

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: October 24, 2012 (*Wednesday*)  
Time: **7:00 P.M.**  
Place: **Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802**

*Note: NO ENTRANCE TO BUILDING  
FROM WASHINGTON STREET PARKING  
LOT AFTER 4:30 PM.  
Use Northeast parking lot via Lierman Ave.  
and enter building through Northeast  
door.*

*If you require special accommodations please notify the Department of Planning & Zoning at  
(217) 384-3708*

**EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM**

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (July 26, 2012, August 16, 2012, August 30, 2012 and September 27, 2012)
5. Continued Public Hearings

*Note: The full ZBA packet is now available  
on-line at: [www.co.champaign.il.us](http://www.co.champaign.il.us).*

**Case 685-AT-11 Petitioner: Zoning Administrator**

**Request: Amend the Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required for any County Board approved special use permit for a Rural Residential Development in the Rural Residential Overlay district as follows:**

- (1) Require that each proposed residential lot shall have an area equal to the minimum required lot area in the zoning district that is not in the Special Flood Hazard Area;
- (2) Require a new public street to serve the proposed lots in any proposed RRO with more than two proposed lots that are each less than five acres in area or any RRO that does not comply with the standard condition for minimum driveway separation;
- (3) Require a minimum driveway separation between driveways in the same development;
- (4) Require minimum driveway standards for any residential lot on which a dwelling may be more than 140 feet from a public street;
- (5) Require for any proposed residential lot not served by a public water supply system and that is located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results;
- (6) Require for any proposed RRO in a high probability area as defined in the Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy of the ISHPA response;
- (7) Require that for any proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of the agency response.

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**  
**NOTICE OF REGULAR MEETING**  
**(WEDNESDAY) OCTOBER 24, 2012**  
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**\* Case 722-S-12** Petitioner: **Dr. Michael Boero**  
Request: **Authorize an equine veterinary surgery clinic and performance problem evaluation facility as a "Veterinary Hospital" as a Special Use on 4.5 acres that is part of a 22 acre property previously authorized as a stable in Case 719-S-90 and located in the CR Conservation Recreation Zoning District.**  
Location: **A 22 acre parcel in the West Half of the Southeast Quarter of the Southwest Quarter of Section 26 of Newcomb Township and commonly known as the home and stable at 430 CR 2500N, Mahomet.**

6. New Public Hearings

**\* Case 729-V-12** Petitioner: **Frank E. Howard**  
Request: **Authorize the following in the R-1 Single Family Residence Zoning District:**  
**Part A. Variance for lot coverage of 35% in lieu of the maximum allowed 30%**  
**Part B. Variance for a front yard of 19 feet in lieu of the minimum required 30 feet**  
**Part C. Variance for a front yard of 22 feet in lieu of the minimum required 25 feet**  
**Part D. Variance for a front setback of 49 feet from Fogel Road in lieu of the minimum required 75 feet**  
**Part E. Variance for a front setback of 52 feet from Olen Drive in lieu of the minimum required 55 feet**  
**Part F. Variance for a side yard of 3.4 feet in lieu of the minimum required 10 feet**  
**Part G. Variance for a front yard of an existing accessory structure of 27 feet in lieu of the minimum required 30 feet**  
**Part H. Variance for a front setback for an existing accessory structure of 57 feet from Fogel Road in lieu of the minimum required 75 feet**  
**Part I. Variance from the visibility triangle requirements for a corner lot**  
**Part J. Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement**  
Location: **Lot 15 of Wildwood Estates Subdivision in the Northwest Quarter of Section 12 of Mahomet Township and commonly known as the home at 1105 Olen Drive, Mahomet.**

**\* Case 730-V-12** Petitioner: **Dale L. and Cheri A. Rapp**  
Request: **Authorize the following in the CR Conservation-Recreation Zoning District:**  
**Part A. Variance for lot coverage of 21% in lieu of the maximum allowed 20%**  
**Part B. Variance for a front setback for an existing nonconforming dwelling of 39 feet from the centerline of Cottonwood Road in lieu of the minimum required 75 feet**  
**Part C. Variance for a front yard for an existing nonconforming dwelling of 19 feet in lieu of the minimum required 30 feet**  
**Part D. Variance for a rear yard for an existing accessory building of 4 feet in lieu of the minimum required 10 feet.**  
Location: **A one acre tract in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 1 of Urbana Township and commonly known as the home at 1604 North Cottonwood Road, Urbana.**

7. Staff Report

8. Other Business

- A. Review of Docket
- B. November meetings

9. Audience Participation with respect to matters other than cases pending before the Board

10. Adjournment

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**\* Administrative Hearing. Cross Examination allowed.**

1 **MINUTES OF REGULAR MEETING**  
2  
3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**  
4 **1776 E. Washington Street**  
5 **Urbana, IL 61802**  
6

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7 **DATE:** July 26, 2012 **PLACE:** Lyle Shields Meeting Room  
8 **TIME:** 7:00 p.m. **1776 East Washington Street**  
9 **Urbana, IL 61802**

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11 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Brad Passalacqua, Roger  
12 Miller

14 **MEMBERS ABSENT :** Paul Palmgren

16 **COUNTY BOARD MEMBERS PRESENT:** Pattsie Petrie

18 **STAFF PRESENT :** Connie Berry, John Hall, Andrew Kass, Susan Monte (County Planner for  
19 RPC)

21 **OTHERS PRESENT :** Louis Schwing, Jeff Breen, Maury Busboom, Roger Miller, Norman Stenzel,  
22 David Barcus, Dennis Cummins, Ken Judy, Glen D. Judy III, Glen D. Judy II,  
23 Dennis Buerkett

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26 **1. Call to Order**

28 The meeting was called to order at 7:00 p.m.

30 **2. Roll Call and Declaration of Quorum**

32 The roll was called and a quorum declared present with one vacant seat.

34 **3. Correspondence**

36 None

38 **4. Approval of Minutes (June 14, 2012 and June 28, 2012)**

40 **Mr. Passalacqua moved, seconded by Mr. Courson to approve the June 14, 2012 and June 28, 2012,**  
41 **minutes as submitted. The motion carried by voice vote.**

43 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
44 sign the witness register for that public hearing. He reminded the audience that when they sign the  
45 witness register they are signing an oath.

48 **5. New Public Hearing**

**DRAFT**

1  
 2 **Case 721-AM-12 Petitioner: Premier Cooperative Incorporated, with Board members Art Farley,**  
 3 **Joseph Kuntz, Richard Wilkin, Kim Jolley, Kenneth Heiser, Stephen Hettinger, Roger Miller, Pat**  
 4 **Feeney, Doug Bialeschki, Dwight Huffstutler, Maury Busboom and corporate officers Roger Miller,**  
 5 **General Manager, Louis Schwing, Assistant General Manager, and James Deters, Chief Financial**  
 6 **Officer. Request to amend the Zoning Map to change the zoning district designation from the AG-1**  
 7 **Agriculture Zoning District to the B-1 Rural Trade Center Zoning District. Location: A 2.54 acre**  
 8 **tract in the Northwest Quarter of the Northeast Quarter of Section 17 of St. Joseph Township and**  
 9 **commonly known as the Premier Cooperative-Fulls Siding Site at 1597 CR 1975E, St. Joseph.**

10  
 11 **Case 726-S-12 Petitioner: Premier Cooperative Incorporated, with Board members Art Farley,**  
 12 **Joseph Kuntz, Richard Wilkin, Kim Jolley, Kenneth Heiser, Stephen Hettinger, Roger Miller, Pat**  
 13 **Feeney, Doug Bialeschki, Dwight Huffstutler, Maury Busboom and corporate officers Roger Miller,**  
 14 **General Manager, Louis Schwing, Assistant General Manager, and James Deters, Chief Financial**  
 15 **Officer. Request to authorize the following grain structures over 100 feet in height as a Special Use on**  
 16 **property proposed to be rezoned to the B-1 Rural Trade Center District in related Case 721-AM-12:**  
 17 **Part A. The replacement of an existing non-conforming grain elevator that is approximately 170 feet**  
 18 **in height; and Part B. The replacement of an existing non-conforming grain leg that is approximately**  
 19 **180 feet in height; and Part C. The construction and use of two grain bins approximately 125 feet in**  
 20 **height; and Part D. The construction and use of a grain dryer approximately 125 feet in height.**  
 21 **Location: A 2.54 acre tract in the Northwest Quarter of the Northeast Quarter of Section 17 of St.**  
 22 **Joseph Township and commonly known as the Premier Cooperative-Fulls Siding Site at 1597 CR**  
 23 **1975E, St. Joseph.**

24  
 25 Mr. Thorsland called Cases 721-AM-12 and 726-S-12 concurrently.

26  
 27 Mr. Thorsland informed the audience that Case 726-S-12 is an Administrative Case and as such the County  
 28 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a  
 29 show of hands for those who would like to cross examine and each person will be called upon. He requested  
 30 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said  
 31 that those who desire to cross examine are not required to sign the witness register but are requested to  
 32 clearly state their name before asking any questions. He noted that no new testimony is to be given during  
 33 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
 34 exempt from cross examination.

35  
 36 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
 37 sign the witness register for that public hearing. He reminded the audience that when they sign the  
 38 witness register they are signing an oath.

39  
 40 Mr. Roger Miller, ZBA member, indicated that he must abstain from Cases 721-AM-12 and 726-S-12

1 because he currently serves as Director of the Board for Premier Cooperative Incorporated.  
2

3 Mr. Thorsland asked if the petitioner would like to make a statement outlining the nature of their request.  
4

5 Mr. Jeff Breen, who resides at 308 E. Marshall, Tolono, stated that over a three period their facility has seen  
6 an increased average of 785,000 bushels per year which means that 872 semi-loads have to be hauled to  
7 other elevator facilities. He said that the additional bushels increases the traffic at the Fulls Siding site  
8 during harvest times therefore approval of their request would benefit their patrons with faster service. He  
9 said that approval of their request would also benefit the taxing community.  
10

11 Mr. Thorsland called John Hall, Zoning Administrator.  
12

13 Mr. John Hall stated that there are no new memorandums for Cases 721-AM-12 or 726-S-12 and both cases  
14 are ready for final action. He said that staff has not received any calls from neighbors and frankly he does  
15 not know why the property was not designated B-1, Rural Trade Center when the zoning map was  
16 established because it would have been appropriate and it is appropriate now. He said that in regards to the  
17 special use permit, the first two parts of the special use are merely to allow replacement of the existing  
18 structure if the need ever arises. He said that the special use request is really before the Board tonight  
19 because of the last two parts, Part C and Part D, because the proposed construction is taller than 100 feet. He  
20 said that since the case had to be before the Board anyway it made sense to include the replacement of the  
21 existing structures that are over 100 feet.  
22

23 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.  
24

25 Mr. Courson stated that Mr. Hall stated that the Fulls Siding site had been overlooked in regards to the  
26 proper zoning. He asked Mr. Hall if he has investigated any other grain elevators in the rural areas of the  
27 County to see if they too have been overlooked.  
28

29 Mr. Hall stated no.  
30

31 Mr. Courson asked Mr. Hall if he believes that the rest of the rural elevators in the County are zoned  
32 correctly.  
33

34 Mr. Hall stated that he does not know but normally when there is an elevator that is in an area surrounded by  
35 houses it would be expected that the elevator property would have been zoned AG-1 and an expansion of  
36 that elevator would be by a special use only. He said that if there are not a lot of houses around the rural  
37 elevator, the County has had the B-1 District from the beginning and elevators are allowed by right. He said  
38 that in this location there has always been one house to the northeast but never more than that therefore he  
39 does not know why the subject property was not designated B-1. He said that at the time it was probably not  
40 critical to add the elevator and perhaps it was never thought that the elevator would require expansion

1 although he would imagine that in the early 70's things were expanding therefore he is at a loss.  
2  
3 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.  
4  
5 Mr. Thorsland called Jeff Breen to testify.  
6  
7 Mr. Jeff Breen stated that the existing elevator is 175 feet tall and there are grain legs that are also near 175  
8 feet tall as well. He said that the proposed grain bin is 119 feet to the peak and there are no plans to go any  
9 higher.  
10  
11 Mr. Thorsland asked the Board if there were any questions for Mr. Breen and there were none.  
12  
13 Mr. Thorsland asked if staff had any questions for Mr. Breen and there were none.  
14  
15 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Breen and there was no one.  
16  
17 Mr. Thorsland called Louis Schwing to testify.  
18  
19 Mr. Louis Schwing, Assistant General Manager, declined to testify at this time.  
20  
21 Mr. Thorsland called Roger Miller to testify.  
22  
23 Mr. Roger Miller, General Manager, deferred to testify at this time.  
24  
25 Mr. Thorsland called Dennis Cummins to testify.  
26  
27 Mr. Dennis Cummins declined to testify at this time.  
28  
29 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony  
30 regarding these cases and there was no one.  
31  
32 Mr. Thorsland closed the witness register for both cases.  
33  
34 Mr. Kass noted that the heights on the agenda and the Finding of Fact for Case 726-S-12 are a little different  
35 because when the legal advertisement was written staff did not have the exact heights from the petitioner and  
36 only approximations. He said that there are only two heights which are different and the differences are not  
37 substantial.  
38  
39 Mr. Thorsland directed the Board to item 11 on page 7 of 19 of the Draft Finding of Fact regarding LRMP  
40 Goals and Policies. He said that the Board will now review those goals and policies.

1

2 Mr. Thorsland read LRMP Goal 1 as follows: Champaign County will attain a system of land resource  
3 management planning built on broad involvement that supports effective decision making by the County.  
4 He said that it is staff's recommendation that Goal 1 is NOT RELEVANT to the proposed rezoning and the  
5 Board agreed with staff's recommendation.

6

7 Mr. Thorsland read LRMP Goal 2 as follows: Champaign County will collaboratively formulate land  
8 resource and development policy with other units of government in areas of overlapping land use planning  
9 jurisdiction. Mr. Thorsland stated that it is staff's recommendation that Goal 2 is NOT RELEVANT to the  
10 proposed rezoning and the Board agreed with staff's recommendation.

11

12 Mr. Thorsland read LRMP Goal 3 as follows: Champaign County will encourage economic growth and  
13 development to ensure prosperity for its residents and the region. He said that it is staff's recommendation  
14 that Objectives 3.1, 3.2, and 3.3 are NOT DIRECTLY RELEVANT and PARTIALLY ACHIEVE and that  
15 the proposed rezoning PARTIALLY ACHIEVES Goal 3 and the Board agreed with staff's recommendation.

16

17 Mr. Thorsland read LRMP Goal 4 as follows: Champaign County will protect the long term viability of  
18 agriculture in Champaign County and its land resource base. He said that staff recommends that the  
19 proposed rezoning ACHIEVES Objective 4.1. He said that staff recommends that the proposed rezoning  
20 ACHIEVES Policy 4.1.1. because the subject property has not been in agricultural production since the  
21 1940's doing the business that it currently does now and the Board agreed. He said that staff recommends  
22 that the proposed rezoning ACHIEVES Policy 4.1.6. and the Board agreed with staff's recommendation.

23

24 Mr. Thorsland read Policy 4.1.7 as follows: To minimize the conversion of *best prime farmland*, the County  
25 will require a maximum lot size limit on new lots established as *by right development* on *best prime*  
26 *farmland*. He recommended that the proposed rezoning IS CONSISTENT with Policy 4.1.7 because the  
27 subject site will not change and the Board agreed with Mr. Thorsland's recommendation.

28

29 Mr. Thorsland stated that regarding Objective 4.2, staff recommends that the proposed rezoning ACHIEVES  
30 Policies 4.2.1, 4.2.2, 4.2.3, and 4.2.4 therefore the proposed rezoning ACHIEVES Objective 4.2 and the  
31 Board agreed.

32

33 Mr. Thorsland stated that regarding Objective 4.3, staff recommends that the proposed rezoning ACHIEVES  
34 Policies 4.3.2, 4.3.3, 4.3.4, and 4.3.5 therefore the proposed rezoning ACHIEVES Objective 4.3 and the  
35 entirety of Goal 4 and the Board agreed.

36

37 Ms. Capel asked if agriculture is defined.

38

39 Mr. Hall stated yes, agriculture is defined in the Zoning Ordinance. He said that the Zoning Ordinance  
40 would not consider a grain elevator, like this, to be agriculture. He said that the grain elevator serves

1 agriculture but operating the elevator is not agriculture.

2

3 Mr. Thorsland stated that LRMP Goal 5 indicates that Champaign County will encourage urban development  
4 that is compact and contiguous to existing cities, villages, and existing unincorporated settlements. He said  
5 that staff has recommended that the proposed rezoning is NOT RELEVANT to Goal 5 because the existing  
6 use on the subject property is not an urban land use and the Board agreed.

7

8 Mr. Thorsland stated that LRMP Goal 6 indicates that Champaign County will ensure protection of the  
9 public health and public safety in land resource management decisions. He said that staff recommends that  
10 the proposed rezoning CONFORMS to Objective 6.1 and Policy 6.1.2 therefore the proposed rezoning  
11 CONFORMS to Goal 6 in its entirety and the Board agreed.

12

13 Mr. Thorsland stated that LRMP Goal 7 indicates that Champaign County will coordinate land use decisions  
14 in the unincorporated area with the existing and planned transportation infrastructure and services. He said  
15 that staff recommends that the proposed rezoning CONFORMS to Objective 7.1. He said that testimony was  
16 received at tonight's hearing indicating that approval of the request will help reduce seasonal traffic. He said  
17 that the proposed rezoning CONFORMS to Policy 7.1.1 and therefore CONFORMS to Goal 7 in its entirety  
18 and the Board agreed.

19

20 Mr. Thorsland stated that staff recommends that the proposed rezoning IS NOT RELEVANT to LRMP Goal  
21 8, "Natural Resources" and the Board agreed.

22

23 Mr. Thorsland stated that LRMP Goal 9 indicates that Champaign County will encourage energy  
24 conservation, efficiency, and the use of renewable energy sources. He said that staff recommends that the  
25 proposed rezoning is NOT RELEVANT to Goal 9 although he would like to amend staff's recommendation  
26 to PARTIALLY ACHIEVES because it reduces trips and better streamlines traffic and the Board agreed. He  
27 said that LRMP Goal 10 indicates that Champaign County will promote the development and preservation of  
28 cultural amenities that contribute to a high quality of life for its citizens. He said that staff recommends that  
29 Goal 10 is NOT relevant to the proposed rezoning and the Board agreed.

30

31 Ms. Capel stated that she has some minor corrections to the text of the Finding of Fact and submitted those  
32 changes to Mr. Kass.

33

34 Mr. Thorsland noted that if the Board discovers any minor corrections then those corrections should be  
35 forwarded to staff but if the corrections are major then they should be noted into the record.

36

37 Mr. Hall stated that Mr. Thorsland indicated that the proposed rezoning PARTIALLY ACHIEVES Goal 9.  
38 He said that he would like some additional text indicating why the Board is indicating PARTIALLY  
39 ACHIEVES so that it makes sense when it goes to the County Board. He suggested the following text for  
40 the Board's approval: The proposed rezoning PARTIALLY ACHIEVES Goal 9 because the proposed

1 elevator improvements will reduce seasonal traffic therefore reducing energy use.

2  
3 Mr. Courson asked if the grain is transported by rail because everything that is being trucked in will be  
4 trucked out therefore not reducing any traffic.

5  
6 Mr. Hall stated that the fewer trucks quod the less energy used while doing the necessary filling and  
7 dumping.

8  
9 Mr. Louis Schwing, Assistant General Manager, stated that one way that this request will be advantageous to  
10 the reduction of energy use is that many times the grain has to be double handled in moving it from one  
11 elevator to another. He said that without approval of their request a lot of the grain will be handled twice.

12  
13 Mr. Hall stated that an RLA is immediately adjacent to the elevator and it is not a typical situation. He said  
14 that the RLA and the elevator have co-existed for a very long time and the elevator is well out of the way of  
15 the approach area of the nonconforming RLA.

16  
17 Ms. Capel asked if the RLA is where Mr. Palmgren resides.

18  
19 Mr. Hall stated no. He said that the RLA was established after the adoption of zoning but before the  
20 County's current requirements and when those were adopted any existing RLA's could register the RLA  
21 with the County, which Dale Busboom did, and a special use permit would not be required. He said that he  
22 just wanted to make the Board aware of the RLA's existence although they have co-existed for a long time  
23 and he does not anticipate any problems.

24  
25 Mr. Passalacqua asked Mr. Hall to indicate how close the RLA is from the elevator versus the RLA in Aero  
26 Place Subdivision.

27  
28 Mr. Hall stated that the landing strip is part of the residential development in Aero Place and butts up to it  
29 but the Busboom RLA is not that proximate to the subject property.

30  
31 Mr. Thorsland stated that no decision is required from the Board regarding the *LaSalle* and *Sinclair* Factors  
32 and there are no proposed special conditions.

33  
34 Mr. Hall stated that a new item #13 should be added to the Documents of Record indicating the following:  
35 Minor editorial changes to the LRMP Review of Policies submitted by Cathe Capel at the July 26, 2012,  
36 public hearing.

37  
38 Mr. Thorsland entertained a motion to adopt the Findings of Fact as amended.

39  
40 **Mr. Courson moved, seconded by Mr. Passalacqua to adopt the Findings of Fact as amended. The**

1    **motion carried by voice vote.**  
2  
3    Ms. Capel stated that the e-mails from the Premier Cooperative Incorporated Board members are not  
4    indicated in the Documents of Record.  
5  
6    Mr. Hall stated that staff does not normally include those e-mails as Documents of Record.  
7  
8    Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings  
9    of Fact as amended.  
10  
11   **Mr. Courson moved, seconded by Mr. Passalacqua to adopt the Summary of Evidence, Documents of**  
12 **Record and Findings of Fact as amended. The motion carried by voice vote.**  
13  
14   Mr. Thorsland entertained a motion to move the Final Determination.  
15  
16   **Ms. Capel moved, seconded by Mr. Courson to move to the Final Determination. The motion carried**  
17 **by voice vote.**  
18  
19   Mr. Thorsland informed the petitioners that one Board member has abstained from voting, one Board  
20   member was absent and one Board seat was vacant therefore it is at their discretion to either continue Case  
21   721-AM-12 until a full Board is present or request that the present Board move forward to the Final  
22   Determination. He informed the petitioners that four affirmative votes are required for approval.  
23  
24   The petitioners requested that the present Board move to the Final Determination.

25  
26   **Summary Finding of Fact for Case 721-AM-12:**  
27

28   From the documents of record and the testimony and exhibits received at the public hearing conducted on  
29   July 26, 2012, the Zoning Board of Appeals of Champaign County finds that:

- 30        1.    **The proposed Zoning Ordinance map amendment WILL HELP ACHIEVE the Land**  
31        **Resource Management Plan because:**  
32            A.    **The proposed Zoning Ordinance map amendment WILL HELP ACHIEVE the**  
33            **following LRMP goals:**  
34                    •    3, 4 and 9  
35            B.    **The proposed Zoning Ordinance map amendment WILL NOT IMPEDE the**  
36            **achievement of all other LRMP goals.**  
37  
38        2.    **The proposed Zoning Ordinance map amendment IS consistent with the *LaSalle* and**  
39        ***Sinclair* factors.**  
40

1    The Board agreed with staff's recommendations for the Summary Finding of Fact.

2

3    **Final Determination for Case 721-AM-12:**

4

5    **Mr. Passalacqua moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2**  
6    **of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**  
7    **determines that the Zoning Ordinance Amendment requested in Case 721-AM-12 should BE**  
8    **ENACTED by the County Board in the form attached hereto.**

9

10    The roll was called:

11

12	<b>Courson-yes</b>	<b>Miller-abstained</b>	<b>Passalacqua-yes</b>
13	<b>Palmgren-absent</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>

14

15    Mr. Hall informed the petitioners that they have received an approval of the map amendment case and will  
16    be forwarded to the County Board Committee of the Whole meeting in August.

17

18    Mr. Thorsland stated that the Board will now move forward to Case 726-S-12.

19

20    Mr. Hall stated that the heights are correct on the Preliminary Memorandum dated July 20, 2012, and there  
21    are no proposed special conditions. He said that for consistency the same item #13 should be added to the  
22    Documents of Record that was added to the Documents of Record for Case 721-AM-12.

23

24    Mr. Thorsland asked the Board if they would like to have any of the witnesses come to the witness  
25    microphone to address any questions and the Board indicated no.

26

27    Mr. Hall stated that Findings #1 and #2 on a special use permit required more verbal text than most other  
28    findings and in controversial special use permits staff would like using the Power Point projector so that the  
29    Board can view the finding on the screen and note that the Board is comfortable with the finding at that time.  
30    He said that this case is not controversial but it would give staff and the Board a dry run with this new  
31    process.

32

33    Ms. Capel stated that the last sentence in 8.K(1)(f) should be stricken.

34

35    Mr. Thorsland entertained a motion to adopt the Summary of Evidence as amended.

36

37    **Mr. Courson moved, seconded by Ms. Capel to adopt the Summary of Evidence as amended. The**  
38    **motion carried by voice vote.**

39

40    **Findings of Fact for Case 726-S-12:**

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From the documents of record and the testimony and exhibits received at the public hearing for zoning case 726-S-12 held on July 26, 2012, the Zoning Board of Appeals of Champaign County finds that:

**1. The requested Special Use Permit IS necessary for the public convenience at this location.**

Mr. Passalacqua stated that the requested Special Use Permit IS necessary for the public convenience at this location because it improves the efficiency of the location.

Mr. Thorsland stated that special use permit would enable a major improvement of a facility that has been in operation for the past 70 years and it would better serve its current and future customer base at the current site.

**2. The requested Special Use Permit is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.**

**a. The street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.**

Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.

**b. Emergency services availability is ADEQUATE.**

Mr. Courson stated that emergency services availability is ADEQUATE.

**c. The Special Use WILL be compatible with adjacent uses.**

Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

**d. Surface and subsurface drainage will be ADEQUATE.**

Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE.

**e. Public safety will be ADEQUATE.**

Ms. Capel stated that public safety will be ADEQUATE.

1                   **f.       The provisions for parking will be ADEQUATE.**

2  
3 Ms. Capel stated that the provisions for parking will be ADEQUATE.

4  
5 Ms. Capel stated that the requested Special Use Permit is so designed, located, and proposed to be operated  
6 so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the  
7 public health, safety, and welfare.

8  
9                   **3a.       The requested Special Use Permit DOES conform to the applicable regulations and**  
10 **standards of the DISTRICT in which it is located.**

11  
12 Ms. Capel stated that the requested Special Use Permit DOES conform to the applicable regulations and  
13 standards of the DISTRICT in which it is located.

14  
15                   **3b.       The requested Special Use Permit DOES preserve the essential character of the**  
16 **DISTRICT in which it is located.**

17  
18                   **a.       The Special Use will be designed to CONFORM to all relevant County**  
19 **Ordinances and codes.**

20  
21 Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County Ordinances  
22 and Codes.

23  
24                   **b.       The Special Use WILL be compatible with adjacent uses.**

25  
26 Mr. Passalacqua stated that the Special Use WILL be compatible with adjacent uses.

27  
28                   **c.       Public safety will be ADEQUATE.**

29  
30 Mr. Passalacqua stated that public safety will be ADEQUATE.

31  
32 Ms. Capel stated that the requested Special Use Permit DOES preserve the essential character of the  
33 DISTRICT in which it is located.

34  
35                   **4.       The requested Special Use Permit IS in harmony with the general purpose and intent of**  
36 **the Ordinance.**

37  
38                   **a.       The Special Use is authorized in the District.**

39  
40                   **b.       The requested Special Use IS necessary for the public convenience at this**

1 **location.**

2

3 Ms. Capel stated that the requested Special Use IS necessary for the public convenience at this location.

4

5 **c. The requested Special Use Permit is so designed, located and proposed to be**  
6 **operated so that it WILL NOT be injurious to the district in which it shall be**  
7 **located or otherwise detrimental to the public health, safety and welfare.**

8

9 Mr. Passalacqua stated that the requested Special Use Permit is so designed, located and proposed to be  
10 operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise  
11 detrimental to the public health, safety, and welfare.

12

13 **d. The requested Special Use Permit DOES preserve the essential character of the**  
14 **DISTRICT in which it is located.**

15

16 Mr. Passalacqua stated that the requested Special Use Permit DOES preserve the essential character of the  
17 DISTRICT in which it is located.

18

19 **5. The requested Special Use Permit IS an existing nonconforming use and the requested**  
20 **Special Use Permit WILL make the existing use conform to the Zoning Ordinance.**

21

22 Ms. Capel stated that she has a problem as to how finding #5 in the original text of the draft Finding of  
23 Fact is written. She said that the Special Use will not make the use any more compatible with it's  
24 surroundings because it is what it is.

25

26 Mr. Hall stated that the mere fact that it conforms to the Zoning Ordinance makes it more compatible.

27

28 Ms. Capel stated that the Special Use Permit makes it more compatible to the Zoning Ordinance and not it's  
29 surroundings because it is not going to change the physical characteristics of the area.

30

31 Mr. Hall stated that in this instance it will not but there are instances where there were special conditions  
32 that would make it more compatible. He said that all that the Zoning Ordinance requires for finding #5 is a  
33 determination of IS or IS NOT.

34

35 Ms. Capel stated that this is just a standard statement.

36

37 Mr. Hall stated that the first part of finding #5 is a standard statement and the Board has to indicate whether  
38 it IS or IS NOT and then the Board can strike the rest of the finding.

39

40 Ms. Capel stated that the requested Special Use Permit IS an existing nonconforming use and the requested

1 Special Use Permit WILL make the existing use conform to the Zoning Ordinance.

2  
3 Mr. Hall stated that in the past there have been elevators in locations where there were many special  
4 conditions required.

5  
6 **6. No special conditions are hereby imposed.**

7  
8 Mr. Thorsland stated that no special conditions are hereby imposed.

9  
10 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding  
11 of Fact as amended.

12  
13 **Mr. Passalacqua moved, seconded by Mr. Courson to adopt the Summary of Evidence, Documents of**  
14 **Record and Finding of Fact as amended. The motion carried by voice vote.**

15  
16 Mr. Thorsland informed the petitioners that one Board member has abstained from voting, one Board  
17 member was absent and one Board seat was vacant therefore it is at their discretion to either continue Case  
18 726-S-12 until a full Board is present or request that the present Board move forward to the Final  
19 Determination. He informed the petitioners that four affirmative votes are required for approval.

20  
21 The petitioners requested that the present Board move to the Final Determination.

22  
23 Mr. Thorsland entertained a motion to move to the Final Determination for Case 726-S-12.

24  
25 **Mr. Courson moved, seconded by Mr. Passalacqua to move to the Final Determination for Case 726-S-**  
26 **12. The motion carried by voice vote.**

27  
28 **Final Determination for Case 726-S-12:**

29  
30 **Mr. Passalacqua moved, seconded by Ms. Capel that the Champaign County Zoning Board of**  
31 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**  
32 **the requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority**  
33 **granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that the Special**  
34 **Use requested in Case 726-S-12 is hereby GRANTED to the applicant Premier Cooperative**  
35 **Incorporated to authorize the following:**

36 **Part A. The replacement of an existing non-conforming grain elevator that is**  
37 **approximately 175 feet in height.**

38 **Part B. The replacement of an existing non-conforming grain leg that is approximately**  
39 **175 feet in height.**

40 **Part C. The construction and use of two grain bins approximately 130 feet in height.**

1            **Part D.            The construction and use of a grain dryer approximately 125 feet in height.**

2  
3            The roll was called:

4  
5                            **Courson-yes                            Miller-abstained                            Passalacqua-yes**  
6                            **Capel-yes                            Thorsland-yes                            Palmgren-absent**  
7

8            Mr. Thorsland stated that the Board will take a five minute recess.  
9

10           **The Board recessed at 7:47 p.m.**

11           **The Board resumed at 7:52 p.m.**  
12

13           **Case 723-AM-12 Petitioner: The Estate of John Buerkett with executors Thomas Fiedler and Dennis**  
14           **Buerkett. Request to amend the Zoning Map to change the zoning district designation from the B-3**  
15           **Highway Business Zoning District to the B-4 General Business Zoning District. Location: A 1.5 acre**  
16           **tract in the West Half of the Southeast Quarter of the Northeast Quarter of Section 33 of Somer**  
17           **Township and commonly known as the building at 3515 North Cunningham Avenue, Urbana.**  
18

19           Mr. Thorsland informed the audience that Case 723-AM-12 is an Administrative Case and as such the  
20           County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will  
21           ask for a show of hands for those who would like to cross examine and each person will be called upon. He  
22           requested that anyone called to cross examine go to the cross examination microphone to ask any questions.  
23           He said that those who desire to cross examine are not required to sign the witness register but are requested  
24           to clearly state their name before asking any questions. He noted that no new testimony is to be given during  
25           the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
26           exempt from cross examination.  
27

28           Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
29           sign the witness register for that public hearing. He reminded the audience that when they sign the  
30           witness register they are signing an oath.  
31

32           Mr. Thorsland asked if the petitioner would like to make a statement outlining the nature of their request.  
33

34           Mr. Dennis Buerkett stated that he is a co-executor of the Estate of Jon Buerkett, his brother. He said that  
35           the subject property which is located 3515 North Cunningham Avenue was previously a bar and the property  
36           is zoned B-3. He said that he has a potential buyer for the subject property and the buyer's intended use of  
37           the property requires B-4 zoning.  
38

39           Mr. Thorsland called John Hall to testify.  
40

1 Mr. John Hall, Zoning Administrator, stated that there is no new information regarding this case and he  
2 wishes that he could say that there are no special conditions. He said that the uses allowed in B-4 are very  
3 similar to the uses allowed in B-3 and the use that the building previously had probably has as high a septic  
4 load as any other use that could happen under B-4. He said that staff has proposed a special condition which  
5 is simply the following:

6 **No Zoning Use Permit for expansion of building area or parking area and no Change of Use**  
7 **permit authorizing a different use with a greater wastewater load shall be approved without**  
8 **documentation that the Champaign County Health Department has determined the existing or**  
9 **proposed septic system will be adequate for that proposed use.** The special condition is required  
10 to ensure **that the existing septic system is adequate and to prevent wastewater runoff onto**  
11 **neighboring properties.**

12 He said that for the use that is proposed there will be no problems if the rezoning is approved but we do not  
13 want an increase in parking area or something similar to harm the existing septic system because septic  
14 system rules are only becoming more difficult and we want to make sure that the existing septic system  
15 continues working. He said that if, in the future, a new use is proposed on the subject property which  
16 requires a higher septic load the applicant will have to make sure that they can get an approved septic  
17 system. He said that the special condition should be no problem for the proposed use and it is there for the  
18 long term.

19  
20 Mr. Hall stated that the proposed rezoning achieves all of the relevant policies, and in some instances merely  
21 conforms. He said that when the petitioner first came to staff they were directed to contact the City of  
22 Urbana and as far as staff knows the petitioner has done so but no comments have been received from the  
23 City of Urbana's staff. Mr. Hall said that the City of Urbana's Comprehensive Plan is not as clear as he  
24 would have hoped but it is possible that the City of Urbana would have no concerns regarding the proposed  
25 rezoning. He asked Mr. Buerkett if the City of Urbana has indicated any concerns.

26  
27 Mr. Buerkett stated no.

28  
29 Mr. Hall stated that staff will be contacting the City of Urbana's staff to make sure that they understand that  
30 if the ZBA takes action on this case tonight the case will be forwarded to the August County Board meeting.  
31 He said that he hopes that the City of Urbana's staff has taken this into account and has scheduled review of  
32 the proposed rezoning into their meeting schedule.

33  
34 Ms. Capel asked how close the subject property was to the annexation line for the City of Urbana.

35  
36 Mr. Hall stated that the subject property is not adjacent to the City of Urbana's boundary and no one is  
37 contemplating annexation. He said that the Urbana-Champaign Sanitary District map indicates the area in  
38 which a property will be annexed if necessary in order to be connected to sanitary sewer but the subject  
39 property is too far away from the nearest sewer connection.

1 Mr. Hall stated that there have been previous rezoning cases in the area and the old veterinary facility which  
2 is located on U.S. 45 was rezoned to B-4. He said that staff went back and checked all of the previous B-3 to  
3 B-4 rezonings and there were no issues with any of those rezonings. He said that it is too bad that staff  
4 cannot take the time to rezone everything in that area from B-3 to B-4 therefore it will be done on a piece  
5 meal basis.

6  
7 Mr. Courson asked if the rezonings could be combined into one case.

8  
9 Mr. Hall stated that it could but staff has found out in the past that proposing a rezoning when no one has  
10 asked for it is generally a recipe for trouble.

11  
12 Mr. Thorsland asked the Board if there were any questions for Mr. Buerkett and there were none.

13  
14 Mr. Thorsland asked if staff had any questions for Mr. Buerkett and there were none.

15  
16 Mr. Thorsland called Glen Judy II to testify.

17  
18 Mr. Glen Judy II declined to testify.

19  
20 Mr. Thorsland called Ken Judy to testify.

21  
22 Mr. Ken Judy declined to testify at this time.

23  
24 Mr. Thorsland called Glen Judy III to testify.

25  
26 Mr. Glen Judy III declined to testify.

27  
28 Mr. Ken Judy requested the opportunity to address the Board.

29  
30 Mr. Thorsland called Ken Judy to testify.

31  
32 Mr. Ken Judy, whose address is 1401 W. Green St., Champaign, stated that the proposed business is a  
33 merchandise outlet store which will house customer return products and scratch and dent items from  
34 retailers. He said that the proposed use will generate less traffic than the previous bar and less load on the  
35 septic system.

36  
37 Mr. Thorsland asked Mr. Judy if he agreed to the proposed special condition.

38  
39 Mr. Judy stated that he does agree to the special condition.

40

- 1 Mr. Thorsland asked the Board if there were any questions for Mr. Judy.  
2
- 3 Mr. Passalacqua asked if there were any requirements for a loading berth.  
4
- 5 Mr. Hall stated no.  
6
- 7 Mr. Courson stated that it appears that there is sufficient room for a loading berth if required. He asked Mr.  
8 Judy if he anticipated constructing a loading berth.  
9
- 10 Mr. Judy stated that they will be a small retail facility and they have no plans for a loading berth because the  
11 merchandise is not hauled in by semi-trucks but by trucks and trailers.  
12
- 13 Mr. Thorsland asked if staff had any questions for Mr. Judy.  
14
- 15 Mr. Hall stated that he would like to add the following sentence to item 6.A. of the Finding of Fact  
16 describing the proposed use: The proposed use is a merchandise outlet store for returned items.  
17
- 18 Mr. Judy stated that a lot of the merchandise is brand new stuff that was never claimed. He said that they  
19 receive items from Walmart and Sam's Club which were in liquidation, delivered damaged, etc.  
20
- 21 Mr. Hall stated that item 6.A. should be revised as follows: The propose use is a merchandise outlet store.  
22
- 23 Mr. Thorsland asked the Board if there were any additional questions for Mr. Judy.  
24
- 25 Ms. Capel asked Mr. Judy if he intended to use the building as it is currently and only modifying the interior.  
26
- 27 Mr. Judy stated yes. He said that the interior is mainly all open other than a cooler which works out perfectly  
28 for their needs. He said that they intend to use the bar area for their counter and the kitchen equipment will  
29 be removed.  
30
- 31 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Judy and there were  
32 none.  
33
- 34 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.  
35
- 36 Mr. Thorsland stated that it is his opinion that there are no areas in the Finding, regarding the LRMP Goals,  
37 Objectives and Policies, which require revision and the Board agreed with Mr. Thorsland.  
38
- 39 Mr. Thorsland asked the Board if any revisions were required regarding the *LaSalle* and *Sinclair* Factors and  
40 the Board indicated that there were none.

1

2 Mr. Thorsland read the special condition as follows:

3 **No Zoning Use Permit for expansion of building area or parking area and no Change of Use**  
 4 **permit authorizing a different use with a greater wastewater load shall be approved without**  
 5 **documentation that the Champaign County Health Department has determined the existing or**  
 6 **proposed septic system will be adequate for that proposed use.** The special condition is required  
 7 to ensure that the existing septic system is adequate and to prevent wastewater runoff onto  
 8 **neighboring properties.**  
 9

10 Mr. Thorsland stated that the petitioner has previously agreed to the special condition therefore he would  
11 entertain a motion to approve the special condition as read.

12

13 **Ms. Capel moved, seconded by Mr. Courson to approve the special condition as read. The motion**  
14 **carried by voice vote.**

15

16 **Summary Finding of Fact:**

17

18 From the Documents of Record and the testimony and exhibits received at the public hearing conducted on  
19 July 26, 2012, the Zoning Board of Appeals of Champaign County finds that:

20

- 21 **1. The proposed Zoning Ordinance map amendment WILL HELP ACHIEVE the Land**
- 22 **Resource Management Plan because:**
  - 23 **A. The proposed Zoning Ordinance map amendment WILL HELP ACHIEVE the**
  - 24 **following LRMP goals:**
    - 25 **• 3, 5, and 6**
  - 26 **B. The proposed Zoning Ordinance map amendment WILL NOT IMPEDE the**
  - 27 **achievement of all other LRMP goals.**
- 28
- 29 **2. The proposed Zoning Ordinance map amendment IS consistent with the *LaSalle* and**
- 30 ***Sinclair* factors.**

31

32 Mr. Thorsland entertained a motion to approve the Summary Finding of Fact, Documents of Record and  
33 Finding of Fact as amended.

34

35 **Mr. Courson moved, seconded by Mr. Passalacqua to approve the Summary Finding of Fact,**  
36 **Documents of Record and Finding of Fact as amended. The motion carried by voice vote.**

37

38 Mr. Thorsland entertained a motion to move to the Final Determination for Case 723-AM-12.

39

40 **Mr. Miller moved, seconded by Mr. Courson to move the Final Determination for Case 723-AM-12.**

1 **The motion carried by voice vote.**

2

3 Mr. Thorsland informed the petitioners that one Board member was absent and one Board seat was vacant  
4 therefore it is at their discretion to either continue Case 723-AM-12 until a full Board is present or request  
5 that the present Board move forward to the Final Determination. He informed the petitioners that four  
6 affirmative votes are required for approval.

