

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **October 15, 2015**
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 (August 27, 2015 and September 10, 2015)
5. Continued Public Hearings
6. New Public Hearings

*Note: The full ZBA packet is now available
on-line at: www.co.champaign.il.us.*

Case 805-AM-15, 806-S-15 and 807-V-15 Petitioner: **Michael Wishall, Jason Wishall, Brian Wishall
d.b.a. Wishall Transport, Wishall Farms &
Transportation, Inc., and Wishall Farms, Inc.**

Case 805-AM-15 Request: **Amend the Zoning Map to change the zoning district designation from the
AG-1, Agriculture Zoning District to the AG-2 Agriculture Zoning
District in order to authorize the use of an existing unauthorized Truck
Terminal as a proposed Special Use in related Zoning Case 806-S-15 and
subject to the requested variance in related zoning case 807-V-15, on the
subject property below:**

***Case 806-S-15** Request: **Part A: Authorize the use of an existing unauthorized Truck Terminal as a
Special Use on land that is proposed to be rezoned to the AG-2
Agriculture Zoning District from the current AG-1 Agriculture
Zoning District in related zoning Case 805-AM-15 and subject to
the requested variance in related zoning case 807-V-15, on the
subject property below.**

**Part B: Authorize the following waiver to the standard conditions of the
“Truck Terminal” special use as per Section 6.1.3 of the Zoning
Ordinance: A separation distance of 30 feet in lieu of the required
200 feet between any Truck Terminal and any adjacent residential
district or residential use.**

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING
OCTOBER 15, 2015

***Case 807-V-15** Request: **Authorize the following variance on land proposed to be rezoned to the AG-2 Agriculture Zoning District in related Case 805-AM-15 in order to authorize the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Case 806-S-15 on the subject property below.**

Part A: A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland

Part B: A variance from the Champaign County Stormwater Management and Erosion Control Ordinance which requires a Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of impervious surface area.

Location: **A 5.68 acre tract in Pesotum Township in the Northwest Quarter of the Northwest Quarter of Section 10 of Township 17 North, Range 8 East of the Third Principal Meridian and commonly known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at 482 and 486 CR 900 East, Tolono.**

***Case 813-S-15** Petitioner: **David and Ginger Spillars, d.b.a. Ohana Pools, Spas & Billards, Inc.**

Request: **Authorize the conversion of an existing single family dwelling to a two-family dwelling by the addition of a second dwelling in the AG-2 Agriculture Zoning District.**

Location: **Lot 2 of Hudson Acres Subdivision, in the Southeast Quarter of the Southwest Quarter of Section 11 in Urbana Township and commonly known as the residence at 3710 East University Avenue, Urbana.**

7. Staff Report
8. Other Business
 - A. Review of Docket
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

*** 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
7 **DATE:** August 27, 2015 **PLACE:** Lyle Shield's Meeting Room
8 1776 East Washington Street
9 **TIME:** 7:00 p.m. Urbana, IL 61802

10
11 **MEMBERS PRESENT:** Catherine Capel, Debra Griest, Marilyn Lee, Brad Passalacqua, Jim Randol,
12 Eric Thorsland

13
14 **MEMBERS ABSENT :** None

15
16 **STAFF PRESENT :** Connie Berry, Susan Chavarria, John Hall

17
18 **OTHERS PRESENT :** Casey Hug, Jean Fisher, Scott Kunkel, Stan Harper

19
20
21 **1. Call to Order**

22
23 The meeting was called to order at 7:00 p.m.

DRAFT

24
25 **2. Roll Call and Declaration of Quorum**

26
27 The roll was called and a quorum declared present with one vacant seat.

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

32
33 **3. Correspondence**

34
35 None

36
37 **4. Approval of Minutes (June 25, 2015 and July 30, 2015)**

38
39 Mr. Thorsland entertained a motion to approve the June 25, 2015 and July 30, 2015, minutes as submitted.

40
41 **Ms. Griest moved, seconded by Mr. Randol to approve the June 25, 2015, and July 30, 2015, minutes**
42 **as submitted. The motion carried by voice vote.**

43
44 **5. Continued Public Hearing**

45
46 **Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the**
47 **Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required**
48 **for any County Board approved special use permit for a Rural Residential Development in the Rural**

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

17
18 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

19
20 Mr. Hall requested that Case 685-AT-11 be continued to the November 12th meeting.

21
22 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the November 12th meeting.

23
24 Ms. Capel moved, seconded by Mr. Passalacqua that Case 685-AT-11 be continued to the November
25 12th meeting. The motion carried by voice vote.

26
27

28 6. New Public Hearings

29

30 Case 811-S-15 Petitioner: Casey Hug d.b.a. Rub 'n Chug, LLC. Request to authorize a catering
31 kitchen as a Contractor's Facility with or without outdoor storage and/or outdoor operations in the
32 AG-1, Agriculture Zoning District. Location: A 1.2 acre tract in the Southeast Quarter of the
33 Southwest Quarter of the Northeast Quarter of Section 2 of Township 19 North, Range 10 East of the
34 Third Principal Meridian in St. Joseph Township located at 1757 CR 2275 East, St. Joseph, Illinois.

35

36 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
37 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
38 of hands for those who would like to cross examine and each person will be called upon. He requested that
39 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
40 those who desire to cross examine are not required to sign the witness register but are requested to clearly
41 state their name before asking any questions. He noted that no new testimony is to be given during the cross

1 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
2 from cross examination.

3
4 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
5 the witness register for that public hearing. He reminded the audience that when they sign the witness
6 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
7 time.

8
9 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding the request.

10
11 Mr. Casey Hug, who resides at 1757 CR 2275E, St. Joseph, stated that he would like to have a catering
12 kitchen in his shed which is located beside his home. He said that the main issue is that to satisfy the
13 Champaign County Health Department he needs to install a separate septic tank.

14
15 Mr. John Hall, Zoning Administrator, stated that there are no new memorandums for this case. He said that
16 this is the first catering kitchen that has been requested in the rural area and it appears to fit nicely under the
17 Contractor’s Facility category. He said that from a staff perspective, having an accessory building with a
18 bathroom and a kitchen means that the accessory building could become a dwelling in the future. He said
19 that obviously a catering kitchen is much more or as valuable as most dwellings but as long as there is a
20 demand for a catering kitchen then that is how this proposed structure will be used. Mr. Hall said that in the
21 long term when Mr. Hug decides to move away from the property or sell the property, the question arises
22 whether there should be any special condition about this at that point. He said that the catering kitchen could
23 be used under another business if the Board doesn’t see fit to impose a condition and again a catering kitchen
24 is such a large investment that he does not know that there needs to be a special condition. He said that
25 using the building for anything other than a catering kitchen, such a second dwelling, would be a clear
26 violation of the Zoning Ordinance therefore no condition is required for that but at a staff level the situation
27 has been discussed and given the value that is inherent for a catering kitchen there is a 99% chance that this
28 will always be just a catering kitchen. He asked the Board if they had any concerns regarding his comments.

29
30 Mr. Passalacqua stated that with the Zoning Ordinance in place prohibiting the building from becoming a
31 second dwelling detours the need for a special condition.

32
33 Mr. Thorsland stated that he agrees with Mr. Passalacqua because the catering kitchen’s value is a lot more
34 than a typical dwelling kitchen. He said that a second dwelling on the property is not allowed to begin with
35 and inevitably someone would discover its existence.

36
37 Mr. Thorsland asked Mr. Hug if he has a ten or fifteen year plan regarding relocating the facility closer to
38 town and if so, what will he do with the building which is equipped with a catering kitchen.

39
40 Mr. Hug stated that the catering business is a second job for him and at this point there is no plan for the
41 business to get any larger than what the shed would provide.

1
2 Mr. Thorsland asked Mr. Hug if it is his intent that the catering business which is located inside of the shed
3 will remain for a very long time.
4
5 Mr. Hug stated yes.
6
7 Ms. Lee stated that the memorandum indicates that Mr. Hug acquired the catering business from someone
8 else. She asked Mr. Hug where the previous business had its catering kitchen.
9
10 Mr. Hug stated that the memorandum is incorrect. He said that he started the business and he is not sure
11 where the information for the memorandum came from.
12
13 Ms. Chavarria stated that when staff looked up the business on the State of Illinois website it indicated an
14 agent that Mr. Hug used to establish the business.
15
16 Mr. Hug stated that when he applied for the LLC he did have an agent. He clarified that he started the
17 business from scratch and did not purchase the business from anyone else.
18
19 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Hug.
20
21 Mr. Hall asked Mr. Hug if he foresees any issues with his neighbors regarding the outdoor smoking of the
22 meat for the catering business. He asked Mr. Hug if he has spoken with his neighbors regarding the catering
23 kitchen or does he feel that it may take a while for the neighbors to become accustomed to the smoking and
24 odors that may occur.
25
26 Mr. Hug stated that he has spoken with his neighbors and they are more excited about the leftovers than the
27 smoking of the meat. He said that his neighbors do not appear to be concerned about the outdoor smoking or
28 the catering kitchen in the shed. He said that there is a shed located directly to the south of his property
29 which would block odors from the neighbors to the south.
30
31 Mr. Thorsland asked Mr. Hug to indicate the typical clientele for the business.
32
33 Mr. Hug stated that typically he would cater to weddings and other events.
34
35 Mr. Thorsland asked Mr. Hug if his culinary skills came from family history, training, or desire.
36
37 Mr. Hug stated that his culinary skills came from television and a lot of practice but no formal training.
38
39 Mr. Thorsland asked Mr. Hug if he does some catering now from a different location.
40
41 Mr. Hug stated that he has catered to some very small parties.

1

2 Mr. Thorsland asked Mr. Hug if he is just now trying to establish a catering business.

3

4 Mr. Hug stated yes.

5

6 Mr. Randol asked Mr. Hug if he has received any information from the Capital Development Board
7 regarding accessibility requirements.

8

9 Mr. Hug stated that he contacted Mr. Gamble but he has not heard anything back. Mr. Hug said that when
10 he does speak with Mr. Gamble he will inform Mr. Gamble that he does have a 30' x 40' opening in the
11 shed, which is not part of the catering kitchen, that has a concrete surface and would be available for
12 accessibility requirements.

13

14 Mr. Thorsland stated that the use as a contractor's facility requires a loading berth unless the Board waives
15 the requirement.

16

17 Mr. Hall stated that every use requires a loading berth and normally the loading berth is allowed to be
18 wherever it can be located and does not have a paved surface but with this being a catering business common
19 sense would tell the Board that there will be an area where food will be loaded for delivery.

20

21 Mr. Thorsland stated that the drawings indicate that there is enough space inside of the building to designate
22 a 10' x 40' loading area. He said that until Mr. Hug has the opportunity to talk to Mr. Gamble it is unknown
23 what to do about the handicap spot.

24

25 Mr. Randol asked Mr. Hug if he is planning on any on-site serving of the food.

26

27 Mr. Hug stated no.

28

29 Mr. Hall stated that staff spoke with Mr. Hug about garbage pickup. He said that past uses, not catering
30 facilities but food preparation facilities, were in the CR Conservation-Recreation Zoning District which the
31 subject property is also near and there are a lot of coyotes in that district. He said that during previous uses
32 staff received complaints that coyotes were getting into the trash and spreading it onto adjacent properties.
33 He asked Mr. Hug to describe his plans for the waste created by the use.

34

35 Mr. Hug stated that he spoke with the garbage service that services his home once per week and the service
36 indicated that for an additional \$15, on a special order basis, they would come and pick up the waste from
37 the catering kitchen. He said that he does not cook on a weekly basis therefore he does not need to set up
38 collection for the catering kitchen's waste on a weekly basis. He said that he just needs to call them and they
39 will pick up the waste the next day.

40

41 Mr. Thorsland asked Mr. Hug if there is a high level of waste could he store it inside the building during the

1 night and place it outside the morning of the scheduled pick up.
2
3 Mr. Hug stated that he can work that out with the service.
4
5 Mr. Thorsland stated that sometimes staff does receive complaints about trash being scattered by animals but
6 in Mr. Hug's case he has plenty of room inside of the shed to store the waste from the catering kitchen until
7 the garbage service arrives for pick up and disposal.
8
9 Ms. Lee asked Mr. Hall to indicate the percentage of the property which is located in the CR Conservation-
10 Recreation Zoning District.
11
12 Mr. Hall stated that item #4 on page 2 of the Summary of Evidence indicates that the northern 45 feet of the
13 subject property is zoned CR Conservation-Recreation. He said that staff measured off of the zoning map
14 that hangs in the office lobby and only the northern 45 feet of the subject property is zoned CR and the south
15 155' is zoned AG-1 Agriculture so roughly a little more than one acre is zoned AG-1 and the remainder is
16 zoned CR. He said that the zoning map illustration that is attached to the memorandum appears to be the
17 reverse of the official zoning map and staff cannot explain this occurrence. He said that staff has measured
18 the paper maps that are located in the office lobby multiple times and those paper maps are the official
19 zoning maps for Champaign County.
20
21 Mr. Thorsland asked Mr. Hall to refresh the Board as to what a Type D Screen is.
22
23 Mr. Hall stated that a Type D Screen is an eight foot tall screen that is intended to block visibility and can
24 consist of wood, brick, chain-link with plastic inserts or evergreen vegetation.
25
26 Mr. Randol stated that if vegetation is planted there is a time frame regarding their growth.
27
28 Mr. Thorsland asked Mr. Hug if he has a plan for the required screening.
29
30 Mr. Hug stated that he would probably construct a wood fence as the screening.
31
32 Mr. Thorsland asked Mr. Hug if he reviewed the special condition regarding full cut-off lighting and if so
33 does he also have a plan for this requirement as well.
34
35 Mr. Hug stated that he will install whatever is required by the Board.
36
37 Mr. Hall stated that if there were recess lights or can lights in the roof they would count as full cut-off but
38 wall sconces, unless designed to be full cut-off, would not be allowed. He said that it should not be hard to
39 achieve the required lighting and staff should approve the type of lighting that Mr. Hug intends to install to
40 assure that it meets the standard.
41

1 Mr. Thorsland stated that should the Board approve this request tonight Mr. Hug can contact staff regarding
2 the type of lighting that he intends to install and that it meets the standard.

3
4 Ms. Lee asked Mr. Hug if he anticipates having events on the subject property in the future.

5
6 Mr. Hug stated no.

7
8 Mr. Thorsland asked the Board and staff if there were any further questions for Mr. Hug and there were
9 none.

10
11 Mr. Thorsland stated that the Board will now review the proposed special conditions.

12
13 Mr. Thorsland read proposed Special Condition A. as follows:

- 14
15 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
16 **proposed Contractors Facility with or without Outdoor Storage and/or Operations**
17 **until the Petitioner has demonstrated that the proposed Special Use complies with the**
18 **Illinois Accessibility Code.**

19
20 The special condition stated above is necessary to ensure the following:

21 **That the proposed Special Use meets applicable state requirements for accessibility.**

22
23 Mr. Thorsland asked Mr. Hug if he agreed with Special Condition A.

24
25 Mr. Hug stated that he agreed with Special Condition A.

26
27 Mr. Thorsland read proposed Special Condition B as follows:

- 28
29 **B. The Zoning Administrator shall not issue a Zoning Compliance Certificate until the**
30 **Petitioner has submitted a copy of the approved permit from the Champaign Urbana**
31 **Public Health Department for construction of the second septic system for the catering**
32 **business and the Zoning Administrator has verified that the septic system was built as**
33 **shown in the permit application.**

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

36 **To ensure that the private sewage disposal systems are adequate for the uses on the**
37 **subject property.**

38
39 Mr. Hug stated that as soon as he receives all of the necessary approvals his plumber is ready to go.

40
41 Mr. Thorsland asked Mr. Hug if he agreed with Special Condition B.

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Mr. Hug stated that he agreed with Special Condition B.

Mr. Thorsland read proposed Special Condition C. as follows:

C. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.

The special condition stated above is required to ensure the following:
That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

Mr. Thorsland asked Mr. Hug if he agreed with Special Condition C.

Mr. Hug stated that he agreed with Special Condition C.

D. A Type D screen for the outdoor operations area of the catering business must be installed, or a variance must be applied for and approved by the Zoning Board of Appeals within 90 days of approval of the Special Use Permit.

The special condition stated above is required to ensure the following:
That the proposed contractor’s facility conforms to the requirements of the Zoning Ordinance.

Mr. Thorsland asked Mr. Hug if he agreed with Special Condition D.

Mr. Hug stated that he agreed with Special Condition D.

E. This Special Use Permit authorizes a “catering kitchen” as a contractor’s facility and does not authorize any actual dining services on the subject property.

The special condition stated above is required to ensure the following:
That the proposed Special Use Permit is very clear regarding what is authorized and what is not authorized.

Mr. Thorsland asked Mr. Hug if he agreed with Special Condition E.

Mr. Hug stated that he agreed with Special Condition E.

Mr. Hall stated that a special condition should have been included regarding trash pickup. He said that the

1 discussion earlier indicating that Mr. Hug is willing to bring the trash inside if necessary to prevent animal
2 scavenging or high wind distribution. He said that something is not enforceable if it is not a specific
3 condition of approval.

4
5 Mr. Thorsland asked the Board for input.

6
7 Ms. Capel stated that after listening to the River Bend situation it appears that a special condition regarding
8 trash pickup would be a good idea. She said that the special condition should specify trash pickup within 24
9 to 48 hours so that the trash does not become a problem.

10
11 Mr. Hall stated that a special condition would need to do nothing more than what Mr. Hug indicates as his
12 plan for the trash pickup. He said that the nature of a Special Use Permit is that this could be sold to
13 someone else in the future who may not be as meticulous as Mr. Hug regarding trash pickup.

14
15 Ms. Capel stated that there is no remedy if there is no special condition.

16
17 Mr. Thorsland asked Mr. Hall if a 48 hour time period is sufficient for pickup.

18
19 Mr. Hall stated that a bare minimum condition so that staff would have the right to require improvements in
20 management would be necessary.

21
22 Mr. Hall read proposed Special Condition F. as follows:

23
24 **F. Trash pickup for the special Use Permit shall be as needed to minimize nuisance**
25 **problems for animal scavenging and/or weather conditions and if necessary,**
26 **trash shall be stored inside.**

27
28 The special condition stated above is required to ensure the following:

29 **That the trash is managed so as not to be a nuisance and is enforceable.**

30
31 Mr. Thorsland asked Mr. Hug if he agreed to Special Condition F.

32
33 Mr. Hug stated that he agreed to Special Condition F. He said that his wife's requirements would be more
34 restrictive than what are included in the special condition.

35
36 Mr. Passalacqua asked Mr. Hug how often the Health Department conducts inspections.

37
38 Mr. Hug stated that they perform an initial inspection and then random inspections thereafter.

39
40 Mr. Thorsland stated that it would be in Mr. Hug's best interest to stay compliant.

1 Mr. Hug agreed.

2

3 Mr. Thorsland stated that a special condition indicating that the structure cannot be converted into a dwelling
4 is necessary.

5

6 Ms. Capel stated that the structure is not supposed to be converted into a dwelling and that is enforceable
7 without a special condition.

8

9 Mr. Thorsland entertained a motion to approve Special Conditions A-F.

10

11 **Mr. Randol moved, seconded by Ms. Griest to approve Special Conditions A-F. The motion carried**
12 **by voice vote.**

13

14 Mr. Thorsland stated that there are no new Documents of Record.

15

16 **Finding of Fact for Case 811-S-15:**

17

18 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
19 811-S-15 held on August 27, 2015, the Zoning Board of Appeals of Champaign County finds that:

20

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

23

24 Ms. Griest stated that the requested Special Use Permit IS necessary for the public convenience at this
25 location because the site is located one mile north of the Village of St. Joseph and 1.75 miles from the I-74
26 interchange.

27

28 Mr. Thorsland stated that the petitioner has indicated that the area is underserved for this type of business.

29

30 Ms. Capel stated that the petitioner can work on the property on which he resides.

31

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

36

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

38

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

41

- b. Emergency services availability is ADEQUATE.**

1
2 Mr. Randol stated that emergency services availability is ADEQUATE and no comments have been received
3 from the Fire Protection District.

4
5 **c. The Special Use WILL be compatible with adjacent uses.**
6

7 Ms. Lee stated that the Special Use WILL NOT be compatible with adjacent uses because it is a residential
8 area. She said that considering the amount of complaints received during the River Bend case is the reason
9 why she does not feel that the use is compatible with the three other residences surrounding the subject
10 property.

11
12 Mr. Thorsland stated that the Board has imposed a special condition which requires that the Petitioner works
13 indoors, provides a loading berth and meets all of the requirements of the area.

14
15 Ms. Lee stated that the smoking of the meat is done outdoors and not indoors.

16
17 Ms. Capel stated that the smoking of the meat will be located in a screened area and a shed separates the
18 smoking from the other residences. She said that the smoking of the meat is not a daily or weekly activity
19 and is intermittent.

20
21 Mr. Passalacqua stated that testimony has been received that there are no concerns received from adjacent
22 neighbors.

23
24 Mr. Passalacqua stated that in lieu of the testimony and the special conditions the use has been made to be
25 compatible with adjacent residences.

26
27 Ms. Griest stated that she understands why Ms. Lee indicated that the Special Use WILL NOT be compatible
28 but by adding the special conditions the Board has crafted the use and protected the neighboring residents so
29 that the Board can effectively indicate that the use will be compatible with existing uses.

30
31 Mr. Thorsland stated that from the River Bend case the smoking issue was before the Board again and is
32 under a regular review basis for compliance. He said that the first time that the smoking of the meat
33 becomes a problem for a resident they will call staff to file a complaint. He said that Mr. Hug is before the
34 Board before he begins his business at his residence rather than afterwards which is a rare occurrence for the
35 Board.

36
37 Mr. Hall stated that it should be noted that during the River Bend case it was a type of industrial smoking
38 that Mr. Hug is not going to be doing.

39
40 Mr. Thorsland stated that the real problem with the River Bend case was not so much the smoking of the
41 sausage as the fact that it was a daily, very busy business with a lot of left over carcass that was being moved

1 around until the Board made the petitioner store the carcasses inside. He said that the adjacent neighbor and
2 the petitioner appeared to clash in personalities and the Board restricted the use very hard and staff has not
3 received any recent complaints.
4

5 Ms. Griest stated that the River Bend smoking operation was closer to the adjacent neighbor's property line
6 than Mr. Hug's smoking operation will be as Mr. Hug's operation has a substantial separation from the
7 adjacent neighbor.
8

9 Mr. Thorsland stated that the prevailing winds are from the west and the house to the east is far away.

10 Ms. Lee stated that she may receive disagreement but she stands by her determination of WILL NOT.
11

12 Mr. Thorsland stated that the Board can take a voice vote on item 1.C or the Board could indicate that the
13 special use WILL be compatible with adjacent uses with one opposing vote.
14

15 Ms. Lee stated that the indication that one opposing vote would suffice.
16

17
18
19 **d. Surface and subsurface drainage will be ADEQUATE.**

20 Mr. Thorsland stated that surface and subsurface drainage will be ADEQUATE.
21

22
23 **e. Public safety will be ADEQUATE.**

24 Ms. Capel stated that public safety will be ADEQUATE. She added that no comment was received from
25 emergency services.
26

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

28 Mr. Thorsland stated that the provisions for parking will be ADEQUATE. He noted that accessible parking
29 will be determined by the Illinois Capital Development Board and will be enforced.
30

31
32 **g. The property IS WELL SUITED OVERALL for the proposed improvements.**

33 Mr. Passalacqua stated that the property IS WELL SUITED OVERALL for the proposed improvements.
34

35
36 **h. Existing public services ARE available to support the proposed Special Use**
37 **without undue public expense.**

38 Ms. Griest stated that existing public services ARE available to support the proposed Special Use without
39 undue public expense.
40
41

- 1 **i. Existing public infrastructure together with the proposed development IS**
- 2 **adequate to support the proposed development effectively and safely without**
- 3 **undue public expense.**

4

5 Ms. Capel stated that the existing public infrastructure together with the proposed development IS adequate

6 to support the proposed development effectively and safely without undue public expense.

7

8 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,

9 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in

10 which it shall be located or otherwise detrimental to the public health, safety, and welfare.

- 11
- 12
- 13 **3a. The requested Special Use Permit, subject to the special conditions imposed herein,**
- 14 **DOES conform to the applicable regulations and standards of the DISTRICT in which**
- 15 **it is located.**

16

17 Ms. Griest stated that the requested Special Use Permit, subject to the special conditions imposed herein,

18 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

- 19
- 20 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,**
- 21 **DOES preserve the essential character of the DISTRICT in which it is located because:**
- 22 **a. The Special Use will be designed to CONFORM to all relevant County**
- 23 **ordinances and codes.**

24

25 Ms. Griest stated that the Special Use will be designed to CONFORM to all relevant County ordinances and

26 codes.

- 27
- 28 **b. The Special Use WILL be compatible with adjacent uses.**

29

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

- 31
- 32 **c. Public safety will be ADEQUATE.**

33

34 Ms. Griest stated that public safety will be ADEQUATE.

35

36 Ms. Griest stated that the requested Special Use Permit, subject to the special conditions imposed herein,

37 DOES preserve the essential character of the DISTRICT in which it is located.

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

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

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

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

Mr. Randol stated that the requested Special Use Permit, subject to the special conditions imposed herein, 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.

d. **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.**

Mr. Randol stated that 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.

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, IS in harmony with the general intent of the Ordinance.

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

Mr. Thorsland stated that the requested Special Use IS NOT an existing nonconforming use.

6. **The special conditions imposed herein are required to ensure compliance with the criteria for special use permits for the particular purpose described below:**

A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility with or without Outdoor Storage and/or Operations until the Petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

The special condition stated above is necessary to ensure the following:
That the proposed Special Use meets applicable state requirements for accessibility.

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B. The Zoning Administrator shall not issue a Zoning Compliance Certificate until the Petitioner has submitted a copy of the approved permit from the Champaign Urbana Public Health Department for construction of the second septic system for the catering business and the Zoning Administrator has verified that the septic system was built as shown in the permit application.

The special condition stated above is required to ensure the following:
To ensure that the private sewage disposal systems are adequate for the uses on the subject property.

C. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.

The special condition stated above is required to ensure the following:
That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

D. A Type D screen for the outdoor operations area of the catering business must be installed, or a variance must be applied for and approved by the Zoning Board of Appeals within 90 days of approval of the Special Use Permit.

The special condition stated above is required to ensure the following:
That the proposed contractor’s facility conforms to the requirements of the Zoning Ordinance.

E. This Special Use Permit authorizes a “catering kitchen” as a contractor’s facility and does not authorize any actual dining services on the subject property.

The special condition stated above is required to ensure the following:
That the proposed Special Use Permit is very clear regarding what is authorized and what is not authorized.

F. Trash pickup for the Special Use Permit shall be as needed to minimize nuisance problems for animal scavenging and/or weather conditions and if necessary, trash shall be stored inside.

The special condition stated above is required to ensure the following:
That the trash is managed so as not to be a nuisance and is enforceable.

1
2 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
3 of Fact as amended.

4
5 **Mr. Randol moved, seconded by Ms. Griest to adopt the Summary of Evidence, Documents of Record
6 and Findings of Fact as amended. The motion carried by voice vote with one opposing vote.**

7
8 Mr. Thorsland entertained a motion to move to the Final Determination for Case 811-S-15.

9
10 **Ms. Griest moved, seconded by Ms. Capel to move to the Final Determination for Case 811-S-15. The
11 motion carried by voice vote.**

12
13 **Final Determination for Case 811-S-15:**

14
15 **Ms. Griest moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals finds
16 that, based upon the application, testimony, and other evidence received in this case, the requirements
17 of Section 9.1.11.B. for approval HAVE been met, and pursuant to the authority granted by Section
18 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

19
20 **The Special Use requested in Case 811-S-15 is hereby GRANTED WITH SPECIAL
21 CONDITIONS to the applicant Casey Hug, d.b.a. Rub ‘n’ Chug LLC, to authorize the
22 following as a Special Use on land in the AG-1 Zoning District:**

23
24 **Authorize a catering business as a Contractor’s Facility with or without outdoor storage
25 and/or outdoor operations.**

26
27 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

- 28
29 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for
30 the proposed Contractors Facility with or without Outdoor Storage and/or
31 Operations until the Petitioner has demonstrated that the proposed Special Use
32 complies with the Illinois Accessibility Code.**

33
34 **The special condition stated above is necessary to ensure the following:
35 That the proposed Special Use meets applicable state requirements for
36 accessibility.**

- 37
38 **B. The Zoning Administrator shall not issue a Zoning Compliance Certificate until
39 the Petitioner has submitted a copy of the approved permit from the Champaign
40 Urbana Public Health Department for construction of the second septic system
41 for the catering business and the Zoning Administrator has verified that the**

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septic system was built as shown in the permit application.

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

To ensure that the private sewage disposal systems are adequate for the uses on the subject property.

- C. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

- D. A Type D screen for the outdoor operations area of the catering business must be installed, or a variance must be applied for and approved by the Zoning Board of Appeals within 90 days of approval of the Special Use Permit.**

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

That the proposed contractor’s facility conforms to the requirements of the Zoning Ordinance.

- E. This Special Use Permit authorizes a “catering kitchen” as a contractor’s facility and does not authorize any actual dining services on the subject property.**

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

That the proposed Special Use Permit is very clear regarding what is authorized and what is not authorized.

- F. Trash pickup for the special Use Permit shall be as needed to minimize nuisance problems for animal scavenging and/or weather conditions and if necessary, trash shall be stored inside.**

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

That the trash is managed so as not to be a nuisance and is enforceable.

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

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Lee - no	Passalacqua - yes	Randol - yes
Capel – yes	Griest – yes	Thorsland – yes

Mr. Hall informed Mr. Hug that he has received an approval for his request and staff will mail out the appropriate paperwork as soon as possible. He said that staff will require a Change of Use Permit to document that the shed will have the catering kitchen.

Ms. Capel asked if the Final Determination should indicate a catering kitchen as a Contractor’s Facility and not a catering business as a Contractor’s Facility.

Mr. Hall stated that Mr. Hug will be conducting the entire business from the subject property therefore the Final Determination is correct in stating a catering business as a Contractor’s Facility.

Case 812-V-15 Petitioner: Windsor Road Christian Church. Request to authorize the following in the AG-2 Agriculture Zoning District: Part A. A Private Traffic Direction Sign that is 24 square feet in area in lieu of the required maximum of 5 square feet in area; and Part B. A Private Traffic Direction Sign that is 20 square feet in area and 80 inches in height in lieu of the required maximum of 5 square feet in area and 5 feet (60 inches) in height; and Part C. Four Private Traffic Direction Signs that are 80 inches in height in lieu of the required maximum height of 5 feet (60 inches); and Part D. Three Private Traffic Direction Signs that are 6.25 square feet in area and 72 inches in height in lieu of the required maximum of 5 square feet in area and 5 feet (60 inches) in height. Location: A ten acre tract of land in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 27 of Champaign Township and commonly known as the Windsor Road Christian Church located at 2501 West Windsor Road, Champaign.

Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. He reminded the audience that when they sign the witness register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this time.

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

1 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding the request.

2
3 Mr. Scott Kunkel, who resides at 2711 Windward Boulevard, Champaign, stated that what facilitated the
4 request is the Windsor Road Christian Church’s desire to install a sign at the main entrance of the facility.
5 He said that the original plan for the expansion construction indicated that the entrance location would be
6 relocated to the far west end of the site off of Windsor Road. He said that the entrance is now complete and
7 a sign is required to denote the new location of the entrance. He said subsequent to the new sign Mr. Hall
8 requested that the Windsor Road Christian Church clean up issues with some other signs already installed on
9 the site.

10
11 Mr. Thorsland asked the Board if there were any questions for Mr. Kunkel.

12
13 Ms. Lee asked Mr. Kunkel why the sign needs to be so big.

14
15 Mr. Kunkel stated that the entrance sign will deal with vehicles traveling on Windsor Road and the desire is
16 to make it clear for people to see the sign well in advance so that they can make a gradual turn rather than
17 making an abrupt turn off of Windsor Road.

18
19 Mr. Thorsland asked Mr. Hall why the Zoning Ordinance allows such a small sign in the first place.

20
21 Mr. Hall stated that he can only assume that it is small because it is meant to be directional onsite. He said
22 that the biggest sign 8’ x 3’ is technically not onsite/is onsite and is a traffic directional sign so it needs the
23 variance. He said that in this case we are not dealing with traffic onsite and vehicles traveling on Windsor
24 Road needs to know where to turn in a timely and safe manner and by the terms of the Ordinance a variance
25 is required.

26
27 Mr. Passalacqua stated that he travels Windsor Road and the entrance sign needs to be that size because the
28 entrance into Cherry Hills is dangerous. He said that people travel the road from the west very fast during
29 the late evening and the more forewarning that people have regarding the church’s entrance, the better. He
30 said that he turned onto the subject property the other day and the entrance is better than any highway project
31 that the State of Illinois has done so far.

32
33 Ms. Lee stated that the reason why she asked Mr. Kunkel why the sign needed to be so large was because she
34 wanted the answer to be part of the testimony.

35
36 Mr. Randol asked if the sign will be illuminated.

37
38 Mr. Kunkel stated no, but there are street lights along Windsor Road.

39
40 Mr. Thorsland stated that the movement of the entrance was somewhat dictated by the City of Champaign.

41

1 Mr. Kunkel stated that the entrance to the church was originally much further east on Windsor Road than
2 where it is currently located. He said that when the subdivision across the street to the north was approved,
3 Scottsdale Drive intersected Windsor Road at an offset relative to the church's drive thus causing a traffic
4 conflict. He said that part of the reason for relocation of the entrance was to create as much offset as
5 possible from the intersection of Scottsdale Drive.

6
7 Ms. Griest asked Mr. Kunkel if he is aware of the speed limit in that area.

8
9 Mr. Kunkel stated that the posted speed limit on Windsor is 35 MPH but very few people travel that speed.
10 He said that it is 35MPH to Duncan Road and perhaps on past a little bit.

11
12 Mr. Thorsland asked Mr. Randol if he would like a special condition regarding illumination of the sign.

13
14 Mr. Randol stated no. He said that he was just curious if the sign was illuminated at night to assist with
15 night time identification of the entrance but if there are enough street lights to fill that need then he is fine
16 with it.

17
18 Mr. Kunkel stated that there is enough ambient light from the public street lights to clearly view the sign.

19
20 Mr. Hall stated that the other on-site signs were authorized to be installed without a variance. He said that
21 even though the on-site signs would have required small variances they all exceeded the amount of a minor
22 variance. He said that one of the signs provides four different directions and is 20 square feet in area and
23 could be argued that it is within the spirit of the Ordinance. He said that the stop signs are the size and
24 height that they are so that they conform to the Manual on Uniform Traffic Control Devices and the
25 accessible sign meets the accessibility requirements. He agreed that they could be constructed without taking
26 the time to seek a variance because it seemed to make sense. He said that he does not understand why the
27 *Zoning Ordinance* limits the size of traffic direction signs on the property itself but he did not make an issue
28 of it.

29
30 Mr. Thorsland stated that in order to meet the traffic code it needs to be a variance with the County.

31
32 Mr. Hall stated that the petitioner has been discussing the need for the large sign at the entrance from the
33 beginning because they knew they needed it and hoped that traffic could learn where the entrance was
34 relocated. He said that when the petitioner decided to finally seek the variance is when staff added the other
35 signs.

36
37 Mr. Thorsland stated that the only real concern that this Board would have with the large sign is if it was
38 located in the visibility triangle, which it is not.

39
40 Ms. Griest asked Mr. Hall if this issue is something that the Board could request to have the *Zoning*
41 *Ordinance* updated quickly and easily. She said that staff could add the requirement except when it

1 complies with traffic regulations or accessibility.

2
3 Mr. Hall stated that it would be a quick fix but this issue does not come up that often and in terms of the
4 scale of problems related to signage in the Ordinance there are much larger problems in the *Zoning*
5 *Ordinance* that need to be addressed. He said that he will leave it up to the Board and if they would like to
6 see this as a future text amendment then staff could include it in a work plan so that it would eventually get
7 done in a year but this is the first time that he has heard of an instance like this.

8
9 Ms. Griest stated that during her time on the ZBA she has not heard of anything like this but regulations on
10 signage for accessibility have changed over that time period and it seems redundant that the *Zoning*
11 *Ordinance* would restrict it to begin with to a point that it wouldn't be in compliance with the requirements
12 that are recognized state wide and nationally. She said that she understands that there are bigger fish to fry
13 but we certainly could knock some of the little minnows out of the pond.

14
15 Mr. Hall stated that this is certainly something to note and it is one of those common sense things and do it
16 as soon as possible so that the public will benefit.

17
18 Mr. Thorsland stated that there are no special conditions.

19
20 **Findings of Fact for Case 812-V-15:**

21
22 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
23 812-V-15 held on August 27, 2015, the Zoning Board of Appeals of Champaign County finds that:

- 24
25 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
26 **structure involved, which are not applicable to other similarly situated land and**
27 **structures elsewhere in the same district.**

28
29 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
30 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
31 same district because the City of Champaign approved a subdivision across the street that created an unsafe
32 traffic situation at the former entrance of the church.

- 33
34 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
35 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
36 **the land or structure or construction.**

37
38 Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the
39 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
40 or construction because by granting this variance we allow signs to improve safety and also allow signs that
41 meet state regulations to be installed on the property.

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3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.

Mr. Thorsland stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the City of Champaign approved a subdivision across the street that created an unsafe traffic situation at the former entrance of the church.

4. The requested variance IS in harmony with the general purpose and intent of the Ordinance.

Mr. Randol stated that the requested variance IS in harmony with the general purpose and intent of the Ordinance because it will allow signs that meet state regulations.

5. The requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.

Ms. Lee stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because it will improve traffic safety conditions at this site.

6. The requested variance IS the minimum variation that will make possible the reasonable use of the land/structure.

Mr. Thorsland stated that the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure.

7. No special conditions are hereby imposed.

Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of Fact as amended.

Mr. Randol moved, seconded by Ms. Lee to adopt the Summary of Evidence, Documents of Record and Findings of Fact as amended. The motion carried by voice vote.

Mr. Thorsland entertained a motion to move to the Final Determination for Case 812-V-15.

Ms. Capel moved, seconded by Ms. Griest to move to the Final Determination for Case 812-V-15. The motion carried by voice vote.

