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DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

memorandum

TO: Urbana Zoning Board of Appeals

FROM: Robert Myers, AICP, Planning Manager

DATE: May 20, 2011

SUBJECT: ZBA-2011-MAJ-01: 806 and 810 E Perkins Road. A request by Paul Tatman for a

major variance from the minimum side yard building setbacks required by the Urbana

Zoning Ordinance in a B-3, General Business Zoning District.

Introduction

Paul Tatman, the applicant, is proposing to subdivide a parcel of property that he owns at 806 & 810 E Perkins Road. The subject property has two buildings on the lot, each housing a separate business. TK Service Center, an auto repair business, is located in the building addressed as 806 E Perkins Rd and Tatman's Towing, an auto towing business, is located in the building addressed as 810 E Perkins Rd. The applicant is proposing to subdivide the lot into two parcels so he can transfer ownership of Tatman's Towing (810 E Perkins Rd) to a new business owner planning to expand. The subject property is located in the B-3, General Business Zoning District. Table VI-3 of the Urbana Zoning Ordinance states that the minimum required side yard in the B-3, General Business district is five feet. Following the subdivision of the lot, a portion of one of the principal buildings would have an approximate three-inch setback from the newly-created property line, and a portion of the other principal building would have an approximate three-foot setback from the new property line. The applicant proposes to retrofit the buildings to comply with Fire Code requirements resulting from the reduced building setbacks.

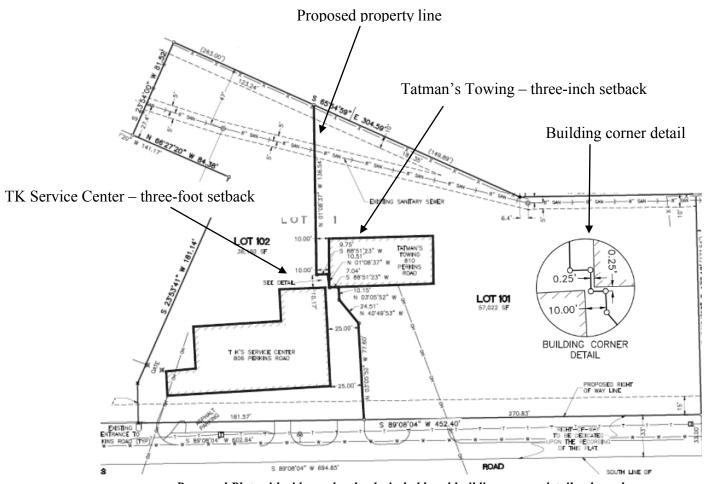
Pursuant to the Urbana Zoning Ordinance, the Zoning Board of Appeals must recommend approval of a major variance by a two-thirds majority for the variance to be forwarded to City Council for a final decision.

Background

The subject property, 806 & 810 E Perkins Road, is located on the north side of Perkins Road, approximately 210 feet east of Cunningham Avenue. It is zoned B-3, General Business District. The lot is irregularly-shaped with an area of 93,182 square feet and a width along Perkins Road of 452

feet. The proposed subdivision will create two lots, the westernmost one (806) with a width of 181.57 feet along Perkins Road and the easternmost one (810) with a width of 270.83 feet.

In terms of minimum lot width and lot area requirements, both the existing and proposed lots would conform with the standards found in Table VI-3 of the Urbana Zoning Ordinance. The property contains two principal use buildings, both of which currently conform to the Zoning Ordinance standards for front, side, and rear yard setbacks. If the property is subdivided as proposed, both buildings will conform with front and rear yard setbacks, but not minimum side yard requirements to the newly created property line. A portion of one principal building (Tatman's Towing) would have an approximate three-inch setback from the property line, and a portion of the other principal building (TK Service Center) would have an approximate three-foot setback from the property line. See drawing below.



