



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning and Economic Development Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Officer

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

DATE: March 28, 2002

SUBJECT: CCZBA-326-AT-02: Request by the Champaign County Zoning Administrator for a text amendment to Section 13.1 of the Champaign County Zoning Ordinance to prohibit granting Variances or Special Use Permits or issuing Zoning Use Permits or Zoning Compliance Certificates on lots where outstanding ordinance violations are located.

Introduction & Background

The Champaign County Zoning Administrator is requesting a text amendment to the County Zoning Ordinance that would prohibit granting variances or special use permits or issuing zoning use permits or zoning compliance certificates on lots where outstanding ordinance violations are located. The text amendment is proposed at the request of the Champaign County Environment & Land Use Committee in response to public concerns over outstanding nuisance and zoning violations. The Champaign County Zoning Administrator indicates that the text amendment is needed for a number of reasons. Overall, it is felt that issuing permits and approvals prior to compliance of existing violations can give a mixed message to the violator and will result in even greater difficulty in getting the violations corrected.

The City of Urbana has the authority to review proposed amendments to the Champaign County Zoning Ordinance. The City exerts their review authority through either passing a resolution to protest the amendment or passing a resolution to defeat a protest. A resolution to protest the proposal would require a super-majority vote at the County Board.

On March 21, 2002, the Urbana Plan Commission reviewed the request and recommended unanimously (6-0) that the Urbana City Council defeat a resolution of protest. Additional information on the proposal is available in the staff memorandum to the Plan Commission dated March 14, 2002 along with the attached memoranda from the Champaign County Planning and Zoning Department.

Issues and Discussion

Section 13.1 of the Champaign County Zoning Ordinance is proposed to be amended to include the following language:

13.2.1 The Board shall not approve Variances or Special Use Permits, and the Zoning Administrator shall not issue Zoning Use Permits or Zoning Compliance Certificates when:

C. An outstanding violation of the Zoning Ordinance or of any regulation listed in Paragraph 13.2.1A exists on the lot except under the following conditions:

The proposed amendment would also add limited exceptions to address cases where granting a zoning approval is actually the preferred approach to resolving a violation. This exception is intended to address the condition where there is no other way to correct a violation other than by issuing an approval. Proposed language to address this issue is as follows:

- 1. the violation cannot be corrected by any practical means without the Variance, Special Use Permit, Zoning Use Permit or Zoning Compliance Certificate;*
- 2. the Board finds that granting a Variance or Special Use Permit will facilitate correction of any non-zoning ordinance violations.*
- 3. the Variance, Special Use Permit, Zoning Use Permit or Zoning Compliance Certificate is required to effect any stipulation, agreement or court order resolving the violation; or*
- 4. a municipality or the Champaign County Health Department has the legal authority to waive compliance with a regulation and stipulates in writing that it has no objection to issuing the Variance, Special Use Permit, Zoning Use Permit or Zoning Compliance Certificate.*

This amendment allows for protection of the public interest and would not negatively affect the City of Urbana. The Urbana Zoning Ordinance does not specifically address the issue of requested zoning approvals on sites with existing violations. The Urbana Zoning Ordinance does require that a Certificate of Occupancy for a building permit only be issued when all requirements of the zoning ordinance have been satisfied. At this time, city staff sees no need to amend the Urbana Zoning Ordinance in the manner proposed by the County Zoning Administrator.

Summary of Staff Findings

At the March 21, 2002 meeting, the Urbana Plan Commission adopted the following findings:

1. The proposed text amendments are generally consistent with the Urbana Zoning Regulations and Comprehensive Plan Goals and Objectives.
2. The proposed text amendments would improve the enforcement and zoning compliance within Champaign County.
3. Comparable text amendments to the City of Urbana Zoning Ordinance are not necessary.
4. The proposed text amendments would not pose a significant detriment to the City of Urbana or to the extra-territorial jurisdiction of the City of Urbana.

Options

In CCZBA Case #326-AT-02, the City Council has the following options:

- a. Defeat a resolution of protest for the proposed text amendment.
- b. Defeat a resolution of protest contingent upon some specific revision(s) to the proposed text amendment.
- c. Adopt a resolution of protest for the proposed text amendment.

Staff Recommendation

At the March 21, 2002 Plan Commission meeting, the Commission unanimously (by a vote of 6-0) recommended the Urbana City Council **defeat a resolution of protest** for the proposed text amendment based upon the findings summarized above. Staff concurs with this recommendation.

Attachments:

- 1) Draft Ordinance for Resolution of Protest
- 2) Draft Plan Commission Minutes from March 21, 2002

c: Susan Monte, Champaign County Planning and Zoning

RESOLUTION NO. 2002-04-011R

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

(Text amendment to prohibit the issuance of a Zoning Use Permit on property with outstanding violations - Plan Case CCZBA 326-AT-02)

WHEREAS, Frank DiNovo, Champaign County Zoning Administrator, has petitioned the County of Champaign for an amendment to the text of the Champaign County Zoning Ordinance in Champaign County ZBA Case No. 326-AT-02 to amend Sections 13.1 to prohibit granting Variances or Special Use Permits or issuing Zoning Use Permits or Zoning Compliance Certificates on lots where outstanding ordinance violations are located; and

WHEREAS, said amendment has been submitted to the City of Urbana for review and is being considered by the City of Urbana under the name of "CCZBA-326-AT-02; and

WHEREAS, the Urbana Plan Commission, after considering matters pertaining to said Petition at their meeting of March 21, 2002, has recommended by a vote of 6 to 0 that the Urbana City Council defeat a resolution of protest against the proposed omnibus text amendment to the Champaign County Zoning Ordinance; and

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed text amendment is in the best interest of the City of Urbana.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The City Council finds and determines that the facts contained in the above recitations are true.

Section 2. That the Urbana City Council hereby resolves that the City of Urbana, pursuant to the provisions of 55 ILCS 5/5-12014, does hereby defeat a Resolution of Protest against the proposed text amendment as presented in CCZBA-326-AT-02.

PASSED by the City Council this _____ day of _____, 2002.

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2002.

Tod Satterthwaite, Mayor