

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: April 28, 2011  
Time: 7:00 P.M.  
Place: Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802

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

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

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

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (March 24, 2011)
5. Continued Public Hearings

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

**\*Case 677-V-10** Petitioner: **Mick and Leah Harshbarger**  
Request: **Authorize the occupancy and use of an existing detached accessory structure with a setback of 47 feet and 6 inches from CR 2545, a minor street, in lieu of the minimum required setback of 55 feet and a front yard of 17 feet and 6 inches from the front property line in lieu of the minimum required front yard of 25 feet and located in the CR District.**  
Location: **Lot 27 of Deer Ridge/Ingram's Third Subdivision in Section 30 of Ogden Township and commonly known as the house at 2545 CR 1375N, Ogden.**

6. New Public Hearings

**Case 683-AT-11** Petitioner: **Champaign County Zoning Administrator**  
Request: **Amend the Champaign County Zoning Ordinance as follows:**

1. **Add definitions for parcel, best prime farmland, suited overall, and well suited overall.**
2. **Revise paragraph 5.4.3 C.2. as follows:**
  - a. **In item a. add “and infrastructure to support the development” and give examples of relevant infrastructure.**
  - b. **In item h. replace “emergency” with “public” and add “to support the proposed development” and give examples of relevant services.**
  - c. **In item j. delete “effects on” and replace with “the amount of disturbance to”.**

3. **Revise paragraph 9.1.11B. by adding criteria that apply to special use permits in the AG-1, AG-2, and CR zoning districts in addition to the existing criteria for any special use permit, as follows:**
  - a. **The property is either best prime farmland and the property with proposed improvements is well suited overall or the property is not best prime farmland and the property with proposed improvements is suited overall.**
  - b. **The existing public services are available to support the proposed special use effectively and safely without undue public expense.**
  - c. **The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.**

Case 684-AT-11 Petitioner: **Champaign County Zoning Administrator**

Request: **Amend the Champaign County Zoning Ordinance as follows:**

1. **Revise Section 5.2 by indicating that a subdivision in the CR, AG-1, or AG-2 Districts that totals more than three lots or with new streets or private access ways requires a County Board approved special use permit for Rural Residential Development in addition to the Rural Residential Overlay District.**
2. **Revise Section 5.4.3 as follows:**
  - a. **Add a requirement for a County Board approved special use permit for Rural Residential Development in accordance with Section 9.1.11.**
  - b. **Add a requirement that the public hearing for a map amendment for a Rural Residential Overlay and the public hearing for the related special use permit for Rural Residential Development must be concurrent.**

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

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

1. **Require that each proposed residential lot shall have an area equal to the minimum required lot area in the zoning district that is not in the Special Flood Hazard Area.**
2. **Require a new public street to serve the proposed lots in any proposed RRO with more than two proposed lots that are each less than five acres in area or any RRO that does not comply with the standard condition for minimum driveway separation.**
3. **Require minimum driveway separation between driveways in the same development.**
4. **Require minimum driveway standards for any residential lot on which a dwelling may be more than 140 feet from a public street.**
5. **Require for any proposed residential lot not served by a public water supply system and that is located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results.**
6. **Require for any proposed RRO in a high probability area as defined in the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420) that the petitioner shall contact the Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy of the ISHPA response.**

7. **Require that for any proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of the agency response.**

**\*\* The description of the Request has been simplified from the legal advertisement.**

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

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

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 1776 E. Washington Street

4 Urbana, IL 61801

5 **DATE:** March 24, 2011

6 **PLACE:** Lyle Shields Meeting Room

7 1776 East Washington Street

8 Urbana, IL 61802

9 **TIME:** 7:00 p.m.

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

12 **MEMBERS ABSENT :** None

13 **STAFF PRESENT :** Lori Busboom, John Hall

14 **OTHERS PRESENT :** Mick Harshbarger, Man Szeto

15 **1. Call to Order**

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

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

18 The roll was called and a quorum declared present.

19 **3. Correspondence**

20 None

21 **4. Approval of Minutes (February 17, 2011)**

22 Ms. Capel moved, seconded by Mr. Courson to approve the February 17, 2011, minutes as submitted.  
23 The motion carried by voice vote.

24 **5. Continued Public Hearing**

25 None

26 **6. New Public Hearings**

1  
2 **Case 677-V-10** Petitioner: **Mick and Leah Harshbarger** Request: **Authorize the occupancy and use of**  
3 **an existing detached accessory structure with a setback of 47 feet and 6 inches from CR 2545, a minor**  
4 **street, in lieu of the minimum required setback of 55 feet and a front yard of 17 feet and 6 inches from**  
5 **the front property line in lieu of the minimum required front yard of 25 feet and located in the CR**  
6 **district. Location: Lot 27 of Deer Ridge/Ingram's Third Subdivision in Section 30 of Ogden Township**  
7 **and commonly known as the house at 2545 CR 1375N, Ogden.**  
8

9 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
10 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
11 of hands for those who would like to cross examine and each person will be called upon. He requested that  
12 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
13 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
14 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
15 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt  
16 from cross examination.

17  
18 Mr. Thorsland called Mr. Mick Harshbarger to testify.

19  
20 Mr. Mick Harshbarger stated that he has filed for a variance for his detached garage.

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

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

25  
26 Mr. Hall stated that the only memorandum on Case 677-V-10 is the Preliminary Memorandum that was  
27 included in the mailing. He said that the subject property is located in the AG-1 zoning district and not the  
28 CR zoning district as indicated in the Preliminary Memorandum dated March 16, 2011. He said that the  
29 memorandum reviews the complicated background of Case 677-V-10. He said that the petitioner previously  
30 came before the Board for Case 637-V-08 and within that case Part A was denied and Part B was approved.  
31 He said that Part A was modified and verified by staff inspection on September 17, 2010, although during  
32 that inspection it was discovered that the garage does not meet the minimum required front yard and setback.  
33 He said that the garage was one of the original structures constructed without a permit. He said that the  
34 petitioner is back before the Board tonight, after the Zoning Administrator has approved two additional  
35 permits, for a variance for the garage.

36  
37 Mr. Hall stated that a copy of the subdivision plat for Ingram's Third Subdivision has been included as an  
38 attachment to the Preliminary Memorandum. He said that as a consequence of this case Greg Frerichs,  
39 Ogden Township Highway Commissioner, is aware that the road extending from the south line of the  
40 petitioner's property to the cul-de-sac is owned privately even though the township receives motor fuel tax  
41 funds for maintenance. He stated that it is hard to tell where the dedicated road ends and the non-dedicated  
42 road begins. He said that the township highway commissioner has spoken with the landowners in this part

1 of the development and most of them have expressed an interest in having the rest of the road dedicated. He  
2 said that the degree to which having the entire road dedicated would affect the need for this variance is up to  
3 the Board but it is an unusual circumstance and it is in the process of being corrected. He said that if, for  
4 example, the portion of the road which is south of the property line was not maintained by the township, the  
5 vacation of 40 more feet of right-of-way would eliminate the need for this variance. He said that vacation of  
6 the road is not really a viable alternative due to the fact that the township does receive MFT funds and the  
7 other existing homeowners desire that the road continues to be maintained by the township.

8  
9 Mr. Hall said that the most serious issue in this variance is the practical effect of having less than 25 feet in  
10 front of the garage. He said that all of the parking, as far as he can tell, is being accommodated inside the  
11 garage therefore they have all of the required parking that they need. He said that there is a home occupation  
12 on the property which increases the required amount of parking spaces and as far as he can tell all of the  
13 required parking spaces are located on the subject property although there may be one space of required  
14 parking that is not currently located such that it meets all of the required yards. He said that it is his  
15 understanding that Mr. Harshbarger customarily parks his pickup truck outside when he comes home at night  
16 because there is not ample space inside the garage. He said that if Mr. Harshbarger does park his pickup in  
17 front of the garage it is possible that he is parked too close to the lot line therefore the question arises  
18 whether Mr. Harshbarger needs a variance to park there or not. He said that a vehicle which is long enough  
19 to expand into the pavement when parked in front of the garage would obviously be a verifiable public safety  
20 issue although he is not aware if any vehicle that is that long being parked on the property. He said that a  
21 vehicle which is 35 feet long could be parked on the property without extending onto the pavement of the  
22 street although it would clearly be over the right-of-way line. He said that highway commissioners are  
23 aware that such an occurrence happens all of the time and that in itself is not a problem but it is not  
24 something that the Board should approve accept through very unusual circumstances. He said that dealing  
25 with the obvious parking problems created by this insufficient front yard may be the most serious issue  
26 because once the Board can prove that it has addressed all traffic issues he would be at a loss to find any  
27 other problems.

28  
29 Mr. Hall said that it may prove to be a challenge for the Board to make affirmative findings for all of the  
30 criteria that is required in order to approve the variance. He said that if there is anyway to approve this  
31 request then it is pretty clear that there must be special conditions and those conditions need to be reviewed  
32 by everyone involved and obviously the request could not be approved tonight. He said that if the Board is  
33 anticipating a denial he would like to make sure that the State's Attorney attends a meeting to answer any  
34 questions that the Board may have about a denial. He said that it is up to the ZBA to determine if, in a case  
35 like this, the conditions merit denial because what denial would mean is that the garage would have to be  
36 modified to meet the setback and the only way that this garage could be modified is to remove the eight feet  
37 which is closest to the road. He said that such a proposition would be very expensive and he does not know  
38 if eight feet could simply be added onto the west end to make up for that but there may be other alternatives  
39 in regards to modifying this garage. He said that before the Board gets into a possible result such as that he  
40 would like the State's Attorney to attend a meeting to answer any questions that the Board may have.

1 Mr. Hall said that he has spoken with the highway commissioner several times about this case and it is  
2 common that township highway commissioners do not want to sit down and write a memo to the ZBA and  
3 they generally do not like attending meetings. He said that Mr. Frerichs has indicated that he does not have  
4 any problem with the garage in its current location provided that there are no public safety issues created  
5 with inappropriate parking.  
6

7 Mr. Hall stated that he discussed possible conditions of approval with Mr. Frerichs that the County could  
8 enforce to make sure there are no unsafe parking issues in the future as a result of the garage. He said that he  
9 had informed Mr. Frerichs that before the conditions would be adopted they would be circulated for his  
10 review, the petitioner's review and the State's Attorney's review for assurance that everyone was  
11 comfortable with those conditions.  
12

13 Mr. Hall stated that the southern portion of the street is going to be dedicated in the near future and it is a  
14 cul-de-sac that will never be extended and it is very unlikely that any further development will occur to the  
15 south that would ever require widening of the street.  
16

17 Mr. Hall said that provided that the parking issues are addressed there are arguably special conditions  
18 defining this location. He said that the Board may recall that this property was involved in a previous  
19 variance case and in regards to any special conditions that applied Attachment G, 2008 Aerial photograph  
20 with parcel boundaries, indicates that the drainageway which is located on the southwest corner of the  
21 subject property is clearly a special condition. He said that it is fair to say that the drainageway limits the  
22 usable space along the south edge of the property and a careful owner who would come before this Board  
23 prior to construction might be successful at making that argument and requesting a variance ahead of time.  
24 He said that for the same reason a variance after the fact could be approved once all of the other issues are  
25 addressed which come along with inadequate parking space in front of the building.  
26

27 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.  
28

29 Mr. Schroeder asked Mr. Hall if there would be a problem with a truck and trailer parking in front of the  
30 garage.  
31

32 Mr. Hall stated that any truck that large would have to be in compliance with the Neighborhood Home  
33 Occupation guidelines therefore it could not be over 25 feet in length and could not weigh over 36,000  
34 pounds gross vehicle weight. He said that a pickup with a trailer is a condition that exists on the property  
35 and the Board should discuss this issue with the petitioner as to the length of the pickup and trailer and how  
36 often it is parked on the subject property.  
37

38 Mr. Schroeder stated that if the property owner is a contractor then it is very possible that such an occurrence  
39 is going to happen.  
40

41 Mr. Thorsland asked if the Board had any additional questions for Mr. Hall and there were none.  
42

1 Mr. Thorsland recalled Mr. Harshbarger to testify and answer any questions that the Board may have  
2 regarding this case.  
3  
4 Ms. Capel stated Mr. Harshbarger indicated that at times, if he is going out of town the next day, he does  
5 bring home a truck and trailer at the end of the day. She asked Mr. Harshbarger to indicate the length of  
6 truck and trailer that is stored on the property at these times.  
7  
8 Mr. Harshbarger stated that the length of the trailer is 35 feet. He said that he does not park anything in front  
9 of the shop but does park it in front of his house. He said that in general he always parks his truck in front of  
10 the house. He said that he does have a truck inside of the garage/shop that is used for snow removal.  
11  
12 Mr. Hall stated that Mr. Harshbarger previously provided a sketch of the interior of the garage but it is his  
13 understanding that the basic garage is a shell around open space. He asked Mr. Harshbarger if the interior of  
14 his garage was that simple.  
15  
16 Mr. Harshbarger stated that the garage has 12 foot walls, 30 feet deep with an 8 foot step.  
17  
18 Mr. Hall asked Mr. Harshbarger if the garage had any interior walls.  
19  
20 Mr. Harshbarger stated no but the walls are insulated and sheeted.  
21  
22  
23 Mr. Hall asked Mr. Harshbarger if 8 feet were required to be removed from the east end of the garage could  
24 he add 8 feet onto the west end with the same interior volume that currently exists.  
25  
26 Mr. Harshbarger stated no. He said that he could not add on to the west end of his garage due to the location  
27 of the power and plumbing for the pool.  
28  
29 Mr. Thorsland asked the audience if anyone had any questions for Mr. Harshbarger and there were none.  
30  
31 Mr. Miller stated that item #7.B(2)(a) of the Preliminary Summary of Evidence indicates that Mr.  
32 Harshbarger was not aware that he needed a building permit for a detached garage or a play house.  
33  
34 Mr. Harshbarger stated that he did not realize that a permit was required for a structure which was located  
35 out in the country.  
36  
37 Mr. Miller stated that he is stumped by the fact that Mr. Harshbarger is a building contractor yet he was  
38 unaware of the County's requirements for a building permit.  
39  
40 Mr. Harshbarger stated that normally he does remodeling and room additions for homes.  
41  
42

1 Mr. Miller stated that it frustrates him when there is a known County Zoning Ordinance and a licensed  
2 contractor ignores its requirements. He said that item #7.B(2)(b) indicates that Mr. Harshbarger has built  
3 these types of structures for many people in Champaign without obtaining a permit.  
4

5 Mr. Harshbarger stated that he did not need a permit for the shed and the pool house that he built because  
6 they were less than 100 square feet in area.  
7

8 Mr. Hall corrected Mr. Harshbarger indicating that a permit is required for any structure 150 square feet or  
9 more and the garage is definitely more than 150 square feet.  
10

11 Mr. Harshbarger stated that Mr. Miller was discussing the smaller structures.  
12

13 Ms. Capel asked if the reason why no permit is required for such structures is because the property is located  
14 in the AG-1 district.  
15

16 Mr. Hall stated no, the requirement applies to all zoning districts.  
17

18 Mr. Thorsland stated that sometimes there are special conditions that disallow reconstruction in the same  
19 location. He said that given the footprint of the current garage in relationship to the pool house plumbing he  
20 asked Mr. Harshbarger if he were to lose the garage, due to some sort of disaster, and the Board imposed a  
21 condition requiring that the reconstruction of the garage comply to the setback, by the removal of 8 feet of  
22 the garage, could he still utilize the new garage to park his vehicles inside the garage.  
23

24 Mr. Harshbarger stated yes.  
25

26 Mr. Hall stated that there is a special condition on reconstruction of the pool pump house in that if it is  
27 destroyed it must be in conformance.  
28

29 Mr. Thorsland asked Mr. Harshbarger if it is his testimony that at no time does he park a vehicle outside of  
30 the garage.  
31

32 Mr. Harshbarger stated that when he arrives home he parks his truck in front of the house.  
33

34 Mr. Courson asked Mr. Harshbarger if he would still be able to store his vehicle in the garage if eight feet  
35 were removed from the garage.  
36

37 Mr. Harshbarger stated that it would be difficult but he could. He said that he has a television, couch,  
38 refrigerator, golf cart, four-wheeler and a lawn mower in the garage therefore it would be tight with the truck  
39 but he could rearrange those items to accommodate the vehicles.  
40

41 Ms. Capel asked Mr. Hall to indicate how many parking spaces are required for the property.  
42

1 Mr. Hall stated two parking spaces for the dwelling and one parking space is required for each vehicle  
2 associated with the home occupation and off-street parking for any additional vehicles. He said that in terms  
3 of doing a zoning analysis staff would want to make sure that there are two parking spaces which meet the  
4 10 foot separation distance from the front property line and five feet from the side which is standard for  
5 every home. He said that the parking space for the home occupation and any other parking has to meet the  
6 yards also. He said that the garage is large enough for two vehicles plus the house has an attached garage  
7 and driveway for parking.

