



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

memorandum

TO: Urbana Plan Commission

FROM: Paul Lindahl, Planner I

DATE: July 29, 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.

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 the location for approximately eighteen months and is not in compliance with County Zoning regulations. Note that the subject location has had a commercial building and has housed various commercial uses since at least 1972. The request for rezoning includes conditions allowed under County Zoning practices that would limit the uses permitted at the site to apply solely to the petitioners automobile repair business and would cause the site to revert back to AG-2 Agricultural zoning when the business left the site.

This case began in January 2004 when the property was sold to the current owners and an auto repair business was established. 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 has since been amended for 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.

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. 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.

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) Preliminary and Supplementary Memorandums 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. It is not clear why the subject location was not assigned a B-1, Rural Trade Center zoning designation at that time because it had been the location of a number of businesses in prior years.

According to the Champaign County Zoning Ordinance, the AG-2, Agricultural District is intended to prevent scattered indiscriminate urban development and to preserve the agricultural nature within areas which are predominantly vacant and which presently do not demonstrate any significant potential for development. The AG-2 District is intended generally for application to areas within one and one-half miles of existing communities in the County. The proposed zoning change would recognize that an isolated commercial land use has existed at this site for many years.

This rezoning case began in January 2004 after the property was sold to the petitioners and a new auto repair business was established by a tenant at the location. Auto repair businesses are not permitted in the Champaign County AG-2, Agricultural district. Because the owners want to continue to rent to their tenants at the location they decided to pursue a rezoning to a business district designation.

The Champaign County Zoning Ordinance permits minor automobile repair in the B-1, Rural Trade Center district by right, and in the B-2, Neighborhood Business with a Special Use Permit. Major automobile repair is prohibited in both the B-1 and B-2 zoning districts. The B-3, Highway Business, and B-4, General Business districts allow both major and minor automobile repair by right.

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 B-2 Neighborhood Business District is intended to provide areas for the convenience of adjacent residential areas, and to permit only such uses as are necessary to satisfy limited basic shopping needs which occur daily or frequently.”

“The B-3 Highway Business District is intended to provide areas for commercial establishments which primarily serve the needs of motorists and are intended for application only adjacent to major thoroughfares in the County.”

“The B-4, General Business District is intended to accommodate a range of commercial uses and is intended for application only adjacent to the urbanized areas of the County.”

The opposition of neighbors to the previously proposed rezoning to a B-3 district designation caused the CCDPZ Staff and petitioners to re-evaluate alternatives. Rezoning to B-2, Neighborhood Business District with a Special Use Permit for minor automobile repair had also received opposition at the February hearing because B-2 offered too many potential other uses. The petitioners decided in April 2005 to request a B-1 rezoning because it would be sufficient to allow the limited scope of their tenant’s business activity.

The proposed conditions identified as Item 41 of the Findings of Fact in the County Supplemental Memorandum dated July 22, 2005 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 it’s 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.

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, with the limitations imposed by the County's conditional rezoning, the current business would not be inconsistent with the Comprehensive Plan's future land use designation of residential for the surrounding area because such larger areas often include small amounts of neighborhood serving businesses.

City of Urbana 2005 Comprehensive Plan - Goals and Objectives

The following Goals and Objectives of the 2005 Urbana Comprehensive Plan relate to this case:

Goal 15.0 Encourage compact, contiguous and sustainable growth patterns.

Objectives

15.1 Plan for new growth and development to be contiguous to existing development where possible in order to avoid "leapfrog" development.

Goal 16.0 Ensure that new land uses are compatible with and enhance the existing community.

Objectives

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

16.3 Encourage development in locations that can be served with existing or easily extended infrastructure and city services.

16.5 Consider the impact of new development on public services and the ability to provide those services cost effectively.

Goal 17.0 Minimize incompatible land uses.

Objectives

17.1 Establish logical locations for land use types and mixes, minimizing potentially incompatible interfaces, such as industrial uses near residential areas.

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).

Objectives

21.1 Coordinate with Champaign County on issues of zoning and subdivision in the ETJ.

21.2 Work with other units of government to resolve issues of urban development in unincorporated areas.

When evaluating zoning amendment requests in the ETJ, the City is required to consider their potential impact in relation to the intent of the Comprehensive Plan. Consistency with Champaign County Land Use Goals and Objectives should also be considered. Relevant Champaign County goals and objectives are discussed extensively in the County's Memoranda. Some of these goals and policies coincide with those of the City of Urbana's Comprehensive Plan.

In summary Staff feels that the rezoning to accommodate the current business would not be incompatible with the goals and objectives of the 2005 Comprehensive Plan, especially given the history of the subject property, and with the limitations imposed by the County's conditional rezoning.

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.

