DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Plan Commission

FROM: Lisa Karcher, AICP, Planner II

DATE: January 29, 2010

SUBJECT: CCZBA-658-AT-09: Request by the Champaign County Zoning Administrator to amend the Champaign County Zoning Ordinance concerning wind farms and special uses

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Introduction and Background

In May 2009, Champaign County amended the Champaign County Zoning Ordinance concerning requirements for wind farm developments. The Urbana City Council reviewed this text amendment in CCZBA Case No. 634-AT-08 on May 4, 2009 and did not adopt a resolution of protest. The Champaign County Zoning Administrator is now requesting a text amendment to the Champaign County Zoning Ordinance (Champaign County Case No. CCZBA-634-AT-08) pertaining to their recently adopted wind farm standards. The proposed text amendment is intended to correct identified weaknesses and minor oversights in the final wording that was adopted.

Illinois State Law allows municipalities to regulate wind farms and wind turbines within both its zoning jurisdiction and the 1.5 mile radius (ETJ) surrounding its zoning jurisdiction. This has been interpreted to mean that Champaign County does not have authority to regulate wind farms and wind turbines in the ETJ, even though they would normally have zoning authority in this area. Consequently, the wind farm regulations that were recently adopted by Champaign County excluded the City of Urbana's ETJ. Since the proposed text amendment is related to the wind farm regulations, which do not apply to Urbana's ETJ, the proposed text amendment will not directly impact the City of Urbana's planning jurisdiction.

The Champaign County Zoning Board of Appeals (CCZBA) reviewed the proposed text amendment at their January 14, 2009 meeting. At this meeting, changes were requested to the proposed language, and therefore a new notice was published concerning the proposed text amendment. Champaign County staff memoranda concerning the proposed text amendment are included as Exhibits A, B and C. The CCZBA will review the proposed changes at a special meeting on February 1, 2010. City staff will report to the Plan Commission on the discussion that occurs at this meeting. It is anticipated that the CCZBA will make a recommendation to the Environment and Land Use Committee (ELUC) concerning the amendment at

their meeting on February 1. From there, the amendment will be considered by ELUC on March 2 and by the Champaign County Board on March 18.

Typically, proposed Champaign County text amendments are of interest to the City of Urbana to the extent that they will affect zoning and land use development decisions within the City's ETJ and for their consistency with Urbana's Comprehensive Plan. The City has subdivision and land development jurisdiction within the ETJ area, while the County holds zoning jurisdiction in this area. It is therefore important that there be consistency between these two jurisdictions to the extent that certain regulations may overlap. This case is unique in the fact that State law does not give the County authority to regulate wind turbines and wind farms in the ETJ.

It is the Plan Commission's responsibility to review the proposed amendment to determine what impact it will have on the City, and recommend to City Council whether or not to protest the proposed text amendment. Under state law, a municipal protest of the proposed amendment would require three-fourths super majority of affirmative votes for approval of the request at the County Board; otherwise, a simple majority would be required for County Board approval.

Discussion

Proposed Champaign County Text Amendment

Following is a description of the text amendment proposed by the Champaign County Zoning Administrator and a brief summary by City staff of the text amendment impact:

- **PART A:**
    1. **Amend paragraph 6.1.1 C.5. to reference the requirements of paragraph 6.1.4 P.5.** (See Exhibit 1, Attachment A for proposed text changes)

       Paragraph 6.1.1 C.5. of the Champaign County Zoning Ordinance requires submittal of an irrevocable letter of credit as part of a reclamation agreement to be submitted for approved special uses. The purpose of the letter of credit is to provide for the "removal of above-ground portion of any structure on the subject site; site grading; and, interim soil erosion control" for the approved special use. For instance, such a bond would be used to pay for the removal of an abandoned wind turbine.

       The proposed text amendment is to add a reference in this paragraph to 6.1.4 P.5. Paragraph 6.1.4 P.5. outlines requirements for a decommissioning plan and site reclamation agreement for wind farm developments. Within this paragraph, an irrevocable letter of credit is required, but at a higher amount than in paragraph 6.1.1 C.5. The reference is added to refer, where applicable, to the specific decommissioning and site reclamation requirements for wind farm developments.

    2. **Amend paragraph 6.1.4 C.11. to require the wind farm separation from restricted landing areas or residential airports only for restricted landing areas and residential**

airports that existed on the effective date of County Board adoption of Case 658-AT-09. (See Exhibit 1, Attachment B for proposed text changes)

Paragraph 6.1.4 C.11. currently requires a minimum of 3,500 feet separation between wind farm towers and any restricted landing area (RLA) or residential airport. County staff is concerned that this will cause the establishment of "spite" RLA's, requiring the 3,500 foot separation and ultimately limiting the number and location of wind farm towers.

The proposed text amendment specifies that the required separation is only for legal RLA's and residential airports "that existed on or for which there had been a complete special use permit application received by" the date of adoption of the text amendment. The added language is intended to prevent "spite" RLA's. County staff has explained that the County Board would have the ability to require the necessary separation distances as part of the special use approval of a wind farm development for RLA's established after the adoption date and that are within the vicinity of a proposed wind farm.

In addition to the above described wording change, the proposed revision reduces the 3,500 foot separation standard to a separation standard based on a formula using the actual height of the wind farm tower, expands the approach zone separation, and sets different separation standards for RLA's and residential airports.

- **PART B:**
  1. **Amend paragraph 9.1.11 D.1. to include reference to subsection 6.1 instead of subsection 6.1.3.** (See Exhibit 1, Attachment C for proposed text changes)

     The proposed text amendment is to replace the reference to subsection 6.1.3. with 6.1. Section 6.1 of the Champaign County Zoning Ordinance outlines standards for specific special uses. Wind farm developments are permitted in the AG-1 Zoning District as a special use subject to standard conditions outlined in subparagraph 6.1.4. The intent of Paragraph 9.1.11 D.1., which applies to wind farm developments, was that standard conditions in Section 6.1 may be waived in the approval of a special use permit. The existing paragraph 9.1.11 D.1. refers only to subsection 6.1.3. and therefore does not allow for the waiver of all standard conditions in Section 6.1. Replacing the reference to subsection 6.1.3 with 6.1 would allow this.

Impact on Urbana's ETJ

The proposed text amendment will not significantly impact the City of Urbana. The purpose of the proposed text amendment is to make revisions to wind farm regulations that were adopted by Champaign County in May 2009 in CCZBA Case No. 634-AT-08. Based on State law, the wind farm regulations exclude the City of Urbana's ETJ. On May 4, 2009 the City of Urbana did not adopt a resolution of protest concerning the establishment of regulations for wind farm developments in Champaign County.

Summary of Findings

1. Based on State law, Champaign County's regulations pertaining to wind farm developments are not applicable within City of Urbana's ETJ.

2. The City of Urbana did not protest CCZBA Case No. 634-AT-08 that established requirements for wind farm developments in Champaign County.

3. Champaign County Zoning Case No. CCZBA 658-AT-09 is intended to correct identified weaknesses and minor oversights in the final wording of the text amendment adopted by Champaign County in May 2009, which established regulations for wind farm developments.

4. The proposed zoning ordinance text amendment would not adversely affect the City of Urbana or the extra-territorial jurisdiction of the City of Urbana.

Options

The Plan Commission has the following options for recommendations to the City Council regarding proposed text amendments in CCZBA Case No. 658-AT-09:

1. Recommend to defeat a resolution of protest; or

2. Recommend to defeat a resolution of protest contingent upon some specific revision(s) to the proposed text amendments; or

3. Recommend to adopt a resolution of protest.

Staff Recommendation

Based on the findings above, Staff recommends that the Plan Commission forward this case to the City Council with a recommendation to **DEFEAT a resolution of protest** for the proposed County Zoning Ordinance text amendment.

Attachments: Exhibit 1: Supplemental Memorandum dated January 26, 2010
Exhibit 2: Supplemental Memorandum dated January 14, 2010
Exhibit 3: Preliminary Memorandum dated January 7, 2010

cc: John Hall, Champaign County Zoning Administrator

EXHIBIT 1

CASE NO. 658-AT-09

SUPPLEMENTAL MEMORANDUM

January 26, 2010

Petitioner: **Zoning Administrator**

Champaign County Department of PLANNING & ZONING

Prepared by: **John Hall**
Zoning Administrator
J.R. Knight
Associate Planner

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

(217) 384-3708

Request:

Amend the Champaign County Zoning Ordinance as follows:

PART A:

1. **Amend paragraph 6.1.1 C.5. to reference the requirements of paragraph 6.1.4 P.5.**

2. **Amend paragraph 6.1.4 C.11. to require the wind farm separation from restricted landing areas or residential airports only for restricted landing areas and residential airports that existed on the effective date of County Board adoption of Case 658-AT-09.**

PART B:

1. **Amend paragraph 9.1.11 D.1. to include reference to subsection 6.1 instead of subsection 6.1.3.**

STATUS

This is the second meeting for this case. This case was readvertised on January 17, 2010, and a new notice was sent to all municipalities and townships with protest rights. New information has been added to the Finding of Fact regarding the changes in the readvertisement.

All new information is included in the attachments.

OVERSIGHT IN THE LEGAL ADVERTISEMENT

When this case was readvertised on January 17, 2010, the revision to paragraph 6.1.1 C.5. that was intended to be withdrawn was instead included in the ad. At the same time the revision to subparagraph 6.1.4 A.1.(c) was left out of the ad instead of being retained. The draft of the proposed amendment and the Finding of Fact have been revised to reflect this change in content and the change that was proposed for Subparagraph 6.1.4 A.1.(c) will be included in a future text amendment.

