

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: September 27, 2012
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
5. Continued Public Hearings

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

Case 717-AM-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General Manager and landowner Parkhill Enterprises

Request: Amend the Zoning Map to change the zoning district designation from the R-4, Multiple Family Residence Zoning District to the AG-2, Agriculture Zoning District on approximately 2.9 acres of the subject property described below and subject to the proposed Special Use Permit in related Case 718-S-12 and with the variance requested in related Case 719-V-12.

***Case 718-S-12** Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General Manager and landowner Parkhill Enterprises

Request: Authorize the following on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12 subject to the required variance in related Case 719-V-12 on the subject property described below:

Part A: Authorize the expansion and use of a non-conforming water treatment plant as a Special Use with waivers (variance) of standard conditions.

Part B: Authorize the replacement of a non-conforming water tower that is 131 feet in height as a Special Use with waivers (variance) of standard conditions.

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
NOTICE OF REGULAR MEETING
SEPTEMBER 27, 2012

- * **Case 719-V-12** Petitioner: **Sangamon Valley Public Water District and Kerry Gifford, General Manager and landowner Parkhill Enterprises**
Request: **Authorize the following for expansion of a non-conforming water treatment plant in related Case 718-S-12 on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12:**
Part A: The expansion of a nonconforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1H.
Part B: The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12
Part C: Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55 feet; and a side yard of 46 feet in lieu of the required 50 feet.
Part D: Waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet.

Location for Cases 717-AM-12, 718-S-12 and 719-V-12:

An approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plan at 709 North Prairieview Road, Mahomet.

6. New Public Hearings

- * **Case 727-V-12** Petitioner: **Dale Masley**
Request: **Authorize a variance in the AG-2, Agriculture Zoning District for a residential accessory building with a height of 17.5 feet in lieu of the maximum 15 feet in height.**
Location: **Lot 12 of Denhart's Second Subdivision in the Northwest Quarter of Section 13 of St. Joseph Township and commonly known as the dwelling at 1408 Peters Drive, St. Joseph.**

7. Staff Report

8. Other Business

- A. Review of the docket
- B. October 24, 2012, ZBA meeting

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

10. Adjournment

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

**Cases 717-AM-12, 718-S-12, & 719-V-12
EXCERPT OF JUNE 28, 2012 APPROVED MINUTES**

1
2 **Case 717-AM-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General**
3 **Manager and landowner Parkhill Enterprises. Request to amend the zoning Map to change the**
4 **district designation from the R-4 Multiple Family Residence Zoning District to the AG-2 Agriculture**
5 **Zoning District. Location: Approximately 2.9 acres of an approximately 3.6 acre tract located in the**
6 **South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12**
7 **of Mahomet Township and commonly known as the Sangamon Valley Public Water District**
8 **treatment plant at 709 North Prairieview Road, Mahomet and subject to the proposed Special Use**
9 **Permit in related Case 718-S-12 and the variance requested in related Case 719-V-12.**

10
11 **Case 718-S-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General**
12 **Manager and landowner Parkhill Enterprises. Request to authorize the following on land that is**
13 **proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12 subject to the required**
14 **variance in related Case 719-V-12. Part A. Authorize expansion and use of a non-conforming water**
15 **treatment plant as a Special Use with waivers (variance) of standard conditions; and Part B.**
16 **Authorize the replacement of a non-conforming water treatment tower that is 131 feet in height as a**
17 **Special Use with waivers (variance) of standard conditions. Location: An approximately 3.6 acre tract**
18 **located in South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of**
19 **Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water**
20 **District treatment plant a 709 North Prairieview Road, Mahomet.**

21
22 **Case 719-V-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General**
23 **Manager and landowner Parkhill Enterprises. Request to authorize the following for expansion of a**
24 **non-conforming water treatment plant in related Case 718-S012 on land that is proposed to be**
25 **rezoned to the AG-2 Zoning District in related Case 717-AM-12: Part A. The expansion of a non-**
26 **conforming lot of record that does not abut and have access to a public street right of way and does**
27 **not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1H; and Part B. The**
28 **use of a 3.6 acre lot on best prime farmland in the AG-2 District for construction and use of a water**
29 **treatment plant in related Special Use Permit Case 718-S-12. Part C. Waiver (variance) of standard**
30 **conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 18 feet in lieu of the**
31 **required 30 feet; a side yard of 40 feet in lieu of the required 50 feet; and a rear yard of 22 feet in lieu**
32 **of the required 50 feet; and Part D. Waiver (variance) for a elevated water storage tank that is 131**
33 **feet in height in lieu of the maximum allowed 50 feet. Location: An approximately 3.6 acre tract**
34 **located in South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of**
35 **Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water**
36 **District treatment plant a 709 North Prairieview Road, Mahomet.**

37
38 Mr. Thorsland called Cases 717-AM-12, 718-S-12 and 719-V-12 concurrently.

39
40 Mr. Thorsland informed the audience that Cases 718-S-12 and 719-V-12 are Administrative Cases and as

Cases 717-AM-12, 718-S-12, & 719-V-12
EXCERPT OF JUNE 28, 2012 APPROVED MINUTES

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

8
9 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
10 sign the witness register for that public hearing. He reminded the audience that when they sign the
11 witness register they are signing an oath.

12
13 Mr. Thorsland asked if the petitioner would like to make a statement outlining the nature of their request.

14
15 Mr. Kerry Gifford, General Manager of the Sangamon Valley Public Water District, stated that he is present
16 tonight regarding the subject of building a new water treatment plant and rezoning the subject property from
17 R-2 to AG-2. He said that the Sangamon Valley Public Water District was established in 1967 and they
18 serve an area which is north of US 74 and east of IL Route 47 and Mahomet. He said that they have
19 approximately 1,560 water customers and 1,460 sewer customers. He said that he is available for any
20 questions that the Board may have regarding these requests.

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

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

25
26 Mr. Thorsland called John Hall to testify.

27
28 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum and Finding of Fact
29 dated June 28, 2012, for Case 717-AM-12 and a new Supplemental Memorandum and Finding of Fact for
30 Cases 718-S-12 and 719-V-12. He said that the new Supplemental Memorandum for Case 717-AM-12
31 includes a proposed special condition that staff would recommend for each case regarding compliance with
32 the Village of Mahomet's Subdivision Regulations. He said that the new Supplemental Memorandum for
33 Case 718-S-12 and 719-V-12 includes new maps as attachments and the proposed special condition. He said
34 that given the complex nature of the rezoning, the special use, and the variance and the fact that the Zoning
35 Ordinance has both a maximum lot size on best prime farmland and a minimum lot size for a water
36 treatment plant the case does need re-advertised because staff omitted important items in the legal. He said
37 that at this point he hopes that staff knows enough about the project to include everything in the legal but it
38 is a fairly complicated site plan for the water treatment plant and to be fair staff was trying to honor the
39 request of the petitioner to get these cases to a public hearing as soon as possible because they are facing a
40 tight deadline in trying to meet the demands of the water district.

Cases 717-AM-12, 718-S-12, & 719-V-12
EXCERPT OF JUNE 28, 2012 APPROVED MINUTES

1 Mr. Hall stated that attached to the new Supplemental Memorandum dated June 28, 2012, for Cases 718-S-
2 12 and 719-V-12 is an annotated site plan that indicates staff's best guess for dimensions from the property
3 lines to all of the existing and proposed structures. He said that the Zoning Ordinance establishes a
4 minimum 50 foot rear yard and side yard for a water treatment plant and it also establishes a minimum 5 acre
5 lot size. He said that the existing water treatment plant meets the 55 foot minimum front yard but the
6 elevated water tank does not. He requested that the petitioner consider the proposed placement of the new
7 ground storage tank and the backwash tank and whether those proposed locations are fixed because if their
8 placement could be adjusted it would minimize the required variance and might make the Board a little more
9 likely to grant the variance. He said that staff will discuss this issue with the petitioner prior to re-
10 advertising the case so that staff is assured that the next legal advertisement will be the last one for this case.

11
12
13 Mr. Hall stated that he does not know how much the Board can complete tonight but the petitioner's attorney
14 has provided two letters to the State's Attorney regarding plat act compliance and of course in this location,
15 based on our Zoning Ordinance, it is not plat act compliance that we are concerned about but compliance
16 with the municipal subdivision regulations. He said that the State's Attorney has confirmed that the
17 County's Ordinance does not allow a variance from that requirement therefore it is an absolute requirement
18 that we have no flexibility on. He said that he knows that the Village of Mahomet, from a staff level, is
19 supportive of the proposed expansion but they are in the same boat that the County's staff is in because our
20 Ordinances say what they say. He said that he has asked if the Village of Mahomet would entertain a
21 subdivision approval without requiring annexation and he was told that the Village of Mahomet has never
22 done such before and they are not interested in doing it now, which is unfortunate. He said that he believes
23 that the proposed special condition requiring compliance with the Village of Mahomet Subdivision
24 Regulations is all that this Board needs to worry about and when it goes to the County Board perhaps that is
25 all the County Board will worry about. He said that sooner or later there will be a need for a permit for
26 construction of this badly needed water treatment plant and at the time that they apply for the zoning use
27 permit application staff must know that the subdivision approval process has been initiated and before he can
28 approve a zoning use permit for the water treatment plant, which would authorize construction, he would
29 need to know that there is substantial compliance with the Village of Mahomet requirements. He said that
30 this will not mean that the plat has been recorded but it does mean that the Village of Mahomet is willing to
31 allow the County to issue the zoning use permit. He said that he hopes that there will be comments from the
32 Village of Mahomet when this case comes back to the ZBA.

33
34 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

35
36 Mr. Thorsland called Mike Buzicky to testify.

37
38 Mr. Mike Buzicky, Engineer for Sodemann and Associates, Inc., stated that he represents the Sangamon
39 Valley Public Water District. He said that the site plan can be revised and some of the structures can be
40 moved to meet the requirements. He said that the various side and rear yard issues can be met but they were
41 trying to submit an early site plan to staff to get the case started. He said that this is a public sanitary water

Cases 717-AM-12, 718-S-12, & 719-V-12
EXCERPT OF JUNE 28, 2012 APPROVED MINUTES

1 district and it is a strange unique area where there are two public water districts overlapping another. He
2 said that the water district is in extreme need of the addition to the water plant and they are almost
3 landlocked by residential areas and the area to the north is the only land available for the addition. He said
4 that the other area that appears to be available on the site plan has already been taken up by an Ameren
5 easement therefore going north is the only option.
6
7 Mr. Thorsland asked Mr. Buzicky if he plans to check with staff during his revisions to the site plan for
8 compliance.
9
10 Mr. Buzicky stated yes.
11
12 Mr. Thorsland asked the Board if there were any questions for Mr. Buzicky and there were none.
13
14 Mr. Thorsland asked if staff had any questions for Mr. Buzicky.
15
16 Mr. Hall stated that staff had anticipated the cases coming back before the ZBA on August 30th and staff
17 would need to have the best site plan available by the end of July. He asked Mr. Buzicky if he could meet
18 such a deadline.
19
20 Mr. Buzicky stated yes, he will provide the best site plan that he can at that time realizing that they are trying
21 to get the property rezoned so that they can move forward.
22
23 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Buzicky and there was no one.
24
25 Mr. Thorsland called Kerry Gifford to testify.
26
27 Mr. Gifford stated that the Ordinance could be modified or changed and they would like to see a variance
28 based off of the plat act and the exemption being that the use is for public use.
29
30 Mr. Hall stated that if this were in the County's subdivision jurisdiction where the plat act would be the
31 relevant standard then the Ordinance would not need to be amended but in this location the plat act is
32 secondary to the Village of Mahomet's subdivision jurisdiction and the Ordinance is very clear.
33
34 Mr. Gifford stated that ordinances can be modified.
35
36 Mr. Hall stated that he would not want Mr. Gifford to believe that the Ordinance could be changed in such a
37 way because it would be protested by every municipality in the County and that amendment would not see
38 the light of day. He said that there is just plainly the matter of legal jurisdiction. He said that Champaign
39 County has a lot of disagreements with municipalities but at the level of subdivision approval in their
40 jurisdiction it is pretty resolved. He said that the County Board might be convinced otherwise but he is not
41 sure how long that process would take.

Cases 717-AM-12, 718-S-12, & 719-V-12
EXCERPT OF JUNE 28, 2012 APPROVED MINUTES

1
2 Mr. Gifford stated that they are trying to provide good services to their customers and provide a good quality
3 of life to the residents of Mahomet.
4
5 Mr. Thorsland asked the Board if there were any questions for Mr. Gifford and there were none.
6
7 Mr. Thorsland asked if staff had any questions for Mr. Gifford and there were none.
8
9 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Gifford and there was no one.
10
11 Mr. Thorsland asked Mr. Gifford if a continuance to August 30th is acceptable.
12
13 Mr. Gifford stated yes.
14
15 Mr. Thorsland entertained a motion to continue Cases 717-AM-12, 718-S-12 and 719-V-12 to the August
16 30, 2012, meeting.
17
18 **Mr. Courson moved, seconded by Mr. Miller to continue Cases 717-AM-12, 718-S-12, and 719-V-12 to**
19 **the August 30, 2012, meeting. The motion carried by voice vote.**
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CASE NO. 717-AM-12

SUPPLEMENTAL MEMORANDUM

September 21, 2012

Champaign
County
Department of

**PLANNING &
ZONING**

Petitioners: **Sangamon Valley Public
Water District and Parkhill
Enterprises, LLC**

Site Area: **2.9 acres**

Time Schedule for Development:
March 2013 – March 2014

Prepared by: **Andy Kass**
Associate Planner

John Hall
Zoning Administrator

Request: Amend the Zoning Map to change the zoning district designation from the R-4 Multiple Family Residence Zoning District to the AG-2 Agriculture Zoning District on approximately 2.9 acres of the subject property described below and subject to the proposed Special Use Permit in related Case 718-S-12 and with the variance requested in related Case 719-V-12.

Location: An approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road, Mahomet.

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

(217) 384-3708

STATUS

This case was continued from the June 28, 2012, public hearing. A revised site plan has been received and is reviewed in related Cases 718-S-12 and 719-V-12. New evidence and revisions to the Finding of Fact and are included in the revised Finding of Fact and Final Determination that is attached (see underlined and strikethrough text). An excerpt of the minutes from the June 28, 2012, public hearing has been included.

ATTACHMENTS

- A Letter from Webber and Thies received September 19, 2012
- B Excerpt of minutes from June 28, 2012, public hearing (included separately)
- C Revised Finding of Fact and Final Determination (included separately)

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September 18, 2012

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John Hall
Zoning Administrator
Champaign County Dept. of Planning & Zoning
1776 E. Washington Street
Urbana, IL 61802

RE: Sangamon Valley Public Water District; Case Nos. 717-AM-12; 718-S-12; 719-V-12

Dear Mr. Hall:

We have been asked to assist the Sangamon Valley Public Water District in its efforts to secure zoning relief in the above-referenced proceedings from Champaign County related to its efforts to make needed improvements to its water treatment and storage facilities just north of the Village of Mahomet; the District's facilities are within the Village's 1 ½ mile extraterritorial jurisdiction area. Correspondence from your office suggests that your staff may recommend that County zoning approval be conditioned upon compliance with Mahomet subdivision requirements.

We are of the opinion that the County has no authority under the law to enforce Village subdivision ordinances in the guise of exercising its zoning powers within the Village of Mahomet's extraterritorial jurisdiction [ETJ] area. Zoning and subdivision requirements are entirely separate spheres of concern. As we assume you know, the ETJ of municipalities over zoning and subdivision issues conferred by Section 5/11-13-1 of the Illinois Municipal Code¹ is subject to two conditions. First, the statute limits such ETJ to areas which are "not more than one and

¹ 65 ILCS 5/11-13-1

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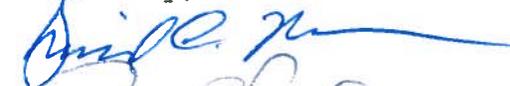
CHAMPAIGN CO. P & Z DEPARTMENT

one-half miles beyond the corporate limits" of the municipality. Second, the authority of a non-home rule municipality such as Mahomet to impose zoning standards extraterritorially is expressly denied by the statute where, as here, the affected county has adopted its own set of zoning standards under "An Act in relation to county zoning", approved June 12, 1935, as amended.² In short, the County's authority begins and ends in the zoning arena; it has no role under the law in dictating subdivision requirements within a municipality's ETJ. To that end, we believe that any effort by the County to construe Champaign County Zoning Ordinance Section 13.2.1(A)(4) as a license to accomplish an "end run" around the express requirements of Section 5/11-13-1 of the Illinois Municipal Code, is void as a matter of law.

In addition, the courts have expressly and repeatedly held that a municipality's sole remedy when a county's zoning decision might be deemed objectionable is the statutorily-prescribed right to formally protest a zoning application, in which case the county board may approve the application only with a $\frac{3}{4}$ majority.³ As we understand it, the County has given appropriate notice to the Village of its right to protest; that being so, it is up to the Village to look after its own interests. The law tasks the Village of Mahomet, not Champaign County, with enforcing and defending its subdivision ordinances.

We look forward to additional discussions with you concerning these matters. Please don't hesitate to contact either of us if you have any questions or suggestions.

