

CASE NO. 027-V-21

PRELIMINARY MEMORANDUM
DECEMBER 21, 2021

Petitioner: **George Poulos, via agent Louis Wozniak**

Request: **Authorize a variance for a proposed 10.177-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **Lot 1 of the proposed Country Oak Acres Subdivision that is part of a 25.47-acre tract in the Northeast Quarter of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter, plus the adjacent 5.02-acre tract in the Southeast Quarter of the Northeast Quarter, Section 26, Township 21 North, Range 7 East of the Third Principal Meridian in Mahomet Township, commonly known as the farm ground west of the intersection of CR 500E and CR 2550N, Mahomet.**

Site Area: **10.177 acres**

Time Schedule for Development: **As soon as possible**

Prepared by: **Susan Burgstrom, Senior Planner
John Hall, Zoning Administrator**

BACKGROUND

The petitioner seeks to create a 10.177-acre tract from an existing 5.03-acre tract and 5.15 acres of the 25.47-acre tract to the south, all of which is currently in agricultural production. The petitioner anticipates that the proposed lot would eventually have a residence, but the majority of the land would remain in agricultural production.

The lot split needs a variance from the County for creating a lot greater than three acres on Best Prime Farmland; Attachment C shows the soil types on the subject property and their relative Land Evaluation score. Best prime soils comprise 29% of the soils on the proposed 10.177-acre tract, which meets the definition of Best Prime Farmland.

P&Z Staff have determined that a 10.177-acre lot in a different configuration would decrease the amount of Best Prime Farmland on the 10.177-acre lot to 8%. With a reduction to 8% in Best Prime soils, the alternative 10.177 acres would be less than the 10% required to be considered Best Prime Farmland, and a variance would no longer be necessary. Therefore, P&Z Staff recommend denial of this variance because the requested variance is not the minimum variation that will make possible the reasonable use of the land. Attachment D is a letter sent by P&Z Staff to the petitioners in both zoning cases explaining this concept on October 18, 2021.

The P&Z Department has not received any comments regarding the proposed variance. Staff proposes one special condition of approval.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and generally are not notified of such cases.

The 5-acre tract that is the north half of proposed Lot 1 of Country Oak Acres Subdivision was created without authorization from the Village of Mahomet; in order to build on it, subdivision authorization from the Village is required. In order to remedy the illegal lot, the petitioner seeks to combine the existing 5.03-acre tract with 5.15 acres of the 25.47-acre tract to the south. The minimum lot size for a rural subdivision in Mahomet's subdivision jurisdiction is 10 acres. Mahomet's subdivision regulations require any residence to be built closer to the road, which helps achieve the County's desire to preserve large blocks of farmland.

The subject property is located within Newcomb Township, which has a Planning Commission. Townships with Plan Commissions have protest rights on a variance and receive notification of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Agriculture	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Residential	AG-1 Agriculture/ CR Conservation-Recreation
West	Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

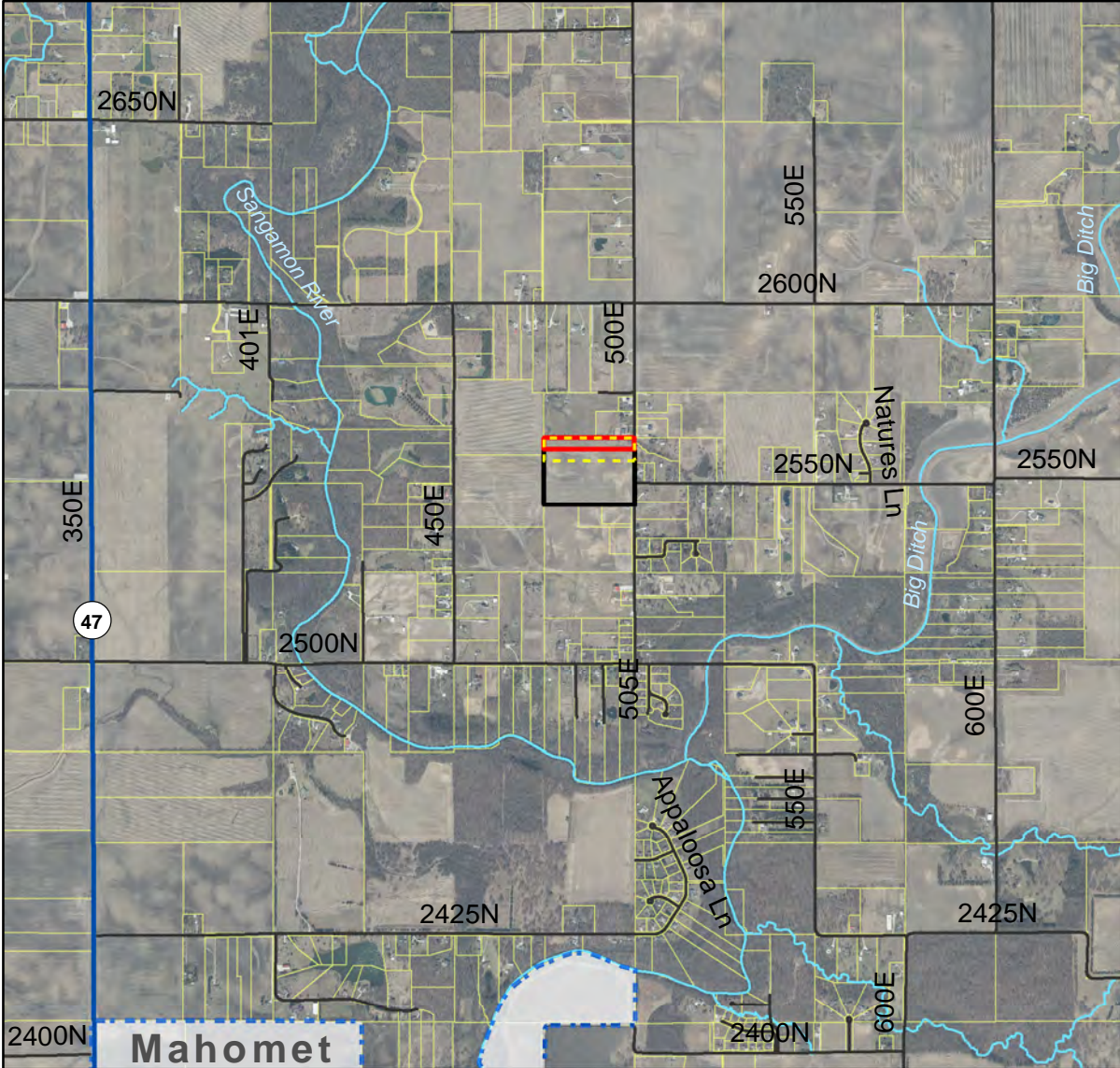
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received September 21, 2021
- C 2020 aerial photo with soil types overlay created by P&Z Staff on November 30, 2021
- D Letter from P&Z Staff to Louis Wozniak and George Poulos dated October 18, 2021, with attachment: map of alternative lot configuration
- E Site Images taken November 30, 2021
- F Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 026-V-21 dated December 30, 2021

