals (CCZBA) public hearing of the case was held later that evening of July 28, 2005 after Urbana Staff had finalized their memo. At the hearing the Champaign County States Attorney advised against placing conditions on the rezoning. The CCZBA voted that the proposed rezoning “not be enacted”. With that vote (which was a recommendation of denial), the County ZBA did not endorse any conditions in the final determination because they did not believe the conditions would ensure compatibility with surrounding land uses.

Due to that change in the case Urbana Planning Staff issued a revised memo at the August 4<sup>th</sup> hearing that reversed its recommendation and advised the Plan Commission to recommend a “Protest” to the Urbana City Council. The reason was that absent these conditions on the rezoning, were the County ZBA recommendation of denial to be reversed by the Environment and Land Use Committee (ELUC) of the County Board, and the rezoning finally approved by the full County Board, than **the rezoning could occur without any of the restrictions** that the Urbana Staff had held central to their findings and initial recommendation of “no protest”.

At the August 4, 2005 public hearing there were five members of the Plan Commission present. One member recused himself because when speaking as a private citizen at the CCZBA hearing in February he had expressed opposition to the case. The remaining members of the Urbana Plan Commission voted four (4) ayes, zero nays to approve a recommendation to the City Council that they approve “A Resolution of Protest” of the rezoning. A municipal protest enforces a three-fourths super majority of affirmative votes for approval of the request by the County Board. The Urbana City Council will review the Commission’s recommendation and vote to either approve or defeat “A Resolution of Protest”. If “A Resolution of Protest” is passed it must be filed with the Champaign County Clerk. In that manner the result of the vote on the resolution would be forwarded to the County.

The County ELUC committee met Monday August 8<sup>th</sup> to vote on the matter and forwarded a recommendation of denial to the full County Board for a final decision at its August 15<sup>th</sup> public meeting.

## **Background**

This case began in January 2004 when the property was sold to the current owners and their tenant established an auto repair business. The request for a rezoning was initiated in January

2005 with a first hearing in February 2005. The initial request was for rezoning from AG-2 to B-3, Highway Business. The request was later amended to rezoning from AG-2 to B-1, Rural Trade Center which is less permissive than B-3, Highway Business in the type and intensity of uses permitted.

Additional detailed background information on the rezoning case, including location and zoning maps, is contained within the CCDPZ memorandum to ELUC dated August 2, 2005 (attached hereto). The following discussion of the issues involved will summarize the essential parts of this information as it pertains to the City's planning jurisdiction.

## **Issues and Discussion**

### ***County Zoning***

Champaign County established its Zoning Ordinance in 1973. At that time the subject location was not assigned a B-1, Rural Trade Center zoning designation even though it had been the location of a number of businesses in prior years.

The County Zoning Ordinance states:

*"The B-1 Rural Trade Center District is intended to provide areas for agricultural related business services to rural residents."*

The Champaign County Zoning Ordinance permits minor automobile repair in the B-1, Rural Trade Center district by right, as well as other more intensive uses not generally compatible with residential development.

### ***City of Urbana 2005 Comprehensive Plan - Future Land Use Designations***

The City of Urbana 2005 Comprehensive Plan future land use designation for the site is "Residential." The Plan states:

*"Residential areas contain primarily single-family housing, but may contain a variety of compatible land uses. Urban development patterns are often found in older neighborhoods, with an emphasis on pedestrian traffic. Suburban development patterns are found in newer areas, with larger lots served by a well-connected street network with pedestrian and bicycle facilities."*

The Comprehensive Plan also includes descriptions of these patterns of development. The description of the Residential (suburban pattern) type of development does not include commercial development but recommends street, bicycle and pedestrian connectivity to "...adjoining neighborhoods, schools, parks, and business centers."

Staff feels that many uses permitted by the County rezoning would be inconsistent with the Comprehensive Plan's future land use designation of residential for the surrounding area.

## ***City of Urbana Zoning***

In evaluating the proposed rezoning from the City's perspective one question to address is does the use involved match the type of uses that would be permitted in the same or similar business zoning district in the City.