Sincerely,



David C. Thies
Phillip R. Van Ness
WEBBER & THIES, P.C.

Cc: Kerry Gifford

² 55 ILCS 5/5-12001 et seq.

³ *City of Canton v. Fulton County* [3rd Dist 1973], 11 Ill.App.3d 171, 296 N.E.2d 97; *City of Urbana v. Champaign County* [Ill. 1979], 76 Ill.2d 63, 389 N.E.2d 1185, 27 Ill.Dec. 777.

REVISED

717-AM-12

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

Final Determination: ***{RECOMMEND ENACTMENT / RECOMMEND DENIAL}***

Date: ~~June 28, 2012~~ September 27, 2012

Petitioners: **Sangamon Valley Public Water District & Parkhill Enterprises, LLC**

Request: **Amend the Zoning Map to change the zoning district designation from the R-4 Multiple Family Residence Zoning District to the AG-2 Agriculture Zoning District.**

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FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 28, 2012, and September 27, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner Sangamon Valley Public Water District, 709 North Prairieview Road, Mahomet, will purchase the property from co-petitioner Parkhill Enterprises, LLC, P.O. Box 1485, Champaign.
2. The subject property is an approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road, Mahomet.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet. The Village has received notice of this case and related cases and has protest rights on the proposed map amendment. In addition, the Mahomet Township Plan Commission has received notice of these cases and has protest rights on the proposed map amendment.
4. Regarding comments by petitioners, when asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner has indicated:

“Zoning amendment to modify existing zoning on proposed 0.5 acres of purchase, for a new industrial (Water Treatment Plant) need. Proposed AG-2 zoning.”

5. Regarding comments by the petitioner when asked on the petition what other circumstances justify the rezoning the petitioner has indicated the following:

“Illinois Plat Act – Adjacent property owners selling/purchasing a parcel of land.”

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

6. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is currently zoned R-4 Multiple Family Residence and is in agricultural use and a small portion is used for operations of Sangamon Valley Public Water District.
 - B. Land on the north, south, east, and west of the subject property is in use and zoned as follows:
 - (1) Land on the north is in agriculture production and is zoned R-4 Multiple Family Residence.
 - (2) Land on the south is in agricultural production and is zoned AG-2 Agriculture.
 - (3) Land east of the subject property is in residential use and is zoned R-4 Multiple Family Residence.

(4) Land west of the subject property is in residential use and is located within the Village of Mahomet Village limits.

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

A. The subject property was subject to a map amendment in Case 463-AM-82 requested by Parkhill Enterprises in which the property was rezoned from the AG-2 District to the R-4 District.

B. Case 928-AM-94 was a Map Amendment request by Ray Campo, Grover Doyle, and Morris Doyle to rezone 5 acres from the R-1 and R-4 Zoning Districts to the R-4 Zoning District on property to the west of the subject property. This request was denied.

C. Case 224-S-00 was a request by PAK Builders for a Special Use Permit to allow more than one main or principal building on a lot on 2.47 acres to the east of the subject property. Case 225-V-00 was a multiple Variance request on the same property for number and area of parking spaces, loading berth requirement, and for two buildings not having three perimeter walls and exterior doors located with 200 feet of a street. Both cases were approved.

D. Case 282-S-01 was a request by Meadowview Apartments for a Special Use Permit to allow more than one main or principal building on the same property as in Case 224-S-00. The request in Case 282-S-01 increased the number of units that were requested in Case 224-S-00 which is why a new permit was needed. Case 287-V-01 was a multiple variance request on the same property for parking requirements and to allow one building without three perimeter walls and exterior doors located with 200 feet of a street. Both cases were approved.

GENERALLY REGARDING THE EXISTING AND PROPOSED ZONING DISTRICTS

8. Regarding the existing and proposed zoning districts:

A. Regarding the general intent of zoning districts (capitalized words are defined in the Ordinance) as described in Section 5 of the Ordinance:

(1) The R-4, Multiple Family Residence DISTRICT is intended to provide areas for SINGLE FAMILY, TWO FAMILY, and MULTIPLE FAMILY DWELLINGS set in a medium density housing environment.

(2) The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominantly vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

B. Regarding the general locations of the existing and proposed zoning districts:

(1) The R-4 District is generally located throughout the county in areas that are suitable for high density housing.

REVISED

- (2) The AG-2 is generally located in areas close to urban areas. The subject property is located adjacent to the corporate boundary of the Village of Mahomet.
- C. Regarding the different uses that are authorized in the existing and proposed zoning districts by Section 5.2 of the Ordinance:
- (1) There are 22 types of uses authorized by right in the R-4 District and there are 13 types of uses authorized by right in the AG-2 District:
- (a) The following 22 uses are authorized by right in the R-4 District:
- Boarding House;
 - Single family dwelling;
 - Two family dwelling;
 - Multi-family dwelling;
 - Fraternity, Sorority, or Student Cooperative;
 - Dormitory;
 - Home for the aged;
 - Nursing home;
 - Subdivisions of three lots or less;
 - Subdivisions totaling more than three lots or with new streets or private accessways;
 - Agriculture;
 - Elementary School, Junior High School, or High School;
 - Institution of and Educational, Philanthropic or Eleemosynary Nature;
 - Church, Temple or church related Temporary Uses on church Property;
 - Municipal or Government Building;
 - Police or fire station;
 - Library, museum or gallery;
 - Public park or recreational facility;
 - Country Club or golf course;
 - Country Club clubhouse; and
 - Lodge or private club
- (b) The following uses are authorized by right in the AG-2 District:
- Single family dwelling;
 - Subdivisions of three lots or less;
 - Agriculture;
 - Roadside Stand Operated by Farm Operator;
 - Minor Rural Specialty Business;
 - Plant Nursery;

- Township Highway Maintenance Garage;
 - Country Club or golf course;
 - Commercial Breeding Facility;
 - Christmas Tree Sales Lot;
 - OFF-PREMESIS SIGN within 660' of the edge of the RIGHT-OF-WAY of an interstate;
 - OFF-PREMESIS SIGN along federal highways except interstate highways; and
 - TEMPORARY USES
- (2) There are 10 types of uses authorized by Special Use Permit (SUP) in the R-4 District and 76 types of uses authorized by SUP in the AG-2 District:
- (a) The following 42 uses may be authorized by SUP in the ~~AG-1~~ R-4 District:
- Residential PLANNED UNIT DEVELOPMENT;
 - Artificial lake of 1 or more acres;
 - Township Highway Maintenance Garage;
 - Adaptive Reuse of GOVERNMENT BUILDINGS for any USE Permitted by Right;
 - Electrical Substation;
 - Telephone Exchange;
 - HOSPITAL;
 - Mortuary or Funeral Home;
 - Private Kindergarten or Day Care Facility; and
 - Private Indoor Recreational Development
- (b) The following 76 uses may be authorized by SUP in the AG-2 District:
- DWELLING, TWO-FAMILY;
 - Home for the aged;
 - NURSING HOME;
 - Hotel with no more than 15 lodging units;
 - TRAVEL TRAILER Camp;
 - Residential PLANNED UNIT DEVELOPMENT;
 - SUBDIVISION totaling more than three LOTS or with new STREETS or PRIVATE ACCESSWAYS (County Board SUP);
 - Major RURAL SPECIALTY BUSINESS;
 - Artificial lake of 1 or more acres;
 - Commercial greenhouse;
 - Greenhouse (not exceeding 1,000 square feet)
 - Garden Shop;
 - Mineral extraction, Quarrying; topsoil removal, and allied activities;
 - Elementary School, Junior High School, or High School;

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- Church, Temple or church related Temporary Uses on church Property;
- Municipal or Government Building;
- Township Highway Maintenance Garage;
- Adaptive Reuse of GOVERNMENT BUILDINGS for any USE Permitted by Right;
- Penal or correctional institution;
- Police station or fire station;
- Library, museum or gallery;
- Public park or recreational facility;
- Sewage disposal plant or lagoon;
- Private or commercial transmission and receiving tower (including antennas) over 100 feet in height;
- Water Treatment Plant;
- Radio or Television Station;
- Electrical Substation;
- Telephone Exchange;
- Public Fairgrounds;
- MOTOR BUS station
- Truck Terminal;
- Railroad Yards and Freight Terminals;
- AIRPORT;
- RESIDENTIAL AIRPORTS;
- RESTRICTED LANDING AREAS;
- HELIPORT/HELISTOPS;
- HELIPORT-RESTRICTED LANDING AREAS;
- Mortuary or Funeral Home;
- Farm Chemicals and Fertilizer Sales including incidental storage and mixing of blended fertilizer;
- Roadside Produce Sales Stand;
- Feed and Grain (sales only);
- Livestock Sales Facility and Stockyards;
- Slaughter Houses;
- Grain Storage Elevator and Bins;
- Artist Studio;
- *RESIDENTIAL RECOVERY CENTER*;
- Antique Sales and Service;
- Amusement Park;
- Resort or Organized Camp;
- Bait Sales;
- Country Club Clubhouse;
- Lodge or private club;

- Outdoor commercial recreational enterprise (except amusement park);
- Private Indoor Recreational Development;
- Public Camp or picnic area;
- Riding Stable;
- Seasonal hunting or fishing lodge;
- Stadium or coliseum;
- THEATER, OUTDOOR;
- Commercial Fishing Lake;
- Aviation sales, service or storage;
- Cemetery or Crematory;
- Pet Cemetery;
- Kennel;
- Veterinary Hospital; and
- Self-Storage Warehouses, not providing heat and utilities to individual units;
- Off-premises sign farther than 660 feet from an interstate highway;
- LANDSCAPE WASTE PROCESSING FACILITIES;
- Contractors Facilities with no outdoor operations or storage;
- Contractors Facilities with outdoor operations and/or storage;
- Small Scale Metal Fabricating Shop;
- Gas Turbine Peaker;
- BIG WIND TURBINE TOWER (1-3 turbines);
- Wood Fabricating Shop and Related Activities;
- Sawmills Planing Mills, and related activities; and
- Pre-Existing Industrial Uses (existing prior to October 10, 1973)

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

9. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
- A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”

- B. The LRMP defines Goals, Objectives, and Policies as follows:
- (1) Goal: an ideal future condition to which the community aspires
 - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
 - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
- C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.”

REGARDING LRMP GOALS & POLICIES

10. LRMP Goal 1 is entitled “Planning and Public Involvement” and states that as follows:

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

Goal 1 is always relevant to the review of the LRMP Goals, Objectives, and Policies in land use decisions but is otherwise ***NOT RELEVANT*** to the proposed rezoning.

(Note: bold italics typeface indicates staff’s recommendation to the ZBA)

11. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

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

Goal 2 has two objectives and three policies. The proposed amendment ~~*DOES ACHIEVE / DOES NOT ACHIEVE*~~ ***WILL HELP ACHIEVE*** Goal 2 for the following reasons:

- A. Objective 2.1 is entitled “Local and Regional Coordination” and states, “Champaign County will coordinate land resource management planning with all County jurisdictions and, to the extent possible, in the larger region.”

The proposed rezoning ***WILL HELP ACHIEVE*** Objective 2.1 because of the following:

- (1) Objective 2.1 includes three subsidiary policies. Policies 2.1.1 and 2.1.3 do not appear to be relevant to the proposed rezoning.
- (2) Policy 2.1.2 states, “The County will continue to work to seek a county-wide arrangement that respects and coordinates the interests of all jurisdictions and that provides for the logical extension of municipal land use jurisdiction by annexation agreements.”

The proposed rezoning **WILL HELP ACHIEVE** Policy 2.1.2 for the following reasons:

- (a) The subject property is within the one and one-half mile extra territorial jurisdiction of the Village of Mahomet and the Village has subdivision jurisdiction on the subject property.
- (b) A portion of the property proposed to be rezoned was purchased in November 1999, and did not receive subdivision approval from the Village of Mahomet. The Village of Mahomet has made attempts since this lot was created to bring it into compliance, but the petitioner has yet to comply with the Village requirements.
- (c) Section 13.2.1 B. of the *Zoning Ordinance* prohibits the Board from granting Variances and Special Use Permit and the Zoning Administrator from issuing Zoning Use Permits and Zoning Compliance Certificates when construction or a use is located on a lot or lots created in violation of the *Illinois Plat Act*, *Champaign County Subdivision Regulations*, or municipal subdivision regulations.
- (d) A special condition has been proposed to ensure compliance with the Village of Mahomet subdivision regulations.

12. LRMP Goal 3 is entitled “Prosperity” and states as follows:

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

Goal 3 has three objectives and no policies. The proposed amendment is ~~NOT RELEVANT~~ to WILL NOT IMPEDE achievement of Goal 3.

13. LRMP Goal 4 is entitled “Agriculture” and states as follows:

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

Goal 4 has 9 objectives and Objectives 4.4, 4.5, 4.6, 4.7, 4.8, and 4.9 do not apply. The proposed amendment is WILL HELP ACHIEVE Goal 4 for the following reasons:

- A. Objective 4.1 is entitled “Agricultural Land Fragmentation and Conservation” and states, “Champaign County will strive to minimize the fragmentation of the County’s agricultural land base and conserve farmland, generally applying more stringent development standards on best prime farmland.”

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The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Objective 4.1 because of the following:

- (1) Objective 4.1 includes nine subsidiary policies. Policies 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.7, 4.1.8, and 4.1.9 do not appear to be relevant to the proposed rezoning.
- (2) Policy 4.1.1 states, **“Commercial agriculture is the highest and best use of the land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils.”**

The proposed rezoning WILL HELP ACHIEVE Policy 4.1.1 for the following reasons:

- (a) The soils on the subject property are considered best prime farmland and consist of Catlin silt loam and Drummer silty clay and would have an average LE of approximately 87.
 - (b) The subject property is well suited for the proposed use because it is adjacent to the existing water treatment plant operated by the petitioner.
- (2)(3) Policy 4.1.6 states, **“Provided that the use, design, site and location are consistent with County policies regarding:**
- i. **Suitability of the site for the proposed use;**
 - ii. **Adequacy of infrastructure and public services for the proposed use;**
 - iii. **Minimizing conflict with agriculture;**
 - iv. **Minimizing the conversion of farmland; and**
 - v. **Minimizing the disturbance of natural areas; then**
 - a) **On best prime farmland, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential use (inclusive of by-right development) not to exceed three acres plus three acres per each 40 acres (including any existing right-of-way), but not to exceed 12 acres in total; or**
 - b) **On best prime farmland, the County may authorize non-residential discretionary development; or**
 - c) **The County may authorize discretionary review development on tracts consisting of other than best prime farmland.”**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 4.1.6 for the following reasons:

- (a) The soils on the subject property are considered best prime farmland and consist of Catlin silt loam and Drummer silty clay and would have an average LE of approximately 87.
- (b) The existing water treatment plant existed prior to the adoption of zoning in Champaign County. Presumably the property where the existing treatment plant is sited was in agricultural production prior to the plant being built. The area proposed to be rezoned has been or currently is in agricultural production.

B. Objective 4.2 is entitled “Development Conflicts with Agricultural Operations” and states, **“Champaign County will require that each *discretionary review* development will not interfere with agricultural operations.”**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Objective 4.2 because of the following:

- (1) Objective 4.2 includes four subsidiary policies. Policy 4.2.1 does not appear to be relevant to the proposed rezoning.
- (2) **Policy 4.2.2 states, “The County may authorize *discretionary review* development in a rural area if the proposed development:**
 - a. **is a type that does not negatively affect agricultural activities; or**
 - b. **is located and designed to minimize exposure to any negative affect caused by agricultural activities; and**
 - c. **will not interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related infrastructure.”**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 4.2.2 for the following reasons:

- (a) The proposed use has been in operation since the 1970s and will not negatively affect agricultural activities because the use is not intense.
 - (b) All activities of the proposed use take place indoors and will not be affected by agricultural operations.
 - (c) The traffic generated by the proposed use or any future use will not be related to agriculture but the volume of traffic will be similar to the current use.
- (3) **Policy 4.2.3 states, “The County will require that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.”**

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The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE S Policy 4.2.3 for the following reasons:

- (a) A special condition has been proposed to ensure that the Petitioner and any subsequent owner recognize the rights of agricultural activities.
- (4) **Policy 4.2.4 states, “To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will require that all discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary.”**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 4.2.4 for the following reason:

- (a) The operations of the proposed use will be all indoors and even though agricultural activities will take place both north and south of the proposed use it will not warrant a buffer between the existing and proposed buildings and adjacent agricultural activities.

- C. Objective 4.3 is entitled “Site Suitability for Discretionary Review Development” and states, **“Champaign County will require that each discretionary review development is located on a suitable site.”**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Objective 4.3 because of the following:

- (1) Objective 4.3 includes five subsidiary policies. Policy 4.3.1 does not appear to be relevant to the proposed rezoning.
- (2) **Policy 4.3.2 states, “On best prime farmland, the County may authorize a discretionary review development provided the site with proposed improvements is well-suited overall for the proposed land use.**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 4.3.2 for the following reasons:

- (a) The land is best prime farmland and consists of primarily of Catlin silt loam that has a Land Evaluation Score of 87 and Drummer silty clay soil that has a Land Evaluation score of 98 and the average Land Evaluation score is approximately 87.
- (b) The subject property has access to Lake of the Woods Road and Prairieview Road.
- (c) Although the proposed use will be taking a small amount of land out of production, the site is well-suited overall because the existing operations of Sangamon Valley Public Water District already occur on a portion of the site.