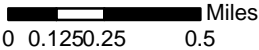
Location Map

Case 027-V-21
December 30, 2021

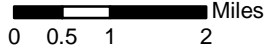
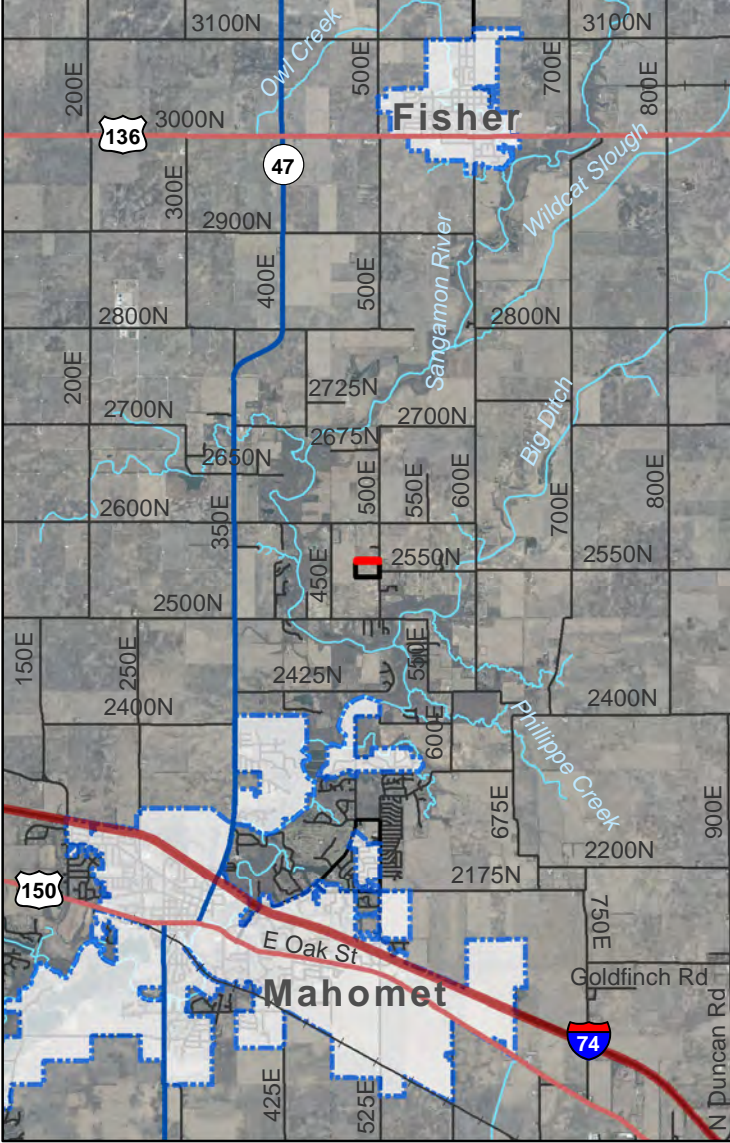
Subject Property



- Subject Property 2
- Subject Property
- 10-acre proposed lot
- Parcels
- Municipal Boundary



