



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

Planning Division

**m e m o r a n d u m**

**TO:** The Urbana Zoning Board of Appeals

**FROM:** Marcus Ricci, Planner II

**DATE:** February 16, 2018

**SUBJECT:** **Case ZBA-2018-C-01:** A request by the Champaign County Board for a Conditional Use Permit to allow a Skilled Care Facility Nursing Home located at 500 Art Bartell Road in a proposed R-4 Medium Density Multiple-Family Residential Zoning District.

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**Introduction**

The Champaign County Board has requested a Conditional Use Permit to permit a Skilled Care Facility Nursing Home at 500 Art Bartell Road in a proposed R-4 Medium Density Multiple-Family Residential Zoning District. The existing home is permitted under a Special Use Permit granted in 2004 for the establishment of a Nursing Home use by a public service entity. 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 used by a public entity. The County Board therefore requests a Conditional Use Permit to allow for a Skilled Care Facility Nursing Home used by any entity, whether it is public or private. The applicant states that the proposed use does not represent any change in services, scale, or intensity from its current use as a Skilled Care Facility.

As the current zoning of the site is CRE, Conservation-Recreation-Education, the County Board has also applied for a Zoning Map Amendment to rezone that area R-4, Medium-Density Residential, the least intense zoning district that allows Skilled Care Facilities, but allows them only with a Conditional Use Permit.

**Background**

A Skilled Care Facility Nursing Home (Skilled Care Facility) is defined in the Urbana Zoning Ordinance as “a care facility for the boarding and care of not less than three persons, to provide skilled nursing care, continuous skilled nursing observation, restorative nursing, and other services under professional direction with frequent medical supervision.”

The Champaign County Nursing Home (Nursing Home) is currently operating under a Special Use Permit granted by the Urbana City Council in Ordinance No. 2004-04-045, authorized under Section VII-7.A. of the Zoning Ordinance which allows establishment of any structure and/or use by a public service entity. The 2004 Special Use Permit imposed three conditions:

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.

Condition #1 of the 2004 Special Use Permit has been satisfied and, to date, no significant deviations have been requested. Condition #2 regarding entering into an intergovernmental agreement for stormwater detention was satisfied by an agreement executed in 2007 (Exhibit C, Attachment 8). The agreement requires any future owners to be bound by the agreement provisions. Condition #3 has also already been satisfied.

The proposed continued use of the property as a Skilled Care Facility nursing home is the same as the current use authorized by the Special Use Permit, except that the property could be used by a private entity for this purpose instead of by Champaign County government. Because Section VII-7 specifies “establishment...of any structure and/or use by a *public service entity*...,” [emphasis added] the existing Special Use Permit is not transferrable to a non-governmental entity. In order for the existing Skilled Care Facility to continue use by a non-governmental entity, a Conditional Use Permit must be granted so that it can operated as a Conditional Use under Section V-1 of the Zoning Ordinance.

The Nursing Home building encompasses 133,000 square feet and is organized into four “pods” around a central core which contains a dining area, a store, and access to a central courtyard. It offers an Alzheimer’s care unit, an adult day care facility, and a range of residential services from skilled care to intermediate care and shelter care, with a total of 155 rooms with 243 beds. A Certificate of Need was issued in 2004 by the State of Illinois Department of Public Health which limits the capacity of the development to 243 beds. Currently, due to reduced occupancy, Wing 2 has been unassigned; it is hoped that a new operator will be able to generate higher occupancy and retention. A Request For Proposals has been issued with a deadline for submissions of February 28, 2018.

The Nursing Home is accessed primarily from Art Bartell Drive, a private street that runs south from East Main Street, then turns west at the Home’s south parking lot and continues to Lierman Avenue. Access to the site would not change from how it is provided today. The Urbana Zoning Ordinance requires a total of 123 parking spaces for a nursing home with 243 beds and a maximum of 250 employees. The two parking lots provide 205 parking spaces, much more than the minimum required.

Several other applications have been submitted and are being concurrently processed by the appropriate parties for the Nursing Home and its underlying property:

- 2333-M-18 – Rezoning: A request to rezone 13.82 acres from CRE, Conservation-Recreation-Education Zoning District, to R-4, Medium-Density Multiple-Family Residential Zoning District. Scheduled for a public hearing at Plan Commission on February 22, 2018.
- 2334-S-18 – Minor Subdivision: A request to subdivide 12.315 acres from the underlying 63.56-acre parcel for the proposed Champaign County Nursing Home Subdivision, in a proposed R-4, Medium-Density Multiple-Family Residential Zoning District. Administrative review pending consideration of requested waivers in Case No. 2335-S-18.

- 2335-S-18 – Subdivision Waivers: A request to waive three requirements of the Urbana Subdivision and Land Development Code for the proposed Champaign County Nursing Home Subdivision: Sections 21-36.A.2. – provide access to a public street; 21-37.A. – install sidewalks; and 21.38.A. – dedicate street right-of-way. Scheduled for consideration by Plan Commission on February 22, 2018.

## Land Use and Zoning

The subject property is located on the east side of Art Bartell Road between East Main Street and East Washington Street. (Exhibit A). It is part of Champaign County’s East Campus which includes the Juvenile Detention Center, the Humane Society, Animal Control, the Illinois Law Enforcement Alarm System, and the Satellite Jail. 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 zoning (Exhibit B) and proposed zoning (Exhibit C), current land use, and future land use designated by the City of Urbana’s 2005 Comprehensive Plan.

Location	Zoning	Existing Land Use	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

## Discussion

The Champaign County Board seeks to allow flexibility in who could own and operate the nursing home. As stated in the application, the Nursing Home’s operations would not change in services, scale, or intensity from what was approved by the 2004 Special Use Permit (Exhibit C).

### Requirements for a Conditional Use Permit

According to Section VII-2 of the Urbana Zoning Ordinance, an application for a Conditional Use Permit shall demonstrate the following requirements. City Staff analysis follows each criteria.

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

The proposed continued operation of the existing Skilled Care Facility is conducive to the public convenience because the use has operated there since it opened in 2007. The current location along Art Bartell Road is very accessible to current and future residents and visitors. Art Bartell connects to two Major Collector public street and each intersection has a transit stop: East Main Street (1/3 mile away); and Lierman Avenue (1/4 mile away). Although it will remain a private street, the road has sufficient capacity to continue to handle the current levels of traffic. There are dedicated bicycle lanes one block south along East Washington Avenue and both East Main Street and Lierman Avenue are

bicycle-friendly roads The facility provides an additional 82 parking spaces over the required 123 parking spaces.

According to the staff report for the previously-issued Special Use Permit (Exhibit C, Attachment 6), city staff gave the following recommendation regarding public convenience, which still applies:

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 to the public welfare.*

The proposed continued operation of the existing Skilled Care Facility will not be unreasonably injurious or detrimental to the proposed R-4 Medium Density Multiple-Family Residential zoning district or to the public welfare. As stated earlier, the Nursing Home's operations would not change in services, scale, or intensity under the Conditional Use Permit. Impacts to public infrastructure (public water and sewer), noise, traffic congestion, and the natural environment should remain within the levels expected in the 2004 Special Use Permit.

According to the staff report for the previously-issued Special Use Permit, city staff gave the following recommendation regarding injury or detriment to the district (Exhibit C, Attachment 6), which would largely still apply:

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.

A Certificate of Occupancy for the new Champaign County Nursing Home was issued by the City of Urbana on October 9, 2007; this certificate will still be valid under the Conditional Use Permit (Exhibit C, Attachment 9).

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

The proposed continued operation of the existing Skilled Care Facility conforms to the applicable regulations and standards of, and preserves the character of, the proposed R-4 Medium Density Multiple-Family Residential zoning district. Continued operation of the existing Skilled Nursing Facility is consistent with the character of the proposed zoning district, as both the current and proposed subject and surrounding R-4 zoning districts are composed primarily of other institutional land uses and structures: the Detention Center, the Humane Society, the Satellite Jail, Animal Control, and two parks. As a single structure containing over 150 bedrooms, the proposed continued operation



of the Home would conform to the general purpose and intent of the proposed R-4 zoning district, which is intended: “to provide areas for multiple-family dwellings at low and medium densities.”

