

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **March 15, 2012**  
Time: **7:00 P.M.**  
Place: **Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802**

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

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

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

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (February 16, 2012)
5. Continued Public Hearings

*Note: The full ZBA packet is now available  
on-line at: [www.co.champaign.il.us](http://www.co.champaign.il.us).*

**Note: MEETING TIME AT 7:00 P.M.**

**\*Case 691-S-11 Petitioner: Pastor David L. Rogers and Apostolic Life UPC Church, LLC**

**Request: Authorize (1) the Apostolic Life UPC Church as a special use and (2) the establishment and use of a “Residential Recovery Center” as a second special use on the same land, in the AG-2 Agriculture Zoning District.**

**Location: Lot 3 of the Almar First Subdivision in the Northeast Quarter of Section 3 of Urbana Township and commonly known as the Apostolic Life UPC Church located at 2107 High Cross Road, Urbana.**

### 6. New Public Hearings

**\*Case 698-S-11 Petitioner: S.J. Broadcasting, LLC, with owners Steven J. Khachaturian, Jon E. Khachaturian and the estate of Clinton C. Atkins  
**\*\*NO FINAL ACTION IS POSSIBLE****

**Request: Authorize a radio transmission tower that is 346 feet in height and transmitter building as a Special Use with waivers (variance) of standard conditions in the AG-1 Zoning District, subject to the required variance in related Case 706-V-12.**

**Location: A 5 acre tract in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 36 of Tolono Township and commonly known as a vacant parcel on the west side of CR 1200E and located approximately one-half mile south of the intersection of CR 1200E and CR 700N, Tolono.**

**\*Case 706-V-12 Petitioner: S.J. Broadcasting, LLC, with owners Steven J. Khachaturian, Jon E. Khachaturian and the estate of Clinton C. Atkins  
**\*\*NO FINAL ACTION IS POSSIBLE****

**Request: Authorize the following in the AG-1 District:**

- A. Authorize the use of a 5 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-1 District for the construction and use of a radio transmission tower and transmitter building in related Special Use Permit Case 698-S-11 (included as the original variance); and**
- B. Waiver (variance) of standard conditions for a front yard setback of 70 feet from CR 1200E in lieu of the required 100 feet and a rear yard setback of 40 feet in lieu of the required 50 feet.**

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**\*Case 706-V-12 cont:**

Location: **A 5 acre tract in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 36 of Tolono Township and commonly known as a vacant parcel on the west side of CR 1200E and located approximately one-half mile south of the intersection of CR 1200E and CR 700N, Tolono.**

**\*Case 702-V-11 Petitioner: Roger Burk**

Request: **Authorize the following in the I-1 Light Industry Zoning District:**  
**Part A. Variance for a proposed warehouse storage facility with a setback of 54 feet from the centerline of Paul Avenue a local street, in lieu of the minimum required 58 feet; and**  
**Part B. Variance for a side yard of 5 feet in lieu of the minimum required side yard of 10 feet; and**  
**Part C. Variance for a rear yard of 5 feet in lieu of the minimum required rear yard of 20 feet;**  
**Part D. Variance from the visibility triangle requirements for a corner lot; and**  
**Part E. Variance from the minimum required number of parking spaces for industrial uses; and**  
**Part F. Variance from the loading berth requirements in lieu of the required 1 loading berth; and**  
**Part G. Variance from a minimum separation from a side property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.**

Location: **Lots 299 and 300 of Wilber Heights Subdivision in the Southwest Quarter of Section 31 of Somer Township and commonly known as the buildings at 101 Paul Avenue, Champaign.**

7. Staff Report
8. Other Business
  - A. February 2012 Monthly Report
  - B. Review of ZBA Docket
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

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**\* Administrative Hearing. Cross Examination allowed.**

1 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 **1776 E. Washington Street**

5 **Urbana, IL 61801**

7 **DATE: February 16, 2012**

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

10 **TIME: 6:30 p.m.**

**Urbana, IL 61802**

11 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren,  
12 Brad Passalacqua

14 **MEMBERS ABSENT :** Roger Miller

16 **STAFF PRESENT :** Lori Busboom, John Hall, Andrew Kass

18 **OTHERS PRESENT :** Herb Schildt, Cameron Gordon, Thomas W. Mann, Don Wauthier,  
19 Judith C. Hummel, John Hummel, Chad May, Randy Brown, Randall  
20 Brown, R.J. Eaton, Les Cotton, Thomas Martin, Monica Martin, John  
21 O’Keefe, Alvin Christians, Clyde Jacobs, Bryan Bradshaw, Sherry  
22 Schildt, David Rogers, Timothy Heard, Matthew Savage, Brenda  
23 Rogers, Roy Cane, Jeff Tock, Mark Hummel, Steve Burdin, Carl  
24 Webber

27 **1. Call to Order**

29 The meeting was called to order at 6:30 p.m.

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

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

35 **3. Correspondence**

37 None

39 **4. Approval of Minutes (December 15, 2011 and February 2, 2012)**

43 **Ms. Capel moved, seconded by Mr. Courson to approve the December 15, 2011 and February**  
44 **2, 2012, minutes as amended.**

46 Ms. Capel stated that Line 14 on page 17 of the December 15, 2011, minutes should be corrected to  
47 indicate the following: Mr. Hoveln stated that there are 48 parking spaces available on the  
48 cemetery’s street. Ms. Capel stated that Line 33 on page 27 of the December 15, 2011, minutes

**DRAFT**

1    should be corrected by removing the hyphen between “100 years.”

2

3    **The motion carried by voice vote.**

4

5    Mr. Thorsland requested a motion to re-arrange the agenda and hear Case 691-S-11 prior to Case  
6    701-AT -11.

7

8    **Ms. Capel moved, seconded by Mr. Courson to re-arrange the agenda and hear Case 691-S-11**  
9    **prior to Case 701-AT-11. The motion carried by voice vote.**

10

11    **5.        Continued Public Hearing**

12

13    **Case 691-S-11 Petitioner: Pastor David L. Rogers and Apostolic Life UPC Church, LLC**  
14    **Request to authorize (1) The Apostolic Life UPC Church as a special use and (2) the**  
15    **establishment and use of a “Residential Recovery Center” as a second special use on the same**  
16    **land, in the AG-2 Agriculture Zoning District. Location: Lot 3 of the Almar First Subdivision**  
17    **in the Northeast Quarter of Section 3 of Urbana Township and commonly known as the**  
18    **Apostolic Life UPC Church located at 2107 High Cross Road, Urbana.**

19

20    Mr. Thorsland informed the audience that this is an Administrative Case and as such the County  
21    allows anyone the opportunity to cross examine any witness. He said that at the proper time he will  
22    ask for a show of hands for those who would like to cross examine and each person will be called  
23    upon. He requested that anyone called to cross examine go to the cross examination microphone to  
24    ask any questions. He said that those who desire to cross examine are not required to sign the  
25    witness register but are requested to clearly state their name before asking any questions. He noted  
26    that no new testimony is to be given during the cross examination. He said that attorneys who have  
27    complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

28

29    Mr. Thorsland requested that anyone with cell phones which generates a noise when a text, call or a  
30    reminder is received should place those phones on vibrate, mute or simply shut off them off during  
31    the public hearing.

32

33    Mr. Thorsland asked if the Petitioner desired to make a statement outlining the nature of their  
34    request.

35

36    Mr. Carl Webber, legal counsel for the petitioner, thanked staff and the Board for allowing Case 691-  
37    S-11 to be added to the agenda for tonight’s meeting. He said that the allowance of Case 691-S-11  
38    being on the agenda has encouraged the opportunity for himself and the petitioner to meet with the  
39    neighbor. He said that it is hoped that an agreement regarding the drainage will be completed in the  
40    very near future. He respectfully requested that he be able to present such an agreement to the Board  
41    at the next meeting. He said that if there are any questions or items which should be addressed he

1 would appreciate it if the Board would indicate such so that those items may be presented at the next  
2 public hearing.

3  
4 Mr. Thorsland asked staff and the Board if there were any questions for Mr. Webber and there were  
5 none.

6  
7 Mr. Thorsland called Mr. John Hall to testify.

8  
9 Mr. John Hall, Zoning Administrator, stated that the Supplemental Memorandum dated February 14,  
10 2012, includes the summary sheets from Bryan Bradshaw's stormwater plan. Mr. Hall stated that the  
11 stormwater plan is only at a preliminary stage but it has been determined that it meets the Champaign  
12 County Stormwater Drainage Ordinance. He said that the new site plan which was received on  
13 January 10, 2012, indicates a different configuration of the basin than what was presented in  
14 November and that was the plan that accompanied the calculations that have been approved on a  
15 preliminary basis. He noted the Zoning Ordinance requires that the new parking area which is  
16 proposed for the dormitory be screened from the adjacent dwellings and that is around the west and  
17 south end west of the dormitory building and includes the little bit of parking along the east side of  
18 the dormitory building. He said that the screening is required and it would be good to have it added  
19 to the plan.

20  
21 Mr. Hall stated that he had hoped to have some explanation of what the various discharges and  
22 inflows and outflows means to the Hummel property. He said that he is glad to hear that the  
23 petitioner and neighbors are close to an agreement because explaining how much stormwater really  
24 gets to the Hummel property is more difficult than what is explained in the stormwater plan because  
25 the engineer was not required to address all of the area that drains to the Hummel property but there  
26 is a reduction in the amount as explained in Mr. Bradshaw's stormwater calculations.

27  
28 Mr. Hall stated that in September the Board had requested information on the existing septic system  
29 on the subject property and the petitioner provided copies of receipts from Gulliford Septic Service.  
30 He said that no one had ever analyzed the existing septic system for the church to determine whether  
31 or not it meets the existing standards for a church. He said that there is a record that the existing  
32 septic tank had been pumped three times within the last five years which is a pretty good record. He  
33 said that it is known that the existing septic tank is a 1,000 gallon tank therefore it is not a typical  
34 residential system but it is not known if it is a typical system for a church. He said that churches  
35 have a profile of occupancy that makes it very difficult to have a typical septic system therefore it is  
36 good that the existing tanks are being cleaned on a regular basis. He said that if the Board requires  
37 additional information then they need to reaffirm that tonight.

38  
39 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

40  
41 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the

1 witness register. He reminded the audience that when they sign the witness register they are  
2 signing an oath.

3  
4 Mr. Thorsland called Bryan Bradshaw to testify.

5  
6 Mr. Bryan Bradshaw, engineer for the petitioner, stated that he did not have any further information  
7 to add although he would address any questions posed by staff or the Board.

8  
9 Mr. Thorsland called Pastor David Rogers to testify.

10  
11 Pastor David Rogers stated declined to testify at this time.

12  
13 Mr. Thorsland called John O'Keefe to testify.

14  
15 Mr. John O'Keefe, representative for Christian Brothers Farm, stated that the Christian Brothers own  
16 and farm the property located east of High Cross Road. He said that they did not attend the previous  
17 meetings because they were either busy or farming but they are concerned about the water that is  
18 going to flow over to their farmland. He said that they already have a water problem on the farmland  
19 and no one other than Christian Brothers wants to take care of it. He said that there is a box culvert  
20 that goes across the road where the waterway stops and there is water bubbling out of the box culvert  
21 all of the time and the water comes from the west. He said that Christian Brothers are not going to  
22 spend any more money to fix the waterway because they just rebuilt it 15 years ago and if the  
23 waterway is going to be required to take on more water someone else is going to have to pay to  
24 install bigger tile.

25  
26 Mr. Thorsland asked the Board if there were any questions for Mr. O'Keefe and there were none.

27  
28 Mr. Thorsland asked if staff had any questions for Mr. O'Keefe.

29  
30 Mr. Hall asked Mr. O'Keefe if he received a copy of the February 14, 2012, Supplemental  
31 Memorandum.

32  
33 Mr. O'Keefe stated no.

34  
35 Mr. Hall stated that staff can supply Mr. O'Keefe with a copy of the memorandum. He said that  
36 there are a series of tables which indicate that the culvert under High Cross Road will see less  
37 stormwater as a result of the proposed development. He suggested that Mr. O'Keefe contact Mr.  
38 Bradshaw for additional detail if required.

39  
40 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. O'Keefe and there was no  
41 one.

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Mr. Thorsland called Jeff Tock to testify.

Mr. Jeff Tock, attorney for Mr. and Mrs. Mark Hummel, stated that he would like to confirm Mr. Webber’s comments that they are discussing an agreement to resolve the issues which concern Mr. and Mrs. Hummel and it is hoped that all of these issues will be worked out.

Mr. Thorsland asked the Board if there were any questions for Mr. Tock and there were none.

Mr. Thorsland asked if staff had any questions for Mr. Tock and there were none.

Mr. Thorsland called Mr. Randy Brown to testify.

Mr. Randall Brown, who resides at 2408 N. High Cross Road, Urbana, stated that again he is present tonight to oppose the establishment of a second special use on the church property. He said that it is his belief and many others who are opposed to the request that the use has been imposed upon their area and should be considered a spot zone even though it is defined as legal. He said that the recovery center has not been welcomed into the area and its existence was not reported to the County in a timely fashion. He said that many of the neighbors have spoken out in opposition of the proposed special use permit yet here we are still moving along on the case.

Mr. Brown stated that he believes that the interpretation of the accessory use for the Lifeline Connect business for donation has been overlooked. He said that should this case be approved there are many people who will have to live by Section 7 of the Zoning Ordinance which defines a Rural Home Occupation. He said that in this case there are people who will be moving into the neighborhood therefore why are there no rules to be implied for this type of residence versus another type of residence. He said that there is a business being run out of this church therefore why can’t there be some sort of definition or rule which defines the accessory use of the property. He said that he does not understand why the use is being varied as a fundraiser for the church when in fact it is related to the second special use and not the church itself. He said that the Board should review the definition and how this should be handled because if it is allowed without the definition then the Board is imposing an “inequality” upon the other neighbors who are required to live under Section 7. He urged the Board to really think this request through before making a determination because everyone deserves equal protection under the law.

Mr. Thorsland asked the Board if there were any questions for Mr. Brown.

Mr. Courson asked Mr. Brown to indicate what activities, from a business standpoint, are occurring on the property.

Mr. Brown stated that Lifeline Connect provides services to property owners such as yard work and

1 roof repair. He said that the subject property is Lifeline Connect's home base therefore they are  
2 running a business out of the church.

3  
4 Mr. Courson asked if the petitioner is storing vehicles.

5  
6 Mr. Brown stated that they have at least three vehicles.

7  
8 Mr. Courson stated that he is mainly concerned with what is going on within the boundaries of the  
9 subject property and not whether or not they are taking people off of the property to perform service  
10 work. He said that if someone owned an apartment building it would be expected that the tenants  
11 would leave for work every day to pay for their apartment.

12  
13 Mr. Brown stated that under the Rural Home Occupation there are only a certain number of cars  
14 allowed, required parking spaces, and hours for parking. He asked why these rules are not  
15 considered for this type of establishment as well because it isn't fair for someone else who runs a  
16 business from their home.

17  
18 Mr. Courson stated that the petitioner has testified that the residents do not have vehicles and the  
19 only transportation available to them is by the center's vans or public transportation. He said that he  
20 understands Mr. Brown's concerns but the petitioner is not running a business out of this place they  
21 are only allowing people to sleep there.

22  
23 Mr. Brown stated that he interprets the use differently.

24  
25 Mr. Courson stated that a home occupation does not indicate that someone cannot go to work at 4:00  
26 a.m.

27  
28 Mr. Brown stated that the number of cars which can be parked in the driveway at certain hours of the  
29 day is limited and the number of people which can congregate on the property. He said that by  
30 allowing 24 people to live in the dormitory on the subject property would be violating the home  
31 occupation guidelines as well.

32  
33 Mr. Thorsland asked the Board if there were any additional questions for Mr. Brown and there were  
34 none.

35  
36 Mr. Thorsland asked if staff had any questions for Mr. Brown.

37  
38 Mr. Hall stated that he has been reviewing the previous meeting's minutes to find where Mr. Brown  
39 had questioned the petitioner on this very issue and the responses indicated a level of activity which  
40 is much lower than what Mr. Brown has indicated tonight. Mr. Hall stated that what the County  
41 Board has said that a church can do as another special use permit has no similarity and is not



1 intended to be comparable in any way to what the County Board has said that an individual can do as  
2 a Rural Home Occupation.

3  
4 Mr. Brown stated that they are similar in the fact that they are developing a residence in the County  
5 which is located in the AG-2 District and should conform to some sort of rules instead of being  
6 brushed under the carpet.

7  
8 Mr. Hall stated that these issues were addressed in the adoption of Case 668-AT-10.

9  
10 Mr. Brown stated that those issues were not addressed.

11  
12 Mr. Thorsland asked the petitioner if they desired to cross examine Mr. Brown and the petitioner  
13 indicated that they did not.

14  
15 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Brown and there was no  
16 one.

17  
18 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present  
19 testimony in this case and there was no one.

20  
21 Mr. Thorsland closed the witness register for tonight's meeting.

22  
23 Mr. Thorsland stated that the Board agreed to place this case on the agenda so that the petitioner  
24 could be heard and the Board could address the submitted plan and he is encouraged that it appears  
25 that things are moving forward between the petitioner and the neighbors.

26  
27 Mr. Passalacqua stated that it appears that there is substantial improvement proposed to the discharge  
28 to the culvert.

29  
30 Mr. Hall stated that there is substantial improvement proposed however the plan does not tell the  
31 Board the total cubic feet per second that will still be going to the culvert therefore he cannot report  
32 what percentage of decrease of the total. He said that for the 4.6 acres which are indicated on the  
33 aerial the decrease is anywhere from 76% at the one year event to about a 47% decrease at the 100  
34 year event.

35  
36 Mr. Passalacqua asked if the 47% decrease is because there is so much surface water at the 100 year  
37 event that the numbers are not recorded.

38  
39 Mr. Brian Bradshaw stated that discharge rate is different because as the water rises the discharge  
40 changes.

41

1 Mr. Thorsland asked Mr. Bradshaw if the actual numbers are available. He said that the Board  
2 would like to know what all of these numbers mean to the Hummel property.

3  
4 Mr. Bradshaw stated that for the 4.6 acres which drain to the Hummel property he can indicate that  
5 there is a 76% decrease in water.

6  
7 Mr. Passalacqua stated that it may be safe to say that the proposed plan may not improve the  
8 discharge under the road to the culvert but the 4.6 acres will not increase that flow.

9  
10 Mr. Bradshaw stated that it will improve the drainage which goes across High Cross Road as well.

11  
12 Ms. Capel asked Mr. Bradshaw if he has the information or data to provide the Board with a figure.

13  
14 Mr. Bradshaw stated that the overall drainage may be around 10 acres and he looked at ½ of that  
15 overall drainage area therefore it is fair to say that the overall reduction is about 50% of what is  
16 represented in the 4.6 acres.

17  
18 Mr. Capel stated that what Mr. Bradshaw didn't look at will not change and what he did look at will  
19 change.

20  
21 Mr. Bradshaw stated yes.

22  
23 Mr. Courson stated that the latest design indicates that the drainage is not hooked into the drain tile  
24 which is headed to the north and to the west. He asked if this design was because those tiles were  
25 not able to handle the drainage.

26  
27 Mr. Bradshaw stated that those drain tiles are under capacity therefore he wanted to take that matter  
28 off of the table for possible objection by the neighbors. He said that he proposed a surface discharge  
29 instead and that drainage area discharges to the east and eventually gets to the Hummel property  
30 therefore he is not changing the drainage pattern at all.

31  
32 Mr. Courson stated that with this plan the same amount of water from one storm will run across the  
33 same area as it currently does but it is being slowed down into the holding pond where it can be  
34 slowly discharged.

35  
36 Mr. Thorsland asked the Board if there were any additional questions for Mr. Bradshaw and there  
37 were none.

38  
39 Mr. Thorsland asked if staff had any questions for Mr. Bradshaw and there were none.

40  
41 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Bradshaw and there was

1 no one.

2  
3 Mr. Thorsland stated that he will personally look forward to seeing a complete drainage plan and an  
4 indication that the petitioner and neighbors have come to some sort of an agreement.

5  
6 Mr. Hall asked the Board if the petitioner comes back with a signed agreement is the Board satisfied  
7 with the extent of detail on the stormwater engineering plan to-date.

8  
9 Ms. Capel stated yes.

10  
11 Mr. Thorsland stated that it may be advisable to include Mr. O’Keefe in any conversations.

12  
13 Mr. Thorsland stated that the Board has a tentative date of March 1<sup>st</sup> for a Special ZBA Meeting if  
14 necessary. He asked Mr. Webber and Mr. Tock if an agreement could be finalized by March 1<sup>st</sup>.

15  
16 Mr. Carl Webber, attorney for the petitioner, stated that they just met early this week and he got them  
17 a proposed agreement this afternoon. Mr. Webber stated that Mr. Tock was kind enough to review  
18 the proposed agreement and indicates that they were close to finalizing an agreement. Mr. Webber  
19 stated that he is not aware of any difficulties but he does know whether Mr. Tock would like to visit  
20 the site.

21  
22 Mr. Jeff Tock, attorney for the Hummels, stated that he did just receive the proposed agreement and  
23 if everyone can come to a quick agreement then March 1<sup>st</sup> may be possible but if there are some  
24 issues which require additional discussion then March 1<sup>st</sup> is not possible. He said that he does plan  
25 to be out of town between now and March 1<sup>st</sup> therefore his preference would be to continue this  
26 meeting to a later date than March 1<sup>st</sup> so that he can address any further issues that may arise with the  
27 proposed agreement while he is out of town.

28  
29 Mr. Thorsland entertained a motion for a continuance to March 15<sup>th</sup>. He said that if both sides have  
30 come to an agreement it should not take long to finalize this case therefore it could be the first case  
31 on the agenda.

32  
33 **Ms. Capel moved, seconded by Mr. Palmgren to continue Case 691-S-11 to the March 15<sup>th</sup>**  
34 **meeting. The motion carried by voice vote.**

35  
36 **Case 701-AT-11 Petitioner: Zoning Administrator Request to amend the Champaign County**  
37 **Zoning Ordinance as follows: Part A. Revise paragraph 6.1.4 D.1 to require that**  
38 **documentation of design compliance with applicable industry standards be submitted**  
39 **prior to receiving a Zoning Compliance Certificate for either a WIND FARM or for any single**  
40 **WIND FARM TOWER. Part B. Revise paragraph 6.1.4 F. as follows: 1. Revise**  
41 **subparagraph 6.1.4F.1 to require that agreements between the Applicant and the County**

1 Engineer shall not be forwarded to the County Board before the special use permit is  
2 forwarded and that all other agreements shall be executed prior to the close of the public  
3 hearing before the Board; and 2. Delete subparagraph 6.1.4F.1.u; and 3. Add new  
4 subparagraph 6.1.4F.3. to require at the time of decommissioning a Roadway Use and Repair  
5 Agreement with the appropriate highway authority. Part C. Revise paragraph 6.1.4J. to  
6 require the Applicant to submit a copy of the Agency Action Report or the Detailed Action  
7 Report, if applicable that is submitted to the Endangered Species Program of the IDNR as well  
8 as the response from IDNR. Part D. Add new subparagraph 6.1.4E.7. to require that a  
9 permanent soil erosion and sedimentation plan be submitted for all WIND FARM TOWER  
10 sites and access roads. Part E. Revise subparagraph 6.1.4S.1(c)(3) to authorize flexibility in  
11 the locations of WIND TOWERS from what is indicated on the site plan provided that the  
12 final locations comply with any required waivers or special conditions of approval. Part F.  
13 Strike the requirement for “reclamation agreement” for NON-ADAPTABLE STRUCTURES  
14 and WIND FARMS and replace with a requirement of “site reclamation plan” and add  
15 certain other related requirements as follows: 1. In Section 3 revise the definition of “NON-  
16 ADAPTABLE STRUCTURE” to include a WIND TURBINE TOWER and a WIND FARM  
17 TOWER AS currently defined in Section 3; and 2. Make the following revisions to paragraph  
18 6.1.1A: a. Strike references to “reclamation agreement” and replace with “site reclamation  
19 plan.” b. Revise subparagraphs 6.1.1A.1 through 5 as follows: (1) Require a site reclamation  
20 plan for NON-ADAPTABLE STRUCTURES; and (2) Require the site reclamation plan to be  
21 binding upon all successors of title to the land and require reclamation work be performed  
22 and that a letter of credit be provided for financial assurance; and (3) Limit consideration of  
23 salvage value to be limited by Paragraph 6.1.4P. c. Revise subparagraph 6.1.1A.6 to strike  
24 “120 days” and replace with “180 days” and insert “or applicant” after “landowner.” d.  
25 Revise paragraph 6.1.1A to add other related requirements; and 3. Revise paragraph 6.1.4P as  
26 follows: a. Revise paragraph 6.1.4P to strike references to “reclamation agreement” and  
27 replace with “site reclamation plan.”; and b. Delete subparagraphs 6.1.4P.3.(d), (e), and (f)  
28 and add new subparagraphs to require the following: (1) At the time of decommissioning a  
29 Roadway Use and Repair Agreement; and (2) The depth of removal of foundation concrete  
30 below ground shall be a minimum of 54 inches and require that replacement soil shall meet  
31 specified minimum standards of soil quality; depth; compaction; and drainage; and c. Revise  
32 subparagraph 6.1.4P.4(a) to require an irrevocable letter of credit and an escrow account as  
33 financial assurance to be provided for the site reclamation plan; and d. Insert new  
34 subparagraph 6.1.4P.4(b) to require the following: (1) Authorize salvage value to be deducted  
35 from decommissioning costs, subject to meeting specified standards; and (2) Add requirements  
36 for determining estimated net salvage value based on the average salvage price of the past five  
37 years and including any deconstruction costs; and (3) Add a limit of 70% for the amount of  
38 estimated salvage value that may be deducted from estimated decommissioning costs; and (4)  
39 Require the site reclamation plan to provide for legal transfer of the STRUCTURE to the  
40 demolisher should the reclamation work be performed; and (5) Limit the maximum allowable  
41 credit for the salvage value of any WIND FARM TOWER to no more than the estimated

1 **decommissioning cost of removal of the above ground portions of that WIND FARM**  
2 **TOWER; and e. Renumber existing subparagraph 6.1.4P.4(b)(5) to become new**  
3 **subparagraph 6.1.4P.4.(d) and revise to require regular adjustment to the amount of financial**  
4 **assurance to ensure that it reflects current information by requiring an Illinois Professional**  
5 **engineer to provide an updated report of estimates of decommissioning costs and salvage**  
6 **values; and f. Revise paragraph 6.1.4P to add other related requirements.**  
7

8 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the  
9 witness register. He reminded the audience that when they sign the witness register they are  
10 signing an oath.

