



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Plan Commission
FROM: Marcus Ricci, Planner II
DATE: February 16, 2018
SUBJECT: Plan Case 2333-M-18: A request by the Champaign County Board to rezone approximately 13.82 acres from CRE, Conservation-Recreation-Education Zoning District, to R-4, Medium-Density Multiple-Family Residential Zoning District, located at 500 Art Bartell Road.

Introduction

The Champaign County Board (“Board”) has submitted a request to rezone the 13.82-acre portion of the County’s 63.56-acre East Campus which encompasses the site of the Champaign County Nursing Home (“Nursing Home”) from CRE, Conservation-Recreation-Education Zoning District, to R-4, Medium-Density Multiple-Family Residential Zoning District. The existing Nursing Home is permitted under a Special Use Permit granted in 2004 for the establishment of a Nursing Home use by a public service entity in any zoning district.

As the Special Use Permit was approved using a provision that applies only to public entities, the permit would not be valid if it was no longer operated by a public entity. Therefore, the Board has also applied for a Conditional Use Permit which would allow any entity, public or private, to operate the Nursing Home in the proposed R-4 zoning district. R-4 is the lowest-intensity zoning district that would allow a Nursing Home.

Background

The City of Urbana authorized establishment of the Champaign County Nursing Home in Ordinance No. 2004-04-045 under a Special Use Permit which permitted operation of the Nursing Home by a public service entity in any zoning district. It is currently located in the CRE Conservation-Recreation-Education zoning district which does not permit a Skilled Nursing Facility by right, or as a conditional or special use, *except* for this particular public service entity special use provision authorized by Section VII-7.A. of the Zoning Ordinance.

As stated earlier, a Conditional Use Permit allows operation of a Nursing Home in the R-4 Medium Density Multiple-Family Residential District. As a Skilled Care Nursing Facility, the Nursing Home functions essentially as an institutional medium-density residential facility, surrounded by other institutional uses: the Juvenile Detention Center and the Satellite Jail. Other, more-intensive zoning districts permit a Nursing Home by right, including the R-5 Medium-High Density Residential and the R-6 High Density Multiple-Family Residential Zoning Districts. The County Board could have eliminated the need for the Conditional Use Permit by requesting a higher-intensity zoning district, but it requested the lower-intensity R-4 zoning district because it wanted to preserve the character of the surrounding area.

Rezoning the property would also correct the current zoning designation of the Juvenile Detention Center: currently, the Center is split-zoned with the south half in the CRE zoning district and the north half in the R-4 zoning district.

Adjacent Land Uses, Zoning, and Comprehensive Plan Designations

The 13.82-acre property proposed for rezoning is located on the east side of Art Bartell Road between East Main Street and East Washington Street. It is part of the larger 63.56-acre Champaign County East Campus which extends north to East Main Street and west to Lierman Avenue and includes the Juvenile Detention Center, the Humane Society, Animal Control, the Illinois Law Enforcement Alarm System, the Emergency Operations Center, and the Satellite Jail (Exhibit A). To the east and south lie the Urbana Park District’s Weaver Park and Prairie Park, respectively. The table below lists the subject and surrounding properties’ current and proposed zoning (Exhibit B), and future land use designated by the City of Urbana’s 2005 Comprehensive Plan (Exhibit C).

Location	Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Subject Site	R-4 Medium Density Multiple-Family Residential (proposed); CRE Conservation-Recreation-Education (current)	Nursing home	Institutional
North	R-4 Medium Density Multiple-Family Residential	Correctional institution	Institutional
South	CRE Conservation-Recreation-Education	Park	Park
East	R-3 Single- and Two-Family Residential	Park	Park
West	CRE Conservation-Recreation-Education	Correctional institution	Institutional

Zoning Districts

The property is currently zoned CRE, Conservation-Recreation-Education District. The purpose and intent of the CRE District is defined as follows:

“The CRE, Conservation-Recreation-Education District is intended to conserve natural and scenic areas for open space, recreational, and educational purposes, both public and private, and to preserve from unsuitable uses natural surface drainage courses and other areas whose physical characteristics, such as slope or susceptibility to flooding, make many forms of development inappropriate or potentially injurious to the public health or safety. The uses permitted in this district are primarily of low intensity, which would not interfere with natural conditions, and for which such conditions would not pose severe problems; areas developed for more intensive use, which include significant open space, or which provide educational or recreational facilities to the public, are also appropriate in this district.”

The proposed zoning would expand the adjacent R-4, Medium Density Multiple-Family Residential zoning district to the north. The purpose and intent of the R-4 District is defined as follows:

“The R-4, Medium Density Multiple-Family Residential District is intended to provide areas for multiple-family dwellings at low and medium densities.”

The R-4 Zoning District permits the existing Skilled Nursing Facility Nursing Home with a Conditional Use Permit, which has been requested from the City of Urbana. The attached Zoning Description Sheets provide more information about the permitted uses in each district (Exhibit D).

Comprehensive Plan

The 2005 Urbana Comprehensive Plan identifies the future land use for the site as “Institutional,” which is defined as follows:

“Institutional uses generally include public, quasi-public, and private uses, such as governmental, educational, medical, religious, or university facilities as well as cemeteries. Institutional uses may range from single buildings to campuses.”

As the services, scale, and intensity of the use of the existing Nursing Home would not change, the Nursing Home would continue to conform with the definition of an Institutional use. The following Comprehensive Plan Goals and Objectives also pertain to the requests:

Goal 15.0 Encourage compact, contiguous and sustainable growth patterns.

Objective

15.5 Promote intergovernmental cooperation on development and growth issues.

Goal 34.0 Encourage development in areas where adequate infrastructure already exists.

Objective

34.2 Promote development in an orderly and coordinated fashion to ensure timely, cost-effective extension of utilities.

Goal 43.0 Provide for the distribution of social services to Urbana residents with diverse needs.

Objective

43.2 Work cooperatively with other units of government and social service providers for the efficient provision of needed services to community residents.

The proposed rezoning would contribute to meeting these goals by allowing the continued operation of the Nursing Home, which functions essentially as an institutional, medium-density residential facility, on a developed site that is surrounded by other institutional uses, served by public infrastructure and transit, and is close to recreational areas.

Discussion

The site continues to be well-suited for the Nursing Home’s institutional residential function. The proposed rezoning would expand the adjacent R-4 zoning district from the north, which contains other institutional residential uses (Juvenile Detention Center, Satellite Jail) to the south to encompass the Nursing Home property. Residents, visitors, and employees are within walking distance of Prairie and Weaver Parks. The current location along Art Bartell Road is very accessible to current and future residents, employees and visitors. Art Bartell connects to two Major Collector public streets and each

intersection has a transit stop: East Main Street (1/3 mile away); and Lierman Avenue (1/4 mile away). There are dedicated bicycle lanes one block south along East Washington Avenue and along East Main Street and an off-street sidepath along Lierman Avenue.

Proposed Rezoning

While the future land use designation generally describes the desired uses for a site, the site's zoning ultimately determines what can be built. In this case, the R-4 Medium Density Multiple-Family Residential zoning district is the best option to allow the Nursing Home to continue to operate within the Institutional future land use designation, as it is the least intensive zoning district that permits a Skilled Care Nursing Facility by right, or with a conditional or special use permit. The proposed rezoning would expand the adjacent R-4 zoning district to the north, while being less intense than the R-6 High Density Multiple-Family Residential zoning district to the northwest. It would also standardize the current split-zoning of the Juvenile Detention Center from CRE/R-4 to R-4. The R-4 zone allows a mix of low- and medium-density residential uses and some public and institutional uses.

The La Salle Criteria

In the case of *La Salle National Bank v. County of Cook* (the "La Salle" case), the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed.

1. The existing land uses and zoning of the nearby property.

This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.

The proposed R-4 district is compatible with the existing zoning and land uses of the surrounding area. It would expand the R-4 district located to the north (Juvenile Detention Center) and would be compatible with the R-3 district to the east (Weaver Park). It would remain compatible with the CRE districts to the south (Prairie Park) and west (Satellite Jail). The R-4 district allows low- to medium-density residential development, and matches the Nursing Home's institutional residential function and the neighboring institutional residential functions of the Juvenile Detention Center and Satellite Jail.

2. The extent to which property values are diminished by the restrictions of the ordinance.

This is the difference in the value of the property as CRE, Conservation-Recreation-Education compared to the value it would have if it were rezoned to R-4, Medium Density Multiple-Family Residential.

The property's value while operated by the Champaign County Board in the current CRE zoning designation is not assessed, as the Board is exempt from property tax collection. The CRE zone essentially limits the uses of the property to parks, schools, or government uses and therefore diminishes property values. Rezoning to R-4 allows for additional uses, which would likely increase the property value.

Please note that City Planning Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact of zoning on the value of the property. Therefore, any discussion pertaining to specific property values should be considered speculative.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public. (see No. 4 below)*

4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

The questions here apply to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?

The proposed zoning would not harm the health, safety, morals, or general welfare of the public. It would allow the Nursing Home to continue to provide skilled care at the same level of services, scale, and intensity as originally envisioned when the special use permit was approved in 2004.

The current zoning designation prohibits operation of a Skilled Care Facility in a CRE zoning district except by a public service entity. Rezoning would facilitate the continued use of the property, which would be beneficial to the public.

5. *The suitability of the subject property for the zoned purposes.*

The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.

The current CRE zoning district is fairly restrictive, allowing primarily agriculture, educational, institutional, or recreation-oriented businesses. It is unlikely that the property would be redeveloped as one of these other uses, as there is already ample recreational area adjacent to the property, the property is not near other business areas, nor is it located in a high-traffic area. Its proximity to other institutional uses – the Detention Center, the Satellite Jail – reduce the likelihood that another non-institutional user would be interested in redeveloping the property, unless the entire East Campus were redeveloped.

The property is better-suited for medium-density residential uses, including institutional residential uses, which would continue to exist by rezoning the property to R-4 with the Conditional Use Permit that has been requested. It is well-served by nearby public transit and bicycle infrastructure for current and potential residents, employees, and visitors.

6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

Another test of the validity of the current zoning district is whether it can be shown that the property has remained vacant for a significant period of time because of restrictions in that zoning district.

The property to be rezoned has been occupied and operated as a Skilled Care Facility Nursing Home since 2007. Rezoning the property would allow continued operation by either a public or a private entity, if the Conditional Use Permit is approved.

Summary of Staff Findings

1. The Champaign County Nursing Home, 500 Art Bartell Road, is owned by the Champaign County Board, is currently zoned CRE, Conservation-Recreation-Education, and is designated by the Comprehensive Plan as “Institutional”.
2. The Champaign County Board has filed a petition to amend the Urbana Zoning Map to rezone the property to R-4, Medium Density Multiple-Family Residential Zoning District.
3. The property is located on the east side of Art Bartell Road, between East University Avenue and East Washington Street, and has been in operation as a Skilled Care Facility Nursing Home since 2007.
4. The zoning change would facilitate the continued operation of the Nursing Home.
5. The zoning change generally conforms to the LaSalle Criteria.
6. The property continues to be appropriate for an institutional residential use due to its proximity to other institutional uses and nearby parks.

Options

The Plan Commission has the following options for recommendations to the City Council in Plan Case No. 2333-M-18:

1. Forward the case to City Council with a recommendation to approve the request as presented;
or
2. Forward the case to City Council with a recommendation to deny the request.

Staff Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends the Plan Commission forward Case No. 2333-M-18 to the City Council with a recommendation to **APPROVE** the proposed rezoning and Comprehensive Plan amendment.

Attachments:

- Exhibit A: Location and Existing Land Use Map
- Exhibit B: Existing Zoning Map
- Exhibit C: Future Land Use Map
- Exhibit D: Zoning Description Sheets for CRE and R-4 Districts
- Exhibit E: Application for Rezoning

cc: John Hall, Champaign County Director of Planning and Zoning, Applicant

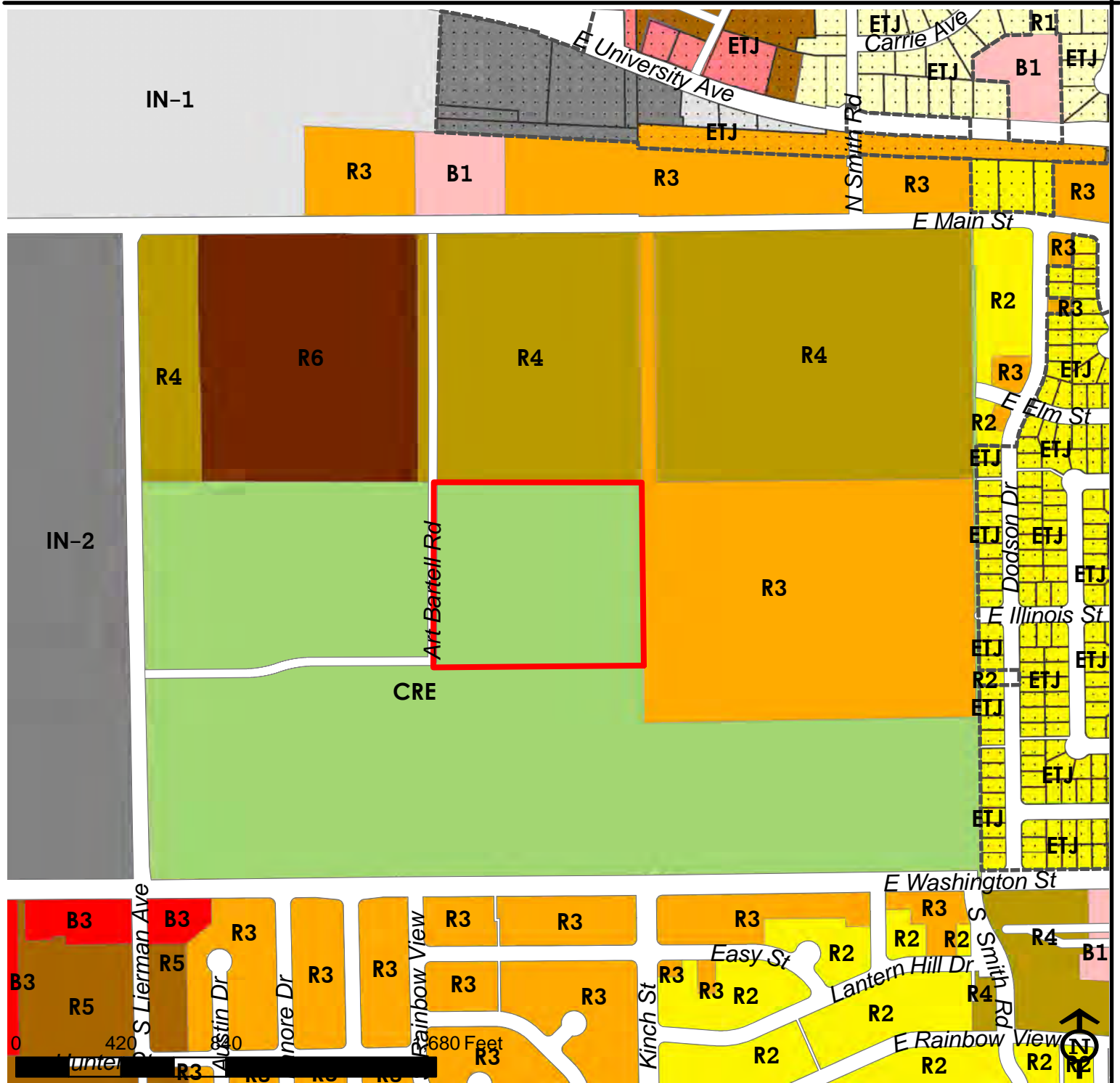
Exhibit A: Location & Existing Land Use Map



