



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Director

DATE: June 3, 2010

SUBJECT: CCZBA-664-AT-10: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning shadow flicker and number of concurring votes needed for Zoning Board of Appeals decisions

Introduction and Background

The Champaign County Zoning Administrator is proposing a two-part text amendment to the Champaign County Zoning Ordinance in CCZBA Case No. 664-AT-10. Following is a description of the text amendment proposed.

1) Delete subparagraph 6.1.4 A.1.(c)

Section 6.1.4 of the Champaign County Zoning Ordinance pertains to wind farm developments in Champaign County, exclusive of Urbana's 1.5 mile extraterritorial jurisdiction (ETJ). Illinois State Law allows municipalities to regulate wind farms and wind turbines within both its zoning jurisdiction and the 1.5 mile ETJ surrounding its zoning jurisdiction. Additionally, State Law does not grant counties zoning authority over wind farms within municipal ETJ's. Consequently, the wind farm regulations that were adopted by Champaign County in May 2009 exclude the City of Urbana's ETJ.

Wind farms outside of municipal ETJ's, may be authorized in the County AG-1 Zoning District by a special use permit. Section 6.1.4 outlines standard conditions to which wind farms are subject. Paragraph 6.1.4 M. addresses standard conditions for shadow flicker and reads as follows:

"M. Standard Conditions for Shadow Flicker

- 1. The Applicant shall submit the results of a study on potential shadow flicker. The shadow flicker study shall identify the locations of both summer and winter shadow flicker that may be caused by the project with an expected duration of 30 hours or more per year.*
- 2. Shadow flicker that exceeds the above standards shall be mitigated by any means such as landscaping, awnings, or fencing."*

The intent of paragraph 6.1.4 M. is that shadow flicker be mitigated in cases where duration of 30 hours or more per year is expected.

Subparagraph 6.1.4 A.1.(c) also mentions shadow flicker. This Section specifies general standard conditions for wind farms. A copy of this section is provided in the Champaign County Memorandum in Exhibit A. Subparagraph 6.1.4 A.1.(c) reads as follows:

“All land that will be exposed to shadow flicker in excess of that authorized under paragraph 6.1.4M. and for which other mitigation is not proposed.”

As written, this subparagraph is inconsistent with paragraph 6.1.4 M. as it could allow unmitigated shadow flicker exceeding 30 hours per year. The Zoning Administrator is therefore proposing to delete subparagraph 6.1.4 A.1.(c).

2) Revise subparagraph 9.1.7 E.1. to change the required number of concurring votes needed for Zoning Board of Appeals decisions from five to four to make the Zoning Ordinance consistent with state law.

Paragraph 9.1.7 E.1. of the Champaign County Zoning Ordinance requires that “the concurring vote of five members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variance in the application of this ordinance or to effect any special use.” This is inconsistent with State law (55 ILCS 5/5-12011) which establishes that decisions by a Board of Appeals only require the concurring vote of four board members for boards of seven members. It is the opinion of the State’s Attorney that if the state statutes only require four affirmative votes, then the County cannot require a greater number.

The By-laws for the County Zoning Board of Appeals were amended in 2002 to require only four affirmative votes per state law. The County has been operating with the understanding that only four affirmative votes are required since this time. The Champaign County Zoning Administrator is proposing to amend paragraph 9.1.7 E.1. of the Champaign County Zoning Ordinance so that it is consistent with state law.

Champaign County staff memoranda concerning the proposed text amendment are included as Exhibits A and B. The County Environment and Land Use Committee is anticipated to make a recommendation to the Champaign County Board concerning the amendment at their meeting on June 8, 2010. From there, the amendment will be considered by the Champaign County Board on June 24, 2010.

The Urbana Plan Commission, at their March 20, 2010 meeting, voted six ayes and zero nays to recommend to the City Council to defeat a resolution of protest concerning the proposed Champaign County Zoning Ordinance text amendment. Under state law, a municipal protest of the proposed amendment would require a three-fourths super majority of affirmative votes for approval of the request at the County Board; otherwise, a simple majority would be required for County Board approval.

