

CHAMPAIGN COUNTY BOARD
COMMITTEE OF THE WHOLE – ELUC/Facilities/Justice Agenda
County of Champaign, Urbana, Illinois
Thursday, April 7, 2011 – 6:00 p.m.

Lyle Shields Meeting Room, Brookens Administrative Center
1776 East Washington Street, Urbana, Illinois

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Champaign
County
Department of

**PLANNING &
ZONING**

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

(217) 384-3708

To: **Champaign County Board Committee of the Whole**

From: **John Hall, Zoning Administrator**

Date: **March 29, 2011**

RE: **Zoning Ordinance text amendment (Case 675-AT-10)**

Request: **Preliminary Recommendation to amend the Champaign County Zoning Ordinance as follows*:**

Part A Revise 8.1 to authorize that NC lots may be used separately if authorized by variance.

‡ **Part B** Revise 8.2. to increase the limit on expansion of a dwelling that is a nonconforming use; and authorize that a dwelling that is a nonconforming use may be moved if authorized by variance; and clarify "ceases".

Part C Revise 8.3. to authorize that a nonconforming structure may be enlarged in a way that increases the nonconformity if authorized by variance; and to authorize that a nonconforming structure may be moved without conforming to the regulations if authorized by variance.

‡ **Part D** Revise 8.4. to be consistent with Part B and clarify "abandoned" and "discontinued".

‡ **Part E** Revise 8.6 to be consistent with Part B and to eliminate the limit on value of repair or replacement for a dwelling that is a nonconforming use and to authorize a variance to allow a higher limit on the value of repair for other nonconforming structures.

Part F Amend 9.1.2 C. to require the Zoning Administrator to provide notice of nonconforming zoning on any permit for a dwelling in a district in which a dwelling is not an authorized principal use.

Part G Revise Section 3 Definitions so that "nonconforming" only applies to nonconformities that existed upon the effective date of adoption or amendment of the ordinance.

* **NOTE:** This description of the Request has been simplified from the actual legal advertisement.

‡ Indicates those parts of the amendment that were previously authorized by the Committee of the Whole (to some degree) on 9/7/10

Petitioner: **Zoning Administrator**

STATUS

Last month the Committee voted for a preliminary recommendation of approval of the proposed text amendment. No comments have been received to date.

An update on actions by other jurisdictions will be provided at the meeting.

ATTACHMENTS

A Proposed Ordinance (excerpted from the Approved Finding of Fact)

Part A

- 1. In the first four paragraphs of Section 8 clarify that nonconforming dwellings may be expanded as authorized herein.**

Within the DISTRICTS established by this ordinance or by amendments that may later be adopted, there exist LOTS, PREMISES, STRUCTURES, ACCESSORY STRUCTURES, USES, and ACCESSORY USES of land which were lawful before this ordinance was effective or amended, but which would be prohibited, regulated, or restricted under the provisions of this ordinance or future amendments.

It is the intent of this ordinance to permit these non-conformities to continue until they are removed, except as otherwise herein provided, but not to encourage their survival. Such non-conformities are declared by this ordinance to be incompatible with the permitted STRUCTURES and USES of land and STRUCTURES in the DISTRICTS involved. It is further the intent of this ordinance that such NONCONFORMING USES of land, PREMISES, or STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged upon, expanded, or extended except as provided for herein, nor to be used as grounds for adding other STRUCTURES or USES prohibited elsewhere in the same DISTRICT.

A NONCONFORMING USE of land, PREMISES, STRUCTURES or ACCESSORY STRUCTURES shall not be enlarged, expanded, or extended after October 10, 1973, or after the effective date of an ordinance amendment rendering such USE NONCONFORMING except as otherwise herein provided. Attachment to a STRUCTURE, PREMISES, or land, of any additional SIGNS intended to be seen off the PREMISES, or land, shall be prohibited. The addition of other USES which are prohibited in the DISTRICT involved shall not be permitted.

A NONCONFORMING USE or a NONCONFORMING STRUCTURE which is nonconforming only because of failure to provide required off-street PARKING SPACES or LOADING BERTHS shall have all the rights of a conforming USE or STRUCTURE provided that no further reduction of off-street PARKING or LOADING BERTHS takes place.

- 2. Revise subsection 8.1.2 to authorize that nonconforming lots may be used separately if authorized by variance.**

8.1.2 Once two or more contiguous LOTS or combination of LOTS and portions of LOTS which individually do not meet any dimensional, geometric, LOT ACCESS or other standards are brought into common ownership the LOTS involved shall be considered to be a single LOT for the purpose of this ordinance. No portion of said LOT shall be used separately or conveyed to another owner which does not meet all the dimensional, geometric, LOT ACCESS and other standards established by this ordinance unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

AS APPROVED FINDING OF FACT

Part B

1. Revise paragraph 8.2.1 B. as follows:

- a. **Limit applicability to the total expansion since October 10, 1973.**
- b. **Increase the limit on expansion of a single family dwelling that is a nonconforming use of land provided that a variance is required if there is more than one principal use on the lot and the lot area is less than required in Section 4.3.4.**
- c. **Eliminate the limit on the amount of accessory buildings.**

B. A SINGLE FAMILY DWELLING that is a NONCONFORMING USE of land may be expanded as follows:

1. A SINGLE FAMILY DWELLING that is a NONCONFORMING USE of land and was 1,200 square feet or less in building floor area (not including basement) on October 10, 1973, may expand up to a total building floor of 1,500 square feet provided that a VARIANCE is required if there is more than one PRINCIPAL USE on the LOT and the LOT AREA is less than required in Section 4.3.4. The expansion may occur all at one time as part of a total reconstruction or replacement as authorized by Section 8.6.
2. A SINGLE FAMILY DWELLING that is a NONCONFORMING USE of land and exceeded 1,200 square feet in building floor area (not including basement) on October 10, 1973, may be expanded by a total of 200 square feet or 25% of building floor area, whichever is greater, compared to the building floor area that existed on October 10, 1973, provided that a VARIANCE is required if there is more than one PRINCIPAL USE on the LOT and the LOT AREA is less than required in Section 4.3.4. The expansion may occur all at one time as part of a total reconstruction or replacement as authorized by Section 8.6.
3. Expansion of existing or construction of any new ACCESSORY BUILDING or STRUCTURE shall conform to the regulations and standards for the DISTRICT in which it is located.

2. Revise paragraph 8.2.1 C. so that the limit on expansion applies to the total expansion since October 10, 1973.

- C. NONCONFORMING nonresidential USES which are permitted as of right in the R-1, Single Family Residence District and are not otherwise permitted by Special Use Permit may be expanded by a total of no more than 25% of building floor area compared to the building floor area that existed on October 10, 1973, and height, lot coverage, and off-street parking and loading area only if a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

3. **Revise subsection 8.2.2 to provide that a single family dwelling that is a nonconforming use may be moved if authorized by variance.**

8.2.2 No such NONCONFORMING USE of land shall be moved in whole or in part to any other portion of the LOT or tract of land occupied on the effective date of adoption or amendment of this ordinance except that a SINGLE FAMILY DWELLING that is a NONCONFORMING USE of land (including any ACCESSORY BUILDING or ACCESSORY STRUCTURE) may be moved on the LOT provided that a VARIANCE is granted by the BOARD in accordance with Section 9.1.9. Expansion as authorized in 8.2.1 B. shall not be considered moving of the NONCONFORMING USE.

4. **In Subsection 8.2.3 clarify “ceases”.**

8.2.3 If any such NONCONFORMING USE of land ceases for any reason for a period of more than 180 consecutive days except for seasonal vacations lasting less than 274 consecutive days and that occur no more often than once in any 365 consecutive days or except when actively marketed for sale or rent by either the posting of a sign on the front LOT LINE of the property or when marketed by other affirmative means, any subsequent USE of such land shall conform to the regulations and standards set by this ordinance for the DISTRICT in which such land is located.

Part C

1. **Revise subsection 8.3.1 to authorize that a nonconforming structure may be enlarged in a way that increases the nonconformity if authorized by variance.**

8.3.1 No such STRUCTURE may be enlarged or ALTERED in a way which increases its nonconformity unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

2. **Revise subsection 8.3.3 to authorize that a nonconforming structure may be moved without conforming to the regulations if authorized by variance.**

8.3.3 Should any STRUCTURE be moved for any reason for any distance whatever, it shall thereafter conform to the regulations and standards for the DISTRICT in which it is located after it is moved unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.

Part D

1. **Revise Subsections 8.4.1 and 8.4.2 to authorize that a single family dwelling that is a nonconforming use may be expanded or reconstructed as authorized in 8.2.**

8.4.1 No existing STRUCTURE devoted to a USE not permitted by this ordinance in the DISTRICT in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or ALTERED except in changing the USE of such STRUCTURE to a USE permitted in the DISTRICT in which it is located except as follows:

AS APPROVED FINDING OF FACT

- A. A SINGLE FAMILY DWELLING that is a NONCONFORMING USE of land (including any ACCESSORY BUILDING or ACCESSORY STRUCTURE) may be constructed, reconstructed, or ALTERED without changing the USE to a permitted USE and may also be enlarged or moved without changing the USE as otherwise herein provided.
- B. As otherwise herein provided for structures used for other than A SINGLE FAMILY DWELLING.

8.4.2 Any NONCONFORMING USE may be extended throughout any parts of the BUILDING or STRUCTURE which were manifestly arranged or designed for such USE at the effective date of adoption, or amendment, of this ordinance, but no such USE shall be extended to occupy land outside of such STRUCTURE except as otherwise herein provided.

2. In Subsection 8.4.5 clarify “abandoned” and “discontinued”.

8.4.5 When a NONCONFORMING USE of a BUILDING or STRUCTURE or of a PREMISES is discontinued or abandoned for 180 consecutive days or for 540 days during any 1,095 day period except for seasonal vacations lasting less than 274 consecutive days and that occur no more often than once in any 365 consecutive days or except when actively marketed for sale or rent by either the posting of a sign on the front LOT LINE of the property or when marketed by other affirmative means, the STRUCTURE or the PREMISES shall thereafter not be used except in compliance with the regulations and standards of the DISTRICT in which it is located.

3. In Subsection 8.4.6 provide for replacement of a single family dwelling that is a nonconforming use.

8.4.6 Where NONCONFORMING USE status applies to a PREMISES, removal or destruction of the STRUCTURE shall eliminate the NONCONFORMING USE status of the land, except as it may qualify as a NONCONFORMING LOT of record except as otherwise herein provided.

Part E

1. Revise Subsection 8.6 to authorize the following:

- a. a single family dwelling that is a nonconforming use may be expanded as authorized in subsection 8.2.1 or reconstructed as authorized in subsection 8.4.1.
- b. a single family dwelling that is a nonconforming use has no limit on the value of repair or replacement.
- c. Any structure that is nonconforming may be granted a variance to authorize a higher value of repair or replacement .

8.6 Repairs or Maintenance

On any STRUCTURE devoted in whole or in part to any NONCONFORMING USE, or which itself is NONCONFORMING, work may be done in a period of 365 consecutive days on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not to exceed 10% of the then current replacement value of the STRUCTURE, provided that the volume of such BUILDING or the size of such STRUCTURE as it existed at the effective date of the adoption, or amendment, of this ordinance shall not be increased except as follows:

- A. As otherwise herein provided; and
- B. There is no limit on the value of repair or replacement for a SINGLE FAMILY DWELLING that is a NONCONFORMING USE of land (including any ACCESSORY BUILDING or ACCESSORY STRUCTURE) including repair or replacement of bearing walls or other structural features.
- C. On any STRUCTURE that is NONCONFORMING a VARIANCE may be granted by the BOARD to authorize a higher value of repair or replacement including repair or replacement of bearing walls or other structural features.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any STRUCTURE or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Part F

- 1. In paragraph 9.1.2 C. require the Zoning Administrator to provide a notice of nonconforming zoning on any permit for a single family dwelling in a district in which a single family dwelling is not an authorized principal use.**

- C. Issuance of Zoning Use Permit
 - 1. The Zoning Administrator shall retain the original copy of the Zoning Use Permit and shall mark such Permit whether approved or disapproved and for any Zoning Use Permit authorizing construction on a SINGLE FAMILY DWELLING that is a NONCONFORMING USE of land in a zoning DISTRICT in which a SINGLE FAMILY DWELLING is not an authorized PRINCIPAL USE, the Zoning Use Permit shall include a notice that the zoning district does not authorize a SINGLE FAMILY DWELLING as a PRINCIPAL USE and shall indicate in general the types of PRINCIPAL USE authorized as either business uses or industrial uses.

AS APPROVED FINDING OF FACT

Part G

- 1. In Section 3 revise Definitions so that “nonconforming” only applies to nonconformities that existed upon the effective date of adoption or amendment of the ordinance.**

NONCONFORMING LOT, STRUCTURE or USE: A LOT, SIGN, STRUCTURE, or USE that existed on the effective date of adoption or amendment of this ordinance and which does not conform to the regulations and standards of the DISTRICT in which it is located.

Champaign
County
Department of



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

(217) 384-3708

TO: **Environment and Land Use/ Committee of the Whole**
FROM: **John Hall, Zoning Administrator & Subdivision Officer**
DATE: **March 29, 2011**
RE: **Case 196-11 Swanson Subdivision**

REQUESTED ACTION

Final Plat approval for a one-lot minor subdivision of a 1.00 acre residential lot out of an existing 90 acre parcel located in the AG-1 Agriculture Zoning District in Section 2 of Compromise Township located on the north side of CR 2900N approximately 700 feet west of the Village of Gifford. There is an existing dwelling on the proposed Lot 1.

