

ZONING BOARD OF APPEALS

Tuesday, September 19, 2006
6:30 P.M. – Conference Room B
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Tom Morgan, Chairman
Joe Dunker
Alice Howard
Fred Money
William Orr
Dan Roszkowski

Absent: Tom Przytulski, Jr.

Staff: Todd Cagnoni – Manager of Current Planning
Sandra Hawthorne – Administrative Assistant
Jon Hollander – City Engineer, Public Works
Kerry Partridge – City Attorney, Legal Department
Frank Schmitt – Chief, Fire Prevention Division

Others: Alderman John Beck
Alderman Victory Bell
Alderman Doug Mark
Alderman Linda McNeely
Alderman Joe Sosnowski
Alderman Bill Timm
Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 6:30 P.M. A **MOTION** was made by William Orr to **APPROVE** the minutes of the August 15, 2006 meeting as submitted. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 6-0 with Tom Przytulski absent.

053-06 **1060, 1120, 1140, 1160, 1220 North Mulford Road**
Applicant Dennis Leahy
Ward 1 **Renewal of a Special Use Permit** for an assisted living facility in a R-3, Multi-family
Residential Zoning District

The subject property is located approximately 280 feet south of the southwest corner of the intersection of North Mulford and Guilford Roads, at Vantage Place extending west. This property was granted a Special Use Permit in September 2004 and is asking for a renewal. Robert Zadek, representing the Applicant stated there are no changes to the originally proposed plan.

Staff Recommendation was for Approval with the original conditions. No Objectors were present. A request for renewal of a Special Use Permit is decided on by the Zoning Board of Appeals and would not require any additional approval by Codes and Regulations nor City Council.

A **MOTION** was made by Fred Money to **APPROVE** the Renewal of a Special Use Permit for an assisted living facility in a R-3, Multi-family Residential Zoning District at 1060, 1120, 1140, 1160, 1220 North Mulford Road. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 6 - 0 Approval is subject to the original conditions of approval as noted below.

1. Submittal of a revised site plan to Staff for their review and approval showing the number of dwelling units and type of building to be constructed, not to exceed 106 units. Due to site constraints, staff may determine that a lesser number of units will be permitted.
2. Final engineering and improvement plans for all public and private improvements including final grades, intersection design, and drainage/detention requirements, including final drainage calculations, for review and approval by the Public Works Department.
3. Completion and recordation of a final plat (replat) prior to any building permit issued.
4. Sidewalk along North Mulford Road shall be required.
5. Submittal of a complete, detailed landscaping plan for staff review and approval prior to the issuance of any building permit.
6. Meeting all building and fire codes.
7. Submittal of elevation plans to staff for their review and approval.

ZBA 053-06
Findings of Fact for a Special Use Permit
For An Assisted Living Facility
In a R-3 Zoning District at
1060, 1120, 1140, 1160, 1220 North Mulford Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. There are similar and complimentary uses in the area.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district. The area is fully developed with residential zoning, except for some commercial districts in the middle.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-3 Zoning District in which it is located.

054-06	<u>3118 Kishwaukee Street</u>
Applicant	David Hughes
Ward 6	Special Use Permit for a performance use of motorcycle and off-road vehicle sales and service that cannot satisfy the performance criteria of 600 feet from a residential district in a C-3, Commercial General Zoning District

This property is located on the northeast corner of the intersection of Kishwaukee Street and Sawyer Road. David Hughes, Applicant, reviewed the request for Special Use Permit. He explained the current business is now for the sale of parts and used off-road vehicles. Mr. Hughes further explained this location was an automotive repair shop at one time.

Staff Recommendation was for Approval with no conditions. No Objectors were present.

A **MOTION** was made by Joe Dunker to **APPROVE** the Special Use Permit for a performance use of motorcycle and off-road vehicle sales and service that cannot satisfy the performance criteria of 600 feet from a residential district in a C-3, Commercial General Zoning District at 3118 Kishwaukee Street. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 6-0.

ZBA 054-06
Findings of Fact for a Special Use Permit
For Performance Use of Motorcycle and Off-Road Vehicles Sales and Service
That Cannot Satisfy the Performance Criteria of 600 Feet
From a residential District in a C-3, Commercial General Zoning District at
3118 Kishwaukee Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. There are similar uses in this neighborhood and have been at this location.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district. The clean up of this property will keep it from being an eye sore and dumping ground to a property that will blend in with the mix uses of the area.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3, Commercial General Zoning District in which it is located.

055-06 **3945 West Riverside Boulevard**
Applicant Andrew Gay
Ward 9 **Special Use Permit** for the sale of package liquor in conjunction with a retail store in a
C-3, Commercial General District

The subject property is located approximately 215 feet east of Owen Center Road and on the north side of West Riverside Boulevard. The Applicant's request is for a tenant space located within a shopping strip and is one out of seven spaces. This application applies only to the space he is renting, which is "D". Andrew Gay, Applicant, reviewed the request for Special Use Permit. He explained this store will be "The Oak Barrel", and will sell beer and wine along with rare wine, gift baskets, and wine accessories. Hours will be Monday through Saturday from 10:00 a.m. to 9:00 p.m. and closed on Sunday. Mr. Gay stated there will be no signs in the windows or exterior banner signs. There will be a limited selection of half-pints. Mr. Monday asked the Applicant to expand on this statement. Mr. Gay responded that they will sell half-pints of liquor, but they will not be a big part of the business.

Staff Recommendation was for Approval with 4 conditions. No Objectors were present.