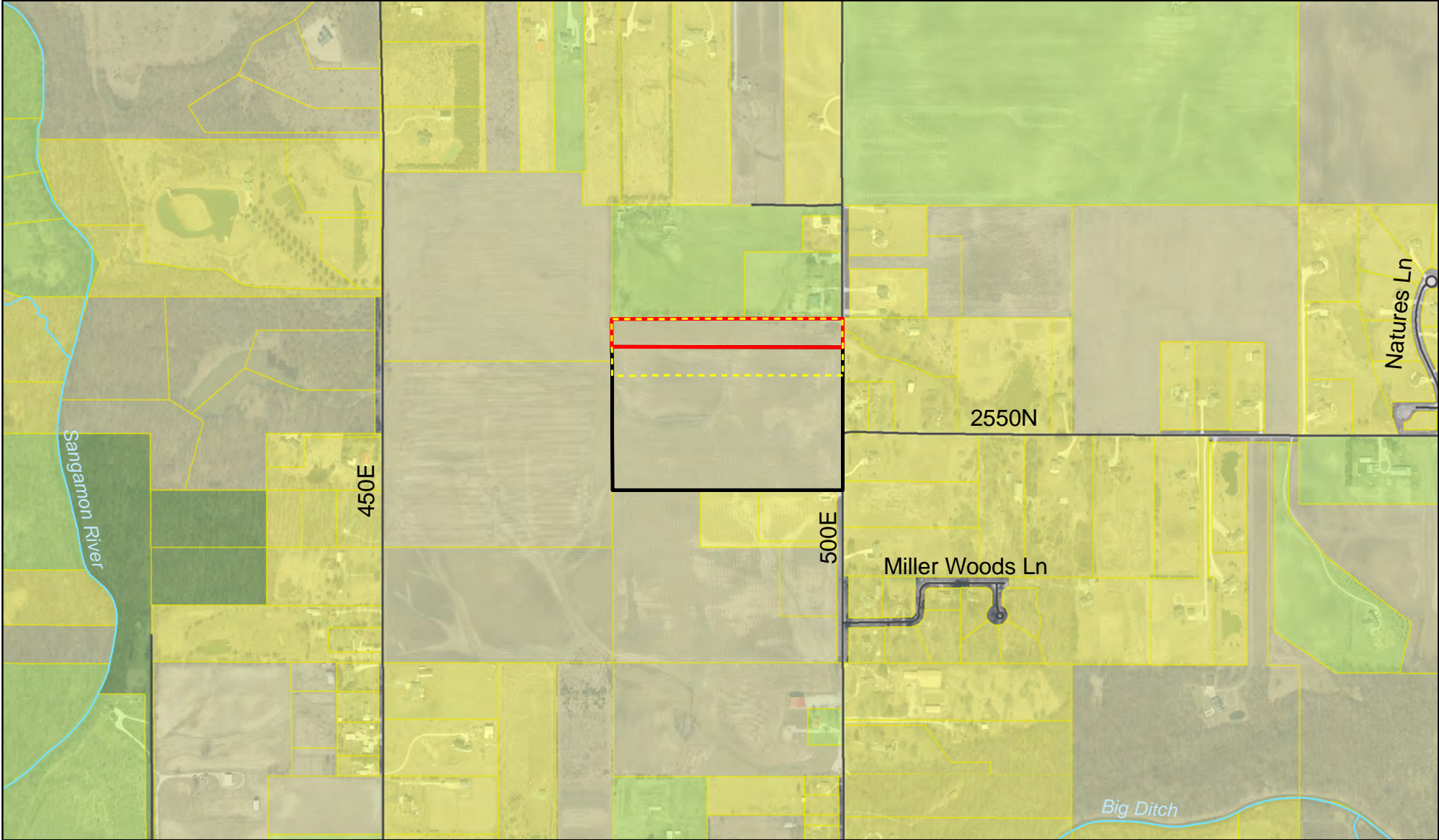
Property location in Champaign County



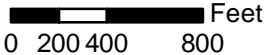
Champaign County
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**PLANNING &
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Land Use Map

Case 027-V-21
December 30, 2021



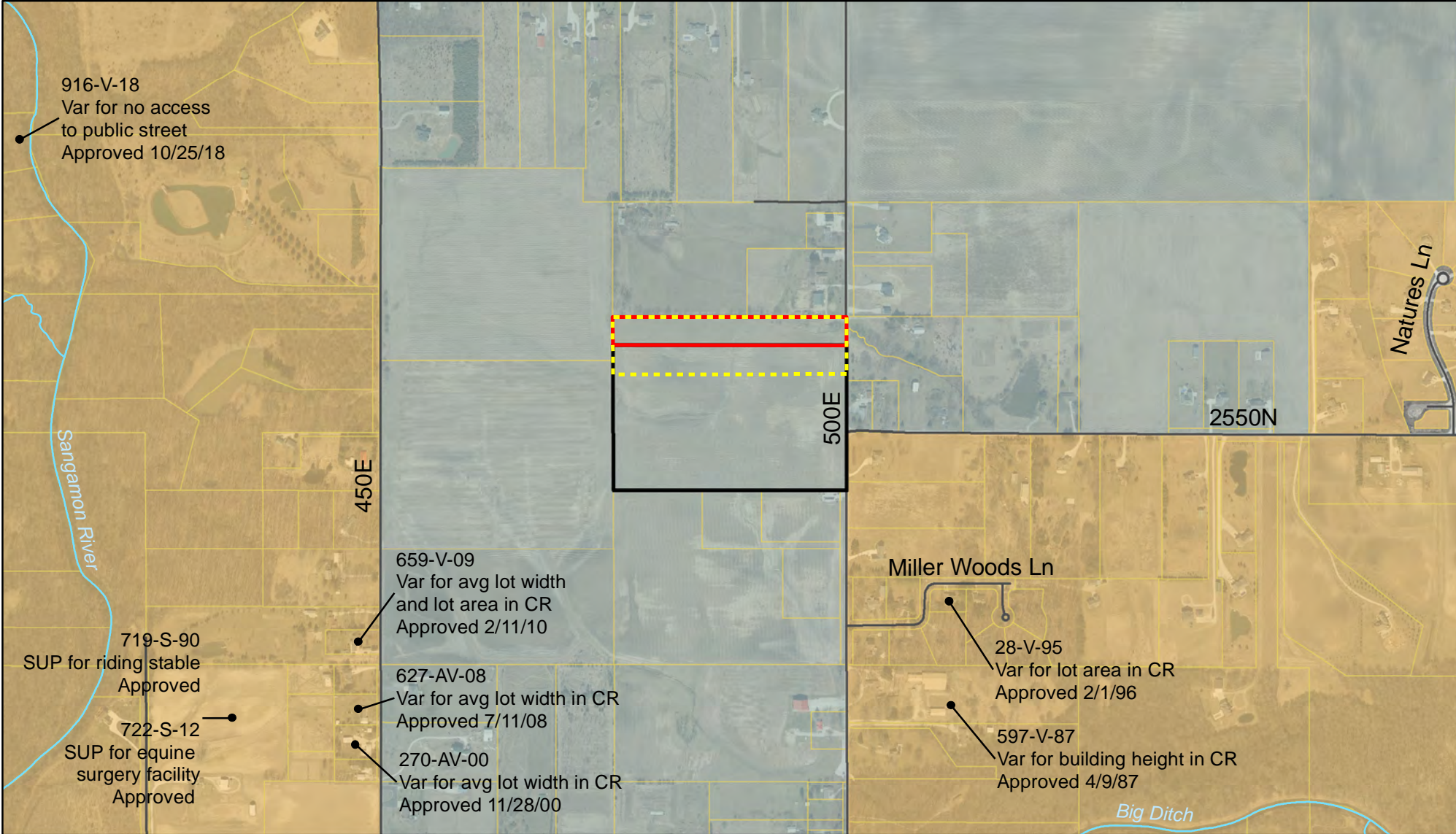
- Subject Property 1
- Subject Property 2
- 10-acre proposed lot
- Parcels
- Agriculture
- Ag/Residential
- Residential
- Tax Exempt



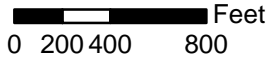
Champaign County
Department of
**PLANNING &
ZONING**