Discussion

Proposed Champaign County text amendments are typically of interest to the City of Urbana to the extent that they will affect zoning and land use development decisions within the City's ETJ and for their consistency with Urbana's Comprehensive Plan. The City has subdivision and land development jurisdiction within the ETJ area, while the County holds zoning jurisdiction in this area. It is therefore important that there be consistency between these two jurisdictions to the extent that certain regulations may overlap.

The proposed text amendment will not significantly impact the City of Urbana or its ETJ. The first part of the text amendment is to make revisions to wind farm regulations that were adopted by Champaign County in May 2009 in CCZBA Case No. 634-AT-08. Based on State law, the wind farm regulations exclude the City of Urbana's ETJ. Since the proposed text amendment is related to the wind farm regulations, which do not apply to Urbana's ETJ, the proposed text amendment will not directly impact the City of Urbana's planning jurisdiction. In addition, the City of Urbana did not adopt a resolution of protest concerning the establishment of regulations, or any amendments thereto, for wind farm developments in Champaign County.

The second part of the text amendment is to correct the number of concurrent votes needed by the County ZBA so that the County's Zoning Ordinance is consistent with State Statues. This change relates to administrative proceedings of the County. Although it will affect how County ZBA recommendations are made concerning properties within Urbana's ETJ, it does not have a direct impact on Urbana's ETJ.

Summary of Findings

1. The Champaign County Zoning Administrator is proposing a two-part text amendment to the Champaign County Zoning Ordinance in CCZBA Case No. 664-AT-10 concerning shadow flicker and number of concurring votes needed for Zoning Board of Appeals decisions.
2. The first part of the proposed text amendment is to delete paragraph 6.1.4 A.1.(c) concerning shadow flicker applicable to wind farm developments that is inconsistent with subparagraph 6.1.4 M. of the Champaign County Zoning Ordinance.
3. Based on State law, Champaign County's regulations pertaining to wind farm developments are not applicable within City of Urbana's ETJ.
4. The second part of the text amendment is to correct the number of concurrent votes required by the County Zoning Board of Appeals in paragraph 9.1.7 E.1. from five to four to be consistent with state statutes. This change relates to administrative proceedings of the County.
5. The proposed zoning ordinance text amendment would not adversely affect the City of Urbana or the extraterritorial jurisdiction of the City of Urbana.
6. The Urbana Plan Commission, at their March 20, 2010 meeting, voted six ayes and zero nays to recommend that the City Council defeat a resolution of protest concerning the proposed Champaign County Zoning Ordinance text amendment.

Options

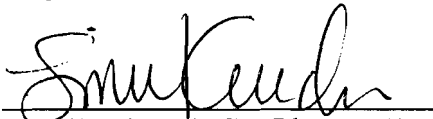
The City Council has the following options regarding the proposed text amendment in CCZBA Case No. 664-AT-10:

1. Defeat a resolution of protest; or
2. Defeat a resolution of protest contingent upon some specific revision(s) to the proposed text amendments; or
3. Adopt a resolution of protest.

Recommendation

Based on the analysis and findings presented herein, the Urbana Plan Commission and staff recommend that the City Council **DEFEAT the attached resolution of protest** for the proposed County Zoning Ordinance text amendment.

Prepared by:



Lisa Karcher, AICP, Planner II

Attachments: Draft Resolution of Protest
Exhibit A: Preliminary Memorandum dated March 19, 2010
Exhibit B: Supplemental Memorandum dated March 25, 2010
Exhibit C: Draft Minutes of March 20, 2010 Plan Commission Meeting

cc: John Hall, Champaign County Zoning Administration

RESOLUTION NO. 2010-06-016R

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

(Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning shadow flicker and number of concurring votes needed for ZBA decisions / Plan Case No. CCZBA 664-AT-10)

WHEREAS, the Champaign County Zoning Administrator has petitioned the County of Champaign for a zoning text amendment to the Champaign County Zoning Ordinance in Champaign County ZBA Case No. 664-AT-10 concerning shadow flicker and number of concurring votes needed for Zoning Board of Appeals decisions; 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-664-AT-10: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance as follows: 1) delete subparagraph 6.1.4 A.1.(c); and 2) revise subparagraph 9.7.7 E.1 to change the required number of concurring votes needed for ZBA decisions from five to four to make the Zoning Ordinance consistent with state law"; and