The proposed lot meets all Zoning Ordinance requirements and the proposed subdivision appears to meet all of the minimum subdivision standards, but the Final Plat does require some waivers. Because there is an existing dwelling with a septic system on proposed Lot 1 there have been no percolation tests conducted and the results are not on the Final Plat and approval at this time requires the following waivers (See Draft Findings at Attachment D):

- 1. Waive the requirement of paragraph 8.1.2 d. for subsidiary drainage plat.**
- 2. Waive the requirement of paragraph 9.1.2 q. for percolation test data at a minimum frequency of one test hole for each lot in the approximate area of the proposed absorption field.**
- 3. Waive the requirement of paragraph 9.1.2 r. for certification of the proposed lot and soil characteristics for private septic disposal systems.**

Subdivider

Hilda P. Swanson Trust c/o
Jeff Tock
201 West Springfield Avenue, Suite 601
Champaign IL 61820

Engineer/Surveyor

Robert Moore (surveyor)
101 West Ottawa Street
Paxton IL 60957

Bryan K. Bradshaw (engineer)
BKB Engineering, Inc.
PO Box 1127
Mahomet, IL 61853

Location, Roadway Access, and Land Use

The subject property is an approximately 90 acre parcel in the South Half of Section 2 of Compromise Township. See the Location Map. The proposed subdivision is a former farmstead that is proposed to be divided from the subject property.

The proposed subdivision is bordered by farmland on three sides and by residential properties on the east side. See the Land Use Map.

Applicable Zoning Regulations

The subject property is zoned AG-1 Agriculture. See the attached Zoning Map. The proposed lot meets the minimum lot requirements. See Table 1 for a summary.

Table 1. Review Of Minimum Lot Requirements

Lot Characteristic	Requirement (or Limit)	Proposed Lot 1	Notes
Lot Area (acres)	Minimum: 1.00 acre	1.00 acre	COMPLIES: MEETS MINIMUM REQUIREMENT
	Maximum ¹ : 3.00 acres		
Lot Frontage (feet)	20.00 (minimum)	200.00 feet	COMPLIES: EXCEEDS MINIMUM REQUIREMENT
Lot Depth (feet)	80.00 (minimum)	217.80 feet	COMPLIES: EXCEEDS MINIMUM REQUIREMENT
Average Lot Width (feet)	200.00 (minimum)	200.00 feet	COMPLIES: EXCEEDS MINIMUM REQUIREMENT
Lot Depth to Width	3.00 : 1.00 (maximum)	1.09 : 1.00	COMPLIES: LESS THAN MAXIMUM ALLOWED
<p>NOTES NR= No Requirement (or limit)</p> <p>1. The maximum lot size only applies when the new lots are Best Prime Farmland overall and when the tract to be divided was larger than 12 acres on 1/1/98.</p>			

Minimum Subdivision Standards and Area General Plan Approval

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

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

Soil Conditions / Natural Resource Report

The applicant has not applied for a Section 22 Natural Resource Report because the subject property is already developed. The Soil Survey of Champaign County indicates that the subject property contains three soil types:

Elliott silt loam (No. 146B2) and Ashkum silty clay loam (No 232A). The soils are not best prime farmland on average.

Drainage, Stormwater Management Policy, and Flood Hazard Status

The subject property is located in the Spoon River Drainage District. The drainage district was notified of the proposed subdivision. No part of the proposed lot contains any portion of the right of way of the drainage ditch.

No Subsidiary Drainage Plat has been received but topographic information is included on the plat. The requirement for a subsidiary drainage plat can be waived provided that the topographic information complies with the requirements of the *Illinois Plat Act*.

The existing property is not located in the Special Flood Hazard Area.

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

Public Improvements

No public improvements are indicated or required in this subdivision.

Water Wells and Soil Suitability For Septic Systems

There is an existing dwelling on proposed Lot 1 which has an existing septic system and there have been no percolation tests performed on that lot.

A waiver is required for the final plat requirement for percolations tests on Lot 1 and for certification of the proposed lot and soil characteristics for private septic disposal systems.

NECESSARY FINAL PLAT WAIVERS AND REQUIRED FINDINGS

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

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

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

1. Waive the requirement of paragraph 8.1.2 d. for subsidiary drainage plat.

The Final Plat contains basic topographic information consistent with the Illinois Plat Act and what has been accepted in previous subdivisions but does not include a subsidiary drainage plat consistent with paragraph 8.1.2 d. of the Subdivision Regulations.

2. Waive the requirement of paragraph 9.1.2 q. for percolation test data at a minimum frequency of one test hole for each lot in the approximate area of the proposed absorption field.

There is an existing dwelling with a septic system on the proposed lot and no percolation tests or soil investigations have been performed at this time.

3. Waive the requirement of paragraph 9.1.2 r. for certification of the proposed lot and soil characteristics for private septic disposal systems.

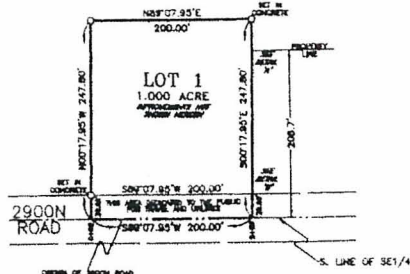
See the discussion for #2 above.

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

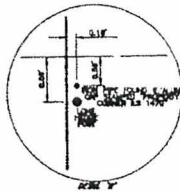
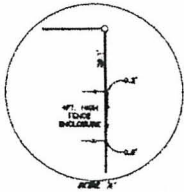
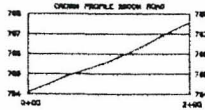
ATTACHMENTS

- A Subdivision Case Maps (Location, Land Use, Zoning)**
- B Final Plat of Swanson received March 8, 2011**
- C Preliminary Assessment of Compliance with Minimum Subdivision Standards**
- D Draft Findings for Waivers of Final Plat Requirements**

FINAL PLAT
OF
SWANSON SUBDIVISION
IN SE1/4 SEC. 2 T21N R10E 3RD P.M.
CHAMPAIGN COUNTY, ILLINOIS



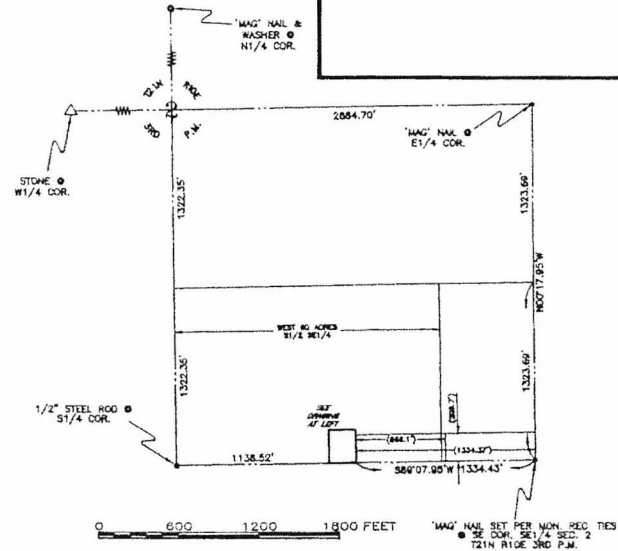
0 100 200 300 FEET



NOTE: BEARINGS HEREON BASED ON G.P.S. OBSERVATIONS



○ 1/2" STEEL ROD SET W/ORANGE PLASTIC CAP STAMPED "LS 2010"
() DISTANCE PER DESCRIPTION FURNISHED
--- FORESHORTENED LINE



0 600 1200 1800 FEET

OWNER'S CERTIFICATION

I, Dale Swanson, trustee of Hilda P. Swanson Trust, the owner of the tract of land described herein do hereby acknowledge and adopt this plat under the style and title given. The area not designated as a lot is hereby dedicated to the public for travel and public utilities.

Dale Swanson 3-7-11
Dale Swanson, Trustee Date

SURVEYOR'S CERTIFICATION

I, Robert A. Moore, Professional Illinois Land Surveyor No. 2010, do hereby certify that at the request of Hilda P. Swanson, have made a survey of a tract of land described as:

Beginning on the South line of the Southeast Quarter of Section 2, Township 21 North of the Base Line, Range 10 East of the Third Principal Meridian a distance of 1324.43 feet west of the Southeast Quarter of said Section; thence South 09 degrees 07.90 minutes West (S09°07'05\"/>

for the purpose of subdividing said tract as shown herein.

I further certify as follows:

1. This tract is not within 500 feet of a surface drain or waterway serving a tributary area of 640 acres or more.
2. The property covered by this plat is not within a flood hazard area identified by the Federal Emergency Management Agency.
3. The tract, as subdivided, is to be known as SWANSON SUBDIVISION.

Robert A. Moore 3/4/11
Robert A. Moore Date
Illinois Land Surveyor No. 2010
License due for renewal 11/30/2018

CHAMPAIGN TOWNSHIP HIGHWAY COMMISSIONER'S CERTIFICATE

I have examined this plat, and to the best of my knowledge and belief find it to be in compliance with the highway requirements as set forth in the regulations governing plats of subdivided land adopted by the County Board of Champaign County, Illinois.

Approved the 7 day of MARCH, A.D. 2011
Ma...
Champaign Township Highway Commissioner

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

Bryan K. Bradshaw 3-7-11
Bryan K. Bradshaw, I.L.S. Date
Dale Swanson 3-7-11
Dale Swanson, Trustee Date



APPROVED
Approved the _____ day of _____, A.D. 2011
CHAMPAIGN COUNTY, ILLINOIS

CHAIRMAN
CHAMPAIGN COUNTY ENVIRONMENT AND LAND USE COMMITTEE

CHAIRMAN
Subdivision officer

OWNER/SUBDIVIDER
HILDA P. SWANSON TRUST

ENGINEER
BRYAN K. BRADSHAW
P.O. BOX 1127
MAHOMET, IL 61803
217-840-3546

SURVEYOR
ROBERT A. MOORE
101 W. OTTAWA ST.
PAXTON, IL 60457
217-378-2212

BKB ENGINEERING INC.
MAHOMET, ILLINOIS

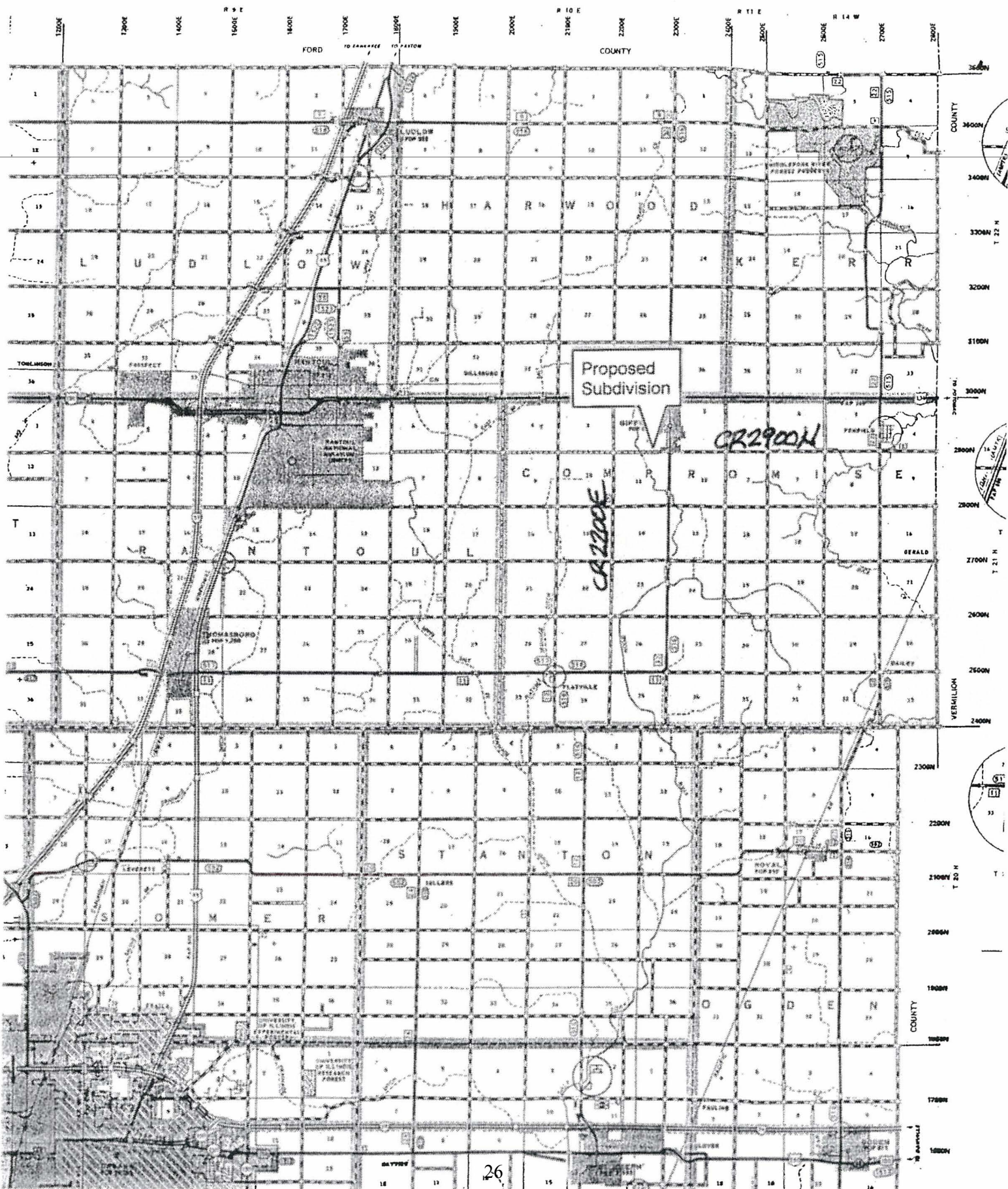
MOORE SURVEYING & MAPPING PAXTON, ILLINOIS		DATE	SCALE	DATE
JACQUE EHREN	JAN 7, 2011	---	---	2000

