



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Director

DATE: April 30, 2009

SUBJECT: CCZBA-634-AT-08: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning wind turbine developments (wind farms).

Introduction and Background

The Champaign County Zoning Administrator is requesting a text amendment to the Champaign County Zoning Ordinance in Champaign County Case No. CCZBA-634-AT-08. The purpose of this amendment is to allow wind farm developments by a special use permit, approved by the County Board, and to establish standard conditions for approval of wind farm developments in the County's jurisdiction.

Illinois State Law does not allow for counties to regulate wind farms and electric-generating wind devices within 1.5 miles of a municipality. State law instead allows for municipalities to regulate wind farms and electric-generating wind devices within its zoning jurisdiction and within the 1.5 mile radius (ETJ) surrounding its zoning jurisdiction. This means that the County does not have authority to regulate wind farms and electric-generating wind devices in the ETJ even though they would normally have zoning authority in this area. As a result of State law, the proposed text amendment concerning wind farm developments does not apply to the City of Urbana's ETJ.

The current Champaign County Zoning Ordinance was amended in October 2000 to include requirements for wind turbines. The Champaign County Zoning Ordinance currently allows the following:

- Development of up to three wind turbines by a special use permit approved by the Zoning Board of Appeals (ZBA) in the AG-1, Agriculture, AG-2, Agriculture, I-1, Light Industry and I-2, Heavy Industry Zoning Districts.
- Development of more than three wind turbines by a special use permit approved by the ZBA, but only in the I-2, Heavy Industry Zoning District.

The Champaign County Zoning Ordinance does not include specific site development requirements pertaining to wind turbines. Wind turbines are currently evaluated per the standard criteria for special use

permits. The Zoning Ordinance does, however, consider a wind turbine to be a “non-adaptable structure”, and a reclamation agreement with a letter of credit to fund reclamation of the site is required.

Two issues have arisen causing the Champaign County Environment and Land Use Committee (ELUC) to direct County staff to prepare a text amendment concerning wind farms. First, State law (55 ILCS 5/5-12020) was changed in 2007 to require that a wind farm be authorized by County Board action in County zoning jurisdictions. Second, some County land owners have been contacted by wind farm developers concerning development of their property as part of possible wind farm developments. Due to the complex nature of the proposed text amendment, County Planning staff and the County ZBA discussed the text amendment at meetings on February 12, February 26, March 12 and March 26 of this year. For reference, staff memos for the first and last meetings have been included as Exhibit A and B, respectively. Attachments to the memos have, however, not been included because of the volume of information. This information is available by request.

At their March 26, 2009 meeting, the ZBA voted to “RECOMMEND ENACTMENT” of a Zoning Ordinance Text Amendment concerning wind farms to ELUC. The Environmental and Land Use Committee reviewed the proposed text amendment at their meeting on April 13, 2009. The Committee has made a tentative recommendation that includes changes to the recommendation by the ZBA. (See Exhibit C) ELUC is anticipated to make a final recommendation to the Champaign County Board at their meeting on May 12, 2009. The final ELUC recommendation is expected to be considered at the County Board’s May 21, 2009 meeting.

At their April 23, 2009 meeting the Urbana Plan Commission, in a vote of 6 ayes and 0 nays, recommended that City Council defeat a resolution of protest concerning the proposed Champaign County Zoning Ordinance text amendment. Under state law, a municipal protest of the proposed amendment would require three-fourths super majority of affirmative votes for approval of the request at the County Board; otherwise, a simple majority would be required.

Discussion

The proposed text amendment will allow for a wind farm by a special use permit approved by the County Board in the AG-1 Zoning District. The proposed text amendment is included in its entirety in Exhibit C. A number of changes are proposed to the Champaign County Zoning Ordinance to fully incorporate wind farm developments into the current Zoning Ordinance. For example, necessary miscellaneous changes to the definitions, use table, regulations and standards, special uses and fees are required. The most substantive change proposed by the text amendment is the inclusion of a section concerning general standard conditions for wind farm developments in *Section 6: Standards for Specific Special Uses* in the Champaign County Zoning Ordinance. The section specifically states that a County Board Special Use Permit may only be authorized for a wind farm in the AG-1 Zoning District subject to a set of standard conditions. These conditions include such items as:

- General Standard Conditions
- Minimum Lot Standard Conditions
- Minimum Standard Conditions for Separations for Wind Farm Towers from Adjacent Uses and Structures

- Standard Conditions for Design and Installation of Wind Farm Towers
- Standard Conditions to Mitigate Damage to Farmland
- Standard Conditions for Use of Public Streets
- Standard Conditions for Coordination with Local Fire Protection District
- Standard Conditions to Mitigate Electromagnetic Interference
- Standard Conditions for Allowable Noise Level
- Standard Conditions for Endangered Species Consultation
- Standard Conditions for Historic and Archaeological Resources Review
- Standard Conditions for Acceptable Wildlife Impacts
- Standards Conditions for Shadow Flicker
- Standard Condition for Liability Insurance
- Operational Standard Conditions
- Standard Conditions for Decommissioning Plan Reclamation Agreement
- Complaint Hotline
- Standard Condition for Expiration of Wind Farm County Board Special Use Permit.

Typically, proposed Champaign County text amendments are of interest to the City of Urbana to the extent that they will affect zoning and land use development decisions within the City’s one-and-one-half mile extra-territorial jurisdictional (ETJ) area. The City has subdivision and land development jurisdiction within the ETJ area, while the County holds zoning jurisdiction in this area. It is therefore important that there be consistency between these two jurisdictions to the extent that certain regulations may overlap. This case is unique in the fact that State law does not give the County authority to regulate wind turbines and wind farms in the ETJ. Therefore, only minimal impact exists to the ETJ in as much as a wind farm could be developed in the County, adjacent to the boundary of the ETJ.

Urbana 2005 Comprehensive Plan

By State law, the City has an obligation to review zoning decisions within its extra-territorial jurisdiction area for consistency with the City’s comprehensive plan. Although Champaign County’s proposed Zoning Ordinance text amendment does not specifically apply to the ETJ, it should be reviewed for consistency with the City of Urbana’s 2005 Comprehensive Plan to the extent that the ETJ is impacted by wind farm developments adjacent to the ETJ. Following are the goals and objectives of the Urbana Comprehensive Plan that relate to this case:

Goal 17.0 Minimize incompatible land uses.

Objective 17.1 Establish logical locations for land use types and mixes, minimizing potentially incompatible interfaces, such as industrial uses near residential areas.

Objective 17.2 Where land use incompatibilities exist, promote development and design controls to minimize concerns.

Goal 21.0 Identify and address issues created by overlapping jurisdictions in the one-and-one-half mile Extraterritorial Jurisdictional area (ETJ).

Objective 21.1 Coordinate with Champaign County on issues of zoning and subdivision in the ETJ.

Objective 21.2 Work with other units of government to resolve issues of urban development in unincorporated areas.

Goal 33.0 Provide maximum service and dependable utilities.

Objective 33.5 Promote the use of alternative energy sources, such as wind and solar.

The proposed text amendment is generally consistent with these goals and objectives. It allows for continued agricultural use in areas outside of the City's extra-territorial jurisdiction, while at the same time providing a means to use an alternative energy source. Specific standard conditions have been included in the proposed text amendment that will minimize the impact of wind farms developments on adjacent properties.

Zoning Impacts

Urbana's Zoning Ordinances does not explicitly allow for wind turbines; however, they could be considered as a form of utility and be required to comply with manufacturer's recommendations. Because State law gives authority to municipalities to regulate wind turbines and wind farms and electric-generating wind devices within its zoning jurisdiction and within the its ETJ, it is the intent of the Zoning Administrator to propose a text amendment to the Urban Zoning Ordinance concerning electric-generating wind devices in the near future. As noted above, this is consistent with Goal 33.0 of the Urbana Comprehensive Plan to promote the use of alternative energy sources.

Issues of Concern

As with the addition of any new use, it is necessary to assess the potential impact of the use on adjacent properties and to establish necessary requirements to minimize or mitigate such impacts. Issues such as compatibility with other uses, setbacks, height, lot size, noise, safety and aesthetics are often considered. In the case of the wind farm text amendment, the County has completed an assessment and has subsequently proposed a text amendment that would permit wind farms by a special use permit approved by the County Board in the AG-1 Zoning District. There has been public concern about this proposed procedure. Early in the process of review, two alternatives were proposed for approval of wind farms. The first alternative, approval by a County Board Special Use Permit, is what is proposed in the text amendment. The second alternative proposed would involve approval by zoning map amendment (overlay rezoning) and County Board Special Use Permit. Special use procedures do not provide for formal protest rights, whereas zoning map amendments do. Concerns have been raised by dissenting parties that there would be no formal protest rights if only a special use is required. Protest rights would mean that if a resolution of protest is filed with the County, then a three-fourths super majority of affirmative votes would be required for approval of a request at the County Board; otherwise, a simple majority would be required. In either case, the public would still have the ability to attend all public hearings and meetings to voice concerns.

In respect to the City of Urbana, either of the proposed methods of approval for wind farm developments would be acceptable. Due to the detail of the standard conditions required by the proposed text amendment, support for alternative energy sources in the Comprehensive Plan, and the fact that

municipalities may regulate wind farms and electric-generating wind devices within its ETJ, the proposed text amendment will not significantly impact the City of Urbana.

Summary of Findings

1. Champaign County Zoning Case No. CCZBA 634-AT-08 would allow for wind farm developments in the AG-1, Agriculture Zoning District by a special use permit approved by the County Board and will establish standard conditions for approval of wind farm developments.
2. Based on State law, the proposed zoning ordinance text amendment is not applicable City of Urbana's ETJ.
3. The proposed zoning ordinance text amendment is generally consistent with the goals and objectives of the Urbana 2005 Comprehensive Plan.
4. The proposed zoning ordinance text amendment would not pose a significant detriment to the City of Urbana or to the extra-territorial jurisdiction of the City of Urbana.
5. At their April 23, 2009 meeting the Urbana Plan Commission, in a vote of 6 ayes and 0 nays, recommended that City Council defeat a resolution of protest concerning the proposed Champaign County Zoning Ordinance text amendment.

Options

The City Council has the following options regarding proposed text amendments in CCZBA Case No. 634-AT-08:

1. Defeat a resolution of protest; or
2. Defeat a resolution of protest contingent upon some specific revision(s) to the proposed text amendments; or
3. Adopt a resolution of protest.

