



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

**m e m o r a n d u m**

**TO:** The Urbana Plan Commission

**FROM:** Robert A Myers, AICP, Planning Manager

**DATE:** February 17, 2006

**SUBJECT:** Review of Champaign County Zoning Ordinance amendments, Parts A-M (CCZBA-522-AT-05).

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**Introduction & Background**

The Champaign County Zoning Administrator is requesting a series of major amendments to the Champaign County Zoning Ordinance in Champaign County Case No. CCZBA-522-AT-05. This comprehensive review and update of the County's Zoning Ordinance has been several years in the making. These revisions concern only those portions of the Zoning Ordinance dealing with rural development. Future revisions will deal with standards for residential, commercial, and industrial development.

The proposed text amendments are of interest to the City of Urbana as they may affect zoning and land use decisions within the City's one-and-one-half mile extra-territorial jurisdictional (ETJ) area. 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 effect 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 effect our ability to grow according to our shared vision provided in the 2005 Comprehensive Plan.

For these and other reasons, the City of Urbana should carefully review the proposed Champaign County Zoning Ordinance changes and work with the County to insure that the revised ordinance will be beneficial for everyone. By State law, the City has an obligation to review zoning decisions within its ETJ area for consistency with the City's comprehensive plan. 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. Currently, two townships and one village have formally protested these County Zoning Ordinance changes.

The Urbana Plan Commission should review the proposed County Zoning Ordinance changes and take part in a Champaign County staff overview of these changes to be presented at the February 23, 2006 Urbana Plan Commission meeting. The Commission should then make a recommendation on whether or not the Urbana City Council should enact a resolution of protest. The Champaign County Board is expected to first review this revised Zoning Ordinance proposal at their March 28, 2006 meeting.

This Zoning Ordinance amendment is divided into thirteen parts (A-M) as follows:

- Part A. Revise the nature and intent of the AG-1 Agriculture, AG-2 Agriculture, B-1 Rural Trade Center, and CR Conservation-Recreation Zoning Districts. Change the name of the AG-1 Agriculture Zoning District to AG Agriculture Zoning District.
- Part B. Modify the Table of Authorized Principal Uses, generally allowing fewer non-residential uses in the CR Conservation-Recreation District and AG Agriculture District; more non-residential uses in the AG-2 Agriculture District; and expanding the uses allowable in the B-1 Rural Trade Center District under certain circumstances.
- Part C. Revise certain Special Use standard conditions.
- Part D. Further restrict the right to develop and construct dwelling "by-right" on parcels of land in the AG-1 Agriculture, AG-2 Agriculture, and CR Conservation-Recreation Districts from existing zoning provisions that allow 2 to 4 houses on parcels larger than five acres depending on parcel size plus one house on any lot over 35 acres. The proposed amendment will restrict the right to develop and construct dwellings "by-right" on parcels of land as follows:
  - On parcels under 40 acres in area: one house is permitted "by right" if there is no existing house on the parcel;
  - On parcels 40 acres or more in area: one house is permitted "by right" for each 40 acres of parcel area in addition to any one existing house, up to a maximum total of four houses.
- Part E. Increase the minimum required lot area for new lots that are not created with a recorded plat of subdivision or a recorded plat of survey from one acre to two acres, excluding the

public right-of-way in the AG Agriculture, AG-2 Agriculture, and CR Conservation-Recreation Districts.

- Part F. Restrict locations where construction may occur on lots in order to protect drainageways and known drain tile systems with certain exceptions.
- Part G. Require a protective buffer around public parks and preserves within which construction or uses that require a Zoning Use Permit and outdoor lighting fixtures that direct light or glare onto the adjacent public park or preserve are prohibited with certain exceptions.
- Part H. Make miscellaneous changes regarding standards for lots, site development and construction.
- Part I. Require a protective buffer along streams and drainageways within the CR Conservation-Recreation District that are located both outside of an established drainage district and within a wooded area, with certain exceptions. Within the protective buffer, construction or uses that require a Zoning Use Permit are prohibited and restrictions are placed on the removal of mature trees and the disturbance of surface vegetation.
- Part J. Replace the Rural Residential Overlay provisions with Rural Planned Development District provisions, applicable in the CR Conservation-Recreation, AG Agriculture and AG-2 Agriculture Districts. Like the existing Rural Residential Overlay District, the Rural Planned Development District allows for potential development and construction of dwellings on new lots in addition to lots allowed “by-right”. Key features of Rural Planned Development Districts provisions are as follows:
- A maximum density on the number of new dwellings and lots that can be proposed is established and, generally, the number of lots that can be proposed is reduced.
  - No part of a Rural Planned Development, aside from a Resource Reserve or access to a Resource Reserve, may be located on Best Prime Farmland, defined as land with a Land Evaluation score of 85 or more based on the Champaign County Land Evaluation and Site Assessment System.
  - County Board approval of both a rezoning and a Special Use request is required and approval criteria are added to the review process.
- Part K. For proposed developments in the CR Conservation-Recreation District that require a Special Use or rezoning:
- Establish performance standards that are intended to minimize the impacts of the proposed Special Use or rezoning on selected environmental resources: and
  - Require that a Natural Area Impact Assessment be conducted by a qualified professional if the site contains (or contained as of 2005) well-developed

woodland vegetation, sensitive riparian areas, pastures, prairies, or meadow areas and if a significant portion of such area is proposed to be impacted by the proposed Special Use or rezoning.

