

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **February 25, 2016**
Time: **6:30 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 (November 12, 2015, December 10, 2015, January 14, 2016)
5. Continued Public Hearings
Case 685-AT-11 Petitioner: **Zoning Administrator**

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

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

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

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- Case 685-AT-11 cont:**
- (6) Require for any proposed RRO in a high probability area as defined in the Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy of the ISHPA response;**
 - (7) Require that for any proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of the agency response.**

6. New Public Hearings

***Case 820-V-15** Petitioner: **Darren Ramm, d.b.a. D. Ramm Services, Inc.**

Request: **Authorize the following Variance for a Rural Home Occupation in the AG-1 Agriculture Zoning District: the employment of up to five additional non-family employees in lieu of the maximum allowed one additional employee for properties smaller than two acres as per Section 7.1.2 B of the Champaign County Zoning Ordinance.**

Location: **A 1.83 acre tract of land located in the Northeast Quarter of the Northeast Quarter of Section 29, Township 20 North, Range 14 West of Ogden Township of the Second Principal Meridian and commonly known as D. Ramm Services, Inc., with an address of 2685 CR 2000N, Ogden.**

***Case 821-V-15** Petitioner: **Aaron and Gina Marsh**

Request: **Authorize a variance in the AG-1 Agriculture Zoning District from Section 5.3 of the Zoning Ordinance for a lot size of 4.38 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.**

Location: **A 4.38 acre tract of land located in the Southeast Quarter of the Southeast Quarter of Section 15, Township 17 North, Range 7 East of Sadorus Township of the Third Principal Meridian, with an address of 321 CR 400 East, Sadorus.**

***Case 822-S-15** Petitioner: **Nick Brian, d.b.a. Greenside Lawn Care**

Request: **Authorize a Special Use Permit for a Contractor's Facility with or without outdoor storage and/or outdoor operations, and a caretaker's dwelling in addition to an existing by-right single family dwelling in the AG-1 Agriculture Zoning District.**

Location: **An 11.09 acre tract comprised of Lot 1 of Meadow Ridge Subdivision in the Southwest Quarter of the Northwest Quarter of Section 17 of Township 20 North, Range 8 East of the Third Principal Meridian in Hensley Township and commonly known as the contractor business Greenside Lawn Care, located at 707 CR 2200 North, Champaign, Illinois.**

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.**

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

6
7 **DATE:** November 12, 2015 **PLACE:** Lyle Shield's Meeting Room
8 **TIME:** 6:30 p.m. **1776 East Washington Street**
9 **Urbana, IL 61802**

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

13
14 **MEMBERS ABSENT :** None

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16 **STAFF PRESENT :** Lori Busboom, John Hall, Susan Chavarria

17
18 **OTHERS PRESENT :** Jon Dessen, David Dessen, Loretta Dessen, Ami Dessen, Dustin Heiser

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

22
23 The meeting was called to order at 6:32 p.m.

DRAFT

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

26
27 The roll was called and a quorum declared present with five members present and one member absent.
28 Mr. Thorsland indicated that the absent member is in transit to the meeting.
29

30 **3. Correspondence**

31
32 None

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34 **4. Approval of Minutes**

35
36 None

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38 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
39 the witness register for that public hearing. He reminded the audience that when they sign the witness
40 register they are signing an oath.
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42 **5. Continued Public Hearing**

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44 **Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the**
45 **Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required**
46 **for any County Board approved special use permit for a Rural Residential Development in the Rural**
47 **Residential Overlay district as follows: (1) require that each proposed residential lot shall have an**
48 **area equal to the minimum required lot area in the zoning district that is not in the Special Flood**
49 **Hazard Area; (2) require a new public street to serve the proposed lots in any proposed RRO with**

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

14
15 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

16
17 Mr. Hall requested that Case 685-AT-11 be continued to the first meeting in February 2016, tentatively
18 February 11th.

19
20 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the first meeting in February, tentatively
21 February 11, 2016.

22
23 Ms. Griest moved, seconded by Ms. Capel to continue Case 685-AT-11 to the first meeting in
24 February, tentative February 11, 2016. The motion carried by voice vote.

25
26 Mr. Thorsland entertained a motion to rearrange the agenda and hear Case 815-AM-15 prior to cases 808-S-
27 15 and 817-AM-15.

28
29 Ms. Griest moved, seconded by Mr. Passalacqua to rearrange the agenda and hear Case 815-AM-15
30 prior to Cases 808-S-15 and 817-AM-15. The motion carried by voice vote.

31
32 Mr. Thorsland noted that the review of Continued Case 808-S-15 and New Public Hearing Case 817-AM-15
33 will be reflected in the minutes after New Public Hearing Case 815-AM-15.

34 35 6. New Public Hearings

36
37 Case 815-AM-15 Petitioner: Jody Wesley and Dustin Heiser d.b.a. Prairie View One, LLC. Request:
38 Amend the Zoning Map to change the zoning district designation from the B-2 Neighborhood
39 Business District to the B-4 General Business District in order to operate self-storage warehouses.
40 Location: A 2.16 acre tract in the Northwest Quarter of the Northwest Quarter of Section 12,
41 Township 20N, Range 7E in Mahomet Township and commonly known as 201 North Prairieview
42 Road, Mahomet.

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

1 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
2 time.
3
4 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding their request.
5
6 Mr. Dustin Heiser, 2896 N CR 1500 E, Mahomet stated that his request is to transform the building into self-
7 storage units.
8
9 Mr. Thorsland asked Mr. Heiser if he had any information he wanted to add at this time.
10
11 Mr. Heiser stated he did not.
12
13 Mr. Thorsland asked Mr. Heiser if he had read through the packet including the proposed special condition
14 for approval.
15
16 Mr. Heiser stated that he has talked with Doug Gamble, Accessibility Specialist with the Illinois Capital
17 Development Board, and Mr. Gamble has no issues with the proposed project. He said that he has also
18 spoken with Kelly Pfeiffer at the Village of Mahomet and she indicated that she will send him an email
19 indicating that she has no problems with the project. He said that he spoke with the Fire Chief and showed
20 him the plans indicating what he wants to do with the existing building. Mr. Heiser said that the Fire Chief
21 indicated some changes that he would like to see, and Mr. Heiser made those changes. Mr. Heiser stated that
22 he spoke with Chris Doenitz, Mahomet Township Highway Commissioner, and Mr. Doenitz indicated that
23 he is not in control of the area, but he has no problems with the project.
24
25 Mr. Thorsland asked the Board if they had any questions.
26
27 Mrs. Lee asked Mr. Heiser why the width of the one aisle is only two feet three inches wide as indicated on
28 the Site Plan.
29
30 Mr. Heiser stated that a correction of five feet had been made to the plans but that change did not appear on
31 the Board's copy of the Site Plan.
32
33 Mr. Passalacqua asked Mr. Heiser if the aisle width on the opposite side is still five foot nine inches.
34
35 Mr. Heiser stated yes.
36
37 Mr. Thorsland asked if there were any other questions and there were none.
38
39 Mr. Thorsland noted that Mr. Randol has arrived at the meeting.
40
41 Mr. Thorsland asked if staff had any questions and there were none.
42
43 Mr. Thorsland called John Hall to testify.
44
45 Mr. John Hall, Zoning Administrator, stated that the Summary Finding of Fact on page 18 is the same as the

1 main body of the Finding of Fact. He said that there are no decision points in the Finding of Fact. He said
2 that the proposed Zoning Ordinance map amendment will help achieve the LRMP and it is consistent with
3 LaSalle and Sinclair Factors, and will help achieve the purpose of the Zoning Ordinance. He said that when
4 you go from one business class to another and they are on a pair of roads like this property is located on, very
5 seldom would there be a problem and this is one of those instances where there isn't a problem, at least from
6 a LRMP standpoint.

7
8 Mr. Thorsland asked if there were any further questions, and there were none.

9
10 Mr. Thorsland read the proposed Special Condition listed on page 16 as follows:

- 11
12 **A. A Change of Use Permit shall be applied for within 30 days of the approval of Case 815-AM-15 by the County Board.**

13
14
15 The above special condition is required to ensure the following:

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

18
19 Mr. Thorsland asked Mr. Heiser if he understood the statement and what he needs to do. He asked Mr.
20 Heiser if he agrees with that condition.

21
22 Mr. Heiser responded that he understood the statement and agreed to Special Condition A.

23
24 Mr. Thorsland asked the Board if they have any questions. He entertained a motion to approve Special
25 Condition A.

26
27 **Ms. Griest moved, seconded by Ms. Capel to approve Special Condition A. The motion carried by**
28 **voice vote.**

29
30 Mr. Thorsland stated that there are no new Documents of Record. He said that the Summary Finding of Fact
31 is in complete agreement with the LRMP. He said that Goals 1, 2, 4, 6, 7, 8, 9 and 10 are not impeded and
32 the project will help achieve Goals 3 and 5. The project is also in line with the LaSalle and Sinclair Factors
33 and the Zoning Ordinance. He stated that these are the suggested findings and asked if the Board agrees with
34 all of them and the Board agreed.

35
36 Ms. Griest asked if the special condition needs to be added to the Summary Finding of Fact, or did she
37 perhaps miss it.

38
39 Mr. Hall stated that Ms. Griest made a good point as Special Condition A is in the main Finding of Fact but
40 not included in the Summary Findings of Fact. He said that staff will add Special Condition A. as new item
41 4. of the Summary Finding of Fact.

42
43 **Summary Finding of Fact for Case 815-AM-15:**

44
45 From the documents of record and the testimony and exhibits received at the public hearing conducted on

1 November 12, 2015, the Zoning Board of Appeals of Champaign County finds that:

2
3 1. The proposed Zoning Ordinance map amendment will *HELP ACHIEVE* the Land Resource
4 Management Plan because:

5 A. Regarding Goal 3:

6 (1) The proposed rezoning will allow the Petitioner to sell the property and permit
7 the new owners to conduct their business under proper zoning and therefore the
8 proposed rezoning can be said to *HELP ACHIEVE* Goal 3.

9
10 (2) Based on achievement of the above and because it will either not impede or is
11 not relevant to the other Objectives and Policies under this goal, the proposed
12 map amendment will *HELP ACHIEVE* Goal 3 Prosperity.

13
14 B. Regarding Goal 5:

15 (1) It will *HELP ACHIEVE* Objective 5.1 regarding contiguous urban growth areas
16 because it will *HELP ACHIEVE* the following:

17 a. Policy 5.1.3 requiring conformance with municipal comprehensive plans
18 for development propped with a municipality’s 1.5 mile extraterritorial
19 jurisdiction.

20
21 (2) It will *HELP ACHIEVE* Objective 5.3 regarding sufficient infrastructure and
22 services for proposed new urban development because it will *HELP ACHIEVE*
23 the following:

- 24 a. Policy 5.3.1 requiring sufficiently available public services for new urban
25 development.
26 b. Policy 4.3.2 requiring proposed new urban development, with proposed
27 improvements, to be adequately served by public infrastructure.
28

29 (3) Based on achievement of the above Objectives and Policies, the proposed map
30 amendment will *HELP ACHIEVE* Goal 5 Urban Land Use.

31
32 C. The proposed amendment will *NOT IMPEDE* the following LRMP goal(s):

- 33 • Goal 1 Planning and Public Involvement
34 • Goal 2 Governmental Coordination
35 • Goal 4 Agriculture
36 • Goal 6 Public Health and Public Safety
37 • Goal 7 Transportation
38 • Goal 8 Natural Resources
39 • Goal 9 Energy Conservation
40 • Goal 10 Cultural Amenities

41
42 D. Overall, the proposed map amendment will *HELP ACHIEVE* the Land Resource
43 Management Plan.

44
45 2. The proposed Zoning Ordinance map amendment *IS* consistent with the *LaSalle* and *Sinclair*

- 1 factors because of the following:
- 2 A. The gain to the public of the proposed rezoning is positive because the proposed
- 3 amendment allows continued use of an existing facility and will provide a service that
- 4 will benefit both urban and rural resident and businesses.
- 5
- 6 B. The subject property is suitable for the zoned purposes. The subject property cannot
- 7 be converted back to agricultural production. There are similar businesses nearby that
- 8 have been deemed appropriate for the area.
- 9
- 10 C. The subject property will be vacated by a fitness center that is constructing a new
- 11 facility a block away. The surrounding commercial area has generally been rezoned to
- 12 B-4 General Business District over time and has land uses that would be compatible
- 13 with self-storage warehouses.
- 14
- 15 3. The proposed Zoning Ordinance map amendment will HELP ACHIEVE the purpose of the
- 16 Zoning Ordinance because:
- 17
- 18 A. The subject property has ample space surrounding the existing building and no new
- 19 construction is planned.
- 20
- 21 B. The requested Map Amendment will enable a vacant building to be repurposed.
- 22
- 23 C. All surrounding commercial properties have rezoned to the B-4 Zoning District since
- 24 the early 1990's and self-storage warehouses are a by-right use in the B-4 Zoning
- 25 District.
- 26
- 27 4. Proposed Special Conditions of Approval:
- 28 A. A Change of Use Permit shall be applied for within 30 days of the approval of Case
- 29 815-AM-15 by the County Board.
- 30
- 31 The above special condition is required to ensure the following:
- 32 The establishment of the proposed use shall be properly documented as
- 33 required by the Zoning Ordinance.
- 34 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and
- 35 Findings of Fact as amended.
- 36 Ms. Griest moved, seconded by Ms. Lee, to adopt Summary of Evidence, Documents of Record and
- 37 Findings of Fact as amended. The motion carried by voice vote.
- 38
- 39 Mr. Thorsland entertained a motion to move to the Final Determination.
- 40
- 41 Ms. Griest moved, seconded by Ms. Lee, to move to the Final Determination. The motion carried by
- 42 vote.
- 43
- 44 Final Determination for Case 815-AM-15:

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Ms. Griest moved, seconded by Ms. Lee, that 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 815-AM-15 should BE ENACTED by the County Board in the form attached hereto.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS;

- A. A Change of Use Permit shall be applied for within 30 days of the approval of Case 815-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.

Mr. Thorsland requested a roll call vote.

The roll call vote was called as follows:

Capel-yes	Griest-yes	Lee-yes
Passalacqua-yes	Randol-yes	Thorsland-yes

Mr. Hall informed Mr. Heiser that the Board recommended approval and the case will be forwarded to the Environment and Land Use Committee at their December 3, 2015, meeting. He said that presumably the case will be forwarded to the County Board later in the month. He requested that Mr. Heiser contact the office with any questions.

Case 808-S-15 Petitioner: Loretta Dessen, d.b.a. Farm Lake, Inc. Request: Part A: Authorize a Special Use Permit for a combination "Private Indoor Recreational Development" and Outdoor Commercial Recreational Enterprise" to allow existing and ongoing use of an existing barn as a rentable venue for entertainment and recreation in the AG-2 Agriculture Zoning District on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current R-4 Multiple Family Residence District in related Zoning Case 817-AM-15. Part B. Authorize the following waiver to the standard conditions of the "Outdoor Commercial Recreational Enterprise" special use as per Section 6.1.3 of the Zoning Ordinance: A separation distance of 0 feet in lieu of the required 200 feet between any Outdoor Commercial Enterprise and any adjacent residential structure and/or use.

Case 817-AM-15 Petitioner: Loretta Dessen, d.b.a. Farm Lake., Inc. Request: Amend the Zoning Map to change the zoning district designation from the R-4 Multiple Family Residence to AG-2 Agriculture Zoning District in order to operate the proposed Special Use in related Zoning Case 808-S-15 on the subject property described below.

Location: A 10 acre tract in the West half of the Northeast Quarter of Section 4, Township 19 North,

1 **Range 8 East in Urbana Township and commonly known as Farm Lake, with an address of 2502**
2 **North Cunningham Avenue, Urbana.**

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 informed the audience that Case 808-S-15 is an Administrative Case and as such the County
10 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
11 show of hands for those who would like to cross examine and each person will be called upon. He requested
12 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
13 that those who desire to cross examine are not required to sign the witness register but are requested to
14 clearly state their name before asking any questions. He noted that no new testimony is to be given during
15 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
16 exempt from cross examination.

17
18 Mr. Thorsland asked the petitioners if they would like to make a brief statement regarding their request.

19
20 Ms. Loretta Dessen, who resides at 2502 North Cunningham, Urbana, stated that she had no new information
21 to add at this time.

22
23 Mr. Thorsland asked Mr. Hall if he could provide more information on the new proposed Map Amendment.

24
25 Mr. John Hall, Zoning Administrator stated that the map amendment is to reestablish the AG-2 Agriculture
26 Zoning District so that the Outdoor Commercial Recreational Enterprise can be proposed. He stated that as is
27 the case so often in re-zonings, when you compare the uses allowed by right it is completely consistent with
28 the LRMP and we see no issues with uses allowed by-right but that means the issues arise on a case-by-case
29 basis as related to the Special Use Permit. He stated that this is an ongoing use and new evidence since this
30 Board reviewed it previously has been added at item 8.J, on page 11 of the Summary of Evidence in Case
31 808-S-15, having to do with noise. He said that item 8.J is related to several aspects of the ordinance
32 purpose, which is reviewed in Case 817-AM-15. He stated that we talked about noise at the last hearing for
33 this case, and Ms. Dessen described some of the challenges she has in maintaining a reasonable noise level at
34 the events. He said that staff checked with the Sheriff's Office and between 2013 and 2014 there were 56
35 noise complaints placed with the Sheriff's Office and we do not have further details on those complaints. He
36 said that this year there have been only 5 complaints, so this year looks maybe to be a better year in that
37 regard. He said that a special condition has been proposed requiring that music be turned down at 10:00 p.m.

38
39 Ms. Capel pointed out that at one place in the packet it says to turn the music down, in another it says to turn
40 the music off.

41
42 Mr. Hall concurred, stating there is a lot of gray area between down and off, and we do not want to have gray
43 areas. He said that on page 27 Special Condition D. indicates that the music shall be turned off by 10:00 p.m.
44 and in the body of the Summary of Evidence it states the same. He read proposed Special Condition D. as
45 follows:

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D. Music playing at events must be turned off by 10:00 p.m.

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

That events held on the subject property adequately consider prior noise complaints and current neighbors.

Mr. Hall stated that the petitioner has to agree with that proposed condition. He stated that once that condition is complied with, it is hard to say this would not achieve our LRMP because that is the standard set by the Nuisance Ordinance, and we can't really impose a more restrictive standard. He added that if this condition is met, then by definition there cannot be any more complaints. He said that there can be people who are unhappy with the volume, but as long as it stops at 10:00 p.m. it is not a violation of any of our rules.

Mr. Passalacqua asked if the special condition can say more than just turning down music. He stated that this venue is used by fraternities and sororities and he has seen college kids and has been a college kid and he does not believe that the music is the biggest problem at the site.

Mr. Hall said that is the problem, determining what exactly it is that the Board wants to stop at 10:00 p.m. He said he agrees with Mr. Passalacqua and it would be good if loud noise could be described and it could be stopped it at 10:00 p.m. He said that perhaps the petitioner has a suggestion regarding this issue but this is the best that staff could do in time for the mailing.

Mr. Thorsland stated that he understood what Mr. Passalacqua was referring to, and asked if the Board wanted a table of what has to stop at 10:00 p.m. such as playing horseshoes, bag game, smoking outside, etc. He said that music is one of the things that can be stopped easily by the DJ and he is not sure what the Board could do about other noise. He said that the Board had testimony from the petitioner indicating that the loudest thing at the parties is sometimes the people. He asked if the Board should keep the people indoors, or consider some other ideas the Board may have.

Mr. Passalacqua stated that if he lived next door to it and called the Sheriff five times in 2015, he is not sure he would be satisfied with that either. He said that he is thinking about the neighbors and how events involving alcohol, even with, adults are noisy.

Mr. Thorsland stated that the Board is getting a little ahead of themselves in that the map amendment case is first, and we need to hear evidence on that first but we will get to these conditions later on, so it is something for the Board to think about. He said that the Board could propose that at 10:00 p.m. the music stops and people are to finish the remainder of the event inside the structures and not outside. Mr. Thorsland said he would go through the witness register and try to get as much evidence as possible before the Board goes much farther on anything, but this was the time to ask Ms. Dessen if there is anything she wanted to add. He asked staff if they had anything to add at this time.

Mr. Hall stated that this is the challenge of these cases as this is an ongoing use and the Board anticipated that getting a special use permit in place might help with this very problem of noise. He said that based on the discussion at the last hearing, the petitioner has already dealt with that concern to a large degree. He said

1 that maybe cutting off the amplified music at 10:00 p.m. may be a missing component, but that is the
2 difficult challenge for the Board in these cases.

3
4 Mr. Thorsland asked if there was a quick way for the Board to view the noise portion of the Champaign
5 County Nuisance Ordinance.

6
7 Mr. Passalacqua commented that the Nuisance Ordinance already applies to this property.

8
9 Mr. Thorsland added that it applies to every property, but the Board is making this a condition in this case to
10 point it out specifically.

11
12 Mr. Passalacqua stated that he can imagine the perception of the neighbor that the noise would get louder
13 when the music stops.

14
15 Mr. Thorsland agreed with Mr. Passalacqua. He stated that on the other side, people tend to elevate their
16 voices when the music is playing so maybe it gets quieter when the music stops. He said that he knows that
17 the Board and Mr. Passalacqua in particular, have a difficult time on these cases in that we have the moral
18 component but the Board is talking about human behavior.

19
20 Mr. Passalacqua stated that is why he does not think it is going to get quiet at 10:00 p.m.

21
22 Mr. Thorsland agreed. He asked Mr. Passalacqua how the Board will write a condition around that. He
23 suggested moving back to the discussion of the map amendment. He asked Mr. Hall the benefit of bringing
24 this property back to AG-2.

25
26 Mr. Hall pointed out that Special Condition G. discusses the limited use of the grounds after 10:00 p.m. and
27 was the other thing that staff could think of which would be limiting the extent you could be outdoors after
28 10:00 p.m. He said that he does not think it is reasonable to expect that we could keep everyone indoors after
29 that time given that there are outdoor restrooms.

30
31 Mr. Passalacqua stated that the Board and staff had this same discussion during the first hearing for this case
32 because of the restrooms and the area used for smoking and just the mere square footage and the number of
33 people he thinks the outside areas were salient to the parcel being rented.

34
35 Mr. Hall stated that Special Condition G is meant to limit the outdoor use of the area after 10:00 p.m. in the
36 immediate vicinity of the east barn. He said that the idea is that the rest of the property is out of bounds after
37 10:00 p.m. He said that unfortunately, the east barn is the area that is closest to neighboring residences.

38
39 Mr. Passalacqua asked the petitioner if, most of the time, are there separate parties going on in each barn at
40 the same time.

41
42 Ms. Dessen responded that on weekends that is often the case but the parties are kept separate from one
43 another.

44
45 Mr. Passalacqua asked if it is customary to have both the barns rented at the same time.

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Ms. Dessen stated hopefully, yes.

Mr. Thorsland called Mr. Jon Dessen to testify.

Mr. Jon Dessen, who resides at 2204 Lynwood, Champaign, stated that in the past, the span between the barn that we are talking about right now and the residential properties was way further away. He said that the trailer park decided to expand the usage of the area of where they were originally going to have trailers and he believes that is why they are having the majority of the problems they have now, because the trailer park was encroaching on both sides. He said that there were complaints in the past, but he thinks they were handled fairly decently by turning the music down, ushering out individuals who were loud, getting them back on the bus and sending them back to Campustown. He stated that there has been a reduction in complaints in the last couple of years.

Ms. Dessen stated that the party at the east barn ends much earlier than the party at the west barn now. She stated that guests can stay there until 11:00 p.m. and are gone by 11:15 p.m. She said that the music is down by 10:00 p.m. and they try to turn it way down by 10:30 p.m. She noted that they cannot control young peoples' voices, but they try.

Mr. Thorsland asked Ms. Dessen in what year did they expand the residences in the park to the south of the barns and did it correlate with the additional count on those complaints in about 2006.

Ms. Dessen stated that they expanded the mobile home park about four years ago.

Mr. Thorsland asked Ms. Dessen if complaints seemed to change when the residences got closer.

Mr. Jon Dessen stated that to the east of their property, it was strictly a cornfield, and then they started building houses there so whether it is coming from the trailer park or the homestead to the east, which is several hundred yards away, he does not have an answer.

Mr. Thorsland stated that what he is trying to see is whether the closer residences resulted in an increase in complaints.

Mr. Dessen stated yes, that is correct.

Mr. Thorsland stated that is not an unusual situation when there is an existing use.

Mr. Thorsland called Mr. David Dessen to testify.

Mr. David Dessen stated that he resides in Tucson, Arizona, but lives at 2502 North Cunningham in the spring and fall to help his mother out with the parties. He stated that there have only been 5 complaints this year, and that is quite a reduction. Mr. David Dessen believes that the reduction is due to the changes they have made. He suggested that some of the complaints this year came about because some of the students started using Uber to arrive at the property. He stated that when guests give the address to the Uber drivers, their GPS takes them to the trailer park rather than directly to Farm Lake but now that the season is mostly

1 done the Uber drivers know where the property is located. He added that the complaints probably came
2 because students were walking through yards.

3
4 Mr. Thorsland stated that we are not going to put speculation like that in, but he does understand the failing
5 of GPS in some cases. Mr. Thorsland said that the Dessens have a fence which was installed in 2014, and
6 that this year they have had a lot less complaints. He commented that good fences make good neighbors, as
7 they say. He noted that the petitioners have been more proactive in trying to keep events quieter.

8
9 Mr. Passalacqua stated that prior testimony indicated that a bus and one private vehicle brought people out to
10 events.

11
12 Mr. Thorsland added now there are people arriving via Uber.

13
14 Mr. Passalacqua stated that he does not know if there is enough there to look at traffic or noise impacts. He
15 said that the bus is great because it is one shot in and out of the property.

16
17 Mr. Thorsland stated that when the Board looked at this case before, everyone was mustering somewhere
18 else then coming out to the property on a bus and now what we are hearing is that some people are coming
19 out in smaller groups, individuals, in cars or some other means.

20
21 Ms. Dessen stated that they are all to come out on the buses. She said that there are kids who have tests that
22 last until 9 or 9:30 p.m. and they have been calling Uber. She added that Uber uses a GPS that takes them to
23 the wrong place.

24
25 Mr. Thorsland asked Ms. Dessen if what she tells her clients is that they must come on the bus.

26
27 Ms. Dessen stated yes.

28
29 Mr. Thorsland stated that some people are independently getting themselves there afterwards via taxi or
30 Uber, and asked Ms. Dessen if everyone has to leave the property on the bus.

31
32 Ms. Dessen said that sometimes for events they have what parties call sober drivers, who will bring a car.
33 Ms. Dessen allows one car per party for sober drivers.

34
35 Mr. Thorsland stated that he did not want this case to be about that and he thinks that Ms. Dessen does
36 everything in her power to have people come out the way that they are supposed to. He said that does not
37 know if the Board can make a condition that prevents people from finding a way to get to where Ms. Dessen
38 lives and hosts the party. He said that he does not know if they ever want to go in the direction of regulating
39 human behavior.

40
41 Ms. Lee asked about the complaint where the son was being kept from sleeping 3 to 4 times a week. She
42 asked how many events Ms. Dessen holds on Saturday nights. She said that previously Ms. Dessen indicated
43 that she had no events on Sundays. She asked Ms. Dessen how many events she typically has during the
44 week.

1 Ms. Dessen stated that she has events on Thursdays, Fridays, Saturdays and sometimes during the season
2 there might be a party at that barn Thursday, Friday, and Saturday evenings. Ms. Dessen added that she tries
3 to use the east barn much less than the front barn.

4
5 Mr. Thorsland asked if those were her typical nights to operate.

6
7 Ms. Dessen answered yes.

8
9 Mr. Thorsland asked Ms. Dessen if there are any other nights that might sometimes have events.

10
11 Ms. Dessen answered not in the back barn.

12
13 Mr. Thorsland asked if the back barn is the same as the east barn.

14
15 Ms. Dessen answered yes. She stated that at the west barn, they sometimes have events on Sundays, such as
16 church picnics.

17
18 Mr. Thorsland stated that the west barn is a lot further away from everything and that it is not in question
19 tonight.

20
21 Ms. Dessen stated that the back barn is only used when they have two parties a night, typically in September,
22 October, April and May. She said she tries to rent out the front barn before she rents out the back barn.

23
24 Mr. Thorsland commented that Ms. Dessen has testified that a lot of her parties are campus related. He
25 asked Ms. Dessen if when the semesters are not in session if it slows down, or if they get a different kind of
26 guest.

27
28 Ms. Dessen stated that in the summer all their parties are in the front barn.

29
30 Mr. Thorsland stated that the east barn is really only in play in the spring and fall, and generally is only
31 during college activity.

32
33 Ms. Dessen said yes. She said that the other barn is used for adults and not students.

34
35 Mr. Thorsland asked staff if there were any questions for Ms. Dessen and there were none.

36
37 Mr. Thorsland asked the audience if anyone desired to cross examine the Dessens and there was no one.

38
39 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony

40
41 Mr. Jon Dessen stated that they were aware there were complaints with the authorities and he believes it was
42 about a year or year and a half ago. He said that Ms. Dessen did go over and talked with the director of the
43 trailer park and the director did not know what was going on other than that he knew people were making
44 noise. Mr. Dessen said that once it was explained what was going on with the parties, things settled down
45 and after that the complaints went down to a nominal amount. Mr. Dessen stated that he believes that it was

1 just a matter of educating the director of the trailer park that changed the number of complaints and the
2 director went to the residents closest to the east barn and explained what was going on. Mr. Dessen stated
3 that he does not believe that the residents even knew what was happening.

4
5 Mr. Randol stated that the Board has had discussion about noise complaints, but the Board has had no one in
6 the audience voice any objections to what has been taking place.

7
8 Mr. Hall stated that to Mr. Randol's point, when the Zoning Department sends out notices for a case, they
9 are sent to the owner of record. He said that when it is a manufactured home park like it was for these cases,
10 staff does not have the addresses for the actual residents and all staff has is the address for the park
11 management. He said that if the park management either has not heard about the complaints or is just not
12 aware of it, they are probably not going to have any comments. He said that staff has discussed what might
13 be done for future cases like this and the only way staff can think of to get notice to the actual residents
14 would be to put door hangers on each unit at the parks, and of course we would have to have approval of
15 park management, which might take a little doing. He said that it would be a substantial investment in staff's
16 time and he does not know if it would have had different results in this case, but when you talk about not
17 having anyone in the audience speaking against it, he thinks the Board needs to be aware of that.

18
19 Mr. Thorsland stated that on some level 56 complaints over the period could be considered a protest by the
20 neighbors. He said that it sounds like when the Dessens had a discussion with the people involved and when
21 they constructed the fence, complaints dropped a lot. He said that when the Board goes through the Special
22 Use Case and if the conditions in there are honored it will also be interesting to see what next year looks like.
23 He said that it sounds like the petitioners have been proactive. He said that there are other residents to the
24 east that received notice and none came to the hearing.

25
26 Mr. Hall asked the Board to consider adding a special condition that reflects what the petitioners are already
27 doing and reads as follows: events at the east barn should end at 11 p.m. He said that this will just set in
28 place a rule that seems to be having positive effects.

29
30 Mr. Thorsland asked for clarification on how much security the Dessens hire for parties because in one part
31 of the Finding the Dessens indicated that they hire 1 security guard for every 25 guests and later in the
32 Finding of Fact mentions 1 security guard for every 40 guests.

33
34 Mr. David Dessen stated that it is probably closer to 1 security guard per 40 guests.

35
36 Mr. Thorsland asked Mr. Dessen where they get their security staff.

37
38 Ms. Dessen stated that many of them are retired sheriff's deputies, and they do try to train them.

39
40 Mr. Thorsland stated that for the length of time the Dessens have been doing these events, he is very pleased
41 to see that there were only 56 times when someone bothered to pick up the phone and say something about
42 an event. He said that we are talking about several hundred events per year.

43
44 Mr. David Dessen stated that this year, counting weddings and charity things also, there were 60 this fall and
45 30 last spring.

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Mr. Thorsland commented that we have had other places with fewer events that have had a lot more problems and the duration was much shorter than this. He said that he believes everyone is on the right path here, and we just need to make it legal for them to be on the right path at this point.

Mr. Thorsland asked if there was anyone who wanted to present testimony or cross examine the petitioners, and there was no one.

Mr. Thorsland stated that the Board will begin its review of Attachment H, pages 1 through 24 of the Findings of Fact for Case 817-AM-15. He said that this case has a lot to do with the LRMP (Land Resource Management Plan). He said the Board will begin on page 17 of Attachment H and noted a decision point for the Board. He said that item 21 states the following: The proposed amendment {WILL / WILL NOT} 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; and 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, BUIDLINGS, and STRUCTURES throughout the COUNTY. The requested rezoning WILL/WILL NOT decrease the value of nearby properties. He said that the next decision point is under item 21.E and reads as follows: In regards to public comfort and general welfare, the requested rezoning WILL/WILL NOT PROMOTE public comfort and general welfare. He requested direction from the Board about how they wanted to answer those questions.

Ms. Lee referred to item 7.B. (5) on page 3 of 24 and stated that she thought the patio area was not covered by the barn roof.

Mr. Thorsland stated that item 7.B (4) indicates a patio that is open on the east and south and item 7.B.(5) includes all areas covered by the roof. He said that he does not know if item 7.B.(5) means that the patio has a roof. He asked the petitioners for clarification regarding the patio.

Mr. David Dessen responded that the patio has a roof and two sides are open.

Mr. Thorsland asked if they consider that part of the barn.

Mr. David Dessen responded yes.

Mr. Thorsland asked Ms. Lee if she was satisfied with Mr. Dessen's explanation of the patio.

Ms. Lee said yes.

Mr. Thorsland referred back to page 17 of Attachment H.

Mr. Hall stated that in regards to items 21.B. and 21.E. staff was primarily thinking about the effects of noise

1 impacts on adjacent properties. He said that the paragraphs do not actually mention anything about noise,
2 but that is what staff was thinking needs to be addressed in those items.

3
4 Mr. Thorsland stated that these multi-part cases are sometimes difficult to determine where to start picking
5 away at things. He said that Mr. Hall pointed out that we are working on this map amendment case and
6 these decision points have a lot to do with the conditions the Board will set in the special use permit. He
7 said that if the Board desires, they could go through the special use case first, but we really need to do the
8 map amendment part to get to the special use. He said that the Board has discussed a lot about the
9 conditions, and he can say comfortably that the Board knows what direction we are going in, and it sounds
10 like the petitioners are going in the same direction. He stated that whether that addresses what the Board
11 wants to do with the map amendment is up to the Board.

12
13 Ms. Capel stated that map amendments are always hard because they apply beyond this owner. She said that
14 although there is a special use permit involved with special conditions, the map amendment opens that
15 particular piece of property up to everything that is part of AG-2.

16
17 Mr. Hall stated that it all comes back to the special conditions and we still have the proposed special
18 condition that the special use permit ends when Ms. Dessen no longer resides on the property. He said that
19 no special condition has been approved yet but we have included that proposed condition since the beginning
20 because as the Board has seen in other cases, when you have a petitioner who comes to the Board with very
21 salient evidence of what they have done to manage something properly, on more than one occasion the
22 Board has made the approval based on that owner's continued involvement. He said that when that owner is
23 no longer involved, a different owner has to come back and prove themselves in front of the Board.

24
25 Ms. Capel stated that there are a lot of activities available in AG-2 that may or may not be appropriate on
26 this property that might be problematic if it were sold.

27
28 Mr. Hall stated that he imagines that all of those things that are problematic would relate to special uses
29 which would have to come before the Board.

30
31 Ms. Capel stated that there would be no by-right use on the property that would conflict with the residential
32 nature of the neighborhood.

33
34 Mr. Hall responded that agriculture would be the one land use that would conflict the most.

35
36 Mr. Thorsland stated that agriculture is by-right anyway, and the only condition in the map amendment is the
37 Right to Farm, that the petitioner agrees to the Right to Farm ordinance we have in the county.

38
39 Mr. Passalacqua asked if item 21 could read "*NOT IMPEDE*" rather than "*HELP ACHIEVE*".

40
41 Mr. Thorsland read item 21.A. with Mr. Passalacqua's recommendation: The proposed amendment *WILL*
42 *NOT IMPEDE* the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance. He
43 recommended that item 21.B. state that the following: The requested rezoning *WILL NOT* decrease the
44 value of nearby properties. He recommended that item 21.E.(2) state the following: In regards to public
45 comfort and general welfare, the requested rezoning *WILL PROMOTE* public comfort and general welfare.

1
2 Mr. Passalacqua stated he that he preferred that version better because he does not see the former version as
3 really forwarding the purpose.

4
5 Mr. Thorsland asked the Board if they were comfortable with the recommendations for the items 21.B. and
6 21.E.(2), and if so item 21 would thus read "**WILL NOT IMPEDE**".

7
8 Ms. Griest stated that she has a problem with the phrasing "**WILL PROMOTE**". She is not certain what
9 wording would work better, because she cannot make a case for how it promotes public comfort and general
10 welfare.

11
12 Mr. Thorsland thought it could be "**NOT IMPEDE**".

13
14 Ms. Griest said that she could be very comfortable with "**NOT IMPEDE**" for item 21.E.(2).

15
16 Mr. Passalacqua stated that is better language because if we are receiving general complaints for noise, then
17 it does impede public comfort, but with the condition we are proposing, those complaints should be taken
18 care of.

19
20 Mr. Thorsland stated that Ms. Capel mentioned moments ago that these map amendments are hard because
21 we infer that we are going to get all the conditions in. Mr. Thorsland read the Board's recommendation for
22 item 21.E.(2), stating "In regards to public comfort and general welfare, the requested rezoning **WILL NOT**
23 **IMPEDE** public comfort and general welfare. He asked for improved language for that statement.

24
25 Ms. Capel agreed with the recommendation for item 21.E (2).

26
27 Ms. Griest stated that she also agrees with the recommendation for item 21E (2). She said that she would
28 like to follow up on something Mr. Thorsland said a minute ago. She stated that when she looks at the map
29 amendment, she has to look at that amendment standing separately from and independently of the special
30 use. She said that if the Board is proposing to move any parcel to AG-2 that is already at a higher
31 classification, she thinks that it is less of a challenge to say that it is in compliance than if we were moving it
32 to a higher classification. She said that the Board is really downgrading the classification of this parcel to
33 where the uses are more compatible overall with the general residential/agricultural climate of the county.
34 She stated that part of her struggle with saying "**WILL NOT IMPEDE**" was that the map amendment isn't
35 promoting/not promoting, but the special use kept jumping in there, inappropriately.

36
37 Mr. Thorsland stated that R-4 can be very dense and possibly also quite loud.

38
39 Mr. Hall stated that one of the uses authorized by-right in the current zoning is a fraternity/sorority or student
40 co-op.

41
42 Mr. Thorsland stated that this shows the Board is actually putting this land in a tighter set of brackets. He
43 said that, it just happens to be that for this special use, which is independent, we have to put a different set of
44 brackets on it.

1 Mr. Thorsland stated that the recommendation for item 21.E. (2) is as follows: In regards to public comfort
2 and general welfare, the requested rezoning **WILL NOT IMPEDE** public comfort and general welfare. He
3 said that the recommendation for item 21.B is as follows: The requested rezoning **WILL NOT** decrease the
4 land value of nearby properties. He said that the recommendation for item 21 is as follows: The proposed
5 amendment **WILL NOT IMPEDE** the purpose of the Zoning Ordinance as established in Section 2 of the
6 Ordinance.

7
8 Mr. Thorsland stated that item 22 is the part that the petitioner needs to listen to carefully. He said that
9 this is a special condition of approval of the map amendment to move from R-4 to AG-2. He said that
10 the Board has discussed other conditions tonight that relate to the special use although this one condition
11 relates only to the map amendment. He stated that the proposed special condition is

- 12
13 **A. The owners of the subject property hereby recognize and provide for the right of**
14 **agricultural activities to continue on adjacent land consistent with the Right to**
15 **Farm Resolution 3425.**

16
17 The above special condition is necessary to ensure the following:

18 **Conformance with Policy 4.2.3 of the Land Resource Management Plan.**

19
20 Mr. Thorsland stated that this is an ordinance the county has had for a while and it means that if you put your
21 luxury home in the middle of farm fields, you can't decide all of a sudden that you really don't like soybean
22 dust on your patio. He asked the petitioners if they agree with Special Condition A.

23
24 Ms. Dessen stated that she agrees with Special Condition A.

25
26 Mr. Thorsland entertained a motion to approve the special condition as read.

27
28 **Ms. Griest moved, seconded by Ms. Capel to approve the special condition. The motion carried by**
29 **voice vote.**

30
31 Mr. Thorsland stated that there are no new Documents of Record.

32
33 **Summary Finding of Fact for Case 817-AM-15:**

34
35 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
36 817-AM-15 held on July 30, 2015 and November 12, 2015, the Zoning Board of Appeals of Champaign
37 County finds that:

- 38
39 **1. The proposed Zoning Ordinance map amendment will *HELP ACHIEVE* the Land**
40 **Resource Management Plan because:**
41 **A. Regarding Goal 3:**
42 **(1) Although the proposed rezoning is *NOT DIRECTLY RELEVANT* to any**
43 **of the Goal 3 objectives, the proposed rezoning will allow the petitioner to**
44 **utilize the property somewhat more intensively and continue business**
45 **operations in Champaign County.**

1
2 Mr. Thorsland asked the Board if they were in agreement with this statement.

3
4 The Board agreed.

- 5
6 (2) Based on achievement of the above and because it will either not impede or is
7 not relevant to the other Objectives and Policies under this goal, the proposed
8 map amendment ***WILL HELP ACHIEVE*** Goal 3 Prosperity.
9

10 Mr. Thorsland asked the Board if they were in agreement with this statement.

11
12 The Board agreed.

13
14 B. The proposed amendment ***WILL NOT IMPEDE*** the following LRMP goal(s):

- 15
16 • Goal 1 Planning and Public Involvement
17 • Goal 2 Governmental Coordination
18 • Goal 4 Agriculture
19 • Goal 5 Urban Land Use
20 • Goal 6 Public Health and Safety
21 • Goal 7 Transportation
22 • Goal 8 Natural Resources
23 • Goal 9 Energy Conservation
24 • Goal 10 Cultural Amenities
25

26 Mr. Hall stated that he noticed in the body of the Finding of Fact that the draft evidence for Goal 4 was
27 written “will help achieve Goal 4”. He said that he is pointing out that the body of the Finding of Fact is
28 not consistent with the Summary, which states “will not impede Goal 4”. He believes that either wording
29 would be adequate for the purposes of the rezoning, and he wants to make sure that the Board’s
30 Summary of Evidence is consistent with the Finding of Fact evidence. He referred to Goal 4 evidence on
31 pages 10-14, noting that it was a major section of evidence with the overall statement being “***WILL***
32 ***HELP ACHIEVE***”.

33
34 Mr. Thorsland stated that the Board does have the approved condition regarding the Right to Farm but
35 this is more about the property itself. He asked if Goal 4 should be changed to “will help achieve” or
36 does the Board want to change the overall finding on page 10 to ***WILL NOT IMPEDE***.

37
38 Mr. Passalacqua responded that ***WILL NOT IMPEDE*** is more consistent.

39
40 Mr. Thorsland stated that the Board must make sure the wording is consistent throughout the evidence
41 for Goal 4, starting on page 10. He read from page 10, stating “Goal 4 has 9 objectives and 22 policies.
42 The proposed amendment ***WILL NOT IMPEDE*** Goal 4 for the following reasons”. He indicated that
43 the wording should be made consistent for that entire section regarding Goal 4 and that would make the
44 Summary Finding of Fact more consistent with what the Board has recommended.
45

1 Mr. Thorsland referred back to Part 1.C. of the Summary Finding of Fact.

- 2
3 C. Overall, the proposed map amendment ***WILL HELP ACHIEVE*** the Land
4 Resource Management Plan.

5
6 Ms. Griest stated that it ***WILL HELP ACHIEVE***.

7
8 Mr. Thorsland stated that the proposed map amendment ***WILL HELP ACHIEVE*** the Land Resource
9 Management Plan.

10
11 Mr. Thorsland read Summary Finding of Fact Item 2:

12
13 **2. The proposed Zoning Ordinance map amendment IS consistent with the**
14 **LaSalle and Sinclair factors because of the following:**

- 15
16 A. The subject property has been in use as proposed since 1992; the property has not
17 changed significantly since the 1970s.
- 18
19 B. It is impossible to establish property values without a formal real estate appraisal
20 which has not been requested nor provided and so any discussion of values is
21 necessarily general.
- 22
23 C. The gain to the public of the proposed rezoning could be positive because the
24 proposed amendment would allow the Petitioner to continue providing a service
25 to the community while preserving a natural wooded habitat.
- 26
27 D. The subject property is occupied by a single family residence and zoned R-4
28 Multi-Family Residential.
- 29
30 E. The ZBA has recommended that the proposed rezoning will **HELP ACHIEVE** the
31 Champaign County Land Resource Management Plan.
- 32
33 F. The Urbana Comprehensive Plan adopted in 2005 calls for residential and
34 business development in the subject property area.

35
36 Mr. Thorsland recommended that the proposed Zoning Ordinance map amendment ***IS*** consistent with
37 the LaSalle and Sinclair factors.

38
39 Ms. Capel agreed.

40
41 **3. The proposed Zoning Ordinance map amendment *WILL HELP ACHIEVE* the**
42 **purpose of the Zoning Ordinance because:**

- 43
44 A. Establishing the AG-2 District ***WILL NOT*** decrease the value of nearby
45 properties (Purpose 2.0 (b) see Item 21.B.).

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Mr. Thorsland said that the Board had determined that it WILL NOT decrease the value of nearby properties.

- B. Establishing the special use requires rezoning to AG-2; this rezoning *WILL* lessen and avoid congestion in the public streets (Purpose 2.0 (c) see Item 21.C.).

Mr. Passalacqua asked if that even applies.

Mr. Thorsland responded that he does not know if it applies, and suggested the statement be changed to will not apply.

Mr. Passalacqua suggested it be changed to *IS NOT RELEVANT*.

Mr. Hall asked if the Board believes that the special use will not help the way that traffic is controlled.

Mr. Thorsland stated that he understood it in a different context, but can now see where it is relevant.

Ms. Griest stated that she would suggest *WILL* lessen and avoid congestion because going from R-4 to AG-2 will reduce congestion and it will reduce the number of trips.

- C. Establishing the AG-2 District *WILL* promote the public health, safety, comfort, morals, and general welfare (Purpose 2.0 (e) see Item 21.E.).

Ms. Capel stated that it *WILL*.

- D. Establishing the AG-2 District at this location will help classify, regulate, and restrict the location of the uses authorized in the AG-2 District (Purpose 2.0 (i) see Item 21.G.).

- E. Establishing the AG-2 District in this location *WILL* help protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses ((Purpose 2.0 (n) Item 21.I).

The Board agreed with the recommendation.

- F. The proposed rezoning and proposed Special Use *WILL* protect natural features such as forested areas and watercourses (Purpose 2.0(o) Item 21.J).

The Board agreed with the recommendation.

- G. Establishing the AG-2 District at this location *WILL* maintain the rural character of the site (Purpose 2.0 (q) Item 21.L).

The Board agreed with the recommendation.

1
2 H. The proposed rezoning and proposed Special Use **WILL NOT IMPEDE** the
3 development of renewable energy sources (Purpose 2.0(r) Item 21.M).
4

5 Ms. Griest asked how Item 3.H. is relevant.
6

7 Mr. Thorsland responded that he is looking for different wording, and suggested **WILL NOT IMPEDE**
8 rather than **WILL NOT** hinder. Therefore, the map amendment will **HELP ACHIEVE** the Zoning
9 Ordinance.
10

11 Ms. Capel asked if Item 3.E. relies on the finding that we changed from **WILL NOT ACHIEVE** to **WILL**
12 **NOT IMPEDE**. She said that if it is not directly related it is no big deal, but if it is, the statement needs to
13 be consistent with the **WILL NOT IMPEDE** language.
14

15 Mr. Hall stated that he thought the Board retained the “will protect the most productive agricultural
16 lands” back on page 19. He agreed with Ms. Capel’s underlying concern, and stated to that end, this is
17 the Board’s finding, but he thinks the Board has a Summary now with a different finding regarding the
18 purpose of the Zoning Ordinance than what item 21 back on page 17 was. He said that for item 21,
19 overall the recommendation was “**WILL NOT IMPEDE**” the purpose of the Ordinance. He said that
20 something has been said differently here in item 3 of the Summary, but perhaps he got confused.
21

22 Mr. Thorsland reviewed that for item 3.H. the Board decided that the proposed rezoning and proposed
23 Special Use “**WILL NOT IMPEDE**” because we’re letting this use stay where it is as opposed to being
24 moved to a new piece of farm ground.
25

26 Mr. Passalacqua stated that Mr. Hall’s point is that item 3 in general should say “**WILL NOT IMPEDE**”.
27

28 Mr. Hall concurred and stated that the Board has found a different recommendation for item 3.C. than
29 what they had back under item 21.E. where the recommendation was “**WILL NOT IMPEDE**”.
30

31 Ms. Griest recommended that item 3.C. be revised to indicate “**WILL NOT IMPEDE**” to match item
32 21.E. (2) on page 18.
33

34 Mr. Passalacqua recommended that item 3 should be revised to indicate “**WILL NOT IMPEDE**”.
35

36 Mr. Thorsland read revised item 3.C. as follows:
37

38 C. Establishing the AG-2 District **WILL NOT IMPEDE** the public health,
39 safety, comfort, morals, and general welfare (Purpose 2.0 (e) see Item 21.E.).
40

41 The Board agreed with revised item 3.C.
42

43 Mr. Thorsland read revised item 3.H. as follows:
44

H. The proposed rezoning and proposed Special Use ***WILL NOT IMPEDE*** the development of renewable energy sources (Purpose 2.0(r) Item 21.M).

The Board agreed with item 3.H.

Mr. Thorsland read the revised overall recommendation for item 3. as follows:

3. The proposed Zoning Ordinance map amendment *WILL NOT IMPEDE* the purpose of the Zoning Ordinance because:

Ms. Griest thanked Mr. Hall for pointing out those discrepancies as these revisions makes the Summary Finding of Fact much better.

Mr. Thorsland stated that the talked about the special condition that has already been approved and there are no new Documents of Record.

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

Ms. Griest moved, seconded my Mr. Passalacqua 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 817-AM-15.

Ms. Griest moved, seconded my Mr. Passalacqua to move to the Final Determination for Case 817-AM-15. The motion carried by voice vote.

Ms. Griest asked if the Final Determination needs to be amended to indicate {BE ENACTED/NOT BE ENACTED} SUBJECT TO THE SPECIAL CONDITION”.

Mr. Thorsland agreed.

Mr. Hall agreed.

FINAL DETERMINATION FOR CASE 817-AM-15:

Ms. Griest moved, seconded by Mr. Randol that 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 817-AM-15 should {BE ENACTED by the County Board in the form attached hereto.

SUBJECT TO THE FOLLOWING SPECIAL CONDITION:

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A. The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.

The above special condition is necessary to ensure the following:
Conformance with Policy 4.2.3 of the Land Resource Management Plan.

Mr. Thorsland requested a roll call vote.

The roll call vote was called as follows:

Griest-yes	Lee-yes	Passalacqua-yes
Randol-yes	Capel-yes	Thorsland-yes

Mr. Hall informed the petitioners that they have received a recommendation for approval of their map amendment request. He said that the case will be forwarded to the Environment and Land Use Committee at for their December 3, 2015, meeting.

Mr. Thorsland stated that was just for the map amendment and now we are going through the special use. He said that the special use request has a lot of special conditions and when we get to them in the final version, the special conditions will be shown up on the screen so we can all see exactly how they will be worded before the petitioner agrees to the special conditions or not.

Mr. Thorsland stated that the Board will now hear Case 808-S-15, which is the related special use permit request. He stated that he did not know if there are new questions now that the map amendment has been approved and there are some new items in the packet that are underlined. He reminded the Board that his question about how many security guards were present for events was answered as 1 guard per 40 guests, found on page 8 of Attachment I. He stated that he had no other items until the Board reviews the special conditions.

Mr. Passalacqua stated that on page 11 of 30, item 8.J.(d), the Board had testimony earlier tonight that the parties are over at 11:00 p.m. and the music is turned off at 10:00 p.m., but this evidence says that the music is turned down at 10:30 p.m. and the party is shut down between 11:30 p.m. and midnight. He noted that this as an inconsistency with tonight’s testimony.

Ms. Griest requested further discussion of the noise factor, in the fact that any special conditions we apply, they would apply to both venues, not just the east building.

Mr. Hall clarified that the special use only applies to the venues on this property which includes the east barn, but it is good that Ms. Griest brought this up because one special condition does say the extent of use of this property after 10:00 p.m. which would limit those at the west barn venue from coming on to the east property after 10:00 p.m. He stated that he does not even know if the people do cross properties, but these conditions are to this property, and to the extent that the west barn uses this property, it would have to be according to these conditions.

1

2 Ms. Griest asked if otherwise it gets to stand alone.

3

4 Mr. Hall agreed. He said that the timing of when the music gets turned down would have nothing to do with
5 the west barn.

6

7 Mr. Thorsland asked the Board what they would like to do about the inconsistency in this piece of evidence.
8 He noted that they have tonight's evidence of turning the music down at 10:00 p.m. and the event stopping at
9 11:00 p.m., applying to the east barn, and maybe this comment applies to the east and west as well.

10

11 Mr. Passalacqua stated that there was partial discussion to making a special condition for the event ending at
12 11:00 p.m. and that would clean it up if the Board agrees on something like that.

13

14 Mr. Thorsland asked if the Board wanted to handle this as a special condition and not worry about it here or
15 do we want to fix it here too.

16

17 Mr. Passalacqua stated that he believes it would be more important in the conditions since the testimony is
18 public record.

19

20 Ms. Capel stated that this is a phone call to Ms. Chavarria.

21

22 Mr. Thorsland clarified that this is just a part of the overall average. He referred to Attachment I page 17,
23 which talks about noise impact under part (d) at the top of the page. He said that it mentions the proposed
24 10:00 p.m. to turn down the music in conformance with the Nuisance Ordinance. He said that it gets cleaner
25 the further we go when it comes to how the Board is going to word these conditions. He referred to page 20,
26 part d. where it again says that Mrs. Dessen stated they turn the music down at 10:30 p.m. and then the
27 parties are done between 11:30 p.m. and midnight but right underneath that, part e. states that a special
28 condition has been proposed to turn the music down at 10:00 p.m. as per the Nuisance Ordinance.

29

30 Ms. Griest pointed out that this is what Ms. Capel referred to earlier in that it said to "turn down" the music.

31

32 Mr. Thorsland suggested changing part e. on page 20 and anywhere else it is mentioned that the music turns
33 off at 10:00 p.m. He said that on page 17 part (d) and under (5)b. it should say "turn off". He added the same
34 should be done on page 15 part (e).

35

36 Ms. Dessen asked Mr. Thorsland if she just heard him correctly that they would have to turn the music off at
37 10:00 p.m.

38

39 Mr. Thorsland responded that the text will be in the proposed special conditions. He stated that we have not
40 gotten to that part yet, but the condition as it is written right now says to turn it off. He said that is in
41 compliance with what can be seen up on the screen, which is for the entire county. He said that if you are
42 having a party anywhere in the county and you are playing music outside, it is supposed to stop at 10:00 p.m.
43 He said that has been around for a long time.

44

45 Ms. Griest stated that she is hearing some concern from the petitioner and said that she had a question that

1 might help clarify this. She said that by saying “turn off”, to her as a Zoning Board member, it says you
2 completely turn it off even inside the building. She asked Mr. Hall if that was the intent of the condition, or
3 is it so that the music can no longer be heard outside the building.

4
5 Mr. Hall responded that the intent is the latter, hearing it outside the building but the way he understands it,
6 this building does not have a ventilation system so the doors are generally open and so is it possible to have
7 amplified music indoors in this building and not have it be in effect heard outdoors, that is the question. He
8 said that you could certainly describe it in words that you do not want it to be heard outside.

9
10 Mr. Thorsland said that when we get to the conditions, he has a feeling this condition is going to take us
11 awhile.

12
13 Mr. Hall stated that this is a condition that was first proposed in the first supplemental memo and it was not
14 included in the original memo. He noted that it was not that we were trying to slip it in here in this meeting
15 and was here back in July.

16
17 Ms. Griest stated that she was not trying to infer that at all and that she was just looking for the middle
18 ground. She said she just likes to find the common ground solution.

19
20 Mr. Hall stated that we have had this discussion previously, that if the amplified music is turned off at 10:00
21 p.m. then it absolutely meets the Nuisance Ordinance. He said that is a hard, bright line.

22
23 Mr. Randol asked if a certain party would want to go past that, can a special permit be requested for an
24 individual party to exceed the 10:00 p.m. He said that he is not saying that out of 100 parties a year that all of
25 them would request a special permit, but in a given instance is that a possibility.

26
27 Mr. Hall answered no, you cannot technically get a variance from the Nuisance Ordinance. He stated the
28 only way something like that can happen is the level of enforcement, or in this instance the level of
29 enforcement is being established by the ZBA in establishing these conditions. He said that this condition
30 could be limited to amplified music, but it is his understanding that virtually all the music they use is
31 amplified.

32
33 Mr. Thorsland stated that he has seen other situations where they have limited noise by setting a decibel
34 limit. He said that as we saw with the wind farms, you cannot measure noise the same from second to second
35 let alone for a long time.

36
37 Mr. Passalacqua stated that we have had this area before, where we make another condition that is already
38 governed by something else. He said that as he stated before, it is the actual guests of the occupants that are
39 the source of the noise. He said that the County already has an ordinance in the county about amplified music
40 past 10:00 p.m. He said that he is concerned that the Betas and the Alpha Phi’s are the loud stuff and this is a
41 great venue to have a party, but he is still thinking about the other side of the fence.

42
43 Mr. Thorsland stated that this is sort of a unique building setup because it is not all indoors although it is an
44 80% indoor building.

1 Mr. Passalacqua asked if Minor Farms gets a lot of complaints too even though they don't have the
2 residential concerns as much, but it is a similar venue.

3
4 Mr. Hall stated no. He said that as the Zoning Administrator the effects of Minor Farms concern him much
5 more than the effects here. He said that the level of overall security is much less, it is right on a state
6 highway, and so if there is any wandering around at all by anyone, they are wandering out on the state
7 highway or on the federal interstate, as has happened.

8
9 Mr. Passalacqua stated that he understood, and that he was just trying to gauge the noise complaints because
10 it is equally as irritating to have loud talking, screaming or singing at 11:00 p.m. as it is to hear loud music.
11 He added that he is not against this operation at all and that the goal of writing these conditions is to reduce
12 the number of complaints to nil or low, which he sees are going in that direction. He said that he doesn't care
13 how you write the rules because someone is going to jump the fence and shoot a paintball at somebody's kid,
14 as we've seen before. He said it would be nice to clean this language up, but you can't put a decibel limit on
15 it because you're not going to run out there to measure it.

16
17 Mr. Thorsland stated that the condition as written states "D. Music playing at events must be turned off by
18 10:00 p.m." There is not a lot of cleaning up because it is really simple right now.

19
20 Mr. Passalacqua noted that is what the ordinance says.

21
22 Mr. Thorsland suggested they take a five minute break to think about this and come back at 8:05 p.m. He
23 said he is sure the petitioners have some things they want to say and he wants to let them say it before they
24 come back from the break, then dig into the conditions. He said that right now, the condition about music is
25 about as short as it could be because it just states "Music playing at events must be turned off by 10:00 p.m."

26
27 Ms. Lee stated they have been discussing some things about this and noted that the one complaint that was
28 received by the Zoning Department was in the year 2000 and said that the music could be heard inside their
29 residence. So it is not just the fact that it was outside, because they were inside their residence and it
30 disturbed the child. She added that the complaint was from north of where the additional mobile homes have
31 been located since that date.

32
33 Mr. Thorsland asked if the complaint mentions a certain time that it happened.

34
35 Ms. Lee read that it was at about 10:20 p.m. She said that it is on page 11 of Attachment I, part J.(b). and is
36 the complaint where the child couldn't sleep 3 to 4 nights a week.

37
38 Mr. Thorsland called for a 5 minute break.

39
40 **The Board recessed at 8:02.**

41
42 **The Board resumed at 8:07.**

43
44 Mr. Thorsland thanked everyone for coming back promptly. He said that maybe it is time to start digging
45 through these special conditions and suggested that for now, before it comes off the screen, that they take a

1 good look at the noise ordinance on the screen.

2

3 Mr. Hall reminded everyone that this ordinance does not require that amplified music stop at 10:00 p.m. and
4 it only talks about when that noise can be heard in an adjacent dwelling.

5

6 Mr. Jon Dessen stated that he understands the ordinance, but asked if it was proven that the music was not
7 able to be heard outside of the actual barn, how would that change things.

8

9 Mr. Thorsland stated that is where we are getting here and we are trying to parse down what this means as
10 you heard Mr. Hall just say and Ms. Capel infer.

11

12 Mr. Passalacqua stated that is exactly why he wants the language to read right because he does not want it to
13 be discernible to a person of average ability within the dwelling.

14

15 Ms. Capel stated that what we are trying to do is write a special condition that essentially restates the
16 ordinance.

17

18 Mr. Passalacqua stated that we are trying to expand upon the ordinance.

19

20 Ms. Capel stated that if we say "turned off" it is expanding it, but if we just want to create a condition that
21 requires that this venue comply with the ordinance, if that's the condition we're trying to create, it would not
22 say turn off the music. She said if we set it up so that it is complaint driven, that is hardly fair to the
23 neighborhood.

24

25 Mr. Thorsland proposed that they go through some of the conditions that are not a problem and then spend
26 some time with the noise condition and figure out what we can really do here.

27

28 Mr. Hall asked Mr. Dessen if the Board had a condition that said at 10:00 p.m. music should not be audible
29 at the property line, does he think that would allow more freedom. He said that obviously it would allow
30 more freedom, than just simply turning the music off at 10:00 p.m., but asked Mr. Dessen if it would be a
31 usable standard.

32

33 Mr. Thorsland stated that in going in this direction, at some point someone is going to decide they can hear it
34 at the property line, especially in regards to the east barn, and that someone is going to be bothered enough to
35 call and if it is after 10:00 p.m., a deputy is going to come out and say that the music has to be turned off.
36 He said that until that, maybe what we can do is try to give you the benefit of reducing the volume. He said
37 that again, the petitioner has a unique situation in that the barn doors are open, the music is getting out and
38 they don't have a door to close. He said that there are a number of reasons why the petitioner wouldn't want
39 to put a door on this building because it changes everything and right now, Mr. Gamble is happy with what
40 exists.

41

42 Ms. Capel asked the petitioner how things work there. She asked the petitioner if it is generally a DJ that
43 provides the music and brings the sound system. She asked to what extent, over the course of an evening, do
44 those people interact with the petitioners.

45

1 Ms. Dessen and Mr. David Dessen responded that they are there.

2

3 Ms. Capel asked if they are on the property but not necessarily interacting.

4

5 Mr. David Dessen stated that when buses arrive to pick people up the music is off until the buses are loaded.
6 He said that the only way to get them on the bus is to cut the music entirely. He stated that he talks with both
7 DJs every night.