8  
9 Mr. Thorsland asked the Board if they would be interested in reviewing the proposed special conditions at  
10 this time.

11  
12 Ms. Capel stated that she would assume that the garage would receive substantial damage if it were required  
13 to be rebuilt in conformance to the ordinance. She said that she would like to formalize that no parking is  
14 allowed in the driveway in front of the subject garage.

15  
16 Mr. Harshbarger asked where people were supposed to park if they came over for a cookout or to swim with  
17 his family.

18  
19 Mr. Hall stated that parking along the road is never encouraged. The proposed special conditions suggests  
20 that there should never be parking past the line of the face of the pavement. He said that personal friends  
21 who are visiting at a time when there is anticipated road maintenance then it is Mr. Harshbarger's obligation  
22 to make sure that there is no parking past the right-of-way. He said that after dark the visitors should not be  
23 parked past the centerline of the road side ditch. He said that it may be good for Mr. Harshbarger to have a  
24 detailed drawing of where the ditch is versus where the edge of the pavement is located versus where the  
25 right-of-way is located. He said that in general if there is no anticipated road maintenance the special  
26 conditions would allow visitors to park over the right-of-way line but not out into traffic and then only when  
27 dusk occurs does the line move further from the pavement.

28  
29 Mr. Harshbarger asked Mr. Hall if the visitors could park in the driveway in front of his home or on the lawn

30  
31 Mr. Hall stated yes. He said that as far as he is concerned there should be no parking along the right-of-way  
32 but the reality of such is probably between Mr. Harshbarger and Mr. Frerichs.

33  
34 Mr. Thorsland asked Mr. Harshbarger if he was agreeable to the proposed special conditions.

35  
36 Mr. Harshbarger stated yes.

37  
38 Mr. Thorsland asked the Board if there were any further questions for Mr. Harshbarger and there were none.

39  
40 Mr. Thorsland asked if staff had any additional questions for Mr. Harshbarger and there were none.

41  
42 Mr. Hall stated that in the previous zoning case, before the Board took final action, the Board asked Mr.

1 Harshbarger to submit cost estimates from other contractors as a way of documenting that making required  
2 changes to the subject structures for compliance would be unreasonable. He asked the Board if they desired  
3 to require cost estimates from other contractors in this case as well.  
4

5 Ms. Capel stated that it will be hard to meet the criteria regarding whether the actions were caused by the  
6 actions of the petitioner.  
7

8 Mr. Hall stated that the particular criteria are the conditions that make the variance necessary and that has  
9 nothing to do with the fact that the building already exists. He said that the Board has to ask itself if it would  
10 have approved the requested variance if the petitioner had come before them in the first place.  
11

12 Ms. Capel stated that since she has been on the Board, she has not sat on any requested variance where  
13 construction took place before the request for a variance.  
14

15 Mr. Thorsland stated that during the previous case the Board dealt with the waterway as a special condition.  
16 He said that almost all of the variance cases that this Board has dealt with in this type of situation have been  
17 on corner lots with two front yard setbacks to deal with.  
18

19 Mr. Miller asked Mr. Hall if this property were to sell would the County have any jurisdiction as to an  
20 attachment to the deed regarding any special conditions granted in the variance.  
21

22 Mr. Hall stated that the variance goes with the land although the Board could require that a miscellaneous  
23 document be recorded in the Champaign County Recorder of Deeds office indicating any special conditions  
24 of approval. He said that the miscellaneous document would appear during any title search regarding the  
25 property therefore any future owner would be aware of the special conditions imposed in the variance. He  
26 said that the Board could require that some sort of sign be posted on the front of the garage notifying people  
27 about the parking limitations on the property. He said that if the Board believes that such a sign would be  
28 helpful then a special condition of approval would be that the sign must be located on the garage at all times.  
29 He said that making sure that any future owner is aware of the property's limitations is a good idea.  
30

31 Mr. Thorsland stated that in regard to any proposed special conditions he has noted the following: 1. a  
32 "rebuild clause," which was also placed on the pool house during the previous case, indicating that if the  
33 garage were destroyed it would have to be reconstructed in compliance with the Zoning Ordinance; and 2.  
34 parking suggestion from staff; and 3. a recorded miscellaneous document. He asked the Board if there were  
35 any additional special conditions.  
36

37 Mr. Miller stated that he does not know how to fix it but who is to say that the nine other properties won't  
38 decide to set a building in the corner of their lot which is not in compliance. He said that once precedence is  
39 set it is hard to go backwards.  
40

41 Mr. Hall stated that there are two other lots in this development that are impacted by the drainage swale  
42 therefore no one else has a situation like that therefore they could not make a similar claim. He said that

1 there is a question as to whether Lot 29, a vacant lot, is a good lot and the house on the lot to the west of the  
2 subject property is obviously trying to stay away from the drainage swale. He said that someone who would  
3 come before this Board making such a claim would have to make the argument that there is a special  
4 condition.  
5  
6 Mr. Thorsland asked the audience if anyone desired to present testimony regarding this case and there was  
7 no one.  
8  
9 Mr. Thorsland requested a motion to close the witness register.  
10  
11 **Ms. Capel moved, seconded by Mr. Palmgren to close the witness register for Case 677-V-10. The**  
12 **motion carried by voice vote.**  
13  
14 Mr. Thorsland asked the Board if they desired to continue to the Documents of Record and Finding of Fact  
15 or if additional information is required from the petitioner or staff.  
16  
17 Mr. Courson stated that he believes that the Board should move forward. He said that the only information  
18 that has not been received is something in writing from the road commissioner.  
19  
20 Mr. Thorsland stated that tentatively there are three proposed special conditions. He said that the petitioner  
21 has indicated that he is comfortable with the special conditions regarding parking.  
22  
23 Mr. Miller asked if a requirement regarding a written document be recorded regarding the special conditions  
24 of the variance.  
25  
26 Mr. Thorsland stated that currently he would like the Board to address the special conditions regarding  
27 parking and then the Board will address Mr. Miller's proposed condition.  
28  
29 Mr. Hall asked the Board if they were contemplating taking action on this case tonight.  
30  
31 Ms. Capel stated no.  
32  
33 Mr. Thorsland stated that if not, then the Board has plenty of time to work on the proposed special  
34 conditions.  
35  
36 Mr. Hall stated that he would like to make sure that the highway commissioner does not have any further  
37 concerns.  
38  
39 Mr. Miller asked Mr. Hall if the neighbors have been notified of this case.  
40  
41 Mr. Hall stated that the neighbors have been notified and staff has not received one call regarding this case.  
42 He said that the highway commissioner has contacted the neighbors to the south regarding the situation with

1 the road and he is fairly certain that the discussion referred to this variance. Mr. Hall said that he is at a loss  
2 as to why no one is present at tonight's public hearing but it definitely makes it easier than the last case.

3  
4 Mr. Thorsland requested a continuance date for Case 677-V-10.

5  
6 Mr. Hall asked the Board if they would like to have a written document from the highway commissioner or if  
7 they are comfortable with verbal communication. Mr. Hall said that he could mail Mr. Frerichs a copy of the  
8 proposed special conditions and he could return it with his signature indicating his approval. He said that he  
9 wants to make sure that Mr. Frerichs is aware of the Board's expectations.

10  
11 Ms. Capel stated that she believes that the highway commissioner's signature is important because his  
12 approval has a significant impact on this case.

13  
14 Mr. Hall stated that there are two more special conditions which need to be drafted and he would like the  
15 highway commissioner to see all of the conditions before submitting his comments in writing. Mr. Hall  
16 stated that he would recommend that the case be continued.

17  
18 Mr. Thorsland asked Mr. Hall if staff has received any additional information regarding Case 681-S-11.

19  
20 Mr. Hall stated no.

21  
22 Mr. Thorsland asked Mr. Hall if the Board could begin hearing the text amendment cases as the next public  
23 hearing.

24  
25 Mr. Hall stated that the Board could begin those hearings although the Board would not be in the position to  
26 take action on those cases. He said that given the current staffing it would be difficult to have information  
27 ready for the next meeting for the text amendments but staff could certainly attempt such.

28  
29 Mr. Thorsland stated that Case 677-V-10 could be continued to April 28<sup>th</sup>.

30  
31 Mr. Hall asked the Board if a quorum could be anticipated at the April 28<sup>th</sup> meeting.

32  
33 Mr. Thorsland stated yes.

34  
35 Ms. Capel stated that she will be absent from the April 14<sup>th</sup> meeting.

36  
37 Mr. Hall stated the petitioner for tonight's hearing could request a continuance until a full Board of seven  
38 members is present although he is not sure if the Board is obligated to honor such a request because that  
39 Board member would have not been present at any of the previous hearings.

40  
41 Mr. Thorsland requested a motion to continue Case 677-V-10 to the April 28<sup>th</sup> meeting.

1 **Ms. Capel moved, seconded by Mr. Palmgren to continue Case 677-V-10 to the April 28<sup>th</sup> meeting.**  
2 **The motion carried by voice vote.**

3  
4 Mr. Hall stated that he will draft the proposed special conditions as soon as possible for review.

5  
6 **7. Staff Report**

7 **A. January, 2011 Monthly Report**

8 **B. February, 2011 Monthly Report**

9 **C. First Quarter of Fiscal Year 2011 Summary Report**

10  
11 Mr. Hall stated that the reports included in the mailing indicates that from a permitting stand point things are  
12 looking up.

13  
14 **8. Other Business**

15 **A. ZBA Bylaws**

16  
17 Mr. Thorsland stated that the Board received copies of the ZBA Bylaws for review. He said that the Board  
18 might have noticed that he called the petitioner to the witness stand so that he could plead his case prior to  
19 Mr. Hall's discussion with the Board. Mr. Thorsland stated that Mr. Hall previously informed the Board that  
20 the Assistant State's Attorney had concerns regarding the terminology and procedures that the Board utilizes  
21 in its hearings. He said that staff has indicated suggested changes on Page 8 of the Draft Revision of the  
22 Zoning Board of Appeals Bylaws.

23  
24 Mr. Hall stated that the phrase, "Close the public hearing," has existed since the beginning of the Bylaws. He  
25 said that the phrase, "Close the witness register," does not appear in the Bylaws but it is handy device in  
26 notifying the public that the Board is moving to a discussion amongst the Board members. He said that this  
27 phrase is not in the Bylaws but could be added but in adding it a citizen could certainly raise the issue that  
28 the Board has closed the witness register when the Bylaws do not indicate such an allowance. He asked the  
29 Board if they wanted to add the phrase, "Close the witness register," to the Bylaws.

30  
31 Mr. Thorsland stated that he would like the phrase to be added to the Bylaws. He said that there will be  
32 cases where the Board will need to be make it clear that it has completed the testimony portion of the case  
33 and will continue on with their work towards a determination. He said that he does not believe that a time  
34 limit can be included and if you review the Bylaws there are plenty of opportunities to prevent redundancy  
35 without time limits.

36  
37 Mr. Hall stated that he would imagine that David DeThorne, Assistant State's Attorney would prefer to  
38 never use the term "Close" in regards to anything that the Board does within the witness register therefore  
39 the Board could use the term "End".

40  
41 Mr. Thorsland agreed.

1 Mr. Hall stated that someone could always indicate that they have additional testimony.

2

3 Mr. Thorsland stated that he, as Chair, would then be so inclined to deny that request.

4

5 Mr. Hall noted that denying the request to provide additional testimony may be within the realm of the  
6 Chair's powers but those powers should be exercised very carefully.

7

8 Mr. Thorsland stated that he believes that the opportunity will come up in the near future.

9

10 Mr. Hall stated that if the Bylaws were being written from scratch he would recommend that there are certain  
11 things that should apply to the meeting portion of the meeting and there are other things which should apply  
12 to the public hearing. He said that Article 7 applies to both because there are motions and decisions which  
13 are part of the meeting and motions and decisions which are part of the public hearing. He said that Article 7  
14 is similar to Articles 5 and 4 therefore the question arises if the Board wants to change the order of the  
15 articles to try to improve them or leave the existing grouping as indicated. He said that Article 8 discusses a  
16 final determination but Article 9 describes what needs to be done if the case is to be withdrawn, amended or  
17 continued which are logical issues which would come before a final determination. He said that Article 7  
18 could be moved ahead of Article 6 and Article 9 could be moved ahead of Article 8.

19

20 Ms. Capel agreed that a more logical placement of those articles would be preferred.

21

22 Mr. Thorsland agreed with Ms. Capel.

23

24 Mr. Hall stated that there is one change that he would like to bring to the Board's attention is Section 5.9 on  
25 Page 4. He said that for some reason there is this neglected hangover that public hearings shall not be closed  
26 other than at a meeting where at least five Board members are present. He said that he believes that this is a  
27 carryover from when the requirement for a ZBA quorum was five members. He said that if currently four  
28 members is all that it takes to move to a final determination then four members is all it should take to close  
29 the public hearing therefore he is recommending that the present text be stricken from the Bylaws. He said  
30 that he is still recommending that neither meetings nor public hearings can be held by less than a quorum  
31 because a meeting could be started with four members present but you would not want to go into a public  
32 hearing with less than four. He said that also under Section 5.5 he is proposing to add a requirement that the  
33 Board may only go into closed session for appropriate reasons and only upon the advice of the Champaign  
34 County State's Attorney.

35

36 Mr. Capel stated that without that advice the Board is vulnerable.

37

38 Mr. Hall stated yes, but the Board very rarely requests a closed session anyway. He said that this would  
39 make it clear to future Board members that a request for a closed session is a big deal. He asked the Board  
40 to review Section 6.1 and to indicate if they are comfortable with the proposed text. He noted that the  
41 amended Bylaws will be reviewed by the State's Attorney before Board adoption.

42

1 Mr. Hall stated that if it had to be identified where the closing of the public hearing is supposed to occur it  
2 would be just prior to an actual final determination. He said that everywhere the document discusses closing  
3 the public hearing staff replaced with the text about making a specific final determination. He said that even  
4 though this is a change it is consistent with the Board's current practice.

5  
6 Mr. Hall stated that there are additional changes that he would like to present to the Board at the next  
7 meeting. He said that Bylaws do not refer to a specific administrative statement. He said that this statement  
8 is read at the beginning of every administrative hearing and **at the time** the State's Attorney wanted to make  
9 sure that there was indeed a statement but did not want to include the exact statement in the Bylaws. He said  
10 that he believes that the State's Attorney at that time desired to be cautious not to add any unnecessary things  
11 to the Bylaws. He said that every unnecessary thing in the Bylaws is a possible trip up in the future if the  
12 Board forgets to do it. He said that he believes that it is a bad thing if a new Board member could possibly  
13 get a new set of Bylaws with a new set of appendices which would still not include an administrative  
14 statement. He recommended that an example administrative statement be included in the appendices making  
15 it perfectly clear that it is not the exact wording but that these things need to be reviewed at the beginning of  
16 every administrative hearing. He said that he is not sure what the current State's Attorney's opinion will be  
17 on such an administrative statement because they would always advise not to add anything other than what  
18 absolutely needs to be added. He said that the administrative statement is read prior to every administrative  
19 hearing therefore it is his opinion that it should be added to the Bylaws.

20  
21 Ms. Capel stated that she believes that the administrative statement should be added to the Bylaws.

22  
23 Mr. Thorsland agreed. He said that during the wind farm hearings a statement was handed to him indicating  
24 the following: Private discussion should be a quiet as possible during testimony and everyone should show  
25 respect to all those who are testifying. He said that he does not believe that this needs to be added to the  
26 Bylaws.

27  
28 Ms. Capel stated that the statement should be added to the Bylaws so that it is absolutely appropriate for the  
29 Chair to read that statement.

30  
31 Mr. Hall stated that he will ask the State's Attorney if such a statement should be included in the Bylaws.

32  
33 Mr. Thorsland noted that not during a ZBA meeting but during a particularly heated County Board meeting a  
34 citizen questioned why a deputy sheriff was not present at the meeting.

