



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Bruce Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director/City Planner

DATE: March 17, 2005

SUBJECT: Plan Case No. 1918-SU-04, Request by Apcon Corporation for a Special Use Permit to allow a concrete and asphalt recycling plant located on the north side of Somer Drive west of north Lincoln Avenue in the IN, Industrial Zoning District.

Introduction and Background

Apcon Corporation has petitioned for a Special Use Permit to allow a concrete and asphalt recycling plant on a site located on the north side of the 900 block of West Somer Drive west of Lincoln Avenue. Concrete and asphalt recycling plants are not listed within the Table of Uses in the Urbana Zoning Ordinance. Such “*Other Industrial Uses*” may be permitted in the IN Industrial zoning district under the provisions of Special Use Permit review.

On March 10, 2005 the Urbana Plan Commission conducted a public hearing to consider the case. The Commission voted 5-2 to recommend approval of the Special Use Permit along with the staff recommended conditions of approval. For more information regarding the public hearing, please refer to the staff memorandum dated March 4, 2005. The draft minutes of the March 10, 2005 hearing are attached to this report.

Discussion

In 1998 the Petitioner’s established the recycling operations at its current location east of the Saline Branch. Since this time the City has contended that the use is not permitted by right in the Industrial Zoning District and that a Special Use Permit is required to operate at this location. The Petitioner’s indicate that it has always been their understanding that the use was permitted by right in the district

Since 1998 the Petitioners and the City have met numerous times to discuss the issue and work towards reaching an understanding of compliance with zoning. The Petitioner has agreed to attempt to resolve all the issues by securing a Special Use Permit for the current recycling operation on the east side of the Saline Branch. . The Special Use Permit would clearly state that the use is allowed at this location and would offer some mitigation measures to help the operation come into compliance with the Zoning Ordinance.

Existing Conditions

The special use permit process creates an opportunity to address any potential issues of zoning ordinance compliance as well as impacts to neighboring uses. Zoning compliance issues on the site have included:

- Encroachment of piled materials into City owned Right-of-Way (ROW),
- Truck traffic across and damage to the City owned curb and ROW surface on Somer Drive,
- Cutting and removal of part of City owned curb on Somer Drive,
- Encroachment of materials into the IN –Industrial Zoning district required 25 foot front yard setbacks on Lincoln Avenue and Somer Drive,
- Installation of a water service line in the city owned right of way

With changes the site can continue to be used for the concrete and asphalt recycling business while minimizing off-site impacts.

Recommended Measures

Staff feels that with the imposition of proper conditions and oversight mechanisms the proposed use can be appropriate for this location. Issues such as setbacks, screening, fencing, vehicular access, dust prevention, erosion, and water runoff on the site are all addressed. The recommended conditions and oversight mechanisms would be used to:

- Maintain control of activities on the subject site,
- Minimize impacts on the Saline Branch,
- Minimize impacts on the neighboring legally non-conforming residential land use,
- Control water runoff and sedimentation,
- Control truck access, and
- Otherwise ensure the use of the site adheres to all provisions of the Urbana Zoning Ordinance.

At the March 10 Plan Commission hearing there was discussion regarding the Staff recommendation of a 5-foot setback from the property line surround the existing non-conforming land use on the “Squire Property.” A Commission member moved to make a change to the conditions to increase the setback to 25 feet. It was with this amended set of conditions that the Commission voted 5 to 2 to approve the Special Use.

Requirements for a Special Use Permit

According to Section VII-6 of the Urbana Zoning Ordinance, an application for a Special Use Permit shall demonstrate the three criteria listed below:

- 1. That the proposed use is conducive to the public convenience at that location.*

The location of the property is convenient to excellent transportation facilities, both by road and rail. Lincoln Avenue is a major arterial street that provides access to the street network of the City of Urbana and to the Interstate highway system via I-74. Existing roadway access makes good use of pavements designed to accommodate truck traffic, for both deliveries to the property and deliveries of materials produced on the property. Building projects, streets, driveways, homes and parking lots can be served conveniently from the property.

The proposed use offers a high-demand service not currently available elsewhere in the City of Urbana. The alternatives for disposal of broken concrete are to send it to a landfill in Danville or Decatur. Having an available local site will allow Urbana residents and those in the surrounding area to minimize transportation costs for reconstruction projects, and will better promote the use of another recycled product.

- 2. That the proposed use is designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare.*

The North Lincoln Avenue area is planned for industrial development and currently contains heavy industrial users, including University Construction Asphalt Recycling, Blager Concrete, Urbana Concrete Recycling, and the Central Waste Transfer Facility. The roadway facilities planned and constructed in the area are designed to handle industrial traffic including the amount of truck traffic that is generated by the existing use. The operation is required to receive permits from the Illinois Environmental Protection Agency to ensure that negative impacts to air quality and stormwater runoff are mitigated. There are a few residential uses in the area that could potentially be affected by the facility. A single home exists as a legally non-conforming use on industrially zoned property to the east of the site. The Comprehensive Plan anticipates and recommends the eventual industrial development of this site.

- 3. That the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located, except where such regulations and standards are modified by Section VII-7.*

The use will preserve the essential character of the area that is for industrial uses. The current zoning is Industrial. The proposed site is adjacent to the Vulcan Materials aggregate rail yard, Apcon's asphalt plant and to the Blager Concrete plant. The concrete recycling yard would be a compatible use with these existing, nearby uses. The use is consistent with other uses allowed in the City of Urbana's IN Industrial zoning district. Redevelopment of the site will be required to substantially conform to the attached plan and meet all the applicable standards and requirements of the Urbana Zoning Ordinance and other relevant city codes including the Subdivision and Land Development Code.

Consideration

Staff feels the proposed use is appropriate for this location and will compliment the existing uses in the area. The location of the necessary transportation facilities, especially Interstate 74, will allow the business to operate efficiently and will help minimize truck travel in the area and community as a whole. The update to the Urbana Comprehensive Plan indicates that this area should be planned for industrial uses.

The City Council may consider additional conditions and requirements on the operation of the proposed use as are appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of this Ordinance, including but not limited to the following:

1. Regulate the location, extent, and intensity of such use;
2. Require adherence to an approve site plan;

3. Require landscaping and the screening of such use by means of fences, walls, or vegetation;
4. Stipulate a required minimum lot size, minimum yards, and maximum height of buildings and structures;
5. Regulate vehicular access and volume, and the design and location of parking and loading areas and structures;
6. Require conformance to health, safety, and sanitation requirements as necessary;
7. Regulate signs and outdoor lighting;
8. Any other conditions deemed necessary to affect the purposes of this Ordinance.

Summary of Findings

At the public hearing on March 10, 2005 the Plan Commission adopted the following findings:

1. The proposed use is generally consistent with the Comprehensive Plan, zoning and land uses of both the subject site and the surrounding area.
2. The proposed use is conducive to the public convenience because of the location on Lincoln Avenue north of Interstate 74, which used primarily for industrial traffic.
3. The proposed use would not pose a detriment to the district in which it is proposed to be located since the district is intended to allow for industrial uses.
4. The use will be redeveloped to be in substantial conformity with the accompanying site plan within 180 days of approval of the Special Use Permit.
5. The special use permit will be subject to the petitioner's continuing compliance with all City, State, and Federal regulations applicable to their operation, including those regulations enforced by the Environmental Protection Agency.
6. The proposed use requires review and permitting by the Illinois Environmental Protection Agency to ensure the operation poses no threat to air or water runoff quality.

