

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**APPROVED**

**DATE:** July 10, 2003

**TIME:** 7:30 P.M.

**PLACE:** Urbana City Building  
400 South Vine Street  
Urbana, IL 61801

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**MEMBERS PRESENT:** Christopher Alix, Laurie Goscha, Randy Kangas, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant, Don White

**MEMBERS EXCUSED:** Alan Douglas, Lew Hopkins

**STAFF PRESENT:** Elizabeth Tyler, Director of Community Development Services; Rob Kowalski, Planning Manager; Teri Andel, Secretary

**OTHERS PRESENT:** Betsey Cronan, Cynthia Hoyle, Linda Lorenz, Esther Patt, Steve Ross, Susan Taylor, Robert Wingler

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**1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM**

The meeting was called to order at 7:33 p.m., the roll call was taken, and a quorum was declared.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

Mr. White moved to approve the minutes from the June 19, 2003 meeting as presented. Mr. Alix seconded the motion. The minutes were then approved as presented by unanimous voice vote.

**4. COMMUNICATIONS**

- Notice of the Long Range Transportation Plan (LRTP) for Champaign-Urbana-Savoy-Bondville.

**5. CONTINUED PUBLIC HEARINGS**

There were none.

## 6. NEW PUBLIC HEARINGS

### **Plan Case #1859-T-03: Proposed Interim Development Ordinance (IDO) Text Amendment to consider a moratorium on development in the M.O.R., Mixed-Office Residential Zoning District.**

Rob Kowalski, Planner Manger, presented this case to the Urbana Plan Commission. He began by stating that staff would like to open up the case at this public hearing and have the Plan Commission delay action for two weeks until their next scheduled meeting, so that staff may have the opportunity to send out a courtesy notice to property owners within the MOR Zoning District. He mentioned that this although this was not mandatory, staff would like the chance to notify more people to get more public participation regarding the moratorium.

He explained that on June 9, 2003, the City Council had asked City staff to prepare a text amendment, which would in effect create a moratorium for development in the M.O.R., Mixed-Office Residential Zoning District. The request comes from some concern over a couple of development proposals that were submitted in the MOR Zoning District. He noted that it had been a zoning district that had been fairly inactive in the past seven years. Therefore, the two proposals that were submitted reintroduced the district to many people, including staff. They raised some concerns about the process of reviewing proposals in the MOR Zoning District and also some concerns about the standards of the zoning district itself. A petition was submitted to City Council with approximately 185 signatures requesting that the City consider a moratorium until there could be some changes considered to the MOR Zoning District.

Mr. Kowalski explained the process of handling moratoriums. Then, he gave a brief background by talking about the history of the MOR Zoning District and about projects in the MOR Zoning District. He discussed the recent proposals and problems with the zoning district as well as the use and development regulations, duration of the IDO, and variations and exceptions to the moratorium, which included health, safety and general welfare, fire, explosion, Act of God, and hardship. He identified the purpose and goals of the Interim Development Ordinance, which are to take a look at the two issues of the composition and the process of the Development Review Board and also to take a look at the ability to create some design guidelines or at least allow the Development Review Board to consider architectural design when reviewing proposals. He noted that the moratorium would prevent the issuance of all demolition and building permits within the district.

Mr. Kowalski noted that there were some site-specific variations that were requested as part of the moratorium. He talked about each of the specific properties, which were as follows: 1) 611 West Green Street, 2) 605 West Green Street, 3) 410-1/2 West Elm Street, and 4) 701 West Green Street.

He pointed out the Summary of Staff Findings in the written staff report. He read the options of the Urbana Plan Commission. He stated that staff recommendation was as follows:

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*Staff recommended that the Plan Commission recommend approval of the text amendment to create the moratorium to the Urbana City Council; however, staff recommended that Plan Commission table any action until staff could send out further notice to property owners in the MOR Zoning District.*

Mr. Pollock clarified that the Plan Commission would not be rendering a decision and sending this case to the City Council until the next meeting. He suggested that they open the case, hear testimony, and open the case up for discussion. If there were items that the Plan Commission felt were important, then staff realize, recognize and take into consideration as they develop what would happen when the case came back before the Plan Commission at the next meeting.

Mr. Alix was not aware of the activity before the Development Review Board that led to this request for the moratorium. He asked Mr. Kowalski to discuss for the benefit of the Plan Commission what the specifics of the case were that led up to it? Mr. Kowalski replied that the project at 611 West Green Street involved the removal of an old home that had three or four apartments in it. The proposal was for a new eight-unit apartment complex with two bedrooms in each unit. This was the first case in the MOR Zoning District in about seven years. When the Development Review Board convened there was some frustration about the composition of the Development Review Board being all City staff and with City staff having the final say on that case.

Mr. Alix inquired if there was frustration from the City staff or from the developer? Mr. Kowalski answered that he felt there was frustration on both sides as well as from the nearby residents. The residents were frustrated with the process and the composition of the Development Review Board. Staff had worked hard with the developer of 611 West Green Street to tweak his design to something that the Development Review Board thought was a little more compatible with the neighborhood. The Development Review Board found that very difficult to do with addressing specific architectural design features. They talked a lot about the orientation of the proposed building and the way it was placed. The first proposal that was submitted by the developer was really quite different from the one that was eventually approved. It did not front on Green Street; instead, it fronted on Coler Avenue. It had mostly a blank wall along Green Street. They had to work quite hard to try to get the proposed building to look a little more like a big house on that corner. It was really hard to do without being able to consider architectural design. That was frustration on the Development Review Board and the developer's part.

