

**CHAMPAIGN COUNTY BOARD
COMMITTEE OF THE WHOLE – Highway/Facilities/ELUC Agenda**
County of Champaign, Urbana, Illinois
Thursday, February 10, 2011 – 6:00 p.m.

*Lyle Shields Meeting Room, Brookens Administrative Center
1776 East Washington Street, Urbana, Illinois*

Page Number

IX. Environment & Land Use

- A. Direction to CCRPC Planner Regarding Proposed Update of the Site Assessment Portion of the Land Evaluation and Site Assessment (LESA) System Pursuant to LRMP Priority Items 4.5a and 4.5b *(See Study Session Agenda Packet)*
- B. Direction to Zoning Administrator Regarding Proposed Zoning Ordinance Text Amendments *(See Study Session Agenda Packet)*
1. Request to Amend the Champaign County Zoning Ordinance to Implement Land Resource Management Plan Policies 4.1.5, 4.1.7, and 4.1.9
 2. Request to Amend the Champaign County Zoning Ordinance to Implement Land Resource Management Plan Policies 4.1.6 and 4.3.1-4.3.4
 3. Request to Amend the Champaign County Zoning Ordinance to Implement Land Resource Management Plan Objective 4.4
- C. 2011 Countywide Residential Electronics Collections *(Provided for Information Only)* *38-41
- D. Zoning Ordinance Amendments
1. Request to Amend Champaign County Zoning Ordinance. Zoning Case 665-AT-10 Petitioner: Champaign County Zoning Administrator *42-67
 2. Request to Amend Champaign County Zoning Ordinance. Zoning Case 666-AT-10 Petitioner: Champaign County Zoning Administrator *68-82
- E. Monthly Report *(To Be Distributed)*
- F. Other Business
- G. Chair's Report
- H. Designation of Items to be Placed on County Board Consent Agenda



Date: January 31, 2011
To: Champaign County Board Committee of the Whole Members
From: Susan Monte, Champaign County Recycling Coordinator
Regarding: **2011 Countywide Residential Electronics Collections - Update**
Action: Information Only

2011 Countywide Residential Electronics Collections

The first of the four remaining Countywide Residential Electronics Collections is scheduled to occur Saturday, March 5, 2011 from 8 am – noon. Attachment A is a flyer about the Collection.

In 2010, Champaign County agreed to partner with the Cities of Champaign and Urbana and Village of Savoy to provide quarterly Countywide Residential Electronics Collections during 2010 and 2011. Champaign County Probation and Court Services coordinates community service volunteers at each collection. The News Gazette, Apollo Subdivision and Flooring Surfaces are the private sector sponsors of the 2010 and 2011 collections.

This January, Karrie Gibson, President of Vintage Tech Recyclers, Inc., recycling contractor for the 2010 and 2011 Countywide collections, indicated the intent of Vintage Tech Recyclers to immediately assume most costs previously incurred by the County and participating municipalities (City of Champaign, City of Urbana and Village of Savoy) for the four 2011 Countywide Residential Electronics Collections. Costs to be paid by Vintage Tech for the remaining 2011 collections are expected to include: leasing of the News Gazette facility, forklift costs, and police traffic patrol. This will result in a cost savings of \$1,994 for the County.

The existing County contract with Vintage Tech; the existing Lease Agreement with The News Gazette, and the existing Intergovernmental Agreement to Share Costs are being revised to reflect Vintage Tech's recent offer to absorb many of the costs associated with the 2011 quarterly collections. The revised documents will be brought forward for Committee review this March.

Other 2011 Local Options for Residential Electronics Recycling /Reuse

Mervis Industries has indicated that the Marco Steel facility at 302 S. Market Street in Champaign will continue during 2011 to accept residential electronics for recycling or reuse at no charge to residents. Mervis Industries does not accept console TV's, speakers or microwave ovens. Hours of collection are Monday through Friday, 8 am – 4 pm.

The Land of Lincoln Goodwill outlet at 912 W. Anthony Drive in Champaign accepts computers, computer parts, and computer monitors for re-use or recycling through the Dell Reconnect program. The Goodwill outlet in Champaign does not accept TV's or microwaves. Hours: Monday through Saturday, 9am - 7 pm and Sundays, noon - 6 pm.

The services provided by Mervis Industries and Goodwill still leaves a gap in service in Champaign County for acceptance of televisions at no charge to residents during the weekends.

Ban of Computers, Printers, Monitors and Televisions from Illinois Landfills in 2012

Publicity and promotion of the quarterly 2011 Countywide Residential Electronics Collections will focus on the upcoming ban of computers, printers, monitors and televisions from Illinois landfills beginning January 1, 2012.

Televisions and monitors comprise the major bulk of electronics collected from residents at the Countywide collections. A report of Total Electronic Items Collected during the 2010 Countywide Residential Electronics Collections is provided as Attachment B.

Attachments

- A March 5, 2011 Countywide Residential Electronics Collection Flyer
- B Total Electronic Items Collected as of November 12, 2010

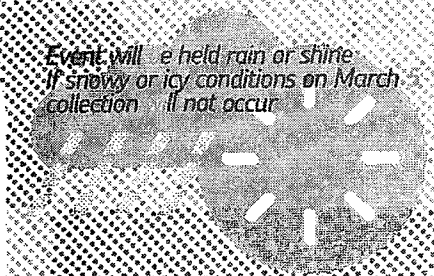
FREE residential drop off
of these acceptable items:

Televisions
Computers (& Laptops)
Computer Monitors
Keyboards, Mice, Cables
Zip Drives
Printers & Scanners

VCR/DVD Players
Mobile Phones
Fax Machines
MP 3 Players
PDA's
Video Game Consoles

LIMIT 10 ITEMS PER RESIDENT

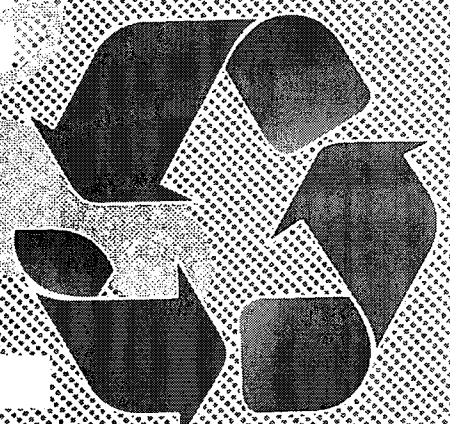
Event will be held rain or shine.
If snowy or icy conditions on March
collection will not occur.



Saturday, March 5, 2011
8 am -12 pm
3202 Apollo Drive, Champaign
(News-Gazette Distribution Center)
Located in the Apollo Industrial Park
Use Olympian Drive entrance to Collection

COUNTYWIDE RESIDENTIAL ELECTRONICS COLLECTION

For more information
call (217) 328-3313 or visit www.cerpc.org



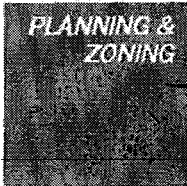
Illinois Sustainable Technology Center
a division of the Institute of Natural Resources Sustainability
COLLEGE OF FINE AND APPLIED ARTS
UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN

2010 COUNTYWIDE RESIDENTIAL ELECTRONICS COLLECTIONS

TOTAL ELECTRONIC ITEMS COLLECTED AS OF NOVEMBER 12, 2010

February 27 2010 Collection	(pounds)	(tons)	
Computers	15,958	7.9	All Electronics Items Collected at the February 27, 2010 Collection became the property of Advanced Technology Recycling, Pontiac IL
Printers	10,685	5.3	
Monitors and Televisions	68,133	34.1	
EEDs	26,978	13.5	
Other Misc Items	5,464	2.7	
SUBTOTAL	127,218	63.6	
May 8 2010 Collection			
	(pounds)	(tons)	
Computers	14,949	7.5	All Electronics Items Collected at the May 8, 2010 Collection became the property of Vintage Tech Recyclers, Inc., Romeoville IL
Monitors	39,889	19.9	
Televisions	35,180	17.6	
Printers	8,269	4.1	
EEDs	11,364	5.7	
Other Misc Items	5,297	2.6	
SUBTOTAL	114,948	57.4	
August 7 2010 Collection			
	(pounds)	(tons)	
Computers	24,577	12.3	All Electronics Items Collected at the August 7, 2010 Collection became the property of Vintage Tech Recyclers, Inc., Romeoville IL
Monitors	46,055	23.0	
Televisions	86,686	43.3	
Printers	18,217	9.1	
EEDs	18,460	9.2	
Other Misc Items	8,960	4.5	
SUBTOTAL	202,955	101.5	
November 6 2010 Collection			
	(pounds)	(tons)	
Computers	18,871	9.4	All Electronics Items Collected at the November 6, 2010 Collection became the property of Vintage Tech Recyclers, Inc., Romeoville IL
Monitors	36,213	18.1	
Televisions	54,120	27.1	
Printers	6,984	3.5	
EEDs	19,620	9.8	
Other Misc Items	1,122	0.6	
SUBTOTAL	136,930	68.5	
TOTAL:	582,051 pounds	291.0 tons	

Champaign
County
Department of



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

(217) 384-3708

To: **Champaign County Board Committee of the Whole**
From: **John Hall, Zoning Administrator**

Date: **January 31, 2011**

RE: **Zoning Ordinance text amendment (Case 665-AT-10)**

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 less than five acres in area 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 less than five acres in the AG 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.**

Petitioner: **Zoning Administrator**

STATUS

The Zoning Board of Appeals voted to RECOMMEND ENACTMENT of this proposed Zoning Ordinance text amendment at their meeting on January 20, 2011. The Committee of the Whole authorized this text amendment at the March 2, 2010, meeting.