REVISED RLA WIND FARM SEPARATION

The revised minimum required separation can be summarized as follows:

- The separation is from the runway to the nearest tip of a blade of the nearest WIND FARM TOWER.

- The separation at the sides of a runway for both a restricted landing area (RLA) and a residential airport are based on a ratio of seven horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT.

- The separation at the ends of a runway are based on (1) the slope of the IDOT approach zone (so it is different for an RLA (15:1) than for a residential airport (20:1)) and (2) the overall height of the wind farm tower. Thus, for a residential airport the separation at the end of the runway for a 500 feet tall wind farm tower is 10,000 feet and 8,000 feet for a 400 feet tall wind farm tower. For an RLA the separation at the end of the runway for a 500 feet tall wind farm tower is 7,500 feet and 6,000 feet for a 400 feet tall wind farm tower. However, the runway end separation is only about 700 feet wide for an RLA and 800 feet wide for a residential airport and the acreage taken up by that separation is not large. In fact, it may be that this separation can simply be accommodated by the spacing between wind farm towers. Staff would welcome any evidence that wind farm developers could provide regarding the typical separation between wind farm towers.

- Because the revised separation requires greater separation at the end of the runway than the existing Ordinance it actually provides greater safety than the existing requirement. And because the revised separation is based on actual wind farm tower height it occupies less farmland and allows more wind turbines than the current requirement. For example, for a minimum 1,600 feet long RLA the existing simple RLA wind farm separation requires approximately 1,154 acres per each RLA regardless of wind farm tower height. Assuming wind farm towers that are 400 feet tall, the revised RLA separation requires a total area of only 885 acres (including the separation at the ends of the runway) which is only about 77% of the current requirement of 1,154 acres.

LEGAL RLAS

All nonconforming RLAs that were identified in Case 642-AT-88 (when RLAs were added to the Zoning Ordinance) were registered with Zoning Use Permit and are legally nonconforming the same way that any RLA that existed on October 10, 1973, (the date of adoption of the Ordinance) are legally nonconforming.

ATTACHMENTS

A Draft Proposed Change to Subparagraph 6.1.1 C.5.
B Revised Draft Proposed Change to Subparagraph 6.1.4 C. 11.
C Draft Proposed Change to Subparagraph 9.1.11 D.1.
D Draft Proposed Amendment (all sections)
E Revised Finding of Fact

Attachment A. Draft Proposed Change to Paragraph 6.1.1 C.5.
JANUARY 26, 2010

1. Amend paragraph 6.1.1 C.5. to reference the requirements of paragraph 6.1.4 P.5.

5. No Zoning Use Permit for such SPECIAL USE will be issued until the developer provides the COUNTY with an irrevocable letter of credit to be drawn upon a federally insured financial institution within 200 miles of Urbana or reasonable and anticipated travel costs shall be added to the amount of the letter of credit. The irrevocable letter of credit shall be in the amount of one hundred fifty percent (150%) of an independent engineer's cost estimate to complete the work described in Section 6.1.1C4a, except as a different amount may be required as a standard condition in Paragraph 6.1.4 P. This letter of credit, or a successor letter of credit pursuant to Section 6.1.1C6 or 6.1.1C12 shall remain in effect and shall be made available to the COUNTY for an indefinite term, or for a different term that may be required as a standard condition in Paragraph 6.1.4 P.

Attachment B. Revised Draft Proposed Change to Subparagraph 6.1.4 C. 11.
JANUARY 26, 2010

1. Revise subparagraph 6.1.4 C. 11. as follows:

11. ~~At least 3,500 feet separation from the exterior above-ground base of a WIND FARM TOWER to any RESTRICTED LANDING AREA or RESIDENTIAL AIRPORT.~~ For any legal RESTRICTED LANDING AREA that existed on or for which there had been a complete special use permit application received by *{the date of adoption}*, there shall be a separation from the runway to the nearest tip of a blade of the nearest WIND FARM TOWER as follows:

(a) The separation from the sides of the runway shall be seven horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT.

{Note: IDOT only requires a height restriction to the side of an RLA for a distance of 135 feet from the runway centerline.)

(b) The separation from the end of the runway shall be 15 feet for each one foot of overall WIND FARM TOWER HEIGHT in a trapezoidal shape that is the width of the runway approach zone based on the requirements of 92 Ill. Admin. Code 14.520, except as follows:

(1) that part of the separation that is more than 3,000 feet from the end of a runway may be a consistent width based on the widest point of the runway approach zone.

(c) An area of separation that is the area defined by a line joining the separation from a side of the runway required in subparagraph (a) to the separation from an end of the runway required by subparagraph (b).

(Note: In addition to eliminating the wind farm separation for any new RLA or Residential Airport, this revision also reduces the basic separation from a standard 3,500 feet for each wind farm to a formula based separation based on the actual height of the wind farm tower and also expands the approach zone separation based on the height of the wind farm towers. The revised approach zone separation is also related to whether the approach zone is for an RLA or a residential airport. The Illinois Department of Transportation has adopted a 15 to 1 approach slope for Restricted Landing Areas (RLAs) and a 20 to 1 slope that applies to airports and presumably to residential airports).

The existing original version of the RLA wind farm separation is in fact based on the " side transition surface" for airports that is a slope of seven horizontal feet for each vertical foot and that extends to a height of 150 feet above the ground. See 92 Ill. Admin. Code 14 APPENDIX A Airport Standards. The existing originally adopted the RLA wind farm separation was simply based on the maximum allowable wind farm tower height of 500 feet times the seven horizontal feet for a total separation of 3,500 feet. For a minimum 1,600 feet long RLA the existing simple RLA wind farm separation requires approximately 1,154 acres per each RLA. There will probably be waivers requested for most wind farms because wind farm towers are generally less than 500 feet tall. Waivers for wind farms will probably be controversial and it would be best to improve the Ordinance to reduce any unnecessary waivers.

For wind farm towers that are 400 feet tall this revised RLA separation at the sides of both an RLA and a residential airport will be 2,800 feet. The separation at the end of an RLA with 400 feet tall wind farm towers will increase to 6,000 feet. Assuming a minimum 1,600 feet long RLA and wind farm towers that

are 400 feet tall, the total area of RLA separation will be 885 acres which is only about 77% of the current requirement of 1,154 acres.

If wind farm turbines are installed at a density of about 70 acres per wind turbine, the change could result in nearly four additional wind turbines per RLA even though the degree of safety is arguably increased due to the longer separation at the ends of the runways.

At this time it is believed that there are no existing RLAs in any area proposed for wind farm development but it is impossible to verify.

The proposed amendment will also have no effect on any pending RLA Special Use Permit (SUP) or complete SUP application that has been received. At this time the only pending RLA SUP is Case 645-S-09 and that Case will be unaffected by the proposed amendment.)

12. For any legal RESIDENTIAL AIRPORT that existed on or for which there had been a complete special use permit application received by *{the date of adoption}*, there shall be a separation from the runway to the nearest tip of a blade of the nearest WIND FARM TOWER as follows:
    (a) The separation from the sides of the runway shall be seven horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT.

    (b) The separation from the end of the runway and for a distance of 50 feet on either side of an end of the runway, shall be 20 feet for each one foot of overall WIND FARM TOWER HEIGHT in a trapezoidal shape that is the width of the runway approach zone based on the requirements of 92 Ill. Admin. Code 14.520, except as follows:
        (1) that part of the required separation that is more than 3,000 feet from the end of a runway may be a consistent width based on the widest part of the runway approach zone.

    (c) An area of separation that is the area defined by a line joining the separation from a side of the runway required in subparagraph (a) to the separation from an end of the runway required by subparagraph (b).

(Note: Note that this separation is different only in the specification of the separation at the end of the runway and that is based on the difference between the IDOT requirements for airport approach zones versus IDOT requirements for RLA approach zones.

There is only one Residential Airport in the County and it is nowhere near any area proposed for a wind farm. There are unlikely to be any additional future residential airports because the Illinois Department of Transportation Division of Aeronautics has no guidelines for residential airports.

Airports have an FAA protected separation that amounts to nearly four miles.)

Attachment C. Case 658-AT-09 Draft Proposed Change To Subpar. 9.1.11 D.1.
JANUARY 22, 2010

1. Revise subparagraph 9.1.11 D.1. as follows (no changes from previous version):

D. Conditions

1. Any other provision of this ordinance not withstanding, the BOARD or GOVERNING BODY, in granting any SPECIAL USE, may waive upon application any standard or requirement for the specific SPECIAL USE enumerated in Section 6.1~~.3 Schedule of Requirements and Standard Conditions~~ Standards for Special Uses, to the extent that they exceed the minimum standards of the DISTRICT, except for any state or federal regulation incorporated by reference, upon finding that such waiver is in accordance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or to the public health, safety and welfare.

Attachment D. Case 658-AT-09 Draft Proposed Amendment
JANUARY 26, 2010

1. Amend paragraph 6.1.1 C.5. to reference the requirements of paragraph 6.1.4 P.5.

5. No Zoning Use Permit for such SPECIAL USE will be issued until the developer provides the COUNTY with an irrevocable letter of credit to be drawn upon a federally insured financial institution within 200 miles of Urbana or reasonable and anticipated travel costs shall be added to the amount of the letter of credit. The irrevocable letter of credit shall be in the amount of one hundred fifty percent (150%) of an independent engineer's cost estimate to complete the work described in Section 6.1.1C4a, except as a different amount may be required as a standard condition in Paragraph 6.1.4 P. This letter of credit, or a successor letter of credit pursuant to Section 6.1.1C6 or 6.1.1C12 shall remain in effect and shall be made available to the COUNTY for an indefinite term, or for a different term that may be required as a standard condition in Paragraph 6.1.4 P.