11  
12 Mr. Thorsland asked if the petitioner desired to make a statement outlining the nature of their  
13 request.

14  
15 Mr. Hall stated that one of the issues that was raised at the last hearing was whether or not the  
16 proposed amendment intends to obligate the landowner with the decommissioning costs as does the  
17 current Ordinance. He said that he checked with the State's Attorney and he confirmed that it is the  
18 intent of the Ordinance and the intent is to always indicate landowner or applicant in every instance.  
19 He said that the intent is still to have a landowner burdened with that so that if there ever is a  
20 problem, since the landowner is the signatory on the application, there will be no question that the  
21 decommissioning has to be done by somebody. He said that he spoke to the State's Attorney before  
22 this public hearing and he indicated that he would be happy to come to the meeting to answer any of  
23 the Board's questions if necessary although he is currently in his office working on other issues at  
24 this time.

25  
26 The Board indicated that they did not require the State's Attorney's presence at tonight's meeting.

27  
28 Mr. Hall requested that Mr. Kass call the State's Attorney indicating the Board's preference.

29  
30 Mr. Passalacqua asked Mr. Hall if Part E. is referring to the micro-siting that was previously  
31 discussed.

32  
33 Mr. Hall stated yes. He said that at the last meeting the Board had stricken the note about sound. He  
34 said that the Attachment A, Page A-2 of the Preliminary Memorandum includes language as it  
35 currently exists. He said that the second sentence of paragraph 6.1.4S.1.(c)(3) starts with the words,  
36 "Greater separation and somewhat different locations for WIND FARM structures may be provided  
37 in the approved site plan provided that the greater separation does not increase the noise impacts."  
38 He said that he knows what he was thinking when he originally wrote that sentence but when you  
39 read that sentence fresh it is not possible for truly greater separation to cause greater noise impacts  
40 because it is physically impossible unless you are also increasing the size of the turbine. He said he  
41 agrees with the concern that anytime you change locations you should be concerned about what is

1 happening with noise but literally that sentence is nonsensical and that is why it was stricken.

2

3 Mr. Hall stated that during the last meeting there was discussion regarding the update cycle after year  
4 13 on the Letter of Credit and he agreed with Mr. Courson's comments that it is easy to imagine an  
5 economic situation where a Letter of Credit might not be good for two years. Mr. Hall stated that he  
6 was thinking that a percent change could be specified which would trigger that update but the only  
7 way that staff could identify if it needs to be resubmitted is to go ahead and revisit it and if that is a  
8 concern of the Board then the easiest thing to do is to require an updated Letter of Credit every year  
9 after year 13 and if things haven't changed it won't require much work. He said that the poor Zoning  
10 Administrator will still have to do as much work but that is what he is here for therefore it is his  
11 recommendation that if the Board does not go with one year then there is always a chance that there  
12 will be a problem.

13

14 Mr. Courson asked Mr. Hall to indicate what he will actually do with the information.

15

16 Mr. Hall stated that it isn't that it is so much work but it is an absolute critical thing if we miss the  
17 update. He said that if we have a wind farm company who is on top of everything then they will  
18 send things to him on time and they will probably check with him as to when it will be placed on the  
19 agenda. He said that he will review the update when it arrives and staff will place it on the agenda  
20 and deal with any questions from Board members and follow through with the wind farm company.  
21 He said that it isn't going to take up all of his time but it is a high profile critical thing that will get  
22 his attention and to do it every year will make it as critical as the budget and it is somewhat  
23 inconvenient to have things such as this that have to be done every year but he can see that this is a  
24 reality of wind farms.

25

26 Ms. Capel asked Mr. Hall what will happen if there are five wind farms.

27

28 Mr. Hall stated that then he will be doing those five wind farm Letter of Credit updates in addition to  
29 the yearly budget.

30

31 Mr. Thorsland stated that all of these updates will not occur at the same time.

32

33 Mr. Courson stated that a deadline could be inserted in to the Ordinance indicating that the updated  
34 Letter of Credit must be submitted by June 1<sup>st</sup> of any given year.

35

36 Mr. Hall stated that a deadline could be inserted although such was not included in the legal  
37 advertisement. He said that such a deadline could be made a special condition and it would be nice  
38 to have all of the Letter of Credit updates on the same deadline so that staff could make sure that all  
39 are consistent. He said that theoretically the deadline will be driven by the date of the first Letter of  
40 Credit therefore it is unknown what the submission date should be.

41

1 Mr. Thorsland asked the Board if they were comfortable with the one year cycle.

2

3 Mr. Passalacqua stated yes.

4

5 Ms. Capel stated that in regard to the noise issue, if a turbine was placed further away but directly  
6 upwind from a house it could affect the noise.

7

8 Mr. Hall stated that if the turbine was technically not placed closer to the home but in a somewhat  
9 different orientation it could affect the noise.

10

11 Mr. Passalacqua stated that he thought that the Board stipulated that a new study would be required if  
12 a turbine was relocated.

13

14 Mr. Hall stated that a special condition would be required for a new study but that is what he would  
15 recommend. He said that the reason why he did not add that to the Ordinance is because he is  
16 presuming that such would be part of any flexibility that they are granted. He said that he does not  
17 know if we should assume that any flexibility would require a new noise study.

18

19 Ms. Capel asked if the County is requiring an actual noise study after the wind towers are in place.

20

21 Mr. Hall stated no. He said that Mr. Kass prepared and distributed a new Supplemental  
22 Memorandum dated February 16, 2012, to the Board for review. He said that the new memorandum  
23 includes the following proposed evidence to be added to item 17 regarding other relevant evidence:  
24 1. Clarification on what net estimated salvage value is in order to ensure that all demolition and/or  
25 recycling costs are considered when determining estimated net salvage value; and 2. A limit on the  
26 amount of estimated net salvage value that can be applied towards estimated decommissioning  
27 costs. This limit will add a factor of safety for the County that should minimize the possibility that  
28 estimated decommissioning costs ever exceed what the estimated net salvage value is.

29

30 Mr. Hall stated that he would revise proposed item 17.2 as follows: A limit on the amount of  
31 estimated net salvage value that can be applied towards estimated decommissioning costs. This limit  
32 will add a factor of safety for the County that should minimize the possibility that decommissioning  
33 costs exceed the estimated net salvage value and financial assurance. He said that what is important  
34 is does the decommissioning costs exceed the financial assurance.

35

36 Mr. Hall read proposed item 17.3 as follows: Change from the requirement for a reclamation  
37 agreement to a requirement for a site reclamation plan. Changing from the agreement to the plan is  
38 preferable because the plan is a more streamlined and efficient process than the agreement and there  
39 is no ambiguity with a plan.

40

41 Mr. Hall stated that staff calculated the amount of fill needed for the excavated sites and the

1 information in the memorandum has not been presented as evidence at this time. He said that in  
2 terms of square feet it is 491 square feet, which is 1/3 of a typical basement, at a 54 inches. He said  
3 that the total cubic yards of soil needed is 82 and the amount of cubic yards of top soil, which is to be  
4 as good as what was originally removed, needed for the top one foot is 18. He said that 64 cubic  
5 yards of sub-soil, which can be a mixture of poor quality top soil, is needed below the top one foot.  
6 He said that this calculation is on a per turbine basis therefore it depends on how many turbines are  
7 proposed but it is a pretty modest amount of soil.

8  
9 Mr. Courson stated that he believes that staff's calculations are a little bit on the low end due to the  
10 gravel at the bottom of the turbines and the access roads. He said that he visited the wind turbines in  
11 McLean County and found that there is a lot of rock around the base of the towers which would be  
12 required to be cleaned up as well.

13  
14 Mr. Hall asked Mr. Courson if he would like staff to include the access roads and gravel around the  
15 turbines and recalculate the amount of soil required.

16  
17 Mr. Courson stated that he does not see how staff could include the access roads.

18  
19 Mr. Hall stated that staff would have to assume a specified distance such as 1,000 feet from the road.

20  
21  
22 Mr. Courson stated that if the estimates are for only the turbine then he would determine that the  
23 estimates are a little shy. He said that the access roads vary so much that between the turbines  
24 themselves and from the roads that it would be difficult to estimate.

25  
26 Mr. Hall stated that he could assume 1.1 times the turbine height which is 550 feet from the road,  
27 which is the bare minimum and a 20 foot width.

28  
29 Mr. Thorsland stated that there was testimony that some of the landowners may intend to keep the  
30 access roads intact and as private drives.

31  
32 Mr. Hall stated that he would assume that the access roads could be left if the landowner is in  
33 agreement.

34  
35 Mr. Courson stated that it is an issue that the valuable soil will be hauled off and thrown into a hole  
36 and covered up and when it is time for reclamation the dirt will have to be stolen off of some other field.

37  
38 Mr. Thorsland stated that when he had his waterways constructed he informed the excavator where  
39 he wanted the dirt placed therefore perhaps the landowner could do the same for the footings and the  
40 access roads.



1 Mr. Hall thanked the Board for their input regarding this issue.

2  
3 Mr. Courson stated that perhaps the wind farm company should have to purchase a property near the  
4 wind farm where they are required to store the valuable top soil therefore the material would be  
5 available for reclamation.

6  
7 Mr. Thorsland stated that such a practice would be taking more farmland out of production.

8  
9 Mr. Courson stated that if the concern was that great then there would not be any wind farms at all.

10  
11 Mr. Hall stated that the way that the Ordinance is written it is a clear requirement and it is up to the  
12 wind farm to solve that problem. He said that the Finding of Fact is the first one that the Board has  
13 seen for this case.

14  
15 Mr. Thorsland called Herb Schildt to testify.

16  
17 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, stated that at the last meeting he recalled  
18 an exchange which occurred during the California Ridge public hearing between the ZBA and Mr.  
19 Blazer. He said that he had his wife, Sherry Schildt, go through the online approved minutes, which  
20 he assumes are accurate, and he found two occurrences referring to his recollection of the exchange.

21  
22 Mr. Schildt stated that Line 11, on page 7 of the October 13, 2011, approved minutes, indicates the  
23 following: Mr. Courson asked if Invenergy goes under does the landowner have any obligation for  
24 decommissioning. Mr. Schildt stated that Mr. Blazer does give a lengthy answer although the last  
25 sentence of his response is as follows: He said that if at the end of the day if Invenergy disappears  
26 the County can tell the landowner to take it down because they are the one who is responsible. Mr.  
27 Schildt stated that the minutes indicate that Mr. Courson stated that the participating landowners  
28 could be on the hook to take the turbines down and Mr. Blazer stated yes.

29  
30 Mr. Schildt stated that Line 16, on page 45 of the November 3, 2011, approved minutes, indicates  
31 that Ms. Capel asked if the obligation to decommission runs with a covenant on the land is there any  
32 situation under which the landowner would be obligated to decommission and Mr. Blazer stated in  
33 theory yes. Mr. Schildt stated that during Mr. Blazer's response to Ms. Capel he stated the following:  
34 He said that the obligation running with the land would in theory be enforced on the landowner  
35 himself but that obligation has been assumed by Invenergy.

36  
37 Mr. Schildt stated that he would feel more comfortable with the noise clause placed back in  
38 paragraph 6.1.4S.1.(c)(3) because there are a couple of other situations which could occur such as  
39 topography. He said that if the turbine location is changed the topography relative to a non-  
40 participating dwelling there could be more noise. He said that we could end up with an additive  
41 situation even though the turbine is technically further away it may add to the noise of another

1 turbine therefore adding greater noise to another non-participating landowner because the locations  
2 were changed. He requested that the noise clause be reinserted because it adds protection for  
3 everyone.

4  
5 Mr. Thorsland asked the Board if there were any questions for Mr. Schildt and there were none.

6  
7 Mr. Thorsland asked if staff had any questions for Mr. Schildt and there were none.

8  
9 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony  
10 in this case and there was no one.

11  
12 Mr. Thorsland closed the witness register for tonight's meeting.

13  
14 Mr. Thorsland asked the Board if there were any questions for Mr. Hall or Mr. Kass.

15  
16 Ms. Capel stated that paragraph 6.1.1A.1.5. indicates the following: The irrevocable letter of credit  
17 shall be in the amount of one hundred fifty percent (150%) of an independent engineer's cost  
18 estimate to complete the work described . She said that it was her understanding that the percentage  
19 was 210%.

20  
21 Mr. Hall stated that Ms. Capel's question is in reference to Section 6.1.1 which is the basic  
22 requirements for all non-adaptable structures. He said that the 210% is only for the wind farm which  
23 is 6.1.4P.

24  
25 Mr. Thorsland stated that Mr. Schildt referred to revised paragraph 6.1.4S.1.(c)(3) which is on page  
26 H-2, of Attachment H. on the February 2, 2012, Supplemental Memorandum. He asked Mr. Hall to  
27 refresh the Board as to why the noise clause was removed.

28  
29 Mr. Hall stated that page A-2, of Attachment A on the January 4, 2012, Preliminary Memorandum  
30 indicates revised paragraph 6.1.4S.1.(c)(3). He read the following sentence included in paragraph  
31 6.1.4S.1.(c)(3) as it is written in the Ordinance: Greater separation and somewhat different locations  
32 may be provided in the approved site plan for the Zoning Use Permit provided that the greater  
33 separation does not increase the noise impacts that were approved in the WIND FARM County  
34 Board SPECIAL USE Permit. Mr. Hall stated that when he reads the phrase "greater separation" it  
35 can mean only one thing which is in fact greater separation and there is no chance for additive  
36 effects. He said that an additive effect means that you are actually getting closer to someone and  
37 greater separation means that you are not getting closer to anyone, as in any principal building. He  
38 said that it appears to be a pretty simple thing and on the same hand he would recommend that if the  
39 Board provides flexibility in location of turbines that they require a new noise study although since  
40 we are not going to have the noise study reviewed by anyone who knows anything about noise we are  
41 not going to get a lot out of it but we will at least receive a new noise study.

1

2 Mr. Passalacqua stated that he is in favor of a new noise study even if currently the County does  
3 not have someone to review it.

4

5 Mr. Hall stated that the problem with that is that people ask how we know that a new noise study  
6 will always be required.

7

8 Mr. Passalacqua stated that he is referring to the micro-siting and flexibility of the location of the  
9 turbines.

10

11 Mr. Thorsland stated that if it were made a special condition then it would be made clear. He said  
12 that it would not be included in the main Ordinance but as the applications come in.

13

14 Mr. Passalacqua stated that he could see instances where micro-siting could change the level of  
15 the sound.

16

17 Mr. Hall asked Mr. Passalacqua if he is proposing to make it a requirement of the Ordinance.

18

19 Mr. Passalacqua asked if a special condition would apply to every applicant.

20

21 Mr. Hall stated that a special condition would apply to every applicant if the Board remembers to  
22 do so.

23

24 Ms. Capel asked how the Board is supposed to remember to do all this stuff that is attached to  
25 special conditions.

26

27 Mr. Thorsland stated that Mr. Hall's point is that greater means that as you are moving away from  
28 one person that you are not moving closer to another.

29

30 Mr. Passalacqua stated that when the petitioners are given that flexibility they are going to be  
31 required to show the Board that it will not create negative effects because it is possible that the  
32 turbine could further away yet create more noise.

33

34 Ms. Capel stated that some people did testify that if the turbine was upwind from your house then  
35 it was significantly louder.

36

37 Mr. Courson stated that there could be a body of water, stand of trees, or a farm field which would  
38 reflect the sound differently.

39

40 Mr. Thorsland stated that the distances in which the wind farm companies can move the turbines  
41 are not that great.

1

2 Ms. Capel asked if the current standard is that once they do the model and model siting then that is  
3 the standard that the turbines have to remain at.

4

5 Mr. Hall stated that they only have to meet the Illinois Pollution Control Board standards but as we  
6 learned with California Ridge the petitioner submitted a layout of turbines and a noise study and they  
7 wanted absolute flexibility on the turbines and they were happy to provide a new noise study because  
8 they recognized that there would be questions.

9

10 Ms. Capel stated that we are discussing two things, one of which is the new noise study but the other  
11 is if in the event that the petitioner relocates the turbines will they be held to the standard of the  
12 Ordinance or will they be held to the standards that they imposed upon themselves with the first  
13 model.

14

15 Mr. Hall stated no, and that is what we are trying to get away from because the petitioner did not  
16 want to be held to that site plan standard like every other special use permit is held. He said that the  
17 petitioner only wanted to be held to the Illinois Pollution Control Board standard and that is how  
18 paragraph 6.1.4S.1.(c)(3) is written. He said that requiring a new noise study is not particularly  
19 onerous but it wasn't included in the legal advertisement.

20

21 Ms. Capel stated that she believes that requiring a new noise study is great and she would like to see  
22 the petitioner be required to submit an actual one after the wind farm is up and running.

23

24 Mr. Hall asked the Board if they are comfortable with requiring a new noise study even though it was  
25 not included in the original legal advertisement. He said that the original legal advertisement was  
26 very expensive because it included so much detail.

27

28 The Board agreed to include the new noise study requirement.

29

30 Mr. Palmgren asked Mr. Hall to clarify what is involved in the noise study. He asked if they just  
31 insert data until they obtain the numbers that they like. He agreed that a new noise study should be  
32 required for any relocation and after construction is complete.

33

34 Mr. Hall stated that requiring a new noise study after construction is completed was not advertised.

35

36 Mr. Passalacqua stated that perhaps it is over the top.

37

38 Mr. Hall stated that it isn't any more over the top than spending some of that big application money  
39 to hire someone that knows about noise.

40

41 Ms. Capel stated that Bureau County did it.

1  
2 Mr. Thorsland stated that the County Board was asked by the ZBA to hire a noise professional and  
3 the ZBA was told, in no uncertain terms no, therefore perhaps the County Board is very good at  
4 measuring sound.

5  
6 Mr. Courson asked who picks up the expense when there are noise complaints.

7  
8 Mr. Hall stated that the wind company picks up that expense if they are truly in violation. He said  
9 that he frankly does not know what it would take to make the County Board spend money on a noise  
10 study.

11  
12 Ms. Capel stated that we could just make the wind farm company do it rather than the County do it.

13  
14 Mr. Hall stated that there is a certain amount of due diligence here in telling someone that they are in  
15 violation and that they have to verify that they are not.

16  
17 Mr. Thorsland stated that the Board moved around some paragraphs, chose annual yearly updates for  
18 the financial assurance and reviewed the one task with noise. He asked the Board if there was  
19 anything else for the Board to review.

20  
21 Ms. Capel stated that item 2.d, Revise subparagraph 6.1.1A.6 of the Preliminary Draft Finding of  
22 Fact dated February 16, 2012, should be revised to indicate landowner or applicant's.

23  
24 Mr. Thorsland stated that the Board has a potential special meeting date by which the Board could  
25 continue this case.

26  
27 Ms. Capel asked if the Board could complete this case tonight.

28  
29 Mr. Hall stated no.

30  
31 Mr. Thorsland stated that for several reasons it appears that an appropriate continuance date for this  
32 case is March 29, 2012.

33  
34 **Mr. Palmgren moved, seconded by Mr. Courson to continue Case 701-AT-11 to the March 29,**  
35 **2012, meeting. The motion carried by voice vote.**

36  
37 **6.        New Public Hearings**

38 None  
39

40 **7.        Staff Report**  
41 None

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**8.        Other Business**  
**A.    January 2012 Monthly Report**

Mr. Hall distributed the January 2012 Monthly Report to the Board for review. He said that January was a surprising month because January was the second month in a row that the department exceeded the five year averages that are normally reported. He said that he hopes that this trend will continue.

**B.    Review of ZBA Docket**

Mr. Hall stated that the docket indicates that March 15<sup>th</sup>, March 29<sup>th</sup> are full meetings. He said that if the cases are ready for the April 12<sup>th</sup> meeting then that too will be a full meeting. He said that May 17<sup>th</sup> also appears to be a full meeting. He said that January 2012 is already ahead of January 2011 for the numbers of new cases received and that does not include the cases that came in this week therefore the Board can anticipate another busy year.

**C.    March 1, 2012, Special Meeting Determination**

Mr. Thorsland stated that the Board determined that a special meeting on March 1<sup>st</sup> is not necessary.

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

Mr. Schildt asked if the County Board is not willing to fund a noise study could a private citizen fund a noise study and if so what would such a study cost.

Mr. Hall stated that he does have estimates for a noise study and they are not that expensive. He said that he would be happy to supply Mr. Schildt with that information.

Mr. Schildt stated that he thought that affected citizens in a particular area might want to have a noise study completed under an authority. He said that it might be interesting to see if private citizens could fund a new noise study on behalf of the County and therefore it would have the authority of the County behind rather than just having a private study.

Mr. Hall stated that he does not know if the County authority would mean anything if the County did not pay the fees for the noise study.

Mr. Schildt stated that it could be charged as a grant.

1    Mr. Hall stated that private citizens could always band together to pay for their own noise study.

2  
3    Mr. Schildt stated that if the County Board will not fund a noise study and a group of concerned  
4    citizens could charge a grant which would fund the noise study on behalf of the County.

5  
6    Mr. Hall stated that perhaps he is being too hard on the County Board but he thought it was amazing  
7    that this Board made a specific request after approving everything to provide for that and it was  
8    turned down. He said that any area where there is a wind farm and citizens are prepared to fund their  
9    own noise study is a lucky area.

10  
11    **10.    Adjournment**

12  
13    **Ms. Capel moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried**  
14    **by voice vote.**

15  
16    The meeting adjourned at 8:05 p.m.

17  
18  
19  
20  
21    Respectfully submitted

22  
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25  
26    Secretary of Zoning Board of Appeals

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# CASE NO. 691-S-11

## SUPPLEMENTAL MEMORANDUM

March 9, 2012

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Petitioners: **Pastor David L. Rogers  
and the Apostolic Life UPC Church**

Request: **Authorize the  
following on land in the  
AG-2 Agriculture  
Zoning District:**

Site Area: **4.7 acres**

Time Schedule for Development:  
**Development contingent upon  
funding**

- (1) **the Apostolic Life UPC Church  
as a special use; and**
- (2) **the establishment and use of a  
24 person "Residential  
Recovery Center" as a second  
special use.**

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

Prepared by: **John Hall**  
Zoning Administrator

(217) 384-3708

**Andrew Kass**  
Associate Planner

Location: **Lot 3 of the Almar First  
Subdivision in the Northeast Quarter  
of Section 3 of Urbana Township and  
commonly known as the Apostolic Life  
UPC Church located at 2107 High  
Cross Road, Urbana.**

---

### *STATUS*

This case was continued from the February 16, 2012, meeting. The minutes of that meeting are included separately for approval.

New special conditions of approval are proposed (see below) and some changes are recommended to previous conditions (see item 12.A. of the Summary of Evidence).

---

### **NEW SPECIAL CONDITIONS OF APPROVAL**

**D. The maximum number of residents in the proposed Residential Recovery Center shall be 24.**

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

**That the authorized limit of residents is clearly stated and consistent with the Ordinance and the testimony in the public hearing and is enforceable.**

**E. The operation of the proposed Residential Recovery Center shall remain in conformance with all applicable laws and regulations including the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS301/).**

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

**That the proposed Residential Recovery Center remains in conformance with relevant laws and regulations.**



- F. The proposed Residential Recovery Center shall at all times have an adequate number of responsible and qualified staff persons present and on duty onsite to provide supervision 24 hours per day, seven days per week.**

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

**That staffing of the proposed Residential Recovery Center is consistent with the Ordinance and the testimony in the public hearing and that compliance is enforceable.**

- G. All onsite foodservice shall be in compliance at all times with the Champaign County Health Ordinance.**

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

**That foodservice for the proposed Residential Recovery Center is consistent with County requirements and the testimony in the public hearing and that compliance is enforceable.**

- H. The proposed parking area for the proposed Residential Recovery Center shall comply with the Champaign County Zoning Ordinance requirements for screening from adjacent residences and Residential Districts.**

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

**That all parts of the proposed Residential Recovery Center are consistent with the Ordinance and the testimony in the public hearing and that compliance is enforceable.**

- I. No Zoning Compliance Certificate shall be authorized for the proposed Residential Recovery Center until an earthen berm and a fence are constructed between the proposed Residential Recovery Center and the residence at 2103 High Cross Road that conforms to the Berm Plan received on February 21, 2012, and the following:**

- (1) The earthen berm shall be constructed and maintained by the Applicant as follows:**
  - (a) The berm shall primarily be constructed of clayey soils and compacted to not less than 95% of the standard laboratory density but the top six inches of the berm shall be good quality topsoil.**
  - (b) The berm shall be a minimum of two feet in height and shall follow the topography of the adjacent lot line with side slopes of 3:1 and with a top that is level and a minimum of two feet wide.**
  - (c) The berm shall be seeded with grass, fertilized, mulched, and maintained so as to establish a good cover of grass at all times.**

- (2) **The fence shall be constructed as follows:**
- (a) **The fence shall be constructed on top of the earth berm described in the first part of this condition.**
  - (b) **The fence shall be no less than four feet tall as measured from the top of the berm.**
  - (c) **The fence shall be completely opaque for its entire height.**
  - (d) **The fence shall be constructed and maintained by the Applicant provided that the necessary access is authorized by the owner of 2103 High Cross Road.**

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

**That the proposed Residential Recovery Center does not worsen the existing drainage conditions at 2103 High Cross Road and to ensure that adequate separation is maintained between the proposed Residential Recovery Center and 2103 High Cross Road.**

#### **ATTACHMENTS**

- A Berm Plan received 21, 2012 (included separately)
- B Revised Draft Summary of Evidence, Finding of Fact, and Final Determination for Zoning Case 691-S-11

**REVISED DRAFT**

**691-S-11**

**SUMMARY OF EVIDENCE, FINDING OF FACT  
AND FINAL DETERMINATION**

**of  
Champaign County Zoning Board of Appeals**

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Final Determination: *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED}*

Date: March 15, 2012

Petitioners: Pastor David L. Rogers and the Apostolic Life UPC Church

Request: Authorize the following on land in the AG-2 Agriculture Zoning District:

- (1) the Apostolic Life UPC Church as a special use; and
- (2) the establishment and use of a 24 person “Residential Recovery Center” as a second special use.

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 30, 2011, September 15, 2011, November 3, 2011, February 16, 2012, and March 15, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The Apostolic Life UPC Church owns the subject property and the co-petitioner Pastor David L. Rogers is the pastor.
2. The subject property is Lot 3 of the Almar First Subdivision in the Northeast Quarter of Section 3 of Urbana Township and commonly known as the Apostolic Life UPC Church located at 2107 High Cross Road, Urbana.
3. The subject property is located within the one-and-one-half mile extraterritorial jurisdiction (ETJ) of the City of Urbana. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ, they do receive notice of such cases and they are invited to comment.

**GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY**

4. Land use and zoning on the subject property and in the vicinity are as follows:
  - A. The subject property is zoned AG-2 Agriculture and is in use as the Apostolic Life UPC Church (legal nonconforming).
  - B. Land to the north is zoned R-1 Single Family Residence and is in use for agriculture (row crops).
  - C. Land on the east side of the subject property that is in use for single family dwellings (on the west side of High Cross Road) that are in the R-1 Single Family Residence zoning district and land on the other side of High Cross Road is zoned AG-2 Agriculture and is in use for agriculture.
  - D. Land on the south side of the subject property is zoned R-1 Single Family Residence and is in use as single family dwellings and the lawn of the Harvest Church located to the west.
  - E. Land to the west of the subject property is zoned AG-2 Agriculture and is the property of the Harvest Church (legal nonconforming).

**GENERALLY REGARDING THE PROPOSED SPECIAL USE**

5. Regarding site plan and operations of the existing Church and the proposed RESIDENTIAL RECOVERY CENTER:
  - A. The site plan received May 13, 2011, shows the entirety of the subject property and includes the following:
    - (1) The existing buildings and parking areas are the same as were authorized in Zoning Case 749-S-91 when the property was occupied by the Pyramid Paper Company

and the same as when the change of use to a church was authorized in Change of Use Permit No. 8809 on June 14, 1996, for the Harvest Church and include the following buildings and parking areas:

- (a) The original building and the expansion that was authorized in Case 112-S-75, is the easternmost existing building on the property. The site plan indicates that this building contains the Worship Center, Classrooms, Fellowship Hall, Activity Center, office, and Conference Room. There are existing parking areas on the east and north sides of this building and the existing septic fields are located east and west of this building.
  - (b) The Activity Center is the westernmost existing building on the property. There is an existing parking area on the west side of the Activity Center.
  - (c) The Utility Shed is the southernmost existing building on the property. There is another parking on the east side of this building.
  - (d) The site plan indicates a total of 114 parking spaces which is consistent with the approved site plan for Change of Use Permit No. 8809.
- (2) The only proposed (new) building on the proposed site plan received May 13, 2011, is the Proposed Residential Recovery Center (RRC) Dormitory (24 resident maximum) that is located south of the existing west parking lot. An area for 14 proposed additional parking spaces is also indicated on the south side of that existing parking lot.
- (3) A revised site plan was received January 10, 2012, and includes the following:
- (a) All existing and proposed structures. The proposed dormitory's dimensions are listed as 35' × 85'.
  - (b) All parking areas along with the number of parking stalls and handicapped spaces.
  - (c) Locations of existing and proposed septic systems. Currently there are two existing septic systems and a third is proposed for the dormitory. The septic system for the proposed dormitory has been designed by Steve Johnson of Johnson Wastewater Systems, Inc.
  - (d) A dry detention basin with a storage volume of 22,100 CF. The proposed detention basin is a part of the proposed stormwater management plan.
- (1) The proposed stormwater detention basin will detain the stormwater runoff from the proposed dormitory building and proposed

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additional parking area as well as .98 acres of lawn area and from an additional off-site tributary area of 3.2 acres for a total tributary area of 4.6 acres.

- (2) The proposed stormwater detention basin will be built by constructing a 3 ½ feet tall dam southwest of the south parking area. The bottom of the proposed basin will be more or less at the same elevation as the south parking area. The existing topography will direct stormwater runoff from the 4.6 acre tributary area into the detention basin. Stormwater will drain out of the basin by means of a 4-inch diameter multi-stage outlet into an 18-inch diameter culvert into the existing south parking area. Once in the south parking area the stormwater will drain overland towards High Cross Road but the specifics of exactly where the stormwater will flow are not detailed at this time.
- (3) The stormwater calculations received on January 10, 2012, indicate that the peak rate of stormwater runoff from the 4.6 acre tributary area will be reduced for all storm events as follows:
- peak runoff from the 1-year storm event will be reduced from 4.11 cubic feet per second (CFS) to .97 CFS;
  - peak runoff from the 2-year storm event will be reduced from 5.93 cubic feet per second (CFS) to 1.30 CFS;
  - peak runoff from the 5-year storm event will be reduced from 8.46 cubic feet per second (CFS) to 1.30 CFS;
  - peak runoff from the 50-year storm event will be reduced from 16.52 cubic feet per second (CFS) to 7.12 CFS;
  - peak runoff from the 100-year storm event will be reduced from 19.55 cubic feet per second (CFS) to 10.4 CFS.
- (4) Stormwater flow to the adjacent Hummel property will be reduced by the amounts indicated in the stormwater calculations but the total stormwater flow to the Hummel property is not required to be determined by the Stormwater Management Policy. In addition to the stormwater from the 4.6 acre area tributary to the proposed detention basin (including from the proposed dormitory and parking area) the adjacent Hummel property receives stormwater from some portion of the existing impervious area of the Apostolic Church plus an additional 2.2 acres of mostly grassed area located to the southwest.

- B. Information regarding the operations of Lifeline-connect is provided on their website ([www.liefelineconnect.org](http://www.liefelineconnect.org)) and is summarized as follows:

- (1) The Home page states the purpose of Lifeline-connect as follows:

The purpose of Lifeline-connect is to create an effective and comprehensive Christian faith based solution to life-controlling drug and alcohol addictions. By providing a healthy and stable environment which provides support and training; individuals can be transformed, restored, and re-connected to community, family, friends, and financial stability. It is our mission to help men build their lives upon a firm foundation that will help them recover from a life of addiction.

- (2) The Staff page lists staff members as the following:

- (a) D.L. Rogers, Executive Director
- (b) Randy Brown, Director
- (c) Brenda Rogers, Administrative Director
- (d) RJ Eaton, Director of Operations

- (3) The Classes Offered page lists the following three classes:

- (a) Celebrate Recovery
- (b) Genesis Process Classes
- (c) Financial Peace University

- (4) The Info Center page lists four topics including information materials which is a brochure on the Lifeline-connect organization. The brochure states that the program is available to men age 18 and over and that Lifeline-connect clients work together daily in various job tasks to help pay for tuition, living expenses, and the cost of materials. The brochure also lists training in five different areas.

- (5) The Needs page requests for support in expanding the housing capabilities of the program.

- (6) The Services Offered page is an overview of the services offered by the Lifeline-connect program so that program participants have opportunities for working together, learning skills, giving back to the community, and raising funds to support the Lifeline-connect program.

- C. In an emailed dated October 20, 2011, Pastor D.L. Rogers stated that supervision of residents will be accomplished with a responsible and qualified staff members providing onsite supervision twenty-four hours a day, seven days per week and a responsible dorm leader will reside in the proposed dorm. Residents will have guidelines concerning their whereabouts and activities at all times.

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- D. At the June 30, 2011, public hearing Mr. R.J. Eaton the Director of Operations at Lifeline Connect testified in regard to the operations of Lifeline-Connect and his qualifications credentials:
- (1) Regarding Mr. Eaton's qualifications credentials:
    - (a) He attended and graduated from ministry school in Alexandria, Louisiana and worked with men who were coming out of prison and were in a rehabilitation facility.
    - (b) He previously worked at a psychiatric hospital for seven years dealing with different types of behavioral and psychiatric problems.
    - (c) He has been at Lifeline-Connect for almost two years and believes he was hired because of his 10 years of experience with troubled men and women and noted that he has gone through different counseling and does have limited credentials with the Genesis Process which is one-on-one and group therapy counseling.
    - (d) He has more time with experience but he does have educational credentials in ministry school and the Genesis Process for counseling.
  - (2) All Lifeline Connect residents are 100% accountable to him for 100% of their time and those who live on campus and the Phase 3 residents are supervised 24 hours per day, 7 days a week and that there is a curfew set at 9:30 p.m. and lights are out at 10 p.m.
  - (3) That he lives on the campus with the residents and in the five-year history they have never had any problems with the Lifeline Connect residents that they could not handle.
  - (4) Residents are allowed visitors, but only after staff has approved visits and that normally participants may have a visitor four or five times per year.
  - (5) Some residents are allowed to come and go on their own and that participants in Phase 2 of the program are assisted in obtaining jobs. When residents are employed they are required to call Lifeline-Connect when they arrive and leave the workplace.
  - (6) Since he has been with Lifeline-Connect there has never been an on campus participant with a vehicle. Phase 3 which is "off campus" participants are allowed to have a vehicle but he believes only one or two do.



- (7) The men travel to the job sites with him in the van that is owned by Lifeline-Connect and the van may exit and enter the premises five times per day.
- (8) Only four to five vehicles that have had auto-detailing completed at the church property, but generally the services take place offsite.
- (9) That there is no primary employer who the men work for on a regular basis.
- (10) There is one man who drives to campus for a class and two who ride a bike. In the last two years there has been one man who left the program and it was his (Mr. Eaton's) decision not the man's.

E. At the June 30, 2011, public hearing Mr. Randy Brown, the Director of Lifeline Connect, testified in regard to the operations of Lifeline-Connect:

- (1) He has been in ministry for approximately 17 years
- (2) One of the things that has been a problem with helping people in recovery is sustaining sobriety and maintaining a good safe environment while they are given tools and training to deal with life and navigate through their recovery process.
- (3) During the application process for acceptance into the program it is very important to have men who are motivated to change. They have had the interview process last as long as two years although the average interview process takes place over the course of three to five weeks and within that time have the opportunity to see how serious and motivated the applicant is for recovery.
- (4) There have been 5 or 6 men in the program who have been within a 30 mile radius of the recovery center but several have been from out of state because they are looking for a new start in a new location. He would guess that only 20 to 30% of the men are from a close proximity of the recovery center.
- (5) The counselors do not call themselves therapists but they do operate with the guidelines that they need to make sure that the State is aware of what they are doing.
- (6) They offer participants in the program the Genesis Relapse Prevention Process and five of the counselors have completed formal training for that program. Another program offered called Celebrate Recovery and is a 12 step program which the court systems prefer and they also utilize Teen Challenge material. A Financial Peace University program and a 24-week Life Skills class are taught off campus in Danville.

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- (7) The participants in the program are not allowed visitors for the first 90 days because it is important to focus on themselves and break any unhealthy ties they may have.
  - (8) In the last nine months of the program participants can submit a pass application which needs to justify why they are requesting the pass and where and what they will be doing and then staff will decide to grant or deny the pass. Commonly the pass would request that the visit be done off campus and usually the request is for a sober, non-problematic family member and if there needs to be accountability, staff will send an accountability person along.
  - (9) If someone is in the program at Lifeline-Connect they are drug and alcohol free all of the time and are tested weekly and participants have to sign a request for an ibuprofen.
  - (10) If graduates from the program stay in the community they are encouraged to be part of MAP, Mentoring Accountability Plan, which involves weekly drug testing. The graduates who participate in MAP have a success rate of 80 to 90%. The participants are not drug addicts but men in recovery and men that are not taking drugs and are not hanging out with people who do take drugs.
  - (11) There is no medical staff at the facility and the most dangerous situations that occur are men who go through detoxification with alcohol or benzodiazepines and most of those occur before they come to the facility, but not always. To his knowledge they have never had a high risk detoxification occur, but if they do have a medical situation, such as kidney stones, they never deny medical care and utilize the services of Carle.
  - (12) If someone decides to terminate treatment Lifeline Connect tries to contact family members so that everyone understands where they are at and where they are going. Lifeline Connect will take the person to the bus station where they can connect with the family and the family can take it from there.
  - (13) 40 men have gone through the program. Some complete the program in one year and while others sign up for Phase 3 and stay. People who are in the MAP program are graduates but are still involved.
  - (14) Lifeline-Connect does receive donations from contributors all over the country and many times after the men have completed jobs during a fundraiser in the community the client will donate to the program.
- G. At the June 30, 2011, public hearing Mr. Randy Brown the Director of Lifeline Connect spoke in support of the special use permit.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS**

6. Regarding authorization for a RESIDENTIAL RECOVERY CENTER as a Special Use in the AG-2 Agriculture Zoning District in the *Zoning Ordinance*:
  - A. Section 5.2 authorizes RESIDENTIAL RECOVERY CENTER as a Special Use only in the AG-2 Zoning District and footnote 19 limits the authorized locations to (a) located within one and one-half miles of a home-rule municipality with an adopted comprehensive plan; and (b) operated by and located on the same property as a church or temple.
  - B. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
    - (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
      - (a) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
      - (b) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
      - (c) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
      - (d) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
      - (e) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
    - (2) Subsection 6.1.3 indicates the following standard conditions for RESIDENTIAL RECOVERY CENTER (\* the numbering is the same as in the Ordinance):
      - \*1. The proposed RESIDENTIAL RECOVERY CENTER must be located as follows:
        - \*a. The subject property must be served by public transportation; and
        - \*b. The associated church or temple must occupy a building which predominantly existed on October 10, 1973.
      - \*2. The maximum number of residents allowed at one time shall be the smaller of the following numbers:

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- \*a. 10% of the maximum occupancy of the main worship area of the associated church or temple; or
  - \*b. 30.
  - \*3. The minimum required lot area shall be:
    - \*a. 20,000 square feet if served by a connected PUBLIC SANITARY SEWER SYSTEM; or
    - \*b. 30,000 square feet plus 7,000 square feet per resident if not served by a connected PUBLIC SANITARY SEWER SYSTEM.
  - \*4. The proposed RESIDENTIAL RECOVERY CENTER shall be operated as follows:
    - \*a. A responsible and qualified staff person must be onsite to provide supervision 24 hours per day, seven days per week; and
    - \*b. All onsite food service shall be compliant with the Champaign County Health Ordinance; and
    - \*c. The RESIDENTIAL RECOVERY CENTER must be operated in conformance with the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/) including obtaining any required license.
  - \*5. No person may occupy a RESIDENTIAL RECOVERY CENTER until a qualified inspector (as defined in 20 ILCS 3105/10.09-1) files a certification that the building complies with the 2006 edition of the International Building Code.
- (3) Paragraph 7.4.1 C.3.i. establishes the parking requirements for a RESIDENTIAL RECOVERY CENTER and states that parking spaces for a RESIDENTIAL RECOVERY CENTER shall only be required for the number of vehicles proposed to be authorized in the Special Use Permit application.
- D. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Waivers of standard conditions are subject to findings (1) that the waiver is in accordance with the general purpose and intent of the ordinance and (2) will not be injurious to the neighborhood or to the public health, safety, and welfare.
- E. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):

- (1) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
  - (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT with the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN OR PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE or the main or principal USE.
  - (3) "ACCESSORY USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
  - (4) "RESIDENTIAL RECOVERY CENTER" is a living facility in which occupants live as a single, cooperative housekeeping unit while receiving support and training to assist them in recovering from the effects of chemical and alcohol dependency.
  - (5) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
  - (6) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- F. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
  - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
  - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
  - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
  - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- G. ~~Paragraph 9.1.11.D.1. provides that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Waivers of standard conditions are subject to findings (1) that the waiver is in~~

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~~accordance with the general purpose and intent of the ordinance and (2) will not be injurious to the neighborhood or to the public health, safety, and welfare.~~

- G. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
- (a) that the waiver is in accordance with the general purpose and intent of the ordinance; and
- (b) that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
- (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
- (a) Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
- (b) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
- (c) The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- H. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION**

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
  - A. The Petitioner has testified on the application, **“So Apostolic Life Church & Lifeline-connect ministries can continue to provide Christian training, teaching, and a residential recovery center.”**
  - B. The site in question is zoned AG-2. The zoning ordinance only allows facilities such as this is in the AG-2 district subject to a special use permit. On June 17, 2010, there was testimony in Case 668-AT-10 from John Rhoads an intern at Webber and Theis. Mr. Rhoads stated, “The AG-2 designation was created with a broad range of goals in mind and should not be regarded as a residential zone.” Mr. Rhoads went on to say, “The near rural setting in AG-2 is an ideal location for these young men to experience recovery.”
  - C. At the June 30, 2011, public hearing Mr. John Hummel testified that the special use is not necessary for the public convenience at this location, that it will be injurious to the district and detrimental to the public convenience at this location, and that it denigrates the essential character of the district, and that such use will make the existing nonconforming use less, not more compatible with its surroundings.
  - D. At the June 30, 2011, public hearing Mr. Carl Webber, attorney for the petitioner testified:
    - (1) The dormitory must be constructed but the meeting rooms, classrooms, reading rooms, kitchen, and dining rooms already exist therefore this is the most suitable location for the recovery center.
    - (2) The proposed use is necessary for the public convenience because it is necessary for the public survival and he wished there were 20 more like it in town.

**GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE**

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
  - A. The Petitioner has testified on the application, **“No significant increase to: traffic, noise, outside lighting. No negative effects on adjacent properties in regards to stormwater (see attachment from BKB Engineering).”**
  - B. Regarding surface drainage:
    - (1) A Drainage Review of New Building & Parking Lot Expansion by Bryan K.

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Bradshaw dated March 28, 2011 (Att. J Preliminary Memorandum), can be summarized as follows:

- (a) The site is well drained by a storm sewer system with several catch basins located in the parking lots.
  - (b) The storm sewer discharges to a tile flowing westerly which outlets to the Saline Branch Drainage Ditch.
  - (c) The surface flow of the property is generally to the east towards High Cross Road. If the storm sewer would surcharge the stormwater would flow to the east outletting into an agricultural swale located on the east side of High Cross Road.
  - (d) An attached plan indicates two areas on the property of sufficient size and properly located to serve as locations for stormwater detention basins to serve the proposed improvements.
  - (e) A detention basin designed and constructed in accordance with the Champaign County Stormwater Management Policy would minimize any negative effects on downstream properties from the construction of the proposed improvements.
- (2) A letter from Thomas Berns to Al Miller (Attachment D), dated April 5, 1984, regarding the Pyramid Paper Company site can be summarized as follows:
- (a) The subject property does not have significant surface water drainage problems.
  - (b) The subject site has adequate on-site drainage facilities to serve all the existing improvements.
  - (c) Existing on-site drainage has been designed and constructed with to adjoining properties.
- (3) The final plat for Almar First Subdivision (Attachment F), depicts the location of a 12 inch diameter storm sewer and notes the location of the drainage easement. This plat was submitted and approved in 1990 by the City of Urbana. The 12 inch diameter storm sewer is the proposed outlet of the proposed storm water detention basin.



- (4) A site plan from Case 749-S-91 (Attachment G), depicts the drainage system for the subject property. This was submitted in 1991 when Pyramid Paper applied for a special use permit to expand the parking area.
  - (5) At the November 3, 2011, ZBA meeting Bryan Bradshaw testified from a drainage standpoint this property is about as simple and straight forward as is gets. Mr. Bradshaw also testified that the revised site plan has a detention basin with a designed capacity of a 100-year storm in lieu of a 50-year storm as indicated on the previous site plan.
  - (6) At the November 3, 2011, ZBA hearing Don Wauthier an Engineer with Berns, Clancy, and Associates, testified that the drainage system proposed in Case 502-S-84 was never built and therefore the existing drainage system is not adequate for the existing development.
  - (7) On December 8, 2012, a comprehensive site plan was submitted along with stormwater calculations. On January 10, 2012, a revised comprehensive site plan and stormwater calculations were received. An independent engineering firm conducted a review of the January 10, 2012, submittal and confirmed that it is in substantial conformance with the 2003 Champaign County Stormwater Management Policy.
  - (8) On February 21, 2012, a plan was submitted by the petitioner showing the intent to build a berm around the rear and west side of Mr. Mark Hummel's property located at 2103 North high Cross Road, Urbana, in order to divert stormwater away from Mr. Hummel's property.
- C. The subject property is accessed from High Cross Road on the east side of the property. Regarding the general traffic conditions on High Cross Road at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (1) The Illinois Department of Transportation (IDOT) measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). The AADT of High Cross Road is indicated as 2,400 AADT.
  - (2) High Cross Road is indicated as a Minor Arterial Street by the Urbana Comprehensive Plan.
  - (3) Pavement width in front of the subject property is approximately 21 feet.
  - (4) The Township Highway Commissioner has been notified of this case.
  - (5) Regarding the proposed special uses and the anticipated traffic impacts:

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- (a) The subject property became a church on June 14, 1996, with the approval of Zoning Use Permit No. 8809 and at that time “church” was authorized in the Zoning Ordinance by right. The proposed special use permit for the Apostolic Life UPC Church does not propose any increase in traffic related to the church proper.
  - (b) At the June 30, 2011, public hearing Mr. Carl Webber, Attorney for Lifeline Connect testified that High Cross Road has 2,400 cars per day and would hardly be impacted by the number of cars for the recovery center and it would have a minor or almost zero impact on daily traffic.
  - (c) The proposed RESIDENTIAL RECOVERY CENTER includes parking spaces for 14 vehicles which is a very slight increase in traffic on High Cross Road.
- D. Regarding fire protection of the subject property, the subject property is within the protection area of the Carroll Fire Protection District and is located approximately 2.5 road miles from the fire station. The Fire Protection District Chief has been notified of this request, but no comments have been received at this time.
- E. The subject property is not located within a Special Flood Hazard Area.
- F. Regarding outdoor lighting on the subject property, no new outdoor lighting is proposed to be added.
- G. Regarding wastewater treatment and disposal on the subject property:
- (1) The proposed site plan received May 13, 2011, indicates that the existing Apostolic Life UPC Church has two septic fields currently serving the existing church. No expansion of the church is proposed other than as relates to the proposed RESIDENTIAL RECOVERY CENTER.
  - (2) A soil characterization report evaluating the soils for use in a septic system for the proposed RESIDENTIAL RECOVERY CENTER was prepared by Wiley Scott Soil Consulting Service dated March 21, 2011 (Att. K. Preliminary Memorandum) and can be summarized as follows:
    - (a) Two soil characterization borings were made on the subject property as indicated on the site diagram.
    - (b) In general, the soils are somewhat poorly drained and moderately slowly permeable.
    - (c) The subject property is in a map unit of soil type 236A Sabina silt loam, 0 to 3 percent slopes in the Soil Survey of Champaign County, Illinois.

- (d) The natural soils on the subject property have a seasonally high water table at a depth of 11 inches below the soil surface.
  - (e) The Soil Consulting Service suggests installing a field tile around the perimeter of the leach field to drain the soil and lower the seasonally high water table.
- (3) The soil characterization report is consistent with the pamphlet *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*, that is a report that indicates the relative potential of the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic tank leach fields). The pamphlet contains worksheets for 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). Sabina silt loam, 0 to 3 percent slopes (soil map unit 236A) soil is rated as having “medium” suitability for subsurface soil absorption wastewater systems (septic tank leach fields) and requiring corrective measures generally of subsurface drainage or fill and a curtain drain. A worksheet for the Sabina silt loam soil was included with the Supplemental Memorandum dated June 30, 2011.
- (4) A description of the proposed septic system to serve the proposed RESIDENTIAL RECOVERY CENTER was written by Dale Shiply of Shiply Backhoe Service of Philo and received on May 13, 2011 (Att. N Preliminary Memorandum) can be summarized as follows:
- (a) The septic system would be designed to serve the 24 person dormitory without kitchen and would be sized for 3,600 gallons of water per day.
  - (b) The septic system proposed by Mr. Shiply consists of a 3,000 gallon septic tank that would discharge into a 20 feet by 50 feet sand filter with a chlorine feeder that would discharge into the proposed retention pond.
- (5) A letter dated September 13, 2011 from Steve Johnson of Johnson Wastewater Systems, Inc. to D.L. Rogers can be summarized as follows:
- (a) They are in the process of designing a system that will utilize an aerobic treatment and/or a sand filter followed by a low pressure pipe subsurface absorption field.
  - (b) The design of the system will retain the treated effluent on the property.
- (6) On November 2, 2011, the design of the proposed septic system was submitted. The proposed septic system will consist of the following:

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- (a) A 3,000 gallon septic tank and a 1,500 gallon dosing station.
    - (b) An absorption field consisting of four (4) zones which are 420 lineal feet per zone.
    - (c) Pump controls for the system will be mounted in the inside the proposed dormitory.
  - (7) A letter dated November 3, 2011 from Steve Johnson of Johnson Wastewater Systems, Inc. to D.L. Rogers regarding the condition of existing septic systems on the subject site can be summarized as follows:
    - (a) The Illinois Department of Public Health was unable to locate any information regarding the installation of the two existing systems due to their age.
    - (b) The Champaign County Health Department has received no complaints regarding these systems.
    - (c) It is Mr. Steve Johnson's opinion that the existing septic systems meet the requirements to pass inspection.
  - (8) At the November 3, 2011, hearing Pastor D.L. Rogers submitted three receipts for maintenance conducted on an existing 1,000 gallon septic system in October 2006, April 2010, and July 2011.
- I. Regarding parking for the proposed RESIDENTIAL RECOVERY CENTER, the proposed parking complies with the minimum requirements of the Zoning Ordinance except for required screening. See the discussion under 9.B.(4).
- J. Regarding food sanitation and public health considerations related to the proposed Special Use:
- (1) Standard condition 4.b. for a RESIDENTIAL RECOVERY CENTER in Subsection 6.1.3 of the Zoning Ordinance requires that all onsite food service shall be compliant with the Health Ordinance.
  - (2) The Proposed Lifeline-connect RRC Dorm Facility Floor Plan received May 13, 2011, indicates a "mini kitchen" in the proposed dormitory.
  - (3) An email exchange regarding the proposed food service dated May 11, 2011, from Sarah Michaels, Champaign-Urbana Public Health District/ Champaign County Health Department, to Pastor D.L. Rogers established the following:

- (a) Pastor Rogers stated that all food service and meal and snack preparation would be conducted by the residents themselves for personal consumption and it was his understanding that no permit would be required from the Champaign County Health Department for those operations.
  - (b) Ms. Michaels replied that if the kitchen is used for the residents' personal use only no permit is needed from the Heal Department but if at any time meals are prepared by staff for the residents then a health permit will be needed.
- K. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
    - (a) The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
    - (b) The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
    - (c) The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
    - (d) Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
    - (e) Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
    - (f) The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance

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with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required. There is no information regarding the cost of the pole barn that is used to house the farm dinners in inclement weather, so it is unclear if that will trigger the requirements of the IEBA.

- (g) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
- (h) The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
- (i) When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
- (j) Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.

(2) The proposed dormitory will not be able to be occupied by anyone until it has been certified that building complies with the 2006 edition of the International Building Code.

L. Regarding safety concerns related to the proposed Special Use:

(1) In an emailed dated October 20, 2011, Pastor D.L. Rogers stated that supervision of residents will be accomplished with responsible and qualified staff members providing onsite supervision twenty-four hours a day, seven days per week and a responsible dorm leader will reside in the proposed dorm. Residents will have guidelines concerning their whereabouts and activities at all times.