WHEREAS, said amendment will not adversely affect the City of Urbana or its 1.5 mile extraterritorial jurisdiction; and

WHEREAS, the Urbana Plan Commission, after considering matters pertaining to said Petition at their meeting on May 20, 2010, has recommended by a vote of six ayes to zero nays that the Urbana City Council defeat a resolution of protest concerning the proposed 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 not in the best interests 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 adopt a Resolution of Protest against the proposed text amendment as presented in CCZBA-664-AT-10.

Section 3. The City Clerk of the City of Urbana is authorized and directed to file a certified copy of this Resolution of Protest with the County Clerk of the County of Champaign, and to mail a certified copy of this resolution to the Petitioner, Mr. John Hall at 1776 East Washington, Urbana, Illinois 61801 and to the State's Attorney for Champaign County and Attorney for the Petitioner, at the Champaign County Courthouse, Urbana, Illinois, 61801.

PASSED by the City Council this _____ day of _____, 2010.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2010.

Laurel Lunt Prussing, Mayor

CASE NO. 664-AT-10Champaign **PRELIMINARY MEMORANDUM**
County

March 19, 2010

Department of

Petitioner: **Zoning Administrator****PLANNING &
ZONING**Prepared by: **John Hall**
Zoning Administrator
J.R. Knight
Associate Planner**Brookens****Administrative Center** Request:1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Amend the Champaign County Zoning Ordinance as follows:

1. **Delete subparagraph 6.1.4 A.1.(c).**
2. **Revise subparagraph 9.1.7 E.1. to change the required number of concurring votes needed for ZBA decisions from five to four to make the Zoning Ordinance consistent with state law.**

BACKGROUND

The need for the amendment came about as follows:

- Regarding the deletion of paragraph 6.1.4 A.1.(c) of the proposed amendment:
 - Paragraph 6.1.4 M. establishes Standard Conditions for Shadow Flicker and requires that all areas subject to more than 30 hours of shadow flicker per year are to be provided with some form of mitigation.
 - This paragraph was revised by ELUC after the public hearing for Zoning Case 634-AT-08 Part A. However, Paragraph 6.1.4 A.1.(c) was not revised by ELUC and still requires land that is subject to more shadow flicker than authorized in 6.1.4 M. which receives no other mitigation to be part of the Special Use Permit Area.
 - The two paragraphs are inconsistent and paragraph 6.1.4 A.1.(c) is unnecessary and illogical, and should be deleted.
- Regarding the change to paragraph 9.1.7 E.1:
 - The Zoning Ordinance currently requires the concurring vote of five Zoning Board of Appeals (ZBA) members to pass a decision.
 - However, state law (55 ILCS 5/5-12011) establishes that decisions by a Board of Appeals only require the concurring vote of four Board members for boards of seven members.
 - This became an issue in Zoning Case 560-S-06 for the petitioner Hindu Temple and the State's Attorney determined that the County cannot require a greater number of affirmative votes than that required by state law.

ATTACHMENTS

- A Draft Proposed Change to Paragraph 6.1.4 A. 1.(c)
- B Draft Proposed Change to Paragraph 9.1.7 E.1.
- C Draft Finding of Fact for Case 664-AT-10