Zoning Map

Case 027-V-21
December 30, 2021



- Subject Property 2
- Subject Property
- 10-acre proposed lot
- Parcels
- CR Conservation Recreation
- AG-1 Agriculture

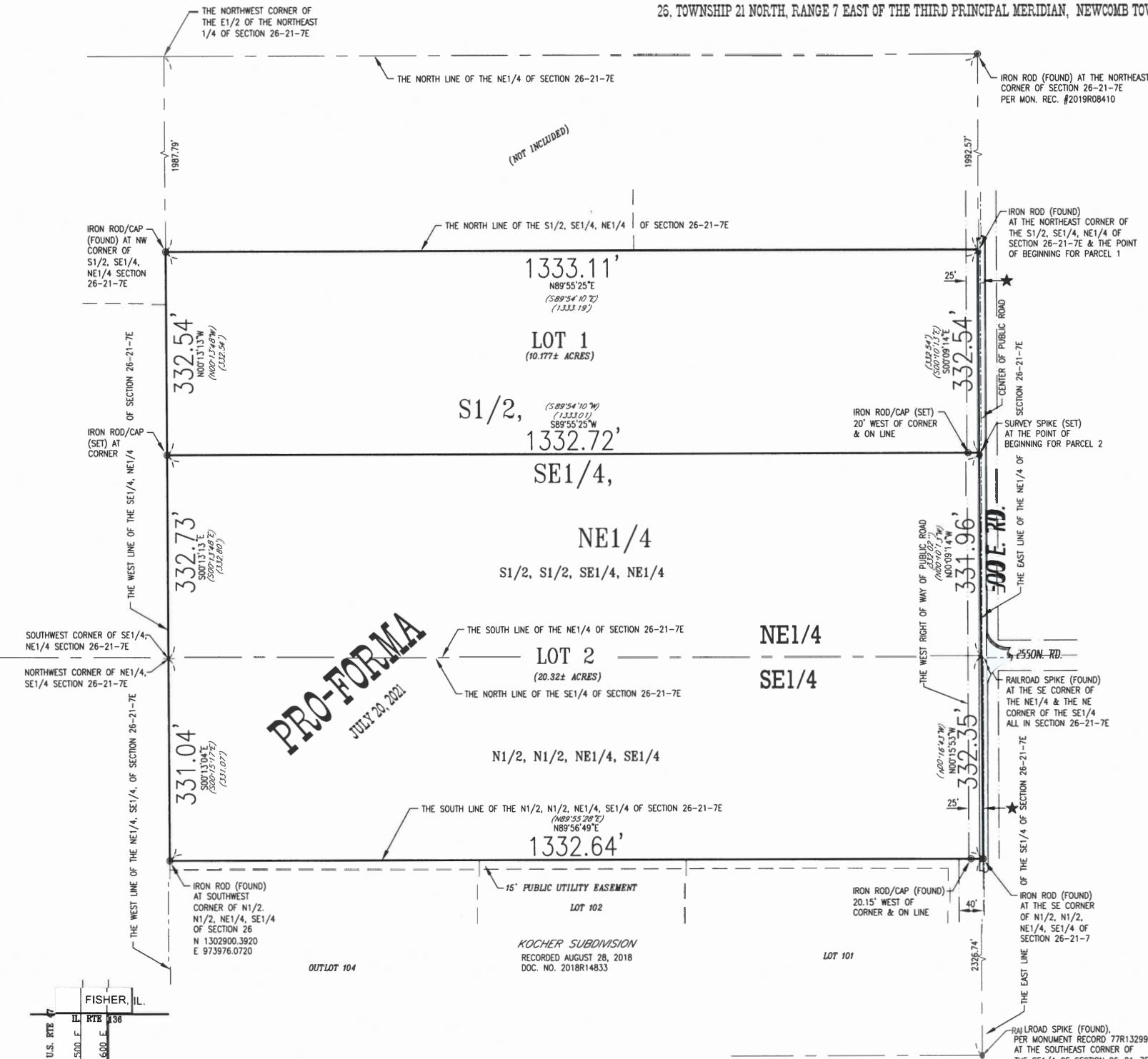


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ZONING**

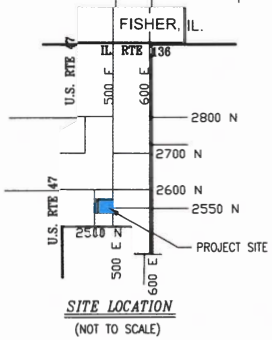


Plat of Survey COUNTRY OAK ACRES SUBDIVISION

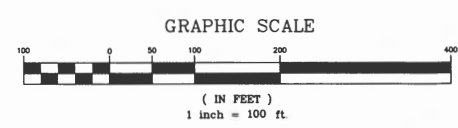
A PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND A PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 26, TOWNSHIP 21 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, NEWCOMB TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS.



PRO-FORMA
JULY 20, 2021



(S89°54'10"W / 1333.01') INDICATES MEASUREMENTS AND BEARINGS OF RECORDED SURVEY DOCUMENT NO. 2010R05630 RECORDED MARCH 24, 2010



SURVEYOR'S CERTIFICATE
STATE OF ILLINOIS)
) SS
COUNTY OF LIVINGSTON)

THIS IS TO CERTIFY THAT I, CARL J. KRAUSE, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 1750, AT THE REQUEST OF THE OWNER STATED HEREON, CAUSED THE FOLLOWING DESCRIBED PROPERTY TO BE SURVEYED AND DIVIDED INTO 2 LOTS:

LOT 1
THAT PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 21 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTH HALF, AND RUNNING; THENCE SOUTH 0 DEGREES 10 MINUTES 13 SECONDS EAST 332.54 FEET, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER OF SECTION 26; THENCE NORTH 89 DEGREES 54 MINUTES 10 SECONDS WEST 1333.01 FEET TO THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26; THENCE NORTH 0 DEGREES 13 MINUTES 48 SECONDS WEST 332.51 FEET, ALONG SAID WEST LINE, TO THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89 DEGREES 54 MINUTES 10 SECONDS EAST 1333.19 FEET, ALONG SAID NORTH LINE, TO THE POINT OF BEGINNING, ENCOMPASSING 10.177± ACRES IN CHAMPAIGN COUNTY, ILLINOIS.

