



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

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

**TO:** The Urbana Plan Commission

**FROM:** Jeff Engstrom, AICP, Planner II

**DATE:** May 17, 2013

**SUBJECT:** CCZBA-743-AT-13: A request by the Champaign County Zoning Administrator to amend Sections 9.1.9, 9.2.2, and 13 of the Champaign County Zoning Ordinance regarding rural water district treatment facilities.

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### **Introduction & Background**

At its May 9, 2013 meeting, the Urbana Plan Commission reviewed this proposed County zoning ordinance text amendment. The proposed County zoning ordinance change essentially pertains to the circumstances under which the County issues zoning use permits for water treatment plants for rural water districts. At that meeting, City staff requested, and the Plan Commission granted, further time to coordinate with the County and other municipalities.

The purpose of the County's proposed zoning ordinance change is to establish a process by which the County could allow issuance of County zoning use permits for a rural water district without being conditioned upon subdivision plat approval of by a municipality. In this case, the Sangamon Valley Public Water District and the Village of Mahomet have an intergovernmental disagreement over annexation. In City staff's view, both the District and the Village have legitimate public interests at stake, but the effect of this disagreement is that 4,800 water customers in unincorporated Champaign County are being prevented from receiving upgraded water service for household and firefighting purposes. The District provides water to 4,800 customers and sewer service to 4,300 customers, both inside and outside of the Village of Mahomet. In response to recent droughts, the Sangamon Valley Public Water District sought and received approval and loan funding from the Illinois Environmental Protection Agency, and zoning approval from Champaign County, to expand and upgrade their facilities in the County. However, under the County's own permit requirements, the County Zoning Administrator cannot exercise its own zoning approval without Mahomet's approval of a subdivision plat for the district's facilities. As a standing practice, the Village of Mahomet only grants subdivision approval within their extra-territorial jurisdiction if the subdivision covenants bind future owners to annex their property once the Village boundaries become contiguous with their property. Mahomet does this to insure that development adjacent to but outside the Village, and made possible by provision of sewer service to rural areas, does not block Mahomet's future growth and development. The District does not want to agree to annex because it believes doing so

would counter its mission and operations. Especially because Sangamon Valley Public Water District is a governmental unit providing a critical public service to thousands of County residents, Champaign County believes it would be in the best public interest for the County to decouple its own permit process from those of Mahomet. In this way, regardless of the outcome of the disagreement, the County won't stand in the way of County residents receiving adequate water for household and firefighting purposes.

## **Discussion**

Currently, Section 13.2.1 of the County Zoning Ordinance explicitly prohibits the County Board from approving variances, special use permits, or zoning use permits when the use or construction would violate “the subdivision regulations of a municipality where the lot is within the jurisdiction of a municipality which has enacted subdivision regulations”. Under state law, municipalities have subdivision jurisdiction over properties within one and a half miles of their boundaries. The proposed text amendment would add an exception that grants the County Board the power to approve variances, special uses, or zoning permits that violate municipal subdivision ordinances, but only if the proposed use meets some very specific criteria. Those criteria state that:

- the use must include the construction or expansion of a water treatment plant when such improvements are necessary to serve the public health, safety, and wellbeing of County residents;
- the treatment plant must be owned and operated by a “predominantly rural water district”;
- the municipality must own its own water treatment facilities; and
- this exception is allowed only when the requirement for annexation is a requirement for plat approval.

Since the May 9, 2013 Plan Commission meeting, City staff has coordinated with Champaign County and other municipalities to revise the draft amendment to better protect municipal interests in other, future situations. After discussions with Urbana staff, the Champaign County Zoning Administrator has revised the draft language. Wording proposed to be added to the current ordinance has been underlined. Wording that has been added since the previously presented version is furthermore *italicized*. The primary changes since May 9 include (1) tying the process to the interests of the public health, safety, and welfare, and (2) insuring that home rule municipalities (such as Urbana and Champaign) would not be subject to this process.

