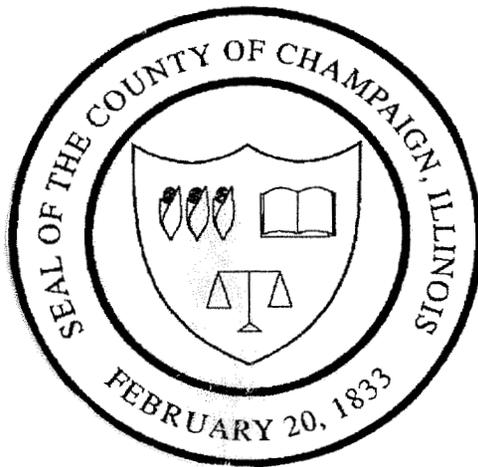


Environment & Land Use Committee Agenda

June 12, 2006



7:00 p.m.

*Lyle Shields Meeting Room
Brookens Administrative Center
1776 East Washington, Urbana, Il 61802
(217) 384-3708*

AGENDA

Champaign County Environment & Land Use Committee

Members:

*Jan Anderson, Chris Doenitz, Tony Fabri, Nancy
Greenwalt (VC), Ralph Langenheim (C), Brendan
McGinty, Steve Moser, Jon Schroeder*

Date: *June 12, 2006*

Time: *7:00 p.m.*

Place: *Lyle Shields Meeting Room
(Meeting Room 1)
Brookens Administrative Center
1776 E. Washington St.
Urbana, Illinois*

Phone: *(217) 384-3708*

AGENDA

Old Business shown in Italics

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (December 13, 2004 and May 08, 2006) 1 thru 24
4. Public Participation
5. Correspondence
6. County Board Chair's Report
7. Recreation and Entertainment License: Champaign County Fair Association,
902 North Coler Av, Urbana, IL, for the County Fair and Carnival. July 21
thru July 29, 2006. 25 thru 34
8. Community Development Assistance Program (CDAP) Loan Request from The
Spreader, Inc. (Armin Hesterberg). 35 thru 36
9. Subdivision Case 189-06: East Bend Subdivision. Subdivision Plat Approval for a
two-lot minor subdivision in the CR, Zoning District in Section 18 of East Bend
Township. 37 thru 57
10. Zoning Case 497-AM-05: Helen Willard and Steven and Shirley Willard
Request: Amend the Zoning Map to change the zoning designation from CR-
Conservation Recreation to AG-2, Agriculture. 58 thru 89
Location: A 29 acre tract in the Northwest ¼ of the Southeast ¼ of Section 36 of
Newcomb Township and located east of CR 550E and north of CR 2425N
At the corner of CR 550E and CR 2425N and commonly known as the
Home and property at 556 CR 2425N, Dewey.
11. Illinois Residential Building Code Act 90 thru 93
12. *Comprehensive Zoning Review*
13. Monthly Report for May, 2006

**Environment and Land Use Committee
Summary of Action Report
June 12, 2006
Page 2**

14. Other Business

15. Determination of Items to be placed on the County Board Consent Agenda

16. Adjournment

1 known as “The Shed”. He said that he was not aware that the property would require a zoning change to
2 operate “The Shed” and requested a continuation so that he can cooperate with the Planning and Zoning
3 Department and correct the violations. “The Shed” is an all age music venue for the youth and they strive to
4 make it a safe environment in not allowing drugs or alcohol. He said that “The Shed” has been in operation
5 for approximately one year and has continuous growth. He said that he spoke with his neighbors and they
6 did support the facility although they did request that the music be toned down when the shed doors were
7 open in the summer months. He spoke to Teri Legner of the Village of Mahomet and she indicated that she
8 had no concerns. Kevin Furtney, Mahomet Township Road Commissioner was contacted and he indicated
9 that adequate parking should be available on the property so that the attendees do not park along the
10 township road therefore rock was placed on the property to provide said parking. Mr. John Jay, Chief of the
11 Cornbelt Fire Protection District was contacted and he indicated that he is pleased with the setup of the tool
12 shed which is a 30' x 40' tool shed with two large sliding doors. Mr. Willard stated that “The Shed” is open
13 on Friday and Saturday nights from 7:00 p.m. to 10:00 p.m. He said that he did make the mistake of
14 allowing a couple of bands the courtesy of practicing in the facility but the main mission of the facility is to
15 allow the youth to have a safe, comfortable atmosphere to mingle. He said that the youth are very limited as
16 to where they can listen to live music unless they purchase expensive tickets through the Assembly Hall. He
17 said that previously they had only requested donations from those who came but today “The Shed” charges
18 \$1.00 per person for entry into the facility, which helps pay the bands, and \$1.00 for parking. He noted that
19 a complaint was received and the Champaign County Sheriff’s office came to investigate and when the
20 deputies arrived the kids remained calm and no issues were witnessed. He requested that the Committee
21 allow the facility to remain open during his cooperation with the department to make the facility legal with
22 the County’s requirements.
23

24 Mr. Steve Shoemaker, who resides at 405 Avondale, Champaign stated that during his term on the County
25 Board and a member of this Committee he proposed agenda Item #18. He gave an overview of Item #18 for
26 the newly appointed ELUC members. He requested that the Committee vote affirmatively on allowing some
27 form of accessory apartment in the rural districts.
28

29 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet stated that he and his wife met with Ms. Monte
30 regarding any issues that they had concerning the proposed RPO district. He said that because of the
31 ongoing changes to the proposed zoning map and text amendments the current form of proposals were not
32 available for review. He said that based on the information presented at the October 16, 2004, Zoning Board
33 of Appeals meeting they strongly oppose the proposals including the creation of the RPO, various protection
34 buffers and the limitation and definition of buildable area and the maximum disturbed area. Their
35 opposition is based on the following reasons: 1) It is their opinion that the creation of the RPO exceeds the
36 authority granted by the Illinois County Zoning Statute. They can find no authorization granted by the
37 statute which empowers the creation of zoning districts based on resource protection. The State of Illinois
38 provides several other mechanisms and regulatory agencies to protect the environment and the natural
39 resources and zoning was never intended to take the place of these other agencies and their regulations; and
40 2) The proposed RPO and Stream and Drainageway Protection Buffer places significant and burdensome
41 restrictions on their land which negatively affects its value. The buildable area, the area upon which a home
42 could be built, cannot include certain types of soils no matter how or why a certain soil type came to be

1 found on the property. He said that a buildable area cannot contain a slope which is more than 30% which
2 means that someone could not have a walk-out basement. The buildable area cannot be within 125 feet of a
3 stream, no matter what the contour or elevation of the land is within the 125 foot buffer therefore it will not
4 be possible to build a home upon a high bluff which overlooks the river. He said that upon a five acre lot
5 only one acre of maximum disturbed area and this acre must include the home, driveway and yard. This
6 restriction leaves no room for the types of buildings and uses that most people desire when moving to the
7 country. It would not be possible to build a home and a horse stable nor a house and a tennis court because
8 the disturbed area does not only apply to the dwelling but ground which could be disturbed. He said that in
9 the Stream and Drainageway Protection Buffer all use of the land which falls within this buffer is lost. The
10 buffer includes not only the stream or drainageway itself but up to 125 feet on either side which would be a
11 250' corridor which runs through the center of the land even though the part of the corridor which contains
12 runoff is only approximately five feet in width and never carries more than three inches of water. He
13 requested that the County reject the RPO and Drainageway Buffer proposals.

14
15 **5. Correspondence**

16
17 None

18
19 **6. County Board Chair's Report**

20
21 None

22
23 **7. Recreation and Entertainment License: Honey Bee Productions, Inc. d.b.a. Malibu Bay**
24 **Lounge , Bands, Dancing and additional events, 3106 N. Cunningham Av, Urbana, IL.**
25 **January 1, 2005 through December 31, 2005.**

26
27 **8. Recreation and Entertainment License: Elmer's Club 45 Inc, d.b.a. Club 45 Banquet Hall,**
28 **3515 N. Cunningham, Urbana, IL. January 01, 2005 through December 31, 2005.**

29
30 **9. Recreation and Entertainment License: Tincup RV Park, Inc, Recreational Vehicle Camping**
31 **and Driving Range, 1715 E. Tincup Rd, Mahomet, IL. January 01, 2005 through December**
32 **31, 2005.**

33
34 **10. Recreation and Entertainment License: Kams of Illinois LLC, d.b.a. Pink House, Live Music,**
35 **Jukebox, Karaoke, TV, Video/Arcade games, 2698 CR 1600N, Ogden, IL. January 01, 2005**
36 **through December 31, 2005.**

37
38 **11. Recreation and Entertainment License: Wendl's, Softball, Dance, Bands and Rodeo, 1901 S.**
39 **Highcross Rd, Urbana, IL. January 01, 2005 through December 31, 2005.**

40
41 **12. Recreation and Entertainment License: Curtis Orchard, Live Musical Performances, 3902 S.**
42 **Duncan Rd, Champaign, IL. January 01, 2005 through December 31, 2005.**

- 1
2 **13. Recreation and Entertainment License: Hideaway of the Woods Grill and Bar, 809 S.**
3 **Prairieview Rd, Mahomet, IL. January 01, 2005 through December 31, 2005.**
4
5 **14. Recreation and Entertainment License: The Oasis of Penfield, Inc, 2705 CR 3000N, Penfield,**
6 **IL. January 01, 2005 through December 31, 2005.**
7
8 **15. Recreation of Entertainment License: Uncle Buck’s Sports Bar, Inc, 215 S. Lake of the Woods**
9 **Rd, Mahomet, IL. January 01, 2005 through December 31, 2005.**
10
11 **16. Recreation and Entertainment License: ABSP, Inc, Arcade, Mini-mart, Tavern and additional**
12 **events, 206-210 Logan St, Longview, IL. January 01, 2005 through December 31, 2005.**
13
14 **17. Hotel/Motel License Renewal: Ravi-Yash, Inc, d.b.a. Best Value Inn, 1906 N. Cunningham Av,**
15 **Urbana, IL. January 01, 2005 through December 31, 2005.**
16

17 Ms. Greenwalt moved, seconded by Ms. Anderson to approve Agenda Items #7, #8, #9, #11, #12, #13, #14,
18 #15, #16 and #17 as submitted pending Sheriff’s office approval. The motion carried by voice vote.

19
20 Mr. Moser requested information regarding a noise complaint which was filed against the “Pink House”.

21
22 Mr. Roseman stated that a complaint was received on December 07, 2004, regarding noise generated from
23 the facility but staff has been unable to verify the complaint.

24
25 Ms. Busboom stated that she would like the Committee to discuss the application for the “Pink House”.

26
27 **Mr. Moser moved, seconded by Ms. Greenwalt to approve Agenda Item #10, Kams of Illinois, LLC,**
28 **d.b.a. Pink House.**

29
30 Ms. Busboom stated that Mr. Cochrane has addressed the issue of noise before and believes that if there is a
31 recurring issue that he will turn the music down.

32
33 Mr. Moser stated that for the last three weekends he has visited the “Pink House” and there has not been a
34 band present. He said that he has spoken with a neighbor of the “Pink House” and the neighbor indicated
35 that the noise level has gone down.

36
37 Ms. Greenwalt stated that the previous noise issue was with the disc jockey and not the bands. She said that
38 she would be happy to approve the application and if the department receives a complaint the department can
39 inform the Committee.

40
41 **The motion carried by voice vote.**
42

1 **The consensus of the Committee was to re-arrange the agenda and hear Item #24.B prior to Items #18**
2 **through #26.**

3
4 **18. Multiple Dwellings: Accessory Apartment and/or Temporary Accessory Dwelling and the term**
5 **“family”.**

6
7 Ms. Greenwalt moved, seconded by Ms. Anderson to approve Alternative Policy 1.9A.

8
9 Mr. Roseman read the definition of “family as follows: (a) an individual; or (b) two or more persons related
10 by blood, marriage or adoption; or (c) five persons not so related; or (d) two or more persons related by
11 blood, marriage or adoption and not more than three persons not so related; together with his or their
12 domestic servants and gratuitous guests maintaining common household in a dwelling unit or lodging unit.
13 He said that by allowing alternative policy 1.9A the County would be allowing the accessory dwelling on a
14 permanent basis as well as a temporary basis because under the proposed regulations it is exclusively a
15 temporary basis and is intended to be used as a manufactured home activity.

16
17 Mr. Fletcher stated that he would recommend that “or other caregivers on a temporary basis” be stricken
18 from the proposed policy 1.9A.

19
20 Mr. Roseman stated that the goal is to allow two dwelling units within one single building.

21
22 Ms. Busboom requested that the Committee receive an interpretation of Policy 1.9 from the State’s Attorney
23 Office.

24
25 Mr. Schroeder stated that the language in 1.9A is very broad in that it does not specify how many accessory
26 dwellings are allowed within one structure. He requested specific language which defines the number of
27 accessory dwellings which are allowed by 1.9A. He said that multi-family dwellings are not allowed in the
28 rural areas because of the lack of public utilities. He referred to an article from the December 04, 2004
29 edition of the News Gazette which indicates that there are approximately 140,000 surface discharge systems
30 throughout Illinois. He said that according to a study conducted by the University of Illinois Extension along
31 with the Illinois EPA indicates that 20% to 60% of Illinois’ discharge systems are failing due to poor
32 maintenance or improper use. He said that this is one type of pollution which can occur in the rural area
33 when density is increased without placing proper restrictions. He said that the subject of not allowing the
34 poor or minorities in the rural area is an emotional topic but there are people in Colfax, Pesotum and Sadorus
35 townships which do not have a lot. He said that these people live there because they chose to but there are
36 expenses in maintaining private wells, septic systems, and paying for electrical and fuel bills. He said that he
37 is not opposed to accessory dwellings near municipalities but not in the remote rural areas without utilities.
38 He requested that this matter be deferred until legal review is received.

39
40 **Ms. Greenwalt moved, seconded by Ms. Busboom to defer approval of Alternative Policy 1.9A, for**
41 **legal review by the State’s Attorney’s Office, to the January 2005, ELUC meeting.**

42

1 Ms. Greenwalt questioned Mr. Schroeder if Policy 1.9A would be more acceptable if it stated, “an accessory
2 dwelling or duplex” rather than the possibility of an apartment building.

3
4 Mr. Schroeder responded that the text “an accessory dwelling or duplex” would be more acceptable but he is
5 concerned with the number of homes located in the rural areas which could be multi-family units.

6
7 **The motion carried by voice vote.**

8
9 Mr. Langenheim stated that Mr. Schroeder spoke adequately regarding septic systems. He said that when
10 development is approved in the rural areas of the county the soils are reviewed for septic suitability and
11 questioned if there was a body of government affective in Champaign County which requires periodic
12 inspection of septic systems in the rural area.

13
14 Mr. Fletcher stated that the Public Health Department does respond to complaints regarding septic systems
15 but he does not believe that they have the resources to do periodic inspections.

16
17 Mr. Langenheim stated that perhaps the County should consider requiring periodic inspections of septic
18 systems.

19
20 Mr. Doenitz stated that the County does not have enough revenue to enforce such a regulation.

21
22 Mr. Langenheim stated that it is obvious that there is a problem and this Committee has the responsibility of
23 taking care of the public good.

24
25 Mr. Fletcher stated that the Board of Health would be the entity for enforcement.

26
27 **19. Subdivision Case 174-04: Nature’s Landing Subdivision: Approval of revised Performance**
28 **Guarantee**

29
30 Mr. Hall stated that Nature’s Landing Subdivision was approved in June, 2004. He said that the subdivision
31 was authorized with a Performance Guarantee which was set up for twelve months rather than the normal
32 twenty-four months. He said that it was approved with several conditions and changes which were required
33 to be made to the Letter of Credit, as recommended by the State’s Attorney. The subdivision regulations
34 allow public improvement construction to begin immediately with no posting of a “Performance Guarantee”
35 for a period of twelve months. He said that the street is approximately 90% complete but it is not quite
36 finished and the contractor is requiring payment and the final plat needs to be recorded. He said that one of
37 the conditions which were approved in June, 2004 was that the Letter of Credit include a date of November
38 20, 2004, which has already passed and Mr. Fletcher has made the determination that it is not good practice
39 to have the Letter of Credit referring to a date that has already passed. A new approval on the subdivision
40 and a new waiver and the waiver needs to recognize that we started off with 100% Performance Guarantee
41 and based on a determination by the County Engineer a certain amount of the Performance Guarantee was
42 authorized to the contractor. He stated that he is recommending a new condition which indicates that when

1 the subdivision is recorded the Letter of Credit has to be for the improvements which are not complete.
2 Condition #2 will indicate when the subdivision officer is authorized to draw from the Letter of Credit. The
3 Letter of Credit as it stands today states that the subdivision officer is authorized to draw on it one month
4 from the time it expires. He said that we all expect that the subdivision will be approved without the need to
5 draw upon the Letter of Credit, which expires May, 2005.

6
7 **Mr. Schroeder moved, seconded by Mr. Moser to recommend approval of the Final Plat of**
8 **Subdivision Case #174-04: Nature's Landing Subdivision with the new waiver and revised conditions**
9 **related to the revised Performance Guarantee. The motion carried by voice vote.**

10
11 **20. Comprehensive Zoning Review**

12
13 Ms. Monte encouraged newly appointed ELUC members to contact staff with any questions regarding Phase
14 One.

15
16 Mr. Moser requested that staff acquire a legal opinion from the State's Attorney regarding the Resource
17 Protection Overlay. He questioned if this process is a "taking" of property rights without compensation or if
18 the County can legally proceed. He said that it seems senseless to pursue the public hearings until the
19 County is assured that it is on legal ground with the proposed zoning designations.

20
21 Mr. Fletcher stated that there are several legal questions which have been raised although he is not concerned
22 with the issue of a "taking" and he would like to relay those concerns to the State Attorney General. He said
23 that he is reluctant in recommending that the Board proceed with the public hearings in January and
24 requested that it be deferred until an opinion is received from the State Attorney General.

25
26 Mr. Moser stated that Mr. Fletcher may not be concerned with the issue of a "taking" but there are several
27 lawyers in the County which are being contacted. He said that he has received several phone calls from
28 landowners within his district and they feel that the County is taking away their property rights without
29 compensation therefore he would like a legal opinion regarding this issue. He said that someone will take
30 the County to court over this issue and then perhaps at that point we will find out if it is a "taking" or not.

31
32 Mr. Fletcher stated that he will relate Mr. Moser's concern to the State's Attorney.

33
34 Ms. Greenwalt stated that she would like to receive information regarding the protection that the RPO can
35 provide. She requested data regarding the number of affected landowners and the imposed costs on those
36 landowners so that she can weigh the pro's and con's.

37
38 Mr. Moser stated that a lot of land along the Salt Fork River has been placed in a Wetland Protection Buffer
39 (CRP) through the Federal Government. He said that the landowners have signed long term contracts and
40 have been reimbursed for planting trees, grasses, etc. He questioned if the County has the authority to over-
41 ride such a protection program with the Federal Government.

1 **21. Direction Regarding Resumption of Comprehensive Zoning Review Hearings**

2

3 Mr. Moser moved, seconded by Mr. Schroeder to defer the Comprehensive Zoning Review Hearings so that
4 an opinion can be received from the Illinois Attorney General’s Office regarding the Resource Protection
5 Overlay Zoning District and its effect upon land contracted with the Federal Government’s CRP program.

6

7 Mr. Schroeder stated that during a conversation with Mr. DiNovo it was indicated that an opinion from the
8 Illinois Attorney General could take several months.

9

10 Mr. Roseman stated that the County State’s Attorney Office has issued opinions regarding the issue of a
11 “taking”.

12

13 Mr. Schroeder stated that he would like information regarding CRP ground and how it would be effected
14 with the RPO included in the Attorney General’s opinion.

15

16 Mr. Schildt stated that the Illinois State Zoning Statute does not authorize the zoning district to take on
17 resource protection. He requested that the County seek the opinion of the Attorney General’s office.

18

19 Mr. Fletcher requested the authority to meet with Mr. Moser to review specific concerns regarding the RPO.

20

21 **The roll was called:**

22

23	Anderson-no	Busboom-yes	Doenitz-yes
24	Fabri-no	Greenwalt-no	Langenheim-no
25	McGinty-no	Moser-yes	Schroeder-yes

26

27 **The motion failed.**

28

29 Mr. Roseman stated that staff requires additional time to complete the Zoning Ordinance and requested that
30 the hearings be delayed until February, 2005.

31

32 Mr. Schroeder asked if there are any legal factors regarding how the township hearings should be held. He
33 said that during a conversation with Mr. DiNovo he indicated that there may be some legal issues with this.

34

35 Mr. Fletcher stated that the proposed text amendment would authorize the County Board to appoint a hearing
36 officer to preside over township hearings. He said that it does raise some procedural issues but it is not
37 improper.

38

39 Ms. Monte stated that the ZBA’s preference is that a ZBA quorum (4 members) be designated as the
40 presiding authority at the upcoming township hearings.

41

42 Mr. Fletcher stated that if the ZBA presided over the township hearings it would increase the costs of the

1 public hearings (per diem payments) but would remove any ambiguity.

2
3 **Ms. Greenwalt moved, seconded by Ms. Anderson moved to defer the Comprehensive Zoning Review**
4 **Hearings until January 10, 2005. The motion carried.**

5
6 **22. Designation of Presiding Authority at Township Hearings and Related Procedures**

7
8 Mr. Roseman stated that the budget should be able to support the costs incurred by designating the ZBA as
9 presiding authority at the township hearings.

10
11 **Ms. Greenwalt moved, seconded by Ms. Anderson to designate the Zoning Board of Appeals as**
12 **Presiding Authority at the township hearings for Phase I of the Comprehensive Zoning Review. The**
13 **motion carried.**

14
15 **23. Informal Interviews regarding CZR Phase One Proposed Zoning Restrictions**

16
17 Ms. Monte stated that the informal interviews have been very helpful in obtaining important feedback and
18 suggestions. She said that with the information that was received staff will prepare alternatives to the
19 provisions which are under consideration and present a new draft version.

20
21 **24. Planning and Zoning Monthly Report:**
22 **A. Monthly Report**

23
24 Mr. Roseman distributed and reviewed the October and November, 2004 monthly reports.

25
26 **B. Guidance concerning public safety issues related to enforcement in Section 36 of Newcomb**
27 **Township.**

28
29 Mr. Roseman stated that staff noticed an advertisement in the local paper regarding “The Shed”. He said
30 that staff sent a notice to the owners indicating that the activity was not an allowed use for their zoning
31 district. He said that staff was concerned with the safety aspects of the facility.

32
33 Ms. Hitt stated that Mr. Willard, owner of “The Shed” would be required to file an application with the
34 County requesting that his property be rezoned and obtain a Special Use Permit to allow “The Shed” to
35 continue operation. She said that Mr. Willard would like to continue the activities until he is able to resolve
36 the zoning issues with the department. If the Zoning Board of Appeals denied Mr. Willard’s request “The
37 Shed” would be required to cease operation.

38
39 Mr. Doenitz stated that “The Shed” should be allowed to continue as long as the noise is within tolerance.

40
41 Mr. Moser agreed with Mr. Doenitz.
42

1 Ms. Greenwalt questioned the application date.
2

3 Ms. Hitt stated that Mr. Willard has not submitted his applications to date because he has been working with
4 the Village of Mahomet. The property is within one and one-half mile of the Village of Mahomet's city
5 limits therefore they could protest the map amendment and the special use permit.
6

7 Mr. Roseman stated that staff requires direction from the Committee regarding "The Shed" and its allowance
8 to continue operations until their applications with the Zoning Board of Appeals are granted or denied.
9

10 Mr. Langenheim cautioned the Committee that in allowing "The Shed" to continue operation would be
11 relaxing strict interpretation and strict enforcement of the Ordinance.
12

13 Mr. Moser questioned Mr. Willard if he had liability insurance.
14

15 Mr. Willard stated that he has a one million dollar policy.
16

17 Mr. Fletcher stated that he is skeptical regarding this issue.
18

19 Ms. Hitt stated that in past practice the Committee has allowed continuance of an activity that is in violation
20 of the Zoning Ordinance as long as the activity does not pose a threat to public health, safety or welfare. She
21 said that the owners are required to submit an application within a timely manner and appear before the
22 Zoning Board of Appeals for approval.
23

24 Ms. Greenwalt questioned when this application would come before the ZBA.
25

26 Mr. Hall stated that currently cases are being docketed for the end of March, 2005.
27

28 **The consensus of the Committee was to allow "The Shed" to continue operation contingent that an**
29 **application for a special use permit and a zoning map amendment are submitted for approval before**
30 **the Zoning Board of Appeals.**
31

32 **25. Determination of Items for County Board Consent Agenda**
33

34 The consensus of the Committee was to place Item #19, Case 174-04: Nature's Landing Subdivision on the
35 County Board Consent Agenda.
36

37 **26. Adjournment**
38

39 The meeting was adjourned at 8:39 p.m.
40
41
42

1 Respectfully submitted,

2

3

4

5

6 Secretary to the Environment and Land Use Committee

7

8 eluc\minutes\minutes.fm

1 MINUTES OF REGULAR MEETING

3 Champaign County Environment DATE: May 08, 2006
4 & Land Use Committee TIME: 7:00 p.m.
5 Champaign County Brookens PLACE: Lyle Shields Meeting Room
6 Administrative Center Brookens Administrative Center
7 Urbana, IL 61802 1776 E. Washington Street
8 Urbana, IL 61802

10
11
12 MEMBERS PRESENT: Jan Anderson, Chris Doenitz, Nancy Greenwalt (VC), Brendan McGinty,
13 Steve Moser, Jon Schroeder

14
15 MEMBERS ABSENT: Patricia Busboom, Tony Fabri, Ralph Langenheim (C)

16
17 STAFF PRESENT: Connie Berry, John Hall, Leroy Holliday, Susan Monte, Joel Fletcher (Senior
18 Assistant State’s Attorney)

19
20 OTHERS PRESENT: Steve Royal, Bernard Hammel, Tim Asire, Bob Mitsdarfer, Merle Ingersoll,
21 Paul Cole, Carl Webber

22
23
24
25 1. Call to Order, Roll Call

26
27 The meeting was called to order at 7:02 p.m.