- (2) **Policy 4.3.3 states, “The County may authorize a discretionary review development provided that existing public services are adequate to support to the proposed development effectively and safely without undue public expense.”**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 4.3.3 for the following reason:

- (a) The subject property is located approximately 2.8 miles from the Cornbelt Fire Protection District Station. The fire protection district was notified of the case and no comments were received.

- (3) **Policy 4.3.4 states, “The County may authorize a discretionary review development provided that existing public infrastructure, together with proposed improvements, is adequate to support the proposed development effectively and safely without undue public expense.”**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 4.3.4 for the following reason:

- (a) The subject property has access to Prairieview Road.
- (b) Traffic should not significantly increase because of the expansion. The expansion is merely to expand operations because the demand for water has increased.

- (4) **Policy 4.3.5 states, “On best prime farmland, the County will authorize a business or other non-residential use only if:**

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

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 4.3.5 for the following reasons:

- (a) The proposed use serves an important public use by providing clean and safe drinking water to some residents of the Village of Mahomet and some residents of the unincorporated area of Champaign County.
- (b) The subject property is well suited based on the discussion of Policy 4.3.2.
- (c) At the June 28, 2012, public hearing Kerry Gifford, General Manager, Sangamon Valley Public Water District, testified that the district serves approximately 1,560 water customers and 1,460 sewer customers.

14. LRMP Goal 5 is entitled “Urban Land Use” and states as follows:

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

Goal 5 has 3 objectives and 15 policies. The proposed amendment ~~{DOES ACHIEVE / DOES NOT ACHIEVE}~~ WILL HELP ACHIEVE Goal 5 for the following reasons:

A. Objective 5.1 is entitled “Population Growth and Economic Development” and states “**Champaign County will strive to ensure that the preponderance of population growth and economic development is accommodated by new urban development in or adjacent to existing population centers.**”

The proposed rezoning ~~{DOES ACHIEVE / DOES NOT ACHIEVE}~~ WILL HELP ACHIEVE Objective 5.1 because of the following:

- (1) Objective 5.1 includes nine subsidiary policies. Policies 5.1.2, 5.1.4, 5.1.7, and 5.1.8, and 5.1.9 do not appear to be relevant to the proposed rezoning.
- (2) Policy 5.1.1 states, “**The County will encourage new urban development to occur within the boundaries of incorporated municipalities.**”

The proposed rezoning ~~{DOES ACHIEVE / DOES NOT ACHIEVE}~~ WILL NOT IMPEDE Policy 5.1.1 for the following reasons:

- (a) The Appendix to Volume 2 of the LRMP defines “urban development” as the construction, extension, or establishment of a land use that requires or is best served by a connection to a public sanitary sewer system and “urban land use” as generally, land use that is connected and served by a public sanitary sewer system.
- (b) Although the proposed rezoning will not result in expansion of a sewage treatment facility or expansion of sanitary sewer systems it will provide “urban land use” with clean and safe drinking water. In addition to providing drinking water services the Sangamon Valley Public Water District provides sanitary sewer services.
- (c) The proposed rezoning would result in the expansion of a service that is generally provided in an urban area or in areas close to municipal boundaries.
- (d) At the June 28, 2012, public hearing Mike Buzicky, Engineer for Sodemann and Associates, testified that this is a unique area where two public water districts overlap one another.

- (2) Policy 5.1.3 states, “The County will consider municipal extra-territorial jurisdiction areas that are currently served by or that are planned to be served by an available public sanitary sewer service plan as contiguous urban growth areas which should develop in conformance with the relevant municipal comprehensive plans. Such areas are identified on the Future Land Use Map.”

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 5.1.3 for the following reasons:

- (a) The subject property is within the one and one-half mile extra territorial jurisdiction of the Village of Mahomet and the Village has subdivision jurisdiction on the subject property.
- (b) A portion of the property proposed to be rezoned was purchased in November 1999, and did not receive subdivision approval from the Village of Mahomet. The Village of Mahomet has made attempts since this lot was created to bring it into compliance, but the petitioner has yet to comply with the Village requirements.
- (c) A special condition has been proposed to ensure compliance with the Village of Mahomet subdivision regulations.

- (3) Policy 5.1.5 states, “The County will encourage urban development to explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.”

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 5.1.5 because a special condition has been proposed to require any use established on the subject property to explicitly recognize and provide for the right of agricultural activities on adjacent land.

- (4) Policy 5.1.6 states, “To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will encourage and, when deemed necessary, will require discretionary development to create a sufficient buffer between existing agricultural operations and the proposed urban development.”

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 5.1.6 based on the discussion of Policy 4.2.4.

- ~~(5) Policy 5.1.9 states, “The County will encourage any new discretionary development that is located within municipal extra-territorial jurisdiction areas and subject to an annexation agreement (but which is expected to remain in the unincorporated area) to undergo a coordinated municipal and County review process, with the municipality considering any discretionary development approval from the County that would otherwise be necessary without the annexation agreement.”~~

REVISED

The proposed rezoning ~~ACHIEVES~~ Policy 5.1.9 for the following reasons:

Evidence to be added.

- B. Objective 5.2 is entitled, "Natural Resources Stewardship" and states, **"When new urban development is proposed, Champaign County will encourage that such development demonstrates good stewardship of natural resources."**

The proposed amendment ~~ACHIEVES~~ WILL HELP ACHIEVE Objective 5.2 for the following reason:

- (1) Objective 5.2 includes three subsidiary policies. Policy 5.2.1 does not appear to be relevant to the proposed rezoning.
- (2) Policy 5.2.2 states, **"The County will:**
 - a. **ensure that urban development proposed on best prime farmland is efficiently designed in order to avoid unnecessary conversion of such farmland; and**
 - b. **encourage, when possible, other jurisdictions to ensure that urban development proposed on best prime farmland is efficiently designed in order to avoid unnecessary conversion of such farmland."**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 5.2.2 for the following reasons:

- (a) The subject property consists of best prime farmland, but is currently zoned R-4 Multiple Family Residence. The proposed rezoning would be a "downgrade" in zoning classification.
 - (b) The proposed expansion of the water treatment facility would encompass approximately 1.3 acres of the 2.9 acres proposed to be rezoned. Presumably the remaining land not used for the water treatment plant expansion would continue to be in agricultural production.
- (3) Policy 5.2.3 states, **"The County will:**
 - a. **require that proposed new urban development results in no more than minimal disturbance to areas with significant natural environmental quality; and**
 - b. **encourage, when possible, other jurisdictions to require that proposed new urban development results in no more than minimal disturbance to areas with significant natural environmental quality."**

The proposed rezoning ~~ACHIEVES~~ WILL NOT IMPEDE Policy 5.2.3 because there are no areas with significant natural environmental quality on the subject property.

- C. Objective 5.3 is entitled “Adequate Public Infrastructure and Services” and states, **“Champaign County will oppose proposed new urban development unless adequate utilities, infrastructure, and public services are provided.”**

The proposed amendment ~~ACHIEVES~~ WILL HELP ACHIEVE Objective 5.3 because of the following:

- (1) Objective 5.3 includes three subsidiary policies. Policy 5.3.3 does not appear to be relevant to the proposed rezoning.
- (1) Policy 5.3.1 states, **“The County will:**
 - a. **require that proposed new urban development in unincorporated areas is sufficiently served by available public services and without undue public expense; and**
 - b. **encourage, when possible, other jurisdictions to require that proposed new urban development is sufficiently served by available public services and without undue public expense.”**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 5.3.1 for the following reasons:

- (a) The only public service provided other than law enforcement is fire protection.
 - (b) The subject property is located approximately 2.8 miles from the Cornbelt Fire Protection District Station. The fire protection district was notified of the case and no comments were received.
- (2) Policy 5.3.2 states, **“The County will:**
 - a. **require that proposed new urban development, with proposed improvements, will be adequately served by public infrastructure, and that related needed improvements to public infrastructure are made without undue public expense; and**
 - b. **encourage, when possible, other jurisdictions to require that proposed new urban development, with proposed improvements, will be adequately served by public infrastructure, and that related needed improvements to public infrastructure are made without undue public expense.”**

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 5.3.2 because the only public infrastructure serving the subject property is Prairieview Road, the expansion will not create a greater need for use of the surrounding road network.

15. LRMP Goal 6 is entitled “Public Health and Safety” and states as follows:

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

Goal 6 has 4 objectives and Objectives 6.2 and 6.4 do not apply. The proposed amendment WILL HELP ACHIEVE Goal 6 for the following reasons:

A. Objective 6.1 is entitled “Protect Public Health and Safety” and states, “**Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.**”

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Objective 6.1 because of the following:

(1) Objective 6.1 includes four subsidiary policies. Policies 6.1.1, 6.1.2, and 6.1.4 do not appear to be relevant to the proposed rezoning.

(2) Policy 6.1.3 states, “**The County will seek to prevent nuisances created by light and glare and will endeavor to limit excessive night lighting, and to preserve clear views of the night sky throughout as much of the County as possible.**”

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Policy 6.1.3 because ~~no exterior lighting has been indicated on the site plan for the proposed use~~ the site plan received August 16, 2012, indicates that the exterior lighting for the proposed water treatment plant in Case 718-S-12 will comply with County lighting requirements.

B. Objective 6.3 has no subsidiary policies and is entitled “Development Standards” and states, “**Champaign County will seek to ensure that all new non-agricultural construction in the unincorporated area will comply with a building code by 2015.**”

The proposed rezoning ~~ACHIEVES~~ WILL HELP ACHIEVE Objective 6.3 because Public Act 96-704 requires that all new construction other than residential buildings in a jurisdiction without an adopted building code after July 1, 2011, to be constructed to specific building code standards.

16. LRMP Goal 7 is entitled “Transportation” and states as follows:

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

Goal 7 has 2 objectives and 7 policies. The proposed amendment is ~~NOT RELEVANT~~ to WILL NOT IMPEDE achievement of Goal 7.

17. LRMP Goal 8 is entitled “Natural Resources” and states as follows:

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

Goal 8 has 9 objectives and 36 policies. Objectives 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, and 8.9 are **NOT RELEVANT** to the propose amendment. The proposed amendment **WILL HELP ACHIEVE** Goal 8 because of the following:

A. Objective 8.1 states, **“Champaign County will strive to ensure adequate and safe supplies of groundwater at reasonable cost for both human and ecological purposes.”**

The proposed rezoning **ACHIEVES WILL NOT IMPEDE** Objective 8.1 because of the following:

- (1) Objective 8.1 has nice subsidiary policies, but only 8.1.3 is relevant to the proposed rezoning.
- (2) Policy 8.1.3 states, **“As feasible, the County will seek to ensure that withdrawals from the Mahomet Aquifer and other aquifers do not exceed the long-term sustainable yield of the aquifer including withdrawals under potential drought conditions, particularly for shallow aquifers.”**

The proposed rezoning **ACHIEVES WILL NOT IMPEDE** Policy 8.1.3 for the following reasons:

- (a) There is no evidence that suggests the proposed water treatment plant or the existing water treatment plant exceed that the long-term sustainable yield of the Mahomet Aquifer.

B. Objective 8.2 states, **“Champaign County will strive to conserve its soil resources to provide the greatest benefit to current and future generations.”**

The proposed rezoning **ACHIEVES WILL HELP ACHIEVE** Objective 8.2 because of the following:

- (1) Objective 8.2 has only one subsidiary policy.
- (2) Policy 8.2.1 states, **“The County will strive to minimize the destruction of its soil resources by non-agricultural development and will give special consideration to the protection of best prime farmland. Best prime farmland is that comprised of soils that have a Relative Value of at least 85 and includes land parcels with mixed soils that have a Land Evaluation score of 85 or greater as defined in the LESA.”**

The proposed rezoning **ACHIEVES WILL HELP ACHIEVE** Policy 8.2.1 for the following reasons:

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- (a) The subject property is best prime farmland, but the subject property is well suited for the proposed use because the proposed use will be an expansion of the existing operations of the water treatment plant.
- (b) The subject property is smaller than the minimum standard condition lot size of 5 acres for a water treatment plant.
- (c) ~~The proposed rezoning would return the property to its original zoning district of AG-2 Agriculture.~~

18. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:

Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.

The proposed amendment is ~~**NOT RELEVANT**~~ not directly related to Goal 9, ~~because the proposed amendment does not address energy efficiency or the use of renewable energy sources~~ but it **WILL NOT IMPEDE** achievement of Goal 9 because the proposed building in related Case 718-S-12 will be a “green” building as indicated on the Special Use Permit Application.

19. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:

Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.

Goal 10 is **NOT RELEVANT** to the proposed amendment.

GENERALLY REGARDING THE LaSalle Factors

20. In the case of *LaSalle National Bank of Chicago v. County of Cook* the Illinois Supreme Court reviewed previous cases and identified six factors that should be considered in determining the validity of any proposed rezoning. Those six factors are referred to as the *LaSalle* factors. Two other factors were added in later years from the case of *Sinclair Pipe Line Co. v. Village of Richton Park*. The *Champaign County Zoning Ordinance* does not require that map amendment cases be explicitly reviewed using all of the *LaSalle* factors but it is a reasonable consideration in controversial map amendments and any time that conditional zoning is anticipated. The proposed map amendment compares to the *LaSalle* and *Sinclair* factors as follows:

A. **LaSalle factor: The existing uses and zoning of nearby property.**

Table 1 below summarizes the land uses and zoning of the subject property and properties nearby.

Table 1: Land Use and Zoning Summary

Direction	Land Use	Zoning
Onsite	Agriculture	R-4 Multiple Family Residence
	----- Water Treatment Plant	
North	Agriculture	R-4 Multiple Family Residence
East	Residential	R-4 Multiple Family Residence
	----- Water Treatment Plant	----- AG-2 Agriculture
West	Residential	Village of Mahomet
South	Agriculture	AG-2 Agriculture

B. **LaSalle factor: The extent to which property values are diminished by the particular zoning restrictions.**

- (1) It is impossible to establish values without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
- (2) In regards to the value of nearby residential properties, it is not clear if the requested map amendment would have any effect.
- (3) In regards to the value of the subject property the requested map amendment will allow the Petitioner's to expand their existing operations on adjacent land.

C. **LaSalle factor: The extent to which the destruction of property values of the plaintiff promotes the health, safety, morals, and general welfare of the public.**

There has been no evidence submitted regarding property values. The proposed rezoning should not have a negative effect on the public health, safety, and welfare.

D. **LaSalle factor: The relative gain to the public as compared to the hardship imposed on the individual property owner.**

The gain to the public of the proposed rezoning is positive because the proposed amendment would allow the Petitioner's to expand their operations to provide safe drinking water to their customers.

E. **LaSalle factor: The suitability of the subject property for the zoned purposes.**

The subject property is suitable for the zoned purposes. The subject property is located adjacent to the existing Sangamon Valley Public Water District treatment facility which will allow the Petitioner to keep its operations in a centralized location.

- F. **LaSalle factor: The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.**
The R-4 District was planned in 1973 and thus was intended to provide areas of the County with medium density housing. The subject property was rezoned from the AG-2 District to the R-4 District in 1983 (Case 463-AM-82).
- G. **Sinclair factor: The need and demand for the use.**
The Petitioners required adequate space to continue their operations of water treatment.
- H. **Sinclair factor: The extent to which the use conforms to the municipality's comprehensive planning.**
The proposed use generally conforms to goals and policies of the Champaign County Land Resource Management Plan.

REGARDING SPECIAL CONDITIONS OF APPROVAL

21. Proposed Special Conditions of Approval:

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

The above special condition is necessary to ensure the following:

Conformance with policies 4.2.3 and 5.1.5.

B. Regarding Compliance with the Village of Mahomet Subdivision Regulations:

- (1) Documentation of an application for subdivision approval with the Village of Mahomet shall be required to be submitted with any Zoning Use Permit Application for the proposed water treatment plant.**
- (2) The Zoning Administrator shall not approve a Zoning Use Permit for the proposed water treatment plant until the Village of Mahomet Administrator has certified in writing that the Sangamon Valley Public Water District has substantially complied with the Village of Mahomet requirements for subdivision approval.**

The special conditions stated above are to ensure the following:

That the petitioner complies with the requirements of the Illinois Plat Act, Section 13 of the Champaign County Zoning Ordinance, and the Village of Mahomet subdivision regulations.

