

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

NOTICE OF REGULAR MEETING

Date: December 16, 2010
Time: 6:30 P.M.
Place: Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

**Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.
Use Northeast parking lot via Lierman Ave.,
and enter building through Northeast
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. ZBA selection of Meeting Chairperson
4. Correspondence
5. Approval of Minutes (October 14, 2010)
6. Continued Public Hearings

Case 665-AT-10 Petitioner: **Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance by revising paragraph 4.3.3 G. as follows:**

- A. Increase the maximum fence height allowed in side and rear yards from six feet to eight feet for fences in Residential Zoning Districts and on residential lots in the AG-1 and AG-2 Zoning Districts.**
- B. Require fencing that is higher than four feet tall to be at least 50% transparent when located in the following areas:**
 - (1) In Residential Zoning Districts, all fencing that is in the front yard**
 - (2) On residential lots in the AG-1, AG-2, and CR Zoning Districts, only fencing between the dwelling and the driveway within 25 feet of the dwelling**
- C. Increase the maximum allowed height of all fencing to allow up to three inches of ground clearance.**

Case 666-AT-10 Petitioner: **Champaign County Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance by revising Subsection 6.1 and paragraph 9.1.11D.1. to clarify that the standard conditions in Subsection 6.1 which exceed the requirements of Subsection 5.3 in either amount or kind are subject to waiver by the Zoning Board of Appeals or County Board.**

7. New Public Hearings

Case 675-AT-10 Petitioner: **Champaign County Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance as follows:**

Part A:

- 1. In the first four un-numbered paragraphs of Section 8 clarify that nonconforming dwellings may be enlarged, expanded, extended, replaced, rebuilt, or relocated as authorized herein.**
- 2. Revise subsection 8.1.2 to authorize that once two or more contiguous lots or combination of lots and portions of lots that individually do not meet any dimensional, geometric, lot access or other standards are brought into common ownership, that portions of said lots may be used separately or conveyed to a different owner provided that a variance is granted.**

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Case 675-AT-10 cont:

Part B:

1. Revise paragraph 8.2.1 B. as follows:
 - a. Limit applicability to the total expansion since October 10, 1973.
 - b. Revise the limit on expansion of a nonconforming single family dwelling as follows:
 - (1) A nonconforming single family dwelling which had less than 1,200 square feet of building floor area may expand up to a total floor area of 1,500 square feet provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
 - (2) A nonconforming single family dwelling which had more than 1,200 square feet of building floor area may expand by up to 200 square feet or 25% of building floor area, whichever is greater provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
 - (3) Eliminate the limit on the amount of accessory buildings.
2. Revise paragraph 8.2.1 C. so that the limit on expansion applies to the total expansion since October 10, 1973.
3. Revise subsection 8.2.2 to provide that nonconforming dwelling may be moved on the lot as authorized in subsection 8.4.1.
4. In subsection 8.2.3 clarify "ceases".

Part C.

1. Revise subsection 8.3.1 to authorize that a nonconforming structure may be enlarged if authorized by variance.
2. Revise subsection 8.3.3 to authorize that a nonconforming structure may be moved without conforming to the regulations and standards of the district provided that the new location is authorized by variance.

Part D.

1. Revise Subsection 8.4.1 as follows:
 - a. Authorize that a nonconforming dwelling may be expanded as authorized in subsection 8.2.1 as provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
 - b. Authorize that a nonconforming dwelling may be reconstructed in the existing location if authorized by zoning use permit or a different location if authorized by variance provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
 - c. Authorize that expansion of a nonconforming dwelling as authorized in subsection 8.2.1 may occur at the same time as reconstruction.
2. In Subsection 8.4.5 clarify "abandoned" and "discontinued".

Part E.

1. Revise Subsection 8.6 as follows:
 - a. Authorize that a nonconforming dwelling may be expanded as authorized in subsection 8.2.1 or reconstructed as authorized in subsection 8.4.1.
 - b. Authorize that a nonconforming dwelling has no limit on the value of repair or replacement that may occur within a 365 day period and that may include bearing walls.

Part F.

1. In paragraph 9.1.2 C. require that for an Zoning Use Permit authorizing construction as authorized in Section 8 on a nonconforming dwelling in a zoning district in which a dwelling is not an authorized principal use, the Zoning Administrator shall provide notice that the zoning district does not authorize a dwelling as a principal use and shall indicate in general what types of principal uses are authorized as either business uses or industrial uses.

8. Staff Report
October and November, 2010 Monthly Reports
9. Other Business
 - A. 2011 Champaign County Planning & Zoning Calendar
 - B. December 30, 2010, ZBA Meeting
10. Audience Participation with respect to matters other than cases pending before the Board
11. Adjournment

1 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 **1776 E. Washington Street**

5 **Urbana, IL 61801**

7 **DATE: October 14, 2010**

**PLACE: Lyle Shields Meeting Room
1776 East Washington Street**

10 **TIME: 7:00 p.m.**

Urbana, IL 61802

11 **MEMBERS PRESENT:** Doug Bluhm, Thomas Courson, Roger Miller, Melvin Schroeder, Eric
12 Thorsland, Paul Palmgren

14 **MEMBERS ABSENT :** Catherine Capel

16 **STAFF PRESENT :** John Hall, J.R. Knight

18 **OTHERS PRESENT :** John Hurd, Ed Holzhauer, Elaine Holzhauer, Herb Schildt, Sherry Schildt,
19 Ken Bierman, Dennis Bates, Ken Hieser, Barb Irvin, Herman Irvin, David
20 Niccum, Dennis Birkey, Ron Rogers, Randall Hitchins, Tom Jordan, Dennis
21 Cummins, David Kieffer, Steve Burdin, Robert Dodd, Spencer Sadler, Roger
22 Davison, Greg Hitchins

25 **1. Call to Order**

27 The meeting was called to order at 7:05 p.m.

29 **2. Roll Call and Declaration of Quorum**

31 The roll was called and a quorum declared present with one member absent.

33 **3. Correspondence**

35 None

37 **4. Approval of Minutes (September 16, 2010)**

39 **Mr. Thorsland moved, seconded by Mr. Courson to approve the September 16, 2010, minutes as**
40 **submitted. The motion carried by voice vote.**

42 **Mr. Thorsland moved, seconded by Mr. Courson to rearrange the agenda and hear Case 676-S-10**
43 **prior to Cases 665-AT-10 and 666-AT-10. The motion carried by voice vote.**

45 **5. Continued Public Hearing**

46

1 Case 665-AT-10 Petitioner: Champaign County Zoning Administrator Request to amend the
2 Champaign County Zoning Ordinance by revising paragraph 4.3.3G. as follows: A. Increase the
3 maximum fence height allowed in side and rear yards from six feet to eight feet for fences in
4 Residential Zoning District and on residential lots in the AG-1 and AG-2 Zoning Districts; and B.
5 Require fencing that is higher than four feet tall to be at least 50% transparent when located in the
6 following areas: (1) In Residential Zoning Districts, all fencing that is in the front yard; and (2) On
7 residential lots in the AG-1, AG-2, and CR Zoning Districts, only fencing between the dwelling and
8 the driveway within 25 feet of the dwelling; and C. Increase the maximum allowed height of all
9 fencing to allow up to three inches of ground clearance.

10
11 Mr. Hall stated that this is the sixth meeting for this case and was continued from the September 16, 2010,
12 public hearing. He said that no response has been received from the Sheriff regarding the Board's questions
13 about transparency for gates. He informed the Board that it is at their discretion to take final action in this
14 case or continue it to allow more time for the Sheriff to provide comments. He said that staff would
15 recommend a continuance date of December 16, 2010, because there is a conflict with the County Board for
16 the November 18th meeting. He said that if the Board feels that it is worth it, staff could check with the RPC
17 for the availability of the John Dimit Room on November 18th.

18
19 Mr. Palmgren asked how much time as passed since the Sheriff was first notified of this case.

20
21 Mr. Hall stated that the Sheriff was notified before the September 16, 2010, public hearing and it was
22 requested that his comments be received before this meeting but no comments have been received to date.

23
24 Mr. Thorsland asked Mr. Hall if anyone is awaiting the decision of this case before they can install their
25 fence.

26
27 Mr. Hall stated that Mr. Drollinger has had his fence up for a couple of years and he is very happy with his
28 fence at the height that it is currently which is eight feet. Mr. Hall stated that there is a neighbor dispute
29 occurring in the County regarding a fence but the neighbor understands that either the eight foot fence will
30 be authorized by the amendment or a variance will be required. He said that there is no rush but it would be
31 nice to defuse the neighbor dispute.

32
33 Mr. Palmgren stated that he would like some input from the Sheriff therefore he would like to continue the
34 case to a later date.

35
36 Mr. Hall asked the Board if they would rather continue this case until after the election.

37
38 Mr. Thorsland stated that the original reason why this case was continued was because the Board desired the
39 Sheriff's input on the amendment.

40
41 Mr. Bluhm stated that Mr. Herb Schildt had signed the witness register and asked Mr. Schildt if he would
42 like to present testimony regarding this case.

1 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet asked Mr. Hall if he had the final copy of the
2 proposed amendment. He stated that he had Supplemental Memorandums dated September 10th and
3 September 16th.

4
5 Mr. Knight stated that the September 16th Supplemental Memorandum is the current version of the proposed
6 amendment.

7
8 Mr. Hall stated that a special meeting could be held on December 2, 2010, or the case could be continued to
9 the December 16, 2010, public hearing. He said that due to the lack of items on the docket there really is not
10 a great need to hold a special meeting.

11
12 **Mr. Schroeder moved, seconded by Mr. Thorsland to continue Case 665-AT-10 to the December 16,**
13 **2010, public hearing. The motion carried by voice vote.**

14
15 **Case 666-AT-10 Petitioner: Champaign County Zoning Administrator Request to amend the**
16 **Champaign County Zoning Ordinance by revising Subsection 6.1 and paragraph 9.1.11D.1. to clarify**
17 **that the standard conditions in Subsection 6.1 which exceed the requirements of Subsection 5.3 in**
18 **either amount or kind are subject to waiver by the Zoning Board of Appeals or County Board.**

19
20 Mr. Hall distributed a new Supplemental Memorandum dated October 14, 2010, for the Board's review. He
21 said that attached to the memorandum is a revised finding of fact which reviews the proposed amendment
22 under the Goals, Objectives and Policies of the Land Resource Management Plan (LRMP). He said that the
23 finding of fact does not include any new evidence. He said that he sent a question to the State's Attorney
24 that is of some relevance to this case and if the State's Attorney agrees with what he has proposed it
25 wouldn't change anything in this case but there would be a follow-up text amendment regarding standard
26 conditions and protest rights by townships. He said that no matter what the outcome of the State's
27 Attorney's determination it is not relevant to what is being done in this amendment because this amendment
28 is to clarify that it is the intent to make standard conditions subject to waiver which may be subject to protest
29 by a township with a plan commission. He said that if this is the case then that should be added to the
30 Zoning Ordinance as well as the whole township protests for text amendments and map amendments. He
31 recommended that this case be continued to the December 16th meeting.

32
33 **Mr. Thorsland moved, seconded by Mr. Palmgren to continue Case 666-AT-10 to the December 16,**
34 **2010, public hearing. The motion carried by voice vote.**

35
36 Mr. Bluhm called Mr. Schildt to testify.

37
38 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet stated that he is anxious to hear the State's
39 Attorney's opinion as well. He said that he has thought since he first saw the notice for this case that the
40 advertisement for Case 666-AT-10 is inadequate and staff may want to think about re-advertising it. He said
41 that the case does more than the advertisement indicates. He said that the advertisement indicates that the
42 proposed amendment revises Subsection 6.1 and paragraph 9.1.11 D.1. to clarify that the standard conditions
43 in Subsection 6.1 which exceed the requirements of Subsection 5.3 in either amount or kind are subject to

1 waiver by the Zoning Board of Appeals or County Board. He said that the proposed amendment does at least
2 two other things of significance. The first is that it brings into the waivability clause of 9.1.11D.1 Section
3 6.1.1 A, which is site reclamation. He said that if you look at how the proposed revision of Section 6.1 is
4 worded it states that the standards listed in this subsection which exceed the applicable district standards in
5 Section 5.3 in either amount or kind and which are not specifically required under another County Ordinance
6 can be waived. He said that the renumbering and rewording makes Section 6.1.1 A. subject to a waiver and
7 he is not sure if that is intentional. He said that change seemed like a fairly large change to him. He said that
8 the amendment also makes Section 6.1.4 subject to the waivability provision of 9.1.11.D.1. and that should
9 be explicitly stated. He said that it expands significantly the things that are subject to waiver in 9.1.11.D.1
10 because of the "in either amount or kind" phrase. He said that he believes that this should be stated in the re-
11 advertisement for the case.

12
13 Mr. Schildt said that this has another effect because, at this moment in time, both the site reclamation and
14 wind farm standard conditions are subject to variance only, and by making them subject to waiver the
15 amendment lowers the standard of the requirements. He stated that a variance has five standards that have to
16 be met, whereas the waiver provision of 9.1.11 D.1 only has two. He said that this should be pointed out in
17 the re-advertisement because he thinks that people who are not familiar with the subtleties of the Zoning
18 Code need to understand the significance of the changes in the proposed amendment. He said that he was
19 ambivalent about whether he should mention this, but ultimately decided he should because this
20 advertisement does not adequately characterize the proposed amendment.

21
22 Mr. Schildt said that something needed to be said regarding the protest rights of townships with plan
23 commissions because if the State's Attorney's opinion stated that no protest rights should exist on waivers,
24 then clearly the change in the proposed amendment would be a significant reduction in the protest rights of
25 all townships in the county. He said that this case should possibly be withdrawn until the State's Attorney's
26 opinion is available because that reduction in protest rights should be part of the re-advertisement. He said
27 that even though the case description is not very long the side effects are actually very significant until some
28 issues are clarified.

29
30 Mr. Bluhm stated there would be ample time to get the State's Attorney's opinion back before the next
31 meeting for this case.

32
33 Mr. Bluhm asked if there was anyone else who wished to sign the witness register and there was no one.

34 35 6. New Public Hearings

36
37 **Case 676-S-10 Petitioner: United Prairie LLC, owned by Premier Cooperative and Topflight Grain**
38 **Request to authorize "Farm Chemicals and Fertilizer Sales including incidental storage and mixing of**
39 **blended fertilizer" as a Special Use Permit in the AG-1 Agriculture Zoning District. Location: Lots 1,**
40 **2 & 3 of August Miller's Subdivision in Section 34 of East Bend Township and commonly known as**
41 **the houses at 3062 CR 950E and 3054 CR 950E, Dewey.**

42
43 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone

1 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands
2 for those who would like to cross examine and each person will be called upon. He requested that anyone
3 called to cross examine go to the cross examination microphone to ask any questions. He said that those
4 who desire to cross examine are not required to sign the witness register but are requested to clearly state
5 their name before asking any questions. He noted that no new testimony is to be given during the cross
6 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt
7 from cross examination.

8
9 Mr. Hall stated that no new memorandum is available for tonight's meeting therefore the Preliminary
10 Memorandum dated October 8, 2010, will be reviewed. He said that the Preliminary Memorandum reviews
11 the fact that this is a Special Use Permit in the AG-1 district for a property which is on the east side of
12 Dewey and fronts a county highway. He said that there are five conditions of approval of which Condition
13 #1 requires County Engineer approval of the access onto County Highway 23. He said that Condition #2
14 requires compliance with the Stormwater Drainage Policy. He said that the petitioner has shown ample area
15 on the site plan and now that Stormwater Drainage Plans are required for normal permitting it is really
16 unnecessary for a Stormwater Drainage Plan to be confirmed during a public hearing because it can be done
17 during permitting, provided that the Board is convinced that it is feasible on the property as shown on the
18 site plan. He said that there are two existing single family dwellings on the subject property therefore there
19 are private wells on the property and Condition #3 requires documentation indicating that the private wells
20 are properly sealed as required by the Champaign County Health Department. He said that Condition #4 is
21 in regards to the Illinois Accessibility Code and Environmental Barriers Act. He said that these are state
22 accessibility requirements and the Board cannot vary or give interpretations of those requirements. He said
23 that Condition #5 is in regards to outdoor storage and operations. He said that that the site plan indicates a
24 large berm on the west side of the subject property and it is not clear at this point as to how much screening
25 the berm will provide. He said that all of the outside areas on the property are sites of outdoor storage or
26 operations and are all well within 1,000 feet of separation of residences therefore adequate screening is
27 required. He said that it appears that the berm is proposed to be the principal screening device but it is
28 unknown as to how high the berm will be therefore even if all the other details are not worked out during this
29 public hearing the screening must still be provided. He said that the Summary of Evidence includes all the
30 information received from the petitioner at this point and time.