A **MOTION** was made by William Orr to **APPROVE** the Special Use Permit for the sale of package liquor in conjunction with a retail store in a C-3, Commercial General District at 3945 West Riverside Boulevard. The Motion was **SECONDED** by Alice Howard and **CARRIED** by a vote of 5-1, with Fred Money voting Nay. Approval is subject to the following conditions:

1. This Special Use Permit shall be limited to space D as marked on the tenant layout.
2. That the tenant's space has no window signage, exterior banner signs, or portable signage.
3. That the hours of operation are limited to 10:00 a.m. to 9:00 p.m., Monday through Saturday and closed on Sunday.
4. That the business operates in conformance with description submitted with the application.

ZBA 055-06
Findings of Fact for a Special Use Permit
For the Sale of Package Liquor
In Conjunction with a Retail Store
In a C-3, Commercial General Zoning District at
3945 West Riverside Boulevard

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district. The sale of packaged liquor will be in conjunction with a retail store.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

056-06 **1703 South Central Avenue**
Applicant Pilgrim Baptist Church
Will Be 5 **Zoning Map Amendment** from County and R-1, Single-family Residential Zoning District to C-1, Limited Office Zoning District

This property is located on the west side of Central Avenue. Reverend Doctor Kenneth R. Board and Alderman Bell were present. Alderman Bell spoke regarding this project. This request is part of an annexation into the city. It is the intent of the Applicant to expand the church some time in the future. At this time there are no definite plans to do so, but because this is part of an annexation Staff felt it would be a reasonable request to change to C-1 Zoning at this time to allow for future expansion. Alderman Bell stated he feels the addition of the church into the city will be beneficial to both parties.

Staff Recommendation was for Approval with no conditions. No Objectors were present.

A **MOTION** was made by Alice Howard to **APPROVE** the Zoning Map Amendment from County and R-1, Single-family Residential Zoning District to C-1, Limited Office Zoning District at 1703 South Central Avenue. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 6-0.

ZBA 056-06
Findings of Fact for a Zoning Map Amendment
From R-1, Single-Family Residential Zoning District
To C-1, Limited Zoning District at
1703 S. Central Avenue

Approval of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a) This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses.
 - b) This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c) The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as RL, Residential Low Density

057-06 **4001 Thames Way**
Applicant V. Keith Ruiz
Ward 12 **Special Use Permit for a Planned Residential Development** consisting of a single-family home and in-law unit
 Variation to reduce the rear yard setback from the required 30 feet to 13 ½ feet in an R-1, Single-family Residential District

This property is located on the southeast corner of Thames Way and Carefree Drive and is a single family residence. A second story addition was added above the garage in 1988. The Applicant, Keith Ruiz, stated he wishes to build another addition on his home to care for his in-laws who are moving from Florida. This will be a single story, 1,340 square foot L-shaped addition with a one-car garage, bedroom, bath, living area, kitchen, and 4-season room. The unit will share electric, but will have a separate furnace. Mr. Ruiz stated he will continue with the existing design of the home. He explained the existing cottonwood tree in the rear will be removed. Mr. Money stated this area already appears to be crowded. Mr. Ruiz responded that much of the yard is taken up by an existing deck, which will be removed for the addition.

Staff Recommendation was for Denial. No Objectors were present; however one letter of Objection was received from Erich & Dolly Buedenbender, 4009 Thames Way, adjacent property owner.

In their letter, Mr. & Mrs. Buedenbender state that the previous owner of this property had already added two bedrooms, which doubled the occupancy. They stated an addition of the nature proposed by the Applicant would be like adding another home to the lot. The letter expressed concern that this addition could be used for other purposes in the future.

Mr. Cagnoni clarified under the definition of the zoning ordinance this addition would cause the residence to be considered a two family home. When adding an individual housekeeping unit with kitchen, the residence then becomes multiple units, which is not permitted under the ordinance in this R-1 Zoning District. Under these circumstances, Staff would maintain their recommendation for Denial.

Mr. Roszkowski expressed his concern over what will happen in the future because this unit could be considered a duplex. Mr. Ruiz stated it is not his intention to rent the unit out. He the stated the kitchen

would not be considered a full kitchen, but just a corner area to cook meals. Alice Howard stated she did not see a problem with the addition.

A **MOTION** was made by Alice Howard to **APPROVE** the Special Use Permit for a Planned Residential Development consisting of a single-family home and in-law unit; and to **APPROVE** the Variation to reduce the rear yard setback from the required 30 feet to 13 ½ feet in an R-1, Single-family Residential District at 4001 Thames Way. The Motion was **SECONDED** by Tom Morgan and **FAILED TO CARRY** by a vote of 2-4, with Dan Roszkowski, William Orr, Fred Money and Joe Dunker voting Nay and was therefore **DENIED**.

ZBA 057-06
Findings of Fact for a Special Use Permit
For a Planned Residential Development
Consisting of a Single-Family and In-Law Unit
In an R-1, Single-Family Residential Zoning District at
4001 Thames Way

Denial of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to and endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will impede the normal or orderly development of an established single-family neighborhood and improvement of the surrounding property for uses permitted in the R-1 District. A two-family dwelling is not a permitted use in the R-1 Zoning District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have not been provided.
5. Adequate measures have not been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does not conform to the applicable regulations of the R-1 Zoning District in which it is located.

ZBA 057-06
Findings of Fact for a Variation
To Reduce the Rear Yard Setback
From the Required 30 Feet to 13 ½ Feet
In an R-1, Single-Family Residential District at
4001 Thames Way

Denial of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.

