



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

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

**TO:** Mayor Laurel Lunt Prussing

**FROM:** Elizabeth H. Tyler, FAICP, Director

**DATE:** May 30, 2013

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

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**Introduction & Background**

The Champaign County Zoning Administrator is requesting a text amendment to the Champaign County Zoning Ordinance in Champaign County Case No. CCZBA-743-AT-13. The proposed changes can be summarized as follows:

- Revise Section 13 to authorize approval of a variance to allow approval of a zoning compliance certificate (similar to a building permit) for rural water district facilities despite the development violating the subdivision regulations of a municipality, and only if several specific criteria are met.
- Revise Section 9.1.9 to authorize County Board approved variances per Section 13, require findings for County Board approved variances, authorize conditions for County Board approved variances, and require three-fourths of the County Board to approve a variance when a written protest against the variance is submitted by a township within 30 days of the Zoning Board hearing.
- Revise Section 9.2.2 to require three-fourths of all members of the County Board to approve a text amendment or map amendment when a written protest against the amendment is submitted by a township within 30 days of the Zoning Board hearing.

The purpose of the County’s proposed zoning ordinance change is to establish a process by which the County Board could approve a variance authorizing the County Zoning Administrator to issue zoning use permits for a rural water district without being conditioned upon municipal subdivision plat approval. In this case, the Sangamon Valley Public Water District and the Village of Mahomet have an intergovernmental disagreement over annexation. In City staff’s view, both the District and the Village have legitimate public interests at stake, but the effect of this disagreement is that 4,800 water customers in unincorporated Champaign County are being prevented from receiving upgraded water service for household and firefighting purposes. The District provides water to 4,800 customers and sewer service to 4,300 customers, both inside and

outside of the Village of Mahomet. In response to recent droughts, the Sangamon Valley Public Water District sought and received approval and loan funding from the Illinois Environmental Protection Agency, and zoning approval from Champaign County, to expand and upgrade their facilities in the County. However, under the County's permit requirements, the County Zoning Administrator cannot exercise its zoning approval without Mahomet's approval of a subdivision plat for the district's facilities. As a standing practice, the Village of Mahomet only grants subdivision approval within their extra-territorial jurisdiction if the subdivision covenants bind future owners to annex their property once the Village boundaries become contiguous with their property. Mahomet does this to insure that development adjacent to but outside the Village, and made possible by provision of sewer service to rural areas, does not block Mahomet's future growth and development. However, the District does not want to agree to annex out of concerns that doing so would allow the Village to ultimately force the merger of the two systems. Because Sangamon Valley Public Water District is a governmental unit providing a critical public service to thousands of County residents, Champaign County believes it would be in the best public interest for the County to decouple its own permit process from those of Mahomet through the proposed amendment. In this way, regardless of the outcome of the disagreement, the County approval process will not be standing in the way of County residents receiving adequate water for household and firefighting purposes.

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

- the use must include the construction or expansion of a water treatment plant;
- the treatment plant must be owned and operated by a "predominantly rural water district" in the jurisdiction of a municipality that has its own water utility;
- the municipality cannot be a home-rule municipality; and
- this exception is allowed only when the requirement for annexation is a requirement for plat approval, and all other subdivision requirements have been met.

The County Zoning Administrator reports that this exception is worded so that it will only possibly affect one property: the Sangamon Valley Public Water District treatment plant outside of the Village of Mahomet. The specific language proposed for Section 13.2.1.A.4 would provide the following exception to the prohibition on variances that violate municipal subdivision ordinances. Wording proposed to be added to the current ordinance has been underlined.

4. ...the SUBDIVISION regulations of a municipality where the LOT is within the jurisdiction of a municipality which has enacted SUBDIVISION regulations except for the following:

- a. CONSTRUCTION or change of USE to establish or enlarge a water treatment plant or related facilities owned and operated by a predominately rural water district when such improvements are deemed necessary to serve the public health, safety, and well being of the residents of Champaign County when that CONSTRUCTION or change of USE is required to comply with municipal SUBDIVISION regulations including the requirement for annexation to a municipality and that municipality is a non-home rule municipality and has its own water treatment plant and related facilities. The GOVERNING BODY may authorize a VARIANCE from the requirement for compliance with the municipal SUBDIVISION regulations if the municipality will not consider plat approval without the requirement for annexation provided as follows:
- (1) In addition to all other requirements of Section 9.1.9 the water district shall include with the application for VARIANCE a copy of a SUBDIVISION Plat for the subject property that has been prepared by a Licensed Illinois Surveyor in compliance with the technical platting requirements of the relevant municipal SUBDIVISION requirements but perfect compliance with the technical platting requirements shall not be required for the VARIANCE.
  - (2) The recommendation by the BOARD and the action by the GOVERNING BODY shall include a special condition that the VARIANCE shall not confer GOVERNING BODY approval or support for violation of the technical platting requirements of the relevant municipal SUBDIVISION requirements.
  - (3) The Zoning Administrator shall provide notice to the relevant municipality of the public hearing and the final determination for the VARIANCE and copies of any related Zoning Use Permit or Zoning Compliance Certificate that are authorized.

The proposed County Zoning Ordinance text amendment will be heard before the Champaign County Board Environment/Land Use Committee on June 6, 2013, and is expected to be forwarded to the County Board for final approval on June 20, 2013.