31
32 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

33
34 Mr. Bluhm called Tom Jordan to testify.

35
36 Mr. Tom Jordan of Foth Companies stated that he is present tonight to represent United Prairie, LLC with
37 their request. He complimented staff on their very comprehensive and exhaustive review of this case. He
38 said that Ken Bierman, General Manager for United Prairie, LLC; and Dennis Bates, Operations Manager for
39 United Prairie, LLC; and David Kieffer, Regional Operations Manager for United Prairie, LLC; and Robert
40 Dodd, petitioner's attorney; and Dennis Cummins, Site Design Engineer for Foth Companies; and Spencer
41 Sadler and Randall Hitchins, co-petitioners are all present at tonight's meeting. He said that as noted in the
42 memorandum the contemplated use for the tract is for Phase I which is the storage and sale of anhydrous
43 ammonia and Phase II will be for the storage and sale of liquid chemicals. He noted that there would be no

1 manufacturing of fertilizer on the site. He said that staff had mentioned a required screen, specifically a
2 Type D screen, and the petitioners have chosen to construct an 8 foot high berm. He said that there is a 100
3 foot setback on the west side of the property which is along the east side of County Highway 23 therefore the
4 petitioner has chosen to build an 8 foot landscaped berm. He said that topsoil will be removed where there
5 are driveways and will be used to construct the berm. He said that the detention area along the east side of
6 the site will also yield some topsoil although the intent will be to excavate for the dry basin and replace the
7 topsoil so that it has a good grass seed bed and use the other material for the embankment. He said that all of
8 the details are not complete but rather than generating the construction plans, etc. and presuming that the
9 Board would grant their request the petitioners would like to have the Board's concurrence that this is a
10 proper use for the site under a special use permit with any imposed conditions and then submit the detailed
11 plans during permitting. He said that there will be no other fencing constructed around the subject property
12 because the petitioners believe that it will encourage vandalism and would be an attractive nuisance. He said
13 that the fence will not deter anyone who does not have the right reason to be on the site from accessing the
14 site. He said that the operational knowledge at United Prairie is very extensive and the safeguards that are in
15 place will prevent vandalism and any other kind of invasive conduct or potential miscues by United Prairie
16 employees. He said that some of the safety features of the planned operations include the year around
17 locking of the mobile tanks; it is not possible for an unauthorized person to open the delivery tanks due to
18 the remote shut-offs that have been installed on the tanks; all of the risers and pipes have breakaways; all
19 tanks have internal valves and all valves have excess flow capacity.
20

21 Mr. Jordan stated that staff questioned the amount of employees which are intended to work at the facility.
22 He said that during the initial operations of Phase I it is anticipated that 1-4 flexible employees during
23 seasonal peaks, which are six weeks in the spring and fall. He said that out of season hours of operation
24 would be 7:00 a.m. to 4:00 p.m. and in season, six weeks during the spring and fall, would be 5:30 a.m. to
25 8:00 p.m. He said that future phases would include 5 -7 full-time employees on the site with an additional 7
26 flexible employees during the seasonal peaks with the same hours as Phase I.
27

28 Mr. Jordan stated that the first day that he was asked to participate in this project he contacted Jeff Blue,
29 Champaign County Highway Engineer, regarding the signage for truck limits. Mr. Jordan stated that he was
30 concerned that County Highway 23 was not a truck route and trucks wouldn't be allowed to travel to the
31 north side of the site. He said that during the initial conversations with Mr. Blue it was not determined
32 where the entrance to the facility might be located because they were only discussing 8 acres and the
33 operations for Phase I and Phase II will fit on the north two lots. He said that it appeared most logical to
34 place the entrance to the facility as an extension of Second Street as it intersects with County Highway 23
35 and in the next few days the south tract became available and it was included in the proposal and we did
36 located the entrance as shown.. He said that Mr. Blue's review of the proposal indicated that it would be
37 better for traffic and safety on County Highway 23 if there was a stop sign installed on east bound Second
38 Street. He said that Mr. Blue has a valid comment but the same issue exists for the traffic that currently
39 exists along that area. He said that the traffic count for County Highway 23, as indicated in the Preliminary
40 Draft Finding of Fact Item 8.C(3), is 275 AADT where it passes the subject property and in the
41 transportation world that is not very many vehicles at all; for example North Prospect Avenue sees over
42 40,000 vehicles per day. He said that the County recommended a minimum width of 22 feet for a local road
43 with an ADT of more than 400 vehicle trips and County Highway 23 is 24 feet wide therefore it is wider

1 than the stated minimum. He said that United Prairie estimates that there will be approximately 100 semi-
2 truck delivery loads in a six week season with approximately 90% of those vehicles coming during the
3 operational hours therefore there would be 90 semi-trucks delivering anhydrous ammonia during the in-
4 season when Phase I is completed with two tanks. He said that a concern in design is not really the ADT but
5 hourly volume because when you drive in an urban community the peak hours in the morning and evening
6 are the main concern. He said that Mr. Blue recommended that the entrance to the facility be asphalted and
7 the petitioners have voluntarily agreed to use high-mix asphalt on the entrance and those construction details
8 will be submitted to Mr. Blue for approval prior to construction. He said that any construction would be
9 submitted for approval by the County and completed to the County's satisfaction prior to the issuance of a
10 compliance certificate.

11
12 Mr. Jordan stated that the matter of stormwater detention is a valid concern because the contours on the
13 topographic map indicate that the stormwater drains to the east. He said that if you walk the site you would
14 notice water standing on the north and east sides of the site and those are conditions which exist currently
15 and United Prairie is committed to alleviating that maintenance issue by either cleaning out the tiles or
16 constructing a new tile down to the Wild Cat Drainage Ditch. He said that if the tiles are in good condition
17 they will be utilized and maintained but if not then the tiles will be replaced. Mr. Jordan said that the
18 drainage district attorney was contacted and made aware that either the existing tile will be cleaned out and
19 maintained or will be totally replaced down to County Highway 23. He said that the petitioner is estimating
20 that the ultimate solution for stormwater detention will run into the one to two-acre feet of volume. He said
21 that the County has hired a consultant to review the petitioner's consultant's work to guard against a
22 miscommunication in design calculations. He said that they are fully prepared to submit a stormwater
23 pollution prevention plan to the IEPA for permitting. He said that as a practical matter the IEPA is more
24 interested in the fees that are collected than the implementation of the erosion control plan that the County is
25 interested in. He said that the planned lighting for the site is controlled security lighting at the southeast
26 corner of the property where the nurse tanks would be assembled and parked and the lighting would run all
27 night. He said that it is the intent to install lighting at the loading platforms at the anhydrous ammonia tank
28 area that can be turned on during operations when required. He said that the lighting will comply with
29 Ordinance No. 831 and it is intended that the lighting will be 150 watt halogen lamps and only utilized when
30 the area is in use. He said that there are no community wells but there are two private wells on the subject
31 property and it is anticipated that one of those wells will be plugged by a professional well company.

32
33 Mr. Jordan stated that United Prairie staff were directed by their Board to find a suitable site as near Dewey
34 as possible because it is a central area for their market share. He said that their market share is now met at
35 their Tolono facility and they would like to construct an operations facility in the Dewey area. He said that
36 currently United Prairie has 10 or 12 customers in this area and its an economic choice on United Prairie's
37 part to be located on the subject property because the land is available and it is a good site which is next to
38 County Highway 23 and is adjacent to the short rail along the Canadian Northern Railroad. He said that in
39 the very far future the facility could possibly have rail delivery but it is not anticipated at this time. He said
40 that another facility, not United Prairie, in Champaign County has a nurse tank sitting next to the right-of-
41 way along a county highway and that will not be the case at the subject property because the nurse tank will
42 be located off of the highway and screened. He said that one year ago United Prairie opened the Jamaica
43 facility and the program for the facility was 300 tons per year and the last year has resulted in the sale of

1 1025 tons during the first year of operation which is 3 times what they had projected. He said that United
2 Prairie does have customers in the subject area that will fully utilize the facility for their operations. He said
3 that the subject property consists of three lots in an older recorded subdivision and it is to be treated as one
4 tract. He said that if there is ever a need to comply with the Plat Act or the County's Subdivision Ordinance
5 then the petitioner would comply but he does not believe that a subdivision issue would be before the ZBA
6 unless it was part of the special use request.
7

8 Mr. Hall stated that subdivision issues do not come before the ZBA and he does not see any subdivision
9 issues with this property.
10

11 Mr. Jordan stated that the three lots would be considered as one tract for zoning purposes and there are no
12 flood hazard areas or wetlands on the subject property. He said that there are no violations in regards to the
13 Champaign County Health Ordinance, Public Nuisance Ordinance or the County's license ordinance. He
14 said that there is a provision in the Zoning Ordinance for a non-adaptable structure which requires a bonding
15 for conversion and they would prefer not to do this because they do not feel that any of the buildings which
16 will be constructed on the site are such that they couldn't be converted to something else. He said that it is
17 his judgment that the intent of the code was intended for big box storage which is very difficult to convert to
18 something else but to have a perpetual bond out there to convert a building is not economical to the
19 developer. He said that there are a number of regulations that come into play with this facility such as the
20 County's setbacks, the Department of Agriculture and the minimum radius from a residential area. He said
21 that the submitted site plan indicates that the facility will meet the County's conditions therefore
22 construction plans will be prepared for review. He said that the construction plans will include demolition
23 plans and they are aware that an environmental site assessment will be necessary in order to do the
24 demolition. He said that grading plans, stormwater management plans, paving and geometric plans and
25 technical special provisions will be prepared. He said that it is their intent that all of the site work will be
26 constructed in accordance with IDOT standard specifications for road and bridge construction and the
27 standard specifications for water and sewer main construction in Illinois. He said that water well
28 construction and waste water provisions would be governed by the Champaign County Public Health
29 Department and the Illinois Environmental Protection Agency. He said that any improvements in the future
30 which may require attention to ADA or the IEBA would be complied with and his firm, a civil consulting
31 firm, would deal with any issues outside of the structure and an architect would deal with the interior issues.
32 He said that approximately 10 days ago he contacted the Illinois Historic Preservation Agency and typically
33 there is a routine letter which indicates that there are no problems but to date he has not received a response.
34 He said that he did go online to review EcoCAT to see if there were any listed endangered species on the
35 subject property and there were none listed on the website. He said that multiple agencies control an
36 operation of this nature which includes the previously mentioned agencies as well as the United States
37 Department of Homeland Security. He said that no dry fertilizer is to be manufactured or stored at the site
38 because that activity will be restricted to the Tolono facility. He said that it is their position that the Findings
39 of Fact that will be reviewed are fully supported by the documentation that has been presented to the Board
40 as well as his testimony at tonight's hearing.
41

42 Mr. Bluhm asked the Board if there were any questions for Mr. Jordan and there were none.
43

1 Mr. Bluhm asked if staff had any questions for Mr. Jordan.

2

3 Mr. Hall asked Mr. Jordan if he believes that Mr. Blue will accept the access drive that is indicated on the
4 current site plan.

5

6 Mr. Jordan stated yes. He said that he believes that Mr. Blue is in agreement with the current location
7 because it has an adequate turning radius for semi-trucks. He said that Mr. Blue's only comment was to
8 install a stop sign for the east bound movement. Mr. Jordan stated that the existing traffic will also have a
9 stop sign at that location but Mr. Blue's comments were in relation to the existing conditions rather than
10 what was being proposed. He said that the entrance road was moved as far south as possible to remove it
11 from the residences because they desire to be a good neighbor. He said that it is the intent of the petitioner to
12 landscape the berm and to keep it well maintained so that it is an operational, crisp site.

13

14 Mr. Hall stated that at a staff level it was always thought that this was not a non-adaptable structure. He
15 recommended a new Item #12 be added to the Summary of Evidence indicating the following: The proposed
16 special use is not a non-adaptable structure, as regulated by the Zoning Ordinance, and no reclamation
17 agreement is required. He said that this settles the issue once and for all and it is included in the Summary of
18 Evidence which proves that the issue was not ignored but addressed.

19

20 Mr. Bluhm asked the Board and staff if there were any further questions for Mr. Jordan and there were none.

21

22 Mr. Miller stated that he has a question for one of the United Prairie employees.

23

24 Mr. Bluhm called Ken Bierman and Dennis Bates to testify.

25

26 Mr. Ken Bierman, General Manager for United Prairie, and Dennis Bates, Operations Manager for United
27 Prairie, indicated that they were available to answer Mr. Miller's questions.

28

29 Mr. Miller asked why the facility will not store dry fertilizer since United Prairie is going through the extent
30 of building a fertilizer facility to service the community.

31

32 Mr. Ken Bierman, General Manager for United Prairie, stated that at the Tolono facility there is a 25,000 ton
33 dry facility and currently there are five other locations. He said that ten or fifteen years ago most retail plant
34 operations had a small dry fertilizer facility at each plant but this day and age with the investment that has
35 been made United Prairie resources their dry fertilizer out of one plant. He said that the customers that are in
36 Dewey as well as in other locations are being serviced out of Tolono for their dry fertilizer needs therefore
37 they do not need to invest in anymore dry fertilizer facilities that are within the 40 mile radius of Tolono. He
38 said that the hub in Tolono is a rail facility that can load 70 to 80 car trains.

39

40 Mr. Bluhm asked Mr. Bierman if there was anything else that he would like to add as testimony for this case.

41

42 Mr. Bierman stated that he spoke to a few people in the Dewey area about the berm and it is United Prairie's
43 intention to create a green space next to County Highway 23. He said that when they demolish the existing

1 houses and construct the berm the area will be seeded in grass and landscaped which is unlike any of the
2 other facilities. He said that this will be a nice looking facility with good aesthetics that will upgrade the
3 look that is currently in existence.

4
5 Mr. Bluhm asked the Board if there were any questions for Mr. Bierman and there were none.
6

7 Mr. Bluhm asked if staff had any questions for Mr. Bierman and there were none.
8

9 Mr. Bluhm asked the audience if anyone had any questions for Mr. Bierman.
10

11 Mr. John Hurd, who resides at 305 Independence Street, Dewey, stated that he is the President of the Dewey
12 Water District and asked Mr. Bierman if it is the intention of United Prairie to keep both or one of the water
13 meters for the building that will constructed.

14
15 Mr. Bierman stated that Phase I, located on the Hitchins' property, would house a facility with a bathroom
16 and a meter would be utilized for that facility. He said that during Phase II there will also be a need for
17 water resources when the agri-chemicals are loaded therefore the intent would be to keep at least one of the
18 meters.
19

20 Mr. Hurd stated that a meter is located on the north end of the property if they want to run off of that meter.
21

22 Mr. Bierman stated that United Prairie will need to meet with the Dewey Water District to determine what
23 will be the best plan for the necessary water resources at the facility. He said that one thing that is attractive
24 about the southern facility is that it does have a couple of offices and a bathroom therefore the employees
25 can get out of the elements. He said that Phase I will be a seasonal facility.
26

27 Mr. Bluhm asked the audience if anyone else desired to cross examine Mr. Bierman and there was no one.
28

29 Mr. Bluhm asked Dennis Bates if he would like to add any testimony.
30

31 Mr. Bates, Operations Manager for United Prairie, reiterated what Mr. Bierman indicated in that they desire
32 to have facility to be a neighborly plant which will be run professionally and in compliance with all
33 regulations.
34

35 Mr. Bluhm asked the Board if there were any questions for Mr. Bates and there were none.
36

37 Mr. Bluhm asked if staff had any questions for Mr. Bates and there were none.
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39 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Bates and there was no one.
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41 Mr. Bluhm called Mr. Dennis Cummins.
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43 Mr. Dennis Cummins declined to testify.

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Mr. Bluhm called Mr. Robert Dodd.

Mr. Robert Dodd declined to testify.

Mr. Bluhm called Mr. David Niccum to testify.

Mr. David Niccum, who resides at 108 Third Street, Dewey, stated that his residence is approximately a block and one-half from the proposed facility. He said that many people are concerned about the amount of water that is going to be used at the facility and what stress it will cause on the small plant that was just recently constructed. He said that there is a church located about one block from the facility and they are planning on building on to the church and construct playgrounds for the children therefore there is a concern about any hazards that the new facility may propose.