### **Section 13.2.1 A.4:**

4. ...the SUBDIVISION regulations of a municipality where the LOT is within the jurisdiction of a municipality which has enacted SUBDIVISION regulations except for the following:
  - a. CONSTRUCTION or change of USE to establish or enlarge a water treatment

plant or related facilities owned and operated by a predominately rural water district when such improvements are deemed necessary to serve the public health, safety, and well being of the residents of Champaign County when that CONSTRUCTION or change of USE is required to comply with municipal SUBDIVISION regulations including the requirement for annexation to a municipality and that municipality is a non-home rule municipality and has its own water treatment plant and related facilities. The GOVERNING BODY may authorize a VARIANCE from the requirement for compliance with the municipal SUBDIVISION regulations if the municipality will not consider plat approval without the requirement for annexation provided as follows:

- (1) In addition to all other requirements of Section 9.1.9 the water district shall include with the application for VARIANCE a copy of a SUBDIVISION Plat for the subject property that has been prepared by a Licensed Illinois Surveyor in compliance with the technical platting requirements of the relevant municipal SUBDIVISION requirements but perfect compliance with the technical platting requirements shall not be required for the VARIANCE.
- (2) The recommendation by the BOARD and the action by the GOVERNING BODY shall include a special condition that the VARIANCE shall not confer GOVERNING BODY approval or support for violation of the technical platting requirements of the relevant municipal SUBDIVISION requirements.
- (3) The Zoning Administrator shall provide notice to the relevant municipality of the public hearing and the final determination for the VARIANCE and copies of any related Zoning Use Permit or Zoning Compliance Certificate that are authorized.

Additionally, the proposed text amendment would include related changes to sections 9.1.9 and 9.2.2 of the County Zoning Ordinance. Those text changes would remain the same as previously reported to the Urbana Plan Commission, and are shown in Exhibit A.

Under the revised proposed text amendment, the following provisions have been added to Section 13.2.1 A.4:

- The exception would not apply to home-rule municipalities;
- The exception would only allow for construction that is necessary to serve the public health, safety, and well-being of the residents of Champaign County;
- The exception would only apply if the applicant submits a subdivision plat that meets the technical requirements of the municipality's subdivision ordinance.

These revised criteria would narrow the scope of any potential county variance for properties out of conformance with a municipal subdivision ordinance. Under the newly proposed language,

such a variance would not affect the City of Urbana, which is a home-rule municipality with no rural water districts in the City's extra-territorial jurisdiction. Additionally, the proposed text now requires the submittal of a subdivision plat that meets the technical requirements of the prevailing city's subdivision ordinance.

## **Options**

The Plan Commission has the following options for recommendations to the City Council regarding proposed text amendments in CCZBA Case No. 743-AT-13:

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

## **Staff Recommendation**

Urbana staff has worked with County staff to modify the proposed text amendment to alleviate concerns about potential impacts within Urbana's extra-territorial jurisdiction. With the changes now incorporated into the proposed text amendment, Urbana 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 County Zoning Ordinance text amendment.

Attachments: Exhibit A: Memoranda to the Champaign County ELUC dated February 26, 2013 and March 22, 2013

cc: John Hall, Champaign County Zoning Administrator  
Sangamon Valley Public Water District

# CASE NO. 743-AT-13

## SUPPLEMENTAL MEMORANDUM

March 28, 2013

Champaign  
County  
Department of

Petitioner: **Zoning Administrator**

Prepared by: **Andy Kass, Associate Planner**  
**John Hall, Zoning Administrator**

**PLANNING &  
ZONING**

Request: Amend the Champaign County Zoning Ordinance as follows:

**Part A. Revise Section 9.1.9 as follows:**

1. Authorize County Board approved variances as authorized in Section 13
2. Require Findings for County Board approved variances
3. Authorize conditions for County Board approved variances
4. Require three-fourths of all members of the County Board to approve a variance when a written protest against the variance is submitted by a township board in a township that has a plan commission, within 30 days after the close of the public hearing at the Zoning Board of Appeals.

**Part B. Revise Section 13 as follows:**

1. Add "or the Governing Body" after each use of "Board"
2. Authorize that a variance or special use permit or zoning use permit or zoning compliance certificate may be authorized when a construction or use would violate the subdivision regulations of a municipality when the requirement for annexation is a requirement for plat approval by that municipality involving the expansion and/or construction of a water treatment plant or related facilities owned and operated by a predominately rural water district, when the municipality has its own water treatment plant and related facilities. If no plat approval shall be considered without the requirement for annexation then a VARIANCE from the requirement for compliance with the municipal SUBDIVISION regulations may be considered by the GOVERNING BODY.

**Part C. Revise Section 9.2.2 to require three-fourths of all members of the County Board to approve a text amendment or map amendment when a written protest against the amendment is submitted by a township board in a township that has a plan commission, within 30 days after the close of the public hearing at the Zoning Board of Appeals.**

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### STATUS

This is the first hearing for this case. Proposed revisions to paragraph 13.2.1A.4.a. are included below.