Case: 2333-M-18
 Subject: Chmp Cnty Nrsng Hm Rezoning
 Location: 500 Art Bartell Road
 Petitioner: Champaign County Board

 Subject Property

Exhibit B: Zoning Map



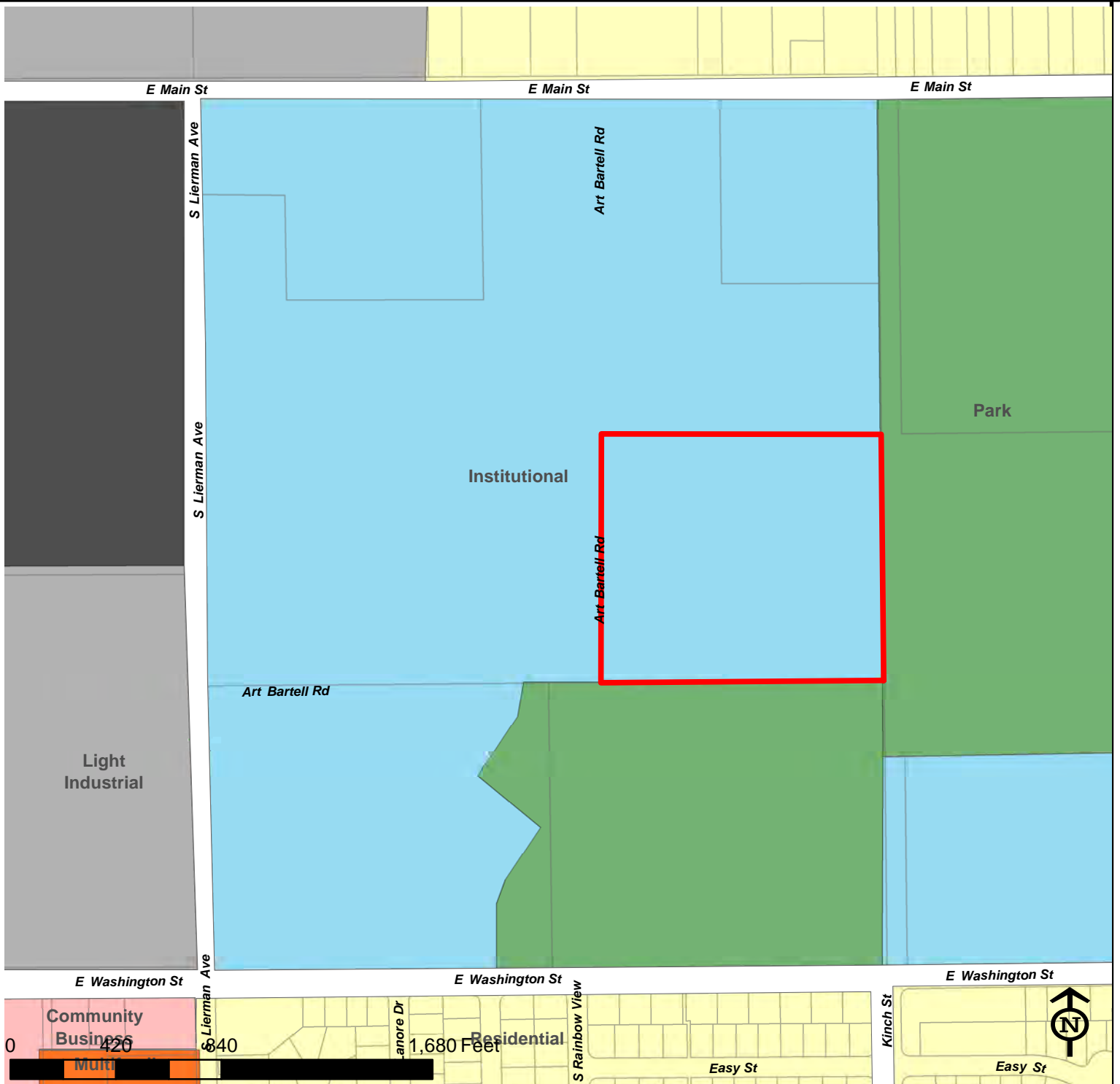
Case: 2333-M-18
 Subject: Chmp Cnty Nrsng Hm Rzng
 Location: 500 Art Bartell Road
 Petitioner: Champaign County Board

 Subject Property

Zoning

- | | | | |
|---|--|--|--|
|  B1 |  IN-1 |  R2 |  R5 |
|  B3 |  IN-2 |  R3 |  R6 |
|  CRE |  R1 |  R4 | |

Exhibit C: Future Land Use Map



Case: 2333-M-18
 Subject: Chmp Cnty Nrsng Hm Rezoning
 Location: 500 Art Bartell Road
 Petitioner: Champaign County Board

- Residential
- Multi-Family Residential
- Community Business
- Heavy Industrial
- Institutional
- Park
- Subject Property
- Light Industrial/Office

Exhibit D: Zoning Description Sheets for CRE and R-4 Districts



CRE – CONSERVATION-RECREATION-EDUCATION ZONING DISTRICT

ZONING DESCRIPTION SHEET

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the CRE Zoning District is as follows:

"The *CRE, Conservation-Recreation-Education District* is intended to conserve natural and scenic areas for open space, recreational, and educational purposes, both public and private, and to preserve from unsuitable uses natural surface drainage courses and other areas whose physical characteristics, such as slope or susceptibility to flooding, make many forms of development inappropriate or potentially injurious to the public health or safety. The uses permitted in this district are primarily of low intensity, which would not interfere with natural conditions, and for which such conditions would not pose severe problems; areas developed for more intensive use, which include significant open space, or which provide educational or recreational facilities to the public, are also appropriate in this district."

Following is a list of the Permitted Uses, Special Uses and Conditional Uses in the CRE District. Permitted Uses are allowed by right. Special Uses must be approved by the City Council. Conditional Uses must be approved by the Zoning Board of Appeals.

PERMITTED USES:

Agriculture

Agriculture, General
Agriculture, Cropping

Business – Professional and Financial Services

Vocational, Trade or Business School

Public and Quasi-Public

Elementary, Junior High School, or Senior High School
Library, Museum or Gallery
Municipal or Government Building
Nonprofit or Governmental, Educational and Research Agencies
Park
Public Maintenance and Storage Garage
University/ College

SPECIAL USES:

Agriculture

Mineral Extraction, Quarrying, Topsoil Removal and Allied Activities****
Plant Nursery or Greenhouse

Business - Recreation

Private Indoor Firing Range++

Public and Quasi-Public

Church, Temple or Mosque
Farmer's Market
Institution of an Educational or Charitable Nature
Sewage Treatment Plant or Lagoon****

CONDITIONAL USES:

Agriculture

Artificial Lake of one (1) or more acres

Business - Miscellaneous

Cemetery****

Exhibit D: Zoning Description Sheets for CRE and R-4 Districts

CONDITIONAL USES Continued:

Business - Recreation

Bait Sales
 Camp or Picnic Area****
 Commercial Fishing Lake
 Country Club or Golf Course
 Driving Range
 Lodge or Private Club
 Miniature Golf Course
 Outdoor Commercial Recreation Enterprise (*Except Amusement Park*)****
 Private Indoor Recreational Development
 Resort or Organized Camp****
 Riding Stable****

Table V-1 Notes:

**** See Table VII-1 for Standards for Specific Conditional Uses
 †† See Section VII-5.E Standards for Private Indoor Firing Ranges

DEVELOPMENT REGULATIONS IN THE CRE DISTRICT

ZONE	MIN LOT SIZE (square feet)	MIN AVERAGE WIDTH (in feet)	MAX HEIGHT (in feet)	MAX FAR	MIN OSR	MIN FRONT YARD (in feet) ¹	MIN SIDE YARD (in feet) ¹	MIN REAR YARD (in feet) ¹
CRE	1 acre	150	35 ³	0.40	0.55	25	15	25

FAR = Floor Area Ratio
 OSR = Open Space Ratio

Footnote¹ – See Section VI-5 and Section VIII-4 for further information about required yards.

Footnote³ – In the AG, CRE, B-1, B-2, MOR and IN-1 Zoning Districts, and for residential uses in the B-3 and B-4 Districts, if the height of a building two stories or exceeds 25 feet, the minimum side and rear yards shall be increased as specified in Section VI-5.F.3 and Section VI-5.G.1, respectively. In the AG and CRE Districts, the maximum height specified in Table VI-3 shall not apply to farm buildings; however, the increased setbacks required in conjunction with additional height, as specified in Section VI-5, shall be required for all non-farm buildings.

For more information on zoning in the City of Urbana call or visit:

City of Urbana
Community Development Services Department
 400 South Vine Street, Urbana, Illinois 61801
 (217) 384-2440 phone / (217) 384-2367 fax
www.urbanaininois.us

Exhibit D: Zoning Description Sheets for CRE and R-4 Districts



R-4 – MEDIUM DENSITY MULTIPLE-FAMILY ZONING DISTRICT

ZONING DESCRIPTION SHEET

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the R-4 Zoning District is as follows:

"The R-4, Medium Density Multiple-Family Residential District is intended to provide areas for multiple-family dwellings at low and medium densities."

Following is a list of the Permitted Uses, Special Uses, Planned Unit Development Uses and Conditional Uses in the R-4 District. Permitted Uses are allowed by right. Special Uses and Planned Unit Development Uses must be approved by the City Council. Conditional Uses must be approved by the Zoning Board of Appeals.

PERMITTED USES:

Agriculture

Agriculture, Cropping

Business - Recreation

Country Club or Golf Course

Public and Quasi-Public

Church, Temple or Mosque
Elementary, Junior High School or Senior High School
Institution of an Educational or Charitable Nature
Library, Museum or Gallery
Municipal or Government Building
Park

Residential

Boarding or Rooming House
Dormitory
Dwelling, Community Living Facility, Category I, Category II and Category III
Dwelling, Duplex***
Dwelling, Duplex (*Extended Occupancy*)***
Dwelling, Multifamily
Dwelling, Multiple-Unit Common-Lot-Line***
Dwelling, Single Family
Dwelling, Single Family (*Extended Occupancy*)
Dwelling, Two-Unit Common-Lot-Line***

SPECIAL USES:

Business – Professional and Financial Services

Professional and Business Office

Residential

Dwelling, Home for Adjustment

Public and Quasi-Public

Police or Fire Station
Principal Use Parking Garage or Lot

PLANNED UNIT DEVELOPMENT USES:

Business – Miscellaneous

Mixed-Use Planned Unit Development (*See Section XIII-3*)

Residential

Residential PUD (*See Section XIII-3*)

Exhibit D: Zoning Description Sheets for CRE and R-4 Districts

CONDITIONAL USES:

Agriculture

Artificial Lake of One (1) or More Acres

Public and Quasi-Public

Electrical Substation

Business – Miscellaneous

Day Care Facility (*Non-Home Based*)

Residential

Assisted Living Facility
Bed and Breakfast, Owner Occupied
Nursing Home

Business - Recreation

Lodge or Private Club

Table V-1 Notes:

*** See Section VI-3 for lot area and width regulations for duplex and common-lot line dwelling units.

DEVELOPMENT REGULATIONS IN THE R-4 DISTRICT

ZONE	MIN LOT SIZE (square feet)	MIN AVERAGE WIDTH (in feet)	MAX HEIGHT (in feet)	MAX FAR	MIN OSR	MIN FRONT YARD (in feet) ¹	MIN SIDE YARD (in feet) ¹	MIN REAR YARD (in feet) ¹
R-4	6,000	60	35 ¹⁷	0.50 ¹⁴	0.35	15 ⁹	5	10

FAR = Floor Area Ratio

OSR = Open Space Ratio

Footnote¹ – See Section VI-5 and Section VIII-4 for further information about required yards.

Footnote⁹ – In the R-1 District, the required front yard shall be the average depth of the existing buildings on the same block face, or 25 feet, whichever is greater, but no more than 60 feet, as required in Sec. VI-5.D.1. In the R-2, R-3, R-4, R-5, R-7, and MOR Districts, the required front yard shall be the average depth of the existing buildings on the same block face (including the subject property), or 15 feet, whichever is greater, but no more than 25 feet, as required in Sec. VI-5.D.1. (Ordinance No. 9596-58, 11-20-95) (Ordinance No. 9697-154) (Ordinance No. 2001-03-018, 03-05-01)

Footnote¹⁴ – In the R-4 District, the maximum floor area ratio may be increased to 0.70, provided that there is a minimum of 2,000 square feet of lot area per dwelling unit.

Footnote¹⁷ – Public buildings, schools, or institutions of an educational, religious, or charitable nature which are permitted in the R-2, R-3, and R-4 Districts may be erected to a height not to exceed 75 feet, if the building is set back from the building line at least one foot for each one foot of additional building height above the height limit otherwise applicable.