I. Delete Subparagraph 6.1.4 A.1.(c) as follows:

A. General Standard Conditions

1. The area of the WIND FARM County Board SPECIAL USE Permit must include the following minimum areas:
 - (a) All land that is a distance equal to 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of that WIND FARM TOWER.
 - (b) All land that will be exposed to a noise level greater than that authorized to Class A land under paragraph 6.1.4 I.
 - ~~(e) All land that will be exposed to shadow flicker in excess of that authorized under paragraph 6.1.4M. and for which other mitigation is not proposed.~~
 - ~~(d)~~ All necessary access lanes or driveways and any required new PRIVATE ACCESSWAYS. For purposes of determining the minimum area of the special use permit, access lanes or driveways shall be provided a minimum 40 feet wide area.
 - ~~(e)~~ All necessary WIND FARM ACCESSORY STRUCTURES including electrical distribution lines, transformers, common switching stations, and substations not under the ownership of a PUBLICLY REGULATED UTILITY. For purposes of determining the minimum area of the special use permit, underground cable installations shall be provided a minimum 40 feet wide area.
 - ~~(f)~~ All land that is within 1.50 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of each WIND FARM TOWER except any such land that is more than 1,320 feet from any existing public STREET right of way.
 - ~~(g)~~ All land area within 1,320 feet of a public STREET right of way that is also within 1,000 feet from the base of each WIND FARM TOWER except that in the case of WIND FARM TOWERS in compliance with the minimum STREET separation required by paragraph 6.1.4 C. 5. in which case land on the other side of the public STREET right of way does not have to be included in the SPECIAL USE Permit.

Attachment B Draft Proposed Change to Paragraph 9.1.7 E.1.

MARCH 19, 2010

1. Revise Subparagraph 9.1.7 E.1. as follows:

(Underline and ~~strikeout~~ text indicate changes from the existing Ordinance text.)

The concurring vote of ~~five~~ four members of he BOARD shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any VARIANCE in the application of this ordinance or to effect any SPECIAL USE.

PRELIMINARY DRAFT

664-AT-10

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: *{RECOMMEND ENACTMENT / RECOMMEND DENIAL}*

Date: March 19, 2010

Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance as follows:

1. Delete subparagraph 6.1.4 A.1.(c).
2. Revise subparagraph 9.1.7 E.1. to change the required number of concurring votes needed for ZBA decisions from five to four to make the Zoning Ordinance consistent with state law.

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 25, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The need for the amendment came about as follows:
 - A. Regarding the deletion of paragraph 6.1.4 A.1.(c) of the proposed amendment:
 - (1) Paragraph 6.1.4 M. establishes Standard Conditions for Shadow Flicker and requires that all areas subject to more than 30 hours of shadow flicker per year are to be provided with some form of mitigation.
 - (2) This Paragraph was revised by ELUC after the public hearing for Zoning Case 634-AT-08 Part A. However, Paragraph 6.1.4 A.1.(c) was not revised by ELUC and still requires land that is subject to more shadow flicker than authorized in 6.1.4 M. which receives no other mitigation to be part of the Special Use Permit Area.
 - (3) The two paragraphs are inconsistent and paragraph 6.1.4 A.1.(c) is unnecessary and illogical, and should be deleted.
 - B. Regarding the change to paragraph 9.1.7 E.1:
 - (1) The Zoning Ordinance currently requires the concurring vote of five Zoning Board of Appeals (ZBA) members to pass a decision.

PRELIMINARY DRAFT

- (2) However, state law (55 ILCS 5/5-12011) establishes that decisions by a Board of Appeals only require the concurring vote of four Board members for boards of seven members.
 - (3) This became an issue in Zoning Case 560-S-06 for the petitioner Hindu Temple and the State's Attorney determined that the County cannot require a greater number of affirmative votes than that required by state law.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

GENERALLY REGARDING THE EXISTING ZONING REGULATIONS

4. Existing Zoning regulations regarding the separate parts of the proposed amendment are as follows:
- A. Requirements for the development of wind farms were added to the *Zoning Ordinance* in Ordinance No. 848 (Case 634-AT-09 Part A) on May 21, 2009. The relevant portions of that amendment are as follows:
 - (1) Paragraph 6.1.4 A.1. states:

The area of the WIND FARM County Board SPECIAL USE Permit must include the following minimum areas:

...
 - (c) All land that will be exposed to shadow flicker in excess of that authorized under paragraph 6.1.4M. and for which other mitigation is not proposed.
 - (2) Paragraph 6.1.4 M. states:

Standard Conditions for Shadow flicker

 1. The Applicant shall submit the results of a study on potential shadow flicker. The shadow flicker study shall identify the locations of both summer and winter shadow flicker that may be caused by the project with an expected duration of 30 hours or more per year.
 2. Shadow flicker that exceeds the above standards shall be mitigated by any means such as landscaping, awnings, or fencing.
- B. Subparagraph 9.1.7 E.1. states:

The concurring vote of five members of the BOARD shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass

under this ordinance or to effect any VARIANCE in the application of this ordinance or to effect any SPECIAL USE.