Part L. Make miscellaneous changes regarding zoning procedures.

Part M. Change the Zoning Ordinance format and add new techniques and clarifying language. No change proposed in Part M affects any substantive requirement of the Ordinance. New Part M provisions are added only for clarity or to provide a framework for other substantive amendments. Amendments proposed as Part M include:

- Reorganize the provisions into 48 Chapters in lieu of the present 14 Sections;
- Reserve chapters for future new provisions;
- Institute a new numbering system;
- Add language clarifying the scope and effect of the Ordinance;
- Add language clarifying the application of “use” as applied to lots;
- Add “Conditional Use” and “County Board Special Use” as new categories of use authorization to the existing “by-right” and “Special Use” categories. No uses are assigned to the new categories by this amendment and it makes no substantive changes to the Table of Authorized Principal Uses by District.
- Clarify regulations applying to the process of creating lots; and
- Generally make grammatical and editorial changes as required by the new format and to provide greater clarity.

## **Issues and Discussion**

### **Pertinent County Land Use Policies**

In past years, Champaign County allowed subdivisions in unincorporated areas with relatively few regulations. County policy was subsequently adopted which addressed the fact that prime farmland, a finite resource, was being converted to very-low density residential development. Although Champaign County has no comprehensive plan to guide revisions to their Zoning Ordinance and zoning map, a set of Land Use Regulatory Policies (LURP) were adopted to guide further policy changes. LURP for Rural Districts were adopted in 2001 and last amended in September 2005. The most pertinent County LURP policies for this Zoning Ordinance amendment are as follows:

#### *1.1 HIGHEST AND BEST USE OF RURAL LAND*

- 1.1.1 The unincorporated areas of Champaign County fall into two broad classes: urban land which is served by a sanitary sewer system and rural land which is not. Champaign County will allow only low intensity uses under restricted conditions on appropriate rural sites that are not served by sanitary sewer systems.*

- 1.1.2 *Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. Other land uses will not be accommodated except under very restricted conditions or in areas of less productive soils.*
- 1.1.3 *Residential development beyond that allowed as-of-right will be prohibited on land consisting of best prime farmland, but may be allowed elsewhere if:
 
  - a. *conversion of farmland is minimized;*
  - b. *potential for conflicts with agriculture is minimized;*
  - c. *disturbance of natural areas, rivers, or waterways is minimized;*
  - d. *sites are suitable for the proposed use; and*
  - e. *infrastructure and public services are adequate for the proposed use.**
- 1.1.4 *Non-residential land uses will not be allowed on rural land except when:
 
  - a. *conversion of farmland is minimized;*
  - b. *potential for conflicts with agriculture is minimized;*
  - c. *disturbance of natural areas, rivers, or waterways is minimized;*
  - d. *sites are suitable for the proposed use; and*
  - e. *infrastructure and public services are adequate for the proposed use.**

1.2 **PRESERVING UNIQUE SOIL RESOURCES**

*The best prime farmland will be preserved for agricultural use. Other land uses on best prime farmland will not be authorized except on a strictly restricted basis. On best prime farmland, residential land use is limited to an as-of-right allowance and the amount of farmland conversion is restricted. On best prime farmland, non-residential land uses will not be allowed unless the land is used in the most efficient way consistent with other County policies.*

1.3 **PROTECTION OF PROPERTY RIGHTS**

- 1.3.1 *All landowners are guaranteed an as-of-right allowance to establish a non-agricultural use, subject only to public health, safety and site development regulations.*
- 1.3.2 *The as-of-right allowance is intended to ensure a legitimate economic use of all property. Champaign County finds that continued agriculture use alone constitutes a reasonable economic use of the best prime farmland and fairness to landowners does not require accommodating non-farm development on such land.*
- 1.3.3 *Landowners of one or more lawfully created lots that are recorded or lawfully conveyed and are considered a “good zoning lot” (i.e., a lot that meets all County zoning requirements in effect at the time the lot is created) are guaranteed the as-of-right allowance to establish a single-family residence on each such lot.*