REV. MAR. 4, 2011
REV. JAN. 28, 2011

ATTACHMENT A. LOCATION MAP

Case 196-11 Swanson Subdivision

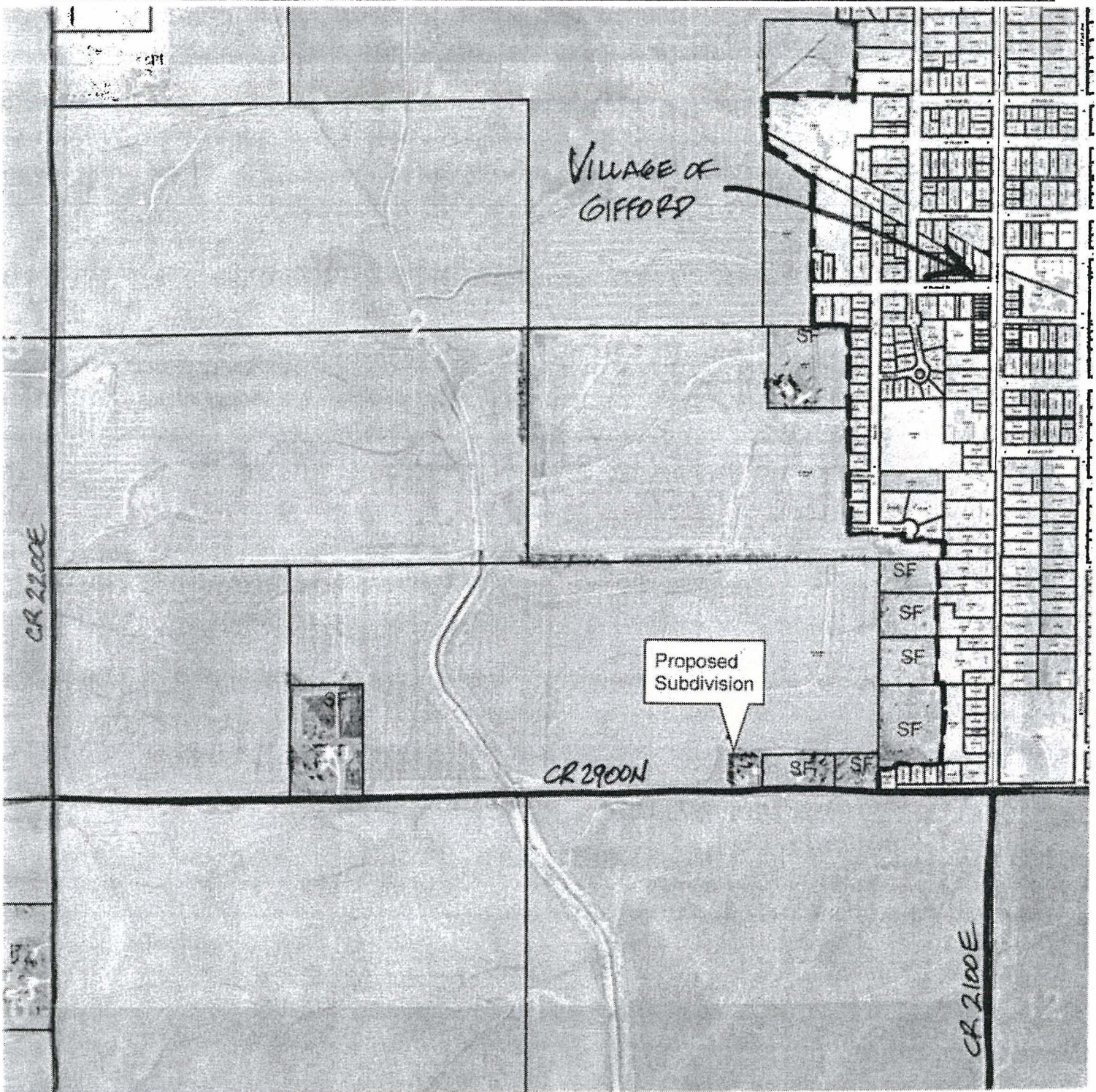
MARCH 29, 2011



ATTACHMENT A. LAND USE MAP

Case 196-11 Swanson Subdivision

MARCH 29, 2011

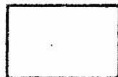
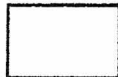


SF

Single Family

FS

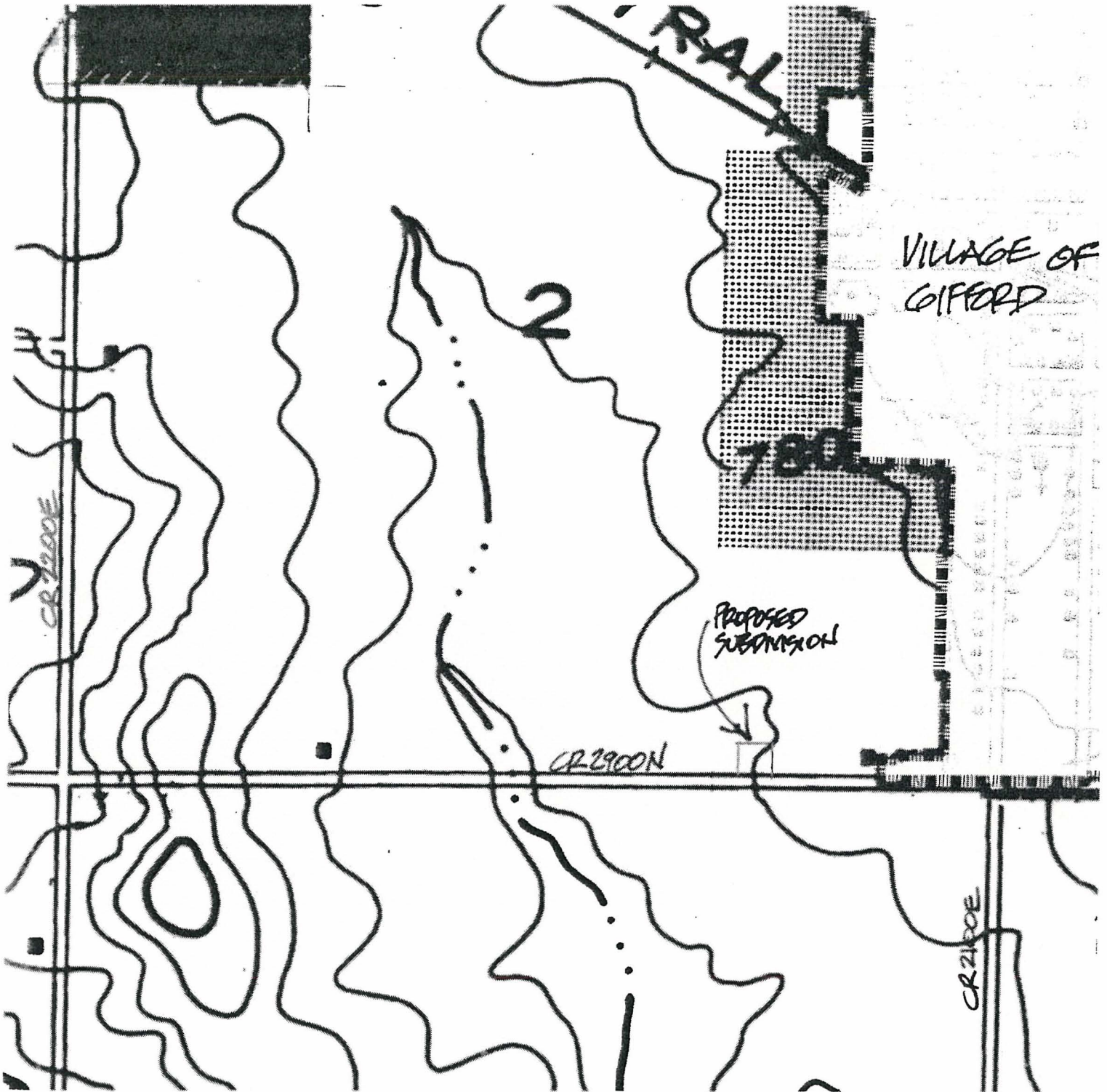
Farmstead



Champaign
County
Department of

**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP
 Case 196-11 Swanson Subdivision
 MARCH 29, 2011



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

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

Case 196-11 Swanson Subdivision

MARCH 29, 2011

Standard	Preliminary Assessment ¹
SUITABILITY STANDARDS (Section 6.1.5 a.)	
1) No part of a minimum required LOT AREA ² shall be located on the following soils: Ross silt loam soil (No. 3473A), Ambraw silty clay loam soil (No. 3302A), Peotone silty clay loam soil (No. 330A), or Colo silty clay loam soil (3107A)	APPEARS TO CONFORM. This subdivision is for an existing home. The <i>Champaign County Soil Survey</i> indicates the subject property contains three soil types: Elliott silt loam (No. 146B2) and Ashkum silty clay loam (No 232A).
2) No part of a minimum required LOT AREA ² shall contain an EASEMENT for an interstate pipeline	APPEARS TO CONFORM. No pipeline is included in the area proposed for subdivision.
3) No part of a minimum required LOT AREA ² shall be within a runway primary surface or runway clear zone	APPEARS TO CONFORM. No runway is known to be in the vicinity of the subject property.
4) Prior to the commencement of any change in elevation of the land, no part of a minimum required LOT AREA ² shall be located more than one foot below the BASE FLOOD ELEVATION (BFE).	APPEARS TO CONFORM. This subdivision is for an existing home. The proposed lot is not located within the Special Flood Hazard Area.
5) When a connected public sanitary sewer is not available, the septic suitability of the soils occupied by each proposed LOT must be the most suitable soils on the larger tract from which the SUBDIVISION is proposed.	APPEARS TO CONFORM. This subdivision is for an existing home. The proposed lot appears to consist primarily of Elliott silt loam (No. 146B2) and Ashkum silty clay loam (No 232A) which are more suitable soils than Swygert sily clay loam (91B2) which make up most of the surrounding farmland on the property.
6) The amount of farmland with a Land Evaluation score of 85 or greater that is occupied by each LOT must be minimized as much as possible.	APPEARS TO CONFORM. The average LE score of the proposed lot is below 85.
7) A minimum required LOT AREA ² for any LOT must have positive surface drainage with no significant identifiable area of likely stormwater ponding and provided that any portion of any LOT that is likely to experience ponding of stormwater is noted on the FINAL PLAT.	APPEARS TO CONFORM. This subdivision is for an existing home. Minimum topographic information has been provided and appears to indicate conformance.
8) Possible driveway locations on each LOT must comply with the Minimum Stopping Sight Distance standards based on lawful speed limits at that location.	APPEARS TO CONFORM. This subdivision is for an existing home.
AGRICULTURAL COMPATIBILITY STANDARDS (Section 6.1.5 b.)	
1) Possible driveway locations on each LOT must be limited such that driveway entrances to existing public STREETS are centralized as much as possible consistent with good engineering practice.	APPEARS TO CONFORM. This subdivision is for an existing home and the driveway is already established.

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

Case 196-11 Swanson Subdivision

MARCH 29, 2011

Standard	Preliminary Assessment ¹
2) The location of a SUBDIVISION on the larger tract from which the SUBDIVISION is proposed must maximize the separation of the proposed SUBDIVISION from: <ul style="list-style-type: none"> i. adjacent farmland that is under different OWNERSHIP at the time of SUBDIVISION; and ii. adjacent public parks, natural areas, or nature preserves 	APPEARS TO CONFORM. The subject property is the location of an existing house, and there are no public parks, natural areas, or nature preserves adjacent to the subject property.
3) The SUBDIVISION LOT arrangement must minimize the perimeter of the SUBDIVISION that borders adjacent agriculture and must be located next to adjacent residential LOTS whenever possible.	APPEARS TO CONFORM. This subdivision is for an existing home and is located next to existing residential lots.
<p>Notes</p> <p>1. This preliminary assessment is subject to review by the Environment and Land Use Committee. A waiver is required for any Minimum Subdivision Standard to which the Committee determines that the Plat does not conform.</p> <p>2. The minimum required lot area is one acre (43,560 square feet).</p>	

ATTACHMENT D. *DRAFT FINDINGS FOR WAIVER OF FINAL PLAT REQUIREMENTS*

Case 196-11 Swanson Subdivision

MARCH 29, 2011

DRAFT FINDINGS FOR WAIVER OF FINAL PLAT REQUIREMENTS

As required by Article Eighteen of the Champaign County Subdivision Regulations and based on the testimony and exhibits received at the meeting held on **April 7, 2011**, the Environment and Land Use Committee of the Champaign County Board finds that:

1. The requested subdivision waiver(s) of final plat requirements **WILL NOT** be detrimental to the public health, safety, or welfare or injurious to other property located in the area because:
 - A. **The farmstead house on the proposed Lot 1 has existed for more than 20 years and already has a septic system.**
 - B. **There will be no new dwelling established as a result of this subdivision.**
 - C. **Topographic information has been provided.**
2. Special conditions and circumstances **DO** exist which are unique to the property involved and are not applicable generally to other property and granting the subdivision waiver(s) of final plat requirements will not confer any special privilege to the subdivider because:
 - A. **This is a one lot subdivision of an existing farmstead that will not result in any new dwelling or the need for a new septic system.**
 - B. **These waivers are not prohibited by the Subdivision Regulations and could be requested for any subdivision with similar conditions.**
3. Particular hardships **WILL** result to the subdivider by carrying out the strict letter of the subdivision requirements sought to be waived because:
 - A. **This is a one lot subdivision of an existing farmstead that will not result in the need for a new septic system and requiring percolation test data and the statement regarding suitability and requiring a subsidiary drainage plat would all increase the subdividers costs and slow down the approval process with no gain to public health or safety.**
4. The special conditions, circumstances, hardships, or practical difficulties **DO NOT** result from actions of the subdivider because:
 - A. **The farmstead dwelling was constructed more than 20 years ago but now needs to be separated from the rest of the farm property.**

Date: March 31, 2011

To: Champaign County Board Committee of the Whole

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

Subject: Request to Amend the Champaign County Zoning Ordinance To Implement Land Resource Management Plan (LRMP) Policies 4.1.5, 4.1.7 and 4.1.9

Request: Approve Proceeding to the Zoning Board of Appeals for a Public Hearing

IMPLEMENTING COMPROMISE POLICY 4.1.5

Compromise Policy 4.1.5 retains the “1 plus 1 per 40” limit on new lots that can be created by right, and it includes an incentive for landowners to create smaller lots because of the limit on the amount of best prime farmland that can be used in total by-right development (generally 3 acres per 40 acres). Please refer to Attachment A for a complete description of Compromise Policy 4.1.5.