Section IV-2 of the City of Urbana Zoning Ordinance states:

*"The **B-1 Neighborhood Business District** is intended to provide commercial areas of limited size, for basic trade and personal services for the convenience of adjacent residential areas, for needs recurring regularly or frequently."*

Urbana's B-1, Neighborhood Business District is closest in definition of intent and permitted uses to the County's B-2, Neighborhood Business District. The County's B-1, Rural Trade Center district has a definition that includes "...agriculture related business services to rural residents". This County district has no closely comparable district among Urbana's business districts. The types of businesses that might be permitted in County B-1, Rural Trade Center are found in Urbana's B-3, General Business, Agriculture, or Industrial districts. The Urbana Zoning Ordinance Table IV-1, "County to City Zoning Conversion" calls for direct translation of County B-1 zoned parcels to City B-1 zoning when such parcels are annexed to the City.

Staff feels the type of uses permitted without restrictions in the County B-1, Rural Trade zoning district are not completely consistent with the type of business establishment the City of Urbana Zoning Ordinance would allow in the B-1 zone.

## **Summary of Findings**

At the August 4, 2005 meeting the Urbana Plan Commission adopted the following findings:

1. The Champaign County Board of Appeals has recommended that the proposed rezoning "not be enacted" (which is a recommendation of denial).
2. The Champaign County Board of Appeals has not endorsed the application of conditions placed on the rezoning of the property.
3. The Champaign County States Attorney has not endorsed the legality of placing restrictive conditions on the rezoning of the property.
4. The Champaign County Board of Appeals Finding of Fact, Item 23, states the proposed rezoning does not achieve the third commercial land use goal regarding land use compatibility.
5. The Champaign County Board of Appeals Finding of Fact, Item 32, states the proposed rezoning does not achieve the fourth general land use goal regarding land use compatibility.

6. The Champaign County Board of Appeals Finding of Fact, Item 38, states the proposed rezoning does not conform to Land Use Regulatory Policy 1.6.1 which permits non-residential uses in rural areas if they support agriculture or involve a product or service that is better provided in a rural area rather than in an urban area.
7. The proposed rezoning is not compatible with the Urbana Comprehensive Plan Future Land Use residential designation for the surrounding areas because the County B-1, Rural Trade zoning district allows land uses that are not compatible with residential land uses.
8. The use of the site by some of the land uses permitted in County B-1, Rural Trade zoning district could be contrary to the goals and polices of the Urbana Comprehensive Plan.

## Options

In CCZBA Case #453-AM-04, the City Council has the following options:

- a. Defeat a resolution of protest for the proposed rezoning request from AG-2 to B-1; or
- b. Adopt a resolution of protest for the proposed rezoning request from AG-2 to B-1.

## Recommendation

At the August 4, 2005 Plan Commission meeting, the Commission voted 4-0 to recommended the Urbana City Council **approve “A Resolution of Protest”** of the proposed rezoning request from AG-2 to B-1, based upon the findings above. Staff concurs with this recommendation.

Prepared by:

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Paul Lindahl, Planner I

Attachments:

1. Urbana Planning Supplemental Staff Memorandum, dated August 4, 2005.
2. Draft Minutes of August 4, 2005 Urbana Plan Commission public hearing.
3. CCDPZ Memorandum to Environment and Land Use Committee (ELUC), dated August 2, 2005 w/ Findings of Fact
4. Aerial Photo
5. Urbana Comprehensive Plan Future Land Use Map

cc: John Hall, Champaign County Planning and Zoning  
William Campo, C/O Campo Real Estate, 1001 N. Cunningham Ave., Urbana, IL 61802

**RESOLUTION NO. 2005-08-014R**

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

(2305 E. Oaks Road / William and Peggy Campo)

WHEREAS, William and Peggy Campo, 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. 453-AM-04 to rezone 2305 E. Oaks Road from the AG-2, Agriculture to B-1, Rural Trade Center; 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-453-AM-04"; and

WHEREAS, the Urbana Plan Commission held a meeting on August 4, 2005 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 four (4) ayes, zero nays, and with one recused/abstained that the Urbana City Council approve 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 map amendment is not 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 approve a Resolution of Protest against the proposed map amendment as presented in CCZBA-453-AM-04.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

**memorandum**

**TO:** Urbana Plan Commission  
**FROM:** Paul Lindahl, Planner I  
**DATE:** August 4, 2005  
**SUBJECT:** Supplemental Staff Memorandum for CCZBA 453-AM-04:

Request by William and Peggy Campo to amend the Champaign County Zoning Map to change the zoning district designation at 2305 E. Oaks Road, Urbana, from AG-2, Agriculture to B-1, Rural Trade Center.