### **Comprehensive Plan Goals & Objectives**

The following goals and objectives from the 2005 Urbana Comprehensive Plan are relevant to the proposed Conditional Use Permit:

#### **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.

### **Consideration**

According to Zoning Ordinance § XII-2, the Zoning Board of Appeals shall determine whether the reasons set forth in the application, and the evidence adduced during the public hearing, justify the granting of the conditional 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 Zoning Board of Appeals may also impose 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 the Ordinance, including but not limited to the following:

1. Regulate the location, extent, and intensity of such use;
2. Require the screening of such use by means of fences walls or vegetation;
3. Stipulate a required minimum lot size;
4. Regulate vehicular access and volume;
5. Require conformance to health, safety, and sanitation requirements as necessary;
6. Increase the required yards; and
7. Any other conditions deemed necessary to affect the purposes of this Ordinance.

### **Summary of Findings**

1. The applicant proposes continued operation of a Skilled Care Facility Nursing Home at 500 Art Bartell Road in the proposed R-4, Medium Density Multiple-Family Residential Zoning District. The use would not increase in services, scale, or intensity. The Urbana Zoning Ordinance allows this use with a Conditional Use Permit in the proposed R-4 district.

2. The Skilled Care Facility currently operates under a Special Use Permit which would not be valid if the use is transferred to a non-public entity. The proposed continued operations under the requested Conditional Use Permit would not significantly deviate from the operations authorized by the 2004 Special Use Permit, including its size of 133,000 square feet with 155 rooms with 243 beds.
3. The applicant has also applied to rezone the property from the CRE, Conservation-Recreation-Education Zoning District, which would only allow a Skilled Care Facility by Special Use Permit if it is operated by a public entity, to the R-4, Medium Density Multiple-Family Residential Zoning District, to allow any private entity to own and operate the facility under a Conditional Use Permit.
4. The proposed continued use is conducive to the public convenience because it has operated as the use since it opened in 2007 and is very accessible to current and future residents and visitors due to its proximity to Major Collector streets, transit stops, and bicycle lanes.
5. The proposed continued use would not be a detriment to the proposed R-4 Medium Density Multiple-Family Residential Zoning District because the use is proposed not to increase in services, scale, or intensity, resulting in no negative impacts to public infrastructure capacities or the natural environment.
6. The proposed continued use is consistent with the applicable regulations and standards of, and preserves the essential character of, the proposed R-4, Medium Density Multiple-Family Residential Zoning District in which it shall be located.

## Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2018-C-01:

1. **Grant** the conditional use as submitted; or
2. **Deny** the conditional use as submitted; or
3. **Grant the conditional use along with any additional conditions and requirements** as are appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance.

## 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 Zoning Board of Appeals **APPROVE** the proposed conditional use in case ZBA-2018-C-01 for the reasons articulated above. Should the Zoning Board of Appeals approve the proposed use, Staff recommends that the use shall be subject to the following conditions:

1. The Conditional Use Permit is only valid if the property is rezoned to a zoning district that allows Skilled Care Facility Nursing Home as a conditional use.
2. The use must continue to conform to all applicable zoning, building, and development codes.
3. The use must continue to generally conform with the Site plan and Floor plan submitted in this application (Exhibit C, Attachments 3 and 4). Any significant deviation from the site plan

and floor plan will require an amendment to the Conditional Use Permit, including further review by the Zoning Board of Appeals.

4. The Owner must continue to comply with the requirements of the “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 Districts, Weaver and Prairie Parks,” as passed by Urbana City Council in Ordinance No. 2007-10-123 (Exhibit C, Attachment 8).

The specifics of this recommendation may change during the course of formal review of ZBA Case No. 2018-C-01.

Attachments: Exhibit A: Location & Aerial Map  
Exhibit B: Zoning Map  
Exhibit C: Conditional Use Permit Application,

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

# Exhibit A: Location & Existing Land Use Map

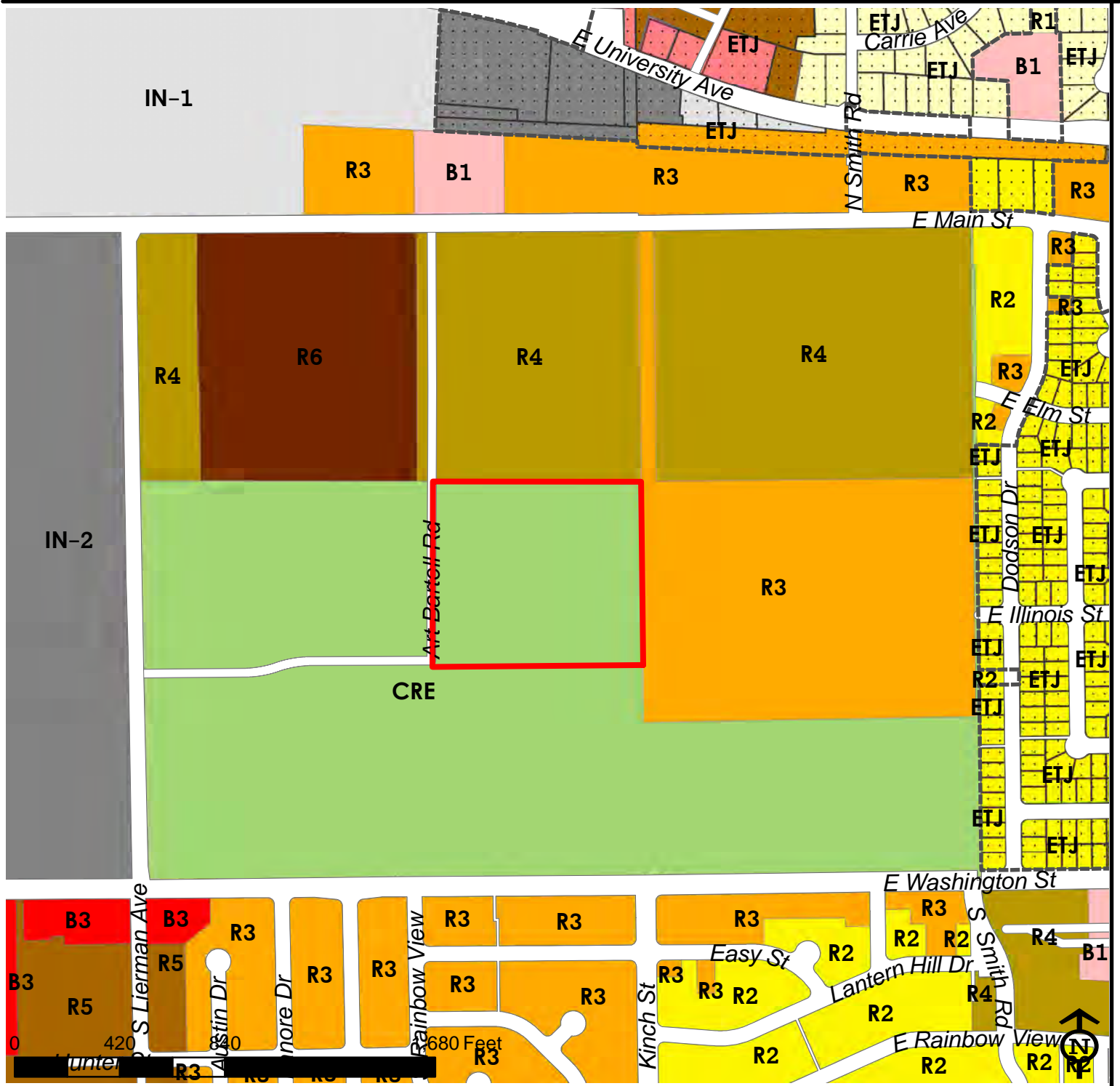


Case: ZBA-2018-C-01  
 Subject: Chmp Cnty Nrsng Hm CUP  
 Location: 500 Art Bartell Road  
 Petitioner: Champaign County Board













 Subject Property



# Exhibit B: Zoning Map



Case: ZBA-2018-C-01  
 Subject: Chmp Cnty Nrsng Hm CUP  
 Location: 500 Art Bartell Road  
 Petitioner: Champaign County Board

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

## Zoning



Application for Conditional Use Permit

ZONING BOARD OF APPEALS

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 ZBA Case No. ZBA-2018-C-01
Fee Paid - Check No. Amount Date

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A CONDITIONAL USE PERMIT is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following use or construction purpose:

SKILLED CARE NURSING HOME (not necessarily government owned) on the property described below, and in conformity with the plans in the permit application.

