



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Plan Commission

FROM: Michaela Bell, Planner

DATE: July 1, 2003

SUBJECT: CCZBA 404-AM-03: Champaign County Zoning Board of Appeals case to rezone 2014 High Cross Road, (commonly known as Apple Dumplin' Restaurant) from County AG-2, Agriculture to County B-2, Neighborhood Business.

Introduction

Robert and Rita Wingler, owners of the Apple Dumplin' Restaurant are requesting a Zoning Map Amendment from Champaign County to rezone 2014 High Cross Road from AG-2, Agriculture to B-2, Neighborhood Business.

The subject property was formerly used as the Apple Dumplin' Restaurant, a legal-nonconforming use in the AG-2, Agricultural zone. A recent fire caused extensive damage to the restaurant, the damage exceeded the percentage allowable to allow the nonconforming structure and use to be rebuilt and continued without rezoning the property. The property owners propose to rebuild the restaurant as previously operated, if they receive approval to rezone the property and receive a Special Use Permit to re-establish the restaurant.

Background

Attached to this memorandum is background information about the rezoning case and the proposed Special Use application, all of which are contained within the Champaign County Department of Planning and Zoning Memorandums dated June 16, 2003 and June 17, 2003.

The subject property is located within one and one-half miles of the Urbana City Limits, at the corner of High Cross Road and Nordland Drive. The City of Urbana therefore retains protest rights over the rezoning request. A municipal protest enforces a three-fourths super majority of affirmative votes for approval of the request at the County Board. Following the City's Plan Commission recommendation, the Urbana City Council will consider the Plan Commission recommendation and

forward a “protest” or “no protest” decision to the County Board. The City of Urbana does not have protest rights for special use permit requests in the extra-territorial jurisdictional area.

Issues and Discussion

The subject site is surrounded by single-family residential uses on all sides with the exception of farmland to the immediate north. Although the site is zoned Agricultural, it is located on High Cross Road which is a busy regional arterial and it is close to development including major subdivisions and Interstate 74. The Apple Dumplin’ restaurant served as a local business for nearby residents, the small size of the restaurant and its location did not encourage it to be a regional attraction which would create traffic and congestion issues. Illinois Department of Transportation will begin a study in July that will further examine the Route 130/High Cross Road Corridor.

Comprehensive Plan and Extraterritorial Jurisdictional Area Plan Goals

The following goals, objectives, and policies of the 1982 Urbana Comprehensive Plan relate to this case:

Goal 3.100 To organize and develop land uses and adjacent properties in a balanced and mutually compatible manner relative to the functional needs of the City.

Objective 3.110 Promote development in the City and surrounding unincorporated areas in a manner which minimizes conflicting land uses and/or adjacent development.

Policy 3.111 Review all land uses changes that are controlled by the zoning Ordinance, subdivision ordinance, or annexation procedures to ensure compatibility. The Special and Conditional Use permit and PUD procedures in the Zoning Ordinance and annexation agreements are particularly useful tools for insuring the harmonious development of adjacent sites.

Goal 12.100 To guide new developments so as to promote the most efficient use of energy.

Objective 12.110 Regulate the use of land in ways that will promote compact urban design which minimizes the demand for energy and maximizes its efficient use.

The following are goals and objectives listed in the 1993 Extraterritorial Jurisdictional (ETJ) Plan that are of relevance to this case:

Goal 3.300 To arrange land uses in a manner that minimizes the distance between uses that are mutually dependent.

Objective 3.310 Encourage development to occur in areas where there is a demonstrated need for a particular use.

When evaluating County zone change requests, it is essential to consider their potential impact in relation to the intent of the ETJ Plan.

Where possible, consistency with Champaign County Goals and Objectives should also be considered. Some of these goals and policies particularly coincide with those of the City of Urbana's Comprehensive Plan and ETJ Plan. Relevant Champaign County Goals and Policies are as follows:

Goals of Commercial Land Use:

Provision of a sufficient amount of land designated for various types of commercial land uses to serve the needs of the residents of the County.

Commercial areas designed to promote compatibility with non-commercial uses and at the same time provide ease of access.

Policies:

Policy 3.2 The County Board will establish, by amendment to the Zoning Ordinance or other means, a process for reviewing petitions for new commercial land to include a determination of the need for new commercial development based on market demand.