LOT 2
A PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER; TOGETHER WITH THE NORTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER ALL IN SECTION 26, TOWNSHIP 21 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS, ALSO DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SOUTH HALF AND RUNNING; THENCE SOUTH 00 DEGREES 10 MINUTES 13 SECONDS EAST, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 332.54 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 55 MINUTES 25 SECONDS WEST 1332.72 FEET TO THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26; THENCE SOUTH 00 DEGREES 13 MINUTES 48 SECONDS EAST, ALONG SAID WEST LINE, 332.73 FEET TO THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 15 MINUTES 17 SECONDS EAST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, 331.04 FEET TO THE SOUTHWEST CORNER OF SAID NORTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 89 DEGREES 55 MINUTES 28 SECONDS EAST, ALONG THE SOUTH LINE OF SAID NORTH HALF OF THE NORTH HALF, 1332.64 FEET TO THE SOUTHWEST CORNER OF SAID NORTH HALF OF THE NORTH HALF; THENCE NORTH 00 DEGREES 16 MINUTES 43 SECONDS WEST, ALONG SAID EAST LINE, 332.35 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER; AND THENCE NORTH 00 DEGREES 09 MINUTES 13 SECONDS WEST, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 331.96 FEET TO THE POINT OF BEGINNING, CONTAINING 20.32 ACRES, MORE OR LESS. PARENT P.L.N.'S 16-07-200-029; 16-07-26-200-030

GIVEN UNDER MY HAND AND SEAL AT QUILLOM, ILLINOIS THIS XXXX DAY OF XXXXXX, A.D., 20XX

ILLINOIS PROFESSIONAL LAND SURVEYOR # 1750
LICENSE EXPIRATION NOVEMBER 30, 2022

SURVEYOR'S NOTES:
 1. THIS SURVEY IS A RETRACEMENT SURVEY OF PARCELS, AS THE SAME WERE CREATED, IN A SURVEY RECORDED MARCH 24, 2010 AS DOCUMENT NO. 2010R05630 IN THE RECORDERS OFFICE OF CHAMPAIGN COUNTY, ILLINOIS.
 2. THIS SUBDIVISION IS LOCATED WITHIN 1 & 1/2 MILES OF THE CORPORATE LIMITS OF THE VILLAGE OF MAHOMET, ILLINOIS.
 3. SUBDIVISION IS ZONED AG-1 AGRICULTURAL DISTRICT BY CHAMPAIGN COUNTY, ILLINOIS.
 4. THIS SUBDIVISION IS NOT WITHIN A SPECIAL FLOOD HAZARD AREA. FEMA MAP NO. 17019C0280D DATED OCT. 2, 2013
 5. FIELDWORK FOR THIS SURVEY WAS PERFORMED IN MARCH 2021
 6. THE EAST 25 FEET OF LOT 1 AND LOT 2 IS HEREBY DEDICATED FOR ROADWAY PURPOSES. ★

BEARINGS AND DISTANCES ON THIS SURVEY ARE GRID. DATUM IS ILLINOIS EAST SPC NAD 83 (2011). PREVIOUS DOCUMENTATION MAY HAVE ASSUMED DATA. THE RELATIONSHIP BETWEEN GRID AND ASSUMED, ONE TO THE OTHER, REMAIN THE SAME.

- NOTES:**
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE CURATIVE MEASUREMENT. THERE MAY BE EASEMENTS OR OTHER MATTERS OF RECORD OR NOT OF RECORD AFFECTING THIS PROPERTY WHICH ARE NOT SHOWN.
 - SOME TITLE OR EASEMENT DOCUMENTATION WAS PROVIDED BY THE CLIENT.
 - PLEASE RE-EXAMINE LAND DESCRIPTION WITH DEDICATED AND REPORT ANY DISCREPANCY IMMEDIATELY.
 - COMPARE ALL POINTS BEFORE BUILDING. SAME AND REPORT ANY DISCREPANCY AT ONCE.
 - FIELDWORK WAS PERFORMED IN MARCH 2021. THE BOUNDARY LINES SHOWN ON THIS SURVEY ARE FOR BUILDING PURPOSES. REFER TO THE RECORDS OF CHAMPAIGN COUNTY, ILLINOIS, FOR RESTRICTIONS TO BUILDING. REFER TO YOUR ABSTRACT, RECORD, COVENANTS AND LOCAL BUILDING LINE REGULATIONS.

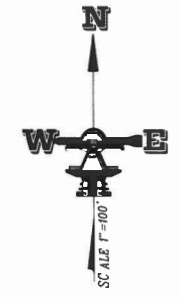
LEGEND	
●	IRON ROD
●	SURVEY SPIKE
●	RAILROAD SPIKE
—	PROPERTY LINE
---	SECTION LINE
---	R.O.W. LINE
---	EASEMENT LINE

OWNER:
JOANN WOZNIAK
401 C COUNTY RD. 2425N.
MAHOMET, IL. 61853-9704

SITE ADDRESS:
2563 COUNTY RD. 500E.
MAHOMET, IL. 61853

KRAUSE SURVEYING INC.
ILLINOIS PROFESSIONAL DESIGN FIRM #184-004647
"SERVING ILLINOIS LANDOWNERS FOR OVER 60 YEARS"
115 WEST HACK ST. - P.O. BOX 336 - CULLOM, IL 60929
PHONE (815) 676-0999 ~ FAX (815) 676-4999
KRAUSE SURVEYING INC. - ALL RIGHTS RESERVED