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**Introduction**

The subject parcel for this case lies within one and one-half miles of the Urbana City Limits. As a result, the City of Urbana retains protest rights over the rezoning request. The Plan Commission must vote to make a recommendation to the City Council that would result in either a “protest” or “no protest” of the rezoning. A municipal protest enforces a three-fourths super majority of affirmative votes for approval of the request by the County Board. After the City’s Plan Commission’s discussion and vote upon a recommendation, the Urbana City Council will meet to review the Commission’s recommendation and vote to either approve or defeat “A Resolution of Protest”. If “A Resolution of Protest” is passed it must be filed with the Champaign County Clerk. In that manner the result of the vote on the resolution would be forwarded to the County.

The previous Urbana Planning Staff memo for this case was dated and delivered to mail July 29, 2005. Staff reviewed the case according to established criteria and took the position that they could recommend the Plan Commission recommend “no protest” to the Urbana City Council. In findings to support that position Staff stressed the special conditions to be placed on the proposed subject property as presented in the Champaign County Department of Planning and Zoning (CCDPZ) Staff memoranda and Finding of Fact. Urbana Staff completed the memo on July 28, 2005 and included all the available information.

The Champaign County Zoning Board of Appeals (CCZBA) public hearing of the case was held later that evening of July 28, 2005. At the hearing, the CCZBA voted that the proposed rezoning “not be enacted”. With that vote (which is a recommendation of denial), the County ZBA did not endorse any conditions in the final determination because they did not believe the conditions would ensure compatibility with surround land uses. Absent the conditions on the rezoning, were the County ZBA recommendation of denial to be reversed by the Existing Land



Use Committee (ELUC) of the County Board, and the rezoning finally approved by the full County Board, than **the rezoning could occur without any of the restrictions** that the Urbana Staff had held central to their findings and resulting recommendation of “no protest”. Due to this change in the case Urbana Planning Staff must reverse its recommendation and advise the Plan Commission to recommend a “Protest” to the Urbana City Council.

## **Background**

Additional detailed background information on the rezoning case, including location and zoning maps, is contained within the Champaign County Department of Planning and Zoning (CCDPZ) Memorandum to the Environment and Land Use Committee attached hereto.

The following discussion of the issues involved will summarize the essential parts of this information as it pertains to the City’s planning jurisdiction.

## **Issues and Discussion**

### ***County Zoning***

The County Zoning Ordinance states:

*“The B-1 Rural Trade Center District is intended to provide areas for agricultural related business services to rural residents.”*

The Champaign County Zoning Ordinance permits minor automobile repair in the B-1, Rural Trade Center district by right, as well as other more intensive uses not generally compatible with residential development.

### ***City of Urbana 2005 Comprehensive Plan - Future Land Use Designations***

The City of Urbana 2005 Comprehensive Plan future land use designation for the site is Residential. The Plan states:

*“Residential areas contain primarily single-family housing, but may contain a variety of compatible land uses. Urban development patterns are often found in older neighborhoods, with an emphasis on pedestrian traffic. Suburban development patterns are found in newer areas, with larger lots served by a well-connected street network with pedestrian and bicycle facilities.”*

The Comprehensive Plan also includes descriptions of these patterns of development. The description of the Residential (suburban pattern) type of development does not include commercial development but recommends street, bicycle and pedestrian connectivity to “...adjoining neighborhoods, schools, parks, and business centers.”

Staff feels that many uses permitted by the County rezoning would be inconsistent with the Comprehensive Plan’s future land use designation of residential for the surrounding area.

### **City of Urbana Zoning**

In evaluating the proposed rezoning from the City's perspective one question to address is does the use involved match the type of uses that would be permitted in the same or similar business zoning district in the City.

Section IV-2 of the City of Urbana Zoning Ordinance states:

*"The **B-1 Neighborhood Business District** is intended to provide commercial areas of limited size, for basic trade and personal services for the convenience of adjacent residential areas, for needs recurring regularly or frequently."*

Urbana's B-1, Neighborhood Business District is closest in definition of intent and permitted uses to the County's B-2, Neighborhood Business District. The County's B-1, Rural Trade Center district has a definition that includes "...agriculture related business services to rural residents". This County district has no closely comparable district among Urbana's business districts. The types of businesses that might be permitted in County B-1, Rural Trade Center are found in Urbana's B-3, General Business, Agriculture, or Industrial districts. The Urbana Zoning Ordinance Table IV-1, "County to City Zoning Conversion" calls for direct translation of County B-1 zoned parcels to City B-1 zoning when such parcels are annexed to the City.