Options

The Urbana City Council has the following options in this case:

1. Approve the Special Use Permit request;
2. Approve of the Special Use Permit request with any additional conditions deemed appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance;
3. Deny the request for a Special Use Permit.

Staff Recommendation

Based on the evidence presented in the discussion above, and at the public hearing conducted on March 10, 2005, Urbana Plan Commission recommends that the City Council **APPROVE** the proposed special use permit in Plan Case No. 1918-SU-04 for the reasons articulated above and with the **following conditions** of approval:

1. The conditions of the Special Use Permit shall be binding on Apcon Corporation, its subsidiaries, affiliates, and assigns including but not limited to, Apcon Corporation; Mid-America Recycling, Co.; Mid-America Sand and Gravel Company; Urbana Concrete and Recycling Co.; University Construction; and MACC of Illinois, Inc., and that the term “Petitioner” used in the Special Use Permit and conditions shall apply to all these companies, their subsidiaries, affiliates, and assigns.
2. The activity on the site shall be limited to the storage, stacking, piling, sorting, and recycling (including but not limited to crushing, grinding and sifting) of asphalt and concrete material.
3. There shall be no asphalt or concrete batching, or tar storage or processing permitted on the site.
4. The layout of the site shall be reconfigured to resemble Exhibit “G” Site Diagram, which illustrates setbacks, fencing, landscaping/buffers and access, within 180 days of approval of the Special Use Permit. Any significant deviation from this Site Diagram shall require an amendment to the Special Use Permit and shall include review by the Urbana Plan Commission and approval by the Urbana City Council.
5. An engineered Stormwater Management Plan and an Erosion and Sedimentation Control Plan shall be prepared to the requirements of the Urbana Subdivision and Land Development Code. The plans shall be prepared and revised as necessary to meet the approval of the City Engineer within 90 days of approval of the Special Use Permit. The site shall be graded and reconfigured in substantial conformity with the plans as approved within 180 days of approval of the Special Use Permit.
6. In accordance with Exhibit “G” Site Diagram, the site shall be reconfigured and the following setbacks shall be established and maintained. There shall be no storage of materials within the setbacks.
 - a. 25-foot setback on the east property line along Lincoln Avenue;
 - b. 25-foot setback on the south property line along Somer Drive;
 - c. 25-foot setback along the north and east property lines that abut the legally non-conforming residential land use (Squire Property);
 - d. A minimum 25-foot setback along the top of the east embankment of the Saline Branch Ditch. A continuous line of jersey barriers shall be placed to delineate a minimum 25-foot setback line along the embankment.
7. In accordance with Exhibit “G” Site Diagram, an opaque fence at least 6 feet in height shall be installed along the south property line along Somer Drive with openings at the three permitted access drives within 180 days of approval of the Special Use Permit.

8. A landscape plan shall be developed in consultation with the City Arborist and the staff of Community Development Services within 90 days of approval of the Special Use Permit. The approved elements of the landscape plan shall be established within 180 days and at a minimum shall include the following provisions:
 - a. The east property line along Lincoln Avenue shall be screened with either a six-foot high opaque fence or a berm. If the Petitioner utilizes the existing berm for screening, it shall be cleared of any existing concrete or asphalt debris and shall be planted and maintained with either grass or ground cover material.
 - b. There shall be a minimum of 20 living evergreen shrubs planted and maintained in a living condition east of the fence or berm along Lincoln Avenue.
9. In accordance with Exhibit "G" Site Diagram, there shall be three access drives permitted from Somer Drive. Driveway access permit shall be obtained from the Urbana Public Works Department and the location of the access drives shall be approved by the City Engineer. The access drives shall be constructed to the standards of the Urbana Subdivision and Land Development Code and the following provisions within 180 days of approval of the Special Use Permit:
 - a. The eastern most access drive shall be no wider than 35 feet at the property line and shall generally align with the existing eastern drive to Blager Concrete on the south side of Somer Drive;
 - b. The central access drive shall be no wider than 35 feet at the property line and shall generally align with the existing western drive to Blager Concrete on the south side of Somer Drive;
 - c. The western access drive shall be no wider than 24 feet at the property line and shall generally align with the existing drive to Temple Trucking on the south side of Somer Drive.
10. The curb along the north side of Somer Drive that the petitioners have removed or damaged, and where access drives are closed shall be reconstructed to the standards required by the Urbana Subdivision and Land Development Code and to the satisfaction of the City Engineer within 180 days of approval of the Special Use Permit.
11. That all areas of public right-of-way along Somer Drive that the petitioners have encroached into and damaged be graded and seeded with grass, to the satisfaction of the City Engineer within 180 days of approval of the Special Use Permit, and shall be maintained by the Petitioner.
12. That the Petitioners apply for and obtain a construction permit from the City of Urbana Building Safety Division to extend a water service line installed by the Petitioners and terminating in the public right-of-way on Somer Drive. The water line shall be extended to a point inside the fencing required above, and the extension shall be constructed within 180 days of approval of the Special Use Permit.

Attachments:

Proposed Ordinance
Draft Minutes of March 10, 2005 Plan Commission Meeting
Exhibit A: Location Map
Exhibit E: Aerial Photo

Exhibit G: Site Diagram

Prepared by:

Paul Lindahl, Planner I

Cc:

Apcon Corp., 2906 N. Oak Street, PO Box 848 Urbana, IL 61803

Blake Weaver, Novak Weaver & Solberg, 130 W. Main Street Urbana, IL 61801

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ORDINANCE NO.2005-03-042

AN ORDINANCE APPROVING A SPECIAL USE PERMIT

(To Allow a Concrete and Asphalt Recycling Plant Located on the North Side of Somer Drive West of North Lincoln Avenue in the IN, Industrial Zoning District / Plan Case No. 1918-SU-04, Apcon Corporation)

WHEREAS, Apcon, Inc. has submitted an application in Plan Case No. 1918-SU-04 to request a Special Use Permit to allow a concrete and asphalt recycling plant located on the north side of Somer Drive west of north Lincoln Avenue in the IN, Industrial Zoning District; and

WHEREAS, all applicable development regulations are intended to be met by the petitioner, including those involving setbacks, drainage, and vehicular access considerations; and

WHEREAS, after due publication, a public hearing was held by the Urbana Plan Commission on March 10, 2005 concerning the petition filed by the petitioner in Plan Case No. 1918-SU-04; and

WHEREAS, on March 10, 2005, the Urbana Plan Commission voted 5 ayes and 2 nays to forward the case to the Urbana City Council with a recommendation to approve the request for a Special Use Permit; and

WHEREAS, in order to minimize the impact of the proposed development on surrounding properties specific conditions of approval are hereby imposed as permitted under the requirements of the Urbana Zoning Ordinance and identified in Section 1 below; and

WHEREAS, the approval of the Special Use Permit, with the conditions set forth below, is consistent with the requirements of Section VII-6 of the Urbana Zoning Ordinance, Special Use Permit Procedures, and with the general intent of that Section of the Ordinance; and

