

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

## NOTICE OF REGULAR MEETING

Date: January 30, 2014  
Time: **6:30 P.M.**  
Place: **Lyle Shields Meeting Room**  
**Brookens Administrative Center**  
**1776 E. Washington Street**  
**Urbana, IL 61802**

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

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

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

### AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (December 12, 2013)

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

5. Continued Public Hearings

Case 768-AT-13

Petitioner: **Zoning Administrator**

Request: **Amend the Champaign County Zoning Ordinance by adding the following  
standard conditions and special provisions to Section 6.1.3:**

**Part A: Revise the use category “heliport/restricted landing area” to “heliport-  
restricted landing area; and revise the existing standard conditions and  
special provisions for the use category “heliport-restricted landing area”  
and add new standard conditions and special provisions, as follows:**

- (1) **Number the existing standard condition and special provision 1.**
- (2) **Add the following standard conditions and special provisions for a  
limited time not to exceed 365 days from the date of adoption:**
  - (a) **Add a standard condition and special provisions to require the  
Final Approach and Takeoff Area to be no closer than 800 feet  
from the nearest CR District when measured in a straight line  
from the Final Approach and Takeoff Area in an  
approach/takeoff path and no closer than 500 feet when measured  
from the Final Approach and Takeoff Area in other than an  
approach/takeoff path and that no part of the approach/takeoff  
path may be less than 100 feet above the nearest CR District.**
  - (b) **Add a standard condition and special provision to require that  
the Final Approach and Takeoff Area may be no closer than  
1,320 feet from the nearest dwelling under different ownership  
than the heliport-restricted landing area.**
  - (c) **Add a standard condition and special provision to require that  
the Final Approach and Takeoff Area may be no closer than 300  
feet from the nearest property under different ownership than the  
heliport-restricted landing area.**

**Part B. Revise the existing standard conditions and special provisions for the use  
category “restricted landing area” and add new standard conditions and  
special provisions as follows:**

- (1) **Number the existing standard conditions and special provision 1  
through 4**
- (2) **Add the following standard conditions and special provisions for a  
limited time not to exceed 365 days from the date of adoption:**
  - (a) **Add a standard condition and special provision to require the end  
of the runway to be at least 1,500 feet from the nearest CR  
District when measured in a straight line from the end of the  
runway and not less than 500 feet when measured from the edge  
of the runway and that no part of the approach surface may be  
less than 100 feet above the nearest CR District.**
  - (b) **Add a standard condition and special provision to require that  
the runway may be no closer than 1,320 feet from the nearest  
dwelling under different ownership than the restricted landing  
area.**
  - (c) **Add a standard condition and special provision to require that  
the runway may be no closer than 300 feet from the nearest  
property under different ownership than the restricted landing  
area.**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS  
NOTICE OF REGULAR MEETING  
JANUARY 30, 2014**

6. New Public Hearings

**Case 766-AM-13 and Case 767-S-13 Petitioner: Eric L. Sebens d.b.a. Prairieview Landscaping**

Case 766-AM-13 Request: **Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related zoning Case 767-S-13, on the subject property below.**

\*Case 767-S-13 Request: **On the subject property described below, authorize the following as a Special Use in the B-1 Rural Trade Center Zoning District:**

**Part A. Authorize multiple principal buildings on the same lot consisting of the following:**

**(1) a landscape contractor's facility with outdoor storage that was originally authorized in Case 101-S-97; and**

**(2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B.**

**Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units as a special use.**

Location: **A 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR 900E, Champaign.**

\*Case 770-V-13 Petitioner: **Kenneth and Alena Nierenhausen**

Request: **Authorize the following variances in the AG-2 Agriculture Zoning District on the subject property described below, in order to construct a new dwelling to replace a dwelling damaged in the November 17, 2013, tornado:**

**Part A. The creation and use of a lot that is 5.79 acres in area on best prime farmland in lieu of the maximum allowed three acres on best prime farmland required by Footnote 13 in Section 5.3.**

**Part B. Application fee of \$0 for a Zoning Use Permit Application in lieu of the standard Zoning Use Permit Application fee required by Section 9.3.1B.**

**Part C. Application fee of \$0 for a Variance Application in lieu of the standard \$200 Variance Application fee required by Sec. 9.3.3B.1.b.**

Location: **A proposed 5.79 acre tract in St. Joseph Township in the Northwest Quarter of the Northwest Quarter of Section 23 of Township 19 North, Range 10 East of the Third Principal Meridian and commonly known as the farmstead located at 1486 CR 2200E, St. Joseph.**

7. Staff Report

8. Other Business

A. Review of Docket

B. 2014 Zoning Board of Appeals Calendar

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

10. Adjournment

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

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

**DATE: December 12, 2013**

**PLACE: Lyle Shields Meeting Room**  
**1776 East Washington Street**  
**Urbana, IL 61802**

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

**MEMBERS PRESENT:** Catherine Capel, Debra Griest, Marilyn Lee, Roger Miller, Brad Passalacqua, Jim Randol, Eric Thorsland,

**MEMBERS ABSENT :** None

**STAFF PRESENT :** Lori Busboom, Jamie Hitt

**OTHERS PRESENT :** Lars Johnson, Shawn Bickers, Michael Harshbarger, Ashley Schum, John Copple, Gregory Ryan, Pamela Wendt, Jim Harper, Leah Harshbarger, Reggie Taylor, Sharlyn Franzen

**1. Call to Order**

The meeting was called to order at 6:34 p.m.

**DRAFT**

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

The roll was called and a quorum declared present.

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

Mr. Thorsland welcomed two new members to the Board. He said that Debra Griest is a returning member and Marilyn Lee is a new member. He said that he is pleased to note that for the first time in two or three years we have a full ZBA Board.

**3. Correspondence**

None

**4. Approval of Minutes (August 15, 2013 and November 14, 2013)**

Mr. Thorsland entertained a motion to approve the August 15, 2013, and November 14, 2013, minutes.

**Mr. Passalacqua moved, seconded by Mr. Randol to approve the August 15, 2013, and November 14, 2013, minutes.**

1  
2 Mr. Thorsland asked the Board if there were any corrections or additions required for the minutes.

3  
4 Ms. Capel indicated that page 23, Line 19 of the August 15, 2013, minutes should be corrected as follows:  
5 Mr. Hall stated that if the Board thinks that the road agreement addresses road maintenance then it will help  
6 prevent congestion. She said that page 38, Line 25 of the August 15, 2013, minutes should be corrected as  
7 follows: He said that the bad soil data did not affect any of the best prime farmland soils but it affected soils  
8 with an LE as high as 85 although it did not change any of their productivity indices or the relative LE and  
9 only changed the LE for one soil and that was Muskego Silty Clay Loam which is the one true muck soil that  
10 we have in the County and there is less than 50 acres in the whole County.

11  
12 Mr. Thorsland asked the Board if there were any further corrections and there were none.

13  
14 **The motion carried.**

15  
16 **5.        Continued Public Hearing**

17  
18 **Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the**  
19 **Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required**  
20 **for any County Board approved special use permit for a Rural Residential Development in the Rural**  
21 **Residential Overlay district as follows: (1) require that each proposed residential lot shall have an**  
22 **area equal to the minimum required lot area in the zoning district that is not in the Special Flood**  
23 **Hazard Area; (2) require a new public street to serve the proposed lots in any proposed RRO with**  
24 **more than two proposed lots that are each less than five acres in area or any RRO that does not**  
25 **comply with the standard condition for minimum driveway separation; (3) require a minimum**  
26 **driveway separation between driveways in the same development; (4) require minimum driveway**  
27 **standards for any residential lot on which a dwelling may be more than 140 feet from a public street;**  
28 **(5) require for any proposed residential lot not served by a public water supply system and that is**  
29 **located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other**  
30 **than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract**  
31 **the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results; (6)**  
32 **require for any proposed RRO in a high probability area as defined in the Illinois State Historic**  
33 **Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy**  
34 **of the ISHPA response; (7) require that for any proposed RRO that the petitioner shall contact the**  
35 **Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of**  
36 **the agency response.**

37  
38 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the February 13, 2014, meeting.

39  
40 Ms. Capel moved, seconded by Brad Passalacqua to continue Case 685-AT-11 to the February 13,  
41 2014, meeting. The motion carried by voice vote.

1  
2 **Case 764-V-13 Petitioner: Lars Johnson with agent Shawn Bickers Request to authorize the following**  
3 **in the R-4 Multiple Family Residence Zoning District: Part A. Authorize the following variance for**  
4 **an existing townhouse: (1) lot coverage of 44% in lieu of the maximum allowed 40%; and (2) a front**  
5 **setback of 40 feet from the centerline of Briar Hill Drive in lieu of the minimum required 55 feet; and**  
6 **(3) a front yard of 20 feet in lieu of the minimum required 25 feet. Part B. Authorize the following**  
7 **variance for an addition to an existing townhouse: (1) authorize construction of a building addition in**  
8 **a recorded utility easement in lieu of the requirement that no construction shall take place in a**  
9 **recorded utility easement; and (2) a side yard of 1 foot in lieu of the minimum required 5 feet.**  
10 **Location: Lot 1 of Wisegarver’s Subdivision in the Southeast Quarter of Section 21 of Champaign**  
11 **Township and commonly known as the townhome at 2120 Briar Hill Drive, Champaign.**  
12

13 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
14 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
15 of hands for those who would like to cross examine and each person will be called upon. He requested that  
16 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
17 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
18 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
19 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
20 from cross examination.  
21

22 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
23 sign the witness register for that public hearing. He reminded the audience that when they sign the  
24 witness register they are signing an oath.  
25

26 Mr. Passalacqua stated that he has a few construction projects out for bid in which Mr. Shawn Bickers,  
27 co-petitioner, will be a sub-contractor for those projects, therefore due to this conflict he must remove  
28 himself from this case.  
29

30 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.  
31

32 Mr. Lars Johnson, who resides at 1956 West Berwyn, Chicago, stated that Part A of this case includes  
33 existing conditions from almost 30 years ago. He said that he has taken care of the concerns for Part B (1)  
34 with the new evidence that was submitted although Part B (2) is still required. He said that on the south side  
35 of the townhome will be an office and golf cart bay which will include doors which will be faced to the west  
36 and not the south as originally indicated.  
37

38 Mr. Thorsland asked the Board if there were any questions for Mr. Johnson and there were none.  
39

40 Mr. Thorsland asked if staff had any questions for Mr. Johnson and there were none.  
41

1 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Johnson and there was no one.

2  
3 Mr. Thorsland stated that staff distributed a new Supplemental Memorandum dated December 12, 2013, to  
4 the Board for review. He said that the new memorandum reviews new evidence including the following  
5 submittals and attachments: A Revised Site Plan has been received with the golf cart door facing the street  
6 and not the adjacent property line and new evidence is proposed; and the Petitioner called JULIE to mark  
7 existing underground utilities and has submitted the attached photos; and a revised Miscellaneous Document  
8 is also included in case the Board feels that the special conditions are warranted.

9  
10 Mr. Thorsland stated that upon the Board's request, Mr. Johnson had JULIE visit the subject property and it  
11 was determined that the location of the sanitary sewer line is close but it is not underneath the block  
12 construction. He said that the Urbana-Champaign Sanitary District has not indicated that they are vacating  
13 the utility easement because the easement appears to be further away from the construction that it was  
14 originally thought. He said that the door concern was addressed by Mr. Johnson by relocating the door to the  
15 west in lieu of having it located on the south side of the construction. He said that having the door on the  
16 west would eliminate the need for crossing the neighbor's property. He said that Mr. Johnson apparently has  
17 a good relationship with the neighbors and a shared agreement between the two is in place for mowing the  
18 area between the two buildings therefore there is history of cooperation between the two owners. He said  
19 that the Board's concern was that if there is a new owner for the property to the south any previous  
20 agreements may not be valid. Mr. Thorsland stated that new item 5.E. indicates the following: The Revised  
21 Site Plan and Section received 12/11/13 indicates the following change: (1) The door opening to the golf cart  
22 bay faces west rather than south.

23  
24 Mr. Thorsland stated that new evidence is proposed for item 7.B. as follows: (6) On or about December 4,  
25 2013, the subject property was marked by JULIE (Joint Utility Locator Information for Excavators) to verify  
26 the locations of underground utilities in the vicinity of the unauthorized construction and the Petitioner  
27 submitted photographs of the JULIE 12/10/13 marking that show the following: (a) Green markings that  
28 indicate the sewer line approximately 4 feet from the unauthorized construction; (b) Red markings that  
29 indicate an underground electrical line south of the sewer line and even further away from the unauthorized  
30 construction; and (c) Blue markings that indicate the water lines towards the front of the building and far  
31 away from the unauthorized construction; and (d) Yellow markings that indicate the underground gas line;  
32 and (e) Comcast markings and City of Champaign markings that indicate "OK". He said that new item  
33 #7.B(7) indicates the following: The excavation subcontractor hired by Mr. Bickers began construction of  
34 the addition without a permit and that was a violation of the Zoning Ordinance but that is not the kind of  
35 special condition or circumstance that should be taken into account in determining whether the variance  
36 should be approved.

37  
38 Mr. Thorsland stated that the following new evidence is proposed to be added as item #7.H.: Regarding  
39 what affect the location may have on the likelihood that new utilities will ever be installed in the existing  
40 utility easement: (1) The subject property is a one lot subdivision that is unlikely to ever be expanded; and  
41 (2) The subject property is at the end of Briar Hill Drive and is bordered by the Lincolnshire Fields Golf

1 Course on the east and north and Interstate 57 is on the opposite side of the street so it unlikely that future  
2 development will occur in the vicinity or that new utilities will be needed in the existing utility easement.

3  
4 Mr. Thorsland stated that the following new evidence is proposed as new item 9.E.: Regarding Part B of the  
5 Variance: (1) Wisegarver's Lot 1 Subdivision was approved by the City of Champaign in July 1976 and  
6 neither the Petitioner nor his Agent were involved in that subdivision approval; and (2) Neither the Petitioner  
7 nor his Agent were involved in the original construction of the town home; and (3) The excavation  
8 subcontractor hired by Mr. Bickers began construction of the addition without a permit but that has nothing  
9 to do with why the addition was planned on the south side of the building and has nothing to do with the  
10 circumstance of this lot having so much less buildable width than the other lots on Briar Hill Drive.

11  
12 Mr. Thorsland stated that the following new evidence is proposed for new item #10.C.(3): Regarding Part B  
13 of the Variance: (a) The subject property is a one lot subdivision that is unlikely to ever be expanded; and  
14 (b) The subject property is at the end of Briar Hill Drive and is bordered by the Lincolnshire Fields Golf  
15 Course on the east and north and Interstate 57 is on the opposite side of the street so it is unlikely that future  
16 development will occur in the vicinity or that new utilities will be needed in the existing utility easement.

17  
18 Mr. Thorsland stated that the revised Miscellaneous Document is attached to the Supplemental  
19 Memorandum dated December 12<sup>th</sup> as Attachment D. He said that the legal description of the subject  
20 property and the Permanent Index Number have been added. He said that the reference to the document in  
21 item #13.B. of the Summary of Evidence should be updated. He read the revision in item #2 of the  
22 Miscellaneous Document as follows: If the addition authorized by Case 764-V-13 is damaged or destroyed  
23 to more than 50% of the replacement value the addition shall not be repaired and in fact shall be removed  
24 completely including the footings, unless a Plat of Vacation of Utility Easement is duly approved and filed  
25 with the Champaign County Recorder of Deeds for only that part of the easement occupied by the addition,  
26 in which case the addition may be reconstructed in the same footprint and same location.

27  
28 Mr. Thorsland asked the Board if there were any questions regarding the Supplemental Memorandum dated  
29 December 12<sup>th</sup> and there were none.

30  
31 Mr. Thorsland asked the Board if there were any questions for Mr. Johnson and there were none.

32  
33 Mr. Thorsland called Mr. Johnson to testify.

34  
35 Mr. Lars Johnson stated that regarding the vacation of the easement, Mark Radi, UCSD Director of  
36 Engineering Services, indicated that they cannot vacate an easement because they do not have an easement  
37 there. Mr. Johnson stated that the easement is actually to the south of his property line and is located on the  
38 other property. He said that Mr. Radi indicated that the Urbana-Champaign Sanitary District has an  
39 easement for the north 10 feet of Briar Hill Second Addition and the District does not object to construction  
40 as long as the construction is not in an easement occupied by the UCSD. Mr. Johnson stated that Mr. Radi  
41 indicated that his original map was incorrect and when he reviewed it again he indicated that he cannot tell

1 Mr. Johnson to not build within an easement that they do not have on Mr. Johnson's property.  
2  
3 Mr. Thorsland stated that the re-advertisement indicates Part B. item #2 as the following: a side yard of 1  
4 foot in lieu of the minimum required 5 feet.  
5  
6 Mr. Johnson stated that the re-advertisement is still accurate.  
7  
8 Mr. Thorsland stated that the UCSD sewer line is approximately 5 feet from the side yard. He asked Mr.  
9 Johnson if Mr. Radi specifically indicated that the UCSD will not vacate the easement.  
10  
11 Mr. Johnson stated that Mr. Radi indicated that the UCSD cannot vacate an easement located on Mr.  
12 Johnson's property because no such easement exists on his property.  
13  
14 Ms. Griest stated that she concurs with Mr. Johnson in that the UCSD indicated that they had no right within  
15 the existing easement on the property to the south. She said that she did not find any information regarding  
16 ownership of the easement. She asked if the easement belonged to Comcast, Illinois American Water,  
17 Ameren, etc.  
18  
19 Mr. Johnson stated that from what Mr. Radi indicated he does not believe that there is an actual easement on  
20 his property.  
21  
22 Ms. Griest stated that Mr. Radi is only indicating that there is not a sanitary district easement on Mr.  
23 Johnson's property.  
24  
25 Mr. Johnson stated that when Ameren came out to mark the easement the representatives were not sure  
26 whether there was an actual easement for Ameren out there either which is why Ameren previously indicated  
27 that they had not issue with the proposed construction because their lines were not near it.  
28  
29 Ms. Griest stated that the annotated site plan indicates an easement.  
30  
31 Mr. Johnson stated that the annotated site plan is indicating what they originally thought from the County.  
32  
33 Ms. Griest asked staff if the original plat had been reviewed and presented to this Board.  
34  
35 Ms. Lori Busboom, Planning and Zoning Technician, stated yes.  
36  
37 Ms. Griest asked Ms. Busboom what the original plat indicates regarding the easement.  
38  
39 Ms. Busboom stated that the original plat which was recorded in 1976 does indicate an easement however  
40 Briar Hill 2<sup>nd</sup> Addition does not indicate an easement on Mr. Johnson's property.  
41

1 Mr. Thorsland stated that the redacted site plan indicates the Illinois American Water line along Briar Hill  
2 Drive but does not indicate any other easements.  
3  
4 Ms. Griest stated that she is more interested in the recorded plat. She asked whether the Board is actually  
5 working with an easement or not.  
6  
7 Mr. Thorsland stated that the easements are shown on the Briar Hill 2<sup>nd</sup> Addition Plat, which was recorded  
8 August 20, 1974, for Lot 5. He said that a 22.89' utility easement is indicated for Lot 5 but it isn't clear what  
9 utilities the easement is for.  
10  
11 Mr. Johnson stated that if he isn't mistaken the only thing that is located in the easement at all is the sanitary  
12 district.  
13  
14 Mr. Thorsland stated that one of the photographs indicates "ok" from Comcast.  
15  
16 Mr. Johnson stated that the Ameren line to the street pole is further south of the Comcast line and is outside  
17 of the easement.  
18  
19 Mr. Thorsland stated that the original 1974 Plat for Briar Hill 2<sup>nd</sup> Addition indicates a 10 foot easement on  
20 the north side of Lot 5, the adjacent lot to the subject property, and continues behind Lots 1-4. He said that  
21 the Board could assume that the same 10 foot easement ran behind Lot 1 of Wisegarver's Subdivision  
22 therefore at some point someone wanted the utility easement. He said that the Board's question is whether  
23 or not there is a 10 foot easement on Mr. Johnson's property or whether the entire easement exists on the  
24 property to the south.  
25  
26 Ms. Griest stated that if the plat for Wisegarver's Lot 1 Subdivision indicates a 10 foot easement then the  
27 plat documents should indicate information regarding the easement. She said that whether there are utilities  
28 currently within that easement or not do not negate the fact that the easement has already been given to the  
29 utilities and that the utility companies have rights to that easement. She said that she understands the  
30 petitioner's claim that there are no utilities running through the easement but if the easement has been  
31 dedicated for the utilities then whether they are there or not the utilities have rights.  
32  
33 Mr. Johnson stated that this was the purpose for going to Ameren and the UCSD. He said that Ameren  
34 indicated that they had no issues with the construction and the UCSD stated that they did not have an  
35 easement on his lot.  
36  
37 Mr. Thorsland stated that there is an easement and as far as we can tell the easement is not located on the  
38 property in question and is subject to interpretation but we do know that the unauthorized construction is one  
39 foot away from the property line and if the easement starts at the property line the unauthorized construction  
40 is very close to that easement. He noted that the purpose of the variance is the one foot side yard.  
41

1 Ms. Griest stated that Part B. is requesting a variance to construct within a recorded utility easement. She  
2 said that she is not concerned about the sanitary district indicating that they do not have an easement on the  
3 subject property and that the 10 foot easement on the adjacent property contains their services therefore they  
4 have no objection to the proposed construction on the subject property. She said that since the sanitary  
5 district has indicated that they are not concerned with the construction is fine but there are other utilities that  
6 remain involved in the recorded easement. She said that if the Board is considering authorizing a variance  
7 within a recorded easement then the Board needs to make sure where the recorded easement is located.  
8  
9 Mr. Thorsland stated that he would like to have a plat which indicates that the easement is not on the subject  
10 property therefore that portion of the variance will not be needed.  
11  
12 Ms. Griest asked if staff has completed a document search at the Recorder's office.  
13  
14 Ms. Busboom stated yes, staff has all of the recorded documents which are pertinent to the subject property.  
15 She said that she has not read through the documentation because Mr. Hall has been handling the case. She  
16 said that she believes that there is no language regarding the easement in the recorded documents.  
17  
18 Ms. Griest stated that normally there is a document which is attached to the plat regarding the easement and  
19 it is very possible that it was not recorded with the plat.  
20  
21 Ms. Busboom stated that she does not know if such a document exists.  
22  
23 Ms. Griest asked if the Petitioner could contact the title company requesting that they provide a copy of the  
24 easement for the subject property or request that they verify that there is no easement on the subject property.  
25  
26 Mr. Thorsland stated that page 2 of the Supplemental Memorandum dated December 5, 2013, indicates item  
27 #2 as follows: UCSD staff has determined that the sewer line is on the adjacent property.  
28  
29 Ms. Griest stated that she does not have a problem with that statement.  
30  
31 Mr. Thorsland continued to read item #2 as follows: A November 15, 2013, email from UCSD Director of  
32 Engineering Services Mark Radi indicates the sewer is approximately 4 feet south of the addition (see  
33 attached) and a December 2, 2013, email from UCSD Director of Engineering Services Mark Radi to Lars  
34 Johnson indicates that the sewer line is in the easement on the adjacent property and UCSD does not object  
35 to construction as long as the construction is not in an easement occupied by the UCSD (see attached).  
36  
37 Ms. Griest stated that she does not have a problem with the rest of the statement's in item #2 either or the  
38 documents which support it.  
39  
40 Mr. Thorsland stated that item #3 indicates that the Petitioner has not provided a technical drawing  
41 illustrating the location of the sewer line because he did not think it was warranted. UCSD staff will not go

1 on record regarding this issue. Mr. Thorsland stated that the Board has the photographs indicating JULIE's  
2 findings for the sewer line which may give a better depiction where it is located. He said that page 3 of the  
3 Supplemental Memorandum indicates the possible need for special conditions. He said that a more desirable  
4 approach would have been for the Petitioner to go through the process of formally vacating the easement and  
5 securing all necessary zoning approvals prior to construction. He said that if all relevant utilities had agreed  
6 to vacate the easement then there could be no possibility of a future problem.  
7

8 Ms. Griest stated that after her review of the documents it is her interpretation that the UCSD has rights that  
9 they have not currently exercised and potentially may never exercise but in regards to this property the  
10 UCSD does not have those rights on the subject property. She said that the other utilities do have rights on  
11 the subject property. She said that the UCSD is the only utility that has indicated that they do not have an  
12 easement on the subject property.  
13

14 Mr. Thorsland asked Ms. Griest if she would like to have written documentation from Ameren, American  
15 Water Company, and anyone else that may have some sort of rights to the easement.  
16

17 Ms. Busboom stated that the original plat for Wisegarver's Lot 1 Subdivision includes a paragraph  
18 discussing the public utility easement. She said that the paragraph indicates that no building or outside  
19 facility shall be supplied with utility service lines above the surface of the ground and all utilities and  
20 connections may thereto shall be located beneath the surface of the ground except transformer installations.  
21 Easements for installation and maintenance of underground utilities and drainage facilities are reserved as  
22 noted on the recorded plat. She said that there is a 10 foot easement on the recorded plat for Wisegarver's  
23 Lot 1 Subdivision. She continued to read the paragraph as follows: No structures, walls, fences, plantings,  
24 or any materials shall be put, placed, planted or permitted to remain within the platted easements or public  
25 ways which may damage or interfere with the installation, operation or maintenance of the utility. She said  
26 that the Board has all of the JULIE markings indicating all of the utilities as well as the City of Champaign,  
27 UCSD, and Ameren indicating that they are okay with the construction and that it will not interfere with any  
28 of their lines.  
29

30 Ms. Griest stated that she understands all of the documentation which proves that there are no underground  
31 utilities under the easement but she still has a problem with allowing construction within a recorded  
32 easement.  
33

34 Mr. Thorsland stated that it has been proven that the construction is not within the easement.  
35

36 Ms. Griest disagreed. She said that the construction is not within the UCSD's easement but it is still within  
37 the easement for Ameren and Illinois American Water.  
38

39 Mr. Thorsland stated that the 1974 plat indicates a utility easement which borders all of the lots but the new  
40 plat indicates no easement.  
41

1 Ms. Busboom stated that the new information that was indicated on the GIS map does not indicate an  
2 easement but she cannot find that information in the file at this moment.  
3  
4 Mr. Thorsland stated that much to Mr. Johnson's dismay the Board would like to see the most current  
5 information. He said that perhaps documentation could be received from Ameren and Illinois American  
6 Water indicating that they have not objections to the construction within a possible easement on the subject  
7 property.  
8  
9 Mr. Johnson stated that Ameren has already submitted documentation indicating that they have no issue with  
10 the proposed construction.  
11  
12 Ms. Griest stated that Ameren did not vacate their easement.  
13  
14 Mr. Johnson stated no, Ameren did not vacate their easement but they have indicated that they have no issue  
15 with the proposed construction.  
16  
17 Ms. Griest stated that there is a big difference between Ameren indicating that they have no issue with the  
18 proposed construction and vacating their easement.  
19  
20 Mr. Thorsland stated that the Board has not requested that the Petitioner begin the process of having any  
21 easements vacated. He said that the Petitioner's position is based upon the information that he has submitted  
22 and the fact that the easement exists on the adjacent property.  
23  
24 Ms. Griest stated that the documentation from the UCSD does indicate that they do not have an easement on  
25 the subject property but the Final Plat of Wisegarver's Lot 1 Subdivision indicates that there is a 10 foot  
26 easement on the subject property. She said that there is no other documentation from any of the other  
27 utilities indicating that they do not have a utility easement on the subject property.  
28  
29 Mr. Thorsland asked Ms. Griest if she would like to see a formal letter from the other utilities indicating that  
30 they do not have a utility easement on the subject property.  
31  
32 Ms. Griest stated yes. She said that if there is no easement and that issue has been resolved then the request  
33 to build within an easement is taken off the table, which would be in the Petitioner's best interest.  
34  
35 Mr. Thorsland stated that tonight's memorandum and Mr. Johnson's testimony indicates that Part B (1) may  
36 or may not be a variance that needs to be granted. He said that it is Mr. Johnson's opinion that Part B (1) is  
37 not needed because he is not constructing within an easement but Ms. Griest does not have enough evidence  
38 to exclude Part B (1). He said that the Miscellaneous Document which will be recorded with the Recorder of  
39 Deeds indicates the following: If the addition authorized by Case 764-V-13 is damaged or destroyed to more  
40 than 50% of the replacement value the addition shall not be repaired and in fact shall be removed completely  
41 including the footings, unless a Plat of Vacation of Utility Easement is duly approved and filed with the

- 1    Champaign county Recorder of Deeds for only that part of the easement occupied by the addition, in which  
2    case the addition may be reconstructed in the same footprint and same location. Mr. Thorsland stated that if  
3    an accident happens and part of the golf cart bay is destroyed by 50% and Mr. Johnson is forced to remove  
4    the entire addition he may or may not be able to rebuild the addition at that location without a vacation of the  
5    utility easement that may or may not exist.  
6
- 7    Mr. Johnson stated that he and Mr. Hall discussed this issue and if more than 50% of the structure is  
8    destroyed he would imagine that he will have bigger problems regarding the rest of the house.  
9
- 10   Mr. Thorsland stated that the Board is often tasked with an attempt to predict the future without actually  
11   protecting the future. He said that one could argue that there is or is not an easement although the Board  
12   only has documentation from two of the utility companies.  
13
- 14   Ms. Griest stated that the Board must have a 100% consensus and a majority will not do it for her because if  
15   the use of the land has been given away for the use of an easement then the right to build upon it has also  
16   been given away. She said that until the property owner can officially reclaim that right she is not a  
17   supporter of allowing construction within an easement just because the ZBA gives the landowner permission  
18   to build something that they would not give the landowner permission to rebuild. She said that the logic in  
19   the condition does not work for her either. She said that she respects that the contractor got a little  
20   overzealous and that is unfortunate, but if the Board is going to impose a condition that the landowner  
21   cannot rebuild if more than 50% of the structure is destroyed then why would the Board authorize building it  
22   in the first place when less than 50% of it is built now.  
23
- 24   Mr. Thorsland stated that the Board did not grant that authorization.  
25
- 26   Ms. Griest understood but the proposal for the condition is that the Board would authorize building it but the  
27   Board would deny rebuilding it and that logic does not work for her.  
28
- 29   Mr. Johnson stated that when he spoke to Mr. Hall he indicated that he did not care whether the variance was  
30   passed with or without the conditions. Mr. Johnson stated that Mr. Hall indicated in the memorandum that  
31   the addition will never be expanded and that is what is proposed.  
32
- 33   Mr. Thorsland stated that what Mr. Hall was communicating to Mr. Johnson was that it is up to the Board to  
34   decide whether or not the variance will have conditions applied to it.  
35
- 36   Mr. Johnson stated that Mr. Hall indicated that he had no objection either way.  
37
- 38   Ms. Griest stated that Mr. Hall and staff are always committed to making every attempt to be as helpful to  
39   the petitioner as possible.  
40
- 41   Ms. Capel stated that the Board needs to know if there is an easement on the subject property or not and it is

1 her recommendation that the case be continued so that staff and the Board can figure it out.  
2  
3 Mr. Thorsland agreed with Ms. Capel. He said that he understands Mr. Johnson's concern because there is a  
4 timeline although there has been testimony and evidence that the structure can be protected from inclement  
5 weather. He said that it is unfortunate that Mr. Hall cannot be present tonight because it is Mr. Hall who has  
6 discussed this case with Mr. Johnson prior to this meeting. He said that the staff which are present tonight  
7 are doing their best to answer the questions that are posed although they too were not part the conversations  
8 between Mr. Johnson and Mr. Hall. He said that Ms. Griest and Ms. Capel would like to see an actual  
9 definitive plat that indicates that the subject property is out of the easement and that easement is regard to all  
10 utilities. He said that Mr. Johnson should discuss the Board's concerns with Mr. Hall, when he returns to the  
11 office, so that those concerns can be addressed and documented at the next available meeting.  
12  
13 Mr. Marilyn Lee stated that the title work should have indicated an easement on the subject property. She  
14 said that perhaps Mr. Johnson should contact the title company for information as well.  
15  
16 Mr. Thorsland suggested that Mr. Johnson use all of the tools available to remedy the Board's concerns and  
17 work with Mr. Hall so that the perhaps the variance regarding the easement will no longer be necessary. He  
18 noted that the case does not need to be re-advertised if Part B.(1) is eliminated. He said that if there was a  
19 recorded plat before this Board which indicated that there was no existing utility easement on the subject  
20 property then he would be very satisfied.  
21  
22 Mr. Johnson stated that it was mentioned that staff viewed the GIS map and it did not indicate an easement.  
23  
24 Ms. Busboom stated that she cannot find the GIS map in the files at this time.  
25  
26 Ms. Griest asked if the GIS map is an official record.  
27  
28 Ms. Busboom stated that the recorded document is the official record however the GIS Department receives  
29 their information from the Recorder's Department and plats that information onto their maps.  
30  
31 Ms. Griest stated that she had a recent experience in which the GIS staff indicated that they do not always  
32 enter in all of the recorded easements.  
33  
34 Mr. Thorsland stated that the 1974 Plat indicates an annotated note from staff. He said that the lot that was  
35 drawn in was done so by staff therefore it is not part of the recorded document. He asked if the page to the  
36 north of Briar Hill 2<sup>nd</sup> Addition could be obtained for the Board's review.  
37  
38 Ms. Griest stated that the annotation on Briar Hill 2<sup>nd</sup> Addition's plat is not part of the recorded plat.  
39  
40 Mr. Randol stated that Illinois American Water's easement is going to be located at the front of the subject  
41 property where the water main is located and will not be located along the side of the subject property and

1     dead ending.

