



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Plan Commission

FROM: Jeffrey Engstrom, Planner I

DATE: August 18, 2006

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

Introduction & Background

The Champaign County Zoning Administrator is requesting a text amendment to the Champaign County Zoning Ordinance in Champaign County Case No. CCZBA-558-AT-06. The purpose of this amendment is to allow mortuary or funeral homes in AG-2 zoning districts with a Special Use Permit as a second principal use on a lot where there is a cemetery when the lot is under common management.

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

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

The proposed amendment came about as a response to a local firm which wishes to perform funeral services at Mt. Hope Cemetery, whose property is an island surrounded by both Urbana and the City of Champaign. The case was approved by the Champaign County Zoning Board of Appeals at their July 27th meeting. Next it will be reviewed at the Environment and Land Use Committee on August 14th and September 11th. The amendment will be considered for approval at the September 21st meeting of the County Board. If the City wishes to file a protest to the proposed amendment this must be done by the September 21st meeting of the County Board. Under state law, a municipal protest of the proposed amendment enforces a three-fourths super majority of affirmative votes for approval of the request at the County Board.

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

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

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

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

Issues and Discussion

City of Urbana Policies

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

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

Goal 17.0 Minimize incompatible land uses.

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

Objective 17.2 Where land use incompatibilities exist, promote development and design controls to minimize concerns.

Goal 21.0 Identify and address issues created by overlapping jurisdictions in the one-and-one-half mile Extraterritorial Jurisdictional area (ETJ).

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

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

The proposed changes appear to be generally consistent with these goals and objectives. Since the amendment would only allow mortuaries or funeral homes where cemeteries already exist, there would not be any further conversion of agricultural lands in the ETJ. Mortuaries and cemeteries, while distinct uses, are not considered incompatible.

Zoning Compatibility

Urbana's Zoning Ordinance is not compatible with the proposed amendment. Cemeteries are only allowed with a Conditional Use Permit (CUP) in the AG, Agriculture and CRE, Conservation, Recreation, and Education Districts. Mortuaries are permitted by right in B-2, B-3, B-3U, B-4, B-4E and MOR districts, and with a CUP in R-5, R-6, R-6B and B-1 districts. Since there is no overlap, any potential properties annexed with both a cemetery and mortuary would be considered a legal nonconformity. This situation is not likely to occur.

Summary of Staff Findings

1. Champaign County Zoning Case No. CCZBA558-AT-06 would allow for mortuaries or funeral homes as a second principal use on a lot containing an existing cemetery (with a Special Use Permit);
2. The proposed zoning ordinance text amendment is generally consistent with the City of Urbana's *2005 Comprehensive Plan's* goals and objectives;
3. The proposed zoning ordinance text amendment is not consistent with the City of Urbana's Zoning Ordinance.

Options

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

Staff recommends that the Plan Commission forward this case to the City Council with a recommendation to **defeat a resolution of protest** for the proposed text amendment based upon the findings summarized above.

Prepared by:

Jeffrey Engstrom, Planner I

Exhibits: A. Preliminary Memorandum to the Champaign County ZBA, July 21, 2006

B. Report to the Champaign County ELUC, August 10, 2006

cc: John Hall, Champaign County Zoning Administrator

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