DISTANCES ARE MARKED IN FEET AND DECIMALS
ORDER NO.: 210230
ORDERED BY: JOANN M. WOZNIAK



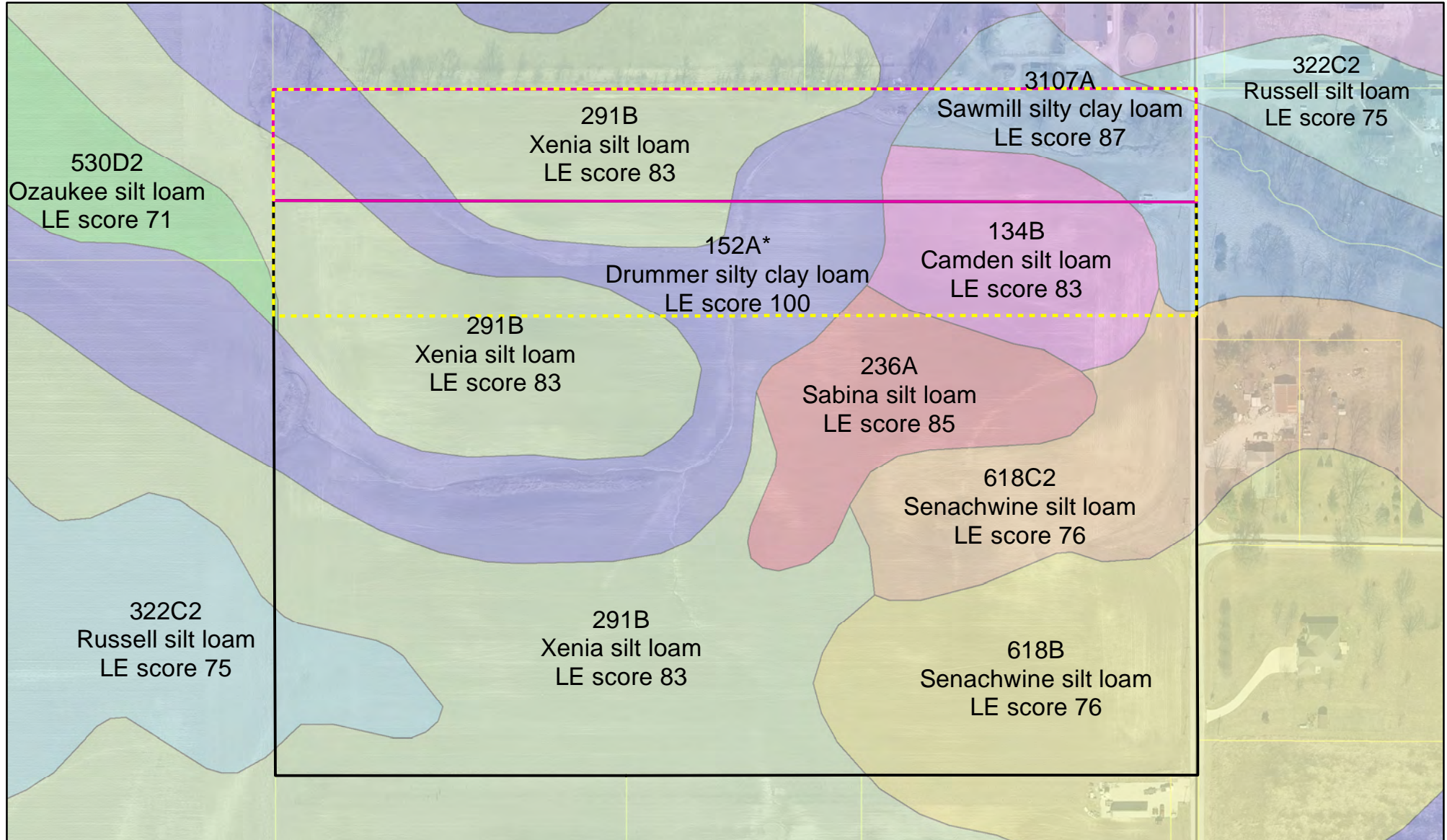
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SEP 21 2021

CITY OF MAHOMET PLANNING & ZONING DEPARTMENT

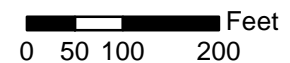
Soils

Case 027-V-21
December 30, 2021



*152A Drummer soil is only Best Prime Farmland soil on property

- Proposed 10-acre lot
- 5.03-acre subject property
- 25.47-acre subject property
- Parcels



FILE COPY

Champaign County
Department of

**PLANNING &
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

October 18, 2021

Lou Wozniak
401C CR 2425N
Mahomet, IL 61853

George Poulos
2563 CR 500E
Mahomet, IL 61853

RE: Variances requested for proposed lots greater than three acres in area on Best Prime Farmland

Dear Mr. Wozniak and Mr. Poulos:

The Champaign County Zoning Board of Appeals has received each of your petitions for a Variance under the Champaign County Zoning Ordinance as follows:

Case 026-V-21 (Wozniak)

Authorize a variance for a proposed 20.47-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance, on the following property:

Part of a 25.47-acre tract in the East Half of Section 26, Township 21 North, Range 7 East of the Third Principal Meridian in Mahomet Township.

Case 027-V-21 (Poulos)

Authorize a variance for a proposed 10-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance, on the following property:

A 5-acre tract and 5 acres of the adjacent 25.47-acre tract in the East Half of Section 26, Township 21 North, Range 7 East of the Third Principal Meridian in Mahomet Township.

I have concerns that the Zoning Board of Appeals may deny your applications for a variance because they do not represent the minimum possible variance for a lot that can be created on this land, which is a requirement for approving a variance.

The desired acreage Mr. Wozniak would like to split off for the Poulos family can be achieved by trading 10 acres of land along the frontage of CR 500E that would not be comprised of Best Prime Farmland – see enclosed map.

Mr. Wozniak would still need a variance for creating a 20.3-acre lot on Best Prime Farmland, but the Poulos family would not because less than 10% of the 10-acre lot as shown on the map would be Best Prime Farmland.

In addition, Mr. Wozniak could create up to one more 3-acre lot from the 20.3 acres without needing a Rural Residential Overlay (RRO) or a variance for our Department, but it is unclear how this would fit with Village of Mahomet subdivision regulations.

Cases 026-V-21 & 027-V-21
October 8, 2021
Page 2

We will keep both cases on the December 2, 2021 ZBA meeting docket unless we hear that your proposal has changed. We can issue a refund for a case up until we place the legal notice for the meeting, so in order to issue a refund, we would need hear from you no later than Friday, November 15, 2021.

I would be happy to discuss this idea with you in more detail.