2

3     Mr. Thorsland asked Mr. Randol if a clearer plat would be helpful.

4

5     Mr. Randol stated that the conflict that he has is the way that the easement was indicated in 1974 versus the  
6     updated plat. He said that if the utilities decide that they do not need the entire easement it is never  
7     indicated. He said that if the original plat was only a designer's plat and not an as-built plat then the plat  
8     means nothing because he sees preliminary maps all of the time that indicate things which are not accurate  
9     when the as-built construction is completed.

10

11     Mr. Thorsland stated that the Board is not punishing Mr. Johnson in requiring all of the homework that he  
12     has completed. He said that the one thing that has been pointed out by members of the Board is that there is  
13     a plat indicating adjacent properties around the subject property and their easements but the only indication  
14     of the subject property and its easement is a nebulous line drawn in by staff. He said that he is sure that an  
15     updated plat is exists and is available for the Board's review. He said that as Ms. Griest indicated previously  
16     the GIS map may not be perfect but even that would be helpful. He said that if you look at the photograph  
17     which came from GIS he would be in agreement with Mr. Johnson that they put in their blue lines and even  
18     though every lot is not indicated it does show that particular piece and it appears that the line is very close to  
19     the building. He said that GIS helps only in making the case that Mr. Johnson is close and he would say that  
20     based on GIS Mr. Johnson's building is outside of the lot line or very close to the lot line. He said that rather  
21     than making a decision that may or may not put an onerous burden on Mr. Johnson in regards to  
22     reconstruction if he finds out that there is absolutely no utility easement present then there is no need for the  
23     provision that prohibits reconstruction and requires that everything must be ripped out. Mr. Thorsland stated  
24     that he understands that requiring more proof poses a further delay.

25

26     Mr. Johnson that requiring more proof delays moving his family back home.

27

28     Mr. Thorsland asked Mr. Johnson if the house is livable otherwise.

29

30     Mr. Johnson stated no. He said that he purchased the home out of foreclosure and when he purchased it he  
31     intended on moving his family and placing his child in school. He said that he needs to know exactly what  
32     the Board needs to make a decision because he can't keep his family in limbo.

33

34     Mr. Thorsland stated that the Board requires a better plat or evidence that definitively indicates that all of the  
35     utility easements are outside of the subject property.

36

37     Mr. Thorsland asked Ms. Griest if she would like to see a plat which is newer than 1974 of the subject  
38     property and not the adjacent property.

39

40     Ms. Griest stated that if the claim is that the 1974 plat that the Board has currently which indicates the  
41     recorded easements is not accurate then she would like to see the recorded plat that indicates that there are no

1 easements on the subject property. She said that what would seal the deal with her is documentation from  
2 the title company stating that there are easements or are no easements on the subject property. She said that  
3 the title company could indicate such in writing on their letterhead and addressed to Mr. Hall for submission  
4 to the Board. She said that if there is an easement on the subject property then she still has a problem with  
5 Mr. Johnson's request.  
6  
7 Mr. Johnson asked Ms. Griest if she still has a problem with Ameren even though they indicated that they  
8 did not care.  
9  
10 Ms. Griest stated yes, despite the fact that the utility companies indicated that they do not care.  
11  
12 Mr. Thorsland noted that Mr. Johnson should keep in mind that he needs four affirmative votes for approval  
13 and Ms. Griest is only one of the voting Board members.  
14  
15 Mr. Thorsland stated that Ms. Capel also indicated that the Board needs to know whether there is an  
16 easement involved on the subject property or not.  
17  
18 Ms. Capel stated that Mr. Thorsland was correct. She said that the Board would not be acting responsibly if  
19 they did not know whether they were actually dealing with an easement on the subject property or not.  
20  
21 Mr. Thorsland stated that staff has provided the Board with a copy of the 1974 plat which indicates what  
22 staff is trying to point out and if this is the end of those lots and it doesn't show the lot in question then the  
23 easement is located on the lot to the south.  
24  
25 Ms. Griest stated that Mr. Thorsland's statement is inaccurate.  
26  
27 Mr. Thorsland asked Ms. Griest to indicate her basis for believing that his statement is inaccurate.  
28  
29 Ms. Griest stated that the plat that Mr. Thorsland is discussing does not have any formal representation other  
30 than staff's annotation of the other lots therefore that plat does not speak to it at all.  
31  
32 Mr. Thorsland stated that he is not arguing that the plat does not show the lot in question at all.  
33  
34 Ms. Griest stated that the plat absolutely shows an easement on the adjacent parcel but Mr. Thorsland points  
35 towards the GIS as a reliable tool for those easements although they do not show the easements for the other  
36 parcels.  
37  
38 Mr. Thorsland stated that he made no claim regarding the accuracy of GIS because they indicate have his  
39 property line shooting through a building that he apparently owns three feet of on his neighbor's property.  
40  
41 Mr. Thorsland stated that the Board will continue this case to the next meeting in January and it will be the

1 first hearing of the meeting. He said that the reason why the Board will refer the January meeting as  
2 tentative is because the Board has not approved the 2014 ZBA calendar yet.  
3  
4 Mr. Thorsland entertained a motion to continue Case 764-V-13 to the tentative January 14, 2014, meeting.  
5  
6 **Ms. Griest moved, seconded by Mr. Miller to continue Case 764-V-13 to the tentative January 14,**  
7 **2014, meeting. The motion carried by voice vote.**  
8  
9 Mr. Johnson stated that the Board requires a document from the title company and a newer plat.  
10  
11 Mr. Thorsland stated yes, one or both or either.  
12  
13 Ms. Busboom stated that there will probably not be a newer plat.  
14  
15 Mr. Thorsland stated that a new plat may not be available but Mr. Johnson can try to obtain a document from  
16 the title company indicating that there is no recorded utility easement on the subject property.  
17  
18 Ms. Capel stated that the title company can indicate whether there is or is not a recorded easement on the  
19 subject property.  
20  
21 Mr. Johnson stated that with everyone reviewing the same documentation we cannot really figure it out but  
22 won't the title company be looking at the same documentation.  
23  
24 Ms. Capel stated yes, but that is the title company's job.  
25  
26 Mr. Thorsland stated that Mr. Johnson is paying the title company to indicate whether or not an easement is  
27 on the subject property and he is paying the title company to ensure their documentation in case they are  
28 incorrect.  
29  
30 Ms. Lee stated that Mr. Johnson has the right to ask the title company to prove their position because title  
31 companies can be incorrect. She said that if they are proven incorrect with other documentation they will  
32 listen. She said that the Board needs to know whether there is a recorded easement on the subject property  
33 or not.  
34  
35 Mr. Thorsland stated that it appears that the Board is being very picky but if the existence of the easement  
36 can be proven then one-half of this case can be taken off of the table and everything else becomes much  
37 easier. He said that as soon as Mr. Hall is back Mr. Johnson should contact him.  
38  
39 Ms. Griest stated that if the Board can get this matter resolved for Mr. Johnson and he is permitted to  
40 construct the addition without the restriction it will increase the value and marketability of his property in the  
41 future as opposed to restricting it.

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Mr. Thorsland called for a five minute recess.

**The Board recessed at 7:30 p.m.**

**The Board resumed at 7:35 p.m.**

**6.        New Public Hearings**

**Case 765-V-13    Petitioner:    Ashley M. Schum and John T. Copple and landowner Michael Harshbarger    Request to authorize the following in the CR District for the occupancy and use of an existing detached accessory structure that was previously denied in Case 677-V-10: Part A. A setback of 47 feet and 6 inches from CR 2545E in lieu of the minimum required setback of 55 feet; and Part B. A front yard of 17 feet and 6 inches from the front property line in lieu of the minimum front yard of 25 feet. Location: Lot 27 of Deer Ridge/Ingram’s Third Subdivision in Section 30 of Ogden Township and commonly known as the house at 2545 CR 1375N, Ogden.**

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

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

Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

Mr. Gregory Ryan, attorney for the petitioners, stated that his office is located at 123 W. Main, Urbana. He said that approximately two and one-half years ago Mr. Harshbarger, owner of the subject property, requested the same variance that is being requested today and the Board found that a couple of the provisions were not demonstrated and the request was denied. He said that the contract purchasers, Ashley Schum and John Copple, are in love with the property and they are asking that the variance be allowed. He said that he believes that with the testimony and evidence that will be presented tonight the Board will see a difference between the contractor purchaser’s use and the contract sellers. He said that nothing much has changed from the last hearing where the Board basically found that most of the provisions were complied with but the Board was very concerned that the building was built illegally and the owner was a contractor who should have known better. Mr. Ryan noted that Mr. Copple is a police officer and Ms. Schum works at Carle and

1 they are not contractors and would not have the contractor's equipment that was previously present on the  
2 property and they do not intend to have a Neighborhood Home Occupation permit. Mr. Ryan stated that Mr.  
3 Copple and Ms. Schum intend to comply with all of the requirements posed for the variance so that everyone  
4 is adequately protected.

5  
6 Mr. Ryan stated that he would like to review the photographs that were submitted to staff on December 11<sup>th</sup>.  
7 He said that the first page illustrates the front of the home on the subject property as one is looking south.  
8 He said that the second page illustrates the attached garage, the side yard to the west which has a playhouse  
9 and other entities. He said page three and four illustrates the area and the garage in question and its  
10 proximity to the road. He said that the subject property is a corner lot and for purposes of zoning there are  
11 two front yards, one side and one rear rather than one front, one rear and two sides. He said that the street  
12 adjacent to the subject garage is a cul-de-sac and the street in the front of the home is a full street. He said  
13 that page five views the subject property to the west and illustrates the fenced back yard. He said that page  
14 six illustrates a view of the subject garage and the fence line. He said that pages seven, eight and nine are  
15 also views of the subject garage in relation to the cul-de-sac street. He said that he parked his car in front of  
16 the garage to illustrate the proximity of any vehicles to the street. He said that he understands that the Board  
17 has reviewed the information included in the mailing packet but if the Board has any questions regarding the  
18 information he would be happy to address those questions.

19  
20 Mr. Thorsland asked the Board if there were any questions for Mr. Ryan.

21  
22 Ms. Lee asked Mr. Ryan to explain which point of the garage is too close to the road.

23  
24 Mr. Ryan stated that the County records the measurement from the road to the wall of the garage and that  
25 measurement is basically seven feet closer than what is allowed.

26  
27 Ms. Lee asked if the entire garage is too close to the road.

28  
29 Mr. Ryan stated yes.

30  
31 Mr. Thorsland stated that for the benefit of the Board members who were not present during the previous  
32 Case 677-V-10, the township receives motor fuel tax funds for the cul-de-sac road therefore the road cannot  
33 be vacated. He said that the original issue for the garage was that it was constructed without a Zoning Use  
34 Permit and was constructed too close to the centerline of the road and it did not provide enough room for  
35 parking a truck and trailer, which was included in the Neighborhood Home Occupation by the previous  
36 owner, without extending into the road right-of-way. He said that there has been testimony that the road is  
37 not heavily traveled because it is a cul-de-sac road and there is evidence that it won't be well traveled but the  
38 Board tried to put a lot of conditions on the case. He said that of Case 677-V-10 was denied and the garage  
39 would require modification although there was no follow-up by staff as to whether the modification had been  
40 completed therefore the same request is before the Board today with the same issue but potential new owners  
41 of the subject property. He said that the new owners would not have a home occupation which would

1 include trucks and trailers. He said that there was a lot of effort by the Board to try to make the request work  
2 but in the end the request was denied due to actions of the applicant. He said that if the garage was  
3 originally built to comply with the Zoning Ordinance's requirements the Board would not be reviewing this  
4 case tonight.  
5  
6 Mr. Passalacqua stated that regardless of the presence of a home occupation or not the setback for the garage  
7 would be the same.  
8  
9 Mr. Thorsland stated that Mr. Passalacqua was correct but there are circumstances which made impossible  
10 for the variance to work.  
11  
12 Mr. Passalacqua stated that he does not see a magic wand that makes this garage conform today. He said  
13 that we are being faced with the same circumstances today other than the home occupation that the previous  
14 Board was faced with for Case 677-V-10.  
15  
16 Mr. Thorsland stated that basically everything has basically been frozen in time from when Case 677-V-10  
17 was denied.  
18  
19 Mr. Passalacqua stated that regardless that there was not an inspection after the variance case was completed  
20 the ruling of the ZBA was that the garage has to be modified.  
21  
22 Mr. Thorsland stated that Mr. Passalacqua was correct.  
23  
24 Mr. Ryan stated that he was not involved in the previous request but the minutes indicate that two of the  
25 criteria for the finding were not met. He said that Mr. Palmgren indicated that practical difficulties or  
26 hardships created by carrying out the strict letter of the regulations sought to be varied will not prevent  
27 reasonable or otherwise permitted use of the land or structure or construction because the building in  
28 question was built by the applicant and he has testified that removing eight feet of the building to comply  
29 would be difficult but he could still do that and move the furniture around. Mr. Ryan stated that Mr.  
30 Courson stated that the special conditions, circumstances, hardships, or practical difficulties DO result from  
31 actions of the applicant because the applicant indicated in the evidence that it was his mistake that created  
32 this problem; and the site plan submitted by the applicant with the permit application indicated adequate  
33 space for the building to be built in compliance with the Zoning Ordinance and it was indicated as such on  
34 the site plan. Mr. Ryan stated that the nub of his case is that his clients, the contract buyers, did not build the  
35 structure in question and removing the portion of the garage would be very expensive and require the service  
36 of contractors. He said that the contractor, not his clients, made the mistake regarding the construction of the  
37 garage in question.  
38  
39 Mr. Passalacqua asked Mr. Ryan if when his clients entered into the sales contract were they aware of the  
40 circumstances regarding the garage.  
41

1 Mr. Ryan stated that his clients were not aware of the circumstances regarding the garage. He said that he  
2 inserted this information in his petition for the variance.  
3  
4 Mr. Randol asked when the garage was constructed.  
5  
6 Mr. Thorsland stated that he will let Mr. Harshbarger, the current owner of the subject property, address Mr.  
7 Randol's question.  
8  
9 Mr. Thorsland called Michael Harshbarger to testify.  
10  
11 Mr. Michael Harshbarger, who resides at 2102 Leah's Lane, Champaign, stated that the subject property is  
12 currently vacant. He said that he did not hear anything from the Board or staff after the public hearing so he  
13 was not sure what he was supposed to do with the garage.  
14  
15 Mr. Thorsland asked Mr. Harshbarger if he had a clear understanding after the public hearing for Case 677-  
16 V-10 that the case was denied and a portion of the garage required removal.  
17  
18 Mr. Harshbarger stated that he did not have a clear understanding of such. He said that Mr. Hall informed  
19 him that staff would be contacting him within a few weeks.  
20  
21 Mr. Thorsland stated that the memorandum indicates that there were some extenuating circumstances as to  
22 why staff did not visit the subject property to determine if removal of the portion of the garage was removed  
23 or not. He said that there was only one planner in the Department of Planning and Zoning at the time and  
24 there was a rather large wind farm hearing which occupied staff and the Board's time. He asked Mr.  
25 Harshbarger if when he advertised the subject property for sale, if he mentioned the circumstances of the  
26 garage.  
27  
28 Mr. Harshbarger stated that he did not. He said that he had forgotten about it because he hadn't heard  
29 anything from staff or the Board. He said that tonight is the first time that he has met the potential buyers.  
30  
31 Mr. Thorsland asked Mr. Harshbarger if he hired the services of a realtor.  
32  
33 Mr. Harshbarger stated yes.  
34  
35 Mr. Thorsland asked Mr. Harshbarger if he mentioned the circumstances to the realtor.  
36  
37 Mr. Harshbarger stated no.  
38  
39 Mr. Thorsland stated the realtor or the potential buyers had an idea that there was an issue with the subject  
40 garage.  
41

1     Mr. Harshbarger stated that Mr. Thorsland was correct.  
2  
3     Ms. Griest asked Mr. Harshbarger if there is an existing sales contract for purchase by Ms. Schum and Mr.  
4     Copple or is he selling the subject property on contract to Ms. Schum and Mr. Copple.  
5  
6     Mr. Harshbarger stated that there is an existing sales contract for purchase and it will be an outright sale.  
7  
8     Mr. Randol asked Mr. Harshbarger when he constructed the garage.  
9  
10    Mr. Harshbarger stated that the garage was built in 2006 which was approximately five years before the  
11    variance request.  
12  
13    Mr. Thorsland stated that there was another variance case for the subject property which included other  
14    structures on the property such as, the pool house, and the play house. He said that the Board allowed the  
15    variance for the pool house due to its complexity and the fact that it was plumbed in with concrete. He said  
16    that the play house was moved by the petitioner therefore the variance for it was removed from the request.  
17    He said that the variance for the detached garage, the subject of this variance request, was denied by the  
18    Board.  
19  
20    Ms. Capel stated that the issue of the garage was discovered when staff was conducting a compliance  
21    inspection on the subject property.  
22  
23    Ms. Busboom stated that she and Ms. Hitt had visited the subject property to conduct a compliance  
24    inspection on the play house and the swimming pool to verify compliance and at that time the detached  
25    garage was investigated and determined that it was too close to the property line as well as the centerline of  
26    the road. She said that Mr. Harshbarger was notified and applied for a variance for the garage.  
27  
28    Mr. Passalacqua asked Mr. Harshbarger if he was at the meeting when the ZBA denied his variance request.  
29  
30    Mr. Harshbarger stated yes.  
31  
32    Mr. Passalacqua asked Mr. Harshbarger if he was aware of the changes that needed to be completed.  
33  
34    Mr. Harshbarger stated that he was not clear at that time as to what changes needed to be completed.  
35  
36    Ms. Lee asked if the encroaching portion of the garage was removed what amount of the garage would  
37    remain.  
38  
39    Mr. Harshbarger stated that 42 feet 6 inches would remain.  
40  
41    Ms. Lee stated that Mr. Harshbarger indicated that removal of the encroaching portion would cost a lot. She

1    asked Mr. Harshbarger to indicate the definition of “cost a lot.”

2  
3    Mr. Harshbarger stated that he has a quote from a contractor regarding removal of the encroaching portion of  
4    the garage that he will submit to the Board.

5  
6    Mr. Passalacqua stated that he really requires input from Mr. Hall because at this point he is done for the  
7    night.

8  
9    Mr. Thorsland asked the Board if there were any additional questions from the Board for Mr. Harshbarger  
10    and there were none.

11  
12    Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Harshbarger and there was no one.

13  
14    Mr. Thorsland called Pamela Wendt to testify.

15  
16    Ms. Pamela Wendt, who resides at 1365 CR 2545 E, Ogden, stated that she realizes that everyone on the  
17    Board has read the Preliminary Memorandum but she would like to point out that since 2008 Mr.  
18    Harshbarger and herself have been in front of the Board on different occasions regarding different issues  
19    with structures being constructed on his property which was too close to the property line which is between  
20    her property and his. She said that the play house was removed and placed away from her property line and  
21    there was an issue with the pump house, a drain line and some bricks but the drain line and bricks were also  
22    moved further from her property line. She said that her concern with all of this is that Mr. Harshbarger is a  
23    contractor who builds structures and since he moved onto the subject property he has continued to build  
24    things on his property without receiving the initial paperwork required by the County and then comes before  
25    the Board requesting zoning variances. She said that different variances have been denied and different  
26    variances have been allowed and some variances have been allowed with conditions requiring changes. She  
27    said that the case that was called before the Board tonight was originally called in 2010 and a finding for  
28    denial was determined in 2011 and nothing has changed since 2011. She said that earlier this week she had a  
29    45 minute telephone conversation with John Hall and he apologized for not having enough staff to get out to  
30    the subject property, the wind farm cases, etc.

31  
32    Ms. Wendt stated that the fact of the matter is that not getting a permit to build and then requesting a  
33    variance later and then having no follow through by staff or the Board. She said that everyone in the County  
34    has to comply with the Zoning Ordinance but if there is no follow through then there are no consequences  
35    for violating these rules and regulations. She said that she does not see that anything has changed on the  
36    property since 2010 except that in 2013 Mr. Harshbarger intends to sell the property to someone else. She  
37    said that she is not sure how a new case could come forth when there have been no changes since the initial  
38    Board’s denial.

39  
40    Mr. Thorsland stated that the Board does not decide which cases will be heard but he understands Ms.  
41    Wendt’s point.

1  
2 Mr. Thorsland asked the Board if there were any questions for Ms. Wendt.  
3  
4 Ms. Griest asked Ms. Wendt if she shares the adjoining property line which is adjacent to the garage.  
5  
6 Ms. Wendt stated that Mr. Harshbarger's south property line is her north property line.  
7  
8 Ms. Griest asked Ms. Wendt if her property is directly behind the pool house.  
9  
10 Ms. Wendt stated yes. She said that both portions of the requested variance affects her property.  
11  
12 Ms. Griest asked Ms. Wendt if she attended the public hearings in 2010 and 2011.  
13  
14 Ms. Wendt stated no. She said that she attended the public hearings that occurred in 2008 and 2009. She  
15 said that her family was out of the country during the 2010 and 2011 public hearings.  
16  
17 Ms. Griest asked Ms. Wendt if she was aware of the outcome of the 2011 denial.  
18  
19 Ms. Wendt stated that she was not aware of the outcome of those public hearings until the recent case came  
20 forth.  
21  
22 Ms. Griest stated that no complaints were filed due to Mr. Harshbarger's non-compliance with the Board's  
23 findings.  
24  
25 Ms. Wendt stated no, because she was not aware that his request had been denied.  
26  
27 Mr. Thorsland asked the Board if there were any additional questions for Ms. Wendt and there were none.  
28  
29 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Wendt and there was no one.  
30  
31 Mr. Thorsland called Ashley Schum to testify.  
32  
33 Ms. Ashley Schum, who resides at 403 Eagle Court, Gibson City, stated that they fell in love with the  
34 property and they pay approximately \$100 per month to store their boat at an outside facility and one of the  
35 reasons they desired to purchase the property was because they could store their boat in the garage. She said  
36 that Mr. Copple is a Illinois State Trooper so he has his work vehicle, as well as his personal truck and she  
37 has a car therefore they require a three-car garage.  
38  
39 Mr. Thorsland asked Ms. Schum where she and Mr. Copple are in the sale process.  
40  
41 Ms. Schum stated that everything has been approved and they are waiting on the determination from the

1 Board regarding the detached garage. She said that if the request is denied they will not purchase the  
2 property.  
3  
4 Mr. Thorsland asked Ms. Schum if she and Mr. Copple have any intent of starting a home occupation which  
5 would involve trucks and trailers.  
6  
7 Mr. Schum stated no.  
8  
9 Ms. Griest asked Ms. Schum if the variance was granted with conditions would she be willing to agree to a  
10 condition that if the detached garage required reconstruction that it would be built to comply within the  
11 prescribed setbacks by the County's Zoning Ordinance.  
12  
13 Ms. Schum stated yes.  
14  
15 Mr. Thorsland stated that Mr. Ryan has some additional comments that he would like to present to the  
16 Board. Mr. Thorsland called Mr. Ryan to testify.  
17  
18 Mr. Ryan, attorney for the petitioners, stated that he has spoken with Ms. Schum and Mr. Copple extensively  
19 and they would abide by any special conditions imposed by the Board. He said that the special condition  
20 that if the request is granted that an original copy of the signed Final Determination in the variance case be  
21 filed with the Recorder of Deeds as a Miscellaneous Document as soon as possible after receiving the signed  
22 Final Determination. He said that the petitioners are not a construction company and as far as he knows  
23 nothing will be parked on the padded area for storage because the detached garage is large enough to store  
24 their boat. He said that the petitioner's personal vehicles will be parked in the attached garage or on the pad  
25 in front of the attached garage. He distributed a proposal from D & D Construction indicating the cost that  
26 would be incurred to correct the violation. He said that the petitioners did not have anything to do with  
27 creating this situation which is before the Board tonight. He said that there were some erroneous errors  
28 conducted by the current owner and he has admitted to such and it appears that this was one of the main  
29 concerns made by the previous Board and the situation was static other than concerns addressed by the Board  
30 regarding what Mr. Harshbarger did. He said that the petitioners were not aware of the subject property's  
31 issues when they signed the purchase contract but now that they do they are attempting to go through the  
32 property channels to obtain a variance. He said that their request is fairly minimal and it doesn't appear to  
33 impose any dangers. He said that the petitioners would like to obtain the variance due to the cost to remove  
34 the portion of the garage which is in violation and doing so would change the dynamics of the property that  
35 they desire to purchase.  
36  
37 Mr. Thorsland asked the Board if there were any questions for Mr. Ryan.  
38  
39 Mr. Passalacqua asked Mr. Ryan if it is a gabled wall that is being proposed to be removed in the estimate.  
40  
41 Mr. Ryan stated that he is not a contractor and only presented the estimate to the Board to indicate the cost of

1 removal. He said that his clients do not desire removing any portion of the detached garage.  
2  
3 Mr. Passalacqua stated that he does not believe that removal is the responsibility of Mr. Ryan's clients.  
4  
5 Mr. Thorsland stated that before the Board discusses what the cost to remove the portion of the detached  
6 garage that was determined by the Board or any other factors that caused the original denial it has been  
7 established by the petitioner's attorney that removal of any portion of the structure is desired by the  
8 petitioner. He said that the petitioner's do not intend to modify the property therefore it is the determination  
9 of this Board for their request as to whether they purchase the property or not.  
10  
11 Mr. Ryan stated that it doesn't matter whether the cost is \$10,000 or \$40,000 they do not intend to remove  
12 any portion of the structure. He said that the cost estimate may be irrelevant but he wanted to give the Board  
13 an idea of what it would cost the petitioners to comply with the Board's determination.  
14  
15 Mr. Thorsland asked the Board if there were any additional questions for Mr. Ryan.  
16  
17 Ms. Griest asked Mr. Ryan how the petitioners became aware of the subject property's violation.  
18  
19 Mr. Ryan stated that he believes that the memorandum indicates that the petitioners were made aware in  
20 October. He said that he did not become involved with this issue until after the petitioners discovered the  
21 violation on the property.  
22  
23 Ms. Busboom stated that staff received a telephone call from the realtor requesting the zoning district which  
24 is common practice. She said that staff made the realtor aware of the denied variance and shortly thereafter  
25 staff received calls from Michael Harshbarger, Ashley Schum and Mr. Ryan.  
26  
27 Mr. Thorsland asked the Board if there were any additional questions for Ms. Schum or Mr. Ryan.  
28  
29 Mr. Passalacqua asked Ms. Schum if their boat would fit inside a 42 foot garage.  
30  
31 Ms. Schum stated that she believed that the boat would fit because the boat with the trailer measures 32 feet.  
32  
33 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Schum or Mr. Ryan and there was  
34 no one.  
35  
36 Ms. Busboom stated that when the realtor called the realtor did not indicate how far the potential buyers  
37 were in the process and whether or not they had signed the purchase contract.  
38  
39 Mr. Thorsland called John Copple to testify.  
40  
41 Mr. John Copple, who resides at 403 Eagle Court, Gibson City, stated that he does not believe that the boat