The recommended amendment differs from the amendment authorized by the Committee. See the discussion below.

Attachments include illustrative diagrams illustrating the recommended amendment and a revised municipal comparison table.

Standard protocol is for the Committee to make a preliminary recommendation on a proposed text amendment but defer the text amendment for one month while awaiting municipal and township comments or protests.

RECOMMENDED AMENDMENT DIFFERS FROM AUTHORIZED AMENDMENT

Attachment A is the memo that the Committee reviewed at the meeting on March 2, 2010, when the Committee authorized the proposed amendment. The version recommended by the ZBA differs in the following ways:

1. **The ZBA recommends a “transparency requirement” for fences in the Residential Districts and on residential lots less than five acres in area in the AG Districts.** The transparency requirement requires that any part of a fence in the front yard that is above four feet tall must be at

least 50% transparent. The 50% transparency requirement can be met, for example, by omitting every other face board on a fence that otherwise has a full board face.

The purpose of the transparency requirement is to provide greater minimum visibility and therefore greater safety for the Sheriff and other public safety professionals when responding to calls. The ZBA requested comments from Sheriff Walsh and his comments are summarized under item 11.B.3. on p. 7 of the As Approved Finding of Fact. In his comments Sheriff Walsh agreed that greater visibility should result in a safer situation but that he respected a citizen's property rights and allowing a solid fence of 3 to 4 feet in height appeared to be typical among other local zoning jurisdictions.

The ZBA reviewed diagrams illustrating the Recommended Ordinance including the transparency requirement that are included here as Attachment B.

The transparency requirement is not recommended on residential lots more than five acres in area in the AG Districts nor in the CR District. The reason for that is stated in item 11.B.(6) on p. 8 of the As-Approved Finding of Fact. The transparency requirement is also not recommended in the Business and Industrial Districts.

The ZBA also reviewed an updated version of the municipal comparison table that was included with the original Committee memo (see Attachment C). The transparency requirement will make the County fencing requirements more similar to municipal requirements.

2. **The ZBA recommends that all maximum fence heights be increased by three inches to allow for ground clearance.** Ground clearance for fencing has been an issue in a few variance cases. The ZBA also recommends increasing all maximum fence heights by three inches so that a fence can be above the ground as much as three inches and still be within the overall required maximum height. Note that this is not a minimum ground clearance requirement.

ATTACHMENTS

- A February 22, 2010, Committee of the Whole memorandum
- B Revised Fencing Diagrams
- C Table Comparing Residential Fence Height Limits in Champaign County Zoning Ordinance to Larger Local Municipalities *REVISED 12/30/10*
- D Recommended Ordinance (Annotated)
- E As Approved Finding of Fact with Proposed Ordinance

Champaign
County
Department of



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

(217) 384-3708

To: **Champaign County Board Committee of the Whole**
From: **JR Knight, Associate Planner**
John Hall, Zoning Administrator

Date: **February 22, 2010**

RE: **Direction to Zoning Administrator Regarding a Necessary Zoning Ordinance Text Amendment**

Request **Committee approval to conduct a proposed Zoning Ordinance text amendment changing fence height limits.**

Petitioner **Zoning Administrator**

BACKGROUND

Committee approval is sought to conduct a text amendment to the Zoning Ordinance to revise Paragraph 4.3.3 G. regarding maximum fence height limits. In October 2007 and April 2008 the Zoning Board of Appeals (ZBA) heard variance cases regarding fence height in the City of Champaign one and one-half mile extraterritorial jurisdiction. Later in 2008, the Department was approached by another person who desired to build an eight foot fence in the County's jurisdiction. At the time staff was contemplating this text amendment and so the Zoning Administrator approved the fence provided the petitioner was willing to abide by the outcome of this proposed text amendment or any variance that may be required.

These cases revealed that the maximum fence height limit of six feet for lots in the R Zoning Districts and residential lots in the AG districts is more restrictive than most municipalities in the county. See Attachment A for a comparison.

Note that the County's fence height limits do not, apparently, apply to residential lots in the AG Districts that are five acres or greater in area or lots in the CR District. The Department has never received a complaint regarding a situation like this nor has it received any request to build an unusually tall fence in the AG or CR Districts.

ATTACHMENT

- A Table Comparing Fence Height Limits
- B Preliminary Draft Amendment

Table Comparing Residential Fence Height Limits in Champaign County Zoning Ordinance¹ to Larger Local Municipalities
 February 22, 2010

DRAFT

Parameter	Champaign County	City of Champaign	City of Urbana	Village of Mahomet	Village of Rantoul	Village of Savoy	Village of St. Joseph
In or around side and rear yards	6 feet	8 feet	8 feet	7 feet	8 feet	6 feet ⁶	8 feet ⁷
In or around a required front yard	6 feet	3 feet; or 6 feet ²	6 feet 8 feet ³	3.5 feet	3 feet ⁴ ; or 4 feet ⁵		3 feet ⁸

1. Champaign County Zoning Ordinance limits fence height to six feet in Residential Districts and residential lots less than five acres in area in the AG Districts.
2. Must be chain link, wire mesh, or similar type of transparent fencing.
3. Where the front yard abuts a principal or minor arterial street.
4. For fences that are less than 70% open
5. For fences that are 70% or more open
6. Based on a phone call to Village staff. A search of the Savoy municipal code did not result in any fence height regulations.
7. The top two feet of construction must be more than 50% open
8. Fences in front yards are also required to be more than 50% open and chain link or wire mesh fences are not allowed.

Attachment B Preliminary Draft Amendment
Zoning Administrator
FEBRUARY 22, 2010

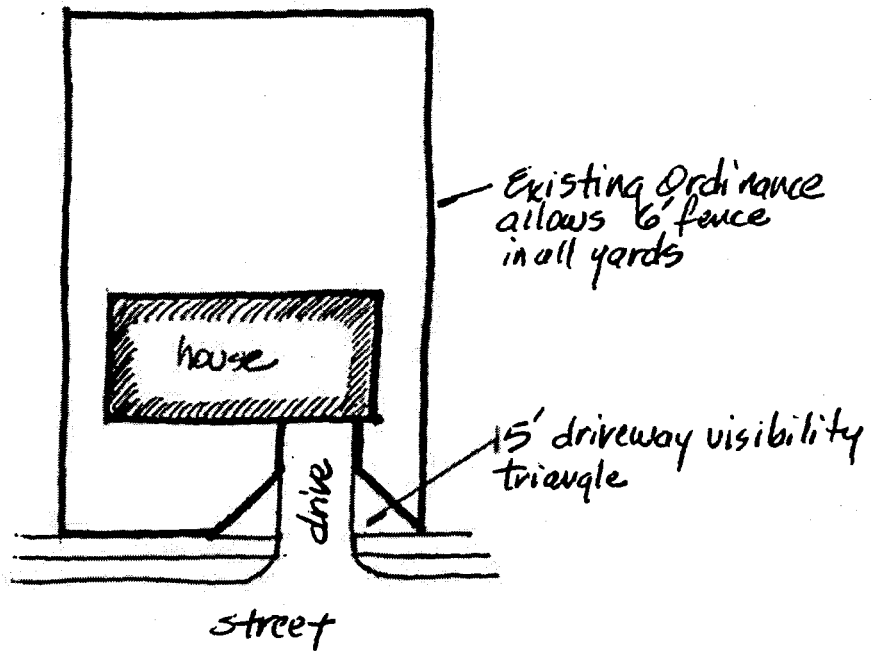
1. Revise Paragraph 4.3.3 G. as follows:

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

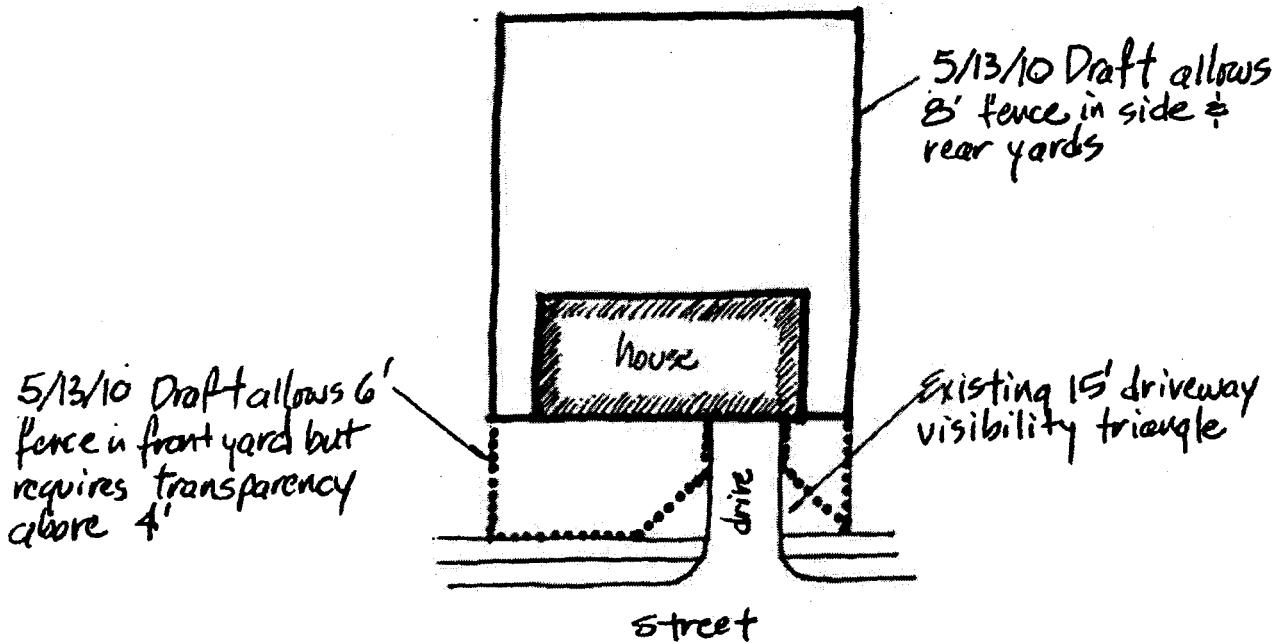
G. Fences

1. Fences in R Zoning Districts and on residential lots less than five acres in the AG Districts shall not exceed the following height limits: six feet in HEIGHT and may be located in required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
 - a. In required FRONT YARDS fences shall not exceed six feet in HEIGHT provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. In required SIDE and REAR YARDS fences shall not exceed eight feet in HEIGHT.
2. Fences in B and I Zoning Districts shall not exceed eight feet in HEIGHT not including any barbed wire security barrier which may be up to an additional two feet in HEIGHT. Fences may be located in the required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.

Admi
76 E.
Urb:

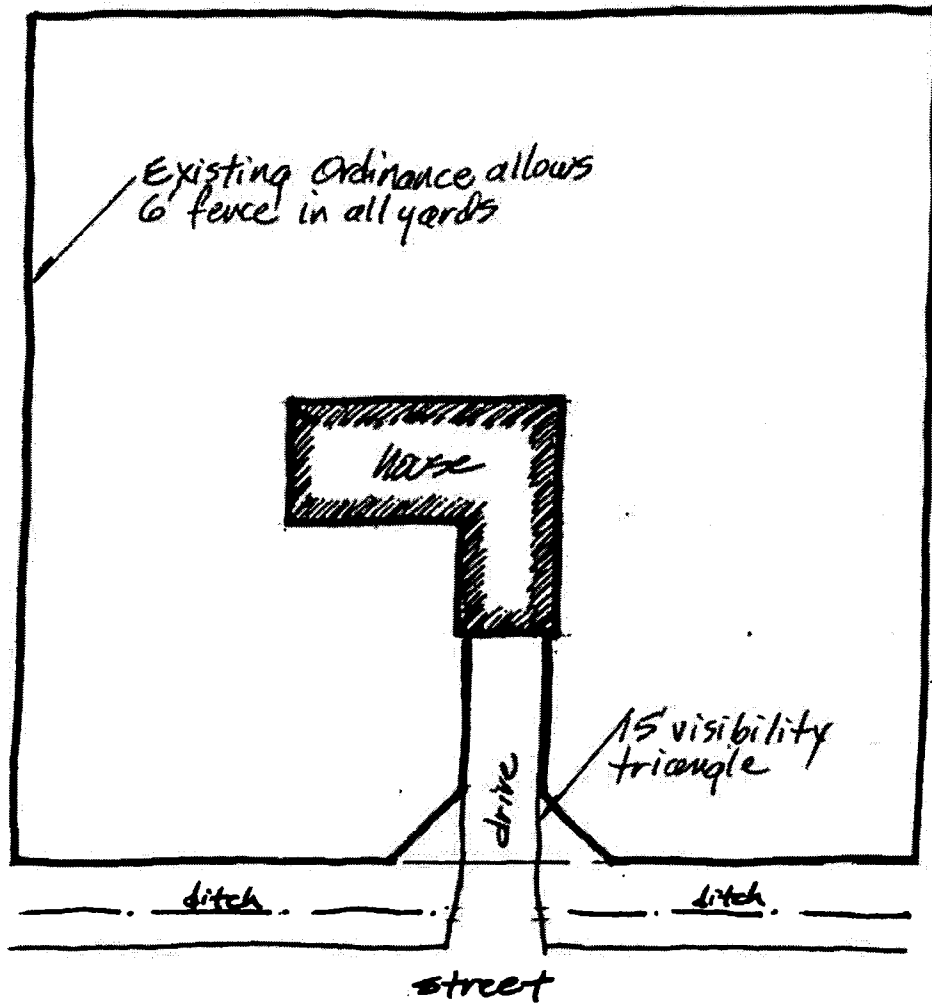


EXISTING - RESIDENTIAL DIST.S



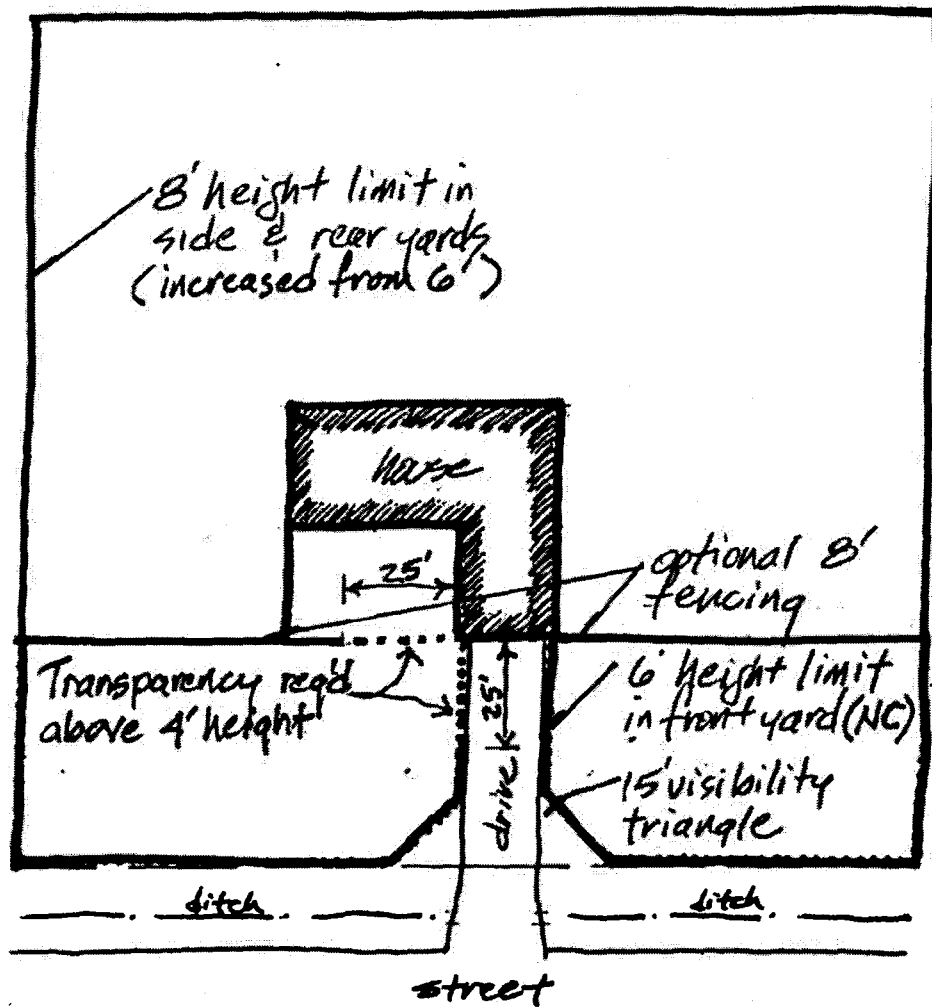
DRAFT - RESIDENTIAL DIST.S
 (UNCHANGED FROM 5/13/10)

