

CASE 037-AT-22

PRELIMINARY MEMORANDUM

MARCH 8, 2022

Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance as follows:

1. Add new paragraph 6.1.4 A.3. regarding Right to Farm Resolution 3425.
2. Amend Sections 6.1.4 C and D regarding WIND FARM TOWER height.
3. Revise paragraph 6.1.4 D.7. regarding Aircraft Detection Lighting Systems (ADLS).
4. Add new Section 6.1.4 R to require conformance to the State of Illinois Agricultural Impact Mitigation Agreement.
5. Revise Section 9 Regarding WIND FARM fees.

Location: Unincorporated Champaign County

Time Schedule for Development: As soon as possible

Prepared by: Susan Burgstrom, Senior Planner
John Hall, Zoning Administrator

BACKGROUND

At its January 6, 2022 meeting, ELUC reviewed a memorandum dated December 27, 2021, regarding proposed revisions to the wind farms section of the Zoning Ordinance. ELUC approved opening a ZBA public hearing for these amendments at its January 6, 2022 meeting.

The Champaign County Zoning Ordinance was amended to include wind farms on June 24, 2010. As incentives to construct wind energy systems continue to be offered, and as wind energy technology evolves, a request was made by ELUC to review certain features of the wind farm ordinance and to propose revisions to the Zoning Ordinance based on updated information.

The proposed text amendment at the end of Attachment D includes six aspects of the current wind farms ordinance section that P&Z Staff believe warrant review: right to farm; minimum required separation from wind farm towers to principal structures; height; lighting; agricultural impact mitigation agreements, and fees.

COMPARISON TABLE

P&Z Staff researched other counties' ordinances and created a comparison table. The selected counties all have Zoning Ordinances and wind energy ordinance sections that accommodate large systems like Champaign County. The table includes maximum allowed height, separation distances, lighting requirements, and fees.

APPROVAL PROCESS

We anticipate that the proposed amendment (at the end of Attachment D) will be discussed at the March 17, 2022, and at least one additional ZBA meeting. The earliest that a recommendation from the ZBA would go to ELUC is May 5, 2022, and the earliest that the County Board could adopt the amendment would be June 23, 2022.

ATTACHMENTS

- A Legal advertisement

- B ELUC Memorandum dated December 27, 2021
 - Exhibit A: Proposed Amendment dated December 27, 2021
 - Comparison Table of other Illinois Counties

- C Land Resource Management Plan (LRMP) Goals & Objectives
(available on ZBA meetings website)

- D Preliminary Finding of Fact, Summary Finding of Fact, and Final Determination for Case 037-AT-22 dated March 17, 2022, with attachment:
 - Exhibit A: Proposed Amendment dated March 17, 2022

LEGAL PUBLICATION: WEDNESDAY, MARCH 2, 2022

CASE: 037-AT-22

NOTICE OF PUBLIC HEARING IN REGARD TO AN AMENDMENT TO THE TEXT OF THE CHAMPAIGN COUNTY ZONING ORDINANCE

CASE 037-AT-22

The Champaign County Zoning Administrator, 1776 East Washington Street, Urbana, has filed a petition to amend the text of the Champaign County Zoning Ordinance. The petition is on file in the office of the Champaign County Department of Planning and Zoning, 1776 East Washington Street, Urbana, IL.

A public hearing will be held **Thursday, March 17, 2022 at 6:30 p.m.** prevailing time in the Shields-Carter Meeting Room, Brookens Administrative Center, 1776 East Washington Street, Urbana, IL, at which time and place the Champaign County Zoning Board of Appeals will consider a petition for the following:

Amend the Champaign County Zoning Ordinance as follows:

1. Regarding Right to Farm Resolution 3425, add new paragraph 6.1.4 A.3. as follows:
 3. The owners of the subject property and the Applicant, its successors in interest, and all parties to the decommissioning plan and site reclamation plan hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.
2. Regarding WIND FARM TOWER height, amend Sections 6.1.4 C and D as follows:
 - A. Amend Section 6.1.4 C.1. and 2. as follows:
 1. Change the minimum required separation from 1,000 feet to 2.00 times the maximum allowed total WIND FARM TOWER HEIGHT between a WIND FARM TOWER and any PARTICIPATING DWELLING OR PRINCIPAL BUILDING.
 2. Change the minimum required separation from 1,000 feet to 2.40 times the maximum allowed total WIND FARM TOWER HEIGHT between a WIND FARM TOWER and any NON-PARTICIPATING DWELLING OR PRINCIPAL BUILDING.
 - B. Amend 6.1.4 D.5. as follows:
 5. Change the maximum WIND FARM TOWER HEIGHT from 500 feet to having no limit, subject to conformance to all FAA requirements including an FAA Determination of No Hazard with or without Conditions.
3. Regarding Aircraft Detection Lighting Systems (ADLS), revise paragraph 6.1.4 D.7. as follows:
 7. Require all WIND FARM TOWERS to use ADLS (aircraft detection lighting system) or equivalent system to reduce the impact of nighttime lighting on nearby residents, communities and migratory birds in accordance with the FAA Advisory circular: 70/7460-IL section 14.1.
4. Regarding the Agricultural Impact Mitigation Agreement, revise Section 6.1.4 as follows:
 - A. Add new Section 6.1.4R: Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture, as follows:

- (1) If provided by state law, the Applicant shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
 - (2) The Applicant shall bear full responsibility for coordinating any special conditions required in the SPECIAL USE Permit in order to ensure compliance with the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
 - (3) All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the COUNTY Board SPECIAL USE Permit.
 - (4) Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- B. Add new paragraph 6.1.4A.4 as follows:
All aboveground STRUCTURES and facilities shall be of a type and shall be located in a manner that is consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- C. Revise Section 6.1.4E. to require conformance with the approved Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- D. Add new paragraph 6.1.4P.4.g. as follows:
Any financial assurance required per the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R. shall count towards the total financial assurance required for compliance with paragraph 6.1.1A.5.
- E. Add new paragraph 6.1.4S.1.d. as follows and re-letter subsequent paragraphs:
The Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Zoning Use Permit Application to authorize construction.
5. Regarding WIND FARM fees, revise Section 9 as follows:
- A. Revise paragraph 9.3.1H. as follows:
Increase WIND FARM TOWER or BIG WIND TURBINE TOWER fee from \$4,500 to \$10,000.
 - B. Revise paragraph 9.3.3B.6. as follows:
Increase the County Board WIND FARM SPECIAL USE Permit from \$20,000 to \$34,000 and the per WIND FARM TURBINE TOWER from \$440 to \$760.