The Urbana Plan Commission reviewed this case at their May 9, 2013 and May 23, 2013 meetings. Representatives of the Sangamon Valley Public Water District attended the May 9 meeting and provided background information to the Plan Commission. At that meeting, staff asked for the Plan Commission to delay action to give staff time to work with the County to revise the proposed language. Although a quorum was not met at the May 23 Plan Commission meeting, City staff updated the Plan Commission on subsequent changes, including a limitation to only non-home rule municipalities, and asked for comments. Because Champaign County is expected to act on this case at their June 6 and June 20 meetings, the Urbana Plan Commission forwarded the case to City Council with comments rather than holding it over for further

consideration. Draft minutes of the May 23, 2013 Plan Commission meeting are attached for the City Council's consideration. Overall, the sentiment of the four Commissioners was that the proposed County Zoning Ordinance amendment warranted a City Council resolution of protest because it undermines the statutory extra-territorial subdivision jurisdiction of a municipality in Champaign County. Although this County text amendment is so narrowly tailored to affect only Mahomet's interests, Plan Commissioner comments indicate that the City should be concerned that a County text amendment might one day be narrowly tailored to affect Urbana. The City of Urbana should be concerned about Champaign County zoning changes which undermine municipal interests.

## **Issues and Discussion**

The proposed text amendment is of interest to the City of Urbana to the extent that it will affect zoning and land use development decisions within the City's one-and-one-half mile extra-territorial jurisdictional (ETJ) area. The City has subdivision and land development jurisdiction within the ETJ area, while the County holds zoning jurisdiction in this area. It is important that there be consistency between these two jurisdictions to the extent that certain regulations may overlap. Since development within this area may abut development within the corporate limits of the City or may eventually be annexed into the City's corporate limits, some level of consistency in zoning regulations is also desirable. Land uses in the County affect the City of Urbana in several ways, including:

- Land uses in Champaign County can potentially conflict with adjacent land uses in the City of Urbana;
- Unincorporated portions of Champaign County adjacent to the City of Urbana will likely be annexed into the City at some point in the future. Existing land uses would also be incorporated as part of annexation;
- In addition to land uses, development patterns of areas annexed into the City of Urbana will affect our ability to grow according to our shared vision provided in the 2005 Comprehensive Plan.

For these reasons, the City should examine the proposed text amendment to the Champaign County Zoning Ordinance to ensure compatibility with existing City ordinances. City Council has the authority to decide whether or not to protest the proposed text amendment. Under state law, a municipal protest of the proposed amendment would require three-quarters super majority of affirmative votes for approval of the request at the County Board; otherwise, a simple majority would be required.

In this case, the proposed amendment will have no direct effect on development within Urbana's ETJ area as the County amendment would only pertain to rural water district facilities adjacent to non-home rule municipalities. However, there are larger implications regarding Champaign County's ability to approve developments that conflict with local ordinances. Currently the County Zoning Ordinance explicitly prohibits the County from approving developments that

violate municipal subdivision ordinances. If adopted, the proposed amendment could more generally be viewed as undermining municipal subdivision jurisdiction in Champaign County.

City staff has worked with County staff to revise the proposed language to make it less concerning to the City. The revised criteria further narrow the scope of any potential county variance for properties out of conformance with a municipal subdivision ordinance. Under the newly proposed language, such a variance would not affect the City of Urbana, which is a home-rule municipality with no rural water districts in the City's extra-territorial jurisdiction. Additionally, the proposed text would now require that the variance application include a subdivision plat that meets the technical requirements of the prevailing city's subdivision ordinance.

### **Urbana 2005 Comprehensive Plan**

By State law, the City has an obligation to review zoning decisions within its extra-territorial jurisdiction area for consistency with the City's comprehensive plan. Champaign County's proposed Zoning Ordinance text amendment should therefore be reviewed for consistency with the City of Urbana's 2005 Comprehensive Plan. Specifically, Urbana's comprehensive plan includes the following pertinent goal and objectives:

**Goal 21.0 Identify and address issues created by overlapping jurisdictions in the one-and-one-half mile Extraterritorial Jurisdictional area (ETJ).**

*Objective 21.1* Coordinate with Champaign County on issues of zoning and subdivision in the ETJ.

*Objective 21.2* Work with other units of government to resolve issues of urban development in unincorporated areas.

**Goal 33.0 Provide maximum service and dependable utilities.**

*Objective 33.1* Work with utility providers to ensure dependable, affordable, high quality services to the Urbana community.

*Objective 33.4* Plan for future needs of the community to ensure residents have safe and reliable utilities.

The proposed text amendment is generally compatible with these Comprehensive Plan goals. Goal 21 encourages the City to work with the County on issues of overlapping jurisdictions. The City has worked closely with the County to improve the language of the proposed text amendment so that it will not affect Urbana's ETJ. Goal 33 encourages access to dependable, affordable utilities. The proposed amendment would allow for the provision of water to several thousand residential customers.

### **Zoning Impacts**

The proposed amendment would have no direct impact on zoning within the City's extra-territorial jurisdiction because there are no rural water districts in Urbana's ETJ. Urbana staff has collaborated with Champaign County staff to revise the proposed text amendment so that it will not apply to home-rule municipalities such as Urbana.