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#### PROPOSED REVISIONS TO PARAGRAPH 13.2.1A.4.a.

The BOARD or the GOVERNING BODY shall not approve VARIANCES or SPECIAL USE Permits, and the Zoning Administrator shall not issue Zoning Use Permits or Zoning Compliance Certificates when:

A. The CONSTRUCTION or USE would violate:...

4. the SUBDIVISION regulations of a municipality where the LOT is within the jurisdiction of a municipality which has enacted SUBDIVISION regulations except for the following:
  - a. CONSTRUCTION or change of USE to establish or enlarge a water treatment plant or related facilities owned and operated by a predominately rural water district or CONSTRUCTION or change of USE to establish or enlarge a sewage treatment plant and related facilities owned and operated by a predominately rural water district, when that CONSTRUCTION or change of USE is required to comply with municipal SUBDIVISION regulations including the requirement for annexation to a municipality and that municipality has its own water treatment plant and related facilities. The GOVERNING BODY may consider a VARIANCE from the requirement for compliance with the municipal SUBDIVISION regulations if the municipality will not consider plat approval without the requirement for annexation.

# CASE NO. 743-AT-13

PRELIMINARY MEMORANDUM

March 22, 2013

Petitioner: **Zoning Administrator**

Prepared by: **Andy Kass**, Associate Planner  
**John Hall**, Zoning Administrator

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Request: Amend the Champaign County Zoning Ordinance as follows:

**Part A. Revise Section 9.1.9 as follows:**

1. Authorize County Board approved variances as authorized in Section 13
2. Require Findings for County Board approved variances
3. Authorize conditions for County Board approved variances
4. Require three-fourths of all members of the County Board to approve a variance when a written protest against the variance is submitted by a township board in a township that has a plan commission, within 30 days after the close of the public hearing at the Zoning Board of Appeals.

**Part B. Revise Section 13 as follows:**

1. Add "or the Governing Body" after each use of "Board"
2. Authorize that a variance or special use permit or zoning use permit or zoning compliance certificate may be authorized when a construction or use would violate the subdivision regulations of a municipality when the requirement for annexation is a requirement for plat approval by that municipality involving the expansion and/or construction of a water treatment plant or related facilities owned and operated by a predominately rural water district, when the municipality has its own water treatment plant and related facilities. If no plat approval shall be considered without the requirement for annexation then a **VARIANCE** from the requirement for compliance with the municipal **SUBDIVISION** regulations may be considered by the **GOVERNING BODY**.

**Part C. Revise Section 9.2.2 to require three-fourths of all members of the County Board to approve a text amendment or map amendment when a written protest against the amendment is submitted by a township board in a township that has a plan commission, within 30 days after the close of the public hearing at the Zoning Board of Appeals.**

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## BACKGROUND

For background information please see Attachment A.

## ATTACHMENTS

- A Memo to the Environmental and Land Use Committee dated February 26, 2013, with attachments:
  - A Proposed Amendment to Section 9.1.9 of the Zoning Ordinance
  - B Proposed Amendment to Section 13 of the Zoning Ordinance
  - C Proposed Amendment to Section 9.2.2 of the Zoning Ordinance
- B LRMP Land Use Goals, Objectives, and Policies & Appendix (included separately)
- C Draft Finding of Fact and Final Determination (included separately)

Champaign County  
Department of

**PLANNING &  
ZONING**

To: **Environment and Land Use Committee**

From: **John Hall, Director & Zoning Administrator**

Date: **February 26, 2013**

Request: **Request approval to proceed with a public hearing for a Zoning Ordinance Text Amendment to Allow Variances from Municipal Subdivision Regulations for Rural Water District Water Treatment Plant and Related Facilities**

Brookens Administrative  
Center

1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708

zoningdept@co.champaign.il.us  
www.co.champaign.il.us/zoning

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## **BACKGROUND**

The Board recently approved map amendment Case 717-AM-12 authorizing an expansion of the AG-2 Agriculture Zoning District to allow for the expansion of the Sangamon Valley Public Water District treatment plant located at 709 North Prairieview Road, Mahomet. The Board approved that map amendment even though the Village of Mahomet had made a formal protest.