Attachment B provides diagrams that compare the Adopted and Compromise version of Policy 4.1.5. (Note that these diagrams have been updated to include the potential for a farm residence lot with a minimum lot area of 35 acres, as presently proposed under Policy 4.1.9.)

IMPLEMENTING POLICY 4.1.7

Policy 4.1.7 states as follows: “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*.”

Existing Ordinance	Proposed Amendment to Implement Policy 4.1.7
Requires a maximum lot size limit of three acres per each new lot established by right on best prime farmland from a parcel that exceeds 12 acres. Allows that a maximum of 9 or 12 acres of best prime farmland per existing parcel may be used for non-agriculture use.	Establishes a proportionate limit regarding the use of best prime farmland for non-agriculture uses based on parcel size. The proposed implementation is to limit the total amount of best prime farmland that can be used for all by right development to three acres on lots up to 40 acres, and increasing proportionately on lots 40 acres and larger to a maximum limit of <u>nine</u> acres.

Attachment C (Draft Zoning Amendment) contains the proposed provision to implement Policy 4.1.7 in Section 4.3.4 (G)(3).

(continued on next page)

IMPLEMENTING POLICY 4.1.9

Policy 4.1.9 states as follows: “The County will set a minimum lot size standard for a farm residence on land used for agricultural purposes.”

In general, a larger minimum lot size standard for Policy 4.1.9 would result in less farmland fragmentation and thus would serve to better achieve Objective 4.1 which seeks to conserve and minimize fragmentation of the County’s farmland. The following compares the existing Ordinance to the proposed amendment:

Existing Ordinance	Proposed Amendment to Implement Policy 4.1.9
<p>Contains an exemption that allows any number of 35-acre lots to be created and used for the by right development of a new residence. <i>(With the proposed implementation of the Compromise Policy 4.1.5, this exemption will no longer exist.)</i></p>	<p>The minimum required lot size for a ‘farm dwelling lot’ is presently indicated as 35 acres. This is the minimum lot size on which agriculture will automatically be considered the principal use, and on which a second principal use (single family residence) will be allowed by right.</p>

Attachment C compares the potential number of farm dwelling lots that could occur in a typical section (square mile) and illustrates the benefit of even a small increase in the minimum lot size for a farm residence. However, there is no indication that dwellings are being constructed on 35-acre lots in large numbers at this time and, in fact, mortgage underwriting standards appear to be more restrictive now in regards to such very large lots.

With the adoption of a large minimum lot size for a farm residence, there will be two circumstances for which the County will charge no permit fees for new home construction:

- 1) when a ‘farm residence’ is constructed on a minimum size lot of 35 acres. (The principal use of the lot is agriculture and the dwelling would be allowed as a 2nd principal use on the large lot); and
- 2) when a farmer constructs a residence. (A residence constructed by a farmer is exempt from most zoning regulations and is not counted toward the limit on by right development).

ATTACHMENTS

- A Compromise Policy 4.1.5
- B Comparison of Adopted Policy 4.1.5 and Compromise Policy 4.1.5
- C Comparison of Potential ‘Farm Dwelling Lot’ Sizes
- D Draft Ordinance Amendment

COMPROMISE Policy 4.1.5 Draft, Strike-Out Copy

- 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 5 acres in area, with:
- 1 new lot allowed per parcel less than 40 acres in area; and
 - 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; and
 - provided that the total amount of acreage of best prime farmland used for both new by right lots and other authorized land use does not exceed three acres per 40 acres.
- b. The County will not allow further division of parcels that are 5 acres or less in size.

About the COMPROMISE Policy 4.1.5

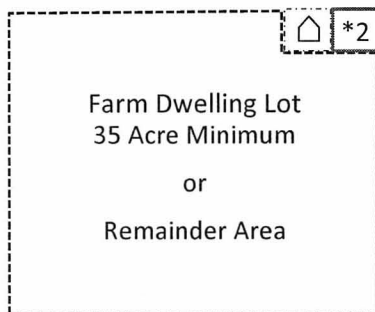
The ‘Compromise’ is a revised version of LRMP Policy 4.1.5 and draft Zoning Ordinance text amendments that is intended to represent a compromise between the adopted LRMP Policy 4.1.5 and the Champaign County Farm Bureau suggested limits on by right development in the rural districts.


The Compromise version is nearly identical to the adopted LRMP Policy 4.1.5, except for a limit that potentially impacts the ability to create a new lot or to establish a use on an existing lot. The added limit is that a new lot may not be created, or that a new use may not be established on a vacant good zoning lot unless the use of best prime farmland does not exceed the 3 acres per 40 acres limit.

Example: 39 Acre Parcel that Existed on 1/1/98

- **Best Prime Farmland (BPF)**
- **In 2007, the parcel remained undivided**

ADOPTED 4.1.5



Lot 1: One dwelling is permitted by right on the undivided remainder of the parcel (shown as  and referred to as Lot 1 with an area of 1 acre). On Lot 1, there is no limit on the amount of BPF that may be used.

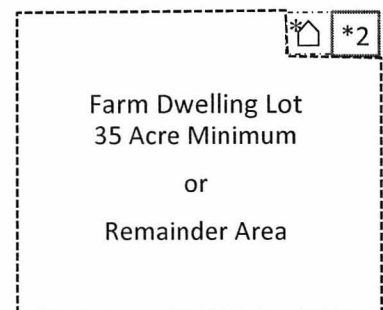
Lot 2: One new lot may be created from the parcel, with one dwelling permitted by right (shown as Lot 2 with an area of 1 acre). The total amount of BPF that may be used for Lot 2 is 3 acres.


Approximately 36 acres remains as a part of this parcel. This is sufficient area for the creation of a 'farm dwelling lot' of at least 35 acres. The farm dwelling lot is shown as a dashed line. The farm dwelling lot may be used for a dwelling.

No further division is permitted by right.

* 3 acres BPF maximum

COMPROMISE 4.1.5



Lot 1: One dwelling is permitted by right on the undivided remainder of the parcel (shown as  and referred to as Lot 1 with an area of 1 acre).

Lot 2: One new lot may be created from the parcel (shown as Lot 2 with an area of 1 acre). The limit on amount of BPF used for Lot 2 depends on the amount of BPF used for Lot 1. The total amount of BPF used for both Lots 1 and 2 may not exceed 3 acres.

Approximately 36 acres remains as a part of this parcel. This is sufficient area for the creation of a 'farm dwelling lot' of at least 35 acres. The farm dwelling lot is shown as a dashed line. The farm dwelling lot may be used for a dwelling.

No further division is permitted by right.


* 3 acres BPF in total for Lots 1 and 2

Example: 40 Acre Parcel that Existed on 1/1/98

- **Best Prime Farmland (BPF)**
- **In 2007, the parcel remained undivided**

ADOPTED POLICY 4.1.5



Lot 1: One dwelling is permitted by right on the undivided remainder of the parcel (shown as  and referred to as Lot 1 with an area of 1 acre). On Lot 1, there is no limit on the amount of BPF that may be used.

Lots 2 and 3: Two new lots may be created from the parcel, with one dwelling permitted by right on each (shown as Lots 2 and 3 with an area of 1 acre each).

The total amount of BPF that may be used for Lots 2 and 3 may not exceed 3 acres.


Approximately 36 acres remains as a part of this parcel. This is sufficient area for the creation of a 'farm dwelling lot' of at least 35 acres. The farm dwelling lot is shown as a dashed line. The farm dwelling lot may be used for a dwelling.

No further division is permitted by right.

* 3 acres BPF maximum in total

COMPROMISE POLICY 4.1.5



Lot 1: One dwelling is permitted by right on the undivided remainder of the parcel (shown as  and referred to as Lot 1 with an area of 1 acre).

Lots 2 and 3: Two new lots may be created from the parcel, with one dwelling permitted by right on each (shown as Lots 2 and 3 with an area of 1 acre each). The limit on amount of BPF used for Lots 2 and 3 depends on the amount of BPF used for Lot 1.

The total amount of BPF that may be used for Lots 1, 2 and 3 may not exceed 3 acres.

Approximately 36 acres remains as a part of this parcel. This is sufficient area for the creation of a 'farm dwelling lot' of at least 35 acres. The farm dwelling lot is shown as a dashed line. The farm dwelling lot may be used for a dwelling.

No further division is permitted by right.

* 3 acres BPF maximum in total

Example: 40 Acre Parcel, Previously Divided after 1/1/98

- **Best Prime Farmland**
- **In 2007, the parcel was divided to form 4 small lots and potentially one 35-acre lot**

ADOPTED 4.1.5



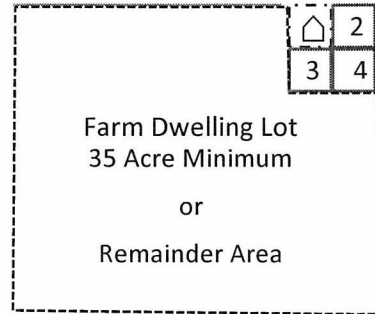
All 5 lots are existing good lots according to the Ordinance.

One dwelling may be permitted by right on each existing lot.

There is no limit on the amount of BPF used since these lots were created after 7/22/04 and comply with the maximum lot size on BPF in effect at that time, so no further restriction applies.

No further division is permitted by right.

COMPROMISE 4.1.5



All 5 lots are existing good lots according to the Ordinance.

One dwelling may be permitted by right on each existing lot.

There is no limit on the amount of BPF used since these lots were created after 7/22/04 and comply with the maximum lot size on BPF in effect at that time, so no further restriction applies.

No further division is permitted by right.

Comparison of Potential Numbers of Farm Dwelling Lots

The following table reviews at a broad scale the approximate potential impacts of certain larger minimum lot sizes for a Farm Dwelling Lot:

Large Minimum Lot Size (acres)	Potential Number of Large Lots in a Typical Quarter Section ¹	Potential Number of Large Lots Per Typical Section ²
35 ³	4	16
41	3	12
54	2	8
80	1 ⁴	4

Notes:

1. The size of a Quarter Section is 160 acres.
2. Assumes four typical Quarter Sections.
3. Selecting 35-acres as the large minimum lot standard would be similar to the existing zoning provision that exempts lots 35 acres in area or larger from the need for rezoning to the Rural Residential Overlay Zoning District.
4. Assumes that one or more smaller lots allowed by right on the 160 acres uses some acreage.

COMPROMISE Draft Zoning Ordinance Text Amendments for Policies 4.1.5, 4.1.7 and 4.1.9

COMPROMISE Draft Zoning Ordinance Text* **CLEAN COPY*

1. Add a definition for 'best prime farmland', 'farmstead', 'parcel', and 'remainder area'.

Section 3.0 Definitions

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

FARM DWELLING LOT: A LOT that meets the minimum LOT AREA required for a DWELLING on land used for AGRICULTURE.

FARMSTEAD: That portion of a LOT that is or was occupied in 1988 by a lawful DWELLING and/ or any ACCESSORY BUILDINGS and STRUCTURES or existing foundations thereof; and including any required YARD for any existing BUILDING or existing STRUCTURE that is or will no longer be in AGRICULTURE use; and also including any existing mature trees or lawn areas that were not in agricultural production in 1988. The area of a FARMSTEAD is the minimum dimensions required to encompass all BUILDINGS, STRUCTURES, foundations, mature trees, and lawn areas within a simple rectangular area.

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

REMAINDER AREA: That portion of a tract which existed as of January 1, 1998, on which the permitted establishment of an authorized USE or CONSTRUCTION other than AGRICULTURE may occur only provided the BEST PRIME FARMLAND maximum use limit is not exceeded and provided that a County Board Special Use and a Zoning Map Amendment for a Rural Residential OVERLAY Zoning DISTRICT are approved.

COMPROMISE Draft Zoning Ordinance Text Amendments for Policies 4.1.5, 4.1.7 and 4.1.9

2. Add a Paragraph 4.3.4 G that contains new and existing zoning ordinance requirements for residential lots in the rural districts.

Subsection 4.3.4

G. Special Requirements for LOTS in the AG-1, AG-2, and CR DISTRICTS

1. FARM DWELLING LOT

- a. The minimum LOT AREA required for a FARM DWELLING LOT is 35 acres.
- b. A DWELLING may be established as a second principal USE on a FARM DWELLING LOT.
- c. AGRICULTURE will not be the principal USE on any LOT of less than 35 acres in LOT AREA.