All persons interested are invited to attend said hearing and be heard. If you would like to submit comments or questions before the meeting, please call the P&Z Department at 217-384-3708 or email zoningdept@co.champaign.il.us no later than 4:30 pm the day of the meeting. The hearing may be continued and reconvened at a later time.

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

TO BE PUBLISHED: WEDNESDAY, MARCH 2, 2022, ONLY

Send bill and one copy to: Champaign County Planning and Zoning Dept.
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802
Phone: 384-3708

Our News Gazette account number is 99225860.

Champaign County
Department of

**PLANNING &
ZONING**

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

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

TO: Environment and Land Use Committee

**FROM: John Hall, Zoning Administrator
Susan Burgstrom, Senior Planner**

DATE: December 27, 2021

**RE: Authorization for Public Hearing on Proposed Zoning Ordinance Text
Amendment to Revise Requirements for Wind Farms**

BACKGROUND

The Champaign County Zoning Ordinance was amended to include wind farms on June 24, 2010. As incentives to construct wind energy systems continue to be offered, and as wind energy technology evolves, a request was made by ELUC to review certain features of the wind farm ordinance and to propose revisions to the Zoning Ordinance based on updated information.

There are four aspects of the current wind farms ordinance section that P&Z Staff believe warrant review: height, lighting, agricultural impact mitigation agreements, minimum required separation from wind farm towers to principal structures, and fees. The following is a brief summary of these topics.

Wind tower height

Wind tower height technology has increased such that some towers are in excess of 700 feet. Champaign County's ordinance allows a maximum of 500 feet, with separation distances to adjacent structures and property lines proportional to that height. Should Champaign County decide to allow taller wind towers, it would also need to review acceptable separation distances in order to minimize impacts on neighbors. P&Z Staff recommend changing the minimum required distances from actual numbers to a proportion of the wind farm tower height and retaining the current proportions of 2.00 and 2.40 times the wind farm tower height.

Lighting: Aircraft Detection Lighting Systems (ADLS)

"Aircraft Detection Lighting Systems (ADLS) are sensor-based systems designed to detect aircraft as they approach an obstruction or group of obstructions; these automatically activate the appropriate obstruction lights until they are no longer needed by the aircraft. This technology reduces the impact of nighttime lighting on nearby communities and migratory birds and extends the life expectancy of the obstruction lights" (US Department of Transportation Federal Aviation Administration Advisor Circular AC 70/7460-1M, effective 11/16/2020). Should Champaign County decide that ADLS would be beneficial to future wind farms, a more detailed statement might be needed beyond simple compliance with FAA regulations.

Agricultural Impact Mitigation Agreements (AIMA)

AIMAs were included in the County's PV Solar Farm section of the Zoning Ordinance as an added level of protection for our farmland and those who are leasing their land to solar energy developers. AIMAs are negotiated between the Illinois Department of Agriculture, utility companies, and developers. Should Champaign County decide to integrate AIMAs into the Zoning Ordinance, there are numerous statements that can be added based on what was included with the County's solar farm ordinance section.

Fees

A comparison with other Illinois counties showed that our fees for wind farms are below average. With the amount of work required to review and approve wind farms, it makes sense to consider fees that are more comparable to other counties.

Comparison table

P&Z Staff researched other counties' ordinances and created a comparison table. The selected counties all have Zoning Ordinances and wind energy ordinance sections that accommodate large systems like Champaign County. The table includes maximum allowed height, separation distances, lighting requirements, and fees.

The table can be used to start discussion on whether ELUC would like the Zoning Board of Appeals to make a recommendation on revising the wind farms ordinance section. There are no applications for wind farms at the moment, but it is possible that one will be submitted in the near future.

ATTACHMENTS

- A Draft Wind Energy Amendment to the Champaign County Zoning Ordinance
- B Comparison of Selected Wind Energy Ordinances

ELUC
1/6/22

EXHIBIT A: PROPOSED AMENDMENT**1. Regarding WIND FARM TOWER height, amend Sections 6.1.4 C and D as follows:**

A. Amend 6.1.4C. 1. and 2. as follows:

1. ~~At least 1,000 feet~~ The minimum required separation from the exterior above-ground base of a WIND FARM TOWER to any PARTICIPATING DWELLING OR PRINCIPAL BUILDING shall be no less than 2.00 times the maximum allowed total WIND FARM TOWER HEIGHT provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations.
2. ~~At least 1,200 feet~~ The minimum required separation from the exterior above-ground base of a WIND FARM TOWER to any existing NON-PARTICIPATING DWELLING OR PRINCIPAL BUILDING shall be no less than 2.40 times the maximum allowed total WIND FARM TOWER HEIGHT provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations and provided that the separation distance meets or exceeds any separation recommendations of the manufacturer of the wind turbine used on the WIND FARM TOWER.

B. Amend 6.1.4 D.5. as follows:

5. The total WIND FARM TOWER HEIGHT (measured to the tip of the highest rotor blade) ~~must be less than 500 feet~~ shall be the specified in the application. A total WIND FARM TOWER HEIGHT of 500 feet or greater shall conform to all Federal Aviation Administration (FAA) requirements including an FAA Determination of No Hazard with or without Conditions.

2. Regarding Aircraft Detection Lighting Systems (ADLS), revise paragraph 6.1.4D.7. as follows:

The WIND FARM shall comply with all applicable Federal Aviation Administration (FAA) requirements which shall be explained in the application. The minimum lighting requirement of the FAA shall not be exceeded except that all WIND FARM TOWERS are required to use ADLS (aircraft detection lighting system) or equivalent system to reduce the impact of nighttime lighting on nearby residents, communities and migratory birds in accordance with the FAA Advisory circular: 70/7460-IL section 14.1. shall be lighted and unless otherwise required by the FAA only red flashing lights shall be used at night and only the minimum number of such lights with the minimum intensity and the minimum number of flashes per minute (longest duration between flashes) allowed by FAA."