Final Determination for Case 812-V-15:

1 Ms. Griest moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals finds
2 that, based upon the application, testimony, and other evidence received in this case, that the
3 requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted
4 by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of
5 Champaign County determines that:

6
7 The Variance requested in Case 812-V-15 is hereby GRANTED to the petitioner Windsor
8 Road Christian Church to authorize the following in the AG-2, Agriculture Zoning District as
9 per paragraph 7.3.3.F of the *Zoning Ordinance*:

10
11 Part A: A Private Traffic Direction Sign that is 24 square feet in area in lieu of the
12 required maximum of 5 square feet in area.

13 Part B: A Private Traffic Direction Sign that is 20 square feet in area and 80 inches in
14 height in lieu of the required maximum of 5 square feet in area and 5 square
15 feet (60 inches) in height.

16 Part C: Four Private Traffic Direction Signs that are 80 inches in height in lieu of the
17 required maximum height of 5 feet (60 inches).

18 Part D: Three Private Traffic Direction Signs that are 6.25 square feet in area and 72
19 inches in height in lieu of the required maximum 5 square feet in area and 5 feet
20 (60 inches) in height.

21
22 Mr. Thorsland requested a roll call vote.

23
24 The roll was called as follows:

25
26 Passalacqua – yes Randol – yes Capel – yes
27 Griest – yes Lee - yes Thorsland – yes

28
29 Mr. Hall informed the petitioner that he has received an approval for his request. He said that staff will
30 send out the appropriate paperwork as soon as possible. He requested that the petitioner call the office with
31 any questions regarding the case or permitting.

32
33 **7. Staff Report**

34
35 None

36
37 **8. Other Business**

38 A. Review of Docket

39
40 Mr. Hall distributed an updated docket to the Board for review. He said that the Board has a ZBA meeting
41 on September 10th but the September 24th meeting has been cancelled and a scheduled meeting for October

1 15th. He said that staff has not received any new case applications recently but at the end of July the Board
2 has received more cases in 2015 than it had received at the same time in 2014 even including the fact that
3 2014 included December of 2013. He said that this year was looking slow in the beginning in both terms of
4 cases and permitting but by the end of July we have caught up. He said that permitting is not totally caught
5 up but the monthly report always reports the months that exceeded the previous five year average but July of
6 2015 exceeded all of those parameters. He said that even though several ZBA meetings have been cancelled
7 this year, the Board has completed more cases than they did last year.

8
9 Mr. Thorsland stated that the Board also puts more into a meeting night than they used to.

10
11 Ms. Lee asked Mr. Hall to indicate the status of Case 808-S-15.

12
13 Mr. Hall stated that Ms. Dessen is trying to make her decision although staff has not been notified as to what
14 that decision is yet. He said that the case was continued to November 12th so the Board has a lot of time in
15 between before it should be worried about that case.

16
17 Ms. Lee asked Mr. Hall to indicate the status of Case 792-V-14 and has staff received any new information.

18
19 Mr. Hall stated that staff has not received any new information regarding Case 792-V-14.

20
21 **9. Audience Participation with respect to matters other than cases pending before the Board**

22
23 Ms. Jean Fisher, who resides at 195 CR 1600E, Villa Grove, stated that she wanted to thank the Board for
24 helping with the CR, Conservation-Recreation Zoning District issues in her area during the recent past. She
25 said that unfortunately she is before the Board again to present additional problems which if allowed to
26 continue will cause the vitality of the conservation area to decline. She requested that the ZBA take
27 preventative action against any destruction.

28
29 Ms. Fisher stated that some of the Board members are aware of her area's history. She said that in 2009 a
30 new landowner, Mr. Phillip Jones, started extensively moving earth in roughly a 13 acre area located right
31 behind her property and the E.E. Roger's Subdivision and subsequently placed a 9 to 10 foot berm. She said
32 that this was done prior to receiving a permit or environmental studies being performed. She said that the
33 zoning office tried to fend this practice off but it still continued. She said that dirt was brought onto the
34 property and piled up creating another berm on the south property line. She said that in late 2011 Mr. Jones
35 requested a Special Use Permit for a Helicopter-RLA because it had been reported that he was landing
36 airplanes and helicopters in the CR District that he owns and this is not an allowable use. She said that
37 during 2011 and 2014 the ZBA hearings prompted by the deception to zoning in regards to a request for an
38 HRLA/RLA variance and these hearings included a tremendous amount of deception and false statements
39 and information from Mr. Jones and his representatives. She said that in late 2014 Mr. Jones started
40 construction on an extensive riding arena that spans roughly 300' x 160' in the CR District without a permit
41 or an environmental study. She said that she has become aware of the possibility of this building and

1 activities taking place as a public event center that will be holding rodeos. She noted that rodeos are not
2 allowed in the CR District. She said that she is not sure if actions are being taken against this unpermitted
3 building by the Champaign County Department of Planning and Zoning.

4
5 Ms. Fisher stated that she must inform the Board of a situation that has been a big concern for three years
6 which is retaliation to the RLA hearings and subsequent denial by the Champaign County Board. She said
7 that Board members may remember testimony brought up about Mr. Jones stating that he would bring in
8 livestock to stink up the place. She said that currently there is a 50' long and 15 feet high pile of manure that
9 is being dumped on her west property line by Mr. Jones. She said that the area is in the CR District and is
10 within the floodplain and its drainage flows to the Embarrass River. She said that all of the abeyance issues
11 with foul odor and visual disgust are obvious. She said that she is not anti-animal or anti-agriculture person
12 as she loves animals and her professional degree proves it. She said that the number of animals on the
13 Jones' property has dramatically increased from two original horses to at least six horses, fifty cows, and
14 hogs, chickens and rabbits.

15
16 Ms. Fisher stated that during her discussions with the John Hall, Zoning Administrator, he was sympathetic
17 but indicated that the ordinances did not address the issue of manure. She said that per her review of
18 Champaign County's ordinances and LRMP foundation she fails to see how the manure pile is not an issue
19 of public health, safety and welfare policies. She said that Section 1 of the Champaign County Nuisance
20 Ordinance discusses the spread of disease, vermin, and visual plight, pollution of surface or ground water
21 and contamination due to inadequate sanitation. She said that Section 2.2 of the Nuisance Ordinance ,
22 defines Garbage as follows: "Trash, refuse, offal, putrescible waste, animal carcasses, or material which is
23 subject to decomposition, decay or biological degradation or which serves to attract or propagate vermin or
24 disease vectors except for properly managed vegetal compost. She said that Section 3.2 specifically states
25 that Deposition, accumulation, maintenance or disposal other than in properly permitted and/or licensed
26 facilities of garbage or debris, sewage, septage or animal waste. She said that she would like to know how
27 this dumping of manure from the past, present and future will not cause the river and conservation district to
28 suffer and decline. She said that the additional aspect of increased animal load, such as horses and cattle,
29 brought in for rodeos will stress it even further. She urged the ZBA and the Champaign County Department
30 of Planning and Zoning to address these issues promptly as a result of one habitual Champaign County law
31 breaker and seeing that violations and or new ordinances be developed for the CR, Conservation-Recreation
32 Zoning District preservation.

33
34 Mr. Thorsland asked Ms. Fisher if staff could have a copy of her written statement for the record and
35 accurate minute transcription.

36
37 Ms. Fisher asked Mr. Thorsland if the Board really wanted a copy of her statement as it has scratches on it.

38
39 Mr. Thorsland informed Ms. Fisher that she could email a copy of her statement for minute transcription.
40 He said that the minutes will be taken straight from the audio tape but if a statement is not clear the written
41 statement can assist staff with clarity.

1
2 Ms. Fisher stated that the written statement that she has tonight is the only copy that she has.

3
4 Ms. Lee noted that Mr. Thorsland indicated that Ms. Fisher could email her statement later.

5
6 Ms. Fisher stated okay, she will do that.

7
8 Ms. Capel stated that one of remedies available for Ms. Fisher’s concern is that Mr. Jones needs a manure
9 management plan from the Illinois Department of Agriculture.

10
11 Mr. Hall stated that the Illinois Department of Agriculture has visited the property and they had no concerns
12 because the operation was below the level that they really wanted to do anything. He said that the written
13 standard indicates that there should be a plan and that the manure pile should never have been placed that
14 close to nearby dwellings. He said that these are the rules in the State of Illinois which apply and they have
15 been violated and they are not enforceable.

16
17 Ms. Griest asked if these rules are enforced by the Illinois Environmental Protection Agency or the Illinois
18 Department of Agriculture.

19
20 Mr. Hall stated that it will involve both and zoning clearly has nothing that it can do with it.

21
22 Ms. Griest stated that perhaps a remedy for this adjacent landowner would be to contact their legislator and
23 ask them to put pressure on the appropriate entities to enforce the law that governs these issues.

24
25 Mr. Hall stated that this Board is familiar with how the County’s rules regarding riding stables have changed
26 over the years and even though no rodeo has taken place yet there is a chance that there could be a case that
27 this Board will see in the future about that property.

28
29 Ms. Capel stated that if this does turn into a ZBA case then the Board could impose special conditions.

30
31 Mr. Hall stated yes, but it hasn’t happened yet.

32
33 Ms. Capel stated that Ms. Fisher discussed the situation regarding a public nuisance. Ms. Capel asked Mr.
34 Hall to indicate what agency is involved in that.

35
36 Mr. Hall stated that Ms. Fisher was referring to the Champaign County Nuisance Ordinance and the agency
37 that would be involved in that is the Department of Planning and Zoning. He noted that staff has no more
38 control over agriculture through the Nuisance Ordinance than it does with the Zoning Ordinance.

39
40 Ms. Griest asked if the animals on the subject property are owned by Mr. Jones.

41

1 Mr. Hall stated yes.

2

3 Mr. Passalacqua stated that two months ago Ms. Fisher contacted him regarding this situation and he
4 informed her that she needed to contact the Department of Planning and Zoning to file a complaint and that
5 she should also call the Illinois Environmental Protection Agency and the Illinois Department of Agriculture.

6

7 Ms. Lee asked Mr. Hall to indicate the rules regarding a riding stable.

8

9 Mr. Hall stated that if someone is boarding horses then that practice is considered agriculture. He said that
10 there is nothing in writing but his view is that riding a horse in an indoor arena has nothing to do with
11 agriculture and Champaign County does deserve permit fees for that very nice stable and eventually those
12 fees will be collected. He said that the issue regarding holding rodeos would require a Special Use Permit
13 although, depending upon how often it occurs, the events could be held as a temporary use. He said that at
14 this point the only actual violation is not having a permit and given the history of this property this is an
15 issue that he needs to address, but frankly he has bigger fish to fry and he hasn't gotten to it yet.

16

17 Ms. Lee stated that she perfectly understands Mr. Hall's workload and appreciated the status of the situation.

18

19 Mr. Hall noted that Mr. Jones submitted an application for an agricultural building but he did not indicate
20 that the building was a riding arena. He said that the County used to require a Special Use Permit for any
21 riding stable and then in the mid 90's a court case upheld the claim that keeping horses is agriculture and
22 now that sounds very reasonable but it is hard to tell a neighbor with concerns where you draw the line for
23 something which needs a Special Use Permit and something that does not. He said that when that neighbor
24 reviews the Zoning Ordinance they can see that a riding stable requires a Special Use Permit because the
25 Zoning Ordinance was not amended to be in line with that court order and it is just the way that it is
26 administered. He said that it would be very difficult to put into writing to write the rules about when a riding
27 stable requires a Special Use Permit and when it does not and so far when staff explains that to people we
28 have never had any problems.

29

30 Ms. Lee stated that there was riding stable placed near her personal property and she had no objections but
31 when the riders trespassed onto her property the Sheriff's Department was called.

32

33 Mr. Passalacqua stated that he would not be surprised to see this particular area in question on the local news
34 in the future.

35

36 **10. Adjournment**

37

38 Mr. Thorsland entertained a motion to adjourn the meeting.

39

40 **Ms. Griest moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice vote.**

41

1 The meeting adjourned at 8:25 p.m.

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5 Respectfully submitted

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10 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
6
7 **DATE: September 10, 2015** **PLACE: Lyle Shield's Meeting Room**
8 **1776 East Washington Street**
9 **TIME: 7:00 p.m.** **Urbana, IL 61802**

10
11 **MEMBERS PRESENT:** Catherine Capel, Debra Griest, Marilyn Lee, Brad Passalacqua, Jim Randol,

12
13 **MEMBERS ABSENT :** Eric Thorsland

14
15 **STAFF PRESENT :** Lori Busboom, John Hall, Susan Chavarria

16
17 **OTHERS PRESENT :** Lloyd Allen, Caleb Burton, Robert Frazier, Steve Koester, Keith Padgett

18
19
20 **1. Call to Order**

DRAFT

21
22 The meeting was called to order at 7:00 p.m.

23
24 Mr. Hall informed the Board that due to the absence of Eric Thorsland, Chair, the Board needs to appoint an
25 Interim Chair for tonight's meeting.

26
27 **Mr. Passalacqua moved, seconded by Ms. Lee to appoint Ms. Capel as Interim Chair for tonight's**
28 **meeting. The motion carried by voice vote.**

29
30 **2. Roll Call and Declaration of Quorum**

31
32 The roll was called and a quorum declared present with one member absent and one vacant seat.

33
34 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the
35 witness register for that public hearing. She reminded the audience that when they sign the witness register
36 they are signing an oath.

37
38 **3. Correspondence**

39
40 None

41
42 **4. Approval of Minutes**

43
44 None

45
46 **5. Continued Public Hearings**

47
48 None

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6. New Public Hearings

Case 792-V-14 (REACTIVATED) Petitioner: Robert Frazier Request to authorize the following Variance from the Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District: Part A. Variance for 48 on-site parking spaces in lieu of the minimum required 67 parking spaces as required by Section 7.4 of the Zoning Ordinance; and Part B. Variance for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance; and Part C. Variance for parking 0 feet from the front property line in lieu of the minimum required 10 feet from the front property line as required by Section 7.4.1 of the Zoning Ordinance; and Part D. Variance for allowing at least 19 off-street parking spaces on an adjacent lot in lieu of requiring all off-street parking spaces to be located on the same lot or tract of land as the use served, as required by Section 7.4.1 of the Zoning Ordinance. Location: Lot 4 of the Stahly Subdivision in the Southeast Quarter of Section 8 of Champaign Township and commonly known as the former LEX building located at 310 Tiffany Court, Champaign.

Ms. Capel informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of hands for those who would like to cross examine and each person will be called upon. She requested that anyone called to cross examine go to the cross examination microphone to ask any questions. She said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. She noted that no new testimony is to be given during the cross examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

Ms. Capel asked the petitioner if he desired to make a statement outlining the nature of his request.

Mr. Robert Frazier stated that he had no statement at this time.

Ms. Capel asked if staff had any questions for the petitioner or new information for the Board regarding this case.

Mr. John Hall, Zoning Administrator, stated that staff does have questions for the petitioner regarding the floor plan but currently he would like to discuss some of the larger issues related to this case. He said that the Board is in a difficult position tonight because this case was continued from May and continued to July and that meeting was cancelled which was a very critical time for this case. He said that the May 6, 2015, Supplemental Memorandum reviewed parking concerns and included the revised site plan that was received on March 30, 2015, which he realizes that the site plan at this point is not simply the site plan received on March 30th but also includes the email which was received on March 18th from Robert Frazier with attachments. Mr. Hall stated that the key attachments to that March 18th email were a very rough indication

1 of the extra parking spaces that he has leased.

2
3 Mr. Hall stated that in January Mr. Thorsland recommended that Mr. Frazier provide a very accurate site
4 plan indicating all levels and uses and from a staff perspective it is fair to say that we may be half way there
5 but we have a site plan that absolutely depends on these other parking spaces and it is not all included on one
6 plan. He said that the site plan for this case is necessarily a floor plan also and is a floor plan of a building,
7 drawn by an architect in 1997, stated to be in compliance with the Illinois Accessibility Code but the
8 building was completely remodeled later and staff has no idea if the building now complies with the Illinois
9 Accessibility Code or the Americans with Disability Act. He said that he is uncomfortable because staff
10 authorized construction at one point but did not authorize the remodeling and hopefully the Attorney General
11 can take attention to that small detail if fines are ever imposed. He said that at this point this is the first time
12 that the Board has been presented with a floor plan that has been completely revised from what was earlier
13 designed by an architect and stated to be in compliance with all accessibility requirements. He said that he
14 does not see anything on the floor plan or the March 30th site plan indicated as restrooms as there should be
15 two restrooms and they should both be accessible to the public. He said that he has not taken the time to
16 walk through the building to see if the restrooms are there and he is waiting to see how important that is to
17 the Board.

18
19 Mr. Hall stated that the upstairs storage that is indicated on the site plan received March 30th the storage is
20 indicated as “upstairs storage” but he does not know if it is one storage space for the business or if it is
21 subdivided into self-storage units. He said that a plan has never been received for the self-storage units on
22 the first floor which probably explains why we have never received one for the second floor. He said that he
23 does not have dimensions of the second floor storage area which is located in the middle portion of the
24 building which is the area that our office as never received permit fees for or ever approved or signed off for
25 compliance.

26
27 Mr. Hall stated that there were a lot of issues reviewed in the May 6th Supplemental Memorandum and that
28 was a critical meeting and the memorandum laid out several important considerations and staff tried to
29 identify the most critical considerations in the July 8th Supplemental Memorandum. He noted that the
30 second paragraph on page 2 of the July 8th memorandum the special conditions that are before the Board are
31 incompatible with the site plan received on March 30, 2015, as they do not match up with that site plan. He
32 said that at this point the Board needs to decide if they agree to these conditions and if the Board does, a
33 different site plan will be required. He recommended that a new site plan be on one sheet showing the entire
34 project, preferably with some kind of a statement from an Illinois Licensed Architect regarding accessibility.
35 He said that if the Board decides to deny the case, the Board could deny it on the basis of the March 30th site
36 plan or the Board could approve it, taking the time to tailor the Summary of Evidence so that the Board’s
37 thinking is documented. He said there is a special condition indicating that staff must always have a lease on
38 file for the parking spaces. He said that this special condition is the only way for staff to track that there is in
39 fact the correct number of parking spaces under lease for this project. From a staff perspective, that is
40 probably better than what we have in an “as-of-right” case because it specifies the number of parking spaces
41 that have to be available which is why that is such a piece of key evidence and why it needs to be included

1 on the site plan. He said that this is just a quick review of the really significant issues that the Board needs to
2 review in this case and he apologized for the conditions that lead to the cancellation of the July 16th meeting
3 but it was out of staff's control. He said that he wonders if the Board has everything that it needs to take
4 final action on this case tonight, as much as he would hate to see it continued again, these are some
5 significant issues, at least from a staff level, which must be considered.
6

7 Ms. Lee stated that Special Condition C. on page 25 of 25 of the July 16, 2015, Summary of Evidence
8 indicates the following: Within one year of Final Determination in Case 792-V-14, the property owner must
9 reconstruct the curb that was removed and must submit all necessary engineering documentation that would
10 be required for meeting the original design and specifications in the Stahly Subdivision. She asked Mr. Hall
11 if the Champaign Township Highway Commissioner should have the say-so regarding the curb thus
12 eliminating the need for language like this.
13

14 Mr. Hall stated that the special condition could be revised but staff's thinking was if the curb is replaced to
15 what was there previously and that curb was accepted then why would that same curb not be acceptable
16 today. He said that if the Board agrees he would be happy to insert language regarding approval by the
17 Champaign Township Highway Commissioner.
18

19 Mr. Passalacqua asked if the Board requested additional information regarding the upstairs storage and a
20 floor plan at the previous meeting and no new information has been received.
21

22 Mr. Hall stated that from the previous time that this case was heard the Board does have new information
23 which is the unidimensional sketch of the upstairs storage. He said that as the Zoning Administrator he
24 would like to receive more specific information, but the petitioner did submit the minimal required
25 information by the Board and based on that review the Board may want to get more specific.
26

27 Mr. Randol stated that he would like to see a set of certified plans from a licensed architect showing what
28 everything actually is and where the restrooms are located.
29

30 Mr. Hall stated that technically, in 1997 staff had the plans from the architect and that is what was requested.
31 He said that after receipt of those plans staff reviewed and approved those plans but later the building was
32 completely remodeled without staff's comments so that is the minimum that the Board should ask for
33 because that is what it would need to be in compliance with the Illinois Accessibility Code.
34

35 Ms. Griest asked Mr. Hall if the remodel is the 2004 stamp on the drawing.
36

37 Mr. Hall stated that he does not remember the specifics but apparently that plan was not submitted until
38 November 30, 2004. He said that at that point staff was approving permits based on a condition that we
39 would receive the required documents prior to compliance. He said that the permit was received or approved
40 in 2002. He said that the stamp on the drawing does not relate to anything in red on that plan.
41

1 Ms. Griest asked if all of the modifications indicated in red are changes since 2002 that the petitioner has
2 chosen to share with us but there may be others that we don't know about.

3
4 Mr. Hall stated that including the floor plan indicated on page 2 of Attachment C indicates the office for
5 Frazier Properties, six other offices off of a hallway, two spaces labeled BH1 and BH2. He said that BH2 is
6 available to all of the other offices but BH1 is not, which is why Mr. Hall questioned the restrooms. He said
7 that originally the plan indicated that the restrooms were located on the west side of the building but the
8 spaces indicated as BH1 and BH2 are on the east side of that building wing. He said that the Silverback
9 Barrel Club was previously a storage area but is now a gymnasium. He said that he would have to go back
10 through the drawings but he does believe that the Board did receive the Joseph Coble floor plan indicated as
11 Sheet 1. He said that the area that was subdivided into all of the separate offices was originally indicated as
12 new offices and sales room for Bright Ideas and there were two restrooms which appeared to meet the
13 accessibility standards and, as required by law, the licensed architect signed off on the plans. He said that
14 the changes that are indicated in red may be acceptable but they don't appear acceptable and more
15 importantly there is no licensed professional signing off on the revised plan which is a key thing for him. He
16 said that as the Zoning Administrator he is personally liable for any plan that is approved and he can be fined
17 up to \$1,000 if something gets built that does not meet the Illinois Accessibility Code therefore it is his goal
18 to never let that happen. He said that as staff there is only so much that we can force the petitioner to do
19 outside of a public hearing therefore the Board may want to give more detailed in its directions to the
20 petitioner.

21
22 Ms. Capel asked the Board if there were any questions for Mr. Frazier.

23
24 Mr. Passalacqua stated yes.

25
26 Mr. Hall suggested that the Board take comments from witnesses prior to calling the petitioner to the witness
27 microphone.

28
29 Ms. Capel called Lloyd Allen to testify.

30
31 Mr. Lloyd Allen, who resides at 3222 Stoneybrook Drive, Champaign, asked Ms. Capel if anything can be
32 brought up that was discussed at the prior meetings.

33
34 Ms. Capel stated yes.

35
36 Mr. Allen stated that he has been involved in construction and has served on many committees throughout
37 his career. He noted that the Board does have the right to get an architect involved to verify that the non-
38 permitted additions and remodeling was done to comply with the code.

39
40 Mr. Hall stated that Mr. Allen is correct in regards to Illinois Accessibility Code.

1 Mr. Allen asked Mr. Hall if a permit would have been required for construction to assure it meets code.

2
3 Mr. Hall stated that Champaign County has never adopted a building code and the State of Illinois has a
4 mandated code for any new construction after February 2015. He said that when the State of Illinois adopted
5 that code they didn't provide any details regarding additions to existing buildings or remodeling so it is very
6 complicated and he does not require anything when it is an addition.

7
8 Mr. Allen asked Mr. Hall if staff has the responsibility regarding the square footage of building versus the
9 square footage of property.

10
11 Mr. Hall stated that under the Zoning Ordinance staff does have that responsibility and does review that.

12
13 Mr. Allen stated that if staff was never given a permit for approval then, why not still require it for review to
14 assure compliance.

15
16 Mr. Hall stated that he has tried as hard as he can to make it clear tonight that a permit should be a
17 requirement.

18
19 Mr. Allen stated that he would like to work through the list of requested variances and present his reasons
20 why they should not be approved. He said that Part A. indicates a variance for 48 on-site parking spaces in
21 lieu of the minimum required 67 parking spaces as required by Section 7.4 of the Zoning Ordinance. He said
22 that he does not believe that 67 parking spaces are enough with the way that Mr. Frazier is currently using
23 his property. Mr. Allen stated that he has one access into his rental property, which is to the back, and it is a
24 concrete driveway that was poured approximately one year ago and it seems like numerous people, including
25 Mr. Frazier, enjoy parking on the driveway. Mr. Allen said that Mr. Frazier parks buses on the driveway
26 overnight and his tenants park on the driveway to the point that anyone who has rental property in this area is
27 forced to use someone else's property to park. He repeated that he does not believe that 67 parking spaces is
28 even enough for the way that Mr. Frazier is using the property.

29
30 Mr. Allen stated that Part B. indicates a variance for a setback of 50 feet and a front yard of 20 feet between
31 the principal building and Tiffany Drive in lieu of the minimum required setback of 55 feet and the
32 minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance. Mr. Allen asked
33 Mr. Hall to indicate how long the minimum required setback of 55 feet and the minimum required front yard
34 of 25 feet have been in effect.

35
36 Mr. Hall stated that these requirements have been in effect from day one of the Zoning Ordinance.

37
38 Mr. Allen stated that this requirement has been in effect for years and he cannot see why this Board would
39 change this requirement when it has worked so well. He said that one person has violated the Zoning
40 Ordinance requirements by completing construction without obtaining a Zoning Use Permit so why would
41 the Board be willing to make an exception for that person.

1

2 Mr. Allen stated that Part C. indicates a variance for parking 0 feet from the front property line in lieu of the
3 minimum required 10 feet from the front property line as required by Section 7.4.1 of the Zoning Ordinance.
4 He said that he doesn't really have anything to say about this request.

5

6 Mr. Allen stated that Part D. indicates a variance for allowing at least 19 off-street parking spaces on an
7 adjacent lot in lieu of requiring all off-street parking spaces to be located on the same lot or tract of land as
8 the use served, as required by Section 7.4.1 of the Zoning Ordinance. He said that this Board does not have
9 a policy to enforce this request because the Board has no idea when a space is being leased or not. He said
10 that he does not know if Mr. Frazier's off-street parking is being leased currently and has heard rumors that
11 Mr. Frazier was no longer paying for the lease therefore he no longer has access to that property. He said
12 that the people who were parking at that location were landscapers and are now blocking the drive on the
13 other side. He said that Mr. Frazier has been involved in construction installing room additions, pools, etc.,
14 therefore he should be very knowledgeable about getting permits but now we have a person who has built
15 buildings without a permit and added a porch without a permit. Mr. Allen stated that in regards to life safety
16 the porch is over three foot and has no guardrails to prevent wheelchairs from rolling off of it and any city in
17 the world would not allow it. He said that Mr. Frazier has changed the use of the building and has admitted
18 to cutting three curbs on the property without permits. Mr. Allen stated that Mr. Frazier has modified the
19 buildings and no one knows if he complies with the restroom requirements. He said that staff has indicated
20 that two restrooms are required but what is the state code for bathrooms per people. Mr. Allen stated that
21 without an architect no one knows if Mr. Frazier is compliant locally or with the state which is the reason
22 why he has stated that the Board does have the right to force that an architect be involved. Mr. Allen stated
23 that he does not believe that Mr. Frazier has enough space and he continually gives tenants the use of the
24 property to the south to access their areas because the driveway is always blocked by parked vehicles. He
25 said that this has been dragged out long enough and we need a decision because this has been going on for
26 over one year.

27

28 Ms. Capel asked the Board if there were any questions for Mr. Allen and there were none.

29

30 Ms. Capel asked if staff had any questions for Mr. Allen.

31

32 Mr. Hall stated that in regards to the variance for off-site parking, a variance from the on-site parking
33 requirement is not a prohibited variance so the Board has the authority to grant that variance if they believe
34 they can make the necessary findings. He said that he would like to see a site plan of the off-street parking
35 because it is on an adjacent lot. He said that even if we went with what is before the Board tonight, we know
36 that the parking is adjacent and as long as that is leased for the use of the subject property, the Board still
37 needs to grant the variance because the off-street parking is not on-site and there is good justification for
38 granting it. He said that whether or not the Board will grant the variance or not is up to the Board but they
39 do have that authority.

40

41 Mr. Allen stated that he understands the Board's authority but how will the Board know if the off-street

1 parking is leased now or not.

2

3 Mr. Hall stated that the condition does not apply right now so he does not know but once this variance is
4 approved it will apply. He said that the current lease ends at the end of 2018 if the payments are kept up.

5

6 Mr. Allen stated that the Board is basing this entire variance on that lease and will not know if it has been
7 cancelled.

8

9 Ms. Griest asked Mr. Hall if the variance were approved and it contained a condition regarding the lease, if
10 the lease lapsed for any potential reason would the variance no longer be valid. If not, she would question
11 how much value the condition has if the condition is violated and that violation does not suspend the
12 authorization.

13

14 Mr. Hall stated that the lease does provide for default but the one weakness is that it doesn't require the
15 Zoning Administrator to be copied on those default documents. He said that this is a legal document and to
16 know whether it is enforceable might require review by the State's Attorney because he could not provide
17 the legal review that the State's Attorney's Office can provide.

18

19 Ms. Griest asked Mr. Hall if he is addressing his response to her question whether the default would suspend
20 the variance. She said that this is not a special use case, but a variance case whereas a condition like that in a
21 special use would automatically suspend the special use, but being a variance she questions whether it really
22 has any teeth.

23

24 Mr. Hall stated that it does have teeth provided that we are made aware of it and that is the problem because
25 the lease does not provide notice to the Zoning Administrator when there is a default and that is what we
26 need to have to make it enforceable.

27

28 Ms. Griest asked Mr. Hall to review what happens if the lease goes into default or lapses.

29

30 Mr. Hall stated that the condition currently indicates that a lease must be on file with the Department of
31 Planning and Zoning. He said that the current condition is clearly inadequate unless you interpret it to mean
32 a lease that is not in default, which one should assume but then again may not stand up in a court of law.

33

34 Ms. Griest stated that the language in the condition needs to be much stronger and contain filing
35 requirements for the Zoning Administrator to be notified of any lapse. She said that she is not sure that she
36 can support the current condition because it makes the whole concept too vulnerable.

37

38 Mr. Randol stated that if the landowner who is giving the lease decides to not renew the lease then it comes
39 back on the ZBA for something that they have already approved and in one or two years the current parking
40 may not be there.

41

1 Mr. Hall stated that under the terms that are before the Board there would have to be a new lease no later
2 than February 28, 2018, because the current lease expires on that date and unfortunately there is a loophole
3 because the lease could have been in default the entire time and the only time that the condition would kick
4 in is when the new lease is required.

5
6 Mr. Allen stated that this is why the Board should not approve it because the Board and staff have no control
7 over it. He said that Mr. Frazier could be in default right now. He said that if the Board approves this case
8 and Mr. Frazier lost the lease for non-payment how will the Board make up those 19 parking spaces.

9
10 Mr. Hall stated that he is of the opinion that if an adequately reviewed lease and an adequate condition and
11 the condition is the important thing. He said that there is already a lease between the two parties and it
12 apparently needs to be amended to meet the Board's required condition and that would be up to the
13 petitioner to get that done. He said that once the Board has this condition they have more control than any
14 other time regarding parking because people can sell off the area that is required for their parking on any day
15 of the week and staff would never know about it. He said that this is one instance when the Board can
16 absolutely nail it down if they get the adequate legal review in the beginning and that is no small task.

17
18 Mr. Allen asked if he would be out of order in asking Mr. Frazier if he still has a lease on that property.

19
20 Mr. Hall stated that the Board would not be out of order in asking the petitioner that question.

21
22

23 Ms. Capel asked Mr. Hall to indicate what the consequences are if the lease lapses.

24
25 Mr. Hall stated that then it becomes an enforcement case but right now there is no provision for that.

26
27 Mr. Passalacqua asked Mr. Hall if part of this property is already an enforcement case because there
28 were structures built without a permit and the parking spaces are a needed result of all of the after-the-
29 fact stuff has already been done. He asked Mr. Allen if he submitted the photos of the subject property
30 for review tonight.

31
32 Mr. Allen stated yes.

33
34 Mr. Passalacqua stated that he is attempting to interpret the pictures against the map. He said that if the
35 photograph is an indication of what happens every day then all of the parking spots in the back of the
36 property are basically useless.

37
38 Mr. Allen agreed.

39
40 Ms. Griest stated that she believes that the Board is spinning their wheels until they have a certified
41 architect's plan that gives the Board compliance with parking and accessibility and until then she

1 believes everyone is wasting their time in being here including the other witnesses and staff. She said
2 that there is no way the Board can go much further.

3

4 Mr. Hall stated that he does not know what the Board can do about vehicles being parked along the south
5 access way because when somebody parks there is makes the rest of the parking inaccessible unless they
6 knew enough to go around via the north route, which they could do.

7

8 Mr. Allen stated that the vehicles would have to go onto someone else's property.

9

10 Mr. Hall stated that the north route is located on this property.

11

12 Mr. Allen stated that the access to the area is impossible because the septic is torn up.

13

14 Mr. Hall stated that from the documents that have been submitted to staff there is a traffic path on the north
15 side but perhaps this is another good question for the petitioner. He said that it is unfortunate that the Board
16 has to verify everything that is submitted in a zoning case but perhaps that is the situation that we are in.

17

18 Ms. Capel asked Mr. Hall if the Board could send someone out to inspect the property.

19

20 Ms. Chavarria stated that she has been to the property several times and can verify that the north side of the
21 building is inaccessible for vehicles. At this point there is the southern concrete driveway and the drive on
22 the lot to the south, which is not on the property, and the use of the these drives is the only way to get around
23 the vehicles that are parked in these photos.

24

25 Mr. Hall asked Ms. Chavarria if her inspection finds that the plan that was submitted on March 30, 2015, that
26 shows red arrows indicating the direction of traffic movement along the north side of the property is not
27 possible.

28

29 Ms. Chavarria stated that her inspection did find that it is not possible, but it also wasn't clear at what point
30 Mr. Frazier is in his construction of the proposed site plan. She said that she did not highlight that point
31 because it could mean that construction is still forthcoming.

32

33 Ms. Lee stated that she understands that Ms. Griest would like to continue this meeting to a later date until
34 more information is received but there are witnesses here tonight who may have issues which may be
35 relevant to this case.

36

37 Ms. Capel stated that if someone has signed the witness register and they are still here she will call them to
38 testify.

39

40 Ms. Capel asked the Board if there were any additional questions for Mr. Allen.

41

1 Mr. Passalacqua asked Mr. Allen if the photographs are a clear indication of what goes on daily or is this a
2 rare occurrence.

3
4 Mr. Allen stated that he sees this occurrence very often. He said that the buses are there for a good period of
5 time and people are always parking in the driveway so anyone else has to use the entrance on the property to
6 the south to travel to the back of the property. He said that the landscaper tenant parks in front of the one
7 building every day and night and he literally has to drive into the drive from the parking lot to the south. He
8 said that someone is always parked on the concrete and he could provide loads of pictures to prove it but
9 what good would it do.

10
11 Mr. Randol stated that he drives past the property several times during the weekend and there is always
12 something parked there. He said that the vehicle may not be there for an extensive period of time but there is
13 something always parked there.

14
15 Ms. Capel called Keith Padgett to testify.

16
17 Mr. Keith Padgett, Champaign Township Highway Commissioner, stated that his office is located at 3900
18 Kearns Drive, Champaign. He said that he appreciates all of the trials and tribulations in trying to get this
19 matter resolved beyond the sidewalk as the area from the sidewalk to the street is his jurisdiction. He said
20 that when the Board is done with all of the other issues regarding this property, Champaign Township needs
21 the curb replaced and he hopes that this is involved in the Board's final decision.

22
23 Ms. Capel asked the Board if there were any questions for Mr. Padgett.

24
25 Ms. Lee asked Mr. Padgett if he has tried to get Mr. Frazier to replace the curbs that he removed.

26
27 Mr. Padgett stated that he has not had contact with Mr. Frazier other than seeing him at these meetings. He
28 said that the curb has been cut and people drive across it all day long. He said that he does wonder what
29 damages are being done to utilities in this area that do not have a concrete surface over the top for protection.
30 He said that no damage may be occurring, but if there is damage, who will be held responsible for that
31 damage.

32
33 Ms. Lee asked Mr. Padgett if he has contacted any legal authority regarding this issue.

34
35 Mr. Padgett stated no because he has been attending the meetings regarding this property and letting the case
36 run its course.

37
38 Ms. Lee stated that this is obstruction of government property.

39
40 Mr. Padgett stated that he agrees.

41

1 Ms. Capel asked the Board and staff if there were any additional questions for Mr. Padgett.

2

3 Mr. Hall stated that the condition may actually be written too broadly. He asked Mr. Padgett if the curb were
4 replaced with the exception of the two driveways would he be acceptable of the two driveways.

5

6 Mr. Padgett stated that the way that vehicles are parked there now they will have to attempt to jump the curb
7 and if they would change the way that they park there they would have to go in one drive and would not have
8 the daily traffic on the easement that is not protected. He said that this type of curb is a barrier curb which is
9 harder to drive over as opposed to some of the curbs you would find in a subdivision. He said that the
10 barrier curb is supposed to keep things out in the road.

11

12 Mr. Hall asked Mr. Padgett if it would be cumbersome if the Board wanted to include some sort of approval
13 from Mr. Padgett regarding post construction and then as-built.

14

15 Mr. Padgett stated that he could do that but he relies heavily on the Champaign County Engineering Division
16 for most of their road projects because they see these built every day and having them involved in it assures
17 that the curb is built correctly.

18

19 Mr. Passalacqua asked Mr. Padgett if the curb were replaced is there enough dimension to make ingress in
20 and out of those front parking spaces as designed on the print or will those spots become useless.

21

22 Mr. Padgett stated that he would say that those spots will become useless or parallel spots. He said that the
23 downfall has been cut off of the curb and in order to replace the curb everything has to be torn out so that
24 one solid unit can exist so that when he plows snow the top of the curb isn't broken off.

25

26 Mr. Hall stated that before the curb can be replaced the remaining portion of the old curb must be removed
27 which is no small task.