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 [X] No
If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

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 but proposed to rezone to R-4 in related Case

# Exhibit C: Application for Conditional Use Permit

Current Land Use (*vacant, residence, grocery, factory, etc.*: Champaign County Nursing Home  
Proposed Land Use: Skilled Care Nursing Home (not necessarily government owned)  
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 CONDITIONAL USE PERMIT

Explain how the proposed use is conducive to the public convenience at the location of the property.

see attached



# Exhibit C: Application for Conditional Use Permit

Explain how 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.

see attached

Explain how the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located (except where such regulations and standards may be modified by Section VII-3 of the Urbana Zoning Ordinance, 1979).

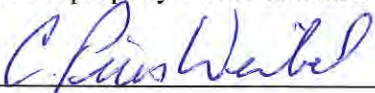
see attached


***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



# Exhibit C: Application for Conditional Use Permit

## Application for Conditional Use Permit for Champaign County Nursing Home Responses to Question 5

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### ***Conditional Use Permit Application Question 5 (first part): Explain how the proposed use is conducive to the public convenience at the location of the property.***

The proposed use of the property as a skilled care facility nursing home is the same as the current use, except that the property will be used by a private entity for this purpose instead of by Champaign County government. According to a 2004 memorandum prepared by City of Urbana staff recommending approval of a Special Use Permit application for use of this property as a skilled care facility, the following was the recommendation for the first Special Use Permit requirement regarding public convenience:

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.

These statements remain applicable to the proposed use of the property by a private entity.

### ***Conditional Use Permit Application Question 5 (second part): Explain how 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.***

From the 2004 Urbana staff memorandum recommendation for the second Special Use Permit requirement regarding injury to the district:

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.

The proposed use by a private entity will not be injurious or detrimental to the Champaign County East Campus or to the public welfare, as the Nursing Home under new ownership will continue to function for the benefit of County residents at this location much as it has for the past decade.

An unconditional Certificate of Occupancy for the new Champaign County Nursing Home was issued by the City of Urbana on October 9, 2007.

The proposed lot will be created in the proposed Minor Plat Champaign County Nursing Home Subdivision that has been submitted for approval to the City of Urbana. As proposed that subdivision requires waivers of subdivision requirements because Art Bartell Road is not a public street and is not proposed to become a public street. The waivers must be approved as part of the subdivision approval but are nonetheless relevant to the Conditional Use Permit. The Application for Waiver of Subdivision Regulations states as follows:

# Exhibit C: Application for Conditional Use Permit

## Application for Conditional Use Permit for Champaign County Nursing Home Responses to Question 5

- a. The requested waivers should have no ill effect on provision of public services to the property or to adjacent land. Art Bartell Road will continue to be maintained by Champaign County and will continue to provide the same good access to the Nursing Home.
- b. No negative impact or environmental incursions are anticipated to adjacent properties or to other properties in the vicinity of the proposed subdivision as a result of the requested waivers because the proposed subdivision will not result in any actual change in use (the Nursing Home will continue to be a Nursing Home) and there will be no increase in traffic caused by the proposed subdivision or additional need for new streets or rights-of-way or new sidewalks.
- c. Champaign County will provide on-going maintenance for Art Bartell Road in the same manner as would have occurred if the Nursing Home were to stay under County ownership and given that, there is little justification to add to municipal costs for street maintenance by requiring Art Bartell Road to be converted to a public street, particularly since there will be no change in the actual use of the Nursing Home nor would conversion of Art Bartell Road significantly improve access to the Nursing Home.

***Conditional Use Permit Application Question 5 (third part): Explain how the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located.***

The existing Champaign County Nursing Home building has a gross square area of 133,192 square feet.

As reviewed in the City of Urbana staff memorandum for Plan Case No. 1888-SU-04, the Champaign County Nursing Home was required to have only 123 parking spaces and 147 parking spaces were proposed and constructed.

The proposed use of the existing building on the proposed lot meets or exceeds all development regulations and standards of the proposed R-4 District:

- a. The proposed new lot (Lot 1 of Minor Plat Champaign County Nursing Home Subdivision) has an area of 536,426 square feet (12.315) acres and an average lot width of approximately 671.59 feet and exceeds the minimum required lot area of 6,000 square feet and the minimum required average lot width of 60 feet in the proposed R-4 District and also exceeds the minimum required lot area of 1 acre and minimum required average lot width of 150 feet in the existing CRE District.

The proposed lot will be created in the proposed Minor Plat Champaign County Nursing Home Subdivision that has been submitted for approval to the City of Urbana. As proposed, that subdivision requires waivers of subdivision requirements that are reviewed under the second part of this question related to “injurious to the district”.

# Exhibit C: Application for Conditional Use Permit

## Application for Conditional Use Permit for Champaign County Nursing Home Responses to Question 5

- b. The Floor Area Ratio of the proposed new lot is .25 which is less than the maximum allowed Floor Area Ratio of .50 in the proposed R-4 District and is less than the maximum allowed Floor Area Ratio of .40 in the existing CRE District.
- c. The proposed new lot has approximately 233,847 square feet of “open space” based on the requirements of Section VI-4.D. of the City of Urbana Zoning Ordinance. The Open Space Ratio of the proposed new lot is 1.76 which exceeds the minimum required Open Space Ratio of .35 in the R-4 District and also exceeds the minimum required Open Space Ratio of .55 in the existing CRE District.
- d. The existing Champaign County Nursing Home building was constructed with a side yard of 15 feet on the south which is the minimum required side yard in the existing CRE District and exceeds the minimum required side yard of 5 feet in the proposed R-4 District. The proposed north side yard is 25 feet.
- e. The existing Champaign County Nursing Home building was constructed with a rear yard (east side) of 25 feet which is the minimum required rear yard in the existing CRE District and exceeds the minimum required rear yard of 10 feet in the proposed R-4 District.
- f. The existing Champaign County Nursing Home building was constructed approximately 110 feet east of Art Bartell Road. Art Bartell Road is not currently a public street nor is it proposed to be a public street but if Art Bartell Road were ever to be made into a public street with a typical 60 feet right of way the resulting “front yard” for the Nursing Home building would be 80 feet which exceeds the minimum required front yard of 15 feet in the R-4 District and also exceeds the minimum required front yard of 25 feet in the existing CRE District.
- g. Regarding storm water, 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.

The proposed use of the property is the same as the existing one and will therefore preserve the essential character of the district as follows:

- a. The proposed use is for a nursing home building, consistent with the character of a medium-density multiple family residential zoning district. Much of the Champaign County East Campus, which is designated for “Institutional” use under the Urbana Comprehensive Plan, has long been within the R-4 zoning district while containing institutional buildings.

# Exhibit C: Application for Conditional Use Permit

## Application for Conditional Use Permit for Champaign County Nursing Home Responses to Question 5

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- b. 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."
- c. 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.