WHEREAS, the findings of the Plan Commission indicate that approval of the special use permit would promote the general health, safety, morals, and general welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. A Special Use Permit is hereby approved to allow the establishment of a concrete and asphalt recycling plant located on the north side of Somer Drive west of north Lincoln Avenue in the IN, Industrial Zoning District as described in the legal description and attached map exhibit and with the following conditions upon approval:

1. The conditions of the Special Use Permit shall be binding on Apcon Corporation, its subsidiaries, affiliates, and assigns including but not limited to, Apcon Corporation; Mid-America Recycling, Co.; Mid-America Sand and Gravel Company; Urbana Concrete and Recycling Co.; University Construction; and MACC of Illinois, Inc., and that the term "Petitioner" used in the Special Use Permit and conditions shall apply to all these companies, their subsidiaries, affiliates, and assigns.
2. The activity on the site shall be limited to the storage, stacking, piling, sorting, and recycling (including but not limited to crushing, grinding and sifting) of asphalt and concrete material.
3. There shall be no asphalt or concrete batching, or tar storage or processing permitted on the site.
4. The layout of the site shall be reconfigured to resemble Exhibit "G" Site Diagram, which illustrates setbacks, fencing, landscaping/buffers and access, within 180 days of approval of the Special Use Permit. Any significant deviation from this Site Diagram shall require an amendment to the Special Use Permit and shall include review by the Urbana Plan Commission and approval by the Urbana City Council.

5. An engineered Stormwater Management Plan and an Erosion and Sedimentation Control Plan shall be prepared to the requirements of the Urbana Subdivision and Land Development Code. The plans shall be prepared and revised as necessary to meet the approval of the City Engineer within 90 days of approval of the Special Use Permit. The site shall be graded and reconfigured in substantial conformity with the plans as approved within 180 days of approval of the Special Use Permit.

6. In accordance with Exhibit "G" Site Diagram, the site shall be reconfigured and the following setbacks shall be established and maintained. There shall be no storage of materials within the setbacks.

- a. 25-foot setback on the east property line along Lincoln Avenue;
- b. 25-foot setback on the south property line along Somer Drive;
- c. 25-foot setback along the north and east property lines that abut the legally non-conforming residential land use (Squire Property);
- d. A minimum 25-foot setback along the top of the east embankment of the Saline Branch Ditch. A continuous line of jersey barriers shall be placed to delineate a minimum 25-foot setback line along the embankment.

7. In accordance with Exhibit "G" Site Diagram, an opaque fence at least 6 feet in height shall be installed along the south property line along Somer Drive with openings at the three permitted access drives within 180 days of approval of the Special Use Permit.

8. A landscape plan shall be developed in consultation with the City Arborist and the staff of Community Development Services within 90 days of approval of the Special Use Permit. The approved elements of the landscape plan shall be established within 180 days and at a minimum shall include the following provisions:

- a. The east property line along Lincoln Avenue shall be screened with either a six-foot high opaque fence or a berm. If the Petitioner utilizes the existing berm for screening, it shall be cleared of any

existing concrete or asphalt debris and shall be planted and maintained with either grass or ground cover material.

b. There shall be a minimum of 20 living evergreen shrubs planted and maintained in a living condition east of the fence or berm along Lincoln Avenue.

9. In accordance with Exhibit "G" Site Diagram, there shall be three access drives permitted from Somer Drive. Driveway access permit shall be obtained from the Urbana Public Works Department and the location of the access drives shall be approved by the City Engineer. The access drives shall be constructed to the standards of the Urbana Subdivision and Land Development Code and the following provisions within 180 days of approval of the Special Use Permit:

a. The eastern most access drive shall be no wider than 35 feet at the property line and shall generally align with the existing eastern drive to Blager Concrete on the south side of Somer Drive;

b. The central access drive shall be no wider than 35 feet at the property line and shall generally align with the existing western drive to Blager Concrete on the south side of Somer Drive;

c. The western access drive shall be no wider than 24 feet at the property line and shall generally align with the existing drive to Temple Trucking on the south side of Somer Drive.

10. The curb along the north side of Somer Drive that the petitioners have removed or damaged, and where access drives are closed shall be reconstructed to the standards required by the Urbana Subdivision and Land Development Code and to the satisfaction of the City Engineer within 180 days of approval of the Special Use Permit.

11. That all areas of public right-of-way along Somer Drive that the petitioners have encroached into and damaged be graded and seeded with grass, to the satisfaction of the City Engineer within 180 days of approval of the Special Use Permit, and shall be maintained by the Petitioner.

12. That the Petitioners apply for and obtain a construction permit from the City of Urbana Building Safety Division to extend a water service line installed by the Petitioners and terminating in the public right-of-way on Somer Drive. The water line shall be extended to a point inside the fencing required above, and the extension shall be constructed within 180 days of approval of the Special Use Permit.

LEGAL DESCRIPTION:

PART OF THE SE 1/4 OF SECTION 31, T. 20 N., R. 9 E. OF THE 3RD P.M., MORE PARTICULARLY DESCRIBED AS BEING LOT 2 OF PLAT OF SURVEY FOR ILLINOIS CENTRAL RAILROAD COMPANY OF A PART OF THE EAST 1/2 OF THE SE 1/4 OF SECTION 31 AND THE WEST 1/2 OF THE SW 1/4 OF SECTION 32, T. 20 N., R. 9 E. OF THE 3RD P.M. AS PER PLAT RECORDED IN PLAT BOOK T AS DOCUMENT 773352, AS AMENDED BY INSTRUMENT RECORDED JANUARY 20, 1969 AS DOCUMENT 787599, IN THE OFFICE OF THE RECORDER, CHAMPAIGN COUNTY, ILLINOIS, AND

THAT PART OF LOT 3 OF THE AFORESAID PLAT OF SURVEY FOR ILLINOIS CENTRAL RAILROAD COMPANY, AS AMENDED, LYING NORTH OF THE RIGHT-OF-WAY FOR SOMER DRIVE, SAID RIGHT-OF-WAY RECORDED IN BOOK 2104 AT PAGE 573 AS DOCUMENT NO. 94R 8718 IN THE OFFICE OF THE RECORDER, CHAMPAIGN COUNTY, ILLINOIS,

EXCEPT,

COMMENCING AT THE SOUTHEAST CORNER OF THE SE 1/4 OF SECTION 31, T. 20 N., R. 9 E. OF THE 3RD P.M.; THENCE N. 00°18'52" W., ALONG THE EAST LINE OF THE SE 1/4 OF SAID SECTION 31, 1,159.60 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SOMER DRIVE RECORDED IN BOOK 2104 AT PAGE 573 AS DOCUMENT NO. 94R 8718 IN THE OFFICE OF THE RECORDER, CHAMPAIGN COUNTY, ILLINOIS, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE S. 89°27'08" W., ALONG SAID EXISTING NORTH RIGHT-OF-WAY LINE, 62.00 FEET; THENCE N. 44°27'08" E., 49.53 FEET TO A POINT ON CURVE; THENCE NORTH, ALONG A CURVE TO THE LEFT, CONVEX TO THE EAST WITH A RADIUS OF 6,560.65 FEET, A DISTANCE OF 91.04 FEET TO A POINT OF TANGENCY; THENCE N. 00°18'52" W., 217.63 FEET TO THE SOUTH LINE OF THE NORTH 11 RODS OF THE EAST 14 1/2 RODS OF THE SOUTH 102.1 RODS OF SAID SE 1/4 OF SECTION 31; THENCE N. 89°44'56" E., ALONG SAID SOUTH LINE, 26.49 FEET TO THE