3. The purpose of the Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title. The Applicant has other alternatives in meeting the required setbacks.
5. The granting of the Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

058-06 **3291 South Alpine Road**
Applicant SEC, LLC
Ward 14 **Zoning Map Amendment** from C-2, Commercial Community District to C-3, Commercial General District for Parcels I, II, and III
 Special Use Permit for Parcel III for a Performance Use that cannot satisfy the Performance Use Criteria of 600 feet away from the nearest residential district in a C-3, Commercial General District

This parcel is located approximately 995 feet north of Sandy Hollow Road on the west side of South Alpine Road. The parcel consists of three lots totaling 6.15 acres. There is an existing 47,000 square foot commercial building currently known as South Alpine Flea Market and accessory buildings. The Applicant stated their intention to sell the northern corner of the land for construction of a Taco Johns Restaurant. Per Staff's request, the Applicant has submitted a plat for two lots at this time.

Staff Recommendation was for Approval with 4 conditions. No Objectors were present.

Mr. Cagnoni stated Staff wished to modify condition 2) to remove the request for submittal of a tentative plat since only a final plat would be required.

A **MOTION** was made by Joe Dunker to **APPROVE** the Zoning Map Amendment from C-2, Commercial Community District to C-3, Commercial General District for Parcels I, II and III; and to **APPROVE** the Special Use Permit for Parcel III for a Performance Use that cannot satisfy the Performance Use Criteria of 600 feet away from the nearest residential district in a C-3, Commercial General District at 3291 South Alpine Road. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 6-0. Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a final plat including cross parking agreements and access easements and sidewalks for staff's review and approval.
3. The Special Use Permit is limited to a fast food restaurant for the area shown on the submitted site plan.
4. Submittal of a detailed landscaping plan for the entire site for staff's review and approval and illumination plan for staff's review and approval.

ZBA 058-06
Findings of Fact for a Zoning Map Amendment
From C-2, Commercial Community District
To C-3, Commercial General
For Parcels I, II and III
In a C-3, Commercial General Zoning District at
3291 South Alpine Road

Approval of this Zoning Map Amendment is based upon the following finds:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and contiguous to C-3 zoning and surrounding uses:
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the proposed use of a fast food restaurant

ZBA 058-06
Findings of Fact for a Special Use Permit
For Parcel III for a Performance Use that Cannot Satisfy the
Performance Use Criteria of 600 Feet Away
From the Nearest Residential District in a
C-3, Commercial General Zoning District at
3291 South Alpine Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-3 District. There are existing fast food establishments in the general area.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

059-06

Applicant
Ward 6

5454 11th Street

Howell Tractor and Equipment/Robert Bryne

Special Use Permit for a Performance Use that cannot meet the Performance Criteria of 600 feet for outside storage of new construction equipment for sale and rental

Variation to eliminate concrete paving and replace with gravel for the storage of heavy equipment and parking in an I-1, Light Industrial District

This property is located on the east side of 11th Street and consists of 25 acres. It is currently vacant land with one building. Robert Byrne, Applicant and tenant on the subject property was present representing Howell Tractor and Equipment. He stated he wishes to install a new security fence to store construction equipment. There would be a graveled area for the equipment since the type of machinery stored would crack the pavement. Mr. Dunker had a concern that the gravel would be a problem if there was any oil leakage from the vehicles. There was also a concern with water retention. Mr. Cagnoni explained that gravel tends to dissipate water better than a solid surface and agreed with the Applicant that the weight of the type of equipment stored has a history of cracking impervious surface areas.

Staff Recommendation was for Approval with 4 conditions. Two letters of Objection were received, and one Objector was present.

Betty Nordenberg, 5575 Colleen Avenue, not an adjacent property owner, was present as an Objector. Ms. Nordenberg also submitted a letter of Objection as well as photographs. She stated she is a resident of Sierra Heights. Ms. Nordenberg expressed concern that water drainage may contain contaminants that could be absorbed into the ground and affect her water. She would like consideration given to planting water-absorbing trees as a berm as well as landscaping. She also expressed her concern for assurance from the Applicant that the equipment stored will not be junked equipment. In response, Mr. Byrne stated most equipment will be new. Some of the equipment will be rental, but those rental units will only be a year old. Mr. Byrne stated the landscaping plan and aesthetics of the building will make a positive impact on the 11th Street corridor as well as being a good location for his company. Mr. Dunker asked if he witnessed this property around Labor Day. Mr. Byrne stated if this question regarded flooding, he had not visited the site himself, but it was his understand that there were no water problems at this location.

Mr. Orr stated Staff is requiring a detailed landscaping plan and that the gravel area be maintained as conditions of approval.

A **MOTION** was made by William Orr to **APPROVE** the Special Use Permit for a Performance Use that cannot meet the Performance Criteria of 600 feet for outside storage of new construction equipment for sale and rental; and to **APPROVE** the Variation to eliminate concrete paving and replace with gravel for the storage of heavy equipment and parking in an I-1, Light Industrial District at 5454 11th Street. The Motion was **SECONDED** by Joe Dunker and **CARRIED** by a vote of 6-0. Approval is subject to the following conditions:

1. Submittal of a detailed landscaping plan for staff's review and approval.
2. That the proposed gravel area be maintained with some type of barrier to prevent weeds from growing through the gravel.
3. Submittal of a revised site plan including the property lines.
4. Submittal of a final plat prior to any sale of a portion of the property.

ZBA 059-06
Findings of Fact for a Special Use Permit
For a Performance Use that Cannot Meet the Performance Criteria
of 600 Feet for Outside Storage of New Construction Equipment
For Sale and Rental in an I-1, Light Industrial Zoning District at
5454 11th Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the I-1 District. Landscaping and fencing will screen the outside storage.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the I-1 Zoning District in which it is located.

ZBA 059-06
Findings of Fact for a Variation
To Eliminate Concrete Paving and Replace with Gravel
For the Storage of Heavy Equipment and Parking
In an I-1, Light Industrial Zoning District at
5454 11th Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title. The gravel area would be reasonable for this type of heavy construction equipment since the weight of the equipment could easily break concrete or blacktop.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.