Mr. Bluhm stated that perhaps the Board can obtain some information regarding water usage.

Mr. Bluhm asked the Board if there were any questions for Mr. Niccum and there were none.

Mr. Bluhm asked if staff had any questions for Mr. Niccum and there were none.

Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Niccum and there was no one.

Mr. Bluhm called Barb Irvin to testify.

Mrs. Barb Irvin, who resides at 3057 CR 950E, Dewey, stated that her residence is across the street from the proposed facility. She said that her husband is on oxygen and she has asthma very bad. She said that her doctor was on the television discussing how all of the elevators will be affecting a lot people with lung problems. She said that she is concerned about her driveway being blocked by trucks that are waiting to get in and out of the facility onto County Highway 23.

Mr. Bluhm asked the Board if there were any questions for Mrs. Irvin and there were none.

Mr. Bluhm asked if staff had any questions for Mrs. Irvin and there were none.

Mr. Bluhm asked the audience if anyone desired to cross examine Ms. Irvin and there was no one.

Mr. Bluhm called Herman Irvin to testify.

Mr. Herman Irvin said that his concerns were some things mentions by his wife and he declined to testify.

Mr. Bluhm called Mr. Holzhauer to testify.

Mr. Holzhauer declined to testify.

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Mr. Bluhm called Mr. John Hurd to testify.

Mr. John Hurd, who resides at 305 Independence Street, Dewey, stated that the new water plant was built in 2007 and the water district is concerned if they would be able to provide enough water to the facility or if another well will be required. He said that Item #8.C(1) of the Preliminary Draft indicates that the subject property is within the protection area of the Sangamon Valley Fire Protection District and it is located approximately .03 road miles from the fire station. He said that the fire department has left Dewey and the building was purchased by the township therefore the nearest fire department is located five miles away from Dewey in Fisher.

Mr. Bluhm asked the Board if there were any questions for Mr. Hurd and there were none.

Mr. Bluhm asked if staff had any questions for Mr. Hurd.

Mr. Hall thanked Mr. Hurd for sharing the information regarding the fire protection district. He asked Mr. Hurd how long the Dewey fire station had been closed.

Mr. Hurd stated that it has been within the last three months. He said that the building has been sold to the township.

Mr. Hall stated the notice was sent to the Dewey station and not the Fisher station.

Mr. Bluhm asked Mr. Hurd if perhaps the Dewey station has its mail forwarded to the Fisher station.

Mr. Hurd stated that he has no idea.

Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Hurd and there was no one.

Mr. Bluhm called Spencer Sadler to testify.

Mr. Sadler declined to testify.

Mr. Bluhm called David Kiefer to testify.

Mr. David Kiefer, Regional General Manager for Premier Co-Op, stated that they are trying to provide a service to their farming customers. He said that the Co-Op is owned by its customers and over the past 20 years farming has become more of a business rather than just a way of life. He said that one of the things that Premier Co-Op is trying to do is service those customers by providing contracts and marketing advice but one of the things that they cannot do very well in the Dewey area is provide advice and services on inputs. He said that fertilizer is one of the biggest inputs farmers have when putting in their crop and this facility will offer a variety for the farmers which will be price competitive with the current market. He said that Premier Co-Op will have the ability to lean on the Dewey facility to provide fertilizer plans to boost

1 yields in the customer's fields. He said that 25% to 30% of the grain handled for the whole company comes
2 through the elevator in Dewey therefore there is a very large customer base in the area. He said there was a
3 concern about standing traffic and the traffic which will go in and out of the elevator although this should
4 not be an issue because of the location of the driveways for the facility and the proximity of County Highway
5 23. He said that Premier Co-Op desires to be a good steward of the community and anything that can be
6 addressed to assure that stewardship is welcomed.

7
8 Mr. Bluhm asked the Board if there were any question for Mr. Kiefer.

9
10 Mr. Bluhm stated the fertilizer plant should not have the standing traffic that the elevator could have because
11 there is ample space on the site plan for trucks to get on the site and off of the road.

12
13 Mr. Kiefer stated that trucks that will be coming onto the site to unload would consist of just a little over 3
14 trucks per day or 100 trucks per month. He said that during harvest the elevator will receive 250 to 300
15 trucks per day and those trucks will use a different entrance.

16
17 Mr. Bluhm asked if staff had any questions for Mr. Kiefer and there were none.

18
19 Mr. Bluhm asked the audience if anyone had any questions for Mr. Kiefer and there were none.

20
21 Mr. Bluhm called Ken Heiser to testify.

22
23 Mr. Heiser declined to testify.

24
25 Mr. Bluhm asked the audience if anyone else desired to sign the witness register to present testimony
26 regarding Case 676-S-10 and there was no one.

27
28 Mr. Bluhm recalled Mr. Bierman to present additional testimony.

29
30 Mr. Bierman stated he would like to address some of the water concerns that were mentioned previously. He
31 said that in Phase I they will be using minimal water because the facility will be on a seasonal basis. He said
32 that Phase II, in comparison to the Tolono facility, they are limited to what a 2" line will put out in a day
33 therefore they will have storage tanks which will store water on the site ahead of the season so that they do
34 not need short bursts from the 2" line. He said that they will install 30 to 60,000 gallon storage tanks for
35 water and during the season they will use the water accordingly. He said that they will work with the water
36 district to minimize their concerns about water and if a well is required to obtain additional water sources
37 then they will be agreeable to doing so. He said that if he has to install one or four 30,000 gallon water tanks
38 for storage then so be it because it is just one of the necessary evils of the business.

39
40 Mr. Bluhm asked the Board if there were any questions for Mr. Bierman and there were none.

41
42 Mr. Bluhm asked if staff had any questions for Mr. Bierman.

43

1 Mr. Hall asked Mr. Bierman if he had any idea where the water storage tanks would be located on the
2 property.

3
4 Mr. Bierman stated that the site plan indicates some round storage tanks on the west side of the chemical
5 building but after speaking to some of the neighbors it was decided that the water tanks would be placed in a
6 dike along with some of the liquid fertilizer tanks on the east side of the building. He said that he needs the
7 storage tanks next to the chemical building because of the piping. He said that they are so highly regulated
8 with the Illinois Department of Agriculture and the Illinois Environmental Protection Agency that all of the
9 driveways would be sloped and storage tanks would be located in concrete dikes.

10
11 Mr. Hall asked Mr. Bierman if there were would be more tanks than were indicated on the site plan.

12
13 Mr. Bierman stated that he believes that the six tanks indicated would be sufficient for capacity.

14
15 Mr. Bluhm asked the Board and staff if there were any additional questions for Mr. Bierman and there were
16 none.

17
18 Mr. Bluhm asked if anyone in the audience desired to sign the witness register to present testimony regarding
19 Case 676-S-10 and there was no one.

20
21 Mr. Bluhm closed the witness register.

22
23 Mr. Miller stated that there was a concern about potential hazards with the church and a future daycare
24 facility across the street from the facility. He said that the site plan indicates that the facility is on the east
25 side of Dewey which is ideal because in a worst case scenario with an anhydrous tank bursting the prevailing
26 winds would carry the chemical in a direction that would prevent injury to the residents.

27
28 Mr. Bluhm stated that the prevailing winds are normally from the south/southwest. He said that he likes the
29 configuration of the site plan because even though the facility could have been placed on two lots the
30 addition of the third lot gives ample space on the lots for the truck traffic getting it away from County
31 Highway 23. He asked Mr. Hall if the Board needs to address the fire protection district.

32
33 Mr. Hall stated that is the Board's decision but it appears that the district received an informal notice
34 although it is hard to believe that the fire protection district is not aware of this proposal. He said that if the
35 fire protection district claims that they did not receive a mailed notice then he would have to agree that they
36 did not.

37
38 Mr. Thorsland stated that he would be comfortable in believing that the fire protection district had a
39 forwarding address to the Fisher station. He said that if there was a way, without making it a condition, that
40 the Board could verify that the fire protection district received notice. He said that the Summary of Evidence
41 should be revised to indicate the correct location of the fire protection district.

42
43 Mr. Bluhm stated that the Board completed its due diligence and was not aware of the closing of the Dewey

1 station.

2

3 Mr. Miller stated that five miles is still a reasonable distance for response time to Dewey from the Fisher
4 station. He said that in consolidating some of the smaller fire districts the Fisher station may prove to be a
5 better equipped district for protection. He said that just because a fire station is located in Dewey does not
6 mean that there would be immediate response to an incident.

7

8 Mr. Ken Heiser stated that he is a farmer and Board member for Premier Co-Op and United Prairie. He said
9 that the Sangamon Valley Fire Protection District included fire stations in Dewey, Foosland and Fisher. He
10 said that the Sangamon Valley Fire Protection District has closed the Foosland and Dewey stations and
11 consolidated into one operation in Fisher. He said that he believes that they did the consolidation so that
12 they would have more access to people who can get to the equipment and service the immediate response.
13 He said that there is another anhydrous ammonia plant within three and one-half miles that would be served
14 by the Fisher station.

15

16 Mr. Hall stated that, regarding the church, the facility already exceeds the setbacks required by the Illinois
17 Department of Agriculture for public assembly uses therefore he would be at a loss to say anything other
18 than this exceeds any standard that there is. He said that in regards to dust the facility is perfectly located to
19 minimize any dust going into the residential area. He said that if the County was concerned about dust there
20 would be a condition requiring paving, which there is not, and in this instance the facility is perfectly located
21 so that he does not see that any special condition would be warranted. He said that he is at a loss about the
22 water although Mr. Bierman has indicated that there will be adequate storage for water therefore no huge
23 draw down should occur on the water district during their seasonal operation. He said that the Board can
24 either trust Mr. Bierman's testimony or require additional information.

25

26 Mr. Bluhm stated that it is a "Catch 22" in that if they are having a problem with the water it will hurt the
27 plant just as much as it will hurt the village therefore they will either want to drill their own well or do
28 something to maintain the required capacity. He said that the Board has received good faith testimony that
29 they will work with the water district as to what is available and if a new well is required then they will drill
30 one.

31

32 Mr. Hall stated that this facility is not in a part of the County where there is a known problem with water
33 availability. He asked the Board if they wanted to make sure that any of the testimony received tonight is
34 inserted into the Summary of Evidence.

35

36 Mr. Thorsland stated that the fire protection district should be corrected.

37

38 Mr. Hall stated that Item #8.D(1) on Page 9 of the Preliminary Draft Summary of Evidence should be revised
39 as follows: The subject property is within the protection area of the Sangamon Valley Fire Protection
40 District that is located in Fisher which is approximately 4 to 5 road miles from the fire station.

41

42 Mr. Bluhm asked Mr. Hall if the Summary of Evidence indicates testimony regarding no storage of dry
43 fertilizer on the facility.

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Mr. Hall stated that Item #5.B only discusses liquid chemicals and liquid fertilizer.

Mr. Bluhm stated that the last sentence in Item #5.B could be revised to indicate the following: There will be no manufacturing of fertilizer and no storage of dry fertilizer. He asked Mr. Bierman to clarify what liquid chemicals entail.

Mr. Ken Bierman stated that there would be liquid fertilizer on the facility.

Mr. Hall stated that the following could be added as Item #5.B(1): At the public hearing on October 14, 2010, Ken Bierman, Regional Manager for United Prairie testified that there would be no dry fertilizer storage but there would be liquid fertilizer storage.

Mr. Miller stated that the Illinois Department of Agriculture or IEPA will be more restrictive than the County. He said that he does not see any reason why the facility should be restricted in not allowing dry fertilizer storage.

Mr. Hall stated that no such condition has been proposed.

Mr. Miller stated that dry fertilizer storage is not part of the proposal but the distance from Tolono to Dewey is a long way and if the facility grows as anticipated it is possible that they may want to construct a dry fertilizer storage facility.

Mr. Hall stated that being a special use permit the petitioner can only build what is on the site plan. He said that in regards to accessory storage he tries to extend as much flexibility as he can for storage but if the site plan is approved with no facilities for dry fertilizer and in five years they want to store dry fertilizer they will have to come back before the Board with a new special use permit.

Mr. Miller stated that he is fine with it as long as the petitioner is too.

Mr. Palmgren stated that the text indicates no manufacturing of dry fertilizer but not storage of dry fertilizer.

Mr. Hall stated that the same thing applies. He said that if they do not have a place on the site plan indicating the storage of dry fertilizer then it is not allowed. He said that it would be a relatively minor expansion but it needs to be on the site plan. He said that if this were in the industrial district like the Tolono facility there would be no approved site plan therefore it could change on a daily basis but this facility is located in the AG-1 district.

Mr. Schroeder stated that he would like to see the dry storage facility added to the site plan so that the petitioner will not have to return to the Board at a later date.

Mr. Bluhm asked if Mr. Bierman would like to address this matter.



10/14/10

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 Mr. Bierman stated that he cannot say in any true faith that he will eventually have dry fertilizer on the
2 facility and he is definitely not going to be blending it. He said that if a customer came to him and requested
3 a truck load of fertilizer he would have to say no. He said that if he had a choice he would like to leave it
4 open ended but asked what the main concern is for the dry fertilizer. He said that if the Illinois Department
5 of Agriculture allows the facility to have it the fertilizer would have to be stored in a contained building that
6 could not filter out into the watershed. He said that dry fertilizer storage is not in their future plans at all but
7 the storage of seed is and it is not indicated on the site plan.

8
9 Mr. Hall stated that only buildings need to be indicated on the site plan and it could be established that the
10 buildings on the site plan could be used for the storage of seeds, dry fertilizer, etc. He said that what is
11 stored in them is not the issue as long as the number of buildings and their sizes are indicated on the site
12 plan. He said that if any of the buildings will require future expansion it would be better to have that future
13 expansion on the site plan at this point eliminating a return to the Board for that expansion.

14
15 Mr. Bierman stated that there is a lot of room on the site for their needs but if he was going to construct a dry
16 fertilizer hub like the one in Tolono then the site is not near large enough and they would have to come back
17 before the Board anyway. He said that if he were going to store dry fertilizer on a limited basis then it would
18 be just that, a limited basis and would be a very small scale. He said that if he were going to have dry
19 fertilizer then he would have to construct an additional building.

20
21 Mr. Miller stated that it may be advisable to add a building to the site plan and label it as storage for dry
22 fertilizer, seed and chemicals.

23
24 Mr. Bluhm explained to Mr. Bierman that the Board is trying to save the petitioner the headache of returning
25 to the Board for the expansion in five years when the restrictions may be greater for such a facility in the
26 AG-1 district.

27
28 Mr. Bierman stated that if the site plan is just for buildings then there would be more of a case for additional
29 storage on the site. He said that as technology progresses he may need an additional building in the future.
30 He requested that a 60' x 100' building be added to the site plan for future expansion.

31
32 Mr. Hall stated that the 60' x 100' building would be for seed, fertilizer and pesticide storage. He said that a
33 new Item #5.G should be added to the Summary of Evidence as follows: Ken Bierman, Regional Manager
34 for United Prairie testified at the October 14, 2010, public hearing that a 60' x 100' building has been
35 indicated on the site plan for future expansion which will be utilized for the storage of seed, fertilizer and
36 pesticide storage.

37
38 Mr. Schroeder stated that he is glad that this matter has been taken care of during this public hearing.

39
40 **Mr. Schroeder moved, seconded by Mr. Thorsland to recess the meeting for a five minute break. The**
41 **motion carried by voice vote.**

42
43 **The meeting recessed at 8:25 p.m.**

1 The meeting resumed at 8:33 p.m.

2
3 Mr. Hall stated that new Items #8.N(1) and (2) on Page 12 of the Draft Summary of Evidence should read as
4 follows: (1) John Hurd, President of the Dewey Water District, testified at the October 10, 2010, public
5 hearing that he wondered how much water would be used for the special use; and (2) Ken Bierman, Regional
6 Manager for United Prairie, testified at the October 10, 2010, public hearing that the facility can store water
7 for their required use and will drill a well if need be.

8
9 Mr. Hall stated that original Item #8.N on the Draft Summary of Evidence should be renumbered as Item
10 #8.O.

11
12 Mr. Bluhm read the special conditions as follows:

13
14 **A. Regarding access to the subject property:**

- 15 (1) The petitioner shall provide the County Engineer with engineering
- 16 drawings of the proposed driveway entrance onto County Highway 23.
- 17 (2) The Zoning Administrator shall not approve a Zoning Use Permit for the
- 18 subject property without documentation of the County Engineer's
- 19 approval of any proposed driveway entrance.
- 20 (3) The Zoning Administrator shall not issue a Zoning Compliance
- 21 Certificate without documentation of the County Engineer's approval of
- 22 any constructed driveway entrance including any necessary as-built
- 23 engineering drawings.