(2) At the June 30, 2011, public hearing Mr. John Hummel testified that the proposed project will be injurious to the neighborhood and to the safety and welfare of the residents. Mr. Hummel also testified that he is concerned for the safety of his teenage granddaughter who spends some time home alone while her parents are at work because of the possibility of 24 recovering substance abusers next door who are only supervised by one person.

- (3) Ms. Betty Ujhelyi testified at the June 30, 2011, public hearing that she is concerned about any increase in traffic or noise or that crime may become a problem as a result of the proposed use and decreased property value.
- (4) At the June 30, 2011, public hearing a letter from Mr. Carroll Goering was submitted as a document of record by Betty Ujhelyi. In the letter Mr. Goering states he live near the proposed use and objects to it. Mr. Goering also stated in the letter that he and his wife have already had issues with drug addicts because their house has been burglarized twice.
- (5) At the September 15, 2011, public hearing Pastor David L. Rogers testified that since the June 30, 2011, public hearing the Church had worked with the Champaign-Urbana Mass Transit District (MTD) Engineering Department and the MTD bus sign on the adjacent property had been relocated to the Church property, in response to concerns raised by the neighbors at the June 30, 2011, public hearing.
- M. At the June 30, 2011, public hearing Mr. John Grubb , who lives two blocks from the Life-Line Connect stated that he is in support of the program and has known some of the men in the program and as a community resident he is very pleased to have the men in the program.
- N. At the June 30, 2011, public hearing Mr. Carl Webber, attorney for the petitioner testified:
- (1) The facility is about recovery and the men are tested weekly and if they fail the tests they are out of the program.
- (2) To suggest that the recovery center is a problem to the area is almost comical because the men have 24 hour/seven days per week supervision and they cannot cause an issue in the community.
- (3) Mr. Goering believes that the special use is to establish a drug rehab center but he is incorrect because the center has been there for a long time and it was mentioned in his letter that they have been good neighbors.
- O. At the June 30, 2011, public hearing Mr. John Hummel testified:
- (1) That the proposed special use will devalue all properties along High Cross Road, in Richardson Estates, in Bruce Acres, and along Nordland Drive.
- (2) Surface flow reaches High Cross Road by overflowing 2103 N. High Cross Road and to counter that he and his son Mark have begun to construct a berm to divert surface flow from the backyard.

- (3) The proposed project would make another 10% of the property impervious to water infiltration, further exacerbating the drainage problem.
- (4) He has a fairly effective screen along the back of the property at 2103 North High Cross Road and he has not observed any activities on the subject property other than the traffic.

P. At the June 30, 2011, public hearing Mark Hummel, adjacent property owner at 2103 North High Cross Road testified as follows:

- (1) He lives next door and they have always been good neighbors and respectful of each other.
- (2) Drainage is a problem and it needs to be fully addressed because water gets up to the back of his house and goes around the sides. He has had to have dirt hauled in to spread around his property to alleviate the drainage problem.
- (3) Twenty-one years ago when he moved to the neighborhood he was told the area was being limited to residential.
- (4) If the drainage issue was corrected he would have less concerns but another issue is the septic.
- (5) The building on the subject property did exist when he moved into his home, but it was used by Pyramid Paper Company.
- (6) He has seen groups walking through the subject property but he does not know if they came from the facility.

O. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

***GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT***

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:



- A. The Petitioner has testified on the application, **“Yes, because Apostolic Life is an existing church, the property is served by public transportation and will comply with all standard conditions.”**
- B. Regarding compliance with the *Zoning Ordinance*:
- (1) The definition of a RESIDENTIAL RECOVERY CENTER in Section 3.0 of the *Zoning Ordinance* (see Item 6.D.(6), above) states that a RESIDENTIAL RECOVERY CENTER is a living facility in which occupants live as a single, cooperative housekeeping unit while receiving support and training to assist them in recovering from the effects of chemical and alcohol dependency. Regarding the proposed special use:
    - (a) The proposed RESIDENTIAL RECOVERY CENTER consists of a maximum 24 man dormitory.
    - (b) The purpose of the Lifeline-connect program as stated on the website [www.lifelineconnect.org](http://www.lifelineconnect.org) is to create an effective and comprehensive Christian faith based solution to life-controlling drug and alcohol addictions by providing a healthy and stable environment which provides support and training; individuals can be transformed, restored, and re-connected to community, family, friends, and financial stability; it is our mission to help men build their lives upon a firm foundation that will help them recover from a life of addiction.
  - (2) RESIDENTIAL RECOVERY CENTER is authorized only by Special Use Permit and only in the AG-2 Agriculture Zoning District and only when (a) located within one and one-half miles of a home-rule municipality with an adopted comprehensive plan and (b) operated by and located on the same property as a church or temple. Regarding compliance of the proposed RESIDENTIAL RECOVERY CENTER with these specific locational requirements:
    - (a) The proposed RESIDENTIAL RECOVERY CENTER is owned and operated by the Apostolic Life UPC Church which is located at 2107 High Cross Road, Urbana, and the proposed RESIDENTIAL RECOVERY CENTER is proposed to be located on that same property which is located within one and one-half miles of the City of Urbana which is a home-rule municipality with an adopted comprehensive plan.
  - (3) Regarding parking on the subject property for the Apostolic Life UPC Church:
    - (a) Paragraph 7.4.1 C.3.b.ii. requires that places of infrequent public assembly including churches and other enclosed STRUCTURES shall provide one parking space for each five seats provided for patron use or at least one parking space for each 200 square feet of floor area, whichever requires the greater number of parking spaces.

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- (b) The Change of Use Permit for the original conversion of this property to a church was Change of Use Permit 8809 (application 115-96-02) that was approved on 6/14/96. Permit 8809 approved the proposed site plan with 114 parking spaces which appear to still be present on the property today.
- (4) Regarding parking on the subject property for the proposed RESIDENTIAL RECOVERY CENTER:
  - (a) Paragraph 7.4.1 C.3.i. establishes the parking requirements for a RESIDENTIAL RECOVERY CENTER and states that parking spaces for a RESIDENTIAL RECOVERY CENTER shall only be required for the number of vehicles proposed to be authorized in the Special Use Permit application.
  - (b) The proposed site plan received on January 10, 2012, indicates 14 proposed additional parking spaces.
  - (c) Paragraph 7.4.1 C.4.a. requires SCREENS for parking for commercial ESTABLISHMENTS including a church or school or dormitory.

Parking areas for more than four vehicles of no more than 8,000 pounds gross vehicle weight each, excluding any vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type A SCREEN except that a Type B SCREEN may be erected along the rear LOT LINE of the business PROPERTY.

Paragraph 4.3.3 H. identifies a Type A SCREEN as a decorative opaque fence, shrubs or other vegetative material or a landscaped berm planted and maintained with a minimum HEIGHT of four feet as measured from the highest adjacent grade and a Type B SCREEN as an opaque fence or wall with a minimum HEIGHT of four feet as measured from the highest adjacent grade.

The subject property borders the R-1 District on the south side and screening is required for any of the proposed new parking spaces that will not be screened by the proposed dormitory.

- (5) Regarding compliance with standard conditions of approval for RESIDENTIAL RECOVERY CENTER indicated in Section 6.1.3, as follows:

- (a) Standard condition 6.1.3 1. a. for a RESIDENTIAL RECOVERY CENTER states that the property must be served by public transportation.

The Apostolic Life UPC Church is served by the Champaign-Urbana Mass Transit District. In a letter submitted September 15, 2011 from D.L. Rogers, Mr. Rogers reports that the church worked with the MTD Engineering Department to move the bus stop sign to the church property as a response to concerns brought up at the August 30<sup>th</sup> hearing.

- (b) Standard condition 6.1.3 1. b. for a RESIDENTIAL RECOVERY CENTER states that the associated church or temple must occupy a building which predominately existed on October 10, 1973.

The building housing the Apostolic Life UPC Church existed prior to 1973 (see the 1973 aerial photo) and was 16,700 square feet in area in 1973 and since then the total area of all buildings on the property has increased to 32,120 square feet. (see the Approved site plan for Case 749-S-91 with notes regarding building area).

- (c) Standard condition 6.1.3 2. for a RESIDENTIAL RECOVERY CENTER states that the maximum number of residents at one time shall be smaller of 10% of the maximum occupancy of the main worship area or 30

The maximum proposed number of residents is 24 (see Letter from Pastor David L. Rogers received on May 13, 2011) and the main worship area has a maximum occupancy of 250 (see Excerpt of approved site plan for Zoning Use Permit 115-96-02). A special condition has been proposed to limit the number of residents to no more than 24.

- (c) Standard condition 6.1.3 3. for a RESIDENTIAL RECOVERY CENTER states that if not served by a PUBLIC SANITARY SEWER SYSTEM the minimum required lot area shall be 30,000 square feet plus 7,000 square feet per resident.

The minimum required lot area with 24 residents is 4.545 acres and the existing lot area is 4.7 acres.

- (d) Standard condition 6.1.3 4.a. for a RESIDENTIAL RECOVERY CENTER states that a responsible and qualified staff person must be onsite to provide supervision 24 hours per day seven days per week.

Item 6. in the letter from Pastor David L. Rogers received on May 13, 2011, states the proposed RESIDENTIAL RECOVERY CENTER a responsible and qualified staff member providing onsite supervision 24/7 and a

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responsible Dorm Leader will also be residing in the proposed dorm. A special condition has been proposed to ensure adequate supervision.

- (e) Standard condition 6.1.3 4.b. for a RESIDENTIAL RECOVERY CENTER states that all onsite food service shall be compliant with the Champaign County Health Ordinance.

As reviewed in item 8.J. of the Summary of Evidence, the proposed food service and meal and snack preparation would be conducted by the residents themselves for personal consumption and no permit would be required from the Champaign County Health Department for those operations. A special condition has been proposed to ensure ongoing compliance.

- (f) Standard condition 6.1.3 4.c. for a RESIDENTIAL RECOVERY CENTER states that a RESIDENTIAL RECOVERY CENTER must be operated in conformance with the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/1) including any required license.

- i. The letter dated September 3, 2010, from Theodora Binion Taylor, Director, Illinois Department of Human Services Division of Alcoholism and Substance Abuse, to Pastor D. L. Rogers states that Department staff have determined that the proposed RESIDENTIAL RECOVERY CENTER is not an activity that requires licensure under 77 Ill. Admin. Code 2060.
- ii. Staff does not provide medications or psychotherapy and there is no requirement for a license because it is a facility for those who are recovering which is a class of people protected by federal law. Staff does not have a PhD, MD, or psychiatrist and has been thoroughly successful in the way that they are treating the residents and they need no license.
- iii. A special condition has been proposed to ensure ongoing compliance.

- (g) Standard condition 6.1.3 5. for a RESIDENTIAL RECOVERY CENTER states that no occupancy authorized until a qualified inspector files a certification that the building complies with the 2006 edition of the International Building Code (as required by 20 ILCS 3105/10.09-1)

A special condition is proposed to ensure compliance with 20 ILCS 3105/10.09-1.

- C. Regarding compliance with the *Stormwater Management Policy*:
- (1) Paragraph 4.3A.2. of the Stormwater Management Policy exempts the first 10,000 square feet of impervious area relative to what existed on 2/20/03.
  - (2) The proposed site plan received on May 13, 2011, indicates three types of increases in impervious area as follows (A special condition has been proposed to ensure compliance with the stormwater management ordinance):
    - (a) The proposed dormitory will be impervious area and is indicated with an overall building footprint of 2,975 square feet.
    - (b) The site plan indicates an addition of 14 parking spaces but the increase in the parking of area is not dimensioned. The Zoning Ordinance requires parking spaces to be a minimum of 9 feet wide by 20 feet long. The approved site plan for Zoning Use Permit 115-96-02 appears to indicate the existing parking area to be 130 feet wide (east to west). The minimum amount of impervious area to provide 14 all weather parking spaces at the south end of the existing parking area appears to be approximately 5,300 square feet.
    - (c) There is also some amount of new sidewalk but it is not dimensioned but there does not appear to be more than 1,000 square feet.
    - (d) The total proposed increase in impervious area relative to 2/20/03 will be 9,275 square feet and the project will be exempted from the need to construct stormwater detention by the Stormwater Management Policy.
  - (3) In a letter submitted January 20, 2012, Carter (Gene) Sarver of VSA Engineering wrote that the stormwater calculations submitted on January 10, 2012, by the petitioners engineer are in substantial conformance with the 2003 Champaign County Stormwater Management Policy. Mr. Sarver did note that the site and pond plan are only preliminary and will need to be reviewed for compliance at the time final plans are submitted.
- D. Regarding the Special Flood Hazard Areas Ordinance, no part of the subject property is located in the Special Flood Hazard Area.
- E. Regarding the Subdivision Regulations, the subject property is located in the City of Urbana subdivision jurisdiction and no subdivision is proposed or required.
- F. Regarding the requirement that the Special Use preserve the essential character of the AG-2 Agriculture Zoning District:
- (1) Churches are a typical kind of rural land use.

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- (2) The existing Apostolic Life UPC Church is an existing nonconforming use that was established on this property on or about May 25, 2000, when the sign face was changed. Prior to that time the subject property first became a church on June 14, 1996, with the approval of Zoning Use Permit No. 8809 and at that time “church” was authorized in the AG-2 Agriculture District by right.
- (3) RESIDENTIAL RECOVERY CENTER is only authorized in the AG-2 District and the County Board has already determined that a RESIDENTIAL RECOVERY CENTER does not necessarily detract from the essential character of the AG-2 Agriculture Zoning District.
- (4) At the June 30, 2011, public hearing Mr. John Hummel testified that he feels the proposed use will not preserve the character of the district, but denigrate it.
- (5) At the June 30, 2011, public hearing Mr. Carl Webber, Attorney for Lifeline Connect testified as follows:
  - (1) High Cross Road has 2,400 cars per day and would hardly be impacted by the number of cars for the recovery center and in fact it would have minor or almost zero impact on daily traffic.
  - (2) The requested special use will not be injurious to the district in which it is located because it will be a small part of a church.

G. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.

H. Regarding Accessory Uses on the property:

- (1) On September 15, 2011, Mr. Randall Brown submitted a letter with a concern for uses on the property he considers being accessory uses. Mr. Brown listed yard work, auto detailing, construction and clean-up, and moving services as accessory uses on the site.
- (2) At the November 3, 2011, ZBA meeting Brenda Rogers testified that the church has fundraisers which incorporate very few hours and that there is no charge for the services offered, although they do accept donations.
- (3) The Zoning Administrator has determined that other “accessory uses” are “incidental and subordinate” to the Church and the Residential Recovery Center.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
  - A. RESIDENTIAL RECOVERY CENTER is authorized only by Special Use Permit and only in the AG-2 Agriculture Zoning District and only when (a) located within one and one-half miles of a home-rule municipality with an adopted comprehensive plan and (b) operated by and located on the same property as a church or temple, provided all other zoning requirements and standard conditions are met or waived.
    - (1) Mr. David Rogers, pastor of the Apostolic Church and Director of Lifeline Connect, testified at the June 17, 2010, public hearing, as follows:
      - (a) He said that according to the United States Substance Abuse and Mental Health Service Administration 1 in 8 Americans has a significant problem with alcohol or drugs. He said that approximately 27 million Americans either use illicit drugs regularly or are heavy alcohol drinkers and of these nearly 16 million are estimated in need for immediate treatment.
      - (b) He said that chemical dependency along with associated mental health disorders has become one of the most severe health and social problems facing the United States of America. He said that chemical dependency and all the associated social woes has become one of the most significant problems in our community and in Champaign County.
      - (c) He said that not only is there a dire need for this type of facility in this community but for every community in the United States.
      - (d) He said that this type of residential recovery center is common in the United States of America in cities large and small and there are organizations that oversee virtually hundreds of residential recovery centers under one organization. He said that he is in favor of the amendment because it would allow his church to provide for its community what many other communities already have which is to be a great help to those in need.
    - (2) Mr. Chris Doxstator, who resides at 2107 N. High Cross Road, Urbana, testified at the June 17, 2010, public hearing, as follows:
      - (a) He said that he has been in [Lifeline Connect] for 2-1/2 months and he cannot begin to tell the Board what the program has done for him. He said that the program has completely changed his life.
      - (b) He said that he would encourage the Board to vote in favor of the amendment because there is such a desperate need for such a program.

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- (3) Mr. Leslie Cotton, who resides at 1721 Cindy Lynn Street, Urbana, testified at the June 17, 2010, public hearing. He said that he is 28 years old and when he decided to get help for himself he enrolled in [Lifeline Connect] and it has changed his life and he is thankful for it.
- (4) Mr. Chad May, who resides at 2016 E. Vermont Avenue, Urbana, testified at the June 17, 2010, public hearing, as follows:
  - (a) He said that he is a former resident of the type of program that is being discussed tonight.
  - (b) He said that following an automobile accident he battled a drug addiction from pain pills for 8 years.
  - (c) He said that he celebrated his third year of being sober and programs like these are not a just a “get clean” program because they give you tools and opportunities to make you a functional member of society.
  - (d) He said that currently he has a very steady job, a beautiful wife and they have just had their first child. He said that he is a functional citizen and it would not have been possible without a program like this.
- (5) Mr. Jeffery Branson, who resides at 1721 Cindy Lynn Street, Urbana, testified at the June 17, 2010, public hearing. He said that he grew up in a drug addicted family and drugs are how they coped with everyday life. He said that he was in a program for 18 months and it totally changed his life because it gave him the tools to cope with life.
- (6) Mr. Thomas Martin, who resides at 1721 Cindy Lynn Street, Urbana, testified at the June 17, 2010, public hearing. He said that he is in favor of the proposed amendment. He said that he was a resident in a rehabilitation program such as this for approximately two years. He said that a program like this has changed his life and he has been clean for 2-1/2 years and he has a life of purpose, structure and discipline.
- (7) Mr. John Grubb, who resides at 1902 Shelly Court, Urbana, testified at the June 17, 2010, public hearing. He said that he lives in the Richardson Estates Subdivision which is approximately two blocks away from the facility. He said that he has resided at this location for over ten years and he and his wife walk along High Cross Road and their neighborhood and he can say without any reservation that they feel safe. He said that he applauds the young men who are willing to sign a one year commitment and get off drugs and the streets.
- (8) Mr. Randy Brown, who resides at 1183 CR 2300E, Sidney, testified at the June 17, 2010, public hearing, as follows:



- (a) He said that when they were in the beginning stages of creating a facility at his church he visited many facilities across the United States. He said that the reason why a church community works so well in recovery is not just due to the spiritual aspect but for a man or woman to achieve recovery they have to have a whole new support system.
  - (b) He said that a person in recovery has to learn a whole new way of dealing with life and dealing with life issues and the main thing that a man or woman in a recovery program has to learn to deal with is relationships because they have no idea how to navigate life and relationships.
  - (c) He said that he can tell the Board that this type of recovery center works because it provides the key elements of recovery and it marries the secular to the spiritual. He said that when you have the dynamics of the type of facility that is being considered you are not just throwing a bunch of tools at people but creating a way of life for them to begin using those tools for an extended period of time in a controlled, sober and safe environment.
  - (d) He said that there is an epidemic of folks who are just hooked on prescription medication and our kids are being hooked on prescription medication.
  - (e) He said that they are ministering to people that are already in the community and one option that a recovery center of this type could have would be an encouragement to get housing together in the direct community and just attend classes at the church with no supervision.
  - (f) He said that his organization believed that it would be a far better approach to be able to control the environment therefore they adopted a 24/7 supervision with weekly drug testing.
- (9) Mr. R.J. Eaton, who resides at 2107 High Cross Road, Urbana, testified at the June 17, 2010, public hearing. He said that he is the Director of Operations at a residential recovery center and as such he lives on campus with the residents and if a residential recovery center was unsafe for the community then he and his wife would not reside at the residential recovery center.
- (10) Mr. Randy Roberts, who resides 4210 East Airport Road, Urbana, testified at the June 17, 2010, public hearing. He said that he is a life long resident of Champaign County, a business owner and a Rotarian and he urged the Board to approve the proposed text amendment. He said that each request for such a facility would require a special use permit therefore it would be scrutinized. He said that he has not seen anyone else lining up to request such a facility other than a church therefore why not have the use attached to a church.

*REVISED DRAFT*

- (11) Randy Brown testified at the July 15, 2010, public hearing that a larger number of residents in a residential recovery center provide greater diversity and a better recovery environment.
- (12) Brenda Rogers and Tammy Roberts testified at the July 15, 2010, public hearing that an AG location seems to lead to a better result with the recovery programs. Brenda Rogers further testified that she had observed this while visiting 5 recovery centers across the country.

B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:

- (1) Subsection 5.1.14 of the Ordinance states the general intent of the AG-2 District and states as follows (capitalized words are defined in the Ordinance):

The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

- (2) The types of uses authorized in the AG-2 District are in fact the types of uses that have been determined to be acceptable in the AG-2 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:

- (1) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.

- (a) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.

- (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY. In regards to the value of nearby properties:

- (a) The existing buildings on the subject property have housed a church since the subject property first became a church on June 14, 1996, with the approval of Zoning Use Permit No. 8809 and the special use permit for the Apostolic Life UPC Church should have no affect on property value. Prior to being

converted to a church the subject buildings housed the Pyramid Paper Company.

- (b) It is not clear whether or not the proposed RESIDENTIAL RECOVERY CENTER will have any impact on the value of nearby properties but it has been in operation since 2007 and no complaints have ever been made to the Department of Planning and Zoning.
- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS. In regards to congestion in the public STREETS:
- (a) The existing buildings on the subject property have housed a church since the subject property first became a church on June 14, 1996, with the approval of Zoning Use Permit No. 8809 and no expansion is proposed in the special use permit for the Apostolic Life UPC Church so there should be no additional traffic congestion.
  - (b) The proposed RESIDENTIAL RECOVERY CENTER only requires 14 new parking spaces and that is a very minor increase to the existing traffic on High Cross Road.
- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.
- (a) The existing buildings on the subject property have housed a church since the subject property first became a church on June 14, 1996, with the approval of Zoning Use Permit No. 8809 and no expansion is proposed in the special use permit for the Apostolic Life UPC Church so there will be no increase in stormwater runoff or flood waters.
  - (b) The proposed RESIDENTIAL RECOVERY CENTER is a less than 10,000 square feet increase in impervious area and the Champaign County Stormwater Management Policy does not require stormwater detention for a one time increase of 10,000 square feet.
- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
- (a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
  - (b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.

**REVISED DRAFT**

- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions.

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.
- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The subject property is located in the AG-2 Agriculture District and is, by definition, a rural use. The proposed use will not be using any land which is currently in agricultural production.

- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

The subject property does not contain any natural features and there are no natural features in the vicinity of the subject property.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The subject property is located in the AG-2 Agriculture District and is, by definition, a rural use.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.

The subject property is located in the AG-2 Agriculture District and is, by definition, a rural use.

D. On September 15, 2011, Randall Brown, submitted a letter contending that the gender exclusion of the proposed Special Use violates the Fair Housing Act. Regarding whether the proposed Special Use violates the Fair Housing Act:

- (1) Staff has contacted the State Attorney's Office which has concluded that the Board should make their determination in the case as they see fit because there is some legal risk no matter what the determination is.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE**

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
- A. The Petitioner has testified on the application, "Yes".
- B. The Apostolic Life UPC Church is an existing NONCONFORMING USE because it is an existing church and was established at this location before the adoption of Ordinance No. 660 (Case 341-AT-02) on August 20, 2002, that amended the Zoning Ordinance to require a special use permit for a church in the AG-2 District.