AFORESAID EAST LINE OF THE SE 1/4 OF SECTION 31; THENCE S. 00°18'52" E.,
ALONG SAID EAST LINE, 343.55 FEET TO THE POINT OF BEGINNING, CONTAINING
9,753 SQUARE FEET (0.224 ACRES), MORE OR LESS, ALL SITUATED IN THE CITY OF
URBANA, CHAMPAIGN COUNTY, ILLINOIS,

AND EXCEPT,

COMMENCING AT THE SOUTHEAST CORNER OF THE SE 1/4 OF SECTION 31,
T. 20 N., R. 9 E. OF THE 3RD P.M; THENCE N. 00°18'52" W., ALONG THE EAST
LINE OF THE SE 1/4 OF SAID SECTION 31, 1,684.65 FEET TO THE NORTHEAST CORNER
OF THE NORTH 11 RODS OF THE EAST 14 1/2 RODS OF THE SOUTH 102.1 RODS OF SAID
SE 1/4 OF SECTION 31, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE
S. 89°44'56" W., ALONG THE NORTH LINE OF SAID NORTH 11 RODS OF THE EAST 14
1/2 RODS OF THE SOUTH 102.1 RODS OF SAID SE 1/4 OF SECTION 31, 26.49 FEET;
THENCE N. 00°18'52" W., 8.81 FEET TO THE NORTH LINE OF THE AFORESAID LOT 2
AS SHOWN ON PLAT OF SURVEY FOR ILLINOIS CENTRAL RAILROAD COMPANY; THENCE N.
89°27'08" E., ALONG SAID NORTH LINE OF LOT 2, 26.49 FEET TO THE AFORESAID
EAST LINE OF THE SE 1/4 OF SECTION 31; THENCE S. 00°18'52" E., ALONG SAID
EAST LINE, 8.95 FEET TO THE POINT OF BEGINNING, CONTAINING 235 SQUARE FEET
(0.005 ACRES), MORE OR LESS, ALL SITUATED IN THE CITY OF URBANA, CHAMPAIGN
COUNTY, ILLINOIS.

PERMANENT PARCEL #s: 91-15-31-400-023 and 91-15-31-400-030

LOCATED AT: The North side of Somer Drive west of North Lincoln Avenue,
Urbana, Illinois

Section 2. The City Clerk is directed to publish this Ordinance in
pamphlet form by authority of the corporate authorities. This Ordinance
shall be in full force and effect from and after its passage and publication
in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois
Compiled Statutes (65 ILCS 5/1-2-4).

PASSED by the City Council this ____ day of _____, 2005.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, 2005.

Tod Satterthwaite, Mayor

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

DRAFT

DATE: March 10, 2005
TIME: 7:30 P.M.
PLACE: Urbana City Building
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Laurie Goscha, Lew Hopkins, Randy Kangas, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant, Don White

MEMBERS EXCUSED: There were none.

STAFF PRESENT: Elizabeth Tyler, Director of Community Development Services; Rob Kowalski, Planning Manager; Paul Lindahl, Planner I; Teri Andel, Planning Secretary; Ryan Brault, Economic Development Redevelopment Specialist

OTHERS PRESENT: Amy Aidman, Ricky Baldwin, Brandon Bowersox, George and Nancy Boyd, Gary Brummet, Susan Butler, Sarah Davis, Natesha Elliot, Hugh Gallivan, Cynthia Helms, Bjorg Holte, William Hope, John Ison, Dale Johnston, Stephen Kaufman, Julia Kellman, Alice-Anne Kingston, Linda Klepinger, Herbert and Christa Knust, Germaine Light, Anita McClain, Theresa Michelson, Phil Miller, Dave Monk, Julianne Newton, John Peisker, Joyce Phares, Scott and Judy Reichard, MD Rumi Shammin, Helaine Silverman, James Simpson, Peg Steffenson, Lois Steinberg, William Sullivan, Matthew Tomaszewski, Steve Vaughn, Blake Weaver, Amy Young

Plan Case Number 1918-SU-04: Request by the Apcon Corporation for a Special Use Permit to allow a concrete and asphalt recycling plant located on the north side of Somer Drive, west of North Lincoln Avenue in the IN, Industrial Zoning District.

Paul Lindahl, Planner I, presented this case to the Plan Commission. He began with a brief background on the history of the site and of the Apcon Corporation. He described the proposed site and its surrounding properties. He discussed the general purpose and intent of the IN, Industrial Zoning District, potential impact on adjacent land uses, the existing conditions and recommended measures to mitigate impacts, the setbacks, fencing, vehicular access, site

drainage, dust control, and the water service line. He reviewed the criteria according to Section VII-6 of the Urbana Zoning Ordinance that pertained to a special use permit request. He summarized staff's findings and read the options of the Plan Commission. Mr. Lindahl presented staff's recommendation, which was as follows:

Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommended that the Plan Commission recommend approval of the proposed Special Use Permit as presented to the Urbana City Council, for reasons articulated in the Summary of Findings, with the following conditions:

- 1. The conditions of the Special Use Permit shall be binding on Apcon Corporation, its subsidiaries, affiliates, and assigns including but not limited to, Apcon Corporation; Mid-America Recycling, Co.; Mid-America Sand and Gravel Company; Urbana Concrete and Recycling Co.; University Construction; and MACC of Illinois, Inc., and that the term "Petitioner" used in the Special Use Permit and conditions shall apply to all these companies, their subsidiaries, affiliates, and assigns.*
- 2. The activity on the site shall be limited to the storage, stacking, piling, sorting, and recycling (including but not limited to crushing, grinding and sifting) of asphalt and concrete material.*
- 3. There shall be no asphalt or concrete batching, or tar storage or processing permitted on the site.*
- 4. The layout of the site shall be reconfigured to resemble Exhibit "G" Site Diagram, which illustrates setbacks, fencing, landscaping/buffers and access, within 180 days of approval of the Special Use Permit. Any significant deviation from this Site Diagram shall require an amendment to the Special Use Permit and shall include review by the Urbana Plan Commission and approval by the Urbana City Council.*
- 5. An engineered Stormwater Management Plan and an Erosion and Sedimentation Control Plan shall be prepared to the requirements of the Urbana Subdivision and Land Development Code. The plans shall be prepared and revised as necessary to meet the approval of the City Engineer within 90 days of approval of the Special Use Permit. The site shall be graded and reconfigured in substantial conformity with the plans as approved within 180 days of approval of the Special Use Permit.*
- 6. In accordance with Exhibit "G" Site Diagram, the site shall be reconfigured and the following setbacks shall be established and maintained. There shall be no storage of materials within the setbacks.*
 - a) 25-foot setback on the east property line along Lincoln Avenue;*
 - b) 25-foot setback on the south property line along Somer Drive;*
 - c) 5-foot setback along the north and east property lines that abut the legally non-conforming residential land use (Squire Property);*
 - d) A minimum 25-foot setback along the top of the east embankment of the Saline Branch Ditch. A continuous line of jersey barriers shall be placed to delineate a minimum 25-foot setback line along the embankment.*