35  
36 Mr. Thorsland asked the Board if they liked receiving their packets by e-mail. Ms. Capel, Mr. Courson and  
37 Mr. Thorsland agreed that it is a much better way in receiving the information. Mr. Miller requested that he  
38 be placed back on the list for receiving his packets via regular postal mail.

39  
40 **9. Audience Participation with respect to matters other than cases pending before the Board**

41  
42 None

ZBA

**DRAFT SUBJECT TO APPROVAL DRAFT**

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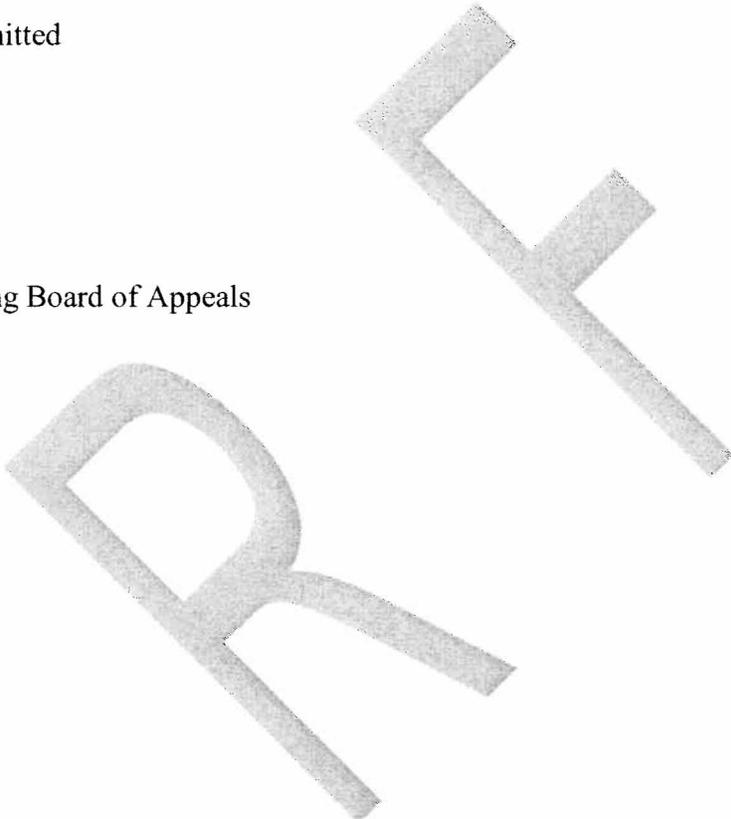
**10. Adjournment**

**Mr. Miller moved, seconded by Ms. Capel to close the public hearing. The motion carried by voice vote.**

The meeting adjourned at 8:15 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals



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# CASE NO. 677-V-10

## SUPPLEMENTAL MEMORANDUM

Champaign April 21, 2011

County Department of  
Petitioners: **Mick & Leah Harshbarger**



Site Area: **approx. 1.0 acre**

Time Schedule for Development: **N/A**

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

Prepared by: **John Hall**  
Zoning Administrator

(217) 384-3708

**Request: Authorize the occupancy and use of an existing detached accessory structure with a setback of 47 feet and 6 inches from CR2545, a minor street, in lieu of the minimum required setback of 55 feet and a front yard of 17 feet and 6 inches from the front property line in lieu of the minimum required front yard of 25 feet and located in the AG-1 District**

**Location: Lot 27 of Deer Ridge/Ingram's Third Subdivision in Section 30 of Ogden Township and commonly known as the house at 2545 CR 1375N, Ogden.**

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### *STATUS*

This case was continued from the March 24, 2011, meeting. The minutes of that meeting are included separately for approval.

Draft conditions were mailed for review on April 1 to the Petitioners and the Ogden Township Highway Commissioner but no comments have been received. The conditions have also been copied to the State's Attorney for review.

The Draft conditions have been included in the Revised Summary of Evidence (see attached) and minor changes have been made throughout the Summary.

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### **ATTACHMENTS**

A Revised Draft Summary of Evidence



*APRIL 21, 2011, REVISED DRAFT*

677-V-10

**SUMMARY OF EVIDENCE, FINDING OF FACT  
AND FINAL DETERMINATION  
of  
Champaign County Zoning Board of Appeals**

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Final Determination: *{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}*

Date: **April 28, 2011**

Petitioner: **Mick and Leah Harshbarger**

Request: **Authorize the occupancy and use of an existing detached accessory structure with a setback of 47 feet and 6 inches from CR2545, a minor street, in lieu of the minimum required setback of 55 feet and a front yard of 17 feet and 6 inches from the front property line in lieu of the minimum required front yard of 25 feet and located in the CR AG-1 District.**

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on ~~April 30, 2009, and June 25, 2009~~, March 24 and April 28, 2011, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Mick and Leah Harshbarger, own the subject property.
2. The subject property is Lot 27 of Deer Ridge/Ingram's Third Subdivision in Section 30 of Ogden Township and commonly known as the house at 2545 CR 1375N, Ogden.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property is zoned ~~CR Conservation-Recreation~~ AG-1 Agriculture and is in use as a single family dwelling. A Neighborhood Home Occupation is an accessory use on the subject property.
  - B. Land south of the subject property is zoned CR Conservation-Recreation and is in use as single family dwellings.

ITEM 4.B. (CONTINUED)

- C. Land to the north, east, and west of the subject property is zoned AG-1 Agriculture and is in use as single family dwellings.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. Generally regarding the proposed site plan:

- A. The original house was constructed in 1997 under ZUPA 164-97-05 and received a Zoning Compliance Certificate on June 18, 1998. The house includes an attached garage on the north side that is accessed from CR1375N.

- B. The detached garage, swimming pool, pool house, and play house were originally constructed by the petitioner without permits and the pool house and play house were the subjects of variance Case 637-V-08 that was determined on June 25, 2009, as follows:

- (1) The play house was the detached accessory structure in Part A of the previous variance case 637-V-08 and was originally constructed in the southwest corner of the subject property only four feet, two inches from the west lot line and only four feet from the south lot line instead of the required 10 feet in both instances. It is eight feet by eight feet and is four feet, six inches off the ground on treated posts.

Part A of Case 637-V-08 was denied and the play house was relocated as indicated on the approved site plan for case 637-V-08. That same site plan was submitted for the previously unauthorized structures in zoning use permit application 266-08-09 on July 9, 2009.

The relocation was verified in a compliance inspection on September 17, 2010. The compliance inspection revealed that the garage was in violation of the Zoning Ordinance due to a non-compliant setback and front yard so no zoning compliance certificate was approved for the play house.

- (2) A swimming pool was constructed south of the house and conforms to all Zoning Ordinance requirements. The pool was included with other previously unauthorized structures in zoning use permit application 266-08-01 on July 9, 2009. The compliance inspection revealed that the garage was in violation of the Zoning Ordinance due to a non-compliant setback and front yard so no zoning compliance certificate was approved for the pool.
- (3) The pool pump house was the detached accessory building in Part B of the previous variance case 637-V-08 and is only three feet, six inches from the south lot line instead of the required 10 feet.

ITEM 5.B. (3) (CONTINUED)

Part B of Case 637-V-08 was approved subject to the following special condition:

If the pump house is damaged or destroyed it should be relocated and reconstructed in compliance with the Zoning Ordinance.

The pool pump house was included with other previously unauthorized structures in zoning use permit application 266-08-01 on July 9, 2009. The side yard of the pool pump house was verified in a compliance inspection on September 17, 2010. The compliance inspection revealed that the garage was in violation of the Zoning Ordinance due to a non-compliant setback and front yard so no zoning compliance certificate was approved for the pool pump house.

- (3) The detached garage was included with other previously unauthorized structures in zoning use permit application 266-08-01 on September 22, 2008. An addition to the garage was applied for in zoning use permit application 310-09-03 on November 6, 2009. Permit 310-09-03 was approved on November 9, 2009, because the site plan indicated that the addition would exceed the minimum required setback and front yard and the petitioner had testified in Case 637-V-08 that the existing garage complied with those requirements.

The subsequent compliance inspection for permit 266-08-09 on September 17, 2010, revealed that the garage was in violation of the Zoning Ordinance due to a non-compliant setback and front yard so no zoning compliance certificate was approved for the garage or the garage addition.

- C. The petitioner submitted zoning use permit application 251-10-01 for an addition to the house on September 8, 2010. Permit 251-10-01 was authorized on September 20, 2010, with the following condition:

Issuance of this permit is based on the applicant agreeing to abide by any reasonable request made by the Champaign County Zoning Board of Appeals in Variance Case 677-V-10 for the existing detached garage.

- D. The petitioner operates an office for his Neighborhood Home Occupation (NHO) out of his home. The petitioner's NHO is described on the application for a permit and in a written statement submitted with the site plan, and was approved on September 22, 2008, (and included as an attachment to the Preliminary Memorandum) as follows:

- (1) The business is named Pickle Construction. It is a construction business, apparently focusing on carpentry. As part of the NHO, the petitioner also does snow removal.

ITEM 5.D. (CONTINUED)

- (2) The business is operated from an office in the single family dwelling and the large storage garage.
- (3) The petitioner keeps one truck for use in the construction business and one truck for snow removal. An extra truck appears to be stored in the large storage garage, but is not used regularly. A trailer may be parked with the work truck outside the garage on the south side.
- (4) The petitioner does not indicate any activities other than storage that take place on the subject property and indicates that no employees meet at the subject property for work.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
  - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variance (capitalized words are defined in the Ordinance):
    - (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.
    - (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN or PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
    - (3) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
    - (4) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
    - (5) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
    - (6) "LOT, CORNER" is a LOT located:
      - (a) At the junction of and abutting two or more intersecting STREETS; or
      - (b) At the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
      - (c) At and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.

ITEM 6.A. CONTINUED

- (7) "LOT LINES" are the lines bounding a LOT.
- (8) "LOT LINE, FRONT" is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
- (9) "LOT LINE, REAR" is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.
- (10) "STORAGE" is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
- (11) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- (12) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- (13) "YARD, REAR" is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
- (14) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.

B. Regarding Zoning Ordinance requirements for corner lots:

- (1) Subsection 4.3.2 illustrates a corner lot as having a setback along each adjacent street.
- (2) Paragraph 4.3.3 E. specifies that the minimum SIDE YARD on the STREET SIDE of a CORNER LOT shall be equal to the minimum FRONT YARD otherwise required in the DISTRICT.

ITEM 6. CONTINUED

- C. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.
- D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
    - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
    - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
    - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
    - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
    - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
  - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- G. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

**GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT**

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“They will never make the road wider no more house will be built.”**

ITEM 7. CONTINUED

- B. At the April 30, 2009, public hearing for Case 637-V-08, co-petitioner Mick Harshbarger, owner and operator of Pickle Construction, testified to the following:
- (1) On the application that, **“Pool Pump House.”**
  - (2) At the public hearing he testified as follows:
    - (a) He was not aware that he needed a building permit for a detached garage or a play house.
    - (b) He has built these types of structures for many people in Champaign without obtaining a permit.
- C. Regarding the history of the garage:
- (1) The detached garage, swimming pool, pool house, and play house were originally constructed without permits and the pool house and play house were the subjects of permit 266-08-01 and variance Case 637-V-08.
  - (2) During the public hearing for Case 637-V-08 the petitioner was questioned specifically about the setback for the garage at the April 30, 2009, and the petitioner testified that the garage met the required front yard. At the time there had been no zoning compliance certificate inspection for permit 266-08-01 since the variance case had been approved only four months earlier.
  - (3) Part B of Case 637-V-08 was approved on June 25, 2009.
  - (4) The petitioner applied for zoning use permit 310-09-03 on November 6, 2009, to build an addition to the garage. The permit was approved based on the site plan indication that the addition would exceed the minimum required front yard and the petitioner’s earlier assertions about the existing garage. At the time there had been no zoning compliance certificate inspection for permit 266-08-01 since the variance case had been approved only four months earlier.
  - (5) The petitioner next applied for zoning use permit 251-10-01 on September 8, 2010, to build an addition to the dwelling. The Zoning Officer conducted a zoning compliance inspection on September 17, 2010, so as to verify that all construction was compliant and found that the garage (and the garage addition) was not compliant. The garage was found to have a front yard and setback less than required. Permit 251-10-01 was approved on that same day with a condition that the applicant abide by any reasonable decision of the Zoning Board of Appeals.

ITEM 7. CONTINUED

D. Regarding CR2545:

- (1) The dedicated right of way for CR 2545 currently ends at the south line of the subject property even though Ogden Township maintains the pavement all the way to and including the cul-de-sac turnaround to the south.
- (2) If CR2545 the dedicated right of way for CR 2545 ended at some point north of the subject garage it would not be a public street in front of the garage and there would be no required front yard or setback but instead only a required side yard of 10 feet.

E. A 50 feet wide drainage easement crosses the southwest corner of the subject property and limits the location of structures along the south lot line (from Case 637-V-08).

*GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE*

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:

- A. The Petitioner has testified on the application that, **“The cost would be a lot!”**
- B. In the public hearing for Case 637-V-08, co-petitioner Mick Harshbarger, owner and operator of Pickle Construction, testified to the following:
  - (1) On the application that, **“Power, plumbing, heater, gas line.”**
  - (2) The petitioner asserted to staff that there is no land available for purchase from the neighbors to the south to mitigate the amount of variance (that was required for the side yard).
- C. If the variance is not granted at least 7 feet 6 inches of the garage will have to be torn down or relocated.
- D. The A 50 feet wide drainage easement that cuts across the south west corner of the subject property reduces the space for buildings along the south lot line (from Case 637-V-08).
- E. The petitioner testified at the March 24, 2011, public hearing that it would be difficult but he would still be able to store his vehicle in the garage if eight feet were removed from the garage. He said that he has a television, couch, refrigerator, golf cart, four-wheeler and a lawn mower in the garage therefore it would be tight with the truck but he could rearrange those items to accommodate the vehicles.

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioner has testified on the application that, **“I thought my setback was 10 feet on a side yard. Didn’t know I had 2 front yards!”**
  - B. In the public hearing for Case 637-V-08, co-petitioner Mick Harshbarger, owner and operator of Pickle Construction, testified on the application that, **“I built pool pump house and did not know there was a 10 foot setback.”**
  - C. The location of the drainage easement across the southwest corner of the subject property was determined when the subject property was platted as part of Ingram’s Third Subdivision (from Case 637-V-08).

***GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE***

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioner has testified on the application that, **“None”**
  - B. The Zoning Ordinance does not clearly state the considerations that underlay the setback and front yard requirements. In general, the setback is presumably intended to ensure the following:
    - (1) Right of way acquisition. CR2545 is a minor street that currently ends at the south line of the subject property although the Highway Commissioner maintains the road all the way to and including the cul-de-sac turnaround and receives motor fuel tax funds for that maintenance. CR2545 will probably never be widened at this location and it is very unlikely that any additional right of way will ever be needed.
    - (2) Off-street parking. Regarding off street parking:
      - (a) The Zoning Ordinance requires a minimum of two parking spaces for a dwelling and the Neighborhood Home Occupation (NHO) on the subject property is allowed to have only one commercial vehicle. The Zoning Ordinance also requires a parking space to be a minimum of 9 feet wide and 20 feet long.

The existing 17 feet 6 inch front yard is not long enough to accommodate a required parking space without projecting into the right of way but it appears that all required parking is available inside the garage.
      - (c) On a letter submitted with the application for the NHO the petitioner has indicated there are three vehicles in total kept in the garage and a work truck that is kept outside. At this time it is not clear if the work truck extends into the right of way.

ITEM 10. B. CONTINUED

- (d) The street pavement is a minimum of 20 feet wide and is more or less centered in the 60 feet wide right of way. Thus, the street pavement is approximately 20 feet from the subject property and there is approximately 37 feet 6 inches between the subject garage and the edge of the street pavement.
  - (3) Aesthetics. Aesthetic benefit may be a consideration for any given front yard and setback but can be very subjective. In this instance, the subject property retains a great deal of open space.
  - (4) Adequate light and air. The structure in question is an accessory structure which does not noticeably affect the amount of light and air available on the large lots in this neighborhood.
- C. The subject property conforms to all other *Zoning Ordinance* requirements.
  - D. The existing front yard of 17 feet 6 inches is 70.0% of the required 25 feet for a variance of 30% and the existing setback of 47 feet and 6 inches from CR2545, a minor street, is 86.4% in lieu of the minimum required setback of 55 feet.
  - E. The requested variance is not prohibited by the *Zoning Ordinance*.
  - F. The petitioner in this case is the owner and operator of a construction business and asserted in the public hearing for Case 637-V-08 that he has constructed buildings in the City of Champaign without obtaining permits, so he was unaware of the need for permits in the County.
  - G. In Case 637-V-08 Staff requested Mr. Harshbarger measure the distance from the centerline of the road to the detached garage and that information was not submitted however on April 30, 2009, Mr. Harshbarger testified in Case 637-V-08 that he was positive that the garage was 25 feet from the front property line along CR2545E.

**GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE**

- 11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
  - A. The Petitioner has testified on the application that, **“The closest house is 2.5 acres away.” “No danger!”** (Note: The Preliminary Memorandum had incorrectly repeated the response from the previous case. This is from the current application.)
  - B. The Fire Protection District has received notice of this variance, but no comments have been received.

C. The Township Highway Commissioner has also received notice of this variance, but no comments have been received.

D. The petitioner testified at the March 24, 2011, public hearing that the length of the truck and construction trailer is 35 feet but he does not park anything in front of the shop but does park it in front of his house. He said that in general he always parks his truck in front of the house. He said that he does have a truck inside of the garage/shop that is used for snow removal.

~~12. Elsewhere on the application the Petitioner has stated, “It is on concrete and the plumbing and power is coming up in the center of pump house.” (Note: The Preliminary Memorandum had incorrectly repeated the response from the previous case. There is no response on the current application.)~~

*GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL*

12. Regarding proposed special conditions of approval:

A. **Encroachment of parked vehicles into the right of way shall be limited.** There is reduced parking space in front of the subject garage due to the non-compliant front yard (distance between the garage and property line/ right of way line) of only 17 feet and 6 inches in lieu of the of the minimum required front yard of 25 feet. There is approximately 19 feet of clearance between the property line/ right of way line and the edge of the gravel base of the pavement and therefore a total of approximately 36 feet 6 inches between the garage and the edge of the gravel base of the pavement in lieu of the minimum 44 feet that would otherwise be required. The reduced parking space may result in encroachment of parked vehicles into the right of way and there are related highway safety concerns depending upon the amount of encroachment. The Township Highway Commissioner is the final authority on whether or not any parking is allowed in the right of way. However, the Zoning Board of Appeals may be able to help the Highway Commissioner by including some explicit special conditions for parking that extends into the right of way. Any special condition of the ZBA can be overridden by the Highway Commissioner at any time. The following special conditions are proposed to address highway safety concerns associated with the reduced parking space in front of the subject garage but are not intended to apply to the subject property in general:

**(1) At no time shall a parked or standing vehicle (ie, parked while attended) located on the subject property extend onto the street pavement and past the line of the gravel base of the pavement on either side of the driveway.** (Note: This condition will allow a parked vehicle to extend as much as 18 feet into the right of way but not onto the pavement and should ensure that there are no unusual traffic safety issues arising due to the reduced parking space in front of the garage. This condition is intended to be subordinate to the Township Highway Commissioner’s authority and the Township Highway Commissioner can enforce any required parking restrictions in the right of way.)

ITEM 12.A. CONTINUED

- (2) Unless otherwise directed by the Township Highway Commissioner, no parked or standing vehicle (ie, parked while attended) located on the subject property shall extend past the line of the right of way during times of anticipated street maintenance (and it shall be the petitioner's responsibility to anticipate street maintenance) or at other times as requested by the Township Highway Commissioner. (Note: This condition requires that no vehicle extend past the property line during times of anticipated street maintenance such as application of road oil or clearing of snow and should ensure there are no unusual property damage issues caused by necessary street maintenance due to the reduced parking space in front of the garage. This condition is intended to be subordinate to the Township Highway Commissioner's authority and the Township Highway Commissioner can enforce any required parking restrictions in the right of way.)
- (3) Unless otherwise directed by the Township Highway Commissioner, at no time from dusk to dawn shall a parked vehicle located on the subject property extend past the centerline of the roadside ditch in front of the subject garage. (Note: Even though there are no liability issues to be concerned about the Board may want to require this greater amount of separation between the edge of pavement and parked vehicles at nighttime. This condition should provide approximately 10 feet of separation between a parked vehicle and the edge of the pavement base. This condition is intended to be subordinate to the Township Highway Commissioner's authority and the Township Highway Commissioner can enforce any required parking restrictions in the right of way.)
- (4) Three documented violations of the special conditions of approval regarding encroachment of parked vehicles into the street right of way between the garage and the street shall void this approval and a new variance shall be required. (Note: This condition provides a long term enforcement mechanism for the special conditions. Documentation of a violation generally requires dated photographic evidence. As proposed these three documented violations could occur years apart and under different owners. Voidance of the variance approval will be a violation of the Zoning Ordinance and the Zoning Administrator would presumably send a Notice of Violation to the owner.)

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

To help ensure public safety by minimizing highway safety concerns associated with the reduced parking space in front of the subject garage and any resulting encroachment of parked vehicles into the right of way.

ITEM 12. CONTINUED

- B. If the subject garage is damaged or destroyed to more than 50% of replacement value it shall be reconstructed in full compliance with the Champaign County Zoning Ordinance.**  
(Note: The replacement value shall assume replacement by a third party and not by the homeowner.)

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

To ensure that if the garage must be rebuilt it will be rebuilt to the requirements of the Ordinance.

- C. The petitioner shall file an original copy of the signed Final Determination in this variance case as a Miscellaneous Document with the Champaign County Recorder of Deeds as soon as possible after receiving the signed Final Determination.**

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

To ensure that future purchasers of the subject property will be aware of the special conditions that apply to the subject garage.

- D. The Zoning Administrator shall not issue any additional Zoning Compliance Certificates authorizing the use of buildings on the subject property unless the petitioner submits a copy of the recorded document required by condition D. above. (Note: Use of a building without a Compliance Certificate is a violation of the Ordinance and a Compliance Certificate is still required for all accessory buildings on the subject property and the recent addition to the dwelling.)**

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

To provide an immediate enforcement mechanism to ensure compliance with the approval of the variance.

**DOCUMENTS OF RECORD**

1. Variance application from Mick and Leah Harshbarger, received on September 20, 2010, with attachments:
  - A Approved site plan for zoning use permit 310-09-03
  
2. Preliminary Memorandum with attachments:
  - A Case Maps from Case 637-V-08 (Location, Land Use, Zoning)
  - B Approved site plan for Case 637-V-08 received on June 29, 2009
  - C Approved site plan for Permit 310-09-03 (garage addition) received on November 6, 2009.
  - D Approved site plan for Permit 251-10-01 (house addition) received on September 8, 2010
  - E Excerpt of minutes of 4/30/09 public hearing for Case 637-V-08
  - F Final Plat of Ingram's Third (Deer Ridge) Subdivision (with subject property indicated)
  - G 2008 Aerial photograph with parcel boundaries (with subject property indicated)
  - H Neighborhood Home Occupation Permit Application for Pickle Construction
  - I Written statement regarding NHO operations received on February 3, 2009
  - J Permit 251-10-01 approved on September 20, 2010
  - K Draft Summary of Evidence
  
3. Handout of Draft conditions at the March 24, 2011, public hearing
  
4. Supplemental Memorandum dated April 21, 2011, with attachment:
  - A Revised Draft Summary of Evidence, Finding of Fact, and Final Determination

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **677-V-10** held on **March 24 and April 28, 2011**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 677-V-10 is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, Mick and Leah Harshbarger, to authorize the occupancy and use of an existing detached accessory structure with a setback of 47 feet and 6 inches from CR2545, a minor street, in lieu of the minimum required setback of 55 feet and a front yard of 17 feet and 6 inches from the front property line in lieu of the minimum required front yard of 25 feet and located in the CR District,

*{SUBJECT TO THE FOLLOWING CONDITION(S):}*

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

**CASE NO. 683-AT-11**  
**Preliminary Memorandum**

Date: April 19, 2011

Petitioner: Zoning Administrator

Prepared By: Susan Monte, CCRPC Planner and John Hall, Zoning Administrator

Request:

Amend the Champaign County Zoning Ordinance as follows:

1. Add definitions for parcel, best prime farmland, suited overall, and well suited overall.
2. Revise Paragraph 5.4.3 C.2. as follows:
  - a. In Item a, add “and infrastructure to support the development” and give examples of relevant infrastructure.
  - b. Item h, replace ‘emergency’ with ‘public’ to describe ‘services’, add “to support the proposed development” and give examples of relevant services.
  - c. In Item j, delete “effects on” and replace with “the amount of disturbance to”.
3. Revise Subsection 9.1.11B. by adding criteria that apply to special use permits in the AG-1, AG-2, and CR zoning districts in addition to the existing criteria for any special use permit, as follows:
  - a. The property is either best prime farmland and the property with proposed improvements is well suited overall or the property is not best prime farmland and the property with proposed improvements is suited overall.
  - b. The existing public services are available to support the proposed special use effectively and safely without undue public expense.
  - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.

**BACKGROUND**

On March 8, 2011, the Champaign County Board Committee of the Whole completed its preliminary review of the draft text amendments to amend the *Champaign County Zoning Ordinance* to include provisions of the LRMP Policies 4.3.1 - 4.3.4. These are policies that pertain to rural site suitability criteria that are reviewed in discretionary review cases considered by the Zoning Board of Appeals and County Board. The Committee has authorized these draft text amendments to move forward to the public hearing process at the Zoning Board of Appeals.

Attachment A is the memorandum packet provided to the Committee regarding the draft text amendments proposed to implement Objective 4.4 of the Champaign County Land Resource Management Plan (LRMP). This packet includes the draft text amendments referenced in Case No. 683-AT-11.

LRMP Policies 4.3.1 – 4.3.4

The text of LRMP Policies 4.3.1 – 4.3.4 is provided below. For contextual reference, refer to the complete text of the LRMP Goal 4 (Agriculture) and Goal 4 Objectives and Policies, provided as a separate document related to Zoning Case No. 683-AT-11 and other related cases currently under review.

Policy 4.3.1

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

Policy 4.3.2

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

Policy 4.3.3

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

Policy 4.3.4

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

Draft Amendment Description

Attachment B contains a strike-out version of the current draft text amendments intended to implement LRMP Policies 4.3.1 – 4.3.4.

A description and rationale for each section of the draft text amendments is provided below:

1. *Add definitions for 'parcel,' 'best prime farmland,' 'suited overall,' and 'well suited overall.'*

*Best Prime Farmland*

'Best prime farmland' is proposed to be included as a defined term to enable the implementation of LRMP Policies 4.3.1 and 4.3.2. LRMP Policies 4.3.1 and 4.3.2 specifically refer to 'best prime farmland'.

The proposed definition for 'best prime farmland' is derived from the definition provided in the LRMP. The proposed definition is entirely consistent with the criteria used to describe best prime farmland as referenced in the *Champaign County Zoning Ordinance*, in

Footnote 13 of Section 5.3 (Schedule of Area, Height & Placement Regulations by District).

*Parcel*

'Parcel' is proposed as a newly defined term. 'Parcel' is a term commonly used interchangeably with the term 'lot.' ('Lot' is defined in Section 3.0 as follows: 'A designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.')

*Suited Overall and Well Suited Overall*

The terms 'suited overall' and 'well suited overall' are proposed as defined terms to be consistent with the intent of LRMP Policies 4.3.1 and 4.3.2. LRMP Policies 4.3.1 and 4.3.2 generally refer to 'suited overall' and 'well suited overall' as criteria to be considered as the County reviews proposed discretionary development on best prime farmland and on other than best prime farmland.

The proposed definitions of 'suited overall' and 'well suited overall' are derived from the definitions for the same terms as provided in the LRMP.

2. *Revise Paragraph 5.4.3 C.2*

Item (2)(a) in Paragraph 5.4.3(C) is revised to include added text to provide clarity and for consistency with LRMP Policy 4.3.4.

Item (2)(h) in Paragraph 5.4.3(C) is revised to add text to provide clarity and for consistency with LRMP Policy 4.3.3.

Item (2)(j) is revised to add clarifying text.

3. *Revise paragraph 9.1.11B. by adding criteria that apply to special use permits in the AG-1, AG-2, and CR zoning districts in addition to the existing criteria for any special use permit*

New item 3 in Paragraph 9.1.11(B) is added with the intent to implement LRMP Policies 4.3.1 and 4.3.2.

New Item 4 in Paragraph 9.1.11(B) is added with the intent to implement LRMP Policy 4.3.3.

New Item 5 in Paragraph 9.1.11(B) is added with the intent to implement LRMP Policy 4.3.4.

ATTACHMENTS

- A Champaign County Committee of the Whole Memorandum dated February 23, 2011
- B Strike-Out Version of Draft Zoning Ordinance Text Amendment dated April 19, 2011



Date: February 23, 2011

To: Champaign County Board Committee of the Whole Members

From: Susan Monte, CCRPC Planner

Regarding: Request to Amend the Champaign County Zoning Ordinance to Implement Land Resource Management Plan Policies 4.1.6 and 4.3.1 – 4.3.4

Request: Approve Proceeding

At the February 8, 2011 County Board Study Session, Board members discussed improving the proposed Zoning Ordinance text amendments intended to implement LRMP Polices 4.1.6 and 4.3.1 – 4.3.4 by substituting the word 'adequate' with the word 'available' in certain instances.

Staff has made the requested change to substitute the word 'availability' where it occurs with regard to public services. For example, the 'availability' of an emergency service is an easier condition to discern than the 'adequacy' of an emergency service.

The revised Zoning Ordinance text is provided as an attachment.

Attachment: Clean Copy of Revised Draft Zoning Ordinance Text Amendment

NEW CONTENT SHOWN IN BLUE. CURRENT REVISIONS HIGHLIGHTED IN YELLOW AND UNDERLINED

*1. Add a definition for 'best prime farmland', 'suited overall', and 'well suited overall'*

**3.0 Definitions**

**BEST PRIME FARMLAND:** Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System with a Relative Value of 85 or greater and tracts of land with mixed soils that have a LESA System Land Evaluation rating of 85 or greater.

**SUITED OVERALL:** A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be 'suited overall' if the site meets these criteria:

- the site features or site location will not detract from the proposed use;
- the site will not create a risk to the health, safety or property of the occupants, the neighbors or the general public;
- the site is not clearly inadequate in one respect even if it is acceptable in other respects;
- necessary infrastructure is in place or provided by the proposed development; and
- available public services are adequate to support the proposed development effectively and safely.

**WELL SUITED OVERALL:** A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be 'well-suited overall' if the site meets these criteria:

- the site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative affects on neighbors or the general public; and
- the site is reasonably well-suited in all respects and has no major defects.

*2. Add new Subsection 5.4.3 with limits as outlined in LRMP Policy 4.1.6*

**5.4 Rural Residential OVERLAY Zoning DISTRICT**

**5.4.3 Limit on Amount of BEST PRIME FARMLAND Acres Converted**

- A. On BEST PRIME FARMLAND, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential USE (inclusive of BY RIGHT development) not to exceed three acres, plus three acres per each additional 40 acres of PARCEL (including any existing RIGHT-OF-WAY), but not to exceed 12 acres in total.
- B. Any FARMSTEAD area shall not count towards the three acres per 40 acre limit.

3. *Revise Subsection 5.4.4 to include factors described in LRMP Policies 4.3.1-4.3.4*

5.4.4 Establishment of the Rural Residential OVERLAY Zoning DISTRICT

C. BOARD Findings

1. The BOARD shall make the following findings before forwarding a recommendation to the GOVERNING BODY with respect to a map amendment case to create a Rural Residential OVERLAY DISTRICT:
  - a. That the proposed site is or is not suitable for the development of the specified maximum number of residences.
  - b. That the proposed residential development will or will not be compatible with surrounding AGRICULTURE.
2. In making findings, the BOARD shall consider the following factors:
  - a. The adequacy and safety of roads providing access to the site and infrastructure (e.g., drainage systems, culverts, bridges) to support the proposed development;
  - b. Effects on nearby farmland and farm operations;
  - c. Effects of nearby farm operations on the proposed residential development;
  - d. The LESA score of the subject site;
  - e. Effects on drainage both upstream and downstream including road drainage facilities;
  - f. The suitability of the site for onsite subsurface soil absorption or surface discharge wastewater systems;
  - g. The availability of water supply to this site;
  - h. The ~~adequacy of available~~ availability of public services (i.e., police protection, fire protection, and emergency ambulance service) to support the proposed development;
  - i. The flood hazard status of the site;
  - j. The amount of disturbance to wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat;
  - k. The presence of nearby natural or man-made hazards; and
  - l. The amount of land to be converted from agricultural USES versus the number of DWELLING UNITS to be accommodated.