- C. The Apostolic Life UPC Church could continue in operation without a special use permit until such time as there is an expansion. The proposed RESIDENTIAL RECOVERY CENTER is an expansion of the Apostolic Life UPC Church and therefore the special use permit is required for the Apostolic Life UPC Church in addition to the special use permit required for the proposed RESIDENTIAL RECOVERY CENTER.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

12. Regarding proposed special conditions of approval:
- A. **A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management Policy and is consistent with the plan submitted on January 10, 2012, shall be submitted and approved as part of the Zoning Use Permit application and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

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

**That the drainage improvements conform to the requirements of the Stormwater Management Policy and stormwater calculations submitted on January 10, 2012.**

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

The special conditions stated above are required to ensure the following:

**That the proposed Special Use meets applicable state codes for handicap accessibility.**

- C. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed Residential Recovery Center dormitory until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new building complies with the following codes: (A) The 2006 or later edition of the International**

**Building Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and, (C) the Illinois Plumbing Code.**

The special conditions stated above are required to ensure the following:

**That the proposed structure is safe and built to current standards.**

**D. The maximum number of residents in the proposed Residential Recovery Center shall be 24.**

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

**That the authorized limit of residents is clearly stated and consistent with the Ordinance and the testimony in the public hearing and is enforceable.**

**E. The operation of the proposed Residential Recovery Center shall remain in conformance with all applicable laws and regulations including the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS301/).**

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

**That the proposed Residential Recovery Center remains in conformance with relevant laws and regulations.**

**F. The proposed Residential Recovery Center shall at all times have an adequate number of responsible and qualified staff persons present and on duty onsite to provide supervision 24 hours per day, seven days per week.**

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

**That staffing of the proposed Residential Recovery Center is consistent with the Ordinance and the testimony in the public hearing and that compliance is enforceable.**

**G. All onsite foodservice shall be in compliance at all times with the Champaign County Health Ordinance.**

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

**That foodservice for the proposed Residential Recovery Center is consistent with County requirements and the testimony in the public hearing and that compliance is enforceable.**

- H. The proposed parking area for the proposed Residential Recovery Center shall comply with the Champaign County Zoning Ordinance requirements for screening from adjacent residences and Residential Districts.**

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

**That all parts of the proposed Residential Recovery Center are consistent with the Ordinance and the testimony in the public hearing and that compliance is enforceable.**

- I. No Zoning Compliance Certificate shall be authorized for the proposed Residential Recovery Center until an earthen berm and a fence are constructed between the proposed Residential Recovery Center and the residence at 2103 High Cross Road that conforms to the Berm Plan received on February 21, 2012, and the following:**

**(1) The earthen berm shall be constructed as follows:**

- (a) The berm shall primarily be constructed of clayey soils and compacted to not less than 95% of the standard laboratory density but the top six inches of the berm shall be good quality topsoil.**
- (b) The berm shall be a minimum of two feet in height and shall follow the topography of the adjacent lot line with side slopes of 3:1 and with a top that is level and a minimum of two feet wide.**
- (c) The berm shall be seeded with grass, fertilized, and mulched so as to establish and maintain at all times a good cover of grass.**

**(2) The fence shall be constructed as follows:**

- (a) The fence shall be constructed on top of the earth berm described in the first part of this condition.**
- (b) The fence shall be no less than four feet tall as measured from the top of the berm.**
- (c) The fence shall be completely opaque for its entire height.**
- (d) The fence shall be maintained by Applicant provided that the necessary access is authorized by the owner of 2103 High Cross Road.**

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



**That the proposed Residential Recovery Center does not worsen the existing drainage conditions at 2103 High Cross Road and to ensure that adequate separation is maintained between the proposed Residential Recovery Center and 2103 High Cross Road.**

**DOCUMENTS OF RECORD**

1. Special Use Permit Application received on April 5, 2011, and amended on May 13, 2011, with attachments:
  - A Proposed site plan received May 13, 2011
  - B Drainage review of new building & parking lot expansion by Bryan K. Bradshaw dated March 28, 2011
  - C Soil characterization report and borings by Wiley Scott Soil Consulting Service dated March 21, 2011
  - D Letter from Pastor David L. Rogers received on May 13, 2011
  - E Letter dated September 3, 2010, from Theodora Binion Taylor, Director, Illinois Department of Human Services Division of Alcoholism and Substance Abuse, to Pastor D. L. Rogers
  - F Lifeline-connect RRC Dorm Facility Floor Plan received May 13, 2011
  - G Description of proposed septic system written by Dale Shiply and received on May 13, 2011
  - H Copy of May 11, 2011, email regarding proposed food service from Sarah Michaels, Champaign-Urbana Public Health District/ Champaign County Health Department
  
2. Preliminary Memorandum with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Ordinance No. 870 (Case 668-AT-10)
  - C Table of Applicant Submittals
  - D Table Summarizing Compliance With Locational Requirements and Standard Conditions
  - E Aerial photograph from 1973
  - F Approved site plan for Case 749-S-91 (with notes regarding building area)
  - G Excerpt of approved site plan for Zoning Use Permit 115-96-02
  - H Proposed site plan received May 13, 2011
  - I Proposed Lifeline-connect RRC Dorm Facility Floor Plan received May 13, 2011
  - J Drainage review of new building & parking lot expansion by Bryan K. Bradshaw dated March 28, 2011
  - K Soil characterization report by Wiley Scott Soil Consulting Service dated March 21, 2011
  - L Letter from Pastor David L. Rogers received on May 13, 2011
  - M Letter dated September 3, 2010, from Theodora Binion Taylor, Director, Illinois Department of Human Services Division of Alcoholism and Substance Abuse, to Pastor D. L. Rogers
  - N Description of proposed septic system written by Dale Shiply and received on May 13, 2011
  - O Copy of May 11, 2011, email regarding proposed food service from Sarah Michaels, Champaign-Urbana Public Health District/ Champaign County Health Department
  - P Public Act 96-074
  - Q IDOT Map of Annual Average Daily Traffic in vicinity of subject property

R Draft Summary of Evidence, Finding of Fact, and Final Determination for Zoning Case 691-S-11

3. Supplemental Memorandum dated June 30, 2011, with attachments:
  - A Approved Minutes of the June 17, 2010, ZBA meeting (included separately)
  - B Approved Minutes of the July 15, 2010, ZBA meeting (included separately)
  - C Copies of webpages from [www.lifelineconnect.org](http://www.lifelineconnect.org) (included separately)
  - D Worksheet for Sabina silt loam, 0 to 3 percent slopes (soil map unit 236A) *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*
  - E April 23, 2010, Memorandum to the Champaign County Board Committee of the Whole (with Attachment A only)
  
4. Supplemental Memo dated September 9, 2011, with attachments:
  - A Letter dated July 3, 2011, from John W. Hummel, P.E.
  - B Letter dated September 9, 2011, from Pastor D.L. Rogers with attachment:
  - C Letter dated July 26, 2011, from BKB Engineering
  - D Draft minutes of the June 30, 2011, ZBA meeting (included separately)
  
4. Letter from Steve Johnson received September 14, 2011
  
5. Letter from D.L. Rogers submitted September 15, 2011
  
6. Supplemental Memorandum dated October 28, 2011, with attachments:
  - A Email from D.L. Rogers to John Hall received October 20, 2011
  - B Letter from John Hummel received September 23, 2011
  - C Letter from Randall Brown received September 15, 2011
  - D Letter from Thomas Berns to Al Miller dated April 5, 1984
  - E Portion of sheet 21-3H of the Sidwell's Tax Atlas R 1998
  - E Images from the final Plat of Almar First Subdivision
  - F Site Plan from Case 749-S-91
  
7. Letter from John Hummel received October 31, 2011
  
8. Letter from John Hummel received November 1, 2011
  
9. Letter from John Hummel received November 1, 2011
  
10. Letter from Mark Hummel received November 1, 2011
  
11. Supplemental Memorandum dated November 3, 2011, with attachments:
  - A Letter from John Hummel, received October 31, 2011
  - B Letter from John Hummel, received November 1, 2011

- C Letter from John Hummel, received November 1, 2011
- D Letter from Mark Hummel, received November 1, 2011
- E Septic system plan, received November 2, 2011
- F Letter from Carl Webber, received November 3, 2011
- G Comprehensive site plan, received November 3, 2011
- H Shapland Construction survey of subject property, received November 3, 2011
- I Impervious surface illustration, dated November 3, 2011
- J Drainage plan from Case 502-S-84 (2 different scales)
- K Finding of Fact and Final Determination of Case 668-AT-10

- 12. Drainage map of subject site submitted by Don Wauthier at the November 3, 2011, hearing
- 13. Letter from Randall Brown submitted at the November 3, 2011, hearing
- 14. Letter from Michael Dye submitted by Carl Webber at the November 3, 2011, hearing
- 15. Letter from Pastor D.L. Rogers submitted at the November 3, 2011, hearing
- 16. Letter from Jon W. Callahan submitted by Pastor D.L. Rogers at the November 3, 2011, hearing
- 17. Letter from Steve Johnson submitted by Pastor D.L. Rogers at the November 3, 2011, hearing
- 18. Cost estimates submitted by Carl Webber at the November 3, 2011, hearing
- 19. Receipts of septic system maintenance submitted by Pastor D.L. Rogers at the November 3, 2011, hearing
- 20. Email from Robert A. Meyers regarding Case 691-S-11 received November 23, 2011
- 21. Comprehensive Site Plan, Watershed Plan, and Stormwater Detention Calculations received from Bryan Bradshaw on December 8, 2011
- 22. Proposal for Third Party Drainage Review letter submitted by Wilbur Street received December 9, 2011
- 23. Revised Comprehensive Site Plan and Revised Stormwater Detention Calculations received from Bryan Bradshaw on December 13, 2011
- 24. Letter from Carl Webber confirming the petitioner agreed to formally move forward with the third party review received December 16, 2011

25. Email printout dated January 6, 2012, confirming that notice was given to the attorney of the petitioner that the January 12, 2012 ZBA was cancelled
26. Revised Comprehensive Site Plan, Watershed Plan, and Stormwater Detention Calculations received from Bryan Bradshaw on January 10, 2012
27. Letter from Carter E. Sarver regarding the review of the proposed drainage system received January 19, 2012
28. Preliminary Plat and Subsidiary Drainage Plat for Almar First Subdivision annotated by Carter E. Sarver received January 25, 2012
29. Packet of email exchange between John Hall and Carter Sarver and Wilbur Street between the dates of January 19, 2012 and January 26, 2012
30. Letter from John Hall to Bryan Bradshaw dated January 27, 2012
31. Letter from John Hall to Pastor D.L. Rogers dated February 1, 2012
32. Letter from Jeff Tock received February 6, 2012
33. Supplemental memorandum dated February 14, 2012, with attachments:
  - A Cover Letter, Watershed Plan, summary sheets of stormwater calculations, and Comprehensive Site Plan
34. Berm Plan received February 21, 2012
35. Letter from Carl Webber, received March 2, 2012.
37. Supplemental memorandum dated March 9, 2012, with attachments:
  - A Berm Plan
  - B Revised Summary of Evidence, Finding of Fact, and Final Determination

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 691-S-11 held on **June 30, 2011, September 15, 2011, November 3, 2011, February 16, 2012, and March 15, 2012**, the Zoning Board of Appeals of Champaign County finds that:

- 1. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN {IS / IS NOT}}* necessary for the public convenience at this location because: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
- 2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
  - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
  - b. Emergency services availability is *{ADEQUATE / INADEQUATE} {because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_
  - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_
  - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE} {because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_
  - e. Public safety will be *{ADEQUATE / INADEQUATE} {because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_
  - f. The provisions for parking will be *{ADEQUATE / INADEQUATE} {because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_

*(Note the Board may include other relevant considerations as necessary or desirable in each case.)*

\*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}*** conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}*** preserve the essential character of the DISTRICT in which it is located because:
  - a. The Special Use will be designed to ***{CONFORM / NOT CONFORM}*** to all relevant County ordinances and codes.
  - b. The Special Use ***{WILL / WILL NOT}*** be compatible with adjacent uses.
  - c. Public safety will be ***{ADEQUATE / INADEQUATE}***.
4. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {IS / IS NOT}*** in harmony with the general purpose and intent of the Ordinance because:
  - a. The Special Use is authorized in the District.
  - b. The requested Special Use Permit ***{IS/ IS NOT}*** necessary for the public convenience at this location.
  - c. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}*** is so designed, located, and proposed to be operated so that it ***{WILL / WILL NOT}*** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
  - d. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}*** preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use ***{IS/ IS NOT}*** an existing nonconforming use and the requested Special Use Permit ***{WILL/ WILL NOT}*** make the existing use more compatible with its surroundings ***{because: \*}***
6. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW}***

\*The Board may include additional justification if desired, but it is not required.

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval { *HAVE/ HAVE NOT* } been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case 691-S-11 is hereby { *GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED* } to the applicants to **Pastor David L. Rogers and the Apostolic Life UPC Church** authorize **(1) the Apostolic Life UPC Church as a special use and (2) the establishment and use of a “Residential Recovery Center” as a second special use** { *SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:* }

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






RECEIVED

FEB 21 2012

CHAMPAIGN CO. P & Z DEPARTMENT

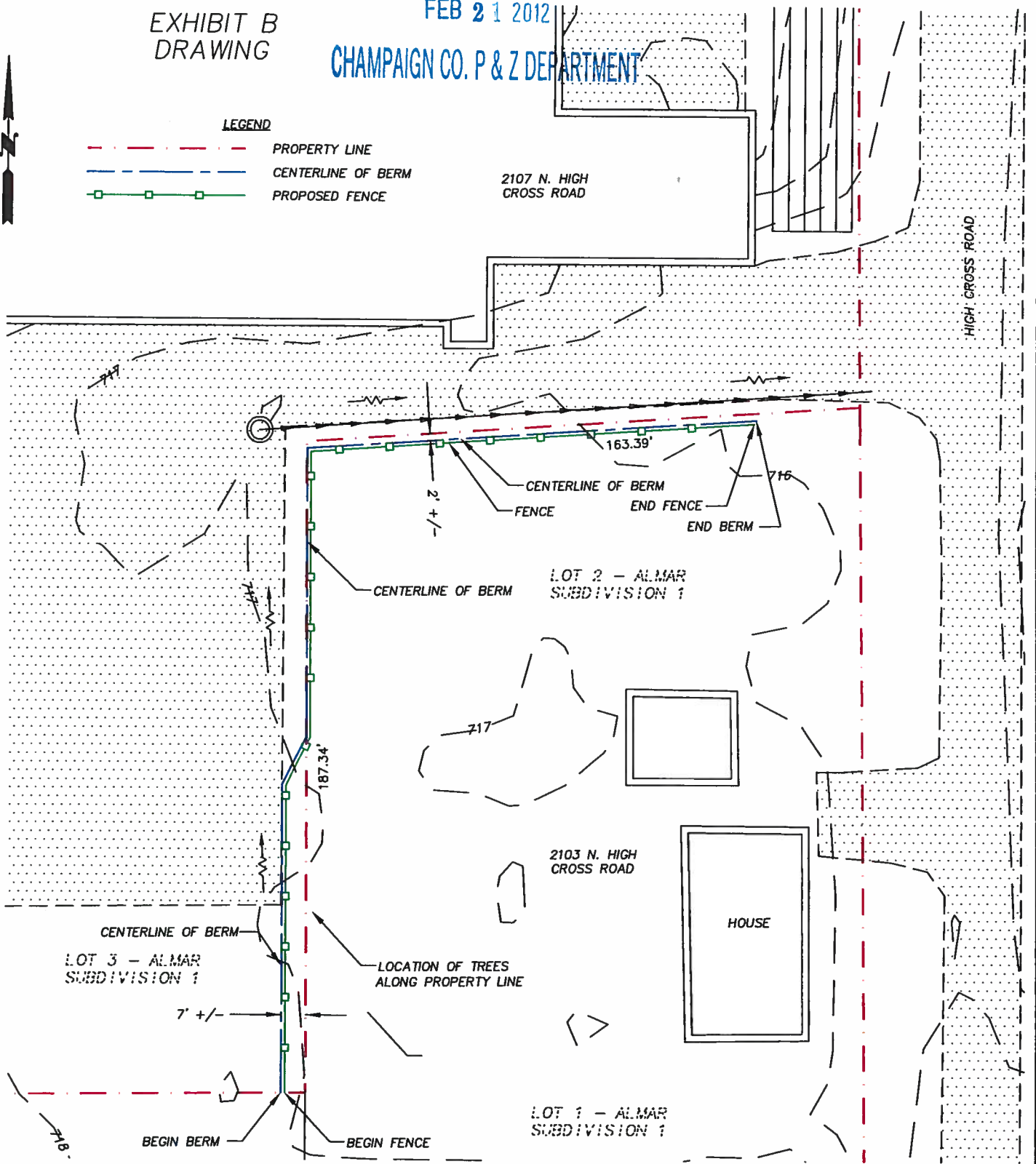
EXHIBIT B  
DRAWING

LEGEND

-  PROPERTY LINE
-  CENTERLINE OF BERM
-  PROPOSED FENCE

2107 N. HIGH  
CROSS ROAD

HIGH CROSS ROAD



BERM PLAN

PROJECT NO.  
24-1101

APOSTOLIC LIFE CHURCH  
CHAMPAIGN COUNTY, ILLINOIS

SHEET NO.

1



**Phoenix Consulting Engineers, Ltd.**

P.O. BOX 1187 • MAHOMET, IL 61853  
217-586-1803 • FAX 217-586-6757

# CASE NO. 698-S-11 & 706-V-12

PRELIMINARY MEMORANDUM

March 9, 2012

Champaign  
County  
Department of

PLANNING &  
ZONING

**Petitioners:** S.J. Broadcasting, LLC and Steven J. Khachaturian

**Request:** CASE: 698-S-11

Authorize a radio transmission tower that is 346 feet in height and transmitter building as a Special Use with waivers (variance) of standard conditions in the AG-1 Zoning District subject to the required variance in related Case 706-V-12 on the subject property described below.

CASE: 706-V-12

Authorize the following in the AG-1 District:

- A. Authorize the use of a 5 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-1 District for the construction and use of a radio transmission tower and transmitter building in related Special Use Permit Case 698-S-11 (included as the original variance);
- B. Waiver (variance) of standard conditions for a front yard setback of 30 feet from CR 1200E in lieu of the required 100 feet and a rear yard setback of 5 feet in lieu of the required 50 feet on the subject property described below.

**Location:** A 5 acre tract in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 36 of Tolono Township and commonly known as a vacant parcel on the west side of CR 1200E and located approximately one-half mile south of the intersection of CR 1200E and CR 700N, Tolono.

**Site Area:** 5 acres

**Time Schedule for Development:** March 2012

**Prepared by:** **Andy Kass**  
Associate Planner

**John Hall**  
Zoning Administrator

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

(217) 384-3708

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## BACKGROUND

S.J. Broadcasting, LLC requests a Special Use Permit for a radio transmission tower in rural Champaign County. The proposed tower is to be 346 feet tall. The land that the proposed tower is to be constructed upon will be a lease of five (5) acres that is part of a forty (40) acre parcel which is currently all in agricultural production and is considered best prime farmland in Champaign County. The petitioner requests waivers (variance) of standard conditions for setbacks from CR 1200E and from the rear property line. In addition the petitioner requests a variance from maximum lot size limitations on best prime farmland. The zoning ordinance allows a maximum lot size of three (3) acres on best prime farmland. The petitioner requests that a lot size of five (5) acres be allowed.

The requests of these cases have been modified from their original advertisement (February 23, 2012) and re-advertisement (March 8, 2012) in the *County Star*. The petitioner no longer requests variance from setback requirements for guy wire anchors, but still requests waivers (variance) of standard conditions of setback requirements for transmission towers. Due to these cases having been re-advertised Final Action for these cases cannot be taken at the March 15, 2012, Zoning Board of Appeals meeting. These cases will be eligible for Final Action at the March 29, 2012 Zoning Board of Appeals public hearing.

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## EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Tolono. The Village of Tolono does not object to this proposed use and has elected to not enter into an annexation agreement with respect to the subject property and will not require a subdivision of this property.

## EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Agriculture	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

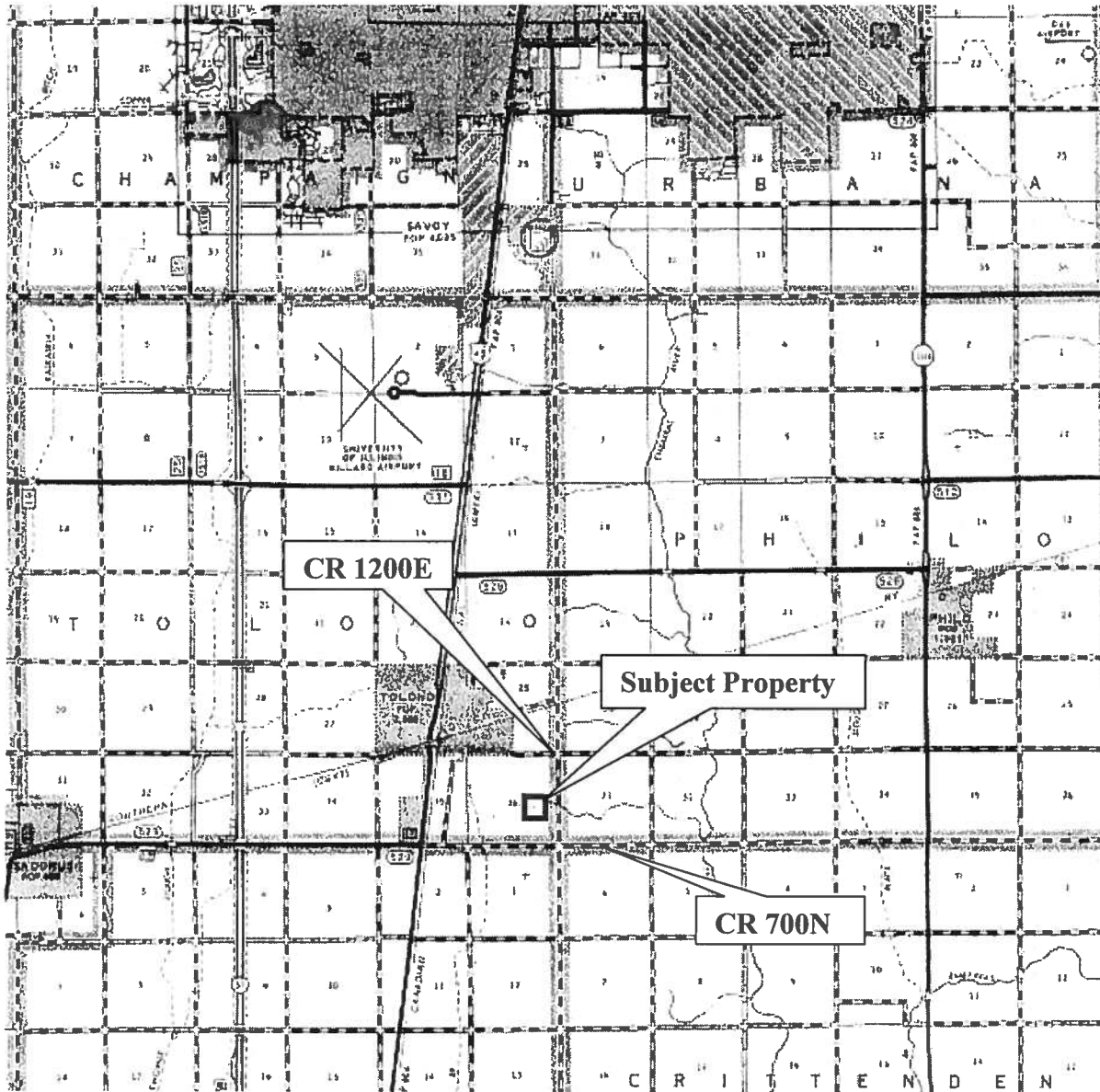
## ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning attached separately)
- B Site Plan (Proposed Development) received March 7, 2012 (attached separately)
- C Annotated Site Plan (attached separately)
- D Village of Tolono Resolution
- E FAA certification of no hazard to air navigation
- F FCC construction permit and antenna registration
- G Draft Summary of Evidence, Finding of Fact, and Final Determination (attached separately)

# ATTACHMENT A. LOCATION MAP

Case 698-S-11 & 706-V-12

March 9, 2012



Champaign  
County  
Department of  
**PLANNING &  
ZONING**

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CHAMPAIGN CO. P & Z DEPARTMENT

VILLAGE OF TOLONO  
RESOLUTION NO. 2011-\_\_\_

Jeff Revell made the following motion, seconded by Mr. Golish:

The Village Board President is authorized to prepare a letter addressed to the County Champaign indicating:

(1) This relates to the request by S.J. Broadcasting, LLC for a radio tower at 648 CR 1200 E, Tolono, Illinois,

(2) The Village of Tolono has elected not to enter into an annexation agreement with respect to the subject property.

(2) The Village of Tolono has evaluated the long term lease presented to us in substantially final form included in the materials to be submitted to the County dated as of October 14, 2011, and does not require the formal division of the property referenced therein.

(3) The Village of Tolono does not object to the construction of the proposed transmitter building, communication tower of an approximate height of 350 feet and it's supporting Guy Wires and anchors in conformance with Champaign County zoning and construction requirements and materially in conformance with Exhibit A, the Preliminary Site Plan as attached to petitioner's Special Use Permit Application that was filed with the Champaign County Department of Planning and Zoning on October 31, 2011.

(4) The Village of Tolono has no objection to the Special Use Permit and Variance Applications previously submitted or to be submitted to the Champaign County Department of Planning & Zoning as they relate to the property and proposed use referenced herein.

Dated this 20<sup>th</sup> day of December 2011.

By: Ken Plackett  
Ken Plackett, President

Attest: Dixie L. Phillips  
Dixie L. Phillips, Clerk





Mail Processing Center  
 Federal Aviation Administration  
 Southwest Regional Office  
 Obstruction Evaluation Group  
 2601 Meacham Boulevard  
 Fort Worth, TX 76137

Aeronautical Study No.  
 2011-AGL-1942-OE

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CHAMPAIGN CO. P & Z DEPARTMENT

Issued Date: 04/21/2011

Marilyn Matheny  
 Graham Brock, Inc.  
 P.O. Box 24466  
 St. Simons Island, GA 31522-7466

**\*\* DETERMINATION OF NO HAZARD TO AIR NAVIGATION \*\***

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Tower WSJK, Tuscola, IL  
 Location: Tolono, IL  
 Latitude: 39-58-25.00N NAD 83  
 Longitude: 88-14-18.60W  
 Heights: 349 feet above ground level (AGL)  
 1056 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

As a condition to this Determination, the structure is marked and/or lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, a med-dual system - Chapters 4,8(M-Dual),&12.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part I)
- Within 5 days after the construction reaches its greatest height (7460-2, Part II)

This determination expires on 10/21/2012 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO

**SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.**

This determination is based, in part, on the foregoing description which includes specific coordinates , heights, frequency(ies) and power . Any changes in coordinates , heights, and frequencies or use of greater power will void this determination. Any future construction or alteration , including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (847) 294-8084. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2011-AGL-1942-OE.

**Signature Control No: 138255831-141616071**  
Carole Bernacchi  
Technician

( DNE )

Attachment(s)  
Frequency Data

cc: FCC

Frequency Data for ASN 2011-AGL-1942-OE

<b>LOW FREQUENCY</b>	<b>HIGH FREQUENCY</b>	<b>FREQUENCY UNIT</b>	<b>ERP</b>	<b>ERP UNIT</b>
93.5	93.5	MHz	4.9	kW





United States of America  
**FEDERAL COMMUNICATIONS COMMISSION**  
**FM BROADCAST STATION CONSTRUCTION PERMIT**

Authorizing Official:

Official Mailing Address:

S.J. BROADCASTING, LLC  
2805 SOUTH BOULDER DRIVE  
URBANA IL 61802

Susan N. Crawford  
Assistant Chief  
Audio Division  
Media Bureau

Facility ID: 57471

Call Sign: WSJK

Permit File Number: BPH-20111003AFS

Grant Date: February 06, 2012

This permit expires 3:00 a.m.  
local time, 36 months after the  
grant date specified above.

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

Commission rules which became effective on February 16, 1999, have a bearing on this construction permit. See Report & Order, Streamlining of Mass Media Applications, MM Docket No. 98-43, 13 FCC RCD 23056, Para. 77-90 (November 25, 1998); 63 Fed. Reg. 70039 (December 18, 1998). Pursuant to these rules, this construction permit will be subject to automatic forfeiture unless construction is complete and an application for license to cover is filed prior to expiration. See Section 73.3598.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of Permittee: S.J. BROADCASTING, LLC

Station Location: IL-TUSCOLA

Frequency (MHz): 93.5

Channel: 228

Class: A

Hours of Operation: Unlimited

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CHAMPAIGN CO. P & Z DEPARTMENT

Callsign: WSJK

Permit No.: BPH-20111003AFS

Transmitter: Type Accepted. See Sections 73.1660, 73.1665 and 73.1670 of the Commission's Rules.

Transmitter output power: As required to achieve authorized ERP.

Antenna type: Non-Directional

Antenna Coordinates: North Latitude: 39 deg 58 min 25 sec  
West Longitude: 88 deg 14 min 18 sec

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the Horizontal Plane (kW):	5.0	5.0
Height of radiation center above ground (Meters):	104	104
Height of radiation center above mean sea level (Meters):	319	319
Height of radiation center above average terrain (Meters):	110	110

Antenna structure registration number: 1280680

Overall height of antenna structure above ground (including obstruction lighting if any) see the registration for this antenna structure.