ZBA                      DRAFT                      SUBJECT TO APPROVAL                      DRAFT

1 would fit because it would be a tight fit now with the garage at its current dimension. He said that the boat is  
2 26 foot with a two foot sundeck and the trailer adds seven feet. He said that the detached garage is 30' x 50'  
3 and Mr. Harshbarger has a room built inside of the garage but he is sure that the boat would not fit.  
4  
5 Mr. Thorsland asked Mr. Copple if the boat would fit without the room.  
6  
7 Mr. Copple stated that if the room was removed he would not be interested in the property.  
8  
9 Mr. Thorsland stated that the realtor called staff on October 22<sup>nd</sup>. He asked Mr. Copple how far he and Ms.  
10 Schum were in the process for purchasing the property.  
11  
12 Mr. Copple stated that they were pretty close to completing the purchase. He said that they found about the  
13 issues with the detached garage rather late in the game. He said that currently they live in Gibson City but  
14 their lease is up at the end of December.  
15  
16 Ms. Lee asked Mr. Copple if he and Ms. Schum signed the purchase contract prior to October 22<sup>nd</sup>.  
17  
18 Mr. Copple stated yes.  
19  
20 Mr. Thorsland called Ms. Schum to testify beside Mr. Copple.  
21  
22 Mr. Thorsland stated that the Board's concern at this time is who made the call to the Planning and Zoning  
23 Department.  
24  
25 Mr. Thorsland stated that it is his understanding that Mr. Copple and Ms. Schum desire to purchase the  
26 property in its current condition and anything different would not be desirable.  
27  
28 Mr. Copple stated that Mr. Thorsland was correct.  
29  
30 Mr. Thorsland stated that the sale is really pending the determination of this zoning case and modification of  
31 the structures is not acceptable.  
32  
33 Mr. Copple stated yes. He said that he reviewed the various special conditions and he agrees to all of the  
34 special conditions. He said that currently he stores the boat in his father's machine shed during the winter.  
35  
36 Mr. Thorsland asked the Board if there were any additional questions for Mr. Copple and there were none.  
37  
38 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Copple and there was no one.  
39  
40 Mr. Thorsland called Reggie Taylor to testify.  
41

1 Ms. Reggie Taylor, who resides at 3109 Meadowbrook Drive, Champaign, stated that she is a realtor and she  
2 represented Ashley Schum and John Copple during their purchase of the property. She said that the contract  
3 was written and signed in October and shortly thereafter she discovered the zoning issues with the detached  
4 garage.  
5  
6 Mr. Thorsland asked Ms. Taylor how she discovered the zoning issues with the detached garage.  
7  
8 Mr. Taylor stated that someone who was aware of the circumstances with the subject property contacted her.  
9 She said that her first question to her contact was whether or not the zoning issues would appear in the title  
10 work and she was informed that it would not. She said that she immediately called the Planning and Zoning  
11 office to find out more information about the subject property but at that point the petitioners were well into  
12 the purchase contract and the appraisal was completed. She said that one of the confusing points for them is  
13 that the requirement is 10 feet for a side yard but since there are two streets the property essentially has two  
14 front yards. She said that she did not think anything about the garage being so close to the road because she  
15 considered the yard as a side yard and not a front yard.  
16  
17 Mr. Thorsland stated that such confusion appears quite often with corner lots. He asked Ms. Taylor if she  
18 has reviewed the memorandum regarding the previous case that was denied.  
19  
20 Ms. Taylor stated yes, but it is her understanding that Mr. Harshbarger never received an answer from staff  
21 as to what he was supposed to do and that everything was put on the backburner.  
22  
23 Mr. Thorsland stated that the only thing that was put on the backburner was staff verifying that the  
24 modifications has been completed.  
25  
26 Ms. Taylor stated that is her understanding as well.  
27  
28 Mr. Thorsland stated that the minutes make it very clear that the case was denied and the garage required  
29 modification.  
30  
31 Mr. Thorsland asked the Board if they had any questions for Ms. Taylor.  
32  
33 Ms. Lee asked Ms. Taylor who contacted her about the circumstances with the subject property.  
34  
35 Ms. Taylor indicated that the appraiser contacted her.  
36  
37 Mr. Thorsland stated that the appraiser apparently received knowledge from staff regarding the property.  
38  
39 Mr. Thorsland asked the Board if there were any additional questions for Ms. Taylor and there were none.  
40  
41 Mr. Thorsland asked the Board if there were any questions for Mr. Harshbarger and there were none.

1  
2 Mr. Thorsland stated that Mr. Hall presented an alternative site plan with the existing driveway removed and  
3 a new driveway installed and with the garage modified to be entered from the north. He said that Mr. Hall  
4 indicated that this alternative site plan would eliminate the need for extensive special conditions related to  
5 the street but would still require some significant changes to be made to the property. Mr. Thorsland stated  
6 that the alternative site plan would take away the problems with the parking but would not take away the  
7 issues with the building. He said that submitted testimony indicates that the problems with parking do not  
8 appear to be an issue with the petitioners. He said that the Board also heard testimony from the petitioners  
9 indicating that modification to the property is not acceptable in any way therefore the alternative site plan in  
10 not really any option.

11  
12 Mr. Passalacqua stated that he was not involved in the last public hearing regarding the garage but it appears  
13 that the 30' x 50' detached garage was one project and the 12' x 30' addition to the garage was another  
14 project and both were constructed without a permit and were constructed outside of compliance.

15  
16 Ms. Busboom stated that the addition to the garage was constructed with a permit and that is why it is  
17 setback seven plus feet and the rear yard is compliant as well.

18  
19 Mr. Passalacqua stated that the addition was added to a non-compliant structure.

20  
21 Mr. Thorsland stated that the Board has heard from all of the witnesses who signed the witness register. He  
22 asked the Board if they were comfortable with continuing forward with the case or to continue the case to a  
23 later date.

24  
25 Ms. Griest stated that she understands the position that the purchasers are in but she does not know that there  
26 is additional evidence that would resolve any of the lack of certainty. She said that she is the type of Board  
27 member who always likes to find the common ground that works well for everyone however she has an  
28 incredible low tolerance for people who blatantly disregard the regulations in the County. She said that Mr.  
29 Harshbarger, of all people, is involved in the construction industry therefore he should be more aware of  
30 those requirements and restrictions than the general lay public and it puts her in a very difficult situation.  
31 She said that the subject property appears to be lovely and it escapes her why a lot this large Mr. Harshbarger  
32 couldn't have and wouldn't have made every possible effort to build on the property within the required  
33 setbacks of the County.

34  
35 Mr. Thorsland stated that the Board should be sure to review all of the minutes for the previous case.

36  
37 Ms. Griest stated that she did review the minutes.

38  
39 Mr. Thorsland stated that what should have been done was that Mr. Harshbarger should have contacted the  
40 County before construction to obtain a permit and to find out what the regulations were for that construction.  
41 He said that there is a waterway on the subject property that pushes some of the construction into one portion

1 of the property and the waterway is discussed during the previous case. He said that some of the  
2 construction is larger than the average size that is constructed but those items were forced that way partially  
3 by the waterway's location. He said that he is not justifying the actions but is explaining some of the past  
4 history.  
5  
6 Ms. Griest stated that she understands the difficulties and restrictions caused by drainage but there were  
7 other solutions. She said that her dilemma is rewarding someone who blatantly disregarded the rules by  
8 approving this petition but at the same time denying the purchasers approval when they had no participation  
9 in the noncompliance that was created.  
10  
11 Mr. Thorsland asked Ms. Griest if there were conditions that would make her more comfortable that would  
12 allow the variance.  
13  
14 Ms. Griest stated that it is possible.  
15  
16 Mr. Thorsland stated that his job is to get the Board to come to some sort of agreement regarding moving  
17 forward or continuing the case to a later date.  
18  
19 Ms. Griest stated that she did as Ms. Schum about conditions regarding reconstruction and there are a lot of  
20 ways to reconfigure the 30' x 50' detached garage so that it remains a 30' x 50' building although concrete is  
21 expensive depending on the degree of destruction. She said that her biggest concern comes from the fact that  
22 if this is approved and having Mr. Harshbarger benefit from his lack of follow-up and lack of action in  
23 resolving his noncompliance originally.  
24  
25 Mr. Passalacqua stated that Ms. Griest is discussing the buyer and the seller but the Board received  
26 testimony from the neighbor which indicated that they are not very excited about the requested variance  
27 either.  
28  
29 Ms. Griest stated that she understands Ms. Wendt's concerns but she is using her own personal infliction of  
30 what she is inferring from what Ms. Wendt testified and Ms. Griest assumes that she would be much happier  
31 if she had new neighbors that were compliant.  
32  
33 Mr. Passalacqua stated that he does not believe that who lives in the house is relevant but he does believe  
34 that this is the exact same case that was previously denied and there have been no new information brought  
35 forward tonight other than the property is not proposed to house a Neighborhood Home Occupation. He said  
36 that other than new ownership this appears to be the exact same case that this Board heard before he was a  
37 member.  
38  
39 Mr. Thorsland stated that the only two differences are that there will be new ownership and that there will be  
40 no Neighborhood Home Occupation on the property. He said that the current condition is not the fault of the  
41 petitioners and even though Mr. Harshbarger is listed on the application it may have been a mistake to have

1 included him. He said that it may have been a cleaner application to not have included him because the  
2 request is not due to the actions of Ms. Schum or Mr. Copple. He said that the proposed special conditions  
3 are very similar to the special conditions that were proposed in the previous case.  
4  
5 Mr. Passalacqua stated that it is perfectly fine to have included Mr. Harshbarger as a co-petitioner because  
6 the contract purchasers have testified that if any modifications are made then they are not interested in the  
7 property and Mr. Harshbarger's goal is to sell the property.  
8  
9 Mr. Thorsland stated that someone needed to make a decision as to whether the Board is considering a  
10 variance for the proposed owners or for the current owner and instead all parties were placed on the  
11 application.  
12  
13 Mr. Passalacqua stated that after hearing the testimony it appears that Mr. Harshbarger was not clear as to the  
14 direction that he was supposed to take after the denial of the first case. He said that he would like to hear  
15 testimony from Mr. Hall because currently he is at an impasse. He said that on the other hand the minutes  
16 are a form of public record and Mr. Harshbarger did testify that he was at the meeting and in his presence the  
17 Board denied his request.  
18  
19 Mr. Thorsland stated that the minutes for the public hearing were approved and the memorandum in the  
20 mailing indicated the reason why follow-up was not completed by staff.  
21  
22 Mr. Passalacqua stated that he does not believe that has a lot of merit but by the same token one of the  
23 petitioners is a Illinois State Trooper and he will probably tell you that if you drive 85 m.p.h. and he catches  
24 on the radar gun or visually catches you the law is still the law and you are in violation. He said that this one  
25 the those cases where nobody wins and the Board gets to look like the bad guys but the fact from the first  
26 case is that the structures had no permit and were and still are out of compliance.  
27  
28 Mr. Thorsland asked Mr. Passalacqua if there is anything that Mr. Hall could provide that would make him  
29 want to wait for Mr. Hall's presence or work through the Finding of Fact tonight and get as far as the Board  
30 can without Mr. Hall.  
31  
32 Mr. Passalacqua stated that as a courtesy to both parties he believes the Board should get as far as it can  
33 tonight.  
34  
35 Mr. Thorsland asked the Board if the agreed with Mr. Passalacqua and the Board agreed.  
36  
37 Ms. Griest stated that she would like the opportunity to ask Ms. Wendt a few questions.  
38  
39 Mr. Thorsland called Pam Wendt to testify.  
40  
41 Ms. Griest stated that the question that she has for Ms. Wendt is related to the variance for the shed and if it

1    were granted. She asked Ms. Wendt to explain how the distance from the center of the road being 7-1/2'  
2    narrower than what it should be has or has not directly impacted her negatively or was Ms. Wendt's earlier  
3    statement not so much about that but more about the general pattern of behavior that she was experiencing.  
4  
5    Ms. Wendt stated that her concerns are two-fold. She said that she is concerned about the patterned behavior  
6    where there is no follow through. She said that if she wants to build a structure on her property she is  
7    required to go to the County to obtain a building permit, which she does do and follows all of the County's  
8    rules and regulations but there has been time after time after time where that has not been done on the  
9    subject property. She said that her second concern is not with the new owners coming in because they will  
10   not have machinery and trucks with trailers. She said that over the period of the last several years there have  
11   been times when trucks and trailers have been parked on the subject property and there have been complaints  
12   from the school bus driver who comes to pick up her child and her neighbor's children. She said that the  
13   school bus driver indicates that they cannot get past the vehicles when it is snowing and they have to pull  
14   over onto another neighbor's yard. She said that these are her only concerns with the building.  
15  
16   Ms. Griest asked Ms. Wendt if she were permitted to express an opinion regarding whether this request  
17   should or should not be approved would she prefer that it be approved or not be approved.  
18  
19   Mr. Thorsland stated that he does not want to put Ms. Wendt on the spot.  
20  
21   Ms. Griest stated that since Ms. Wendt is an adjacent landowner she will be heavily impacted therefore this  
22   is a fair question.  
23  
24   Mr. Thorsland stated that Ms. Wendt has basically answered the question.  
25  
26   Ms. Griest stated that Ms. Wendt did not answer the question.  
27  
28   Mr. Thorsland stated that Ms. Wendt indicated that the new owners perhaps would not be as cavalier.  
29  
30   Ms. Griest stated that she will ask her question differently. She asked Ms. Wendt if she has a strong  
31   objection to the ZBA if they approved the requested variance for the distance of the existing shed to the road.  
32  
33   Mr. Thorsland informed Ms. Wendt that she does not have to answer Ms. Griest's question.  
34  
35   Ms. Griest informed Ms. Wendt that she does not have to answer any question. She said that if Ms. Wendt  
36   does not have an opinion that would be a fair answer as well.  
37  
38   Ms. Wendt stated that her opinion is that the request went before the Board and it was denied for a reason  
39   and there were supposed to be things done by Mr. Harshbarger and they were not done. She said that if Mr.  
40   Harshbarger would have to do those modifications and the new owners desired to purchase the property then  
41   she would not have a problem with that but her problem is that nothing has been followed through and there

1 continues to be issues.  
2  
3 Mr. Thorsland stated that Mr. Harshbarger testified that he no longer lives on the subject property and is  
4 merely the owner of the property. He asked the Board if they desired more input on Mr. Harshbarger's  
5 testimony.  
6  
7 Mr. Thorsland asked Ms. Wendt if within the recent months has she had any issues with vehicles in the  
8 driveway or has that stopped.  
9  
10 Ms. Wendt stated that no one lives on the subject property at this time.  
11  
12 Mr. Thorsland asked the Board if there were any additional questions for Ms. Wendt and there was no one.  
13  
14 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Wendt and there was no one.  
15  
16 Mr. Greg Ryan, attorney for the petitioners, stated that his goal is to represent the contract purchasers and  
17 Mr. Harshbarger was added to the variance application because staff recommended it due to Mr. Harshbarger  
18 is the current owner. He said that he is not making excuses for what Mr. Harshbarger has or has not done  
19 but he does not believe that the contract purchasers should be held to his actions. He said that in response to  
20 the Board's concerns regarding there has been no change but he respectfully disagrees because there has  
21 been change in that there are new applicants. He said that during the previous case the Board specifically  
22 that the big problem that they had was that Mr. Harshbarger was the applicant and he was the one that made  
23 the mistakes and the two issues which the Board has to consider the appropriate findings were not  
24 determined. He said that if Mr. Harshbarger is out of the picture then he believes that his clients have  
25 presented enough evidence to remedy those two issues that the Board had before and everything else is  
26 static.  
27  
28 Mr. Thorsland asked the Board if there were any questions for Mr. Ryan and there were none.  
29  
30 Mr. Randol stated that he sees the potential for penalizing the new homeowners and not only has it been Mr.  
31 Harshbarger's problem but it was compounded by staff not going back and enforcing what the Board  
32 required to be done.  
33  
34 Mr. Thorsland stated that it is sad that is not the Board's responsibility and many times the Board has to mull  
35 over these things after the fact. He said that staff has been apologetic.  
36  
37 Mr. Thorsland called for an additional five minute recess. He requested that the Board think about whether  
38 they desire to move forward with the case tonight or continue it to a later date. He said that he believes that  
39 the Board has everything that they need to move forward but that is only his opinion. He noted that there is a  
40 full Board present tonight which is something that has not occurred for over a year's time.  
41

1    **The Board recessed at 8:45 p.m.**

2    **The Board resumed at 8:50 p.m.**

3

4    Mr. Thorsland stated that the Board desires we can start review of the Findings. He said that generally  
5    regarding special conditions that may be present, the petitioner indicated the following: “The road will never  
6    be made wider. Also, no more houses will be built. Petitioners, Schum and Copple are the contract  
7    purchasers of the property in question who will allow the garage to remain in an “as is” condition.” Mr.  
8    Thorsland stated that staff included a re-hash of what occurred previously in Case 677-V-10 and an  
9    explanation of why the Board made their finding.

10

11    Mr. Thorsland stated that generally regarding any practical difficulties or hardships related to carrying out  
12    the strict letter of the Ordinance the petitioner indicated the following: “The costs to remedy the setback  
13    issue would be great as the contract purchasers are not construction contractors. Also, the contract  
14    purchasers were unaware of any setback problems when they entered into the contract to purchase said  
15    property with the contract seller.” Mr. Thorsland stated that the Board has received testimony to substantiate  
16    the petitioner’s statement on the application and at some point someone made the realtor aware of the zoning  
17    violation which places us where we are today. He said that the Board has heard testimony that approval of  
18    the variance is the last thing that needs to be completed before the sale is finalized. He asked the Board if  
19    there was any additional evidence that should be added and there was none.

20

21    Mr. Thorsland stated that generally pertaining to whether or not the practical difficulties or hardships result  
22    from the actions of the applicant the petitioner indicated the following: “The petitioners/contract purchasers  
23    did not cause the setback problem as it was the contract seller’s error in constructing the garage in the  
24    setback. The contract purchaser had nothing to do with the site plan or permit application involved in the  
25    garage construction.” He said that the Board heard evidence that substantiated that and the finding for Case  
26    677-V-10 indicated that the special conditions, circumstances, hardships, or practical difficulties DO result  
27    from actions of the applicant. He said that in Case 765-V-13 Mr. Harshbarger is still an applicant because he  
28    is the current owner of the property.

29

30    Ms. Griest asked if the Summary of Evidence should indicate Mr. Ryan’s testimony indicating that the only  
31    reason why Mr. Harshbarger is listed as a co-petitioner is because he is still the current owner and it is  
32    required by the County’s regulations. She said that it is important that Mr. Ryan’s testimony be specifically  
33    stated in the Summary of Evidence.

34

35    Mr. Thorsland stated that Mr. Ryan’s testimony could be added as a new Item #9.D.

36

37    Mr. Passalacqua stated that he believes that Mr. Ryan’s testimony is important as well. He asked who the  
38    true petitioners are for this case and if they are Ms. Schum and Mr. Copple.

39

40    Mr. Thorsland stated the rules for applying for the case indicate that the current owner has to be a co-  
41    petitioner but the people requesting the variance are the contract purchasers. He said that the current owner

1 of the property previously requested the same variance and was denied.  
2  
3 Mr. Passalacqua stated that he sees it as punishing the current applicants. He said that if Mr. Harshbarger is  
4 a co-petitioner for the case then the case is the same case that was requested in 2010 and denied in 2011  
5 regardless of the intended use today. He said that since this is the same case then it will have same outcome.  
6  
7 Mr. Thorsland stated that new Item #9.D. should read as follows: Greg Ryan, attorney for the purchasers,  
8 testified at the December 12, 2013, public hearing that because the County regulation requires that the  
9 current owner of any property must be a petitioner in a request for a variance for any property action  
10 therefore Mr. Ryan was required to add Mr. Harshbarger, the current owner, as a co-petitioner.  
11  
12 Mr. Thorsland asked the Board if they agreed to new Item #9.D. and the Board agreed.  
13  
14 Mr. Thorsland stated that generally pertaining to whether or not the Variance is in harmony with the general  
15 purpose and intent of the Ordinance the petitioner indicated the following: “Based on the previous factual  
16 findings of the Board and the previous proposed special conditions, if adopted, will protect people with any  
17 traffic issues and the road commissioner previously indicated he had no problem with the previous proposed  
18 special conditions.” Mr. Thorsland stated that he does not believe that there is any new evidence to add to  
19 this tonight. He said that this finding in Case 677-V-10 was determined that the requested variance, subject  
20 to the proposed special conditions, IS in harmony with the general purpose and intent of the Ordinance  
21 because it protects people with any potential traffic issues in front of the building and the road commissioner  
22 stated he had no problems with it in the letter that he signed; and if it were a side yard it would be adequate  
23 but it is a front yard.  
24  
25 Mr. Thorsland asked the Board if there was anything that needed to be added to the finding and there was  
26 none.  
27  
28 Mr. Thorsland stated that generally pertaining to the effects of the requested variance on the neighborhood  
29 and the public health, safety, and welfare the petitioner indicated the following: “The variance requested is  
30 relatively minor and will not have a detrimental effect on the neighborhood in this rural area. Also, on the  
31 previous application the Fire Protection District had no response and the road commissioner indicated that he  
32 was comfortable with the special conditions proposed.” Mr. Thorsland stated that the proposed special  
33 conditions in Case 677-V-10 are similar to the special conditions for Case 765-V-13 and they involved long  
34 vehicles. Mr. Thorsland stated that the petitioners indicated that the variance requested in relatively minor  
35 although he believes that the 7 feet six inches is less than relatively minor and the photographic evidence  
36 indicates that a normal car can be parked in the driveway without extending into the right-of-way.  
37  
38 Ms. Capel stated that a full size pickup truck would extend into the right-of-way of the street. She said that  
39 she does not believe that this is a minor variance because Ms. Wendt testified that the school bus had to  
40 drive into the neighbor’s yard to get around the vehicle that was parked on the subject property.  
41

1 Mr. Thorsland stated that the Board cannot change the petitioner’s comments on the variance application but  
2 the Board can point out testimony. He said that he would like to continue the Board’s review of this case by  
3 reading the special conditions.  
4

5 Mr. Thorsland stated that proposed special condition 14.A. is in regards to how encroachment of parked  
6 vehicles into the right-of-way shall be limited. He read proposed special conditions as follows:

- 7        **A.1. At no time shall a parked or standing vehicle (ie, parked while attended) located**  
8        **on the subject property extend onto the street pavement and past the line of the gravel**  
9        **base of the pavement on either side of the driveway.**
- 10
- 11        **A.2. Unless otherwise directed by the Township Highway Commissioner, no parked or**  
12        **standing vehicle (ie, parked while attended) located on the subject property shall**  
13        **extend past the line of the right-of-way during times of anticipated street maintenance**  
14        **(and it shall be the petitioner’s responsibility to anticipate street maintenance) or at**  
15        **other times as requested by the Township Highway Commissioner.**
- 16
- 17        **A.3. Unless otherwise directed by the Township Highway Commissioner, at no time**  
18        **from dusk to dawn shall a parked vehicle located on the subject property extend**  
19        **past the centerline of the roadside ditch in front of the subject garage.**
- 20
- 21        **A.4. Three documented violations of the special conditions of approval regarding**  
22        **encroachment of parked vehicles into the street right-of-way between the garage and**  
23        **the street shall void this approval and a new variance shall be required.**
- 24
- 25        **B. If the subject garage is damaged or destroyed to more than 50% of replacement**  
26        **Value it shall be reconstructed in full compliance with the Champaign County Zoning**  
27        **Ordinance.**
- 28
- 29        **C. The petitioner shall file an original copy of the signed Final Determination in this**  
30        **variance case as a Miscellaneous Document with the Champaign County Recorder of**  
31        **Deeds as soon as possible after receiving the signed Final Determination.**
- 32
- 33        **D. The Zoning Administrator shall not issue any additional Zoning Compliance**  
34        **Certificates authorizing the use of buildings on the subject property unless the**  
35        **petitioner submits a copy of the recorded document required by Condition D. above.**  
36

37 Ms. Griest asked Mr. Thorsland if there was a possibility of adding a special condition indicating that no  
38 Neighborhood Home Occupation may be permitted on the subject property.  
39

40 Ms. Lee stated that indicating such would restrict the new owners from having a simple in-home computer  
41 business that would be located entirely in the house.

- 1  
2 Ms. Capel stated that such a restriction would run with the land.  
3  
4 Mr. Randol stated that an in-home computer business would not take up any parking area.  
5  
6 Ms. Griest stated that no one knows if an in-home computer business would take up any parking area.  
7  
8 Ms. Busboom stated that the proposed special condition could read as follows: No Neighborhood Home  
9 Occupation could be granted for the subject property that involved any parking of vehicles in the driveway  
10 along CR 2425E, such as trailers, trucks, etc. She said that if someone had an in-home business like  
11 Tupperware or a hair salon their clients would need to park in the driveway to the north facing CR 1375N.  
12  
13 Mr. Thorsland stated that perhaps the special condition could read that should a Neighborhood Home  
14 Occupation be proposed on the property the request would require review by the ZBA regarding parking.  
15  
16 Ms. Busboom stated that if there is parking for the Neighborhood Home Occupation it would be restricted to  
17 the driveway located on the north side of the subject property.  
18  
19 Mr. Passalacqua stated that the Board has already addressed parking therefore there is no need to restrict the  
20 new owners from having a Neighborhood Home Occupation. He said that the Ms. Schum and Mr. Copple  
21 have already testified that they will abide to the proposed special conditions.  
22  
23 Mr. Thorsland stated that rather than excluding the availability of have a Neighborhood Home Occupation  
24 the Board wants to make sure that the petitioners agree to the proposed special condition regarding parking.  
25 He said that agreeing to the proposed special conditions would not prohibit the new owners from having a  
26 Neighborhood Home Occupation but protect the neighborhood from problems like the issue with the school  
27 bus.  
28  
29 Ms. Griest stated that protecting the rest of the neighborhood is what she is looking for.  
30  
31 Mr. Thorsland stated that he agreed.  
32  
33 Mr. Randol stated that there are all kinds of home occupations that would not involve parking therefore to  
34 eliminate the availability of a home occupation kind of foolish.  
35  
36 Mr. Thorsland stated that restricting the possibility of a home occupation is not necessary and the Board  
37 needs to concentrate on addressing the parking issues.  
38  
39 Ms. Capel asked if the parking issue is complaint driven.  
40  
41 Ms. Busboom stated yes. She said that proposed special condition A.4 indicates that three documented

1    violations of the special conditions of approval regarding encroachment of parked vehicles into the street  
2    right-of-way between the garage and the street shall void this approval and a new variance shall be required.  
3  
4    Mr. Thorsland stated that he is sure that if there is a problem staff will be contacted.  
5  
6    Ms. Griest asked Mr. Thorsland to indicate, per the proposed special conditions, where parking is allowed  
7    and what is allowed to be parked on the subject property. She asked Mr. Thorsland to indicate what has  
8    been achieved with the proposed special conditions as to where the vehicles can park and what can be parked  
9    there. She said that if the property owners have a party, can their guests park along the street.  
10  
11   Mr. Passalacqua stated no, because at no time can a parked or standing vehicle (ie, parked while attended)  
12   located on the subject property extend onto the street pavement and past the line of the gravel base of the  
13   pavement on either side of the driveway  
14  
15   Ms. Griest stated that she has a problem with that special condition because it restricts the new property  
16   owners more than their adjoining neighbors.  
17  
18   Mr. Randol stated that the proposed special condition is only dealing with the driveway in front of the  
19   subject garage.  
20  
21   Ms. Griest stated that this may be true but the proposed special condition does not indicate that.  
22  
23   Mr. Randol stated that the detached garage is what the Board is dealing with.  
24  
25   Ms. Griest stated that the proposed special condition does not say it.  
26  
27   Ms. Busboom stated that the proposed special condition indicates in front of the subject garage.  
28  
29   Ms. Griest stated that only proposed special condition A.3 includes the subject garage.  
30  
31   Mr. Passalacqua stated that the proposed special conditions discuss a parked vehicle extending into the right-  
32   of-way which includes everyone in the neighborhood because no one can park within the right-of-way.  
33  
34   Ms. Griest stated that you are parking within the right-of-way when you park along the side of a country  
35   road.  
36  
37   Ms. Capel stated that if people continuously park along a country road there will be complaints voiced to  
38   staff.  
39  
40   Mr. Passalacqua stated that no parking in the right-of-way is a County rule because he has had an officer stop  
41   at his house when he has guests informing him that they cannot park along the road. He said that the ZBA

1 cannot rewrite the County’s law.  
2  
3 Ms. Griest stated that it definitely a law and the Board has someone in the audience who could testify to such  
4 but she does not want to restrict the new homeowners more tightly than necessary.  
5  
6 Mr. Thorsland stated that nothing would please him more than someone to have an open house in their new  
7 home and too many people came over and the neighbors were happy because they were invited. He said that  
8 Mr. Passalacqua was correct in that if the Board stated it only in cases where there would be a large amount  
9 of traffic there would be restrictions on how the property owners could use the property and it would be  
10 stated very clearly that their clients could not park within the street but this is a residential property and a  
11 Neighborhood Home Occupation would not reach that type of level.  
12  
13 Mr. Passalacqua stated that the property owners have already indicated that they do not intend to have a  
14 home occupation and even if they did they would have to come before this Board anyway.  
15  
16 Ms. Capel informed Mr. Passalacqua that a Neighborhood Home Occupation is not reviewed by the ZBA.  
17  
18 Mr. Thorsland stated that the same parking regulations would apply.  
19  
20 Ms. Griest stated that if the petitioner is comfortable with the proposed special conditions then she is too.  
21  
22 Mr. Thorsland stated that at this time he will review the proposed special conditions with the petitioners and  
23 they need to indicate that agree and understand or disagree.  
24  
25 Mr. Passalacqua asked Mr. Thorsland if at this time if he is only considering Ms. Schum and Mr. Copple as  
26 the petitioners.  
27  
28 Mr. Thorsland stated no.  
29  
30 Mr. Thorsland read the proposed special conditions as follows:  
31  
32            **A.    Encroachment of parked vehicles into the right-of-way shall be limited.** There is  
33 reduced parking space in front of the subject garage due to the non-compliant front yard  
34 (distance between the garage and property line/right-of-way line) of only 17 feet and 6 inches  
35 in lieu of the minimum required front yard of 25 feet. There is approximately 19 feet of  
36 clearance between the property line/right-of-way line and the edge of the gravel base of the  
37 pavement and therefore a total of approximately 36 feet 6 inches between the garage and the  
38 edge of the gravel base of the pavement in lieu of the minimum 44 feet that would otherwise  
39 be required. The reduced parking space may result in encroachment of parked vehicles into  
40 the right-of-way and there are related highway safety concerns depending upon the amount of  
41 encroachment. The Township Highway Commissioner is the final authority on whether or

1                      not any parking is allowed in the right-of-way. However, the Zoning Board of Appeals may  
2                      be able to help the Highway Commissioner by including some explicit special conditions for  
3                      parking that extends into the right-of-way. Any special condition of the ZBA can be  
4                      overridden by the Highway Commissioner at any time. The following special conditions are  
5                      proposed to address safety concerns associated with the reduced parking space in front of the  
6                      subject garage but are not intended to apply to the subject property in general:

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

16  
17                      Mr. Thorsland asked the petitioners if they agreed and understood proposed special condition 1.