2. By Right USE or CONSTRUCTION on a LOT in the AG-1, AG-2, or CR DISTRICTS

- a. On a new LOT, an authorized principal USE or CONSTRUCTION other than AGRICULTURE may be permitted by right without the creation of a Rural Residential OVERLAY DISTRICT, provided that:
 - (1) The BEST PRIME FARMLAND maximum use limit established in Item 3 of this Paragraph may not be exceeded.
 - (2) No LOT that is five acres or less in area may be further divided.
 - (3) One new LOT may be created out of any PARCEL greater than five acres and less than 40 acres in area that existed in the same dimensions and configuration on January 1, 1998.
 - (4) Two new LOTS may be created out of any PARCEL greater than 40 acres that existed in the same dimensions and configuration on January 1, 1998.
- b. On an existing LOT, an authorized principal USE or CONSTRUCTION other than AGRICULTURE may be permitted by right without the creation of a Rural Residential OVERLAY DISTRICT, provided that:
 - (1) The BEST PRIME FARMLAND maximum use limit established in Item 3 of this Paragraph may not be exceeded.
 - (2) The LOT meets one of the following provisions:
 - i. The LOT was contained in a SUBDIVISION having received preliminary plat approval prior to June 22, 1999 for which preliminary plat approval remains in effect.

COMPROMISE Draft Zoning Ordinance Text Amendments for Policies 4.1.5, 4.1.7 and 4.1.9

- ii. The LOT was lawfully created prior to *{effective date}* and at the time the LOT was created it was in full conformance with the Ordinance.
 - iii. The LOT is comprised of the leftover undivided acreage of a PARCEL that existed on January 1, 1998, after the creation of LOTS authorized in Item 1 or Item 2(a) of this Paragraph and the LOT is in full conformance with the Ordinance.
- 3. Limits for Non-Agricultural use of BEST PRIME FARMLAND in the AG-1, AG-2, and CR DISTRICTS
 - a. The total amount of BEST PRIME FARMLAND that may be used for the by right establishment of a non-AGRICULTURE USE or CONSTRUCTION on a new or existing LOT shall not exceed the following limits:
 - (1) three acres from any PARCEL less than or equal to 40 acres in area that existed in the same dimensions and configuration on January 1, 1998; or
 - (2) three acres plus an amount proportionate to LOT AREA, but not to exceed nine acres in total, from any PARCEL larger than 40 acres and less than or equal to 120 acres that existed in the same dimensions and configuration on January 1, 1998; or
 - (3) nine acres from any PARCEL larger than 120 acres that existed in the same dimensions and configuration on January 1, 1998.
 - b. The total amount of BEST PRIME FARMLAND that may be used for discretionary residential development approved as a Rural Residential OVERLAY Zoning DISTRICT shall include the amount of BEST PRIME FARMLAND already used for the establishment of a non-AGRICULTURE USE or CONSTRUCTION on a new or existing LOT (as indicated in Item 3a above) and shall not exceed the following limits:
 - (1) three acres from any PARCEL less than or equal to 40 acres in area that existed in the same dimensions and configuration on January 1, 1998; or
 - (2) three acres plus an amount proportionate to LOT AREA, but not to exceed 12 acres in total, from any PARCEL larger than 40 acres and less than or equal to 120 acres that existed in the same dimensions and configuration on January 1, 1998; or
 - (3) 12 acres from any PARCEL larger than 120 acres that existed in the same dimensions and configuration on January 1, 1998.

COMPROMISE Draft Zoning Ordinance Text Amendments for Policies 4.1.5, 4.1.7 and 4.1.9

- c. Exceptions to the limits of the above Items 3(a) and 3(b) are:
 - (1) Any FARMSTEAD;
 - (2) Any LOT that includes a FARMSTEAD within the LOT AREA provided that the LOT AREA is no larger than the area of the FARMSTEAD;
 - (3) Any LOT lawfully created between July 22, 2004 and the *{effective date}*; and
 - (4) The BEST PRIME FARMLAND area of a LOT used for a permitted non-AGRICULTURE authorized USE or CONSTRUCTION prior to *{effective date}* and measured in accordance with Item d below.
 - d. Measurements of the area of BEST PRIME FARMLAND used for any non-AGRICULTURE authorized USE or CONSTRUCTION shall be generalized to a rectangular shape of not less than one acre.
 - e. BEST PRIME FARMLAND included as part of the LOT AREA of any new LOT created shall reduce the total amount of BEST PRIME FARMLAND available for both by right USE and CONSTRUCTION and discretionary residential development on that portion of the PARCEL that is leftover.
4. Restrictions regarding a REMAINDER AREA
- a. No authorized principal USE or CONSRUCTION other than AGRICULTURE shall be permitted by right on a REMAINDER AREA.
 - b. An authorized principal USE or CONSTRUCTION other than AGRICULTURE may be permitted on a REMAINDER AREA only provided that:
 - (1) BEST PRIME FARMLAND maximum use limits established in Item 3 of this Paragraph are not exceeded; and
 - (2) Subsection 5.4 requirements for the establishment of the Rural Residential OVERLAY Zoning DISTRICT are met.
5. Any LOT that is created pursuant to a mortgage for any reason must either conform to the requirements of this Paragraph or be in an established Rural Residential OVERLAY Zoning DISTRICT.

(continued)

COMPROMISE Draft Zoning Ordinance Text Amendments for Policies 4.1.5, 4.1.7 and 4.1.9

3. *Revise categories of "SUBDIVISIONS" under "Residential Uses" in Section 5.2 as follows:*

SUBDIVISION(S) of one lot from less than 40 acres or no more than two lots from 40 acres or greater, totaling three LOTS or less

SUBDIVISION(S) of more than one lot from less than 40 acres or more than two lots from 40 acres or greater, totaling more than three LOTS or with new STREETS or PRIVATE ACCESSWAYS

4. *Revise Footnotes 9 and 10 in Section 5.2 as follows:*

9. These SUBDIVISIONS are limited to:

- (a) SUBDIVISION of a PARCEL existing in the same dimensions and configuration on January 1, 1998 as more than 5 acres and less than 40 acres in area into one new LOT in accordance with Paragraph 4.3.4 (G) limits regarding use of BEST PRIME FARMLAND and that do not include a new STREET or PRIVATE ACCESSWAY; or
- (b) SUBDIVISION of a PARCEL existing in the same dimensions and configuration on January 1, 1998 as 40 acres or more in area into no more than two new LOTS in accordance with Paragraph 4.3.4 (G) limits regarding use of BEST PRIME FARMLAND and that do not include a new STREET or PRIVATE ACCESSWAY.

10. These SUBDIVISIONS are limited to:

- (a) SUBDIVISION of a new LOT that complies with Paragraph 4.3.4 (G) limits regarding BEST PRIME FARMLAND and that requires the establishment of a Rural Residential OVERLAY Zoning DISTRICT for an authorized non-AGRICULTURE USE or CONSTRUCTION; or
- (b) SUBDIVISION in compliance with Paragraph 4.3.4 (G) limits regarding BEST PRIME FARMLAND and that includes a new STREET or PRIVATE ACCESSWAY.

(continued)

COMPROMISE Draft Zoning Ordinance Text Amendments for Policies 4.1.5, 4.1.7 and 4.1.9

5. Revise Section 5.3 Footnote 13 to reference revised Paragraph "4.3.4 G"

Section 5.3 Schedule of Area, Height and Placement Regulations by District

Zoning DISTRICTS	Minimum LOT Size ¹² ,		Maximum HEIGHT ^{4, 11}		Required YARDS (feet)					Maximum LOT COVERAGE	Special Provisions
	Area (square feet)	Average Width (feet)	Feet	Stories	Front Setback from STREET Centerline ³			SIDE ⁷	REAR ⁶		
					STREET Classification						
					MAJOR	COLLECTOR	MINOR				
AG-1 AGRICULTURE	1 Acre	200	50	NR ¹⁰	85	75	55	15	25	20%	(5), (13), (14)
AG-2 AGRICULTURE	20,000	100	50	NR ¹⁰	85	75	55	10	20	25%	(5), (13)
CR Conservation-Recreation	1 Acre	200	35	2 ½	85	75	55	15	25	20%	(5), (13)
R-1 Single FAMILY Residence	9,000	80	35	2 ½	85	75	55	10	20	30%	(5), (8)
R-2 Single FAMILY Residence	6,500	65	35	2 ½	85	75	55	10	20	30%	(5), (8)
R-3 Two FAMILY Residence	6,500 for 1st d.u. ¹ 2,500 per additional d.u.	65	35	2 ½	85	75	55	5	20	30%	(5)
R-4 Multiple FAMILY Residence	6,500 for 1st d.u. ¹ 2,000 per additional d.u.	65	50	NR ¹⁰	85	75	55	5	15	40%	(5), (9)
R-5 MANUFACTURED HOME PARK	SEE SPECIAL STANDARDS SECTION 6.2										
B-1 Rural Trade Center	6,500	65	NR ¹⁰	NR ¹⁰	85	75	55	10	20	50%	
B-2 Neighborhood Business	6,500	65	35	2 ½	85	75	55	10	20	35%	(2)
B-3 Highway Business	6,500	65	40	3	85	75	55	5	20	40%	(2)
B-4 General Business	6,500	65	35	2 ½	85	75	55	10	20	40%	(2)
B-5 Central Business	NR ¹⁰	NR ¹⁰	35	2 ½	0	0	0	0	0	100%	(2)
I-1 Light Industry	10,000	100	75	NR ¹⁰	85	75	55	10	20	50%	(2)
I-2 Heavy Industry	20,000	150	150	NR ¹⁰	85	75	55	20	30	65%	(2)

COMPROMISE Draft Zoning Ordinance Text Amendments for Policies 4.1.5, 4.1.7 and 4.1.9

Footnotes

1 - 12. [no changes proposed]

13. Refer to Paragraph 4.3.4 (G) limits regarding establishing a non-agricultural authorized land USE on existing LOTS, creation of new LOTS, and limits regarding use of BEST PRIME FARMLAND.

14. [no changes proposed]

6. Revise Subsection 5.4.2 as follows:

5.4 Rural Residential OVERLAY Zoning DISTRICT

5.4.2 Exemptions

Only LOTS in compliance with the requirements of Paragraph 4.3.4(G) may be permitted in the AG-1, AG-2, and CR DISTRICTS without the creation of a Rural Residential OVERLAY DISTRICT:

7. Revise Existing Subsection 5.4.4

5.4.4 Limit Non-Agricultural Use of BEST PRIME FARMLAND

LOTS within a Rural Residential OVERLAY Zoning DISTRICT must comply with the Paragraph 4.3.4 (G) limits regarding amount of BEST PRIME FARMLAND for non-AGRICULTURE use.

8. Add provision (e) (2) to Subsection 9.1.2 regarding required inclusion of Best Prime Farmland area on Zoning Use Permit application

Subsection 9.1.2

B. Application for Zoning Use Permit

1. Applications for Zoning Use Permits shall be filed in written form with the Zoning Administrator on such forms as the Zoning Administrator shall prescribe, and shall:
 - a. state the location, including township, street number, lot, block, and/or tract comprising the legal description of the PROPERTY;
 - b. state the name and address of the OWNER, the applicant, and the contractor, if known;
 - c. state the estimated cost;
 - d. describe the USES to be established or expanded;

COMPROMISE Draft Zoning Ordinance Text Amendments for Policies 4.1.5, 4.1.7 and 4.1.9

- e. be accompanied by a plan in duplicate, or duplicate prints thereof, drawn approximately to scale, showing the:
 - (1) actual dimensions of the LOT to be built upon;
 - (2) the area of BEST PRIME FARMLAND to be used for the establishment of a new LOT or for any non-AGRICULTURE USE or CONSTRUCTION in the AG-1, AG-2 or CR DISTRICT, generalized to a rectangular shape of not less than one acre;
 - (3) size, shape, and locations of the USE to be established or the STRUCTURE or ACCESSORY STRUCTURE to be CONSTRUCTED;
 - ⋮

TO: **Champaign County Board Committee of the Whole**

FROM: **John Hall, Zoning Administrator**

DATE: **March 29, 2011**

RE: **Letter of support for SB 2195 establishing fees for county stormwater management**

Champaign
County
Department of

**PLANNING &
ZONING**

REQUESTED ACTION

This item was continued from the March Agenda. HB3372 is a similar but not identical bill in the House.

Brookens

Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

BACKGROUND

SB2195 (see attached) proposes to authorize counties to establish fees for stormwater management. The legislation is relevant to Champaign County because Champaign County is subject to Illinois General NPDES Permit No. ILR40 as discussed in Sec. 5-1062.2.(a). The process of adopting stormwater fees is entirely voluntary on the part of counties and is quite complicated and municipal participation is required. It seems unlikely that Champaign County would need to undergo this process anytime soon. The legislation can be summarized as follows:

Sec. 5-1062.2.(a) authorizes a united, countywide structure for stormwater management and floodplain management including a countywide plan for management of stormwater runoff including the management of natural and man-made drainageways. Note however that Sec. 5-1062.2.(d) prohibits a stormwater management planning committee from interfering with drainage district activities.

Sec. 5-1062.2.(b) of the legislation authorizes a county board to establish a stormwater management planning committee comprised of both county board and municipal representatives. The stormwater management planning committee is authorized to develop a stormwater management plan for ultimate adoption by the county board.

Sec. 5-1062.2.(f) requires the stormwater management planning committee to hold at least one public hearing on the stormwater management plan before recommending the plan to the county board. This section also authorizes the county board to enact the plan by ordinance and contains guidelines in the event that an affected municipality opposes the stormwater management plan.

Sec. 5-1062.2.(g) authorizes the county board to adopt a stormwater management ordinance consistent with the stormwater management plan but prohibits regulation of land used for production agriculture.