24 The special condition stated above is required to ensure the following:
25 All vehicles related to the proposed Special Use can safely enter and exit
26 the subject property with adequate visibility and regardless of weather
27 conditions.

28
29 **B. A complete Stormwater Drainage Plan that conforms to the requirements**
30 **of the Stormwater Management Policy shall be submitted and approved**
31 **as part of the Zoning Use Permit application and review and all required**
32 **certifications shall be submitted after construction prior to issuance of the**
33 **Zoning Compliance Certificate.**

34 The proposed condition stated above is required to ensure the following:
35 The proposed Special Use Permit conforms to the requirements of the
36 Stormwater Management Policy.

37
38 **C. Documentation of any private wells on the subject property and that all unused**
39 **wells will be sealed shall be submitted and approved as part of the Zoning Use**
40 **Permit Application and review, and the Zoning Administrator shall not approve**
41 **a Zoning Compliance Certificate for Phase I of the proposed Special Use**
42 **Permit without documentation that all unused wells on the subject property**
43 **have been sealed and the Champaign County Health Department has been**

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notified.
The above stated special condition is necessary to ensure the following:
Any unused wells on the subject property are protected from contamination.

D. Regarding state accessibility requirements:

- (1) The Zoning Administrator shall not approve a Zoning Use Permit for The proposed Special Use Permit without certification by an Illinois Licensed Architect or Illinois Professional Engineer that the proposed construction will comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act; and**
- (2) The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Zoning Administrator has verified that the Special Use as constructed does in fact comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act.**

The above stated special condition is necessary to ensure the following:
The proposed Special Use Permit meets applicable state codes for handicapped accessibility.

E. The Zoning Administrator shall not issue a Zoning Compliance Certificate to authorize use of the proposed Special Use Permit until a Type D screen meeting the requirements of Sections 7.6 and 4.3.3 H. 1. d. of the Ordinance has been installed.

The above stated special condition is necessary to ensure the following:
Screening requirements in the Zoning Ordinance are met and visual impacts on neighboring uses are minimized.

Mr. Bluhm asked the petitioner’s representatives if they agreed to the special conditions as read.

Mr. Bierman stated that he does agree to the special conditions as read.

Mr. Schroeder moved, seconded by Mr. Thorsland to accept the five special conditions as read. The motion carried by voice vote.

Findings of Fact for Case 676-S-10:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 676-S-10 held on October 14, 2010, the Zoning Board of Appeals of Champaign County finds that:

- 1. The requested Special Use Permit is necessary for the public convenience at this location.**

Mr. Miller stated that the requested Special Use Permit IS necessary for the public convenience at this

1 location because the subject property is a unique location next to County Highway 23 and with access to the
2 Canadian National short line.

3
4 Mr. Thorsland stated that the subject property is located in a primarily agricultural area, central to ten
5 grower/owner customers of United Prairie who are currently served by a plant which is 30 miles away.

6
7 **2. The requested Special Use Permit, subject to the special conditions imposed herein,**
8 **is so designed, located, and proposed to be operated so that it WILL NOT be injurious**
9 **to the district in which it shall be located or otherwise detrimental to the public**
10 **health, safety and welfare.**

11
12 **a. The street has ADEQUATE traffic capacity and the entrance location has**
13 **ADEQUATE visibility.**

14
15 Mr. Thorsland stated that the street has ADEQUATE traffic capacity and the entrance location has
16 ADEQUATE visibility.

17
18 **b. Emergency service availability is ADEQUATE.**

19
20 Mr. Miller stated that emergency service availability is ADEQUATE because the consolidated fire protection
21 district is located within five miles of the subject property.

22
23 **c. The Special Use will be designed to CONFORM to all relevant County**
24 **ordinances and codes.**

25 Mr. Thorsland stated that the Special Use will be designed to CONFORM to all relevant County ordinances
26 and codes.

27
28 **d. The Special Use WILL be compatible with adjacent uses.**

29
30 Mr. Miller stated that the requested Special Use Permit, will be compatible with adjacent uses.

31
32 Mr. Bluhm stated that the proposed site plan indicates a landscaped berm screen to provide a buffer between
33 the subject property and residences across County Highway 23.

34
35 **e. Surface and subsurface drainage will be ADEQUATE.**

36
37 Mr. Miller stated that surface and subsurface drainage will be ADEQUATE because the proposed site plan
38 includes a dry detention basin and the petitioner’s engineer indicated that existing tile would be cleaned out
39 or replaced.

40
41 Mr. Palmgren stated that the subject property is not located in a Special Flood Hazard Area.

42
43 **f. Public safety will be ADEQUATE.**

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Mr. Thorsland stated that public safety will be ADEQUATE because the proposed use will be regulated by more jurisdictions than just the County and all safety requirements will be met.

g. The provision for parking will be ADEQUATE.

Mr. Thorsland stated that the provision for parking will be ADEQUATE because the proposed use is a seasonal use only and the proposed site plan includes more than adequate area for all required parking.

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

3a. The requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

3b. The requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located because:

a. The Special Use will be designed to CONFORM to all relevant County ordinances and codes.

Mr. Thorsland stated that the Special Use will be designed to CONFORM to all relevant County ordinances and codes.

b. The Special Use WILL be compatible with adjacent uses.

Mr. Miller stated that the Special Use WILL be compatible with adjacent uses.

c. Public safety will be ADEQUATE.

Mr. Courson stated that public safety will be ADEQUATE.

Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.

4. The requested Special Use Permit, subject to the special conditions imposed herein, IS in harmony with the general purpose and intent of the Ordinance.

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- a. **The Special Use is authorized in the District.**
- b. **The requested Special Use Permit IS necessary for the public convenience at this location.**

Mr. Courson stated that the requested Special Use Permit IS necessary for the public convenience at this location.

- c. **The requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.**

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.

- d. **The requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.**

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Thorsland stated that the Special Use Permit, subject to the special conditions imposed herein, IS in harmony with the general purpose and intent of the Ordinance.

5. The requested Special Use IS NOT an existing nonconforming use.

Mr. Thorsland stated that the Special Use IS NOT an existing nonconforming use.

6. The special conditions imposed herein are required to ensure compliance with the criteria for Special Use Permits and for the particular purposes described below:

- A. **Regarding access to the subject property:**
 - (1) **The petitioner shall provide the County Engineer with engineering drawings of the proposed driveway entrance onto County Highway 23.**
 - (2) **The Zoning Administrator shall not approve a Zoning Use Permit for the subject property without documentation of the County Engineer’s approval of any proposed driveway entrance.**
 - (3) **The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of the County Engineer’s approval of any constructed driveway entrance including any necessary as-built**

engineering drawings.

The special condition stated above is required to ensure the following:

All vehicles related to the proposed Special Use can safely enter and exit the subject property with adequate visibility and regardless of weather conditions.

B. A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management Policy shall be submitted and approved as part of the Zoning Use Permit application and review and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.

The proposed condition stated above is required to ensure the following:

The proposed Special Use Permit conforms to the requirements of the Stormwater Management Policy.

C. Documentation of any private wells on the subject property and that all unused wells will be sealed shall be submitted and approved as part of the Zoning Use Permit Application and review, and the Zoning Administrator shall not approve a Zoning Compliance Certificate for Phase I of the proposed Special Use Permit without documentation that all unused wells on the subject property have been sealed and the Champaign County Health Department has been notified.

The above stated special condition is necessary to ensure the following:

Any unused wells on the subject property are protected from contamination.

D. Regarding state accessibility requirements:

- (1) The Zoning Administrator shall not approve a Zoning Use Permit for The proposed Special Use Permit without certification by an Illinois Licensed Architect or Illinois Professional Engineer that the proposed construction will comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act; and
- (2) The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Zoning Administrator has verified that the Special Use as constructed does in fact comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act.

The above stated special condition is necessary to ensure the following:

The proposed Special Use Permit meets applicable state codes for handicapped accessibility.

E. The Zoning Administrator shall not issue a Zoning Compliance Certificate to authorize use of the proposed Special Use Permit until a Type D screen meeting the requirements of Sections 7.6 and 4.3.3 H. 1. d. of the Ordinance

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has been installed.
The above stated special condition is necessary to ensure the following:
Screening requirements in the Zoning Ordinance are met and visual impacts on neighboring uses are minimized.

Mr. Miller moved, seconded by Mr. Thorsland to adopt the Summary of Evidence, Documents of Record and Finding of Fact as amended. The motion carried by voice vote.

Mr. Schroeder moved, seconded by Mr. Palmgren to close the public hearing for Case 676-S-10. The motion carried by voice vote.

Mr. Bluhm informed the petitioner’s representatives that one Board member was absent from tonight’s meeting therefore it is at their discretion to either continue Case 676-S-10 until a full Board is present or request that the present Board move forward to the Final Determination. He informed the petitioner’s representatives that four affirmative votes are required for approval.

Mr. Bierman requested that the present Board move forward to the Final Determination.

Final Determination for Case 676-S-10:

Mr. Thorsland moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.11B. HAVE been met, and pursuant to the authority granted by Section 9.1.6B. of the Champaign County Zoning Ordinance, determines that the Special Use requested in Case 676-S-10 is hereby GRANTED WITH SPECIAL CONDITIONS to the petitioners United Prairie, LLC, owned by Premier Cooperative and Topflight Grain to authorize “Farm Chemicals and Fertilizer Sales including incidental storage and mixing of blended fertilizer” as a Special Use Permit in the AG-1 Agriculture Zoning District.

Subject to the following special conditions:

- A. Regarding access to the subject property:**
 - (1) The petitioner shall provide the County Engineer with engineering drawings of the proposed driveway entrance onto County Highway 23.**
 - (2) The Zoning Administrator shall not approve a Zoning Use Permit for the subject property without documentation of the County Engineer’s approval of any proposed driveway entrance.**
 - (3) The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of the County Engineer’s approval of any constructed driveway entrance including any necessary as-built engineering drawings.**

The special condition stated above is required to ensure the following:
All vehicles related to the proposed Special Use can safely enter and exit

the subject property with adequate visibility and regardless of weather conditions.

B. A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management Policy shall be submitted and approved as part of the Zoning Use Permit application and review and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.

The proposed condition stated above is required to ensure the following:

The proposed Special Use Permit conforms to the requirements of the Stormwater Management Policy.

C. Documentation of any private wells on the subject property and that all unused wells will be sealed shall be submitted and approved as part of the Zoning Use Permit Application and review, and the Zoning Administrator shall not approve a Zoning Compliance Certificate for Phase I of the proposed Special Use Permit without documentation that all unused wells on the subject property have been sealed and the Champaign County Health Department has been notified.

The above stated special condition is necessary to ensure the following:

Any unused wells on the subject property are protected from contamination.

D. Regarding state accessibility requirements:

(1) The Zoning Administrator shall not approve a Zoning Use Permit for The proposed Special Use Permit without certification by an Illinois Licensed Architect or Illinois Professional Engineer that the proposed construction will comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act; and

(2) The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Zoning Administrator has verified that the Special Use as constructed does in fact comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act.

The above stated special condition is necessary to ensure the following:

The proposed Special Use Permit meets applicable state codes for handicapped accessibility.

E. The Zoning Administrator shall not issue a Zoning Compliance Certificate to authorize use of the proposed Special Use Permit until a Type D screen meeting the requirements of Sections 7.6 and 4.3.3 H. 1. d. of the Ordinance has been installed.

The above stated special condition is necessary to ensure the following:

Screening requirements in the Zoning Ordinance are met and visual impacts

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The roll was called:

Capel-absent	Courson-yes	Miller-yes
Palmgren-yes	Schroeder-yes	Thorsland-yes
Bluhm-yes		

Mr. Bluhm stated that the Board will now hear Cases 665-AT-10 and 666-AT-10.

7. Staff Report
A. September, 2010 Monthly Report

Mr. Hall stated that the Board received the September, 2010 Monthly Report in their mailing packet.

Mr. Bluhm stated that the Board needs to decide on the November 18th meeting.

Mr. Thorsland asked Mr. Hall to discuss the status of Cases 677-V-10 and 678-V-10.

Mr. Hall stated that staff has received applications for both cases. He said that staff is trying to get Case 677-V-10 nixed and Case 678-V-10 should be a relatively straight forward case. He said that both of the variance cases on the November 18th docket are related to existing structures therefore no one is being held up for construction.

Mr. Bluhm asked Mr. Hall if he anticipated a huge crowd for the October 28th meeting.

Mr. Hall stated that there could easily be 10 people for the text amendment.

Mr. Bluhm asked Mr. Hall if staff could determine if the John Dimit Room is available for the November 18th meeting and disclose its findings to the Board at the October 28th meeting.

8. Other Business

None

9. Audience Participation with respect to matters other than cases pending before the Board

None

10. Adjournment

The meeting adjourned at 9:15 p.m.

10/14/10

DRAFT

SUBJECT TO APPROVAL

DRAFT

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Respectfully submitted

Secretary of Zoning Board of Appeals

2011 CHAMPAIGN COUNTY PLANNING & ZONING CALENDAR

Brookens Administrative Center
 1776 E. Washington Street
 Urbana, IL 61802
 Phone: (217) 384-3708
 FAX: (217) 819-4021

JANUARY						
S	M	T	W	Th	F	S
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County Holiday
 (Office Closed)



FEBRUARY						
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AUGUST						
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Zoning Board of Appeals
 March – October: 7:00 p.m.
 November – February: 6:30 p.m



Environment and Land
 Use Committee:
 (Committee of the Whole) 6:00 p.m.
 Agenda Item Deadline:
 Check with the Department of
 Planning and Zoning



MARCH						
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Champaign County Board
 7:00 p.m.
 All meetings are held in the Lyle
 Shields Meeting Room (formerly
 Meeting Room One) at the Brookens
 Administrative Center



APRIL						
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Note: No entrance to building from
 Washington Street parking lot after
 4:30 p.m. Use Northeast parking
 lot via Lierman Av. and enter
 building through Northeast door.

MAY						
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**MEETING DATES AND TIMES
 ARE SUBJECT TO CHANGE**

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DRAFT



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

(217) 384-3708

CASE NO. 665-AT-10

SUPPLEMENTAL MEMORANDUM

December 10, 2010

Petitioner: **Zoning Administrator**

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

Request: **Amend the Champaign County Zoning Ordinance by revising paragraph 4.3.3 G. as follows:**

- A. **Increase the maximum fence height allowed in side and rear yards from six feet to eight feet for fences in Residential Zoning Districts and on residential lots in the AG-1 and AG-2 Zoning Districts.**
- B. **Require fencing that is higher than four feet tall to be at least 50% transparent when located in the following areas:**
 - (1) **In Residential Zoning Districts, all fencing that is in the front yard.**
 - (2) **On residential lots in the AG-1, AG-2, and CR Zoning Districts, only fencing between the dwelling and the driveway within 25 feet of the dwelling.**
- C. **Increase the maximum allowed height of all fencing to allow for up to three inches of ground clearance.**

STATUS

This is the seventh meeting for this case. It was continued from the October 14, 2010, public hearing.

No comments have been received from the Sheriff regarding the Board's questions about transparency for gates, but another request was made on December 6, 2010. It is staff's recommendation that this case is ready for final action.

Champaign
County
Department of



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

(217) 384-3708

CASE NO. 666-AT-10

SUPPLEMENTAL MEMORANDUM

December 10, 2010

Petitioner: **Zoning Administrator**

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

Request: **Amend the Champaign County Zoning Ordinance by revising Subsection 6.1 and paragraph 9.1.11 D.1. to clarify that the standard conditions in Subsection 6.1 which exceed the requirements of Subsection 5.3 in either amount or kind are subject to waiver by the Zoning Board of Appeals or County Board.**

STATUS

This is the fifth meeting for this case. It was continued from the October 14, 2010, public hearing.

The State's Attorney has not yet provided any comments regarding township protest of waivers of standard conditions in County Board Special Use Permit cases. However, it is staff's recommendation that this case is ready for final action.