Staff feels the type of uses permitted without restrictions in the County B-1, Rural Trade zoning district are not consistent with the type of business establishment the City of Urbana Zoning Ordinance would allow in the B-1 zone.

### **Summary of Staff Findings**

1. The Champaign County Board of Appeals has recommended that the proposed rezoning "not be enacted" (which is a recommendation of denial).
2. The Champaign County Board of Appeals has not endorsed the application of conditions placed on the rezoning of the property.
3. The Champaign County States Attorney has not endorsed the legality of placing restrictive conditions on the rezoning of the property.
4. The Champaign County Board of Appeals Finding of Fact, Item 23, states the proposed rezoning does not achieve the third commercial land use goal regarding land use compatibility.
5. The Champaign County Board of Appeals Finding of Fact, Item 32, states the proposed rezoning does not achieve the fourth general land use goal regarding land use compatibility.
6. The Champaign County Board of Appeals Finding of Fact, Item 38, states the proposed rezoning does not conform to Land Use Regulatory Policy 1.6.1 which permits non-

residential uses in rural areas if they support agriculture or involve a product or service that is better provided in a rural area rather than in an urban area.

7. The proposed rezoning is not compatible with the Urbana Comprehensive Plan Future Land Use residential designation for the surrounding areas because the County B-1, Rural Trade zoning district allows land uses that are not compatible with residential land uses.
8. The use of the site by some of the land uses permitted in County B-1, Rural Trade zoning district could be contrary to the goals and polices of the Urbana Comprehensive Plan.

## Options

The Plan Commission has the following options in CCZBA Case No. CCZBA 453-AM-04. The Urbana Plan Commission may:

- a. Forward the plan case to the City Council with a recommendation of “no protest” for the rezoning request from AG-2 to B-1; or
- b. Forward the plan case to the City Council with a recommendation of "no protest" for the rezoning request from AG-2 to B-1, contingent upon specific provisions to be identified; or
- c. Forward the plan case to the City Council with a recommendation of “protest” for the rezoning request from AG-2 to B-1.

## Staff Recommendation

Based upon the findings above, and to maintain compatibility of land development in the City’s Extra Territorial Jurisdiction with the City’s Comprehensive Plan, Staff now recommends that the Plan Commission forward a recommendation to City Council that they **pass a resolution of protest** of the proposed rezoning from AG-2 to B-1.

Attachments:

CCDPZ = Champaign County Department of Planning and Zoning

- A) CCDPZ Memorandum, dated August 2, 2005 w/ Findings of Fact

# Aerial Map

# EXHIBIT "E"



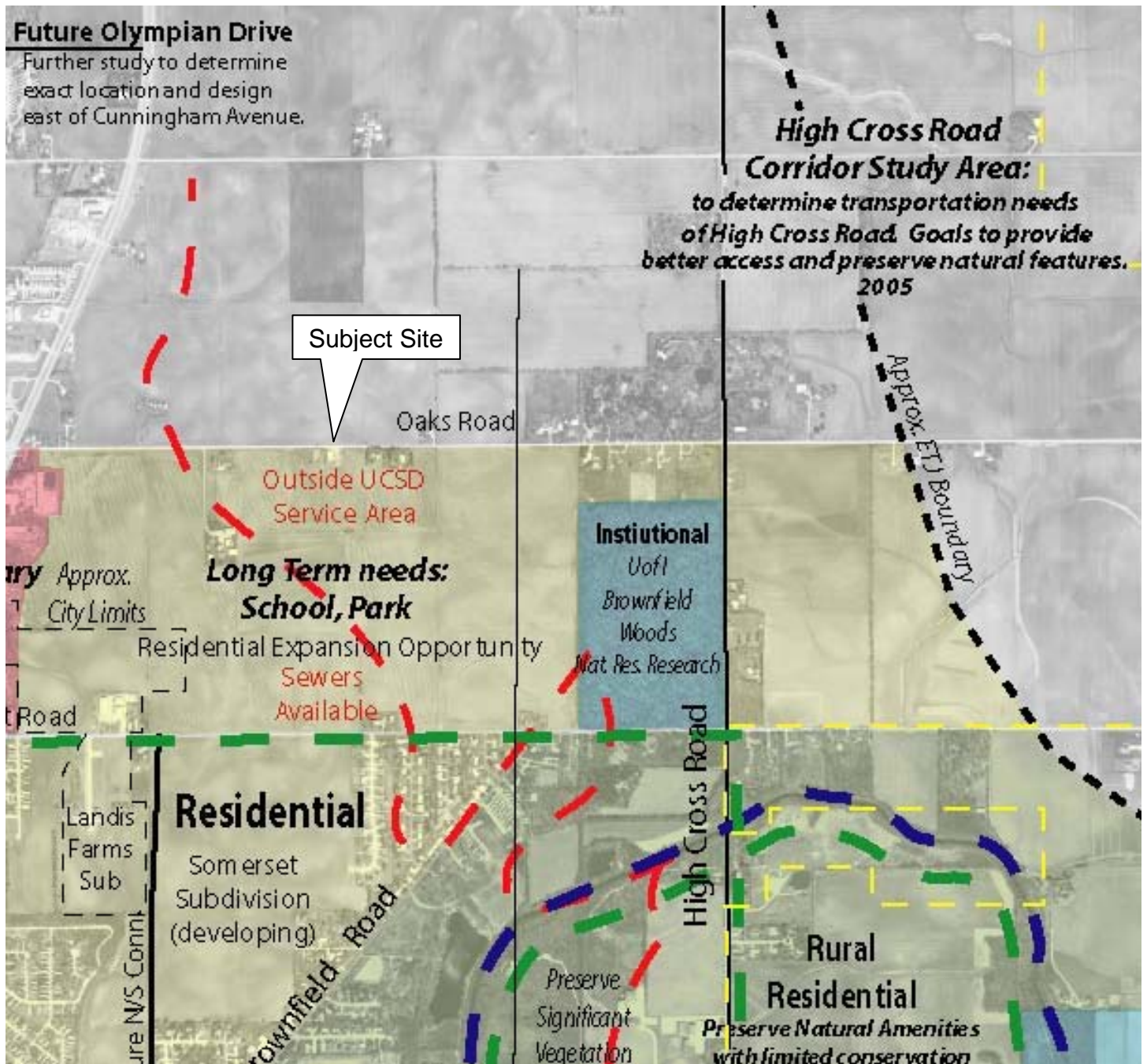
**Case:** CCZBA 453-AM-04  
**Petitioner:** William Campo  
**Location:** 2305 East Oaks Road  
**Description:** Review of petition to rezone property from Champaign County AG-2, Agriculture to County B-1, Rural Trade Center

*Prepared 7/29/05 by Community Development Services - pal*

# Future Land Use

# EXHIBIT "F"

Source: Comprehensive Plan Future Land Use Map # 2, p.73, detail



**Case:** CCZBA 453-AM-04  
**Petitioner:** William Campo  
**Location:** 2305 East Oaks Road  
**Description:** Review of petition to rezone property from Champaign County AG-2, Agriculture to County B-1, Rural Trade Center

Prepared 7/29/05 by Community Development Services - pal

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**DRAFT**

**DATE:** August 4, 2005  
**TIME:** 7:30 P.M.  
**PLACE:** Urbana City Building  
400 South Vine Street  
Urbana, IL 61801

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**MEMBERS PRESENT:** Laurie Goscha, Benjamin Grosser, Marilyn Upah-Bant, James Ward, Don White

**MEMBERS EXCUSED:** Lew Hopkins, Randy Kangas, Michael Pollock, Bernadine Stake

**STAFF PRESENT:** Elizabeth Tyler, Director of Community Development Services; Paul Lindahl, Planner I; Matt Wempe, Planner I; Teri Andel, Secretary

**OTHERS PRESENT:** George and Nancy Boyd, William Campo, Bernard Coffey, Lisa Denson-Rives, Ray Elliot, George Friedman, Merle Ingersoll, Jr., Christine McCormick, Rick Mills, Art Russell, Kelly Strube, Susan Taylor

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**WRITTEN COMMUNICATIONS**

- Updated County Staff Report for CCZBA 453-AM-04
- Supplemental City Staff Report for CCZBA 453-AM-04

**NEW BUSINESS**

Ms. Goscha took over the position of Acting Chair. Mr. White recused himself from the following case, because he had already publicly expressed an opposition to the proposed Champaign County rezoning.

**CCZBA 453-AM-04: Request by William and Peggy Campo to amend the Champaign County Zoning Map to change the zoning district designation at 2305 East Oaks Road, Urbana, from AG-2, Agriculture to B-1, Rural Trade Center.**

Paul Lindahl, Planner I, presented this case to the Plan Commission. He began by noting the written communications that were handed out prior to the meeting. One was a supplement to the

written staff report from the City, and the other communication was an update to the County's written staff reports.