7. *In accordance with Exhibit "G" Site Diagram, an opaque fence at least 6 feet in height shall be installed along the south property line along Somer Drive with openings at the three permitted access drives within 180 days of approval of the Special Use Permit.*
8. *A landscape plan shall be developed in consultation with the City Arborist and the staff of Community Development Services within 90 days of approval of the Special Use Permit. The approved elements of the landscape plan shall be established within 180 days and at a minimum shall include the following provisions:*
 - a. *The east property line along Lincoln Avenue shall be screened with either a six-foot high opaque fence or a berm. If the Petitioner utilizes the existing berm for screening, it shall be cleared of any existing concrete or asphalt debris and shall be planted and maintained with either grass or ground cover material.*
 - b. *There shall be a minimum of 20 living evergreen shrubs planted and maintained in a living condition east of the fence or berm along Lincoln Avenue.*
9. *In accordance with Exhibit "G" Site Diagram, there shall be three access drives permitted from Somer Drive. Driveway access permit shall be obtained from the Urbana Public Works Department and the location of the access drives shall be approved by the City Engineer. The access drives shall be constructed to the standards of the Urbana Subdivision and Land Development Code and the following provisions within 180 days of approval of the Special Use Permit:*
 - a. *The eastern most access drive shall be no wider than 35 feet at the property line and shall generally align with the existing eastern drive to Blager Concrete on the south side of Somer Drive;*
 - b. *The central access drive shall be no wider than 35 feet at the property line and shall generally align with the existing western drive to Blager Concrete on the south side of Somer Drive;*
 - c. *The western access drive shall be no wider than 24 feet at the property line and shall generally align with the existing drive to Temple Trucking on the south side of Somer Drive.*
10. *The curb along the north side of Somer Drive that the petitioners have removed or damaged, and where access drives are closed shall be reconstructed to the standards required by the Urbana Subdivision and Land Development Code and to the satisfaction of the City Engineer within 180 days of approval of the Special Use Permit.*
11. *That all areas of public right-of-way along Somer Drive that the petitioners have encroached into and damaged be graded and seeded with grass, to the satisfaction of the City Engineer within 180 days of approval of the Special Use Permit, and shall be maintained by the Petitioner.*
12. *That the Petitioners apply for and obtain a construction permit from the City of Urbana Building Safety Division to extend a water service line installed by the Petitioners and terminating in the public right-of-way on Somer Drive.*

The water line shall be extended to a point inside the fencing required above, and the extension shall be constructed within 180 days of approval of the Special Use Permit.

Mr. White inquired if there had been any contact with the Illinois Environmental Protection Agency (IEPA) regarding compounds from the asphalt leaking into the Saline Branch. Mr. Lindahl stated that this question would be better directed to the petitioner.

Mr. White questioned what would happen if the petitioner were not granted a special use permit. Mr. Lindahl stated that there had been a disagreement for some time now about whether or not the petitioner needed a special use permit. He believed that the petitioner and the City had reached a point in the discussion where they could all move ahead. The concrete and recycling plant was a good operation, and the proposed site was an appropriate location of it. The City had an opportunity to put the disagreement to rest by granting the special use permit.

Ms. Goscha asked a question regarding the water service line. She understood that the petitioner had gone ahead and tapped into the water service without previously applying for a permit from the City. Was the City now asking the petitioner to apply for a permit and put in a new service line? Mr. Lindahl replied by saying that there was a water service main along the north side of Somer Drive. The petitioner had worked with Illinois-American Water Company to tap into the main to provide water for the petitioner to wash out the trucks and for other activities on the site. The water main was located within the City's right-of-way. Therefore, the City would like for the petitioner to apply for a permit, so that the service could lawfully and properly be extended inside of the fence line for use on the property. The City was only asking them to extend the line 15 feet.

Ms. Stake understood that the Apcon Corporation had encroachment of pile materials in the City-owned right-of-way, truck traffic across and damage to the City-owned curb and right-of-way surface on Somer Drive, cutting and removal of City-owned curb on Somer Drive, encroachment of materials into the IN Zoning District required 25-foot front-yard setbacks on Lincoln Avenue and Somer Drive, and installation of a water service line in the city-owned right-of-way. Since the Corporation had done all of this without the City's permission, what made staff think that the Corporation would comply with the City's regulations now? Mr. Lindahl replied that he believed that the City had the opportunity with the petitioner's cooperation to get a special use permit. The City would require the petitioner under the special use permit to get into compliance with the City's regulations. He felt this would be a win-win opportunity for both the City and the petitioner to come to an agreement. Mr. Kowalski added that for many years, the City had been trying to encourage the owners to bring the proposed site into compliance. Staff recently had the opportunity to get together with the owners and decide how to best bring the site into compliance. The petitioner brought the special use request to the City, and staff worked together with the petitioner to develop the attached list of conditions, how they could be accomplished and in what time frame. The petitioner was comfortable with the list of conditions staff recommended along with the approval of the special use permit. The petitioner was committed to following the conditions. Staff felt comfortable that the petitioner would be able to complete the conditions and bring the proposed site into better compliance with the City's codes.

Ms. Stake inquired as to how much water the Apcon Corporation used. Mr. Lindahl referred that question to the petitioner.

John Peisker, Vice-President, Chief Operating Officer of Apcon Corporation, stated that they leased the property through an inter-company lease to Mid-America Recycling. He addressed some of the questions that had been raised.

He confirmed that there had been an ongoing discussion with City staff since about 1998. They initially had been told that they were able to move from one site to the current site. Since that move, there had been ongoing discussions with City staff because there was a disagreement about whether or not this use was allowed by right. At this point, he believed that the City and Apcon Corporation were willing to agree to disagree and put it in the past. Apcon Corporation would like to move forward and try to get the site into compliance, so that the City would be comfortable with it. They were committed to conforming to the rather exhaustive list of conditions attached if the special use permit were approved.

Mr. White voiced that his main concern was with water runoff and what was in the water that runs off. He noted that the water runoff was going into the Saline Ditch. Mr. Peisker stated that the IEPA did not consider concrete or asphalt to be, in any form, hazardous to the runoff. IEPA's particular concern was sedimentation, which would be addressed by the condition that the Apcon Corporation would come up with an engineered stormwater runoff plan and sedimentation control. In terms of toxicity, there were not any.

Mr. White asked if there would be much in the way of tar in the material. Mr. Peisker replied no. The material that was brought in to be recycled was primarily concrete. In the last few years, there had been a change in some of the state laws in terms of resale of asphalt sales to townships and the use of state money for this. So, they had to limit the amount of asphalt coming in, so it was primarily concrete. The materials coming in did not have tar in them. It was a bituminous-based material that was in the asphalt; however, it was a small portion of what was being recycled.