# Exhibit C: Application for Conditional Use Permit

## Application for Conditional Use Permit for Champaign County Nursing Home List of Additional Exhibits

### List of Additional Exhibits

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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. Champaign County Nursing Home Conditional Use Permit Site Plan
4. Champaign County Nursing Home Floor Plan
5. Legal Description of Lot 1 of Proposed Champaign County Nursing Home Subdivision
6. City of Urbana Plan Commission Memorandum Plan Case No. 1888-SU-04 Proposed Special Use Permit for Champaign County Nursing Home
7. City of Urbana Ordinance No. 2004-04-045 An Ordinance Approving a Special Use Permit
8. 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
9. Certificate of Occupancy for Champaign County Nursing Home
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 C: Application for Conditional Use Permit

Attachment 2:

Excerpt:

## City of Urbana

### 2016 Official Zoning Map

Approved 03/07/16

Not to scale

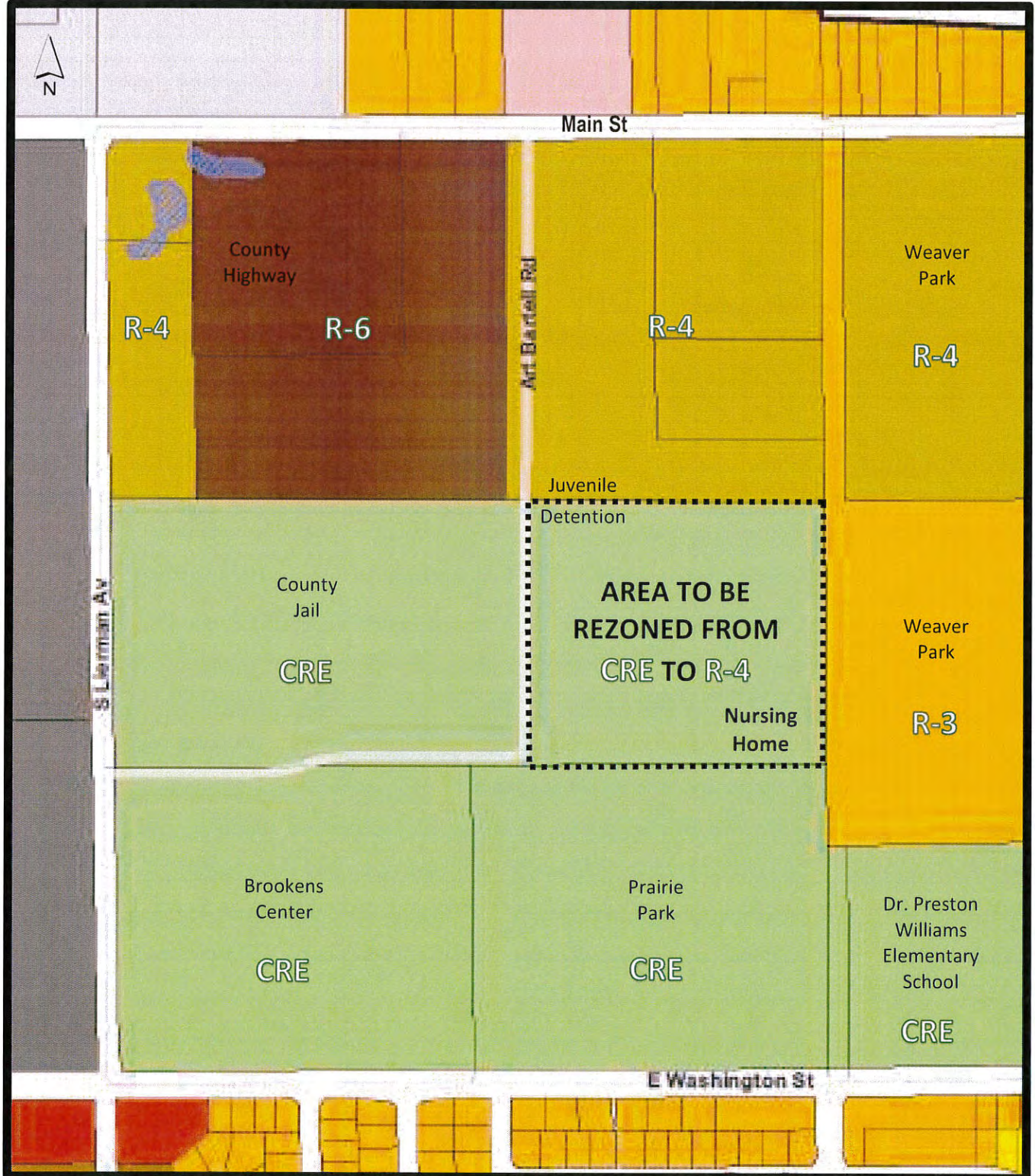
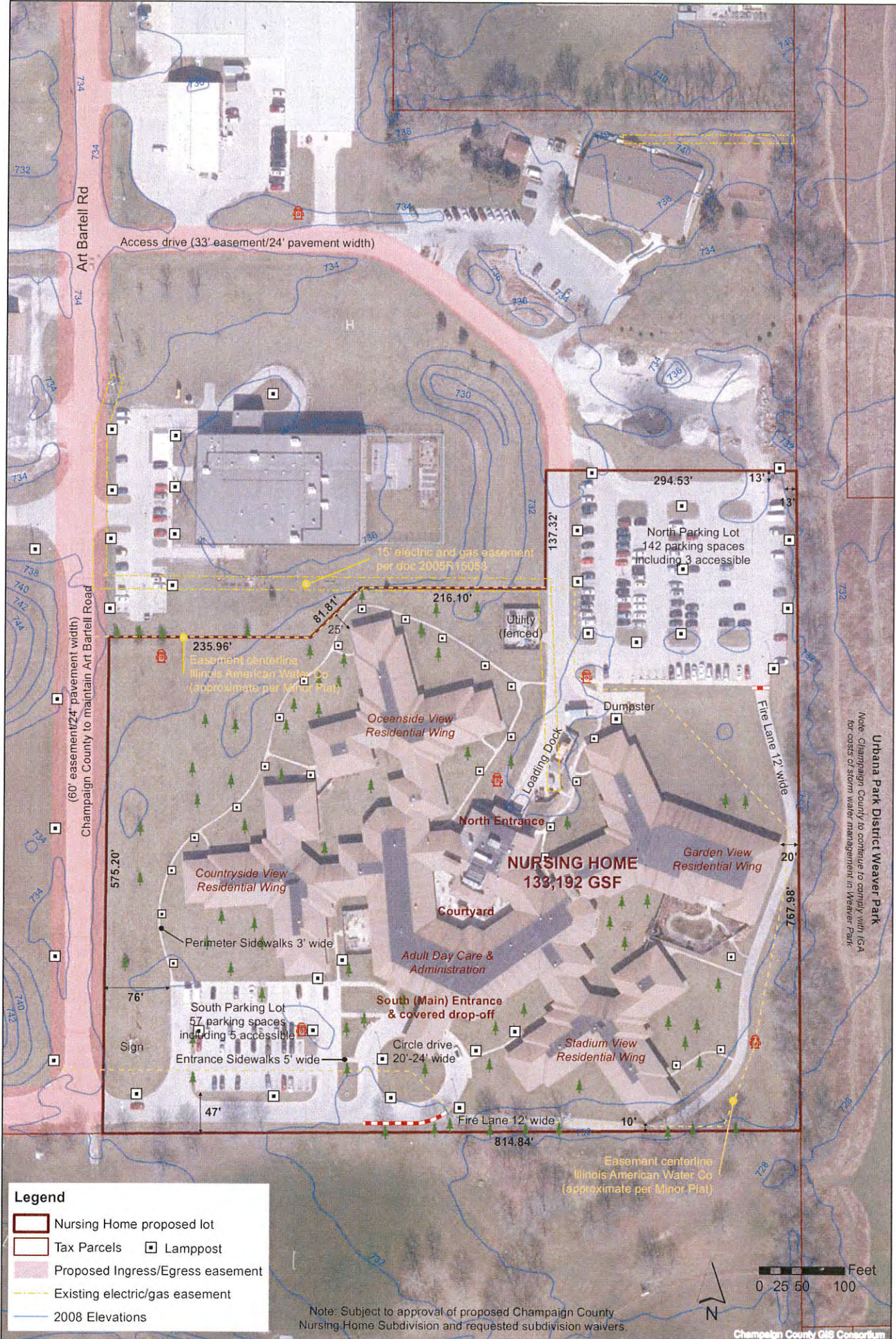


