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June 10, 1977

FILE NO. S-1253

ZONING:
Amendments to a County
Zoning Ordinance Requiring
a Three-Fourths Majority
For Passage

Honorable Thomas J. Difanis
State's Attorney
Champaign County
Court House
Urbana, Illinois 61801

Dear Mr. Difanis:

I have your letter wherein you inquire whether, when a municipality has validly protested such amendment, a three-fourths majority of the county board is required to amend a county zoning ordinance to permit truck stop facilities in all districts already zoned for commercial food establishments or industrial purposes, and to increase the permitted area for signs advertising truck stops along inter-

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state highways. For the reasons hereinafter stated, it is my opinion that, if a municipality has protested the change, a three-fourths majority is required for the foregoing or any other amendment to a county zoning ordinance.

Section 5 of "AN ACT in relation to county zoning" (Ill. Rev. Stat. 1975, ch. 34, par. 3158), which authorizes amendment of zoning regulations or districts, provides in pertinent part as follows:

"§ 5. The regulations imposed and the districts created under the authority of this Act may be amended from time to time by ordinance or resolution, after the ordinance or resolution establishing same has gone into effect, but no such amendments shall be made without a hearing before the board of appeals. * * * In case of written protest against any proposed amendment, signed and acknowledged by the owners of 20% of the frontage proposed to be altered, or by the owners of 20% of the frontage immediately adjoining or across an alley therefrom, or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered, or in cases where the land affected lies within 1 1/2 miles of the limits of a zoned municipality, by the city council or president and board of trustees of the zoned municipality with limits nearest adjacent, filed with the county clerk, such amendment shall not be passed except by the favorable vote of 3/4 of all the members of the county board." (Emphasis added.)

The term "any proposed amendment" as employed in the foregoing section is clearly intended to subject all amendments, whether

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complete or partial, to the requirements imposed in section 5. Although the proposed changes might be classified as "text" amendments, they would still effect a material change in the existing regulations, and the result of the proposed amendments would be the use of property in certain districts for purposes that are not currently permitted.

Therefore, it is my opinion that amendments to a zoning ordinance adding truck stop facilities as a use permitted in all districts already zoned for commercial food establishments or industrial purposes and increasing the permitted area for signs advertising truck stops along interstate highways, if protested by a municipality, require a three-fourths majority for passage by the county board.

Very truly yours,

A T T O R N E Y G E N E R A L