7

8 The petitioners requested that the present Board move to the Final Determination.

9

10 **Final Determination for Case 723-AM-12:**

11

12 **Ms. Capel moved, seconded by Mr. Courson that pursuant to the authority granted by Section 9.2 of**  
13 **the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**  
14 **determines that the Zoning Ordinance Amendment requested in Case 723-AM-12 should BE**  
15 **ENACTED by the County Board in the form attached hereto, subject to the following special**  
16 **condition:**

17

- 18 **A. No Zoning Use Permit for expansion of building area or parking area and no Change of**
- 19 **Use permit authorizing a different use with a greater wastewater load shall be**
- 20 **approved without documentation that the Champaign County Health Department has**
- 21 **determined the existing or proposed septic system will be adequate for that proposed**
- 22 **use. The special condition is required to ensure that the existing septic system is adequate**
- 23 **and to prevent wastewater runoff onto neighboring properties.**

24

25 The roll was called:

26

**Passalacqua-yes**

**Miller-yes**

**Capel-yes**

27

**Courson-yes**

**Thorsland-yes**

**Palmgren-absent**

28

29 **6. Continued Public Hearing**

30

31 **Case 710-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**  
32 **Ordinance by amending the Champaign County Land Evaluation and Site Assessment (LESA)**  
33 **System that is referred to in Section 3; and Footnote 13 in Section 5.3; and subsection 5.4 as follows:**  
34 **Part A. Revise the Land Evaluation (LE) part as follows: 1. Revise all soil information to match the**  
35 **corresponding information in the *Soil Survey of Champaign County, Illinois* 2003 edition. 2. Revise all**  
36 **existing soil productivity information and replace with information from *Bulletin 811 Optimum Crop***  
37 ***Productivity Rating for Illinois Soils* published August 2000 by the University of Illinois College of**  
38 **Agricultural, Consumer and Environmental Sciences Office of Research. 3. Delete the 9 existing**  
39 **Agriculture Value Groups and existing Relative Values ranging from 100 to 0 and add 18 Agriculture**  
40 **Value Groups with Relative LE ranging from 100 to 0. Part B. Revise the Site Assessment (SA) part**

1 as follows: 1. Add definitions for “agriculture”; “agricultural production”; “animal units”; “best  
2 prime farmland”; “farm dwelling”; “livestock management facility”; “non-farm dwelling”; “principal  
3 use”; and “subject site”.; and 2. Delete SA Factors A.2.; A.3.; B.2.; B.3.; C.2.; D.2.; E.1.; E.2.; E.3.;  
4 E.4.; F.1.; F.2.; F.3.; F.4.; and F.5.; and 3. Revise SA Factor A.1. to be new Factor 8; Factor B.1. to be  
5 new Factor 7; Factor C.1. to be new Factor 5; Factor D.1. to be new Factor 1; and revise scoring  
6 guidance for each revised Factor, as described in the legal advertisement; and 4. Add new SA Factors  
7 2a.; 2b.; 2c.; 3.; 4.; 6.; 9.; 10.; and scoring guidance for each new Factor, as described in the legal  
8 advertisement. Part C. Revise the Rating for Protection as described in the legal advertisement. Part  
9 D. Revise the general text and reformat.

10  
11 **Case 711-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**  
12 **Ordinance as follows: Part A. In Section 3, revise the definition of “best prime farmland” as follows:**  
13 **a) delete “Relative Value of 85” and “Land Evaluation rating of 85” and replace with “average Land**  
14 **Evaluation rating of 91 or higher”;** and b) add “prime farmland soils and under optimum  
15 **management have 91% to 100% of the highest soil productivities in Champaign County, on average,**  
16 **as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*”; and c) add “soils**  
17 **identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation**  
18 **and Site Assessment (LESA) System”;** and d) add “Any development site that includes a significant  
19 **amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3**  
20 **and/or 4 soils:. Part B. Revise Footnote 13 of Section 5.3 to strike references to “has a Land Score**  
21 **greater than or equal to 85 on the County’s Land Evaluation and Site Assessment System” and**  
22 **replace with “is made up of soils that are BEST PRIME FARMLAND” Part C. Revise paragraph**  
23 **5.4.4 to strike references to “has a Land Evaluation score greater than or equal to 85 on the County’s**  
24 **Land Evaluation and Site Assessment System” and replace with “is made up of soils that are BEST**  
25 **PRIME FARMLAND”**

26  
27 Mr. Thorsland called Cases 710-AT-12 and 711-AT-12 concurrently.

28  
29 Mr. Thorsland called John Hall, Zoning Administrator to testify.

30  
31 Mr. John Hall distributed a new Supplemental Memorandum for Case 710-AT-12 dated July 26, 2012, for  
32 the Board’s review. He said that he has not drafted all of the evidence for the Site Assessment Factors but he  
33 wanted to get this memorandum to the Board tonight so that the Board had plenty of time to critique it  
34 before the Board is close to a decision. He said that the new memorandum lists all of the minutes of the  
35 LESA Update Committee Meetings and all of the versions of the Draft Updated LESA that have been made  
36 available. He said that Attachment A. Case Description from Legal Advertisement is what was used for  
37 publication purposes and Attachment B. Additional Draft Evidence Regarding the Draft Site Assessment  
38 Factors is the beginning of the Summary of Evidence. He said that he did not include the Land Evaluation  
39 Factors as evidence but it is apparent as to where that information will be included in the Summary of  
40 Evidence. He said that Land Evaluation is much easier to view and understand than the Site Assessment

1 Factors. He said that Item #2 of Attachment B reviews the proposed ten factors that are recommended and  
2 indicates if they are similar or not to an existing factor and explaining the scoring and how the points might  
3 change and mentioning whether or not it was recommended in the LESA Guide Book or included in any or  
4 all of the other Illinois counties that have a LESA. He said that in the memo he mentions whether or not it  
5 was recommended in the 2011 proposal submitted by Brad Uken of the Champaign County Farm Bureau and  
6 anything else that he could think of that would be relevant to the site assessment factors because no matter  
7 what you have in a Summary of Evidence and Finding of Fact anyone down the road can interpret it as they  
8 desire in the future. He said that he would like this to be as clear as possible for the County Board and while  
9 this is a lot of data it could certainly be read by any County Board member and they should have as good of  
10 an understanding of what occurred at the LESA Update Committee as any of the members of the Committee  
11 and maybe even better. He said that he does not have evidence for site assessment factors 7, 8, 9 or 10  
12 indicated yet but that evidence will be easy to add.  
13

14 Mr. Hall stated that the last page of the January 25, 2012, handout from the LESA Update Committee is  
15 relevant to the protection ratings. He said that the handout attempts to show that depending on where a  
16 hypothetical large non-CUGA best prime farmland site is located we have a good idea of what these 10  
17 factors would end up rating it. He said that several of the factors are determined once you know that the site  
18 is large, 25 acres or more, and it is not located in the CUGA therefore all of the other factors apply and its  
19 best prime farmland by and large tells us all we need to know for factors 1, 2A, 2B. He said that since the  
20 site is not in the CUGA answers factor 4, he said that since this is a hypothetical site we know what the  
21 answer is going to be in regards to the factor regarding the distance from a municipality. He said that we are  
22 not including livestock management facilities therefore we are not depending on having livestock  
23 management facilities for these scores. He said that the table demonstrates that, in general, any large non-  
24 CUGA best prime farmland site that is either closer to one mile from a municipality should end up getting a  
25 score between 214 and 250. He said that there could still be sites which are within one and one-half mile of  
26 a municipality, large best prime farmland, and still end up with a high rating of protection at 250. He said  
27 that the table indicates that the ratings for protection should provide adequate protection for best prime  
28 farmland sites and should give the Board some degree of confidence. He said that small best prime farmland  
29 sites could easily have more non-agricultural uses on one or more sides and there could be less of it in  
30 production and all of the scores could change drastically and there is no way to estimate what those scores  
31 may be. He said that for a large site where adjacent uses are not going to take up much of the perimeter and  
32 where there can't be that many non-farm dwellings adjacent, unless they are not adjacent, there will be at  
33 least 12 points awarded for factor 9. He said that for a large best prime farmland site not in the CUGA the  
34 ten factors will always be 250 or above, even within an ETJ area. He said that this may be evidence for  
35 some people may say that these factors are more restrictive than the current LESA and that would be an  
36 accurate statement. He said that these factors match what he would expect to happen but he does not know  
37 if it's what a majority of the County Board wants to have happen in LESA assessments but this is what the  
38 LESA Update Committee recommended. He said that the table is not on the LESA Update Committee  
39 website but it was handed out at the meeting and they discussed it. He said that the protection ratings are  
40 Part C and the evidence that is included in this memo is the Supplemental Memorandum for Case 710-AT-

1 12 dated July 26, 2012, really is the additional evidence for the site assessment factors Part B and the Board  
2 has seen previous evidence for those when he distributed the comparison of the scores therefore that  
3 evidence would be relevant to have in the Summary of Evidence. He said that if the Board finds information  
4 that could be stricken then they should indicate such so that only the essential evidence is presented to the  
5 County Board.

6  
7 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.

8  
9 Mr. Passalacqua asked Mr. Thorsland if he has scored his own property and if so, could he indicate the score.

10  
11 Mr. Thorsland stated that he did attempt to score his own property and it scored poorly in both the new and  
12 old LESA systems therefore in his opinion both LESA systems are incorrect in regards to his property.

13  
14 Mr. Hall asked Mr. Thorsland to share the parameters of his property so that the Board can make their own  
15 determination.

16  
17 Mr. Thorsland stated that he intends to walk through his scoring process. He said that when he purchased  
18 his property his soils were extremely poor with only a small piece of Drummer and the rest with Xenia soils.  
19 He said that for the original seven acre piece, which is the best soil that is on the farm, was below 85. He  
20 said that he completed the SA factors briefly describing his property which currently consists of an oddly  
21 shaped 38 acres therefore he has a big perimeter. He said that his acreage encompasses five homes and is  
22 adjacent to three homes to the east and across the road. He said that his acreage started out as seven acres  
23 and was not considered agriculture because it was just a house and a hay field. He said there has been an  
24 addition of 10 acres, which is currently in production, and then later 20 acres which is also in production and  
25 has new waterways installed. He said that his site is an odd piece of poor soil which has had a lot of  
26 improvements made to it and it is all certified organic except for ten acres which will happen in a year. He  
27 said that his site supplies vegetable and fruit production and a little bit of row crop. He said that his product  
28 literally goes from the field to someone's plate. He said that he has a CSA that works off of the farm and  
29 people purchase shares of vegetables from the farm therefore for 25 weeks they receive food and the rest of  
30 the food is sold at the Farmer's Market by which it goes directly to the consumer. He said that most of his  
31 grain stays on the farm by which it is turned into manure by way of the livestock that consumes and  
32 processes the grain and that manure is used on the farm. He said that his farm would not have been  
33 considered a unique farm 50 years ago but it is certainly a unique farm now and there are several farms like  
34 his. He asked Ms. Capel if she had scored her property.

35  
36 Ms. Capel stated that she had not scored her property yet.

37  
38 Mr. Thorsland requested that Ms. Capel score her property and submit those results at the next public  
39 hearing.

1 Ms. Capel stated that she will attempt to accommodate Mr. Thorsland's request.

2  
3 Mr. Thorsland stated that he made an attempt to go through the SA portion. He said that he has more than  
4 25 acres now, which is a recent addition within the last three years, therefore he received a score of 10. If he  
5 had scored it with his previous acreage he would have only received a score of 6 because his parcel was less  
6 than 20 acres. He said that in regards to best prime farmland he indicated that not one inch of his parcel is  
7 considered best prime farmland therefore he skipped factor 2.B and moved to 2.C by which he received a  
8 score of 10. He said that his parcel is not located in the CUGA. He said that he received an 8 on the  
9 parameter but that was just a sort of off-the-cuff guess because his borders are odd shaped to the north and  
10 east that border AG-1 and everything else is CR. He said that it is within the ETJ of Mahomet but he is not  
11 positive that he is more or less than a mile from the corporate limits of Mahomet therefore his parcel  
12 received a score of 5. He said that in regards to agricultural production he received the full score of 15  
13 because the only part of his property that he does not produce crops on is the 20 feet around his house. He  
14 said that he received 9 points in regards to everything around him being zoned AG-1, AG-2 or CR. He said  
15 that he received a score of 10 on factor 8 and a zero if he counts the houses across the road.

16  
17 Mr. Hall asked Mr. Thorsland if he does not have 10 houses that front his property.

18  
19 Mr. Thorsland stated that he is pretty sure that he has 9 but he may have 10 houses which border his  
20 property. He said that his final score on the Site Assessment was a 107. He said that on the next part he also  
21 received a zero because he does have animal units on his farm but the animal units are basically chickens.

22  
23 Mr. Hall stated that his final score for the Site Assessment was 108.

24  
25 Mr. Thorsland stated that he received an LE score of 80 therefore the overall score was 187.

26  
27 Mr. Hall stated that he would imagine that Mr. Thorsland's LE score would be over 83 due to the Xenia  
28 soils.

29  
30 Mr. Thorsland stated that his property would receive a score somewhere between 187 and 190. He said that  
31 his property was purchased to grow food for a customer base located nearby. He said that currently the  
32 property has in-ground irrigation, drainage that is improved upon every year by the addition of new  
33 waterways. He said that for a customer base of Champaign-Urbana his property fell just within 10 miles  
34 from Wright Street. He said that he did not use Norman Stenzel's LESA system to score his property but he  
35 would like to later. He said that in going through all of this and knowing other small producers who have  
36 small acreages, the LESA, as it is currently structured, is doing a good and appropriate job for large tracts of  
37 best prime farmland which produce corn, soybeans, etc. and keeping those tracts protected but it does a poor  
38 job in protecting small agricultural tracts which happen to be close to a town. He said that the LESA gives  
39 these small agricultural tracts a very low score therefore not giving them added protection that they deserve  
40 and the LESA does not give these tracts any credit for agricultural improvements such as irrigation,

1 waterway or drainage way improvements and takes away points for things not in the control of the person  
2 running the agricultural operation. He said that he had no control over having five houses built on 40 acres  
3 next to his property and that is a factor which is out of his purview but it took away from the score. He said  
4 that to have Mahomet's ETJ creep up closer and closer to his property is another thing that doesn't happen  
5 because he requested it to do so but it took away from his overall score. He said that he would like, if  
6 possible, discussion about whether prime or not even prime farmland with improvements could receive a  
7 bonus in the LE to recognize that even though the soils are poor it has been substantially improved by the  
8 current owner. He said that if the owner can prove that they have made an effort to turn the tract into a place  
9 which produces any kind of crop or food product they should receive some sort of bonus and he believes that  
10 as time moves on and the population expands these pockets of small tracts for food production which are  
11 close to town and who produce food for the consumer will become more common.  
12  
13

14 Mr. Passalacqua asked how a low score directly affects Mr. Thorsland's food production on his land.

15  
16 Mr. Thorsland stated that his land is in a trust for ten years after his death and at some point his land may or  
17 may not be available for sale. He said that his parcel is a working farm with improvements.  
18

19 Mr. Passalacqua stated that during Mr. Thorsland's life time a low score will not affect his land but it could  
20 in the future because the land may not be protected from development.  
21

22 Ms. Capel stated that the concern is not necessarily whether or not the land is protected but the basis of this  
23 discussion is the value of the land.  
24

25 Mr. Passalacqua stated that a low score has no negative effects to Mr. Thorsland's day to day operations.  
26

27 Mr. Hall stated that he believes that the LESA scored Mr. Thorsland's property too high and that his property  
28 should be scored very low.  
29

30 Mr. Thorsland stated that he believes that the LESA did score his property low.  
31

32 Mr. Hall stated that the LESA scored his property very moderately.  
33

34 Mr. Thorsland asked Mr. Hall why he would score his property very low.  
35

36 Mr. Hall stated that he would score Mr. Thorsland's property low because it is within Mahomet's ETJ, it is  
37 bordered by 10 adjacent non-farm dwellings, it is not best prime farmland and is only prime farmland and  
38 only 30% of the perimeter is in agricultural use. He said that the LESA is for people who want to develop  
39 their land and the County can step in and say that the land is too good to be rezoned and he cannot imagine  
40 that the County would say that about Mr. Thorsland's land.

1

2 Mr. Thorsland stated exactly and that is his point. He said that there may be many people who would find  
3 his parcel an ideal location for what he is currently doing and the LESA score should reflect that his parcel is  
4 a true production area.

5

6 Mr. Courson stated that if someone else came in and wanted to own an organic farm then the LESA would  
7 have nothing to do with the value.

8

9 Mr. Thorsland stated that if his parcel is a low scoring property then the person who wants to develop it for  
10 houses would want to step in and purchase it as soon as possible and not someone who wants to continue an  
11 organic operation. He said that part of the SA and LE is to protect agriculture and not developers and the  
12 way that it is set up now it leans much too heavily to forcing any small production parcel that is close to an  
13 ETJ, through no fault on their own, out of production. He said that his argument is that his parcel is not a  
14 poor piece of land to grow food upon.

15

16 Mr. Courson stated that there are a lot of pieces of property in Champaign County which would be more  
17 productive to grow food upon.

18

19 Mr. Thorsland stated that he disagrees because those parcels produce corn and soybeans and the owners will  
20 not take those tracts out of production to grow local food. He said that you do not need a big tract to grow  
21 food for the public and he would argue that he makes more food per acre per person than what Mr. Miller's  
22 ground produces.

23

24 Mr. Hall stated that LESA is only about one thing and that is the importance of agriculture and Mr.  
25 Thorsland is discussing more than that. He said that the LESA has to be approved by the State of Illinois  
26 and if this LESA is not approved by the State of Illinois then we do not get to use it.

27

28 Mr. Thorsland stated that he understands the procedure and he is only voicing his opinion.

29

30 Mr. Hall stated that he does not want to see the Board waste a lot of time talking about stuff that is not  
31 relevant to LESA. He said that the Board can take a small amount of time to discuss these things but he  
32 would not want the Board to waste a lot of time trying to bring in things that do not relate to LESA.

33

34 Ms. Capel stated that LESA is one of 12 factors that would be considered for discretionary review of a  
35 rezoning.

36

37 Mr. Hall stated that is only for the RRO.

38

39 Ms. Capel asked if the LESA is used for anything other than the RRO.

40

1 Mr. Hall stated that the LESA is considered any time there is a rezoning from an AG or CR district to  
2 something else provided that it is taking land out of production. He said that the Soil and Water  
3 Conservation District doesn't give an LE if there is no land in production of the land that is being rezoned  
4 because it is a waste of their time.

5  
6 Ms. Capel asked Mr. Hall what other factors are reviewed during a discretionary review.

7  
8 Mr. Hall stated adequacy and safety of roads, affects on nearby farmland and farm operations, affects of  
9 nearby farm operations on the proposed development, the LESA score, affects on drainage both upstream  
10 and downstream, suitability for septic systems, availability of water, availability of public services, flood  
11 hazard status, disturbance to wetlands, historic or archaeological sites, natural or scenic areas or wildlife  
12 habitat, presence of nearby natural or man-made hazards, and the amount of land to be converted versus the  
13 number of dwelling units to be accommodated.

14  
15 Ms. Capel stated that one of the things that occurred to her is that the LESA only addresses production  
16 agriculture and she does not see how the Board could address production agriculture and food production in  
17 the same LESA.

18  
19 Mr. Hall stated that if someone has land where they have achieved an organic status which is worse to have  
20 along the border production agriculture with all of its inputs or neighbors who actually put more inputs in to  
21 their sod and if it ends up that residential lots are worse than production agriculture then that would be a  
22 factor that could be incorporated into LESA for organic.

23  
24 Ms. Capel stated that this would be fine for organic producers but her parcel will never be organic. She said  
25 that she has 20 acres that are sustainable for organic practices but she will never have it certified as organic.

26  
27 Mr. Hall asked if there is some other way that development, authorized near her property, is worse than  
28 agriculture as a neighbor. He said that if this is true then that is a valid thing to take into consideration in  
29 LESA.

30  
31 Mr. Thorsland stated that despite the fact his organic ground existed prior to the development of the five lots  
32 to the west of his property the first owner of the property which borders his property to the west purchased  
33 and built upon the property because it was next to a farm parcel and then approximately six years later  
34 decided that being next to an organic farm was indeed a detriment. He said that the LESA score wouldn't  
35 reflect urban stress on his farm operation but he could certainly tell the Board that it is a fact. He said that  
36 bordering houses with a potential for more should give someone a higher score for protection, if you are not  
37 just organic. He said that his point is that he and his certifier would rather have row crop production next to  
38 his parcel than houses because there is a good argument that inputs on a good green lawn are more  
39 detrimental to organic production than commercial agriculture. He said that in order for his farm to be  
40 certified he has to have a buffer therefore he takes acreage out of production.

1  
2 Mr. Hall stated that if a factor is proposed based on organic agriculture the LESA would be criticized for  
3 taking points away from regular production agriculture and leaving those points on the table if there isn't  
4 organic agriculture.  
5  
6 Ms. Capel stated that perhaps there could be some arbitrary key that indicates the score will go one direction  
7 for local food production protection and another direction for agricultural production protection. She said  
8 that in doing like this the LESA would not be taking anything away from anyone because there would be two  
9 separate factors.  
10  
11 Mr. Hall stated that it sounds like Ms. Capel is talking about land use policies.  
12  
13 Mr. Passalacqua stated that the LESA is a quantitative review of best prime farmland.  
14  
15 Mr. Thorsland stated that the practices that he is performing on his property can be performed on any piece  
16 of dirt in Champaign County. He said that the current and proposed scoring system allows outside factors to  
17 take too much away and are looking at large pieces of row crop agriculture which is a giant economic engine  
18 in the County and is very acceptable to the State.  
19  
20 Mr. Passalacqua stated that perhaps the LESA is not the proper instrument to score an organic operation.  
21  
22 Mr. Thorsland stated that he would argue that his operation is agriculture.  
23  
24 Mr. Passalacqua stated that the LESA is specific to row crop agriculture.  
25  
26 Mr. Hall stated that the LESA is not specific to row crop agriculture. He asked Mr. Passalacqua to indicate  
27 one factor that is specific to row crop farming.  
28  
29 Mr. Passalacqua stated that it appears that the LESA is more in tune to the larger parcel that is more  
30 conventional in agriculture than organic in poor soil.  
31  
32 Mr. Thorsland stated that his piece of land, organic or not, has been developed to grow food which is  
33 agriculture in its purest form and what he does now compared to 50 years ago was the norm. He said that the  
34 LESA is geared towards large tracts with very good soil, which are conventionally farmed, and scores those  
35 tracts well, and it should, but it scores smaller tracts that are within an ETJ and has adjacent homes too low.  
36  
37 Mr. Passalacqua stated that the LESA assumes growth and sprawl and determines which acreage should be  
38 protected. He said that he does not know how the LESA can protect an oddly shaped parcel like Mr.  
39 Thorsland's and also protect 240 acres of best prime farmland.  
40

1 Mr. Thorsland stated that he is not proposing that the LESA look at the two parcels in the same way but he is  
2 proposing that there are better ways to reflect the different scales of farming and food production.

3  
4 Mr. Passalacqua asked Mr. Thorsland if the LESA was working correctly what would be his ideal score.

5  
6 Mr. Thorsland stated that he is not sure what his score would be.

7  
8 Ms. Capel stated that under the goals for agriculture, locally grown foods are included. She said that one of  
9 the biggest barriers for local food production is that people who are willing to do it cannot access appropriate  
10 land because it has to be close enough to their market so that they can sell their produce in town. She said  
11 that these people generally produce upon small parcels and it doesn't matter if it is Xenia, Drummer or  
12 Flanagan soils but what you can afford. She said that the affordability of a small tract of land that is close  
13 enough to town to be able to effectively address the market is a big issue. She said you cannot address both  
14 things with one instrument. She said that an instrument could be created with a whole set of factors that  
15 have to do with local food production and not every small tract of land will be protected. She said that the  
16 other thing that could be created is a 13<sup>th</sup> factor for discretionary review regarding suitability of the property  
17 for local food production.

18  
19 Mr. Hall stated that he can imagine the County Board adopting a policy that would make that policy relevant  
20 in any rezoning which is a lot easier to do and makes more sense than trying to come up with a LESA  
21 system. He said that we are legally constrained on what we can do in LESA. He said that LESA is scientific  
22 and that is how you stand up against legal challenges. He said that local foods cannot be based on science  
23 and all that it can be based upon is that the County Board decided that it was important.

24  
25 Mr. Thorsland stated that you can give a score to a known drainage system or whether or not irrigation is  
26 available. He said that when he first stepped upon his property he would have anticipated that it would have  
27 scored poorly and he anticipated that it would be ideal for his purposes but there are now known  
28 improvements to the property and those improvements are quantifiable. He said that the improvements that  
29 he has made to his property are scientifically measurable such as drainage documentation, irrigation  
30 documentation, etc. He said that when he purchased his property he would have expected a LESA score of 4  
31 out of a possible score of 250 but he would expect a higher score now.

32  
33 Ms. Capel stated that the issue is that Mr. Thorsland wants to protect his farmland so that another farmer can  
34 purchase it.

35  
36 Mr. Hall stated that this discussion is not the purpose of LESA.

37  
38 Mr. Thorsland stated that it is not the purpose of LESA but it is a factor.

39  
40 Mr. Thorsland called Norman Stenzel to testify.

1  
 2 Mr. Norman Stenzel, who resides at 545A CR 1900N, Champaign stated that he attended the Local Foods  
 3 Council meeting last night and heard some of the same discussion about the problems with LESA and how it  
 4 is not compatible with local food production. He said that in his efforts to clarify for himself as to what  
 5 LESA can and cannot do he worked on a branched version of LESA. He said that if land is suitable for  
 6 small vegetable farms or fruit farms and is surrounded by 10 houses it could still be considered under a  
 7 LESA program if there are items which are appropriate or could be a branch of LESA. He said that there  
 8 could be a branch of LESA for the conditions mentioned by Mr. Thorsland and there could be a branch of  
 9 LESA that deals with CUGA as well. He said that if there is a possibility of creating these branches then  
 10 perhaps it should be investigated and he would suggest that it is a possibility because other states have  
 11 unique systems which encourage different approaches as to what is in LESA. He said that the County should  
 12 not be afraid of trying to meet the conditions of Champaign County and meet the ambitions of local foods in  
 13 Champaign County and it can be part of the LESA.

14  
 15 Mr. Stenzel stated that he heard comments regarding poor soils, which is still prime soil, and if you review  
 16 the federal basis for LESA it is prime soil that they discuss. He said that other counties in the State also  
 17 discuss prime soil and not super prime soil and according to Mr. Hall the only place that super prime soil  
 18 exists is in Champaign County. Mr. Stenzel stated that the Board must decide if this is a barrier of a  
 19 constructive LESA which serves both local foods and row crop, and he believes that it is and Mr. Thorsland  
 20 would probably agree. He said that it would be wise to reconsider the concept of super prime and instead of  
 21 bumping it up we need to include more land rated under a LESA system. He said that he is disturbed by  
 22 some of the comments that he has heard at this meeting and it appears that the Board is a long way from a  
 23 wise decision on the future of Champaign County.

24  
 25 Mr. Thorsland asked the Board if there were any questions for Mr. Stenzel.

26  
 27 Ms. Capel asked Mr. Stenzel if he had the branched version of the LESA available for review.

28  
 29 Mr. Stenzel stated that he only has one of the six pages of the instrument that he was working on but it was  
 30 based on compact and contiguous and what justifies conversion of land. He said that whether the land has  
 31 water and sewer would be a justification of the conversion of land and if it does not then it may not be  
 32 justifiable to convert it.

33  
 34 Mr. Thorsland asked the Board if there were any additional questions for Mr. Stenzel and there were none.

35  
 36 Mr. Thorsland asked if staff had any questions for Mr. Stenzel and there were none.

37  
 38 Mr. Thorsland stated that in regards to a 13<sup>th</sup> factor Mr. Hall stated that it would be easier for the County  
 39 Board to consider some filter as to whether or not a particular piece of land, which is proposed for  
 40 development, has a benefit of remaining agriculture rather than being developed. He said that in regards to

1 the Site Assessment Factors that Kevin Donoho recommended that it be a simple and straight forward and a  
2 system that could be almost standardized. Mr. Thorsland stated that the Land Evaluation is fairly straight  
3 forward and you need to know what soil you have for the most part and is the only part where “organic” or  
4 “time in agriculture” should have anything to do with changing the LE part. He said that he takes a sample  
5 of the dirt that is currently on his property to ASM (Agricultural Soil Management) and compares it to the  
6 records of the dirt that he had tested when he first purchased his property he finds a very different soil.  
7

8 Ms. Capel stated that Mr. Thorsland’s soil, whether improved or not, is still Xenia soil and it receives a low  
9 score.  
10

11 Mr. Thorsland stated that the only thing in the LE part that he would argue is that during the LE score there  
12 needs to be more about what has occurred on the property in the last five years and what is occurring  
13 currently and it should be a significant change in the overall score because the soil is the same. He said that  
14 there is very different approach when you do what a small, sustainable organic farm does as opposed to a  
15 conventional farmer. He said that he has very good farmers near his farm and very poor farmers near his  
16 farm and the very poor farmers disc their land and spray everything they can to grow a good crop but you can  
17 go out and pick up the rocks in your hands because there is nothing else there.  
18

19 Mr. Passalacqua asked Mr. Thorsland if there was no distinction between prime and best prime would his  
20 land receive a higher score.  
21

22 Mr. Thorsland stated yes.  
23

24 Ms. Capel stated that all of the soil in Champaign County is prime.  
25

26 Mr. Passalacqua stated that Champaign County is the only county in the State of Illinois who makes the  
27 distinction between prime and best prime farmland.  
28

29 Ms. Capel stated yes.  
30

31 Mr. Hall stated that at one time the distinction mattered but now we are told that all of the soils are the same  
32 therefore why worry about that distinction because Xenia and Drummer are both prime with no difference,  
33 except in Champaign County.  
34

35 Mr. Thorsland asked Mr. Hall why the distinction was made.  
36

37 Mr. Hall stated that this staff had to tell people who had Drummer-Flannigan soil that they could not  
38 subdivide their land because the County Board will never approve it and the only way that would make sense  
39 is if the County Board called that land something different than just prime farmland and that is why this staff  
40 invented best prime farmland.

1  
2 Ms. Capel stated that she understands that staff cannot tell every farmer that they cannot build upon their  
3 property because they have prime farmland.  
4

5 Mr. Hall stated correct because the farmers know the truth about their land and that Xenia soils are much  
6 different than Drummer-Flanagan soil. He said that the County Board could do away with best prime  
7 farmland or there could be fewer points given for best prime so that more can be given for prime.  
8

9 Mr. Passalacqua stated that in doing so we would be forsaking protecting what we now call best prime so  
10 that we could better protect soil like Mr. Thorsland's.  
11

12 Mr. Hall stated that he could even imagine doing away with Site Assessment Factor #1 all together. He said  
13 that SAF #1 is worth 10 points which is not that critical and people are offended any time that you talk about  
14 more land being better therefore those 10 points could be put towards prime.  
15

16 Mr. Thorsland stated that he has read a lot of things about agriculture and one of the things that he read was  
17 from Japan. He said that Japan does not have large pieces of land and a gentleman in the article indicated  
18 that he farmed 900 small pieces of land around a village or city. Mr. Thorsland stated that the gentleman in  
19 the article also stated that in a foundation it is the little stones that keep the big stones from moving which is  
20 a very profound statement.  
21

22 Mr. Passalacqua stated that the gentleman probably doesn't farm a large piece of ground because he doesn't  
23 have one.  
24

25 Mr. Thorsland stated that large pieces of ground are not available. He stated that the Board has had a good  
26 discussion tonight and staff has distributed a handout which includes very useful information regarding these  
27 cases. He encouraged the Board to continue to read their information and continue their discussion although  
28 he understands that there is some urgency in getting these cases completed before harvest although that may  
29 not be possible. He said that the Board should not feel rushed or obligated to have this important issue  
30 completed in a time certain.  
31

32 7. Staff Report  
33

34 None  
35

36 8. Other Business

37 A. Review of ZBA Docket

38 Mr. Thorsland stated that the two cases which were approved tonight will not require additional docket  
39 space, which is encouraging.  
40

1 B. Meeting Time for August 16, 2012

2  
3 Mr. Thorsland stated that he would recommend that the August 16th meeting begin at 6:00 p.m.

4  
5 Mr. Miller asked if the cases will follow the agenda.

6  
7 Mr. Thorsland stated yes.

8  
9 Mr. Miller requested that the minutes, including the findings, for Case 699-AM-11 will be available for the  
10 Board's review.

11  
12 Mr. Thorsland stated yes.

13  
14 Mr. Passalacqua asked Mr. Hall if any new information has been received regarding the Jones' cases.

15  
16 Mr. Hall stated that when the Jones' cases come back before this Board they will have not been advertised  
17 because staff did not receive any response.

18  
19 Mr. Passalacqua asked if there was any reason why those cases should be on the docket.

20  
21 Mr. Hall stated that something has to be done and it can only be done when the cases are on the agenda. He  
22 said that the cases cannot be heard and the Board can only request that they indicate a status of the cases. He  
23 said that the Board has discretion regarding the two cases for Jones.

24  
25 The Board agreed to begin the August 16<sup>th</sup> meeting at 6:00 p.m.

26  
27 C. June 2012 Monthly Report

28  
29 None

30  
31 9. Audience Participation with respect to matters other than cases pending before the Board

32  
33 None

34  
35 10. Adjournment

36  
37 **Mr. Courson moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried by**  
38 **voice vote.**

39  
40 **The meeting adjourned at 9:17 p.m.**

ZBA

DRAFT

SUBJECT TO APPROVAL

DRAFT

7/26/12

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6 Respectfully submitted

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11 Secretary of Zoning Board of Appeals

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1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 **1776 E. Washington Street**

4 **Urbana, IL 61802**

5 **DATE: August 16, 2012**

6 **PLACE: Lyle Shields Meeting Room**  
7 **1776 East Washington Street**

8 **TIME: 6:00 p.m.**

9 **Urbana, IL 61802**

10 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad  
11 Passalacqua, Roger Miller

12 **MEMBERS ABSENT :** None

13 **COUNTY BOARD MEMBERS**

14 **PRESENT:** Steve Moser, Patsi Petrie

15 **STAFF PRESENT :** Lori Busboom, John Hall, Andrew Kass

16 **OTHERS PRESENT :** Norman Stenzel, Alan Singleton, Aly Jackson, Chris Murray, Peggy  
17 Anderson, Sarah Kellems, Kelli Tedlock, Patti Murray, Steve Burdin, Helen  
18 Carmien, Hal Barnhart, Kevin Donoho, Mark Fisher, Jean Fisher, Paulette  
19 Brock, Celeste Eichelberger, Riane Eichelberger, Mary Stocks, Leonard  
20 Stocks, Kyle Krapf, Lauren Murray-Miller, David D. Swartzendruber, Jack  
21 Murray, Kelly Ford, Sherri Bateman, Joan Hardwick, G.T. Hardwick, Donna  
22 Kesler, Gary Hixson, Jerry Wallace, Jason Watson, Laura Hartman, Nancy  
23 Bussell, Betty Murray, John Murray, Kelly Bland, Aaron Elzy, Connie  
24 Arnold, Lois Wood, Lyle Brock, Larry Hall, Ben Miller, Paige Kirby, Maggie  
25 Kirby, Judy Swartzendruber, Brenda Keith, Annie Murray, Shannon Mallock,  
26 Chris Wallace, Hannah Fink, Leigh Ann Kesler, Rhonda Kesler, Shaina  
27 Kozow, Dennis Hartman, Andrea Hartman, Scott Bidner, Roger Jackson

28 **1. Call to Order**

29 The meeting was called to order at 6:00 p.m.

30 **2. Roll Call and Declaration of Quorum**

31 The roll was called and a quorum declared present with one Board seat vacant.

32 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
33 sign the witness register for that public hearing. He reminded the audience that when they sign the  
34 witness register they are signing an oath.

35 **3. Correspondence**

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47 **DRAFT**  
48

1 None

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3 **4. Approval of Minutes (July 12, 2012)**

4

5 **Mr. Passalacqua moved, seconded by Ms. Capel to approve the July 12, 2012, minutes as submitted.**

6

7 Mr. Palmgren indicated that he had a correction to Page 40, lines 22-27, although it appears that two  
8 different copies of the July 12, 2012, minutes were distributed for review.

9

10 Mr. Thorsland stated that due to the confusion regarding the distributed copies of the July 12, 2012, minutes  
11 the approval of those minutes should be deferred to the next hearing.

12

13 **Mr. Palmgren moved, seconded by Mr. Courson to rearrange the agenda and hear Cases 687-AM-11,  
14 688-S-11 and 722-S-12 prior to Cases 699-AM-11, 700-S-11, 710-AT-12, 711-AT-12. The motion  
15 carried by voice vote.**

16

17 **5. Continued Public Hearing**

18

19 **Case 687-AM-11 Petitioner: Philip W. and Sarabeth F. Jones Request to amend the Zoning Map to  
20 change the zoning district designation from CR Conservation Recreation to AG-1 Agriculture.  
21 Location: An approximately 12.69 acre tract of land that is located in the North Half of the South Half  
22 of the Northeast Quarter of Section 27 of Crittenden Township and located on the west side of Illinois  
23 Route 130 (CR1600E) and 1,328 feet south of the intersection of Illinois Route 130 and CR 200N and  
24 County Highway 16 and commonly known as the property at 175N CR 1600E, Villa Grove.**

25

26 **Case 688-S-11 Petitioner: Philip W. and Sarabeth F. Jones Request to authorize the construction and  
27 use of a "Heliport-Restricted Landing Area" as a Special Use on land that is proposed to be rezoned to  
28 the AG-1 Agriculture Zoning District from the current CR Conservation Recreation Zoning District  
29 in related zoning case 687-AM-11; and with a waiver of a Special Use standard condition required by  
30 Section 6.1 that requires a runway safety area to be located entirely on the lot. Location: An  
31 approximately 12.69 acre tract of land that is located in the North Half of the South Half of the  
32 Northeast Quarter of Section 27 of Crittenden Township and located on the west side of Illinois Route  
33 130 (CR1600E) and 1,328 feet south of the intersection of Illinois Route 130 and CR 200N and County  
34 Highway 16 and commonly known as the property at 175N CR 1600E, Villa Grove.**

35

36 Mr. Thorsland called Cases 687-AM-11 and 688-S-11 concurrently.

37

38 Mr. Thorsland called Alan Singleton to testify.

39

40 Mr. Alan Singleton, attorney for the petitioners, stated that since receiving the letter from I.D.O.T. and the  
41 follow-up letter from the Department of Planning and Zoning and he and the petitioners have been working

1 on the site plan to assure that it complies with all of the County's requirements. He said that at this point he  
2 and the petitioners have requested assistance from an engineer therefore he would request a continuance date  
3 for the two cases.  
4

5 Mr. Thorsland entertained a motion for a continuance date of November 15, 2012, for Cases 687-AM-11 and  
6 688-S-11.  
7

8 Mr. Singleton asked Mr. Hall when he would need all of the required information in his office for the  
9 meeting.  
10

11 Mr. Hall stated that all of the information for the legal advertisement must be submitted by the first week of  
12 October.  
13

14 **Ms. Capel moved, seconded by Mr. Palmgren to continue Cases 687-AM-11 and 688-S-11 to**  
15 **November 15, 2012. The motion carried by voice vote.**  
16

17 Mr. Thorsland explained that Dr. Boero, petitioner for Case 722-S-12, is interested in having his case heard  
18 but there are two very long cases prior to his case being heard tonight therefore Dr. Boero has requested a  
19 continuance date for Case 722-S-12.  
20

21 Mr. Thorsland entertained a motion to continue Case 722-S-12 to the September 13, 2012, meeting.  
22

23 **Mr. Palmgren moved, seconded by Mr. Miller to continue Case 722-S-12 to September 13, 2012. The**  
24 **motion carried by voice vote.**  
25

26 **Case 699-AM-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren**  
27 **Murray and landowner John Murray Request to amend the Zoning Map to change the zoning**  
28 **district designation from the AG-1 Agriculture Zoning District to the AG-2, Agriculture Zoning**  
29 **District in order to operate the proposed Special Use in related zoning case 700-S-11. Location: A 10**  
30 **acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and**  
31 **commonly known as the home at 2150 CR 1000E, Champaign.**  
32

33 **Case 700-S-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren**  
34 **Murray and landowner John Murray Request to authorize the construction and use of an Event**  
35 **Center as a "Private Indoor Recreational Development" as a Special Use on land that is proposed to**  
36 **be rezoned to the AG-2, Agriculture Zoning District from the current AG-1, Agriculture District in**  
37 **related Case 699-AM-11. Location: A 10 acre tract in the Southwest Quarter of the Northwest**  
38 **Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E,**  
39 **Champaign.**  
40

41 Mr. Thorsland informed the audience that Case 700-S-11 is an Administrative Case and as such the County

1 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a  
2 show of hands for those who would like to cross examine and each person will be called upon. He requested  
3 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said  
4 that those who desire to cross examine are not required to sign the witness register but are requested to  
5 clearly state their name before asking any questions. He noted that no new testimony is to be given during  
6 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
7 exempt from cross examination.

8  
9 Mr. Thorsland informed the audience that the Board will only be taking testimony regarding Case 700-S-11  
10 because Case 699-AM-11 is at a state for Final Determination and the Board has taken all of the testimony  
11 that will be taken for that case.