3. Regarding the Agricultural Impact Mitigation Agreement, revise Section 6.1.4 as follows:

A. Add new Section 6.1.4R: Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as follows, and re-letter subsequent sections:

- (1) If provided by state law, the Applicant shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- (2) The Applicant shall bear full responsibility for coordinating any special conditions required in the SPECIAL USE Permit in order to ensure compliance with the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

EXHIBIT A: PROPOSED AMENDMENT

- (3) All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the COUNTY Board SPECIAL USE Permit.
- (4) Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- B. Add new paragraph 6.1.4B.2 as follows:
All aboveground STRUCTURES and facilities shall be of a type and shall be located in a manner that is consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- C. Revise 6.1.4E.1. as follows:
All underground wiring or cabling for the WIND FARM shall be at a minimum depth of 4 feet below grade or deeper if required to maintain a minimum one foot of clearance between the wire or cable and any agricultural drainage tile or a lesser depth if so authorized by the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- D. Revise paragraph 6.1.4E.2.h. as follows:
Permanent tile repairs shall be made within 14 days of the tile damage provided that weather and soil conditions are suitable or a temporary tile repair shall be made. Immediate temporary repair shall also be required if water is flowing through any damaged tile line. Temporary repairs are not needed if the tile lines are dry and water is not flowing in the tile provided the permanent repairs can be made within 14 days of the damage. All permanent and temporary tile repairs shall be made as detailed in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R. and shall not be waived or modified except as authorized in the SPECIAL USE Permit.
- E. Revise paragraph 6.1.4E.3. as follows:
All soil conservation practices (such as terraces, grassed waterways, etc.) that are damaged by PV SOLAR FARM construction and/or decommissioning shall be restored by the applicant to the pre-PV SOLAR FARM construction condition in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- F. Add new paragraph 6.1.4E.4.e. as follows:
All topsoil shall be placed in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- G. Add new paragraph 6.1.4E.5.c. as follows:
All mitigation of soil compaction and rutting shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- H. Add new paragraph 6.1.4E.6.c. as follows:
All land leveling shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.

EXHIBIT A: PROPOSED AMENDMENT

- I. Add new paragraph 6.1.4P.4.g. as follows:
Any financial assurance required per the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R. shall count towards the total financial assurance required for compliance with paragraph 6.1.1A.5.

- J. Add new paragraph 6.1.4S.1.d. as follows and re-letter subsequent paragraphs:
The Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Zoning Use Permit Application to authorize construction.

4. Regarding WIND FARM fees, revise Section 9 as follows:

- A. Revise paragraph 9.3.1H. as follows:
 WIND FARM TOWER or BIG WIND TURBINE TOWER.....~~\$4,500~~10,000

- B. Revise paragraph 9.3.3B.6. as follows:
 County Board WIND FARM SPECIAL USE Permit~~\$20,000~~34,000
 or ~~\$440~~760 per WIND FARM TURBINE TOWER, whichever is greater

ELUC
1/6/22

Comparison of select wind energy features in Illinois Counties with zoning and wind ordinances

County, wind system size, census, ordinance revision date	Max Tower Tip Height (feet)	Separation distance (feet) from base of tower to property line	Lighting requirements	Fees
Champaign >100 kW 2020 Census: 205,865 Ordinance revision: 05/2009	500; Must meet FAA or other State or federal laws	1000' for participating owners, 1200' to non-participating dwelling or principal building. Can be reduced via private waiver to 1.1x the tower height. 1.5x the tower tip height to non-participating property line	ADLS not required	<u>County Board Wind Farm Special Use Permit fee</u> : wind farm tower or big wind turbine tower: \$20,000 or \$440 per wind farm turbine tower, whichever is greater <u>Big wind turbine tower Special Use Permit fee per tower</u> : \$3,300 <u>Building permit fee</u> : wind farm tower or big wind turbine tower: \$4,500
Ford >100kW 2020 Census: 13,534 Ordinance revision: 09/2021	500; Must meet FAA or other State or federal laws	2250' for non-participating owners with a principal structure, can be waived by owner, but no less than 1000'. For parcel with no primary structure, 2.64x the tower tip height or 1320', whichever is greater, can be waived by affected adjacent property owner	ADLS required	<u>Special Use Permit fee</u> : \$50,000 <u>Building permit fee</u> : \$50,000 for the first two (2) megawatts and an additional amount of \$10,000 for each additional megawatt the generator is rated for or prorated portion thereof.
Piatt >500kW 2020 Census: 16,673 Ordinance revision: 03/2021	625; Must meet FAA or other State or federal laws	1.3x tower tip height or 1600 feet, whichever is greater, from any primary structure, can be waived by owner. 1.3x or 1000', whichever is greater, to adjacent property line	ADLS not required	<u>Special Use Permit fee</u> : \$150,000 <u>Building permit fee</u> : \$20/foot
McLean 2020 Census: 170,954 Ordinance revision: 04/2021	595; Must meet FAA or other State or federal laws	2000' from boundary line of a R-1 or R-2 district. 3x height of the tower or 1500', whichever is greater, from any occupied residence, can be waived privately. 1.1x height from adjacent property lines, can be waived privately.	ADLS not required	<u>Special Use Permit fee</u> : \$7/acre <u>Building permit fee</u> : \$3.00 per each one thousand dollars, or fraction thereof up to a value of \$5 million. From a value of \$5 million and up the fee shall be \$15,000 plus \$.50 for each one thousand dollars of the value of the proposed improvements over \$5 million
Boone >1.5mw 2020 Census: 53,448 Ordinance revision: 05/2009	Must meet FAA or other State or federal laws	2640' or 5.5x the height, whichever is greater, participating landowner can waive, but in no case can tower be closer to a primary structure than 1500' or 3x the height, whichever is greater, can be waived privately.	ADLS not required	NA

Comparison of select wind energy features in Illinois Counties with zoning and wind ordinances