28

29 Ms. Lee stated that it is really important to have engineers involved in this issue.

30

31 Mr. Passalacqua asked Mr. Padgett if the curb was milled when it was removed.

32

33 Mr. Padgett stated yes but the remainder of that curb base is still underground.

34

35 Ms. Capel asked the audience if anyone desired to cross examine Mr. Padgett.

36

37 Mr. Lloyd Allen stated that utility companies require raceways in the concrete for future access.

38

39 Mr. Padgett stated that there can be in certain situations, if the utility is not there and is expected in the near
40 future they will sometimes require a steel duct or pipe placed under the driveway so that they can run their
41 wires through it. He said that he believes that water or gas lines are located on that side of the curb and it is

1 deep enough that the traffic is probably not hurting them but the concrete was designed to have the traffic on
2 top of it because that is what driveways are for.

3

4 Mr. Allen noted that the water line is located at that location.

5

6 Ms. Capel asked the audience if anyone else desired to cross examine Mr. Padgett and there was no one.

7

8 Ms. Capel called Keith Koester to testify.

9

10 Mr. Steve Koester, who resides at 1919 N. Old Route 47, Monticello, stated that his business address is
11 located at the Stahly Industrial Park at 305 Tiffany Court and he jointly owns 314 Tiffany Court which is on
12 located on the south side of Mr. Frazier's property. He said that he has been frustrated by the use of his
13 property as access for the tenants traveling to the rear of Mr. Frazier's property and he has had discussions
14 with Mr. Frazier about this issue. He said that they have discussed the relocation of the buses and the last
15 time that he knew there were still buses on the property, although Mr. Frazier testified at the previous
16 meeting that the buses would be gone within two weeks. Mr. Koester stated he would like to build a fence
17 but the property owner to the north built a very nice fence, which Mr. Koester constructed, and it has been
18 destroyed, therefore he is sure that any improvements that he makes on that side would suffer the same
19 consequences. He said that he did have a discussion with Mr. Isaacs who is the person who leased the 19
20 spaces that were previously discussed tonight and Mr. Isaacs indicated that he did cancel the lease on the 19
21 parking spaces. He said that the information regarding the lease should have been disclosed prior to this
22 meeting. Mr. Koester stated that he agrees that the north area is virtually impossible to access. He said that
23 he would love to see a resolution to this because it has gone on for a very long time. He said that he drives
24 several miles to attend these meetings even though the person who applied for the variance didn't bother to
25 make the trip. He requested a resolution to these issues and a decision regarding the variance request.

26

27 Ms. Capel asked the Board if there were any questions for Mr. Koester.

28

29 Ms. Lee asked Mr. Koester when he had his conversation with Mr. Isaacs.

30

31 Mr. Koester stated that two weeks ago he had his discussion with Mr. Isaacs, owner of 306 Tiffany Court.

32

33 Ms. Capel asked the Board and staff if there were any additional questions for Mr. Koester and there were
34 none.

35

36 Ms. Capel asked the audience if anyone desired to cross examine Mr. Koester and there was no one.

37

38 Ms. Capel called Caleb Burton to testify.

39

40 Mr. Caleb Burton, who resides at 2409 W. Daniel Street, Champaign, stated that he jointly owns 314 Tiffany
41 Court, which is the property that is encroached upon due to Mr. Frazier having vehicles parked on the side of

1 his building. He said that he is tired of seeing everyone driving over his property and illegally disposing
2 their waste onto his property.

3
4 Ms. Capel asked the Board if there were any questions for Mr. Burton and there were none.

5
6 Ms. Capel asked staff if there were any questions for Mr. Burton.

7
8 Mr. Hall asked Mr. Burton if he could imagine any situation under which he could lease the north 10 or 12
9 feet to Mr. Frazier, provided that the lease was adequate in terms of payment. He asked Mr. Burton if there
10 was any reason why he couldn't lease the 10 or 12 feet to Mr. Frazier or does Mr. Burton need that area for
11 his own operations and parking.

12
13 Mr. Burton stated that it would be in his best interest to not lease that area to Mr. Frazier because it is his
14 understanding that a previous lease for parking expired due to nonpayment by Mr. Frazier.

15
16 Mr. Hall asked if a lease would be possible if the lease allowed for Mr. Burton's continued use of the area.
17 He said that the Board is facing the most difficult situation that the ZBA could ever face if the parking area is
18 not corrected because if not corrected very significant building area will have to be removed. He said that
19 removing minor building area has happened before and it is an accepted risk but when we are talking about
20 removing thousands of square feet of building area he wonders how long that may take to get resolved in the
21 court system. He asked Mr. Burton if the lease was reviewed so that staff knew the minute it went into
22 default could he make that area available to Mr. Frazier.

23
24 Mr. Burton stated no. He said that he has no interest at all in entering into a lease agreement with Mr.
25 Frazier.

26
27 Mr. Hall stated that sometimes the Board uses no available land as a justification for a variance.

28
29 Mr. Burton stated that the Board has spent hours discussing parking but there are significant other safety
30 issues with this property and parking is probably the smallest thing that we are dealing with here. He said
31 that for whatever reason, every time he attends these meetings the Boards tends to focus on parking and he
32 believes that the parking is the least important thing that the Board needs to talk about. He said this situation
33 has been going on for a long time and Mr. Frazier continues to operate out there and he does not want to deal
34 with it. He said that he is not interested in leasing any space to Mr. Frazier and he would like the Board to
35 concentrate on the unauthorized buildings and uses on the property and violations regarding setbacks. He
36 said that he isn't even sure if the area in front of the porch will allow for parallel parking.

37
38 Mr. Hall stated that the area has been measured and it is adequate for parallel parking and no variance would
39 be required for the parking if it were parallel to the building and against the building but there is a variance
40 required for setback, which is not an unusual request for a variance, but in this case the variance for a
41 setback implicates all of these other issues. He asked Mr. Burton if he has any concerns regarding life safety

1 in regards to just the vehicles on the property.
2
3 Mr. Burton stated that the life safety issues would be that there are no handrails and the steps are constructed
4 from landscape blocks therefore they are not ADA compliant.
5
6 Mr. Hall stated that he has not indicated that it is ADA compliant.
7
8 Mr. Burton stated that he could bring the Board a set of plans that he has drawn all over and indicate that the
9 plans indicate what he is going to do although he can't imagine that anyone could accept such drawings.
10
11 Ms. Capel asked the Board and staff if there were any additional questions for Mr. Burton and there were
12 none.
13
14 Ms. Capel asked the audience if anyone desired to cross examine Mr. Burton and there was no one.
15
16 Ms. Capel called Robert Frazier to testify.
17
18 Mr. Frazier declined to testify at this time.
19
20 Ms. Lee stated that staff should have been informed that the lease was no longer in affect.
21
22 Mr. Hall stated that at this point the discussion regarding the lease being cancelled is hearsay. He said that
23 the testimony regarding the cancelled lease has not been countered by the petitioner so maybe that means
24 something but it is still hearsay.
25
26 Ms. Lee asked if it would be appropriate to call the petitioner to the witness microphone so that the Board
27 can discuss this matter with him.
28
29 Mr. Hall stated that it is up to the Board.
30
31 Ms. Lee requested that Mr. Frazier be called to the witness microphone to address the Board.
32
33 Ms. Capel called Mr. Frazier to the witness microphone.
34
35 Mr. Robert Frazier stated that his business address is 310 Tiffany Court, Champaign.
36
37 Ms. Lee asked Mr. Frazier if the lease for the 19 parking spaces has been cancelled by the landlord due to
38 nonpayment.
39
40 Mr. Frazier stated no.
41

1 Ms. Lee asked Mr. Frazier if the lease has been cancelled by the landlord.

2

3 Mr. Frazier stated that the lease is good for six months and the check has already been approved and paid.
4 He said that if after six months the landlord decides to not renew the lease then that is his decision.

5

6 Ms. Lee asked Mr. Frazier when he made his last payment for the lease.

7

8 Mr. Frazier stated that the payments are made for six months and Mr. Hall probably has record of that.

9

10 Mr. Hall stated that staff has no record of when Mr. Frazier does or does not pay his bills.

11

12 Mr. Frazier stated that he would have to look at the cancelled check.

13

14 Mr. Hall stated that the lease does not provide for a payment of only six months.

15

16 Mr. Frazier stated that it is a six month lease and it is paid for in full and he can provide a cancelled receipt.

17

18 Mr. Hall stated that the lease agreement states the following: "The Lessee agrees to pay as rent for said
19 premises the sum of \$1,500 per year beginning on the 1st day of March, 2015 to the 28th day of February,
20 2016." He asked Mr. Frazier if there is another agreement which allows him to pay for this lease in six
21 month terms.

22

23 Mr. Frazier stated that the landlord does allow him to pay for the lease in six month increments.

24

25 Ms. Lee stated that March 1st to September 1st is six months. She asked Mr. Frazier if he has paid for the
26 next six months.

27

28 Mr. Frazier stated that he has not paid for the next six months.

29

30 Ms. Griest stated that today's date is September 10th therefore the lease is currently in default.

31

32 Mr. Frazier stated that Ms. Griest is correct.

33

34 Ms. Capel asked the Board if there were any additional questions for Mr. Frazier.

35

36 Mr. Hall stated that as a staff person he can ask Mr. Frazier questions about things that Mr. Frazier has not
37 discussed. He asked Mr. Frazier if there are two public accessible restrooms in the office portion of this
38 building which are accessible to all of the office spaces.

39

40 Mr. Frazier stated yes, and there has been no change since the original design.

41

1 Mr. Hall asked Mr. Frazier if there is some reason why these restrooms are not reflected in the red sketch on
2 the site plan received March 30, 2015. Mr. Hall stated that the site plan was supposed to indicate the interior
3 arrangement but Mr. Frazier is indicating that the plan did not include the restrooms.

4
5 Mr. Frazier stated that there is a hallway leading to bathroom #2 and bathroom #1 leads into the larger area
6 called the Silverback Barrel Club.

7
8 Mr. Hall stated that there are not two public bathrooms available for all of the various office spaces.

9
10 Ms. Griest stated that each office has to have access to both restrooms to be compliant and the drawing
11 indicates that some of the offices have access to one restroom and the larger area has access to a restroom by
12 itself.

13
14 Mr. Hall stated that it may well be that given the way the Illinois Plumbing Code is enforced or not it may be
15 acceptable to have one restroom available for a portion of these office areas. He said that this would be
16 unusual but he can't rule it out right now which, in his view, is why it is so important to have an architect
17 involved.

18
19 Mr. Passalacqua asked Mr. Frazier if he is willing to get an architect involved and do everything that is
20 required to make this work.

21
22 Mr. Frazier stated yes.

23
24 Mr. Passalacqua stated that the Board is at a point where a homework list needs to be compiled for Mr.
25 Frazier. He said that to be honest in looking at the sketch that has been drawn over in red and hearing the
26 testimony and viewing the pictures, Mr. Frazier has about six parking spaces that can be used. He said that if
27 Mr. Frazier's heart is in this then it is time to get a more detailed drawing and show the Board how he can do
28 this within the confines of his property and not by making ingress and egress through someone else's
29 property. He said that parking is a topic that the Board talks about because the Board can put a number on it.
30 He said that he has a real problem with all of the construction that was completed without a permit and all of
31 that stuff needs to be brought up to speed or varied. He said that he believes that it is going to be very hard
32 to give the Board a good site plan rewriting over the existing plan therefore a new professional print with
33 real dimensions and a game plan on what is going to happen with the north egress. He said that testimony
34 appears to indicate that the north throughway needs to be eliminated because it doesn't seem that it has the
35 dimension. He said that another thing that the Board often requests is a copy of the lease that Mr. Frazier has
36 with his other tenants. He said that a lease normally will indicate to the tenants what is and is not acceptable
37 on the property. He said that a copy of those leases will assist the Board in making sure that the tenants are
38 aware of the appropriate parking areas. He said that these required documents will add time to the case but if
39 the Board has to decide on this case with the testimony and Documents of Record that is currently in front of
40 the Board then he is sure that the result will be a 100% denial. He noted to Mr. Frazier that if his heart is
41 truly in this project then there is a lot of work that must be done.

1

Mr. Hall stated that he did not understand what Mr. Passalacqua meant by a throughway not being included.

3

4

Mr. Passalacqua stated that the throughway has been deemed impassible by the photographs and the site visit. He said that if the throughway is indeed impassible then he can see why it should be included on a new site plan.

7

8

Mr. Hall stated that perhaps all it needs is a note saying that it will be constructed if it is found to be acceptable.

10

11

Mr. Passalacqua stated then that is what he is asking for.

12

13

Ms. Capel asked Mr. Hall if the Board can ask Mr. Frazier to build a fence.

14

15

Mr. Hall stated that if the fence is not for screening then it is a gray area and he would prefer to leave any trespass issues as a private matter.

17

18

Mr. Frazier stated that there appears to be some confusion regarding the red arrows. He said that the red arrows are indicating the pattern of rain runoff and is not indicating a traffic pattern.

20

21

Ms. Griest stated that the directional arrows are not driveways but are runoff.

22

23

Mr. Frazier stated yes. He said that it is possible to make the north area accessible and he can talk to the architect about that possibility.

25

26

Mr. Passalacqua stated that Mr. Frazier has no way to get to the back parking spots because the photographs indicate that the buses are parked on the south side blocking that access.

28

29

Mr. Frazier stated that the buses can be moved and are not permanent.

30

31

Mr. Passalacqua stated that Mr. Frazier's testimony is just as important to him as the witness who testified before Mr. Frazier. He said that the witness before Mr. Frazier has testified that the neighboring property gets traveled upon because Mr. Frazier does not have open access there.

34

35

Mr. Frazier stated that there are cases when there have been vehicles parked there but as far as access to the neighbor's property then the answer would be yes. He said that, as Mr. Hall stated, it is a legal issue and if the neighbors have any problems, as far as he is concerned, they can file a lawsuit and settle it through a court of law. He said that if the neighbors don't like it they can construct a fence.

39

40

Ms. Griest stated that she understands Mr. Frazier's anger or disappointment but he is asking this Board for approval on a variance therefore it behooves him to be cooperative and to not patronize this Board because

41

1 currently the Board is looking at what is available for his parcel and only his parcel and all of the operations
2 must occur on his parcel. She said that it is her personal opinion that if the operations cannot occur on Mr.
3 Frazier's property she cannot consider approving the variance request.

4
5 Ms. Capel asked the Board if there were any additional questions for Mr. Frazier and there were none.

6
7 Ms. Capel asked staff if there were any questions for Mr. Frazier.

8
9 Mr. Hall stated that to clarify his misreading of the red arrows being runoff arrows and not traffic pattern
10 arrows goes back to the original plan that was submitted. He said that it was previously explained that there
11 was a driveway around the north side of the property and given the nature of this property he cannot imagine
12 anything being approved if Mr. Frazier cannot guarantee to this Board that there will be a complete path
13 around the edge of his property for vehicles that will be kept clear with no parking at any time. He said that
14 frankly he believes that the Board should carefully consider whether they want to consider this case or deny
15 it and have staff take it to the State's Attorney's office for court action.

16
17 Ms. Capel asked the audience if anyone desired to cross examine Mr. Frazier.

18
19 Mr. Lloyd Allen asked Mr. Frazier if he knew why Mr. Isaacs would indicate that the lease had been
20 cancelled if it wasn't.

21
22 Mr. Frazier stated that one tenant violated the lease and parked his truck and dumped his excess wood on the
23 leased area therefore the lease was cancelled.

24
25 Mr. Allen asked Mr. Frazier if Mr. Isaacs notified him that the lease had been cancelled.

26
27 Mr. Frazier stated that he and Mr. Isaacs were both upset over the situation and no discussion occurred
28 regarding the lease.

29
30 Ms. Capel asked the Board if they desired to proceed with this case.

31
32 Ms. Lee stated that based on the testimony the Board should continue with a denial.

33
34 Mr. Hall stated that a denial has to have just as carefully constructed findings as an approval and he would
35 dare say even more carefully constructed.

36
37 Mr. Passalacqua stated that he is not an architect, however it appears that some of the square footage of the
38 building must be removed to get vehicles legally on the lot. He asked Mr. Frazier if this is an expense and
39 proposal that he can work with.

40
41 Mr. Frazier stated that he is willing to work with an architect to make sure that the property is in compliance

1 with the rules.
2

3 Mr. Passalacqua stated that there are vehicles which need to leave Tiffany Court and there are probably
4 lumber, shingles and concrete floors that need to leave Tiffany Court. He said that Mr. Frazier will have to
5 lose part of the building structure and some vehicles to make this property hold what he desires it to hold.
6 He said that the required reconstruction of the curb, which the Champaign Township Highway
7 Commissioner discussed, has to be replaced which will get the parallel parking in front of the building down
8 to four or five spots.
9

10 Mr. Frazier stated that he would go back to the original design.
11

12 Mr. Passalacqua asked Mr. Hall how much building area has to go away if we actually have a feasible count
13 on parking spots.
14

15 Mr. Hall asked Mr. Passalacqua if he is assuming that the leased parking is no longer part of the package.
16

17 Mr. Passalacqua stated that he has no confidence in the leased parking.
18

19 Mr. Hall stated that this is a huge issue.
20

21 Ms. Chavarria stated that at one time she had calculated that it would take 3,000 square feet out of the
22 building although that was before the leased parking was an option. She said that staff will need to
23 recalculate the square footage based on the plan that has been presented.
24

25 Ms. Griest asked Mr. Hall if the impervious ratio has been calculated for this site.
26

27 Mr. Hall stated that this subdivision was approved by the City of Champaign with stormwater detention
28 provided so the whole lot is nearly all impervious area and is just fine in terms of detention. He said that one
29 thing that staff has learned from Tiffany Court is that detention is one thing but adequate stormwater
30 conveyance, so that stormwater can get to the basin, is another and our current way of doing developments
31 like this does not provide for that. He said that the subdivision plat is what it is. He stressed that having
32 leased parking under a good lease, wherein staff gets notified when there are any changes, is so far so much
33 better than the normal parking analysis that is done but getting an adequate lease is no small thing.
34

35 Mr. Randol asked if the Board could request that the leaseholder appear before the Board.
36

37 Mr. Hall stated that the Board can request that anyone appear and the Board could only go so far to make
38 them appear. He said that staff can send Mr. Isaacs a letter requesting his attendance at the next meeting
39 regarding this case.
40

41 Mr. Randol stated that it would be nice to have Mr. Isaacs appear before the Board to testify whether he

1 would or would not have a problem leasing the space for Mr. Frazier's parking. He said that currently Mr.
2 Frazier has a contract that is basically void.

3
4 Ms. Capel stated that not only is it a voided lease but it was paid in way that is not indicated in the lease.

5
6 Mr. Randol stated that Mr. Isaacs needs to tell the Board if he is going to do a six month lease with Mr.
7 Frazier because Mr. Randol would question as to what will happen at the end of six months more than he
8 would question what will happen at the end of one year.

9
10 Mr. Hall stated that as long as the Board can make sure that staff is notified when the parking is no longer
11 available then it would be clear as to what staff needs to do. He said that it would be good to know if both
12 parties would be willing to revise the lease to include some conditions. He said that he would like to talk to
13 the State's Attorney's office to receive some guidance regarding those conditions. He said that he would like
14 the Board to try to meet some kind of a requirement like that before they just deny the request.

15
16 Mr. Randol stated that the Board needs to review plans from an architect.

17
18 Mr. Hall stated that the Board needs to know what the payment terms are and everything has to be specified
19 in the lease. He said that if there are outside agreements that allow other things to happen then, in his
20 opinion, that is the same as not meeting the condition.

21
22 Ms. Lee stated that she knows that Mr. Hall has great confidence in drafted leases but in her practical
23 experience it could appear that you have a good lease or any other legal document but you can't predict what
24 crazy things are going to happen if you don't have it in writing.

25
26 Ms. Griest stated that the Board has a bigger problem in that Mr. Frazier may need more than 19 parking
27 spaces. She said that until the Board sees an actual drawing by an architect, the Board will not know the
28 number of spaces that are required.

29
30 Mr. Hall asked Ms. Griest if she is referring to the number of spaces that are needed.

31
32 Ms. Griest stated that she is referring to the number of additional spaces that are needed because the Board
33 has heard testimony, including from Mr. Frazier, that not all of the parking spaces on the marked up drawing
34 are viable spaces and that when some those spaces are used they completely obstruct the traffic flow. She
35 said that until she sees something from an architect that indicates that this is in compliance and that it meets
36 the requirements for parking, the Board will not know if the required amount of parking is 19 or 67 spaces.
37 She said that she is sure that Mr. Hall discussed this earlier but she is torn by the fact that the Board can
38 count ten spaces inside of a garage that is being used for bus parking as ten parking spaces. She said that she
39 would consider those ten spaces as garage stalls.

40
41 Mr. Hall stated that staff has already reviewed this and staff is not counting on ten inside parking spaces

1 within a garage which is less than 3,000 square feet. He said that staff assumed only however many there
2 were on the west side originally therefore staff saw that there was a lot of over optimism in the tally of the
3 parking spaces that Mr. Frazier submitted. He said that staff did their own calculation, and other than
4 somebody blocking the perimeter path so that vehicles cannot get to the west side, there is enough space. He
5 said that if there is a bus sitting on the south property line then most of the parking is not available if there is
6 not a path on the north. He said that from the very beginning staff was told that there was a path on the north
7 or that there would be a path on the north.

8
9 Ms. Capel stated that Mr. Isaacs' property also has 32 parking spaces.

10
11 Mr. Passalacqua stated that the numbers could always change because the township highway commissioner
12 testified that the curb needs replaced and the angled parking spots won't work anymore.

13
14 Mr. Hall stated that staff had assumed that and knew that the Board would not accept perpendicular spaces.

15
16 Ms. Griest stated that her error is that she counted the "p's" on the drawing and came up with 38 parking
17 spots with the note that indicated ten inside parking spaces. She asked if staff had a different plan with
18 parking that the Board hasn't seen yet.

19
20 Mr. Hall stated no, staff did their own take-off and disregarded things that staff knew were not accurate. He
21 said that staff would never have let this case get this far if staff hadn't done that. He said that the one thing
22 that staff did not know is anything about the so-called "upstairs storage."

23
24 Ms. Chavarria stated that there is a notation that existing upstairs storage is 1,500 square feet therefore she
25 calculated that square footage in the new configuration of 67 required parking spaces.

26
27 Mr. Hall asked what the parking load assumed for that 1,500 square feet.

28
29 Ms. Chavarria stated that it was used as storage for the business.

30
31 Mr. Hall asked Mr. Frazier if the upstairs storage is used for his business or is it rented out.

32
33 Mr. Frazier stated both.

34
35 Mr. Hall stated that he does not know the percentage of the area that is used for the business.

36
37 Mr. Frazier stated that staff has made it perfectly clear that they do not understand the drawings and that they
38 do not indicate what information is required. He said that at this point it has been recommended that he hire
39 an architect to work directly with staff so that everyone understands what is on the property and what needs
40 to be changed in order to be compliant with the Zoning Ordinance. He said that his recommendation would
41 be that we could argue about this and that for a long time but if he could hire an architect it could all be

1 hammered out. He asked the Board if they would be agreeable to that.

2
3 Mr. Randol informed Mr. Frazier that he is the one who needs an architect and not the Board.

4
5 Mr. Frazier stated that he understands who needs the architect.

6
7 Ms. Lee asked Mr. Frazier to define what he meant when he previously indicated "both."

8
9 Mr. Frazier stated that the front portion of the building has mini-warehouses and the rest is attic space.

10
11 Ms. Lee asked Mr. Frazier to indicate what portion of the 1,500 square feet is used for his business and what
12 portion is used as rental space.

13
14 Mr. Frazier stated that he is not sure of the square footage. He said that his rendition of the architect's
15 drawings are not good enough therefore he will hire an architect.

16
17 Mr. Passalacqua asked staff if the minutes can indicate the items that are required by the Board or should the
18 Board and staff begin a list of the things that are required for review.

19
20 Mr. Hall encouraged the Board to construct the list during this public hearing. He said that we got into detail
21 about the parking spaces because the Board was not convinced that the 32 leased spaces met the necessary
22 requirements and if the Board is still doubtful of that he is uncomfortable with Mr. Frazier hiring an architect
23 to do a plan.

24
25 Mr. Passalacqua stated that he is getting the impression that Mr. Frazier needs to lose 3,000 square feet of
26 space that he rents out. Mr. Passalacqua said that he is also getting the impression that Mr. Frazier will need
27 to lose some of his own vehicles and tenants which means that Mr. Frazier will lose money. Mr.
28 Passalacqua stated that Mr. Frazier is also going to spend money because the curb must be replaced and there
29 could be required demolition and both will be very expensive. Mr. Passalacqua stated that if Mr. Frazier
30 believes that he can make this calculation work without 3,000 square feet of rentable space and without
31 tenants who have buses or wood chippers then Mr. Frazier is in good faith but if we are just kicking this can
32 down the road then that is in bad faith. Mr. Passalacqua said that if Mr. Frazier is not comfortable in losing
33 square footage and vehicles then everyone's time is being wasted.

34
35 Mr. Frazier stated that he had built a garage for a tenant and that garage requires repair. He said that he has
36 already taken half of the garage down therefore he is comfortable in removing the rest of it. He said that he
37 is also comfortable in going back to the original building that was granted over 20 years ago.

38
39 Mr. Passalacqua stated that there are structures on the property currently that were not part of the original
40 approval therefore those structures must be addressed by this Board as well.

1 Mr. Frazier stated that other than the garage, he has built a cover over the front of the building to keep the
2 rain off of people using the existing wheelchair access. He said that his structures look very nice.

3
4 Mr. Passalacqua stated that there is no doubt in his mind that the structure is nice and functional although it
5 still has to fall within the County's requirements.

6
7 Mr. Frazier stated that the building may be beautiful and functional but due to the zoning laws he will have
8 to rip part of it down.

9
10 Mr. Passalacqua stated that this process is not a personal attack. He said that the Board must consider how
11 not only the uses on the property affect Mr. Frazier but also how they affect Mr. Frazier's neighbors. Mr.
12 Passalacqua stated that the Board is in a tight spot because they do not want to inform Mr. Frazier that he
13 can't do something on his property as income or personal use but the Board also doesn't want those uses to
14 affect Mr. Frazier's neighbors. He said that all of the things that may be required will be expensive and time
15 consuming but the Board is trying to find a way to make it happen.

16
17 Mr. Hall asked the Board if they desire a plan that has no leased parking.

18
19 Ms. Griest stated that she would prefer a plan indicating no leased parking.

20
21 Ms. Lee agreed with Ms. Griest.

22
23 Mr. Hall stated that originally there were only 11 spaces where the bus garage is now located and currently to
24 make this work Mr. Frazier needs 32 off-site spaces He said that a lot more building area than just the
25 garage and the new covered area over the walkway will need to be removed if the Board desires no leased
26 parking and going back to parallel parking on the west, and even then the Board will have to rely on this
27 perimeter traffic path to be open. He said that if the Board is prepared to accept that Mr. Frazier will do his
28 best to keep it open then okay but he is seriously concerned about how much building area needs to be
29 removed to make all of the parking fit on this property.

30
31 Mr. Passalacqua stated that during a previous case for a storage building on a small lot, the Board required a
32 professional print and found that for the petitioner to have adequate parking, the building would not be large
33 enough for it to be functional, so today the lot is in grass. He said that he does not believe that this case
34 needs to go in that same direction but it is the same kind of a thing except the building is after the fact. He
35 said that everything is hearsay at this point and the Board does not have a good record of rental history for
36 the property but testimony indicates that this is not a happy neighborhood. He said that relying on a third
37 party to make this happen does not give him a good feeling.

38
39 Ms. Griest asked Mr. Hall how many parking spaces were indicated on the approved site plan for this parcel
40 before Mr. Frazier began constructing extra buildings that were not permitted.

41

1 Mr. Passalacqua stated that Ms. Griest's question is not an easy question for staff to answer because at that
2 time it was just an approved site plan for Bright Ideas.

3
4 Mr. Hall stated that the main difference is the changing of what is now a gym was previously just one storage
5 area. He said that this change was big because those spaces cannot be provided on this property. He said
6 that staff has gone back and verified that this property worked before but the uses were so much different.
7 He said that the property did not have a gymnasium or upstairs storage area. He said that there has been
8 testimony about how the gymnasium clients desire parking close by but that is not going to happen.

9
10 Mr. Randol stated that off-site parking is not going to remedy the gymnasium clients' desire for close by
11 parking either.

12
13 Mr. Hall stated that the off-site parking is just across the property lot line to the north. He said that the Mr.
14 Frazier leased property to the north for off-site parking and the gymnasium is in the chiropractic office on the
15 northwest corner and is in the perfect location for those customers.

16
17 Mr. Frazier stated that no one, other than the wood chipper, parked on the leased parking spaces during the
18 last six months.

19
20 Mr. Hall asked Mr. Frazier if everyone was able to park on his property.

21
22 Mr. Frazier stated yes, every day. He said that no one parked on the leased property and no one parked in the
23 street either. He said that this is not a normal gymnasium but is a specialized gym and only a handful of
24 people are present at any one time. He said that his neighbors could probably testify that no one has parked
25 on the leased area as well. He said that the only thing that has changed was that he built a garage area and a
26 structure over where his buses were stored. He said that the mini-warehouses have always remained as mini-
27 warehouses and Bright Ideas and its parking was approved by the Champaign County ZBA. He said that if
28 the rules indicate that the curbs must be replaced and the original parking scheme has to be followed then he
29 will obviously do that. He said that perhaps a better alternative for parking would be if he purchased that
30 area rather than leasing it but he must know if that property is acceptable by the Board.

31
32 Mr. Randol stated that he still would like to have an architect submit a complete set of plans. He said that
33 once staff and the Board can review those plans we can provide a set of variables for parking that may or
34 may not be needed.

35
36 Ms. Capel stated that there is a possibility that a lease can be written indicating that staff and the Board must
37 be notified of any lapses.

38
39 Mr. Hall stated that if the Board had a choice between a lease and an outright purchase an outright purchase
40 would always be preferred. He said that in this location it would probably require some kind of subdivision
41 approval with the City of Champaign. He said that the purchase would be better if it could be done. He said

1 that staff can spend all of the time it takes to find out what can be done on this parcel, given what Mr. Frazier
2 is willing to do. He said that Mr. Frazier stated that he is willing to remove the bus garage and fill the traffic
3 along the north and talk more about the upstairs storage so that staff knows what the required parking
4 loading is. He said that he is assuming that the Board desires to have something in the lease regarding that a
5 traffic aisle can never be blocked.

6
7 Ms. Capel stated that perhaps a condition could be constructed regarding the traffic aisle.

8
9 Mr. Hall agreed. He said that such a condition is something that Mr. Frazier must be prepared for.

10
11 Mr. Passalacqua stated that the Board needs to review the use of the property and the design of the
12 throughways. He said that if one of Mr. Frazier's tenants has a truck with a large trailer there needs to be an
13 accommodation on the property for the truck to maneuver on the property. He said that everything that
14 occurs on the property needs to happen on the property. He said that this is not an inexpensive proposal and
15 part of the homework for Mr. Frazier may be a cost analysis to determine if he will earn enough rental
16 income and maintain enough use from his property to do the things that are required to make this happen.

17
18 Ms. Capel asked the audience if anyone desired to cross examine Mr. Frazier and there was no one.

19
20 Ms. Capel called Mr. Lloyd Allen to testify.

21
22 Mr. Lloyd Allen stated that the Board is stuck on the parking issue. He said that the parallel parking area
23 was discussed but everything has changed from the original blueprint. He said that Mr. Frazier built the
24 front building in 2004 and not 20 years ago. Mr. Allen stated that when Mr. Frazier constructed the
25 overhang on the building he lost his access to the parallel parking therefore requiring people to drive on the
26 sidewalk to exit the property. He said that he believes that the upstairs storage area is more than 1,500
27 square feet because the Board also needs to count the upper office in the new part that was constructed. He
28 said that months ago the Board suggested to Mr. Frazier that he obtain the services of a registered architect
29 to assure than everything was in compliance on the property. He asked why the Board has waited over seven
30 months to acquire the document that they have already suggested that Mr. Frazier obtain for review. He
31 asked why the Board is dragging this issue out because there are other issues to be resolved on this property.
32 He requested that the Board settle something on this property and stop dragging it out.

33
34 Mr. Hall stated that the one thing that the ZBA has to do is exhaust all remedies at the Zoning Board and
35 until it is exhausted they don't have a good basis for denial. He said that the Board has not approached the
36 patience with this petitioner that they have done in other cases even though from Mr. Allen's position it
37 appears a little over the top. He said that only after all remedies have been exhausted will the Board have
38 any basis for a denial.

39
40 Mr. Allen stated that the Board is doing all of this for uses and structures that were not permitted by the
41 County and are all after the fact.

1

2 Mr. Hall stated that all of these issues will be taken care of in the end. He noted that zoning does not exist to
3 penalize people but to make things conform to the Ordinance and that is what staff and the Board are here
4 for and both have put a lot of time working on it.

5

6 Mr. Passalacqua stated that he has the same concerns but the ZBA is not a penalty Board. He said that he
7 has seen a lot of cases that are after the fact and they irritate him but it is not this Board's venue to penalize
8 those petitioners. He said that he cannot state that he agrees with everything 100% but the County has
9 Ordinances and other people which are more powerful than this Board to satisfy and it is frustrating to
10 everyone. He said that the Board has to try to make it work and not everything gets approved. He said that
11 he understands and appreciates Mr. Allen's frustration with this case.

12

13 Mr. Allen stated that he has attended every one of these meetings, unlike everyone else, but the Board has
14 policies as to how long these variance cases should take and one year is not one of those policies. He said
15 that the policy states that cases are to be finalized in a reasonable amount of time and being that this is the
16 same case number as when Mr. Frazier originally applied this case has taken more than one year to finalize.

17

18 Ms. Capel asked the audience if anyone desired to cross examine Mr. Allen and there was no one.

19

20 Ms. Capel asked the audience if anyone else desired to testify regarding this case and there was no one.

21

22 Ms. Capel closed the witness register.

23

24 Ms. Capel entertained a motion to continue Case 792-V-14.

25

26 Ms. Lee asked Mr. Hall if the Board should have a motion regarding the requirement of the services of an
27 architect.

28

29 Mr. Hall stated that the Board has made it very clear and Mr. Frazier has agreed to the Board's request. He
30 said that there is a lot that needs to be done and the Board could revisit this case within the 100 day limit on
31 November 12th.

32

33 Mr. Passalacqua asked Mr. Hall if it is feasible that staff would have time to review any newly submitted
34 plans and information to see if it is in Mr. Frazier's best interest financially and then allow him to decide if
35 he wants to proceed further.

36

37 Mr. Hall stated that staff does have to get some information from Mr. Frazier before he puts an architect to
38 work.

39

40 Mr. Passalacqua stated that he does not want Mr. Frazier to hire an architect tomorrow and spend over
41 \$6,000 and then find out that it is not financially feasible.

1

2 Mr. Hall stated that Mr. Frazier can always hire an architect but he should not put him to work until he has
3 some information from staff about what parking scenario seems to be one that the Board would support.

4

5 Mr. Passalacqua stated that it should be clear to everyone that the feeling of this Board is that this does not
6 work in its current configuration and it does need a lot of work. He said that major changes must happen for
7 this request to be considered.

8

9 Ms. Griest stated that the Board has seen this scenario before where petitioners in good faith wanting to
10 proceed and once they actually got all of the information that was available to them decided that it was
11 simply not financially feasible. She said that Mr. Frazier needs some time to make those assessments based
12 upon hard facts that fit within the law. She said that she understands the witnesses' concerns but this is a
13 Board that tries to find the win that works for everyone and not just one side or the other. She said that she
14 believes that Mr. Frazier is going to come to a conclusion that this is not feasible the way that it is currently
15 configured therefore we may or may not see everyone back.

16

17 **Ms. Griest moved to continue Case 792-V-14 to the November 12, 2015, meeting.**

18

19 Mr. Hall stated that the case that is already docketed for November 12th is likely to be two cases when it
20 comes back to the Board. He said that due to the physical constraints of having people sit through a hearing,
21 it may be better to suspend the rules and continue this case to the December 17th meeting. He said that a
22 continuance to December 17th is one month later than the 100 day limit but there is no other case currently
23 docketed for December 17th.

24

25 **Ms. Griest amended her motion to include suspending the 100 day limit for continuance and continue**
26 **Case 792-V-14 to the December 17th meeting.**

27

28 Mr. Passalacqua stated that he would rather see the case be continued to a busy night because the December
29 17th meeting is not necessarily a time when he is in town and he would like to be a part of this case. He said
30 that even if it will be a tough load on a docket date he would rather not see this continued to December 17th.

31

32 Mr. Randol stated that he agreed with Mr. Passalacqua.

33

34 **Ms. Griest withdrew her amended motion.**

35

36 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 792-V-14 to the October 29, 2015,**
37 **meeting. The motion carried by voice vote.**

38

39 Ms. Chavarria stated that staff is trying to assure that Mr. Frazier has an architect to prepare plans but how is
40 staff to know how this will take. She asked Mr. Hall what happens if Mr. Frazier does not get back to staff
41 before October 29th.

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Mr. Hall stated that if nothing else the October 29th meeting can be a good status update which is just a reality and is why he was recommending a continuance to the December 17th meeting. He said that December is always a difficult month for the Zoning Board.

7. Staff Report

None

8. Other Business

A. Review of Docket

None

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

None

10. Adjournment

Ms. Capel entertained a motion to adjourn the meeting.

Ms. Griest moved, seconded by Ms. Passalacqua to adjourn the meeting at 9:09 p.m. The motion carried by voice vote.

The meeting adjourned at 9:09 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

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

(217) 384-3708

zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

CASE NO. 805-AM-15, 806-S-15, 807-V-15

PRELIMINARY MEMORANDUM

OCTOBER 7, 2015

Petitioners: Michael Wishall, 547 CR 900 E, Tolono, IL, Jason Wishall, 482 CR 900 East, Tolono, IL, and Brian Wishall, 3514 Village Drive, Anderson, IN, d.b.a. Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc.

Case 805-AM-15

Request: Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the AG-2 Agriculture Zoning District in order to authorize the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case 806-S-15 and subject to the requested variance in related Zoning Case 807-V-15.

Case 806-S-15

Request: Part A: Authorize the use of an existing unauthorized Truck Terminal as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related zoning Case 805-AM-15 and subject to the requested variance in related zoning case 807-V-15, on the subject property below.

Part B: Authorize the following waiver to the standard conditions of the "Truck Terminal" special use as per Section 6.1.3 of the Zoning Ordinance: A separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or residential use.