12  
13 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
14 sign the witness register for that public hearing. He reminded the audience that when they sign the  
15 witness register they are signing an oath.

16  
17 Mr. Thorsland asked if the petitioner would like to make a statement outlining the nature of their request.

18  
19 Ms. Lauren Murray-Miller, who resides at 105 Meadow Creek Ct, Lexington, stated that the building is  
20 not just something that they just want in the community but is something that is needed in the community.  
21 She said that not only have people attested to the necessity of the building but they calculated that in the  
22 past twelve months there were 18 events, which the new facility could have provided for, that were held  
23 outside of the community due to the lack of an adequate facility. She said that the location is necessary  
24 because it is a rural setting but it is in close proximity to the city limits and is on a main thoroughfare  
25 which provides safe access to the property. She said that the rural setting is secluded which will benefit  
26 both their guest as well as their neighbors. She said that they intend to create a needed beautiful gathering  
27 space and they have held public safety to its highest regard in completing the traffic impact study to assure  
28 that the project is not only necessary but is feasible and safe. She said that the facility will be an awesome  
29 experience and she hopes that the Board will be proud that it is a facility that they helped create.

30  
31 Ms. Murray-Miller thanked the Board for their consideration and hopefully their approval of their  
32 requests.

33  
34 Mr. Thorsland called John Hall.

35  
36 Mr. John Hall, Zoning Administrator, stated that no new information is available for Case 700-S-11  
37 tonight. He said that the mailing for tonight's meeting included the approved Finding of Fact for Case  
38 699-AM-11 without a final determination and an updated Summary of Evidence for Case 700-S-11.

39  
40 Mr. Thorsland informed the audience that the Board plans to go through Case 700-S-11 and complete the  
41 Finding of Fact and Documents of Record and then make the final determination on Case 699-AM-11 and

1 Case 700-S-11. He said that holding the final determination for Case 699-AM-11 helps the Board in  
2 being consistent with the two findings as they apply to both the map amendment and the special use  
3 permit.

4  
5 Mr. Thorsland called Judy Swartzendruber to testify.

6  
7 Ms. Judy Swartzendruber, who resides at 2129 CR 1000E, Champaign, stated that she has noticed that  
8 during all of the months that this proposed project has been discussed the public has been led to believe  
9 that the project will not take any farm ground out of production however it appears that the construction of  
10 the driveway will take out approximately two acres. She said that the site plan indicates that the parking  
11 area in front of the existing house will also take away another acre or maybe two therefore the testimony  
12 has not been above board and the public has been led to believe something that is not true.

13  
14 Ms. Swartzendruber stated that she and her husband are very disappointed that the Murray girls have not  
15 visited the neighbors that this project will most definitely affect. She said that she and her husband did  
16 not hear from the Murray girls and perhaps if they had contacted them they may feel differently about  
17 the project at this point. She said that if the Murray girls had taken the time to stop by and introduce  
18 themselves to explain their project then she and her husband might feel differently about the proposed  
19 project. She said that it appears that the girls had plenty of time to go out and contact other people, as  
20 indicated by their generous list, and those neighbors are not directly affected by the proposed project.

21  
22 Mr. Thorsland asked the Board if there were any questions for Ms. Swartzendruber and there were none.

23  
24 Mr. Thorsland asked if staff had any questions for Ms. Swartzendruber and there were none.

25  
26 Mr. Thorsland asked if anyone desired to cross examine Ms. Swartzendruber at this time and there was no  
27 one.

28  
29 Mr. Thorsland called Gene Hardwick to testify.

30  
31 Mr. Hardwick, architect for the project, stated that he was available to answer any questions that the Board  
32 may have regarding this case.

33  
34 Mr. Thorsland asked the Board and staff if they had any questions for Mr. Hardwick at this time and there  
35 were none.

36  
37 Ms. Kelly Ford, attorney for the petitioners, stated that item 9.A of the revised Draft Summary of  
38 Evidence dated August 16, 2012, indicates that the applicant did not indicate a response to the question.  
39 She said that she would like to correct the record by indicating "yes" the petitioners believe that the  
40 proposed special use CONFORMS to the applicable regulations and standards and preserves the essential  
41 character of the District in which it shall be located.

1  
2 Ms. Ford stated that the petitioners would like to apologize for the oversight of not visiting with Mr. and  
3 Mrs. Swartzendruber and discussing the proposed project with them. She said that the petitioners did not  
4 believe that Mr. and Mrs. Swartzendruber would be directly affected because they are not a direct  
5 neighbor. She said that the additional parking spaces will consist of 97 spaces for overflow parking and  
6 the reconfiguration of the driveway and .875 acres of farmland will be lost.

7  
8 Mr. Thorsland asked the Board if there were any questions for Ms. Ford.

9  
10 Mr. Courson asked Ms. Ford if the .875 acres includes the driveway relocation.

11  
12 Ms. Ford stated yes.

13  
14 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present  
15 testimony regarding this case and there was no one.

16  
17 Mr. Thorsland closed the witness register for Case 700-S-11.

18  
19 Mr. Thorsland noted that Mr. Hardwick is available if the Board or staff has any questions regarding the  
20 proposed project.

21  
22 Mr. Thorsland stated that the Board has gone through Case 699-AM-11 and is at the point for final  
23 determination and the Board can start working through Case 700-S-11. He said that the Board has a  
24 copy of the revised draft and one change that must be made is item 9.A. on page 26 of 54.

25  
26 Mr. Hall stated that item 9.A. should read as follows: The petitioner's attorney, Kelly Ford, testified at the  
27 public hearing on August 16, 2012, that the petitioner does propose to conform to applicable regulations and  
28 standards and preserve the essential character of the District in which it shall be located.

29  
30 The Board agreed to Mr. Hall's proposed text for item 9.A.

31  
32 Mr. Thorsland stated that a lot of the determinations made in Case 699-AM-11 are reflected in Case 700-S-  
33 11 and most of those determinations are the same until you get to the special conditions. He said that the  
34 conditions begin on page 39 of 54 of the revised draft dated August 16, 2012. He asked the petitioners if  
35 they have had a chance to review the conditions and if they disagreed with any of the proposed conditions at  
36 this time and the petitioners indicated that they did not.

37  
38 Mr. Thorsland read the special conditions as follows:

- 39  
40 **A. A complete Stormwater Drainage Plan that conforms to the requirements of the**  
41 **Stormwater Management Policy shall be submitted and approved as part of the**

1 **Zoning Use Permit application and all required certifications shall be submitted**  
2 **after construction prior to issuance of the Zoning Compliance Certificate.**

3 The special condition stated above is required to ensure the following:

4 **That the drainage improvements conform to the requirements of the**  
5 **Stormwater Management Policy.**

6 **B. Regarding State of Illinois accessibility requirements:**

7 **(1) The Zoning Administrator shall not approve a Zoning Use Permit for the**  
8 **proposed Special Use Permit without certification by an Illinois Licensed**  
9 **Architect or Illinois Professional Engineer that the proposed Event Center**  
10 **will comply with the Illinois Accessibility Code and Illinois Environmental**  
11 **Barriers Act;**

12 **(2) The Zoning Administrator shall not authorize a Zoning Compliance**  
13 **Certificate authorizing operation of the proposed Special Use Permit until**  
14 **the Zoning Administrator has verified that the Special Use as constructed**  
15 **does in fact comply with the Illinois Accessibility Code and Illinois**  
16 **Environmental Barriers Act.**

17 The special conditions stated above are required to ensure the following:

18 **That the proposed Special Use meets applicable state codes for handicap**  
19 **accessibility.**

20 **C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**  
21 **authorizing occupancy of the proposed Event Center until the Zoning**  
22 **Administrator has received a certification of inspection from an Illinois Licensed**  
23 **Architect or other qualified inspector certifying that the new building complies with**  
24 **the following codes: (A) The 2006 or later edition of the International Building**  
25 **Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and,**  
26 **(C) the Illinois Plumbing Code.**

27  
28 The special conditions stated above are required to ensure the following:

29 **That the proposed structure is safe and built to current standards.**

30  
31 **D. All onsite foodservice shall be in compliance at all times with the Champaign**  
32 **County Health Ordinance.**

33  
34 The special condition stated above is required to ensure the following:

35

**That foodservice for the proposed Event Center is consistent with County requirements and the testimony in the public hearing and that compliance is enforceable.**

**E. The proposed parking area for the proposed Event Center shall comply with the Champaign County Zoning Ordinance requirements for screening from adjacent residences and Residential Districts.**

The special condition stated above is required to ensure the following:

**That all parts of the proposed Event Center are consistent with the Ordinance and that compliance is enforceable.**

**F. All onsite Special Use activities shall be in compliance at all times with the Champaign County Health Ordinance, the Champaign County Liquor Ordinance, and the Champaign County Recreation and Entertainment Ordinance.**

The special condition stated above is required to ensure the following:

**That the proposed Special Use is in on-going compliance with all applicable County requirements.**

**G. The following condition will ensure that the recommendation of Roger Windhorn (soil surveyor) regarding compaction of the septic site and that the septic system is built as was approved by the Champaign County Health Department are a requirement for a Zoning Use Permit:**

**(1) The area proposed for the septic system shall be identified, marked off, and protected from compaction prior to any construction on the subject property as recommended by the Roger Windhorn.**

**(2) The Zoning Administrator shall verify that the area proposed for the septic system is identified, marked off, and protected from compaction prior to approval of the Zoning Use Permit for the Event Center.**

**(3) The Zoning Use Permit Application for the construction and establishment of the proposed SPECIAL USE shall include the following:**

**(a) A true and correct copy of an approved COUNTY Health Department PERMIT for construction of the private sewage disposal system.**

**(b) The site plan for the Zoning Use Permit Application shall indicate the**

identical area for the private sewage disposal system as approved in the COUNTY Health Department PERMIT and only the private sewage disposal system approved by the COUNTY Health Department may occupy that portion of the LOT.

- (4) A true and correct copy of the COUNTY Health Department Certificate of Approval for the private sewage disposal system shall be submitted to the Zoning Administrator prior to issuance of a Zoning Compliance Certificate for the proposed SPECIAL USE.

The special condition stated above is required to ensure the following:

The area of the proposed septic system does not become compacted in order to prevent a reduction in permeability of the soil and that the septic system is in compliance with the Champaign County Health Department.

H. Regarding compliance with the Champaign County Stormwater Management Policy:

- 1. The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation that the petitioner has filed with the Recorder of Deeds a tile access and maintenance easement with a width of 40 feet for any underground tile in the developed portion of the property

The special condition stated above is required to ensure the following:

The Special Use Permit is in compliance with the Stormwater Management Policy.

- 2. The Zoning Administrator shall not authorize any Zoning Use Permit on the subject property until the following has occurred:

(a) Subsurface investigations intended to identify underground drain tile are conducted at least 50 feet on either side of the suspected centerline of tiles indicated on the approved site plan and in a manner and to a depth below ground as recommended by the Champaign County Soil and Water Conservation District.

(b) Written notice identifying the proposed date for subsurface investigation has been provided to the Zoning Administrator at least one week prior to the investigation.

- 1 (c) If any underground drain tiles are encountered during the subsurface
- 2 investigation the course of each tile across the subject property shall
- 3 be established by additional investigation in consultation with the
- 4 Champaign County Soil and Water Conservation District.
  
- 5 (d) Documentation and certification of all subsurface investigations by an
- 6 Illinois Professional Engineer shall be provided to the Zoning
- 7 Administrator.
  
- 8 (e) When full and complete excavation of tile clearly indicates that the tile
- 9 does not serve any upstream areas other than the subject property
- 10 and certifications to that effect are made in writing by an Illinois
- 11 Professional Engineer and the excavations are inspected by the
- 12 Zoning Administrator, such tile may be removed and capped at the
- 13 point at which the tile enters the developed area.
  
- 14 (f) Any proposed construction on the subject property shall either be
- 15 located so as to avoid any identified underground drain tile or the
- 16 identified underground drain tile shall be relocated to avoid the
- 17 proposed construction.
  
- 18 (g) Any relocation of underground drain tile shall meet the requirements
- 19 of the Champaign County Stormwater Management Policy and shall
- 20 be certified by an Illinois Professional Engineer. Relocated tile shall
- 21 be non-perforated conduit to prevent root blockage provided that the
- 22 petitioner may install new underground drainage tile to serve the
- 23 subject property so long as cleanout manholes are provided at the
- 24 point of connection to the existing underground drain tile.
  
- 25 (h) As-built drawings shall be provided of any relocated underground
- 26 drain tile and shall be approved by the Zoning Administrator prior to
- 27 approval of a Zoning Compliance Certificate on the subject property.
- 28 Any relocated drain tile must be inspected by the Zoning
- 29 Administrator prior to backfilling.
  
- 30 3. If any underground drain tile is encountered during construction the
- 31 applicant must do the following:
  
- 32 (a) Construction shall cease until the course of each tile across the subject
- 33 property is established by additional investigation and construction
- 34 shall not recommence until authorized by the Zoning Administrator
- 35 except that construction that does not implicate the tile may continue.

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- (b) The Zoning Administrator shall be notified within 48 hours or the next business day.
- (c) Any tile that is encountered during construction must be relocated or rerouted in conformance with the Champaign County Stormwater Management Policy unless the proposed construction is modified to avoid the tile. Any modification of the construction to avoid the tile shall be indicated on a revised site plan approved by the Zoning Administrator. Relocated tile shall be non-perforated conduit to prevent root blockage. Conformance of any tile relocation with the Stormwater Management Policy shall be certified by an Illinois Professional Engineer.
- (d) As-built drawings shall be provided of any relocated underground drain tile and shall be approved by the Zoning Administrator prior to approval of a Zoning Compliance Certificate on the subject property. Any relocated drain tile must be inspected by the Zoning Administrator prior to backfilling.

The special condition stated above is required to ensure the following:

**Possible field tiles on the subject property are identified prior to development and adequately protected and that any possible tiles that are discovered during construction are adequately protected.**

- I. The evergreen trees in the screening along the north property line shall be at least 2 feet 8 inches tall at the time of planting and within two years of issuance of a Zoning Compliance Certificate shall provide at least 50% of the required screen or additional plantings shall be required.

The special condition stated above is required to ensure the following:

**Adequate screening is provided to the parking areas and as a buffer for the adjacent property.**

- J. The Driveway shall be improved as follows:
  - (1) The petitioner shall provide the County Engineer with engineering drawings of the proposed driveway entrance. In addition to the actual driveway the driveway drawings shall also include the following:

- (a) A stop sign shall be placed on the event center driveway with due

consideration for proper sight distance and shall be placed in accordance with the latest version of the Manual on Uniform Traffic Control Devices (MUTCD) guidelines. The location and details of the stop sign shall be included on the engineering drawings submitted to the County Engineer.

(b) Lighting at the entrance to the subject property shall be provided. This lighting shall only be operated during event times and fully comply with the lighting requirements of Section 6.1.2. The location of the lighting shall be included on the engineering drawings submitted to the County Engineer.

(c) Way finding signage shall be placed a minimum of 200 feet in advance of the entrance to the subject property as recommended by the Traffic Impact Analysis conducted by CUUATS and detailed in the driveway drawings. All signage shall be placed in accordance with the latest version of the Manual on Uniform Traffic Control Devices (MUTCD) guidelines.

(2) The Zoning Administrator shall not approve a Zoning Use Permit for the proposed event center without documentation of the County Engineer’s approval of the proposed driveway entrance.

(3) The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of the County Engineer’s approval of the constructed driveway entrance including any necessary as-built engineering drawings.

The special condition stated above is required to ensure the following:

All parking related to the Special Use Permit can safely enter and exit the subject property safely with adequate visibility and regardless of weather conditions.

K. (1) The Special Use shall include the following:

(a) A KNOX box shall be installed on the building for fire department access.

(b) A monitored fire alarm system shall be installed within the building.

(c) An all access defibrillator shall be provided in the public space.

1 (d) A dry hydrant shall be installed at the detention basin in a location that  
 2 is within 8 feet of a hard surfaced driveway or a no parking area that is  
 3 built to carry the load of an emergency vehicle and is accessible at all  
 4 times by a posted fire lane. The location and details of construction shall  
 5 be approved in writing by the Thomasboro Fire Protection District  
 6 Chief. The as-built dry hydrant shall also be approved in writing by the  
 7 Thomasboro Fire Protection District Chief.  
 8

9 (2) The Fire Protection District shall approve the operation of the dry hydrant  
 10 and all other items requested by the Fire Chief in writing before the Zoning  
 11 Compliance Certificate authorizing occupancy can be approved by the  
 12 Zoning Administrator.  
 13

14 (3) The dry hydrant shall be maintained in good working order by the  
 15 landowner for the life of the special use permit.  
 16

17 The special condition stated above is required to ensure the following:

18 **Adequate public safety.**  
 19  
 20

21 Mr. Thorsland asked the petitioners if there were any aspects of the proposed special conditions, as read,  
 22 which they have any questions about.  
 23

24 The petitioners stated no.  
 25

26 Mr. Thorsland asked the petitioners if they were in agreement with the special conditions as read.  
 27

28 The petitioners indicated yes, they are in agreement with the special conditions as read.  
 29

30 Mr. Thorsland asked the Board if there were any questions regarding the special conditions.  
 31

32 Mr. Palmgren questioned special condition J(1)(c). He asked if the way signage would also be for traffic  
 33 traveling from the north.  
 34

35 Mr. Hall stated that the CUUATS study assumed no traffic from the north although there probably will be  
 36 traffic from the north however the way finding signage is really there so that when traffic from the south  
 37 slows the traffic behind it will have enough time to react. He said that the conditions from the north are  
 38 actually much different and probably do not merit way finding signage but if the Board desires to make the  
 39 signage requirement be from both the north and the south he cannot imagine that it will be a big deal. He  
 40 said that the Board will need to consult with the petitioners to see if they are in agreement with a second  
 41 sign.

1  
2 Mr. Thorsland asked the petitioners if they were in agreement to the addition of a second sign and the  
3 petitioners agreed.  
4

5 Mr. Hall stated that special condition J(1)(c) could be revised as follows:

6 **Way finding signage shall be placed a minimum of 200 feet in advance of the entrance to**  
7 **the subject property from both north and south directions as recommended by the Traffic**  
8 **Impact Analysis conducted by CUUATS and detailed in the driveway drawings. All**  
9 **signage shall be placed in accordance with the latest version of the Manual on Uniform**  
10 **Traffic Control Devices (MUTCD) guidelines.**  
11

12  
13 Mr. Palmgren agreed to the revision of J(1)(c).  
14

15  
16 Mr. Thorsland entertained a motion to approve the special conditions as read and amended.  
17

18 **Mr. Palmgren moved, seconded by Mr. Courson to approve the special conditions as read and**  
19 **amended. The motion carried by voice vote.**  
20

21 Mr. Thorsland asked staff if there were any additions to the Documents of Record.  
22

23 Mr. Kass stated that a new item 40 should be added to the Documents of Record as follows: Supplemental  
24 Memorandum for Case 700-S-11 dated August 10, 2012, with attachments.  
25

26 Mr. Hall pointed out that the bulleted items are the items which were included in the Supplemental  
27 Memorandum dated August 10, 2012, under Evidence Recommended for the Finding and it is up to the  
28 Board whether to include those bulleted items in the finding.  
29

30 **Findings of Fact for Case 700-S-11:**  
31

32 From the documents of record and the testimony and exhibits received at the public hearing for zoning  
33 case 700-S-11 held on March 29, 2012, April 26, 2012, June 14, 2012, July 12, 2012 and August 16,  
34 2012, the Zoning Board of Appeals of Champaign County finds that:  
35

- 36 **1. The requested Special Use Permit, subject to the special conditions imposed herein,**  
37 **IS necessary for the public convenience at this location.**  
38

39 Mr. Kass read the evidence recommended for Item #1 as follows: 1. Testimony by the petitioner and  
40 others in the public hearing that indicated a need for the proposed Special Use; and 2. County Highway 1  
41 provides convenient access to the property and the added traffic will not have a significant impact; and 3.

- 1 The evidence in related Case 699-AM-11 established that the proposed Special Use is a service better  
2 provided in a rural area than in an urban area and the subject property is well suited overall for the  
3 proposed use.  
4
- 5 Mr. Thorsland asked if there were any comments from the Board.  
6
- 7 Ms. Capel stated that the evidence recommended for the findings reflect what the hearings brought up.  
8
- 9 Mr. Hall asked Ms. Capel if she desires to have finding #1 indicate IS and because would be the three  
10 items listed.  
11
- 12 Ms. Capel stated yes. She said that she would like to add a statement indicating that no factual  
13 information has been provided indicating a positive economic impact for this particular event center.  
14
- 15 Mr. Courson agreed with Ms. Capel and stated that the economic impact, at this specific location,  
16 could be for any facility in the County and not just for this particular event center.  
17
- 18 Mr. Hall stated that the statement should be made clear that this is a general benefit.  
19
- 20 Mr. Thorsland stated that the statement would lean towards the public convenience issue and not location.  
21
- 22 Mr. Palmgren asked how public convenience versus private invitation only would be defined.  
23
- 24 Mr. Thorsland stated that as a matter of public convenience the public is the customer in this case.  
25
- 26 Ms. Capel stated that anyone can hold an event at this location.  
27
- 28 Mr. Hall stated that this is a very problematic finding and some counties get by without this finding because  
29 it is not required by the statutes but is required by our Ordinance and in most cases public convenience has a  
30 broad interpretation.  
31
- 32 Mr. Palmgren asked if a gas station or strip club could be considered as a public convenience.  
33
- 34 Mr. Hall stated that this same finding is required for a lake which is larger than one acre although he knows  
35 of no lake which is larger than one acre that is necessary for public convenience and yet the countryside is  
36 literally scattered with lakes.  
37
- 38 **Ms. Capel moved, seconded by Mr. Miller that the requested Special Use Permit, subject to the**  
39 **special conditions imposed herein, IS necessary for the public convenience at this location because:**  
40 • **the testimony by the petitioner and others in the public hearing indicated a need for the**  
41 **proposed Special Use.**

- 1 • **County Highway 1 provides convenient access to the property and the added traffic will**
- 2 **not have a significant impact.**
- 3 • **the evidence in related Case 699-AM-11 established that the proposed Special Use is a**
- 4 **service better provided in a rural area than in an urban area and the subject property**
- 5 **is well suited overall for the proposed use, despite no factual information has been**
- 6 **provided indicating a positive economic impact for this particular event center at this**
- 7 **location.**

8

9 Mr. Thorsland requested a roll call vote.

10

11 The roll was called:

12			
13	<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Miller-yes</b>
14	<b>Palmgren-no</b>	<b>Passalacqua-yes</b>	<b>Thorsland-yes</b>

15

16 **2. The requested Special Use Permit, subject to the special conditions imposed herein,**

17 **is so designed, located, and proposed to be operated so that it WILL NOT be**

18 **injurious to the district in which it shall be located or otherwise detrimental to the**

19 **public health, safety and welfare because:**

20

21 **a. The street has ADEQUATE traffic capacity and the entrance location has**

22 **ADEQUATE visibility BASED ON the Traffic Impact Analysis prepared by**

23 **CUAATS.**

24

25 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has

26 ADEQUATE visibility BASED ON the Traffic Impact Analysis prepared by CUAATS.

27

28 Mr. Passalacqua asked if the CUAATS report includes the worst case scenario.

29

30 Mr. Hall stated that the CUAATS report took into account an unrealistic busy period and assumed

31 maximum customers coming and leaving from both this facility and the Hindu Temple all within the same

32 hour which happened to be the busiest hour for traffic on County Highway 1.

33

34 Mr. Palmgren stated that he is concerned about the location of the entrance at the low area and it appears that

35 the road commissioner information indicated that same concern. He said that the CUUATS report didn't

36 mention the southbound traffic to the north and how the elevation changes along there at 10 to 15 feet at both

37 ends. He said that he is concerned about someone in a small vehicle on the east side of the road in front of

38 the subject property stopping in traffic to wait for an opportunity to turn in to the entrance and this fact is a

39 contributing basis as to why this location is not very good safety wise. He said that he visited the area

40 several times and there are no shoulders on the road therefore if someone, who is unfamiliar with the area,

41 has to slow down to turn into the subject property and traffic is speeding closer behind that person there is

1 nowhere for that traffic to go to avoid hitting the slower vehicle but into the ditch or into oncoming traffic.  
2 He said that there appears to be a lot of rear end accidents on County Highway 1 and a great improvement  
3 would be to install shoulders on the road or a turn lane into the subject property. He said that he is not  
4 comfortable with the entrance location and the limited visibility to the north and to the south and some  
5 escape room if a driver is surprised when someone stops in traffic. He said that there may not be a lot of  
6 people coming from the north but some of the proposed commercial projects in Rantoul will probably make  
7 great customers and will more than likely travel County Highway 1 to attend an event. He said that he has  
8 traveled County Highway 1 several times and it requires more improvement other than just signs and lights.  
9 He said that his concern is mainly a safety concern and he is sure that the Murray's do not want an accident  
10 to occur in front of their property.  
11

12 Mr. Hall stated that CUAATS does not expect people to stop on County Highway 1 and if they were going to  
13 be stopping the traffic impact analysis would have been much different than it was. He said that the County  
14 Engineer had no concerns regarding visibility and the County Engineer's only concern was the amount of  
15 traffic therefore he deferred to CUAATS. He said that CUAATS specifically addressed visibility in the  
16 traffic impact analysis and there are no visibility problems, which is what he believed during staff's own  
17 analysis. He said that Mr. Palmgren is correct in that the shoulders are inadequate and there is a grant in  
18 place but has not been approved and it has nothing to do with this project. He said that it would have  
19 something to do with this project if this project was going to create safety problems. He said that the  
20 County's traffic engineers, the same engineers who complete traffic planning for the whole urbanized area,  
21 had no concerns. He said that the petitioner paid \$5,000 for the County's engineers to complete the traffic  
22 impact analysis and bringing this up now suggests that maybe we should go back and request more analysis  
23 and we have done that once in that we had a traffic impact analysis and staff clarified certain concerns with  
24 CUAATS.  
25

26 Mr. Thorsland stated that CUAATS provided a response to Birgit McCall's testimony and in that response  
27 there was a table indicating site distance calculations for stopping and the table indicated the following: The  
28 site distance for the study road segment would be 495 feet and CUAATS staff did not find any issues related  
29 to stopping site distance for the proposed development as the site distance requirements are well within the  
30 available distance. He said that CUAATS feels that there is more than the 495 feet. He said that the Board  
31 will vote on each part of the findings and instead of BECAUSE or DESPITE the Board can insert some of  
32 the Board's concerns although he does not know if CUAATS shares those same concerns. He said that he  
33 defers expertise to CUAATS although he does travel the road often and he does understand Mr. Palmgren's  
34 concerns. Mr. Thorsland stated that most of the time he travels on CH 1 on two wheels and he is always  
35 worried about someone not seeing him or stopping. He said that if Mr. Palmgren would like to indicate a  
36 despite then that is possible or he could indicate his concern with his vote.  
37

38 Mr. Palmgren stated that it is a personal problem therefore he could indicate his concerns with his vote.  
39

40 Mr. Thorsland stated that at this point Ms. Capel indicated that the street has ADEQUATE traffic capacity  
41 and the entrance location has ADEQUATE visibility BASED ON the Traffic Impact Analysis prepared by

1 CUAATS. He asked the Board if there was any additional commentary that should be added to this  
2 finding.

3  
4 **Mr. Miller moved, seconded by Ms. Capel that the street has ADEQUATE traffic capacity and the**  
5 **entrance location has ADEQUATE visibility BASED ON the Traffic Impact Analysis prepared by**  
6 **CUAATS.**

7  
8 Mr. Thorsland requested a roll call vote.

9  
10 The roll was called:

11			
12	<b>Courson-no</b>	<b>Miller-yes</b>	<b>Palmgren-no</b>
13	<b>Passalacqua-no</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>
14			

15 Mr. Thorsland stated that the By-laws indicate that a tie vote is a NO vote.

16  
17 **b. Emergency services availability is ADEQUATE BASED ON the special**  
18 **conditions based on the recommendations of the Thomasboro Fire Department.**

19  
20 Mr. Thorsland stated that emergency services availability is ADEQUATE BASED ON the special  
21 conditions based on the recommendations of the Thomasboro Fire Department. He said that he would like  
22 have a special notation indicating: See special conditions imposed.

23  
24 Mr. Hall stated that the special notation is not necessary because the finding already refers to the special  
25 conditions.

26  
27 Mr. Thorsland stated that Mr. Hall is correct therefore his special notation could be stricken.

28  
29 **Mr. Passalacqua moved, seconded by Mr. Courson that emergency services availability is**  
30 **ADEQUATE BASED ON the special conditions based on the recommendations of the Thomasboro**  
31 **Fire Department.**

32  
33 Mr. Thorsland requested a roll call vote.

34  
35 The roll was called:

36			
37	<b>Miller-yes</b>	<b>Palmgren-yes</b>	<b>Passalacqua-yes</b>
38	<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Thorsland-yes</b>
39			

40 **c. The Special Use WILL BE compatible with adjacent uses because the evidence**  
41 **in related Case 699-AM-11 established that the proposed Event Center will not**

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**interfere with agricultural operations and the subject site is well-suited for the proposed Special Use.**

Mr. Kass stated that the evidence in related Case 699-AM-11 established that the proposed Event Center will not interfere with agricultural operations and the subject site is well-suited for the proposed Special Use.

**Mr. Passalacqua moved, seconded by Mr. Courson that the Special Use WILL BE compatible with adjacent uses because the evidence in related Case 699-AM-11 established that the proposed Event Center will not interfere with agricultural operations and the subject site is well-suited for the proposed Special Use.**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Palmgren-yes</b>	<b>Passalacqua-yes</b>	<b>Capel-yes</b>
<b>Courson-yes</b>	<b>Miller-yes</b>	<b>Thorsland-yes</b>

**d. Surface and Subsurface drainage will be ADEQUATE BASED ON the review of the preliminary stormwater drainage plan by the County’s engineering consultant and the special conditions imposed.**

**Mr. Passalacqua moved, seconded by Mr. Courson that surface and subsurface drainage will be ADEQUATE BASED ON the review of the preliminary stormwater drainage plan by the County’s engineering consultant and the special conditions imposed.**

Mr. Thorsland requested roll call vote.

The roll was called:

<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
<b>Miller-yes</b>	<b>Palmgren-yes</b>	<b>Thorsland-yes</b>

**e. Public safety will be ADEQUATE BASED ON the special conditions based on the recommendations of the Thomasboro Fire Department and the requirement for building code compliance pursuant to Public Act 96-074 and the petitioners have received a permit for the proposed wastewater system.**

Mr. Kass stated that Finding 2.e should note that the petitioners have received a permit for the proposed wastewater system.

1 Ms. Capel moved, seconded by Mr. Passalacqua that public safety will be ADEQUATE BASED ON  
2 the special conditions based on the recommendations of the Thomasboro Fire Department and the  
3 requirement for building code compliance pursuant to Public Act 96-074 and the petitioners have  
4 received a permit for the proposed wastewater system.

5  
6 Mr. Thorsland requested a roll call vote.

7  
8 The roll was called:

9			
10	Capel-yes	Courson-yes	Miller-yes
11	Palmgren-yes	Passalacqua-yes	Thorsland-yes
12			

13 f. The provisions for parking will be ADEQUATE BASED ON the proposed  
14 permanent parking and overflow parking areas.

15  
16 Ms. Capel moved, seconded by Mr. Courson that the provisions for parking will be ADEQUATE  
17 BASED ON the proposed permanent parking and overflow parking areas.

18  
19 Mr. Thorsland requested a roll call vote.

20  
21 The roll was called:

22			
23	Courson-yes	Miller-yes	Palmgren-yes
24	Passalacqua-yes	Capel-yes	Thorsland-yes
25			

26 Ms. Capel moved, seconded by Mr. Miller that the requested Special Use Permit, subject to the special  
27 conditions imposed herein, is so designed, located, and proposed to be operated so that it WILL NOT  
28 be injurious to the district in which it shall be located or otherwise detrimental to the public health,  
29 safety and welfare.

30  
31 Mr. Thorsland requested a roll call vote.

32  
33 The roll was called:

34			
35	Miller-yes	Palmgren-no	Passalacqua-yes
36	Capel-yes	Courson-no	Thorsland-yes
37			

38 Mr. Thorsland stated that in error he forgot to include findings 2.g, 2.h, and 2.i, prior to determining an  
39 overall determination for finding 2. He said that the recommended evidence for these items comes from Case  
40 699-AM-11.

41

1 Mr. Hall stated that this is part of the required findings for every special use permit in the AG and CR  
2 districts as a result of a recent text amendment, Case 683-AT-11. He said that the recommendations for  
3 findings 2.g, 2.h, and 2.i, are taken directly from Case 699-AM-11.  
4

5 **And except that in the CR, AG-1 and AG-2 Districts the following additional criteria shall also apply:**  
6

- 7 **g. The property is BEST PRIME FARMLAND and the property with proposed**  
8 **improvements IS WELL SUITED OVERALL.**  
9

10 Mr. Passalacqua asked why it would matter if the subject property is best prime farmland if it is already  
11 taken out of production.  
12

13 Mr. Hall stated that item 14.C(2) on page 18 of 32 of the As Approved Finding of Fact dated July 12, 2012,  
14 for Case 699-AM-11, indicates that Policy 4.3.2 states, "On best prime farmland, the County may authorize a  
15 discretionary review development provided the site with proposed improvements is well-suited overall for  
16 the proposed land use." He said that the Board determined that the proposed rezoning ACHIEVES Policy  
17 4.3.2 because it is best prime farmland and most of the subject property has been in agricultural production  
18 and much of the area for the proposed event center has not; and the subject property fronts and has access to  
19 County Highway 1/CR 1000E and the Traffic Impact Analysis conducted by CUUATS indicates that the  
20 proposed use will have minimal impacts on the road network; and drainage should not be affected because a  
21 special condition has been proposed in related Case 700-S-11; and the subject property is not served by  
22 sanitary sewer, but a new septic system is proposed to be installed and the petitioners have already received a  
23 permit for the septic system.  
24

25 Mr. Hall stated that Policies 4.3.3 and 4.3.4 relate to the findings about services and infrastructure and the  
26 Board found, in both cases, that those policies are ACHIEVED. He said that the Board can go back and  
27 revisit Case 699-AM-11 if in hind sight they believe that they should.  
28

29 Mr. Miller stated that it is important to note that the family of the petitioner is heavily involved in agriculture  
30 and the facility may assist the agriculture community by holding training meetings and seminars.  
31

32 Mr. Courson stated that the property could be sold and any permitted use could be at this location.  
33

34 Mr. Thorsland stated that during Case 699-AM-11 the Board determined that the property is WELL SUITED  
35 OVERALL.  
36

37 Ms. Anne Murray asked if they could propose that if the request is granted and the property is sold or the use  
38 differs from what they are proposed in this case that the land revert back to AG-1. She said that this would  
39 be a special condition to remedy the Board's concern.  
40

41 Mr. Hall stated that the by-right uses in AG-2 are virtually identical to AG-1 and anything that could happen

1 in AG-1 right now is all that could happen with the rezoning and anything else would require a special use.  
2  
3 Ms. Murray stated that each owner would require a special use permit for whatever they requested on the  
4 subject property in the future.  
5  
6 Mr. Passalacqua stated that his problem is not with the proposed facility but a lot of time and effort has been  
7 spent on the LESA and CUGA criteria in regards to best prime farmland and site suitability.  
8  
9 Mr. Hall stated that for this use to be authorized the subject site has to be WELL SUITED OVERALL.  
10  
11 Ms. Capel stated that a very small amount of land is being taken out of production.  
12  
13 Mr. Thorsland stated that the Board determined in Case 699-AM-11 that the property IS WELL SUITED  
14 OVERALL.  
15  
16 Mr. Hall stated that if the Board does not believe that it IS WELL SUITED it should consider the traffic, the  
17 ability to deal with the wastewater, the ability to provide public safety, non-interference with surrounding  
18 agriculture, absence from the floodplain, and non-disturbance to natural areas. He said that he cannot see  
19 how the property is not WELL SUITED and it would behoove the Board to put down into writing why the  
20 property is not WELL SUITED although the Board would have to go back to Case 699-AM-11 to do so. He  
21 said that the Board could indicate such in Case 700-S-11 but the Board has no evidence indicating that the  
22 property is NOT WELL SUITED OVERALL.  
23  
24 Mr. Passalacqua stated that his concern was due to best prime farmland preservation.  
25  
26 Mr. Hall stated that LESA does not cause any farmland to be preserved. He said that a determination of  
27 WELL SUITED does not have anything to do with the quality of land that it is on.  
28  
29 Mr. Passalacqua stated that the Board could write this finding without best prime farmland.  
30  
31 Mr. Hall stated no, because the Zoning Ordinance requires the Board to address the fact that the use is  
32 proposed on best prime farmland. He said that why a less acceptable traffic impact analysis might work on  
33 prime farmland rather than best prime farmland is beyond him. He said that why a septic system wouldn't  
34 work is acceptable on prime farmland and not best prime farmland is beyond him. He said that why a use  
35 might be able to interfere with neighboring agriculture if you own prime farmland but not if you are on best  
36 prime is beyond him. He said that frankly those are not his policies but are the County Board's policies and  
37 sometimes they do not make a lot of sense but it is a good thing that the subject property must be well suited  
38 overall and he does not see any evidence to indicate that it is not. He said that if there was twice as much  
39 traffic the subject property would not be well suited overall and the traffic impact analysis might be different.  
40 He said that if there are trees along the property line shading adjacent fields or if a septic system permit was  
41 not obtained then the outcome might be different.

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Mr. Thorsland stated that the subject property could be divided into three lots by-right and three homes could be placed on each lot taking the land out of production and no approval would be required by this Board. He said that he petitioner has indicated that they will do their best to keep as much as possible in production. He said that Mr. Miller indicated that the agricultural community would be served well by the proposed use.

**Ms. Capel moved, seconded by Mr. Miller that the property is BEST PRIME FARMLAND and the property with proposed improvements IS WELL SUITED OVERALL.**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Palmgren-no</b>	<b>Passalacqua-no</b>	<b>Capel-yes</b>
<b>Courson-yes</b>	<b>Miller-yes</b>	<b>Thorsland-yes</b>

**h. The existing public services ARE available to support the proposed special use effectively and safely without undue public expense.**

**Ms. Capel moved, seconded by Mr. Passalacqua that the existing public services ARE available to support the proposed special use effectively and safely without undue public expense.**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
<b>Miller-yes</b>	<b>Palmgren-yes</b>	<b>Thorsland-yes</b>

**i. The existing public infrastructure together with proposed improvements IS adequate to support the proposed development effectively and safely without undue public expense.**

**Ms. Capel moved, seconded by Mr. Miller that the existing public infrastructure together with proposed improvements IS adequate to support the proposed development effectively and safely without undue public expense.**

Mr. Thorsland requested a roll call vote.

The roll was called:

1	<b>Capel-yes</b>	<b>Courson-no</b>	<b>Miller-yes</b>
2	<b>Palmgren-no</b>	<b>Passalacqua-no</b>	<b>Thorsland-yes</b>

3  
 4 Mr. Thorsland stated that the Board voted on the overall determination for finding #2 and the vote was four  
 5 affirmative and two negative votes. He said that the Board may vote on the overall determination for finding  
 6 #2 with the addition of findings 2.g, 2.h, and 2.i and the record will indicate the final vote. He asked the  
 7 Board if they would like to return to the overall vote for finding #2.

8  
 9 The consensus of the Board was to return to the overall vote for finding #2 with the addition of items 2.g,  
 10 2.h, and 2.i.

11  
 12 Mr. Thorsland read finding #2 and entertained a motion.

13  
 14 **Ms. Capel moved, seconded by Mr. Palmgren that the requested Special Use Permit, subject to the**  
 15 **special conditions imposed herein, is so designed, located, and proposed to be operated so that it**  
 16 **WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the**  
 17 **public health, safety and welfare.**

18  
 19 Mr. Thorsland requested a roll call vote.

20			
21	<b>Courson-no</b>	<b>Miller-yes</b>	<b>Palmgren-no</b>
22	<b>Passalacqua-no</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>

23  
 24 **3a. The requested Special Use Permit, subject to the Special Conditions imposed herein,**  
 25 **DOES conform to the applicable regulations and standards of the DISTRICT in which**  
 26 **it is located.**

27  
 28 **Ms. Capel moved, seconded by Mr. Courson that the requested Special Use Permit, subject to the**  
 29 **Special Conditions imposed herein, DOES conform to the applicable regulations and standards of the**  
 30 **DISTRICT in which it is located.**

31  
 32 Mr. Thorsland requested a roll call vote.

33  
 34 The roll was called:

35			
36	<b>Miller-yes</b>	<b>Palmgren-no</b>	<b>Passalacqua-no</b>
37	<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Thorsland-yes</b>

38  
 39 Mr. Hall stated that he would like to make sure that the Board understands that the requested special use  
 40 permit does meet the requirements of the Ordinance in terms of applicable standards, setback, front yard, and  
 41 lot area.

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Mr. Passalacqua stated that he misunderstood the intent for finding 3.a. therefore he would like to revise his vote to a yes.

Mr. Thorsland requested a second roll call vote to clarify the Board’s determination for finding 3.a. He said that the Board is voting whether the proposed use complies with the Ordinance. He said that finding 3.a. is not about public safety but is about whether or not the building is proposed in the right place and whether or not the driveway has the correct visibility triangle. He said that the motion is that the special use permit DOES conform and the motion is as follows:

**Ms. Capel moved, seconded by Mr. Courson that the requested Special Use Permit, subject to the Special Conditions imposed herein, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Miller-yes</b>	<b>Palmgren-yes</b>	<b>Passalacqua-yes</b>
<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Thorsland-yes</b>

**3b. The requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located because:**

**a. The Special Use will be designed to CONFORM to all relevant County ordinances and codes (see Finding of Fact 3a.).**

**Ms. Capel moved, seconded by Mr. Miller that the special use will be designed to CONFORM to all relevant County ordinances and codes (see Finding of Fact 3a.).**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Palmgren-yes</b>	<b>Passalacqua-yes</b>	<b>Capel-yes</b>
<b>Courson-yes</b>	<b>Miller-yes</b>	<b>Thorsland-yes</b>

**b. The Special Use WILL be compatible with adjacent uses (see Finding of Fact 2c.)**

Mr. Kass stated that the evidence in related Case 699-AM-11 established that the proposed Event Center will not interfere with agricultural operations and the subject site is well suited for the proposed Special Use.