28
29 2. Approval of Agenda

30
31 Ms. Anderson moved, seconded by Mr. McGinty to approve the agenda as submitted. The motion
32 carried by voice vote.

33
34 3. Minutes of Previous Meeting (April 10, 2006)

35
36 Mr. Doenitz moved, seconded by Mr. McGinty to approve the April 10, 2006, minutes as submitted.
37 The motion carried by voice vote.

38
39 4. Public Participation

40
41 Mr. Steve Royal, who resides at 1365 CR 2550E, Ogden addressed Item #8. He said that he and his wife are
42 1/3 owners of the proposed Wolf Creek Subdivision along with Gary and Julie Cooper and Paul and Camille
43 Cole. He said that he is Sergeant with the Urbana Police Department and has been for nearly 19 years but he
44 is also a neighbor that lives right down the road from the subject property. He said that he knows 90% of the
45 neighbors in the area and everyone loves the atmosphere out there and the main goal is to make sure that it
46 stays that way. He referred to an aerial photograph which was included in the ELUC mailing packet
47 indicating the subject property and the neighborhood surrounding it. He said that this is a developed
48 neighborhood and the proposed subdivision is probably the end of any development out there. He said that

1 all of the homes in the neighborhood are very nice homes and based on his property tax bill the County also
2 believes that his home is very nice. He said that that subject property is not virgin farmland because it has
3 not been farmed for approximately 20 years.

4
5 Mr. Bernard Hammel, who resides at 908 E. Ford Harris Rd, Champaign stated that he represents the
6 Farmer's Union. He said that he feels that the proposed ethanol plant is not for Champaign County. He said
7 that Paul Cooley, a well known analyst from the area, suggests that the farmers buy ethanol stock so that they
8 can stay in business. He said that this is not possible because The Andersons is a private business and stock
9 is not available for purchase. He said that CNBC television gave an interesting presentation on The
10 Andersons and how the proposed ethanol plants will affect the communities. He said that he believes that
11 there is a better way and that there are other locations available for such a plant rather than over the top of
12 Champaign County's precious water supply. He said that The Andersons' hydrologists claim that there is an
13 unlimited supply of water although he does not believe that this is true. He said that a hydrologist from
14 Wisconsin, hired during the construction of the landfill, indicated that water travels through clay at a rate of
15 one inch per 100 years. He said that he took some clay from a borrow pit which was being constructed along
16 Olympia Drive and placed it in a jar with water and by the next morning the water had gone through the clay
17 therefore proving the Wisconsin hydrologist incorrect. He said that there are a lot of people who use the
18 Mahomet Aquifer for their water supply and questioned what everyone will do when the water supply is low.
19 He said the owners of The Andersons in New York will receive a huge profit from the Champaign County
20 plant and Champaign County farmers will not receive anything in return because it is a private business. He
21 said that it is up to the County Board to stand up and require more information before approving ethanol
22 plants in Champaign County.

23
24 Mr. Tim Asire, who resides at 2610 Appaloosa Ln, Mahomet stated that he has a petition for a flood variance
25 before the Committee for his home which was built in 1978. He said that all of the details are included in
26 the packet and he will be available to answer any questions that the Committee may have regarding his
27 request.

28
29 Mr. Merle Ingersoll, Engineer with HDC Engineering declined to speak at this time.

30
31 Mr. Carl Webber, Attorney representing The Andersons stated that through the media the Committee has
32 surely heard about the benefits of The Andersons' proposed project but there are a couple of items that he
33 would like to clarify for the Committee. He said that the taxing benefits to the County are obvious and The
34 Andersons is aware that those issues are very important to the taxing bodies. He said that the average
35 income of the farmers in the area are generally found to increase by approximately 10 to 15 cents per bushel
36 in the area in which the ethanol plants are located and that also has an impact on the value of the land. He
37 said that there are four wells that can be used to pump water into the river so that it goes down river to dilute
38 what leaves the Tuscola chemical plant so the dilution is an important and needed factor for the plant. He
39 said that if the ethanol plant is placed in the location that The Andersons desire the water which is dispersed
40 into the river is satisfactory and as it travels through the river it will decrease the amount of fresh water
41 required to dilute the Tuscola chemical plant. He said that if this plant were located somewhere else in the
42 County it might need an average of 1.6 million gallons per day and could be offset by one-half of the year by

1 600,000 gallons that might not be used to dilute the stream. He said that the additives in gasoline which
 2 have been no longer made lawful are in themselves a carcinogen and one of the biggest problems is that they
 3 have been polluting our water source therefore one of the reasons for pushing the concept of ethanol would
 4 be because ethanol could replace that additive as an oxygenator to the gasoline. He said that this process
 5 does take some water to make the ethanol but at the same time it is protecting the water supply as well. He
 6 said that he is told that over the last two or three years the overall ethanol production has become
 7 tremendously more efficient by a level of two or three times. He said that it is important for Champaign
 8 County to have the advantage of an ethanol plant because there will be an ethanol plant around and if it is 10
 9 feet on the other side of the County line it will be unfortunate because it will take the same water and taxes
 10 will not be in this area. He said that he has been discussing this issue with the City of Urbana and John Hall
 11 of the Department of Planning and Zoning regarding the proposed plant so that the County Board does not
 12 have to proceed with a 3/4 majority vote. He suggested that as the language from the City of Urbana has been
 13 reviewed, although there are portions which he believes is a little broad, it could be interpreted by the County
 14 in a proper manner so that it would not adversely affect proceeding with this plan. He said that in order to
 15 preclude the issue of protest if Mr. Hall would find the language from the City of Urbana satisfactory then
 16 The Andersons would agree yet if the Committee's determination is in a different manner that would bring
 17 about the City of Urbana's protest then City of Urbana Council members and County Board members will be
 18 contacted to get this approved.

19
 20 Mr. Moser asked Mr. Webber if it was true that if the Champaign County plant is denied that they will try to
 21 build a plant in Indiana.

22
 23 Mr. Webber stated that he cannot say exactly where it is but the competition for this ethanol plant is not
 24 necessarily some place else in the County but is in Indiana because of the rather substantial perks that the
 25 State of Indiana has set up for these plants.

26
 27 Mr. Moser asked Mr. Webber if there is a City of Champaign protest.

28
 29 Mr. Webber stated that the City of Champaign has three minor issues which everyone seems to agree with
 30 and have been incorporated into staff's suggestion for approval. He said that it boils down to a question of
 31 the description of the type of survey or review of the water issue but most everything else seems to be a non-
 32 issue.

33
 34 Mr. Paul Cole, who resides at 1208 Newbury Rd, Champaign addressed Item #8. He referred to an aerial
 35 photograph of the subject property. He said that borrow soil, which was removed to build a pond, was
 36 placed on the subject property from the property immediately to the west. He said that a little more than one
 37 acre is covered with this borrow soil to a varied depth of four to six feet along the northwest quadrant of the
 38 six acre parcel. He said that immediately to the east of the subject property is an access lane which is owned
 39 by Mr. and Mrs. Hutchcraft, to the south is the township road and to the west is the property which slopes
 40 down to the creek and will never be farmed. He said that this is not a case of taking farmland out of
 41 production and Mr. Royal did a good job in explaining that this is a final step in a develop that is consistent
 42 with what already exists. He said that it was previously discussed that there was a possible survey

1 encroachment although he requested that Mr. Tom Berns and Mr. Ed Clancy of Berns, Clancy and
2 Associates review the original survey completed by HDC Engineering to confirm its accuracy. He said that
3 they determined that the survey was accurate although there is an encroachment and in order to be good
4 neighbors they will place on record that they do not mind the encroachment. He said that the Hutchcraft's
5 lane does lie perhaps about one-half foot over onto the subject property. He said that if he were in
6 downtown Chicago he would probably care about six inches but in the country he doesn't.

7
8 **5. Correspondence**

9
10 None

11
12 **6. County Board Chair's Report**

13
14 None

15
16 **7. Recreation and Entertainment License: Eastern Illinois A.B.A.T.E., Inc. for live music,
17 motorcycle show and motorcycle rodeo at the Rolling Hills Campground. Location: 3151A
18 CR 2800E, Penfield, IL. June 2, 2006 thru June 4, 2006.**

19
20 **Mr. Moser moved, seconded by Mr. Schroeder to approve the Recreation and Entertainment License
21 for Eastern Illinois A.B.A.T.E., Inc. The motion carried by voice vote.**

22
23 **8. *Subdivision Case 187-06: Wolf Creek Subdivision. Subdivision Plat Approval for a three-lot
24 minor subdivision in the CR, Zoning District in Section 30 of Ogden Township.***

25
26 **Ms. Anderson moved, seconded by Mr. McGinty to recommend approval of Subdivision Case 187-06:
27 Wolf Creek Subdivision.**

28
29 Mr. Schroeder asked Mr. Hall if ELUC recommends approval or denial tonight will the case be forwarded to
30 the full County Board for final approval.

31
32 Mr. Hall stated that if the case is denied by the Committee the case will not be forwarded to the County
33 Board but a Statement of Rejection will be required. He said that if the case is approved it will be forwarded
34 to the full County Board for final approval.

35
36 **The motion carried by a show of hands.**

37 **The vote was: 4-yeyes 2-nays**

38
39 **9. Zoning Case 527-FV-05: Tim Asire Request: Authorize the following variances from the
40 Champaign County Special Flood Hazard Areas Ordinance: A. Authorize the use of an
41 existing dwelling in which the top of the lowest floor is 8.5 inches above the Base Flood
42 Elevation instead of 1.0 feet above the Base Flood Elevation; B. Authorize the construction**

1 and use of an addition to a dwelling in which the top of the lowest floor of the addition is 8.5
 2 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation; and
 3 C. Authorize the use of an existing shed in which the top of the lowest floor is 4 feet 7 inches
 4 below the Base Flood Elevation instead of 1.0 feet above the Base Flood elevation and that is
 5 720 square feet instead of no more than 500 square feet. Location: Lot 27 of The Meadows
 6 Subdivision in Section 36 of Newcomb Township and that is commonly known as the residence
 7 at 2610 Appaloosa Lane, Mahomet.

8
 9 Mr. Doenitz moved, seconded by Mr. Moser to recommend approval of Zoning Case 527-FV-05: Tim
 10 Asire.

11
 12 Ms. Anderson stated that this is an area where the Committee has had other cases requested for a flood
 13 variance. She requested clarification of the difference in previous cases versus this case.

14
 15 Mr. Hall stated that the conditions in this case are much different than the conditions in the floodplain
 16 variance that the Committee saw a year ago. He said that in this case there is an existing home which when
 17 constructed the Base Flood Elevation was the same as it is currently but the Zoning Administrator at the time
 18 rounded down on the required elevation of the home and the builder ended up elevating the home more than
 19 what the Zoning Administrator required. He said that the elevation of the current home is less than what it
 20 should have been and is less than what our current regulations would require but Mr. Asire desired to build
 21 his addition with no height difference between the addition and the existing home therefore a variance was
 22 required. He said that Mr. Asire wanted to begin construction on the addition and the only thing at issue is
 23 the actual top of the floor of the addition therefore the current Zoning Administrator allowed him to begin.
 24 He said that if ELUC denies the variance the only thing that Mr. Asire will be required to do is add another
 25 three or four inches to the top of the floor that he built and the rest of the home will not have the variance.
 26 He said that the existing home is above the Base Flood Elevation although it is not one foot above the Base
 27 Flood Elevation. He said that the shed however was built without a permit and was not built in conformance
 28 with the regulations and Mr. Asire did not own the property when the shed was built. He said that in light of
 29 that fact the ZBA felt that it was reasonable to authorize use of the shed but if the shed were damaged or
 30 destroyed it would have to be rebuilt in conformance with the regulations.

31
 32 The motion carried by voice vote.

33
 34 **10. Discussion regarding Liquor Advisory Committee**

35
 36 Ms. Greenwalt stated that the County Board Chair is trying to appoint and reappoint people to the Liquor
 37 Advisory Committee. She said that she and Mr. Schroeder will represent ELUC and community members
 38 are needed. She said that the Liquor Advisory Committee will probably not meet for several months. She
 39 said that the appointments will be approved by the Policy Committee.

40
 41 **11. Zoning Case 523-AT-05: Zoning Administrator.** Request: *Add "Ethanol Manufacturing" and*
 42 *authorize by Special Use Permit with standard conditions in the I-2, Heavy Industry Zoning*

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District.

Mr. Doenitz moved, seconded by Mr. Moser to recommend approval of Zoning Case 523-AT-05: Zoning Administrator.

Mr. Fletcher asked if the recommended approval is for the case as it was originally presented or is it a recommended approval with conditions recommended by staff.

Mr. Hall stated that Alternative A is the recommendation by the Zoning Board of Appeals. He said that Alternative B is the recommendation by the ZBA plus all of conditions required by the City of Champaign and the City of Urbana with the exception of the condition that the City of Urbana requested regarding the water study. He said that Alternative B retains the water study requirement recommended by the ZBA. He said that Alternative C includes all of the requirements of the City of Champaign and the City of Urbana which includes the water study requirement of Urbana. He said that as he explained in the memorandum dated May 4, 2006, his interpretation of the Urbana requirement is that it is asking for something that cannot be done right now and he would anticipate that part of that requirement would be waived until it can be done and the Water Survey states that in five years they may have the ability to assess the impacts of one individual ethanol plant but currently they cannot. He said that staff has received conflicting stories in that the City of Urbana maintains that this is not their intent although when he reads the requirement that is his interpretation and that is what he would expect people in opposition would argue to the ZBA when there is an ethanol case. He questioned that if this is not the intention of the City of Urbana then why can't staff receive different language. He said that he suggested different language to the City of Urbana but he has not received comments to date. He said that Mr. Webber explained that his client is comfortable proceeding with Alternative C and is willing to take whatever risk there might be. He said that if the County Board would recommend approval with Alternative C they would be trusting the ZBA to make the call on what type of water studies will be required.

Mr. Moser asked Mr. Hall if staff has had any contact from United Seeds regarding an ethanol plant in Royal.

Mr. Hall stated that the zoning office has not received any contacts from United Seeds.

Mr. Moser stated that this whole thing is going to be irrelevant and the County will be out of the picture if United Seeds goes to Royal and the village annexes the tract that they are interested in locating their ethanol plant. He said that the County will not have any control over an ethanol plant located in Royal because it will be out of the County Board's hands.

Mr. Hall stated that Mr. Moser was correct.

Mr. Doenitz asked Mr. Webber if his client would be comfortable with Alternative C.

Mr. Webber stated that this is a difficult question because it contains two different issues. He said that one

1 issue is how comfortable is The Andersons with Alternative C and the second issue is how comfortable are
 2 they with having to go with a ¾ majority vote. He said that while Mr. Hall’s arguments are pretty clear they
 3 are thinking that this is a gray question and not all black and white. He said that he came tonight with a
 4 suggestion that they have confidence in the Zoning Administrator and the ZBA to interpret that in a way that
 5 will be reasonable and therefore are willing to go with the more strict City of Urbana language. He said that
 6 although the City of Urbana’s language is more strict at the City meeting a number of changes was made to
 7 their documentation but remains strict. He said that if they had to choose between trusting the ZBA and the
 8 Zoning Administrator to handle the more difficult language or receiving a positive ¾ majority vote from the
 9 County Board they will take the ZBA and the Zoning Administrator.

10
 11 Ms. Anderson stated that she is concerned about the amount of water which will be necessary for the ethanol
 12 plant’s processing. She said that no one has an idea of how long the Mahomet Aquifer will continue to
 13 provide water and a huge amount of water is being discussed during the processing.

14
 15 Mr. Webber stated that the City of Urbana is interested in looking at a more broad area of the aquifer. He
 16 said that one could argue that a five to ten year study would be required which was not the City of Urbana’s
 17 intention but the language could be read in that manner. He said that the City of Urbana’s language is
 18 broader and would probably bring in more data and more information making it harder to sift through but
 19 The Andersons are confident that they can provide this information and that the ZBA and the Zoning
 20 Administrator will not be confused by the facts. He said that this is a matter that he has been involved with a
 21 number of times because he has worked with some peaker power plants in various locations and they also
 22 require water. He said that one of the two greatest concerns is financial. He said that it is pretty clear that
 23 there is going to be a number of ethanol plants proposed in the area and it is also clear that they intend to use
 24 the aquifer and if that is the case the County might as well take advantage of these plants from a tax stand
 25 point. He said that everyone appears to have a high regard for The Andersons as an organization and if the
 26 County is going to be working with an organization for this type of project their project is one which reflects
 27 history and experience in trying to improve the plants efficiency in using less water. He said that one thing
 28 that strikes him with this particular location is if an ethanol plant is constructed and the water which is not
 29 needed is dispersed into the Kaskaskia River it will reduce the amount of water that needs to be pumped out
 30 of the aquifer to support the Tuscola chemical plant. He said that it sounds like a shell game although it isn’t
 31 really but is a real savings of 600 thousand gallons of water per day for about one-half the year if the plant is
 32 placed in that general location to put the overflow into the Kaskaskia. He said that the water which leaves
 33 the plant has no more in it than when it came into the plant the only thing that happens to the water is that as
 34 it is boiled off the minerals which were already in the water becomes more concentrated and has to be
 35 treated. He said that he has come to the conclusion that as long as the County is going to have an ethanol
 36 plant this is the right location and is certainly something that he would like to keep in Champaign County.

37
 38 Ms. Anderson asked Mr. Moser if the County adopts this amendment would the United Seeds plant be bound
 39 by the County’s specifications.

40
 41 Mr. Moser stated that he believes that the Village of Royal will annex the United Seeds’ property and when
 42 they build their ethanol plant it will be under Royal’s jurisdiction not the County’s jurisdiction. He said that

1 there is talk about an ethanol plant being built in Dewey, Gibson City, Tuscola and Danville and it is just a
2 matter of which company is actually going to do it.

3
4 Mr. Webber stated that it would be interesting to be thinking about whether or not the requirements which
5 the County will have under their soon to be Ordinance regarding this topic would be a part of any Enterprise
6 Zone that the County may be involved in.

7
8 Mr. Moser stated that he appreciates Mr. Hammel's remarks because there is a lot of money to be made if
9 someone could invest in one of these facilities and if you are a farmer you may have the money to do so but
10 when you look at who is going to build these plants there is only one LLC that has any farmer owners in it
11 and it is Douglas County. He said that if an ethanol plant is built in Gibson City, Ford County will not place
12 any restriction on it and if Royal annexes the property there will not be any restrictions placed on the plant.

13
14 Ms. Greenwalt asked Mr. Fletcher if he had any comments.

15
16 Mr. Fletcher stated that there is not much law in the State of Illinois on making an amendment at this point
17 in the process. He said that a lot of other jurisdiction suggests that there is some risk associated with placing
18 additional restrictions on it after it has gone to a hearing at the Zoning Board of Appeals but in his opinion it
19 is a small risk because these would be conditions which would lessen the affect of the amendment.

20
21 Mr. Webber stated that if it is making harder not easier it would not lend toward a problem.

22
23 Mr. Hall stated that staff did receive a letter from the City of Champaign and it states something similar to
24 what the City of Urbana stated. He read the following text from the letter: The City of Champaign will
25 withdraw its protest if the above mentioned provisions are added to the text amendment. He said that
26 Alternative C would apparently not require a super majority vote.

27
28 **Mr. Doenitz moved to amend his original motion to include Alternative C. Mr. Moser concurred.**

29
30 Ms. Anderson stated that she has had several calls regarding dry milling versus wet milling.

31
32 Mr. McGinty stated that he is sensitive to the concerns which have been stated but he believes that it is an
33 important enough topic to forward to the full County Board. He said that he supported Alternative C.

34
35 Mr. Schroeder stated that he understands some of the concerns regarding water usage. He said that the
36 Mayor of Urbana was on a talk radio show regarding her uncertainties with an ethanol plant and even made a
37 comment that the old Tuscola USI Plant loaded the water supply with Benzene and that is why they have to
38 pump water out of the aquifer for drinking water. He said that currently gasoline prices are higher than usual
39 subsequently there are dollars looking for investment in energy products. He said that ADM is a company
40 which handles grain and also has ethanol plants and recently The Andersons has also started ethanol
41 production. He said that the stock in ADM has not gone up because of agriculture subsidies but has gone up
42 because of their energy stocks. He said that as of last year there has been a process started called "dry

1 milling” which uses a lot less water than “wet milling” ethanol plants. He said that dry milling is a great
 2 concept but construction of an ethanol plant could take up to three years because the industry for building
 3 these plants is booming. He said that he does not know the anticipated date for The Andersons’ ethanol
 4 plant but it could be at least three years down the road. He said that he will support his colleagues in voting
 5 for this issue but it is very broad with a lot of loose language. He said that if the County does not dot the “i”
 6 and cross the “t” in this language someone will sue the County. He said that The Andersons is a publicly
 7 traded company although there are several cooperative grain companies in the area that are not publicly
 8 traded and are patron owned such as Grand Prairie Coop and Fisher Farmers Grain. He said that if a farmer
 9 hauls his grain to a cooperative elevator they will someday be a part of the ethanol boom that is going on but
 10 if the farmer chooses to haul his grain to The Andersons he may receive a higher price but he will have to
 11 invest in The Andersons’ stock to get any money out of their ethanol plant. He said that if a the farmer is
 12 stuck with a cooperative elevator and he hauls his grain there he will be part of the action of rising stock of
 13 the cooperative. He said that Mr. Moser indicated that there is an LLC which anticipates building an ethanol
 14 plant in Tuscola, potentially a plant in Gibson City and Royal. He said that if The Andersons do decide to
 15 build an ethanol plant in Champaign County it will help a lot of farmers because it will substantially raise the
 16 price of grain in the area. He said that if the price of grain increases then perhaps some of the government
 17 subsidies could be eliminated. He said that the only way to add value to Champaign County grain is to stop
 18 shipping it to ADM or The Andersons and having them ship it out of their elevator to a privately owned
 19 company, such as Cargill. He said that he wouldn’t mind seeing a bio-diesel plant proposed in Champaign
 20 County. He said that a way the community could be enhanced and at the same time add value to the crops
 21 that are produced and he has no problem placing restrictions on the plants but he does not appreciate the
 22 loose language from the City of Urbana regarding water usage.

23
 24 Ms. Greenwalt stated that she received an e-mail from Barbara Wysocki, County Board Chair that the
 25 Regional Planning Commission is planning a community meeting on the subject of an ethanol plant.

26
 27 Mr. Hall stated that there is a meeting planned at the Urbana Library to discuss the issues raised if each of
 28 the three ethanol plants proposed for Champaign County wanted the incentive of an Enterprise Zone. He
 29 said that the entity that these plants will be looking at to provide the Enterprise Zone incentives is the County
 30 but the County is only a member of one Enterprise Zone, which is the joint zone with the City of
 31 Champaign, and the City of Champaign presumably does not have much interest in extending its Enterprise
 32 Zone to Royal or Tolono. He said that this meeting was primarily intended to discuss the challenges that this
 33 may bring to the County in dealing with these multiple requests when the County really has very little to do
 34 with the whole process. He said that there are specific people invited to the meeting such as the mayors from
 35 the City of Champaign, City of Urbana, Village of Rantoul, the County Board Chair and the relevant
 36 directors of planning therefore it is not a general public meeting.

37
 38 **The amended motion carried by voice vote.**

- 39
 40 **12. Regulation of lots in duly approved subdivision between May 17, 1977, and February 18, 1997,**
 41 **that have access to public streets by means of easements of access.**
 42

1 Mr. Hall stated that at the April 10, 2006, ELUC meeting the Committee recommended denial of Case 517-
2 AT-05. He said that he the Committee's denial caught him off guard therefore he was going to see if the
3 Committee would reconsider its decision but it seems much simpler to start over with a new case. He said
4 that the May 4, 2006, memorandum reviews two of the substantive considerations in Case 517-AT-05 which
5 are the number of lots and the length of easement of access shared by the lots. He said that he would like the
6 Committee to determine if there is any value in a reconfiguration of Case 517-AT-05. He said that the
7 memorandum includes four alternatives to the recommendations in Case 517-AT-05 and reviewed those
8 options with the Committee. He said that Alternative One would be to take Case 517-AT-05 and reduce it to
9 allow no more than three homes to share an easement of access that is no more than 675 feet long which
10 would eliminate the need for 14 variance cases that will have to be dealt with at some point. He said that
11 Alternative Two would take Case 517-AT-05 and reduce it to allow for two homes to share an easement of
12 access that is no more than 650 feet long and would eliminate the need for six variances. He said that this is
13 not much of a change but it would cut more than one-half of the variance cases that it would solve. He said
14 that he understands that the Committee's concern is not necessarily reducing variance cases and the concern
15 is what makes sense in these instances. He said that this is to identify what the Committee is comfortable
16 with and if the Committee is not comfortable with any of the suggested alternatives then staff will let the
17 issue drop and there will be two cases coming to the ZBA. He said that this was his last attempt to make
18 sure that staff did not ignore any opportunity for revising Case 517-AT-05.