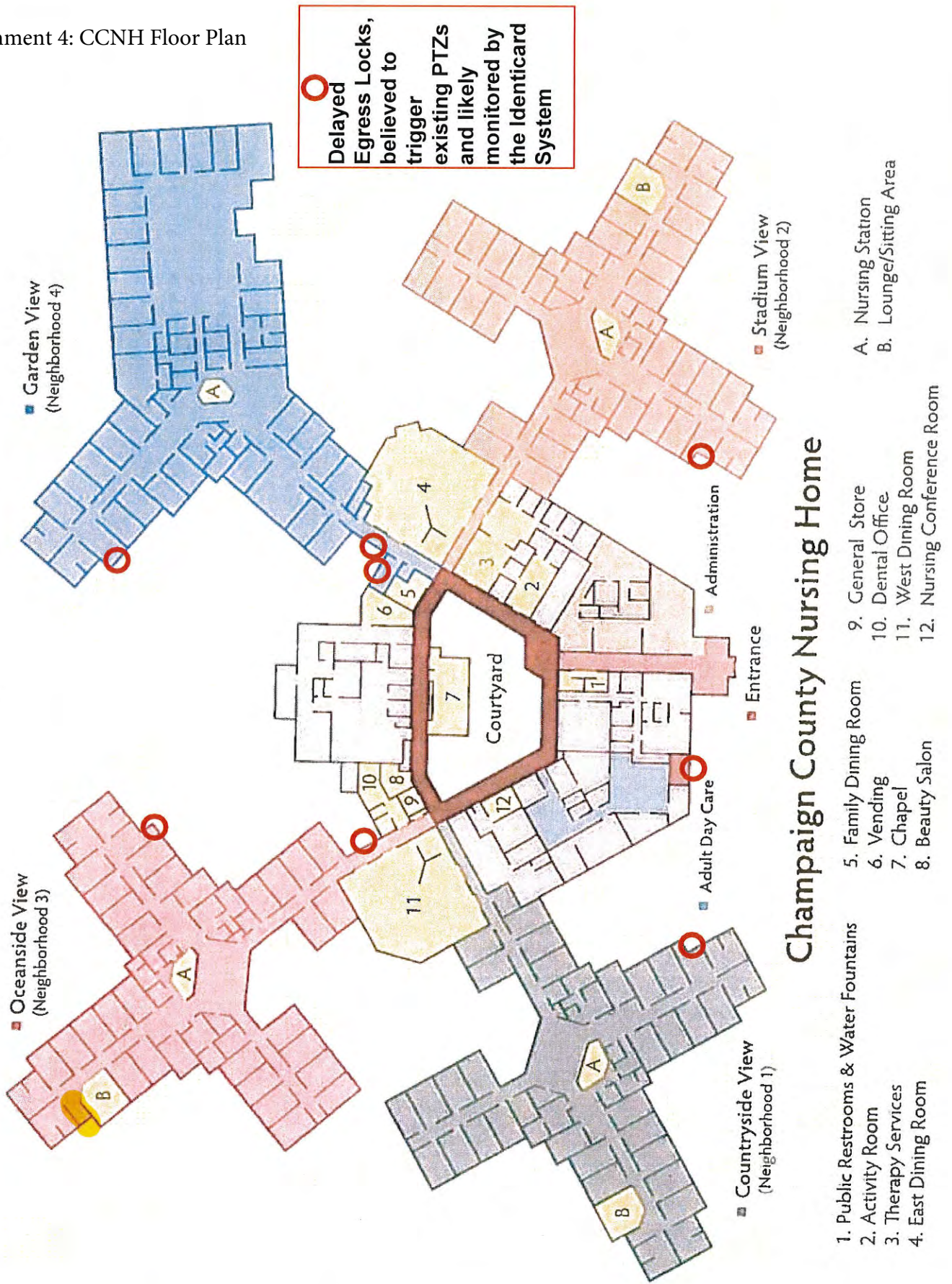


Exhibit C: Application for Conditional Use Permit  
 Attachment 3: Champaign County Nursing Home  
 Proposed Conditional Use Permit Site Plan





Attachment 4: CCNH Floor Plan



Attachment 5: LEGAL DESCRIPTION OF LOT 1

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  $00^{\circ}37'27''$  East 1000.29 feet along the east line of said Section 16 to the True Point of Beginning, thence continue along the said east line of Section 16 South  $00^{\circ}37'27''$  East 767.98 feet to the north of Tract "B" as depicted by a plat of survey by Charles S. Danner dated November 3, 1966, thence South  $89^{\circ}36'12''$  West 814.84 feet along the said north line of Tract "B" and the north line of Tract "A" as depicted by the said plat of survey by Charles S. Danner to the proposed east right-of-way line of Art Bartell Road, thence North  $00^{\circ}11'25''$  East 575.20 feet along the said east right-of-way line of Art Bartell Road, thence North  $90^{\circ}00'00''$  East 235.96 feet, thence North  $44^{\circ}59'42''$  East 81.81 feet, thence North  $90^{\circ}00'00''$  East 216.10 feet, thence North  $00^{\circ}03'18''$  East 137.32 feet, thence North  $89^{\circ}22'23''$  East 294.53 feet to the True Point of Beginning on the said east line of Section 16.

Said tract containing 12.315 acres, more or less.



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.



**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**

	<b>Comprehensive Plan</b>	<b>Zoning</b>	<b>Land Use</b>
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.

## **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.

## 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 detriment 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 C: Application for Conditional Use Permit

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 C: Application for Conditional Use Permit

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:**

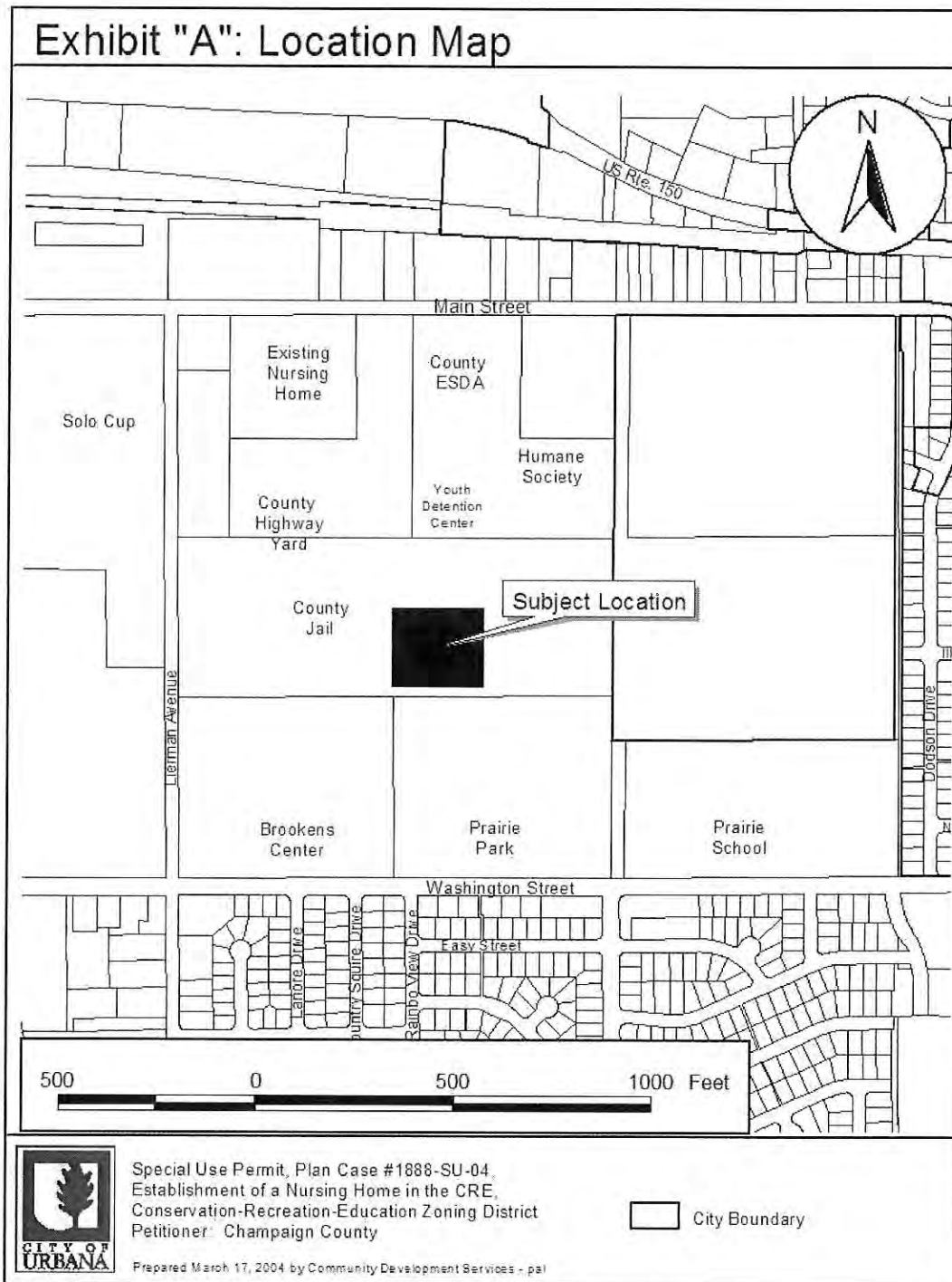
Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Plan Commission recommend **APPROVAL** of the proposed special use in Plan Case No. 1888-SU-04 as presented to the 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.

