



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Bruce Walden, Chief Administrative Officer

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

DATE: September 14, 2006

SUBJECT: CCZBA-558-AT-06: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance to add “Mortuary or Funeral Home” and authorize by Special Use Permit only in the AG-2, Agriculture Zoning District

Introduction

The Champaign County Zoning Administrator is requesting a text amendment to the Champaign County Zoning Ordinance in Champaign County Case No. CCZBA-558-AT-06. The purpose of this amendment is to allow mortuaries or funeral homes in Champaign County AG-2 zoning districts with a Special Use Permit under certain conditions.

If adopted, the following changes would be made to the Champaign County Zoning Ordinance:

1. Amend paragraph 4.2.1 C to allow “mortuary or funeral home” in the AG-2 District as a second principal use on a lot on which there is a cemetery when the cemetery and mortuary would be under common management.
2. Amend Section 5.2 to change “mortuary” to be “mortuary or funeral home”.
3. Amend Section 5.2 to add “mortuary or funeral home” as a Special Use Permit in the AG-2 District with a footnote specifying that a mortuary or funeral home is only allowed in the AG-2 District as a second principal use on the same lot and the lot must be under common management.
4. Add standard conditions for “mortuary or funeral home” as a Special Use Permit in the AG-2 District.

The proposed amendment came about as a response to a local firm which wishes to perform funeral services at Mt. Hope Cemetery, which property is an island surrounded by both the cities of Urbana

and Champaign. The Champaign County Zoning Board of Appeals recommended approval at their July 27th, 2006 meeting. The Environment and Land Use Committee then reviewed it on August 14th and September 11th of 2006. The amendment will be considered for approval at the September 21st, 2006 meeting of the County Board. If the City wishes to file a protest to the proposed amendment this must be done by the September 21st meeting of the County Board. Under state law, 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.

Background

The proposed text amendment is of interest to the City of Urbana as it may affect zoning and land use development decisions within the City's one-and-one-half mile extra-territorial jurisdictional (ETJ) area. The City has subdivision and land development jurisdiction within the ETJ area, while the County holds zoning jurisdiction in this area. It is important that there be some level of consistency between these two jurisdictions to the extent that certain regulations may overlap. 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. Land uses in the County affect the City of Urbana in several ways, including:

- Land uses in Champaign County can potentially conflict with adjacent land uses in the City of Urbana;
- Unincorporated portions of Champaign County adjacent to the City of Urbana will likely be annexed into the City at some point in the future. Existing land uses would also be incorporated as part of annexation;
- In addition to land uses, development patterns of areas annexed into the City of Urbana will affect our ability to grow according to our shared vision provided in the 2005 Comprehensive Plan.

For these reasons, the City examines proposed text amendments to the County Zoning Ordinance to ensure compatibility with our existing ordinances. By State law, the City also has an obligation to review zoning decisions within its ETJ area for consistency with the City's comprehensive plan.

It should be noted that Champaign County intends the AG-2, Agriculture zoning category to be used within the one and one-half mile ETJ surrounding urbanized areas within the county. The intent of the AG-2 zone is to preserve agricultural uses in areas that have not yet been annexed by the municipalities. The proposed text amendment would allow mortuaries or funeral homes as a second use in sites which already contain cemeteries. If adopted, any cemeteries within Urbana's ETJ would be able to apply for a Special Use Permit to establish a mortuary or funeral home. Mt. Hope Cemetery is an unincorporated island fully surrounded by Urbana and the City of Champaign. The opening of a funeral home there would not introduce a use which would conflict with adjacent uses or affect our ability for the City to grow.

Issues and Discussion

City of Urbana Policies

The proposed text amendment to the Champaign County 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 16.0 Ensure that new land uses are compatible with and enhance the existing community.

Objective 16.2 Preserve agricultural lands and environmentally sensitive areas outside the growth area of the city.

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. Since the amendment would only allow mortuaries or funeral homes where cemeteries already exist, there would not be any further conversion of agricultural lands in the ETJ. Mortuaries and cemeteries, while distinct uses, are not considered incompatible.