18  
19                      Mr., Copple indicated that they agreed and understood proposed special condition 1.

20  
21                      Mr. Thorsland read proposed special condition A.(2) as follows:

22                      **(2) Unless otherwise directed by the Township Highway Commissioner, no parked**  
23                      **or standing vehicle (ie, parked while attended) located on the subject property**  
24                      **shall extend past the line of the right-of-way during times of anticipated street**  
25                      **maintenance (and it shall be the petitioner’s responsibility to anticipate street**  
26                      **maintenance) or at other times as requested by the Township Highway**  
27                      **Commissioner.** (Note: This condition requires that no vehicle extend past the  
28                      property line during times of anticipated street maintenance such as application of  
29                      road oil or clearing of snow and should ensure there are no unusual property damage  
30                      issues caused by necessary street maintenance due to the reduced parking space in  
31                      front of the garage. This condition is intended to be subordinate to the Township  
32                      Highway commissioner’s authority and the Township Highway Commissioner can  
33                      enforce any required parking restrictions in the right-of-way.

34  
35                      Mr. Thorsland asked the petitioners if they agreed and understood proposed special condition A.(2).

36  
37                      Mr. Copple stated that they agreed and understood proposed special condition A.(2).

38  
39                      Mr. Thorsland read proposed special condition A.(3) as follows:

40  
41                      **(3) Unless otherwise directed by the Township Highway Commissioner, at no time**

1                                      **from dusk to dawn shall a parked vehicle located on the subject property extend**  
2                                      **past the centerline of the roadside ditch in front of the subject garage.** (Note:  
3                                      Even though there are no liability issues to be concerned about the Board may want  
4                                      to require this greater amount of separation between the edge of pavement and parked  
5                                      vehicles at nighttime. This condition should provide approximately 10 feet  
6                                      separation between a parked vehicle and the edge of the pavement base. This  
7                                      condition is intended to be subordinate to the Township Highway Commissioner's  
8                                      authority and the Township Highway Commissioner can enforce any required  
9                                      parking restrictions in the right-of-way.)

10  
11      Mr. Thorsland asked the petitioners if they agreed and understood proposed special condition A.(3).

12  
13      Mr. Copple stated that they agreed and understood proposed special condition A.(3).

14  
15      Mr. Thorsland read proposed special condition A.(4) as follows:

16  
17                      (4)      **Three documented violations of the special conditions of approval regarding**  
18                      **encroachment of parked vehicles into the street right-of-way between the garage**  
19                      **and the street shall void this approval and a new variance shall be required.**  
20                      (Note: This condition provides a long term enforcement mechanism for the special  
21                      conditions. Documentation of a violation generally requires dated photographic  
22                      evidence. As proposed these three documented violations could occur years apart  
23                      and under different owners. Voidance of the variance approval will be a violation of  
24                      the Zoning Ordinance and the Zoning Administrator would presumably send a Notice  
25                      of Violation to the owner.)

26  
27      Mr. Thorsland asked the petitioners if they agreed and understood proposed special condition A.(4).

28  
29      Mr. Copple stated that they agreed and understood proposed special condition A.(4).

30  
31      Mr. Thorsland read proposed special condition B. as follows:

32  
33                      **B.      If the subject garage is damaged or destroyed to more than 50% of replacement value it**  
34                      **shall be reconstructed in full compliance with the Champaign County Zoning**  
35                      **Ordinance.** (Note: The replacement value shall assume replacement by a third party and  
36                      not by the homeowner.)  
37                      The special condition stated above is required to ensure the following:  
38                      To ensure that if the garage must be rebuilt it will be rebuilt to the requirements of the  
39                      Ordinance.

40  
41      Mr. Thorsland asked the petitioners if they agreed and understood proposed special condition B.

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41

Mr. Cople stated that they agreed and understood proposed special condition B.

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

The special condition stated above is required to ensure the following:  
To ensure that future purchasers of the subject property will be aware of the special conditions that apply to the subject garage.

Mr. Thorsland asked the petitioners if they agreed and understood proposed special condition C.

Mr. Cople stated that they agreed and understood proposed special condition C.

Mr. Thorsland asked if a timeline of 30 days should be inserted.

Mr. Passalacqua stated that he is also concerned about a timeline because he does not know how the petitioners could record this if they do not own the property. He said that he is not clear and asked if there is a detail missed during the final walk through or extenuating circumstances occur during the closing and the deal falls through, the variance is moot.

Mr. Thorsland stated yes, as far as he knows.

Ms. Capel stated no, because the Board will be granting this to Mr. Harshbarger.

Mr. Thorsland stated that Ms. Capel is correct.

Mr. Passalacqua stated that he needs direction as the Board moves forward because he is having a hard time making a decision in this case. He said that he does not feel that it is appropriate to stifle the purchase of this dream home for this couple because of actions that are outside of their control, however along with Ms. Griest he has a problem with the non-permitting. He said that he understands that there has been testimony indicating that there was no real direction given regarding the resolution, however he has a problem with the person being awake and alert enough to know that changes were required due to the outcome of the case. He said that the Board will be making a decision on a piece of property and it appears that everything is in order but he has bought and sold a lot of properties and sometimes during the final hour things do not go perfectly right.

Mr. Thorsland stated that it is unfortunate that Mr. Hall or the State's Attorney is not present at tonight's hearing for guidance. He said that he said that he is wondering if all of this is contingent upon Ms. Schum and Mr. Cople finishing the purchase of the property.

1 Mr. Passalacqua stated that the State’s Attorney’s comment indicated that the original decision was perfectly  
2 legitimate and there was no reason to doubt that decision in regards to recourse because the Board is required  
3 by the Ordinance to find an affirmative on all of the Board’s decisions.  
4

5 Mr. Thorsland stated that if this case has come before the Board for only Mr. Harshbarger then this would be  
6 the same case that was requested in 2010 and we all know how that ended. He said that his question is not  
7 answered by the State’s Attorney’s comments. He asked if a condition can be placed on the variance  
8 indicated that the variance is only granted upon the change of ownership and he does not believe that the  
9 Board can do that. He said that Mr. Harshbarger appears honest and so do the two proposed owners and if  
10 there was different way that it could be presented to the zoning office as a variance request. He said that Ms.  
11 Schum and Mr. Copple do not desire to purchase the property without approval of the variance.  
12

13 Mr. Passalacqua stated that he does not know how Ms. Schum and Mr. Copple can obtain this variance  
14 without having ownership.  
15

16 Mr. Thorsland stated that he agrees and the more the Board talks about this issue the less likely it is that the  
17 case will be finished tonight.  
18

19 Mr. Passalacqua stated that through questioning and testimony the Board asked who bares the responsibility  
20 of the required modifications in the estimate. He said that Ms. Schum and Mr. Copple are not going to hire  
21 the contractor for the modifications if they do not own the property.  
22

23 Ms. Capel stated that they couldn’t.  
24

25 Mr. Passalacqua stated that at this point Ms. Schum and Mr. Copple has as much legal right to obtain the  
26 variance as he does.  
27

28 Mr. Thorsland stated that he likes the property which is adjacent to his but the guy’s shed is across his  
29 property line and he may buy the property but not unless he simulates it into his property a variance is  
30 required because the shed is over the line. He said that he does not want to buy the property if he cannot get  
31 a variance because he want to buy the property because of the shed. Mr. Thorsland stated that he cannot  
32 come to the ZBA as the guy next door and indicate that he want to obtain a variance and then he will talk to  
33 the owner to see if he can buy it.  
34

35 Ms. Capel stated that initially Mr. Ryan indicated that there was evidence that would make the two negative  
36 findings in the last case positive although the only thing that changed is that there is a contract on the  
37 property. She said that the owner of the subject property is still the same and ultimately if the Board grants  
38 the variance the Board will be granting it to the current owner of the property.  
39

40 Mr. Thorsland stated that the current owner of the property is in violation of the denial and has not made  
41 amends to the denied case which took place over two years ago. He said that the minutes are very clear that

1 the current owner was told that the garage was 7 foot 6 inches too big and it had to be modified for  
2 compliance.  
3  
4 Ms. Lee stated that the Board previously discussed that the Board may be punishing the contract purchasers  
5 if the request is denied but in essence if the variance is granted the Board would be rewarding the contract  
6 seller.  
7  
8 Mr. Thorsland stated that the Board may not be punishing the contract purchasers in moving the contract  
9 seller away from a problematic property. He said that at this point he is not sure what the Board will be  
10 doing.  
11  
12 Ms. Capel stated that the fact is that the current owner is requesting the same variance which has previously  
13 been denied by this Board.  
14  
15 Ms. Busboom stated that the existing landowner and the future landowners are indicated on the purchase  
16 contract and the variance application but the variance is on the property. She said that the variance was  
17 denied on the property.  
18  
19 Mr. Thorsland stated that Ms. Busboom was correct and nothing has changed on the property since the last  
20 denial other than the movement of a few bricks and the playhouse.  
21  
22 Ms. Busboom stated that it is almost like the Board has to shut off who the current owner is and the potential  
23 buyers are of the subject property.  
24  
25 Mr. Thorsland stated that if the Board shuts off who the potential buyers and the current owner is the  
26 property is still in violation and from where he sits the Board has already determined a denial.  
27  
28 Mr. Thorsland stated that there is a full Board present tonight and this case could be completed tonight or the  
29 case could be continued to a later date. He said that he does not know what more information could be  
30 provided therefore perhaps the Board should wait to hear from Mr. Hall.  
31  
32 Mr. Passalacqua stated that the Board needs input from the State's Attorney because currently the Board is  
33 hearing the same case that was heard in 2011. He said that he does not believe that the potential buyers have  
34 a right to request a variance until they are the owner of record.  
35  
36 Ms. Busboom stated that the Board has heard cases previously which included contract buyers as co-  
37 petitioners.  
38  
39 Mr. Passalacqua asked Ms. Busboom if that situation has ever occurred on a case that was previously denied.  
40  
41 Ms. Busboom stated no, but the Board has allowed contract purchasers to make a request for special uses,

1     variances, and map amendments as long as the current owner is a party for that petition.  
2  
3     Mr. Thorsland stated that Ms. Busboom is correct. He said that the Board recently heard a case that was in  
4     Wilbur Heights and the contract purchaser realized that the Board was not going to grant the request  
5     therefore he backed out of the contract.  
6  
7     Mr. Passalacqua asked if the landowner was the petitioner.  
8  
9     Mr. Thorsland stated yes, the landowner was the petitioner but the contract purchaser was a co-petitioner.  
10  
11     Mr. Randol stated that had this not been brought to the Board's attention and the new owners came to the  
12     Board requesting a variance after the fact the Board would more than likely go through all of this and  
13     approved a variance for the new landowners. He said that the Board would not require the new landowners  
14     to tear down a structure that they purchased not knowing the previous issues with the property.  
15  
16     Mr. Miller stated that it would set a bad precedence.  
17  
18     Mr. Thorsland stated that without being flipped it is the double forgiveness that would have benefitted the  
19     new owners. He said that there was a mistake that the Board did not enforce with the previous denial and if  
20     the new owners purchased the property and came to the Board afterwards the Board would probably approve  
21     their request. He said that in an effort to be compliant and get everything straightened out before hand  
22     forgiveness is better than permission. He said that the Board needs to formulate a question for the State's  
23     Attorney.  
24  
25     Ms. Griest stated that she has the question formulated for the State's Attorney as follows: She said that in  
26     the first denial all of the Findings of Facts could not be found affirmative in favor to the petitioner. She said  
27     that as long as the same petitioner continues to be a party to the variance, which they must be by the  
28     County's own regulation, how does the Board determine Finding of Fact #3 regarding special conditions,  
29     circumstances, hardships or practical difficulties do not result from the actions of the applicant. She asked  
30     how the Board can determine DO NOT for Finding of Fact #3 when one of the applicants created the  
31     problem.  
32  
33     Ms. Capel stated that she agrees with Ms. Busboom's point in that the Board will be granting the variance  
34     for the subject property and not the context of a given petitioner.  
35  
36     Mr. Thorsland stated that the Board is supposed to deal with every case in an individual basis but if the  
37     Board puts out a message that if someone has a blatant violation on their property that has been previously  
38     denied by the ZBA their best recourse is to find a new buyer and request the variance again under the new  
39     buyer only.  
40  
41     Mr. Passalacqua stated that it is true that the variance goes with the land but this issue is a result of the act of

1 the petitioner because the land did not build the non-compliant structure.  
2

3 Mr. Thorsland stated that he would like input from the State's Attorney therefore it is not possible to  
4 continue this hearing to the first meeting in February. He said that it is very important to explain to the  
5 petitioners to explain why the Board does what it does.  
6

7 Mr. Thorsland stated that there are probably several points in the case where things went wrong. He said  
8 that there is a full Board and at one time Ms. Griest served as the Chair of the ZBA and has returned to serve  
9 on the Board again. He said that there has never been a time when the Board enjoyed a case when a structure  
10 was built in violation without a permit and the owner who built the structure comes to the Board to ask for  
11 forgiveness. He said that the Board needs clarification regarding who the variance for this case is being  
12 given to because the same variance has already been denied to one of the petitioners and the co-petitioners  
13 do not have any ownership in the property.  
14

15 Mr. Thorsland entertained a motion to continue Case 765-V-13 to the tentative January 30, 2014, meeting.  
16

17 **Ms. Griest moved, seconded by Mr. Miller to continue Case 765-V-13 to the tentative January 30,**  
18 **2014, meeting. The motion carried by voice vote.**  
19

20 **7. Staff Report**

21 Mr. Busboom stated that Mr. Hall is out of the office currently to assist his wife after surgery. She said that  
22 hopefully Mr. Hall will back in the office on Monday although it may only be part-time. She said that Ms.  
23 Berry's brother-in-law passed away one hour before this meeting therefore it is unknown when she will be  
24 back in the office as well. Ms. Busboom stated that currently she and Ms. Hitt are the present staff at the  
25 office.  
26

27 **8. Other Business**

28 **A. Review of Docket**  
29

30 Mr. Thorsland reviewed the docket with the Board regarding upcoming meetings. He requested that all  
31 Board members attend the meetings.  
32

33 **B. Review of ZBA Member Handbook**  
34

35 Ms. Busboom distributed the ZBA Member Handbooks. She noted that the new members need to complete  
36 the Statement of Economic Interest.  
37

38 Ms. Capel asked if all members need to complete the F.O.I.A. and Open Meetings Act Training every year.  
39

40 Mr. Thorsland stated yes.  
41

1 Mr. Thorsland entertained a motion to continue the meeting to 9:45 p.m.  
2  
3 **Ms. Griest moved, seconded Mr. Passalacqua to continue the meeting to 9:45 p.m. The motion carried**  
4 **by voice vote.**  
5  
6                    **C. 2014 Zoning Board of Appeals Calendar**  
7  
8 No Action was taken on the 2014 ZBA Calendar.  
9  
10 Ms. Griest indicated that she will not be attending the February 13, 2014, meeting.  
11  
12 **9. Audience Participation with respect to matters other than cases pending before the Board**  
13  
14 None  
15  
16 **10. Adjournment**  
17  
18 Mr. Thorsland entertained a motion to adjourn the meeting.  
19  
20 **Ms. Griest moved, seconded by Mr. Randol to adjourn the meeting. The motion carried by voice vote.**  
21  
22 The meeting adjourned at 9:42 p.m.  
23  
24  
25 Respectfully submitted  
26  
27  
28  
29  
30 Secretary of Zoning Board of Appeals  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

# CASE NO.S 766-AM-13 & 767-S-13

PRELIMINARY MEMORANDUM

January 24, 2014

Champaign County  
Department of

**PLANNING &  
ZONING**

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

(217) 384-3708  
zoningdept@co.champaign.il.us  
www.co.champaign.il.us/zoning

Petitioner: **Eric L. Sebens d.b.a.  
Prairieview Landscaping**

Site Area: **5.0 acres**

Time Schedule for Development:  
**Beginning within a few years of  
approval with full buildout over a ten  
year time span, based on demand.**

Prepared by: **John Hall**  
Zoning Administrator

Case 766-AM-13

Request: **Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related zoning Case 767-S-13.**

Case 767-S-13

Request: **On the subject property described below, authorize the following as a Special Use in the B-1 Rural Trade Center Zoning District:**

**Part A. Authorize multiple principal buildings on the same lot consisting of the following:**

- (1) a landscape contractor's facility with outdoor storage that was originally authorized in Case 101-S-97; and**
- (2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B.**

**Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units, as a special use.**

Location: **A 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR900E, Champaign.**

---

## BACKGROUND

Mr. Sebens has operated Prairieview Landscaping Company (a landscaping contracting business) on the subject property since it was authorized in Case 101-S-97 on July 17, 1997. Mr. Sebens was one of the contractors who supported the adoption of Case 734-AT-12 that amended the

Zoning Ordinance to authorize contractor's facilities by-right in the B-1 Zoning District. The County Board adopted Case 734-AT-12 on May 23, 2013.

Mr. Sebens has also applied for a Special Use Permit in related Case 767-S-13 to authorize self-storage warehouses as a second principal use on the subject property.

### **EXTRATERRITORIAL JURISDICTION**

The subject property is not located within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.

### **EXISTING LAND USE AND ZONING**

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Contractors Facility (landscape contractor) ----- Agriculture	AG-1 Agriculture w/ Special Use Case 101-S-97 (proposed B-1)
North	Agriculture	AG-1 Agriculture
East	UI Willard Airport ----- Agriculture	AG-2 Agriculture
West	Interstate 57 ----- Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

### **SITE PLAN ISSUES**

No Preliminary Summary of Evidence has been provided for Case 767-S-13 (and much evidence needs to be added to the Finding of Fact for Case 766-AM-13) because there are several questions about the site plan at this time. The more significant questions are the following:

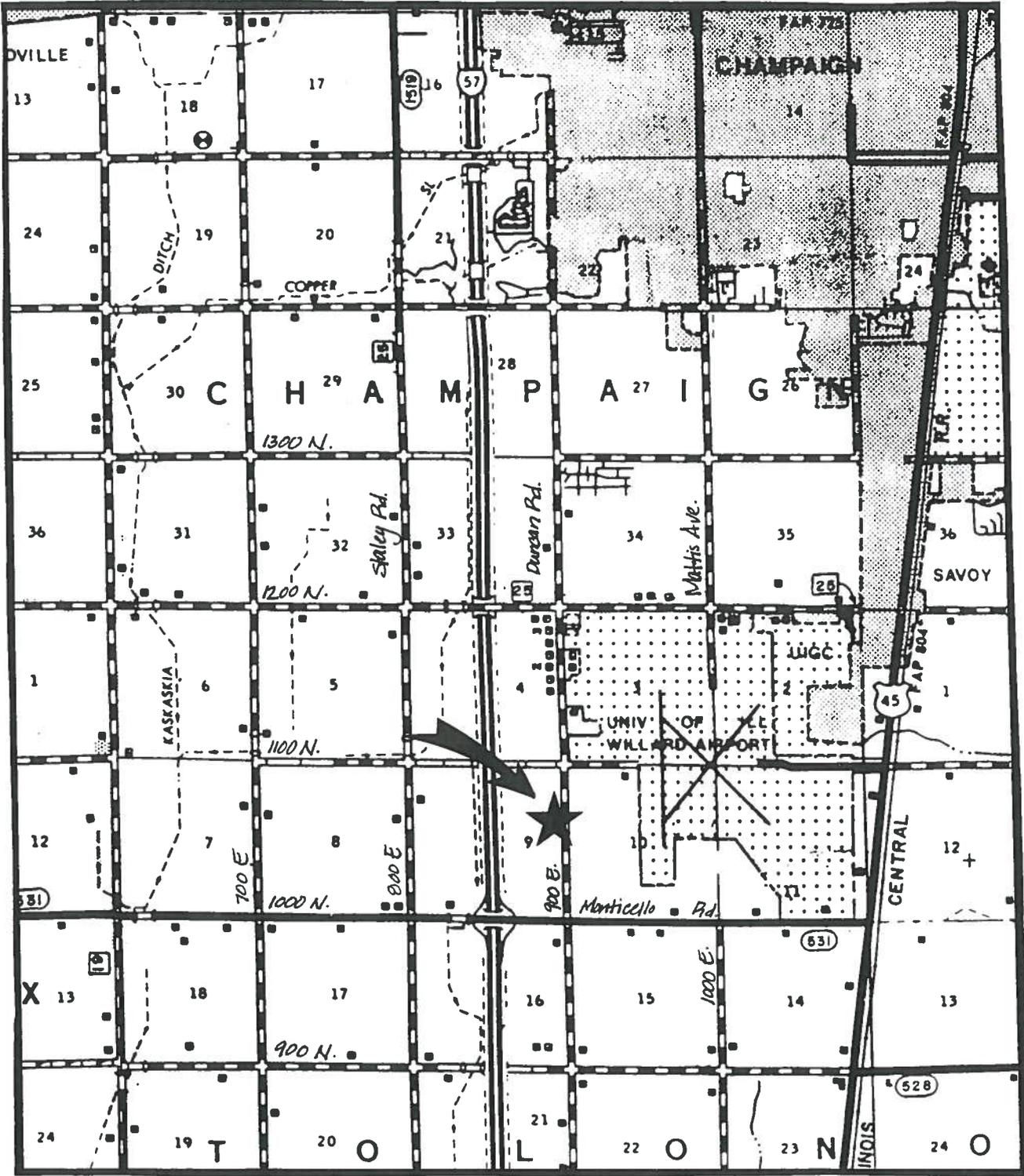
1. A comment on the map amendment petition refers to a total of four proposed buildings for self-storage and an earlier version of the site plan indicated four self-storage buildings but the site plan received 1/22/14 indicates only three buildings. The petitioner should confirm if the site plan is correct when it indicates three proposed buildings.
2. Vehicles are parked too close to the west and north lot lines. There should be at least five feet between vehicle parking areas and the lot line. A revised site plan should be provided.
3. Please add to the site plan the proposed dimension of the setback from Duncan Road (minimum required is 55 feet from the centerline with minimum 25 feet front yard) and the proposed separation to the west lot line (minimum required is 20 feet).

4. Please dimension all proposed gravel access drives around and between the proposed self-storage buildings.
5. Accessibility requirements administered by the Illinois Capital Development Board require five percent of the self-storage units to be “readily adaptable” to be accessible to people with disabilities. The petitioner should contact Mr. Doug Gamble who is the Accessibility Specialist with the Illinois Capital Development Board. All questions regarding accessibility requirements for a new public building can be directed to Mr. Gamble at (217)782-8530 or [doug.gamble@illinois.gov](mailto:doug.gamble@illinois.gov). The accessible storage units and the related accessible parking areas should be indicated on a revised site plan.
6. The new self-storage buildings must comply with the building code requirements of Public Act 96-704. 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. The relevant building codes are the 2006 or later editions of the International Building Code and the International Existing Building Code and the International Property Maintenance Code; and the 2008 or later edition of the National Electrical Code NFPA 70. The site plan should state that all new buildings will be in compliance with those codes.
7. Visibility of the driveway access points may or may not be an issue at this location for the proposed self-storage warehouses. The petitioner should contact the Tolono Highway Commissioner, Bradley Clemmons (485-6140 or 485-5925).
8. Regarding the operations of the proposed self-storage warehouse, no information has been provided regarding security measures. On other self-storage warehouses in similar locations, there is generally some means of limiting and/or monitoring access to storage units.
9. The proposed impervious area encroaches into an existing drainage swale and there should be no impervious area in the swale.
10. Stockpiles of soil and other loose materials on the subject property should also be separated from the lot line by at least five feet. Stockpiles should also be protected from causing sedimentation on adjacent property and in the drainage swale.
11. No storm water detention basin is indicated on the site plan even though 1.53 acres of new impervious area are proposed for the self-storage warehouses. Storm water detention is especially critical on this sloping site and needs to be carefully integrated into the existing drainage network. If it has not been done already, the petitioner should hire an Illinois Professional Engineer to provide adequate information regarding a proposed storm water detention basin and the proposed drainage system sufficient to prove feasibility on the subject property. If the Special Use Permit and map amendment are approved, the complete engineering design may not be needed until an application has been received for a Zoning Use Permit to construct one or more of the self-storage buildings.

12. The attached aerial photograph appears to indicate field erosion near the northwest corner of the subject property. It is not clear if this is actually field erosion and if so, whether the erosion results from faulty stewardship of the farmland or an undue concentration of storm water flows from the subject property. Good stewardship on this property should probably include at least a grassed filter strip on all sides of the property but something more may be needed at this location on the west lot line. The petitioner should contact Jonathon Manuel of the Champaign County Soil and Water Conservation District (352-3536, ext. 3) for advice on how to minimize erosion on (and adjacent to) this property.