## Summary of Findings

1. Champaign County Zoning Case No. CCZBA-743-AT-13 would create a process to authorize the Champaign County Zoning Administrator Board to issue use permits for rural water district facilities within a municipality's extra-territorial jurisdiction that violate that municipality's subdivision ordinance, when those developments meet certain criteria.
2. The proposed zoning ordinance text amendment is written such that it will directly affect one rural water district facility, which is not located in Urbana's ETJ.
3. The proposed zoning ordinance text amendment is needed to allow for the expansion of a rural water district in order to provide affordable and dependable access to water for drinking and firefighting purposes.
4. The proposed zoning ordinance text amendment is generally consistent with the goals and objectives of the Urbana 2005 Comprehensive Plan because it provides for cooperation between the City and the County and it allows for expansion of needed utilities to County residents.
5. The Champaign County Zoning Ordinance as currently written explicitly prohibits approval of developments which violate municipal subdivision regulations.
6. City staff has worked with County staff to revise the proposed text amendment to improve the language and limit the scope such that this County zoning amendment would not pertain to home-rule municipalities such as the City of Urbana.

## Options

The Urbana City Council has the following options regarding proposed text amendments in CCZBA Case No. 743-AT-13:

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

## Recommendation

At its May 23, 2013 meeting, the Urbana Plan Commission, although lacking a quorum, commented that the proposed County Zoning Ordinance amendment **warrants a City Council resolution of protest**. Although this particular County amendment would not directly impact the Urbana's ETJ, the proposed text amendment is of concern because it undermines the statutory extra-territorial subdivision jurisdiction of a municipality in Champaign County.

Urbana City staff recommend that the City Council **DEFEAT a resolution of protest** because the proposed text amendment is written to exclude home rule municipalities such as the City of

Urbana, meaning that the amendment would not affect Urbana's 1½ mile extra-territorial jurisdiction.

Attachments: Exhibit A: Draft Minutes from the May 9, 2013 and May 23, 2013 Plan Commission meetings  
Exhibit B: Memoranda to the Champaign County ELUC dated March 22, 2013 and February 26, 2013

cc: John Hall, Champaign County Zoning Administrator  
Kerry Gifford, Sangamon Valley Public Water District  
Bob Mahrt, Village of Mahomet

**RESOLUTION NO. 2013-06-026R**

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

(Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning Rural Water District Treatment Facilities - Plan Case No. CCZBA 743-AT-13)

WHEREAS, Champaign County ZBA Case No. 743-AT-13 petitions to amend the Champaign County Zoning Ordinance to establish a process by which the County Board could approve a variance authorizing the County Zoning Administrator to issue zoning use permits for a rural water district without being conditioned upon municipal subdivision plat approval; and

WHEREAS, said amendment has been submitted to the City of Urbana for review and is being considered by the City of Urbana under the name of "CCZBA-734-AT-12: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning Rural Water District Treatment Facilities"; and

WHEREAS, said amendment is not generally consistent with the City of Urbana's 2005 Comprehensive Plan's goals and objectives; and

WHEREAS, said amendment would not directly impede future zoning or land use development decisions within the City's one-and-one-half mile extra-territorial jurisdictional (ETJ) area because it would not pertain to home rule municipalities such as the City of Urbana; and

WHEREAS, the Urbana Plan Commission, after considering matters pertaining to said Petitions at their May 9, 2013 and May 23, 2013 meetings, commented that the proposed text amendment is of concern because it undermines the statutory extra-territorial subdivision jurisdiction of a municipality in Champaign County; and



WHEREAS, the Urbana Corporate Authorities, having duly considered all matters pertaining thereto, finds and determines that the proposed text amendments are not in the best interests of the City of Urbana.

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

Section 1. The Corporate Authorities find and determine that the facts contained in the above recitations are true.

Section 2. That the Urbana Corporate Authorities hereby resolve that the City of Urbana, pursuant to the provisions of 55 ILCS 5/5-12014, do hereby adopt a Resolution of Protest against the proposed text amendment as presented in CCZBA-743-AT-13.

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

PASSED by the Corporate Authorities this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**DRAFT**

**DATE:** May 9, 2013

**TIME:** 7:30 P.M.

**PLACE:** Urbana City Building  
City Council Chambers  
400 South Vine Street  
Urbana, IL 61801

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**MEMBERS PRESENT:** Carey Hawkins-Ash, Andrew Fell, Lew Hopkins, Dannie Otto, Michael Pollock, Bernadine Stake

**MEMBERS ABSENT:** Tyler Fitch, Mary Tompkins, Marilyn Upah-Bant

**STAFF PRESENT:** Elizabeth Tyler, Director of Community Development Services; Jeff Engstrom, Planner II; Teri Andel, Planning Secretary

**OTHERS PRESENT:** Kerry Gifford, Marcus Harris, Carol McKusick, Bud Parkhill, Susan Taylor

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**COMMUNICATIONS**

- Page 1 of the County staff written report dated March 28, 2013 regarding Case No. CCZBA-743-AT-13
- Revised Staff Recommendation for Case No. CCZBA-743-AT-13

**NEW BUSINESS**

**Case No. CCZBA-743-AT-13: A request by the Champaign County Zoning Administrator to amend Sections 9.1.9, 9.2.2, and 13 of the Champaign County Zoning Ordinance regarding rural water district treatment facilities.**

Jeff Engstrom, Planner II, gave the staff presentation on this case. He stated that he handed out a copy of the first page of the written County staff memo dated March 28, 2013. He stated that the reason for the proposed text amendment is to allow Champaign County to approve variances, special uses or zoning permits that violate municipal subdivision ordinances but only under four specific criteria and particularly for one property, the Sangamon Valley Public Water District treatment plant outside of the Village of Mahomet. He discussed how protesting the proposed amendment might affect zoning and land use development decisions within the City of Urbana's one-and-one-half mile extra-territorial jurisdictional (ETJ) area. He reviewed the consistency with the City's 2005 Comprehensive Plan goals and objectives. Earlier this evening, the

Environmental Land Use Committee (ELUC) agreed to postpone this case to a future meeting in June. Therefore, City staff is asking that the Plan Commission continue this case to a future meeting to allow City staff time to work with County staff in creating language that would be more acceptable.