19
20 Mr. Doenitz stated that he understands what staff is trying to accomplish but it still does not solve the
21 problem. He said that he has addressed and resolved almost all of the situations in Mahomet Township and
22 it has been a mess.

23
24 Mr. Hall stated that without something being added to the Zoning Ordinance he believes that all of these lots
25 will eventually have variances which will be approved by the ZBA because they have no other guidance at
26 this point. He said that if someone comes to the ZBA indicating that they have a perfectly legal lot and they
27 would like to be able to use it as originally intended the ZBA has nothing more than the minimum
28 requirements recommended by the NFPA which is 20 foot wide of gravel with a turn-a-round, etc. He said
29 that if this meets the minimum life and safety requirements, then that is all that they have to go on but if the
30 Committee believes that there should be a different minimum that is what should be discussed. He said that
31 if the Committee does not want to allow things accessible by any other means than by a public road then it
32 needs to be a prohibited variance.

33
34 Mr. Doenitz stated that a prohibited variance is exactly what needs to happen.

35
36 Mr. Moser stated that the Committee approved Case 187-06 which is a flag lot. He said that if the six acres
37 had two homes located on Homer Lake Road rather than creating a drive to the flag lot then that is a
38 subdivision which the Committee could be in trouble with and we just approved it.

39
40 Mr. Hall clarified that Case 187-06 did have a flag lot and that is a different situation than what is being
41 discussed. He said that with a flag lot each lot has access directly to a public road.

42

1 Mr. Moser stated that sooner or later someone will want that drive fixed and who will be responsible for that
2 maintenance.

3
4 Mr. Hall stated that may be but the drive is nothing more than a driveway for that flag lot and has direct
5 access to the public road.
6

7 Mr. Moser stated that the County needs to do something with the Zoning Ordinance to stop this type of
8 practice.
9

10 Mr. Schroeder stated that there needs to be a better standard for the easements. He said that the County does
11 not have a standard because eventually the township road commissioners will be asked to maintain these
12 easements. He said that a perfect example of this type of situation is the Sandwell’s Subdivision located in
13 Philo Township. He said that the property owners purchased their lot in good faith and when the road went
14 bad they called the road commissioner requesting that they fix their private road. He said that there must be
15 criteria set on these private roads and easements because they will be taken over by township road
16 commissioner someday and there needs to be set regulations. He said that the roads need to have about one
17 foot of top soil removed, large rock placed on top of the soil, road pack placed on the large rock, and should
18 be 20 foot wide with oil and chip surfaced with ditches on each side. He said that the easements should be
19 approved by the township road commissioner because eventually they are the ones that will have to take over
20 the private road/easement and maintain it. He said that the does not want to restrict it to the point where you
21 can only build where there is only public access to a road but there should be a hard, set fast set of
22 regulations on the construction of these easements.
23

24 Mr. Hall stated that what Mr. Schroeder is taking about is a prohibition on variances on the need to have
25 either a public road or a public accessway built to the same standards as a public road and those two things
26 are what a new lot requires. He said that that there is no prohibition against requesting a variance for
27 something else and the only way to guarantee what Mr. Schroeder is saying to the make it a prohibited
28 variance. He said that he trying to deal with people who purchased lots which were approved by this County
29 and the County indicated that no public road was required but now making that a prohibited variance would
30 be indicating that the County was wrong and that a public road is required therefore the lots cannot be used
31 until a public road is constructed. He said that if this is what the Committee wants then staff can prepare a
32 zoning case to make it a prohibited variance but he is not aware of what legal issues will be raised during
33 that case.
34

35 Mr. Schroeder stated that if these proposed variances are for lots with existing homes or for vacant lots.
36

37 Mr. Hall stated that there have been some that were missed in the permitting process. He said that perhaps
38 staff could prepare variance that would grandfather the lots that have been built upon but those that have not
39 will be required to have a public street. He said that can investigate this request and report back to the
40 Committee as to whether it is feasible or not.
41

42 **13. Notice of Intent to apply for FEMA Pre-Disaster Mitigation Planning Funds**

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Ms. Monte stated that she would like to apply for funding to do some planning to get a Hazard Mitigation Plan that meets the FEMA requirements so that the County is in a good position to receive funds in the event of a natural disaster. She said that Mr. Bill Keller, Champaign County Emergency Disaster Agency has request planning assistance and since funds are available it appears that it is a good time to begin this project.

Mr. Schroeder moved, seconded by Mr. Moser to authorize the County Planner to apply for presently available PDM funds to develop a Local Mitigation Plan. The motion carried by voice vote.

14. Comprehensive Zoning Review

Ms. Monte stated that hearings are proceeding and the ZBA is carefully deliberating each part and assessing compliance with the Land Use Regulatory Policies and consistency with the Ordinance Objectives. She said that staff is looking at a target date in July but it is a painstaking, careful process that the ZBA is going through and she hopes that the County Board can support the ZBA and inform them that they are doing a good job.

Mr. Fletcher stated that after his review of the Public Review Draft 3 there are some distinct minor changes which can be made to reduce the legal risk but he is being told that the text is frozen at this time and no changes are allowed at this point. He said that he would like the Committee to confirm their intent in freezing the text. He said that one example would be as follows: In regards to the Drainage Setback there is a requirement that if a drainage tile is discovered in the course of construction that the lot or landowner must convey an easement to cover the drainage tile. He said that this raises some legal concerns regarding “taking” and that this text could be easily addressed without opening up a can of worms. He requested input from the Committee if it was really their intent not to allow any changes at this point.

Mr. Moser stated that anyone who is developing anything which has a tile running through it should move it or reroute it so that it isn’t obstructed. He said that there is great concern regarding disturbance of existing drainage tiles.

Mr. Fletcher stated that this is only one of several conditions that are in the Draft Ordinance to address but there are some legal problems that he has in the way that staff went about doing that. He said that he must be aware of the Committee’s intent and if he can address some of the legal fixes.

Mr. Schroeder stated that it is in the public hearing process and he does not have any problem with making some necessary changes. He said that he would support any legal changes that need to be made to the text.

Mr. Fletcher stated that he is not talking about reopening any major policy decisions and there are some legal risks that he has addressed before that cannot be avoided because of where the hearing is at right now but he can minimize some the risks from here on out with some minor changes to the text.

The consensus of the Committee was to avoid possible legal risks as suggested by Mr. Fletcher, Senior

1 Assistant State's Attorney to allow minor changes to the text of Public Review Draft 3.

2

3 15. Monthly Report for April, 2006.

4

5 Mr. Moser moved, seconded by Mr. Doenitz to accept and place the Monthly Report for April, 2006
6 on file. The motion carried by voice vote.

7

8 16. Other Business

9

10 None

11

12 17. Determination of Items to be placed on the County Board Consent Agenda

13

14 The consensus of the Committee was to place Item #9, Case 527-FV-05: Tim Asire on the Consent
15 Agenda.

16

17 18. Adjournment

18

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

20

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26

27 Respectfully submitted,

28

29

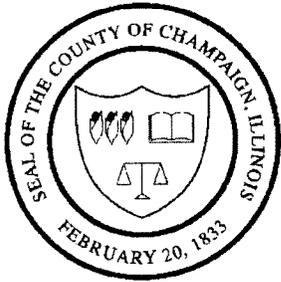
30

31

32 Secretary to the Environment and Land Use Committee

33

34 eluc\minutes\minutes.fm



**STATE OF ILLINOIS
COUNTY OF CHAMPAIGN**

**ENTERTAINMENT, RECREATION,
LODGING OF TRANSIENTS, AND RACEWAYS LICENSE**

**No. 2006-012
\$90.00**

CHAMPAIGN COUNTY FAIR ASSOCIATION

License is hereby granted to **William Alagna** at 210 East North, Seymour IL 61875 to provide Recreation/Entertainment at 902 North Coler Ave., Urbana IL 61801 in Champaign County from July 21st thru July 29th, 2006. This License expires the 30th day of July at 12:01am.

Witness my Hand and Seal this 13th day of June, A.D. 2006.

MARK SHELDEN
County Clerk
Champaign County

Chairman, Champaign County License Commission

Received 6-1-06 - m



STATE OF ILLINOIS,
Champaign County
Application for:
Recreation & Entertainment License

Applications for License under County
Ordinance No. 55 Regulating Recreational &
Other Businesses within the County (for use
by businesses covered by this Ordinance other
than Massage Parlors and similar enterprises)

For Office Use Only

License No. 2006-012
Date(s) of Event(s) 7-21 thru 7-29-06
Business Name: Champaign County Fair Association
License Fee: \$ 90.00
Filing Fee: \$ 4.00
TOTAL FEE: \$ 94.00
Checker's Signature: MMS

Filing Fees:	Per Year (or fraction thereof):	\$ 100.00
	Per Single-day Event:	\$ 10.00
	Clerk's Filing Fee:	\$ 4.00

Checks Must Be Made Payable To: Mark Shelden, Champaign County Clerk

The undersigned individual, partnership, or corporation hereby makes application for the issuance of a license to engage a business controlled under County Ordinance No. 55 and makes the following statements under oath:

- A. 1. Name of Business: CHAMPAIGN COUNTY FAIR ASSOCIATION
- 2. Location of Business for which application is made: 902 North Coler Avenue, Fairgrounds, Urbana IL
- 3. Business address of Business for which application is made: P O Box 544, Urbana IL 61803-0544
- 4. Zoning Classification of Property: _____
- 5. Date the Business covered by Ordinance No. 55 began at this location: _____
- 6. Nature of Business normally conducted at this location: County Fair
- 7. Nature of Activity to be licensed (include all forms of recreation and entertainment to be provided): Carnival / Fair
- 8. Term for which License is sought (specifically beginning & ending dates): July 21-29 2006

(NOTE: All annual licenses expire on December 31st of each year)

- 9. Do you own the building or property for which this license is sought? yes
- 10. If you have a lease or rent the property, state the name and address of the owner and when the lease or rental agreement expires: _____
- 11. If any licensed activity will occur outdoors attach a Site Plan (with dimensions) to this application showing location of all buildings, outdoor areas to be used for various purposes and parking spaces. See page 3, Item 7.

INCOMPLETE FORMS WILL NOT BE CONSIDERED FOR A LICENSE
AND WILL BE RETURNED TO APPLICANT

B. If this business will be conducted by a person other than the applicant, give the following information about person employed by applicant as manager, agent or locally responsible party of the business in the designated location:

Name: Karen K. Duffin Date of Birth: _____
Place of Birth: Paxton IL Social Security No.: _____
Residence Address: 1035 Strong St., Paxton IL
Citizenship: yes If naturalized, **place** and **date** of naturalization: _____

If, during the license period, a new manager or agent is hired to conduct this business, the applicant MUST furnish the County the above information for the new manager or agent within ten (10) days.

Information requested in the following questions must be supplied by the applicant, if an individual, or by all members who share in profits of a partnership, if the applicant is a partnership.

If the applicant is a corporation, all the information required under Section D must be supplied for the corporation and for each officer.

Additional forms containing the questions may be obtained from the County Clerk, if necessary, for attachment to this application form.

- C. 1. Name(s) of owner(s) or local manager(s) (include any aliases): _____
Date of Birth: _____ Place of Birth: _____
Social Security Number: _____ Citizenship: _____
If naturalized, state **place** and **date** of naturalization: _____
2. Residential Addresses for the past three (3) years: _____

3. Business, occupation, or employment of applicant for four (4) years preceding date of application for this license: _____

EACH OFFICER MUST COMPLETE SECTION D. OBTAIN ADDITIONAL FORM PAGES IF NEEDED FROM THE COUNTY CLERK AND ATTACH TO THIS APPLICATION WHEN FILED.

D. Answer **only** if applicant is a Corporation:

1. Name of Corporation exactly as shown in articles of incorporation and as registered:
CHAMPAIGN ACOUNTY FAIR ASSOCIATION
2. Date of Incorporation: Feb 28, 1910 ate wherein incorporated: Illinois

Recreation & Entertainment License Application
Page Three

3. If foreign Corporation, give name and address of resident agent in Illinois:

Give first date qualified to do business in Illinois: _____

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all Officers of the Corporation and other information as listed:

Name of Officer: William Alagna Title: President

Date elected or appointed: Nov 20, 2005 Social Security No.: _____

Date of Birth: _____ Place of Birth: Champaign IL

Citizenship: yes

If naturalized, **place** and **date** of naturalization: _____

Residential Addresses for past three (3) years: _____

210 East North, Seymour IL 61875

Business, occupation, or employment for four (4) years preceding date of application for this license: _____

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

Recreation & Entertainment License Application
Page Three

3. If foreign Corporation, give name and address of resident agent in Illinois:

Give first date qualified to do business in Illinois: _____

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all Officers of the Corporation and other information as listed:

Name of Officer: **Edgar Busboom** Title: **First Vice President**
Date elected or appointed: **Nov 20, 2005** Social Security No.: _____
Date of Birth: _____ Place of Birth: **Champaign**
Citizenship: **yes**
If naturalized, **place** and **date** of naturalization: _____

Residential Addresses for past three (3) years: _____

2106 County Rd. 2500 N. Thomasboro IL 61878

Business, occupation, or employment for four (4) years preceding date of application for this license: _____

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

3. If foreign Corporation, give name and address of resident agent in Illinois:

Give first date qualified to do business in Illinois: _____

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all Officers of the Corporation and other information as listed:

Name of Officer: Bernice Benn Title: Secretary
Date elected or appointed: Nov 20, 2005 Social Security No.: on file
Date of Birth: _____ Place of Birth: Pana IL
Citizenship: yes
If naturalized, **place** and **date** of naturalization: _____

Residential Addresses for past three (3) years: _____
2605 Stillwater Avenue Champaign IL 61821

Business, occupation, or employment for four (4) years preceding date of application for this license: _____

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

3. If foreign Corporation, give name and address of resident agent in Illinois:

Give first date qualified to do business in Illinois: _____

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all Officers of the Corporation and other information as listed:

Name of Officer: Pamela J. Barham Title: Treasurer
Date elected or appointed: Nov 20, 2005 Social Security No.: _____
Date of Birth: _____ Place of Birth: Champaign
Citizenship: yes
If naturalized, **place** and **date** of naturalization: _____

Residential Addresses for past three (3) years:
2451 Clayton Blvd., Champaign IL 61822

Business, occupation, or employment for four (4) years preceding date of application for this license: _____

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

3. If foreign Corporation, give name and address of resident agent in Illinois:

Give first date qualified to do business in Illinois: _____

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all Officers of the Corporation and other information as listed:

Name of Officer: David Waters Title: Second Vice President

Date elected or appointed: Nov 20, 2005 Social Security No.: _____

Date of Birth: _____ Place of Birth: Champaign

Citizenship: yes

If naturalized, **place** and **date** of naturalization: _____

Residential Addresses for past three (3) years: _____

Business, occupation, or employment for four (4) years preceding date of application for this license: _____

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

AFFIDAVIT

(Complete when applicant is an **Individual or Partnership**)

I/We swear that I/we have read the application and that all matters stated thereunder are true and correct, are made upon my/our personal knowledge and information and are made for the purpose of inducing the County of Champaign to issue the permit hereunder applied for.

I/We further swear that I/we will not violate any of the laws of the United States of America or of the State of Illinois or the Ordinances of the County of Champaign in the conduct of the business hereunder applied for.

Signature of Owner or of one of two members of Partnership

Signature of Owner or of one of two members of Partnership

Signature of Manager or Agent

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

AFFIDAVIT

(Complete when applicant is a **Corporation**)

We, the undersigned, president and secretary of the above named corporation, each first being duly sworn, say that each of us has read the foregoing application and that the matters stated therein are true and correct and are made upon our personal knowledge and information, and are made for the purpose of inducing the County of Champaign to issue the license herein applied for.

We further swear that the applicant will not violate any of the laws of the United States of America or of the State of Illinois or the Ordinances of the County of Champaign in the conduct of applicant's place of business.

We further swear that we are the duly constituted and elected officers of said applicant and as such are authorized and empowered to execute their application for and on behalf of said application.

W.F. Alagna

Signature of President

William F. Alagna

Bernice Benn

Signature of Secretary

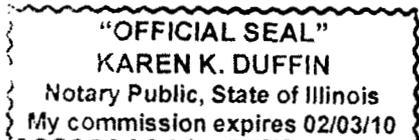
Bernice Benn

Keith C. Kesler

Signature of Manager or Agent

Keith C. Kesler

Subscribed and sworn to before me this 25th day of May, 2006.



Karen K. Duffin

Notary Public

This **COMPLETED** application along with appropriate amount of cash, or certified check made payable to MARK SHELDEN, CHAMPAIGN County Clerk's Office, 1776 E. Washington St., U

appropriate amount of cash, or certified check made payable to MARK SHELDEN, CHAMPAIGN County Clerk's Office, 1776 E. Washington St., U Illinois 61802. A \$4.00 Filing Fee should be include



STATE OF ILLINOIS,
Champaign County
Recreation & Entertainment License
Check List and Approval Sheet

FOR ELUC USE ONLY

County Clerk's Office

- 1. Proper Application Date Received: 6-1-06
- 2. Fee Amount Received: 90.00

Sheriff's Department

- 1. Police Record Approval: [Signature] Date: 6-1-06
- 2. Credit Check Disapproval: _____ Date: _____

Remarks: _____ Signature: [Signature]

Planning & Zoning Department

- 1. Proper Zoning Approval: [Checkmark] Date: 6/6/06
- 2. Restrictions or Violations Disapproval: _____ Date: _____

Remarks: _____ Signature: [Signature]
CR DISTRICT w/ SPECIAL USE PERMIT 902-5-94

Environment & Land Use Committee

- 1. Application Complete Approval: _____ Date: _____
- 2. Requirements Met Disapproval: _____ Date: _____

Signature: _____

Remarks and/or Conditions: _____



To: Environmental Land Use Committee
From: Brent Rose
Re: Loan request for The Spreader, Inc. (Armin Hesterberg)
Date: June 12, 2006

Loan Request

The Spreader, Inc. is requesting \$100,000 in financing. This money will be used for working capital needs and equipment purchases.

Sources and Uses of Funds

The project has a total cost of \$100,000: Financing consists of a (1) \$100,000 CDAP Loan.

	Uses	Sources	%
Working Capital Expenses	\$100,000		
CDAP Loan		\$100,000	100%
Totals	\$100,000	\$100,000	100%

Collateral Coverage

Collateral for the CDAP loan will be a second lien on all equipment and inventory related to The Spreader, Inc. There will also be a personal guaranty by Mr. Hesterberg.

Jobs Created

As a result of the CDAP assistance, this project will create and/or retain at least 5 full-time jobs.

Rate and Term of CSBG loan

A loan of \$100,000 at 6 % for up to ten years, which yields monthly payments of \$1,110.21, and a 1% closing fee.

Staff Recommendation

Payment history at Mr. Hesterberg's financial institution has been excellent. Future cash flow and debt service coverage should be sufficient for all debt service. Mr. Hesterberg also has a very strong personal financial statement.

Staff recommends approval of a: \$100,000 loan and a 6% interest rate fixed for up to ten years.

TO: **Environment and Land Use Committee**

FROM: **John Hall, Director & Subdivision Officer**

Champaign
County
Department of

DATE: **June 7, 2006**



RE: **Case 188-06 East Bend Township**

REQUESTED ACTION

Final Plat approval for a two-lot minor subdivision of an existing 6.42 acre tract located in the CR Conservation Recreation Zoning District in Section 18 of East Bend Township located on the north side of CR3300N approximately 533 feet west of the intersection with CR700E and commonly known as the East Bend Township Highway Maintenance property located at 688 CR3300N, Fisher.

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

The proposed lots meet all Zoning Ordinance requirements and the proposed subdivision appears to meet all of the minimum subdivision standards

(217) 384-3708
FAX (217) 328-2426

Proposed Lot 2 is already developed with the East Bend Township Highway Maintenance garage. Soil percolation tests have been performed and the County Health Department has approved the subdivision but the Plat does not contain the percolation test data nor the statement certifying the soils and plat approval at this time requires the following waivers (see Draft Findings at Attachment H):

1. Waive requirement of paragraph 9.1.2 q. for percolation test holes and data at a minimum frequency of one test hole for each lot in the approximate area of the proposed absorption field to be indicated on the face of the Final Plat
2. Waive requirement of paragraph 9.1.2 r. for certification on the Final Plat by a Registered Professional Engineer or Registered Sanitarian that the proposed land use, the proposed lot, and the known soil characteristics of the area are adequate for a private septic disposal system.

<u>Subdivider</u>	<u>Engineer/Surveyor</u>
East Bend Township	Moore Surveying and Mapping
688 CR3300N	101 West Ottawa
Fisher IL 61843	Paxton IL 60957

Location, Roadway Access, and Land Use

The subject property is a 6.425 parcel in Section 18 of East Bend Township and is the location of the East Bend Township Highway Maintenance Garage that was authorized in Zoning Case 566-S-86. See the Location Map.

The proposed subdivision is bordered to the north by the Sangamon River and by a residence on the east and farmland on other sides. See the Land Use Map.

Applicable Zoning Regulations

The subject property is zoned CR Conservation Recreation. See the attached Zoning Map. Minimum Lot Requirements are reviewed in Table 1. Each proposed lot meets all minimum lot requirements.

Table 1. Review Of Minimum Lot Requirements

Lot Characteristic	Requirement (or Limit)	Proposed Lots		Notes
		Proposed Lot 1	Proposed Lot 2	
Lot Area (acres)	Minimum: 1.00 acre	2.680 acres	3.433 acre	MEETS OR EXCEEDS MINIMUM REQUIREMENT
	Maximum ¹ : 3.00 acres <i>NOT APPLICABLE</i>			
Lot Frontage (feet)	20.00 (minimum)	200.00 feet	252.61 feet	EXCEEDS MINIMUM REQUIREMENT
Lot Depth (feet)	80.00 (minimum)	585 feet (approx.)	595 feet (approx.)	EXCEEDS MINIMUM REQUIREMENT
Average Lot Width (feet)	200.00 (minimum)	200 feet	252 feet	EXCEEDS MINIMUM REQUIREMENT
Lot Depth To Width	3.00 : 1.00 (maximum)	2.925 : 1.00	2.36 : 1.00	LESS THAN MAXMUM ALLOWED
<p>NOTES NR= No Requirement (or limit)</p> <p>1. The maximum lot size only applies when the new lots are Best Prime Farmland overall and when the tract to be divided was larger than 12 acres on 1/1/98. Neither the subject property overall nor either proposed lot are Best Prime Farmland.</p>				

Minimum Subdivision Standards And Area General Plan Approval

The Minimum Subdivision Standards were added to the Area General Plan section of the *Subdivision Regulations* on July 8, 2004, in Subdivision Case 175-04, Part B, which also added the requirement that any subdivision needed Area General Plan approval except for subdivisions pursuant to a Rural Residential Overlay (RRO) map amendment. Area General Plan approval is only by ELUC. The subject subdivision is not pursuant to an RRO amendment and so Area General Plan requirements are applicable.

Attachment G reviews the conformance of the proposed subdivision with those standards. The proposed subdivision appears to meet all of the minimum subdivision standards and so appears to comply with the Area General Plan requirements.

Soil Conditions / Natural Resource Report

A Section 22 Natural Resource Report (see attached) prepared for this site by the Champaign County Soil and Water Conservation District indicates that the soils making up the proposed subdivision are not Best Prime Farmland. The site specific concerns mentioned in the Natural Resource Report are the following:

1. The site is adjacent to the Sangamon River so caution should be taken to minimize sediment moving into the river during construction.

Drainage, Stormwater Management Policy, and Flood Hazard Status

The subject property is not located in an organized drainage district.

The Subsidiary Plat indicates topographic ground contours on the subject property. There are no apparent significant areas of stormwater ponding and the ground appears to be well drained. There appears to be little or no tributary area under different ownership that drains through the proposed subdivision.

The property fronts the Sangamon River and the mapped Special Flood Hazard Area (100-year floodplain) occupies about the north 200 feet of each lot. The Base Flood Elevation for property is 711.3 as established in a determination by Berns, Clancy and Associates in a letter to the Department of Planning and Zoning dated November 11, 1994. The Subsidiary (Drainage) Plat indicates that only a very small portion of each lot is lower than the Base Flood Elevation and each lot appears to conform to the Minimum Subdivision Standards related to Special Flood Hazard Area and positive surface drainage.

No Stormwater Drainage Plan is required for the subdivision due to the low development density (impervious area less than 16%).

Public Improvements

No public improvements are indicated or required in this subdivision.

Water Wells and Soil Suitability For Septic Systems

Proposed Lot 2 is already developed with the East Bend Township Highway Maintenance Garage.

The subject property is not located in an area with limited groundwater availability.

Soil percolation tests were conducted and the County Health Department has approved this subdivision (see attached letter). The percolation data is not included on the face of the plat nor is the required certification statement and so waivers are required (see below).

NECESSARY FINAL PLAT WAIVERS AND REQUIRED FINDINGS

Article 18 of the Champaign County Subdivision Regulations requires four specific findings for any waiver of the Subdivision Regulations. The Required Findings are generally as follows:

- **Required Finding 1. Does the waiver appear to be detrimental or injurious to the public safety?**
- **Required Finding 2. Are there special circumstances unique to the property that are not generally applicable to other property and will granting the waiver provide any special privilege to the subdivider?**
- **Required Finding 3. Do particular hardships result to the subdivider by carrying out the strict letter of the regulations?**
- **Required Finding 4. Do the special conditions or practical difficulties result from actions of the subdivider?**

The proposed subdivision does not conform to the following requirements for Final Plats and waivers are required for the following:

1. **Percolation test holes and data at a minimum frequency of one test hole for each lot in the approximate area of the proposed absorption field to be indicated on the face of the Final Plat as required by of paragraph 9.1.2 q.** Percolation tests were conducted and approved by the County Health Department but not included on the plat.