8

9 Ms. Capel asked if he could go out at 10:00 p.m. and tell them to turn it down.

10

11 Mr. David Dessen agreed and since they have been having them turn the music down at 10:00 p.m. he has
12 stood outside the east barn and it is pretty hard to tell which song is being played, and he's pretty familiar
13 with the songs because he hears them every night. He said it has made a big difference in the level of sound.

14

15 Ms. Capel stated that as long as one or both of them are there representing their interest, she thinks it is much
16 more likely that the DJ will comply with the rules.

17

18 Mr. Jon Dessen stated that the DJs do have control of the volume during the earlier part of the party and it is
19 going to be slightly louder decibels but it tapers down as we get along to 10:00 or 10:30 p.m.

20

21 Ms. Capel stated that Mr. Dessen had answered her question.

22

23 Ms. Griest referred back to Item J.(b) on page 11 of Attachment I. She stated that looking at the map and the
24 aerial photos, we have no way of knowing if item J.(b) pertains to the east barn, because the east barn is the
25 farthest from George Street which is in that northern trailer park and it would be unlikely that the east barn is
26 associated with that in my opinion but we have no way of telling that one way or the other.

27

28 Mr. Thorsland stated that he does not want to get into a detective thing where they are trying to work out
29 where they came from, what time they were, and all these things. He said that on some level, we want to
30 make it so that no one has a reason to call.

31

32 Ms. Griest stated that she thinks it is important to follow up on that, in that the condition we are talking
33 about does not pertain to the west barn, so it is not going to resolve this George Street complaint if there is
34 an issue there.

35

36 Mr. Thorsland stated that the noise ordinance pertains to all of them, so even though we are writing a
37 condition for the east barn, the west barn falls under the general "if they can hear you they can call and they
38 can be stopped." He was encouraged to hear that the Dessens interact with the DJs and maybe the Board
39 wants to put in something about how not just one of the principles but also perhaps these security folks also
40 know what time it is and are helpfully reminding people that it is after 10:00 p.m. and it's time to keep it a
41 little quieter and maybe could we please move the discussion inside. He stated that maybe this is part of what
42 the Dessens can do, not to write all of this down, but we have had other cases before where it has been
43 suggested that the best way is to take a proactive approach. He said it sounds like the petitioners have done a
44 lot of that.

45

1 Ms. Capel stated that she always has a hard time telling people how to implement the Board's conditions in
2 writing.

3
4 Mr. Thorsland concurred, saying that in the end the county Sheriff will come out and say it's too loud.

5
6 Ms. Lee stated that she knows that Ms. Dessen previously made a comment about young ladies yelling
7 loudly. She asked Ms. Dessen what could be done, or what would be her suggestions or proposals to
8 minimize that after 10:00 p.m.

9
10 Ms. Dessen stated that the young women have calmed down a little bit by 10:00 p.m. She said they scream
11 mostly when they see each other as if they hadn't seen each other two hours beforehand so that big scream
12 level goes up at the beginning of the party.

13
14 Mr. Thorsland stated that he did not want to get into human behavior because an occasional cheerful greeting
15 is going to happen at any time and he does not think we want to get into that anymore. He said that the Red
16 Lobster parking lot is probably also guilty of too much loud interaction at certain times of day. He suggested
17 that they go through the easier conditions then come back to condition D., and they would start with
18 condition A.

19
20 Ms. Griest asked if they could start with the condition that she thinks is missing, which is "the special use is
21 subject to the approval of the map amendment". She thought that is normally a condition we have.

22
23 Mr. Thorsland asked if that is in the Final Determination.

24
25 Mr. Hall stated that we have not been including that but it is absolutely true. He said that in the case where
26 the map amendment goes to the County Board but the special use stays here, there's certainly no harm in
27 having it. Mr. Hall asked Ms. Griest to restate the condition.

28
29 Ms. Griest proposed a special condition as follows:

30
31 **The special use is subject to the approval of the map amendment in Case 817-AM-15.**

32
33 The proposed special condition is necessary to ensure the following:

34 **That it is consistent with the intent of the Zoning Ordinance and the ZBA**
35 **recommendation for special use.**

36
37 Mr. Thorsland returned to condition A. He said that he is reading from item 18. on page 23 of Attachment I.
38 He noted that the special conditions appear several times in the document.

39
40 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
41 **proposed combination "Private Indoor Recreational Development" and "Outdoor**
42 **Commercial Recreational Enterprise" until the petitioner has submitted written**
43 **documentation from Doug Gamble at the Illinois Capital Development Board that the**
44 **proposed Special Use complies with the Illinois Accessibility Code.**

45

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

2 **That the proposed Special Use meets applicable state requirements for**
3 **accessibility.**
4

5 Mr. Thorsland asked Ms. Dessen if she had received something from Mr. Gamble.
6

7 Mr. David Dessen responded that he and Ms. Dessen had spoken with Mr. Gamble several times and Mr.
8 Dessen has left messages for Mr. Gamble telling him that they really need something in writing and to date
9 they have not heard back from Mr. Gamble.
10

11 Mr. Jon Dessen stated that last he knew zoning staff was to contact Mr. Gamble and let the Dessens know
12 what was discussed but he has not heard anything since.
13

14 Mr. Thorsland stated that what this condition says is that Mr. Hall is not going to give you all the paperwork
15 until you have a piece of paperwork from Mr. Gamble but it does not say that operations must be stopped.
16 He said that given that, he asked Ms. Dessen if she agreed with the condition that she will get something
17 from Mr. Gamble.
18

19 The petitioners indicated agreement with Special Condition A as it is written.
20

21 Mr. Thorsland read Special Condition B as follows:
22

- 23 **B. The only two principal uses authorized by Case 808-S-15 are a Single Family Residence**
24 **and use of the East Barn as a combination "Private Indoor Recreational Development"**
25 **and "Outdoor Commercial Recreational Enterprise".**
26

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

28 **That the petitioner and future landowners understand the requirements of the**
29 **Zoning Ordinance.**
30

31 Mr. Hall asked that Special Condition B become a little more consistent with the ordinance and
32 recommended the following revision:
33

- 34 **B. The only principal use authorized by Case 808-S-15 is use of the East Barn as a**
35 **combination "Private Indoor Recreational Development" and "Outdoor Commercial**
36 **Recreational Enterprise".**
37
38

39 Mr. Hall stated that revised Special Condition B is literally what the ordinance provides for and the Board
40 can have a special use that is the principal use and the dwelling is an accessory. He said that we are not
41 talking about anything changing we're just trying to put this in language that is consistent with the ordinance.
42 He said that there is only one principal use, and that is this combination indoor-outdoor facility.
43

44 Mr. Thorsland asked for clarification, that the residence is an accessory, and that fact is implied.
45

1 Mr. Hall concurred.

2

3 Mr. Thorsland asked the petitioners if, as it is written there, do they understand what Special Condition B
4 means in that it allows this principal use, the east barn, on this part of the property.

5

6 Ms. Dessen responded yes.

7

8 Mr. Thorsland stated that Special Condition B. is to ensure that the petitioner and future landowners
9 understand the requirements of the Zoning Ordinance. He asked Ms. Lee if she wanted to go back to
10 condition A.

11

12 Ms. Lee asked why Special Condition B. includes language ensuring that future landowners understand the
13 requirements of the Zoning Ordinance. She asked what happens if the future landowner is a family member
14 who is currently actively involved in the venue.

15

16 Mr. Hall stated that Ms. Lee made a good point and that is accurate, so the Board might want to change this
17 condition just so that the petitioner understands the requirements of the Zoning Ordinance.

18

19 Mr. Thorsland read revised Special Condition B. as follows:

20

21 **B. The only principal use authorized by Case 808-S-15 is use of the East Barn as a**
22 **combination “Private Indoor Recreational Development” and “Outdoor Commercial**
23 **Recreational Enterprise”.**

24

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

26

27 **That the petitioner understands the requirement of the Zoning Ordinance.**

28

29 Mr. Thorsland clarified that the change based on Ms. Lee’s comment makes this special use permit only
30 applicable to the petitioner. He stated that the change makes it that once the petitioner no longer owns the
31 property a new owner will have to apply for a new special use permit so that they go through everything that
32 the petitioners have gone through.

33

34 Mr. Jon Dessen asked if Mr. Thorsland was talking as a family.

35

36 Mr. Thorsland said that he believes it that petitioner is only referring to Ms. Loretta Dessen.

37

38 Mr. Hall stated that is a change the Board might want to consider. He said that we have heard more
39 discussion tonight about how Mr. David Dessen is actually there apparently for every event. He said that
40 staff did not understand this fact in the beginning so maybe there is a way to revise that condition because
41 right now it is based on the residency of Ms. Dessen.

42

43 Ms. Griest asked if Ms. Dessen moved off the property but continued to own it, the way Special Condition C
44 reads, the special use would no longer be valid.

45

1 Mr. Hall said that Ms. Griest was correct therefore Special Condition C is going to take some crafting.

2
3 Mr. Thorsland stated that Special Condition B is actually functional the way it is, and Special Condition C is
4 where we want to play with what Ms. Lee is talking about.

5
6 Mr. Randol suggested you could say “and family”.

7
8 Mr. Thorsland asked the Board if they were in agreement with Special Condition B as it is written:

9
10 **B. The only principal use authorized by Case 808-S-15 is use of the East Barn as a**
11 **combination “Private Indoor Recreational Development” and “Outdoor Commercial**
12 **Recreational Enterprise”.**

13
14 The special condition stated above is necessary to ensure the following:
15 **That the petitioner understands the requirements of the Zoning Ordinance.**

16
17 Mr. Thorsland stated that this Special Condition really boils down to this is just for this, and we are going to
18 clarify who these people are because Special Condition C only actually includes Ms. Dessen’s name.

19
20 Mr. Randol asked if this is a family business.

21
22 Mr. Thorsland asked that the Board not get into that discussion until we have Special Condition B. finalized.

23
24 Mr. Randol stated that the discussion could be part of Special Condition C.

25
26 Mr. Thorsland stated that the Board still has to get through Special Condition B. He asked the petitioners if,
27 with the modifications, they understand and agree with just Special Condition B.

28
29 Ms. Dessen stated that she agrees with revised Special Condition B.

30
31 Mr. Thorsland read Special Condition C. as follows:

32
33 **C. The Special Use Permit shall expire when the current resident Loretta Dessen no longer**
34 **resides on the property.**

35
36 The special condition stated above is necessary to ensure the following:
37 **That life safety concerns and public welfare are adequately considered in**
38 **management of the proposed Special Use.**

39
40 Mr. Thorsland asked to work on this so that it better reflects the testimony received tonight. He said that it
41 sounds like the petitioners are in charge of DJ management a lot of the time as well as a lot of other things,
42 such as bus directionality. He asked the Board what they would like to do regarding Special Condition C.
43 and what would the Dessens like Special Condition C to say. He asked the Dessens if they want this use to
44 continue in the future, if they have nieces and nephews or other relatives.

45

1 Mr. David Dessen stated that in Ms. Dessen’s will she has given him Farm Lake Inc., which is actually
2 nothing other than the business therefore without the property it is nothing. He stated that Ms. Dessen’s plan
3 is for him to continue with the events business.

4
5 Mr. Thorsland asked the Board how they feel about that.

6
7 Ms. Capel asked Mr. David Dessen if he would be residing on the property.

8
9 Mr. David Dessen responded he would, at least during the party season.

10
11 Mr. Thorsland asked if there were any parties in January.

12
13 Ms. Dessen responded no because there is no heat and no doors.

14
15 Mr. Thorsland asked the Board if the Special Condition should be revised to indicate Ms. Loretta Dessen and
16 David Dessen, part-time resident, do we want to be that specific or do we want to just say the Dessen family.

17
18 Mr. Hall provided a draft, which read as follows:

19
20 **C. The Special Use Permit shall expire when the property is no longer owned and managed**
21 **by Loretta Dessen or her direct heirs.**

22
23 The special condition is necessary to ensure the following:

24 **That life safety concerns and public welfare are adequately considered in**
25 **management of the proposed Special Use.**

26
27 Ms. Dessen said that she agrees with revised Special Condition C.

28
29 Mr. Thorsland stated the second part of that condition will stay the same, which is what the Dessens are
30 basically doing now, keeping everybody safe and keeping the neighbors happy.

31
32 Mr. Thorsland read Special Condition D as follows:

33
34 **D. Music playing at events must be turned off by 10:00 p.m.**

35
36 The special condition stated above is necessary to ensure the following:

37
38 **That events held on the subject property adequately consider prior noise**
39 **complaints and current neighbors.**

40
41 Mr. Passalacqua proposed the following revision to Special Condition D:

42
43 **D. The petitioners shall ensure that the guests are made aware of the county ordinance**
44 **prohibiting nuisance noise past 10:00 p.m. and that the use of the facility requires**
45 **compliance to avoid complaints from neighboring residences.**

1
2 Mr. Hall stated that it is a good standard, and yet he does not think it is quite as easy to implement as saying
3 the following:

4
5 **D. There shall be no music audible at the property line after 10:00 p.m.**
6

7 Mr. Passalacqua stated that we could certainly add to that. He re-read his proposed revision:

8
9 **D. The petitioners shall ensure that the guests are made aware of the County Ordinance**
10 **prohibiting nuisance noise past 10:00 p.m. and that the use of the facility requires**
11 **compliance to avoid complaints from neighboring residences.**
12

13 Mr. Thorsland suggested adding the following:

14
15 **...and music should be turned down at 10:00 p.m. so as not to be heard beyond the**
16 **property line.**
17

18 Mr. Thorsland stated that the Board needs to be pretty specific about the music in that it cannot be heard
19 beyond the property line after 10:00 p.m.

20
21 Ms. Griest asked if it was just the music.
22

23 Mr. Thorsland stated it could say the following:

24
25 **...and music and other noise shall not be audible beyond the property line.**
26

27 Mr. Hall stated that it should not just be music; rather, it should be

28
29 **...music and all noise associated with the use of the property beyond the property line.**
30

31 Ms. Capel suggested adding nuisance before noise in that statement.
32

33 Mr. Thorsland asked the Board if this is acceptable, or if it should just be decided when the Sheriff comes
34 out or when the Zoning Department receives the complaint.
35

36 Ms. Capel suggested that if it is noise that is audible beyond the property line, it is nuisance noise. She said
37 that just describes it as nuisance noise as opposed to trying to define the decibels.
38

39 Mr. Thorsland said we're sort of tying it in with the Nuisance Ordinance.
40

41 Ms. Capel concurred.
42

43 Mr. Thorsland read revised Special Condition D. as follows:
44

45 **D. The Petitioner shall ensure that the guests are made aware of the County Ordinance**

1 prohibiting nuisance noise past 10:00 pm and that the use of the facility requires
2 compliance to avoid complaints from neighboring residences. Music and other
3 nuisance noise shall not be audible at the property line past 10:00 pm.
4

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

6 That events held on the subject property adequately consider prior noise
7 complaints and current neighbors.
8

9 Ms. Dessen stated that she believes that they can comply with that and they will do their best to comply.
10

11 Mr. Thorsland asked for a simple yes or no.
12

13 Ms. Dessen stated yes.
14

15 Mr. Thorsland stated that original proposed Special Conditions E. and F. were stricken and read the new
16 Special Condition E:
17

18 E. The Petitioner shall bi-annually provide a Certificate of Insurance to the Zoning
19 Administrator issued by an insurance carrier authorized to do business in the State of
20 Illinois for general liability insurance coverage limits, with minimum acceptable
21 coverage for bodily injury of \$1,000,000 per occurrence and \$2,000,000 per aggregate.
22

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

24 That the property owner is in compliance with the Illinois Liquor Control Act
25 (235 ILCS 5/6-21).
26

27 Mr. Dessen submitted a copy of their current Certificate of Insurance to Mr. John Hall, Zoning
28 Administrator, as a Document of Record.
29

30 Mr. Thorsland asked Ms. Dessen if she agrees with Special Condition E.
31

32 Ms. Dessen stated that she agrees with Special Condition E.
33

34 Mr. Thorsland read new Special Condition F as follows:
35

36 F. The Petitioner will not allow visitors into the water or onto the docks on the subject
37 property.
38

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

40 That safety continues to be proactively managed for all visitors.
41

42 Ms. Dessen stated that if someone sets their foot in the water they get sent home.
43

44 Mr. Thorsland reminded everyone that the whole special use permit is about the east barn. He read proposed
45 Special Condition G. as follows:

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G. After 10:00 p.m. guests’ use of the grounds should be limited to only the area within the immediate vicinity of the East Barn.

The special condition stated above is necessary to ensure the following:
That noise disruptive to nearby residents and safety hazards with the nearby lakes are minimized.

Mr. Thorsland asked Ms. Dessen if she agrees with Special Condition G.

Ms. Dessen stated that she agrees with Special Condition G.

Mr. Thorsland read proposed Special Condition H as follows:

H. The Special Use is subject to the approval of Case 817-AM-15.

The special condition stated above is necessary to ensure the following:
That it is consistent with the intent of the ordinance and the ZBA recommendation for Special Use.

Mr. Thorsland stated that just because the Zoning Board of Appeals decides a map amendment is done does not mean that it has been approved; it must be approved by the Environment and Land Use Committee and the full County Board as well. Mr. Thorsland asked Ms. Dessen if she agrees with Special Condition H.

Ms. Dessen stated that she agrees with Special Condition H.

Mr. Thorsland asked if there were any questions about the conditions before the Board approves them. He entertained a motion to approve the Special Conditions as amended.

Ms. Griest moved, seconded by Ms. Capel, to approve the Special Conditions as amended. The motion carried by voice vote.

Mr. Thorsland asked if there were any new Documents of Record.

Mr. Hall stated that a new item #7 should be added to the Documents of Record as follows: Certificate of Insurance submitted by Ms. Loretta Dessen at the November 12, 2015, public hearing.

Mr. Hall stated that seven items is a record low number of Documents of Record, which is good.

Finding of Fact for Case 808-S-15:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 808-S-15 held on July 30, 2015 and November 12, 2015, the Zoning Board of Appeals of Champaign County finds that:

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

Ms. Griest stated that the requested Special Use Permit IS necessary for the public convenience at this location because it brings an existing use into compliance with the Zoning Ordinance.

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 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 traffic capacity and the entrance location has ADEQUATE visibility.

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

b. Emergency services availability is ADEQUATE.

Ms. Capel stated that emergency services availability is ADEQUATE.

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

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

d. Surface and subsurface drainage WILL be ADEQUATE.

Ms. Capel stated that surface and subsurface drainage will be ADEQUATE.

e. Public safety WILL be ADEQUATE.

Ms. Capel stated that public safety will be ADEQUATE.

f. The provisions for parking WILL be ADEQUATE.

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

Ms. Capel 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.

3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS, IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

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Mr. Passalacqua stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located because:

a. The Special Use will be designed to CONFORM to all relevant County ordinances and codes.

Mr. Passalacqua stated that the Special Use will be designed to CONFORM to all relevant County ordinances and codes.

b. The Special Use WILL be compatible with adjacent uses.

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

c. Public safety WILL be ADEQUATE.

Mr. Passalacqua stated that public safety will be ADEQUATE.

Mr. Thorsland 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.

4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS 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 necessary for the public convenience at this location.

Ms. Thorsland stated that the Board already determined 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.

1 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITION
2 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
3 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
4 and welfare.

- 5
- 6 **d. The requested Special Use Permit, SUBJECT TO THE SPECIAL**
- 7 **CONDITIONS IMPOSED HEREIN, DOES preserve the essential character**
- 8 **of the DISTRICT in which it is located.**
- 9

10 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
11 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

12
13 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
14 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

- 15
- 16 **5. The requested Special Use IS NOT an existing nonconforming use.**
- 17

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

- 19
- 20 **6. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO**
- 21 **ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS**
- 22 **AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**
- 23

- 24 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for**
- 25 **the proposed combination “Private Indoor Recreational Development” and**
- 26 **“Outdoor Commercial Recreational Enterprise” until the petitioner has**
- 27 **submitted written documentation from Doug Gamble at the Illinois Capital**
- 28 **Development Board that the proposed Special Use complies with the Illinois**
- 29 **Accessibility Code.**
- 30

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

32 **That the proposed Special Use meets applicable state requirements for**

33 **accessibility.**

34

- 35 **B. The only principal use authorized by Case 808-S-15 is use of the East Barn as a**
- 36 **combination “Private Indoor Recreational Development” and “Outdoor**
- 37 **Commercial Recreational Enterprise”.**
- 38

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

40 **That the petitioner understands the requirements of the Zoning**

41 **Ordinance.**

42

- 43 **C. The Special Use Permit shall expire when the property is no longer owned by**
- 44 **Loretta Dessen or her direct heirs.**
- 45

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The special condition stated above is necessary to ensure the following:
That life safety concerns and public welfare are adequately considered in management of the proposed Special Use.

- D. The Petitioner shall ensure that the guests are made aware of the County Ordinance prohibiting nuisance noise past 10:00 pm and that the use of the facility requires compliance to avoid complaints from neighboring residences. Music and other nuisance noise shall not be audible at the property line past 10:00 pm.**

The special condition stated above is necessary to ensure the following:
That events held on the subject property adequately consider prior noise complaints and current neighbors.

- E. The Petitioner shall bi-annually provide a Certificate of Insurance to the Zoning Administrator issued by an insurance carrier authorized to do business in the State of Illinois for general liability insurance coverage limits, with minimum acceptable coverage for bodily injury of \$1,000,000 per occurrence and \$2,000,000 per aggregate.**

The special condition stated above is necessary to ensure the following:
That the property owner is in compliance with the Illinois Liquor Control Act (235 ILCS 5/6-21).

- F. The Petitioner will not allow visitors into the water or onto the docks on the subject property.**

The special condition stated above is necessary to ensure the following:
That safety continues to be proactively managed for all visitors.

- G. After 10:00 pm guests' use of the grounds should be limited to only the area within the immediate vicinity of the East Barn.**

The special condition stated above is necessary to ensure the following:
That noise disruptive to nearby residents and safety hazards with the nearby lakes are minimized.

- H. The Special Use is subject to the approval of Case 817-AM-15.**

The special condition stated above is necessary to ensure the following:
That it is consistent with the intent of the ordinance and the ZBA recommendation for Special Use.

Mr. Thorsland stated that these conditions have been discussed, amended and approved by the petitioners. He entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of Fact as

1 amended.

2

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

5

6 Mr. Thorsland entertained a motion to move to the Final Determination.

7

8 Ms. Griest moved, seconded by Ms. Capel to move to the Final Determination. The motion carried by
9 voice vote.

10

11 **Final Determination for Case 808-S-15:**

12

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

17

18 The Special Use requested in Case 808-S-15 is hereby GRANTED WITH SPECIAL
19 CONDITIONS to the applicant Loretta Dessen d.b.a. Farm Lake, Inc., to authorize the
20 following as a Special Use on land that is to be rezoned to the AG-2 Agriculture Zoning District
21 from the current R-4 Multi Family Residential Zoning District in related Zoning Case 817-
22 AM-15:

23

24 Authorize a Special Use Permit for a combination “Private Indoor Recreational Development”
25 and “Outdoor Commercial Recreational Enterprise” to allow existing and ongoing use of an
26 existing barn as a rentable venue for entertainment and recreation.

27

28 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

29

30 A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for
31 the proposed combination “Private Indoor Recreational Development” and
32 “Outdoor Commercial Recreational Enterprise” until the petitioner has
33 submitted written documentation from Doug Gamble at the Illinois Capital
34 Development Board that the proposed Special Use complies with the Illinois
35 Accessibility Code.

36

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

40

41 B. The only principal use authorized by Case 808-S-15 is use of the East Barn as a
42 combination “Private Indoor Recreational Development” and “Outdoor
43 Commercial Recreational Enterprise”.

44

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

That the petitioner understands the requirements of the Zoning Ordinance.

- C. The Special Use Permit shall expire when the property is no longer owned by Loretta Dessen or her direct heirs.**

The special condition stated above is necessary to ensure the following:
That life safety concerns and public welfare are adequately considered in management of the proposed Special Use.

- D. The Petitioner shall ensure that the guests are made aware of the County Ordinance prohibiting nuisance noise past 10:00 pm and that the use of the facility requires compliance to avoid complaints from neighboring residences. Music and other nuisance noise shall not be audible at the property line past 10:00 pm.**

The special condition stated above is necessary to ensure the following:
That events held on the subject property adequately consider prior noise complaints and current neighbors.

- E. The Petitioner shall bi-annually provide a Certificate of Insurance to the Zoning Administrator issued by an insurance carrier authorized to do business in the State of Illinois for general liability insurance coverage limits, with minimum acceptable coverage for bodily injury of \$1,000,000 per occurrence and \$2,000,000 per aggregate.**

The special condition stated above is necessary to ensure the following:
That the property owner is in compliance with the Illinois Liquor Control Act (235 ILCS 5/6-21).

- F. The Petitioner will not allow visitors into the water or onto the docks on the subject property.**

The special condition stated above is necessary to ensure the following:
That safety continues to be proactively managed for all visitors.

- G. After 10:00 pm guests' use of the grounds should be limited to only the area within the immediate vicinity of the East Barn.**

The special condition stated above is necessary to ensure the following:
That noise disruptive to nearby residents and safety hazards with the nearby lakes are minimized.

- H. The Special Use is subject to the approval of Case 817-AM-15.**

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

1 **That it is consistent with the intent of the ordinance and the ZBA**
2 **recommendation for Special Use.**

3
4 Mr. Thorsland requested a roll call vote.

5
6 The roll was called as follows:

7
8 **Lee - yes Passalacqua - yes Randol - yes**
9 **Capel – yes Griest – yes Thorsland – yes**

10
11 Mr. Hall informed Ms. Dessen that she has received an approval for her request for a Special Use Permit.

12
13 **7. Staff Report**

14
15 None.

16
17 **8. Other Business**

18
19 A. Review of Docket

20
21 Mr. Hall stated that the special ZBA meeting scheduled for December 3, 2015, has been cancelled because
22 unbeknownst to him and the person in Administrative Services who reserved the meeting room that night,
23 they had changed the ELUC schedule and ELUC will be meeting in the Lyle Shields Meeting Room on
24 December 3rd. He stated that staff did not even check on availability of the John Dimit Room for that date
25 because that room generally doesn't work very well for public hearings. He said that staff decided to move
26 everything that was on the December 3rd agenda to the December 17th agenda.

27
28 Mr. Passalacqua stated that he will not be at the January 14, 2016, ZBA meeting.

29
30 Mr. Thorsland stated that he will not be at the December 17, 2015, ZBA meeting.

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

33
34 None

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
42 The meeting adjourned at 8:51 p.m.

1 Respectfully submitted

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6 Secretary of Zoning Board of Appeals

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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: December 10, 2015**

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

8
9 **TIME: 6:30 p.m.**

Urbana, IL 61802

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

13
14 **MEMBERS ABSENT :** Eric Thorsland

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

17
18 **OTHERS PRESENT :** Dennis Ohnstad, John North, Scott Harding, Lott Thomas

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

DRAFT

22
23 The meeting was called to order at 6:30 p.m.

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

27
28 **Mr. Passalacqua moved, seconded by Mr. Randol to appoint Catherine Capel as the Interim Chair**
29 **for tonight's meeting. The motion carried by voice vote.**

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

32
33 The roll was called and a quorum declared present with one member absent.

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

38
39 **3. Correspondence**

40
41 None

42
43 Ms. Capel entertained a motion to rearrange the agenda.

44
45 **Ms. Griest moved, seconded by Ms. Lee to hear a portion of item 8A. Other Business, prior to item**
46 **4. Minutes. The motion carried by voice vote.**

1
 2 Mr. John Hall, Zoning Administrator, introduced the Board’s newest member, Frank DiNovo, who was
 3 appointed to the Zoning Board of Appeals at the last County Board Meeting. Mr. Hall stated that this is
 4 the first time in approximately two years that the Zoning Board of Appeals has had a full Board. He
 5 welcomed Mr. DiNovo to the ZBA.
 6

7 **4. Approval of Minutes (October 15, 2015 and October 29, 2015)**
 8

9 Ms. Capel entertained a motion to approve the October 15, 2015, minutes as submitted.
 10

11 **Ms. Griest moved, seconded by Ms. Lee to approve the October 15, 2015, minutes as submitted.**
 12

13 Ms. Capel asked the Board if there were any corrections or additions to the October 15, 2015, minutes
 14 and there were none.
 15

16 **The motion carried by voice vote.**
 17

18 Ms. Capel entertained a motion to approve the October 29, 2015, minutes as submitted.
 19

20 **Ms. Griest moved, seconded by Ms. Lee to approve the October 29, 2015, minutes as submitted.**
 21

22 Ms. Capel asked the Board if there were any corrections or additions to the October 15, 2015, minutes
 23 and there were none.
 24

25 **The motion carried by voice vote.**
 26

27 Mr. Hall noted that there are two new public hearings on the agenda tonight and the second case on the
 28 agenda is a text amendment. He said that there are two witnesses present for Case 819-AT-15 who wish
 29 to present testimony but during the last week staff has had a lot of discussions with the City of Urbana’s
 30 staff and everyone involved in the text amendment is hopeful that the amendment can be revised so that
 31 we won’t have a municipal protest. He said that he does not see a lot of value in discussing Case 819-
 32 AT-15 tonight but it is the Board’s call. He said that Case 818-S-15 is a Special Use case and it will take
 33 a lot of time for the Board to work through the findings. He said that Case 819-AT-15 could simply be
 34 moved up on the agenda and continued to the next meeting on December 17th or leave it on the agenda
 35 as written.
 36

37 **Ms. Griest moved, seconded by Mr. Passalacqua to rearrange the agenda and hear Case 819-AT-
 38 15 prior to Case 818-S-15. The motion carried by voice vote.**
 39

40 Ms. Capel called Case 819-AT-15.
 41

42 **5. Continued Public Hearing**
 43

44 None

1
2 **6. New Public Hearings**
3

4 **Case 818-S-15 Petitioner: Dennis Ohnstad and John North, d.b.a. Woods Edge Development, Inc.**
5 **Request: Part A. Authorize the expansion of a Manufactured Home Park to include four**
6 **previously constructed manufactured dwelling units that were not included in the original**
7 **authorization for the Woods Edge Manufactured Home Park approved on March 9, 1989, under**
8 **Special Use Case 652-S-88. Part B. Authorize a minimum setback (yard) of 0 feet in lieu of ten feet**
9 **between the manufactured home and the manufactured home site, as per Section 6.2.2E of the**
10 **Zoning Ordinance for the previously constructed manufactured dwelling units in Phase 2 of**
11 **Woods Edge that are also the subject of Part A of the requested Special Use Permit: 297A Apple**
12 **Tree Dr., 297B Apple Tree Dr., 299A Apple Tree Dr., 299B Apple Tree Dr. Part C. Authorize a**
13 **minimum setback (yard) of 5 feet in lieu of 10 feet between the manufactured dwelling units in**
14 **Phase 2 of Woods Edge: 844 Peach St, 845 Peach St, 846 Peach St, 847 Peach St, 849 Peach Tree**
15 **St, 855 Peach Tree ST, 857 Peach Tree St, 861 Peach Tree St, 863 Peach Tree St, 864 Peach Tree**
16 **St, 865 Peach Tree St, 866 Peach Tree St, 867 Peach Tree St, 869 Peach Tree St, 870 Peach Tree St,**
17 **871 Peach Tree St, 872 Peach Tree St, 874 Peach Tree St, 876 Peach Tree St, 877 Peach Tree St,**
18 **879 Peach Tree St, 338 Plum Tree Dr., 340 Plum Tree Dr. Part D. Authorize a minimum setback**
19 **(yard) of 5 feet in lieu of 10 feet between the manufactured home and the manufactured home site**
20 **boundary, as per Section 6.2.2E of the zoning Ordinance for all manufactured home sites in future**
21 **Phase 3 of Woods Edge. Location: A 42.09 acre tract in the Northwest Quarter of Section 5,**
22 **Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township with an**
23 **address of 202 Apple Tree Drive, Urbana.**
24

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

34 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign
35 the witness register for that public hearing. She reminded the audience that when they sign the witness
36 register they are signing an oath.
37

38 Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.
39

40 Mr. John North and Mr. Dennis Ohnstad stated that they will defer any statements at this time.
41

42 Ms. Capel asked the Board if there were any questions for the petitioners and there were none.
43

44 Ms. Capel asked if staff had any questions for the petitioners and there were none.

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Ms. Capel called John Hall to testify.

Mr. John Hall, Zoning Administrator, distributed a new handout, which is the enlarged site plan from Case 652-S-88, to the Board for review. He said that the enlargement does not provide a lot of detail that was missing from the smaller version but the original copy was not a very good copy.

Ms. Lee stated that item 9.C(2) on page 13 of 27 of the Summary of Evidence states as follows: An as-built review of the detention basin was not performed; however, based on most recent information, the Zoning Administrator determined on September 23, 2015, that the property has sufficient retention capacity. She asked Mr. Hall if the sufficient retention capacity is for the entire project including all of the acreage.

Mr. Hall stated yes. He said that the detention basin was designed for all of the development that is proposed.

Ms. Lee asked Mr. Hall if the detention basin complies with the County's current *Stormwater and Erosion Control Ordinance*.

Mr. Hall stated no. He said that the detention basin was designed before the County had a Stormwater Policy and was designed according to the standards that were established in Case 652-S-88 and an engineer verified that. He said that he is not aware of any drainage problems that would suggest that additional detention is required.

Ms. Lee asked Mr. Hall if it complies with what the County has right now.

Mr. Hall stated no and it never had to.

Mr. Passalacqua stated that the way that Part D. is written it appears that the petitioners would like the Board to change the Ordinance or make an exception for future construction and he is not a fan of that at all.

Mr. Hall stated that the petitioners probably would encourage the Board to amend the Ordinance and there are a lot of ways in which the Ordinance could be improved. He said that this is the only time that this particular waiver has been requested so he cannot indicate that there has been a lot of demand for this type of request even though it appears to match the needs of this petitioner.

Ms. Lee stated that she spoke with Mr. Hall before the meeting and asked him if the land to the east was being farmed and he indicated yes. She said that item 4.C. on page 3 of 27 of the Summary of Evidence should be revised as follows: Land to the east of the subject property is zoned AG-2 and R-5, and is agricultural and residential in use. She asked Mr. Hall if there is a requirement for barriers between the agricultural use and the mobile home park.

Mr. Hall stated that Ms. Lee is referring to one of the Land Resource Management Plan policies that

1 states that some kind of buffer will always be considered in a discretionary decision. He said that the
2 east side of the subject property has already been developed so if there were a need for a buffer he
3 believes that it would be a difficult situation and in fact there have never been any complaints regarding
4 incompatibility between the residential use and the agriculture.
5

6 Ms. Lee stated that the Board had a previous case involving a horticulture use in a storage shed on the
7 property and the Board addressed possible conflicting issues with surrounding agriculture.
8

9 Mr. Hall stated that during that previous case the Board already had many instances of the non-
10 agricultural use crossing the property line and as far as he knows we do not have that instance in this
11 case.
12

13 Mr. Randol stated that also during that previous case there were complaints filed that dealt with that
14 issue.
15

16 Mr. Hall stated that the previous case dealt with the proposed self-storage on South Duncan Road.
17

18 Ms. Lee stated that Mr. Hall was correct.
19

20 Mr. DiNovo asked Mr. Hall that since this is a retrospective special use permit, what would happen if
21 the special use permit request was denied.
22

23 Mr. Hall stated that the property would be out of conformance, as it is currently, and theoretically it
24 would rise to the level of an enforcement case. He said that staff has not received any complaints and
25 staff was not aware that the property was out of conformance until a request for information regarding
26 the property was received. He said that during staff's response to the request it was discovered that there
27 had been construction that was not in compliance with the Ordinance and he cannot explain why or how
28 this situation happened.
29

30 Mr. DiNovo stated that it appears that there was no Zoning Use Permit issued for the Phase 2 expansion.
31 He asked Mr. Hall if there was a Zoning Use Permit issued for Phase 1.
32

33 Mr. Hall asked Ms. Chavarria if Phase 1 pre-dated the adoption of the Zoning Ordinance or was there
34 actually a Zoning Use Permit issued.
35

36 Ms. Chavarria stated that there was an initial phase, Phase 0, before 1973 and then there was the Phase 1
37 expansion that did receive a Zoning Use Permit.
38

39 Mr. Hall stated that the permitting information for the subject property is indicated under item 5 on
40 pages 3 and 4 of 27 of the Summary of Evidence. He said that in regards to Phase 2, staff did inspect
41 some aspects of it but never actually approved the development the way it happened with the current
42 yards which is one of the reasons why the petitioners are before the Board tonight. He said that staff was
43 not aware of the existence of the existing duplexes.
44

1 Mr. Passalacqua asked Mr. Hall if the agricultural portion is still under the same ownership as well.

2
3 Mr. Hall stated that he does not believe so.

4
5 Mr. Passalacqua asked if the agricultural portion is accessed from the north.

6
7 Ms. Chavarria stated that the agricultural portion is accessed off of the road to the east.

8
9 Ms. Lee stated that the Land Use Map on page 2 of 3 of Attachment A. indicates a mobile home park
10 located to the south and east of the agricultural land. She asked Mr. Hall if this mobile home park is
11 owned by the petitioners.

12
13 Mr. Hall stated no. He said that in Case 652-S-88 there was an emergency outlet to the streets there and
14 when Ms. Chavarria conducted her site visits the street in the mobile home park to the south and east of
15 the agricultural land had vehicles and other items parked on it so it was not clear to staff if the street was
16 really a viable emergency access. He said that in his mind this is one of the difficulties about this case
17 because the Board needs to decide if it wants to keep that requirement or beef it up to make the access
18 useable or determine it is not necessary. He said that he does not have an answer for the Board either
19 way regarding the street but if it is actually necessary for emergency access it is not adequate.

20
21 Ms. Griest asked Mr. Hall if it is within the Board's purview to require emergency access onto privately
22 owned property. She said that this street is not a public road.

23
24 Mr. Hall stated that any street in a manufactured home park has to be available for emergency services
25 and the only way to make sure that it is accessible is to make this petitioner achieve that somehow and
26 that could be very difficult. He said that the Board should weigh if this is really something that the
27 Board should be requiring.

28
29 Mr. DiNovo stated that he visited the property today and he had a very hard time getting his car down
30 the street and it wasn't due to things on the east side of the gate but the entire length of the street is very
31 narrow and there is parking on both sides. He said that there is no way that any emergency vehicle could
32 get down that street very quickly. He said that he does not know if the street access requirement was
33 part of the petition in 1988 but it is an unrealistic condition. He said that he believes that the concern
34 remains that without some means of emergency access there are over 200 dwelling units that could
35 potentially have only one means of ingress and egress.

36
37 Ms. Capel stated that all of the homes are 10 feet apart.

38
39 Mr. Passalacqua stated that the waiver for separation makes the situation worse.

40
41 Mr. Hall stated that many of the newer residential areas in southwest Champaign are only required to be
42 10 feet apart.

43
44 Mr. Passalacqua stated that some homes in that area may be less than 10 feet apart but that will not be

1 good when there is a huge fire and that allowance did not come across this Board's table.

2
3 Mr. Hall stated that it didn't come across this Board but previous Boards did have some input on that
4 decision. He said that it is his understanding that no comments have been received from the fire
5 protection district.

6
7 Ms. Chavarria stated that no comments have been received from the fire protection district.

8
9 Ms. Griest noted that the fire chief for the fire protection district will be in attendance at the next public
10 hearing. She said that Mr. Kobel is the fire chief for the Eastern Prairie Fire District. She said that there
11 are several references to the manufactured homes being placed in accordance with the State of Illinois
12 guidelines. She asked if there is any data on the State guidelines which may address some of the
13 concerns about the proximity issue, being closer than what the County's Ordinance requires. She said
14 that perhaps historical data is available which would indicate incidents due to proximity.

15
16 Mr. Hall stated that the petitioner may be aware of such information but he is not aware of any historical
17 data that is available for the Board's review. He said that he would take it at face value that if the State
18 of Illinois believes that it is adequate then it should be adequate although he does not believe that the
19 State of Illinois' guidelines address the issue of the duplexes. He said that if one is to adopt the State of
20 Illinois' guidelines what does the Board do in regards to the duplexes. He said that duplex construction
21 happens every day but this is the first time that he has seen it in a manufactured home park and that
22 might be a reason why this is a groundbreaking example for Champaign County. He said that he is not
23 sure what to do with the State of Illinois guidelines because they do not cover everything that is in front
24 of the Board tonight.

25
26 Ms. Griest stated that perhaps this is something that the Board can request the petitioners to speak to as
27 far as the standards of manufactured home building and how they have changed since the County
28 originally approved this as a manufactured home park and possibly those units are manufactured homes
29 comparable to the homes built in many of the subdivisions.

30
31 Ms. Lee stated that item 5.B.(1)f. on page 4 of 27 of the Summary of Evidence states that the approved
32 typical Manufactured Home Site Plan for Case 652-S-88 indicates 10 feet side and rear yard setbacks.
33 She said that basically that was what was done in 1988 when this was initially approved, correct.

34
35 Mr. Hall stated that is what was indicated and is in conformance with the Ordinance but that is not what
36 was constructed.

37
38 Mr. DiNovo asked Mr. Hall if the site plan that was distributed tonight is the site plan that was submitted
39 for Case 652-S-88. He asked if he is correct in understanding that the spaces have gone from 5,000
40 square foot spaces to 7,875 square foot spaces. He said that the distributed site plan does not accurately
41 portray the current layout of the park. He asked if the Board could obtain an accurate site plan of the
42 current configuration of the park.

43
44 Mr. Hall stated that this is not intended to be an accurate portrayal of the park. He said that just as in the

1 first case staff can only do so much when documents are requested for submittal.

2
3 Mr. DiNovo stated that currently, staff does not have an accurate site plan of the development showing
4 the current layout and Phase 3.

5
6 Mr. Hall stated that Mr. DiNovo's question is a good question for the petitioners. He said that he would
7 assume that leaving it opened for Phase 3 leaves some flexibility in regards to density. He said that there
8 are fewer homes out there now than what was approved during Case 652-S-88 but on the remaining land
9 waiting to be developed Case 652-S-88 would still be a sort of a maximum density. He said that staff
10 does not have an accurate site plan of the development as it exists today nor an accurate site plan of a
11 typical home site except what was submitted in Case 652-S-88.

12
13 Ms. Griest asked Mr. Hall if the Board could request this documentation.

14
15 Mr. DiNovo stated that he cannot imagine approving this case without an accurate site plan.

16
17 Ms. Griest stated that the purpose of her question is that an accurate site plan which depicts how the
18 property currently sits and how it will be configured in the future materially affects the Board's decision
19 regarding the setbacks.

20
21 Mr. Hall stated that he does not know how long it will take for the petitioners to have an accurate site
22 plan for the Board's review but he does know that the petitioners were hoping to get this project
23 approved by the end of the year but with that requirement it will not be possible. He said that the Board
24 should discuss this with the petitioners.

25
26 Ms. Chavarria asked the Board if they are looking for a site plan for an individual manufactured home
27 site or an updated site plan for the entire Wood's Edge development.

28
29 Ms. Capel stated both.

30
31 Ms. Chavarria stated that a typical home site plan is included in the packet. She said that Attachment B.
32 indicates a typical manufactured home site from Case 652-S-88 and Attachment J. is a typical
33 manufactured home site showing the 5' setback for the side yard and 75' x 105' lot size.

34
35 Mr. DiNovo asked Ms. Chavarria how many units there are in Wood's Edge.

36
37 Ms. Chavarria stated that perhaps the Board should invite the petitioners to testify regarding these
38 questions.

39
40 Ms. Capel asked the petitioners if they would like to address the Board's questions.

41
42 Mr. John North, who resides at 2170 Old Policeman's Road, St. Joseph and Dennis Ohnstad who resides
43 at 2607 East Main, Urbana, approached the witness microphone to address the Board's questions.

44

1 Ms. Chavarria stated that the Board's last question was how many manufactured home sites are currently
2 located in Wood's Edge.
3
4 Mr. John North stated that there are 176 manufactured home sites which include the original portion
5 developed in the early 70's.
6
7 Ms. Capel stated that the petitioners are requesting that the Board waive the standards for a 5' side yard
8 for the future development. She asked the petitioners if they have a site plan for that future
9 development.
10
11 Mr. North stated that they do not have a site plan that indicates the specific sites but they do have a
12 general area design but the number of sites has not been determined yet.
13
14 Ms. Capel asked Mr. North if he does not know how many sites will be in that development.
15
16 Mr. North stated no.
17
18 Mr. Passalacqua asked Mr. North if there is an existing accurate site plan of what is on the property
19 currently.
20
21 Mr. North stated yes.
22
23 Mr. Passalacqua asked Mr. North if the Board could obtain that site plan relatively quickly.
24
25 Mr. North asked Mr. Passalacqua to clarify if he is looking for a specific site plan or just a site plan
26 defining the lots.
27
28 Mr. Passalacqua stated that the Board desires an as-built site plan of the entire property. He said that the
29 Board was just informed that the current site plan is not accurate.
30
31 Mr. North asked Mr. Passalacqua how the current site plan is not accurate.
32
33 Mr. Passalacqua asked Mr. Hall if he understood correctly that the current site plan before the Board is
34 not accurate and is not as-built.
35
36 Mr. Hall stated that the current site plan before the Board is what was proposed in Case 652-S-88. He
37 said that the park has resulted in many fewer units than what Case 652-S-88 authorized. He said that the
38 lots are bigger even though things are closer to the lot line than what the Ordinance would allow.
39
40 Ms. Griest stated that the areas of lots 63, 64, 65 and 66 on the right side of the original site plan
41 compared to the aerial photograph, Attachment H. page 1, it is apparent that some of the lots were
42 combined as a housing unit. She said that even though there were more lots proposed the petitioners
43 have combined some of the lots and placed larger homes on those lots and developed fewer home sites.
44 She said that the Board would like to have an accurate site plan to review so that the Board is clear on

1 how many areas these combinations occurred in or did not occur in.

2

3 Mr. North stated that lot 65 was not intended to be a lot but was the emergency access road that was
4 engineered on the original site plan.

5

6 Mr. Dennis Ohnstad stated that when they were planning the property they did not anticipate more than
7 one home per site but as the sites were built upon it became apparent that people were buying bigger and
8 bigger homes. He said that he does not remember when the current site plan was submitted or what they
9 added after that but it is not uncommon today to eliminate two lots to make one lot for a larger home.

10 He said that it is important for them to make the lots aesthetically appealing for the people who reside in
11 the park and aesthetically appealing for the neighbors and this practice has proven that and has become a
12 model for how they develop in the future.

13

14 Ms. Capel stated that the Board does not have a site plan for Phase 2 and the Board is requesting the
15 documentation that should have been submitted if Phase 2 had been approved.

16

17 Mr. North stated that he thought that they had submitted that documentation but obviously they did not.
18 He said that if they need to submit that information they will.

19

20 Mr. DiNovo stated that he assumes that if this case is approved a Zoning Use Permit will be required.

21

22 Mr. Hall stated yes.

23

24 Mr. DiNovo stated that the Board's requested documentation could be provided as an attachment to the
25 Zoning Use Permit application.

26

27 Mr. North stated that he found the as-built drawing and he thought that it was included in the original
28 submitted documentation. He said that he would be happy to submit this drawing tonight.

29

30 Ms. Chavarria asked Mr. North if the as-built drawing has a revised date of November 9, 1995.

31

32 Mr. North stated yes. He said that he believes that the current plan that the Board is reviewing was
33 actually initiated when Phase 1 was approved and not what they planned for Phase 2. He said that the
34 stormwater detention area is not defined on the submitted plan but is on the other plans. He said that the
35 other plans defines the stormwater basin and defines the actual sizes of the lots. He said that they
36 lowered the density of the park.

37

38 Ms. Chavarria stated that staff has the 1995 version that was never approved in terms of as-built. She
39 said that the 1995 version does have the lot measurements and the drainage basin and where it was
40 actually supposed to go instead of as it is indicated on the plan distributed to the Board tonight. She said
41 yes, staff has the revised version but it is not one that was approved for special use nor is it the one that
42 was approved because we do not have a Phase 2 permit. It is thus not an official plan which is why staff
43 distributed the plan from Case 652-S-88 for the Board to review.

44

1 Mr. Hall asked Ms. Chavarria if the home sites on the 1995 revised plan are comparable to what staff
2 believes the as-built sites are currently or are they not dimensioned.

3
4 Ms. Chavarria stated that she scaled the plan when she reviewed the revised plan and found that they did
5 not line up exactly with how the aerial indicates them but we all know that the aerials are not precise in
6 terms of reality. She said that the lots were a little bit off but generally the sizes of the lots were
7 comparable and just slightly off.

8
9 Mr. DiNovo asked Mr. Ohnstad if the plan is an accurate representation of Phase 2.

10
11 Mr. Ohnstad stated that if anything he is sure that it would not be any more than that and would be less
12 density. He said that the homes continue to get larger and larger.

13
14 Ms. Griest asked the petitioners if they desired to enter the revised plans dated 11-9-1995, as evidence.

15
16 Mr. Ohnstad stated yes.

17
18 Ms. Lee stated that there are no dimensions on the plan that was submitted to the Board tonight.

19
20 Ms. Chavarria stated that the plan is scaled at 1" = 60' therefore it can be measured. She said that she
21 cannot guarantee that the 11" x 17" version that the Board received can accurately be measured due to its
22 size.

23
24 Mr. Hall stated that the 1995 drawing did show the lots more or less as they are right now. He said to be
25 clear, if all that was at issue here was the number of lots we would not be here tonight. He said that what
26 really triggered the need for the public hearing were the different yards that were provided, 5' in lieu of
27 10', and the duplexes and none of those things are in the 1995 drawings. He said that the 1995 drawings
28 are very pertinent to the lot layouts but the lot layouts were not part of the legal advertisement other than
29 just approving the site plan overall and that was because we know we are not going to exceed the
30 number of lots that were authorized in Case 652-S-88.

31
32 Ms. Griest asked for clarification, if the setback request of 5 feet in lieu of 10 feet between the
33 manufactured home and the manufactured home site boundary in Part C., is for the current lots as well as
34 the lots that are not yet constructed.

35
36 Mr. Hall stated no. He said that Part D. is for the lots that are not yet constructed.

37
38 Ms. Griest stated that the Board is still being asked to issue a waiver for the setback on lots that are not
39 yet built.

40
41 Mr. Hall stated yes.

42
43 Ms. Capel asked the petitioners if they are requesting the Board to change the standards for this type of
44 development.

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Mr. North stated no.

Ms. Capel stated that Mr. Ohnstad stated that this is a model for these types of development.

Mr. North stated that they are requesting waivers for the Phase 2 and Phase 3 development.

Ms. Capel stated that asking the Board to review the standards is what is behind the request. She said that in order for the Board to approve something that hasn't happened yet is really a review of the standards themselves.

Mr. Ohnstad stated that it would be preferred if the County Ordinance matched the State of Illinois requirements. He said that he is embarrassed to admit it but when they built the park he did not know that there was a County Ordinance and they did everything based on the State of Illinois Department of Public Health regulations. He said that this project works and the residents are very happy with the neighborhood and it is a good model.

Ms. Capel asked Mr. Ohnstad how he feels about fire safety issues.

Mr. Ohnstad stated that he is passionate about fire safety issues. He said that density is happening in proven areas all around the country and he is just as concerned about fire as they are and we have the same fire ratings.

Ms. Griest asked Mr. Ohnstad to elaborate on his comment, "We have the same fire ratings." She asked Mr. Ohnstad if their development gets evaluated for its own ISO rating or does he mean that the structures are built to a particular standard.

Mr. Ohnstad stated that manufactured homes today are built to the same NFPA requirements that any other residential structure is built under.

Ms. Lee stated that the waiver in Part B. is requesting a minimum setback of 0 feet in lieu of 10 feet between the manufactured home and the manufactured home site boundary. She asked Mr. Ohnstad if the 0 feet is a state standard.

Mr. Passalacqua stated that the 0 feet is for the duplexes.

Ms. Lee asked why 0 feet.

Ms. Capel stated that the duplexes are connected over the boundaries so it is much like a zero lot line.

Ms. Lee stated okay.

Ms. Griest asked the petitioners to elaborate on the manufacturing standards used for the duplexes. She asked if the duplexes are built the same as if they were building a pre-manufactured unit in the City of

- 1 Champaign or City of Urbana on a residential lot.
2
- 3 Mr. North stated that the construction standards of the homes in question are built to what would have
4 been accepted into the City of Urbana at the time.
5
- 6 Mr. Passalacqua asked the petitioners if the motive for the requested waiver in Part D. is to maximize
7 the number of homes that can be built in the future development.
8
- 9 Mr. Ohnstad stated that he did not understand Mr. Passalacqua's question.
10
- 11 Mr. Passalacqua stated that Part D. requests a waiver for a minimum setback (yard) of 5 feet in lieu of 10
12 feet between the manufactured home and the manufactured home site. He said that this waiver is
13 actually for construction that doesn't already exist. He asked the petitioners if the reason for the
14 requested waiver is to maximize the number of sites that they can build upon.
15
- 16 Mr. Ohnstad stated that the configuration would maximize the site. He said that the requested setbacks
17 will allow them to build a more user friendly product for the family that is there and will allow them to
18 build a larger house. He said that the density is actually lower than originally proposed.
19
- 20 Mr. Passalacqua stated that the petitioners could be in compliance if the lot was made larger.
21
- 22 Mr. Hall stated that the lots are actually larger than what was originally approved. He said that the
23 houses are larger with a detached garage which is why the yards have to give.
24
- 25 Mr. Passalacqua asked if in lieu of larger garages and homes, they could be compliant if they added 10
26 feet to each home site as opposed to requesting a waiver for a smaller setback.
27
- 28 Mr. Randol asked if the requested setback of 10 feet is from the street.
29
- 30 Mr. Hall stated no. He said that in the Zoning Ordinance in the Manufactured Home Standards it refers
31 to the side yards and rear yards as setbacks so we are talking about side yards and rear yards.
32
- 33 Mr. Randol stated that the lots are already established from the street to the rear of the lot so the depth of
34 the lot cannot be made any bigger because it is already established and the only thing that can be
35 changed is the width.
36
- 37 Mr. Passalacqua stated that his question was specific to Part D. because it requests a waiver for a non-
38 developed site therefore his question was could this request for a waiver be scratched if the size of the lot
39 was adjusted. He asked if there is a reason why the lot cannot be made compliant.
40
- 41 Mr. Hall pointed out that these lots are much larger than what was originally approved but so are the
42 buildings.
43
- 44 Mr. Passalacqua stated that for the unbuilt portion of the development Part D. could be avoided if the lot

1 size was adjusted.

2

3 Mr. Hall stated that this is a decision that the developer makes in determining financial feasibility.

4

5 Mr. North stated that since the development has not been constructed yet then yes, they could adjust lots
6 but speaking to the feasibility they would have to seriously consider the density. He said that what they
7 are trying to do with the larger homes is making the neighborhood a more desirable manufactured home
8 community and comparable to some of the neighborhoods/subdivisions throughout the area. He said
9 that in looking at the financial aspect of that they would have to consider the economic feasibility in
10 giving up more area for compliance with the Ordinance. He said that he is not sure that it would be
11 economically feasible to give up more density.

12

13 Mr. Passalacqua asked Mr. North if he could venture a guess as to how many lots would be lost if they
14 stayed in compliance.

15

16 Mr. North stated that he would guess a loss of 15% which would consist of 3 or 4 lots.

17

18 Mr. Ohnstad stated that originally there were 40 lots proposed in Phase 3 therefore if they lost 10' on
19 each lot the total would be 400 feet. He said that they would still have to install 400 feet of street, sewer
20 and water for each lot therefore the numbers just won't work.

21

22 Mr. North stated that an alternative would be to lessen the density which would not be compatible with
23 the new sections that have been built and it will make it more of the old style mobile home park and that
24 is not necessarily what they desire to do.

25

26 Mr. DiNovo stated that the 1988 site plan indicates 108 spaces in Phase 3.

27

28 Mr. North stated that Phase 3 added 35 or 40 spaces. He said that original site plan indicates all of the
29 lots in Phase 1, 2, and 3 in addition to the existing mobile home park.

30

31 Mr. DiNovo stated that the 1988 site plan indicates that Phase 3 would include lots 1-25 and 93-176.

32

33 Mr. North stated that the way it is depicted on here the lot numbers are correct but for Phase 3 they are
34 requesting the reduced setbacks.

35

36 Mr. DiNovo stated that in 1988 the petitioners were proposing to put in 108 units and now fewer units
37 are being proposed. He said that it is clear that Phase 3 was approved in 1988 so it could be built in that
38 configuration without question.

39

40 Ms. Griest asked the petitioners if, when they came to the Board in 1988 to have their case approved, the
41 home sites did not include garages. She said that in 1988 the lots were not proposed to accommodate a
42 home and garage.

43

44

1
2 Mr. North stated that in 1988 they were concentrating on Phase 1, which has smaller homes, smaller
3 home sites and some garages. He said that learning from that and moving on to Phase 2 several years
4 later, they saw the extra calling in the market to have even larger homes with larger lots. In Phase 1 that
5 we applied for originally with the overall plan in 1988, it was built slightly differently than Phase 2. He
6 said that if you look at Phase 1 on the north side of the street, he thinks there are 5 fewer houses built
7 according to this aerial photo than what the site plan had. He thinks that this site plan map was created
8 by engineer John Neary with the idea to show the maximum density that we could possibly get out of
9 that land and to get that approved, not that we would build that many, but we could if we wanted to. That
10 is probably why this was submitted.

11
12 Ms. Lee asked the petitioners if in Phase 1 they had 10 feet side and yard setbacks and if so why did they
13 go to 5 feet in Phase 2. She asked if the first ones were following the standards, why is Phase 2 different.

14
15 Mr. Ohnstad stated that he does not know that Phase 1 does meet all these county requirements.

16
17 Ms. Capel stated that it does and what Mr. Ohnstad might have mentioned was that they went by the
18 state standards for Phase 2.

19
20 Mr. Ohnstad stated that is correct, they have always gone by the state standards in communities all
21 around Illinois – it is the norm. He said that he serves on the state board for the Manufactured Housing
22 Association, and he knows most park operators in the state that are closer to a city, as far as he knows,
23 operate by the state standard.

24
25 Ms. Lee asked Mr. Hall if back in 1988 when this was approved if the lots were approved with 10 feet
26 side and rear yards back then.

27
28 Mr. Hall responded yes.

29
30 Mr. DiNovo stated that the case seems to be settling down to the appropriateness of the 10 foot setback
31 requirement. He stated that what we have is a proposal to build this out at a lower density than has
32 already been approved, which is an improvement with respect to the limited ingress and egress. He said
33 there would actually be fewer dwelling units under the current proposal than what has already been
34 approved, given that one access on Airport Road. He said this seems to really revolve around the
35 question of whether or not reducing these setback requirements really comes at a cost in fire safety. He
36 said that as he understands it, these units are all built to federal standards, inspected at the plant, whereas
37 site built housing out in the county is required to be certified built to code but it is not inspected.

38
39 Mr. Hall stated that he would not say that it is required to be certified; there is a state law that says it
40 shall be certified, but approval is not required and no one enforces it.

41
42 Mr. DiNovo concurred, saying it is the obligation of the seller to obtain that certification. He stated we
43 have other zoning districts in the county that allow 5 foot side yards. He asked if there is any way to help
44 us resolve that question.

1
2 Mr. Hall stated that from a staff level all we can do is promise to do our best to research that, although
3 he doesn't hold out much hope that they will have that research done by next Thursday night. He asked
4 if the petitioners are aware of any review or evaluation of the state standards that would support the 5
5 foot setback in the state standards.

6
7 Mr. Ohnstad stated there is nothing that he is aware of.

8
9 Mr. North stated that he knows the state standards have been the state standards since at least 1988 and
10 they have required an open space of 10 feet between homes on the sides, not necessarily lot lines. He
11 said that it is not usually necessary in a manufactured home community to define lots, as it is a land lease
12 and lots are typically not defined. The state has not changed it, has not found a need to change it, in all
13 its history to current, and he thinks that says something in itself - that it has worked statewide.

14
15 Ms. Lee asked the petitioners when they are referring to state standards, what entity is doing the state
16 standards.

17
18 Mr. North responded it is the state Department of Public Health.

19
20 Mr. Passalacqua asked if Woods Edge owns every lot in Woods Edge.

21
22 Mr. North stated that is correct.

23
24 Mr. Passalacqua asked with that in mind, is the lot line more a boundary of convenience for the dweller
25 of the property and does that change what we care about the setback since it is in essence one lot with
26 multiple residences on it – in other words, is the lot merely just a label.

27
28 Ms. Capel stated that our requirement is for 20 feet between units.

29
30 Mr. Passalacqua stated that he is looking at it as a parcel with multiple residences but one lot is never
31 going to be sold to one individual where there would be some argument about delineation of a property
32 line. He added that the Board is rarely ever harder than the state regulations so this is an odd case also.

33
34 Mr. DiNovo stated that he thinks any conveyance to another party would invoke the City of Urbana
35 Subdivision Ordinance, so it is unlikely.

36
37 Ms. Lee asked Mr. Ohnstad what organization he said he was the head of.

38
39 Mr. Ohnstad clarified that he is on the board of, not the head of, the Illinois Manufactured Housing
40 Association.

41
42 Mr. Passalacqua asked Mr. Ohnstad if in his experience on that board, has he ever seen permitting
43 required other than what the state requires.

44

1 Mr. Ohnstad stated that he has not personally, but their executive director fields many questions and they
2 usually hear those questions at the meetings and he doesn't recall hearing about that.

3
4 Mr. Passalacqua stated the only reason he asked is, speaking for himself and not the board, he is not a
5 fan of after-the-fact stuff where it has already happened and it is not compliant. He said that the Board
6 usually works through that, but he still has a problem with changing the ordinance for something that has
7 not even been designed or built yet. He said he understands completely that it has to make financial
8 sense but we try to make variances so that things can become in compliance but we also ask our
9 petitioners to do things to be in compliance also. He said that 400 feet is a lot to sacrifice in mobile
10 home sites, but that takes him back to always having accurate site plans, as built and as proposed, which
11 we sort of do and for all the cases this is a homework item that we have often sent people away with and
12 put the brakes on because we don't have an accurate representation of what was there.

13
14 Mr. Ohnstad apologized for not doing that up front. He said that if he or Mr. North had any idea, they
15 thought they were fine until just recently. He stated that is why they are here, when they realized they
16 were not as-built, we immediately applied for a variance.

17
18 Ms. Capel asked the petitioners if they have a timeline for Phase 3 development.

19
20 Mr. Ohnstad responded they do not and that it will not be anytime soon because there are a number of
21 projects ahead of this one.

22
23 Mr. DiNovo stated if that is the case, he does not see why we cannot take a little more time with this and
24 see if we can get some more information on this, at least a response from the fire protection district. He
25 said it seems to him that if the Board sees fit to approve the waivers in this case, the Board would be
26 hard pressed to retain 10 foot setback standards. He said he is not sure how he can differentiate this case
27 from the next case that comes down the road, unless maybe we can, he doesn't know.

28
29 Mr. Hall commented it could be referenced by how much staff time it would take to make such an
30 amendment to the ordinance.