A 12/30/10

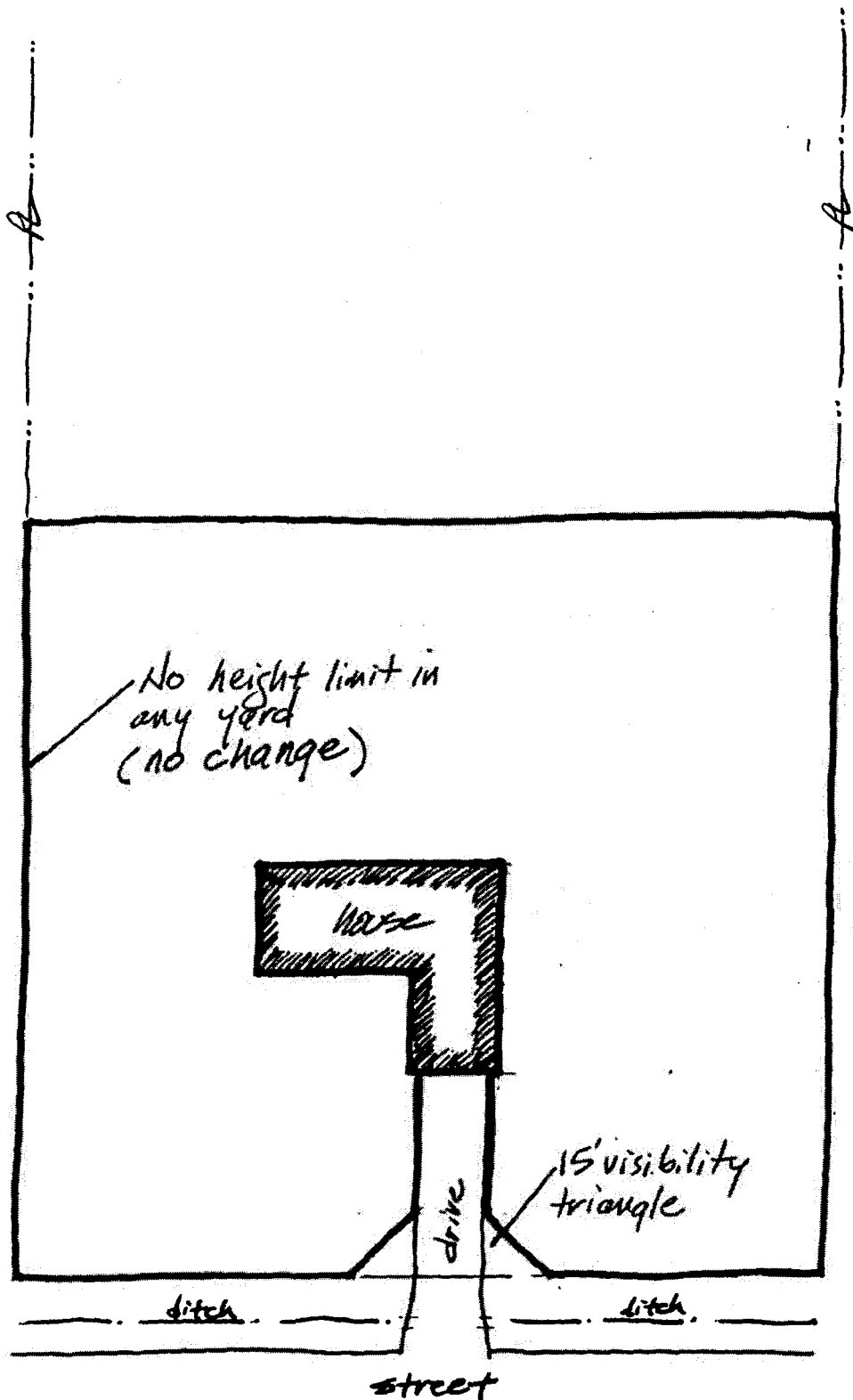


EXISTING - RESIDENTIAL LOT - SAC. in AG DISTRICTS

B



REV. DRAFT- RESIDENTIAL LOT 5AC in AGO DIST.



EXISTING-RESIDENTIAL LOT \geq 5AC in ^{any lot in} AG, CR DIST.
 (REVISED DRAFT)

Table Comparing Residential Fence Height Limits in Champaign County Zoning Ordinance¹ to Larger Local Municipalities

REVISED 12/24/10

DRAFT

Parameter	Existing Champaign County	City of Champaign	City of Urbana	Village of Mahomet	Village of Rantoul	Village of Savoy	Village of St. Joseph
In or around side and rear yards	6 feet	8 feet	8 feet	7 feet	8 feet	6 feet ^b	8 feet ^c
In or around a required front yard	6 feet	3 feet; or 6 feet ² T	4, 6, or 8 feet ³ T	3.5 feet	3 feet ⁴ ; or 4 feet ⁵ T		3 feet ^b T

1. Champaign County Zoning Ordinance limits fence height to six feet in Residential Districts and residential lots less than five acres in area in the AG Districts.
2. Fencing between 3 feet and 6 feet tall must be at least 50% transparent.
3. See par. 7-5 (a) and (b) of Urbana fencing ordinance (see attached)
4. For fences that are less than 70% open
5. For fences that are 70% or more open
6. Based on a phone call to Village staff. A search of the Savoy municipal code did not result in any fence height regulations.
7. The top two feet of construction must be more than 50% open
8. Fences in front yards are also required to be more than 50% open and chain link or wire mesh fences are not allowed.

T = some degree of transparency required in front yard

1. Revise Paragraph 4.3.3 G. as follows:

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

G. Fences

1. ~~Fences in R Zoning Districts and on residential lots less than five acres in the AG Districts shall not exceed~~ meet the following requirements: six feet in HEIGHT and may be located in required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. Fences located in required FRONT YARDS shall meet the following additional requirements:
 - (1) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.4.; and
 - (2) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent.
 - c. Fences located in required SIDE and REAR YARDS shall meet the following additional requirements:
 - (1) A maximum of eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.4.;and provided that
 - (2) Any portion of fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall have the same HEIGHT limit as if in a SIDE YARD; and further provided that
 - (3) Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.
2. Fences on residential lots in the AG and CR Zoning Districts shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. On lots less than five acres in area in the AG Zoning Districts the following additional requirements shall apply:
 - (1) Fences located in required FRONT YARDS shall meet the following requirements:
 - (a) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.4. ; and
 - (b) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located between the DWELLING and the driveway within 25 feet of the dwelling.

- (2) Fences located in required SIDE and REAR YARDS shall not exceed eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.4.
3. Fences in B and I Zoning Districts shall not exceed eight feet in HEIGHT not including any clearance authorized in subparagraph 4.3.3 G.4., except that any barbed wire security barrier which may be up to an additional two feet in HEIGHT. Fences may be located in the required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
4. The height of fences shall be measured from the highest adjacent GRADE and may be in addition to up to three inches of clearance between the highest adjacent GRADE and the bottom of the fence. No minimum clearance is required by this Ordinance, and further, the fence HEIGHT may be increased by any portion of the allowable three inches of clearance to GRADE that is not used as clearance.

AS APPROVED

665-AT-10

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

Final Determination: **RECOMMEND ENACTMENT**

Date: January 20, 2011

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 less than five acres in area 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 less than five acres in the AG 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.

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 25, 2010; May 13, 2010; May 27, 2010; July 15, 2010; September 16, 2010; October 14, 2010; December 16, 2010; January 6, 2011; and January 20, 2011**, the Zoning Board of Appeals of Champaign County finds that:

- 1. The petitioner is the Zoning Administrator.
- 2. The need for the amendment came about as follows:
 - A. In October 2007 and April 2008 the Zoning Board of Appeals (ZBA) heard variance cases regarding fence height in the City of Champaign one and one-half mile extraterritorial jurisdiction.

AS-APPROVED FINDING OF FACT

ITEM 2. CONTINUED

- B. Later in 2008, the Department was approached by another person who desired to build an eight foot fence in the County's jurisdiction. At the time staff was contemplating this text amendment and so the Zoning Administrator approved the fence provided the petitioner was willing to abide by the outcome of this proposed text amendment or any variance that may be required.
 - C. These cases revealed that the maximum fence height limit of six feet for lots in the R Zoning Districts and residential lots in the AG districts is more restrictive than most municipalities in the county.
 - D. Note that the County's fence height limits do not, apparently, apply to residential lots in the AG Districts that are five acres or greater in area or lots in the CR District. The Department has never received a complaint regarding a situation like this nor has it received any request to build an unusually tall fence in the AG or CR Districts.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

GENERALLY REGARDING THE EXISTING ZONING REGULATIONS

4. Existing Zoning regulations regarding the separate parts of the proposed amendment are as follows:
- A. Maximum fence height for Residential Zoning Districts and residential lots less than five acres in area in the AG Districts are established in Subparagraph 4.3.3 G.1, as follows:
 - Fences in R Zoning DISTRICTS and on residential lots less than five acres in the AG DISTRICTS shall not exceed six feet in HEIGHT and may be located in required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
 - B. The following definitions from the *Zoning Ordinance* are especially relevant to this amendment (capitalized words are defined in the Ordinance):
 - (1) "BOARD" shall mean the Zoning Board of Appeals of the COUNTY
 - (2) "GOVERNING BODY" shall mean the County Board of Champaign County, Illinois.
 - (3) "HEIGHT" as applied to an enclosed or unenclosed STRUCTURE:

STRUCTURE, DETACHED: The vertical measurement from the average level of the surface of the ground immediately surrounding such STRUCTURE to the uppermost portion of such STRUCTURE.