6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

060-06 **5695 Strathmoor Drive, Unit #2**
 Applicant Jeffrey A. Myers
 Ward 10 **Special Use Permit for a Planned Mixed-Use Development**
 for a private school for self-defense classes and other permitted uses in a C-1 Zoning
 District in a C-1, Limited Office Zoning District

Jeffrey A. Myers and Matthew Numrich were present. Mr. Myers, Applicant and architect for the property, reviewed the request for Special Use Permit. This property is one of three units. Units #1 and #3 are being used as medical offices. Mr. Myers explained the Applicant wishes to have self-defense classes in Unit #2. Most of those attending will be adults.

Staff Recommendation was for Approval with no conditions. No Objectors were present.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Special Use Permit for a Planned Mixed-Use Development for a private school for self-defense classes and other permitted uses in a C-1 zoning District in a C-1, Limited Office Zoning District at 5695 Strathmoor Drive, Unit #2. The Motion was **SECONDED** by Alice Howard and **CARRIED** by a vote of 6-0.

ZBA 060-06
Findings of Fact for a Special Use Permit
For a Planned Mixed-Use Development
For a Private School for Self-Defense Classes
And Other Permitted Uses in the C-1 District
In a C-1, Limited Office District at
5695 Strathmoor Drive, Unit #2

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-1, Limited Office District in which it is located.

061-06 **1390 North Mulford Road**
Applicant ARC Design Resources, Inc./Mark Rice
Ward 1 **Zoning Map Amendment** from R-1, Single-Family Residential District to C-1, Limited Office District
 Special Use Permit for a Planned Mixed-Use Development consisting of a long-term care hospital and parking in a C-1, Limited Office District

Mark Rice and George Bruton were present representing Regency Hospital Corporation. Mr. Bruton reviewed the requests of the application. He explained this will be a single story, 44 bed hospital. The facility will accept patients that need long-term care until they are able to be released. This is not an emergency room type of facility and will free up intensive care beds from short term acute hospitals. Mr. Bruton stated ambulances will be used for transfer purposes only and will not be using sirens and lights.

Staff Recommendation was for Approval with 6 conditions. One Objector was present.

Thomas Bartusch, 5963 Cambridge Chase, not an adjacent property owner, was present as an Objector. He stated he would like to see a berm and landscaping to keep the look of trees and to help contain some of the noise and headlights from traffic. Mr. Bartusch stated the north end entrance to this facility is near his subdivision entrance and he is concerned with increased traffic and access.

Alderman Sosnowski was also present. He stated he feels Public Works will address concerns of traffic and stated there are other concerns but they do not appear to be insurmountable. The Applicant has agreed to address the lighting concerns of the adjacent neighborhood and provide additional landscaping on the north end of the property. He suggested Staff add conditions for the buffer. Alderman Sosnowski also suggested another meeting take place between the developer and the adjoining neighborhood to provide them with more details on landscaping.

In response, Mr. Bruton stated they would not be removing any trees and will be adding a berm. Jon Hollander, Public Works, verified the Applicant has constructed the plan to comply totally with City requirements. Mr. Burton clarified that supplies will be received on the north side of the building, and patients will arrive on the south side. Joe Dunker asked if they could encourage employees to enter and leave on Guilford. Mr. Bruton stated they could do this, but they have also received requests from neighbors on North Mulford Road to have the entrance/exit access on Guilford.

Mr. Cagnoni asked what the distance was from the property line to the curb. Mr. Rice responded approximately 50 feet but did not have an exact measurement. Mr. Cagnoni wished to revise condition 3 to require submittal of a landscaping plan to include that there shall be no freestanding light poles north of the building, and to add condition 7 requiring submittal of a revised site plan that includes a 50' setback minimum from the north property line. He stated if any changes to the plan were made as a result of a future neighborhood meeting, they could be reviewed and adjusted prior to the October 2nd Codes and Regulations meeting.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Zoning Map Amendment from R-1, Single-Family Residential District to C-1, Limited Office District, and to **APPROVE** the Special Use Permit for a Planned Mixed-Use Development consisting of a long-term care hospital and parking in a C-1, Limited Office District at 1390 North Mulford Road. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 6-0. Approval is subject to the following amended conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a tentative and a final plat for staff review prior to the issuance of a building permit.
3. Submittal of a landscaping plan for staff review and approval with the addition of a 4-foot high berm that does not interfere with the preservation of the existing tree line along the north property line.
4. All lighting shall be facing downward, shall be directed away from residential, and shall not exceed 20 feet in height. There will be no freestanding light poles north of the proposed building.
5. Only two access drives shall be allowed for this site that includes one from Guilford Road and the second from Mulford Road.

6. All uses will be restricted to those in the C-1, Limited Office Zoning District, except for the proposed long-term care hospital.
7. That a revised site plan be submitted that includes a 50' minimum setback from the north property line to the edge of the curb as shown on the submitted site plan.

ZBA 061-06
Findings of Fact for A Zoning Map Amendment
From R-1, Single-Family Residential District
To C-1, Limited Office District at
1390 North Mulford Road

Approval of this Zoning Map Amendment is based upon the following finds:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as commercial-office.

ZBA 061-06
Findings of Fact for a Special Use Permit
For a Planned Mixed-Use Development
Consisting of a Long-Term Care Hospital and Parking
In a C-1, Limited Office District at
1390 North Mulford Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-1, Limited Office Zoning District in which it is located.

062-06 **41XX Owen Center Road**
 Applicant Eagle Land Development Co.