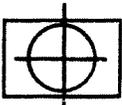
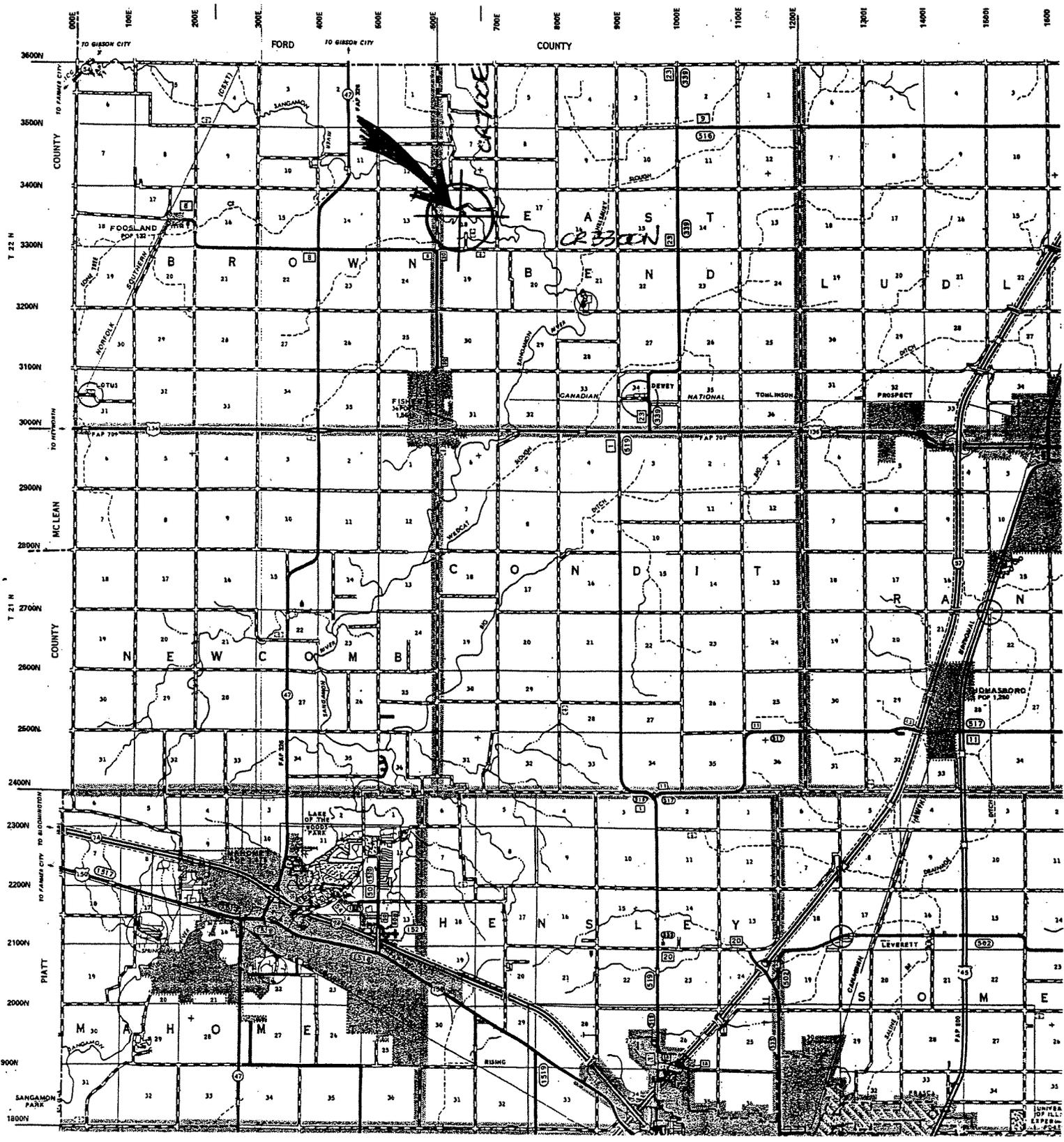
2. **The Final Plat does not contain a certification by a Registered Professional Engineer or Registered Sanitarian that the proposed land use, the proposed lot, and the known soil characteristics of the area are adequate for a private septic disposal system as required by paragraph 9.1.2 r.**

Draft Findings for these waivers are attached for the Committee's review.

ATTACHMENTS

- A Subdivision Case Maps (Location, Land Use, Zoning)**
- B Subsidiary (Drainage) Plat of East Bend Subdivision received May 17, 2006**
- C Final Plat of East Bend Subdivision received May 17, 2006**
- D Section 22 Natural Resource Report by the Champaign County Soil and Water Conservation District**
- E Excerpt from Flood Insurance Rate Map (FIRM) Panel No. 170894 0025 B dated March 1, 1984**
- F Letter dated April 20, 2006, from Sarah Michaels of the Champaign County Health Department**
- G Preliminary Assessment Of Compliance With Minimum Subdivision Standards**
- H Draft Findings for Waivers of Final Plat Requirements**

ATTACHMENT A. LOCATION MAP
Case 189-06 East Bend Subdivision
 JUNE 7, 2006

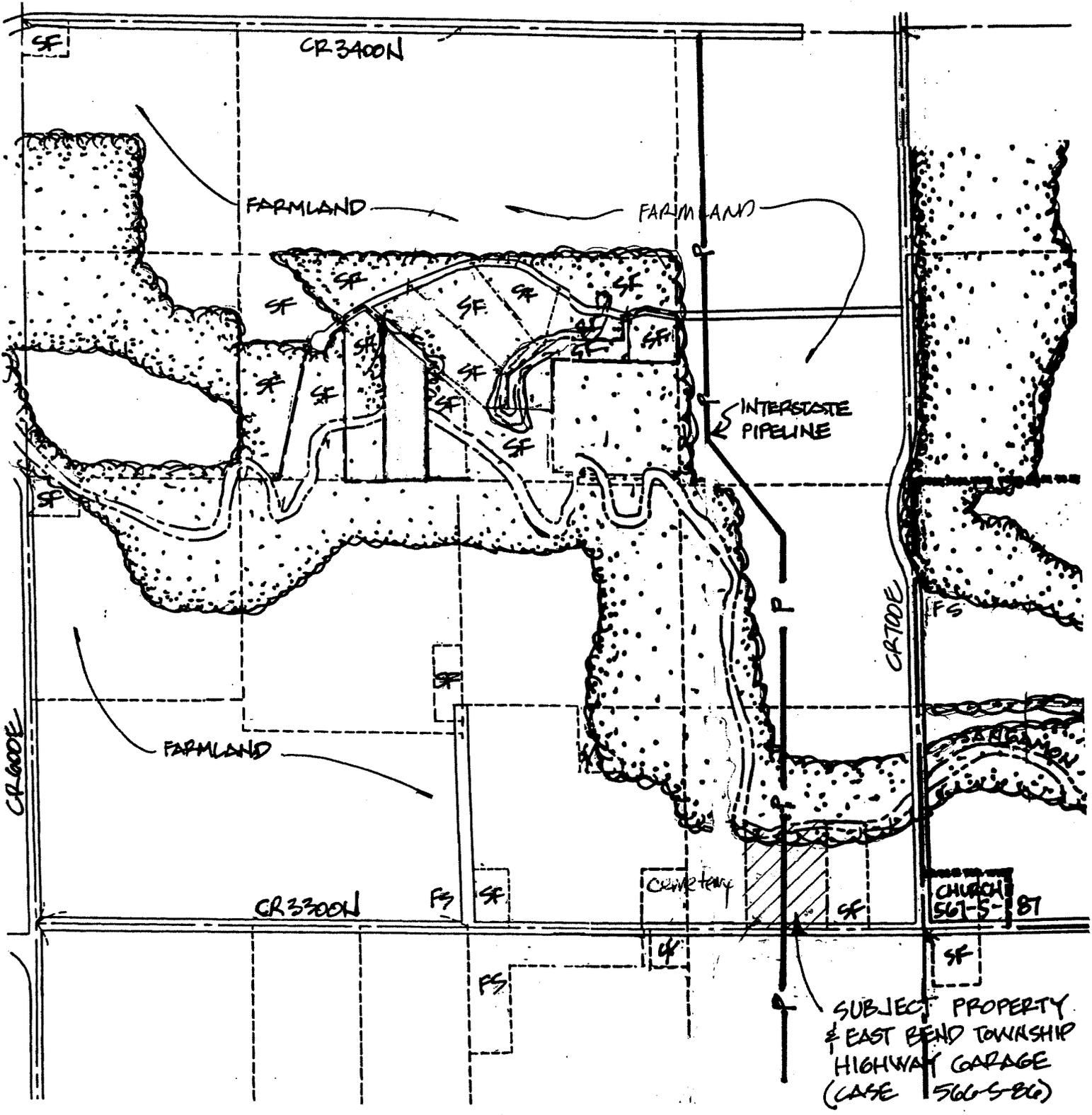


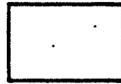
Area of Concern



Chambers
 County
 Department of
**PLANNING &
 ZONING**

ATTACHMENT A. LAND USE MAP
 Case 189-06 East Bend Subdivision
 JUNE 7, 2006

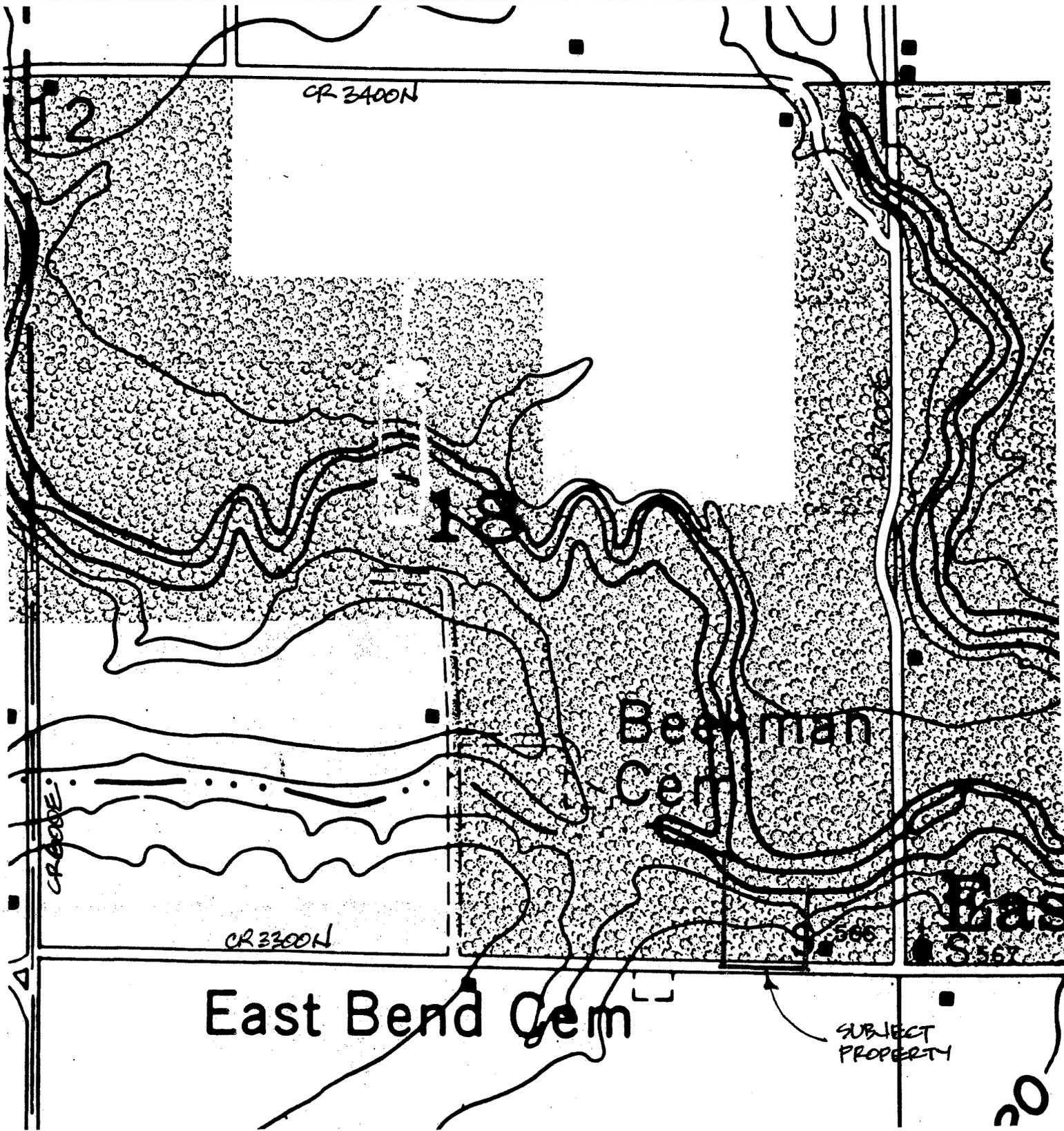


	Area of Concern		WOODED AREA
	Single Family		
	Farmstead		



Champaign
 County
 Department of
**PLANNING &
 ZONING**

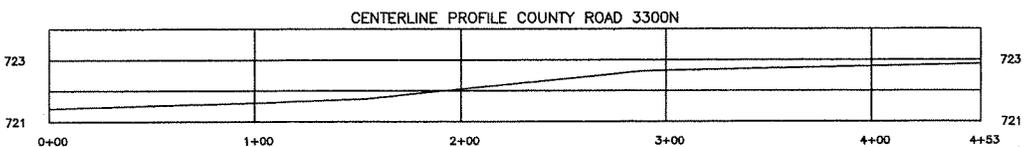
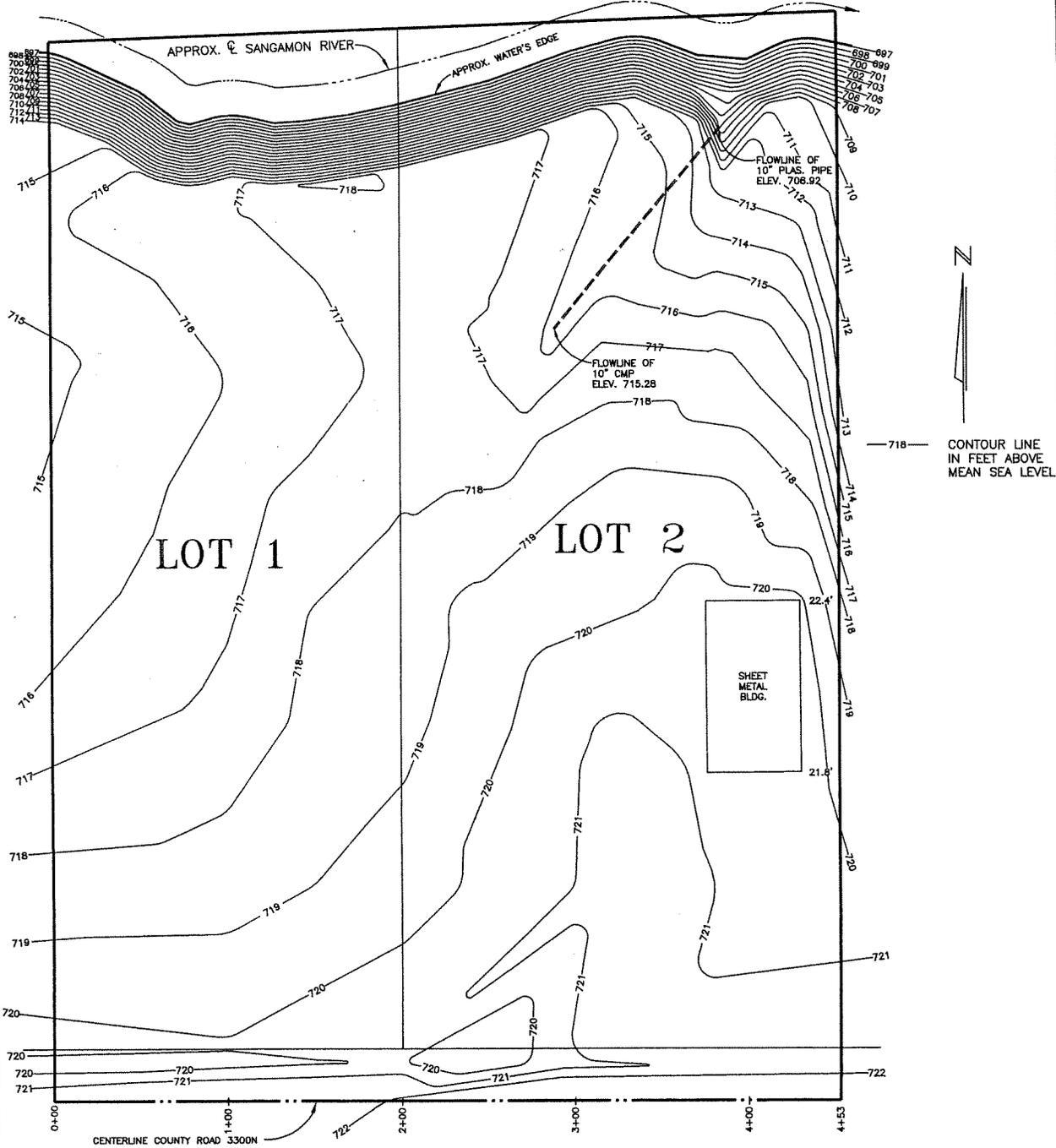
ATTACHMENT A. ZONING MAP
 Case 180-06 East Bend Subdivision
 JUNE 7, 2006



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry

Champaign
 County
 Department of
**PLANNING &
 ZONING**

SUBSIDIARY PLAT OF
EAST BEND SUBDIVISION
 IN SE1/4 SE1/4 SEC. 18 T22N R8E 3RD P.M.
 CHAMPAIGN COUNTY, ILLINOIS



NOTES:

1. NO EXISTING BUILDING IN LOTS 1 OR 2 LIES WITHIN THE BUILDING SET-BACK AREA.
2. THE NEAREST EXISTING BUILDING ON LOT 2 IS 21.8 FEET FROM NEAREST SUBDIVISION BOUNDARY LINE.
3. NO CHANGE IN DRAINAGE IS ANTICIPATED AT THIS SITE.
4. LOT 2 IS SERVED BY AN EXISTING WELL.

RECEIVED

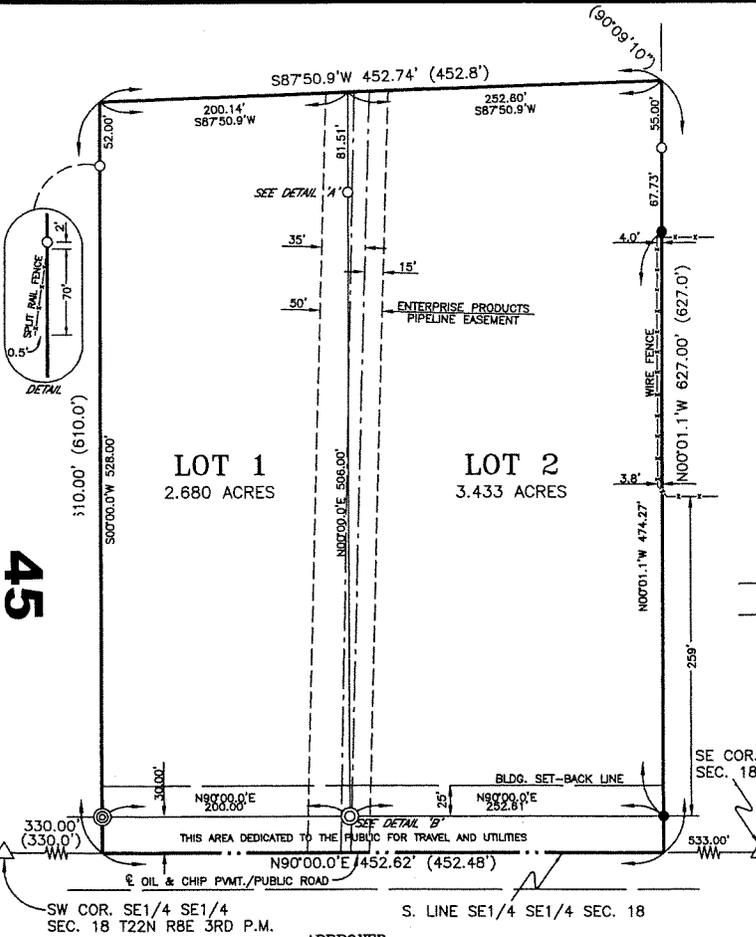
MAR 17 2006

CHAMPAIGN CO. P & Z DEPARTMENT

MOORE SURVEYING & MAPPING			
PAXTON, ILLINOIS			
CLIENT	DATE	SCALE	JOB NO.
TOWN OF EAST BEND	MAR. 1, 2006	1" / 60'	4163S

45

FINAL PLAT OF EAST BEND SUBDIVISION IN SE1/4 SE1/4 SEC. 18 T22N R8E 3RD P.M. CHAMPAIGN COUNTY, ILLINOIS



- STONE FOUND
1/2" IRON ROD FOUND W/ALUMINUM CAP STAMPED "IL LAND SURVEYOR 2616"; SET IN CONCRETE
1/2" IRON ROD FOUND
1/2" IRON ROD SET W/ORANGE PLASTIC CAP STAMPED "ILS 2616"
1/2" IRON ROD SET W/ORANGE PLASTIC CAP STAMPED "ILS 2616" IN CONCRETE
4" PVC RISER PIPE WARNING OF BURIED NATURAL GAS PIPELINE
FORESHORTENED LINE
BURIED NATURAL GAS PIPELINE
DATA PER DEED FILED AS DOCUMENT NO. 87R1554 IN OFFICE OF CHAMPAIGN COUNTY RECORDER

EAST BEND TOWNSHIP HIGHWAY COMMISSIONER'S CERTIFICATE
I have examined this plat, and to the best of my knowledge and belief find it to be in compliance with the highway requirements as set forth in the regulations governing plats of subdivided land adopted by the County Board of Champaign County, Illinois.
Approved the 31 day of MARCH, A.D. 2006
Scott Rodger
East Bend Township Highway Commissioner

OWNER'S CERTIFICATION

I, Stan Zehr, Town of East Bend Supervisor, do hereby certify that the Town of East Bend is the owner of the tract of land described hereon and do hereby acknowledge and adopt this plat under the style and title given. The area not designated as lots is hereby dedicated to the public for travel and public utilities.

Stan Zehr 3/31/06
Supervisor, Town of East Bend Date

SURVEYOR'S CERTIFICATION

I, Robert A. Moore, Professional Illinois Land Surveyor No. 2616, do hereby certify that, at the request of Town of East Bend, I have made a survey of a tract of land described as:

Beginning on the South Line of the Southeast Quarter of the Southeast Quarter of Section 18, Township 22 North of the Base Line, Range 8 East of the Third Principal Meridian a distance of 330.0 feet east of the South-west Corner of said Southeast Quarter of the Southeast Quarter; thence North 90 degrees 00.0 minutes East (N90°00.0'E) 452.62 feet on said South Line; thence N00°01.1'W 827.00 feet; thence S87°50.9'W 452.74 feet; and thence S00°00.0'W 610.00 feet to the point of beginning; encompassing 6.425 acres, situated in Champaign County, Illinois

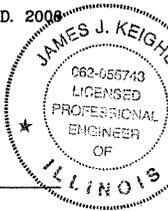
for the purpose of subdividing said tract as shown hereon.

I further certify as follows:

- 1. This tract is within 500 feet of a surface drain or waterway serving a tributary area of 840 acres or more.
2. A portion of the property covered by this plat is within a flood hazard area identified by the Federal Emergency Management Agency.
3. The tract, as subdivided, is to be known as EAST BEND SUBDIVISION.

Robert A. Moore 3-28-06
Illinois Land Surveyor No. 2616 Date
License expires 11/30/2008

Approved the day of A.D. 2006
CHAIRMAN
CHAIRMAN
CHAIRMAN



DRAINAGE CERTIFICATION
to the best of our knowledge and belief reasonable provisions have been made for the collection and diversion of surface waters into public areas or drains which the the subdivider has the right to use, and such surface waters have been planned for in accordance with generally accepted engineering practices so as to reduce the likelihood of damage to the adjoining property because of the construction of EAST BEND SUBDIVISION, Champaign County, Illinois.

James J. Keigher 3-28-06
James J. Keigher, I.R.P.E. Date
Stan Zehr 3/31/06
Supervisor, Town of East Bend Date

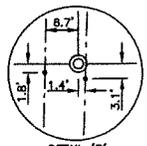
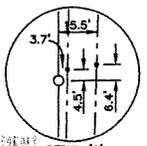


Table with 4 columns: CLIENT (TOWN OF EAST BEND), DATE (MAR. 7, 2006), SCALE (1"/100'), JOB NO. (4163). Includes company name MOORE SURVEYING & MAPPING PAXTON, ILLINOIS and license information.