Elizabeth Tyler, Director of Community Development Services, added that City staff is hopeful that in working with Champaign County staff and potentially the City of Champaign staff that they might be able to craft a text amendment so it can resolve the current situation with the Sangamon Valley Water District treatment plant but does not open up some of the broader implications. In particular, City staff would look for linking the text amendment to public health, safety and welfare should there be a need for the water treatment for residents of Champaign County. They would look to limit the exception much more than is currently proposed. They would look to remove some of the language that deals with granting variances or explicitly allowing violations of a municipality's subdivision regulations.

Chair Pollock asked for clarification in that City staff is opposed to the proposed text amendment as it is currently written. Ms. Tyler said yes.

Mr. Fell inquired as to what would happen if the City of Urbana protests and the City of Champaign does not. Would it automatically get defeated? Mr. Engstrom replied yes. If any municipality in Champaign County protests, then a  $\frac{3}{4}$  super-majority vote is required for an amendment to be passed by the Champaign County Board.

Chair Pollock asked if a municipality protested the proposed amendment and the Champaign County Board came up with the requisite  $\frac{3}{4}$  super-majority vote to pass it, then it would become law. Recourse for the City of Urbana would be legal in nature. Mr. Engstrom stated that the City might have to wait until something was approved within the City's ETJ in order for the City to have a standing to challenge it.

Mr. Hopkins commented that the proposed text amendment would only allow Champaign County to grant a zoning permit. If the City of Urbana has subdivision jurisdiction, then how would the Sangamon Valley Water District treatment plant get a building permit to construct the expansion facility? Mr. Engstrom stated that Champaign County does not require building permits. When County staff receives a request for a zoning permit, they check to see if the property has been legally platted.

Ms. Tyler stated that there are three things going on, which are: 1) the zoning permission from Champaign County, 2) subdivision approval from the Village of Mahomet, and 3) the use of subdivision approval to force annexation. The Village of Mahomet is requiring annexation as part of their subdivision approval. The representatives in the audience from Sangamon Valley Water District treatment plant do not want to be forced into annexing into Mahomet because they are a separate utility provider, and it would cause difficulties for their mission as a district. The conflict comes in the Village of Mahomet's ability to demand annexation as a condition of subdivision. There are four jurisdictions involved in the proposed case – the City of Urbana, Champaign County, Village of Mahomet and Sangamon Valley. There are three different types of approvals that are linked somewhat indirectly. The City of Urbana looks for subdivisions that meet requirements. The City of Urbana would want to protest a County text amendment that

would allow illegal subdivisions. So, this is something that City staff would look to craft in a revised text amendment.

Mr. Hopkins questioned what the intended mechanism would be and how it would solve the problem. Ms. Tyler replied that if the proposed text amendment is approved, then Champaign County would be able to issue a zoning use permit, which is similar to the City's building permit, to allow a water treatment facility.

With no further questions for City staff, Chair Pollock opened the hearing up for public input.

Kerry Gifford, General Manager for the Sangamon Valley Public Water District, stated that they provide water and waste water services for the Mahomet area, the Seymour area and have an intergovernmental agreement with the Village of Sadorus. It was established in 1966 to serve the north section of the Village of Mahomet. Their company has grown over the years. It has outgrown the current water treatment plant and storage facilities. They started planning to develop a new water treatment facility and another storage tank.

Bud Parkhill, of the Sangamon Valley Public Water District, mentioned that they have outgrown their present facility. They have secured proper zoning from the County to expand their plant. To maintain the fire protection and the quality of water for their customers, they need to build the new plant. They have been granted an Illinois APA low-interest loan and are seeking financial assistance through a bank to get a better interest rate so they can keep their rates as low as possible for their customers since they are a user's district. They do not tax their customers. They are solvent. They are a government entity and a branch of Champaign County. They have seven trustees who look over the affairs of the district. These trustees are appointed by Champaign County. They service an area north of Interstate 74 and just east of Route 47 North. When the area to the west of Route 47 gets developed, they will then service this area as well.

Mr. Gifford reviewed the process. He stated that they approached the Village of Mahomet. The hold up is that Mahomet's subdivision regulations require annexation of the property, and they do not feel that they have a legal right to annex. It is also not in the best interest of the district to do so. So, they proposed an intergovernmental agreement with the Village of Mahomet. At the same time, they approached Champaign County to acquire a special use permit and rezoning of the property. When the Village of Mahomet turned down the intergovernmental agreement, they also protested Champaign County rezoning the property, which was overridden by a vote of 27-0. The only process left is to acquire a zoning permit. The Champaign County Zoning Board of Appeals (CCZBA) and John Hall felt it would be best for them to get a variance from Champaign County. They were told by Mr. Hall that the City of Champaign and the City of Urbana may potentially protest the variance text amendment. Although they feel that they have the support of Champaign County to proceed, they do not feel it is good practice as a local government entity to not work with the local cities to find a compromise.