Policy 3.6 The County Board will strongly discourage proposals for new commercial development not making adequate provisions for drainage and other site considerations.

In considering Champaign County's Land Use Goals and Policies, the proposed rezoning encourages development which is not served by municipal sewer, water and other services. However, the proposed development, per the attached June 17, 2003 memorandum, had installed a sand filter wastewater treatment system in December of 2001. The current site plan and wastewater system demonstrate adequate measures were taken to operate a neighborhood business on this site. The subject site is surrounded by single-family residential uses, on all sides with the exception of farmland to the immediate north of the parcel. A neighborhood business on this parcel has for decades proven to be economically viable as well as compatible with surrounding residential land uses. The proposed zoning change would result in allowing a

neighborhood business land use or zoning designation that is compatible located within a residential area.

The La Salle National Bank Criteria

In the case of *La Salle National Bank v. County of Cook (La Salle)*, the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed by the Petitioners.

1. *The existing land uses and zoning of the nearby property.*

This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.

The subject property and surrounding area are primarily residential and agriculture uses. Single-family residences lie to the west and to the south. County zoning surrounding the subject properties is entirely AG-2 to the north, south and east, and R-1 to the west. Despite the Agricultural zoning of the parcels adjacent to the subject property, it is almost completely surrounded by single-family homes. Neighborhood business would be an appropriate zoning designation within this residential area that is close to urban development.

2. *The extent to which property values are diminished by the restrictions of the ordinance.*

This is the difference in the value of the property as zoned and the value it would have if it were rezoned to permit the proposed use.

It should be noted that City Planning and Economic Development Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact on the value of the property. Therefore, any discussion pertaining to property values must be considered speculative and nonconclusive.

The existing property may be considered diminished as zoned agriculture. The loss of the non-conforming rights also greatly diminish the value of the property. Generally, rezoning from agriculture to neighborhood business may increase the value of the property however in this case the lack of urban services to the subject properties may have the effect of not increasing the value of the property to the owner.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.*

4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

The question here applies to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?

The current restrictions associated with the agricultural zoning of the property are designed to protect prime farmland and promote efficient use of energy and other resources. The property has not been used as farmland for many years. If the subject property were to remain AG-2, because it is almost entirely surrounded by residential uses and located at an intersection, it is unlikely that it would be converted to an agricultural use.

5. *The suitability of the subject property for the zoned purposes.*

The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.

The subject property is suited for a neighborhood business use. In this case, the parcel has been used in the manner and intensity permitted by the requested rezoning classification of a neighborhood business. In fact, the City of Urbana Future Land Use Map illustrates several parcels of commercial to be located west of High Cross Road, directly northwest of the subject parcel. The Future Land Use Map is a guide that suggests that some commercial uses could exist in the area.

6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

The subject property has had a legally-nonconforming restaurant use in operation for years. The restaurant is currently awaiting reconstruction due to fire damage. The property has not been put on the market for sale. The property owners are seeking a rezoning from AG-2, Agriculture to B-2, Neighborhood Business and will seek a special use permit to continue operation of their restaurant as a legally conforming use.

Summary of Staff Findings

1. The proposed rezoning will promote compatible development within the ETJ.
2. The proposed rezoning will promote neighborhood business development in an area where the Urbana's ETJ Future Land Use Map recommends commercial.
3. The proposed zone change is consistent with policies of both the City and the County which promote contiguous growth and compatibility of land uses.

4. The evaluation of the current surrounding County zoning, the proposed City ETJ projections and the La Salle criteria indicate that the zoning change request is justified.

Options

The Plan Commission has the following options for recommendations to the City Council.

In CCZBA Case #404-AM-03, the Urbana Plan Commission may:

- a. Forward the plan case to the City Council with a recommendation of “no protest” for the rezoning request of AG-2 to B-2; or
- b. Forward the plan case to the City Council with a recommendation of "no protest" for the rezoning request of AG-2 to B-2, contingent upon specific provisions to be identified; or
- c. Forward the plan case to the City Council with a recommendation of “protest” for the rezoning request of AG-2 to B-2; or