31
32 Ms. Lee asked Mr. Hall if the petitioners are saying that it is the Illinois Department of Public Health
33 that is in charge of this, would there be state statutes that are guidelines for the health department.

34
35 Mr. Hall asked Ms. Lee if she meant the Department of Public Health, and said yes.

36
37 Ms. Lee asked if that should say what the distance is.

38
39 Mr. Hall responded no. He stated he is sure it has been delegated to the Department of Public Health
40 Director, that's the person that is responsible. He stated that testimony is that they have required no more
41 than 5 feet, with 10 feet between buildings from day one. He added that we have had testimony that in
42 our own Zoning Ordinance, in this same area, we would require no more than 5 feet separation if these
43 were private homes in the R-3 District, and those homes would not meet any standard. He stated that
44 these homes (the manufactured homes) are absolutely built to a standard and inspected.

1
2 Ms. Griest stated that a point to follow up on that is that when the ordinance was written and the reason
3 it's more generous or restrictive, depending on how you look at it, the reason it is 10 feet instead of 5
4 feet, is because at that point in time they probably were not built to that standard and inspected, that it
5 was just coming into play during that era. She suggested that manufacturing technology has improved so
6 dramatically over the last 30 years that now there are rigid standards for compliance and inspection that
7 didn't exist when it was written into the ordinance. She said that this might be the justification for the
8 comparison between R-3 and the R-5 districts.
9
10 Ms. Griest asked the petitioners if in the original approval there was a reference that they would have a
11 remainder of 40% of open space on the lots. She asked if that is going to remain the same if they get this
12 variance or will that be cut back as well.
13
14 Mr. North stated that they could build that to the same standard that the current lots are built to.
15
16 Ms. Griest asked if the current lots are built to the 40% open space.
17
18 Mr. North stated that he believes so.
19
20 Ms. Griest asked if that was without counting their park and recreation areas.
21
22 Mr. North stated that he believes so.
23
24 Mr. Passalacqua asked if it would be worth including a special condition regarding separation regardless
25 of distance to the lot line, which is what he is hearing is consistent with the state regulations, so we can
26 propose to match the state guidelines with a 10 feet separation even though we are granting a waiver of
27 our minimum setback requirement. He gave an example that if one unit was 5 feet from the lot line, the
28 one next to it would have to be at least 5 feet from the lot line for a total of 10 feet separation distance.
29
30 Ms. Capel stated that if one is 3 feet, then the one next to it must be 7.
31
32 Mr. Passalacqua stated that as long as a special condition is in place, that is correct, and as he
33 understands the petitioner's testimony, that is the state regulation.
34
35 Mr. North stated that he thinks what Mr. Passalacqua is proposing makes a lot of sense.
36
37 Mr. Passalacqua explained that it still gets our separation even though one unit may be crowded on the
38 property line.
39
40 Ms. Griest stated that she is struggling with the original drawings, the as-builts we don't exactly have,
41 the way they've constructed it, it seems to her that since the petitioner owns all of the ground anyway
42 and the lot lines are not dedicated in any type of title work, they can move them whenever they want –
43 they're fluid. She stated that a setback from a lot line creates her a lot more heartburn than separation of
44 buildings because the lot lines are fluid – they are really imaginary boundaries.

1
2 Mr. Passalacqua stated that for the purposes of this case, it should be written in such a way so as to not
3 include the side yard setback, but generally speaking making the separation of the property consistent
4 with the state law. He said that it appears to him from testimony that the petitioners are in compliance
5 with that, with no respect to the duplexes, which are connected, and he doesn't really have a problem
6 with the duplex situation. He agrees that these homes are built way differently than they used to be, in
7 fact, many of the new construction stick built homes he works on don't measure up at all. He stated that
8 his issue, more than the setback, is the separation because they can get tight. He said that earlier, the
9 commentary was that is the same situation as some of the homes in the city, but he does not think that is
10 right – it exists, but it is not a good precedent to jump on board with. He said he has physically measured
11 7 feet in some of these instances, and a good fire melts the vinyl siding off a house across the street,
12 much less 7 feet away.

13
14 Mr. DiNovo asked if the duplexes are on foundations.

15
16 Mr. Ohnstad stated that the homes are placed on a solid footing and the underside is enclosed.

17
18 Mr. Passalacqua asked the petitioners if there is a state regulation on that, because he knows of a lot of
19 homes that you drive by that appear to be built on-site are in fact built on a modular foundation. He
20 asked Mr. Ohnstad if he has any regulation from the state that indicates that they can or cannot put a
21 duplex property like that.

22
23 Mr. Ohnstad stated the state requires modular homes to have footings under them so they have a base to
24 rest on and that the underside be enclosed. He said there is no specification for how you enclose it.

25
26 Mr. Passalacqua asked if it could be on a block foundation.

27
28 Mr. Ohnstad responded it could be. He pointed out that the manufacturer also has guidelines with
29 regards to support and enclosures and so forth; he does not personally know of any that have concrete
30 enclosures under them.

31
32 Mr. Passalacqua stated that his sister has a modular home on a standard crawlspace foundation with
33 piers and other than the fact that it was driven there in two parts, it is not what he would call a mobile
34 home. He stated he did not know if there was a prohibition of putting something like that in a mobile
35 home park.

36
37 Mr. Ohnstad said not to his knowledge is there a prohibition.

38
39 Ms. Capel asked Mr. Hall if we are going to talk about the distance between homes instead of the
40 setbacks, does this have to be re-advertised.

41
42 Mr. Hall responded no, our ordinance is not written to specify the separation between homes other than
43 20 feet, which obviously is not being requested here. He said he does not know what the actual
44 separations are but in no case did we find any separation less than 10 feet in total. He does not know

1 how many instances there are of only 10 feet separation.

2

3 Mr. Passalacqua asked if Public Health comes out and does a physical inspection.

4

5 Mr. North responded that they do come out and do an annual inspection. He said that he cannot say they
6 have had violations or received notice of a violation not meeting that setback.

7

8 Mr. Passalacqua asked if the state had been out to do an inspection.

9

10 Mr. North responded every year.

11

12 Mr. Passalacqua asked if they indeed measure between the homes.

13

14 Mr. North responded that he would say if it was questionable they would. He noted that Woods Edge
15 just received its annual inspection report the day before yesterday and there is nothing on there about not
16 meeting the minimum setback the state requires.

17

18 Mr. Passalacqua asked Mr. North if to his knowledge they have 10 feet separation.

19

20 Mr. North stated yes.

21

22 Mr. Hall stated that Attachment H provides the lesser separations that were found, and in no case was it
23 less than 11 feet.

24

25 Ms. Chavarria stated that staff looked at Phase 2 and we had an intern go out and measure the distance
26 between houses in Phase 2. She said that the ones shown in Attachment H are the ones with separations
27 of less than 20 feet and everything that is not mentioned in Phase 2 has 20 feet or more between the
28 manufactured homes – not between a home and garages but between homes themselves. She explained
29 that we're looking at 23 homes that have a distance of less than 20 feet between them out of 44 sites.

30

31 Mr. Hall stated that there were none as small as 10 feet.

32

33 Ms. Capel asked if there is a standard setback for garages in the R-3 district.

34

35 Ms. Chavarria stated that staff could not find anything that would require looking at garages as part of
36 the setback or separation.

37

38 Mr. Passalacqua stated that is ironic, because that is where house fires usually start. He said that his
39 initial uncomfort level with separation is starting to get more comfortable in the fact that it is one parcel
40 virtually. He stated that he would continue that into D., saying that his concern is more with separation
41 as opposed to setback. He asked if the Board should rewrite the requests for variances or do we talk
42 about separation as a special condition of the variance.

43

44 Mr. Hall stated he thinks it could be included as a special condition. He said the way the request is

1 worded, there would always have to be 10 feet of separation because of the 5 foot setback, if you are
2 comfortable with 10 feet of separation in total.

3
4 Mr. Passalacqua stated that the reason he likes the special condition is because it alludes to the fact that
5 we had a hang-up on the setback property line issue. He said that Mr. Hall was right because
6 mathematically if that was followed it would work.

7
8 Ms. Lee stated then the question comes to the fire thing – are we going to be satisfied with the distances
9 between or what may happen if we stay with the way the ordinance is to protect for fires.

10
11 Mr. Randol stated that the state is satisfied with the 10 feet of separation.

12
13 Mr. Passalacqua stated that this really specifically applies to the mobile home park because we are
14 usually discussing a residence and not this type of density.

15
16 Mr. DiNovo asked the petitioners if they allow people to fence their sites.

17
18 Mr. North stated yes.

19
20 Mr. Hall stated that he missed Mr. Passalacqua's point.

21
22 Mr. Passalacqua stated that he believes that this is somewhat unique to a mobile home park.

23
24 Mr. Hall stated yes.

25
26 Mr. Passalacqua stated that the question that he had was going towards whether this would be a standard
27 that would be put toward every house that is reviewed but obviously he misunderstood. He asked if the
28 Board is going to require a new complete site plan and a copy of the most recent compliance report from
29 the Department of Public Health.

30
31 Ms. Capel asked the Board if they require additional documentation.

32
33 Ms. Griest stated that all of her questions have been adequately answered therefore she does not need a
34 new site plan.

35
36 Mr. DiNovo stated that so there are no misunderstandings it would be good to establish that the 1995
37 Vegrzyn Sarver & Associates' site plan is now the official site plan.

38
39 Mr. Passalacqua stated that the Board already discussed that the lines on the site plan are not necessarily
40 where they are located or had to be.

41
42 Ms. Capel stated that the site plan was never approved.

43
44 Mr. DiNovo stated that he would like to substitute that for the 1988 site plan which the Board knows is

1 not accurate. He said that to the extent that the 1995 site plan functions as an as-built site plan showing
2 what the current site boundaries look like and it sets a cap on the maximum number of units which is a
3 lower cap than the 1988 site plan does.

4
5 Ms. Chavarria stated that the 1988 site plan indicates all of Woods Edge and the 1995 site plan is for
6 Phase 2 only.

7
8 Mr. DiNovo stated that he believes that the 1988 and 1995 site plans cover the same territory.

9
10 Ms. Griest stated that since the petitioners own all of the property the boundaries on the site plan for
11 each individual lot are somewhat fluid and could move. She said that if the petitioners chose to move
12 the lot lines around a little bit the site plan is relatively ineffective for the Board's purpose. She said that
13 the maximum amount of units is a different factor because it is something that is specific, measurable
14 and could be capped but the nature of the manufactured home park and the lines being movable to some
15 degree could make the site plan less effective.

16
17 Ms. Capel stated that the site plan would become a moving target.

18
19 Mr. Passalacqua stated that it's important to see the streets and emergency access but he agrees with Ms.
20 Griest in that those are relatively arbitrary and the site plan only gives a layout and account and general
21 feel for each address. He said that the Board cares about property lines because of measurements and
22 distances and ownership. He said that the dotted line could be anywhere on the property because the lots
23 are not taxed as individual parcels.

24
25 Mr. Hall stated that the Board could establish the 1995 site plan by John Neary as the approved site plan
26 for Phase 2 and 3 but it is not complete for the entire mobile home park. He said that for the original
27 Woods Edge and Phase I the Board needs the site plan from 652-S-88. He said that it seems worthwhile
28 to make that a special condition to make it absolutely clear or the Board could wait and request an actual
29 site plan that would incorporate the entire mobile park.

30
31 Mr. Passalacqua stated that it is his understanding that such a plan already exists.

32
33 Mr. North stated that the 1995 site plan is accurate for Phase 2 and 3 but they would be willing to do
34 that.

35
36 Mr. Passalacqua stated that a complete plan is needed for the file.

37
38 Mr. DiNovo stated that Mr. Hall has some latitude in approving the Zoning Use Permit for Phase 3
39 provided that no units are added or major changes are made. He said that the Zoning Use Permit would
40 not have to look exactly like the Special Use Permit.

41
42 Mr. Hall stated that Mr. DiNovo is correct but right now the reference for the limit on lots is still in 652-
43 S-88.

44

1 Mr. DiNovo stated that unless the Board adopts the 1995 plan there could be 118 units in Phase 3.

2
3 Mr. Hall stated that the reality would be that there could be some interplay with the yards but yes there
4 could possibly be that much.

5
6 Mr. Passalacqua stated that they would be limited by the separation requirement.

7
8 Mr. Hall stated that all of that would have to be taken into account.

9
10 Ms. Lee stated that the petitioners testified that there are 176 units in the mobile home park currently.

11
12 Mr. North stated that the way that Phase 3 is depicted on the 1988 plan there are less than 100 sites.

13
14 Ms. Griest stated that there is a notation on the 1988 plan stating that 97 existed at the time of proposed,
15 Phase 1, and 177 are proposed for a total of 274.

16
17 Ms. Capel stated that someone mentioned that input from the fire protection district was required.

18
19 Mr. Passalacqua stated that he did not indicate required input from the fire protection district. He said
20 that he angled towards state compliance but if the variance is followed there may not be a need for any
21 special condition. He said that his emphasis is on the separation.

22
23 Mr. DiNovo stated that his concern has been resolved.

24
25 Ms. Lee stated that it was mentioned that the fire chief for the fire protection district would be present at
26 the next meeting.

27
28 Mr. Randol indicated that the fire chief would be present for a different case.

29
30 Ms. Griest stated that she is not concerned about having a response from the fire chief. She asked the
31 petitioners if fire hydrants are present inside the mobile home park.

32
33 Mr. North stated yes.

34
35 Ms. Griest stated that the record should indicate that there are fire hydrants present in the mobile home
36 park which contributes to fire safety and the fire protection district's ability to respond.

37
38 Mr. Randol asked the petitioners to indicate the size of the water mains.

39
40 Mr. North stated that the new phases have 6-inch water mains which comply with the regulations.

41
42 Ms. Capel asked the Board if they were ready to review the Findings of Fact or continue the case until a
43 complete site plan is submitted.

44

1 Ms. Griest stated that a complete site plan is not necessary.

2
3 Mr. DiNovo stated that the case does not need to be continued but it may be helpful for staff to have the
4 chance to rewrite the Findings of Fact.

5
6 Ms. Capel stated that most of this will be taken care of with the special conditions.

7
8 Mr. DiNovo stated that there has been considerable testimony presented regarding the site plans
9 therefore it may be easier to continue the case and modify the Findings of Fact.

10
11 Mr. Hall proposed the following special condition regarding the site plan:

12 **D. The approved site plan will consist of the following:**

- 13 (1) **For the original development and Phase I Expansion of Woods Edge, the Site**
- 14 **Plan approved under Special Use Case 652-S-88 will be the official site plan.**
- 15 (2) **For Expansion Phases II and III, the site engineering plans developed by**
- 16 **Vegrzyn, Sarver and Associates dated November 9, 1995, will be the official**
- 17 **site plan.**

18
19 Ms. Lee stated that item 9.G.(1) indicates the following: Section 9.3 states “There shall be an open
20 space of at least 10 feet adjacent to the sides of every mobile home and at least 5 feet adjacent to the
21 ends of every mobile home.” She said that the petitioners are asking for 5 feet in lieu of the 10 feet.

22
23 Ms. Capel stated that the petitioners are asking for 5 feet on each side which makes 10 feet.

24
25 Mr. Hall stated except in regards to the duplexes.

26
27 Ms. Lee stated that the Section 9.3 states at least 10 feet adjacent to the sides of every mobile home. She
28 said that it doesn’t say 5 feet on each side.

29
30 Mr. Hall stated that the standard is not mentioning a lot line but is just saying 10 feet of space minimum.
31 He said that Ms. Chavarria has documented that there is more than 10 feet of space in Phase 2.

32
33 Mr. Passalacqua stated that the duplexes are one structure. He asked if the Board is concerned about the
34 separation of 10 feet open space between that structure and neighboring property and not the property
35 line issue of the duplex property.

36
37 Mr. Hall stated that he is just curious about what the state standard states about duplexes.

38
39 Mr. Passalacqua stated that it would be similar to a zero lot line in that it is one structure with a time
40 rated firewall between the two living spaces and he is sure that these properties have the same thing. He
41 said that condominium associations have four units connected to each other and is considered one
42 building. He said that this is a non-issue because this is one structure.

43
44 Ms. Griest stated that the Board will be authorizing the two structures included in Part B. but that does

1 not give the petitioners the authority to build more duplexes anywhere else and now that the petitioners
2 are aware of that the Board should not be revisiting the problem again.

3
4 Ms. Capel stated that the petitioners could apply for a variance before they construct any future duplexes
5 on the property.

6
7 Mr. Passalacqua asked if the state has a regulation which pertains to mobile home pre-manufactured
8 duplexes.

9
10 Mr. Hall stated not that he is aware of. He asked the Board if they are waiving the requirement for a site
11 plan for the duplexes and just approving them as they exist.

12
13 Ms. Griest asked Mr. Hall if he could propose a special condition indicating that the petitioners must
14 provide a drawing that adds the duplexes to the existing site plan.

15
16 Mr. DiNovo stated that the special use permit would require that they obtain a Zoning Use Permit that
17 includes a site plan.

18
19 Mr. Hall asked Mr. DiNovo if he is discussing a comprehensive site plan.

20
21 Mr. DiNovo stated only for the duplexes.

22
23 Mr. Hall proposed special condition D.(3) as follows:

- 24
25 **(3) For the two duplexes, the approved site plan shall be an as-built site plan of**
26 **the duplexes to be submitted for a Zoning Use Permit.**

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

29 **That it is clear what the official site plan is for Woods Edge development.**
30

31 Ms. Capel asked the audience if anyone desired to sign the witness register at this time to present
32 testimony in this case and there was no one.

33
34 Ms. Capel closed the witness register.

35
36 Mr. DiNovo stated that prior to moving forward there are additions which should be made to the
37 Summary of Evidence.

38
39 Mr. Hall asked Mr. DiNovo if he had additions that he would like to add to the Summary of Evidence.

40
41 Mr. DiNovo stated that there was testimony indicating that the previous site plan allowed for a larger
42 amount of units, potentially 108 in Phase 3. He said that the emergency access through Loral Mobile
43 Home Park is feasible.
44

- 1 Mr. Hall stated that the Board must either keep the requirement for the emergency access over to Loral
2 Park or specifically not include that.
3
- 4 Mr. DiNovo proposed that the Board not include it.
5
- 6 Mr. Passalacqua asked the petitioners if the traffic patterns, streets and emergency access are things that
7 the Department of Public Health inspects during their visits.
8
- 9 Mr. North stated yes. He said that the Department of Public Health requirements apply to their property
10 and their neighbor's property which shares the emergency access.
11
- 12 Ms. Capel asked Mr. North if the Department of Public Health requires that the emergency access to
13 Loral Mobile Home Park remains open.
14
- 15 Mr. North stated that it is within the Department of Public Health's power to require such.
16
- 17 Ms. Capel asked if it is a requirement of the permit issued by the state.
18
- 19 Mr. North stated that when the state performs their inspections they would have something to say if the
20 streets were impassible for emergency vehicles. He said that from the earlier phase for the original
21 density they had a special request to have that emergency access available and that request was agreed
22 upon and recorded. He said that at that time the owner of Loral Park Mobile Home Park signed an
23 agreement which was required for the County's approval. He said that they have done their best,
24 including signage and personal inspections, to make sure that the emergency access remains clear. He
25 said that they have never been cited during any of the state inspections for not having the emergency
26 access clear although he cannot speak for Loral Mobile Home Park.
27
- 28 Mr. Passalacqua asked Mr. North if signage is in place indicating the emergency access as a no parking
29 area.
30
- 31 Mr. North stated yes. He said that one car was parked in the access and Mike Kobel, Chief for the
32 Eastern Prairie Fire Protection District, called regarding his concerns. Mr. North stated that after Mr.
33 Kobel's telephone call they immediately installed the signage indicating "No Parking." He said that they
34 were not aware of the parked vehicle and would have immediately requested the owner to move their car
35 and they now watch the area closely. He noted that he does have pictures of the emergency access signs.
36
- 37 Mr. Passalacqua asked Mr. North if he and Mr. Ohnstad work or are on site every day.
38
- 39 Mr. North stated that they do work on site every day.
40
- 41 Mr. DiNovo stated that he does not believe that the Board should repeal the existing condition for
42 emergency access. He said that the Board should not be stating a condition that goes beyond the power
43 of the Petitioners.
44

1 Mr. Hall stated that it needs to be included as a special condition. He said that the special conditions
2 approved in this case will become the special conditions.

3
4 Ms. Griest stated that the special condition, as written, states that the emergency access on Fern Street
5 remains unobstructed on both sides of the locked gate. She asked what value an emergency access
6 provides if it has a locked gate.

7
8 Mr. Passalacqua stated that the fire protection district will drive through the gate.

9
10 Ms. Griest stated that she understands that they will drive through the gate but if it is truly an emergency
11 access the gate should be opened and not locked.

12
13 Mr. Hall stated that there are many instances where things are locked but a key is given to the fire
14 protection district and they can open the gate any time they need to.

15
16 Mr. Passalacqua stated that such an instance is very common and it won't stop the fire protection district
17 if they forget the key.

18
19 Mr. DiNovo stated that he is not sure what power the petitioners have to deal with things on the Loral
20 Park side of the gate.

21
22 Mr. Hall stated that petitioner previously did everything that needed to be done and the Board isn't going
23 to require any of that to be retracted and it will stay in place and things will remain as they are.

24
25 Mr. DiNovo stated that the easement needs to stay there and the petitioners should do what they can to
26 prevent obstructions on their side of the gate.

27
28 Mr. Passalacqua stated the testimony is in the minutes and everything is happening correctly.

29
30 Mr. DiNovo stated that he would revise the way the special condition is stated to indicate that the
31 petitioners will ensure that the emergency access to Fern Street remains unobstructed. He said that even
32 if we police the piece to the east he cannot see any practical way of policing the rest of Fern Street.

33
34 Ms. Capel stated that it sounds like the fire chief was on it since he notified the petitioners about the
35 parked car.

36
37 Mr. North stated that they recently had a fire call in Loral Park which was near the entrance and Mr.
38 Kobel notified him and advised him that on their side there was a car parked in that area. He said that
39 they had the car removed and installed additional signage. He said that when Mr. Kobel notified him
40 about the parked car he asked Mr. Kobel if he still had a key and Mr. Kobel stated that he would say that
41 they did still have a key but it didn't really matter because they can open the gate quicker than finding
42 the key.

43
44 Ms. Capel asked Mr. DiNovo if he is satisfied with the additions to the Summary of Evidence.

- 1
2 Mr. DiNovo stated yes.
3
4 Mr. Hall asked Mr. DiNovo if he knows where he would like his statements inserted into the Summary
5 of Evidence.
6
7 Ms. Griest stated that a reference to the 1995 site plan should be added to the Documents of Record.
8
9 Ms. Lee stated that item 4.C was revised to read as follows: Land to the east of the subject property is
10 zoned AG-2 and R-5, and is agricultural and residential in use.
11
12 Ms. Chavarria stated that she will be happy to make the Board's edits to the Summary of Evidence and
13 insert them into their logical places and staff has done this before.
14
15 Mr. DiNovo stated that the point about the number of spaces should be detailed under Generally
16 Regarding the Proposed Special Use.
17
18 Ms. Griest stated that adding Mr. DiNovo's point would be new item 5.A.(6). She said that she
19 appreciates the way staff incorporates all of the Board's insertions into the Approved Summary of
20 Evidence.
21
22 Ms. Capel stated that the Board will now review the proposed special conditions of approval.
23
24 **A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
25 **until the petitioners have demonstrated that any new or proposed exterior lighting**
26 **on the subject property will comply with the lighting requirements of Section 6.1.2.**
27
28 The special condition stated above is required to ensure the following:
29 **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**
30
31 Ms. Capel asked the petitioners if they agreed to Special Condition A.
32
33 Mr. North asked if this is regarding any future lighting.
34
35 Ms. Capel stated yes.
36
37 Mr. North and Mr. Ohnstad indicated that they agreed to Special Condition A.
38
39 **B. That the petitioners develop the recreation areas in accordance with the guidelines**
40 **established in Special Use Case 652-S-88.**
41
42 The special condition stated above is required to ensure that the Special Conditions are
43 completed from the Special Use Case that approved the development of Woods Edge
44 Manufactured Home Park.

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Ms. Capel asked the petitioners if they agreed to Special Condition B.

Mr. North and Mr. Ohnstad indicated that they agreed to Special Condition B.

Mr. DiNovo asked Mr. Hall if the Board needs to specify when that occurs. He asked if this was part of the Zoning Use Permit for Phase 3 or immediately.

Mr. Hall stated that he would assume it is just for Phase 3.

Mr. DiNovo stated that it would be good to specify when that needs to be done.

Mr. Hall stated that revised Special Condition B. would read as follows:

B. That the petitioners develop the recreation areas in accordance with the guidelines established in Special Use Case 652-S-88 as part of Phase III development.

The special condition stated above is required to ensure that the Special Conditions are completed from the Special Use Case that approved the development of Woods Edge Manufactured Home Park.

Ms. Capel asked the petitioners if they agreed with revised Special Condition B.

Mr. North and Mr. Ohnstad indicated that they agreed with revised Special Condition B.

C. That the petitioners ensure that the emergency access on Fern Street remains unobstructed on the Woods Edge side of the locked gate.

The special condition stated above is required to ensure the following:
That emergency access that was a condition of Special Use Permit 652-S-88 functions as intended.

Mr. DiNovo asked what the easement actually provides.

Mr. North stated that the easement is a matter of record and it should be in the material.

Mr. DiNovo stated that the easement is either a stub or over the entirety of Fern Street and in either case it is impractical to do anything on that side of the fence. He said that there just isn't enough parking provided in Loral Park and the only place people can park is along Fern Street.

Mr. Hall stated that it remains a requirement on the Woods Edge side.

Ms. Capel asked the petitioners if they agreed to Special Condition C.

1 Mr. North and Mr. Ohnstad indicated that they agreed to Special Condition C.

2
3 Ms. Capel requested that Mr. Hall read proposed Special Condition D.

4
5 **D. The approved site plan will consist of the following:**

- 6 (1) **For the original development and Phase I Expansion of Woods Edge, the Site**
7 **Plan approved under Special Use Case #652-S-88 will be the official site plan.**
8 (2) **For Expansion Phases II and III, the site engineering plans developed by**
9 **Vegrzyn, Sarver and Associates dated November 9, 1995, will be the official**
10 **site plan.**
11 (3) **For the two duplexes, the approved site plan shall be an as-built site plan of**
12 **the duplexes to be submitted for a Zoning Use Permit.**

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

15 **That it is clear what the official site plan is for Woods Edge development.**

16
17 Mr. North asked if they just need to have the as-built site plan created and submitted and it won't hold
18 up anything tonight.

19
20 Ms. Capel stated that it needs to be submitted with the Zoning Use Permit.

21
22 Mr. North stated that they could provide it within the next couple of weeks.

23
24 Ms. Griest noted that she is sure that staff would provide any assistance required by the petitioners.

25
26 Ms. Capel asked the petitioners if they agreed to Special Condition D.

27
28 Mr. North and Mr. Ohnstad indicated that they agreed to Special Condition D.

29
30 Ms. Capel entertained a motion to approve the Special Conditions as read.

31
32 **Mr. Randol moved, seconded by Ms. Griest to approve the Special Conditions as read. The**
33 **motion carried by voice vote.**

34
35 Ms. Lee asked how the Zoning Ordinance will be affected if the Board approves this request.

36
37 Mr. Passalacqua stated that the Zoning Ordinance will not be affected.

38
39 Ms. Griest stated that the Board is approving Part C. as written, a waiver for a minimum setback (yard)
40 of 5 feet in lieu of 10 feet between the manufactured home and the manufactured home site boundary.
41 She said that the Board did not write a special condition on the minimum separation or compliance with
42 the IDPH Ordinance as opposed to the boundaries.

43
44 Mr. Hall asked the Board if that is consistent with what the Board desires.

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Ms. Lee asked if we are keeping Part C. of the case as written.

Mr. Hall stated yes. He said that this should always result with at least 10 feet between homes.

Mr. Passalacqua stated that a special condition could be proposed guaranteeing no less than 10 feet separation.

Ms. Lee stated that the statute indicates that there shall be an open space within 10 feet adjacent which means that there cannot be anything in between the mobile home and the boundary line.

Ms. Capel stated that a mobile home is always going to require a five feet setback from the boundary line.

Mr. Hall stated that testimony has been received from the petitioners that fencing of the sites is allowed therefore a fence could be located between the two dwellings. He said that a separation of 10 feet is not the same thing as a clear space.

Ms. Lee asked Mr. Hall to explain the difference between a clear space and an open space.

Mr. Hall stated an open space includes fencing but a clear space does not include anything.

Ms. Capel stated that the language in the IDPH standards refers to the separation distance between units.

Mr. Hall stated that the Board could add a Special Condition E. as follows:

- E. There shall be a minimum separation distance of 10 feet between dwellings, excluding the duplex units.**

The special condition stated above is required to ensure the following:
To ensure compliance with IDPH standards.

Ms. Griest agreed with proposed Special Condition E.

Mr. Passalacqua asked Mr. Hall if excluding the duplex units is necessary because it has been established that they are one building.

Mr. Hall stated that if there is going to be a special condition which discusses minimum separation then you have to address the duplexes.

Mr. Passalacqua asked if a duplex is one building or two.

Mr. Hall stated that Special Condition E. could be revised as follows:

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E. There shall be a minimum separation distance of 10 feet between residential buildings.

The special condition stated above is required to ensure the following:
To ensure compliance with IDPH standards.

Mr. Passalacqua agreed with Special Condition E.

Ms. Capel asked the petitioners if they agreed to Special Condition E.

Mr. North and Mr. Ohnstad indicated that they agreed to Special Condition E.

Ms. Capel entertained a motion to approve the special conditions.

Mr. Randol moved, seconded by Ms. Griest to approve the special conditions. The motion carried by voice vote with one opposing vote.

Ms. Capel noted that the Site Engineering Plan for Phase II of Woods Edge Mobile Home Park by Vegrzyn, Sarver and Associates dated November 9, 1995, should be added to the Documents of Record.

Findings of Fact for Case 818-S-15:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 818-S-15 held on December 10, 2015, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Passalacqua stated that the requested Special Use Permit IS necessary for the public convenience at this location because it permits effective use of the space and is within the guidelines of IDPH regulations.

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 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 traffic capacity and the entrance location has ADEQUATE visibility.

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

b. Emergency services availability is ADEQUATE.

1
2 Ms. Griest stated that emergency services availability is ADEQUATE.

3
4 **c. The Special Use WILL be compatible with adjacent uses.**

5
6 Ms. Griest stated that the Special Use WILL be compatible with adjacent uses because this is an existing
7 mobile home park and will continue as such.

8
9 Mr. DiNovo stated that it is bordered by more intensive uses on the north and south.

10
11 **d. Surface and subsurface drainage will be ADEQUATE.**

12
13 Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE because it has already
14 been designed to accommodate the full capacity of the development.

15
16 **e. Public safety will be ADEQUATE.**

17
18 Mr. Passalacqua stated that public safety will be ADEQUATE.

19
20 **f. The provisions for parking will be ADEQUATE.**

21
22 Mr. Passalacqua stated that the provisions for parking will be ADEQUATE.

23
24 **g. The property IS WELL SUITED OVERALL for the proposed improvements.**

25
26 Mr. Passalacqua stated that the property IS WELL SUITED OVERALL for the proposed improvements.

27
28 **h. Existing public services ARE available to support the proposed Special Use without
29 undue public expense.**

30
31 Mr. Passalacqua stated that existing public services ARE available to support the proposed Special Use
32 without undue public expense because the infrastructure already exists.

33
34 **i. Existing public infrastructure together with the proposed development IS adequate
35 to support the proposed development effectively and safely without undue public
36 expense.**

37
38 Mr. Passalacqua stated that existing public infrastructure together with the proposed development IS
39 adequate to support the proposed development effectively and safely without undue public expense
40 because the infrastructure already exists.

41
42 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
43 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
44 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,

1 and welfare.

2

3 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
4 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**
5 **DISTRICT in which it is located.**

6

7 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
8 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in
9 which it is located.

10

11 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
12 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**
13 **DISTRICT in which it located:**

14

15 **a. The Special Use will be designed to CONFORM to all relevant County Ordinances**
16 **and codes.**

17

18 Ms. Griest stated that the Special Use will be designed to CONFORM to all relevant County Ordinances
19 and codes.

20

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

22

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

24

25 **c. Public safety will be ADEQUATE.**

26

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

28

29 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL
30 CONDITIONS IMPOSED HEREIN, DOES conform to the applicable regulations and standards
31 of the DISTRICT in which it located.

32

33 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
34 **IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance**
35 **because:**

36

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

38

39 Ms. Griest stated that the Special Use is authorized in the District.

40

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

43

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

1 location.

- 2
3 c. **The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
4 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it**
5 **WILL NOT be injurious to the district in which it shall be located or otherwise**
6 **detrimental to the public health, safety and welfare.**
7

8 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
9 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
10 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety
11 and welfare.
12

- 13 d. **The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
14 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**
15 **which it is located.**
16

17 Ms. Griest stated that he requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
18 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.
19

20 5. **The requested Special Use IS NOT an existing nonconforming use.**
21

22 6. **SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS:**
23

- 24 A. **Regarding Part B, waiver of Section 6.2.2E of the Zoning Ordinance that requires a**
25 **minimum setback (yard) of 0 feet in lieu of 10 feet between the manufactured home**
26 **and the manufactured home site boundary for two duplex buildings:**
27

- 28 (1) **The waiver IS in accordance with the general purpose and intent of the**
29 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**
30 **the public health, safety, and welfare.**
31

32 Mr. Passalacqua stated that the waiver IS in accordance with the general purpose and intent of the
33 Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and
34 welfare because it is in compliance with IDPH regulations.
35

36 Mr. DiNovo stated that it is comparable to the standards that apply in the R-3 and R-4 zoning districts.
37

- 38 (2) **Special conditions and circumstances DO exist which are peculiar to the land**
39 **or structure involved, which are not applicable to other similarly situated**
40 **land and structures elsewhere in the same district.**
41

42 Mr. DiNovo asked if it is necessary that every finding be favorable.
43

44 Mr. Hall stated yes.

1

2 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
3 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
4 the same district because there is a difference in the state and county standards and Woods Edge
5 conforms to the state standards.

6

7 Mr. DiNovo stated that back in the 1990's the Planning and Zoning Department failed to enforce the
8 Ordinance and allowed Phase 2 to be constructed without a Zoning Use Permit.

9

10 Ms. Lee asked staff when it was discovered that Woods Edge was not in conformance.

11

12 Mr. Hall stated that the nonconformance was discovered within the past year.

13

14 Mr. Passalacqua stated that he does not like the text that Mr. DiNovo added to the finding because it
15 would insinuate that everyone else is doing it so why don't we and he does not feel that it is necessary.

16

17 Ms. Lee agreed with Mr. Passalacqua.

18

19 Ms. Capel stated that Woods Edge failed to do their paperwork.

20

21 Mr. Passalacqua stated that he would like to strike Mr. DiNovo's text.

22

23 Mr. DiNovo stated that he believed that this was a feature that was unique to Woods Edge therefore
24 distinguishing it from other mobile home parks.

25

26 Ms. Lee stated that Woods Edge did not obtain a Zoning Use Permit for Phase 2 which they were
27 obligated to do.

28

29 Mr. Passalacqua stated that the Board has already discussed all of this and this is at the wrong point of
30 the meeting to rehash it. He said that he still does not like the last sentence.

31

32 Mr. DiNovo withdrew his text for Finding 6.A(2).

33

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

37

38 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of
39 the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
40 structure or construction because the regulations do not address duplexes in manufactured home parks.

41

42 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**
43 **NOT result from actions of the applicant.**

44

1 Ms. Lee asked Mr. Hall if the petitioners received a Zoning Use Permit for the duplexes.

2

3 Mr. Hall stated not yet. He said that this finding is not asking whether they received a permit or not, and
4 is asking what if this was being proposed new, could the Board justify it.

5

6 Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO
7 NOT result from actions of the applicant because the ordinance is not written to address duplexes.

8

9 **(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL**
10 **CONDITIONS, IS the minimum variation that will make possible the**
11 **reasonable use of the land/structure.**

12

13 Ms. Capel stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITIONS
14 IS the minimum variation that will make possible the reasonable use of the land/structure.

15

16 **B. Regarding Part C, the waiver of Section 6.2.2E of the Zoning Ordinance that**
17 **requires a minimum setback (yard) of 5 feet in lieu of 10 feet between the**
18 **manufactured home and the manufactured home site boundary for 23 sites in the**
19 **Phase 2 Expansion:**

20

21 Ms. Griest stated that she would question the text regarding the 23 sites because the advertisement lists
22 the addresses. She said that she wants the petitioners to understand that the waiver only gives a variance
23 on those 23 sites and if in a later date in time one of the other existing sites becomes damaged or needs
24 replaced they have to observe the normal 10 feet setback or come to the Board for a variance.

25

26 Ms. Capel stated that the wording on 6.A. would need to be the same in addressing the duplexes.

27

28 Mr. Hall asked Ms. Griest if she was just clarifying something or does she want this changed.

29

30 Ms. Griest stated that she doesn't want anything changed because even though the wording doesn't say
31 23 sites it specifically lists the addresses. She said that she wants the petitioners to be clear that it only
32 includes those sites and the sites that are currently in compliance with the Ordinance needs to continue to
33 observe that 10 feet separation from the lot line.

34

35 Mr. Passalacqua stated that we are waiving it for future development but we are not waiving it for
36 something that may need to be rebuilt.

37

38 Mr. Hall stated that if something meets it right now and if it has to be rebuilt it has to be rebuilt as it is
39 right now.

40

41 **(1) The waiver IS in accordance with the general purpose and intent of the**
42 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**
43 **the public health, safety, and welfare.**

44

1 Ms. Griest stated that the waiver IS in accordance with the general purpose and intent of the Zoning
2 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare
3 because it is in compliance with IDPH regulations and is comparable to the standards in the Zoning
4 Ordinance for R-3 and R-4 districts.

- 5
6 **(2) Special conditions and circumstances DO exist which are peculiar to the land**
7 **or structure involved, which are not applicable to other similarly situated**
8 **land and structures elsewhere in the same district.**

9
10 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
11 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
12 the same district because there is a difference in the state and county standards and Woods Edge
13 conforms to the state standards.

- 14
15 **(3) Practical difficulties or hardships created by carrying out the strict letter of**
16 **the regulations sought to be varied WILL prevent reasonable or otherwise**
17 **permitted use of the land or structure or construction.**

18
19 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of
20 the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
21 structure or construction because it would impose a standard greater than that of the state.

- 22
23 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**
24 **NOT result from actions of the applicant.**

25
26 Ms. Lee stated that the special conditions, circumstances, hardships, or practical difficulties DO result
27 from actions of the applicant because the petitioners should have obtained a Zoning Use Permit and
28 would not have this issue if they had done so.

29
30 Mr. Passalacqua stated that the petitioners would still require the variance whether they received a
31 permit or not this is still the layout that is desirable for this type of neighborhood and this type of home.

32
33 Ms. Capel stated that it also has to do with the economic feasibility for this type of development.

34
35 Mr. DiNovo stated that the nature of the market changed.

36
37 Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO
38 NOT result from actions of the applicant because of the nature of mobile home size and mobile home
39 park configuration. He said that they are limited in lot size and layout that would be economically
40 functional.

41
42 Ms. Capel asked Ms. Lee if she agreed with Mr. Passalacqua or does she still stand with her
43 recommendation for DO result from actions of the applicant.

44

1 Ms. Lee stated that she stands with her recommendation although if the other Board members agree with
2 Mr. Passalacqua then so be it with her opposition.

3
4 Ms. Capel asked Mr. Hall if the finding should be voted upon by the Board.

5
6 Mr. Hall stated that it might have been advisable for the Board to vote on all of the findings but if the
7 Board desires they can start with this finding.

- 8
9 **(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL**
10 **CONDITIONS, IS the minimum variation that will make possible the**
11 **reasonable use of the land/structure.**

12
13 Ms. Capel stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITIONS
14 IS the minimum variation that will make possible the reasonable use of the land/structure because it is in
15 compliance with the state regulations.

16
17 Mr. Passalacqua agreed.

18
19 Ms. Capel asked the Board if they agreed with the recommendations for Finding of Fact 6.B. The Board
20 agreed with the Findings by voice vote with one opposing vote.

21
22 **Ms. Griest moved, seconded by Mr. Passalacqua to extend the meeting to 10:00 p.m. The motion**
23 **carried by voice vote.**

- 24
25 **C. Regarding Part D, the waiver of Section 6.2.2E of the Zoning Ordinance that**
26 **requires a minimum setback (yard) of 5 feet in lieu of 10 feet between the**
27 **manufactured home and the manufactured home site boundary for future Phase 3**
28 **Expansion:**

- 29
30 **(1) The waiver IS in accordance with the general purpose and intent of the**
31 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**
32 **the public health, safety, and welfare.**

33
34 Mr. Passalacqua stated that the waiver IS in accordance with the general purpose and intent of the
35 Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and
36 welfare because it will be identical to the majority of the rest of the development and in compliance with
37 the IDPH.

38
39 Mr. DiNovo stated that it is related to a revised site plan that will reduce the permissible density
40 significantly.

- 41
42 **(2) Special conditions and circumstances DO exist which are peculiar to the land**
43 **or structure involved, which are not applicable to other similarly situated**
44 **land and structures elsewhere in the same district.**

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Mr. DiNovo stated that special conditions and circumstances DO 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 Phase III is entirely bounded by Woods Edge Mobile Home Park and does not border any other property.

(3) 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.

Mr. DiNovo stated that 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 because the nature of the mobile home park market has changed and alternate site layouts may not be feasible.

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

Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the state regulations do not match county regulations.

Ms. Capel stated that the petitioners are applying for the variance ahead of time.

(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITIONS, IS the minimum variation that will make possible the reasonable use of the land/structure.

Mr. Passalacqua stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITIONS, IS the minimum variation that will make possible the reasonable use of the land/structure.

Ms. Capel asked the Board if they agreed with the recommendations for Finding of Fact 6.C. The Board agreed with the Findings by voice vote.

7. 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 petitioners have 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 condition stated above is required to ensure the following:

1 That any proposed exterior lighting is in compliance with the Zoning
2 Ordinance.

3
4 B. That the petitioners develop the recreation areas in accordance with the guidelines
5 established in Special Use Case 652-S-88 as part of Phase III development.

6
7 The special condition stated above is required to ensure the following:
8 That the Special Conditions are completed from the Special Use Case that
9 approved the development of Woods Edge Manufactured Home Park.

10
11 C. That the petitioners ensure that the emergency access on Fern Street remains
12 unobstructed on the Woods Edge side of the locked gate.

13
14 The special condition stated above is required to ensure the following:
15 That emergency access that was a condition of Special Use Permit 652-S-88
16 functions as intended.

17
18 D. The approved site plan will consist of the following:
19 (1) For the original development and Phase I Expansion of Woods Edge, the Site
20 Plan approved under Special Use Case #652-S-88 will be the official site plan.
21 (2) For Expansion Phases II and III, the site engineering plans developed by
22 Vegrzyn, Sarver and Associates dated November 9, 1995 will be the official
23 site plan.
24 (3) For the two duplexes, the approved site plan shall be an as-built site plan of
25 the duplexes to be submitted for a Zoning Use Permit.

26
27 The special condition stated above is required to ensure the following:
28 That it is clear what the official site plan is for Woods Edge development.

29
30 E. There will be a minimum separation distance of 10 feet between residential
31 buildings.

32
33 The special condition stated above is required to ensure the following:
34 To ensure compliance with IDPH standards.

35
36 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
37 of Fact as amended.

38
39 Ms. Griest moved, seconded by Mr. Passalacqua to adopt the Summary of Evidence, Documents of
40 Record and Findings of Fact as amended. The motion carried by voice vote with one opposing
41 vote.

42
43 Mr. DiNovo requested clarification for Special Condition A. He asked if the Zoning Administrator shall
44 not authorize a Zoning Compliance Certificate for Phase II.

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Mr. Hall stated yes.

Mr. Passalacqua stated that the Zoning Compliance Certificate is all lighting.

Mr. Hall stated that Mr. DiNovo’s question has to do with what Zoning Compliance Certificate will the Zoning Administrator bother to do this and the answer is that the Zoning Administrator will have to do it for every compliance certificate.

Ms. Capel entertained a motion to move to the Final Determination for Case 818-S-15.

Ms. Griest moved, seconded by Mr. Passalacqua to move to the Final Determination for Case 818-S-15. The motion carried by voice vote.

Ms. Capel informed Mr. North and Mr. Ohnstad that currently the Board has one absent Board member therefore it is at their discretion to either continue Case 818-S-15 until a full Board is present or request that the present Board move to the Final Determination. She informed Mr. North and Mr. Ohnstad that four affirmative votes are required for approval.

Mr. Ohnstad asked the Board what happens if the vote fails.

Mr. Hall stated that it would be a real predicament if the vote failed because the findings are all positive. He said that if the Board did not approve this case they would have to either go back and revise the findings or take a huge legal risk.

Mr. North and Mr. Ohnstad requested that the present Board move to the Final Determination.

Final Determination for Case 818-S-15:

Ms. Griest moved, seconded by Mr. DiNovo that 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 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 818-S-15 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants Dennis Ohnstad and John North, d.b.a. Woods Edge Development, to authorize the following:

Part A: Authorize the expansion of a Manufactured Home Park to include four previously constructed manufactured dwelling units that were not included in the original authorization for the Woods Edge Manufactured Home Park approved on March 9, 1989 under Special Use Case 652-S-88.

SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS FOR MANUFACTURED HOME PARKS:

Part B: A waiver for a minimum setback (yard) of 0 feet in lieu of 10 feet between the manufactured home and the manufactured home site boundary, as per Section 6.2.2E of the Zoning Ordinance for the four previously constructed manufactured dwelling units in Phase II of Woods Edge that are also the subject of Part A of the requested Special Use Permit:

- 297A Apple Tree Dr.
- 297B Apple Tree Dr.
- 299A Apple Tree Dr.
- 299B Apple Tree Dr.

Part C: A waiver for a minimum setback (yard) of 5 feet in lieu of 10 feet between the manufactured home and the manufactured home site boundary, as per Section 6.2.2E of the Zoning Ordinance for the previously constructed manufactured dwelling units in Phase II of Woods Edge:

- 844 Peach Tree St.
- 845 Peach Tree St.
- 846 Peach Tree St.
- 847 Peach Tree St.
- 849 Peach Tree St.
- 855 Peach Tree St.
- 857 Peach Tree St.
- 861 Peach Tree St.
- 863 Peach Tree St.
- 864 Peach Tree St.
- 865 Peach Tree St.
- 866 Peach Tree St.
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- 871 Peach Tree St.
- 872 Peach Tree St.
- 874 Peach Tree St.
- 876 Peach Tree St.
- 877 Peach Tree St.
- 879 Peach Tree St.
- 338 Plum Tree Dr.

340 Plum Tree Dr.

Part D: A waiver for a minimum setback (yard) of 5 feet in lieu of 10 feet between the manufactured home and the manufactured home site boundary, as per Section 6.2.2E of the Zoning Ordinance for all manufactured home sites in future Phase III of Woods Edge.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioners have 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 condition stated above is required to ensure the following:

That any proposed exterior lighting is in compliance with the Zoning Ordinance.

B. That the petitioners develop the recreation areas in accordance with the guidelines established in Special Use Case 652-S-88 as part of Phase III development.

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

That the Special Conditions are completed from the Special Use Case that approved the development of Woods Edge Manufactured Home Park.

C. That the petitioners ensure that the emergency access on Fern Street remains unobstructed on the Woods Edge side of the locked gate.

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

That emergency access that was a condition of Special Use Permit 652-S-88 functions as intended.

D. The approved site plan will consist of the following:

- (1) For the original development and Phase I Expansion of Woods Edge, the Site Plan approved under Special Use Case #652-S-88 will be the official site plan.
(2) For Expansion Phases II and III, the site engineering plans developed by Vegrzyn, Sarver and Associates dated November 9, 1995 will be the official site plan.
(3) For the two duplexes, the approved site plan shall be an as-built site plan of the duplexes to be submitted for a Zoning Use Permit.

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

That it is clear what the official site plan is for Woods Edge development.

1 E. There will be a minimum separation distance of 10 feet between residential
2 buildings.

3
4 The special condition stated above is required to ensure the following:
5 To ensure compliance with IDPH standards.
6

7 Ms. Capel requested a roll call vote.

8
9 The roll call vote is as follows:

10			
11	DiNovo-yes	Griest-yes	Lee-no
12	Passalacqua-yes	Randol-yes	Thorsland-absent
13	Capel-yes		

14
15 Mr. Hall informed the petitioners that they have received an approval for their request.

16
17 Ms. Capel entertained a motion for a five minute recess.

18
19 Ms. Griest moved, seconded by Mr. Passalacqua for a five minute recess. The motion carried by
20 voice vote.

21
22 The Board recessed at 9:35 p.m.

23 The Board resumed at 9:40 p.m.
24

25 **Case 819-AT-15 Petitioner: Champaign County Zoning Administrator Request: Amend the**
 26 **Champaign County Zoning Ordinance by adding the following: A. In Section 4.2.1 C. add**
 27 **“HOSPITAL, medical CLINIC, HOSPITAL AND MEDICAL clinic, and/or any use and/or**
 28 **structure that is accessory to a HOSPITAL and/or medical CLINIC may be authorized in the CR**
 29 **District only as an additional principal USE or additional principal STRUCTURE on Public**
 30 **Fairgrounds by SPECIAL USE Permit subject to Section 5.2” B. In Section 5.2, add**
 31 **“HOSPITAL” as a Special Use Permit in the CR District and add a footnote stating the**
 32 **“HOSPITAL, medical CLINIC, HOSPITAL and medical CLINIC, and/or structure that is**
 33 **accessory to a HOSPITAL and/or medical CLINIC, may be authorized in the CR District only as**
 34 **an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by**
 35 **SPECIAL USE Permit subject to the standard conditions in Section 6.1.3.” C. In Section 5.2, add**
 36 **“Medical and Dental Clinic” as a Special Use Permit in the CR District and make the Special Use**
 37 **Permit subject to the same footnote as for HOSPITAL as a Special Use Permit in the CR District.**
 38 **D. In Section 6.1.3 add “HOSPITAL, medical CLINIC, HOSPITAL and medical CLINIC, and/or**
 39 **any use and/or structure that is accessory to a HOSPITAL and/or medical CLINIC, as an**
 40 **additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the**
 41 **CR District” and require no minimum fencing; require the minimum LOT AREA, Width,**
 42 **Maximum HEIGHT, and Required Yards to be the same as in the CR Zoning DISTRICT; and**
 43 **add the following special provisions (standard conditions)” 1. The Public Fairgrounds must have**
 44 **been an established use at the subject location on October 10, 1973. 2. Traffic impacts shall be**

1 considered. 3. Site design, land management, and storm water management designs and practices
2 shall provide effective site drainage; meet or exceed state and federal water quality standards;
3 protect downstream drainage patterns; minimize impacts on adjacent properties; provide for
4 stream flows that support healthy aquatic ecosystems; and, wherever possible, preserve existing
5 habitat and enhance degraded habitat. 4. A Public Fair must continue to be held at the Public
6 Fairgrounds or the Special Use Permit shall become void.

7
8 Mr. John Hall, Zoning Administrator, stated that there are witnesses present for this case tonight but
9 staff is in the process of scaling the amendment back in a way to meet the needs of the fair association
10 and answer the concerns of the City of Urbana. He said that he has taken the liberty of including the
11 case on the December 17th agenda and hopefully staff will have revisions for the Board's review and Mr.
12 Mike Kobel, Chairman of the Champaign County Fair Association, will be in attendance.

13
14 Ms. Lee asked Mr. Hall if the witnesses will have the opportunity to speak tonight regarding this case.

15
16 Mr. Hall stated that the Board can ask the witnesses if they have anything to present to the Board tonight
17 regarding the text amendment.

18
19 Ms. Capel called Scott Harding.

20
21 Mr. Scott Harding stated that he will defer in testifying until the December 17th meeting.

22
23 Mr. DiNovo asked Mr. Hall if the parking areas will be used by the Champaign County Fair Association
24 or will it be used exclusively by the hospital.

25
26 Mr. Hall stated that, as far as he knows all of the parking areas will be used by both parties. He noted
27 that he has recently been made aware that other parties will be using the parking areas as well which are
28 part of the changes that are in the works.

29
30 Ms. Capel entertained a motion to continue Case 819-AT-15 to the December 17, 2015, meeting.

31
32 **Ms. Griest moved, seconded by Ms. Lee to continue Case 819-AT-15 to the December 17, 2015,**
33 **meeting. The motion carried by voice vote.**

34
35 Ms. Capel stated that the Board will now hear Case 818-S-15.

36
37 **7. Staff Report**

38
39 None

40
41 **8. Other Business**

42 **A. 2016 ZBA Calendar Review**

43
44 Mr. Hall stated that the 2016 ZBA Calendar was distributed to the Board for review. He noted that the

1 dates indicated in purple are dates which the Board will not be in the Lyle Shields Meeting Room. He
2 said that due to budget concerns the ZBA is to have fewer meetings in 2016. He said that if you count
3 the purple and blue dates there are 22 ZBA meetings in 2016 but if the purple dates are removed there
4 would only be 19 meetings in 2016. He said that on November 17, 2015, the County Board will be
5 using the Lyle Shields Meeting Room and the John Dimit Room is unavailable therefore he would
6 recommend that the Board also cancel the November 17th meeting. He said that with these revisions to
7 the 2016 calendar the Board would have 18 meetings scheduled for FY 2016 and the budget for per
8 diems in FY 2016 is \$12,600 and with the new per diem of \$700 per meeting that is 18 meetings. He
9 said that he recommends that the January 28th meeting be cancelled due to issues that have come up with
10 the scheduled case for that meeting.

11
12 Mr. Passalacqua asked Mr. Hall if there was a surplus in per diem funds for FY 2015.

13
14 Mr. Hall stated that for FY 2015 the Board was way under budget and held 18 meetings and was paid
15 \$9,500 in per diems versus the budgeted amount for per diems of \$12,000.

16
17 Mr. Passalacqua asked if it would be in the best interest of the petitioner to continue the meeting for
18 January 28th or is it not going to happen anyway.

19
20 Mr. Hall stated that the Board could hold the meeting in the John Dimit Meeting Room but following the
21 last time that the case was continued it was discovered that one of the interested neighbors will be unable
22 to attend the January 28th meeting. He said that staff took the time to notify all of the other interested
23 neighbors and the petitioner about the January 28th meeting and it was discovered that they are all
24 available on March 24th. He said that to accommodate the petitioner and the interested neighbors staff
25 recommends that the case be continued to the March 24th meeting. He said that this will require
26 suspension of the 100-day rule for continuance but it is known that every interested party is available for
27 the March 24th meeting and it would eliminate the need for the use of the John Dimit Room on January
28 28th.

29
30 **Mr. Passalacqua moved, seconded by Ms. Lee to cancel the January 28th, September 29th, October**
31 **13th, and November 17th meetings. The motion carried by voice vote.**

32
33 B. Reschedule Case 792-V-14 to the March 24, 2016, meeting

34
35 Mr. Hall stated that the Board needs to make a motion to suspend the 100-day rule for continuance and
36 move Case 792-V-14 to the March 24, 2016, meeting.

37
38 **Ms. Griest moved, seconded by Mr. Passalacqua to suspend the 100-day rule for continuance and**
39 **move Case 792-V-14 to the March 24, 2016, meeting. The motion carried by voice vote.**

40
41 Mr. Hall stated that if the Board knows tonight that it does not desire to hold a meeting on December
42 22nd it could cancel the meeting tonight or leave it on the calendar. He noted that there is no meeting in
43 November which technically violates the Ordinance but the Board literally has nowhere else to meet and
44 the Board does have a limited budget so we are not meeting the terms of the Ordinance but are meeting

1 the terms of reality.

2
3 Ms. Griest stated that if the Board gets to the point where a special meeting is required at that time
4 perhaps the Board could schedule a meeting on November 3rd. She said that she would like to leave the
5 December 22nd date open at this time.

6
7 Mr. Hall stated that back to back meetings do put a lot of pressure on staff in getting things to the Board.
8 He said that if necessary staff would be happy to do that.

9
10 Ms. Berry stated that the Environment and Land Use Committee meets on November 3rd and should be
11 indicated in green. She apologized for the oversight.

12
13 Mr. Hall stated that perhaps the Board should schedule a ZBA meeting on November 10th.

14
15 Ms. Berry stated that the Committee of the Whole is on November 10th therefore the meeting room is not
16 available.

17
18 Mr. Hall stated that if necessary a special meeting could always be held in the John Dimit Room but the
19 budget must be followed or a budget amendment requested.

20
21 Ms. Griest suggested that the December 22nd be left as indicated on the calendar and if it appears that the
22 meeting is not necessary it can be cancelled.

23
24 **9. Audience Participation with respect to matters other than cases pending before the Board**

25
26 None

27
28 **10. Adjournment**

29
30 Ms. Capel entertained a motion to adjourn the meeting.

31
32 **Ms. Lee moved, seconded by Ms. Griest to adjourn the meeting. The motion carried by voice vote.**

33
34 The meeting adjourned at 9:47 p.m.

35
36
37
38 Respectfully submitted

39
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41
42
43 Secretary of Zoning Board of Appeals
44

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:** January 14, 2016 **PLACE:** Lyle Shield's Meeting Room
8 1776 East Washington Street
9 **TIME:** 6:30 p.m. **Urbana, IL 61802**

10 **MEMBERS PRESENT:** Catherine Capel, Frank DiNovo, Debra Griest, Jim Randol, Eric Thorsland
11

12 **MEMBERS ABSENT :** Marilyn Lee, Brad Passalacqua
13

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

16 **OTHERS PRESENT :** Mike Millage, Bruce Roth, Jason Wishall, Brian Wishall, Mike Billimack,
17 Tom Berns, Chris Billing, Lin Warfel, Christine Walsh, Matt Schweighart,
18 Mike Wishall
19

20
21
22 **1. Call to Order**
23

24 The meeting was called to order at 6:30 p.m.
25

DRAFT

26 **2. Roll Call and Declaration of Quorum**
27

28 The roll was called and a quorum declared present with two members absent.
29

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

34
35 **3. Correspondence**
36

37 None
38

39 **4. Approval of Minutes (December 17, 2015)**
40

41 Mr. Thorsland entertained a motion to approve the December 17, 2015, minutes as submitted.
42

43 **Mr. Randol moved, seconded by Ms. Capel to approve the December 17, 2015, minutes as submitted.**
44

45 Mr. Thorsland asked the Board if there were any additions or corrections to the minutes and there were
46 none.
47

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

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Mr. Thorsland entertained a motion to rearrange the agenda and hear Case 819-AT-15 prior to Cases 805-AM-15, 806-S-15 and 807-V-15.

Ms. Griest moved, seconded by Mr. DiNovo to rearrange the agenda and hear Case 819-AT-15 prior to Cases 805-AM-15, 806-S-15, and 807-V-15. The motion carried by voice vote.

5. Continued Public Hearing

Cases 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 to 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; and 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 to 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: 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; and 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.

Mr. Thorsland informed the audience that Cases 806-S-15 and 807-V-15 are Administrative Cases 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

1 ZBA By-Laws are exempt from cross examination.
2

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

7 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.
8

9 Mr. Matthew Schweighart, attorney for the petitioners, stated that the nature of the operation, being
10 considered today, is a family farm that has been at this location since 1939. He said that as the result of hard
11 work and organic growth the farm operation evolved into a trucking business that is mostly agriculturally
12 related. He said that the petitioners have made every effort and wish to continue to make every effort to be
13 good neighbors and operate with this Board and staff as necessary.
14

15 Mr. Thorsland asked the Board if there were any questions for Mr. Schweighart and there were none.
16

17 Mr. Thorsland asked if staff had any questions for Mr. Schweighart and there were none.
18

19 Mr. Thorsland called John Hall to testify.
20

21 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated January 14, 2016,
22 to the Board. He said that the memorandum includes an email from Attorney Matt Schweighart which
23 answered a list of staff's questions. He said that after the last public hearing staff realized that the Board did
24 not discuss whether fueling occurs on the subject property. He said that there are fuel tanks indicated in
25 photographs therefore staff questioned whether the fuel tanks were used for the farming operation or the
26 trucking operation. He said that Mr. Schweighart indicated in his email that the fuel tanks were used for both
27 the farm trucks and the trucking operation. Mr. Hall stated that staff realized that they had not received as
28 much input as desired for the special use identifying what parts of the property the special use does use. He
29 said that staff asked if the trucking operation used both driveways or just the south driveway and Mr.
30 Schweighart indicated that the trucking operation does indeed use both driveways.
31

32 Mr. Hall stated that staff was informed that there are significant activities carried out in an addition to the
33 dwelling. He said that it is important for the petitioners to understand that the site plan that is approved has
34 all of the buildings that can be built for the special use without having to obtain a new special use. He said
35 that the Board always wants to make sure that the petitioner has considered the next five to ten years and if
36 any future buildings will be required that are not indicated on the site plan. He said that he is not interested
37 in the agricultural buildings because agriculture is exempt from zoning and he is not interested in the
38 dwelling even though there is one addition that is partially used for the trucking business and partially used
39 for the family farm. He said that the petitioners could add on to the dwelling as much as they desire. He
40 said that the dwelling is part of the special use but it is not regulated like buildings that are otherwise used
41 for the trucking business. He said that if the petitioners are going to construct a new conference center for

1 the trucking business then that would be part of the special use and it would need to be on the approved site
 2 plan. He said that typically small storage buildings that have not been included on the approved site plan are
 3 generally allowed to be used without needing a new special use. He said that the site plan is important and
 4 should include all of the buildings that have been approved for the special use and even though the house is
 5 part of the special use, it is in the area where the special use is located, he is not suggesting that the house is
 6 under the same limits as other buildings that are used for the special use but he does think that it is important
 7 for the Board to know that the house is part of the special use.

8
 9 Mr. DiNovo asked Mr. Hall if the house doesn't have to be accessory to the business.

10
 11 Mr. Hall stated that it is now.

12
 13 Mr. DiNovo asked Mr. Hall if the house is sold or rented in the future to someone who is not accessory to
 14 the business then the house should be on a separate lot.

15
 16 Mr. Hall stated that Mr. DiNovo is correct unless the house is for a caretaker.

17
 18 Mr. DiNovo stated that as long as the petitioner understands that the house cannot be on the business
 19 premises unless the house is related to the business.

20
 21 Mr. Hall stated that the first memorandum didn't accurately portray the area of the map amendment. He said
 22 that the map amendment applies to the entire five acre parcel plus that part of the special use that goes off
 23 the five acre parcel and the petitioners have had their surveyor provide a new legal description that defines
 24 that area. He said that the new legal description was very helpful in drafting the resolution for the County
 25 Board.

26
 27 Mr. Hall stated that staff requested information regarding which family members have an owner interest in
 28 the trucking company because the statute requires that for every special use permit, if it is a corporation, that
 29 the legal advertisement includes all officers and/or directors and shareholders of 20% or more. He said that
 30 many times staff does not have this information in time for the legal advertisement and is content if they at
 31 least have it in the file.