Exhibit E: Application for Rezoning



Application for Zoning Map Amendment

PLAN COMMISSION

The application fee must accompany the application when submitted for processing. Please refer to the City's website at <http://www.urbanaininois.us/fees> for the current fee associated with this application. **The Applicant is also responsible for paying the cost of legal publication fees.** Estimated costs for these fees usually run between \$75.00 and \$225.00. The applicant will be billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 01-22-2018 Plan Case No. 2333-M-18
Fee Paid - Check No. _____ Amount _____ Date _____

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): John Hall Phone: (217) 384-3708
Address (street/city/state/zip code): Department of Planning & Zoning, Brookens Admin. Center,
1776 East Washington Street, Urbana IL 61802
Email Address: jhall@co.champaign.il.us
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): Point of Contact

2. OWNER INFORMATION

Name of Owner(s): Champaign County Board Phone: (217) 384-3776
Address (street/city/state/zip code): Brookens Administrative Center, 1776 East Washington St.
Urbana IL 61802
Email Address: webmaster@co.champaign.il.us
Is this property owned by a Land Trust? Yes No
If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Address/Location of Subject Site: Champaign County Nursing Home, 500 Art Bartell Road, Urbana
PIN # of Location: Part of 92-21-16-200-005
Lot Size: 536,426 square feet
Current Zoning Designation: CRE Conservation-Recreation-Education
Proposed Zoning Designation: R-4 Medium Density Multiple Family
Current Land Use (vacant, residence, grocery, factory, etc.): Champaign County Nursing Home
(skilled care)
Proposed Land Use: Nursing Home (skilled care)
Present Comprehensive Plan Designation: Institutional

Exhibit E: Application for Rezoning

How does this request conform to the Comprehensive Plan? see attached

Legal Description *(If additional space is needed, please submit on separate sheet of paper):*
see attached

4. CONSULTANT INFORMATION

Name of Architect(s): NA Phone:

Address *(street/city/state/zip code):*

Email Address:

Name of Engineers(s): David E. Atchley, MSA Services Phone: (217) 403-3361

Address *(street/city/state/zip code):* 201 West Springfield, Champaign IL 61820

Email Address: datchley@msa-ps.com

Name of Surveyor(s): same as engineer Phone:

Address *(street/city/state/zip code):*

Email Address:

Name of Professional Site Planner(s): NA Phone:

Address *(street/city/state/zip code):*

Email Address:

Name of Attorney(s): Jacob A. Croegaert, Phone: (217) 384-3733

Assistant State's Attorney
Address *(street/city/state/zip code):* Office of the Champaign County State's Attorney,
101 East Main Street, Urbana IL 61801

Email Address: jcroegaert@co.champaign.il.us

5. REASONS FOR MAP AMENDMENT:

What error in the existing Zoning Map would be corrected by the Proposed Amendment?

see attached

What changed or changing conditions warrant the approval of this Map Amendment?

see attached

Exhibit E: Application for Rezoning

Explain why the subject property is suitable for the proposed zoning.

see attached

What other circumstances justify the zoning map amendment

see attached

Time schedule for development *(if applicable)*

Use already established

Additional exhibits submitted by the petitioner.

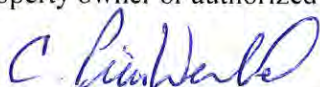
see attached

NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.

By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

CERTIFICATION BY THE APPLICANT

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.



Applicant's Signature



Date

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street, Urbana, IL 61801
Phone: (217) 384-2440
Fax: (217) 384-2367

Exhibit E: Application for Rezoning

Application for Zoning Map Amendment for Champaign County Nursing Home Responses to Questions

Section 3 Application Question: How does this request conform to the Comprehensive Plan?

The proposed R-4 Medium Density Multiple Family Zoning District is consistent with the Urbana Comprehensive Plan designation of future land use at this location as “Institutional”. See the attached Future Land Use Map #6 from the City of Urbana 2005 Comprehensive Plan.

The City of Urbana 2005 Comprehensive Plan defines “institutional” as the following:

Institutional uses generally include public, quasi-public, and private uses, such as governmental, educational, medical, religious, or university facilities as well as cemeteries. Institutional uses may range from single buildings to campuses.

The adjacent County owned land to the north is already in the R-4 Medium Density Multiple Family Zoning District. See the aerial photograph with City of Urbana zoning districts.

Exhibit E: Application for Rezoning

Application for Zoning Map Amendment for Champaign County Nursing Home Responses to Questions

Section 5 Application Question: What changed or changing conditions warrant the approval of this Map Amendment?

Champaign County voters have authorized the County Board to sell the Nursing Home, and the County Board has voted to make the necessary preparations for such a sale, including applying to obtain land use approvals that would be required for a private entity to operate the Home. A zoning map amendment is one of the approvals necessary in order for the Nursing Home to be operated by a buyer.

The Champaign County Nursing Home is located on property that is currently in Urbana's CRE Conservation-Recreation-Education Zoning District. A nursing home is not an authorized use in the CRE District without a Special Use Permit pursuant to Section VII-7A. of the City of Urbana Zoning Ordinance. Champaign County received such a Special Use Permit for the current Champaign County Nursing Home on April 30, 2004, in City of Urbana Ordinance No. 2004-04-045.

The County has struggled to finance the Nursing Home since 2008, when the State of Illinois cut Medicaid reimbursements, and has explored several options to preserve this resource for County residents. In April 2017, Champaign County voters rejected a proposed tax increase intended to provide support for the Home, and simultaneously authorized the County Board to sell or dispose of the Home. The County Board then hired a broker to solicit bids for the Home, outside counsel to advise on the terms of a possible sale, and a surveyor to prepare a plat of subdivision for the land on which the Nursing Home is located. The County Board is releasing a request for proposals to buy the Home.

Any buyer of the Champaign County Nursing Home will not be a governmental entity, and for that reason the City of Urbana may deem the existing Special Use Permit for operation of the Nursing Home to be invalid upon transfer of the Home. In order for the County Board to consider any offer to buy the Nursing Home, the zoning district for the property would first have to be changed to one in which a buyer could operate the Home.

Exhibit E: Application for Rezoning

Application for Zoning Map Amendment for Champaign County Nursing Home Responses to Questions

Section 5 Application Question: Explain why the subject property is suitable for the proposed zoning.

1. The proposed R-4 Medium Density Multiple Family Zoning District is consistent with the Urbana Comprehensive Plan designation of future land use at this location as “Institutional”. The adjacent County owned land to the north is already in the R-4 Medium Density Multiple Family Zoning District.
2. The R-4 District is the lowest density multiple family zoning district that allows “government buildings” by right which is consistent with the other Champaign County owned facilities on the Brookens campus.
3. The lower density of the R-4 District will help ensure compatibility with the adjacent Urbana Park District facilities.
4. The proposed map amendment is only for the Champaign County Nursing Home and “Nursing Home” is allowed in the R-4 District as a Conditional Use Permit and application has been made by Champaign County for a Conditional Use Permit for the Nursing Home.
5. No other development is proposed or anticipated and no changes are proposed to the Nursing Home or to the Nursing Home site plan. There will be no increase in traffic and Champaign County will continue to be responsible for the maintenance of Art Bartell Road.

Exhibit E: Application for Rezoning

Application for Zoning Map Amendment for Champaign County Nursing Home Responses to Questions

Section 5 Application Question: What other circumstances justify the zoning map amendment?

1. The City of Urbana authorized the establishment of the Champaign County Nursing Home at this location on April 30, 2004, in Ordinance No. 2004-04-045 (Plan Case No. 1888-SU-04). Copies of the Plan Commission memo and Resolution of Approval are attached. The proposed Zoning Map Amendment is consistent with that Special Use Permit as follows:
 - a. Champaign County will continue to fulfill its obligations under the Intergovernmental Agreement between the County, the City of Urbana, and the Urbana Park District regarding watershed management in Weaver Park (see attached). Included in the covenants (see attached covenants) to be approved and recorded with the plat of subdivision is a requirement that the buyer of the Nursing Home receive prior approval from the County before taking any action that would increase runoff into Weaver Park.
 - b. “Nursing Home” is allowed in the R-4 District as a Conditional Use Permit so that, even though no expansion of the nursing home is anticipated, any future expansion of the Nursing Home will have to be approved by the City as a new Conditional Use Permit. Application has been made by Champaign County for a Conditional Use Permit for the Nursing Home.
 - c. Champaign County’s proposed Minor Plat Champaign County Nursing Home Subdivision includes a restrictive covenant (see the attached covenants) that limits traffic over the ingress/egress easement on Art Bartell Road “...up to the amount and of the type reasonably expected to be necessary for the use of Lot 1 for the operation of a nursing home facility.”
 - d. Art Bartell Road will continue to be maintained by Champaign County and will continue to provide the same good access to the Nursing Home.
 - e. Both the Asset Purchase Agreement and the Operations Transfer Agreement released with Champaign County’s Request for Proposal (RFP; see attached) to sell the Nursing Home include several limits on future use of the property for the benefit of Champaign County. As part of those Agreements, any buyer will commit to the following through December 31, 2027:
 - (1) No other use of the property except as a skilled nursing facility, geriatric center, long-term care facility, or assisted living facility.
 - (2) No current resident of the Home to be transferred elsewhere without their consent, excepting only cases of medical necessity.
 - (3) At least 50% of licensed beds reserved for Medicaid-eligible persons.
 - (4) Priority admissions for Champaign County residents.
2. The proposed R-4 District with Conditional Use Permit will allow the Champaign County Nursing Home facility to be marketed to private buyers which may help the facility continue to serve the needs of Champaign County.

Exhibit E: Application for Rezoning

Application for Zoning Map Amendment for Champaign County Nursing Home Responses to Questions

3. The proposed R-4 District will eliminate the split zoning of the Juvenile Detention Center.

Exhibit E: Application for Rezoning

Application for Zoning Map Amendment for Champaign County Nursing Home List of Additional Exhibits

List of Additional Exhibits

1. Sheet 1 Minor Plat Champaign County Nursing Home Subdivision
2. Excerpt of City of Urbana 2016 Official Zoning Map Indicating Area of Proposed Zoning Map Amendment
3. Illustration of Existing Split Zoning for Champaign County Juvenile Detention Center
4. Champaign County Nursing Home Conditional Use Site Plan
5. Future Land Use Map #6 from City of Urbana 2005 Comprehensive Plan
6. Zoning Map Amendment Legal Description
7. City of Urbana Plan Commission Memorandum Plan Case No. 1888-SU-04 Proposed Special Use Permit for Champaign County Nursing Home
8. City of Urbana Ordinance No. 2004-04-045 An Ordinance Approving a Special Use Permit
9. City of Urbana Ordinance No. 2007-10-123 An Ordinance Approving An Intergovernmental Agreement between Champaign County, Illinois, City of Urbana, Illinois, and the Urbana Park District
10. Declaration of Covenants and Restrictions, Champaign County Nursing Home Subdivision
11. Post-Closing Covenants from Draft Asset Purchase Agreement for Champaign County Nursing Home (excerpted from Draft Champaign County Request for Proposal RFP 2018-001)
12. Post-Commencement Date Covenants Operations Transfer Agreement for Champaign County Nursing Home (excerpted from Draft Champaign County Request for Proposal RFP 2018-001)

Exhibit E: Application for Rezoning

Excerpt:

City of Urbana

2016 Official Zoning Map

Approved 03/07/16

Not to scale

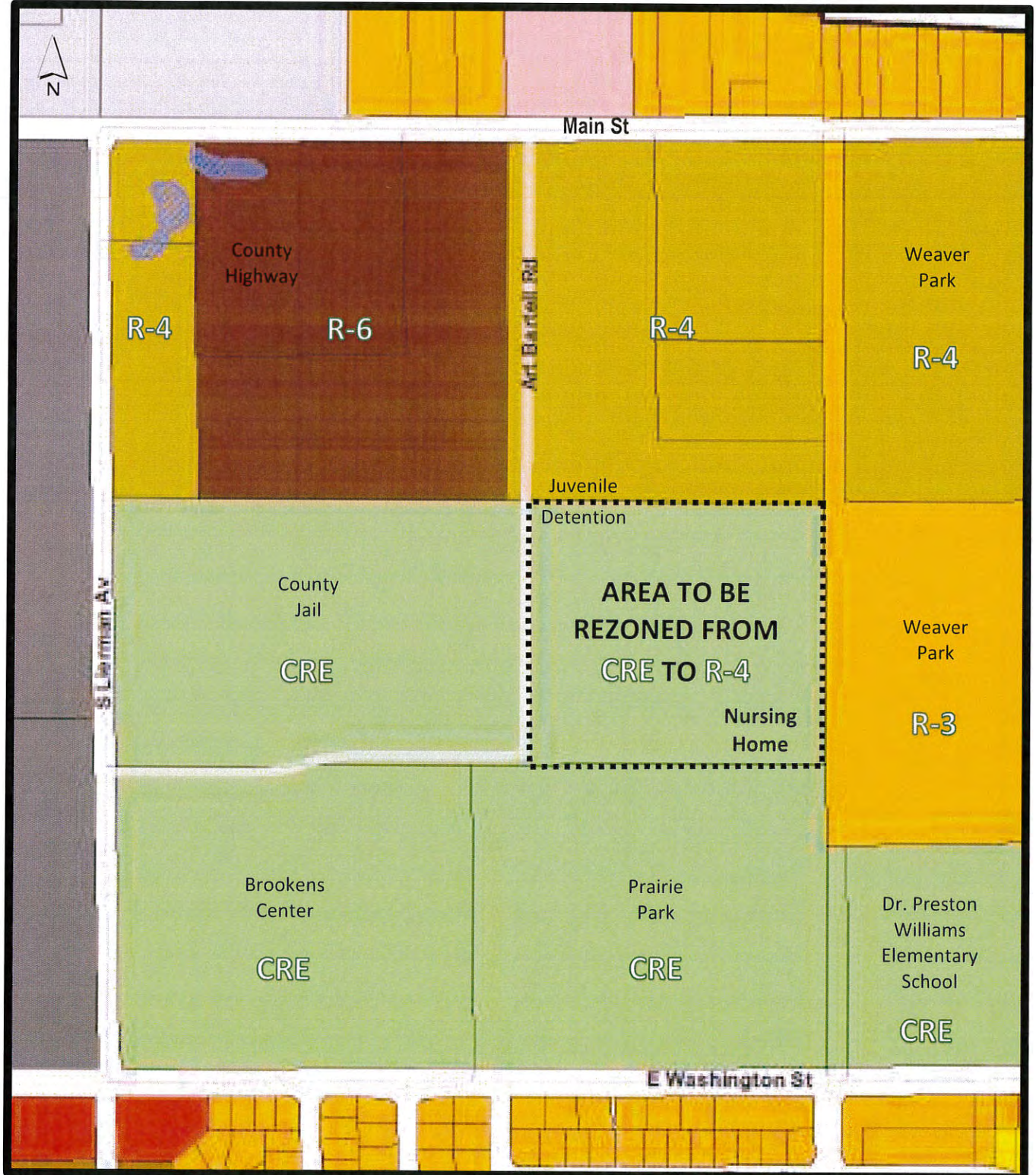


Exhibit E: Application for Rezoning

Current Split Zoning of Juvenile Detention Center



This map application was prepared with geographic information system (GIS) data created by the Champaign County GIS Consortium (CCGIS), or other CCGIS member agency. These entities do not warrant or guarantee the accuracy or suitability of GIS data for any purpose. The GIS data within this application is intended to be used as a general index to spatial information and not intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising from the use or misuse of this application and information contained herein. The use of this application constitutes acknowledgement of this disclaimer.

240

Feet



Exhibit E: Application for Rezoning

Champaign County Nursing Home Proposed Conditional Use Permit Site Plan



Exhibit E: Application for Rezoning

Map #6

East Urbana

ADOPTED

April 11, 2005

Map Created by City of Urbana
Community Development Services Dept.