Proposed Plat, with side yard setbacks in bold and building corner detail enlarged

Adjacent Land Uses, Zoning Designations and Comprehensive Plan Designations

The subject property was annexed into the City of Urbana in 1987 (Ordinance No. 8687-59), with both buildings extant on the lot. According to Champaign County Tax Assessor records, the building currently occupied by Tatman's Towing was built in 1975 and the building occupied by TK's

Service Center was built in 1984 to 1985 with an addition added in 1987. According to the Champaign County Department of Planning and Zoning, if the subject property were in unincorporated Champaign County, the proposed subdivision would be allowed without a variance for a reduction in side yard setback. However, any new construction, including additions and rebuilds if the buildings were damaged by fire, would be required to meet the five-foot side yard setback.

The surrounding area is commercial in character, with mostly automobile-oriented development. To the west of the subject lot are Tatman's Collision Center and Hearth & Home Consignments. To the north are Dust & Son Auto Supplies, Hickory River Smokehouse, and AAA Storage. The parcel to the east is undeveloped. To the south are a single-family residence on a large lot (located in unincorporated Champaign County), Tatman Construction, and Central Illinois Bank.

Following is a summary of zoning and land uses for the subject site and surrounding property. Exhibits A, B and C further illustrate this information.

Location	Existing Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Site	B-3, General Business	Tatman's Towing TK Service Center	Community Business
North	B-3, General Business	Dust & Son Auto Supplies Hickory River Smokehouse AAA Storage	Community Business
South	B-3, General Business; and Champaign County R-3, Two Family Residential	Tatman Construction Single-Family Dwelling	Community Business Multi-Family Residential
East	B-3, General Business	Undeveloped	Community Business
West	B-3, General Business	Tatman's Collision Center Hearth & Home Consignments	Community Business

Discussion

The petitioner is proposing to subdivide the subject property in order to separate two principal use buildings (TK Service Center and Tatman's Towing) onto two separate lots to allow sale of Tatman's Towing to a new owner with expansion plans. Section V-3.C of the Urbana Zoning Ordinance allows only one principal use building on any one lot without a conditional use permit. The property is currently a legal, nonconforming use. The proposed subdivision would make both lots conforming in terms of having one principal use on any one lot.

Due to the location of the principal buildings on the lot, the proposed subdivision presents some challenges. Because the buildings are only three feet, three inches (3.24 feet) apart at the closest point, the proposed subdivision would result in TK Service Center having a three-foot side yard setback and Tatman's Towing having a three-inch side yard setback. In addition to needing a major variance for a reduction in side yard setbacks from the newly created lots, the proposed subdivision would require building upgrades to meet code requirements. When two buildings are that close

together on different lots, the building code requires a higher level of fire separation than if they were on the same lot. In consultation with his architect and the City Building Inspector, the applicant has determined the proper building modifications to allow this to occur. The work will include removing the roof overhang on the west end of the Tatman's Towing building and may involve other modifications to one or both buildings such as installation of a fire door.

The physical design of the two buildings and their uses presents another challenge. Both buildings are used for automotive businesses and have bays with overhead doors located on the portions of the buildings requiring the variance (photo below). The bays are located such that to access those nearest the adjacent property, it would be necessary to drive on both properties. A cross-access easement allowing users of both properties access to the area to the south of the Tatman's Towing building and to the east of the TK Service Center building will be necessary to allow continued use of these bays. This would be made a condition for approval of the subdivision plat.



Overhead doors on the TK Service Center and Tatman's Towing buildings

The subject lot is located in the B-3, General Business Zoning District. According to Table V-1, Table of Uses, "automobile/truck repair" is permitted by right and "towing service" is permitted with a Special Use Permit in the B-3 Zoning District. TK Service Center would, therefore, be legally conforming in terms of use. Tatman's Towing, however, would be a legally non-conforming use as defined by the Zoning Ordinance (Section II-3, *Nonconforming Use*). The applicant plans to transfer ownership of Tatman's Towing to a new business owner, and an expansion of the business would be allowed with a Special Use Permit.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria outlined in the

ordinance as they pertain to this case:

- 1. Based on evidence presented, determine whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance.
- 2. The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.