Mr. Alix stated that it seemed kind of contradictory to him to say that it came as a surprised to the Development Review Board to realize that they did not have the ability to review the design criteria, when in fact, the Zoning Ordinance was written very carefully to eliminate those criteria from consideration. The intent when the Zoning Ordinance was written was that it was okay to build something ugly, but the City staff should have the review of the siding and making sure it was not too close to the adjacent structures, etc. The criterion for the floor area ratio and open space ratio seemed to be pretty clear. There did not seemed to be anything in the Zoning Ordinance that would be designed to encourage things built in the MOR Zoning District to look like a "big house". Mr. Kowalski responded that was correct. The proposed apartment complex would be next to a local historic landmark in Urbana. As a result, the Historic Preservation

Commission had the opportunity to make comments about the proposal. The Historic Preservation Commission and the nearby residents were in agreement that the architectural design was important to the neighborhood. Mr. Pollock mentioned that he was on the City Council at the time that the MOR Zoning District was created. It was created on a local level based on considerations in the Downtown to Campus study, which was a massive study done over a very large area. There were a lot of rezonings, a few upzonings, and a lot of changes. It was incredibly complex. He did not think that it was drawn up specifically in mind to prevent these things. He was not sure that the ability to review architectural design was a real major factor. There were many other things that were discussed and talked about. From his recollection, it was not at the top of the list to make sure that review of the architectural design was not part of the Zoning Ordinance. Staff was buried alive with what they were trying to do at that point.

Mr. Alix pointed out that there were a couple of Development Review Board cases that were denied. He asked Mr. Kowalski if he was familiar with the circumstances and the reason for denials? Mr. Kowalski noted that he was most familiar with the previous case at 611 West Green Street, which back in 1994 was an apartment complex that was proposed. It was more units than what was recently approved. The Development Review Board requires unanimous decision, and one member of the Board voted no, because he/she felt the proposal was too intense for that area.

Mr. Alix inquired if the case had been appealed to the Zoning Board of Appeals by the petitioner? Esther Patt, Council Member for Ward 1, answered by saying that the case was appealed to the Zoning Board of Appeals and was denied.

Mr. Alix questioned what the underlying reason was for the moratorium? It seemed to him that a neighborhood that had so few development proposals would not have some unseen force that was ready to bury the City with requests for MOR development. Are we really protecting anyone by doing this moratorium? Or are we just keeping residents in the area from keeping building permits? Mr. Kowalski commented that the City Council had asked the same question. It was hard to predict how many new development proposals would come in. There were two cases in a row, and there were not any cases for seven years before that. He doubted if there would be a rush of people who wanted to build in the MOR Zoning District. However, he believed that the moratorium sets a clock starting, where staff has to work on an amendment and get it done in a timeframe. Mr. Alix was sympathetic to the residents in the neighborhood for wanting to have development in the neighborhood that would be compatible with the existing appearance of the neighborhood. On the other hand, he was hesitant to put a moratorium on development in this neighborhood, because the City felt it was an emergency to change the Zoning Ordinance that had been sitting dormant for seven years. Ms. Tyler explained that there was an unclosed plan case on amending the MOR Zoning District. It came to the Plan Commission about five years ago. It had started with a committee, who recommended to the Plan Commission a number of changes to the MOR Zoning District, including a name change. When the case got to the Plan Commission, there were some fundamental concerns with it. City staff changed, and the case never came back. It had been on the City staff's work plan ever since. In the mean while, staff had continued to receive complaints about the structure of the MOR Zoning District, even without cases being presented. The developers and architects

believe that the MOR Zoning District was too restrictive in terms of the development regulations. Nearby residents and property owners with development expectations are not happy with the Zoning Ordinance. When the project at 611 West Green Street came about, she believed that brought the pressure over the years to a point to revise the MOR Zoning District.

Mr. Alix asked if staff felt that it was necessary to have a moratorium? Ms. Tyler felt that the City should get to work on revising the Zoning Ordinance. She did not feel that staff should have to recommend one way or another whether a moratorium was needed. Mr. Alix asked where the request for the moratorium was coming from? Ms. Tyler stated that the request for the moratorium came from City Council. Staff did not feel that it was a bad idea.

Betsey Cronan, of 305 West High Street, mentioned that she was the neighborhood representative on the committee that was convened by city staff to review the Zoning Ordinance for the MOR Zoning District in 1996 and 1997. At that time, it was clear to the committee that the goals of the MOR Zoning District were not being met with the way that the Zoning Ordinance was written. Goals being encouraging the adaptive reuse of existing buildings, preserving the gracious entryway into Downtown Urbana and assuring compatibility of new buildings. The compatibility issue, especially with large apartment buildings, with parking problems, and with noise, litter, lights and parking lots was one of her huge concerns. Seven years later that Zoning Ordinance was still in effect with all the flaws that it had back then. So, she requested that the Plan Commission support the moratorium to give staff time to rewrite the Zoning Ordinance so that it would be more coherent.

Mr. Alix inquired if she felt that the Zoning Ordinance could be fixed in 120 days? Ms. Cronan felt that it could. She thought that Bill Rose, who is an architect, made an eloquent appeal that made a great deal of sense about considering architectural detail that would help new development fit into the MOR Zoning District. She believed it would be fairly easy to adopt those sorts of standards to make it fit in better. She believed that the committee had good ideas seven years ago as well.

Mr. Alix asked if the problem with the apartment building at 611 West Green Street was because it was big or because it was ugly? Ms. Cronan thought it was extra-ordinarily ugly as originally proposed; however, she felt the size was a real problem. The parking was inadequate for the number of units that will be built. Parking was a problem that the neighborhood seemed to be unable to come to grips with.

Mr. Alix questioned if she believed that there were other problems that should be addressed with the MOR Zoning District besides the issue of the Development Review Board not being able to consider the style and appearance of the building? Ms. Cronan felt it would be great for other problems with the MOR Zoning District to be addressed as well. There is a tremendous pressure on the historic neighborhood regarding the development apartment buildings. The City needs to make a commitment. If it goes too much further in that direction, then it would be time for her to move. She loves this neighborhood and her house. It is a wonderful neighborhood for a lifestyle. They had one car. The kids walked to school. Her husband and her walked to work. The neighborhood is a good selling point. If residents do not feel some commitment on the part

of the City, then they will begin to move out of the neighborhood, because the numbers are starting to tilt the other way.