NEW CONTENT SHOWN IN BLUE. CURRENT REVISIONS HIGHLIGHTED IN YELLOW AND UNDERLINED

4. *Add Special Use criteria to Subsection 9.1.11 that include the standards of LRMP Policies 4.3.1 - 4.3.4*

**9.1.11 SPECIAL USES**

B. SPECIAL USE Criteria

A SPECIAL USE Permit shall not be granted by the BOARD unless the public hearing record and written application demonstrate:

1. that it is necessary for the public convenience at that location;
2. that it is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
3. that the subject property is on BEST PRIME FARMLAND and the site with proposed improvements is WELL SUITED OVERALL for the proposed SPECIAL USE; or the subject property is on other than BEST PRIME FARMLAND and the site with proposed improvements is SUITED OVERALL for the proposed SPECIAL USE;
4. that existing public services are ~~adequate~~ available to support the proposed SPECIAL USE effectively and safely without undue public expense;
5. that existing public infrastructure, together with proposed improvements, is adequate to support the proposed development effectively and safely without undue public expense;
6. that it conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
7. that granting the SPECIAL USE is in harmony with the general purpose and intent of this ordinance.
8. that, in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
9. approval of a SPECIAL USE Permit shall authorize USE, CONSTRUCTION and operation only in a manner that is fully consistent with all testimony and evidence submitted by the petitioner or petitioner's agent(s).

1. *Add a definition for 'best prime farmland', 'suited overall', and 'well suited overall'.*

3.0 Definitions

BEST PRIME FARMLAND: Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System with a Relative Value of 85 or greater and tracts of land with mixed soils that have a LESA System Land Evaluation rating of 85 or greater.

PARCEL: A designated tract of land entered as a separate item on the real estate tax assessment rolls for the purpose of taxation.

SUITED OVERALL: A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be 'suited overall' if the site meets these criteria:

- the site features or site location will not detract from the proposed use;
- the site will not create a risk to the health, safety or property of the occupants, the neighbors or the general public;
- the site is not clearly inadequate in one respect even if it is acceptable in other respects;
- necessary infrastructure is in place or provided by the proposed development; and
- available public services are adequate to support the proposed development effectively and safely.

WELL SUITED OVERALL: A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be 'well-suited overall' if the site meets these criteria:

- the site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative affects on neighbors or the general public; and
- the site is reasonably well-suited in all respects and has no major defects.

continued

Case No. 683-AT-11 Draft Zoning Ordinance Text Amendment (Strikeout Version)

**2. Revise Subsection 5.4.3 to include factors described in LRMP Policies 4.3.1 - 4.3.4**

5.4.3 Establishment of the Rural Residential OVERLAY Zoning DISTRICT

⋮

C. BOARD Findings

1. The BOARD shall make the following findings before forwarding a recommendation to the GOVERNING BODY with respect to a map amendment case to create a Rural Residential OVERLAY DISTRICT:
  - a. That the proposed site is or is not suitable for the development of the specified maximum number of residences.
  - b. That the proposed residential development will or will not be compatible with surrounding AGRICULTURE.
2. In making findings, the BOARD shall consider the following factors:
  - a. The adequacy and safety of roads providing access to the site and infrastructure (e.g., drainage systems, culverts, bridges) to support the proposed development;
  - b. Effects on nearby farmland and farm operations;
  - c. Effects of nearby farm operations on the proposed residential development;
  - d. The LESA score of the subject site;
  - e. Effects on drainage both upstream and downstream including road drainage facilities;
  - f. The suitability of the site for onsite subsurface soil absorption or surface discharge wastewater systems;
  - g. The availability of water supply to this site;
  - h. The availability of ~~emergency public services to the site;~~ (i.e., police protection, fire protection, and emergency ambulance service) to support the proposed development;
  - i. The flood hazard status of the site;
  - j. ~~The amount of disturbance to~~ Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat;
  - k. The presence of nearby natural or man-made hazards; and
  - l. The amount of land to be converted from agricultural USES versus the number of DWELLING UNITS to be accommodated.

Case No. 683-AT-11 Draft Zoning Ordinance Text Amendment (Strikeout Version)

3. *Add Special Use criteria to Subsection 9.1.11 that include the standards of LRMP Policies 4.3.1 - 4.3.4*

9.1.11 SPECIAL USES

B. SPECIAL USE Criteria

A SPECIAL USE Permit shall not be granted by the BOARD unless the public hearing record and written application demonstrate:

1. that it is necessary for the public convenience at that location;
2. that it is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare, except that in the CR,AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:
  - a. The property is either BEST PRIME FARMLAND and the property with proposed improvements is WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
  - b. The existing public services are available to support the proposed special use effectively and safely without undue public expense.
  - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
3. that it conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
4. that granting the SPECIAL USE is in harmony with the general purpose and intent of this ordinance.
5. that, in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
6. approval of a SPECIAL USE Permit shall authorize USE, CONSTRUCTION and operation only in a manner that is fully consistent with all testimony and evidence submitted by the petitioner or petitioner's agent(s).

**CASE NO. 684-AT-11**  
**Preliminary Memorandum**

Date: April 19, 2011

Petitioner: Zoning Administrator

Prepared By: Susan Monte, CCRPC Planner and John Hall, Zoning Administrator

**Request:**

Amend the Champaign County Zoning Ordinance as follows:

1. Revise Section 5.2 by indicating that a subdivision in the CR, AG-1, or AG-2 Districts that totals more than three lots or with new streets or private access ways requires a County Board approved special use permit for rural residential development in addition to the Rural Residential Overlay District.
2. Revise Section 5.4.3 as follows:
  - a. Add a requirement for a County Board approved special use permit for a rural residential development in accordance with Section 9.1.11.
  - b. Add a requirement that the public hearing for a map amendment for a Rural Residential Overlay and the public hearing for the related special use permit must be concurrent.

**BACKGROUND**

On March 8, 2011, the Champaign County Board Committee of the Whole completed its preliminary review of the draft text amendments to add the County Board Special Use Permit requirement for a rural residential development in addition to the rezoning approval required for a Rural Residential Overlay District (RRO). The Committee has authorized these draft text amendments to move forward to the public hearing process at the Zoning Board of Appeals.

For contextual reference, refer to the complete text of Champaign County Land Resource Management Plan (LRMP) Goal 4 (Agriculture) and Goal 4 Objectives and Policies, provided as a separate document related to Zoning Case No. 684-AT-11 and other Cases currently under review.

**ATTACHMENTS**

- A Champaign County Committee of the Whole Memorandum dated February 23, 2011
- B Strike-Out Version of Draft Zoning Ordinance Text Amendment dated April 19, 2011





Date: February 23, 2011

To: Champaign County Board Committee of the Whole Members

From: Susan Monte, CCRPC Planner

Regarding: B 3.a Request to Amend the Champaign County Zoning Ordinance to Implement Land Resource Management Plan Objective 4.4 by Adding a Special Use Permit for the RRO

B 3.b Request to Amend the Champaign County Zoning Ordinance to Implement Land Resource Management Plan Objective 4.4 by Adding Standard Conditions for the Special Use Permit for the RRO

Request: Approve Proceeding

At the February 8, 2011 County Board Study Session, Board members reviewed the proposed Zoning Ordinance text amendment intended to implement LRMP Objective 4.4. The proposed text amendment includes provisions to add a Special Use permit requirement to occur concurrently with the rezoning requirement to obtain a Rural Residential Overlay (RRO) and to add seven Standard Conditions for the Special Use for the RRO.

Staff has separated the proposed standard conditions portion of this text amendment to enable it to stand alone.

Attachment: Item B-3 from the February 8, 2011 County Board Study Session Packet



Date: August 31, 2010

To: Champaign County Board Committee of the Whole Members

From: Susan Monte, CCRPC Planner  
John Hall, Director, Champaign County Department of Planning & Zoning

Regarding: Direction to Zoning Administrator Regarding Proposed Zoning Ordinance Text Amendment

**Request: Conduct a Champaign County Zoning Ordinance Text Amendment implementing Objective 4.4 of the Land Resource Management Plan**

### Background

On April 22, 2010, the Board adopted the Champaign County Land Resource Management Plan (LRMP). On June 8, 2010, the Committee of the Whole approved the remaining FY 2010 planning contract work plan. The remaining FY 2010 work plan includes the task of amending the *Champaign County Zoning Ordinance* to include provisions of the following specific LRMP objectives and policies: Policies 4.1.5 and 4.1.6; Policy 4.1.9; Policies 4.3.1 - 4.3.4 and Objective 4.4.

This memorandum describes the proposed zoning text amendments intended to represent the changes to the Zoning Ordinance needed to implement LRMP Objective 4.4. If authorized by the Committee, the proposed zoning ordinance text amendments will proceed to public hearing review to be held by the ZBA.

<i>LRMP Objective 4.4</i>	<i>Brief Description</i>
	special use added to discretionary review for rural residential overlay

Attachment A includes the complete text of Objective 4.4, and text of the directly relevant LRMP Goal 4.

### Specific Issues Related to Objective 4.4

#### *State's Attorney Review*

The existing Rural Residential Overlay District (RRO) zoning provisions were found by the State's Attorney to be potentially susceptible to legal challenges for the following reasons:

- 1) The existing RRO review procedure involves obtaining a zoning map amendment (a rezoning). The ability to impose conditions on a rezoning request is very limited. A condition of rezoning (conditional zoning) must be carefully constructed in order to be considered as valid. The validity of a condition is questionable in each of the following circumstances: if a condition is specific and not general; if there is nothing about a particular site that makes it uniquely suited to a residence; if there is not an overall public benefit to be gained; if the proposed zoning is inconsistent with a comprehensive plan; if it appears that the County is engaged in negotiations with a property owner for concessions in exchange for a zoning classification (e.g, contract zoning); or if a condition improperly delegates County zoning authority to a private party (e.g., if the property owner is required to enter into a restrictive covenant as a condition of RRO).

2) The existing RRO zoning provisions were found by the State’s Attorney to be potentially susceptible to legal challenges because, over time, the RRO system of review may result in a pattern of land use which, if taken alone, could suggest that spot zoning is occurring. A special use review – either in lieu of or in conjunction with a rezoning – could more effectively assure that a residential subdivision is compatible with the surrounding area. For example, if a special use is granted to allow a residence, findings will have been made that the proposed residence is compatible with the surrounding land uses.

The limitations of the existing RRO zoning provisions outlined by the State’s Attorney can be specifically addressed by proposing that a Special Use be required in addition to a rezoning. This additional special use requirement: 1) allows more flexibility in imposing standard or special conditions; 2) more effectively assures that proposed residential development is compatible with the surrounding area; 3) allows for clearly defining landowners rights at each stage of the approval process, and 4) facilitates a more streamlined approval process by limiting the cases that have to go to the County Board by meshing with the subdivision approval process.

*County Board Special Use or ZBA Special Use*

At the September 7 Committee of the Whole meeting, members will be asked to consider whether the Special Use to be required for a Rural Residential Development should be what is referred to as a “County Board Special Use” or a Special Use that can be approved by the ZBA.

*Special Use Standard Conditions*

Staff proposes certain standard conditions for a Special Use request for a Rural Residential Development. (Refer to Attachment C.) The standard conditions serve to alert the applicant to potential costs that may need to be incurred should specific site conditions warrant.

**Attachments**

- A Relevant Policies
- B Proposed Special Use Standard Conditions for a Rural Residential Overlay
- C Strike-Out Version of Draft Zoning Ordinance Text Amendment

**Relevant Policies**

LRMP Objective 4.4 is an objective under the LRMP Goal 4, as stated below:

LRMP Goal 4                      Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.

**LRMP Objective 4.4**

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

**Proposed Special Use Standard Conditions for a Rural Residential Development**

The following proposed special use standard conditions address potential needs, only if they are applicable to the proposed Rural Residential Development:

1. Each residential LOT in the Rural Residential Development shall have at least one acre of buildable area that is not in the Special Flood Hazard Area.
2. More than two residential LOTS that are no larger than six acres in aggregate area shall front a new STREET that shall meet the standards of the relevant SUBDIVISION jurisdiction.
3. LOTS that front on and have access to existing STREETS shall have driveways co-located with other driveways as much as possible and each pair of co-located driveways shall not be closer than {600} feet to other driveways in the same Rural Residential Development that front existing STREETS.
4. Any DWELLING located more than {140} feet from a STREET shall have a minimum 20 feet wide driveway consisting of a minimum of six inches of gravel or similar all weather surface that shall be maintained with a vertical clearance of 13 feet six inches and with a minimum 20 feet by 40 feet turnaround area for emergency vehicles.
5. If so advised by the Illinois State Water Survey (ISWS) Center for Groundwater Science, the applicant shall contract the services of the ISWS to conduct or to provide a review the results of a recent groundwater investigation to determine if adequate groundwater resources exist on the site for the proposed RRO, without endangering groundwater availability for the existing neighboring residences.
6. If the proposed RRO is located in a 'high probability area' as defined as defined in the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/), the applicant shall notify the Illinois State Historic Preservation Agency (ISHPA) to request information regarding whether the proposed site is a known cemetery or human burial site, and shall provide a copy of the ISHPA response.
7. If, upon notification regarding the proposed RRO, the Illinois Department of Natural Resources (IDNR) determines that potential adverse effects are possible to endangered or threatened species that may be present as a result of the proposed RRO and requests additional information about the proposed RRO, the applicant shall provide the additional requested information.

## Attachment C

## Strikeout Version of Draft Zoning Ordinance Text Amendment

1. *Revise Section 5.4.3 to establish requirement for a { County Board Special Use / Special Use } in addition to a rezoning for a Rural Residential Overlay District.*

**5.4.3 4 Establishment of the Rural Residential OVERLAY Zoning DISTRICT**

- A. The establishment of the Rural Residential OVERLAY Zoning DISTRICT is an amendment to the *Champaign County Zoning Ordinance* and shall be implemented in accord with the provisions of Subsection 9.2 as modified herein.
- B. A { County Board Special Use / Special Use } approval for a Rural Residential Development is also required and shall be implemented in accordance with the provisions of Subsection 9.1.11 as modified herein.
- C. The Rezoning Approval and Special Use Approval stages must occur concurrently.
- B. D. The adoption of Rural Residential OVERLAY Zoning shall augment the provisions of the underlying DISTRICT but shall not alter any requirement otherwise applicable to the tract of land except as provided by this section.
- C. E. BOARD Findings

2. Add { County Board Special Use / Special Use } requirement for a Rural Residential Development Subdivision

Section 5.2 Table of Authorized Principal USES

Principal USES	Zoning DISTRICTS					Zoning DISTRICTS					I-1	I-2		
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2			B-3	B-4
<b>Residential Uses</b>														
BOARDING HOUSE						S								
DWELLING, SINGLE FAMILY													7	
DWELLING, TWO-FAMILY			S	S	S									
DWELLING, MULTI-FAMILY														
Fraternity, Sorority, or Student Cooperative														
Dormitory														
Home for the aged			S											
NURSING HOME			S											
MANUFACTURED HOME PARK								S						
HOTEL - No more than 15 LODGING UNITS	S	S	S						S				S	
HOTEL - over 15 LODGING UNITS														
TRAVEL TRAILER Camp			S											
Residential PLANNED UNIT DEVELOPMENT		S	S	S	S	S	S	S						
MANUFACTURED HOME in MANUFACTURED HOME PARK														
<u>SUBDIVISION(S) of one lot from less than 40 acres or no more than two lots from 40 acres or greater totaling three LOTS or less</u>	g	g	g											
<u>SUBDIVISION(S) of more than one lot from less than 40 acres or more than two lots from 40 acres or greater totaling more than three LOTS or with new STREETS or PRIVATE ACCESSWAYS</u>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>											

3. Revise Footnote 10 in Section 5.2 as follows:

10. No SUBDIVISION(S) of a PARCEL that existed on January 1, 1998, into more than one lot per PARCEL that is less than 40 acres in area or more than two lots per PARCEL that is 40 acres or greater in area or with new STREETS or PRIVATE ACCESSWAYS shall be created unless a Rural Residential OVERLAY DISTRICT has been created and a Rural Residential Development County Board Special Use Permit has been authorized.. See Section 5.4. No SUBDIVISION shall be created unless a Rural Residential OVERLAY DISTRICT has been created except as provided in Section 5.4.2

4. Add Special Use Standard Conditions for the category 'Rural Residential Development County Board Special Use'

6.1.3 Schedule of Requirements and Standard Conditions

The numbers in parentheses within Table 6.1.3 indicate Footnotes at the conclusion of Table 6.1.3. ....