Champaign County Soil and Water Conservation District

2110 W. Park Court, Suite C
Champaign, IL. 61821
(217) 352-3536, Ext. 3

RECEIVED

APR 17 2006

NATURAL RESOURCE REPORT

Development Name: East Bend Subdivision

CHAMPAIGN CO. P & Z DEPARTMENT

Date Reviewed: April 14, 2006

Requested By: Scott Rodgers, Township Highway Commissioner

Address: 688 CR 3300 North
Fisher, IL 61843

Location of Property: Part of the Southwest Quarter of the Southwest Quarter of Section 18, T22N, R8E, East Bend Township, Champaign County, IL. This is on the north side of CR 3300 North. The tract is 2 lots on 6.1 acres that will be subdivided into a lot with the existing Highway buildings and 1 lot to be sold for home construction.

The Resource Conservationist of the Champaign County Soil and Water Conservation District inspected this tract April 13, 2006.

SITE SPECIFIC CONCERNS

1. The site is adjacent to the Sangamon River, so caution should be taken to minimize sediment moving into the river during construction.

SOIL RESOURCE

a) Prime Farmland:

This tract is not considered prime farmland for Champaign County.

This tract has an L.E. Factor of 79. See the attached worksheet for this calculation.

b) Erosion:

This area will be susceptible to erosion both during and after construction. Any areas left bare for more than 30 days, should be temporarily seeded or mulched and permanent vegetation established as soon as possible. One lot is covered with alfalfa, which will minimize any erosion until construction begins. The other lot is the township highway department site that is developed already.

c) Sedimentation:

A complete erosion and sedimentation control plan should be developed and implemented on this site prior to and during major construction activity. All sediment-laden runoff should be routed through sediment basins before discharge. No straw bales or silt fences should be used in concentrated flow areas, with drainage areas exceeding 0.5 acres. A perimeter berm could be installed around the entire site to totally control all runoff from the site. Plans should be in conformance with the Illinois Urban Manual for erosion and sedimentation control. Due to the proximity to the Sangamon River caution should be taken to minimize any sediment runoff into the river.

d) Soil Characteristics:

There are three (3) soil types on this site, but the Elliott (148B2) and Ashkum (232a) cover the buildable area. See the attached soil map. The soils present have moderate to severe limitations for development in their natural, unimproved state. The possible limitations include severe ponding on Ashkum (232A) that will adversely affect septic fields on the site. The septic field should be located away from the Ashkum (232A) soil type.

A development plan will have to take these soil characteristics into consideration; specific problem areas are addressed below.

Map Symbol	Name	Slope	Shallow Excavations	Basements	Roads	Septic Fields
148B2	Elliott Silt Loam	2-5%	Severe: cutbank cave	Moderate: shrink-swell	Severe: low strength	Moderate: percs slowly
232A	Ashkum Silty Clay Loam	0-2%	Severe: ponding	Severe: ponding	Severe: ponding	Severe: ponding
3107A	Sawmill silty clay loam	0-2%	Severe: ponding	Severe: ponding	Severe: ponding	Severe: flooding

a) Surface Drainage:

The tract drains to the north into the Sangamon River. The road and topography block any runoff from adjacent properties on to the site, so surface drainage from the site is the only concern.

b) Subsurface Drainage:

This site may contain agricultural tile, if any tile found care should be taken to maintain it in working order.

Wetness may be a limitation associated with the soils on this 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.

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.

CULTURAL, PLANT, AND ANIMAL RESOURCE

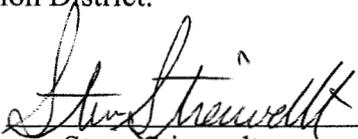
a) Plant:

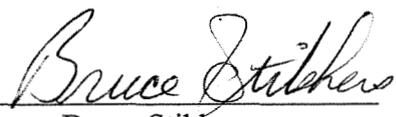
For eventual landscaping of the site, the use of native species is recommended whenever possible. Some species include White Oak, Blue Spruce, Norway Spruce, Red Oak, and Red Twig Dogwood.

b) Cultural:

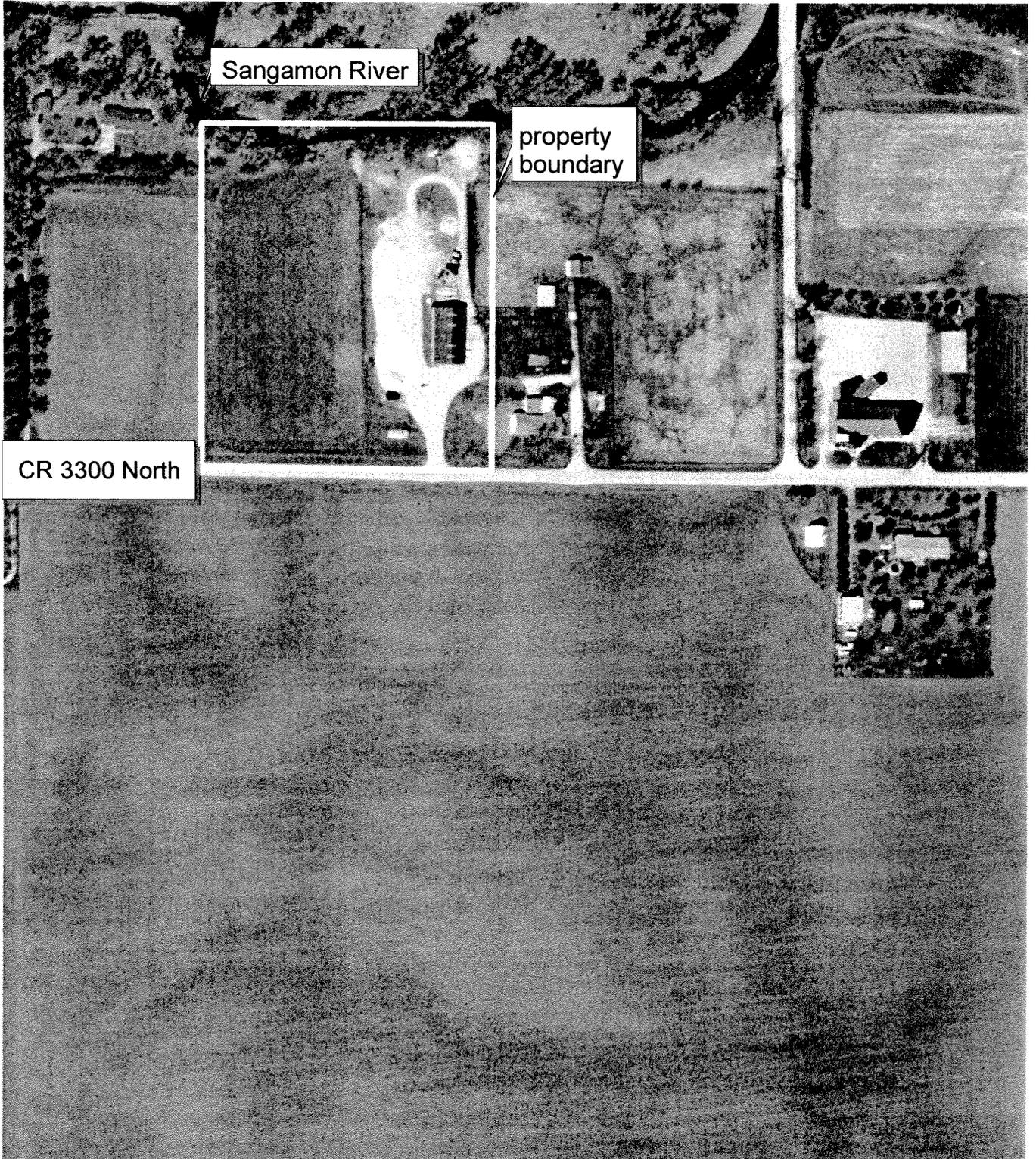
The Illinois Historic Preservation Agency may require a Phase 1 Archeological Review to identify any cultural resources that may be on the site.

If you have further questions, please contact the Champaign County Soil and Water Conservation District.

Signed by  _____
Steve Stierwalt
Board Chairman

Prepared by  _____
Bruce Stickers
Resource Conservationist

East Bend Subdivision



LAND EVALUATION WORKSHEET

<u>Soil Type</u>	<u>Ag Group</u>	<u>Relative Value</u>	<u>Acres</u>	<u>L.E.</u>
146B2	5	79	4.3	339.70
232A	4	85	1.4	119.00
3107A	6	70	0.7	49.00
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00

Total LE factor= 507.70

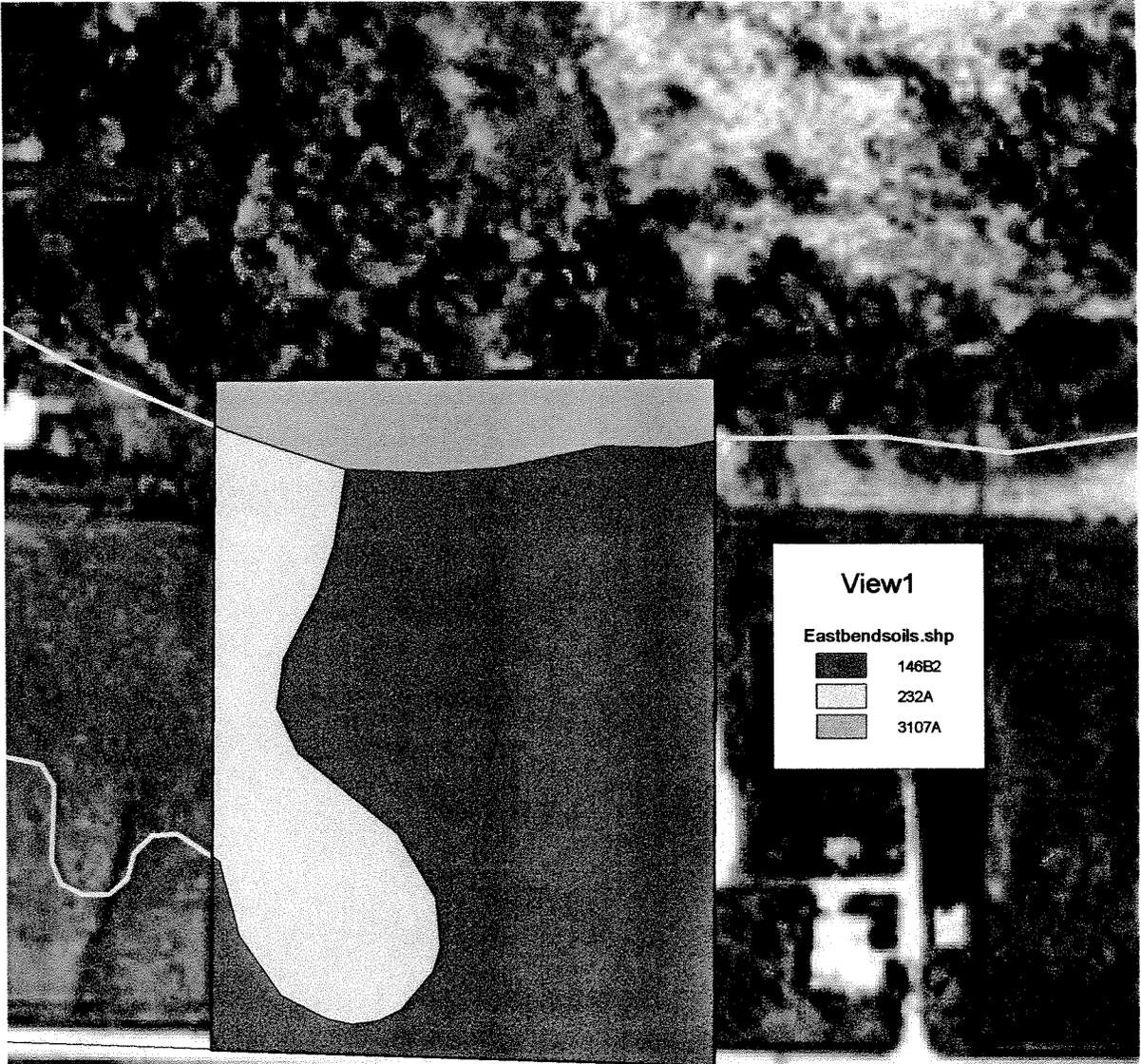
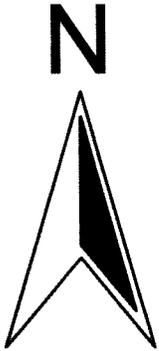
Acreage= 6.4

Land Evaluation Factor for site = 79

Note: A Soil Classifier could be hired for additional accuracy if necessary.

Data Source: Champaign County Digital Soil Survey
Revised fall 2002

East Bend Subdivision



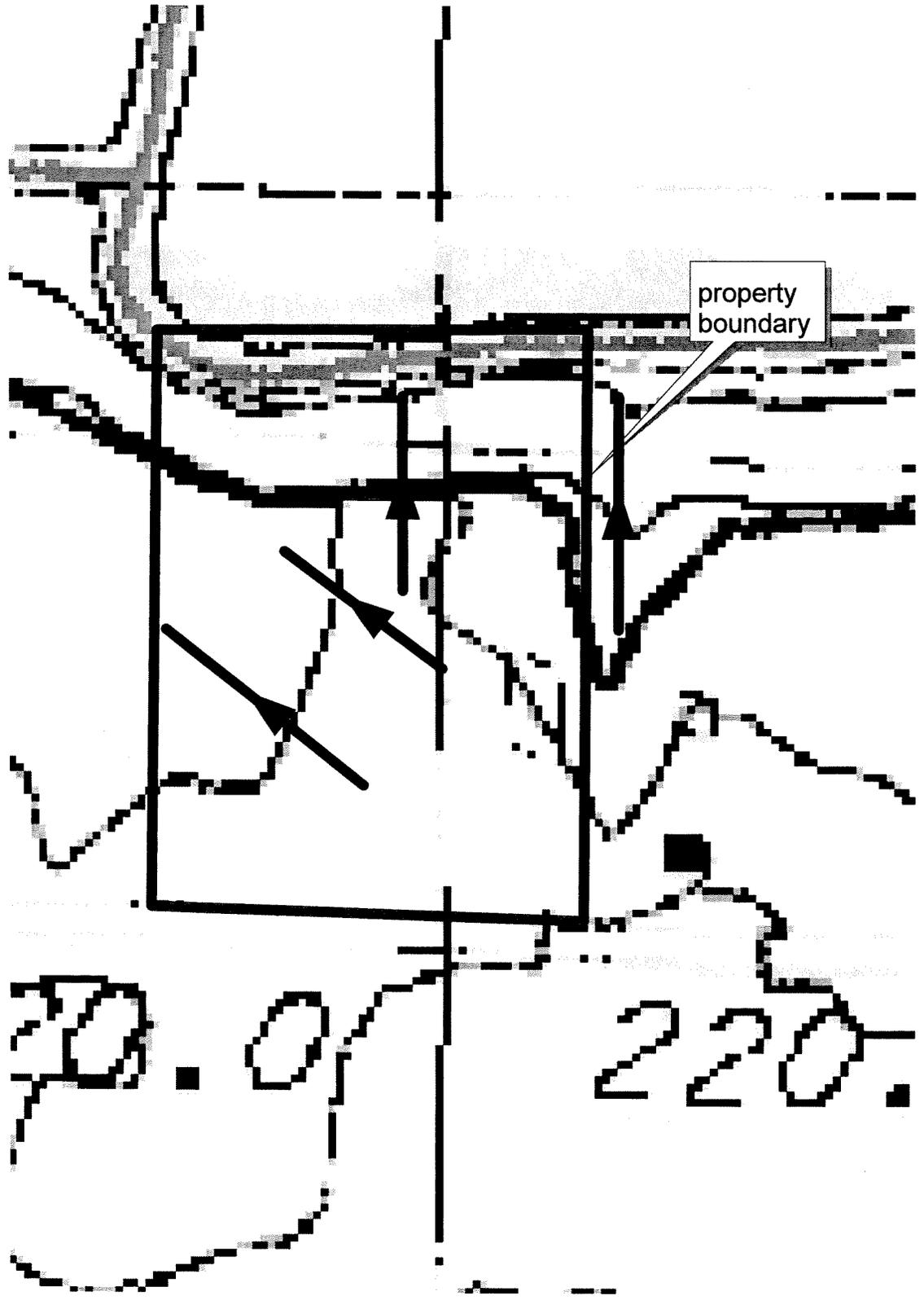
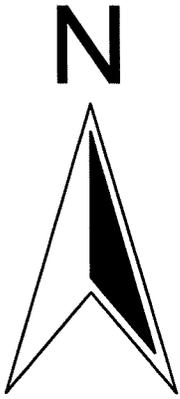
Soils

T22N
R8E
Sec 18

Musym	First Name	Sum Acres
146B2	Elliott	4.3000
232A	Ashkum	1.4000
3107A	Sawmill	0.7000



East Bend Subdivision



**Surface
Water
Flow**

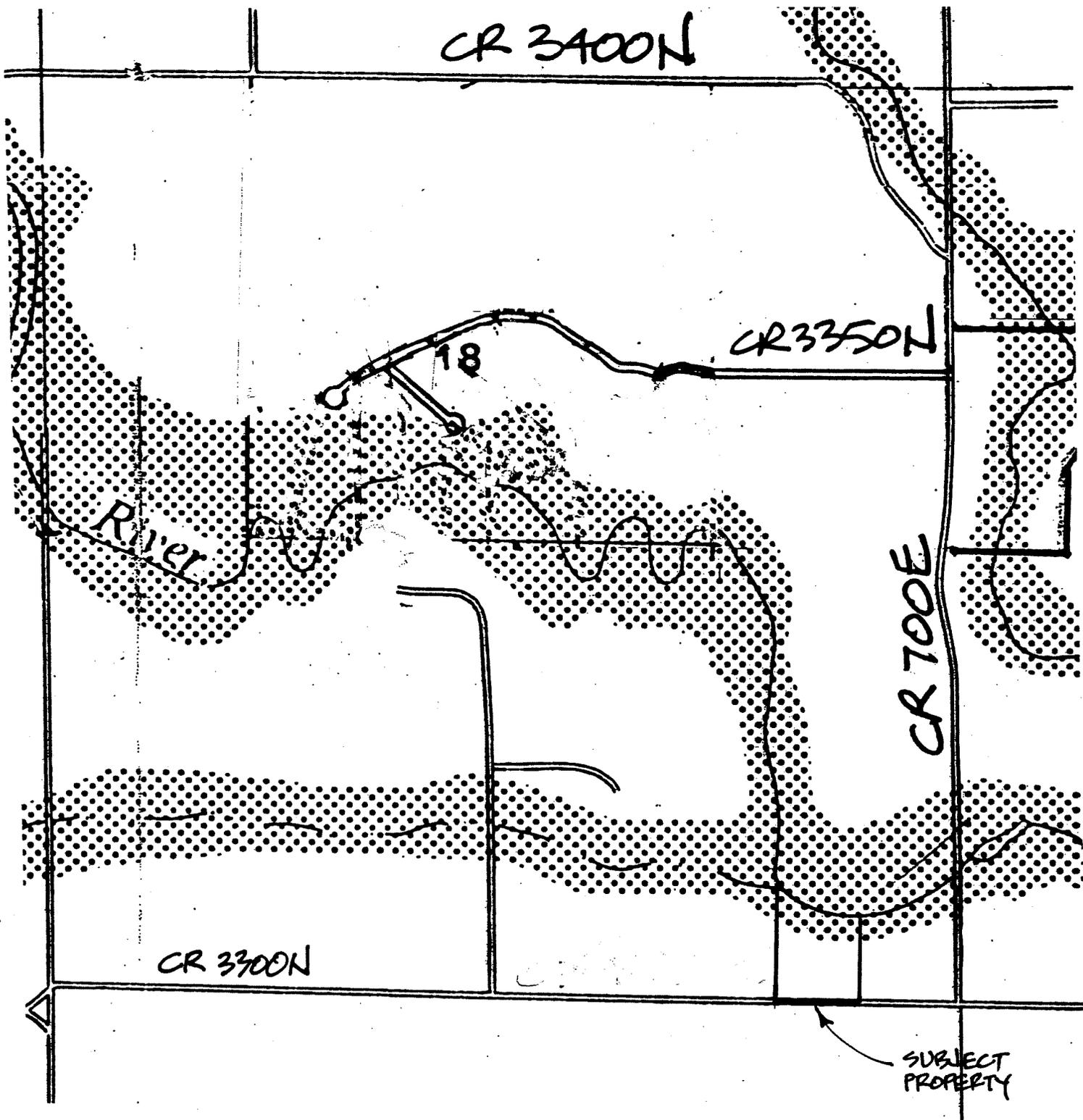


500 0 500 Feet

ATTACHMENT E. EXCERPT FROM FLOOD INSURANCE RATE MAP

Case 189-06 East Bend Subdivision

JUNE 7, 2006



Champaign
County
Department of
**PLANNING &
ZONING**



NORTH



Champaign County Public
Health Department

April 20, 2006

East Bend Township Shed
Attn: Scott Rodgers
688 County Road 3300 North
Fisher, IL 61843

Dear Mr. Rodgers:

This letter is in regard to the plat for East Bend Subdivision located in East Bend Township, Champaign County, Illinois. According to the *Plat Act* (765 ILCS 205/2), we are authorized to review the plat with respect to sewage disposal systems.

Based upon the result of the soil percolation test, a septic system could be designed to serve this lot. It is noted that if an alternative system is placed on Lot #1, the effluent from that unit must remain on the property. Upon review of the information submitted for East Bend Subdivision, you may proceed as planned. Please feel free to contact me at (217) 363-3269 if you have any questions.

Sincerely,

Sarah A. Michaels

Sarah A. Michaels
Senior Sanitarian

**ATTACHMENT G. PRELIMINARY ASSESSMENT OF COMPLIANCE WITH MINIMUM
SUBDIVISION STANDARDS**

Case 189-06 East Bend Subdivision

JUNE 7, 2006

Standard	Preliminary Assessment ¹
SUITABILITY STANDARDS (Section 6.1.5 a.)	
1) No part of a minimum required LOT AREA ² shall be located on the following soils: Ross silt loam soil (No. 3473A), Ambraw silty clay loam soil (No. 3302A), Peotone silty clay loam soil (No. 330A), or Colo silty clay loam soil (3107A)	APPEARS TO CONFORM. The property fronts the Sangamon River and the Natural Resource Report indicates there is less than an acre of Sawmill silt clay loam (No. 3107A, formerly Colo silty clay loam) that appears to be more or less evenly divided among the two lots. A minimum required lot area is only one acre and so each lot appears to conform.
2) No part of a minimum required LOT AREA ² shall contain an EASEMENT for an interstate pipeline	APPEARS TO CONFORM. A pipeline does cross through the property in the vicinity of the common lot line. Each lot has more than a minimum required lot area outside of the pipeline easement and so each lot appears to conform.
3) No part of a minimum required LOT AREA ² shall be within a runway primary surface or runway clear zone	APPEARS TO CONFORM. No runway is known to be in the vicinity of the subject property.
4) Prior to the commencement of any change in elevation of the land, no part of a minimum required LOT AREA ² shall be located more than one foot below the BASE FLOOD ELEVATION (BFE).	APPEARS TO CONFORM. The property fronts the Sangamon River and the mapped Special Flood Hazard Area (100-year floodplain) occupies about the north 200 feet of each lot. However, the Base Flood Elevation is 711.3 and the Subsidiary (Drainage) Plat indicates that only a very small portion of each lot is lower than the Base Flood Elevation. Each lot appears to conform.
5) When a connected public sanitary sewer is not available, the septic suitability of the soils occupied by each proposed LOT must be the most suitable soils on the larger tract from which the SUBDIVISION is proposed.	APPEARS TO CONFORM. The entire property is included in the subdivision each lot appears to conform.
6) The amount of farmland with a Land Evaluation score of 85 or greater that is occupied by each LOT must be minimized as much as possible.	APPEARS TO CONFORM. Because the property is only 6.42 acres the maximum lot size requirement does not apply. Each lot appears to conform.
7) A minimum required LOT AREA ² for any LOT must have positive surface drainage with no significant identifiable area of likely stormwater ponding and provided that any portion of any LOT that is likely to experience ponding of stormwater is noted on the FINAL PLAT.	APPEARS TO CONFORM. The Subsidiary (Drainage) Plat indicates topography. There are no apparent significant areas of stormwater ponding and the ground appears to be well drained.
8) Possible driveway locations on each LOT must comply with the Minimum Stopping Sight Distance standards based on lawful speed limits at that location.	APPEARS TO CONFORM.