Staff Recommendation

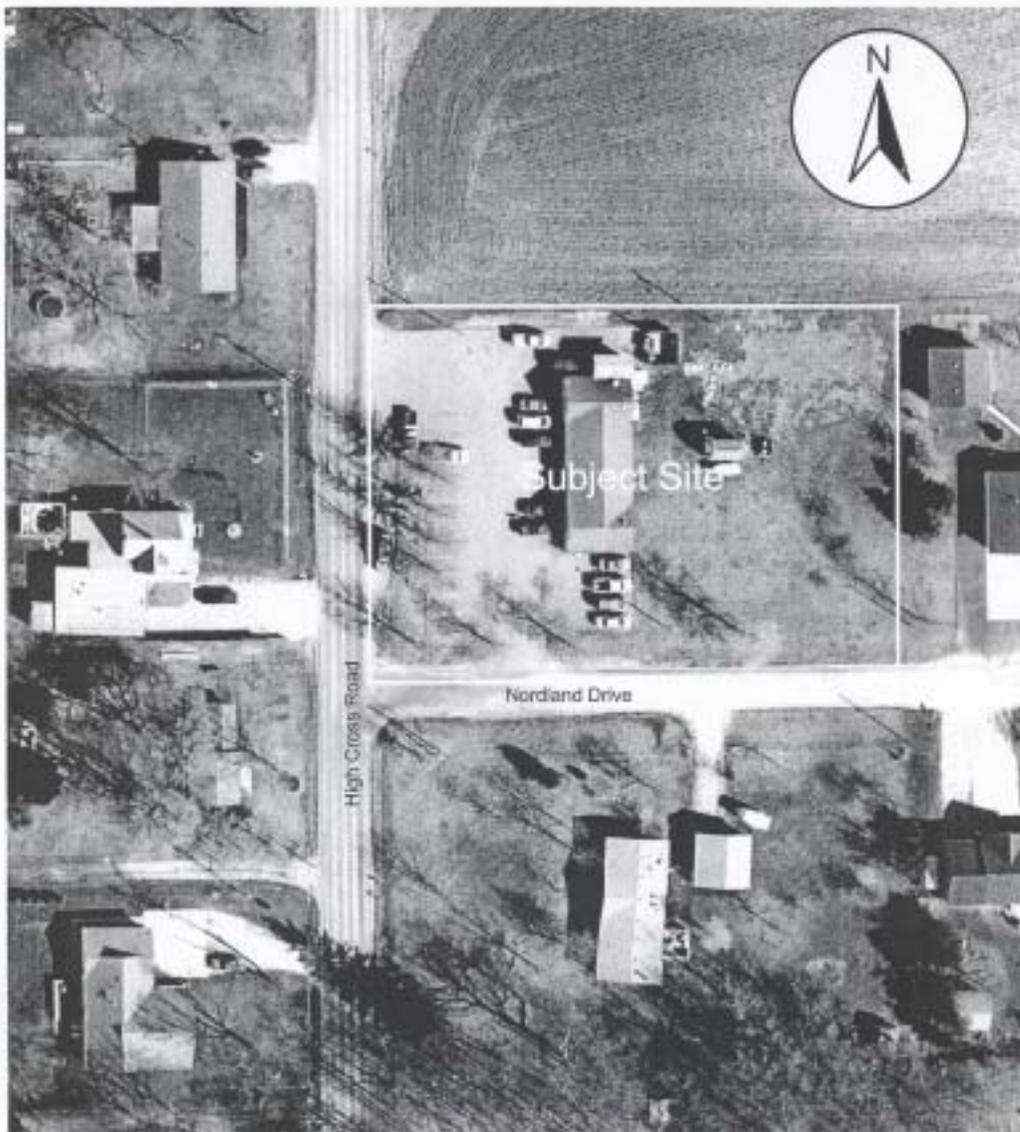
Staff recommends a “no-protest” of the proposed rezoning from AG-2 to B-2 for the subject property based upon the staff findings outlined in this memorandum.