#### ATTACHMENTS

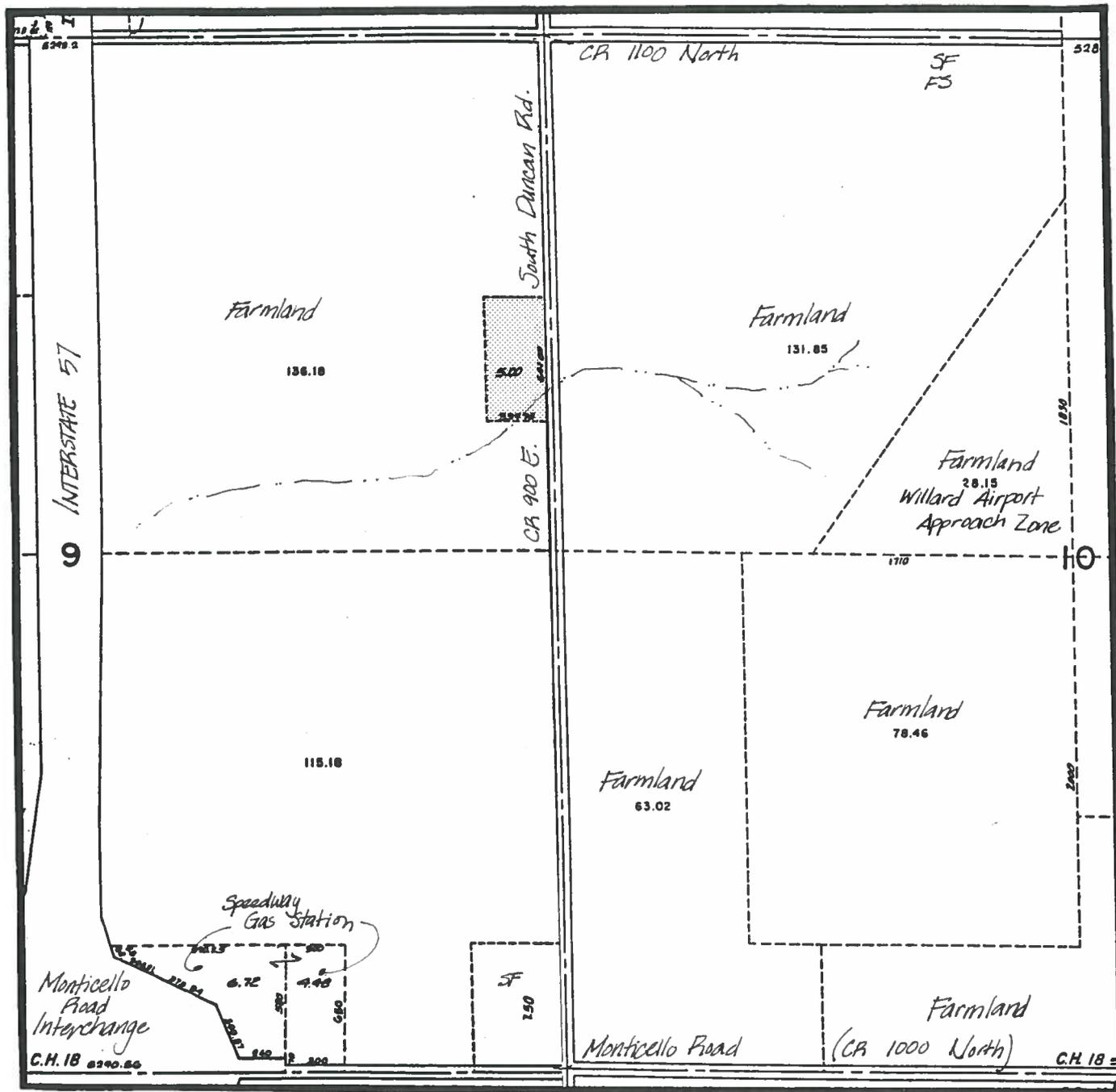
- A Case Maps from Case 101-S-97 (Location, Land Use, Zoning)
- B Approved Site Plan from Case 101-S-97
- C Excerpt from building plans in Permit #9449 (ZUPA #317-07-03)
- D Aerial photograph of subject property (included separately)
- E Excerpt of Sheet 62 of *Soil Survey of Champaign County, Illinois*, 2003 edition. Annotated to indicate subject property.
- F Revised Site Plan received 11/13/03 (included separately)
- G LRMP Land Use Goals, Objectives, and Policies & Appendix (included separately)
- H LRMP Land Use Management Areas Map (included separately)
- I Preliminary Draft Finding of Fact for Case 766-AM-13



Area of Concern



Champaign  
County  
Department of  
PLANNING &  
ZONING



	Area of Concern	
	Single Family	
	Farmstead	



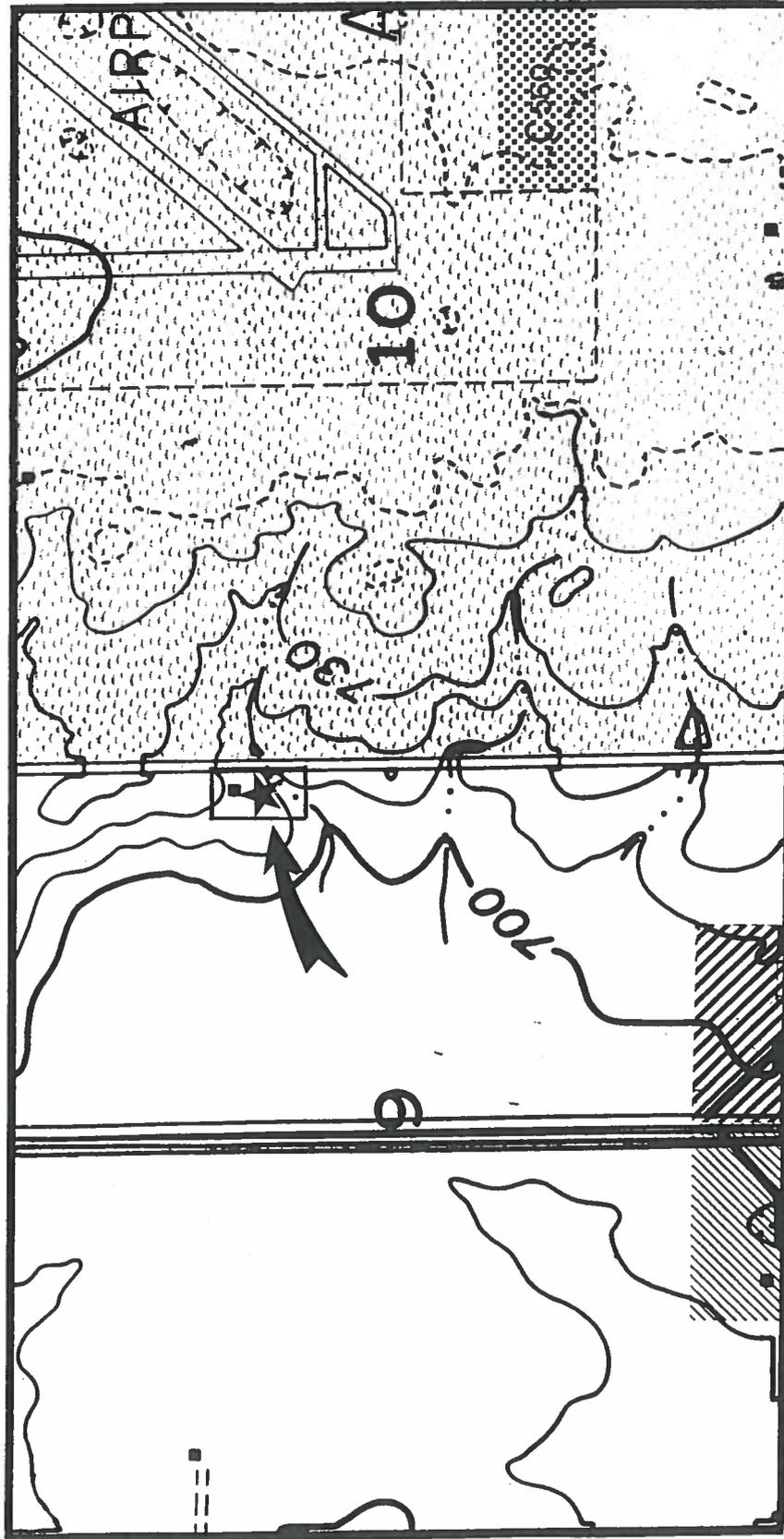
Champaign  
County  
Department of

**PLANNING &  
ZONING**

# ZONING ATLAS OF CHAMPAIGN COUNTY

FOR INFORMATION ONLY - NOT  
THE OFFICIAL ZONING MAP.  
VERIFY ZONING CLASSIFICATION  
WITH CHAMPAIGN COUNTY  
PLANNING AND ZONING  
DEPARTMENT

# TOLONO 9/10



## KEY

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



Area of Concern

## ZONING

Champaign County  
Department of  
PLANNING & ZONING  
1303 N. Cunningham Avenue  
Urbana, Illinois  
61801  
Telephone: (217) 384-3708  
FAX (217) 328-2426

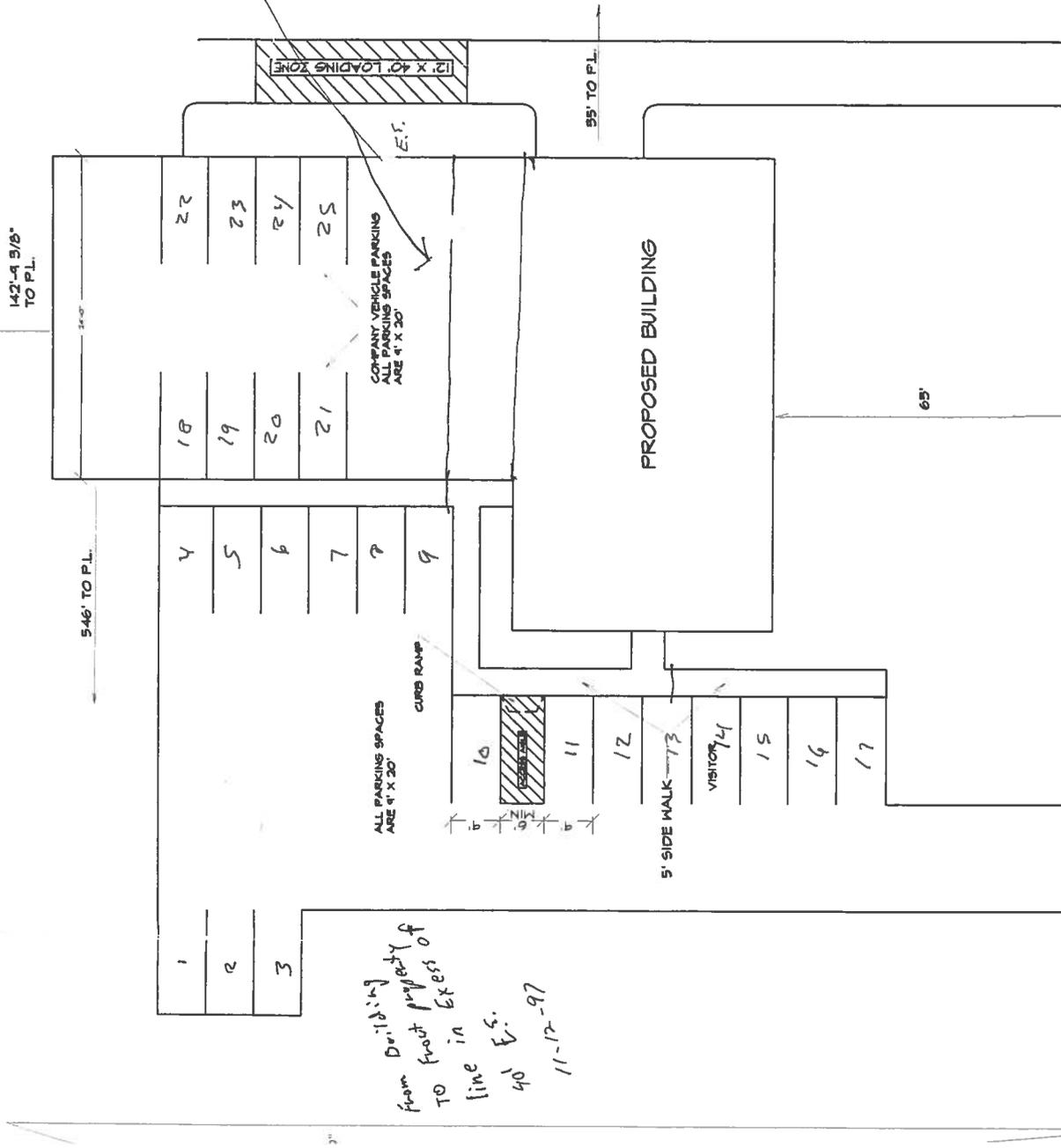
SCALE 1" = 600'  
0' 400' 800' 1200' 1600'



2. Install steel hinges over openings per America. Maintain minimum 5 inch bearing on each side of hinge. Install control or expansion joints at maximum variation from plum is 1/4 inch per story for two stories or more. Maximum variation from plum is 3 feet, 1/4 inch in 10 feet and 1/2 inch in 30 feet.

Manufacturer's regularly engaged in the production of such equipment and shall be the manufacturer's latest standard design. All workmanship shall be first class and complete in both effectiveness and appearance, whether finally concealed or exposed.

exterior of panelboards. Provide equipment grounding connections for panelboards as per NEC.  
 18. Field quality control: Prior to energization of panelboards, check with ground resistance tester phase-to-phase and phase-to-ground resistance levels. Prior to energization, check panelboards for electrical continuity of circuits, and for short-circuits. Balance the load on each phase and verify actual load reading on each phase.  
 19. Safety switches: Furnish and install safety switches as shown on drawings. All safety switches for air conditioners shall be able to be padlocked in the "off" position. All safety switches for air conditioners shall be fused and shall have Class R fuse rejection clips.  
 20. Exit lights shall have red letters on white background.



PARKING SPACE CALCULATION:	
1 SPACE PER 5 EMPLOYEES	4 SPACES
1 SPACE PER COMP. VEHICLE	8 SPACES
1 VISITOR	1 SPACE
1 SPACE PER 200 SQFT. OF OFFICE SPACE	11 SPACES
1 HDGP SPACE PER 25 SPACES	1 SPACE
<b>TOTAL PARKING SPACES</b>	<b>25 SPACES</b>
PAVING CALCULATION	
800 SQFT PER PARKING SPACE	1500 SQFT. OF PAVING
25 SPACES X 500 SQFT. =	8455 SQFT. OF PAVING
ACTUAL PAVING	

**EXCERPT FROM BUILDING PLANS IN ZONING USE PERMIT #19449 (ZUPA #317-07-03)**



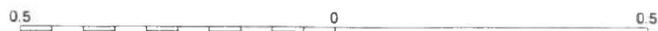
SCALE 1:12000



MILES



FEET



KILOMETERS

**PRELIMINARY DRAFT**

**766-AM-13**

**FINDING OF FACT  
AND FINAL DETERMINATION  
of**

**Champaign County Zoning Board of Appeals**

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

Date: **January 30, 2014**

Petitioner: **Eric L. Sebens d.b.a. Prairieview Landscaping**

Request: **Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related zoning Case 767-S-13.**

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**FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 30, 2014**, the Zoning Board of Appeals of Champaign County finds that (Note that\* indicates identical to evidence in related Case 767-S-13):

- \*1. The petitioner Eric L. Sebens, 3008 Cherry Hills Drive, Champaign owns the subject property and d.b.a. Prairieview Landscaping Company at 1069 CR900E, Champaign.
- \*2. The subject property is a 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and is and commonly known as Prairieview Landscape Company at 1069 CR900E, Champaign.
- \*3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.
4. Regarding comments by the petitioner on the Petition for Amendment:
  - A. When asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner indicated the following:

**“The current ordinance does not allow for the development and future use and improvement of the other half of the five acre property, which is adjacent to the existing contractor’s facility. The existing unused part of the property is not prime farm ground, nor is it suitable for tillage. It has been left in weeds/grass for decades with old dilapidated buildings on it. The potential uses of the property at this point are few, the original thinking at purchase as to eventually expand the contracting business into a retail garden center outlet, but with current economic conditions this is no longer a viable option. Rezoning to allow for other possibilities with the property is now about the only good option at this point. By allowing this zone amendment, the balance of the property becomes productive, improved and useful for the future. This fits well within the other adjacent uses and zoning, AG-2 district which is directly across the street, which allows for self-storage and contractor’s facilities, and is bordered by Willard Airport to the east, and we have I-57 just across the field to the west. We are a quarter of a mile from the significant intersection of I-57 & Monticello Road.”**
  - B. When asked on the petition what other circumstances justify the rezoning, the petitioner indicated the following:

**“I have to this point invested approximately three quarters of a million dollars towards the improvement of this property; this includes the purchase, demolition of several old buildings, removal of truckloads of debris, and the construction of a new contractor’s facility and building. The ability to offer self-storage on the same property is a natural complementing business to the contractor’s facility. Quite often you see these two businesses paired together**

**to help support one another. Contracting has become very unpredictable and unstable, the landscape contracting industry has experienced a devastating decline, sales are half of what they were just a few years ago, self-storage units would help pay for the property and provide a reasonable return on the investment I have made.”**

C. Additional comments on the petition by the petitioner are as follows:

**“My proposed plan is to remove the three remaining dilapidated buildings, plan and erect the first self-storage unit within a year then, add up to three additional units or a total of four buildings over a ten year time span, if the need is there. I would also plan to continue the contracting business as is currently being done for some time into the future. Any improvement I have done and would do in the future has and is always performed in a quality fashion, neat, clean, orderly, professional. This would be a significant improvement to the property and surrounding area.”**

5. When asked on the petition for the time schedule for development, the petitioner indicated the following:

**“I would plan to remove the three remaining dilapidated buildings, and plan to erect the first building within the first year. Then as the need is justified add up to 3 more additional buildings, for a total of four buildings over a 10 year time span.”**

*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 AG-1 Agriculture and is used for the operation of an existing Contractors Facility (landscape contractor) that was authorized by Case 101-S-97.

B. Land on the north, south, and west of the subject property is zoned AG-1 and is in agricultural production.

C. Land east of the subject property is zoned AG-2 Agriculture and is in agricultural production and is also the site of the UI-Willard Airport.

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

A. Case 107-S-95 authorized the current Contractors Facility (landscape contractor) on the subject property.

\*8. Regarding the site plan and operations of the proposed Special Use in related Case 767-S-13:

A. The revised site plan received January 22, 2013, indicates the following existing and proposed improvements:

(1) Existing improvements are as follows:

a. An existing house, barn, and hut that pre-dates the existing Contractor Facility.

**PRELIMINARY DRAFT**

- b. An existing 9,576 square feet building that houses Prairieview Landscaping Company. The Contractor Facility was authorized in Case 101-S-97 and Change of Use Permit No. 204-97-04. This building was on the approved site plan for Case 101-S-97 and was authorized by Zoning Use Permit No. 9449 (Zoning Use Permit Application No. 317-97-03). Next to this building are approximately 25 vehicle parking spaces including one accessible parking space, as indicated on an excerpt from the building plans in Permit #9449 (ZUPA #317-07-03).
  - c. A garage.
  - d. The approved site plan for Case 101-S-97 indicated that most of the property would be used for outdoor storage areas for contracting materials and a nursery area but no structures were indicated.
- (2) An aerial photograph of the subject property indicates the following:
- a. The structures indicated on the approved site plan for Case 107-S-97.
  - b. Several material storage bunkers.
  - c. What appear to be stockpiles of earth or other loose materials. Some of the stockpiles are next to a drainage swale in the southeast corner of the property and some stockpiles appear to be within a few feet of the adjacent property.
  - d. Vehicles parked next to the rear and side lot lines.
- (3) Proposed improvements in Case 767-S-13 are as follows:
- a. Three proposed self-storage warehouse buildings are indicated on the south half of the property as follows:
    - (a) Each proposed self-storage warehouse building is indicated to be 40 feet wide and 260 feet long and 10,400 square feet in area.
    - (b) The proposed self-storage warehouse buildings are indicated to be approximately 25 feet apart.
    - (c) The site plan indicates each proposed building will have storage units of various sizes.
    - (d) The proposed self-storage warehouse buildings will replace an existing shed, existing barn, and the existing garage that are all indicated to be removed.
    - (e) The proposed self-storage warehouse buildings are proposed to be accessed from Duncan Road (CR900E) by means of an existing

driveway that is separate from the primary driveway for the Prairieview Landscaping Company.

- (f) The proposed self-storage warehouse buildings are proposed to be accessed by means of crushed gravel access lanes around and between the buildings. The total impervious area of the proposed buildings and access lanes totals 1.53 acres of which more than one acre is new impervious area. There is no proposed stormwater detention area.
- (g) The proposed self-storage warehouse buildings and gravel access lanes are indicated as encroaching into an existing drainage swale in the southeast portion of the property.

\*Identical to evidence in related Case 759-S-13.

**GENERALLY REGARDING THE EXISTING AND PROPOSED ZONING DISTRICTS**

- 9. 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 AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.
    - (2) The B-1, Rural Trade Center DISTRICT is intended to provide areas for AGRICULTURAL related business services to rural residents.
  - B. Regarding the general locations of the existing and proposed zoning districts:
    - (1) The AG-1 District is generally located throughout the county in areas which have not been placed in any other Zoning Districts.
    - (2) The B-1 District is generally located in rural areas suitable for businesses operations to serve the needs of rural residents.
  - 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 11 types of uses authorized by right in the AG-1 District and there are 25 types of uses authorized by right in the B-1 District:
      - a. The following 5 uses are authorized by right in the AG-1 District and are not authorized at all in the B-1 District:

**PRELIMINARY DRAFT**

- Single family dwelling;
  - Roadside Stand operated by Farm Operator;
  - Plant Nursery;
  - Off-premises sign within 660 feet of interstate highway; and
  - Off-premises sign along federal highway except interstate highways;
- b. The following 6 uses are authorized by right in both the AG-1 District and B-1 District:
- Subdivisions of three lots or less;
  - Agriculture;
  - Minor Rural Specialty Business;
  - Township Highway Maintenance Garage (must meet separations or a SUP is required);
  - Christmas Tree Sales Lot;
  - Temporary Uses
- c. The following 9 uses are authorized by right in the B-1 District and not at all in the AG-1 District:
- Parking garage or lot;
  - MINOR AUTOMOBILE REPAIR (all indoors)\*;
  - Gasoline Service Station;
  - Agricultural services and businesses (roadside stand, feed/grain sales, equipment sales and service)
  - Miscellaneous business (cold storage, telegraph office, antique sales)
- \*Auto Repair may cause nuisance violations (junk cars, debris, etc) at this location. The Department of Planning and Zoning enforces the *Nuisance Ordinance* and can help resolve nuisance violations. “Minor Automobile Repair” is replacement of parts and motor services to passenger cars and trucks not exceeding one and one-half tons capacity, excluding body repairs.
- d. The following 10 uses are authorized by right in the B-1 District but require a Special Use Permit in the AG-1 District:
- Major RURAL SPECIALTY BUSINESS
  - Small Scale Metal Fabricating Shop (only if the building existed prior to 1988)
  - Public park of recreational facility
  - Public facilities (police station, library, government building, telephone exchange)

- Agricultural services and businesses (fertilizer sales/storage, grain storage, specialty business)
- (2) There are 42 types of uses authorized by Special Use Permit (SUP) in the AG-1 District (including the 9 uses authorized by right in the B-1 District see above) and 10 types of uses authorized by SUP in the B-1 District:
- a. The following 5 uses may be authorized by SUP in the both the AG-1 District and B-1 District:
- Adaptive Reuse of GOVERNMENT BUILDINGS for any USE Permitted by Right;
  - Electrical Substation;
  - HELIPORT-RESTRICTED LANDING AREAS;
  - Livestock Sales Facility and Stockyards;
  - Slaughter Houses;
- b. The following 27 uses may be authorized by Special Use Permit in the AG-1 District and not at all in the B-1 District:
- Hotel with no more than 15 lodging units;
  - Residential PLANNED UNIT DEVELOPMENT;
  - Major RURAL SPECIALTY BUSINESS;
  - Artificial lake of 1 or more acres;
  - Mineral extraction, Quarrying, topsoil removal, and allied activities;
  - Elementary School, Junior High School, or High School;
  - Church, Temple or church related Temporary Uses on church Property;
  - Penal or correctional institution;
  - Sewage disposal plant or lagoon;
  - Private or commercial transmission and receiving tower (including antennas) over 100 feet in height;
  - Radio or Television Station;
  - RESIDENTIAL AIRPORTS;
  - RESTRICTED LANDING AREAS;
  - Riding Stable;
  - Commercial Fishing Lake;
  - Cemetery or Crematory;
  - Pet Cemetery;
  - Kennel;
  - Veterinary Hospital;
  - Off-premises sign farther than 660 feet from an interstate highway;
  - Contractors Facilities with no outdoor operations or storage;
  - Contractors Facilities with outdoor operations and/or storage;
  - Gas Turbine Peaker;

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- BIG WIND TURBINE TOWER (1-3 turbines);
  - WIND FARM (County Board SUP)
  - Sawmills Planing Mills, and related activities; and
  - Pre-Existing Industrial Uses (existing prior to October 10, 1973)
- c. The following 5 uses may be authorized by SUP in the B-1 District and not at all in the AG-1 District:
- Self-storage Warehouses, providing heat and utilities to individual units;
  - Self-storage Warehouses, not providing heat and utilities to individual units;
  - Storage of gasoline, volatile oils, and liquefied petroleum gases.

**GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES**

10. 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 Polices 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*

11. 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 has 4 objectives and 4 policies. The proposed rezoning will ***NOT IMPEDE*** the achievement of Goal 1.

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

12. 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 rezoning will ***NOT IMPEDE*** the achievement of Goal 2.

13. 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 rezoning will ***HELP ACHIEVE*** the achievement of Goal 3.

14. 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 22 policies. The proposed ***{WILL / WILL NOT} HELP ACHIEVE*** Goal 4 for the following reasons:

- A. Objective 4.1 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.***”

The proposed rezoning ***{WILL/ WILL NOT} HELP ACHIEVE*** Objective 4.1 because of the following:

- (1) Policy 4.1.6 states, “***Provided that the use, design, site and location are consistent with County policies regarding:***

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- 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 *{WILL / WILL NOT} HELP ACHIEVE* Policy 4.1.6 for the following reasons:

- a. There is no Natural Resource Report for the subject property and no Natural Resource Report was required for the existing Special Use Permit, Case 101-S-97.
- b. As indicated on an excerpt of Sheet 62 of the *Soil Survey of Champaign County, Illinois*, 2003 edition, annotated to indicate subject property, the subject property consists primarily (approximately 80%) of soil map unit 171B Catlin silt loam (2% to 5% slopes) and soil map unit 152A Drummer silty clay loam.
- c. The *Champaign County Land Evaluation and Site Assessment System* as amended on October 24, 2013, identifies soil map unit 152A Drummer silty clay loam with a Land Evaluation rating of 100 and 171B Catlin silt loam with a Land Evaluation rating of 94. The Zoning Ordinance defines “best prime farmland” as any soil with an LE of 91 or higher.
- d. The proposed use requires a Special Use Permit in the B-1 Rural Trade Center District, which allows consideration of site suitability, adequacy of public infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas as part of the criterion regarding, “injurious to public health, safety, and welfare.”

- e. The subject property was a farmstead before it was authorized as a Contractor Facility in Case 101-S-97 on July 17, 1997.
- f. The proposed Special Use on the subject property will not increase the size of the subject property nor take any best prime farmland out of production.
- g. Achievement of Policy 4.1.6 requires achievement of related Objectives 4.2 and 4.3.

**B. Objective 4.2 states, “Champaign County will require that each *discretionary review* development will not interfere with agricultural operations.”**

The proposed rezoning *{WILL / WILL NOT} HELP ACHIEVE* Objective 4.2 because of the following:

- (1) Policy 4.2.1 states, “**The County may authorize a proposed business or other non-residential *discretionary review* development in a rural area if the proposed development supports agriculture or involves a product or service that is better provided in a *rural* area than in an urban area.**”

The proposed rezoning *{WILL / WILL NOT} HELP ACHIEVE* Policy 4.2.1 because based on the evidence, the proposed Special Use in related Case 759-S-13 *{WILL-/ WILL NOT}* interfere with agricultural operations and is a service which is appropriate for the rural area and therefore *{IS / IS NOT}* a service better provided in rural area than in an urban area as follows:

- \*a. The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination must be made in each zoning case.
- \*b. The B-1 District is intended to provide areas for rural business to offer products and services to rural residents.
- \*c. The existing contractors' facility has been in operation since the mid 1990s and is a USE that has been determined to be appropriate in the rural area.
- \*d. The proposed Self-Storage Warehouses is a USE that has been deemed appropriate for the rural area in the B-1 District provided that a Special Use Permit is authorized.
- \*e. The subject property is located very near to the urbanized area and is located 2.5 miles from parts of the City of Champaign and approximately one road mile from the Curtis Road/I-57 interchange; and essentially across the street from the UI-Willard Airport.

\*Identical to evidence in related Case 767-S-13.

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- (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 *{WILL / WILL NOT} HELP ACHIEVE* Policy 4.2.2 because based on the evidence, the proposed Special Use in related Case 759-S-13 *{DOES / DOES NOT}* negatively affect agricultural activities, of *{IS / IS NOT}* located and designed to minimize exposure to negative effects of agricultural activities, and *{WILL / WILL NOT}* interfere with agricultural activities as follows:

- \*a. The existing contractors’ facility has been in operation since the mid 1990s and is a USE that has been determined to be appropriate in the rural area.
- \*b. The proposed self-storage warehouse is a USE that has been deemed appropriate for the rural area in the B-1 District provided that a Special Use Permit is authorized.
- \*c. The B-1 District is intended to provide areas for rural business to offer products and services to rural residents.

\*Identical to evidence in related Case 767-S-13

- C. Objective 4.3 states, “**Champaign County will require that each *discretionary review* development is located on a suitable site.”**

The proposed rezoning *{WILL / WILL NOT} HELP ACHIEVE* Objective 4.3 because of the following:

- (1) 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 *{WILL / WILL NOT} HELP ACHIEVE* Policy 4.3.2 for the following reasons:

- a. As reviewed under Policy 4.1.6, the subject property is best prime farmland.
- b. The property is only five acres in area.
- c. A Special Use Permit was authorized in Case 101-S-97.

- d. The B-1 District is intended to provide areas for rural business to offer products and services to rural residents.
  - e. The proposed development is subject to the *Stormwater Management Policy* and must provide adequate stormwater detention.
  - f. The subject property fronts and has access to Duncan Road (CR900E).
  - g. Access to I-57 is approximately 1 road mile from the subject property.
  - h. The subject property is served by a public water supply.
- (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 **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.3.3 for the following reason:

- a. The subject property is located approximately 4.5 miles from the Savoy Fire Protection District Station. The fire protection district was notified of the case and no comments have been received.
  - b. The subject property is 2.5 miles from the City of Champaign.
- (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 **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.3.4 for the following reason:

- a. The subject property has access to Duncan Road (CR900E). Duncan Road is an oil and chip road that is approximately 20 feet in width that has adequate capacity for the proposed use. Access to I-57 is approximately 1 road mile from the subject property.
  - b. No comments have been received from the Tolono Township Highway Commissioner.
- (4) Policy 4.3.5 states, **“On best prime farmland, the County will authorize a business or other non-residential use only if:**

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- 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 *{WILL / WILL NOT} HELP ACHIEVE* Policy 4.3.5 for the following reasons:

- a. As reviewed under Policy 4.1.6, the subject property is best prime farmland.
- b. The property is only five acres in area.
- c. A Special Use Permit was authorized in Case 101-S-97 on July 17, 1997.
- d. The B-1 District is intended to provide areas for rural business to offer products and services to rural residents. Contractors Facilities and Self-Storage Warehouses are USES that have been determined to be appropriate for the rural area in the B-1 DISTRICT.
- e. The proposed development is subject to the *Stormwater Management Policy* and must provide adequate stormwater detention.
- f. The subject property fronts and has access to Duncan Road (CR900E).
- g. Access to I-57 is approximately 1 road mile from the subject property.
- h. The subject property is served by a public water supply.

- D. The proposed amendment *{WILL/ WILL NOT} IMPEDE* the achievement of Objectives 4.6, 4.7, and 4.9 and Policies 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.8, 4.2.3, 4.2.4, 4.6.1, 4.6.2, 4.6.3, and 4.9.1. Objectives 4.4 4.5, and 4.8 and Policies 4.1.7, 4.1.9, and 4.3.1 are **NOT RELEVANT** to the proposed amendment.

- 15. 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 *{WILL / WILL NOT} HELP ACHIEVE* Goal 5 for the following reasons:

- A. Objective 5.1 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 *{WILL / WILL NOT} HELP ACHIEVE* Objective 5.1 because of the following:

- (1) 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 *{WILL / WILL NOT} HELP ACHIEVE* Policy 5.1.3 for the following reasons:

- a. The subject property is only 5 acres in area.
  - b. A Special Use Permit was authorized in Case 101-S-97 on July 17, 1997.
  - c. In the Champaign County Land Resource Management Plan the subject property is not identified as being within the Contiguous Urban Growth Area.
  - d. The proposed self-storage warehouses will put the property to greater use, but not substantially different from what the property has been used for in the past.
- (2) Policy 5.1.4 states, “**The County may approve discretionary development outside contiguous urban growth areas, but within municipal extra-territorial jurisdictions areas only if:**
    - a. **the development is consistent with the municipal comprehensive plan and relevant municipal requirements;**
    - b. **the site is determined to be well-suited overall for the development if on best prime farmland or the site is suited overall, otherwise and**
    - c. **the development is generally consistent with all relevant LRMP objective and policies.**”

*Evidence to be added*

- B. Objective 5.3 states, “**Champaign County will oppose proposed new urban development unless adequate utilities, infrastructure, and public services are provided.**”

The proposed rezoning will *{WILL/ WILL NOT} HELP ACHIEVE* Objective 5.3 because of the following:

- (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**

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- 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.”