The Urbana Zoning Ordinance first included definitions for *Automobile Repair, Major* and *Automobile Repair, Minor* in 1979. It further defined *Automobile Service Station, Gasoline Station or Filling Station* as synonymous. That definition says permitted activity at such a station may include "...minor but not major automobile repairs." The Ordinance defines *Automobile Repair, Minor* as "*Replacement of parts and motor services to passenger cars and trucks not exceeding one and one-half tons capacity, excluding body repairs.*"

In the Table of Uses V-1, *Automobile / Truck Repair, Major* has an entry of it's own but *Automobile Repair, Minor* does not. The Table also includes *Gasoline Station* but no other distinctions of repair or service activity. Staff believes that at the time the authors of the ordinance envisioned minor repairs as taking place only at a traditional gas / service station / garage establishment rather than at an establishment that did not provide fuel at all.

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."

The Urbana B-1, Neighborhood Business District permits a *Gasoline Station* (presumably with minor automobile repair) only as a Special Use. 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 to be 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 both County B-1 and County B-2 zoned

parcels to City B-1 zoning when such parcels are annexed to the City. Urbana's B-2, Neighborhood Business-Arterial District will not be discussed here because it is very unusual, is limited to a few locations, and is not closely comparable with any County zoning district.

The purpose of these comparisons is to demonstrate that the minor automobile repair business currently located at the subject site, with the limitations imposed under the rezoning, is generally consistent with the type of business establishment the City of Urbana Zoning Ordinance would allow in the B-1 zone. Automobile repair businesses are often found in the City of Urbana in close proximity to residential land uses, and districts.

The La Salle National Bank Criteria

In the case of *La Salle National Bank v. County of Cook (La Salle)*, the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed by the Petitioner.

1. The existing land uses and zoning of the nearby property.

This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.

The subject property is a commercial structure while the surrounding area consists primarily of farmland, with rural residences to the immediate west and others scattered farther to the south and east. Land use patterns are shown in the Land Use figure attached to the Champaign County Preliminary Memorandum.

County zoning surrounding the subject properties is entirely AG-2, as shown in the figure attached to the Champaign County Preliminary Memorandum. The closest other business zoned property is County B-3, Highway Business one-half mile to the west. The proposed rezoning to B-1 would not be entirely consistent with the zoning and land use pattern found in the vicinity of the site.

2. The extent to which property values are diminished by the restrictions of the ordinance.

This is the difference in the value of the property as zoned and the value it would have if it were rezoned to permit the proposed use.

It should be noted that City Planning Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact on the value of the property. Therefore, any discussion pertaining to property values must be considered speculative.

The existing property has been in commercial use for many years. The use of this property is constrained by its agricultural zoning designation. While rezoning from agriculture to

commercial may ordinarily increase the value of a property, in this case because of the restricted zoning uses due to the conditions proposed under the rezoning there may well be no increase in the value of the property to the owner even with the proposed B-1 zoning.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.*
4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

The question here applies to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?

The current restrictions associated with the agricultural zoning of the property are designed to protect prime farmland and promote efficient use of energy and other resources. Isolated commercial uses along major arterials can contribute to an overall trend of urban sprawl. The negative impacts due to traffic, safety, noise, and aesthetic concerns caused by commercial development may also be considered in the light of current surrounding agricultural uses. However this location has existed for many years. In this case, it is unclear if any potential harm to the public would be caused by rezoning to the commercial designation as proposed with conditions or if any public harm would be offset by potential gains to the property owners from realizing a higher appraised value, or continued rent income due to a B-1 zoning designation.

5. *The suitability of the subject property for the zoned purposes.*

The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.

The subject property is well suited to the proposed commercial use at this time. It has been used for commercial uses in the past and has an existing commercial type structure. While some utility and public services are not yet available to the site that has not prevented it's use for the current business. While there are other uses permitted in the County AG-2 zoning district that might locate at this site with a Special Use Permit the site is not necessarily large enough or a good location for any of them.

6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

The site is not vacant. The criteria do not apply.

Summary of Staff Findings

1. The County Zoning Ordinance permits conditions to be placed on properties that are rezoned. The proposed conditions on the minor automobile repair business activities should ensure it will be compatible with the County B-1 zoning district designation.

2. Because the County is able to condition the rezoning to only the current business use, and because similar business uses have existed at the site for many years, the proposed rezoning and land use is generally compatible with the surrounding County zoning and land uses.
3. The proposed rezoning is not incompatible with the Urbana Comprehensive Plan Future Land Use residential designation for the surrounding areas because small areas of limited business activity can serve surrounding residential land uses.
4. A minor automobile repair land use would be generally acceptable in the City B-1 zoning district which is the direct conversion from the County B-1 zoning district.
5. The proposed zoning change is not incompatible with the land use policies of both the City and the County which promote contiguous growth and compatibility of land uses because the site has had commercial uses and businesses for many years. The conditioned change of zoning recognizes this fact without promoting non-contiguous development or encouraging other incompatible land uses.
6. The use of the site under the limitations imposed ensure that the rezoning does not promote infrastructure or utility extensions that are contrary to the goals and polices of the Comprehensive Plan.
7. The evaluation of the LaSalle Criteria reiterates the finding above. The proposed zoning change is acceptable because the site and surrounding area are generally suitable for the proposed zoning district, and the change will not be injurious to the general welfare of the public.