SPECIAL USES or USE Categories	Minimum Fencing Required <sup>5</sup>	Minimum LOT Size		Maximum HEIGHT		Required YARDS (feet)					Explanatory or Special Provisions	
		AREA (Acres)	Width (feet)	Feet	Stories	Front Setback from STREET Centerline <sup>2</sup>			SIDE	REAR		
						STREET Classification						
			MAJOR	COLLECTOR	MINOR							
Rural Residential Development County Board Special Use Permit	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	See below
<p>1. <u>Each residential LOT in the Rural Residential Development shall have at least one acre of buildable area that is not in the Special Flood Hazard Area.</u></p> <p>2. <u>More than two residential LOTS that are no larger than six acres in aggregate area shall front a new STREET that shall meet the standards of the relevant SUBDIVISION jurisdiction.</u></p> <p>3. <u>LOTS that front on and have access to existing STREETS shall have driveways co-located with other driveways as much as possible and each pair of co-located driveways shall not be closer than { 600 } feet to other driveways in the same Rural Residential Development that front existing STREETS.</u></p> <p>4. <u>Any DWELLING located more than {140 } feet from a STREET shall have a minimum 20 feet wide driveway consisting of a minimum of six inches of gravel or similar all weather surface that shall be maintained with a vertical clearance of 13 feet six inches and with a minimum 20 feet by 40 feet turnaround area for emergency vehicles.</u></p> <p>5. <u>If so advised by the Illinois State Water Survey (ISWS) Center for Groundwater Science, the applicant shall contract the services of the ISWS to conduct or to provide a review the results of a recent groundwater investigation to determine if adequate groundwater resources exist on the site for the proposed RRO, without endangering groundwater availability for the existing neighboring residences.</u></p> <p>6. <u>If the proposed RRO is located in a 'high probability area' as defined as defined in the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/), the applicant shall notify the Illinois State Historic Preservation Agency (ISHPA) to request information regarding whether the proposed site is a known cemetery or human burial site, and shall provide a copy of the ISHPA response.</u></p> <p>7. <u>If, upon notification regarding the proposed RRO, the Illinois Department of Natural (IDNR) determines that potential adverse effects are possible to endangered or threatened species that may be present as a result of the proposed RRO and requests additional information about the proposed RRO, the applicant shall provide the additional requested information.</u></p>												

Case No. 684-AT-11 Draft Zoning Ordinance Text Amendment (Strikeout Version)

1. Revise Section 5.2

- a. Add County Board Special Use Permit requirement for a rural residential development in the CR, AG-1, and AG-2 Districts, which will concurrently require a rezoning for a Rural Residential Overlay District

5.2 Table of Authorized Principal USES

Principal USES	Zoning DISTRICTS					Zoning DISTRICTS									
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
<b>Residential Uses</b>															
BOARDING HOUSE						S									
DWELLING, SINGLE FAMILY														7	
DWELLING, TWO-FAMILY			S	S	S										
DWELLING, MULTI-FAMILY															
Fraternity, Sorority, or Student Cooperative															
Dormitory															
Home for the aged			S												
NURSING HOME			S												
MANUFACTURED HOME PARK								S							
HOTEL - No more than 15 LODGING UNITS	S	S	S						S				S		
HOTEL - over 15 LODGING UNITS															
TRAVEL TRAILER Camp			S												
Residential PLANNED UNIT DEVELOPMENT		S	S	S	S	S	S	S							
MANUFACTURED HOME in MANUFACTURED HOME PARK															
SUBDIVISION(s) totaling three LOTS or less that does not require creation of a Rural Residential Overlay District	9	9	9												
SUBDIVISION that requires creation of a Rural Residential Overlay District (S) totaling more than three LOTS or with new STREETS or PRIVATE ACCESSWAYS	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>												

Key: B = County Board SPECIAL USE

- b. Revise Section 5.2 Footnotes 9 and 10

9. ~~No more than three LOTS in total (in any number of subdivisions involving LOTS that are less than 35 acres in area) are allowed to be platted per parcel except.~~ As provided in Section 5.4.2

10. ~~No SUBDIVISION shall be created unless a Rural Residential OVERLAY DISTRICT has been created except~~ As provided in Section 5.4.2.

**2. Revise Section 5.4.3**

- a. *Add a requirement for a County Board approved Special Use Permit for a rural residential overlay district (RRO) development in accordance with Section 9.1.11.*
- b. *Add a requirement that the public hearing for a map amendment for an RRO development and the public hearing for the related special use permit for rural residential development must be concurrent.*

Refer to the draft text of Paragraphs B and C below:

**5.4.3 Establishment of the Rural Residential OVERLAY Zoning DISTRICT**

- A. The establishment of the Rural Residential OVERLAY Zoning DISTRICT is an amendment to the *Champaign County Zoning Ordinance* and shall be implemented in accord with the provisions of Subsection 9.2 as modified herein.
  - B. A County Board SPECIAL USE approval for a rural residential development that comprises a Rural Residential OVERLAY Zoning DISTRICT shall be required and shall be implemented in accordance with the provisions of Subsection 9.1.11.
  - C. The rezoning approval and County Board SPECIAL USE approval stages must occur concurrently.
  - D. The adoption of Rural Residential OVERLAY Zoning shall augment the provisions of the underlying DISTRICT but shall not alter any requirement otherwise applicable to the tract of land except as provided by this section.
- ⋮

**CASE NO. 685-AT-11**  
**Preliminary Memorandum**

Date: April 19, 2011

Petitioner: Zoning Administrator

Prepared By: Susan Monte, CCRPC Planner and John Hall, Zoning Administrator

Request: (abbreviated version)

Amend the Champaign County Zoning Ordinance by revising Section 6.1 to add seven standard conditions to be required for any County Board approved special use permit for a rural residential development in the Rural Residential Overlay District (RRO).

Request: (full version)

Amend the Champaign County Zoning Ordinance by revising Section 6.1 to add standard conditions required for any County Board approved special use permit for a rural residential development in the Rural Residential Overlay District (RRO) as follows:

1. Require that each proposed residential lot shall have an area equal to the minimum required lot area that is located outside of the Special Flood Hazard Area.
2. Require a new public street to serve the proposed lots in any proposed RRO with more than two proposed lots that are each less than five acres in area or any RRO that does not comply with the standard condition for minimum driveway separation.
3. Require any proposed residential lot that fronts onto an existing public street to have the driveway adjacent to another driveway, if more than one lot is proposed, and require each pair of driveways or individual driveways to be at least 600 feet from any driveway for any other lot in the same development.
4. Require for any residential lot on which a dwelling may be more than 140 feet from a public street that the lot shall have a driveway as follows:
  - a. The minimum required driveway pavement shall be a minimum of six inches of gravel or similar all-weather material that is a minimum of 20 feet wide and the driveway shall extend from the public street to the proposed dwelling.
  - b. The required driveway pavement shall be maintained with a vertical clearance free of overhanging vegetation for a minimum height of 13 feet six inches.
  - c. The required driveway shall include a hammer head type turnaround that is a minimum of 20 feet by 40 feet in area and that consists of the same minimum driveway pavement and minimum clear vertical clearance.

continued

Request: (continued)

5. Require for any proposed residential lot not served by a public water supply system and that is located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other than the Mahomet Aquifer, that the petitioner shall contract the services of the Illinois State Water Survey to conduct or provide a review of the results of a recent groundwater investigation to determine if adequate groundwater resources exist on the site for the proposed RRO, without endangering groundwater availability for the existing neighboring land uses.
6. Require for any proposed RRO in a high probability area as defined in the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420) that the petitioner shall contact the Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy of the ISHPA response.
7. Require that for any proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of the agency response.

## BACKGROUND

Case No. 685-AT-11 is the proposed Zoning Ordinance text amendment to add seven standard conditions to the County Board Special Use to be required for discretionary rural residential development.<sup>1</sup>

On March 8, 2011, the Champaign County Board Committee of the Whole completed its preliminary review of the draft text amendments to add seven standard conditions to the County Board Special Use to be required for rural residential development that presently requires a Rural Residential Overlay District (RRO). (For consistency throughout this memorandum, this type of proposed rural residential development will be referred to as 'discretionary rural residential development.') The Committee authorized proceeding to the public hearing at the ZBA.

Attachment A is the memorandum packet provided to the Committee regarding the draft text amendments.

### Rationale for Adding the Standard Conditions

The proposal to add the seven standard conditions to the required County Board Special Use for a discretionary rural residential development is intended to contribute to the effective implementation of Objective 4.4 of the Champaign County Land Resource Management Plan (LRMP).<sup>2</sup>

Presently, Subsection 5.4.5 of the existing *Champaign County Zoning Ordinance* specifies submittals required for an application for an RRO a rezoning application. (For reference, Attachment C contains the text of Subsection 5.4.5.)

Four of the submittal requirements listed in Subsection 5.4.5 are further addressed by the proposed Standard Conditions for a discretionary rural residential development. At some future point, the Zoning Administrator intends to consider additional RRO application submittal requirements as

potential additional standard conditions to add for a discretionary rural residential development, but for now the contents of Subsection 5.4.5 is proposed to remain unchanged.

Staff intends to provide further justification for each individual standard condition proposed in a separate supplemental memorandum to be provided later in the public hearing.

This memorandum summarizes:

- existing ordinance requirements relevant to each of the proposed standard condition
- adjustments (if any) proposed by staff to the draft text amendment subsequent to the Committee's preliminary review and approval. Attachment B is the most current version of the draft text amendment.

### **Standard Condition 1**

**Require that each proposed residential lot shall have an area equal to the minimum required lot area that is located outside of the Special Flood Hazard Area.**

#### Existing Ordinance Requirements Relevant to Standard Condition 1

Terms that are used interchangeably in some Champaign County Ordinances and that generally pertain to the same area include: Special Flood Hazard Area (SPFA); 100-Year Floodplain; Base Flood; and Floodplain.

Both the *Champaign County Special Flood Hazard Areas Ordinance* and the *Champaign County Subdivision Regulations* define the term 'Base Flood,' as follows:

“The flood having a one percent chance of being equaled or exceeded in any given year. The Base Flood is also known as the 100-year flood.”

The *Special Flood Hazard Areas Ordinance* defines 'Floodplain' and 'Special Flood Hazard Area (SFHA)' as follows:

“Those lands within the jurisdiction of the County that are subject to inundation by the base flood. The floodplains of the Copper Slough, McCullough Creek, Saline Branch Ditch, Salt Fork River, Sangamon River, Upper Boneyard Creek and Phinney Branch Ditch are generally identified as such on the Flood Insurance Rate Map of Champaign County prepared by the Federal Emergency Management Agency and dated January 2, 2003...”

The *Subdivision Regulations* contain the following restrictions regarding the location of a subdivided lot within the SFHA:

*Subdivision Regulations* Item 7.1.1 requires the following:

“a. All SUBDIVISIONS and other development proposals shall be designed to minimize flood damage to the proposed SUBDIVISION or development site as to other properties.

Existing Ordinance Requirements Relevant to Standard Condition 1 (continued)

b. All new utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage.”

*Subdivision Regulations* Item 6.1.5(a) contains the following minimum subdivision suitability standards regarding subdivision location related to floodplain area location:

“1) No part of a minimum required LOT AREA shall be located on 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) as defined in the *Soil Survey of Champaign County, Illinois*.<sup>3</sup>

4) Prior to the commencement of any change in elevation of the land, no part of a minimum required LOT AREA shall be located more than one foot below the BASE FLOOD ELEVATION.”<sup>4</sup>

(As reference, Attachment D contains complete text of Subsection 6.1.5 of the *Subdivision Regulations*.)

*Special Flood Hazard Area Ordinance.* Section 5 requires the County Zoning Administrator to issue a Development Permit for all development within the floodplain. Sections 6 and 7 include damage prevention requirements that must be met if development is to occur in the portion of the floodplain known as the “floodway” (defined as that portion of the floodplain required to store and convey the base flood.)

*Zoning Ordinance.* Existing Subsection 4.3.4 contains requirements regarding minimum lot dimensions. Minimum lot dimension requirements for a lot created after September 21, 1993 in each of the rural districts are shown in the following table:

	LOTS WITH A PRIVATE WASTEWATER DISPOSAL SYSTEM AND WITH A WATER WELL		LOTS WITH A PRIVATE WASTEWATER DISPOSAL SYSTEM AND WITH A CONNECTION TO A PUBLIC WATER SUPPLY SYSTEM	
	Lot Size	Average Width	Lot Size	Average Width
CR District	1 acre	200 feet	1 acre	200 feet
AG-1 District	1 acre	200 feet	1 acre	200 feet
AG-2 District	30,000 square feet	150 feet	20,000 square feet	100 feet
B-1 District	30,000 square feet	150 feet	20,000 square feet	100 feet

Proposed Zoning Ordinance Text Amendment for Standard Condition 1

The existing *Subdivision Regulations* allow that less than the ‘minimum required lot area’ may be located within the floodplain in some circumstances when a lot allowable by right is established. The *Subdivision Regulations* ‘Minimum Subdivision Standards’ apply to any subdivision plat (including lots allowable by right) and allow that land for a ‘minimum required lot area’ to be up to one foot below the Base Flood Elevation (BFE).

The proposed Standard Condition 1 represents a more restrictive standard than that which exists for lots allowable by right, and requires that a lot proposed as a discretionary rural residential development have an entire minimum lot area above the BFE. Note that the remainder of such a lot could be below the BFE.

**Standard Condition 2**

**Require a new public street to serve the proposed lots in any proposed RRO with more than two proposed lots that are each less than five acres in area or any RRO that does not comply with the standard condition for minimum driveway separation.**

Existing Ordinance Requirements Relevant to Standard Condition 2

*Champaign County Subdivision Regulations. Subdivision Regulations* Item 6.1.5(b) ‘Agricultural Compatibility Standards’ are relevant to configuration of lots and streets in rural areas:

- “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.
- 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;
  - ii. adjacent public parks, natural areas, or nature preserves.
- 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.”

Article 14 of the *Subdivisions Regulations* contains subdivision design standards for streets and rights-of-way. Design standards relevant to the provision of a street for a new development include:

- Item 14.2.2, a design performance standard indicating that “proposed STREETS shall be so arranged, in relation to existing and proposed topography, as to produce LOTS of reasonable utility and STREETS of reasonable gradient.”
- Item 14.2.3, a requirement that the minimum separation distance between the centerlines of street intersections be 125 feet or greater.
- Items 14.2.6 – 14.2.11, minimum standards for right-of-way width; street grades; vertical and horizontal street alignment; and maximum length of a cul-de-sac.
- Item 14.3.1, standards regarding the maximum length and width of a block face for a “large lot subdivision,” defined as any subdivision having an average LOT area of 15,000 square feet or more.
- Items 14.4.1 – 14.4.3, requirements that all lots be in conformance with the *Champaign County Zoning Ordinance* requirements; that lot depth-to-width ratio not exceed 3 to 1; and that a lot abut upon a public street, highway or place, as defined in the *Regulations*.

Existing Ordinance Requirements Relevant to Standard Condition 2 (continued)

Article 16 of the *Subdivision Regulations* includes the following requirements relevant to the provision of a street for new development:

- Item 16.1.1, as follows:

“The SUBDIVIDER shall provide and install all PUBLIC IMPROVEMENTS, as required by these regulations. Improvements shall be provided and installed in accordance with the standards and engineering requirements established by these regulations as well as any and all standards and requirements adopted by other local, state and federal authorities which may have jurisdiction of the area being SUBDIVIDED.”
- Item 16.3.3 regarding STREETS contains specifications for the required physical improvements for: road surface in a large lot subdivision, permanent turnarounds, pavement for a street, curbs and gutters, and crosswalk ramps.
- Items 16.3.4 – 16.3.8 include the physical improvement specifications for: street drainage facilities; culverts, bridges, intersections and private entrances for a street; sanitary sewers; and street signs.