Chair Pollock asked if they understand that the proposed text amendment creates a larger picture that the City of Urbana needs to be concerned about. Mr. Gifford said yes. They do not want to create an issue where there are problems between Champaign County and the cities. Mr. Parkhill added that they are not platting or subdividing any lots.

Mr. Hopkins stated that the City of Urbana's Subdivision and Land Development Ordinance generally includes things other than the subdivision of land. There has to be some aspect of Mahomet's Subdivision Ordinance that applies to the zoning permit request. What aspect of their Subdivision Ordinance is the Village of Mahomet claiming that they need to do? Mr. Gifford responded that the Village of Mahomet is not concerned with Sangamon Valley Public Water District's plans to develop. Mahomet's primary concern is that the Water District annex their property into the Village of Mahomet. Mr. Parkhill added that the Village of Mahomet is on an aggressive annexation program because they are financially strapped. They are building a new sewer plant that is remote from the Sangamon Valley Public Water District and would like to take over Sangamon Valley's customers to make more revenue.

Chair Pollock recommended that they follow City staff's request to forward this case to the next scheduled meeting of the Plan Commission.

Mr. Otto believes that there are good reasons why municipalities have the right to annex and to control their growth. When you have an entity that can provide primary basic utilities and add to the population base but is free from actually being part of the City, it creates problems. He believes that the current zoning principal is sound, and he would be concerned about trying to circumvent it. If the Champaign County Board believes strongly enough in the proposed text amendment, then they can vote super-majority. He discouraged City staff from crafting language to resolve the issue. Ms. Tyler responded that the Champaign County Board may have to have a super-majority vote in any case. Crafting or revising the language in the proposed text amendment to be less objectionable would only benefit the City of Urbana. Chair Pollock added that he is concerned with the County taking authority and limiting municipalities (especially the City of Urbana's in the future) control over the ETJ area. If something can be worked out that eliminates that from this formula, then it would be best for everyone involved. If it cannot be worked out and the proposed text amendment is passed by a super-majority vote, he encourages the City of Urbana to look for recourse, because it could affect us in the future in a negative way.

Mr. Hopkins stated that Champaign County is proposing this text amendment to change their rules so they do not break their own rules. Both the change in the rules and the actual action under their new rules will be protested by the Village of Mahomet subject to whatever negotiations that happen to occur. So, the City of Urbana is a non-player in both portions of the game in that both portions of the game are going to be played out regardless of what the City of Urbana does. Therefore, if the City can help the County revise the language to make it less problematic for the City of Urbana in the future, then it is potentially worth influencing.

Mr. Fell feels that any text amendment of this nature regardless of the language would set a precedent, which the City of Urbana does not want to happen. So, why not protest it regardless of the language? Mr. Hopkins replied that it does not matter if the City of Urbana protests because the Village of Mahomet will likely protest. He feels it is better to help Champaign County revise the language in the amendment even if the City still protests it, because it will be less bad. Ms. Tyler added that if we can influence improved language, then it will be beneficial. She handed out copies of her draft language to the Plan Commission.

Mr. Hopkins said that he feels it would be better to resolve this issue in an intergovernmental agreement rather than through a proposed text amendment to the Champaign County Zoning

Ordinance. Ms. Tyler explained that timing is an issue. Funding has been provided and the project is at hand.

Mr. Otto questioned how the City of Urbana would feel if we were in a similar position as the Village of Mahomet. Ms. Tyler stated that this is an excellent question and is something that the City of Urbana needs to consider.

Chair Pollock continued Plan Case No. CCZBA-743-AT-13 to the May 23, 2013 Plan Commission meeting.

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**DRAFT**

**DATE:** May 23, 2013

**TIME:** 7:30 P.M.

**PLACE:** Urbana City Building  
City Council Chambers  
400 South Vine Street  
Urbana, IL 61801

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**MEMBERS PRESENT:** Andrew Fell, Tyler Fitch, Dannie Otto, Michael Pollock

**MEMBERS ABSENT:** Carey Hawkins-Ash, Lew Hopkins, Bernadine Stake, Marilyn Upah-Bant

**STAFF PRESENT:** Robert Myers, Planning Manager

**OTHERS PRESENT:** None

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**OLD BUSINESS**

**Case No. CCZBA-743-AT-13: A request by the Champaign County Zoning Administrator to amend Sections 9.1.9, 9.2.2, and 13 of the Champaign County Zoning Ordinance regarding rural water district treatment facilities.**

Robert Myers, Planning Manager, summarized this case. He has spoken with The Champaign County Zoning Administrator, the Village of Mahomet's Community Development Director, and has reviewed the video of the last Plan Commission meeting where the Sangamon Valley Public Water District officials provided input. As a matter of course, the Village of Mahomet, in approving subdivision of land outside the Village, requires a stipulation in the Owners Certificate binding future property owners to annex into Mahomet once the Village boundaries reach the property. That's the "hook" they use to insure that development outside of the Village made possible by the rural water and sewer district doesn't block the Village's future growth and development. In the City of Urbana's case, we have an agreement with the Urbana-Champaign Sanitary District that they won't allow connection into the sewer system without annexation into Urbana or at least an annexation agreement with the City. But the Village of Mahomet does not have this capability because water/sewer services are provided to property owners both inside and outside the Village by the Sangamon Valley Public Water District.