*Evidence to be added*

- (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 will *{WILL/ WILL NOT} HELP ACHIEVE* Policy 5.3.2 because of the following:

*Evidence to be added*

- C. The proposed amendment *WILL NOT IMPEDE* the achievement of Objective 5.2 and Policies 5.1.1, 5.1.2, 5.1.5, 5.1.6, 5.1.7, 5.1.8, 5.1.9, 5.2.1, 5.2.2, 5.2.3, and 5.3.3.

- 16. 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 7 policies. The proposed rezoning will *{WILL/ WILL NOT} HELP ACHIEVE* Goal 6 for the following reasons:

- A. Objective 6.1 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 will *{WILL/ WILL NOT} HELP ACHIEVE* Objective 6.1 because of the following:

- (1) 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.”

*Evidence to be added.*

- B. The proposed amendment **WILL NOT IMPEDE** the achievement of Policies 6.1.1, 6.1.2, and 6.1.4. Objectives 6.2, 6.3, and 6.4 and Policies 6.2.1, 6.2.2, and 6.2.3 are **NOT RELEVANT** to the proposed amendment.

17. 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 rezoning will *{WILL/ WILL NOT}* **HELP ACHIEVE** Goal 7 for the following reasons:

- A. Objective 7.1 states, “**Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted.**”

The proposed rezoning will *{WILL/ WILL NOT}* **HELP ACHIEVE** Objective 7.1 because of the following:

- (1) Policy 7.1.1 states, “**The County will include traffic analyses in discretionary review development proposals with significant traffic generation.**”

*Evidence to be added.*

- B. The proposed amendment **WILL NOT IMPEDE** the achievement of Objective 7.2 and Policies 7.2.1, 7.2.2, 7.2.3, 7.2.4, 7.2.5, and 7.2.6.

18. 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. The proposed rezoning will **NOT IMPEDE** the achievement of Goal 8.

19. 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.**

Goal 9 has 5 objectives and 5 policies. The proposed rezoning will **NOT IMPEDE** the achievement of Goal 9.

20. 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 has 1 objective and 1 policy. The proposed rezoning will **NOT IMPEDE** the achievement of Goal 10.

**GENERALLY REGARDING THE LaSalle Factors**

21. 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.**

*Evidence to be added.*

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 the subject property, the requested map amendment may have some positive effect or else the landowner would not have submitted the petition for the rezoning.

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.**

- (1) There has been no evidence submitted regarding property values.
- (2) The proposed rezoning should not have a negative effect on the public health, safety, and welfare and therefore, denying the request to rezone the property will not promote public health, safety, or welfare.

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

- (1) The proposed rezoning and related Special Use will allow the petitioner to provide storage area for use by the public.
- (2) If the request is denied the hardship imposed on the property owner is that the added income from the self-storage area will not be realized.

- E. **LaSalle factor: The suitability of the subject property for the zoned purposes.**
- (1) The subject property is suitable for the current zoned purposes.
  - (2) Based on the discussion of suitability under Items 14.C. and 15 above, the subject property **{IS / IS NOT} SUITABLE** for the proposed zoned purpose which is a self-storage warehouses and an existing contractors facility.
- 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.**
- (1) The AG-1 District was planned in 1973 and thus was intended to protect areas of the County where soil and topographic conditions are best adapted to the pursuit of agricultural uses.
  - (2) Currently, there are several buildings on the subject property and a Special Use for Contractors Facility was authorized in Case 101-S-97.
- G. **Sinclair factor: The need and demand for the use.**  
The existing contractors facility provides landscape contracting services to the rural and urban communities. The proposed Self-Storage Warehouses will also provide a service for rural and urban residents.
- H. **Sinclair factor: The extent to which the use conforms to the municipality's comprehensive planning.**  
*Evidence to be added.*

**REGARDING THE PURPOSE OF THE ZONING ORDINANCE**

22. The proposed amendment **{WILL/ WILL NOT} HELP ACHIEVE** the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:
- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.
- The proposed amendment is not directly related to this purpose.
- B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
- The proposed amendment is not directly related to this purpose.

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- C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

*Evidence to be added.*

- D. Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.
- (1) The proposed construction on the subject property will trigger the need for stormwater management. The petitioner will need to submit a complete stormwater management plan that is in compliance with the *Stormwater Management Policy* before a Zoning Use Permit can be issued for the proposed construction.

- E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed amendment is not directly related to this purpose.

- F. Paragraph 2.0 (f) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the height and bulk of buildings and structures hereafter to be erected.

The proposed amendment is not directly related to this purpose.

- G. Paragraph 2.0 (g) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to establish, regulate, and limit the building or setback lines on or along any street, trafficway, drive or parkway.

The proposed amendment is not directly related to this purpose.

- H. Paragraph 2.0 (h) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding buildings and structures.

The proposed amendment is not directly related to this purpose.

- I. Paragraph 2.0 (i) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to classify, regulate, and restrict the location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses.

- (1) The proposed amendment is directly related to this purpose because the proposed self-storage warehouses and multiple principal uses on the same lot are not authorized in its current AG-1 District. The proposed B-1 District allows self-storage warehouses and multiple principal uses on the same lot to be authorized as Special Uses.
  - (2) Harmony with this purpose requires that the special conditions of approval in the related Special Use Permit sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate noncompliant conditions.
- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.
- (1) Harmony with this purpose requires that the special conditions of approval in the related Special Use Permit sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate noncompliant conditions.
- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which buildings, structures, or uses therein shall conform.
- (1) Harmony with this purpose requires that the special conditions of approval in the related Special Sue Permit sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate noncompliant conditions.
- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit uses, buildings, or structures incompatible with the character of such districts.
- (1) Harmony with this purpose requires that the special conditions of approval in the related Special Sue Permit sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate noncompliant conditions.
- M. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

The proposed amendment is not directly related to this purpose.

**PRELIMINARY DRAFT**

- N. Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.

*Evidence to be added.*

- O. Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The proposed amendment is not directly related to this purpose.

- P. Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed amendment is not directly related to this purpose.

- Q. Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

*Evidence to be added.*

- R. Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed amendment is not directly related to this purpose.

**REGARDING SPECIAL CONDITIONS OF APPROVAL**

23. Regarding proposed special conditions of approval:

*Evidence to be added.*

**SUMMARY FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 30, 2014**, the Zoning Board of Appeals of Champaign County finds that:

**DOCUMENTS OF RECORD**

1. Application for Map Amendment received November 13, 2013, with attachments:
  - A Site Plan
2. Special Use Permit application received November 13, 2013, with attachments:
  - A Site Plan
3. Zoning Case 107-S-95 case file
4. ZUPA No. 204-97-04 case file
5. ZUPA No. 317-97-03 file
6. Copy of Warranty Deed received December 5, 2013
10. Revised Site Plan received January 22, 2014
11. Preliminary Memorandum for Cases 766-AM-13 and 767-S-13 dated January 24, 2013, with attachments:
  - A Case Maps from Case 101-S-97 (Location, Land Use, Zoning)
  - B Approved Site Plan from Case 101-S-97
  - C Excerpt from building plans in Permit #9449 (ZUPA #317-07-03)
  - D Aerial photograph of subject property
  - E Excerpt of Sheet 62 of *Soil Survey of Champaign County, Illinois*, 2003 edition. Annotated to indicate subject property.
  - F Revised Site Plan received 11/13/03
  - G LRMP Land Use Goals, Objectives, and Policies & Appendix (included separately)
  - H LRMP Land Use Management Areas Map (included separately)
  - I Preliminary Draft Finding of Fact for Case 766-AM-13

**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 766-AM-13** should **{BE ENACTED / NOT BE ENACTED}** by the County Board in the form attached hereto.

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





**DISCLAIMER:**

This map was prepared by the Champaign County GIS Consortium (CCGIS) using the best available data. This map and its underlying data is intended to be used as a general index to land related information and is not intended for detailed, site-specific analysis. CCGISC does not warranty or guarantee the accuracy of this information for any purpose.

1 inch = 100 feet





## GOALS, OBJECTIVES AND POLICIES

The Goals, Objectives and Policies section details the County's land use and resource management aspirations and outlines how they can be achieved. Goals, objectives and policies are created based on input from the Existing Conditions and Trends section, public comments, examples from other communities, and best planning practices. For purposes of this document, the following definitions were used:

- Goal: an ideal future condition to which the community aspires
- Objective: a tangible, measurable outcome leading to the achievement of a goal
- Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives

### Background

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. The process of finalizing this superseding document occurred over 15 months, and included:

- Research - A sampling of other communities' land use and resource management goals, objectives and policies were collected and analyzed for their relevance to Champaign County's needs.
- Evaluation – Existing Champaign County land use goals and policies were evaluated for their relevance and for what might need to be revised to make them timely.
- Comment – Input from public workshops held in April 2008, a survey of key township and municipal officials, and interviews regarding local adopted municipal comprehensive plans and recent land use development trends provided guidance and perspectives for developing the goals, objectives and policies.
- Development - A draft set of statements for review by the LRMP Steering Committee was created.
- Discussion – In a series of 25 meetings, the LRMP Steering Committee finalized the Goals, Objectives and Policies. Discussion then moved to the Champaign County Board's Environment and Land Use Committee for further revision and approval. All meetings had public involvement opportunities to further guide the final set of statements.

The result of this inclusive and public process is a set of ten goals, 42 objectives, and 100 policies which are intended to guide the Champaign County Board as it manages issues and resources related to land resource management in Champaign County. The Goals, Objectives and Policies are guiding principles rather than regulatory requirements, and are subject to review and amendment by the Champaign County Board as it enacts any legislative decisions or action relating to land resource management in the future.

The specific intent, language, and terminology of the objectives and policies are used to provide clarity and guidance for any related future regulatory changes considered by the County Board. The level of specificity documented is not intended to be binding, but is intended to provide examples of how the LRMP Goals could be addressed and implemented by future county boards.

In May of each year, the County Board adopts the Annual Budget Process Resolution establishing the parameters for the ensuing fiscal year budget. Based on the budgetary guidelines established by the Annual Budget Process Resolution, the Regional Planning Commission planning staff shall present, in June of each year, to the Environment and Land Use Committee (ELUC), options for a work plan for the ensuing fiscal year. The options presented shall be based upon the LRMP and the annual budgetary guidelines as stated above, and shall be submitted for the review and ultimate recommendation for approval by ELUC. ELUC shall establish the priorities to be accomplished in the annual work plan, and recommend approval of that work plan to the County Board no later than the September Meeting of the County Board each year.

The following Purpose Statement introduces the proposed LRMP Goals, Objectives and Policies:

“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:”

**LRMP Goals**

<b>1 Planning and Public Involvement</b>	Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.
<b>2 Governmental Coordination</b>	Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.
<b>3 Prosperity</b>	Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.
<b>4 Agriculture</b>	Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.
<b>5 Urban Land Use</b>	Champaign County will encourage <i>urban development</i> that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.
<b>6 Public Health and Public Safety</b>	Champaign County will ensure protection of the public health and public safety in land resource management decisions.
<b>7 Transportation</b>	Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.
<b>8 Natural Resources</b>	Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.
<b>9 Energy Conservation</b>	Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.
<b>10 Cultural Amenities</b>	Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.

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

## Goal 1 Planning and Public Involvement

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 Objectives

#### **Objective 1.1** Guidance on Land Resource Management Decisions

Champaign County will consult the Champaign County Land Resource Management Plan (LRMP) that formally establishes County land resource management policies and serves as an important source of guidance for the making of County land resource management decisions.

#### **Objective 1.2** Updating Officials

Champaign County will annually update County Board members with regard to land resource management conditions within the County.

#### **Objective 1.3** Incremental Updates

Champaign County will update the LRMP, incrementally, on an annual or biannual basis to make minor changes to the LRMP or to adjust boundaries of LRMP Future Land Use Map areas to reflect current conditions, (e.g., Contiguous Urban Growth Area, or Rural Residential Area).

#### **Objective 1.4** Comprehensive Updates

Champaign County will comprehensively update the LRMP at a regular interval of no more than 15 or less than 10 years, to allow for the utilization of available updated census data and other information.

### Goal 1 Objectives and Policies

#### **Objective 1.1** Guidance on Land Resource Management Decisions

Champaign County will consult the LRMP that formally establishes County land resource management policies and serves as an important source of guidance for the making of County land resource management decisions.

#### **Objective 1.2** Updating Officials

Champaign County will annually update County Board members with regard to land resource management conditions within the County.

##### **Policy 1.2.1**

County planning staff will provide an annual update to County Board members with regard to land resource management conditions within the County.

#### **Objective 1.3** Incremental Updates

Champaign County will update the LRMP, incrementally, on an annual or biannual basis to make minor changes to the LRMP or to adjust boundaries of LRMP Future Land Use Map areas to reflect current conditions, (e.g., Contiguous Urban Growth Area, or Rural Residential Area).

##### **Policy 1.3.1**

ELUC will recommend minor changes to the LRMP after an appropriate opportunity for public input is made available.

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

**Objective 1.4 Comprehensive Updates**

Champaign County will comprehensively update the LRMP at a regular interval of no more than 15 or less than 10 years, to allow for the utilization of available updated census data and other information.

**Policy 1.4.1**

A Steering Committee that is broadly representative of the constituencies in the County but weighted towards the unincorporated area will oversee comprehensive updates of the LRMP.

**Policy 1.4.2**

The County will provide opportunities for public input throughout any comprehensive update of the LRMP.

**Goal 2 Governmental Coordination**

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 Objectives**

**Objective 2.1 Local and Regional Coordination**

Champaign County will coordinate land resource management planning with all County jurisdictions and, to the extent possible, in the larger region.

**Objective 2.2 Information Sharing**

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

**Goal 2 Objectives and Policies**

**Objective 2.1 Local and Regional Coordination**

Champaign County will coordinate land resource management planning with all County jurisdictions and, to the extent possible, in the larger region.

**Policy 2.1.1**

The County will maintain an inventory through the LRMP, of contiguous urban growth areas where connected sanitary service is already available or is planned to be made available by a public sanitary sewer service plan, and development is intended to occur upon annexation.

**Policy 2.1.2**

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.

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

**Policy 2.1.3**

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

**Objective 2.2 Information Sharing**

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

**Goal 3 Prosperity**

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

**Goal 3 Objectives**

**Objective 3.1 Business Climate**

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

**Objective 3.2 Efficient County Administration**

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

**Objective 3.3 County Economic Development Policy**

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

**Goal 4 Agriculture**

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

**Goal 4 Objectives**

**Objective 4.1 Agricultural Land Fragmentation and Conservation**

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

**Objective 4.2 Development Conflicts with Agricultural Operations**

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

continued

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

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

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

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

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

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

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

**Objective 4.6 Protecting Productive Farmland**

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

**Objective 4.7 Right to Farm Resolution**

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

**Objective 4.8 Locally Grown Foods**

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

**Objective 4.9 Landscape Character**

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

**Goal 4 Objectives and Policies**

**Objective 4.1 Agricultural Land Fragmentation and Conservation**

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

**Policy 4.1.1**

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

**Policy 4.1.2**

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

**Policy 4.1.3**

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

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

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

**Policy 4.1.5**

a. The County will allow landowner by *right development* that is generally proportionate to tract size, created from the January 1, 1998 configuration of tracts on lots that are greater than five acres in area, with:

- 1 new lot allowed per parcel less than 40 acres in area;
- 2 new lots allowed per parcel 40 acres or greater in area provided that the total amount of acreage of *best prime farmland* for new by right lots does not exceed three acres per 40 acres; and
- 1 authorized land use allowed on each vacant *good zoning lot* provided that public health and safety standards are met.

b. The County will not allow further division of parcels that are 5 acres or less in size.

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

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

then,

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

b) on *best prime farmland*, the County may authorize non-residential *discretionary development*; or

c) the County may authorize *discretionary review* development on tracts consisting of other than *best prime farmland*.

**Policy 4.1.7**

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

**Policy 4.1.8**

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

**Policy 4.1.9**

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

**Objective 4.2 Development Conflicts with Agricultural Operations**

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

**Policy 4.2.1**

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

**Policy 4.2.2**

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

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

**Policy 4.2.3**

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

**Policy 4.2.4**

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

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

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

**Policy 4.3.1**

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

**Policy 4.3.2**

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

**Policy 4.3.3**

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

**Policy 4.3.4**

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

**Policy 4.3.5**

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

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

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

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

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

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

**Objective 4.6** Protecting Productive Farmland

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

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

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

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

**Objective 4.7** Right to Farm Resolution

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

**Objective 4.8** Locally Grown Foods

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

**Objective 4.9** Landscape Character

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

**Policy 4.9.1**

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

## Goal 5 Urban Land Use

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

### Goal 5 Objectives

#### **Objective 5.1 Population Growth and Economic Development**

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.

#### **Objective 5.2 Natural Resources Stewardship**

When new *urban development* is proposed, Champaign County will encourage that such development demonstrates good stewardship of natural resources

#### **Objective 5.3 Adequate Public Infrastructure and Services**

Champaign County will oppose proposed new *urban development* unless adequate utilities, infrastructure, and *public services* are provided.

### Goal 5 Objectives and Policies

#### **Objective 5.1 Population Growth and Economic Development**

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.

##### **Policy 5.1.1**

The County will encourage new *urban development* to occur within the boundaries of incorporated municipalities.

##### **Policy 5.1.2**

- a. The County will encourage that only compact and contiguous *discretionary development* occur within or adjacent to existing villages that have not yet adopted a municipal comprehensive land use plan.
- b. The County will require that only compact and contiguous *discretionary development* occur within or adjacent to existing unincorporated settlements.

##### **Policy 5.1.3**

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.

##### **Policy 5.1.4**

The County may approve *discretionary development* outside contiguous urban growth areas, but within municipal extra-territorial jurisdiction areas only if:

- a. the development is consistent with the municipal comprehensive plan and relevant municipal requirements;
- b. the site is determined to be *well-suited overall* for the development if on *best prime farmland* or the site is *suited overall*, otherwise; and
- c. the development is generally consistent with all relevant LRMP objectives and policies.

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

**Policy 5.1.5**

The County will encourage *urban development* to explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.

**Policy 5.1.6**

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*.

**Policy 5.1.7**

The County will oppose new *urban development* or development authorized pursuant to a municipal annexation agreement that is located more than one and one half miles from a municipality's corporate limit unless the Champaign County Board determines that the development is otherwise consistent with the LRMP, and that such extraordinary exercise of extra-territorial jurisdiction is in the interest of the County as a whole.

**Policy 5.1.8**

The County will support legislative initiatives or intergovernmental agreements which specify that property subject to annexation agreements will continue to be under the ordinances, control, and jurisdiction of the County until such time that the property is actually annexed, except that within 1-1/2 miles of the corporate limit of a municipality with an adopted comprehensive land use plan, the subdivision ordinance of the municipality shall apply.

**Policy 5.1.9**

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.

**Objective 5.2 Natural Resources Stewardship**

When new *urban development* is proposed, Champaign County will encourage that such development demonstrates good stewardship of natural resources.

**Policy 5.2.1**

The County will encourage the reuse and redevelopment of older and vacant properties within *urban land* when feasible.

**Policy 5.2.2**

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.

**Policy 5.2.3**

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.

**Objective 5.3 Adequate Public Infrastructure and Services**

Champaign County will oppose proposed new *urban development* unless adequate utilities, infrastructure, and *public services* are provided.

**Policy 5.3.1**

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.

**Policy 5.3.2**

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.

**Policy 5.3.3**

The County will encourage a regional cooperative approach to identifying and assessing the incremental costs of public utilities and services imposed by new development.

## Goal 6 Public Health and Public Safety

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

**Goal 6 Objectives**

**Objective 6.1 Protect Public Health and Safety**

Champaign County will seek to ensure that *rural* development does not endanger public health or safety.

**Objective 6.2 Public Assembly Land Uses**

Champaign County will seek to ensure that public assembly, dependent population, and multifamily land uses provide safe and secure environments for their occupants.

**Objective 6.3 Development Standards**

Champaign County will seek to ensure that all new non-agricultural construction in the unincorporated area will comply with a building code by 2015.

**Objective 6.4 Countywide Waste Management Plan**

Champaign County will develop an updated Champaign County Waste Management Plan by 2015 to address the re-use, recycling, and safe disposal of wastes including: landscape waste; agricultural waste; construction/demolition debris; hazardous waste; medical waste; and municipal solid waste.

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

## Goal 6 Objectives and Policies

### **Objective 6.1 Protect Public Health and Safety**

Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.

#### **Policy 6.1.1**

The County will establish minimum lot location and dimension requirements for all new *rural* residential development that provide ample and appropriate areas for onsite wastewater and septic systems.

#### **Policy 6.1.2**

The County will ensure that the proposed wastewater disposal and treatment systems of *discretionary development* will not endanger public health, create nuisance conditions for adjacent uses, or negatively impact surface or groundwater quality.

#### **Policy 6.1.3**

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.

#### **Policy 6.1.4**

The County will seek to abate blight and to prevent and rectify improper dumping.

### **Objective 6.2 Public Assembly Land Uses**

Champaign County will seek to ensure that public assembly, dependent population, and multifamily land uses provide safe and secure environments for their occupants.

**Policy 6.2.1** The County will require public assembly, dependent population, and multifamily premises built, significantly renovated, or established after 2010 to comply with the Office of State Fire Marshal life safety regulations or equivalent.

**Policy 6.2.2** The County will require Champaign County Liquor Licensee premises to comply with the Office of State Fire Marshal life safety regulations or equivalent by 2015.

**Policy 6.2.3** The County will require Champaign County Recreation and Entertainment Licensee premises to comply with the Office of State Fire Marshal life safety regulations or equivalent by 2015.

### **Objective 6.3 Development Standards**

Champaign County will seek to ensure that all new non-agricultural construction in the unincorporated area will comply with a building code by 2015.

### **Objective 6.4 Countywide Waste Management Plan**

Champaign County will develop an updated Champaign County Waste Management Plan by 2015 to address the re-use, recycling, and safe disposal of wastes including: landscape waste; agricultural waste; construction/demolition debris; hazardous waste; medical waste; and municipal solid waste.

## Goal 7 Transportation

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

### Goal 7 Objectives

#### **Objective 7.1 Traffic Impact Analyses**

Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted.

#### **Objective 7.2 Countywide Transportation System**

Champaign County will strive to attain a countywide transportation network including a variety of transportation modes which will provide rapid, safe, and economical movement of people and goods.

### Goal 7 Objectives and Policies

#### **Objective 7.1 Traffic Impact Analyses**

Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted.

##### **Policy 7.1.1**

The County will include traffic impact analyses in *discretionary review* development proposals with significant traffic generation.

#### **Objective 7.2 Countywide Transportation System**

Champaign County will strive to attain a countywide transportation network including a variety of transportation modes which will provide rapid, safe, and economical movement of people and goods.

##### **Policy 7.2.1**

The County will encourage development of a multi-jurisdictional countywide transportation plan that is consistent with the LRMP.

##### **Policy 7.2.2**

The County will encourage the maintenance and improvement of existing County railroad system lines and services.

##### **Policy 7.2.3**

The County will encourage the maintenance and improvement of the existing County road system, considering fiscal constraints, in order to promote agricultural production and marketing.

##### **Policy 7.2.4**

The County will seek to implement the County's Greenways and Trails Plan.

##### **Policy 7.2.5**

The County will seek to prevent establishment of incompatible *discretionary development* in areas exposed to noise and hazards of vehicular, aircraft and rail transport.

##### **Policy 7.2.6**

The County will seek to protect *public infrastructure* elements which exhibit unique scenic, cultural, or historic qualities.

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

## Goal 8 Natural Resources

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

### Goal 8 Objectives

**Objective 8.1 Groundwater Quality and Availability**

Champaign County will strive to ensure adequate and safe supplies of groundwater at reasonable cost for both human and ecological purposes.

**Objective 8.2 Soil**

Champaign County will strive to conserve its soil resources to provide the greatest benefit to current and future generations.

**Objective 8.3 Underground Mineral and Energy Resource Extraction**

Champaign County will work to ensure future access to its underground mineral and energy resources and to ensure that their extraction does not create nuisances or detract from the long-term beneficial use of the affected property.

**Objective 8.4 Surface Water Protection**

Champaign County will work to ensure that new development and ongoing land management practices maintain and improve surface water quality, contribute to stream channel stability, and minimize erosion and sedimentation.

**Objective 8.5 Aquatic and Riparian Ecosystems**

Champaign County will encourage the maintenance and enhancement of aquatic and riparian habitats.

**Objective 8.6 Natural Areas and Habitat**

Champaign County will encourage resource management which avoids loss or degradation of areas representative of the *pre-settlement environment* and other areas that provide habitat for native and game species.

**Objective 8.7 Parks and Preserves**

Champaign County will work to protect existing investments in *rural* parkland and natural area preserves and will encourage the establishment of new public *parks and preserves* and protected private lands.

**Objective 8.8 Air Pollutants**

Champaign County considers the atmosphere a valuable resource and will seek to minimize harmful impacts to it and work to prevent and reduce the discharge of ozone precursors, acid rain precursors, toxics, dust and aerosols that are harmful to human health.

**Objective 8.9 Natural Resources Assessment System**

Champaign County will, by the year 2016, adopt a natural resources specific assessment system that provides a technical framework to numerically rank land parcels based on local resource evaluation and site considerations, including: groundwater resources; soil and mineral resources; surface waters; aquatic and riparian ecosystems; natural areas; parks and preserves; known cultural resources; and air quality.

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

## Goal 8 Objectives and Policies

### **Objective 8.1 Groundwater Quality and Availability**

Champaign County will strive to ensure adequate and safe supplies of groundwater at reasonable cost for both human and ecological purposes.

#### **Policy 8.1.1**

The County will not approve *discretionary development* using on-site water wells unless it can be reasonably assured that an adequate supply of water for the proposed use is available without impairing the supply to any existing well user.

#### **Policy 8.1.2**

The County will encourage regional cooperation in protecting the quality and availability of groundwater from the Mahomet Aquifer.

#### **Policy 8.1.3**

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.

#### **Policy 8.1.4**

To the extent that distinct recharge areas are identified for any aquifers, the County will work to prevent development of such areas that would significantly impair recharge to the aquifers.

#### **Policy 8.1.5**

To the extent that groundwater in the County is interconnected with surface waters, the County will work to ensure that groundwater contributions to natural surface hydrology are not disrupted by groundwater withdrawals by *discretionary development*.

#### **Policy 8.1.6**

The County will encourage the development and refinement of knowledge regarding the geology, hydrology, and other features of the County's groundwater resources.

#### **Policy 8.1.7**

The County will ensure that existing and new developments do not pollute the groundwater supply.

#### **Policy 8.1.8**

The County will protect community well heads, distinct aquifer recharge areas and other critical areas from potential sources of groundwater pollution.

#### **Policy 8.1.9**

The County will work to ensure the remediation of contaminated land or groundwater and the elimination of potential contamination pathways.

### **Objective 8.2 Soil**

Champaign County will strive to conserve its soil resources to provide the greatest benefit to current and future generations.

**Policy 8.2.1**

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.

**Objective 8.3 Underground Mineral and Energy Resource Extraction**

Champaign County will work to ensure future access to its underground mineral and energy resources and to ensure that their extraction does not create nuisances or detract from the long-term beneficial use of the affected property.

**Policy 8.3.1**

The County will allow expansion or establishment of underground mineral and energy resource extraction operations only if:

- a) the operation poses no significant adverse impact to existing land uses;
- b) the operation creates no significant adverse impact to surface water quality or other natural resources; and
- c) provisions are made to fully reclaim the site for a beneficial use.

**Objective 8.4 Surface Water Protection**

Champaign County will work to ensure that new development and ongoing land management practices maintain and improve surface water quality, contribute to stream channel stability, and minimize erosion and sedimentation.

**Policy 8.4.1**

The County will incorporate the recommendations of adopted watershed plans in its policies, plans, and investments and in its *discretionary review* of new development.

**Policy 8.4.2**

The County will require stormwater management designs and practices that provide effective site drainage, protect downstream drainage patterns, minimize impacts on adjacent properties and provide for stream flows that support healthy aquatic ecosystems.

**Policy 8.4.3**

The County will encourage the implementation of agricultural practices and land management that promotes good drainage while maximizing stormwater infiltration and aquifer recharge.

**Policy 8.4.4**

The County will ensure that point discharges including those from new development, and including surface discharging on-site wastewater systems, meet or exceed state and federal water quality standards.

**Policy 8.4.5**

The County will ensure that non-point discharges from new development meet or exceed state and federal water quality standards.

**Policy 8.4.6**

The County recognizes the importance of the drainage districts in the operation and maintenance of drainage.

**Objective 8.5 Aquatic and Riparian Ecosystems**

Champaign County will encourage the maintenance and enhancement of aquatic and riparian habitats.

**Policy 8.5.1**

For *discretionary development*, the County will require land use patterns, site design standards and land management practices that, wherever possible, preserve existing habitat, enhance degraded habitat and restore habitat.

**Policy 8.5.2**

The County will require in its *discretionary review* that new development cause no more than minimal disturbance to the stream corridor environment.

**Policy 8.5.3**

The County will encourage the preservation and voluntary restoration of wetlands and a net increase in wetland habitat acreage.

**Policy 8.5.4**

The County will support efforts to control and eliminate invasive species.

**Policy 8.5.5**

The County will promote drainage system maintenance practices that provide for effective drainage, promote channel stability, minimize erosion and sedimentation, minimize ditch maintenance costs and, when feasible, support healthy aquatic ecosystems.

**Objective 8.6 Natural Areas and Habitat**

Champaign County will encourage resource management which avoids loss or degradation of areas representative of the *pre-settlement environment* and other areas that provide habitat for native and game species.

**Policy 8.6.1**

The County will encourage educational programs to promote sound environmental stewardship practices among private landowners.