DOCUMENTS OF RECORD

1. Petition for Zoning Map Amendment signed by Kerry Gifford (General Manager, SVPWD) received on June 1, 2012, with attachments:
 - A Legal Descriptions
 - B Site Plan

2. Special Use Permit Application signed by Kerry Gifford (General Manager, SVPWD) received June 1, 2012

3. Letter from Michael L. Antoline (Attorney for SVPWD) to Bud Parkhill received June 4, 2012 with attachments:
 - A 765 ILCS 205/1
 - B 220 ILCS 5/3-105
 - C Notes of Decisions
 - D Citing References
 - E 1996 Illinois Attorney General Opinion 024

4. Revised Site Plan received June 12, 2012

5. Village of Mahomet materials submitted by Bob Mahrt on June 14, 2012

- 5.6. Letter from Michael L. Antoline (Attorney for SVPWD) to David DeThorne (Champaign County Assistant State's Attorney) received June 18, 2012

- 6.7. Variance Application signed by Kerry Gifford (General Manager, SVPWD) with attachments:
 - A Letter from Sodemann and Associates, Inc dated June 15, 2012
 - B Legal Description
 - C Site Plan

- 7.8. Champaign County Land Resource Management Plan (LRMP) Goals, Objectives, and Policies

- 8.9. Champaign County Land Resource Management Plan (LRMP) Appendix

- 9.10. Site Plan from Case 463-AM-82

- 10.11. Preliminary Memorandum for Case 717-AM-12 dated June 22, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received June 12, 2012
 - C Site Plan received June 19, 2012
 - D Site Plan from Case 463-AM-82
 - E LRMP Land Use Goals, Objectives, and Policies & Appendix
 - F Section 13 of the Champaign County Zoning Ordinance

G Draft Finding of Fact and Final Determination

11.12. Preliminary Memorandum for Cases 718-S-12 and 719-V-12 dated June 22, 2012

13. Revised Site Plan received August 16, 2012

14. Letter from Webber and Thies, P.C., received September 19, 2012

15. Supplemental Memorandum for Case 717-AM-12 dated September 21, 2012, with attachments:

A Letter from Webber and Thies, P.C., received September 19, 2012

B Excerpt of minutes from June 28, 2012, public hearing

C Revised Finding of Fact and Final Determination

16. Supplemental Memorandum for Cases 718-S-12 and 719-V-12 dated September 21, 2012, with attachments:

A Revised Site Plan received August 16, 2012

B Excerpt of minutes from June 28, 2012, public hearing

C Revised Summary of Evidence, Finding of Fact, and Final Determination

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 28, 2012, and September 27, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance map amendment **WILL HELP ACHIEVE** the Land Resource Management Plan because:
 - A. The proposed Zoning Ordinance map amendment **WILL HELP ACHIEVE** the following LRMP goals:
 - ~~4, 6, 8, and 9~~ 2, 4, 5, 6, and 8
 - B. The proposed Zoning Ordinance map amendment **WILL NOT IMPEDE** the achievement of the other LRMP goals:
 - ~~1, 3, 7, and 10~~ 3, 7, and 9
 - C. The proposed Zoning Ordinance map is **NOT RELEVANT** to the following LRMP goals:
 - 1 and 10
2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair* factors.

FINAL DETERMINATION

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

The Zoning Ordinance Amendment requested in **Case 717-AM-12** should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

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. 718-S-12 & 719-V-12

SUPPLEMENTAL MEMORANDUM

September 21, 2012

Champaign
County
Department of

PLANNING &
ZONING

Brookens

Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Petitioners: Sangamon Valley Public Water District and Parkhill Enterprises, LLC

Request: CASE: 718-S-12

Authorize the following on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12 subject to the required variance in related Case 719-V-12 on the subject property described below:

Part A. Authorize the expansion and use of a non-conforming water treatment plant as a Special Use with waivers (variance) of standard conditions.

Part. B Authorize the replacement of a non-conforming water tower that is 131 feet in height as a Special Use with waivers (variance) of standard conditions.

CASE: 719-V-12

Authorize the following for expansion of a non-conforming water treatment plant in related Case 718-S-12 on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12:

Part A. The expansion of a nonconforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1 H.

Part B. The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12.

Part C. Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55 feet; a side yard of 46 feet in lieu of the required 50 feet.

Part D. Waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet on the subject property described below.

Location: An approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road, Mahomet.

Site Area: 3.6 acres

Time Schedule for Development: March 2013-March 2014

Prepared by: Andy Kass
Associate Planner

John Hall
Zoning Administrator

STATUS

These cases were continued from the June 28, 2012, public hearing. A revised site plan has been submitted and is included. New evidence and revisions to the Summary of Evidence are included in the Revised Summary of Evidence attached (see underlined and strikethrough text).

REVISED SITE PLAN

The petitioner submitted a revised site plan on August 16, 2012. The new site plan clarifies the area of the land proposed for the special use and indicates a reconfigured layout of the proposed expansion of the water treatment plant. This new layout does not require a waiver (variance) from the standard condition for a 50 feet rear yard, but still requires the waivers for front and side yard and for height. None of the new buildings or structures associated with the expansion of the water treatment plant requires a waiver as was originally thought under the previous site plan.

ATTACHMENTS

- A Revised Site Plan received August 16, 2012 (attached separately)
- B Excerpt of minutes from June 28, 2012, public hearing (attached separately)
- C Revised Summary of Evidence, Finding of Fact, and Final Determination (attached separately)

REVISED DRAFT

718-S-12 & 719-V-12

**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

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

Date: **June 28, 2012-September 27, 2012**

Petitioners: **Sangamon Valley Public Water District and Parkhill Enterprises, LLC**

Request: **CASE: 718-S-12**

Authorize the following on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12 subject to the required variance in related Case 719-V-12 on the subject property described below:

Part A. Authorize the expansion and use of a non-conforming water treatment plant as a Special Use with waivers (variance) of standard conditions.

Part. B Authorize the replacement of a non-conforming water tower that is 131 feet in height as a Special Use with waivers (variance) of standard conditions.

CASE: 719-V-12

Authorize the following for expansion of a non-conforming water treatment plant in related Case 718-S-12 on land that is proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12:

Part A. The expansion of a nonconforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1 H.

Part B. The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12.

Part C. Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55 feet; and a side yard of 46 feet in lieu of the required 50 feet.

Part D. Waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet on the subject property described below.

SUBJECT PROPERTY

An approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road, Mahomet.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 28, 2012, and September 27, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner Sangamon Valley Public Water District intends to purchase the subject property from the co-petitioner, Parkhill Enterprises, LLC.
2. The subject property is an approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road, Mahomet.
3. The subject property is located adjacent to the Village of Mahomet. The Village has been notified of these cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is currently zoned R-4 Multiple Family Residence and is in agricultural use and a small portion is used for operations of Sangamon Valley Public Water District.
 - B. Land on the north, south, east, and west of the subject property is zoned and is in use as follows:
 - (1) Land on the north is in agriculture production and is zoned R-4 Multiple Family Residence.
 - (2) Land on the south is in agricultural production and is zone AG-1 Agriculture.
 - (3) Land east of the subject property is in residential use and is zoned R-4 Multiple Family Residence.
 - (4) Land west of the subject property is in residential use and is located within the Village of Mahomet Village limits.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding site plan and operations of the water treatment plant:
 - A. The site plan received June 19, 2012, and revised on August 16, 2012, indicates the following:
 - (1) The original non-conforming water treatment plant which consists of a 63' × 43' 61' × 44' treatment plant and District office, related smaller buildings, 12 existing parking spaces, 2 existing wells, 2 existing overhead lights, existing fencing, the

existing access easement, two wells, and the 131 feet tall elevated water storage tank. All situated on a .70 acre non-conforming lot of record.

- (2) An unauthorized 63' × ~~58~~² 48' building to the west of the original plant that is partially on a .80 acre lot that has not been approved by the Village of Mahomet. This lot is a portion of the property proposed to be rezoned in related case 717-AM-12.
- (3) The proposed expansion onto an additional 2.10 acres (proposed to be rezoned in related case 717-AM-12) north of the existing property and consists of the following buildings and structures:
 - (a) A proposed ~~90' × 63'~~ 5,475 square feet treatment plant.
 - (b) A proposed 28' × 28' backwash tank.
 - (c) A proposed brine storage tank.
 - (d) A proposed 56,000 gallon ground storage tank that is 35 feet in height.
 - (e) The locations of proposed 6' to 8' in height fencing and landscape screening.
 - (f) The proposed 20 feet wide access easement.
 - (g) A 15' × 40' loading berth.
 - (h) 2 parking spaces and 1 accessible parking space.

B. Regarding the proposed Special Use and existing operations:

- (1) The petitioner proposes to construct a new water treatment plant that will allow Sangamon Valley Public Water District to provide drinking water for a growing demand.
- (2) Currently, there are 4 full-time employees and 4 half-time employees employed by the SVPWD. Eventually, SVPWD would like to have 11 total employees working on the subject property.
- (3) The existing plant will be used as an administration building after the proposed plant is constructed.
- (4) There is an existing well on the property which the SVPWD uses as its water supply. SVPWD also uses a well which is shared with the Lake of the Woods Forest Preserve on forest preserve property.

- (5) The water source for SVPWD is the Mahomet Aquifer.
- C. The subject property primarily consists of Catlin silt loam which has an LE of 87 and a small portion of Drummer silty clay which has an LE of 98.
- D. The petitioner has requested the following variances:
 - (1) The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12.
 - (2) The expansion of a nonconforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1 H.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

- 6. Regarding authorization for a Water Treatment Plant as a Special Use in the AG-2 Agriculture Zoning District in the *Zoning Ordinance*:
 - A. Section 5.2 authorizes a Water Treatment Plant as a Special Use only in the AG-2, I-1, and I-2 Zoning Districts.
 - B. The maximum allowed lot area in the AG-2, Agriculture Zoning District is determined by Footnote 13 to Section 5.3 that states the following:
The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:
 - (1) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
 - (a) The LOT is RRO exempt;
 - (b) The LOT has a Land Evaluation score greater than or equal to 85 on the County's *Land Evaluation and Site Assessment System* and;
 - (c) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as on January 1, 1998.
 - (2) LOTS that meet both of the following criteria may not exceed an average maximum LOT AREA of two acres:
 - (a) The LOT is located within a Rural Residential Overlay district; and
 - (b) The LOT has a Land Evaluation score greater than or equal to 85 on the County's *Land Evaluation and Site Assessment System*.

- (3) The following LOTS are exempt from the three-acre maximum LOT AREA requirement indicated in Paragraph A:
 - (a) A 'Remainder Area Lot.' A 'Remainder Area Lot' is that portion of a tract which existed as of January 1, 1998 and that is located outside of the boundaries of a RRO exempt LOT less than 35 acres in LOT AREA. No construction or use that requires a Zoning Use Permit shall be permitted on a 'Remainder Area Lot.'
 - (b) Any LOT greater than or equal to 35 acres in LOT AREA.
- C. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
 - (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - (a) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - (b) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - (c) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - (d) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - (e) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
 - (2) Subsection 6.1.3 establishes standard conditions for a Water Treatment Plant and they are as follows:
 - (a) Minimum LOT Size of 5 acres
 - (b) Front setback from the street centerline of 100 feet
 - (c) Side yard of 50 feet

- (d) Rear yard of 50 feet
 - (e) Minimum of a 6 feet high wire mesh fencing
- D. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
 - (2) "AREA, LOT" is the total area within the LOT LINES.
 - (3) "BEST PRIME FARMLAND" is 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.
 - ~~(3)~~(4) "FRONT YARD" as an a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINE each abut a STREET RIGHT OF WAY both such YARDS shall be classified as front yards (capitalized words are defined in the Ordinance).
 - ~~(4)~~(5) "GRADE" is the average of the elevations o the surface of the ground measured at all corners of a BUILDING.
 - ~~(5)~~(6) "HEIGHT" As applied to an Enclosed or Unenclosed STRUCTURE: STRUCTURE, DETACHED: The vertical measurement from the average level of the surface of the ground immediately surrounding such STRUCTURE to the uppermost portion of such STRUCTURE.
 - ~~(6)~~(7) "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.
 - ~~(7)~~(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.
 - ~~(8)~~(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) “LOT LINES” The line bounding a LOT.

(9)(11) “REAR YARD” 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 (capitalized words are defined in the Ordinance).

(12) “SIDE YARD” 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.

(10)(13) “STRUCTURE” as anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS (capitalized words are defined in the Ordinance).

(11)(14) “SETBACK LINE” as the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY LINE (capitalized words are defined in the Ordinance).

(12)(15) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.

(13)(16) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.

(17) “WELL SUITED OVERALL” is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be WELL SUITED OVERALL if the site meets these criteria:

a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative affects on neighbors or the general public; and

b. The site is reasonably well-suited in all respects and has no major defects.

(14)(18) “YARD” as an OPEN SPACE, other than a COURT, of uniform width or depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of

the ground upward except as may be specifically provided by the regulations and standards herein (capitalized words are defined in the Ordinance).

~~(15)~~(19)“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.

D. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:

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

- E. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.
- F. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
 - (a) that the waiver is in accordance with the general purpose and intent of the ordinance; and
 - (b) that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
 - (a) Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
 - (b) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
 - (c) The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
 - (3) Including findings based on all of the criteria that are required for a VARIANCE for any waiver of a standard condition will eliminate any concern related to the adequacy of the required findings for a waiver of a standard condition and will still provide the efficiency of not requiring a public hearing for a VARIANCE, which was the original reason for adding waivers of standard conditions to the Ordinance.
- G. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from

the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:

- (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2. The requested variances are as follows:
- (a) The expansion of a nonconforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1 H.
 - (b) The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12.
 - ~~(c) Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 18 feet in lieu of the required 30 feet; a side yard of 40 feet in lieu of the required 50 feet; and a rear yard of 22 feet in lieu of the required 50 feet.~~
 - (c) Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55 feet; and a side yard of 46 feet in lieu of the required 50 feet.
 - (d) Waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet.
- H. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioner has testified on the application, **“Location of groundwater wells and associated piping.”**
 - B. The existing water treatment plant (consisting of the existing treatment plant and District office and the elevated water storage tank) was established prior to the adoption of the Champaign County Zoning Ordinance.
 - C. Regarding Part B of the Special Use Permit:
 - (1) The elevated water storage tank is non-conforming and existed prior to zoning.
 - (2) The petitioner plans to continue to use the elevated water storage tank for the foreseeable future and replace it if damaged or destroyed.
 - D. Regarding Part A of the Special Use Permit:
 - (1) At the June 28, 2012, public hearing Kerry Gifford, General Manager, Sangamon Valley Public Water District, testified that the district serves approximately 1,560 water customers and 1,460 sewer customers.
 - (2) At the June 28, 2012, public hearing Mike Buzicky, Engineer for Sodemann and Associates, testified as follows:
 - (a) This is a unique area where two public water districts overlap one another.
 - (b) The water district is in extreme need of the addition to the water plant and they are almost landlocked by residential areas and the area to the north (meaning the area proposed for expansion) is the only land available for the addition.
 - (3) The only other available area is being utilized as an easement for Ameren therefore, the only option is to expand to the north (meaning the area proposed for expansion).

GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioner has testified on the application, **“New water plant will be a green building designed by Sodemann & Associates and Smart Energy Design Assistant Center located at the University of Illinois.”**

- B. Regarding surface drainage:
- (1) The subject property is not located in a drainage district.
 - (2) LIDAR imaging indicates that there is little topographic change on the subject property and the surrounding area. Drainage from the subject property appears to flow to the south of the subject property.
- C. The subject property is primarily accessed by easement from Prairieview Road in the ~~northeast~~ southeast corner of the property. Regarding the general traffic conditions on Prairieview Road at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (1) The Illinois Department of Transportation (IDOT) measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). The volume on Prairieview Road is 3,000 AADT.
 - (2) No significant increase in traffic is anticipated.
 - (3) The Township Highway Commissioner and County Engineer have been notified of these cases and no comments have been received at this time.
- D. Regarding fire protection of the subject property, the subject property is within the protection area of the Cornbelt Fire Protection District. The Fire Protection District Chief has been notified of this request no comments have been received at this time.
- E. The subject property is not located within a Special Flood Hazard Area.
- F. Regarding outdoor lighting on the subject property, ~~outdoor lighting is not indicated on the site plan~~ the revised site plan received August 16, 2012, indicates the following:
- (1) The Sangamon Valley Public Water District utilizes two overhead pole mounted lighting units located along the existing access road, one at the entrance at Prairieview Road and one at the plant gate. The locations of these overhead lights are indicated on the site plan.
 - (2) The new water plant will utilize a lighting system conforming to the Champaign County lighting regulations.
- G. Regarding wastewater treatment and disposal on the subject property, the subject property is connected to a sanitary sewer system.
- H. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:

REVISED

- (a) The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
- (b) The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
- (c) The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
- (d) Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
- (e) Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
- (f) The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required. ~~There is no information regarding the cost of the pole barn that is used to house the farm dinners in inclement weather, so it is unclear if that will trigger the requirements of the IEBA.~~
- (g) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
- (h) The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.

- (i) When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
 - (j) Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.
- (2) Illinois Public Act 96-704 requires that in a non-building code jurisdiction no person shall occupy a newly constructed commercial building until a qualified individual certifies that the building meets compliance with the building codes adopted by the Board for non-building code jurisdictions based on the following:
- (a) The 2006 or later editions of the following codes developed by the International Code Council:
 - i.* International Building Code;
 - ii.* International Existing Building Code; and
 - iii.* International Property Maintenance Code
 - (b) The 2008 or later edition of the National Electrical Code NFPA 70.
- I. Regarding the *Zoning Ordinance* requirement that the waivers (variances) of standard conditions of the Special Use will not be injurious to the district:
- (1) There is no evidence to suggest that the requested waivers (variances) of the standard conditions will be injurious to the district for the following reasons:
 - (a) Traffic to and from the subject property should not increase;
 - (b) There are no drainage issues that would result from this;
 - (c) The proposed use is an urban use and allowed by Special Use Permit in the AG-2 Agriculture Zoning District;
 - (d) Strictly applying the minimum lot size of 5 acres would require more best prime farmland to be converted from agricultural use;
- J. Regarding Part B of the Special Use Permit:
- (1) The nearest dwelling is approximately 45 feet from the base of the elevated water storage tank.