**ATTACHMENT G. PRELIMINARY ASSESSMENT OF COMPLIANCE WITH MINIMUM
SUBDIVISION STANDARDS**

Case 189-06 East Bend Subdivision

JUNE 7, 2006

Standard	Preliminary Assessment ¹
AGRICULTURAL COMPATIBILITY STANDARDS (Section 6.1.5 b.)	
1) Possible driveway locations on each LOT must be limited such that driveway entrances to existing public STREETS are centralized as much as possible consistent with good engineering practice.	APPEARS TO CONFORM. There is already a driveway on the east side of proposed Lot 2 and so driveway entrances cannot be centralized and each lot appears to conform.
2) The location of a SUBDIVISION on the larger tract from which the SUBDIVISION is proposed must maximize the separation of the proposed SUBDIVISION from: i. adjacent farmland that is under different OWNERSHIP at the time of SUBDIVISION; and ii. adjacent public parks, natural areas, or nature preserves	APPEARS TO CONFORM. The entire property is included in the subdivision each lot appears to conform.
3) The SUBDIVISION LOT arrangement must minimize the perimeter of the SUBDIVISION that borders adjacent agriculture and must be located next to adjacent residential LOTS whenever possible.	APPEARS TO CONFORM. The entire property is included in the subdivision and the subdivision is as compact as possible.
<p>Notes</p> <p>1. This preliminary assessment is subject to review by the Environment and Land Use Committee. A waiver is required for any Minimum Subdivision Standard to which the Committee determines that the Plat does not conform.</p> <p>2. The minimum required lot area is one acre (43,560 square feet).</p>	

DRAFT FINDINGS FOR WAIVER OF FINAL PLAT REQUIREMENTS

As required by Article Eighteen of the Champaign County Subdivision Regulations and based on the testimony and exhibits received at the meeting held on **June 12, 2006**, the Environment and Land Use Committee of the Champaign County Board finds that:

1. The requested subdivision waiver(s) of final plat requirements **WILL NOT** be detrimental to the public health, safety, or welfare or injurious to other property located in the area because:
 - A. **Soil percolation tests have been conducted to determine soil suitability for septic systems and the County Health Department has authorized the subdivision plat to proceed.**

2. Conditions **DO** exist which are unique to the property involved and are not applicable generally to other property and granting the subdivision waiver(s) of final plat requirements will not confer any special privilege to the subdivider because:
 - A. **Soil percolation tests have been conducted to determine soil suitability for septic systems and the County Health Department has authorized the subdivision plat to proceed.**
 - B. **These waivers are not prohibited by the Subdivision Regulations and could be requested for any subdivision with similar conditions.**

3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, particular hardships **WILL** result to the subdivider by carrying out the strict letter of the subdivision requirements sought to be waived because:
 - A. **The subdivider would have to have the percolation test results and a certification statement added to the plat which would add to the cost of subdividing.**

4. Special conditions and circumstances **DO NOT** result from actions of the subdivider because:
 - A. **Soil percolation tests have been conducted to determine soil suitability for septic systems.**
 - B. **The County Health Department has authorized the subdivision plat to proceed.**
 - C. **The public health, safety, and welfare will not be damaged nor will other property located in the area be injured as a result of the waiver.**
 - D. **These waivers are not prohibited by the Subdivision Regulations and could be requested for any subdivision with similar conditions.**

Champaign
County
Department of

**PLANNING &
ZONING**

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

(217) 384-3708
FAX (217) 328-2426

To: **Environment and Land Use Committee**
From: **John Hall, Director**
Date: **June 7, 2006**
RE: **Case 497-AM-05**

Zoning Case 497-AM-05

Request: **Amend the Zoning Map to change the zoning district designation from from CR Conservation Recreation to AG-2 Agriculture**

Petitioners: **Helen Willard and Steven and Shirley Willard**

Location: **A 29 acre parcel in the Northwest 1/4 of the Southeast 1/4 of Section 36 of Newcomb Township and located east of CR550E and north of CR2425N at the corner of CR550E and CR 2425N and commonly known as the home and property at 556 CR2425N, Dewey.**

STATUS

The Zoning Board of Appeals voted that the proposed amendment in this Case "NOT BE ENACTED" (recommended denial) at their meeting on May 11, 2006. See the attached Finding of Fact and the brief overview below.

Map amendments require a majority of all Board members (14 affirmative votes) to approve unless there are valid protests. There is currently a frontage protest from one neighbor but that protest only represents 14.8% of the frontage of the subject property and is not enough to require a "supermajority" of the County Board (21 members) to approve. However, in the past there was an additional frontage protest by another neighbor that accounted for 23.7% of the frontage and that protest would require a supermajority. That second neighboring property has had a change in ownership and no new protest has been received but is anticipated.

The subject property is located within the extraterritorial jurisdiction of the Village of Mahomet but the Village has not protested the proposed rezoning. Newcomb Township also has a Plan Commission but the township has not protested the proposed rezoning either.

BRIEF OVERVIEW OF FINDING OF FACT

The Finding of Fact (see attached) is organized as follows:

- Items 1 through 3 review **the location and legal description of the subject property.**
- Items 4 and 5 review **the background of the request for map amendment.** This case is necessitated because the existing business is not allowed in the current zoning district and is a violation of the Zoning Ordinance. If the map amendment is not approved the business will have to relocate and if the map amendment is approved a Special Use Permit will be required. The petitioners have applied for a Special Use Permit in related case 498-S-05 that is currently pending at the Zoning Board of Appeals.

- Items 6 through 8 review **land use and zoning in the vicinity of the subject property.**
- Items 9 and 10 **compare the existing CR Conservation Recreation Zoning District to the proposed AG-2 Agriculture Zoning District.**
- Items 12 through 17 review **the Mahomet comprehensive plan designation for the subject property and vicinity.**
- Item 18 reviews the **frontage protests as of the date of ZBA Final Determination.**
- Items 19 through 21 reviews the most **relevant testimony from the public hearing at the ZBA.** Other testimony is in the minutes of the case. All letters of support and opposition are listed as Documents of Record but not all were directly relevant to the map amendment.
- Item 22 reviews **the relationship of the Land Use Goals and Policies to the Land Use Regulatory Policies.**
- Items 23 through 25 review the **natural resource land use goals and policies.** The ZBA found that the proposed amendment does not achieve the three relevant natural resource land use goals (the first, the third, and the fourth natural resource land use goals) and does not conform to the one relevant natural resource policy, policy 5.7.

In regards to the two Land Use Regulatory Policies (LURP) relevant to natural resources, the ZBA found that the proposed rezoning conforms to LURP 1.7.2 and does not conform to LURP 1.7.1.
- Items 26 through 28 review the **agricultural land use goals and policies.** The ZBA found that the proposed amendment achieves the one agricultural land use goal that is relevant (the first agricultural land use goal) and conforms to the one agricultural land use policy that is relevant, policy 1.2.

In regards to the seven Land Use Regulatory Policies (LURP) relevant to agriculture, the ZBA found that the proposed rezoning conforms to one (LURP 1.5.1) and partially conforms to three (LURP 1.4.2, 1.5.4, and 1.6.1) and does not conform to two others (LURP 1.4.1 and 1.5.3). The ZBA also found there was insufficient information to determine conformance with Land Use Regulatory Policy 1.6.2.
- Item 29 reviews the **general land use policies.** The ZBA found that the proposed rezoning did not conform to the one relevant general land use policy (the first general land use policy).
- Item 30 reviews the **general land use goals.** The ZBA found that the proposed map amendment partially achieves the third general land use goal and does not achieve the fourth general land use goal.
- Item 31 reviews **Land Use Regulatory Policy 1.1.** The ZBA found that the proposed map amendment does not conform to this general Land Use Regulatory Policy.

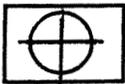
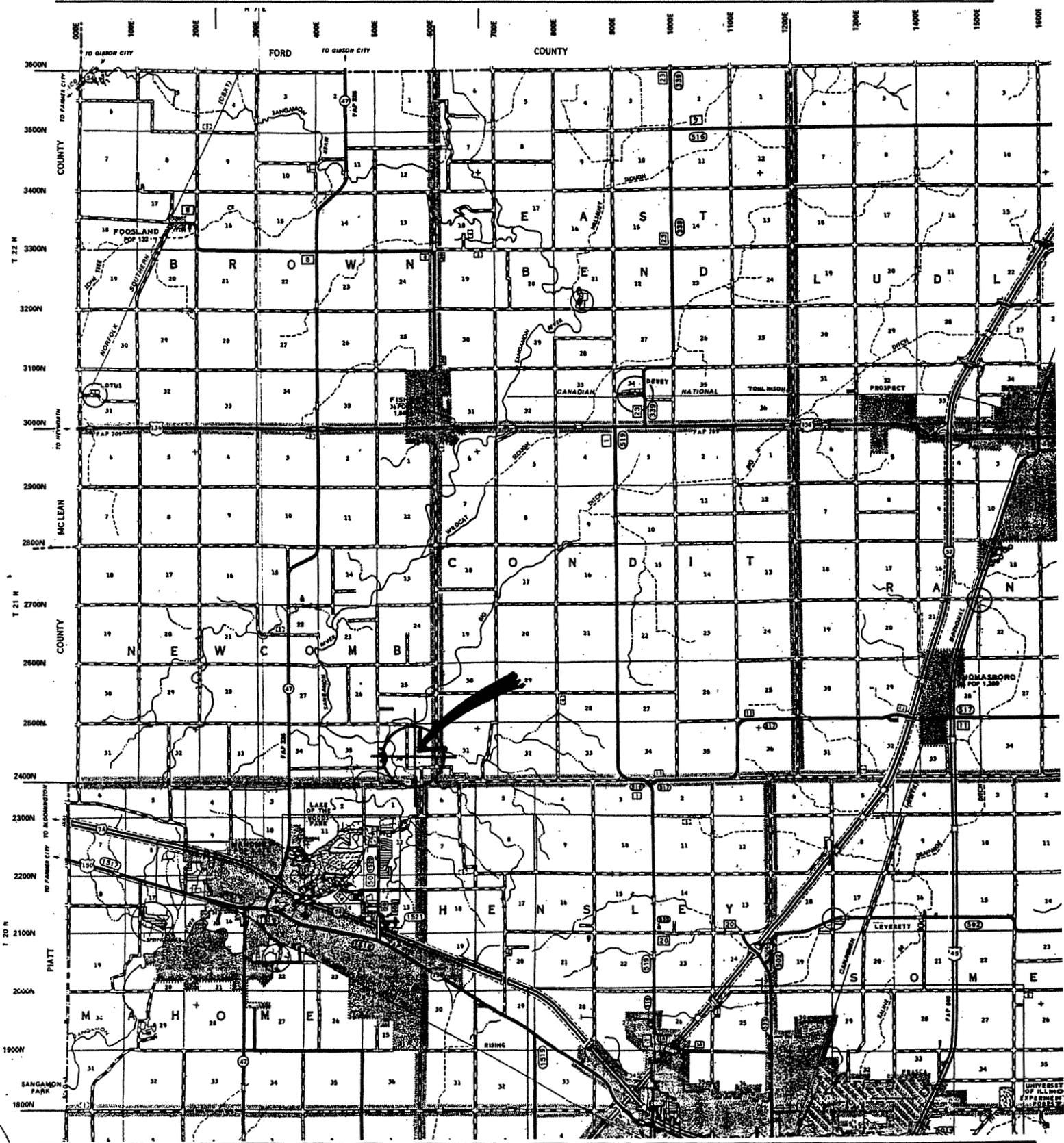
ATTACHMENTS

- A Zoning Case Maps (Location and Zoning)
- B Aerial Photograph of Subject Property
- C Finding of Fact and Final Determination of the Champaign County Zoning Board of Appeals as approved on May 11, 2006

ATTACHMENT A. LOCATION MAP

Cases 497-AM-05 & 498-S-05

JULY 8, 2005



Area of Concern



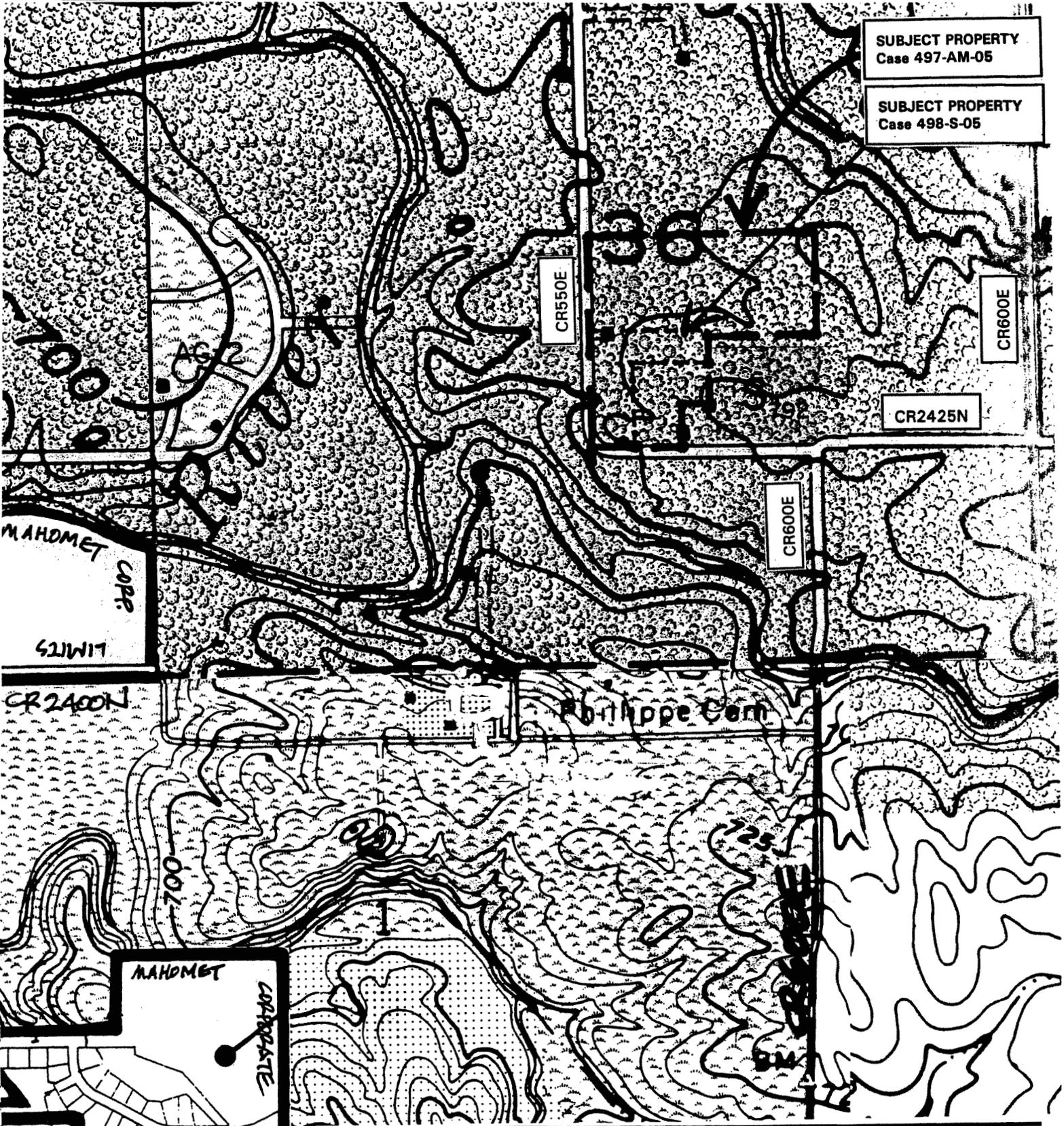
NORTH

Champaign
County
Department of
**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP

Cases 497-AM-05 & 498-S-05

JULY 8, 2005



	AG-1 Agriculture		R-1 Single Family Residence		R-4 Multiple Family Res.		B-2 Neighborhood Business		B-5 Central Business
	AG-2 Agriculture		R-2 Single Family Residence		R-5 Mobile Home Park		B-3 Highway Business		I-1 Light Industry
	CR Conservation- Recreation		R-3 Two-family Residence		B-1 Rural Tr Center		B-4 General Business		I-2 Heavy Industry



Champaign
County
Department of
**PLANNING &
ZONING**

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

Final Determination: ***Recommend Denial***

Date: May 11, 2006

Petitioners: **Helen Willard and Steven and Shirley Willard**

Request: **Amend the Zoning Map to change zoning district designation
from CR Conservation Recreation to AG-2 Agriculture**

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearings conducted on July 14, 2005, October 13, 2005, December 15, 2005 and May 11, 2006, the Champaign County Zoning Board of Appeals (ZBA) finds that:

1. The petitioner Helen Willard is the owner of the subject property. The petitioners Steven and Shirley Willard reside on a five-acre zoning lot on the subject property on which they also operate "the shed" which is the subject of related zoning Case 498-S-05.
2. The subject property is a 29-acre parcel in the northwest quarter of the southeast quarter of Section 36 of Newcomb Township and located east of CR550E and north of CR2425N at the corner of CR550E and CR 2425N and commonly known as the home and property at 556 CR2425N, Dewey.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet.
4. On the Petition, when asked what error in the present Ordinance is to be corrected by the proposed change, the Petitioners indicated the following: *None*
5. On the Petition, when asked what other circumstances justify the amendment, the Petitioner indicated the following:
 - A. *The machine shed was empty and not being used. This is a way to make productive use of the building and serve an important public need.*
 - B. *We have created a safe venue for youth to listen to live music & play their music. "the shed" does not allow alcohol or drugs on or in their person. We are not known as a Christian venue, just Christians running a venue.*
 - C. Regarding the proposed map amendment:
 - 1) On December 3, 2004, Jamie Hitt, Zoning Officer, notified Steve and Shirley Willard that based on the evidence that was available at that time it appeared that a 'private indoor recreational development' was being operated on the property at 552 CR2425N, Dewey in violation of the *Champaign County*

Zoning Ordinance.

- 2) The *Zoning Ordinance* indicates that a 'private indoor recreational development' is authorized in certain zoning districts as follows:
 - a) authorized 'By Right' in B-2 Neighborhood Business, B-3 Highway Business, and B-4 General Business
 - b) authorized as a Special Use in AG-2 Agriculture, R-3 Two-Family Residence, and R-4 Multiple Family Residence
- 3) On December 6, 2004 Steve Willard met with Jamie Hitt and John Hall, Associate Planner, to discuss the approvals necessary for the continued operation of the private indoor recreational development known as "the shed" at 552 CR2425N, Dewey. Mr. Willard chose to pursue necessary approvals for a Map Amendment and a Special Use to the *Champaign County Zoning Ordinance*. These applications were submitted on March 18, 2005. The Special Use application was subsequently amended on November 28, 2005 to add a Part B to the request that a 'church' land use be authorized. Part B of the Special Use request was withdrawn by the petitioners on April 13, 2006.
- 4) A non-profit corporation was subsequently established to oversee the operation of the private indoor recreational development known as 'the shed.' 'rock the shed, inc.' is a non-profit corporation with Directors: Steven Willard, 552 CR2425N, Dewey; Peter Reudi, 1308 East Kimela Drive, Mahomet; Sherry Newton, 1306 East Kimela Drive, Mahomet; Micah Boyce, 1072 Pomona Drive, Champaign; and Brian Maroon, 205 East Briarcliff, St. Joseph. The Officers of 'rock the shed, inc.' are: Steven Willard, 552 CR2425N, Dewey, (President); Micah Boyce, 1072 Pomona Drive, Champaign (Vice President); Peter Reudi, 1308 East Kimela Drive, Mahomet (Secretary); and Sherry Newton, 1306 East Kimela Drive, Mahomet (Treasurer).
- 5) At their December 13, 2004 meeting, the Environment and Land Use Committee of the Champaign County Board (ELUC) agreed to allow 'the shed' to continue in operation until the final resolution regarding zoning authorization, provided that the necessary applications were submitted in a timely manner.

REGARDING ZONING AND LAND USE IN THE IMMEDIATE VICINITY

6. The subject property is zoned CR Conservation Recreation and is occupied by two dwellings and farmland. The dwelling of Steve and Shirley Willard was authorized in Zoning Use Permit 231-88-04 on August 18, 1988 as a 'zoning lot' on the property of Helen Willard, the owner and other resident on the property.
7. The subject property is surrounded by land that is zoned CR Conservation Recreation. Land use in the vicinity and adjacent to the subject property is as follows:
 - A. Land north and east of the subject property is primarily farmland. A 10-acre parcel

at the southeast corner of the subject property was authorized as a riding stable in Case 792-S-92.

- B. Land south of the subject property is the Deerfield Farms rural residential development.
- C. Land west of the subject property is the Nellie Hart Memorial Woods, owned by the University of Illinois and a designated Category I (High Quality Natural Community) Illinois Natural Area based on the Illinois Natural Area Inventory.
- D. Land northwest of the subject property is rural residential lots.

8. Previous zoning cases in the vicinity are the following:

- A. Case 792-S-92 authorized a riding stable on the 10-acre parcel at the southeast corner of the subject property.
- B. Case 459-AM-04 was a rezoning to add a six-lot Rural Residential Overlay district on a 27-acre tract that was approved on November 17, 2005. The property is located approximately 1/4 mile north of the subject property and located on the west side of CR550E and south of CR2550N.
- C. Case 275-AM-77 was a rezoning of 25 acres from CR to AG-2 about one-half mile west of the subject property that was approved on January 17, 1978. The case file is missing from the records of the Planning and Zoning Department. This land is the current Meadows Subdivision which itself was predated by an approved subdivision in 1970 although actual street construction appears not to have started until after the adoption of zoning in October of 1973. The minutes of the ZBA meetings indicate that this case was complicated. The minutes of the December 22, 1977 public hearing provide a single finding of fact, as follows: 'This subdivision plat was approved by the proper authorities prior to enactment of County zoning.'

GENERALLY REGARDING EXISTING AND PROPOSED ZONING DISTRICT

9. Generally regarding the existing and proposed zoning district:

- A. Regarding the general intent of zoning districts (capitalized words are defined in the Ordinance) as described in *Zoning Ordinance* Section 5:
 - 1) The CR Conservation Recreation zoning DISTRICT is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
 - 2) The AG-2 Agriculture zoning DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

- B. Regarding the general locations of the existing and proposed zoning districts:
- 1) The CR District is generally along the major rivers of the County.
 - 2) The AG-2 District is generally a belt that surrounds the larger municipalities and villages.
- C. Regarding the different uses that are authorized in the existing and proposed zoning districts by *Zoning Ordinance* Section 5.2:
- 1) Single family dwellings are authorized 'By Right' in both districts, but two-family dwellings (duplexes) are authorized in the AG-2 District (but not the CR District) and require a Special Use.
 - 2) There is only one type of non-residential and non-agricultural use (not including temporary uses) authorized 'By Right' in the CR District (public parks). There are 7 non-residential and non-agricultural principal uses authorized 'By Right' in the AG-2 District (other than single family dwellings and temporary use), as follows:
 - a) Rural specialty business (minor)
 - b) Plant nursery
 - c) Country club or golf course
 - d) Commercial breeding facility
 - e) Christmas tree sales lot
 - f) Off-premises signs within 660 feet of interstate highways
 - g) Off-premises signs along federal highways except interstate highways.
 - 3) There are 67 different types of uses authorized by Special Use in the AG-2 District and there are 27 different types of uses authorized by Special Use in the CR District.
 - 4) In total, *Zoning Ordinance* Section 5.2 indicates 74 different types of uses authorized in the AG-2 District and 28 different types of uses authorized in the CR District, not including agriculture and Temporary Uses.
10. The *Zoning Ordinance* Section 5.3 Schedule of Area, Height and Placement regulations for the existing (CR Conservation-Recreation District) and proposed (AG-2 Agriculture District) differs primarily in terms of minimum required lot area (1 acre in CR vs. 30,000 square feet in AG-2) and minimum required side yard (15 feet in CR vs. 10 feet in AG-2) and rear yards (25 feet in CR vs. 20 feet in AG-2).

GENERALLY REGARDING LOCATION OF SUBJECT PROPERTY

- *11. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet.
- *12. The Village of Mahomet has subdivision jurisdiction within its one and one-half mile extraterritorial jurisdiction. Regarding the related Special Use request (Case 498-S-05), prior to the County Zoning Administrator's issuance of a Zoning Use Permit, the Village of Mahomet

will need to approve the division of the subject tract from the 29-acre parcel of which it is a part.

- *13. The Village of Mahomet has a protest right on all map amendments affecting unincorporated land which lies within one and one-half miles of their corporate limits. In the event of a municipal protest, a three-fourths majority of the County Board will be required to grant the rezoning request instead of a simple majority.
- *14. The subject property is designated as "Agriculture" on the Official Map of the Village of Mahomet in the Comprehensive Land Use Plan adopted December, 2003.
- *15. On August 1, 2005, the Village of Mahomet Plan and Zoning Commission considered the proposed map amendment and recommended that the Village of Mahomet Board of Trustees not protest the proposed rezoning.
- *16. On September 27, 2005, the Village of Mahomet Board of Trustees considered the proposed map amendment for related zoning case 497-AM-05 and voted to approve Resolution 05-08-04, 'A Resolution of No Protest - Champaign County - Willard Property'. The motion was approved with a 5 to 1 vote of the Board of Trustees.
- *17. Newcomb Township has a Plan Commission. Townships with plan commissions do not have protest rights on Special Use cases but are invited to give comments. The township has a protest right in the related map amendment case and has received notice of both the requested map amendment and the requested Special Use.
- 18. The following frontage protests were filed with the Champaign County Clerk regarding the proposed rezoning:
 - A. A frontage protest dated October 10, 2005 from Catherine Capel, former owner of property (permanent index number 16-07-36-400-004) adjoining approximately 21% of the perimeter of the subject parcel was filed with the Champaign County Clerk on December 5, 2005. This frontage protest is no longer valid because the property has since changed owners.
 - B. A frontage protest dated October 10, 2005 from Larry and Debra Fox, owner of property (permanent index number 16-07-36-400-005) adjoining approximately 11% of the perimeter of the subject parcel was filed with the Champaign County Clerk on December 5, 2005. This frontage protest does not meet the minimum requirements of 20% frontage.
 - C. At the May 11, 2006 public hearing, Mrs. Roberta Schnitkey testified that she is the new owner of the adjacent property previously owned by Catherine Capel (permanent index number 16-07-36-400-004), and that she is in the process of filing a frontage protest.