32
 33 Mr. Hall stated that in regards to accessibility, Doug Gamble has retired from the Capital Development
 34 Board and is no longer burdened with accessibility. Mr. Hall stated that there is a new accessibility specialist
 35 who has asked for an accessibility survey prepared by an architect. He said that the petitioners are working
 36 with the Capital Development Board so that they can obtain a statement of compliance. He said that the
 37 condition regarding accessibility needs to stay as a condition and he is glad to see that we are on our way to
 38 getting all of the information that is required.

39
 40 Mr. Hall stated that staff sent out the updated Findings of Fact and Summaries of Evidence and the new
 41 memorandum needs to be added as a new Document of Record. He said that another attachment to the new

1 memorandum that he did not mention is the agreement between LMJ Transportation, Inc. and the Tolono
2 Township Highway Commissioner. Mr. Hall stated that when the Board reviews the special conditions for
3 the special use permit they should add the Tolono Township agreement to Special Condition B.(1) which
4 currently only refers to the Pesotum Township agreement.

5
6 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

7
8 Mr. Thorsland called Jason Wishall to testify.

9
10 Mr. Jason Wishall, who resides at 4711 Chestnut Grove Drive, Champaign, stated that he doesn't have
11 anything to add at this time but he is available to answer any questions that the Board and staff may have.

12
13 Mr. Thorsland asked the Board if there were any questions for Mr. Jason Wishall.

14
15 Mr. DiNovo stated that there are two parcels involved in the case. He asked Mr. Jason Wishall to clarify
16 who owns the five acre parcel.

17
18 Mr. Jason Wishall stated that the five acre parcel is owned by himself, his father and his brother. He said
19 that the back side, .68 acres, is owned by Wishall Farms, Inc.

20
21 Mr. DiNovo asked if there are other parties involved in Wishall Farms, Inc.

22
23 Mr. Jason Wishall stated no.

24
25 Mr. Thorsland stated that legally they are separate entities. He said that the five acre parcel and .68 acres are
26 included in the new description.

27
28 Mr. DiNovo asked Mr. Jason Wishall to indicate their expectations or plans for future growth.

29
30 Mr. Jason Wishall stated that they are pretty much where they want to be with employees, drivers and
31 equipment. He said that it has taken them a lot of years to get to this size and they are comfortable with it.
32 He said that the size of their operation works well with the size of their farm and everything just kind of
33 works very well together. He said that anything else would require more staff and trucks which is not their
34 desire because they like their current size.

35
36 Mr. Thorsland asked the Board if there were any additional questions for Mr. Jason Wishall and there were
37 none.

38
39 Mr. Thorsland asked if staff had any questions for Mr. Wishall.

40
41 Mr. Hall stated that he would like to review that the map amendment is for the entire five acres and the little

1 part that extends out. He said that the special use permit could be for the entire five acres but the approval is
2 for the buildings that have been shown whether the special use is for the entire five acres or for a lesser part
3 of it. He asked Mr. Jason Wishall if he understood that the special use is not for the entire five acres or
4 would he rather have it for the entire five acres.

5
6 Mr. Jason Wishall stated that they would rather not have the special use on the entire five acres.

7
8 Mr. Hall asked Mr. Jason Wishall if the maps that were included in the memorandum as Attachment G.
9 would work for them.

10
11 Mr. Jason Wishall stated yes.

12
13 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Wishall and there was no one.

14
15 Mr. Thorsland called Brian Wishall to testify.

16
17 Mr. Brian Wishall, who resides at 486 CR 900E, Tolono, stated that the only thing that he has to add is his
18 response to the question regarding who would live at the residence if he did not. He said that the residence
19 has been in his family since 1939 and he, his wife or their small daughter do not have any intention of
20 leaving the property and intend to live there for at least as long as he is alive. He said that there will never be
21 a tenant in the home on the property.

22
23 Mr. Thorsland asked the Board if there were any questions for Mr. Brian Wishall and there were none.

24
25 Mr. Thorsland asked if staff had any questions for Mr. Brian Wishall and there were none.

26
27 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Brian Wishall and there was no
28 one.

29
30 Mr. Thorsland called Michael Wishall to testify.

31
32 Mr. Michael Wishall, who resides at 547C CR 900E, Tolono, stated that he lives three-quarters of a mile
33 from the subject property. He said that the property is five acres because when his parents set up their estate
34 they were told that they had to have five acres. He said that if his parents had been told that they only needed
35 three acres then the parcel would only be three acres today. He said that it appears that the five acres is a
36 problem today but it wasn't an issue 20 years ago when his parents set up their estate. He said that his
37 mother passed away three years ago and his father passed away six years ago and the creation of the estate
38 was long before their passing.

39
40 Mr. Thorsland asked Mr. Michael Wishall if his parents' best information at the time of the creation of their
41 estate was that they had to have a five acre parcel.

1

2 Mr. Michael Wishall stated yes. He said that when his parents passed away he and his sons purchased the
3 property from his brother and sister. He said that Wishall Farms, Inc. owns the 320 acres that surrounds the
4 farm property. He said that Wishall Farms, Inc. does not own any tractors and he doesn't have any drivers
5 but he does own trailers and they are parked on the .68 acres that is included in the special use. He said that
6 he doesn't understand why the .68 acres is included in the special use but to make everyone happy he is
7 going along with it. He said that the farm meant everything to his parents and when he is gone it goes to his
8 kids. He said that his parents worked their whole life to make the farm better for him and he has worked all
9 of his life to make it better for his kids. He said that things have just evolved because there were more
10 mouths to feed and the way that he was able to purchase his equipment for the farm was to haul equipment
11 for a dealer. He said that Jason has six kids therefore he has to work a little harder than he had to so things
12 have grown to where they have gotten to the point where everything is working well for everyone and they
13 do not intend to expand any larger. He said that they were not aware that there were any issues until a year
14 ago when they received a letter and it was a total shock.

15

16 Mr. Thorsland stated that it is completely impossible to know what happened when the lot was created but
17 the only thought that he can provide is that perhaps Mr. Michael Wishall's parents spoke with the County
18 about the preparation of the will and the five acres but it never came up as to what the operation on the five
19 acres was going to be. He said that also at that time the trucking operation was only becoming a component
20 of the farm.

21

22 Mr. Michael Wishall stated that in regards to the trucking component, he still has his grandfather's
23 original 1936 truck that he drove. He said that it wasn't unusual for all of the farmers in the area to have
24 trucks because that is how you helped support your family. He said that his wife gets mad at him because he
25 won't tell them no when he is asked to do something but that is how he fed his family and it wasn't due to
26 the little bit of ground that he farmed.

27

28 Mr. Thorsland asked the Board if there were any questions for Mr. Michael Wishall.

29

30 Mr. DiNovo stated that he could imagine that the five acres probably came from the Plat Act.

31

32 Mr. Michael Wishall asked if the one building included in the special use is still 50% farm and 50%
33 trucking.

34

35 Mr. Hall stated correct. He said that if that building becomes 100% trucking he would be okay with that but
36 if the Board believes that it should be specified then it can be done. He said that he does not see why
37 whether the building is 50% farm and 50% trucking or 100% trucking is material to the special use. He said
38 that if the petitioners need to expand the use of the building then they certainly can. He asked the Board if
39 they want to include a standard condition making it clear that there is no limit on the number of trucks or
40 trailers that can be on the property.

41

1 Mr. Michael Wishall stated that this was one of their questions when this all started because they want to
2 know what number is the magic number. He said that they wanted to know if they needed to downsize the
3 number of trucks and trailers or could they increase the number.
4

5 Mr. Hall stated that it is entirely possible that he may retire someday and a new zoning administrator would
6 not be obligated to follow the things that he decided if they are not written into the Ordinance. He said that
7 they may want to request the Board to include a condition making it clear that there is no limit on the trucks
8 or trailers that are allowable in the special use. He said that this discussion is in the minutes and they will
9 always be there to refer to but it is up to the petitioner.
10

11 Mr. DiNovo asked Mr. Hall if the house is demolished and the area is paved it could become a truck parking
12 area.
13

14 Mr. Hall stated that if the Board is not limiting the number of trucks and trailers and the area in which they
15 can be parked then yes that would be a gray area. He said that what is limited is the area of building square
16 footage and the area of the property where there could be things for the special use.
17

18 Mr. Michael Wishall stated that everyone must remember that this is still a family farm operation and the
19 farm equipment takes up more area than the trucks do. He said that when they unfold the 120 foot sprayer it
20 takes up all of the area. He said that the lot looks huge when you look at it from the aerial but when that
21 sprayer is unfolded the lot doesn't look that big because it takes up a lot of room.
22

23 Mr. Hall stated that the Board has to look at these cases in a worst case scenario and in a worst case scenario
24 is that the Wishall family moves on to better things and this property is for sale to someone who is only
25 interested in a trucking operation; this is why Mr. DiNovo's question is so very relevant. He asked that since
26 we have the Stormwater Management Policy that requires detention for impervious areas why would adding
27 impervious area not at least require stormwater detention. He said that the current variance is a variance
28 from the current requirement for existing impervious areas but unless the Board makes it clear by means of a
29 special condition that the variance does not apply to future impervious area then the Stormwater
30 Management Policy would apply.
31

32 Mr. Thorsland stated that he is sure that Mr. Brian Wishall would take offense to his home being torn down
33 for impervious area.
34

35 Mr. Hall stated that he understands but this is how the Board has to look at these things.
36

37 Mr. DiNovo asked if the interpretation of this has changed. He stated there is no engineered site plan but we
38 do have an aerial photograph that has been construed to serve as the function of the site plan. He said that it
39 is his understanding that special use permits are only for the site plan that is included in the special use
40 petition and can only have a minor change.
41

1 Mr. Hall stated that the site plan is the area from the outer side of both driveways and there is no limit on
2 trucks. He said that he does not normally construe a special use permit site plan to limit the paving area and
3 so if the Board wants to specify that then they could certainly do so by means of a special condition. He said
4 that if trucks and trailers are not being limited and the petitioner is willing to provide stormwater
5 management for any new impervious areas then he does not see why adding impervious area is material. He
6 said that when you discuss not limiting trucks and trailers it is beyond the imagination how many trucks and
7 trailers could be there if that huge area was made available. He said that he could not imagine more trucks
8 and trailers without an actual need for more buildings.

9
10 Mr. DiNovo suggested that a special condition could be added indicating that the special use is limited to the
11 existing paved area and any non-significant additions to be interpreted by the Zoning Administrator. He said
12 that he has no problem with a few more trailers but he does have some concerns about it being open ended.

13
14 Mr. Michael Wishall stated that he does not see a huge expansion in his lifetime.

15
16 Mr. Thorsland stated that the Board has received testimony that the operation is at a good size.

17
18 Mr. Michael Wishall stated that he did not understand whether he, Wishall Farms, Inc., who does not have
19 an interest in the trucking operation, will be limited as well.

20
21 Mr. Hall stated no.

22
23 Mr. Michael Wishall stated that it might have been nice to have been asked when this process started
24 because he could have told the Board that he didn't have any interest in the trucking operation but he does
25 have trailers for the farm. He said that the special use includes .68 acres of his farm to park his trailers but if
26 that is what has to be done, that is what they will do.

27
28 Mr. Hall stated that he was under the impression that the .68 acres portion that extends off of the five acres
29 was part of the non-farm trucking but if it isn't then it doesn't have to be included in the special use permit
30 unless it is being provided for some growth. He said that if it doesn't need to be part of the special use
31 permit then it doesn't have to be shown that way.

32
33 Mr. Michael Wishall stated that the special use permit is basically for the building and the parking.

34
35 Mr. Hall stated yes.

36
37 Mr. Michael Wishall stated that he understands now and is fine with the inclusion of the .68 acres.

38
39 Ms. Griest stated that if the .68 acres is not included then they would be prohibited from parking any of the
40 vehicles or conducting any of the operations related to the commercial trucking operation on that piece. She
41 said that if they want to use the .68 acres for a parking lot for other trucks that are part of the trucking

1 company then they need to include it but if they do not want to include it nothing can be parked there.

2
3 Mr. Michael Wishall stated that the .68 acres should be included. He said that he didn't understand why part
4 of Wishall Farms, Inc. was being included but he does understand now and thanked Ms. Griest for the
5 clarification.

6
7 Mr. Hall stated that the intermingling is fine as long and the intermingling is the area where the special use
8 has been approved. He said that the farm trucks and trailers can go anywhere on the property and do
9 whatever they need to do but the non-agricultural trucks must stay in the area of the special use permit.

10
11 Mr. Thorsland asked the Board if there were any additional questions for Mr. Michael Wishall and there
12 were none.

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

15
16 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Michael Wishall and there was no
17 one.

18
19 Mr. Thorsland called Mr. Lin Warfel to testify.

20
21 Mr. Lin Warfel, 581 CR 900 East in Tolono, that he lives about a mile north of the subject property. He
22 said that his family bought the land that adjoins the Wishall property in 1882 and they have owned it
23 continuously since 1882. He said that he has worked with Mr. Michael Wishall and his family his entire
24 career and he looks forward to continuing a very cordial relationship with the Wishall family. He said
25 they are excellent neighbors and are very cooperative; in all their operations – farming and trucking –
26 they are considerate with their trucks when passing our farm home and they don't make a lot of noise.
27 He said that he is certain that if he did have a problem, he could call Mike, Jason, or Brian and they
28 would remedy the problem as soon as possible. Mr. Warfel stated that he just wanted to affirm the
29 Wishalls and their efforts; they have been entrepreneurial and where Mike was employed as a farmer
30 there are now 30 people working and generating income taxes and other taxes for Champaign County
31 and the State of Illinois. He said that he thinks we should be enthusiastic in our thanks for the Wishalls
32 and their operation because this is a time when many are leaving Illinois and the trucking companies that
33 left Illinois reduced the state income. He stated that he wanted to come tonight to support the Wishalls
34 and to ask the Board to encourage their business. He said that having a business of their size in
35 Champaign County, in Pesotum Township, in the Tolono-Sadorus area, is a really good thing because
36 those jobs are really good jobs. He stated that professional truckers can make \$40,000 to \$80,000 a year
37 if they work full time and there are not a lot of jobs like that. He said that the employees all pay income
38 taxes and property taxes and those are all really good things and Illinois is desperate for businesses to
39 stay in Illinois. He encouraged the Board to give the Wishalls favorable consideration on this project.

40
41 Mr. Thorsland asked the Board if there were any questions for Mr. Warfel and there were none.

1
2 Mr. Thorsland asked if staff had any questions for Mr. Warfel and there were none.

3
4 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Warfel and there was no one.

5
6 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
7 regarding these cases and there was no one.

8
9 **Finding of Fact review for Case 805-AM-15:**

10
11 Mr. Thorsland stated that the Board will now review the Finding of Fact beginning with item 13 on page
12 10. He read item #13 as follows: LRMP Goal 4 is entitled "Agriculture" and states: "**Champaign**
13 **County will protect the long term viability of agriculture in Champaign County its land resource**
14 **base.**" Goal 4 has 9 objective and 22 policies. The proposed amendment WILL/WILL NOT HELP
15 ACHIEVE Goal 4. He said that that the Board needs to make these findings affirmative or relatively
16 supportive in order to satisfy the entire goal. He said that he will start with item 13.A. as follows: The
17 proposed rezoning WILL/WILL NOT HELP ACHIVE Objective 4.1. He said that the Board and staff
18 has added new evidence so the Board can work backwards to achieve the final determination.

19
20 Ms. Griest suggested that the Board work through the different sections of item 13.A. rather than
21 working backwards from the entire item.

22
23 Mr. Thorsland agreed.

24
25 Mr. Thorsland read the following: The proposed rezoning WILL/WILL NOT HELP ACHIEVE Policy
26 4.1.7 for the following reasons: a. The soil on the subject property is best prime farmland and consists
27 of Elburn silt loam and Drummer silty clay loam, and has an average LE of 100; and b. The Petitioner's
28 truck terminal is located at a pre-existing 5 acre farmstead that was GRANTED/DENIED a variance for
29 lot area in related Zoning Case 807-V-15 and even though the lot area exceeds the 3 acre maximum lot
30 area that is otherwise required, co-locating with the farmstead allows significant amounts of lot area to
31 serve both the truck terminal and the farming activities which helps to minimize the total land area
32 occupied by both uses. He asked how the Board will answer item b. when 807-V-15 has not been
33 determined.

34
35 Ms. Griest stated that typically if the Board approves the map amendment it is subject to the approval of
36 807-V-15 therefore she would recommend **GRANTED**. She said that if it is not GRANTED then
37 perhaps the Board should do Case 807-V-15 first.

38
39 Mr. Hall stated that it is always complicated when there are three related cases. He said that this is the
40 only place that the variance is mentioned in the map amendment finding.

1 Mr. Thorsland stated that the variance is mentioned on page 13 and 14. He said that there is some
2 argument to make that it goes to the map amendment first and then work through the details of the
3 special use and he does not believe that the Board has done that before.
4

5 Mr. Hall stated that the Board could simply refer to a variance being requested therefore the two would
6 be completely separate and would allow the Board to work through the map amendment and deal with
7 the variance on its own. He said that there is no way to get around the interconnections between the map
8 amendment and the special use. He said that that the decisions that the Board has to make for the special
9 use criteria related directly to the decisions that the Board has to make regarding whether or not policies
10 are achieved and he does not believe that the Board can get around coordinating those things.
11

12 Mr. DiNovo stated that the special use clearly hinges on the map amendment
13

14 Mr. Thorsland suggested a ten minute recess to investigate issues with the microphones. He said that
15 clarity of the testimony is vital to the record on a complicated case like this with three cases involved.
16

17 **The Board recessed at 7:35 p.m.**
18

19 **The Board resumed at 7:45 p.m.**
20

21 Mr. Thorsland requested, due to an issue with the microphones, that the Board speak clearly, slowly and
22 loudly so that the tape can record everyone's testimony. He said that he would like to begin with page
23 33 of 37, Summary Finding of Fact. He said that the Summary Finding of Fact orients everything upside
24 down so that the Board arrives at the main conclusion, Goal 4, after all of the other questions are
25 answered. He said that the Board could begin with the Summary Finding of Fact and then return to the
26 relevant pages to complete the parts that are missing.
27

28 Mr. DiNovo stated that he would rather walk through all of the parts and then review the Summary
29 Finding of Fact. He said that none of the items in the Finding of Fact are huge items.
30

31 Mr. Thorsland stated that the Board could start with page 2 of 37 of the Finding of Fact for Case 805-
32 AM-15 or begin on page 10 of 37 with the first decision point.
33

34 Mr. DiNovo stated that the variance is independent therefore the Board could go ahead with it prior to
35 doing the other two cases. He said that the special use is completely contingent on the map amendment.
36 He said that the decision points should be reviewed by the Board.
37

38 Ms. Capel stated that reviewing the Summary Finding of Fact takes away from the decision points.
39

40 Mr. Hall stated that the decision points are put in there intentionally so that the Finding of Fact conveys
41 everything relevant to the case. He said that if the Champaign County Board receives a map amendment

1 in which there was a variance, the Board needs to know if the variance was approved or not. He said
2 that as Mr. Thorsland suggested allowing staff to indicate whether those were granted or not is a no
3 brainer. He asked Mr. DiNovo is he is saying that the fact there is a variance has nothing to do with the
4 map amendment.

5
6 Mr. DiNovo stated that he does not want to make a big deal out of it and if the Board wants to just keep
7 it the way it is then that is fine.

8
9 Mr. Hall stated that the real difficult thing is that the Board needs to work its way through the Finding of
10 Fact.

11
12 Mr. Thorsland stated that the Board will go back to page 9 of 37 for Case 805-AM-15. He said that
13 there is no decision point for Goals 1 and 2 because staff's recommendation is **NOT IMPEDE**. He said
14 that this is a business which generates revenue and has been going on for some time and provides jobs
15 therefore he agrees that the proposed map amendment **WILL HELP ACHIEVE** Goal 3. He said that
16 Goal 4 relates to agriculture and it is always the goal which takes the Board a long time to review.

17
18 Mr. Thorsland stated that Goal 4 has 9 objectives and 22 policies. He said that LRMP Goal 4 states that
19 Champaign County will protect the long term viability of agriculture in Champaign County and its land
20 resource base.

21
22 Mr. Hall suggested that the Board go through item 13.B. prior to recommending the decision points from
23 item 13.A.

24
25 Mr. Thorsland stated Objective 4.2 is entitled "Development Conflicts with Agricultural Operations"
26 and states, "Champaign County will require that each *discretionary* review development will not
27 interfere with agricultural operations." The proposed rezoning **WILL/WILL NOT HELP ACHIEVE**
28 Objective 4.2 because of the following: (1) Policy 4.2.1 states, "The County may authorize a proposed
29 business or other non-residential *discretionary review* development in a rural area if the proposed
30 development supports agriculture or involves a product or service that is better provided in a *rural* area
31 than in an urban area." The proposed rezoning **WILL/WILL NOT HELP ACHIEVE** Policy 4.2.1 for the
32 following reasons: a. The Land Resource Management Plan (LRMP) provides no guidance regarding
33 what products or services are better provided in a rural area and therefore that determination must be
34 made in each zoning case. He said that staff recommends the following in item b.: As reviewed in Item
35 8 of this Finding of Fact, the land uses authorized by right in the AG-1 District are almost identical to
36 those authorized by-right in the AG-2 District and therefore, considering only the land uses authorized
37 by-right , the proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.1. He read item c. as follows:
38 Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with
39 adjacent AG-1 uses separate from this proposed map amendment. Nonetheless, on the basis of the
40 existing and proposed development in related Case 806-S-15 and 807-V-15 that was
41 **GRANTED/DENIED** by the Zoning Board of Appeals, the proposed rezoning **WILL/WILL NOT HELP**

1 ACHIEVE Policy 4.2.1.

2
3 Mr. Thorsland asked the Board to respond to the decision point in item 13.B.(1)c, whether the proposed
4 rezoning WILL/WILL NOT HELP ACHIEVE Policy 4.2.1.

5
6 Ms. Griest stated that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.1.

7
8 Mr. Thorsland read item 13.B.(1)c.(a) as followings: The existing and proposed development in related
9 Cases 806-S-15 and 807-V-15 DOES support agriculture to some extent but is not limited to only that
10 purpose.

11
12 Mr. DiNovo proposed that item 13.B.(1)c.(a) read as follows: The existing and proposed development
13 in related Cases 806-S-15 and 807-V-15 principally supports agriculture to some extent but is not
14 limited to only that purpose. He said that item 13.B.(1)c(b)i indicates 80% of the business and item
15 13.B.(1)c(b)ii indicates 75%.

16
17 Mr. Hall stated that page 2 indicates 80% of the business.

18
19 Mr. Thorsland suggested that all of the items should indicate 80%.

20
21 Ms. Griest stated that item 13.B.(1)c(b)iv should be corrected to indicate 807-V-15 and not 507-V-15.

22
23 Mr. Thorsland stated that he will skip the decision point for item 13.B.(1)c(b)iv and recommended the
24 following: That the existing and proposed development in related Cases 806-S-15 and 807-V-15 IS a
25 service better provided in a rural area. He asked the Board if there were any required additions.

26
27 Mr. DiNovo stated that he is very uncomfortable with item 13.B.(1)c(b)v and indicating that the public
28 road has adequate traffic capacity.

29
30 Mr. Thorsland stated that testimony has been received indicating that the petitioners will work with the
31 two townships and has even worked with Pesotum Township in the past.

32
33 Mr. DiNovo stated that he would prefer that the item indicate that the subject property is approximately
34 4 miles from the I-57 exit at Pesotum and is approximately 1 mile from County Highway 17. He asked
35 the Board if we really want to set a precedent in accepting this type of road as having adequate traffic
36 capacity for a truck terminal.

37
38 Mr. Hall stated that he cannot imagine a future case that would be identical to this therefore he does not
39 have that concern.

40
41 Ms. Griest stated that one of the other things that this item does not capture is that during the first

1 meeting the Board discussed the road improvements that Wishall Trucking made along with the
2 township between County Highway 17 and the subject property and limiting traffic to that area. She said
3 that there is an on-going road improvement agreement that is part of the special use permit.
4

5 Mr. DiNovo stated that the road improvement agreement is important to emphasize.
6

7 Mr. Thorsland stated that the on-going road improvement agreement is emphasized in other parts of the
8 finding. He said that item doesn't indicate that the road has perfect traffic capacity for this business but
9 adequate traffic capacity for this business. He said that there has been a lot of testimony about the road
10 since the first meeting in October and Mr. DiNovo was not present during that meeting but the minutes
11 reflect that testimony. He said that the statement in the item is a simple statement and does not set a
12 precedent for the future.
13

14 Mr. DiNovo stated that perhaps the item could be revised as follows: The subject property is
15 approximately 4 miles from the I-57 exit at Pesotum and is approximately 1 mile from County Highway
16 17 and is located on a public road that has adequate traffic capacity with careful compliance with the
17 township road agreements.
18

19 Mr. Hall agreed that it is important to indicate that the subject property is approximately 1 mile from
20 County Highway 17 because the more we identify why this is a unique situation the less concern there
21 will be about precedence.
22

23 Mr. Thorsland stated that with the modifications the recommendation for item item 13.B.(1)c(b) remains
24 as previously read.
25

26 Mr. DiNovo asked if there are other places in the findings where this language occurs.
27

28 Ms. Griest asked if the numbering under 13.B.(1)c is correct.
29

30 Mr. Hall stated yes.
31

32 Mr. Thorsland requested a recommendation for item 13.B.(1) overall.
33

34 Ms. Griest stated that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.1. overall.
35

36 Mr. Thorsland stated that Policy 4.2.2 states, The County may authorize *discretionary review*
37 development in a rural area if the proposed development: a) is a type that does not negatively affect
38 agricultural activities; or b) is located and designed to minimize exposure to any negative affect caused
39 by agricultural activities; and c) will not interfere with agricultural activities or damage or negatively
40 affect the operation of agricultural drainage systems, rural roads, or other agriculture-related
41 infrastructure.”

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Mr. Thorsland read item 13.B(2)b. as follows: 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. Nonetheless, on the basis of the existing and proposed development in related Case 806-S-15 and 807-V-15, the proposed rezoning that was GRANTED/DENIED by the Zoning Board of Appeals, WILL/WILL NOT HELP ACHIEVE Policy 4.2.2. He read item 13.B(2).b(a) as follows: The existing and proposed use of the subject property DOES/DOES NOT negatively affect agricultural activities because it provides trucking services to a primarily agricultural customer base. For consideration of possible effects of existing and proposed truck traffic on agricultural activities see the discussion of rural road below.

Mr. Thorsland recommended the following: The existing and proposed subject property **DOES NOT** negatively affect agricultural activities because it provides trucking services to a primarily agricultural customer base.

Mr. Thorsland stated that he agrees with staff's recommendation that the existing and proposed use of the subject property **IS NOT** negatively affected by surrounding agricultural activities.

Mr. Thorsland read item 13.B(2).b(c) as follows: The existing and proposed use of the subject property WILL/WILL NOT interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems based on the following: He said that there is evidence supporting a WILL NOT decision but requested a recommendation from the Board.

Ms. Griest stated that the existing and proposed use of the subject property **WILL NOT** interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems.

Mr. Thorsland read item 13.B(2).b(d) as follows: The existing and proposed use of the subject property WILL/WILL NOT interfere with agricultural activities or damage or negatively affect *rural* roads based on the following: He said that this is the area where the Board should indicate the road agreements with Pesotum and Tolono Townships.

Ms. Griest stated that the existing and proposed use of the subject property **WILL NOT** interfere with agricultural activities or damage or negatively affect *rural* roads.

Mr. DiNovo asked if there is a specific document of evidence that staff provided that shows that the Wishalls own the land adjacent to the other three sides of the subject property.

Mr. Thorsland stated that Mr. Wishall testified to that fact. He said that staff also provided documentation indicating such during the October public hearing. He asked the Board if they were comfortable with leaving item 13.B.(2)b.(c)iii.

1 Mr. DiNovo disagreed.
2
3 Ms. Griest stated that the petitioner may have provided the information to staff because it notes that it was
4 received on October 2, 2015.
5
6 Ms. Chavarria stated that staff verifies the land ownership by the Champaign County Assessor’s records for
7 every case and in some cases the petitioners also confirm that they own the surrounding land.
8
9 Mr. Thorsland stated that this is supported by testimony and the minutes.
10
11 Mr. DiNovo stated item 13.B.(2)b.(d)*i* should be revised to reflect the testimony suggested tonight. He said
12 that perhaps it could read as follows: The traffic generated by the proposed use is unlikely to decrease as the
13 business expands.
14
15 Ms. Griest disagreed because evidence does not support that statement because the petitioner indicated that
16 they were at their ideal size and had no plans for expansion. She said that this statement does not limit the
17 petitioner from expanding in the future.
18
19 Mr. Thorsland stated that perhaps item 13.B.(2)b.(d)*i* should state the following: The traffic generated by
20 the proposed use will not likely increase as testimony from the petitioner indicated that the business is at a
21 comfortable size at this time.
22
23 Mr. Thorsland read item 13.B.2.b.(e) as follows: The existing and proposed use of the subject property
24 WILL/WILL NOT damage or negatively affect other agricultural-related infrastructure.
25
26 Ms. Griest stated that the existing and proposed use of the subject property **WILL NOT** damage or
27 negatively affect other agricultural-related infrastructure.
28
29 Mr. Thorsland stated that proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.2.
30
31 Mr. Thorsland stated that Policy 4.2.3 states, “The County will require that each proposed discretionary
32 development explicitly recognize and provide for the right of agricultural activities to continue on adjacent
33 land.” The proposed rezoning WILL/WILL NOT HELP ACHIEVE Policy 4.2.3 for the following reason: a.
34 The Petitioners have farmland adjacent to the subject property and understand that this is a rural area where
35 agricultural activities take place; and b. A special condition has been added to the map amendment regarding
36 Champaign County’s Right to Farm Resolution.
37
38 Mr. Thorsland stated that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.3.
39
40 Mr. Thorsland stated that there is no decision point for Policy 4.2.4.
41

1 Mr. Hall noted that the Board must make a recommendation for Objective 4.2 overall.

2
3 Mr. Thorsland stated that the proposed rezoning **WILL HELP ACHIEVE** Objective 4.2.

4
5 Mr. Thorsland stated that Objective 4.3 is entitled, "Site Suitability for Discretionary Review Development"
6 and states: "Champaign County will require that each discretionary review development is located on a
7 suitable site." The proposed rezoning **WILL/WILL NOT HELP ACHIEVE** Objective 4.3 because of the
8 following: Mr. Thorsland stated that Policy 4.3.2 states, "On best prime farmland, the County may
9 authorize discretionary review development provided the site with proposed improvements is well-suited
10 overall for the proposed land use." The proposed rezoning **WILL/WILL NOT HELP ACHIEVE** Policy 4.3.2
11 because the proposed site **IS/IS NOT WELL SUITED OVERALL** for the development proposed in related
12 Cases 806-S-15 and 807-V-15 for the following reasons:.

13
14 Mr. DiNovo stated that item 13.C(1)e should be revised as follows: The subject property is
15 approximately 4 miles from the I-57 exit at Pesotum and is approximately 1 mile from County Highway
16 17 and is located on a public road that has adequate traffic capacity with careful compliance with the
17 township road agreements.

18
19 Ms. Griest stated that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.2 because the proposed
20 site **IS WELL SUITED OVERALL** for the development proposed in related Case 806-S-15 and 807-V-15.
21 She said that the proposed rezoning **WILL HELP ACHIEVE** Objective 4.3.

22
23 Mr. Thorsland read Policy 4.3.3 as follows: "The County may authorize a discretionary review development
24 provided that existing public services are adequate to support the proposed development effectively and
25 safely without undue public expense." He said that staff recommends that the proposed rezoning will **HELP**
26 **ACHIEVE** Policy 4.3.3.

27
28 Mr. Thorsland stated that Policy 4.3.4 states, "The County may authorize a discretionary review
29 development provided that existing public infrastructure, together with proposed improvements, is adequate
30 to support the proposed development effectively and safely without undue public expense." The proposed
31 rezoning **WILL/WILL NOT HELP ACHIEVE** Policy 4.3.4. He read item 13.C.(3)c states that in item
32 13.B.(2) of this Finding of Fact the Zoning Board of Appeals has recommended that the existing and
33 proposed use of the subject property **WILL/WILL NOT** damage or negatively affect the operation of
34 agricultural drainage systems, rural roads or other agriculture-related infrastructure.

35
36 Ms. Griest stated that the existing and proposed use of the subject property **WILL NOT** damage or
37 negatively affect the operation of agricultural drainage systems, rural road or other agriculture-related
38 infrastructure. She said that the rezoning **WILL HELP ACHIEVE** Policy 4.3.4.

39
40 Mr. DiNovo stated that the reference to Tolono Township should be included in item 13.C(3)a.

1 Mr. Thorsland stated that Policy 4.3.5 states, “On best prime farmland, the County will authorize a business
2 or other non-residential use only if: a) It also serves surrounding agricultural uses or an important public
3 need; and cannot be located in an urban area or on a less productive site; or b) The use is otherwise
4 appropriate in a rural area and the site is very well suited to it.” The proposed rezoning WILL/WILL NOT
5 HELP ACHIEVE Policy 4.3.5 for the following reasons: a. The proposed use in related Cases 806-S-15 and
6 807-V-15 DOES serve surrounding agricultural land uses to some extent but is not limited to that purpose;
7 and b. The proposed use in related Cases 806-S-15 and 807-V-15 CANNOT be located in an urban area or
8 on a less productive site because of the following: He noted that the indication of 75% in item 13.C(4)a(a)
9 should be revised to indicate 80%. He stated that item 13.C(4)c reads as follows: The proposed
10 development in related Cases 806-S-15 and 807-V-15 IS/IS NOT otherwise appropriate in a rural area based
11 on the following: (a) In item 13.B(1)c. of this Finding of Fact the Zoning Board of appeals has recommended
12 that the existing and proposed development in related Cases 806-S-15 and 807-V-15 IS/IS NOT a service
13 better provided in a rural area.

14
15 Mr. Thorsland stated that in item 13.B(1)c. of this Finding of Fact the Zoning Board of appeals has
16 recommended that the existing and proposed development in related Cases 806-S-15 and 807-V-15 IS
17 a service better provided in a rural area.

18
19 Mr. Thorsland read item 13.C(4)c(b) as follows: In item 13.B.(2)b.(a) of this Finding of Fact the Zoning
20 Board of Appeals has recommended that the existing and proposed use of the subject property DOES/DOES
21 NOT negatively affect agricultural activities.

22
23 Mr. Thorsland stated that In item 13.B.(2)b.(a) of this Finding of Fact the Zoning Board of Appeals has
24 recommended that the existing and proposed use of the subject property **DOES NOT** negatively affect
25 agricultural activities.

26
27 Mr. Thorsland stated that in Item 13.V.(2)b.(b) of this Finding of Fact the Zoning Board of Appeals has
28 recommended that the existing and proposed use of the subject property **IS NOT** negatively affected by
29 surrounding agricultural activities.

30
31 Mr. Thorsland read item 13.C(4)c(d) as follows: In items 13.B.(2)b.(c), (d) and (e) of this Finding of Fact
32 the Zoning Board of Appeals has recommended that the existing and proposed use of the subject property
33 WILL/WILL NOT damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or
34 other agriculture-related infrastructure.

35
36 Mr. Thorsland stated that in items 13.B.(2)b.(c) (d) and (e) of this Finding of Fact the Zoning Board of
37 Appeals has recommended that the existing and proposed use of the subject property **WILL NOT** damage or
38 negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related
39 infrastructure.

40
41 Mr. Thorsland stated that regarding whether the site is very well suited to the proposed land use, the ZBA

1 has recommended that the proposed rezoning **WILL/WILL NOT HELP ACHIEVE** Policy 4.3.2 regarding
2 whether the site with proposed improvements is well-suited overall for the proposed land use.

3
4 Ms. Griest stated that regarding whether the site is very well suited to the proposed land use, the ZBA has
5 recommended that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.2 regarding whether the site
6 with proposed improvements is well-suited overall for the proposed land use.

7
8 Mr. Thorsland stated that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.5.

9
10 Mr. Thorsland stated that the proposed amendment **WILL HELP ACHIEVE** Objective 4.3.

11
12 Mr. Thorsland stated that Goal 4 has 9 objectives and 22 policies. The proposed amendment **WILL/WILL**
13 **NOT HELP ACHIEVE** Goal 4. He said that Objective 4.1 is entitled “Agricultural Land Fragmentation and
14 Conservation” and states” “Champaign County will strive to minimize the fragmentation of the County’s
15 agricultural land base and conserve farmland, generally applying more stringent development standards on
16 best prime farmland.” The proposed rezoning **WILL/WILL NOT HELP ACHIEVE** Objective 4.1 because of
17 the following:. He said that Objective 4.1 includes nine subsidiary policies. Policies 4.1.2, 4.1.3, 4.1.4,
18 4.1.5, 4.1.8, and 4.1.9 do not appear to be relevant to the proposed zoning. He said that Policy 4.1.1 states,
19 “Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by
20 virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land
21 uses except under very restricted conditions or in areas of less productive soils.” The proposed rezoning
22 **WILL HELP ACHIEVE** Policy 4.1.1 because the Site Plan received October 2, 2015, will remove no
23 additional land from agricultural production.

24
25 Mr. Thorsland stated that the Board must make a recommendation whether the proposed rezoning
26 **WILL/WILL NOT HELP ACHIEVE** Policy 4.1.6 for the following reasons: a. The soil on the subject
27 property is best prime farmland and consists of Elburn silt loam and Drummer silty clay loam, and has an
28 average LE of 100; and b. Regarding compliance with policies having to do with the suitability of the site for
29 the proposed use, the ZBA has recommended that the proposed rezoning **WILL/WILL NOT HELP**
30 **ACHIEVE** Policy 4.3.2 regarding site suitability on best prime farmland and **WILL/WILL NOT HELP**
31 **ACHIEVE** Policy 4.3.5.

32
33 Ms. Griest stated that regarding compliance with policies having to do with the suitability of the site for the
34 proposed use, the ZBA has recommended that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.2
35 regarding site suitability on best prime farmland and **WILL HELP ACHIEVE** Policy 4.3.5.

36
37 Mr. Thorsland stated that regarding compliance with policies having to do with the adequacy of
38 infrastructure and public services for the proposed use, the ZBA has recommended that the proposed
39 rezoning **WILL/WILL NOT HELP ACHIEVE** Policy 4.3.3 regarding public services and Policy 4.3.4
40 regarding infrastructure.

1 Mr. Randol stated that regarding compliance with policies having to do with the adequacy of infrastructure
2 and public services for the proposed use, the ZBA has recommended that the proposed rezoning **WILL**
3 **HELP ACHIEVE** Policy 4.3.3 regarding public services and Policy 4.3.4 regarding infrastructure.

4
5 Mr. Thorsland stated that regarding compliance with policies having to do with minimizing conflict with
6 agriculture, the ZBA has recommended that the proposed rezoning **WILL/WILL NOT HELP ACHIEVE**
7 Policy 4.2.1, Policy 4.2.2, Policy 4.2.3, and Policy 4.2.4 regarding minimizing conflict with agriculture.

8
9 Ms. Griest stated that regarding compliance with policies having to do with minimizing conflict with
10 agriculture, the ZBA has recommended that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.1,
11 Policy 4.2.2, Policy 4.2.3, and Policy 4.2.4 regarding minimizing conflict with agriculture.

12
13 Mr. Thorsland stated that regarding compliance with policies having to do with minimizing the conversion
14 of best prime farmland, the ZBA has recommended that the proposed rezoning **WILL/WILL NOT HELP**
15 **ACHIEVE** Policy 4.1.7.

16
17 Ms. Griest stated that regarding compliance with policies having to do with minimizing the conversion of
18 best prime farmland, the ZBA has recommended that the proposed rezoning **WILL HELP ACHIEVE**
19 Policy 4.1.7.

20
21 Mr. Thorsland stated that regarding compliance with policies having to do with minimizing the disturbance
22 of natural areas, there are no natural areas on the subject property and the proposed amendment **WILL NOT**
23 **IMPEDE** the achievement of Goal 8. He said that Policy 4.1.7 states "To minimize the conversion of best
24 prime farmland, the County will require a maximum lot size limit on new lots established as by right
25 development on best prime farmland." The proposed rezoning **WILL/WILL NOT HELP ACHIEVE** Policy
26 4.1.7 for the following reasons: a. The soil on the subject property is best prime farmland and consists of
27 Elburn silt loam and Drummer silty clay loam, and has an average LE of 100. He said that he would like to
28 add that the lot was created by a will with the guidance of the best information at the time. He said that it
29 should be established why the lot is five acres and not three acres and testimony was received tonight
30 indicating that the parents prepared a will two decades ago and when they presumably contacted the County
31 they referenced the Plat Act. He said that they created the lot with the best information that they thought was
32 available.

33
34 Mr. Hall stated that Mr. Thorsland's concern is addressed in Case 807-V-15.

35
36 Ms. Griest stated that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.1.7.

37
38 Mr. Thorsland stated that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.1.6.

39
40 Mr. Thorsland asked the Board if the proposed rezoning **WILL/WILL NOT HELP ACHIEVE** Objective 4.1.

1 Ms. Griest stated that the proposed rezoning **WILL HELP ACHIEVE** Objective 4.1.
2
3 Mr. Thorsland asked the Board if the proposed amendment **WILL/WILL NOT HELP ACHIEVE** Goal 4.
4
5 Ms. Griest stated that the proposed amendment **WILL HELP ACHIEVE** Goal 4.
6
7 Mr. DiNovo asked if it would be possible to offer a motion that in every instance insert **WILL** or **WILL**
8 **NOT**, whichever formulation is favorable to the petitioner.
9
10 Mr. Hall stated that it could be done but how would Board members insert all those little changes that they
11 want to make.
12
13 Mr. DiNovo stated that he would make a motion, put it on the table and make changes.
14
15 Mr. Hall stated that if there were no changes to make then that would be okay but the ZBA is here to work
16 through and consider every one of the policies and make a decision, especially in a case like this. He said
17 that the Board could have done what Mr. DiNovo is suggesting in the beginning if there had been no changes
18 to the findings.
19
20 Mr. Thorsland explained that typically what he will do, if there is not a lot of discussion, is work off of the
21 Summary Finding of Fact and work through the decision points. He said that typically the Board will go
22 through all of the decision points and make a record regarding how those decision points were made, even if
23 there are no modifications. He said that the Board started this process when the LRMP was done and the
24 Board has gotten somewhat good at it.
25
26 Mr. Hall stated that the summary doesn't have a decision point at every policy and is only for the objectives
27 and literally the Board needed to go through every policy to sort through these things. He said that the Board
28 added good evidence about the roads and the location.
29
30 Mr. DiNovo stated that staff could edit the document.
31
32 Mr. Thorsland stated that at this time he only wants to work on this case and perhaps at a different time the
33 Board can discuss with staff how cases are determined at the public hearing.
34
35 Mr. Thorsland stated that the Board will now review LRMP Goal 5. He said that LRMP Goal 5 is entitled
36 "Urban Land Use" and states as follows: "Champaign County will encourage urban development that is
37 compact and contiguous to existing cities, villages, and existing unincorporated settlements." He said that
38 staff recommends that the proposed amendment will **NOT IMPEDE** the achievement. He said that there
39 was no new testimony which would change that recommendation.
40
41 Mr. Thorsland stated that LRMP Goal 6 is entitled "Public Health and Safety" and states as follows:

1 “Champaign County will ensure protection of the public health and public safety in land resource
2 management decisions.” He said that staff recommends that the proposed amendment will **NOT IMPEDE**
3 the achievement of Goal 6. He asked the Board if they agreed with staff’s recommendation and the Board
4 agreed.

5
6 Mr. Thorsland stated that LRMP Goal 7 is entitled “Transportation” and states as follows: “Champaign
7 County will coordinate land use decision in the unincorporated area with the existing and planned
8 transportation infrastructure and services. He said that Goal 7 has 2 objective and 7 policies. He said that
9 Objective 7.1 stated, Champaign Count will consider traffic impact in all land use decision and coordinate
10 efforts with other agencies when warranted.” The proposed rezoning **WILL/WILL NOT HELP ACHIEVE**
11 Objective 7.1 because of the following: Policy 7.1.1 states, “The County will include traffic impact analyses
12 in discretionary review development proposals with significant traffic generation.” The proposed rezoning
13 **WILL/WILL NOT CONFORM** to Policy 7.1.1 because a. the traffic generated by the proposed use will
14 likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement
15 (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between
16 County Road 600 North (commonly known as Sadorus Road and County Highway 17 and the Wishall
17 property.

18
19 Ms. Griest requested that the revised language for item 13.C(1)e be inserted indicating that the subject
20 property is 1 mile from County Highway 17 and is located on a public road that has adequate capacity with
21 careful compliance with township road agreement. She said that she would like the text, “as the business
22 grows,” stricken and the revised language inserted.

23
24 Ms. Griest stated that the proposed rezoning **WILL CONFORM** to Policy 7.1.1.

25
26 Mr. Thorsland stated that staff recommends that the proposed amendment **WILL NOT IMPEDE** the
27 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.

28
29 Mr. Thorsland stated that the proposed rezoning **WILL HELP ACHIEVE** Objective 7.1 and **WILL HELP**
30 **ACHIEVE** Goal 7.

31
32 Mr. Thorsland stated that LRMP Goal 8 is entitled “Natural Resources” and states as follows: “Champaign
33 County will strive to conserve and enhance the County’s landscape and natural resources and ensure their
34 sustainable use.” He said that staff recommends that the proposed amendment **WILL NOT IMPEDE** the
35 achievement of Goal 8. He asked the Board if they agreed with staff’s recommendation and the Board
36 agreed.

37
38 Mr. Thorsland stated that LRMP Goal 9 is entitled “Energy Conservation” and states as follows:
39 “Champaign County will encourage energy conservation, efficiency, and the use of renewable energy
40 sources.” He said that staff recommends that the proposed amendment **WILL NOT IMPEDE** the
41 achievement of Goal 9. He asked the Board if they agreed with staff’s recommendation and the Board

1 agreed.

2

3 Mr. Thorsland stated that LRMP Goal 10 is entitled, “Cultural Amenities” and states as follows:
4 “Champaign County will promote the development and preservation of cultural amenities that contribute to a
5 high quality of life for its citizens.” He said that staff recommends that the proposed amendment **WILL**
6 **NOT IMPEDE** the achievement of Goal 10. He asked the Board if they agreed with staff’s
7 recommendation and the Board agreed.

8

9 Mr. Thorsland stated that the Board will now review the *LaSalle* factors. He said that the Board has a
10 decision point in item 20.B(3). He said that item 20.B(3) states the following: In regards to the value of
11 nearby residential properties, the requested map amendment **WILL/WILL NOT AFFECT** nearby residential
12 property values. He said that the language in item 20.B(3)a. should be revised by striking the text, “likely
13 increase as the business grows, and insert text indicating that the subject property is 1 mile from County
14 Highway 17 and is located on a public road that has adequate capacity with careful compliance with
15 township road agreements.” He said that an item 20.B(3)d. could be added indicating Mr. Warfel’s
16 testimony and his support of Wishall Trucking at the current location.

17

18 Mr. Hall stated that regarding item 20.B(3)b. staff would have normally included the names of the six
19 neighbors mentioned and Mr. Warfel is one of those neighbors. He recommended that staff add the names
20 rather than referring to them in item 20.B(3)b.

21

22 Mr. Thorsland stated that in regards to the value of nearby residential properties, the requested map
23 amendment **WILL NOT AFFECT** nearby residential property values.

24

25 Mr. Thorsland stated that in item 20.C. staff recommended the following: *LaSalle* factor: The extent to
26 which the destruction of property values of the plaintiff **WILL** promote the health, safety, morals, and
27 general welfare of the public.

28

29 Mr. DiNovo stated that the purpose of this *LaSalle* factor is to justify zoning restrictions on the landowner.
30 He said that what we are proposing to do is liberalize the zoning on the landowner. He proposed the
31 following: The proposed rezoning will reduce the restrictions for the use on the petitioner’s property.

32

33 Mr. Thorsland requested input from the Board and there was none.

34

35 Mr. Thorsland stated that item 20.D. states the following: *LaSalle* factor: The relative gain to the public as
36 compared to the hardship imposed on the individual property owner. (1) The gain to the public of the
37 proposed rezoning **WILL/WILL NOT BE POSITIVE** because: as per a letter from Steve Miller, Pesotum
38 Township Highway Commissioner, received June 24, 2015 “the proposed amendment would allow the
39 Petitioner to continue being a significant local employer that purchases parts and equipment from local
40 suppliers and has increased the tax base of the Township” (see attachment). Mr. Thorsland asked the Board
41 if the road agreement with Tolono Township should also be included in item 20.D.

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Mr. DiNovo stated that this is another case in which the Board is reducing the hardship imposed on the individual property owner and requested that an item 20.D.(4) be added indicating such.

Mr. Thorsland stated that this points out that the petitioner is contributing to maintenance of the road.

Mr. DiNovo stated that he still believes that it is important to add that we are reducing the hardship imposed on the individual property owner and it could be added to item 20.D.

Mr. Hall stated that the *LaSalle* factors, given that they come from case law and are about a specific instance, staff tries to generalize it but he has a concern. He said that Mr. DiNovo’s recommendation is a good recommendation as long as it makes sense overall.

Ms. Griest asked Mr. Hall if he is inferring that the general audience for these materials will not have a thorough understanding of the case law or the knowledge that staff or other Board members may have.

Mr. DiNovo stated that he still believes that it is a relevant point for justification.

Mr. Thorsland stated that in the interest of efficiency Mr. DiNovo’s recommendation can be added to item 20.D. but he still needs a recommendation of WILL or WILL NOT.

Mr. Griest stated that the gain to the public of the proposed rezoning **WILL BE POSITIVE.**

Mr. Thorsland stated that item 20.E. states the following: *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.

Mr. DiNovo stated that regarding whether the site is well suited to the proposed land use, the proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.2 regarding whether the site with proposed improvements is well-suited overall for the proposed land use.

Mr. Thorsland stated that item 20.G. states the following: *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.

Mr. Thorsland recommended that the ZBA has recommended that the proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.1 regarding whether the proposed use **IS** a service better provided in a rural area.

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Mr. Thorsland stated that staff recommended the following in item 20.G(3)a.: The proposed use **DOES** serve surrounding agricultural land uses or an important public need. He said that item 20.G(3)b. stated that the proposed development **IS/IS NOT** otherwise appropriate in a rural area. He recommended that the proposed development **IS** otherwise appropriate in a rural area. The Board agreed with Mr. Thorsland’s recommendation.

Mr. Thorsland stated item 20.H. as follows: *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. (1) Overall, the proposed map amendment **IS/IS NOT CONSISTENT** with the *LaSalle* and *Sinclair* factors. He said that he would recommend that the ZBA has recommended that the proposed rezoning **WILL HELP ACHIEVE** the Champaign County Land Resource Management Plan and that overall, the proposed map amendment **IS CONSISTENT** with the *LaSalle* and *Sinclair* factors. The Board agreed with Mr. Thorsland’s recommendation.

Mr. Thorsland stated that there are no other decision points on page 27 therefore the Board will continue to page 28 beginning with item 21.C. He said that item 21.C. stated that the proposed rezoning **WILL/WILL NOT** lessen and avoid congestion in the public streets as follows: (1) Probable traffic impacts are reviewed un Policy 7.1.1. He stated that there is evidence that the petitioners, in conjunction with the township, made improvements to the drainage ditch and that the ground is flat and drains in all directions.

Ms. Griest recommended that proposed rezoning **WILL** lessen and avoid congestion in the public streets. She said that there is testimony that the petitioner’s improvement actually increased the width of the road for drivable area. The Board agreed.

Mr. Thorsland stated that 21.D. states that 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. He recommended that the proposed rezoning **WILL NOT** trigger the need for stormwater management.

Mr. Thorsland stated that in item 21.E. staff recommends that the proposed rezoning **WILL** promote the public health, safety, comfort, morals, and general welfare. He said that item 21.E. includes evidence to support staff’s recommendation.

Mr. Thorsland stated that item 21.H. states the following: 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

1 and the proposed Special Use WILL/WILL NOT HELP ACHIEVE those requirements.

2
3 Ms. Griest recommended that this purpose is directly related to maintaining compliance with the Zoning
4 Ordinance requirements for the District; the specific types of uses and the proposed Special Use **WILL**
5 **HELP ACHIEVE** those requirements.

6
7 Mr. Thorsland stated that item 21.I. states the following: Paragraph 2.0 (n) of the Ordinance states that one
8 purpose of the zoning regulations and standards that have been adopted and established is to protect the most
9 productive agricultural lands from haphazard and unplanned intrusion of urban uses. The proposed rezoning
10 WILL/WILL NOT protect the most productive agricultural lands from haphazard and unplanned intrusion of
11 urban uses as follows: (1) The proposed Special Use in related Case 806-S-15 does not meet the definition of
12 either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign
13 Land Resource Management Plan.; and 2. The ZBA has recommended that the proposed rezoning
14 WILL/WILL NOT HELP ACHIEVE Goal 4 Agriculture of the Champaign County Land Resource
15 Management Plan, although the proposed Special Use Permit is not urban in use.

16
17 Mr. Thorsland stated that the ZBA has recommended that the proposed rezoning **WILL HELP ACHIEVE**
18 Goal 4 Agriculture of the Champaign County Land Resource Management Plan, although the proposed
19 Special Use Permit is not urban in use therefore the proposed rezoning **WILL** protect the most productive
20 agricultural lands from haphazard and unplanned intrusion of urban uses.

21
22 Mr. Thorsland stated that item 22. states the following:
23 A. LRMP Policy 4.2.3 required discretionary development and urban development to explicitly
24 recognize and provide for the right of agricultural activities to continue on adjacent land. The following
25 condition is intended to provide for that:

26
27 **The owners of the subject property hereby recognize and provide for the right of agricultural**
28 **activities to continue on adjacent land consistent with the Right to Farm Resolution 3425 (see**
29 **attached).**

30
31 The above special condition is necessary to ensure the following:
32 **Conformance with policies 4.2.3 and 5.1.5.**

33
34 Mr. Thorsland asked the petitioners if they agreed to proposed Special Condition A.

35
36 Mr. Michael Wishall, Mr. Jason Wishall and Mr. Brian Wishall indicated that they agreed to the proposed
37 Special Condition.

38
39 Ms. Capel asked if the Board needs to discuss another special condition regarding the road agreements.

40
41 Mr. Thorsland stated that such a special condition will be included in Case 806-S-15.

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

Mr. Hall stated that a new item 14. should be added to the Documents of Record indicating the new Supplemental Memorandum #3 dated January 14, 2016, with attachments A, B, C, and D.

Mr. Thorsland stated that the Summary Finding of Fact will be modified by staff to reflect the Board’s recommendations.

Mr. Thorsland entertained a motion to approve the special condition.

Ms. Griest moved, seconded by Mr. Randol to approve the special condition. The motion carried by voice vote.

Mr. Thorsland entertained a motion to adopt the Finding of Fact, Documents of Record and Summary Findings of Fact as amended for Case 805-AM-15.

Ms. Griest moved, seconded by Ms. Capel to adopt the Finding of Fact, Documents of Record and Summary Findings of Fact as amended for Case 805-AM-15. The motion carried by voice vote.

Mr. Thorsland entertained a motion to move to the Final Determination for Case 805-AM-15.

Ms. Griest moved, seconded by Mr. Randol to move to the Final Determination for Case 805-AM-15. The motion carried by voice vote.

Final Determination for Case 805-AM-15:

Ms. Griest moved, seconded by Mr. Randol that 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 by the County Board in the form attached hereto.

SUBJECT TO THE FOLLOWING SPECIAL CONDITION:

- A. LRMP Policy 4.2.3 requires discretionary development and urban development to explicitly recognize and provide for the right of agricultural activities to continue on adjacent land. The following condition is intended to provide for that:**

The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425 (see attached).

The above special condition is necessary to ensure the following:
Conformance with policies 4.2.3 and 5.1.5.

Mr. Thorsland informed the petitioners that currently the Board has two absent Board members therefore it is at their discretion to either continue Case 805-AM-15 until a full Board is present or request that the present Board move to the Final Determination. He informed the petitioners that four affirmative votes are required for approval.

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

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

DiNovo-yes	Griest-yes	Lee-absent
Randol-yes	Passalacqua-absent	Capel-yes
Thorsland-yes		

Summary of Evidence Review for Case 806-S-15:

Mr. Thorsland stated that the Board’s first decision point for Case 806-S-15 begins at item 8.C. located on page 11 of 30 of the Summary of Evidence. He read item 8.C. as follows: As proposed, the Special Use WILL/WILL NOT BE INJURIOUS in regards to the effects on traffic. He said that item 8.C. lists the evidence involved and item 8.C.(1).d. should be revised to indicate the following: The subject property is approximately 4 miles from the I-57 exit at Pesotum, 1.5 miles from US 45 South, and approximately 1 mile from County Highway 17. It is located on a public road that the ZBA believes has adequate traffic capacity with careful compliance to road agreements with Pesotum and Tolono Townships. He said that item 8.C.(1).f. should be revised as follows: The subject property is located about 4 miles north of the I-57 interchange at Pesotum and is about 1.5 miles west of US 45 South which is heavily traveled. The subject property is also approximately 1 mile from County Highway 17.

Ms. Capel stated that item 8.C.(4) also discusses the road agreement with Pesotum. She said that the road agreement with Tolono Township should also be included in item 8.C.(4).

Ms. Griest stated that the Special Use **WILL NOT BE INJURIOUS** in regards to the effects on traffic.

Mr. Thorsland stated that page 16 of 30 discusses the variance for stormwater management and he does not

1 believe that the Board has any information to add to page 16 as everything appears consistent. He said that
2 item 10.C. located on page 18 of 30 is the next decision point for the Board. He said that item 10.C. poses
3 the question whether the proposed Special Use Permit IS/IS NOT in harmony with the general purpose of the
4 Zoning Ordinance. He said that item 10.C.(2) indicates that the proposed Special Use WILL conserve the
5 value of real estate throughout the COUNTY. He said that item 10.C.(3) poses the question whether the
6 proposed Special Use WILL /WILL NOT lessen and avoid congestion in the public streets. He said that item
7 8.C.(3)a. should be revised to indicate that traffic generated by the proposed use will unlikely increase as the
8 business growth testimony from the petitioner is that they are comfortable with the size of the business at
9 this time. He recommended that the proposed Special Use **WILL** lessen and avoid congestion in the public
10 streets.

11
12 Mr. DiNovo stated that a reference to the road agreements should be included.

13
14 Mr. Thorsland agreed. He said that the specific road agreement with Pesotum actually indicates that the road
15 was made wider and the petitioners financially contributed to that improvement.

16
17 Mr. Thorsland stated that he would recommend the following for item 8.C.(4): The proposed Special Use
18 **WILL NOT** trigger the need for stormwater management.

19
20 Mr. Thorsland read the decision point for item 8.C.(8) as follows: This purpose is directly related to
21 maintaining compliance with the Zoning Ordinance requirements for the District; the specific types of uses
22 and the proposed Special Use **WILL/WILL NOT HELP ACHIEVE** those requirements.

23
24 Mr. Randol stated that the proposed Special Use **WILL HELP ACHIEVE** those requirements.

25
26 Mr. Thorsland stated that item 8.C.(9) states as follows: Paragraph 2.0(n) of the Ordinance states that one
27 purpose of the zoning regulations and standards that have been adopted and established is to protect the most
28 productive agricultural lands from haphazard and unplanned intrusions of urban uses. The proposed Special
29 Use **WILL/WILL NOT** subject the most productive agricultural lands to haphazard and unplanned intrusions
30 of urban uses as follows: a. The proposed special use does not meet the definition of either “urban
31 development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land
32 Resource Management Plan; and b. the ZBA has recommended that the proposed rezoning **WILL/WILL**
33 **NOT HELP ACHIEVE** Goal 4 Agriculture of the Champaign County Land Resource Management Plan,
34 although the proposed Special Use Permit is not urban in use.

35
36 Mr. Thorsland stated that the ZBA has recommended that the proposed rezoning **WILL HELP ACHIEVE**
37 Goal 4 Agriculture of the Champaign County Land Resource Management Plan, although the proposed
38 Special Use Permit is not urban in use and that the proposed Special Use **WILL NOT** subject the most
39 productive agricultural lands to haphazard and unplanned intrusions of urban uses.

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41 Ms. Griest stated that the proposed Special Use Permit **IS** in harmony with the general purpose of the

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Ordinance.
Mr. Thorsland stated that item 13. Includes proposed special conditions of approval. He said that the Board may choose to add special conditions. He read the special conditions as follows:

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.

Mr. Thorsland asked the petitioners if they agreed with Special Condition A.

The petitioners indicated that they agreed with Special Condition A.

B. 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:

Mr. Thorsland asked if we should include both road agreements with Pesotum Township and Tolono Township.

Ms. Griest stated that there were no fees associated with the Tolono Township road agreement.

Mr. Hall stated that the Board could revise the special condition as follows: The Special Use shall be void if the owner/operator fails to comply with the road agreement with Pesotum Township regarding the road maintenance fee and the road agreement with Tolono Township.

- (1) This condition applies to the Agreement with Pesotum Township Road Commissioner received June 24, 2015, the verbal agreement between the petitioner and the Pesotum Township Road Commissioner that trucks related to the petitioners' trucking business run empty, bobtail, and not to run the tall van trailers, 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.**

Mr. Hall stated that after "tall van trailers" the following could be added: and the road agreement with Tolono Township received January 14, 2016.

Mr. Schweighart stated that the verbal agreement was actually with the Tolono Township Highway

1 Commissioner.

2
3 Mr. Thorsland asked Mr. Schweighart if he is referring to the verbal agreement.

4
5 Mr. Schweighart stated that the agreement is now in writing.

6
7 Mr. Thorsland asked Mr. Schweighart if the Board should strike the word “verbal.”

8
9 Mr. Schweighart stated that if it could be stricken and just reference the Tolono Township written
10 Agreement received January 14, 2016.

11
12 Ms. Griest stated that perhaps special condition B.(1) could read as follows:

13 (1) This condition applies to the Agreements with the Pesotum Township Road
14 Commissioner received June 24, 2015, and the Tolono Township Road
15 Commissioner received January 14, 2016, ,or to any subsequent road agreements
16 between the petitioner and Pesotum Township or Tolono Township, provided that
17 a fully executed agreement shall be filed with the Zoning Administrator.

18
19 Mr. Schweighart agreed to the revision.

20
21 (2) **This condition shall be cancelled if the Pesotum Township Highway**
22 **Commissioner relieves the Petitioners of the road maintenance agreement**
23 **obligations.**

24
25 The special condition stated above is required to ensure the following:
26 **That any additional highway maintenance due to the truck traffic generated**
27 **by the proposed Special Use is reimbursed by the petitioner.**

28
29 Ms. Griest stated that this takes it back to whether the Board wants to keep the township road
30 agreements together or keep them separate because one could cancel the agreement and not the other.

31
32 Mr. Thorsland asked the Board if they wanted to have a separate condition for Tolono Township.

33
34 Ms. Griest stated that it may work better to keep them separate if there will be a cancellation provision.

35
36 Ms. Capel stated that the two could be kept together and the condition would only be cancelled if the
37 situation occurred where both townships cancelled their agreements.