J.K. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
 - A. The Petitioner has testified on the application, “Yes.”
 - B. Regarding the requirement that the Special Use preserve the essential character of the AG-2 Agriculture Zoning District, the proposed use is allowed in the AG-2 Agriculture Zoning District.
 - C. Regarding compliance with the *Zoning Ordinance*:
 - (1) Water Treatment Plants are authorized only by Special Use Permit in the AG-2, I-1, or I-2 Zoning District.
 - (2) Regarding parking on the subject property:
 - (a) Section 7.4.1 D.1. requires one parking space to be provided for each three employees based upon the maximum number of persons employed during one work period during the day or night, plus one space for each VEHICLE used in the conduct of such USE. A minimum of one additional space shall be designated as a visitor PARKING SPACE.
 - (b) Section 7.4.1 D.2. requires that all parking spaces be surfaced with an all-weather dustless material.
 - (c) Required Parking SCREENS for industrial USES shall be provided as required in paragraph 7.4.1 C.4.
 - (d) Paragraph 7.4.1 C.4. requires that SCREENING be provided as follows:
 - i. Parking areas for more than four vehicles of no more than 8,000 pounds gross vehicle weight each, excluding any vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a

DWELLING conforming as to USE shall be screened with a Type A SCREEN except that a Type B SCREEN may be erected along the rear LOT LINE of the business PROPERTY.

- ii. Parking areas for any number of vehicles exceeding 8,000 pounds in gross vehicle weight each or any number of vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type D SCREEN.
- (d) The site plan received on ~~June 12, 2012,~~ August 16, 2012, indicates that there will be a total of ~~6~~ 15 parking spaces, including a 2 handicap accessible spaces located ~~outside of the proposed water treatment plant~~ on the subject property. Screening has ~~not~~ been indicated on the site plan as a landscaped berm and an 8 feet in height opaque fence along the east property line. There are some trees located in the southwest corner of the subject property that could provide screening.
 - ~~(e) The site plan received June 12, 2012, indicates that there are nine existing parking spaces located near the existing water treatment plant.~~
- (3) Regarding loading berths on the subject property:
 - (a) The total building area on the property is approximately 5,760 square feet. Paragraph 7.4.2 C.5. requires buildings with an area of 1-9,999 square feet to provide one 12'x40' loading berth.
 - (b) Section 7.4.2 D.2. Requires that no such BERTH shall be located within any YARD abutting a residential DISTRICT or located less than 100 feet from the BUILDING RESTRICTION LINE of any LOT in an R DISTRICT or any lot containing a DWELLING conforming as to USE unless such BERTH is screened from public view by a Type D SCREEN (8 feet in height and opaque).
 - (b) ~~No loading berth or screening has been indicated on the site plan but~~ The site plan received August 16, 2012, indicates that a 15' x 40' loading berth will be located next to the proposed treatment plant. The existing water treatment plant has received deliveries since 1973 so there is an unloading area on the property. There are some trees located in the southwest corner of the subject property that could provide screening.

- D. Regarding compliance with the *Stormwater Management Policy*:
- (1) The proposed Special Use is exempt from the *Stormwater Management Policy* because of the ~~small amount of impervious area~~ the proposed impervious area is less than one acre in area.
- E. Regarding the Special Flood Hazard Areas Ordinance:
- (1) The subject property is not located in the Special Flood Hazard Area.
- F. Regarding Subdivision Jurisdiction and Regulations:
- (1) The subject property is located in the Village of Mahomet subdivision jurisdiction.
 - (2) An unauthorized .80 acre lot west of the original property was purchased and created in November 1999 that is not in compliance with section 13.2.1 of the *Zoning Ordinance*.
 - (3) The proposed lot for the expansion will also require subdivision approval.
 - (4) A special condition is proposed that will ensure compliance with the Village of Mahomet subdivision regulations apply.
- G. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.
- H. The petitioner has requested waivers (variances) of the standard conditions for a Water Treatment Plant regarding the following conditions:
- (1) Waiver (variance) for a non-conforming elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet. The elevated water storage tank is also the subject of Part B of Case 718-S-12.
 - ~~(2) Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 18 feet in lieu of the required 55 feet; a side yard of 40 feet in lieu of the required 50 feet; and a rear yard of 22 feet in lieu of the required 50 feet. The maximum lot area of 3 acres on best prime farmland is also applicable.~~
 - (2) Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55 feet; and a side yard of 46 feet in lieu of the required 50 feet.

- I. In addition to the requested waivers (variance) of standard conditions the petitioner has requested the following variance:
- (1) The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District as required by Footnote 13 to Section 5.3 for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12.
 - (2) The expansion of a nonconforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1 H.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
- A. A Water Treatment Plant may be authorized in the AG-2, I-1, or I-2 Zoning Districts as a Special Use provided all other zoning requirements and standard conditions are met or waived.
 - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.1 of the Ordinance states the general intent of the AG-2 District and states as follows (capitalized words are defined in the Ordinance):

The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominantly vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.
 - (2) The types of uses authorized in the AG-2 District are in fact the types of uses that have been determined to be acceptable in the AG-2 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
 - (3) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
 - (a) This purpose is directly related to the minimum yard requirements in the Ordinance and the proposed site plan appears to not be in compliance with

those requirements. However waivers are required if standard conditions are not met.

- (4) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
 - (a) In regards to the value of nearby properties, it is unclear what impact the proposed SUP will have on the value of nearby properties.
- (5) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.
 - (a) Traffic resulting from the proposed use will be minimal.
- (6) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.

The requested Special Use Permit is exempt from the requirements of the *Champaign County Stormwater Management Policy* and is outside of the Special Flood Hazard Area and there are no special drainage problems that appear to be created by the Special Use Permit.

- (7) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
 - (a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
 - (b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (8) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to not be in compliance with some, but not all of those limits.

- (9) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions.

- (10) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

The proposed special conditions should ensure that the proposed Special Use will comply with all relevant regulations.

- (11) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The subject property is located in the AG-2 Agriculture District and is, by definition, an urban use that may be authorized by Special Use.

- (12) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

The subject property does not contain any natural features and there are no natural features in the vicinity of the subject property.

- (13) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The subject property is located in the AG-2 Agriculture District and is adjacent to the Village of Mahomet and is, by definition, an urban use that may be authorized by Special Use.

- (14) Paragraph 2.0 (q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.

The subject property is located in an area where agriculture still exists.

- (15) Paragraph 2.0 (r) of the Ordinance states that one purpose of the Ordinance is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed use in this case is not related to this purpose.

- D. Regarding the *Zoning Ordinance* requirement that the waivers (variances) of standard conditions of the Special Use will be in harmony with the general purpose and intent of the ordinance:

- (1) There is no evidence to suggest that the requested waivers (variances) of the standard conditions will not be in harmony with the general purpose and intent of the ordinance for the following reasons:
- (a) Traffic increase will be minimal, if any.
 - (b) The *Zoning Ordinance* allows this use as a Special Use in the AG-2 Agriculture Zoning District.
 - (c) The nearest dwelling is approximately 900 60 feet from the existing side property line.
 - ~~(d) The nearest dwelling is approximately 60 feet away from the existing rear property line.~~
 - (d) The nearest dwelling is approximately 45 feet from the base of the elevated water storage tank.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. Regarding whether the proposed Special Use Permit is an existing nonconforming use.
- A. The Petitioner has testified on the application, “Yes.”
 - B. The existing water treatment plant existed prior to zoning in Champaign County and is visible in aerial photos from 1973.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES FOR A VARIANCE

12. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. Minimum setbacks from the centerline of a street, minimum front yards, minimum side yards, minimum rear yards, and maximum lot size in the AG-2 District are established in Section 5.3 and Subsection 4.3.2 of the *Zoning Ordinance* as follows:
- (1) The minimum setback from a collector street is listed in Section 5.3 and Subsection 4.3.2 as 75 feet.
 - (2) The minimum front yard in regards to a collector street is listed in Footnote 3 of Section 5.3 and Subsection 4.3.2 as 30 feet.
 - (3) The minimum side yard is listed in Section 5.3 as 10 feet.
 - (4) The minimum rear yard is listed in Section 5.3 as 20 feet.
 - (5) The maximum lot area on best prime farmland is three acres as listed in Footnote 13 of Section 5.3.
- B. Subsection 6.1.3 establishes standard conditions for a Water Treatment Plant and they are as follows:
- (1) Minimum LOT Size of 5 acres.
 - (2) Front setback from the street centerline of 100 feet (implies a 55 feet front yard).
 - (3) Side yard of 50 feet.
 - (4) Rear yard of 50 feet.
 - (5) Minimum of a 6 feet high wire mesh fencing.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT (VARIANCE)

13. Generally regarding the *Zoning Ordinance* requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“This parcel is adjacent to existing SVPWD property and can thus serve as additional site property to existing facilities.”**
- B. Regarding Part B of the Variance, the variance of maximum lot size:
- (1) The land is best prime farmland and consists of primarily of Catlin silt loam that has a Land Evaluation Score of 87 and Drummer silty clay soil that has a Land Evaluation score of 98 and the average Land Evaluation score is approximately 87.

- (2) The existing water treatment plant existed prior to zoning in Champaign County and is visible in aerial photos from 1973.
 - (3) The Zoning Ordinance requires as a standard condition for a water treatment plant a minimum lot area of 5 acres.
 - (4) The lot with the existing treatment plant is .70 acre in area. The expansion will add an additional 2.73 acres to the lot.
- C. Regarding Part A of the Variance, the variance from access requirements of Zoning Ordinance paragraph 4.2.1 H:
- (1) The existing water treatment plant existed prior to zoning in Champaign County and is visible in aerial photos from 1973.
 - (2) There is existing development to the north and south of the existing easement and it is not known if this easement could be converted to become part of the subject property.
- D. Regarding the waivers (variances) of standard conditions for a side yard of 40- 46 feet in lieu of 50 feet for the existing accessory building; and a rear yard of 22 feet in lieu of 50 feet:
- ~~(1) The proposed 56,000 gallon ground storage tank will have a side yard of 40 feet in lieu of the required 50 feet.~~
 - ~~(2) The proposed backwash tank will have a rear yard of 22 feet in lieu of the required 50 feet.~~
 - (1) The 13' × 16' building that does not meet the standard condition for a 50 feet side yard existed prior to the adoption of zoning in Champaign County.
 - ~~(3)~~(2) The nearest dwelling is approximately 900 60 feet from the existing side property line and is approximately 110 feet from the existing 13' × 16' building.
 - ~~(4) The nearest dwelling is approximately 60 feet away from the existing rear property line.~~
- E. Regarding the waivers (variances) of standard conditions for a front yard of 17 feet in lieu of the minimum required 55 feet for the elevated water storage tank:
- (1) The elevated water storage tank is more than 100 feet from the centerline of Prairieview Road, but it does not meet the minimum front yard requirement of 55 feet.
 - (2) The nearest dwelling is approximately 45 feet from the base of the elevated water storage tank.

- (3) The elevated water storage tank is non-conforming and existed prior to zoning. ~~The petitioner plans to continue to use the elevated water storage tank for the foreseeable future and replace it if damaged or destroyed.~~
 - (4) The petitioner plans to continue to use the elevated water storage tank for the foreseeable future and replace it if damaged or destroyed.
- F. Regarding the waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet:
- (1) The water tower is 131 feet tall and is non-conforming.
 - (2) The elevated water storage tank is non-conforming and existed prior to zoning. ~~The petitioner plans to continue to use the elevated water storage tank for the foreseeable future and replace it if damaged or destroyed.~~
 - (3) The petitioner plans to continue to use the elevated water storage tank for the foreseeable future and replace it if damaged or destroyed.

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

14. 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, **“SVPWD needs to provide public drinking water with adequate facilities, chemical access, testing, and operations on a common site with safety fencing and gates. A separate access to proposed additional land inhibits common access and security.”**
 - B. Regarding Part B of the Variance, the variance of maximum lot size:
 - (1) It is not clear why the proposed site plan goes to the north side of Middletown Drive rather than the south side. If the proposed site plan only went to the south side of Middletown Drive this variance would not be required.
 - (2) The standard condition for minimum lot size for a water treatment plant is 5 acres which is approximately 1.4 acre more than what the petitioner has proposed.
 - (3) If the proposed lot size complied with the maximum lot size then a larger waiver would be required from the minimum lot size for a water treatment plant.
 - C. Regarding Part A of the Variance, the variance from access requirements of Zoning Ordinance paragraph 4.2.1 H:
 - (1) The existing water treatment plant existed prior to zoning in Champaign County and is visible in aerial photos from 1973.

- (2) There is existing development to the north and south of the existing easement and it is not known if this easement could be converted to become part of the subject property.
- D. Regarding the waivers (variances) of standard conditions for a side yard of 40 46 feet in lieu of 50 feet for the existing accessory building; and a rear yard of 22 feet in lieu of 50 feet:
- ~~(1) The proposed 56,000 gallon ground storage tank will have a side yard of 40 feet in lieu of the required 50 feet.~~
- ~~(2) The proposed backwash tank will have a rear yard of 22 feet in lieu of the required 50 feet.~~
- (1) The 13' × 16' accessory building that does not meet the standard condition for a 50 foot side yard existed prior to the adoption of zoning in Champaign County.
- ~~(3)(2) The nearest dwelling is approximately 900 60 feet from the existing side property line and is approximately 110 feet from the existing 13' × 16' accessory building.~~
- ~~(4) The nearest dwelling is approximately 60 feet away from the existing rear property line.~~
- E. Regarding the waivers (variances) of standard conditions for a front yard of 17 feet in lieu of the minimum required 55 feet for the elevated water storage tank:
- (1) The water tower is more than 100 feet from the centerline of Prairieview Road, but it does not meet the minimum front yard requirement of 55 feet.
- (2) The water tower is non-conforming and was constructed prior to zoning.
- (3) The nearest dwelling is approximately 45 feet from the base of the elevated water storage tank.
- (4) The petitioner plans to continue to use the elevated water storage tank for the foreseeable future and replace it if damaged or destroyed.
- F. Regarding the waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet:
- (1) The water tower is 131 feet tall.
- (2) The water tower is non-conforming and existed prior to zoning.

- (3) The nearest dwelling is approximately 45 feet from the base of the elevated water storage tank.
- (4) The petitioner plans to continue to use the elevated water storage tank for the foreseeable future and replace it if damaged or destroyed.

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

15. 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, **“No, SVPWD simply needs additional land to provide public drinking water to a growing service area. The small parcel size needed create the access condition.”**
 - B. Regarding Part B of the Variance, the variance of maximum lot size:
 - (1) The land is best prime farmland and consists of primarily of Catlin silt loam that has a Land Evaluation Score of 87 and Drummer silty clay soil that has a Land Evaluation score of 98 and the average Land Evaluation score is approximately 87.
 - (2) The Zoning Ordinance requires as a standard condition for a water treatment plant a minimum lot area of 5 acres.
 - (3) The petitioner has proposed a lot area closer to the maximum lot size of 3 acres than the minimum standard condition lot area of 5 acres.
 - C. Regarding Part A of the Variance, the variance from access requirements of Zoning Ordinance paragraph 4.2.1 H:
 - (1) The existing water treatment plant existed prior to zoning in Champaign County and is visible in aerial photos from 1973.
 - (2) There is existing development to the north and south of the existing easement and it is not known if this easement could be converted to become part of the subject property.
 - D. Regarding the waivers (variances) of standard conditions for a side yard of 40- 46 feet in lieu of 50 feet for the existing accessory building; ~~and a rear yard of 22 feet in lieu of 50 feet~~:
 - (1) ~~The proposed 56,000 gallon ground storage tank will have a side yard of 40 feet in lieu of the required 50 feet.~~
 - (2) ~~The proposed backwash tank will have a rear yard of 22 feet in lieu of the required 50 feet.~~

- (1) The 13' × 16' accessory building that does not meet the standard condition for a 50 foot side yard existed prior to the adoption of zoning in Champaign County.
 - ~~(3)~~(2) The nearest dwelling is approximately 900 60 feet from the existing side property line and is approximately 110 feet from the existing 13' × 16' accessory building.
 - ~~(4)~~—The nearest dwelling is approximately 60 feet away from the existing rear property line.
- E. Regarding the waivers (variances) of standard conditions for a front yard of 17 feet in lieu of the minimum required 55 feet for the elevated water storage tank:
- (1) The water tower is more than 100 feet from the centerline of Prairieview Road, but it does not meet the minimum front yard requirement of 55 feet.
 - (2) The water tower is non-conforming and was constructed prior to zoning.
 - ~~(3)~~—The nearest dwelling is approximately 45 feet from the base of the elevated water storage tank.
- F. Regarding the waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet:
- (1) The water tower is 131 feet tall.
 - (2) The water tower is non-conforming and existed prior to zoning.
 - ~~(3)~~—The nearest dwelling is approximately 45 feet from the base of the elevated water storage tank.