Sec. 5-1062.2.(h) authorizes the county board to adopt a schedule of fees applicable to all real property within the county that receive benefit from the county's stormwater management facilities and activities. The county is required to give landowners 2 year's advanced notice of the fees. During the 2 years advanced notice the county shall provide education on "green infrastructure". The schedule of fees must provide a procedure for waiver of fees for landowners who install facilities that reduce or eliminate the cost to the county of providing stormwater management services. The procedure for waiver must include a preference for green infrastructure.

Sec. 5-1062.2.(i) authorizes the county to adopt an annual tax of not to exceed 0.20% of the value of all taxable property and use taxes of 1/10 one cent. Any tax must be approved by a majority of the voting electors in the county.

ATTACHMENT

A Full Text of SB2195

**97TH GENERAL ASSEMBLY
State of Illinois
2011 and 2012
SB2195**

Introduced 2/10/2011, by Sen. Toi W. Hutchinson

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1062 from Ch. 34, par. 5-1062
55 ILCS 5/5-1062.2

Amends the Counties Code. Provides that a county board in a metropolitan county located in the area served by the Northeastern Illinois Planning Commission, or Madison, St. Clair, Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, or Boone county, that has adopted a stormwater management plan may adopt a schedule of fees applicable to real property within the county that benefits from the county's stormwater management facilities and activities. Sets forth requirements and uses for the fees. Provides that the county shall give land owners at least 2 years' notice of the fee during which time the county shall provide education on green infrastructure practices and an opportunity to take action to reduce or eliminate the fee. Further provides that a fee waiver shall be included for property owners who have taken actions or put in place facilities that are approved by the county that reduce or eliminate the cost of managing runoff. Provides that the county may enter into intergovernmental agreements with other bodies of government for the joint administration of stormwater management and collection of the fees. Effective immediately.

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FISCAL NOTE ACT MAY
APPLY

A BILL FOR

SB2195

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1 AN ACT concerning local government.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Counties Code is amended by changing
5 Sections 5-1062 and 5-1062.2 as follows:

6 (55 ILCS 5/5-1062) (from Ch. 34, par. 5-1062)
7 Sec. 5-1062. Stormwater management.

8 (a) The purpose of this Section is to allow management and
9 mitigation of the effects of urbanization on stormwater
10 drainage in metropolitan counties located in the area served by
11 the Northeastern Illinois Planning Commission, and references
12 to "county" in this Section shall apply only to those counties.
13 This Section shall not apply to any county with a population in
14 excess of 1,500,000, except as provided in subsection (c). The
15 purpose of this Section shall be achieved by:

16 (1) consolidating the existing stormwater management
17 framework into a united, countywide structure;

18 (2) setting minimum standards for floodplain and
19 stormwater management; and

20 (3) preparing a countywide plan for the management of
21 stormwater runoff, including the management of natural and
22 man-made drainageways. The countywide plan may incorporate
23 watershed plans.

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1 (b) A stormwater management planning committee shall be
2 established by county board resolution, with its membership
3 consisting of equal numbers of county board and municipal
4 representatives from each county board district, and such other
5 members as may be determined by the county and municipal
6 members. However, if the county has more than 6 county board
7 districts, the county board may by ordinance divide the county

8 into not less than 6 areas of approximately equal population,
9 to be used instead of county board districts for the purpose of
10 determining representation on the stormwater management
11 planning committee.

12 The county board members shall be appointed by the chairman
13 of the county board. Municipal members from each county board
14 district or other represented area shall be appointed by a
15 majority vote of the mayors of those municipalities which have
16 the greatest percentage of their respective populations
17 residing in such county board district or other represented
18 area. All municipal and county board representatives shall be
19 entitled to a vote; the other members shall be nonvoting
20 members, unless authorized to vote by the unanimous consent of
21 the municipal and county board representatives. A municipality
22 that is located in more than one county may choose, at the time
23 of formation of the stormwater management planning committee
24 and based on watershed boundaries, to participate in the
25 stormwater management planning program of either or both of the
26 counties. Subcommittees of the stormwater management planning

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1 committee may be established to serve a portion of the county
2 or a particular drainage basin that has similar stormwater
3 management needs. The stormwater management planning committee
4 shall adopt by-laws, by a majority vote of the county and
5 municipal members, to govern the functions of the committee and
6 its subcommittees. Officers of the committee shall include a
7 chair and vice chair, one of whom shall be a county
8 representative and one a municipal representative.

9 The principal duties of the committee shall be to develop a
10 stormwater management plan for presentation to and approval by
11 the county board, and to direct the plan's implementation and
12 revision. The committee may retain engineering, legal and
13 financial advisors and inspection personnel. The committee
14 shall meet at least quarterly and shall hold at least one
15 public meeting during the preparation of the plan and prior to
16

its submittal to the county board.

17 (c) In the preparation of a stormwater management plan, a
 18 county stormwater management planning committee shall
 19 coordinate the planning process with each adjoining county to
 20 ensure that recommended stormwater projects will have no
 21 significant impact on the levels or flows of stormwaters in
 22 inter-county watersheds or on the capacity of existing and
 23 planned stormwater retention facilities. An adopted stormwater
 24 management plan shall identify steps taken by the county to
 25 coordinate the development of plan recommendations with
 26 adjoining counties.

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1 (d) Before the stormwater management planning committee
 2 recommends to the county board a stormwater management plan for
 3 the county or a portion thereof, it shall submit the plan to
 4 the Office of Water Resources of the Department of Natural
 5 Resources and to the Northeastern Illinois Planning Commission
 6 for review and recommendations. The Office and the Commission,
 7 in reviewing the plan, shall consider such factors as impacts
 8 on the levels or flows in rivers and streams and the cumulative
 9 effects of stormwater discharges on flood levels. The Office of
 10 Water Resources shall determine whether the plan or ordinances
 11 enacted to implement the plan complies with the requirements of
 12 subsection (f). Within a period not to exceed 60 days, the
 13 review comments and recommendations shall be submitted to the
 14 stormwater management planning committee for consideration.
 15 Any amendments to the plan shall be submitted to the Office and
 16 the Commission for review.

17 (e) Prior to recommending the plan to the county board, the
 18 stormwater management planning committee shall hold at least
 19 one public hearing thereon and shall afford interested persons
 20 an opportunity to be heard. The hearing shall be held in the
 21 county seat. Notice of the hearing shall be published at least
 22 once no less than 15 days in advance thereof in a newspaper of
 23 general circulation published in the county. The notice shall
 24

25 state the time and place of the hearing and the place where
26 copies of the proposed plan will be accessible for examination
by interested parties. If an affected municipality having a

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1 stormwater management plan adopted by ordinance wishes to
2 protest the proposed county plan provisions, it shall appear at
3 the hearing and submit in writing specific proposals to the
4 stormwater management planning committee. After consideration
5 of the matters raised at the hearing, the committee may amend
6 or approve the plan and recommend it to the county board for
7 adoption.

8 The county board may enact the proposed plan by ordinance.
9 If the proposals for modification of the plan made by an
10 affected municipality having a stormwater management plan are
11 not included in the proposed county plan, and the municipality
12 affected by the plan opposes adoption of the county plan by
13 resolution of its corporate authorities, approval of the county
14 plan shall require an affirmative vote of at least two-thirds
15 of the county board members present and voting. If the county
16 board wishes to amend the county plan, it shall submit in
17 writing specific proposals to the stormwater management
18 planning committee. If the proposals are not approved by the
19 committee, or are opposed by resolution of the corporate
20 authorities of an affected municipality having a municipal
21 stormwater management plan, amendment of the plan shall require
22 an affirmative vote of at least two-thirds of the county board
23 members present and voting.

24 (f) The county board may prescribe by ordinance reasonable
25 rules and regulations for floodplain management and for
26 governing the location, width, course and release rate of all

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1 stormwater runoff channels, streams and basins in the county,

2 in accordance with the adopted stormwater management plan.
3 These rules and regulations shall, at a minimum, meet the
4 standards for floodplain management established by the Office
5 of Water Resources and the requirements of the Federal
6 Emergency Management Agency for participation in the National
7 Flood Insurance Program.

8 (g) In accordance with, ~~and if recommended in,~~ the adopted
9 stormwater management plan, the county board may adopt a
10 schedule of fees applicable to all real property within the
11 county which benefits from the county's stormwater management
12 facilities and activities, and as may be necessary to mitigate
13 the effects of increased stormwater runoff resulting from new
14 development and redevelopment. The total amount of the fees
15 assessed must bear a reasonable relationship to the actual
16 costs of the county in the preparation, administration, and
17 implementation of the ~~shall not exceed the cost of satisfying~~
18 ~~the onsite stormwater retention or detention requirements of~~
19 ~~the adopted stormwater management plan, construction and~~
20 maintenance of related facilities, enforcement of any
21 ordinances adopted pursuant thereto, and management of the
22 runoff from the property. The individual fees must bear a
23 reasonable relationship to the portion of the cost to the
24 county of managing the runoff from the property. The fees shall
25 be used to finance activities undertaken by the county or its
26 included municipalities to mitigate the effects of urban

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1 stormwater runoff by providing and maintaining regional
2 stormwater collection, retention, or detention, and treatment
3 facilities and improving water bodies impacted by stormwater
4 runoff, as identified in the county plan. In establishing,
5 maintaining, or replacing the facilities, the county shall not
6 duplicate facilities operated by other governmental bodies
7 within its corporate boundaries. The schedule of fees
8 established by the county board shall include a procedure for a
9 full or partial fee waiver for property owners who have taken
10

11 actions or put in place facilities that reduce or eliminate the
12 cost to the county of providing stormwater management services
13 to their property, with a preference for facilities that reduce
14 the volume, temperature, velocity, and pollutant load of the
15 stormwater managed by the county, such as systems that
16 infiltrate, evapotranspire, or harvest stormwater for reuse,
17 known as "green infrastructure." In exercising this authority,
18 the county shall give land owners at least 2 years' notice of
19 the fee during which time the county shall provide education on
20 green infrastructure practices and an opportunity to take
21 action to reduce or eliminate the fee. All such fees collected
22 by the county shall be held in a separate fund, and shall be
23 expended only in the watershed within which they were
24 collected. The county may enter into intergovernmental
25 agreements with other government bodies for the joint
26 administration of stormwater management and the collection of
the fees authorized in this Section.

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1 (h) For the purpose of implementing this Section and for
2 the development, design, planning, construction, operation and
3 maintenance of stormwater facilities provided for in the
4 stormwater management plan, a county board that has established
5 a stormwater management planning committee pursuant to this
6 Section may cause an annual tax of not to exceed 0.20% of the
7 value, as equalized or assessed by the Department of Revenue,
8 of all taxable property in the county to be levied upon all the
9 taxable property in the county. The tax shall be in addition to
10 all other taxes authorized by law to be levied and collected in
11 the county and shall be in addition to the maximum tax rate
12 authorized by law for general county purposes. The 0.20%
13 limitation provided in this Section may be increased or
14 decreased by referendum in accordance with the provisions of
15 Sections 18-120, 18-125, and 18-130 of the Property Tax Code.

16 Any revenues generated as a result of ownership or
17 operation of facilities or land acquired with the tax funds
18

19 collected pursuant to this subsection (h) shall be held in a
20 separate fund and be used either to abate such property tax or
21 for implementing this Section.

22 However, unless at least part of the county has been
23 declared after July 1, 1986 by presidential proclamation to be
24 a disaster area as a result of flooding, the tax authorized by
25 this subsection (h) shall not be levied until the question of
26 its adoption, either for a specified period or indefinitely,
has been submitted to the electors thereof and approved by a

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1 majority of those voting on the question. This question may be
2 submitted at any election held in the county after the adoption
3 of a resolution by the county board providing for the
4 submission of the question to the electors of the county. The
5 county board shall certify the resolution and proposition to
6 the proper election officials, who shall submit the proposition
7 at an election in accordance with the general election law. If
8 a majority of the votes cast on the question is in favor of the
9 levy of the tax, it may thereafter be levied in the county for
10 the specified period or indefinitely, as provided in the
11 proposition. The question shall be put in substantially the
12 following form:

13 -----
14 Shall an annual tax be levied
15 for stormwater management purposes YES
16 (for a period of not more than
17 years) at a rate not exceeding -----
18% of the equalized assessed
19 value of the taxable property of NO
20 County?
21 -----

22 (i) Upon the creation and implementation of a county
23 stormwater management plan, the county may petition the circuit
24 court to dissolve any or all drainage districts created
25 pursuant to the Illinois Drainage Code or predecessor Acts
26

which are located entirely within the area of the county

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1 covered by the plan.

2 However, any active drainage district implementing a plan
3 that is consistent with and at least as stringent as the county
4 stormwater management plan may petition the stormwater
5 management planning committee for exception from dissolution.
6 Upon filing of the petition, the committee shall set a date for
7 hearing not less than 2 weeks, nor more than 4 weeks, from the
8 filing thereof, and the committee shall give at least one
9 week's notice of the hearing in one or more newspapers of
10 general circulation within the district, and in addition shall
11 cause a copy of the notice to be personally served upon each of
12 the trustees of the district. At the hearing, the committee
13 shall hear the district's petition and allow the district
14 trustees and any interested parties an opportunity to present
15 oral and written evidence. The committee shall render its
16 decision upon the petition for exception from dissolution based
17 upon the best interests of the residents of the district. In
18 the event that the exception is not allowed, the district may
19 file a petition within 30 days of the decision with the circuit
20 court. In that case, the notice and hearing requirements for
21 the court shall be the same as herein provided for the
22 committee. The court shall likewise render its decision of
23 whether to dissolve the district based upon the best interests
24 of residents of the district.