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**Mr. Passalacqua moved, seconded by Ms. Capel that the Special Use WILL be compatible with adjacent uses because the evidence in related Case 699-AM-11 established that the proposed Event Center will not interfere with agricultural operations and the subject site is well suited for the proposed Special Use.**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
<b>Miller-yes</b>	<b>Palmgren-yes</b>	<b>Thorsland-yes</b>

Mr. Thorsland called for a ten minute recess.

**The Board recessed at 7:35 p.m.  
The Board resumed at 7:45 p.m.**

**c. Public safety will be ADEQUATE (see Finding of Fact 2e).**

Mr. Kass stated that public safety will be ADEQUATE BASED ON the special conditions based on the recommendations of the Thomasboro Fire Department and the requirement for building code compliance pursuant to Public Act 96-074 and the petitioners have received a permit for the proposed wastewater system.

**Ms. Capel moved, seconded by Mr. Miller that public safety will be ADEQUATE (see Finding of Fact 2e).**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Miller-yes</b>
<b>Palmgren-no</b>	<b>Passalacqua-no</b>	<b>Thorsland-no</b>

Mr. Thorsland asked if the Board is to consider new sub-findings 3.b(d), 3.b(e) and 3.b(f).

Mr. Hall stated that those findings are the three bullets that were recommended in the Supplemental Memorandum for Case 700-S-11 dated August 10, 2012. He said that the additional findings are to augment this finding regarding the essential character of the district.

1 Mr. Kass read the new sub-findings as follows:

- 2 **d. The Special Use will not hinder agricultural production on adjacent properties**
- 3 **(See 9.F.(2));**
- 4
- 5 **e. The Special Use will not have a significant traffic impact (see 9.F.(4))**
- 6
- 7 **f. The Special Use will not substantially change the visual character of the subject**
- 8 **property because the proposed building is clustered with the existing home and**
- 9 **the parking area will be screened and agricultural production will still occur**
- 10 **onsite in the same general area that has been under production (see 9.F.(3)).**
- 11

12 Mr. Thorsland entertained a motion to include new sub-findings d, e, and f to finding 3.b.

13

14 **Ms. Capel moved, seconded by Mr. Courson to add sub-finding d, e, and f to finding 3.b. as read.**

15

16 Mr. Thorsland requested a roll call vote.

17

18 The roll was called:

19			
20	<b>Courson-yes</b>	<b>Miller-yes</b>	<b>Palmgren-no</b>
21	<b>Passalacqua-no</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>
22			

23 Mr. Thorsland read finding 3.b. for an overall determination.

24

25 **The requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve**

26 **the essential character of the DISTRICT in which it is located.**

27

28 **Ms. Capel moved, seconded by Mr. Miller that the requested Special Use Permit, subject to the special**

29 **conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is**

30 **located.**

31

32 Mr. Thorsland requested a roll call vote.

33

34 The roll was called:

35			
36	<b>Miller-yes</b>	<b>Palmgren-no</b>	<b>Passalacqua-no</b>
37	<b>Capel-yes</b>	<b>Courson-no</b>	<b>Thorsland-no</b>
38			

39 **4. The requested Special Use Permit, subject to the special conditions imposed herein, IS**

40 **in harmony with the general purpose and intent of the Ordinance because:**

41

1           **a. The Special Use is authorized in the District.**

2           **b. The requested Special Use Permit IS necessary for the public convenience at this**  
3           **location (see Finding of Fact 1).**

4 Mr. Hall stated that it is obvious that the Board is treating each of these findings with the upmost diligence  
5 and on the findings that indicate (see Finding of Fact#?) the Board has already made a decision and he does  
6 not see what benefit it serves to agonize over that finding again here. He said that on the standard Finding of  
7 Fact the sub-items 4.a, 4.b, 4.c, and 4.d. have already been decided and there is no need to work through  
8 those findings again. He said that in the Supplemental Memorandum dated August 10, 2012, staff  
9 recommended new bullets to deal with the specific consideration for each finding and for this finding the  
10 consideration is harmony with the general purpose and intent of the Ordinance. He said that there are three  
11 new bullets which have not been considered in the previous findings so the idea is that 4.a, 4.b, 4.c and 4.d.  
12 have already been determined by the Board and if staff had the correct software it would be reflected when  
13 the Board is ready to determine Finding 4 and all that would require determination is the three new sub-  
14 findings. He noted that the Board does not have to include the new sub-findings but they are, in staff's mind,  
15 relevant to harmony with the general purpose and intent.

16  
17 **Ms. Capel moved, seconded by Mr. Miller that the requested Special Use Permit IS necessary for the**  
18 **public convenience at this location (see Finding of Fact 1).**

19  
20 Mr. Passalacqua asked if the Board needed to vote on this finding if they have already made a determination  
21 therefore the Board should only direct its attention to the recommended bulleted items.

22  
23 Mr. Thorsland stated that the Board needs to direct their attention to Finding 4 but the Board needs to make  
24 sure that everyone is in agreement or have voted on 4.a, 4.b, 4.c and 4.d.

25  
26 Mr. Passalacqua noted that the Board has voted on these items.

27  
28 Mr. Thorsland stated that indeed the Board has voted on these items but the Board needs to confirm those  
29 votes. He said that a voice vote can be taken but a roll call vote makes it easier to keep everything on record.

30  
31 Ms. Capel asked Mr. Hall if he is indicating that the Board does not need to vote on these findings.

32  
33 Mr. Hall stated that the Board has already voted on these findings. He said that the reason why the findings  
34 are set up like this is because staff cannot indicate automatically on paper what the Board has previously  
35 decided but the minutes will. He said that he agrees with Mr. Thorsland that it might be good to just review  
36 these again to remind the Board of their decision but voting on these findings again is a waste of time that  
37 the Board does not have.

38  
39 Mr. Thorsland stated that there was a concern that if the Board determined a finding by voice vote and it was  
40 a close vote that it was better to do it by a roll call. He said that he understands Mr. Hall's point but this is a  
41 case that will be looked at and he would prefer, as Chair, to go through every step to assure what the vote

1 was for each finding.

2  
3 Mr. Thorsland requested a roll call vote.

4  
5 The roll was called:

6			
7	<b>Palmgren-no</b>	<b>Passalacqua-yes</b>	<b>Capel-yes</b>
8	<b>Courson-yes</b>	<b>Miller-yes</b>	<b>Thorsland-yes</b>
9			

10 **c. The requested Special Use Permit, subject to the special conditions imposed**  
11 **herein, is so designed, located and proposed to be operated so that it WILL**  
12 **NOT be injurious to the district in which it shall be located or otherwise**  
13 **detrimental to the public health, safety and welfare (See Finding of Fact 2).**

14  
15 **Ms. Capel moved, seconded by Mr. Courson that The requested Special Use Permit, subject to the**  
16 **special conditions imposed herein, is so designed, located and proposed to be operated so that it WILL**  
17 **NOT be injurious to the district in which it shall be located or otherwise detrimental to the public**  
18 **health, safety and welfare (See Finding of Fact 2).**

19  
20 Mr. Thorsland requested a roll call vote.

21  
22 The roll was called:

23			
24	<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
25	<b>Miller-yes</b>	<b>Palmgren-no</b>	<b>Thorsland-yes</b>
26			

27 Mr. Hall stated that the Board just determined a different vote than what was determined for Finding of Fact  
28 2, which is exactly why voting on these items redundantly creates problems. He said that this finding now  
29 has a differently result than when the Board voted on it previously.

30  
31 Mr. Miller asked if there is a “no” vote can the Board request a reason. He asked if the Board is voting on  
32 opinion or proclaiming to be an expert in disagreeing with County engineers and CUUATS.

33  
34 Mr. Hall stated that it is good to document a vote but the Board cannot actually request a justification, or at  
35 least the by-laws don’t require such, but common sense suggests that if there is no justification in writing  
36 how could a vote be supported. He said that different results are being created every time the Board votes on  
37 the same finding.

38  
39 Mr. Miller stated that in many cases there is justification for a positive finding yet “no” votes which  
40 contradict professional facts.

41

1 Mr. Palmgren stated that the Board knows where he stands in regards to his concerns related to the issue of  
2 public safety and traffic. He said that he has read the professional report and he is here to tell the Board that  
3 an entrance at the bottom of the hill with traffic traveling the road is an issue.  
4

5 Mr. Miller stated that if such a concern may only be one person’s opinion and, even though we are entitled to  
6 our opinion, unless that person is a self-proclaimed expert that person has no expertise to disagree with  
7 CUUATS or the County Engineer.  
8

9 Mr. Courson stated that he does not disagree with Mr. Palmgren’s concern because he believes that it is a  
10 dangerous intersection. He said that he is not an engineer but he has 25 years of experience in the road  
11 construction business constructing turn lanes and roads.  
12

13 Mr. Hall stated that the next time that a petitioner comes before this Board and is instructed to pay for a  
14 Traffic Impact Analysis that petitioner is not going to inclined to do so because the Board is ignoring the  
15 results of this Traffic Impact Analysis.  
16

17 Mr. Courson stated that he read the analysis and the speeds that are reported are slower than the actual  
18 speeds that are traveled down County Highway 1. He said that a speed gun would prove that it is not  
19 unusual for vehicles to travel 75 to 80 mph every day.  
20

21 Mr. Hall stated that the traffic impact analysis assumed 200 vehicles entering and leaving this property in the  
22 same hour that 120 vehicles are entering and existing the Hindu Temple property at the same time there is  
23 peak traffic on County Highway 1 and that is a condition that will never, ever exist and even with that  
24 condition there is no problem.  
25

26 Mr. Thorsland stated that the Board has reviewed the Traffic Impact Analysis several times and Mr.  
27 Palmgren’s vote reflects his opinion. He said that those different opinions and concerns is the reason why a  
28 roll call vote is important for each finding so that the record accurately reflects what occurred during this  
29 hearing. He said that this is not the last place that this case has to receive review therefore it is important  
30 that the next people who review the case have all of the information available at their disposal to assist them  
31 with their decision.  
32

33 **d. The requested Special Use Permit, subject to the special conditions imposed**  
34 **herein, DOES preserve the essential character of the DISTRICT in which it is**  
35 **located (see Finding of Fact 3b.)**  
36

37 Ms. Capel moved, seconded by Mr. Miller that **The requested Special Use Permit, subject to the**  
38 **special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which**  
39 **it is located (see Finding of Fact 3b.)**  
40

41 Mr. Thorsland requested a roll call vote.

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The roll was called:

<b>Capel-yes</b>	<b>Courson-no</b>	<b>Miller-yes</b>
<b>Palmgren-no</b>	<b>Passalacqua-yes</b>	<b>Thorsland-yes</b>

**Ms. Capel moved, seconded by Mr. Courson that the requested Special Use Permit, subject to the special conditions imposed herein, IS in harmony with the general purpose and intent of the Ordinance.**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Courson-yes</b>	<b>Miller-yes</b>	<b>Palmgren-yes</b>
<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>

**5. The requested Special Use IS NOT an existing nonconforming use.**

**Ms. Capel moved, seconded by Mr. Courson that the requested Special Use IS NOT an existing nonconforming use.**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Miller-yes</b>	<b>Palmgren-yes</b>	<b>Passalacqua-yes</b>
<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Thorsland-yes</b>

**6. The Special Conditions imposed herein are required to ensure compliance with the criteria for Special Use Permits and for the particular purposes described below:**

**A. A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management Policy shall be submitted and approved as part of the Zoning Use Permit application and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

The special condition stated above is required to ensure the following:

**That the drainage improvements conform to the requirements of the Stormwater Management Policy.**

- 1        **B.    Regarding State of Illinois accessibility requirements:**
- 2            (1)    **The Zoning Administrator shall not approve a Zoning Use Permit for the**
- 3                    **proposed Special Use Permit without certification by an Illinois Licensed**
- 4                    **Architect or Illinois Professional Engineer that the proposed Event Center**
- 5                    **will comply with the Illinois Accessibility Code and Illinois Environmental**
- 6                    **Barriers Act;**
- 7            (2)    **The Zoning Administrator shall not authorize a Zoning Compliance**
- 8                    **Certificate authorizing operation of the proposed Special Use Permit until**
- 9                    **the Zoning Administrator has verified that the Special Use as constructed**
- 10                   **does in fact comply with the Illinois Accessibility Code and Illinois**
- 11                   **Environmental Barriers Act.**

12                    The special conditions stated above are required to ensure the following:

13                                    **That the proposed Special Use meets applicable state codes for handicap**

14                                    **accessibility.**

- 15        **C.    The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
- 16                    **authorizing occupancy of the proposed Event Center until the Zoning**
- 17                    **Administrator has received a certification of inspection from an Illinois Licensed**
- 18                    **Architect or other qualified inspector certifying that the new building complies with**
- 19                    **the following codes: (A) The 2006 or later edition of the International Building**
- 20                    **Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and,**
- 21                    **(C) the Illinois Plumbing Code.**

22                    The special conditions stated above are required to ensure the following:

23                                    **That the proposed structure is safe and built to current standards.**

- 24        **D.    All onsite foodservice shall be in compliance at all times with the Champaign**
- 25                    **County Health Ordinance.**

26                    The special condition stated above is required to ensure the following:

27                                    **That foodservice for the proposed Event Center is consistent with County**

28                                    **requirements and the testimony in the public hearing and that compliance is**

29                                    **enforceable.**

- 30        **E.    The proposed parking area for the proposed Event Center shall comply with the**
- 31                    **Champaign County Zoning Ordinance requirements for screening from adjacent**
- 32                    **residences and Residential Districts.**

The special condition stated above is required to ensure the following:

**That all parts of the proposed Event Center are consistent with the Ordinance and that compliance is enforceable.**

- F. **All onsite Special Use activities shall be in compliance at all times with the Champaign County Health Ordinance, the Champaign County Liquor Ordinance, and the Champaign County Recreation and Entertainment Ordinance.**

The special condition stated above is required to ensure the following:

**That the proposed Special Use is in on-going compliance with all applicable County requirements.**

- G. **The following condition will ensure that the recommendation of Roger Windhorn (soil surveyor) regarding compaction of the septic site and that the septic system is built as was approved by the Champaign County Health Department are a requirement for a Zoning Use Permit:**

- (1) **The area proposed for the septic system shall be identified, marked off, and protected from compaction prior to any construction on the subject property as recommended by the Roger Windhorn.**
- (2) **The Zoning Administrator shall verify that the area proposed for the septic system is identified, marked off, and protected from compaction prior to approval of the Zoning Use Permit for the Event Center.**
- (3) **The Zoning Use Permit Application for the construction and establishment of the proposed SPECIAL USE shall include the following:**
  - (a) **A true and correct copy of an approved COUNTY Health Department PERMIT for construction of the private sewage disposal system.**
  - (b) **The site plan for the Zoning Use Permit Application shall indicate the identical area for the private sewage disposal system as approved in the COUNTY Health Department PERMIT and only the private sewage disposal system approved by the COUNTY Health Department may occupy that portion of the LOT.**
- (4) **A true and correct copy of the COUNTY Health Department Certificate of Approval for the private sewage disposal system shall be submitted to the**

**Zoning Administrator prior to issuance of a Zoning Compliance Certificate for the proposed SPECIAL USE.**

The special condition stated above is required to ensure the following:

**The area of the proposed septic system does not become compacted in order to prevent a reduction in permeability of the soil and that the septic system is in compliance with the Champaign County Health Department.**

**H. Regarding compliance with the Champaign County Stormwater Management Policy:**

- 1. The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation that the petitioner has filed with the Recorder of Deeds a tile access and maintenance easement with a width of 40 feet for any underground tile in the developed portion of the property**

The special condition stated above is required to ensure the following:

**The Special Use Permit is in compliance with the Stormwater Management Policy.**

- 2. The Zoning Administrator shall not authorize any Zoning Use Permit on the subject property until the following has occurred:**

- (a) Subsurface investigations intended to identify underground drain tile are conducted at least 50 feet on either side of the suspected centerline of tiles indicated on the approved site plan and in a manner and to a depth below ground as recommended by the Champaign County Soil and Water Conservation District.**

- (b) Written notice identifying the proposed date for subsurface investigation has been provided to the Zoning Administrator at least one week prior to the investigation.**

- (c) If any underground drain tiles are encountered during the subsurface investigation the course of each tile across the subject property shall be established by additional investigation in consultation with the Champaign County Soil and Water Conservation District.**

- (d) Documentation and certification of all subsurface investigations by an**

1 Illinois Professional Engineer shall be provided to the Zoning  
2 Administrator.

3 (e) When full and complete excavation of tile clearly indicates that the tile  
4 does not serve any upstream areas other than the subject property  
5 and certifications to that effect are made in writing by an Illinois  
6 Professional Engineer and the excavations are inspected by the  
7 Zoning Administrator, such tile may be removed and capped at the  
8 point at which the tile enters the developed area.

9 (f) Any proposed construction on the subject property shall either be  
10 located so as to avoid any identified underground drain tile or the  
11 identified underground drain tile shall be relocated to avoid the  
12 proposed construction.

13 (g) Any relocation of underground drain tile shall meet the requirements  
14 of the Champaign County Stormwater Management Policy and shall  
15 be certified by an Illinois Professional Engineer. Relocated tile shall  
16 be non-perforated conduit to prevent root blockage provided that the  
17 petitioner may install new underground drainage tile to serve the  
18 subject property so long as cleanout manholes are provided at the  
19 point of connection to the existing underground drain tile.

20 (h) As-built drawings shall be provided of any relocated underground  
21 drain tile and shall be approved by the Zoning Administrator prior to  
22 approval of a Zoning Compliance Certificate on the subject property.  
23 Any relocated drain tile must be inspected by the Zoning  
24 Administrator prior to backfilling.

25 3. If any underground drain tile is encountered during construction the  
26 applicant must do the following:

27 (a) Construction shall cease until the course of each tile across the subject  
28 property is established by additional investigation and construction  
29 shall not recommence until authorized by the Zoning Administrator  
30 except that construction that does not implicate the tile may continue.

31 (b) The Zoning Administrator shall be notified within 48 hours or the  
32 next business day.

33 (c) Any tile that is encountered during construction must be relocated or  
34 rerouted in conformance with the Champaign County Stormwater  
35 Management Policy unless the proposed construction is modified to

1                   **avoid the tile. Any modification of the construction to avoid the tile**  
 2                   **shall be indicated on a revised site plan approved by the Zoning**  
 3                   **Administrator. Relocated tile shall be non-perforated conduit to**  
 4                   **prevent root blockage. Conformance of any tile relocation with the**  
 5                   **Stormwater Management Policy shall be certified by an Illinois**  
 6                   **Professional Engineer.**

7                   **(d) As-built drawings shall be provided of any relocated**  
 8                   **underground drain tile and shall be approved by the Zoning**  
 9                   **Administrator prior to approval of a Zoning Compliance**  
 10                   **Certificate on the subject property. Any relocated drain tile**  
 11                   **must be inspected by the Zoning Administrator prior to**  
 12                   **backfilling.**

13                   The special condition stated above is required to ensure the following:

14                                   **Possible field tiles on the subject property are identified prior to development**  
 15                                   **and adequately protected and that any possible tiles that are discovered**  
 16                                   **during construction are adequately protected.**

17  
 18  
 19                   **I. The evergreen trees in the screening along the north property line shall be at**  
 20                   **least 2 feet 8 inches tall at the time of planting and within two years of**  
 21                   **issuance of a Zoning Compliance Certificate shall provide at least 50% of the**  
 22                   **required screen or additional plantings shall be required.**

23  
 24  
 25                   The special condition stated above is required to ensure the following:

26                                   **Adequate screening is provided to the parking areas and as a buffer for the adjacent**  
 27                                   **property.**

28  
 29  
 30                   **J. The Driveway shall be improved as follows:**  
 31                   **(1) The petitioner shall provide the County Engineer with engineering drawings of**  
 32                   **the proposed driveway entrance. In addition to the actual driveway the**  
 33                   **driveway drawings shall also include the following:**

34                                   **(a) A stop sign shall be placed on the event center driveway with due**  
 35                                   **consideration for proper sight distance and shall be placed in**  
 36                                   **accordance with the latest version of the Manual on Uniform Traffic**  
 37                                   **Control Devices (MUTCD) guidelines. The location and details of the**  
 38                                   **stop sign shall be included on the engineering drawings submitted to**  
 39                                   **the County Engineer.**

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- (b) **Lighting at the entrance to the subject property shall be provided. This lighting shall only be operated during event times and fully comply with the lighting requirements of Section 6.1.2. The location of the lighting shall be included on the engineering drawings submitted to the County Engineer.**
- (c) **Way finding signage shall be placed a minimum of 200 feet in advance of the entrance to the subject property from both north and south directions as recommended by the Traffic Impact Analysis conducted by CUUATS and detailed in the driveway drawings. All signage shall be placed in accordance with the latest version of the Manual on Uniform Traffic Control Devices (MUTCD) guidelines.**
- (2) **The Zoning Administrator shall not approve a Zoning Use Permit for the proposed event center without documentation of the County Engineer’s approval of the proposed driveway entrance.**
- (3) **The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of the County Engineer’s approval of the constructed driveway entrance including any necessary as-built engineering drawings.**

The special condition stated above is required to ensure the following:

**All parking related to the Special Use Permit can safely enter and exit the subject property safely with adequate visibility and regardless of weather conditions.**

- K. (1) **The Special Use shall include the following:**
  - (a) **A KNOX box shall be installed on the building for fire department access.**
  - (b) **A monitored fire alarm system shall be installed within the building.**
  - (c) **An all access defibrillator shall be provided in the public space.**
  - (d) **A dry hydrant shall be installed at the detention basin in a location that is within 8 feet of a hard surfaced driveway or a no parking area that is built to carry the load of an emergency vehicle and is accessible at all times by a posted fire lane. The location and details of construction shall**

be approved in writing by the Thomasboro Fire Protection District Chief. The as-built dry hydrant shall also be approved in writing by the Thomasboro Fire Protection District Chief.

(2) The Fire Protection District shall approve the operation of the dry hydrant and all other items requested by the Fire Chief in writing before the Zoning Compliance Certificate authorizing occupancy can be approved by the Zoning Administrator.

(3) The dry hydrant shall be maintained in good working order by the landowner for the life of the special use permit.

The special condition stated above is required to ensure the following:

**Adequate public safety.**

Ms. Capel moved, seconded by Mr. Courson that the special conditions imposed herein are required to ensure compliance with the criteria for Special Use Permits and for the particular purposes described.

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Capel-yes</b>	<b>Miller-yes</b>	<b>Courson-yes</b>
<b>Palmgren-yes</b>	<b>Passalacqua-yes</b>	<b>Thorsland-yes</b>

Mr. Hall stated that when the Board voted on Findings 2 and 3b. the vote was a tie and the By-laws provide no guidance as to the impact of a tie vote on the adoption of a finding but for the overall case a tie vote is a denial. He said that at this point, with this case as determined, staff has no idea what to indicate for the Findings 2 and 3.b. because they received a tie vote and the Board did not adopt any finding. He said that if these Findings were a Final Determination the Board would have voted to deny the request.

Mr. Passalacqua stated that the Board cannot make another Board member appear.

Mr. Miller asked Mr. Hall to indicate any guidance that the By-laws may provide.

Mr. Hall stated that the By-laws provide all of the guidance that the Board requires for the Final Determination but statutorily when all is said and done the Board needs to have adopted findings. He said that if the Board has not adopted a Finding for 2 and 3b. then the Board cannot proceed to the Final

1 Determination.  
2  
3 Ms. Capel asked if the Board should seek guidance from the State’s Attorney.  
4  
5 Mr. Hall stated that the State’s Attorney did not have time to attend tonight’s meeting.  
6  
7 Mr. Thorsland informed the audience that the problem is that there are two of the Findings which received a  
8 tie vote and the By-laws indicate direction regarding the Final Determination and a tie vote but no guidance  
9 regarding a tie vote for a Finding of Fact. He said that one of the issues at this time is that the ZBA Board  
10 normally has seven members although currently one seat is vacant.  
11  
12 Mr. Miller asked if the Board would like to reconsider Finding 2a. He said that this Board requested a traffic  
13 impact analysis and the analysis came back affirmative indicating that there are no concerns so how can this  
14 Board ignore that. He asked if anyone on the Board had the qualifications to disagree with a professional  
15 study.  
16  
17 Mr. Palmgren stated that his only qualification is that he has driven the road and at high speeds there is  
18 nowhere to go and that will be an issue.  
19  
20 Mr. Miller stated that his question only required a simple yes or no answer. He said that everyone has driven  
21 down a road but does that make them qualified to disagree with a professional study.  
22  
23 Mr. Palmgren stated that the study does not consider any traffic coming from the north.  
24  
25 Mr. Thorsland stated that the Board has the ability to make a motion to suspend the rules and reconsider  
26 Finding 2a.  
27  
28 Mr. Hall stated that the Board does not need to suspend the rules to reconsider Finding 2. He said that  
29 anyone on the Board can make a motion to reconsider any Finding.  
30  
31 Mr. Miller stated that the Board asked for the traffic study and it came back without any concerns yet that is  
32 not good enough. He asked what the Board will ask for next.  
33  
34 Mr. Thorsland stated that the Board can vote to reconsider Finding 2a. and the motion should come from a  
35 member who is on the majority side of the vote but the Board has the benefit that the original vote was a tie  
36 therefore any Board member can make a motion to reconsider the vote for Finding 2a.  
37  
38 Mr. Hall stated that the Board needs to reconsider the vote for Finding 2. He said that overall Finding is  
39 what is important and not the subsidiary Findings. He said that when the Board voted on the overall  
40 Finding for 2 the vote was split.  
41

1 Mr. Thorsland entertained a motion to reconsider Finding 2.  
2  
3 Mr. Passalacqua asked if he could read the text for Finding 2a. to the Board.  
4  
5 Mr. Thorsland stated that he would like to have a motion to reconsider Finding 2 first.  
6  
7 Mr. Hall stated that if the Board desires they could reconsider the vote for 2a. as well.  
8  
9 Mr. Courson stated that he would like to base his vote for 2 on Finding 2a. He said that the motion was for  
10 the following: **The street has ADEQUATE traffic capacity and the entrance location has ADEQUATE**  
11 **visibility BASED ON the Traffic Impact Analysis prepared by CUAATS.** He said that he would agree  
12 that the Street has ADEQUATE traffic capacity and the entrance has ADEQUATE visibility despite the  
13 Traffic Impact Analysis prepared by CUAATS.  
14  
15 **Ms. Capel moved, seconded by Mr. Passalacqua to reconsider finding 2. The motion carried by voice**  
16 **vote.**  
17  
18 Mr. Thorsland stated that the reconsideration for the overall finding for 2 appears to focus on 2a. therefore  
19 the Board should have gentle debate about 2a.  
20  
21 Mr. Passalacqua stated that he also drives on County Highway 1 and he does agree with Mr. Palmgren's  
22 concerns however the vote should be focused on the language of 2a. He said that the language states that  
23 the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility BASED on  
24 the CUUATS study. He said that the way that this is presented to the Board for a vote it does not give the  
25 Board the opportunity to voice its opinion because CUUATS has indicated that it is safe.  
26  
27 Mr. Hall stated no, staff only gave a recommendation for Finding 2a. and the Board has the freedom to  
28 eliminate this or do whatever the Board sees fit. He said that this is not required by the Ordinance and the  
29 Ordinance does not require the Board to have this much detail in the Finding. He requested that the Board  
30 tailor this Finding as they see fit.  
31  
32 Mr. Passalacqua stated that he would agree that the street has adequate capacity based on the information  
33 that CUUATS provided the Board and that the petitioner's paid for. He said that he cannot agree on it  
34 based on his own personal experience but he could agree if it is based on the information that has been  
35 presented.  
36  
37 Ms. Capel proposed the following: The street has ADEQUATE traffic capacity and the entrance location  
38 has INADEQUATE visibility DESPITE the Traffic Impact Analysis prepared by CUUATS.  
39  
40 Mr. Passalacqua stated that he would agree with Ms. Capel's proposal.  
41

1 Mr. Hall stated that if the County is taken to court regarding this case there is no evidence to support Ms.  
2 Capel’s proposed Finding. He said that the Board could indicate that they are not concerned about any  
3 future lawsuits and the court can decide what happens. He said that his job is to give the Board advice so  
4 that the County can minimize its court costs and try to have decisions which are reasonable and consistent  
5 with the law. He said that the Board has no evidence to support Ms. Capel’s proposed finding.  
6

7 Mr. Passalacqua asked if a Board member personally drives down that road it is not considered evidence.  
8

9 Mr. Hall stated that when he speaks about evidence his is talking about something that is included in the  
10 Summary of Evidence that will go to the court if the County is sued and the court can read that two ZBA  
11 members drove down County Highway 1 and did not feel that the road had adequate visibility. He said that  
12 when the Board makes a Finding it is preferable that the Board has evidence to base that Finding upon. He  
13 said that the Board does have the professional evaluation from CUUATS and the County’s planning staff.  
14

15 Mr. Passalacqua stated that as he stated previously he can agree with the way that 2a. is recommended.  
16

17 Mr. Thorsland stated that the previous motions for 2a. and 2 were determined with a tie vote.  
18

19 Mr. Passalacqua stated that Mr. Hall just pointed out that his driving down the road is not evidence and if  
20 the only evidence that he has to base his vote upon is the traffic impact analysis then he would have to vote  
21 affirmative on the Finding.  
22

23 Mr. Thorsland reminded Mr. Passalacqua that as a Board member he can introduce evidence at any time.  
24

25 **Mr. Miller moved, seconded by Mr. Passalacqua to vote on Finding 2a. based on how it was**  
26 **originally written.**  
27

28 Mr. Thorsland clarified that the motion for finding 2a. is for the following: The street has ADEQUATE  
29 traffic capacity and the entrance location has ADEQUATE visibility BASED on the CUUATS study.  
30

31 Mr. Miller stated correct.  
32

33 Mr. Thorsland requested a roll call vote.  
34

35 The roll was called:  
36

37	<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
38	<b>Miller-yes</b>	<b>Palmgren-no</b>	<b>Thorsland-yes</b>

40 Mr. Thorsland stated that the original motion was to reconsider Finding 2 overall. He read Finding  
41 2 as follows:

1 **The requested Special Use Permit, subject to the special conditions imposed herein, is so designed,**  
 2 **located, and proposed to be operated so that it WILL NOT be injurious to the district in which it**  
 3 **shall be located or otherwise detrimental to the public health, safety and welfare.**

4  
 5 Mr. Thorsland requested a motion to vote on Finding 2 during this period of reconsideration.

6  
 7 **Mr. Passalacqua moved, seconded by Ms. Capel to vote on Finding 2 during this period of**  
 8 **reconsideration.**

9  
 10 Mr. Thorsland requested a roll call vote.

11  
 12 The roll was called:

13  
 14 **Capel-yes Courson-yes Miller-yes**  
 15 **Palmgren-no Passalacqua-yes Thorsland-yes**

16  
 17 Mr. Thorsland requested a motion to reconsider Finding 3b.

18  
 19 **Ms. Capel moved, seconded by Mr. Miller to reconsider Finding 3b. The motion carried by voice**  
 20 **vote with on opposing vote.**

21  
 22 Mr. Thorsland read Finding 3b. as follows:

23 **The requested Special Use Permit, subject to the special conditions imposed herein, DOES**  
 24 **preserve the essential character of the DISTRICT in which it is located.**

25  
 26 Mr. Thorsland stated that the Board determined that sub-finding 3b(a) CONFORMS to all relevant  
 27 County ordinances and codes; and 3b(b)the special use WILL be compatible with adjacent uses; and  
 28 3b(c) public safety will be ADEQUATE; and 3b(d) the special use WILL NOT hinder agricultural  
 29 production on adjacent Properties; 3b(e) the special use WILL NOT have a significant traffic impact; and  
 30 3b(f) the special use WILL NOT substantially change the visual character of the subject property because  
 31 the proposed building is clustered with the existing home and the parking area will be screened and  
 32 agricultural production will still occur onsite in the same general area that has been under production.

33  
 34 Mr. Passalacqua stated that he would like to change 3b(e) to indicate the following:  
 35 **The special use, per the CUUATS report, WILL NOT adversely affect traffic.**

36  
 37 Mr. Thorsland asked the Board if they agreed with Mr. Passalacqua’s suggested text for sub-finding  
 38 3b(e) and the Board indicated that they did agree.

39  
 40 **Ms. Capel moved, seconded by Mr. Passalacqua to reconsider the vote on Finding 3b.**  
 41

1 Mr. Thorsland read Finding 3b. as follows:

2 **The requested Special Use Permit, subject to the special conditions imposed herein, DOES**  
3 **preserve the essential character of the DISTRICT in which it is located.**

4  
5 Mr. Thorsland requested a roll call vote.

6  
7 The roll was called:

8			
9	<b>Courson-no</b>	<b>Miller-yes</b>	<b>Palmgren-no</b>
10	<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>

11  
12 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and  
13 Finding of Fact as amended.

14  
15 **Mr. Passalacqua moved, seconded by Mr. Miller to adopt the Summary of Evidence, Documents of**  
16 **Record and Finding of Fact as amended.**

17  
18 Mr. Thorsland requested a roll call vote.

19  
20 The roll was called:

21			
22	<b>Miller-yes</b>	<b>Passalacqua-yes</b>	<b>Palmgren-yes</b>
23	<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Thorsland-yes</b>

24  
25 Mr. Thorsland stated that the Board is going to step back in time to Case 699-AM-11. He said that at the  
26 last public hearing some Board members were absent at the last meeting therefore the petitioners  
27 requested that the final determination be deferred until a full Board was present.

28  
29 Mr. Thorsland informed the petitioners that one Board seat was vacant therefore it is at their discretion to  
30 either continue Case 699-AM-11 until a full Board is present or request that the present Board move forward  
31 to the Final Determination. He informed the petitioners that four affirmative votes are required for approval.

32  
33 Mr. Hall stated that before the petitioner answers Mr. Thorsland’s question he wants the Board to consider if  
34 they know where they are headed for Case 699-AM-11 since there was not a roll call vote on a positive  
35 Finding of Fact.

36  
37 Mr. Thorsland asked the Board if they desired to take a roll call vote on Case 699-AM-11.

38  
39 Ms. Capel asked if the Board should review the Summary Finding of Fact for Case 699-AM-11.

40  
41 Mr. Miller stated that Case 700-S-11 states that the As Approved Finding of Fact for related Case 699-AM-

1 11 is positive and is supportive of a recommendation. He said that the As Approved Finding of Fact is  
2 already here and he wasn't at the last hearing but he was able to read and understand the direction that the  
3 Board was going therefore if the Finding is already positive why does the Board need to review it again.  
4

5 Mr. Thorsland stated that he thought that the Board was at the point of Final Determination as well.  
6

7 Mr. Courson stated that he is ready to move forward to the Final Determination.  
8

9 Mr. Passalacqua agreed.  
10

11 The petitioners requested that the present Board move forward to the Final Determination.  
12

13 **Final Determination for Case 699-AM-11:**  
14

15 **Ms. Capel moved, seconded by Mr. Miller that pursuant to the authority granted by Section 9.2 of the**  
16 **Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**  
17 **determines that the Zoning Ordinance Amendment requested in Case 699-AM-11 should BE**  
18 **ENACTED by the County Board in the form attached hereto.**  
19

20 Mr. Thorsland requested a roll call vote.  
21

22 The roll was called:  
23

24	<b>Palmgren-no</b>	<b>Passalacqua-yes</b>	<b>Capel-yes</b>
25	<b>Courson-no</b>	<b>Miller-yes</b>	<b>Thorsland-yes</b>

26  
27 Mr. Hall informed the petitioners that Case 699-AM-11 will be forwarded to the Committee of the Whole at  
28 their meeting on September 4<sup>th</sup>.  
29  
30

31 **Ms. Capel moved, seconded by Mr. Miller to move to the Final Determination for Case 700-S-11.**  
32 **The motion carried by voice vote.**  
33

34 Mr. Thorsland informed the petitioners that one Board seat was vacant therefore it is at their discretion to  
35 either continue Case 700-S-11 until a full Board is present or request that the present Board move forward to  
36 the Final Determination. He informed the petitioners that four affirmative votes are required for approval.  
37

38 The petitioners requested that the present Board move forward to the Final Determination.  
39

40 **Final Determination for Case 700-S-11:**  
41

1 **Mr. Passalacqua moved, seconded by Mr. Courson that the Champaign County Zoning Board of**  
 2 **Appeals finds that, based upon the application, testimony and other evidence received in this case, the**  
 3 **requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted**  
 4 **by Section 9.1.6B. of the Champaign County Zoning Ordinance, determines that the Special Use**  
 5 **requested in Case 700-S-11 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants**  
 6 **L.A. Gourmet Catering, LLC owned by Anne Murray and Lauren Murray to authorize the**  
 7 **construction of an Event Center as a “Private Indoor Recreational Development” as a Special Use**  
 8 **subject to the approval related rezoning Case 699-AM-11, subject to the following special conditions:**

- 9
- 10 **A. A complete Stormwater Drainage Plan that conforms to the requirements of the**  
 11 **Stormwater Management Policy shall be submitted and approved as part of the**  
 12 **Zoning Use Permit application and all required certifications shall be submitted**  
 13 **after construction prior to issuance of the Zoning Compliance Certificate.**

14 The special condition stated above is required to ensure the following:

15 **That the drainage improvements conform to the requirements of the**  
 16 **Stormwater Management Policy.**

- 17 **B. Regarding State of Illinois accessibility requirements:**  
 18 **(1) The Zoning Administrator shall not approve a Zoning Use Permit for the**  
 19 **proposed Special Use Permit without certification by an Illinois Licensed**  
 20 **Architect or Illinois Professional Engineer that the proposed Event Center**  
 21 **will comply with the Illinois Accessibility Code and Illinois Environmental**  
 22 **Barriers Act;**  
 23 **(2) The Zoning Administrator shall not authorize a Zoning Compliance**  
 24 **Certificate authorizing operation of the proposed Special Use Permit until**  
 25 **the Zoning Administrator has verified that the Special Use as constructed**  
 26 **does in fact comply with the Illinois Accessibility Code and Illinois**  
 27 **Environmental Barriers Act.**

28 The special conditions stated above are required to ensure the following:

29 **That the proposed Special Use meets applicable state codes for handicap**  
 30 **accessibility.**

- 31 **C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**  
 32 **authorizing occupancy of the proposed Event Center until the Zoning**  
 33 **Administrator has received a certification of inspection from an Illinois Licensed**  
 34 **Architect or other qualified inspector certifying that the new building complies with**  
 35 **the following codes: (A) The 2006 or later edition of the International Building**

Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and, (C) the Illinois Plumbing Code.