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

16. 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, **“The requested variance will continue to allow a public utility to operate on a common site with adequate access, required chemical shipping, storage, and access, and a secure site perimeter.”**
 - B. Regarding Part B of the Variance, the variance of maximum lot size:
 - (1) The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773. The maximum lot size requirement makes no provision for special use permits that may require an area greater than 3 acres.
 - (2) The proposed lot area of 3.6 acres is 120% of the required 3 acre maximum for a variance of 20% but is only 72% of the required 5 acres by the standard conditions.

- C. Regarding Part A of the Variance, the variance from access requirements of Zoning Ordinance paragraph 4.2.1 H:
- (1) The requested variance is a 100% variance.
 - (2) The land is best prime farmland and consists of primarily of Catlin silt loam that has a Land Evaluation Score of 87 and Drummer silty clay soil that has a Land Evaluation score of 98 and the average Land Evaluation score is approximately 87.
 - (3) The existing water treatment plant existed prior to zoning in Champaign County and is visible in aerial photos from 1973.
- D. Regarding the waivers (variances) of standard conditions for a side yard of 40 ~~46~~ feet in lieu of 50 feet for the existing accessory building; and a rear yard of 22 feet in lieu of 50 feet:
- (1) The requested waiver (variance) for a side yard of 40 ~~46~~ feet is ~~80%~~ 92% of minimum required 50 feet for a variance of ~~10~~ 4 feet.
 - (2) ~~The requested waiver (variance) for a rear yard of 22 feet is 44% of minimum required 50 feet for a variance of 33 feet.~~
 - (2) The nearest dwelling is approximately 60 feet from the existing side property line and is approximately 110 feet from the existing 13' × 16' building.
- E. Regarding the waivers (variances) of standard conditions for a front yard of 17 feet in lieu of the minimum required 55 feet for the elevated water storage tank:
- (1) The requested waiver (variance) for a front yard of ~~18~~ 17 feet is ~~33%~~ 30% of the minimum required 55 feet for a variance of ~~37~~ 38 feet.
 - (2) The elevated water storage tank is non-conforming and existed prior to zoning.
 - (3) The petitioner plans to continue to use the elevated water storage tank for the foreseeable future and replace it if damaged or destroyed.
- F. Regarding the waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet:
- (1) The requested waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet is 262% of the maximum for a variance of 162%.
 - (2) The elevated water storage tank is non-conforming and existed prior to zoning.
 - (3) The petitioner plans to continue to use the elevated water storage tank for the foreseeable future and replace it if damaged or destroyed.

G. The requested variance is not prohibited by the *Zoning Ordinance*.

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

17. 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, **“By using the existing private access way, security will be better monitored and controlled. Existing fire hydrants will serve the proposed parcel. Variance will allow owner not to construct access from other residential subdivisions and local traffic.”**

~~C.B.~~ The Township Road Commissioner and County Engineer have received notice of this variance but no comments have been received.

~~D.C.~~ The Fire Protection District has been notified of this variance but no comments have been received.

~~D.~~ Regarding Part A of the Special Use Permit:

~~(1) At the June 28, 2012, public hearing Kerry Gifford, General Manager, Sangamon Valley Public Water District, testified that the district serves approximately 1,560 water customers and 1,460 sewer customers.~~

~~(2) At the June 28, 2012, public hearing Mike Buzicky, Engineer for Sodemann and Associates, testified as follows:~~

~~(a) This is a unique area where two public water districts overlap one another.~~

~~(b) The water district is in extreme need of the addition to the water plant and they are almost landlocked by residential areas and the area to the north (meaning the area proposed for expansion) is the only land available for the addition.~~

~~(3) The only other available area is being utilized as an easement for Ameren therefore, the only option is to expand to the north (meaning the area proposed for expansion).~~

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL (VARIANCE)

18. Regarding proposed special conditions of approval:

A. Regarding Compliance with the Village of Mahomet Subdivision Regulations:

- (1) Documentation of an application for subdivision approval with the Village of Mahomet shall be required to be submitted with any Zoning Use Permit Application for the proposed water treatment plant.**
- (2) The Zoning Administrator shall not approve a Zoning Use Permit for the proposed water treatment plant until the Village of Mahomet Administrator has certified in writing that the Sangamon Valley Public Water District has substantially complied with the Village of Mahomet requirements for subdivision approval.**

The special conditions stated above are to ensure the following:

That the petitioner complies with the requirements of the Illinois Plat Act, Section 13 of the Champaign County Zoning Ordinance, and the Village of Mahomet subdivision regulations.

DOCUMENTS OF RECORD

1. Petition for Zoning Map Amendment signed by Kerry Gifford (General Manager, SVPWD) received on June 1, 2012, with attachments:
 - A Legal Descriptions
 - B Site Plan
2. Special Use Permit Application signed by Kerry Gifford (General Manager, SVPWD) received June 1, 2012
3. Letter from Michael L. Antoline (Attorney for SVPWD) to Bud Parkhill received June 4, 2012 with attachments:
 - A 765 ILCS 205/1
 - B 220 ILCS 5/3-105
 - C Notes of Decisions
 - D Citing References
 - E 1996 Illinois Attorney General Opinion 024
4. Revised Site Plan received June 12, 2012
5. Village of Mahomet materials submitted by Bob Mahrt on June 14, 2012
- ~~5.6.~~ Letter from Michael L. Antoline (Attorney for SVPWD) to David DeThorne (Champaign County Assistant State's Attorney) received June 18, 2012
- ~~6.7.~~ Variance Application signed by Kerry Gifford (General Manager, SVPWD) with attachments:
 - A Letter from Sodemann and Associates, Inc dated June 15, 2012
 - B Legal Description
 - C Site Plan
- ~~7.8.~~ Champaign County Land Resource Management Plan (LRMP) Goals, Objectives, and Policies
- ~~8.9.~~ Champaign County Land Resource Management Plan (LRMP) Appendix
- ~~9.10.~~ Site Plan from Case 463-AM-82
- ~~10.11.~~ Preliminary Memorandum for Case 717-AM-12 dated June 22, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received June 12, 2012
 - C Site Plan received June 19, 2012
 - D Site Plan from Case 463-AM-82
 - E LRMP Land Use Goals, Objectives, and Policies & Appendix
 - F Section 13 of the Champaign County Zoning Ordinance
 - G Draft Finding of Fact and Final Determination

- ~~11.12.~~ Preliminary Memorandum for Cases 718-S-12 and 719-V-12 dated June 22, 2012
- 13. Revised Site Plan received August 16, 2012
- 14. Letter from Webber and Theis, P.C., received September 19, 2012
- 15. Supplemental Memorandum for Case 717-AM-12 dated September 21, 2012, with attachments:
 - A Letter from Webber and Theis, P.C., received September 19, 2012
 - B Excerpt of minutes from June 28, 2012, public hearing
 - C Revised Finding of Fact and Final Determination
- 16. Supplemental Memorandum for Cases 718-S-12 and 719-V-12 dated September 21, 2012, with attachments:
 - A Revised Site Plan received August 16, 2012
 - B Excerpt of minutes from June 28, 2012, public hearing
 - C Revised Summary of Evidence, Finding of Fact, and Final Determination

FINDINGS OF FACT: CASE 718-S-12

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 718-S-12 held on **June 28, 2012, and September 27, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN {IS / IS NOT}}* necessary for the public convenience at this location because:

2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
 - b. Emergency services availability is *{ADEQUATE / INADEQUATE} {because*}*:

 - e. ~~The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.~~
 - d.c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*:

 - e.d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE} {because*}*:

 - f.e. Public safety will be *{ADEQUATE / INADEQUATE} {because*}*:

 - h.f. The provisions for parking will be *{ADEQUATE / INADEQUATE} {because*}*:

And except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall also apply:

- g. The property in BEST PRIME FARMLAND and the property with the proposed improvements *{IS / IS NOT}* WELL SUITED OVERALL.

- h. The existing public services **{ARE / ARE NOT}** available to support the proposed special use effectively and safely without undue public expense.
- i. The only existing public infrastructure together with proposed improvements **{IS/ IS NOT}** adequate to support the proposed development effectively and safely without undue public expense.

Note the Board may include other relevant considerations as necessary or desirable in each case.)

*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}** conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}** preserve the essential character of the DISTRICT in which it is located because:
- The Special Use will be designed to **{CONFORM / NOT CONFORM}** to all relevant County ordinances and codes.
 - The Special Use **{WILL / WILL NOT}** be compatible with adjacent uses.
 - Public safety will be **{ADEQUATE / INADEQUATE}**.
4. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because:
- The Special Use is authorized in the District.
 - The requested Special Use Permit **{IS/ IS NOT}** necessary for the public convenience at this location.
 - The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}** is so designed, located, and proposed to be operated so that it **{WILL / WILL NOT}** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}** preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use **IS** an existing nonconforming use and the requested Special Use Permit **WILL** make the existing use more compatible with its surroundings
6. Regarding necessary waivers of standard conditions:
- Regarding the requested waiver of the standard condition in Section 6.1.3 for a communications tower water treatment plant for a ~~setback from the centerline of CR~~

1200E of 70 feet instead a lot size of 3.6 acres in lieu of the Standard Condition setback from street centerline of 100 feet of 5 feet:

- (1) The waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare. *{Because*}*:
- (2) Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district. *{Because*}*:
- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction. *{Because*}*:
- (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because*}*:
- (5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure. *{Because*}*:

E. Regarding the requested waiver of the standard condition in Section 6.1.3 for a ~~communications tower~~ water treatment plant for a ~~rear~~ front yard of ~~40~~ 17 feet ~~instead in lieu of the Standard Condition side front yard of 50~~ 55 feet for the elevated water storage tank:

- (1) The waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare. *{Because*}*:
- (2) Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district. *{Because*}*:
- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction. *{Because*}*:
- (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because*}*:

- (5) The requested waiver ***{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure. ***{Because*}***:
- F. Regarding the requested waiver of the standard condition in Section 6.1.3 for a water treatment plant for a side yard of 46 feet in lieu of the Standard Condition side yard of 50 feet for the existing accessory building:
- (1) The waiver ***{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}*** in accordance with the general purpose and intent of the Zoning Ordinance and ***{WILL / WILL NOT}*** be injurious to the neighborhood or to the public health, safety, and welfare. ***{Because*}***:
- (2) Special conditions and circumstances ***{DO / DO NOT}*** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district. ***{Because*}***:
- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied ***{WILL / WILL NOT}*** prevent reasonable or otherwise permitted use of the land or structure or construction. ***{Because*}***:
- (4) The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant. ***{Because*}***:
- (5) The requested waiver ***{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure. ***{Because*}***:
- G. Regarding the requested waiver of the standard condition in Section 6.1.3 for a water treatment plant for an elevated water storage tank that is 131 feet in height in lieu of the Standard Condition of 50 feet:
- (1) The waiver ***{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}*** in accordance with the general purpose and intent of the Zoning Ordinance and ***{WILL / WILL NOT}*** be injurious to the neighborhood or to the public health, safety, and welfare. ***{Because*}***:
- (2) Special conditions and circumstances ***{DO / DO NOT}*** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district. ***{Because*}***:
- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied ***{WILL / WILL NOT}*** prevent reasonable or otherwise permitted use of the land or structure or construction. ***{Because*}***:

(4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because*}*:

(5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure. *{Because*}*:

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW}***

*The Board may include additional justification if desired, but it is not required.

FINDINGS OF FACT: CASE 719-V-12

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 719-V-12 held on **June 28, 2012, and September 27, 2012,** 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 SPECIAL CONDITION IMPOSED}** **{IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because: _____

5. The requested variance **{SUBJECT TO THE SPECIAL CONDITION IMPOSED}** **{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 SPECIAL CONDITION IMPOSED}* *{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: CASE 718-S-12

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval of Section 9.1.11B. *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **718-S-12** is hereby *{GRANTED / GRANTED WITH SPECIAL CONDITIONS/DENIED}* to the petitioners **Sangamon Valley Public Water District and Parkhill Enterprises, LLC** to authorize:

Part A. Authorize the expansion and use of a non-conforming water treatment plant as a Special Use with waivers (variance) of standard conditions.

Part. B Authorize the replacement of a non-conforming water tower that is 131 feet in height as a Special Use with waivers (variance) of standard conditions.

{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:}

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

FINAL DETERMINATION: CASE 719-V-12

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

The Variance requested in Case 719-V-12 is hereby **{GRANTED / GRANTED WITH CONDITIONS/ DENIED}** to the petitioner **Sangamon Valley Public Water District and Parkhill Enterprises, LLC** to authorize:

Part A. The expansion of a nonconforming lot of record that does not abut and have access to a public street right of way and does not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1 H.

Part B. The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime farmland in the AG-2 District for the construction and use of a water treatment plant in related Special Use Permit Case 718-S-12.

Part C. Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the required 5 acres; a front yard of ~~18~~ 17 feet in lieu of the required 55 feet; a side yard of ~~40~~ 46 feet in lieu of the required 50 feet; and a rear yard of ~~22~~ feet in lieu of the required 50 feet.

Part D. Waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet.

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.

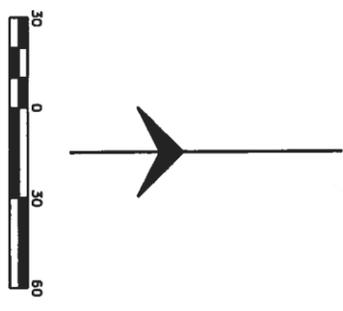
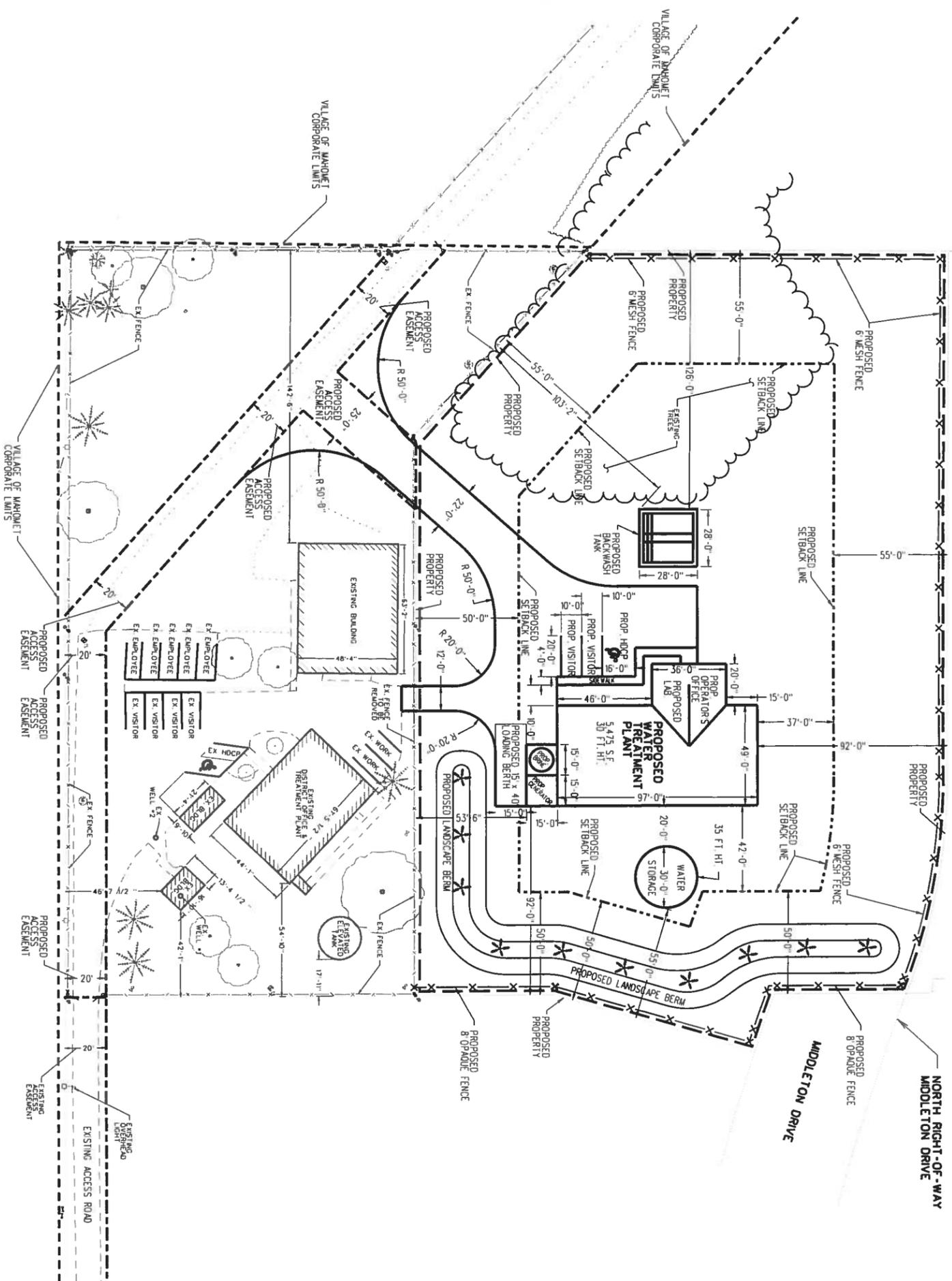
SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST: Secretary to the Zoning Board of Appeals