The subject property was located in unincorporated Champaign County when the two principal use buildings on this lot were constructed. Construction met the County's zoning requirements, including the three-foot distance between the two buildings. When annexed into the City of Urbana in 1987, the property became a legal, nonconforming use in that Section V-3.C of the Urbana Zoning Ordinance does not allow more than one principal use building on a single lot without a Conditional Use Permit. Subdivision of the property into two lots would make both lots conform with this "principal use" requirement, but doing so would necessitate a side yard setback variance. An important purpose of zoning setbacks is for fire purposes, and in this case fire resistance requirements would be met by retrofitting the buildings as described above.

The special circumstances in this case are the fact that the property has two principal use buildings on one lot with the buildings being located only three feet apart. The variance would not serve as a special privilege because the existing buildings would be retrofitted to meet Fire and Building Codes for the proposed setbacks.

3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.

The buildings were constructed in Champaign County and then annexed into the City as legally nonconforming in terms of two principal uses being located on one lot. The two buildings (806 & 810 E. Perkins Rd.) were constructed three feet, three inches apart at their closest point, and in conformance with County zoning requirements at that time. Two businesses have occupied the two principal use buildings since before the property was annexed. On the other hand, the petitioner's request could be viewed as a situation now being created by the petitioner as a variance would be unnecessary without the proposed subdivision.

4. The variance will not alter the essential character of the neighborhood.

Granting the variance would not have a significant impact on the essential character of the neighborhood. The variance is required due to the subdivision of the property, not due to new construction. Two businesses have occupied the two principal use buildings since before the property was annexed, and this would remain unchanged with the variance. There would be no change in property appearance due to a variance.

5. The variance will not cause a nuisance to the adjacent property.

The variance will not cause a nuisance to properties adjacent to the subject lot. The variance will necessitate cross-access easements and building upgrades for the subdivision to be successful.

6. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.

The variance request represents the minimum deviation from the requirements of the Zoning Ordinance necessary to accommodate the request. The proposed property line between the buildings would be located so that only the corner of each building would be nonconforming in terms of setbacks.

Summary of Findings

- 1. The subject property at 806 & 810 E. Perkins Road was developed in unincorporated Champaign County with two principal use buildings in 1975 and 1984/1985.
- 2. The subject property was annexed into the City of Urbana in 1987 as a legal, nonconforming use under Section V-3.C and Section II-3 (Nonconforming Use) of the Urbana Zoning Ordinance.
- 3. The petitioner proposes to subdivide the parcel to separate the two existing buildings so that 806 E. Perkins Road (TK Service Center) and 810 E. Perkins Road are located on separate parcels.
- 4. Should the lot be subdivided, the existing buildings would conform to required front yard and rear yard standards required by Table VI-3 of the Zoning Ordinance, but not side yard setbacks. The minimum required side yard setback in the B-3 Zoning District is five feet.
- 5. Should be lot be subdivided, the northwest corner of the building at 806 E. Perkins Rd. (TK's Service Center) would be approximately 3 feet, 0 inches from the proposed side yard lot line, and the southwest corner of the building at 810 E. Perkins Rd. would be approximately 3 inches from the same proposed side yard lot line.
- 6. The requested variance would allow a lot subdivision which would eliminate a use nonconformity in that two principal use buildings would no longer be located on the same lot.
- 7. The variance and contingent lot subdivision would allow transfer of ownership for 810 E. Perkins Rd. (Tatman's Towing) and an anticipated business expansion.
- 8. Special circumstances and practical difficulties exist for this property in that it was developed in unincorporated Champaign County with two principal use buildings constructed approximately three feet, three inches apart. The Urbana Zoning Ordinance generally only allows one principal use structure per lot by right.

- 9. Granting the requested variance would not have a significant impact on the character of the neighborhood and would not cause a nuisance to adjacent properties. The variance would not cause the appearance of the two buildings to change.
- 10. The requested variances represent the minimum deviation from the Zoning Ordinance needed for the subdivision of the lot. The proposed lot line has been located so that only the corner of each building would not conform to the minimum five feet side yard setback required in this B-3 Zoning District.
- 11. The petitioner plans to retrofit the two existing buildings to meet Building and Fire Code standards required as a result of the lot subdivision.