**Policy 8.6.2**

- a. For new development, the County will require land use patterns, site design standards and land management practices to minimize the disturbance of existing areas that provide habitat for native and game species, or to mitigate the impacts of unavoidable disturbance to such areas.
- b. With regard to *by-right development* on *good zoning lots*, or the expansion thereof, the County will not require new zoning regulations to preserve or maintain existing onsite areas that provide habitat for native and game species, or new zoning regulations that require mitigation of impacts of disturbance to such onsite areas.

**Policy 8.6.3**

For *discretionary development*, the County will use the Illinois Natural Areas Inventory and other scientific sources of information to identify priority areas for protection or which offer the potential for restoration, preservation, or enhancement.

**Policy 8.6.4**

The County will require implementation of IDNR recommendations for *discretionary development* sites that contain endangered or threatened species, and will seek to ensure that recommended management practices are maintained on such sites.

**Policy 8.6.5**

The County will continue to allow the reservation and establishment of private and public hunting grounds where conflicts with surrounding land uses can be minimized.

**Policy 8.6.6**

The County will encourage the purchase, donation, or transfer of development rights and the like, by public and private entities, of significant natural areas and habitat for native and game species for the purpose of preservation.

**Objective 8.7 Parks and Preserves**

Champaign County will work to protect existing investments in *rural* parkland and natural area preserves and will encourage the establishment of new public parks and preserves and protected private lands.

**Policy 8.7.1**

The County will require that the location, site design and land management of *discretionary development* minimize disturbance of the natural quality, habitat value and aesthetic character of existing public and private parks and preserves.

**Policy 8.7.2**

The County will strive to attract alternative funding sources that assist in the establishment and maintenance of parks and preserves in the County.

**Policy 8.7.3**

The County will require that *discretionary development* provide a reasonable contribution to support development of parks and preserves.

**Policy 8.7.4**

The County will encourage the establishment of public-private partnerships to conserve woodlands and other significant areas of natural environmental quality in Champaign County.

**Policy 8.7.5**

The County will implement, where possible, incentives to encourage land development and management practices that preserve, enhance natural areas, wildlife habitat and/or opportunities for hunting and other recreational uses on private land.

**Policy 8.7.6** The County will support public outreach and education regarding site-specific natural resource management guidelines that landowners may voluntarily adopt.

**Objective 8.8 Air Pollutants**

Champaign County considers the atmosphere a valuable resource and will seek to minimize harmful impacts to it and work to prevent and reduce the discharge of ozone precursors, acid rain precursors, toxics, dust and aerosols that are harmful to human health.

**Policy 8.8.1** The County will require compliance with all applicable Illinois Environmental Protection Agency and Illinois Pollution Control Board standards for air quality when relevant in *discretionary review* development.

**Policy 8.8.2** In reviewing proposed *discretionary development*, the County will identify existing sources of air pollutants and will avoid locating sensitive land uses where occupants will be affected by such discharges.

**Objective 8.9 Natural Resources Assessment System**

Champaign County will, by the year 2016, adopt a natural resources specific assessment system that provides a technical framework to numerically rank land parcels based on local resource evaluation and site considerations, including: groundwater resources; soil and mineral resources; surface waters; aquatic and riparian ecosystems; natural areas; parks and preserves; known cultural resources; and air quality.

**Goal 9 Energy Conservation**

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

**Goal 9 Objectives**

**Objective 9.1 Reduce Greenhouse Gases**

Champaign County will seek to reduce the discharge of greenhouse gases.

**Objective 9.2 Energy Efficient Buildings**

Champaign County will encourage energy efficient building design standards.

**Objective 9.3 Land Use and Transportation Policies**

Champaign County will encourage land use and transportation planning policies that maximize energy conservation and efficiency.

**Objective 9.4 Reuse and Recycling**

Champaign County will promote efficient resource use and re-use and recycling of potentially recyclable materials.

**Objective 9.5 Renewable Energy Sources**

Champaign County will encourage the development and use of renewable energy sources where appropriate and compatible with existing land uses.

**Goal 9 Objectives and Policies**

**Objective 9.1 Reduce Greenhouse Gases**

Champaign County will seek to reduce the discharge of greenhouse gases.

**Policy 9.1.1**

The County will promote land use patterns, site design standards and land management practices that minimize the discharge of greenhouse gases.

**Policy 9.1.2**

The County will promote energy efficient building design standards.

**Policy 9.1.3**

The County will strive to minimize the discharge of greenhouse gases from its own facilities and operations.

**Objective 9.2 Energy Efficient Buildings**

Champaign County will encourage energy efficient building design standards.

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

**Policy 9.2.1**

The County will enforce the Illinois Energy Efficient Commercial Building Act (20 ILCS 3125/1).

**Policy 9.2.2**

The County will strive to incorporate and utilize energy efficient building design in its own facilities.

**Objective 9.3 Land Use and Transportation Policies**

Champaign County will encourage land use and transportation planning policies that maximize energy conservation and efficiency.

**Objective 9.4 Reuse and Recycling**

Champaign County will promote efficient resource use and re-use and recycling of potentially recyclable materials.

**Objective 9.5 Renewable Energy Sources**

Champaign County will encourage the development and use of renewable energy sources where appropriate and compatible with existing land uses.

**Goal 10 Cultural Amenities**

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

**Goal 10 Objective**

**Objective 10.1 Cultural Amenities**

Champaign County will encourage the development and maintenance of cultural, educational, recreational, and other amenities that contribute to the quality of life of its citizens.

**Goal 10 Objectives and Policy**

**Objective 10.1 Cultural Amenities**

Champaign County will encourage the development and maintenance of cultural, educational, recreational, and other amenities that contribute to the quality of life of its citizens.

**Policy 10.1.1**

The County will work to identify historic structures, places and landscapes in the County.

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

## **APPENDIX**

### **DEFINED TERMS**

The following defined terms can be found in italics within the text of the LRMP Volume 2 Chapters: Goals, Objectives and Policies; Future Land Use Map; and Implementation Strategy.

#### **best prime farmland**

'Best prime farmland' consists of 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.

#### **by right development**

'By right development' is a phrase that refers to the limited range of new land uses that may be established in unincorporated areas of the County provided only that subdivision and zoning regulations are met and that a Zoning Use Permit is issued by the County's Planning and Zoning Department. At the present time, 'by right' development generally consists of one (or a few, depending on tract size) single family residences, or a limited selection of other land uses. Zoning Use Permits are applied for 'over-the-counter' at the County Planning & Zoning Department, and are typically issued—provided the required fee has been paid and all site development requirements are met—within a matter of days.

#### **contiguous urban growth area**

Unincorporated land within the County that meets one of the following criteria:

- land designated for urban land use on the future land use map of an adopted municipal comprehensive land use plan, intergovernmental plan or special area plan, and located within the service area of a public sanitary sewer system with existing sewer service or sewer service planned to be available in the near- to mid-term (over a period of the next five years or so).
- land to be annexed by a municipality and located within the service area of a public sanitary sewer system with existing sewer service or sewer service planned to be available in the near- to mid-term (over a period of the next five years or so); or
- land surrounded by incorporated land or other urban land within the County.

#### **discretionary development**

A non-agricultural land use that may occur only if a Special Use Permit or Zoning Map Amendment is granted by the County.

#### **discretionary review**

The County may authorize certain non-agricultural land uses in unincorporated areas of the County provided that a public review process takes place and provided that the County Board or County Zoning Board of Appeals (ZBA) finds that the development meets specified criteria and approves the development request. This is referred to as the 'discretionary review' process.

The discretionary review process includes review by the County ZBA and/or County Board of a request for a Special Use or a Zoning Map Amendment. For 'discretionary review' requests, a

**discretionary review** (continued)

public hearing occurs before the County ZBA. Based on careful consideration of County [LRMP] goals, objectives and policies and on specific criteria, the ZBA and/or County Board, at their discretion, may or may not choose to approve the request.

**good zoning lot** (commonly referred to as a 'conforming lot')

A lot that meets all County zoning, applicable County or municipal subdivisions standards, and other requirements in effect at the time the lot is created.

**parks and preserves**

Public land established for recreation and preservation of the environment or privately owned land that is participating in a conservation or preservation program

**pre-settlement environment**

When used in reference to outlying Champaign County areas, this phrase refers to the predominant land cover during the early 1800s, when prairie comprised approximately 92.5 percent of land surface; forestland comprised roughly 7 percent; with remaining areas of wetlands and open water. Riparian areas along stream corridors containing 'Forest Soils' and 'Bottomland Soils' are thought to most likely be the areas that were forested during the early 1800s.

**public infrastructure**

'Public infrastructure' when used in the context of rural areas of the County generally refers to drainage systems, bridges or roads.

**public services**

'Public services' typically refers to public services in rural areas of the County, such as police protection services provided the County Sheriff office, fire protection principally provided by fire protection districts, and emergency ambulance service.

**rural**

Rural lands are unincorporated lands that are not expected to be served by any public sanitary sewer system.

**site of historic or archeological significance**

A site designated by the Illinois Historic Preservation Agency (IHPA) and identified through mapping of high probability areas for the occurrence of archeological resources in accordance with the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/3). The County requires Agency Report from the IHPA be submitted for the County's consideration during discretionary review of rezoning and certain special use requests. The Agency Report addresses whether such a site is present and/or nearby and subject to impacts by a proposed development and whether further consultation is necessary.

**suited overall**

During the discretionary review process, the County Board or County Zoning Board of Appeals may find that a site on which development is proposed is 'suited overall' if the site meets these criteria:

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

**well-suited overall**

During the discretionary review process, the County Board or County Zoning Board of Appeals may find that a site on which development is proposed is 'well-suited overall' if the site meets these criteria:

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

**urban development**

The construction, extension or establishment of a land use that requires or is best served by a connection to a public sanitary sewer system.

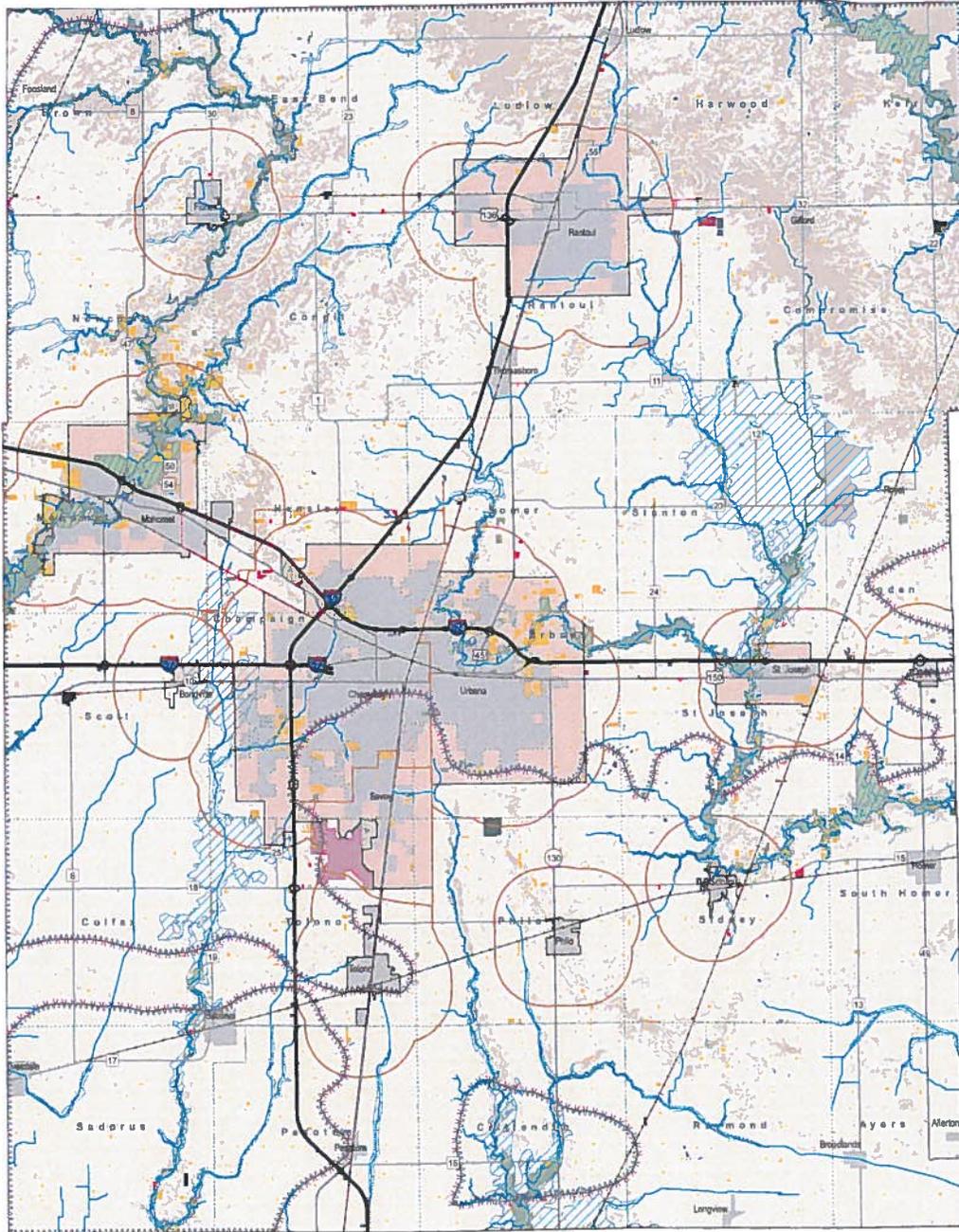
**urban land**

Land within the County that meets any of the following criteria:

- within municipal corporate limits; or
- unincorporated land that is designated for future urban land use on an adopted municipal comprehensive plan, adopted intergovernmental plan or special area plan and served by or located within the service area of a public sanitary sewer system.

**urban land use**

Generally, land use that is connected and served by a public sanitary sewer system.



**Land Use Management Areas**

**Policy Areas**

- Rural**
- Best Prime Farmland
- Non Best Prime Farmland
- Existing Natural Area
- Areas which may contain Natural Areas
- Parks and Preserves
- Mahomet Aquifer (approx.)
- Limited Groundwater Availability (approx.)
- Stream
- Lake
- Urban**
- Settlement
- Contiguous Urban Growth Area
- Municipal Extraterritorial Jurisdiction without Sanitary Sewer

**Administrative Boundaries**

- Extraterritorial Jurisdiction
- Extraterritorial Jurisdiction Boundary Agreement
- Township Boundary
- Floodplain

**Existing Land Uses**

- Commercial / Industrial
- Residential
- Existing Incorporated Area
- Airport

**Roads**

- Interstate
- Federal Highway
- State Highway
- County Highway
- Railroad

The Land Use Management Area map defines spatial extents of policies based on language and intent of the LRMP.



Map Produced April 2010

Champaign County  
Department of

**PLANNING &  
ZONING**

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

(217) 384-3708  
zoningdept@co.champaign.il.us  
www.co.champaign.il.us/zoning

## **CASE NO. 770-V-13**

*PRELIMINARY MEMORANDUM*  
*January 24, 2014*

**Petitioners:** Kenneth and Alena Nierenhausen

**Request:** Authorize the following variances in the AG-2 Agriculture Zoning District on the subject property described below, in order to construct a new dwelling to replace a dwelling damaged in the November 17, 2013, tornado:  
**PART A.** The creation and use of a lot that is 5.79 acres in area on best prime farmland in lieu of the maximum allowed three acres on best prime farmland required by Footnote 13 in Section 5.3.

**PART B.** Application fee of \$0 for a Zoning Use Permit Application in lieu of the standard Zoning Use Permit Application fee required by Sec. 9.3.1B.

**PART C.** Application fee of \$0 for a Variance Application in lieu of the standard \$200 Variance Application fee required by Sec. 9.3.3B.1.b.

**Subject Property:** A proposed 5.79 acre tract in St. Joseph Township in the Northwest Quarter of the Northwest Quarter of Section 23 of Township 19 North, Range 10 East of the Third Principal Meridian and commonly known as the farmstead located at 1486 CR2200E, St. Joseph.

**Site Area:** 5.79 acres gross (5.00 acres net right of way)

**Time Schedule for Development:** As Soon as Possible

**Prepared by:** **John Hall**  
Zoning Administrator

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### **BACKGROUND**

The petitioners' home east of Gifford was destroyed in the November 17, 2013, tornado. They desire to relocate and rebuild on the subject property. The subject property is an old farmstead that totals 5.79 acres in area including .79 acres that is right of way for CR2200E. The soils that make up the subject property meet the Zoning Ordinance definition of "best prime farmland". The Zoning Ordinance limits lot size on best prime farmland to no more than 3 acres (in this instance) and therefore, Part A of the variance is required.

The Zoning Ordinance does not contain an exception for Zoning Use Permit fees when it is necessary to rebuild following storm damage. Past practice has been to administratively waive such fees and as explained in a letter to the petitioners dated 11/27/13, that will also be done in this instance.

Part C of the variance is required because the Zoning Ordinance also does not contain an exception for Zoning Case fees when a Zoning Case is necessary to rebuild following storm damage. There is no history of administratively waiving such fees because this is the first zoning case in memory ever required to rebuild following storm damage.

Because there is a Part C of the Variance there is also a Part B. However, if the Board finds that the need for Part C (and presumably Part B also) is not related solely to the land and therefore, not a valid variance, the Zoning Administrator is prepared to administratively waive all fees and in that situation, neither Part B or Part C are required and the petitioner would presumably withdraw those parts of the variance.

### EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of St. Joseph. Municipalities are not notified of Variance cases and do not have protest rights. The Village does have subdivision jurisdiction and has already approved the proposed lot.

### EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Residential	AG-2 Agriculture
North	Farmland	AG-2 Agriculture
East	Famland	AG-2 Agriculture
West	Residential	CR Conservation Recreatino
South	Famland	AG-2 Agriculture

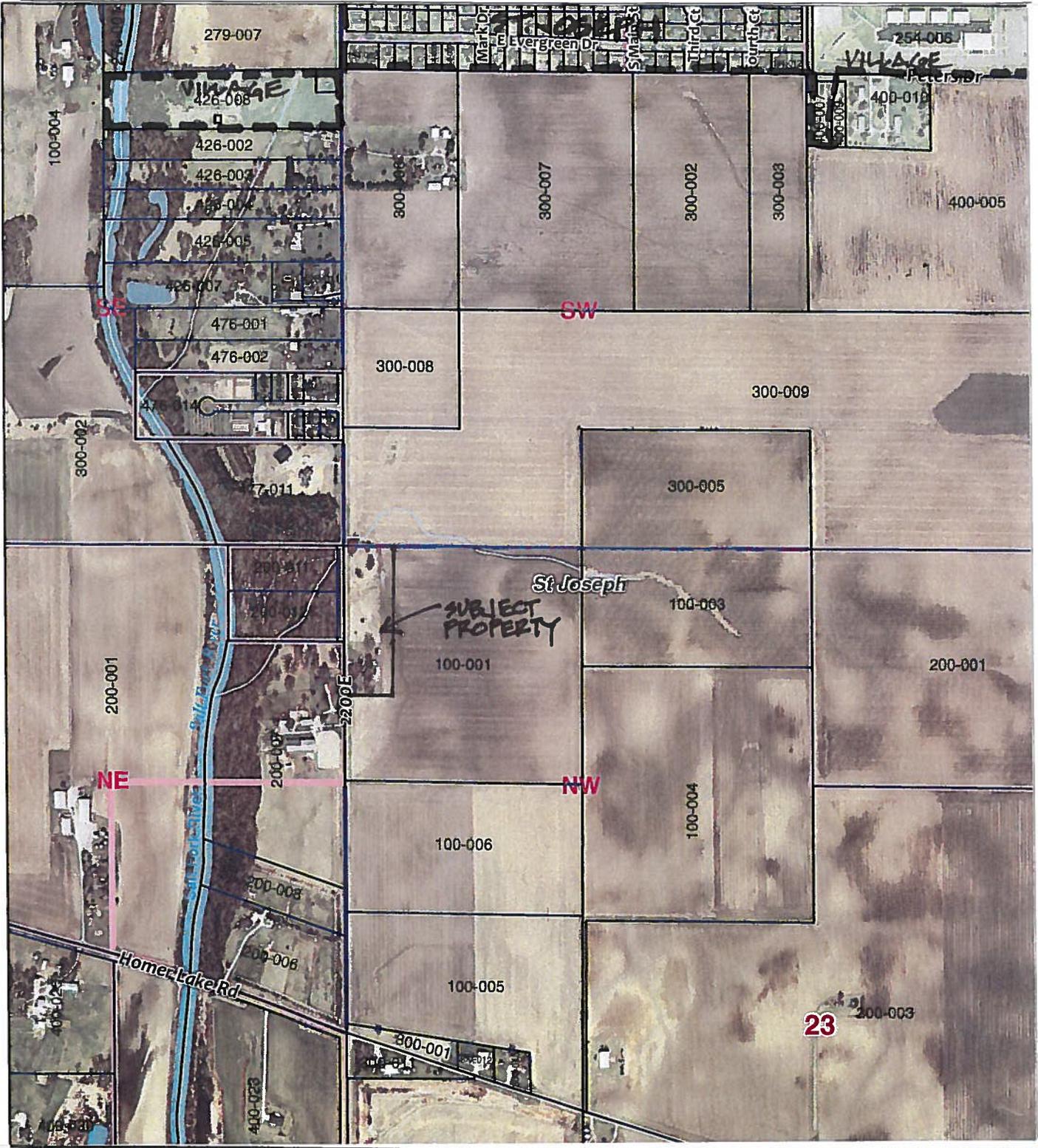
### ATTACHMENTS

- A Case Maps (Land Use, Zoning)
- B Aerial photograph and boundary survey prepared by Berns, Clancy and Associates dated 12/16/13 (included separately)
- C Site plan received 12/20/13
- D Excerpt of Sheet 57 of *Soil Survey of Champaign County, Illinois*, 2003 edition. (Annotated to indicate subject property)
- E 1973 Aerial photograph (Annotated to indicate subject property)
- F Draft Summary of Evidence

ATTACHMENT A. LAND USE MAP

Case 770-V-13

JANUARY 24, 2014



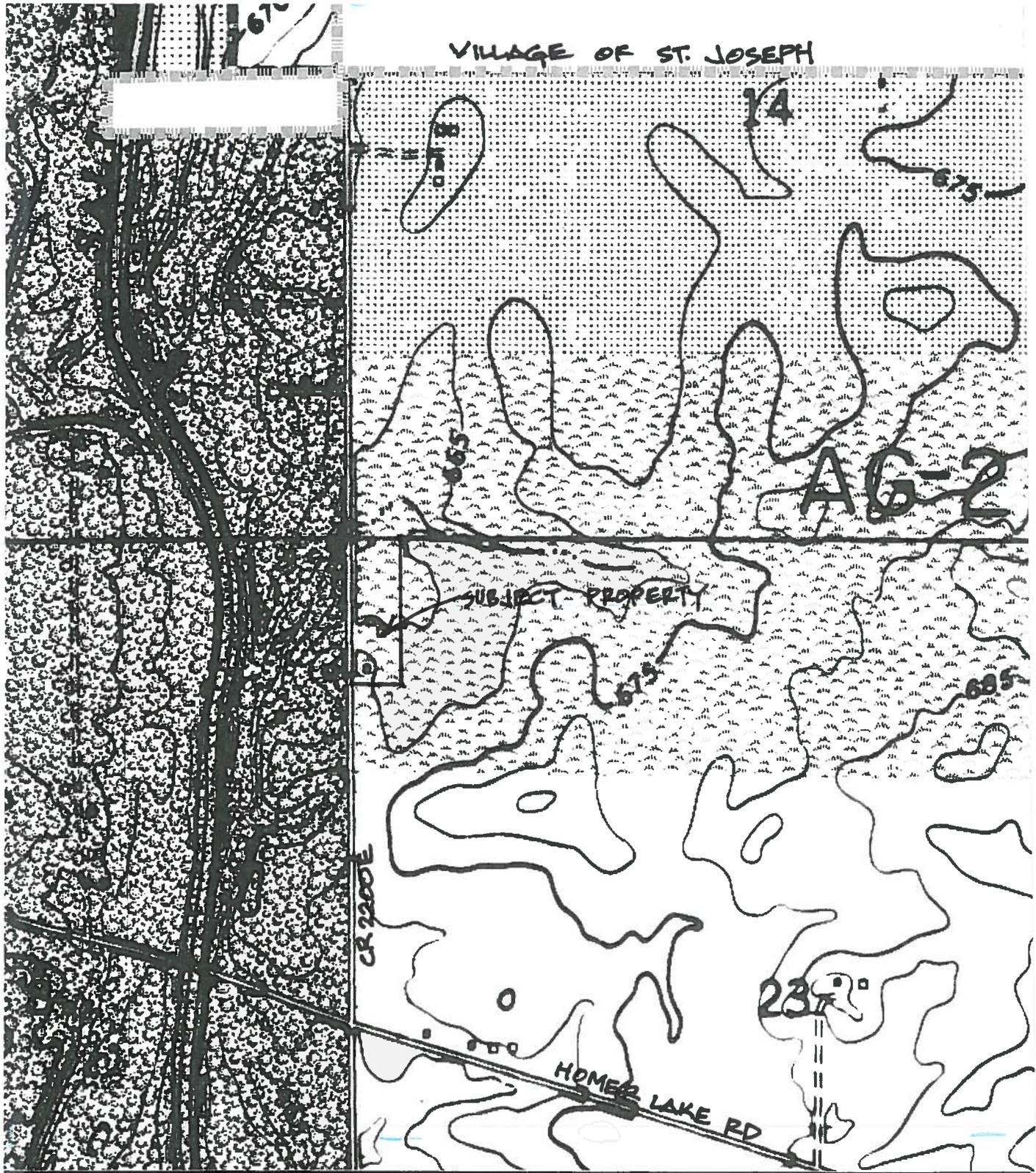
Champaign  
County  
Department of  
**PLANNING &  
ZONING**

0 310 620 1,240 Feet  
1 inch = 800 feet

ATTACHMENT A. ZONING MAP

Case 770-V-13

JANUARY 24, 2014



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 <b>PLANNING &amp;                  ZONING</b>
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	

253.26 ft

Sidney slab

860.00 ft

15' setback of postframe

75 ft

75 ft

100 ft

SEPT

WELL



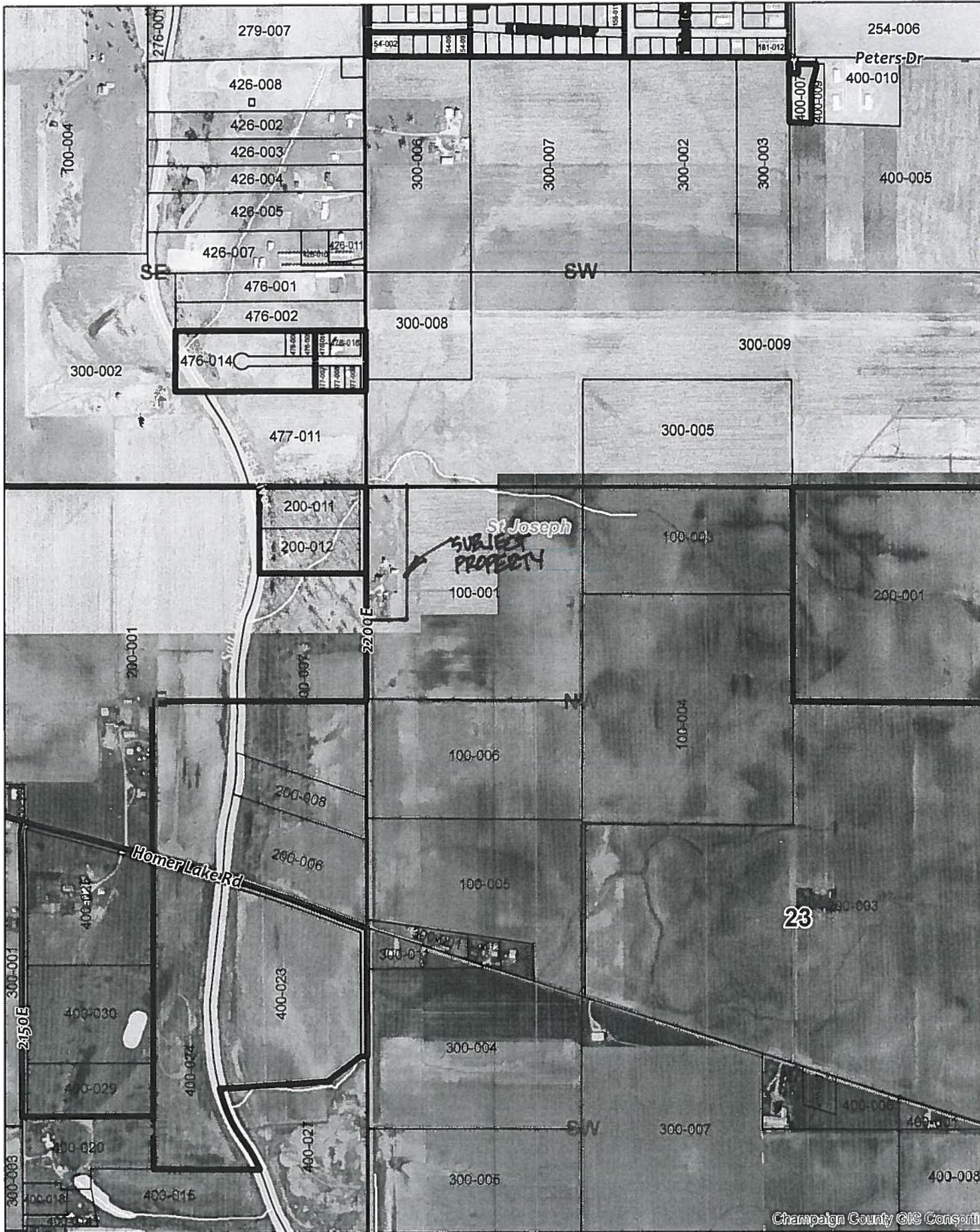
RECEIVED

DEC 20 2013

CHAMPAIGN CO. P & Z DEPARTMENT

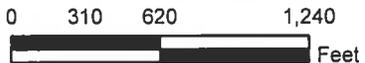
\*Dropped structure. Exact house plans have not been confirmed.