2. Revise subparagraph 6.1.4 C. 11. as follows:

11. For any legal RESTRICTED LANDING AREA that existed on or for which there had been a complete special use permit application received by *{the date of adoption}*, there shall be a separation from the runway to the nearest tip of a blade of the nearest WIND FARM TOWER as follows:
    (a) The separation from the sides of the runway shall be seven horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT.

    (b) The separation from the end of the runway shall be 15 feet for each one foot of overall WIND FARM TOWER HEIGHT in a trapezoidal shape that is the width of the runway approach zone based on the requirements of 92 Ill. Admin. Code 14.520, except as follows:
        (1) that part of the separation that is more than 3,000 feet from the end of a runway may be a consistent width based on the widest point of the runway approach zone.

    (c) An area of separation that is the area defined by a line joining the separation from a side of the runway required in subparagraph (a) to the separation from an end of the runway required by subparagraph (b).

12. For any legal RESIDENTIAL AIRPORT that existed on or for which there had been a complete special use permit application received by *{the date of adoption}*, there shall be a separation from the runway to the nearest tip of a blade of the nearest WIND FARM TOWER as follows:
    (a) The separation from the sides of the runway shall be seven horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT.

    (b) The separation from the end of the runway and for a distance of 50 feet on either side of an end of the runway, shall be 20 feet for each one foot of overall WIND FARM TOWER HEIGHT in a trapezoidal shape that is the

width of the runway approach zone based on the requirements of 92 Ill. Admin. Code 14.520, except as follows:

(1) that part of the required separation that is more than 3,000 feet from the end of a runway may be a consistent width based on the widest part of the runway approach zone.

(c) An area of separation that is the area defined by a line joining the separation from a side of the runway required in subparagraph (a) to the separation from an end of the runway required by subparagraph (b).

3. Revise subparagraph 9.1.11 D.1. as follows:

D. Conditions

1. Any other provision of this ordinance not withstanding, the BOARD or GOVERNING BODY, in granting any SPECIAL USE, may waive upon application any standard or requirement for the specific SPECIAL USE enumerated in Section 6.1 Standards for Special Uses, to the extent that they exceed the minimum standards of the DISTRICT, except for any state or federal regulation incorporated by reference, upon finding that such waiver is in accordance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or to the public health, safety and welfare.

REVISED DRAFT – January 26, 2010

658-AT-09

FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals

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

Date: February 1, 2010

Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance as follows:

PART A:

1. Amend paragraph 6.1.1 C.5. to reference the requirements of paragraph 6.1.4 P.5.

2. Amend paragraph 6.1.4 C.11. to require the wind farm separation from restricted landing areas or residential airports only for restricted landing areas and residential airports that existed on the effective date of County Board adoption of Case 658-AT-09.

PART B:

1. Amend paragraph 9.1.11 D.1. to include reference to subsection 6.1 instead of subsection 6.1.3.

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 14, 2010, and February 1, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.

2. The need for the amendment came about as follows:
   A. New requirements for wind farm development were added to the Zoning Ordinance by the adoption of Ordinance No. 848 (Case 634-AT-08 Part A) by the County Board on May 21, 2009.

   B. Case 645-S-09 for a proposed restricted landing area within the area of an anticipated wind farm has revealed what appears to be a weakness in the wind farm amendment.

C. The weakness in the wind farm regulations is that an agricultural RLA can be established with no approval necessary from the County and once established it will create an area of approximately 1,100 acres where no wind farm tower may be established.

D. Wind farm towers provide tremendous economic benefit to the landowner and more importantly the local school system and eliminating so much possible income would be injurious to the district.

E. There were also several minor errors or oversights in the final wording of Ordinance No. 848 that if not corrected could cause unnecessary complications for any wind farm review and so those oversights have also been included in this case.

3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

GENERALLY REGARDING THE EXISTING ZONING REGULATIONS

4. Existing Zoning regulations regarding the separate parts of the proposed amendment are as follows:

A. Requirements for the development of wind farms were added to the *Zoning Ordinance* in Ordinance No. 848 (Case 634-AT-09 Part A) on May 21, 2009. These requirements included a 3,500 feet separation from any restricted landing area or residential airport to the base of any wind farm tower.

B. Ordinance No. 848 also reorganized Section 6 of the *Zoning Ordinance* to make it more clear that all the requirements in Section 6.1 are standard conditions and are waiveable as part of a Special Use Permit. However, some references to standard conditions and Section 6 in other parts of the *Zoning Ordinance* were not updated.

C. The following definitions from the *Zoning Ordinance* are especially relevant to this amendment (capitalized words are defined in the Ordinance):

(1) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.

(2) "NON-ADAPTABLE STRUCTURE" is any STRUCTURE or physical alteration to the land which requires a SPECIAL USE permit, and which is likely to become economically unfeasible to remove or put to an alternate USE allowable in the DISTRIC (by-right or by SPECIAL USE).

(3) "RESIDENTIAL AIRPORT" is any area described or defined as an AIRPORT under the *Illinois Aviation Safety Rules* (92 *Ill. Admin. Code* Part 14) and which is classified as a Residential Airport by the Illinois Department of Transportation, Division of Aeronautics.

(4) "RESTRICTED LANDING AREA" is any area described or defined as a Restricted Landing Area under the *Illinois Aviation Safety Rules* (92 *Ill. Admin. Code* Part 14) and as further regulated by the Illinois Department of Transportation, Division of Aeronautics.

(5) "SPECIAL CONDITION" is a condition for the establishment of the SPECIAL USE.

(6) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.

SUMMARY OF THE PROPOSED AMENDMENT

5. The proposed amendment revises portions of the recently adopted Ordinance No. 848 (Zoning Case 634-AT-09 Part A), as follows:

A. There is a proposed revision to Paragraph 6.1.1 C.5. to reference the requirements of Paragraph 6.1.4 P.5., as follows:

(1) Paragraph 6.1.1 C.5. is a part of the requirements for reclamation agreements for non-adaptable structures. It describes the requirements for the term and amount of an irrevocable letter of credit. This letter is provided so that if the County has to remove the non-adaptable structure it can draw on those funds.

(2) Paragraph 6.1.4 P.5 is part of the recent wind farm text amendment and modifies the requirements of Paragraph 6.1.1 C.5. for the special case of a wind farm.

(3) The proposed revision will make it clear that the specific provisions in Paragraph 6.1.4 P.5. are the relevant requirement for wind farms, instead of Paragraph 6.1.1 C.5

B. There is a proposed revision to Subparagraph 6.1.4 C.11 to change the requirements for separation of wind farm towers from Restricted Landing Areas (RLA's) and Residential Airports, as follows:

(1) Originally, there was a flat 3500 feet separation between RLA's and wind farm towers.

(2) The proposed amendment first revises the separation so that it only applies to RLA's that were existing or for which a complete application had been received by the date of adoption of this text amendment.

(3) The separation is also divided into two different separations, as follows:

(a) A separation from the sides of the runway of seven feet for every vertical foot of wind farm tower height.

(b) A separation from the ends of the runway that is trapezoidal in shape and based on IDOT approach slopes. The approach separation extends 15 feet for every vertical foot of tower height for RLA's and 20 feet for every vertical foot of tower height for Residential Airports.

(c) These separations are from the edge of the runway to the tip of the nearest blade of the nearest wind farm tower to prevent any wind farm tower blades from overhanging into the area of the separation.

C. There is a proposed revision to Subparagraph 9.1.11 D.1 that changes a reference to Subsection 6.1.3 to a reference to 6.1 because Section 6 was reorganized in the wind farm text amendment to make it clear that every requirement listed in Subsection 6.1 is a standard condition.

GENERALLY REGARDING RELEVANT LAND USE GOALS AND POLICIES

6. The *Land Use Goals and Policies* (LUGP) were adopted on November 29, 1977, and were the only guidance for amendments to the *Champaign County Zoning Ordinance* until the *Land Use Regulatory Policies- Rural Districts* were adopted on November 20, 2001, as part of the Rural Districts Phase of the Comprehensive Zoning Review (CZR) and subsequently revised on September 22, 2005. The relationship of the Land Use Goals and Policies to the Land Use Regulatory Policies is as follows:

A. Land Use Regulatory Policy 0.1.1 gives the Land Use Regulatory Policies dominance over the earlier Land Use Goals and Policies.

B. The Land Use Goals and Policies cannot be directly compared to the Land Use Regulatory Policies because the two sets of policies are so different. Some of the Land Use Regulatory Policies relate to specific types of land uses and relate to a particular chapter in the land use goals and policies and some of the Land Use Regulatory Policies relate to overall considerations and are similar to general land use goals and policies.

REGARDING SPECIFICALLY RELEVANT LAND USE GOALS AND POLICIES

7. There are goals and policies for agricultural, commercial, industrial, and residential land uses, as well as conservation, transportation, and utilities goals and policies in the Land Use Goals and Policies, but due to the nature of the changes being proposed none of these specific goals and policies are relevant to the proposed amendment.

REGARDING THE GENERAL LAND USE GOALS AND POLICIES

8. Regarding the General Land Use Goals and Policies:

A. The first, third, fourth, and fifth General Land Use Goals appear to be relevant to the proposed amendment, and are as follows:

(1) The first General Land Use Goal is promotion and protection of the health, safety, economy, convenience, appearance, and general welfare of the County by guiding the overall environmental development of the County through the continuous comprehensive planning process.

(2) The third General Land Use Goal is land uses appropriately located in terms of utilities, public facilities, site characteristics, and public services.