Options

The Zoning Board of Appeals has the following options for recommendation to the City Council regarding in Major Variance Case No. ZBA-2011-MAJ-01:

- a. Recommend approval, by two-thirds majority, of the variance as requested based on applicable findings outlined in this memo;
- b. Recommend approval, by two-thirds majority, of the variance as requested along with certain terms and conditions. If the Urbana Zoning Board of Appeals elects to add conditions they should articulate findings accordingly; or
- c. Deny the variance as requested. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting their denial.

Staff Recommendation

In Case ZBA-2011-MAJ-01, based on the evidence presented with this memorandum, but without benefit of evidence presented at the public hearing, City staff recommends that the Zoning Board of Appeals recommend **APPROVAL** to the City Council and with the following conditions:

- 1. The proposed property line shall be located as shown in the attached plat.
- 2. A cross-access easement for both lots be granted and shown on the plat.
- 3. The existing buildings are retrofitted to bring both into conformance with Urbana Fire and Building Codes in terms of construction types, uses, and setbacks.

Attachments: Exhibit A: Location and Existing Land Use Map

Exhibit B: Existing Zoning Map Exhibit C: Future Land Use Map Exhibit D: Variance Application

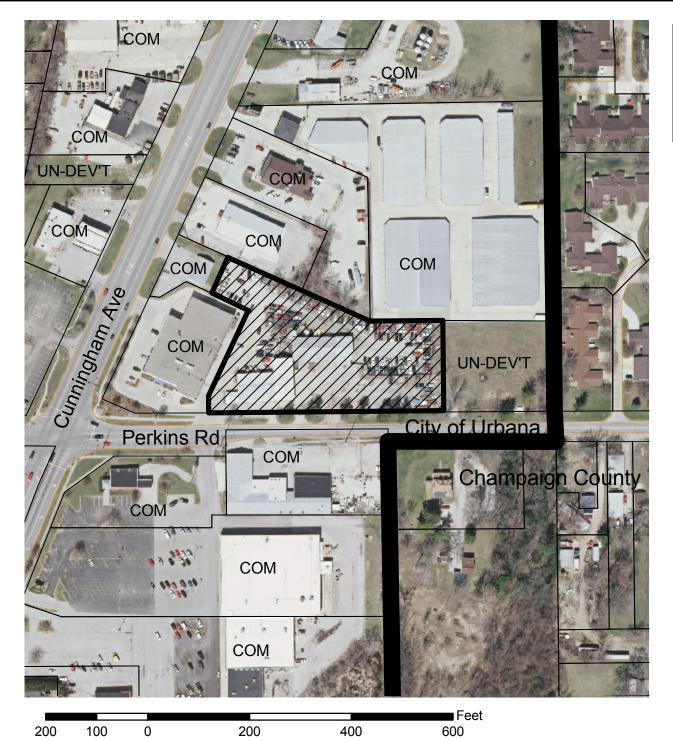
Exhibit E: Photos of Site Exhibit F: Proposed Plat