- C. The following definitions from the *Zoning Ordinance* are especially relevant to this amendment (capitalized words are defined in the Ordinance):
- (1) "BOARD" shall mean the Zoning Board of Appeals of the COUNTY
 - (2) "GOVERNING BODY" shall mean the County Board of Champaign County, Illinois.

SUMMARY OF THE PROPOSED AMENDMENT

5. The proposed amendment is summarized here as it will appear in the Zoning Ordinance, as follows:
- A. The proposed deletion of subparagraph 6.1.4 A.1.(c) will appear as follows:
- 6.1.4 WIND FARM County Board SPECIAL USE Permit
A WIND FARM County Board SPECIAL USE Permit may only be authorized in the AG-1 Zoning District subject to the following standard conditions.
- A. General Standard Conditions
1. The area of the WIND FARM County Board SPECIAL USE Permit must include the following minimum areas:
 - (a) All land that is a distance equal to 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of that WIND FARM TOWER.
 - (b) All land that will be exposed to a noise level greater than that authorized to Class A land under paragraph 6.1.4 I.
 - (c) ~~All land that will be exposed to shadow flicker in excess of that authorized under paragraph 6.1.4M, and for which other mitigation is not proposed.~~
 - (d) All necessary access lanes or driveways and any required new PRIVATE ACCESSWAYS. For purposes of determining the minimum area of the special use permit, access lanes or driveways shall be provided a minimum 40 feet wide area.
 - (e) All necessary WIND FARM ACCESSORY STRUCTURES including electrical distribution lines, transformers, common switching stations, and substations not under the ownership of a PUBLICLY REGULATED UTILITY. For purposes of determining the minimum area of the special use permit, underground cable installations shall be provided a minimum 40 feet wide area.
 - (f) All land that is within 1.50 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of each WIND

PRELIMINARY DRAFT

FARM TOWER except any such land that is more than 1,320 feet from any existing public STREET right of way.

- (g) All land area within 1,320 feet of a public STREET right of way that is also within 1,000 feet from the base of each WIND FARM TOWER except that in the case of WIND FARM TOWERS in compliance with the minimum STREET separation required by paragraph 6.1.4 C. 5. in which case land on the other side of the public STREET right of way does not have to be included in the SPECIAL USE Permit.

B. The change to subparagraph 9.1.7 E.1 will appear, as follows:

E. Decisions

- 1. The concurring vote of ~~five~~ four members of the BOARD shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any VARIANCE in the application of this ordinance or to effect any SPECIAL USE.

GENERALLY REGARDING RELEVANT LAND USE GOALS AND POLICIES

- 6. The *Land Use Goals and Policies* (LUGP) were adopted on November 29, 1977, and were the only guidance for amendments to the *Champaign County Zoning Ordinance* until the *Land Use Regulatory Policies- Rural Districts* were adopted on November 20, 2001, as part of the Rural Districts Phase of the Comprehensive Zoning Review (CZR) and subsequently revised on September 22, 2005. The relationship of the Land Use Goals and Policies to the Land Use Regulatory Policies is as follows:
 - A. Land Use Regulatory Policy 0.1.1 gives the Land Use Regulatory Policies dominance over the earlier Land Use Goals and Policies.
 - B. The Land Use Goals and Policies cannot be directly compared to the Land Use Regulatory Policies because the two sets of policies are so different. Some of the Land Use Regulatory Policies relate to specific types of land uses and relate to a particular chapter in the land use goals and policies and some of the Land Use Regulatory Policies relate to overall considerations and are similar to general land use goals and policies.

REGARDING SPECIFICALLY RELEVANT LAND USE GOALS AND POLICIES

- 7. There are goals and policies for agricultural, commercial, industrial, and residential land uses, as well as conservation, transportation, and utilities goals and policies in the Land Use Goals and Policies, but due to the nature of the changes being proposed none of these specific goals and policies are relevant to the proposed amendment.