The special conditions stated above are required to ensure the following:

**That the proposed structure is safe and built to current standards.**

**D. All onsite foodservice shall be in compliance at all times with the Champaign County Health Ordinance.**

The special condition stated above is required to ensure the following:

**That foodservice for the proposed Event Center is consistent with County requirements and the testimony in the public hearing and that compliance is enforceable.**

**E. The proposed parking area for the proposed Event Center shall comply with the Champaign County Zoning Ordinance requirements for screening from adjacent residences and Residential Districts.**

The special condition stated above is required to ensure the following:

**That all parts of the proposed Event Center are consistent with the Ordinance and that compliance is enforceable.**

**F. All onsite Special Use activities shall be in compliance at all times with the Champaign County Health Ordinance, the Champaign County Liquor Ordinance, and the Champaign County Recreation and Entertainment Ordinance.**

The special condition stated above is required to ensure the following:

**That the proposed Special Use is in on-going compliance with all applicable County requirements.**

**G. The following condition will ensure that the recommendation of Roger Windhorn (soil surveyor) regarding compaction of the septic site and that the septic system is built as was approved by the Champaign County Health Department are a requirement for a Zoning Use Permit:**

**(1) The area proposed for the septic system shall be identified, marked off, and protected from compaction prior to any construction on the subject property as recommended by the Roger Windhorn.**

- 1           (2)    **The Zoning Administrator shall verify that the area proposed for the septic**
- 2                   **system is identified, marked off, and protected from compaction prior to**
- 3                   **approval of the Zoning Use Permit for the Event Center.**
  
- 4           (3)    **The Zoning Use Permit Application for the construction and establishment of**
- 5                   **the proposed SPECIAL USE shall include the following:**
- 6                    (a)    **A true and correct copy of an approved COUNTY Health**
- 7                               **Department PERMIT for construction of the private sewage disposal**
- 8                               **system.**
- 9
- 10                  (b)    **The site plan for the Zoning Use Permit Application shall indicate the**
- 11                               **identical area for the private sewage disposal system as approved in**
- 12                               **the COUNTY Health Department PERMIT and only the private**
- 13                               **sewage disposal system approved by the COUNTY Health**
- 14                               **Department may occupy that portion of the LOT.**
- 15
- 16           (4)    **A true and correct copy of the COUNTY Health Department Certificate of**
- 17                   **Approval for the private sewage disposal system shall be submitted to the**
- 18                   **Zoning Administrator prior to issuance of a Zoning Compliance Certificate**
- 19                   **for the proposed SPECIAL USE.**

20  
21           The special condition stated above is required to ensure the following:

22  
23                   **The area of the proposed septic system does not become compacted in order**

24                   **to prevent a reduction in permeability of the soil and that the septic system is**

25                   **in compliance with the Champaign County Health Department.**

26           **H.    Regarding compliance with the Champaign County Stormwater Management**

27                   **Policy:**

- 28           1.    **The Zoning Administrator shall not issue a Zoning Compliance Certificate**
- 29                   **without documentation that the petitioner has filed with the Recorder of**
- 30                   **Deeds a tile access and maintenance easement with a width of 40 feet for any**
- 31                   **underground tile in the developed portion of the property**

32           The special condition stated above is required to ensure the following:

33  
34                   **The Special Use Permit is in compliance with the Stormwater Management**

35                   **Policy.**

- 1           **2. The Zoning Administrator shall not authorize any Zoning Use Permit on the**  
2           **subject property until the following has occurred:**
  
- 3           **(a) Subsurface investigations intended to identify underground drain tile**  
4           **are conducted at least 50 feet on either side of the suspected centerline**  
5           **of tiles indicated on the approved site plan and in a manner and to a**  
6           **depth below ground as recommended by the Champaign County Soil**  
7           **and Water Conservation District.**
  
- 8           **(b) Written notice identifying the proposed date for subsurface**  
9           **investigation has been provided to the Zoning Administrator at least**  
10           **one week prior to the investigation.**
  
- 11           **(c) If any underground drain tiles are encountered during the subsurface**  
12           **investigation the course of each tile across the subject property shall**  
13           **be established by additional investigation in consultation with the**  
14           **Champaign County Soil and Water Conservation District.**
  
- 15           **(d) Documentation and certification of all subsurface investigations by an**  
16           **Illinois Professional Engineer shall be provided to the Zoning**  
17           **Administrator.**
  
- 18           **(e) When full and complete excavation of tile clearly indicates that the tile**  
19           **does not serve any upstream areas other than the subject property**  
20           **and certifications to that effect are made in writing by an Illinois**  
21           **Professional Engineer and the excavations are inspected by the**  
22           **Zoning Administrator, such tile may be removed and capped at the**  
23           **point at which the tile enters the developed area.**
  
- 24           **(f) Any proposed construction on the subject property shall either be**  
25           **located so as to avoid any identified underground drain tile or the**  
26           **identified underground drain tile shall be relocated to avoid the**  
27           **proposed construction.**
  
- 28           **(g) Any relocation of underground drain tile shall meet the requirements**  
29           **of the Champaign County Stormwater Management Policy and shall**  
30           **be certified by an Illinois Professional Engineer. Relocated tile shall**  
31           **be non-perforated conduit to prevent root blockage provided that the**  
32           **petitioner may install new underground drainage tile to serve the**  
33           **subject property so long as cleanout manholes are provided at the**  
34           **point of connection to the existing underground drain tile.**
  
- 35           **(h) As-built drawings shall be provided of any relocated underground**

drain tile and shall be approved by the Zoning Administrator prior to approval of a Zoning Compliance Certificate on the subject property. Any relocated drain tile must be inspected by the Zoning Administrator prior to backfilling.

3. If any underground drain tile is encountered during construction the applicant must do the following:

(a) Construction shall cease until the course of each tile across the subject property is established by additional investigation and construction shall not recommence until authorized by the Zoning Administrator except that construction that does not implicate the tile may continue.

(b) The Zoning Administrator shall be notified within 48 hours or the next business day.

(c) Any tile that is encountered during construction must be relocated or rerouted in conformance with the Champaign County Stormwater Management Policy unless the proposed construction is modified to avoid the tile. Any modification of the construction to avoid the tile shall be indicated on a revised site plan approved by the Zoning Administrator. Relocated tile shall be non-perforated conduit to prevent root blockage. Conformance of any tile relocation with the Stormwater Management Policy shall be certified by an Illinois Professional Engineer.

(d) As-built drawings shall be provided of any relocated underground drain tile and shall be approved by the Zoning Administrator prior to approval of a Zoning Compliance Certificate on the subject property. Any relocated drain tile must be inspected by the Zoning Administrator prior to backfilling.

The special condition stated above is required to ensure the following:

Possible field tiles on the subject property are identified prior to development and adequately protected and that any possible tiles that are discovered during construction are adequately protected.

I. The evergreen trees in the screening along the north property line shall be at least 2 feet 8 inches tall at the time of planting and within two years of issuance of a Zoning Compliance Certificate shall provide at least 50% of the

1 required screen or additional plantings shall be required.

2  
3  
4 The special condition stated above is required to ensure the following:

5  
6 Adequate screening is provided to the parking areas and as a buffer for the adjacent  
7 property.

8  
9 **J. The Driveway shall be improved as follows:**

10 (1) The petitioner shall provide the County Engineer with engineering drawings of  
11 the proposed driveway entrance. In addition to the actual driveway the  
12 driveway drawings shall also include the following:

13 (a) A stop sign shall be placed on the event center driveway with due  
14 consideration for proper sight distance and shall be placed in  
15 accordance with the latest version of the Manual on Uniform Traffic  
16 Control Devices (MUTCD) guidelines. The location and details of the  
17 stop sign shall be included on the engineering drawings submitted to  
18 the County Engineer.

19  
20  
21 (b) Lighting at the entrance to the subject property shall be provided.  
22 This lighting shall only be operated during event times and fully  
23 comply with the lighting requirements of Section 6.1.2. The location of  
24 the lighting shall be included on the engineering drawings submitted  
25 to the County Engineer.

26  
27 (c) Way finding signage shall be placed a minimum of 200 feet in advance  
28 of the entrance to the subject property from both north and south  
29 directions as recommended by the Traffic Impact Analysis conducted  
30 by CUUATS and detailed in the driveway drawings. All signage shall  
31 be placed in accordance with the latest version of the Manual on  
32 Uniform Traffic Control Devices (MUTCD) guidelines.

33  
34 (2) The Zoning Administrator shall not approve a Zoning Use Permit for the  
35 proposed event center without documentation of the County Engineer's  
36 approval of the proposed driveway entrance.

37 (3) The Zoning Administrator shall not issue a Zoning Compliance Certificate  
38 without documentation of the County Engineer's approval of the constructed  
39 driveway entrance including any necessary as-built engineering drawings.

The special condition stated above is required to ensure the following:

**All parking related to the Special Use Permit can safely enter and exit the subject property safely with adequate visibility and regardless of weather conditions.**

**K. (1) The Special Use shall include the following:**

**(a) A KNOX box shall be installed on the building for fire department access.**

**(b) A monitored fire alarm system shall be installed within the building.**

**(c) An all access defibrillator shall be provided in the public space.**

**(d) A dry hydrant shall be installed at the detention basin in a location that is within 8 feet of a hard surfaced driveway or a no parking area that is built to carry the load of an emergency vehicle and is accessible at all times by a posted fire lane. The location and details of construction shall be approved in writing by the Thomasboro Fire Protection District Chief. The as-built dry hydrant shall also be approved in writing by the Thomasboro Fire Protection District Chief.**

**(2) The Fire Protection District shall approve the operation of the dry hydrant and all other items requested by the Fire Chief in writing before the Zoning Compliance Certificate authorizing occupancy can be approved by the Zoning Administrator.**

**(3) The dry hydrant shall be maintained in good working order by the landowner for the life of the special use permit.**

The special condition stated above is required to ensure the following:

**Adequate public safety.**

Mr. Thorsland requested a roll call vote.

The roll was called:

<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
<b>Miller-yes</b>	<b>Palmgren-no</b>	<b>Thorsland-yes</b>

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41

Mr. Hall informed the petitioners that they have received an approval for Case 700-S-11, subject to the County Board’s decision on Case 699-AM-11.

**The Board recessed at 8:34 p.m.  
The Board resumed at 8:44 p.m.**

Mr. Miller left the meeting upon completion of Cases 699-AM-11 and 700-S-11.

**Case 722-S-12 Petitioner: Dr. Michael Boero Request to authorize an equine veterinary surgery clinic and performance problem evaluation facility as a “Veterinary Hospital” as a Special Use on 4.5 acres that is part of a 22 acre property previously authorized as a stable in Case 719-S-90 and located in the CR Conservation-Recreation Zoning District. Location: A 22 acre parcel in the West Half of the Southeast Quarter of the Southwest Quarter of Section 26 of Newcomb Township and commonly known as the home and stable at 430 CR 2500N, Mahomet.**

**7. Continued Text Amendment Hearings:**

**Case 710-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning Ordinance by amending the Champaign County Land Evaluation and Site Assessment (LESA) System that is referred to in Section 3; and Footnote 13 in Section 5.3; and subsection 5.4 as follows: Part A. Revise the Land Evaluation (LE) part as follows: 1. Revise all soil information to match the corresponding information in the *Soil Survey of Champaign County, Illinois* 2003 edition. 2. Revise all existing soil productivity information and replace with information from *Bulletin 811 Optimum Crop Productivity Rating for Illinois Soils* published August 2000 by the University of Illinois College of Agricultural, Consumer and Environmental Sciences Office of Research. 3. Delete the 9 existing Agriculture Value Groups and existing Relative Values ranging from 100 to 0 and add 18 Agriculture Value Groups with Relative LE ranging from 100 to 0. Part B. Revise the Site Assessment (SA) part as follows: 1. Add definitions for “agriculture”; “agricultural production”; “animal units”; “best prime farmland”; “farm dwelling”; “livestock management facility”; “non-farm dwelling”; “principal use”; and “subject site”.; and 2. Delete SA Factors A.2.; A.3.; B.2.; B.3.; C.2.; D.2.; E.1.; E.2.; E.3.; E.4.; F.1.; F.2.; F.3.; F.4.; and F.5.; and 3. Revise SA Factor A.1. to be new Factor 8; Factor B.1. to be new Factor 7; Factor C.1. to be new Factor 5; Factor D.1. to be new Factor 1; and revise scoring guidance for each revised Factor, as described in the legal advertisement; and 4. Add new SA Factors 2a.; 2b.; 2c.; 3.; 4.; 6.; 9.; 10.; and scoring guidance for each new Factor, as described in the legal advertisement. Part C. Revise the Rating for Protection as described in the legal advertisement. Part D. Revise the general text and reformat.**

**Case 711-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning Ordinance as follows: Part A. In Section 3, revise the definition of “best prime farmland” as follows: a) delete “Relative Value of 85” and “Land Evaluation rating of 85” and replace with “average Land**

1 Evaluation rating of 91 or higher”; and b) add “prime farmland soils and under optimum  
2 management have 91% to 100% of the highest soil productivities in Champaign County, on average,  
3 as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*”; and c) add “soils  
4 identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation  
5 and Site Assessment (LESA) System”; and d) add “Any development site that includes a significant  
6 amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3  
7 and/or 4 soils:. Part B. Revise Footnote 13 of Section 5.3 to strike references to “has a Land Score  
8 greater than or equal to 85 on the County’s Land Evaluation and Site Assessment System” and  
9 replace with “is made up of soils that are BEST PRIME FARMLAND” Part C. Revise paragraph  
10 5.4.4 to strike references to “has a Land Evaluation score greater than or equal to 85 on the County’s  
11 Land Evaluation and Site Assessment System” and replace with “is made up of soils that are BEST  
12 PRIME FARMLAND”  
13

14 Mr. Thorsland thanked staff for providing a map and scoring his and Ms. Capel’s parcels. He said that his  
15 score and staff’s score were fairly close.  
16

17 Mr. Thorsland stated that no action will be taken on these cases at tonight’s meeting.  
18

19 Mr. Thorsland called Kyle Krapf to testify.  
20

21 Mr. Kyle Krapf, who resides at 809 Riverside, Mahomet, stated that he is the Chair of the Champaign  
22 County Farm Bureau Land Use Committee. He said that his comments are on behalf of the organization  
23 centered on the LESA and the proposal before the Board this evening. He said that he has three points that  
24 he would like to discuss at tonight’s public hearing. He said that the first point that his Committee would like  
25 to make is to see the definition of a farm dwelling changed throughout the proposal. He said that in the  
26 Draft, a farm dwelling is defined as “a dwelling occupied by a farm owner or operator, tenant farm worker,  
27 or hired farm worker.” He said that in Champaign County, it is generally assumed that a dwelling located on  
28 a lot that is 35 acres or larger is a farm dwelling, unless information is provided as part of the public record  
29 to the ZBA indicating otherwise. He said that the challenge with this definition is that it assumes that if you  
30 live on a lot smaller than 35 acres you are not a farmer and if you are a farmer the burden of proof is on you  
31 to prove it. He said that in talking with many of the Farm Bureau’s leaders, approximately one-half of them  
32 do not live on lots which are 35 acres or larger therefore these individuals, who may not be aware of the  
33 zoning change in the process, will need to supply to the ZBA public record that they indeed do farm and live  
34 on a smaller lot.  
35

36 Mr. Krapf stated that his Committee would like to propose the following definition for usage throughout the  
37 draft proposal: A farm dwelling is a dwelling occupied by a farm owner, operator, tenant farm worker, or  
38 seasonal or year around hired farm worker and this may be determined by utilizing assessment records, other  
39 public documents or by information provided as part of the public record to the ZBA. He said that his  
40 Committee feels that removing the 35 acre requirement and allowing staff to utilize assessment records  
41 removes some of the burden being proposed and placed on landowners in the County.

1

2 Mr. Krapf stated that secondly his Committee is concerned with criteria number 9 and 10 in relying, at least  
3 partially, on drive-by inspections and then relying on landowners to enter into public record if they have  
4 livestock in a barn one-half mile up a lane or indeed a farm dwelling that the County incorporates a 30-day  
5 advance notification to all residents within one and one-half miles of a proposed land use change prior to the  
6 first ZBA hearing on such proposal. He said that this notification would be helpful for the residents to be  
7 able to provide the ZBA and the office staff accurate information prior to the zoning change. He said that his  
8 approach is supported by the Illinois Farm Bureau.

9

10 Mr. Krapf stated that finally his Committee urges the ZBA to add its recommendation of a suggested review  
11 schedule to this system and in fact, the County's Land Resource Management Plan calls for a review of the  
12 SA portion at least once every 10 years.

13

14 Mr. Krapf stated that he hopes that the ZBA takes these recommendations into consideration and that the  
15 Board sees the value of the proposed changes to the proposal. Mr. Krapf submitted his written statement and  
16 the proposed definition of a farm dwelling as Documents of Record.

17

18 Mr. Thorsland asked the Board if there were any questions for Mr. Krapf.

19

20 Ms. Capel said that Mr. Krapf stated that there are people who rent farm houses therefore is that dwelling not  
21 considered a farm dwelling if they do not fit into the proposed definition. She said that the dwelling could  
22 be owned by a farmer and he may want to keep it in tact and renting the home is how he satisfies that need.

23

24 Mr. Krapf stated that Ms. Capel's question would be a good question for Mr. Hall. He said that if the farm  
25 dwelling is not on a 35 acre parcel then the draft would not consider it as a farm dwelling.

26

27 Ms. Capel stated that this home would not be considered a farm dwelling in either proposal. She asked Mr.  
28 Hall if it would be appropriate to consider, under this definition, a farm house on a parcel that is either less  
29 than 35 acres or more than 35 acres and is rented by someone who is not a farmer but the parcel is owned by  
30 a farmer.

31

32 Mr. Hall stated that is a level of detail that is not necessary and is very burdensome. He said that whatever  
33 the ZBA recommends and the County Board adopts is what staff will do.

34

35 Ms. Capel stated that she is recognizing that all of the categories involve a lot of detail.

36

37 Mr. Thorsland asked the Board if there were any additional questions for Mr. Krapf and there were none.

38

39 Mr. Thorsland asked if staff had any questions for Mr. Krapf and there were none.

40

41 Mr. Thorsland called Normal Stenzel to testify.

1  
2 Mr. Norman Stenzel, who resides at 545A County Road 1900N, Champaign, stated that he spoke at the last  
3 meeting in regard to the strategy of including items in the LESA that would reflect local agriculture and  
4 community based agriculture from farms and indeed the definition of agriculture in the proposed LESA does  
5 include many of those kinds of agriculture and if the LESA itself doesn't reflect the definition it is not valid.  
6 He said that during previous meetings he spoke about validity and reliability with the Board and the  
7 importance of the Board in challenging the validity of the proposed LESA.

8  
9 Mr. Stenzel stated that at a previous meeting he distributed a document which he titled, "Decision Tree to  
10 Determine Relevant Material and Necessary Sufficient Features," and he discussed that one of the elements  
11 of justifiable conversion may be compact and contiguous. He said that the chart runs through a set of "yes"  
12 and "no" questions and at some points the chart will indicate that a conversion is justified while at other  
13 points it indicates that further investigation is necessary. He said that at some point in the decision it  
14 suggests that there should be some alternatives for the proposed conversion and rather than accepting the  
15 conversion the Board could recommend that the land is ideal for local based agriculture. He said that one of  
16 the things that bothers him is the County giving up any jurisdiction or any influence with respect to what  
17 happens in the CUGA therefore washing the County's hands of any input into what happens in a CUGA  
18 even though it may not be compact and contiguous or have water and sewer availability. He said that if a  
19 parcel does not have water and sewer availability he would suggest that the Board provide recommendations  
20 that the County has input into the CUGA process because the parcel could be ideal for other things such as  
21 community based agriculture or a neighborhood garden project for the people in the community.

22  
23 Mr. Stenzel stated that he provided the Board with an inventory because he has been distressed about the  
24 idea that the only thing that is counted as agriculture is a production field of some sort. He said that there are  
25 other functions, other than row crop, that are included as agriculture and those other functions are not  
26 adequately addressed in the proposed LESA such as enhanced soils which are found in an organic process.  
27 He said that there are other functions that might need to come from people who are more familiar with local  
28 food production. He said that he is just giving examples of what needs to be done to include local  
29 agriculture in LESA and not have it tacked on as a different process because it should be part of the process  
30 that the ZBA approves and recommends to the County Board.

31  
32 Mr. Thorsland asked the Board if there were any questions for Mr. Stenzel and there were none.

33  
34 Mr. Thorsland asked if staff had any questions for Mr. Stenzel and there were none.

35  
36 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present  
37 testimony for Cases 710-AT-12 or 711-AT-12 and there was no one.

38  
39 Mr. Thorsland closed the witness registers for Cases 710-AT-12 and 711-AT-12.

40  
41 Mr. Passalacqua asked Mr. Thorsland to indicate his impression of his LESA score.

1  
2 Mr. Thorsland stated that due to the availability of data the LESA score completed by staff was probably  
3 more accurate than the LESA score that he completed. He said that he does not look at the LESA score as  
4 some sort of measure as to whether he has done a good job or not. He said that there was a very good effort  
5 to make a very streamlined LESA system to do this and given the constraints he believes that the Committee  
6 did a very good job although some things did get pushed off. He said that there are probably a lot of ways to  
7 do this but this is the Board's opportunity to narrow those ways down and now is an excellent time to do so  
8 and he would like the Board to consider local food production. He said that he is mildly disappointed that  
9 there are not more people here to give input about local food production but not surprised. He said that the  
10 LESA meetings went on for a long time and a lot of people submitted their input and he tends to agree with  
11 the Farm Bureau's suggestion that a minimum of 35 acres is too high for consideration of a farm dwelling.  
12 He said that there are a lot of farmers in the County whose dwellings do not sit on 35 acres and he does not  
13 believe that either of the two examples, the Thorsland property or the Capel property, are any less of a farm  
14 because they sit on a parcel that is less than 35 acres and are not in row crop.

15  
16 Mr. Hall asked if Ms. Capel's 19.75 acres of which 14% is considered best prime farmland is not less of a  
17 farm than a 300 acre tract of best prime farmland.

18  
19 Mr. Thorsland stated that Ms. Capel's farm is no less of a farm because it is still a farm and should be scored  
20 accordingly and Ms. Capel's farm scored well. He said that if Ms. Capel's parcel did not have the 14% of  
21 best prime farmland and the score was lower he does not think that the LESA would reflect that Ms. Capel's  
22 farm is a viable operation. He said that his contention is that the LESA, as it stands currently, does a pretty  
23 good job and the proposed LESA also does a pretty good job but it does not do a perfect job.

24  
25 Mr. Hall stated that he understands that the LESA does not do a perfect job and he was very disappointed as  
26 to how high the proposed LESA scored Ms. Capel's property.

27  
28 Ms. Capel stated that the only reason why her property scored high is because it is so far from town and is  
29 surrounded by the AG-1 and CR Districts.

30  
31 Mr. Hall stated that it scored high because of the 14% best prime farmland. He said the areas on Ms. Capel's  
32 property which have the most problematic soils, Drummer soils, is what makes her property best prime  
33 farmland.

34  
35 Ms. Capel stated that she does not believe that the soil survey is accurate. She said that the Soil Survey on  
36 the website indicates a warning indicating that at the given scale the information may be accurate.

37  
38 Mr. Passalacqua stated that the Board just had this conversation during the previous cases regarding  
39 professional data and whether or not it is reliable.

40  
41 Mr. Hall stated that someone could hire their own soil classifier to take soil samples. He said that the

1 question is raised, which will sound like blasphemy to many in this room, whether or not the County wants  
2 to go down to the last smallest acre with no escape hatches for people with land like Ms. Capel. He asked  
3 Ms. Capel if she believes that she has best prime farmland.  
4

5 Ms. Capel stated no, and the gentleman who used to farm the parcel does not believe it either. She said that  
6 she still can't wrap her head around the fact that one instrument will be able to speak to both large tracts of  
7 land in commodity production and small tracts of land that are appropriate for local foods. She asked if the  
8 County has the will to provide that kind of possibility for people who are willing to grow local foods and if  
9 the County does is there some sort of instrument to use other than the LESA. She said that it seems that  
10 there is no out for someone with 20 acres who would like to develop the tract.  
11

12 Mr. Thorsland stated that his point has not been that he desires to have his parcel score better due to his pride  
13 but because there are many pieces of land out in the County which have been greatly improved by their  
14 owners by amending their soil, installing drainage, irrigation, etc. He said that Mr. Stenzel brought up a  
15 good point that depending upon farm practices there is a very big difference between what he started with  
16 and what he has now due to the improvements that he chose to make to the land. He said that the proposed  
17 LESA does not take into account improvements to a parcel that has become in production. He said that  
18 happily he has fallen into a very good category due to the surroundings of his parcel.  
19

20 Mr. Passalacqua stated that Mr. Thorsland stated that he is not concerned about the score due to his pride  
21 therefore he is really concerned about what will happen to the land when he is not there.  
22

23 Mr. Thorsland stated that he cares about the fact that there are places all around the County, the State and  
24 Country that would not be what the general public would consider a farm and his parcel is a farm. He said  
25 that the proposed LESA does not score all of the factors that makes a parcel a farm properly.  
26

27 Mr. Passalacqua stated that no one is going to take his land.  
28

29 Mr. Thorsland stated that this has nothing to do with the land because his land is in a trust and his kids are  
30 stuck with it and they cannot do a thing with it but it has everything to do with scoring well in both big  
31 agriculture, small agriculture and agriculture in between and trying to do it as simply as possible which may  
32 be completely impossible to do.  
33

34 Mr. Passalacqua stated the proposed LESA does that.  
35

36 Mr. Thorsland stated that it did but his parcel and Ms. Capel's parcel have a couple of things that, by  
37 complete luck, makes them over because, for instance, he just happens to have some big producers around  
38 his parcel and if not look at all of the house lots because he would be at 102 if it were not for a few people.  
39 He said that Ms. Capel has this little bit of soil and the particular filter that has been put in place now takes  
40 anything over 10% of a good piece of what is arguably not the best piece of your farm and kicks her score  
41 up. He said that the LESA scored their properties well but there may be a piece of land in the County that is

1 just like his parcel that is missing one of these little things or one guy with a huge farm next to it that will  
2 kick it down.

3  
4 Mr. Passalacqua stated that the one piece may not have the little bit of Drummer soil that could bring up the  
5 score might have a house placed on it.

6  
7 Mr. Thorsland stated that he is concerned that the piece of land might not score well enough to receive the  
8 consideration that it needs. He said that one of his factors should be whether or not the land is in production  
9 currently which does not mean corn and beans.

10  
11 Mr. Passalacqua stated that no one is going to take the land away and use it differently unless someone sells  
12 the land.

13  
14 Mr. Thorsland stated yes, but it should still have a filter for the prospective developer or buyer that indicates  
15 that the land has been developed to do it current use.

16  
17 Mr. Passalacqua stated that you cannot have LESA that takes in to account a hypothetical prospective use.

18  
19 Mr. Thorsland stated no.

20  
21 Mr. Passalacqua stated that eventually, through growth, the price of Mr. Thorsland's land is going to be more  
22 than what he chooses to pay and it may not be profitable to grow egg plants. He said that he does not  
23 understand how the LESA could accurately access both of these types of properties at the same time. He  
24 said that this is a streamlined tool that may need a little bit of tweaking but it is going to impossible for that  
25 tool to grade faulty soils that are being amended with organic materials. He said that perhaps the LESA  
26 needs to have a sub-part that considers if a landowner's parcel is in local food production but he does not  
27 know how the current LESA, other than by luck, could score Mr. Thorsland's and Ms. Capel's properties  
28 high.

29  
30 Mr. Thorsland stated that it can if you take into account some other factors.

31  
32 Mr. Passalacqua stated that the Board must remember that one of the driving factors for updating the LESA  
33 is to make it more streamlined and easier for staff to score a parcel.

34  
35 Mr. Thorsland stated that sometimes things are made too simple. He said that there are some businesses that  
36 form a pool for raises and some businesses choose to have no raises and pay everyone the same which the  
37 approach indicating that there are no winners and everyone is treated the same. He said that the LESA takes  
38 the streamlined approach, in an attempt to make it as simple and efficient as possible, but there is a point  
39 where you get too efficient therefore taking away the ability for any particular thing to excel. He said that  
40 the proposed LESA is good but it may be too efficient.

41

1 Mr. Passalacqua stated that he promises that such will not exist in County government.  
2  
3 Mr. Thorsland stated that the Board can only speculate as to what will happen at the County Board but it is  
4 here at this Board and it would be very easy to bring in a few extra factors that will also help a larger tract.  
5 He said that there are a lot of landowners who are installing drainage this year because they have had dry  
6 weather and the ability to do so and that practice should be factored in. He said that there are some parcels  
7 that have not been improved at all and the land should be scored accordingly.  
8  
9 Mr. Passalacqua suggested that Mr. Thorsland draft these factors to present to the Board for consideration.  
10  
11 Mr. Thorsland thanked Mr. Passalacqua for his suggestion of staff scoring his and Ms. Capel's parcels.  
12  
13 Mr. Passalacqua stated that using the two parcels as examples helped him understand Mr. Thorsland and Ms.  
14 Capel's concerns. He said that he hates to admit it but he has two acres at his residence that should have  
15 never had a house built upon it because you could dig all day and still hit good black dirt.  
16  
17 Mr. Thorsland stated that if he could take it home in his pocket he would farm the black dirt that is in front  
18 of his office building.  
19  
20 Mr. Hall stated that he would like to comment on the Farm Bureau's comment regarding the 30 day advance  
21 notification. He said that the state statute requires notification no more than 30 days therefore setting it at 30  
22 days would be a little close and can be modified to 25 days but we would not want to create a situation  
23 where the County could be challenged for doing more than 30 days. He said that he is astounded by the  
24 Farm Bureau's recommendation of utilizing assessment records because he has battles every week with  
25 owners that point to their assessment records that they are farmers but there is no way that they are farmers.  
26 He said that the landowners go to the USDA/FSA office and they obtain farm numbers and the Supervisor of  
27 Assessment's Office accepts that information. He said that he does not believe that the Board wants to base  
28 the LESA upon that. He said that the determination of what is considered a farm dwelling is one of the most  
29 difficult things in zoning and he wishes there was a perfect way to do it but basing it on the assessment  
30 records will not help. He said that there are some assessment records that are completely valid and would  
31 work but he will always be opposed to basing zoning and zoning reviews on assessment records because  
32 they are two different things. He said that Mr. Thorsland's western 30 acres, which is land where he does  
33 not live but does farm, would receive a score of 238 if it were proposed for development and if it received  
34 three more points it would have a very high rating. He said that for those who would like to see Ms. Capel's  
35 land receive a very high rating he does not believe that a system like that would be adopted in Champaign  
36 County and her land already received a very high rating and he does not see why it needs to be any higher or  
37 considered more important for agriculture. He said that he listened to people for months requesting changes  
38 but no one ever recommended a specific change and to step up and recommend a change that will work on  
39 test sites is extremely difficult.  
40  
41 Mr. Passalacqua stated that he suggested that Mr. Thorsland draft a suggestion because he does not know

1 where he would even start.

2  
3 Mr. Thorsland stated that he said a long time ago that as far as soil amendment or organic practice should not  
4 be in the SA part.

5  
6 Mr. Passalacqua asked how that could be quantified.

7  
8 Mr. Thorsland stated that it would be quantified in the LE part.

9  
10 Mr. Passalacqua asked Mr. Thorsland if he is going to give him receipts for those improvements. He asked  
11 how Mr. Thorsland will find justification for a point value for amendments that have been made to the soil.

12  
13 Mr. Thorsland stated that he pays a lot of money every year to be certified. He said that he has to present  
14 records of all of his numbered fields indicating the amount of crops that come out of those fields and those  
15 records are audited every year.

16  
17 Mr. Hall stated that Mr. Thorsland's land is already scored at 248.

18  
19 Mr. Thorsland stated that 248 is great. He said that whether a parcel is scored at 148 or 248 if more things  
20 have been done to make it a better place the LESA should take that into account.

21  
22 Mr. Passalacqua asked Mr. Thorsland if he does or does not want the amendments to affect the score.

23  
24 Mr. Thorsland stated that there are places where there is poor soil and people have performed practices to  
25 build the soil up, even though the underlying soil is still the soil, and his Xenia soil is still Xenia soil  
26 although he could take a bucket of his soil and a bucket of unimproved Xenia soil and find that the two soils  
27 are very different. He said that the LESA should have some sort of a small score bump if the landowner can  
28 prove that for the past five years they have been organic or that used the proper cover crop. He said that not  
29 all soil is as good as what is in Champaign County but it is better due to their practices.

30  
31 Mr. Thorsland opened the witness register.

32  
33 Mr. Thorsland called Kevin Donoho to testify.

34  
35 Mr. Kevin Donoho, District Conservationist for Champaign County, with the USDA-Natural Resources  
36 Conservation Service and member of the LESA Update Committee, stated that these issues have been  
37 discussed many times and he does not disagree with many of the things that Mr. Thorsland commented about  
38 but the LESA system addresses the land and not the management of the land. He said that the LESA  
39 addresses the soil that exists on the land and not how the land has been managed or the improvements that  
40 have been made to the land. He said that the soils are what we are talking about and not any amendments  
41 that are put in to the land, organics, cover crops, manure, tile, etc. He said that all of the improvements are

1 great things and as an owner you can choose to spend the money and use your expertise for crop rotations,  
2 specialty crops, etc. He said that all of the things that are management decisions that are used to improve the  
3 land for yourself, your production, or specialty markets is impossible to address in the LESA system. He  
4 said that the soil survey is accurate and the scale is okay but you can always make something better. He said  
5 that when a septic system is installed on a farmstead the soil map is used as a basis to start from to get an  
6 idea of how it will function although it is unknown how it will function without completing percolation tests.  
7 He said that he does not want the ZBA to have to go through the same things that the LESA Committee went  
8 through in order to put the proposed LESA together. He said that the proposed LESA is bigger than he  
9 would have liked it to be but he does not know how it could have been made any smaller to complete the  
10 task that needed to be completed. He said that the issues that needed to be addressed and the technology  
11 available to use to help make this tool as efficient as possible. He said that he believes that this tool is a  
12 good tool and it is the best thing that can be presented at this time.

13  
14 Ms. Capel stated that there is no protection for conservation land that is associated with agriculture.

15  
16 Mr. Donoho stated that he does not disagree but it comes down to philosophy. He said that we all have our  
17 own idea of what we want a certain thing to be and that idea is based upon all of our experience, training,  
18 etc. He said that we are talking about whether or not a piece of ground is able to change from agriculture to  
19 something else and to give some value relative to what it is currently in agriculture versus what someone  
20 proposes what it will become. He said that all of this is based on a person who wants to do something with  
21 their land and not someone stepping in saying that they have to do something to improve this ground. He  
22 said that the landowner makes their own decisions as to what they desire to do with their land.

23  
24 Ms. Capel stated she is talking about filling in the wetlands.

25  
26 Mr. Donoho stated that there are already regulations in place for filling in wetlands.

27  
28 Mr. Thorsland called Hal Barnhart to testify.

29  
30 Mr. Hal Barnhart, who resides at 469 County Road 1500N, Champaign, stated that Mr. Thorsland has 30  
31 acres and if we assumed that the ground is bare he could place four houses on that 30 acres by-right and then  
32 on the other 16 acres he could apply for an RRO. He said that the LESA score should be completed on the  
33 entire tract and not just the portion of the tract that the developer submits for improvements.

34  
35 Mr. Thorsland stated that both of his scores indicate that when you score the entire tract and not just the part  
36 under consideration that there is a big difference.

37  
38 Mr. Barnhart stated that his position is that the LESA is more than just the soils.

39  
40 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Barnhart and there were none.

41

1 Mr. Thorsland called Kyle Krapf to testify.  
2

3 Mr. Kyle Krapf stated that he is not speaking at this time on behalf of the Farm Bureau . He said that he was  
4 on the LESA Committee and was told that there would be six meetings to complete the proposed LESA  
5 although it ended up that it took 15 meetings to complete it. He said that the Committee discussed and  
6 contemplated everything imaginable including installation of drainage tile and soil improvements. He said  
7 that he is a farm manager and he has spent \$100,000 in tile installation and if his owner is offered the right  
8 amount he will sell it. He said that any improvements that are made to a tract will not prevent it from being  
9 sold if the offer is right. He said that improvements are hard to rate and as a farm manager he completes  
10 appraisals that are based on the soils.  
11

12 Mr. Krapf stated that the LESA Committee worked long and hard and Mr. Barnhart attended almost all of  
13 the meetings to submit his input. He said that realtors, farm managers, soil scientists and farmers were all  
14 part of the LESA Committee and they all made good recommendations. He said that the ZBA's time is very  
15 valuable therefore the ZBA should study, review and make changes to the product that the LESA Committee  
16 submitted and move forward.  
17

18 Mr. Thorsland asked the audience if anyone else desired to sign the witness register at this time and there  
19 was no one.  
20

21 Mr. Hall stated that he hopes that at the August 30<sup>th</sup> meeting the ZBA will have a Draft Finding of Fact for  
22 both these cases and that the Board will be close to a recommendation to the County Board.  
23

## 24 **8. Staff Report**

25  
26 None  
27

## 28 **9. Other Business**

### 29 **A. Review of Docket**

30 Mr. Thorsland stated that Case 722-S-12, Dr. Michael Boero, was moved to the September 13<sup>th</sup> public  
31 meeting. He said that hopefully the August 30<sup>th</sup> meeting will be a productive meeting for Cases 710-AT-11  
32 and 711-AT-11.  
33

### 34 **B. June and July 2012 Monthly Reports**

35  
36 Mr. Hall stated that at the end of July 2012 there have been 23 cases filed as opposed to 16 in 2011. He said  
37 that the ZBA has completed 15 cases in 2012 as opposed to 11 in 2011. He said that 19 cases are pending in  
38 2012 as opposed to 14 in 2011 and since July 2012 two more cases have been added to the docket. He said  
39 that he is estimating 27 cases for all of 2012 and it may be higher. He said that it is a good thing that staff  
40 has an Associate Planner, Andrew Kass or staff would be scrambling.  
41

1 Mr. Passalacqua asked if anyone has applied for the vacant Board seat.

2  
3 Mr. Hall stated that if anyone is interested in filling the vacant Board seat they have not applied.

4  
5 Mr. Thorsland stated that he has submitted his application for re-appointment to the ZBA.

6  
7 **10. Audience Participation with respect to matters other than cases pending before the Board**

8  
9 None

10  
11 **11. Adjournment**

12  
13 **Mr. Passalacqua moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice**  
14 **vote.**

15  
16 The meeting adjourned at 9:41 p.m.

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23 Respectfully submitted

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28 Secretary of Zoning Board of Appeals

1 **MINUTES OF REGULAR MEETING**  
2  
3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**  
4 1776 E. Washington Street  
5 Urbana, IL 61802  
6

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7 **DATE:** September 27, 2012 **PLACE:** Lyle Shields Meeting Room  
8 1776 East Washington Street  
9 **TIME:** 7:00 p.m. **Urbana, IL 61802**

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10 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Paul Palmgren, Brad Passalacqua  
11

12 **MEMBERS ABSENT :** Roger Miller, Eric Thorsland  
13

14 **STAFF PRESENT :** Connie Berry, John Hall, Andrew Kass  
15

16 **OTHERS PRESENT :** Phillip VanNess, Robert Mahrt, David Thies, Kerry Gifford, Michael  
17 Buzicky, Mike Smith, Mike Guthrie, Dale Masley, Kristine Masley, Bud  
18 Parkhill, Janet Parkhill, Paul Clinebell  
19

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20  
21  
22 **1. Call to Order**  
23

24 The meeting was called to order at 7:00 p.m.  
25

26 **2. Roll Call and Declaration of Quorum**  
27

28 The roll was called and a quorum declared present with two members absent and one seat vacant.  
29

30 Mr. Hall informed the Board that due to the absence of Eric Thorsland, Chair of the Zoning Board of  
31 Appeals, the Board must appoint an Acting Chair for tonight's meeting.  
32

33 **Mr. Palmgren moved, seconded by Mr. Passalacqua to appoint Catherine Capel as the Acting Chair**  
34 **for the September 27, 2012, meeting. The motion carried by voice vote.**  
35

36 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must  
37 sign the witness register for that public hearing. She reminded the audience that when they sign the  
38 witness register they are signing an oath.  
39

40 **3. Correspondence**  
41

42 None  
43

44 **4. Approval of Minutes**  
45

46 None

**DRAFT**

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**5. Continued Public Hearing**

**Case 717-AM-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General Manager and landowner Parkhill Enterprises. Request to amend the zoning Map to change the district designation from the R-4 Multiple Family Residence Zoning District to the AG-2 Agriculture Zoning District. Location: Approximately 2.9 acres of an approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road, Mahomet and subject to the proposed Special Use Permit in related Case 718-S-12 and the variance requested in related Case 719-V-12.**

**Case 718-S-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General Manager and landowner Parkhill Enterprises. Request to authorize the following on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12 subject to the required variance in related Case 719-V-12. Part A. Authorize expansion and use of a non-conforming water treatment plant as a Special Use with waivers (variance) of standard conditions; and Part B. Authorize the replacement of a non-conforming water treatment tower that is 131 feet in height as a Special Use with waivers (variance) of standard conditions. Location: An approximately 3.6 acre tract located in South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant a 709 North Prairieview Road, Mahomet.**

**Case 719-V-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General Manager and landowner Parkhill Enterprises. Request to authorize the following for expansion of a non-conforming water treatment plant in related Case 718-S012 on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12: Part A. The expansion of a non-conforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1H; and Part B. The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12. Part C. Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55feet; a side yard of 46 feet in lieu of the required 50 feet; and Part D. Waiver (variance) for a elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet. Location: An approximately 3.6 acre tract located in South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant a 709 North Prairieview Road, Mahomet.**

1 Ms. Capel informed the audience that Cases 718-S-12 and 719-V-12 are Administrative Cases and as such  
2 the County allows anyone the opportunity to cross examine any witness. She said that at the proper time she  
3 will ask for a show of hands for those who would like to cross examine and each person will be called upon.  
4 She requested that anyone called to cross examine go to the cross examination microphone to ask any  
5 questions. She said that those who desire to cross examine are not required to sign the witness register but  
6 are requested to clearly state their name before asking any questions. She noted that no new testimony is to  
7 be given during the cross examination. She said that attorneys who have complied with Article 7.6 of the  
8 ZBA By-Laws are exempt from cross examination.

9  
10 Ms. Capel informed the audience that anyone wishing to testify for these public hearings tonight must  
11 sign the witness registers. She reminded the audience that when they sign the witness register they are  
12 signing an oath. She asked the audience if anyone desired to sign the witness registers at this time.

13  
14 Mr. Courson informed the Board that approximately ten years ago he completed sewer and water main work  
15 for the petitioners.

16  
17 Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.

18  
19 Mr. Kerry Gifford, General Manager for Sangamon Valley Public Water District, stated that the information  
20 provided by staff explains why they are before the Board. He said that the expansion has to be done  
21 therefore they will do whatever they need to do to comply with County's requirements. He said that they are  
22 requesting a rezoning, special use permit and several variances.

23  
24 Mr. Gifford stated that the water district serves approximately 4,500 people. He said that the current water  
25 treatment plant was built in the 1960's and it is almost at its maximum capacity which affects the water  
26 quality at times. He said that the EPA recommends that they build additional water storage therefore it is  
27 vital as a health and safety issue that they get the project completed.

28  
29 Ms. Capel asked the Board if there were any questions for Mr. Gifford.

30  
31 Mr. Palmgren asked Mr. Gifford if he indicated that the current water treatment plant was built in the 1960's.

32  
33 Mr. Gifford stated that the district was formed on August 1, 1966. He said that originally the treatment plant  
34 consisted of only a pressure tank and well but in 1972 a softener was added.

35  
36 Mr. Palmgren asked Mr. Gifford what type of development was in the area in 1966.

37  
38 Mr. Gifford stated that there were a few small subdivisions and a mobile home park. He said that the system  
39 was never designed to handle what is required currently. He said that a large part of their customer base is  
40 from the Village of Mahomet and not just the rural vicinity and it would be advantageous for the Village of  
41 Mahomet to cooperate with this process.

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Ms. Capel asked if staff had any questions for Mr. Gifford and there were none.

Ms. Capel called John Hall to testify.

Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated September 27, 2012, for the Board’s review. He said that the new memorandum traces the history of the tracts that leads us up to today. He said that the history of development around the lots was reviewed and he does not know what the Village of Mahomet’s ordinances require for approving divisions on part of a property. He said that if the Board will review the Sidwell map dated 2011 the Board will see the Quail Run Subdivision freshly platted even though on the Sidwell map dated 2005 there is no Quail Run Subdivision but a .80 parcel that was not authorized by the Village of Mahomet. He said that if the County’s Zoning Ordinance had been in effect there would not have been a Quail Run Subdivision until that unauthorized lot had been corrected. He said that he does not know if the Village of Mahomet Ordinances are set up with as much forethought as the County Ordinance but that is precisely why the County’s Ordinance is set up the way that it is. He said that it makes him wonder if municipalities do not care where a proposed parcel for development came to be and whether everything was created properly. He said that the County’s Ordinance is what it is and it requires compliance with the village subdivision regulations and at some point the question will probably be asked as to why the County cares more than a village and it isn’t that the County cares more it is just that the Zoning Ordinance is set up that way.

Mr. Hall stated that a letter dated January 14, 2003, which is attached to the September 27, 2012, Supplemental Memorandum, is relevant to the issue of how the Village of Mahomet has continued to approve plats when they knew that there was an illegal subdivision. He said that even though there had been previous letters making requests, on January 14, 2003, the Village of Mahomet formally notified the Sangamon Valley Public Water District that there had been an unlawful creation of a lot. He said that he does not know how this date compares with Quail Run Subdivision but he does know that the Quail Run Subdivision first appeared on the 2011 Sidwell map.

Ms. Capel asked the Board if there were any questions for Mr. Hall.

Mr. Hall stated that in regards to conditions, the only condition that staff sees a need for is the condition regarding compliance with the Village of Mahomet’s Subdivision Regulations. He said that he would suggest that the Board consider making that condition only a requirement for the map amendment. He said that the Zoning Ordinance already requires it so technically there will be compliance and the Board does not need to burden the Special Use Permit or the Variance with that but he would suggest burdening the map amendment because it is the only part of these cases that goes to the County Board. He said that it would make sense to have that condition, if it is adopted, but a condition that the County board has some control over. He said that even if this is not made a condition it remains a requirement of the Ordinance.

Ms. Capel stated that if the Board does not specify it as a condition it could easily be ignored.

1  
2 Mr. Passalacqua stated that if it is part of the Ordinance there is no need to cover it twice.

3  
4 Mr. Hall stated that the Board is not obligated to make it a condition.

5  
6 Ms. Capel asked if the map amendment would take place regardless.

7  
8 Mr. Hall stated that the map amendment will only take place if there is no protest received from the Village  
9 of Mahomet or if there are 21 affirmative County Board votes to over-ride any protest and if there is then the  
10 map amendment happens and even if it isn't a condition it is still part of the Ordinance.

11  
12 Mr. Passalacqua asked Mr. Hall if it sits better with the Village of Mahomet if it is a special condition.

13  
14 Mr. Hall stated that he is sure that it does and staff always tries to include those conditions so that they  
15 cannot be accused of letting it be overlooked. He said that he is only suggesting that it might be useful for  
16 only the map amendment case that will be reviewed by the County Board. He said that there cannot be any  
17 variance from that requirement because it is a procedural requirement that is in the Ordinance and the Board  
18 does not need to include it in any case if the Board does not feel that it is needed.

19  
20 Ms. Capel called Phillip VanNess to testify.

21  
22 Mr. Phillip VanNess, attorney representing the Sangamon Valley Public Water District, stated that the Board  
23 has already heard testimony from Mr. Gifford and if the Board has any technical questions for Mr. Gifford,  
24 General Manager or Mike Buzicky, Consulting Engineer with Sodeman and Associates, he is sure that they  
25 would be happy to address those questions. He said that also present tonight on behalf of the Sangamon  
26 Valley Public Water District are Board members Bud Parkhill and Paul Clinebell. He said that his purpose  
27 is to urge the Board to approve these requests and the petitioners would prefer that the special condition is  
28 not included in that approval. He said that this is going to be a legal issue and they are going to have to go to  
29 the Village of Mahomet to hammer those things out therefore his suggestion to the ZBA is that subdivision  
30 is completely different than zoning and the ZBA's concern is only zoning. He said that the ZBA has the  
31 opportunity to avoid being involved in a legal issue that they do not have to get in to. He said that the Board  
32 already has a copy of his letter to Mr. Hall which outlines the petitioner's legal argument and it is not  
33 important for the ZBA to address those arguments. He urged that the Board review his letter and bide by Mr.  
34 Hall's suggestion in not including a special condition because nothing that the ZBA would do or say would  
35 vary the terms of the Ordinance and there is no reason for the ZBA to become involved in a legal battle  
36 between the petitioner and the Village of Mahomet.

37  
38 Mr. VanNess stated that when he was a young attorney he poked his nose into a more seasoned attorney's  
39 case and became well over his head very quickly. He said that the seasoned attorney informed him that he  
40 had the opportunity to stay out of the fight and should have taken it therefore he is now urging the ZBA to  
41 take the opportunity to stay out of the fight between the water district and the Village of Mahomet and they

1 should take it.  
2  
3 Ms. Capel asked the Board if there were any questions for Mr. VanNess and there were none.  
4  
5 Mr. Hall asked Mr. VanNess to affirm that his client is well aware that the Champaign County Zoning  
6 Ordinance requires compliance with the Village of Mahomet's Subdivision Regulations.  
7  
8 Mr. VanNess stated that his letter references a specific section in the Ordinance and he agrees that this is  
9 what the Ordinance states although he does not agree that it is legal and this is not the place to determine  
10 that. He said that the County Board is the only entity that has the authority to change the Ordinance at their  
11 public hearing.  
12  
13 Mr. Hall stated that the County Board cannot change the Ordinance at the public hearing by itself.  
14  
15 Mr. VanNess stated that he realizes that he understands the entire process and was only short sheeting the  
16 description of the process.  
17  
18 Ms. Capel called Robert Mahrt to testify.  
19  
20 Mr. Robert Mahrt, Village Planner for the Village of Mahomet, stated that he appreciates the opportunity to  
21 speak at tonight's public hearing. He said that the Village of Mahomet is supportive of the quality services  
22 that the Sangamon Valley Public Water District does provide to the citizens of the Mahomet community.  
23 He said that the Village of Mahomet's Board and the Village of Mahomet's staff does have concerns  
24 regarding the proposed rezoning, special use and variances. He asked if the outline of the rezoning that they  
25 received in June had changed since the legal advertisement.  
26  
27 Mr. Hall stated no.  
28  
29 Mr. Mahrt stated that he will first address Case 717-AM-12. He said that item #6.B(2) of the Draft Finding  
30 of Fact indicates that the land on the south is in agricultural production and is zoned AG-2 Agriculture. He  
31 said that this information is incorrect because the zoning to the south is actually under the Village of  
32 Mahomet's jurisdiction and is zoned RU and R-2. He said that he would be happy to provide a Village of  
33 Mahomet zoning map which will illustrate the Village of Mahomet's zoning in that location.  
34  
35 Mr. Hall asked Mr. Mahrt if some of the land this is in the Village of Mahomet is in agricultural production.  
36  
37 Mr. Mahrt stated that there is some row crop production in that area. He said that the Village of Mahomet  
38 has preliminarily platted those tracts when the rezoning came into place and when the rezoning goes into  
39 place it will allow for immediate development. He said that Quail Run is almost completely full and  
40 discussions have taken place between the Village of Mahomet and the developer regarding further  
41 development.

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Mr. Mahrt stated that the proposed rezoning in Case 717-AM-12 would create essentially a spot zone because an agricultural district would be placed in the heart of what is essentially surrounded by residential zoning. He said that there is RU and R-2 zoning to the south and R-1 to the west and R-4 to the north. He said that the Board would not consider placing a residential use in the center of an agriculture district therefore why consider placing an agricultural district in the heart of a residential area. He said that the statement of intent for the Agricultural District is intended to be for areas that are in the rural periphery of the County and not necessarily in the urbanized areas of a municipality. He said that the Board needs to consider the statement of intent of the district and its relationship to this particular property.

Mr. Mahrt stated that it is very likely that the Village of Mahomet’s Board will consider a protest to the rezoning request at its meeting on October 23, 2012. He said that if a continuance date for these cases is prior to the Village of Mahomet’s meeting then the Village will hold a special meeting to protest the proposal.

Mr. Mahrt stated that in March the Village of Mahomet was approached for a request to expand the plant, primarily on a property to the south which is within the Village of Mahomet’s jurisdiction. He said that the Village of Mahomet did provide correspondence in March to the Sangamon Valley Public Water District identifying that they could proceed with the project under Village of Mahomet’s Developmental Regulations which would include a rezoning to the R-1 District and a Conditional Use Permit. He said that under the Village of Mahomet’s Ordinance a government use is allowed in the R-1 District with a Conditional Use Permit and in order to expand to the south SVPWD would have to do a subdivision to consolidate their existing tracts and sign a petition for annexation. He said that a complete building permit application and site plan with drainage detention provided is also required. He said that the Village of Mahomet is concerned with the request to not include the provision of subdivision. He said that it may seem redundant in the County’s Ordinance and it may be asked why it should be put back in but the expanded lot which Mr. Hall is calling a non-conforming lot of record or an illegal lot, the westerly lot has a building that was not permitted by the County so how did the failings by the Village of Mahomet to proceed on a subdivision violation did the County further moved forward to resolve the unauthorized construction of a building. He said that the Village of Mahomet has correspondence from 2001 and 2003 and he does not know what caused the Village Board at that time to not move forward on the enforcement of the Subdivision Ordinance but the current Village of Mahomet Board is interested in continuing enforcement to get this matter resolved.

Mr. Mahrt stated that in relationship to Case 718-S-12 the proposed Special Use Permit request is counter to the Village of Mahomet’s established land use policy with the village and is inconsistent with the approved Area General Plan for the Wood’s Subdivision. He said that the Area General Plan for the Wood’s Subdivision was approved by the Village of Mahomet for the remainder of the tract with frontage on Prairieview Road and the proposal would eliminate the extension of Middleton Drive without providing a cul-de-sac for emergency services to move through that area. He said that the Village of Mahomet’s main concern is the deviation from the Area General Plan, the lack of public access for emergency services to the area and the possible extension of Middleton Drive and no turn around. He said that these are the principal

1 concerns of the Village of Mahomet and he would like to encourage the Board to include the special  
2 provision regarding subdivision and potentially move the provision on to securing required building permits  
3 as applicable to the District. He said that in their previous correspondence in March with the SVPWD the  
4 Village of Mahomet indicated that they could turn around the process within as little as 60 days and the  
5 SVPWD would already be turning dirt if they had followed the Village of Mahomet's development standards  
6 and he is not sure why they chose to go in the direction that they are going. He said that it is his opinion that  
7 the SVPWD is asking the ZBA and the County Board to bend over backwards to meet their objectives when  
8 they should be leaning toward cooperating with the Village of Mahomet.  
9

10 Ms. Capel asked the Board if there were any questions for Mr. Mahrt and there were none.  
11

12 Ms. Capel asked if staff had any questions for Mr. Mahrt.  
13

14 Mr. Hall stated that the Wood's Subdivision Plat is attached to the Supplemental Memorandum dated  
15 September 27, 2012. He said that the Village of Mahomet has already approved a street that dead ends  
16 without a cul-de-sac. He said that the property on which the hoped for cul-de-sac is indicated and is owned  
17 by the SVPWD and they clearly are not proposing townhomes as was proposed on the plat. He said that this  
18 is the SVPWD's property and that is not what they are proposing although he understands why the Village of  
19 Mahomet may have an issue with a change from an Area General Plan but it was only an Area General Plan  
20 that was approved in 1983. He said that Area General Plans change quite a bit, as far as he knows, and the  
21 only real problem that this development would propose is that the northeast corner edges into the proposed  
22 Middleton Drive and he would agree that he does not know why that was done but he would take issue that it  
23 is as serious as Mr. Mahrt has indicated that it is.  
24

25 Mr. Mahrt stated that it is obvious that Mr. Hall does not understand the Village of Mahomet's development  
26 policy. He said that in the past they have allowed a dead end street that will terminate into a temporary turn-  
27 around and in all likelihood that subdivision included the requirements for a temporary turn-around,  
28 although he does not have that fact in front of him therefore he cannot verify that standard at that time. He  
29 said that their Subdivision Ordinance was updated in 2000 and that was probably incorporated into the 2000  
30 Ordinance as opposed to the subdivision approval at that time. He said that it is routine for the Village of  
31 Mahomet to allow for a temporary dead end street with a future extension. He said that the Village of  
32 Mahomet does require two entrances into a subdivision and their biggest concern there is the logical  
33 extension of that street system. He said that people are buying land in the area with the intent of how the  
34 Village of Mahomet is intending growth in the community and the Village of Mahomet can show them the  
35 Area General Plan and how they intend to see that development track over time and providing this Board  
36 with an Area General Plan, regardless of the age, shows the logical extension of what should be a street that  
37 continues either further to the west or certainly to the north.  
38

39 Mr. Hall stated that Mr. Mahrt called out the issue of spot zoning and the Finding of Fact for Case 717-AM-  
40 12 reviewed the uses authorized in the zoning districts. He said that he would agree that this is an expansion  
41 of spot zoning but the AG-2 already exists and the Village of Mahomet has gone on record that they support

1 the expansion of the plant.  
2  
3 Mr. Mahrt stated that the Village of Mahomet supports the efforts of the Sangamon Valley Public Water  
4 District to provide quality public service to the citizens of Mahomet.  
5  
6 Mr. Hall stated that Mr. Mahrt also indicated that the Village of Mahomet also supports the expansion of the  
7 plant as well. He said that in the Champaign County Zoning Ordinance a water plant is allowed in the AG-2  
8 District or either one of the industrial districts. He said that the uses in AG-2 are compatible with the uses in  
9 R-4. He said that it is spot zoning but it already exists and it is making it worse but it is to allow for a  
10 needed public facility and even though he understands that the Village of Mahomet has a problem with this  
11 being a County project but when it comes right down to it there is a certain logic that exists. He said that at  
12 this point Mr. Mahrt is not debating the compatibility of AG-2 and R-4.  
13  
14 Mr. Mahrt stated that he is not debating the compatibility of AG-2 and R-4 but is indicating that this is  
15 something that is unique and does not necessarily meet the intent of the *LaSalle Factors*. He said that  
16 regardless of the applicant if the County were to see a farmer come in with no purchase contract in hand and  
17 request to rezone this property to agriculture any agricultural use could occur that is allowed in the AG-2  
18 District.  
19  
20 Mr. Hall stated that this situation is already occurring on the property immediately to the north and Mr.  
21 Mahrt admitted that currently there is agriculture occurring in the Village.  
22  
23 Mr. Mahrt asked Mr. Hall if livestock would be allowed in the R-4 District.  
24  
25 Mr. Hall stated yes, livestock is allowed in any of the County's zoning districts.  
26  
27 Mr. Mahrt stated that the Village of Mahomet, via this staff member, is indicating that they have  
28 appropriately offered alternatives for the petitioner to move forward on their plant expansion in compliance  
29 with the standards of the Village of Mahomet without having to go through the County Board approval  
30 process and it could have been done in short order. He said that the petitioner's attorney has indicated that  
31 they will be working with the Village of Mahomet and he is anxious to have that meeting at any time next  
32 week along with the Village of Mahomet's Administrator and the Village of Mahomet's attorneys.  
33  
34 Mr. Hall asked Mr. Mahrt if the Village of Mahomet would prefer to have the opportunity to provide written  
35 comments directly to the Zoning Board of Appeals or directly to the County Board.  
36  
37 Mr. Mahrt stated that he would need to speak to the Village of Mahomet's Board and their attorney. He said  
38 that right now they are looking forward to a cooperative relationship with the petitioner during the proposed  
39 meeting and he is not sure why they chose to not go through the Village of Mahomet's process to achieve  
40 their goals and the Village of Mahomet's goals as well without significant variances and so forth.  
41

1 Mr. Passalacqua asked if it is inappropriate to request that the petitioner and the Village of Mahomet meet  
2 before this Board moves to final determination.

3  
4 Mr. Hall asked Mr. Passalacqua if he would like the two parties to at least talk.

5  
6 Mr. Passalacqua stated that the Board has suggested such to other applicants so that can discuss their  
7 differences and attempt to work those differences out.

8  
9 Mr. Hall stated that the Village of Mahomet provided correspondence regarding this issue in 2001 and in  
10 2003, nine years ago, and the petitioner was properly notified that the property did not receive the proper  
11 approvals. He said that perhaps a few more weeks would make a difference and it is the Board's time  
12 although the petitioner keeps affirming how critical this project is.

13  
14 Mr. Passalacqua stated that if the Board wants to press on then that is fine.

15  
16 Mr. Hall stated that he is only indicating the timeline that has occurred thus far. He said that suggesting that  
17 the two parties meet is a customary practice of this Board.

18  
19 Mr. Palmgren asked Mr. Passalacqua if he is suggesting that the parties meet.

20  
21 Mr. Passalacqua stated that the Board has the Documents of Record and the testimony to base their decision  
22 upon and it appears that there is a large separation between the two parties' testimony and he believes that  
23 the Board could make more intelligent decisions if some of those differences are hashed out. He said that  
24 the attorney pointed out that it is not the ZBA's place to be the attorney but if the testimonies are a little bit  
25 closer together the Board could make a better decision.

26  
27 Ms. Capel asked the audience if anyone desired to cross examine Mr. Mahrt regarding Cases 719-V-12 or  
28 718-S-12.

29  
30 Mr. Phillip VanNess asked Mr. Mahrt if the Village of Mahomet had a position regarding the public health  
31 and safety needs that will be provided by the expansion of the plant.

32  
33 Mr. Mahrt stated that the Village of Mahomet does have an understanding of the services that the Sangamon  
34 Valley Public Water District provides.

35  
36 Mr. VanNess asked Mr. Mahrt if the Village of Mahomet has a problem with the proposed expansion.

37  
38 Mr. Mahrt stated no, but the expansion must meet the standards of the Village of Mahomet.

39  
40 Mr. VanNess asked Mr. Mahrt if it is his position that the SVPWD could have gone through the Village of  
41 Mahomet rather than through the County.

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Mr. Mahrt stated yes.

Mr. VanNess asked Mr. Mahrt if he was aware that the County has exclusive zoning authority in that area.

Mr. Mahrt stated that if the petitioner were to make application with the Village of Mahomet they would be rezoned upon annexation and subsequent subdivision would be under the jurisdiction of the Village of Mahomet. He said that the Village of Mahomet does not make it a practice to have an annexation agreement with property that is not directly adjacent to the Village of Mahomet periphery and has always been consistent in rezoning upon annexation directly adjacent to their Village limits.

Ms. Capel asked the audience if anyone else desired to cross examine Mr. Mahrt and there was no one.

Ms. Capel called Michael Buzicky to testify.

Mr. Michael Buzicky, engineer with Sodeman and Associates, stated that Sodeman and Associates was the engineer of record for the attached site plan. He said that they briefly commented and made modifications to the site plan per all of the written and expressed comments by the Board at their last meeting. He said that he believed that he had covered all of the comments although if he missed anything he would appreciate it if the Board would let him know. He said that they are proceeding with recommendations based on a facility plan that is with the EPA at this time and the report indicates that water expansion at the SVPWD is urgent. He said that a recommendation in that report was that the water plant be placed immediately at the existing facility. He said that feasible and reasonable options were reviewed outside of the property and they did not compare to placing a new plant adjacent to or on the same site as it currently is located. He said that a lot of the questions that have surfaced are more engineering, site and area and utility type questions and not governmental differences. He said that his company is trying to find a site for this new treatment plant and earlier there was an option for a site to the south but that site also required replatting and rezoning and a major Illinois Power line was located in the easement which could not moved. He said that the only available land adjacent to the current facility is to the north and he would agree with Mr. Hall regarding the Mahomet Area General Plan. He said that the current property owner has agreed to sell a portion of his land to the Sangamon Valley Public Water District for the expansion and it is the property owner's plan or right to do so.

Mr. Buzicky stated that the reason for the request to rezone to agriculture was for a recommendation from the County Board because it is the only district for a water treatment plant with a special use. He said that the water treatment plant has been in existence since the 1970's therefore they cannot go back and change any of the locations. He said that the facility report did recognize that the subject property, for feasibility reasons, is the best site to place expansion or upgrade for the water treatment plant.

Mr. Buzicky stated that the site plan does take into account that Middleton Drive can be extended and no one is indicating that it could not be extended and it is expected that it will be. He said that the immediate reason

1 why they went to the north was due to the recommendation by their surveyors and that was just to gain  
2 immediate access control to the water treatment plant. He said that everyone knows that there is heightened  
3 security and control of public access to water treatment plants but there is intent to allow people to flow  
4 through there and the setbacks have been indicated accordingly.  
5  
6 Mr. Passalacqua asked Mr. Buzicky if the current facility is at capacity.  
7  
8 Mr. Buzicky stated yes, it is very close to capacity. He said that the report states that the water treatment  
9 plant is only a few years away from going over its capacity.  
10  
11 Mr. Buzicky stated that if all of the houses are built on the proposed map they would not have access to  
12 water without the expansion.  
13  
14 Mr. Buzicky stated that the expansion is needed to accommodate and serve growth in the area.  
15  
16 Mr. Hall asked Mr. Buzicky to review the access control considerations which lead to the decision to take  
17 the property to the far side of Middleton Drive.  
18  
19 Mr. Buzicky stated that Middleton Drive could be expanded in the future but currently the map indicates  
20 fencing for short term control of public access but no one is trying to block Middleton Drive. He said that  
21 the Ordinance states that the minimum is five acres therefore they were trying to find a spot which was as  
22 large as possible but one that would accommodate their needs.  
23  
24 Mr. Hall asked Mr. Buzicky if anyone had considered revising the layout of the fence and the berm so that if  
25 Middleton Drive was extended those improvements would not have to be relocated.  
26  
27 Mr. Buzicky stated yes. He said that those are minor areas and there could be some modifications to the  
28 berm without undue expense.  
29  
30 Mr. Hall stated that Mr. Kass received a phone call today from a person who indicated that they were calling  
31 on behalf of the church which is located to the west of the subject property. He said that there may be a  
32 request for some kind of screening towards the church side of the property.  
33  
34 Mr. Buzicky stated that they did plan for this concern and it was believed that the existing trees on the west  
35 is a screen, per the Ordinance, and then there could be an opaque fence as well.  
36  
37 Mr. Hall stated that Mr. Buzicky is correct as long as the trees screen to the extent required.  
38  
39 Ms. Capel asked the audience if anyone desired to cross examine Mr. Buzicky and there was no one.  
40  
41 Ms. Capel called Mike Smith to testify.

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Mr. Mike Smith, who resides at 492 CR 2675N, Mahomet, stated that he is present tonight to represent the church which is located to the west of the subject property. He said that he was going to request that the berm that is located on the east side, as indicated on the map, to be extended across to the north end of the boundary.

Mr. Capel asked the Board if there were any questions for Mr. Smith and there were none.

Ms. Capel asked Mr. Smith if he would prefer that the berm wrap around the entire boundary.

Mr. Smith stated that wrapping the berm around the entire boundary was going to be his original request but after hearing testimony about the road and the expansion he does not believe that wrapping it around the entire boundary is necessary. He said that perhaps something from the northwest corner to the east could be a consideration.

Ms. Capel asked if staff had any questions for Mr. Smith.

Mr. Hall asked Mr. Smith if he has been asked by the church to make this request.

Mr. Smith stated yes.

Mr. Hall asked Mr. Smith if it would be possible for the church to submit their request in writing. He said that if the Board takes action tonight then no written request would be necessary but if the case is continued to a later date it would be ideal to have the request from the church in a written form for the file.

Mr. Smith stated that he will have the church send their request in written form.

Ms. Capel asked the audience if anyone desired to cross examine Mr. Smith and there was no one.

Ms. Capel asked the Board if they desired to continue these cases and suggest that the petitioners and the Village of Mahomet meet to discuss their concerns.

Mr. Passalacqua stated that he could go either way.

Mr. Courson stated that it appears that this expansion will require legal action therefore he is comfortable with moving forward tonight.

Mr. Palmgren stated that he has not received enough information to move forward to a final determination therefore he would prefer to wait and continue the cases to a later date.

Mr. Hall stated that even if the Board took action tonight it is not staff's intent to forward this to the

1 Committee of the Whole meeting on Tuesday, October 2<sup>nd</sup>, although it is technically possible under the  
2 *Freedom of Information Act*. He said that forwarding the cases that the ZBA closed on at last Thursday's  
3 meeting to Tuesday night's meeting is adequate promptness on cases therefore whether the ZBA took action  
4 tonight or continued it to one of the two meetings for October is not going to make a difference as to when  
5 this case is before the County Board. He said that the Board has received a request from Mike Smith  
6 regarding the berm and staff has had to construct conditions on the spot, although it is not desirable. He said  
7 that there has been testimony from Mr. Buzicky indicating that there is no intention to block the extension of  
8 Middleton Drive which strikes him as fair grounds for a condition or maybe the testimony is sufficient to  
9 establish that the plan is not intending to block Middleton Drive. He said that he would have a concern if the  
10 Board took action on the submitted plan because in the future if someone looks at this plan and it says that it  
11 does not plan to block Middleton Drive it may be blocking Middleton Drive. He said that a condition should  
12 be constructed because this is likely to end up in court and the ZBA must make sure that their intentions are  
13 clear. He said there have been a couple of things surface at tonight's hearing that he believes would be  
14 sufficient grounds to continue this case to a later date. He said that there are two meetings in October by  
15 which this case could be continued to and still have enough time to get to the County Board in the same time  
16 frame that it would get if the Board took action tonight. He said that the new site plan is so much better than  
17 the original site plan and the delay was well worth it because Mr. Buzicky has prepared a very good plan  
18 with huge improvements.

19  
20 Mr. Passalacqua stated that he agrees with Mr. Courson because the petitioners have a lot of details that they  
21 have to work out on their own and he is comfortable with the condition that Middleton Drive is not  
22 permanently blocked and consideration is given to the screening. He said that if the petitioner is comfortable  
23 with the present Board making a determination then he would like to move forward.

24  
25 Mr. Hall stated that there is no condition regarding berming on the north. He asked Mr. Passalacqua to  
26 explain how he would like the site plan to be revised so that it will not block the extension of Middleton  
27 Drive.

28  
29 Mr. Passalacqua stated that he would be happy to have a notation regarding Middleton Drive put on the site  
30 plan but he did not know what the notation should say.

31  
32 Mr. Hall stated that how that notation should be constructed is a good question.

33  
34 Mr. Passalacqua asked Mr. Hall if he is making the suggestion that the Board continue this case to another  
35 date so that the site plan could be revised indicating the intent regarding the future extension of Middleton  
36 Drive

37  
38 Ms. Capel stated that a continuance date would give staff time to construct the conditions in a logical  
39 manner.

40  
41 Mr. Hall stated that would be his preference. He said that there has been testimony received at tonight's

1 hearing therefore a continuance date would give staff time to enter that testimony in the finding. He said that  
2 he wouldn't want to continue the case with the expectation of staff doing a whole lot of work but making  
3 those two conditions clear and having an opportunity to review the minutes for critical testimony would be  
4 appreciated. He said that the case could be continued to either meeting in October but both meetings are  
5 already very full.

6  
7 Mr. Passalacqua asked Mr. Hall if the east side of Middleton Drive currently exists.

8  
9 Mr. Hall stated yes.

10  
11 Mr. VanNess requested the opportunity to address the Board.

12  
13 Ms. Capel granted Mr. VanNess' request.

14  
15 Mr. VanNess stated that the petitioners are agreeable to any conditions that the Board may make regarding  
16 Middleton Drive. He said that this matter is time sensitive therefore they would like to close this hearing  
17 tonight.

18  
19 Mr. Courson stated that he is concerned with the condition regarding Middleton Drive and any interference  
20 with setbacks if it is extended.

21  
22 Mr. Hall stated that it appears that the north line of the property is parallel with the line of some imagined  
23 extension of Middleton Drive. He said that the site plan indicates a 55 foot separation that parallels that  
24 therefore it appears that the site plan has been prepared as Mike Buzicky explained and Middleton Drive  
25 could be extended and it would not make anything nonconforming. He said that to the extent that the  
26 extension would reduce the lot area that would make the lot area further from the five acres but would bring  
27 it more in line with the three acre maximum. He said that perhaps a condition may not be necessary so much  
28 as simply a notation on the plan that the purpose of the plan is to not block Middleton Drive, but the location  
29 of the berm and fencing may have to be moved in the future. He said that the Board cannot make the  
30 condition or notation too much of a commitment because no one knows what is going to happen. He said  
31 that whatever the Board does, needs to be as simple and as clear as possible and the Board would not want to  
32 go too far with it and lock people in to something but this plan could accommodate that with the separations  
33 that are shown.

34  
35 Mr. Passalacqua asked if Middleton Drive could actually border the proposed setback line on the plan.

36  
37 Mr. Hall stated that only for some distance and if Middleton Drive were extended to follow the lot lines the  
38 building would be too close to the right of way.

39  
40 Mr. Kass stated yes. He said that for a water treatment plant the Ordinance requires a 50 feet side and rear  
41 yard. He said that the site plan indicates that the northern side of the water treatment plant has a 37 feet

1 separation from the proposed 55 feet setback and if Middleton Drive is extended the building would be too  
2 close.

3  
4 Mr. Hall stated that if Middleton Drive curved to the north more like the approved Area General Plan there  
5 would be no issues.

6  
7 Mr. Kass stated probably not.

8  
9 Mr. Passalacqua stated that it will still be noncompliant on the side.

10  
11 Mr. Hall stated that the only things that do not meet the current Ordinance are the things that already exist.

12  
13 Mr. Kass stated that the existing water tank does not meet the standard condition and one of the existing  
14 small accessory buildings does not meet the standard condition. He said that the first site plan proposed new  
15 structures that were not going to meet the standard conditions but that site plan has since been revised.

16  
17 Mr. Hall stated that if the case is continued he finds it hard to believe that the Village of Mahomet's  
18 requirements regarding an elevated water storage tank are merely a yard of 17 feet 11 inches. He said that he  
19 has to believe that it will be as nonconforming inside the Village of Mahomet as it is in the County. He said  
20 that the elevated water storage tank exists and he doubts that it is supposed to be that close to the lot line if it  
21 were inside of the Village of Mahomet.

22  
23 Ms. Passalacqua stated that perhaps the Board should work on language because he is prepared to move  
24 forward tonight.

25  
26 Ms. Capel asked Mr. Passalacqua if he had any suggestions for the text of the condition or notation. She  
27 asked if the Board could craft a condition that will essentially allow for the extension of Middleton Drive  
28 through the northeast corner of the property.

29  
30 Mr. Passalacqua stated that he believes that it should be as Mr. Hall suggested previously and merely have a  
31 notation on the plan that the plan is drawn with that intent. He said that he does not believe that a condition  
32 is necessary.

33  
34 Mr. Hall stated that adding a note to the drawing should be treated the same way as a condition and the  
35 petitioner should concur. He said that a note as follows could be added to the site plan received on August  
36 16, 2012: locations of the proposed berm and proposed fence shall be adjusted or moved as required to  
37 allow for the future extension of Middleton Drive consistent with required separations. He said that this  
38 notation would not require the petitioner to make anything less than what the Ordinance requires.

39  
40 Mr. Passalacqua stated that the petitioners have already agreed to the screen on the other corner therefore an  
41 adjustment is required for that as well.

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Mr. Mahrt stated that he is concerned about the notation and the level of enforcement that the County has to maintain that standard in the future. He said that he is also concerned about the ownership being separated from the parent tract and who is responsible for platting that extension of driveway and the cost of the construction. He said that he is uncomfortable seeing this put on as a note on a site plan that will be administratively approved and could be changed prior to final approval.

Mr. Hall stated that this will be a legal issue. He said that a notation on an approved site plan, in his view, is no more or no less enforceable than a condition on a case Final Determination. He said that the notation cannot be removed from the approved site plan.

Mr. Mahrt said that perhaps then a provision should be included in the approval that no deviation, once the site plan is approved, is possible.

Ms. Capel stated that the provision is already part of the Ordinance.

Mr. Mahrt stated that he still voices his opposition of the notation on the site plan and not including a condition being proposed as a resolution which would adopted by the County Board.

Mr. Hall stated that Mr. Mahrt’s concerns cannot be addressed as long as any part of any land that is necessary for the extension of Middleton Drive is included as part of the approved site plan. He said that Mr. Mahrt does raise a good point. He said that the Board has received testimony about no intention of blocking Middleton Drive and he would take that at face value however Middleton Drive cannot be extended without the cooperation of the Public Water District and that would necessarily make any extension more complicated.

Ms. Capel stated that she is concerned that in the Board’s rush to finish this that they are not going to get it done completely and properly because this is more complicated than some of the other conditions that the Board has invented on the wing. She said that this case deserves staff’s and the Board’s full consideration because it will probably end up in court.

Mr. Hall stated that any extension of Middleton Drive that involves what the Board has approved for this plan the Village of Mahomet will always see as a problem. He said that this Board works very hard to come up with conditions to try to please all parties but that customary standard may not work with this case but he is willing to work on it.

**Mr. Palmgren moved, seconded by Ms. Capel to continue Cases 717-AM-12, 718-S-12 and 719-V-12 to the next available meeting or possibly a special meeting. The motion carried by voice vote.**

Mr. Courson stated that he would suggest that the petitioner add the screening from the church to the site plan and indicate the future extension of Middleton Drive on the subject property. He said that if the site

1 plan is revised the Board will be able to determine if there are any concerns with the road going through the  
2 property.

3  
4 Mr. Hall stated that the extension of Middleton Drive could be indicated by dashed lines or lightly indicated  
5 on the site plan.

6  
7 Mr. Hall stated that due to staff error recognizing parts of Mr. Howard’s variance, action cannot be taken on  
8 Case 729-V-12 on October 11<sup>th</sup> and notices will be sent out to reschedule that case to October 24<sup>th</sup>. He said  
9 that not all of the cases indicated on the docket for October 24<sup>th</sup> will be on the agenda. He said that Case  
10 728-AM-12 will not be ready for final action on October 11<sup>th</sup> because there are required variances and staff  
11 does not have a site plan to evaluate all of the variances that are required. He said that Case 728-AM-12 can  
12 only be opened and request direction from the Board at the October 11<sup>th</sup> meeting. He said that it appears that  
13 October 11<sup>th</sup> is probably going to have more time available for these cases than October 24<sup>th</sup>.

14  
15 **Mr. Courson moved, seconded by Mr. Palmgren to continue Cases 717-AM-12, 718-S-12 and 719-V-12**  
16 **to the October 11, 2012, meeting. The motion carried by voice vote.**

17  
18 Mr. Courson stated that since these are time sensitive cases, if there is anything else that the Board would  
19 like to see from the petitioners then now would be a good time to indicate such.

20  
21 Mr. Passalacqua stated that he would like to see the changes on the site plan regarding the extension of  
22 Middleton Drive and the proposed screening from the church. He said that if there is any communication  
23 with the Village of Mahomet perhaps the petitioners could present the results of those discussions to the  
24 Board.

25  
26 Ms. Capel called for a five minute recess.

27  
28 **The Board recessed at 8:30 p.m.**

29 **The Board resumed at 8:35 p.m.**

30  
31 **6. New Public Hearings**

32 **7.**  
33 **Case 727-V-12 Petitioner: Dale Masley Request to authorize a variance in the AG-2, Agriculture**  
34 **Zoning District for a residential accessory building with a height of 17.5 feet in lieu of the maximum**  
35 **of 15 feet in height. Location: Lot 12 of Denhart’s Second Subdivision in the Northwest Quarter of**  
36 **Section 13 of St. Joseph Township and commonly known as the dwelling at 1408 Peters Drive, St.**  
37 **Joseph.**

38  
39 Ms. Capel informed the audience that this is an Administrative Case and as such the County allows anyone  
40 the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of  
41 hands for those who would like to cross examine and each person will be called upon. She requested that

1 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that  
2 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
3 state their name before asking any questions. She noted that no new testimony is to be given during the  
4 cross examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
5 exempt from cross examination.  
6

7 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must  
8 sign the witness register for that public hearing. She reminded the audience that when they sign the  
9 witness register they are signing an oath.  
10

11 Ms. Capel asked if the petitioner would like to make a statement outlining the nature of their request.  
12

13 Mr. Dale Masley, who resides at 1408 Peters Drive, St. Joseph, stated that he started the project  
14 approximately one and one-half years ago in the design stage and it was partially completed when he  
15 received a letter from Mr. Hall indicating that his construction must stop because he had not obtained a  
16 building permit for the structure. Mr. Masley stated that he had exceeded the maximum height requirement  
17 because during his calculation he used a weighted average which was not the policy of the County. He  
18 requested that the Board approve his variance request. He said that he has spoken with his neighbors about  
19 the variance and they have all signed a letter indicating that they are not in opposition to the variance request.  
20 He submitted the signed petition as a Document of Record.  
21

22 Ms. Capel asked the Board if there were any questions for Mr. Masley.  
23

24 Mr. Palmgren asked Mr. Masley to indicate how long he has resided at his present address.  
25

26 Mr. Masley stated that he has resided at his present address for almost thirty years.  
27

28 Mr. Palmgren asked Mr. Masley if he built his home and was he aware of the County's permitting process.  
29

30 Mr. Masley stated that yes, he built his home.  
31

32 Mr. Palmgren asked Mr. Masley if he was under the assumption that he did not need a permit for this  
33 structure.  
34

35 Mr. Masley stated that he was under the assumption that he did not need a permit for the structure. He said  
36 that he spoke to a local architect and he asked her if she believed that he required a permit for the structure  
37 and she indicated that he did not.  
38

39 Mr. Palmgren asked Mr. Masley how far was the construction before he stopped.  
40

41 Mr. Masley stated that he had the structure framed up.

1  
2 Mr. Palmgren asked Mr. Masley if the height of the building had already been determined in the framing.  
3  
4 Mr. Masley stated yes.  
5  
6 Ms. Capel asked if staff had any questions for Mr. Masley.  
7  
8 Mr. Hall asked Mr. Masley where the neighbors who signed the petition resided.  
9  
10 Mr. Masley stated that the neighbors reside across the street and adjacent to this property.  
11  
12 Mr. Kass asked Mr. Masley if he had a copy of the signed petition for his records.  
13  
14 Mr. Masley stated that he does not have a copy.  
15  
16 Mr. Kass stated that he will provide a copy for Mr. Masley's records.  
17  
18 Mr. Passalacqua asked Mr. Masley to explain the building's use.  
19  
20 Mr. Masley stated that it is an accessory building which will serve two functions. He said that there is a  
21 screened in porch and the rear and upper portion is for storage. He said that the building will also serve as a  
22 playhouse for his grandson. He said that the window on the top is a working cupola/belvedere.  
23  
24 Mr. Passalacqua asked Mr. Masley to indicate the total square footage of the structure.  
25  
26 Mr. Masley stated that the structure consists of 500 square feet.  
27  
28 Mr. Kass stated that including the second story the total square footage of the structure is 480 square feet.  
29 He said that the footprint of the structure is 385 square feet.  
30  
31 Mr. Hall stated that the there is a second floor and having a full height second floor with a shingled roof and  
32 a minimum slope means the structure will exceed 15 feet in height. He said that the wonderful window is a  
33 cupola/belvedere and that continues the slope of the roof and this is the one thing where he is at a loss to find  
34 justification for other than it is just beautiful. He said that he has always maintained that people can come to  
35 the office and request a variance ahead of construction and in a case like this there is a lot of justification for  
36 something higher than 15 feet. He said that as someone who came to planning from architecture he would  
37 like to think that there is room within our system of zoning for beautiful objects especially when neighbors  
38 are not opposed. He said that he would normally try to find some justification for the belvedere but it is just  
39 so very exquisite and that may not be enough justification for the Board but certainly some degree of  
40 variance can be justified just because of the height, the slopes, and the general nature of the building. He  
41 said that it is too bad that there was not a permit prior to construction but these things were all known then

1 and the Board has always been advised to consider what if the person had come to the Board in the  
2 beginning with this plan requesting approval and would the Board have approved it at that time. He said that  
3 the Board is not required to approve the variance now because the structure is under construction although  
4 the courts like to see a very good reason to make someone change something that is already built.  
5

6 Mr. Courson stated that during his time on the Board there has been a variance request for height and at that  
7 time the Board could not figure out why there was a 15 foot maximum for height and it was suggested that  
8 perhaps it should be revised. He said that he is very confused as to why there is a 15 foot maximum height  
9 for accessory structures and he believes that it should be reviewed.  
10

11 Mr. Passalacqua stated that the height of an accessory structure is tied to the size of the lot.  
12

13 Mr. Hall stated that one of the most controversial zoning cases in the history of zoning was an accessory  
14 building which was more than 15 feet in height and was situated on a lot that was less than one acre in the  
15 Mahomet ETJ. He said that on lots this size there is an eventual height where the neighbors are offended  
16 and they do not want to see a building that tall. He said that he does not believe that the offending height is  
17 15 feet and one inch or 16 feet and one inch on a building like Mr. Masley's, especially when it has been  
18 constructed so exquisitely but the typical big box accessory building is typically taller. He said that the  
19 height for an accessory building on a lot that is larger than one acre is 24 feet and that is a height when  
20 neighbors do voice their concern. He said that Mr. Masley's building is not 24 feet and his neighbors have  
21 indicated that they have no issue with the requested variance.  
22

23 Mr. Passalacqua asked Mr. Masley if the accessory structure is located near the trees.  
24

25 Mr. Masley stated yes, and the trees are taller than the building.  
26

27 Ms. Capel asked the audience if anyone desired to cross examine Mr. Masley and there was no one.  
28

29 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony regarding  
30 this case and there was no one.  
31

32 Ms. Capel closed the witness register.  
33

34 Mr. Hall stated that a new item 11.D should be added to the Summary of Evidence as follows: At the public  
35 hearing on September 27, 2012, the petitioner, Dale Masely, submitted a letter signed by all neighbors with  
36 adjacent property in the subdivision indicating that they are not opposed to the height of the building. He  
37 said that a new item 5. should be added to the Documents of Record as follows: Letter submitted by Dale  
38 Masley signed by neighbors submitted at the September 27, 2012, public hearing.  
39

40 **Finding of Fact for Case 727-V-12:**  
41

1 From the documents of record and the testimony and exhibits received at the public hearing for zoning case  
2 727-V-12 held on September 27, 2012, the Zoning Board of Appeals of Champaign County finds that:

3  
4 **1. Special conditions and circumstances DO exist which are peculiar to the land or**  
5 **structure involved, which are not applicable to other similarly situated land and**  
6 **structures elsewhere in the same district.**  
7

8 Mr. Courson stated that special conditions and circumstances DO exist which are peculiar to the land or  
9 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the  
10 same district because the subject property is located in a well established neighborhood with mature trees  
11 which provide adequate screening for the structure therefore limiting the impact of the view from the  
12 neighbors.