(3) The fourth General Land Use Goal is arrangement of land use patterns designed to promote mutual compatibility.

B. The proposed amendment ***{ACHIEVES}*** the first, third, and fourth General Land Use Goals because of the following:

(1) Based on evidence that there will be significant positive effects on Equalized Assessed Valuation that will benefit local taxing bodies from the establishment of wind farms in the County.

(2) The need for bona fide Restricted Landing Areas and Residential Airports appears to be very limited because in the 21 years since the requirements for those uses were added to the *Zoning Ordinance* only four applications for RLA's have been received and only one residential airport has been established in the county.

(3) At this time it is believed there are no existing RLAs in any area proposed for wind farm development but it is impossible to verify.

(4) The proposed amendment will have no effect on any pending RLA Special Use Permit (SUP) or complete SUP application that has been received. At this time the only pending RLA SUP is Case 645-S-09 and that Case will be unaffected by the proposed amendment.

(5) The proposed amendment could have an unintended consequence for Restricted Landing Areas (RLA) that are established after the effective date and that could eventually be affected by wind farm development (or expansion of future established wind farms) that may have been unforeseen at the time the RLA was established. The Board could require a separation as a standard condition of a wind farm special use permit approval.

(6) There is only one Residential Airport in the County and it is nowhere near any area proposed for a wind farm. There are unlikely to be any future residential airports because the Illinois Department of Transportation Division of Aeronautics has no guidelines for residential airports.

(7) Airports have an FAA protected separation that amounts to nearly four miles.

(8) Regarding safety concerns at RLA's and Residential Airports:

(a) IDOT only requires a height restriction to the side of an RLA for a distance of 135 feet from the runway centerline.

(b) In addition to eliminating the wind farm separation for any new RLA or Residential Airport, the amendment readvertised on January 17, 2010, also reduces the basic separation from a standard 3,500 feet for each wind farm to a formula based separation based on the actual height of the wind farm tower and also expands the approach zone separation based on the height of the wind farm towers.

(c) The revised approach zone separation is also related to whether the approach zone is for an RLA or a residential airport. The Illinois Department of Transportation has adopted a 15 to 1 approach slope for Restricted Landing Areas (RLAs) and a 20 to 1 slope that applies to airports and presumably to residential airports.

(d) The existing original version of the RLA wind farm separation is based on the "side transition surface" for airports that is a slope of seven horizontal feet for each vertical foot and that extends to a height of 150 feet above the ground. See 92 Ill. Admin. Code 14 APPENDIX A Airport Standards.

(e) The existing originally adopted RLA wind farm separation was simply based on the maximum allowable wind farm tower height of 500 feet times the seven horizontal feet for a total separation of 3,500 feet. For a minimum 1,600 feet long RLA the existing simple RLA wind farm separation requires approximately 1,154 acres per each RLA.

(f) There will probably be waivers requested for most wind farms because wind farm towers are generally less than 500 feet tall. Waivers for wind farms will probably be controversial and it would be best to improve the Ordinance to reduce any unnecessary waivers.

(g) For wind farm towers that are 400 feet tall this revised RLA separation at the sides of both an RLA and a residential airport will be 2,800 feet. The separation at the end of an RLA with 400 feet tall wind farm towers will increase to 6,000 feet. Assuming a minimum 1,600 feet long RLA and wind farm towers that are 400 feet tall, the total area of RLA separation will be 885 acres which is only about 77% of the current requirement of 1,154 acres.

(h) If wind farm turbines are installed at a density of about 70 acres per wind turbine, the change could result in nearly four additional wind turbines per RLA even though the degree of safety is arguably increased due to the longer separation at the ends of the runways.

(i) The Board could require a separation for a RLA or Residential Airport as a standard condition of a wind farm special use permit approval.

C. The fifth General Land Use Goal is:

Establishment of processes of development to encourage the development of the types and uses of land that are in agreement with the Goals and Policies of this Land Use Plan

The proposed amendment appears to ***{ACHIEVE}*** the fifth General Land Use Goal because it will make the *Zoning Ordinance* more consistent and clear, as follows:

(a) Clarifying that the Site Reclamation requirements in Subparagraph 6.1.1 A. are standard conditions, which are therefore able to be waived, matches the intent of

the original legal advertisement for Case 273-AT-00, which added those requirements to the *Zoning Ordinance*.

(b) The proposed change to Subparagraph 6.1.1 C.5. will make it clear which reclamation agreement requirement applies in the case of a wind farm special use permit.

~~Based on the requirement in subparagraph 6.1.4 M. there should not be any land that is subject to more shadow flicker than allowed by that paragraph because all land subject to greater shadow flicker will receive mitigation and so the requirements of paragraph 6.1.4 M. make the requirement of paragraph 6.1.4 A.1.c. obsolete.~~

D. None of the General Land Use Policies appear to be relevant to the proposed amendment.

DOCUMENTS OF RECORD

1. Application for Text Amendment from Zoning Administrator, dated December 4, 2009

2. Preliminary Memorandum for Case 658-AT-09, dated January 7, 2010, with attachments:
   - A Draft Proposed Change to Subparagraph 6.1.4 A. 1.(c)
   - B Draft Proposed Change to Subparagraph 6.1.4 C. 11.
   - C Draft Proposed Change to Subparagraph 9.1.11 D.1.
   - E Excerpts from Section 6 of the *Zoning Ordinance* (with revisions from recent text amendments)
   - F Draft Finding of Fact for Case 658-AT-09 (attached separately)

3. Supplemental Memorandum for Case 658-AT-09, dated January 14, 2010, with attachments:
   - A Revised Draft Proposed Change to Subparagraph 6.1.4 C.11.
   - B 92 *Ill. Admin. Code* 14 APPENDIX A Airport Standards
   - C *ALTERNATIVE* Proposed Change to Subparagraph 6.1.4 C.11
   - D 92 *Ill Admin. Code* 14 APPENDIX E Restricted Landing Area Standards

4. Excerpts of the Minutes of March 12, 2009, and March 26, 2009, submitted by Sherry Schildt on January 14, 2010

5. Supplemental Memorandum for Case 658-AT-09, dated January 26, 2010, with attachments:
   - A Draft Proposed Change to Subparagraph 6.1.1 C.5.
   - B Revised Draft Proposed Change to Subparagraph 6.1.4 C. 11.
   - C Draft Proposed Change to Subparagraph 9.1.11 D.1.
   - D Draft Proposed Amendment
   - E Revised Finding of Fact

FINAL DETERMINATION

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

> The Zoning Ordinance Amendment requested in **Case 658-AT-09** should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

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

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

EXHIBIT 2

CASE NO. 658-AT-09

SUPPLEMENTAL MEMORANDUM

January 14, 2010

Petitioner: **Zoning Administrator**

Champaign County Department of PLANNING & ZONING

Prepared by: **John Hall**
Zoning Administrator
J.R. Knight
Associate Planner

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

(217) 384-3708

Request:

Amend the Champaign County Zoning Ordinance as follows:

PART A:

1. **Delete subparagraph 6.1.4 A.1.c. to make consistent with paragraph 6.1.4 M.**

2. **Amend paragraph 6.1.4 C.11. to require the wind farm separation from restricted landing areas or residential airports only for restricted landing areas and residential airports that existed on the effective date of County Board adoption of Case 658-AT-09.**

PART B:

1. **Amend paragraph 6.1.1 A.5. to reference the requirements of paragraph 6.1.4 P.5.**

2. **Amend paragraph 9.1.11 D.1. to include reference to subsection 6.1 instead of subsection 6.1.3.**

STATUS

This is the first meeting for this case. A minor change to the text of the proposed amendment is proposed, along with an alternative proposal and some new evidence for the Finding of Fact.

Proposed Amendment Would Have No Effect on Pending RLA Special Use Permits

The proposed amendment will have no effect on any pending Restricted Landing Area (RLA) Special Use Permit (SUP) or complete RLA SUP application that has been received. At this time the only pending RLA SUP is Case 645-S-09 and that Case will be unaffected by the proposed amendment.

Revised RLA Wind Farm Separation

Attachment A is a revised version of the proposed amendment for the RLA wind farm separation. In addition to eliminating the wind farm separation for any new RLA or Residential Airport, this revision also reduces the basic separation from a standard 3,500 feet to a formula based approach based on the actual height of the wind farm tower.
See the narrative for a discussion of this change.

This Revision goes somewhat beyond the scope of the legal advertisement but because it still uses the same 7:1 formula for the minimum required separation the Board could proceed with this Revision.

Alternative RLA Wind Farm Separation

Attachment C is an alternative amendment for the RLA wind farm separation that makes even more changes. In addition to all of the changes included in Attachment A this revision would adopt different standards for RLAs than for Residential Airports based on the different side transitions. Compare Attachment D to Attachment B.

Because this Alternative reduces the basic RLA wind farm separation that is required even for existing RLAs, this alternative would require readvertisement of this case. And, because it is believed that there are no existing RLAs in any area proposed for wind farm development there is not much benefit to be gained from that readvertisement even though the resulting amendment would be somewhat more refined.

New Evidence for Finding of Fact

Add the following to 8. A.(1):

(c) At this time it is believed there are no existing RLAs in any area proposed for wind farm development but it is impossible to verify.

(d) The proposed amendment will have no effect on any pending RLA Special Use Permit (SUP) or complete SUP application that has been received. At this time the only pending RLA SUP is Case 645-S-09 and that Case will be unaffected by the proposed amendment.

(e) The proposed amendment could have an unintended consequence for Restricted Landing Areas (RLA) that are established after the effective date and that could eventually be effected by wind farm development (or expansion of future established wind farms) that may have been unforeseen at the time the RLA was established. There is nothing that can be done to eliminate that possibility.