cc: Paul Tatman

1808 S Philo Rd, Ste 102

Urbana, IL 61802

Exhibit A: Aerial and Land Use Map





C L T Y O F URBANA Case: ZBA-2011-MAJ-01

Subject: Major Variance to allow reduction in

sideyard setback after lot is subdivided

Location: 806-810 E Perkins Rd, Urbana

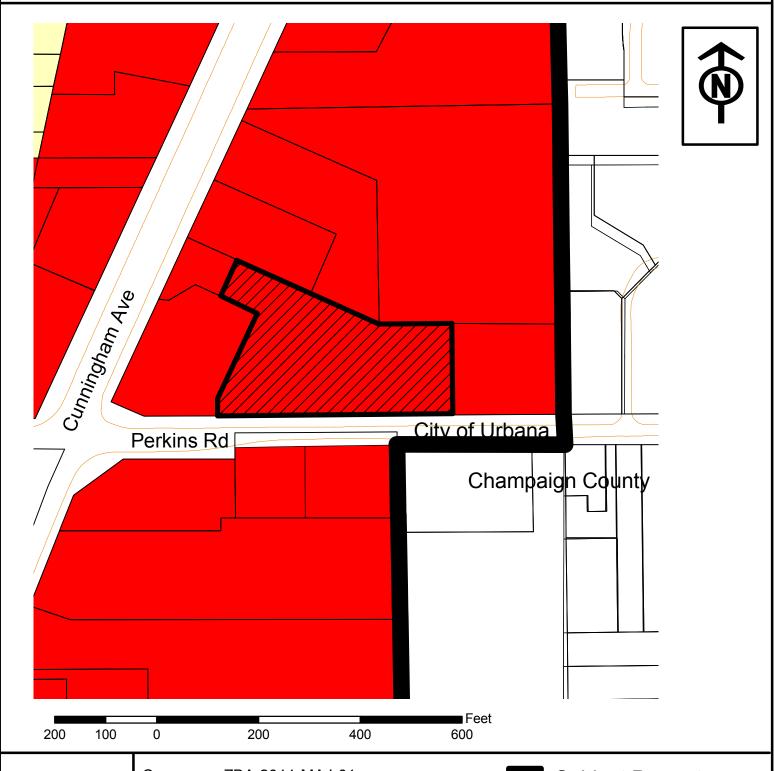
Petitioner: Paul Tatman



COM Commercial UN-DEV'T Un-Developed

Prepared 4/25/2011 by Community Development Services - rlb

Exhibit B: Zoning Map





Case: ZBA-2011-MAJ-01

Subject: Major Variance to allow reduction in

sideyard setback after lot is subdivided

Location: 806-810 E Perkins Rd, Urbana

Petitioner: Paul Tatman

Subject Property
Corporate

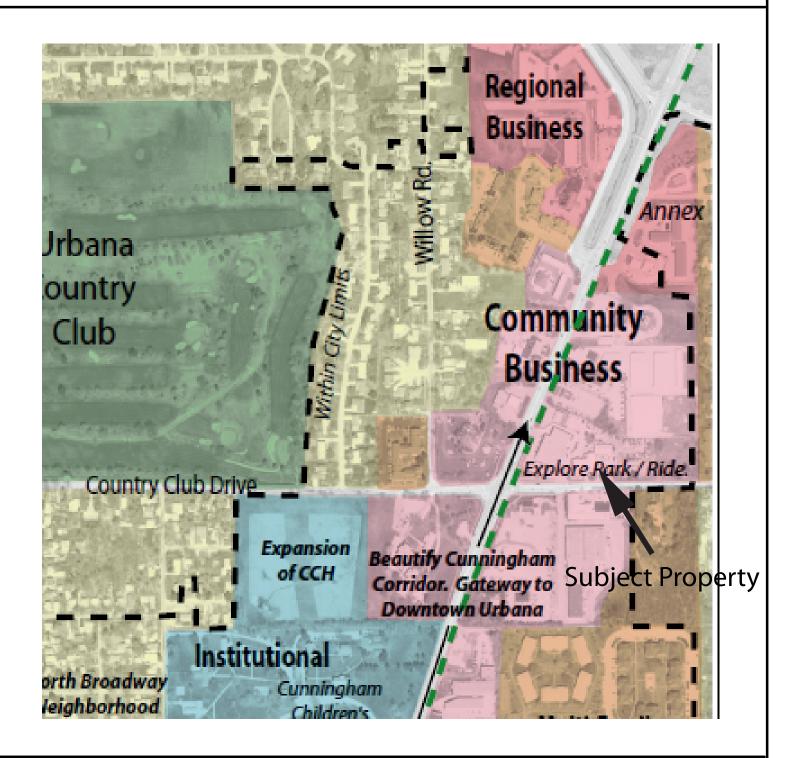
Limits

B3-General Business

R1 - Single Family Res.