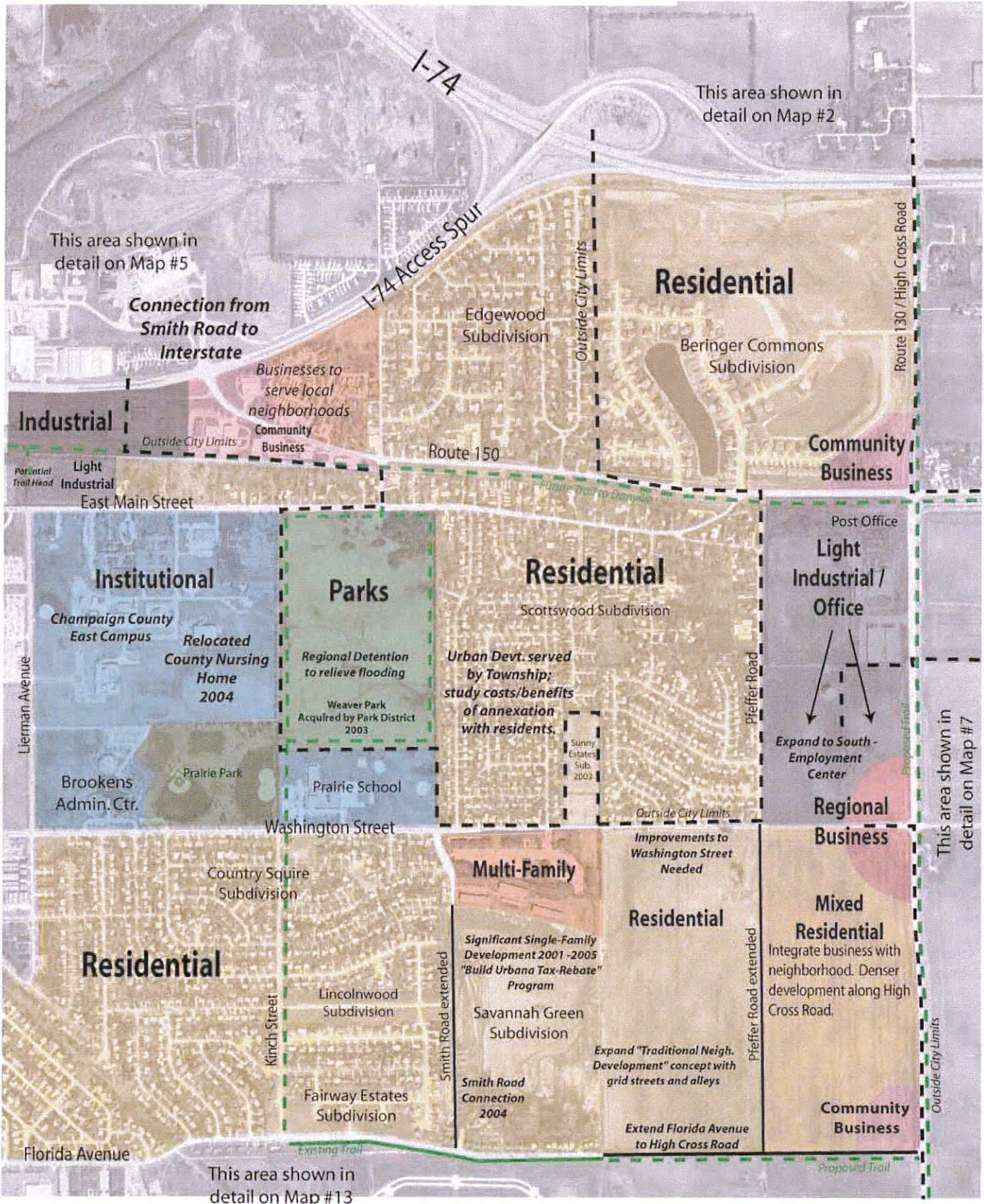


Exhibit E: Application for Rezoning

LEGAL DESCRIPTION PROPOSED ZONING MAP AMENDMENT FOR PROPOSED CHAMPAIGN COUNTY NURSING HOME LOT

A part of the Northeast Quarter of Section 16, Township 19 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, described as follows:

Beginning at the Northeast corner of Section 16, a point on the centerline of East Main Street, proceed South 00°37'27" East 1,024.93 feet along the East line of Section 16, to the South line of the North 31.097 acres of the Northeast Quarter of the Northeast Quarter of said Section 16 to the True Point of Beginning; thence continue along the East line of Section 16, South 00°37'27" East 743.34 feet to the North line of Tract "B" as depicted by a Plat of Survey by Charles S. Danner, dated November 9, 1966; thence South 89°36'12" West 814.84 feet along the said North line of Tract "B" as depicted by the said Plat of Survey by Charles S. Danner; thence North 00°11'25" East 743.99 feet to the South line of the North 31.097 acres of the Northeast Quarter of the Northeast Quarter of Section 16; thence North 89°38'52" East 804.27 feet to the True Point of Beginning encompassing 13.820 acres, more or less.

Prepared by: MSA Professional Services
201 W. Springfield Avenue, Suite 400
Champaign, IL 61820
October 23, 2017

Exhibit E: Application for Rezoning

DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES



Planning Division

MEMORANDUM

TO: The Urbana Plan Commission

FROM: Rob Kowalski, Planning Manager
Paul Lindahl, Planner

DATE: April 5, 2004

SUBJECT: Plan Case No. 1888-SU-04 A Request From Champaign County for a Special Use Permit to allow the establishment of a Nursing Home on Art Bartell Drive east of Lierman Avenue Between Main And Washington Streets.

Introduction

Champaign County is requesting a Special Use Permit for the construction of the new Champaign County Nursing Home. The nursing home is proposed to be located on 13 acres within the County East Campus located east of Lierman Avenue and north of Washington Street. The site is immediately south of the Juvenile Detention Center and immediately north of Prairie Park (see attached maps).

The property is presently zoned CRE, Conservation-Recreation-Education. Section VII-7.A of the Urbana Zoning Ordinance allows the establishment of a government use in any zoning district subject to a special use permit. This process was also used in 1999 for review of the Juvenile Detention Center.

Attached to this report is a thorough application package from Champaign County which details the proposal and the site conditions.

Background

Two referendums were passed in November 2002 to fund the replacement of the existing nursing home at 1701 East Main Street in Urbana. Subsequent to this action, Champaign County completed a master plan of the East Campus area to address potential building expansions and to determine the desired location for the new nursing home. The master plan resulted in the recommendation to locate the nursing home at a new location on the campus. The new facility is proposed to be built interior to the campus and bordering Prairie Park to the south and the future Weaver Park to the east.

Exhibit E: Application for Rezoning

Description of the Area

The new location is on County-owned property which currently includes the Brookens Administrative Center, the Adult Detention Facility, the Juvenile Detention Center, the Champaign County Highway Department, the current Champaign County Nursing Home, and the Champaign County Humane Society.

The following chart identifies the Comprehensive Plan designation, current zoning, and current land use of the site and surrounding properties.

Survey of Comprehensive Plan Designation, Zoning, and Land Use

	Comprehensive Plan	Zoning	Land Use
Site	Institutional Public	CRE Conservation-Recreation-Education	Champaign County East Campus – Undeveloped
North	Institutional Public	R-6, High Density Multiple Family Residential	Champaign County East Campus – Juvenile Detention Center
East	Institutional Public	Residential, Champaign County	Undeveloped, Future Park. Owned by Urbana Park District.
South	Institutional Public	CRE Conservation-Recreation-Education	Prairie Park, Urbana Park District
West	Institutional Public	CRE Conservation-Recreation-Education	Champaign County East Campus – Adult Detention Center

Please refer to the attached Future Land Use, Zoning, and Existing Land Use maps and photo exhibits for further information.

Discussion

Proposal

Champaign County is set to begin the construction of a new 243-bed nursing home. The facility will be a skilled care facility that will include an alzheimer's care unit and an adult and child day care facility. The number of beds in the new facility matches the number of beds in the existing facility. A Certificate of Need (C.O.N.) has been issued by the State of Illinois Department of Public Health which limits the capacity of the development to 243 beds. The need for the new facility is based more on the physical problems of the existing facility rather than the demand for services. The new facility will contain rooms that are larger than those in the existing facility and will incorporate more of a "home" environment. A "central core" of the facility will contain a dining area, a store, and access to a central courtyard.

The location of the new nursing home was chosen primarily due to its proximity to two parks. The land immediately to the east of the site was recently acquired by the Urbana Park District and will be developed into a 60-acre park that should contribute to a tranquil, pastoral setting for the nursing home residents.

Exhibit E: Application for Rezoning

Access and Parking

The site will be accessed primarily from Art Bartell Drive. Art Bartell Drive is a private street that currently ties into East Main Street and extends south to serve METCAD and the Humane Society. The road will be continued south to connect with the new nursing home site and to connect to the Brookens Administration Center access drive off of Lierman Avenue. Since the road is a private drive and not a public street, it is not anticipated to be used for general traffic circulation in the area. Users of the road will primarily be visitors to the nursing home. Since the number of beds in the new facility is not greater than the existing facility, it is not anticipated that the overall traffic to the campus will greatly increase and cause any problems with circulation. The extension of Art Bartell Drive will be able to accommodate MTD buses as well as delivery vehicles. Finally, Champaign County is planning the construction of new sidewalks to loop around the complex that will connect the development to existing and future parks in the area.

The Urbana Zoning Ordinance requires parking for a nursing home based on both the number of employees and the number of beds. The facility will have 243 beds and it is estimated there will be a maximum of 250 employees. The total parking requirement would be 123 spaces. The site plan identifies two separate areas to provide parking. A lot northeast of the building will contain 147 spaces and will be used primarily for employee parking. A second lot will be constructed southwest of the facility. This lot will contain 58 spaces and is intended primarily for public/visitor parking. In total 205 spaces are being planned. This exceeds the requirements of the Urbana Zoning Ordinance.

Storm Water Management

The site currently drains to the southeast onto the undeveloped property to the east owned by the Urbana Park District. Most of the runoff from the Parks property currently drains into the Scottswood Subdivision where Illinois Street stubs to the west. This currently creates a drainage problem within the Scottswood Subdivision. For the past few years, a consortium of governmental agencies including the City of Urbana, Champaign County, the Urbana Park District and the Township have been working together to address the flooding problems in the Scottswood Subdivision. It has been determined that to alleviate the flooding problems, a detention basin needs to be constructed just east of the Scottswood Subdivision on the property now controlled by the Urbana Park District. This basin would be able to hold stormwater runoff and gradually release it into the existing storm sewers as opposed to overwhelming the sewers during heavy rain events. At this time a preliminary design for a basin has been developed by Berns, Clancy and Associates and a grant to fund the construction of the basin is pending with the State of Illinois. The basin would be designed to accommodate the runoff generated from the new nursing home development thus eliminating the need for on-site detention. The new basin also creates the opportunity for shared, regional detention that can be designed to be an asset to the new park.

Development Regulations

A review of the site plans for compliance with all the development regulations in the Urbana Zoning Ordinance is currently underway. At this time it does not appear that any waivers or variances of the requirements of the ordinance will be necessary.

Exhibit E: Application for Rezoning

Requirements for a Special Use Permit

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

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

The proposed new location of the Champaign County Nursing Home will be conducive to the public convenience at its location. The new location within the Champaign County East Campus location will offer a more tranquil and park-like setting for the residents since it will be located immediately adjacent to two parks. The facility will also be well served by the extension of Art Bartell Road.

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

The facility is being located in an area that will not have a negative impact on neighboring properties. The site is located within the Champaign County East Campus and will function as a component of the County services in that area. The facility will not have a negative impact to the two adjacent parks to the south and east. The facility is not immediately adjacent to any residential areas.

3. That the proposed use conforms to the applicable regulations and standards and preserves the essential character of the district in which it shall be located.

The development will meet all the regulations and requirements of the Urbana Zoning Ordinance and will preserve the essential character of the CRE, Conservation, Recreation and Education Zoning District.

Consideration

The Plan Commission shall determine whether the reasons set forth in the application, and the evidence adduced during the public hearing, justify the granting of the special use permit, and whether the proposed use will be in harmony with the general purpose and intent of the Zoning Ordinance, and will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious or detrimental to the public welfare.

In addition, the Plan Commission shall make a recommendation to the City Council for or against the proposed special use, and may also recommend such additional conditions and requirements on the operation of the proposed use as are appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of this Ordinance, including but not limited to the following:

Exhibit E: Application for Rezoning

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

Summary of Findings:

1. In November 2002 two related referendums were passed by the voters of Champaign County authorizing the replacement of the existing Champaign County Nursing Home. After completion of a Master Campus Plan, Champaign County proposes to construct the new facility on the east side of the East Campus immediately north of Prairie Park and immediately west of the future Weaver Park.
2. The proposal will be conducive to the public convenience at its location because it will offer a better, "park-like" atmosphere for residents and will function better within the Champaign County East Campus.
3. The proposal will be designed and operated in a way that will not be injurious to the area or the district. The site is not immediately adjacent to any residential development or any other type of development that will realize a negative impact from the operation of the facility.
4. The proposal will conform to all the established requirements of the Urbana Zoning Ordinance including the appropriate development regulations. Stormwater runoff will be accommodated by a future detention basin on the property to the east. A consortium of governmental units are working together on achieving a grant to construct the basin.
5. The proposal is consistent with all adopted plans including the Urbana Comprehensive Plan.

Options

The Urbana Plan Commission has the following options in this case: ..

1. Recommend approval of the Special Use Permit request;

Exhibit E: Application for Rezoning

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

Staff Recommendation:

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Plan Commission recommend **APPROVAL** of the proposed special use in Plan Case No. 1888-SU-04 as presented to the Urbana City Council, for the reasons articulated above and with the following condition of approval:

1. That the layout of the facility shall closely resemble the attached Site Development Plan. Any significant deviation from this Site Development Plan will require an amendment to the Special Use Permit, including further review by the Plan Commission and approval by City Council.
2. An intergovernmental agreement providing for interim and perpetual off-site stormwater detention (commonly referred to as the “Scottswood Detention Basin”) be completed. The governmental consortium may consist of city, county, parks, and township interests.
3. The construction plans for the extension of Art Bartell Drive be reviewed by the Urbana City Engineer.