38
39 Mr. Thorsland stated that Special Condition B.(2) could read as follows:

40
41 (2) This condition shall be cancelled if both the Pesotum and Tolono Township

1 Highway Commissioners relieve the Petitioners of the road maintenance
2 agreement obligations.
3

4 Mr. Thorsland said that if the Board does not agree then perhaps there should be two separate conditions
5 separating the two township agreements. He said that the Board could leave B. as originally indicated
6 and a new C. regarding Tolono Township.
7

8 Ms. Griest agreed.
9

10 Mr. Thorsland stated that the petitioner doesn't need the road in Tolono Township but they do have this
11 document which indicates that they can use the road in Tolono Township. He asked the Petitioners how
12 they wanted the special conditions to be written.
13

14 Mr. Schweighart stated that it makes sense to keep the road agreement special conditions regarding each
15 township separate. He said that noncompliance with the agreement would void the special use.
16

17 Ms. Griest stated that if the petitioners receive a release from either township the special condition does
18 not apply.
19

20 Mr. Thorsland stated that a special condition should be created for each township agreement. He said
21 that each condition would say the same thing but Pesotum Township would be inserted into one and
22 Tolono Township inserted in to the other.
23

24 Ms. Capel stated that the petitioners would need to be released by both.
25

26 Mr. Hall stated that the petitioners could be released by one township and not the other.
27

28 Ms. Capel stated that wouldn't release the petitioners from a condition that includes both agreements.
29

30 Mr. Thorsland stated that is why there needs to be two separate conditions for each township.
31

32 Mr. Hall stated that Special Condition B. could apply to Pesotum Township and new Special Condition
33 C. could apply to Tolono Township.
34

35 Mr. Thorsland stated that the special conditions would read as follows:
36

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

40 **(1) This condition applies to the Agreement with Pesotum Township Road**
41 **Commissioner received June 24, 2015, the verbal agreement between the**

1 **petitioner and the Pesotum Township Road Commissioner that trucks**
2 **related to the petitioners' trucking business run empty, bobtail, and not to**
3 **run the tall van trailers, or to any subsequent road agreement between the**
4 **petitioner and Pesotum Township, provided that a fully executed**
5 **agreement shall be filed with the Zoning Administrator.**

6
7 **(2) This condition shall be cancelled if the Pesotum Township Road**
8 **Commissioner relieves the Petitioners of the road use agreement obligations.**

9
10 The special condition stated above is required to ensure the following:

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

13
14
15 **C. The Special Use shall be void if the owner/operator fails to comply with the road**
16 **agreement with Tolono Township regarding road use, provided as follows:**

17 **(1) This condition applies to the Agreement with Tolono Township Road**
18 **Commissioner received January 14, 2016, or to any subsequent road**
19 **agreement between the petitioner and Tolono Township, provided that a**
20 **fully executed agreement shall be filed with the Zoning Administrator.**

21
22 **(2) This condition shall be cancelled if the Tolono Township Highway**
23 **Commissioner relieves the Petitioners of the road use agreement obligations.**

24
25 Mr. Hall stated that this special condition will be to ensure that specified condition are met by the
26 petitioners.

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

29 **To ensure that specified conditions are met by the petitioners.**

30
31 Mr. Thorsland asked the petitioners if they agreed with revised Special Conditions B. and C.

32
33 The petitioners indicated that they agreed with revised Special Conditions B. and C.

34
35 Mr. Thorsland read new proposed Special Condition D. as follows:

36
37 **D. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
38 **proposed Truck Terminal until the petitioner has demonstrated that the proposed**
39 **Special Use complies with the Illinois Accessibility Code.**

40
41 The special condition stated above is necessary to ensure the following:

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

3 Mr. Michael Wishall stated that both of his parents were handicapped. He said that his father used crutches
4 for five years and his mother used a walker for at least five years as well. He said that his parents were able
5 to go anywhere on the farm and that is how he wanted it.

6
7 Mr. Thorsland stated that this is the one special condition that is included in all special uses that the ZBA has
8 absolutely no authority to change. He said that the petitioners will need to contact the Capital Development
9 Board regarding what accessibility requirements will be required and they will have to comply. He said that
10 the ZBA cannot waive the state requirements for accessibility.

11
12 Mr. Hall informed Mr. Schweighart that he wants to make sure that the contact person at the Capital
13 Development Board understands how much there is that is agriculture versus non-agriculture. He said that
14 they never make accessibility requirements for agriculture so the Capital Development Board needs focus
15 only on the non-farm trucking.

16
17 Mr. Thorsland asked the petitioners if they agreed to Special Condition D.

18
19 The petitioners indicated that they agreed with Special Condition D.

20
21 Mr. Thorsland asked the Board if there needs to be a special condition on the number of trucks overall. He
22 said that previously the Board had a case regarding the definition of trucks, trailers, trucks and trailers, etc.

23
24 Ms. Griest stated that she was inclined to not have a limit on the number of trucks and trailers because some
25 of them are used for agricultural use and others for the non-agricultural use.

26
27 Mr. Thorsland stated that he is also comfortable in not having a special condition regarding the limit on the
28 number of trucks because it is self-regulating and at some point the petitioners will decide when they have
29 run out of room to move anything else around. He asked staff if this becomes someone else's property or the
30 township indicates that they can't travel the roads, would the petitioners have to come back before this
31 Board.

32
33 Mr. DiNovo stated that he believes that there absolutely has to be a limit on the number of trucks allowed.
34 He said that it should be specified that the use is limited to the existing buildings and paved area and there
35 shall be no more than a 10% increase to the paved area. He said that there should be no open ended amount
36 of area that could be paved. He said that the Board needs to reference the document that establishes what
37 that footprint is.

38
39 Mr. Thorsland asked if the 2014 aerial map could be the document for that reference.

40

1 Mr. DiNovo stated that it could be the approved site plan for the special use.

2

3 Mr. Hall stated that the site plan clearly indicates all of the existing parking areas and if the Board accepts a
4 limit on the increase of parking it would be easy to calculate. He asked the Board if they wanted to establish
5 a limit of 10% or more.

6

7 Mr. DiNovo stated that it is always possible for the petitioners to come back and ask for more and amend the
8 special use permit.

9

10 Mr. Hall stated that if you look at the site plan, the place that he would expect parking to be added would be
11 along the south side and that is more than 10%. He said that if the petitioners just filled out the parking on
12 the south side it is going to be more than 10% and he doesn't believe that it would be unreasonable.

13

14 Ms. Griest stated that part of the reason why she is opposed in placing any kind of numerical value is
15 because this is a dual use facility and just because it looks like a truck and sounds like a truck doesn't mean
16 it is part of the trucking operation and could easily be part of the farming operation. She said that she
17 believes that it would be a nightmare for staff to keep track of what is for the trucking operation and what is
18 for the farming operation. She said that she would be more concerned about things that the Board has already
19 asked about which were commercial operations for other carriers and that was ruled out because they are not
20 doing it and it is not included in their operational plan for the special use. She said that she does not want to
21 put a condition on something that is impossible to enforce or would use a huge amount of staff time when
22 the risk is minimal. She said that where the volume of trucks will be enforced is with the highway road
23 commissioners.

24

25 Mr. Thorsland asked if a special condition could do two things. He said that the special condition could
26 indicate that no more than a 10% increase can occur for parking area for the special use permit because it
27 allowed the variance of the stormwater management to continue. He said that anything more than 10%
28 would require stormwater management thus requiring the petitioners to come back before this Board.

29

30 Mr. Randol stated that the area is already full.

31

32 Mr. Thorsland stated that he agrees. He said that he wants to clearly state that the Board has taken care of
33 the stormwater concern because the Board is not going to allow anymore non-permeable area and the
34 petitioners will not want to put anymore trucks on the grass. He said that he does not want to place a limit
35 on the number of trucks.

36

37 Mr. DiNovo stated that he cannot imagine an open-ended authorization to put as many trucks on the five
38 acres as they can.

39

40 Mr. Thorsland stated that the Board is not going to let the petitioners make the parking area any larger.

41

1 Mr. DiNovo stated that he still cannot imagine authorizing a special use permit of this nature without some
2 kind of size limit that is less than the entire five acres. He said that his position is that a limit is absolutely
3 necessary.
4

5 Mr. Thorsland stated that he wants the limit to be more related to the water. He said that the water all works
6 now and if no more than 10% of impervious area is added the water will continue to do what it is doing and
7 as a by-product of that the Board will not have to place a limit on the number of trucks that are allowed.
8

9 Mr. DiNovo stated that it would not be proper to deny a variance for the stormwater requirements because
10 the Board concluded that there is excessive amount of traffic generated and that would not be a proper
11 reason to deny a stormwater variance.
12

13 Mr. Thorsland stated that the special condition that he would like to propose is that the non-permeable area
14 for parking shall not increase more than 10% so that stormwater management changes or is minimized. He
15 said that this special condition will ensure that there is not additional burden on the current stormwater
16 management that occurs on the property. He said that he doesn't want to say anything about the trucks or the
17 trailers because if they have been farming and driving trucks since at least 1939 they already know that you
18 don't park the trucks on the grass.
19

20 Mr. Hall stated that he is at a loss regarding what type of special condition the Board would like him to draft.
21

22 Mr. Thorsland stated that the other option is to draft no special condition about this concern.
23

24 Mr. DiNovo stated that there should be a 10% limit on the expansion of the paved and building area for the
25 following two reasons: (1) provide some upside limit on the amount of trucks that the petitioners could
26 potentially operate on site; and (2) stormwater.
27

28 Ms. Griest asked Mr. DiNovo how the limit will be imposed when half of the use is agriculture and they
29 could increase the number of trucks, buildings and impervious area as they desire for that agricultural use.
30

31 Mr. Randol stated that if you place a limit on the number of trucks you would also be affecting the
32 agricultural use.
33

34 Mr. Thorsland stated that the Board cannot place a limit on the number of trucks for the agricultural
35 operation.
36

37 Ms. Griest stated that if this were a single use facility it would be easier but this is dual use and the
38 protection of the agricultural component makes it almost impossible to enforce. She said that there could be
39 a special condition which indicates that no new buildings could be constructed without returning to the
40 Board for a new special use permit but that is already a given and there is no need for a special condition like
41 that.

1

2 Mr. DiNovo stated that he is not concerned about that and that issue can be dealt with when it arises. He
3 said that the guidelines should be clear in that only 10% can be added and that is it.

4

5 Mr. Thorsland asked Mr. DiNovo if he is referring to 10% non-permeable or just parking.

6

7 Mr. DiNovo stated that he is discussing buildings and parking because trucks can be stored inside buildings.
8 He said that his concern is that there should be some sort of upside limit on the maximum number of trucks
9 that are allowed on this site.

10

11 Mr. Thorsland stated that if the petitioners wanted to add another building for the agricultural use then that is
12 their business.

13

14 Mr. DiNovo stated that there are a limited number of trucks that can be operated by a single farm operation.

15

16 Mr. Thorsland stated the number of trucks a farmer utilizes in his farm operation is not up to this Board.

17

18 Mr. DiNovo stated that he is not overly concerned that the petitioners will be running 20 trucks for their
19 agricultural operation.

20

21 Mr. Thorsland stated that the more that this issue is discussed the more he believes that, except for
22 something related to stormwater, no additional special condition should be considered regarding the number
23 of truck and trailer numbers. He said that the Board has received testimony that the agricultural equipment is
24 larger than the trucks and trailers and the petitioners can have as much agricultural equipment as they want
25 on the property. He said that if they purchased a new sprayer/boom truck it could take up half of the property
26 for parking. He said that he is becoming more disinclined to have any additional special conditions other
27 than what the Board already has and the only thing that he might be comfortable with is just to say no more
28 parking area. He said that the petitioners can build as many agricultural buildings as they want and he is just
29 concerned with them exceeding all of the work they did to make the water flow properly. He said that the
30 Board received testimony at the October 2015 public hearing that they spent a lot of money and effort to
31 have a nice quality road ditch.

32

33 Mr. Hall stated that all of the testimony is included in the October 15, 2015, minutes and he is sure that Mr.
34 DiNovo has read those minutes.

35

36 Mr. Thorsland stated that the petitioners are not stupid people and he is sure that they do not want to drive
37 around in muck therefore he does not believe that they will ever intentionally exceed their ability to move
38 their water away.

39

40 **Mr. DiNovo moved that a special condition be created limiting the expansion of the building and**
41 **parking area used by the trucking business to no more than 10% of what currently exists.**

1
2 Mr. Thorsland requested a second to Mr. DiNovo's motion.

3
4 **The motion failed due to the lack of a second.**

5
6 Mr. Thorsland asked the petitioners again if they agree to Special Conditions A-D as amended.

7
8 Mr. Jason Wishall, Mr. Brian Wishall, Mr. Mike Wishall and Mr. Matt Schweighart agreed to Special
9 Conditions A-D as amended.

10
11 Mr. Thorsland entertained a motion to approve the Special Conditions as amended.

12
13 **Ms. Griest moved, seconded by Ms. Capel to adopt the Special Conditions as amended. The motion**
14 **carried with one opposing vote.**

15
16 Mr. Thorsland stated that new item #14 should be added to the Documents of Record reflecting
17 Supplemental Memorandum #3 dated January 14, 2016, with attachments.

18
19 **Ms. Griest moved, seconded by Ms. Capel to extend the meeting to 10:00 p.m. The motion carried by**
20 **voice vote.**

21
22 **Findings of Fact for Case 806-S-15:**

23
24 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
25 806S-15 held on October 15, 2015 and January 14, 2016, the Zoning Board of Appeals of Champaign
26 County finds that:

- 27
28 **1. The requested Special Use Permit IS necessary for the public convenience at this**
29 **location.**

30
31 Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this
32 location because the preponderance of the business is agricultural related and it is located in an agricultural
33 area within reasonable distance of US45 and CH17.

34
35 Mr. Thorsland stated that the business has a known customer base.

- 36
37 **2. The requested Special Use Permit, subject to the special conditions imposed herein, is**
38 **so designed, located, and proposed to be operated so that it WILL NOT be injurious to**
39 **the district in which it shall be located or otherwise detrimental to the public health,**
40 **safety, and welfare because:**

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

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

b. Emergency services availability is ADEQUATE.

Ms. Griest stated that emergency services availability is ADEQUATE.

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

Mr. Thorsland stated that the Special Use WILL be compatible with adjacent uses.

d. Surface and subsurface drainage will be ADEQUATE.

Ms. Griest stated that surface and subsurface drainage will be ADEQUATE.

e. Public safety will be ADEQUATE.

Mr. Randol stated that public safety will be ADEQUATE.

f. The provisions for parking will be ADEQUATE.

Mr. Randol stated that the provisions for parking will be ADEQUATE.

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

Ms. Griest stated that the property IS WELL SUITED OVERALL for the proposed improvements.

h. Existing public services ARE available to support the proposed SPECIAL USE without undue public expense.

Ms. Capel stated that existing services ARE available to support the proposed SPECIAL USE without undue public expense.

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

Ms. Griest stated that existing public infrastructure together with the proposed development IS adequate to support the proposed development effectively and safely without undue public expense.

1 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
2 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in
3 which it shall be located or otherwise detrimental to the public health, safety, and welfare.
4

5 **3a. The requested Special Use Permit, subject to the special conditions imposed herein,
6 DOES conform to the applicable regulations and standards of the DISTRICT in which
7 it is located.**
8

9 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,
10 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.
11

12 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,
13 DOES preserve the essential character of the DISTRICT in which it is located because:**
14

15 **a. The Special Use will be designed to CONFORM to all relevant County
16 ordinances and codes.**
17

18 Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County ordinances and
19 codes.
20

21 **b. The Special Use WILL be compatible with adjacent uses.**
22

23 Mr. Thorsland stated that the Special Use WILL be compatible with adjacent uses.
24

25 **c. Public safety will be ADEQUATE.**
26

27 Mr. Thorsland stated that public safety will be ADEQUATE.
28

29 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
30 DOES preserve the essential character of the DISTRICT in which it is located.
31

32 **4. The requested Special Use Permit, subject to the special condition imposed herein, IS in
33 harmony with the general purpose and intent of the Ordinance because:**
34

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

36 **b. The requested Special Use IS necessary for the public convenience at this
37 location.**
38

39 Mr. Thorsland stated that the requested Special Use IS necessary for the public convenience at this location.
40

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

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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.

Ms. Capel 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. Thorsland 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 purpose and 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. 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 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or use:

(1) The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.

Mr. Randol stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.

Mr. DiNovo stated that the dwelling on the subject property is between the bulk of the truck terminal and the adjacent residences.

(2) Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly

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situated land and structures elsewhere in the same district.

Ms. Capel stated that special conditions and circumstances DO 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 the business developed organically over time.

Mr. Thorsland stated that the lot was created with the best information at the time.

Ms. Griest stated that the business developed organically over time from the farming operation.

(3) 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.

Mr. DiNovo stated that 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 because limiting the special use to areas of the site more than 200 feet away from adjacent residential uses would substantially reduce the available area and make large existing paved areas and buildings unusable.

Mr. Thorsland stated that it would render a large part of the existing use, paved areas and buildings unavailable for the commercial aspect of the business.

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

Mr. Thorsland stated that special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the business developed organically from the farming operation over time on a lot created with the best information at the time.

(5) The requested waiver, subject to the proposed special conditions, IS the minimum variation that will make the reasonable use of the land/structure.

Mr. Thorsland stated that the requested waiver, subject to the proposed special conditions, IS the minimum variation that will make the reasonable use of the land/structure.

Mr. Thorsland stated that it could be noted that this is an existing facility.

7. 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. 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.

C. The Special Use shall be void if the owner/operator fails to comply with the road agreement with Tolono Township regarding road use, provided as follows:

(1) This condition applies to the Agreement with Tolono Township Road Commissioner received January 14, 2016, or to any subsequent road agreement between the petitioner and Tolono Township, provided that a fully executed agreement shall be filed with the Zoning Administrator.

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

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

To ensure that specified conditions are met by the petitioners.

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.

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

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

4
5 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and
6 Findings of Fact as amended.

7
8 **Ms. Griest moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of**
9 **Record and Findings of Fact as amended. The motion carried by voice vote with one opposing**
10 **vote.**

11
12 Mr. Thorsland entertained a motion to move to the Final Determination for Case 806-S-15.

13
14 **Ms. Griest moved, seconded by Mr. Randol to move the Final Determination for Case 806-S-15.**
15 **The motion carried by voice vote.**

16
17 Mr. Thorsland informed the petitioners that currently the Board has two absent Board members therefore it is
18 at their discretion to either continue Case 806-S-15 until a full Board is present or request that the present
19 Board move to the Final Determination. He informed the petitioners that four affirmative votes are required
20 for approval.

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

23
24 **Final Determination for Case 806-S-15:**

25
26 **Ms. Griest moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals**
27 **finds that, based upon the application, testimony, and other evidence received in this case, the**
28 **requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority**
29 **granted by Section 9.1.6B. of the Champaign County Zoning Ordinance, determines that**

1 **The Special Use requested in Case 806-S-15 is hereby GRANTED WITH SPECIAL**
2 **CONDITIONS to the applicants Michael Wishall, Jason Wishall, and Brian Wishall d.b.a.**
3 **Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc., to**
4 **authorize the following as a Special Use on land that is proposed to be rezoned to the AG-2**
5 **Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related**
6 **Zoning Case 805-AM-15:**

7 **Part A. Authorize the establishment and use of a Truck Terminal as a Special**
8 **Use on land that is proposed to be rezoned to the AG-2 Agriculture**
9 **Zoning District from the current AG-1 Agriculture Zoning District in**
10 **related Zoning Case 805-AM-15 and subject to the requested variance**
11 **in related Zoning Case 807-V-15.**

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

17 ***SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:***

18 **A. Waiver of the standard condition in Section 6.1.3 that requires a**
19 **separation distance of 30 feet in lieu of the required 200 feet between**
20 **any Truck Terminal and any adjacent residential district or**
21 **residential use.**

22
23 ***SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:***

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

26
27 **The above special condition is required to ensure the following:**
28 **The establishment of the proposed use shall be properly documented as**
29 **required by the Zoning Ordinance.**

30
31 **B. The Special Use shall be void if the owner/operator fails to comply with the road**
32 **agreement with Pesotum Township regarding an annual road maintenance fee,**
33 **provided as follows:**

34 **(1) This condition applies to the Agreement with Pesotum Township**
35 **Road Commissioner received June 24, 2015, or to any subsequent**

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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.

- C. The Special Use shall be void if the owner/operator fails to comply with the road agreement with Tolono Township regarding road use, provided as follows:**
 - (1) This condition applies to the Agreement with Tolono Township Road Commissioner received January 14, 2016, or to any subsequent road agreement between the petitioner and Tolono Township, provided that a fully executed agreement shall be filed with the Zoning Administrator.**
 - (2) This condition shall be cancelled if the Tolono Township Highway Commissioner relieves the Petitioners of the road use agreement obligations.**

The special condition stated above is required to ensure the following:
To ensure that specified conditions are met by the petitioners.

- 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.

1 Mr. Thorsland requested a roll call vote:
2

3 The roll was called as follows:
4

5	Griest-yes	Randol-yes	Capel-yes
6	DiNovo-no	Lee-absent	Passalacqua-absent
7	Thorsland-yes		
8			

9 **Summary of Evidence Review for Case 807-V-15:**
10

11 Mr. Thorsland stated that new information in the Summary of Evidence is indicated in red. He said that the
12 lot was created with information provided to Mr. Wishall’s parents.
13

14 Mr. DiNovo stated that the information regarding the lot creation was correct at the time of the lot’s creation.
15

16 Mr. Thorsland asked Mr. DiNovo if he desired to insert his statement in the Summary of Evidence.
17

18 Mr. DiNovo stated that his statement will be reflected in the minutes.
19

20 Mr. Thorsland read item 10.G. on page 11 of 16 of the Summary of Evidence for Case 807-V-15 as follows:
21 In related Case 806-S-15 the Zoning Board of Appeals determined that the proposed special use permit,
22 subject to the requested variance **IS** in harmony with the general purpose and intent of the Zoning Ordinance.
23 He said that a new item #14 should be added to the Documents of Record indicating Supplemental
24 Memorandum #3 dated January 14, 2016, with attachments.
25

26 **Findings of Fact for Case 807-V-15:**
27

28 From the documents of record and the testimony and exhibits received at the public hearing for Zoning Case
29 807-V-15 held on October 15, 2015 and January 14, 2016, the Zoning Board of appeals of Champaign
30 County finds that:
31

- 32 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
33 **structure involved, which are not applicable to other similarly situated land and**
34 **structures elsewhere in the same district.**
35

36 Mr. Thorsland requested that staff insert the same language as indicated in Item 6.A(2) of the Findings of
37 Fact for Case 806-S-15: Special Conditions and circumstances DO exist which are peculiar to the land or
38 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
39 same district because the business developed organically from the farming operation over time on a lot
40 created with the best information at the time.
41

1 that accommodates the business separately from the agricultural activities and within the maximum lot size.

2
3 **7. No special conditions are hereby imposed.**

4
5 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
6 of Fact as amended.

7
8 **Ms. Griest moved, seconded by Mr. DiNovo to adopt the Summary of Evidence, Documents of Record**
9 **and Findings of Fact as amended. The motion carried by voice vote.**

10
11 Mr. Thorsland entertained a motion to move to the Final Determination for Case 807-V-15.

12
13 **Ms. Capel moved, seconded by Mr. Griest to move to the Final Determination for Case 807-V-15.**
14 **The motion carried by voice vote.**

15
16 Mr. Thorsland informed the petitioners that currently the Board has two absent Board members therefore it is
17 at their discretion to either continue Case 807-V-15 until a full Board is present or request that the present
18 Board move to the Final Determination. He informed the petitioners that four affirmative votes are required
19 for approval.

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

22
23 **Final Determination for Case 807-V-15:**

24
25 **Ms. Griest moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals finds**
26 **that, based upon the application, testimony, and other evidence received in this case, that the**
27 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted**
28 **in Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
29 **Champaign County determines that:**

30
31 **The Variance requested in Case 807-B-15 is hereby GRANTED to the petitioners Michael Wishall,**
32 **Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc.,**
33 **and Wishall Farms Inc. to authorize the following variance in the AG-2 Agriculture Zoning District:**

34
35 **Part A. A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres**
36 **in lieu of the maximum area of 3 acres for lots with soils that are best prime**
37 **farmland that is also the subject of related cases 805-AM-15 and 806-S-15.**

38
39 **Part B. A variance from the Champaign Count Stormwater Management and Erosion**
40 **Control Ordinance which requires a Stormwater Drainage Plan and review for**
41 **lots of 2 to 6.25 acres that have a greater than one acre of impervious surface**

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area.

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

Randol-yes	Capel-yes	DiNovo-yes
Griest-yes	Lee-absent	Passalacqua-absent
Thorsland-yes		

Mr. Hall informed the petitioners that they have received approvals for all three cases in one night and that is an achievement. He said that the map amendment will be forwarded to the Environment and Land Use Committee for their February 4th meeting. He said that the Environment and Land Use Committee will not be as diligent as the Zoning Board of Appeals but after the Environment and Land Use Committee’s review the map amendment will be forwarded to the County Board for their February 18th meeting.

Case 819-AT-15 Petitioner: Champaign County Zoning Administrator Request: Amend the Champaign County Zoning Ordinance by adding the following: Part A. In Section 6.1.3 revise the standard conditions for “Fairground” by adding the following special provision (standard condition): Site design, land management, and storm water management designs and practices shall provide effective site drainage; shall meet or exceed state and federal water quality standards; shall protect downstream drainage patterns; shall provide for stream flows that support health aquatic ecosystems; shall minimize impacts on adjacent properties and cause no more than minimal disturbance to the stream corridor environment; and, wherever possible, shall preserve existing habitat, enhance degraded habitat, and restore habitat.” Part B. 1. In Section 4.2.1 C. add “PARKING LOT and related passenger waiting buildings may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to Section 5.2.” 2. In Section 5.2, add “PARKING GARAGAE or LOT” as a Special Use Permit in the CR District and add a footnote stating that “PARKING LOT and related passenger waiting buildings may be authorized in the CR District by SPECIAL USE Permit only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds provided that the Public Fairgrounds were an established use at the subject location on October 10, 1973, and provided that a Public Fair must continue to be held at the Public Fairgrounds or the Special Use Permit shall become void and subject to the standard conditions in Section 6.1.3.” 3. In Section 6.1.3 add as a Special Use “PARKING LOT and related passenger waiting buildings as an additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the CR District” and require no minimum fencing; require the minimum LOT AREA, Width, Maximum HEIGHT, and Required Yards to be the same as in the CR Zoning DISTRICT; and add the following special provisions (standard conditions): 1. All or part of the parking area(s) may be used for parking not otherwise related to the Fairground and the non-Fairground parking may be limited to parking for a

1 **single other non-Fairground USE or to multiple other non-Fairground USES and may include the**
2 **construction and use of related passenger waiting buildings. 2. Traffic impacts shall be considered.**

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.

7
8 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of the request.

9
10 Mr. John Hall, Zoning Administrator, stated the case has been re-advertised. He said that the case now has
11 two parts; Part A. adds the requirements for all of the environmental considerations for the fairgrounds. He said
12 that that requirement will apply anytime the Special Use Permit for the fairgrounds is reviewed. He said
13 that Part B. adds the considerations related to adding a parking lot and related passenger waiting buildings on
14 a fairground in the CR District. He said that as the Board discussed at the last hearing, Section 5.2 is the part
15 of the Ordinance where there can be no variances, there is a footnote that indicates that the public
16 fairgrounds must have been an established use at the subject location on October 10, 1973, and also provided
17 that a public fair must continue to be held at the public fairgrounds or the Special Use Permit shall become
18 void and subject to the standard conditions in Section 6.1.3. He said that these things are part of the use as
19 authorized in Section 5.2 and are not subject to waivers or variances.

20
21 Mr. Hall stated that Section 6.1.3, Schedule of Standard Conditions for Specific Types of Special Uses,
22 specifies that the parking area may be used for parking not otherwise related to the fairground and that can be
23 either for single or multiple events and also may include construction and use of related passenger waiting
24 buildings. He said that traffic impacts shall be considered that has been part of this case from day one. He
25 said that this is the re-advertised case and as he suggested at the last public hearing he did not see the need to
26 go back and change anything in the Finding of Fact therefore it is as the Board reviewed it at the December
27 17, 2015, meeting. He said that at the last public hearing regarding this case the Board started their review
28 of the Summary Finding of Fact but made no decisions regarding the staff recommendations.

29
30 Mr. Thorsland stated that if the Board desires, after witness testimony, the Board can go back through
31 everything or just begin with the Summary Finding of Fact.

32
33 Mr. Thorsland called Mike Billimack to testify.

34
35 Mr. Mike Billimack, representative from Carle, stated that his office address is 611 W. Park Street, Urbana,
36 IL. He thanked the Board for hearing this case. He said that he and any of Carle's partners are willing to
37 answer any questions that the Board have regarding this request and the strong collaborative agreement
38 between Carle and the Champaign County Fair Association. He said that this is truly a win-win situation for
39 everyone.

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41 Mr. Thorsland asked the Board if there were any questions for Mr. Billimack and there were none.

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

Mr. Thorsland asked the Board and staff if they desired to ask any questions to the other members of the audience representing Carle and the Board and staff indicated they did not.

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

Mr. Thorsland stated that the Board will now review the Summary Finding of Fact.

Summary Finding of Fact for Case 819-AT-15:

From the documents of record and the testimony and exhibits received at the public hearing conducted on December 10, 2015, December 17, 2015, and January 14, 2016, the Zoning Board of Appeals of Champaign County finds that:

- 1. Regarding the effect of this text amendment on the Land Resource Management Plan (LRMP):
 - A. Regarding Goal 8 Natural Resources:
 - This amendment will **HELP ACHIEVE** Objective 8.4 requiring the County to 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 because it will **HELP ACHIEVE** the following:
 - Policy 8.4.2 requiring the County to require stormwater management designs and practices that provide effective site drainage, protect downstream drainage patters, minimize impacts on adjacent properties and provide for stream flows that support health aquatic ecosystems (see Item 13.A.(2)).
 - Policy 8.4.5 requiring the County to ensure that non-point discharges from new development meet or exceed state and federal water quality standards (See Item 13.A.(3)).
 - This amendment will **HELP ACHIEVE** Objective 8.5 requiring the County to encourage the maintenance and enhancement of aquatic and riparian habitats because while it will either not impede or is not relevant to the other Policies under this Objective, it will **HELP ACHIEVE** the following:
 - Policy 8.5.1 requiring discretionary development to preserve existing habitat, enhance degraded habitat and restore habitat (See Item 13.B(2)).
 - Policy 8.5.2 requiring discretionary development to cause no more than minimal Disturbance to the stream corridor environment (See Item 13.B.(3)).

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- This amendment will ***HELP ACHIEVE*** Objective 8.6 requiring that the County avoid loss or degradation of areas representative of the pre-settlement environment and other areas that provide habitat for native and game species because it will ***HELP ACHIEVE*** the following:
 - Policy 8.6.2 requiring new development to minimize the disturbance of habitat or to mitigate unavoidable disturbance of habitat (See item 13.C.(3)).
- Based on achievement of the above Objectives and Policies and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed text amendment will ***HELP ACHIEVE*** Goal 8 Natural Resources.

Mr. Thorsland asked the Board if they agreed with staff's recommendations for Part A.

The Board indicated that they agreed with staff's recommendations for Part A.

B. Regarding Goal 7 Transportation:

- This amendment will ***HELP ACHIEVE*** Objective 7.1 requiring that Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted because it will ***HELP ACHIEVE*** the following:
 - Policy 7.1.1 requiring the County to include traffic impact analyses in discretionary review development proposals with traffic generation (See Item 12.A.).
- Based on achievement of the above Objectives and Policies and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, this text amendment will ***HELP ACHIEVE*** Goal 7 Transportation.

Mr. Thorsland asked the Board if they agreed with staff's recommendations for Part B.

The Board indicated that they agreed with staff's recommendations for Part B.

C. This text amendment will *NOT IMPEDE* the following LRMP goal(s):

- **Goal 1 Planning and Public Involvement**
- **Goal 2 Governmental Coordination**
- **Goal 3 Prosperity**
- **Goal 4 Agriculture**
- **Goal 5 Urban Land Use**
- **Goal 6 Public Health and Safety**
- **Goal 9 Energy Conservation**
- **Goal 10 Cultural Amenities**

Mr. Thorsland asked the Board if they agreed with staff's recommendations for Part C.

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The Board indicated that they agreed with staff’s recommendations for Part C.

D. Overall, this text amendment will **HELP ACHIEVE** the Land Resource Management Plan.

2. The proposed Zoning Ordinance text amendment will **HELP ACHIEVE** the purpose of the Zoning Ordinance because it will **HELP ACHIEVE** the following purposed of the Ordinance:

- This text amendment will **HELP** conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY (Purpose 2.0 (b); see Item 16.B.).
- This text amendment will **HELP** classify, regulate, and restrict the location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses. (Purpose 2.0 (i); see Item 16.I.).
- This text amendment will **HELP** divide 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. (Purpose 2.0 (j); see Item 16.J.).
- This text amendment will **HELP** fix regulations and standards to which buildings, structures, or uses therein shall conform. (Purpose 2.0 (k); see Item 16.K.).
- This text amendment will **HELP** prohibit uses, buildings, or structures incompatible with the character of such districts. (Purpose 2.0 (l); see Item 16.L.).
- This text amendment will **HELP** prevent additions to and alteration of remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance. (Purpose 2.0 (m); see Item 16.M.).
- This text amendment will **HELP** protect natural features such as forested areas and watercourses. (Purpose 2.0 (o); see Item 16.O.).

Mr. Thorsland asked the Board if they agreed with staff’s recommendations for Part D.

The Board indicated that they agreed with staff’s recommendations for Part D.

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

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

1 Ms. Griest moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of Record
2 and Summary Findings of Fact. The motion carried by voice vote.

3
4 Mr. Thorsland entertained a motion to move to the Final Determination for Case 819-AT-15.

5
6 Ms. Griest moved, seconded by Mr. DiNovo to move to the Final Determination for Case 819-AT-15.
7 The motion carried by voice vote.

8
9 **Final Determination for Case 819-AT-15:**

10
11 Ms. Griest moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2 of the
12 Champaign County Zoning Ordinance, the Zoning Board of appeals of Champaign County
13 determines that the Zoning Ordinance Text Amendment requested in Case 819-AT-15 should BE
14 ENACTED by the County Board in the form attached hereto.

15
16 Mr. Thorsland requested a roll call vote.

17
18 The roll was called as follows:

19			
20	Capel-yes	DiNovo-yes	Griest-yes
21	Lee-absent	Passalacqua-absent	Randol-yes
22	Thorsland-yes		

23
24 Mr. Hall thanked the Board for their approval of Case 819-AT-15. He stated that the case will be forwarded
25 to the Environment and Land Use Committee at their February 4, 2016, meeting and it will stay at ELUC for
26 one month before moving on to the County Board at their March 17th meeting.

27
28 Mr. Thorsland stated that the Board will now hear Cases 805-AM-15, 806-S-15, and 807-V-15.

29
30 **6. New Public Hearings**

31
32 None

33
34 **7. Staff Report**

35
36 None

37
38 **8. Other Business**
39 **A. Review of Docket**

40
41 Mr. Thorsland stated that the Board now consists of seven members therefore it should not be as difficult to

1 achieve a quorum for a meeting although tonight did have two members absent. He asked the Board if they
2 were aware of any scheduled absences that staff could document on the docket.

3
4 Ms. Griest reminded the Board that she will be absent from the February 11, 2016, meeting

5
6 Mr. DiNovo stated that he will probably be absent from the May 26, 2016, meeting.

7
8 Mr. Thorsland noted that he too may be absent from the May 26, 2016, meeting.

9
10 Mr. Thorsland requested that once a member of the Board realizes that they will be absent from a meeting
11 that they notify staff immediately.

12
13 **9. Audience Participation with respect to matters other than cases pending before the Board**

14
15 None

16
17 **10. Adjournment**

18
19 Mr. Thorsland entertained a motion to adjourn the meeting.

20
21 **Ms. Griest moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice vote.**

22
23 The meeting adjourned at 9:47 p.m.

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28 Respectfully submitted

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33 Secretary of Zoning Board of Appeals

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Petitioners: Darren Ramm, d.b.a. D. Ramm Services, Inc.

Request: Authorize the following Variance for a Rural Home Occupation in the AG-1 Agriculture Zoning District: the employment of up to five additional non-family employees in lieu of the maximum allowed two additional employees for properties smaller than two acres as per Section 7.1.2 B of the Champaign County Zoning Ordinance.

Subject Property: A tract of land located in the Northeast Quarter of the Northeast Quarter of Section 29, Township 20 North, Range 14 West of Ogden Township of the Second Principal Meridian, commonly known as D. Ramm Services, Inc., with an address of 2685 CR 2000 N, Ogden.

Site Area: 1.83 acres

Time Schedule for Development: Currently in use

**Prepared by: Susan Chavarria
Senior Planner**

**John Hall
Zoning Administrator**

BACKGROUND

Petitioner Darren Ramm established D. Ramm Services Inc. in 2008. He provides lawn care, landscaping, and snow removal services. When Mr. Ramm applied for a construction permit for a shed (for personal use), the business use based on the property came to light. He applied for a Rural Home Occupation Permit in 2015 in order to bring the business use into compliance with the Zoning Ordinance. Staff determined from the RHO application that Mr. Ramm has more than the maximum number of employees allowed in a RHO. Mr. Ramm seeks the variance from the maximum number of employees in a RHO in order to serve the unexpected growth his business has experienced. The RHO permit cannot be issued until this variance is approved or he reduces the number of non-family employees to no more than one on-site and no more than one additional employee working off-site.

The Zoning Department created an Annotated Site Plan (Attachment D) that combines information from the Boundary Survey and Site Plan received July 15, 2015.

EXTRATERRITORIAL JURISDICTION

The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

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

(217) 384-3708
zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential, lawn care/ landscaping/ snow removal business	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture with SF dwelling	AG-1 Agriculture
West	Agriculture with SF dwelling	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

IMPACTS TO SURROUNDING AREA

There are two farmsteads on the west and east sides of the subject property. The homes are over 700 feet from the subject property. Mr. Ramm indicated on his application: **“We are not performing services at the property. Only equipment and employee’s vehicles are stored and parked here...Trucks and trailers are parked in 60x100 pole barn. Equipment is also stored inside pole barn. No outside parking. No outdoor sales display area...Petitioner and family are living at residence. Our business will not disturb the agricultural land surrounding our property.”**

Mr. Ramm is aware of a special condition on the RHO Permit that “all grass clippings, tree branches, shrubbery, etc. shall be disposed of at the site where the work is performed or taken to an approved landscape recycling center”.

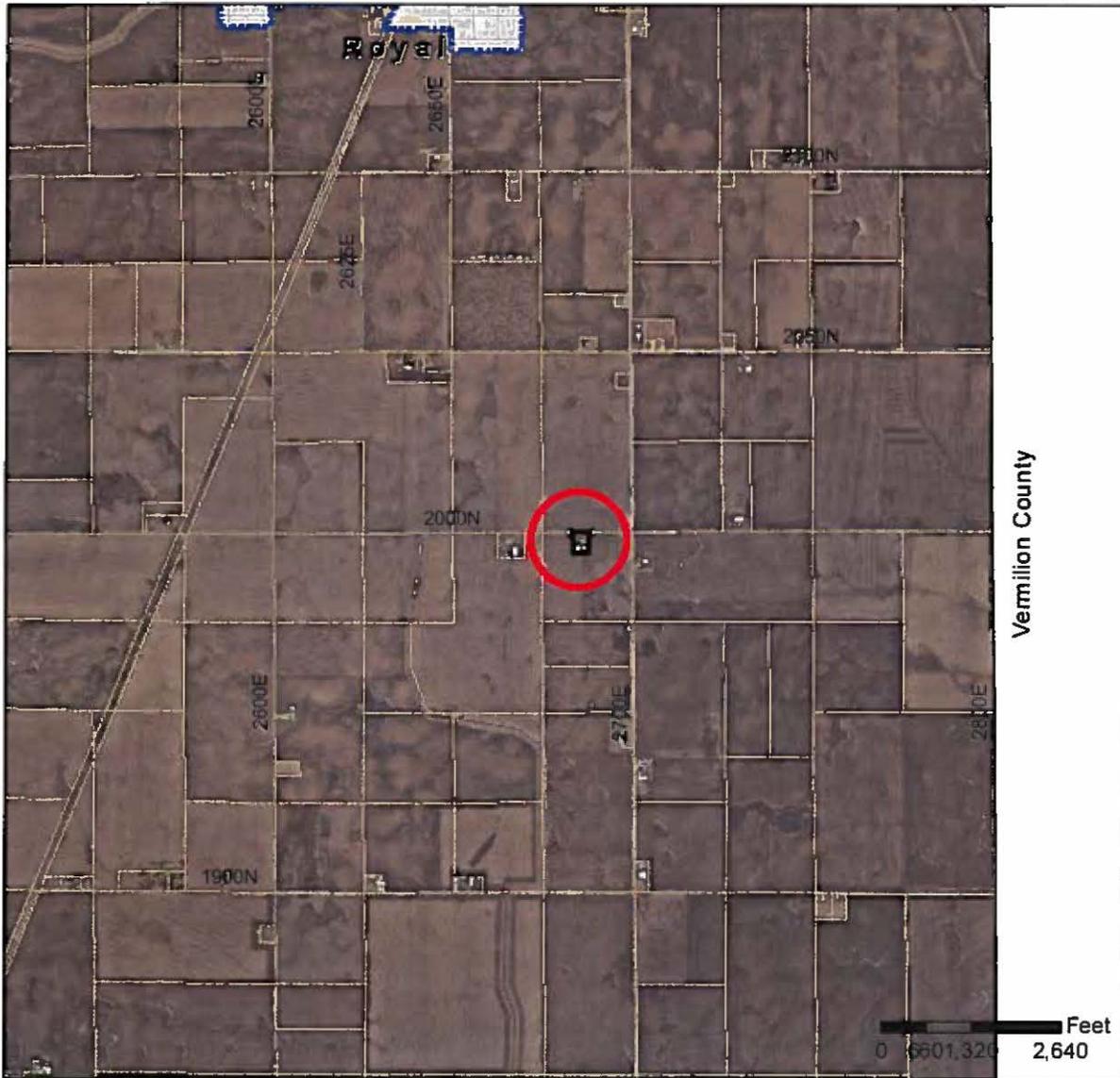
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received July 15, 2015
- C Boundary Survey by Berns, Clancy and Associates dated May 12, 2009 and received July 15, 2015
- D Annotated Site Plan created by Zoning staff January 13, 2016
- E Email from Petitioner Darren Ramm received July 22, 2015
- F Images of Subject Property taken January 14, 2016
- G Draft Summary of Evidence, Finding of Fact, and Final Determination

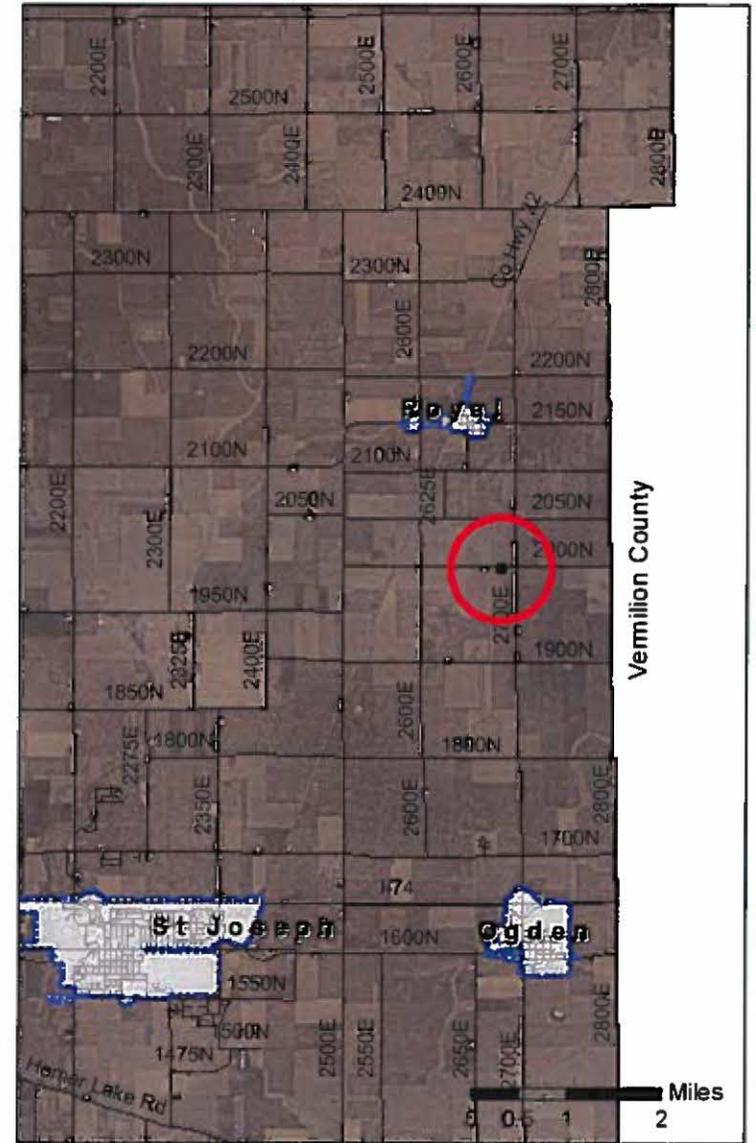
Location Map

Case 820-V-15
February 25, 2016

Subject Property



Property location in Champaign County



Legend

-  Subject Property
-  Municipal Boundary
-  Streets
-  Parcels

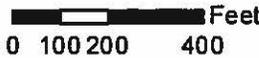


Land Use Map

Case 820-V-15
February 25, 2016

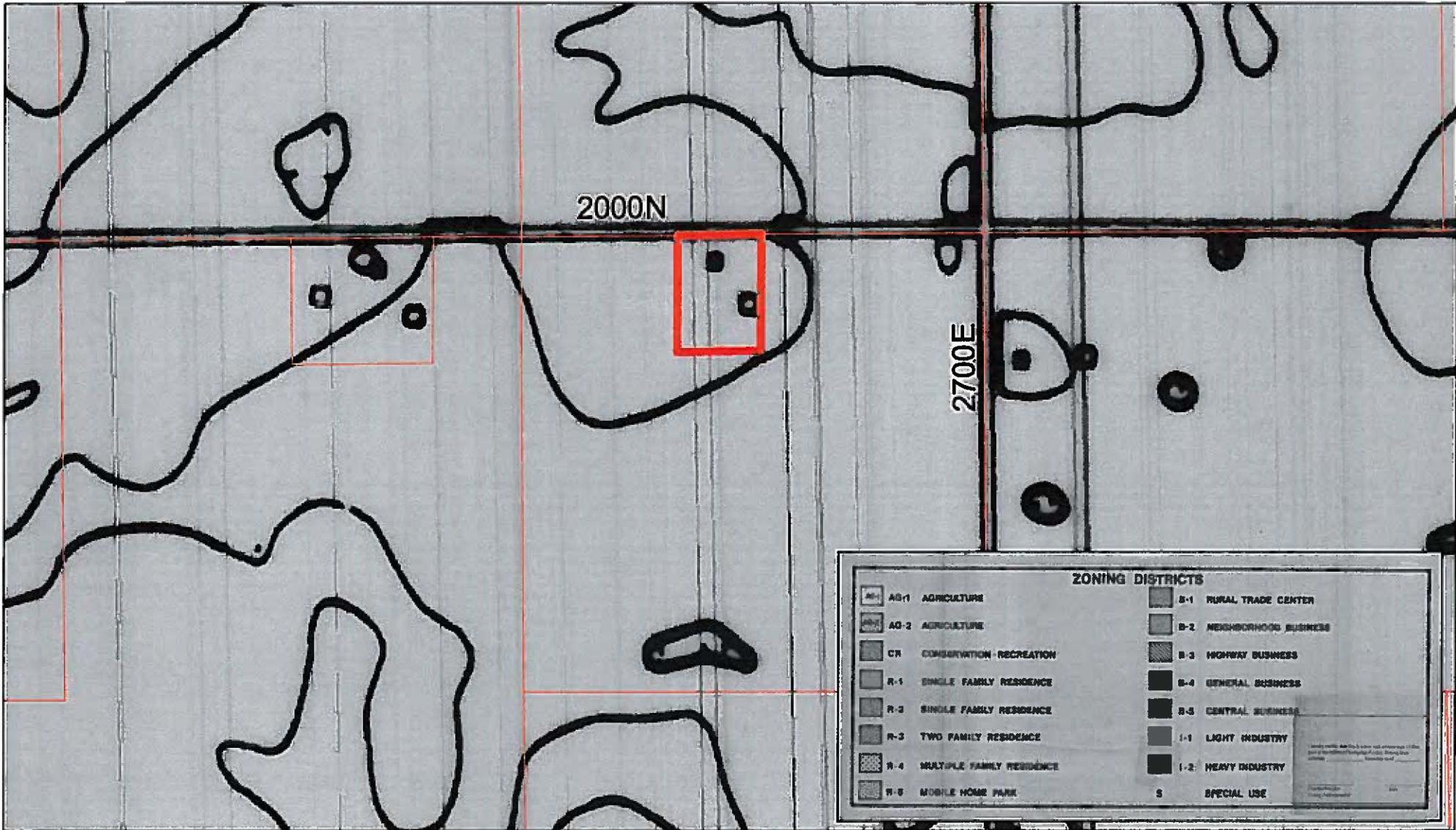


SF	Single Family Residential
RHO	Rural Home Occupation
AG	Agriculture



Zoning Map

Case 820-V-15
February 25, 2016



Legend

Subject Property

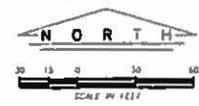
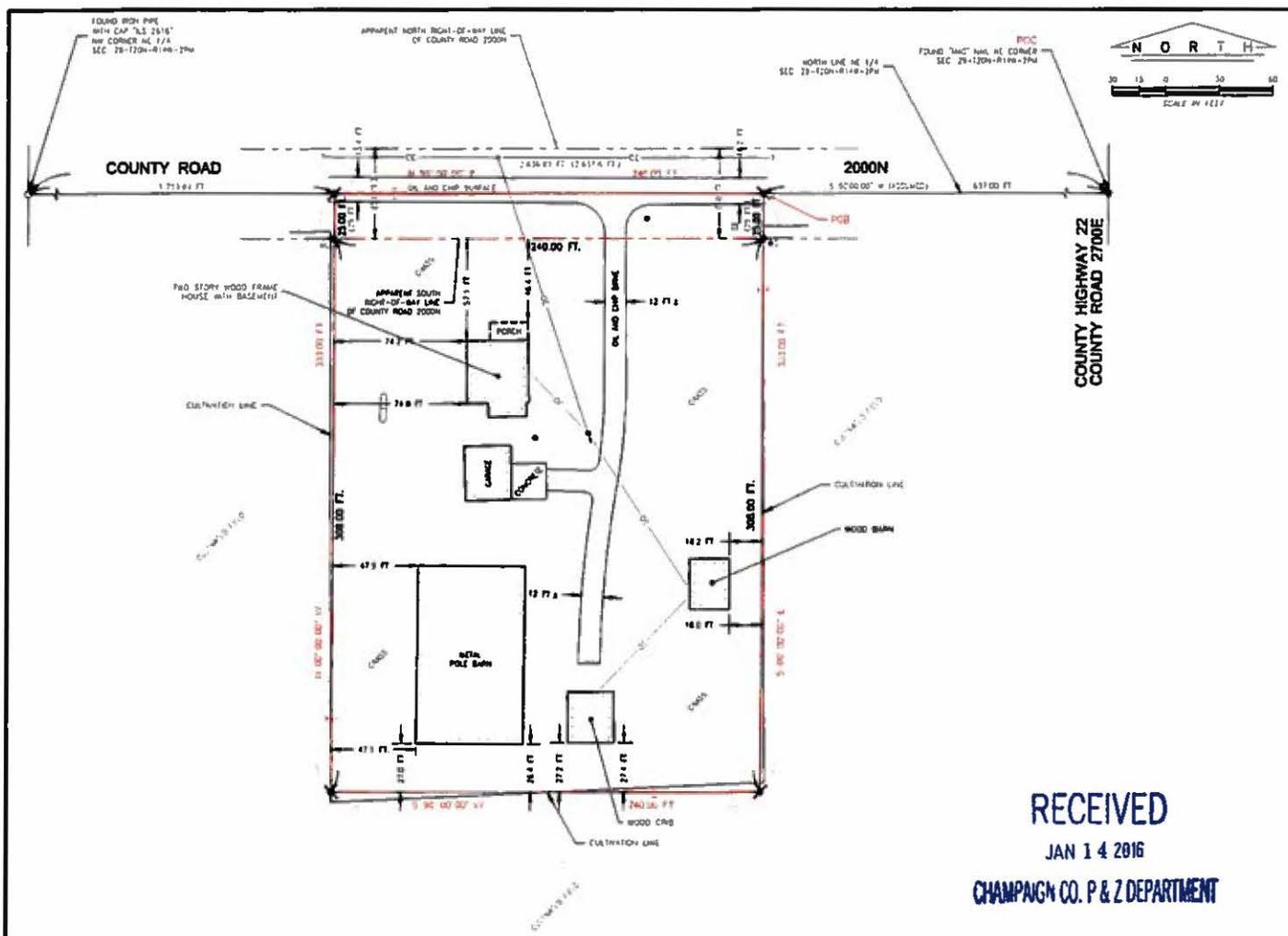
Parcels

0 100 200 400 Feet



Champaign County
Department of
PLANNING &
ZONING

Case 820-V-15, ZBA 2/25/16



- LEGEND**
- 30 INCH LONG 1/2 INCH DIAMETER IRON PIPE SURVEY MONUMENT SET WITH ALUMINUM CAP STAMPED "45 2006 2707"
 - EXISTING IRON PIPE/PIV SURVEY MONUMENT FOUND
 - EXISTING "MAC" MARK SURVEY MONUMENT FOUND
 - APPARENT RIGHT-OF-WAY LINE
 - TITLE LINE
 - EXISTING BUILDING LINE
 - ◻ EXISTING PRIVATE MAILBOX
 - EXISTING WATER WELL
 - EXISTING TELEPHONE PEDESTAL
 - ⚡ EXISTING LIGHT POLE/CLIP W/CE/TRANSFORMER
 - EXISTING OVERHEAD ELECTRIC LINE
 - () RECORD MEASUREMENT AND/OR DATA
 - ⋄ DESTINATION OR DATA UNKNOWN
 - POB POINT-OF-BEGINNING
 - POC POINT-OF-COMMENCEMENT
 - WC WITNESS CORNER
 - ◻ EXISTING LIQUID PROPANE TANK

RECEIVED

JAN 14 2016
 CHAMPAIGN CO. P & Z DEPARTMENT

BOUNDARY SURVEY OF A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 20 NORTH, RANGE 14 WEST OF THE SECOND PRINCIPAL MERIDIAN, OGDEN TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS

NET AREA 169 ACRES±
AREA OF APPARENT RIGHT-OF-WAY 0.14 ACRES±
GROSS AREA 183 ACRES±

SIGNED AND SEALED MAY 12, 2009

EDWARD L. CLANCY, L.S., P.E., VICE PRESIDENT
 BERNIS, CLANCY AND ASSOCIATES, P.C.
 ILLINOIS PROFESSIONAL LAND SURVEYOR 2207
 LICENSE EXPIRES NOVEMBER 30, 2010
 URBANA, CHAMPAIGN COUNTY, ILLINOIS
 ILLINOIS PROFESSIONAL DESIGN FIRM 2999
 LICENSE EXPIRES APRIL 30, 2011



BCA **BERNIS, CLANCY AND ASSOCIATES**
 ENGINEERS • SURVEYORS • PLANNERS
 406 EAST MAIN STREET - POST OFFICE BOX 786
 URBANA, ILLINOIS 61801-0786
 PHONE: (217) 386-1144 - FAX: (217) 386-3286

JOB: 8047	SHEET: 081209	SHEET 1 OF 2
FILE: 8047.DWG		

JULIE
 NOTE: THE EXACT LOCATION OF ALL UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION ACTIVITIES. FOR UTILITY LOCATIONS CALL 811 OR 217-243-8872.

GENERAL NOTES

ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF, UNLESS NOTED OTHERWISE

SEE CHAMPAIGN COUNTY ORDINANCES AND REGULATIONS FOR ZONING, SETBACK AND BUILDING STANDARD REQUIREMENTS

ALL SURFACE, SUBSURFACE, BUILDING IMPROVEMENTS AND UTILITY SERVICE LINES ON AND ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN

BEARINGS SHOWN ARE BASED UPON AN ASSUMED MERIDIAN. THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 29 WAS ASSIGNED THE BEARING OF SOUTH 93 DEGREES 00 MINUTES 00 SECONDS WEST.

SEE MONUMENT RECORDS ON FILE WITH THE COUNTY RECORDER'S OFFICE FOR DETAILS OF SECTION CORNERS USED IN THIS SURVEY.

PER THE CHAMPAIGN COUNTY PLANNING AND ZONING DEPARTMENT, SUBJECT SITE IS CURRENTLY ZONED "AC-1" (AGRICULTURE), MINIMUM LOT SIZE: 1.0 ACRE; MINIMUM LOT WIDTH: 200 FEET; MINIMUM BUILDING HEIGHT: 30 FEET; FRONT YARD SETBACK: 55 FEET; SIDE YARD SETBACK: 15 FEET; REAR YARD SETBACK: 25 FEET

SURVEYOR'S REPORT

I, EDWARD L. CLANCY, ILLINOIS PROFESSIONAL LAND SURVEYOR 2207 AND VICE PRESIDENT OF BERN'S, CLANCY AND ASSOCIATES, P.C. DO HEREBY STATE THAT AT THE REQUEST OF AND FOR THE EXCLUSIVE BENEFIT OF MS. LAURA SANDEFUR AND MS. SARAH DAVIS, I PREPARED A BOUNDARY SURVEY ON THE GROUNDS TO THE NORMAL STANDARD OF CARE OF PROFESSIONAL LAND SURVEYORS PRACTICING IN CHAMPAIGN COUNTY, ILLINOIS OF A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 20 NORTH, RANGE 14 WEST OF THE SECOND PRINCIPAL MERIDIAN, OGDEN TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS A RESULT OF THIS PRESENT SURVEY AS FOLLOWS:

COMMENCING AT A MAG NAIL FOUND AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 20 NORTH, RANGE 14 WEST OF THE SECOND PRINCIPAL MERIDIAN; THENCE SOUTH 80 DEGREES 00 MINUTES 00 SECONDS WEST, ON AN ASSUMED BEARING, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 29, A DISTANCE OF 637.00 FEET TO AN IRON PIPE SURVEY MONUMENT SET FOR THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 333.00 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 93 DEGREES 00 MINUTES 00 SECONDS WEST, PARALLEL TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 29, A DISTANCE OF 240.00 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 333.00 FEET TO AN IRON PIPE SURVEY MONUMENT SET ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 29; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 29, A DISTANCE OF 240.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1.83 ACRES, MORE OR LESS, ALL AS SHOWN ON THE ACCOMPANYING PLAT OF SURVEY, ALL SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

I FURTHER STATE THAT BASED UPON MY REVIEW OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP PANEL 150 OF 200, COMMUNITY PANEL NUMBER 170204 0150 B WITH AN EFFECTIVE DATE OF MARCH 1, 1984, THE PROPERTY SURVEYED IS REPORTEDLY LOCATED WITHIN ZONE C (AREAS OF MINIMAL FLOODING)

I FURTHER STATE THAT NO INVESTIGATION CONCERNING ENVIRONMENTAL AND SUBSURFACE CONDITIONS, OR TO DETERMINE THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY WAS MADE AS A PART OF THIS SURVEY.

I FURTHER STATE THAT NO INDEPENDENT INVESTIGATION CONCERNING ZONING OR LAND USE, OR INDEPENDENT SEARCH OF THE RECORDS FOR EASEMENTS, ENCUMBRANCES, RESTRICTIVE COVENANTS, SUBDIVISION RESTRICTIONS, OWNERSHIP, TITLE EVIDENCE OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE FOR SUBJECT PROPERTY OR FOR ADJOINING PARCELS WAS MADE AS A PART OF THIS SURVEY. THE SURVEYOR HAS RELIED UPON THE MATERIALS AND REPRESENTATIONS SUPPLIED BY LAURA SANDEFUR.

I FURTHER STATE THAT NO ATTEMPT HAS BEEN MADE AS A PART OF THIS BOUNDARY SURVEY TO OBTAIN DATA CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY MUNICIPAL OR PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES.

I FURTHER STATE THAT I FOUND AND/OR SET THE SURVEY MONUMENTS AS SHOWN ON THE ACCOMPANYING PLAT OF SURVEY AND THERE ARE NO APPARENT ABOVE-GROUND ENCROACHMENTS (EXCEPT AS SHOWN ON THE ACCOMPANYING PLAT OF SURVEY).

I FURTHER STATE THAT THE ACCOMPANYING PLAT OF SURVEY IS A SCALED REPRESENTATION OF THE PHYSICAL SITUATION WHICH I FOUND IN THE FIELD AND SHOWS THE LOCATION OF VARIOUS ABOVE-GROUND FACILITIES WHICH I FOUND IN THE FIELD AT THE TIME OF MY FIELD SURVEY OF THESE PREMISES FROM MAY 4, 2009 TO MAY 7, 2009.

I FURTHER STATE THAT THE ABOVE DESCRIBED TRACT IS APPARENTLY SUBJECT TO THE RIGHTS OF THE PUBLIC IN THE EXISTING PUBLIC ROADWAY.