REGARDING THE GENERAL LAND USE GOALS AND POLICIES

8. Regarding the General Land Use Goals and Policies:
- A. Only the fifth General Land Use Goal appears to be relevant to the proposed amendment. The fifth General Land Use Goal is:
- Establishment of processes of development to encourage the development of the types and uses of land that are in agreement with the Goals and Policies of this Land Use Plan
- The proposed amendment appears to **ACHIEVE** the fifth General Land Use Goal because it will make the *Zoning Ordinance* more consistent and clear, as follows:
- (a) Deletion of paragraph 6.1.4 A.1.(c) will make the Zoning Ordinance more internally consistent.
- (b) The proposed change to paragraph 9.1.7 E.1. will make the Zoning Ordinance consistent with state statute.
- D. None of the General Land Use Policies appear to be relevant to the proposed amendment.

PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Memo to the Champaign County Board Committee of the Whole, dated, February 22, 2010, regarding direction to Zoning Administrator regarding a necessary zoning ordinance text amendment to conduct a proposed Zoning Ordinance text amendment clarifying standard conditions and clarifying wind farm shadow flicker requirements
2. Memo to the Champaign County Board Committee of the Whole, dated February 22, 2010, regarding direction to Zoning Administrator regarding a necessary zoning ordinance text amendment to conduct a Zoning Ordinance Text Amendment to make the Zoning Ordinance consistent with state law regarding the number of affirmative votes for a decision at the Zoning Board of Appeals
3. Application for Text Amendment from Zoning Administrator, dated March 3, 2010
4. Preliminary Memorandum for Case 664-AT-10, dated March 19, 2010, with attachments:
 - A Draft Proposed Change to Paragraph 6.1.4 A. 1.(c)
 - B Draft Proposed Change to Paragraph 9.1.7 E.1.
 - C Draft Finding of Fact for Case 664-AT-10

FINAL DETERMINATION

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Zoning Ordinance Amendment requested in **Case 664-AT-10** should **{BE ENACTED / NOT BE ENACTED}** by the County Board in the form attached hereto.

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

CASE NO. 664-AT-10

Champaign County Department of
 SUPPLEMENTAL MEMORANDUM
 March 25, 2010
 Petitioner: Zoning Administrator

PLANNING &
 ZONING

Prepared by: **John Hall**
 Zoning Administrator
J.R. Knight
 Associate Planner

Brookens
 Administrative Center
 1776 E. Washington Street
 Urbana, Illinois 61802

(217) 384-3708

Request: **Amend the Champaign County Zoning Ordinance as follows:**

1. Delete paragraph 6.1.4 A.1.(c).
2. Revise paragraph 9.1.7 E.1. to change the required number of concurring votes needed for ZBA decisions from five to four to make the Zoning Ordinance consistent with state law.

STATUS

This is the first meeting for this case. Since the mailing staff has added new information to the Finding of Fact regarding the Second Industrial Land Use Goal and the Land Use Regulatory Policies.

NEW INFORMATION FOR FINDING OF FACT

1. The following should be added as revised Item 7 on page 4 of 7, as follows:
 (Underline and ~~strikeout~~ text indicate changes from the Preliminary Draft)

7. Regarding Land Use Goals and Policies for specific categories of land uses:
 - A. There are goals and policies for agricultural, commercial, and residential land uses, as well as conservation, transportation, and utilities goals and policies in the Land Use Goals and Policies, but due to the nature of the changes being proposed none of these specific goals and policies are relevant to the proposed amendment, except for the Second Industrial Land Use Goal.
 - B. The Second Industrial Land Use Goal appears to be relevant to the proposed amendment. The Second Industrial Land Use Goal is:

Location and design of industrial development in a manner compatible with nearby non-industrial uses.

The proposed amendment appears to ~~{ACHIEVE}~~ the Second Industrial Land Use Goal because it will make clear that a wind farm developer is required to provide mitigation for shadow flicker for land that receives more than 30 hours of shadow flicker in a given year.