The Sangamon Valley Public Water District provides both water and sewer to several thousand customers both inside and outside the Village. Water is both for household needs and firefighting purposes. The drought last summer brought high demand for water, and the District sought and



was approved by the Illinois Environmental Protection Agency for approval and a loan to expand their water facilities. Coincidentally the facilities expansion will also require a subdivision plat approved by the Village of Mahomet. The District does not want to agree to annex their water facility because it would ultimately go against their mission if forced to merge with Mahomet's own public water supply system. And actually the District even disputes that they are required to submit a plat. As a result, there is an intergovernmental disagreement between the two governmental entities.

Champaign County has already approved a Special Use Permit for the water plant to expand but can't issue a zoning use permit because under their own regulations the Zoning Administrator is not authorized to do so if the project would violate a municipal subdivision ordinance. The County sees this as a special case because while two governmental entities are in disagreement, several thousand District customers are missing out on enhanced water service for household and firefighting purposes. The County Zoning Administrator is proposing in this case to amend the County Zoning Ordinance to allow the County permit approvals to be decoupled from those of the Village. After the previous Plan Commission meeting, City staff worked to amend the proposed County text amendment language to insure that the amendment could not impact Urbana at some future point. Now the proposed amendment would not pertain to home rule municipalities such as Urbana and Champaign.

Mr. Fell stated that his concern is that even with improved language, it is a bad precedent to set. He believes that the text amendment is being proposed so that Champaign County does not look to be the bad guy, so instead of proposing the text amendment why doesn't the County approve the zoning use permit with the condition that the facility plan must also receive any necessary subdivision approval from the Village of Mahomet? That way they could issue the permit without trying to circumvent Mahomet's approval. Chair Pollock stated that the proposed text amendment allows Champaign County to ultimately make the final decision. If the County approves the text amendment, then the Water District will be allowed to expand their facility without agreeing to an annexation agreement with the Village of Mahomet.

Chair Pollock stated that the City of Urbana's interest should lie with the Village of Mahomet in protecting the extra-territorial jurisdiction (ETJ) area. He perceives the proposed text amendment to be narrowly written so that it would not set a precedent.

Mr. Otto stated that he has previously helped create a rural water district so understands their needs. But he also sees that integrated water systems make more sense than having several parallel systems. There are good reasons why the Champaign County Zoning Ordinance is written the way it is. Creating a loophole for one particular instance sets a bad precedent. Chair Pollock summarized Mr. Otto's concerns as being like "spot zoning" in zoning map amendments.

Mr. Fitch stated that the proposed text amendment is considered to be special legislation because it involves one entity in one situation. He would support a resolution of protest because it sets a bad precedent. Specifically, Mr. Fitch He disagreed with the need to add "...*such improvements are necessary to serve the public health, safety, and wellbeing of County residents;*" as that's already necessary for any variance application. Mr. Fitch also does not like the new language "...perfect compliance with the technical platting requirements...". He understands this to allow the Public Water District to build their expansion as long as it meets the Village of Mahomet's

subdivision requirements, but not perfectly. What does this mean? Who makes the decision? He believes the language is too vague and will set a precedent. Today it's water treatment plants in Mahomet's ETJ, but tomorrow it could be some other use in Urbana's ETJ.

Chair Pollock stated that he is on the fence about the proposed text amendment. However, it is clear that if the Plan Commission would vote on this case, it would be to protest the proposed text amendment.

Mr. Otto stated that Point 2 on Page 3 of the written staff report dated May 17, 2013 indicates that what they are doing should not be interpreted that they are approving or supporting the violation, but obviously, it is. This type of approach is bad policy.

Chair Pollock said that since the Plan Commission cannot take a vote on the case due to the lack of a quorum, they want to unofficially indicate that they have concerns about the proposed text amendment and feel it does present some possibilities of a down-side for the City of Urbana at some point and in some way.

Mr. Fell asked if the Water District was in place before the Village of Mahomet had all of its rules in place. Did the Water District know that if they wanted to expand, then they would need to agree to an annexation agreement? Mr. Myers did not know whether the Village or the District formed first, but he understood that at many years ago the Village of Mahomet had an opportunity to serve all of the residents within the Village limits with water and sewer service but that they had declined.

Mr. Otto felt that although it is assumed the Village of Mahomet will protest the proposed text amendment triggering a two-thirds majority vote by the Champaign County Board, it would be useful for the City of Urbana to go on record protesting the amendment as well. That would help the Urbana representatives on the County Board understand the City's position. He believes that there is a solution without changing the County Zoning Ordinance.

# CASE NO. 743-AT-13

## SUPPLEMENTAL MEMORANDUM

March 28, 2013

Champaign  
County  
Department of

Petitioner: **Zoning Administrator**

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

**PLANNING &  
ZONING**

Request: Amend the Champaign County Zoning Ordinance as follows:

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

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

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

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

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

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### STATUS

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

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

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

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

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

# CASE NO. 743-AT-13

PRELIMINARY MEMORANDUM

March 22, 2013

Petitioner: **Zoning Administrator**

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

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Request: Amend the Champaign County Zoning Ordinance as follows:

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

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

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

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

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

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## BACKGROUND

For background information please see Attachment A.