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 recommends that the Plan Commission forward a recommendation to City Council that they **defeat 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 Preliminary Memorandum, dated February 11, 2005 w/ Draft Findings of Fact – *Not Available Electronically*
- B) CCDPZ Supplemental Memorandum, dated May 20, 2005 w/ Revised Draft Findings of Fact– *Not Available Electronically*
- C) CCDPZ Supplemental Memorandum, dated May 26, 2005 w/ Revised Draft Findings of Fact– *Not Available Electronically*
- D) CCDPZ Supplemental Memorandum, dated July 22, 2005 w/ Revised Draft Findings of Fact– *Not Available Electronically*
- E) Aerial Photo
- F) Urbana Comprehensive Plan Future Land Use Map

cc: John Hall, Champaign County Planning and Zoning

Aerial Map

EXHIBIT "E"



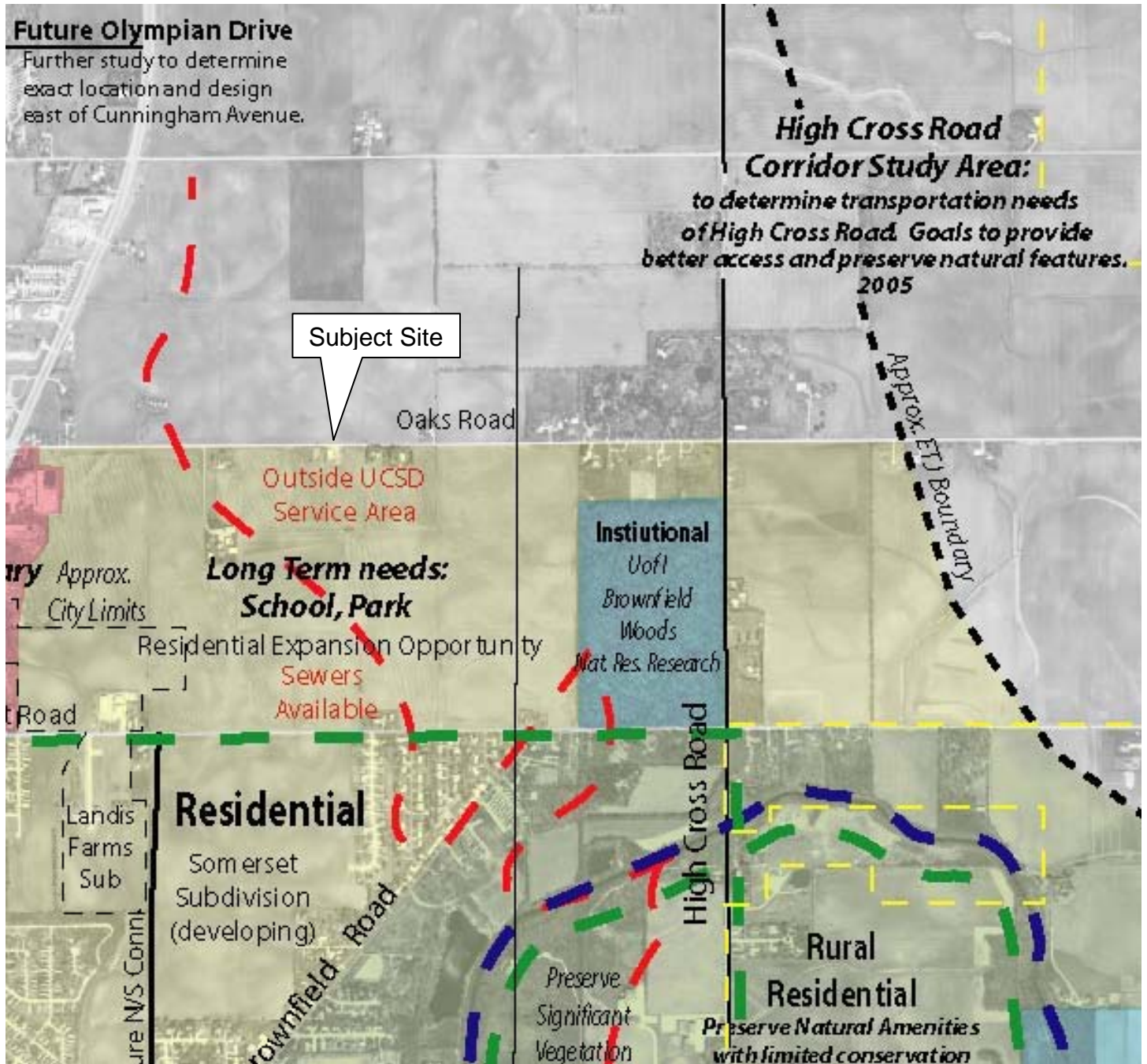
Case: CCZBA 453-AM-04
Petitioner: William Campo
Location: 2305 East Oaks Road
Description: Review of petition to rezone property from Champaign County AG-2, Agriculture to County B-1, Rural Trade Center

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

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