- 1.3.4 *Landowners as-of-right allowance is generally proportionate to tract size, with one single-family residence allowed per 40 acres. The right to construct a single-family residence on vacant lawfully created tracts of land less than 40 acres is also part of the as-of-right allowance.*
- 1.3.5 *Residential development beyond the as-of-right allowance is not authorized on best prime farmland. Residential development beyond the as-of-right allowance may be allowed on tracts consisting of other than best prime farmland if the use, design, site and location are consistent with County policies regarding:*
- a. suitability of the site for the proposed use;*
  - b. adequacy of infrastructure and public services for the proposed use;*
  - c. minimizing conflict with agriculture;*
  - d. minimizing the conversion of farmland; and*
  - e. minimizing the disturbance of natural areas.*

## 1.7 CONSERVATION OF NATURAL AREAS

- 1.7.1. *Development authorized By-Right or as a Conditional Use will be allowed in or near known natural areas, sites of historic or archeological significance, County Forest Preserves, or other parks and preserves, only if they are located so as to minimize disturbance of such areas.*
- 1.7.2 *Development that requires discretionary review will be allowed only if there has been reasonable effort to determine if especially sensitive and valuable features are present, and all reasonable effort has been made to minimize disturbance of natural areas, protection of endangered species and protection of historical and archeological sites.*

Since 2001, and in conformance with these policies, some County zoning requirements have been adopted to implement these policies. For instance, residential development is now only permitted in unincorporated rural areas through a rigorous review process. The proposed Zoning Ordinance revision now under consideration would further these policies by essentially limiting residential development in unincorporated Champaign County to no more than one house per 40 acres.

### **City of Urbana Policies**

Champaign County's proposed 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 6.0 Preserve natural resources (including air, water, and land) and environmentally sensitive areas in the community.*

*Goal 7.0. Protect and beautify existing waterways.*

*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.*

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

*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.*

*Goal 34.0 Encourage development in areas where adequate infrastructure already exists.*

## **Issues of Concern**

Based on public input to date, the aspects of the proposed County Zoning Ordinance of greatest concern to County residents are new stream buffer requirements and tree cutting permit requirements. Also of concern is a limitation generally speaking of one house per 40 acres in areas zoned Agricultural. These aspects of the Zoning Ordinance are of less concern to the City of Urbana as they pertain to more rural areas. From the City's perspective, the following changes to the County's Zoning Ordinance should be studied especially carefully.

### *Conditional uses*

The City of Urbana's Zoning Ordinance permits certain uses, not by right, but as conditional uses as approved by the Zoning Board of Appeals. The City provides public notification, and a public hearing is held before the Board of Appeals to incorporate public concerns into the review. However, Champaign County has a somewhat different Conditional Use process in that these are

uses which can be approved by County staff. As a result, the City may not become aware of a Conditional Uses application until following County staff approval. Additionally, a number of standard conditions for Conditional Uses would be eliminated as County staff does not believe they are applicable or advisable in every situation. For example, a dog kennel would move from a Special Use to a Conditional Use, and the standard conditions would be eliminated in favor of simply a 1,000 foot setback from residential zoning districts.

Under Section 7.05.100, any use authorized as a Conditional Use in the Table of Authorized Uses by Districts (Chapter 6) are allowed by right if they meet all the conditions specified in Chapter 7. These are uses which can develop within the 1 ½ mile ETJ adjacent to the City. Some uses could potentially interfere with annexation. Cities have no formal protest rights for Conditional Uses and realistically may not find out about such proposals until following approval by County staff. Those Conditional Uses which are of most concern for the City of Urbana include the following.

- *Cemeteries, including Pet Cemeteries.* Burial plots may not be located within 100 feet of a well used for drinking water, but there are no longer street setback or minimum lot size requirements for burial plots. This could impact street widening once cemeteries are annexed into the City.
- *Kennels.* Standard conditions are eliminated and replaced with a minimum 1,000 foot setback from residential districts and dwellings.
- *Sexually Oriented Businesses.* Cannot be located within 1,000 feet of another sexually-oriented business, a school, park, place of worship, library, or residential zoning district.
- *Reuse of Existing Rural Structures.* This provision allows practically any vacant rural structure to be used for non-residential purpose as long as it occurs in the confines of that structure and meets other requirements such as a limit on the number of employees. This could be an issue if, for instance, a barn used for automobile repair were annexed into the City of Urbana and the land developed for residential purposes.

Special Uses are those which are reviewed and approved by the County Zoning Board of Appeals. Cities have no formal protest rights for Special Uses. Of concern here is that many standard conditions for Special Uses would be eliminated. Instead the County is proposing to review and apply customized conditions for each particular proposal. An overview of Special Use Standard conditions to be eliminated is provided in Exhibit C. Those Special Uses which are of concern to the City of Urbana include the following.