Recommendation

Based on the analysis and findings presented herein, the Urbana Plan Commission and staff recommend that City Council **DEFEAT a resolution of protest** for the proposed County Zoning Ordinance text amendment.

Prepared by:

Lisa Karcher, AICP, Planner II

Attachments: Draft Resolution of Protest

Exhibit A: Memorandum to the Champaign County ZBA dated February 6, 2009

Exhibit B: Memorandum to the ELUC dated April 7, 2009

Exhibit C: ELUC Tentative Recommendation

Draft Minutes of April 23, 2009 Plan Commission Meeting

cc: John Hall, Champaign County Zoning Administrator

RESOLUTION NO. 2009-05-018R

**A RESOLUTION OF PROTEST AGAINST A PROPOSED TEXT AMENDMENT TO THE CHAMPAIGN
COUNTY ZONING ORDINANCE**

(Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning wind turbine developments (wind farms) / Plan Case No. CCZBA 634-AT-08)

WHEREAS, the Champaign County Zoning Administrator has petitioned the County of Champaign for a zoning text amendment to the Champaign County Zoning Ordinance in Champaign County ZBA Case No. 634-AT-08 concerning wind turbine developments (wind farms); and

WHEREAS, said amendment has been submitted to the City of Urbana for review and is being considered by the City of Urbana under the name of "CCZBA-634-AT-08: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance to authorize the County Board to approve Special Use Permits (SUP) and to change the requirements for the development of wind turbine developments (wind farms) to a County Board Special Use Permit (CBSUP)"; and

WHEREAS, said amendment is consistent with the City of Urbana's 2005 Comprehensive Plan and would help to minimize land use incompatibilities and require a higher level of review for wind farm developments adjacent to the City's Extra-territorial jurisdiction; and

WHEREAS, the Urbana Plan Commission, after considering matters pertaining to said Petition at their meeting on April 23, 2009, has recommended by a vote of six ayes to zero nays that the Urbana City Council defeat a resolution of protest concerning the proposed text amendment to the Champaign County Zoning Ordinance; and

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed text amendment is not in the best interests of the City of Urbana.

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

Section 1. The City Council finds and determines that the facts contained in the above recitations are true.

Section 2. That the Urbana City Council hereby resolves that the City of Urbana, pursuant to the provisions of 55 ILCS 5/5-12014, does hereby adopt a Resolution of Protest against the proposed text amendment as presented in CCZBA-634-AT-08.

Section 3. The City Clerk of the City of Urbana is authorized and directed to file a certified copy of this Resolution of Protest with the County Clerk of the County of Champaign, and to mail a certified copy of this resolution to the Petitioner, Mr. John Hall at 1776 East Washington, Urbana, Illinois 61801 and to the State's Attorney for Champaign County and Attorney for the Petitioner, at the Champaign County Courthouse, Urbana, Illinois, 61801.

PASSED by the City Council this _____ day of _____, 2009.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____,
2009.

Laurel Lunt Prussing, Mayor

CASE NO. 634-AT-08

PRELIMINARY MEMORANDUM

February 6, 2009

Champaign
County
Department of

Petitioner: **Zoning Administrator**

**PLANNING &
ZONING**

Prepared by: **John Hall**
Zoning Administrator

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

J.R. Knight
Associate Planner

Request:

(217) 384-3708
FAX (217) 328-2426

- (A) Authorize the County Board to approve Special Use Permits (SUP) and to change the requirements for the development of wind turbine developments (wind farms) to a County Board Special Use Permit (CBSUP) and a rezoning to the new Wind Farm Overlay Zoning District (WFO).**
- (B) Change the requirements for private wind turbines.**
- (C) Add a requirement for a County Board Special Use Permit for subdivisions in a Rural Residential Overlay District.**

BACKGROUND

Requirements for wind turbine facilities were added to the Champaign County Zoning Ordinance by Ordinance No. 617 (Case 236-AT-00) on October 24, 2000 (see Attachment A). Ordinance No. 617 specifically authorized the following:

- Development of up to three wind turbines by Special Use Permit (approved by the Zoning Board of Appeals (ZBA)) in the AG-1 Agriculture, AG-2 Agriculture, I-1 Light Industry, and I-2 Heavy Industry Zoning Districts.
- Development of more than three wind turbines is authorized only in the I-2 Heavy Industry Zoning District and then only with a Special Use Permit (approved by the ZBA).

A related Ordinance No. 625 (Case 273-AT-00 Part B; see attached) added requirements for reclamation agreements on May 22, 2001. It is anticipated that any wind turbine tower would be considered a “non-adaptable structure” and the ZBA would require a reclamation agreement.

State law was changed in 2007 and it now requires that in a county zoning jurisdiction a wind farm must be authorized by action of the county board but it allows that regulations that were in place before remain valid. See attachment C.

No wind farms have yet been developed in Champaign County but three wind farm developers have contacted landowners about the possible development of three different wind farms in the County. A modern wind farm in a rural setting involves tens of thousands of acres and perhaps hundreds of landowners but only one wind farm developer and so it would be considered a single zoning case. And as amended by Ordinance No. 617 the current *Zoning Ordinance* would require a wind farm to be in the I-2

Heavy Industry District even though most of the acreage of the wind farm would not be suitable for other buildings or uses. The Environment and Land Use Committee (ELUC) of the Champaign County Board discussed the current *Ordinance* requirements for wind farms at their August 2008 meeting and determined that the *Zoning Ordinance* should be amended to allow wind farm development in the rural districts subject to a County Board review. Attachments D, E, and F are ELUC memos that were considered in subsequent meetings and provide background on the discussion at ELUC.

Note that Attachment D discusses two alternatives for County Board approval of wind farms. The alternatives are (1) County Board Special Use Permit and (2) zoning map amendment (overlay rezoning) and County Board Special Use Permit. No other Illinois county requires a map amendment for wind farm development. Staff did not make a recommendation for the type of County Board approval at either the September or October ELUC meetings.

The November 6, 2008, ELUC memo (Attachment F) includes a staff recommendation for the County Board Special Use Permit. However, eight of the nine ELUC members at that meeting voiced support for the alternative that included a zoning map amendment (overlay rezoning). Attachment F also includes a list of the proposed changes to the *Ordinance*.

PROPOSED AMENDMENT

The actual legal advertisement for this case is included as Attachment G and you will note that it is much more extensive than the simple description included above. Attachments H, I, J, and K are not all of the required amendment and the rest of the amendment will be available at the meeting. These attachments do include the most critical part of the amendment and that is the list of standard conditions proposed for a wind farm County Board Special Use Permit (see Attachment K).

The proposed special conditions are based largely on the *Model Ordinance Regulating The Siting Of Wind Energy Conversion Systems In Illinois* (see Attachment L included separately) which is also the basis for wind farm regulations by other Illinois counties. Note that this *Model Ordinance* has not been promulgated by any state agency and it should not be considered a state model ordinance. A model ordinance published by the New York State Energy Research and Development Authority (see Attachment M included separately) provides more background regarding considerations for a wind farm ordinance.

Comparing the proposed special conditions in Attachment K with the *Model Ordinance* in Attachment L will reveal where staff has supplemented the *Model Ordinance* recommendations. Other sources that have been consulted in the preparation of this amendment include ordinances from other counties; special conditions that other counties have required for wind farm approval; and other nationally recognized organizations. The relevant source for each proposed condition will be reviewed at the meeting but time does not allow a listing to be included in this memorandum.

Other attachments that have also been included separately for additional background information are the following:

- The website of the Danish Wind Industry Association (www.windpower.org) has a very good introduction to wind farms so long as you remember this is an industry website and is therefore

inclined to be positive towards wind farm development. Certain sections of the “guided tour” have been included here for background information (see Attachment N).

- Title 35 *Illinois Administrative Code* Subtitle H: Noise Parts 900, 901, 910 (see attachment O) is the Illinois Pollution Control Board (IPCB) regulations for noise that are included in the proposed amendment. Noise impacts are probably the most controversial aspect of wind farm regulation. The IPCB regulations already apply throughout the State and are enforced by the Illinois Environmental Protection Agency (IEPA).
- An alternative approach to noise regulation for wind farm development can be found in the regulations for Trempealeau County, Wisconsin (see attachment P). These regulations were submitted at the November 10, 2008, ELUC meeting by a concerned citizen. This attachment includes a letter that was written to Trempealeau County by George Kampeman and Richard James who appear to be experts. Messer’s Kampeman and James were also the authors of *The “How to” Guide To Siting Wind Turbines To Prevent Health Risks From Sound* (see Attachment R). This *Guide* is from the Industrial Wind Action Group website (www.windaction.org) which is also a useful source of information so long as one is aware that this website also has a specific approach towards wind farm regulation.

Attachments P and R are not included here as an indication of support for this approach but are provided simply as background information.

As the ZBA is aware, the next four meetings (February 12, February 26, March 12, and March 26) have been reserved for only this text amendment. The list of special conditions is quite extensive and ZBA members need to be comfortable with all proposed requirements. It may be useful for the ZBA to begin by reviewing the special conditions proposed in Attachment K because that will help in understanding how a wind farm compares to and impacts the other uses that can be found in the AG-1 District. Understanding wind farm impacts on other uses is essential to making an informed recommendation regarding the need for a map amendment.

No other Illinois county requires a map amendment for wind farm development but no other Illinois county zoning ordinance is like our own. The ZBA should not recommend a map amendment if the evidence presented in the public hearing does not support the need for a map amendment.

A Draft Finding of Fact will also be available at the meeting. As is the practice in all other text amendments, all relevant evidence should be summarized in the Finding of Fact so that the County Board can understand the reasoning of the ZBA in the final recommendation.