**DISCLAIMER**  
 This map was prepared by the Champaign County GIS Consortium (CCGIS) using the best available data. This map and its underlying data is intended to be used as a general index to land related information and is not intended for detailed, site-specific analysis. CCGIS does not warrant or guarantee the accuracy of this information for any purpose.

For questions regarding availability of geo-data or the CCGIS,



1 inch = 800 feet  
 1 inch = 0.15 miles





***PRELIMINARY DRAFT***

**770-V-13**

**FINDING OF FACT  
AND FINAL DETERMINATION**

**of  
Champaign County Zoning Board of Appeals**

---

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

Date: January 30, 2014

Petitioners: Kenneth and Alena Nierenhausen

Request: Authorize the following variances in the AG-2 Agriculture Zoning District on the subject property described below, in order to construct a new dwelling to replace a dwelling damaged in the November 17, 2013, tornado:

PART A. The creation and use of a lot that is 5.79 acres in area on best prime farmland in lieu of the maximum allowed three acres on best prime farmland required by Footnote 13 in Section 5.3.

PART B. Application fee of \$0 for a Zoning Use Permit Application in lieu of the standard Zoning Use Permit Application fee required by Sec. 9.3.1B.

PART C. Application fee of \$0 for a Variance Application in lieu of the standard \$20 Variance Application fee required by Sec. 9.3.3B.1.b.

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**PRELIMINARY DRAFT**

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 30, 2014**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners Kenneth and Alena Nierenhausen, 1360 CR2575E, Homer, proposed to purchase the proposed lot and have requested the variance.
2. The subject property is a proposed 5.79 acre tract in St. Joseph Township in the Northwest Quarter of the Northwest Quarter of Section 23 of Township 19 North, Range 10 East of the Third Principal Meridian and commonly known as the farmstead located at 1486 CR2200E, St. Joseph.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of St. Joseph. The Village does not have protest rights in a variance case.

**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 an old farmstead.
  - B. Land to the North, East, and South is zoned AG-2 Agriculture and is in use as farmland.
  - C. Land to the West is zoned CR Conservation Recreation and is in residential use.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. Regarding the proposed site plan, the subject property is indicated in aerial photograph and boundary survey prepared by Berns, Clancy and Associates dated 12/16/13. A Zoning Use Permit Application has also been received with a preliminary site plan but no actual house plan has been selected.

**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) "AGRICULTURE" is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment form the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS

occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.

- (2) "AREA, LOT" is the total area within the LOT LINES.
- (3) "BEST PRIME FARMLAND" is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
  - a) Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation and Site Assessment (LESA) System;
  - b) Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA System; or
  - c) Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils, as determined by the Champaign County LESA System.
- (4) "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.
- (5) "LOT DEPTH" is the distance between the midpoint of the FRONT LOT LINE and the midpoint of the REAR LOT LINE or LINES.
- (6) "LOT LINES" are the lines bounding a LOT.
- (7) "LOT WIDTH, AVERAGE" is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
- (8) "NONCONFORMING LOT, STRUCTURE, or USE" is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.

**PRELIMINARY DRAFT**

- (9) "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.
  - (10) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- B. In the *Zoning Ordinance*, maximum lot size is restricted by Footnote 13 to Section 5.3 Schedule of Area, Height, & Placement Regulations by District, as follows (\* indicates numbering from the *Zoning Ordinance*):
- \*13. The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:
    - \*A) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
      - \*1) The LOT is RRO-exempt;
      - \*2) The LOT is made up of soils that are BEST PRIME FARMLAND; and
      - \*3) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as of January 1, 1998.
    - \*B) LOTS that meet both of the following criteria may not exceed an average maximum LOT AREA of two acres:
      - \*1) The LOT is located within a Rural Residential OVERLAY DISTRICT; and
      - \*2) The LOT is made up of soils that are BEST PRIME FARMLAND.
    - \*C) The following LOTS are exempt from the three-acre maximum LOT AREA requirement indicated in Paragraph A:
      - \*1) 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.'
      - \*2) Any LOT greater than or equal to 35 acres in LOT AREA.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:

- (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
  - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
  - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
  - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
  - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- D. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

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

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“The tract has been a homestead, has not been farmed (over 2/3 has never been farmed). Has large trees and grass area. Need to make the lot deeper from the right of way, need to put the house further off the road. The north half of the property has a guard rail. We have no desire to ever split the property.”**
  - B. Regarding the soils that make up the subject property:
    - a. There is no Natural Resource Report for the subject property.
    - b. As indicated on an excerpt of Sheet 57 of the *Soil Survey of Champaign County, Illinois*, 2003 edition, annotated to indicate the subject property, more than 10% of the subject property consists of soil map unit 152A Drummer silty clay loam and most of the property consists of soil map unit 236A Sabina silt loam (0 to 2% slopes).
    - c. The *Champaign County Land Evaluation and Site Assessment System* as amended on October 24, 2013, identifies soil map unit 152A Drummer silty clay loam with a

*PRELIMINARY DRAFT*

Land Evaluation rating of 100 and belongs in Agriculture Value Group 2 and 236A Sabina silt loam with a Land Evaluation rating of 85 and belongs in Agriculture Value Group 7.

- d. The Zoning Ordinance defines “best prime farmland” as consisting of any of the following:
  - (a) Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation and Site Assessment (LESA) System;
  - (b) Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA System; or
  - (c) Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils, as determined by the Champaign County LESA System.
- C. The existing farmstead area has never been in row crop production and appears on the 1973 aerial photograph.
- D. The majority of the soil on the subject property does not consist of best prime farmland.

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

- 8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. The Petitioner has testified on the application that, “**Lot needs to be deeper away from the right of way and the north end of the lot is low.**”
  - B. The existing farmstead area has never been in row crop production.
  - C. The majority of the soil on the subject property does not consist of best prime farmland.

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

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. The Petitioner has testified on the application that, “**No hardships are created by the land. We have not begun any construction on the lot due to the fact that we need the lot to be deeper off the right of way and would need this variance granted to do so.**”
  - B. The subject property is that portion of an existing 40 acre tract of farmland that has never been in row crop production. The existing landowner does not farm the subject property but does farm the remainder of the 40 acres.

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

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioner has testified on the application that, **“Granting this variance will not disturb the Zoning Ordinance’s purpose to secure light, air, and safety. This land has never been farmed so there is no need to preserve it as such.”**
  - B. The subject property conforms to all other Zoning Ordinance requirements.
  - C. 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.
  - D. The proposed lot area of approximately 5.79 acres is 193% of the required three acre maximum for a variance of 93%.
  - E. The requested variance is not prohibited by the *Zoning Ordinance*.

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

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application that, **“There is adequate room for fire fighting and there are no concerns from the Fire Protection District. The variance will not generate hazardous materials, noise, odor, smoke, fumes, heat, or glare not will it have any effect on traffic.”**
  - 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.
12. On the application the Petitioner has also testified that, **“We lost our home in the Gifford tornado and would like to start construction on a new home but without this variance, the lot would not be deep enough.”**

**DOCUMENTS OF RECORD**

1. Variance application received on December 20, 2013, with attachments:
  - A Aerial photograph and boundary survey prepared by Berns, Clancy and Associates dated 12/16/13
2. Village of St. Joseph Resolution dated December 10, 2013
3. Zoning Use Permit Application with site plan received December 20, 2013
4. Preliminary Memorandum with attachments:
  - A Case Maps (Land Use, Zoning)
  - B Aerial photograph and boundary survey prepared by Berns, Clancy and Associates dated 12/16/13 (included separately)
  - C Site plan received 12/20/13
  - D Excerpt of Sheet 62 of *Soil Survey of Champaign County, Illinois*, 2003 edition. (Annotated to indicate subject property)
  - E 1973 Aerial photograph (Annotated to indicate subject property)
  - F Draft Summary of Evidence

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **770-V-13** held on **January 30, 2013**, 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(S)} {IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION(S)} {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(S)} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**FINAL DETERMINATION**

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

The Variance requested in Case 770-V-13 is hereby *{ GRANTED/ GRANTED WITH SPECIAL CONDITION(S) /DENIED }* to the petitioners, **Kenneth and Alena Nierenhausen**, to authorize the following:

**PART A. The creation and use of a lot that is 5.79 acres in area on best prime farmland in lieu of the maximum allowed three acres on best prime farmland required by Footnote 13 in Section 5.3.**

**PART B. Application fee of \$0 for a Zoning Use Permit Application in lieu of the standard Zoning Use Permit Application fee required by Sec. 9.3.1B.**

**PART C. Application fee of \$0 for a Variance Application in lieu of the standard \$200 Variance Application fee required by Sec. 9.3.3B.1.b.**

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

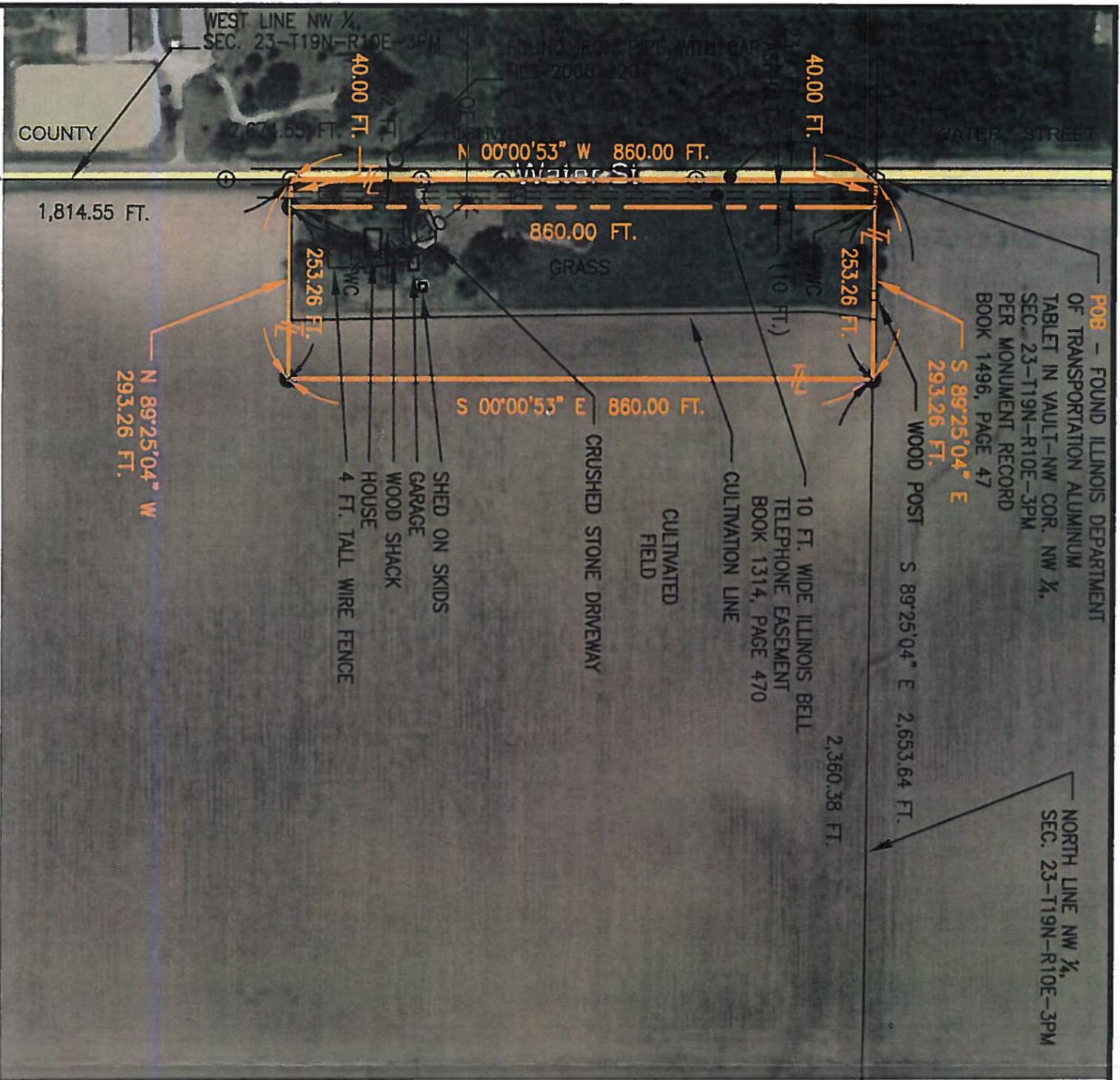
The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

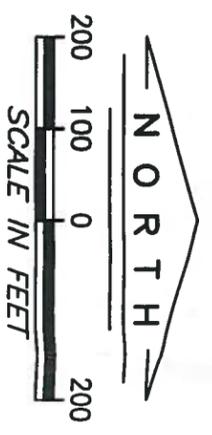
\_\_\_\_\_  
Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

\_\_\_\_\_  
Secretary to the Zoning Board of Appeals  
Date



FOUND REBAR NE COR. NW ¼  
SEC. 23-T19N-R10E-3PM  
PER MONUMENT RECORD  
DOCUMENT NO. 93R27400



- LEGEND**
- 30 INCH LONG, 1/2 INCH DIAMETER IRON PIPE SURVEY MONUMENT SET WITH ALUMINUM CAP STAMPED "ILS 2006 2207"
  - EXISTING IRON PIPE/PIN SURVEY MONUMENT FOUND
  - ⊕ CONCRETE NAIL SURVEY MONUMENT FOUND
  - ⊙ "MAG" NAIL SURVEY MONUMENT SET
  - ALUMINUM TABLET SURVEY MONUMENT FOUND
  - \*—\*— EXISTING FENCE LINE
  - - - EXISTING UTILITY EASEMENT LINE
  - - - EXISTING RIGHT-OF-WAY LINE
  - /—** **TITLE LINE**
  - ▣ EXISTING TELEPHONE PEDESTAL
  - ⚡ EXISTING UTILITY POLE/DOWN GUY/TRANSFORMER
  - OE— EXISTING OVERHEAD ELECTRIC LINE
  - POB** **POINT-OF-BEGINNING**
  - ? DESTINATION OR DATA UNKNOWN
  - ( ) RECORD MEASUREMENT AND/OR DATA
  - WC WITNESS CORNER

**AREA SUMMARY**

NET AREA OF TRACT:	5.00 ACRES ±
NET AREA OF APPARENT RIGHT-OF-WAY:	0.79 ACRES ±
TOTAL AREA OF TRACT:	5.79 ACRES ±

BOUNDARY SURVEY OF A PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 19 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ST. JOSEPH TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS

J.U.L.I.E.

FOUND ILLINOIS DEPARTMENT OF TRANSPORTATION ALUMINUM TABLET IN VAULT-SW COR. NW ¼, SEC. 23-T19N-R10E-3PM PER MONUMENT RECORD BOOK 1496, PAGE 47

NOTE: THE EXACT LOCATION OF ALL UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION ACTIVITIES. FOR UTILITY LOCATIONS CALL: J.U.L.I.E. (800) 892-0123

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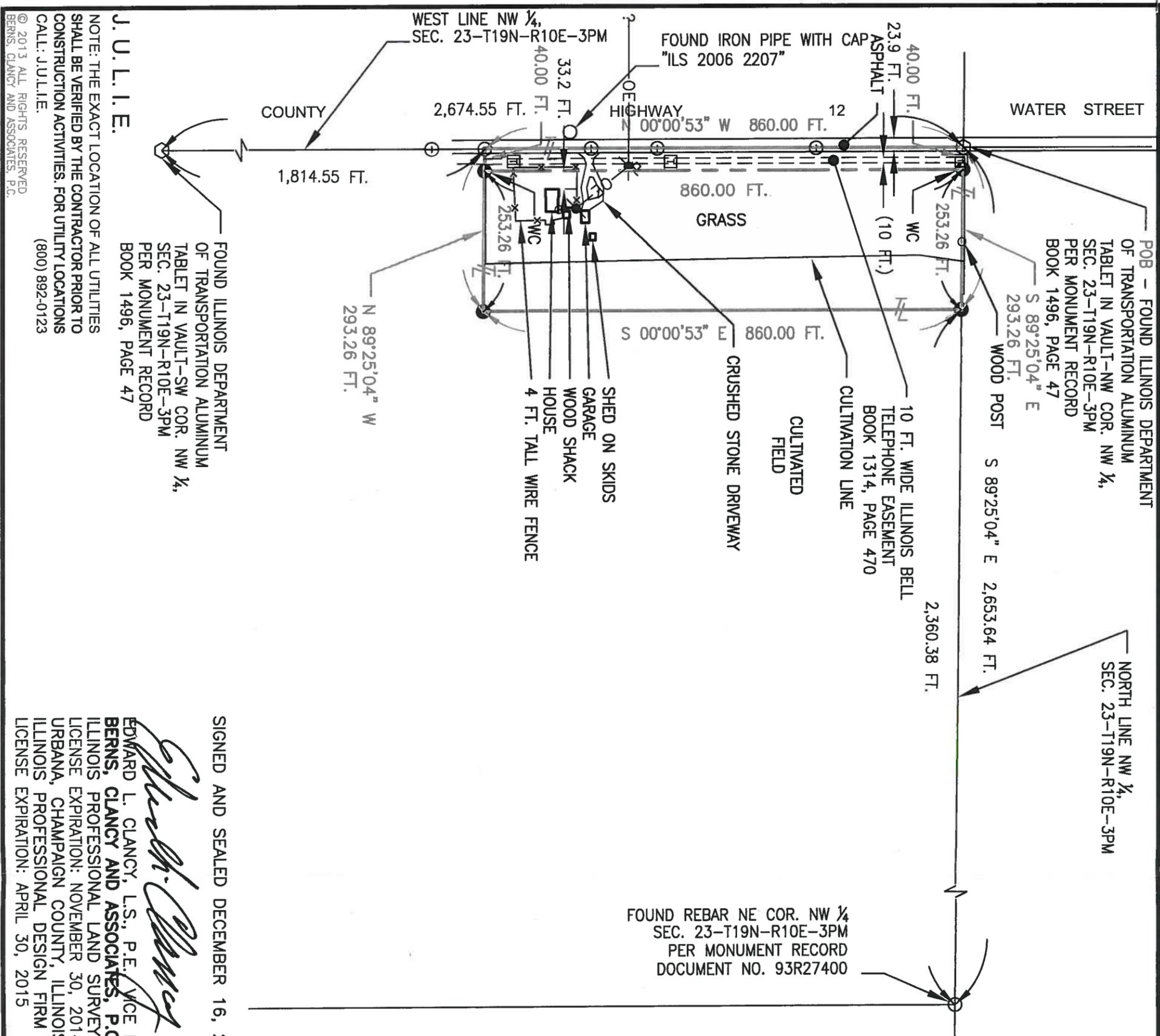
AERIAL PHOTOGRAPHY FROM  
GOOGLE EARTH IMAGERY  
DATED MAY 2012

**RECEIVED**  
DEC 20 2013  
CHAMPAIGN CO. P & Z DEPARTMENT

**BCA**  
BERNS, CLANCY AND ASSOCIATES  
ENGINEERS • SURVEYORS • PLANNERS

405 EAST MAIN STREET - POST OFFICE BOX 755  
URBANA, ILLINOIS 61803-0755  
PHONE: (217) 384-1144 - FAX: (217) 384-3365

FILE: 6885A.DWG	DATE: 121613	SHEET 1 OF 1
JOB: 6885		



POB - FOUND ILLINOIS DEPARTMENT OF TRANSPORTATION ALUMINUM TABLET IN VAULT-NW COR. NW 1/4, SEC. 23-T19N-R10E-3PM PER MONUMENT RECORD BOOK 1496, PAGE 47

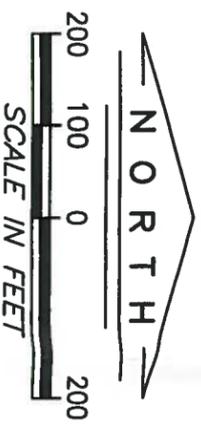
NORTH LINE NW 1/4, SEC. 23-T19N-R10E-3PM

FOUND REBAR NE COR. NW 1/4 SEC. 23-T19N-R10E-3PM PER MONUMENT RECORD DOCUMENT NO. 93R27400

J.U.L.I.E.  
NOTE: THE EXACT LOCATION OF ALL UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION ACTIVITIES. FOR UTILITY LOCATIONS CALL: J.U.L.I.E. (800) 892-0123

FOUND ILLINOIS DEPARTMENT OF TRANSPORTATION ALUMINUM TABLET IN VAULT-SW COR. NW 1/4, SEC. 23-T19N-R10E-3PM PER MONUMENT RECORD BOOK 1496, PAGE 47

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**LEGEND**

- 30 INCH LONG, 1/2 INCH DIAMETER IRON PIPE SURVEY MONUMENT SET WITH ALUMINUM CAP STAMPED "ILS 2006 2207"
- EXISTING IRON PIPE/PIN SURVEY MONUMENT FOUND
- ⊕ CONCRETE NAIL SURVEY MONUMENT FOUND
- ⊙ "MAG" NAIL SURVEY MONUMENT SET
- ALUMINUM TABLET SURVEY MONUMENT FOUND
- \*-\*- EXISTING FENCE LINE
- - - EXISTING UTILITY EASEMENT LINE
- EXISTING RIGHT-OF-WAY LINE
- TITLE LINE
- ▣ EXISTING TELEPHONE PEDESTAL
- ⚡ EXISTING UTILITY POLE/DOWN GUY/TRANSFORMER
- OE— EXISTING OVERHEAD ELECTRIC LINE
- POB POINT-OF-BEGINNING
- ? DESTINATION OR DATA UNKNOWN
- ( ) RECORD MEASUREMENT AND/OR DATA
- WC WITNESS CORNER

**AREA SUMMARY**

NET AREA OF TRACT: 5.00 ACRES ±  
NET AREA OF APPARENT RIGHT - OF - WAY: 0.79 ACRES ±  
TOTAL AREA OF TRACT: 5.79 ACRES ±

BOUNDARY SURVEY OF A PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 19 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ST. JOSEPH TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS

BERNS, CLANCY AND ASSOCIATES

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405 EAST MAIN STREET - POST OFFICE BOX 755  
URBANA, ILLINOIS 61803-0755  
PHONE: (217) 384-1144 - FAX: (217) 384-3355



EDWARD L. CLANCY, L.S., P.E., VICE PRESIDENT  
BERNS, CLANCY AND ASSOCIATES, P.C.  
ILLINOIS PROFESSIONAL LAND SURVEYOR 2207  
LICENSE EXPIRATION: NOVEMBER 30, 2014  
URBANA, CHAMPAIGN COUNTY, ILLINOIS  
ILLINOIS PROFESSIONAL DESIGN FIRM 29999  
LICENSE EXPIRATION: APRIL 30, 2015

SIGNED AND SEALED DECEMBER 16, 2013

*Edward L. Clancy*

FILE: 6885.DWG DATE: 121613 SHEET 1 OF 2  
JOB: 6885

CHAMPAIGN CO. P & Z DEPARTMENT

RECEIVED  
DEC 20 2013

**SURVEYOR'S REPORT**

I, EDWARD L. CLANCY, ILLINOIS PROFESSIONAL LAND SURVEYOR 2207 AND VICE PRESIDENT OF BERNIS, CLANCY AND ASSOCIATES, P.C. DO HEREBY STATE THAT AT THE REQUEST OF AND FOR THE EXCLUSIVE BENEFIT OF **MS. BECKY FISHER**, I PREPARED A BOUNDARY SURVEY ON THE GROUND TO THE NORMAL STANDARD OF CARE OF PROFESSIONAL LAND SURVEYORS PRACTICING IN CHAMPAIGN COUNTY, ILLINOIS OF A PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 19 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ST. JOSEPH TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS SET FORTH IN **CHICAGO TITLE COMPANY COMMITMENT NUMBER 1253 000840386 CHA, DATED SEPTEMBER 11, 2006** AS FOLLOWS:

**PARENT TRACT:**

THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 19 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

**5.79 ACRE ± TRACT:**

BEGINNING AT AN ALUMINUM TABLET SURVEY MONUMENT FOUND AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 19 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS PER MONUMENT RECORD, BOOK 1496, PAGE 47; THENCE SOUTH 89 DEGREES 25 MINUTES 04 SECONDS EAST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 293.26 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 00 DEGREES 00 MINUTES 53 SECONDS EAST ALONG A LINE PARALLEL WITH THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 860.00 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE NORTH 89 DEGREES 25 MINUTES 04 SECONDS WEST ALONG A LINE PARALLEL WITH THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 293.26 FEET TO A MAGNETIC NAIL SURVEY MONUMENT SET ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE NORTH 00 DEGREES 00 MINUTES 53 SECONDS WEST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 860.00 FEET TO THE POINT OF BEGINNING, CONTAINING 5.79 ACRES, MORE OR LESS, ALL SITUATED IN ST. JOSEPH TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS.

I FURTHER STATE THAT BASED UPON MY REVIEW OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, PANEL 456 OF 625, COMMUNITY PANEL NUMBER 17019C 0456 D WITH AN EFFECTIVE DATE OF OCTOBER 2, 2013, THE PROPERTY SURVEYED IS REPORTEDLY LOCATED WITHIN ZONE D (AREAS IN WHICH FLOOD HAZARDS ARE UNDETERMINED, BUT POSSIBLE).

**J.U.L.I.E.**

NOTE: THE EXACT LOCATION OF ALL UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION ACTIVITIES. FOR UTILITY LOCATIONS CALL: J.U.L.I.E. (800) 892-0123

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I FURTHER STATE THAT NO INVESTIGATION CONCERNING ENVIRONMENTAL AND SUBSURFACE CONDITIONS, OR TO DETERMINE THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY WAS MADE AS A PART OF THIS SURVEY.

I FURTHER STATE THAT NO INDEPENDENT INVESTIGATION CONCERNING ZONING OR LAND USE, OR INDEPENDENT SEARCH OF THE RECORDS FOR EASEMENTS, ENCUMBRANCES, RESTRICTIVE COVENANTS, SUBDIVISION RESTRICTIONS, OWNERSHIP, TITLE EVIDENCE OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE FOR SUBJECT PROPERTY OR FOR ADJOINING PARCELS WAS MADE AS A PART OF THIS SURVEY. THE SURVEYOR HAS RELIED UPON THE MATERIALS AND REPRESENTATIONS SUPPLIED TO ME BY CLIENT.

I FURTHER STATE THAT NO ATTEMPT HAS BEEN MADE AS A PART OF THIS BOUNDARY SURVEY TO OBTAIN DATA CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY MUNICIPAL OR PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES.

I FURTHER STATE THAT I FOUND AND/ OR SET THE SURVEY MONUMENTS AS SHOWN ON THE ACCOMPANYING PLAT OF SURVEY AND THERE ARE NO APPARENT ABOVE GROUND ENCROACHMENTS EXCEPT AS SHOWN ON THE ACCOMPANYING PLAT OF SURVEY.

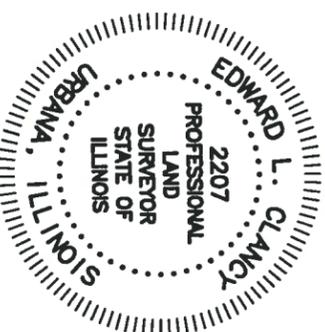
I FURTHER STATE THAT THE ACCOMPANYING PLAT OF SURVEY IS A SCALED REPRESENTATION OF THE PHYSICAL SITUATION WHICH I FOUND IN THE FIELD AND SHOWS THE LOCATION OF VARIOUS ABOVE-GROUND FACILITIES WHICH I FOUND IN THE FIELD AT THE TIME OF MY FIELD SURVEY OF THESE PREMISES FROM DECEMBER 9, 2013 TO DECEMBER 12, 2013.

I FURTHER STATE THAT THE ABOVE DESCRIBED TRACT IS APPARENTLY SUBJECT TO THE RIGHTS OF THE PUBLIC IN THE EXISTING PUBLIC ROADWAY.

I FURTHER STATE THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

SIGNED AND SEALED DECEMBER 16, 2013

*Edward L. Clancy*  
EDWARD L. CLANCY, L.S., P.E., VICE PRESIDENT  
BERNIS, CLANCY AND ASSOCIATES, P.C.  
ILLINOIS PROFESSIONAL LAND SURVEYOR 2207  
LICENSE EXPIRATION: NOVEMBER 30, 2014  
URBANA, CHAMPAIGN COUNTY, ILLINOIS  
ILLINOIS PROFESSIONAL DESIGN FIRM 29999  
LICENSE EXPIRATION: APRIL 30, 2015



**GENERAL NOTES**

ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF, UNLESS NOTED OTHERWISE. SEE CHAMPAIGN COUNTY ORDINANCES AND REGULATIONS FOR ZONING, SETBACK AND BUILDING STANDARD REQUIREMENTS.

ALL SURFACE, SUBSURFACE, BUILDING IMPROVEMENTS AND UTILITY SERVICE LINES ON AND ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN.

THE LOCATION AND/OR EXISTENCE OF ALL UTILITY SERVICE LINES TO SUBJECT PROPERTY ARE UNKNOWN AND ARE NOT SHOWN.

COORDINATES AND BEARINGS SHOWN ARE BASED UPON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, EAST ZONE, NAD 83 (2011).

SEE MONUMENT RECORDS ON FILE WITH THE COUNTY RECORDER'S OFFICE FOR DETAILS OF SECTION CORNERS USED IN THIS SURVEY.

**RECEIVED**  
DEC 20 2013

CHAMPAIGN CO. P & Z DEPARTMENT

BOUNDARY SURVEY OF A PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 19 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ST. JOSEPH TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS

**BERNIS, CLANCY AND ASSOCIATES**  
ENGINEERS • SURVEYORS • PLANNERS  
405 EAST MAIN STREET - POST OFFICE BOX 755  
URBANA, ILLINOIS 61803-0755  
PHONE: (217) 384-1144 - FAX: (217) 384-3355

FILE: 6885.DWG DATE: 121613 SHEET 2 OF 2  
JOB: 6885