Based on testimony and other evidence in Case 717-AM-12 and the related Cases 718-S-12 and 717-V-12, the Village required annexation as part of the plat approval for the property and the Water District was opposed to annexation because it feared that annexation could eventually result in the Water District being dissolved and its facilities taken into the Village water services. The Water District was very clear that it was not opposed in principal to plat approval.

During the consideration of Case 717-AM-12 and the related zoning cases it was made clear that Section 13 of the Zoning Ordinance required compliance with municipal subdivision regulations and paragraph 9.1.9 B. of the Ordinance prohibited any variance from that requirement.

Today the Water District and the Village appear no closer to a compromise regarding annexation and the deadline nears for the Water District expansion.

This amendment proposes to authorize the County Board to approve a variance from the requirement for annexation to a municipality pursuant to or as a requirement for plat approval by that municipality in exactly similar instances but only if the municipality will not consider plat approval without the requirement for annexation.

If the amendment is adopted and if the Water District would apply for and be granted such a variance, the amendment would allow a Zoning Use Permit to be approved for construction of the new plant. The Water District could then construct the plant expansion in full conformance with the County Zoning Ordinance and the Village would have the right to pursue enforcement of its subdivision regulations.

The effect of the amendment is to relieve the County of municipal subdivision regulation enforcement responsibilities but only in very limited cases:



**Zoning Administrator**  
**FEBRUARY 26, 2013**

- (1) only in cases involving the expansion and/or construction of a water treatment plant or related facilities owned and operated by a predominately rural water district; and
- (2) only when the requirement for annexation is a requirement for plat approval by a municipality that has its own water treatment plant and related facilities; and
- (3) only when no plat approval shall be considered without the requirement for annexation.

**OVERVIEW OF PROPOSED AMENDMENT**

The amendment directly affects Section 9.1.9 and Section 13 of the Zoning Ordinance as follows:

1. Section 9.1.9 is proposed to be amended to allow for County Board (the Ordinance already defines “Governing Body” as the Champaign County Board) approval of this specific kind of variance as follows (see Attachment A):
  - a. “GOVERNING BODY” is added to paragraphs 9.1.9 A., C., D, and E.
  - b. A new paragraph 9.1.9 F. is added that provides for protest of a County Board approved variance by any township with a planning commission, as authorized by state law.
2. Section 13 of the Zoning Ordinance is proposed to be amended by adding this specific exception to subparagraph 13.2.1A.4.a. (see Attachment B).

The proposed amendment also includes a long overdue amendment to Section 9.2.2 explaining the effect of township protest rights on map amendments for townships with planning commissions (see Attachment C). This part of the amendment is long overdue.

**MUNICIPAL PROTESTS LIKELY**

This proposed amendment is likely to be protested by all County municipalities but a protest from even one municipality will trigger the supermajority requirement for approval.

**NO STATE’S ATTORNEY REVIEW YET**

Because of the deadline faced by Sangamon Valley Public Water District related to the Water Treatment Plant expansion and other zoning related issues that the State’s Attorney has been working on, this proposed amendment has been forwarded to ELUC without the benefit of prior State’s Attorney review. If the proposed amendment is authorized to proceed to a public hearing there will be State’s Attorney review in as timely a manner as possible.

**ATTACHMENTS**

- A Proposed Amendment to Section 9.1.9 of the Zoning Ordinance**
- B Proposed Amendment to Section 13 of the Zoning Ordinance**
- C Proposed Amendment to Section 9.2.2 of the Zoning Ordinance**