County, wind system size, census, ordinance revision date	Max Tower Tip Height (feet)	Separation distance (feet) from base of tower to property line	Lighting requirements	Fees
Carroll >1 kW 2020 Census: 15,702 Ordinance revision: 09/2013	Must meet FAA or other State or federal laws	1.1x the tower height from all adjacent property lines. 3.1x tower height from any primary structure, can waive privately, but in no case can setback be less than 1.1x tower height.	ADLS not required	NA
Henry >50 kW or >100' tall 2020 Census: 49,284 Ordinance revision: 09/2018	600; Must meet FAA or other State or federal laws	If 500' or less in height, 1000' from an occupied structure and 1.1x tower height on subject property. If 600' or less in height, 1500' from an occupied structure and 1.1x tower height on subject property. 100' from all other property lines measured from tip of the blade when parallel with the ground unless a variance is approved or approval has been given in both lease agreements.	ADLS not required	<u>Special Use Permit fee:</u> \$450 per turbine <u>Building permit fee:</u> 50 - 999.9 kW - fee schedule or \$5,140, whichever is less. 1 MW - 1.5 MW - \$6,400 for first MW plus \$75 each additional 0.1 MW. 1.51 MW to 2 MW - \$6,775 for the first 1.5 MW plus \$50 each additional 0.1 MW. 2.01 MW or more - \$7,025 for first 2 MW plus \$25 each additional 0.1 MW.
Iroquois >3MW 2020 Census: 27,077 Ordinance revision: 04/2015	Must meet FAA or other State or federal laws	1000' from primary structures for participating owners and at least 12 rotor diameters from property lines of non-participating property owners. Can be waived privately, but in no case can the tower be closer to a primary structure or property line than 1000'.	ADLS not required	<u>Special Use Permit fee:</u> \$10,000 for up to and including the first ten WECS towers of the project and \$1,000 per tower for each additional tower up to a maximum initial fee of \$50,000. <u>Building permit fee:</u> \$5,000 per tower
Kankakee 2020 Census: 107,502 Ordinance revision: 04/2016	699; Must meet FAA or other State or federal laws	1000' or 1.5x tower height from all participating dwellings. 1.1x height from non-participating property lines. 1200' or 2x height for all existing nonparticipating dwellings, 600' for dwellings constructed after wind tower SUP approval.	ADLS not required	<u>Special Use Permit fee:</u> \$50,000
LaSalle 2020 Census: 109,658 Ordinance revision: 07/2021	Must meet FAA or other State or federal laws	1200' from residences, 1.25x height from property lines, 1.5x height from other structures	ADLS not required	<u>Special Use Permit fee:</u> \$750 per turbine <u>Building permit fee:</u> \$25 per foot in height

Comparison of select wind energy features in Illinois Counties with zoning and wind ordinances

County, wind system size, census, ordinance revision date	Max Tower Tip Height (feet)	Separation distance (feet) from base of tower to property line	Lighting requirements	Fees
Lee 2020 Census: 34,145 Ordinance revision: 01/2006	Must meet FAA or other State or federal laws	1,400 feet or 3.1 times the tower height, whichever is greater, from any primary structure, school, church or public building located on a nonparticipating parcel. 1.1x height from property lines of non-participating parcel	ADLS not required	<u>Special Use Permit fee</u> : \$600 per parcel up to first 10 acres <u>Building permit fee</u> : up to 10mW - \$10,000/mW. 10 mW to 50mw - \$100,000 + \$5,000 per mW above 10. 50 mW to 100mw - \$300,000 + \$3,500 per mW above 50. >100 mW - \$475,000 + \$1,500 per mW above 100.
Livingston >3 MW 2020 Census: 35,815 Ordinance revision: 04/2017	500; Must meet FAA or other State or federal laws	6x height or 3250', whichever is greater, from any primary structure. Can waive privately, but in no case can tower be closer than 1.1x height to a primary structure. 1640' from adjacent property lines, can be waived privately.	ADLS not required	NA
Macon >100 kW 2020 Census: 104,009 Ordinance revision: 04/2014	500; Must meet FAA or other State or federal laws	1000' from principal residential structure. 1.1x height from all property lines of non-participating owners	ADLS not required	<u>Special Use Permit fee</u> : \$5000 like solar farm? Doesn't specify for wind <u>Building permit fee</u> : \$7.50 per \$1,000
Mason >0.5 MW 2020 Census: 13,086 Ordinance revision: 05/2009	600; Must meet FAA or other State or federal laws	1000' from any primary structure, can waive privately, but in no case closer than 1.1x height. 1.1x height or the fall zone, whichever is greater, from adjacent property lines, can waive privately.	ADLS not required	<u>Special Use Permit fee</u> : \$30,000 <u>Building permit fee</u> : \$20/ft height
Sangamon >40 acre site 2020 Census: 196,343 Ordinance revision: 11/2012	Must meet FAA or other State or federal laws	If tower is 400 feet or less in height, 1000' to principal structure or 3x rotor diameter, whichever is greater. For towers >400', proportionally larger setback.	ADLS not required	<u>Special Use Permit fee</u> : \$250 first 5 acres, \$5 each add'l acre <u>Building permit fee</u> : project cost * .009
Stephenson 2020 Census: 44,630 Ordinance revision: 11/2015	Must meet FAA or other State or federal laws	500' from any primary structure, can be waived privately, but in no case can tower be located closer to primary structure than 1.1x height. 1.1x height from adjacent property lines, can waive privately.	ADLS not required	<u>Special Use Permit fee</u> : \$1,500 per tower <u>Building permit fee</u> : 5 or fewer towers = \$25/ft. 6-20 towers = \$12/ft. 21+ towers = \$8/ft.

Comparison of select wind energy features in Illinois Counties with zoning and wind ordinances

County, wind system size, census, ordinance revision date	Max Tower Tip Height (feet)	Separation distance (feet) from base of tower to property line	Lighting requirements	Fees
Will min lot area 1000 acres 2020 Census: 696,355 Ordinance revision: 10/2012	500; Must meet FAA or other State or federal laws	1.25x height from property lines. 1320' from any R-zoned property or existing dwelling unit.	ADLS not required	<u>Special Use Permit fee:</u> 1-5 acres = \$2,500 flat fee. 6 - 25 acres: \$2,500 + \$85 per acre over 5 acres. 26 - 50 acres: \$4,200 + \$55 per acre over 25 acres. 51 - 100 acres: \$5,575 + \$35 per acre over 50 acres. 101 - 500 acres: \$7,325 + \$20 per acre over 100 acres. Over 500 acres: \$15,325 + \$15 per acre over 500 acres <u>Building permit fee:</u> 100 - 500 kW: \$1,100. >500kw: \$2,100
Winnebago 2020 Census: 285,350 Ordinance revision: 09/2011	Must meet FAA or other State or federal laws	1.1x the tower height from all structures on participating property. 1200' or 2.5x height from all occupied buildings on nonparticipating properties. 1.1x height to all property lines or normal setback requirements, whichever is greater. Can be waived privately, but in no case can be less than 1.1x height.	ADLS not required	<u>Special Use Permit fee:</u> \$450 plus \$20/acre <u>Building permit fee:</u> 5 or fewer towers = \$25/ft. 6+ towers = \$12/ft.