Zoning Compatibility

Urbana's Zoning Ordinance is not entirely consistent with the proposed amendment. In Urbana, cemeteries are only allowed with a Conditional Use Permit (CUP) in the AG, Agriculture and CRE, Conservation, Recreation, and Education Districts. While mortuaries are permitted by right in B-2, B-3, B-3U, B-4, B-4E and MOR districts, and with a CUP in R-5, R-6, R-6B and B-1 districts. Since there is no overlap among where cemeteries and mortuaries are allowed, any potential properties annexed with both a cemetery and mortuary would be considered a legal nonconformity. However, this situation is not likely to occur; most of the cemeteries within Urbana's ETJ do not have enough space to establish a mortuary.

Summary of Findings

1. Champaign County Zoning Case No. CCZBA558-AT-06 would allow for mortuaries or funeral homes as a second principal use on a lot containing an existing cemetery (with a Special Use Permit);
2. The proposed zoning ordinance text amendment is generally consistent with the City of Urbana's *2005 Comprehensive Plan's* goals and objectives;
3. The proposed zoning ordinance text amendment is not entirely consistent with the City of Urbana's Zoning Ordinance, but this is unlikely to affect any properties the City may annex.
4. The Urbana Plan Commission voted 8 ayes to 0 nays to forward the case to City Council with a recommendation to defeat a resolution of protest for the proposed text amendment at their August 24th meeting.

Options

In CCZBA Case No. 558-AT-06, 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.

Recommendations

At its August 24th meeting, the Urbana Plan Commission voted 8 ayes to 0 nays to forward the case to City Council with a recommendation to defeat a resolution of protest for the proposed text amendment.

Staff concurs with the Plan Commission's recommendation that City Council **defeat a resolution of protest** for the proposed text amendment.

Prepared by:

Jeffrey Engstrom, Planner I

Exhibits: A. Preliminary Memorandum to the Champaign County ZBA, July 21, 2006
 B. Report to the Champaign County ELUC, August 10, 2006
 C. Minutes from Urbana Plan Commission, August 24, 2006

cc: John Hall, Champaign County Zoning Administrator

H:\Planning Division\001-ALL CASES(and archive in progress)\06-CCZBA\CCZBA 558-AT-06

RESOLUTION NO. 2006-09-023R

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

(Concerning the addition of Mortuary or Funeral Home as a Special Use in the
AG-2, Agriculture District)

Plan Case No. CCZBA 558-AT-06

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. 558-AT-06 to amend Sections 5.2, the addition of Mortuary or Funeral Home as a Special Use in the AG-2, Agriculture 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-558-AT-06: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance to add "Mortuary or Funeral Home" and authorize by Special Use Permit only in the AG-2, Agriculture Zoning District"; and

WHEREAS, said amendment is consistent with the City of Urbana's 2005 Comprehensive Plan to the extent that it would not promote conversion of agricultural lands to a more intense use and would not substantially increase intensity of use in cemeteries within the City's Extra-territorial jurisdiction; and

WHEREAS, the Urbana Plan Commission, after considering matters pertaining to said Petition at their meeting of August 24, 2006, has recommended by a vote of eight 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 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 omnibus text amendment as presented in CCZBA-558-AT-06.

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

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: August 24, 2006
TIME: 7:30 P.M.
PLACE: Urbana City Building
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Jane Burris, Ben Grosser, Lew Hopkins, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant, James Ward, Don White

MEMBERS EXCUSED: None

STAFF PRESENT: Robert Myers, Planning Manager; Jeff Engstrom, Planner I; Becca Bicksler, Community Development Associate; Teri Andel, Planning Secretary

OTHERS PRESENT: Brandon Bowersox, Betsey Cronan, Paul Debevec, Debbie Insana, Emily Laugesen, Susan Taylor, Dianna Visek

NEW PUBLIC HEARINGS

CCZBA-558-AT-06 – Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance to add “Mortuary or Funeral Home” and authorize by Special Use Permit only in the AG-2, Agriculture Zoning District.

Jeff Engstrom, Planner I, gave the staff presentation for this case. He reviewed the proposed changes to the Champaign County Zoning Ordinance. He mentioned that this case came about as a result of a proposal to operate a mortuary at Mount Hope Cemetery which is an unincorporated island surrounded by both the cities of Urbana and Champaign. He discussed the impact that the proposed land uses would have on the City of Urbana. He mentioned the goals and objectives of the 2005 Comprehensive Plan that pertained to this case. He summarized staff findings and read the options of the Plan Commission. He presented staff’s recommendation, which is as follows:

Staff recommends that the Plan Commission 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 in the written staff report.