STRUCTURE, ATTACHED: Where such STRUCTURE is attached to another STRUCTURE and is in direct contact with the surface of the ground, the vertical measurement from the average level of the surface of the ground immediately adjoining such STRUCTURE to the uppermost portion of such STRUCTURE

ITEM 3.B.(3) CONTINUED

shall be HEIGHT. Where such STRUCTURE is attached to another STRUCTURE and is not in direct contact with the surface of the ground, the vertical measurement from the lowest portion of such STRUCTURE to the uppermost portion shall be the HEIGHT.

- (4) "STRUCTURE" is 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.

SUMMARY OF THE PROPOSED AMENDMENT

5. The proposed amendment is summarized here as it will appear in the Zoning Ordinance, as follows:

G. Fences

- 1. Fences in R Zoning Districts shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. Fences located in required FRONT YARDS shall meet the following additional requirements:
 - (1) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5.; and
 - (2) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent.
 - c. Fences located in required SIDE and REAR YARDS shall meet the following additional requirements:
 - (1) A maximum of eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5; and provided that
 - (2) Any portion of fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall have the same HEIGHT limit as if in a SIDE YARD; provided that
 - (3) Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.
- 2. Fences on residential lots in the AG and CR Zoning Districts shall meet the following requirements:

AS-APPROVED FINDING OF FACT

ITEM 5. CONTINUED

- a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
- b. On lots less than five acres in area in the AG Districts the following additional requirements shall apply:
 - (1) Fences located in required FRONT YARDS shall meet the following requirements:
 - (a) They shall not exceed six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5.; and
 - (b) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located between the DWELLING and the driveway within 25 feet of the dwelling.
 - (2) Fences located in required SIDE and REAR YARDS shall not exceed eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.
4. Fences in B and I Zoning Districts shall not exceed eight feet in HEIGHT not including any clearance authorized in subparagraph 4.3.3 G.5., except that any barbed wire security barrier may be up to an additional two feet in HEIGHT. Fences may be located in the required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
5. The HEIGHT of fences shall be measured from the highest adjacent GRADE and may be in addition to up to three inches of clearance between the highest adjacent GRADE and the bottom of the fence. No minimum clearance is required by this Ordinance, and further, the fence HEIGHT may be increased by any portion of the allowable three inches of clearance to GRADE that is not used as clearance.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

6. 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:”

ITEM 6. CONTINUED

- B. The LRMP defines Goals, Objectives, and Polices 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.”
- D. LRMP Objective 1.1 is entitled “Guidance on Land Resource Management Decisions”, and states, “Champaign County will consult the LRMP that formally establishes County land resource management policies and serves as an important source of guidance for the making of County land resource management decisions.”
- E. Goal 1 of the LRMP is relevant to the review of the LRMP Goals, Objectives, and Policies in land use decisions (see Item 6.D. above), but is otherwise not relevant to the proposed amendment.

REGARDING LRMP GOAL 2 GOVERNMENTAL COORDINATION

- 7. LRMP Goal 2 is entitled “Governmental Coordination” and is relevant to the proposed amendment because the proposed amendment will make Champaign County fence regulations more similar to local municipal fence regulations. Goal 2 states, “Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.”

The proposed amendment **ACHIEVES** Goal 2 because of the following:

- A. Goal 2 includes two subsidiary Objectives. Objective 2.2 does not appear to be relevant to the proposed amendment.
- B. Objective 2.1 is entitled “Local and Regional Coordination,” and states, “Champaign County will coordinate land resource management planning with all County jurisdictions and, to the extent possible, in the larger region.”

The proposed amendment **ACHIEVES** Objective 2.1 because of the following:

- (1) Objective 2.1 includes three subsidiary Policies. None of the Policies appear to be relevant to the proposed amendment.

AS-APPROVED FINDING OF FACT

ITEM 7.B. CONTINUED

- (2) Regarding municipal fencing requirements in Champaign County:
 - (a) The City of Champaign allows fences to be eight feet tall in side and rear yards, and does allow six feet fences in front yards but any fencing in a front yard that is taller than three feet in height must be chain link, wire mesh, or a similar type of transparent fencing.
 - (b) The City of Urbana allows fences up to eight feet tall in side and rear yards and allows fences to be eight feet tall in front yards where the front yard abuts a principal arterial street or a minor arterial street and requires all fencing within a required front yard to be no more than 50% opaque.
 - (c) The Village of Mahomet allows fences up to seven feet tall in side and rear yards and no more than 3.5 feet tall with no transparency requirement in front yards.
 - (d) The Village of Rantoul allows fences up to eight feet tall in side and rear yards and in front yards fencing may be 3 feet tall provided less than 70% open or up to 4 feet tall with 70% or more open.
 - (e) The Village of Savoy allows fences to be up to six feet tall in side and rear yards. Note that staff was unable to find a maximum fence height in the Savoy ordinances, but was advised of the fence height limit by Village staff.
 - (f) The Village of St. Joseph allows fences up to eight feet in height in side and rear yards so long as the top two feet are more than 50% open construction and up to three feet in height and more than 50% open in front yards.
- (3) Increasing the allowable fence height will provide landowners in the unincorporated area as much freedom in regards to fencing as property owners in municipalities.

REGARDING LRMP GOAL 3 PROSPERITY

8. LRMP Goal 3 is entitled "Prosperity" and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 4 AGRICULTURE

9. LRMP Goal 4 is entitled "Agriculture" and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 5 URBAN LAND USE

10. LRMP Goal 5 is entitled "Urban Land Use" and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 6 PUBLIC HEALTH AND SAFETY

11. LRMP Goal 6 is entitled “Public Health and Public Safety” and is relevant to the proposed amendment because the changes to fence transparency affect public safety. Goal 6 states, “Champaign County will ensure protection of the public health and public safety in land resource management decisions.”

The proposed amendment *ACHIEVES* Goal 6 because of the following:

- A. Goal 6 includes four subsidiary Objectives. Objectives 6.2, 6.3, and 6.4 do not appear to be relevant to the proposed amendment.
- B. Objective 6.1 is entitled “Protect Public Health and Safety” and states, “Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.”

The proposed amendment *ACHIEVES* Objective 6.1 because of the following:

- (1) Objective 6.1 includes four subsidiary Policies. None of the Policies appear to be relevant to the proposed amendment.
- (2) The proposed amendment requires fencing that is located in required front yards to be at least 50% transparent, depending on the zoning district, as follows:
- (a) In Residential zoning districts all fencing that is located in the front yard that is over four feet in height is required to meet the transparency requirement.
- (b) On lots less than five acres in area in the AG districts fencing in the front yard is only required to meet a transparency requirement if it is located between the DWELLING and the driveway within 25 feet of the dwelling.
- (3) Champaign County Sheriff Dan Walsh, in an email to Zoning Administrator, John Hall, indicated he has the following concerns regarding fencing:
- (a) When responding to a call (or even on routine patrol) it is always beneficial to be able to see “more.”
- (b) Deputies will be safer when responding to calls if they can observe dangerous conditions or persons and plan their response and avenue of approach accordingly.
- (c) Likewise, if on patrol a deputy can see a “bad situation” in a front/side yard or front porch or even inside the house they can take action without a call from a citizen.
- (d) Access in an emergency response situation could also be problematic if there is a tall barrier and a locked gate.
- (e) The Sheriff’s Department certainly respects a citizen’s right of privacy and to be able to do what they want with their own property.

AS-APPROVED FINDING OF FACT

ITEM 11.B. CONTINUED

- (f) A solid barrier (fence or even vegetation in some cases) height of 3-4 ft. seems to be very normal in ordinances (for front and/or side yards) including C-U and would reduce our concerns with regard to fencing.
- (4) Preliminary comments from a township plan commission were received on May 12, 2010, which indicated requiring all of the front yard fencing to be transparent above four feet is too restrictive, and will in fact detract too much from privacy; reduce residential property owner's ability to deal with any agricultural spray drift; and could also be a safety problem by allowing too much visibility of children in the yard, and suggested requiring transparency only for fencing directly in front of the house.
- (5) In an email received on May 12, 2010, Sheriff Dan Walsh indicated that Lt. Jones, who runs the Sheriff's department patrols, considered that requiring transparency for fencing directly in front of the house would be adequate.
- (6) No transparency requirement is recommended for lots five acres or larger in the AG District and on any size lot in the CR District for the following reasons:
 - (a) Maximum fence heights are not currently regulated in these areas and any new requirement for transparency in front yards would be very difficult to enforce.
 - (b) Because of the larger lot sizes and typically greater setbacks in these areas any transparency requirement would provide very little benefit to public safety personnel.
 - (c) Fire protection districts already have protocols in place to provide access when gates are locked and the same protocols can provide access for law enforcement.