13  
14 Ms. Capel stated that the aesthetics of the building are such that the height is required for the design.

15  
16 Ms. Capel asked the Board if they would prefer a roll call vote for each finding and the Board indicated no.

17  
18 **2. Practical difficulties or hardships created by carrying out the strict letter of the**  
19 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**  
20 **the land or structure or construction.**  
21

22 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of the  
23 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure  
24 or construction because the two-story design necessitates the variance for the height.

25  
26 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**  
27 **result from actions of the applicant.**  
28

29 Mr. Palmgren stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT  
30 result from actions of the applicant because the petitioner completed his measurements incorrectly in using a  
31 weighted height calculation.

32  
33 Mr. Courson stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT  
34 result from actions of the applicant because the design of the building itself necessitates the requested  
35 height variance.

36  
37 Mr. Palmgren agreed with Mr. Courson's recommendation for Finding #3.

38  
39 **4. The requested variance IS in harmony with the general purpose and intent of the**  
40 **Ordinance.**  
41

1 Mr. Courson stated that the requested variance IS in harmony with the general purpose and intent of the  
2 Ordinance because the design of the building is aesthetically pleasing to the eye and the neighbors have  
3 indicated that they are not opposed to the accessory building.  
4

5 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**  
6 **detrimental to the public health, safety or welfare.**  
7

8 Mr. Passalacqua stated that the requested variance WILL NOT be injurious to the neighborhood or  
9 otherwise detrimental to the public health, safety or welfare because: See submitted letter signed by  
10 neighbors.  
11

12 Ms. Capel stated that the adjacent neighbors signed a petition indicating that they are not opposed to the  
13 building. She said that the building conforms to the Ordinance in every other way and it is adequately  
14 screened by mature trees.  
15

16 Mr. Palmgren stated that the fire protection district was notified and no comments were received.  
17

18 **6. The requested variance IS the minimum variance that will make possible the**  
19 **reasonable use of the land/structure.**  
20

21 Mr. Passalacqua stated that the requested variance IS the minimum variance that will make possible the  
22 reasonable use of the land/structure because the variance sought is only for two and one-half feet in height.  
23

24 Ms. Capel stated that the variance requested is the minimum that will allow the building to be built as  
25 designed.  
26

27 **7. No special conditions are hereby imposed.**  
28

29 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding of  
30 Fact as amended.  
31

32 **Mr. Courson moved, seconded by Mr. Passalacqua to adopt the Summary of Evidence, Documents of**  
33 **Record and Finding of Fact as amended. The motion carried by voice vote.**  
34

35 Ms. Capel entertained a motion to move to the final determination.  
36

37 **Mr. Palmgren moved, seconded by Mr. Courson to move to the final determination.**  
38

39 Ms. Capel informed the petitioner that two Board seats were vacant therefore it is at his discretion to either  
40 continue Case 727-V-12 until a full Board is present or request that the present Board move forward to the  
41 Final Determination. She informed the petitioners that four affirmative votes are required for approval.

1  
2 The petitioner requested that the present Board move forward to the Final Determination.

3  
4 **Final Determination for Case 727-V-12:**

5  
6 **Mr. Passalacqua moved, seconded by Mr. Courson that the Champaign County Zoning Board of**  
7 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**  
8 **that the requirements for approval in Section 9.1.9.C HAVE been met and pursuant to the authority**  
9 **granted by Section 9.1.6B. of the Champaign County Zoning Ordinance, the Zoning Board of Appeals**  
10 **of Champaign County determines that the variance requested in Case 727-V-12 is hereby GRANTED**  
11 **to the petitioner Dale Masley to authorize a residential building with a height of 17.5 feet in lieu of the**  
12 **maximum height in the AG-2, Zoning District.**

13  
14 The roll was called:

15  
16                    **Palmgren-yes            Passalacqua-yes            Thorsland-absent**  
17                    **Courson-yes            Miller-absent            Capel-yes**

18  
19 Mr. Hall informed the petitioner that he has received an approval for his variance request. He said that staff  
20 will contact him regarding finalizing the Zoning Use Permit.

21  
22 **7. Staff Report**

23  
24 None

25  
26 **8. Other Business**

27 **A. Review of the docket**

28  
29 Mr. Kass stated that the October 11<sup>th</sup> meeting will be a busy meeting. He said that staff has received no new  
30 information from Denny Anderson. He said that K & S Property Management will not be ready for final  
31 action at the October 11<sup>th</sup> meeting. He said that notices were mailed but no site plan has been received from  
32 the petitioner and it is unknown as to the number of variances that may be required. He said that several  
33 variances are requested for Frank Howard’s case due to conditions of the subdivision which was platted prior  
34 to the adoption of zoning.

35  
36 Mr. Kass stated that the meeting on Wednesday, October 24<sup>th</sup> will also be a busy night. He said that no  
37 information has been received from Jed Swisher therefore no legal advertisement will be placed. He said  
38 that he is has been in contact with Doug Gamble of the Capitol Development Board in obtaining clarification  
39 for the accessibility requirement on Michael Boero’s case. He said that Dale Rapp’s case should be ready for  
40 final action at this meeting although Frank Howard’s case will be advertised for the October 24<sup>th</sup> meeting  
41 and final action should be possible at that meeting.

1  
2 Mr. Kass stated that there are no meetings scheduled for November. He said that the December 13<sup>th</sup> meeting  
3 includes the cases for Dr. Phil Jones and Daniel Williams. He said that staff has not received any new  
4 information regarding Dr. Jones' cases but there is still adequate time for that information to be submitted.  
5

6 Mr. Hall stated that new notices will be sent out for the case for Frank Howard. He asked the Board if they  
7 preferred that staff send notices indicating that Frank Howard's will not be heard on October 11<sup>th</sup> therefore it  
8 will not take up docket space. He said that the case will be ready for final action on October 24<sup>th</sup>.  
9

10 Mr. Passalacqua stated that the case should be removed from the October 11<sup>th</sup> docket and notices mailed  
11 indicating such.  
12

13 Mr. Hall stated that staff will send out those notices.  
14

15 Mr. Hall stated that the petitioner for Case 728-AM-12 did not want to be placed on the October 11<sup>th</sup> docket  
16 date but the Zoning Administrator wanted to get the case to the ZBA and then wait for anything extra that the  
17 ZBA decides is necessary. He said that normal protocol would have not sent this case to the ZBA early but  
18 given the background it is better to get it to the Board.  
19

20 Mr. Hall asked the Board if anyone knew if Mr. Thorsland would be back in town to attend the Committee  
21 of the Whole meeting on Tuesday night. He said that if Mr. Thorsland is not available to attend the caucus  
22 and explain the vote for the LESA case he suggested that Ms. Capel may attend. He said that Mr. Kurtz,  
23 Chairman of the COW, has not requested that someone from the ZBA attend.  
24

25 Ms. Capel stated that she will attend if needed.  
26

27 Mr. Hall stated that he will let Ms. Capel know if her attendance is necessary.  
28

### 29 **B. October 24, 2012, ZBA meeting**

30

31 Mr. Hall reminded the Board that the Wednesday, October 24, 2012, meeting will held in the Lyle Shields  
32 Meeting Room (Meeting Room One).  
33

#### 34 **9. Audience Participation with respect to matters other than cases pending before the Board**

35

36 None  
37

#### 38 **10. Adjournment**

39

40 The meeting adjourned at 9:12 p.m.  
41

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Respectfully submitted

Secretary of Zoning Board of Appeals

# CASE NO. 729-V-12

PRELIMINARY MEMORANDUM

October 18, 2012

Champaign  
County  
Department of

**PLANNING &  
ZONING**

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

(217) 384-3708

**Petitioners:** Frank E. Howard

**Request:** Authorize the following in the R-1 Single Family Residence Zoning District:

- Part A. Variance for lot coverage of 35% in lieu of the maximum allowed 30%;
- Part B. Variance for a front yard of 19 feet in lieu of the minimum required 30 feet;
- Part C. Variance for a front yard of 22 feet in lieu of the minimum required 25 feet;
- Part D. Variance for a front setback of 49 feet from Fogel Road in lieu of the minimum required 75 feet;
- Part E. Variance for a front setback of 52 feet from Olen Drive in lieu of the minimum required 55 feet;
- Part F. Variance for a side yard of 3.4 feet in lieu of the minimum required 10 feet;
- Part G. Variance for a front yard of an existing accessory structure of 27 feet in lieu of the minimum required 30 feet;
- Part H. Variance for a front setback for an existing accessory structure of 57 feet from Fogel Road in lieu of the minimum required 75 feet;
- Part I. Variance from the visibility triangle requirements for a corner lot;
- Part J. Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement; on the following property:

**Subject Property:** Lot 15 of Wildwood Estates Subdivision in the Northwest Quarter of Section 12 of Mahomet Township and commonly known as the home at 1105 Olen Drive, Mahomet.

**Site Area:** 1 acre

**Time Schedule for Development:** Unknown

**Prepared by:** Andy Kass  
Associate Planner

**John Hall**  
Zoning Administrator

---

## BACKGROUND

Many of the requests of this case are primarily a result of the property being platted and developed prior to the adoption of zoning in October 1973. Currently there is a 1,386 square foot home, a 22' × 32' detached garage, and large shed on the subject property. The home and detached garage existed prior to the adoption of zoning in October 1973. The petitioner has proposed a front porch and a breezeway between the house and detached garage (if approved the garage would be considered attached). The purpose of the breezeway is to make it easier for the petitioner's wife to get to and from the garage in inclement weather. The 22' × 32' detached garage is approximately 3½ feet from the side property line. There is a five foot utility easement along the side property line and a small portion of this garage has been constructed within the easement.

The 24' × 44' shed on the property was authorized by ZUPA No. 239-10-02. When the permit was reviewed staff erred when considering Fogel Road as a minor street. The Village of Mahomet Major Street Plan Map identifies Fogel Road as an arterial street which means the street should have been classified as a collector street. The difference between the two classifications is that a collector street requires a larger front yard and a greater setback from the street than a minor street.

When ZUPA No. 239-10-02 was authorized the petitioner indicated that he would deconstruct a small shed and a portion of the detached garage so as to not exceed the maximum lot coverage allowance. The small shed was deconstructed, but the portion of the garage was not. The addition of the proposed porch and breezeway along with the portion of the garage that was not deconstructed necessitate the need for the variance from the maximum lot coverage allowance.

---

## EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities are not notified of Variance cases.

## EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Residential	R-1 Single Family Residence
North	Residential	AG-2 Agriculture
East	Residential	R-1 Single Family Residence
West	Residential	R-1 Single Family Residence
South	Residential	R-1 Single Family Residence

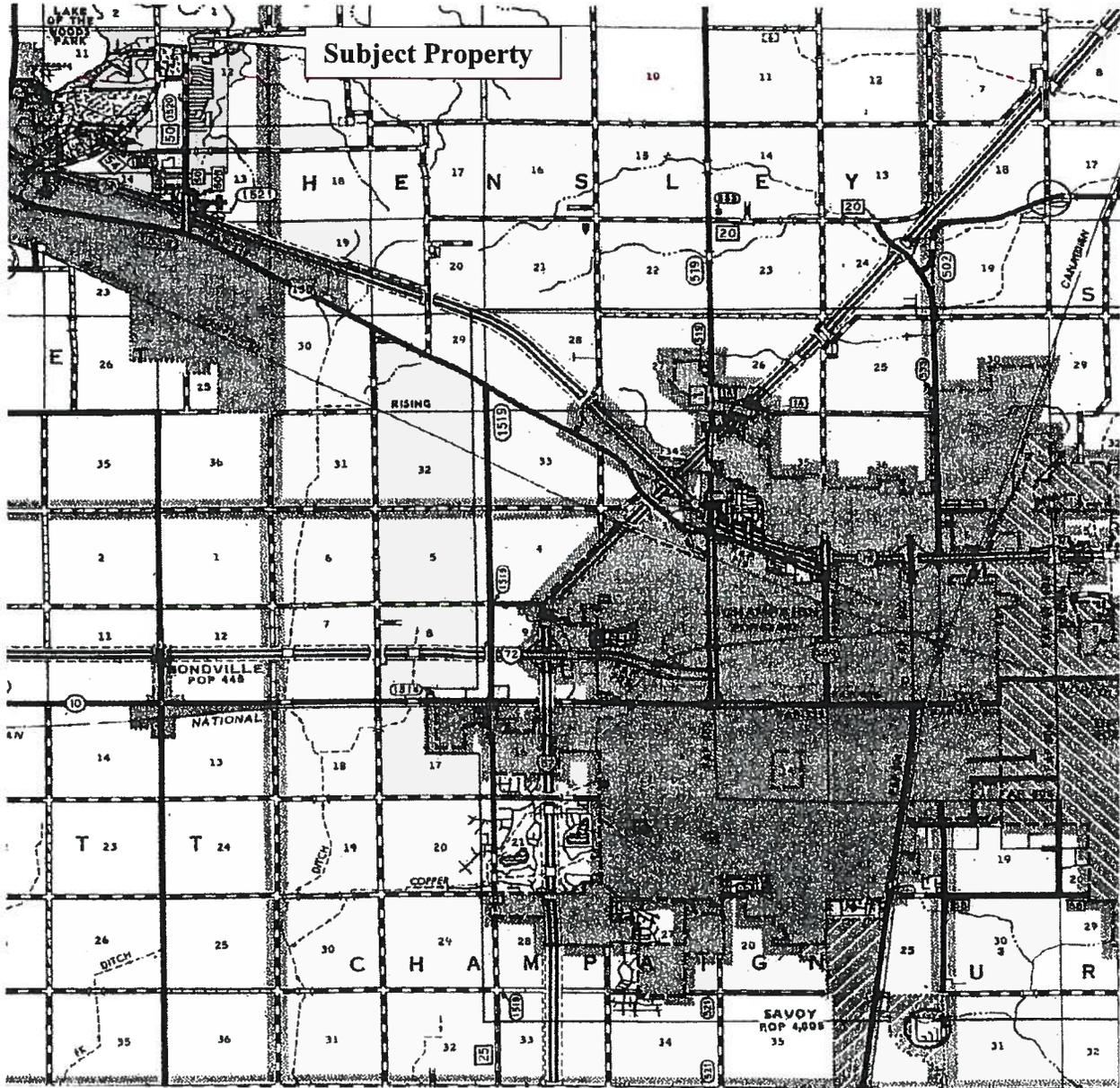
## ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received August 7, 2012
- C Annotated Site Plan
- D Village of Mahomet Major Street Plan Map (portion)
- E Wildwood Estates Subdivision Plat (portion)
- F Draft Summary of Evidence, Finding of Fact, and Final Determination (included separately)

# ATTACHMENT A. LOCATION MAP

Case 729-V-12

October 18, 2012



Champaign  
County  
Department of  
**PLANNING &  
ZONING**

Attachment A: Land Use Map  
Case 729-V-12  
October 18, 2012



 Subject Property

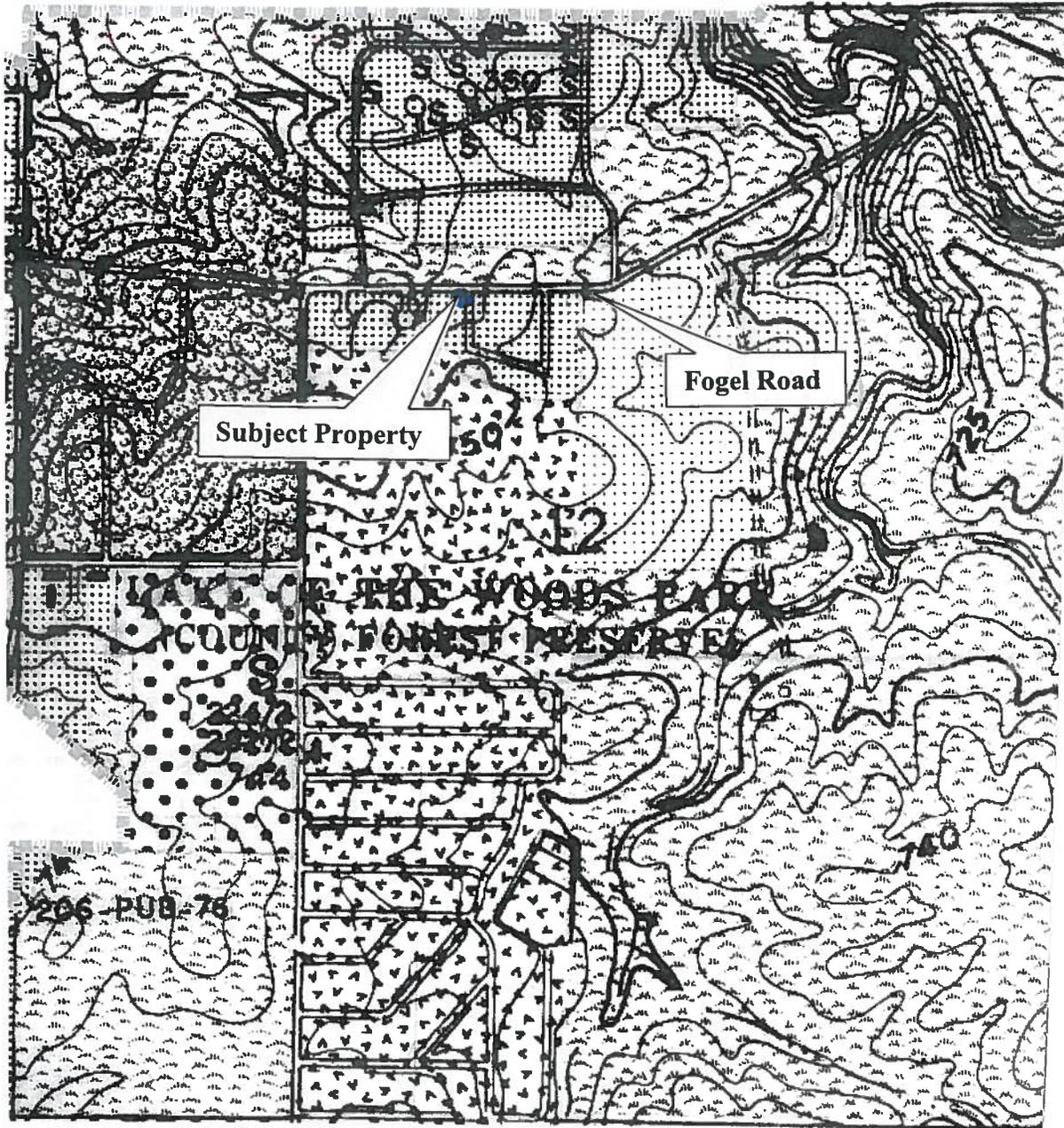
1 inch = 100 feet



# ATTACHMENT A. ZONING MAP

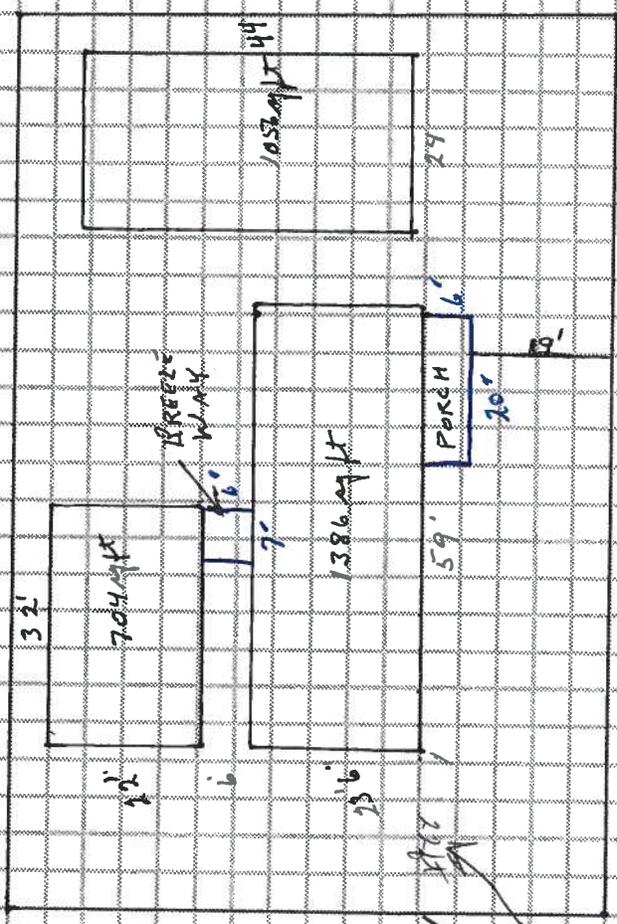
Case: 729-V-12

October 18, 2012



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	 NORTH Champaign County Department of <b>PLANNING &amp; ZONING</b>
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

house 40 ft from edge of road



TO EAST SIDE  
 HOUSES  
 117' 9" 55' 27'

RECEIVED

AUG - 7 2012

CHAMPAIGN CO. P & Z DEPARTMENT

house 44 ft from edge of road





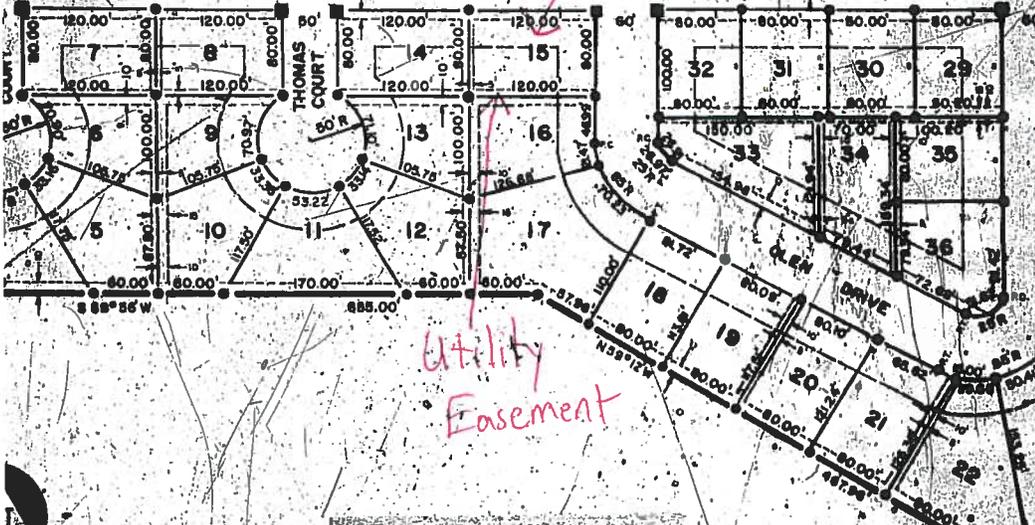
PART OF THE SE 1/4, NW 1/4, SEC. 12, T20N, R7E, 3RD P.M.  
CHAMPAIGN COUNTY, ILLINOIS

*Subject Property*

ROLLING HILLS ESTATE NO. TWO

SOUTH LINE OF ROLLING HILLS ESTATE NO. TWO  
N90°00'E 137.65'

FOGEL ROAD



*Utility Easement*

LEGEND

- METAL PIN INSTRUMENT SET
- CONCRETE INSTRUMENT SET
- UTILITY EASEMENT
- REALINE SET BACK LINE - 20'
- P.C. POINT OF CURVE
- P.T. POINT OF TANGENCY

SCALE 1" = 100'

FILED FOR REC'D 10-23-69 7:45  
DOUGLAS COUNTY

**PRELIMINARY DRAFT**

**729-V-12**

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

---

Final Determination: ***{GRANTED / GRANTED WITH SPECIAL CONDITIONS/ DENIED}***

Date: **October 24, 2012**

Petitioners: **Frank E. Howard**

Request: Authorize the following in the R-1 Single Family Residence Zoning District:

Part A. Variance for lot coverage of 35% in lieu of the maximum allowed 30%;

Part B. Variance for a front yard of 19 feet in lieu of the minimum required 30 feet;

Part C. Variance for a front yard of 22 feet in lieu of the minimum required 25 feet;

Part D. Variance for a front setback of 49 feet from Fogel Road in lieu of the minimum required 75 feet;

Part E. Variance for a front setback of 52 feet from Olen Drive in lieu of the minimum required 55 feet;

Part F. Variance for a side yard of 3.4 feet in lieu of the minimum required 10 feet;

Part G. Variance for a front yard of an existing accessory structure of 27 feet in lieu of the minimum required 30 feet;

Part H. Variance for a front setback for an existing accessory structure of 57 feet from Fogel Road in lieu of the minimum required 75 feet;

Part I. Variance from the visibility triangle requirements for a corner lot;

Part J. Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement.

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**Case 729-V-12 Final Determination..... 18-19**

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 24, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner Frank Howard and Debra Howard own the subject property.
2. The subject property is Lot 15 of Wildwood Estates Subdivision in the Northwest Quarter of Section 12 of Mahomet Township and commonly known as the home at 1105 Olen Drive, Mahomet.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights regarding variances, and are not notified of such cases.

**GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY**

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property is zoned R-1 Single Family Residence, and is in residential use.
  - B. Land to the north is zone AG-2 Agriculture, and is in residential use.
  - C. Land to the south, east, and west of the subject property is zoned R-1 Single Family Residence, and is in residential use.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. Regarding the site plan of the subject site:
  - A. The subject property is a 9,600 square feet (.22 acre) lot.
  - B. The Site Plan includes the following:
    - (1) An existing 59' × 23'6" dwelling that was constructed prior to the adoption of the Zoning Ordinance on October 10, 1973, and is nonconforming in many respects.
    - (2) An existing 22' × 32' detached garage that was also constructed prior to the adoption of the Zoning Ordinance on October 10, 1973, and is nonconforming.
    - (3) An existing 24' × 44' accessory storage shed authorized by ZUPA No. 239-10-02.
    - (4) A proposed 7' × 6' breezeway.
    - (5) A proposed 20' × 6' porch.
    - (6) An indication that the house is 44 feet from the edge of Fogel Road.

***PRELIMINARY DRAFT***

- (7) An indication that the house is 40 feet from the edge of Olen Drive.
  - (8) A front yard of 19 feet on the side facing Fogel Road.
  - (9) A front yard of 22 feet on the side facing Olen Drive.
- C. The requested variance is as follows:
- (1) Variance for lot coverage of 35% in lieu of the maximum allowed 30%.
  - (2) Variance for a front yard of 19 feet in lieu of the minimum required 30 feet.
  - (3) Variance for a front yard of 22 feet in lieu of the minimum required 25 feet.
  - (4) Variance for a front setback of 49 feet from Fogel Road in lieu of the minimum required 75 feet.
  - (5) Variance for a front setback of 52 feet from Olen Drive in lieu of the minimum required 55 feet.
  - (6) Variance for a side yard of 3.4 feet in lieu of the minimum required 10 feet.
  - (7) Variance for a front yard of an existing accessory structure of 27 feet in lieu of the minimum required 30 feet.
  - (8) Variance for a front setback for an existing accessory structure of 57 feet from Fogel Road in lieu of the minimum required 75 feet.
  - (9) Variance from the visibility triangle requirements for a corner lot.
  - (10) Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement.

***GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES***

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
  - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
    - (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.

- (2) “ACCESSORY STRUCTURE” is a STRUCTURE on the same LOT with the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN OR PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE or the main or principal USE.
- (3) “AREA, LOT” is the total area within the LOT LINES.
- (4) “BUILDING, MAIN or PRINCIPAL” is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
- (5) “BUILDING RESTRICTION LINE” is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
- (6) “COVERAGE” is the percentage of the LOT AREA covered by the BUILDING AREA.
- (7) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (8) “LOT, CORNER” is a LOT located:
  - (a) At the junction of and abutting two or more intersecting STREETS; or
  - (b) At the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
  - (c) At and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.
- (9) “LOT LINES” are the lines bounding a LOT.
- (10) “NONCONFORMING LOT, STRUCTURE, OR USE” is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.
- (11) “NONCONFORMING PREMISES” is a NONCONFORMING LOT with a NONCONFORMING STRUCTURE located on it.
- (12) “STREET” is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS

***PRELIMINARY DRAFT***

are identified on the Official Zoning Map according to type of USE, and generally as follows:

- (a) MAJOR STREET: Federal or State highways
  - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
  - (c) MINOR STREET: Township roads and other local roads.
- (13) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- (14) “YARD” is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- (15) “YARD, FRONT” is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- (16) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. Maximum LOT COVERAGE in the R-1 Single Family Residence Zoning District is established in Section 5.3 of the Zoning Ordinance as 30%.
- C. Minimum setbacks from the centerline of a street and minimum FRONT YARD are established in Section 5.3 and Subsection 4.3.2 of the *Zoning Ordinance* as follows:
- (1) The minimum setback from a COLLECTOR STREET is listed in Section 5.3 and Subsection 4.3.2 as 75 feet.
  - (2) Footnote 3 of Section 5.3 further specifies the following:
    - (a) In no case shall the FRONT YARD be less than 30 feet from a COLLECTOR STREET.
    - (b) Footnote 3 provides that where 25% or more of the lots within a block abutting streets other than federal or state highways, were occupied by main or principal structures prior to the effective date of the ordinance (10/1/73), the average of the setback lines of such structures shall be the minimum

setback lines of the remaining vacant lots within such block except where the public health, safety, comfort, morals, or welfare are endangered.

- (3) The minimum setback from a MINOR STREET is listed in Section 5.3 and Subsection 4.3.2 as 55 feet.
  - (4) Footnote 3 of Section 5.3 further specifies the following:
    - (a) In no case shall the FRONT YARD be less than 25 feet from a MINOR STREET.
    - (b) Footnote 3 provides that where 25% or more of the lots within a block abutting streets other than federal or state highways, were occupied by main or principal structures prior to the effective date of the ordinance (10/1/73), the average of the setback lines of such structures shall be the minimum setback lines of the remaining vacant lots within such block except where the public health, safety, comfort, morals, or welfare are endangered.
- D. Minimum SIDE YARD in the R-1 Single Family Residence Zoning District is established in Section 5.3 of the Zoning Ordinance as 10 feet.
- E. Minimum setbacks from the centerline of a street and minimum FRONT YARD are established in Section 5.3 and Subsection 4.3.2 of the *Zoning Ordinance* as follows:
- (1) The minimum setback from a COLLECTOR STREET is listed in Section 5.3 and Subsection 4.3.2 as 75 feet.
  - (2) The minimum setback from a MINOR STREET is listed in Section 5.3 and Subsection 4.3.2 as 55 feet.
  - (3) Footnote 3 of Section 5.3 further specifies the following:
    - (a) In no case shall the FRONT YARD be less than 30 feet from a COLLECTOR STREET.
    - (b) In no case shall the FRONT YARD be less than 25 feet from a MINOR STREET.
    - (b) Footnote 3 provides that where 25% or more of the lots within a block abutting streets other than federal or state highways, were occupied by main or principal structures prior to the effective date of the ordinance (10/1/73), the average of the setback lines of such structures shall be the minimum setback lines of the remaining vacant lots within such block except where the public health, safety, comfort, morals, or welfare are endangered.

**PRELIMINARY DRAFT**

- F. Minimum setbacks for a corner lot from the visibility triangle are established in Subsection 4.3.2 and Subsection 4.3.3 of the *Zoning Ordinance* as follows:
- (1) The minimum visibility triangle for a corner lot is listed in Subsection 4.3.3 as 50 feet from the nearest point of intersection.
- G. Section 4.2.2D. establishes the requirement that no USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement.
- H. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
    - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
    - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
    - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
    - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
    - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
  - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- I. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

*GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT*

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
  - A. The Petitioner has testified on the application, “**1) Small Lot; 2) Existing buildings when purchased.**”
  - B. Regarding Part A of the Variance, the lot exceeds the minimum required lot area of 9,000 square feet with a lot area of 9,600 square feet and meets the minimum average lot width of 80 feet.
  - C. Regarding Parts B and D of the Variance:
    - (1) The existing home was constructed prior to the adoption of zoning in October 1973 and is nonconforming.
    - (2) The proposed porch will decrease the existing setback of 55 feet from Fogel Road to 49 feet, a difference of 6 feet and the existing front yard from the existing 25 feet down to 19 feet, but even without the proposed porch the minimum front yard requirement is not met.
  - D. Regarding Parts C and E of the Variance:
    - (1) The existing home was constructed prior to the adoption of zoning in October 1973 and is nonconforming.
  - E. Regarding Part F of the Variance:
    - (1) The existing garage was constructed prior to the adoption of zoning in October 1973 and is nonconforming.
    - (2) Attaching the garage to the dwelling with the proposed breezeway will make the garage part of the dwelling (the PRINCIPAL BUILDING) which increases the minimum required side yard.
  - F. Regarding Parts G and H of the Variance:
    - (1) The existing accessory building was authorized by ZUPA No. 239-10-02. Staff erred by considering Fogel Road a MINOR STREET. The Village of Mahomet Major Street Plan Map identifies Fogel Road as an arterial street which under the Champaign County Zoning Ordinance is considered a COLLECTOR STREET.
    - (2) The existing accessory building exceeds the minimum front yard and setback requirements for a MINOR STREET.

*PRELIMINARY DRAFT*

- (3) This accessory building could have been placed 3 feet further to the south and would have met the minimum front yard requirement of 30 feet but could not have met the minimum setback requirement of 75 feet without being much smaller.
- G. Regarding Part I of the Variance:
- (1) The subject property is a corner lot and the visibility triangle requirements require that 1,250 square feet of a corner lot not be encroached upon by development to keep the corner of two intersecting streets free from sight obstruction. The subject property is 9,600 square feet in area and is only 600 square feet larger than the minimum required lot area of 9,000 square feet.
  - (2) The existing home was constructed prior to the adoption of zoning in October 1973 and is nonconforming.
- H. Regarding Part J of the Variance:
- (1) The existing garage was constructed prior to the adoption of zoning in October 1973 and is nonconforming.
  - (2) The plat for Wildwood Estates Subdivision indicates a 5 feet wide utility easement at this location.
  - (3) The prohibition on construction in drainage easements and utility easements in paragraph 4.2.2 D. were added to the Zoning Ordinance in Ordinance No. 544 (Case 105-AT-97 Part D) that was adopted on November 18, 1997. The evidence, testimony, and Finding of Fact for Case 105-AT-97 Part D merely discussed that the amendment gave the Zoning Administrator the authority to prevent construction in these areas where construction is not supposed to occur.

*GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE*

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. The Petitioner has testified on the application, **“My wife has had 2 back surgeries that left it difficult for walk from house to garage in bad weather.”**
  - B. Regarding Part A of the Variance:
    - (1) Granting the variance will allow the petitioner to provide a safe area to get from the house to the garage during inclement weather.
    - (2) If the petitioner removed part of the garage that was supposed to be removed when ZUPA No. 239-10-02 was authorized the petitioner would still need a variance from lot coverage requirements with the proposed breeze way and porch.

- C. Regarding Parts B, C, D, E, I, and J of the Variance:
- (1) The existing home and detached garage existed prior to the adoption of zoning in October 1973.
  - (2) The existing front yard and setback from Fogel Road already do not meet the minimum required front yard and setback.
  - (3) Not granting the variance would prevent the petitioner from replacing the home in the event that it is damaged and would prevent the construction of the 6 feet deep porch.
- D. Regarding Part F of the Variance, not granting the variance will not change the location of the existing garage but it will prevent the breezeway connection.
- E. Regarding Parts G and H of the Variance:
- (1) The existing accessory building was authorized by ZUPA No. 239-10-02. During the review of this permit application staff mistakenly classified Fogel Road as a MINOR STREET when it should have been classified as a COLLECTOR STREET.
  - (2) However, if staff had reviewed the ZUPA correctly this accessory building could not have exceeded 30 feet in length in order to meet the actual required setback from Fogel Road.

***GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT***

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioner has testified on the application, “No.”
  - B. Regarding Part A of the Variance:
    - (1) When ZUPA No. 239-10-02 was authorized the petitioner indicated that he would remove a shed and a portion of the existing garage in order to stay below the maximum allowed lot coverage. The shed was removed, but the portion of the garage was not. The petitioner has proposed additional square footage for a breezeway to the garage to make it easier to get from the house to the garage and also proposed a modest porch on the front of the house.
  - C. Regarding Parts B, C, D, E, F, I, and J of the Variance:
    - (1) The existing home and detached garage existed prior to the adoption of zoning in October 1973.

***PRELIMINARY DRAFT***

- (2) The existing front yard and setback from Fogel Road already do not meet the minimum required front yard and setback.
  
- D. Regarding Parts G and H of the Variance, the existing accessory building was authorized by ZUPA No. 239-10-02. During the review of this permit application staff mistakenly classified Fogel Road as a MINOR STREET when it should have been classified as a COLLECTOR STREET. However, if staff had reviewed the ZUPA correctly this accessory building could not have exceeded 30 feet in length in order to meet the actual required setback from Fogel Road.

***GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE***

- 10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
  - A. The Petitioner has testified on the application, **“Addition of breezeway will not affect side, rear, or front yard – porch will only be 19 feet from front yard.”**
  
  - B. Regarding Part A of the Variance:
    - (1) The requested variance for a lot coverage of 35% is 116% of the maximum allowed 30% for a variance of 16%.
  
    - (2) Presumably the maximum lot coverage requirements are intended to allow for considerations such as adequate light, air, and recreational areas.
  
  - C. Regarding Parts B and D of the Variance:
    - (1) The requested variance for a front yard of 19 feet is 63% of the minimum required 30 feet for a variance of 37%.
  
    - (2) The requested variance for a front setback of 49 feet from Fogel Road is 65% of the minimum required 75 feet for a variance of 35%.
  
  - D. Regarding Parts C and E of the Variance:
    - (1) The requested variance for a front yard of 22 feet is 88% of the minimum required 25 feet for a variance of 12%.
  
    - (2) The requested variance for a front setback of 52 feet from Olen Drive is 94% of the minimum required 55 feet for a variance of 6% which is within the allowable range for an Administrative Variance.
  
  - E. Regarding Part F of the Variance:
    - (1) The requested variance for a side yard of 3.4 feet is 34% of the minimum 10 feet required for a variance of 66%.

- (2) The Zoning Ordinance does not clearly state the considerations that underlay the side yard requirements. In general, the side yard is presumably intended to ensure the following:
    - (a) Adequate light and air: The subject property is in residential use. The properties to the north, south, east, and west are in residential use.
    - (b) Separation of structures to prevent conflagration: The subject property is within the Cornbelt Fire Protection District and the station is approximately 3.3 miles from the subject property. The nearest structure from the existing garage is a detached garage on the property to the south and it is approximately 11 feet from the shared property line.
    - (c) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
- F. Regarding Parts G and H of the Variance:
- (1) The requested variance for a front yard for an existing accessory building of 27 feet is 90% of the minimum required 30 feet for a variance of 10% which is within the allowable range for an Administrative Variance.
  - (2) The requested variance for a front setback for an existing accessory building of 57 feet from Fogel Road is 76% of the minimum required 75 feet for a variance of 24%.
- G. Regarding Part I of the Variance:
- (1) The requested variance from the visibility triangle requirements is 99% of the 1250 square feet area required to be free from obstruction for a variance of 1%.
  - (2) The purpose of the visibility triangle is to ensure that construction on a corner lot does not obstruct views. The requested variance is minimal and will not cause obstructed views and there is a stop sign at the corner of Olen Drive and Foegel Road.
- H. Regarding Part J of the Variance:
- (1) The requested variance from Section 4.2.2 D. requirements for a side yard of 3.4 feet is 68% of the existing 5 feet wide utility easement for a variance of 32%.
  - (2) The prohibition on construction in drainage easements and utility easements in paragraph 4.2.2 D. were added to the Zoning Ordinance in Ordinance No. 544 (Case 105-AT-97 Part D) that was adopted on November 18, 1997. The evidence,

**PRELIMINARY DRAFT**

testimony, and Finding of Fact for Case 105-AT-97 Part D merely discussed that the amendment gave the Zoning Administrator the authority to prevent construction in these areas where construction is not supposed to occur.

- I. The requested variance is not prohibited by the *Zoning Ordinance*.

**GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE**

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application that, “**Porch will not hinder visibility.**”
  - B. The Township Road Commissioner has received notice of this variance but no comments have been received.
  - C. The Fire Protection District has been notified of this variance but no comments have been received.
  - D. The proposed construction and use of the property is consistent with other uses in the neighborhood.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

12. Regarding proposed special conditions of approval:

*No Special Conditions of Approval are proposed*

**DOCUMENTS OF RECORD**

1. Variance Application received on August 7, 2012, with attachment:
  - A Site Plan
2. Zoning Use Permit Application (Number to be assigned upon payment)
3. Village of Mahomet Major Street Plan Map
4. Wildwood Estates Plat of Subdivision
5. Zoning Use Permit No. 239-10-02 file
6. Preliminary Memorandum dated October 18, 2012, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received August 7, 2012
  - C Annotated Site Plan
  - D Village of Mahomet Major Street Plan Map (portion)
  - E Wildwood Estates Subdivision Plat (portion)
  - F Draft Summary of Evidence, Finding of Fact, and Final Determination

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **729-V-12** held on **October 24, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because:\_\_\_\_\_

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7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW;}***

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 729-V-12 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Frank Howard** to authorize the following in the R-1 Single Family Residence Zoning District:

- Part A. Variance for lot coverage of 35% in lieu of the maximum allowed 30%;**
- Part B. Variance for a front yard of 19 feet in lieu of the minimum required 30 feet;**
- Part C. Variance for a front yard of 22 feet in lieu of the minimum required 25 feet;**
- Part D. Variance for a front setback of 49 feet from Fogel Road in lieu of the minimum required 75 feet;**
- Part E. Variance for a front setback of 52 feet from Olen Drive in lieu of the minimum required 55 feet;**
- Part F. Variance for a side yard of 3.4 feet in lieu of the minimum required 10 feet;**
- Part G. Variance for a front yard of an existing accessory structure of 27 feet in lieu of the minimum required 30 feet;**
- Part H. Variance for a front setback for an existing accessory structure of 57 feet from Fogel Road in lieu of the minimum required 75 feet;**
- Part I. Variance from the visibility triangle requirements for a corner lot;**
- Part J. Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement.**

*{SUBJECT TO THE FOLLOWING CONDITION(S):}*

***PRELIMINARY DRAFT***

**Case 729-V-12  
Page 19 of 19**

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

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals  
Date

# CASE NO. 730-V-12

PRELIMINARY MEMORANDUM

October 18, 2012

Champaign  
County  
Department of

**PLANNING &  
ZONING**

**Petitioners:** Dale and Cheri Rapp

**Request:** Authorize the following in the CR Conservation-Recreation Zoning District:

- Part A. Variance for lot coverage of 21% in lieu of the maximum allowed 20%.
- Part B. Variance for a front setback for an existing nonconforming dwelling of 39 feet from the centerline of Cottonwood Road in lieu of the minimum required 75 feet.
- Part C. Variance for a front yard for an existing nonconforming dwelling of 19 feet in lieu of the minimum required 30 feet.
- Part D. Variance for a rear yard for an existing accessory building of 4 feet in lieu of the minimum required 10 feet, on the following property:

**Subject Property:** A 1 acre tract in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 1 of Urbana Township and commonly known as the home at 1604 North Cottonwood Road, Urbana.

**Site Area:** 1 acre

**Time Schedule for Development:** Unknown

**Prepared by:** **Andy Kass**  
Associate Planner

**John Hall**  
Zoning Administrator

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## BACKGROUND

The petitioner's property is a one acre lot that has an existing home with an attached garage and porch (ZUPA No. 198-98-05), detached garage/shop (later addition), a small shed, and a proposed guest cottage. In the future the petitioner intends to add a small expansion to the home to install a handicapped accessible elevator. The home, attached garage and detached garage existed prior to the adoption of zoning in October 1973.

The 50' × 74' addition to the detached garage was authorized by ZUPA No. 119-04-04. When that permit was authorized the approved site plan indicated that the rear yard for the addition would be approximately 12½ feet from the rear property line. The petitioner has indicated that at that time he understood the rear property line to be a fence that was installed by the University of Illinois in 1942. Since then the petitioner has found that the fence line is not the rear property line and that the shed is only 4 feet from the rear property line.

The proposed guest cottage will be used by the petitioner and his wife so that his daughter's family can move into the existing home on the property. The floor plan for the guest cottage indicates that there will not be a kitchen. The guest cottage will utilize the existing septic system that serves the library that is attached to the existing garage/shop.

The existing home was built in 1895 as indicated by the petitioner. Cottonwood Road is indicated as an arterial street on the Mobility Map in the 2005 City of Urbana Comprehensive Plan. The Zoning Ordinance defines arterial streets as a collector street which is why the front setback and front yard requirement for the property is more than it would be if the street was a minor street. The purpose of Parts B and C of the request is to merely allow replacement of the home in the same footprint in the event the home is destroyed.

## EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Urban, a municipality with zoning. Municipalities are not notified of Variance cases.

## EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Residential	CR Conservation-Recreation
North	Agriculture*	CR Conservation-Recreation
East	Prairie Preserve/Agriculture*	CR Conservation-Recreation
West	Agriculture*	AG-2 Agriculture
South	Agriculture	CR Conservation-Recreation

\* University of Illinois Research Land

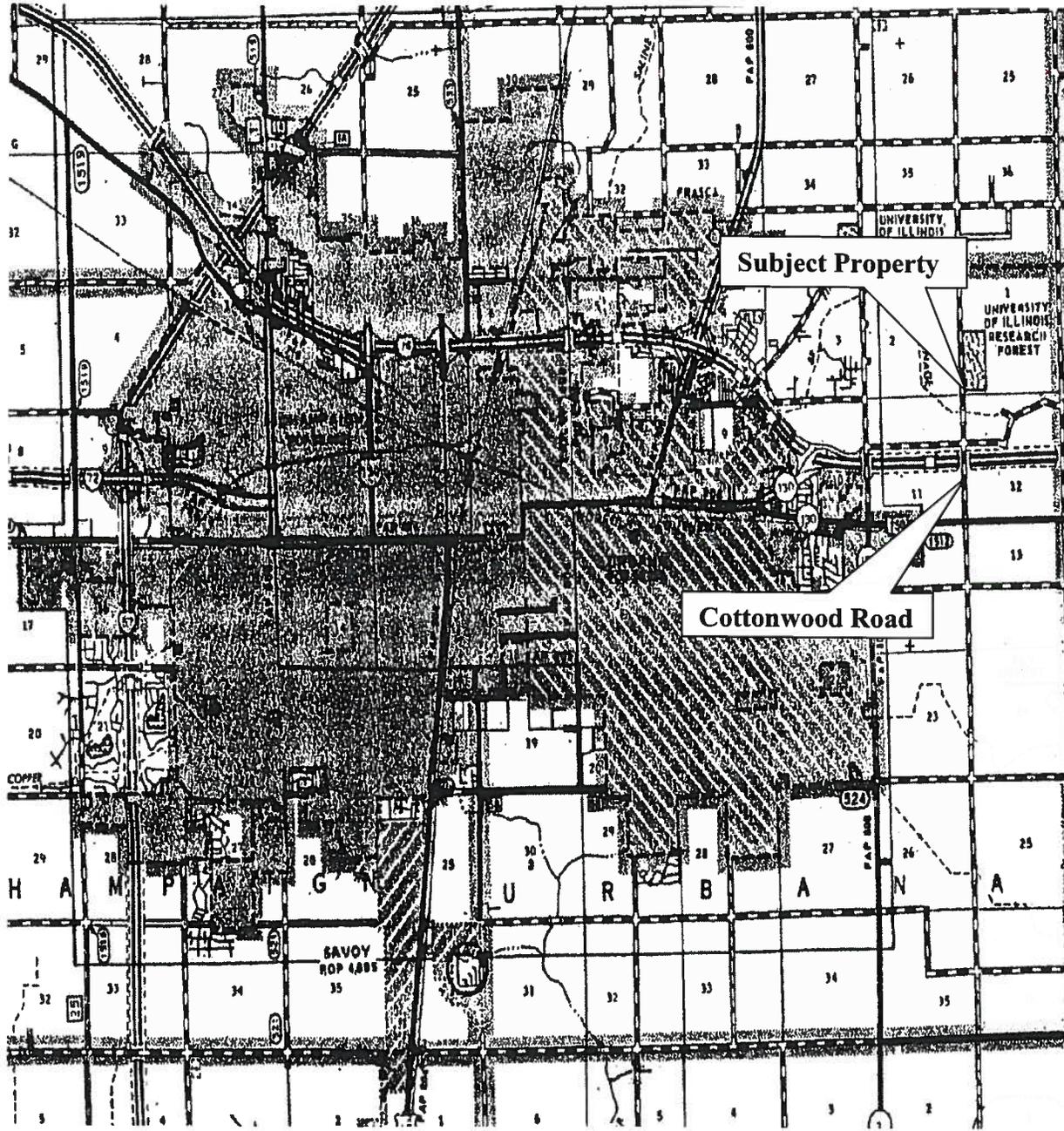
## ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received August 13, 2012
- C Guest Cottage Floor Plan received August 7, 2012
- D Plat of Survey received August 10, 2012
- E Site Events List received August 10, 2012
- F Draft Summary of Evidence, Finding of Fact, and Final Determination (included separately)

ATTACHMENT A. LOCATION MAP

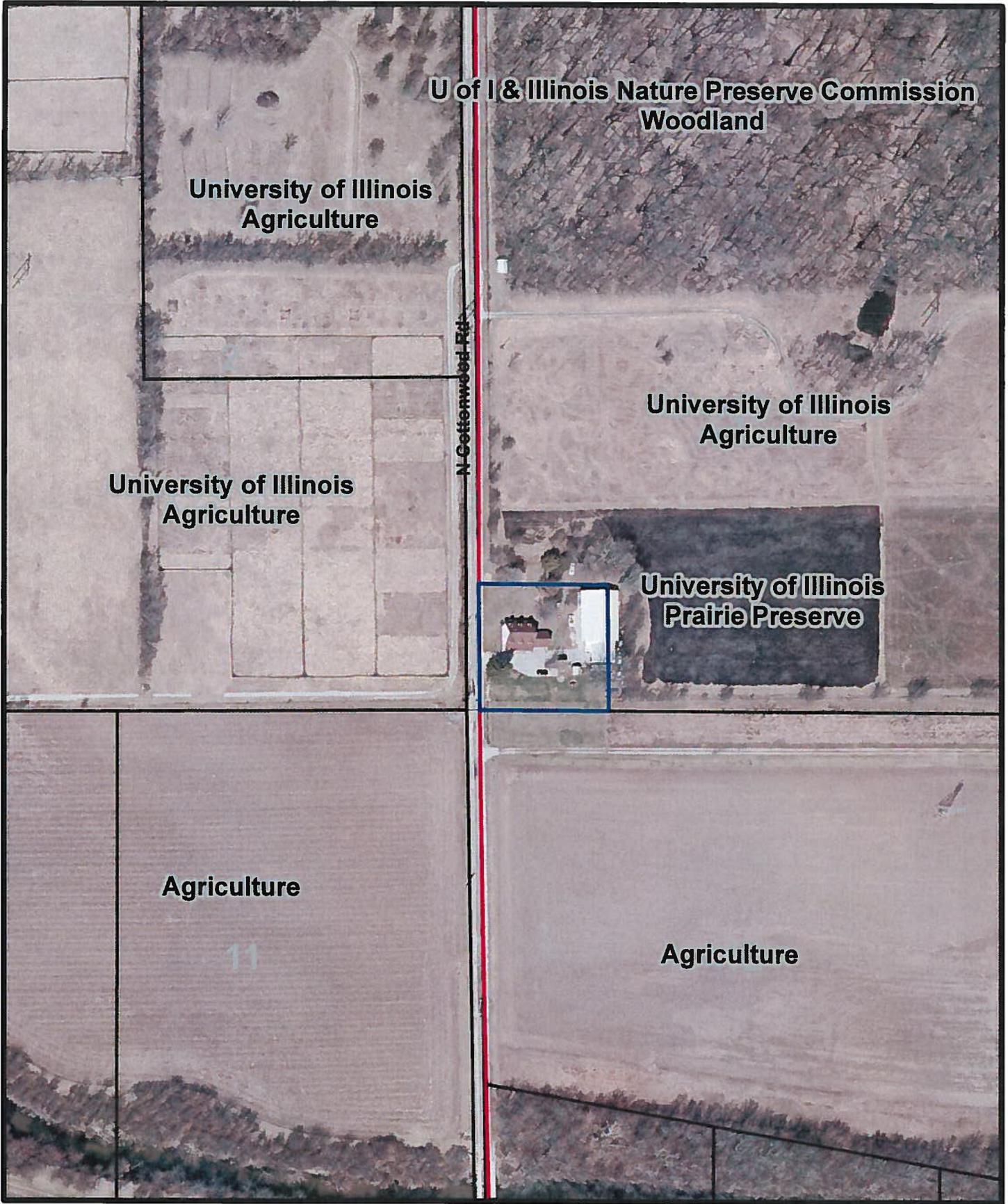
Case 730-V-12

October 18, 2012



Champaign  
County  
Department of  
**PLANNING &  
ZONING**

Attachment A: Land Use Map  
Case 730-V-12  
October 18, 2012



 Subject Property

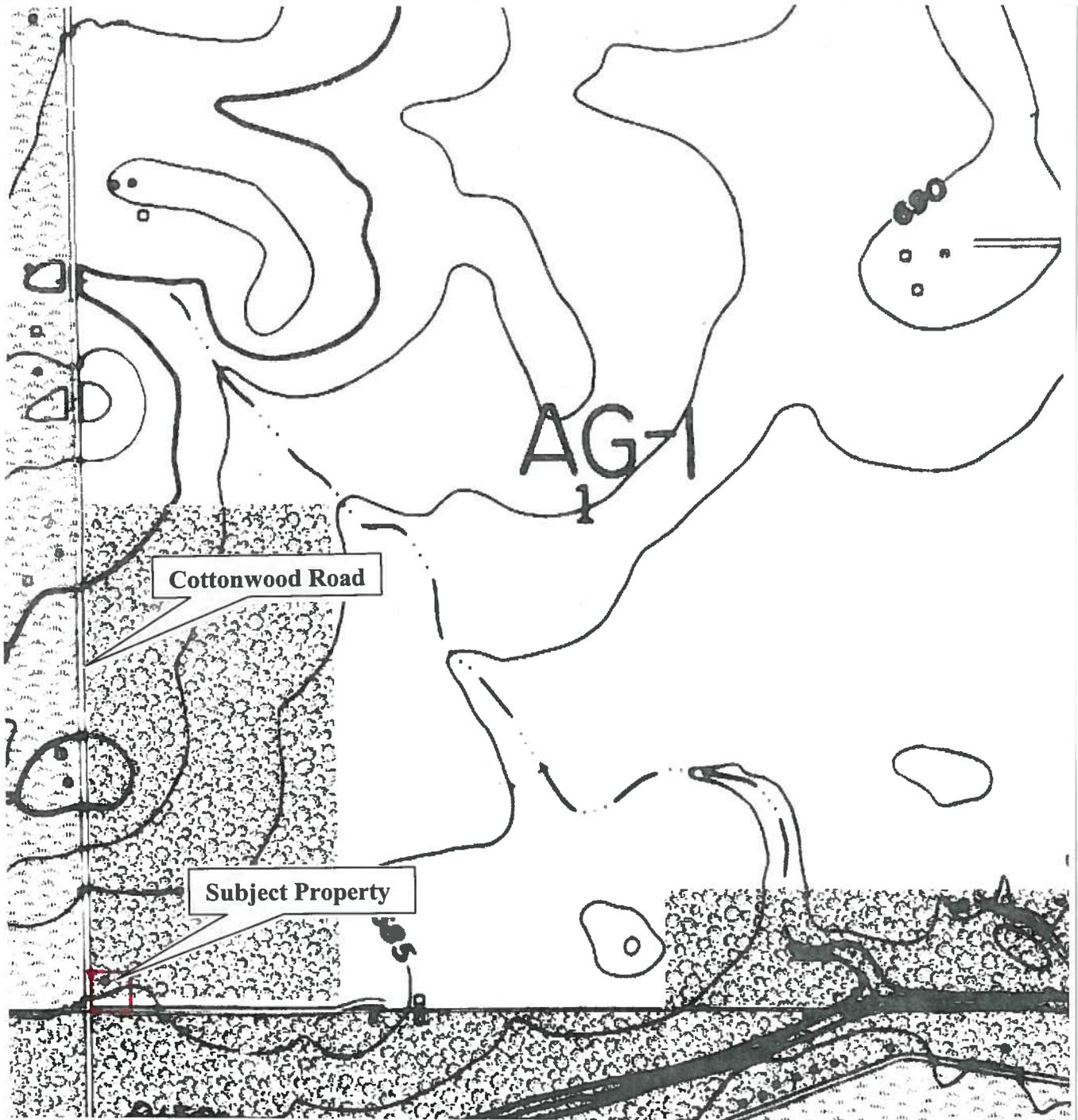
1 inch = 200 feet



# ATTACHMENT A. ZONING MAP

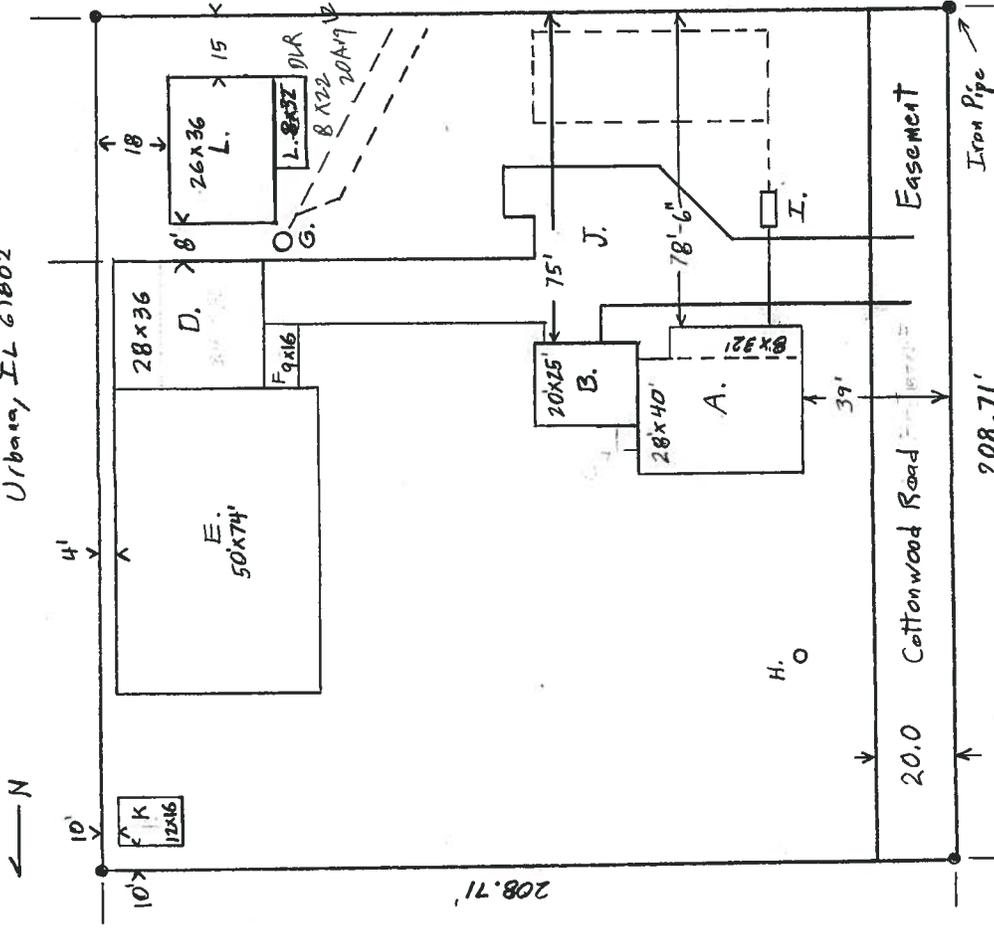
Case: 730-V-12

October 18, 2012



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	NORTH <b>Champaign County</b> Department of <b>PLANNING &amp; ZONING</b>
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

Site Plan Dale Raff  
1604 N. Cottonwood Rd.  
Urbana, IL 61802



(A) House converted from one story Blockberry School in 1958. Structure built in 1895. 1876 ft.<sup>2</sup>

(B) Attached garage added in 1958.

(D) Old Garage 1960's 1008 ft.<sup>2</sup>

(E) New shop 2004 3700 ft.<sup>2</sup>

(F) Library w/ bath 2004 144 ft.<sup>2</sup>

(G) Library septic + Leach field

(H) Deep well

(I) House septic & leach field

(J) Driveway

(K) Yard Barn

(L) Guest Cottage "Proposed" 1112 ft.<sup>2</sup>

26x36 w/ 8x22 attached screened porch

15 ft side set back

18 ft rear set back

Height Peak 16'-6"

Eave 9

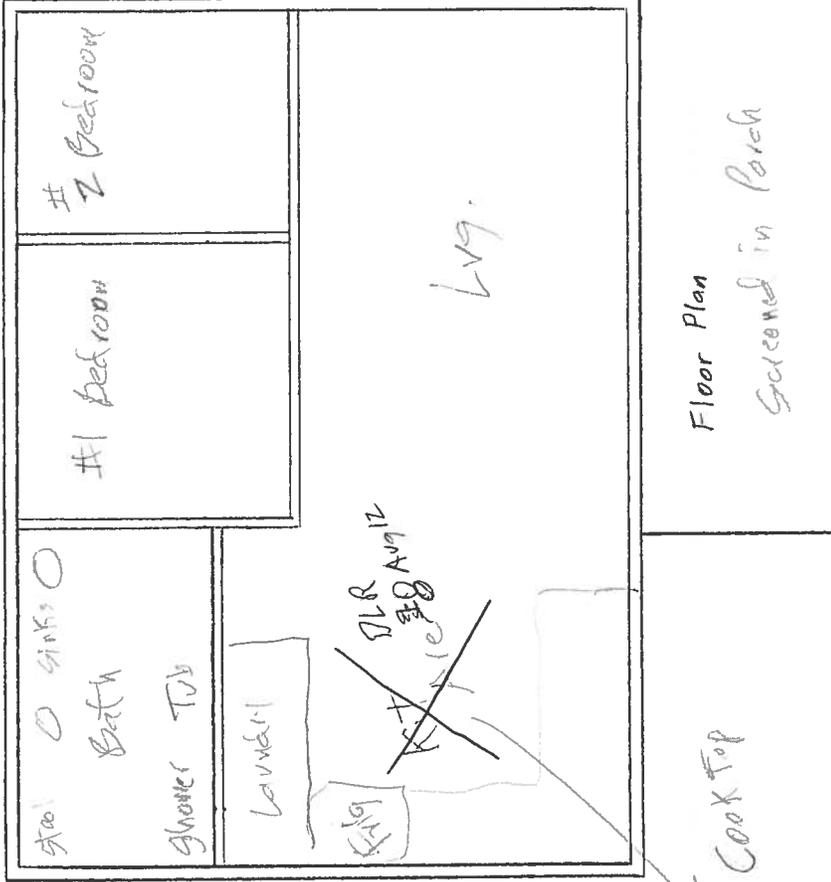
1 Acre = 43,560 ft.<sup>2</sup>  
Easement = 4174 ft.<sup>2</sup>  
39,386 ft.<sup>2</sup>  
x .20  
7,877 Max. foot print  
7,840 Proposed, Leaves  
37 ft.<sup>2</sup> for handicap  
elevator at later time

RECEIVED  
AUG 13 2012  
CHAMPAIGN CO. P & Z DEPARTMENT

# Guest Cottage Floor Plan

← N

36



26

RECEIVED

AUG - 7 2012

CHAMPAIGN CO. P & Z DEPARTMENT

RECEIVED

AUG 10 2012

CHAMPAIGN CO. P & Z DEPARTMENT

Dale Rapp Site Events:

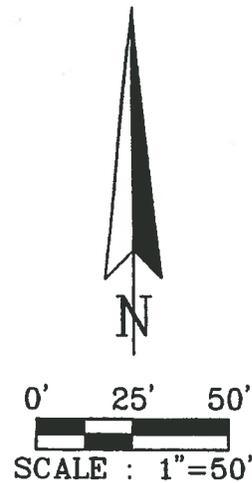
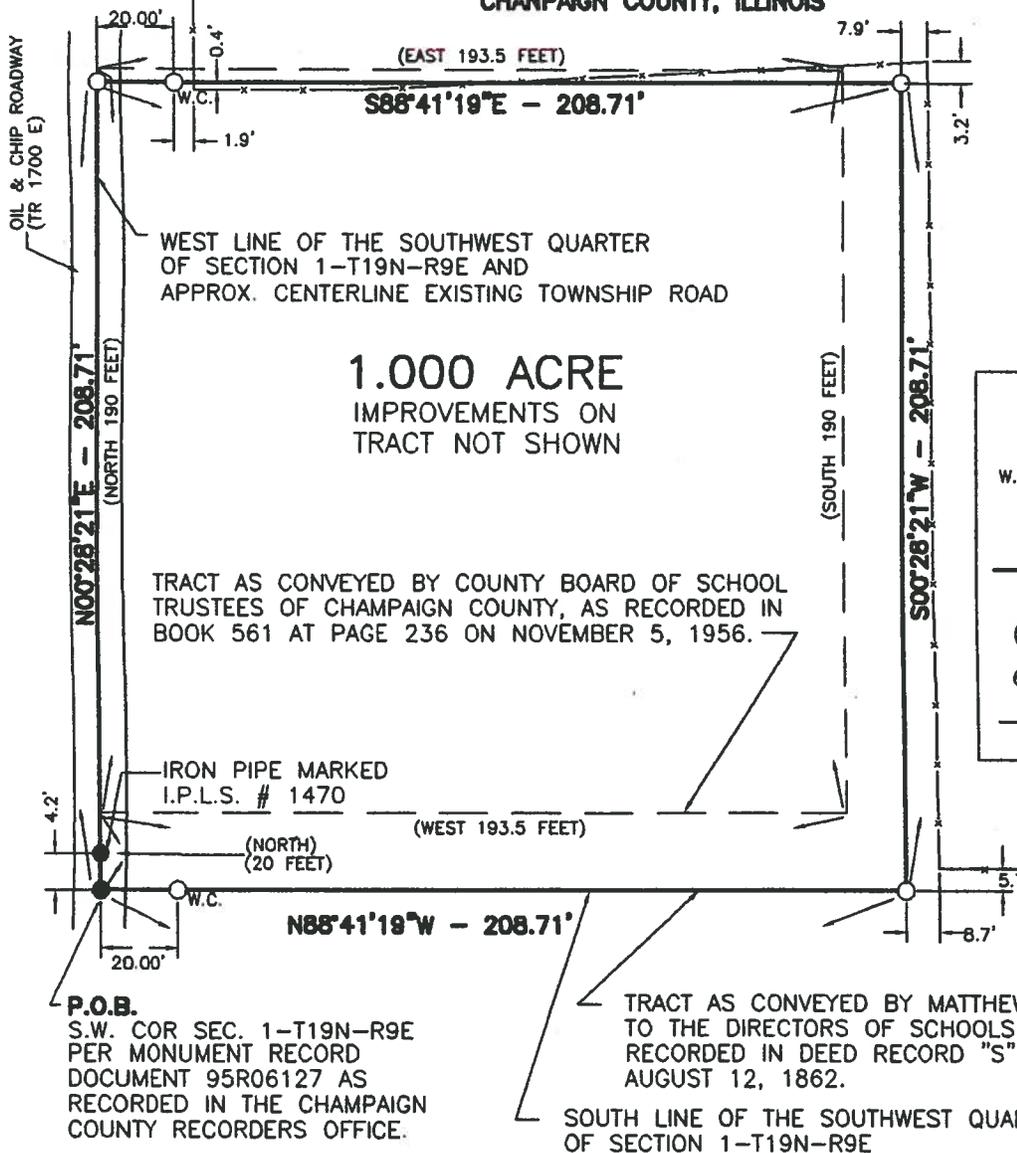
1. 1832 S.W. quarter of section 1 homesteaded. Log cabin built in S.W. corner.
2. 1862 Matthew & Sarah Busey donate 1 square acre in S.W. corner of section 1, for District 4 school.
3. 1865 1st Framed school house built. Called Blackberry.
4. 1895 1st school building removed, and present 28'x40' house structure was built.
5. Steve Buck UofI supervisor of Trelease prairie stated that the present 80-100yr. old hackberry trees that are on the north & east boundary lines, were used as markers for property lines. The UofI and ourselves have a good working relationship. Having recently shared the cost of removing a large branch from one of those boundary trees.
6. 1942 UofI purchases the Trelease property and installed a woven wire fence on the north and east sides. Apparently no survey was made as the fence is displaced to the east by 8.7 ft on the south end and off by 7.9 ft. on the north end.
7. All of which sets up the cause for the old shop and the approval for the new shop to be positioned 4 ft. from the east boundary.
8. 1956 In a conversation with elderly neighbor Buren Reese past member of the school board, he and others took a tape measure and measured the fence in place at that time surrounding the school and sold at auction a site that measured 190 ft x 193.5 ft.
9. 2001 The 1956 tract dimensions were corrected by prior owners, all except the south most 20 ft. that we received a quit claim deed from St. Joseph School district in 2001.

# RECEIVED RAPP SURVEY

AUG 10 2012

CHAMPAIGN CO. P & Z DEPARTMENT

OF  
A PART OF THE SOUTHWEST QUARTER  
OF SECTION 1, TOWNSHIP 19 NORTH.  
RANGE 9 EAST OF THE 3rd P.M.  
CHAMPAIGN COUNTY, ILLINOIS



LEGEND	
○	SET IRON ROD
W.C. ○	WITNESS CORNER SET
●	FOUND IRON ROD
—	BOUNDARY OF TRACT SURVEYED
(66')	RECORDED DIMENSION
66.51'	MEASURED DIMENSION
—x—	FENCE LINE

### LEGAL DESCRIPTION

A tract of land being a part of the Southwest Quarter of Section 1, Township 19 North, Range 9 East of the Third Principal Meridian as conveyed by Matthew E. and Sarah A. Busey to the Directors of Schools of District 4, Township Nineteen North, Range Nine (9) East and their successors in office as recorded in Deed Record "S" at Page 468 on August 12, 1862, the boundary of which is described as follows:

One acre in a square form in the Southwest corner of Section Number One (1), Township Number Nineteen (19) North of Range Nine (9) East for a school house site for the use of said School District Number Four (4), Township Nineteen (19) North, Range Nine (9) East

more particularly as follows:

beginning at the Southwest corner of Section 1, Township Nineteen (19) North, Range Nine (9) East, of the Third Principal Meridian, proceed North 00° 28' 21" East 208.71 feet along the West line of the Southwest Quarter of said Section 1; thence South 88° 41' 19" East 208.71 feet parallel to the South line of said Southwest Quarter; thence South 00° 28' 21" West 208.71 feet parallel to the West

**PRELIMINARY DRAFT**

**730-V-12**

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

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Final Determination: ***{GRANTED / GRANTED WITH SPECIAL CONDITIONS/ DENIED}***

Date: **October 24, 2012**

Petitioners: **Dale and Cheri Rapp**

Request: Authorize the following in the CR Conservation-Recreation Zoning District:

Part A. Variance for lot coverage of 21% in lieu of the maximum allowed 20%;

Part B. Variance for a front setback for an existing nonconforming dwelling of 39 feet from the centerline of Cottonwood Road in lieu of the minimum required 75 feet;

Part C. Variance for a front yard for an existing nonconforming dwelling of 19 feet in lieu of the minimum required 30 feet;

Part D. Variance for a rear yard for an existing accessory building of 4 feet in lieu of the minimum required 10 feet.

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 24, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners Dale and Cheri Rapp own the subject property.
2. The subject property is a 1 acre tract in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 1 of Urbana Township and commonly known as the home at 1604 North Cottonwood Road, Urbana.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Urbana, a municipality with zoning. Municipalities do not have protest rights regarding variances, and are not notified of such cases.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property is zoned CR Conservation-Recreation, and is in residential use.
  - B. Land to the north is zoned CR Conservation-Recreation, and is in agricultural use by the University of Illinois for research purposes.
  - C. Land to the east is zoned CR Conservation-Recreation, and is in prairie preserve/agricultural use by the University of Illinois for research purposes.
  - D. Land to the west is zoned AG-2 Agriculture, and is in agricultural use by the University of Illinois for research purposes.
  - E. Land to the south is zoned CR Conservation-Recreation, and is in agricultural use.

***GENERALLY REGARDING THE PROPOSED SITE PLAN***

5. Regarding the site plan of the subject site:
  - A. The subject property is a 1 acre lot.
  - B. The Site Plan includes the following:
    - (1) An existing 28' × 40' home with an 8' × 32' covered porch that was authorized by ZUPA No. 198-98-05 with a front setback from Cottonwood Road of 39 feet (Parts B and C).
    - (2) An existing 20' × 25' attached garage.
    - (3) An existing 28' × 38' detached garage with a rear yard of 4 feet (Part D).

- (4) An existing 50' × 74' addition to the detached garage (Part D). This addition was authorized by ZUPA No. 119-04-04 with a rear yard of 4 feet.
  - (5) A 9' × 16' library and bathroom addition to the detached garage.
  - (6) A proposed 26' × 36' guest cottage with an 8' × 22' screened porch in the northeast corner of the property.
  - (7) An existing 12' × 16' yard barn in the northwest corner of the subject property. This shed is subject to the approval of the ZUPA filed for the proposed guest cottage.
  - (8) The locations of two existing septic systems and leach fields.
  - (9) The location of the deep well.
  - (10) An indication of a 20 feet right-of-way easement from the front property line.
- C. The requested variance is as follows:
- (1) Variance for lot coverage of 21% in lieu of the maximum allowed 20%.
  - (2) Variance for a front setback for an existing nonconforming dwelling of 39 feet from the centerline of Cottonwood Road in lieu of the minimum required 75 feet.
  - (3) Variance for a front yard for an existing nonconforming dwelling of 19 feet in lieu of the minimum required 30 feet.
  - (4) Variance for a rear yard for an existing accessory building of 4 feet in lieu of the minimum required 10 feet.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
  - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
    - (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.

***PRELIMINARY DRAFT***

- (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT with the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN OR PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE or the main or principal USE.
- (3) "AREA, LOT" is the total area within the LOT LINES.
- (4) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
- (5) "COVERAGE" is the percentage of the LOT AREA covered by the BUILDING AREA.
- (6) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (7) "LOT LINES" are the lines bounding a LOT.
- (8) "NONCONFORMING LOT, STRUCTURE, OR USE" is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.
- (9) "NONCONFORMING PREMISES" is a NONCONFORMING LOT with a NONCONFORMING STRUCTURE located on it.
- (10) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
  - (a) MAJOR STREET: Federal or State highways
  - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
  - (c) MINOR STREET: Township roads and other local roads.
- (11) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- (12) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT

LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

- (13) "YARD, FRONT" is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL
- (14) STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- (15) "YARD, REAR" is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.

D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:

- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
  - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
  - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
  - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
  - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
  - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.

*PRELIMINARY DRAFT*

- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

*GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT*

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application, **“The 1960s garage was built before zoning regulations established. The new shop was built assuming same conditions existed.”**
- B. Regarding Part A of the Variance, the subject property is a nonconforming lot of record that is only 1.00 acre in area including the adjacent right-of-way which takes up the west 20 feet of the property. The subject property is only .904 acre (39,386 square feet) in area if the right-of- way is not included.
- C. Regarding Parts B and C of the Variance:
- (1) The existing nonconforming dwelling was constructed prior to the adoption of zoning in October 1973.
  - (2) Appendix D of the 2005 City of Urbana Comprehensive Plan is a Mobility Map and indicates that Cottonwood Road is Minor Arterial Street. Since the City considers this an arterial street, under the Champaign County Zoning Ordinance this road is considered a COLLECTOR STREET.
  - (3) The petitioner has indicated that the existing home was built in 1895.
- D. Regarding Part D of the Variance:
- (1) The petitioner has indicated that he thought the rear property line was demarcated by a fence line that was installed by the University of Illinois in 1942.
  - (2) The petitioner received ZUPA No. 119-04-04 to construct the addition to the existing detached garage that was built prior to the adoption of zoning in October 1973. Since the addition was built the petitioner learned that the rear property line is closer than what he originally thought.

***GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE***

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioner has testified on the application, **“Building is already built and is use since 2004. I did not set out to intentionally disobey zoning regulations.”**
  - B. Regarding Part A of the Variance:
    - (1) The requested variance is the minimum amount of variation that will accommodate the petitioner’s proposed construction projects for a guest cottage and an expansion of the existing home to add a handicapped accessible elevator.
    - (2) This request is necessary to allow the petitioner to construct a proposed 1,112 square feet guest cottage on the subject property and to expand the footprint to the existing home by 200 square feet to add a handicapped accessible elevator in the future.
    - (3) Without the requested variance in Part A either the proposed guest cottage would have to be reduced in size or some other existing building would have to be reduced in area.
  - C. Regarding Parts B and C of the Variance:
    - (1) The existing nonconforming dwelling was constructed prior to the adoption of zoning in October 1973.
    - (2) The petitioner has indicated that the existing home was built in 1895.
  - D. Regarding Part D of the Variance:
    - (1) The petitioner has indicated that he thought the rear property line was demarcated by a fence line that was installed by the University of Illinois in 1942.
    - (2) The petitioner received ZUPA No. 119-04-04 to construct the addition to the existing detached garage that was built prior to the adoption of zoning in October 1973. Since the addition was built the petitioner learned that the rear property line is closer than what he originally thought.
    - (3) Without the requested variance the addition to the garage is a violation of the Zoning Ordinance.

*PRELIMINARY DRAFT*

*GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT*

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. The Petitioner has testified on the application, **“I made the mistake of believing prior site owner that the fences marked properly the 1 acre site.**
  - B. Regarding Part A of the Variance:
    - (1) The petitioner has constructed 4,292 square feet of building area since acquiring the property.
    - (2) Part A of the variance would not be required if the lot area was 1.00 acre in addition to the right-of-way.
  - C. Regarding Parts B and C of the Variance:
    - (1) The existing nonconforming dwelling was constructed prior to the adoption of zoning in October 1973.
  - D. Regarding Part D of the Variance:
    - (1) The petitioner has indicated that he thought the rear property line was demarcated by a fence line that was installed by the University of Illinois in 1942.
    - (2) The petitioner received ZUPA No. 119-04-04 to construct the addition to the existing detached garage that was built prior to the adoption of zoning in October 1973. Since the addition was built the petitioner learned that the rear property line is closer than what he originally thought.

*GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE*

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
  - A. The Petitioner has testified on the application, **“Fortunately it is not built on state property. With the excellent relationship that we have with Steve Buck U of I Supervisor, the closer setback is not a problem with Trelease Prairie purposes.”**
  - B. The requested variance is as follows:
    - (1) The requested variance for a lot coverage of 21% is 105% of the maximum allowed 20% for a variance of 5%.
    - (2) The requested variance for a front setback from the centerline of Cottonwood Road for an existing nonconforming dwelling of 39 feet is 52% of the minimum required 75 feet for a variance of 48%.

- (3) The requested variance for a front yard for an existing nonconforming dwelling of 19 feet is 63% of the minimum required 30 feet for a variance of 37%.
  - (4) The requested variance for a rear yard for an existing accessory building of 4 feet is 40% of the minimum required 10 feet for a variance of 60%.
- C. Regarding Part A of the Variance, presumably the maximum lot coverage requirements are intended to allow for considerations such as adequate light, recreational areas, and areas for septic systems. The subject property has adequate area for all of these considerations.
- D. Regarding Parts B and C of the Variance, the Zoning Ordinance does not clearly state the considerations that underlay the front setback and front yard requirements. Presumably the front setback and front yard are intended to ensure the following:
- (1) Adequate separation from roads.
  - (2) Allow adequate area for road expansion and right-of-way acquisition.
- E. Regarding Part D of the Variance, the Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. Presumably a rear yard is intended to ensure the following:
- (1) A minimum amount of onsite recreational area. There is adequate recreational area elsewhere on the property.
  - (2) Area for a septic system, when necessary. There is a septic system installed elsewhere on the property the services the existing building.
  - (3) Adequate light and air: The subject property is in residential use. The properties to the south, east, and west are in.
  - (4) Separation of structures to prevent conflagration: The subject property is within the Carroll Fire Protection District and the station is approximately 3 miles from the subject property. The nearest structure to the shed is approximately 950 to the south of the subject property.
  - (5) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
- F. The requested variance is not prohibited by the *Zoning Ordinance*.

**GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE**

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
  - A. The Petitioner has testified on the application that, **“The back side of the shop faces Trelease Prairie. Only the deer and other critters see it.”**
  - B. The Township Road Commissioner has received notice of this variance but no comments have been received.
  - C. The Fire Protection District has been notified of this variance but no comments have been received.
  - D. The requested variance will not increase traffic to the subject property nor will it result in decreasing public safety.
  - E. The petitioner indicated on the application that there are no immediate neighbors and from the road no visual difference exists.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

12. Regarding proposed special conditions of approval:

*No Special Conditions of Approval are proposed*

**DOCUMENTS OF RECORD**

1. Variance Application received on August 10, 2012, with attachments:
  - A Survey Maps
  - B Site Plan
  - C Floor Plan of Guest Cottage
  - D Aerial Photo
  - E Quit Claim Deed
  - F Site Events List
  - G Statement of Purpose
  
2. Preliminary Memorandum dated October 18, 2012, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received August 13, 2012
  - C Guest Cottage Floor Plan received August 7, 2012
  - D Plat of Survey received August 10, 2012
  - E Site Events List received August 10, 2012
  - F Draft Summary of Evidence, Finding of Fact, and Final Determination

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 730-V-12 held on **October 24, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 730-V-12 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioners **Dale and Cheri Rapp** to authorize the following in the CR Conservation-Recreation Zoning District:

**Part A. Variance for lot coverage of 21% in lieu of the maximum allowed 20%;**

**Part B. Variance for a front setback for an existing nonconforming dwelling of 39 feet from the centerline of Cottonwood Road in lieu of the minimum required 75 feet;**

**Part C. Variance for a front yard for an existing nonconforming dwelling of 19 feet in lieu of the minimum required 30 feet;**

**Part D. Variance for a rear yard for an existing accessory building of 4 feet in lieu of the minimum required 10 feet.**

***{SUBJECT TO THE FOLLOWING CONDITION(S):}***

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

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals  
Date