Case 807-V-15

Request: Authorize the following variance on land proposed to be rezoned to the AG-2 Agriculture Zoning District in related Case 805-AM-15 in order to authorize the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case 806-S-15:

Part A. A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.

Part B. A variance from the Champaign County Stormwater Management and Erosion Control Ordinance which requires a Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of impervious surface area.

Location: A tract in Pesotum Township in the Northwest Quarter of the Northwest Quarter of Section 10 of Township 17 N, Range 8 E of the Third Principal Meridian and commonly known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at 482 and 486 CR 900 East, Tolono.

Site Area: A 5 acre parcel plus approximately 0.68 acres of the adjacent parcel

Time Schedule for Development: Already in use

Prepared by: Susan Chavarria, Senior Planner

John Hall, Zoning Administrator

BACKGROUND

Wishall Farms has been in operation for decades on and adjacent to the subject property. Wishall Transport incorporated as a business in 2006 and became Wishall Transportation LLC in 2012, also currently operating from the subject property. On April 21, 2014, based on a complaint received in 2013 regarding road conditions and heavy truck traffic, a First Notice of Violation was sent by the Zoning Department to the Petitioners. The Notice identified the operation of an unauthorized trucking terminal in the AG-1 Agriculture Zoning District and creation of a 5 acre lot when the maximum lot area is 3 acres on best prime farmland. A Final Notice was sent on June 5, 2015 for the same violations. The Wishalls applied for the necessary Map Amendment, Special Use Permit with waiver, and Variances on June 24, 2015 that, if approved, will remedy the violations. The Wishalls continue to operate an unauthorized Truck Terminal on the property.

The petitioners require a Zoning Map Amendment (Case 805-AM-15) to change the zoning from AG-1 to AG-2; a Special Use Permit (Case 806-S-15) for use of the existing unauthorized Truck Terminal (Part A) and a waiver of standard conditions for a separation distance from the nearest residential use (Part B); and a Variance (Case 807-V-15) for a lot that is 5.68 acres on best prime farmland in lieu of the maximum 3 acres (Part A) and a variance from completing a Stormwater Drainage Plan (Part B).

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning Summary

Direction	Land Use	Zoning
Onsite	Agriculture	AG-1 Agriculture (Proposed rezoning to AG-2)
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Residential, Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

EXTRATERRITORIAL JURISDICTION

The subject property is not located within one and one-half miles of a municipality with zoning.

DECISION POINTS

Zoning staff recommend denying Part B of the Variance because the impacts of development on the subject property since the addition of the trucking business have not been determined.

Principal decision points for the ZBA in the Map Amendment Case involve:

- LRMP Goal 4 Agriculture
 - Objective 4.1 and Policy 4.1.6;
 - Objective 4.2 and Policies 4.2.1, 4.2.2, and 4.2.3;
 - Objective 4.3 and Policies 4.3.2, 4.3.4, and 4.3.5;
- LRMP Goal 7 Transportation
 - Objective 7.1 and Policy 7.1.1;
- LaSalle Factors listed in Section 20 parts B, C, D and E;

- Sinclair Factors listed in Section 20 parts G, H and I; and
- Ordinance Purposes C, D, H, I and K.

ROAD CONDITIONS

No complaints or concerns have been received from neighbors since the original complaints made in 2013 regarding the condition of CR 900 East. The Road Maintenance Agreement the Wishalls signed with Pesotum Township was dated December 23, 2014, and the first shared maintenance was completed in 2014 and 2015. The agreement and paid invoices for these improvements are attached as appendices. A special condition is proposed below regarding the road maintenance agreement.

PROPOSED SPECIAL CONDITIONS

The following special conditions are proposed for the Special Use:

- A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 805-AM-15 by the County Board.**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- B. **All inbound and outbound trucks associated with the Special Use shall not use CR 900 East north of CR 600 North.**

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

To prevent additional deterioration of the road.

- C. **The Special Use shall be void if the owner/operator fails to comply with the road agreement with Pesotum Township regarding an annual road maintenance fee, provided as follows:**

(1) **This condition applies to the Agreement With Pesotum Township Road Commissioner received June 24, 2015, or to any subsequent road agreement between the petitioner and Pesotum Township, provided that a fully executed Agreement shall be filed with the Zoning Administrator.**

(2) **This condition shall be cancelled if the Pesotum Township Highway Commissioner relieves the Petitioners of the road maintenance agreement obligations.**

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

That any additional highway maintenance due to the truck traffic generated by the proposed Special Use is reimbursed by the petitioner.

- D. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Truck Terminal until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B LRMP Land Use Goals, Objectives, and Policies
- C LRMP Appendix of Defined Terms
- D First Notice of Violation dated April 21, 2014
- E Final Notice of Violation dated June 5, 2015
- F Road Maintenance Agreement dated December 23, 2014
- G Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
- H Letter of support signed by neighbors, received June 24, 2015
- I Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
- J Email from Attorney Matt Schweighart received September 17, 2015
- K Site Plan received October 2, 2015
- L Natural Resources Report from Champaign County Soil and Water Conservation District (not yet received)
- M Site Images packet
- N Summary of Evidence, Finding of Fact, and Final Determination for Case 805-AM-15
- O Summary of Evidence, Finding of Fact, and Final Determination for Case 806-S-15
- P Summary of Evidence, Finding of Fact, and Final Determination for Case 807-V-15

Location Map

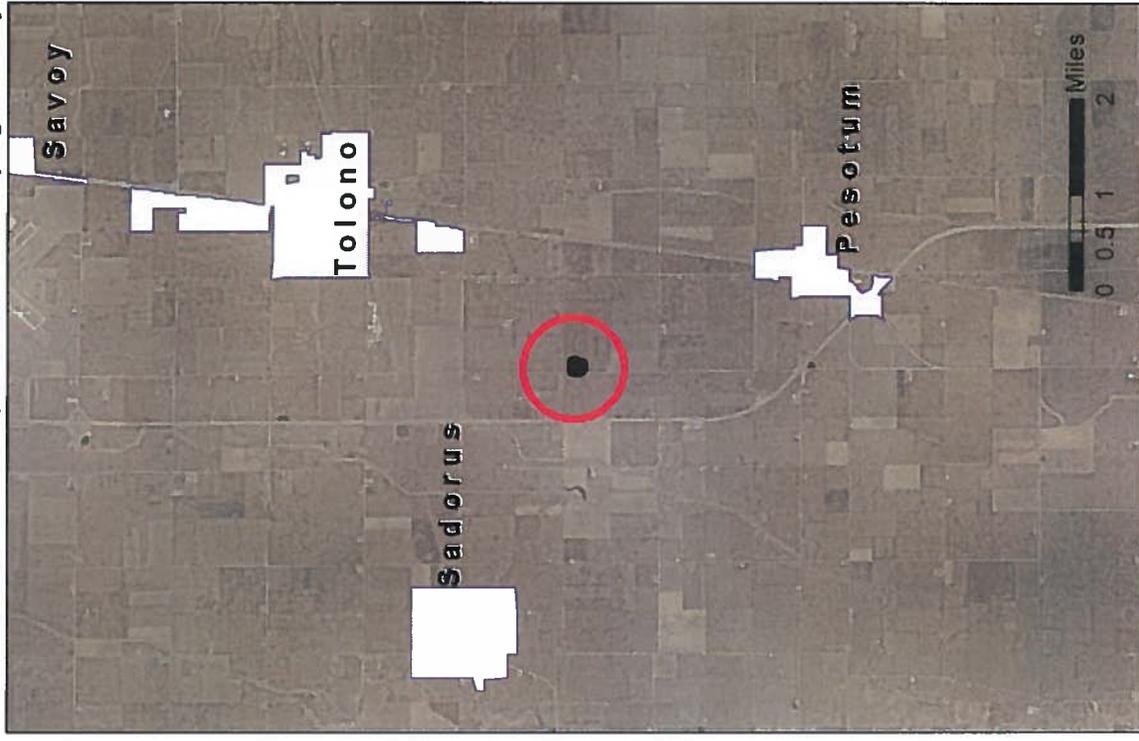
Cases 805-AM-15, 806-S-15, and 807-V-15
October 15, 2015

Subject Property



- Legend**
- Streets
 - Parcels

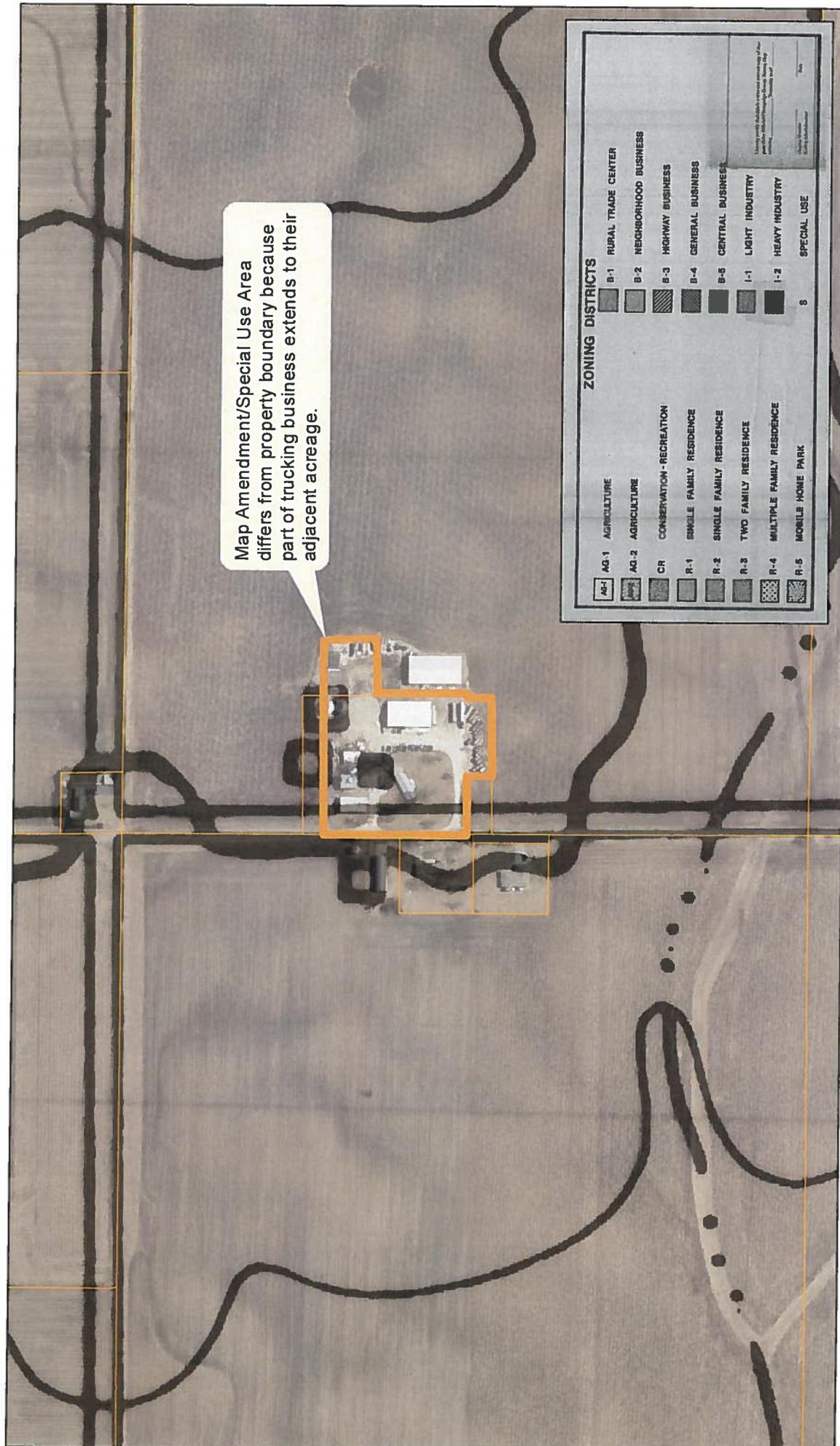
Property location in Champaign County



Champaign County
Department of
PLANNING &
ZONING

Zoning Map

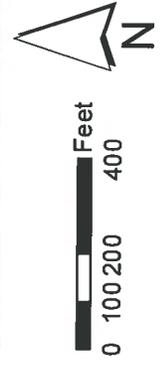
Cases 805-AM-15, 806-S-15, and 807-V-15
October 15, 2015



Map Amendment/Special Use Area differs from property boundary because part of trucking business extends to their adjacent acreage.

ZONING DISTRICTS			
AG-1	AGRICULTURE	B-1	RURAL TRADE CENTER
AG-2	AGRICULTURE	B-2	NEIGHBORHOOD BUSINESS
CR	CONSERVATION - RECREATION	B-3	HIGHWAY BUSINESS
R-1	SINGLE FAMILY RESIDENCE	B-4	GENERAL BUSINESS
R-2	SINGLE FAMILY RESIDENCE	B-5	CENTRAL BUSINESS
R-3	TWO FAMILY RESIDENCE	I-1	LIGHT INDUSTRY
R-4	MULTIPLE FAMILY RESIDENCE	I-2	HEAVY INDUSTRY
R-5	MOBILE HOME PARK	S	SPECIAL USE

Legend
 Parcels
 Subject Property





Goal 1 Planning and Public Involvement

Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.

Goal 1 Objectives

Objective 1.1 Guidance on Land Resource Management Decisions

Champaign County will consult the Champaign County Land Resource Management Plan (LRMP) that formally establishes County land resource management policies and serves as an important source of guidance for the making of County land resource management decisions.

Objective 1.2 Updating Officials

Champaign County will annually update County Board members with regard to land resource management conditions within the County.

Objective 1.3 Incremental Updates

Champaign County will update the LRMP, incrementally, on an annual or biannual basis to make minor changes to the LRMP or to adjust boundaries of LRMP Future Land Use Map areas to reflect current conditions, (e.g., Contiguous Urban Growth Area, or Rural Residential Area).

Objective 1.4 Comprehensive Updates

Champaign County will comprehensively update the LRMP at a regular interval of no more than 15 or less than 10 years, to allow for the utilization of available updated census data and other information.

Goal 1 Objectives and Policies

Objective 1.1 Guidance on Land Resource Management Decisions

Champaign County will consult the LRMP that formally establishes County land resource management policies and serves as an important source of guidance for the making of County land resource management decisions.

Objective 1.2 Updating Officials

Champaign County will annually update County Board members with regard to land resource management conditions within the County.

Policy 1.2.1

County planning staff will provide an annual update to County Board members with regard to land resource management conditions within the County.

Objective 1.3 Incremental Updates

Champaign County will update the LRMP, incrementally, on an annual or biannual basis to make minor changes to the LRMP or to adjust boundaries of LRMP Future Land Use Map areas to reflect current conditions, (e.g., Contiguous Urban Growth Area, or Rural Residential Area).

Policy 1.3.1

ELUC will recommend minor changes to the LRMP after an appropriate opportunity for public input is made available.

Note: The Appendix contains defined terms, shown as italicized text in this Chapter.



Objective 1.4 Comprehensive Updates

Champaign County will comprehensively update the LRMP at a regular interval of no more than 15 or less than 10 years, to allow for the utilization of available updated census data and other information.

Policy 1.4.1

A Steering Committee that is broadly representative of the constituencies in the County but weighted towards the unincorporated area will oversee comprehensive updates of the LRMP.

Policy 1.4.2

The County will provide opportunities for public input throughout any comprehensive update of the LRMP.

Goal 2 Governmental Coordination

Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.

Goal 2 Objectives

Objective 2.1 Local and Regional Coordination

Champaign County will coordinate land resource management planning with all County jurisdictions and, to the extent possible, in the larger region.

Objective 2.2 Information Sharing

Champaign County will work cooperatively with other units of government to ensure that the Geographic Information Systems Consortium and Regional Planning Commission have the resources to effectively discharge their responsibilities to develop, maintain and share commonly used land resource management data between local jurisdictions and County agencies that will help support land use decisions.

Goal 2 Objectives and Policies

Objective 2.1 Local and Regional Coordination

Champaign County will coordinate land resource management planning with all County jurisdictions and, to the extent possible, in the larger region.

Policy 2.1.1

The County will maintain an inventory through the LRMP, of contiguous urban growth areas where connected sanitary service is already available or is planned to be made available by a public sanitary sewer service plan, and development is intended to occur upon annexation.

Policy 2.1.2

The County will continue to work to seek a county-wide arrangement that respects and coordinates the interests of all jurisdictions and that provides for the logical extension of municipal land use jurisdiction by annexation agreements.

Note: The Appendix contains defined terms, shown as italicized text in this Chapter.

**Policy 2.1.3**

The County will encourage municipal adoption of plan and ordinance elements which reflect mutually consistent (County and municipality) approach to the protection of best prime farmland and other natural, historic, or cultural resources.

Objective 2.2 Information Sharing

Champaign County will work cooperatively with other units of government to ensure that the Geographic Information Systems Consortium and Regional Planning Commission have the resources to effectively discharge their responsibilities to develop, maintain and share commonly used land resource management data between local jurisdictions and County agencies that will help support land use decisions.

Goal 3 Prosperity

Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.

Goal 3 Objectives**Objective 3.1 Business Climate**

Champaign County will seek to ensure that it maintains comparable tax rates and fees, and a favorable business climate relative to similar counties.

Objective 3.2 Efficient County Administration

Champaign County will ensure that its regulations are administrated efficiently and do not impose undue costs or delays on persons seeking permits or other approvals.

Objective 3.3 County Economic Development Policy

Champaign County will maintain an updated Champaign County Economic Development Policy that is coordinated with and supportive of the LRMP.

Goal 4 Agriculture

Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.

Goal 4 Objectives**Objective 4.1 Agricultural Land Fragmentation and Conservation**

Champaign County will strive to minimize the fragmentation of the County's agricultural land base and conserve farmland, generally applying more stringent development standards on best prime farmland.

Objective 4.2 Development Conflicts with Agricultural Operations

Champaign County will require that each *discretionary review* development will not interfere with agricultural operations.

continued

Note: The Appendix contains defined terms, shown as italicized text in this Chapter.

**Objective 4.3 Site Suitability for Discretionary Review Development**

Champaign County will require that each *discretionary review* development is located on a suitable site.

Objective 4.4 Regulations for Rural Residential Discretionary Review

Champaign County will update County regulations that pertain to rural residential *discretionary review* developments to best provide for site specific conditions by 2010.

Objective 4.5 LESA Site Assessment Review and Updates

By the year 2012, Champaign County will review the Site Assessment portion of the Champaign County Land Evaluation and Site Assessment System (LESA) for possible updates; thereafter, the County will periodically review the site assessment portion of LESA for potential updates at least once every 10 years.

Objective 4.6 Protecting Productive Farmland

Champaign County will seek means to encourage and protect productive farmland within the County.

Objective 4.7 Right to Farm Resolution

Champaign County affirms County Resolution 3425 pertaining to the right to farm in Champaign County.

Objective 4.8 Locally Grown Foods

Champaign County acknowledges the importance of and encourages the production, purchase, and consumption of locally grown food.

Objective 4.9 Landscape Character

Champaign County will seek to preserve the landscape character of the agricultural and *rural* areas of the County, and, at the same time, allow for potential *discretionary development* that supports agriculture or involves a product or service that is provided better in a *rural* area.

Goal 4 Objectives and Policies**Objective 4.1 Agricultural Land Fragmentation and Conservation**

Champaign County will strive to minimize the fragmentation of the County's agricultural land base and conserve farmland, generally applying more stringent development standards on *best prime farmland*.

Policy 4.1.1

Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils.

Policy 4.1.2

The County will guarantee all landowners a *by right development* allowance to establish a non-agricultural use, provided that public health, safety and site development regulations (e.g., floodplain and zoning regulations) are met.

Policy 4.1.3

The *by right development* allowance is intended to ensure legitimate economic use of all property. The County understands that continued agricultural use alone constitutes a



reasonable economic use of *best prime farmland* and the *by right development* allowance alone does not require accommodating non-farm development beyond the *by right development* allowance on such land.

Policy 4.1.4 The County will guarantee landowners of one or more lawfully created lots that are recorded or lawfully conveyed and are considered a *good zoning lot* (i.e., a lot that meets County zoning requirements in effect at the time the lot is created) the *by right development* allowance to establish a new single family dwelling or non-agricultural land use on each such lot, provided that current public health, safety and transportation standards are met.

Policy 4.1.5

a. The County will allow landowner by *right development* that is generally proportionate to tract size, created from the January 1, 1998 configuration of tracts on lots that are greater than five acres in area, with:

- 1 new lot allowed per parcel less than 40 acres in area;
- 2 new lots allowed per parcel 40 acres or greater in area provided that the total amount of acreage of *best prime farmland* for new by right lots does not exceed three acres per 40 acres; and
- 1 authorized land use allowed on each vacant *good zoning lot* provided that public health and safety standards are met.

b. The County will not allow further division of parcels that are 5 acres or less in size.

Policy 4.1.6 Provided that the use, design, site and location are consistent with County policies regarding:

- i. suitability of the site for the proposed use;
- ii. adequacy of infrastructure and public services for the proposed use;
- iii. minimizing conflict with agriculture;
- iv. minimizing the conversion of farmland; and
- v. minimizing the disturbance of natural areas,

then,

a) on *best prime farmland*, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential use (inclusive of *by-right development*) not to exceed three acres plus three acres per each 40 acres (including any existing right-of-way), but not to exceed 12 acres in total; or

b) on *best prime farmland*, the County may authorize non-residential *discretionary development*; or

c) the County may authorize *discretionary review* development on tracts consisting of other than *best prime farmland*.

Policy 4.1.7

To minimize the conversion of *best prime farmland*, the County will require a maximum lot size limit on new lots established as *by right development* on *best prime farmland*.

Policy 4.1.8

The County will consider the LESA rating for farmland protection when making land use decisions regarding a *discretionary development*.

Policy 4.1.9

The County will set a minimum lot size standard for a farm residence on land used for agricultural purposes.



Objective 4.2 Development Conflicts with Agricultural Operations

Champaign County will require that each *discretionary review* development will not interfere with agricultural operations.

Policy 4.2.1

The County may authorize a proposed business or other non-residential *discretionary review* development in a *rural* area if the proposed development supports agriculture or involves a product or service that is provided better in a *rural* area than in an urban area.

Policy 4.2.2

The County may authorize *discretionary review* development in a *rural* area if the proposed development:

- a. is a type that does not negatively affect agricultural activities; or
- b. is located and designed to minimize exposure to any negative affect caused by agricultural activities; and
- c. will not interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related infrastructure.

Policy 4.2.3

The County will require that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.

Policy 4.2.4

To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will require that all *discretionary review* consider whether a buffer between existing agricultural operations and the proposed development is necessary.

Objective 4.3 Site Suitability for Discretionary Review Development

Champaign County will require that each *discretionary review* development is located on a suitable site.

Policy 4.3.1

On other than *best prime farmland*, the County may authorize a *discretionary review* development provided that the site with proposed improvements is *suited overall* for the proposed land use.

Policy 4.3.2

On *best prime farmland*, the County may authorize a *discretionary review* development provided the site with proposed improvements is *well-suited overall* for the proposed land use.

Policy 4.3.3

The County may authorize a *discretionary review* development provided that existing public services are adequate to support to the proposed development effectively and safely without undue public expense.

Policy 4.3.4

The County may authorize a *discretionary review* development provided that existing public infrastructure, together with proposed improvements, is adequate to support the proposed development effectively and safely without undue public expense.

**Policy 4.3.5**

On *best prime farmland*, the County will authorize a business or other non-residential use only if:

- a. it also serves surrounding agricultural uses or an important public need; and cannot be located in an urban area or on a less productive site; or
- b. the use is otherwise appropriate in a *rural* area and the site is very well suited to it.

Objective 4.4 Regulations for Rural Residential *Discretionary Review*

Champaign County will update County regulations that pertain to *rural residential discretionary review* developments to best provide for site specific conditions by 2010.

Objective 4.5 LESA Site Assessment Review and Updates

By the year 2012, Champaign County will review the Site Assessment portion of the LESA for possible updates; thereafter, the County will periodically review the site assessment portion of LESA for potential updates at least once every 10 years.

Objective 4.6 Protecting Productive Farmland

Champaign County will seek means to encourage and protect productive farmland within the County.

Policy 4.6.1 The County will utilize, as may be feasible, tools that allow farmers to permanently preserve farmland.

Policy 4.6.2 The County will support legislation that promotes the conservation of agricultural land and related natural resources in Champaign County provided that legislation proposed is consistent with County policies and ordinances, including those with regard to landowners' interests.

Policy 4.6.3 The County will implement the agricultural purposes exemption, subject to applicable statutory and constitutional restrictions, so that all full- and part-time farmers and retired farmers will be assured of receiving the benefits of the agricultural exemption even if some non-farmers receive the same benefits.

Objective 4.7 Right to Farm Resolution

Champaign County affirms County Resolution 3425 pertaining to the right to farm in Champaign County.

Objective 4.8 Locally Grown Foods

Champaign County acknowledges the importance of and encourages the production, purchase, and consumption of locally grown food.

Objective 4.9 Landscape Character

Champaign County will seek to preserve the landscape character of the agricultural and *rural* areas of the County, and, at the same time, allow for potential *discretionary development* that supports agriculture or involves a product or service that is provided better in a *rural* area.

Policy 4.9.1

The County will develop and adopt standards to manage the visual and physical characteristics of *discretionary development* in *rural* areas of the County.



Goal 5 Urban Land Use

Champaign County will encourage *urban development* that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.

Goal 5 Objectives

Objective 5.1 Population Growth and Economic Development

Champaign County will strive to ensure that the preponderance of population growth and economic development is accommodated by new *urban development* in or adjacent to existing population centers.

Objective 5.2 Natural Resources Stewardship

When new *urban development* is proposed, Champaign County will encourage that such development demonstrates good stewardship of natural resources

Objective 5.3 Adequate Public Infrastructure and Services

Champaign County will oppose proposed new *urban development* unless adequate utilities, infrastructure, and *public services* are provided.

Goal 5 Objectives and Policies

Objective 5.1 Population Growth and Economic Development

Champaign County will strive to ensure that the preponderance of population growth and economic development is accommodated by new *urban development* in or adjacent to existing population centers.

Policy 5.1.1

The County will encourage new *urban development* to occur within the boundaries of incorporated municipalities.

Policy 5.1.2

- a. The County will encourage that only compact and contiguous *discretionary development* occur within or adjacent to existing villages that have not yet adopted a municipal comprehensive land use plan.
- b. The County will require that only compact and contiguous *discretionary development* occur within or adjacent to existing unincorporated settlements.

Policy 5.1.3

The County will consider municipal extra-territorial jurisdiction areas that are currently served by or that are planned to be served by an available public sanitary sewer service plan as contiguous urban growth areas which should develop in conformance with the relevant municipal comprehensive plans. Such areas are identified on the Future Land Use Map.

Policy 5.1.4

The County may approve *discretionary development* outside contiguous urban growth areas, but within municipal extra-territorial jurisdiction areas only if:

- a. the development is consistent with the municipal comprehensive plan and relevant municipal requirements;
- b. the site is determined to be *well-suited overall* for the development if on *best prime farmland* or the site is *suited overall*, otherwise; and
- c. the development is generally consistent with all relevant LRMP objectives and policies.

Note: The Appendix contains defined terms, shown as italicized text in this Chapter.

**Policy 5.1.5**

The County will encourage *urban development* to explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.

Policy 5.1.6

To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will encourage and, when deemed necessary, will require discretionary development to create a sufficient buffer between existing agricultural operations and the proposed *urban development*.

Policy 5.1.7

The County will oppose new *urban development* or development authorized pursuant to a municipal annexation agreement that is located more than one and one half miles from a municipality's corporate limit unless the Champaign County Board determines that the development is otherwise consistent with the LRMP, and that such extraordinary exercise of extra-territorial jurisdiction is in the interest of the County as a whole.

Policy 5.1.8

The County will support legislative initiatives or intergovernmental agreements which specify that property subject to annexation agreements will continue to be under the ordinances, control, and jurisdiction of the County until such time that the property is actually annexed, except that within 1-1/2 miles of the corporate limit of a municipality with an adopted comprehensive land use plan, the subdivision ordinance of the municipality shall apply.

Policy 5.1.9

The County will encourage any new *discretionary development* that is located within municipal extra-territorial jurisdiction areas and subject to an annexation agreement (but which is expected to remain in the unincorporated area) to undergo a coordinated municipal and County review process, with the municipality considering any *discretionary development* approval from the County that would otherwise be necessary without the annexation agreement.

Objective 5.2 Natural Resources Stewardship

When new *urban development* is proposed, Champaign County will encourage that such development demonstrates good stewardship of natural resources.

Policy 5.2.1

The County will encourage the reuse and redevelopment of older and vacant properties within *urban land* when feasible.

Policy 5.2.2

The County will:

- a. ensure that *urban development* proposed on *best prime farmland* is efficiently designed in order to avoid unnecessary conversion of such farmland; and
- b. encourage, when possible, other jurisdictions to ensure that *urban development* proposed on *best prime farmland* is efficiently designed in order to avoid unnecessary conversion of such farmland.

Policy 5.2.3

The County will:

- a. require that proposed new *urban development* results in no more than minimal disturbance to areas with significant natural environmental quality; and



- b. encourage, when possible, other jurisdictions to require that proposed new *urban development* results in no more than minimal disturbance to areas with significant natural environmental quality.

Objective 5.3 Adequate Public Infrastructure and Services

Champaign County will oppose proposed new *urban development* unless adequate utilities, infrastructure, and *public services* are provided.

Policy 5.3.1

The County will:

- a. require that proposed new *urban development* in unincorporated areas is sufficiently served by available *public services* and without undue public expense; and
- b. encourage, when possible, other jurisdictions to require that proposed new *urban development* is sufficiently served by available *public services* and without undue public expense.

Policy 5.3.2

The County will:

- a. require that proposed new *urban development*, with proposed improvements, will be adequately served by *public infrastructure*, and that related needed improvements to *public infrastructure* are made without undue public expense; and
- b. encourage, when possible, other jurisdictions to require that proposed new *urban development*, with proposed improvements, will be adequately served by *public infrastructure*, and that related needed improvements to *public infrastructure* are made without undue public expense.

Policy 5.3.3

The County will encourage a regional cooperative approach to identifying and assessing the incremental costs of public utilities and services imposed by new development.

Goal 6 Public Health and Public Safety

Champaign County will ensure protection of the public health and public safety in land resource management decisions.

Goal 6 Objectives

Objective 6.1 Protect Public Health and Safety

Champaign County will seek to ensure that *rural* development does not endanger public health or safety.

Objective 6.2 Public Assembly Land Uses

Champaign County will seek to ensure that public assembly, dependent population, and multifamily land uses provide safe and secure environments for their occupants.

Objective 6.3 Development Standards

Champaign County will seek to ensure that all new non-agricultural construction in the unincorporated area will comply with a building code by 2015.

Objective 6.4 Countywide Waste Management Plan

Champaign County will develop an updated Champaign County Waste Management Plan by 2015 to address the re-use, recycling, and safe disposal of wastes including: landscape waste; agricultural waste; construction/demolition debris; hazardous waste; medical waste; and municipal solid waste.

Note: The Appendix contains defined terms, shown as italicized text in this Chapter.



Goal 6 Objectives and Policies

Objective 6.1 Protect Public Health and Safety

Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.

Policy 6.1.1

The County will establish minimum lot location and dimension requirements for all new *rural* residential development that provide ample and appropriate areas for onsite wastewater and septic systems.

Policy 6.1.2

The County will ensure that the proposed wastewater disposal and treatment systems of *discretionary development* will not endanger public health, create nuisance conditions for adjacent uses, or negatively impact surface or groundwater quality.

Policy 6.1.3

The County will seek to prevent nuisances created by light and glare and will endeavor to limit excessive night lighting, and to preserve clear views of the night sky throughout as much of the County as possible.

Policy 6.1.4

The County will seek to abate blight and to prevent and rectify improper dumping.

Objective 6.2 Public Assembly Land Uses

Champaign County will seek to ensure that public assembly, dependent population, and multifamily land uses provide safe and secure environments for their occupants.

Policy 6.2.1 The County will require public assembly, dependent population, and multifamily premises built, significantly renovated, or established after 2010 to comply with the Office of State Fire Marshal life safety regulations or equivalent.

Policy 6.2.2 The County will require Champaign County Liquor Licensee premises to comply with the Office of State Fire Marshal life safety regulations or equivalent by 2015.

Policy 6.2.3 The County will require Champaign County Recreation and Entertainment Licensee premises to comply with the Office of State Fire Marshal life safety regulations or equivalent by 2015.

Objective 6.3 Development Standards

Champaign County will seek to ensure that all new non-agricultural construction in the unincorporated area will comply with a building code by 2015.

Objective 6.4 Countywide Waste Management Plan

Champaign County will develop an updated Champaign County Waste Management Plan by 2015 to address the re-use, recycling, and safe disposal of wastes including: landscape waste; agricultural waste; construction/demolition debris; hazardous waste; medical waste; and municipal solid waste.



Goal 7 Transportation

Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.

Goal 7 Objectives

Objective 7.1 Traffic Impact Analyses

Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted.

Objective 7.2 Countywide Transportation System

Champaign County will strive to attain a countywide transportation network including a variety of transportation modes which will provide rapid, safe, and economical movement of people and goods.

Goal 7 Objectives and Policies

Objective 7.1 Traffic Impact Analyses

Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted.

Policy 7.1.1

The County will include traffic impact analyses in *discretionary review* development proposals with significant traffic generation.

Objective 7.2 Countywide Transportation System

Champaign County will strive to attain a countywide transportation network including a variety of transportation modes which will provide rapid, safe, and economical movement of people and goods.

Policy 7.2.1

The County will encourage development of a multi-jurisdictional countywide transportation plan that is consistent with the LRMP.

Policy 7.2.2

The County will encourage the maintenance and improvement of existing County railroad system lines and services.

Policy 7.2.3

The County will encourage the maintenance and improvement of the existing County road system, considering fiscal constraints, in order to promote agricultural production and marketing.

Policy 7.2.4

The County will seek to implement the County's Greenways and Trails Plan.

Policy 7.2.5

The County will seek to prevent establishment of incompatible *discretionary development* in areas exposed to noise and hazards of vehicular, aircraft and rail transport.

Policy 7.2.6

The County will seek to protect *public infrastructure* elements which exhibit unique scenic, cultural, or historic qualities.

Note: The Appendix contains defined terms, shown as italicized text in this Chapter.



Goal 8 Natural Resources

Champaign County will strive to conserve and enhance the County's landscape and natural resources and ensure their sustainable use.

Goal 8 Objectives

Objective 8.1 Groundwater Quality and Availability

Champaign County will strive to ensure adequate and safe supplies of groundwater at reasonable cost for both human and ecological purposes.

Objective 8.2 Soil

Champaign County will strive to conserve its soil resources to provide the greatest benefit to current and future generations.

Objective 8.3 Underground Mineral and Energy Resource Extraction

Champaign County will work to ensure future access to its underground mineral and energy resources and to ensure that their extraction does not create nuisances or detract from the long-term beneficial use of the affected property.

Objective 8.4 Surface Water Protection

Champaign County will work to ensure that new development and ongoing land management practices maintain and improve surface water quality, contribute to stream channel stability, and minimize erosion and sedimentation.

Objective 8.5 Aquatic and Riparian Ecosystems

Champaign County will encourage the maintenance and enhancement of aquatic and riparian habitats.

Objective 8.6 Natural Areas and Habitat

Champaign County will encourage resource management which avoids loss or degradation of areas representative of the *pre-settlement environment* and other areas that provide habitat for native and game species.

Objective 8.7 Parks and Preserves

Champaign County will work to protect existing investments in *rural* parkland and natural area preserves and will encourage the establishment of new public *parks and preserves* and protected private lands.

Objective 8.8 Air Pollutants

Champaign County considers the atmosphere a valuable resource and will seek to minimize harmful impacts to it and work to prevent and reduce the discharge of ozone precursors, acid rain precursors, toxics, dust and aerosols that are harmful to human health.

Objective 8.9 Natural Resources Assessment System

Champaign County will, by the year 2016, adopt a natural resources specific assessment system that provides a technical framework to numerically rank land parcels based on local resource evaluation and site considerations, including: groundwater resources; soil and mineral resources; surface waters; aquatic and riparian ecosystems; natural areas; parks and preserves; known cultural resources; and air quality.

Note: The Appendix contains defined terms, shown as italicized text in this Chapter.



Goal 8 Objectives and Policies

Objective 8.1 Groundwater Quality and Availability

Champaign County will strive to ensure adequate and safe supplies of groundwater at reasonable cost for both human and ecological purposes.

Policy 8.1.1

The County will not approve *discretionary development* using on-site water wells unless it can be reasonably assured that an adequate supply of water for the proposed use is available without impairing the supply to any existing well user.

Policy 8.1.2

The County will encourage regional cooperation in protecting the quality and availability of groundwater from the Mahomet Aquifer.

Policy 8.1.3

As feasible, the County will seek to ensure that withdrawals from the Mahomet Aquifer and other aquifers do not exceed the long-term sustainable yield of the aquifer including withdrawals under potential drought conditions, particularly for shallow aquifers.

Policy 8.1.4

To the extent that distinct recharge areas are identified for any aquifers, the County will work to prevent development of such areas that would significantly impair recharge to the aquifers.

Policy 8.1.5

To the extent that groundwater in the County is interconnected with surface waters, the County will work to ensure that groundwater contributions to natural surface hydrology are not disrupted by groundwater withdrawals by *discretionary development*.

Policy 8.1.6

The County will encourage the development and refinement of knowledge regarding the geology, hydrology, and other features of the County's groundwater resources.

Policy 8.1.7

The County will ensure that existing and new developments do not pollute the groundwater supply.

Policy 8.1.8

The County will protect community well heads, distinct aquifer recharge areas and other critical areas from potential sources of groundwater pollution.

Policy 8.1.9

The County will work to ensure the remediation of contaminated land or groundwater and the elimination of potential contamination pathways.

Objective 8.2 Soil

Champaign County will strive to conserve its soil resources to provide the greatest benefit to current and future generations.

**Policy 8.2.1**

The County will strive to minimize the destruction of its soil resources by non-agricultural development and will give special consideration to the protection of *best prime farmland*. *Best prime farmland* is that comprised of soils that have a Relative Value of at least 85 and includes land parcels with mixed soils that have a Land Evaluation score of 85 or greater as defined in the LESA.