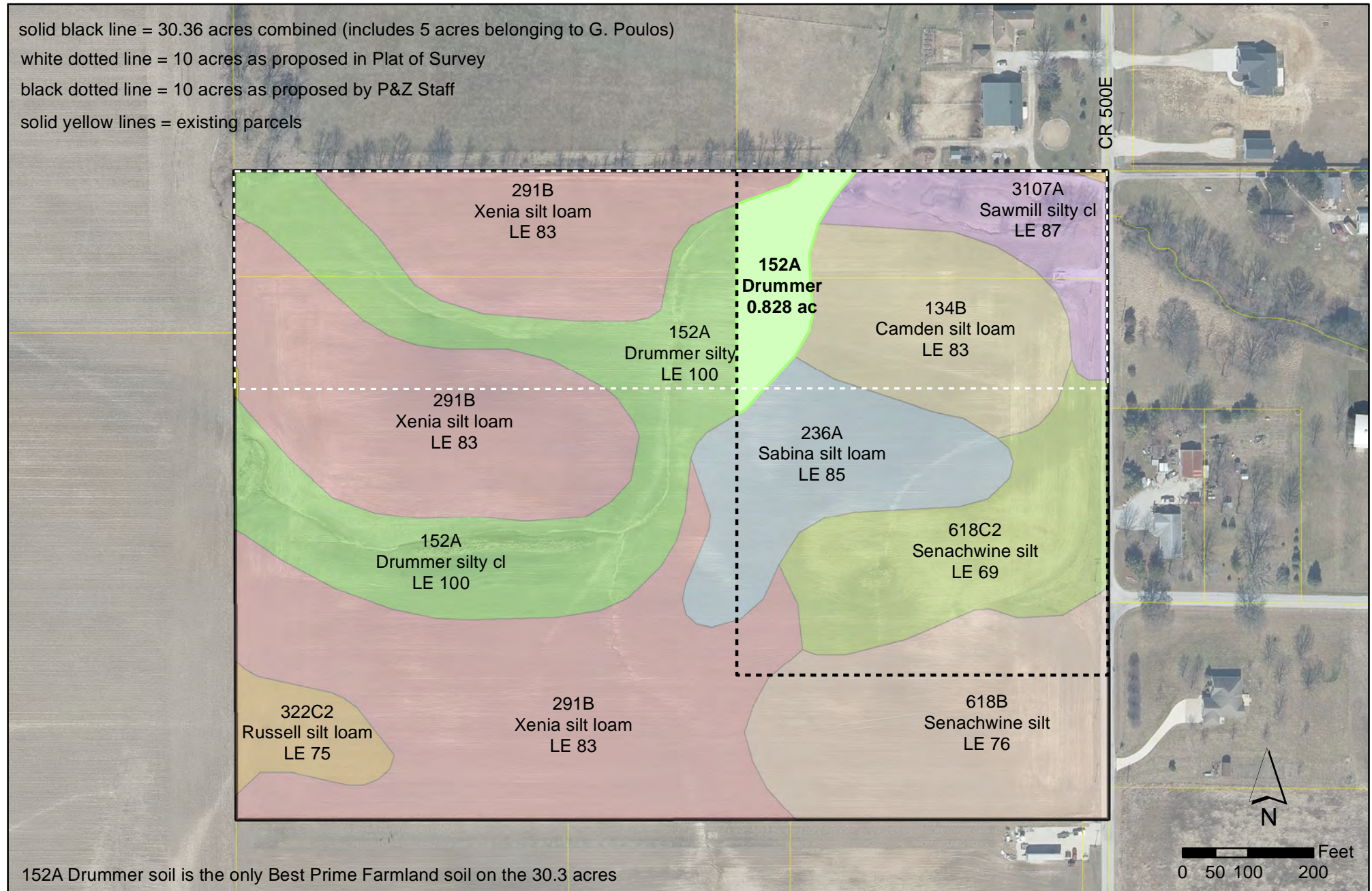
Sincerely,



John Hall
Zoning Administrator

Alternative Lot Split based on soil type

Prepared by P&Z Staff on October 8, 2021



026-V-21 & 027-V-21 Site Images



From CR 550E facing NW to north end of subject properties



From CR 550E facing west on north end of subject properties

026-V-21 & 027-V-21 Site Images



From CR 550E facing SW



From CR 550E facing NW from south end of subject properties

PRELIMINARY DRAFT

027-V-21

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

Final Determination: *{GRANTED/GRANTED WITH SPECIAL CONDITION(S)/DENIED}*

Date: *{December 30, 2021}*

Petitioners: **George Poulos, via agent Louis Wozniak**

Request: **Authorize a variance for a proposed 10.177-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

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PRELIMINARY DRAFT

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **December 30, 2021**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner owns the subject property.
2. The subject property is Lot 1 of the proposed Country Oak Acres Subdivision that is part of a 25.47-acre tract in the Northeast Quarter of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter, plus the adjacent 5.02-acre tract in the Southeast Quarter of the Northeast Quarter, Section 26, Township 21 North, Range 7 East of the Third Principal Meridian in Mahomet Township, commonly known as the farm ground west of the intersection of CR 500E and CR 2550N, Mahomet.
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 do not have protest rights on a variance and generally are not notified of such cases.
 - B. The subject property is located within Newcomb Township, which has a Planning Commission. Townships with Plan Commissions have protest rights on a variance and receive notification of such cases.

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 proposed 10.177-acre tract is zoned AG-1 Agriculture and is in agricultural production.
 - B. Land to the north, south and west is zoned AG-1 Agriculture and is in agricultural production with one residence to the north.
 - C. Land to the east is zoned AG-1 Agriculture and CR Conservation Recreation and is residential in use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Site Plan received on September 21, 2021 is a Plat of Survey for the Country Oak Acres Subdivision, which is land in agricultural production.
 - B. There are no prior Zoning Use Permits for the subject property.
 - C. There are no prior Zoning Cases on the subject property.
 - D. The requested variance is for a lot size of 10.177 acres in lieu of the maximum area of 3 acres for lots on soils that are best prime farmland, per Section 5.3 of the Zoning Ordinance.