The County update summarized the results of the County Zoning Board of Appeals meeting that was held on July 28, 2005, and City staff had just received the update earlier in the day. Basically, the County Zoning Board of Appeals had made a recommendation to deny approval of the proposed rezoning case.

In the original written staff report to the Plan Commission, City staff findings were based upon conditions that the County had proposed to place on the minor automobile repair business activities should the rezoning be granted. As a result, City staff originally had recommended that the Plan Commission and the City Council defeat a resolution of protest of the proposed rezoning from County AG-2 to B-1.

Mr. Lindahl explained that the County Zoning Board of Appeals did not endorse the proposed conditions in their final determination, because they did not believe that the conditions would ensure compatibility with the surrounding land uses. Because the County Zoning Board of Appeals had made a recommendation to deny approval of the proposed rezoning case, the proposed conditions were no longer directly attached to an approval. Therefore, if the proposed rezoning case were to be approved by the County Environment and Land Use Committee and forwarded to the Champaign County Board without the proposed conditions, then City staff believed that the rezoning from County AG-2 to B-1, Rural Trade Center, would be incompatible with the goals and objectives of the City of Urbana's Comprehensive Plan designation of residential for the proposed area.

When County areas are annexed into the City, there was a direct conversion table that staff uses to show the change from County zoning to City zoning. County B-1, Rural Trade Center, would convert to the City's B-1, Neighborhood Business Zoning District. There were a number of uses in the County B-1 that would only be found in the City's AG (Agriculture), IN (Industrial) or B-3 (General Business) Zoning Districts. For this reason, the direct conversion would not be a good match for the concept of "neighborhood business" as the Urbana Zoning Ordinance defines it.

Mr. Lindahl discussed the conditions that were originally proposed. He summarized staff findings, read the options of the Plan Commission, and presented staff's recommendation, which was as follows:

*Based upon staff's findings and to maintain compatibility of land development in the City's Extra Territorial Jurisdiction with the City's Comprehensive Plan, staff recommended that the Plan Commission forward a recommendation to City Council that they pass a resolution of protest of the proposed rezoning from County AG-2 to B-1.*

William Campo, petitioner for the proposed County rezoning case, said he came to the Plan Commission meeting thinking that City staff was recommending that the Plan Commission defeat a resolution of protest. He was then struck with the news that the City staff had changed their recommendation.

Mr. Campo pointed out that there was an existing building that had been located on the proposed property for at least 50 years. The building has been used by different businesses in the past, and he wished to continue using the building for business purposes. He noted that there really were not any neighbors that had problems with the current business occupying the building.

He pointed out that the existing building/property was overlooked when zoning was enacted back in 1973. The building was obviously used for business purposes. Why not allow him to continue to use the building for business purposes? He did not plan to add anything by building additions or expanding. They only want to run a business in a building that had been there for a long time.

He mentioned that since the proposed building/site was currently being used as an automotive repair business, then they would be willing to install screening for the neighbors. However, no one had actually complained about the tenant or how the tenant operates his business.

Mr. Campo expressed that in order to get the full use of the building, then the property needed to be rezoned.

Bernard Coffey, of 1 Persimmon Circle, mentioned that he was the tenant operating an automotive repair business in the existing building at 2305 East Oaks Road. He had been in the automotive business for 25 to 30 years and had extensive experience in heavy equipment. He stated that his business had been located on the proposed property for about a year and a half. He always tries to give to the community. He understood the concern of the people in the area and enjoyed working with them. Many of the people in the area have been clients of his business.

He went on to say that he enjoyed where he was. He was not too much of a city person anymore. He liked the peacefulness of the country. He would like to keep operating his business in the proposed building. However, he did not plan to be in the building forever. His business had grown continuously for the last three years.

Mr. Coffey was willing to work with Mr. Campo on creating a win-win situation. He was willing to do what he could to improve the site by providing screening, etc. He was only asking to be able to work. He made a living at repairing the finer automobiles and enjoyed it.

Art Russell, accountant for Mr. Coffey, mentioned that the prior occupant, Jim Goodman, had a sheet metal shop in the proposed building. He did work for some of the local farmers and for outsiders. Mr. Goodman never had to have the property rezoned in order to operate his business. He thought the reason why Mr. Campo had to rezone the property was because Mr. Coffey had a few cars sitting on the property. He agreed that screening would be necessary. He thought that maybe if they had screened the property when Mr. Coffey first opened up his business, then no one would have known that an automotive repair business was located there, except for Mr. Coffey's sign on the front of the building.