CASE NO. 675-AT-10

Champaign PRELIMINARY MEMORANDUM

County December 10, 2010

Department of Petitioner: **Zoning Administrator**



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:**

Part A

1. **In the first four un-numbered paragraphs of Section 8 clarify that nonconforming dwellings may be enlarged, expanded, extended, replaced, rebuilt, or relocated as authorized herein.**
2. **Revise subsection 8.1.2 to authorize that once two or more contiguous lots or combination of lots and portions of lots that individually do not meet any dimensional, geometric, lot access or other standards are brought into common ownership, that portions of said lots may be used separately or conveyed to a different owner provided that a variance is granted.**

Part B

1. **Revise paragraph 8.2.1 B. as follows:**
 - a. **Limit applicability to the total expansion since October 10, 1973.**
 - b. **Revise the limit on expansion of a nonconforming single family dwelling as follows:**
 - (1) **A nonconforming single family dwelling which had less than 1,200 square feet of building floor area may expand up to a total floor area of 1,500 square feet provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.**
 - (2) **A nonconforming single family dwelling which had more than 1,200 square feet of building floor area may expand by up to 200 square feet or 25% of building floor area, whichever is greater provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.**
 - (3) **Eliminate the limit on the amount of accessory buildings.**
2. **Revise paragraph 8.2.1 C. so that the limit on expansion applies to the total expansion since October 10, 1973.**
3. **Revise subsection 8.2.2 to provide that nonconforming dwellings may be moved on the lot as authorized in subsection 8.4.1.**
4. **In Subsection 8.2.3 clarify "ceases".**

Part C

1. **Revise subsection 8.3.1 to authorize that a nonconforming structure may be enlarged if authorized by variance.**
2. **Revise subsection 8.3.3 to authorize that a nonconforming structure may be moved without conforming to the regulations and standards of the district provided that the new location is authorized by variance.**

Part D

1. **Revise Subsection 8.4.1 as follows:**
 - a. **Authorize that a nonconforming dwelling may be expanded as authorized in subsection 8.2.1. provided that a variance is required if**

there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.

- b. Authorize that a nonconforming dwelling may be reconstructed in the existing location if authorized by zoning use permit or a different location if authorized by variance provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
- c. Authorize that expansion of a nonconforming dwelling as authorized in subsection 8.2.1 may occur at the same time as reconstruction.

2. In Subsection 8.4.5 clarify “abandoned” and “discontinued”.

Part E

1. Revise Subsection 8.6 as follows:

- a. Authorize that a nonconforming dwelling may be expanded as authorized in subsection 8.2.1 or reconstructed as authorized in subsection 8.4.1.
- b. Authorize that a nonconforming dwelling has no limit on the value of repair or replacement that may occur within a 365 day period and that may include bearing walls.

Part F

1. In paragraph 9.1.2 C. require that for any Zoning Use Permit authorizing construction as authorized in Section 8 on a nonconforming dwelling in a zoning district in which a dwelling is not an authorized principal use, the Zoning Administrator shall provide notice that the zoning district does not authorize a dwelling as a principal use and shall indicate in general what types of principal uses are authorized as either business uses or industrial uses.

BACKGROUND

For all Background in this case please see the Memo to the Champaign County Board Committee of the Whole.

ATTACHMENTS

- A Memo to Champaign County Board Committee of the Whole dated August 30, 2010 (included separately)
 - B Section 8 of Champaign County Zoning Ordinance (included separately)
 - C Paragraph 9.1.9 B of the Champaign County Zoning Ordinance
 - D Excerpted Definitions from Zoning Ordinance
 - E Proposed Draft Amendment
-

9.1.9 VARIANCES

A. Table of VARIANCE Classifications and Presiding Authority

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

B. Prohibited VARIANCES

At no time shall the BOARD or the Hearing Officer 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.

SECTION 9.1.9 VARIANCES - CONTINUED

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.

C. VARIANCE Criteria

1. A VARIANCE from the terms of this ordinance shall not be granted by the BOARD or the Hearing Officer 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;
 - 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.

ACCESSORY BUILDING: A BUILDING on the same LOT with the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.

AREA, BUILDING: The total area taken on a horizontal plane at the largest floor level of the MAIN OR PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and non-permanent CANOPIES and planters.

BUILDING: An enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter or enclosure of persons, animals, and chattels.

BUILDING, MAIN or PRINCIPAL: The BUILDING in which is conducted the main or principal USE of the LOT on which it is located.

COVERAGE: The percentage of the LOT AREA covered by the BUILDING AREA.

DWELLING, SINGLE FAMILY: A DWELLING containing one DWELLING UNIT.

LOT: A designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.

NONCONFORMING LOT, STRUCTURE or USE: A LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.

NONCONFORMING PREMISES: A NONCONFORMING LOT with a NONCONFORMING STRUCTURE located on it.

PREMISES: A LOT or tract of land and any STRUCTURE located thereon.

STRUCTURE: Anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES including BUILDINGS, walls, fences, billboards, and SIGNS.

STRUCTURE, MAIN OR PRINCIPAL: The STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.

USE: The specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.

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Part A

- 1. In the first four un-numbered paragraphs of Section 8 clarify that nonconforming dwellings may be enlarged, expanded, extended, replaced, rebuilt, or relocated as authorized herein.**

Within the DISTRICTS established by this ordinance or by amendments that may later be adopted, there exist LOTS, PREMISES, STRUCTURES, ACCESSORY STRUCTURES, USES, and ACCESSORY USES of land which were lawful before this ordinance was effective or amended, but which would be prohibited, regulated, or restricted under the provisions of this ordinance or future amendments.

It is the intent of this ordinance to permit these non-conformities to continue until they are removed, except as otherwise herein provided, but not to encourage their survival. Such non-conformities are declared by this ordinance to be incompatible with the permitted STRUCTURES and USES of land and STRUCTURES in the DISTRICTS involved. It is further the intent of this ordinance that such NONCONFORMING USES of land, PREMISES, or STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged upon, expanded, or extended except as provided for herein, nor to be used as grounds for adding other STRUCTURES or USES prohibited elsewhere in the same DISTRICT.

A NONCONFORMING USE of land, PREMISES, STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged, expanded, or extended after October 10, 1973, or after the effective date of an ordinance amendment rendering such USE NONCONFORMING except as otherwise herein provided. Attachment to a STRUCTURE, PREMISES, or land, of any additional SIGNS intended to be seen off the PREMISES, or land, shall be prohibited. The addition of other USES which are prohibited in the DISTRICT involved shall not be permitted.

A NONCONFORMING USE or a NONCONFORMING STRUCTURE which is nonconforming only because of failure to provide required off-street PARKING SPACES or LOADING BERTHS shall have all the rights of a conforming USE or STRUCTURE provided that no further reduction of off-street PARKING or LOADING BERTHS takes place.

- 2. Revise subsection 8.1.2 to authorize that once two or more contiguous lots or combination of lots and portions of lots that individually do not meet any dimensional, geometric, lot access or other standards are brought into common ownership, that portions of said lots may be used separately or conveyed to a different owner provided that a variance is granted.**

8.1.2 Once two or more contiguous LOTS or combination of LOTS and portions of LOTS which individually do not meet any dimensional, geometric, LOT ACCESS or other standards are brought into common ownership the LOTS involved shall be considered to be a single LOT for the purpose of this ordinance. No portion of said LOT shall be used separately or conveyed to another owner which does not meet all the dimensional, geometric, LOT ACCESS and other standards established by this ordinance unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

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Part B

1. Revise paragraph 8.2.1 B. as follows:

- a. Limit applicability to the total expansion since October 10, 1973.
- b. Revise the limit on expansion of a nonconforming single family dwelling as follows:
 - (1) A nonconforming single family dwelling which had less than 1,200 square feet of building floor area may expand up to a total floor area of 1,500 square feet provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
 - (2) A nonconforming single family dwelling which had more than 1,200 square feet of building floor area may expand by up to 200 square feet or 25% of building floor area, whichever is greater provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.
 - (3) Eliminate the limit on the amount of accessory buildings.

B. ~~ANONCONFORMING SINGLE FAMILY DWELLINGS~~ which is a NONCONFORMING USE of land may be expanded by ~~no more than 200 square feet and by construction of no more than one new ACCESSORY BUILDING or addition to an existing ACCESSORY BUILDING~~ provided that the total area of such ~~ACCESSORY BUILDING is not more than 650 square feet.~~ as follows:

1. A SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land and was 1,200 square feet or less in building floor area (not including basement) on October 10, 1973, may expand up to a total building floor of 1,500 square feet provided that a VARIANCE is required if there is more than one PRINCIPAL USE on the LOT and the LOT AREA is less than required in Section 4.3.4. The expansion may occur all at one time as part of a total reconstruction or replacement as authorized by Section 8.6.
2. A SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land and exceeded 1,200 square feet in building floor area (not including basement) on October 10, 1973, may be expanded by a total of 200 square feet or 25% of building floor area, whichever is greater, compared to the building floor area that existed on October 10, 1973, provided that a VARIANCE is required if there is more than one PRINCIPAL USE on the LOT and the LOT AREA is less than required in Section 4.3.4. The expansion may occur all at one time as part of a total reconstruction or replacement as authorized by Section 8.6.
3. Expansion of existing or construction of any new ACCESSORY BUILDING shall conform to the regulations and standards for the DISTRICT in which it is located.

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2. **Revise paragraph 8.2.1 C. so that the limit on expansion applies to the total expansion since October 10, 1973.**

C. NONCONFORMING nonresidential USES which are permitted as of right in the R-1, Single Family Residence District and are not otherwise permitted by Special Use Permit may be expanded by a total of no more than 25% of building floor area compared to the building floor area that existed on October 10, 1973, and height, lot coverage, and off-street parking and loading area only if a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

3. **Revise subsection 8.2.2 to provide that nonconforming dwellings may be moved on the lot as ~~authorized in subsection 8.4.1.~~ provided that a variance is granted.**

8.2.2 No such NONCONFORMING USE of land shall be moved in whole or in part to any other portion of the LOT or tract of land occupied on the effective date of adoption or amendment of this ordinance except that a SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land may be moved on the LOT provided that a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

4. **In Subsection 8.2.3 clarify “ceases”.**

8.2.3 If any such NONCONFORMING USE of land ceases for any reason for a period of more than 180 consecutive days except for seasonal vacations lasting less than 275 consecutive days and that occur no more often than once in any 365 consecutive days or except when actively marketed for sale or rent by the posting of a sign on the front LOT LINE of the property, any subsequent USE of such land shall conform to the regulations and standards set by this ordinance for the DISTRICT in which such land is located.

Part C

1. **Revise subsection 8.3.1 to authorize that a nonconforming structure may be enlarged if authorized by variance.**

8.3.1 No such STRUCTURE may be enlarged or ALTERED in a way which increases its nonconformity unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

2. **Revise subsection 8.3.3 to authorize that a nonconforming structure may be moved without conforming to the regulations and standards of the district provided that the new location is authorized by variance.**

8.3.3 Should any STRUCTURE be moved for any reason for any distance whatever, it shall thereafter conform to the regulations and standards for the DISTRICT in which it is located after it is moved unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

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Part D

1. Revise Subsection 8.4.1 as follows:

- a. **Authorize that a nonconforming single family dwelling may be expanded as authorized in subsection 8.2.1. provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.**
- b. **Authorize that a nonconforming single family dwelling may be reconstructed in the existing location if authorized by zoning use permit or a different location if authorized by variance provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.**
- c. **Authorize that expansion of a nonconforming single family dwelling as authorized in subsection 8.2.1 may occur at the same time as reconstruction.**

8.4.1 No existing STRUCTURE devoted to a USE not permitted by this ordinance in the DISTRICT in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or ALTERED except in changing the USE of such STRUCTURE to a USE permitted in the DISTRICT in which it is located except as otherwise herein provided.

8.4.2 Any NONCONFORMING USE may be extended throughout any parts of the BUILDING or STRUCTURE which were manifestly arranged or designed for such USE at the effective date of adoption, or amendment, of this ordinance, but no such USE shall be extended to occupy land outside of such STRUCTURE except as otherwise herein provided.

2A. In Subsection 8.4.5 clarify “abandoned” and “discontinued”.

8.4.5 When a NONCONFORMING USE of a BUILDING or STRUCTURE or of a PREMISES is discontinued or abandoned for 180 consecutive days or for 540 days during any 1,095 day period except for seasonal vacations lasting less than 274 consecutive days and that occur no more often than once in any 365 consecutive days or except when actively marketed for sale or rent by the posting of a sign on the front LOT LINE of the property, the STRUCTURE or the PREMISES shall thereafter not be used except in compliance with the regulations and standards of the DISTRICT in which it is located.

2B In Subsection 8.4.6 provide for replacement of nonconforming single family dwelling.

8.4.6 Where NONCONFORMING USE status applies to a PREMISES, removal or destruction of the STRUCTURE shall eliminate the NONCONFORMING USE status of the land, except as it may qualify as a NONCONFORMING LOT of record except as otherwise herein provided.

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Part E

1. Revise Subsection 8.6 as follows:

- a. **Authorize that a nonconforming dwelling may be expanded as authorized in subsection 8.2.1 or reconstructed as authorized in subsection 8.4.1.**
- b. **Authorize that a nonconforming dwelling has no limit on the value of repair or replacement that may occur within a 365 day period and that may include bearing walls.**

8.6 Repairs or Maintenance

On any STRUCTURE devoted in whole or in part to any NONCONFORMING USE, or which itself is NONCONFORMING, work may be done in a period of 365 consecutive days on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not to exceed 10% of the then current replacement value of the STRUCTURE, provided that the volume of such BUILDING or the size of such STRUCTURE as it existed at the effective date of the adoption, or amendment, of this ordinance shall not be increased except as follows:

- A. As otherwise herein provided; and
- B. There is no limit on the value of repair or replacement for a SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any STRUCTURE or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Part F

1. **In paragraph 9.1.2 C. require that for any Zoning Use Permit authorizing construction as authorized in Section 8 on a nonconforming dwelling in a zoning district in which a dwelling is not an authorized principal use, the Zoning Administrator shall provide notice that the zoning district does not authorize a dwelling as a principal use and shall indicate in general what types of principal uses are authorized as either business uses or industrial uses.**

C. Issuance of Zoning Use Permit

1. The Zoning Administrator shall retain the original copy of the Zoning Use Permit and shall mark such Permit whether approved or disapproved and for any Zoning Use Permit authorizing construction on a SINGLE FAMILY DWELLING which is a NONCONFORMING USE of land in a zoning DISTRICT in which a SINGLE FAMILY DWELLING is not an authorized PRINCIPAL USE, the Zoning Use Permit shall include a notice that the zoning district does not authorize a SINGLE FAMILY DWELLING as a PRINCIPAL

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USE and shall indicate in general the types of PRINCIPAL USE authorized as either business uses or industrial uses.

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SECTION 8 NON-CONFORMITIES

Within the DISTRICTS established by this ordinance or by amendments that may later be adopted, there exist LOTS, PREMISES, STRUCTURES, ACCESSORY STRUCTURES, USES, and ACCESSORY USES of land which were lawful before this ordinance was effective or amended, but which would be prohibited, regulated, or restricted under the provisions of this ordinance or future amendments.

It is the intent of this ordinance to permit these non-conformities to continue until they are removed, except as otherwise herein provided, but not to encourage their survival. Such non-conformities are declared by this ordinance to be incompatible with the permitted STRUCTURES and USES of land and STRUCTURES in the DISTRICTS involved. It is further the intent of this ordinance that such NONCONFORMING USES of land, PREMISES, or STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged upon, expanded, or extended except as provided for herein, nor to be used as grounds for adding other STRUCTURES or USES prohibited elsewhere in the same DISTRICT.

A NONCONFORMING USE of land, PREMISES, STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged, expanded, or extended after October 10, 1973, or after the effective date of an ordinance amendment rendering such USE NONCONFORMING. Attachment to a STRUCTURE, PREMISES, or land, of any additional SIGNS intended to be seen off the PREMISES, or land, shall be prohibited. The addition of other USES which are prohibited in the DISTRICT involved shall not be permitted.

A NONCONFORMING USE or a NONCONFORMING STRUCTURE which is nonconforming only because of failure to provide required off-street PARKING SPACES or LOADING BERTHS shall have all the rights of a conforming USE or STRUCTURE provided that no further reduction of off-street PARKING or LOADING BERTHS takes place.