*Zoning Ordinance.* Existing *Zoning Ordinance* Paragraph 4.2.1(H) contains requirements regarding the provision of ACCESS to a public STREET, as follows:

“No STRUCTURE shall be CONSTRUCTED nor USE established upon or moved to a LOT which does not:

1) Abut and have access to a public STREET RIGHT-OF-WAY for a distance of no less than 20 feet at a point at which the LOT has the right of ACCESS to the STREET; or

2) Abut a PRIVATE ACCESSWAY providing ACCESS to a public STREET provided that such PRIVATE ACCESSWAY:

a) is established by a duly approved and recorded plat of subdivision;

b) abuts a public STREET RIGHT OF WAY and provides ACCESS at a point at which it has the right of ACCESS; and

c) is certified, by an Illinois Licensed Professional Engineer to meet all the minimum standards for public STREETS of the applicable municipal or COUNTY subdivision regulations, as applied by the subdivision authority, including any waivers therefrom, except that such PRIVATE ACCESSWAY shall, at a minimum, conform to all of the standards required for public STREETS in the Champaign County Subdivision Ordinance.”

Existing *Zoning Ordinance* Paragraph 4.2.1 (I) contains the minimum zoning specifications for access to a public street from a lot:

“The principal USE on all LOTS shall have ACCESS to a STREET consisting of solid ground passable to emergency vehicles, no less than 20 feet in width, and located entirely within the LOT LINES.”

Proposed Zoning Ordinance Text Amendment for Standard Condition 2

Standard Condition 2 is proposed simply to minimize driveway entrances onto existing rural streets. Proposed Standard Condition 2 is a more restrictive standard for lots proposed as a discretionary rural residential development that are less than five acres in area or five acres or larger in area, but which do not meet the minimum driveway separation standard.

Since the Committee’s preliminary review and authorization to proceed, staff has proposed relatively minor adjustments to the text of Standard Condition 2 to include a more flexible and broadened performance standard to use for application of the Standard Condition. The standard was adjusted from ‘two lots that together are not larger than six acres in area’ to ‘two lots that are each less than five areas in area.’ Additionally, the standard was broadened to include ‘any RRO that does not comply with the standard condition for minimum driveway separation.’

**Standard Condition 3**

**Require any proposed residential lot that fronts onto an existing public street to have the driveway adjacent to another driveway if more than one lot is proposed, and require each pair of driveways or individual driveways to be at least 600 feet from any driveway for any other lot in the same development.**

Existing Ordinance Requirements Relevant to Standard Condition 3

The same set of existing ordinance requirements listed as related to Standard Condition 2 also apply to the proposed Standard Condition 3.

Additional ordinance requirements related to Standard Condition 3 are the required minimum average LOT width requirements indicated in *Zoning Ordinance* Section 5.3, as summarized in the following table:

	Lot Size (square feet)	Minimum Average Lot Width (feet)
CR District	1 acre	200
AG-1 District	1 acre	200
AG-2 District	20,000 or 30,000 square feet *	100
B-1 District	20,000 or 30,000 square feet *	100

\* Depending upon available connection to public water supply

Proposed Zoning Ordinance Text Amendment for Standard Condition 3 (continued)

Proposed Standard Condition 3 is intended to minimize driveway entrances onto existing rural streets when the lot density is large enough that a new street is not otherwise required. The proposed 600 feet separation equates to lots that are about 20 acres in area (assuming development on both sides of a street).

Since the Committee's preliminary review and authorization to proceed, staff has proposed minor adjustments to the text of Standard Condition 3 primarily to improve overall clarity of the standard condition and to eliminate ambiguity by removing the phrase 'as much as possible.'

**Standard Condition 4**

**Require for any residential lot on which a dwelling may be more than 140 feet from a public street that the lot shall have a driveway as follows:**

- a. The minimum required driveway pavement shall be a minimum of six inches of gravel or similar all-weather material that is a minimum of 20 feet wide and the driveway shall extend from the public street to the proposed dwelling.**
- b. The required driveway pavement shall be maintained with a vertical clearance free of overhanging vegetation for a minimum height of 13 feet six inches.**
- c. The required driveway shall include a hammer head type turnaround that is a minimum of 20 feet by 40 feet in area and that consists of the same minimum driveway pavement and minimum clear vertical clearance.**

Existing Ordinance Requirements Relevant to Standard Condition 4

*Subdivision Regulations.* Each minimum subdivision standard in Subsection 6.1.5 of the *Champaign County Subdivision Regulations* could be relevant to the configuration of lots and streets in rural areas, and therefore each could directly impact the length of a driveway on a lot. Attachment D is a copy of the 11 minimum subdivision standards in Subsection 6.1.5 of the *Subdivision Regulations*.

Article 14 Subdivision Design Standards most relevant to driveway standards of Standard Condition 4, in so far as they could impact the configuration and layout of a lot, include Items 14.4.1 – 14.4.3, requirements that all lots be in conformance with the *Champaign County Zoning Ordinance* requirements; that lot depth-to-width ratio not exceed 3 to 1; and that a lot abut upon a public street, highway or place, as defined in the *Regulations*.

*Zoning Ordinance.* Existing *Zoning Ordinance* Paragraph 4.2.1(H) contains requirements regarding the provision of ACCESS to a public STREET. (These are shown on page 7 of this memorandum.) Existing *Zoning Ordinance* Paragraph 4.2.1 (I) contains the minimum zoning specifications for access to a public street from a lot:

“The principal USE on al LOTS shall have ACCESS to a STREET consisting of solid ground passable to emergency vehicles, no less than 20 feet in width, and located entirely within the LOT LINES.”

Proposed Zoning Ordinance Text Amendment for Standard Condition 4

Standard Condition 4 requirements were developed in consultation with one or more area fire protection district chiefs. These types of requirements have been applied in previous zoning cases. The 140 foot threshold distance of the proposed Standard Condition 4 is based on the capability of an approximately 40 foot long fire emergency vehicle to efficiently maneuver out of a driveway to allow incoming water trucks to quickly access an ongoing fire emergency at the dwelling on the lot.

Since the Committee's preliminary review and authorization to proceed, staff has proposed improved text for Standard Condition 4, making no substantive adjustments other than providing further clarification.

**Standard Condition 5**

**Require for any proposed residential lot not served by a public water supply system and that is located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other than the Mahomet Aquifer, that the petitioner shall contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results of a recent groundwater investigation to determine if adequate groundwater resources exist on the site for the proposed RRO, without endangering groundwater availability for the existing neighboring land uses.**

Existing Ordinance Requirements Related to Standard Condition 5

No specific *Subdivision Regulation* provisions address the issue of providing a groundwater investigation for a request to development rural residential lots as part of an RRO.

*Champaign County Zoning Ordinance* Paragraph 5.4.5(G) is a related requirement that applies to an RRO request. Paragraph G text follows:

“If a proposed site is not served by public water supply and is located within the limited groundwater availability area on a map prepared by the Zoning Administrator, a letter from the Illinois State Water Survey shall be required that assesses the likelihood of successfully finishing onsite water well(s) sufficient to serve the proposed LOTS.”

‘Availability of Water Supply’ is one of several factors reviewed by the ZBA during review of an RRO request. On the ‘Common Conditions Influencing the Suitability of Locations for Rural Residential Development in Champaign County’ handout,<sup>4</sup> the example of a ‘more or less typical condition’ is as follows: ‘Reasonable confidence of water availability (area with no suspected problems of groundwater availability.’ On the same handout, the example of a ‘worst or nearly worst condition’ is as follows: ‘In the area with suspected problems of groundwater availability near existing wells which have experienced reliability problems and for which no investigations have proven otherwise.’

Proposed Zoning Ordinance Text Amendment for Standard Condition 5

This standard condition expands upon the RRO submittal required in Paragraph 5.4.5(G) of the existing Zoning Ordinance. The existing requirement is that the landowner or developer provide a letter from the ISWS that contains an assessment of the likelihood of adequate well service that is sufficient to serve the proposed lots. The Standard Condition 5 would take this a step further to require that such an assessment also include a study of impacts to nearby existing wells assuming fully functional wells to serve the proposed RRO lots are established.

Since the Committee's preliminary review and authorization to proceed, staff has proposed improved text for Standard Condition 5, making no substantive adjustments other than providing further clarification as to the specific conditions when an applicant will need to follow Standard Condition 5 requirements.

**Standard Condition 6**

**Require for any proposed RRO in a high probability area as defined in the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420) that the petitioner shall contact the Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy of the ISHPA response.**

Existing Ordinance Requirements Related to Standard Condition 6

*Champaign County Subdivision Requirements.* Item 14.1.1(c) is the general requirement that "every SUBDIVISION Plat shall be prepared in conformance to the Statutes of the State of Illinois."

*Zoning Ordinance* Paragraph 5.4.4(E) requires that an application for a RRO DISTRICT shall include: "a copy of the agency response from the Illinois State Historic Preservation Agency if any part of the land proposed for rezoning is located within a High Probability Area as defined in 20 ILCS 3420/3."

Proposed Zoning Ordinance Text Amendment for Standard Condition 6

Standard Condition 6 is consistent with the RRO application requirement already in place.

**Standard Condition 7**

**Require that for any proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of the agency response.**

Existing Ordinance Requirements Related to Standard Condition 7

*Champaign County Subdivision Requirements.* Item 14.1.1(c) is the general requirement that "every SUBDIVISION Plat shall be prepared in conformance to the Statutes of the State of Illinois."

Existing Ordinance Requirements Related to Standard Condition 7 (continued)

*Zoning Ordinance* Paragraph 5.4.4(D) requires that an application for a RRO DISTRICT shall include: “a copy of the Agency Action Report from the Endangered Species Program of the Illinois Department of Natural Resources.”

Proposed Zoning Ordinance Text Amendment for Standard Condition 7

Standard Condition 7 is consistent with the RRO application requirement already in place.

Since the Committee’s preliminary review and authorization to proceed, staff has added a clarifying phrase to the Standard Condition 7 to indicate that it is required ‘for any proposed RRO.’

ATTACHMENTS

- A Champaign County Committee of the Whole Memorandum dated February 23, 2011
- B Strike-Out Version of Draft Zoning Ordinance Text Amendment dated April 19, 2011
- C Excerpt of the *Champaign County Zoning Ordinance*: Subsection 5.4.5
- D Excerpt of the *Champaign County Subdivision Regulations*: Subsection 6.1.5

NOTES

1. Related Case No. 684-AT-11 is a proposed Zoning Ordinance text amendment to require that a landowner obtain a County Board special use permit for a rural residential development in addition to a rezoning approval for a Rural Residential Overlay District (RRO).
2. The text of LRMP Objective 4.4 and the text of the entire Goal 4 and Goal 4 Objectives and Policies is provided in the separately attached document entitled ‘LRMP Goal 4 Agriculture and Goal 4 Objectives and Policies.’
3. Some of the above- noted soils (3473A, 3302A, and 3107A) are commonly referred to as ‘bottomland soils.’ Bottomland soils typically are situated in the floodplain. Others of the above-noted soils (330A, 3107A, 3302A) are known as ‘hydric soils’. Hydric soils are soils that were formed under conditions of saturation, flooding or ponding long enough during the growing season to develop anaerobic conditions within the top 20 inches of soil depth.
4. BASE FLOOD ELEVATION is a defined term in the Subdivision Regulations as follows: “The elevation in relation to Mean Sea Level of the crest of the BASE FLOOD.”



Date: February 23, 2011

To: Champaign County Board Committee of the Whole Members

From: Susan Monte, CCRPC Planner

Regarding: B 3.a Request to Amend the Champaign County Zoning Ordinance to Implement Land Resource Management Plan Objective 4.4 by Adding a Special Use Permit for the RRO

B 3.b Request to Amend the Champaign County Zoning Ordinance to Implement Land Resource Management Plan Objective 4.4 by Adding Standard Conditions for the Special Use Permit for the RRO

Request: Approve Proceeding

At the February 8, 2011 County Board Study Session, Board members reviewed the proposed Zoning Ordinance text amendment intended to implement LRMP Objective 4.4. The proposed text amendment includes provisions to add a Special Use permit requirement to occur concurrently with the rezoning requirement to obtain a Rural Residential Overlay (RRO) and to add seven Standard Conditions for the Special Use for the RRO.

Staff has separated the proposed standard conditions portion of this text amendment to enable it to stand alone.

Attachment: Item B-3 from the February 8, 2011 County Board Study Session Packet



Date: August 31, 2010

To: Champaign County Board Committee of the Whole Members

From: Susan Monte, CCRPC Planner  
John Hall, Director, Champaign County Department of Planning & Zoning

Regarding: Direction to Zoning Administrator Regarding Proposed Zoning Ordinance Text Amendment

**Request: Conduct a Champaign County Zoning Ordinance Text Amendment implementing Objective 4.4 of the Land Resource Management Plan**

### Background

On April 22, 2010, the Board adopted the Champaign County Land Resource Management Plan (LRMP). On June 8, 2010, the Committee of the Whole approved the remaining FY 2010 planning contract work plan. The remaining FY 2010 work plan includes the task of amending the *Champaign County Zoning Ordinance* to include provisions of the following specific LRMP objectives and policies: Policies 4.1.5 and 4.1.6; Policy 4.1.9; Policies 4.3.1 - 4.3.4 and Objective 4.4.

This memorandum describes the proposed zoning text amendments intended to represent the changes to the Zoning Ordinance needed to implement LRMP Objective 4.4. If authorized by the Committee, the proposed zoning ordinance text amendments will proceed to public hearing review to be held by the ZBA.

<i>LRMP Objective 4.4</i>	<i>Brief Description</i>
	special use added to discretionary review for rural residential overlay

Attachment A includes the complete text of Objective 4.4, and text of the directly relevant LRMP Goal 4.

### Specific Issues Related to Objective 4.4

#### *State's Attorney Review*

The existing Rural Residential Overlay District (RRO) zoning provisions were found by the State's Attorney to be potentially susceptible to legal challenges for the following reasons:

- 1) The existing RRO review procedure involves obtaining a zoning map amendment (a rezoning). The ability to impose conditions on a rezoning request is very limited. A condition of rezoning (conditional zoning) must be carefully constructed in order to be considered as valid. The validity of a condition is questionable in each of the following circumstances: if a condition is specific and not general; if there is nothing about a particular site that makes it uniquely suited to a residence; if there is not an overall public benefit to be gained; if the proposed zoning is inconsistent with a comprehensive plan; if it appears that the County is engaged in negotiations with a property owner for concessions in exchange for a zoning classification (e.g, contract zoning); or if a condition improperly delegates County zoning authority to a private party (e.g., if the property owner is required to enter into a restrictive covenant as a condition of RRO).

2) The existing RRO zoning provisions were found by the State’s Attorney to be potentially susceptible to legal challenges because, over time, the RRO system of review may result in a pattern of land use which, if taken alone, could suggest that spot zoning is occurring. A special use review – either in lieu of or in conjunction with a rezoning – could more effectively assure that a residential subdivision is compatible with the surrounding area. For example, if a special use is granted to allow a residence, findings will have been made that the proposed residence is compatible with the surrounding land uses.

The limitations of the existing RRO zoning provisions outlined by the State’s Attorney can be specifically addressed by proposing that a Special Use be required in addition to a rezoning. This additional special use requirement: 1) allows more flexibility in imposing standard or special conditions; 2) more effectively assures that proposed residential development is compatible with the surrounding area; 3) allows for clearly defining landowners rights at each stage of the approval process, and 4) facilitates a more streamlined approval process by limiting the cases that have to go to the County Board by meshing with the subdivision approval process.

*County Board Special Use or ZBA Special Use*

At the September 7 Committee of the Whole meeting, members will be asked to consider whether the Special Use to be required for a Rural Residential Development should be what is referred to as a “County Board Special Use” or a Special Use that can be approved by the ZBA.

*Special Use Standard Conditions*

Staff proposes certain standard conditions for a Special Use request for a Rural Residential Development. (Refer to Attachment C.) The standard conditions serve to alert the applicant to potential costs that may need to be incurred should specific site conditions warrant.

**Attachments**

- A Relevant Policies
- B Proposed Special Use Standard Conditions for a Rural Residential Overlay
- C Strike-Out Version of Draft Zoning Ordinance Text Amendment

**Relevant Policies**

LRMP Objective 4.4 is an objective under the LRMP Goal 4, as stated below:

LRMP Goal 4                      Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.