**Attachment A Proposed Amendment to Section 9.1.9 of the Zoning Ordinance**

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**9.1.9 VARIANCES**

A. Table of VARIANCE Classifications and Presiding Authority

VARIANCE Classification	Presiding Authority
<p><b>ADMINISTRATIVE VARIANCE:</b></p> <p>Deviation of 10 percent or less from regulation or standard of this ordinance related to the location of STRUCTURES or to bulk requirements</p>	<p>May be authorized by the Zoning Administrator in accordance with Section 9.1.10</p>
<p><b>Minor VARIANCE:</b></p> <p>Contested ADMINISTRATIVE VARIANCE</p> <p>Deviation of 10 percent or less from numerical regulations or standard of this ordinance not related to the location of STRUCTURES or to bulk requirements</p> <p>Deviation of more than 10 percent but not exceeding 25 percent from numerical regulation or standard of this ordinance</p>	<p>May be granted by the Hearing Officer or by the BOARD in accordance with Paragraph 9.1.5B and the requirements of this Section.</p>
<p><b>Major VARIANCE:</b></p> <p>Deviation exceeding 25 percent from numerical regulation or standard of this ordinance.</p> <p>Waiver from nonnumerical regulation or standard of this ordinance.</p> <p>Deviation from numerical regulation or standard of the <i>Champaign County Stormwater Management Policy</i> or <i>Champaign County Special Flood Hazard Areas Ordinance</i>.</p> <p>Waiver from nonnumerical regulations or standard of the <i>Champaign County Stormwater Management Policy</i> or <i>Champaign County Special Flood Hazard Ordinance</i>.</p>	<p>May be granted by the BOARD in accordance with the requirements of this Section.</p>
<p><u>County Board VARIANCE:</u></p> <p><u>Any VARIANCE authorized by Section 13.</u></p>	<p><u>May be granted by the GOVERNING BODY in accordance with the requirements of this Section.</u></p>

**Attachment A Proposed Amendment to Section 9.1.9 of the Zoning Ordinance**

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B. Prohibited VARIANCES

At no time shall the BOARD, ~~or~~ the Hearing Office or the GOVERNING BODY grant a VARIANCE in the following instances:

1. To grant a VARIANCE to allow a USE not permissible under the terms of this ordinance in the DISTRICT involved, or any USE expressly or by implication prohibited by the terms of this ordinance in said DISTRICT.
2. To waive compliance with any municipal, state, or federal regulation incorporated into this ordinance except as authorized in Section 13.
3. To waive compliance with any procedural requirement contained in this ordinance.
4. To waive compliance with regulations pertaining to NONCONFORMING LOTS, STRUCTURES, or USES, except as specifically authorized in Section 8.
5. To authorize any USE or CONSTRUCTION prohibited by Section ~~14.2.1~~ 13.2.1.
6. To authorize a SMALL WIND TURBINE TOWER rotor diameter larger than 75 feet.

C. VARIANCE Criteria

1. A VARIANCE from the terms of this ordinance shall not be granted by the BOARD, ~~or~~ the Hearing Officer or the GOVERNING BODY unless a written application for a VARIANCE is submitted demonstrating all of the following:
  - a. that special conditions and circumstances exist which are peculiar to the land or STRUCTURE involved which are not applicable to other similarly situated land or STRUCTURES elsewhere in the same zoning DISTRICT;
  - b. that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted USE of the land or STRUCTURES or CONSTRUCTION on the LOT;

**Attachment A Proposed Amendment to Section 9.1.9 of the Zoning Ordinance**

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- c. that the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant;
  - d. that the granting of the VARIANCE is in harmony with the general purpose and intent of this ordinance;
  - e. that the granting of the VARIANCE will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
2. No NONCONFORMING USE of the neighboring lands or STRUCTURES in the same DISTRICT, and no permitted USE of lands or STRUCTURES in other DISTRICTS shall be considered grounds for the issuance of a VARIANCE.
- D. Findings
1. The BOARD, ~~or~~ the Hearing Officer or the GOVERNING BODY shall make findings that the requirements of Section 9.1.9C have been met by the applicant for a VARIANCE, and justify the granting of the VARIANCE.
  2. The BOARD, ~~or~~ the Hearing Officer or the GOVERNING BODY shall further make a finding that the VARIANCE is the minimum variation that will make possible the reasonable use of the land or STRUCTURE.
- E. Conditions
1. In granting any VARIANCE, the BOARD, ~~or~~ the Hearing Officer or the GOVERNING BODY may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of conditions under which the VARIANCE is granted shall be deemed a violation of this ordinance and punishable as provided in Section 11.2.3 of this ordinance.
- F. Action of the GOVERNING BODY
1. In the case of a written protest against a VARIANCE on land which is located within a township with a plan commission, and the plan commission objects to the VARIANCE, the township board of trustees shall submit its written objections to the GOVERNING BODY within 15 days after the public hearing at the Zoning Board of Appeals, and such VARIANCE shall not be approved except by the favorable vote of three-fourths of all members of the GOVERNING BODY.