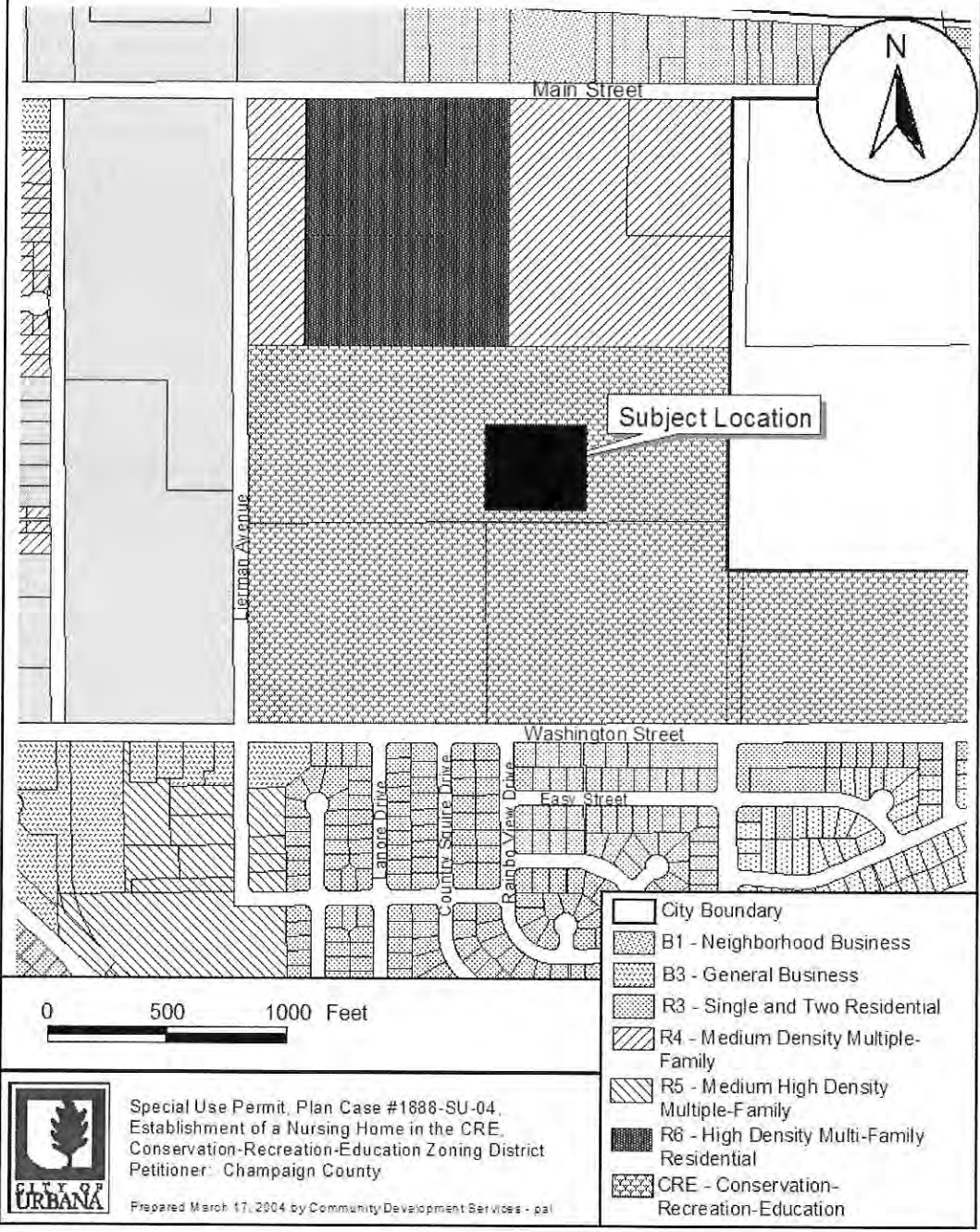
Attachments: Exhibit A, Location Map  
Exhibit B, Zoning map  
Exhibit C, Existing Land Use map  
Exhibit D, Future Land Use map  
Exhibit E, Aerial Photo  
Exhibit F, Petition for Special Use Permit (provided by Champaign County)  
Exhibit G, Notice to Adjacent Property Owners