REGARDING LRMP GOAL 7 TRANSPORTATION

- 12. LRMP Goal 7 is entitled "Transportation" and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 8 NATURAL RESOURCES

- 13. LRMP Goal 8 is entitled "Natural Resources" and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 9 ENERGY CONSERVATION

- 14. LRMP Goal 9 is entitled "Energy Conservation" and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 10 CULTURAL AMENITIES

15. LRMP Goal 10 is entitled "Cultural Amenities" and does not appear to be relevant to the proposed amendment.

REGARDING OTHER RELEVANT EVIDENCE

16. Regarding other relevant evidence:
- A. The allowance for clearance between fence panels and the surface of the ground is intended to provide some flexibility for fence installers who must account for the natural fluctuations in the surface of the ground.
 - B. Increasing the allowable fence height to eight feet will reduce the need for variances which will reduce the costs of the County's zoning program.
 - C. Regarding the economic soundness of the proposed amendment:
 - (1) The proposed three-inch ground clearance is reasonable in regards to pre-manufactured fence panels for the following reasons:
 - (a) Pre-manufactured fence panels are available in standard six-foot high panels.
 - (b) Adding the proposed three inch clearance to ground means that standard six-foot high pre-manufactured fence panels can be installed above the surface of the ground without the need to cut off any of the fence panel.
 - (c) Three inches is an arbitrary amount for the ground clearance but it allows the fence to be at least one inch above the highest point of a ground surface that could vary by as much as two inches.
 - (2) The proposed three-inch ground clearance is reasonable in regards to custom made fence panels for the following reasons:
 - (a) Eight-foot high fences are generally custom built.
 - (b) Eight feet is a standard increment of length for lumber.
 - (c) Adding the proposed three-inch clearance to ground means that custom made eight-foot high fencing can be installed above the surface of the ground without the need to cut off and waste so much of the lumber.
 - (d) Three inches is an arbitrary amount for the ground clearance but it allows the fence to be at least one inch above the highest point of a ground surface that could vary by as much as two inches.

AS-APPROVED FINDING OF FACT

DOCUMENTS OF RECORD

1. Memo to the Champaign County Board Committee of the Whole, dated, February 22, 2010, regarding direction to Zoning Administrator regarding a necessary zoning ordinance text amendment to conduct a proposed Zoning Ordinance text amendment changing fence height limits
2. Application for Text Amendment from Zoning Administrator, dated March 3, 2010
3. Preliminary Memorandum for Case 665-AT-10, dated March 19, 2010, with attachments:
 - A Table Comparing Residential Fence Height Limits in Champaign County Zoning Ordinance to Larger Local Municipalities
 - B Draft Proposed Change to Paragraph 4.3.3 G.
 - C Draft Finding of Fact for Case 665-AT-10
4. Supplemental Memorandum for Case 665-AT-10, dated March 25, 2010
5. Supplemental Memorandum for Case 665-AT-10, dated May 7, 2010, with attachments:
 - A Revised Draft Proposed Change to Paragraph 4.3.3 G.
 - B Revised Draft Summary of Evidence for Zoning Case 665-AT-10
6. Supplemental Memorandum for Case 665-AT-10, dated May 13, 2010, with attachments:
 - A Revised Draft Proposed Change to Paragraph 4.3.3 G.
 - B Alternative Revised Draft Proposed Change to Paragraph 4.3.3 G.
7. Staff Fence Diagrams A, B, C, D, E handed out on May 13, 2010
8. Alternative Fence Diagrams C, E handed out on May 13, 2010
9. Supplemental Memorandum for Case 665-AT-10, dated May 21, 2010, with attachments:
 - A Revised Draft Proposed Change to Paragraph 4.3.3 G.
 - B Alternative Revised Draft Proposed Change to Paragraph 4.3.3 G.
 - C Revised Finding of Fact for Case 665-AT-10
10. Supplemental Memorandum for Case 665-AT-10, dated May 27, 2010, with attachments:
 - A Illustration of Revised Alternative Transparency Requirement for AG and CR Districts
 - B Ordinance Text Describing Alternative Transparency Requirement for AG and CR Districts
11. Supplemental Memorandum for Case 665-AT-10, dated July 9, 2010
12. Supplemental Memorandum for Case 665-AT-10, dated September 10, 2010, with attachment:
 - A Revised Draft Ordinance

DOCUMENTS OF RECORD CONTINUED

13. Supplemental Memorandum for Case 665-AT-10, dated September 10 (should be 16), 2010, with attachment:
 - A Revised Draft Finding of Fact for Case 665-AT-10
14. Supplemental Memorandum for Case 665-AT-10 dated October 8, 2010
15. Revised Draft Finding of Fact and Final Determination for Case 665-AT-10, dated October 14, 2010
16. Supplemental Memorandum for Case 665-AT-10 dated December 10, 2010
17. Handout titled "Proposed Amendment to Paragraph 4.3.3 G." dated December 16, 2010
18. Supplemental Memorandum for Case 665-AT-10 dated December 30, 2010, with attachments:
 - A Table Comparing Residential Fence Height Limits in Champaign County Zoning Ordinance to Larger Local Municipalities *REVISED 12/30/10* (with excerpt from Urbana fence code)
 - B Revised Draft Amendment
 - C Revised Fencing Diagrams

AS-APPROVED FINDING OF FACT

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 665-AT-10 should **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

1. Revise Paragraph 4.3.3 G. to read as follows:

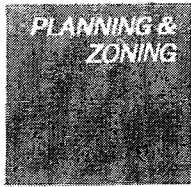
G. Fences

1. Fences in R Zoning Districts shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. Fences located in required FRONT YARDS shall meet the following additional requirements:
 - (1) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5.; and
 - (2) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent.
 - c. Fences located in required SIDE and REAR YARDS shall meet the following additional requirements:
 - (1) A maximum of eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5; and provided that
 - (2) Any portion of fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall have the same HEIGHT limit as if in a SIDE YARD; provided that
 - (3) Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.
2. Fences on residential lots in the AG and CR Zoning Districts shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. On lots less than five acres in area in the AG Zoning Districts the following additional requirements shall apply:
 - (1) Fences located in required FRONT YARDS shall meet the following requirements:
 - (a) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5. ; and
 - (b) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located between the DWELLING and the driveway within 25 feet of the dwelling.

AS-APPROVED FINDING OF FACT

- (2) Fences located in required SIDE and REAR YARDS shall not exceed eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5
3. Fences in B and I Zoning Districts shall not exceed eight feet in HEIGHT not including any clearance authorized in subparagraph 4.3.3 G.5., except that any barbed wire security barrier may be up to an additional two feet in HEIGHT. Fences may be located in the required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
4. The HEIGHT of fences shall be measured from the highest adjacent GRADE and may be in addition to up to three inches of clearance between the highest adjacent GRADE and the bottom of the fence. No minimum clearance is required by this Ordinance, and further, the fence HEIGHT may be increased by any portion of the allowable three inches of clearance to GRADE that is not used as clearance.

Champaign
County
Department of



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

(217) 384-3708

To: **Champaign County Board Committee of the Whole**
From: **John Hall, Zoning Administrator**

Date: **February 1, 2011**

RE: **Zoning Ordinance text amendment (Case 666-AT-10)**

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.**

Petitioner: **Zoning Administrator**

STATUS

The Zoning Board of Appeals voted to RECOMMEND ENACTMENT of this proposed Zoning Ordinance text amendment at their meeting on January 20, 2011.

The changes in the Recommended Ordinance are the same as was authorized by the Committee of the Whole at the March 2, 2010, meeting. Attachment A is the memo that the Committee reviewed at the meeting on March 2, 2010, when the Committee authorized the proposed amendment.

Note the wind farm shadow flicker requirements that were also included in Attachment A have already been amended in Case 664-AT-10 (Ordinance 864) that was approved on June 24, 2010

Standard protocol is for the Committee to make a preliminary recommendation on a proposed text amendment but defer the text amendment for one month while awaiting municipal and township comments or protests.

ATTACHMENTS

- A February 22, 2010, Committee of the Whole memorandum
- B Recommended Ordinance (Annotated)
- C As-Approved Finding of Fact with Proposed Ordinance

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: **JR Knight, Associate Planner**
John Hall, Zoning Administrator

Date: **February 22, 2010**

RE: **Direction to Zoning Administrator Regarding a Necessary Zoning Ordinance Text Amendment**

Request **Committee approval to conduct a proposed Zoning Ordinance text amendment clarifying standard conditions and clarifying wind farm shadow flicker requirements.**

Petitioner **Zoning Administrator**

BACKGROUND

Committee approval is sought to conduct a text amendment to the Zoning Ordinance to revise Subsection 6.1 and Paragraph 9.1.11 D.1. to clarify how standard conditions are applied and delete Paragraph 6.1.4 A.1.(c) to make the wind farm shadow flicker standard condition more internally consistent.