8.1 NONCONFORMING LOTS of Record

8.1.1 In any zoning DISTRICT where SINGLE FAMILY DWELLINGS are permitted as a principal USE, a SINGLE FAMILY DWELLING and customary ACCESSORY BUILDINGS may be erected on any single LOT of record which was platted and recorded prior to October 10, 1973, provided that:

- A. such LOT must have been in separate OWNERSHIP and not in continuous FRONTAGE with other LOTS in the same OWNERSHIP as of October 10, 1973, and;
- B. such LOT must contain sufficient AREA and width to provide a lawful water supply and means of wastewater disposal;

SECTION 8.1 NONCONFORMING LOTS OF RECORD - CONTINUED

- C. YARD dimensions and other requirements not involving AREA or WIDTH, or both of such LOTS shall conform to the requirements for the DISTRICT in which said LOT is located; and
- D. for purposes of LOT AREA calculations, any LOT AREA devoted to permanent ponds and/or lakes shall be excluded from calculations of total LOT AREA.

These provisions shall apply even though such NONCONFORMING LOTS fail to meet the current dimensional, geometric, LOT ACCESS or other requirements in their respective DISTRICTS.

8.1.2 Once two or more contiguous LOTS or combination of LOTS and portions of LOTS which individually do not meet any dimensional, geometric, LOT ACCESS or other standards are brought into common ownership the LOTS involved shall be considered to be a single LOT for the purpose of this ordinance. No portion of said LOT shall be used separately or conveyed to another owner which does not meet all the dimensional, geometric, LOT ACCESS and other standards established by this ordinance.

8.1.3 In any zoning DISTRICT where TWO-FAMILY DWELLING STRUCTURES or MULTI-FAMILY DWELLING STRUCTURES are permitted by right, or where more than one MAIN or PRINCIPAL STRUCTURE or BUILDING is permitted as a SPECIAL USE or authorized under Section 4.2.1 D, any NONCONFORMING LOT of record which was not improved with such DWELLINGS, STRUCTURES or BUILDINGS on or before October 10, 1973, shall not be eligible for the location of a TWO-FAMILY DWELLING STRUCTURE or MULTI-FAMILY DWELLING STRUCTURE, or more than one MAIN or PRINCIPAL STRUCTURE or BUILDING for reasons of protecting the public health, unless said LOT contains a minimum AREA as follows:

- A. A LOT without a PUBLIC WATER SUPPLY SYSTEM and without a connected PUBLIC SANITARY SEWER SYSTEM shall not be less than 20,000 square feet in AREA for the first DWELLING UNIT, or the first MAIN or PRINCIPAL STRUCTURE or BUILDING thereon, and 7,000 square feet for each additional DWELLING UNIT, or MAIN or PRINCIPAL STRUCTURE or BUILDING placed thereon.
- B. A LOT served by a private well and a PUBLIC SANITARY SEWER SYSTEM shall not be less than 10,000 square feet in AREA for the first DWELLING UNIT, or the first MAIN or PRINCIPAL STRUCTURE or

SECTION 8.1 NONCONFORMING LOTS OF RECORD - CONTINUED

BUILDING placed thereon, and 7,000 square feet for each additional DWELLING UNIT, or MAIN or PRINCIPAL STRUCTURE or BUILDING placed thereon.

- C. A LOT served by a PUBLIC WATER SUPPLY SYSTEM and without a connected PUBLIC SANITARY SEWER SYSTEM shall not be less than 10,000 square feet in AREA for the first DWELLING UNIT, or the first MAIN or PRINCIPAL STRUCTURE or BUILDING placed thereon, and 7,000 square feet for each additional DWELLING UNIT, or MAIN or PRINCIPAL STRUCTURE or BUILDING placed thereon.

8.1.4 YARD Regulations and Standards for Single NONCONFORMING LOTS of record

- A. FRONT YARD: The FRONT YARD regulations and standards of the DISTRICT in which such LOT is located shall apply.
- B. REAR YARD: The REAR YARD regulations and standards of the DISTRICT in which such LOT is located shall apply.
- C. SIDE YARD
 - 1. On such LOT with a width of 50 feet or more, two SIDE YARDS shall be provided as required by the regulations and standards of the DISTRICT in which such LOT is located.
 - 2. On such LOT less than 50 feet but not less than 27 feet in width, two SIDE YARDS shall be provided, each equaling 10% of the LOT width.
 - 3. On such LOT less than 27 feet but not less than 20 feet in width, the STRUCTURE located on such LOT shall have a width of not more than 90% of such LOT width. Only one SIDE YARD need be provided, equaling in width the difference between the LOT width and the maximum permitted width of the STRUCTURE. No other SIDE YARD need be provided. The wall of any BUILDING facing the side of the LOT on which no SIDE YARD is required shall be without openings and shall not be constructed as a common wall.

8.2 NONCONFORMING USES of Land

Where, on the effective date of adoption or amendment of this ordinance, a lawful USE of land exists that is no longer permissible under the regulations and standards of this ordinance as adopted, or amended, such USE may be continued so long as it remains otherwise lawful subject to the following provisions:

8.2.1 Expansion of NONCONFORMING USE

- A. No such NONCONFORMING USE of land shall be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this ordinance except as provided below.
- B. NONCONFORMING SINGLE FAMILY DWELLINGS may be expanded by no more than 200 square feet and by construction of no more than one new ACCESSORY BUILDING or addition to an existing ACCESSORY BUILDING provided that the total area of such ACCESSORY BUILDING is not more than 650 square feet.
- C. NONCONFORMING nonresidential USES which are permitted as of right in the R-1, Single Family Residence District and are not otherwise permitted by Special Use Permit may be expanded by no more than 25% of building floor area and height, lot coverage, and off-street parking and loading area only if a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

8.2.2 No such NONCONFORMING USE of land shall be moved in whole or in part to any other portion of the LOT or tract of land occupied on the effective date of adoption or amendment of this ordinance.

8.2.3 If any such NONCONFORMING USE of land ceases for any reason for a period of more than 180 consecutive days, any subsequent USE of such land shall conform to the regulations and standards set by this ordinance for the DISTRICT in which such land is located.

8.3 NONCONFORMING STRUCTURES

Where, on the effective date of adoption or amendment of this ordinance, a lawful STRUCTURE exists that could not be built under the regulations and standards of this ordinance as adopted or amended, by reason of restrictions on LOT AREA, LOT COVERAGE, HEIGHT, YARDS, spacing between BUILDINGS, or other characteristics of the STRUCTURE or its location on the LOT, such STRUCTURE may be continued so long as it remains otherwise lawful subject to the following provisions:

SECTION 8.3 NONCONFORMING STRUCTURES--CONTINUED

- 8.3.1 No such STRUCTURE may be enlarged or ALTERED in a way which increases its nonconformity.
- 8.3.2 Should such STRUCTURE be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.
- 8.3.3 Should any STRUCTURE be moved for any reason for any distance whatever, it shall thereafter conform to the regulations and standards for the DISTRICT in which it is located after it is moved.

8.4 NONCONFORMING USES of STRUCTURES

Where, on the effective date of adoption, or amendment, of this ordinance, a lawful USE or a STRUCTURE, or of a PREMISES, exists that is no longer permissible under the regulations and standards of this ordinance as adopted, or amended, such USE may be continued so long as it remains otherwise lawful subject to the following provisions:

- 8.4.1 No existing STRUCTURE devoted to a USE not permitted by this ordinance in the DISTRICT in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or ALTERED except in changing the USE of such STRUCTURE to a USE permitted in the DISTRICT in which it is located.
- 8.4.2 Any NONCONFORMING USE may be extended throughout any parts of the BUILDING or STRUCTURE which were manifestly arranged or designed for such USE at the effective date of adoption, or amendment, of this ordinance, but no such USE shall be extended to occupy land outside of such STRUCTURE.
- 8.4.3 If no structural ALTERATIONS are made, any NONCONFORMING USE of a STRUCTURE or of any PREMISES, may be changed to another NONCONFORMING USE provided that the BOARD, either by general rule or by making findings in the specific case, shall find that the proposed USE is equally appropriate to the DISTRICT as the existing NONCONFORMING USE. Such change in NONCONFORMING USE shall be considered a major VARIANCE and shall not be permitted except as provided in Section 9.1.9.
- 8.4.4 Any STRUCTURE, or any PREMISES, in or on which a NONCONFORMING USE is superseded by a permitted USE, shall thereafter conform to the regulations and standards of the DISTRICT in which such STRUCTURE or PREMISES is located, and the NONCONFORMING USE shall not be resumed.

SECTION 8.4 NONCONFORMING USES of STRUCTURES – CONTINUED

- 8.4.5** When a NONCONFORMING USE of a BUILDING or STRUCTURE or of a PREMISES is discontinued or abandoned for 180 consecutive days or for 540 days during any 1,095 day period, the STRUCTURE or the PREMISES shall thereafter not be used except in compliance with the regulations and standards of the DISTRICT in which it is located.
- 8.4.6** Where NONCONFORMING USE status applies to a PREMISES, removal or destruction of the STRUCTURE shall eliminate the NONCONFORMING USE status of the land, except as it may qualify as a NONCONFORMING LOT of record.

8.5 Nonconforming SIGNS

- 8.5.1** SIGNS which were CONSTRUCTED in compliance with previous regulations, but which do not conform to the provision of this ordinance as of the date of its enactment, or thereafter shall be regarded as nonconforming SIGNS. All roof SIGNS shall be considered nonconforming SIGNS and subject to the provisions herein.
- 8.5.2** A nonconforming SIGN may not be:
- A. Changed to another nonconforming SIGN;
 - B. Structurally ALTERED so as to prolong the life of the SIGN;
 - C. Expanded;
 - D. Re-established after discontinuance for 90 days ; or STRUCTURE removed after discontinuance for 180 consecutive days;
 - E. Re-established after damage or destruction if the estimated expense of reconstruction exceeds 50% of appraised replacement costs.
- 8.5.3** Repair or replacement of a nonconforming SIGN with a SIGN of greater dimension than permitted by the ordinance and/or a SIGN in a location not permitted if a VARIANCE is granted by the BOARD in accordance with Section 9.1.9, and if the VARIANCE would not increase the nonconformity of the legal existing nonconforming SIGN.

8.6 Repairs or Maintenance

On any STRUCTURE devoted in whole or in part to any NONCONFORMING USE, or which itself is NONCONFORMING, work may be done in a period of 365 consecutive days on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not to exceed 10% of the then current replacement value of the STRUCTURE, provided that the volume of such BUILDING or the size of such STRUCTURE as it existed at the effective date of the adoption, or amendment, of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any STRUCTURE or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Champaign
County
Department of

**PLANNING &
ZONING**

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

(217) 384-3708

To: **Champaign County Board Committee of the Whole**
From: **John Hall, Director & Zoning Administrator**
Date: **August 30, 2010**
RE: **Direction to Zoning Administrator Regarding a Proposed Zoning Ordinance Text Amendment**

Requested Action:

Amend the Champaign County Zoning Ordinance Requirements for Dwellings that are Nonconforming Uses by (1) Removing the Limit on Annual Maintenance and (2) Authorizing Reconstruction

BACKGROUND

A front page article in the Sunday, July 25, 2010, edition of *The News Gazette* was about Wilber Heights (a residential and industrial area immediately east of Market Place Mall) and the problems that the Champaign County Zoning Ordinance has caused for the residents. The problems discussed in the article exceed the jurisdiction of the Zoning Ordinance but the Zoning Ordinance seems to be at the heart of the major concerns of Wilber Heights residents.

ELUC last discussed zoning problems in Wilber Heights in August of 1992 and the memo from that time still serves as a good introduction (see attached memo). The relevant portion of the minutes from the August 13, 1992, ELUC meeting are also attached.

However, two important zoning problems were not mentioned in the August 6, 1992, memo and they are (1) the prohibition on reconstruction of a dwelling that is a nonconforming use (subsection 8.4.1 of the Ordinance) and (2) the annual limit on ordinary repairs to no more than 10% of current replacement value for a dwelling that is nonconforming use (subsection 8.6 of the Ordinance). These problems were a primary focus of the News Gazette article and are the focus of this memorandum and the subject of the proposed text amendment. These problems are not limited only to Wilber Heights but that neighborhood is probably the largest single part of the County zoning jurisdiction that is affected by these concerns.

LIMIT ON NORMAL MAINTENANCE AND RECONSTRUCTION ARE COUNTER TO THE PURPOSE OF THE ORDINANCE

One of the stated purposes of the Zoning Ordinance is to conserve the value of land, buildings, and structures throughout the County (see paragraph 2.(b) of the Ordinance). And, like all zoning ordinances, the Ordinance has rules for uses and buildings that were legal before the Ordinance was adopted but which would be prohibited under the Ordinance. The term for such uses and buildings is "nonconforming" and the rules for nonconformities are found in Section 8 of the Champaign County Zoning Ordinance.

Zoning Administrator
Zoning Ordinance Text Amendment To Address Dwellings That Are Nonconforming Uses
AUGUST 30, 2010

The annual limit on ordinary repairs to no more than 10% of current replacement value for a dwelling that is a nonconforming use (subsection 8.6 of the Ordinance) is exceedingly restrictive and prevents older homes from being modernized.

The prohibition on reconstruction of a dwelling that is a nonconforming use (subsection 8.4.1 of the Ordinance) typically means that insurance cannot protect this major investment. Both rules mean that the value of dwellings like those in Wilber Heights is being degraded and not being conserved.

This is not an unintended consequence. Both of these provisions were part of the original Ordinance. The introductory narrative to Section 8 of the Ordinance makes it clear that the Ordinance is not intended to encourage the survival of nonconformities.

Neither of these requirements are subject to variance although in the past there have been improper variances granted for the replacement of dwellings that were a nonconforming use.

CHAMPAIGN COUNTY IS MORE RESTRICTIVE THAN SIMILAR COUNTIES

The zoning ordinance requirements for nonconformities for McLean, Macon, Sangamon, Peoria, and Rock Island counties were compared to the Champaign County Zoning Ordinance as background for this memo.

Of these five counties, Macon County is the only other county that has an annual limit on ordinary repairs and it too has a limit of no more than 10% of current replacement value for a dwelling that is a nonconforming use.

All of these counties prohibit the reconstruction of a dwelling that is a nonconforming use.

PROPOSED AMENDMENT

Attachment D is the proposed amendment and it consists of the following changes:

1. Revise and clarify subsection 8.2.1. The revision will increase the allowable expansion of a nonconforming dwelling from 200 square feet to 25% of the building floor area, or whichever is greater. This subsection will also be changed to use more standard wording to describe a dwelling that is a nonconforming use.
2. Revise subsection 8.4.1 to recognize the expansion authorized by subsection 8.2.1. and to allow reconstruction of a dwelling that is a nonconforming use.
3. Revise subsection 8.6 to recognize the expansion authorized by subsection 8.2.1. and to eliminate the limit on repair of a dwelling that is a nonconforming use.

ATTACHMENT

- A *Not Going Anywhere* from the Sunday, July 25, 2010, edition of *The News Gazette*
- B August 6, 1992, memorandum to ELUC
- C Excerpt of approved minutes of August 13, 1992, ELUC meeting
- D Proposed amendment

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Wilber Heights: Neighborhood hangs on against the odds



Photo by: Robin Scholz/The News-Gazette

Eddie Cook Jr, center, and his stepson Tryslyn Schoonover, 12, and son Hunter Cook, 8, walk up Paul Street in Wilber Heights in Champaign. Cook said his sons and another child are the only children left in the neighborhood.



Other Related Content

- A short history of Wilber Heights

Sun, 07/25/2010 - 11:00am

By LIZ CLANCY LERNER/For The News-Gazette

Editor's note: This report is part of a joint project of The News-Gazette and the University of Illinois Department of Journalism, in an ongoing examination of poverty and its related issues in Champaign County. The project is funded by the Marajen Stevick Foundation, a News-Gazette foundation; a matching grant from the John S. and James L. Knight Foundation, a journalism foundation based in Miami; and contributions from the UI. The project also has a website for this and other material, including user-generated content. You can find an interactive map of Wilber Heights on the site here.

It doesn't take much to get Tom Lemke fired up.

Just ask him about his neighborhood – a place he has called home for 63 years – and his frustration is evident.

"They say we're a slum – run down. That's the way we've always been treated," Lemke said as he takes a deep breath from his oxygen mask, a treatment for chronic bronchitis. "We have really been abused ... and we have really tried to take care of the area."

<http://www.news-gazette.com/news/c-u-citizen-access/2010-07-25/wilber-heights-neighborhood-hangs-on-against-the-odds> 8/30/2010

Lemke, 64, lives in Wilber Heights. It's a neighborhood where, according to Champaign County Planning and Zoning documents, homes "are not encouraged to survive."