Attachments: Exhibit A, Location Map
Exhibit B, Zoning map
Exhibit C, Existing Land Use map
Exhibit D, Future Land Use map
Exhibit E, Aerial Photo
Exhibit F, Petition for Special Use Permit (provided by Champaign County)
Exhibit G, Notice to Adjacent Property Owners

Cc: Denny Inman, Champaign County

Exhibit E: Application for Rezoning

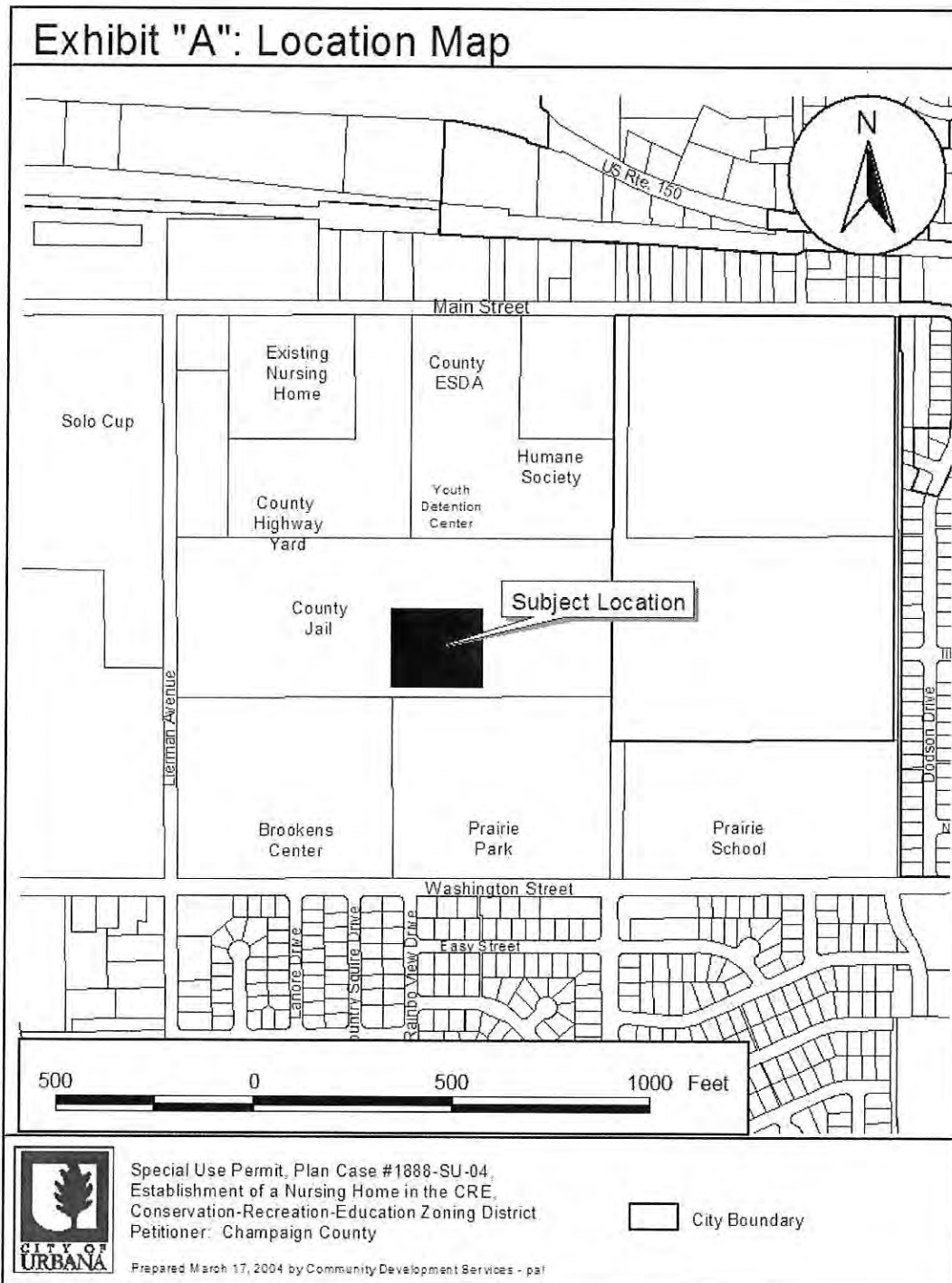


Exhibit E: Application for Rezoning

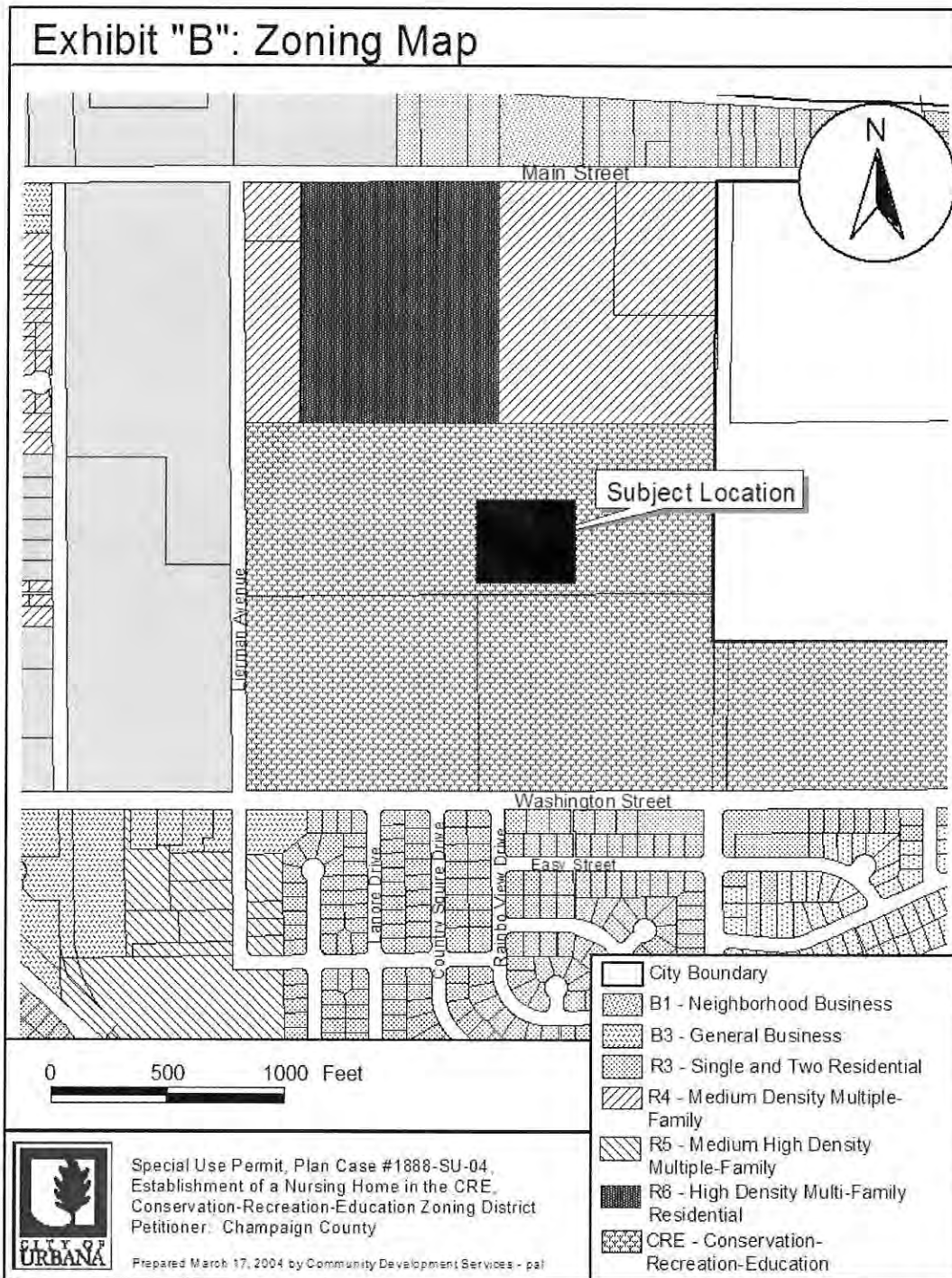


Exhibit E: Application for Rezoning

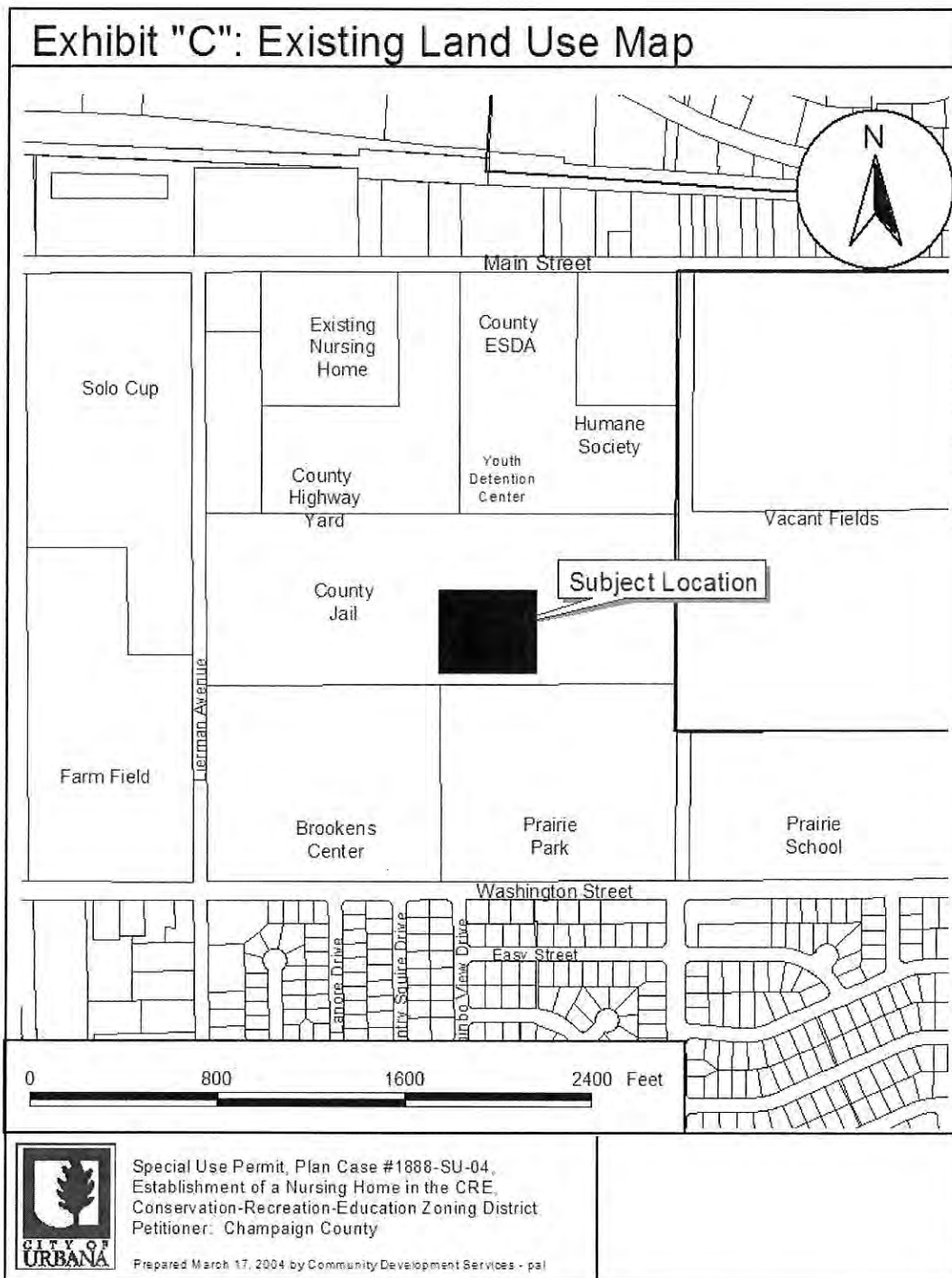


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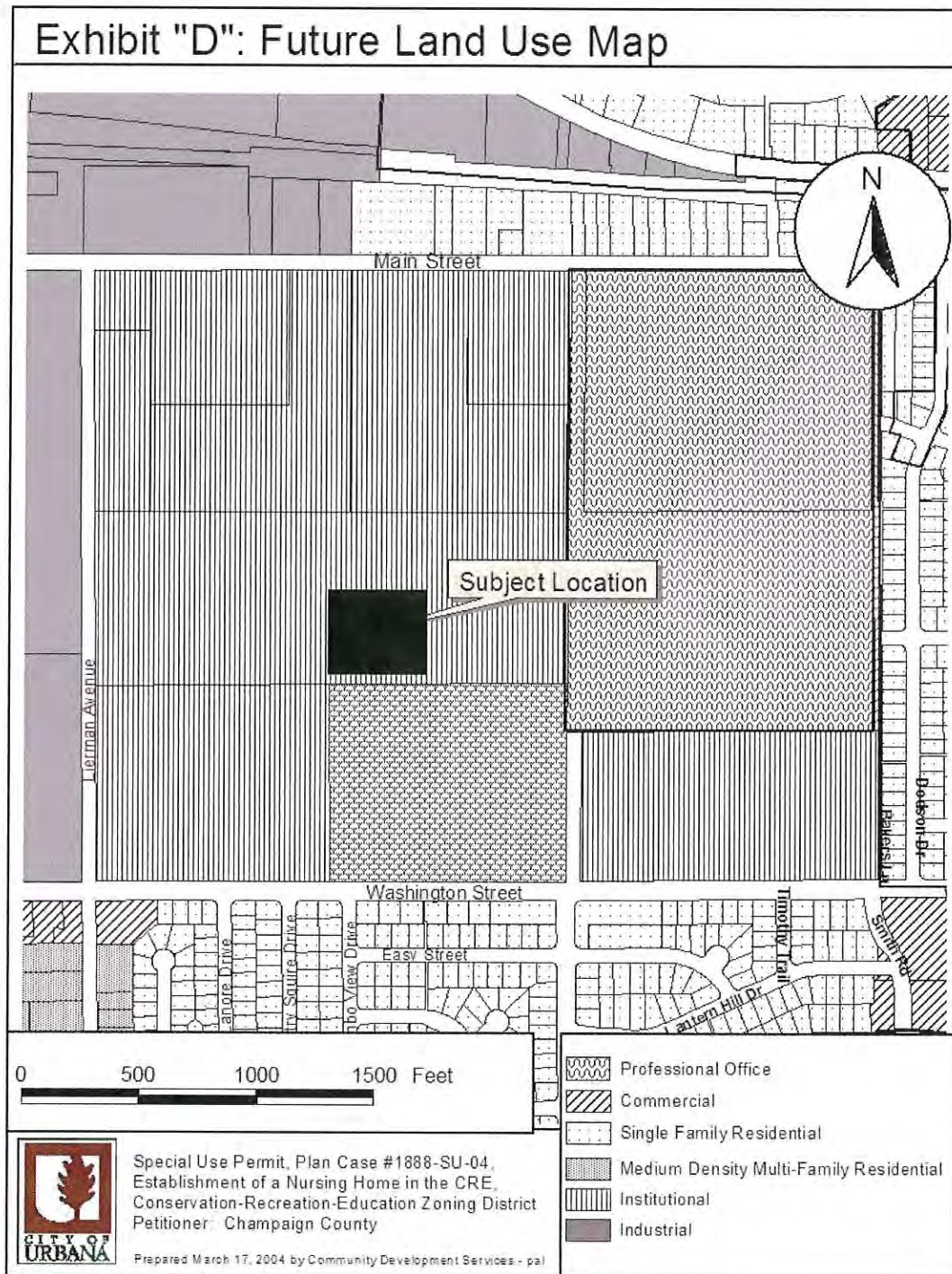


Exhibit E: Application for Rezoning

Exhibit "E": Aerial Photo



Special Use Permit
Plan Case # 1888-SU-04
Establish a Nursing Home in CRE Zoning District
Petitioner: Champaign County

Prepared by Community Development Services - mrb



Exhibit E: Application for Rezoning



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

400 S. Vine

P.O. Box 946

Urbana, IL 61801

(217) 384-2440

March 18, 2004

NOTICE OF PUBLIC HEARING IN REGARD TO A PROPOSED SPECIAL USE PERMIT

Dear Property Owner:

A public hearing will be held by the Urbana Plan Commission on **Thursday, April 8, 2004 at 7:30 P.M.** in the Urbana City Council Chambers, 400 S. Vine Street, Urbana, Illinois, at which time and place the Commission will consider a request in Plan Case **1888-SU-04**.