(f) There is only one Residential Airport in the County and it is nowhere near any area proposed for a wind farm. There are unlikely to be any future residential airports because the Illinois Department of Transportation Division of Aeronautics has no guidelines for residential airports.

ATTACHMENTS

A Revised Draft Proposed Change to Subparagraph 6.1.4 C. 11.
B 92 Ill. Admin. Code 14 APPENDIX A Airport Standards
C *ALTERNATIVE* Proposed Change to Subparagraph 6.1.4 C. 11.
D 92 Ill. Admin. Code 14 APPENDIX E Restricted Landing Area Standards

Attachment A. Revised Draft Proposed Change to Subparagraph 6.1.4 C. 11.
JANUARY 14, 2010

1. Revise subparagraph 6.1.4 C. 11. as follows:

11. ~~At least 3,500 feet separation from the exterior above-ground base of a WIND FARM TOWER to any RESTRICTED LANDING AREA or RESIDENTIAL AIRPORT.~~ For any conforming RESTRICTED LANDING AREA or conforming RESIDENTIAL AIRPORT that existed on *{the date of adoption}* there shall be a separation of seven horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT and the separation shall extend from the exterior above-ground base of the nearest WIND FARM TOWER to the center and ends of the runway.

(Note: In addition to eliminating the wind farm separation for any new RLA or Residential Airport, this revision also reduces the basic separation from a standard 3,500 feet to a formula based approach based on the actual height of the wind farm tower.

The original version of the RLA wind farm separation was in fact based on the " side transition surface" for airports that is a slope of seven horizontal feet for each vertical foot and that extends to a height of 150 feet above the ground. See 92 Ill. Admin. Code 14 APPENDIX A Airport Standards.

When originally adopted the RLA wind farm separation was simply based on the maximum allowable wind farm tower height of 500 feet times the seven horizontal feet for a total separation of 3,500 feet. The existing simple RLA wind farm separation would probably requested to be waived for most wind farms because wind farm towers are generally less than 500 feet tall.

This proposed change would retain a 3,500 feet separation for wind farm towers that are 500 feet tall but would result in a smaller separation for smaller wind farm towers.

At this time it is believed that there are no existing RLAs in any area proposed for wind farm development but it is impossible to verify. The proposed amendment will also have no effect on any pending RLA Special Use Permit (SUP) or complete SUP application that has been received. At this time the only pending RLA SUP is Case 645-S-09 and that Case will be unaffected by the proposed amendment.

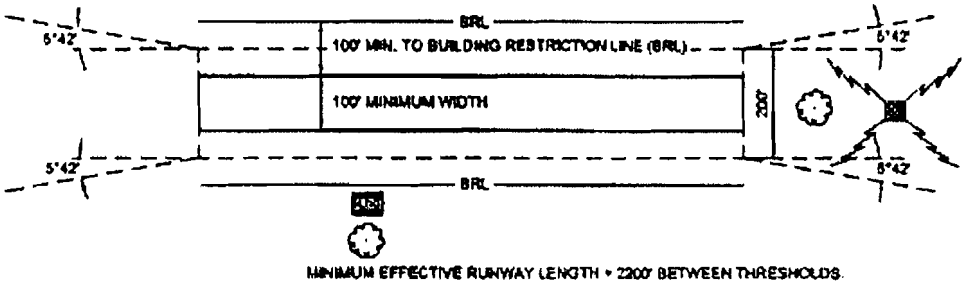
There is only one Residential Airport in the County and it is nowhere near any area proposed for a wind farm. There are unlikely to be any future residential airports because the Illinois Department of Transportation Division of Aeronautics has no guidelines for residential airports.

Airports have an FAA protected separation that amounts to nearly four miles.)

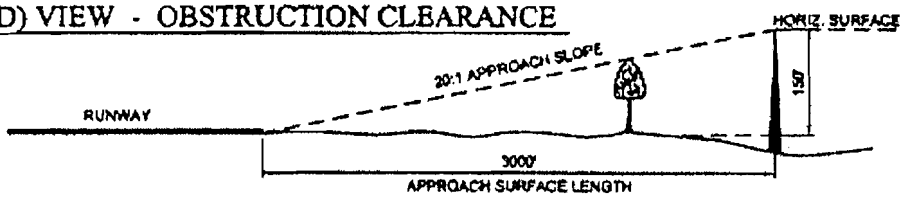
Section 14.APPENDIX A Airport Standards

Section 14.ILLUSTRATION A Airports (Public- or Private-Use) Minimum Dimensional Standards

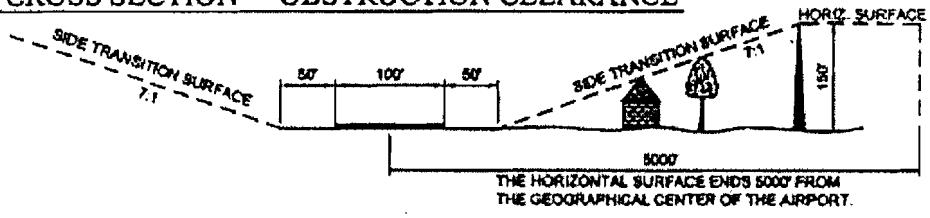
PLAN VIEW



PROFILE (END) VIEW - OBSTRUCTION CLEARANCE



RUNWAY CROSS SECTION - OBSTRUCTION CLEARANCE



NOTES:
1. NO PENETRATIONS TO 7:1 SIDE TRANSITION SURFACES.
2. NO PENETRATIONS TO 20:1 RUNWAY APPROACHES.
3. NO CROPS WITHIN 100' EITHER SIDE OF RUNWAY CENTER LINE.
4. CLEARANCES REQUIRED FOR APPROACHES
   - 10' CLEARANCE OVER ALL PRIVATE ROADWAYS.
   - 15' CLEARANCE OVER ALL PUBLIC HIGHWAYS.
   - 17' CLEARANCE OVER ALL INTERSTATE HIGHWAYS.
   - 23' CLEARANCE OVER ALL RAILROADS.

SECONDARY RUNWAYS: UNLESS DESIGNATED AS STOL, SECONDARY RUNWAYS ARE RECOMMENDED TO BE AT LEAST 60% OF THE EFFECTIVE LENGTH OF THE PRIMARY RUNWAY.

Attachment C. *ALTERNATIVE* Proposed Change to Subparagraph 6.1.4 C. 11.
JANUARY 14, 2010

1. Revise subparagraph 6.1.4 C. 11. and add new subparagraph 6.1.4. C.12 as follows:

11. ~~At least 3,500 feet separation from the exterior above-ground base of a WIND FARM TOWER to any RESTRICTED LANDING AREA or RESIDENTIAL AIRPORT.~~ For any conforming RESTRICTED LANDING AREA that existed on *{the date of adoption}* there shall be a separation of four horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT and the separation shall extend from the exterior above-ground base of the nearest WIND FARM TOWER to the center and ends of the runway.

12. For any conforming RESIDENTIAL AIRPORT that existed on *{the date of adoption}* there shall be a separation of seven horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT and the separation shall extend from the exterior above-ground base of the nearest WIND FARM TOWER to the center and ends of the runway.

(Note: THIS ALTERNATIVE WOULD REQUIRE READVERTISEMENT. The original version of the RLA wind farm separation was in fact based on the "side transition surface" for airports that is a slope of seven horizontal feet for each vertical foot and that extends to a height of 150 feet above the ground. See 92 Ill. Admin. Code 14 APPENDIX A Airport Standards.

When originally adopted the RLA wind farm separation was simply based on the maximum allowable wind farm tower height of 500 feet times the seven horizontal feet for a total separation of 3,500 feet. The existing simple RLA wind farm separation would probably be requested to be waived for most wind farms because wind farm towers are generally less than 500 feet tall.

This alternative reduces the amount of separation required for RLAs and makes that separation similar to the 4:1 transition slope that already exists for a distance of 85 feet from the edge of an RLA runway. See 92 Ill. Admin. Code 14 APPENDIX E Restricted Landing Area Standards. This change would result in a maximum RLA wind farm separation of only 2,000 feet for wind farm towers that are 500 feet tall and less separation for lower wind farm towers.

At this time it is believed that there are no existing RLAs in any area proposed for wind farm development but it is impossible to verify. The proposed amendment will also have no effect on any pending RLA Special Use Permit (SUP) or complete SUP application that has been received. At this time the only pending RLA SUP is Case 645-S-09 and that Case will be unaffected by the proposed amendment.

The separation provided for a RESIDENTIAL AIRPORT is the same here as in the Revised Draft with a maximum separation of 3,500 feet for wind farm towers that are 500 feet tall but a smaller separation for lower wind farm towers.

There is only one Residential Airport in the County and it is nowhere near any area proposed for a wind farm. There are unlikely to be any future residential airports because the Illinois Department of Transportation Division of Aeronautics has no guidelines for residential airports.

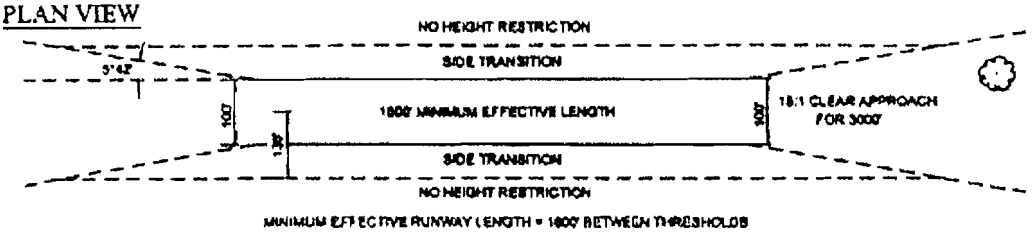
Airports have an FAA protected separation that amounts to nearly four miles.