Attachment C: LRMP Goals, Objectives and Policies

can be found online at: http://www.co.champaign.il.us/CountyBoard/meetings_ZBA.php

PRELIMINARY DRAFT

037-AT-22

**FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

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

Date: *{March 17, 2022}*

Petitioner: **Zoning Administrator**

Request: **Amend the Champaign County Zoning Ordinance as follows:**

1. **Regarding Right to Farm Resolution 3425, add new paragraph 6.1.4 A.3. as follows:**
 3. **The owners of the subject property and the Applicant, its successors in interest, and all parties to the decommissioning plan and site reclamation plan hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

2. **Regarding WIND FARM TOWER height, amend Sections 6.1.4 C and D as follows:**
 - A. **Amend 6.1.4C. 1. and 2. as follows:**
 1. **~~At least 1,000 feet~~ The minimum required separation from the exterior above-ground base of a WIND FARM TOWER to any PARTICIPATING DWELLING OR PRINCIPAL BUILDING shall be no less than 2.00 times the maximum allowed total WIND FARM TOWER HEIGHT provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations.**

 2. **~~At least 1,200 feet~~ The minimum required separation from the exterior above-ground base of a WIND FARM TOWER to any existing NON-PARTICIPATING DWELLING OR PRINCIPAL BUILDING shall be no less than 2.40 times the maximum allowed total WIND FARM TOWER HEIGHT provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations and provided that the separation distance meets or exceeds any separation recommendations of the manufacturer of the wind turbine used on the WIND FARM TOWER.**

B. Amend 6.1.4 D.5. as follows:

5. The total WIND FARM TOWER HEIGHT (measured to the tip of the highest rotor blade) ~~must be less than 500 feet shall be the specified in the application. A total WIND FARM TOWER HEIGHT of 500 feet or greater shall conform to all Federal Aviation Administration (FAA) requirements including an FAA Determination of No Hazard with or without Conditions.~~

3. Regarding Aircraft Detection Lighting Systems (ADLS), revise paragraph 6.1.4 D.7. as follows:

The WIND FARM shall comply with all applicable Federal Aviation Administration (FAA) requirements which shall be explained in the application. The minimum lighting requirement of the FAA shall not be exceeded except that all WIND FARM TOWERS are required to use ADLS (aircraft detection lighting system) or equivalent system to reduce the impact of nighttime lighting on nearby residents, communities and migratory birds in accordance with the FAA Advisory circular: 70/7460-IL section 14.1. shall be lighted and unless otherwise required by the FAA only red flashing lights shall be used at night and only the minimum number of such lights with the minimum intensity and the minimum number of flashes per minute (longest duration between flashes) allowed by FAA.

4. Regarding the Agricultural Impact Mitigation Agreement, revise Section 6.1.4 as follows:

A. Add new Section 6.1.4 R: Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as follows, and re-letter subsequent sections:

- (1) If provided by state law, the Applicant shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- (2) The Applicant shall bear full responsibility for coordinating any special conditions required in the SPECIAL USE Permit in order to ensure compliance with the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- (3) All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the COUNTY Board SPECIAL USE Permit.
- (4) Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact

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Mitigation Agreement with the Illinois Department of Agriculture.

- B. Add new paragraph 6.1.4 A.4. as follows:
All aboveground STRUCTURES and facilities shall be of a type and shall be located in a manner that is consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
 - C. Revise Section 6.1.4E. to require conformance with the approved Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
 - D. Add new paragraph 6.1.4 P.4.g. as follows:
Any financial assurance required per the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R. shall count towards the total financial assurance required for compliance with paragraph 6.1.1A.5.
 - E. Add new paragraph 6.1.4 S.1.d. as follows and re-letter subsequent paragraphs:
The Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Zoning Use Permit Application to authorize construction.
5. Regarding WIND FARM fees, revise Section 9 as follows:
- A. Revise paragraph 9.3.1 H. as follows:
WIND FARM TOWER or BIG WIND TURBINE TOWER
~~\$4,500~~**10,000**
 - B. Revise paragraph 9.3.3 B.6. as follows:
County Board WIND FARM SPECIAL USE Permit
~~\$20,000~~**34,000** or ~~\$440~~**760** per WIND FARM TURBINE TOWER, whichever is greater

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FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 17, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The proposed amendment is intended to revise requirements for wind farms in the Zoning Ordinance.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases.

SUMMARY OF THE PROPOSED AMENDMENT

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

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

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

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:...”
 - B. The LRMP defines Goals, Objectives, and Policies as follows:
 - (1) Goal: an ideal future condition to which the community aspires
 - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
 - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
 - C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.

REGARDING LRMP GOALS

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

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

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

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

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

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

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

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

Goal 3 has three objectives and no policies. Objective 3.1 is most relevant to the proposed text amendment. The proposed amendment will ***HELP ACHIEVE*** Goal 3 as follows:

- A. Objective 3.1 states, “Champaign County will seek to ensure that it maintains comparable tax rates and fees, and a favorable business climate relative to similar counties.”

The proposed amendment will ***HELP ACHIEVE*** Objective 3.1 as follows:

- (1) The proposed text amendment will allow further development of WIND FARMS and WIND TOWERS, which will allow newer technologies to improve Champaign County’s business climate.