Plan Case 1888-SU-04 is a request by Champaign County for the granting of a Special Use Permit to allow the establishment of a Nursing Home on Art Bartell Drive on the lot property displayed on the attached location map. The property is zoned CRE, Conservation-Recreation-Education and is located within the Champaign County East Campus Area. Section VII-7.A of the Urbana Zoning Ordinance provides for any structure and/or use by a public service entity for a public utility, government educational, charitable, philanthropic, or medical use to be permitted in any zoning district under the provisions for Special Use Permit review.

You have been sent this notice because you are a nearby property owner. The Urbana Plan Commission will consider the proposal and its impact to the district at the public hearing. The Plan Commission will forward a recommendation to the Urbana City Council for their final consideration. The Urbana Plan Commission welcomes your comments at the public hearing, or in writing if received prior to the hearing. If you have any specific questions about the request, please do not hesitate to contact me.

Sincerely,

Rob Kowalski, AICP
Planning Manager

Enclosure: Location Map

Persons with disabilities needing services or accommodations for this hearing should contact the Community Development Services Department at 384-2440, or the City of Urbana's Americans with Disabilities Act Coordinator at 384-2466, or TTY 384-2360. If you have any questions concerning this request, please contact my office at (217) 384-2440.

ORDINANCE NO. 2004-04-045

AN ORDINANCE APPROVING A SPECIAL USE PERMIT

(Request by Champaign County to Establish a Nursing Home in the CRE, Conservation-Recreation-Education, Zoning District, 500 South Art Bartell Road - Plan Case No. 1888-SU-04)

WHEREAS, Champaign County has submitted a petition under Plan Case 1888-SU-04 for a Special Use Permit to establish a nursing home in the CRE, Conservation, Recreation, and Education Zoning District at 500 South Art Bartell Road legally described as attached; and

WHEREAS, Section VII-7.A of the Urbana Zoning Ordinance allows the establishment of a government use in any zoning district subject to a Special Use Permit; and

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

WHEREAS, the conditions placed on the approval in Section 1 herein should minimize the impact of the proposed development on surrounding properties; and

WHEREAS, after due publication, a public hearing was held by the Urbana Plan Commission on April 8, 2004 concerning the petition filed by the petitioner in Plan Case No. 1888-SU-04; and

WHEREAS, on April 8, 2004, the Urbana Plan Commission voted 7 ayes and 0 nays to forward the case to the Urbana City Council with a recommendation to approve the request for a Special Use Permit, subject to the conditions as outlined in Section 1 herein; and

WHEREAS, the approval of the Special Use Permit, with the condition set forth below, is consistent with the requirements of Section VII-6 of the

Exhibit E: Application for Rezoning

COPY

Urbana Zoning Ordinance, Special Use Permit Procedures, and with the general intent of that Section of the Ordinance; and

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

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

Section 1. A Special Use Permit is hereby approved to allow the establishment of a nursing home on the parcel as described on the attached legal description with the following conditions upon approval:

1. That the layout of the facility shall closely resemble the attached Site Development Plan. Any significant deviation from this Site Development Plan will require an amendment to the Special Use Permit, including further review by the Plan Commission and approval by City Council.
2. An intergovernmental agreement providing for interim and perpetual off-site stormwater detention (commonly referred to as the "Scottswood Detention Basin") be completed. The governmental consortium may consist of city, county, parks, and township interests.
3. The construction plans for the extension of Art Bartell Drive be reviewed by the Urbana City Engineer.

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

Exhibit E: Application for Rezoning

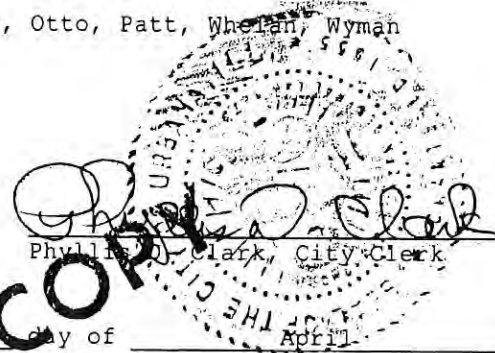
PASSED by the City Council this 19th day of April,
2004.

AYES: Chynoweth, Hayes, Huth, Otto, Patt, Whelan, Wyman

NAYS:

ABSTAINS:

Phyllis D. Clark
Phyllis D. Clark, City Clerk



APPROVED by the Mayor this 30th day of April,
2004.

Tod Satterthwaite
Tod Satterthwaite, Mayor

Exhibit E: Application for Rezoning

ORDINANCE NO. 2007-10-123

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN CHAMPAIGN COUNTY, ILLINOIS, CITY OF URBANA, ILLINOIS AND THE URBANA PARK DISTRICT IN CHAMPAIGN COUNTY, ILLINOIS RELATING TO DEVELOPMENT AND MANAGEMENT IN THE WATERSHEDS WHICH INCLUDE PARTS OF EAST URBANA, THE COUNTY'S EAST CAMPUS AND THE PARK DISTRICT'S WEAVER AND PRAIRIE PARKS

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

Section 1. That said Intergovernmental Agreement, in substantially the form of the copy of said Agreement attached hereto, be and the same is hereby approved.

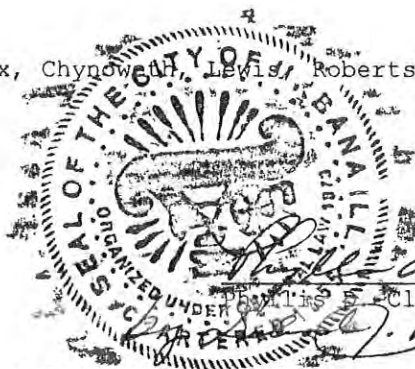
Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver, and the City Clerk of the City of Urbana, Illinois be and the same is authorized to attest to said execution of said Assignment and Estoppel Certificate as authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this 5th day of November, 2007.

AYES: Barnes, Bowersox, Chynoweth, Lewis, Roberts, Smyth, Stevenson

NAYS:

ABSTAINS:



Thelma S. Clark
Thelma S. Clark, City Clerk
D. Boland
Deputy Clerk

APPROVED by the Mayor this 9th day of November, 2007.

Laurel Lunt Prussing
Laurel Lunt Prussing, Mayor

Exhibit E: Application for Rezoning

2007-1-10

FILED

JAN - 9 2008

Phyllis D. Clark
City Clerk

INTERGOVERNMENTAL AGREEMENT BETWEEN
CHAMPAIGN COUNTY, ILLINOIS, CITY OF URBANA, ILLINOIS AND
THE URBANA PARK DISTRICT IN CHAMPAIGN COUNTY, ILLINOIS
RELATING TO DEVELOPMENT AND MANAGEMENT
IN THE WATERSHEDS WHICH INCLUDE PARTS OF EAST URBANA,
THE COUNTY'S EAST CAMPUS AND THE
PARK DISTRICT'S WEAVER AND PRAIRIE PARKS

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4. Contact Persons.....7

THIS INTERGOVERNMENTAL AGREEMENT is made as of the date below the signature of the last entity to sign it ("effective date"), by and between CHAMPAIGN COUNTY, ILLINOIS, the CITY OF URBANA, ILLINOIS and the URBANA PARK DISTRICT IN CHAMPAIGN COUNTY, ILLINOIS.

This Intergovernmental Agreement sets forth certain agreements between Champaign County, Illinois ("County"), the City of Urbana, Illinois ("City"), and the Urbana Park District in Champaign County Illinois ("Park District") that developed from discussions between the staff of Champaign County, the Urbana Park District, Unit 116 Urbana Schools, the City of Urbana, Urbana Township and St. Joseph Drainage District Number 3 concerning development issues in the watersheds which include parts of east Urbana and adjacent areas. Those current development issues include the new County

Exhibit E: Application for Rezoning

Nursing Home, the need for additional athletic playing fields for Park District programs, the development of the new Weaver Park site, and surface flooding problems in east Urbana and Scottswood Subdivision because of the lack of sufficient infrastructure. See Exhibit A for the benefiting areas.

The staffs of the governmental units have been meeting for several years to develop comprehensive approaches to the current development issues that would maximize the benefits for the public and minimize the costs by coordinating the planning, design and construction of facilities. As a result of the discussions, the new County Nursing Home has been sited next to the new park site (Weaver Park) to minimize the distance between the Nursing Home and the Park thereby providing to the nursing home residents and employees views over park land and access to the natural areas that will be developed in the park. Minimizing the distance between the new Nursing Home and Park also will help with the collaborative approach to water issues envisioned by this intergovernmental agreement.

For the County's benefit, the Park District has agreed to allow drainage from the nursing home on the County's east campus into Weaver Park. Further, the Park District has agreed that Weaver Park be part of the City's drainage improvements for a limited section of Main Street north of Weaver Park, other incorporated areas of the City, and Cunningham Township to improve storm water management.

Further, the parties agree to work together in the future to coordinate plans for movement via streets, trails, bicycle and pedestrian pathways between the City, the County, the Campus and the Park so that the public, area residents, nursing home

Exhibit E: Application for Rezoning

residents, school children and County employees at the various buildings on the County's East Campus can access the area conveniently.

Also Unit 116 Urbana Schools and Urbana Park District will benefit from planning shared parking and access, access to park land for students and joint use of athletic facilities.

As a result of the discussions, grant applications have been made and further grant applications may occur to obtain funding assistance to develop and implement collaborative approaches to addressing current development issues in the area.

WHEREAS, pursuant to Article VII, Section 10 of the Illinois Constitution of 1970, and 5 ILCS 220/1, et seq., the parties to this contract are authorized to enter into an intergovernmental agreement;

WHEREAS, the County has the power to construct and maintain a nursing home (55 ILCS 5/5-22001; 55 ILCS 5/5-25001) and to provide necessary county buildings (55 ILCS 5/5-1106); the City has authority to regulate development including streets and roads and stormwater improvements (Illinois Constitution, Article VII, Section 6, Powers of Home Rule Units) and the Park District has the power to manage and control all property of the Park District (70 ILCS 1205/8-1(f));

WHEREAS, there are current development issues in the eastern part of the City's incorporated area and adjacent areas that could become incorporated into the City in the future, at the County's East Campus and the District's Prairie and Weaver Parks that it is in the public's best interest the three government entities coordinate;

NOW, THEREFORE, it is agreed as follows:

1. DEFINITIONS:

Exhibit E: Application for Rezoning

- a. Weaver Park Master Plan-Plan for Weaver Park adopted by Urbana Park District on June 14, 2005.
- b. The Scottswood Area Stormwater Improvement Project – Those public improvements as depicted in the Construction Plans for Phase 1 Improvements, Scottswood Area Stormwater Improvement Project; prepared by Berns, Clancy and Associates, P.C.; dated November 17, 2005, consisting of 25 sheets: and further depicted in the Construction Plans for Phase 2 Improvements, Scottswood Area Stormwater Improvement Project; prepared by Berns, Clancy and Associates, P.C.; dated November 17, 2005, consisting of 33 sheets: constructed under the authority of Drainage District Number 3 of the Town of St. Joseph, as approved by the Circuit Court of Champaign County on March 6, 2007.

2. WEAVER PARK MASTER PLAN:

Background: The Urbana Park District acquired the Weaver Park site in 2003. The site contains 60 acres, 8 acres of which are wooded, a remnant of the Big Grove, 2-3 acres of which are low lying and periodically wet and the balance is former grain fields. The Park District named the park in honor of Stanley Weaver, a former state senator from Urbana who strongly supported education and parks. The park district has developed a plan for the park site and incorporated into the plan a permanent watershed management facility that will accept rain water flow from the Thomas Paine Subdistrict of Drainage District No. 3 in the Town of St. Joseph, Illinois.

- a. The Park District retained JJR, Inc. to develop a conceptual master plan for Weaver Park with the plan to include a watershed management facility using green design principles.

Exhibit E: Application for Rezoning

- b. The county agreed to pay a portion of the cost for the preparation of a conceptual master plan for Weaver Park done by JJR, Inc.
- c. The plan will be considered a concept plan that both agencies can use for current and future planning projects.
- d. The County, City and Park District have agreed to comply with the terms of Illinois Department of Natural Resources Project Number 17-00933("Grant #017-00933"), Illinois Department of Commerce and Economic Opportunity Grants Numbers 04-24255 and 04-24256 ("Grant # 04-24255") for the Scottswood Area Drainage Improvement Project ("Project").

3. PERMANENT WATERSHED MANAGEMENT FACILITY:

Background: The construction of the new nursing home and parking lots for the nursing home adjacent to Weaver Park increases the rain water flow from the site which necessitates the planning and construction by the County of a facility to handle the increased volume and flow. See Exhibit A – Weaver Park Area Watershed Map. In Weaver Park there are 2-3 acres that are low lying and periodically wet and that could be developed into a wetland natural wildlife habitat if more water was channeled into the area. By the Park District agreeing to allow the County to build a facility to manage the increased water flow from the new nursing home site in Weaver Park, the County will not have to devote County land and resources to construct a retention area. By also agreeing to incorporate water from the east Main Street area in the City of Urbana and the Scottswood Subdivision area adjacent to the City and participating in the Scottswood Area Drainage Improvement Project, the surface flooding problems in Scottswood Subdivision are being addressed. By accepting the additional water flow from the new

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nursing home site into Weaver Park through pipes and surface storage, a wetland environment can be created in the park to filter and clean the water and serve as a bird and wildlife sanctuary and as an educational site for the citizens of the area.

a. Berns, Clancy & Associates designed the permanent watershed management facilities. The expenses for the work of the engineering firm of Berns, Clancy, & Associates were paid by the Project.

b. Sustainable design principles were used in the design of the permanent watershed management facility and it was located, designed and constructed in accordance with state laws, federal laws and City of Urbana ordinances and for a large rainfall event (e.g., a 10 year flood).

c. The Park District has agreed to allow a permanent watershed management facility to be built in Weaver Park sufficient in size and suitable in location to meet the runoff needs of the identified watersheds in Exhibit A.

d. In the event that additional development is under consideration for the County Complex Area watershed shown on Exhibit A, the County agrees to furnish to the Park District copies of the proposed development plans and obtain the Park District's permission before increasing the runoff to park district land.

e. In the event that additional development within the watershed areas identified in Exhibit A is under consideration for the incorporated area of the City that is being drained into Weaver Park, the City agrees to obtain the Park District's permission before approving any plans for new development that will increase the runoff to park district land.