Objective 8.3 Underground Mineral and Energy Resource Extraction

Champaign County will work to ensure future access to its underground mineral and energy resources and to ensure that their extraction does not create nuisances or detract from the long-term beneficial use of the affected property.

Policy 8.3.1

The County will allow expansion or establishment of underground mineral and energy resource extraction operations only if:

- a) the operation poses no significant adverse impact to existing land uses;
- b) the operation creates no significant adverse impact to surface water quality or other natural resources; and
- c) provisions are made to fully reclaim the site for a beneficial use.

Objective 8.4 Surface Water Protection

Champaign County will work to ensure that new development and ongoing land management practices maintain and improve surface water quality, contribute to stream channel stability, and minimize erosion and sedimentation.

Policy 8.4.1

The County will incorporate the recommendations of adopted watershed plans in its policies, plans, and investments and in its *discretionary review* of new development.

Policy 8.4.2

The County will require stormwater management designs and practices that provide effective site drainage, protect downstream drainage patterns, minimize impacts on adjacent properties and provide for stream flows that support healthy aquatic ecosystems.

Policy 8.4.3

The County will encourage the implementation of agricultural practices and land management that promotes good drainage while maximizing stormwater infiltration and aquifer recharge.

Policy 8.4.4

The County will ensure that point discharges including those from new development, and including surface discharging on-site wastewater systems, meet or exceed state and federal water quality standards.

Policy 8.4.5

The County will ensure that non-point discharges from new development meet or exceed state and federal water quality standards.

Policy 8.4.6

The County recognizes the importance of the drainage districts in the operation and maintenance of drainage.



Objective 8.5 Aquatic and Riparian Ecosystems

Champaign County will encourage the maintenance and enhancement of aquatic and riparian habitats.

Policy 8.5.1

For *discretionary development*, the County will require land use patterns, site design standards and land management practices that, wherever possible, preserve existing habitat, enhance degraded habitat and restore habitat.

Policy 8.5.2

The County will require in its *discretionary review* that new development cause no more than minimal disturbance to the stream corridor environment.

Policy 8.5.3

The County will encourage the preservation and voluntary restoration of wetlands and a net increase in wetland habitat acreage.

Policy 8.5.4

The County will support efforts to control and eliminate invasive species.

Policy 8.5.5

The County will promote drainage system maintenance practices that provide for effective drainage, promote channel stability, minimize erosion and sedimentation, minimize ditch maintenance costs and, when feasible, support healthy aquatic ecosystems.

Objective 8.6 Natural Areas and Habitat

Champaign County will encourage resource management which avoids loss or degradation of areas representative of the *pre-settlement environment* and other areas that provide habitat for native and game species.

Policy 8.6.1

The County will encourage educational programs to promote sound environmental stewardship practices among private landowners.

Policy 8.6.2

- a. For new development, the County will require land use patterns, site design standards and land management practices to minimize the disturbance of existing areas that provide habitat for native and game species, or to mitigate the impacts of unavoidable disturbance to such areas.
- b. With regard to *by-right development* on *good zoning lots*, or the expansion thereof, the County will not require new zoning regulations to preserve or maintain existing onsite areas that provide habitat for native and game species, or new zoning regulations that require mitigation of impacts of disturbance to such onsite areas.

Policy 8.6.3

For *discretionary development*, the County will use the Illinois Natural Areas Inventory and other scientific sources of information to identify priority areas for protection or which offer the potential for restoration, preservation, or enhancement.

Policy 8.6.4

The County will require implementation of IDNR recommendations for *discretionary development* sites that contain endangered or threatened species, and will seek to ensure that recommended management practices are maintained on such sites.

**Policy 8.6.5**

The County will continue to allow the reservation and establishment of private and public hunting grounds where conflicts with surrounding land uses can be minimized.

Policy 8.6.6

The County will encourage the purchase, donation, or transfer of development rights and the like, by public and private entities, of significant natural areas and habitat for native and game species for the purpose of preservation.

Objective 8.7 Parks and Preserves

Champaign County will work to protect existing investments in *rural* parkland and natural area preserves and will encourage the establishment of new public parks and preserves and protected private lands.

Policy 8.7.1

The County will require that the location, site design and land management of *discretionary development* minimize disturbance of the natural quality, habitat value and aesthetic character of existing public and private parks and preserves.

Policy 8.7.2

The County will strive to attract alternative funding sources that assist in the establishment and maintenance of parks and preserves in the County.

Policy 8.7.3

The County will require that *discretionary development* provide a reasonable contribution to support development of parks and preserves.

Policy 8.7.4

The County will encourage the establishment of public-private partnerships to conserve woodlands and other significant areas of natural environmental quality in Champaign County.

Policy 8.7.5

The County will implement, where possible, incentives to encourage land development and management practices that preserve, enhance natural areas, wildlife habitat and/or opportunities for hunting and other recreational uses on private land.

Policy 8.7.6 The County will support public outreach and education regarding site-specific natural resource management guidelines that landowners may voluntarily adopt.

Objective 8.8 Air Pollutants

Champaign County considers the atmosphere a valuable resource and will seek to minimize harmful impacts to it and work to prevent and reduce the discharge of ozone precursors, acid rain precursors, toxics, dust and aerosols that are harmful to human health.

Policy 8.8.1 The County will require compliance with all applicable Illinois Environmental Protection Agency and Illinois Pollution Control Board standards for air quality when relevant in *discretionary review* development.

Policy 8.8.2 In reviewing proposed *discretionary development*, the County will identify existing sources of air pollutants and will avoid locating sensitive land uses where occupants will be affected by such discharges.



Objective 8.9 Natural Resources Assessment System

Champaign County will, by the year 2016, adopt a natural resources specific assessment system that provides a technical framework to numerically rank land parcels based on local resource evaluation and site considerations, including: groundwater resources; soil and mineral resources; surface waters; aquatic and riparian ecosystems; natural areas; parks and preserves; known cultural resources; and air quality.

Goal 9 Energy Conservation

Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.

Goal 9 Objectives

Objective 9.1 Reduce Greenhouse Gases

Champaign County will seek to reduce the discharge of greenhouse gases.

Objective 9.2 Energy Efficient Buildings

Champaign County will encourage energy efficient building design standards.

Objective 9.3 Land Use and Transportation Policies

Champaign County will encourage land use and transportation planning policies that maximize energy conservation and efficiency.

Objective 9.4 Reuse and Recycling

Champaign County will promote efficient resource use and re-use and recycling of potentially recyclable materials.

Objective 9.5 Renewable Energy Sources

Champaign County will encourage the development and use of renewable energy sources where appropriate and compatible with existing land uses.

Goal 9 Objectives and Policies

Objective 9.1 Reduce Greenhouse Gases

Champaign County will seek to reduce the discharge of greenhouse gases.

Policy 9.1.1

The County will promote land use patterns, site design standards and land management practices that minimize the discharge of greenhouse gases.

Policy 9.1.2

The County will promote energy efficient building design standards.

Policy 9.1.3

The County will strive to minimize the discharge of greenhouse gases from its own facilities and operations.

Objective 9.2 Energy Efficient Buildings

Champaign County will encourage energy efficient building design standards.

Note: The Appendix contains defined terms, shown as italicized text in this Chapter.

**Policy 9.2.1**

The County will enforce the Illinois Energy Efficient Commercial Building Act (20 ILCS 3125/1).

Policy 9.2.2

The County will strive to incorporate and utilize energy efficient building design in its own facilities.

Objective 9.3 Land Use and Transportation Policies

Champaign County will encourage land use and transportation planning policies that maximize energy conservation and efficiency.

Objective 9.4 Reuse and Recycling

Champaign County will promote efficient resource use and re-use and recycling of potentially recyclable materials.

Objective 9.5 Renewable Energy Sources

Champaign County will encourage the development and use of renewable energy sources where appropriate and compatible with existing land uses.

Goal 10 Cultural Amenities

Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.

Goal 10 Objective**Objective 10.1 Cultural Amenities**

Champaign County will encourage the development and maintenance of cultural, educational, recreational, and other amenities that contribute to the quality of life of its citizens.

Goal 10 Objectives and Policy**Objective 10.1 Cultural Amenities**

Champaign County will encourage the development and maintenance of cultural, educational, recreational, and other amenities that contribute to the quality of life of its citizens.

Policy 10.1.1

The County will work to identify historic structures, places and landscapes in the County.

Note: The Appendix contains defined terms, shown as italicized text in this Chapter.

APPENDIX

DEFINED TERMS

The following defined terms can be found in italics within the text of the LRMP Volume 2 Chapters: Goals, Objectives and Policies; Future Land Use Map; and Implementation Strategy.

best prime farmland

'Best prime farmland' consists of soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System with a Relative Value of 85 or greater and tracts of land with mixed soils that have a LESA System Land Evaluation rating of 85 or greater.

by right development

'By right development' is a phrase that refers to the limited range of new land uses that may be established in unincorporated areas of the County provided only that subdivision and zoning regulations are met and that a Zoning Use Permit is issued by the County's Planning and Zoning Department. At the present time, 'by right' development generally consists of one (or a few, depending on tract size) single family residences, or a limited selection of other land uses. Zoning Use Permits are applied for 'over-the-counter' at the County Planning & Zoning Department, and are typically issued—provided the required fee has been paid and all site development requirements are met—within a matter of days.

contiguous urban growth area

Unincorporated land within the County that meets one of the following criteria:

- land designated for urban land use on the future land use map of an adopted municipal comprehensive land use plan, intergovernmental plan or special area plan, and located within the service area of a public sanitary sewer system with existing sewer service or sewer service planned to be available in the near- to mid-term (over a period of the next five years or so).
- land to be annexed by a municipality and located within the service area of a public sanitary sewer system with existing sewer service or sewer service planned to be available in the near- to mid-term (over a period of the next five years or so); or
- land surrounded by incorporated land or other urban land within the County.

discretionary development

A non-agricultural land use that may occur only if a Special Use Permit or Zoning Map Amendment is granted by the County.

discretionary review

The County may authorize certain non-agricultural land uses in unincorporated areas of the County provided that a public review process takes place and provided that the County Board or County Zoning Board of Appeals (ZBA) finds that the development meets specified criteria and approves the development request. This is referred to as the 'discretionary review' process.

The discretionary review process includes review by the County ZBA and/or County Board of a request for a Special Use or a Zoning Map Amendment. For 'discretionary review' requests, a

discretionary review (continued)

public hearing occurs before the County ZBA. Based on careful consideration of County [LRMP] goals, objectives and policies and on specific criteria, the ZBA and/or County Board, at their discretion, may or may not choose to approve the request.

good zoning lot (commonly referred to as a 'conforming lot')

A lot that meets all County zoning, applicable County or municipal subdivisions standards, and other requirements in effect at the time the lot is created.

parks and preserves

Public land established for recreation and preservation of the environment or privately owned land that is participating in a conservation or preservation program

pre-settlement environment

When used in reference to outlying Champaign County areas, this phrase refers to the predominant land cover during the early 1800s, when prairie comprised approximately 92.5 percent of land surface; forestland comprised roughly 7 percent; with remaining areas of wetlands and open water. Riparian areas along stream corridors containing 'Forest Soils' and 'Bottomland Soils' are thought to most likely be the areas that were forested during the early 1800s.

public infrastructure

'Public infrastructure' when used in the context of rural areas of the County generally refers to drainage systems, bridges or roads.

public services

'Public services' typically refers to public services in rural areas of the County, such as police protection services provided the County Sheriff office, fire protection principally provided by fire protection districts, and emergency ambulance service.

rural

Rural lands are unincorporated lands that are not expected to be served by any public sanitary sewer system.

site of historic or archeological significance

A site designated by the Illinois Historic Preservation Agency (IHPA) and identified through mapping of high probability areas for the occurrence of archeological resources in accordance with the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/3). The County requires Agency Report from the IHPA be submitted for the County's consideration during discretionary review of rezoning and certain special use requests. The Agency Report addresses whether such a site is present and/or nearby and subject to impacts by a proposed development and whether further consultation is necessary.

suited overall

During the discretionary review process, the County Board or County Zoning Board of Appeals may find that a site on which development is proposed is 'suited overall' if the site meets these criteria:

- the site features or site location will not detract from the proposed use;
- the site will not create a risk to the health, safety or property of the occupants, the neighbors or the general public;
- the site is not clearly inadequate in one respect even if it is acceptable in other respects;
- necessary infrastructure is in place or provided by the proposed development; and
- available public services are adequate to support the proposed development effectively and safely.

well-suited overall

During the discretionary review process, the County Board or County Zoning Board of Appeals may find that a site on which development is proposed is 'well-suited overall' if the site meets these criteria:

- the site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative affects on neighbors or the general public; and
- the site is reasonably well-suited in all respects and has no major defects.

urban development

The construction, extension or establishment of a land use that requires or is best served by a connection to a public sanitary sewer system.

urban land

Land within the County that meets any of the following criteria:

- within municipal corporate limits; or
- unincorporated land that is designated for future urban land use on an adopted municipal comprehensive plan, adopted intergovernmental plan or special area plan and served by or located within the service area of a public sanitary sewer system.

urban land use

Generally, land use that is connected and served by a public sanitary sewer system.

FIRST NOTICE

FILE COPY

April 21, 2014

Case: ZN-14-05/32

Champaign
County
Department ofBrookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Michael Wishall
Wishall Trucking
547 County Road 900E
Tolono, Illinois 61880

RE: Violations of the *Champaign County Zoning Ordinance* on a Parcel of Land in the North Half (N ½) of the Northwest Quarter (NW ¼) of Section 10, Township Seventeen (17) North, Range Eight (8) East of the Third Principal Meridian, Pesotum Township, consisting of 5 acres more or less, with an Address of 547 CR 900E, Tolono, Permanent Index No. 18-32-10-100-006.

Dear Mr. Wishall,

Notice is hereby given of the following violations of the *Champaign County Zoning Ordinance* on a parcel of land in the North Half (N ½) of the Northwest Quarter (NW ¼) of Section 10, Township Seventeen (17) North, Range Eight (8) East of the Third Principal Meridian, Pesotum Township, consisting of 5 acres more or less, with an Address of 547 CR 900E, Tolono, Permanent Index No. 18-32-10-100-006. Said violations are as follows:

1. The operation of an unauthorized trucking terminal (Wishall Trucking) in the AG-1, Agriculture Zoning District in violation of the Zoning Ordinance, Section 5.2, Table of Authorized Principal Uses. A truck terminal is not a permitted use in the AG-1, Agriculture Zoning District; and
2. The creation of a lot in the AG-1, Agriculture Zoning District with a lot area of 5 acres in violation of the Zoning Ordinance, Section 5.3, Schedule of Area, Height, & Placement Regulations by District, Footnote 13A)2) which requires that all new lots created that are not used for agriculture may not exceed a maximum lot area of three (3) acres when the lot is made up of soils that are Best Prime Farmland.

You must correct the violations within 15 days of this notice and contact me on or before May 6, 2014, regarding this matter. I will be happy to answer any questions you may have regarding this matter and Champaign County regulations and ordinances. (See Action Required to Correct Violations below).

This matter will be referred to the Champaign County State's Attorney's Office for further legal action if you do not contact me regarding this notice or if you do not correct the violations within the required time. A complaint will be filed in the Champaign County Circuit Court naming you as defendant and fines from \$100 to \$500 per day may be imposed for each day that the violations continues to exist.

BASIS OF NOTICE

You have been given this First Notice of Violation based on the following:

1. On or around June 28, 2013, the Planning and Zoning Department received a complaint about a trucking company being operated from the subject property without proper authorization.

Case ZN-14-05/32 cont.'d.
 Michael Wishall/Wishall Trucking
 Page 2

2. On June 24, 2013, a drive by inspection of this property was done and it was noted that there was a single family home on the property and there was a very large pole building behind the house, in addition to some agriculture bins and some other detached accessory buildings. It was also noted that there were several semi-trucks in addition to 6 or 7 enclosed semi-trailers, 2 or 3 dump trailers and 1 tank trailer sitting near the large detached pole building. There were also 11 or 12 personal cars and/or pick-up trucks parked on the west side of the large pole building.
3. On March 14, March 17, and April 16, 2014, the Planning and Zoning Department received complaints about the condition of the roads around this property. The complaints allege that a trucking company is being operated from the subject property and the semi-trucks that come and go from this property are tearing up the roads around it. The complaint calls were also directed to the Township Highway Commissioner.

ACTION REQUIRED TO CORRECT VIOLATIONS

Champaign County looks forward to your cooperation in correcting the violations. To correct the violations you must do the following on or before **May 6, 2014**:

1. Relocate Wishall Trucking to a property that is properly zoned for the operation of a truck terminal; **or**
2. To continue operating at this location, the following is required:
 - A. Rezone the property to the AG-2, Agriculture Zoning District, and obtain Special Use Permit Authorization to operate a truck terminal in the AG-2, Agriculture Zoning District. The Application for a Zoning (Map) Amendment and the Application for Special Use Permit is enclosed with this letter. You must complete both Applications and return them to our Office with the required fees. The fee for a Zoning (Map) Amendment is \$520.00 and the fee for a Special Use Permit that is filed in conjunction with a Zoning (Map) Amendment is \$260.00 for a total of \$780.00.
 - B. Obtain a Variance from the Champaign County Zoning Board of Appeals for the creation of a lot on Best Prime Farmland that is not being used for agriculture that exceeds the maximum lot size requirement of no more than three (3) acres in area. Please complete the attached Variance Application and return it to the Planning and Zoning Department with the required fee of \$100.00, when it is filed in conjunction with other zoning cases for the same property.

Please note that approval of the Zoning (Map) Amendment, the Special Use Permit, and Variance request are not guaranteed. Furthermore, the Zoning Administrator has significant doubt that a request to rezone this property would be approved. Application fees are non-refundable once the public hearings begin and it is quite possible that there may be other significant costs involved in a request for rezoning this property and obtaining a Special Use Permit.

Case ZN-14-05/32 cont.'d
Michael Wishall/Wishall Trucking
Page 3

If you have any questions regarding this matter, please contact me or John Hall, the Zoning Administrator at (217)384-3708. We will be happy to assist you in resolving this matter.

Sincerely,



Jamie Hitt
Zoning Officer

Enclosures: Champaign County Application for Zoning (Map) Amendment
 Champaign County Application for Special Use Permit
 Champaign County Application for Variance
 Champaign County Planning and Zoning Department Fee List

violations/zn-14-05/32 frst

Champaign
County
Department of



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

(217) 384-3708

June 5, 2015

Case: ZN-14-05/32

Michael Wishall
Wishall Trucking
547 County Road 900E
Tolono, Illinois 61880

RE: Violations of the *Champaign County Zoning Ordinance* on a Parcel of Land in the North Half (N ½) of the Northwest Quarter (NW ¼) of Section 10, Township Seventeen (17) North, Range Eight (8) East of the Third Principal Meridian, Pesotum Township, consisting of 5 acres more or less, with an Address of 486 CR 900E, Tolono, Permanent Index No. 18-32-10-100-006.

Dear Mr. Wishall,

FINAL NOTICE is hereby given that the violations described in your First Notice remain unresolved and you must contact me on or before **June 19, 2015**, regarding this Notice.

This is the last administrative notice that you will receive and if you do not meet this deadline, this matter will be immediately referred to the Champaign County State’s Attorney’s Office for further action and a case will be filed in the Champaign County Circuit Court.

On April 21, 2014, you were sent a First Notice of Violation by this Department. The First Notice informed you that you were in violation of the Champaign County Zoning Ordinance on the parcel of land described above with an address of 486 CR 900E, Tolono, and that the specific violations are as follows:

1. **The operation of an unauthorized trucking terminal (Wishall Trucking) in the AG-1, Agriculture Zoning District in violation of the Zoning Ordinance, Section 5.2, Table of Authorized Principal Uses. A truck terminal is not a permitted use in the AG-1, Agriculture Zoning District; and**
2. **The creation of a lot in the AG-1, Agriculture Zoning District with a lot area of 5 acres in violation of the Zoning Ordinance, Section 5.3, Schedule of Area, Height, & Placement Regulations by District, Footnote 13A)2) which requires that all new lots created that are not used for agriculture may not exceed a maximum lot area of three (3) acres when the lot is made up of soils that are Best Prime Farmland.**

You must correct the violations within 14 days of this notice and contact me on or before June 19, 2015, regarding this matter.

The First Notice reviewed the basis of the Notice and the actions required to correct the violations. That Notice required you to correct the violations on or

FINAL NOTICE

Case ZN-14-05/32 cont.'d.

Michael Wishall/ Wishall Trucking

before May 6, 2014, or the matter would be referred to the Champaign County State's Attorney's Office for further legal action.

I subsequently extended that deadline to August 28, 2014, and on August 22, 2014, your attorney told me that I would receive a written request for an additional extension. I received no request for extension and on November 19, 2014, I sent a letter to your attorney requesting the necessary applications by November 26, 2014. I received an email from your attorney on 12/17/14 that indicated the application was nearly complete.

As of this date, none of the actions to correct the violation have occurred.

ACTION REQUIRED TO CORRECT VIOLATIONS

Champaign County still looks forward to your cooperation in correcting the violations. To correct the violations you must do the following on or before **June 19, 2015**:

1. Relocate Wishall Trucking to a property that is properly zoned for the operation of a truck terminal; **or**
2. To continue operating at this location, the following is required:
 - A. Rezone the property to the AG-2, Agriculture Zoning District, and obtain Special Use Permit Authorization to operate a truck terminal in the AG-2, Agriculture Zoning District. The Application for a Zoning (Map) Amendment and the Application for Special Use Permit is enclosed with this letter. You must complete both Applications and return them to our Office with the required fees. The fee for a Zoning (Map) Amendment is \$520.00 and the fee for a Special Use Permit that is filed in conjunction with a Zoning (Map) Amendment is \$260.00 for a total of \$780.00.
 - B. Obtain a Variance from the Champaign County Zoning Board of Appeals for the creation of a lot on Best Prime Farmland that is not being used for agriculture that exceeds the maximum lot size requirement of no more than three (3) acres in area. Please complete the attached Variance Application and return it to the Planning and Zoning Department with the required fee of \$100.00, when it is filed in conjunction with other zoning cases for the same property.

If you do not do either 1 or 2 above and you do not contact me, it will be assumed the violations continue to exist.

If you do not meet this deadline for correcting the violations, this matter will be referred to the Champaign County State's Attorney for further action and a case will be filed in Champaign County Circuit Court.

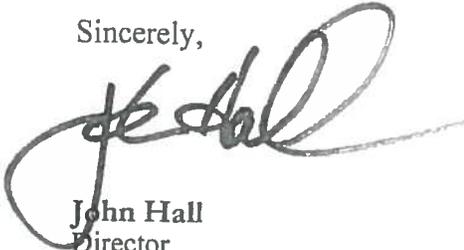
FINAL NOTICE

Case ZN-14-05/32 cont.'d.

Michael Wishall/ Wishall Trucking

It is imperative that you resolve these violations. Please contact myself or Jamie Hitt, Zoning Officer, at 384-3708 if we can be of any assistance.

Sincerely,



John Hall
Director
Zoning Administrator

Enclosures: Champaign County Application for Zoning (Map) Amendment
 Champaign County Application for Special Use Permit
 Champaign County Application for Variance
 Champaign County Planning and Zoning Department Fee List

XC: Jason Wishall (jawishall@hotmail.com)

Matthew J. Schweighart, Erwin, Martinkus & Cole, Ltd. ,POB 1098, Champaign IL
61820- 1098

violations/zn-14-05/32 fin

ROAD MAINTENANCE AGREEMENT

This Agreement is made as of the 23rd day of December, 2014, between Pesotum Township ("Township") and LMJ Transportation, Inc., operating under the assumed name Wishall Transport ("Wishall").

WHEREAS, Wishall operates a trucking business located at 486 County Road 900 East, Tolono, Illinois;

WHEREAS, Wishall, as a service to the Township and its residents and in order to be a good corporate citizen, wishes to share in the cost of maintaining the road used by its trucking operation;

WHEREAS, the Township has agreed to allow Wishall to share in the cost of maintaining said road, and the Parties now wish to reduce their agreement to writing.

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other consideration, the sufficiency of the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Wishall and the Township shall each pay fifty percent (50%) of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road) and the location of Wishall's business at 486 County Road 900 East, consisting of one and one-quarter miles, more or less.
2. The Parties shall discuss from time to time the condition of the road in order to assess the need for maintenance. The final determination of when and how to apply oil and chip shall be made by the Township Road Commissioner. The Parties anticipate the average maintenance schedule to require oil and chip every other year.
3. Upon completion of the oil and chip work, each party will promptly pay its share of the cost, in accordance with the terms of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date above.

LMJ Transportation, Inc. by Jason Wishall
LMJ Transportation, Inc., by:
Jason Wishall, President

Steve Miller
Pesotum Township, by:
Steve Miller, Township Road Commissioner

RECEIVED

JUN 24 2015

CHAMPAIGN CO. P & Z DEPARTMENT

RE: Wishall Transport

To Whom It May Concern:

I write in support of the applications for zoning map amendment, special use permit, and zoning variance filed by Wishall Transport and Jason, Mike and Brian Wishall.

The Wishall Transport trucking operation is an important part of the Pesotum Township. The business provides a significant number of jobs to local employees, purchases parts and equipment from local suppliers and has increased the tax base of the Township.

Jason Wishall, as representative of Wishall Transport, has been a proactive partner with the Township in maintaining and repairing the township roads utilized by the trucking business. This past summer, the Wishalls spent \$15,691.40 of their own funds to resurface 1.5 miles of the 900 E County Road in Pesotum Township. Going forward, the Wishalls have agreed to share the cost of future maintenance required on this road as a service to the Township and County.

It is my opinion and the position of the Pesotum Township that the continued operation of the Wishall Transport trucking operation is in the best interest of the Township and does not present any problem with respect to the maintenance of any Township roads.

Sincerely,

Steve Miller



Pesotum Township Commissioner

RECEIVED

JUN 24 2015

CHAMPAIGN CO. P & Z DEPARTMENT

May 2, 2014

TO WHOM IT MAY CONCERN:

Wishall Transport, Wishall Farms & Transportation, Inc. and Wishall Farms, Inc. are physically located at 486 CR 900 East in Tolono, IL. We are a local farm that operates a trucking company as well.

A majority of our hauling is agricultural and farm related. For the year 2013, over 75% of our revenue was generated hauling agriculturally related products. Our company was built on hauling agricultural products.

At this point in time, the neighbor's signatures below indicate that they welcome our company to stay in the current location.

Please take this into consideration when you are researching our complaint and re-zoning.

Sincerely,

Mike Wishall

Owner, Wishall Farms, Inc.
& Mike Wishall Farms

Brian Wishall

Owner Wishall Farms & Transportation, Inc.
& Brian Wishall Farms

Jason Wishall

Owner, Wishall Transport
& Jason Wishall Farms

William Kubiak

Mark F. Bates

John Hall

[Signature]

Marilyn Hoch

[Signature]

Steve Miller

486 CR 900 E Tolono, IL

450 CR 900 E Tolono IL

483 CR 900 E Tolono IL

481 CR 900 E Tolono IL

502 C.R. 900 E Tolono IL 61880

581 C.R. 900 E Tolono IL 61880

Peoria Township

CIT.

9,154,59

RECEIVED

JUN 24 2015

CHAMPAIGN CO. P & Z DEPARTMENT

ILLIANA CONSTRUCTION CO.

A Division of Champaign Asphalt LLC.
 1414 West Anthony Drive
 Urbana, Illinois 61802
 217-367-8303

Wishall Farms
 C/O Mike, Brian & Jason
 547 C R 900 E
 Tolono, Il. 61880

Invoice Date 06/13/15
 Invoice #001724
 Job # 5800-40

Illiana Construction bill for Cold Mix, MC-30 Prime and SC-800 used on Township Road 900 E as per agreement with Pesotum Township.

<u>Material</u>	<u>Date</u>	<u>Ticket</u>	<u>Amount</u>	<u>Price</u>	<u>Total</u>
EM mix	Various		10-12 Ton	No Charge	
MC-30	06/03	0499	1337	3.25	4,020.25
SC-800	06/10	165589	6093	2.6563	<u>16,184.84</u>
					20,205.09

Total Due Illiana \$20,205.09

White - Customer Copy
 Yellow - Return with Payment

Thanks
 Eric Mast

RECEIVED

JUN 24 2015

CHAMPAIGN CO. P & Z DEPARTMENT

ILLIANA CONSTRUCTION CO.

A division of Champaign Asphalt LLC.
1414 West Anthony Drive
Urbana, Illinois 61802
217-367-8303

Mike, Brian and Jason Wishall
547 C.R. 900 E
Tolono, IL. 61880

Invoice Date 08/05/14
Invoice #001588
Job 4800-40

Illiana Bill Road Maintenance on 1.5 Miles of Road 900 E Champaign County
Pesotum Township as directed by Pesotum Township Road Commissioner.

<u>Material</u>	<u>Date</u>	<u>Ticket#</u>	<u>Amount</u>	<u>Unit Cost</u>	<u>Total \$ Amount</u>
HFP	07/31	162487	5855	2.68	15,691.40

Total Due Illiana \$15,691.40

Thank You
Eric Mast

White Customer copy
Yellow copy return with payment

RECEIVED
JUN 24 2015
CHAMPAIGN CO. P & Z DEPARTMENT

From: [Matthew J. Schweighart](mailto:Matthew.J.Schweighart)
To: [Susan Chavarria](mailto:Susan.Chavarria)
Subject: RE: Wishall zoning application
Date: Thursday, September 17, 2015 9:52:37 AM

Susan-

The items to be considered for this property are the following:

1. Zoning Map Amendment from AG-1 to AG-2
2. Special Use Permit for a trucking terminal in AG-2
3. Variance for lot exceeding 3.0 acres of best prime farmland not used in direct crop production
4. Variance from the storm water drainage plan requirement based on the fact that the property is rural in nature, the fact that the buildings have been in existence for farm purposes prior to their use in connection with the trucking terminal for nearly 10 years with no drainage issues during that time, and the fact that no new development is being proposed that would alter the existing configuration with respect to storm water drainage.

The storm water variance application and an updated site map will be forthcoming.

Thanks,
Matt

From: Susan Chavarria [mailto:schavarr@co.champaign.il.us]
Sent: Wednesday, September 16, 2015 1:54 PM
To: Matthew J. Schweighart <mjs@erwinlaw.com>
Subject: RE: Wishall zoning application

Matt, October 15th is the only docket date this year we think we could fit your cases into. If you can send me a general idea of what variances/special use/map amendment request, I can work up the legal ad and wait a bit longer for the other documents. Anything you can get me by 10 am tomorrow for the legal ad would be much appreciated.

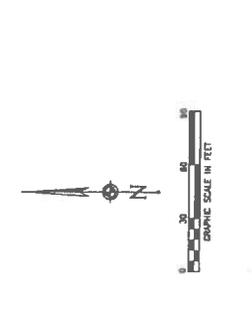
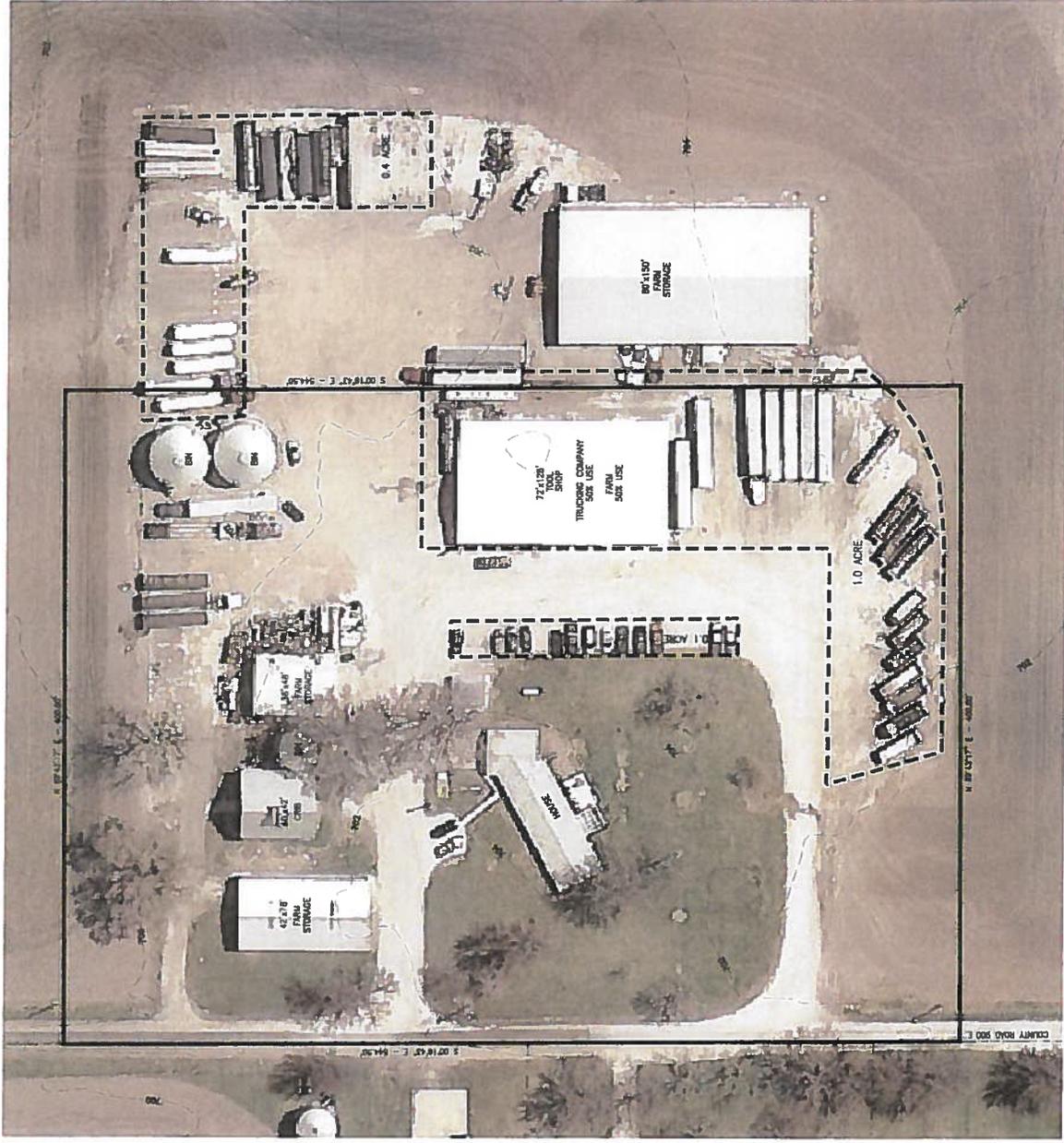
Thanks,
Susan

From: Matthew J. Schweighart [mailto:mjs@erwinlaw.com]
Sent: Wednesday, September 16, 2015 10:54 AM
To: Susan Chavarria
Subject: RE: Wishall zoning application

Susan-

Thank you for checking in. Would it be possible to push this to the next available ZBA docket?

Thanks,
Matt



LITIAL DESCRIPTION
 A PARCEL OF LAND IN THE NORTH HALF OF THE NORTHWEST QUARTER SECTION 10, TOWNSHIP 17 NORTH, RANGE 8 NORTH, COUNTY OF CHAMPAIGN, ILLINOIS, DESCRIBED AS FOLLOWS:
 COMMENCING AT A POINT 800 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 17 NORTH, RANGE 8 NORTH, COUNTY OF CHAMPAIGN, ILLINOIS, AND PROCEEDING ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 10, A DISTANCE OF 800 FEET TO A POINT 800 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 10, TOWNSHIP 17 NORTH, RANGE 8 NORTH, COUNTY OF CHAMPAIGN, ILLINOIS, AND PROCEEDING ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 10, A DISTANCE OF 800 FEET TO A POINT 800 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 10, TOWNSHIP 17 NORTH, RANGE 8 NORTH, COUNTY OF CHAMPAIGN, ILLINOIS, AND PROCEEDING ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 10, A DISTANCE OF 800 FEET TO A POINT 800 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 10, TOWNSHIP 17 NORTH, RANGE 8 NORTH, COUNTY OF CHAMPAIGN, ILLINOIS, AND PROCEEDING ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 10, A DISTANCE OF 800 FEET TO THE POINT OF BEGINNING.