Mr. Pollock noted that if the Interim Development Ordinance was approved, then there were two specific items that staff would be reviewing primarily that have to do with the makeup of the Development Review Board and whether or not and to what degree aesthetics should be considered in approval of future projects. He asked if there was anything that the committee had discussed seven years ago that would lead the City to more successfully create adaptive reuse in this area, which was one of the primary goals when the MOR Zoning District was created and been less than successful? Ms. Cronan stated that for the committee, she remembered that the adaptive reuse was the most problematic. Craig Grant had talked to the committee about lightening up on life safety issues, which was hard to do with turn-of-the-century buildings. Financial hardship was one of the things that would come into play in terms of reusing the buildings as coffee houses or boutiques. There has been very little interest in trying to do that sort of thing anyway.

Ms. Stake questioned if the moratorium was not passed and there were not better regulations made to the Zoning Ordinance, then would her property value go down? Ms. Cronan said definitely. The amount of noise, litter, and parking that was generated from parking lots in apartment buildings was appalling.

Ms. Patt, of 706 South Coler Avenue and member of the City Council, noted that she was also on the task force with Ms. Cronan. The task force had come up with a number of recommendations; however, there were not too many ideas on promoting adaptive reuse. The City Council recently discussed whether or not that was really a good goal for the MOR Zoning District. If a business wanted to relocate to that area, would it be better for them to locate in Lincoln Square?

Ms. Patt explained that what motivated the result of the creation of the task force was the same issue that brought the proposed moratorium before the Plan Commission now, which was the concerns of new multi-family housing at 611 West Green Street and the concerns about the inadequacy of the actual regulations for carrying out the purpose of the MOR Zoning District as stated in the Zoning Ordinance. Among the purposes of the MOR Zoning District in the Zoning Ordinance is *preservation of older residential structures while protecting the aesthetic and residential character of the area*. Many people in the neighborhood feel that if a property owner or developer can build a big ugly box, then the Zoning Ordinance does not protect the aesthetic and residential character of the neighborhood. The MOR Zoning District was also intended to *promote the conservation of buildings and neighborhoods, which in combination or individually is of unique community and neighborhood significance*. The district regulations do not really provide a mechanism for conserving the neighborhood.

There are a number of different issues here, and some are more controversial than others. Her main concern was to not lose what significant changes could be made in the way that they did in 1996. It was very disappointing that after attending 18 months of committee meetings to have the case get lost on the backburner. The committee presented their ideas to the Plan Commission, and the Plan Commission made some suggestions and comments about the presentation and sent it back to staff, where it got lost with lots of other things. There was a long

period of time, where the Community Development Service Department was understaffed. She did not believe that there was any deliberate intent of the City Council, the Administration or of the Plan Commission to make the case go away. It also did not seem that pressing, because there was not that much going on. Now, this year there have been three proposals for three apartment buildings that would be within 650 feet of each other. We do not know how much more new development there would be proposed in the future. The purpose of the moratorium was not to stop development on Green and Elm Streets, but to put a temporary hold on any development so that there would not be a rush of permits from people, who otherwise were not planning on doing something right now, so that the City can get some changes in that would hopefully do a better job of addressing the actual goal of the MOR Zoning District.

In terms of the design criteria, after the public hearing for 611 West Green Street, that property owner told City staff and neighborhood members that he thought the flaw was that there were not specific design criteria. He hired an architect to design the apartment complex and brought the plans to City staff to review. Then, he comes before the Development Review Board and was told that the plans did not work. Why did not City staff tell him to begin with? Why is there not a brochure that listed the design criteria that the City was interested in? A brochure would make it a lot easier to come up with something that would not be so controversial.

As far as the Development Review Board composition, Ms. Patt stated that members of the public feel that it excludes them, because there are no members of the public on it. If this is a body that makes final decisions, then there should be some public representation. We also heard from staff some concerns about the pressure on them to make these decisions and also the unusual dynamic that two department heads and three people who they supervise serve on this body that votes. It would be hard for someone to vote differently than his or her boss. Maybe this could be changed as well in the text amendment.

Ms. Patt noted that the third issue mentioned in the citizen petition, which was probably the most controversial, was about reducing density. There are many people in her neighborhood that feel strongly about the City not allowing as high density as allowed now in the MOR Zoning District. Each building that goes up will generate additional on-street parking and take up at least half a block. There are only eleven on-street parking spaces on average per block in that neighborhood. If there are four apartment buildings, and each one takes up a block of on-street parking, then there would not be anymore on-street parking available for others who live in the neighborhood.

She talked about the appearance of the corridor from campus to downtown. She asked what does the City of Urbana want it to look like? This was where the design criteria really came into play as an important factor. She believed that there was an opportunity to still allow multi-family development in a way that would not only help preserve the character of the neighborhood, but would also keep that corridor attractive.

Ms. Patt mentioned that there are people who come to the City Council and say that there are many buildings on Green Street that are not worth preserving, because they look pretty bad already. Ten years ago, if you were looking at Green Street, one of the buildings that were really run-down and falling apart was 612 West Green Street. The Preservation and Conservation

Association was able to buy the house and rehab it. It is now a historic landmark known as the Ricker House. There is nothing on Green Street that would be beyond saving if someone had an interest in it, and any interest would be tremendously diminished if most of what was around any property that might be valuable and worth preserving was a bunch of big-boxed ugly apartment buildings.

She was hoping to move this forward and get some changes to the MOR Zoning District, finish with the moratorium, and adopt new regulations. The moratorium would probably not have any significant interruptions in anyone's plans if the City kept with the schedule.

Mr. Alix inquired what Ms. Patt thought of the appropriateness of using the Zoning Ordinance to encourage architectural compatibility? Was it something she believed the City should be doing as a matter of a zoning issue or could it be addressed in the Historic Preservation Ordinance? Was there a better vehicle for trying to encourage the type of development that the City would like to see in the MOR Zoning District than in the Zoning Ordinance? Ms. Patt could not think of any better vehicle. When looking at the Zoning Ordinance, the MOR Zoning District is different than the R-2, Single-Family Residential and B-3, General Business Zoning Districts. The East Campus Commercial District, the MOR District, and the MIC District in some ways legally have the same functions as R-2 or B-3 Zoning Districts or any other zoning classifications that affect what the development regulations are for certain land. However, they are different from the R-2 and B-3 Zoning Districts in that the East Campus Commercial District, the MOR District, and the MIC District are specific to location. She believed it would be hard to have specific architectural requirements for the R-2 Zoning District, because it exists all over the City of Urbana in different places. The intent of the MOR Zoning District classification was to affect what that specific area looks like.