ATTACHMENTS

- A Ordinance No. 617 (Case 236-AT-00)
- B Ordinance No. 647 (Case 273-AT-00 Part B)
- C 55 ILCS 5/5-12020
- D ELUC Memorandum of September 4, 2008 (without attachments)
- E ELUC Memorandum of October 14, 2008 (without attachments)
- F ELUC Memorandum of November 6, 2008 (with Attachment A)
- G Legal advertisement for Case 634-AT-08
- H Draft Proposed Changes To Section 2
- I Draft Proposed Changes To Section 3
- J Draft Proposed Changes To Section 5
- K Draft Proposed New Subsection 6.1.4
- L *Model Ordinance Regulating The Siting Of Wind Energy Conversion Systems In Illinois*. Chicago Legal Clinic, Inc. (Included separately)
- M *WIND ENERGY Model Ordinance Options*. New York State Energy Research and Development Authority(Included separately)
- N Excerpts from the Danish Wind Industry Association website (www.windpower.org) Guided Tour on Wind Energy (Included separately)
- O Title 35 Illinois Administrative Code Subtitle H: Noise Parts 900, 901, 910 (Included separately)
- P Chapter 21 Wind Generator and Wind Generating Facility Ordinance for Trempealeau County, Wisconsin (includes letter to Mr. David Vind from George Kampeman and Richard James dated October 24, 2007) (Included separately)
- R Excerpts from the Industrial Wind Action Group website (www.windaction.org) including *The "How to" Guide To Siting Wind Turbines To Prevent Health Risks From Sound* by George Kamperman and Richard James, October 28, 2008. (Included separately)

Champaign
County
Department of

**PLANNING &
ZONING**

To: **Environment and Land Use Committee**

From: **John Hall**, Zoning Administrator
JR Knight, Associate Planner

Date: **April 7, 2009**

RE: **Zoning Case 634-AT-08**

Zoning Case 634-AT-08 Part A

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

(217) 384-3708
FAX (217) 328-2426

Request A) **Authorize the County Board to approve Special Use Permits (SUP) and to change the requirements for the development of wind turbine developments (wind farms) to a County Board Special Use Permit (CBSUP).**

Petitioner **Zoning Administrator**

STATUS

The Zoning Board of Appeals voted to "RECOMMEND ENACTMENT" of this proposed Zoning Ordinance Text Amendment at their March 26, 2009, meeting. The Approved Finding of Fact is attached and the recommended amendment is an attachment to the Finding of Fact.

The Committee provided direction for this text amendment at the November 9, 2008, meeting. Note the recommended amendment is substantially different than the direction provided by the Committee at that meeting. See the discussion below.

Two possible changes to the ZBA recommendation are briefly discussed below.

The Committee must tentatively choose an amendment to forward to the County Board in May but should continue this case to the next meeting to allow municipalities and townships a chance to formally comment on the recommendations of the ZBA and ELUC.

BACKGROUND

Three wind farm developers have contacted county landowners about the possible development of three different wind farms in the County. The current *Zoning Ordinance* would require a wind farm to be in the I-2 Heavy Industry District even though most of the acreage of the wind farm would not be suitable for other buildings or uses. ELUC discussed the current *Ordinance* requirements for wind farms at their August 2008 meeting and determined that the *Zoning Ordinance* should be amended to allow wind farm development in the rural districts subject to a County Board review. Final Committee direction for this text amendment was received at the November 9, 2008, meeting. The ZBA considered this text amendment at their meetings on February 12, February 26, March 12, and March 26, 2009, and have recommended the attached amendment (see Attachment B).

Previous ELUC Direction Versus ZBA Recommendation Regarding Need For Map Amendment

At the November 9, 2008, meeting the Committee appeared to favor a combined approach for wind farm zoning approval requiring both a map amendment and a county board special use permit. The legal

advertisement for this case included requirements for both a map amendment and a county board special use permit.

During the public hearing the ZBA reviewed two versions of the amendment including one with the combined approach (a map amendment and a county board special use permit) and one with only the county board special use permit. Public testimony was mixed regarding the map amendment requirement. No other Illinois county requires a map amendment for wind farm development but no other Illinois county zoning ordinance is like our own. The three wind farm developers interested in Champaign County were uniformly opposed to the map amendment requirement.

On a four to two vote with one recusal (one ZBA member owns land in one of the proposed wind farm areas) the ZBA recommended an amendment requiring only a county board special use permit. Item 13 of the Finding of Fact makes it clear that the ZBA believes the proposed conditions will mitigate the impacts of a wind farm on adjacent properties.

There is no way to conclusively determine whether a particular use should be in one zoning district or another. The decision is a legislative decision made by the relevant authority (County Board in this instance) but should be consistent with other relevant land use regulations and all relevant land use goals and policies. The Finding of Fact evaluates the recommended amendment against all relevant land use goals and policies.

Recommended Special Use Permit Standards

At the November 9, 2008, meeting the Committee also reviewed a list of 45 items to be included in the proposed amendment as "standard conditions" for a county board wind farm special use permit. The recommended standard conditions are based largely on the *Model Ordinance Regulating The Siting Of Wind Energy Conversion Systems In Illinois* which is also the basis for wind farm regulations by most other Illinois counties. Note that this *Model Ordinance* has not been promulgated by any state agency and it should not be considered a state model ordinance. Attachment A briefly reviews the source or justification for all proposed standard conditions.

ELUC REVIEW AND MUNICIPAL AND TOWNSHIP COMMENT

ELUC only ever makes a recommendation on a text amendment to the County Board because the County Board is the final authority on all Zoning Ordinance text amendments. A simple majority of elected Board members (14 of 27) is required for approval if there is no municipal or township protest against the text amendment. Municipalities that have adopted their own zoning ordinances and townships with plan commissions have formal protest rights on text amendments and a protest from just one municipality or one township with plan commission will trigger the supermajority requirement (21 of 27 elected Board members) for approval.

This is the first Committee review of the ZBA recommendation. At this time the Committee should make a tentative choice to either accept or modify the ZBA recommendation. Notices and copies of the recommended amendment will then be sent to all affected municipalities and townships. The Committee will receive an update of all correspondence received on this case at the May 11, 2009, meeting and presumably make a recommendation for the County Board to consider on May 21, 2009.

I have received requests from Board members to be prepared to entertain amendments regarding two of the standard conditions recommended by the ZBA.

An Alternative Lesser Separation For Non-Participating Dwellings

Several Board members have expressed a concern that the minimum required 1,500 feet separation to non-participating dwellings (subpar. 6.1.4 C.2. in the proposed amendment) is more restrictive than is necessary to protect adjacent non-participating dwellings. Most of the deliberation by the ZBA was regarding this specific standard condition and it was carefully considered. The 1,500 feet recommendation was originally proposed in a memorandum written by a ZBA member and was based on noise concerns. The evidence in the public hearing indicated that a separation distance of 1,500 feet should probably be adequate to mitigate the noise in a worst case scenario involving four turbines but 1,500 feet is not required to mitigate noise in instances involving one or two turbines.

If the Committee is convinced that this requirement is too severe an alternative has been included as Attachment B. As discussed in Item 8.D. of the Finding of Fact, the Illinois Pollution Control Board regulations assume that the theoretical long term ambient background nighttime noise level for a quiet rural setting is 30 decibels and a 10 decibel increase would be perceived as a doubling of that noise level for existing dwellings. The alternative allows a lesser separation provided that the resulting noise at the property line of a non-participating dwelling is no more than 40 decibels.

Of course, the Committee could also recommend a lesser separation that would allow the resulting noise level at the property line of a non-participating dwelling to be greater than 40 dB. Such an approach would almost certainly result in a greater number of noise complaints.

An Alternative Lesser Separation For Pipelines

Other separations that received a lot of attention from the ZBA were those in regards to pipeline and water or sewer main separations (subpar. 6.1.4 C. 9.(a). and (d). The safety considerations related to gas or hazardous liquids pipelines may be much different than the safety considerations related to water and sewer mains but these underground utilities were considered in the same subparagraph that requires a 1,200 feet separation from the base of wind farm tower to the nearest pipeline or sewer or water main easement.

Since the public hearing at least one wind farm developer has stated that the 1,200 feet requirement for pipeline separations is severely restrictive and will be very detrimental to wind farm development in the County. That developer recommends a separation similar to that for public streets and third party power lines that is 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade). See attachment C.

ATTACHMENTS

- A Source Or Brief Justification Of All Recommended Standard Conditions
- B Alternative Separation For Non-Participating Dwellings (subpar. 6.1.4C.2)
- C Alternative Separation For Pipelines (subpar. 6.1.4C. 7. & 9.)
- D Summary of Evidence, Finding of Fact, and Final Determination of the Champaign County Zoning Board of Appeals (includes the recommended amendment as an attachment) as approved on March 26, 2009

Champaign
County
Department of

**PLANNING &
ZONING**

April 15, 2009

Champaign County Municipalities with Zoning (see attached list)

RE: **Champaign County Zoning Ordinance Text Amendment (Case 634-AT-08)**

To Whom It May Concern:

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

(217) 384-3708
FAX (217) 328-2426

The Environment and Land Use Committee (ELUC) of the Champaign County Board made a tentative recommendation on **Case 634-AT-08 Part A** at their April 13, 2009, meeting. The Recommended Text Amendment is attached. Municipal comments received by the May 11, 2009, meeting will be reviewed by ELUC at that meeting.

As was explained in your notice of January 26, 2009, ELUC is expected to make a final recommendation at their May 11, 2009, meeting. The final ELUC recommendation is expected to go to the Champaign County Board at their May 21, 2009, meeting.

State law (55 ILCS 5/5-12014) provides that municipalities with zoning have the right to protest a proposed text amendment. Accordingly, **any municipal protest of this ELUC recommendation in Case 634-AT-08 Part A must be received by the Champaign County Clerk before action is taken on the amendment by the full County Board.**

If you have questions or comments about this proposed amendment or County regulations in general, please do not hesitate to contact me or James R. Knight, Associate Planner, at (217) 384-3708.