There were no loud noises coming from the building. The machine shop may have made more noise. As mentioned earlier, the building was at least 50 to 60 years old, and businesses have occupied the building all this time.



Mr. Russell stated that Mr. Coffey moved his business here about a year and a half ago. Mr. Coffey had out-grown the site where his business was previously located. Many of his clientele followed him to the current location. Now, to make him move again in a 3 year time frame, Mr. Coffey would need to ensure that his prior clientele could follow him in order to be successful. Customers do not like when a business keeps moving. Denying the proposed rezoning would be a detriment to Mr. Coffey's business and to him to earn a livelihood.

It seemed to Mr. Russell that most of the County Zoning Board of Appeals was in favor of the rezoning until they heard that the State's Attorney office would not endorse the conditions recommended. He did not understand why they could not put the proposed conditions on Mr. Coffey's business and approve the rezoning. The building and Mr. Coffey's business would clearly not enhance or detriment the City's ongoing plan of what would happen in years to come. He could not imagine that the City of Urbana's long-term goals would look any shorter than 20 or 30 years down the road. The property could revert back to AG-2 when Mr. Coffey's business goes away. Mr. Campo bought the building/property with the intention of using it for business purposes.

Mr. Lindahl reminded the Plan Commission that the recommendation of the Champaign County Zoning Board of Appeals to not recommend the rezoning was done without conditions or stipulations. So, officially there are no longer those conditions on the table. As it stands now, if the rezoning was approved, then the proposed property would have the potential to have any type of business that would be permitted in the County B-1 Zone. Some of those potential uses would not be compatible with the residential land use that the Urbana Comprehensive Plan contemplates for this area in the future.

Ms. Upah-Bant asked if the petitioner would be allowed to have a car repair shop in the building or not. Mr. Lindahl explained that it could be used as a car repair shop if the property was rezoned. If it was not rezoned, then minor automobile repair was not permitted in County AG-2. Mr. Coffey would have to move his business. They have been in violation of the County Zoning Ordinance every since they located there.

Mr. Grosser inquired if it would be possible to recommend no protest against the rezoning on the condition that the County Board decides to reinstate the previously proposed conditions on the automotive repair business. Ms. Tyler mentioned that the Plan Commission had forwarded conditional "no protests" and conditional "protests" before. It was difficult in a case where there were some extenuating circumstances, and it is on the edge of the planning area. The City would like to preserve their protest rights for big issues, because it is one body of government saying to another body of government that they think an issue was enough of a violation that they were going to force a higher number of required votes. So, the City has had several cases where they have worked on language to mitigate or show the path for how the City could be satisfied.

Furthermore, Ms. Tyler pointed out that to place conditions on a certain use and have the zoning revert back after that use is no longer there was not a customary planning and zoning practice in the State of Illinois. Therefore, she was not surprised at the State's Attorney position. Different jurisdictions will take different approaches, and the City of Urbana needed to respect that the County zoning was a very different world than municipal zoning. The County deals with many types of land use compatibility problems and enforcements. She mentioned that if the Plan

Commission could think of ways to modify or make suggestions, then it would be okay to do so. In the past, it has been helpful for the County.

Mr. Ward asked for clarification on what the State's Attorney office said. He understood that the State's Attorney was raising the issue of whether conditions could be imposed. Ms. Tyler said that the City's practice for zoning was that they do not condition zoning. You have to take a zoning district in its entirety. The City does not partake in "contract" zoning. It is only legal in some states.

Mr. Ward understood that the County was willing to approve the rezoning as long as they felt that they could place conditions on the rezoning. Once the County learned that this was questionable, then they changed their position. It seemed to him that the City was in a position to respond to what the County had recommended. The County Zoning Board of Appeals made a recommendation without conditions because of some questions about the legality of those conditions. Really, the City's zone of discretion was somewhat limited. The proposed rezoning did not have anything to do with what the people have testified about. It was a larger legal issue.