NO.	DATE	DESCRIPTION

B K B
 ENGINEERING
 201 N. HAZEL STREET, SUITE 400 | CHAMPAIGN, IL 61820
 TEL: 217.242.1448 | OFFICE: 217.231.2971 | FAX: 217.231.2211

SKETCH PLAN
 WISHALL TRANSPORT
 450 COUNTY ROAD 900 EAST
 TOLONO, ILLINOIS

PROJECT: 130-1401
 DESIGN BY: BKB
 DRAWN BY: BKB
 DATE: 9/17/15
 SHEET: 1

RECEIVED
 OCT 02 2015
 CHAMPAIGN CO. P & Z DEPARTMENT

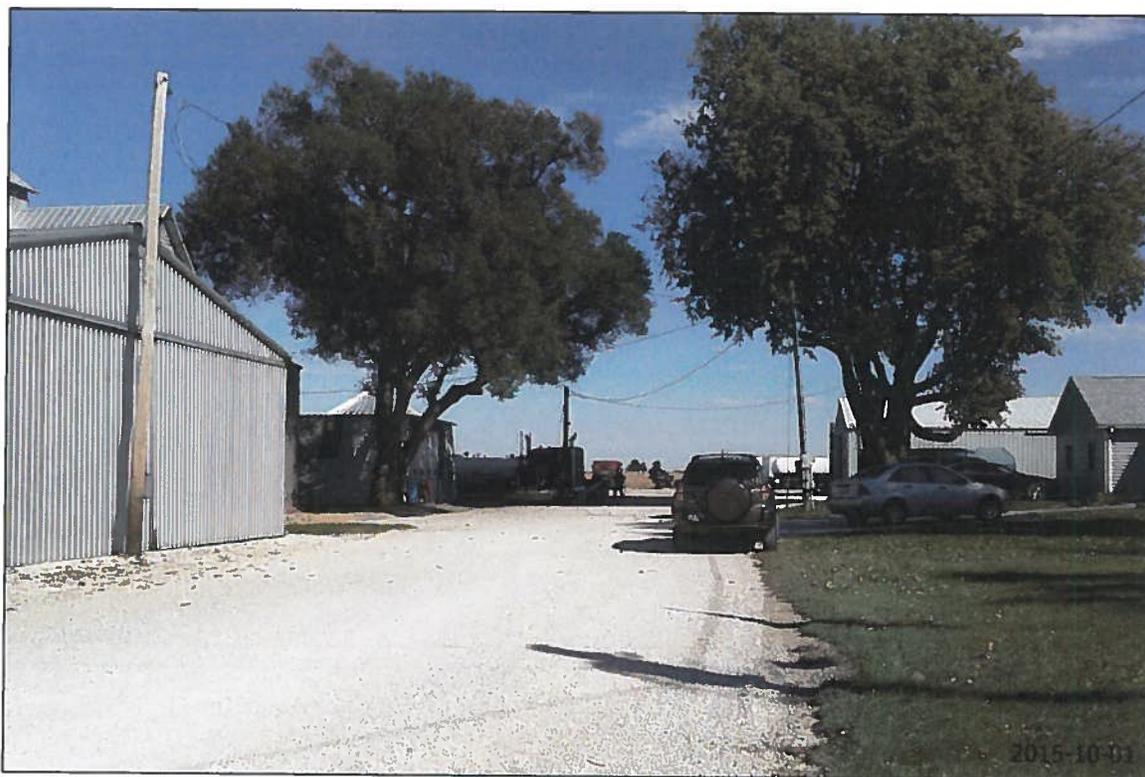
**Attachment L: Natural Resources Report from
Champaign County Soil and Water Conservation District**

NOT YET RECEIVED

805-AM-15/806-S-15/807-V-15 Wishall

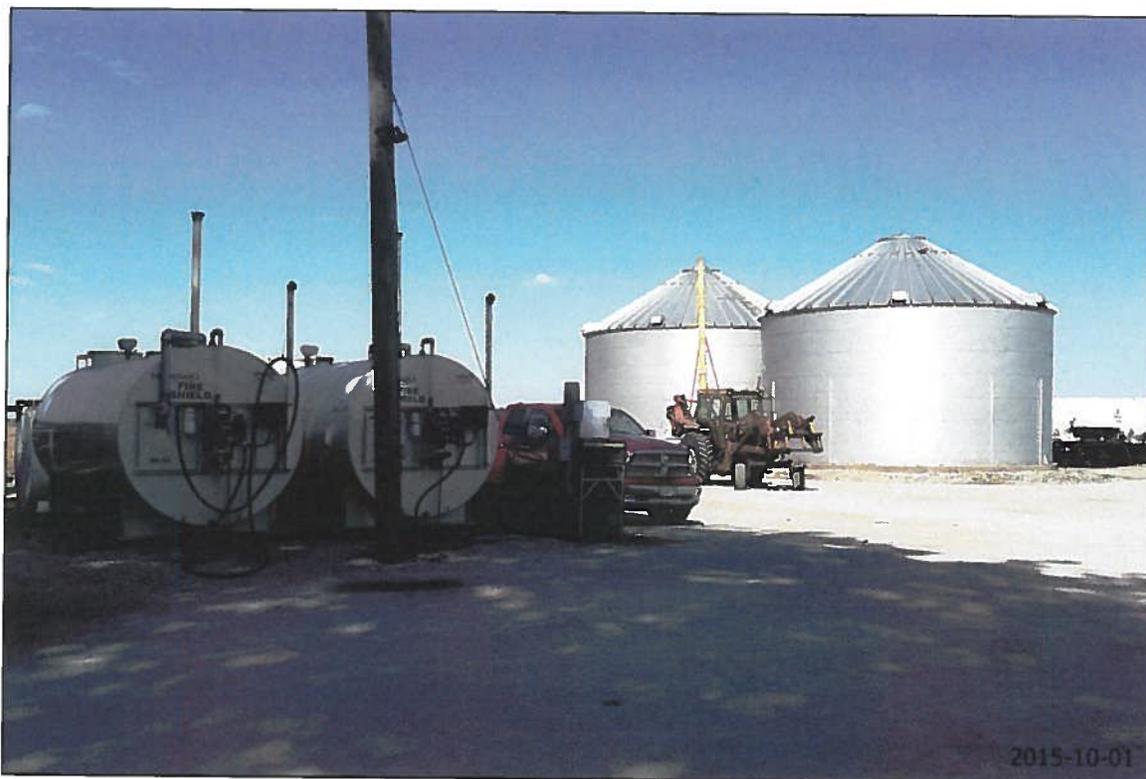


Wishall Farms entrance



Main entrance facing east; house is on the right

805-AM-15/806-S-15/807-V-15 Wishall



Fuel tanks and storage bins on north side of property



Storage bins and truck trailers on north side of property

805-AM-15/806-S-15/807-V-15 Wishall



Farming equipment on east end of property



Farm storage shed east of 5 acre parcel

805-AM-15/806-S-15/807-V-15 Wishall

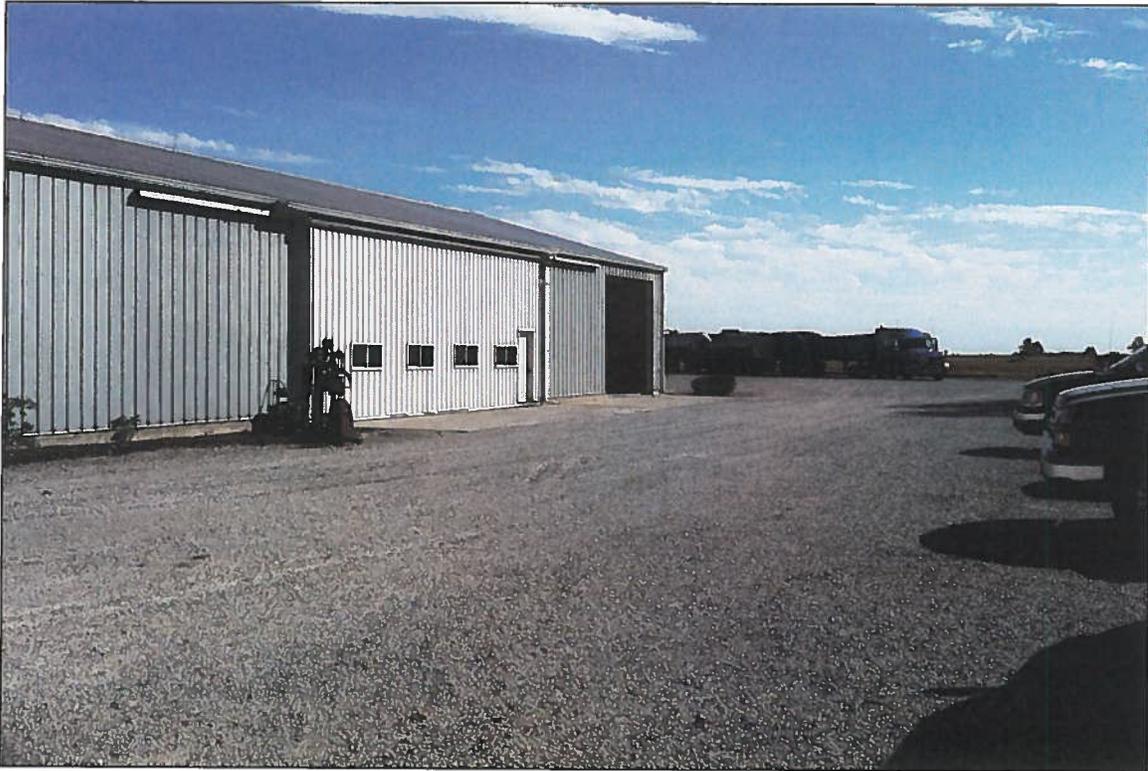


Area between eastern Farm Storage Shed and Truck Shop



Farm Storage Shed (left behind trailer) and Truck Tool Shop (right)

805-AM-15/806-S-15/807-V-15 Wishall



West side of Truck Tool Shop



Inside Truck Tool Shop

805-AM-15/806-S-15/807-V-15 Wishall



Parking west of Truck Tool Shop (mostly harvest help)



Facing north from CR 900 East

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805-AM-15

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

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

Date: ***{October 15, 2015}***

Petitioners: **Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc.**

Request: **Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the AG-2 Agriculture Zoning District in order to authorize the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case 806-S-15 and subject to the requested variance in related Zoning Case 807-V-15, on the subject property described below.**

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FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

(Note: asterisk indicates items of evidence that are identical to evidence in Case 806-S-15)

- *1. The Petitioners Michael Wishall, Jason Wishall, and Brian Wishall own the subject property.
- *2. The subject property is a 5 acre parcel plus approximately 0.68 acres of the adjacent parcel in the Northwest Quarter of the Northwest Quarter of Section 10 of Pesotum Township and commonly known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at 482 and 486 CR 900 East, Tolono.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - *A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality. The nearest municipality is the Village of Tolono but the Village is located more than 1.5 miles from the subject property.
 - *B. The subject property is located within Pesotum Township, which does not have a Planning Commission.
4. Regarding comments by petitioners, when asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner has indicated: **“A change in conditions has occurred since the present Ordinance was approved. Petitioners’ farm trucking operation has expanded into a successful, profitable and job creating trucking operation, and the present map does not reflect the change in condition.”**
5. Regarding comments by the petitioner when asked on the petition what other circumstances justify the rezoning the petitioner has indicated the following: **“A) Petitioners’ trucking business provides approximately 30 jobs to local employees; and B) Over 80% of the business is agricultural or ag-related and is not dissimilar to several other trucking operations currently ongoing in the area surrounding the subject property”.**

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- *6. Land use and zoning on the subject property and in the vicinity are as follows:
 - *A. The subject property is a 5.68 acre tract and is currently zoned AG-1 Agriculture.
 - *B. Land on the north, south, east, and west of the subject property is also zoned AG-1 Agriculture and is in use as follows:
 - *(1) Land to the north, east and south is owned by the Petitioners and is in agriculture production.
 - *(2) Land to the west is residential in use, surrounded by agricultural land in production.
- *7. Regarding the site plan and proposed operations of the subject property:

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- *A. The site plan received October 2, 2015 indicates the following existing and proposed improvements:
 - *(1) Existing buildings shown on the aerial photograph include:
 - *a. A residence that was constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *b. A 42 feet by 78 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *c. A 40 feet by 42 feet crib north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *d. A 36 feet by 48 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *e. A 128 feet by 72 feet truck shop east of the residence, constructed between 1988 and 2002 according to aerial photography;
 - *f. Two 36 foot diameter grain bins on the northeast corner of the property, constructed between 2002 and 2005 according to aerial photography; and
 - *g. An 80 feet by 150 feet farm storage shed east of the property line, constructed between 2008 and 2011 according to aerial photography, owned by the Petitioners and connected with the agricultural uses on the property.
 - *(2) There is no construction proposed for the subject property.
- *B. The 5-acre parcel was created in 2013.
- *C. As per Champaign County aerial photography, operations at the property appear to expand between 2008 and 2011, noted by the addition of the east Farm Storage Shed and ten additional trailers parked just east of the 5 acre parcel.
- *D. There are no previous Zoning Use Permits on the subject property.

GENERALLY REGARDING THE EXISTING AND PROPOSED ZONING DISTRICTS

- *8. Regarding the existing and proposed zoning districts:
 - *A. Regarding the general intent of zoning districts (capitalized words are defined in the Ordinance) as described in Section 5 of the Ordinance:
 - *(1) The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.

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- * (2) The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development.

- B. Regarding the general locations of the existing and proposed zoning districts:
 - (1) The AG-1 District is generally located throughout the county in areas which have not been placed in any other Zoning Districts.

 - (2) The AG-2 DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

 - (3) The subject property is 1.6 miles from the Village of Tolono.

 - (4) The Zoning Map has always contained locations of the AG-2 District that are more than one and one-half miles from existing municipalities.

- C. Regarding the different uses that are authorized in the existing and proposed zoning districts by Section 5.2 of the Ordinance:
 - (1) There are 11 types of uses authorized by right in the AG-1 District and there are 13 types of uses authorized by right in the AG-2 District:
 - a. All 11 uses authorized by right in the AG-1 District are also authorized by right in the AG-2 District:
 - (a) Single family dwelling;
 - (b) Subdivisions totaling three lots or less;
 - (c) Agriculture, including customary accessory uses;
 - (d) Roadside stand operated by farm operator;
 - (e) Minor rural specialty business;
 - (f) Plant nursery;
 - (g) Township Highway maintenance garage;
 - (h) Christmas tree sales lot;
 - (i) Off-premises sign within 660 feet of the edge of the right-of-way of an interstate highway;
 - (j) Off-premises sign along federal highways except interstate highways; and
 - (k) Temporary uses.

 - b. The following two uses are authorized by right in the AG-2 District and not at all in the AG-1 District:
 - (a) Country club or golf course, and
 - (b) Commercial breeding facility.

 - c. There are no uses that are authorized by right in the AG-2 District but require a Special Use Permit in the AG-1 District.

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- (2) There are 53 types of uses authorized by Special Use Permit (SUP) in the AG-1 District (including the 11 uses authorized by right in the AG-2 District, see above) and 35 types of uses authorized by SUP in the AG-2 District:
- a. The following 42 uses may be authorized by SUP in the both the AG-1 District and AG-2 District:
- (a) Hotel – no more than 15 lodging units;
 - (b) Residential Planned Unit Development;
 - (c) Subdivisions totaling more than three lots or with new streets or private accessways (SUP requires approval by County Board);
 - (d) Major rural specialty business;
 - (e) Artificial lake of 1 or more acres;
 - (f) Mineral extraction, quarrying, topsoil removal and allied activities;
 - (g) Elementary school, Jr. High school, or High school;
 - (h) Church, temple, or church related temporary uses on church property;
 - (i) Municipal or government building;
 - (j) Adaptive reuse of government buildings for any use permitted by right in B-1, B-2, B-3, B-4, B-5 and I-1;
 - (k) Penal or correctional institution;
 - (l) Police station or fire station;
 - (m) Library, museum or gallery;
 - (n) Public park or recreational facility;
 - (o) Sewage disposal plant or lagoon;
 - (p) Private or commercial transmission and receiving towers (including antennas) over 100 feet in height;
 - (q) Radio or television station;
 - (r) Electrical substation;
 - (s) Telephone exchange;
 - (t) Residential airports;
 - (u) Restricted landing areas;
 - (v) Heliport-restricted landing areas;
 - (w) Farm chemicals and fertilizer sales including incidental storage and mixing of blended fertilizer;
 - (x) Livestock sales facility and stockyards;
 - (y) Slaughter houses;
 - (z) Grain storage elevator and bins;
 - (aa) Riding stable;
 - (bb) Commercial fishing lake;
 - (cc) Cemetery or crematory;
 - (dd) Pet cemetery;
 - (ee) Kennel;
 - (ff) Veterinary hospital;
 - (gg) Off-premises sign beyond 660 feet of the edge of the right-of-way of an interstate highway;
 - (hh) Contractors facilities (with no outdoor storage nor outdoor operations);
 - (ii) Contractors facilities with outdoor storage and/or outdoor operations;

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- (jj) Agricultural drainage contractor facility with no outdoor storage and/or outdoor operations;
 - (kk) Agricultural drainage contractor facility with outdoor storage and/or outdoor operations;
 - (ll) Small scale metal fabricating shop;
 - (mm) Gas turbine peaker;
 - (nn) Big wind turbine tower (1-3 big wind turbine towers);
 - (oo) Sawmills and planning mills, and related activities; and
 - (pp) Pre-existing industrial uses (existing prior to October 10, 1973).
- b. The following use may be authorized by Special Use Permit in the AG-1 District and not at all in the AG-2 District:
- (1) Wind Farm (requires SUP approval by County Board).
- c. The following 35 uses may be authorized by SUP in the AG-2 District and not at all in the AG-1 District:
- (a) Two family dwelling;
 - (b) Home for the aged;
 - (c) Nursing home;
 - (d) Travel trailer camp;
 - (e) Commercial greenhouse;
 - (f) Greenhouse (not exceeding 1,000 square feet);
 - (g) Garden shop;
 - (h) Water treatment plant;
 - (i) Public fairgrounds;
 - (j) Motor bus station;
 - (k) Truck terminal;
 - (l) Railroad yards and freight terminals;
 - (m) Airport;
 - (n) Heliport/helistops;
 - (o) Mortuary or funeral home;
 - (p) Roadside produce sales stand;
 - (q) Feed and grain (sales only);
 - (r) Artist studio;
 - (s) Residential recovery center;
 - (t) Antique sales and service;
 - (u) Amusement park;
 - (v) Resort or organized camp;
 - (w) Bait sales;
 - (x) Country club clubhouse;
 - (y) Lodge or private club;
 - (z) Outdoor commercial recreational enterprise (except amusement park);
 - (aa) Private indoor recreational development;
 - (bb) Public camp or picnic area;
 - (cc) Seasonal hunting or fishing lodge;
 - (dd) Stadium or coliseum;

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- (ee) Outdoor theatre;
 - (ff) Aviation sales, service or storage;
 - (gg) Self-storage warehouses, not providing heat/utilities to individual units;
 - (hh) Landscape waste processing facilities; and
 - (ii) Wood fabricating shop and related activities.
- (4) Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

9. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
- A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:
- “It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows...”
- B. The LRMP defines Goals, Objectives, and Policies as follows:
- (1) Goal: an ideal future condition to which the community aspires
 - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
 - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
- C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.”

REGARDING RELEVANT LRMP GOALS & POLICIES

(Note: bold italics typeface indicates staff’s recommendation to the ZBA)

10. LRMP Goal 1 is entitled “Planning and Public Involvement” and states:

Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.

Goal 1 is always relevant to the review of the LRMP Goals, Objectives, and Policies in land use decisions but the proposed rezoning will ***NOT IMPEDE*** the achievement of Goal 1.

11. LRMP Goal 2 is entitled “Governmental Coordination” and states:

Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.

Goal 2 has two objectives and three policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 2.

12. LRMP Goal 3 is entitled “Prosperity” and states:

Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.

Goal 3 has three objectives and no policies. The proposed amendment *WILL HELP ACHIEVE* Goal 3 for the following reasons:

- A. The three objectives are:

- (1) Objective 3.1 is entitled “Business Climate” and states: Champaign County will seek to ensure that it maintains comparable tax rates and fees, and a favorable business climate relative to similar counties.
- (2) Objective 3.2 is entitled “Efficient County Administration” and states: “Champaign County will ensure that its regulations are administered efficiently and do not impose undue costs or delays on persons seeking permits or other approvals.”
- (3) Objective 3.3 is entitled “County Economic Development Policy” and states: “Champaign County will maintain an updated Champaign County Economic Development Policy that is coordinated with and supportive of the LRMP.”

- B. Although the proposed rezoning is *NOT DIRECTLY RELEVANT* to any of these objectives, the proposed rezoning will allow the Petitioners to grow their trucking business on the subject property with proper zoning and to continue to serve residents of Champaign County and therefore the proposed rezoning can be said to *HELP ACHIEVE* Goal 3.

13. LRMP Goal 4 is entitled “Agriculture” and states:

Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.

Goal 4 has 9 objectives and 22 policies. The proposed amendment {WILL / WILL NOT} *HELP ACHIEVE* Goal 4 for the following reasons:

- A. Objective 4.1 is entitled “Agricultural Land Fragmentation and Conservation” and states: “Champaign County will strive to minimize the fragmentation of the County’s agricultural land base and conserve farmland, generally applying more stringent development standards on best prime farmland.”

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The proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Objective 4.1 because of the following:

- (1) Objective 4.1 includes nine subsidiary policies. Policies 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.7, 4.1.8, and 4.1.9 do not appear to be relevant to the proposed rezoning.
- (2) Policy 4.1.1 states, **“Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.1.1 because the Site Plan received October 2, 2015 will remove no additional land from agricultural production.

- (3) Policy 4.1.6 states: **“Provided that the use, design, site and location are consistent with County policies regarding:**
 - i. **Suitability of the site for the proposed use;**
 - ii. **Adequacy of infrastructure and public services for the proposed use;**
 - iii. **Minimizing conflict with agriculture;**
 - iv. **Minimizing the conversion of farmland; and**
 - v. **Minimizing the disturbance of natural areas; then**
 - a) **On best prime farmland, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential use (inclusive of by-right development) not to exceed three acres plus three acres per each 40 acres (including any existing right-of-way), but not to exceed 12 acres in total; or**
 - b) **On best prime farmland, the County may authorize non-residential discretionary development; or**
 - c) **The County may authorize discretionary review development on tracts consisting of other than best prime farmland.”**

The proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.1.6 for the following reasons:

- a. The soil on the subject property is best prime farmland and consists of Elburn silt loam and Drummer silty clay loam, and has an average LE of 100.
- b. Regarding compliance with policies having to do with the suitability of the site for the proposed use, the ZBA has recommended that the proposed rezoning will **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.3.2 regarding site suitability on best prime farmland.

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- c. Regarding compliance with policies having to do with the adequacy of infrastructure and public services for the proposed use, the ZBA has recommended that the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.3.3 regarding public services and Policy 4.3.4 regarding infrastructure.
- d. Regarding compliance with policies having to do with minimizing conflict with agriculture, the ZBA has recommended that the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.2.1, Policy 4.2.2, Policy 4.2.3, and Policy 4.2.4 regarding minimizing conflict with agriculture.
- e. There are no relevant policies having to do with minimizing the conversion of farmland but the proposed development as per the Site Plan received October 2, 2015 will remove no additional farmland from production.
- f. Regarding compliance with policies having to do with minimizing the disturbance of natural areas, there are no natural areas on the subject property and the proposed amendment **WILL NOT IMPEDE** the achievement of Goal 8.

B. Objective 4.2 is entitled “Development Conflicts with Agricultural Operations” and states, “Champaign County will require that each *discretionary review* development will not interfere with agricultural operations.”

The proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Objective 4.2 because of the following:

- (1) **Policy 4.2.1 states, “The County may authorize a proposed business or other non-residential *discretionary review* development in a rural area if the proposed development supports agriculture or involves a product or service that is better provided in a rural area than in an urban area.”**

The proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.2.1 for the following reasons:

- a. The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination must be made in each zoning case.
- b. The proposed development in related Case 806-S-15 and 807-V-15 **DOES** support agriculture.
- c. Regarding whether the proposed development in related Cases 806-S-15 and 807-V-15 is a service better provided in a rural area:
 - (a) The Petitioner has testified on the application as follows: **“Over 80% of the business is agricultural or ag-related and is not dissimilar to**

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several other trucking operations currently ongoing in the area surrounding the subject property.”

- (b) The proposed Special Use Permit makes use of existing buildings and does not include any new buildings.
 - (c) The subject property is approximately 4 miles from the I-57 exit at Pesotum and is located on a public road that has adequate traffic capacity.
 - d. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.
- (2) **Policy 4.2.2 states, “The County may authorize *discretionary review* development in a rural area if the proposed development:**
- a) **is a type that does not negatively affect agricultural activities; or**
 - b) **is located and designed to minimize exposure to any negative affect caused by agricultural activities; and**
 - c) **will not interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related infrastructure.”**

The proposed rezoning {WILL / WILL NOT} **HELP ACHIEVE** Policy 4.2.2 for the following reasons:

- a. The proposed use of the subject property {DOES / DOES NOT} negatively affect agricultural activities because it provides trucking services to a primarily agricultural customer base and removes no agricultural land from production.
- b. Regarding whether the proposed development in related Case 806-S-15 and 807-V-15 {WILL / WILL NOT} interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related infrastructure:
 - (a) The Petitioner’s truck terminal is sited on land that is not in crop production.
 - (b) No development has occurred in the last decade on the property that would impact agricultural drainage patterns.
 - (c) The traffic generated by the proposed use will likely increase as the business grows.

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- (d) In 2013, a complaint was received by the Zoning Department regarding the bad road conditions created by trucks traveling in and out of the subject property. The Petitioners and Pesotum Township Road Commissioner Steve Miller signed a Road Maintenance Agreement received June 24, 2015 to evenly split the cost to apply oil and chip the Township road between CR 600 North and the Petitioner's property at 486 CR 900 East. No end date is indicated in the Agreement. The first maintenance under this Agreement was completed in 2014 and 2015.
- c. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.
- d. The Petitioners submitted a letter of support signed by six neighbors in the CR 400-600 North portion of CR 900 East stating "they welcome our company to stay in the current location" (see attachment). The following parties signed the petition:
- (a) William Bialeschki, 455 CR 900 East
 - (b) Mark F. Bates, 450 CR 900 East
 - (c) James Chancellor, 483 CR 900 East
 - (d) Doug Bartlett, 481 CR 900 East
 - (e) Marilyn Hoch, 502 CR 900 East
 - (f) Linden Warfel, 581 CR 900 East
 - (g) Steve Miller, Pesotum Township
- e. No complaints or concerns have been received from nearby farmers or neighbors since the original complaints about roads in 2013; the roads have since been maintained and are in better condition.
- f. Steve Miller, Pesotum Township Commissioner, wrote a letter of support received June 24, 2015 for the Petitioners' applications for zoning map amendment, special use permit, and variance (see attachment).
- (3) **Policy 4.2.3 states, "The County will require that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land."**

The proposed rezoning {WILL / WILL NOT} **HELP ACHIEVE** Policy 4.2.3 for the following reason:

- a. The Petitioners have farmland adjacent to the subject property and understand that this is a rural area where agricultural activities take place.

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- (4) **Policy 4.2.4 states, “To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will require that all discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.2.4 for the following reasons:

- a. The use on the subject property is intended to benefit from the adjacent agricultural activities and a buffer between the use and nearby agriculture is not warranted.

- C. Objective 4.3 is entitled “Site Suitability for Discretionary Review Development” and states: “Champaign County will require that each discretionary review development is located on a suitable site.”

The proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Objective 4.3 because of the following:

- (1) **Policy 4.3.2 states, “On best prime farmland, the County may authorize a discretionary review development provided the site with proposed improvements is well-suited overall for the proposed land use.”**

The proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.3.2 because the proposed site **{IS / IS NOT} WELL SUITED OVERALL** for the development proposed in related Cases 806-S-15 and 807-V-15 for the following reasons:

- a. The soil on the subject property is best prime farmland consisting of Elburn silt loam and Drummer silty clay loam, and has an average LE of 100.
- b. No development has occurred in the last decade on the property that would impact agricultural drainage patterns.
- c. The proposed Special Use Permit uses existing buildings and does not include any new buildings.
- d. The subject property is approximately 4 miles from the I-57 exit at Pesotum and is located on a public road that has adequate traffic capacity.
- e. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.

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- (2) **Policy 4.3.3 states, “The County may authorize a discretionary review development provided that existing public services are adequate to support to the proposed development effectively and safely without undue public expense.”**

The proposed rezoning will *HELP ACHIEVE* Policy 4.3.3 for the following reasons:

- a. The subject property is located approximately 3.5 miles from the Pesotum Fire Protection District Station.
- b. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.

- (3) **Policy 4.3.4 states, “The County may authorize a discretionary review development provided that existing public infrastructure, together with proposed improvements, is adequate to support the proposed development effectively and safely without undue public expense.”**

The proposed rezoning {WILL / WILL NOT} *HELP ACHIEVE* Policy 4.3.4 for the following reasons:

- a. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road) and the Petitioner’s property.
- b. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.

- (4) **Policy 4.3.5 states, “On best prime farmland, the County will authorize a business or other non-residential use only if:**

- a) **It also serves surrounding agricultural uses or an important public need; and cannot be located in an urban area or on a less productive site; or**
- b) **The use is otherwise appropriate in a rural area and the site is very well suited to it.”**

The proposed rezoning {WILL / WILL NOT} *HELP ACHIEVE* Policy 4.3.5 for the following reasons:

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- a. The proposed use in related Case 806-S-15 and 807-V-15 **DOES** serve surrounding agricultural land uses or an important public need.
- b. Regarding whether the proposed development in related Case 806-S-15 and 807-V-15 **{IS / IS NOT}** otherwise appropriate in a rural area:
 - (a) The Petitioners testified on the application as follows: **“A) Petitioners’ trucking business provides approximately 30 jobs to local employees; and B) Over 80% of the business is agricultural or ag-related and is not dissimilar to several other trucking operations currently ongoing in the area surrounding the subject property”**.
 - (b) The subject property is approximately 4 miles from the I-57 exit at Pesotum and is located on a public road that has adequate traffic capacity and is jointly maintained by Pesotum Township and the petitioners.
- c. Regarding whether the site is very well suited to the proposed land use, the ZBA has recommended that the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.3.2 regarding whether the site with proposed improvements is well-suited overall for the proposed land use.
- d. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.

14. LRMP Goal 5 is entitled “Urban Land Use” and states as follows:

Champaign County will encourage urban development that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.

Goal 5 has 3 objectives and 15 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 5.

15. LRMP Goal 6 is entitled “Public Health and Safety” and states as follows:

Champaign County will ensure protection of the public health and public safety in land resource management decisions.

Goal 6 has 4 objectives and 7 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 6.

16. LRMP Goal 7 is entitled “Transportation” and states as follows:

Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.

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Goal 7 has 2 objectives and 7 policies. The proposed amendment **{WILL / WILL NOT} HELP ACHIEVE** Goal 7 for the following reasons:

- A. Objective 7.1 states, "Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted."

The proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Objective 7.1 because of the following:

- (1) Policy 7.1.1 states, "**The County will include traffic impact analyses in discretionary review development proposals with significant traffic generation.**"

The proposed rezoning **{WILL / WILL NOT} CONFORM** to Policy 7.1.1 because:

- a. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road) and the Wishall property.
- b. The subject property fronts the east side of CR 900 East. As reviewed in related Case 806-S-15 regarding the general traffic conditions on CR 900 East at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (a) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2011 in the vicinity of the subject property. CR 900 East had an ADT of 150 near the subject property.
- (b) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet. There is 2 feet of gravel shoulder on both sides of the 14 foot wide road.
- (c) The pavement surface of CR 900 E in the vicinity of the subject property is oil and chip. The pavement width is about 14 feet, which would equate to a maximum recommended traffic volume of no more than 250 ADT.
- (d) The subject property is located about 4 miles north of the I-57 interchange at Pesotum and is about 1.5 miles west of US45 South which is heavily traveled.
- c. The Petitioners and Pesotum Township Road Commissioner Steve Miller signed a Road Maintenance Agreement received June 24, 2015 to evenly split the cost to apply oil and chip the Township road between CR 600 North and the Petitioner's

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property at 486 CR 900 East. No end date is indicated in the Agreement. The first maintenance under this Agreement was completed in 2014 and 2015

- d. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.

- B. The proposed amendment ***WILL NOT IMPEDE*** the achievement of Objective 7.2 and Policies 7.2.1, 7.2.2, 7.2.3, 7.2.4, 7.2.5, and 7.2.6.

17. LRMP Goal 8 is entitled “Natural Resources” and states as follows:

Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.

The proposed amendment ***WILL NOT IMPEDE*** the achievement of Goal 8.

18. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:

Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.

The proposed amendment ***WILL NOT IMPEDE*** the achievement of Goal 9.

19. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:

Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.

The proposed amendment ***WILL NOT IMPEDE*** the achievement of Goal 10.

GENERALLY REGARDING THE LASALLE FACTORS

20. In the case of *LaSalle National Bank of Chicago v. County of Cook* the Illinois Supreme Court reviewed previous cases and identified six factors that should be considered in determining the validity of any proposed rezoning. Those six factors are referred to as the *LaSalle* factors. Two other factors were added in later years from the case of *Sinclair Pipe Line Co. v. Village of Richton Park*. The *Champaign County Zoning Ordinance* does not require that map amendment cases be explicitly reviewed using all of the *LaSalle* factors but it is a reasonable consideration in controversial map amendments and any time that conditional zoning is anticipated. The proposed map amendment compares to the *LaSalle* and *Sinclair* factors as follows:

- A. ***LaSalle* factor: The existing uses and zoning of nearby property.** Table 1 below summarizes the land uses and zoning of the subject property and nearby properties.

DRAFT 10/07/15**Table 1. Land Use and Zoning Summary**

Direction	Land Use	Zoning
Onsite	Agriculture	AG-1 Agriculture (Proposed rezoning to AG-2)
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Residential, Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

B. *LaSalle* factor: The extent to which property values are diminished by the particular zoning restrictions. Regarding this factor:

- (1) It is impossible to establish values without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
- (2) This area is primarily an agricultural area and the subject property has been a farmstead and trucking company for years.
- (3) In regards to the value of nearby residential properties, the requested map amendment **{WILL / WILL NOT} AFFECT** nearby residential property values. Regarding the effect on nearby properties:
 - a. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road) and the Wishall property.
 - b. The Petitioners submitted a letter of support signed by six neighbors in the County Road 400-600 North portion of County Road 900 East stating “they welcome our company to stay in the current location” (see attachment).
 - c. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.

C. *LaSalle* factor: The extent to which the destruction of property values of the plaintiff **{WILL / WILL NOT} promote the health, safety, morals, and general welfare of the public. Regarding this factor:**

- (1) There has been no evidence submitted regarding property values.

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- (2) This area is primarily an agricultural area and the subject property has been a farmstead and trucking company for years.
- D. **LaSalle factor: The relative gain to the public as compared to the hardship imposed on the individual property owner.** Regarding this factor:
- (1) The gain to the public of the proposed rezoning **{WILL / WILL NOT} BE POSITIVE** because: as per a letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015 “the proposed amendment would allow the Petitioner to continue being a significant local employer that purchases parts and equipment from local suppliers and has increased the tax base of the Township” (see attachment).
- (2) The Petitioners and Pesotum Township Road Commissioner Steve Miller signed a Road Maintenance Agreement received June 24, 2015 to evenly split the cost to apply oil and chip the Township road between CR 600 North and the Petitioner’s property at 486 CR 900 East. No end date is indicated in the Agreement. The first maintenance under this Agreement was completed in 2014 and 2015.
- (3) Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.
- E. **LaSalle factor: The suitability of the subject property for the zoned purposes.** Regarding whether the site is well suited to the proposed land use, the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.3.2 regarding whether the site with proposed improvements is well-suited overall for the proposed land use.
- F. **LaSalle factor: The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.** Regarding this factor:
- (1) The subject property continues to be in use as a farm and unauthorized trucking terminal.
- (2) The subject property and its vicinity have maintained the same uses for years.
- G. **Sinclair factor: The need and demand for the use.** Regarding this factor:
- (1) The Petitioner testified in the application that **“the trucking operation has expanded into a successful, profitable, and job creating trucking operation...that provides approximately 30 jobs to local employees”**.
- (2) The ZBA has recommended that the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.2.1 regarding whether the proposed use **IS** a service better provided in a rural area.
- (3) In the review of Policy 4.3.5 the ZBA has recommended the following:

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- a. The proposed use **DOES** serve surrounding agricultural land uses or an important public need.
 - b. The proposed development **{IS / IS NOT}** otherwise appropriate in a rural area.
- (4) Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.
- H. **Sinclair factor: The extent to which the use conforms to the municipality's comprehensive planning.** The ZBA has recommended that the proposed rezoning **{WILL / WILL NOT}** **HELP ACHIEVE** the Champaign County Land Resource Management Plan.
- I. Overall, the proposed map amendment **{IS / IS NOT}** **CONSISTENT** with the LaSalle and Sinclair factors.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

21. The proposed amendment will **HELP ACHIEVE** the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:
- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.
- This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.
- B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed rezoning **WILL** conserve the value of real estate throughout the COUNTY, based on the following:

- (1) It is not clear whether or not the proposed rezoning will have any impact on the value of nearby properties without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
- (2) The proposed rezoning could only have an effect on the value of real estate in the immediate vicinity. Regarding the effect on the value of real estate in the immediate vicinity other than the subject property:
 - a. A Truck Terminal is authorized by Special Use Permit in the AG-2 Zoning District and therefore the Zoning Ordinance apparently has a presumption of no inherent incompatibilities between agricultural and residential use and a Truck

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Terminal. Provided that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent properties, there should be no significant effect on the value of nearby properties.

- (3) In regards to the value of the subject property it also is not clear if the requested Special Use Permit would have any effect. Regarding the effect on the value of the subject property:
- a. The subject property has been a farmstead and trucking business for many years and if the rezoning is denied it can continue to be used as a farmstead or as simply a single family residence.

- C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

The proposed rezoning **{WILL / WILL NOT}** lessen and avoid congestion in the public streets as follows:

- (1) Probable traffic impacts are reviewed under Policy 7.1.1. The traffic generated by the proposed use is not expected to change significantly due to the proposed Special Use.
- (2) Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.

- D. Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.

The proposed rezoning **{WILL / WILL NOT}** trigger the need for stormwater management.

- E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed rezoning **WILL** promote the public health, safety, comfort, morals, and general welfare as follows:

- (1) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
- (2) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.

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- F. Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.

- G. Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate any problematic conditions.

- H. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District; the specific types of uses and the proposed Special Use {WILL / WILL NOT} HELP ACHIEVE those requirements.

- I. Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.

The proposed rezoning {WILL / WILL NOT} protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses as follows:

- (1) The proposed Special Use in related Case 806-S-15 does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

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(2) The ZBA has recommended that the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Goal 4 Agriculture of the Champaign County Land Resource Management Plan, although the proposed Special Use Permit is not urban in use.

J. Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The subject property does not contain any natural features.

K. Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed Special Use in related Case 806-S-15 does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

L. Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The proposed use will not take any land out of production.

M. Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed rezoning and proposed Special Use will not hinder the development of renewable energy sources.

REGARDING SPECIAL CONDITIONS OF APPROVAL

22. Proposed Special Conditions of Approval:

No special conditions are currently proposed.