Mr. Alix stated that it seemed to him that this sounds more like historic preservation than zoning. It sounded like there was an issue with the scale of the buildings that are being developed in the MOR Zoning District. It would be difficult to build an apartment building that would be harmonious with the character of this neighborhood, which has 100-year old homes in it.

He noted that he looks at zoning differently. This was something that there should be obviously as the City grows, there may be areas, which are appropriate to apply all the existing zones in. He wondered if the city was constructing a zoning classification that was designed to look like the previous existing houses on Green Street. Would that not be more along the lines of a historic district or something that would fall into the purview of the Historic Preservation Ordinance? Maybe we should be talking about amending the Historic Preservation Ordinance rather than amending the Zoning Ordinance. Ms. Patt commented that the difference was that the Historic Preservation Ordinance was about preserving already existing structures. We are talking about new construction.

Ms. Patt noted that another approach would be to rezone Green Street and Elm Street to R-3, Single and Two-Family Residential and allow nothing more than single-family homes and duplexes. That would be something that a lot of people in the neighborhood would like very much, including herself. The reason that it did not happen 13 years ago and why the administration was not promoting it today was because there was and is an interest in allowing



multi-family development. The City, in a way, was trying to approach some compromise and make it more than R-3, Single and Two-Family Residential, but less than what could be found in R-4, Medium Density Multiple Family Residential and R-5, Medium High Density Multiple Family Residential.

Mr. Alix asked if Ms. Patt felt the “O” part of MOR was worth preserving? Ms. Patt stated that she would not like to see a tremendous increase in density on Green Street, because it would have a negative impact on High Street. Mr. Alix stated that the character of the neighborhood was mostly residential with a couple of law offices. Ms. Patt commented that the whole idea of the businesses was to have some type of use for the single-family structures other than someone buying it and living in it. She did not see the office use as being a problem. There was some talk about getting rid of the office use in the MOR Zoning District, because of Lincoln Square being only two blocks away. She did not know of any consensus either way. Mostly, the interest of multi-family development was going on in the MOR Zoning District. There was not that much interest in office use in the MOR Zoning District.

Mr. Alix inquired if the Plan Commission and the City Council pass the moratorium and City staff brought to the Plan Commission an amendment to the Zoning Ordinance that would be restrictive and in affect say “you can build multi-family residential as long as it looks like a single-family house”, which relative to the current Zoning Ordinance would mean significant reduction in floor area ratio and open space ratio, and there would probably be some restrictions on parking, then would the City Council pass it? Is it realistic to expect that the City Council would pass an ordinance that was significantly more restrictive than what was there now? Ms. Patt could only say how she would vote. She did not want to see changes made to the design criteria and to the composition of the Development Review Board lost in the controversy over the other issues. She believed that the City staff, the Plan Commission, and the City Council should try to make the changes that they can reach a consensus on, so that the same thing does not happen again as what happened to the hard work and ideas of the task force seven years ago.

Mr. Alix asked if she felt that there were significant changes that could be made to make it worth going through this process. His concern was that the moratorium would be passed, the changes regarding the architectural design and the composition of the Development Review Board be made and still no one would be satisfied. Ms. Patt said that could be possible. She felt that there could be more changes added in the amendment; however, she did not know if a consensus of the Plan Commission or of the City Council would be met.

Mr. Alix questioned if Ms. Patt felt that the Zoning Ordinance could be fixed? Ms. Patt replied yes. There was no question that it could be improved or that it needs to be improved.

Mr. Alix inquired if the case that was presented five years ago was what the City wanted now? Ms. Patt stated that she liked it, although there were not any recommendations for specific design criteria. At the Zoning Board of Appeals public hearing, when Mr. Rose was talking about some examples of how the design criteria could be improved, many folks liked his ideas. If you added his ideas to the proposal from five years ago and took out a few things that some people did not like, then it would be a tremendous improvement.

Mr. White inquired if there were design criteria that could be agreed upon by the neighborhood that would accommodate for apartment buildings? Ms. Patt believed so. She thought that, separate from the issue of should there be multi-family at all, if there was multi-family residential, that there were a few examples, specifically the multi-family structure at 712 West Green Street, that was compatible with single-family dwelling in terms of appearance. It would not solve the parking problem, which is the biggest problem of impact of the multi-family in that neighborhood.

Mr. White asked if it was possible to agree on design criteria and write them down so that the City could measure them and then ten years from now, the Zoning Board of Appeals could read them and do something with them? Mr. Kowalski responded that it was definitely easier said than done. What City staff had in mind was to have design criteria that was loose in general and really takes up examples of a lot of the existing architecture in the two corridors, and something that would give more options rather than trying to be specific down to a drawing of how each structure should look. There are plenty of different examples of good architecture that they could draw upon to have a menu-based approach of design criteria.

Mr. White stated that even though we may have a moratorium, it might not change the existing Zoning Ordinance. What would be the down side? Ms. Patt said none. Mr. White asked why not pass the moratorium then? Mr. Pollock pointed out that the Plan Commission would only be discussing and voting on was the Interim Development Ordinance and not necessarily all of the possible changes.

Steve Ross, of 609 West Green Street, stated that it has felt like they live at ground zero in terms of the MOR Zoning District. He has experienced the Development Review Board process at 611 West Green Street and 605 West Green Street. He has seen first-hand some ways that the MOR Zoning District could be improved.

As Ms. Patt talked about preservation, conservation and reuse, these words are used frequently in the MOR Zoning Ordinance, but unfortunately that has not happened next to his house. He felt this was one part of the Zoning Ordinance that was failing.