25 The dissolution of any drainage district shall not affect
26 the obligation of any bonds issued or contracts entered into by

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1 the district nor invalidate the levy, extension or collection
2 of any taxes or special assessments upon the property in the
3 former drainage district. All property and obligations of the

4 former drainage district shall be assumed and managed by the
5 county, and the debts of the former drainage district shall be
6 discharged as soon as practicable.

7 If a drainage district lies only partly within a county
8 that adopts a county stormwater management plan, the county may
9 petition the circuit court to disconnect from the drainage
10 district that portion of the district that lies within that
11 county. The property of the drainage district within the
12 disconnected area shall be assumed and managed by the county.
13 The county shall also assume a portion of the drainage
14 district's debt at the time of disconnection, based on the
15 portion of the value of the taxable property of the drainage
16 district which is located within the area being disconnected.

17 The operations of any drainage district that continues to
18 exist in a county that has adopted a stormwater management plan
19 in accordance with this Section shall be in accordance with the
20 adopted plan.

21 (j) Any county that has adopted a county stormwater
22 management plan under this Section may, after 10 days written
23 notice to the owner or occupant, enter upon any lands or waters
24 within the county for the purpose of inspecting stormwater
25 facilities or causing the removal of any obstruction to an
26 affected watercourse. The county shall be responsible for any

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1 damages occasioned thereby.

2 (k) Upon petition of the municipality, and based on a
3 finding of the stormwater management planning committee, the
4 county shall not enforce rules and regulations adopted by the
5 county in any municipality located wholly or partly within the
6 county that has a municipal stormwater management ordinance
7 that is consistent with and at least as stringent as the county
8 plan and ordinance, and is being enforced by the municipal
9 authorities.

10 (l) A county may issue general obligation bonds for
11 implementing any stormwater plan adopted under this Section in
12

13 the manner prescribed in Section 5-1012; except that the
 14 referendum requirement of Section 5-1012 shall not apply to
 15 bonds issued pursuant to this Section on which the principal
 16 and interest are to be paid entirely out of funds generated by
 17 the taxes and fees authorized by this Section.

18 (m) The powers authorized by this Section may be
 19 implemented by the county board for a portion of the county
 20 subject to similar stormwater management needs.

21 (n) The powers and taxes authorized by this Section are in
 22 addition to the powers and taxes authorized by Division 5-15;
 23 in exercising its powers under this Section, a county shall not
 24 be subject to the restrictions and requirements of that
 25 Division.

26 (o) Pursuant to paragraphs (g) and (i) of Section 6 of
 Article VII of the Illinois Constitution, this Section

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1 specifically denies and limits the exercise of any power which
 2 is inconsistent herewith by home rule units in any county with
 3 a population of less than 1,500,000 in the area served by the
 4 Northeastern Illinois Planning Commission. This Section does
 5 not prohibit the concurrent exercise of powers consistent
 6 herewith.

7 (Source: P.A. 88-670, eff. 12-2-94; 89-445, eff. 2-7-96.)

8 (55 ILCS 5/5-1062.2)

9 Sec. 5-1062.2. Stormwater management.

10 (a) The purpose of this Section is to allow management and
 11 mitigation of the effects of urbanization on stormwater
 12 drainage in the metropolitan counties of Madison, St. Clair,
 13 Monroe, Kankakee, Grundy, LaSalle, DeKalb, Kendall, and Boone
 14 and references to "county" in this Section apply only to those
 15 counties, except that any county that is subject to the
 16 Illinois General NPDES Permit No. ILR40 (stormwater permit), or
 17 with one or more municipality partially or fully within its
 18 borders that is subject to the permit, is authorized to adopt a
 19 schedule of fees as outlined in subsection (h) of this Section.

20 This Section does not apply to any other counties in the State,
21 including those located in the area served by the Northeastern
22 Illinois Planning Commission that are granted authorities in
23 Section 5-1062. The purpose of this Section shall be achieved
24 by:

25 (1) Consolidating the existing stormwater management

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1 framework into a united, countywide structure.

2 (2) Setting minimum standards for floodplain and
3 stormwater management.

4 (3) Preparing a countywide plan for the management of
5 stormwater runoff, including the management of natural and
6 man-made drainageways. The countywide plan may incorporate
7 watershed plans.

8 (b) A stormwater management planning committee may be
9 established by county board resolution, with its membership
10 consisting of equal numbers of county board and municipal
11 representatives from each county board district, and such other
12 members as may be determined by the county and municipal
13 members. If the county has more than 6 county board districts,
14 however, the county board may by ordinance divide the county
15 into not less than 6 areas of approximately equal population,
16 to be used instead of county board districts for the purpose of
17 determining representation on the stormwater management
18 planning committee.

19 The county board members shall be appointed by the chairman
20 of the county board. Municipal members from each county board
21 district or other represented area shall be appointed by a
22 majority vote of the mayors of those municipalities that have
23 the greatest percentage of their respective populations
24 residing in that county board district or other represented
25 area. All municipal and county board representatives shall be
26 entitled to a vote; the other members shall be nonvoting

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1 members, unless authorized to vote by the unanimous consent of
2 the municipal and county board representatives. A municipality
3 that is located in more than one county may choose, at the time
4 of formation of the stormwater management planning committee
5 and based on watershed boundaries, to participate in the
6 stormwater management planning program of either or both of the
7 counties. Subcommittees of the stormwater management planning
8 committee may be established to serve a portion of the county
9 or a particular drainage basin that has similar stormwater
10 management needs. The stormwater management planning committee
11 shall adopt bylaws, by a majority vote of the county and
12 municipal members, to govern the functions of the committee and
13 its subcommittees. Officers of the committee shall include a
14 chair and vice chair, one of whom shall be a county
15 representative and one a municipal representative.

16 The principal duties of the committee shall be to develop a
17 stormwater management plan for presentation to and approval by
18 the county board, and to direct the plan's implementation and
19 revision. The committee may retain engineering, legal, and
20 financial advisors and inspection personnel. The committee
21 shall meet at least quarterly and shall hold at least one
22 public meeting during the preparation of the plan and prior to
23 its submittal to the county board. The committee may make
24 grants to units of local government that have adopted an
25 ordinance requiring actions consistent with the stormwater
26 management plan and to landowners for the purposes of

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1 stormwater management, including special projects; use of the
2 grant money must be consistent with the stormwater management
3 plan.

4 The committee shall not have or exercise any power of
5 eminent domain.

6 (c) In the preparation of a stormwater management plan, a

7 county stormwater management planning committee shall
8 coordinate the planning process with each adjoining county to
9 ensure that recommended stormwater projects will have no
10 significant impact on the levels or flows of stormwaters in
11 inter-county watersheds or on the capacity of existing and
12 planned stormwater retention facilities. An adopted stormwater
13 management plan shall identify steps taken by the county to
14 coordinate the development of plan recommendations with
15 adjoining counties.

16 (d) The stormwater management committee may not enforce any
17 rules or regulations that would interfere with (i) any power
18 granted by the Illinois Drainage Code (70 ILCS 605/) to
19 operate, construct, maintain, or improve drainage systems or
20 (ii) the ability to operate, maintain, or improve the drainage
21 systems used on or by land or a facility used for production
22 agriculture purposes, as defined in the Use Tax Act (35 ILCS
23 105/), except newly constructed buildings and newly installed
24 impervious paved surfaces. Disputes regarding an exception
25 shall be determined by a mutually agreed upon arbitrator paid
26 by the disputing party or parties.

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1 (e) Before the stormwater management planning committee
2 recommends to the county board a stormwater management plan for
3 the county or a portion thereof, it shall submit the plan to
4 the Office of Water Resources of the Department of Natural
5 Resources for review and recommendations. The Office, in
6 reviewing the plan, shall consider such factors as impacts on
7 the levels or flows in rivers and streams and the cumulative
8 effects of stormwater discharges on flood levels. The Office of
9 Water Resources shall determine whether the plan or ordinances
10 enacted to implement the plan complies with the requirements of
11 subsection (f). Within a period not to exceed 60 days, the
12 review comments and recommendations shall be submitted to the
13 stormwater management planning committee for consideration.
14 Any amendments to the plan shall be submitted to the Office for
15

review.

16 (f) Prior to recommending the plan to the county board, the
17 stormwater management planning committee shall hold at least
18 one public hearing thereon and shall afford interested persons
19 an opportunity to be heard. The hearing shall be held in the
20 county seat. Notice of the hearing shall be published at least
21 once no less than 15 days in advance of the hearing in a
22 newspaper of general circulation published in the county. The
23 notice shall state the time and place of the hearing and the
24 place where copies of the proposed plan will be accessible for
25 examination by interested parties. If an affected municipality
26 having a stormwater management plan adopted by ordinance wishes

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1 to protest the proposed county plan provisions, it shall appear
2 at the hearing and submit in writing specific proposals to the
3 stormwater management planning committee. After consideration
4 of the matters raised at the hearing, the committee may amend
5 or approve the plan and recommend it to the county board for
6 adoption.

7 The county board may enact the proposed plan by ordinance.
8 If the proposals for modification of the plan made by an
9 affected municipality having a stormwater management plan are
10 not included in the proposed county plan, and the municipality
11 affected by the plan opposes adoption of the county plan by
12 resolution of its corporate authorities, approval of the county
13 plan shall require an affirmative vote of at least two-thirds
14 of the county board members present and voting. If the county
15 board wishes to amend the county plan, it shall submit in
16 writing specific proposals to the stormwater management
17 planning committee. If the proposals are not approved by the
18 committee, or are opposed by resolution of the corporate
19 authorities of an affected municipality having a municipal
20 stormwater management plan, amendment of the plan shall require
21 an affirmative vote of at least two-thirds of the county board
22 members present and voting.

23

24 (g) The county board may prescribe by ordinance reasonable
 25 rules and regulations for floodplain management and for
 26 governing the location, width, course, and release rate of all
 stormwater runoff channels, streams, and basins in the county,

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1 in accordance with the adopted stormwater management plan.
 2 Land, facilities, and drainage district facilities used for
 3 production agriculture as defined in subsection (d) shall not
 4 be subjected to regulation by the county board or stormwater
 5 management committee under this Section for floodplain
 6 management and for governing location, width, course,
 7 maintenance, and release rate of stormwater runoff channels,
 8 streams and basins, or water discharged from a drainage
 9 district. These rules and regulations shall, at a minimum, meet
 10 the standards for floodplain management established by the
 11 Office of Water Resources and the requirements of the Federal
 12 Emergency Management Agency for participation in the National
 13 Flood Insurance Program. The Commission may not impose more
 14 stringent regulations regarding water quality on entities
 15 discharging in accordance with a valid National Pollution
 16 Discharge Elimination System permit issued under the
 17 Environmental Protection Act.

18 (h) In accordance with, ~~and if recommended in,~~ the adopted
 19 stormwater management plan, the county board may adopt a
 20 schedule of fees applicable to all real property within the
 21 county which receives benefit from the county's stormwater
 22 management facilities and activities, and as may be necessary
 23 to mitigate the effects of increased stormwater runoff
 24 resulting from new development and redevelopment based on
 25 actual costs. The total amount of the fees assessed must bear a
 26 reasonable relationship to the actual costs of the county in

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1 the preparation, administration, and implementation of the
2 ~~shall not exceed the cost of satisfying the onsite stormwater~~
3 ~~retention or detention requirements of the adopted stormwater~~
4 management plan, construction and maintenance of related
5 facilities, enforcement of any ordinance adopted pursuant
6 thereto, and management of the runoff from the property. The
7 individual fees must bear a reasonable relationship to the
8 portion of the cost to the county of managing the runoff from
9 the property. The fees shall be used to finance activities
10 undertaken by the county or its included municipalities to
11 mitigate the effects of urban stormwater runoff by providing
12 and maintaining regional stormwater collection, retention, or
13 detention, and treatment facilities and improving water bodies
14 impacted by stormwater runoff, as identified in the county
15 plan. In establishing, maintaining, or replacing such
16 facilities, the county shall not duplicate facilities operated
17 by other governmental bodies within its corporate boundaries.
18 The schedule of fees established by the county board shall
19 include a procedure for a full or partial fee waiver for
20 property owners who have taken actions or put in place
21 facilities that reduce or eliminate the cost to the county of
22 providing stormwater management services to their property,
23 with a preference for facilities that reduce the volume,
24 temperature, velocity, and pollutant load of the stormwater
25 managed by the county, such as systems that infiltrate,
26 evapotranspire, or harvest stormwater for reuse, known as

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1 "green infrastructure." In exercising this authority, the
2 county shall give land owners at least 2 years' notice of the
3 fee during which time the county shall provide education on
4 green infrastructure practices and an opportunity to take
5 action to reduce or eliminate the fee. The county board shall
6 ~~provide for a credit or reduction in fees for any onsite~~
7 ~~retention, detention, drainage district assessments, or other~~
8 ~~similar stormwater facility that the developer is required to~~
9

~~construct consistent with the stormwater management ordinance.~~

10 All these fees collected by the county shall be held in a
11 separate fund, and shall be expended only in the watershed
12 within which they were collected. The county may enter into
13 intergovernmental agreements with other government bodies for
14 the joint administration of stormwater management and the
15 collection of the fees authorized in this Section.

16 (i) For the purpose of implementing this Section and for
17 the development, design, planning, construction, operation,
18 and maintenance of stormwater facilities provided for in the
19 stormwater management plan, a county board that has established
20 a stormwater management planning committee pursuant to this
21 Section may cause an annual tax of not to exceed 0.20% of the
22 value, as equalized or assessed by the Department of Revenue,
23 of all taxable property in the county to be levied upon all the
24 taxable property in the county or occupation and use taxes of
25 1/10 of one cent. The property tax shall be in addition to all
26 other taxes authorized by law to be levied and collected in the

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1 county and shall be in addition to the maximum tax rate
2 authorized by law for general county purposes. The 0.20%
3 limitation provided in this Section may be increased or
4 decreased by referendum in accordance with the provisions of
5 Sections 18-120, 18-125, and 18-130 of the Property Tax Code
6 (35 ILCS 200/).