Sincerely,



John Hall
Zoning Administrator

ATTACHMENTS

- A List of Recipients
- B Annotated Recommended (ELUC) Text Amendment in Case 634-At-08 Part A

LIST OF JURISDICTIONS

Marilyn Banks, City Clerk, City of Champaign, 102 North Neil Street, Champaign IL 61820

Bruce Knight, Planning Director, City of Champaign, 102 North Neil Street, Champaign IL 61820

Rob Kowalski, Assistant Planning Director, City of Champaign, 102 North Neil Street, Champaign, IL 61820

Phyllis D. Clark, City Clerk, City of Urbana, 400 South Vine Street, Urbana IL 61801

Elizabeth Tyler, Community Development Director, City of Urbana, 400 South Vine Street, Urbana IL 61801

Robert Myers, Planning Manager, City of Urbana, 400 South Vine Street, Urbana, IL 61801

Brandy Hopkins, City Clerk, City of Villa Grove, POB 108, Villa Grove IL 61956

Ron Hunt, Mayor, City of Villa Grove, POB 108, Villa Grove IL 61956

John Cutsinger, Village President, Village of Allerton, POB 51, Allerton IL 61810

Martin Shunk, Village Clerk, Village of Allerton, POB 51, Allerton, IL 61810

Susanne Sullivan, Village Clerk, Village of Bondville, POB 116, Bondville, IL 61815

William Dale Munds, Village President, Village of Bondville, POB 116, Bondville, IL 61815

Linda Ward, Village Clerk, Village of Broadlands, POB 50, Broadlands IL 61816

Bruce P Block, Mayor, Village of Broadlands, POB 50, Broadlands IL 61816

Laura Trovillion, Village Clerk, Village of Fisher, 609 South Fifth Street, Fisher, IL

Ronald E. Adams, Village President, Village of Fisher, 609 South Fifth Street, Fisher, IL 61843

Cynthia M. Duden, Village Clerk, Village of Gifford, POB 392, Gifford IL 61847

Jon E Bouse, Village President, Village of Gifford, POB 392, Gifford IL 61847

Sharon Jeffers, Village Clerk, Village of Homer, 500 East Second Street, Homer IL 61849

David K. Lucas, Village President, Village of Homer, 500 East Second Street, Homer IL 61849

Paul Hendren, Village Attorney, POB 980, 30 East Main Street, Champaign, IL 61824-0980

James A. Brewer, Village Clerk, Village of Ivesdale, POB 109, Ivesdale IL 61851

Bernard J. Alblinger, Village President, Village of Ivesdale, POB 109, Ivesdale IL 61851

Sandra Langley, Village Clerk, Village of Ludlow, POB 177, Ludlow IL 60949

Pete Walker, Village President, Village of Ludlow, POB 177, Ludlow IL 60949

Cheryl Sproul, Village Clerk, Village of Mahomet, POB 259, Mahomet IL 61853

Mell Smigelski, Village Administrator, Village of Mahomet, POB 259, Mahomet IL 61853

Beth Davis, Village Clerk, Village of Ogden, 1308 Dover Drive, St. Joseph, IL 61873

Jack Reidner, Mayor, Village of Ogden, 1308 Dover Drive, St. Joseph, IL 61873

Mary Beth Henry, Village Clerk, Village of Pesotum, 200 East Pine, Pesotum IL 61863

Tim Lecher, Village President, Village of Pesotum, 200 East Pine, Pesotum IL 61863

Judy Kirby, Village Clerk, Village of Philo, POB 72, Philo IL 61864-0072
Craig Eckert, Village President, Village of Philo, POB 72, Philo IL 61864-0072
Jeremy A Reale, Village Clerk, Village of Rantoul, 333 South Tanner, Rantoul IL 61866
Dan Culkin, Village of Rantoul, 333 South Tanner, Rantoul IL 61866
James M Wright, Village Clerk, Village of Royal, POB 67, Royal IL 61871
Robert J. Vilven, Village President, Village of Royal, POB 67, Royal IL 61871
Teresa Spence, Village Clerk, Village of Sadorus, POB 109, Sadorus IL 61872
John Deedrick, Village President, Village of Sadorus, POB 109, Sadorus IL 61872
Billie Jean Krueger, Village Clerk, Village of Savoy, 611 North Dunlap, Savoy IL 61874
Richard Helton, Manager, Village of Savoy, 611 North Dunlap, Savoy IL 61874
Tiffany McElroy-Smetzer, Village Clerk, Village of St. Joseph, POB 1005, St. Joseph, IL
61873
B.J. Hackler, Mayor, Village of St. Joseph, POB 1005, St. Joseph IL 61873
Janet Akers, Village Clerk, Village of Sidney, POB 105, Sidney, IL 61877
John W. Finn, Village President, Village of Sidney, POB 105, Sidney, IL 61877
Joan Hall, Village Clerk, Village of Thomasboro, POB 488, Thomasboro IL 61878
Kurt Simmons, Village President, Village of Thomasboro, POB 488, Thomasboro IL
61878
Carla Chapman, Village Clerk, Village of Tolono, 111 East Holden Street, Tolono, IL
61880
Greg Cler, Village President, Village of Tolono, 111 East Holden Street, Tolono IL
61880

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1. Add new purpose 2.(r) as follows:

- (r) provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

2. Add the following to Section 3.0 Definitions:

DWELLING OR PRINCIPAL BUILDING, PARTICIPATING: A DWELLING on land that is leased to a WIND FARM.

DWELLING OR PRINCIPAL BUILDING, NON- PARTICIPATING: A DWELLING on land that is not leased to a WIND FARM.

PRIVATE WAIVER: A written statement asserting that a landowner has agreed to waive a specific WIND FARM standard condition and has knowingly agreed to accept the consequences of the waiver. A PRIVATE WAIVER must be signed by the landowner.

WIND FARM: A unified development of WIND FARM TOWERS and all other necessary components including cabling, transformers, a common switching station, and maintenance and management facilities which are intended to produce electricity by conversion of wind energy and to deliver the electricity to the power grid and having a name plate capacity of more than 10 megawatts (MW). A WIND FARM is under a common ownership and operating control even though the individual WIND FARM TOWERS may be located on land that is leased from many different landowners.

WIND FARM TOWER: A wind turbine nacelle and rotor and the supporting tower structure that are part of a WIND FARM development and intended to produce electricity for the power grid.

WIND TOWER, TEST: A tower that is installed on a temporary basis not to exceed three years and that is intended for the sole purpose of collecting meteorological data regarding the wind.

2. Add new subparagraph 4.2.1 C.2. as follows:

- 2. A WIND FARM may be authorized as a County Board SPECIAL USE permit in the AG-1, Agriculture Zoning District as a second PRINCIPAL USE on a LOT with another PRINCIPAL USE. WIND FARM TOWERS may be authorized by County Board SPECIAL USE permit as multiple PRINCIPAL STRUCTURES on a single LOT in the AG-1, Agriculture Zoning District.

3. Revise subparagraph 4.3.1 E.

- E. Any tower (including antenna) over 100 feet in HEIGHT shall be subject to the SPECIAL USE requirements in the DISTRICT in which it is located except for the following:
 - (1) any tower that meets the requirements of Section 4.3.1 C.; or
 - (2) any TEST WIND TOWER that does not exceed 200 feet in HEIGHT; or

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- (3) any WIND FARM TOWER except as HEIGHT regulations are required as a standard condition in Section 6.1.4.

4. Add new subparagraph 4.3.4 H. 4. h. as follows:

- h. WIND FARMS and WIND FARM TOWERS except as PIPELINE IMPACT RADIUS regulations are required in Subsection 6.1.4.

5. Amend Section 5.2 as follows:

Add "WIND FARM" as a COUNTY BOARD Special Use Permit in the AG-1 District by a "B".

6. Add the following as footnote 14 under the Special Provisions for the AG-1 District in Section 5.3:

- 14. LOTS in a WIND FARM County Board SPECIAL USE Permit and intended for WIND FARM TOWERS, substations, and WIND FARM maintenance and management facilities are exempt from the requirements of Section 5.3 except as such regulations are required by Subsection 6.1.4.

7. Add new paragraph 5.4.3 E. as follows:

- E. The Rural Residential Overlay Zoning District is prohibited from being established within a WIND FARM County Board SPECIAL USE Permit.

8. Renumber existing paragraph 6.1.2 to be subsection 6.1 Standards for Special Uses

8. Rename existing subsection 6.1.1 to Standard Conditions that May Apply to Specific SPECIAL USES

9. Move existing paragraphs 6.1.1 A. and B. to become new subparagraphs 9.1.11 7. and 8.

10. Renumber existing paragraph 6.1.1 C. to become new paragraph 6.1.1 A.

11. Revise existing subparagraph 6.1.1 C. 5. to read as follows:

- 5. No Zoning Use Permit for such SPECIAL USE will be issued until the developer provides the COUNTY with an irrevocable letter of credit to be drawn upon a federally insured financial institution within 200 miles of Urbana or reasonable and anticipated travel costs shall be added to the amount of the letter of credit. The irrevocable letter of credit shall be in the amount of one hundred fifty percent (150%) of an independent engineer's cost estimate to complete the work described in Section 6.1.1C4a. This letter of credit, or a successor letter of credit pursuant to Section 6.1.1C6 or 6.1.1C12 shall remain in effect and shall be made available to the COUNTY for an indefinite term.

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12. Rename subsection 6.1.2 to be Standard Conditions for All SPECIAL USES

13. Renumber existing paragraph 6.1.1 D. to become new paragraph 6.1.2 A.

14. Rename subsection 6.1.3 to Schedule of Standard Conditions for Specific Types of Special Uses

15. Add new subsection 6.1.4 as follows:

6.1.4 WIND FARM County Board SPECIAL USE Permit

A WIND FARM County Board SPECIAL USE Permit may only be authorized in the AG-1 Zoning District subject to the following standard conditions.

A. General Standard Conditions

1. The area of the WIND FARM County Board SPECIAL USE Permit must include the following minimum areas:

- (a) All land that is a distance equal to 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of that WIND FARM TOWER.
- (b) All land that will be exposed to a noise level greater than that authorized to Class A land under paragraph 6.1.4 I.
- (c) All land that will be exposed to shadow flicker in excess of that authorized under paragraph 6.1.4M. and for which other mitigation is not proposed.
- (d) All necessary access lanes or driveways and any required new PRIVATE ACCESSWAYS. For purposes of determining the minimum area of the special use permit, access lanes or driveways shall be provided a minimum 40 feet wide area.
- (e) All necessary WIND FARM ACCESSORY STRUCTURES including electrical distribution lines, transformers, common switching stations, and substations not under the ownership of a PUBLICLY REGULATED UTILITY. For purposes of determining the minimum area of the special use permit, underground cable installations shall be provided a minimum 40 feet wide area.
- (f) All land that is within 1.50 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of each WIND FARM TOWER except any such land that is more than 1,320 feet from any existing public STREET right of way.
- (g) All land area within 1,320 feet of a public STREET right of way that is also within 1,000 feet from the base of each WIND FARM TOWER except that in the case of WIND FARM TOWERS in compliance with the minimum STREET separation required by paragraph 6.1.4 C. 5. in which case land on

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the other side of the public STREET right of way does not have to be included in the SPECIAL USE Permit.

2. The WIND FARM County Board SPECIAL USE Permit shall not be located in the following areas:
 - (a) Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance.
 - (b) Less than one mile from the CR Conservation Recreation Zoning District.
 - (c) In any area leased for underground gas storage or under easement for same, unless the lease or easement requires that gas injection wells and other above-ground appurtenances be located in conformance with paragraph 6.1.4 C.8.