Cc: Denny Inman, Champaign County





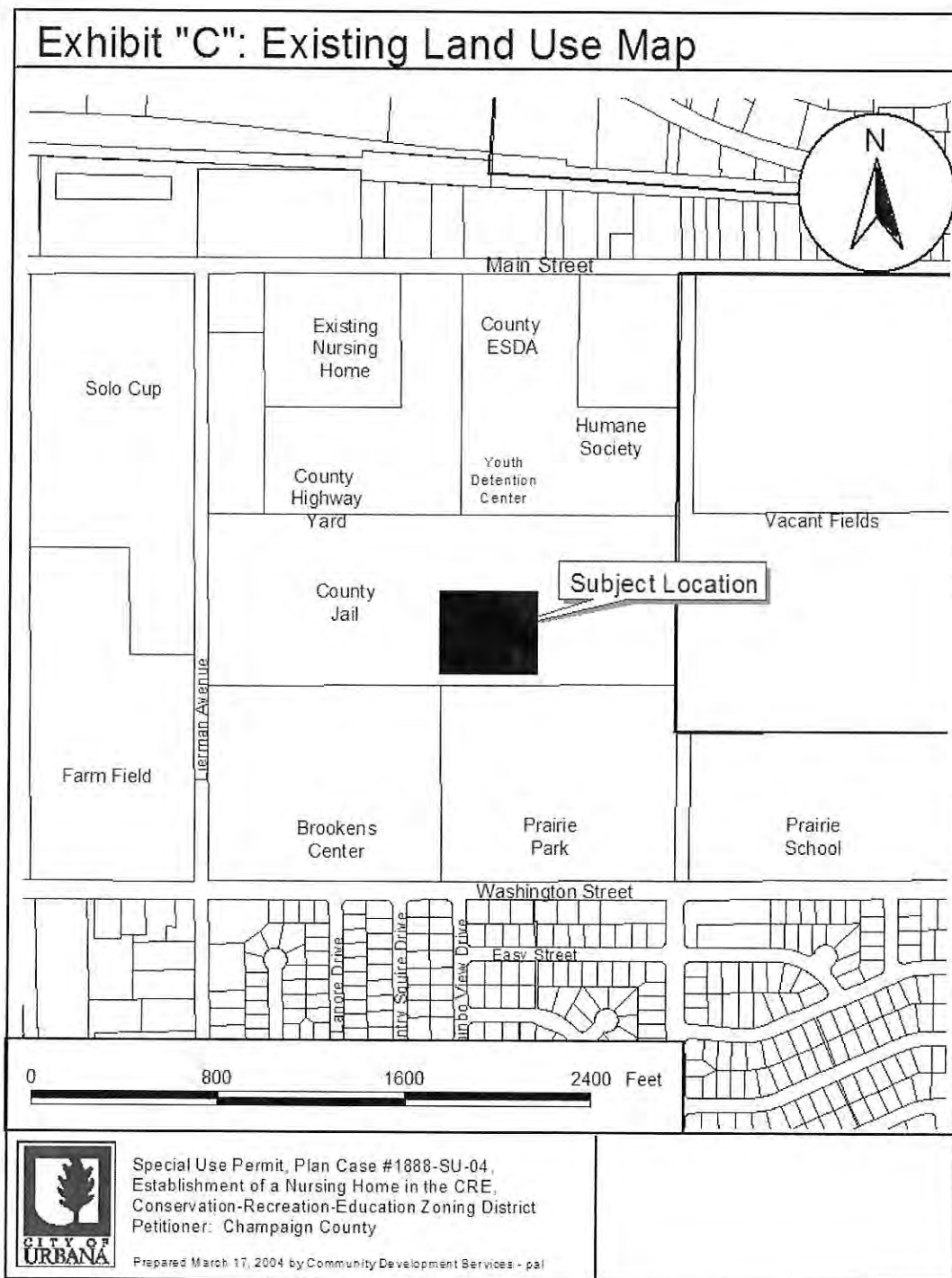
# Exhibit "B": Zoning Map



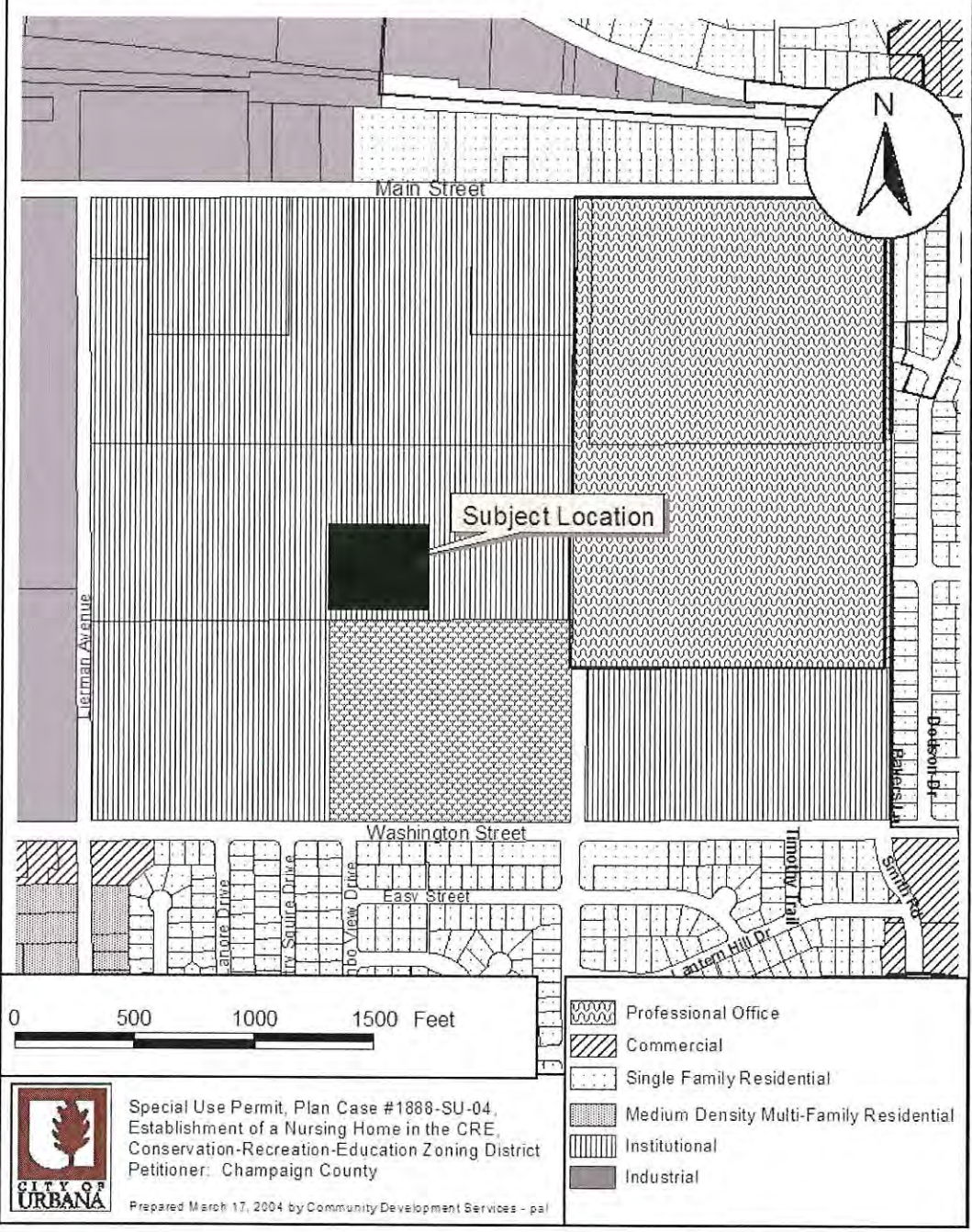
Special Use Permit, Plan Case #1888-SU-04,  
 Establishment of a Nursing Home in the CRE,  
 Conservation-Recreation-Education Zoning District  
 Petitioner: Champaign County

Prepared March 17, 2004 by Community Development Services - pal

- City Boundary
- B1 - Neighborhood Business
- B3 - General Business
- R3 - Single and Two Residential
- R4 - Medium Density Multiple-Family
- R5 - Medium High Density Multiple-Family
- R6 - High Density Multi-Family Residential
- CRE - Conservation-Recreation-Education



### Exhibit "D": Future Land Use Map





### 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





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.

**COPY**

Attachment 7: 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



**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).



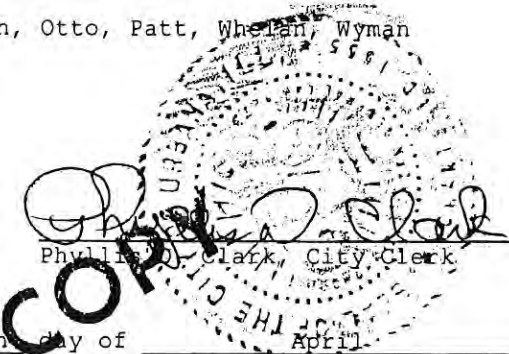
Exhibit C: Application for Conditional Use Permit

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

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

NAYS:

ABSTAINS:



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

Tod Satterthwaite  
Tod Satterthwaite, Mayor

Attachment 8: 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:



*Michelle D. Clark*  
Michelle D. Clark, City Clerk  
*Deputy Clerk*

APPROVED by the Mayor this 9th day of November,

2007.

*Laurel Lunt Prussing*  
Laurel Lunt Prussing, Mayor

2007-1-12

**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

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

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:



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.

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

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.