Ms. Stake questioned how they control the dust. Mr. Peisker explained that was the primary use of the water on-site. During the crushing process, the water was used to wet down the material, which suppresses the dust. In addition to any street sweeping that the City does, the Apcon Corporation sweeps once every two weeks as part of their agreement with the IEPA. After they have paved the entrances into the site, it would help to mitigate dust out onto the street.

Ms. Stake agreed it was a good idea to recycle. What was the recycled material used for? Mr. Peisker stated that it was primarily used in the base of parking lots and roadways. It was also used for the aggregate shoulders along the side of a road. He noted that over the last four years, they had averaged about 110,000 tons of recycled material.

Blake Weaver, attorney on behalf of Shirley Squire, stated that she was a neighbor to the petitioner. The Apcon Corporation bounds her property on the south and west. Her property is the non-conforming residential land use shown on Exhibit "G".

By way of history, when the petitioner applied for a special use permit in 1996 for four or five different uses, Ms. Squire's representative at that time indicated to the Plan Commission that she had concerns about dust, odors, etc. As a consequence, she has lived with this process for sometime. She has complained to the owners about the use that takes place on the proposed site and has subsequently filed a lawsuit against the Apcon Corporation. She was alleging that the Apcon Corporation's operations have constituted a nuisance and diminishes her use and enjoyment of her property. She also alleges that their use has been in violation of the required Zoning Ordinance. This lawsuit was filed in 2003. There have been discussions with City staff, and as staff and the petitioner have indicated that there has been a disagreement as to the lawfulness of this use.

The previous special use permit only affected the use of the property west of the Saline Ditch, which was about 1,000 feet from Ms. Squire's property is located. In the original petition, there was the petitioner's argument that dust and particulate from the asphalt plant and the concrete processing plant would be minimized by the baghouse and the vacuums used as part of those plants. Despite those representations, it would be Ms. Squire's position that there was dust and particulate that passes to her property and diminishes her use and her property value.

Ms. Squire was now concerned because it was no longer 1,000 feet away, but only five feet away. Mr. Weaver mentioned that there was a six-foot high solid Cedar fence on the south and west side of her property. When looking at Exhibit "G", you can see a 12' to 15' berm that was adjacent to the fence. The berm got there by dragging material to this site.

They were talking about a perpetual construction site. This was a site where various materials were brought in and dumped by large construction equipment. Most of the large construction equipment was operating during the nice weather from 7:00 a.m. to 3:00 p.m. All of this equipment has the clanging bells when in reverse. There were bulldozers that moved the stockpiles of asphalt and concrete around. There were hydraulic jackhammers that turn the large pieces of concrete into smaller, more manageable pieces, which were stockpiled in the berms and later taken to the crusher. All of this creates in close proximity to Ms. Squire's property noise, dust, visual blight and vibrations. Ms. Squire was concerned about her continuability to use her property, not only as a non-conforming residential use, but any sort of industrial use.

In preparing for the original public hearing regarding this case, in the written staff report, staff was going to recommend a ten-foot setback from Ms. Squire's property line. This had now been reduced to five-feet. There needed to be at least a 25-foot setback and specific requirements for dust control provided to mitigate the effect of the construction use on her adjoining property.

Mr. Weaver believed that the IEPA permitted, with respect to the existing use of the proposed site, only the crusher. He did not believe that the IEPA permit covered the trucks coming in and out, dumping materials, the hydraulic jackhammer, or the bulldozers moving the materials. All of this creates noise and a nuisance. Therefore, on behalf of Ms. Squire, Mr. Weaver urged the Plan Commission to deny the special use permit request. If the Plan Commission approved the request, then he urged a strengthening of the conditions attached to the special use permit to further mitigate the effect of the use that now exists.

Ms. Stake inquired how there came to be industrial zoning around the house to begin with. Mr. Weaver explained that the house was an old schoolhouse. Ms. Squire bought the house on a sentimental whim because her husband, who was now deceased, had actually attended the schoolhouse. She renovated it, and it was used as a residential use. It was County zoning originally, and the City entered into an annexation agreement with one or more of the owners of the consortium. Ms. Squire's property was later annexed after having been surrounded by the petitioner.

Ms. Squire hired him to question the City about getting some enforcement from the Zoning Ordinance. In looking at the minutes from 1996, there was no permitted activity east of the Saline Ditch as a consequence of that special use permit.

Mr. Peisker re-approached the Plan Commission to clarify that the IEPA permit did address the issues that Mr. Weaver was talking about. It did not only permit the crusher, but it regulated the fugitive dust that was created throughout the whole operation.

Ms. Stake asked staff how a house got surrounded by industrial zoning. Ms. Tyler answered by saying that Ms. Squire's property was actually zoned IN as well. Ms. Squire's property was an involuntary annexation, because the surrounding property had been annexed prior to it. She explained that because Ms. Squire did not voluntarily annex and the City did not rezone the property, upon annexation the property was zoned IN because that was the conversion equated from the Champaign County's zoning.

Ms. Upah-Bant wondered if Ms. Squire knew that the property was zoned County Industrial when she purchased it. Ms. Tyler replied that there was a history of different uses of the property. The schoolhouse had been remodeled into a residential use, and at one point it was used as a flower shop. She did not have the complete history to explain why Champaign County zoned it as industrial.

Mr. Hopkins moved that the Plan Commission forward this case to the Urbana City Council with a recommendation for approval along with the attached conditions with the following amendment: Condition 6(c) be changed from five-foot setback to 25-foot setback. He stated that his justification for the change was that the Plan Commission would be granting a special use permit in an industrial zone. He did not feel that it was justified because it was residential, because it was a non-conforming use in an industrial zone. However, it could be justified for the specific use for which the Plan Commission was enacting a special use permit. Ms. Stake seconded the motion.

Mr. White stated that he was not necessarily in favor of increasing the setback, but he was in favor of approving the motion without the change in Condition 6(c).

Ms. Upah-Bant inquired if the Apcon Corporation would still be able to do what they need to do if the City increased the setback to 25-feet. Ms. Tyler commented that the Apcon Corporation could still use the setback area as a driveway. However, they would not be able to place material piles in the setback area. In other locations, setbacks are maintained with jersey barriers or with

some other demarcations to keep the piles back. Mr. Lindahl added this might cause the petitioner to use the setback as a drive to make room where the drives were to be located for stockpiles of materials.

Mr. Peisker stated that they had already setback 25 feet on the side of Lincoln Avenue by putting up a berm. Condition 6(b) requires a 25-foot setback along Somer Drive. Operationally, it would become more difficult if the City whittles away the amount of space that they could utilize. Apcon Corporation would have to do some thinking about whether or not a 25-foot setback from the Squire property would hinder their operations. He did not know if a 25-foot setback would make the neighbors happy since the Apcon Corporation would be able to use the setback area to shuttle materials and be right up against the fence. Currently they are at least eight feet away from the fence.

Ms. Upah-Bant was still concerned that there would be noise and lots of dust. She was not sure that a 25-foot setback would solve the problem. Ms. Squire would still be unhappy.

Ms. Stake commented that it was illegal for the Apcon Corporation to use the proposed site in the way that they have been, unless the City grants them a special use permit. They should at least ask for a 25-foot setback for the sake of Ms. Squire.