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

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

Goal 4 has 9 objectives and 22 policies. Objectives 4.4, 4.5, 4.7, 4.8 and their policies do not appear to be relevant to the proposed text amendment. The proposed amendment will ***HELP ACHIEVE*** Goal 4 for the following reasons:

- A. Objective 4.1 states as follows: **“Champaign County will strive to minimize the fragmentation of the County’s agricultural land base and conserve farmland, generally applying more stringent development standards on *best prime farmland*.”**

The proposed amendment will ***HELP ACHIEVE*** Objective 4.1 for the following reasons:

- (1) The proposed amendment ***WILL NOT IMPEDE*** the achievement of Policies 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.7, 4.1.8, and 4.1.9.
- (2) Policy 4.1.1 states: **“Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.1.1 for the following reasons:

- a. The standard conditions for a WIND FARM TOWER are very restrictive and will ensure the following:
 - (a) Section 6.1.4 C. requires minimum separations between any WIND FARM TOWER and existing adjacent use to minimize issues of land use compatibility.
 - (b) No WIND FARM TOWER shall interfere with agricultural operations (see Objective 4.2).
 - (c) No WIND FARM TOWER shall be located at any location that is not well-suited for that WIND FARM TOWER (see Objective 4.3).
 - (d) Section 6.1.4 D. requires minimum standard conditions for any WIND FARM TOWER related to building codes, electrical components, maximum height, and warning signs.
 - (e) Section 6.1.4 I. establishes standard conditions to ensure that the allowable noise level created by a WIND FARM TOWER is consistent with the Illinois Pollution Control Board regulations that are the same for all rural land uses.
 - (f) Section 6.1.4 N. requires a WIND FARM to carry minimum liability insurance to protect landowners.
 - (g) Section 6.1.4 O. requires operational standard conditions intended to ensure that nuisance conditions are not allowed to exist at a WIND FARM.
 - (h) Section 6.1.4 P. requires any WIND FARM to have an approved Decommissioning and Site Reclamation Plan to ensure that funds will be available to remove a WIND FARM if the WIND FARM ever becomes non-functional.

- (3) Policy 4.1.6 states: **“Provided that the use, design, site and location are consistent with County policies regarding:**
 - i. Suitability of the site for the proposed use;**
 - ii. Adequacy of infrastructure and public services for the proposed use;**
 - iii. Minimizing conflict with agriculture;**
 - iv. Minimizing the conversion of farmland; and**
 - v. Minimizing the disturbance of natural areas; then**
 - a) **On best prime farmland, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential use (inclusive of by-right development)**

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- not to exceed three acres plus three acres per each 40 acres (including any existing right-of-way), but not to exceed 12 acres in total; or**
- b) On best prime farmland, the County may authorize non-residential discretionary development; or**
 - c) The County may authorize discretionary review development on tracts consisting of other than best prime farmland.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.1.6 for the following reasons:

- a. The ZBA has recommended that the proposed amendment will **HELP ACHIEVE** Objective 4.3 regarding location at a suitable site and adequacy of infrastructure and public services.
 - b. The ZBA has recommended that the proposed amendment will **HELP ACHIEVE** Objective 4.2 regarding no interference with agricultural operations.
 - c. The proposed amendment will **HELP ACHIEVE** the County’s policies regarding minimizing the conversion of best prime farmland as follows:
 - (a) The only policy regarding conversion of best prime farmland by non-residential discretionary development is Policy 4.1.6b., which states, “On best prime farmland the County may authorize non-residential development.” Policy 4.1.6.b. has no limit on the conversion of best prime farmland for non-residential discretionary development and is merely a statement of fact and therefore, the proposed amendment does help achieve Policy 4.1.6b.
- B. Objective 4.2 is entitled “Development Conflicts with Agricultural Operations” and states, “Champaign County will require that each *discretionary review* development will not interfere with agricultural operations.”

The proposed amendment will **HELP ACHIEVE** Objective 4.2 because of the following:

- (1) **Policy 4.2.1 states, “The County may authorize a proposed business or other non-residential *discretionary review* development in a rural area if the proposed development supports agriculture or involves a product or service that is better provided in a *rural* area than in an urban area.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.2.1 for the following reasons:

- a. The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination must be made in each zoning case.
- b. A WIND FARM TOWER **IS** a service better provided in a rural area as evidenced by the following:
 - (a) WIND FARM TOWERS do not require access to most utilities.

- (b) WIND FARM TOWERS are not compatible with principal structures within the minimum separation distance established by the Zoning Ordinance, which is currently at least 1,000 feet.
 - c. Even though a WIND FARM TOWER does not serve the surrounding agricultural uses directly, the land owner receives payment from the WIND FARM TOWER operator in excess of the value of a crop from that land.
- (2) **Policy 4.2.2 states, “The County may authorize *discretionary review* development in a rural area if the proposed development:**
- a) **is a type that does not negatively affect agricultural activities; or**
 - b) **is located and designed to minimize exposure to any negative affect caused by agricultural activities; and**
 - c) **will not interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related infrastructure.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.2.2 for the following reasons:

- a. Section 6.1.4 E. details standard conditions to mitigate damage to farmland, including agricultural drainage tile and soil disturbance.
 - b. Proposed Section 6.1.4 R. requires that an applicant shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture, including the following:
 - (a) The Applicant shall bear full responsibility for coordinating any special conditions required in the SPECIAL USE Permit in order to ensure compliance with the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
 - (b) All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the County Board SPECIAL USE Permit.
 - (c) Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- (3) **Policy 4.2.3 states, “The County will require that each proposed discretionary development explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.2.3 for the following reason:

- a. Proposed paragraph 6.1.4 A.3. creates a standard condition requiring compliance with the Right to Farm Resolution 3425.
- (4) **Policy 4.2.4 states, “To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will require that all**

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discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary.”

The proposed amendment will **HELP ACHIEVE** Policy 4.2.4 for the following reason:

- a. Section 6.1.4 C. requires minimum separations from adjacent uses and structures as a standard condition.

- C. Objective 4.3 is entitled “Site Suitability for Discretionary Review Development” and states: “Champaign County will require that each discretionary review development is located on a suitable site.”

The proposed amendment will **HELP ACHIEVE** Objective 4.3 because of the following:

- (1) **Policy 4.3.1 states “On other than best prime farmland, the County may authorize a discretionary review development provided that the site with proposed improvements is suited overall for the proposed land use.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.3.1 for the following reasons:

- a. See the discussion under Policy 4.3.2 regarding achievement of Policy 4.3.2. If the proposed amendment achieves Policy 4.3.2, it will also achieve Policy 4.3.1.