7 Any revenues generated as a result of ownership or
8 operation of facilities or land acquired with the tax funds
9 collected pursuant to this subsection shall be held in a
10 separate fund and be used either to abate such property tax or
11 for implementing this Section.

12 However, the tax authorized by this subsection shall not be
13 levied until the question of its adoption, either for a
14 specified period or indefinitely, has been submitted to the
15 electors thereof and approved by a majority of those voting on
16 the question. This question may be submitted at any election
17

18 held in the county after the adoption of a resolution by the
19 county board providing for the submission of the question to
20 the electors of the county. The county board shall certify the
21 resolution and proposition to the proper election officials,
22 who shall submit the proposition at an election in accordance
23 with the general election law. If a majority of the votes cast
24 on the question is in favor of the levy of the tax, it may
25 thereafter be levied in the county for the specified period or
26 indefinitely, as provided in the proposition. The question
shall be put in substantially the following form:

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1 Shall an annual tax be levied for stormwater management
2 purposes (for a period of not more than years) at a
3 rate not exceeding% of the equalized assessed value
4 of the taxable property of County?

5 Or this question may be submitted at any election held in the
6 county after the adoption of a resolution by the county board
7 providing for the submission of the question to the electors of
8 the county to authorize use and occupation taxes of 1/10 of one
9 cent:

10 Shall use and occupation taxes be raised for stormwater
11 management purposes (for a period of not more than
12 years) at a rate of 1/10 of one cent for taxable goods in
13 County?

14 Votes shall be recorded as Yes or No.

15 (j) For those counties that adopt a property tax in
16 accordance with the provisions in this Section, the stormwater
17 management committee shall offer property tax abatements or
18 incentive payments to property owners who construct, maintain,
19 and use approved stormwater management devices. For those
20 counties that adopt use and occupation taxes in accordance with
21 the provisions of this Section, the stormwater management
22 committee may offer tax rebates or incentive payments to
23 property owners who construct, maintain, and use approved
24 stormwater management devices. The stormwater management
25

committee is authorized to offer credits to the property tax,
26 if applicable, based on authorized practices consistent with

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1 the stormwater management plan and approved by the committee.
2 Expenses of staff of a stormwater management committee that are
3 expended on regulatory project review may be no more than 20%
4 of the annual budget of the committee, including funds raised
5 under subsections (h) and (i).

6 (k) Any county that has adopted a county stormwater
7 management plan under this Section may, after 10 days written
8 notice receiving consent of the owner or occupant, enter upon
9 any lands or waters within the county for the purpose of
10 inspecting stormwater facilities or causing the removal of any
11 obstruction to an affected watercourse. If consent is denied or
12 cannot be reasonably obtained, the county ordinance shall
13 provide a process or procedure for an administrative warrant to
14 be obtained. The county shall be responsible for any damages
15 occasioned thereby.

16 (l) Upon petition of the municipality, and based on a
17 finding of the stormwater management planning committee, the
18 county shall not enforce rules and regulations adopted by the
19 county in any municipality located wholly or partly within the
20 county that has a municipal stormwater management ordinance
21 that is consistent with and at least as stringent as the county
22 plan and ordinance, and is being enforced by the municipal
23 authorities. On issues that the county ordinance is more
24 stringent as deemed by the committee, the county shall only
25 enforce rules and regulations adopted by the county on the more
26 stringent issues and accept municipal permits. The county shall

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1 have no more than 60 days to review permits or the permits
2 shall be deemed approved.

3 (m) A county may issue general obligation bonds for
4 implementing any stormwater plan adopted under this Section in
5 the manner prescribed in Section 5-1012; except that the
6 referendum requirement of Section 5-1012 does not apply to
7 bonds issued pursuant to this Section on which the principal
8 and interest are to be paid entirely out of funds generated by
9 the taxes and fees authorized by this Section.

10 (n) The powers authorized by this Section may be
11 implemented by the county board for a portion of the county
12 subject to similar stormwater management needs.

13 (o) The powers and taxes authorized by this Section are in
14 addition to the powers and taxes authorized by Division 5-15;
15 in exercising its powers under this Section, a county shall not
16 be subject to the restrictions and requirements of that
17 Division.

18 (Source: P.A. 94-675, eff. 8-23-05.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.

TO: **Champaign County Board Committee of the Whole**

FROM: **John Hall, Zoning Administrator**

DATE: **March 29, 2011**

RE: **HB 1626 Establishing protest rights for county special use permits**

Champaign
County
Department of

**PLANNING &
ZONING**

REQUESTED ACTION

HB1626 proposes to add protest rights for county zoning special use permits. This memo briefly reviews the overall harm that such protest rights pose to county zoning and recommends that the Board oppose the legislation by means of a Resolution.

Brookens

Administrative Center

1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

BACKGROUND

The special use permit is a type of zoning approval in which the local zoning jurisdiction (a county or municipality) must approve a specific proposal for development after holding a public hearing. The statutes require a legal advertisement to provide public notice of the special use permit public hearing. Most jurisdictions also send notice directly to adjacent landowners and other relevant jurisdictions such as highway authority, fire protection district, drainage district, township, etc. Aggrieved neighbors sometimes criticize a special use permit as "changing the zoning" but a special use permit does not change zoning. Zoning designation of a property can only be changed by a zoning map amendment. Protest rights apply to map amendments but protest rights do not currently apply to special use permits

HB1626 (see attached) proposes to establish protest rights for all county special use permits whether or not the county board currently approves the special use permit.

Some will no doubt view protest rights for special use permits as a welcome limit on the authority of zoning boards of appeal and county boards. However, as briefly reviewed below, HB1626 in its present form would arguably be detrimental overall to zoning in Champaign County and a Resolution against the adoption of HB1626 is recommended.

OVERALL HARM TO COUNTY ZONING

Establishing protest rights for all county special use permits will elevate even the simplest special use permit to the complexity of a map amendment. Establishing protest rights for all special use permits will also add risk for anyone needing a special use permit for business expansion and it will significantly increase the work load associated with special use permits and it will result in more special use permits going to the County Board

In Champaign County the following are some of the uses authorized by special use permit and the addition of protest rights will make future development (and expansion) of the following uses more difficult:

- School or church in CR, AG-1, and AG-2 zoning districts
- Many kinds of public facilities in most zoning districts
- Major rural specialty business in CR, AG1, and AG-2 zoning districts
- Grain elevator or farm chemical and fertilizer sales in AG1 and AG-2 zoning districts
- Recreational uses in CR and AG-2 zoning districts
- Adaptive reuse of buildings in various zoning districts
- Many manufacturing industries in the I2 Heavy Industry Zoning District
- Wind farm in AG-1 zoning district (Note: a County Board Special Use Permit)

Zoning Administrator

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MARCH 29, 2011

Existing facilities that already have special use permits must have new special use permits to expand. HB1626 would make those expansions subject to protest rights even though the existing use is already established.

It can also be argued that only special use permits that ordinarily require County Board approval should be subject to protest rights. The only special use permit that is currently reviewed by the Champaign County Board is that for a wind farm but the Rural Residential Overlay special use permit is planned to be added in the near future.

For some reason HB1626 does not propose to add protest rights to municipal special use permits nor does it provide for protests of special use permits by any Township with a plan commission.

One approach to mitigating some of the affects of HB1626 for some special use permits would be to make those uses conditional use permits which are permissible by right so long as specified conditions are met. That approach is probably not feasible for all special use permits and most particularly a wind farm special use permit.

RESOLUTION OF OPPOSITION

For the above reasons HB1626 in its present form would be detrimental overall to County zoning and a formal County Board Resolution opposing the adoption of HB1626 is recommended. Upon adoption the Resolution should be forwarded to the County's legislators to make them aware of the harm posed by this legislation.

ATTACHMENT

A Full Text of HB1626

**97TH GENERAL ASSEMBLY
State of Illinois
2011 and 2012
HB1626**

Introduced 2/15/2011, by Rep. Joe Sosnowski

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12009.5

Amends the Counties Code. Provides that a special use may be passed at a county board meeting by a simple majority of the elected county board members, except that a written protest against any proposed special use that is either signed by the owners of at least 20% of the land to be rezoned, or signed by the owners of land immediately touching, or immediately across a street, alley, or public right-of-way from at least 20% of the perimeter of the land to be rezoned, or in cases where the land affected lies within 1.5 miles of the limits of a zoned municipality. Further provides that in those cases, a vote of three-fourths of all the members of the county board is required, but in counties where the county board consists of 3 members, only a two-thirds vote is required. Sets forth requirements concerning the written protest. Effective immediately.

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A BILL FOR

HB1626

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1 AN ACT concerning local government.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Counties Code is amended by changing Section
5 5-12009.5 as follows:

6 (55 ILCS 5/5-12009.5)
7 Sec. 5-12009.5. Special uses.

8 (a) The county board may, by an ordinance passed under this
9 Division, provide for the classification of special uses. Those
10 uses may include, but are not limited to, public and
11 quasi-public uses affecting the public interest; uses that have
12 a unique, special, or unusual impact upon the use or enjoyment
13 of neighboring property; and uses that affect planned
14 development. A use may be permitted in one or more zoning
15 districts and may be a special use in one or more other zoning
16 districts.

17 (b) A special use may be granted only after a public
18 hearing conducted by the board of appeals. There must be at
19 least 15 days' notice before the hearing. The notice must
20 include the time, place, and date of the hearing and must be
21 published in a newspaper published in the township or road
22 district where the property is located. If there is no
23 newspaper published in the township or road district where the

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1 property is located, the notice must be published in a
2 newspaper of general circulation in the county. The notice must
3 also contain (i) the particular location of the property for
4 which the special use is requested by legal description and by
5 street address, or if there is no street address, by locating
6 the property with reference to any well-known landmark,
7 highway, road, thoroughfare, or intersection; (ii) whether the
8 petitioner or applicant is acting for himself or herself or as
9 an agent, alter ego, or representative of a principal and the
10 name and address of the principal; (iii) whether the petitioner
11 or applicant is a corporation, and if so, the correct names and
12 addresses of all officers and directors of the corporation and
13 of all stockholders or shareholders owning any interest in

14 excess of 20% of all of the outstanding stock or shares of the
15 corporation; (iv) whether the petitioner or applicant, or his
16 or her principal, is a business or entity doing business under
17 an assumed name, and if so, the name and residence of all
18 actual owners of the business or entity; (v) whether the
19 petitioner or applicant, or his or her principal, is a
20 partnership, joint venture, syndicate, or an unincorporated
21 voluntary association, and if so, the names and addresses of
22 all partners or members of the partnership, joint venture,
23 syndicate, or unincorporated voluntary association; and (vi) a
24 brief statement of the proposed special use.

25 In addition to any other notice required by this Section,
26 the board of appeals must give at least 15 days' notice before

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1 the hearing to (i) any municipality whose boundaries are within
2 1-1/2 miles of any part of the property proposed as a special
3 use and (ii) the owner or owners of any land adjacent to or
4 immediately across any street, alley, or public right-of-way
5 from the property proposed as a special use.

6 A special use may be passed at a county board meeting by a
7 simple majority of the elected county board members, except
8 that in case of a written protest against any proposed special
9 use that is either: (A) signed by the owner or owners of at
10 least 20% of the land to be rezoned, or (B) signed by the owner
11 or owners of land immediately touching, or immediately across a
12 street, alley, or public right-of-way from at least 20% of the
13 perimeter of the land to be rezoned, or in cases where the land
14 affected lies within 1.5 miles of the limits of a zoned
15 municipality, by resolution of the corporate authorities of the
16 zoned municipality with limits nearest adjacent, filed with the
17 county clerk, such special use shall not be passed except by
18 the favorable vote of three-fourths of all the members of the
19 county board, but in counties in which the county board
20 consists of 3 members, only a two-thirds vote is required. In
21 such cases, a copy of the written protest shall be served by
22

23 the protestor or protestors on the applicant for the proposed
24 amendment and a copy on the applicant's attorney, if any, by
25 certified mail at the address of such applicant and attorney
26 shown in the application for the proposed amendment.

The petitioner or applicant must pay the cost of the

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1 publication of the notice required by this Section.

2 (c) A special use may be granted only upon evidence that
3 the special use meets the standards established for that
4 classification in the ordinance. The special use may be subject
5 to conditions reasonably necessary to meet those standards.

6 (d) The board of appeals shall report to the county board a
7 finding of fact and a recommendation as to whether the county
8 board should deny, grant, or grant subject to conditions the
9 special use. The county board may, by ordinance and without a
10 further public hearing, adopt any proposed special use on
11 receiving the report or it may refer the proposal back to the
12 board of appeals for further consideration.

13 (e) Except in the case of a written protest, the ~~The~~ county
14 board may, by ordinance, delegate to the board of appeals the
15 authority to grant special uses subject to the restrictions and
16 requirements of this Section. The ordinance may delegate the
17 authority to grant all special uses or to grant only certain
18 classes of special uses while reserving to the county board the
19 authority to grant other classes of special uses. If the county
20 board enacts an ordinance delegating its authority, the board
21 of appeals must, after conducting the required public hearing,
22 issue a finding of fact and final decision in writing on the
23 proposed special use. In the case of a written protest, the
24 county board may not delegate authority to grant the special
25 use to the board of appeals.

26 (Source: P.A. 90-175, eff. 1-1-98; 91-334, eff. 7-29-99.)

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1 Section 99. Effective date. This Act takes effect upon
2 becoming law.