Champaign County passed an ordinance in 1973 intending to turn the neighborhood into a strictly industrial region. The regulation prohibits the rebuilding of or substantial repair to any home.

However, almost 40 years later, houses and residents still remain.

In Wilber Heights, abandoned homes sit next to recycling plants, which sit next to trash-filled lots that are adjacent to mobile homes – all within 38 acres.

"This wasn't a properly thought-out thing in the first place and it's so complicated that it's difficult to resolve at any time," said John Hall, the Champaign County planning and zoning director.

It is so complicated that even the spelling of the neighborhood is controversial. Residents have always known it as "Wilbur" Heights, with a "u." County documents and a 1980 newspaper article deem the correct spelling "Wilber."

Clyde Forrest is a professor emeritus in planning and zoning at the University of Illinois and has known about the zoning issues in Wilber Heights for 30 years.

"I wouldn't categorize it as a terrible slum," said Forrest. "But it's an area that's not going to attract first-class residential development."

Residential development isn't the goal of the ordinance, which is why it contains rules against maintaining and rebuilding homes in Wilber Heights.

The restrictions

Lemke, a retired mechanic, and his wife Velma raised their three children in Wilber Heights. Their home is a well-maintained two-story structure, which at one time was the source of a lot of trouble for them.

Eleven years ago, a driver lost control of his car, crashing into the home's front porch and destroying it. Lemke was about to rebuild his porch when the Champaign County planning and zoning department told him he couldn't.

The zoning ordinance prohibits any resident in Wilber Heights from adding on or renovating more than 10 percent of a home's square footage. (The entire zoning ordinance is [online here](#), an 853KB pdf.)

So if a fire were to burn down a house in Wilber Heights, the homeowner could not legally rebuild on his lot. And in Lemke's case, he could not legally replace his porch. So, following ordinance rules, he kept the renovation to 10 percent.

Three concrete steps now lead to the front door of his house. It's not what he wanted, but it is what the county demanded.

The restrictions also affect home prices, because residents cannot substantially improve their homes. According to a 1992 planning and zoning document from a former Champaign County zoning administrator, Frank DiNovo, "They are also unlikely to be able to realize a market value of their property very much greater than its current use value as a dwelling."

The size of the lots also prevents individuals from selling for much higher industrial property prices.

"Industrial property is typically worth five times more than residential, but the homeowners would have to sell at the same time. If they sold one at a time, that wouldn't happen," said Forrest. But lifelong residents are not likely to move at the same time.

Yet, commercial properties have not been selling as well as residential properties because – as with residential mortgages – loans for commercial properties have not been as available as they once were, said Fred McDonald, president of the Champaign County Association of Realtors.

While federal stimulus money has been used to help jump-start residential property sales, it's not been available for commercial property, McDonald said.

"Commercial (property) now is a bigger concern," he said.

Wilber Heights and the surrounding area has been a good draw for business with its proximity to Interstates 74, 57 and 72, said Matt Wavering, a real estate agent with Coldwell Banker Commercial Devonshire Realty.

Because of that transportation hub, the city has pushed for higher industrial use in the area, he said.

And as the area has developed into warehousing and industrial uses, property values have become low, Wavering said.

Houses in Wilber Heights have sold for less than \$50,000, he said.

Further, industrial property is the least valuable of commercial property, Wavering said.

Typically, industrial land in an industrial park will sell for between \$1.50 and \$2 a square foot compared to retail property, which can sell for up to \$15 a square

foot, he said.

Wilber Heights and Market Street are the cutoff between retail and industrial property, Wavering said.

"On the industrial side, values are lower," he said.

If one of the area's rental properties stops generating rental income, then "the land becomes worth more than the house," Wavering said.

Housing for workers

Wilber Heights was developed as a single-family residential neighborhood in 1928, primarily to give workers from the Clifford-Jacobs Forging Company a place to live. Its main roads, Wallace, Wilber and Paul avenues, intersect First through Fifth streets and sit just east of Champaign's Market Place Mall.

When the area was built, there was no zoning in place outside the city limits. When the county zoning ordinance was approved, in 1973, Wilber Heights was split into two categories, both industrial.

The ordinance acknowledges that some buildings already in existence didn't match the zoning – they were "non-conforming uses."

"It is the intent of this ordinance to permit these non-conformities to continue until they are removed," the ordinance says. "It is further the intent of this ordinance that such non-conforming uses ... shall not be enlarged upon, expanded, or extended."

The area east of Fourth Street is zoned for heavy industry; the area west of Fourth, for light industry.

In 1982, while millions of dollars were being poured into construction of Market Place Mall, residents of Wilber Heights watched as the county ordinance stifled the neighborhood's growth and maintenance.

While no numbers are easily available, it is estimated that at its peak, Wilber Heights was home to close to 200 residents, many of them families.

Now there are about 60 residents, most of them senior citizens.

They have called the neighborhood home, raised their children there, and formed roots in Wilber Heights for over 60 years. A few, like Otto Pruett and his wife Iverna – both in their 80s – say they're too old to move, while others say they couldn't afford to do it.

None of the residents asked for the ordinance change, and none of 14 who were interviewed for this report recalled being told it was going to happen.

Lemke remembers feeling helpless when he first heard of the ordinance just after it was passed in 1973.

"We did not know (anything) about it until it was all said and done," he said.

He's not the only one who remembers it that way. With her husband Virgil, Susie Roderick raised her three sons in Wilber Heights. She said she never received notification of the zoning change, either.

"Wouldn't you think that something that important, we would have gotten something in the mail instead of a little thing in the newspaper?" said Roderick, who has lived in Wilber Heights for more than 50 years. "We didn't know anything about it."

John Hall said the county commission did all it was supposed to do at the time.

"At a bare minimum, the county is only required to put a notice in the paper," he said. Even now, some zoning matters require only a notice to be published in the newspaper, but others require everyone living within 250 feet of a proposed change to receive a formal notice individually by mail. He added that zoning staff will keep in touch with residents who ask to be notified of any proposed change in their zoning.

While he was not the director at the time of the change, Hall agrees that the current zoning in Wilber Heights is a problem.

"Right now our ordinance is causing properties to go into disrepair and that is counter to everything in a zoning ordinance," said Hall.

Effects of the zoning

The consequences of the zoning are obvious. It began as a slow, steady deterioration of the neighborhood that continues today.

Residents began moving out, industrial businesses began moving in, and houses that weren't sold were abandoned.

The core group in the neighborhood that remains deals with far more than ordinance-restricting maintenance and rebuilding.

Lemke said it also discourages county, city and township government from maintaining their roads and listening to their complaints.

Lemke believes the local governments see the neighborhood as a lost cause because "they think we'll be out of here soon anyway, why spend the time and

money?"

Other residents echo his sentiment.

As part of a group interview, 12 residents gathered in Susie Roderick's back yard to discuss their concerns.

With sounds of forging equipment pounding in the background, residents started naming the struggles they face. But the noise from the surrounding industries was not on that list.

"The noise don't bother us. We're used to it," said Mike Roderick, who is Susie's son. He was raised in Wilber Heights and now owns a home a few houses away from where he grew up.

"It don't bother us as much as those big semis that drop and tear up the road," he said.

Many of the trucks that Roderick speaks of go in and out of Clifford-Jacobs, the forging company that has been in the neighborhood since 1923, five years before the residents began to build. But the addition of more industry, including a recycling company, concrete plant and portable toilet company, means more traffic.

Of the dozen intersections in the neighborhood, only a few contain stop signs.

Ken Mathis, the supervisor for Somer Township, said "By practice we don't place stop signs or speed limit signs."

He said, "it is an issue that should be discussed with the county sheriff's office."

Therein lies another major problem in Wilber Heights.

Who is responsible?

The majority of the roads in Wilber Heights are under Somer Township jurisdiction, while one of the roads is technically in the city of Champaign.

Lemke said when he has a problem, he gets "the run-around."

He said the township will say it's a county issue, the county will say it is a city issue, and back and forth it goes.

"If it takes a mediator to get between the city of Champaign and the county and the township to iron this out, then so be it," said Lemke.

Stan James is the Champaign County Board member who represents Wilber Heights. He has visited the neighborhood and thinks the situation needs to be fixed.

"We owe this to these folks. We allowed this to occur in their neighborhood. We, the politicians, the one who make the decisions, are the one to blame," said James.

Though the issue has yet to be discussed at a county board meeting, James said he will continue to help find a solution.

What's next

Forrest was vocal in his concern over the ordinance change back in 1973, and today looks at the situation and sees three possibilities.

"They (the county) can regulate, they can tax and they can buy up land through eminent domain," he said. "The county could undertake a study to find the neighborhood blighted and could buy and clear the neighborhood and they could create a relocation plan, or they could do nothing."

There hasn't been much pressure to do anything in recent years.

"There are legally acceptable ways to deal with an area like this," said Forrest. "But I haven't heard of anything that is really pushing the county to specifically push this."

When asked what it would take to make progress, he said, "the neighbors coming together."

Ultimately, it is up to the county board to make changes. John Hall wants what is best for the residents and said he would be willing to change the wording in the current language on non-conforming uses to give residents the opportunity to renovate and rebuild their homes.

"Please note that the ordinance limits annual renovation to no more than 10 percent of the replacement value, but we only require permits for new construction and so we have no idea when someone is remodeling or renovating," Hall said in a recent e-mail.

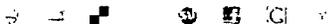
He said he plans to propose a change to the ordinance at the August county board meeting.

He plans to let the residents know when this will happen so that "they can be a part of the discussion." Otherwise, "it's a waste of time" said Hall.

Between now and the August meeting, Hall said he is "still reviewing ordinances from similar counties to see what rules they have" and will ask the state's attorney what legally can be done.

Lemke is waiting for that day. He said he's sick of the strict rules and back and forth with the county and township. After 63 years, he's starting to think about living elsewhere – which means the county would be one home closer to getting its original wish.

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Categories (3): News, C-U, Citizen Access, Politics and Government

Location (3): Champaign County, Champaign, Local

Tags (3): Champaign County, Wilber Heights, zoning

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jhsmith400 wrote 1 hour 3 min ago

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#2

jhsmith400 wrote 1 hour 4 min ago

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#3

cityboy68 wrote on July 25, 2010 at 8:07 pm

Zoning ordinances, getting permits and obtaining inspections are a joke here in the city of Urbana. I live in a beautiful single family residential neighborhood of large brick ranch homes built in the late 50s and early 60s. My next door neighbor has turned the basement of her single family ranch into a rental apartment which is against Zoning for this stretch of Pennsylvania Ave. Gas pipes moved, water lines added, a bathroom added.... all without permits or inspections and done by someone who lives there who isn't the owner and isn't licensed for plumbing.. When I complained, yes someone from Building Safety for the City of Urbana did come out, to this home.... no one answered the door and the issue died. I tried on several occasions to contact the Building Safety division for the City and all calls and emails go unanswered. I guess the City of Urbana would rather turn a blind eye to what's going on than respond to a property owner who pays a large property tax bill each year on time.

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#4

jourtegrity wrote on July 25, 2010 at 8:07 pm

Nice story, but frustrating of course. I feel for these people. The bureaucracy can't just throw up their hands on this. Something needs to be done. Lord knows the various local governments have acted more quickly and judiciously on much lesser issues.

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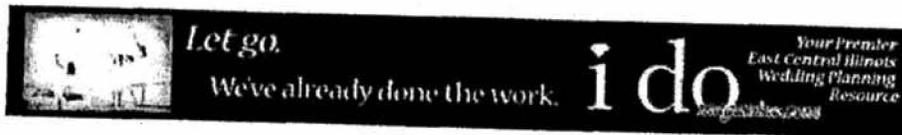
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A short history of Wilber Heights

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1928: Wilber Heights developed as a single-family residential development. No zoning in place when homes are built.

1973: County zoning ordinance takes effect; Wilber Heights zoning is split between light industry and heavy industry. Homes become nonconforming and limits are placed on renovation and rehabilitation.

1977: The zoning of the Wilber Heights neighborhood was reconsidered in a zoning map amendment case. It sought to rezone the entire neighborhood to residential. The 1977 rezoning was denied due to its impact on the numerous commercial and industrial uses in the neighborhood by rendering them nonconforming.

1977: The Eastern Prairie Fire Department petitions the Planning and Zoning Committee to change status of Wilbur Heights to residential. Petition was denied on all counts.

1977: County briefly considers and subsequently abandons an effort to find a third alternative by creating a "Transition to Industrial" zoning district. It would have legalized all existing uses in the area.

1991: Then-county zoning official Frank DiNovo proposes a "limited interim measure which would enhance the use value of residential property in Wilber Heights without substantially contributing to the survival of the existing nonconforming uses." That measure fails.

- LIZ CLANCY LERNER

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Categories (3): News, C-U Citizen Access, Politics and Government

Location (3): Champaign County, Champaign, Local

TO: Environment and Land Use Committee
FROM: Frank DiNovo
DATE: August 6, 1992
RE: Zoning Treatment of Nonconforming Residential Uses in the Wilbur Heights Area

REQUESTED ACTION

Approve general outline of a Zoning Ordinance text amendment to be filed by the Zoning Administrator regarding expansion of nonconforming residential uses.

BACKGROUND

The Wilbur Heights neighborhood is an area of approximately 36 acres located in Section 31 of Somer Township. The area is bounded by Market Street on the west, Wallace Avenue and the Reifsteck Tract on the north, 5th Street and Clifford Jacob's Forge on the east and Wilbur Avenue on the south (see attached map). Somewhat over half of the perimeter of the area is contiguous to the City of Champaign on the north, west, and south.

Wilbur Heights is characterized by highly intermixed residential commercial and industrial land uses. The area was developed as a single family residence development in 1928 in what was then a semi-rural location. The present pattern of use developed prior to the adoption of zoning. Under the City of Champaign's 1961 zoning ordinance existing single family residences were made nonconforming but mobile homes were permitted in the City's industrial classifications.

The County zoned the western 3/4ths of the area I-1, Light Industry and the eastern 1/4th I-2, Heavy Industry in 1973 following the pattern established by the City of Champaign. The County Zoning Ordinance is an "exclusive use district" type ordinance which does not permit dissimilar or incompatible uses in a single district; it does not permit residential uses in industrial districts. The County's decision to zone the area industrial extended the nonconforming status of the residential uses in Wilbur Heights.

Nonconforming uses may not be expanded or relocated on a lot. Consequently homeowners may not add to their residences or construct accessory buildings or structures. Although they may undertake interior remodeling and maintenance of their homes including replacing of heating, plumbing and electrical systems, re-roofing and making interior structural modifications.

The intent of these restrictions on nonconforming uses is to discourage their survival so that will sooner or later they will be abandoned and the land converted to more appropriate conforming land uses.

The zoning of the Wilbur Heights neighborhood was reconsidered in a Zoning Map Amendment Case filed in 1977 (236-AM-77). That case sought to rezone the entire neighborhood to R-2, Single Family Residence. The 1977 rezoning was denied due its impact on the numerous commercial and industrial uses in the neighborhood by rendering them nonconforming.

CURRENT STATUS

Although site-built residences were made nonconforming 30 years ago and mobile homes made nonconforming in 1973 many residential uses survive in the area. Abandonment and conversion of these nonconformities is proceeding very slowly. This is likely due to the poor condition of infrastructure in the area, the lack of sanitary sewer and the very small size of the residential lots, many of which are only 25 or 50 feet wide - a size unsuitable for most industrial uses. This small 36 acre area is entirely surrounded by land, developed or zoned for intense commercial or industrial use.

This situation leaves the area homeowners and the County in a difficult situation. Homeowners must contend with a neighborhood with inadequate infrastructure and many blighting influences. They also are unlikely to be able to realize a market value of their property very much greater than its current use value as a dwelling. The use value is also diminished by the inability to expand, even slightly, their nonconforming residential uses.

The County, on the other hand, is faced with difficult choices. The County could retain the industrial classification leaving the homes nonconforming and the homeowners disadvantaged. Alternately the area could be rezoned to a residential classification making the businesses nonconforming and creating a small enclave of residential zoning completely surrounded by commercial and industrial zoned areas. The area would also still have inadequate infrastructure, an admixture of incompatible commercial and industrial uses (which would remain legally until abandoned) and would have to share its streets with truck traffic serving the surrounding industrial areas.

In 1977 the County briefly considered and subsequently abandoned an effort to find a third alternative by creating a "Transition to Industrial" zoning district. This would have had the effect of legalizing all the existing uses in the area, essentially freezing it in its current condition indefinitely until market forces changed the mix of land uses.