I FURTHER STATE THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

RECEIVED
 JAN 14 2016
 CHAMPAIGN CO. P & Z DEPARTMENT

SIGNED AND SEALED MAY 12, 2009

EDWARD L. CLANCY, C.S. P.E., VICE PRESIDENT
 BERN'S, CLANCY AND ASSOCIATES, P.C.
 ILLINOIS PROFESSIONAL LAND SURVEYOR 2207
 LICENSE EXPIRATION NOVEMBER 30, 2010
 URBANA, CHAMPAIGN COUNTY, ILLINOIS
 ILLINOIS PROFESSIONAL DESIGN FIRM 2999
 LICENSE EXPIRATION APRIL 30, 2011



BCA BERN'S, CLANCY AND ASSOCIATES
 ENGINEERS • SURVEYORS • PLANNERS
 405 EAST MAIN STREET - POST OFFICE BOX 739
 URBANA, ILLINOIS 62505-0739
 PHONE (217) 384-1144 - FAX (217) 384-3255

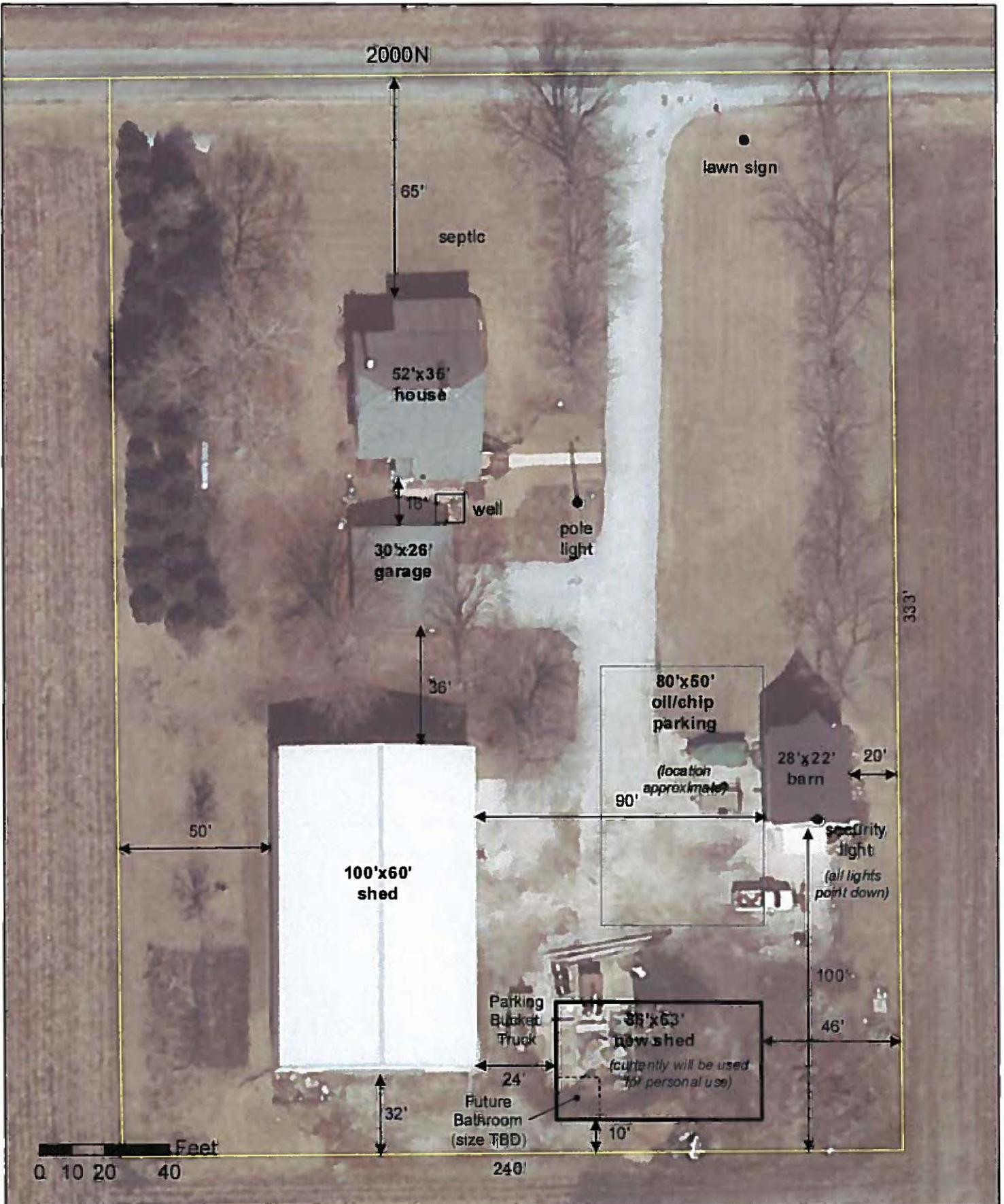
JOB: 6047	DATE: 051209	SHEET 2 OF 2
FILE: 6047 (TW)		

JULIE
 NOTE: THE EXACT LOCATION OF ALL UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION ACTIVITIES. FOR UTILITY LOCATIONS CALL JULIE @ (202) 882-8923

Annotated Site Plan

Case 820-V-15
February 25, 2016

2014 aerial by CCGIS
Measurements and annotations
provided by petitioner on site
plan received 11/15/2015



Susan Chavarria

From: Connie Berry
Sent: Tuesday, July 28, 2015 9:58 AM
To: 'Darren Ramm'
Cc: Susan Chavarria
Subject: RE: Rural Home Occupation Details

From: Darren Ramm [<mailto:rammdarren@yahoo.com>]
Sent: Wednesday, July 22, 2015 11:00 PM
To: Connie Berry
Subject: Re: Rural Home Occupation Details

1. When customers request removal of debris, we take to the landscape recycling center.
2. The lawn sign is approx. 1.5' X 2'.
3. The new building is going to be used to store personal items such as our boat and other belongings and host family gatherings.
4. Some employees meet at our residence in the morning to pick up equipment and then disperse to job sites. Some employees (those working less hours) will meet at the job site if equipment is already there or not needed.
5. All employees are seasonal and work more hours during the summer/mowing months (April - October). Normally there are some a couple of employees that only work May - August as they are students attending classes during the other months.

We have 1 employee that works 4 - 5 days per week during mowing season (30-40 + hours). There 3-4 additional employees that work 2-3 days per week depending on work load (0-30 hours).

November - March employees only work during periods of snow or ice. Hours are extremely variable during this period.

No employees are full time - working 40 hours per week all year.

Please let us know if you have any other questions.

Thanks,
Darren

Darren Ramm
D. Ramm Services, Inc.
2685 County Road 2000 N
Ogden, IL 61859
217-202-2575

From: Connie Berry <cberry@co.champaign.il.us>
To: "'rammdarren@yahoo.com'" <rammdarren@yahoo.com>
Cc: Lori Busboom <lbusboom@co.champaign.il.us>
Sent: Wednesday, July 22, 2015 1:24 PM
Subject: Rural Home Occupation Details

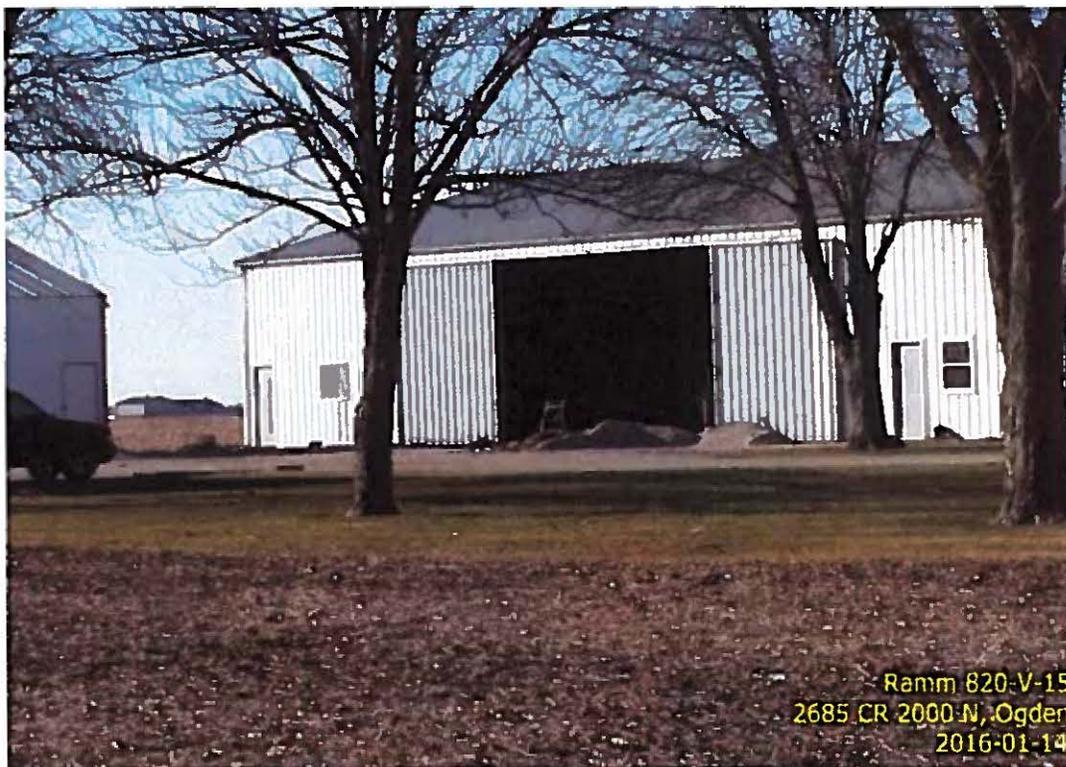
Please address the following questions:

1. How and where will the lawn clippings and tree branches be disposed of.
2. Please indicate the size of the sign for the home occupation.
3. Is the new building to be used for personal storage or used as part of the home occupation.
4. Do the employees report to your residence (site of the home occupation) to pick up job orders and equipment or do they meet you at the job site.
5. How many employees (full and part-time) are involved in the business. (Please explain in detail the hours/days/season/per job basis worked per employee.

820-V-15 Images



Subject property from CR 2000 N facing west



Shed south of residence

820-V-15 Images



Barn and landscape waste on SE corner of property



Residence north of shed

820-V-15 Images



Ramm 820-V-15
2685 CR 2000 N, Ogden
2016-01-14

Smoker and wood pile on west side of residence



Ramm 820-V-15
2685 CR 2000 N, Ogden
2016-01-14

Wood pile on SW corner of property behind shed

02/17/16 PRELIMINARY DRAFT

820-V-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: ***{February 25, 2016}***

Petitioner: **Darren Ramm d.b.a. D. Ramm Services, Inc.**

Request: **Authorize the following Variance for a Rural Home Occupation in the AG-1 Agriculture Zoning District: the employment of up to five additional non-family employees in lieu of the maximum allowed two additional employees for properties smaller than two acres as per Section 7.1.2 B of the Champaign County Zoning Ordinance.**

Table of Contents

General Application Information..... 2
Requested Variance..... 3
Specific Ordinance Requirements.....3-6
Variance Evidence 6-9
Documents of Record..... 10
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Case 820-V-15 Final Determination 12

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 25, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Darren Ramm, 2685 CR 2000 N, Ogden, d.b.a. D. Ramm Services, Inc., owns the subject property.
2. The subject property is a 1.83 acre tract of land located in the Northeast Quarter of the Northeast Quarter of Section 29, Township 20 North, Range 14 West of Ogden Township of the Second Principal Meridian, commonly known as D. Ramm Services, Inc., with an address of 2685 CR 2000 N, Ogden.
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 with zoning. Municipalities do not have protest rights on variances within their ETJ and are not notified of such cases.
 - B. The subject property is located within Ogden 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 1.83 acre lot and is currently zoned AG-1 Agriculture. Land use is a single family dwelling with a lawn care, landscaping, and snow removal business that has submitted an application for a Rural Home Occupation (RHO).
 - B. Land surrounding the subject property is zoned AG-1 Agriculture and is in agricultural production.
 - C. There are two farms with owner occupied dwellings, one approximately 700 feet west and the other approximately 700 feet east of the subject property.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject site:
 - A. A Boundary Survey created by Berns, Clancy and Associates was received with the Rural Home Occupation Permit application on July 15, 2015 and included a hand-drawn site plan with additional dimensions and notations created by the petitioner. The documents indicate the following:
 - (1) A 333 feet by 240 feet rectangular lot;
 - (2) A two-story wood frame house with basement;
 - (3) A 26 feet by 30 feet garage;

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- (4) A 100 feet by 60 feet metal pole barn;
 - (5) A 36 feet by 63 feet new shed;
 - (6) A 22 feet by 28 feet barn;
 - (7) A septic system located north of the residence;
 - (8) A well located south of the residence;
 - (9) A 12 feet wide oil and chip driveway;
 - (10) A 50 feet by 80 feet oil and chip parking area at the south end of the driveway; and
 - (11) A 1.5 feet by 2 feet lawn sign east of the driveway entrance at CR 2000 N.
- B. In the permit application for a Rural Home Occupation received July 15, 2015, the petitioner indicated that **“Trucks and trailers are parked in 60x100 pole barn. Equipment is also stored inside pole barn. No outside parking. No outdoor sales display area.”**
- C. The following Zoning Use Permits have been issued for the subject property:
- (1) Permit 196-15-01RHO was applied for on July 15, 2015; its approval is contingent upon approval of the requested variance for number of employees.
 - (2) Permit 170-15-03 was approved on June 24, 2015 for the construction of a detached shed for personal storage.
- D. The required variance is as follows: the employment of up to five additional non-family employees in lieu of the maximum allowed two additional employees for Rural Home Occupations on properties smaller than two acres as per Section 7.1.2 B of the Champaign County Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (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.

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- (3) "AREA, LOT" is the total area within the LOT LINES.
- (4) "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.
- (5) "DWELLING, SINGLE FAMILY" is a DWELLING containing one DWELLING UNIT.
- (6) "HOME OCCUPATION, RURAL" is any activity conducted for gain or support by a member of members of the immediate FAMILY, residing on the premises, as an ACCESSORY USE on the same LOT as the resident's DWELLING UNIT.
- (7) "LANDSCAPE WASTE" is all accumulations of grass or shrubbery cuttings, leaves, tree limbs and trunks, and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees, excluding vegetative by-products from agricultural activities onsite.
- (8) "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.
- (9) "PARKING GARAGE or LOT" is a LOT, COURT, YARD, or portion thereof used for the parking of vehicles containing one or more PARKING SPACES together with means of ACCESS to a public way.
- (10) "PARKING SPACE" is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
- (11) "SCREEN" is a STRUCTURE or landscaping element of sufficient opaqueness or density and maintained such that it completely obscures from view throughout its height the PREMISES upon which the screen is located.
- (12) "SIGN" is any name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a BUILDING, STRUCTURE or land which is placed out-of-doors and in view of the general public and which directs attention to a product, place, activity, person, institution, or business.
- (13) "SIGN, ON-PREMISES" is a SIGN which relates solely to a USE, business or profession conducted upon, or to a principal commodity, service, or entertainment sold, provided, or offered upon the PREMISES where the sign is located or on a LOT adjacent to the PREMISES advertised. Such SIGNS shall be ACCESSORY USES of a PROPERTY.

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- (14) “STORAGE” is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
- (15) “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.
- (16) “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.
- B. 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 AGRICULTURE pursuits.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.

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- D. For the requested variance, the number of non-family employees for a Rural Home Occupation is established in Section 7.1.2 B. of the Zoning Ordinance as per the following:
- (1) On lots smaller than two acres in area no more than one employee may be present on that premises and no more than one additional employee may report to the site for work performed off the premises.
 - (2) On lots that are two acres in area or larger no more than two employees may be present on the premises and no more than three additional employees may report to the site for work performed off the premises.

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, **“We are .17 acres short of two acres, which would allow more employees.”**
 - B. Mr. Ramm is aware of a special condition on the RHO Permit to be issued pending this variance case that “all grass clippings, tree branches, shrubbery, etc. shall be disposed of at the site where the work is performed or taken to an approved landscape recycling center”.

GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioner has testified on the application, **“It is difficult to anticipate work load with seasonal work. We have more part time seasonal employees to accommodate.”**
 - B. Regarding the requested Variance for a maximum of 5 additional non-family employees in lieu of the maximum allowed 2 non-family employees:
 - (1) In an email to the Zoning Department dated July 22, 2015, petitioner Darren Ramm indicated the following:
 - a. **“Some employees meet at our residence in the morning to pick up equipment and then disperse to job sites. Some employees (those working less hours) will meet at the job site if equipment is already there or not needed.”**
 - b. **“All employees are seasonal and work more hours during the summer/ mowing months (April - October). Normally there are a couple of employees that only work May – August as they are students attending classes during the other months.”**
 - c. **“We have 1 employee that works 4 - 5 days per week during mowing season (30 - 40+ hours). There are 3 - 4 additional employees that work 2 - 3 days per week depending on work load (0 - 30 hours).”**

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- d. **“November – March employees only work during periods of snow or ice. Hours are extremely variable during this period.”**
 - e. **“No employees are full time – working 40 hours per week all year.”**
- C. Regarding the proposed Variance:
- (1) Without the proposed variance, the petitioner’s lawn care/landscaping/snow removal business would not be able to meet current demand for services because the petitioner would be limited to two non-family employees.

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioner has testified on the application, **“We have had more growth than anticipated.”**

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

- 10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
 - A. The Petitioner has testified on the application, **“Petitioner and family are living at residence. Our business will not disturb the agricultural land surrounding our property.”**
 - B. Regarding the requested Variance for 5 non-family employees in lieu of 2 non-family employees for a Rural Home Occupation on less than 2 acres:
 - (1) The requested variance is for 5 non-family employees rather than 2 non-family employees, a variance of 150%.
 - (2) The Zoning Ordinance does not clearly state the considerations that underlie the required maximum number of non-family employees.
 - a. Text amendment 794-AT-92 adopted on February 16, 1993 included several concerns that were discussed during hearings for that case:
 - (a) That the business, by having additional employees, does not grow beyond the standards of a Rural Home Occupation unless it is permitted for a larger category of business that has different zoning regulations; and
 - (b) That the business will not be disruptive to the neighborhood because of additional employees, number of vehicles, and work-related equipment.
 - (c) The City of Urbana had a concern that people might use this requirement as a mechanism to move their businesses out of the City and into the County.

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- (d) The number of employees for a RHO was based on a comparison with municipal requirements for number of employees in a neighborhood home occupation, and all four communities had a lower requirement:
 - City of Champaign – no non-resident employees allowed
 - City of Urbana – 1 allowed
 - Village of Savoy – none allowed
 - Village of Mahomet – 1 allowed
 - (e) The Village of Mahomet changed their Zoning Code in 2002 to allow 2 non-resident employees. The Village of Savoy changed their Zoning Code in 2000 to also allow 2 non-resident employees. The Cities of Champaign and Urbana have not changed their requirements.
- b. Text Amendment 732-AT-12 adopted on March 20, 2014 increased the number of employees that are allowed in a Rural Home Occupation; the following evidence is relevant to the current variance case:
- (a) Section 7.1.2 B.i. sets a current threshold of 2 acres or smaller to limit a RHO to one employee on premises and one off premises; prior to approval of 732-AT-12, that threshold was 5 acres.
 - (b) Section 7.1.2 B.ii sets a current threshold of two acres or larger for allowing two employees on premises and 3 off-premises; prior to approval of 732-AT-12, that threshold was 5 acres or larger.
 - (c) The reason for the changes was to allow a larger number of employees on smaller lots and to make the ordinance less restrictive.
 - (d) Applying this reason to the current case, prior to March 20, 2014 the Petitioner would have needed 5 acres or more to be able to have two employees on site and 3 additional employees off-site.
- (3) The requested variance is not prohibited by the *Zoning Ordinance*.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application: **“We are not performing services at the property. Only equipment and employee’s vehicles are stored and parked here.”**

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- B. In the permit application for a Rural Home Occupation received July 15, 2015, the petitioner indicated that **“Trucks and trailers are parked in 60x100 pole barn. Equipment is also stored inside pole barn. No outside parking. No outdoor sales display area.”**
- C. Mr. Ramm is aware of a special condition on the RHO Permit to be issued pending this variance case that **“all grass clippings, tree branches, shrubbery, etc. shall be disposed of at the site where the work is performed or taken to an approved landscape recycling center”**.
- D. The Ogden Township Road Commissioner has been notified of this variance but no comments have been received.
- E. The Ogden/Royal Fire Protection District has been notified of this variance but no comments have been received.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 12. Generally regarding and other circumstances which justify the Variance:
 - A. The Petitioner provided no comment on the application.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:
 - A. **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 7.1.2.M. of the Zoning Ordinance have been met.**

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

That exterior lighting for the Rural Home Occupation meets the requirements established for Special Uses in the Zoning Ordinance.

- B. **A Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE which is visible within 1,000 feet from any lot occupied by a dwelling conforming as to use.**

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

That outdoor storage at Rural Home Occupations complies with the Zoning Ordinance.

DOCUMENTS OF RECORD

1. Variance Application received November 2, 2015
2. Rural Home Occupation Permit Application received July 15, 2015, with attachments:
 - A Site Plan
 - B Boundary Survey by Berns, Clancy and Associates dated May 12, 2009
3. Email from Petitioner Darren Ramm received July 22, 2015
4. Preliminary Memorandum dated February 17, 2016 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received July 15, 2015
 - C Boundary Survey by Berns, Clancy and Associates dated May 12, 2009 and received July 15, 2015
 - D Annotated Site Plan created by Zoning staff January 13, 2016
 - E Email from Petitioner Darren Ramm received July 22, 2015
 - F Images of Subject Property taken January 14, 2016
 - G Draft Summary of Evidence, Finding of Fact, and Final Determination

02/17/16 PRELIMINARY DRAFT

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 820-V-15 held on February 25, 2016, 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:}***

- A. **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 7.1.2.M. of the Zoning Ordinance have been met.**

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

That exterior lighting for the Rural Home Occupation meets the requirements established for Special Uses in the Zoning Ordinance.

- B. **A Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE which is visible within 1,000 feet from any lot occupied by a dwelling conforming as to use.**

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

That outdoor storage at Rural Home Occupations complies with the Zoning Ordinance.

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02/17/16 PRELIMINARY DRAFT

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 820-V-15 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Darren Ramm, d.b.a. D. Ramm Services, Inc.**, to authorize the following variance in the AG-1 Agriculture Zoning District:

The employment of up to five additional non-family employees in lieu of the maximum allowed two additional employees for properties smaller than two acres as per Section 7.1.2 B of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. **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 7.1.2.M. of the Zoning Ordinance have been met.**

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

That exterior lighting for the Rural Home Occupation meets the requirements established for Special Uses in the Zoning Ordinance.

- B. **A Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE which is visible within 1,000 feet from any lot occupied by a dwelling conforming as to use.**

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

That outdoor storage at Rural Home Occupations complies 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:

ATTEST:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

CASE NO. 821-V-15

PRELIMINARY MEMORANDUM

February 17, 2016

Petitioners: **Aaron and Gina Marsh**

Request: **Authorize the following Variance in the AG-1 Agriculture Zoning District: a lot size of 4.38 acres in lieu of the maximum area of 3 acres for lots with soils that are Best Prime Farmland as per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **A tract of land located in the Southeast Quarter of the Southeast Quarter of Section 15, Township 17 North, Range 7 East of Sadorus Township of the Third Principal Meridian, with an address of 321 CR 400 East, Sadorus.**

Site Area: **4.38 acres**

Time Schedule for Development: **Currently in use**

Prepared by: **Susan Chavarria**
Senior Planner

John Hall
Zoning Administrator

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

(217) 384-3708
zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

BACKGROUND

Aaron and Gina Marsh purchased the subject property in September 2015 with the intent to maintain the 100+ year old farmstead and its wooded areas intact. They applied for a Zoning Use Permit on December 15, 2015 in order to construct additions to the single family residence. Zoning staff told them that the size of their lot exceeded the maximum allowed on Best Prime Farmland. The petitioners were not aware of this Zoning Ordinance requirement, but immediately applied for a variance in order to bring the property into compliance.

The Zoning Department approved Permit #349-15-01 on December 28, 2015, contingent upon any decision made or conditions imposed by the ZBA in this variance case.

EXTRATERRITORIAL JURISDICTION

The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

IMPACTS

The Petitioners testified on the application that they “feel it’s important to protect farmland in production, but acted in good faith that we were doing just that when we bought this property. The wooded nature of the property will be maintained, and no farmland was or will be taken out of production by this variance being granted.”

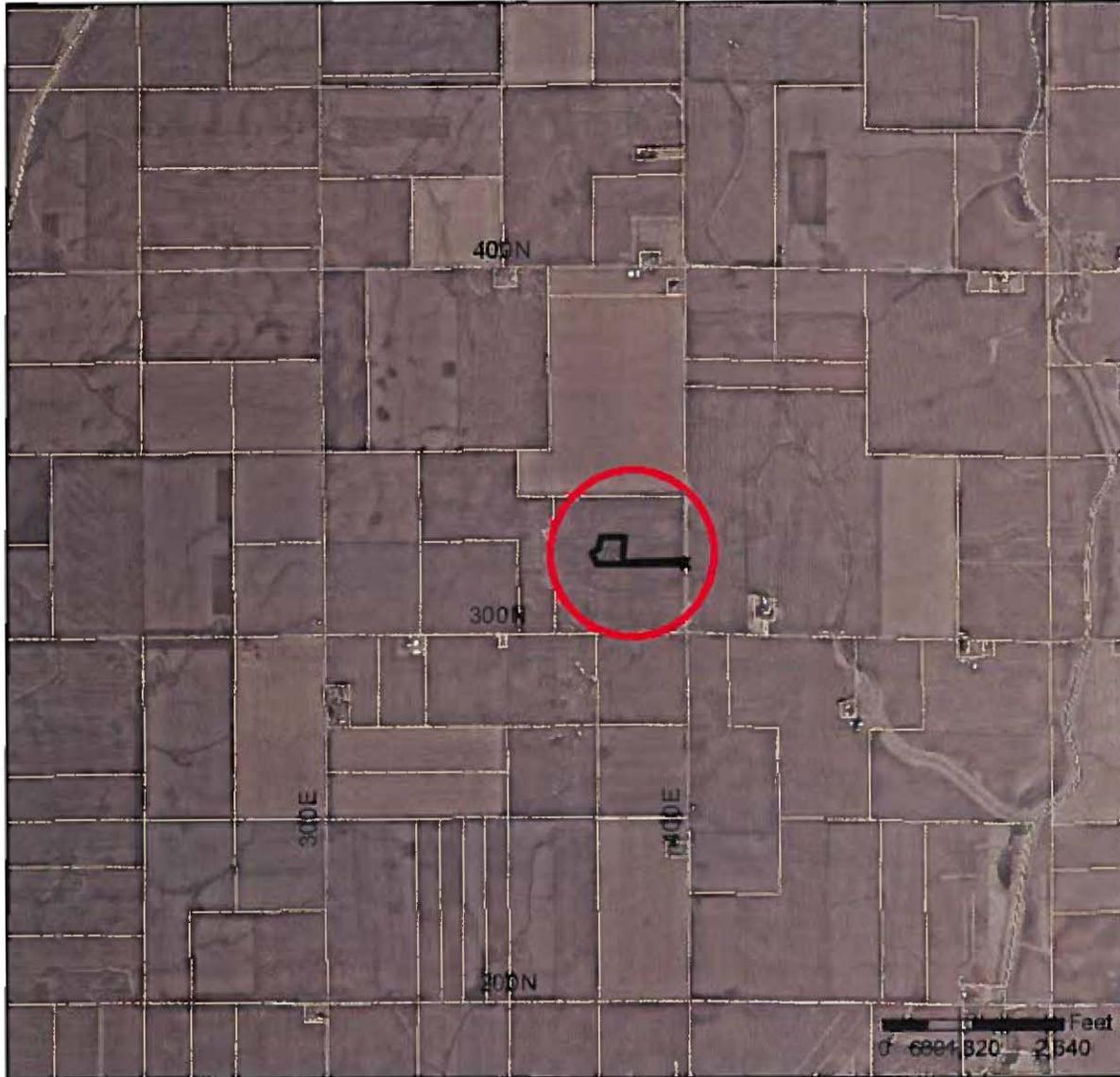
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)**
- B Site Plan received December 16, 2015**
- C Images of Subject Property taken January 26, 2016**
- D Draft Summary of Evidence, Finding of Fact, and Final Determination**

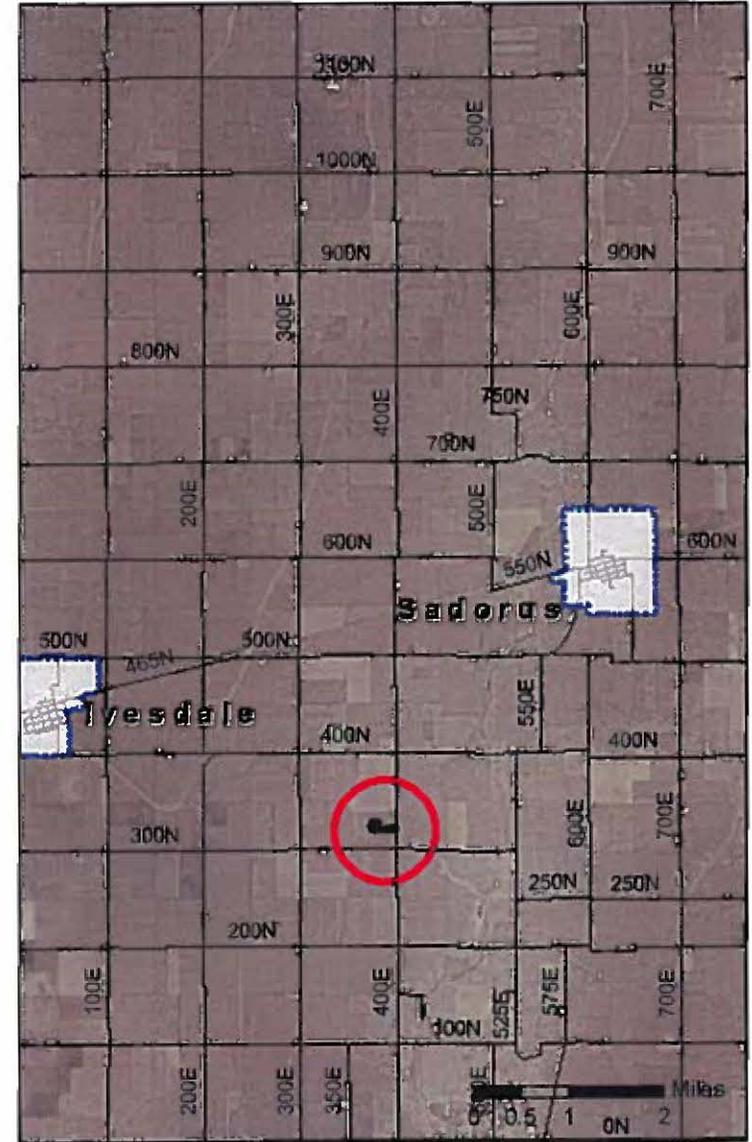
Location Map

Case 821-V-15
February 25, 2016

Subject Property



Property location in Champaign County



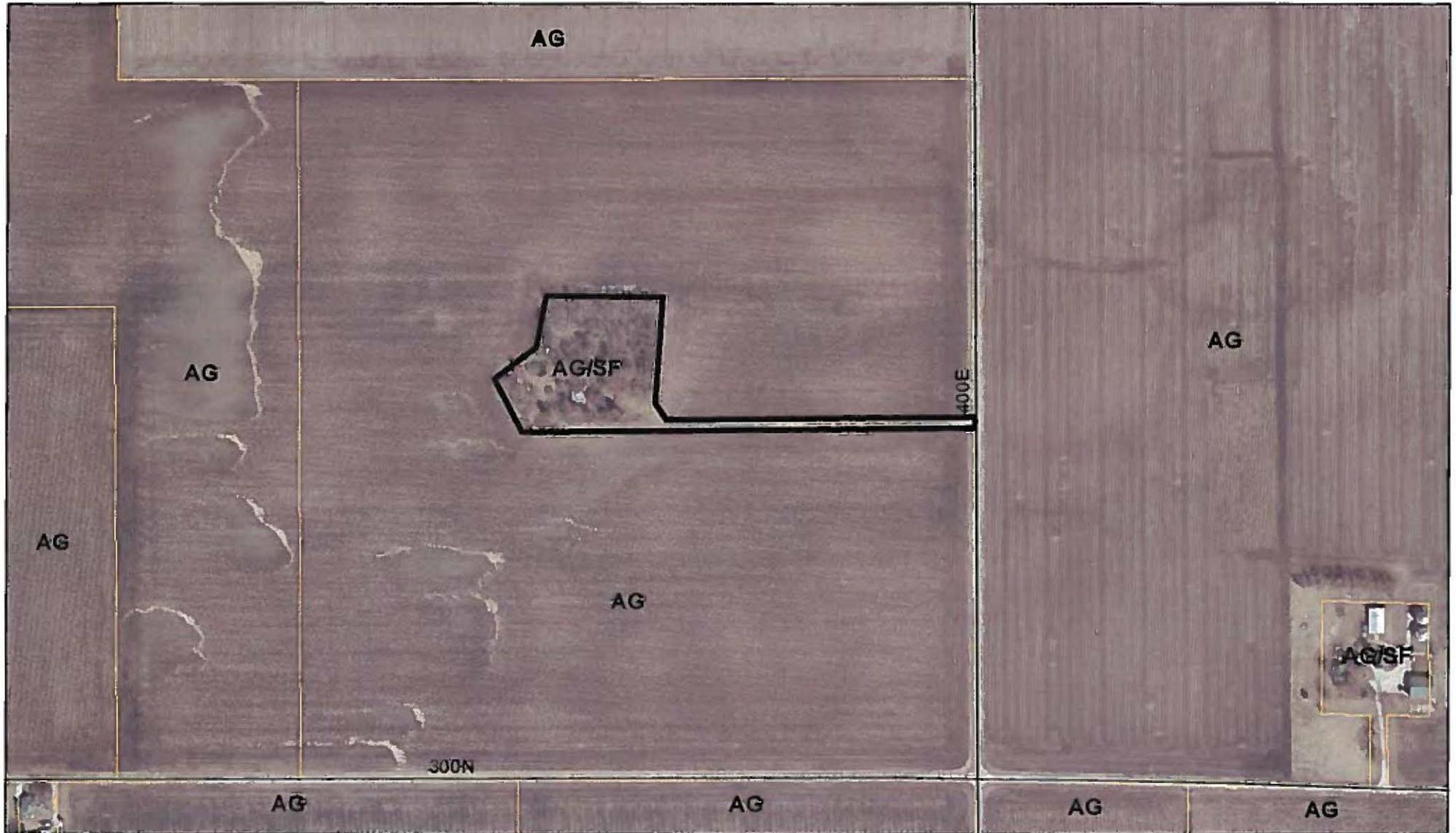
Legend

-  Subject Property
-  Municipal Boundary
-  Streets
-  Parcels



Land Use Map

Case 821-V-15
February 25, 2016



Legend

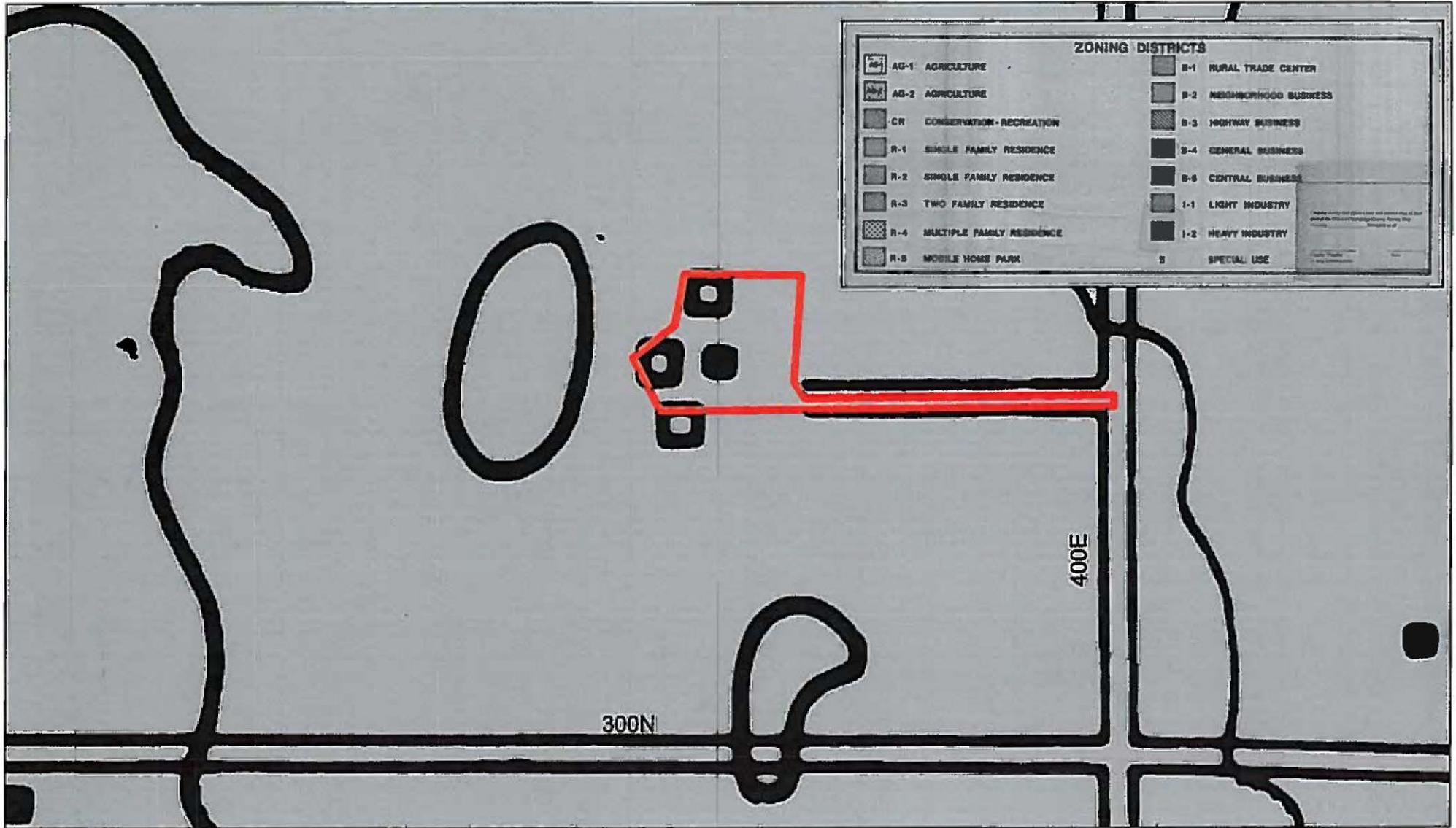
-  Subject Property
-  Parcels
-  Streets
- SF Single Family Residential
- AG Agriculture



Zoning Map

Case 821-V-15
February 25, 2016

Note: Original Mylar Zoning background is slightly skewed from the approved GIS Parcel layer. Property is all AG-1.



Legend

 Subject Property
Parcels

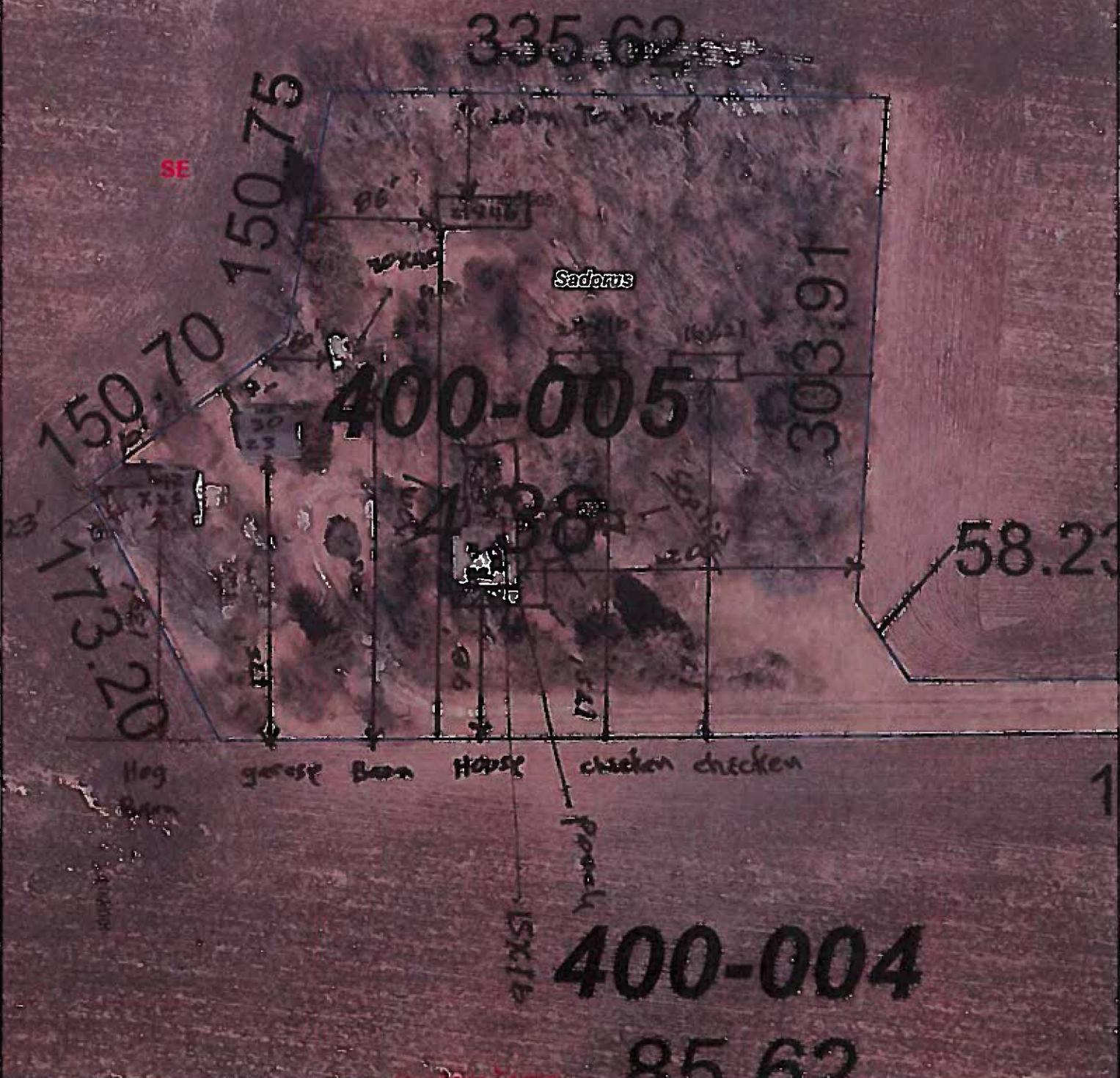
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RECEIVED

DEC 16 2015

CHAMPAIGN CO. P & Z DEPARTMENT



TR M 12/16/15

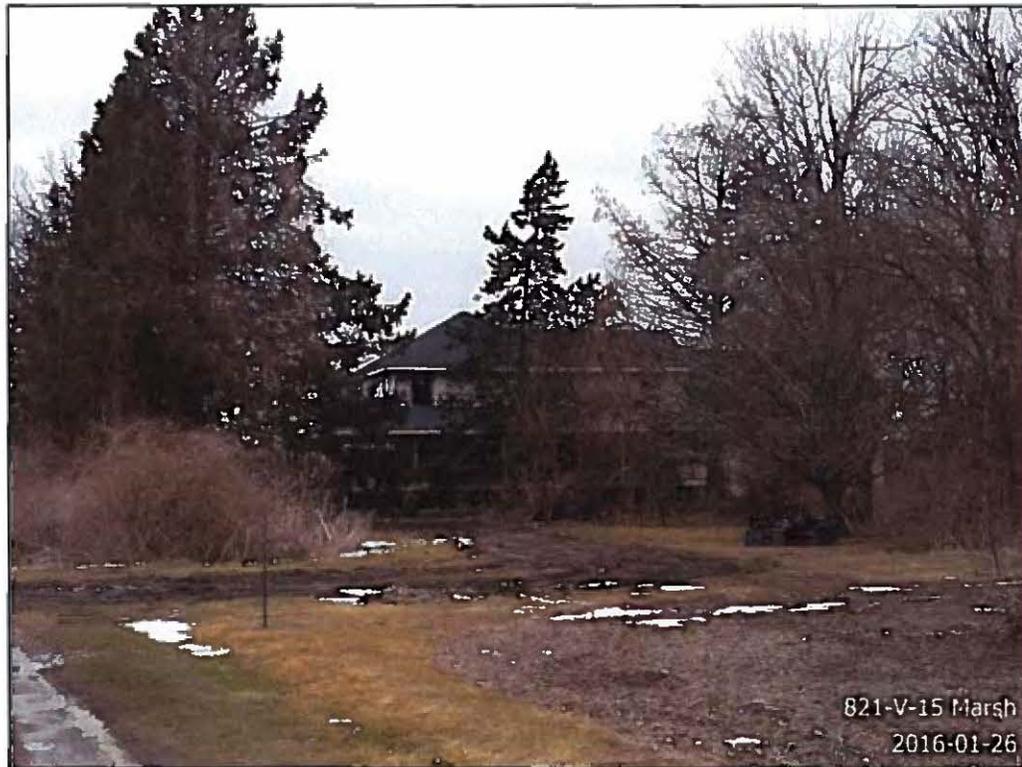
Champaign County
 Planning & Zoning Department
 Approved Site Plan
 Permit # 34915-01
 12/16/15 A

~~11/16/15~~
~~12/16/15~~

821-V-15 Images



Subject property from CR 400 East facing west



Residence from driveway facing west

821-V-15 Images



West side of property, hog barn at right



West side of property, hog barn at left, garage at right

821-V-15 Images



Old barn and lean-to shed north of residence



Garage and 2nd story room addition to north side of house

821-V-15 Images



Original residence with porch addition (garage is to the left)



Residence from driveway facing west

PRELIMINARY DRAFT 02/17/16

821-V-16

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

Final Determination: **{ GRANTED/GRANTED WITH SPECIAL CONDITION(S)/DENIED }**

Date: **{ FEBRUARY 25, 2016 }**

Petitioners: **Aaron and Gina Marsh**

Request: **Authorize a variance in the AG-1 Agriculture Zoning District from Section 5.3 of the Zoning Ordinance for a lot size of 4.38 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.**

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PRELIMINARY DRAFT 02/17/16**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 25, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioners Aaron and Gina Marsh own the subject property.
2. The subject property is a 4.38 acre tract of land located in the Southeast Quarter of the Southeast Quarter of Section 15, Township 17 North, Range 7 East of Sadorus Township of the Third Principal Meridian, with an address of 321 CR 400 East, Sadorus.
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.
 - B. The subject property is located within Sadorus 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 4.38 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 agricultural production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The site plan received December 16, 2015 indicates the following:
 - (1) Existing structures on the property include:
 - a. A residence that was constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - b. A 30 feet by 40 feet barn northwest of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - c. A 23 feet by 30 feet garage northwest of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - d. A 42 feet by 25 feet hog barn at the west end of the property, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - e. A 21 feet by 46 feet lean-to shed on the north side of the property, prior to adoption of the Zoning Ordinance on October 10, 1973;
 - f. Two chicken coops northeast of the residence, one 24 feet by 16 feet and the other 21 feet by 16 feet;

- g. A septic field located east of the residence; and
 - h. A well located north of the residence.
- (2) Zoning Use Permit #349-15-01 indicates the following proposed additions to the existing residence:
- a. A 160 square feet addition to the second story;
 - b. A 980 square feet garage;
 - c. A 1,104 square feet porch; and
 - d. A 96 square feet porch.
- B. There is one Zoning Use Permit for the subject property:
- (1) Permit #349-15-01 was approved on December 28, 2015 to construct additions to the existing single family residence.
 - (2) The approval of this permit is contingent upon any decision made or conditions imposed by the ZBA in this variance case.
- C. The requested variance is for a lot size of 4.38 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland, as per Section 5.3 of the Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
- (1) “ACCESS STRIP” is that part of a FLAG LOT which provides the principal ACCESS to the LOT, and has FRONTAGE upon a STREET.
 - (2) “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.
 - (3) “ACCESSORY STRUCTURE” is a STRUCTURE on the same LOT within 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.
 - (4) “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;

PRELIMINARY DRAFT 02/17/16

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.

- (5) "AREA, LOT" is the total area within the LOT LINES.
- (6) "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.
- (7) "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.
- (8) "BUILDING, DETACHED" is a BUILDING having no walls in common with other BUILDINGS.
- (9) "BY RIGHT" is a term to describe a USE permitted or allowed in the DISTRICT involved, without review by the BOARD or GOVERNING BODY, and complying with provisions of the Zoning Ordinance and with other applicable ordinances and regulations.
- (10) "DWELLING, SINGLE FAMILY" is a DWELLING containing one DWELLING UNIT.
- (11) "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.
- (12) "LOT, FLAG" is an interior LOT separated from STREETS by intervening LOTS except for an ACCESS STRIP which provides FRONTAGE upon a STREET.

- (13) "LOT LINES" are the lines bounding a LOT.
- (14) "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.
- (15) "WELL 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 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.
- B. Section 5.3 of the Zoning Ordinance Footnote 13 states:
- 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.**
- C. 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.

PRELIMINARY DRAFT 02/17/16

- (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.
- D. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“This lot is oddly shaped because of the extensive tree growth – when it was parceled out, it was to keep the original, 100+ year old farmstead intact. None of this farmstead property is currently in agricultural production. The house itself is 100 years old.”**
- B. Regarding the soils that make up the subject property:
- (1) The soil on the subject property is BEST PRIME FARMLAND and consists of Flanagan silt loam 154A and Drummer silty clay loam 152A, and has an average LE of 100.
- C. The property is mostly covered by woods.

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, **“We purchased the property in good faith in September 2015 with the intent to maintain the property’s beauty and buildings. The variance will allow us to keep the wooded nature of the property, as well as continue to incorporate the existing structures.”**

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, **“We did retain a real estate attorney for the purchase of the property to help ensure we did everything correctly. We were unaware of this specific zoning restriction, since we were buying a 100+ year old existing farmstead.”**
- B. The Petitioners immediately applied for the variance once they were told there is a requirement regarding BEST PRIME FARMLAND in the Zoning Ordinance.
- C. A legal description for the subject property was recorded November 21, 2011, prior to the petitioners’ purchase of the subject property in 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, **“We do feel it’s important to protect farmland in production, but acted in good faith that we were doing just that when we bought this property. The wooded nature of the property will be maintained, and no farmland was or will be taken out of production by this variance being granted.”**
 - B. 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.
 - C. The proposed lot area of approximately of 4.38 acres is 146% of the required three acre maximum for a variance of 46%.
 - D. 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, **“There are no environmental or other detriments to the proposed variance. It will not affect drainage or runoff, nor will it affect traffic flow or visibility.”**
 - B. The Okaw Drainage District and the East Lake Fork Drainage District have been notified of this variance but no comments have been received.
 - C. The Sadorus Township Highway Commissioner been notified of this variance but no comments have been received.
 - D. The Sadorus Township Supervisor has been notified of this variance but no comments have been received.
 - E. The Ivesdale Fire Protection District has been notified of this variance but no comments have been received.

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: **“We are trying to maintain the integrity of this 100+ year old farmstead. By granting the variance, we will be able to do so on the parcel as we purchased it, with no negative effects on the area.”**
13. Regarding proposed special conditions of approval:
- No special conditions are proposed at this time.**

DOCUMENTS OF RECORD

1. Application for Variance Permit received December 17, 2015, with attachment:
 - A Site Plan received December 16, 2015

2. Email from Recorder's office received December 16, 2015 with attachment:
 - A Warranty Deed detailing subject property recorded 12/28/2011.

3. Preliminary Memorandum dated February 17, 2016, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received December 16, 2015
 - C Site Images taken January 26, 2016
 - D Summary of Evidence, Finding of Fact, and Final Determination for Case 821-V-15

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 821-V-15 held on February 25, 2016, 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:}***

PRELIMINARY DRAFT 02/17/16

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 **821-V-15** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners **Aaron and Gina Marsh** to authorize the following variance in the AG-1 Agriculture Zoning District:

A variance from Section 5.3 of the Zoning Ordinance for a lot size of 4.38 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.

{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. 822-S-15

PRELIMINARY MEMORANDUM

February 17, 2016

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

(217) 384-3708
zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

Petitioner: Nicholas Brian d.b.a. Greenside Lawn Care

Request: Authorize a Special Use Permit for a Contractor's Facility (with or without outdoor storage and/or outdoor operations) and a caretaker's dwelling in addition to an existing single family dwelling in the AG-1 Agriculture Zoning District

Location: A tract of land comprised of Lot 1 of Meadow Ridge Subdivision in the Southwest Quarter of the Northwest Quarter of Section 17 of Township 20 North, Range 8 East of the Third Principal Meridian in Hensley Township and commonly known as the contractor business Greenside Lawn Care, located at 707 CR 2200 North, Champaign, Illinois.

Site Area: 11.09 acres

Time Schedule for Development: Already in use

Prepared by: Susan Chavarria
Senior Planner

John Hall
Zoning Administrator

BACKGROUND

Petitioner Nick Brian constructed a shed with a dwelling unit in the AG-1 Agriculture Zoning District in 2010 under Zoning Use Permit #126-10-02. He resided in the shed while he built a single family residence on the same property. Permit #152-12-02 that was approved in 2012 for constructing a single family residence included a special condition that the Petitioner would have to decommission the dwelling unit he had built inside the shed so that there would be only one dwelling unit on the lot.

On October 30, 2014, staff contacted Mr. Brian seeking to do a final compliance inspection for the home construction and special conditions. Mr. Brian returned the call on November 3, 2014, saying that he needed another week to finish farming before he could meet for the inspection; no inspection was ever scheduled. On July 6, 2015, staff contacted Mr. Brian again and left a message seeking more information about the decommissioning of the kitchen or bath in the shed. He did not respond.

On November 17, 2015, the Zoning Department sent a First Notice of Violation (Attachment I) to the Petitioner because he had constructed more than one main or principal structure or building per lot in the AG-1 Zoning District. Staff learned about the lawn care business housed in the shed when Mr. Brian called on December 2, 2015 regarding what could be done about the second dwelling unit. The Zoning Administrator determined that the business was not an agricultural use, and was thus subject to the Zoning Ordinance. Staff discussed his options for coming into compliance via phone on December 7th and sent a second informational letter to him (Attachment J) on December 10, 2015. On December 17, 2015, the Petitioner applied for a Special Use Permit for the current case in order to bring his lawn care business into compliance with the Zoning Ordinance as a Contractor's Facility, and to keep the restroom and kitchen area in the shed as a caretaker's dwelling for his Contractor's Facility (rather than decommissioning it).

Staff internally discussed the possibility that the lawn care business could be a Rural Home Occupation except that the presence of fuel storage and ice melt/salt storage exceed the amounts for a normal residence and except for the history of burning landscape waste (see Neighborhood Concerns below).

Prior zoning cases have allowed a Contractor's Facility with a caretaker's dwelling, but there was no record found of any zoning cases where there was a main residence, a Contractor's Facility, and a caretaker's residence all on one lot.

The proposed Special Use meets all applicable lot size, height, setback, side and rear yards, and lot coverage requirements for its District.

EXTRATERRITORIAL JURISDICTION

The subject property is located within one and one-half miles of the Village of Mahomet, a municipality with zoning. The Village does not have protest rights in Special Use cases, but was notified of the zoning case. No comments were received.

The subject property is located within Hensley Township, which has a Plan Commission. The Plan Commission does not have protest rights in Special Use cases, but was notified of the zoning case. No comments were received.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single family residence, lawn care business and second dwelling	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Residential	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Residential	AG-1 Agriculture

ANOTHER OPTION FOR THE SECOND DWELLING UNIT

Instead of decommissioning, the second dwelling unit could be accommodated by setting the second dwelling unit off on a separate lot. This option would require rezoning to the RRO District, which has considerable cost and risk associated with it. The subdivision in which the subject property was created was in compliance with the RRO requirements when it was filed with the Recorder of Deeds on March 14, 2004.

NEIGHBORHOOD CONCERNS: CONTRACTOR'S FACILITY

On December 4, 2015, the Zoning Department received a complaint from a neighbor that the Petitioner was burning landscape materials on the subject property. They were also concerned that the

Petitioner had starting moving dirt the day before and asked if the Department had information on what the Petitioner was constructing.

On December 7, 2015, the Zoning Department called Mr. Brian to inquire about operations at the subject property, including whether he burned materials on site. Mr. Brian indicated that he burned clippings, ornamental grasses, pine needles, and other landscaping materials from on and off-site.

On December 15, 2015, the Zoning Department received a letter from Carl Webber of Webber and Thies, Attorneys at Law speaking on behalf of his clients, Jeff and Sarah Carpenter (Attachment L). The Carpenters live just east of the subject property and have complained about the burning and business activity on the subject property. The letter was sent to inform the Zoning Department that Petitioner Brian had been sent a notice that he was committing subdivision violations on the subject property. The notice sent by Webber & Thies to Mr. Brian referred to several articles of the Restrictive Covenants for Meadow Ridge Subdivision. It should be noted that the Zoning Department does not have oversight or enforcement authority over subdivision bylaws and covenants; such covenants are matters of discussion and resolution between private property owners.

On January 13, 2016, Mr. Brian responded to a staff inquiry about the burning, stating he was burning leaves and brush. He also burned cardboard from his own household. He stated that they are now taking yard waste to the Urbana recycle center (Attachment G).

PROPOSED SPECIAL CONDITIONS

- A. **In the event that the Contractor's Facility ceases to exist, the right to a second dwelling unit will become void. A Miscellaneous Document must be filed with the Recorder of Deeds within one month of approval of this Special Use Case so that a prospective buyer will be alerted to that requirement.**

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

That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.

- B. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and 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.

- 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.