B. Minimum Lot Standard Conditions

1. There are no minimum LOT AREA, AVERAGE LOT WIDTH, SETBACK, YARD, or maximum LOT COVERAGE requirements for a WIND FARM or for LOTS for WIND FARM TOWERS, substations, and WIND FARM maintenance and management facilities.

C. Minimum Standard Conditions for Separations for WIND FARM TOWERS from adjacent USES and STRUCTURES

The location of each WIND FARM TOWER shall provide the following required separations as measured from the exterior of the above ground portion of the WIND FARM TOWER:

1. At least 1,000 feet separation from the exterior above-ground base of a WIND FARM TOWER to any PARTICIPATING DWELLING OR PRINCIPAL BUILDING 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 separation from the exterior above-ground base of a WIND FARM TOWER to any existing NON-PARTICIPATING DWELLING OR PRINCIPAL BUILDING 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.
3. The above separations may be reduced to a distance no less than 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) upon submission of a PRIVATE WAIVER signed by the owner of said dwelling or

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building or adjacent property. The PRIVATE WAIVER must specify the agreed minimum separation and specifically acknowledge that the grantor accepts the resulting noise level caused by the WIND FARM.

4. A separation distance equal to 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the exterior above-ground base of a WIND FARM TOWER to the nearest adjacent property line for property that is also part of the WIND FARM County Board SPECIAL USE Permit. This separation may be reduced upon submission of a PRIVATE WAIVER signed by the owner of the adjacent property. The PRIVATE WAIVER must specify the agreed minimum separation.
5. A separation distance equal to 1.50 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the exterior above-ground base of a WIND FARM TOWER to the nearest public STREET RIGHT OF WAY unless the WIND FARM is located on both sides of the STREET in which case the minimum separation distance between a WIND FARM TOWER and the public STREET RIGHT OF WAY is equal to 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade).
6. A separation distance equal to 1.50 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the exterior above-ground base of a WIND FARM TOWER to the nearest non-participating property. This separation may be reduced upon submission of a PRIVATE WAIVER signed by the owner of said non-participating property . The PRIVATE WAIVER must specify the agreed minimum separation.
7. A separation distance equal to 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the exterior above-ground base of a WIND FARM TOWER to the nearest easement for a GAS PIPELINE or HAZARDOUS LIQUID PIPELINE, any easement for an underground water main or to the actual water main if there is no easement, third party electrical transmission lines, communication towers, or railroad right of way. This separation may be reduced upon submission of a PRIVATE WAIVER signed by the owner of said electrical transmission line or communication tower or the pipeline or the relevant public street maintenance jurisdiction. The PRIVATE WAIVER must specify the agreed minimum separation.
8. Any PRIVATE WAIVER establishing an agreement for a lesser minimum separation as authorized above shall be submitted prior to the final determination by the BOARD and must be recorded as part of the chain of title in the deed to any relevant tract of land prior to authorization of any relevant ZONING USE PERMIT. No waiver of a standard condition shall be required in the event of a duly agreed and signed PRIVATE WAIVER.

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9. At least 1,200 feet separation from the exterior above-ground base of a WIND FARM TOWER to any wellhead or other above ground fixture that is accessory to a GAS PIPELINE or to any valve or other above ground fixture for any HAZARDOUS LIQUID PIPELINE, provided however that if the relevant PIPELINE IMPACT RADIUS required by paragraph 4.3.4 H. is greater than 1,200 feet then that PIPELINE IMPACT RADIUS shall be the minimum separation of any of the above. This separation may be reduced upon submission of a PRIVATE WAIVER signed by the owner of said pipeline. The PRIVATE WAIVER must specify the agreed minimum separation.
10. At least 1,600 feet separation from the exterior above-ground base of a WIND FARM TOWER to any Liquefied Natural Gas Storage; or Liquefied Petroleum Gas Storage; or Gasoline and Volatile Oils Storage exceeding 10,000 gallons capacity in the aggregate.
11. At least 3,500 feet separation from the exterior above-ground base of a WIND FARM TOWER to any RESTRICTED LANDING AREA or RESIDENTIAL AIRPORT.

D. Standard Conditions for Design and Installation of WIND FARM TOWERS

1. Design Safety Certification
 - (a) WIND FARM TOWERS, turbines, and all related construction shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL”), Det Norske Veritas (“DNV”), Germanischer Lloyd Wind Energy (“GL”), or equivalent third party.
 - (b) Each Zoning Use Permit Application for a WIND FARM TOWER shall include a certification by an Illinois Professional Engineer or Illinois Licensed Structural Engineer that the foundation and tower design of the WIND FARM TOWER is within accepted professional standards, given local soil and climate conditions.
2. Controls and Brakes
 - (a) All WIND FARM TOWER turbines shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes.
 - (b) Mechanical brakes shall be operated in fail-safe mode.
 - (c) Stall regulation shall not be considered a sufficient braking system for over speed protection.

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3. Electrical Components. All electrical components of the WIND FARM shall conform to applicable state and national codes including, and relevant national and international standards (e.g. ANSI and International Electrical Commission).
4. The WIND FARM TOWER must be a monopole construction.
5. The total WIND FARM TOWER height (measured to the tip of the highest rotor blade) must be less than 500 feet.
6. WIND FARM TOWERS, turbine nacelles, and blades shall be painted white or gray or another non-reflective, unobtrusive color as specified in the application and authorized by the BOARD.
7. The WIND FARM shall comply with all applicable Federal Aviation Administration (FAA) requirements which shall be explained in the application. The minimum lighting requirements of the FAA shall not be exceeded except that all WIND FARM TOWERS 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.
8. Warnings
 - (a) A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
 - (b) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.
9. All WIND FARM TOWERS must be protected from unauthorized climbing by devices such as fences at least six feet high with locking portals or anti-climbing devices 12 feet vertically from the base of the WIND FARM TOWER.

E. Standard Conditions to Mitigate Damage to Farmland

1. 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.
2. Protection of agricultural drainage tile
 - (a) The applicant shall endeavor to locate all existing agricultural drainage tile prior to establishing any construction staging areas, construction of any necessary WIND FARM TOWER access lanes or driveways, construction of any WIND FARM TOWERS, any common switching stations, substations, and installation of underground wiring or cabling. The applicant shall contact affected landowners and tenants for their knowledge

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of tile line locations prior to the proposed construction. Drainage districts shall be notified at least two weeks prior to disruption of tile.

- (b) All identified drainage district tile lines shall be staked or flagged prior to construction to alert construction crews of the possible need for tile line repairs unless this requirement is waived in writing by the drainage district.
- (c) Any agricultural drainage tile located underneath construction staging areas, access lanes, driveways, any common switching stations, and substations shall be replaced as required in paragraph 7.2 of the Champaign County Stormwater Management Policy.
- (d) Any agricultural drainage tile that must be relocated shall be relocated as required in the Champaign County Stormwater Management Policy.
- (e) Conformance of any relocation of drainage district tile with the Stormwater Management Policy shall be certified by an Illinois Professional Engineer. Written approval by the drainage district shall be received prior to any backfilling of the relocated drain tile and a copy of the approval shall be submitted to the Zoning Administrator. As-built drawings shall be provided to both the relevant drainage district and the Zoning Administrator of any relocated drainage district tile.
- (f) All tile lines that are damaged, cut, or removed shall be staked or flagged in such manner that they will remain visible until the permanent repairs are completed.
- (g) All exposed tile lines shall be screened or otherwise protected to prevent the entry into the tile of foreign materials, loose soil, small mammals, etc.
- (h) Permanent 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.
- (i) All damaged tile shall be repaired so as to operate as well after construction as before the construction began.
- (j) Following completion of the WIND FARM construction the applicant shall be responsible for correcting all tile line repairs that fail, provided that the failed repair was made by the Applicant.

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3. All soil conservation practices (such as terraces, grassed waterways, etc.) that are damaged by WIND FARM construction shall be restored by the applicant to the pre-WIND FARM construction condition.

4. Topsoil replacement

For any open trenching required pursuant to WIND FARM construction, the topsoil shall be stripped and replaced as follows:

- (a) The top 12 inches of topsoil shall first be stripped from the area to be trenched and from an adjacent area to be used for subsoil storage. The topsoil shall be stored in a windrow parallel to the trench in such a manner that it will not become intermixed with subsoil materials.
- (c) All subsoil material that is removed from the trench shall be placed in the second adjacent stripped windrow parallel to the trench but separate from the topsoil windrow.
- (d) In backfilling the trench, the stockpiled subsoil material shall be placed back into the trench before replacing the topsoil.
- (e) The topsoil must be replaced such that after settling occurs, the topsoil's original depth and contour (with an allowance for settling) will be restored.

5. Mitigation of soil compaction and rutting

- (a) The Applicant shall not be responsible for mitigation of soil compaction and rutting if exempted by the WIND FARM lease.
- (b) Unless specifically provided for otherwise in the WIND FARM lease, the Applicant shall mitigate soil compaction and rutting for all areas of farmland that were traversed with vehicles and construction equipment or where topsoil is replaced in open trenches.

6. Land leveling

- (a) The Applicant shall not be responsible for leveling of disturbed land if exempted by the WIND FARM lease.
- (b) Unless specifically provided for otherwise in the WIND FARM lease, the Applicant shall level all disturbed land as follows:
 - (1) Following the completion of any open trenching, the applicant shall restore all land to its original pre-construction elevation and contour.

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- (2) Should uneven settling occur or surface drainage problems develop as a result of the trenching within the first year after completion, the applicant shall again restore the land to its original pre-construction elevation and contour.

F. Standard Conditions for Use of Public Streets

Any WIND FARM Applicant proposing to use any County Highway or a township or municipal STREET for the purpose of transporting WIND FARM TOWERS or Substation parts and/or equipment for construction, operation, or maintenance of the WIND FARM TOWERS or Substations(s), shall identify all such public STREETS and pay the costs of any necessary permits and the costs to repair any damage to the STREETS caused by the WIND FARM construction, as follows:

1. Prior to the close of the public hearing before the BOARD, the Applicant shall enter into a Roadway Upgrade and Maintenance agreement approved by the County Engineer and State's Attorney; or Township Highway Commissioner; or municipality where relevant, and the signed and executed Roadway Upgrade and Maintenance agreements must provide for the following minimum conditions:
 - a. The applicant shall agree to conduct a pre-WIND FARM construction baseline survey to determine existing STREET conditions for assessing potential future damage including the following:
 - (1) A videotape of the affected length of each subject STREET supplemented by photographs if necessary.
 - (2) Pay for costs of the County to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the WIND FARM construction.
 - (3) Pay for any strengthening of STREET structures that may be necessary to accommodate the proposed traffic loads caused by the WIND FARM construction.
 - b. The Applicant shall agree to pay for costs of the County Engineer to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the WIND FARM construction and pay for any strengthening of structures that may be necessary to accommodate the proposed traffic loads caused by the WIND FARM construction.
 - c. The Applicant shall agree upon an estimate of costs for any other necessary roadway improvements prior to construction.