Mr. White mentioned that the problem was that the residential property was a non-conforming use, and the Apcon Corporation really did not have the right to operate on the proposed site. He did not see where a 25-foot setback would make that much difference.

Mr. Hopkins liked the berm idea. The difference was that without the setback requirement, the Apcon Corporation could operate and move material in the proposed setback area. There could essentially be a front-end loader, not just operating but dumping materials as well, within five-feet of Ms. Squire's fence.

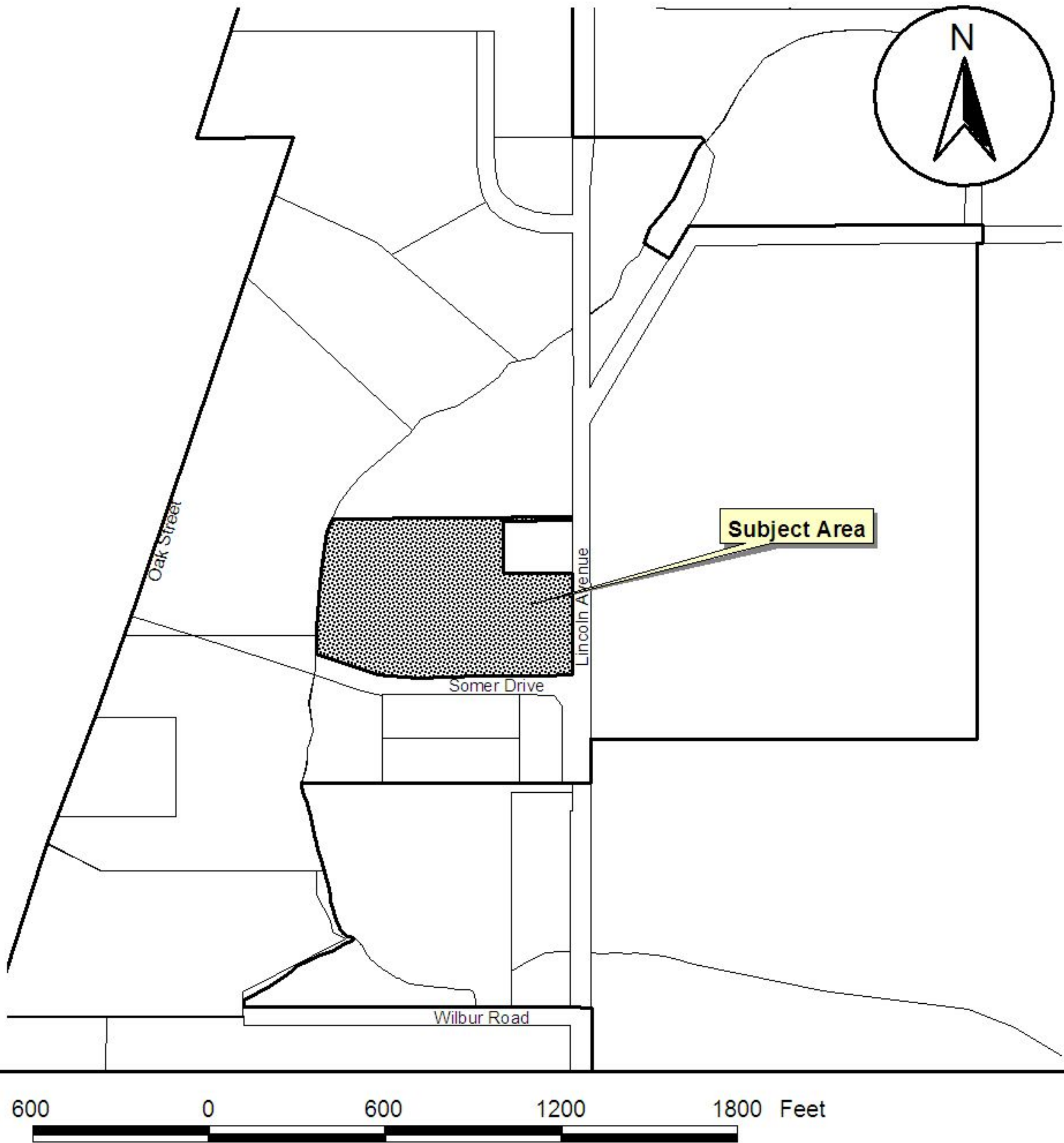
Mr. Kangas stated that this was an agreement with the petitioner to help clean up the site. Would the petitioner back out of the agreement if the City required another 25-foot setback? Mr. Hopkins responded by saying that the Plan Commission was only making a recommendation to the City Council, who would in turn act upon this request.

Roll call was as follows:

Mr. Kangas	-	Yes	Mr. Pollock	-	No
Ms. Stake	-	Yes	Ms. Upah-Bant	-	Yes
Mr. White	-	No	Ms. Goscha	-	Yes
Mr. Hopkins	-	Yes			

The motion was passed by a vote of 5-2.

Exhibit "A": Location Map



Plan Case: 1918-SU-04
Special Use Permit to Allow a Concrete and Asphalt Recycling
Plant as an "Other Industrial Use" in the IN-Industrial Zoning District
Petitioner: Apcon Corporation