PROPOSAL

Staff is not proposing a comprehensive solution to the problems posed by Wilbur Heights at this time. Current information on the neighborhood is lacking since the County has not seriously considered this question for 15 years. The demographic makeup, land uses, building condition, and land use trends in the area are not known clearly. It may also be preferable for local governments (the County and the City of Champaign) to take a more active role in shaping events in the area. This could be done, perhaps, by instituting a program to buy-out residences and consolidate the small parcels to be more readily marketable for industrial use and, possibly, undertaking infrastructure improvements to make it more developable. The pros and cons of this approach deserve careful consideration particularly with respect to how such an effort would be financed. In any case, a comprehensive solution awaits the time and resources required to develop alternatives.

In the meantime staff proposes a limited interim measure which would enhance the use value of residential property in Wilbur Heights without substantially contributing to the survival of the existing nonconforming uses. Specifically staff proposes a Zoning Ordinance Text Amendment that would.

1. permit a one-time expansion of existing nonconforming dwellings (excluding replacement of nonconforming mobile homes) up to the lesser of 100 sq. ft. or 20% of the gross first floor area; and
2. permit the construction of a single accessory building or addition to an existing accessory building up to, say, 300 sq. ft. (equivalent to a one car garage).

An alternative proposal could also permit larger expansions and/or expansions of other nonconforming uses otherwise permitted in the R-1 district (churches, schools, etc.) by Special Use Permit. Larger expansions, however, will go farther to encourage the survival of nonconforming uses. It might be appropriate to require that the ZBA make an explicit finding that the expansion would not tend to encourage survival of the nonconforming use or that the petitioner agree to an amortization period at the end of which the nonconforming use would cease.

This amendment certainly would not put these nonconforming residences on an equal footing with other residences. It would, however, make life in Wilbur Heights and a few similarly situated properties elsewhere somewhat easier until a comprehensive, long term solution can be developed.

1 responsibility to shut it down immediately. The motion was approved by a voice vote of 8-2.
2 Mr. Flessner and Mr. Crozier opposing.

3

4 E. One Day Recreation and Entertainment License for Champaign County Fire
5 Chiefs Association Rodeo, Champaign County Fairgrounds

6

7 Mr. Wolf moved, seconded by Mr. Smith, to approve the request for a one day recreation and
8 entertainment license for Champaign County Fire Chief's Association Rodeo at the
9 Champaign County Fairgrounds on September 5 and 6, 1992. The motion was approved by
10 a voice vote.

11

12 F. Nonconforming Residential Uses in Wilbur Heights Neighborhood

13

14 Mr. DiNovo stated that Wilbur Heights has been a difficult problem for the County for a long
15 time; it is a neighborhood with mixed industrial and commercial uses. Recently they have
16 received two separate requests to improve non-conforming uses in the area. One was a house
17 and another was a request to add on to an existing church. In cases of non-conforming uses,
18 if they are abandoned or destroyed beyond more than 50% of their value, the ordinance does
19 not allow their reconstruction. In theory, over time, because of the restrictions, non-
20 conforming uses in Wilbur Heights will "go away" and succeeding uses will conform to the
21 requirements of the district and be compatible to its neighbors. In Wilbur Heights, there is
22 an intermixture of uses. The area was platted into small residential lots but individual
23 properties are usually too small to be used for permitted commercial or industrial uses, so
24 this keeps people from selling their individual property for these uses, and realizing the full
25 value of their property unless someone was able to assemble a number of these parcels to
26 offer for commercial or industrial use. Even minor additions are not permissible for the
27 residents of this area.

28

29 Mr. DiNovo noted that he has discussed this with the City of Champaign, but no proposals
30 for a long-term solution have been found. However, in the interim it seems reasonable to
31 provide for a limited expansion of residential non-conforming uses or potentially non-
32 conforming uses that are otherwise permitted by right (i.e., the church) so people could get
33 more use value out of their property but still not improve it so much as to encourage the
34 survival of a non-conforming use, until a final resolution is developed. Mr. DiNovo is
35 proposing to permit by right a one-time expansion up to 100 square feet or 20% of the gross
36 square feet area, whichever is less (one 10X10 addition to a residence) and to allow up to a
37 300 square foot accessory building (i.e., a single car garage). This would accommodate a
38 person's need to get their car under cover versus accommodating a larger garage which would
39 make the house more attractive for resale for residential use in the market. Mr. DiNovo
40 stated that it may be that the County may have to consider a plan to purchase land on a
41 volunteer basis one by one, and assemble the land into realistic parcels for resale for
42 commercial or industrial uses in order to utilize this area properly.

43

44 Mr. Barker stated that we need to look at this carefully. In response to Mr. Barker's
45 question, Mr. DiNovo stated that Champaign has a pyramid type zoning ordinance, but these
46 uses would still be non-conforming in Champaign unless each annexation agreement
47 specifically allowed for it. Mr. Barker stated that Champaign has been playing with its
48 annexation agreements to allow whatever is in this area by right when they are annexed, and
49 he feels the ELUC must look at our Zoning Ordinance, and if this is allowed by right from

1 one classification to another classification, he feels we will get protests from both Champaign
2 and Urbana. If the County wants to take care of this, we will have to have the votes to
3 override the protests.

4

5 Ms. McGrath asked if these improvements are allowed, and if the County decides to go
6 ahead with a plan to purchase these properties, will the improvements make the property
7 more valuable, and therefore, cost the County more money to purchase? Mr. DiNovo stated
8 that it might, and the buy-out is a speculative project in that no funding source for such a
9 program has been identified. Mr. Barker agreed this is a dream that probably will never
10 occur. Mr. Barker reminded members that 10-12 years ago there was a federal program
11 where the County could buy people's property and relocate them. However, most people
12 were not interested in leaving the area. Mr. Lyke stated that he has previously been in favor
13 of having residential areas that are next to the cities being annexed. Mr. DiNovo stated that
14 the City of Champaign is willing to annex this area. Mr. Flessner stated that since we did
15 nothing in 1977, he feels we should allow these people to make minor improvements to their
16 property. In response to Mr. Smith's questions, Mr. Flessner stated that Somer Township
17 maintains the streets in this area, and the drainage is poor.

18

19 Mr. Lyke stated that it is inconsistent when we consider the future of Champaign for the
20 County to make improvements to this area where we may end up with a bigger problem in
21 terms of infrastructure. He would rather not spend the money on something that is or should
22 be or will be Champaign's problem to deal with.

23

24 Mr. Barker stated that what is really being requested here is to allow a person to put a
25 shower in his bathroom. Mr. DiNovo discussed the proposed dimensions with the City of
26 Champaign staff, and they did not have problems with this, as it allows a limited amount of
27 improvement. This would give people a limited degree of flexibility to allow them to enclose
28 a porch, build an air-lock entrance to the house, construct a small garage, etc. Ms. Putman
29 asked if there have been other requests in addition to the two mentioned. Ms. McGrath
30 questioned whether this would encourage people to stay in the area, and it appears that some
31 people have illegally constructed improvements without permits. She wondered if at some
32 point we could get rid of the houses, for example, which have a dirt floor. Mr. DiNovo stated
33 that this would displace people and we have no specific program to relocate them.

34

35 Ms. Putman stated that this nation, State or County do not have a program to provide low
36 cost suitable housing for people, and until that happens, she cannot see displacing people
37 from their home, regardless of how humble that dwelling is. Ms. Chato asked if this would
38 apply to all areas, and not just to Wilbur Heights area, and Mr. DiNovo stated that he was
39 proposing this as a text amendment. Mr. DiNovo stated that in 1977 there was discussion
40 about creating an industrial transitional zoning district which would allow for a mix of
41 residential, industrial and commercial uses. This is conceivable, but extremely tricky. Mr.
42 Wolf stated that he is inclined to agree with Jennifer, that people should be allowed to make
43 improvements to their property.

44

45 Mr. Barker stated that the proposed standards need to be discussed. Mr. Flessner stated that
46 an accessory building might have some industrial use in the future and would like to see this
47 larger. Mr. Lyke stated that he doesn't believe we should pump life or money into this area.
48 Mr. Barker asked if we could say that within the mile and a half jurisdiction certain things
49 are allowed; this would allow our rural community flexibility. Mr. DiNovo stated that we

1 have AG-1 U and AG-1 R and the boundary line is the mile and a half; this could be
2 amended; however, the mile and a half boundary is constantly changing, and it would be
3 better to designate a specific boundary. He believes that Champaign would not object to this
4 proposal. Wilbur Heights is an obstruction to development for the City of Champaign, and
5 it has been identified in the new comprehensive plan as a study area. Mr. DiNovo stated that
6 there are two ways to look at this. One is the question of keeping uniform districts with
7 compatible uses in them, and keeping incompatible uses separated, and to allow people to
8 realize the value of their property by eliminating mutual nuisance problems. Another way
9 is to look at what happens to people who own this property, because the individual properties
10 are not attractive enough for there to be a real market, so the market value is severely
11 depressed. No one in Wilbur Heights will be able to sell their property for its full value and
12 they may not get enough for their property to make it economically worthwhile to move.

13

14 Mr. Barker asked what the feasibility would be of putting a boundary on the area. Mr.
15 DiNovo stated that whatever is done, he would like to do it "by right." It might be possible
16 to allow the basic expansion and to allow a larger one by variance or special use permit on
17 a case by case basis.

18

19 Mr. Lyke stated that if we are going to enforce the ordinance, it should also be enforced in
20 Wilbur Heights and now we are talking about making it easier for people to want to remain
21 in the area, and he is opposed to it because of the future of the area.

22

23 Ms. McGrath stated that with the recent census conducted, it would be helpful to have
24 demographic information about the Wilbur Heights area, and help determine if this is an area
25 which houses extremely poor people who have no means to move or simply people who do
26 not want to move. Ms. Putman stated that she would like to know more about this area and
27 the community and its residents. Mr. Lyke stated that the "big picture" and the future of the
28 way the City of Champaign is going to go, he feels the City of Champaign should pay for this
29 area and he would like to see us work something out with the City of Champaign.

30

31 Mr. Barker stated that the reality is that a decision needs to be made tonight on whether to
32 allow Mr DiNovo to continue with this requested text amendment in order to allow the few
33 people who have requested these improvements to do so. Mr. Flessner asked where the
34 boundaries are, and Mr. DiNovo stated that the City has this area approximately 2/3rds
35 surrounded.

36

37 Ms. McGrath stated that unfortunately this area was not planned for residential and industrial
38 as Crestwood, which was mentioned by Ms. Chato. Ms. Chato stated that we are not
39 proposing to do anything with the infrastructure, and therefore she does not believe we would
40 be increasing the property value. Mr. Barker feels we will receive an official reaction from
41 the City of Champaign, and this would be good. Ms. McGrath stated that she would like to
42 have some demographic data available at the time the text amendment is proposed to the
43 Zoning Board of Appeals. Mr. DiNovo agreed.

44

45 Mr. Flessner moved, seconded by Ms. Chato, to instruct Mr. DiNovo to prepare a text
46 amendment to permit a one-time expansion of existing nonconforming dwellings (excluding
47 replacement of nonconforming mobile homes) up to the lesser of 100 sq. ft. or 20% of the
48 gross first floor area; and permit the construction of a single accessory building or addition

1 to an existing accessory building up to 650 square feet. The motion was approved by a vote
2 of 9-1 with Ms. McGrath's the single no vote.

3

4 **G. FY 1993 Planning and Zoning Contract**

5

6 Mr. Barker stated that Mr. Soltau was going to be present to discuss this issue, but the dates
7 of the meeting have been changed and therefore, Mr. Soltau cannot be present.

8

9 Mr. Barker noted that the Budget Committee discussed the Planning and Zoning budget, and
10 the engineer has been deleted from the present tentative budget; however, the Budget
11 Committee put nothing else back in other than what Mr. Herlofsky presented. There will be
12 a special Budget Committee meeting on August 31, 1992 to discuss the budget. Other items
13 of major concern was an additional person for the Public Defender and an additional clerical
14 person, and the long-range planning study and a nurse for the jail. Mr. Lyke asked if there
15 was anything for the Circuit Clerk's Office and Mr. Barker stated no.

16

17 This item will be carried over until next month's meeting.

18

19 **H. Other New Business**

20

21 **6. Old Business**

22

23 **A. County Participation in Joint County-City of Champaign Enterprise Zone**

24

25 Mr. Barker observed that the Enterprise Zone evaluation notes that the value of enterprise
26 zone projects to date is \$19 million, and he finds this hard to believe. He said he was
27 unaware that we had abated taxes on this amount of assessed evaluation. He does have a
28 meeting with Mr. Herlofsky, but he brings this issue up to start discussion on the Enterprise
29 Zone. We are talking about a great amount of tax abatement, and he doesn't believe we are
30 getting jobs or benefits from it. He doesn't feel it is a full abating district because the schools
31 are not involved in it. If an industry wanted to come into this community that would bring
32 economic benefit to this community, the County Board has full authority to abate the taxes
33 for this new industry, and he feels this is an important issue.

34

35 Mr. Lyke stated that he is in favor of getting out of the program, and would like to know how
36 we can do this. Ms. McGrath stated that Mr. Barker raised a good point in that the school
37 districts are not participating anyway. She also does not believe that an industry will come
38 or not come because of the tax abatement. Mr. DiNovo stated that if you look at the value
39 of these abatements only in relationship to construction costs, they are a small percentage of
40 the total but over time the total value of the abatement compared to the annual operating
41 costs of a business is minuscule.

42

43 Ms. Putman stated that she is concerned that no one from the City of Champaign is present
44 to discuss this. She feels strongly about this issue, and she called Bruce Knight several weeks
45 ago to discuss it. She would have appreciated hearing from them. Mr. DiNovo stated that
46 he has met with City of Champaign staff, and they were not prepared at a staff level to
47 establish a position on behalf of the City, and they wanted an opportunity to discuss it with
48 the Council before they make their position known. Mr. DiNovo stated that there were some
49 legal and technical questions to be answered, i.e. from DCCA. The first question is what is
50 our obligation with respect to businesses already in the enterprise zone. The answer is that

Proposed Ordinance Amendment
AUGUST 30, 2010

1. Revise and clarify subsection 8.2.1 as follows:

8.2.1 Expansion of NONCONFORMING USE

- A. No such NONCONFORMING USE of land shall be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this ordinance except as provided below.
- B. ~~NONCONFORMING SINGLE FAMILY DWELLINGS~~ A STRUCTURE that otherwise conforms to the R-1 DISTRICT requirements and that is a NONCONFORMING DWELLING may be expanded by no more than 200 square feet or no more than 25% of the building floor area, whichever is greater, and by construction of no more than one new ACCESSORY BUILDING or addition to an existing ACCESSORY BUILDING provided that the total area of such ACCESSORY BUILDING is not more than 650 square feet.
- C. NONCONFORMING nonresidential USES which are permitted as of right in the R-1, Single Family Residence District and are not otherwise permitted by Special Use Permit may be expanded by no more than 25% of building floor area and height, lot coverage, and off-street parking and loading area only if a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

2. Revise subsection 8.4.1 as follows:

8.4.1 No existing STRUCTURE devoted to a USE not permitted by this ordinance in the DISTRICT in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or ALTERED except in changing the USE of such STRUCTURE to a USE permitted in the DISTRICT in which it is located, except as follows:

- A. As provided in subsection 8.2.1.
- B. A STRUCTURE that otherwise conforms to the R-1 DISTRICT requirements and that is a NONCONFORMING DWELLING may be reconstructed in the existing location subject to the requirement of a Zoning Use Permit. The reconstruction may include the one time expansion as authorized in subsection 8.2.1.

3. Revise subsection 8.6 as follows:

8.6 Repairs or Maintenance

On any STRUCTURE devoted in whole or in part to any NONCONFORMING USE, or which itself is NONCONFORMING, work may be done in a period of 365 consecutive days on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not to exceed 10% of the then current replacement value of the STRUCTURE, provided that the volume of such BUILDING or the size of such STRUCTURE as it existed at the effective date of the adoption, or amendment, of this ordinance shall not be increased except as follows:

Proposed Ordinance Amendment
AUGUST 30, 2010

A. As provided in subsection 8.2.1.

B. For a STRUCTURE that otherwise conforms to the R-1 DISTRICT requirements but that is a NONCONFORMING DWELLING, there is no limit on the value of the repair or replacement other than as provided in subsection 8.2.1 and the replacement may include bearing walls.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any STRUCTURE or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.