Exhibit E: Application for Rezoning

f. The County agrees to maintain the piping and related infrastructure from the County's Nursing Home to the permanent watershed management facility. The City agrees to be responsible for the periodic cleaning, televising, inspecting, reporting of the condition, and maintenance of all other piping, manholes, inlets, and outlet structures constructed for the Scottswood Area Drainage Improvement Project ("Project"). The County, Park District, and City responsibilities are graphically shown in Exhibit B. The County and the City shall not be responsible for future improvements within Weaver Park that may include storm sewers, manholes, inlets, etc. associated with new Park District parking lots or other facilities. The Project will pay for preparation of the areas in Weaver Park for the watershed management plants, the costs of those plants and the planting and establishment of those plants and the maintenance costs for establishment of the plantings for the first year as specified in Project documents. Thereafter, the County will pay the Park District on annual basis the Park District's costs for maintenance of plant cover, silt removal, dredging, erosion control, and removal of exotic species in the permanent watershed management facility and the Park District agrees to be responsible for said maintenance.

g. The County agrees to provide drainage improvements (including abatement for any seasonal flooding) to accommodate drainage onto Prairie Park from the existing soccer/football fields east of the Brookens Administrative Center

4. STREETS, TRAILS, BICYCLE AND PEDESTRIAN PATHWAYS:

a. The County, City and Park District agree to coordinate the planning, design, and construction, of all streets, parking, trails and bicycle and pedestrian

Exhibit E: Application for Rezoning

pathways in the area of the County's East Campus, Weaver Park, Prairie School and Prairie Park, with the intent of providing mutual benefits to both agencies and the public.

b. Joint use of roads, parking, and bicycle and pedestrian pathways will be encouraged.

5. CONTACT PERSONS:

a. The County's contact person will be the County Administrator, Brookens Administrative Center, 1776 E. Washington Street, Urbana, IL 61802

b. The City's contact person will be the City Engineer, Urbana City Building, 400 S. Vine Street, Urbana, IL 61801.

c. The Park District's contact person will be the Executive Director of the District, Darius E. Phebus Administrative Building, 303 W. University Avenue, Urbana, IL 61801

d. Any party may designate some other contact person to coordinate its efforts under this agreement by a written resolution of its governing board, delivered by certified mail to the most recently designated contact person of the other parties.

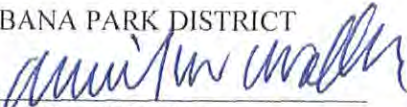
6. TERM:

This agreement shall continue in perpetuity until amended by agreement.

7. BINDING OF SUCCESSORS.:

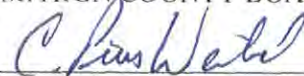
This agreement shall be binding on any successors of any of the current parties.

URBANA PARK DISTRICT

By: 
Board President

Date: 12-6-07

CHAMPAIGN COUNTY BOARD

By: 

County Board Chair

Date: 12/10/2007

Exhibit E: Application for Rezoning

Attest: [Signature]
Board Secretary

Attest: [Signature]
County Clerk



CITY OF URBANA



[Signature]
Mayor

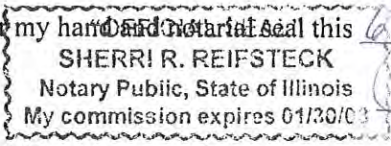
Date: 1/9/08

Attest: [Signature]
City Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF CHAMPAIGN)

I, a Notary Public, in and for said County and State aforesaid, DO HEREBY CERTIFY that Michael W. Walker, and Betsy Pendleton Wong of URBANA PARK DISTRICT personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Board President and Board Secretary, respectively, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary acts, and as the free and voluntary act of said URBANA PARK DISTRICT, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 6th day of September, 2007.



[Signature]
Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF CHAMPAIGN)

I, a Notary Public, in and for said County and State aforesaid, DO HEREBY CERTIFY that C. Pius Weibel and Mark V. Sheldon personally known to me to be the same persons whose names are subscribed to the foregoing instrument as County Board Chair and County Clerk, respectively, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary acts, and as the free and voluntary act of said CHAMPAIGN COUNTY BOARD, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ___ day of _____, 2007.

Notary Public

Exhibit E: Application for Rezoning

STATE OF ILLINOIS)
) SS
COUNTY OF CHAMPAIGN)

I, a Notary Public, in and for said County and State aforesaid, DO HEREBY CERTIFY that Laurel Lunt Prussing and Phyllis D. Clark, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as Mayor and City Clerk, respectively, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary acts, and as the free and voluntary act of said CITY OF URBANA, for the uses and purposes therein set forth.

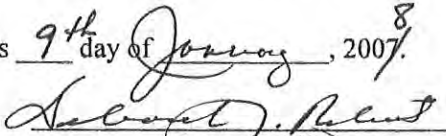
Given under my hand and notarial seal this 9th day of January, 2007.

Notary Public



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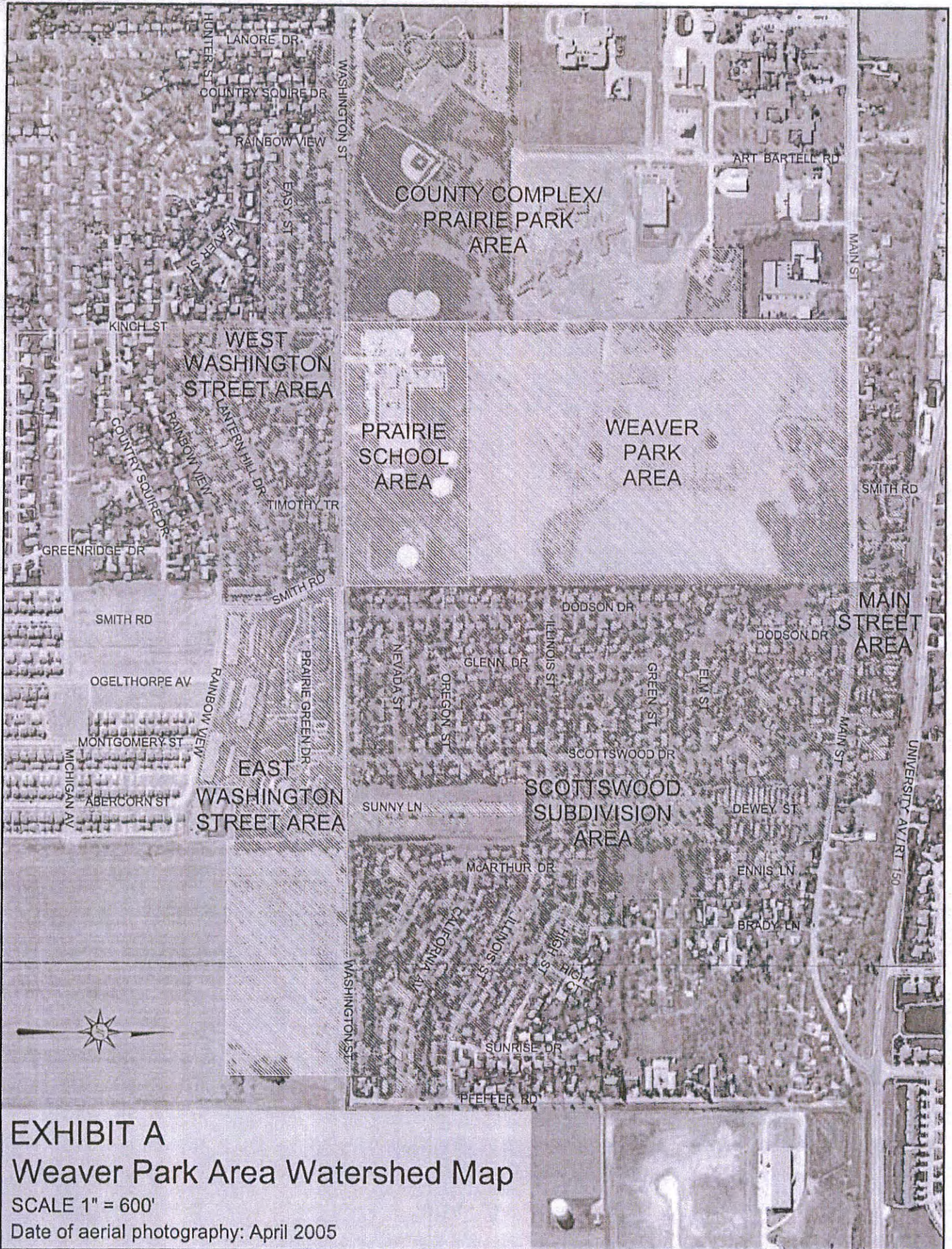


EXHIBIT A

Weaver Park Area Watershed Map

SCALE 1" = 600'

Date of aerial photography: April 2005

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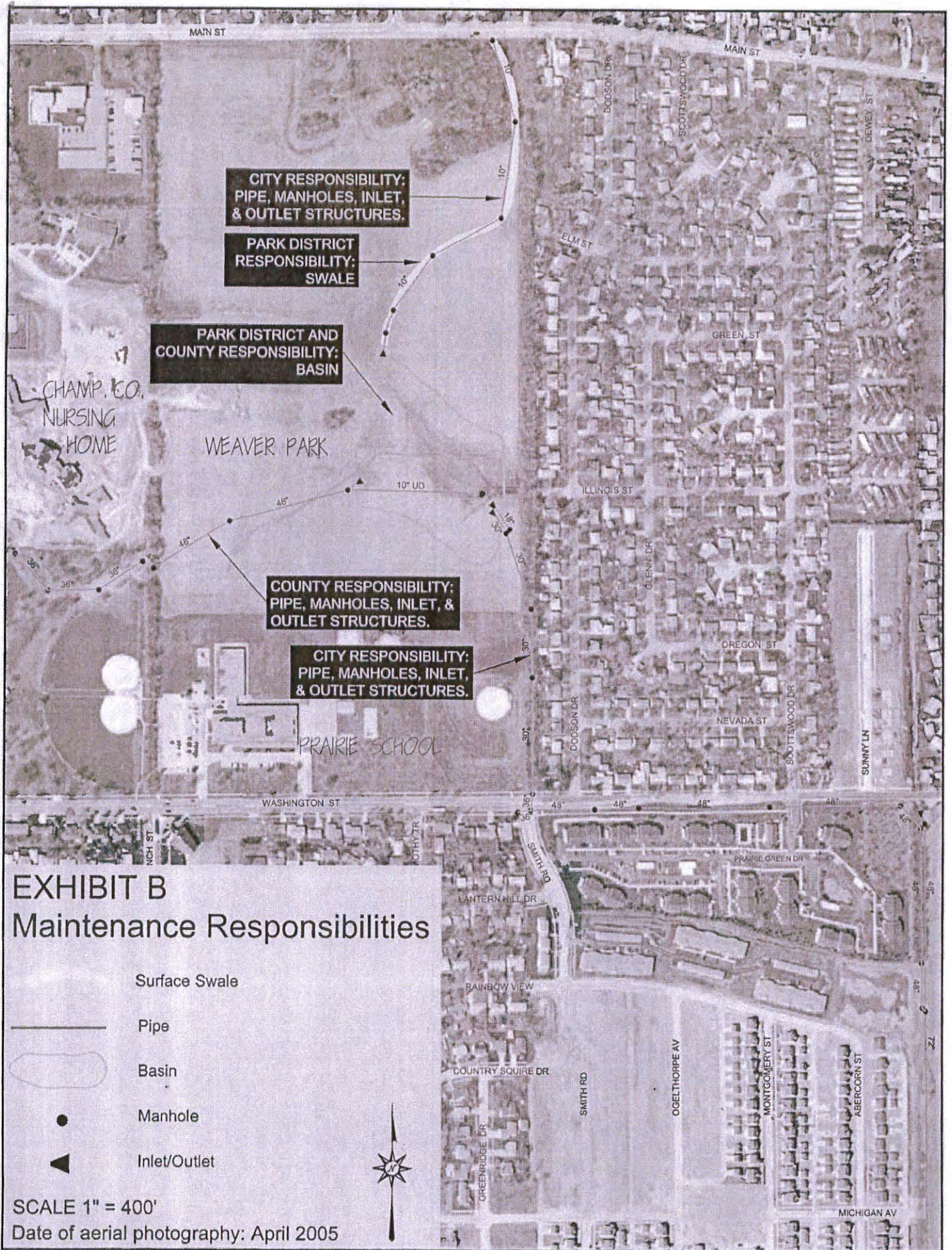


Exhibit E: Application for Rezoning

DECLARATION OF COVENANTS AND RESTRICTIONS

CHAMPAIGN COUNTY NURSING HOME MINOR SUBDIVISION CITY OF URBANA CHAMPAIGN COUNTY, ILLINOIS

This Declaration of Easements, Covenants, Conditions, and Restrictions is made and entered into this 17th day of January, 2018, by the County of Champaign, a body corporate and politic (hereinafter referred to as the "County").

WHEREAS, the County is the fee owner of certain real property (hereinafter referred to as "Lot 1") described in Exhibit "A"; and

WHEREAS, the County may convey Lot 1 to certain other persons or entities; and

WHEREAS, the County will continue to own and have interests in lands adjacent to Lot 1; and

WHEREAS, the County desires to subject Lot 1 to the terms, conditions and provisions of this Declaration as hereinafter set forth,

NOW, THEREFORE, the County does hereby declare and agree as follows:

1. **Ingress/Egress Easement for Lot 1 over Art Bartell Road.** The County hereby creates a non-exclusive easement and right of use appurtenant to and for the benefit of Lot 1, for the persons or entities to whom Lot 1 is conveyed, their successors and assigns, tenants, licensees, guests and invitees (collectively referred to hereinafter as the "Purchasers"), in, on, and over the area designated and described on the attached plat as "proposed easement for ingress/egress, drainage, and public utilities," as designated and described on the attached plat, solely and exclusively for the purposes of ingress to and egress from Lot 1, and subject to all of the following terms and conditions:
 - a. The easement is established in perpetuity, except that it may be extinguished as provided by law, and except that it shall terminate upon occurrence of either or both of the following conditions or events: establishment of alternative access for the Purchasers by public right-of-way, easement, or otherwise, to both the main entrance and the northern parking lot of Lot 1; and/or dedication as a public right-of-way of Art Bartell Road.
 - b. Within the premises of this easement, the County will maintain the road surface and any additional road improvements, such as sidewalks, curbs, shoulders, and drainage ditches, in accordance with County standards, for the duration of the existence of this easement.