- (2) **Policy 4.3.2 states, “On best prime farmland, the County may authorize a discretionary review development provided the site with proposed improvements is well-suited overall for the proposed land use.**

The proposed amendment will **HELP ACHIEVE** Policy 4.3.2 for the following reasons:

- a. Because so much of Champaign County consists of best prime farmland soils, any development of a WIND FARM is likely to be on best prime farmland.
- b. Standard conditions for a WIND FARM will ensure that a WIND FARM shall not be approved on any location that is not well-suited as follows:
 - (a) Section 6.1.4 A.(2) identifies areas where a WIND FARM should not be located.
 - (b) Section 6.1.4 E. details standard conditions to mitigate damage to farmland including underground agricultural drainage tile.
 - (c) Section 6.1.4 J. requires and Endangered Species Consultation with the IDNR and IDNR recommendations will be included in the Agency Action Report submitted with the Special Use Permit Application.
 - (d) Section 6.1.4 K. requires consultation with the State Historic Preservation Officer of IDNR and IDNR recommendations will be

included in the Agency Action Report submitted with the Special Use Permit Application.

- (e) Section 6.1.4 L. requires that the WIND FARM shall be located, designed, constructed, and operated so as to avoid and, if necessary, mitigate impacts to wildlife.
 - (f) Section 6.1.4 M. requires that landscaping, awnings, or fencing shall be provided for any part of a WIND FARM where shadow flicker exceeds the standards established in the Zoning Ordinance.
 - (g) Proposed revision to paragraph 6.1.4 D.7. requires all WIND FARM TOWERS to use ADLS (aircraft detection lighting system) or equivalent system to reduce the impact of nighttime lighting on nearby residents, communities and migratory birds in accordance with the FAA Advisory circular: 70/7460-IL section 14.1.
- (3) **Policy 4.3.3 states, “The County may authorize a discretionary review development provided that existing public services are adequate to support to the proposed development effectively and safely without undue public expense.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.3.3 for the following reasons:

- a. Section 6.1.4 H. requires the applicant for any WIND FARM to submit a copy of the site plan to the relevant Fire Protection District and to cooperate with the Fire Protection District to develop the Fire Protection District’s emergency response plan for the proposed WIND FARM.

- (4) **Policy 4.3.4 states, “The County may authorize a discretionary review development provided that existing public infrastructure, together with proposed improvements, is adequate to support the proposed development effectively and safely without undue public expense.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.3.4 for the following reasons:

- a. Section 6.1.4 F. requires a Roadway Upgrade and Maintenance agreement with the relevant highway authority.

- (5) **Policy 4.3.5 states, “On best prime farmland, the County will authorize a business or other non-residential use only if:**
- a. **It also serves surrounding agricultural uses or an important public need; and cannot be located in an urban area or on a less productive site; or**
 - b. **the use is otherwise appropriate in a rural area and the site is very well suited to it.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.3.5 for the following reasons:

- a. As reviewed for Policy 4.2.1 in this Finding of Fact:

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- (a) A WIND FARM *IS* a service better provided and therefore *IS* appropriate in a rural area.
- b. Regarding location of a WIND FARM on a less productive site, the following is reviewed under Policy 4.3.2 in this Finding of Fact:
 - (a) It is unlikely that a WIND FARM in Champaign County will be located on less than best prime farmland.

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

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

Goal 5 has 3 objectives and 15 policies. The proposed amendment is *NOT RELEVANT* to Goal 5 in general.

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

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

Goal 6 has 4 objectives and 7 policies. Objectives 6.2, 6.3, and 6.4 are not relevant to the proposed amendment. The proposed amendment will *HELP ACHIEVE* Goal 6 for the following reasons:

- A. Objective 6.1 states, “**Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.**” Objective 6.1 has four subsidiary policies; policy 6.1.3 is the only relevant policy, and it states the following:
 - (1) Policy 6.1.3 states, “**The County will seek to prevent nuisances created by light and glare and will endeavor to limit excessive night lighting, and to preserve clear views of the night sky throughout as much of the County as possible.**” The proposed amendment will *HELP ACHIEVE* Objective 6.1.3 as follows:
 - a. Section 6.1.2 A. of the Zoning Ordinance requires that any SPECIAL USE Permit with exterior lighting shall be required to minimize glare onto adjacent properties by the use of full-cutoff type lighting fixtures with maximum lamp wattages.
 - b. Proposed revision to paragraph 6.1.4 D.7. requires all WIND FARM TOWERS to use ADLS (aircraft detection lighting system) or equivalent system to reduce the impact of nighttime lighting on nearby residents, communities and migratory birds in accordance with the FAA Advisory circular: 70/7460-IL section 14.1.
 - c. Section 6.1.4 M. requires that landscaping, awnings, or fencing shall be provided for any part of a WIND FARM where shadow flicker exceeds the standards established in the Zoning Ordinance.

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

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

Goal 7 has 2 objectives and 7 policies. The proposed amendment is **NOT RELEVANT** to Goal 7 in general.

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

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

Goal 8 has 9 objectives and 36 policies. The proposed amendment is **NOT RELEVANT** to Goal 8 in general.

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

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

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

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

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

Goal 10 has 1 objective and 1 policy. The proposed amendment is **NOT RELEVANT** to Goal 10 in general.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

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

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

The proposed amendment is consistent with this purpose.

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

The proposed amendment is consistent with this purpose.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is consistent with this purpose.

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

The proposed amendment is consistent with this purpose.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is consistent with this purpose.

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT area, area of open

spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is consistent with this purpose.

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

The proposed amendment is consistent with this purpose.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is consistent with this purpose.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is consistent with this purpose.

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

The proposed amendment is consistent with this purpose.

- 17. The proposed text amendment **WILL** improve the text of the Zoning Ordinance because it **WILL** provide:
 - A. A classification which allows WIND FARMS and WIND TOWERS to be developed while establishing minimum requirements that ensure the purposes of the Zoning Ordinance will be met.
 - B. A means to regulate an activity for which there is demonstrated demand.

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 17, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance text amendment ***IS NECESSARY TO ACHIEVE*** the Land Resource Management Plan because:
 - A. The proposed Zoning Ordinance text amendment will ***HELP ACHIEVE*** LRMP Goals 3, 4 and 6.
 - B. The proposed Zoning Ordinance text amendment ***WILL NOT IMPEDE*** the achievement of LRMP Goals 1, 2 and 9.
 - C. The proposed Zoning Ordinance text amendment is ***NOT RELEVANT*** to LRMP Goals 5, 7, 8 and 10.
2. The proposed text amendment ***WILL*** improve the Zoning Ordinance because it will:
 - A. ***HELP ACHIEVE*** the purpose of the Zoning Ordinance (see Item 16).
 - B. ***IMPROVE*** the text of the Zoning Ordinance (see Item 17).