Prepared January 24, 2005 by Community Development Services - pal



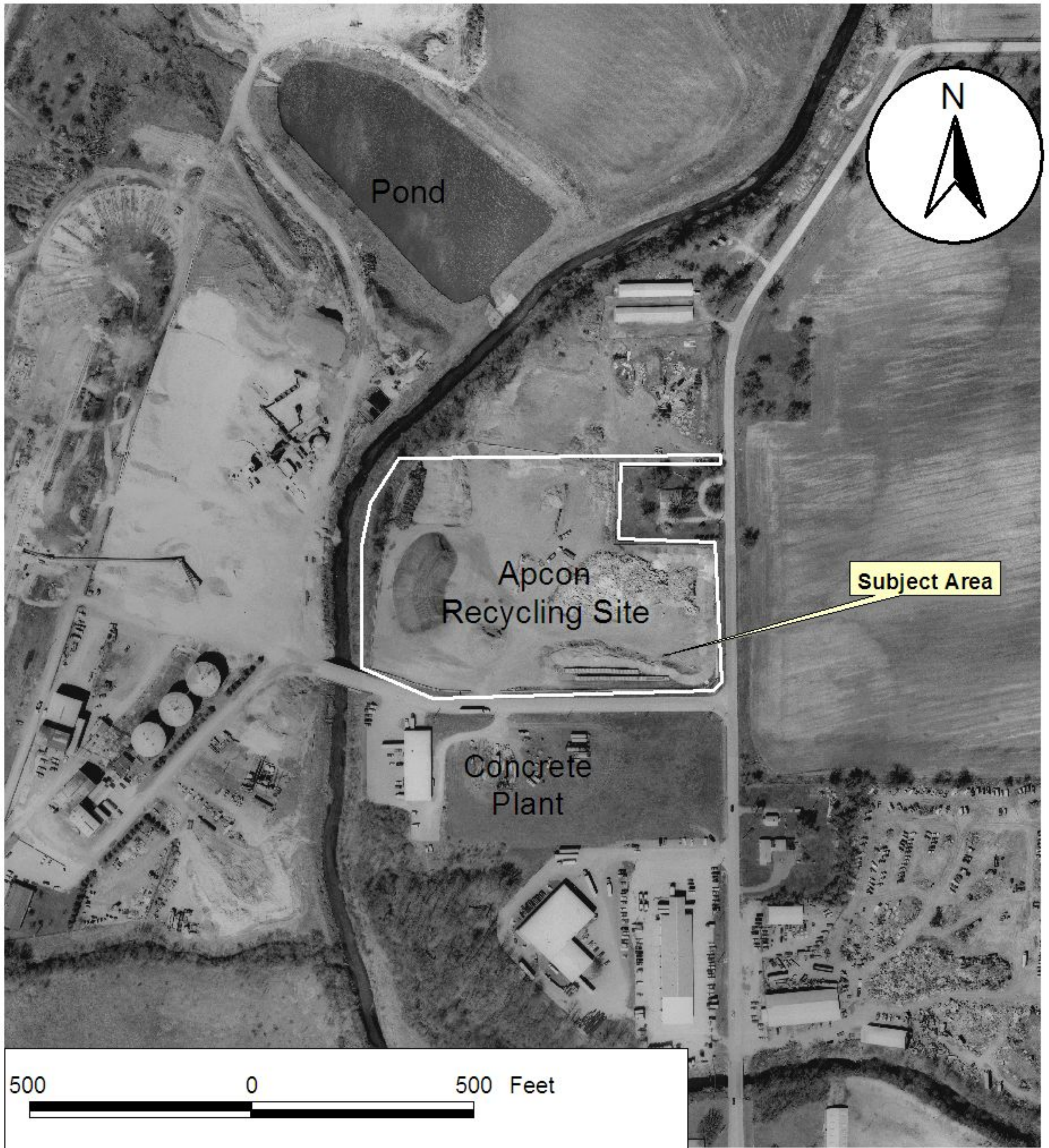
-  City Boundary
-  Subject Property

Exhibit "E": Aerial Map

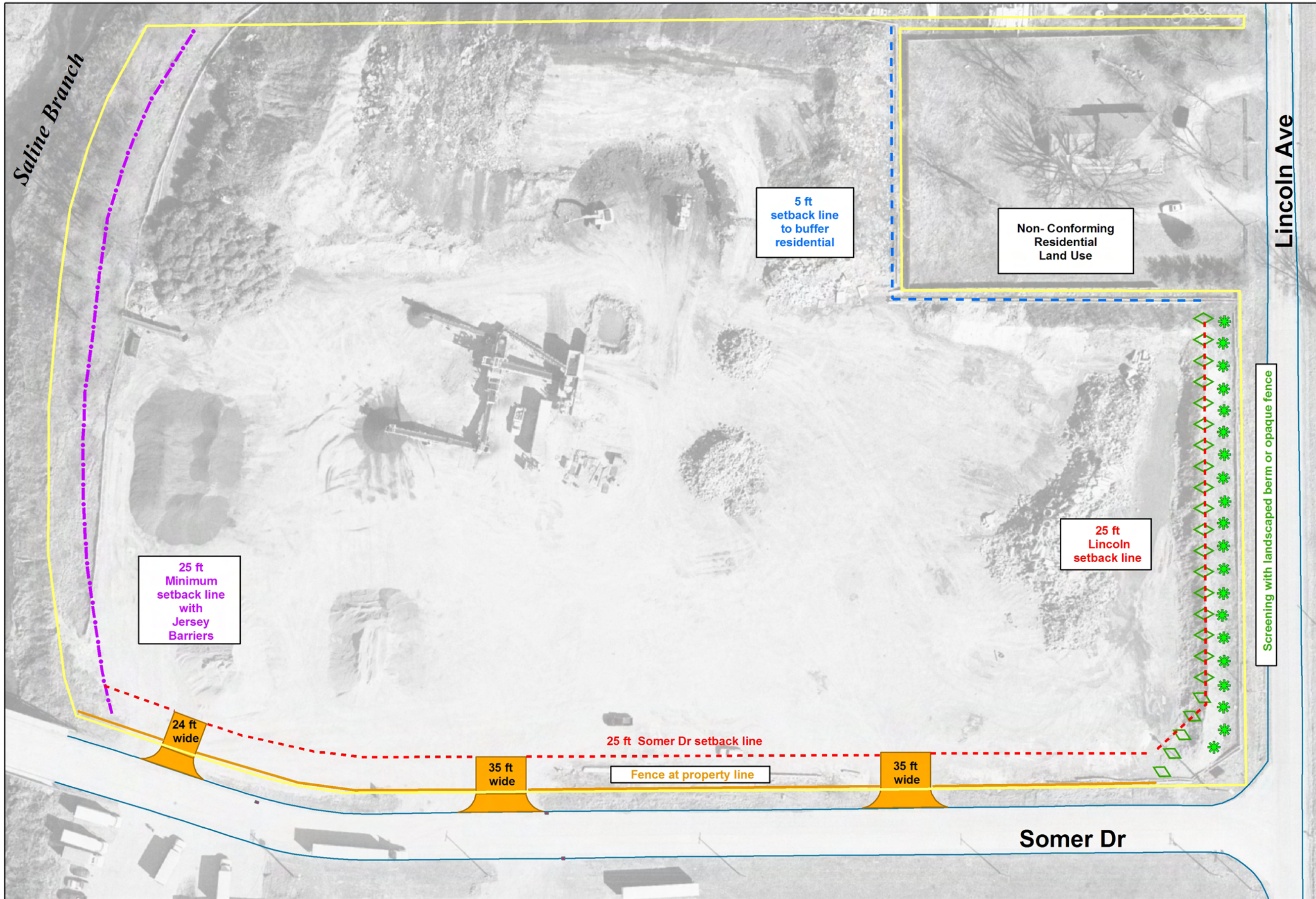


Plan Case: 1918-SU-04
Special Use Permit to Allow a Concrete and Asphalt Recycling
Plant as an "Other Industrial Use" in the IN-Industrial Zoning District
Petitioner: Apcon Corporation

Prepared Febraury 4, 2005 by Community Development Services - rkg

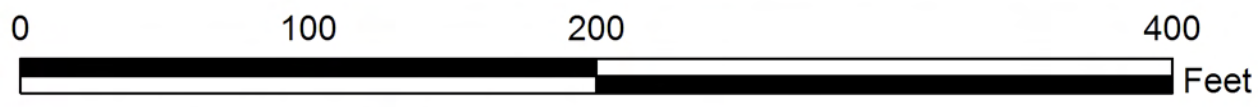
Exhibit "G"

Site Diagram



- Property Line
- 25 ft. Setback
- 25 ft. Min. Setback w/ Jersey Barrier
- 5 ft. Setback
- Screening area with Landscaped Berm or 6-foot Opaque Fence
- 6 ft. Fence at Property Line
- Evergreen shrub line
- Permitted Access Drives

Note:
2002 Aerial Photograph
in background does not
represent exact current
location of objects.



Prepared 3/05/2005 by Community Development Services - pal

Plan Case: 1918-SU-04
Special Use Permit to Allow a Concrete and Asphalt Recycling Facility in the IN - Industrial Zoning District
Petitioner: Apcon Corporation
Location: Somer Drive west of Lincoln Avenue