Attachment B Proposed Amendment to Section 13 of the Zoning Ordinance

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**SECTION 13 NON-INTERFERENCE WITH GREATER RESTRICTIONS  
OTHERWISE IMPOSED**

**13.1** It is not intended by this ordinance to interfere with, or abrogate or annul any easements, restrictions, covenants, or other agreements between parties, nor to interfere with, or abrogate or annul any ordinances other than expressly repealed hereby. Rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this ordinance, or which shall be adopted or provided shall remain in full force and effect except that where this ordinance imposes a greater restriction upon the USE of land or STRUCTURES, or upon the HEIGHT of STRUCTURES, or BUFFER STRIPS, COURTS, LOT AREA, LOT AREA per DWELLING UNIT or LODGING UNIT, BUILDING AREA, LOT COVERAGE, PARKING SPACES, SETBACK LINE, LOT width, or LOT depth, or any similar restrictions, than are required by or imposed by such ordinances, rules, regulations, or permits, the provisions of this ordinance shall control.

**13.2.1** The BOARD or the GOVERNING BODY shall not approve VARIANCES or SPECIAL USE Permits, and the Zoning Administrator shall not issue Zoning Use Permits or Zoning Compliance Certificates when:

A. The CONSTRUCTION or USE would violate:

1. the *Champaign County Special Flood Hazard Area Development Ordinance* (Ord. No 209, as amended);
2. the *Illinois Plat Act* (765 ILCS 205/0.01 *et seq.*);
3. the *Champaign County Subdivision Regulations* (Ord. No. 44, as amended);
4. the SUBDIVISION regulations of a municipality where the LOT is within the jurisdiction of a municipality which has enacted SUBDIVISION regulations except for the following:
  - a. The requirement for annexation to a municipality pursuant to or as a requirement for plat approval by that municipality involving the expansion and/or construction of a water treatment plant or related facilities or a sewage treatment plant and related facilities owned and operated by a predominately rural water district, when the municipality has it's own water treatment plant and related facilities. If no plat approval shall be considered without the requirement for annexation then a VARIANCE from the requirement for compliance with the municipal SUBDIVISION regulations may be considered by the GOVERNING BODY.

**Attachment B Proposed Amendment to Section 13 of the Zoning Ordinance**

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5. the *Champaign County Health Ordinance* (Ord. No. 573);
  6. the *Champaign County Public Nuisance Ordinance* (Ord. No. 468, as amended); or
  7. any license ordinance of Champaign County.
- B. The CONSTRUCTION or USE is located on a LOT or LOTS created in violation of said *Illinois Plat Act*, *Champaign County Subdivision Regulations* or municipal SUBDIVISION regulations except as provided for in 13.2.1A.4.a.
- C. An outstanding violation of the *Zoning Ordinance* or any regulation listed in Section 13.2.1A exists on the LOT except when:
1. the Zoning Use Permit or Zoning Compliance Certificate is the sole impediment to correcting the violation;
  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 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.
- 13.2.2** The above provisions notwithstanding, no VARIANCE, SPECIAL USE Permit, Zoning Use Permit or Zoning Compliance Certificate shall be denied for USE or CONSTRUCTION on LOTS created prior to May 21, 1991 solely because such LOTS were created in violation of the *Illinois Plat Act* or *Champaign County Subdivision Regulations* provided that such LOTS conform to all other applicable regulations and standards of this ordinance and the creation of such LOTS did not violate any applicable municipal SUBDIVISION ordinance in effect at the time such LOTS were created.

**Attachment B Proposed Amendment to Section 9.2.2 of the Zoning Ordinance**

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**9.2.2 Action of the GOVERNING BODY**

- A. In case of a written protest against any such action:
1. signed by the OWNER or OWNERS of at least 20% of the land to be rezoned; or
  2. signed by the OWNER or OWNERS of land immediately touching, or immediately across the street, alley, or public right-of-way from, at least 20% of the perimeter of the land to be rezoned; and filed with the County Clerk, such action shall not be passed except by the favorable vote of three-fourths of all the members of the GOVERNING BODY.
- B. In the case of a written protest against any such action concerning the alteration of the Zoning classifications of land which lies within one and one-half miles of the limits of a ZONED MUNICIPALITY such written protest signed and acknowledged by the city/village council or president and board of trustees of a ZONED MUNICIPALITY nearest adjacent, and filed with the County Clerk, such amendment shall not be passed except by the favorable vote of three-fourths of all the members of the GOVERNING BODY.
- C. In the case of a written protest against any such text amendment or map amendment affecting an unincorporated area of a township with a plan commission, the township board of trustees shall submit its written objections to the GOVERNING BODY within 30 days after the public hearing at the Zoning Board of Appeals, and such amendment shall not be approved except by the favorable vote of three-fourths of all members of the GOVERNING BODY.