Another faulty part was staff serving on the Development Review Board. Some City staff reviewed and approved the plans, and then turned around and served on the Development Review Board, where they were asked to review and approve the plans again. It seemed unlikely that the City staff would go across purposes and vote not to approve those plans. The Development Review Board needs citizen membership as mentioned earlier.

The last part of the Zoning Ordinance that was failing regarded the scale and intensity of a new development. Even though the Zoning Ordinance talks about limiting the scale and intensity of a new structure, the scale and intensity of the new apartment building at 611 West Green Street would be more than double that of the previous structure on that lot. Certainly the MOR Zoning District in this case has not acted to limit the scale or intensity of the use.

Mr. Ross asked the Plan Commission to approve the moratorium, so that some work could be done to make changes to the Zoning Ordinance.

Ms. Stake asked if Mr. Ross would like the Plan Commission to recommend approval of the moratorium to the City Council at this public hearing instead of continuing the case to the next scheduled meeting? Mr. Ross replied yes. He felt it was the right way to go, so the sooner – the better.

Ms. Stake questioned if the proposal for 605 West Green Street had been approved? Mr. Ross answered no. It was still under review. Mr. Kowalski added that the case was still pending with the Development Review Board and would be one of the exceptions to the moratorium.

Ms. Upah-Bant inquired if he knew he would be in the MOR Zoning District when he bought his house? Mr. Ross commented that he was ignorant and did not know. When 611 West Green Street came to be an issue, he read the Zoning Ordinance regarding the MOR Zoning District, he was more positive, because it spoke about limiting the intensity and scale of use. He thought what was proposed at 611 West Green Street exceeded that limitation. Members of the Development Review Board disagreed with him and many other people from the neighborhood.

Mr. Alix inquired if there was a six-unit apartment building at 603 West Green Street? Mr. Ross replied that was correct. Did Mr. Ross feel that it would be appropriate for a property owner to develop a new six-unit apartment building in the MOR Zoning District like the one at 603 West Green Street? Would it be appropriate? Mr. Ross felt that the building at 603 West Green Street had a lot of character. He would be happier with that kind of building than what was proposed at 605 West Green Street. Mr. Alix asked if Mr. Ross preferred big over ugly? Mr. Ross replied that he would choose something more pleasant to look at.

Linda Lorenz, of 409 West High Street, bought her house in this neighborhood so that she could ride her bicycle to work at the University of Illinois. Because she grew up in Urbana, she wanted to live in an old neighborhood. She expressed concern over what would happen to High Street, Elm Street, and Main Street if things get changed on Green Street in terms of the way it looks, the density, parking, noise, vandalism and litter. It changes the neighborhood in terms of how pleasant it is to live there and will affect the property values as well. Every time a variance is approved or there is one more place like this where something encroaches the neighborhood, then the neighborhood gets smaller and smaller. What the residents love about the neighborhood is being destroyed. She hoped that the City of Urbana would hear the neighbors' concerns before the neighborhood gets trashed up.

Ms. Stake asked if the property owners and/or developers get variances in order to build one of these developments? Ms. Lorenz clarified that she was thinking about the Nabor House on Iowa Street when they wanted to build a parking lot. Every change makes a big difference to the neighborhood.

Elizabeth Tyler, Director of Community Development Services, spoke in response to Mr. White's question regarding the downside of a moratorium? The pros of adopting a moratorium would be giving staff some breathing room and a set timetable to make changes that are needed. Another pro would be to give staff some time to clarify their recommendation. The petition was brought to the City Council, and staff did not give a recommendation to the City Council on what

to do with the petition. Staff prepared some form of motion, and there was good debate over a few Council meetings as to the merits of directing staff to prepare an Interim Development Ordinance for the Plan Commission's consideration. Having given that the City Council has taken that debate, talked about the limits of the moratorium, do not include a direction to reduce density in the moratorium direction explicitly, that staff recommended in the written staff report that the Plan Commission adopt the text amendment.

The cons of the moratorium would be that any time a moratorium is undertaken, legally treacherous territory is entered. Staff did not anticipate having this many developments being proposed in such a short time span. By imposing a moratorium, the City imposes on people's basic development rights.

A way to deal with the cons is by keeping the term of the moratorium short. That was the reason for requesting a moratorium for 120 days and also why staff recommended doing a courtesy notice so that everyone was clear on what was happening.

Mr. Alix pointed out that by postponing any Plan Commission action regarding this case for two weeks meant that the moratorium would not go into effect, if approved by the City Council two weeks after the Plan Commission made a recommendation, until another thirty days had passed. Would that not give ample time to anyone who the City was trying to impose the moratorium against to prepare a plan? Mr. Kowalski replied that it was definitely a risk. In his opinion, there would have to be someone who was already putting together a concept to quickly throw together architectural plans and submit them in to rush and get a building permit. There was one proposal coming in that City staff did not anticipate, and there may be more proposals out there. That was a risk they would take.

Mr. Alix inquired how Mr. Kowalski read the Zoning Ordinance as defining the right of the Development Review Board to say "no"? If someone proposes a new development that would be "big" and "ugly", it sounds like the Development Review Board was not in the position to say "that's ugly", but they are in a position to say "that is too much density for this neighborhood". In lieu of the moratorium, would it not make sense for the Development Review Board to simply be more aggressive in applying the criteria that they are allowed to apply in the case of the new projects that might potentially be submitted? He could see that the Zoning Ordinance was broken and had been for thirteen years. On the other hand, it may be that the Development Review Board is uncomfortable with saying "no" to requests for what appear to be relatively subjective reasons. It does appear that they have that power. Mr. Kowalski responded by saying that the Development Review Board does have the ability to consider those things. Personally, he would feel more comfortable with a moratorium rather than a more aggressive approach on a limited basis by the Development Review Board, because there are some changes that staff was working on for the text amendment. He did feel that it would be fair to the developers to have a different type of review process for criteria, because the staff was working on changes.