## ATTACHMENTS

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

Champaign County  
Department of

**PLANNING &  
ZONING**

To: **Environment and Land Use Committee**

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

Date: **February 26, 2013**

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

**Brookens Administrative  
Center**

1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708  
zoningdept@co.champaign.il.us  
www.co.champaign.il.us/zoning

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## **BACKGROUND**

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

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

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

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

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

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

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

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

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

**OVERVIEW OF PROPOSED AMENDMENT**

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

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

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

**MUNICIPAL PROTESTS LIKELY**

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

**NO STATE’S ATTORNEY REVIEW YET**

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

**ATTACHMENTS**

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

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

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**9.1.9 VARIANCES**

A. Table of VARIANCE Classifications and Presiding Authority

VARIANCE Classification	Presiding Authority
<b>ADMINISTRATIVE VARIANCE:</b>  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
<b>Minor VARIANCE:</b>  Contested ADMINISTRATIVE VARIANCE  Deviation of 10 percent or less from numerical regulations or standard of this ordinance not related to the location of STRUCTURES or to bulk requirements  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.
<b>Major VARIANCE:</b>  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 Stormwater Management Policy</i> or <i>Champaign County Special Flood Hazard Areas Ordinance</i> .  Waiver from nonnumerical regulations or standard of the <i>Champaign County Stormwater 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.
<u>County Board VARIANCE:</u>  <u>Any VARIANCE authorized by Section 13.</u>	<u>May be granted by the GOVERNING BODY in accordance with the requirements of this Section.</u>

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

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B. Prohibited VARIANCES

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

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

C. VARIANCE Criteria

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



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

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

Attachment B Proposed Amendment to Section 13 of the Zoning Ordinance

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

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

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

A. The CONSTRUCTION or USE would violate:

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

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

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5. the *Champaign County Health Ordinance* (Ord. No. 573);
  6. the *Champaign County Public Nuisance Ordinance* (Ord. No. 468, as amended); or
  7. any license ordinance of Champaign County.
- B. The CONSTRUCTION or USE is located on a LOT or LOTS created in violation of said *Illinois Plat Act*, *Champaign County Subdivision Regulations* or municipal SUBDIVISION regulations except as provided for in 13.2.1A.4.a.
- C. An outstanding violation of the *Zoning Ordinance* or any regulation listed in Section 13.2.1A exists on the LOT except when:
1. the Zoning Use Permit or Zoning Compliance Certificate is the sole impediment to correcting the violation;
  2. the BOARD finds that granting a VARIANCE or SPECIAL USE Permit will facilitate correction of any non-*Zoning Ordinance* violations;
  3. the VARIANCE, SPECIAL USE Permit, Zoning Use Permit or Compliance Certificate is required to effect any stipulation, agreement or court order resolving the violation; or
  4. a municipality or the Champaign County Health Department has the legal authority to waive compliance with a regulation and stipulates in writing that it has no objection to issuing the VARIANCE, SPECIAL USE Permit, Zoning Use Permit or Zoning Compliance Certificate.
- 13.2.2** The above provisions notwithstanding, no VARIANCE, SPECIAL USE Permit, Zoning Use Permit or Zoning Compliance Certificate shall be denied for USE or CONSTRUCTION on LOTS created prior to May 21, 1991 solely because such LOTS were created in violation of the *Illinois Plat Act* or *Champaign County Subdivision Regulations* provided that such LOTS conform to all other applicable regulations and standards of this ordinance and the creation of such LOTS did not violate any applicable municipal SUBDIVISION ordinance in effect at the time such LOTS were created.

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

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**9.2.2 Action of the GOVERNING BODY**

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

**PRELIMINARY DRAFT**

**743-AT-13**

**FINDING OF FACT  
AND FINAL DETERMINATION**

**of  
Champaign County Zoning Board of Appeals**

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

Date: March 28, 2013

Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance as follows:

Part A. Revise Section 9.1.9 as follows:

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

Part B. Revise Section 13 as follows:

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

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

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**FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 28, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The proposed amendment is intended to relieve the County of municipal subdivision regulation enforcement in instances only related to the expansion and/or construction of a water treatment plant or related facilities owned and operated by a predominantly rural water district when the requirement for annexation is a requirement for plat approval by a municipality that has its own water treatment plant and related facilities and when no plat approval shall be considered without the requirement for annexation. The amendment will also provide the effect of a township protest for those with planning commissions for map amendments and County Board authorized variances.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

**SUMMARY OF THE PROPOSED AMENDMENT**

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.

**GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES**

5. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
  - A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”

- B. The LRMP defines Goals, Objectives, and Policies as follows:
  - (1) Goal: an ideal future condition to which the community aspires
  - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
  - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives

- C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.

**REGARDING LRMP GOALS**

6. LRMP Goal 1 is entitled “Planning and Public Involvement” and states as follows:

**Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.**

Goal 1 has 4 objectives and 4 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 1.

7. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

**Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.**

Goal 2 has two objectives and three policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 2.

8. LRMP Goal 3 is entitled “Prosperity” and states as follows:

**Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.**

Goal 3 has three objectives no policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 3.

9. LRMP Goal 4 is entitled “Agriculture” and states as follows:

**Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.**

Goal 4 has 9 objectives and 22 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 4.

10. LRMP Goal 5 is entitled “Urban Land Use” and states as follows:

**Champaign County will encourage urban development that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.**

Goal 5 has 3 objectives and 15 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 5.



11. LRMP Goal 6 is entitled “Public Health and Safety” and states as follows:

**Champaign County will ensure protection of the public health and public safety in land resource management decisions.**

Goal 6 has 4 objectives and 7 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 6.

12. LRMP Goal 7 is entitled “Transportation” and states as follows:

**Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.**

Goal 7 has 2 objectives and 7 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 7.