Attachment: Aerial Map of the Site (not available on digital format NADF)
Champaign County Memorandums, dated June 16, 2003 (NADF)
Champaign County Memorandums, dated June 17, 2003 (NADF)
July 1, 2003 Champaign County Supplemental Memorandum (NADF)
July 1, 2003 Champaign County Zoning Board of Appeals
DRAFT Finding of Fact and Final Determination (NADF)
Urbana ETJ Future Land Use Map (NADF)

- c: John Hall, Champaign County Planning and Zoning
Robert and Rita Wingler, Apple Dumplin’ Property Owners

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Exhibit : Aerial Photo



CCZBA-404-AM-03
Rezoning Request from
AG-2 to B-2
2014 High Cross Road
Apple Dumplin' Restaurant Site

Prepared July 2, 2003 by Community Development Services - rrb

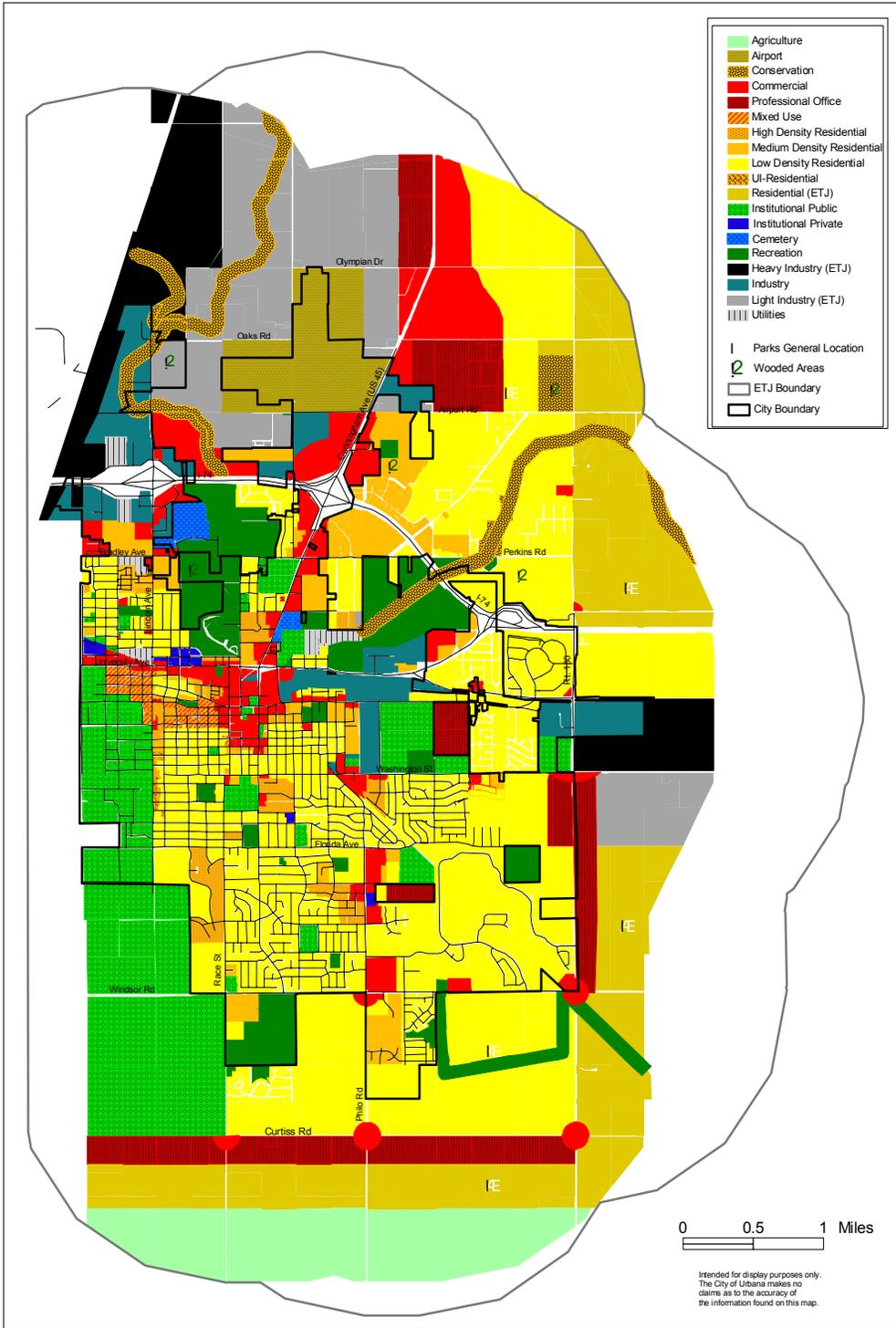


Figure 2-1 Future Land Use Plan Map
Urbana Comprehensive Plan 2002



Prepared April 10, 2002 by Community Development Services