DOCUMENTS OF RECORD

1. Legal advertisement for Case 037-AT-22
2. Preliminary Memorandum for Case 037-AT-22, with attachments:
 - A Legal advertisement
 - B ELUC Memorandum dated December 27, 2021
 - Exhibit A: Proposed Amendment dated December 27, 2021
 - C Land Resource Management Plan (LRMP) Goals & Objectives
(available on ZBA meetings website)
 - D Preliminary Finding of Fact, Summary Finding of Fact, and Final Determination for Case 037-AT-22 dated March 17, 2022, with attachment:
 - Exhibit A: Proposed Amendment dated March 17, 2022

FINAL DETERMINATION

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

The Zoning Ordinance Amendment requested in **Case 037-AT-22** should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

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

SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

PRELIMINARY DRAFT**PROPOSED AMENDMENT DATED MARCH 17, 2022**

1. **Regarding Right to Farm Resolution 3425, add new paragraph 6.1.4 A.3. as follows:**
 3. The owners of the subject property and the Applicant, its successors in interest, and all parties to the decommissioning plan and site reclamation plan hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.

2. **Regarding WIND FARM TOWER height, amend Sections 6.1.4 C and D as follows:**
 - A. Amend 6.1.4C. 1. and 2. as follows:
 1. ~~At least 1,000 feet~~ The minimum required separation from the exterior above-ground base of a WIND FARM TOWER to any PARTICIPATING DWELLING OR PRINCIPAL BUILDING shall be no less than 2.00 times the maximum allowed total WIND FARM TOWER HEIGHT provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations.
 2. ~~At least 1,200 feet~~ The minimum required separation from the exterior above-ground base of a WIND FARM TOWER to any existing NON-PARTICIPATING DWELLING OR PRINCIPAL BUILDING shall be no less than 2.40 times the maximum allowed total WIND FARM TOWER HEIGHT provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations and provided that the separation distance meets or exceeds any separation recommendations of the manufacturer of the wind turbine used on the WIND FARM TOWER.
 - B. Amend 6.1.4 D.5. as follows:
 5. The total WIND FARM TOWER HEIGHT (measured to the tip of the highest rotor blade) ~~must be less than 500 feet~~ shall be the specified in the application. A total WIND FARM TOWER HEIGHT of 500 feet or greater shall conform to all Federal Aviation Administration (FAA) requirements including an FAA Determination of No Hazard with or without Conditions.

3. **Regarding Aircraft Detection Lighting Systems (ADLS), revise paragraph 6.1.4D.7. as follows:**

The WIND FARM shall comply with all applicable Federal Aviation Administration (FAA) requirements which shall be explained in the application. The minimum lighting requirement of the FAA shall not be exceeded except that all WIND FARM TOWERS are required to use ADLS (aircraft detection lighting system) or equivalent system to reduce the impact of nighttime lighting on nearby residents, communities and migratory birds in accordance with the FAA Advisory circular: 70/7460-IL section 14.1. shall be lighted and unless otherwise required by the FAA only red flashing lights shall be used at night and only the minimum number of such lights with the minimum intensity and the minimum number of flashes per minute (longest duration between flashes) allowed by FAA.

4. **Regarding the Agricultural Impact Mitigation Agreement, revise Section 6.1.4 as follows:**
- A. Add new Section 6.1.4R: Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as follows, and re-letter subsequent sections:
- (1) If provided by state law, the Applicant shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
 - (2) The Applicant shall bear full responsibility for coordinating any special conditions required in the SPECIAL USE Permit in order to ensure compliance with the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
 - (3) All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the COUNTY Board SPECIAL USE Permit.
 - (4) Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- B. Add new paragraph 6.1.4A.4. as follows:
All aboveground STRUCTURES and facilities shall be of a type and shall be located in a manner that is consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- C. Revise 6.1.4E.1. as follows:
All underground wiring or cabling for the WIND FARM shall be at a minimum depth of 4 feet below grade or deeper if required to maintain a minimum one foot of clearance between the wire or cable and any agricultural drainage tile or a lesser depth if so authorized by the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- D. Revise paragraph 6.1.4E.2.h. as follows:
Permanent tile repairs shall be made within 14 days of the tile damage provided that weather and soil conditions are suitable or a temporary tile repair shall be made. Immediate temporary repair shall also be required if water is flowing through any damaged tile line. Temporary repairs are not needed if the tile lines are dry and water is not flowing in the tile provided the permanent repairs can be made within 14 days of the damage. All permanent and temporary tile repairs shall be made as detailed in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R. and shall not be waived or modified except as authorized in the SPECIAL USE Permit.
- E. Revise paragraph 6.1.4E.3. as follows:
All soil conservation practices (such as terraces, grassed waterways, etc.) that are damaged by WIND FARM construction and/or decommissioning shall be restored by the applicant to the pre-WIND FARM construction condition in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.

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- F. Add new paragraph 6.1.4E.4.e. as follows:
All topsoil shall be placed in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- G. Add new paragraph 6.1.4E.5.c. as follows:
All mitigation of soil compaction and rutting shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- H. Add new paragraph 6.1.4E.6.c. as follows:
All land leveling shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R.
- I. Add new paragraph 6.1.4P.4.g. as follows:
Any financial assurance required per the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.4R. shall count towards the total financial assurance required for compliance with paragraph 6.1.1A.5.
- J. Add new paragraph 6.1.4S.1.d. as follows and re-letter subsequent paragraphs:
The Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Zoning Use Permit Application to authorize construction.

5. Regarding WIND FARM fees, revise Section 9 as follows:

- A. Revise paragraph 9.3.1H. as follows:
WIND FARM TOWER or BIG WIND TURBINE TOWER.....~~\$4,500~~10,000
- B. Revise paragraph 9.3.3B.6. as follows:
County Board WIND FARM SPECIAL USE Permit~~\$20,000~~34,000
or ~~\$440~~760 per WIND FARM TURBINE TOWER, whichever is greater