PUBLIC TESTIMONY RECEIVED GENERALLY REGARDING THE PROPOSED REZONING

- 19. At the July 14, 2005 ZBA meeting, the following verbal testimony was received regarding the proposed rezoning:

- A. Mr. David Thies testified [regarding the second natural resource goal of the Land Use Goals and Policies] that the site is a little bit out of town the cost structure which is involved is perfect due to the generosity of the Willard's and any noise issue will be enforced by the *Champaign County Nuisance Ordinance* unlike the constant noise of a farmer's combine. ... and that that the subdivision argues for the appropriateness of the requested AG-2 zoning in that the location is not in the middle of true agricultural area but indicates the transitional nature of Mahomet and Champaign moving out into the rural area. He said that if he purchased a rural home for his residence he would consider the possibility of all the uses which could be placed in the areas around me or I would purchase all of the ground around my property. He said that if I were not comfortable with doing this then I would move into town to a subdivision where it is very restrictive and I could count on the fact that certain restrictions were in effect.
20. At the October 13, 2005 ZBA meeting, the following verbal testimony was received regarding the proposed rezoning:
- A. Mr. Lee Sentman testified that he lives one and one-half miles from the property. He said that all of the area is zoned AG-1 or CR and there have been attempts in the past to rezone but those requests were denied because the County does not want 'spot zoning.
- B. Ms. Janet Fitch urged the Board to not allow spot zoning for the proposed use.
- C. Mr. Joe Lierman testified that the current use is agriculture in a CR District which is allowed and is the highest and best use that is allowed in the CR District... [the CR District] is currently meeting any needs of a true agricultural use so the requested change to an agricultural district to allow for the request of a SUP for a rock venue appears to be a strange situation which will not go with the spirit of an agricultural district. He said that the request would amount to spot zoning because currently the property is zoned CR and all of the ground surrounding it is also CR and clearly there was a reason for this designation. The reason [to request the rezoning] is to do something that is contrary to agricultural use and is probably adverse to the much more historically typical use in agriculture such as a horse stable.
21. As of May 10, 2005, the following letters of opposition regarding the proposed rezoning were received:
- A. Letter dated October 10, 2005 from Larry and Debra Fox, 2441 CR 600E, Dewey, IL 61840. Mr. and Mrs. Fox stated in their letter that they opposed the zoning change because they believe CR zoning is most appropriate for the neighborhood and that CR zoning will protect the Sangamon River watershed. They believe that uses allowed by Special Use in AG-2 but not in CR would be disruptive and inappropriate in the neighborhood.
- B. Letter dated December 5, 2005 from Larry and Debra Fox, 2441 CR 600E, Dewey, IL 61840. Mr. and Mrs. Fox stated in their letter that they opposed the zoning change for the Shed based on the fact that the existing land uses in the area all fit within the current CR zoning; they maintain that Special Uses allowed under AG-2 zoning would be disruptive to the neighborhood.

- C. Letter dated May 8, 2006 from Lee Sentman, 2514 CR 600 E, Dewey, IL 61840. Mr. Sentman stated in his letter that uses permitted in AG-2 are not compatible with surrounding uses allowed in CR and AG-1 and that the proposed rezoning constitutes spot zoning. He stated that any use allowed in AG-2 can be pursued.

REGARDING LAND USE GOALS AND POLICIES AND LAND USE REGULATORY POLICIES - RURAL DISTRICTS

22. The *Land Use Goals and Policies* (LUGP) were adopted on November 29, 1977, and were the only guidance for County Map Amendments until the *Land Use Regulatory Policies - Rural Districts* were adopted on November 20, 2001, as part of the Rural Districts Phase of the Comprehensive Zoning Review. The relationship of the *Land Use Goals and Policies* (LUGP) to the *Land Use Regulatory Policies* (LURP) is as follows:
- A. LURP 0.1.1 gives the LURP dominance over the earlier LUGP.
- B. The LUGP cannot be directly compared to the LURP because the two sets of policies are so different. Some of the LURP relate to specific types of land uses and relate to a particular chapter in the LUGP. Some of the LURP relate to overall considerations and are similar to general LUGP.

REGARDING GOALS AND POLICIES THAT PERTAIN TO NATURAL RESOURCES

23. The *Land Use Goals and Policies* (LUGP) include six goals that pertain to natural resources. These natural resource goals are relevant to the CR Zoning District because the CR District is intended to conserve the natural and scenic areas generally along the major stream networks of the County.
- A. The following LUGP natural resources goals do not appear to be relevant to any specific map amendment:
- Natural Resource Goal #5. Establishment of a process for assisting local governments in the development of parks and recreational areas through the zoning and subdivision ordinances, and capital improvements programs.
- Natural Resource Goal # 6 Development of taxing policies at the state level which will facilitate the conservation of natural resources, open space, parks and recreation and historical preservation.
- B. Natural Resource Goal #1 states: "Protection and conservation of publicly designated environmental and natural resources and historical site through open space reservation, conservation, zoning, easement, development rights, tax exemption policy, public acquisition and performance standards for commercial and industrial development."
- The proposed map amendment relates to this goal as follows:
- 1) The land west of the subject property is the Nellie Hart Memorial Woods, a designated Category I (High Quality Natural Community) Illinois Natural Area based on the Illinois Natural Area Inventory.
 - 2) The CR District authorizes only two types of land uses 'By Right' (dwellings

and public parks) and these are the only types of land uses that could be established on the subject property without the site-specific review required for a Special Use. The proposed AG-2 District allows seven types of land uses to be authorized By-Right, described as follows:

- a) Two of the seven uses (off-premises signs within 660 feet of interstate highways and off-premises signs along federal highways except interstate highways) could not be established on the subject property.
 - b) Three of the seven uses (country club or golf course; plant nursery; tree farm) are very similar to a public park.
 - c) Two of the seven uses (minor rural specialty business and commercial breeding facility) are not directly comparable to uses authorized in the CR District and represent the most change in terms of uses authorized By Right.
- 3) The CR District authorizes 27 different types of land uses as a Special Use compared to 67 different types of uses authorized as a Special Use in the AG-2 District. Site-specific considerations for protection and conservation of the Nellie Hart Memorial Woods can be considered in the review process for a Special Use in either zoning district.
- 4) On May 11, 2006, the consensus of the ZBA was that, overall, Natural Resource Goal #1 is **NOT ACHIEVED** by the proposed map amendment.
- C. Natural Resource Goal #2 states: "Provision of sufficient recreational facilities for both active and passive recreation, based on standards recommended by the Champaign County Forest Preserve, local park districts, the State of Illinois Department of Conservation and the Federal Bureau of Outdoor Recreation." This goal does not appear to be relevant to any specific map amendment except those that propose to provide the relevant active and passive recreational facilities. The proposed use in related Case 498-S-05 is a 'private indoor recreational facility' which is not the type of recreational use anticipated in this goal.
- D. Natural Resource Goal #3 states: "Development and/or preservation of greenbelts (including agricultural uses), scenic areas and open space corridors, both public and private, throughout the County."
- 1) There is no evidence that suggests that the subject property is a scenic or historical site.
 - 2) The proposed zoning district is an agricultural district.
 - 3) On May 11, 2006, the consensus of the ZBA was that, overall, Natural Resource Goal #3 is **NOT ACHIEVED** by the proposed map amendment.
- E. Natural Resource Goal #4 states: "Preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities."

- 1) The proposed zoning district is an agricultural district.
 - 2) On May 11, 2006, the consensus of the ZBA was that, overall, Natural Resource Goal #4 is **NOT ACHIEVED** by the proposed map amendment.
24. The *Land Use Goals and Policies* (LUGP) include nine policies that pertain to natural resources. These natural resource policies are relevant to the CR Zoning District because the CR District is intended to conserve the natural and scenic areas generally along the major stream networks of the County.
- A. The following LUGP policies that pertain to natural resources do not appear to be relevant to any specific map amendment:
- LUGP Policy 5.2. ELUC and the County Board will work with the County Forest Preserve and the local park districts to advise and/or review with them their efforts to program capital expenditures to acquire land or easements for parks and open space areas. *(not relevant)*
- LUGP Policy 5.3 ELUC and the County Board will work with the County Highway Department and Township Road Officials, State and Federal Highway Departments, and Bureau of Outdoor Recreation to develop scenic areas along transportation routes as identified in the Open Space and Recreation Plan and Program. *(not relevant)*
- LUGP Policy 5.4 ELUC and the County Board will work with local governmental units for dedication of open space sufficient to meet any deficit of parks and recreational space in developed or developing areas with appropriate incentives to the developer. *(not relevant)*
- LUGP Policy 5.5 ELUC will review County Zoning and Subdivision Ordinances to provide for reservation of open space in any commercial, industrial or large residential developments and make appropriate recommendations to the County Board. *(not relevant)*
- LUGP Policy 5.8 The County Board will encourage the development of tax exemption policies, development rights transfer, easements, and zoning to conserve identified natural resources. *(not relevant)*
- LUGP Policy 5.9 ELUC will review existing standards for air and water quality, and will work to establish procedures for maintaining the quality of these natural resources, and the maintenance of water supplies for the general welfare of County residents. *(not relevant)*
- B. LUGP Policy 5.1 states: “ELUC will review the provisions of the Conservation-Recreation District of the County Zoning Ordinance for determination of the adequacy of protection of natural resource areas, and make appropriate recommendations to the County Board.”
- 1) This policy is not directly relevant to any specific map amendment except that it does make it clear that natural resource areas should receive some degree of protection.

- 2) The subject property is primarily farmland and has been farmland for years.
 - 3) There is no evidence that suggests that the subject property is a natural area and so the adequacy of protection afforded by the CR District is not a concern in changing the zoning district.
- C. LUGP Policy 5.6 states: “ELUC and the County Board will encourage the identification and preservation of scenic or historical sites in their original state or in a way to retain their value as such sites.”
- 1) This policy does not require specific conformance for any given approval.
 - 2) There is no single reference or guide to identified scenic or historical sites. There is no evidence that suggests that the subject property is a scenic or historical site.
- D. LUGP Policy 5.7 states: “The County Board and ELUC will encourage the preservation of natural areas and will cooperate with the County Forest Preserve District and other interested groups in a preservation and restoration program.”
The proposed map amendment relates to LUGP Policy 5.7 as follows:
- 1) The subject property is primarily farmland and has been farmland for years. There is no evidence that suggests that the subject property is a natural area.
 - 2) On May 11, 2006, the consensus of the ZBA was that, overall, the proposed map amendment **DOES NOT CONFORM** to LUGP Policy 5.7.
25. The *Land Use Regulatory Policies* (LURP) contain two policies that are relevant to natural resources.
- A. LURP 1.7.1 states: “Nonagricultural land uses will be permitted in or near natural areas, sites of historic or archaeological significance, County Forest Preserves, or other parks and preserves, only if they are designed and located so as to minimize disturbance of wildlife, natural features, historic or archaeological resources or park and preserve resources.”
- The proposed map amendment relates to LURP 1.7.1 as follows:
- 1) The land west of the subject property is the Nellie Hart Memorial Woods, a designated Category I (High Quality Natural Community) Illinois Natural Area based on the Illinois Natural Area Inventory.
 - 2) LURP 1.7.1 is similar to LUGP Natural Resource Goal #1 because of the following:
 - a) Two of the seven types of land uses authorized By Right in the AG-2 District (minor rural specialty business and commercial breeding facility) are not directly comparable to uses authorized in the CR District and represent change in terms of uses authorized By Right.
 - b) The CR District authorizes 27 different types of land use as a Special Use compared to 67 different types of uses authorized as a Special Use

in the AG-2 District. Site specific considerations for protection and conservation of the Nellie Hart Memorial Woods can be considered in the Special Use review process in either zoning district.

- 3) On May 11, 2006, the consensus of the ZBA was that, overall, the proposed map amendment **DOES NOT CONFORM** to LURP 1.7.1.
- B. LURP 1.7.2 states: "Development in rural areas will be permitted only if there has been reasonable effort to determine if especially sensitive and valuable features are present, and all reasonable effort has been made to prevent harm to those features." The proposed map amendment relates to LURP 1.7.2 as follows:
- 1) The subject property is primarily farmland and has been farmland for years.
 - 2) There is no evidence that suggests that the subject property is a natural area or a scenic or historical site.
 - 3) At this time there is neither subdivision proposed nor significant expansion of facilities.
 - 4) There has been no consultation with the Illinois Department of Natural Resources regarding either endangered species or archaeological resources.
 - 5) The proposed zoning district is an agricultural district.
 - 6) On May 11, 2006, the consensus of the ZBA was that, overall, the proposed map amendment **CONFORMS** to LURP 1.7.2.

REGARDING GOALS AND POLICIES THAT PERTAIN TO AGRICULTURAL LAND USE

26. The *Land Use Goals and Policies* (LUGP) contain two goals related to agricultural land uses. The agricultural land use goals are relevant because the property is proposed to be changed to the AG-2 District.
- A. Agricultural Land Use Goal #2 states: "Establishment of an agricultural land classification system based on productivity. Improvement of rural drainage systems." This goal does not appear to be relevant to any specific map amendment.
- B. Agricultural Land Use Goals #1 states: "Preservation and maintenance of as much agricultural land in food and fiber production as possible, and protection of these lands from encroachment by non-agricultural uses." The proposed map amendment relates to this Goal as follows:
- 1) The subject property is primarily farmland and has been farmland for years.
 - 2) The proposed zoning district is an agricultural district. The land uses that could be established under the proposed zoning district are those that can be established anywhere in the AG-2 District.
 - 3) At this time no significant expansion of facilities is proposed.

- 4) On May 11, 2006, the consensus of the ZBA was that Agricultural Land Use Goal #1 is **ACHIEVED** by the proposed map amendment.
27. The *Land Use Goals and Policies* (LUGP) contain six policies related to agricultural land uses. The agricultural land use policies are relevant because the property is proposed to be changed to the AG-2 District.
- A. The following LUGP policies related to agricultural land uses do not appear to be relevant to any specific map amendment:
 - LUGP Policy 1.1 ELUC will study the possibility of creating several agricultural districts which would provide one or more districts for agricultural uses, only, while other districts would permit limited non-agricultural uses. (*not relevant*)
 - LUGP Policy 1.3 ELUC and the ZBA will work towards applying the concepts of development rights transfer, planned unit development, cluster development and special use permits to insure, when and where necessary, that development of non-agricultural uses is compatible to adjacent agricultural activities. (*not relevant*)
 - LUGP Policy 1.4 ELUC will examine the zoning classification of lands on the urban periphery for the possibility of rezoning lands from district classifications which encourage productive farming. (*not relevant*)
 - LUGP Policy 1.5 ELUC and the County Board will encourage the development of tax assessment policies which will discourage the unnecessary conversion of agricultural land to non-agricultural uses. (*not relevant*)
 - LUGP Policy 1.6 ELUC and the County Board will initiate a coordinated effort among local units of government to create uniform standards and procedures to review developments proposed for agricultural areas. (*not relevant*)
 - B. LUGP Policy 1.2 states that the ZBA and the County Board will restrict non-agricultural uses to non-agricultural areas or those areas served by adequate utilities, transportation facilities and commercial services or those areas where non-agricultural uses will not be incompatible with existing agricultural uses.
 - C. Related LUGP policies that pertain to the adequacy of utilities are as follows:
 - LUGP Policy 7.3 The County Board will encourage development only in areas where both sewer and water systems are available. In areas without public sewer and water systems, development may occur only if it is determined that individual septic systems can be installed and maintained in a manner which will not cause contamination of aquifers and groundwater and will not cause health hazards. Requests for development should demonstrate that wastewater disposal systems, water supply, fire and police protection are adequate to meet the needs of the proposed development.
 - LUGP Policy 7.3A New subdivisions and zoning changes should meet these (7.3 above) standards and will be considered where they are not in conflict with the goals and policies of this Plan.
- 1) Regarding the availability of a 1) connected public water supply system:
 - a) The subject property is not currently serviced by a connected public

- water supply system.
- b) A water well is present on the site and serving the dwelling.
 - c) The *County Health Ordinance* requires connection to a public water system when the subject property is located within 200 feet of a public water system and when such connection is practical and when such connection is authorized.
 - d) Any significant new construction and commercial use on the property will be required to have County Health Department approval for potable water.
 - e) Any commercial use established in the existing structure would require a Change of Use Permit and any commercial use with significant water demand would likely be reviewed by the County Health Department.
 - f) It is not clear that the proposed map amendment conforms to LUGP 7.3 and LUGP 7.3A in regards to water availability as there is no evidence regarding the existing water well. However, there is a very high likelihood that any development will conform to these Policies because any development will require the approval of the County Health Department and because LUGP 7.3 and LUGP 7.3A specifically provide for non-sewered development with water wells.
 - g) On May 11, 2006, the consensus of the ZBA was that, in regards to water availability, the proposed map amendment **CONFORMS** to LUGP 7.3 and 7.3A.
- 2) Regarding the availability of a connected public sanitary sewer system:
- a) The subject property is not currently serviced by a connected public sanitary sewer system. The onsite wastewater treatment and disposal systems present on the subject property serve the two dwellings. The 'private indoor recreation development' proposed in related Case 498-S-05 is served by a portable, contained 'potty house'.
 - b) The *County Health Ordinance* requires any new commercial use that generates more than 1,500 gallons per day of wastewater to connect to any public sewer system that is located within 1,000 feet.
 - c) There is no public sewer system within 1,000 feet of the subject property and any significant new construction and commercial use on the property would be required to have County Health Department approval for onsite wastewater treatment and disposal. Any commercial use established in the existing structure would require a Change of Use Permit and any commercial use with significant wastewater generation would likely be reviewed by the County Health Department.

- d) Regarding feasibility of onsite wastewater treatment and disposal:
- (i) The pamphlet *Soil Potential Ratings For Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic tank leach fields). The pamphlet reviews 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability).
 - (ii) Based on a review of the Soil Survey this property appears to have the following types of soils:
 - Drummer silty clay loam (map unit 152A) rated 'Low' for septic suitability with a soil potential index of 53
 - Kendall silt loam, 0 to 3 percent slopes (map unit 242A) rated 'Medium' for septic suitability with a soil potential index of 83
 - Martinsville loam, 5 to 10 percent slopes, eroded (map unit 570C2), rated 'High' for septic suitability with a soil potential index of 95
 - Birkbeck silt loam, 1 to 5 percent slopes (map unit 233B), rated 'High' for septic suitability with a soil potential index of 93
 - St. Charles silt loam, 1 to 5 percent slopes (map unit 243B), rated 'High' for septic suitability with a soil potential index of 93
- e) It is not entirely clear that the proposed map amendment conforms to LUGP 7.3, and LUGP 7.3A in regards to sewer availability as there is no evidence regarding the existing or proposed onsite wastewater disposal system or the feasibility of such a system. However, there is a very high likelihood that any development will conform to these Policies because any development will require the approval of the County Health Department and because LUGP 7.3 and LUGP 7.3A specifically provide for non-sewered development.
- f) On May 11, 2006, the consensus of the ZBA was that, in regards to sewer availability, the proposed map amendment **CONFORMS** to LUGP 7.3 and LUGP 7.3A.
- 3) Regarding the adequacy of fire protection at this location for the proposed map amendment:
- a) The subject property is located within the response area of the Cornbelt Fire Protection District. Cornbelt FPD is an Advanced Life Support (ALS) Rescue Service with a paramedic on staff 24/7. ALS begins as soon as Cornbelt FPD arrives on the scene but Cornbelt FPD does not provide transport to a hospital.
 - b) The Cornbelt FPD Chief received notice of this request. Chief John Jay indicated that he has visited the subject property and finds no problematic issues related to access of fire protection equipment to the property.
 - c) The Cornbelt Fire Station is located at 506 E. Main Street in Mahomet. The subject site is located approximately 5.1 road miles from the fire

station.

- d) The subject site is located approximately 14 road miles from the nearest hospital in Urbana, Illinois.
 - e) In regards to adequate fire protection, the proposed map amendment appears to conform to Policies 7.3 and 7.3A because there have been no concerns raised by the Cornbelt Fire Protection District.
- 4) Regarding the adequacy of police protection at this location for the proposed map amendment:
- a) Lieutenant Tim Voges of the Champaign County Sheriff's Office indicated that in the general vicinity of the subject property, during a weekend evening, from one to two Sheriff's Office patrol cars would be available to respond to a call. If a call concerns noise levels (for example), then typically one patrol car would be sent in response. For other situations or incidents, two patrol cars may be sent. Lieutenant Voges indicated that the Champaign County Sheriff's Office has agreements in place with local police service providers such as the Village of Mahomet Police, City of Champaign Police and other area police departments as well as with the State Police, to assure an adequate response level in the event that additional police protection or response is required.
 - b) In regards to adequate police protection, the proposed map amendment appears to conform to Policies 7.3 and 7.3A because of the general availability of at least one patrol car to respond to a call in the general vicinity of the subject property and because of back-up police protection agreements in place between the County Sheriff's Office and local police protection providers.

D. On May 11, 2006, the consensus of the ZBA was that, in regards to overall adequacy of utilities, fire protection and police protection and based on the available information, the proposed map amendment **PARTIALLY CONFORMS** to LUGP Policies 1.2, 7.3, and 7.3A.

28. The *Land Use Regulatory Policies* (LURP) contain seven policies that pertain to agricultural land use.
- A. LURP 1.4.1 states: "Non-agricultural land uses will not be permitted unless they are of a type that is not negatively affected by agricultural activities or else are located and designed to minimize exposure to any negative affect caused by agricultural activities." The proposed map amendment relates to this Policy as follows:
 - 1) The subject property is primarily farmland and has been farmland for years.
 - 2) *Zoning Ordinance* Section 5.2 indicates that 75 different types of land uses are authorized in the AG-2 District (not including temporary uses), 68 of which require a Special Use. The seven land uses allowed in the AG-2 District that do not require a Special Use are:

- a) Rural specialty business (minor)
 - b) Plant nursery
 - c) Country club or golf course
 - d) Commercial breeding facility
 - e) Christmas tree sales lot
 - f) Off-premises signs within 660 feet of interstate highways
 - g) Off-premises signs along federal highways except interstate highways
- 3) The descriptive narrative for LURP 1.4.1 states: “.. It is the duty of those proposing rural development to avoid such conflicts as much as possible by proper choice of location and good site design.” Resolution No. 3425, a Resolution Pertaining to the Right to Farm in Champaign County, was adopted by the Champaign County Board on May 24, 1994. Generally, this Resolution supports farming and farm operations, and indicates that no farm or farm operations should be considered a nuisance because of changing conditions in the surrounding area.
- 4) ‘Good site design’ is a primary consideration of the ZBA in its review of any of the 69 (out of 75) types of land uses authorized as a Special Use in the AG-2 District. The required findings for a Special Use necessitate a careful review of the proposed site design of a requested Special Use. The ZBA is authorized to impose Special Conditions as is deemed necessary.
- 5) On May 11, 2006, the consensus of the ZBA was that the proposed map amendment **DOES NOT CONFORM** to LURP 1.4.1.
- B. LURP 1.4.2 states: “Non-agricultural land uses will not be permitted if they would interfere with farm operations or would damage or negatively effect the operation of agricultural drainage systems, rural roads or other agriculture related infrastructure.” The proposed map amendment relates to this policy as follows:
- 1) The subject property is primarily farmland and has been farmland for years.
 - 2) The proposed zoning district is an agricultural district.
 - 3) At this time there is no significant expansion of facilities proposed beyond what is already in operation.
 - 4) On May 11, 2006, the consensus of the ZBA was that the proposed map amendment **PARTIALLY CONFORMS** to LURP 1.4.2.
- C. LURP 1.5.1 states: “On less productive farmland, development will not be permitted if the site is unsuited, overall, for the proposed land use.” The supporting narrative for this policy explains that a site may be unsuited overall if it is clearly inadequate in one respect even if it is acceptable in other respects. The proposed map amendment relates to this policy as follows:
- 1) There is no overall Land Evaluation rating for the property so it is not clear if the property is Best Prime Farmland.
 - 2) The property is proposed to be rezoned to the AG-2 District and there are few

non-agricultural, non-residential uses that could be established without a site specific review as a Special Use.

- 3) A Special Use is proposed in related Case 498-S-05 and no farmland is proposed to be taken out of production.
- 4) On May 11, 2006, the consensus of the ZBA was that, based on the available information, the proposed map amendment **CONFORMS** to LURP 1.5.1.

D. LURP 1.5.3 states: "Development will not be permitted if existing infrastructure, together with proposed improvements, is inadequate to support the proposed development effectively and safely without undue public expense."

The proposed map amendment relates to this policy as follows:

- 1) The property is proposed to be rezoned to the AG-2 District and so there are few non-agricultural, non-residential uses that could be established without a site specific review as a Special Use.
- 2) Special Use is proposed in related Case 498-S-05 and includes consideration of the capacity of existing infrastructure.
- 3) The use proposed in related Case 498-S-05 could be provided in an urban area but it has already been improperly established at this location because there was a vacant building that could be put to productive use.
- 4) At this time there is no significant expansion of facilities proposed beyond what is already in operation.
- 5) On May 11, 2006, the consensus of the ZBA was that, based on the experience to date, the existing infrastructure seems to **NOT BE ADEQUATE** for the array of uses allowed in AG-2.
- 6) On May 11, 2006, the consensus of the ZBA was that, based on the available information, the proposed map amendment **DOES NOT CONFORM** to LURP 1.5.3.

E. LURP 1.5.4 states: "Development will not be permitted if the available public services are inadequate to support the proposed development effectively and safely without undue public expense."