DOCUMENTS OF RECORD

1. First Notice of Violation dated April 21, 2014
2. Final Notice of Violation dated June 5, 2015
3. Application for Map Amendment received June 24, 2015, with attachments:
 - A Property description
 - B Road Maintenance Agreement
 - C Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - D Letter of support signed by neighbors, received June 24, 2015
 - E Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - F Preliminary Sketch Plan of subject property, received June 24, 2015
4. Application for Special Use Permit received June 24, 2015, with same attachments as Application for Map Amendment
5. Application for Variance Permit received June 24, 2015, with same attachments as Application for Map Amendment
6. Email from Attorney Matt Schweighart received September 17, 2015
7. Site Plan received October 2, 2015
8. Natural Resources Report from Champaign County Soil and Water Conservation District (not yet received)
9. Preliminary Memorandum dated October 7, 2015 for Cases 805-AM-15, 806-S-15, and 807-V-15, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B LRMP Land Use Goals, Objectives, and Policies
 - C LRMP Appendix of Defined Terms
 - D First Notice of Violation dated April 21, 2014
 - E Final Notice of Violation dated June 5, 2015
 - F Road Maintenance Agreement dated December 23, 2014
 - G Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - H Letter of support signed by neighbors, received June 24, 2015
 - I Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - J Email from Attorney Matt Schweighart received September 17, 2015
 - K Site Plan received October 2, 2015
 - L Natural Resources Report from Champaign County Soil and Water Conservation District (not yet received)
 - M Site Images packet
 - N Summary of Evidence, Finding of Fact, and Final Determination for Case 805-AM-15
 - O Summary of Evidence, Finding of Fact, and Final Determination for Case 806-S-15
 - P Summary of Evidence, Finding of Fact, and Final Determination for Case 807-V-15

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From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance map amendment **{WILL / WILL NOT} HELP ACHIEVE** the Land Resource Management Plan because:
 - A. Regarding Goal 3:
 - (1) Although the proposed rezoning is **NOT DIRECTLY RELEVANT** to any of the Goal 3 objectives, the proposed rezoning will allow the petitioner to utilize the property somewhat more intensively and continue business operations in Champaign County.
 - (2) Based on achievement of the above and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment **WILL HELP ACHIEVE** Goal 3 Prosperity.
 - B. Regarding Goal 4:
 - (1) It **{WILL / WILL NOT} HELP ACHIEVE** Objective 4.1 requiring minimization of the fragmentation of farmland, conservation of farmland, and stringent development standards on best prime farmland because it **{WILL / WILL NOT} HELP ACHIEVE** the following:
 - a. Policy 4.1.1, which states that commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils (see Item 13.A.(2)).
 - b. Policy 4.1.6 requiring that the use, design, site and location are consistent with policies regarding suitability, adequacy of infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas (see Item 13.A.(3)).
 - (2) It **{WILL / WILL NOT} HELP ACHIEVE** Objective 4.2 requiring discretionary development to not interfere with agriculture because it **{WILL / WILL NOT} HELP ACHIEVE** the following:
 - a. Policy 4.2.1 requiring a proposed business in a rural area to support agriculture or provide a service that is better provided in the rural area (see Item 13.B.(1)).
 - b. Policy 4.2.2 requiring discretionary development in a rural area to not interfere with agriculture or negatively affect rural infrastructure (see Item 13.B.(2)).
 - c. Policy 4.2.3 requiring that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land (see Item 13.B.(3)).

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- d. Policy 4.2.4 requiring that all discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary (see Item 13.B.(4)).
- (3) It **{WILL / WILL NOT} HELP ACHIEVE** Objective 4.3 requiring any discretionary development to be on a suitable site because it **{WILL / WILL NOT} HELP ACHIEVE** the following:
- a. Policy 4.3.2 requiring a discretionary development on best prime farmland to be well-suited overall (see Item 13.C.(1)).
 - b. Policy 4.3.3 requiring existing public services be adequate to support the proposed development effectively and safely without undue public expense (see Item 13.C.(2)).
 - c. Policy 4.3.4 requiring existing public infrastructure be adequate to support the proposed development effectively and safely without undue public expense (see Item 13.C.(3)).
 - d. Policy 4.3.5 requiring that a business or non-residential use establish on best prime farmland only if it serves surrounding agriculture or is appropriate in a rural area (see Item 13.C.(4)).
- (4) Based on achievement of the above Objectives and Policies, the proposed map amendment **{WILL / WILL NOT} HELP ACHIEVE** Goal 4 Agriculture.
- C. Regarding Goal 7:
- (1) The proposed amendment **{DOES / DOES NOT} CONFORM** to Goal 7 because it **{WILL / WILL NOT} HELP ACHIEVE** the following:
 - a. Policy 7.1.1 requiring traffic impact analyses for projects with significant traffic generation.
 - (2) Based on achievement of the above Objective and Policy, the proposed map amendment **{WILL / WILL NOT} HELP ACHIEVE** Goal 7 Transportation.
- D. The proposed amendment **WILL NOT IMPEDE** the following LRMP goal(s):
- Goal 1 Planning and Public Involvement
 - Goal 2 Governmental Coordination
 - Goal 5 Urban Land Use
 - Goal 6 Public Health and Public Safety??
 - Goal 8 Natural Resources
 - Goal 9 Energy Conservation
 - Goal 10 Cultural Amenities
- E. Overall, the proposed map amendment **{WILL / WILL NOT} HELP ACHIEVE** the Land Resource Management Plan.

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2. The proposed Zoning Ordinance map amendment **{IS / IS NOT}** consistent with the *LaSalle* and *Sinclair* factors because of the following:
- A. This area is primarily an agricultural area and the subject property has been a farmstead and trucking business for years.
 - B. It is impossible to establish property values without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
 - C. There has been no evidence submitted regarding property values. This area is primarily an agricultural area and the subject property has been a farmstead and trucking business for many years.
 - D. The gain to the public of the proposed rezoning would be positive because: the proposed amendment would allow the Petitioner to continue being a significant local employer that purchases parts and equipment from local suppliers and has increased the tax base of the Township, as per a letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015 (see attachment).
 - E. The subject property is occupied and in use as a farm and unauthorized trucking terminal.
 - F. The ZBA has recommended that the proposed rezoning **{WILL / WILL NOT}** **HELP ACHIEVE** Policy 4.2.1 regarding whether the proposed use is a service better provided in a rural area.
 - G. The ZBA has recommended that the proposed rezoning **{WILL / WILL NOT}** **HELP ACHIEVE** the Champaign County Land Resource Management Plan.
3. The proposed Zoning Ordinance map amendment **{WILL / WILL NOT}** **HELP ACHIEVE** the purpose of the Zoning Ordinance because:
- A. Establishing the special use as originally proposed by the Petitioner, which requires rezoning to AG-2, **{WILL / WILL NOT}** lessen and avoid congestion in the public streets (Purpose 2.0 (c) see Item 21.C.).
 - B. Establishing the AG-2 District at this location **{WILL / WILL NOT}** help classify, regulate, and restrict the location of the uses authorized in the AG-2 District (Purpose 2.0 (i) see Item 21.G.).
 - C. Establishing the AG-2 District in this location **{WILL / WILL NOT}** help protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses ((Purpose 2.0 (n) Item 21.I).
 - D. Establishing the AG-2 District at this location **WILL** maintain the rural character of the site (Purpose 2.0 (q) Item 21.L).
 - E. The proposed rezoning and proposed Special Use **WILL NOT** hinder the development of renewable energy sources (Purpose 2.0(r) Item 21.M).

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FINAL DETERMINATION

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

The Zoning Ordinance Amendment requested in **Case 805-AM-15** should *{BE ENACTED / NOT BE ENACTED}* by the County Board in the form attached hereto.

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

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**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: ***{GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED}***

Date: ***{October 15, 2015}***

Petitioners: **Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall
Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc.**

Request: Part A: Authorize the use of an existing unauthorized Truck Terminal as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related zoning Case 805-AM-15 and subject to the requested variance in related zoning case 807-V-15.

Part B: Authorize the following waiver to the standard conditions of the “Truck Terminal” special use as per Section 6.1.3 of the Zoning Ordinance: A separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or residential use.

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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 15, 2015** the Zoning Board of Appeals of Champaign County finds that:

(Note: asterisk indicates items of evidence that are identical to evidence in Case 805-AM-15)

- *1. The Petitioners Michael Wishall, Jason Wishall, and Brian Wishall own the subject property.
- *2. The subject property is a 5 acre parcel plus approximately 0.68 acres of the adjacent parcel in the Northwest Quarter of the Northwest Quarter of Section 10 of Pesotum Township and commonly known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at 482 and 486 CR 900 East, Tolono.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - *A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality. The nearest municipality is the Village of Tolono but the Village is located more than 1.5 miles from the subject property.
 - *B. The subject property is located within Pesotum Township, which does not have a Planning Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- *4. Land use and zoning on the subject property and in the vicinity are as follows:
 - *A. The subject property is a 5.68 acre tract and is currently zoned AG-1 Agriculture.
 - *B. Land on the north, south, east, and west of the subject property is also zoned AG-1 Agriculture and is in use as follows:
 - * (1) Land to the north, east and south is owned by the Petitioners and is in agriculture production.
 - * (2) Land to the west is residential in use, surrounded by agricultural land in production.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

- 5. Regarding the site plan and operations of the proposed Special Use:
 - *A. The site plan received October 2, 2015 indicates the following existing and proposed improvements:
 - * (1) Existing buildings shown on the aerial photograph include:
 - *a. A residence that was constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *b. A 42 feet by 78 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;

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- *c. A 40 feet by 42 feet crib north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *d. A 36 feet by 48 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *e. A 128 feet by 72 feet truck shop east of the residence, constructed between 1988 and 2002 according to aerial photography;
 - *f. Two 36 foot diameter grain bins on the northeast corner of the property, constructed between 2002 and 2005 according to aerial photography; and
 - *g. An 80 feet by 150 feet farm storage shed east of the property line, constructed between 2008 and 2011 according to aerial photography, owned by the Petitioners and connected with the agricultural uses on the property.
- *(2) There is no construction proposed for the subject property.
- *B. The 5-acre parcel was created in 2013.
 - *C. As per Champaign County aerial photography, operations at the property appear to expand between 2008 and 2011, noted by the addition of the east Farm Storage Shed and ten additional trailers parked just east of the 5 acre parcel.
 - *D. There are no previous Zoning Use Permits on the subject property.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization for a "Truck Terminal" in the AG-2 Agriculture Zoning DISTRICT in the *Zoning Ordinance*:
- A. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
 - (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - a. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - b. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - c. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.

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- d. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - e. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
- (2) Subsection 6.1.3 establishes the following standard conditions for Truck Terminals:
- a. A separation distance of 200 feet between any R DISTRICT or residential USE.
- B. Section 7.4.1C.3.e. states that commercial establishments not specified otherwise will have one parking space for every 200 square feet of floor area or portion thereof.
- C. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (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 USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
 - (3) "AGRICULTURE" is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry, and the keeping, raising, and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting, and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning, or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
 - (4) "AREA, BUILDING" is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS

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on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and non-permanent CANOPIES and planters.

- (5) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - a. Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County LESA system;
 - b. Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA system;
 - c. Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils as determined by the Champaign County LESA system.
- (6) “BUILDING” is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
- (7) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
- (8) “BUILDING, MAIN or PRINCIPAL” is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
- (9) “COVERAGE” is the percentage of the LOT AREA covered by the BUILDING AREA.
- (10) “DISCRETIONARY DEVELOPMENT” is a non-agricultural land USE that may occur provided that a SPECIAL USE permit and/or a rezoning request is granted by the BOARD and/or by the GOVERNING BODY following a DISCRETIONARY review process and additionally provided that the USE complies with provisions of the Zoning Ordinance and other applicable ordinances and regulations
- (11) “ESTABLISHMENT” is a business, retail, office, or commercial USE. When used in the singular this term shall be construed to mean a single USE, BUILDING, STRUCTURE, or PREMISES of one of the types here noted.
- (12) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (13) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (14) “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

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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.
- (15) “STRUCTURE” is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (16) “STRUCTURE, MAIN or PRINCIPAL” is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (17) “SUITED OVERALL” is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be SUITED OVERALL if the site meets these criteria:
- a. The site features or site location will not detract from the proposed use;
 - b. The site will not create a risk to health, safety or property of the occupants, the neighbors or the general public;
 - c. The site is not clearly inadequate in one respect even if it is acceptable in other respects;
 - d. Necessary infrastructure is in place or provided by the proposed development; and
 - e. Available public services are adequate to support the proposed development effectively and safely.
- (18) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (19) WELL SUITED OVERALL: A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be WELL SUITED OVERALL if the site meets these criteria:
- a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public; and
 - b. The site is reasonably well-suited in all respects and has no major defects.
- C. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;

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- (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:
 - a. The property is either BEST PRIME FARMLAND and the property with proposed improvements in WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
 - b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
 - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
 - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
 - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
 - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- D. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
 - a. That the waiver is in accordance with the general purpose and intent of the ordinance; and
 - b. That the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
 - a. Special conditions and circumstances 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.

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- b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
 - c. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- E. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioner has testified on the application, **“Proposed use as trucking terminal allows a profitable business operation to remain in Champaign County, employing 30 jobs to local employees and a benefit to the tax base of the County”**.
 - B. The subject property is less than 4 miles from the I-57 interchange at Pesotum and less than 2 miles from US45 South.

GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE

(Note: bold italics typeface indicates staff’s recommendation to the ZBA)

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioner has testified on the application, **“Petitioners have entered in a Road Maintenance Agreement with the highway commissioner to ensure that the use is not injurious to the roads. Petitioners have created a sketch plan showing the minimal amount of impervious space attributable to the trucking operation Petitioners have designed truck routes to minimize the impact of residents of the District”**.
 - B. Regarding surface drainage:
 - (1) The Champaign County Soil and Water Conservation District Natural Resource Report was not received in time for the mailing.
 - (2) No development has occurred in the last decade on the property that would impact agricultural drainage patterns.

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- C. As proposed, the Special Use **{WILL / WILL NOT} BE INJURIOUS** in regards to the effects on traffic, as follows:
- (1) The subject property fronts the east side of CR 900 East. Regarding the general traffic conditions on CR 900 East at this location and the level of existing traffic and the likely increase from the proposed Special Use:
 - a. The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2011 in the vicinity of the subject property. CR 900 East had an ADT of 150 near the subject property.
 - b. The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet. There is 2 feet of gravel shoulder on both sides of the 14 foot wide road.
 - c. The pavement surface of CR 900 E in the vicinity of the subject property is oil and chip. The pavement width is about 14 feet, which would equate to a maximum recommended traffic volume of no more than 250 ADT.
 - d. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road) and the Petitioner's property.
 - e. The subject property is located about 4 miles north of the I-57 interchange at Pesotum and is about 1.5 miles west of US45 South which is heavily traveled.
 - (2) The Township Highway Commissioner wrote a letter of support, received June 24, 2015, for keeping Wishall Trucking at its current site, and also created a road maintenance agreement with the Wishalls so that they will pay half the maintenance costs for CR 900 East between their property and CR 600 North.
- D. Regarding fire protection on the subject property, the subject property is located approximately 3.5 miles from the Pesotum Fire Protection District station. No comments have been received from the Fire Chief.
- E. No part of the subject property is located within a mapped floodplain.
- F. The soil on the subject property is BEST PRIME FARMLAND consisting of Elburn silt loam and Drummer silty clay loam, and has an average LE of 100.
- G. Regarding outdoor lighting on the subject property:
- (1) No outdoor lighting was indicated on the Site Plan received October 2, 2015.

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- H. Regarding wastewater treatment and disposal on the subject property:
- (1) The farm residence has a septic system. Separately, the truck tool shop has one restroom that leads to a leach field west of the tool shop. The age of the system and its level of use do not seem to be an issue.
- I. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
 - a. The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
 - b. The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
 - c. The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
 - d. Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
 - e. Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
 - f. The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.
 - g. The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.

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- h. The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - i. When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
 - j. Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.
- J. The Petitioners submitted a letter of support signed by six neighbors in the CR 400-600 North portion of CR 900 East stating “they welcome our company to stay in the current location” (see attachment).
- K. No complaints or concerns have been received from neighbors since the original complaints made in 2014 regarding the condition of CR 900 East. The road maintenance agreement the Wishalls signed with Pesotum Township was dated December 23, 2014, and the first shared maintenance was completed in 2014 and 2015.
- L. Steve Miller, Pesotum Township Commissioner, wrote a letter of support received June 24, 2015 for the Petitioners’ applications for zoning map amendment, special use permit, and variance (see attachment).
- M. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application: **“Petitioners’ trucking operation is 80% agricultural and is not inherently at odds with the essential character of the District. Numerous other similar hauling operations are currently in operation within the District and agricultural-related hauling is a common activity within the District.”**

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- B. Regarding compliance with the *Zoning Ordinance*:
- (1) A Truck Terminal is authorized by Special Use Permit in the AG-2 Agriculture Zoning District, and by right in the B-4, B-5, I-1 and I-2 Zoning Districts.
 - (2) Regarding the requirement that the proposed Special Use be separated by 200 feet from the nearest residential DISTRICT or residential USE:
 - a. The Special Use Permit area of the property is approximately 30 feet from the neighboring residences to the west, which is the reason for requesting the waiver in Part B of the Special Use.
 - b. The residents on the west side of CR 900 East (across from the subject property) signed a letter in favor of keeping the trucking business on the existing property.
 - (3) Regarding parking on the subject property for the proposed Truck Terminal:
 - a. A Truck Terminal, for the purpose of establishing minimum Zoning Ordinance requirements, can be considered a commercial use.
 - b. Commercial uses not specifically listed in the Zoning Ordinance must provide 1 space per every 200 square feet of floor area or portion thereof.
 - c. The floor area of the Truck Tool Shop on the Wishall property will be the determining square footage for parking for this case. The Tool Shop has 9,216 square feet, and half of it is used for the truck terminal, or 4,608 square feet. This floor area will require 23 parking spaces at least 9 feet by 20 feet in dimension. It will also require one loading berth at least 12 feet by 40 feet in dimension.
 - d. The Wishall property provides enough parking area for at least 40 truck trailers.
- C. Regarding compliance with the *Stormwater Management and Erosion Control Ordinance*:
- (1) The proposed Special Use requires a Stormwater Drainage Plan because the amount of impervious area on the subject property exceeds the maximum allowed for being exempt from the Stormwater Drainage Plan requirement.
 - (2) The Ordinance states that no more than 1 acre of the lot or lots shall be impervious surface area; the subject property has approximately 3.4 acres of impervious area.
 - (3) Part B of the proposed Variance in related Case 807-V-15 requests exemption from providing a Stormwater Drainage Plan.
- D. Regarding the Special Flood Hazard Areas Ordinance, no portion of the subject property is located within the mapped floodplain.
- E. Regarding the Subdivision Regulations, the subject property is located in the Champaign County subdivision jurisdiction and the subject property is in compliance.

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- F. Regarding the requirement that the Special Use preserve the essential character of the AG-2 Agriculture Zoning District:
- (1) A Truck Terminal may be authorized by Special Use Permit in the AG-2 Agriculture Zoning District.
 - (2) The proposed use will not hinder agricultural production and agricultural production will still occur in the surrounding area.
- G. Currently, the subject property is zoned AG-1 Agriculture and the Petitioner has requested to rezone the property to AG-2 Agriculture in related Case 805-AM-15. Regarding whether or not the proposed Special Use will preserve the essential character of the surrounding AG-1 District:
- (1) As reviewed in Case 806-AM-15, the types of uses authorized by right in the AG-1 DISTRICT are the same as by-right uses in the AG-2 DISTRICT. However, a Truck Terminal is only authorized as a Special Use in the AG-2 District and not the AG-1 District. Any proposed Special Use on the subject property should be evaluated for compatibility with the adjacent AG-1 uses.
 - (2) The subject property is located on CR 900 East. Land use and zoning in the immediate area of the subject property are as follows:
 - *a. Land on the north, south, east, and west of the subject property is zoned AG-1 Agriculture and is in use as follows:
 - *(a) Land to the north, east and south is owned by the Petitioners and is in agriculture production.
 - *(b) Land to the west is residential in use, surrounded by agricultural land in production.
- H. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.
- (1) The Site Plan received October 2, 2015 provided no indication that the proposed Special Use complies with the Illinois Accessibility Code.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use be in harmony with the general intent and purpose of the Ordinance:
 - A. A Truck Terminal is authorized by Special Use Permit in the AG-2 Agriculture Zoning District, and by right in the B-4, B-5, I-1 and I-2 Zoning Districts.
 - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:

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- (1) Subsection 5.1.2 of the Ordinance states the general intent of the AG-2 District and states as follows (capitalized words are defined in the Ordinance):

The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

- (2) The types of uses authorized in the AG-2 District are in fact the types of uses that have been determined to be acceptable in the AG-2 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

C. The proposed Special Use Permit **{IS / IS NOT}** in harmony with the general purpose of the Zoning Ordinance, as follows:

- (1) Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.

- (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed Special Use **WILL** conserve the value of real estate throughout the COUNTY, based on the following:

- a. It is not clear whether or not the proposed special use will have any impact on the value of nearby properties without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
- b. The proposed Special Use could only have an effect on the value of real estate in the immediate vicinity. Regarding the effect on the value of real estate in the immediate vicinity other than the subject property:
- (a) A Truck Terminal is authorized by Special Use Permit in the AG-2 Zoning District and therefore the Zoning Ordinance apparently has a presumption of no inherent incompatibilities between agricultural and residential use and a Truck Terminal. Provided that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and

adjacent properties, there should be no significant effect on the value of nearby properties.

- c. In regards to the value of the subject property it also is not clear if the requested Special Use Permit would have any effect. Regarding the effect on the value of the subject property:
 - (a) The subject property has been a farmstead and trucking business for many years and if the rezoning is denied it can continue to be used as a farmstead or as simply a single family residence.

- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

The proposed Special Use **{WILL / WILL NOT}** lessen and avoid congestion in the public streets, as follows:

- a. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road) and the Petitioner's property.

- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.

The proposed Special Use **{WILL / WILL NOT}** trigger the need for stormwater management, as follows:

- a. No Stormwater Drainage Plan has been prepared for this site.
- b. The uses on the property have been in place for at least 10 years and no drainage concerns have been identified.

- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed Special Use **{WILL / WILL NOT}** promote the public health, safety, comfort, morals, and general welfare as follows:

- a. In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
- b. In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.

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- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate any problematic conditions.

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District; the specific types of uses and the proposed Special Use **{WILL / WILL NOT} HELP ACHIEVE** those requirements.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.

The proposed Special Use **{WILL / WILL NOT}** subject the most productive agricultural lands to haphazard and unplanned intrusions of urban uses as follows:

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- a. The proposed special use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.
 - b. The ZBA has recommended that the proposed rezoning {**WILL / WILL NOT**} **HELP ACHIEVE** Goal 4 Agriculture of the Champaign County Land Resource Management Plan, although the proposed Special Use Permit is not urban in use.
- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The subject property does not contain any natural features.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed Special Use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The proposed Special Use will not take any land out of production.

- (13) Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed Special Use will not hinder the development of renewable energy sources.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
- A. The Petitioner has testified on the application: **“The proposed use is compatible with the agricultural based activity surrounding the subject property.”**
 - B. The existing use on the property is not a nonconforming use.

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GENERALLY REGARDING OTHER CONSIDERATIONS RELATED TO THE WAIVERS OF STANDARD CONDITIONS

12. Regarding the necessary waivers of standard conditions:
- A. Waive the standard condition of Section 6.1.3 of the Zoning Ordinance: that requires a separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential structure and/or use:
 - (1) The resident in the nearest residential structure supports keeping the Wishall operations at the current site.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
- A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 805-AM-15 by the County Board.**

The above special condition is required to ensure the following:
The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.
 - B. **All inbound and outbound trucks associated with the Special Use shall not use CR 900 East north of CR 600 North.**

The special condition stated above is required to ensure the following:
To prevent additional deterioration of the road.
 - C. **The Special Use shall be void if the owner/operator fails to comply with the road agreement with Pesotum Township regarding an annual road maintenance fee, provided as follows:**
 - (1) **This condition applies to the Agreement With Pesotum Township Road Commissioner received June 24, 2015, or to any subsequent road agreement between the petitioner and Pesotum Township, provided that a fully executed Agreement shall be filed with the Zoning Administrator.**
 - (2) **This condition shall be cancelled if the Pesotum Township Highway Commissioner relieves the Petitioners of the road maintenance agreement obligations.**

The special condition stated above is required to ensure the following:
That any additional highway maintenance due to the truck traffic generated by the proposed Special Use is reimbursed by the petitioner.
 - D. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Truck Terminal until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

The special condition stated above is necessary to ensure the following:
That the proposed Special Use meets applicable state requirements for accessibility.

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DOCUMENTS OF RECORD

1. First Notice of Violation dated April 21, 2014
2. Final Notice of Violation dated June 5, 2015
3. Application for Map Amendment received June 24, 2015, with attachments:
 - A Property description
 - B Road Maintenance Agreement
 - C Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - D Letter of support signed by neighbors, received June 24, 2015
 - E Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - F Preliminary Sketch Plan of subject property, received June 24, 2015
4. Application for Special Use Permit received June 24, 2015, with same attachments as Application for Map Amendment
5. Application for Variance Permit received June 24, 2015, with same attachments as Application for Map Amendment
6. Email from Attorney Matt Schweighart received September 17, 2015
7. Site Plan received October 2, 2015
8. Natural Resources Report from Champaign County Soil and Water Conservation District (not yet received)
9. Preliminary Memorandum dated October 7, 2015 for Cases 805-AM-15, 806-S-15, and 807-V-15, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B LRMP Land Use Goals, Objectives, and Policies
 - C LRMP Appendix of Defined Terms
 - D First Notice of Violation dated April 21, 2014
 - E Final Notice of Violation dated June 5, 2015
 - F Road Maintenance Agreement dated December 23, 2014
 - G Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - H Letter of support signed by neighbors, received June 24, 2015
 - I Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - J Email from Attorney Matt Schweighart received September 17, 2015
 - K Site Plan received October 2, 2015
 - L Natural Resources Report from Champaign County Soil and Water Conservation District (not yet received)
 - M Site Images packet
 - N Summary of Evidence, Finding of Fact, and Final Determination for Case 805-AM-15
 - O Summary of Evidence, Finding of Fact, and Final Determination for Case 806-S-15
 - P Summary of Evidence, Finding of Fact, and Final Determination for Case 807-V-15

10/07/15 PRELIMINARY DRAFT**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **806-S-15** held on **October 15, 2015** the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because: _____
2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*:

 - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*:

 - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*:

 - e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*:

 - f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*:

 - g. The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed improvements *{because*}*:

 - h. Existing public services *{ARE/ARE NOT}* available to support the proposed SPECIAL USE without undue public expense *{because*}*:

 - i. Existing public infrastructure together with the proposed development *{IS/IS NOT}* adequate to support the proposed development effectively and safely without undue public expense *{because*}*:

(Note the Board may include other relevant considerations as necessary or desirable in each case.)

*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:
 - a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.

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- b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
 - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
- a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location.
 - c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL / WILL NOT}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use *IS NOT* an existing nonconforming use.
6. ***SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:***
- A. Regarding the waiver of the standard condition in Section 6.1.3 of the Zoning Ordinance: that requires a **separation distance of 50 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or use:**
 - (1) The waiver *{IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare because _____
 - (2) 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 _____
 - (3) 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 _____
 - (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because _____
 - (5) The requested waiver ***SUBJECT TO THE PROPOSED SPECIAL 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:***

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- A. A Change of Use Permit shall be applied for within 30 days of the approval of Case 805-AM-15 by the County Board.**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- B. All inbound and outbound trucks associated with the Special Use shall not use CR 900 East north of CR 600 North.**

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

To prevent additional deterioration of the road.

- C. The Special Use shall be void if the owner/operator fails to comply with the road agreement with Pesotum Township regarding an annual road maintenance fee, provided as follows:**

- (1) This condition applies to the Agreement With Pesotum Township Road Commissioner received June 24, 2015, or to any subsequent road agreement between the petitioner and Pesotum Township, provided that a fully executed Agreement shall be filed with the Zoning Administrator.**
- (2) This condition shall be cancelled if the Pesotum Township Highway Commissioner relieves the Petitioners of the road maintenance agreement obligations.**

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

That any additional highway maintenance due to the truck traffic generated by the proposed Special Use is reimbursed by the petitioner.

- D. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Truck Terminal until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

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FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval *{HAVE/ HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **806-S-15** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicants **Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc.**, to authorize the following as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related Zoning Case 805-AM-15:

Part A. Authorize the establishment and use of a Truck Terminal as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related zoning case 805-AM-15 and subject to the requested variance in related zoning case 807-V-15.

Part B. Authorize the following waiver to the standard conditions of the “Truck Terminal” special use as per Section 6.1.3 of the Zoning Ordinance: A separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or residential use.

SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:

- A. Waiver of the standard condition in Section 6.1.3 that requires a separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or residential use.**

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

- A. A Change of Use Permit shall be applied for within 30 days of the approval of Case 805-AM-15 by the County Board.**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- B. All inbound and outbound trucks associated with the Special Use shall not use CR 900 East north of CR 600 North.**

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

To prevent additional deterioration of the road.

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C. The Special Use shall be void if the owner/operator fails to comply with the road agreement with Pesotum Township regarding an annual road maintenance fee, provided as follows:

- (1) This condition applies to the Agreement With Pesotum Township Road Commissioner received June 24, 2015, or to any subsequent road agreement between the petitioner and Pesotum Township, provided that a fully executed Agreement shall be filed with the Zoning Administrator.**
- (2) This condition shall be cancelled if the Pesotum Township Highway Commissioner relieves the Petitioners of the road maintenance agreement obligations.**

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

That any additional highway maintenance due to the truck traffic generated by the proposed Special Use is reimbursed by the petitioner.

D. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Truck Terminal until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.

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

That the proposed Special Use meets applicable state requirements for accessibility.

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

SIGNED:

ATTEST:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

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

Final Determination: **{ GRANTED/GRANTED WITH SPECIAL CONDITION(S)/DENIED }**

Date: **{ OCTOBER 15, 2015 }**

Petitioners: **Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc.**

Request: **Authorize the following variances on land proposed to be rezoned to the AG-2 Agriculture Zoning District in related Case 805-AM-15 in order to authorize the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case 806-S-15:**

Part A. A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.

Part B. A variance from the Champaign County Stormwater Management and Erosion Control Ordinance which requires a Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of impervious surface area.

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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 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 15, 2015** the Zoning Board of Appeals of Champaign County finds that:

(Note: asterisk indicates items of evidence that are identical to evidence in Case 805-AM-15)

- *1. The Petitioners Michael Wishall, Jason Wishall, and Brian Wishall own the subject property.
- *2. The subject property is a 5 acre parcel plus approximately 0.68 acres of the adjacent parcel in the Northwest Quarter of the Northwest Quarter of Section 10 of Pesotum Township and commonly known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at 482 and 486 CR 900 East, Tolono.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - *A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality. The nearest municipality is the Village of Tolono but the Village is located more than 1.5 miles from the subject property.
 - *B. The subject property is located within Pesotum Township, which does not have a Planning Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- *4. Land use and zoning on the subject property and in the vicinity are as follows:
 - *A. The subject property is a 5.68 acre tract and is currently zoned AG-1 Agriculture.
 - *B. Land on the north, south, east, and west of the subject property is also zoned AG-1 Agriculture and is in use as follows:
 - *(1) Land to the north, east and south is owned by the Petitioners and is in agriculture production.
 - *(2) Land to the west is residential in use, surrounded by agricultural land in production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

- *5. Regarding the site plan and operations of the proposed Special Use:
 - *A. The site plan received October 2, 2015 indicates the following existing and proposed improvements:
 - *(1) Existing buildings shown on the aerial photograph include:
 - *a. A residence that was constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *b. A 42 feet by 78 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;

- *c. A 40 feet by 42 feet crib north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *d. A 36 feet by 48 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *e. A 128 feet by 72 feet truck shop east of the residence, constructed between 1988 and 2002 according to aerial photography;
 - *f. Two 36 foot diameter grain bins on the northeast corner of the property, constructed between 2002 and 2005 according to aerial photography; and
 - *g. An 80 feet by 150 feet farm storage shed east of the property line, constructed between 2008 and 2011 according to aerial photography, owned by the Petitioners and connected with the agricultural uses on the property.
- * (2) There is no construction proposed for the subject property.
- *B. The 5-acre parcel was created in 2013.
- *C. As per Champaign County aerial photography, operations at the property appear to expand between 2008 and 2011, noted by the addition of the east Farm Storage Shed and ten additional trailers parked just east of the 5 acre parcel.
- *D. There are no previous Zoning Use Permits on the subject property.
- E. The requested variance is as follows:
- (1) Part A. A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.
 - (2) Part B. A variance from the Champaign County Stormwater Management and Erosion Control Ordinance which requires a Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of impervious surface area.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. Paragraph 4.3.10A states “Any USE or CONSTRUCTION for which a Zoning Use Permit is required shall also comply with the relevant requirements of the Champaign County Storm Water Management Policy”.
 - B. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture,

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mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment form the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.

- (2) "AREA, LOT" is the total area within the LOT LINES.
 - (3) "BEST PRIME FARMLAND" is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - (a) Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation and Site Assessment (LESA) System;
 - (b) Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA System; or
 - (c) Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils, as determined by the Champaign County LESA System.
 - (4) "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.
 - (5) "LOT LINES" are the lines bounding a LOT.
 - (6) "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.
- C. In the *Zoning Ordinance*, maximum lot size is restricted by Footnote 13 to Section 5.3 Schedule of Area, Height, & Placement Regulations by District, as follows (* indicates numbering from the *Zoning Ordinance*):
- *13. The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:

- * (A) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
 - * (1) The LOT is RRO-exempt;
 - * (2) The LOT is made up of soils that are BEST PRIME FARMLAND; and
 - * (3) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as of January 1, 1998.
 - * (B) LOTS that meet both of the following criteria may not exceed an average maximum LOT AREA of two acres:
 - * (1) The LOT is located within a Rural Residential OVERLAY DISTRICT; and
 - * (2) The LOT is made up of soils that are BEST PRIME FARMLAND.
 - * (C) The following LOTS are exempt from the three-acre maximum LOT AREA requirement indicated in Paragraph A:
 - * (1) A 'Remainder Area Lot.' A 'Remainder Area Lot' is that portion of a tract which existed as of January 1, 1998 and that is located outside of the boundaries of a RRO-exempt LOT less than 35 acres in LOT AREA. No CONSTRUCTION or USE that requires a Zoning Use Permit shall be permitted on a 'Remainder Area Lot.'
 - * (2) Any LOT greater than or equal to 35 acres in LOT AREA.
- 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 9.1.9C. 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.

- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.
- F. The Champaign County Stormwater Management and Erosion Control Ordinance adopted June 18, 2015 supersedes the Champaign County Stormwater Management Policy and specifies the following:
 - (1) Paragraph 4.2F provides exemptions for non-residential development based on the percent of total impervious area and the cumulative total area of lot or lots created from a lot or lots in common ownership on January 1, 1998, as follows:
 - a. Development of more than 2 acres but less than 6.25 acres land is exempted from the STORMWATER DRAINAGE PLAN requirements provided that no more than 1 acre of the lot or lots shall be impervious surface area.
 - b. Development of more than 6.25 acres land is exempted from the STORMWATER DRAINAGE PLAN requirements provided that no more than 16% of the total area of the lot or lots shall be impervious area provided that no exemption shall apply to any part of a lot when that part contains more than one acre of impervious surface area within a rectangular area of 90,000 square feet with a minimum dimension of 150 feet.

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 that, **“The property at issue is part of the original farmstead and has never been in production. No Best Prime Farmland was taken out of production to create the parcel, which houses farm buildings, sheds, a residence and grain bins, all in support of the farming operation surrounding the homestead.”**
 - B. Regarding the soils that make up the subject property:
 - (1) The soil on the subject property is BEST PRIME FARMLAND and consists of Elburn silt loam 198A and Drummer silty clay loam 152A, and has an average LE of 100.
 - (2) Drummer silty clay loam is a poorly drained soil with a slight susceptibility to water erosion. Elburn silt loam is somewhat poorly drained with a slight susceptibility to water erosion.
 - C. The Petitioners have indicated that all buildings on the subject property were constructed for agricultural purposes, which would make them exempt from Champaign County Zoning and Stormwater ordinances. They stated that the Truck Shop building was originally for agricultural storage, and was repurposed about a decade ago to be a repair shop for both agriculture equipment and the truck terminal.
 - D. The land adjacent to the existing homestead has been in row crop production.

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 Petitioners testified on the application that, **“Requiring compliance with the strict letter of the provisions would prohibit the homestead property from being used in support of the farming and agricultural hauling operation.”**

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 Petitioners testified on the application that, **“The success and expansion of Petitioners’ operation created the need for additional acreage to be used in support of the operation.”**
- B. The Petitioners moved their business from the Village of Tolono to the subject property approximately 10 years ago, and constructed a new Farm Storage Shed just east of the 5 acre parcel in order to accommodate the truck tool shop in what was previously a farm storage shed.
- C. On April 21, 2014, based on a complaint received in 2013 regarding road conditions and heavy truck traffic from the trucking business on the subject property, a First Notice of Violation was sent by the Zoning Department to the Petitioners. The Notice identified the operation of an unauthorized truck terminal in the AG-1 Agriculture Zoning District and creation of a 5 acre lot when the maximum lot area is 3 acres on best prime farmland. A Final Notice was sent on June 5, 2015 for the same violations (see attachments).
- D. The Petitioners were asked to comply with the Zoning Ordinance throughout 2014 and 2015 and only applied for the required Map Amendment, Special Use and Variance upon receipt of the Final Notice in June 2015.

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 Petitioners testified on the application that, **“Petitioners have secured approval in writing from the neighbors to the subject property, and there are a number of other similar agricultural and ag-related trucking operations in business in the neighborhood.”**
- B. If the Map Amendment and Special Use Permit are approved for related cases 805-AM-15 and 806-S-15, the subject property will conform to all other Zoning Ordinance requirements.

- C. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773 approved December 20, 2005.
- D. The proposed lot area of approximately of 5.68 acres is 189% of the required three acre maximum for a variance of 89%.
- E. Regarding compliance with the *Stormwater Management and Erosion Control Ordinance*, which is a requirement in Zoning Ordinance Section 4.3.10:
 - (1) The proposed Special Use requires a Stormwater Drainage Plan because the amount of impervious area on the subject property exceeds the maximum allowed for being exempt from the Stormwater Drainage Plan requirement.
 - (2) The Ordinance states that no more than 1 acre of the lot or lots shall be impervious surface area; the subject property has approximately 3.4 acres of impervious area.
- F. The proposed variance for not completing a Stormwater Drainage Plan is a 100% variance of the Stormwater Management and Erosion Control Ordinance Paragraph 4.2F.
- G. 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 Petitioners testified on the application, **“Petitioners have secured prior approval from neighbors and from the road commissioner, and have gone above and beyond in their effort to be good neighbors, including carefully selecting hauling routes and spending their own funds to repair and maintain roads.”**
 - B. The subject property generally drains to the northwest and southwest and appears to slope toward roadside ditches along CR 900 East.
 - C. The Two Mile Slough Drainage District has been notified of this variance but no comments have been received.
 - D. The Highway Commissioner supports the petitioners’ operation on the subject property and created a road maintenance agreement dated December 23, 2014 so that the petitioners will pay half the cost of maintaining CR 900 East between the subject property and CR 600 North.
 - E. The Township Supervisor has been notified of this variance but no comments have been received.