2. The following should be added as new Item 9. on page 5 of 7, as follows:

9. None of the Land Use Regulatory Policies appear to be relevant to the proposed amendment.

May 20, 2010

on the front. Mr. Myers added that one more mandatory regulation is that parking at ground level needs to be screened to prevent buildings on stilts.

Mr. Pollock commented that they cannot legislate taste. He likes that the people in the neighborhood recognize that it is a changing neighborhood and there are going to be a mix of uses. They do not want to rezone everything to prevent the reuse of older buildings or improving the neighborhood. Doing this in such a way that it protects the stock of buildings in the neighborhood that exist is not a bad idea. He will support the motion.

With no objection from the Plan Commission members, Chair Pollock re-opened the public input portion of the hearing.

Ms. Metheny re-approached the Plan Commission to say that when she bought her home it was zoned R-3, Single and Two Family Residential as well as many other people in the neighborhood.

Chair Pollock closed the public input portion of the hearing and asked for a vote on the motion. Roll call on the motion was as follows:

Mr. Grosser	-	Yes	Mr. Otto	-	Yes
Mr. Pollock	-	Yes	Ms. Upah-Bant	-	Yes
Mr. Fell	-	No	Mr. Fitch	-	Yes

The motion was passed by a vote of 5-1. Mr. Myers stated that this case would go to the City Council on June 7, 2010.

6. OLD BUSINESS

There was none.

7. NEW PUBLIC HEARINGS

There were none.

8. NEW BUSINESS

CCZBA-664-AT-10: Request by the Champaign County Zoning Administrator to amend the Champaign County Ordinance concerning shadow flicker and the number of concurring votes needed for ZBA decisions.

Lisa Karcher, Planner II, presented this case to the Plan Commission. She gave a brief introduction and background information on the purpose of the proposed text amendment to the County Zoning Ordinance. City staff recommends that the Plan Commission forward this case to the City Council with a recommendation to defeat a resolution of protest.

Chair Pollock asked if there are only five members on the County Zoning Board of Appeals, would they still have to have four votes? Ms. Karcher stated that she would have to look at the County Zoning Ordinance to find out what the Board's by-laws state.

Ms. Upah-Bant wondered why they were looking at text amendments in the extra-territorial jurisdiction (ETJ) area. Ms. Karcher stated that it is the City of Urbana's right as a municipality to review County Zoning Ordinance text amendments.

Mr. Fell inquired as to how they would use landscaping to block shadow flicker from a 100-foot wind turbine. Ms. Karcher replied that shadow flicker changes with the height of the sun and where it is at in the season, so she would guess that they could change the shadow flicker by locating the wind turbine even further away or maybe a strategically placed tree would work. It will be up to the consultant that does the shadow flicker study.

Mr. Fell wondered if the wind turbine is built first before a home that will be affected by a shadow flicker. Will the wind turbine be forced to provide landscaping for the owner of the home? Ms. Karcher said that there are some specific siting standards for constructing a wind turbine next to a vacant lot. She assumed that these standards would help to mitigate those circumstances.

With no further questions from the Plan Commission and with no comments or questions from the public audience, Chair Pollock opened the case to Plan Commission discussion and/or motion(s).

Mr. Grosser moved that the Plan Commission forward Case No. CCZBA-664-AT-10 to the Urbana City Council with a recommendation to defeat a resolution of protest. Mr. Fitch seconded the motion. Roll call on the motion was as follows:

Mr. Otto	-	Yes	Mr. Pollock	-	Yes
Ms. Upah-Bant	-	Yes	Mr. Fell	-	Yes
Mr. Fitch	-	Yes	Mr. Grosser	-	Yes

The motion was passed by unanimous vote. Ms. Karcher noted that this case would go before the Urbana City Council on June 7, 2010.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Mr. Myers reported on the following:

- ✚ Joint Sustainability Advisory Commission/Plan Commission/City Council meeting will be held on Wednesday, June 9, 2010.
- ✚ Plan Commission Meeting scheduled for Thursday, June 10, 2010 will be cancelled.