The proposed map amendment relates to this policy as follows:

- 1) The property is proposed to be rezoned to the AG-2 District and there are few non-agricultural, non-residential uses that could be established without a site specific review as a Special Use.
- 2) The adequacy of available wastewater disposal systems, water supply, fire police protection to the subject property is described in Item 23(C) above.
- 3) Regarding the adequacy of public roads to the subject property:

- a) The subject property fronts CR550E, a township road that is maintained by the Newcomb Township. The road surface is oil and chip. The Township has no plans for road improvements to CR550E in the near future. No formal request for additional signage along CR550E in the area of the subject property has been received by the Newcomb Township Road Commissioner.
- b) The Newcomb Township Highway Commissioner received notice of this case and has submitted no comments.
- c) The Illinois Department of Transportation (IDOT) *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* includes a listing of recommended maximum traffic volumes measured in Average Daily Traffic (ADT) for road pavement widths, as follows:
 - A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
 - A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
 - A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
 - A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.
- d) IDOT 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). Pavement width, design capacity, and the most recent ADT data (from 2001) in the vicinity of the subject property, are described as follows:
 - (i) CR 550E adjacent to the west of the subject property has a pavement width of approximately 18-1/2 feet. The IDOT *Manual of Administrative Policies of the Bureau of Local Roads and Streets, guidelines* recommend that the ADT on a road with a pavement width of 18 feet not exceed 250 ADT. No ADT data is available from IDOT for this location.
 - (ii) Based on the Institute of Transportation Engineers *Trip Generation Handbook: An ITE Recommended Practice*, dated March, 2001, on average a total of 9.57 trips are generated on a daily basis for each single family dwelling. Approximately eight single family dwellings are situated on CR550E within one mile north of the subject site. It is possible that traffic to and from these eight houses alone could contribute an ADT of approximately 80 onto CR550E. As noted above, IDOT has not measured the ADT of CR550E.
 - (iii) At the southwest corner of the subject property, at the intersection of CR550E and CR2425N, the pavement width is 20 feet. ADT

data is not available from IDOT for this location. Based on the IDOT *Manual of Administrative Policies of the Bureau of Local Roads and Streets*, the maximum recommended ADT on a road having a pavement width of 20 feet is between 250 and 400.

- (iv) Approximately 1/4 mile east of the subject property, CR2425N intersects CR600E. Approximately 2 -3/4 miles south of the subject property on CR600E, the pavement width widens to 24 feet. The ADT for CR600E was reported as 1,050 during 2001. Based on recommendations included in the IDOT *Manual of Administrative Policies of the Bureau of Local Roads and Streets*, a road having a pavement width of 24 feet may exceed 400 ADT.
 - e) The portion of CR550E located adjacent to and in the general vicinity of the subject property is relatively flat with no apparent or significant vertical curves (hills). From the vantage point of a driveway point of ingress/egress to the subject property for the Special Use request presently under consideration in Case 498-S-05, no visual obstacles are apparent within the recommended standard 'minimum stopping sight distance' indicated in the IDOT *Manual of Administrative Policies of the Bureau of Local Roads and Streets* for design speed ranging from 30 to 60 miles per hour.
 - f) In checking traffic accident report records as far back as 1988, the Champaign County Sheriff's office has no traffic accident reports on file with IDOT in the vicinity of the intersection of CR 550E and CR 2425 N. Two traffic accident reports were filed with IDOT in 1992 at the intersection of CR 550E and CR 2500N, located approximately 3/4 mile north of the subject property. Both accidents involved single cars.
- 4) On May 11, 2006, the consensus of the ZBA was that, based on the available information, the proposed map amendment **PARTIALLY CONFORMS** to LURP 1.5.4.

F. LURP 1.6.1 states: "In all rural areas, businesses and other non-residential uses will be permitted if they support agriculture or involve a product or service that is provided better in a rural area than in an urban area." The narrative for this Policy states: "...Uses that have significant utility demands or which require access to urban services or which pose significant environmental or other impacts in a rural setting will be restricted to areas that have the necessary urban infrastructure and services. The proposed map amendment relates to this policy as follows:

- 1) The subject property is primarily farmland and has been farmland for years.
- 2) The property is proposed to be rezoned to the AG-2 District and there are few non-agricultural, non-residential uses that could be established without a site-specific review as a Special Use.
- 3) Regarding whether any one of the seven land uses allowed 'By Right' or

whether any one of the 67 types of Special Uses authorized in the AG-2 District would be served by the “necessary urban infrastructure and services” on the subject property, refer to the review of adequacy of available wastewater disposal systems, water supply, fire protection and police protection to the subject property as described in Item 23(C) above, and to the consideration of road infrastructure in the vicinity of the subject property as described in Item 24(E)(3) above.

- 4) On May 11, 2006, the consensus of the ZBA was that, based on the available information, the proposed map amendment **PARTIALLY CONFORMS** to LURP 1.6.1.

- G. LURP 1.6.2 states: “On the best prime farmland, businesses and other non-residential uses will not be permitted if they take any best prime farmland out of production unless:
- i. they also serve surrounding agricultural uses or an important public need, and cannot be located in an urban area or on a less productive site, or
 - ii. the uses are otherwise appropriate in a rural area and the site is very well suited to them.”

The proposed map amendment relates to this policy as follows:

1. There is no overall Land Evaluation rating for the property so it is not clear if the property is Best Prime Farmland.
2. A Special Use is proposed in related Case 498-S-05 and on that 5-acre parcel, no farmland is proposed to be taken out of production.
3. On May 11, 2006, the consensus of the ZBA was that there is not enough information to evaluate LURP 1.6.2 as it applies to the proposed map amendment.

GOALS AND POLICIES THAT GENERALLY PERTAIN TO LAND USE

29. The *Land Use Goals and Policies* (LUGP) contain two general policies pertaining to land use.
- A. General Policy #1 states: “The County Board, ELUC and the ZBA will follow the policies of :
- i. encouraging new development in and near urban and village centers to preserve agricultural land and open space;
 - ii. optimizing the use of water, sewer, and public transportation facilities; and reducing the need for extending road improvements and other public services.

Based on the review of the relevant specific policies (in Items 18 through 24 above), the proposed map amendment relates to General Policy #1 as follows:

- 1) Conforms in regards to the following:
 - a) encouraging new development in and near urban and village centers to preserve agricultural land and open space because the southern portion

of the subject property is largely wooded acreage with clearings for the two dwellings and around the existing shed and outbuilding which have not been farmed for decades and the proposed map amendment would not result in the conversion of more prime farmland; and

- b) optimizing the use of water and sewer. Refer to the discussion in Item 23(C) above in regards to overall adequacy of utilities.
- 2) Neutral in regards to public transportation facilities and reducing the need for extending road improvements.
- 3) On May 11, 2006, the consensus of the ZBA was that, overall, based on the available information, the proposed map amendment **DOES NOT CONFORM** to General Policy #1.

B. General Policy #2 states: "The County Board, ELUC and the ZBA will establish communication and coordination processes among local units of government in order to address and resolve similar or overlapping development problems."
This policy is not relevant to any specific map amendment.

30. The *Land Use Goals and Policies* (LUGP) contain five general land use goals.

A. The following general land use goals do not appear to be relevant to any specific map amendment:

General Goal #1 Promotion and protection of the health, safety, economy, convenience, appearance and general welfare of the County by guiding the overall environmental development of the County through the continuous comprehensive planning process. (*not relevant*)

General Goal #5 Establishment of processes of development to encourage the development of the types and uses of land that are in agreement with the Goals and Policies of this Land Use Plan. (*not relevant*)

B. General Goal #2 states: "Provision of a sufficient and adequate amount of land designated by type of use, to serve the needs of Champaign County for the period covered by this Short Range Plan." This goal is so generally stated that it is difficult to evaluate the degree of achievement by the proposed map amendment.

C. General Goal #3 states: "Land uses appropriately located in terms of utilities, public facilities, site characteristics and public services.

On May 11, 2006, the consensus of the ZBA was that the proposed map amendment relates to this goal as follows:

- 1) **PARTIALLY ACHIEVED** in regards to public services.
- 2). **PARTIALLY ACHIEVED** in regards to site characteristics.
- 3) Based on available information, **PARTIALLY ACHIEVED** in regards to utilities.

- 4) Overall, based on available information, General Goal #3 is **PARTIALLY ACHIEVED** by the proposed map amendment.
- D. General Goal #4 states: "Arrangement of land use patterns designed to promote mutual compatibility."
- 1) On May 11, 2006, the consensus of the ZBA was that, overall, General Goal #4 is **NOT ACHIEVED** by the proposed map amendment.
31. The *Land Use Regulatory Policies* (LURP) contains the following relevant general land use policy.
- A. LURP 1.1 states: "Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. Other land uses can be accommodated in those areas provided that:
- i. the conversion of prime farmland is minimized;
 - ii. the disturbance of natural areas is minimized;
 - iii. the sites are suitable for the proposed use;
 - iv. infrastructure and public services are adequate for the proposed use;
 - v. the potential for conflicts with agriculture is minimized.

The proposed map amendment relates to LURP 1.1 as follows:

- 1) No farmland would be taken out of production, provided that a land use other than commercial agriculture, as authorized in the AG-2 District, would occur on the southern portion of the subject property (as is proposed in related Case 498-S-05).
- 2) A careful site-specific review of the subject property would be required for a Special Use authorized in the AG-2 District, and, if deemed necessary, Special Conditions could be imposed by the ZBA to assure that disturbance of the adjacent natural area is minimized.
- 3) On May 11, 2006, the consensus of the ZBA was that, considering that a site-specific review is required for a Special Use authorized in the AG-2 District that could be proposed on the subject property and that the ZBA has the option to impose Special Conditions as may be necessary, and considering the limited array of land use types allowed in the AG-2 District 'By Right', the subject property appears to be **UNSUITED OVERALL** for a land use other than commercial agriculture.
- 4) On May 11, 2006, the consensus of the ZBA was that, based on the review of the infrastructure and public services available to the subject property as described in Items 23(C) and 24(E)(3) above, the infrastructure and public services available to the subject property would appear to be **NOT ADEQUATE** for the land uses authorized in the AG-2 District 'By Right'. (It is assumed that a proposed Special Use authorized in the AG-2 District would undergo a careful site-specific review and that a Special Use request would not be approved by the ZBA if infrastructure or public services were not adequate.)

- 5) On May 11, 2006, the consensus of the ZBA was that, considering that a site-specific review is required for a Special Use authorized in the AG-2 District that is proposed on the subject property and that the ZBA has the option to impose Special Conditions as may be necessary, and considering the limited array of land use types allowed in the AG-2 District 'By Right', the potential for conflicts with agriculture is **SIGNIFICANT AND NOT MINIMIZED**.
- 6) On May 11, 2006, the consensus of the ZBA was that, based on the available information, the proposed map amendment **DOES NOT CONFORM** to LURP 1.1.

DOCUMENTS OF RECORD

1. Petition received March 18, 2005
2. Application for related Case 498-S-05 received March 18, 2005 with attachments:
 - A Site plan
 - B Plan of the shed
 - C Isometric drawings of the shed
 - D About Us (short description of the shed)
3. Case 497-AM-05 Preliminary Memorandum dated July 8, 2005 with attachments:
 - A Zoning Case Maps for Cases 497-AM-05 & 498-S-05 (Location & Zoning)
 - B Aerial photograph of subject property
 - C Excerpt from the Official Map of the Village of Mahomet in the Comprehensive Land Use Plan adopted December, 2003
 - D Draft Finding of Fact for Case 497-AM-05
4. Related Case 498-S-05 Preliminary Memorandum dated July 8, 2005 with attachments:
 - A Zoning Case Maps for Cases 497-AM-05 & 498-S-05 (Location, Land Use, Zoning)
 - B Aerial photograph of subject property
 - C Photograph of the shed
 - D Article on "the shed" from the Thursday, December 2, 2004, Champaign-Urbana News Gazette
 - E Site plan received March 18, 2005
 - F Plan of the shed received March 18, 2005
 - G Isometric drawings of the shed received March 18, 2005
 - H About Us (short description of the shed) received March 18, 2005
 - I Excerpt from the Comprehensive Land Use Plan the Official Map of the Village of Mahomet adopted August, 1992
 - J Street diagram with street names from the Illinois Department of Transportation
 - K Street diagram with traffic counts from the Illinois Department of Transportation
 - L Letters of Support:
 - Letter dated April 22, 2005, from Helen Willard, 556 CR 2425N, Dewey, IL 61840
 - Letter dated April 29, 2005, from Bob Weglarz, 1720 Lonquist, Mt. Prospect, IL 60056
 - Letter dated May 05, 2005, from Ashley Brooks (no available address)
 - Letter dated May 06, 2005, from Zack Palmisano (no available address)
 - Letter dated May 18, 2005, from Cathy Segovich, 506 S. Highland, Champaign, IL 61821
 - Letter dated May 18, 2005, from R.S., 506 S. Highland, Champaign, IL 61821

Letter dated June 01, 2005, from Erica Latham, 126 N. Jacques St, Arcola, IL 61910
 Letter dated June 01, 2005, from Sean Baird (no available address)
 Letter dated June 03, 2005, from M/M Marshall Lipscomb, 2702 Cherry Hills Dr, Champaign, IL 61822
 Letter dated June 03, 2005, Jorden Kauffman (no available address)
 Letter dated June 09, 2005, from Patricia Shaw, 1203 Janet Dr, Mahomet, IL 61853
 Letter dated June 13, 2005, from Randa Plotner, 1456 CR 700 N, Tolono, IL 61880
 Letter dated June 20, 2005, from M/M Rodney Poland, 6615 John Dr, Mt. Zion, IL 62549
 Letter dated June 20, 2005, from Sean Hermann, 2002 Strand Dr, Champaign, IL 61822
 Letter dated June 21, 2005, from Alex Cegielski, 602 Western Hills, Mahomet, IL 61853
 Letter dated June 27, 2005, from Lisa Keating, 602 Western Hills, Mahomet, IL 61853
 Letter dated June 28, 2005, from Lauren Johnson, 4410 Trostshire Circle, Champaign, IL 61822
 Letter dated June 29, 2005, from Laura K. Reiss, 1850 CR 700N, Sidney, IL 61877
 Letter dated June 30, 2005, from Eric Wolske, 1806 Clover Lane, Champaign, IL 61821
 Letter dated June 30, 2005, from Martin Wolske, 806 Clover Lane, Champaign, IL 61821
 Letter dated June 30, 2005, from Paula Wilson, POB 312, Philo, IL 61864
 Letter dated June 30, 2005, from Emily Litchfield, 1050 CR 1700E, Urbana, IL 61802
 Letter dated July 05, 2005, from Abby Clapper, 408 Jennifer Ct, Mahomet, IL 61853

5. Related Case 498 Supplemental Memorandum dated July 14, 2005 with attachments:
 - A Letters of Support:
 - Letter dated July 8, 2005 from Campbell and Marianne Smith, 2409 Melrose Drive, Champaign, IL
 - Letter received July 12, 2005 from Brandon Smith
 - Letter dated July 8, 2005 from Phil and Carol Parker, 1888 CR 1700N, Urbana, IL

6. Cases 497-AM-05 and 498-S-05 Supplemental Memorandum dated October 7, 2005 with attachments:
 - A Letters of Support:
 - Letter received July 11, 2005 from Joe Brown, 203 N. Elm, Paxton, IL 60957
 - Letter dated July 7, 2005 from Michael Thies, 807 S. McKinley, Champaign, IL 61821
 - Letter received July 25, 2005 from Austin Hedge
 - Letter dated August 25, 2005 from Pam and Scott Dorsey, 502 Third Court, St. Joseph, IL 61873
 - Letter received October 6, 2005 from Misty Bowersock, President of Mason City Civic Center, 120 North Main Street, Mason City IL 62664 with attachments
 - B Parking Diagram Submitted at July 14, 2005 meeting
 - C Copies of photographs from a site visit on August 21, 2005
 - D Aerial Photograph of subject property
 - E Site Plan received March 18, 2005
 - F Plan of 'the shed' received March 18, 2005
 - G Preliminary Draft Summary of Evidence for Case 498-S-05 dated July 14, 2005
 - H Preliminary Draft Finding of Fact for Case 497-AM-05 dated July 14, 2005

7. Cases 497-AM-05 and 498-S-05 Supplemental Memorandum dated October 13, 2005 with attachments:
 - A Letter of support received October 13, 2005 from Caitlin Wilson, Philo, IL

- B Email from Dan and Rebecca Snook, 2455A CR 550E, Dewey, IL in opposition
- C Letters of opposition
 - Letter received October 11, 2005 from Janet Fitch, 1711 Bonnie Blair Drive, Champaign, IL 61822
 - Letter received October 12, 2005 from Anita Hall, 713 South Prairie Street, Champaign, IL 61820
 - Letter received October 12, 2005 from Martha Kersey, 107 Ridge Road, Mahomet, IL 61853 with attachments

- 8. Revised Special Use application for related Case 498-S-05 received November 28, 2005

- 9. Frontage protest filed December 5, 2005 from Catherine Capel

- 10. Frontage protest filed December 5, 2005 from Larry and Debra Fox

- 11. Cases 497-AM-05 and 498-S-05 Supplemental Memorandum dated December 9, 2005 with attachments:
 - A Letter from Tess Morrison received October 12, 2005
 - B Letter of support from Helen Willard received November 15, 2005
 - C Statement of Opposition from Cathe Capel read and entered into testimony on October 13, 2005
 - D Letter from Muriel Dean received October 28, 2005
 - E Memo from Cathe Capel received on or about October 14, 2005
 - F Email from Lisa Braddock received October 14, 2005

- 12. Cases 497-AM-05 and 498-S-05 Supplemental Memorandum dated December 15, 2005 with attachment

- 13. Cases 497-AM-05 and 498-S-05 Supplemental Memorandum dated April 21, 2006 with attachments
 - A Case 497-AM-05 Draft Finding of Fact and Final Determination revised April 21, 2006
 - B Case 498-S-05 Draft Summary of Evidence revised April 21, 2006

- 14. Graphic indicating Village of Mahomet 1-1/2 Mile Extraterritorial Jurisdiction and Approximate Footprint of Subject Property dated April 26, 2006

- 16. Village of Mahomet Resolution 05-08-04, A Resolution of No Protest - Champaign County - Willard Property, approved on September 27, 2005.

- 17. Letter of Opposition from Mr. Lee Sentman dated May 8, 2006

- 18. Draft Finding of Fact and Final Determination for Case 497-AM-05 dated May 11, 2006.

FINAL DETERMINATION

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the ZBA of Champaign County determines that:

The Map Amendment requested in Case 497-AM-05 should ***NOT BE ENACTED*** by the County Board ***AS REQUESTED***:

The foregoing is an accurate and complete record of the Findings and Determination of the ZBA of Champaign County.

SIGNED:



Debra Griest, Chair
Champaign County ZBA

ATTEST:

Secretary to the ZBA

Date

Champaign
County
Department of



TO: **Environment and Land Use Committee**
FROM: **John Hall, Director & Zoning Administrator**
DATE: **June 7, 2006**
RE: **Illinois Residential Building Code Act**

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

(217) 384-3708
FAX (217) 328-2426

REQUESTED ACTION

Staff seeks direction regarding alternative approaches for providing notice and clarification about the Illinois Residential Building Code Act to applicants for residential Zoning Use Permits.

BACKGROUND

The Illinois Residential Building Code Act (815 ILCS 670/1 *et seq*; see attached) became law in 2005. This Act requires that in Counties and municipalities that have not adopted building codes, a contract to build a home must identify an applicable building code as part of the contract and if there is no code identified in the contract the Act identifies codes that shall be adopted in the contract.

A primary responsibility of the Planning and Zoning Department is to authorize construction and most of that construction is new homes. Champaign County has not adopted a building code and so all new homes authorized by this Department come under the purview of the Illinois Residential Building Code Act. However there is no enforcement obligation on the part of the County under the Act and since this new law is not directly related to enforcement of the Zoning Ordinance like other state laws (the Illinois Plat Act, for example) there is no need to make applicants aware of the Act.

Nonetheless, in the course of permitting new residences a common question from the public is whether there are building codes in unincorporated Champaign County and the adoption of the Illinois Residential Building Code Act has made that question complicated to answer. The Act also seems likely to create confusion for builders who may not be aware of this new requirement and for prospective home buyers who may not be aware of the protection that the Act is intended to provide.

This Department does not ordinarily provide public information on programs that are not County programs but in this instance that seems to be the reasonable course. The State's Attorney also has concerns about the statements that would appear on any handout and so Committee direction is sought regarding alternative approaches for providing notice and clarification about the Illinois Residential Building Code Act to applicants for residential Zoning Use Permits.

ALTERNATIVES

Staff seeks Committee direction with regard to the following alternatives:

- A. **Prepare a public information handout to be distributed with all relevant Zoning Use Permit Applications.** The focus of the handout will be to make owners and builders aware

of the general provisions of the Illinois Residential Building Code Act and make it very clear that the County has no enforcement obligation. The handout should be as simple as possible and could probably include the entire Act and still be only one page (double sided) in length. It should urge anyone with concerns to seek legal advice from an attorney. It might also mention contracting with a qualified home inspector for inspection services. It is essential that the handout be approved by the State's Attorney. The only cost to the County will be the time to prepare and review the handout and the cost for reproducing copies of the handout.

- B. Prepare a simple statement for staff response when asked about building codes.** Alternatively, no handout will be prepared and when asked about residential building codes staff will briefly mention that the Illinois Residential Building Code Act identifies relevant codes and urge the applicant to discuss this with their builder (or client) or seek legal advice from an attorney if necessary. A standard statement would be prepared and distributed only to staff to ensure a consistent response. Because this approach will only be taken when prompted by questions it will likely not be as effective as Alternative A.

This approach could be modified to include a handout of the text of the Act (see attached).

The Illinois Residential Building Code Act Is No Substitute For A County Building Code

Providing notice and clarification of the requirements of the Illinois Residential Building Code Act may help "level the playing field" for builders and homeowners and is better than no Act but it will not provide the same benefits as adoption of a County building code.

For example, there is no means of inspection and enforcement in the Illinois Residential Building Code Act and a County building code would presumably include enforcement. A County building code would also presumably regulate multifamily, commercial, and industrial types of construction which are not regulated by the Illinois Residential Building Code Act. Importantly, a County building code would also include life safety requirements (for public assembly uses in particular) that are currently mandated by the State Fire Marshall but which also have very weak enforcement.

The State's Attorney reviewed the Counties' power to adopt a building code and the procedural rules for adoption in the February 13, 2006, memoranda that was distributed to ELUC. Adoption of a County building code would add a significant new work load and would require some degree of additional staffing. Any adoption of a County building code should be based upon a careful analysis of the costs and benefits which has not yet been done and so adoption of a County building code is not one of the alternatives proposed in this memo. Information regarding costs and benefits of a County building code can be provided at a later time if requested by the Committee.

ATTACHMENT

Illinois Residential Building Code Act

Illinois Compiled Statutes

BUSINESS TRANSACTIONS (815 ILCS 670/) Illinois Residential Building Code Act.

(815 ILCS 670/1)

Sec. 1. Short title. This Act may be cited as the Illinois Residential Building Code Act.

(Source: P.A. 93-778, eff. 1-1-05.)

(815 ILCS 670/5)

Sec. 5. Purpose. The purpose of this Act is to provide minimum requirements for safety and to safeguard property and the public welfare by regulating and controlling the design, construction, installation, and quality of materials of new residential construction as regulated by this Act.

(Source: P.A. 93-778, eff. 1-1-05.)

(815 ILCS 670/10)

Sec. 10. Definitions. In this Act:

"International Residential Code" means the International Residential Code for One and Two Family Dwellings published by the International Code Council, as now or hereafter amended by the Council.

"New residential construction" means any original construction of a single-family home or a dwelling containing 2 or fewer apartments, condominiums, or town houses.

"Residential building code" means an ordinance, resolution, law, housing or building code, or zoning ordinance that establishes, for residential building contractors, construction-related activities applicable to single-family or 2-family residential structures.

"Residential building contractor" means any individual, corporation, or partnership that constructs a fixed building or structure for sale or use by another as a residence or that, for a price, commission, fee, wage, or other compensation, undertakes or offers to undertake the construction of any building or structure to be used by another as a residence, if the individual, corporation, or partnership reasonably expects to earn a financial profit from that activity.

(Source: P.A. 93-778, eff. 1-1-05.)

(815 ILCS 670/15)

Sec. 15. Adoption of building code. A contract to build a home (1) in any municipality in this State that does not have a residential building code in effect or (2) in any portion of a county that is not located within a municipality and does not have a residential building code in effect must adopt as part of the construction contract the applicability of a residential building code that is agreed to by the home builder and the home purchaser as provided in this Section. The home builder and the home purchaser may agree to adopt any municipal residential building code or county residential building code that is in effect on the first day of

construction in any county or municipality that is within 100 miles of the location of the new home. If the home builder and the home purchaser fail to agree to a residential building code or if no residential building code is stated in the contract, the plumbing code promulgated by the Illinois Department of Public Health under Section 35 of the Illinois Plumbing License Law, the National Electric Code as adopted by the American National Standards Institute, and the International Residential Code shall, by law, be adopted as part of the construction contract.

(Source: P.A. 93-778, eff. 1-1-05.)

(815 ILCS 670/20)

Sec. 20. Homes constructed for resale. If a builder constructs a home for resale, the builder must certify to the buyer that the builder has constructed the home in compliance with a code authorized under Section 15 and must identify that code.

(Source: P.A. 93-778, eff. 1-1-05.)

(815 ILCS 670/99)

Sec. 99. Effective date. This Act takes effect January 1, 2005.

(Source: P.A. 93-778, eff. 1-1-05.)

Top