- F. The Fire Protection District has been notified of this variance but no comments have been received.
- G. Neighbors surrounding the subject property signed a letter received June 24, 2015 supporting the petitioners' operation on the subject property.
- H. No complaints have been received regarding drainage or any other factor since the complaints about road conditions received in 2013.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 12. Generally regarding and other circumstances which justify the Variance:
 - A. Petitioner's agent Attorney Matt Schweighart, in an email received September 17, 2015, stated: **"the fact that the property is rural in nature, the fact that the buildings have been in existence for farm purposes prior to their use in connection with the trucking terminal for nearly 10 years with no drainage issues during that time, and the fact that no new development is being proposed that would alter the existing configuration with respect to storm water drainage"**.

DOCUMENTS OF RECORD

1. First Notice of Violation dated April 21, 2014
2. Final Notice of Violation dated June 5, 2015
3. Application for Map Amendment received June 24, 2015, with attachments:
 - A Property description
 - B Road Maintenance Agreement
 - C Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - D Letter of support signed by neighbors, received June 24, 2015
 - E Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - F Preliminary Sketch Plan of subject property, received June 24, 2015
4. Application for Special Use Permit received June 24, 2015, with same attachments as Application for Map Amendment
5. Application for Variance Permit received June 24, 2015, with same attachments as Application for Map Amendment
6. Email from Attorney Matt Schweighart received September 17, 2015
7. Site Plan received October 2, 2015
8. Natural Resources Report from Champaign County Soil and Water Conservation District (not yet received)
9. Preliminary Memorandum dated October 7, 2015 for Cases 805-AM-15, 806-S-15, and 807-V-15, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B LRMP Land Use Goals, Objectives, and Policies
 - C LRMP Appendix of Defined Terms
 - D First Notice of Violation dated April 21, 2014
 - E Final Notice of Violation dated June 5, 2015
 - F Road Maintenance Agreement dated December 23, 2014
 - G Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - H Letter of support signed by neighbors, received June 24, 2015
 - I Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - J Email from Attorney Matt Schweighart received September 17, 2015
 - K Site Plan received October 2, 2015
 - L Natural Resources Report from Champaign County Soil and Water Conservation District (not yet received)
 - M Site Images packet
 - N Summary of Evidence, Finding of Fact, and Final Determination for Case 805-AM-15
 - O Summary of Evidence, Finding of Fact, and Final Determination for Case 806-S-15
 - P Summary of Evidence, Finding of Fact, and Final Determination for Case 807-V-15

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **807-V-14** held on **October 15, 2015** 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 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 807-V-15 is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners **Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc.** to authorize the following variance in the AG-2 Agriculture Zoning District:

Part A. A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland that is also the subject of related cases 805-AM-15 and 806-S-15.

Part B. A variance from the Champaign County Stormwater Management and Erosion Control Ordinance which requires a Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of impervious surface area.

{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, Chairman
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date

CASE NO. 813-S-15

PRELIMINARY MEMORANDUM

October 7, 2015

Petitioner: David and Ginger Spillers

Request: Authorize a Special Use Permit in the AG-2 Agriculture Zoning District for the conversion of an existing single family dwelling to a two-family dwelling by the addition of a second dwelling.

Location: A tract of land on Lot 2 of Hudson Acres Subdivision, in the Southeast Quarter of the Southwest Quarter of Section 11 in Urbana Township and commonly known as the residence at 3710 East University Avenue, Urbana.

Site Area: 1 acre

Time Schedule for Development: In progress

Prepared by: **Susan Chavarria**
Senior Planner

John Hall
Zoning Administrator

BACKGROUND

Petitioners David and Ginger Spillers are renovating a property in anticipation of moving there with their college-age kids. They seek to convert two existing single-family dwellings (one authorized, one not) into one two-family dwelling by connecting the dwellings via a sunroom. A two-family dwelling is a use that has been deemed appropriate in the AG-2 Agriculture Zoning District provided that a Special Use Permit is authorized. The petitioners want to bring the property into compliance with the Zoning Ordinance.

The property complies with all yard, setback, and open space requirements established in the Zoning Ordinance. The Natural Resources Report required for Special Use Permit applications was waived by the Zoning Administrator.

EXTRATERRITORIAL JURISDICTION

The subject property is located within one and one-half miles of the City of Urbana, a municipality with zoning. The City does not have protest rights in Special Use cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Two single-family dwellings	AG-2 Agriculture
North	Agriculture	AG-2 Agriculture
East	Residential	AG-2 Agriculture
West	Residential	AG-2 Agriculture
South	Agriculture	B-3 General Business (City of Urbana)

EXISTING PERMIT

Zoning Use Permit # 265-15-01 has been approved that will allow the two residential structures to be connected, but only allowing a kitchen in the south structure. An additional kitchen will only be allowed in the north part of the structure if the SUP is approved.

PROPOSED SPECIAL CONDITIONS

- A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That any proposed exterior lighting is in compliance with the Zoning Ordinance.

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received September 22, 2015
- C Site Images taken September 28, 2015
- D Draft Summary of Evidence, Finding of Fact, and Final Determination

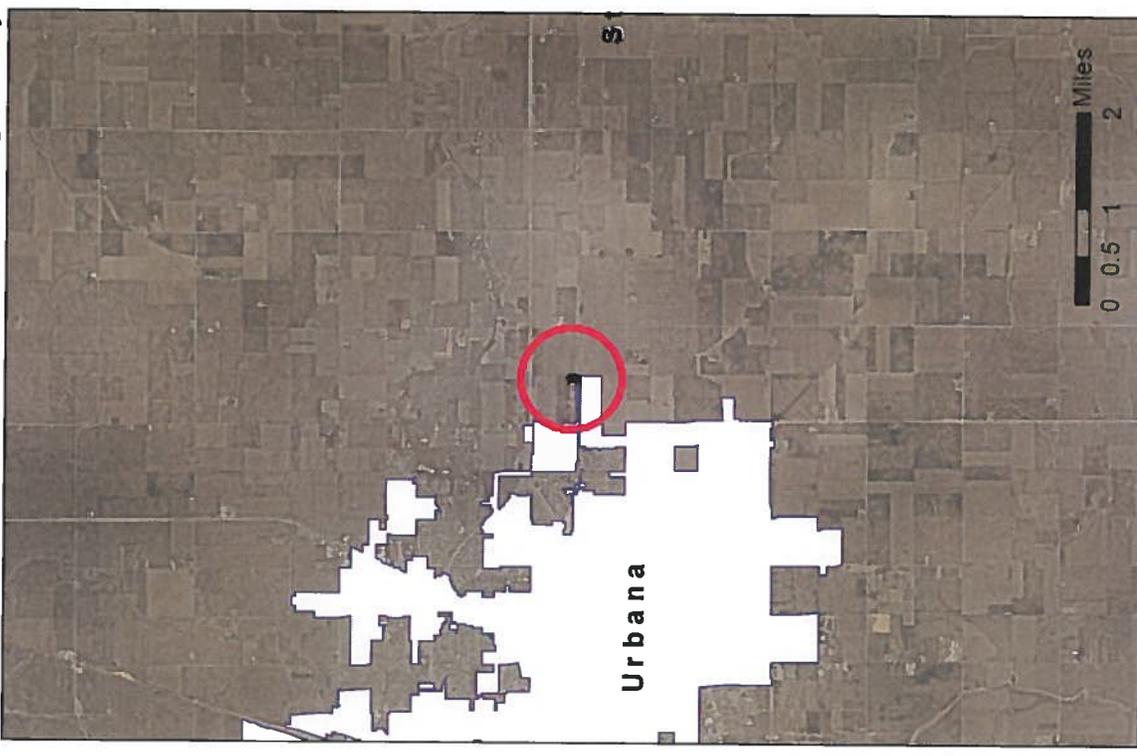
Location Map

Cases 813-S-15
October 15, 2015

Subject Property



Property location in Champaign County



Champaign County
Department of
PLANNING &
ZONING

Land Use Map

Cases 813-S-15
October 15, 2015



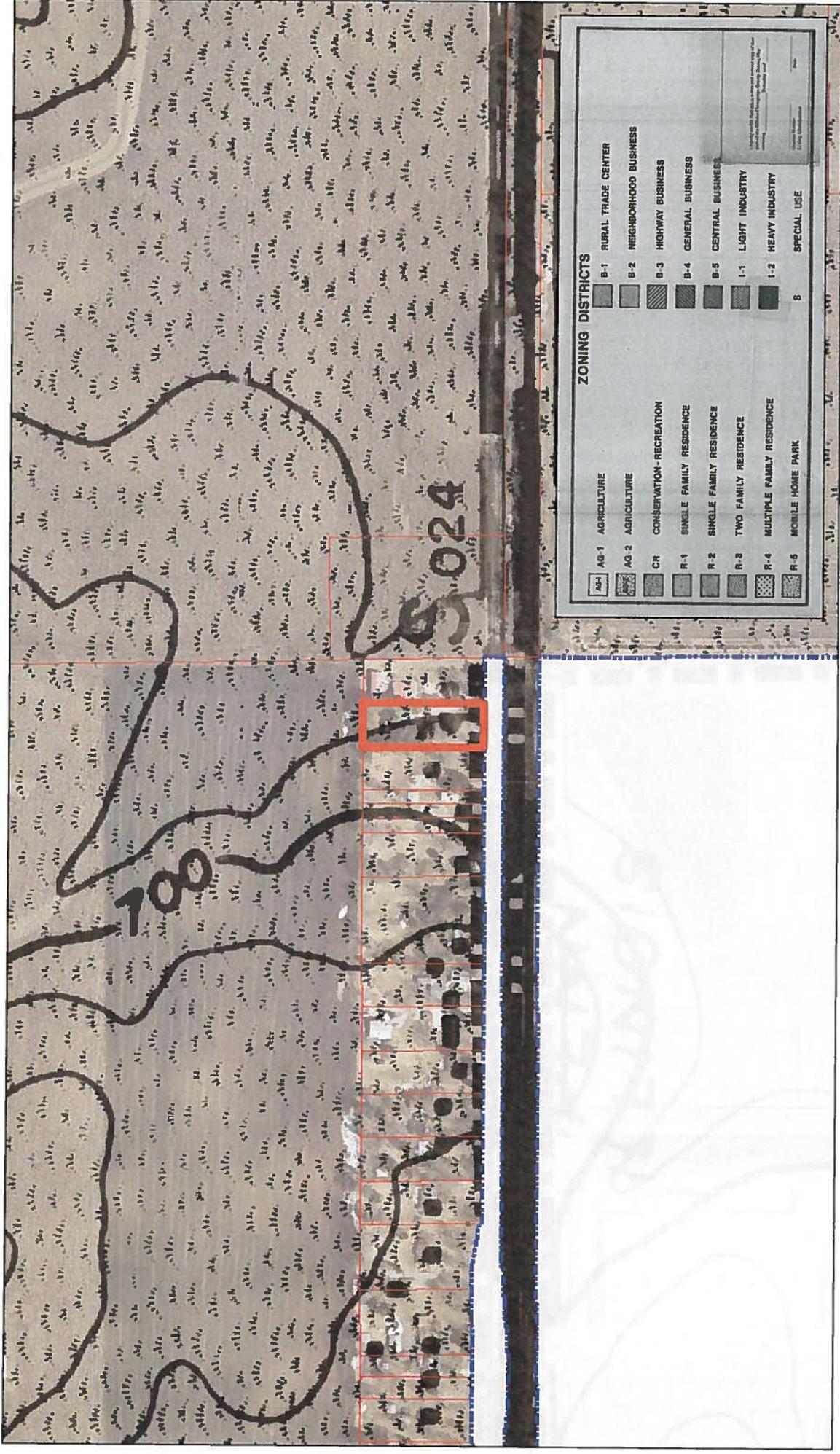
Legend

-  Parcels
-  Subject Property



Zoning Map

Cases 813-S-15
October 15, 2015



ZONING DISTRICTS

AG-1	AGRICULTURE	B-1	RURAL TRADE CENTER
AG-2	AGRICULTURE	B-2	NEIGHBORHOOD BUSINESS
CR	CONSERVATION - RECREATION	B-3	HIGHWAY BUSINESS
R-1	SINGLE FAMILY RESIDENCE	B-4	GENERAL BUSINESS
R-2	SINGLE FAMILY RESIDENCE	B-5	CENTRAL BUSINESS
R-3	TWO FAMILY RESIDENCE	I-1	LIGHT INDUSTRY
R-4	MULTIPLE FAMILY RESIDENCE	I-2	HEAVY INDUSTRY
R-5	MOBILE HOME PARK	S	SPECIAL USE

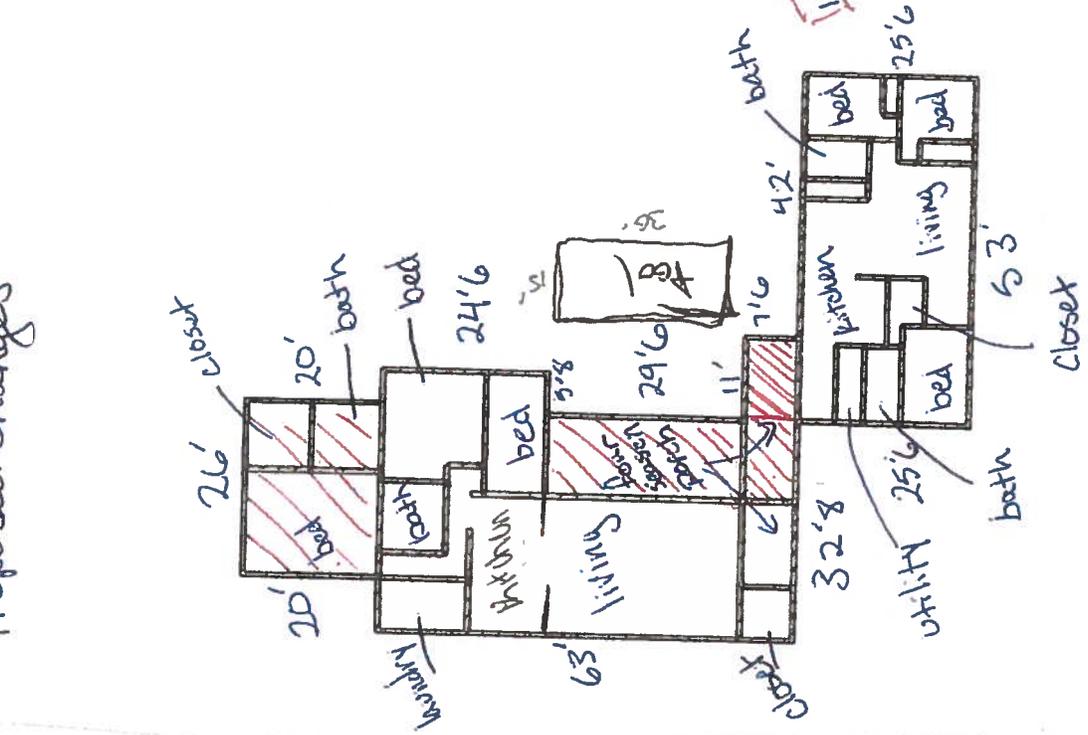
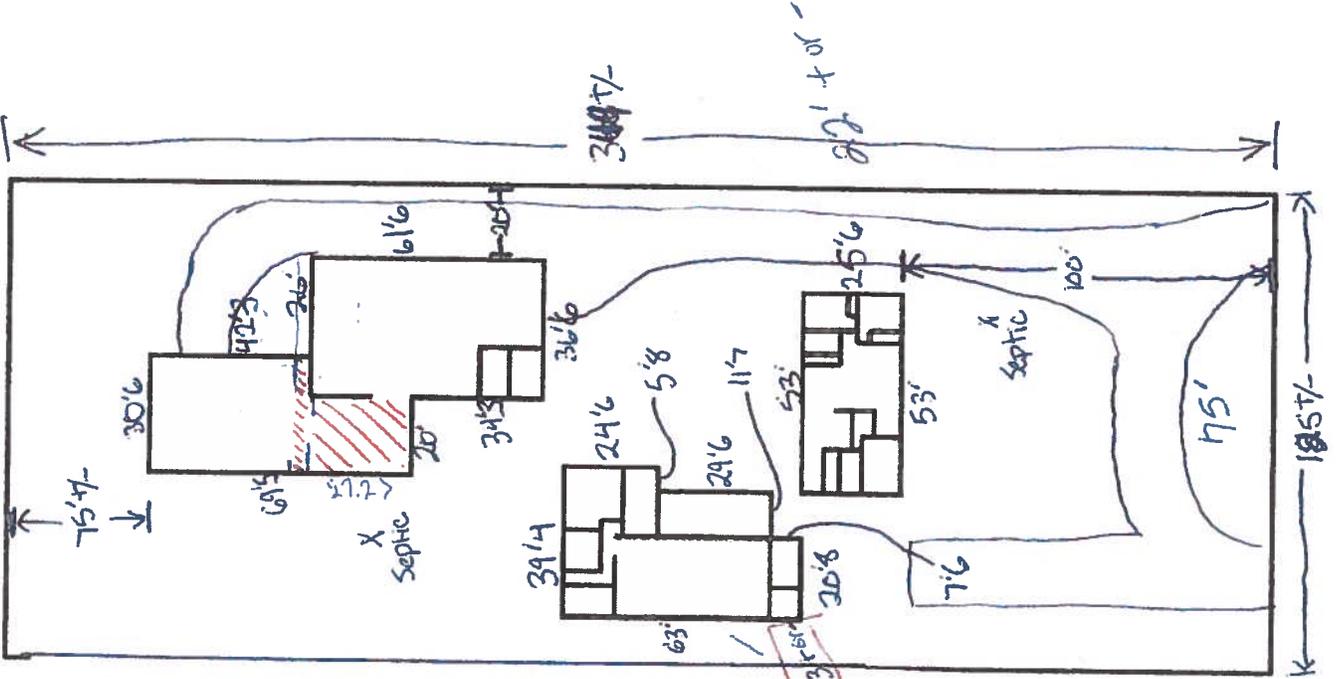
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-  Subject Property
-  Parcels
-  Urbana Corporate Limit



Current Property

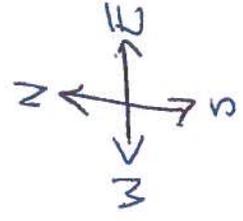
Proposed Changes



RECEIVED

SEP 29 2015

CHAMPAIGN CO. P & Z DEPARTMENT



Home

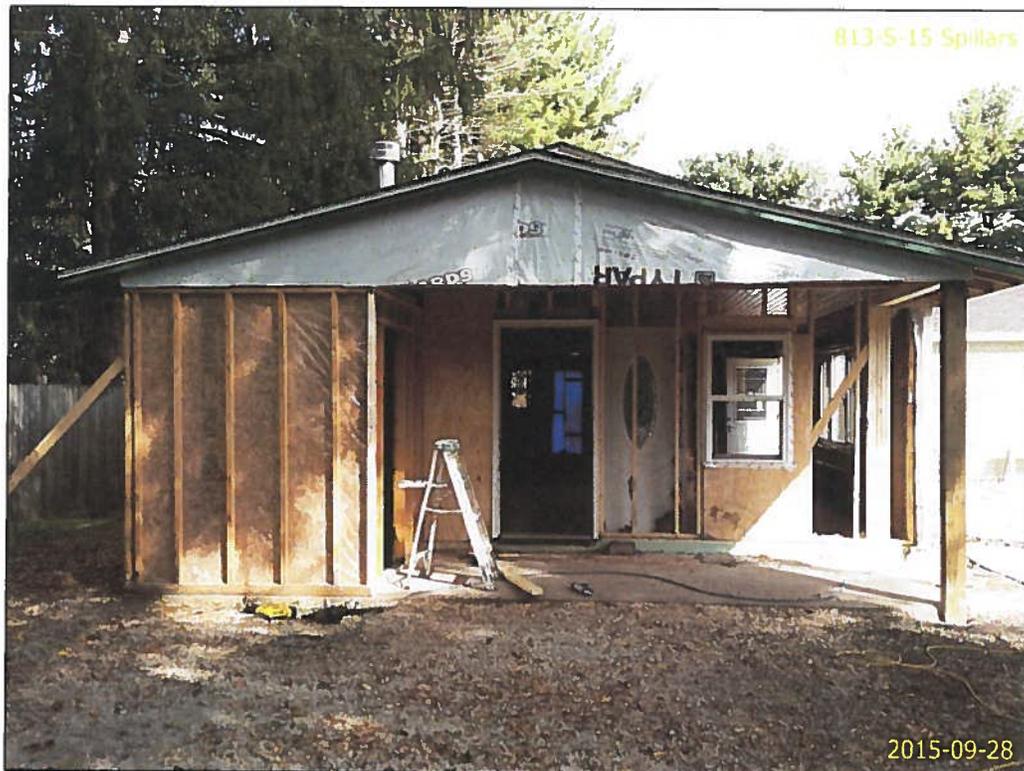
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E. University / Rt 150

813-S-15 Spillars Images

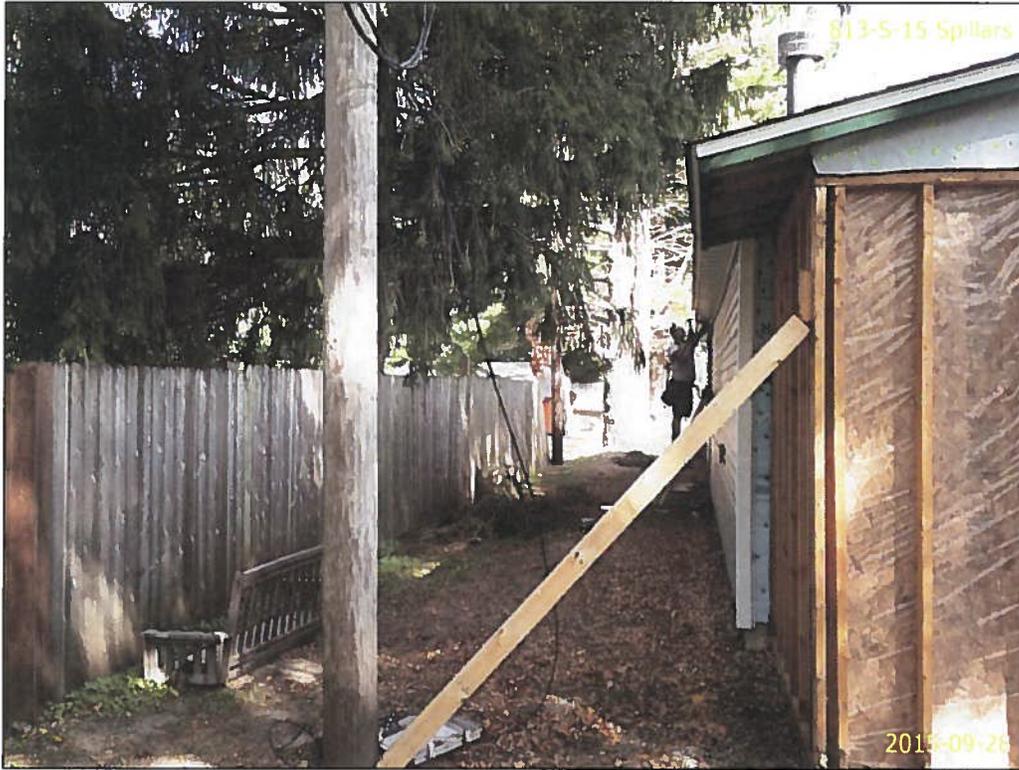


Main dwelling, facing north (second dwelling visible on left side)

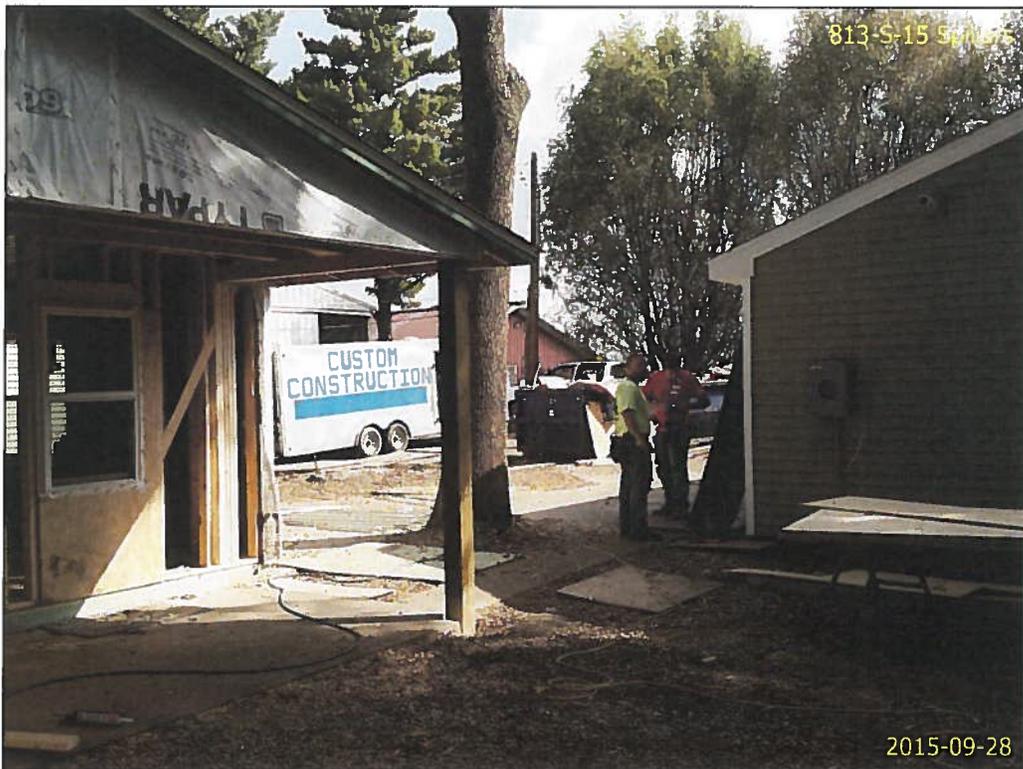


Second dwelling, facing north

813-S-15 Spillars Images



Second dwelling west side yard



Area that will connect the two dwellings, facing northeast

813-S-15 Spillars Images



Second dwelling from rear yard facing south



Front yard from east side of main dwelling facing southwest

PRELIMINARY DRAFT 10/07/15

813-S-15

**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

Final Determination: ***{GRANTED/GRANTED WITH SPECIAL CONDITIONS/DENIED}***

Date: ***{October 15, 2015}***

Petitioners: David and Ginger Spillers

Request: Authorize a Special Use Permit in the AG-2 Agriculture Zoning District for the conversion of an existing single family dwelling to a two-family dwelling by the addition of a second dwelling.

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PRELIMINARY DRAFT 10/07/15

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, David and Ginger Spillars, own the subject property.
2. The subject property is a 1 acre tract of land on Lot 2 of Hudson Acres Subdivision, in the Southeast Quarter of the Southwest Quarter of Section 11 in Urbana Township and commonly known as the residence at 3710 East University Avenue, Urbana.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Municipalities with Planning Commissions are notified of Special Use Permit cases, but do not have protest rights in these cases.
 - B. The subject property is located within Urbana Township, which does not have a Planning Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is a 1 acre tract and is currently zoned AG-2 Agriculture. Land use is residential.
 - B. Land on the north, east, and west of the subject property is zoned AG-2 Agriculture and is residential and agricultural in use.
 - C. Land to the south of the subject property is within the City of Urbana, zoned B-3 General Business, and is agricultural in use.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the site plan of the proposed Special Use:
 - A. The existing structures include:
 - (1) One single family dwelling unit, 53 feet by 25.5 feet;
 - (2) A second single-family dwelling unit, approximately 2,225 square feet;
 - (3) One shed, 36.5 feet by 61.5 feet; and
 - (4) A second shed, 30.5 feet by 42.25 feet.

PRELIMINARY DRAFT 10/07/15**Case 813-S-15
Page 3 of 18**

- B. The Petitioner's Site Plan, received September 22, 2015 indicates the following proposed improvements:
- (1) A "four season porch" connecting the existing dwelling units;
 - (2) A bedroom with adjacent closet and bathroom, 20 feet by 26 feet;
 - (3) An addition to connect two existing sheds, 20 feet by 27.25 feet.
- C. The following Zoning Use Permits were issued on the subject property; the principal dwelling, a detached garage, and large shed were constructed prior to adoption of the Zoning Ordinance on October 10, 1973.
- (1) ZUPA 229-76-03 for a detached garage to replace the original garage, approved August 20, 1976.
 - (2) ZUPA 83-87-01 for a room addition to the detached garage, approved March 24, 1987.
 - (3) ZUPA 96-89-01 for a detached storage building, approved April 6, 1989.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding the requested Special Uses in the AG-2 Zoning District:
- A. Section 4.2.1.C states that it shall be unlawful to erect or establish more than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT or more than one PRINCIPAL USE per LOT in the AG-2 Agriculture DISTRICT.
 - B. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
 - (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - a. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - b. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - c. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - d. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.

PRELIMINARY DRAFT 10/07/15

- e. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
- C. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (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) "ACCESSORY USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
 - (4) "ALTERATION" is any change in the bearing walls, columns, beams, girders, or supporting members of a STRUCTURE, any change or rearrangement in the floor area of a BUILDING, any enlargement of a STRUCTURE whether by extending horizontally or by increasing in HEIGHT, and/or any movement of a STRUCTURE from one location or position to another.
 - (5) "AREA, BUILDING" is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and nonpermanent CANOPIES and planters.
 - (6) "AREA, LOT" is the total area within the LOT LINES.
 - (7) "BEST PRIME FARMLAND" is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - a. Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County LESA system;
 - b. Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA system;

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- c. Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils as determined by the Champaign County LESA system.
- (8) “BUILDING” is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
- (9) “BUILDING, ATTACHED” is a BUILDING having two walls in common with other BUILDINGS.
- (10) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
- (11) “BUILDING, MAIN or PRINCIPAL” is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
- (12) “DWELLING” is a BUILDING or MANUFACTURED HOME designated for non-transient residential living purposes and containing one or more DWELLING UNITS and/or LODGING UNITS.
- (13) “DWELLING UNIT” is one or more rooms constituting all or part of a DWELLING which are used exclusively as living quarters for one FAMILY, and which contains a bathroom and kitchen.
- (14) “DWELLING, TWO-FAMILY” is a DWELLING containing two DWELLING UNITS with one DWELLING UNIT arranged on the same story or in stories above the other DWELLING UNIT.
- (15) “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.
- (16) “LOT LINES” are the lines bounding a LOT.
- (17) “OPEN SPACE” is the unoccupied space open to the sky on the same LOT with a STRUCTURE.
- (18) “PARKING SPACE” is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
- (19) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (20) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.

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- (21) “STRUCTURE” is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (22) “STRUCTURE, MAIN or PRINCIPAL” is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (23) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (24) “WELL SUITED OVERALL” is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found WELL SUITED OVERALL if the site meets these criteria:
- a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public; and
 - b. The site is reasonably well-suited in all respects and has no major defects.
- (27) “YARD” is an OPEN SPACE, other than a COURT, of uniform width or 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.
- (28) “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 but a STREET RIGHT-OF-WAY both such YARDS shall be classified as front YARDS.
- (29) “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.
- F. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
 - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise

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detrimental to the public welfare except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:

- a. The property is either BEST PRIME FARMLAND and the property with proposed improvements is WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
 - b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
 - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
- (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
 - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
 - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
 - (6) That the SPECIAL USE Permit shall authorize USE, CONSTRUCTION and operation only in a manner that is fully consistent with all testimony and evidence submitted by the petitioner or petitioner's agent(s).
- G. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
 - A. The Petitioner has testified on the application, **“Live with our children to have sense of independence while going to college. Also to use sheds for parking our business equipment.”**

PRELIMINARY DRAFT 10/07/15**GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE**

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioner has testified on the application, **“Previously two homes on property so fixing to make it legal.”**
 - B. Regarding traffic, the following evidence is provided:
 - (1) The subject property fronts US Route 150 (University Avenue), east of IL130.
 - (2) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2013 in the vicinity of the subject property. US 150 had an ADT of 5,150 near the subject property.
 - (3) There is no anticipated increase in traffic for the proposed use, or new access driveways on US 150.
 - (4) The Urbana Township Road Commissioner has been notified of this case, but no comments have been received.
 - C. Regarding fire protection on the subject property, the subject property is located within the Edge-Scott Fire Protection District. The Fire Chief has been notified of this case but no comments have been received.
 - D. No part of the subject property is located within the mapped floodplain.
 - E. The subject property is considered BEST PRIME FARMLAND. The soil on the subject property consists of Flanagan silty clay loam, and has an average LE of 100.
 - (1) The property has had several structures on it and has not been used for agricultural production for decades.
 - (2) The renovations being made to the subject property will not significantly change the use of the property.
 - F. Regarding outdoor lighting on the subject property, no lighting was indicated on the proposed site plan.
 - G. Regarding wastewater treatment and disposal on the subject property:
 - (1) The proposed change to a two-family dwelling will connect to the single family residence’s existing wastewater treatment and disposal system but will not significantly increase the loading on that system; nothing is known about that system or its capacity.

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- H. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
 - a. The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
 - b. The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
 - c. The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
 - d. Compliance with the Code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
 - e. Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
- I. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
 - A. The Petitioner has testified on the application: **“Making property legal, already single family homes in district.”**

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- B. Regarding compliance with the *Zoning Ordinance*:
- (1) The subject property is 43,625 square feet.
 - (2) A two-family dwelling is a USE that has been deemed appropriate in the AG-2 Agriculture Zoning District provided that a Special Use Permit is authorized.
 - (3) In the AG-2 Agriculture Zoning District, the minimum lot size is 20,000 square feet; additional dwelling units require 7,000 square feet each. The average width is 100 feet. The subject property meets or exceeds these minimum requirements.
 - (4) The proposed site plan complies with all setback requirements.
 - (5) Regarding parking on the subject property:
 - a. TWO-FAMILY DWELLINGS require two off-street PARKING SPACES per DWELLING UNIT;
 - b. The subject property has outdoor parking for at least 10 vehicles and indoor space in the sheds for additional parking.
- C. Regarding compliance with the *Stormwater Management Policy*: The subject property is exempt from the *Stormwater Management Policy*.
- D. Regarding the Special Flood Hazard Areas Ordinance, no portion of the subject property is located within the mapped floodplain.
- E. Regarding the Subdivision Regulations, the subject property is located in the City of Urbana subdivision jurisdiction and the subject property is in compliance.
- F. Regarding the requirement that the Special Use preserve the essential character of the AG-2 Agriculture District:
- (1) A TWO-FAMILY DWELLING is a USE that has been deemed appropriate in the AG-2 Agriculture Zoning District provided that a Special Use Permit is authorized.
 - (2) The visual character of the subject property will not change.
 - (3) The proposed Special Use seems unlikely to create any significant traffic impacts but no Traffic Impact Assessment has been made.
 - (4) There will be no significant drainage impacts because the proposed Special Use will not significantly increase the impervious area on the subject property. Further, it is exempt from the *Stormwater Management Policy*.

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GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
- A. Subsection 5.1.2 of the Zoning Ordinance states the general intent of the AG-2 Agriculture Zoning District and states as follows (capitalized words are defined in the Ordinance):
- (1) The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.
 - (2) The types of uses authorized in the AG-2 District are in fact the types of uses that have been determined to be acceptable in the AG -2 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
- B. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:
- (1) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.

This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.
 - (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY. In regards to the value of nearby properties:

The requested Special Use Permit should not decrease the value of nearby properties.
 - (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS. In regards to congestion in the public STREETS:

The proposed Special Use seems unlikely to create any significant traffic impacts but no Traffic Impact Assessment has been made.
 - (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.

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The proposed renovations on the subject property will not trigger the need for stormwater management.

- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
- a. In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
 - b. In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate any problematic conditions.

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS,

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STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

The Petitioners seek to bring two existing single-family dwellings into compliance by converting them into one two-family dwelling which is compliant with the Zoning Ordinance if a Special Use Permit is authorized.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.
- a. The property is residential, located in a residential area.
 - b. The proposed use will not take any agricultural land out of production.

- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

The subject property does not contain any natural features.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed use will not require the development of public utilities or transportation facilities.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.
- a. The property is residential, located in a residential area.
 - b. The proposed use will not take any agricultural land out of production.
 - c. The proposed use will maintain the character of the existing community.

- (13) Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed use will not hinder the development of renewable energy sources.

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GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
 - A. The Petitioner has testified on the application: **“Not nonconforming use. Yes, making property legal.”**
 - B. The existing use on the property is a conforming use. The functionality of the proposed renovations will not change the use or affect compatibility with its surroundings.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:
 - A. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That any proposed exterior lighting is in compliance with the Zoning Ordinance.

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DOCUMENTS OF RECORD

1. Application for Special Use Permit received September 22, 2015, with attachments:
 - A Site Plan received September 22, 2015

2. Preliminary Memorandum dated October 7, 2015 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received September 22, 2015
 - C Site Images taken September 28, 2015
 - D 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 **813-S-15** held on **October 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because: _____

2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*: _____
 - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - g. The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed improvements *{because*}*: _____
 - h. Existing public services *{ARE/ARE NOT}* available to support the proposed SPECIAL USE without undue public expense *{because*}*: _____
 - i. Existing public infrastructure together with the proposed development *{IS/IS NOT}* adequate to support the proposed development effectively and safely without undue public expense *{because*}*: _____

(Note the Board may include other relevant considerations as necessary or desirable in each case.)

*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.

- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:

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- a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
 - b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
 - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
- a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location.
 - c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL / WILL NOT}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use *IS NOT* an existing nonconforming use.
6. ***{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:***
- A. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That any proposed exterior lighting is in compliance with the Zoning Ordinance.

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FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval *{HAVE/ HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **813-S-15** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicants David and Ginger Spillars, to authorize the following:

Authorize a Special Use Permit in the AG-2 Agriculture Zoning District for the conversion of an existing single family dwelling to a two-family dwelling by the addition of a second dwelling.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

- A. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That any proposed exterior lighting is in compliance with the Zoning Ordinance.

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