Special operating conditions or restrictions:

1 \*\*\*\*\* This is a Section 73.215 contour protection grant \*\*\*\*\*  
\*\*\*\*\* as requested by this applicant \*\*\*\*\*

2 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.

\*\*\* END OF AUTHORIZATION \*\*\*



**UNITED STATES OF AMERICA  
FEDERAL COMMUNICATIONS COMMISSION  
ANTENNA STRUCTURE REGISTRATION**



OWNER: S.J. BROADCASTING, LLC

FCC Registration Number (FRN): 0019872985

ATTN: STEVE KHACHATURIAN S.J. BROADCASTING, LLC 2805 S. BOULDER DRIVE URBANA, IL 61802	Antenna Structure Registration Number <p align="right">1280680</p>
	Issue Date <p align="right">09-28-2011</p>
Location of Antenna Structure W of CR 1200; 0.5 mi N of junction of CR Tolono, IL	Ground Elevation (AMSL) <p align="right">215.5 meters</p>
	Overall Height Above Ground (AGL) <p align="right">106.4 meters</p>
Latitude 39-58-25.0 N	Longitude 088-14-18.6 W
NAD83	Overall Height Above Mean Sea Level (AMSL) <p align="right">321.9 meters</p>
<b>Painting and Lighting Requirements:</b> FAA Chapters 4, 8, 12 Paint and Light in Accordance with FAA Circular Number 70/7460-1K	
<b>Conditions:</b>	

This registration is effective upon completion of the described antenna structure and notification to the Commission. **YOU MUST NOTIFY THE COMMISSION WITHIN 24 HOURS OF COMPLETION OF CONSTRUCTION OR CANCELLATION OF YOUR PROJECT**, please file FCC Form 854. To file electronically, connect to the antenna structure registration system by pointing your web browser to <http://wireless.fcc.gov/antenna>. Electronic filing is recommended. You may also file manually by submitting a paper copy of FCC Form 854. Use purpose code "NT" for notification of completion of construction; use purpose code "CA" to cancel your registration.

The Antenna Structure Registration is not an authorization to construct radio facilities or transmit radio signals. It is necessary that all radio equipment on this structure be covered by a valid FCC license or construction permit.

**RECEIVED**  
 FEB 07 2012  
 You must immediately provide a copy of this Registration to all tenant licensees and permittees sited on the structure described on this Registration (although not required, you may want to use Certified Mail to obtain proof of receipt), and *display* your Registration Number at the site. See reverse for important information about the Commission's Antenna Structure Registration rules.

**PRELIMINARY**

**698-S-11 & 706-V-12**

**SUMMARY OF EVIDENCE, FINDING OF FACT  
AND FINAL DETERMINATION**

**of**

**Champaign County Zoning Board of Appeals**

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Final Determination: { **GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED** }

Date: **March 15, 2012**

Petitioners: **S.J. Broadcasting, LLC and Steven J. Khachaturian**

Request: CASE: 698-S-11

Authorize a radio transmission tower that is 346 feet in height and transmitter building as a Special Use with waivers (variance) of standard conditions in the AG-1 Zoning District subject to the required variance in related Case 706-V-12 on the subject property described below.

CASE: 706-V-12

Authorize the following in the AG-1 District:

- A. Authorize the use of a 5 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-1 District for the construction and use of a radio transmission tower and transmitter building in related Special Use Permit Case 698-S-11 (included as the original variance);
- B. Waiver (variance) of standard conditions for a front yard setback of 70 feet from CR 1200E in lieu of the required 100 feet and a rear yard setback of 40 feet in lieu of the required 50 feet on the subject property described below

**SUBJECT PROPERTY**

A 5 acre tract in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 36 of Tolono Township and commonly known as a vacant parcel on the west side of CR 1200E and located approximately one-half mile south of the intersection of CR 1200E and CR 700N, Tolono.

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 15, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner S.J. Broadcasting, LLC owned by Steven J. Khachaturian, Jon E. Khachaturian, and the estate of Clinton C. Atkins will hold a long-term lease on the property.
2. Brian and Jeffery Fisher own the subject property.
3. The subject property is a 5 acre tract in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 36 of Tolono Township and commonly known as a vacant parcel on the west side of CR 1200E and located approximately one-half mile south of the intersection of CR 1200E and CR 700N, Tolono.
4. The subject property is located within the one-and-one-half mile extraterritorial jurisdiction (ETJ) of the Village of Tolono. The Village of Tolono does not object to this proposed use and has elected to not enter into an annexation agreement with respect to the subject property and will not require a subdivision of this property.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Land use and zoning on the subject property and in the vicinity are as follows:
  - A. Land to the north of the subject property is zoned AG-1 Agriculture and is in agricultural use.
  - B. Land on the east side of the subject property is zoned AG-1 Agriculture and is in agricultural use.
  - C. Land on the south side of the subject property is zoned AG-1 Agriculture and is in agricultural use, except for one single family dwelling.
  - D. Land on the west side of the subject property is zoned AG-1 Agriculture and is in agricultural use.

***GENERALLY REGARDING THE PROPOSED SPECIAL USE***

5. Regarding the site plan of the subject site:
  - A. The subject property is a 5 acre tract that will be a long term lease between the Applicant and the landowner.
  - B. The Site Plan of the proposed development was received on March 7, 2012, and includes the following:

- (1) Location and height of the radio tower. The height of the radio tower is indicated to be 346 feet in height. The base of the tower is proposed to be 245 feet from the centerline of CR 1200E.
  - (2) A 10' × 15' transmitter building located approximately 15 feet north of the tower.
  - (3) Chain link fencing which is indicated to be 6 feet in height around guy wire anchors and the base of the tower connecting to the transmitter building.
  - (4) Location of 3 guy wire anchors with a radius of 200 feet.
  - (6) A driveway on the north side of the subject property
- C. The petitioner has requested waivers (variance) of the standard conditions for a transmission tower regarding the following conditions:
- (1) A front yard setback of 70 feet from CR 1200E in lieu of the required 100 feet;
  - (2) A rear yard setback of 40 feet in lieu of the required 50 feet.
- D. The petitioner has requested the following variances:
- (1) Authorize the use of a 5 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-1 District for the construction and use of a radio transmission tower and transmitter building.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS**

6. Regarding authorization for a Radio Tower as a Special Use in the AG-1 Agriculture Zoning District in the *Zoning Ordinance*:
- A. Section 5.2 authorizes Private or commercial transmission and receiving towers over 100 feet in height as a Special Use only in the AG-1, AG-2, B-3, B-4, B-5, I-1, and I-2 Zoning Districts.
  - B. The maximum allowed lot area in the AG-1, Agriculture Zoning District is determined by Footnote 13 to Section 5.3 that states the following:  
The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:
    - (1) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
      - (a) The LOT is RRO exempt;
      - (b) The LOT has a Land Evaluation score greater than or equal to 85 on the County's *Land Evaluation and Site Assessment System* and;

- (c) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as on January 1, 1998.
  - (2) LOTS that meet both of the following criteria may not exceed an average maximum LOT AREA of two acres:
    - (a) The LOT is located within a Rural Residential Overlay district; and
    - (b) The LOT has a Land Evaluation score greater than or equal to 85 on the County's *Land Evaluation and Site Assessment System*.
  - (3) The following LOTS are exempt from the three-acre maximum LOT AREA requirement indicated in Paragraph A:
    - (a) A 'Remainder Area Lot.' A 'Remainder Area Lot' is that portion of a tract which existed as of January 1, 1998 and that is located outside of the boundaries of a RRO exempt LOT less than 35 acres in LOT AREA. No construction or use that requires a Zoning Use Permit shall be permitted on a 'Remainder Area Lot.'
    - (b) Any LOT greater than or equal to 35 acres in LOT AREA.
- C. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
  - (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
    - (a) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
    - (b) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
    - (c) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
    - (d) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
    - (e) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.



**PRELIMINARY**

- (2) Subsection 6.1.3 establishes standard conditions for a Private or Commercial transmission and receiving towers over 100 feet in HEIGHT and they are as follows:
  - (a) Minimum LOT Size of 1 acre
  - (b) Front setback from the street centerline of 100 feet
  - (c) Side setback of 50 feet
  - (d) Rear setback of 50 feet
  - (e) Minimum of a 6 feet high wire mesh fencing
  - (f) Towers shall conform to the standards of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and the Illinois Department of Transportation, Division of Aeronautics (IDOT/DOA).

D. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):

- (1) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
- (2) "AREA, LOT" is the total area within the LOT LINES.
- (3) "FRONT YARD" as an a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINE each abut a STREET RIGHT OF WAY both such YARDS shall be classified as front yards (capitalized words are defined in the Ordinance).
- (4) "GRADE" is the average of the elevations o the surface of the ground measured at all corners of a BUILDING.
- (5) "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.
- (6) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.

- (7) “LOT LINE, FRONT” is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
- (8) “LOT LINE, REAR” is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.
- (9) “REAR YARD” as a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT (capitalized words are defined in the Ordinance).
- (10) “STRUCTURE” as 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 include BUILDINGS, walls, fences, billboards, and SIGNS (capitalized words are defined in the Ordinance).
- (11) “SETBACK LINE” as the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY LINE (capitalized words are defined in the Ordinance).
- (12) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (13) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (14) “YARD” as an OPEN SPACE, other than a COURT, of uniform width or depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein (capitalized words are defined in the Ordinance).
- (15) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.

**PRELIMINARY**

- D. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
  - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
  - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
  - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
  - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- E. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.
- F. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
    - (a) that the waiver is in accordance with the general purpose and intent of the ordinance; and
    - (b) that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
  - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:

- (a) Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
  - (b) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
  - (c) The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- (3) Including findings based on all of the criteria that are required for a VARIANCE for any waiver of a standard condition will eliminate any concern related to the adequacy of the required findings for a waiver of a standard condition and will still provide the efficiency of not requiring a public hearing for a VARIANCE, which was the original reason for adding waivers of standard conditions to the Ordinance.
- G. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
    - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
    - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
    - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
    - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
    - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
  - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2. The requested variances are as follows:

**PRELIMINARY**

- (a) Authorize the use of a 5 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-1 District for the construction and use of a radio transmission tower and transmitter building;
- (b) Waiver (variance) of standard conditions for a front yard setback of 70 feet from CR 1200E in lieu of the required 100 feet and a rear yard setback of 40 feet in lieu of the required 50 feet on the subject property described below.

H. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION**

- 7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
  - A. The Petitioner has testified on the application, **“The proposed tower will increase reception in homes and businesses, thus providing free radio programming provided by S. J. Broadcasting to more listeners in Champaign County, Illinois.”**

**GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE**

- 8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
  - A. The Petitioner has testified on the application, **“The tower will be constructed to have little impact on the surrounding area and the lease with the landowner permits continued farming around the structures.”**
  - B. Regarding surface drainage, the subject property is located in the Embarrass River Mutual Drainage District. Drainage should not be an issue on the subject property. The drainage district has been contacted and no comments have been received at this time.
  - C. The subject property is accessed from CR 1200E in the northeast corner of the property. Regarding the general traffic conditions on CR 1200E at this location and the level of existing traffic and the likely increase from the proposed Special Use:
    - (1) The Illinois Department of Transportation (IDOT) measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT).
      - (a) 550 vehicles per day.

- (2) There are no staff expected to be on site regularly, therefore, after construction the traffic impact from the proposed use will be minimal.
  - (3) The Township Highway Commissioner has been notified of this case and no comments have been received at this time.
- D. Regarding fire protection of the subject property, the subject property is within the protection area of the Tolono Fire Protection District. The Fire Protection District Chief has been notified of this request no comments have been received at this time.
- E. The subject property is not located within a Special Flood Hazard Area.
- F. Regarding outdoor lighting on the subject property, outdoor lighting is not indicated on the site plan, but the petitioner will install a light system with a red incandescent beacon (FAA type A-1) tower lighting system in accordance with FAA regulations.
- G. Regarding wastewater treatment and disposal on the subject property, there is not an onsite septic system.
- H. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
    - (a) The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
    - (b) The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
    - (c) The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.

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- (d) Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
  - (e) Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
  - (f) The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required. There is no information regarding the cost of the pole barn that is used to house the farm dinners in inclement weather, so it is unclear if that will trigger the requirements of the IEBA.
  - (g) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
  - (h) The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
  - (i) When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
  - (j) Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.
- I. Regarding the *Zoning Ordinance* requirement that the waivers (variances) of standard conditions of the Special Use will not be injurious to the district:
- (1) There is no evidence to suggest that the requested waivers (variances) of the standard conditions will be injurious to the district for the following reasons:

- (a) The proposed special use will be used infrequently and traffic will be minimal;
  - (b) There are no drainage issues that would result from this;
  - (c) The guy wire anchors are not near the public right-of-way;
  - (d) The proposed use is a rural use and allowed by Special Use Permit in the AG-1 Agriculture Zoning District; and
  - (e) The landowner will be able to farm around the structures.
- J. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

***GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT***

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application, “Yes.”
  - B. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Agriculture Zoning District, the proposed use is allowed in the AG-1 Agriculture Zoning District and is by definition a rural use.
  - C. Regarding compliance with the *Zoning Ordinance*:
    - (1) Private or commercial transmission and receiving towers over 100 feet in HEIGHT are authorized only by Special Use Permit in the AG-1, AG-2, B-3, B-4, B-5, I-1, or I-2 Zoning District.
    - (2) Regarding parking on the subject property:
      - (a) The site plan received on February 28, 2012, does not indicate the number of parking spaces, but there is sufficient area for the 1 required space.
    - (3) Regarding loading berths on the subject property:
      - (a) The total building area on the property is approximately 150 square feet. Paragraph 7.4.2 requires buildings with an area of 1-9,999 square feet to provide one 12’×40’ loading berth.



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- (b) No loading berths are indicated on the submitted site plan, but there is sufficient area to accommodate a loading berth.
- D. Regarding compliance with the *Stormwater Management Policy*:
  - (1) The proposed Special Use is exempt from the *Stormwater Management Policy*.
- E. Regarding the Special Flood Hazard Areas Ordinance and Subdivision Regulations:
  - (1) The subject property is not located in the Special Flood Hazard Area.
  - (2) The subject property is located in the Village of Tolono subdivision jurisdiction.
- F. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.
- G. The petitioner has requested waivers (variances) of the standard conditions for a Private transmission tower regarding the following conditions:
  - (1) A setback of 70 feet for a guy wire anchor from the centerline of CR 1200E in lieu of 100 feet.
    - (a) This is a waiver (variance) of 30% of the minimum requirement.
  - (2) A setback of 40 feet for a guy wire anchor from the rear property line in lieu of 50 feet.
    - (a) This is a waiver (variance) of 20% of the minimum requirement.
- H. The petitioner has requested the following variance:
  - (1) Authorize the use of a 5 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-1 District for the construction and use of a radio transmission tower and transmitter building.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

- 10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
  - A. Private or commercial transmission towers may be authorized in the AG-1, AG-2, B-3, B-4, B-5, I-1, or I-2 Zoning Districts as a Special Use provided all other zoning requirements and standard conditions are met or waived.

B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:

(1) Subsection 5.1.1 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.

(2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

C. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:

(1) Subsection 5.1.1 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.

(2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

(3) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.

(a) This purpose is directly related to the minimum yard requirements in the Ordinance and the proposed site plan appears to not be in compliance with those requirements. However waivers are required if standard conditions are not met.

(4) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

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- (a) In regards to the value of nearby properties, it is unclear what impact the proposed SUP will have on the value of nearby properties.
  - (b) With regard to the value of the subject property, the subject property is in agricultural production and the land surrounding the structures will still be able to be in agricultural production.
- (5) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.
- (a) Traffic resulting from the proposed use will be minimal and infrequent.
- (6) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.

The requested Special Use Permit complies with the *Champaign County Stormwater Management Policy* and is outside of the Special Flood Hazard Area and there are no special drainage problems that appear to be created by the Special Use Permit.

- (7) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
- (a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
  - (b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (8) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to not be in compliance with some, but not all of those limits.

- (9) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the

location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions.

- (10) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is not relevant to the proposed Special Use Permit because it relates to existing structures and this is not an existing structure.

- (11) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The subject property is located in the AG-1 Agriculture District and is, by definition, a rural use.

- (12) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

The subject property does not contain any natural features and there are no natural features in the vicinity of the subject property.

- (13) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The subject property is located in the AG-1 Agriculture District and is, by definition, a rural use.

**PRELIMINARY**

- (14) Paragraph 2.0 (q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.

The subject property is located in the AG-1 Agriculture District and is, by definition, a rural use. The lease between the Applicant and the landowner will enable the landowner to farm around the proposed structures.

- (15) Paragraph 2.0 (r) of the Ordinance states that one purpose of the Ordinance is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed use in this case is not related to this purpose.

- D. Regarding the *Zoning Ordinance* requirement that the waivers (variances) of standard conditions of the Special Use will be in harmony with the general purpose and intent of the ordinance:

- (1) There is no evidence to suggest that the requested waivers (variances) of the standard conditions will not be in harmony with the general purpose and intent of the ordinance for the following reasons:
- (a) The site of the proposed special use will be visited infrequently;
  - (b) Traffic will be minimal;
  - (c) Overall agricultural operations will not be hindered;
  - (d) The *Zoning Ordinance* allows this use as a Special Use in the AG-1 Agriculture Zoning District.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE**

11. Regarding whether the proposed Special Use Permit is an existing nonconforming use.
- A. The proposed Special Use IS NOT an existing nonconforming use.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES FOR A VARIANCE**

12. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. Minimum setbacks from the centerline of a street, minimum front yards, minimum side yards, minimum rear yards, and maximum lot size in the AG-1 District are established in Section 5.3 and Subsection 4.3.2 of the *Zoning Ordinance* as follows:

- (1) The minimum setback from a minor street is listed in Section 5.3 and Subsection 4.3.2 as 55 feet.

The nearest structural feature has a setback of 70 feet from the centerline fo CR 1200E.

- (2) The minimum front yard in regards to a minor street is listed in Footnote 3 of Section 5.3 and Subsection 4.3.2 as 25 feet.

The nearest structural feature exceeds the minimum front yard requirement.

- (3) The minimum side yard is listed in Section 5.3 as 15 feet.

The nearest structural feature has a side yard of 70 feet.

- (4) The minimum rear yard is listed in Section 5.3 as 25 feet.

The nearest structural feature has a rear yard of 40 feet.

- (5) The maximum lot area on best prime farmland is three acres as listed in Footnote 13 of Section 5.3.

The subject property for the proposed Special Use is indicated to be 5 acres in area.

**B. Section 6.1.3 establishes standard conditions for communication towers and they are as follows:**

- (1) Minimum LOT Size of 1 acre

The lot size indicated on the site plan is 5 acres.

- (2) Front setback from the street centerline of 100 feet.

The setback of the tower from the centerline of CR 1200E is indicated to be 245 feet from the road. The front guy wire anchor is measured to be approximately 70 feet from the centerline of the road (a waiver for this has been requested). The proposed transmitter building is indicated to be 240 feet from the road.

- (3) Side setback of 50 feet.

Side setbacks are not indicated, but a scale measurement of the distance from the lot line to the nearest structural feature shows a side yard of approximately 75 feet.

- (4) Rear setback of 50 feet.

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The rear yard for the nearest structural feature is indicated to be 40 feet from the rear property line (a waiver for this has been requested).

- (5) Minimum of a 6 feet high wire mesh fencing.

The site plan indicates that chain link fencing 6 feet in height will be installed around guy wire anchors and the tower.

- (6) Towers shall conform to the standards of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and the Illinois Department of Transportation, Division of Aeronautics (IDOT/DOA).

The petitioner has submitted documentation from the FAA that the proposed tower will not be a hazard to air navigation. Additionally the petitioner has received a construction permit for the proposed tower from the FCC and has registered the antenna with the FCC.

*GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT*

13. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“The land is uniquely located so as to provide the proposed tower with optimal broadcasting range of listening area.”**
- B. Regarding the variance of maximum lot size:
- (1) The subject property is best prime farmland overall and it consists primarily of Drummer silty clay loam (relative value 98) and small amounts of Flanagan silt loam (relative value 100) and a small amount of Dana silt loam (relative value 87).
- (2) 5 acres is the minimum amount of land to accommodate this tower.
- (3) The landowners will be able to farm around the structures.
- (4) The subject property will contain a use that by its nature cannot be accommodated on a 3 acre parcel. Engineering requirements for the safe operation of a communications tower call for guy wires that extend across an area greater than three acres. The minimum required area for this proposed tower is estimated to be 4.23 acres.
- C. Regarding the waivers (variances) of standard conditions for a setbacks of 70 feet from CR 1200E in lieu of 100 feet and rear yard of 40 feet in lieu of 50 feet:
- (1) The nearest dwelling is approximately 1,000 feet away.

- (2) The surrounding land is in agricultural production.

***GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE***

- 14. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. The Petitioner has testified on the application that, **“The structure in question is not permitted as of right in any zoning district and construction at the subject premises would have minimal impact.”**
  - B. Regarding the variance of maximum lot size:
    - (1) The subject property is best prime farmland overall as it consists primarily of Drummer silty clay loam (relative value 98) and small amounts of Flanagan silt loam (relative value 100) and a small amount of Dana silt loam (relative value 87).
    - (2) The lot size shown on the site plan is necessary to accommodate the guy wire to support the tower.
  - C. Regarding the waivers (variances) of standard conditions for a setback of 70 feet from CR 1200E in lieu of 100 feet and a rear yard of 40 feet in lieu of 50 feet:
    - (1) The nearest dwelling is approximately 1,000 feet away.
    - (2) Creating a larger lot would mean utilizing additional best prime farmland for the lot.

***GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT***

- 15. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. The Petitioner has testified on the application that, **“No.”**
  - B. Regarding the variance of maximum lot size:
    - (1) The subject property is best prime farmland overall as it consists primarily of Drummer silty clay loam (relative value 98) and small amounts of Flanagan silt loam (relative value 100) and a small amount of Dana silt loam (relative value 87).
    - (2) It might be possible to accommodate a shorter tower on a lot three acres or less in size, but presumably S.J. Broadcasting, LLC has also determined the necessary height of the tower for their purposes. Therefore, this is the minimum height for a



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useful tower and the minimum length for guy wires that will sufficiently support a tower of this height.

- C. Regarding the waivers (variances) of standard conditions for a setback of 70 feet from CR 1200E in lieu of 100 feet and a rear yard of 40 feet in lieu of 50 feet:
- (1) There are no adjacent uses that have or need large yards.
  - (2) The guy wire anchors meet the minimum setback requirements of the zoning district.

*GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE*

16. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioner has testified on the application that, **“The structure is located and has been designed to create minimal impact on the subject property and surrounding property. The lease permits the landlord to continue to farm around the structures on the premises.”**
  - B. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773.
  - C. The proposed lot area of 5 acres is 166% of the required 3 acre maximum for a variance of 66%.
  - D. The requested variance is not prohibited by the *Zoning Ordinance*.

*GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE*

17. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application that, **“The location of the tower will be located in a sparsely populated area and after construction will require minimal ingress and egress. The use is consistent with similar uses on similarly situated properties.”**
  - B. The proposed use will be located in an agricultural area and the landowner will be allowed to farm around the structure.

- C. The Township Road Commissioner has received notice of this variance but no comments have been received.
- D. The Fire Protection District has been notified of this variance but no comments have been received.
- E. The Drainage District has been notified of this variance but no comments have been received.

***GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL***

18. Regarding proposed special conditions of approval:

**A. Regarding State of Illinois accessibility requirements:**

- (1) **The Zoning Administrator shall not approve a Zoning Use Permit for the proposed Special Use Permit without certification by an Illinois Licensed Architect or Illinois Professional Engineer that the proposed transmitter building will comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act or documentation from the Illinois Capital Development Board that no part of the proposed transmitter building has to be accessible nor does the tower;**
- (2) **If documentation from the Illinois Capital Development Board does indicate that any part of the proposed Special Use must be accessible the Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Zoning Administrator has verified that the Special Use as constructed does in fact comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act.**

The special conditions stated above are required to ensure the following:

That the proposed Special Use meets applicable state codes for handicap accessibility.

**DOCUMENTS OF RECORD**

1. Special Use Permit Application received November 3, 2011 with attachments:
  - A Legal description
  - B Site Plan
  - C Location Map
  - D Landowners Authorization
  
2. Resolution from the Village of Tolono regarding the proposed special use and variance received, January 18, 2012.
  
3. Variance Application received on January 25, 2012, with attachments:
  - A Site Plan
  - B Location Map
  - C Land Owners Authorization
  - D Resolution from the Village of Tolono regarding the proposed special use and variance
  - E Letter of Option and Intent
  - F Lease Agreement
  
4. Site Plan received March 7, 2012
  
5. Preliminary Memorandum dated March 9, 2012 with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan (Proposed Development) received March 7, 2012
  - C Annotated Site Plan
  - D Village of Tolono Resolution
  - E FAA certification of no hazard to air navigation
  - F FCC construction permit and antenna registration
  - G Draft Summary of Evidence, Finding of Fact, and Final Determination

FINDINGS OF FACT: CASE 698-S-11

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 698-S-11 held on March 15, 2012, the Zoning Board of Appeals of Champaign County finds that:

- 1. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN {IS / IS NOT}}* necessary for the public convenience at this location because: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
- 2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
  - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
  - b. Emergency services availability is *{ADEQUATE / INADEQUATE} {because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_
  - c. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
  - d. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_
  - e. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE} {because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_
  - f. Public safety will be *{ADEQUATE / INADEQUATE} {because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_
  - h. The provisions for parking will be *{ADEQUATE / INADEQUATE} {because\*}*:  
 \_\_\_\_\_  
 \_\_\_\_\_
  - i. *(Note the Board may include other relevant considerations as necessary or desirable in each case.)*

\*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:
  - a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
  - b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
  - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
  - a. The Special Use is authorized in the District.
  - b. The requested Special Use Permit *{IS/ IS NOT}* necessary for the public convenience at this location.
  - c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL / WILL NOT}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
  - d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use *IS* an existing nonconforming use and the requested Special Use Permit *WILL* make the existing use more compatible with its surroundings
6. Regarding necessary waivers of standard conditions:
  - A. Regarding the requested waiver of the standard condition in Section 6.1.3 for a communications tower for a **setback from the centerline of CR 1200E of 70 feet instead of the Standard Condition setback from street centerline of 100 feet:**
    - (1) The waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare. *{Because\*}*:
    - (2) Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district. *{Because\*}*:

- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction. *{Because\*}*:
- (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because\*}*:
- (5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure. *{Because\*}*:

E. Regarding the requested waiver of the standard condition in Section 6.1.3 for a communications tower for a rear yard of 40 feet instead of the Standard Condition side yard of 50 feet:

- (1) The waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare. *{Because\*}*:
- (2) Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district. *{Because\*}*:
- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction. *{Because\*}*:
- (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because\*}*:
- (5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure. *{Because\*}*:

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW}***

\*The Board may include additional justification if desired, but it is not required.