Date

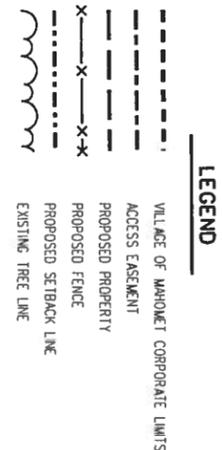
SANGAMON VALLEY PUBLIC WATER DISTRICT PROPOSED WATER TREATMENT PLANT REZONING PRELIMINARY SITE PLAN



NOTES

- 1) VILLAGE CORPORATE LIMITS, PROPOSED PROPERTY, AND PROPOSED FENCE, ARE OFFSET FROM THE ACTUAL PROPERTY LINE FOR CLARITY.
- 2) THE SANGAMON VALLEY PUBLIC WATER DISTRICT UTILIZES TWO OVERHEAD POLE MOUNTED LIGHTING UNITS (STREET LIGHTING), LOCATED ALONG THE EXISTING ACCESS ROAD, ONE AT THE ENTRANCE AT PRAMBE VIEW ROAD AND ONE AT THE PLANT GATE.
- 3) LIGHTING IN THE EXISTING WATER PLANT IS ACHIEVE THROUGH THE USE OF OUTSIDE WALL MOUNTED FIXTURES ON THE EXISTING BUILDINGS.
- 4) THE NEW WATER PLANT WILL UTILIZE A LIGHTING SYSTEM CONFORMING TO THE CHAMPAIGN COUNTY LIGHTING REGULATIONS.
- 5) PARKING IS PROVIDED PER THE FOLLOWING:

EXISTING:	FOUR (4) VISITOR PARKING SPACES
	ONE (1) HANDICAP PARKING SPACES
	FIVE (5) EMPLOYEE PARKING SPACES
	TWO (2) WORK VEHICLE PARKING SPACES
PROPOSED:	TWO (2) VISITOR PARKING SPACES (10x20')
	ONE (1) HANDICAP PARKING SPACES (16x20')



CHAMPAIGN CO. P & Z DEPARTMENT

RECEIVED
AUG 16 2012

Sodemann and Associates, Inc.
340 NORTH NEL STREET
POST OFFICE BOX 557
CHAMPAIGN, ILLINOIS 61824-0557
TEL 217 352-7688 FAX 217 352-7922
ENGINEERING / ANALYSIS / MANAGEMENT



CASE NO. 727-V-12

PRELIMINARY MEMORANDUM

September 21, 2012

Champaign
County
Department of

**PLANNING &
ZONING**

Petitioner: **Dale Masley**

Site Area: **.42 acre**

Time Schedule for Development:
Existing Construction

Request: **Variance in the AG-2 Agriculture Zoning District for a residential accessory building with a height of 17.5 feet in lieu of the maximum 15 feet in height.**

Location: **Lot 12 of Denhart's Second Subdivision in the Northwest Quarter of Section 13 of St. Joseph Township and commonly known as the dwelling at 1408 Peter Drive, St. Joseph.**

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

Prepared by: **Andy Kass**
Associate Planner

(217) 384-3708

John Hall
Zoning Administrator

BACKGROUND

This case is a result of staff discovering that the structure in question (a playhouse) was being constructed on the petitioner's property without an approved Zoning Use Permit Application (ZUPA). The petitioner was mailed a letter and application on January 23, 2012, and subsequently submitted a ZUPA. When staff reviewed the ZUPA it was then determined that the building exceeded the maximum height for an accessory structure on a lot less than one acre in area.

The petitioner used a weighted average to determine the average height of the playhouse, which is not the formula used by staff. The formula use by staff is to add the elevation of the ground to the eve and the elevation of the ground to the peak and then take the average (see the attached Annotated Building Elevation Plan). In this case the average height is the average of the highest and lowest heights on the northern part of the roof which averages to 17'4 $\frac{3}{4}$ ". Although the lowest eve height of the playhouse is not the northern eve, it was used because the north portion of the roof is what covers the majority of the playhouse (see Annotated Building Elevation Plan).

Construction of the playhouse is not complete, but the petitioner was allowed to make the structure weather tight. The only other building on the property is the petitioner's home which was authorized by Zoning Use Permit No. 271-79-03 and a subsequent addition to the home was authorized by Zoning Use Permit No. 298-95-03.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of St. Joseph. Municipalities do not have protest rights in variance cases and are not notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	AG-2 Agriculture
North	Agriculture	Village of St. Joseph
East	Agriculture	AG-2 Agriculture
West	Agriculture	AG-2 Agriculture
South	Residential	AG-2 Agriculture

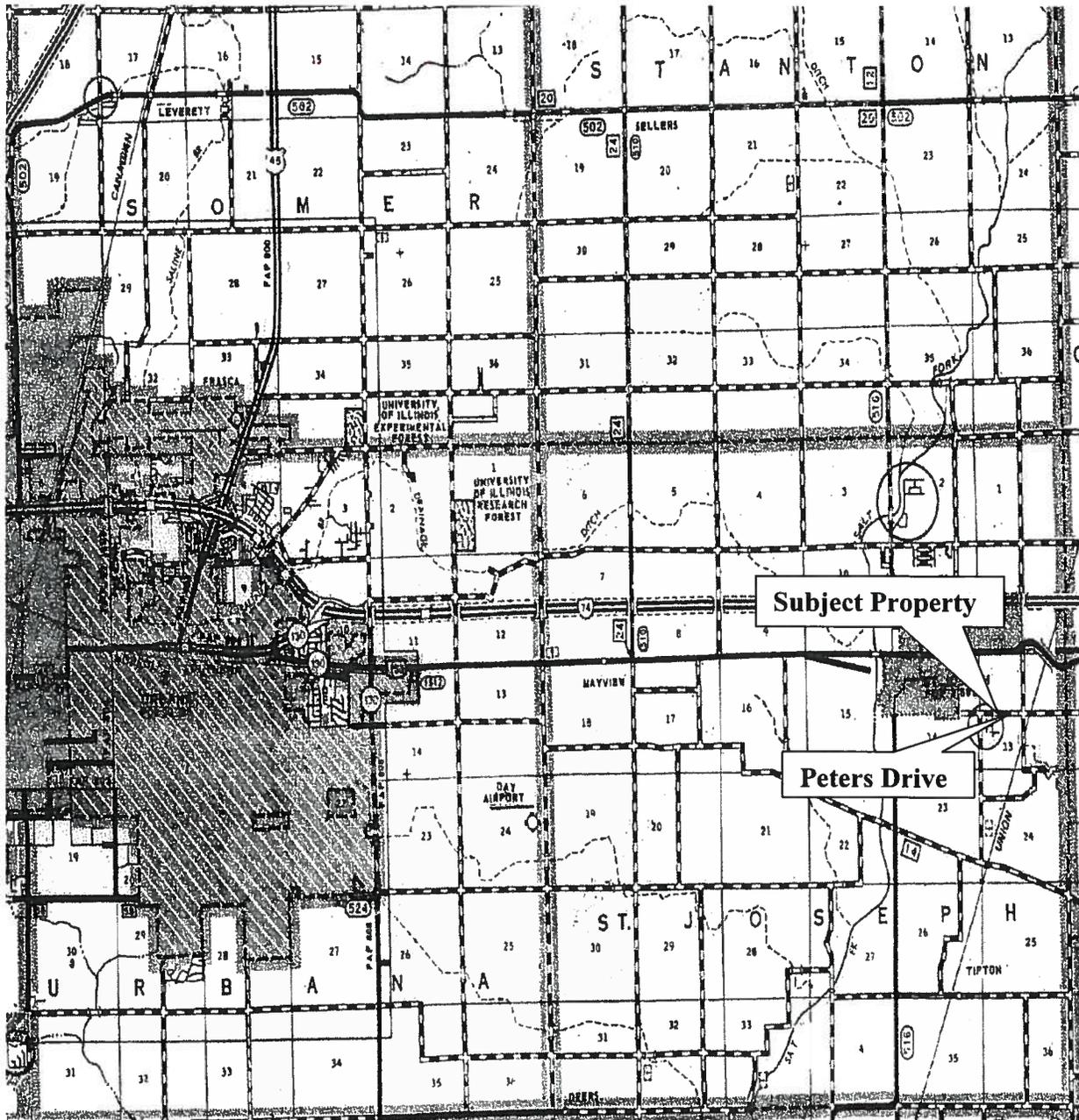
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Annotated Site Plan
- C Annotated Building Elevation Plan
- D Draft Summary of Evidence, Finding of Fact, and Final Determination (attached separately)

ATTACHMENT A. LOCATION MAP

Case 727-V-12

September 21, 2012



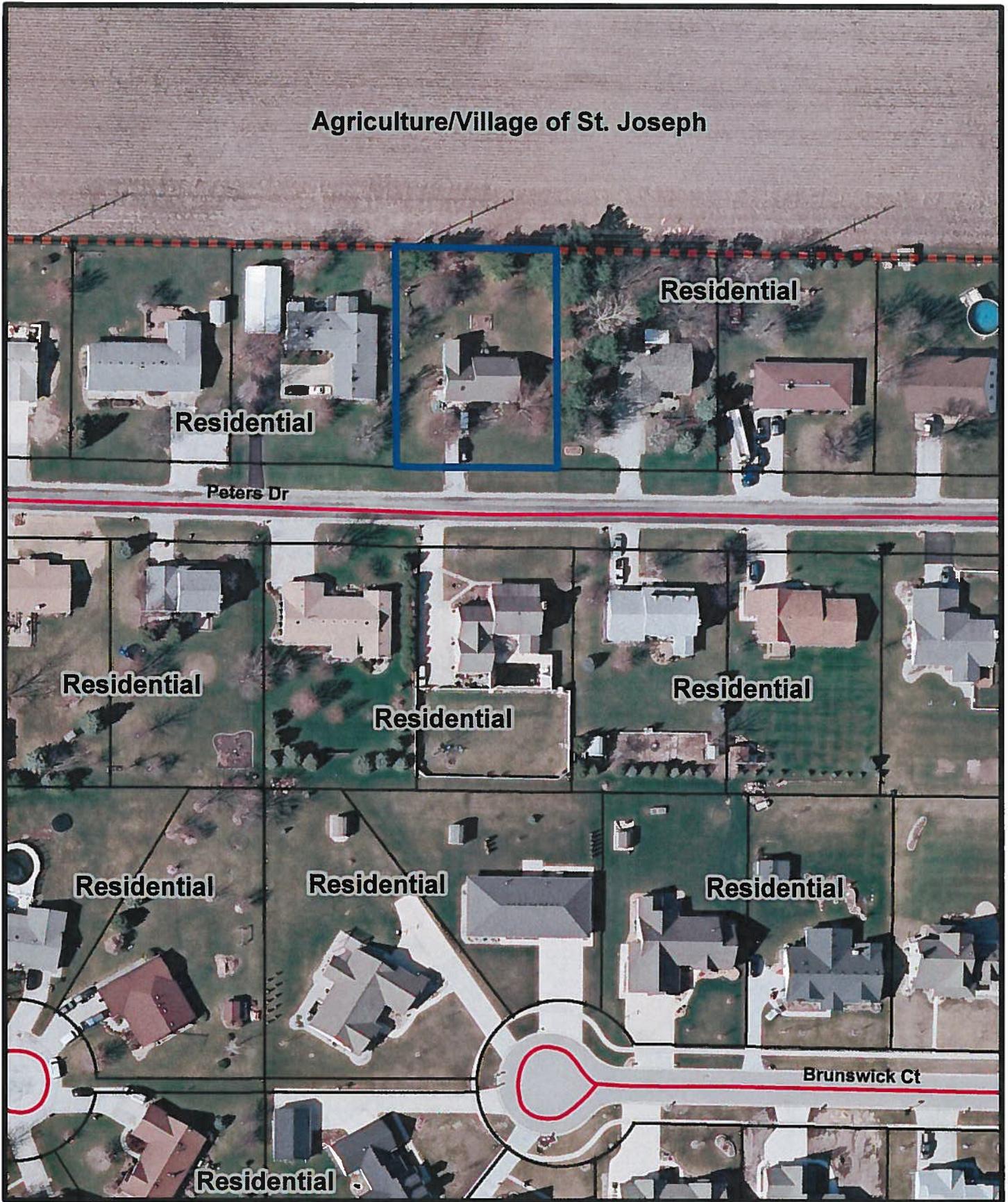
Champaign
County
Department of
PLANNING &
ZONING