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- d. The Applicant shall obtain any necessary approvals for the STREET improvements from the relevant STREET maintenance authority.
- e. The Applicant shall obtain any necessary Access Permits including any required plans.
- f. The Applicant shall erect permanent markers indicating the presence of underground cables.
- g. The Applicant shall install marker tape in any cable trench.
- h. The Applicant shall become a member of the Illinois state wide One-Call Notice System (otherwise known as the Joint Utility Locating Information for Excavators or "JULIE") and provide JULIE with all of the information necessary to update its record with respect to the WIND FARM.
- i. The Applicant shall use directional boring equipment to make all crossings of County Highways for the cable collection system.
- j. The Applicant shall provide plans for the widening of any corner radius that is necessary to facilitate the turning movements of the transport trucks used by the Applicant.
- k. The Applicant shall pay for the necessary temporary STREET improvements for the widened corner radii and pay for the cost to return the widened radii to their original lines and grades when no longer needed for the WIND FARM construction unless the STREET maintenance authority requests that the widened radii remain as improved.
- l. The Applicant shall notify the STREET maintenance authority in advance of all oversize moves and crane crossings.
- m. The Applicant shall provide the County Engineer with a copy of each overweight and oversize permit issued by the Illinois Department of Transportation for WIND FARM construction.
- n. The Applicant shall transport the WIND FARM TOWER segments and other oversize loads so as to minimize adverse impact on the local traffic including farm traffic.
- o. The Applicant shall schedule WIND FARM construction traffic in a way to minimize adverse impacts on emergency response vehicles, rural mail delivery, school bus traffic, and local agricultural traffic.

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- p. The Applicant shall provide as much advance notice as is commercially reasonable to obtain approval of the STREET maintenance authority when it is necessary for a STREET to be closed due to a crane crossing or for any other reason. Notwithstanding the generality of the aforementioned, the Applicant will provide 48 hours notice to the extent reasonably practicable.
- q. The Applicant shall provide signs indicating all highway and STREET closures and work zones in accordance with the Illinois Department of Transportation Manual on Uniform Traffic Control Devices.
- r. The Applicant shall establish a single escrow account and a single Irrevocable Letter of Credit for the cost of all STREET upgrades and repairs pursuant to the WIND FARM construction.
- s. The Applicant shall notify all relevant parties of any temporary STREET closures
- t. The Applicant shall obtain easements and other land rights needed to fulfill the Applicant's obligations under this Agreement.
- u. The Applicant shall agree that the County shall design all STREET upgrades in accordance with the IDOT Bureau of Local Roads and Streets Manual, 2005 edition.
- v. The Applicant shall provide written Notice to Proceed to the relevant STREET maintenance authority by December 31 of each year that identifies the STREETS to be upgraded during the following year.
- w. The Applicant shall provide dust control and grading work to the reasonable satisfaction of the County Engineer on STREETS that become aggregate surface STREETS.
- x. The Applicant shall conduct a post-WIND FARM construction baseline survey similar to the pre- WIND FARM construction baseline survey to identify the extent of repairs necessary to return the STREET to the pre- WIND FARM construction condition.
- y. The Applicant shall pay for the cost of all repairs to all STREETS that are damaged by the Applicant during the construction of the WIND FARM and restore such STREETS to the condition they were in at the time of the pre-WIND FARM construction inventory.

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- z. All WIND FARM construction traffic shall exclusively use routes designated in the approved Transportation Impact Analysis.
 - aa. The Applicant shall provide liability insurance in an acceptable amount to cover the required STREET construction activities.
 - bb. The Applicant shall pay for the present worth costs of life consumed by the construction traffic as determined by the pavement management surveys and reports on the roads which do not show significant enough deterioration to warrant immediate restoration.
 - cc. Provisions for expiration date on the agreement.
 - dd. Other conditions that may be required.
2. A condition of the County Board Special Use Permit approval shall be that the Zoning Administrator shall not authorize a Zoning Use Permit for the WIND FARM until the County Engineer and State's Attorney; or Township Highway Commissioner; or municipality where relevant, has approved a Transportation Impact Analysis provided by the Applicant and prepared by an independent engineer that is mutually acceptable to the Applicant and the County Engineer and State's Attorney; or Township Highway Commissioner; or municipality where relevant, that includes the following:
- (a) Identify all such public STREETS or portions thereof that are intended to be used by the Applicant during construction of the WIND FARM as well as the number of loads, per axle weight of each load; and type of equipment that will be used to transport each load.
 - (b) A schedule of the across road culverts and bridges affected by the project and the recommendations as to actions, if any, required with respect to such culverts and bridges and estimated of the cost to replace such culverts and bridges;
 - (c) A schedule of the anticipated STREET repair costs to be made in advance of the WIND FARM construction and following construction of the WIND FARM.
 - (d) The Applicant shall reimburse the County Engineer; or Township Highway Commissioner; or municipality where relevant, for all reasonable engineering fees including the costs of a third party consultant, incurred in connection with the review and approval of the Transportation Impact Analysis.

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G. Standard Conditions for Coordination with Local Fire Protection District

1. The Applicant shall submit to the local fire protection district a copy of the site plan.
2. Upon request by the local fire protection district, the Owner or Operator shall cooperate with the local fire protection district to develop the fire protection district's emergency response plan.
3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

H. Standard Conditions to Mitigate Electromagnetic Interference

1. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan.
2. To the extent that any relevant microwave transmission provider and local emergency service provider demonstrates a likelihood of interference with its communications resulting from the WIND FARM, the Applicant shall take reasonable measures to mitigate such anticipated interference.
3. If, after construction of the WIND FARM, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint.
4. If, after construction of the WIND FARM, the Owner or Operator receives a written complaint related to interference with local broadcast residential television, the Owner or Operator shall take reasonable steps to respond to the complaint.

I. Standard Conditions for Allowable Noise Level

1. Noise levels from each WIND FARM TOWER or WIND FARM shall be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations (*35 Illinois Administrative Code* Subtitle H: Noise Parts 900, 901, 910).
2. The Applicant shall submit manufacturer's wind turbine sound power level characteristics and other relevant data regarding wind turbine noise characteristics necessary for a competent noise analysis.
3. The Applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with the above noise requirements.

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4. The Applicant shall submit a map of the relevant noise contours for the proposed WIND FARM and indicate the proposed WIND FARM TOWERS and all existing PRINCIPAL BUILDINGS within at least ~~1,200~~ 1,500 feet of any WIND FARM TOWER or within the coverage of the relevant noise contours.
 5. If a computer model is used to generate the required noise contours the Applicant shall clearly state the assumptions of the model's construction and algorithms so that a competent and objective third party can as simply as possible verify the noise contours and noise data.
 6. After construction of the WIND FARM the Zoning Administrator shall take appropriate enforcement action as necessary to investigate noise complaints in order to determine the validity of the complaints and take any additional enforcement action as proves warranted to stop any violation that is occurring, including but not limited to the following:
 - (a) The Zoning Administrator may seek authorization from the County Board to hire a noise consultant to determine the noise produced by the WIND FARM in a manner consistent with the Illinois Pollution Control Board (I.P.C.B.) regulations (*35 Illinois Administrative Code* Subtitle H: Noise Parts 900, 901, 910).
 - (b) The Zoning Administrator may require the WIND FARM owner to cooperate fully with the noise consultant in the enforcement action including shutting down all wind turbines to allow documentation of ambient noise levels.
 - (c) In the event that a violation of the I.P.C.B. noise regulations is identified the Zoning Administrator may require the WIND FARM owner to take whatever actions are necessary to stop the violation and comply with the noise regulations. The Zoning Administrator may seek direction from the Environment and Land Use Committee regarding the actions necessary to stop the violation.
 - (d) Further, in the event that a violation of the I.P.C.B. noise regulations is identified the WIND FARM owner shall reimburse to the County the cost of the noise consultant.
- J. Standard Conditions for Endangered Species Consultation
The Applicant shall apply for consultation with the Endangered Species Program of the Illinois Department of Natural Resources. The Application shall include a copy of the Agency Action Report from the Endangered Species Program of the Illinois Department of Natural Resources.

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K. Standard Conditions for Historic and Archaeological Resources Review

The Applicant shall apply for consultation with the State Historic Preservation Officer of the Illinois Department of Natural Resources. The Application shall include a copy of the Agency Action Report from the State Historic Preservation Officer of the Illinois Department of Natural Resources.

L. Standard Conditions for Acceptable Wildlife Impacts

1. The WIND FARM shall be located, designed, constructed, and operated so as to avoid and if necessary mitigate the impacts to wildlife to a sustainable level of mortality including the following:
 - (a) Avoid locating WIND FARM TOWERS in known bird and bat migration pathways and daily movement flyways and known hibernacula and flight paths between bat colonies and bat feeding areas.
 - (b) Site WIND FARM TOWERS and design mitigation measures in a manner that will achieve a level of mortality to birds and bats that will protect sustainability of populations.
2. A qualified professional, such as an ornithologist or wildlife biologist, shall conduct a pre-construction site risk assessment study to estimate the impacts of the construction and operation of the proposed WIND FARM on birds and bats. The pre-construction site risk assessment shall be submitted with the application and shall include the following minimum information:
 - (a) A literature review of existing information on species and potential habitats and results of agency database queries for records of rare, threatened, and endangered species and important habitats in the vicinity of the proposed WIND FARM area.
 - (b) A mapping of the general vegetation and land cover types, wildlife habitat and quality, and physical characteristics of the proposed WIND FARM area.
 - (c) A field examination that verifies results of the literature review and agency queries and documents general site habitat conditions.
 - (d) A review of existing literature of avian and bat mortality field results within the North America and in similar physiographic settings as the proposed WIND FARM.
 - (e) If the risk assessment indicates risk may be low, no further surveys are required.