Will Be 9

Pre-Annexation Agreement and Zoning Map Amendment

from County AG to City R-1, Single-Family Residential District for Parcel I; to R-2, Two-Family Residential District for Parcel II, and to R-3, Multifamily Residential District for Parcel III **Note:** Applicant has revised to include only Parcels I and II. Parcel III is not part of the application at this time.

This property is vacant farmland in unincorporated Winnebago County and is not contiguous to the City. The Applicant and the City are negotiating a pre-annexation agreement at this time. This parcel is within a 1.5 mile distance of the city and thus allows the City jurisdiction over the zoning and subdivision building permits as if it were within the municipal boundary. The terms of the pre-annexation agreement are continuing to be modified pursuant to meetings planned between the developer and the surrounding properties. The Applicant desires to annex this property into the city upon becoming contiguous. Attorney Theodore Liebovich, Jeff Linkenheld (engineer) and Paul Glendenning, Applicant, were present. Mr. Glendenning explained that they wished to revise the application to include only Parcels I and II, with the elimination of the request for Parcel III.

Mr. Glendenning stated this development will consist of 166 quality single-family lots and 40 luxury condominiums. Dan Hauser Construction will be building some of the homes but may not do all of the development. He explained that architectural control will be maintained by the developer regardless of who does the construction. 22 acres of the parcel will be maintained as a conservation area. The single-family homes will be priced in the \$160,000 to \$200,000 range. A Type C landscape buffer will be installed within the development as well as community sidewalks along Owen Center Road. Sewer, water, and curbing will be according to City standards. The Developer has met with the surrounding neighborhood and as a result of their concerns the R-3 zoning has been removed from the request.

Jeff Linkenheld, engineer for the project, stated all construction will be with urban improvements. Huxley Road has been continued from the subdivision to the west into the development. Because of traffic concerns, a reconfiguration of the streets will be submitted. A left turn lane will be provided at both north and south entrances on Owen Center Road. He explained that open green space protects the drainway and allows for conveyance of storm water. This development will be required to convey off-site water through the site, and route to detention basins. The detention area will be in the southwest corner of the site. At this time, it has not been determined if the 22 acre green space will be a passive area or a promoted area. Mr. Linkenheld stated the neighboring area seems to be more favorable to leaving this section natural.

Dan Roszkowski asked Mr. Linkenheld if the water detention on the property to the north would be the responsibility of that developer rather than the Applicant. Mr. Cagnoni explained that until the property to the north is developed, the Applicant would be responsible for all water entering his property. At the time of development on the north parcel, water detention would become the responsibility of the developer of that property. On the Applicant's development, property to the south will be taken into consideration when designing retention ponds. Mr. Cagnoni further explained the City would not provide fire and police protection until the property is annexed into the City.

Mr. Linkenheld explained there would be 7 access points to this development. Traffic would be exiting to the south on West Riverside Boulevard through the connection of two streets that are now stub streets. He proposed shifting portions of the proposed road that runs through the development. Revised drawings were not available at the time of the meeting, but the Applicant will continue to work with staff and the adjacent properties for the most agreeable traffic flow.

Staff Recommendation was for Approval subject to the terms of the Pre-Annexation Agreement. Several letters of Objection were received, including a Petition. Objectors were present.

Attorney Bryan Selander stated he represented 17 homes west of this development. Their concern is with the connection of Huxley through the proposed development. Huxley is now a cul-de-sac area in this 37 home subdivision. They would prefer that this road not be continued through the proposed development.

Dave Gomel, 4383 Ruskin Road, Dan O'Boyle, 4157 Ruskin Road., and Bill Satterlee, 4351 Ruskin Road, all spoke in Objection. Their concern was that the Huxley cul-de-sac provides them with a closeness and security in a quiet and peaceful neighborhood and if this road were extended it would have a dramatic affect on their neighborhood. They felt that without the connection of Huxley they could maintain their subdivision and live hand-and-hand with the proposed development.

Tom Moore, 4318 Owen Center Road stated he lives adjacent to the northeast corner of the proposed development. He referred to the access to his property as a "lane", stating this is extended along the north of the property and there are 7 culverts underneath. His concern is the tree line that runs along this north end. He stated the trees have been helpful in controlling water flow and has strong feelings that these trees remain. He pointed out that there will be 40 lots in the proposed development adjacent to his lane. He feels maintaining these trees would prevent the appearance of the development "backing up to an alley". Mr. Moore requests that the developer supplement this tree line and agrees there is a workable situation.

In response, Attorney Liebovich explained the Applicant does not have a position on the extension of Huxley. He stated the City requires that this road be extended, but that the developer is not opposed to working out an acceptable solution with both the City and nearby residents.

Jeff Linkenheld provided his recommendation that home owners on this property be discouraged from using Mr. Moore's lane. He stated the two streets snubbing in this lane are being provided for future growth potential to the north. Mr. Roszkowski asked if they could leave a 60 foot area between the lane and the snub streets to allow for future development, but not allow access to Mr. Moore's lane. Mr. Cagnoni stated the concern is to put the street in at this time to follow City guidelines for subdivision development. Chief Schmitt explained that when the proposed subdivision comes into the City, the Fire Department would require Huxley to be extended due to street length requirements. He requested the Board not add a condition of approval that Huxley Road not be extended. Mr. Roszkowski recommended a crash gate and asked if this would be considered. Chief Schmitt stated the City does not allow crash gates on City streets, but since the connection is township it posed an interesting aspect. Chief Schmitt suggested a gate operated by control on both sides would be acceptable. The Applicant was willing to consider this. Mr. Cagnoni wished to clarify that it is not a requirement of the Zoning Board to determine if this street will be an access; however, Staff would pass on their concerns to the Codes & Regulations Committee. He further stated Staff would have to respectfully disagree with an gated area.