The part of this amendment related to Sections 6 and 9 are enhancements to the existing Zoning Case 658-AT-09 Part B based on the comments received at the February 4, 2010, meeting. Those comments are included as an attachment to that memo.

REVISION OF 6.1 AND 9.1.11 REGARDING APPLICATION OF STANDARD CONDITIONS

Subsection 6.1 and Paragraph 9.1.11 D.1. define standard conditions and establish the ability of the ZBA and County Board to waive them based on certain findings. Comments were received during the public hearing for Zoning Case 658-AT-09 asserting that the more correct interpretation of these two parts of the Zoning Ordinance is that only standard conditions which have the same kind of requirements in Section 5.3 are subject to waiver.

The alternative interpretation does not agree with the intent of Zoning Case 855-AT-93, which was the Zoning Ordinance Text Amendment that changed Special Use standards into standard conditions that are subject to waiver. That interpretation also does not agree with the practice of the Planning and Zoning Department for the 17 years since Zoning Case 855-AT-93 was adopted. Nonetheless, this alternative interpretation indicates that disagreement is likely and it would be best to eliminate any cause for disagreement or confusion.

The proposed revisions to these two parts of the Zoning Ordinance are an attempt to make it clear that all the standard conditions now listed under Subsection 6.1 are in fact standard conditions subject to waiver.

DELETION OF 6.1.4 A.1(c) REGARDING WIND FARM SHADOW FLICKER CONDITIONS

Paragraph 6.1.4 M. establishes Standard Conditions for Shadow Flicker and requires that all areas subject to more than 30 hours of shadow flicker per year are to be provided with some form of mitigation. This Paragraph was revised by ELUC after the public hearing for Zoning Case 634-AT-08 Part A. However, Paragraph 6.1.4 A.1.(c) was not revised by ELUC and still requires land that is subject to more shadow flicker than authorized in 6.1.4 M. which receives no other mitigation to be part of the Special Use Permit Area. The two paragraphs are inconsistent and the intent of Paragraph 6.1.4 M. is that there can be no land receiving more than 30 annual hours of shadow flicker, which does not receive some form of mitigation. Paragraph 6.1.4 A.1.(c) is unnecessary and illogical, and should be deleted.

ATTACHMENT

A Preliminary Draft Amendment

1. Revise Subsection 6.1 as follows:

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

The standards listed in this Subsection ~~for specific SPECIAL USES~~ which exceed the applicable DISTRICT standards in Section 5.3, in either amount or kind, and which are not specifically required under another COUNTY ordinance, state regulation, federal regulation, or other authoritative body having jurisdiction, to the extent that they exceed the standards of the DISTRICT, in either amount or kind, shall be considered standard conditions which the BOARD is authorized to waive upon application as provided in Section 9.1.11 on an individual basis.

2. Delete Paragraph 6.1.4 A.1.(c) as follows:

A. General Standard Conditions

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

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

3. Revise Paragraph 9.1.11. D.1. as follows:

Any other provision of this ordinance notwithstanding, the BOARD or GOVERNING BODY, in granting any SPECIAL USE, may waive upon application any standard or requirement for the specific SPECIAL USE enumerated in Section 6.1.3 ~~Schedule of Requirements and Standard Conditions~~ Standards for Special Uses, to the extent that they exceed the minimum standards of the DISTRICT, in either amount or kind, except for any state or federal regulation incorporated by reference, upon finding that such waiver is in accordance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or to the public health, safety and welfare.

1. Revise Subsection 6.1 as follows:

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

The standards listed in this Subsection ~~for specific SPECIAL USES~~ which exceed the applicable DISTRICT standards in Section 5.3, in either amount or kind, and which are not specifically required under another COUNTY ordinance, state regulation, federal regulation, or other authoritative body having jurisdiction, to the extent that they exceed the standards of the DISTRICT, in either amount or kind, shall be considered standard conditions which the BOARD or GOVERNING BODY is authorized to waive upon application as provided in Section 9.1.11 on an individual basis.

2. Revise Paragraph 9.1.11. D.1. as follows:

Any other provision of this ordinance notwithstanding, the BOARD or GOVERNING BODY, in granting any SPECIAL USE, may waive upon application any standard or requirement for the specific SPECIAL USE enumerated in Section 6.1-3 ~~Schedule of Requirements and Standard Conditions~~ Standards for Special Uses, to the extent that they exceed the minimum standards of the DISTRICT, in either amount or kind, except for any state or federal regulation incorporated by reference, upon finding that such waiver is in accordance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or to the public health, safety and welfare.

AS APPROVED

666-AT-10

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

Final Determination: **RECOMMEND ENACTMENT**

Date: January 20, 2011

Petitioner: Zoning Administrator

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.

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 25, 2010; July 15, 2010; September 16, 2010, and October 14, 2010; December 16, 2010; January 6, 2011; and January 20, 2011**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The need for the amendment came about as follows:
 - A. In Zoning Case 634-AT-08 Part A (adding wind farm requirements), item 15 of the amendment gave the County Board the authority to waive any standard condition and since site reclamation is a necessary component of wind farm decommissioning, item 13 made the necessary change to allow the County Board to waive site reclamation.
 - B. Subsection 6.1 and Paragraph 9.1.11 D.1. define standard conditions and establish the ability of the ZBA and County Board to waive them based on certain findings.
 - C. Comments were received during the public hearing for Zoning Case 658-AT-09 asserting that the more correct interpretation of these two parts of the Zoning Ordinance is that only standard conditions which have the same kind of requirements in Section 5.3 are subject to waiver.
 - D. Those comments indicate that disagreement is likely and it would be best to eliminate any cause for disagreement or confusion.
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.

AS-APPROVED FINDING OF FACT

GENERALLY REGARDING THE EXISTING ZONING REGULATIONS

4. Existing Zoning regulations regarding the proposed amendment are as follows:
- A. Subsection 6.1 and Subparagraph 9.1.11 D.1. establish standard conditions and their being subject to waiver as follows:
- (1) Subsection 6.1 states:
- The standards listed for specific SPECIAL USES which exceed the applicable DISTRICT standards in Section 5.3 and which are not specifically required under another COUNTY ordinance, state regulation, federal regulation, or other authoritative body having jurisdiction, to the extent that they exceed the standards of the DISTRICT, shall be considered standard conditions which the BOARD is authorized to waive upon application as provided in Section 9.1.11 on an individual basis.
- (2) Subparagraph 9.1.11 D.1. states:
- An other provision of this ordinance notwithstanding, the BOARD, in granting any SPECIAL USE, may waive upon application any standard or requirement for the specific SPECIAL USE enumerated in Section 6.1.3 Schedule of Requirements and Standard Conditions, to the extent that they exceed the minimum standards of the DISTRICT, except for any state or federal regulation incorporated by reference, upon finding that such waiver is in accordance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or to the public health, safety and welfare.
- B. The following definitions from the *Zoning Ordinance* are especially relevant to this amendment (capitalized words are defined in the Ordinance):
- (1) "BOARD" shall mean the Zoning Board of Appeals of the COUNTY
- (2) "GOVERNING BODY" shall mean the County Board of Champaign County, Illinois.
- (3) "SPECIAL CONDITION" is a condition for the establishment of the SPECIAL USE.

SUMMARY OF THE PROPOSED AMENDMENT

5. The proposed amendment is summarized here as it will appear in the Zoning Ordinance, as follows (Underline and ~~strikeout~~ text indicate changes from the current Ordinance):
- A. Revised Subsection 6.1 will appear as follows:

6.1 Standard for SPECIAL USES

The standards listed in this Subsection ~~for specific SPECIAL USES~~ which exceed the applicable DISTRICT standards in Section 5.3, in either amount or kind, and which are

not specifically required under another COUNTY ordinance, state regulation, federal regulation, or other authoritative body having jurisdiction, to the extent that they exceed the standards of the DISTRICT, in either amount or kind, shall be considered standard conditions which the BOARD or GOVERNING BODY is authorized to waive upon application as provided in Section 9.1.11 on an individual basis.

- B. Revised Subsection 9.1.11 D.1 will appear as follows:
 - 1. Any other provision of this ordinance notwithstanding, the BOARD or GOVERNING BODY, in granting any SPECIAL USE, may waive upon application any standard or requirement for the specific SPECIAL USE enumerated in Section 6.1.3 ~~Schedule of Requirements and Standard Conditions~~ Standards for Special Uses, to the extent that they exceed the minimum standards of the DISTRICT, in either amount or kind, except for any state or federal regulation incorporated by reference, upon finding that such waiver is in accordance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or to the public health, safety and welfare.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

- 6. 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.”