**PRELIMINARY**

**FINDINGS OF FACT: CASE 706-V-12**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 706-V-12 held on **March 15, 2012** the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. The requested variance **{SUBJECT TO THE SPECIAL CONDITION IMPOSED}** **{IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. The requested variance **{SUBJECT TO THE SPECIAL CONDITION IMPOSED}** **{WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
6. The requested variance **{SUBJECT TO THE SPECIAL CONDITION IMPOSED}** **{IS / IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure

because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***



**FINAL DETERMINATION: CASE 698-S-11**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval of Section 9.1.11B. *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case 698-S-11 is hereby *{ GRANTED / GRANTED WITH SPECIAL CONDITIONS/DENIED }* to the petitioner **S.J. Broadcasting, LLC** to authorize the construction of a radio transmission tower and transmitter building as a Special Use in the **AG-1 Zoning District** *{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }*

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

**FINAL DETERMINATION: CASE 706-V-12**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C **{HAVE/HAVE NOT}** been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **706-V-12** is hereby **{GRANTED / GRANTED WITH CONDITIONS/DENIED}** to the petitioner **S.J. Broadcasting, LLC** to authorize a **variance of setbacks, maximum lot size, as well as waivers (variance) of standard conditions for front yard setbacks, rear yard setback to allow for the construction a communications tower {SUBJECT TO THE FOLLOWING CONDITION(S):}**

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

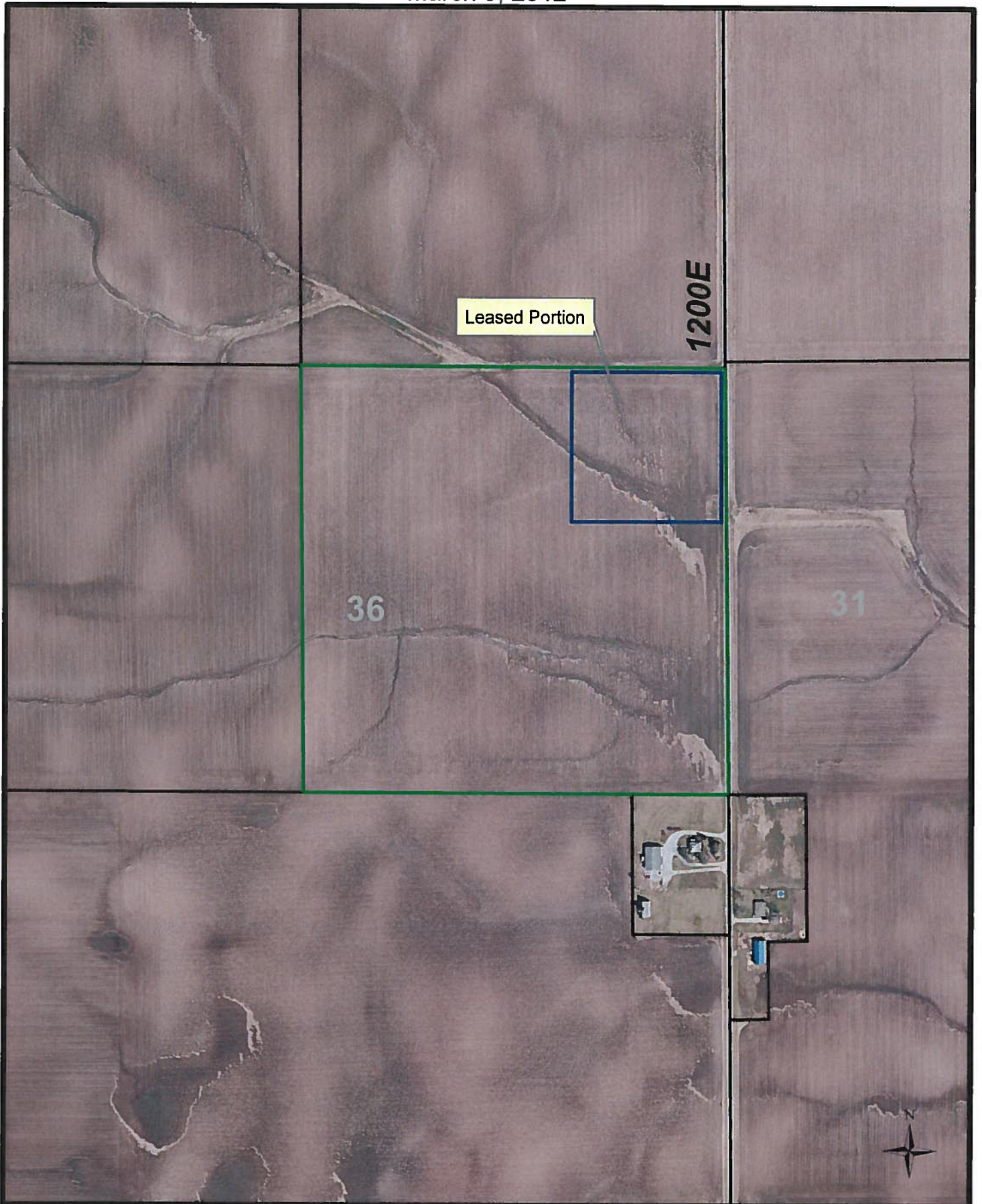
SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST: Secretary to the Zoning Board of Appeals

Date

Attachement A: Land Use Map  
Case 698-S-11 & 706-V-12  
March 9, 2012

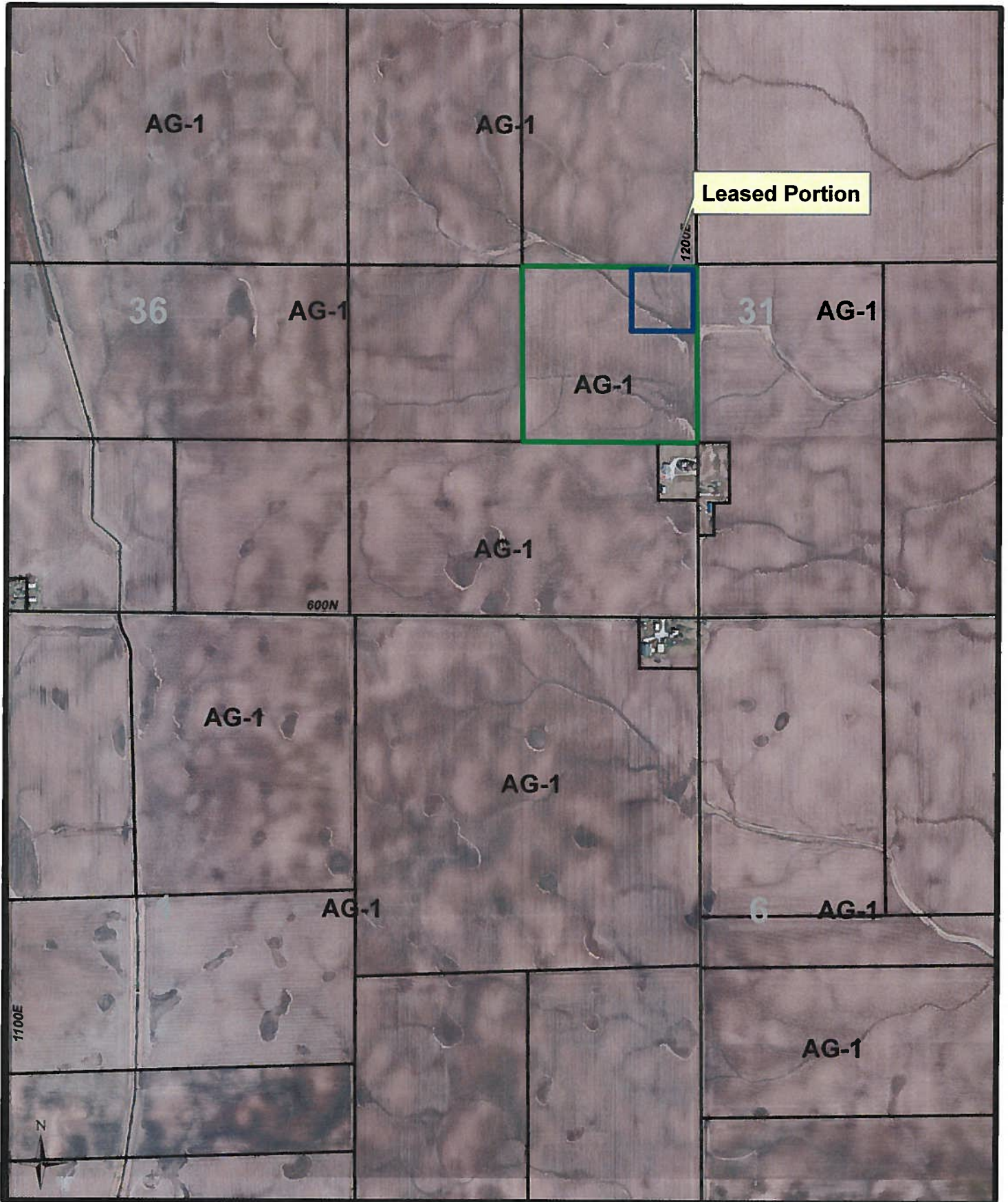


 Subject Property

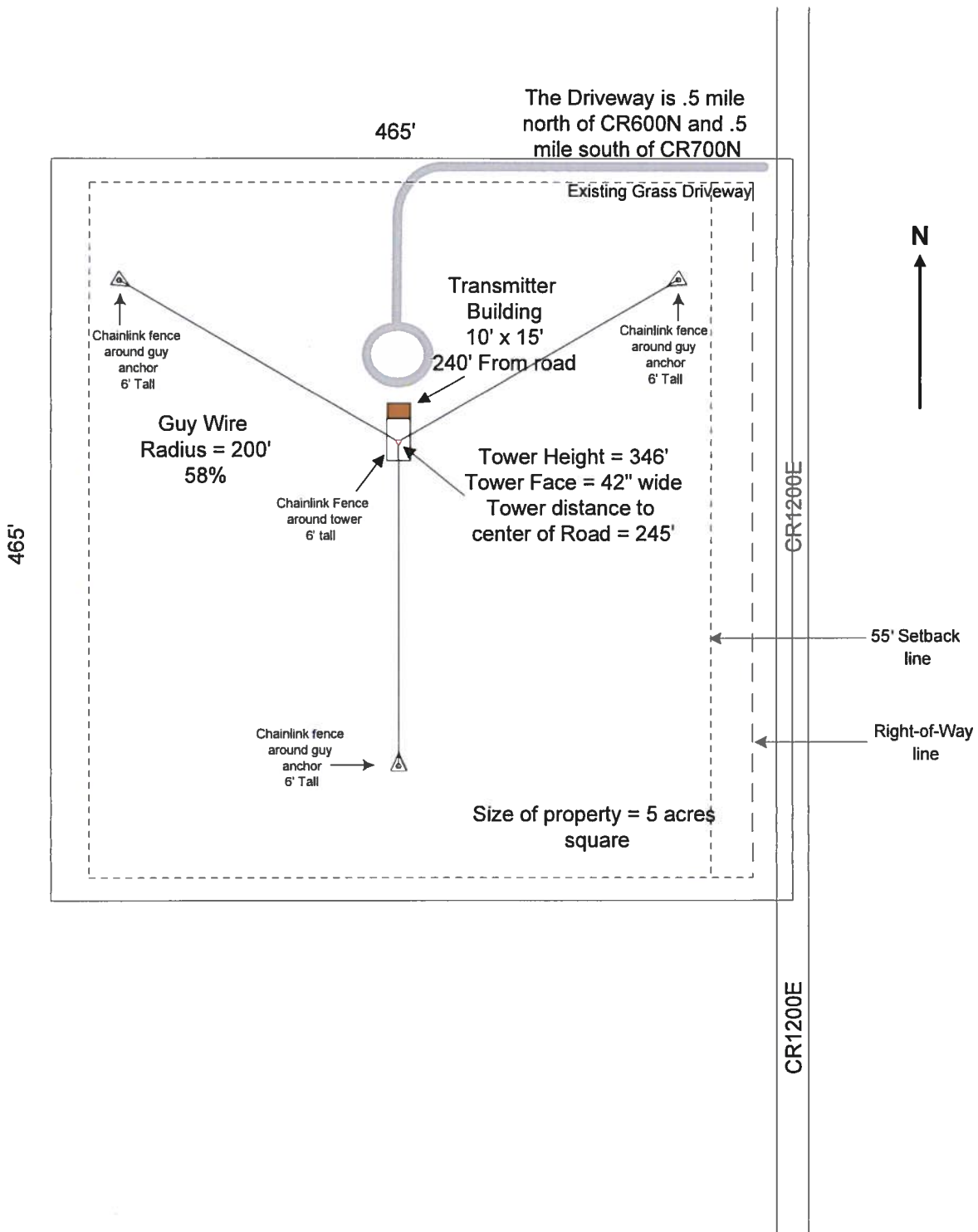
1 inch = 400 feet



Attachment A. Zoning Map  
Case 698-S-11 & 706-V-12  
March 9, 2012



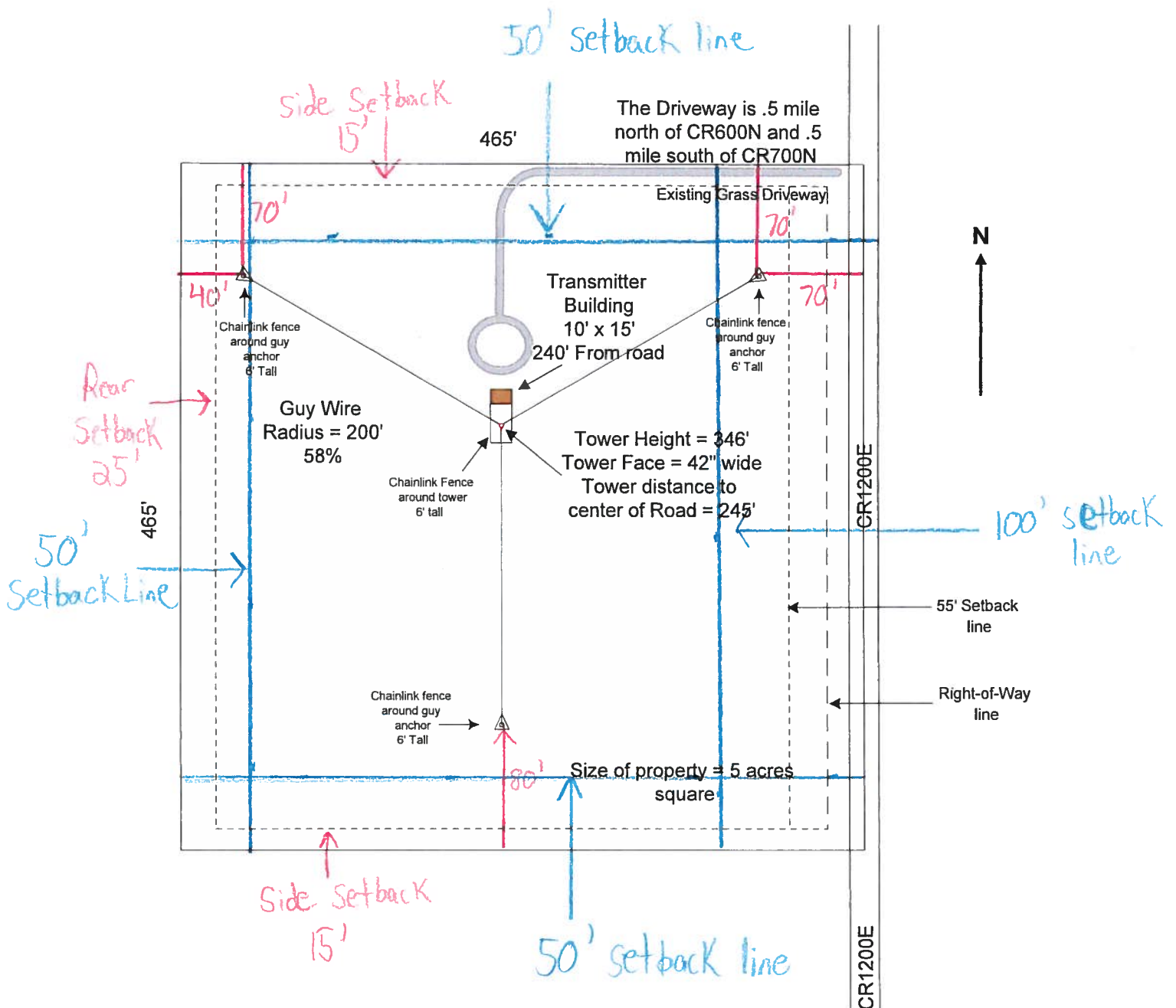
1 inch = 1,000 feet



RECEIVED

MAR 07 2012

CHAMPAIGN CO. P & Z DEPARTMENT



1 inch = 100 feet

RECEIVED

MAR 07 2012

CHAMPAIGN CO. P & Z DEPARTMENT

Annotated Site Plan  
3-8-2012

# CASE NO. 702-V-11

PRELIMINARY MEMORANDUM

MARCH 9, 2012

Champaign  
County  
Department of

PLANNING &  
ZONING

**Petitioner:** Roger Burk

**Request:** Authorize the following in the I-1 Light Industry Zoning District:

- Part A. Variance for a proposed warehouse storage facility with a setback of 54 feet from the centerline of Paul Avenue a local street, in lieu of the minimum required 58 feet;
- Part B. Variance for a side yard of 5 feet in lieu of the minimum required side yard of 10 feet;
- Part C. Variance for a rear yard of 5 feet in lieu of the minimum required rear yard of 20 feet;
- Part D. Variance from the visibility triangle requirements for a corner lot;
- Part E. Variance from the minimum required number of parking spaces for industrial uses;
- Part F. Variance from the loading berth requirements in lieu of the required 1 loading berth;
- Part G. Variance from a minimum separation from a side property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.

**Location:** Lots 299 and 300 of Wilber Heights Subdivision in the Southwest Quarter of Section 31 of Somer Township and commonly known as the buildings at 101 Paul Avenue, Champaign.

**Site Area:** 5,750 square feet

**Time Schedule for Development:** Unknown

**Prepared by:** **Andy Kass**  
Associate Planner

**John Hall**  
Zoning Administrator

---

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

(217) 384-3708

---

## BACKGROUND

The proposed warehouse storage facility will replace the structures currently occupying the subject property. The current structures on the property have been the subject of complaints to the Department of Planning and Zoning in recent years. Some of the complaints include a state of disrepair and abandonment of the home and other structures on the property and that someone was living inside of the warehouse without water or toilet facilities. The structures currently occupying the subject property will be torn down and Mr. Burk will purchase the property pending the approval of the requested variance.

A warehouse storage facility is a permitted by-right development in the I-1 Zoning District. Mr. Burk is proposing that the largest portion of the building (24' × 32') will be his personal storage area along with four individual 10' × 24' storage units for rent. The units will be provided lights and electricity, but not water. The subject property consists of two nonconforming lots of record and existed prior to the adoption of zoning in Champaign County.

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## EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign. Municipalities do not have protest rights in variance cases and are not notified of such cases.

## EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Vacant Buildings	I-1 Light Industrial
North	Single Family Home	I-1 Light Industrial
East	Single Family Home	I-1 Light Industrial
West	Shopping Center (Market Place Mall)	City of Champaign
South	Single Family Home	I-1 Light Industrial

## ATTACHMENTS

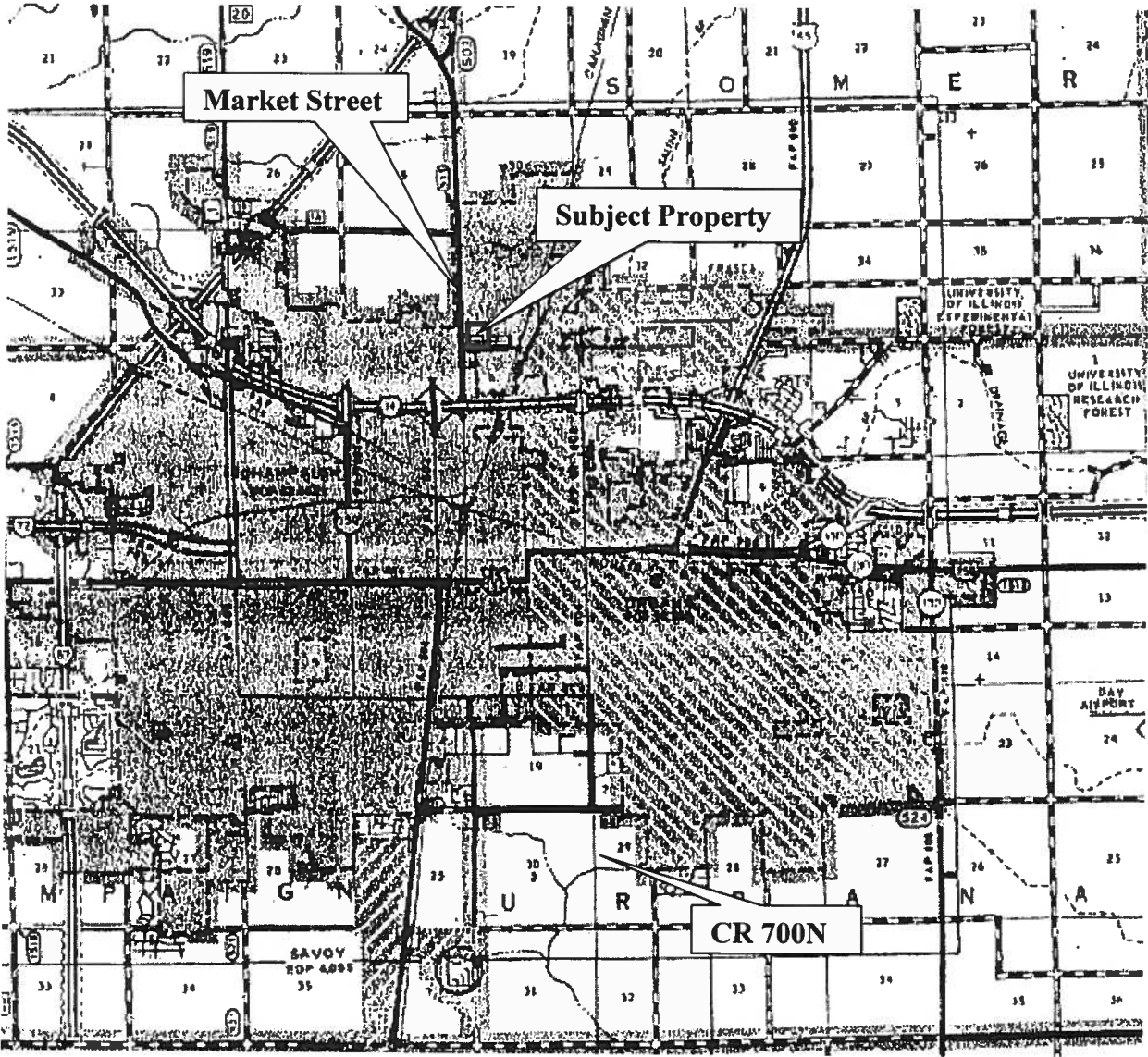
- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received March 2, 2012
- C Annotated Site Plan
- D Draft Summary of Evidence, Finding of Fact, and Final Determination (attached separately)



ATTACHMENT A. LOCATION MAP

Case 702-V-11

March 9, 2012



Attachment A: Land Use Map

Case: 702-V-11

March 9, 2012



Subject Property

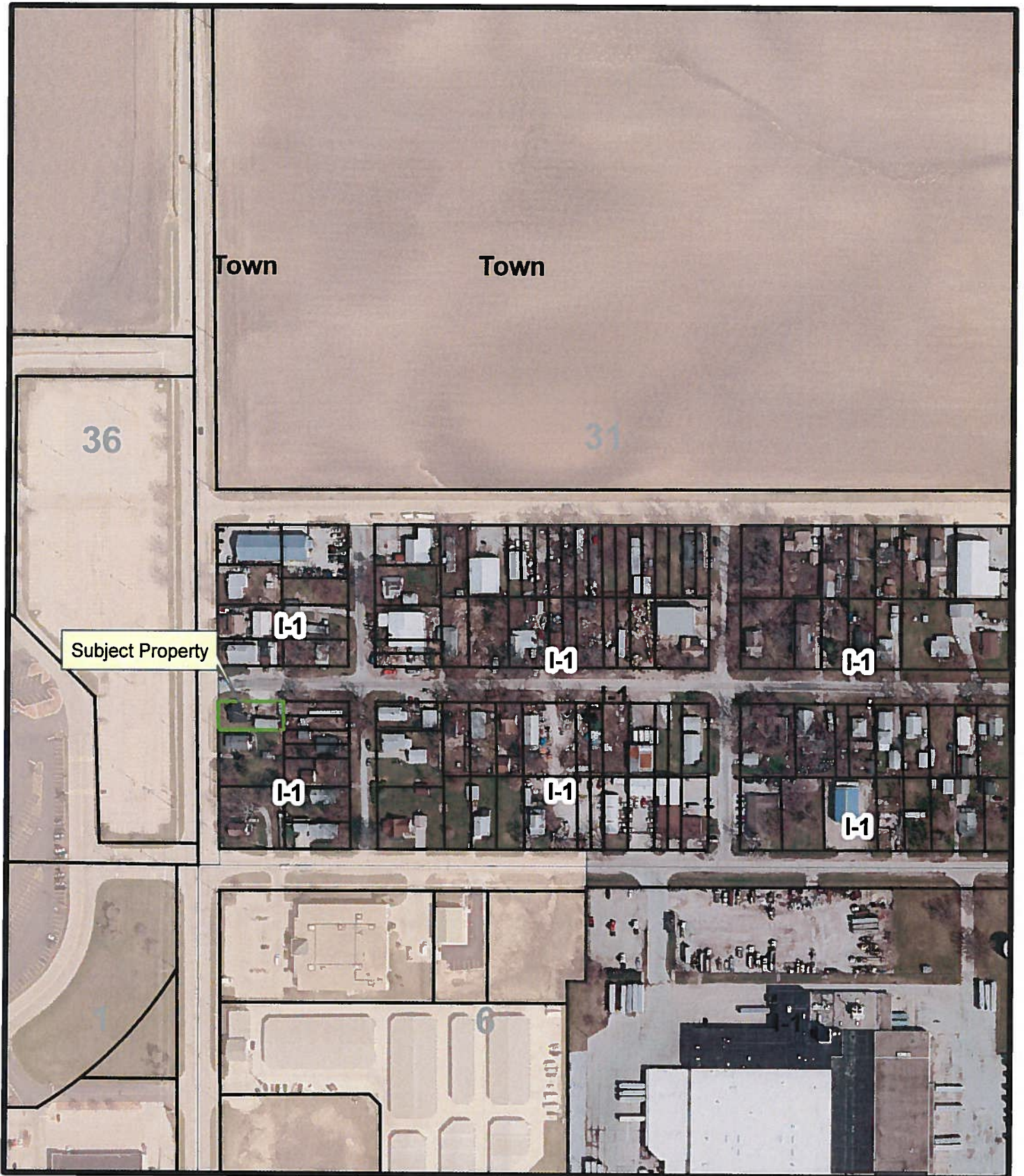
1 inch = 100 feet



Attachment A: Zoning Map

Case: 702-V-11

March 9, 2012



1 inch = 250 feet

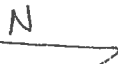
MARKET STREET

CENTERLINE

RECEIVED

MAR 02 2012

CHAMPAIGN CO. P & Z DEPARTMENT



75' 1/2'