Chairman Morgan pointed out that there are streets within the city that do end in cul-de-sacs.

A **MOTION** was made by Joe Dunker to **APPROVE** the Pre-Annexation Agreement and Zoning Map Amendment from County AG to City R-1, Single-Family Residential District for Parcel I; and to R-2, Two-Family Residential District for Parcel II as revised for 41XX Owen Center Road. The Motion was **SECONDED** by Alice Howard and **CARRIED** by a vote of 4-2 with Dan Roszkowski and Tom Morgan voting Nay.

ZBA 062-06
Findings of Fact for a Zoning Map Amendment
From County AG to City R-1, Single-Family Residential District
For Parcel I at
41XX Owen Center Road

Approval of this Zoning Map Amendment is based upon the following finds:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:

- a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as Low Density Residential and Medium Density Residential

ZBA 062-06
Findings of Fact for a Zoning Map Amendment
From County AG to City R-2, Two-Family Residential District
For Parcel II at
41XX Owen Center Road

Approval of this Zoning Map Amendment is based upon the following finds:

- 1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
- 2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as Low Density Residential and Medium Density Residential

063-06 **1437 Myott Avenue**
 Applicant Stephen Lizer
 Ward 3 **Special Use Permit for a Planned Mixed Use Development**
 consisting of retail sales of windows, doors, shutters and siding and a contractors office
 and shop with indoor vehicle storage and warehousing in an C-2, Commercial
 Community Zoning District

Prior to the meeting, a letter was received from the Applicant requesting that this item be **WITHDRAWN**.

064-06 **Madison Street Area, from Market Street to Whitman Street**
 Applicant City of Rockford
 Ward 3 **Zoning Map Amendment** from I-1, Light Industrial District, to C-4, Commercial Oldtown
 District

Attorney Partridge, representing the City, reviewed the request for Zoning Map Amendment. The subject property involves a total of 34 lots currently located in the I-1 Zoning District. This Application was a recommendation by the City Council Codes and Regulations Committee and was referred to the Legal Department. The Application process will be the same as any other, coming before the Zoning Board of Appeals, then Codes and Regulations Committee, with the final decision by City Council. Alderman Doug Mark was present and verified that City Council did unanimously support recommending this application.

David Honkemp, owner of Cellusuede Products Inc., 500 North Madison was present to ask for further clarification regarding this zoning change request. He stated he owns three buildings that fall in the targeted area and employees 70 people. He is concerned with what, if any, affect this zoning change will have on his business, his employees and his employee's families. He stressed that he is a Rockford manufacturer and wishes to stay in Rockford.

In response, Attorney Partridge assured Mr. Honkemp that the City does not want Callusuede Products to move. They will become legal non-conforming use. Mr. Honkemp stated back in the mid 1980's, his company/building was exempt from zoning changes. Mr. Cagnoni explained that this zoning change would in no way affect the ability to operate his business at this location.

A **MOTION** was made by Fred Money to **APPROVE** Zoning Map Amendment from I-1, Light Industrial District to C-4, Commercial Oldtown District. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 6-0.

ZBA 064-06
Findings of Fact for a Zoning Map Amendment
From I-1, Light Industrial District
To C-4, Commercial Oldtown District at
Madison Street from Market Street to Whitman Street

Approval of this Zoning Map Amendment is based upon the following finds:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as CD Commercial Mixed-Use

047-06 Applicant Ward 12	<u>2411 North Main Street</u> Oliver Emerson Zoning Map Amendment from I-1, Light Industrial Zoning District to C-2, Commercial Community Zoning District Variation to reduce the front yard setback along North Main Street from the required thirty (30) feet to fifteen (15) feet in a C-2, Commercial Community Zoning District
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This item was heard by the Zoning Board of Appeals in July, 2006 and was denied due to failure to carry. It was denied at Codes and Regulations and referred back to the Zoning Board of Appeals by Alderman Bell at the August 14, 2006 City Council meeting.

Oliver Emerson, Applicant, and Bill Johannas, Architect, were present. Mr. Johannas presented a drawing of the building, stating it was their intent is to make this building as a guide to the development of North Main Street. He stated this Family Dollar Store would be designed as an upscale model, with the addition of awnings, lettering above the awnings, and landscaping to blend in with the Ingersoll building behind it. Oliver Emerson, developer for this project, stated he feels all the Objectors present were here because of misinformation given them by an Alderman. Mr. Emerson stated City Staff recommended Approval of this application. He estimates sales from this store alone would generate \$2.5 million dollars.

He is planning a total of five stores, which would generate over \$12 M in sales tax. Mr. Emerson stated he was offended by the remarks of the e-mails from Objectors. He further stated North Main Street has been declining for 20 years. This site was chosen because it was a TIF District. He explained that less than 1,000 feet away there are buildings already zoned as C-2 that he could purchase and create this store without the expense of the building proposed. Mr. Emerson expressed his desire to build an upscale building that would benefit the development of North Main Street.