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- (f) If the risk assessment indicates risk may be high enough to potentially adversely effect the sustainability of bird or bat populations a full year of site specific, bird and bat use surveys may be required to address those species and conditions representing high risk from the beginning of the spring migration for birds or bats, and extending through the end of the fall migration for birds or bats and include both the spring and fall migration for both birds and bats in the proposed WIND FARM area.
 - (g) The site specific bird and bat use surveys may include survey focused upon state or federal threatened or endangered or sensitive-status species in the proposed WIND FARM area during the appropriate seasons to determine the potential adverse impact.
 - (h) The results of the surveys shall be used to design siting and mitigation measures to lower risk to a sustainable level of mortality.
3. A qualified professional, such as an ornithologist or wildlife biologist, shall also conduct a post-construction mortality monitoring study to quantify the mortality impacts of the WIND FARM on birds and bats. The post-construction mortality monitoring study shall consist of the following information at a minimum:
- (a) At least two full years of site specific mortality monitoring from the beginning of the spring migration for birds or bats, and extend through the end of the fall migration for birds or bats and include both the spring and fall migration for both birds and bats in the immediate vicinity of some or all of the WIND FARM TOWERS.
 - (b) The application shall include a specific proposal for the degree of precision of the mortality monitoring study including how many days the monitoring is done, at how many towers, for how long each day, and at what radius around the tower, and the extent of monitoring outside of the spring and fall migrations.
 - (c) A written report on avian and bat mortality shall be submitted to the Environment and Land Use Committee at the end of first two full years of WIND FARM operation. The mortality rate estimates should reflect consideration of carcass removal by scavengers and predators.
 - (d) If the Environment and Land Use Committee determines the mortality level does not threaten the population of protected species, no further post-construction mortality monitoring will be required.
 - (e) If the Environment and Land Use Committee determines there are legitimate mortality to bird or bat species indicated by the monitoring the post-construction mortality monitoring study shall continue in full year increments until the monitoring indicates that the mortality concerns are

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resolved. When mortality concerns cannot be resolved in any other way, the Environment and Land Use Committee may require particular WIND FARM TOWERS to be shut down to lower mortality of birds or bats to an acceptable level.

M. Standard Conditions for Shadow flicker

1. The Applicant shall submit the results of a study on potential shadow flicker. The shadow flicker study shall identify the locations of both summer and winter shadow flicker that may be caused by the project and the expected durations of the shadow flicker at these locations particularly areas where shadow flicker may interfere more than one hour per year.
2. The Applicant shall ensure the following:
 - (a) Existing DWELLINGS shall not be subjected to shadow flicker.
 - (b) No public STREET shall be subjected to shadow flicker.

N. Standard Condition for Liability Insurance

1. The Owner or Operator of the WIND FARM shall maintain a current general liability policy covering bodily injury and property damage with minimum limits of a least \$5 million per occurrence and \$5 million in the aggregate. The amount of the limit shall be increased annually to account for the effects of inflation.
2. The general liability policy shall identify landowners in the SPECIAL USE permit as additional insured.

O. Operational Standard Conditions

1. Maintenance

- (a) The Owner or Operator of the WIND FARM must submit, on an annual basis, a summary of the operation and maintenance reports to the Environment and Land Use Committee and any other operation and maintenance reports as the Environment and Land Use Committee reasonably requests.
- (b) Any physical modification to the WIND FARM that alters the mechanical load, mechanical load path, or major electrical components shall require a new County Board SPECIAL USE Permit. Like-kind replacements shall not require re-certification nor will replacement of transformers, cabling, etc. provided replacement is done in a fashion similar to the original installation. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with a relevant third-party certifying entity identified in subparagraph 6.1.4 D. 1. (a) to determine whether the physical modification requires re-certification.

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2. Materials Handling, Storage and Disposal
 - (a) All solid wastes related to the construction, operation and maintenance of the WIND FARM shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
 - (b) All hazardous materials related to the construction, operation and maintenance of the WIND FARM shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

P. Standard Condition for Decommissioning Plan and Reclamation Agreement

1. The Applicant shall submit a signed site reclamation agreement conforming to the requirements of paragraph 6.1.1 A.
2. In addition to the purposes listed in subparagraph 6.1.1 A. 4. the reclamation agreement shall also include provisions for anticipated repairs to any public STREET used for the purpose of reclamation of the WIND FARM and all costs related to removal of access driveways.
3. In addition to the conditions listed in subparagraph 6.1.1 A. 9. the Zoning Administrator may also draw on the funds for the following reasons:
 - (a) In the event that any wind turbine or component thereof ceases to be functional for more than six consecutive months and the Owner is not diligently repairing such wind turbine or component.
 - (b) In the event that the Owner declares any wind turbine or other component to be functionally obsolete for tax purposes.
4. The Site Reclamation Agreement shall be included as a condition of approval by the BOARD and the signed and executed Site Reclamation Agreement must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval.

Q. Complaint Hotline

1. Prior to the commencement of construction on the WIND FARM and during the entire term of the County Board SPECIAL USE permit and any extension, the Applicant and Owner shall establish a telephone number hotline for the general public to call with any complaints or questions.
2. The telephone number hotline shall be publicized and posted at the operations and maintenance center and the construction marshalling yard.
3. The telephone number hotline shall be manned during usual business hours and shall be an answering recording service during other hours.

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4. Each complaint call to the telephone number hotline shall be logged and identify the name and address of the caller and the reason for the call.
5. All calls shall be recorded and the recording shall be saved for transcription for a minimum of two years.
6. A copy of the telephone number hotline shall be provided to the Zoning Administrator on a monthly basis.
7. The Applicant and Owner shall take necessary actions to resolve all legitimate complaints.

R. Standard Condition for Expiration of WIND FARM County Board SPECIAL USE Permit

A WIND FARM County Board SPECIAL USE Permit designation shall expire pursuant to any time limit included in the Roadway Upgrade and Maintenance agreement required by paragraph 6.1.4 G. or in 10 years if no Zoning Use Permit is granted.

S. Application Requirements

1. In addition to all other information required on the SPECIAL USE Permit application and required by Section 9.1.11 A. 2. the application shall contain or be accompanied by the following information:
 - (a) A WIND FARM Project Summary, including, to the extent available:
 - (1) A general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of wind turbines, number of wind turbines, and name plate generating capacity of each wind turbine; the maximum height of the WIND FARM TOWER(S); and the maximum diameter of the WIND FARM TOWER rotor(s).
 - (2) The specific proposed location of the WIND FARM including all tax parcels on which the WIND FARM will be constructed.
 - (3) The specific proposed location of all tax parcels required to be included in the WIND FARM County Board SPECIAL USE Permit.
 - (4) A description of the Applicant; Owner and Operator, including their respective business structures.
 - (b) The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) for the WIND FARM County Board SPECIAL USE permit.

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- (c) A site plan for the installation of all WIND FARM TOWERS indicating the following:
 - (1) The approximate planned location of each WIND FARM TOWER, other PRINCIPAL STRUCTURES, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substations(s), ancillary equipment, third party transmission lines, maintenance and management facilities, and layout of all structures within the geographical boundaries of any applicable setback.
 - (2) The site plan shall clearly indicate the area of the proposed WIND FARM County Board SPECIAL USE Permit as required by subparagraph 6.1.4 A. 1.
 - (3) The separation of all WIND FARM structures from adjacent NON-PARTICIPATING DWELLINGS OR PRINCIPAL BUILDINGS or uses shall be dimensioned on the approved site plan and that dimension shall establish the effective minimum separation that shall be required for any Zoning Use Permit. Greater separation and somewhat different locations may be provided in the approved site plan for the Zoning Use Permit provided that that the greater separation does not increase the noise impacts that were approved in the WIND FARM County Board SPECIAL USE Permit. WIND FARM structures includes WIND FARM TOWERS, substations, third party transmission lines, maintenance and management facilities, or other significant structures.
 - (d) All other required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.
2. The Applicant shall notify the COUNTY of any changes to the information provided above that occurs while the County Board SPECIAL USE permit application is pending.

19. Revise Subsection 9.1.11 as follows:

9.1.11 SPECIAL USES

A. Authorized SPECIAL USES

- 1. The BOARD may grant SPECIAL USE permits only for such SPECIAL USES as are specifically authorized in this ordinance, and are not prohibited by Section 14.2.1.

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2. The GOVERNING BODY may grant SPECIAL USE permits only for such County Board SPECIAL USES as are specifically authorized in this ordinance, and are not prohibited by Section 14.2.1.
3. The BOARD or GOVERNING BODY may grant such SPECIAL USE permits only upon written application and after conduct of a public hearing.
 - a. The written application for a SPECIAL USE permit shall include:
 - i. The signature of the petitioner; and
 - ii. The signature of the owner or owners of all the land included in the petition, or the legal representative(s) thereof; and, if applicable, a copy of the petitioner's purchase contract.

B. SPECIAL USE Criteria

A SPECIAL USE permit shall not be granted by the BOARD or GOVERNING BODY unless the public hearing record and written application demonstrate:

1. that it is necessary for the public convenience at that location;
2. that it is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
3. that it conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
4. that granting the SPECIAL USE is in harmony with the general purpose and intent of this ordinance.
5. that, in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
6. approval of a SPECIAL USE permit shall authorize USE, CONSTRUCTION and operation only in a manner that is fully consistent with all testimony and evidence submitted by the petitioner or petitioner's agent(s).

C. Findings

1. The BOARD or GOVERNING BODY shall make findings that the requirements of Section 9.1.11B have been met by the applicant for a SPECIAL USE.

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2. The BOARD or GOVERNING BODY shall further make a finding that the reasons set forth in the application justify with respect to the criteria set forth in Section 9.1.11B the waiver of any standard condition or the imposition of any special condition.
3. The BOARD or GOVERNING BODY may make a finding that a proposed STRUCTURE or physical change to a site, as a part of a SPECIAL USE request, is a NON-ADAPTABLE STRUCTURE. In such a case the requirements of Section 6.1.1A shall be applicable.
4. Within a reasonable time after the public hearing for any County Board SPECIAL USE Permit, the BOARD shall make a report to the GOVERNING BODY.