58

5'

38'

5' 36"

ADA

Parking

16'

Plumbing stubbed in

32'

10 x 9

9 x 8

sidewalk 21'

4'

ADA unit

10'

9 x 8

10'

9 x 8

10'

9 x 8

10'

9 x 8

115'

5'

5'

5'

50'

21'

54'

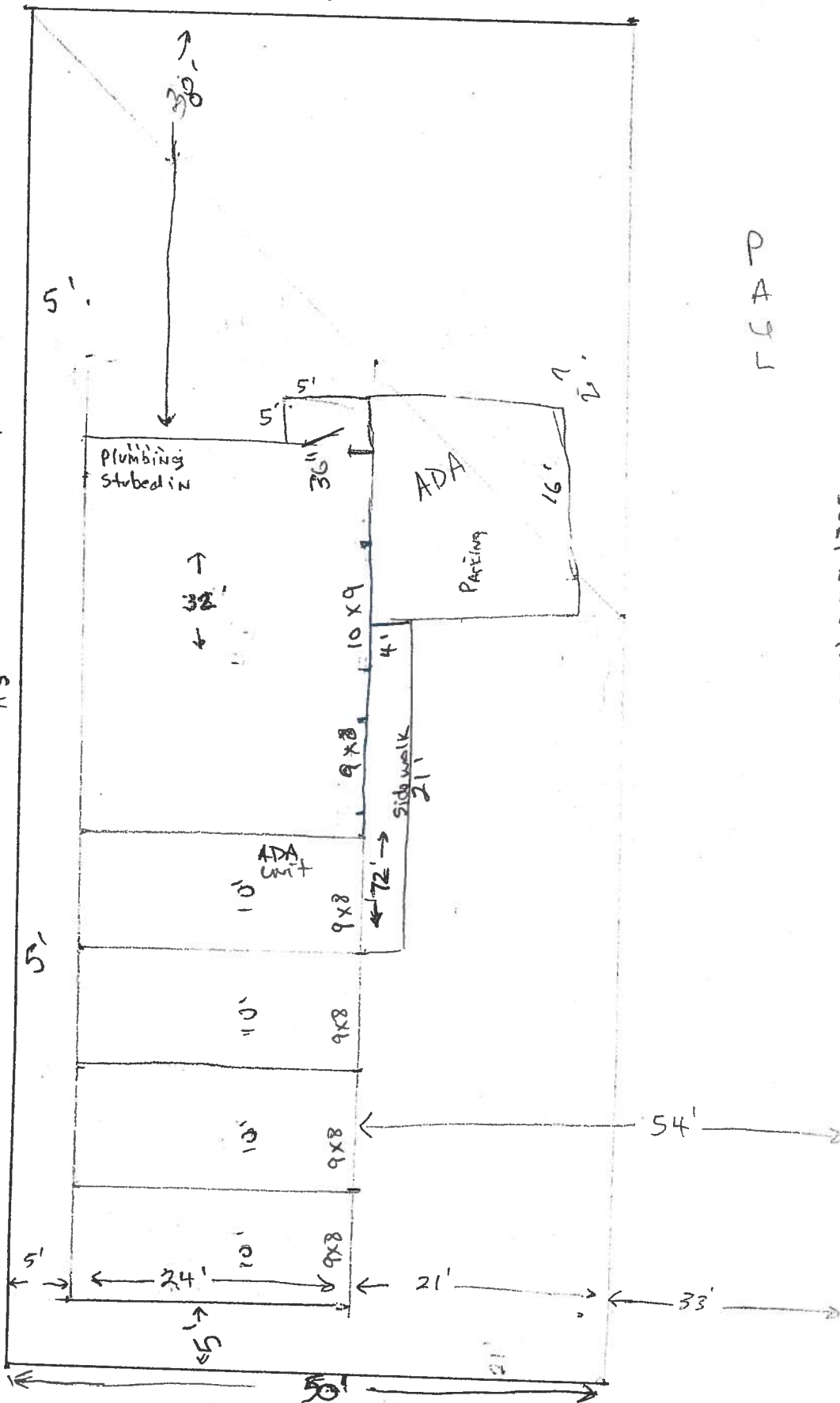
33'

P  
L  
A  
T  
E

UNRECORDED

Roger R. Burk  
101 PAUL AVE.

Lights + electric outlets  
to all units



Annotated Site Plan  
3-5-2012  
by AK

CENTERLINE

MARKET STREET

RECEIVED

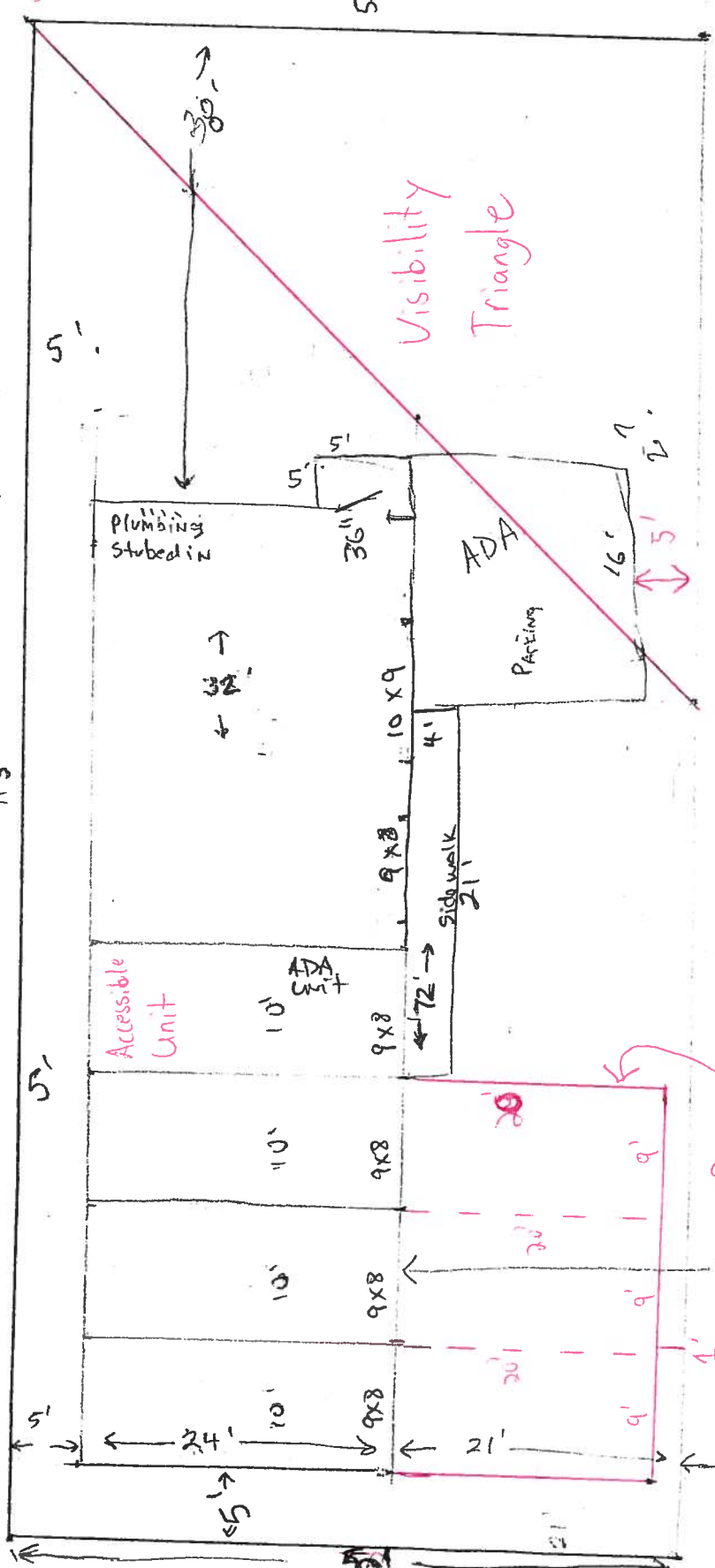


MAR 02 2012

Annotated Site Plan  
3-5-2012 by AK

CHAMPAIGN CO. P & Z DEPARTMENT

75' 12"



P  
L  
A  
N

Roger Burk  
101 PAUL AVE.

Lights + electric outlets  
to all units

Site Plan not drawn  
to scale

CHAMPAIGN CO. P & Z DEPARTMENT

**PRELIMINARY**

**702-V-11**

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

---

Final Determination: { **GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED** }

Date: **March 15, 2012**

Petitioner: **Roger Burk**

Request: Authorize the following in the I-1 Light Industry District:

Part A. Variance for a proposed warehouse storage facility with a setback of 54 feet from the centerline of Paul Avenue a local street, in lieu of the minimum required 58 feet;

Part B. Variance for a side yard of 5 feet in lieu of the minimum required side yard of 10 feet;

Part C. Variance for a rear yard of 5 feet in lieu of the minimum required rear yard of 20 feet;

Part D. Variance from the visibility triangle requirements for a corner lot;

Part E. Variance from the minimum required number of parking spaces for industrial uses;

Part F. Variance from the loading berth requirements in lieu of the required 1 loading berth;

Part G. Variance from a minimum separation from a side property line for parking spaces of 1 foot in lieu of the minimum required 5 feet, on the following property:

Lots 299 and 300 of Wilber Heights Subdivision in the Southwest Quarter of Section 31 of Somer Township and commonly known as the buildings at 101 Paul Avenue, Champaign.

---

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**Case 702-V-11 Findings of Fact..... 16-17**

**Case 702-V-11 Final Determination ..... 18-19**



**PRELIMINARY**

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on March 15, 2012, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioner owns the subject property.
2. The subject property consists of lots 299 and 300 of Wilber Heights Subdivision.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign, a municipality with zoning.

**GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY**

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. Land to the north of the subject property is zoned I-1 Light Industry and is in residential use.
  - B. Land on the east side of the subject property is zoned I-1 Light Industry and is in residential use.
  - C. Land on the south side of the subject property is zoned I-1 Light Industry and is in residential use.
  - D. Land on the west side of the subject property is within the city limits of the City of Champaign and is being used as a shopping center.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. Regarding the site plan of the subject site:
  - A. The subject property is 5,750 square feet in area and consists of two nonconforming lots of record.
  - B. The Site Plan of the proposed development was received on March 2, 2012, and includes the following:
    - (1) Location of the proposed 1,728 square feet (72' × 24') warehouse storage building.
    - (2) Location and dimensions of the ADA accessible parking space (16' × 16') and pad (5' × 5').
    - (3) The proposed warehouse storage facility is indicated as having the following setbacks and yards:
      - (a) A 75½ feet setback from the centerline of Market Street;



**PRELIMINARY**

- (b) A 54 feet setback from the centerline of Paul Avenue;
  - (c) A front yard of 38 feet;
  - (d) Side yards of 21 feet and 5 feet; and
  - (e) A rear yard of 5 feet.
- (4) Indication that plumbing will be stubbed in.
  - (5) Location of five 9' × 8' overhead doors and one 10' × 9' overhead door.
  - (6) A 21' × 4' ADA accessible path to the accessible storage unit.

C. The requested variance is as follows:

- (1) Variance for a proposed warehouse storage facility with a setback of 54 feet from the centerline of Paul Avenue a local street, in lieu of the minimum required 58 feet;
- (2) Variance for a side yard of 5 feet in lieu of the minimum required side yard of 10 feet;
- (3) Variance for a rear yard of 5 feet in lieu of the minimum required rear yard of 20 feet;
- (4) Variance from the visibility triangle requirements for a corner lot;
- (5) Variance from the minimum required number of parking spaces for industrial uses;
- (6) Variance from the loading berth requirements in lieu of the required 1 loading berth;
- (7) Variance from a minimum separation from a side property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:

A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):

- (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used

**PRELIMINARY**

for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.

- (2) "AREA, LOT" is the total area within the LOT LINES.
- (3) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
- (4) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (5) "LOT LINES" are the lines bounding a LOT.
- (6) "LOT LINE, FRONT" is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
- (7) "LOT WIDTH, AVERAGE" is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
- (8) "NONCONFORMING LOT, STRUCTURE, or USE" is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.
- (9) "RIGHT-OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (10) "SETBACK LINE" is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
- (11) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
  - (a) MAJOR STREET: Federal or State highways
  - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.

**PRELIMINARY**

- (c) MINOR STREET: Township roads and other local roads.
- (12) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- (13) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- (14) "YARD, FRONT" is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- (15) "YARD, REAR" is a YARD A YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
- (16) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. Minimum setbacks from the centerline of a street and minimum front yards in the I-1 Light Industry Zoning District are established in Section 5.3 and Subsection 4.3.2 of the *Zoning Ordinance* as follows:
- (1) The minimum setback from a collector street is listed in Section 5.3 and Subsection 4.3.2 as 75 feet with a front yard of 30 feet.
- (2) Section 5.3 is the Schedule of Area, Height, and Placement Regulations by District and indicates that the setback from a COLLECTOR STREET is 75 feet and footnote 3 further specifies the following:
- (a) In no case shall the FRONT YARD be less than 30 feet from a COLLECTOR STREET.
- (b) Footnote 3 provides that where 25% or more of the lots within a block abutting streets other than federal or state highways, were occupied by main or principal structures prior to the effective date of the ordinance (10/1/73), the average of the setback lines of such structures shall be the minimum

**PRELIMINARY**

setback lines of the remaining vacant lots within such block except where the public health, safety, comfort, morals, or welfare are endangered.

- (3) The minimum setback from a minor street is listed in Section 5.3 and Subsection 4.3.2 as 55 feet.
- C. Minimum side and rear yards in the I-1 Light Industry Zoning District are established in Section 5.3 of the *Zoning Ordinance* as follows:
- (1) The minimum side yard is listed in Section 5.3 as 10 feet.
  - (2) The minimum rear yard is listed in Section 5.3 and as 20 feet.
- D. Minimum setbacks for a corner lot from the visibility triangle are established in Subsection 4.3.2 and Subsection 4.3.3 of the *Zoning Ordinance* as follows:
- (1) The minimum visibility triangle for a corner lot is listed in Subsection 4.3.3 as 50 feet from the nearest point of intersection.
- E. Minimum parking space requirements for Industrial USES are established in Section 7.4.1D.1 of the *Zoning Ordinance* as follows:
- (1) One space shall be provided for each three employees based upon the maximum number of persons employed during one work period during the day or night, plus one space for each VEHICLE used in the conduct of such USE. A minimum of one additional space shall be designated as a visitor PARKING SPACE.
  - (2) All such spaces shall be surfaced with an all-weather dustless material.
  - (3) The required number of spaces for the proposed use is 5 parking spaces plus 1 ADA accessible parking space. The Petitioner has indicated only the ADA accessible parking space on the site plan.
- F. Minimum loading berth requirements for Industrial USES are the same as the schedule for commercial establishments established in Section 7.4.2C.5. as follows:
- (1) 1 – 9.999 Square Feet (Thousands) requires 1, 12' × 40' loading berth.
- G. Minimum separation for parking spaces from side lot lines are established in Section 7.4.1A.3.(b). as follows:
- (1) No such space shall be located less than five feet from any side or REAR LOT LINE.
- H. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar

**PRELIMINARY**

irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.

H. Subsection 8.1.2 requires the following:

Once two or more contiguous LOTS or combination of LOTS and portions of LOTS which individually do not meet any dimensional, geometric, LOT ACCESS or other standards are brought into common ownership the LOTS involved shall be used separately or conveyed to another owner which does not meet all of the dimensional, geometric, LOT ACCESS and other standards established by this ordinance unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

I. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:

(1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:

(a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.

(b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.

(c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.

(d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.

(e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.

(2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.

J. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

**PRELIMINARY**

**GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT**

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
  - A. The Petitioner has testified on the application that, **“This is a smaller lot 50’ × 115’ that has one side facing a collector street (Market) and one side facing a minor street (Paul).”**
  - B. The subject property is 5,750 square feet in area and consists of two nonconforming lots of record.
  - C. Without the proposed variance, a building on the subject property could be no larger than 57’ × 15’. This is the size of building that would not require variance from side and rear yard requirements, street setback requirements, or separation from a side lot line for parking spaces. Variance from the number of parking spaces could still be needed depending on how many units would be available for rent. Variance from visibility triangle requirements may also still be needed depending on where the parking would be located.
  - D. The visibility triangle requirements require that 1,250 square feet of a corner lot not be encroached upon by development to keep the corner of two intersecting streets free from sight obstruction. The subject property is 5,750 square feet in area. Strictly applying this requirement significantly reduces the available area of the lot for development. Additionally, the small size of the lots makes it difficult to accommodate all of the required parking spaces and the required loading berth.

**GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE**

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. The Petitioner has testified on the application that, **“With this being a corner, a 8’ × 75’ strip is all that is left to build on the way the ordinances are now. All buildings are being torn down. Storage for vehicles requires a loner unit than is now allowed. Adjacent land to the east may be available but would not change the variances being sought.”**
  - B. Without the proposed variance, a building on the subject property could be no larger than 57’ × 15’. This is the size of building that would not require variance from side and rear yard requirements, street setback requirements, or separation from a side lot line for parking spaces. Variance from the number of parking spaces could still be needed depending on how many units would be available for rent. Variance from visibility triangle requirements may also still be needed depending on where the parking would be located.

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- C. The visibility triangle requirements require that 1,250 square feet of a corner lot not be encroached upon by development to keep the corner of two intersecting streets free from sight obstruction. The subject property is 5,750 square feet in area. Strictly applying this requirement significantly reduces the available area of the lots for development. Additionally, the small size of the lots makes it difficult to accommodate all of the required parking spaces and the required loading berth.
- D. All of the surrounding land is also part of the Wilber Heights Subdivision and all adjacent lots are also nonconforming lots of record that cannot be made smaller so there is no land available for purchase to make these lots larger.

**GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT**

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. The Petitioner has testified on the application that, **“I was made aware of the zoning regulations thru the process of purchasing the property. As a result, purchase of lot is hinged on variances asked for. This lot predates zoning and is legally nonconforming. Buildings would be demolished.”**
  - B. The existing lots will be sold to the Petitioner in their original configuration, which existed prior to the adoption of County zoning on October 10, 1973.

**GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

- 10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
  - A. The Petitioner has testified on the application that, **“My intent is to use this lot in a conforming manner to store vehicles and equipment inside a building that meets I-1 Zoning. The building will be taller than the house that is there but not higher than the second building. Should have minimal affect on traffic, noise, or water runoff in the neighborhood.”**
  - B. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In general, the side yard is presumably intended to ensure the following:
    - (1) Adequate light and air: The subject property is in use as a transfer facility for a dry-cleaning business, which should not require much light or air, and is surrounded on two sides by another industrial business with similar needs. The property to the east contains a single family dwelling; however, the main building is located 53 feet from the east property line.

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- (2) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Eastern Prairie Fire Protection District and the station is approximately 1,000 feet to the east of the subject property. The main building is separated by 10 feet from the nearest structure on the property to the south.
  - (3) Aesthetics may also play a part in minimum yard requirements.
- C. Corner lot visibility triangles are required for public safety.
- (1) There is a stop sight at the intersection of Paul Avenue and Market Street.
  - (2) The encroachment of the parking space will be minimal.
- D. The Zoning Ordinance does not clearly state the considerations that underlay the setback and front yard requirements. In general, the setback is presumably intended to ensure the following:
- (1) Right of way acquisition. Paul Avenue is a minor street although the Highway Commissioner maintains the road it is very unlikely that any additional right of way will ever be needed.
  - (2) Off-street parking. Regarding off street parking:
    - (a) The Zoning Ordinance requires a minimum of two parking spaces for an Industrial USE and one additional for each three employees. The Zoning Ordinance also requires a parking space to be a minimum of 9 feet wide and 20 feet long.

The 21 feet front yard is long enough to accommodate a required parking space without projecting into the right of way but it the spaces will be one foot from the side property line.
    - (c) The street pavement is a minimum of 20 feet wide and is more or less centered in the 58 feet wide right of way. Thus, the street pavement is approximately 23 feet from the subject property and there is approximately 45 feet inches between the subject garage and the edge of the street pavement.
  - (3) Aesthetics. Aesthetic benefit may be a consideration for any given front yard and setback but can be very subjective. In this instance, the subject property retains a great deal of open space.



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- (4) Adequate light and air. The structure in question is an accessory structure which does not noticeably affect the amount of light and air available on the large lots in this neighborhood.

E. The requested variance is as follows:

- (1) A 54 feet setback from centerline of Paul Avenue is 93% of the 58 feet required for a variance of 7%.
- (2) A 5 feet side yard is 50% of the 10 feet required for a variance of 50%.
- (3) A 5 feet rear yard is 25% of the 20 feet required for a variance of 75%.
- (4) Variance from the visibility triangle requirements of 24½ square feet encroachment into the visibility triangle is 98% of the required 1,250 square feet for a 2% variance.
- (5) The Petitioner has not indicated the variance sought for parking spaces, but there is not enough room to accommodate all of the required spaces. Under the current site plan in addition to the ADA accessible parking space 3 additional spaces could be accommodated. This would be 67% of the required 6 total parking spaces for a variance of 33%.
- (6) Variance from loading berth requirements of no loading berth is 100% of the 1 loading berth required for a 100% variance.
- (7) Minimum separation of 1 foot for parking spaces from a side property line is 20% of the required 5 feet for an 80% variance.

F. The Zoning Ordinance does not clearly state the considerations that underlay the side yard requirement that is relevant to Part B. In general, the side yard is presumably intended to ensure the following:

- (1) Adequate light and air: The proposed construction does not greatly decrease the current distance between neighboring structures.
- (2) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time.
- (3) Aesthetics may also play a part in the minimum side and rear yard requirements.

G. The requested variance is not prohibited by the *Zoning Ordinance*.

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*GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE*

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
  - A. The Petitioner has testified on the application that, **“Fire protection is about 4 blocks away and fire hydrant is on adjacent lot to the east. I have not contacted the Fire District yet. The visibility triangles will not be effects. The land is fairly level and should not changes or affect drainage or direction of runoff. There is a chance a fence will be erected to secure the building and its contents because of past crime. But it will not impede vision and will meet all criteria for such. There may be some noise and perhaps smoke/fumes but not near as much as an auto repair shop. The minor traffic expected will not be more than a residence and very sporadic and will turn off of minor street onto property.”**
  - B. The requested variance should have not have an impact on public health, safety, or welfare. The proposed use is an industrial use on an industrial neighborhood. The proposed use meets the minimum setback from a collector street and the use of the property will not be intense.
  - C. The Township Road Commissioner has received notice of this variance but no comments have been received.
  - D. The Fire Protection District has received notice of this variance. Mike Kobel, Chief of the Eastern Prairie Fire Protection District, in a conversation with Andy Kass, Associate Planner, on March 7, 2012, did not indicate that he had any concerns about the proposed use.
  - E. The nearest building to the proposed building is a home to the south which is located approximately 10 feet from the mutual property line.
  - F. The proposed warehouse storage facility will replace the structures currently occupying the subject property. The current structures on the property have been the subject of complaints to the Department of Planning and Zoning in recent years. Some of the complaints include a state of disrepair and abandonment of the home and that someone was living inside of the warehouse building without water or toilet facilities.

*GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL*

12. Regarding proposed special conditions for approval:
  - A. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed warehouse storage facility until the Zoning Administrator has received a certification of inspection from**

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**an Illinois Licensed Architect or other qualified inspector certifying that the new building complies with the following codes: (A) The 2006 or later edition of the International Building Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and, (C) the Illinois Plumbing Code.**

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

That the proposed structure is safe and built to current standards.

**B. Regarding State of Illinois accessibility requirements:**

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

The special conditions stated above are required to ensure the following:

That the proposed Special Use meets applicable state codes for handicap accessibility.

**DOCUMENTS OF RECORD**

1. Variance Application received on November 18, 2011, with attachments:
  - A Responses to Variance Criteria
  - B Site Plan
  
2. Revised site plan submitted March 2, 2012
  
3. Preliminary Memorandum dated March 9, 2012, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan
  - C Annotated Site Plan
  - D Summary of Evidence, Finding of Fact, and Final Determination

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**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 702-V-11 held on **March 15, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. The requested variance **{SUBJECT TO THE PROPOSED CONDITION}** **{IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. The requested variance **{SUBJECT TO THE PROPOSED CONDITION}** **{WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

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**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C **{HAVE/HAVE NOT}** been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 702-V-11 is hereby **{GRANTED / GRANTED WITH CONDITIONS/DENIED}** to the petitioner **Roger Burk** to authorize:

- Part A. Variance for a proposed warehouse storage facility with a setback of 54 feet from the centerline of Paul Avenue a local street, in lieu of the minimum required 58 feet;
- Part B. Variance for a side yard of 5 feet in lieu of the minimum required side yard of 10 feet;
- Part C. Variance for a rear yard of 5 feet in lieu of the minimum required rear yard of 20 feet;
- Part D. Variance from the visibility triangle requirements for a corner lot;
- Part E. Variance from the minimum required number of parking spaces for industrial uses;
- Part F. Variance from the loading berth requirements in lieu of the required 1 loading berth;
- Part G. Variance from a minimum separation from a side property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.

***{SUBJECT TO THE FOLLOWING CONDITION(S):}***

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:

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Secretary to the Zoning Board of Appeals  
Date