Because this alternative reduces the basic RLA wind farm separation that is required even for existing RLAs, this alternative would require readvertisement of this case.)

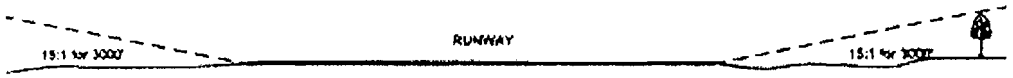
Section 14.APPENDIX E Restricted Landing Areas Standards

Section 14.ILLUSTRATION A Restricted Landing Areas Minimum Dimensional Standards

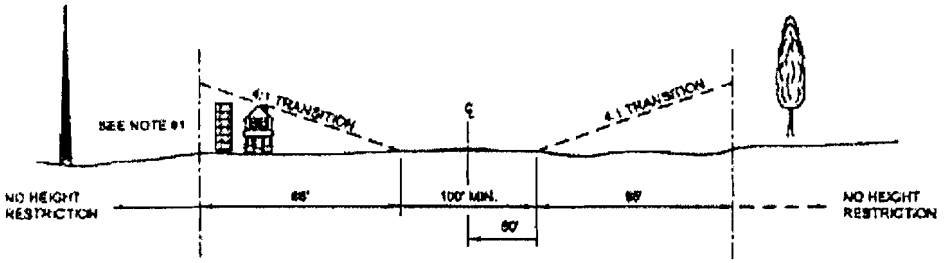
PLAN VIEW



PROFILE (END) VIEW - OBSTRUCTION CLEARANCE



RUNWAY CROSS SECTION - OBSTRUCTION CLEARANCE



NOTES:
1. NO PENETRATIONS TO 4:1 SIDE TRANSITION SURFACES FOR 135' FROM CENTERLINE
2. NO PENETRATIONS TO 15:1 RUNWAY APPROACHES.
3. NO CROPS 50' EACH SIDE OF CENTER LINE.
4. CLEARANCES REQUIRED FOR APPROACHES:
   - 10' CLEARANCE OVER ALL PRIVATE ROADWAYS.
   - 15' CLEARANCE OVER ALL PUBLIC HIGHWAYS.
   - 17' CLEARANCE OVER ALL INTERSTATES.
   - 23' CLEARANCE OVER ALL RAILROADS.

CASE NO. 658-AT-09

PRELIMINARY MEMORANDUM

January 7, 2010

Petitioner: **Zoning Administrator**

Champaign County Department of PLANNING & ZONING

Prepared by: **John Hall**
Zoning Administrator
J.R. Knight
Associate Planner

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

(217) 384-3708

Request:

Amend the Champaign County Zoning Ordinance as follows:

PART A:

1. **Delete subparagraph 6.1.4 A.1.c. to make consistent with paragraph 6.1.4 M.**

2. **Amend paragraph 6.1.4 C.11. to require the wind farm separation from restricted landing areas or residential airports only for restricted landing areas and residential airports that existed on the effective date of County Board adoption of Case 658-AT-09.**

PART B:

1. **Amend paragraph 6.1.1 A.5. to reference the requirements of paragraph 6.1.4 P.5.**

2. **Amend paragraph 9.1.11 D.1. to include reference to subsection 6.1 instead of subsection 6.1.3.**

BACKGROUND

New requirements for wind farm development were added to the Zoning Ordinance by the adoption of Ordinance No. 848 (Case 634-AT-08 Part A) by the County Board on May 21, 2009. Those requirements included a minimum separation of 3,500 feet from the base of any wind farm tower to any restricted landing area (RLA) or residential airport. Case 645-S-09 for a proposed restricted landing area within the area of an anticipated wind farm has revealed what appears to be a weakness in the wind farm amendment.

The weakness in the wind farm regulations is that an agricultural RLA can be established with no approval necessary from the County and once established it will create an area of approximately 1,100 acres where no wind farm tower may be established. Wind farm towers are generally at a density of one tower per 70 acres so one RLA could easily eliminate as many as 15 wind farm towers. Wind farm towers provide tremendous economic benefit to the landowner and more importantly the local school system and eliminating so much possible income would be injurious to the district.

RLAs are also quite rare. The requirements for RLAs were added to the Zoning Ordinance by the adoption of Ordinance No. 320 (Case 642-AT-88) by the County Board on August 23, 1988. In the 21 years since the adoption of Ordinance No. 320 there had only been three applications for RLAs prior to Case 645-S-09. Thus, not only can the establishment of a so-called "spite" RLA result in injury to the district there does not appear to be much demand for bona fide RLAs.

Residential airports are even more rare. There has only been one residential airport ever proposed in Champaign County and it is not clear that this type of use is even recognized anymore by the Illinois Department of Transportation.

Clearly, existing RLA's and residential airports do merit the protection offered by the 3,500 feet separation and the proposed in the amendment continues to provide that protection.

There were also several minor errors or oversights in the final wording of Ordinance No. 848 that if not corrected could cause unnecessary complications for any wind farm review and so those oversights have also been included in this case.

Because of the imperative to get the text amendment adopted so as to prevent spite RLAs and the complications of the meeting schedule at this time of year, this text amendment has not been reviewed by the Environment and Land Use Committee (ELUC). However, the Zoning Administrator did review the text amendment with the ELUC Chair.

PROPOSED AMENDMENT

The proposed amendment addresses the following three items:

- **Clarification of standard condition for shadow flicker**. In Case 634-AT-08 Part A ELUC revised the shadow flicker requirement in paragraph 6.1.4 M by simply requiring mitigation of shadow flicker that exceeds 30 hours per year. Staff forgot to advise ELUC to coordinate that change with subparagraph 6.1.4 A.1.c. which requires the area of the wind farm to include all areas that receive in excess of 30 hours of shadow flicker per year. At this time subparagraph 6.1.4 A.1.c. is nonsensical and should be eliminated.

- **Eliminate the loophole of wind farm separation from RLAs and residential airports by requiring the separation only for <u>existing</u> RLAs and residential airports.** See the discussion in the Background.

- **Clarify paragraph 9.1.11 D.1. to make it clear that all of the requirements in subsection 6.1 are standard conditions.** Case 634-AT-08 Part A was very clear that all of the requirements for wind farms in subsection 6.1.4 are standard conditions and the Ordinance is very clear that standard conditions may be waived in any special use permit. Case 634-AT-08 Part A also reorganized subsections 6.1.1, 6.1.2, and 6.1.3 in addition to introducing subsection 6.1.4. However, the existing reference to standard conditions in paragraph 9.1.11 D.1. only mentions subsection 6.1.3. and it should now refer to subsection 6.1. A mock-up of Section 6 is also provided as Attachment E to illustrate the revised Section 6

The legal advertisement for this case also included a change to improve the cross referencing between the basic reclamation agreement requirements in paragraph 6.1.1 A. 5 and the wind farm reclamation agreement in paragraph 6.1.4 P. This change does not appear necessary and will not be included in this text amendment.

ATTACHMENTS

A Draft Proposed Change to Subparagraph 6.1.4 A. 1.(c)
B Draft Proposed Change to Subparagraph 6.1.4 C. 11.
C Draft Proposed Change to Subparagraph 9.1.11 D.1.
E Excerpts from Section 6 of the *Zoning Ordinance* (with revisions from recent text amendments)
F Draft Finding of Fact for Case 658-AT-09 (attached separately)

Attachment A. Draft Proposed Change to Subparagraph 6.1.4 A. 1.(c)
JANUARY 7, 2010

1. Delete subparagraph 6.1.4 A. 1.(c) and renumber as required:

A. General Standard Conditions

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

(a) All land that is a distance equal to 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of that WIND FARM TOWER.

(b) All land that will be exposed to a noise level greater than that authorized to Class A land under paragraph 6.1.4 I.

~~(c) All land that will be exposed to shadow flicker in excess of that authorized under paragraph 6.1.4M. and for which other mitigation is not proposed.~~

(~~d~~c) All necessary access lanes or driveways and any required new PRIVATE ACCESSWAYS. For purposes of determining the minimum area of the special use permit, access lanes or driveways shall be provided a minimum 40 feet wide area.

(e~~d~~) All necessary WIND FARM ACCESSORY STRUCTURES including electrical distribution lines, transformers, common switching stations, and substations not under the ownership of a PUBLICLY REGULATED UTILITY. For purposes of determining the minimum area of the special use permit, underground cable installations shall be provided a minimum 40 feet wide area.

(~~f~~e) All land that is within 1.50 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of each WIND FARM TOWER except any such land that is more than 1,320 feet from any existing public STREET right of way.

(g~~f~~) All land area within 1,320 feet of a public STREET right of way that is also within 1,000 feet from the base of each WIND FARM TOWER except that in the case of WIND FARM TOWERS in compliance with the minimum STREET separation required by paragraph 6.1.4 C. 5. in which case land on the other side of the public STREET right of way does not have to be included in the SPECIAL USE Permit.

Attachment B. Draft Proposed Change to Subparagraph 6.1.4 C. 11.
JANUARY 7, 2010

1. Delete subparagraph 6.1.4 C. 11. and renumber as required:

11. At least 3,500 feet separation from the exterior above-ground base of a WIND FARM TOWER to any conforming RESTRICTED LANDING AREA or conforming RESIDENTIAL AIRPORT that existed on *{the date of adoption}*.