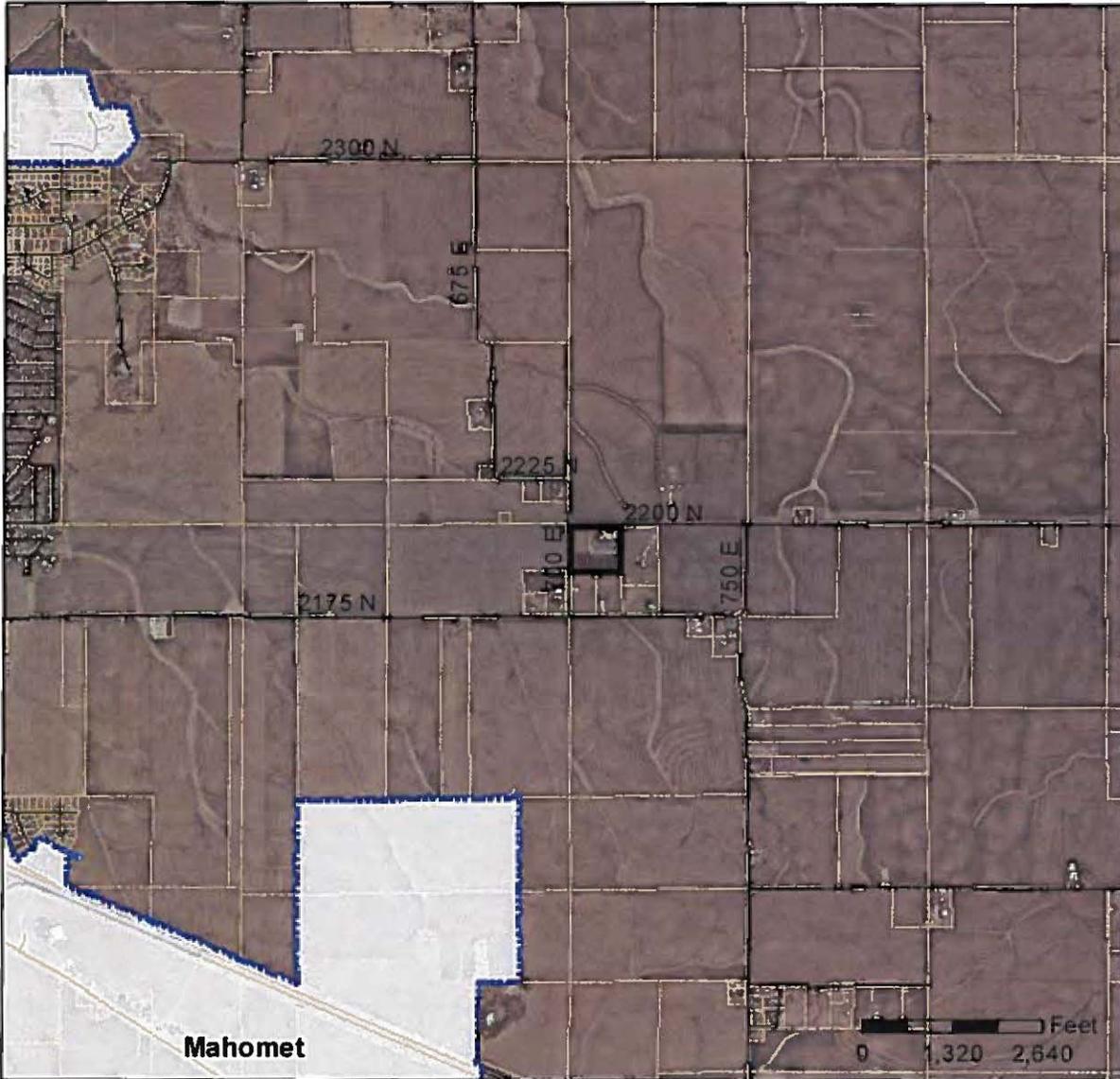
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received December 17, 2015
- C Floor plans of Shed with dwelling unit and salt/mulch storage received December 17, 2015
- D Final Plat of Subdivision received December 17, 2015
- E Zoning Use Permit #126-10-02 with Approved Site Plan dated May 11, 2010
- F Zoning Use Permit #152-12-02 with Approved Site Plan dated June 8, 2012
- G Revised Site Plan received via email from Nick Brian on January 13, 2016
- H Annotated Aerial Photograph created by staff on February 3, 2016
- I First Notice of Zoning Violation dated November 17, 2015
- J Second (Informational) Letter regarding violation dated December 10, 2015
- K Letter from Nick Brian (Greenside Lawn Care) received December 17, 2015
- L Letter from Carl Webber received December 17, 2015
- M Natural Resources Report received January 25, 2016 from Champaign County Soil and Water Conservation District
- N Email from Nick Brian received February 11, 2016 regarding fuel tanks
- O Site Visit Photos taken December 4, 2015
- P Preliminary Summary of Evidence, Finding of Fact, and Final Determination dated February 17, 2016

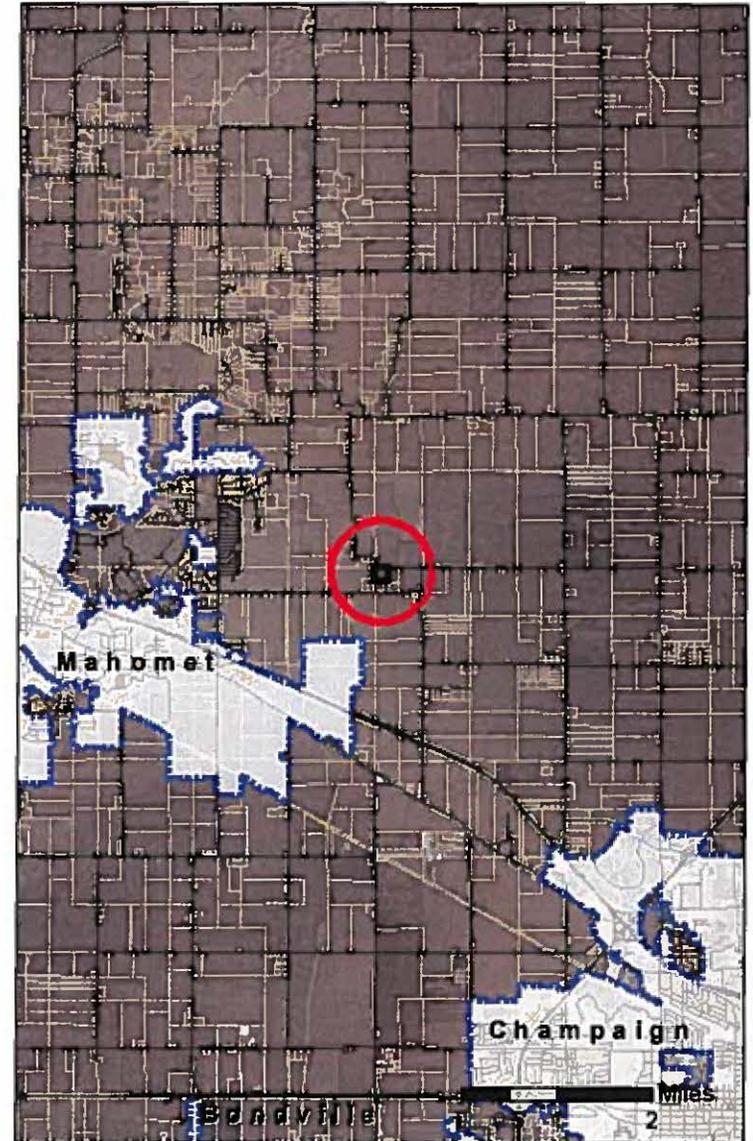
Location Map

Cases 822-S-15
February 25, 2016

Subject Property



Property location in Champaign County



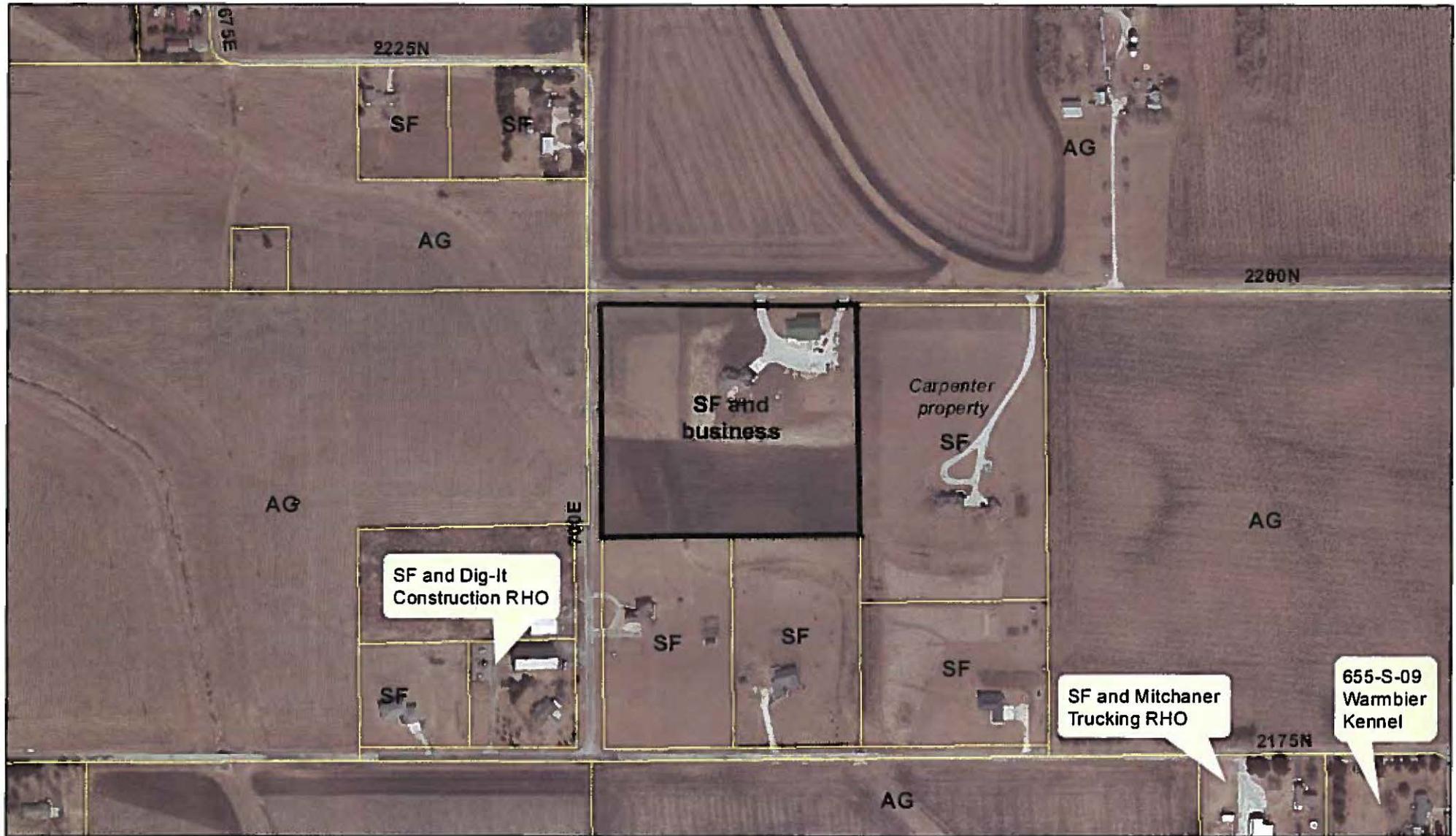
Legend

-  Subject Property
-  Municipal Boundary
-  Parcels
-  Streets



Land Use Map

Cases 822-S-15
February 25, 2016



Legend

- Parcels
- Subject Property

SF Single Family Residential
AG Agriculture

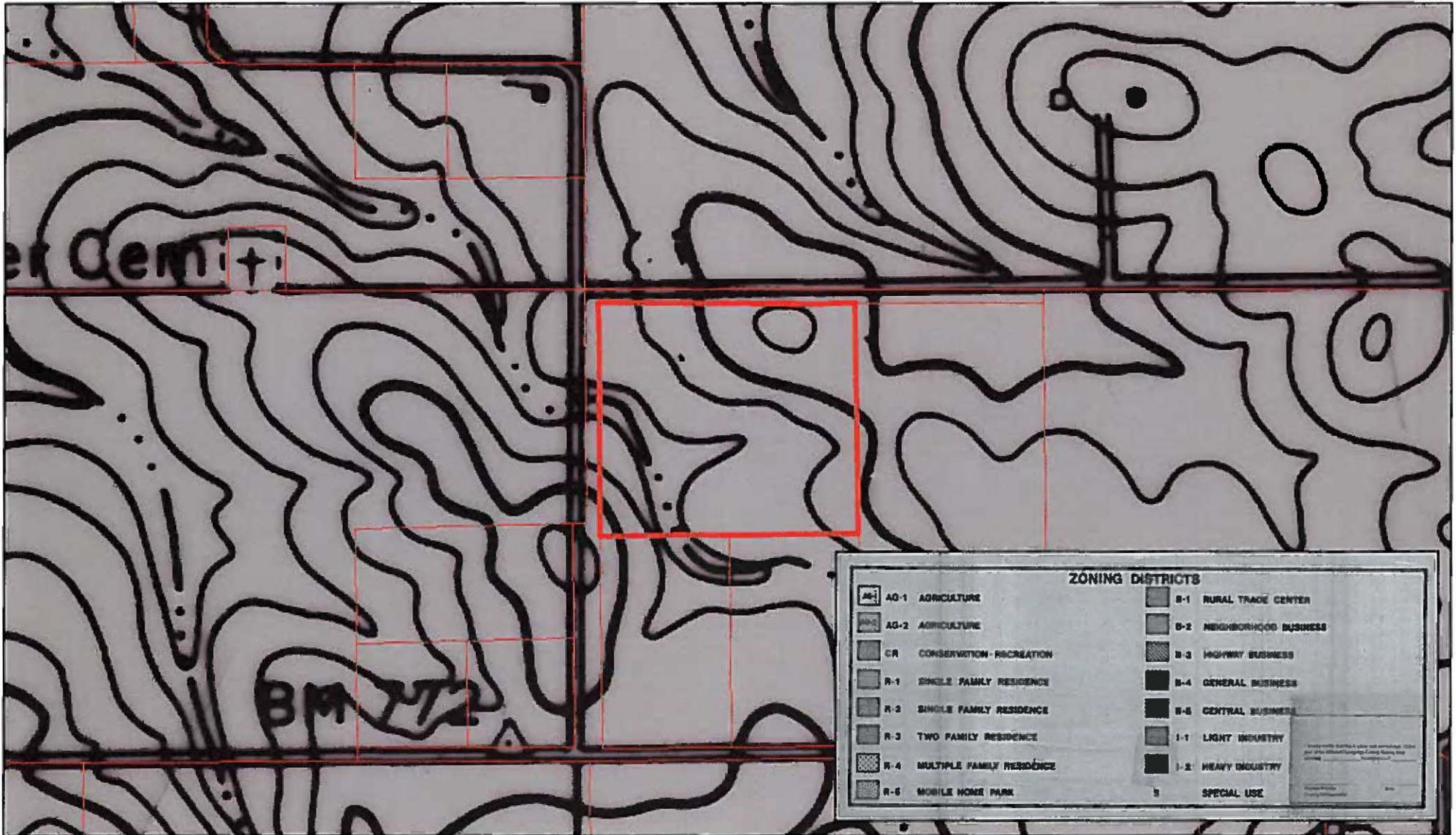
0 100 200 400 Feet



Zoning Map

Case 821-V-15
February 25, 2016

Note: Original Mylar Zoning background is slightly skewed from the approved GIS Parcel layer. Property is all AG-1.



Legend

- Subject Property
- Parcels

0 100 200 400 Feet





SITE PLAN

101 CR 2200 N
CHAMPAIGN COUNTY, IL

www.signaturehomes.com

DATE	REVISION

BRYAN RESIDENCE

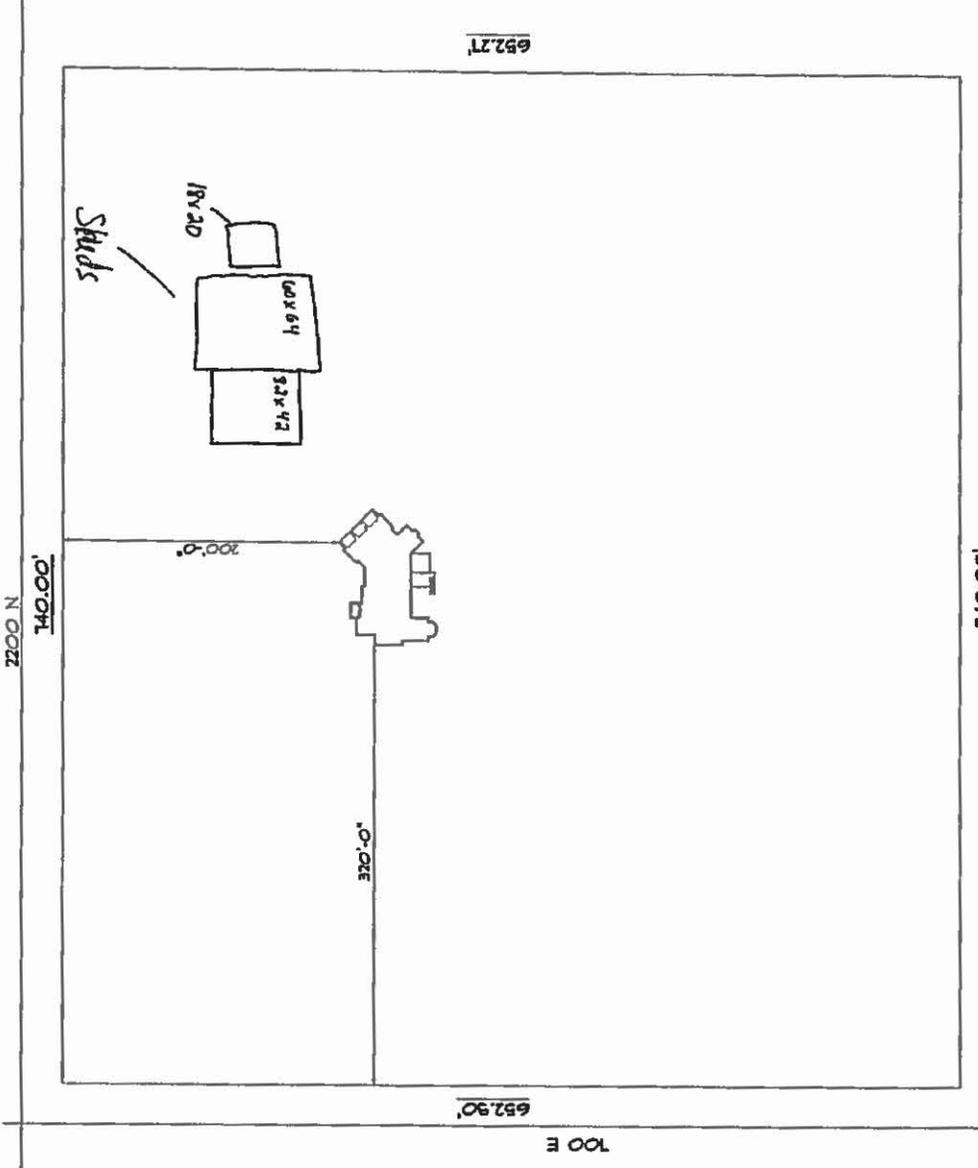
PROJECT: **A**

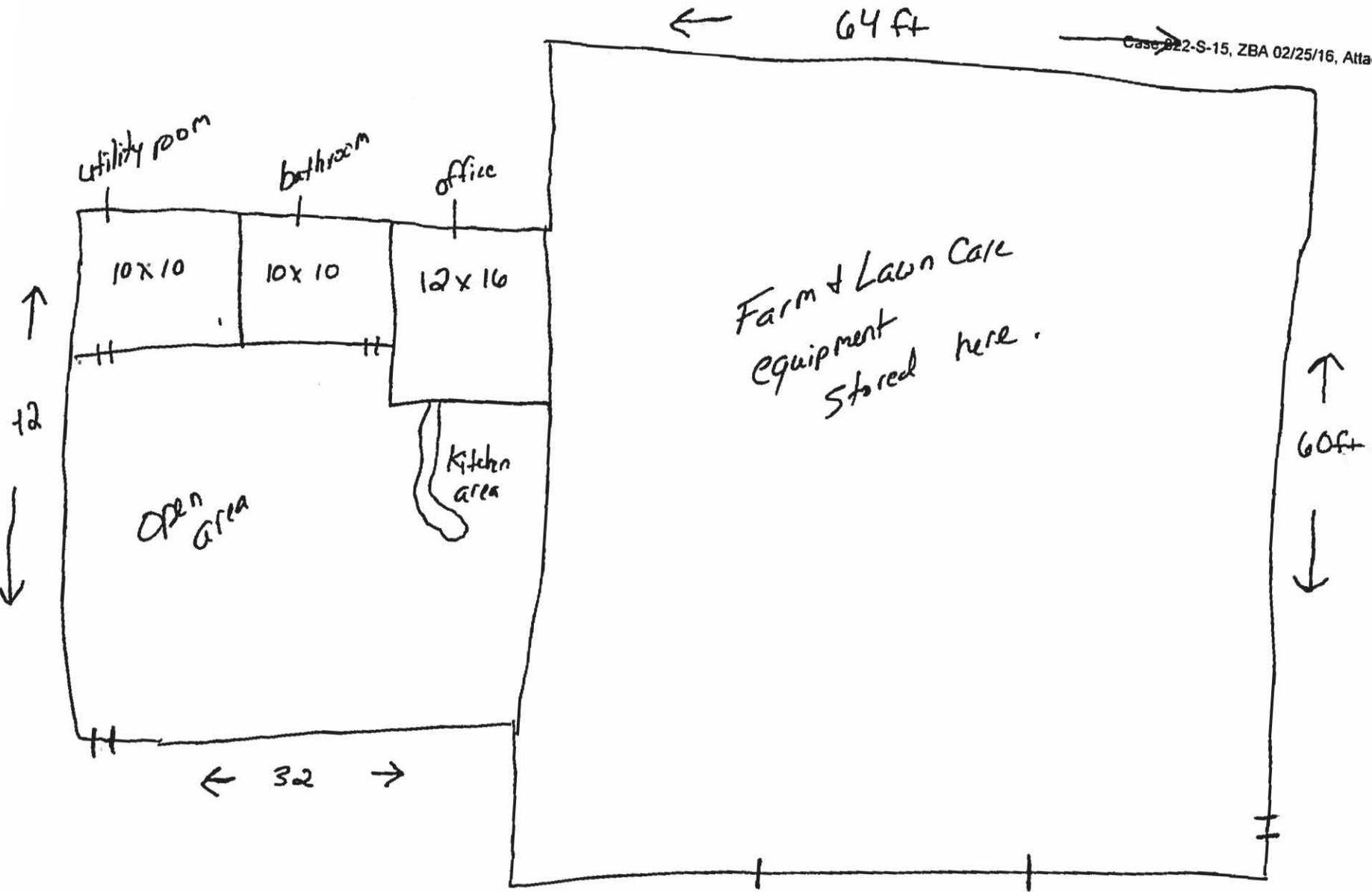
PLANNING NUMBER: **5 OF 6**

RECEIVED
DEC 17 2015
CHAMPAIGN CO. P & Z DEPARTMENT



LOT 1
MEADOW RIDGE SUBDIVISION
CHAMPAIGN COUNTY, ILL.

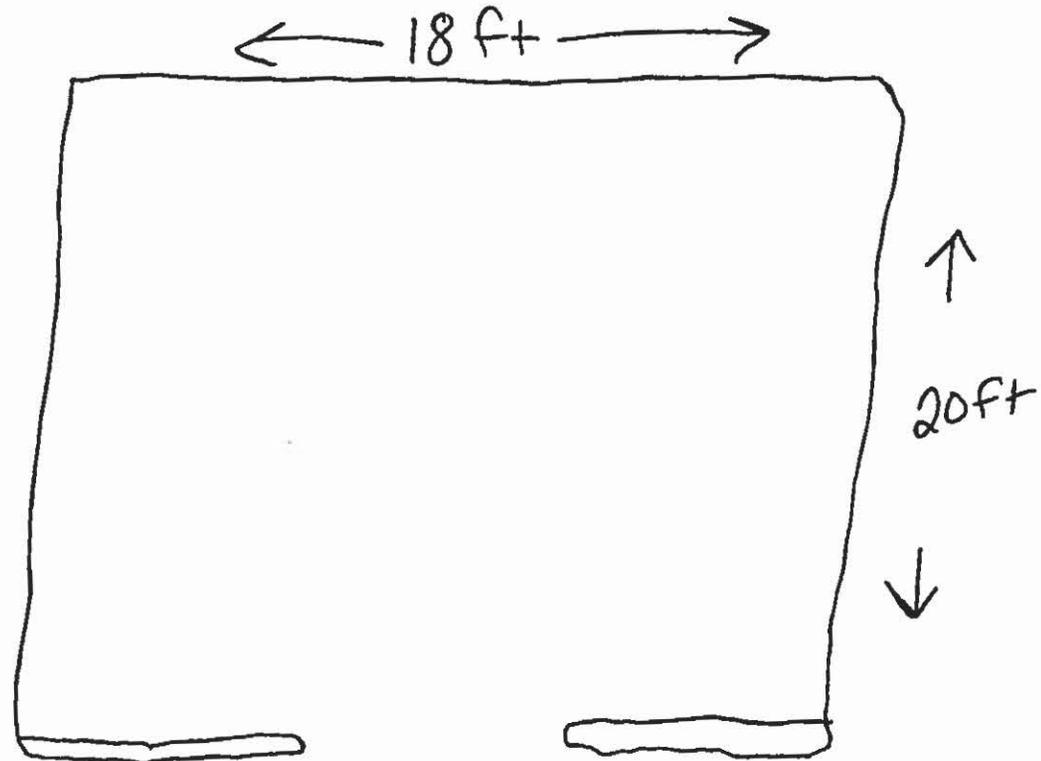




RECEIVED

DEC 17 2015

CHAMPAIGN CO. P & Z DEPARTMENT



↑
open
no door.

ice + melt
+ mulch storage.

RECEIVED

DEC 17 2015

CHAMPAIGN CO. P & Z DEPARTMENT

CHAMPAIGN COUNTY, ILLINOIS

ZONING USE PERMIT

No.: 126-10-02

Application Date: 05/06/10

Township: Hensley Section: 17 Receipt #: 3964

P.I.N.: 12-14-17-100-008 Fee: \$657.00

Location (Address, directions, etc.): 707 CR 2200N Champaign, IL 61822
Address to be assigned

Owner/s: Nick Brian

Issued to: Owner: X gent: Zoning District: AG-1 Lot Area: 11.09 acres

Legal Description: Lot 1, Meadow Ridge Subdivision

Project Is To: construct a single family home with attached garage

Use Is: Accessory: Principal: X Conforming: X Non-Conforming:

By: Appeal #: Special Use #: Variance #:

Special Conditions: If the home or garage will have a floor drain or a private sewage system or well, permits must be obtained from the Champaign County Public Health Department. Information can be found at www.c-uphd.org in the Environmental Health section. Phone: 217-363-3269.

Standard Conditions

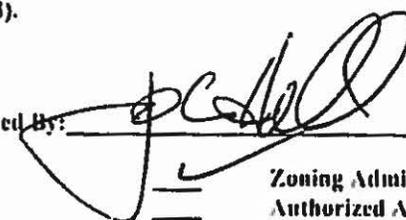
1. This permit is issued with the understanding that all construction, use and occupancy will be in compliance with the application as filed with the Planning and Zoning Department, and with all provisions of the Champaign County Zoning Ordinance.

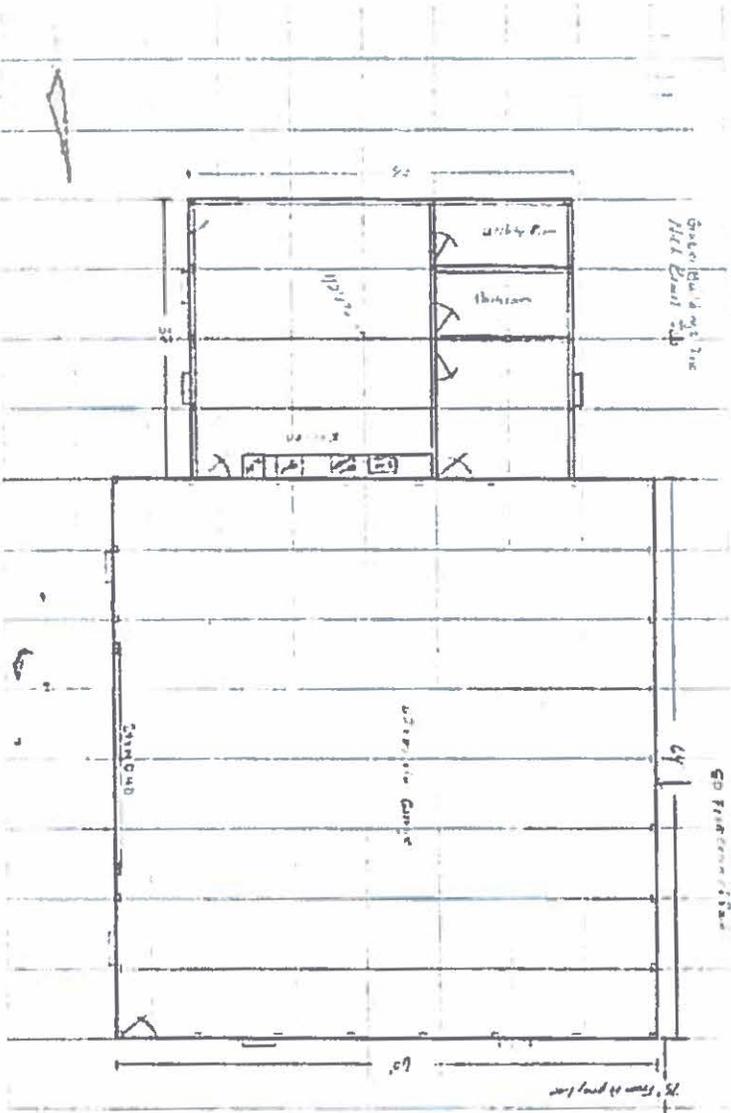
2. This Zoning Use Permit expires if the work described in the application has not begun within 180 consecutive days from issuance or if the work is not substantially completed within 365 consecutive days from issuance.

3. As evidenced in the Zoning Use Permit Application, the owner has expressly granted permission for representatives of the Champaign County Department of Planning & Zoning to enter the premises at reasonable times for the purpose of inspection to ensure compliance with the Champaign County Zoning Ordinance.

4. A Zoning Compliance Certificate must be obtained from the Department of Planning and Zoning, in writing, prior to occupancy or use of the work or structures covered by this permit (Section 9.1.3).

Date: 5/11/10

Signed By: 
Zoning Administrator
Authorized Agent



Champaign County
 Planning & Zoning Department
 Approved Site Plan

Case # 126-10-02
 Date: 5/11/10 R

1062

RECEIVED

MAY 04 2010

CHAMPAIGN CO. P & Z DEPARTMENT

**CHAMPAIGN COUNTY, ILLINOIS
ZONING USE PERMIT**

No.: 152-12-02

Application Date: 05/31/12

Township: **Hensley** Section: **17** Receipt #: **4375**

P.I.N.: **12-14-17-100-008** Fee: **\$1113.00**

Location (Address, directions, etc.): **707 CR 2200N, Champaign, Illinois**

Owner/s: **Nick Brian**

Issued to: Owner: Agent: **X** Zoning District: **AG-1** Lot Area: **11.09 acres**

Legal Description: **Lot 1, Meadow Ridge Subdivision**

Project Is To: **construct a single family home with attached garage**

Use Is: Accessory: Principal: **X** Conforming: **X** Non-Conforming:

- Special Conditions:**
1. The existing single family home must be decommissioned (kitchen or bath must be removed) prior to the issuance of a Zoning Compliance Certificate.
 2. The proposed house is located within a gas pipeline impact radius area. See attached letter for further information.
 3. If the building will have a floor drain or a private sewage system or well, permits must be obtained from the Champaign County Public Health Department. Information can be found at www.c-uphd.org in the Environmental Health section. Phone: 217-363-3269.

Standard Conditions

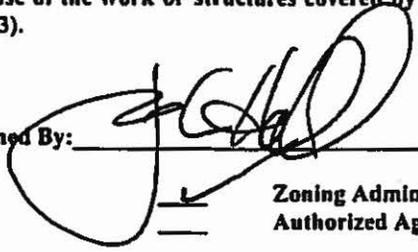
1. This permit is issued with the understanding that all construction, use and occupancy will be in compliance with the application as filed with the Planning and Zoning Department, and with all provisions of the Champaign County Zoning Ordinance.

2. This Zoning Use Permit expires if the work described in the application has not begun within 180 consecutive days from issuance or if the work is not substantially completed within 365 consecutive days from issuance.

3. As evidenced in the Zoning Use Permit Application, the owner has expressly granted permission for representatives of the Champaign County Department of Planning & Zoning to enter the premises at reasonable times for the purpose of inspection to ensure compliance with the Champaign County Zoning Ordinance.

4. A Zoning Compliance Certificate must be obtained from the Department of Planning and Zoning, in writing, prior to occupancy or use of the work or structures covered by this permit (Section 9.1.3).

Date: 6/8/12

Signed By: 

Zoning Administrator
Authorized Agent

Susan Chavarria

From: nick <greensidelawncare@live.com>
Sent: Wednesday, January 13, 2016 7:04 AM
To: Susan Chavarria
Subject: Site plan
Attachments: GreenSideLawnCare-_160113070046-0001.pdf; ATT00001.htm

Susan here is the site plan attached. Also we were burning leafs and brush. Also we burn cardboard from our own household. We are now taking yard waste to the Urbana recycle center.

Thanks,

Nick Brian
707 County Road 2200 North
Champaign, Il 61822

RECEIVED

JAN 13 2016

CHAMPAIGN CO. P & Z DEPARTMENT

Begin forwarded message:

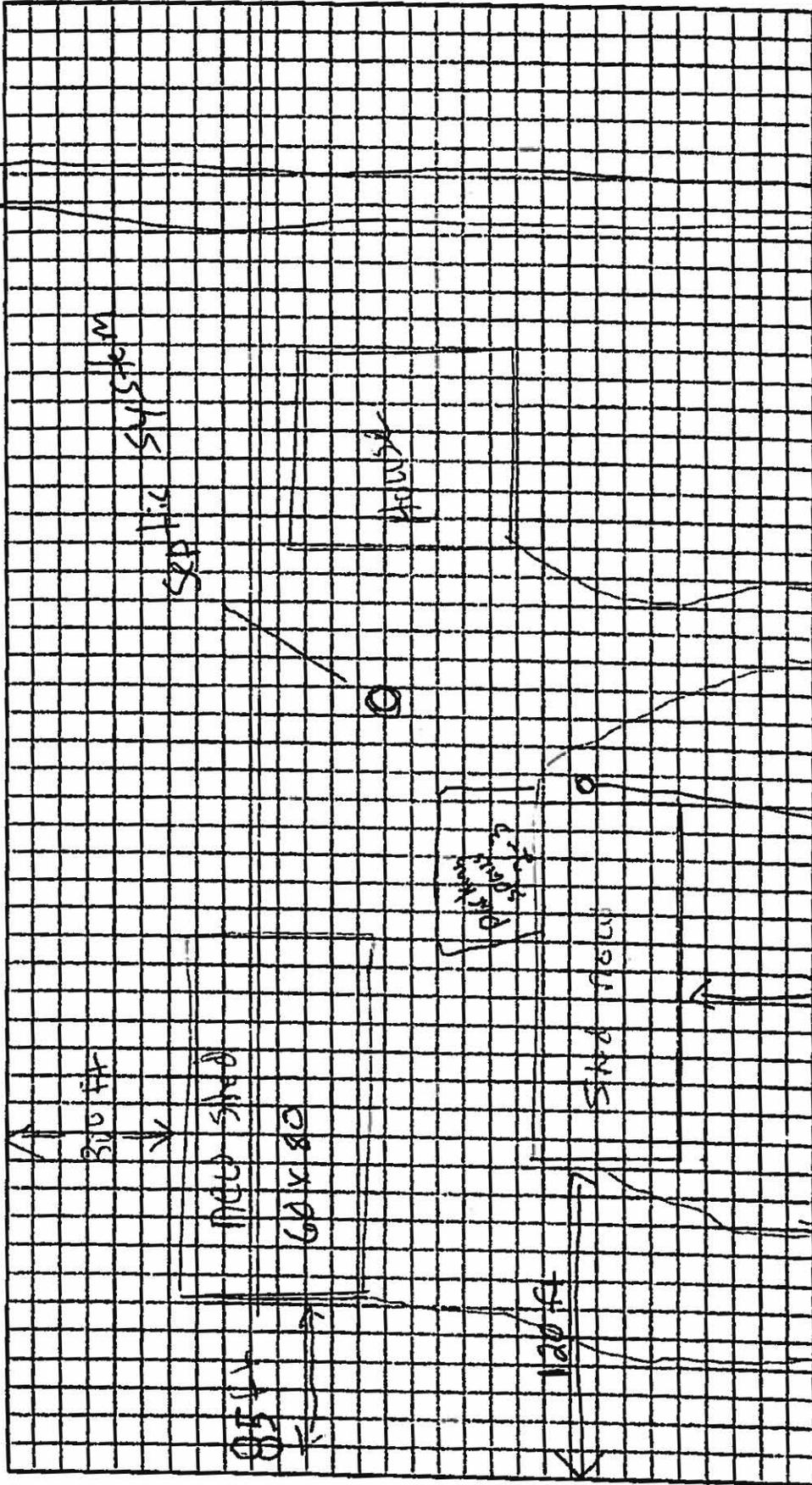
From: info@scanics.com
Date: January 13, 2016 at 7:01:20 AM CST
To: greensidelawncare@live.com
Subject: Scan from Greenside Lawn Care

Scan from Green Side Lawn Care

- proposed shed, is for term + personal use.

pipe line

S



10-29 08 a.m. 10-07-2008 7.18 3

RECEIVED

JAN 13 2016

CHAMPAIGN CO. P. & Z DEPARTMENT

Road

N

Annotated Aerial Photograph

Case 822-S-15
February 25, 2016



0 25 50 100 Feet



November 17, 2015

Case: ZN-15-40/14

Nick Brian
707 CR 2200 N
Champaign, IL 61822

RE: Violations of the *Champaign County Zoning Ordinance* on Lot 1 of Meadow Ridge Subdivision in Section 17 of Hensley Township, with an address of 707 CR 2200 N, Champaign, Permanent Index Number 12-14-17-100-008.

Dear Mr. Brian:

Notice is hereby given of the following violations of the Champaign County Zoning Ordinance on Lot 1 of Meadow Ridge Subdivision in Section 17 of Hensley Township, with an address of 707 CR 2200 N, Champaign, Permanent Index Number 12-14-17-100-008. Said violations are as follows:

- 1. Construction of more than one main or principal structure or building per lot in the AG-1 Agriculture Zoning District, a violation of Zoning Ordinance Section 4.2.1C.**

You must correct the violations within 15 days of this notice and contact me on or before December 4, 2015, regarding this matter. I would 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 a violation continues to exist.

BASIS OF NOTICE

You have been given this First Notice of Violation based on the following:

1. On June 8, 2012, Zoning Use Permit 152-12-02 was approved with special conditions for construction of a single family dwelling in the AG-1 Agriculture District. Special Condition 1 of the approved permit states "The existing single family home must be decommissioned (kitchen or bath must be removed) prior to the issuance of a Zoning Compliance Certificate".
2. On October 30, 2014, the Department contacted you seeking to do a final compliance inspection for the home construction and special conditions. The file notes that Mr. Brian called the Department on November 3, 2014 stating that he needed a week to finish farming before he could meet for the inspection.
3. On July 6, 2015, the Department called and left a message with Mr. Brian seeking more information on the decommissioning of the kitchen or bath in the older structure. No return communication was received.

ADDITIONAL INFORMATION RELATED TO THE VIOLATION

Section 4.2.1 C of the *Champaign County Zoning Ordinance* states "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-1, Agriculture, AG-2, Agriculture, CR, Conservation-Recreation, R-1, Single Family Residence, R-2, Single Family Residence, and R-3, Two Family Residence DISTRICTS other than in PLANNED UNIT DEVELOPMENTS except as follows:

1. Mortuary or funeral home may be authorized as a Special Use Permit in the AG-2, Agriculture Zoning DISTRICT, when it is on a lot under common management with a cemetery.
2. Up to three BIG WIND TURBINE TOWERS may be authorized as a second PRINCIPAL USE on a LOT as a SPECIAL USE Permit in the AG-1 Agriculture and AG-2 Agriculture DISTRICTS.
3. RESIDENTIAL RECOVERY CENTER may be authorized as a SPECIAL USE Permit in the AG-2, Agriculture Zoning DISTRICT in accordance with Section 5.2.

No Zoning Compliance Certificate can be issued for Zoning Use Permit 152-12-02 and no future Zoning Use Permits can be approved until the violation is corrected.

ACTION REQUIRED TO CORRECT VIOLATION

Champaign County looks forward to your cooperation in correcting the violation. To correct the violation you must do the following on or before **December 4, 2015**:

1. Decommission the dwelling unit in the shed by removing either the bathroom or the kitchen.
2. After you have done what is listed above **you must contact me** to let me know the violation has been resolved and then you must allow me to inspect the property for compliance within the required time.

If you have any questions regarding this matter, please contact me or Jamie Hitt at 384-3708. We would be happy to assist you in resolving this matter.

Sincerely,

Susan Chavarria
Senior Planner

December 10, 2015

Case: ZN-15-40/14

Nick Brian
707 CR 2200 N
Champaign, IL 61822

RE: Violations of the *Champaign County Zoning Ordinance* on Lot 1 of Meadow Ridge Subdivision in Section 17 of Hensley Township, with an address of 707 CR 2200 N, Champaign, Permanent Index Number 12-14-17-100-008.

Dear Mr. Brian:

Thank you for the information you provided in our phone conversation on December 7, 2015. Based on this new information, please note the following:

1. In order to continue your lawn care and snow removal business in a manner compliant with the Champaign County Zoning Ordinance, you will need to apply for a Special Use Permit (SUP) for a Contractor's Facility (you will need to decide with or without outdoor storage) and submit the appropriate fees. I have enclosed the application packet.
 - You will need to submit an "as-built" floor plan of the existing shed, including the apartment, with your SUP application. The floor plan must include dimensions and indicate how the areas in the building are used. The side shed where you have salt stored will also need to be included in the plan, with dimensions.
 - The packet also includes an application for a Natural Resource Report from the Champaign County Soil and Water Conservation District, which is required for SUP applications. Please submit that with their required fee to their office; the address is listed at the top of the form. They will send us a copy of the report.
 - Also note there is no guarantee that the Zoning Board of Appeals will approve your application and no further permits can be approved until you have received a Special Use Permit.
2. Regarding the dwelling unit in the shed, you will need to specifically mention the dwelling unit in the SUP application you complete for the contractor's facility. If approved, the second dwelling unit may only be occupied by a family member or employee.
3. Burning waste from other locations is prohibited by the Illinois EPA. You are only allowed to burn your own landscape waste from your own property. I have enclosed a brochure about burning regulations. Note that you will need to explain how you will dispose of landscape waste in your SUP application.

Case ZN-15-40/14
Nick Brian
Page 2

4. You can continue to operate your mowing and snow removal business, except no landscape waste generated from other sites can be burned on your property.
5. You can continue to ready your site for your proposed new building, but you must have a permit from our office before it can be constructed.

If you have any questions regarding this matter, please contact me or Jamie Hitt at 384-3708. We would be happy to assist you in resolving this matter.

Sincerely,

Susan Chavarria
Senior Planner

Enclosures: Special Use Permit Application packet
State of Illinois brochures on burning

Greenside Lawn Care

707 CR 2200 North
Champaign IL 61822
Phone: 217-840-4252

Fax:
Email: greensidelawncares@live.com
Website:

My name is Nick Brian and I own a lawn care, snow removal business along with my family farm that I run. 707 county road 2200 north is where I live along with my office and machine shed. This is where I work out of and run the lawn care business and the family farm. My lawn care business consist of 2 employees with 2 mowing crews. It consist of 2 trucks and trailers and mowing and snow removal equipment. This business does not have customers coming and going out of our office, it is strictly a place to park the equipment and work on it in the shed. Also I store some of my farm equipment in the shed as well including implements and tractors. It is a simple operation with the buildings, equipment and house in top notch shape and condition. The officie area that is attached to the shed that is reffered to as the 2nd dwelling unit is just a office, bathroom, kitchen area with a open floor plan for my kids to enjoy. The office is used by me for paper work and the open area is where we have had our kids birthday parties along with family events. Also the kids use alot to play in it with there freinds.

Thanks,

Nick Brian

RECEIVED

DEC 17 2015

CHAMPAIGN CO. P & Z DEPARTMENT

WEBBER & THIES, P.C.

ATTORNEYS AT LAW

202 LINCOLN SQUARE

P.O. BOX 189

URBANA, ILLINOIS 61803-0189

**RICHARD L. THIES
CARL M. WEBBER
DAVID C. THIES
HOLTEN D. SUMMERS
JOHN E. THIES
PHILLIP R. VAN NESS
KARA J. WADE
J. AMBER DREW
MIA O. HERNANDEZ**

**CHARLES M. WEBBER
(1903-1991)
CRAIG R. WEBBER
(1936-1998)**

**TELEPHONE
(217) 367-1126
TELECOPIER
(217) 367-3752**

December 15, 2015

Ms. Susan Chavarria
Department of Planning and Zoning
Champaign County
1776 E Washington St
Urbana, Illinois 61802

Re: Application for Contractor Facility

Dear Ms. Chavarria:

I am writing on behalf of my clients, Jeff and Sarah Carpenter, to inform you about the subdivision violations committed by Nick and Lori Brian at their premises in Meadow Ridge subdivision, Champaign County, Illinois.

My clients have been informed that their neighbors, Nick and Lori Brian, will be applying for a special use permit to use their property as a contractor's facility. Since my clients own the neighboring lot and are, therefore, being affected, I would appreciate it if you would keep me informed about the filing of any such application.

Please find attached a copy of the notice that I sent to Nick Brian and members of the Architectural Committee regarding subdivision violations committed by Nick and Lori Brian.

Very truly yours,
WEBBER & THIES, P.C.



Carl M. Webber

kr
Enc.

RECEIVED

DEC 17 2015

CHAMPAIGN CO. P & Z DEPARTMENT

WEBBER & THIES, P.C.

ATTORNEYS AT LAW

202 LINCOLN SQUARE
P.O. BOX 189
URBANA, ILLINOIS 61803-0189

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(1936-1998)

TELEPHONE
(217) 367-1126
TELECOPIER
(217) 367-3752

December 15, 2015

Mr. Nick Brian
Ms. Lori Brian
707 County Road 2200 North
Champaign, Illinois 61822

Re: Violation of Meadow Ridge Subdivision Covenants

Dear Mr. & Ms. Brian:

I am writing on behalf of my clients Jeff and Sarah Carpenter, to forward to you this notice of your violations of Restrictive Covenants which apply to lots in Meadow Ridge subdivision, Hensley Township in Champaign County, Illinois.

The purpose of this letter is to inform you that you have been violating provisions of Article III, Article IV and Article V of the Restrictive Covenants. Kindly cease all business operations from your premises and refrain from further violations causing nuisance to the neighborhood.

Clause (c), Article III entitled "Building Plans", says, generally, no building, dwelling, fence or other structure or excavation or driveway shall be erected, constructed, altered, or maintained upon or above or moved upon any part of said subdivision unless the plans and specifications thereof, showing the proposed construction, nature, kind, shape, height, material, color scheme and other intricate details regarding the construction are submitted to the Architectural Committee for approval. Before making any additions or modifications, a copy of these plans and a copy of final approved version of plot plan must be deposited with Architectural Committee as a permanent record. Your plan of constructing a warehouse/barn to store the equipment used for your business is in violation of Article III of the Restrictive Covenants.

Clause 11, Article IV entitled "Building Quality", says, generally, there should be no trailers stored outside on any tract and no motor vehicles used for commercial purpose shall be permitted on any tract unless they are stored in an enclosed building. You have couple of trailers parked on your tract that are not stored in an enclosed building. You are violating Clause 11 of

Article IV by not storing commercial vehicles in an enclosed building and allowing your commercial drivers to park their trucks used in the business on your tract.

Clause A, Article V entitled "Allowable Structures", says, generally, lot owners are prohibited from erecting, altering, placing, maintaining any kind of structure other than a detached single family house, a garage and an accessory building meant for residential purposes only. This clause specifically excludes use of the lot for anything other than residential purpose without the written approval of the Architectural Committee. Your usage of the premises for business purposes without obtaining written approval from the Architectural Committee is in violation of Article V.

Clause D, Article V entitled "Weeds, Rubbish and Debris", mentions, generally, no lot owner shall allow accumulation of any type of waste on the property, keep trash or garbage in sanitary containers stored in enclosed area not visible from neighboring properties and there shall be no burning of weed, rubbish and debris without the approval of the Architectural Committee. In addition, clause K of Article V prohibits all lot owners from undertaking any noxious or offensive activity that could be an annoyance or nuisance to the neighborhood or any activity that would cause health or disturbance issues to the neighbors. Your act of burning waste is noxious causing nuisance to my clients. Waste accumulation on your property and burning of waste and rubbish on your property without the approval of Architectural Committee is in violation of Article V of the Restrictive Covenants.

Clause M, Article V, "no machinery, appliance or structure of any kind shall be permitted upon, maintained or operated in or on the premises of any lot for the facilitation or carrying on of any trade, business or manufacturing". Therefore, carrying on any trade or business on your premises is in violation of clause A and M of Article V. You are violating Article V by carrying on Landscaping business from your premises which is absolutely prohibited under Article V.

The condition of your property with all the waste accumulating onsite and the waste you bring from offsite operations to burn on your premises creates a nuisance, as defined in clause K of Article V. The smoke that emerges from burning the rubbish has the potential of causing health issues to my clients and their family. Your business is causing a constant disturbance to my clients thereby disturbing their right to quiet and peaceful enjoyment of their premises. In addition, the construction of the warehouse on your premises for a commercial purpose is against the Restrictive Covenants and causes a material change in the architectural design of Meadow Ridge Subdivision.

My clients have authorized this communication and would respectfully request that the matters listed in this letter be resolved within a period of three weeks from your receipt of this letter.

Please note that clause 24, Article IV entitled "Enforcement", grants individual owners the right to enforce the Restrictive Covenants against the person violating or attempting to violate any covenant. The result can be restraint or damages, or both. This clause further provides that persons violating the Covenants will be liable to a lot owner who brings a successful suit to enforce these Covenants for the cost of reasonable attorney's fees in order to enforce each Covenant.

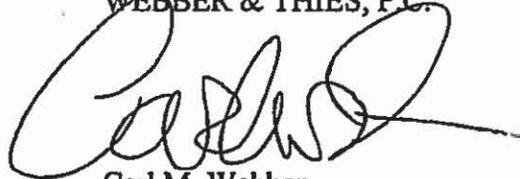
I hope this matter will be resolved within a period of three weeks of your receipt of this letter. If all issues are not resolved within three weeks, my clients must reserve the right to take further legal action.

I hope we can resolve this problem short of formal legal action. I would appreciate a formal reply within a week of your receipt of this letter.

Should you have any question about these issues, please do not hesitate to call.

Very truly yours,

WEBBER & THIES, P.C.

A handwritten signature in black ink, appearing to read 'Carl M. Webber', written over the printed name.

Carl M. Webber

kr
Enc.



Champaign County

Soil and Water Conservation District
2110 West Park Court Suite C Champaign, IL 61821
(217) 352-3536 Extension 3 — www.ccsxcd.com

NATURAL RESOURCE REPORT

Development Name: Nick Brian

Date Reviewed: December 30, 2015

Requested By: Nick Brian

**Address: 707 Cr. 2200 N.
Champaign, IL 61822**

Location of Property: part of the NW ¼ of sec.17 in T. 20 N., R.8 E., of the 3rd. P.M.



The Resource Conservationist of the Champaign County Soil and Water Conservation District inspected this tract on January 14th, 2016.

RECEIVED

JAN 25 2016

CHAMPAIGN CO. P & Z DEPARTMENT

January 19, 2016



Champaign County

Soil and Water Conservation District
 2110 West Park Court Suite C Champaign, IL 61821
 (217) 352-3536 Extension 3 --- www.ccsxcd.com

SITE SPECIFIC CONCERNS

1. The area that is and to be developed has 3 soil types (Wyanet silty loam with two different slopes 622B, & 622C2, Drummer Silty Clay Loam 152A) that are slight to severe ponding for dwellings without a basement.

SOIL RESOURCE

a) Prime Farmland:

This tract is not considered best prime farmland for Champaign County by the LE calculation.

This tract has an L.E. Factor of 83; see the attached worksheet for this calculation.

b) Soil Characteristics:

There are Three (3) soil types on this site; see the attached soil map. The soil present has severe limitations for development in its natural, unimproved state. The possible limitations include severe ponding in shallow excavations. A development plan will have to take the soil characteristics into consideration.

Map Symbol	Name	Slope	Shallow			Septic	Steel	Concrete
			Excavations	Basements	Roads	Fields	Corrosion	Corrosion
622B	Wyanet Sil Loam	2-5%	moderate: dense layer	Slight	Severe: low strength	Severe: percs slowly	moderate	moderate
622C2	Wyanet Sil Loam	5-10%	moderate: dense layer	Slight	Severe: low strength	Severe: percs slowly	moderate	moderate
152A	Drummer Silty Clay Loam	0-2%	Severe: ponding	Severe: ponding	Severe: ponding	Severe: ponding	high	moderate

c) Erosion:

This area that still may be developed, will be susceptible to erosion both during and after construction. Any areas left bare for more than 7 days, should be temporarily seeded or mulched and permanent vegetation established as soon as possible. The area has slope which could allow erosion during construction and heavy rainfall events. The area has already been disturbed more than general farming at the time of inspection, erosion control measures must be installed before construction starts. This site is just above a water way that leads to the Sangamon. The need for proper erosion control is high.



Champaign County

Soil and Water Conservation District
2110 West Park Court Suite C Champaign, IL 61821
(217) 352-3536 Extension 3 --- www.ccsxcd.com

d) Sedimentation:

A complete erosion and sedimentation control plan should be developed and implemented on this site prior to and during major construction activity. This plan should also have information for the land owner to continue Sedimentation control after.

Example: When will inlets for storm drains need to be cleaned out or how often? All sediment-laden runoff should be routed through sediment basins before discharge. Silt fences should be used in flow areas with drainage areas that do not exceed 0.5 acres. Plans should be in conformance with the Illinois Urban Manual for erosion and sedimentation control. The website is: <http://www.aiswcd.org/TUM/>

This link has a resource to help develop a SWPPP for small lots:

<http://www.epa.gov/npdes/stormwater-discharges-construction-activities#resources>

WATER RESOURCE

a) Surface Drainage:

The site has a slight slope to the south that leads to a grass waterway. The developed areas seem to have good drainage. The water from the site will leave by way of a grass waterway and a culvert under the road to the west.

Best Management Practices that minimize the volume of stormwater flowing offsite and attempt to filter it as much as possible should be considered for any future development.

b) Subsurface Drainage:

It is likely that this site contains agricultural tile, if any tile is found care should be taken to maintain the tile in working order.

Severe ponding, along with wetness may be a limitation associated with the soil types on the site. Installing a properly designed subsurface drainage system will minimize adverse effects. Reinforcing foundations helps to prevent the structural damage caused by shrinking and swelling of naturally wet soils.



Champaign County

Soil and Water Conservation District
 2110 West Park Court Suite C Champaign, IL 61821
 (217) 352-3536 Extension 3 --- www.ccswd.com

c) Water Quality:

As long as adequate erosion and sedimentation control systems are installed as described above, the quality of water should not be significantly impacted.

EPA Stormwater Pollution Prevention Plan Reference Tool:

EPA requires a plan to control stormwater pollution for all construction sites over 1 acre in size. *A Guide for Construction Sites* is a reference tool for construction site operators who must prepare a SWPPP in order to obtain NPDES permit coverage for their stormwater discharges. The guide describes the SWPPP development process and provides helpful guidance and tips for developing and implementing an effective plan.

Two model plans, based on hypothetical sites, are now available as a supplement to the guide. The first example plan is for a medium-sized residential subdivision and the second is for a small commercial site. Both examples utilize the SWPPP template that is included in the guide. To view the guide, models and template, visit <http://www.epa.gov/npdes/swpppguide>.

A new small lots plan can be found at this website location:

<http://www.epa.gov/npdes/stormwater-discharges-construction-activities#resources>

d) Low impact development:

The EPA's new report, "Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices." Provides ideas to improve water quality through unique designs. The report contains 17 case studies from across North America that show using LID practices in construction projects can lower costs while improving environmental results. LID practices are innovative stormwater management practices used to manage urban stormwater runoff at its source. The goal of LID practices is to mimic the way water moves through an area before development occurs, which is achieved using design techniques that infiltrate, evapotranspiration and reuse runoff close to its source. Some common LID practices include rain gardens, grassed swales, cisterns, rain barrels, permeable pavements and green roofs. LID practices increasingly are used by communities across the country to help protect and restore water quality. For a copy of the report, go to www.epa.gov/owow/nps/lid/costs07.

January 19, 2016

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JAN 25 2016

CHAMPAIGN CO. P & Z DEPARTMENT



Champaign County

Soil and Water Conservation District
2110 West Park Court Suite C Champaign, IL 61821
(217) 352-3536 Extension 3 --- www.ccsxcd.com

CULTURAL, PLANT, AND ANIMAL RESOURCE

a) Cultural:

The Illinois Historic Preservation Agency may require a Phase 1 Archeological Review to identify any cultural resources that may be on the site.

b) Illinois Endangered Species Protection Act & Illinois Natural Areas Preservation Act:

State agencies or units of local government must consult the Department about proposed actions that they will authorize, fund or perform. Private parties do not have to consult, but they are liable for prohibited taking of state-listed plants or animals or for adversely modifying a Nature Preserve or a Land and Water Reserve.

Home rule governments may delegate this responsibility, through duly enacted ordinances, to the parties seeking authorization or funding of the action.

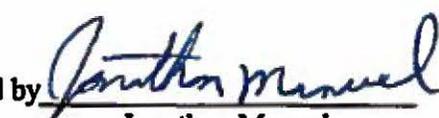
The Illinois Natural Heritage Database contains no record of State-listed threatened or endangered species, Illinois Natural Area Inventory sites, dedicated Illinois Nature Preserves, or registered Land and Water Reserves in the vicinity of the project location.

c) Plant:

For eventual landscaping of the site, the use of native species is recommended whenever possible. The three soil types will support trees such as Bur Oak, Norway Spruce, Black Oak, and Silky Dogwood. For areas to be restored to a more natural area several groups in the area may be able to help with seed.

If you have further questions, please contact the Champaign County Soil and Water Conservation District.

Signed by 
Steve Stierwalt
Board Chairman

Prepared by 
Jonathon Manuel
Resource Conservationist

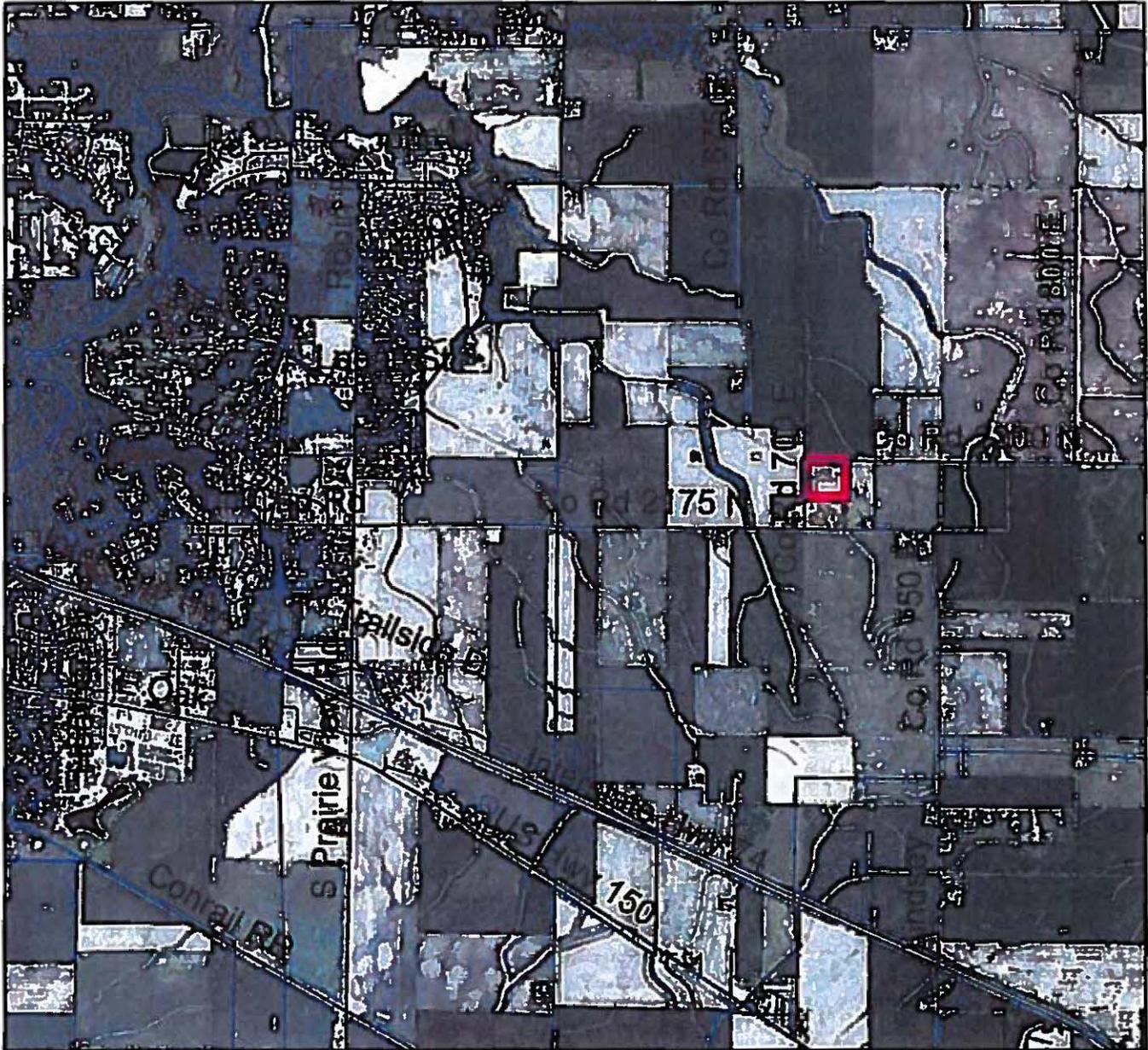
N. Brian

Date: 1/19/2016



District: CHAMPAIGN COUNTY SOIL & WATER CONSERVATION DISTRICT
Legal Description: NW1/4 sec of section 17, T20N, R8E

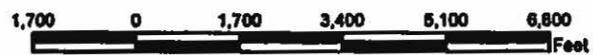
Assisted By: JONATHON MANUEL
State and County: IL, Champaign County, Illinois



Legend

— fe_2007_17019_edges

 Nick Brian





N. Brian

Date: 1/19/2016

District: CHAMPAIGN COUNTY SOIL & WATER CONSERVATION DISTRICT
Legal Description: NW1/4 sec of section 17, T20N, R8E

Assisted By: JONATHON MANUEL
State and County: IL, Champaign County, Illinois



Legend

- fe_2007_17019_edges
- ▣ Nick Brian



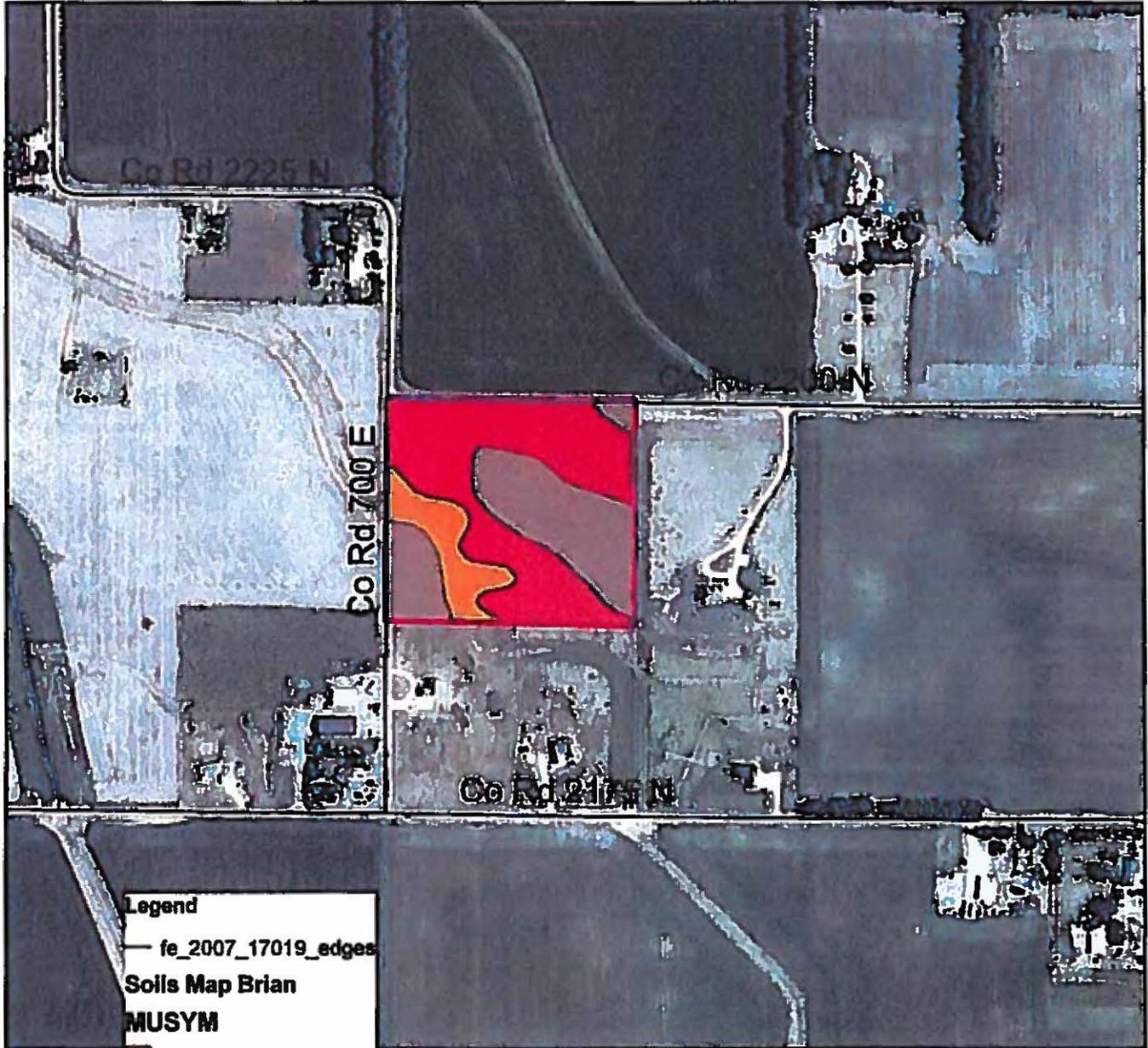


N. Brian

Date: 1/19/2016

District: CHAMPAIGN COUNTY SOIL & WATER CONSERVATION DISTRICT
Legal Description: NW1/4 sec of section 17, T20N, R8E

Assisted By: JONATHON MANUEL
State and County: IL, Champaign County, Illinois



Legend

— fe_2007_17019_edges

Soils Map Brian

MUSYM

152A

622B

622C2

Nick Brian



LAND EVALUATION WORKSHEET

Soil Type	Soil Name	Ag Group	Relative Value	Acres	Land Evaluation Score
622B	Wyanet	9	83	6.7	556.1
622C2	Wyanet	11	78	4.5	351.0
152A	Drummer	2	98	1.6	156.8
					0.0
					0.0
					0.0
					0.0

acreage for calculation slightly larger than tract acreage due to rounding of soils program

Total LE Weighted Factor= 1063.9

Acreage= 12.8

Land Evaluation Factor For Site=

83

Note: A Soil Classifier could be hired for additional accuracy if desired

Data Source: Champaign County Digital Soil Survey

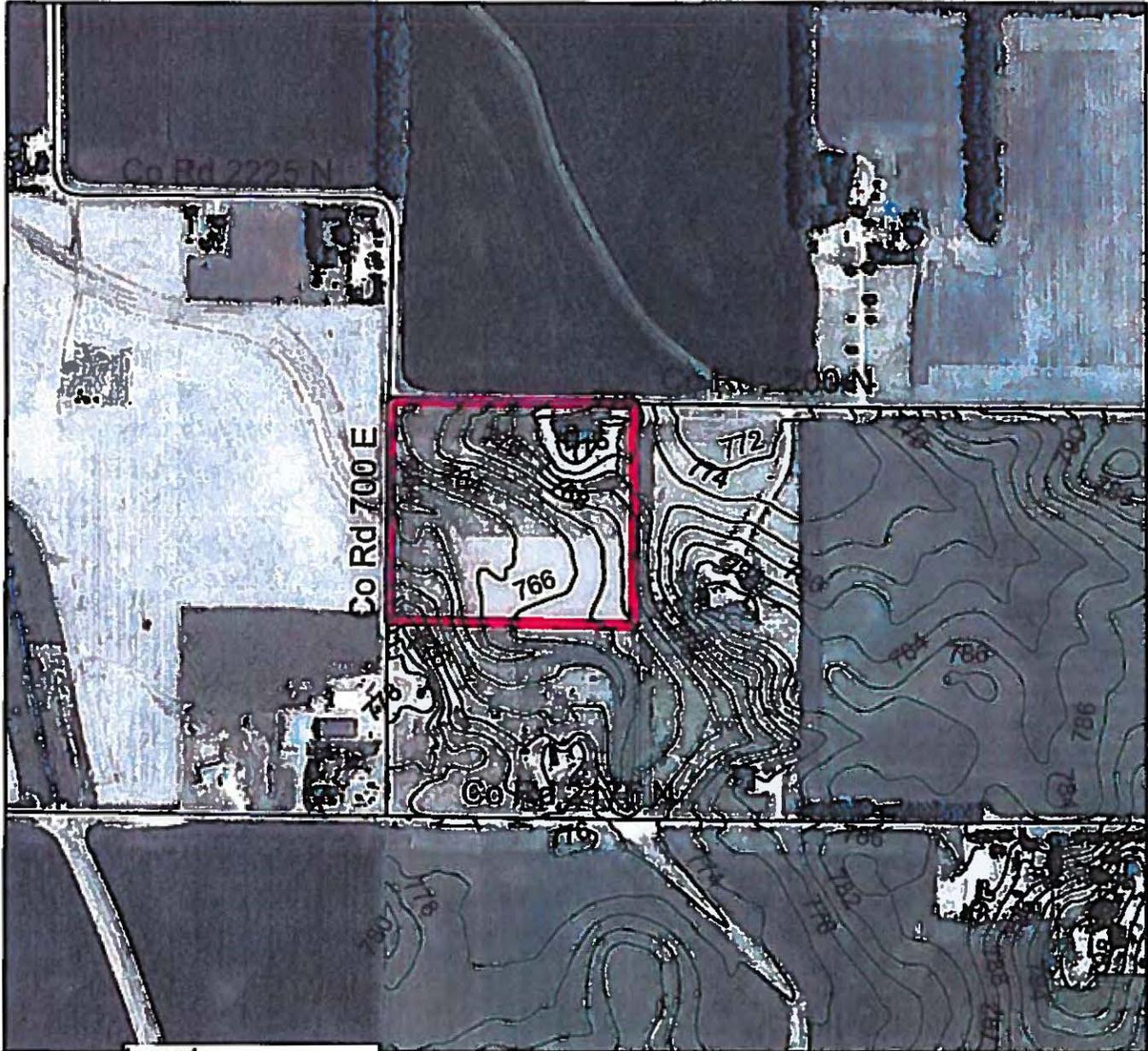


N. Brian

Date: 1/19/2016

District: CHAMPAIGN COUNTY SOIL & WATER CONSERVATION DISTRICT
Legal Description: NW1/4 sec of section 17, T20N, R8E

Assisted By: JONATHON MANUEL
State and County: IL, Champaign County, Illinois



Legend

- fe_2007_17019_edges
- 3_T20N_R08E_SEC17
- Nick Brian





Applicant: Champaign County Soil & Water Conservation District **IDNR Project Number:** 1806367
Contact: Jonathon Manuel **Date:** 01/19/2016
Address: 2110 West Park Court
 Suite C
 Champaign, IL 61821

Project: N Brian 2
Address: 2110 West Park Court, Suite C, Champaign

Description: New Shed for Business

Natural Resource Review Results

This project was submitted for information only. It is not a consultation under Part 1075.