AS-APPROVED FINDING OF FACT

ITEM 6. CONTINUED

- D. LRMP Objective 1.1 is entitled “Guidance on Land Resource Management Decisions”, and states, “Champaign County will consult the LRMP that formally establishes County land resource management policies and serves as an important source of guidance for the making of County land resource management decisions.”
- E. Goal 1 of the LRMP is relevant to the review of the LRMP Goals, Objectives, and Policies in land use decisions (see Item 6.D. above), but is otherwise not relevant to the proposed amendment.

REGARDING OTHER GOALS

- 7. LRMP Goal 2 is entitled “Governmental Coordination” and does not appear to be relevant to the proposed amendment.
- 8. LRMP Goal 3 is entitled “Prosperity” and does not appear to be relevant to the proposed amendment.
- 9. LRMP Goal 4 is entitled “Agriculture” and does not appear to be relevant to the proposed amendment.
- 10. LRMP Goal 5 is entitled “Urban Land Use” and does not appear to be relevant to the proposed amendment.
- 11. LRMP Goal 6 is entitled “Public Health and Public Safety” and does not appear to be relevant to the proposed amendment.
- 12. LRMP Goal 7 is entitled “Transportation” and does not appear to be relevant to the proposed amendment.
- 13. LRMP Goal 8 is entitled “Natural Resources” and does not appear to be relevant to the proposed amendment.
- 14. LRMP Goal 9 is entitled “Energy Conservation” and does not appear to be relevant to the proposed amendment.
- 15. LRMP Goal 10 is entitled “Cultural Amenities” and does not appear to be relevant to the proposed amendment.

REGARDING OTHER RELEVANT EVIDENCE

- 16. Regarding other relevant evidence:
 - A. When the Zoning Ordinance was adopted on October 10, 1973, Section 6.1 was the “Schedule of Area, Height, and Location Regulations for Specific SPECIAL USES.”

ITEM 16. CONTINUED

- B. Zoning Case 855-AT-93 renumbered Section 6.1 to 6.1.3, renamed it to the “Schedule of Requirements and Standard Conditions,” and granted the Zoning Board of Appeals the power to waive standard conditions for Special Uses. In that case the ZBA made several relevant findings, as follows:
- (1) Item 17 in the Finding of Fact for Case 855-AT-93 states, “The public hearing process for Special Use Permits provides for due process for all interested parties.”
 - (2) Item 18 in the Finding of Fact for Case 855-AT-93 states, “Permitting the Zoning Board of Appeals to waive special standards to the extent they exceed the applicable standards of the district will ease the review of Special Use cases and eliminate the filing of parallel variance cases.”
- C. In granting a waiver the Board is required to make two findings, as follows:
- (1) That such waiver is in accordance with the general purpose and intent of the Zoning Ordinance; and
 - (2) That such waiver will not be injurious to the neighborhood, or to the public health, safety, and welfare.
 - (3) These two findings are essentially the same as two of the required criteria for variances found in subparagraph 9.1.9 C.1.d. and 9.1.9 C.1.e.
- D. Regarding petitioners’ ability to seek relief from unreasonable requirements of the Zoning Ordinance:
- (1) If the Board’s ability to grant waivers was reduced to only those standard conditions with equivalent requirements in Section 5.3, as suggested by comments received during Zoning Case 658-AT-09, all other standard conditions would still be subject to variance, and a petitioner’s ability to seek relief from unreasonable standard conditions would be largely unchanged.
 - (2) However, in a Special Use Permit case where variances from multiple standard conditions were required, a petitioner would be required to pay Zoning Case Filing Fees for the Special Use Permit and for the parallel Variance case. Time spent in the public hearing for that case would also increase as the ZBA and County Board would be required to consider the Special Use Permit and all required Variances separately.
 - (3) In the case of County Board Special Use Permits for wind farms, state statute gives the County Board the right to approve certain variances if they so choose.
 - (4) The State’s Attorney has determined that in regard to County Board Special Use Permits, waivers of standard conditions are subject to protest by affected townships with plan commissions.

AS-APPROVED FINDING OF FACT

ITEM 16. CONTINUED

- E. Regarding the intent of Subsection 6.1 and subparagraph 9.1.11 D.1:
- (1) Subsection 6.1 and subparagraph 9.1.11 D.1. grant the ZBA and County Board the ability to grant waivers of standard conditions which, "...are not specifically required under another COUNTY ordinance, state regulation, federal regulation, or other authoritative body having jurisdiction..."
 - (2) Section 5.3 of the Zoning Ordinance is entitled "Schedule of Area, Height, and Placement Regulations by District," and establishes requirements for minimum lot area, maximum lot area (for lots in the CR, AG-1, and AG-2 Zoning Districts), minimum average lot width, maximum height of principal and accessory structures (in feet and stories), front setback from street centerlines, front yard, side yard, rear yard, and maximum lot coverage.
 - (3) Other COUNTY ordinances, state regulations, federal regulations, and other authoritative bodies having jurisdiction do not, in general, enact requirements regarding area, height, and placement of structures.
 - (4) The clause quoted in Item 16.E.(1) above is unnecessary if the intent of Subsection 6.1 and subparagraph 9.1.11 D.1 was to grant the ZBA and County Board the ability to grant waivers of only those standard conditions with equivalent requirements in Section 5.3.
- F. The practice of the Zoning Board of Appeals in the 17 years since Zoning Case 855-AT-93 was adopted has been to view all standard conditions as subject to waiver.
- G. Easing the review of special use permit cases and eliminating the filing of parallel variance cases will help keep the costs of the County zoning program lower than it would be otherwise and reduce the application costs to applicants and leave applicants more freedom and flexibility in developing their special use.

DOCUMENTS OF RECORD

1. Memo to the Champaign County Board Committee of the Whole, dated, February 22, 2010, regarding direction to Zoning Administrator regarding a necessary zoning ordinance text amendment to conduct a proposed Zoning Ordinance text amendment clarifying standard conditions and clarifying wind farm shadow flicker requirements
2. Application for Text Amendment from Zoning Administrator, dated March 3, 2010
3. Preliminary Memorandum for Case 666-AT-10, dated March 19, 2010, with attachments:
 - A Draft Proposed Change to Subsection 6.1 and subparagraph 9.1.11 D.1.
 - B Approved Finding of Fact for Zoning Case 855-AT-93
 - C Draft Finding of Fact for Case 666-AT-10
4. Supplemental Memorandum for Case 666-AT-10, dated March 25, 2010
5. Written statement submitted by Herb Schildt on March 25, 2010
6. Supplemental Memorandum for Case 666-AT-10, dated July 9, 2010
7. Supplemental Memorandum for Case 666-AT-10, dated July 9, 2010, (should be September 16, 2010) with attachment:
 - A Letter from Herbert Schildt, Chairman of the Newcomb Township Plan Commission, dated September 13, 2010
8. Supplemental Memorandum for Case 666-AT-10, dated October 8, 2010
9. Supplemental Memorandum for Case 666-AT-10, dated October 14, 2010, with attachment:
 - A Revised Draft Finding of Fact and Final Determination for Case 666-AT-10
10. Supplemental Memorandum for Case 666-AT-10, dated December 10, 2010
11. Supplemental Memorandum for Case 666-AT-10, dated December 16, 2010, with attachments:
 - A Draft Proposed Change to Subsection 6.1 and subparagraph 9.1.11 D.1.
 - B Legal advertisement for Case 634-AT-08
 - C Reformatted Section 6.1 (included separately)
 - D Excerpt of the approved minutes for the April 13, 2009, ELUC meeting regarding Case 634-AT-08
12. Supplemental Memorandum for Case 666-AT-10, dated December 30, 2010, with attachments:
 - A Draft Finding of Fact and Final Determination for Case 666-AT-10

AS-APPROVED FINDING OF FACT

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 666-AT-10** should ***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

1. Revise Subsection 6.1 as follows:

The standards listed in this Subsection which exceed the applicable DISTRICT standards in Section 5.3, in either amount or kind, and which are not specifically required under another COUNTY ordinance, state regulation, federal regulation, or other authoritative body having jurisdiction, to the extent that they exceed the standards of the DISTRICT, in either amount or kind, shall be considered standard conditions which the BOARD or GOVERNING BODY is authorized to waive upon application as provided in Section 9.1.11 on an individual basis.

2. Revise Paragraph 9.1.11. D.1. as follows:

Any other provision of this ordinance notwithstanding, the BOARD or GOVERNING BODY, in granting any SPECIAL USE, may waive upon application any standard or requirement for the specific SPECIAL USE enumerated in Section 6.1 Standards for Special Uses, to the extent that they exceed the minimum standards of the DISTRICT, in either amount or kind, except for any state or federal regulation incorporated by reference, upon finding that such waiver is in accordance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or to the public health, safety and welfare.