Attachment C. Case 658-AT-09 Draft Proposed Change To Subpar. 9.1.11 D.1.
JANUARY 7, 2010

1. Revise subparagraph 9.1.11 D.1. as follows:

D. Conditions

1. Any other provision of this ordinance not withstanding, the BOARD or GOVERNING BODY, in granting any SPECIAL USE, may waive upon application any standard or requirement for the specific SPECIAL USE enumerated in Section 6.1~~.3 Schedule of Requirements and Standard Conditions~~ Standards for Special Uses, to the extent that they exceed the minimum standards of the DISTRICT, except for any state or federal regulation incorporated by reference, upon finding that such waiver is in accordance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or to the public health, safety and welfare.

SECTION 6 STANDARDS FOR SPECIAL USES

6.1 Standards for SPECIAL USES

The standards listed for specific SPECIAL USES which exceed the applicable DISTRICT standards in Section 5.3 and which are not specificaly required under another COUNTY ordinance, state regulation, federal regulation, or other authoritative body having jurisdiction, to the extent that they exceed the standards of the DISTRICT, shall be considered standard conditions which the BOARD is authorized to waive upon application as provided in Section 9.1.11 on an individual basis.

6.1.1 Standard Conditions that May Apply to Specific SPECIAL USES

A. Site Reclamation

1. In the course of BOARD review of a SPECIAL USE request, the BOARD may find that a proposed STRUCTURE is a NON-ADAPTABLE STRUCTURE. In such a case the developer shall enter into a reclamation agreement with the COUNTY for the subject site. The reclamation agreement shall be binding upon all successors of title to the land.

2. Prior to the issuance of a SPECIAL USE permit for such NON-ADAPTABLE STRUCTURES, the landowner shall also record a covenant incorporating the provisions of the reclamation agreement on the deed subject to the lot.

3. Separate cost estimates for Sections 6.1.1C4a and 6.1.1C4b shall be provided by an Illinois licensed Professional Engineer. Cost estimates provided shall be subject to approval of the BOARD.

4. The reclamation agreement shall provide for:

   a. removal of above-ground portion of any STRUCTURE on the subject site; site grading; and, interim soil erosion control;

   b. below-ground restoration, including final grading and surface treatment; and

   c. provision and maintenance of a letter of credit, as set forth in Section 6.1.C5.

6.1.1 Standard Conditions that May Apply to Specific SPECIAL USES – continued

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

6. One hundred twenty (120) days prior to the expiration date of an irrevocable letter of credit submitted pursuant to this Section, the Zoning Administrator shall notify the landowner in writing and request information about the landowner's intent to renew the letter of credit, or remove the NON-ADAPTABLE STRUCTURE. The landowner shall have thirty (30) days to respond in writing to this request. If the landowner's intention is to remove the NON-ADAPTABLE STRUCTURE, the landowner will have a total of ninety (90) days from the date of the COUNTY's initial notification to remove it in accordance with Section 6.1.C4a. At the end of ninety (90) days, the Zoning Administrator shall have a period of thirty (30) days to either:

   a. confirm that the bank has renewed the letter of credit; or

   b. inspect the subject property for compliance with Section 6.1C4a;

   c. draw on the letter of credit and commence the bid process to have a contractor remove the NON-ADAPTABLE STRUCTURE pursuant to Section 6.1C4a.

7. The Zoning Administrator may find a NON-ADAPTABLE STRUCTURE abandoned in place. Factors to be considered in making this finding include, but are not limited to:

   a. the nature and frequency of use as set forth in the application for SPECIAL USE;

   b. the current nature and frequency of use;

   c. whether the NON-ADAPTABLE STRUCTURE has become a public nuisance, or otherwise poses a risk of harm to public health or safety;

6.1.1 Standard Conditions that May Apply to Specific SPECIAL USES – continued

d. whether the NON-ADAPTABLE STRUCTURE has been maintained in a manner which allows it to be used for its intended purpose, with no greater effects on surrounding properties and the public as a whole than was originally intended.

8. Once the Zoning Administrator has made a finding that a NON-ADAPTABLE STRUCTURE is abandoned in place, the Zoning Administrator shall issue noted to the land owner at the owner's last known address that the COUNTY will draw on the performance guarantee within thirty (30) days unless the owner appeals the Zoning Administrator's finding, pursuant to Section 9.1.8 or enters into a written agreement with the COUNTY to remove such NON-ADAPTABLE STRUCTURE in accordance with Section 6.1.C4a within ninety (90) days and removes the NON-ADAPTABLE STRUCTURE accordingly.

9. The Zoning Administrator may draw on the funds to have said NON-ADAPTABLE STRUCTURE as per Section 6.1C4a of the reclamation agreement when any of the following occur:

a. no response is received from the land owner within thirty (30) days from initial notification by the Zoning Administrator;

b. the land owner does not enter, or breaches any term of a written agreement with the COUNTY to remove said NON-ADAPTABLE structure as provided in Section 6.1C8;

c. any breach or performance failure of any provision of the reclamation agreement;

d. the owner of record has filed a bankruptcy petition, or compromised the COUNTY's interest in the letter of credit in any way to specifically allowed by the reclamation agreement;

e. a court of law has made a finding that a NON-ADAPTABLE STRUCTURE constitutes a public nuisance;

f. the owner of record has failed to replace an expiring letter of credit within the deadlines set forth in Section 6.1.C6; or

g. any other conditions to which the COUNTY and the land owner mutually agree, as set forth in the reclamation agreement.

6.1.1 Standard Conditions that May Apply to Specific SPECIAL USES – continued

10. Once the letter of credit has been drawn upon, and the site has been restored to its original condition, as certified by the Zoning Administrator, the covenant entered pursuant to Section 6.1C2 shall expire, and the COUNTY shall act to remove said covenant from the record of the property at the Recorder of Deeds within forty-five (45) days.

11. The proceeds of the letter of credit may only be used by the COUNTY to:

    a. remove the NON-ADAPTABLE STRUCTURE and return the site to its condition prior to the placement of the NON-ADAPTABLE STRUCTURE, in accordance with the most recent reclamation agreement submitted and accepted in relation to the NON-ADAPTIVE STRUCTURE;

    b. pay ancillary costs related to this process; and

    c. remove any covenants placed on the title in conjunction with Section 6.1C.

    The balance of any proceeds remaining after the site has been reclaimed shall be returned to the issuer of the letter of credit.

12. Upon transfer of any property subject to a letter of credit pursuant to this Section, the new owner of record shall submit a new irrevocable letter of credit of same or greater vale to the Zoning Administrator, prior to legal transfer of title, and shall sign a new reclamation agreement, pursuant to Section 6.1C4a. Once the new owner of record has done so, the letter of credit posted by the previous owner shall be released, and the previous owner shall be released from any further obligations under the reclamation agreement.

6.1.2 Standard Conditions for All SPECIAL USES

A. All Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:

1. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.

2. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.

3. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.

4. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.

5. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.

6.1.3 Schedule of Standard Conditions for Specific Types of Special Uses

The number in parentheses within Table 6.1.3 indicate Footnotes at the conclusion of Table 6.1.3. The abbreviation NR indicates there is no requirement or standard unless required due to unique circumstances on an individual basis.

SPECIAL USES or USE Categories	Minimum Fencing Required[6]	Minimum LOT Size		Maximum HEIGHT		Required YARDS (feet)					Explanatory or Special Provisions
						Front Setback from STREET Centerline[2]					
						STREET Classification					
		AREA (Acres)	Width (Feet)	Feet	Stories	MAJOR	COLLECTOR	MINOR	SIDE	REAR	
Adaptive reuse of GOVERNMENT BUILDINGS	NR	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	*See below.
	*Outdoor storage of materials, machinery, or heavy equipment is prohibited. The outdoor overnight storage of vehicles in the R-1, Single Family Residence; R-2, Single Family Residence; R-3, Two Family Residence; and R-4, Multiple Family Residence Zoning Districts is prohibited.										
AIRPORTS	NR	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	*See below.
	*Must meet the requirements of the Fedeal Aviation Administration and Illinois Department of Transportation, Division of Aeronautics. The runway safety areas as established in Figure 7I of the Federal Aviation Administration Advisory Circular number 150/53004B, shall be entirely located on the LOT covered by the Special Use. The runway shall be situated so that no building designed for human occupancy which is located in an R or B District, nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE shall encroach in the primary surface or Runway Clear zone as described in Appendix 6 of the Federal Aviation Administration Advisory Circular number 150/5300 4B.										
All SPECIAL USES in the "Industrial Uses Chemical and Allied Products" Category	6' wire mesh	10	(1)	(1)	350	350	350	350	300	300	*See below.
	*Not permitted closer than 2,000' from any R or B DISTRICT or any residential, INSTITUTIONAL or PUBLIC ASSEMBLY USE.										
All SPECIAL USES in the "Industrial Uses Food and Kindred Products" Category	6' wire mesh	(1)	(1)	(1)	(1)	100	100	100	50	50	*See below.

6.1.3 SCHEDULE OF REQUIREMENTS AND STANDARD CONDITIONS - CONTINUED

Footnotes

1. Standard same as applicable zoning DISTRICT.

2. In no case, however, shall the FRONT YARD, measured from the nearest RIGHT-OF-WAY line, be less than 35' from a MAJOR STREET, 30' from a COLLECTOR STREET, or 25' from a MINOR STREET. Where 25% or more of the LOTS within a BLOCK, such LOTS abutting STREETS other than federal of state highways, were occupied by MAIN or PRINCIPAL STRUCTURES prior to the effective date of this ordinance, the average of the SETBACK LINES of such STRUCTURES shall be the minimum SETBACK LINE of the remaining vacant LOTS within such BLOCK except where the public health, safety, comfort, morals, or welfare are endangered.