Mr. Ward inquired if there were other cemeteries located within the Extraterritorial Jurisdiction (ETJ) that the proposed changes might create future actions. Mr. Engstrom found four other cemeteries within the ETJ; however, they seem older and pretty much fully occupied. He did not believe that the proposed text amendment would affect them.

Ms. Stake asked how the local firm acquired land that is part of the cemetery. Mr. Engstrom replied that there is an existing building at Mount Hope Cemetery that the local firm plans to expand to allow for funeral services. Mr. Myers explained that cemeteries fall under different ownership patterns. One kind is where it is owned by a private land owner. A second kind is where it is owned by a not-for-profit cemetery association, and the third type of cemeteries is for-profit ownership and operation. He did not know whether Mt. Hope Cemetery is owned by a for-profit or a not-for-profit organization, but it does have professional management.

Ms. Stake stated that it seems the proposed change would be so they could make more of a profit, because they would have a business. Mr. Engstrom said yes. Ms. Stake commented that it seemed strange to have a business in the cemetery.

Ms. Burris feels that funeral homes and mortuaries go with cemeteries, maybe because she is originally from a larger city. It is actually very common for people who do not have an affiliation with a specific church or religion to have services on the same ground as to which they are about to be buried.

Mr. Grosser asked if the cemetery is located between Pennsylvania and Kirby Avenues. Mr. Engstrom replied yes.

Ms. Upah-Bant commented that she was surprised to find that the cemetery was still in Champaign County. Mr. Myers pointed out that the cemetery is an unincorporated island totally surrounded by the City of Champaign and the City of Urbana. One of the issues is that if the common City boundary line were extended straight, it would cut the cemetery in half. Should it ever get annexed into one city or the other, then the City boundary would have to jog either west or east around the cemetery depending on which City would take it in. Ms. Upah-Bant questioned how the cemetery could ever be annexed, because the University of Illinois is north of it. Mr. Myers did not know if there are any good reasons to annex it other than emergency service response.

Ms. Upah-Bant inquired how a City taxes a cemetery. Mr. Myers stated that it depends on whether the cemetery is for profit or not-for-profit. There are different variables on it.

Ms. Upah-Bant questioned whether the cemetery would be more valuable with a mortuary on it than before. Is the City of Urbana more likely to want to annex the cemetery with a mortuary on it? Mr. Myers responded by saying that annexation is another whole issue than reviewing the County's change in zoning standards. Staff has not done any kind of analysis to figure out whether the City should or should not annex it. Constructing a new building would probably add value to the property, but he is not sure if this is for-profit or not-for-profit.

Ms. Upah-Bant inquired how the cemetery could ever be annexed if it is totally surrounded by the University of Illinois. Mr. Myers stated that the City of Champaign's and the City of

Urbana's boundaries go around each side of it, and it is not totally surrounded by either City. Consequently, he believed it would be up to the property owner to petition to annex if so desired.

Ms. Stake asked who owns the cemetery. Mr. Grosser answered by saying that Mittendorf-Calvert Funeral Home is the business that wants to build a funeral home/mortuary there. Mr. Engstrom believes that Mittendorf-Calvert Funeral Home would either have to own it or manage it in order to build on it.

Mr. White stated that there is already a building located in the cemetery, and it appears to have an office in it already. He went on to say that in another situation if there was a cemetery, the owner could purchase additional property adjacent to it to build a funeral home on it. He did not see anything wrong with this.

Mr. White moved that the Plan Commission forward the proposed case to the City Council with the recommendation to defeat a resolution of protest as recommended by City staff. Ms. Burris seconded the motion. Roll call was as follows:

| | | | | | |
|---------------|---|-----|-------------|---|-----|
| Mr. Grosser | - | Yes | Mr. Hopkins | - | Yes |
| Mr. Pollock | - | Yes | Ms. Stake | - | Yes |
| Ms. Upah-Bant | - | Yes | Mr. Ward | - | Yes |
| Mr. White | - | Yes | Ms. Burris | - | Yes |

The motion was approved by unanimous vote.