D. Conditions

1. Any other provision of this ordinance notwithstanding, the BOARD or GOVERNING BODY, in granting any SPECIAL USE, may waive upon application any standard or requirement for the specific SPECIAL USE enumerated in Section 6.1.3 Schedule of Requirements and Standard Conditions, to the extent that they exceed the minimum standards of the DISTRICT, except for any state or federal regulation incorporated by reference, upon finding that such waiver is in accordance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or to the public health, safety and welfare.
2. In granting any SPECIAL USE, the BOARD or GOVERNING BODY may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the ordinance. Violation of such SPECIAL CONDITIONS when made a part of the terms under which the SPECIAL USE is granted, shall be deemed a violation of this ordinance and punishable under this ordinance.
3. In granting any SPECIAL USE Permit as authorized in Section 4.2.1F for more than one MAIN or PRINCIPAL STRUCTURE or BUILDING, the BOARD shall state that any future sale of said LOT or tract of land may be subject to the *Illinois Plat Act*, (765 ILCS 205/0.01 *et seq.*) or the *Champaign County Subdivision Regulations*; or the SUBDIVISION regulations of a municipality that has jurisdiction within one and one-half miles of the corporate limits.
4. RESIDENTIAL PLANNED UNIT DEVELOPMENTS shall, in addition to or in lieu of the above, meet the provisions of Section 6.3.
5. The BOARD or GOVERNING BODY shall require that all applicable provisions of the *Champaign County Stormwater Management Policy* (as amended February 20, 2003) are met before approving any SPECIAL USE.

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6. Under no circumstances shall the BOARD or GOVERNING BODY grant a SPECIAL USE to allow a USE not permissible under the terms of this ordinance, in the DISTRICT involved, or any USE expressly or by implication prohibited under the terms of this ordinance in said DISTRICT, nor shall the BOARD or GOVERNING BODY waive compliance with state or federal regulations incorporated into this ordinance.

20. Add the following paragraph 9.3.1 H. for Zoning Use Permit fee:

H. WIND FARM TOWER \$4500

21. Revise subsection 9.3.3 as follows:

9.3.3 Zoning Case Filing Fees

A. General Provisions

1. No zoning case filing shall be accepted until the filing fee has been paid.
2. No zoning case filing fee shall be waived unless the Zoning Administrator determines that the petition is the only means reasonably available to bring a property into compliance with the provisions of this ordinance and the non-compliance is due solely to staff error.
3. No zoning case filing fee shall be refunded after required legal notice has been made by mail or publication unless the Zoning Administrator determines such filing to have been based solely upon staff error.
4. No amendment to any petition which requires new legal notice shall be considered until an amended petition fee has been received unless the Zoning Administrator determines such amendment to be required due solely to staff error.
5. The fee for SPECIAL USE permits shall be determined based on the larger of the following (except for County Board WIND FARM Special Use Permits):
 - a. the area of farmland taken out of production as a result of the SPECIAL USE; or
 - b. when farmland will not be taken out of production as a result of the SPECIAL USE, the land area taken up by the existing STRUCTURES and all proposed CONSTRUCTION proposed in the SPECIAL USE application.

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- 6. When some combination of VARIANCE, SPECIAL USE and Map Amendment cases is required simultaneously for the same property, the total filing fee shall include the following (except for County Board WIND FARM Special Use Permits):
 - a. The standard fee for the most expensive individual zoning case; and
 - b. one-half of the standard fee for any other required VARIANCE, SPECIAL USE, or Map Amendment provided that
 - c. no additional fees shall be included for multiple zoning cases of the same type that can be advertised in the same legal advertisement.

B. Fees

1. VARIANCES.

a. ADMINISTRATIVE VARIANCES \$100

b. Minor or Major VARIANCES \$200

2. SPECIAL USE permits and Map Amendments (except for County Board WIND FARM Special Use Permit and a map amendment to the WIND FARM Overlay Zoning District)

a. Two acres or less and Base Fee for larger areas \$400

b. More than two acres but no more than 12 acres add \$40 per acre to Base Fee for each acre over two acres

c. More than 12 acres add \$10 per acre for each acre over 12 acres and add to fees in a. and b. above

3. Appeals and Interpretations\$200

4. Change of Nonconforming Use\$100

5. Amendment to Petitions (requiring new legal notice) \$100

6. County Board WIND FARM Special Use Permit.....
\$20,000 or \$440 per WIND FARM
TURBINE TOWER, whichever is greater.

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

DRAFT

DATE: April 23, 2009

TIME: 7:30 P.M.

PLACE: Urbana City Building – City Council Chambers
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Jane Burris, Tyler Fitch, Lew Hopkins, Michael Pollock,
Bernadine Stake, Don White

MEMBERS EXCUSED: Ben Grosser, Marilyn Upah-Bant

STAFF PRESENT: Lisa Karcher, Planner II; Teri Andel, Planning Secretary

OTHERS PRESENT: Michael Kinate, Gary Olsen, Anthony Pelihan, David Shier, Susan
Taylor, Joshua Vouk

NEW BUSINESS

CCZBA-634-AT-08: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning wind turbine developments (wind farms).

Lisa Karcher, Planner II, presented this case to the Plan Commission. She began by giving background information on the proposed County text amendment and the process of review. She discussed how wind turbine developments relate to the goals and objectives of the City's 2005 Comprehensive Plan. She also talked about the zoning impact and the issues of concern that result from wind turbine developments. She read the options of the Plan Commission and presented staff's recommendation, which was as follows:

Based on the findings in the written staff report, staff recommends that the Plan Commission forward this case to the City Council with a recommendation to defeat a resolution of protest.

Mr. Hopkins stated that he does not understand having the overlay district which gives the City the right to protest, because the City can only protest within the Extra-Territorial Jurisdictional (ETJ) Area. Wind turbine developments are not allowed in the ETJ area, so it seems like it does not make any difference to the City. Ms. Karcher said that is correct.

Mr. Hopkins asked if there is someone else that gets protest rights through the overlay district other than through the ETJ. Mr. White said that it refers to land owners in the County that might object to a wind turbine farm being developed next door. However, they will not get the right to protest now that it is a special use permit.

Mr. Hopkins questioned where and when the state legislation that prevents the County from regulating wind turbine farms in the ETJ came about. He is tempted to suggest that the County make explicit that the proposed amendment does not apply to the ETJ. Ms. Karcher responded by saying that it is already specifically stated in the County text amendment itself. So, we do not have to rely on state legislation to enforce this.

Ms. Stake asked for clarification regarding wind farms not being allowed in the ETJ area. Ms. Karcher explained that the state law gives the municipality (the City of Urbana) the right to regulate wind farms or wind generating devices in the ETJ area and takes away the ability by the County. Typically, the City of Urbana has subdivision authority in the ETJ and the County has zoning authority. Wind farms are special circumstances. The City has the right to regulate wind farms if we want to. Because of this, City staff intends to put regulations in place to review future wind farm developments in the ETJ area.

Ms. Stake wondered why we would not want people to be able to protest. She feels that the City needs to adopt a resolution so people can protest. Ms. Karcher said that people have a right to come to the City meetings and speak at public hearings. The difference is that a protest would give the people the right to invoke a super majority vote at the County Board level. Ms. Stake commented that it sounds like the City should be concerned about the people in the County not having a right to protest. They are the ones who would be most likely to have a wind turbine constructed next to their homes. Ms. Karcher pointed out that the City is concerned about how wind turbines would affect the City. We are not looking at whether the people in the County should have a right to protest or not.

Ms. Stake inquired as to what the process would be for someone who wants to construct a wind turbine farm. Ms. Karcher noted that currently an application is only reviewed by the Champaign County Zoning Board of Appeals. According to the proposed text amendment, the state law has changed and states that decisions regarding wind turbine farms should be made by the County Board.

Mr. Fitch asked if the proposed text amendment could still be changed by another group. Ms. Karcher said that it is possible. John Hall, the County Zoning Administrator and Director of Planning and Zoning, told her that it is possible that there will be changes made to the proposed text amendment at the Environment and Land Use Committee (ELUC) meeting. The reason the Plan Commission is reviewing it now is so there will be enough time for the City Council to review it and make a decision before it goes to the County Board on May 21. If it does change at the ELUC meeting, the Plan Commission would still be able to submit something prior to the County Board meeting.

Mr. Fitch commented that he would be interested in having some kind of protection, but he is not sure how to make this happen. Ms. Karcher replied that it would be difficult because it could even change on the County Board floor. If there is something of concern in what is being proposed, the Plan Commission could say that if it changes, then they change their opinion. Mr. Fitch said that he did not have any particular concerns in mind. Chair Pollock remarked that the

best way the City can protect themselves is to draw up a text amendment regulating what happens in the ETJ.

Mr. Hopkins inquired if there was a significant change made either at the ELUC meeting or at the County Board meeting, then it would need to come back for public hearings, right? Ms. Karcher said she did not have a definitive answer but that Mr. Hall had indicated to her during their conversations that the City could submit additional comments/protest until the County Board meeting on May 21st.

With no further questions for City staff from the Plan Commission, Chair Pollock opened the hearing for public input. There was none, so Chair Pollock closed the public input portion of the hearing and opened it up for Plan Commission discussion and motions.

Ms. Burris commented that since wind turbine developments are not allowed in the ETJ, then they will not impact the City residents. Because the City residents will not be affected by it, the Plan Commission and City Council does not need to protest on behalf of City residents. The County has already decided to not give the County residents a right to protest. It is the County's jurisdiction and right to do so. Therefore, it seems like an unnecessary element for the Plan Commission to consider. Ms. Karcher added that if the City protests the proposed text amendment, they would not be protesting the protest rights. It only means that the County Board would have to have a super majority vote to approve the proposed text amendment. It would not impact the right to protest.

Mr. White stated that the only thing he does not like about wind turbine farms is that they destroy bat populations. When the blade goes through the air, it creates a difference in air pressure, which is basically like a vacuum. The air in bats' lungs rapidly expands and so their lungs explode. He likes bats because they eat their body weight in mosquitoes every night. However, just about anything one does to create energy will create a problem on something.

Ms. Stake wondered if there are any other environmental problems that wind turbine farms create. Mr. Fitch mentioned noise. Champaign County is suggesting the setback to be over a football field in length.

Ms. Stake commented that they use up a lot of agricultural farm land as well. Mr. White replied that farmers can farm around the wind turbine farms. Ms. Karcher pointed out that these types of concerns are addressed in the County staff report, such noise, flicker, wildlife impact on birds and bats, etc.

Mr. Hopkins moved that the Plan Commission forward Case No. CCZBA-634-AT-08 to the City Council with a recommendation to defeat a resolution of protest. Ms. Stake seconded the motion. Roll call on the motion was as follows:

Mr. Hopkins	-	Yes	Chair Pollock	-	Yes
Ms. Stake	-	Yes	Mr. White	-	Yes
Ms. Burris	-	Yes	Mr. Fitch	-	Yes

The motion was passed by unanimous vote.

Ms. Karcher noted that this case would go before the City Council on May 4, 2009.