Mr. Alix stated that he was not implying that the Development Review Board be directed to be more aggressive. However, it was not clear to him that if someone came in with plans for a twin of the 712 West Green Street building that it would be in the City's interest to say "No, there is a moratorium. We are not going to approve that." The Development Review Board would

probably unanimously approve it; whereas someone brings in something that the Development Review Board felt would not be suitable for the neighborhood, they could already say “no”. Typically, he would support a moratorium in a case where the ordinance had been passed and it had an error or loophole in it. In this case, there was already a mechanism for relatively subjective review based on some pretty nebulous criteria. Whether it is compatible with the neighborhood or not is the problem. Maybe the problem is that the Development Review Board does not say “no” to these things. Mr. Kowalski noted that one of the changes that staff wanted to consider was to the language of the design criteria. The Development Review Board has a hard time working through some of them. When reading through the design criteria, some of them have four or five criteria points within themselves. They all address different things in a slightly different way, so the Board found the criteria hard to work with.

Mr. Alix asked if the Zoning Ordinance was so broken that the moratorium was needed to basically get the process back on track? Mr. Kowalski believed the moratorium was the best tool for fixing the Zoning Ordinance in a fair way and in a short amount of time.

Mr. Alix stated that the Zoning Ordinance has been broken for thirteen years and has been sitting on the backburner for five years. He questioned if the Zoning Ordinance could be fixed within 120 days? Mr. Kowalski stated that it could be improved. The key would be to have a couple of definable tasks that staff could grasp and complete. If staff were to open up the Zoning Ordinance and try to consider the whole concept, then they would not be able to finish within 120 days.

Ms. Tyler pointed out that the MOR Zoning District was described as being broken, because it is a compromise zone. That is the reason why no one likes the MOR Zoning District, but really it is a compromised area that came out of the Downtown to Campus Plan. Mr. Alix believed that it was envisioned to become a different neighborhood. It would be more of a mix of uses. The issue now is that thirteen years later, it was still a predominantly residential character neighborhood. Maybe that was part of the reason that the Zoning Ordinance had not survived the test of time. Mr. Kowalski commented that it was interesting to talk to both residents and developers. Everyone agrees that the MOR Zoning District needs to be fixed.

Ms. Stake inquired about who wants to put any Plan Commission action off for two weeks? Mr. Kowalski answered that staff recommended that the Plan Commission delay action so that staff could send out notices to property owners in the MOR Zoning District. Ms. Stake mentioned that there had been so much talk about the MOR Zoning District. She asked if he really believed that no one knew about it? Mr. Pollock mentioned that the Plan Commission did have the right to vote on this case and sending their recommendation forward to City Council rather than continuing the case for two weeks. However, he suggested taking the two weeks to allow City staff the time to notify property owners.

Mr. Kangas stated that if the Plan Commission voted on the case at this public hearing, then the moratorium would last until Thanksgiving. If they continued the case, then the moratorium would extend to the first of the year. He felt that since everyone appeared to be in favor of the moratorium, then he was in favor of voting on a motion at this meeting and forwarding a recommendation on to City Council.

Mr. Alix agreed. In general principle, he was never in favor of moratoriums. In this case, the argument was reasonably compelling and the term was so short, that it was difficult for him to believe that the Plan Commission would feel differently in two weeks. He would be inclined to vote on it at this meeting as well.

Ms. Goscha inquired if staff would still be able to notify residents? There may be residents in the MOR Zoning District that need to repair a leaky garage roof, etc. who do not know about the moratorium and would not until it was too late. That would be really unfair. Mr. Kowalski explained that there was a list of exceptions. The moratorium would not pertain to plumbing, mechanical, and electrical permits. There are hardship and health and safety exceptions as well. Mr. Kangas pointed out that the residents would still have two weeks before it goes before City Council. Mr. Pollock stated that his main concern was for the ability of the public to feel that they have had a full opportunity to address this issue in a reasonable period of time.

Mr. Kangas moved that the Plan Commission forward the case to the City Council with the recommendation for approval. Ms. Goscha seconded the motion.

Ms. Goscha felt this was a great idea. Coming from an architect's perspective, working in other cities that have actual design standards for specific districts, it is very helpful to be able to point to a building and know what they are allowed to do. It gives opportunities to architects to create better designs.

Mr. Pollock stated that although he still favored allowing more time for public input, the Plan Commission was going to vote on it, and he would support it. As City staff looks at what they are going to do with the Zoning Ordinance over the next 120 days, he believed the real key to having a successful repair will have to do with the makeup of the Development Review Board would be, will it remain a unanimous decision in order to approve or disapprove projects, and what design considerations they need.

The roll call was as follows:

Mr. White	-	Yes	Ms. Upah-Bant	-	Yes
Ms. Stake	-	Yes	Mr. Pollock	-	Yes
Mr. Kangas	-	Yes	Ms. Goscha	-	Yes
Mr. Alix	-	Yes			

The motion was passed by unanimous vote.

## 7. OLD BUSINESS

There was none.

## 8. NEW BUSINESS

### **CCZBA 404-AM-03: Request by the Champaign County Zoning Administrator to rezone 2014 High Cross Road (commonly known as Apple Dumpling Restaurant) from County AG-2, Agriculture to County B-2, Neighborhood Business.**

Mr. Kowalski presented the staff report. He began by giving a brief background of the case. He noted that the owners of 2014 High Cross Road, which are Robert and Rita Wingler, recently had a fire that destroyed a significant portion of the existing structure. There was enough damage to cause the Winglers to lose their legally nonconforming status in the Agriculture Zoning District in Champaign County. Therefore, they cannot reestablish their restaurant without a change of zoning to a Neighborhood Business Zoning District.

Staff reviewed the request against the City's *One and One-Half Mile Extraterritorial Jurisdictional Area Plan*. It showed that a commercial use was recommended for that area. Then, staff reviewed the request against the LaSalle National Bank Criteria, and they found them generally compatible. Staff believed that the Neighborhood Zoning District would serve the area in a manner that would not create problems for residents in the area. There was evidence that business of that kind of intensity had performed well there in the past and did not cause problems to the area.