**LRMP Objective 4.4**

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

**Proposed Special Use Standard Conditions for a Rural Residential Development**

The following proposed special use standard conditions address potential needs, only if they are applicable to the proposed Rural Residential Development:

1. Each residential LOT in the Rural Residential Development shall have at least one acre of buildable area that is not in the Special Flood Hazard Area.
2. More than two residential LOTS that are no larger than six acres in aggregate area shall front a new STREET that shall meet the standards of the relevant SUBDIVISION jurisdiction.
3. LOTS that front on and have access to existing STREETS shall have driveways co-located with other driveways as much as possible and each pair of co-located driveways shall not be closer than {600} feet to other driveways in the same Rural Residential Development that front existing STREETS.
4. Any DWELLING located more than {140} feet from a STREET shall have a minimum 20 feet wide driveway consisting of a minimum of six inches of gravel or similar all weather surface that shall be maintained with a vertical clearance of 13 feet six inches and with a minimum 20 feet by 40 feet turnaround area for emergency vehicles.
5. If so advised by the Illinois State Water Survey (ISWS) Center for Groundwater Science, the applicant shall contract the services of the ISWS to conduct or to provide a review the results of a recent groundwater investigation to determine if adequate groundwater resources exist on the site for the proposed RRO, without endangering groundwater availability for the existing neighboring residences.
6. If the proposed RRO is located in a 'high probability area' as defined as defined in the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/), the applicant shall notify the Illinois State Historic Preservation Agency (ISHPA) to request information regarding whether the proposed site is a known cemetery or human burial site, and shall provide a copy of the ISHPA response.
7. If, upon notification regarding the proposed RRO, the Illinois Department of Natural Resources (IDNR) determines that potential adverse effects are possible to endangered or threatened species that may be present as a result of the proposed RRO and requests additional information about the proposed RRO, the applicant shall provide the additional requested information.

## Attachment C

## Strikeout Version of Draft Zoning Ordinance Text Amendment

1. Revise Section 5.4.3 to establish requirement for a { *County Board Special Use / Special Use* } in addition to a rezoning for a Rural Residential Overlay District.

**5.4.3 4 Establishment of the Rural Residential OVERLAY Zoning DISTRICT**

- A. The establishment of the Rural Residential OVERLAY Zoning DISTRICT is an amendment to the *Champaign County Zoning Ordinance* and shall be implemented in accord with the provisions of Subsection 9.2 as modified herein.
- B. A { *County Board Special Use / Special Use* } approval for a Rural Residential Development is also required and shall be implemented in accordance with the provisions of Subsection 9.1.11 as modified herein.
- C. The Rezoning Approval and Special Use Approval stages must occur concurrently.
- B. D. The adoption of Rural Residential OVERLAY Zoning shall augment the provisions of the underlying DISTRICT but shall not alter any requirement otherwise applicable to the tract of land except as provided by this section.
- C. E. BOARD Findings

2. Add { County Board Special Use / Special Use } requirement for a Rural Residential Development Subdivision

Section 5.2 Table of Authorized Principal USES

Principal USES	Zoning DISTRICTS					Zoning DISTRICTS					I-1	I-2		
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2			B-3	B-4
<b>Residential Uses</b>														
BOARDING HOUSE						S								
DWELLING, SINGLE FAMILY													7	
DWELLING, TWO-FAMILY			S	S	S									
DWELLING, MULTI-FAMILY														
Fraternity, Sorority, or Student Cooperative														
Dormitory														
Home for the aged			S											
NURSING HOME			S											
MANUFACTURED HOME PARK								S						
HOTEL - No more than 15 LODGING UNITS	S	S	S						S				S	
HOTEL - over 15 LODGING UNITS														
TRAVEL TRAILER Camp			S											
Residential PLANNED UNIT DEVELOPMENT		S	S	S	S	S	S	S						
MANUFACTURED HOME in MANUFACTURED HOME PARK														
<u>SUBDIVISION(S) of one lot from less than 40 acres or no more than two lots from 40 acres or greater totaling three LOTS or less</u>	9	9	9											
<u>SUBDIVISION(S) of more than one lot from less than 40 acres or more than two lots from 40 acres or greater totaling more than three LOTS or with new STREETS or PRIVATE ACCESSWAYS</u>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>											

3. Revise Footnote 10 in Section 5.2 as follows:

10. No SUBDIVISION(S) of a PARCEL that existed on January 1, 1998, into more than one lot per PARCEL that is less than 40 acres in area or more than two lots per PARCEL that is 40 acres or greater in area or with new STREETS or PRIVATE ACCESSWAYS shall be created unless a Rural Residential OVERLAY DISTRICT has been created and a Rural Residential Development County Board Special Use Permit has been authorized.. See Section 5.4. No SUBDIVISION shall be created unless a Rural Residential OVERLAY DISTRICT has been created except as provided in Section 5.4.2

4. Add Special Use Standard Conditions for the category 'Rural Residential Development County Board Special Use'

6.1.3 Schedule of Requirements and Standard Conditions

The numbers in parentheses within Table 6.1.3 indicate Footnotes at the conclusion of Table 6.1.3. ....

SPECIAL USES or USE Categories	Minimum Fencing Required <sup>6</sup>	Minimum LOT Size		Maximum HEIGHT		Required YARDS (feet)					Explanatory or Special Provisions
		AREA (Acres)	Width (feet)	Feet	Stories	Front Setback from STREET Centerline <sup>2</sup>			SIDE	REAR	
						STREET Classification					
					MAJOR	COLLECTOR	MINOR				
Rural Residential Development County Board Special Use Permit	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	See below
<p>1. <u>Each residential LOT in the Rural Residential Development shall have at least one acre of buildable area that is not in the Special Flood Hazard Area.</u></p> <p>2. <u>More than two residential LOTS that are no larger than six acres in aggregate area shall front a new STREET that shall meet the standards of the relevant SUBDIVISION jurisdiction.</u></p> <p>3. <u>LOTS that front on and have access to existing STREETS shall have driveways co-located with other driveways as much as possible and each pair of co-located driveways shall not be closer than { 600 } feet to other driveways in the same Rural Residential Development that front existing STREETS.</u></p> <p>4. <u>Any DWELLING located more than {140 } feet from a STREET shall have a minimum 20 feet wide driveway consisting of a minimum of six inches of gravel or similar all weather surface that shall be maintained with a vertical clearance of 13 feet six inches and with a minimum 20 feet by 40 feet turnaround area for emergency vehicles.</u></p> <p>5. <u>If so advised by the Illinois State Water Survey (ISWS) Center for Groundwater Science, the applicant shall contract the services of the ISWS to conduct or to provide a review the results of a recent groundwater investigation to determine if adequate groundwater resources exist on the site for the proposed RRO, without endangering groundwater availability for the existing neighboring residences.</u></p> <p>6. <u>If the proposed RRO is located in a 'high probability area' as defined as defined in the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/), the applicant shall notify the Illinois State Historic Preservation Agency (ISHPA) to request information regarding whether the proposed site is a known cemetery or human burial site, and shall provide a copy of the ISHPA response.</u></p> <p>7. <u>If, upon notification regarding the proposed RRO, the Illinois Department of Natural (IDNR) determines that potential adverse effects are possible to endangered or threatened species that may be present as a result of the proposed RRO and requests additional information about the proposed RRO, the applicant shall provide the additional requested information.</u></p>											

*Add Special Use Standard Conditions for the category 'Rural Residential Development County Board Special Use'*

**6.1.3 Schedule of Requirements and Standard Conditions**

The numbers in parentheses within Table 6.1.3 indicate Footnotes at the conclusion of Table 6.1.3.

SPECIAL USES or USE Categories	Minimum Fencing Required <sup>o</sup>	Minimum LOT Size		Maximum HEIGHT		Required YARDS (feet)					Explanatory or Special Provisions	
		AREA (Acres)	Width (feet)	Feet	Stories	Front Setback from STREET Centerline <sup>2</sup>			SIDE	REAR		
						MAJOR	COLLECTOR	MINOR				
Rural Residential Development County Board Special Use Permit	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	See below
<p><u>1. Each residential LOT in the rural residential development shall have at least one acre of buildable area that is not in the Special Flood Hazard Area.</u></p> <p><u>2. More than two residential LOTS that are each less than five acres in area or any Rural Residential Overlay District (RRO) that does not comply with the standard condition for minimum driveway separation shall front a new STREET that shall meet the standards of the relevant SUBDIVISION jurisdiction.</u></p> <p><u>3. A LOT that fronts on and has access to an existing STREET shall locate a driveway adjacent to another driveway, if more than one LOT is proposed, and each pair of driveways or individual driveways shall be at least 600 feet from any driveway for any other LOT in the same development.</u></p> <p><u>4. For any residential LOT on which a DWELLING may be more than 140 feet from a STREET, that LOT shall have a driveway as follows:</u></p> <p><u>a. The minimum required driveway pavement shall be a minimum of six inches of gravel or similar all-weather material that is a minimum of 20 feet wide and the driveway shall extend from the public street to the proposed dwelling.</u></p> <p><u>b. The required driveway pavement shall be maintained with a vertical clearance free of overhanging vegetation for a minimum height of 13 feet six inches.</u></p> <p><u>c. The required driveway shall include a hammer head type turnaround that is a minimum of 20 feet by 40 feet in area and that consists of the same minimum driveway pavement and minimum clear vertical clearance.</u></p> <p><u>5. For any proposed residential lot not served by a public water supply system and that is located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other than the Mahomet Aquifer, the petitioner shall contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results of a recent groundwater investigation to determine if adequate groundwater resources exist on the site for the proposed RRO, without endangering groundwater availability for the existing neighboring land uses.</u></p> <p><u>6. For any proposed RRO in a high probability area as defined in the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420), the petitioner shall contact the Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy of the ISHPA response.</u></p> <p><u>7. Require that for any proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of the agency response.</u></p>												

Excerpt of the *Champaign County Zoning Ordinance*: Subsection 5.4.5

## 5.4.5 Submittals Required upon Application

Applications for Rural Residential OVERLAY DISTRICT shall include but not necessarily be limited to the following:

- A. A schematic plan of the proposed SUBDIVISION that conforms to the requirements for an Area General Plan pursuant to Subsection 6.1.2 of the *Champaign County Subdivision Regulations* with the following exceptions:
  - 1. The schematic plan may be prepared at a scale of no smaller than one inch equals 200 feet and at proper accuracy.
  - 2. The schematic plan shall indicate the locations of the highest and lowest elevations on the proposed site as interpolated from the relevant United States Geological Survey 7.5 minute Topographic Quadrangle Map or, alternatively, the developer may provide actual topographic information identified by an Illinois Licensed Surveyor.
  - 3. At least four copies of the schematic plan shall be submitted with at least one copy being no larger than 11 inches by 17 inches;
- B. An Open Title Commitment or a Title Policy prepared not more than 12 months previous;
- C. Champaign County Soil and Water Conservation District report;
- D. A copy of the Agency Action Report from the Endangered Species Program of the Illinois Department of Natural Resources;
- E. A copy of the agency response from the Illinois State Historic Preservation Agency if any part of the land proposed for rezoning is located within a high Probability Area as defined in 20 ILCS 3420/3;
- F. If the proposed site is not served by public water supply and is located within the limited groundwater availability area on a map prepared by the Zoning Administrator, a letter from the Illinois State Water Survey shall be required that assesses the likelihood of successfully finishing onsite water well(s) sufficient to serve the proposed LOTS;
- G. A written explanation by an Illinois Professional Engineer of the proposed surface drainage system describing, in general, the average ground slope (maximum vertical relief divided by the maximum straight line horizontal distance) of the proposed site or the actual ground slope, any ponding of stormwater that occurs on the site, and the outlet condition of the proposed site. Such explanation shall explicitly address the impacts and mitigation of discharges from the proposed development from on-site wastewater disposal systems, sump pumps and similar sources. It shall also explain how excess stormwater will be conveyed through and from the site to a point downstream at which it enters a stream or designated drainage ditch (not just a typical road ditch). The explanation shall delineate the course of such drainage in sufficient detail to permit identification of the downstream properties over which the drainage passes and shall explain the impacts on those downstream properties.

## Champaign County Subdivision Ordinance Section 6.1.5 Minimum Subdivision Standards

## Section 6.1.5 Minimum Subdivision Standards

Except for SUBDIVISIONS pursuant to a Rural Residential Overlay zoning map amendment, each AREA GENERAL PLAN shall be reviewed by the SUBDIVISION OFFICER to verify that any LOT or LOTS in any SUBDIVISION conform to the following standards:

## a. Suitability Standards

- 1) No part of a minimum required LOT AREA shall be located on Ross silt loam soil (No. 3474A), Ambraw silty clay loam soil (No. 3302A), Peotone silty clay loam soil (No. 330A), or Colo silty clay loam soil (3107A) as defined in the *Soil Survey of Champaign County Illinois*; and
- 2) No part of a minimum required LOT AREA shall contain an EASEMENT for an interstate pipeline; and
- 3) No part of a minimum required LOT AREA shall be within a runway primary surface or runway clear zone; and
- 4) Prior to the commencement of any change in elevation of the land, no part of a minimum required LOT AREA shall be located more than one foot below the BASE FLOOD ELEVATION; and
- 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 suitability soils on the larger tract from which the SUBDIVISION is proposed. Septic suitability in general shall be as described in the staff report *Locational Considerations for Rural Residential Development in Champaign County, Illinois* and the requirements of Section 9.1.2 q. and r. shall still apply for the FINAL PLAT approval; and
- 6) The amount of farmland with a Land Evaluation score of 85 or greater as defined by the *Land Evaluation and Site Assessment System for Champaign County, Illinois*, that is occupied by each LOT must be minimized as much as possible; and
- 7) A minimum required LOT AREA 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; and
- 8) Possible driveway locations on each LOT must comply with the Minimum Stopping Sight Distance standards in the *Illinois Department of Transportation Manual of Administrative Policies of the Bureau of Local Roads and Streets* and be based on lawful speed limits at that location.

## b. Agricultural Compatibility Standards

- 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.
- 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;
  - ii. adjacent public parks, natural areas, or nature preserves.
- 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.

**Policy 2.1.3**

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

**Objective 2.2 Information Sharing**

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

**Goal 3 Prosperity**

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

**Goal 3 Objectives****Objective 3.1 Business Climate**

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

**Objective 3.2 Efficient County Administration**

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

**Objective 3.3 County Economic Development Policy**

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

**Goal 4 Agriculture**

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

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

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

**Objective 4.2 Development Conflicts with Agricultural Operations**

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

continued

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

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

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

**Objective 4.4 Regulations for Rural Residential Discretionary Review**

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

**Objective 4.5 LESA Site Assessment Review and Updates**

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

**Objective 4.6 Protecting Productive Farmland**

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

**Objective 4.7 Right to Farm Resolution**

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

**Objective 4.8 Locally Grown Foods**

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

**Objective 4.9 Landscape Character**

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

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

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

**Policy 4.1.1**

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

**Policy 4.1.2**

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

**Policy 4.1.3**

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

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

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

**Policy 4.1.5**

- a. The County will allow landowner by *right development* that is generally proportionate to tract size, created from the January 1, 1998 configuration of tracts on lots that are greater than five acres in area, with:
- 1 new lot allowed per parcel less than 40 acres in area;
  - 2 new lots allowed per parcel 40 acres or greater in area provided that the total amount of acreage of *best prime farmland* for new by right lots does not exceed three acres per 40 acres; and
  - 1 authorized land use allowed on each vacant *good zoning lot* provided that public health and safety standards are met.
- b. The County will not allow further division of parcels that are 5 acres or less in size.

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

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

then,

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

**Policy 4.1.7**

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

**Policy 4.1.8**

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

**Policy 4.1.9**

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

**Objective 4.2 Development Conflicts with Agricultural Operations**

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

**Policy 4.2.1**

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

**Policy 4.2.2**

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

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

**Policy 4.2.3**

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

**Policy 4.2.4**

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

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

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

**Policy 4.3.1**

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

**Policy 4.3.2**

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

**Policy 4.3.3**

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

**Policy 4.3.4**

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

**Policy 4.3.5**

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

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

**Objective 4.4 Regulations for Rural Residential Discretionary Review**

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

**Objective 4.5 LESA Site Assessment Review and Updates**

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

**Objective 4.6 Protecting Productive Farmland**

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

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

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

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

**Objective 4.7 Right to Farm Resolution**

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

**Objective 4.8 Locally Grown Foods**

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

**Objective 4.9 Landscape Character**

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

**Policy 4.9.1**

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