Mr. Cagnoni stated there was no amendment to the application as filed. He asked Mr. Emerson if he wished to amend his application to include the elevation plan presented. Mr. Emerson stated he did not wish to include the elevation plan nor amend the application. Mr. Morgan asked Mr. Emerson if this Application was approved, would he guarantee to build the structure as presented at this meeting. Mr. Emerson responded by saying the only way he could create a building of this caliber would be if the TIF were approved. He was not able to guarantee the building presented to the Zoning Board would be built to the design presented. Mr. Emerson stated he is not the owner of Family Dollar, and will only be leasing the building to them. Mr. Morgan asked how long the lease was. Mr. Emerson stated it was a ten year lease with five year renewal options. Mr. Emerson reiterated that the negativity presented in the e-mails generated by Alderman and Mrs. Mark were incorrect. Joe Dunker asked why the Variation to setback was requested. Mr. Emerson stated 3 or 4 different site plans were submitted and Staff desired an urban style layout, meaning parking is not located in front of the building. Mr. Cagnoni verified that the 15 foot setback was per Staff recommendation. He explained the desire was to maintain the urban corridor style. Mr. Cagnoni stated if the style were suburban, it would have a ten foot setback with a front parking lot. It is very likely this corridor will be commercial in nature. He went on to say that at the direction of the Mayor, the City requested an RFP for a corridor study along Main Street. The concern was that planning efforts were done piecemeal and thought needed to be given as to how development being done now would fit in with not only future development, but current development as well. The requested plan is expected to be back within a week or so with information regarding what the focus should be on when developing this North Main corridor. Mr. Emerson again stated this area of North Main is declining, and that is why the City wishes to make this a TIF District.

Staff Recommendation was for Approval with three conditions. Objectors were present and 47 e-mails of Objection were received.

Jerry Kortman, 913 North Main. Mr. Kortman expressed concern that if Family Dollar wishes to build 5 more stores perhaps this is not the correct location. He agrees that this business corridor is in trouble. Mr. Kortman stated there is already a dollar store at North Towne Mall and feels the area is being inundated by this type of store. He does not feel this development will help in attracting businesses to this area.

Cynthia Black, 2411 Oxford. Ms. Black stated she lives three blocks of the proposed development and has been at this residence since 1978. She feels residents look to the Zoning Board to assure there is the right retail mix in an area and that they look for businesses to be successful. She does not feel multiples of one type of store is progressive to business. Ms. Black stated the North Main and Fulton area has really improved and wishes to see it continue along this route.

Joseph Capone, 1828 Oxford Street, is a resident of Edgewater District and is a board member of Edgewater Association. Mr. Capone stated this area has improved in the last few years, with property values steadily increasing. He is of the opinion that Family Dollar is a fine organization, but feels this corridor needs a more upscale business to encourage development. He stated another discount store does not fit in.

Pam Shumaker, 2421 Oxford Street, lives across the street from Oxford Park. She stated this is a beautiful neighborhood and is offended with the statement that this area is going down. She reminded the Board that there are two similar dollar stores just up the road at North Towne Mall and Highlander shopping centers. She does not want this area to be known as the neighborhood consisting of discount stores and cash stores. Ms. Shumaker feels the Auburn/Main area is going to be a beautiful gateway to

the neighborhood. She patronizes many of the businesses on North Main and does not feel another discount store is the right fit.

Jessica Salisbury, 508 Rome Avenue is the Manager of Village Green on North Main. Speaking on behalf of them, she stated they do not approve of this store coming to the area. She said customers using the Dollar Store would be lower income customers.

James Richter, 2112 Clinton Street stated he has served on the City of Harvard Planning Commission, has employment experience in Planning and Development, and is a resident of the Edgewater neighborhood. Mr. Richter agrees the 15 foot setback is an enhancement and creates safety for foot traffic. He felt precedence has not been set for reduced setbacks. He has reviewed the goals and objectives of the TIF area and stated these objectives include that development should meet the conditions of City Ordinance. Mr. Richter stated the goal is to emphasize and maintain the uniqueness of the area. He felt the proposed development would not bring any unique features that would set this area apart from any other area. There are already commercial uses permitted in the I-1 District. He expressed concern over the Applicant's statement that the plan shown is not necessarily the one that will be submitted. Mr. Cagnoni defined what could be allowed in the C-2 Zoning District requested.

Alderman Doug Mark stated he received 47 e-mails in opposition to this development prior to this meeting and those were presented. In an e-mail he received from the Olympic Tavern, he read their concerns that the North Main and Fulton intersection is already dangerous. The e-mail quoted from the Family Dollar website as stating the Family Dollar serves low to middle income customers. Alderman Mark stated there was nothing wrong with these income users, just that there are already discount stores in the area. He reminded the Board that when this item first came before them in August, he discussed the corridor needs. Alderman Mark explained the desire to have all levels of retails. He felt the issue before the Board this evening is the same as it was in August when this application was denied.

Alderman John Beck stated this is his ward and that this area has been in decline, but that recent steps are being taken to reconstruct this area. North Main Street may be reconstructed by the State in the near future and it is his desire to have a positive move forward for the neighborhood. He does not feel this project fits that category.

In response, Mr. Emerson stated North Main has C-2 already, with buildings that are depilated and sitting empty for years. He again stated he would probably purchase one of these buildings and turn it into a Family Dollar Store if this application fails. Mr. Dunker stated he assumed if this store follows other dollar stores, it would have advertisements all through the windows advertising products. Mr. Emerson suggested that the Board look at his other Family Dollar Store to see how it is handled.

Alderman Bell spoke in favor of this application. He stated he respects the neighborhood for sending e-mails regarding their desire. Ald. Bell stated Mr. Emerson is a small businessman. He stated Rockford has a history of not offering support to those businessmen who can make a difference. Alderman Bell expressed that he is proud to drive down Springfield and see Mr. Emerson's other Family Dollar store. He feels this project is not going to be detrimental to the district it is going in. He added that the City needs to come together and this project could help. Alderman Bell said this is the greatest opportunity the City could have to work with a black developer. He does not see any difference between this dollar store and others. He feels there needs to be a willingness to adjust to sharing in the money. Alderman Bell stated this is a TIF District and that the City has responsibilities also. To be realistic about a master plan, Mr. Emerson should have been approached by the City to be a part of this plan. He further stated that the Alderman have to understand that Rockford is playing a dangerous game with creating TIF's. If Federal money is pulled out of this City, we will have some real problems. He stated when the City treats Mr. Emerson the way they are treating him at this point, he is not getting a fair opportunity. Mr. Emerson has paid out money he shouldn't have to hire an architect and Alderman Bell feels it is not right to turn this man away because of our feelings. Alderman Bell said when the City discussed the hog slaughtering plant or the ethanol plant, he did not receive any e-mails. He concluded by stated this is no time for the Zoning Board to use their power to put every obstacle in Mr. Emerson's path.