Mr. Kowalski reviewed the options of the Urbana Plan Commission. Staff's recommendation was as follows:

*Staff recommended a "no-protest" of the proposed rezoning from AG-2 to B-2 for the subject property based upon the staff findings outlined in the written staff report.*

Mr. Kowalski mentioned that the County Zoning Board of Appeals and the Environmental Land Use Committee have already considered this case and have recommended approval of it to the County Board. His understanding was that the County Board would be considering this case on July 24, 2003.

Ms. Stake questioned whether the owners could build a bigger restaurant if they desired to do so? Mr. Kowalski replied that he believed that the owners could. He pointed out that the owners were also requesting a Special Use Permit from the County Board. So, the County would be reviewing the site plan, the size of the building, the access, the hours of operation, etc. He explained that the City of Urbana did not have the ability, as a municipality, to review Special Use Permit Requests in the County.

Ms. Stake inquired if Mr. Kowalski felt that more people would want to develop commercial around this area if this would go through? Mr. Kowalski responded by saying that it could be a request that could be made. However, he could not envision a lot of requests to break off pieces of agricultural land for commercial uses. Mr. Kangas believed that a lot of it would be on septic, so future businesses would need a minimum of an acre and a half.

Ms. Stake inquired what the area of the proposed property was? Mr. Kowalski stated that it was about 125 feet by 241 feet, which was close to an acre.

Mr. White commented that his understanding was that the restaurant would be increasing in footprint, and at the same time they increase their parking, it would be on the south side. This would take care of a problem that one resident had with people parking on their property. Part of the larger footprint would include a storage area. He believed that this would look a lot better than the existing structure had.

Mr. White mentioned that other permitted uses that are allowed in the County's B-2, Neighborhood Business Zoning District included drive-in restaurant, tavern or nightclub. Mr. Kowalski stated that the County was using a "reversion" clause. In other words, County staff was recommending approval of the Zoning District, but if at some point, the new building was no longer being used as the Apple Dumpling, then the zoning would revert back to Agriculture.

Robert Wingler, of 1212 Brad Drive and owner of the Apple Dumpling' Restaurant, mentioned that he and his wife opened the restaurant about 18 years ago. He noted that they did not want the restaurant to get real big. The reason the new building would be a little bigger was because he liked the design of the building. It looks like a nice home with a porch all the way across in front. He just wanted to make the neighborhood a little nicer. He mentioned that since they first moved out to this location, that four more houses have been built next to them.

Mr. Wingler mentioned that it was a family place. The hours of operation are from 7 a.m. to 8 p.m., and they are closed on Mondays. They tried serving booze when they first opened up, and it was a nuisance and a problem, so they got rid of it. They did not want any problems. They believe that they have something very unique.

Ms. Stake moved to forward the case to the City Council with a recommendation of "No Protest". Ms. Upah-Bant seconded the motion.

Mr. White stated that he was a little opposed to new business in this area, but this was an existing business. To deny it would represent a real hardship to the owner. This was a good business for the area because it was a family restaurant with good hours of operation. It was not a tavern and did not have an entertainment license. He moved to amend the motion to add that the case be forwarded with a recommendation that it would be a family restaurant, hours of operation would be between 6 a.m. to 9 p.m., no alcohol and no entertainment license. He believed that the amendment to the motion would keep the use as what it currently was.

Mr. Alix commented that the County was attempting to do something along those lines by placing a "reversion" clause on the approval. He asked if an "entertainment" license was the same as a "liquor" license in the County? Mr. White answered by saying that the two uses were listed separately.

Mr. Kangas asked if the Urbana Plan Commission could amend the original motion as such? Mr. Kowalski did not see how the Plan Commission could recommend it with the amendment. The motion to add the amendment died due to lack of a second.



Roll call was taken on the originally motion that the Urbana Plan Commission forward this case to the Urbana City Council with a recommendation for “No Protest”. It was as follows:

Ms. Upah-Bant	-	Yes	Ms. Stake	-	Yes
Mr. Pollock	-	Yes	Mr. Kangas	-	Yes
Ms. Goscha	-	Yes	Mr. Alix	-	Yes
Mr. White	-	No			

The motion was passed by a 6-1 vote.

**CCZBA 344-AT-02: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance.**

Mr. Kowalski reviewed the staff report for this case. He presented a brief background and noted the two main parts of the proposed amendment, which were as such: 1) County staff reorganized the provisions of the Champaign County Zoning Ordinance from 14 articles to 18 articles and 2) County staff added a new use category called “Regional Special Use” to accompany “by right”, “conditional use”, and “special use”. Although they were not proposing any specific uses to be in this “Regional Special Use” as of yet, they do anticipate that down the road as they get further along with their overall Zoning Ordinance amendment that they may add uses in this new category.

He noted the summary of staff findings and the options of the Urbana Plan Commission in the written staff report. Staff recommendation was as follows:

*Staff recommended 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 in the written staff report.*

Ms. Stake was unclear how the “Regional Special Use” could be permitted “by right” and contain “conditional use” and “special use”. Mr. Kowalski explained that “Regional Special Use” would accompany the categories of “by right”, “conditional use” and “special use”. In their Zoning Ordinance, the County would have a use that was “permitted by right”, permitted by “special use”, permitted by “conditional use” or permitted as a “Regional Special Use”. Ms. Stake inquired if the County would still have to go through the special use process for a Regional Special Use? Mr. Kowalski replied yes. They have not defined what that process would be, but he imagined it would be a little more rigorous than a regular special use process.

Mr. Kangas asked if the County would come back later and fill the new use category? Mr. Kowalski replied yes. City staff anticipates that there will be a major review of the County’s overhaul of their Zoning Ordinance in the future. Mr. Pollock questioned when the County finds something that they would like to apply the “Regional Special Use” to, then would the County come back to the Plan Commission with the ability to protest? Mr. Kowalski answered yes.

Mr. Alix referred to Table 2 on page 6 of the County staff memorandum dated August 2, 2002 and inquired about the “Administrative Special Permit”, the “Legislative Special Permit” and the “Conditional Use”. Mr. Kowalski explained that there was no longer a “Legislative Special Use”. The County was originally proposing a “Legislative Special Use”. The Plan Commission and the City Council reviewed the text amendment and had no protest on that. Later, the County decided that they wanted to change the “Legislative Special Use” to call it “Regional Special Use”.