Prepared 4/25/2011 by Community Development Services - rlb

Exhibit C: Future Land Use Map #4





Case: ZBA-2011-MAJ-01

Subject: Major Variance to allow reduction in

sideyard setback after lot is subdivided

Location: 806-810 E Perkins Rd, Urbana

Petitioner: Paul Tatman

Prepared 4/25/2011 by Community Development Services - rlb



Application for Variance

Zoning Board Of Appeals

APPLICATION FEE-\$150.00 (Major) and \$125.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Da	ate Request Filed	04-21-2011	ZBA Case i	No. MP	A-2011-MAJ-01	
Fe	ee Paid - Check No. 5	650 Amount	#125.00	Date	04-21-2011	
	56	651	\$25.00		04-26-2011	
						_
	PLEASE 1	PRINT OR TYPE TH	HE FOLLOWING	G INFO	RMATION	
4	VARIATION is reque	sted in conformity with	h the powers veste	ed in the 2	Zoning Board of	
Αŗ	ppeals to permit (Inser	t Use/Construction Pr	oposed and the T	ype and I	Extent of Variation	
Re	equested)		on the prope	erty descr	ribed below, and in	
co:	onformity with the plans	s described on this var	iance request.			
	1. APPLICANT CO	ONTACT INFORMA				`
	Name of Applicant(s):	Paul Tatman	c .	Phone:	217-202-0801	
	Address (street/city/sta	te/zip code): 1808 S.Ph.	loral Steloz L	Rbana.	D. 61702	
	Email Address: ptate				1 1 2	
	Property interest of Ap	plicant(s) <i>(Owner)Contr</i>	ract Buyer, etc.):			
	2.				ER INFORMATION	
	Name of Owner(s):	Faul Tatms		Phone:	217-202-0501, 217-	344-18a
	Address (street/city/sta	te/zip code): 1808 S. Pi	rilo Rd Ste 102	2 Usba	na, D. 61802	
	Email Address:					
	Is this property owned	d by a Land Trust? \Box list of all individuals h	Yes 🗹 No olding an interest	in said Tr	rust.	
3.	. PROPERTY INFO	RMATION		7	1.1 402	
	Location of Subject Sit	te: 806 <i>G. PE</i> YLK	ins Rd Urba	una. D	-61852	

PIN # of Location: 91-21-04-352-032	
Lot Size:	· _
Current Zoning Designation:	Fol Tailing
Current Zoning Designation: Current Land Use (vacant, residence, grocery, factory, etc: Tk Se	Nice, Hampton Varman 121 45
Proposed Land Use:	
Legal Description: Sect 4 Tup 19 Range 9?	
Prop. Cocle 3000	
4. CONS	SULTANT INFORMATION
Name of Architect(s): Guy Hampel	Phone: 352-3690
Address (street/city/state/zip code): 314 Wheatow	
Email Address: Ch. 6/820	
Name of Engineers(s): G. Hamfel & Comcast	Phone: 3526976
Address (street/city/state/zip code): ASI+	,
Email Address: 201 W SW. rgt - 15	
Name of Surveyor(s):	Phone:
Address (street/city/state/zip code): 13.11 Sher. D.a.N	
Email Address:	
Name of Professional Site Planner(s):	Phone:
Address (street/city/state/zip code):	•
Email Address:	
Name of Attorney(s):	Phone:
Address (street/city/state/zip code):	
Email Address:	
5. REASONS FOR VARIATION	
Identify and explain any special circumstances or practical strict application of the Zoning Ordinance with respect to the s	difficulties in carrying out the subject parcel.

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

Explain how the variance is <u>not</u> the result deliberately created by you (the Petitioner)	t of a situation or condition that was knowingly on
Explain why the variance will <u>not</u> alter the	e essential character of the neighborhood.
Explain why the variance will <u>not</u> cause a	nuisance to adjacent property.
Does the variance represent the minimum Zoning Ordinance? Explain.	deviation necessary from the requirements of the
OTE: If additional space is needed to accurages to the application.	urately answer any question, please attach extra
	ting permission for City staff to post on the the public hearing to be held for your request.
ERTIFICATION BY THE APPLICANT	
	application form or any attachment(s), document(s) e best of my knowledge and belief, and that I arke this application on the owner's behalf.
Vell Stall	4-20-11
pplicant's Signature	Date

Exhibit E: Photos of Site



TK Service Center, west portion of building along Perkins Rd



TK Service Center, mid-section of building along Perkins Rd



TK Service Center, east portion of building along Perkins Rd and east elevation of building



Tatman's Towing, west portion of building along Perkins Rd



Tatman's Towing, east portion of building along Perkins Rd



TK Service Center on left, Tatman's Towing on right—proposed property line would go between the two buildings.