- *Mineral extraction and quarrying.* Most standard conditions eliminated.
- *Penal or correctional institutions.* Different setback standards substituted.
- *Truck terminals.* Standard conditions eliminated.
- *Livestock sales facility and stockyards.* Standard conditions eliminated.
- *Slaughter Houses.* Standard conditions eliminated.
- *Skeet, Trap or Rifle Ranges.* No standard conditions.
- *Stadium or Coliseums.* Standard conditions eliminated.



- *Animal Training Facilities*. No standard conditions.
- *Foundries and Smelters*. No standard conditions.
- *Explosives & Incendiary Products Manufacturing & Storage*. No standard conditions.

The following uses could be approved by the Champaign County Board and may be of concern to the City of Urbana.

- *Sewage disposal plants and Lagoons*. Standard conditions eliminated.
- *All-Terrain Vehicle, Go-Cart or Motorcycle Course*. No standard conditions.

### *Rural Planned Development Districts*

In addition to Conditional and Special Uses, there is a minor concern about Rural Planned Development Districts. This category is listed as a type of Planned Development District and is analogous to the City of Urbana's Planned Unit Development zoning category. One question is whether or not this is intended to be a zoning district, an overlay zoning district, or a use within a zoning district. Under Section 37.20, Authorized Uses, the Zoning Ordinance would allow single-family dwellings as well as uses authorized in the zoning district in which the Rural Planned Development is proposed. Also transfer of potential dwelling units under Section 37.60 (a form of transfer of development rights) is a way to allow cluster development to avoid development of environmentally sensitive tracts. Transfer of development rights is a very complicated issue that should be well thought out before enactment.

New County Zoning Ordinance standards can also effect future land use patterns just beyond the City limits as envisioned in the *2005 Urbana Comprehensive Plan*. Specifically, Future Land Use Map #2 sees the area just northeast of the Urbana city limits as future Rural Residential land uses, preserving natural amenities with limited conservation residential development. An issue to consider is whether or not new Zoning Ordinance regulations in AG and CRE districts will be so restrictive as to stifle this envisioned land use pattern.

### **Summary of Issues of Concern**

In terms of protection of natural resources, including waterways, the proposed Zoning Ordinance well addresses the City's goals. Whether or not the specific provisions will be effective or easily administered remains to be seen, but the Zoning Ordinance changes do work toward this end. In terms of compatibility of land uses, Champaign County's Zoning Ordinance is more problematic. This is mainly a concern because a number of standard conditions for Conditional and Special Uses have been removed, and Conditional Uses may be approved administratively without opportunity for comment for adjoining communities. There may be some specific Conditional Use proposals in which the City of Urbana should be able to voice its concerns in terms of potentially incompatible land uses.

Although this proposed Zoning Ordinance presents areas of concern, does it rise to the level of enacting a formal protest? City of Urbana staff believes these issues can be resolved through a dialogue with County staff without having to adopt such a resolution.

### **Summary of Staff Findings**

1. Champaign County Zoning Case No. CCZBA522-AT-05 would adopt broad new zoning standards which are designed to further protect farming and prime farm land from conversion to other uses, as well as to protect environmental resources;
2. The proposed zoning ordinance text amendment is generally consistent with the City of Urbana's *2005 Comprehensive Plan's* goals and objectives;
3. Areas of concern remain where potentially incompatible land uses could be approved through Conditional Uses or Special Uses.

### **Options**

In CCZBA Case No. 522-AT-05, the Plan Commission has the following options for recommendations to the City Council:

- a. Forward the plan case to the City Council with a recommendation to defeat a resolution of protest for the proposed text amendments.
- b. Forward the plan case to the City Council with a recommendation to defeat a resolution of protest contingent upon some specific revision(s) to the proposed text amendments.
- c. Forward the plan case to the City Council with a recommendation to adopt a resolution of protest for the proposed text amendments.

### **Staff Recommendation**

City staff would like to have an opportunity to hear Champaign County's presentation to the Plan Commission on February 23, 2006 concerning this case. Therefore, City staff will hold a recommendation until the Commission's February 23<sup>rd</sup> meeting. If the Plan Commission finds specific Zoning Ordinance provisions which are objectionable, but overall the new ordinance is found to be generally compatible with the City of Urbana's policies, the Commission has the option to recommend defeating a resolution of protest on certain conditions.

Prepared by:

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Robert Myers, AICP, Planning Manager

Exhibits:      A. Comparison of Existing and Proposed Zoning Ordinance memo, Jan. 11, 2006 \*  
                  B. Comparison of Zoning Ordinance Proposals Table, Nov. 14, 2005 \*  
                  C. Special Use Standard Conditions to be Eliminated \*  
                  D. Comprehensive Zoning Review Text Amendment, Phase One memo \*  
                  E. Proposed Champaign County Zoning Ordinance draft, Nov. 14, 2005 \*

cc:      Susan Monte, Champaign County Planning and Zoning

\* Not available electronically

For copies of the Champaign County Zoning Ordinance  
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