Mr. Alix questioned if a “Regional Special Use” would go to the County Board and the other uses would be Administrative? Mr. Kowalski said no, that all of the uses would go to the County Board. The “Regional Special Use” would have some enhanced review with the County Board.

Mr. Alix stated that he was unclear about the difference between a “Regional Special Use” and a regular “special use” other than the types of projects the County envisioned being a “Regional Special Use”. Ms. Tyler stated that the “Regional Special Use” category would be a holding zone for things that could have major impacts, because they provide some kind of regional benefit or demand. Mr. Alix commented that he understood what the new category was for. He wanted to know how it was different from a regular “special use”. Mr. Kowalski stated that the County did not explain that. He did not know if the County even knew how the review level would be different between the two. They could adopt special review criteria later on for the “Regional Special Use”.

Mr. Alix could not find an amendment regarding the “Regional Special Use” attached to the written staff report. Mr. Kowalski commented that the only thing that staff had received from the County was the Finding of Fact from the County Zoning Board of Appeals. The case memorandum attached to the written staff report was from when the County was proposing the “Legislative Special Use”.

Ms. Tyler pointed out that the City staff does not have control over how the County was numbering their cases and breaking them into parts. When the City believes that they are done with a case, the County staff may add a part or hold the case back from presenting it to the County Board for final decision. City staff does not want the County Board to act on one of these parts without the City at least having the opportunity to review what had been prepared even if it is only partial.

Mr. Alix referred to Page 5 of the County Case Memorandum dated February 13, 2003. Under Point 27, the third diamond states as follows: *Regional special use procedures for review and approval have been added to Article 16. Excerpts of Article 16, revised as of 2/3/2003 with revised text highlighted, are attached for your information.* He wondered where the attachment was. Mr. Kowalski did not believe that the attachment had been provided by the County; however, he would get a copy of the attachments and distribute it to the Plan Commissioners.

Mr. Alix inquired what the time frame was for this case? Mr. Kowalski answered by saying that the County staff should be taking this case to the Environment & Land Use Committee and County Board in the next two months. Ms. Tyler added that the County staff had offered to come before the Plan Commission and go over the format changes. Mr. Alix did not feel that it

was necessary to have staff from the County to come to the Plan Commission meeting. It would be nice for the Plan Commission to have a copy of what they need to decide whether or not they would like to protest the amendment.

Mr. White pointed out that if you look at the County Ordinance, each category has a block, where it will say if a use was a permitted special use. He wondered if a "Regional Special Use" was not something that would go beyond that and allow things that were not allowed in each category as a special use.

Ms. Tyler stated that the Plan Commission could continue this case until City staff received more background information. The Urbana Plan Commission agreed, and the case was continued to a future meeting.

## **9. AUDIENCE PARTICIPATION**

Ms. Stake inquired why the Urbana Plan Commission could not make an amendment to their motion regarding Case # CCZBA 404-AM-03? Mr. Kowalski responded by saying that the City's recommendation of a protest or no protest was based strictly on whether the zoning district was appropriate or not. This was consistent with how the City treats zoning district changes in the City limits as well. If someone in the City proposed to rezone to a business zoning district, it would be approved or disapproved based on all the other uses permitted in that business zoning district. Ms. Tyler added that if the Plan Commission had passed the motion with the conditions, then there would be two recommendations. The recommendation that would have been passed by the Plan Commission would have had to have a separate staff recommendation. Then City Council might have struggled with the two recommendations. The Plan Commission could have passed the motion with the amendment, but it would have left hanging the question of procedure that the City takes zoning for everything in a particular zone, which is the City's interpretation of the state law and our practice. So, the City would not recommend holding this other unit to a different standard. Another thing that could be done would be that the Zoning Board could add to their special use permit conditions. Mr. Kowalski reassured the Plan Commission that he would be working with the planner, who was working on this case at the County level, and would tell the County planner about the Urbana Plan Commission's discussion on the case; as well as, he would give the County planner a copy of the Plan Commission minutes for this case. Mr. Alix felt it would be appropriate to pass along the comments made by the Urbana Plan Commission

Mr. White commented that it currently was allowed to be a tavern under the County B-2, Neighborhood Business Zoning District. The owners need a special use permit to allow a restaurant. Mr. Pollock added that if the Plan Commission or the City Council felt that the possibilities that that represented, even though there was not a tavern currently there and the hours are more than reasonable, were more of a risk than willing to deal with, then they could officially protest the case. It was one of the options of the Urbana Plan Commission and of the City Council.

Mr. Kangas was curious about how the County was able to have a reversion clause on a specific business zoning district use. Mr. Kowalski replied that apparently there was a test case, where

this happened. It was a case back in the energy crisis, and it related to the crisis at the time. It was much more large scaled. It would be interesting to see if it were challenged and upheld. It would be a great tool.

Mr. White stated that it would be nice to be able to restrict neighborhood businesses, so that they stay a particular kind of neighborhood business. Right now, the Apple Dumpling' fits in with the small housing development. Mr. Kowalski responded by saying that the best way to do that would be for the County to look at the uses that they permit in the B-2, Neighborhood Business Zoning District. Mr. Alix agreed that it was bizarre that a restaurant would be a special use permit; where as a tavern was a permitted use. Generally, a tavern would be considered a higher intensity use.

**10. STUDY SESSION**

There was none.

**11. STAFF REPORT**

Mr. Kowalski reported on the following:

- ***The next scheduled meeting*** will be held on July 24, 2003. There was a request for a special use permit to allow St. Patrick's Church to use 310 North Coler for an accessory storage and office use.
- ***Tatman Industrial Park Subdivision*** was approved by the City Council at the July 7, 2003 meeting.

**12. ADJOURNMENT OF MEETING**

Chair Pollock adjourned the meeting at 9:40 p.m.

Respectfully submitted,

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Rob Kowalski, Secretary  
Urbana Plan Commission