3. Other standards shall be in accordance with the "State of Illinois Environmental Protection Agency Solid Waste Rules and Regulations," effective July 27, 1973.

4. Applications for sewage disposal facilities shall include plans for such facilities prepared by a registered professional engineer. All plans shall include assurance that the proposed facilities will not be subject to flooding, will not contaminate ground water resources, and any other assurances that may be required by the BOARD. All sewage disposal facilities shall be constructed in accordance with the rules and regulations of the State of Illinois and this ordinance.

5. Industrial Pre-existing USES must make application to obtain SPECIAL USE status.

6. The specific location and area to be enclosed by required fencing shall be determined by the Zoning Board of Appeals.

6.1.4 WIND FARM County Board SPECIAL USE Permit

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

A. General Standard Conditions

1. The area of the WIND FARM County Board SPECIAL USE Permit must include the following minimum areas:
   (a) All land that is a distance equal to 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of that WIND FARM TOWER.

   (b) All land that will be exposed to a noise level greater than that authorized to Class A land under paragraph 6.1.4 I.

   (c) All necessary access lanes or driveways and any required new PRIVATE ACCESSWAYS. For purposes of determining the minimum area of the special use permit, access lanes or driveways shall be provided a minimum 40 feet wide area.

   (d) All necessary WIND FARM ACCESSORY STRUCTURES including electrical distribution lines, transformers, common

PRELIMINARY DRAFT

658-AT-09

FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals

Final Determination: **RECOMMEND ENACTMENT**

Date: January 7, 2010

Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance as follows:

PART A:

1. Delete subparagraph 6.1.4 A.1.c. to make consistent with paragraph 6.1.4 M.

2. Amend paragraph 6.1.4 C.11. to require the wind farm separation from restricted landing areas or residential airports only for restricted landing areas and residential airports that existed on the effective date of County Board adoption of Case 658-AT-09.

PART B:

Amend paragraph 9.1.11 D.1. to include reference to subsection 6.1 instead of subsection 6.1.3.

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 14, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.

2. The need for the amendment came about as follows:
   A. New requirements for wind farm development were added to the Zoning Ordinance by the adoption of Ordinance No. 848 (Case 634-AT-08 Part A) by the County Board on May 21, 2009.

   B. Case 645-S-09 for a proposed restricted landing area within the area of an anticipated wind farm has revealed what appears to be a weakness in the wind farm amendment.

C. The weakness in the wind farm regulations is that an agricultural RLA can be established with no approval necessary from the County and once established it will create an area of approximately 1,100 acres where no wind farm tower may be established.

D. Wind farm towers provide tremendous economic benefit to the landowner and more importantly the local school system and eliminating so much possible income would be injurious to the district.

E. There were also several minor errors or oversights in the final wording of Ordinance No. 848 that if not corrected could cause unnecessary complications for any wind farm review and so those oversights have also been included in this case.

3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

GENERALLY REGARDING THE EXISTING ZONING REGULATIONS

4. Existing Zoning regulations regarding the separate parts of the proposed amendment are as follows:

A. Requirements for the development of wind farms were added to the *Zoning Ordinance* in Ordinance No. 848 (Case 634-AT-09 Part A) on May 21, 2009. These requirements included a 3,500 feet separation from any restricted landing area or residential airport to the base of any wind farm tower.

B. Ordinance No. 848 also reorganized Section 6 of the *Zoning Ordinance* to make it more clear that all the requirements in Section 6.1 are standard conditions and are waiveable as part of a Special Use Permit. However, some references to standard conditions and Section 6 in other parts of the *Zoning Ordinance* were not updated.

C. The following definitions from the *Zoning Ordinance* are especially relevant to this amendment (capitalized words are defined in the Ordinance):

(1) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.

(2) "NON-ADAPTABLE STRUCTURE" is any STRUCTURE or physical alteration to the land which requires a SPECIAL USE permit, and which is likely to become economically unfeasible to remove or put to an alternate USE allowable in the DISTRIC (by-right or by SPECIAL USE).

(3) "RESIDENTIAL AIRPORT" is any area described or defined as an AIRPORT under the *Illinois Aviation Safety Rules* (92 *Ill. Admin. Code* Part 14) and which is classified as a Residential Airport by the Illinois Department of Transportation, Division of Aeronautics.

(4) "RESTRICTED LANDING AREA" is any area described or defined as a Restricted Landing Area under the *Illinois Aviation Safety Rules* (92 *Ill. Admin. Code* Part 14) and

as further regulated by the Illinois Department of Transportation, Division of Aeronautics.

(5) "SPECIAL CONDITION" is a condition for the establishment of the SPECIAL USE.

(6) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.

SUMMARY OF THE PROPOSED AMENDMENT

5. The proposed amendment revises portions of the recently adopted Ordinance No. 848 (Zoning Case 634-AT-09 Part A). The revisions make the ordinance more consistent and clarify references to different parts of the ordinance, as well as scaling back the separation requirement for wind farm towers near residential airports or restricted landing areas. See Attachments A-C of the Preliminary Memorandum for the proposed amendment. Attachment E to the Preliminary Memorandum includes excerpts of Section 6 as it was reorganized by Ordinance No. 848 and may be helpful when reviewing the proposed amendment.

GENERALLY REGARDING RELEVANT LAND USE GOALS AND POLICIES

6. The *Land Use Goals and Policies* (LUGP) were adopted on November 29, 1977, and were the only guidance for amendments to the *Champaign County Zoning Ordinance* until the *Land Use Regulatory Policies- Rural Districts* were adopted on November 20, 2001, as part of the Rural Districts Phase of the Comprehensive Zoning Review (CZR) and subsequently revised on September 22, 2005. The relationship of the Land Use Goals and Policies to the Land Use Regulatory Policies is as follows:

A. Land Use Regulatory Policy 0.1.1 gives the Land Use Regulatory Policies dominance over the earlier Land Use Goals and Policies.

B. The Land Use Goals and Policies cannot be directly compared to the Land Use Regulatory Policies because the two sets of policies are so different. Some of the Land Use Regulatory Policies relate to specific types of land uses and relate to a particular chapter in the land use goals and policies and some of the Land Use Regulatory Policies relate to overall considerations and are similar to general land use goals and policies.

REGARDING SPECIFICALLY RELEVANT LAND USE GOALS AND POLICIES

7. There are goals and policies for agricultural, commercial, industrial, and residential land uses, as well as conservation, transportation, and utilities goals and policies in the Land Use Goals and Policies, but due to the nature of the changes being proposed none of these specific goals and policies are relevant to the proposed amendment.

REGARDING THE GENERAL LAND USE GOALS AND POLICIES

8. Regarding the General Land Use Goals and Policies:

A. The first, third, fourth, and fifth General Land Use Goals appear to be relevant to the proposed amendment, as follows:

(1) In regards to the proposed change to paragraph 6.1.4. C.11. to require the wind farm separation from restricted landing areas or residential airports only for restricted landing areas and residential airports that existed on the effective date of County Board adoption of Case 658-AT-09, the following General Land Use Goals are relevant:

(a) The first General Land Use Goal is promotion and protection of the health, safety, economy, convenience, appearance, and general welfare of the County by guiding the overall environmental development of the County through the continuous comprehensive planning process.

(b) The third General Land Use Goal is land uses appropriately located in terms of utilities, public facilities, site characteristics, and public services.

(c) The fourth General Land Use Goal is arrangement of land use patterns designed to promote mutual compatibility.

The proposed amendment ***{ACHIEVES}*** the first, third, and fourth General Land Use Goals because of the following:

(a) Based on evidence that there will be significant positive effects on Equalized Assessed Valuation that will benefit local taxing bodies from the establishment of wind farms in the County.

(b) The need for bona fide Restricted Landing Areas and Residential Airports appears to be very limited because in the 21 years since the requirements for those uses were added to the *Zoning Ordinance* only four applications for RLA's have been received and only one residential airport has been established in the county.

(2) The fifth General Land Use Goal is:

Establishment of processes of development to encourage the development of the types and uses of land that are in agreement with the Goals and Policies of this Land Use Plan

The proposed amendment appears to ***{ACHIEVE}*** the fifth General Land Use Goal because it will make the *Zoning Ordinance* more consistent and clear, as follows:

(a) Clarifying that the Site Reclamation requirements in Subparagraph 6.1.1 A. are standard conditions, which are therefore able to be waived, matches the intent of the original legal advertisement for Case 273-AT-00, which added those requirements to the *Zoning Ordinance.*

(b) Based on the requirement in subparagraph 6.1.4 M. there should not be any land that is subject to more shadow flicker than allowed by that paragraph because all land subject to greater shadow flicker will receive mitigation and so the requirements of paragraph 6.1.4 M. make the requirement of paragraph 6.1.4 A.1.c. obsolete.

B. None of the General Land Use Policies appear to be relevant to the proposed amendment.

DOCUMENTS OF RECORD

1. Application for Text Amendment from Zoning Administrator, dated December 4, 2009

2. Preliminary Memorandum for Case 658-AT-09, dated January 7, 2010, with attachments:
   - A Draft Proposed Change to Subparagraph 6.1.4 A. 1.(c)
   - B Draft Proposed Change to Subparagraph 6.1.4 C. 11.
   - C Draft Proposed Change to Subparagraph 9.1.11 D.1.
   - E Excerpts from Section 6 of the *Zoning Ordinance* (with revisions from recent text amendments)
   - F Draft Finding of Fact for Case 658-AT-09 (attached separately)

FINAL DETERMINATION

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

The Zoning Ordinance Amendment requested in **Case 658-AT-09** should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

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

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date