13. LRMP Goal 8 is entitled “Natural Resources” and states as follows:

**Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.**

Goal 8 has 9 objectives and 36 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 8.

14. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:

**Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.**

Goal 9 has 5 objectives and 5 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 9.

15. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:

**Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.**

Goal 10 has 1 objective and 1 policy. The proposed amendment will *NOT IMPEDE* the achievement of Goal 10.

***REGARDING THE PURPOSE OF THE ZONING ORDINANCE***

16. The proposed amendment appears to *HELP ACHIEVE* the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:

- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

*PRELIMINARY DRAFT*

The proposed amendment is not directly related to this purpose.

- B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed amendment is not directly related to this purpose.

- C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

The proposed amendment is not directly related to this purpose.

- D. Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.

The proposed amendment is not directly related to this purpose.

- E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed amendment is not directly related to this purpose.

- F. Paragraph 2.0 (f) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the height and bulk of buildings and structures hereafter to be erected.

The proposed amendment is not directly related to this purpose.

- G. Paragraph 2.0 (g) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to establish, regulate, and limit the building or setback lines on or along any street, trafficway, drive or parkway.

The proposed amendment is not directly related to this purpose.

- H. Paragraph 2.0 (h) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding buildings and structures.

The proposed amendment is not directly related to this purpose.

*PRELIMINARY DRAFT*

- I. Paragraph 2.0 (i) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to classify, regulate, and restrict the location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses.

The proposed amendment is not directly related to this purpose.

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed amendment is not directly related to this purpose.

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which buildings, structures, or uses therein shall conform.

The proposed amendment is directly related to this purpose because the amendment will allow the County to authorize construction of water treatment plants and related facilities for rural water districts if the proposed construction is in full compliance with County zoning, while also relieving the County from enforcement of municipal subdivision regulations in those instances where annexation is a requirement and the proposed construction is compliant with all other aspects of municipal subdivision requirements.

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit uses, buildings, or structures incompatible with the character of such districts.

The proposed amendment is not directly related to this purpose.

- M. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

The proposed amendment is not directly related to this purpose.

- N. Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.

The proposed amendment is not directly related to this purpose.

- O. Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The proposed amendment is not directly related to this purpose.

- P. Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed amendment is not directly related to this purpose.

- Q. Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The proposed amendment is not directly related to this purpose.

- R. Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed amendment is not directly related to this purpose.

- 17. The proposed text amendment will *IMPROVE* the text of the Zoning Ordinance because it will provide:
  - A. The County Board with the ability to authorize a variance from the Section 13 requirement of compliance with municipal subdivision regulations.
  - B. The Zoning Administrator the ability to authorize a Zoning Use Permit for the expansion and/or construction of a water treatment plant or related facility that is predominantly owned and operated by a rural water district if the proposed use is in compliance with County zoning regulations.
  - C. Relief from County enforcement of municipal subdivision regulations, but will still allow a municipality to enforce their regulations.
  - D. Clarify the effect of a township protest for a township with a planning commission for map amendments and for County Board authorized variances.

**SUMMARY FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on, **March 28, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed text amendment will ***NOT IMPEDE*** the Land Resource Management Plan because of the following:
  - A. The proposed text amendment will ***NOT IMPEDE*** the following LRMP goal(s):
    - **Goal 1 Planning and Public Involvement**
    - **Goal 2 Governmental Coordination**
    - **Goal 3 Prosperity**
    - **Goal 4 Agriculture**
    - **Goal 5 Urban Land Use**
    - **Goal 6 Public Health and Public Safety**
    - **Goal 7 Transportation**
    - **Goal 8 Natural Resources**
    - **Goal 9 Energy Conservation**
    - **Goal 10 Cultural Amenities**
2. The proposed amendment ***HELPS ACHIEVE*** the purpose of the **Zoning Ordinance** as follows:
  - Fixes regulations and standards to which buildings, structures, or uses therein shall conform. (Purpose 2.0 (k) see Item 16.K.)
3. The proposed text improvement will ***IMPROVE*** the **Zoning Ordinance** as follows:
  - Allows the County Board to authorize a variance from the Section 13 requirement of compliance with municipal subdivision regulations.
  - Allows the Zoning Administrator to authorize a Zoning Use Permit for the expansion and/or construction of a water treatment plant or related facility that is predominantly owned and operated by a rural water district if the proposed use is in compliance with County zoning regulations.
  - Provides relief from County enforcement of municipal subdivision regulations, but will still allow a municipality to enforce their regulations.
  - Clarify the effect of a township protest by a township with a planning commission for map amendments and for County Board authorized variances.

**DOCUMENTS OF RECORD**

1. Preliminary Memorandum dated March 22, 2013, with attachments:
  - A Memo to the Environmental and Land Use Committee dated February 26, 2013, with attachments:
    - A Proposed Amendment to Section 9.1.9 of the Zoning Ordinance
    - B Proposed Amendment to Section 13 of the Zoning Ordinance
    - C Proposed Amendment to Section 9.2.2 of the Zoning Ordinance
  - B LRMP Land Use Goals, Objectives, and Policies & Appendix
  - C Draft Finding of Fact and Final Determination

**FINAL DETERMINATION**

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

The Zoning Ordinance Amendment requested in Case 743-AT-13 should *{BE ENACTED / NOT BE ENACTED}* by the County Board in the form attached hereto.

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

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date