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



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:

*Amir M. Walker*  
Board President

CHAMPAIGN COUNTY BOARD

By:

*C. Rash Waters*

Date:

12-6-07

County Board Chair

Date:

12/10/2007



Exhibit C: Application for Conditional Use Permit

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF CHAMPAIGN        )

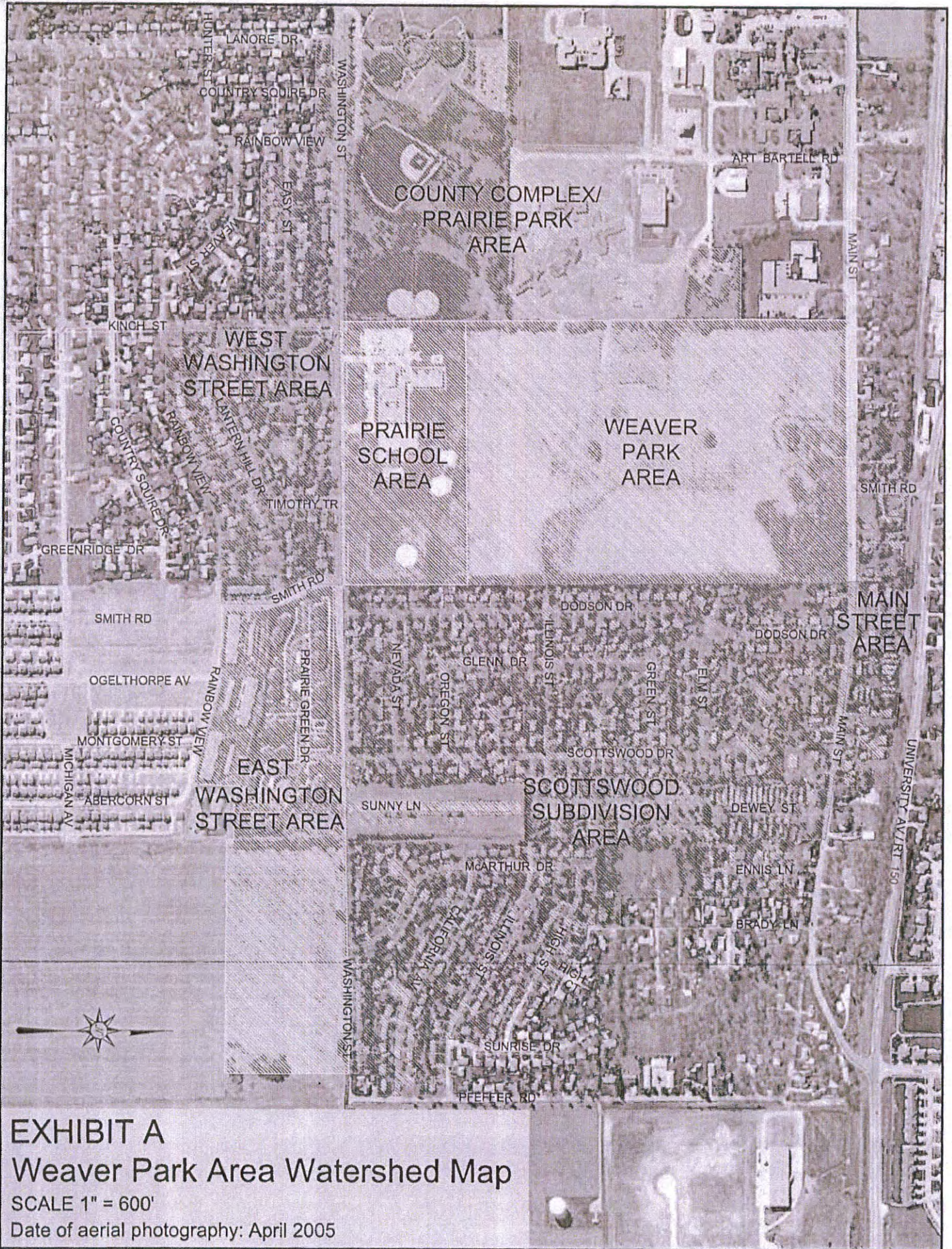
I, a Notary Public, in and for said County and State aforesaid, DO HEREBY CERTIFY that Laurel Lunt Prussing and Phyllis D. Clark, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as Mayor and City Clerk, respectively, appeared before me this day in 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 9<sup>th</sup> day of January, 2007<sup>8</sup>.

*Deborah J. Roberts*  
\_\_\_\_\_  
Notary Public







**EXHIBIT A**  
**Weaver Park Area Watershed Map**  
SCALE 1" = 600'  
Date of aerial photography: April 2005







# CERTIFICATE OF OCCUPANCY

## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

### CITY OF URBANA, ILLINOIS

THE ISSUANCE OF THIS CERTIFICATE IS FOR THE PROPERTY LOCATED AT

500 S. Art Bartell Road

PARCEL IDENTIFICATION NUMBER 92-21-16-200-005F ZONING DISTRICT CRE

PERMITTED USE Nursing Home # PARKING SPACES 189 # OFF-SITE 0

CONSTRUCTION TYPE 5A MIXED USE CONDITION No USE GROUP(S) 12

CONSTRUCTION WHICH IS AUTHORIZED BY HEREIN NOTED PERMIT(S) COMPLIES WITH THE PROVISIONS OF THE BUILDING CODE AND OTHER RELATED CODES, LAWS AND ORDINANCES OF THE CITY OF URBANA. OCCUPANCY APPROVAL IS HEREBY GRANTED WITH THE STIPULATION THAT THE BUILDING PREMISES SHALL BE PRESERVED AND MAINTAINED AS HEREIN DESCRIBED IN THIS CERTIFICATE REGARDING SPECIFIC USE, TYPE OF CONSTRUCTION, LIVE LOAD, OCCUPANT LOAD AND CODE COMPLIANCE.

### PERMITS

### LOADS

BUILDING 10838

ELECTRICAL 13609/13840/13841/14055

PLUMBING 13316/13477

MECHANICAL 9664/9795

SPRINKLER \_\_\_\_\_

SIGN \_\_\_\_\_

ELEVATOR \_\_\_\_\_

OCCUPANT LOAD 667

(TOTAL)

LIVE LOAD 40 psf

100 psf - public

80 psf - corridors

SPECIFIC USE Champaign County Nursing Home

THIS CERTIFICATE ISSUED UNDER THE 2003 EDITION OF THE INTERNATIONAL BUILDING CODE, AS AMENDED AND ADOPTED BY THE CITY OF URBANA, ILLINOIS.

SPRINKLER SYSTEM REQUIRED Yes SPRINKLER HAZARD CLASSIFICATION 923.92 gpm

SPRINKLER /STANDPIPE SYSTEM DEMAND AT BASE OF RISER 52 psi

CONDITIONS/COMMENTS \_\_\_\_\_

ANY CHANGE IN THE ABOVE STIPULATIONS REQUIRES APPROVAL BY THE DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES AND THE REISSUANCE OF A NEW CERTIFICATE. THIS CERTIFICATE IS TO BE POSTED WHERE IT IS VISIBLE TO ALL USERS OF THE BUILDING PREMISES.

\* IN ACCORDANCE WITH THE ABOVE PROVISIONS THIS PROPERTY IS DECLARED SUITABLE FOR OCCUPANCY \*

Gordon Sherrin

BUILDING OFFICIAL

October 9, 2007

DATE OF ISSUANCE



Attachment 10:

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 17<sup>th</sup> 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.




- 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.**

- 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 17<sup>th</sup> day of January, 2018.

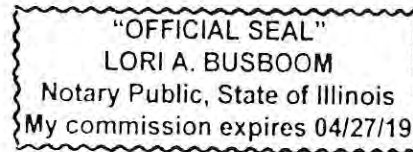
THE COUNTY OF CHAMPAIGN

By:   
C. Pius Weibel, Chair  
Champaign County Board

STATE OF ILLINOIS                    )  
  ) SS.  
COUNTY OF CHAMPAIGN            )

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

Lori A. Busboom  
Notary Public



Attachment 11: Post-Closing Covenants

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



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.

Attachment 12: Post-Commencement Covenants

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

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.**