Ms. Goscha commented that it appears that the petitioner had attempted to do the right thing. Mr. Campo knows that his property was not in compliance with the County Zoning Ordinance, and he was trying to rezone his property. She appreciated this, because there were plenty of landowners who do not want to do this. However, restrictions cannot be placed upon approving the rezoning. She inquired what recourse was there for the owner. Ms. Tyler said that it seemed to her to be the end of the road. Over the last several months, the County had tried to rezone the proposed property to a higher zone of B-3. There were neighbor protests against the types of uses that could occupy the building/property. B-1 appeared to be something that could conceivably be consistent with the residential area, particularly with the restrictions. Now, the restrictions have been removed, and the whole line of argument had fallen apart. Mr. Lindahl added an important note that many of the people who testified stated that they had no problem with Mr. Coffey's business. They were concerned about what might happen in the future when Mr. Coffey's business no longer existed.

Ms Goscha restated that the City was not trying to annex this property into the City. The property was located in Champaign County area. Should someday that residential development should occur in the area and the proposed property be annexed into the City of Urbana, would the County B-1 naturally become City B-1? Ms. Tyler said this was true. The City B-1 was more urban with more restrictions than the County B-1, which was Rural Trade Center. The proposed property was right on the edge in the Land Use Map of the 2005 Comprehensive Plan of the extent of where the City showed residential. If the proposed property were to be annexed in the future and it were compliant with the County B-1, then it could continue as a legally non-conforming use within the City. At such time that the use or business would expand, then there could be a compliance problem. Ms. Goscha added that if it maintained as an automobile minor repair shop, then it would be in compliance with the City's B-1.

Mr. Campo re-approached the Plan Commission to add that this case was really complex and on the edge. As Mr. Lindahl mentioned, his initial request was for a rezoning to the County B-3 Zone. The reason was because the definition for County B-3 was so vague as far as what is considered major and minor. The reason for requesting a rezoning to County B-1 was because it

was determined through the County Zoning Board of Appeals that was basically what he wanted to do. This was the main reason that he changed his proposal from rezoning to County B-3 to County B-1.

Mr. Grosser had walked through the path of the petitioner by reading through the stack of County documents. It seemed to him that the conditions made a lot of sense in terms of the City of Urbana's perspective. It would have accommodated the tenant and owner, and it would not negatively impact the long-term interest of the City of Urbana or Champaign County. However, these conditions were not on the table any longer. He did not feel that it would be appropriate to make a zoning decision based on the current tenant. He could move out tomorrow and another business move in. He mentioned that he was somewhat conflicted, because he did not feel that there was anything wrong with the current use. He did not see a way to recommend "no protest" given the lack of the conditions.

Mr. Ward felt the same as Mr. Grosser in that he was willing to support the recommendation of "no protest" with the conditions that were previously recommended on the current use. Without the conditions, it would open up Pandora's Box in the sense that if the City did not enter a protest at this point and the County would recommend the rezoning, then it would leave the door open for all kinds of issues in the future that would not be good for the area. Therefore, he would have to support a motion for protest.

Ms. Upah-Bant mentioned that she was leaning in the same direction as Mr. Grosser and Mr. Ward. She could not see how the Plan Commission could vote "no protest".

Ms. Goscha agreed that she was conflicted as well. Here is a landowner who was trying to do the right thing. She always wanted to support small businesses in the area. Nevertheless, they could not apply conditions to the rezoning, and the Plan Commission was not supposed to look at zoning as a specific use. Instead they were supposed to look at the whole category of how the proposed zoning would affect the land parcel. County B-1 would be inappropriate in its worst case scenario. She inquired as to what would happen to the landowner/tenant if they continued to operate the automotive repair business without getting approval of the rezoning request. Ms. Tyler replied by saying that it would become an enforcement case. If they are unable to obtain the rezoning at the County Board, then the case could go to the Circuit Court.

Mr. Ward moved that the Plan Commission forward a recommendation to the City Council to pass a resolution of protest. Mr. Grosser seconded the motion.

Mr. Grosser thought of another reason why he would support the motion. The reason was because the bulk of the neighbors in protest of the rezoning were against other uses that would be allowed in the County B-1, not necessarily against the current use.

Ms. Upah-Bant was surprised that there were not any neighbors present to testify. Mr. Grosser believed this was due to the timing of the case. Ms. Tyler added that this was not a public hearing. Champaign County would have proceeded without input from the City of Urbana, so it is up to the City to schedule the case.

The roll call was as follows:

August 4, 2005

Mr. Ward	-	Yes	Ms. Goscha	-	Yes
Mr. Grosser	-	Yes	Ms. Upah-Bant	-	Yes

The motion passed by a vote of 4 ayes, 0 nays and 1 abstention.