Attachment A: Land Use Map

Case 727-V-12

September 21, 2012

Agriculture/Village of St. Joseph



-  Subject Property
-  Municipal Boundary

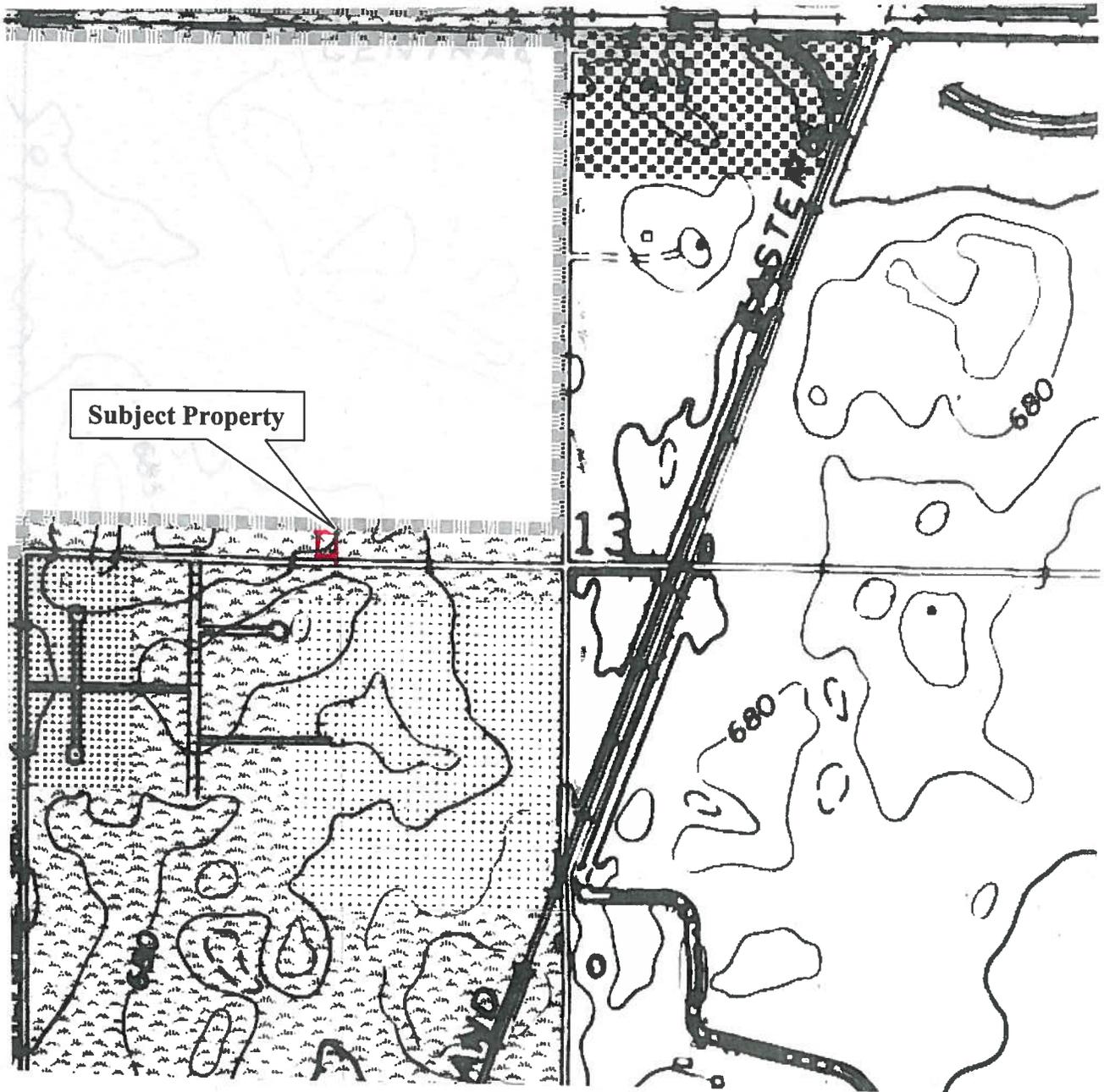
1 inch = 100 feet



ATTACHMENT A. ZONING MAP

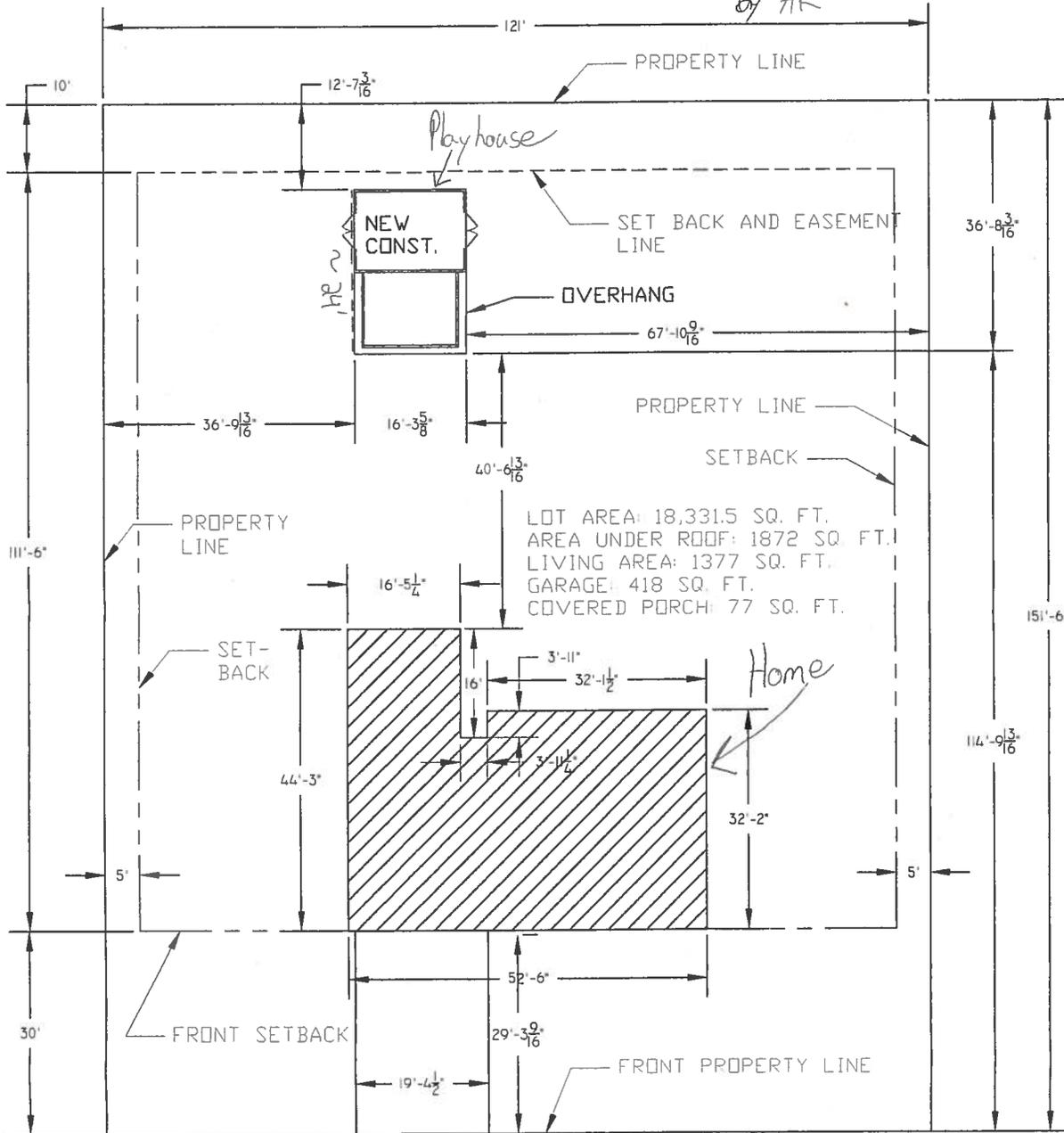
Case: 727-V-12

September 21, 2012



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

Annotated 9-20-2012
by AK



LOT AREA: 18,331.5 SQ. FT.
 AREA UNDER ROOF: 1872 SQ. FT.
 LIVING AREA: 1377 SQ. FT.
 GARAGE: 418 SQ. FT.
 COVERED PORCH: 77 SQ. FT.

CENTER OF PETERS DRIVE



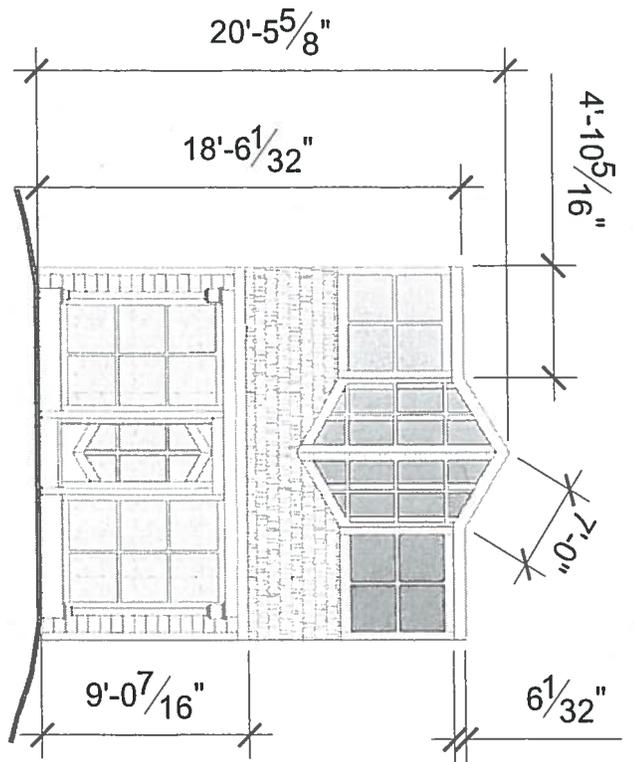
SITE PLAN

SCALE: 1/16" = 1'-0"

RECEIVED

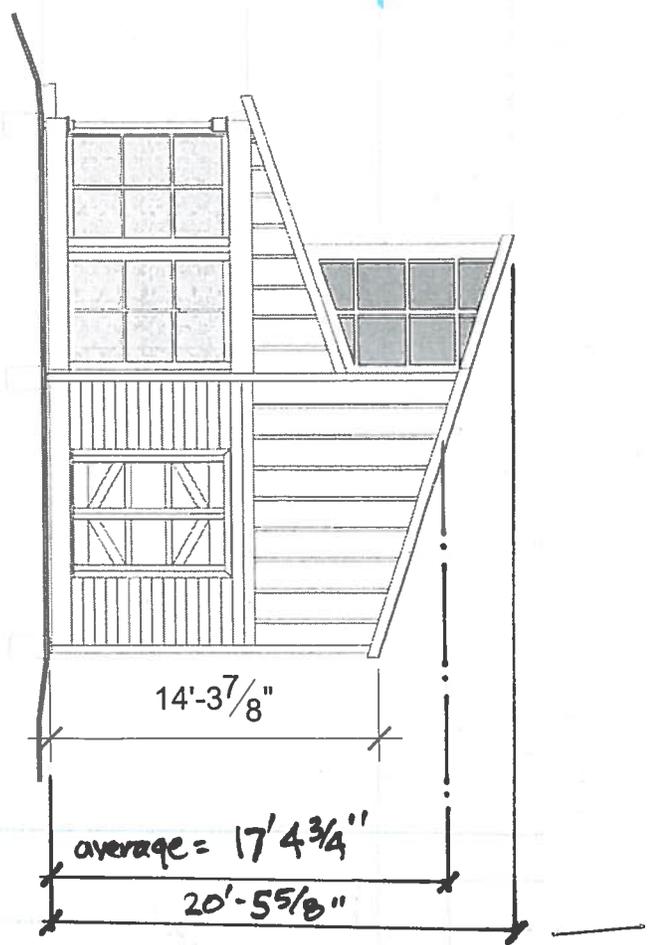
JUL 13 2012

CHAMPAIGN CO. P & Z DEPARTMENT



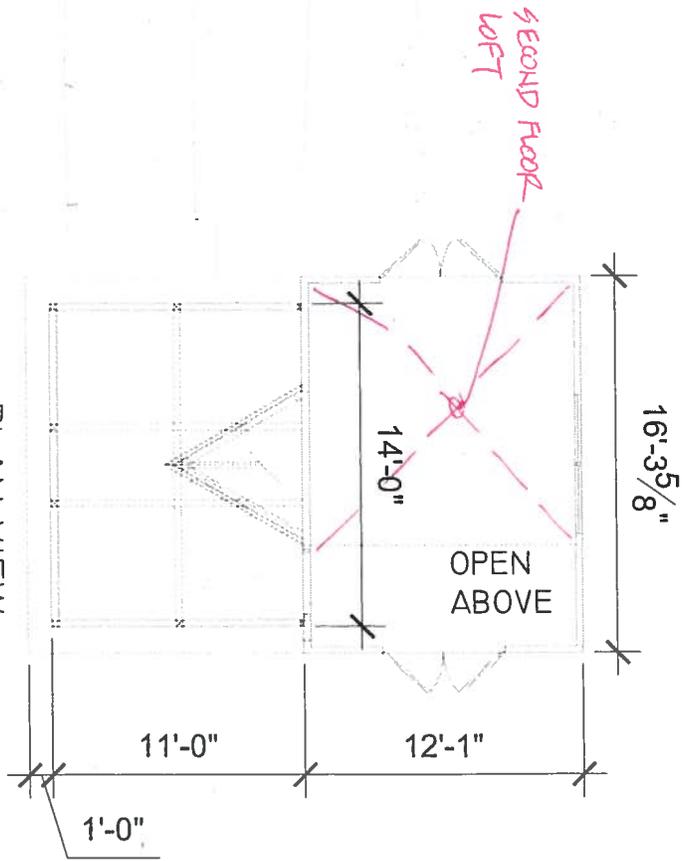
ALT. SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



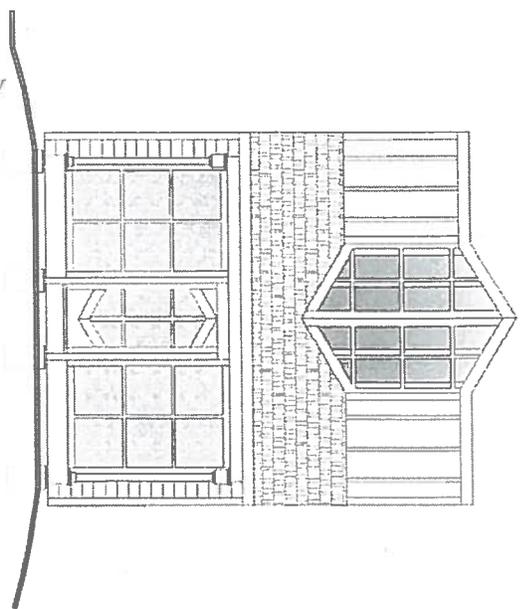
EAST ELEVATION

SCALE: 1/8" = 1'-0"



PLAN VIEW

SCALE: 1/8" = 1'-0"



SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

RECEIVED

FEB 22 2012

CHAMPAIGN CO. P & Z DEPARTMENT

ANNOTATED BUILDING ELEV'S

PRELIMINARY DRAFT

727-V-12

**FINDING OF FACT
AND FINAL DETERMINATION
of**

Champaign County Zoning Board of Appeals

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

Date: **September 27, 2012**

Petitioners: **Dale Masley**

Request: Authorize a Variance in the AG-2 Agriculture Zoning District for a residential accessory building with a height of 17.5 feet in lieu of the maximum 15 feet in height.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 27, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioner owns the subject property.
2. The subject property is Lot 12 of Denhart's Second Subdivision in the Northwest Quarter of Section 13 of St. Joseph Township and commonly known as the dwelling at 1408 Peter Drive, St. Joseph.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of St. Joseph, a municipality with zoning. Municipalities do not have protest rights regarding variances, and are not notified of such cases.

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 AG-2 Agriculture, and is in use as residential.
 - B. Land to the north is within the Village of St. Joseph Corporate Limits and is in agricultural use.
 - C. Land to the south, east, and west of the subject property is zoned AG-2 Agriculture and is in residential use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
 - A. The subject property is an 18,331.5 square feet (.42 acre) lot.
 - B. The Site Plan includes the following:
 - (1) Location of the existing 1,872 square feet home authorized by Zoning Use Permit No. 271-79-03 and a subsequent addition to the home was authorized by Zoning Use Permit No. 298-95-03.
 - (2) Location of the existing 480 square feet playhouse that is the subject of this variance. The playhouse has a second story loft with an overlook to the first floor.
 - C. The requested variance is as follows:
 - (1) Variance for a residential accessory building with a height of 17.5 feet in lieu of the maximum 15 feet in height.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:

A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):

- (1) "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) "AREA, LOT" is the total area within the LOT LINES.
- (3) "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.
- (4) "HEIGHT" As applied to a story: The vertical measurement between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the vertical measurement between the surface of the floor and the ceiling next above it.

As applied to a BUILDING: The vertical measurement from GRADE to a point midway between the highest and lowest points of the roof.

As applied to an Enclosed or Unenclosed STRUCTURE:

STRUCTURE, DETACHED: The vertical measurement from the average level of the surface of the ground immediately surrounding such STRUCTURE to the uppermost portion of such STRUCTURE.

STRUCTURE, ATTACHED: Where such STRUCTURE is attached to another STRUCTURE and is in direct contact with the surface of the ground, the vertical measurement from the average level of the surface of the ground immediately adjoining such STRUCTURE to the uppermost portion of such STRUCTURE shall be HEIGHT. Where such STRUCTURE is attached to another STRUCTURE and is not in direct contact with the surface of the ground, the vertical measurement from the lowest portion of such STRUCTURE to the uppermost portion shall be the HEIGHT.

- (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.

PRELIMINARY DRAFT

- (6) "LOT LINES" are the lines bounding a LOT.
 - (7) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- C. Maximum height for a residential accessory building is established in Footnote 4 of Section 5.3 of the *Zoning Ordinance* as follows:
- (1) The maximum HEIGHT of a residential ACCESSORY BUILDING shall be 15 feet on LOTS less than one acre in area and 24 feet on LOTS one acre or more in area.
- D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

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, **“There are no unusual features except the proximity of the corn field that is located at the north edge of the property. The building has no effect on the adjacent properties in regard to views or any other obstructions.”**
 - B. The playhouse is approximately 37 feet from the west property line, 68 feet from the east property line, and 12 feet from the rear property line. The playhouse should not cast shadows or inhibit vistas for surrounding property owners because of the location and the minimal amount of variation requested.
 - C. The petitioner began construction without a Zoning Use Permit. It was only after construction of the playhouse had begun and a Zoning Use Permit Application had been submitted did the petitioner become aware of the formula staff uses to determine average height.
 - D. The roof of the playhouse is two shed roofs at different heights. The variance is required because the shed roof on the northern part of the playhouse is at an average height of 17’4¾”.

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, **“Since the building is erected and has been loaded with the material needed to finish the building, the first practical difficulty would be that as the building is removed the rear yard would become an accumulation of large stacks of lumber.”**
 - B. The playhouse has a second story loft with an overlook to the first floor and a clerestory window that is oriented to the south.

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:

PRELIMINARY DRAFT

- A. The Petitioner has testified on the application, **“Yes, I used a weighted average to arrive at a building height average, and this is not the formula used by Planning and Zoning.”**
- B. The petitioner was unaware of the formula the Department of Planning and Zoning uses to calculate average height. It was only after construction of the playhouse had begun and a Zoning Use Permit Application had been submitted did the petitioner become aware of the formula staff uses to determine average height.
- C. The height of the playhouse is necessitated by the second floor loft, the clerestory window on the south side, and the slope of the roof.

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, **“Using a weighted average, instead of a straight average of the tallest and shortest ridges, I arrived at a height that meets the ordinance in dispute. It was not my intention to conflict with the Zoning Department’s method of computation, I was just ignorant of the Department’s procedure.”**
 - B. The requested variance of a height of 17.5 feet is 116% of the maximum allowed 15 feet for a variance of 116%.
 - C. The playhouse is approximately 37 feet from the west property line, 68 feet from the east property line, and 12 feet from the rear property line. The playhouse should not cast shadows or inhibit vistas for surrounding property owners because of the location and the minimal amount of variation requested.
 - D. The requested variance is not prohibited by the *Zoning Ordinance*.

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

- 11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioner has testified on the application that, **“The accessory building has no ill effects on any of the neighbor’s except that the building is visible from both neighbor on east and west properties. I would hope that it is regarded in an admiral manner.”**
 - B. The Township Road Commissioner has received notice of this variance but no comments have been received.

- C. The Fire Protection District has been notified of this variance but no comments have been received.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:

No Special Conditions of Approval are proposed

DOCUMENTS OF RECORD

1. Zoning Use Permit Application No. 52-12-01 received February 21, 2012, with attachment:
 - A Site Plan

2. Explanation of weighted average calculation submitted via email by Dale Masley on February 22, 2012.

3. Variance Application received on July 13, 2012, with attachments:
 - A Legal Description
 - B Site Plan
 - C Floor Plan

4. Preliminary Memorandum dated September 21, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Annotated Site Plan
 - C Annotated Building Elevation Plan
 - D Draft Summary of Evidence, Finding of Fact, and Final Determination

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 727-V-12 held on **September 27, 2012**, 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: _____

PRELIMINARY DRAFT

-
-
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 for approval in Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **727-V-12** is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Dale Masley** to authorize: **a residential accessory building with a height of 17.5 feet in lieu of the maximum 15 feet in height, in the AG-2 Zoning 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