PRELIMINARY DRAFT**Case 027-V-21**

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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 variance (capitalized words are defined in the Ordinance):
- (1) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, 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.
 - (2) “AREA, LOT” is the total area within the LOT LINES.
 - (3) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - (a) Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation and Site Assessment (LESA) System;
 - (b) Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA System; or
 - (c) Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils, as determined by the Champaign County LESA System.
 - (4) “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.
 - (5) “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.
 - (6) “LOT LINES” are the lines bounding a LOT.

PRELIMINARY DRAFT

- (7) “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. 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.
- (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.
- D. Paragraph 9.1.9 E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

PRELIMINARY DRAFT**Case 027-V-21**

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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 testified the following on the application: **“House would be in the front part of 10 acres that are not on Best Prime Farmland and the rest would be in production.”**
- B. Regarding the soils that make up the subject property:
- (1) The soil on the proposed 10.177-acre lot is BEST PRIME FARMLAND. It consists of 291B Xenia silt loam, 152A Drummer silty clay loam, 236A Sabina silt loam, 618C2 Senachwine silt, 134B Camden silt loam, 322C2 Russell silt loam, and 3107A Sawmill silty clay loam, and has an average LE of 88.
- a. Best prime soils comprise 29% of the soils on the proposed tract, which meets the definition of Best Prime Farmland.
- (2) P&Z Staff have determined that a 10.177-acre lot in a different configuration would decrease the amount of Best Prime Farmland on the 10.177-acre lot to 8%. With a reduction to 8% in Best Prime soils, the alternative 10.177 acres would be less than the 10% required to be considered Best Prime Farmland, and a variance would no longer be necessary.
- C. Any lot split must be approved by the Village of Mahomet per their subdivision regulations.
- (1) The 5-acre tract that is the north half of proposed Lot 1 was created without authorization from the Village of Mahomet; in order to build on it, subdivision authorization from the Village is required. In order to remedy the illegal lot, the petitioner seeks to combine the existing 5.03-acre tract with 5.15 acres of the 25.47-acre tract to the south.
- (2) The minimum lot size for a rural subdivision in Mahomet’s subdivision jurisdiction is 10 acres.
- (3) Mahomet’s subdivision regulations require any residence to be built closer to the road, which helps achieve the County’s desire to preserve large blocks of farmland.

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 the following on the application: **“Without the variance, we could not meet the minimum 10 acre lot required for an ag subdivision by Mahomet.”**
- B. The petitioner could not construct anything requiring a permit on their existing 5.03-acre lot without the proposed variance.

PRELIMINARY DRAFT

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioners testified the following on the application: **“No.”**
 - B. The petitioner would like to configure the lot as shown in the proposed Country Oak Acres Subdivision, despite being notified by a letter from P&Z Staff dated October 18, 2021 that a different 10.177-acre configuration could be achieved that negates the need for a variance.

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 the following on the application: **“Land would stay in production and land taken out of production would not be best prime farmland.”**
 - 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. Ordinance No. 914 (Case 711-AT-12) approved on November 27, 2012, revised the best prime farmland definition to have a Land Evaluation (LE) rating of 91 or higher rather than the previous rating of 85 or higher.
 - D. The 10.177-acre lot area is 339% of the required three acre maximum, for a variance of 239%.
 - E. 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 the following on the application: **“One more house would not impact more traffic on road and there is adequate fire service. Building the house would not impact drainage.”**
 - B. The Newcomb Township Highway Commissioner has been notified of this variance, and no comments have been received.
 - C. The Newcomb Township Supervisor has been notified of this variance, and no comments have been received.

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- D. The Cornbelt Fire Protection District has been notified of this variance, and 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 did not provide a response on the application.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

No special conditions are proposed.

PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Application for Variance received October 8, 2021
2. Site Plan received September 21, 2021
3. Preliminary Memorandum dated December 21, 2021, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received September 21, 2021
 - C 2020 aerial photo with soil types overlay created by P&Z Staff on November 30, 2021
 - D Letter from P&Z Staff to Louis Wozniak and George Poulos dated October 18, 2021, with attachment: map of alternative lot configuration
 - E Site Images taken November 30, 2021
 - F Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 027-V-21 dated December 30, 2021

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SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **027-V-21** held on **December 30, 2021**, 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:
 - a. *P&Z Staff have determined that a 10.177-acre lot in a different configuration would decrease the amount of Best Prime Farmland on the 10.177-acre lot to 8%. With a reduction to 8% in Best Prime soils, the alternative 10.177 acres would be less than the 10% required to be considered Best Prime Farmland, and a variance would no longer be necessary.*
 - b. *Any lot split must be approved by the Village of Mahomet per their subdivision regulations.*
 - (1) *The 5-acre tract to the north was created without authorization from the Village of Mahomet; in order to build on it, subdivision authorization from the Village is required.*
 - (2) *The minimum lot size for a rural subdivision in Mahomet's subdivision jurisdiction is 10 acres.*
 - (3) *Mahomet's subdivision regulations require any residence to be built closer to the road, which helps achieve the County's desire to preserve large areas of farmland.*
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:
 - a. *The petitioner could not construct a residence on the existing 5.03-acre tract without the proposed variance.*
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. *The petitioner would like to configure the lot as shown in the proposed Country Oak Acres Subdivision, despite being notified by a letter from P&Z Staff dated October 18, 2021 that a different 10.177-acre configuration could be achieved that negates the need for a variance.*
4. The requested variance **{~~SUBJECT TO THE PROPOSED CONDITION~~ / IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because:
 - a. *The 10.177-acre lot area is 339% of the required three acre maximum, for a variance of 239%.*
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:
 - a. *Relevant jurisdictions have been notified of this case, and no comments have been received.*

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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:
 - a. *P&Z Staff have determined that a 10.177-acre lot in a different configuration would decrease the amount of Best Prime Farmland on the 10.177-acre lot to 8. With a reduction to 8% in Best Prime soils, the alternative 10.177 acres would be less than the 10% required to be considered Best Prime Farmland, and a variance would no longer be necessary.*

7. {NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}

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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, 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 **027-V-21** is hereby **{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}** to the petitioner, **George Poulos**, to authorize the following:

Authorize a variance for a proposed 10.177-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

{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:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date