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- c. The County reserves the right to any reasonable above-surface or subsurface use of the easement premises.
 - d. The County reserves the right to relocate this easement, provided that the County first obtains all necessary approvals from the City of Urbana, at the County's expense.
 - e. This easement shall allow traffic only up to the amount and of the type reasonably expected to be necessary for the use of Lot 1 for the operation of a nursing home facility.
 - f. This easement shall not be a buildable lot.
2. **Utility Easement for Lot 1.** A perpetual, non-exclusive easement is hereby reserved for and granted to the City of Urbana, and to all public utility companies and other companies of any kind operating under franchise granting them easement rights from the City of Urbana, in, on, across, over, under, and through the area designated and described on the attached plat as "proposed easement for ingress/egress, drainage, and public utilities," for the purpose of installing, constructing, inspecting, operating, replacing, renewing, altering, enlarging, removing, repairing, cleaning, and maintaining electrical, gas, telephone, or other utility lines or appurtenances, sanitary sewers, storm sewers, water mains, and any and all manholes, hydrants, pipes, connections, and, without limitation, such other installations as may be required to furnish public utility service or other franchise services to Lot 1, and such appurtenances and additions thereto as the City and Utilities may deem necessary, together with the right of access to the premises of this easement for the necessary persons and equipment to do any or all of the above work. This easement is not a buildable lot. Installation and all other work performed by the City or Utilities in the premises of this easement shall be subject to the County's reasonable prior approval as to the type of equipment used and the method and timing of the work, and subject to execution of appropriate agreements. The City or Utilities shall be responsible for repair of any damage they may cause to the surface of the easement premises or to any subsurface installations owned and maintained by the County.
3. **Access Drive Easement for Lot 1.** The County hereby creates a perpetual, non-exclusive easement and right of use appurtenant to and for the benefit of Lot 1, for the Purchasers of Lot 1, in, on, and over the Access Drive connecting the northernmost portion of Lot 1 with Art Bartell Road, as designated and described on the attached plat, solely and exclusively for the purposes of ingress and egress to and from Lot 1, and subject to all of the following terms and conditions:
 - a. Within the premises of this easement, the County will maintain the Access Road surface in accordance with County standards for the duration of the existence of this easement.
 - b. The County reserves the right to any reasonable above-surface or subsurface use of the easement premises.
4. **Obligations of the Purchasers of Lot 1 for the Benefit of the County and Its Successors and Assigns.**

Exhibit E: Application for Rezoning

- a. **Reservation of Drainage Infrastructure Easement In Lot 1.** The County hereby reserves, for the benefit of the County, and its successors and assigns, for the use and ownership of its lands adjacent to Lot 1, a perpetual, non-exclusive easement and right of use by the County in, on, across, over, under, and through that area designated on the attached plat as “proposed easement for drainage and public utilities,” in the southwest corner of Lot 1, for drainage and public utilities, and for maintenance of existing subsurface drainage and utilities infrastructure, and for the purpose of installing, constructing, inspecting, operating, replacing, renewing, altering, enlarging, removing, repairing, cleaning, and maintaining subsurface drainage and utilities infrastructure, and for access to the premises of this easement for the necessary persons and equipment to do the above work. The County shall provide reasonable notice to the Purchasers of Lot 1 prior to entry onto the easement premises. The County shall be responsible for repair of any damage to the surface of Lot 1 caused by its use of the easement premises. The County shall have the right to increase, above the present yearly average, the volume of subsurface drainage conducted through this easement, as may be necessary to serve the storm water drainage needs of all County land adjacent to Lot 1.
 - b. **No Alteration of Lot 1 to Increase Runoff Without County Approval.** The Purchasers of Lot 1 are prohibited from physically altering the condition of Lot 1, including making improvements in drainage infrastructure, in any manner that may increase runoff into Weaver Park, without first notifying the County and providing specifications, drawings, and other information that the County may reasonably request, regarding the planned alterations, and obtaining the County’s approval, in addition to obtaining any necessary approvals from the City of Urbana. Should the Purchasers of Lot 1 fail to provide notice and obtain approval as required in this subparagraph, the County may seek injunctive relief and/or damages, and costs, including attorneys’ fees.
5. **No New Easements.** Except as expressly stated herein, all easements identified on the attached plat are for informational purposes only, and no new easements are intended to be granted hereby.

IN WITNESS WHEREOF, the County of Champaign has executed this Declaration this 17th day of January, 2018.

THE COUNTY OF CHAMPAIGN


By: 
C. Pius Weibel, Chair
Champaign County Board

Exhibit E: Application for Rezoning

STATE OF ILLINOIS)
) SS.
COUNTY OF CHAMPAIGN)

The foregoing Declaration of Covenants and Restrictions was signed and sworn before me this 17th day of January, 2018, by C. Pius Weibel, on behalf of the County of Champaign.

Lori A. Busboom
Notary Public

"OFFICIAL SEAL"
LORI A. BUSBOOM
Notary Public, State of Illinois
My commission expires 04/27/19

Exhibit E: Application for Rezoning

periods on or prior to the Closing Date, (iv) contingent liabilities or obligations of Seller, whether known or unknown by Seller, Purchaser or New Operator, (v) any liabilities with respect to the Facility prior to the Closing Date or (vi) any other liabilities resulting from any act or failure to act by Seller on or prior to the Closing Date.

b. **Purchaser's Liabilities.** Except as otherwise set forth in this Agreement, Seller does not assume, and shall not be liable for, any debts, liabilities or obligations of Purchaser including, but not limited to, any (i) liabilities or obligations of Purchaser to its creditors, (ii) liabilities or obligations of Purchaser with respect to any acts, events or transactions occurring on or after the Closing Date, (iii) liabilities or obligations of Purchaser for any federal, state, county or local taxes applicable to or assessed against Purchaser or the assets or business of Purchaser, or applicable to, incurred by and accrued or assessed against the Facility on or after the Closing Date, (iv) contingent liabilities or obligations of Purchaser, whether known or unknown by Purchaser, New Operator or Seller, or (v) any other liabilities resulting from any act or failure to act by Purchaser after the Closing Date.

c. **Anti-Sandbagging.** Notwithstanding anything herein to the contrary, neither party shall have liability for any inaccuracy or breach of any representation or warranty if, before the closing, the other party had knowledge of said inaccuracy or breach or the underlying facts giving rise to such inaccuracy or breach.

22. POST-CLOSING COVENANTS.

a. **Use Covenants.** Purchaser hereby covenants that beginning on the Closing Date and continuing through December 31, 2027:

i. **Property Use.** The Facility shall be operated as a skilled nursing facility with at least 220 licensed beds. The Real Property shall not be used for any purpose except as a skilled nursing facility, geriatric center, long-term care facility or assisted living facility, provided it complies with **Section 22(a)(iii)** in all instances.

ii. **Residents.** All persons who are residents of the Facility on the Closing Date shall continue to be residents after the Closing Date and Purchaser shall ensure no existing resident shall be transferred by New Operator to another facility (A) without the written consent of such resident; or (B) for medical necessity as determined by a medical professional in accordance with standard industry practice.

iii. **Medicaid Beds.** At least fifty percent (50%) of the Licensed Beds shall be reserved for Medicaid-eligible persons to the extent allowed by law and New Operator and its successors and assigns will use their absolute best efforts to accept all such Medicaid eligible residents.

iv. **Priority to County Residents.** Purchaser's tenant shall provide priority for admissions to residents of Champaign County, Illinois where there are insufficient beds for both individuals within Champaign County, Illinois and outside of

Exhibit E: Application for Rezoning

Champaign County, Illinois.

b. **Employees.** Purchaser shall ensure that New Operator: (i) re-hires all of the current employees at the Facility on the Closing Date who pass a background check, (ii) does not terminate 10% or more of the current employees within the first 60 days following the Closing Date and (iii) does not terminate 20% or more of the current employees during the first 6 months after the Closing Date. Nothing in this paragraph, however, shall create any right in favor of any person not a party hereto, including the exiting employees, or constitute an employment agreement or condition of employment for any employee of Seller.

c. **Liquidated Damages.** The terms and conditions of this Section 22 (and of Section 19 of the OTA) are fundamental terms of the sale transaction upon which Seller relied when entering into this Agreement. If there occurs a breach of Section 22 by Purchaser or of Section 19 of the OTA by Purchaser, New Operator or their successors or assigns, Purchaser shall pay to Seller the amount of One Million Dollars (\$1,000,000), as liquidated damages ("*Liquidated Damages*") within five (5) business days of request. At Seller's sole discretion, it may require prior to Closing, delivery of a personal or upstream guaranty of Purchaser's obligations to pay the Liquidated Damages from an individual or entity and in form and substance all acceptable to Seller. The parties intend that the Liquidated Damages constitute compensation and not a penalty. The parties acknowledge and agree that Seller's harm caused by a breach of Section 22 would be very difficult to accurately estimate and that the Liquidated Damages are a reasonable estimate of the anticipated or actual harm that might arise from such a breach.

d. **Successors and Assigns.** The use restrictions set forth in this Section 22 shall apply to Purchaser's successors and assigns, although Purchaser shall in no event be relieved of and may, at Seller's sole discretion, be included on the Deed.

e. **Survival.** This Section 22 shall survive the termination of this Agreement until January 1, 2028. Although, as of the Effective Date, Purchaser does not intend to sell or transfer ownership of the Facility, Purchaser may transfer ownership of the Facility at any time (in accordance with applicable laws) provided that Purchaser provides evidence satisfactory to Seller that the party to whom Purchaser proposes to transfer the Facility has agreed to comply with the terms of Section 22(a) and Section 22(b) and assume Purchaser's liquidated damages obligations.

23. **PUBLICITY.** Neither Purchaser nor Seller shall, and each shall cause their respective affiliates, representatives and agents not to, issue or cause the publication of any press release, public or private announcement with respect to the transactions contemplated by this Agreement (including, an announcement or communication to any employee of the Facility) without the express prior written approval of the other party, except as necessary in connection with New Operator's efforts to obtain the IDPH License.

Exhibit E: Application for Rezoning

l. Surveys. Seller has furnished New Operator with true, accurate and complete copies of all surveys, inspection reports and similar examination reports related to the Facility in its possession as of the date of this Agreement (collectively, the "Surveys"). Any violations on the Surveys have been cured and addressed by a plan of corrective action.

m. Utilities. All utility services, including heat, air conditioning, hot and cold water, telephones, gas and electricity are available at the Facility in quantities sufficient for the present use of the Property. The Facility has not experienced any material disruptions to its operations arising out of any recurring loss of electrical power, flooding, limitations to access to public sewer and water or restrictions on septic service.

n. Permits. To the best of Seller's knowledge, all of the licenses and permits are valid and in full force and effect, and Seller has not received any notice of any violation of such permit or license.

o. Survival of Representations or Warranties. The representations and warranties of Seller under this Agreement shall survive the Commencement Date of the transaction contemplated hereunder for the period of twelve (12) months after the Closing Date; except the representations and warranties set forth in Section 18(a) (Status) and Section 18(b) (Authority), together with any right to indemnification for breach thereof, shall survive the Commencement Date and continue in full force and effect for the maximum period permitted by applicable law.

19. POST-COMMENCEMENT DATE COVENANTS.

a. Use Covenants New Operator hereby covenants that beginning on the Commencement Date and continuing through December 31, 2027:

i. Property Use . The Facility shall be operated as a skilled nursing facility with at least 220 licensed beds. The Facility shall not be used for any purpose except as a skilled nursing facility, geriatric center, long-term care facility or assisted living facility, provided it complies with Section 19(a)(iii) in all instances.

ii. Residents. All persons who are residents of the Facility on the Commencement Date shall continue to be residents after the Commencement Date. New Operator shall not transferred any existing resident to another facility (i) without the written consent of such resident; or (ii) for medical necessity as determined by a medical professional in accordance with standard industry practice.

iii. Medicaid Beds. At least fifty percent (50%) of the licensed beds shall be reserved for Medicaid-eligible persons to the extent allowed by law and New Operator will use its absolute best efforts to accept all such Medicaid eligible residents.

iv. Priority to County Residents. New Operator shall provide priority for admissions to residents of Champaign County, Illinois where there are insufficient

Exhibit E: Application for Rezoning

beds for both individuals within Champaign County, Illinois and outside of Champaign County, Illinois.

b. **Employees.** New Operator shall: (i) re-hire all of the current employees at the Facility on the Commencement Date who pass a background check, (ii) not terminate 10% or more of the current employees within the first 60 days following the Commencement Date and (iii) not terminate 20% or more of the current employees during the first 6 months after the Commencement Date. Nothing in this paragraph, however, shall create any right in favor of any person not a party hereto, including the Employees, or constitute an employment agreement or condition of employment for any Employee.

c. **Successors and Assigns.** The use restrictions set forth in this Section 19 shall apply to New Operator's successors and assigns.

d. **Survival.** This Section 19 shall survive the termination of this Agreement until January 1, 2028.

20. **NO JOINT VENTURE.** Nothing contained herein shall be construed as forming a joint venture or partnership between the parties hereto with respect to the subject matter hereof. The parties hereto do not intend that any third party shall have any rights under this Agreement.

21. **EXHIBITS AND SCHEDULES.** If any exhibits or schedules are not attached to this Agreement on the date of execution, the parties agree to attach such exhibits and schedules as soon as reasonably practicable. This Agreement is subject to New Operator approving all exhibits and schedules not attached hereto on the date hereof, within five business days of submission thereof to New Operator. The parties hereto agree that the party charged with providing an exhibit or schedule to this Agreement shall, to the extent necessary after delivery thereof, amend or supplement all exhibits and schedules in order for the same to be current, true and correct as of the Commencement Date.

22. **EVENTS OF DEFAULT; REMEDIES.** The breach by either Seller, Manager or New Operator (as applicable, "**Defaulting Party**") of any term, provision, condition, promise, covenant, representation, warranty, indemnity, duty or obligation if not cured within ten (10) business days of the earlier of said Defaulting Party's receipt or refusal of written notice of the same from the other party ("**Non-Defaulting Party**") shall automatically and without further notice hereunder be an immediate event of default ("**Event of Default**") entitling the Non-Defaulting Party to exercise any remedies available to it hereunder or in law or equity. The Non-Defaulting Party's rights and remedies hereunder shall be cumulative and not mutually exclusive and the exercise by the Non-Defaulting Party of one or more rights or remedies shall not be deemed, interpreted or construed as an election of the same or to bar, prevent or preclude the simultaneous or consecutive exercise of any other right or remedy available to the Non-Defaulting Party, including the simultaneous or successive pursuit of money damages and injunctive relief. The Non-Defaulting Party shall not be required to post any bond, surety or security of any nature whatsoever to pursue injunctive relief, the necessity or requirement for the same being hereby waived by the Defaulting Party.

23. **GENERAL PROVISIONS.**