The Illinois Natural Heritage Database contains no record of State-listed threatened or endangered species, Illinois Natural Area Inventory sites, dedicated Illinois Nature Preserves, or registered Land and Water Reserves in the vicinity of the project location.

Location

The applicant is responsible for the accuracy of the location submitted for the project.



County: Champaign

Township, Range, Section:

- 20N, 8E, 7
- 20N, 8E, 8
- 20N, 8E, 17
- 20N, 8E, 18

IL Department of Natural Resources
Contact
 Impact Assessment Section
 217-785-5500
 Division of Ecosystems & Environment

Disclaimer

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IDNR Project Number: 1806367

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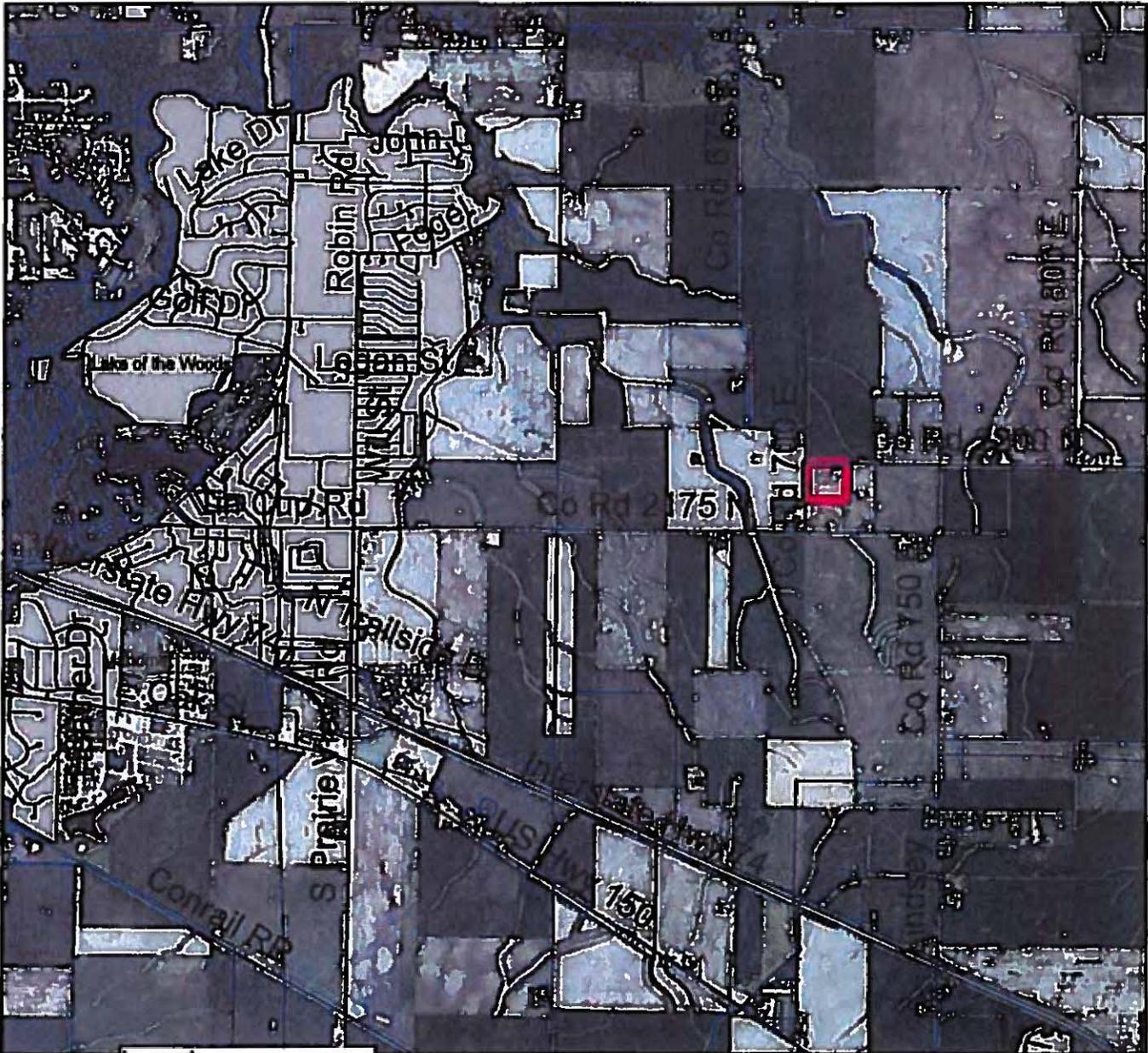


N. Brian

Date: 1/19/2018

District: CHAMPAIGN COUNTY SOIL & WATER CONSERVATION DISTRICT
Legal Description: NW1/4 sec of section 17, T20N, R8E

Assisted By: JONATHON MANUEL
State and County: IL, Champaign County, Illinois



Legend

— fe_2007_17019_edges

■ Nick Brian

□ municipalities_a_11019





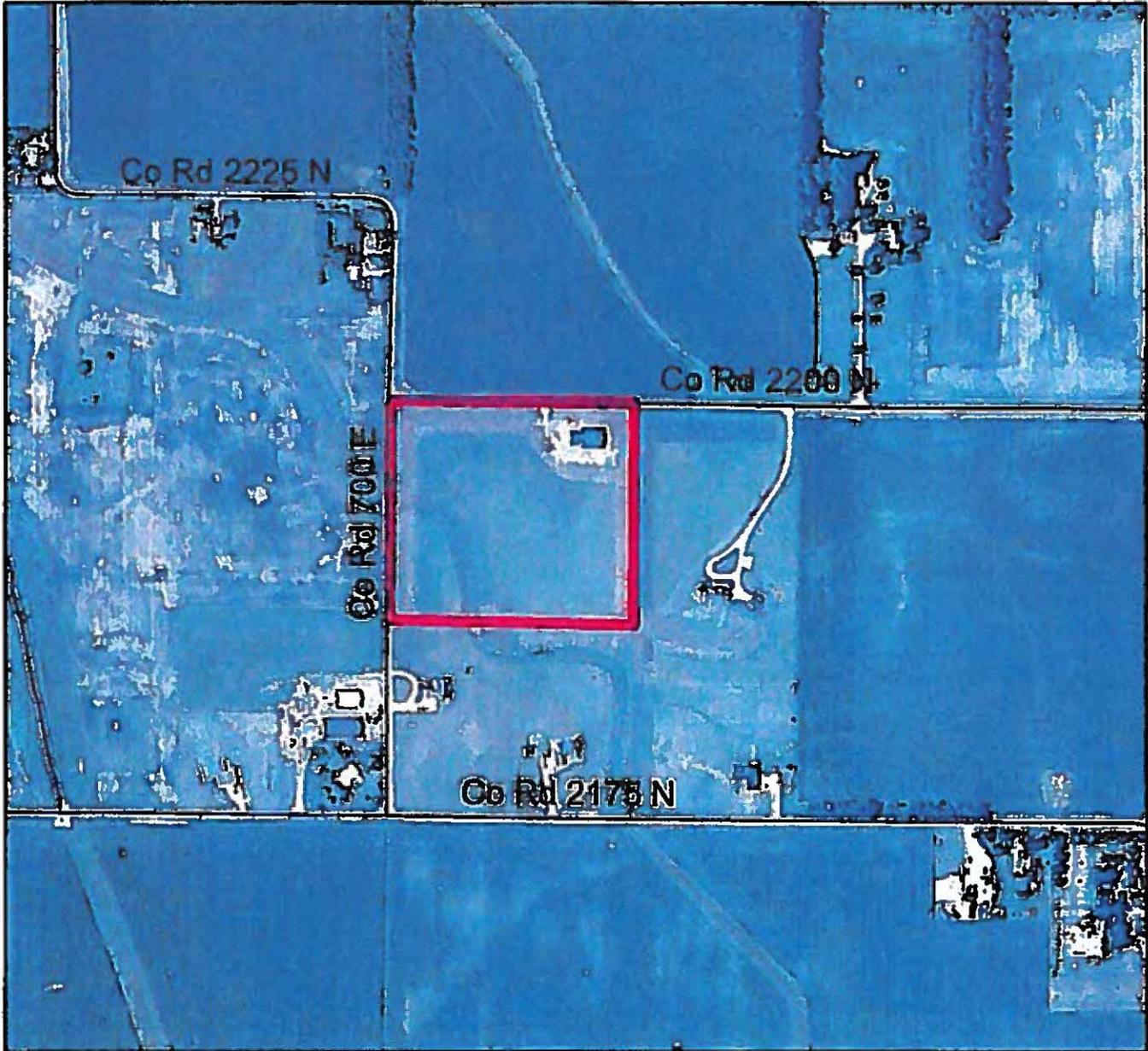
N. Brian

Date: 1/19/2016

Aerial 2010

District: CHAMPAIGN COUNTY SOIL & WATER CONSERVATION DISTRICT
Legal Description: NW1/4 sec of section 17, T20N, R8E

Assisted By: JONATHON MANUEL
State and County: IL, Champaign County, Illinois



Legend

- fe_2007_17019_edges
- Nick Brian





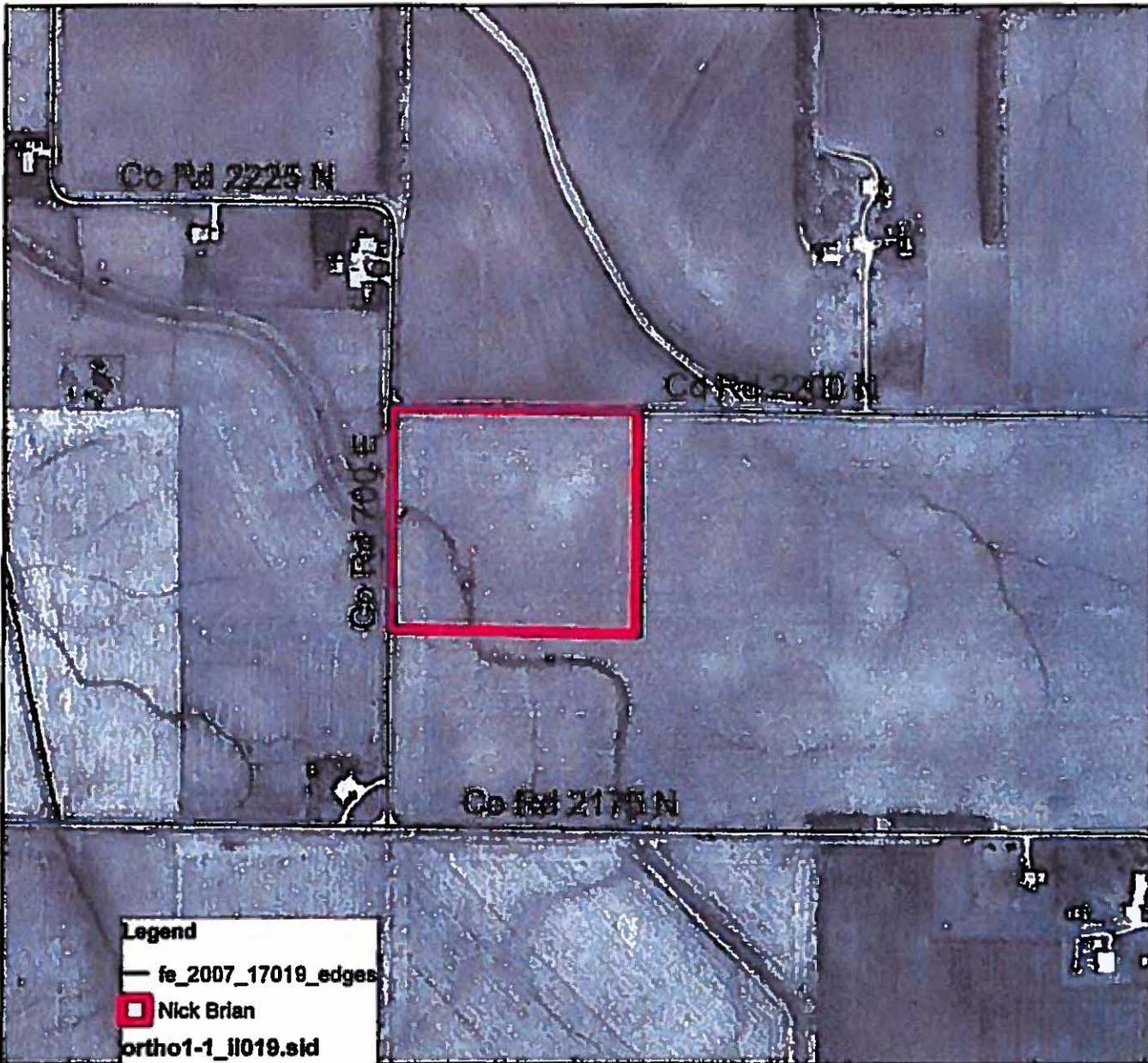
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Date: 1/19/2016

Aerial 2005

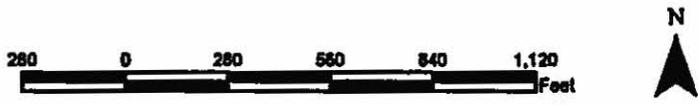
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Legal Description: NW1/4 sec of section 17, T20N, R8E

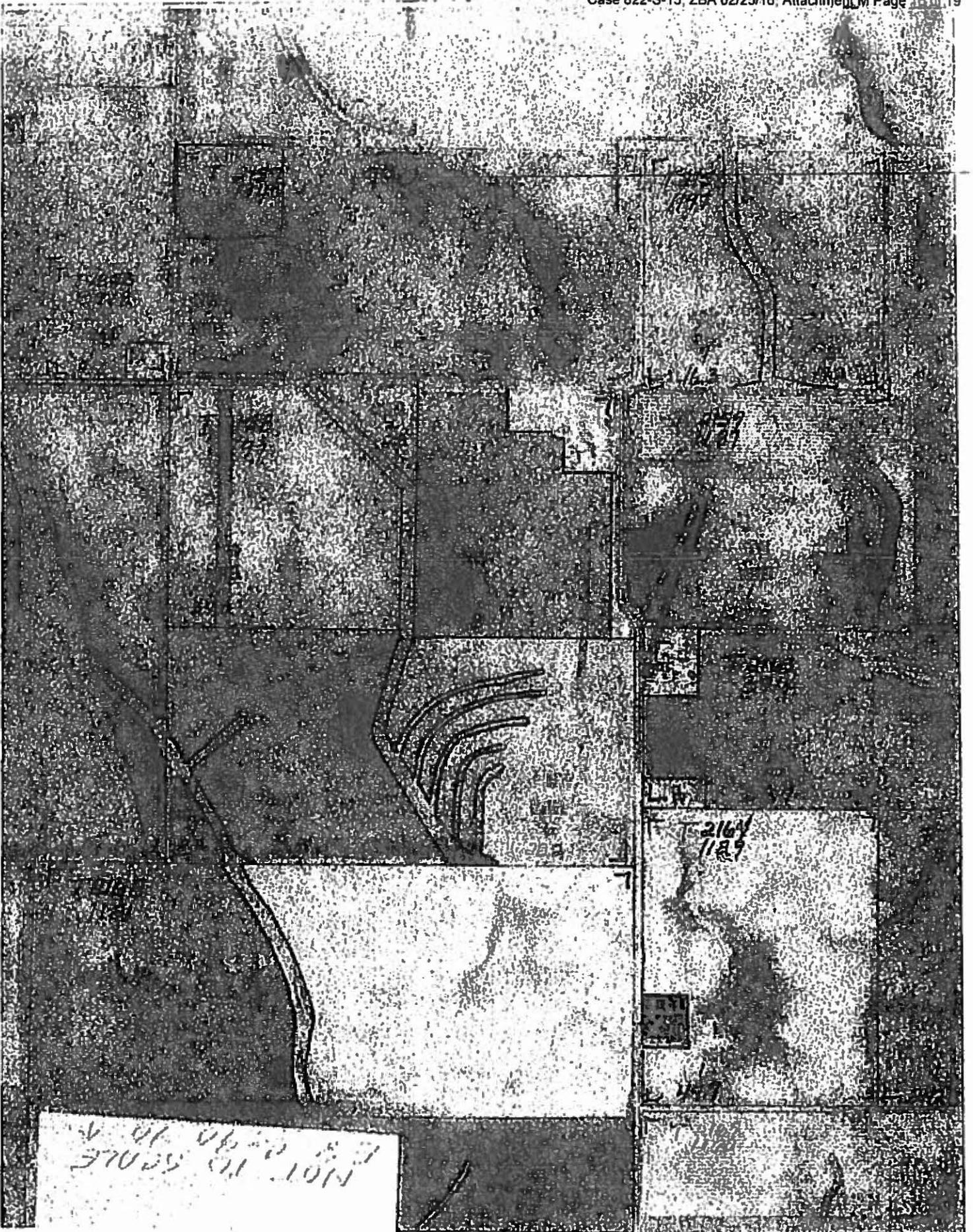
Assisted By: JONATHON MANUEL
State and County: IL, Champaign County, Illinois



Legend
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Nick Brian
ortho1-1_11019.sid

Value
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Low : 0





NOT TO SCALE

115-1-76-36

H-574 B

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245.5

55.1

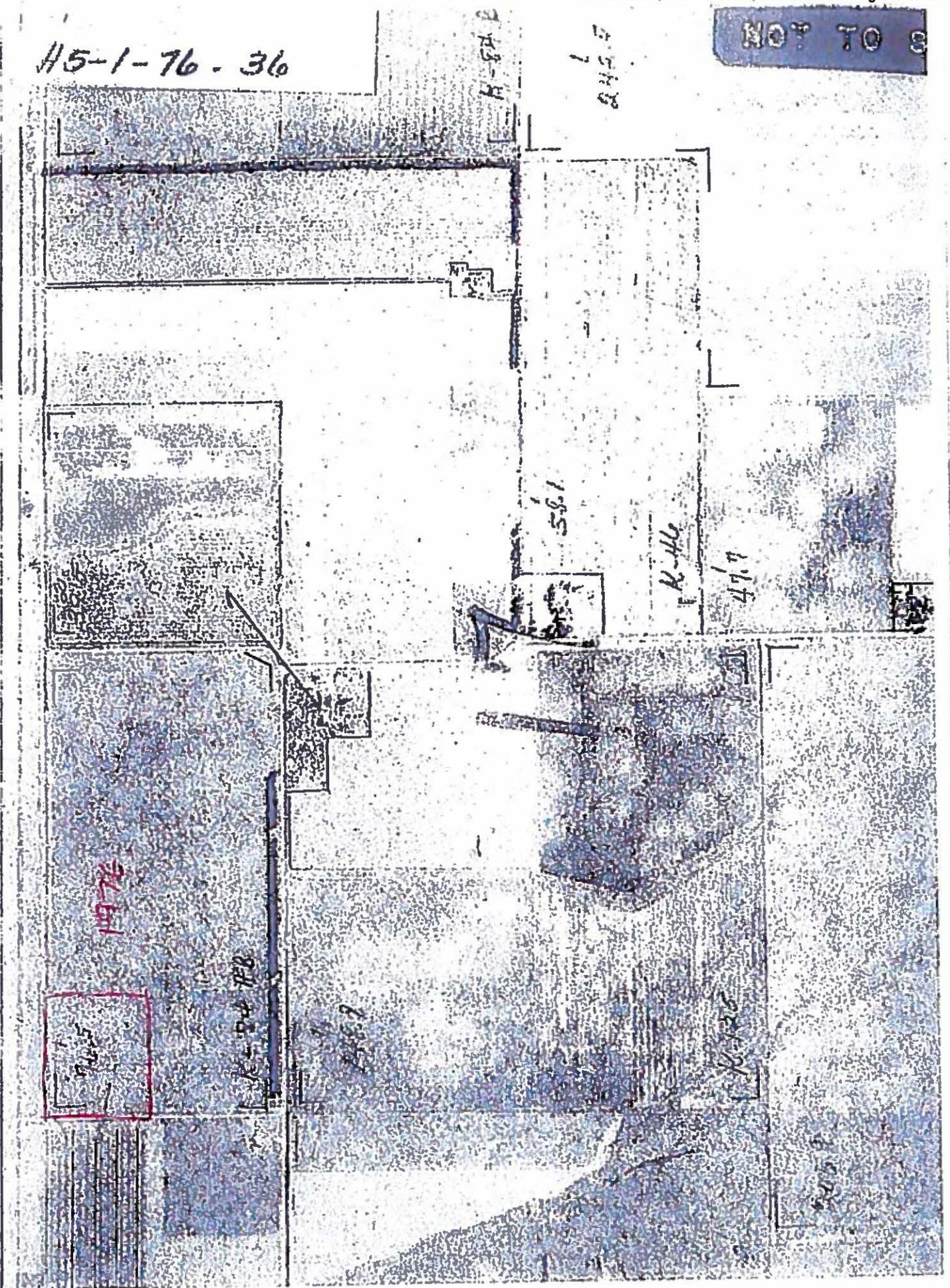
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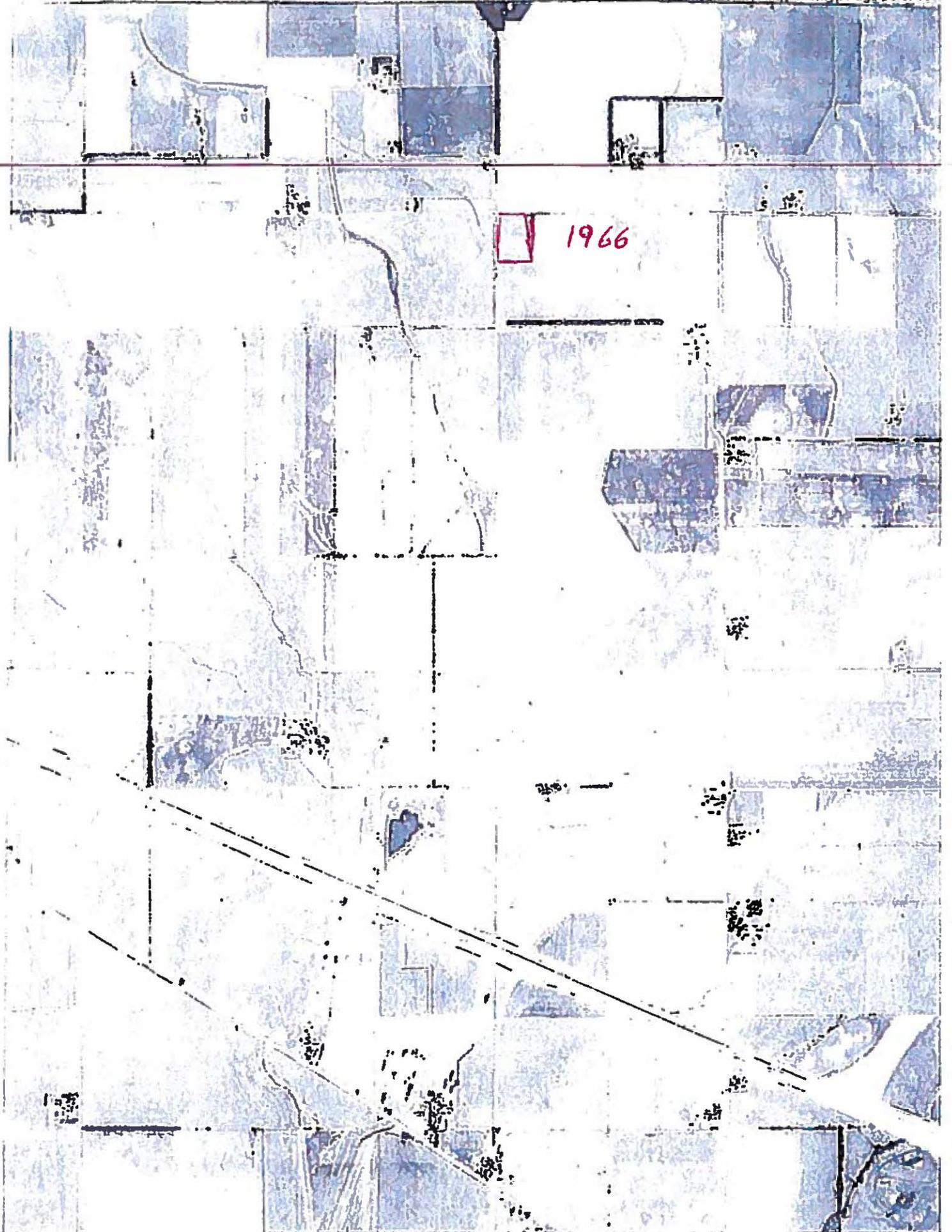
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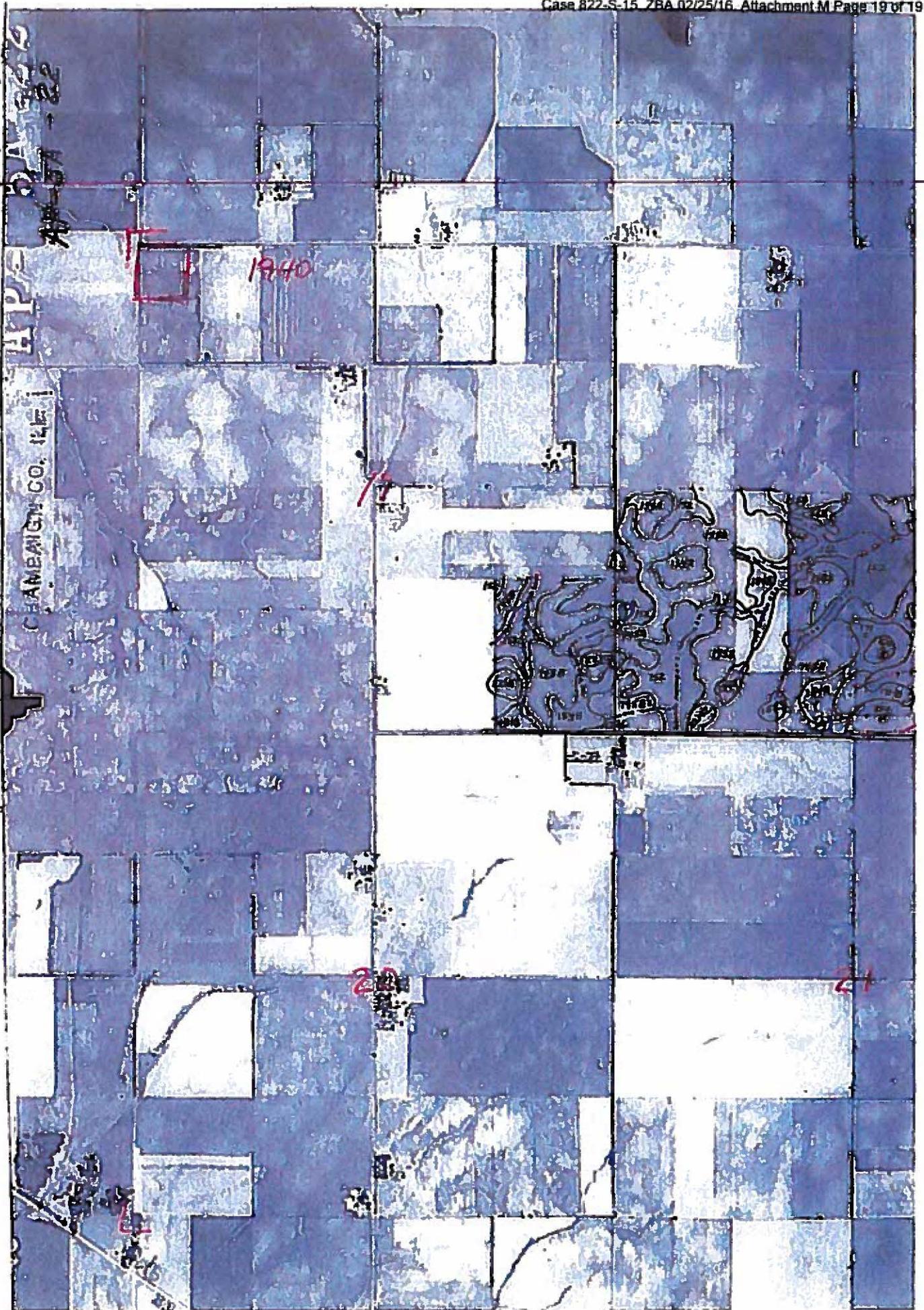
119.76

K-54 FB

K-125







Susan Chavarria

From: nick <greensidelawncare@live.com>
Sent: Thursday, February 11, 2016 4:25 PM
To: Susan Chavarria
Subject: Re: questions for Zoning Case

Follow Up Flag: Follow up
Due By: Friday, February 12, 2016 8:00 AM
Flag Status: Flagged

500 gallon dual wall tank. Diesel fuel and gasoline. They are used for farm equipment.

Thanks,

Nick Brian
707 County Road 2200 North
Champaign, IL 61822

On Feb 11, 2016, at 3:31 PM, Susan Chavarria <schavarr@co.champaign.il.us> wrote:

Hi Nick,

Could you please tell me about the fuel tanks (volume, what is in them, what they are used for)?

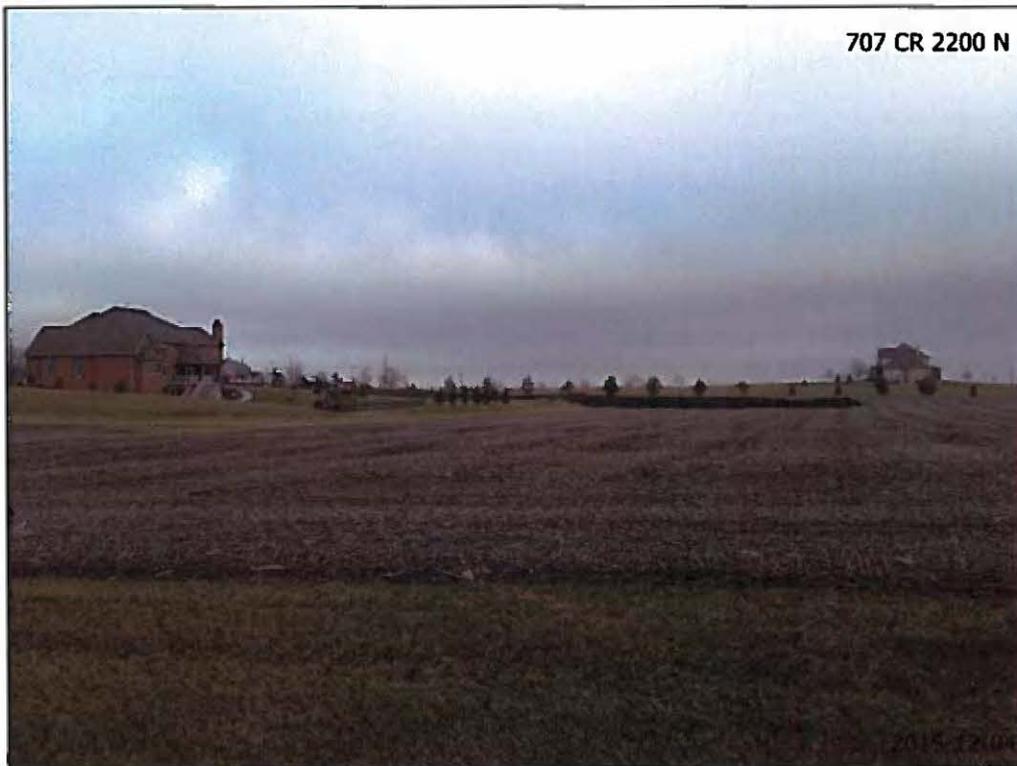
Thanks!
Susan

RECEIVED
FEB 11 2016
CHAMPAIGN CO. P & Z DEPARTMENT

822-S-15 Images



Subject property from CR 700 East facing NE



Subject property from CR 700 East facing east

822-S-15 Images

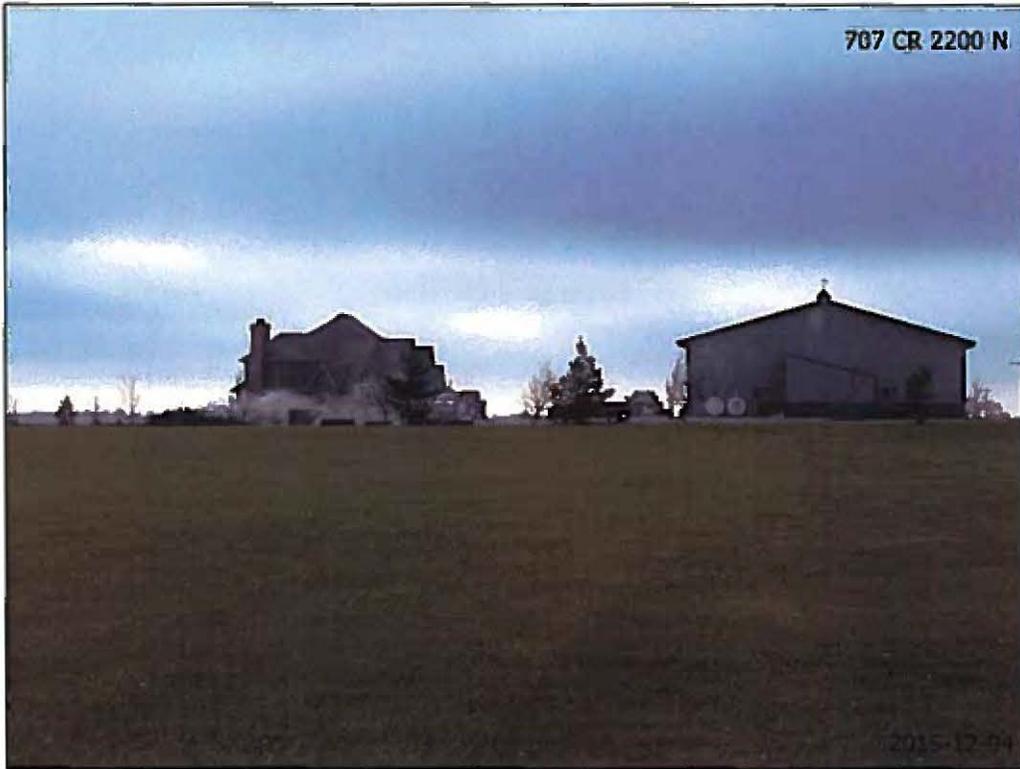


From property to east, facing NW



From property to east, facing NW (zoomed in)

822-S-15 Images



From driveway on property to east, facing west



From CR 2200 N, at east access drive to subject property, facing south

822-S-15 Images



From CR 2200 N, just north of main residence, facing SE



From CR 2200 N, east of east access drive, facing SW

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822-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: ***{February 25, 2016}***

Petitioners: Nicholas Brian, d.b.a. Greenside Lawn Care

Request: Authorize a Special Use Permit for a Contractor’s Facility with or without outdoor storage and/or outdoor operations and a caretaker’s dwelling in addition to an existing single family dwelling in the AG-1 Agriculture Zoning District

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02/17/16 PRELIMINARY DRAFT**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 25, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Nicholas Brian, d.b.a. Greenside Lawn Care, owns the subject property.
2. The subject property is an 11.09 acre tract comprised of Lot 1 of Meadow Ridge Subdivision in the Southwest Quarter of the Northwest Quarter of Section 17 of Township 20 North, Range 8 East of the Third Principal Meridian in Hensley Township and commonly known as the contractor business Greenside Lawn Care, located at 707 CR 2200 North, Champaign, Illinois.
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 Village of Mahomet, a municipality with zoning. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ; however, they do receive notice of such cases and they are invited to comment.
 - (1) Regarding the Village of Mahomet Comprehensive Plan: The Draft Village of Mahomet Comprehensive Plan dated October 2015 shows the subject property in the Agricultural future land use area.
 - B. The subject property is located within Hensley Township, which has a Plan Commission. Townships with Plan Commissions do not have protest rights on Special Use Permits; however, they do receive notice of such cases and they are invited to comment.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity adjacent to the subject property are as follows:
 - A. The subject property is zoned AG-1 Agriculture and is in use as a single-family residence and landscaping business with a caretaker's dwelling. The landscaping business and contractor's dwelling are not authorized without a Special Use Permit in the AG-1 Zoning District.
 - B. The land surrounding the subject property is zoned AG-1 Agriculture.
 - C. The subject property is bordered by agricultural production to the north and west, and single family residences to the east and south.
 - D. The following nearby Rural Home Occupations (RHOs) are registered with the Zoning Department and can be seen on the Land Use Map in Attachment A:
 - (1) Dig-It Construction at 700 CR 2175 North; and
 - (2) Kevin Mitchaner's trucking business at 745 CR 2175 North.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the site plan and operations of the proposed Special Use:

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- A. The Site Plan received December 17, 2015 (Attachment B) indicates the following:
- (1) A single family residence;
 - (2) A shed with the following areas:
 - a. A 32 feet by 42 feet area on the west end with the following:
 - (a) An “open area” with a “kitchen area”, approximately 950 square feet;
 - (b) A 10 feet by 10 feet utility room;
 - (c) A 10 feet by 10 feet bathroom; and
 - (d) A 12 feet by 16 feet office; and
 - b. A 60 feet by 64 feet area on the east end, used for both farm and Greenside Lawn Care equipment storage.
 - (3) A 20 feet by 18 feet shed with an opening facing south located east of the larger shed, used for ice melt/salt and mulch storage.
- B. A Final Plat of Subdivision received December 17, 2015 (Attachment D) indicates the subject property as Lot 1 of the Meadow Ridge Subdivision, and also notes:
- (1) A gas pipeline running through Lots 1 and 5:
 - (a) A Notice of Pipeline Impact Radius provided by the Zoning Administrator to Nick Brian on May 12, 2010 stated “the subject property contains two hazardous liquid (propane) pipelines located in a 50 feet wide easement that is located in the western 270 feet of the property”.
 - (b) The Zoning Administrator determined that the property is exempt from the building restrictions related to the pipeline impact radius, but not exempt from the easement.
 - (2) An 80 feet wide drainage easement running from the west side of the subject property to the southeast and continuing south onto Lots 4 and 5.
- C. A letter from Nick Brian received December 17, 2015 (Attachment K) stated the following:
- (1) His lawn care business consists of 2 employees with 2 mowing crews as well as 2 trucks and trailers and mowing and snow removal equipment;
 - (2) The business does not have customers coming and going out of their office and it is strictly a place to park the equipment and work on it in the shed;
 - (3) Mr. Brian stores some of his farm equipment in the shed;
 - (4) The office area attached to the shed that is referred to as the second dwelling unit is an office, bathroom, kitchen area with an open floor plan for his kids to enjoy;

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- (5) Mr. Brian uses the office for paper work and the open area is where they have the kids' birthday parties along with family events, and the kids use it a lot to play in with friends.
- D. A Site Plan showing additional information was received January 13, 2016 (Attachment G) and indicates the following:
- (1) All existing buildings above;
 - (2) A proposed 60 feet by 80 feet new shed approximately 85 feet from the east property line, south of the existing shed;
 - (3) 2 to 3 existing parking spaces south of the 32 feet by 42 feet shed;
 - (4) An existing driveway that currently circles around the existing sheds and will extend to the proposed new shed;
 - (5) A well southwest of the existing sheds; and
 - (6) A septic system east of the house.
- E. The following are previous Zoning Use Permits on the subject property:
- (1) Permit #126-10-02 was approved on May 11, 2010 for construction of a single family home with attached garage; this is the shed with the dwelling unit. No Zoning Compliance Certificate was issued for this permit.
 - (2) Permit #152-12-02 was approved on June 8, 2012 for construction of a single family residence with attached garage with a condition that the existing single family home (in the shed) must be decommissioned (kitchen or bath must be removed) prior to the issuance of a Zoning Compliance Certificate. No Zoning Compliance Certificate was issued for this permit.
- F. Previous Permits in the area include:
- (1) Permit #58-07-03 was approved for 700 CR 2175 North on May 8, 2007 for construction of a detached storage shed to be used for an excavating business (Permit #73-07-01RHO).
 - (2) Permit #73-07-01RHO was approved for 700 CR 2175 North on May 8, 2007 for the Rural Home Occupation Dig It of Champaign, Inc.
 - (3) Permit #174-04-01 was approved for 745 CR 2175 North on June 30, 2004 for construction of a garage attached to the residence.
 - (4) Permit #312-99-02 was approved for 745 CR 2175 North on November 8, 1999 for construction of a detached storage shed.

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- (5) Permit #350-08-01 was approved for 745 CR 2175 North on January 1, 2009 for placement of an above ground swimming pool.
- (6) Permit #350-08-02RHO was approved for 745 CR 2175 North on January 15, 2009 for establishing a Rural Home Occupation. Special conditions for approval limited number of employees and the number and storage of vehicles on the property.
- (7) Permit #257-09-02 was approved for 745 CR 2175 North on September 23, 2009 for construction of an addition to a detached building.

G. Previous Zoning Cases in the area include:

- (1) Case 655-S-09 was approved on December 17, 2009 for a Kennel.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

- 6. Regarding authorization for contractors' facilities both with and without outdoor operations and storage in the AG-1 Agriculture Zoning DISTRICT in the *Zoning Ordinance*:
 - 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-1, Agriculture Zoning District.
 - B. Section 5.2: Table of Authorized Principal Uses states that Contractors Facilities (with no outdoor STORAGE nor outdoor OPERATIONS) can be established with a Special Use Permit in the AG-1 Agriculture Zoning District.
 - C. 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.
 - 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.

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- (2) Subsection 6.1.3 establishes the following standard conditions for Contractors Facilities with or without Outdoor STORAGE and/or Outdoor OPERATIONS:
 - a. In all DISTRICTS other than the B-5 DISTRICT, outdoor STORAGE and/or outdoor OPERATIONS are allowed as an ACCESSORY USE subject to subsection 7.6.

- (3) Subsection 7.6 establishes the following conditions for Outdoor Storage and/or Outdoor Operations:
 - a. Outdoor STORAGE and/or OPERATIONS shall be allowed in all DISTRICTS only as ACCESSORY USES unless permitted as a principal USE in Section 5.2 and shall be allowed in any YARD in all DISTRICTS subject to the provisions of Section 7.2 without a permit provided that outdoor STORAGE and/or outdoor OPERATIONS shall not be located in any required off-street PARKING SPACES or LOADING BERTHS.

 - b. A Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE and/or outdoor OPERATIONS which is visible within 1,000 feet from any of the following circumstances:
 - (a) Any point within the BUILDING RESTRICTION LINE of any LOT located in any R DISTRICT or any LOT occupied by a DWELLING conforming as to USE or occupied by a SCHOOL; church or temple; public park or recreational facility; public library, museum, or gallery; public fairgrounds; nursing home or HOSPITAL; recreational business USE with outdoor facilities; or

 - (b) Any designated urban arterial street or MAJOR STREET.

- D. Section 7.4 establishes requirements for off-street PARKING SPACES and LOADING BERTHS:
 - (1) All off-street PARKING SPACES shall be located on the same LOT or tract of land as the USE served.

 - (2) The number of such PARKING SPACES shall be the sum of the individual requirements of the various individual ESTABLISHMENTS computed separately in accordance with this section. Such PARKING SPACES for one such ESTABLISHMENT shall not be considered as providing the number of such PARKING SPACES for any other ESTABLISHMENT.

 - (3) Parking spaces for heavy motor trucks, motor buses or other vehicles shall be of dimensions specified for off-street loading berths.
 - a. All LOADING BERTHS shall have vertical clearance of at least 14 feet.

 - b. All LOADING BERTHS shall be designed with appropriate means of vehicular access to a STREET or ALLEY in a manner which will least interfere with traffic movement.

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- c. No LOADING BERTH shall be located less than 10 feet from any FRONT LOT LINE and less than five feet from any side or REAR LOT LINE.
 - d. Off street loading berths for commercial establishments must be improved with a compacted base at least six inches thick and shall be surfaced with at least two inches of some all-weather dustless material.
- (4) Any other establishments than specified will provide one parking space for every 200 square feet of floor area.
- E. 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) "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.
 - (5) "BUILDING, DETACHED" is a BUILDING having no walls in common with other BUILDINGS.
 - (6) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.

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- (7) "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.
- (8) "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.
- (9) "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.
- (10) "OPEN SPACE" is the unoccupied space open to the sky on the same LOT with a STRUCTURE.
- (11) "PARKING SPACE" is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
- (12) "PIPELINE, GAS" is any transmission pipeline for gases including within a storage field. This definition does not apply to either service lines for local service to individual buildings or distribution lines, as defined in 49 CFR 192.3.
- (13) "PIPELINE, HAZARDOUS LIQUID" is any pipeline used for the transmission of anhydrous ammonia, petroleum, or petroleum products such as propane, butane, natural gas liquids, benzene, gasoline, jet fuel, diesel fuel, fuel oil, and kerosene.
- (14) "PIPELINE IMPACT RADIUS" is the distance within which the potential failure of a GAS PIPELINE or a HAZARDOUS LIQUIDS PIPELINE could have significant impact to people and property.
- (15) "SCREEN" is a STRUCTURE or landscaping element of sufficient opaqueness or density and maintained such that it completely obscures from view throughout its height the PREMISES upon which the screen is located.
- (16) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
- (17) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (18) "STORAGE" is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
- (19) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS

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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.
- (20) “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.
- (21) “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.
- (22) “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.
- 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 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.

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- 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.
- 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, **“Because it is located where I live and this lawn business along with farming is my livelihood along with my source of income”**.

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, **“1) Everything out here including buildings and house is very nice and kept up; 2) There is nothing hazardous or harmful to the area; and 3) This business has let me improve this property’s value”**.
 - B. Regarding surface drainage:
 - (1) The Champaign County Soil and Water Conservation District Natural Resource Report received January 25, 2016 (Attachment M) states “The site has a slit slope to the south that leads to a grass waterway. The developed areas seem to have good drainage. The water from the site will leave by way of a grass waterway and a culvert under the road to the west”.

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- C. Regarding traffic in the subject property area:
- (1) The subject property has two access points (a U-shaped driveway) on the south side of CR 2200 North, and has its western boundary on the east side of CR 700 East.
 - (2) CR 2200 North is a two-lane rural cross section that is approximately 20 feet wide and comprised of oil and chip.
 - (3) 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 2175 North had an ADT of 600 east of its intersection with CR 700 East. The subject property is not adjacent to this count location.
 - (4) The subject property is located about 2.5 miles northeast of the I-74 Interchange at Prairieview Road (Mahomet).
 - (5) The Hensley Township Road Commissioner has been notified of this case and no comments have been received.
- D. Regarding fire protection on the subject property, the subject property is located approximately 5 miles from the Cornbelt Fire Protection District station in Mahomet. The FPD Chief was notified of this case and no comments have been received.
- E. No part of the subject property is located within a mapped floodplain.
- F. The subject property is not considered BEST PRIME FARMLAND. The soil on the subject property consists of Wyonet silty loam 622B and 622C2, and Drummer silty clay loam 152A, and has an average LE of approximately 83.
- G. Regarding outdoor lighting on the subject property:
- (1) The Petitioner did not include information on their Site Plan.
- H. Regarding wastewater treatment and disposal on the subject property:
- (1) According to the revised Site Plan received January 13, 2016 (Attachment G), the subject property has a septic system east of the residence. The Site Plan does not indicate whether the restroom in the Shed connects to that septic system. Mike Flanagan, Environmental Health Specialist II with the Champaign-Urbana Public Health District, confirms that the shed's dwelling and the main residence are connected to the same septic system, and that the system has sufficient capacity for a 4 bedroom house and the shed's restroom.
- 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

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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.
- 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

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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. Regarding fuel tanks on the subject property:

- (1) In an email received February 11, 2016, Mr. Brian noted that there is a 500 gallon dual wall tank that holds diesel fuel and gasoline used for farm equipment.

K. Regarding ice melt and salt storage on the subject property:

- (1) The 18 feet by 20 feet storage shed on the east end of the main shed is used for ice melt/salt storage in the winter and mulch storage in the warmer months. The shed is open on the south side.

L. Regarding neighborhood concerns:

- (1) On December 4, 2015, the Zoning Department received a complaint from a neighbor that the Petitioner was burning landscape materials on the subject property. They were also concerned that the Petitioner had starting moving dirt the day before and asked if the Department had information on what the Petitioner was constructing.
- (2) On December 7, 2015, the Zoning Department called Mr. Brian to inquire about operations at the subject property, including whether he burned materials on site.
- a. Mr. Brian indicated that he burns clippings, ornamental grasses, pine needles, and other landscaping materials from on and off-site.
- b. Mr. Brian indicated that he has 2 trucks that are used for both business and personal use, 4 trailers, 2 tractors, 2 skid steers, and 3-4 mowers. He does farming in Tuscola and in Champaign County, and also does mowing and snow removal in both areas.
- c. Mr. Brian requested materials from our office regarding Illinois Environmental Protection Agency burning regulations. Two brochures from IEPA were sent to Mr. Brian via regular mail on December 10, 2015.
- (3) On December 15, 2015, a letter was received from Carl Webber of Webber and Thies, Attorneys at Law (Attachment L) speaking on behalf of his clients, Jeff and Sarah Carpenter. The Carpenters live just east of the subject property. The letter was sent to inform the Zoning Department that Petitioner Brian had been sent a notice that he was committing subdivision violations on the subject property.
- a. The notice sent by Webber & Thies to Mr. Brian referred to several articles of the Restrictive Covenants for Meadow Ridge Subdivision.
- b. The Zoning Department does not have oversight or enforcement authority over subdivision bylaws and covenants; such covenants are matters of discussion and resolution between private property owners.

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- (4) On December 18, 2015, neighbor Gene Myers, 724 CR 2175 North, called the Zoning Department to request information about Petitioner Brian's Special Use case. He expressed concern about the aforementioned subdivision covenants and that a future owner might bring in a trucking company or something else undesirable. He did not express any complaint against the Petitioner.
 - (5) On January 13, 2016, the Petitioner submitted a revised Site Plan via email (Attachment G). The email stated that the petitioner is now taking materials to the Urbana recycle center rather than burning them.
- M. Other than as reviewed 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: "Yes."
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) Regarding the construction of more than one main or principal structure or building per lot in the AG-1 Zoning District:
 - a. Permit #152-12-02 that was approved in 2012 for constructing a single family residence included a special condition that the Petitioner would have to decommission the dwelling unit he had built inside the shed while his house was under construction so that there would be only one dwelling unit on the lot.
 - b. On October 30, 2014, staff contacted Mr. Brian seeking to do a final compliance inspection for the home construction and special conditions. Mr. Brian returned the call on November 3, 2014, saying that he needed another week to finish farming before he could meet for the inspection. No inspection was scheduled after that phone call.
 - c. On July 6, 2015, staff contacted Mr. Brian again and left a message seeking more information about the decommissioning of the kitchen or bath in the shed. He did not respond.
 - d. On November 15, 2015, the Zoning Department sent a First Notice of Violation to the Petitioner because he had constructed more than one main

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or principal structure or building per lot in the AG-1 Zoning District (Attachment I).

- e. Staff learned about the lawn care business housed in the shed when Mr. Brian called on December 2, 2015 regarding what could be done about the second dwelling unit.
 - f. In a phone call between Zoning staff and Mr. Brian on December 7, 2015, Mr. Brian indicated that he has no intention of renting out the dwelling unit in the shed, and he wants to keep in intact for his own use as his kids grow up.
 - g. On December 10, 2015, a second informational letter (Attachment J) was sent to the Petitioner which outlined the Special Use Permit process and requirements and included brochures from IEPA burning regulations.
 - h. On December 17, 2015, the Petitioner applied for the Special Use Permit for the current case in order to bring his lawn care business into compliance with the Zoning Ordinance as a Contractor's Facility, and to keep the restroom and kitchen area in the shed as a caretaker's dwelling for his Contractor's Facility.
 - i. On his application for the Special Use Permit received December 17, 2015, Mr. Brian indicated that the existing shed is for **"lawn and farm equipment. Inside is office and large room with bathroom and kitchen. We also use it for our kids' birthday parties."**
- (2) Prior zoning cases have allowed a Contractor's Facility with a caretaker's dwelling, but there was no record found of any zoning cases where there was a main residence, a Contractor's Facility, and a caretaker's residence all on one lot.
- (3) Regarding the requirement that states more than one main or principal structure or building per lot is authorized by Special Use Permit:
- a. The subject property is located in the AG-1 Agriculture Zoning District, which does not allow more than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT or more than one PRINCIPAL USE per LOT, as per Section 4.2.1.C. of the Zoning Ordinance.
 - b. A Contractor's Facility with or without outdoor storage and operations is allowed with a Special Use Permit in the AG-1 District as an ACCESSORY USE, subject to Section 7.6 of the Zoning Ordinance.
 - c. Section 7.6.2. of the Zoning Ordinance requires a Type D SCREEN be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE and/or outdoor OPERATIONS which is visible within 1,000 feet from any LOT occupied by a DWELLING conforming as to USE.

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- d. The proposed Special Use meets all applicable lot size, height, setback, side and rear yards, and lot coverage requirements for its District.
- (4) Regarding parking on the subject property for the proposed Special Use:
- a. The building and open storage shed that is the subject of the Special Use totals 5,544 square feet, which will require 28 parking spaces at least 9 feet by 20 feet each.
 - b. The proposed caretaker's dwelling additionally requires one off-street parking space as per Section 7.4.1 B.3.
 - c. The 2014 aerial photo indicates over 16,000 square feet of available parking and driveway area, which is sufficient for over 50 parking spaces at 300 square feet each. There is at least a 1,500 square foot area (measured by the aerial) that is paved, just south of the shed. The remainder of the area is gravel.
 - d. The Site Plan received January 13, 2016 (Attachment G) indicates 2-3 parking spaces on the south side of the shed at the same location where pavement is shown on the aerial.
 - e. Commercial uses of less than 9,999 square feet require one 12 feet by 40 feet loading berth. No off-street loading berths are indicated on the Site Plan received January 13, 2016; however, there is sufficient paved area south of the shed for the loading berth while still providing sufficient parking area for the proposed Special Use.
- C. Regarding compliance with the *Stormwater Management Policy*, the impervious area on the subject property is less than 16% of the total area; it is thus exempt from the 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 Village of Mahomet subdivision jurisdiction and the subject property is in compliance.
- F. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Agriculture Zoning District:
- (1) Contractors Facilities with or without Outdoor Storage and/or Operations are allowed with a Special Use Permit in the AG-1 Agriculture Zoning District.
 - (2) Outdoor Storage and/or Operations are allowed by right when all outdoor storage is located in the rear yard and is completely screened by a Type D screen.
- G. 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

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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.

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. 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-I, Agriculture Zoning District.
 - B. Section 5.2: Table of Authorized Principal Uses states that Contractors Facilities (with no outdoor STORAGE nor outdoor OPERATIONS) can be established with a Special Use Permit in the AG-1 Agriculture Zoning District.
 - C. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.1 of the Ordinance states the general intent of the AG-1 Agriculture DISTRICT and states as follows (capitalized words are defined in the Ordinance):

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 AGRICULTURE pursuits.
 - (2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 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.
 - D. 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 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:

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- 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, no new construction is anticipated for the proposed Special Use, so adjacent property values should not be impacted.
 - 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, the subject property has been in use as a residence and contractor's facility for several years. Value of the subject property should not change due to the Special Use Permit.
- (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 is likely to maintain current traffic volumes on the adjacent CR 2200 North because the proposed Special Use is already in use and the Petitioner has not indicated there will be additional business growth.

- (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.
- a. Regarding erosion concerns, the Natural Resource Report completed by the Champaign County Soil and Water Conservation District received January 25, 2016 (Attachment M) states "This area that still may be developed, will be susceptible to erosion both during and after construction. Any areas left bare for more than 7 days, should be temporarily seeded or mulched and permanent vegetation established as soon as possible. The area has slope which could allow erosion during construction and heavy rainfall events. The area has already been disturbed more than general farming at the time of inspection, erosion control measures must be installed before construction starts. This site is just above a water way that leads to the Sangamon. The need for proper erosion control is high".
 - b. The subject property is exempt from the Champaign County *Stormwater Management and Erosion Control Ordinance*.
- (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.

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The proposed Special Use will 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, there are concerns identified by neighbors that were discussed in Section 8.L. of this Summary of Evidence.
- (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.

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This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District and the specific types of uses and the proposed Special Use will have to be conducted in compliance with 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 not subject the most productive agricultural lands to haphazard and unplanned intrusions of urban uses as follows:

- 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. Soils on the subject property are not BEST PRIME FARMLAND.
 - c. The revised Site Plan received January 13, 2016 (Attachment G) does not indicate future expansion of the proposed Special 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.
- a. Part of the subject property remains in agricultural production.
 - b. The revised Site Plan received January 13, 2016 (Attachment G) does not indicate future expansion of the proposed Special Use.
- (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

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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: “Yes.”
 - B. The existing use on the property is not a nonconforming use.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:
 - A. **In the event that the Contractor’s Facility ceases to exist, the right to a second dwelling unit will become void. A Miscellaneous Document must be filed with the Recorder of Deeds within one month of approval of this Special Use Case so that a prospective buyer will be alerted to that requirement.**

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

That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.

- B. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and 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.

- 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.

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DOCUMENTS OF RECORD

1. First Notice of Zoning Violation dated November 17, 2015
2. Second (Informational) Letter regarding violation dated December 10, 2015
3. Application for Special Use Permit received December 17, 2015, with attachments:
 - Site Plan for Lot 1 Meadow Ridge Subdivision (incomplete)
 - Floor plans of Shed with dwelling unit and salt/mulch storage
 - Letter from Nick Brian (Greenside Lawn Care)
 - Elevations for main residence drawn by Signature Homes
 - Final Plat of Subdivision for Meadow Ridge Subdivision
 - Tax Map for Sections 17 and 20 showing property location
4. Letter from Carl Webber received December 17, 2015
5. Revised Site Plan received January 13, 2016 via email from Nick Brian
6. Natural Resources Report received January 25, 2016 from Champaign County Soil and Water Conservation District
7. Email from Nick Brian received February 11, 2016 regarding fuel tanks
8. Zoning Use Permit 126-10-02 with Approved Site Plan dated May 11, 2010
9. Zoning Use Permit 152-12-02 with Approved Site Plan dated June 8, 2012
10. Preliminary Memorandum dated February 17, 2016, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received December 17, 2015
 - C Floor plans of Shed with dwelling unit and salt/mulch storage received December 17, 2015
 - D Final Plat of Subdivision received December 17, 2015
 - E Zoning Use Permit #126-10-02 with Approved Site Plan dated May 11, 2010
 - F Zoning Use Permit #152-12-02 with Approved Site Plan dated June 8, 2012
 - G Revised Site Plan received via email from Nick Brian on January 13, 2016
 - H Annotated Aerial Photograph created by staff on February 3, 2016
 - I First Notice of Zoning Violation dated November 17, 2015
 - J Second (Informational) Letter regarding violation dated December 10, 2015
 - K Letter from Nick Brian (Greenside Lawn Care) received December 17, 2015
 - L Letter from Carl Webber received December 17, 2015
 - M Natural Resources Report received January 25, 2016 from Champaign County Soil and Water Conservation District
 - N Email from Nick Brian received February 11, 2016 regarding fuel tanks
 - O Site Visit Photos taken December 4, 2015
 - P Preliminary Summary of Evidence, Finding of Fact, and Final Determination dated February 17, 2016

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From the documents of record and the testimony and exhibits received at the public hearing for zoning case **822-S-15** held on **February 25, 2016** 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*}*: _____

(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.
 - 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.

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- 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. **In the event that the Contractor's Facility ceases to exist, the right to a second dwelling unit will become void. A Miscellaneous Document must be filed with the Recorder of Deeds within one month of approval of this Special Use Case so that a prospective buyer will be alerted to that requirement.**

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

That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.

- B. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and 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.

- 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.

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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 822-S-15 is hereby **{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}** to the applicant Nicholas Brian d.b.a. Greenside Lawn Care, to authorize the following as a Special Use on land in the AG-1 Agriculture Zoning District:

Authorize a Special Use Permit for a Contractor's Facility with or without outdoor storage and/or outdoor operations and a caretaker's dwelling in addition to an existing single family dwelling in the AG-1 Agriculture Zoning District.

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

- A. In the event that the Contractor's Facility ceases to exist, the right to a second dwelling unit will become void. A Miscellaneous Document must be filed with the Recorder of Deeds within one month of approval of this Special Use Case so that a prospective buyer will be alerted to that requirement.**

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

That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.

- B. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and 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.

- 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.

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02/17/16 PRELIMINARY DRAFT

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