Ald. McNeely spoke in favor of this application, stating she felt Alderman Bell has said everything that needs to be said tonight. She stated she feels there is “something going on here besides a dollar store”, something going on beyond a genuine concern for the neighborhood. She stated she believes the problem starts with the Aldermen. Alderman McNeely stated Alderman Mark is not the alderman of this ward, but has rallied people in support of what he believes in. When this is done with the wrong intent, there is a problem, not just with the neighborhood, but with the City of Rockford. Regarding Alderman Mark’s comments that this is not the right type of store for this area, and that he wants to see a higher level of retail and different types of construction, Alderman McNeely stated she cannot disagree with that, but has to question Ald. Mark because he tends to look at things differently when they are in her ward. She stated he felt it was OK to have a dollar store in the 13th Ward, but not in the 12th Ward. She stated she wonders if this is really about the neighborhood, or is there something else going on with Alderman Mark. She further stated there is a difference with Alderman Mark when it is the 13th Ward and when it is with North Main. There should not be any difference. She requested the Board not to turn this down because of what Alderman Mark states – look at the project as to what it will do to improve North Main. Alderman McNeely went on to say that West State Street is dead and she has been asking for development, but the TIF went to North Main Street. She asked how can North Main and East State get a TIF before West State? Alderman McNeely expressed her feeling that there is something “underlying going on here”, that the City cannot develop in one area and not the other. She feels this is not just a vote about a dollar store – this is a vote about our City. She expressed confidence that Staff is competent in their recommendation of Approval and again stated this is not just about a dollar store. Alderman McNeely feels Alderman Beck originally agreed with this.

Alice Howard stated she is in support of this project. She quoted one Objector as stating they need “upscale people” and questioned what an “upscale person” was. Mr. Orr stated there was no one who came in objection who lived west of North Main Street and added that only 17% of the 300 plus people living in this region submitted letters. Mr. Orr stated he had found 5 or 6 liquor establishments within six blocks of this area. Chairman Morgan stated his reason for voting against this project in August was because of the store design. He now feels the designed shown was not a “cheap version”. He did express concern with traffic flow. Jon Hollander, Public Works, stated he felt people get in and out of the Olympic without any problem. He explained that 3 of the 4 corners at Fulton and North Main have buildings with zero setback and does not feel traffic is a problem.

Chairman Morgan asked Staff if there was any guarantee that the building presented by Mr. Emerson at this meeting would be built. Mr. Cagnoni stated there was not. He explained that one issue that has not been resolved in several meetings with Mr. Emerson was definition of the elevation or what the structure would look like. Mr. Emerson stated the building presented would be built only if the TIF is approved. If the TIF is not approved, he would not build that design. Mr. Cagnoni stated he cannot offer assurance that the building built by Mr. Emerson will be designed as shown. He clarified that if the zoning is approved, Mr. Emerson could build what he wants. If C-2 zoning is approved, and the TIF is denied, there is nothing specifying that Mr. Emerson has to build to the design he is currently presenting to the Board. He expressed Staff’s concerns about the quality and design of this building, and the concern that a building design is not firm. Mr. Emerson stated he has been involved in two other TIF Districts already, and that the North Main TIF is already created. He stated he will be negotiating with the City and feels confident he will be able to use TIF dollars. Wayne Dust, Planning, stated the process for application for TIF funding is made to the Staff and Staff Recommendation goes to the Planning and Development Committee and then on to City Council.

A **MOTION** was made by Alice Howard to **APPROVE** the Zoning Map Amendment from I-1, Light Industrial Zoning District to C-2, Commercial Community Zoning District and to **APPROVE** the Variation to reduce the front yard setback along North Main Street from the required thirty (30) feet to fifteen (15) feet in a C-2, Commercial Community Zoning District at 2411 North Main Street. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 6-0. Approval is subject to the following conditions:

1. Building elevations shall be submitted for Staff review and approval.
2. The meeting of all applicable Building and Fire Codes.

3. That the property be developed as per the approved site plan.

ZBA 047-06
FINDINGS OF FACT FOR A ZONING MAP AMENDMENT
FROM I-1, LIGHT INDUSTRIAL DISTRICT TO C-2,
COMMERCIAL COMMUNITY DISTRICT AT
2411 NORTH MAIN STREET

Approval of this Zoning Map Amendment is based upon the following findings:

- 1) The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses:
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
- 2) The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as IG, General Industry.

ZBA 047-06
FINDINGS OF FACT FOR A VARIATION
FOR A REDUCTION IN THE FRONT YARD SETBACK ALONG NORTH MAIN STREET
FROM 30 FEET TO 15 FEET
IN A C-2 COMMERCIAL COMMUNITY DISTRICT AT
2411 NORTH MAIN STREET

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification. The intent of the variation is to fit a newer development within an older area of the city, and therefore is unique to this area.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property. The variation is a result of a request from the City of Rockford.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located. The Variation will have a positive impact on the community by creating a compatible development.

6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increased the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.

With no further business to come before the Board, the meeting was adjourned at 9:55 PM

Respectfully submitted,

Sandra A. Hawthorne
Administrative Assistant
Community Development/Planning Division